

ESTTA Tracking number: **ESTTA69977**

Filing date: **03/08/2006**

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	Doppelganger, Inc.
Granted to Date of previous extension	03/08/2006
Address	2601 Monarch Street Alameda, CA 94501 UNITED STATES

Attorney information	Robert B. Burlingame Pillsbury Winthrop Shaw Pittman LLP P.O. Box 7880 San Francisco, CA 94120-7880 UNITED STATES rburlingame@pillsburylaw.com Phone:415-983-1274
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Applicant Information

Application No	79007910	Publication date	11/08/2005
Opposition Filing Date	03/08/2006	Opposition Period Ends	03/08/2006
International Registration No.	0840442	International Registration Date	05/14/2004
Applicant	Red Bull GmbH Am Brunnen 1 A-5330 Fuschl am See , AUSTRIA		

Goods/Services Affected by Opposition

Class 032. All goods and services in the class are opposed, namely: Non-alcoholic beverages, namely, soft drinks, energy drinks, sport drinks; mineral and carbonated waters; fruit beverages and fruit juices
Class 033. All goods and services in the class are opposed, namely: Alcoholic beverages, namely, alcoholic energy drinks; prepared alcoholic cocktails and aperitifs made with spirits or wines
Class 035. All goods and services in the class are opposed, namely: Advertising, including promotion of products and services of third parties through sponsoring arrangements relating to sports events; development of advertising media; distribution of advertising products; advertising, including promotion relating to the sale of articles and services for third parties by the transmission of advertising material and the dissemination of advertising messages on computer networks; rental of advertising space on web sites, television, and radio; business organization and management consulting services; providing office functions; business management; planning and conducting of trade fairs, exhibitions and presentations for economic or advertising purposes, rental of vending machines

Class 041.

All goods and services in the class are opposed, namely: Organizing sporting, educational and cultural events, namely, air shows, sports competitions, fairs and exhibitions; educational services namely conducting programs in the field of air shows and sports competitions; training services in the field of air shows and sports competitions; presentation of musical performance; radio entertainment services, namely radio programs featuring performances by a radio personality; entertainment in the nature of on-going television programs in the field of news, comedy and variety; night clubs and discotheques; motion film production; on-line publication of books and magazines; entertainment services, namely, providing an on-line computer game; digital imaging services; music composition for others; providing karaoke related services for others

Class 043.

All goods and services in the class are opposed, namely: Services for providing food and drink, namely, bars, cafes, cafeterias, canteens, snack bars, restaurants and self-service restaurants; catering services; temporary accommodations, namely, hotels, boarding houses; temporary accommodation reservations; rental of portable buildings, bars and tents; rental of seats, tables, table linen, glassware and equipment for bars

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)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	Violation of Paris Convention and rules regarding priority claims

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2684806	Application Date	01/09/2002
Registration Date	02/04/2003	Foreign Priority Date	NONE
Word Mark	HANGAR ONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2001/09/01 First Use In Commerce: 2002/04/01 DISTILLED SPIRITS		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	HANGAR 1 ONE		
Goods/Services	Distilled spirits, vodka		

Attachments	HANGAR-7 Opposition.pdf (5 pages)
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Signature	/Robert B. Burlingame/
Name	Robert B. Burlingame
Date	03/08/2006

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

Applicant: Red Bull GmbH
Serial No.: 79007910
Mark: HANGAR-7
Filed: May 14, 2004
Published: November 8, 2005
Our Ref. No.: 080954/0000001/JMS/RBB

_____)	Opposition No. _____
DOPPELGANGER, INC.,)	
)	
Opposer,)	
vs.)	
)	
RED BULL GMBH,)	
)	
Applicant.)	
_____)	

OPPOSITION

Dear Sir or Madam:

Doppelganger, Inc., a California corporation (“Opposer”), believes it is or will be damaged by registration of the mark as shown in U.S. Trademark Application Serial No. 79007910, filed by Red Bull GmbH (“Applicant”), and hereby opposes same.

As grounds for opposition, Opposer avers as follows:

1. Opposer owns the trademarks HANGAR ONE and HANGAR 1 ONE for vodka.
2. Opposer uses HANGAR ONE and HANGAR 1 ONE in commerce as trademarks in connection with vodka.
3. Opposer owns and pleads its United States Trademark Registration for HANGAR ONE for “distilled spirits” (Reg. No. 2684806; filed on January 9, 2002 and registered on February 4, 2003).

