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

Proceeding	91223497
Party	Defendant Buglisi Recobs Group LLC
Correspondence Address	FRANCIS JOHN CIARAMELLA RICK RUZ, PLLC 300 SEVILLA AVE STE 309 CORAL GABLES, FL 33134-6624 rickruz@ruzlaw.com;francis@ruzlaw.com
Submission	Answer
Filer's Name	Emily O'Reilly
Filer's e-mail	eoreilly@lglaw.com
Signature	/Emily O'Reilly/
Date	10/02/2015
Attachments	BRG_Answer_to_Opposition_Final.PDF(159783 bytes) Certificate_of_Service_PDF.PDF(75059 bytes)

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

Respondent: BUGLISI RECOBS GROUP LLC
Application No.: 86415114
Mark: MISTER GINGER

JIM BEAM BRANDS CO.,

Opposer

v.

BUGLISI RECOBS GROUP LLC,

Applicant

ANSWER

**Opposition No. 91223497
Serial No. 86/415,114**

Applicant BUGLISI RECOBS GROUP, LLC (“Respondent” or “BRG”), in response to the opposition filed by Opposer JIM BEAM BRANDS CO. (“Opposer”) (the “Opposition”), by and through its undersigned counsel hereby answers the Opposition as follows:

ANSWER

1. Responding to paragraph 1 of the Opposition, BRG admits that it is a limited liability company, and admits that it is located at 189 Montclair Avenue, Montclair, New Jersey 07042.

2. Responding to paragraph 2 of the Opposition, BRG admits that on October 5, 2014, it filed Application Serial No. 86/415,114 (the “Application”) for the mark “MISTER GINGER” (“Applicant’s Mark”) for the “alcoholic beverages, namely, flavor-infused whiskey; blended whiskey; bourbon whisky; malt whisky; whiskey; whisky,” on an intent to use basis.

3. Responding to paragraph 3 of the Opposition, BRG is without knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies them.

1 4. Responding to paragraph 4 of the Opposition, BRG is without knowledge or information
2 to form a belief as to the truth of the allegations contained therein, and on that basis denies them.

3 5. Responding to paragraph 5 of the Opposition, BRG is without knowledge or information
4 to form a belief as to the truth of the allegations contained therein.

5 6. Responding to paragraph 6 of the Opposition, BRG is without knowledge or information
6 to form a belief as to the truth of the allegations contained therein, and on that basis denies them.

7 7. Responding to paragraph 7 of the Opposition, BRG admits that it filed its “MISTER
8 GINGER” mark on October 5, 2014, on an intent to use basis, subject to the clarification that the
9 application for registration included “flavor-infused whiskey; blended whisky; bourbon whisky;
10 malt whisky; whiskey; whisky.”
11

12 8. Responding to paragraph 8 of the Opposition, BRG is without knowledge or information
13 to form a belief as to the truth of the allegations contained therein, and on that basis denies them.

14 9. Responding to paragraph 9 of the Opposition, BRG admits that it does not currently use
15 the “MISTER GINGER” mark in connection with the goods for which it seeks registration; admits
16 that the business appears to still be in the development phase; denies that Exhibit C is a true and
17 correct copy of the Applicant’s website, www.buglisirecobsgroup.com, at the present date.
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19 10. BRG denies the allegations contained in paragraph 10 of the Opposition.
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21 11. BRG denies the allegations contained in paragraph 11 of the Opposition.
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23 12. BRG denies the allegations contained in paragraph 12 of the Opposition.
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25 13. BRG denies the allegations contained in paragraph 13 of the Opposition.
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Opposer’s Prayer for Relief

BRG denies that Opposer is entitled to any of the relief requested in its prayer for relief.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

14. As and for a separate Affirmative Defense, Applicant BRG alleges that the Opposition fails to state facts sufficient to constitute a cause of action against BRG and upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

15. As and for a separate Affirmative Defense, Applicant BRG alleges that there is no likelihood of confusion, mistake, or deception between BRG’s mark and Opposer’s alleged trademark as to association, connection, sponsorship, endorsement, or approval of Opposer.

