

ESTTA Tracking number: **ESTTA277661**

Filing date: **04/13/2009**

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	Impress Group BV
Granted to Date of previous extension	04/12/2009
Address	Zutphenseweg 51051 Deventer, 7418 AH NETHERLANDS

Attorney information	Michael J. Leonard, Esquire Pepper Hamilton LLP 3000 Two Logan Square, 18th & Arch Sts. Philadelphia, PA 19103-2799 UNITED STATES leonardm@pepperlaw.com, wrightp@pepperlaw.com Phone:215.981.4547
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### Applicant Information

Application No	79053125	Publication date	10/14/2008
Opposition Filing Date	04/13/2009	Opposition Period Ends	04/12/2009
International Registration No.	0962322	International Registration Date	03/20/2008
Applicant	Heineken Supply Chain B.V. 2e Weteringplantsoen 21 NL-1017 ZD Amsterdam NETHERLANDS		

### Goods/Services Affected by Opposition

Class 006. All goods and services in the class are opposed, namely: METAL BEER BARRELS FITTED WITH A PUMP; METAL CONTAINERS IN THE NATURE OF CARTRIDGES FOR COMPRESSED CARBON DIOXIDE GAS
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2832356	Application Date	08/29/2000
Registration Date	04/13/2004	Foreign Priority Date	NONE

Word Mark	IMPRESS I
Design Mark	
Description of Mark	NONE
Goods/Services	Class 006. First use: First Use: 2000/09/00 First Use In Commerce: 2000/09/00 METAL PACKAGING MATERIAL AND PRODUCTS, NAMELY METAL SLEEVES, TUBES, CANS AND CAN ENDS, METAL PACKAGING CONTAINERS, METAL STRIPS, METAL STUDS, METAL SECTIONS, METAL WIRE

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	IMPRESS		
Goods/Services	METAL PACKAGING MATERIAL AND PRODUCTS, NAMELY METAL SLEEVES, TUBES, CANS AND CAN ENDS, METAL PACKAGING CONTAINERS, METAL STRIPS, METAL STUDS, METAL SECTIONS, METAL WIRE		

Attachments	76119664#TMSN.gif ( 1 page )( bytes ) SYMPRESS_nop.pdf ( 7 pages )(200529 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/michael leonard/
Name	Michael J. Leonard, Esquire
Date	04/13/2009

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

RE: U.S. Trademark Application Serial No. 79/053,125  
Published in the Official Gazette on 14 October 2008

IMPRESS GROUP BV	)	
	)	
Opposer	)	
	)	
-v-	)	Opposition No. _____
	)	
HEINEKEN SUPPLY CHAIN B.V.	)	
Applicant	)	
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**NOTICE OF OPPOSITION**

Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22314-1451

Commissioner:

In the matter of Application Serial No. 79/053,125, filed 20 March 2008 by HEINEKEN SUPPLY CHAIN B.V. ("Applicant") to register the mark SYMPRESS covering goods, including those described as "metal beer barrels fitted with a pump; metal containers in the nature of cartridges for compressed carbon dioxide gas" in International Class 06 ("Applicant's Goods"), which was published in the Official Gazette on 14 October 2008, IMPRESS GROUP BV ("Opposer") of Deventer, the Netherlands, believes it will be damaged by Applicant's registration of SYMPRESS, in connection with the goods recited in International Class 6, and opposes same. The grounds for this opposition are as follows:

1. Applicant is a Dutch Company having an address at 2e Weteringplantsoen 21, NL-1017 ZD Amsterdam, The Netherlands. On 20 March 2008, Applicant was granted International Registration No. 0962322, which designated the United States. Upon receipt of Notification from the International Bureau, the U.S. Patent and Trademark Office assigned U.S. Serial No. 79/053,125 to Applicant's U.S. Designation.

2. Since at least as early as September 2000, Opposer has continuously used the IMPRESS I and Design Mark and IMPRESS word Mark ("Opposer's Marks") in United States commerce on or in connection with goods described as "metal packaging material and products, namely metal sleeves, tubes, cans and can ends, metal packaging containers, metal strips, metal studs, metal sections, metal wire" ("Opposer's Goods").

3. Opposer has invested substantial resources in advertising and promoting its goods and has acquired substantial goodwill under Opposer's Marks.

4. As a result of Opposer's long and extensive use of the IMPRESS I and Design and IMPRESS word Marks, the Marks have become distinctive.

5. Opposer will rely upon its ownership of Federal trademark registration No. 2,832,356, registered 13 April 2004, for the IMPRESS I and Design Mark, as well as the common law rights it has obtained through its long prior and continuous use of the IMPRESS I and Design and IMPRESS word Marks in U.S. commerce.

6. Opposer's Registration No. 2,832,356 is not limited by channels of trade or classes of purchasers.

7. Opposer's Registration No. 2,832,356 is valid, subsisting and is *prima facie* evidence of the validity of the registered mark, the registration of the registered mark,

Opposer's ownership of the registered mark, and Opposer's exclusive right to use the registered mark in connection with the goods specified in the registration.

8. Commencing long prior to Applicant's filing date and any alleged date of first use that can be claimed by Applicant, Opposer has used in U.S. commerce and is continuing to use in U.S. commerce, its IMPRESS I and Design Mark and IMPRESS word Mark in connection with similar goods in International Class 6.

