

ESTTA Tracking number: **ESTTA39822**

Filing date: **07/25/2005**

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

<b>Name</b>	Allied Domecq International Holdings B.V.		
<b>Entity</b>	Corporation	<b>Citizenship</b>	Netherlands
<b>Address</b>	P.O. Box 673Florijnstraat 1 Etten-Leur, 4870 AR NETHERLANDS		

<b>Attorney information</b>	Edward T. Colbert, William M. Merone Kenyon & Kenyon 1500 K Street, N.W. Suite 700 Washington, DC 20005 UNITED STATES tmdocketdc@kenyon.com Phone:202-220-4200		
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#### Applicant Information

<b>Application No</b>	76604592	<b>Publication date</b>	06/28/2005
<b>Opposition Filing Date</b>	07/25/2005	<b>Opposition Period Ends</b>	07/28/2005
<b>Applicant</b>	Russian Federal Treasury Enterprise Sojuzplodoimport FTE Sojuzplodoimport Staromonetnyi Pereulok, 12 Moscow 119180, RUSSIAN FEDERATION		

#### Goods/Services Affected by Opposition

Class A.

All goods and services in the class are opposed, namely: Vodka

**Attachments**

Notice of Opposition -- RUSSIAN VODKA.pdf ( 7 pages )

**Signature**

/William M. Merone/

**Name**

Edward T. Colbert, William M. Merone

**Date**

07/25/2005

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

In the Matter of Trademark Application:

Serial No. : 76/604,592  
Applicant : Russian Federal Treasury Enterprise Sojuzplodoimport  
Filed : July 26,2004  
Mark : RUSSIAN VODKA

Published in the Official Gazette of June 28, 2005, p. TM1341

ALLIED DOMEQC INTERNATIONAL  
HOLDINGS BV.,

*Opposer,*

v.

RUSSIAN FEDERAL TREASURY  
ENTERPRISE SOJUZPLODOIMPORT,

*Applicant.*

Opposition No. \_\_\_\_\_

Commissioner of Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513  
BOX TTAB - FEE

**NOTICE OF OPPOSITION**

Opposer, Allied Domecq International Holdings B.V. (“Allied Domecq”), a corporation existing under the laws of the Netherlands and having an address of P.O. Box 673, Florijnstraat 1, 4870 AR Etten-Leur NETHERLANDS, believing it will be damaged by registration of “RUSSIAN VODKA” as a certification mark in International Class A for “vodka” as shown in Serial No. 76/604,592, hereby opposes same.

As grounds for opposition, Allied Domecq alleges as follows:

1. Applicant, Russian Federal Treasury Enterprise Sojuzplodoimport, seeks a block-letter registration of “RUSSIAN VODKA” as a certification mark in International Class A for “vodka.” Applicant filed Application Serial No. 76/604,592 on July 26, 2004, claiming an intent to exercise control over the use of the proposed mark in commerce by others on or in connection with the recited goods, namely, “vodka.”

2. Allied Domecq is the owner of several trademarks and registrations for “vodka,” including the following two incontestable marks:

- (1) **STOLICHNAYA RUSSIAN VODKA & Design**  
U.S. Reg. No. 1,852,552 for “vodka” (Int’l. Cl. 33)  
Date of Registration: September 6, 1994  
Use in Commerce: June 30, 1983  
*Disclaiming:* “RUSSIAN VODKA”



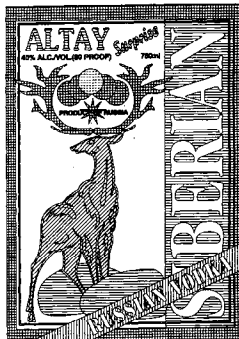
- (2) **STOLICHNAYA**  
U.S. Reg. No. 1,291,454 for “vodka” (Int’l. Cl. 33)  
Date of Registration: August 21, 1984  
Use in Commerce: April 14, 1967

3. Allied Domecq, through its licensees and its predecessors-in-interest, has used the STOLICHNAYA RUSSIAN VODKA & Design mark in interstate commerce in connection with the sale of “vodka” since at least as early as 1983. Such use is well before the July 26, 2004, filing date of Application Serial No. 76/604,592.

4. Allied Domecq, through its licensees and its predecessors-in-interest, has also used the STOLICHNAYA mark in interstate commerce in connection with the sale of “vodka” since at least as early as 1967. Since that time, Allied Domecq, through its licensees and its predecessors-in-interest, has also advertised STOLICHNAYA vodka as being “Russian Vodka” or “Genuine Russian Vodka.” Such common law use of “Russian Vodka” is also well before Applicant’s July 26, 2004, filing date.

5. On information and belief, many companies other than Opposer have used or are continuing to use the phrase “Russian Vodka” in connection with the sale of vodka as a designation of the product’s origin, with all such use beginning well before the July 26, 2004, filing date of Application Serial No. 76/604,592. Two examples of such use are shown through the following issued third-party trademark registrations:

- (1) **SIBERIAN ALTAY SURPRISE RUSSIAN VODKA PRODUCT OF RUSSIA 40% ALC./VOL.(80 PROOF) 750ML& Design**  
U.S. Reg. No. 2,831,128 for “vodka” (Int’l. Cl. 33)  
Date of Registration: April 13, 2004  
Use in Commerce: March 30, 2000  
*Disclaiming: “RUSSIAN VODKA”<sup>1</sup>*



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<sup>1</sup> Both of the listed marks include certain other disclaimers that are not necessarily relevant here.

