

ESTTA Tracking number: **ESTTA486352**

Filing date: **07/31/2012**

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	R. C. Bigelow, Inc.
Granted to Date of previous extension	08/01/2012
Address	201 Black Rock Turnpike Fairfield, CT 06430 UNITED STATES

Attorney information	Wendy E. Miller Cooper & Dunham LLP 30 Rockefeller Plaza New York, NY 10112 UNITED STATES wmiller@cooperdunham.com, tm@cooperdunham.com, jshand@cooperdunham.com, kcastaldo@cooperdunham.com Phone:212-278-0400
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**Applicant Information**

Application No	85448932	Publication date	04/03/2012
Opposition Filing Date	07/31/2012	Opposition Period Ends	08/01/2012
Applicant	Beverage Marketing USA, Inc. 60 Crossways Park Drive West Woodbury, NY 11797 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 030. First Use: 2006/03/15 First Use In Commerce: 2006/03/15 All goods and services in the class are opposed, namely: ICED TEA-BASED BEVERAGES, NAMELY, BEVERAGES HAVING A BLEND OF ICED TEA AND FRUIT JUICE
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**Grounds for Opposition**

The mark is merely descriptive	Trademark Act section 2(e)(1)
Genericness	Trademark Act section 23

Attachments	Notice of Opposition.pdf ( 3 pages )(10714 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	/Wendy E. Miller/
Name	Wendy E. Miller
Date	07/31/2012

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

U.S. App. No. : 85/448,932  
Filed : October 17, 2011  
Trademark : HALF & HALF

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R. C. BIGELOW, INC,	:	:	
	:	:	
Opposer,	:	:	Opposition No. _____
	:	:	
v.	:	:	
	:	:	
BEVERAGE MARKETING USA, INC.,	:	:	
	:	:	
Applicant.	:	:	
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**NOTICE OF OPPOSITION**

R. C. BIGELOW, INC., a corporation of the State of Connecticut, having its principal place of business at 201 Black Rock Turnpike, Fairfield, Connecticut 06825 (hereinafter "Opposer"), believes that it will be damaged by the registration of the mark shown in U.S. Appln. No. 85/448,932, owned by Beverage Marketing USA, Inc., a New York corporation having a place of business at 60 Crossways Park Drive West Woodbury, New York 11797 (hereinafter "Applicant"), and hereby opposes issuance of that registration.

As grounds for the opposition, Opposer states as follows:

1. Applicant seeks to register HALF & HALF as a trademark for “iced tea-based beverages, namely, beverages having a blend of iced tea and fruit juice,” claiming first use as of March 15, 2006.

2. The term “half & half” is merely descriptive of, or is a generic term for the goods recited in the subject application, namely, a beverage comprising a combination of iced tea and lemonade.

3. Evidence that the term “half & half” is merely descriptive or generic is contained in each of the Office Actions issued in U.S. Applications Nos. 85/308,401 and 85/308,502.

4. U.S. Applications 85/308,401 and 85/308,502, also owned by Applicant, both seek registration of the term “half & half iced tea lemonade” for “iced tea-based beverages, namely, beverages having a blend of iced tea and lemonade.” The Examining Attorney has refused registration in both applications based on evidence that the term “half & half” is merely descriptive of the goods, or is a generic term for the goods. The evidence cited by the Examining Attorney in those applications also demonstrates that the term “half & half,” sought to be registered in the subject application, is merely descriptive or generic.

5. Opposer sells tea and tea related products in association with its BIGELOW trademark, including tea bags for brewing a beverage called “half & half” which comprises a combination of lemonade and tea.

6. Registration to Applicant of the designation HALF & HALF will interfere with Bigelow’s use of “half & half” to describe its combination tea and lemonade product and, therefore, would be a source of damage and injury to Bigelow and others in the beverage

industry who similarly use the designation “half & half” to describe combination tea and lemonade products.

WHEREFORE, Opposer prays that its opposition be sustained and that the registration sought by Applicant be refused.

Respectfully submitted,

Dated: July 31, 2012

By: /Wendy E. Miller/  
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