4. On August 21, 2003, Applicant filed EU Trademark Application No. 3324811 for the mark HANGAR-7 for “non alcoholic beverages including refreshing drinks, energy drinks, whey beverages and isotonic (hyper- and hypotonic) drinks (for use and/or as required by athletes); beer, malt beer, wheat beer, porter, ale, stout and lager; non alcoholic malt beverages; mineral water and aerated waters; fruit drinks and fruit juices; syrups, essences and other preparations for making beverages as well as effervescent (sherbet) tablets and powders for drinks and non-alcoholic cocktails” in Class 32 and “alcoholic beverages (except beers); hot and mixed alcoholic drinks, including alcoholic energy drinks, mulled wine and mixed drinks containing milk; alcoholic malt beverages, malt liquor; wines, spirits and liqueurs; alcoholic preparations for making beverages; spirit or wine-based cocktails and aperitifs; beverages containing wine” in Class 33 (the “EU Application”).

5. On February 13, 2004, Applicant filed Austria Trademark Application No. 986/2004 for the same mark HANGAR-7 for goods and services in Classes 25, 32, 33, 35, 41 and 43 (the “Austrian Application”), including the same goods in Classes 32 and 33 as in the EU Application.

6. In the Austrian Application, Applicant claimed priority under the Paris Convention for Classes 32 and 33 based on the EU Application (i.e., a priority date of August 21, 2003).

7. On May 14, 2004, Applicant filed an International Application, under the Madrid system for the international registration of marks, for the same mark HANGAR-7 for goods and services in Classes 25, 32, 33, 35, 41 and 43 (the “International Application”), including the same goods in Classes 32 and 33 as are in the EU Application and in the Austrian Application.

8. In the International Application, Applicant claimed priority under the Paris Convention for Classes 32 and 33 based on the Austrian Application (i.e., a priority date of February 13, 2004).

9. By first claiming priority under the Paris Convention for the Austrian Application, and later claiming priority under the Paris Convention for the International Application, Applicant violated the Paris Convention by claiming priority under the Paris Convention on more than one occasion for the same mark for the same goods in Classes 32 and 33.

10. Applicant's U.S. Trademark Application Serial No. 79007910 (that is the subject of this opposition) arises out of the International Application as a result of Applicant's designation of the U.S. in that International Application, and U.S. Trademark Application Serial No. 79007910 includes the February 13, 2004 priority date that Applicant claimed under the Paris Convention.

11. When the U.S. Patent and Trademark Office originally received the U.S. designation of the International Application, such designation sought to register the mark HANGAR-7 in the U.S. for goods and services in Classes 25, 32, 33, 35, 41 and 43, including the same goods in Classes 32 and 33 as are in the EU Application and in the Austrian Application.

12. The U.S. designation of the International Application was assigned Serial No. 79007910, and on February 23, 2005, the U.S. Patent and Trademark Office issued an Office Action for U.S. Trademark Application Serial No. 79007910.

13. The February 23, 2005, Office Action for U.S. Trademark Application Serial No. 79007910 contained a refusal under Trademark Act Section 2(d) and instructed Applicant to "See the enclosed registration(s)."

14. One of the registrations attached to the February 23, 2005, Office Action for U.S. Trademark Application Serial No. 79007910 was Opposer's U.S. Trademark Registration No. 2684806 for the mark HANGAR ONE for distilled spirits.

15. In its responses to the U.S. Patent and Trademark Office regarding U.S. Trademark Application Serial No. 79007910, Applicant never addressed or mentioned Opposer's U.S. Trademark Registration No. 2684806.

16. On information and belief, no actual or constructive use of Applicant's HANGAR-7 mark was made in the United States prior to January 9, 2002.

17. On information and belief, no actual or constructive use of Applicant's HANGAR-7 mark was made in the United States prior to February 4, 2003.

18. On information and belief, no actual or constructive use of Applicant's HANGAR-7 mark was made in the United States prior to February 13, 2004.

19. On information and belief, no actual use of Applicant's HANGAR-7 mark was made in the United States prior to May 14, 2004.

20. Opposer's HANGAR ONE mark, and Opposer's HANGAR 1 ONE mark, were first used in commerce in the United States prior to any actual or constructive use in the United States by Applicant of its HANGAR-7 mark.

21. Applicant's HANGAR-7 mark for the goods and services set forth in U.S. Trademark Application Ser. No. 79007910 so resembles Opposer's HANGAR ONE and HANGAR 1 ONE marks for vodka and "distilled spirits" as to be likely to cause confusion or mistake, or to deceive, in violation of Section 2(d) of the Act.

WHEREFORE, Opposer prays that this Opposition be sustained, that U.S. registration of Applicant's HANGAR-7 mark be refused, and that Applicant's Paris Convention priority claim

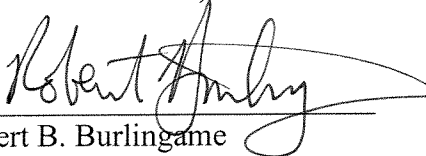
in the International Application and U.S. Trademark Application Ser. No. 79007910 be deleted (including notification to WIPO to delete the priority claim from the International Application and its related designations/requests for extension of protection).

* * *

Date: March 8, 2006

Respectfully submitted,

DOPPELGANGER, INC.

By: 

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