

ESTTA Tracking number: **ESTTA558414**

Filing date: **09/09/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Red Bull GmbH
Granted to Date of previous extension	09/11/2013
Address	Am Brunnen 1 Fuschl am See, A-5330 AUSTRIA
Attorney information	Martin R. Greenstein TechMark a Law Corporation 4820 Harwood Road, 2nd Floor San Jose, CA 95124 UNITED STATES MRG@TechMark.com Phone:408-266-4700

**Applicant Information**

Application No	79106767	Publication date	05/14/2013
Opposition Filing Date	09/09/2013	Opposition Period Ends	09/11/2013
International Registration No.	1100687	International Registration Date	10/13/2011
Applicant	BULLSONE CO., LTD. 7th Fl. Dabong Tower Bldg. 890-12 Deachi-dong,; Gangnam-gu; Seoul 135-839 KOREA, REPUBLIC OF		

**Goods/Services Affected by Opposition**

<p>Class 001. All goods and services in the class are opposed, namely: detergent additives for gasoline and petrol; chemical additives for fuel treatment for use as fuel-saving preparations; chemical additives for motor fuel; anti-tarnishing chemicals for windows; anti-freeze; radiator flushing chemicals; antistatic spray, other than for household purposes; priming putty; chemical preparations for decarbonising engines; chemical additives for oils; glass frosting chemicals; anti-puncture preparations in the nature of tire puncture sealant</p>
<p>Class 003. All goods and services in the class are opposed, namely: Antistatic preparations for household purposes; rust removing preparations; paint stripping preparations; canned pressurized air for cleaning and dusting purposes; aromatic, namely, air fragrancing preparations for household purposes; fragrance for household purposes; aromatics, namely, air fragrancing preparations for automobiles; windscreen cleaning liquids; detergents for automobiles; automobile polishes</p>
<p>Class 004. All goods and services in the class are opposed, namely: Dust laying compositions for use on</p>

unpaved roads; dust removing preparations in the nature of petroleum based dust absorbing and suppressing compositions for use in sweeping and dustlaying; all purpose, automobile, and industrial lubricants; dust binding compositions for sweeping; Oil for the preservation of leather; additives, non-chemical, to motor-fuel; lubricating oil for motor vehicle engines; fuel gas for lighting; non-chemical additives for fuels, namely, carburants; non-chemical additives for oils and fuels

Class 005.

All goods and services in the class are opposed, namely: Deodorants for automobiles and rooms; insect repellents; insect repellent incense; air purifying preparations; air freshening preparations; insecticides; disinfectants for hygiene purposes; fumigating sticks; fumigating pastilles; first-aid kits

## Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	Lack of Bona Fide Intent to Use under Trademark Act Section 66(a)

## Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	RED BULL, RED BULL & Two Bulls Logo, Two Bulls Logo and (Single) Bull Logo, and other marks incorporating the word BULL, and/or the design of a bull or bovine animal, including marks with the word BULL and/or design of a bull or bovine animal on a shield		
Goods/Services	Beverages, energy drinks, sports drinks, soft drinks, as well as various other complementary and related products and services, including but not limited to lubricants, vehicles and vehicle accessories		

Attachments	Red Colored Bull Device with Shield-79106767-Notice of Opposition.pdf(126174 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Angelique M. Riordan/
Name	Angelique M. Riordan
Date	09/09/2013



2. Opposer Red Bull is the owner of the corporate name, trade name and trademark RED BULL, having used said name and mark continuously in interstate commerce on and in connection with its beverages, energy drinks, sports drinks, soft drinks, as well as its various other complementary and related products and services, since long prior to the May 20, 2011 claimed priority date of Applicant's U.S. Appln. No. 79/106,767, opposed herein.

3. Opposer Red Bull is also the owner of various Federal registrations and common law rights to trademarks for or including the words RED BULL, RED BULL & Two Bulls Logo, Two Bulls Logo and (Single) Bull Logo, and other marks incorporating the word BULL, and/or the design of a bull or bovine animal, including marks with the word BULL and/or design of a bull or bovine animal on a shield for various goods and services, all of which are collectively referred to herein as Red Bull's "**RED BULL and Bull Logo Marks**".

