

ESTTA Tracking number: **ESTTA115328**

Filing date: **12/18/2006**

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

Proceeding	91163779
Party	Defendant S.S. Taris Zeytin Ve Zeytinyagi Tarim Satis Kooperatifleri Birligi S.S. Taris Zeytin Ve Zeytinyagi Tarim Sa tis Kooperatifleri Birligi tis Kooperatifleri Birligi Yadigar Sok.1492 Sok., No:14 TRX Alsancak-Izmir,
Correspondence Address	Jess M. Collen Collen IP, Intellectual Property Law, P. The Holyoke-Manhattan Building, 80 South Ossining, NY 10562 UNITED STATES breilly@collenip.com
Submission	Opposition/Response to Motion
Filer's Name	Brendan Reilly
Filer's e-mail	breilly@collenIP.com
Signature	/s/Brendan J. Reilly
Date	12/18/2006
Attachments	93555_ Response to Motion to Suspension_061218.pdf (4 pages)(45270 bytes)

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

SPIRITS INTERNATIONAL, N.V.
Opposer,

v.

Opposition No. 91163779

S.S. TARIS ZEYTIN VE ZEYTINYAGI
TARIM SATIS KOOPERATIFLERI
BIRLIGI
Applicant

APPLICANT'S RESPONSE TO OPPOSER'S MOTION TO SUSPEND THESE PROCEEDINGS

Now comes the Applicant, by and through its undersigned attorneys, and hereby responds to Opposer's motion to suspend these proceedings. On April 22, 1993, Opposer filed an intent-to-use application for the mark MOSKOVSKAYA for vodka (Serial No. 74/382,759, the "759 Application). This application provides the sole basis of priority for the purposes of the Opposer's present opposition proceeding against the Applicant's mark for MOSKONISI.

For the past thirteen and one-half years, the '759 Application has been rejected by the Patent and Trademark Office as being primarily geographically descriptive or geographically misdescriptive. The trademark examiner denied the '759 Application in a final refusal in March 2006. Opposer moved for reconsideration and also appealed the trademark examiner's decision in September 2006. Opposer has moved to suspend these proceedings pending the result of its appeal to the Trademark Trial and Appeal Board. Opposer's motion admits that the '759

Application provides the sole basis of priority and that the validity of the '759 Application should be resolved prior to resolving the present proceeding¹.

Applicant remains confident that the Trademark Trial and Appeal Board will affirm the final refusal of the trademark examiner. Applicant does not object to a suspension of this proceeding pending the Board's decision.

However, given Opposer's history of prolonged activities and absolute failure to obtain a registration despite thirteen years of prosecution, Applicant fears that an opinion that affirms the decision of the trademark examiner will only encourage further appeals until all appeals are exhausted. This process will take several years. A continued suspension will translate into additional costs for Applicant (while Applicant's counsel monitors the progress of the appeals and continues due diligence in this matter) and further delays Applicant's launch of certain goods in the United States. Applicant objects to a continued suspension of these proceedings beyond the decision of the Trademark Trial and Appeal Board, and reserves its right to move to resume these proceedings at a later time.

Furthermore, as Opposer's motion for suspension is rooted unequivocally on its claim of priority based on the '759 Application, should the Board grant the present motion, Opposer should be judicially estopped from relying on use to establish priority at a later date.

/

/

/

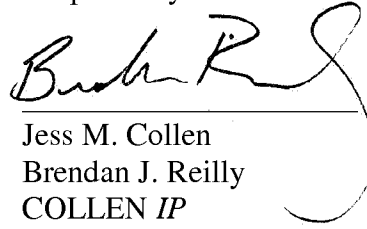
/

/

¹ It bears noting that the '759 Application has been in question since a time long prior to this proceeding, and yet Opposer waited until it engaged the Applicant for over 18 months of discovery before moving for a suspension.

Respectfully Submitted for Applicant,

By:



Jess M. Collen

Brendan J. Reilly

COLLEN *IP*

The Holyoke-Manhattan Building

80 South Highland Avenue

Town of Ossining

Westchester County, New York 10562

(914) 941 5668

(914) 941-6091 (facsimile)

Dated: December 18, 2006