THIRD AFFIRMATIVE DEFENSE

16. Opposer does not have trademark rights in MISTER GINGER.

FOURTH AFFIRMATIVE DEFENSE

17. As and for a separate Affirmative Defense, Opposer lacks standing to bring one or more of the claims alleged against Applicant BRG.

FIFTH AFFIRMATIVE DEFENSE

18. As and for a separate Affirmative Defense, Applicant BRG alleges that the Opposition is uncertain, ambiguous, and unintelligible.

SIXTH AFFIRMATIVE DEFENSE

19. As and for a separate Affirmative Defense, Applicant BRG alleges that it has suffered damage by reason of Opposer’s conduct.

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SEVENTH AFFIRMATIVE DEFENSE

20. As and for a separate Affirmative Defense, Applicant BRG alleges that it will not infringe, has not infringed, does not infringe (either directly or indirectly), and will not become liable for any purported trademark rights of Opposer.

EIGHTH AFFIRMATIVE DEFENSE

21. As and for a separate Affirmative Defense, Opposer's claims fail, in whole or in part, because the trademark registrations and any derivative claims of infringement, separately and collectively, constitute misuses of the trademarks and misapplication of the law and statutes on which they are based.

NINTH AFFIRMATIVE DEFENSE

22. As and for a separate Affirmative Defense, Opposer's claims are barred to the extent that Opposer claims rights to elements of its products that are not protectable by trademark.

TENTH AFFIRMATIVE DEFENSE

23. As and for a separate Affirmative Defense, Opposer's claims fail, in whole or in part, because the allegedly protectable features or characteristics of the subject trademark are functional.

ELEVENTH AFFIRMATIVE DEFENSE

24. As and for a separate Affirmative Defense, Opposer's claims fail, in whole or in part, because any alleged association with Opposer's trademark rights is *de minimus*.

TWELFTH AFFIRMATIVE DEFENSE

25. As and for a separate Affirmative Defense, Opposer's claims fail, in whole or in part, because there is virtually no similarity in the products offered, no associated commercial impression, and the marks apply wholly distinct connotations to the word GINGER.

THIRTEENTH AFFIRMATIVE DEFENSE

1 26. As and for a separate Affirmative Defense, Opposer has no claim of priority of use in the
2 MISTER GINGER mark in connection with any products, let alone “flavor-infused whiskey;
3 blended whisky; bourbon whisky; malt whisky; whiskey; whisky.”

4 WHEREFORE, Applicant BRG requests the judgment of this Court that it deny the
5 Opposition against it, grant registration of Application Serial No. 86/415,114, and award
6 Applicant BRG its costs in defending this action, together with its reasonable attorneys’ fees, and
7 such other and further relief as this Court deems just and equitable.
8

9 DATED: October 2, 2015

10 Respectfully submitted,

11 BUGLISI RECOBS GROUP LLC, by its counsel
12 LIPSITZ GREEN SCIME CAMBRIA LLP

13 Patrick O’Reilly/
14 Patrick C. O’Reilly, Esq.
15 42 Delaware Avenue, Suite 120
16 Buffalo, New York 14202
17 (716) 849-1333 ext. 363
18 Facsimile: (716) 849 - 1315
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BUGLISI RECOBS GROUP LLC,

Applicant

Opposition No. 91223497

Serial No. 86/415,114

CERTIFICATE OF SERVICE

I, Emily H. O'Reilly, hereby certify that a true copy of the foregoing Answer of Applicant BUGLISI RECOBS GROUP LLC has been served upon counsel for the Opposition JIM BEAM BRANDS CO. by mailing said copy on October 2, 2015, via First Class Mail, postage prepaid to the following address:

Claudia W. Stangle
Leydig, Voit & Mayer Ltd.
180 North Stetson Avenue, Suite 4900
Chicago, IL 60601

Dated: October 2, 2015

/Emily O'Reilly/

Emily O'Reilly