9. Since its initial use of Opposer's Marks, Opposer has made a substantial investment in advertising and promoting Opposer's Goods under its IMPRESS I and Design and IMPRESS Marks. Opposer has extensively used, advertised, promoted, offered and sold Opposer's Goods to the public through various channels of trade. Opposer's customers and the public in general know and recognize Opposer's Marks and associate same with Opposer and/or Opposer's Goods. As a result of its long and prior use of the IMPRESS I and Design and IMPRESS Marks, Opposer has earned extensive goodwill in connection with the sale of goods bearing Opposer's Marks.

10. Applicant's filing of Application Serial No. 79/053,125 for the SYMPRESS mark is without license, authorization or permission from Opposer.

**FIRST GROUNDS FOR OPPOSITION  
(LIKELIHOOD OF CONFUSION - COMMON LAW)**

11. Opposer re-alleges the allegations contained in Paragraphs 1 through 10 of this Notice of Opposition.

12. Applicant's SYMPRESS mark so resembles Opposer's IMPRESS I and Design and IMPRESS Marks as to be likely, when used on or in connection with Applicant's Goods, recited in International Class 06, to cause confusion or mistake or to deceive purchasers resulting in damage and detriment to Opposer and its reputation.

13. Applicant's constructive date of first use, the filing date of 30 March 2008 claimed in Application Serial No. 79/053,125, is subsequent to Opposer's date of first use in U.S. commerce of its IMPRESS and IMPRESS I and Design Marks, occurring at least as early as 30 September 2000. As such, priority is not an issue in this proceeding.

14. Opposer's Goods and Applicant's Goods described in International Class 6 are similar and overlapping, will or are likely to be offered through the same channels of trade, and purchased and consumed by the same class of purchasers.

15. Opposer's customers, and the public in general, are likely to be confused, mistaken or deceived as to the origin, affiliation, endorsement or sponsorship of Applicant's Goods offered under Applicant's SYMPRESS mark, as recited in International Class 6, and misled into believing that said Goods are offered by, emanate from, or are in some way associated with Opposer, to the damage and detriment of Opposer and its reputation.

16. Opposer will be damaged by Applicant's registration in International Class 6 of the SYMPRESS mark as set forth in Application Serial No. 79/053,125, as it is confusingly similar in sound, appearance and commercial impression to Opposer's distinctive IMPRESS and IMPRESS I and Design Marks thereby violating Opposer's common law rights to its Marks.

17. Applicant's registration of the SYMPRESS mark would be contrary to 15 U.S.C. §1052(d) and would violate and diminish the prior and superior rights of Opposer to its IMPRESS I and Design and IMPRESS Marks.

**SECOND GROUND FOR OPPOSITION  
(LIKELIHOOD OF CONFUSION - FEDERAL)**

18. Opposer re-alleges the allegations contained in Paragraphs 1 through 17 of this Notice of Opposition.

19. Applicant's SYMPRESS mark so resembles Opposer's IMPRESS I and Design Mark in sound, appearance and commercial impression as to be likely, when used in connection with Applicant's Goods recited in International Class 06, to cause confusion or mistake, or to deceive purchasers resulting in damage and detriment to Opposer and its reputation.

20. Applicant's filing date of 20 March 2008 for the SYMPRESS Mark is subsequent to Opposer's 29 August 2000 filing date and 13 April 2004 issue date for U.S. Reg. No. 2,832,356 for the IMPRESS I and Design Mark. As such, priority is not an issue in this proceeding.

21. Opposer's Goods and Applicant's Goods are similar and overlapping, will be offered and sold through the same channels of trade, and purchased and consumed by the same class of purchasers.

22. Opposer's customers, and the public in general, are likely to be confused, mistaken or deceived as to the origin, affiliation, endorsement and sponsorship of Applicant's Goods offered and marketed under the SYMPRESS Mark and misled into believing that such Goods are offered by, emanate from, or are in some way associated with, sponsored by or endorsed by Opposer, to the damage and detriment of Opposer and its reputation.

23. Opposer will be damaged by Applicant's registration of the SYMPRESS Mark in connection with the Goods recited in International Class 6 as set forth in Application Serial No. 79/053,125, in that the mark is confusingly similar in appearance, sound and commercial impression to Opposer's distinctive IMPRESS I and Design Mark and is being used or intended to be used in U.S. commerce in connection with goods similar to Opposer's Goods.

24. Applicant's registration of SYMPRESS would be contrary to 15 U.S.C. § 1052(d) and would violate and diminish the prior and superior rights of Opposer to its IMPRESS I and Design Mark.

WHEREFORE, Opposer prays that its Opposition be sustained, that Application Serial No. 79/053,125 be rejected and that the registration of SYMPRESS as a trademark to Applicant be refused, and for such other relief as may be deemed just and proper.

Respectfully submitted,

IMPRESS GROUP BV

Date: 13 April 2009

By:



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Eighteenth and Arch Streets  
Philadelphia, PA 19103

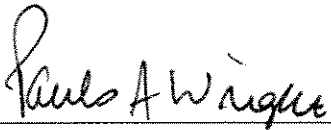
Attorneys for Opposer



**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Notice of Opposition was served on counsel for Applicant, this 13<sup>th</sup> day of April 2009, by sending same via First Class Mail, postage prepaid, to:

H. John Campaign, Esq.  
Milena Mishev, Esq.  
Graham, Campaign P.C.  
36 West 44th Street  
New York, NY 10036-8178

  
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