

ESTTA Tracking number: **ESTTA311526**

Filing date: **10/14/2009**

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	Jeffrey M Choy
Granted to Date of previous extension	10/14/2009
Address	497 Devland Drive Winchester, VA 22603 UNITED STATES
Party who filed Extension of time to oppose	JeffreyMChoy
Relationship to party who filed Extension of time to oppose	A space has been inserted between Opposer's first name, his middle initial, and his last name.

Attorney information	Mark Lebow YOUNG & THOMPSON 209 Madison Street Suite 500 Alexandria, VA 22314 UNITED STATES trademarks@young-thompson.com Phone:703-521-2297
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Applicant Information

Application No	77674036	Publication date	06/16/2009
Opposition Filing Date	10/14/2009	Opposition Period Ends	10/14/2009
Applicant	Shell Trademark Management BV Carel van Bylandtlaan 30, 2596 HR The Hague, NETHERLANDS		

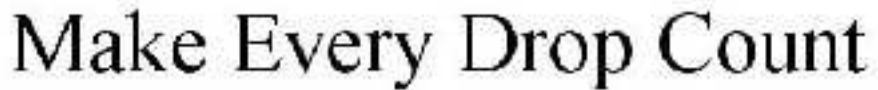
Goods/Services Affected by Opposition

Class 004. All goods and services in the class are opposed, namely: Fuel for motor vehicles, namely, gasoline and diesel; Motor oil
Class 035. All goods and services in the class are opposed, namely: Retail store services featuring convenience store items and gasoline
Class 037. All goods and services in the class are opposed, namely: Automobile service station services; Motor vehicle maintenance and repair; Vehicle cleaning; Vehicle service stations; Vehicle washing

Grounds for Opposition

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

U.S. Application No.	77518428	Application Date	07/09/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MAKE EVERY DROP COUNT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: Manuals in the field of energy efficiency Class 035. First use: Consultation in the field of energy efficiency; Efficiency experts; Information in the field of energy efficiency		

Attachments	77518428#TMSN.jpeg (1 page)(bytes) 2009-10-14 Notice of Opposition.pdf (6 pages)(81797 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	/Mark Lebow/
Name	Mark Lebow
Date	10/14/2009

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

JEFFREY CHOY,

Opposer,

v.

SHELL TRADEMARK MANAGEMENT B.V.,

Applicant.

Serial No. 77674036

Opposition No.

NOTICE OF OPPOSITION

Opposer, JEFFREY CHOY, is an individual and U.S. citizen whose address is 497 Devland Drive, Winchester, Virginia 22603.

Applicant, SHELL TRADEMARK MANAGEMENT B.V., is a Netherlands corporation with its principal place of business located at Carel van Bylandtlaan 30, 2596 HR The Hague, Netherlands.

Opposer believes that he will be damaged by registration of the mark GET THE MOST OUT OF EVERY DROP and Design as depicted in U.S. Application Serial No. 77674036 for goods and services identified in International Classes 4, 35 and 37, and hereby opposes registration of the same.

The grounds for opposition are as follows:

1. On July 9, 2008 (Opposer's Constructive Use Date), Opposer filed with the U.S. Patent and Trademark Office an application to register the mark "MAKE EVERY DROP COUNT" in standard characters (hereafter referred to as "Opposer's Mark") for various goods and services including "manuals in the field of energy efficiency" (Class 16) and "consultation in the field of energy efficiency; efficiency experts; information in the field of energy efficiency" (Class 35). The application was filed under Section 1(b) of the Trademark Act and was assigned U.S. Application Serial No. 77518428.

2. On February 19, 2009 (Applicant's Constructive Use Date), Applicant filed an application to registration the mark GET THE MOST OUT OF EVERY DROP and Design (hereafter referred to as "Applicant's Mark") for various goods and services including *inter alia* "fuel for motor vehicles, namely, gasoline and diesel; motor oil" (Class 4), "retail store services featuring convenience store items and gasoline" (Class 35), and "automobile services station services; motor vehicle maintenance and repair; vehicle cleaning; vehicle service stations; vehicle washing" (Class 37) (hereafter referred to collectively as "the goods and services at issue"). The application was filed under Section 1(b) of the Trademark Act and was assigned U.S. Application Serial No. 77674036.