- (2) **VODKA PSHENICHNAYA IMPORTED FROM RUSSIA DISTILLED AND BOTTLED IN THE RUSSIAN CRISTALL DISTILLERY IN MOSCOW ECOLOGICALLY PURE PRODUCT 40 ALC. VOL.(80% PROOF) 50 CL COOL BEFORE DRINKING RUSSIAN VODKA & Design**  
U.S. Reg. No. 1,987,870 for “vodka” (Int’l. Cl. 33)  
Date of Registration: July 23, 1996  
Priority Date: January 11, 1993



6. Applicant intends to use the proposed mark RUSSIAN VODKA to certify that vodka produced by others, in addition to originating in the Russian Federation, supposedly meets certain “production specifications” to be set by Applicant/Certifier. Applicant is seeking to register RUSSIAN VODKA only in block-letter form.

7. Vodkas sold by Allied Domecq under the STOLICHNAYA RUSSIAN VODKA & Design and STOLICHNAYA marks originate within the boundaries of the Russian Federation. Vodkas sold by Allied Domecq, however, are not certified by Applicant, nor do they need to be certified by Applicant for Allied Domecq to sell them lawfully in this country. Further, Allied Domecq does not intend to seek certification, even though the vodkas it sells likely would meet Applicant’s “production specifications.”

8. Applicant's proposed use of RUSSIAN VODKA to certify that vodka produced by others meets certain "production specifications" set by Applicant/Certifier is therefore likely to cause vodka consumers mistakenly to believe that vodka sold by Allied Domecq under the STOLICHNAYA RUSSIAN VODKA & Design and STOLICHNAYA marks has been certified by (or originate from, or are sponsored or approved by) Applicant, or, at a minimum, meet the "production specifications" set by Applicant/Certifier, which may or may not be true.<sup>2</sup> Further, such confusion and mistake on the part of consumers is likely to cause injury to Allied Domecq.

9. Accordingly, registration for the mark applied for under Application Serial No. 76/604,592 should be refused under the provisions of § 2(d) of the Lanham Act.

10. Applicant also lacks standing or the lawful right to control the use of the phrase "RUSSIAN VODKA" in the United States, which phrase is merely a common, geographical designation of origin that has been used by others for decades prior to the July 26, 2004, filing date of Application Serial No. 76/604,592. Granting Applicant the exclusive right to control the use of the phrase "RUSSIAN VODKA" in any form through the grant of a certification mark in block-letters would thus create a express conflict with the rights of others to continue to use that phrase for its ordinary, descriptive meaning, as provided for by Section 33(b)(4) [15 U.S.C. §1115(b)(4)].

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<sup>2</sup> The "standards" Applicant/Certifier is likely to set for "RUSSIAN VODKA" probably will be partially subjective and subject to change. As such, even though Allied Domecq only sells high-quality Russian vodka under the STOLICHNAYA brand, it is plausible that Applicant/Certifier could structure its "standards" in such a way that would lead to Allied Domecq's product not being "certified" as "RUSSIAN VODKA" under the standards set by Applicant/Certifier.

11. Accordingly, the mark as applied for in block-letter form under Application Serial No. 76/604,592 is incapable of functioning as a certification mark and registration should be refused under the provisions of § 4 of the Lanham Act.

12. Finally, Applicant has not, prior to the above-recited use of RUSSIAN VODKA by Allied Domecq and others, controlled and limited use of the proposed RUSSIAN VODKA certification mark in a manner so as to reliably indicate to vodka consumers that goods bearing the designation originate within the Russian Federation and meet certain “production specifications” set by Applicant/Certifier. In addition, Applicant, through its predecessors-in-interest and their respective licensees or assigns, has previously sold or distributed vodka in the United States using the designation “RUSSIAN VODKA” for many years despite knowing that such vodka did not comply with the standards that Applicant/Certifier now wishes to require others to meet before they may use that designation.

13. Accordingly, registration for the mark applied for under Application Serial No. 76/604,592 should be refused under the provisions of § 4 of the Lanham Act.

14. If Applicant is awarded a block-letter registration for “RUSSIAN VODKA” as a certification mark in International Class A for “vodka” as requested in Application Serial No. 76/604,592, Applicant would be entitled to the presumptions flowing from such registration, all to the injury of Allied Domecq.



WHEREFORE, Opposer, Allied Domecq International Holdings B.V., prays that Application Serial No.76/604,592 be rejected, that no registration be issued to Applicant, and that this opposition be sustained in favor of Allied Domecq.

Please address all future communications regarding this opposition to:

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This Notice of Opposition is being filed in duplicate, pursuant to 37 C.F.R. § 2.104(a). Please charge the filing fee of \$300.00, and any other fees associated with this proceeding to Deposit Account 11-0600 (Our Ref. 12535-22)

Respectfully submitted,

KENYON & KENYON

Date: July \_\_, 2005

By:

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Allied Domecq International Holdings B.V.*