4. Red Bull's **RED BULL and Bull Logo Marks**, all of which include the term BULL and/or one or more of the various related Bull Design marks, are and have become valuable assets of Opposer Red Bull, identifying its beverages, energy drinks, sports drinks, soft drinks, as well as its various other complementary and related products and services, and distinguishing Red Bull's products and services from the products and services of others.

5. Red Bull's **RED BULL and Bull Logo Marks** as described herein have been extensively advertised in the United States and throughout the world, and have appeared on or in relation to products, product packaging, point-of-sale displays and other promotional materials for its beverages, energy drinks, sports drinks, soft drinks and various other complementary and related products sold, offered and advertised, and/or have been used in connection with various services, sporting events, contests, exhibitions and cultural events advertised, offered, conducted and/or promoted in the United States and throughout the world.

6. In 2012 alone, sales of RED BULL beverages exceeded 5.2 billion units worldwide, with over 1.9 billion units sold in the United States. As a result of the enormous success and sales of Red Bull's beverages and of the extensive advertising and promotion of the **RED BULL and Bull Logo Marks** on products and services in the United States and throughout the world, the **RED BULL and Bull Logo Marks** have become and are famous marks, and are recognized in the United States and elsewhere as such.

7. The depictions of a bull, as used and registered by Opposer, typically show a bull in a jumping, charging pose and posture.

8. Applicant Bullsone, Co. Ltd. ("Applicant"), a corporation organized under the laws of the Republic of Korea, whose address is 7<sup>th</sup> Floor Dabong Tower Building, 890-12 Deachi-dong, Gangnam-gu, Seoul 135-839, Republic of Korea, filed Appln. No. 79/106,767 on October 13, 2011, with a claimed priority date of May 20, 2011, for the Red Colored Bull Device with Shield trademark for the goods in Int. Classes 1, 3, 4 and 5, as set forth in said application ("**Applicant's Opposed Mark**"). Appln. No. 79/106,767 was published for opposition on May 14, 2013.

9. **Applicant's Opposed Mark** is described as consisting of the design of a bull in red and black with white horns on a gold shield.

Claim 1: Likelihood of Confusion under Trademark Act § 2(d)

10. Opposer repeats and realleges each and every allegation contained in paragraphs 1-9, inclusive, as if fully recited in this paragraph.

11. **Applicant's Opposed Mark** so resembles Opposer Red Bull's **RED BULL and Bull Logo Marks** as to be likely, when applied to the goods of Appln. No. 85/862,800, to cause confusion, mistake or deception among purchasers, users and the public, thereby damaging Red Bull.

12. The goods on which Applicant claims to have a bona fide intent to use **Applicant's Opposed Mark** are identical or very similar to, used for the same or similar purposes, and/or are or will be advertised and promoted to and directed at the same trade channels, the same purchasers, and are or will be used in the same environment as Opposer's Red Bull's products and related goods and services.

13. Simultaneous use of **Applicant's Opposed Mark** on the goods set forth in Appln. No. 79/106,767 and Opposer Red Bull's **RED BULL and Bull Logo Marks** on its goods and related services, as set forth above, is likely to cause confusion, mistake or deception among purchasers, users and the public, thereby damaging Red Bull.

14. Use by Applicant of **Applicant's Opposed Mark** on the goods set forth in Appln. No. 79/106,767, is likely to lead to the mistaken belief that Applicant's products are sponsored by, affiliated with, approved by or otherwise emanate from Opposer Red Bull, thereby damaging Red Bull.

15. As set forth in Paragraphs 10-14 above, **Applicant's Opposed Mark** is likely to cause confusion with Red Bull's prior **RED BULL and Bull Logo Marks**, in violation of §2(d) of the Trademark Act.

Claim 2: False Suggestion of a Connection under Trademark Act § 2(a)

16. Opposer repeats and realleges each and every allegation contained in paragraphs 1-15, inclusive, as if fully recited in this paragraph.

