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

Proceeding	91165999
Party	Defendant Russian Federal Treasury Enterprise Sojuzplodoimport Russian Federal Treasury Enterprise Soju zplodoimport FTE Sojuzplodoimport Staromonetniy Pereulok, 12 RUX Moscow 119180,
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Attachments	Answer.pdf (8 pages) CertificateofService.pdf (2 pages)

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

In Re Application to Register Certification Mark of:

Serial No.: 76604592
Applicant: Russian Federal Treasury Enterprise Sojuzplodoimport
Filed: July 26, 2004
For: RUSSIAN VODKA

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

ALLIED DOMEQ INTERNATIONAL
HOLDINGS B.V.,

Opposer,

v.

RUSSIAN FEDERAL TREASURY
ENTERPRISE SOJUZPLODOIMPORT,

Applicant.

I hereby certify that this correspondence and all marked attachments were sent via electronically to: Commissioner for Trademarks, Box TTAB, P.O. Box 1451, Alexandria, VA 22313-1451, and by courier to: counsel for Opposer, Mr. Edward T. Colbert of Keyon & Kenyon, 1500 K Street, N.W.; Suite 700, Washington, D.C. 20005 on

September 1, 2005

Date

Brenda Trujillo

Opposition No. 91165999

Commissioner of Trademarks
Box TTAB
P.O. Box 1451
Alexandria, Virginia
22313-1451

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant, Russian Federal Treasury Enterprise Sojuzplodoimport ("Russian Federal Treasury"), hereby answers Opposer, Allied Domecq International Holdings B.V.'s ("Opposer") Notice of Opposition as follows:

Answer to Introductory Paragraph

Russian Federal Treasury admits that Opposer is a corporation existing under the laws of the Netherlands and has an address of P.O. Box 673, Florijnstraat 1, 4870 AR Etten-Leur, the Netherlands. Russian Federal Treasury denies that Opposer 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.

1. Russian Federal Treasury admits the allegations contained in Paragraph 1 of the Notice of Opposition.

2. Russian Federal Treasury denies that Opposer is the owner of the STOLICHNAYA RUSSIAN VODKA & Design mark and the STOLICHNAYA mark. Opposer fraudulently misappropriated the STOLICHNAYA RUSSIAN VODKA & Design mark and the STOLICHNAYA mark through a series of illegal transfers designed to deprive the Russian Federation of two prized symbols of Russia's commercial heritage. Opposer's fraudulent actions are the subject of a separate proceeding pending in the United States District Court for the Southern District of New York. Russian Federal Treasury admits that Opposer refers to documents in Paragraphs 2(1) and (2) of the Notice of Opposition, and that these documents speak for themselves.

3. Russian Federal Treasury denies that Opposer, through its purported licensees and predecessors-in-interest, has used the STOLICHNAYA RUSSIAN VODKA & Design mark in interstate commerce in connection with the sale of vodka since at least 1983. Opposer has used the marks only since 2001. Because Opposer does not lawfully own the STOLICHNAYA RUSSIAN VODKA & Design mark, it has no predecessors-in-interest or valid

licensees with respect to it. To the extent that Opposer and/or its purported licensees have used the STOLICHNAYA RUSSIAN VODKA & Design mark in connection with the sale of vodka, such use has been fraudulent, unlawful, deceptive under Section 2(a) of the Lanham Act, and geographically deceptively misdescriptive under Section 2(e)(3) of the Lanham Act. Vodka unlawfully sold by Opposer and/or its licensees under the STOLICHNAYA RUSSIAN VODKA & Design mark is not made in Russia.

