

ESTTA Tracking number: **ESTTA617158**

Filing date: **07/23/2014**

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	Global Tap, LLC
Granted to Date of previous extension	07/23/2014
Address	18076 Mt. Zion Road Gallen, MI 49113 UNITED STATES
Attorney information	James Michael Faier Faier & Faier P.C. 566 W. Adams St.Suite 600 Chicago, IL 60661 UNITED STATES jmfaier@faier.com Phone:3123829400

**Applicant Information**

Application No	85910449	Publication date	03/25/2014
Opposition Filing Date	07/23/2014	Opposition Period Ends	07/23/2014
Applicant	MAX HYDRATION LLC 2 Deerfield Drive, Suite 1A Greenwich, CT 06831 UNITED STATES		


**Goods/Services Affected by Opposition**


Class 007. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Water bottle refilling stations in the nature of mechanical water dispensing machines, not heated or cooled, also incorporating drinking fountains
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**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Other	(3) Applicant did not have a bona fide intent to use the mark when it filed the application; (4) Applicant is not the owner of the Mark; (5) Applicant abandoned the mark and has gone out of business without intent to resume business and it could not file a Statement of Use if a Notice of Allowance were to issue in this case.

**Marks Cited by Opposer as Basis for Opposition**

U.S. Application No.	86129055	Application Date	11/25/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GLOBALTAP		
Design Mark			
Description of Mark	The mark consists of The word GLOBALTAPwith an abstract of a water drop.		
Goods/Services	<p>Class 011. First use: First Use: 2008/05/31 First Use In Commerce: 2009/12/31 drinking fountains; water bottle filling stations</p> <p>Class 035. First use: First Use: 2008/05/31 First Use In Commerce: 2011/09/30 Promoting the goods and services of others by arranging for businesses to affiliate their goods and services with the goods and services of third parties by means of sponsorship relationships; Promotional sponsorship of drinking fountains and water bottle filling stations</p>		

U.S. Application No.	86129050	Application Date	11/25/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GLOBALTAP		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 011. First use: First Use: 2008/05/31 First Use In Commerce: 2009/12/31 drinking fountains; water bottle filling stations</p> <p>Class 035. First use: First Use: 2008/05/31 First Use In Commerce: 2011/09/30 Promoting the goods and services of others by arranging for businesses to affiliate their goods and services with the goods and services of third parties by means of sponsorship relationships; Promotional sponsorship of drinking fountains and water bottle filling stations</p>		

Attachments	86129055#TMSN.png( bytes )
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	86129050#TMSN.png( bytes ) GLOBAL_TAP_SMART_TAP_Opposition_2014_07_23_1019.pdf(102452 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	/jamesmichaelfaier/
Name	James Michael Faier
Date	07/23/2014

Certificate of Electronic Submission

I certify that this correspondence (Notice of Opposition) is being transmitted to the United States Patent and Trademark Office via the ESTTA system on 23 July 2014.

signature: /jamesmichaelfaier/

name of person signing certificate: James Michael Faier

date of signature: 23 July 2014

In The United States Patent and Trademark Office  
Before the Trademark Trial and Appeal Board

In re serial number 85910449 for the mark SMART TAP

_____	)	Opposition No. _____
Global Tap,	)	
	)	
a Michigan LLC,	)	
	)	
OPPOSER,	)	
	)	
v.	)	
	)	
Max Hydration,	)	
	)	
a New York LLC,	)	
	)	
APPLICANT.	)	
_____	)	

Notice of Opposition

Opposer, Global Tap, a Michigan LLC, of 18076 Mt. Zion Road, Gallen, MI 49113, believes it will be damaged by the registration of the mark shown in USPTO trademark application serial number 85910449 and hereby opposes same.

## Description of Applicant's Application

Applicant: Max Hydration, a New York LLC

Applicant's Address: 2 Deerfield Drive, Suite 1A, Greenwich, CT 06831

Application filing date: 22 April 2013

Published for Opposition in the Official Gazette of 25 March 2014.

Mark: SMART TAP

In International Class 007 for Water bottle refilling stations in the nature of mechanical water dispensing machines, not heated or cooled, also incorporating drinking fountains.

Applicant based its application on Section 1(b) of the Act.

### Standing

Opposer believes it will be damaged by registration of a mark as it transports in interstate commerce and sells similar goods in the United States under the mark GLOBALTAP which was in use in commerce in the United States prior to the adoption of the mark SMART TAP by Applicant. Applicant's mark SMART TAP is confusingly similar to Opposer's mark GLOBALTAP.

### Grounds

1. Trademark Act § 2(d), 15 U.S.C. § 1052(d). Applicant's SMART TAP mark so resembles Opposer's GLOBALTAP mark which was used without abandonment in the United States by Opposer prior to adoption of SMART TAP by Applicant as to be likely, when used on or in connection with the goods or services of the Applicant, to cause confusion, or to cause mistake, or to deceive.

2. Trademark Act § 2(a), 15 U.S.C. § 1052(a). Applicant's SMART TAP mark so resembles Opposer's GLOBALTAP mark which was used without abandonment in the United States by Opposer prior to adoption of SMART TAP by Applicant as to be likely, when used on or in connection with the goods or services of the Applicant, so as to falsely suggest a connection with Opposer's name or identity.
3. Trademark Act § 1(b), 15 U.S.C. § 1051(b). Applicant did not have a bona fide intent to use the SMART TAP mark in connection with the identified goods/services as of the filing date of the application under Trademark Act § 1(b), 15 U.S.C. § 1051(b).
4. Applicant is not (and was not, at the time of the filing of its application for registration) the rightful owner of the SMART TAP mark.
5. Applicant abandoned SMART TAP mark and has gone out of business without intent to use the mark in commerce and could not sign a Statement of Use should a Notice of Allowance issue in this application.

Respectfully submitted on this 23<sup>rd</sup> Day of July 2014.

A handwritten signature in black ink, appearing to read 'D. Whitman', is written over a horizontal line.

Daniel Whitman

Manager

GLOBALTAP, a Michigan LLC

CERTIFICATE OF SERVICE AS RECOMMENDED BY TBMP SECTION 113.03

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on opposing counsel by mailing said copy on 23 July 2014, via First Class Mail, postage prepaid to:

OLIVER R. CHERNIN, ESQ,  
MCLAUGHLIN & STERN, LLP  
260 MADISON AVE FL 17  
NEW YORK, NEW YORK 10016-2404  
UNITED STATES

Dated this 23<sup>rd</sup> day of July 2014.

/jamesmichaelfaier/

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James Michael Faier

Signed: 23 July 2014