

ESTTA Tracking number: **ESTTA647233**

Filing date: **12/28/2014**

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

|                           |   |
|---------------------------|---|
| Proceeding                | 91218484  |
| Party                     | Defendant<br>TOM MILES  |
| Correspondence<br>Address | Wendy Peterson<br>Not Just Patents LLC<br>PO Box 18716<br>Minneapolis, MN 55418<br>UNITED STATES<br>wsp@NJPLS.com |
| Submission                | Motion to Amend/Amended Answer or Counterclaim  |
| Filer's Name              | Wendy Peterson  |
| Filer's e-mail            | wsp@NJPLS.com   |
| Signature                 | /Wendy Peterson/  |
| Date                      | 12/28/2014  |
| Attachments               | Amended Answer 91218484.pdf(34436 bytes )   |

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

Opposition Proceeding 91218484

In the matter of Trademark Registration No. 86049631

For the mark: RE REAL ENERGY REAL FOOD . . .FOR

REALLY BUSY PEOPLE (design mark)



Publication Date: Aug. 26, 2014

International IP Holdings, LLC v. Tom Miles

**AMENDED ANSWER 91218484**

1. Denied. On information and belief, the address listed by Opposer is that of the law firm McDonald Hopkins PLC and not that of Opposer. As shown in Opposer's attachments, Opposer goes by several different names including International IP Holdings, Innovation Ventures LLC, and Living Essentials with each address supplied by Opposer for these registrations being the address of one of Opposer's attorneys and not actual addresses for Opposer's different entities.
2. Admitted.
3. Admitted.
4. Denied. According to the TSDR status reports attached to the Notice of Opposition, the owner of the first registration, the last assignee listed RN 3698044 is THE HUNTINGTON NATIONAL BANK. Likewise with the other marks. It is unclear if

Opposer is really a party in interest in this proceeding and if Opposer has standing to bring this opposition.

5. Denied. According to the TSDR status reports attached to the Notice of Opposition, the owner of the first registration, the last assignee listed RN 3698044 is THE HUNTINGTON NATIONAL BANK. Likewise with the other marks. It is unclear if Opposer is really a party in interest in this proceeding and has standing to bring this opposition.
6. Applicant does not have sufficient information to admit or deny the allegation.
7. Applicant does not have sufficient information to admit or deny the allegation.
8. Applicant does not have sufficient information to admit or deny the allegation.
9. Applicant does not have sufficient information to admit or deny the allegation.
10. Denied.
11. Denied. It is unlikely that anyone would confuse energy shots, dietary supplements and clothing with real food.
12. Denied.
13. Applicant does not have sufficient information to admit or deny the allegation.
14. Denied.
15. Denied.
16. Denied.
17. Admitted.
18. Denied.
19. Denied.
20. Denied.

## AFFIRMATIVE DEFENSES

- 1: Opposer's marks are common, weak, and entitled to a narrow scope of protection under the law.
- 2: Applicant is at least entitled to a registration that excludes the narrow neck bottle packaging pleaded by Opposer for use with its 'energy' goods.
- 3: Applicant is at least entitled to a registration that excludes 'shot' size liquids.
- 4: Applicant is at least entitled to a registration with no color claims and excludes color fades of red.
- 5: Applicant is at least entitled to a registration limited to packaging of beverages larger than 6 oz.
- 6: Applicant is at least entitled to a registration limited to beverages with ingredients requiring no caution labels regarding consumption and safe for all ages including consumption for children under age 12.
- 7: Applicant is at least entitled to a registration with channels of trade limited to health food stores and medical centers.

Submitted By: /Wendy Peterson/

Date: December 28, 2014

Wendy Peterson, Attorney for Tom Miles, Applicant  
Not Just Patents LLC  
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[wsp@NJPLS.com](mailto:wsp@NJPLS.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on December 28, 2014, the foregoing was served upon Opposer by first class mail:

CHRISTOPHER W SCHNEIDER  
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By: /Wendy Peterson/

Date: December 28, 2014

Wendy Peterson, Attorney for Tom Miles, Applicant