4. Russian Federal Treasury denies that Opposer, through its purported licensees and predecessors-in-interest, has used the STOLICHNAYA mark in interstate commerce in connection with the sale of vodka since at least 1967. Because Opposer does not lawfully own the STOLICHNAYA mark, it has no predecessors-in-interest or valid licensees with respect to it. Russian Federal Treasury denies that Opposer's predecessors-in-interest have advertised STOLICHNAYA vodka as being "Russian Vodka" or "Genuine Russian Vodka" or has made any common law use of the phrase "Russian Vodka," but Russian Federal Treasury does admit that prior to 2001 the lawful users of the STOLICHNAYA mark did truthfully make those statements in advertising. Because Opposer does not lawfully own the STOLICHNAYA mark, it has no predecessors-in-interest with respect to it. To the extent that Opposer and/or its purported licensees have used the STOLICHNAYA mark in connection with the sale of vodka, such use has been fraudulent and unlawful. To the extent Opposer and/or its purported licensees have advertised STOLICHNAYA vodka as being "Russian Vodka" or "Genuine Russian Vodka," such advertising has been deceptive under Section 2(a) of the Lanham Act and geographically deceptively misdescriptive under Section 2(e)(3) of the Lanham Act. Vodka unlawfully sold by Opposer and/or its purported licensees under the STOLICHNAYA mark is not made in Russia.

5. Russian Federal Treasury is without knowledge or information sufficient to form a belief as to whether 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 such use beginning before the July 26, 2004 filing date of Application Serial No. 76/604,592, and therefore denies same. Russian Federal Treasury admits that Opposer refers to documents in Paragraphs 5(1) and (2) of the Notice of Opposition, and that these documents speak for themselves.

6. Russian Federal Treasury admits that it intends to use the mark RUSSIAN VODKA to certify that vodka produced by others, in addition to being made in the Russian Federation, meets certain production specifications set by the government of the Russian Federation. Russian Federal Treasury admits that it is seeking to register RUSSIAN VODKA only in block-letter form. Russian Federal Treasury denies any remaining allegations contained in Paragraph 6 of the Notice of Opposition.

7. Russian Federal Treasury denies that vodka sold by Opposer under the STOLICHNAYA RUSSIAN VODKA & Design and STOLICHNAYA marks originates within the boundaries of the Russian Federation. Opposer artfully uses the term "originate within the boundaries of the Russian Federation" so as to avoid falsely claiming that vodka sold by Opposer is made within the Russian Federation. Even if some component of vodka unlawfully sold by Opposer "originate[s] within the boundaries of the Russian Federation," Opposer's vodka is not made within the Russian Federation. Thus, Opposer's use of the phrase "Russian Vodka" is deceptive under Section 2(a) of the Lanham Act and geographically deceptively misdescriptive under Section 2(e)(3) of the Lanham Act. Russian Federal Treasury admits that vodka sold by

Opposer is not certified by Russian Federal Treasury. Russian Federal Treasury admits that at present genuine Russian vodka does not need to be certified to be sold here. Russian Federal Treasury admits that Opposer does not intend to seek certification. Because Opposer's vodka is not made in the Russian Federation according to the time-honored requirements for making Russian vodka, Russian Federal Treasury denies that Opposer's vodka would meet its product specifications.

8. Russian Federal Treasury denies the allegations contained in Paragraph 8 of the Notice of Opposition.

Answer to Footnote Number 2

Russian Federal Treasury denies that the standards it has set for certification as RUSSIAN VODKA will be partially subjective and subject to change. Russian Federal Treasury's production standards ensure that only vodka manufactured in Russia pursuant to particularized, verifiable and time-honored requirements can be advertised as Russian vodka. Russian Federal Treasury denies that Opposer's vodka meets these standards and thus denies that Opposer and/or its purported licensees sells Russian vodka. Russian Federal Treasury thus admits that Opposer's vodka, as presently made, would not be certified as RUSSIAN VODKA under Russian Federal Treasury standards.

9. Russian Federal Treasury denies the allegation contained in Paragraph 9 of the Notice of Opposition.

10. Russian Federal Treasury denies that it lacks standing or the lawful right to control the use of the phrase RUSSIAN VODKA in the United States and that the phrase RUSSIAN VODKA is merely a common, geographical designation of origin that has been used

by others prior to the July 26, 2004 filing date of Application Serial No. 76/604,592. Consumers of vodka have a reasonable and justifiable expectation that vodka proclaiming itself "Russian Vodka" is in fact made in the Russian Federation. Russian Federal Treasury, a state-owned corporation designated by the Russian Government, is legitimately entitled to ensure that vodka advertised as "Russian Vodka" and trading on the Russian reputation for vodka, is in fact made in Russia according to historic standards. Russian Federal Treasury denies the remaining allegations contained in Paragraph 10 of the Notice of Opposition.