3. Upon information and believe, Applicant's Mark was not used in commerce on or in connection with gasoline, diesel or motor oil prior to Opposer's Constructive Use Date.

4. Upon information and believe, Applicant Mark's was not used in commerce on or in connection with retail store services prior to Opposer's Constructive Use Date.

5. Upon information and believe, Applicant Mark's was not used on or in connection with automobile service station services prior to Opposer's Constructive Use Date.

6. Upon information and believe, Applicant Mark's was not used on or in connection with motor vehicle maintenance and repair prior to Opposer's Constructive Use Date.

7. Upon information and believe, Applicant Mark's was not used on or in connection with vehicle cleaning or vehicle washing prior to Opposer's Constructive Use Date.

8. Upon information and believe, Applicant Mark's was not used on or in connection with vehicle service stations prior to Opposer's Constructive Use Date.

9. Priority is not an issue. Opposer's Constructive Use Date precedes Applicant's Constructive Use date and, upon information and belief, Applicant's Mark was not used

in commerce on or in connection with the goods and services at issue prior to Opposer's Constructive Use Date.

10. Opposer's Mark as described in paragraph 1 above is similar in appearance, sound, connotation or commercial impression to Applicant's Mark as described in paragraph 2 above.

11. Proper use of Opposer's Mark as described in paragraph 1 above includes use of Opposer Mark in any font, style, size or color, including the same font, style, size and/or color used by Applicant in Applicant's mark as described in paragraph 2 above.

12. Opposer's Mark as described in paragraph 1 above covers goods and services that overlap with, are related to, or are otherwise similar to the goods and services at issue.

13. Opposer's Mark as described in paragraph 1 above covers goods and services that Opposer avers are or will be advertised or provided in similar channels of trade and/or to similar customers are or will be used by Applicant for the goods and services at issue.

14. Registration of Applicant's Mark as described in paragraph 2 above will interfere with Opposer's use and/or intended use and registration of Opposer's Mark and is likely to cause the public to believe that the goods and services of Opposer originate with Applicant, or vice versa, or that Opposer is controlled by or in some manner affiliated or

associated with Applicant, or vice versa, and is otherwise likely to cause confusion, cause mistake or deceive.

15. Any defect, inadequacy or deficiency found in Opposer's Mark as described in paragraph 2 above would reflect negatively upon and seriously injure the developing reputation and goodwill currently and/or soon to be associated with the goods and services provided or soon to be provided by Opposer in connection with Opposer's Mark.

16. If Applicant is granted a registration of Applicant's Mark as described in paragraph 2 above, Applicant would thereby obtain at least a *prima facie* exclusive right to use said mark. Such registration would be a source of damage and injury to Opposer and its customers.

WHEREFORE, Opposer prays that Application Serial No. 77674036 be rejected, that registration of the mark GET THE MOST OUT OF EVERY DROP and Design for the goods and services at issue be refused, and that this opposition be sustained in favor of Opposer.

Opposer has appointed Mark Lebow, Robert J. Patch, Andrew J. Patch, Benoît Castel, Thomas W. Perkins, Eric Jensen, Roland E. Long, Jr., Liam McDowwel, Douglas Rigler, Jeffrey Goehring, and Jeffrey Snay, all of whom are affiliated with the firm Young & Thompson, 209 Madison Street, Suite 500, Alexandria, VA 22314, as its duly authorized agents and attorneys in the matter of this opposition, with full power of

substitution and revocation, to transact all business with the Patent and Trademark Office and elsewhere in the United States courts in connection with this opposition, to sign all papers which may be hereinafter filed in connection with this opposition, and to receive all communications relating to this opposition.

Respectfully submitted,

/Mark Lebow/
Mark Lebow
Attorney for Opposer
Young & Thompson
209 Madison Street, Suite 500
Alexandria, VA 22314
Tel: (703) 521-2297

October 14, 2009

Certificate of Service

I hereby certify that the within Notice of Opposition was served on this 14th day of October 2009 via U.S. mail, postage prepaid, to the below listed counsel of record for Applicant:

Kimbley L. Muller
Shell Oil Company
910 Louisiana OSP 4794
Houston, TX 77002

/hue morrison /
Hue Morrison