17. **Applicant's Opposed Mark** is – and is intended to be – very similar to or a close approximation of the **RED BULL and Bull Logo Marks** owned by Opposer. Opposer has used its **RED BULL and Bull Logo Marks** for long prior to Applicant's claimed May 20, 2011 priority date of Appln. No. 79/106,767.

18. Due to Opposer's extensive advertising, marketing and sales in the United States, consumers are likely to recognize that the name and mark RED BULL points uniquely and unmistakably to Opposer, given the fame and renown of Opposer.

19. Opposer is not connected to or affiliated with Applicant, Applicant's activities, or **Applicant's Opposed Mark**.

20. As set forth above, Opposer's **RED BULL and Bull Logo Marks**, name and identity are so famous and renowned such that consumers would presume a connection between Applicant and Opposer when they encounter **Applicant's Opposed Mark** on the goods set forth in Appln. No. 79/106,767.

21. Applicant's intent to use the Red Colored Bull Device with Shield mark for its products demonstrates that it is Applicant's intent to create an association with and reference to Red Bull.

22. Thus, **Applicant's Opposed Mark**, falsely suggests a connection with Opposer, Red Bull, and its **RED BULL and Bull Logo Marks**, in violation of Lanham Act § 2(a), and is, therefore, not entitled to registration.

Claim 3: Dilution under Trademark Act § 43(c)

23. Opposer repeats and realleges each and every allegation contained in paragraphs 1-22 above, inclusive, as if fully recited in this paragraph.

24. As set forth above, **Applicant's Opposed Mark** is – and is intended to be – very similar to or a close approximation of Opposer's **RED BULL and Bull Logo Marks**.

25. As set forth above, due to extensive marketing, advertising, and sales in the United States, Opposer's **RED BULL and Bull Logo Marks** have become famous throughout the entire United States.

26. Opposer's **RED BULL and Bull Logo Marks** became famous throughout the United States long prior to the May 20, 2011 claimed priority date of **Applicant's Opposed Mark**.

27. Opposer's **RED BULL and Bull Logo Marks** are so distinctive in the United States that the public would associated them with Opposer even devoid of a trademark context or apart from the extensive goods and services offered by Opposer under the **RED BULL and Bull Logo Marks**.

28. The use of **Applicant's Opposed Mark** is likely to cause dilution by blurring as consumers, upon seeing Applicant's use of **Applicant's Opposed Mark** on the goods in Appln. No. 79/106,767, would be immediately reminded of Opposer's famous marks and associate Applicant's use with Opposer – exactly in the way Applicant expressly intended.

29. The use of **Applicant's Opposed Mark** is likely to cause dilution by tarnishment as the association arising from the substantially similar nature of Applicant's mark and Opposer's famous **RED BULL and Bull Logo Marks** will harm the reputation of Opposer's famous **RED BULL and Bull Logo Marks**.

30. Thus, **Applicant's Opposed Mark** dilutes Opposer's famous **RED BULL and Bull Logo Marks** in violation of Lanham Act § 43(c), and is not entitled to registration.

Claim 4: Lack of Bona Fide Intent to Use under Trademark Act § 66(a)

31. Opposer repeats and realleges each and every allegation contained in Paragraphs 1-30, inclusively, as if fully recited in this paragraph.

32. On information and belief, Applicant did not, at the time of filing, have a bona fide intent to use the alleged Red Colored Bull with Shield mark on each and every good as recited in US Appln. No. 79/106,767.

Wherefore, Red Bull requests that registration of the mark sought to be registered herein, the Red Colored Bull Device with Shield mark of Appln. No. 79/106,767, be denied and that this opposition be sustained.

RED BULL GMBH  
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Dated: September 9, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** is being served on September 9, 2013, by deposit of same in the United States Mail, first class postage prepaid, in an envelope addressed to Applicant's Attorney/Correspondent of Record at his address given on the TARR website:

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/Angelique M. Riordan/  
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