11. Russian Federal Treasury denies the allegations contained in Paragraph 11 of the Notice of Opposition.

12. Russian Federal Treasury admits that it and its predecessors-in-interest have not, prior to the alleged use of RUSSIAN VODKA by Opposer and others, controlled and limited the use of the RUSSIAN VODKA certification mark in a manner so as to reliably indicate to vodka consumers that vodka bearing the designation is made within the Russian Federation and meets certain production specifications. Russian Federal Treasury denies that it, 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.

13. Russian Federal Treasury denies the allegations contained in Paragraph 13 of the Notice of Opposition.

14. Russian Federal Treasury admits that if it 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, it would be entitled to the presumptions flowing

from such registration. Russian Federal Treasury denies the remaining allegations contained in Paragraph 14 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Opposer has no proprietary rights in the certification mark RUSSIAN VODKA or any phrase containing the words RUSSIAN VODKA. Opposer's lack of a proprietary interest in the STOLICHNAYA RUSSIAN VODKA & Design and STOLICHNAYA marks is the subject of separate proceedings pending in the District Court for the Southern District of New York.

SECOND AFFIRMATIVE DEFENSE

Opposer's use of STOLICHNAYA RUSSIAN VODKA & Design and STOLICHNAYA marks has been fraudulent and unlawful. Opposer's fraudulent and unlawful use of the STOLICHNAYA RUSSIAN VODKA & Design and STOLICHNAYA marks is the subject of separate proceedings pending in the District Court for the Southern District of New York.

THIRD AFFIRMATIVE DEFENSE

Opposer's use of the phrase "Russian Vodka" or "Genuine Russian Vodka" in connection with the sale of vodka is deceptive under Section 2(a) of the Lanham Act. Opposer's vodka is not made in the Russian Federation.

FOURTH AFFIRMATIVE DEFENSE

Opposer's use of the phrase "Russian Vodka" or "Genuine Russian Vodka" in connection with the sale of vodka is geographically deceptively misdescriptive under Section 2(e)(3) of the Lanham Act. Opposer's vodka is not made in the Russian Federation.

DATED: September 1, 2005



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6 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
7 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
8

9 IN RE TRADEMARK APPLICATION NO.)
10 76/604592, for: "RUSSIAN VODKA")

11 DATE FILED: July 26, 2004)

12)
13 ALLIED DOMEQ INTERNATIONAL)
14 HOLDINGS B.V.,)

15 Opposer,)

16 v.)

17 RUSSIAN FEDERAL TREASURY)
18 ENTERPRISE SOJUZPLODOIMPORT,)

19 Applicant.)
20)

I hereby certify that this correspondence and all marked
attachments were sent via electronically to: Commissioner for
Trademarks, Box TTAB, P.O. Box 1451
Alexandria, VA 22313-1451, and by courier to: counsel for
Opposer, Mr. Edward T. Colbert of Keyon & Kenyon, 1500 K
Street, N.W.; Suite 700, Washington, D.C. 20005 on

September 1, 2005
Date
Brenda Trujillo

Opposition No. 91165999

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21
22 CERTIFICATE OF SERVICE


23
24 I hereby certify that a true and complete copy of the applicant's answer to notice of
25 opposition in connection with application no. 76/604592, for the mark RUSSIAN VODKA has
26 been served on Allied Domecq International Holdings B.V., by mailing said copy via FedEx
27
28

1 Courier, postage prepaid, to attorney for Opposer, Mr. Edward T. Colbert of Keyon & Kenyon,
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DATED: September 1, 2005

QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP



By
David W. Quinto
Attorney for Applicant