

ESTTA Tracking number: **ESTTA907399**

Filing date: **07/05/2018**

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	Carabao Tawandang Co., Ltd.
Granted to Date of previous extension	07/04/2018
Address	393 Silom Building, 7-10th Flrs 393 Silom Road Silom Bangrak Bangkok, 10500 THAILAND
Attorney information	Angela Kalsi IpHorgan Ltd. 195 Arlington Heights Rd., Suite #125 Buffalo Grove, IL 60089 UNITED STATES Email: mail@iphorgan.com, akalsi@iphorgan.com

Applicant Information

Application No	87655055	Publication date	03/06/2018
Opposition Filing Date	07/05/2018	Opposition Period Ends	07/04/2018
Applicant	BUFFALO GENERATOR INC. 8 The Green STE A, Dover, DE 19901 UNITED STATES		

Goods/Services Affected by Opposition


Class 007. First Use: 2017/08/01 First Use In Commerce: 2017/08/29 All goods and services in the class are opposed, namely: Alternators; Compressors for machines; Current generators; Dynamo belts; Generators of electricity; Hydraulic turbines, other than for land vehicles; Printing machines; Starters for motors and engines; Tilling machines for agricultural use
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disrepute	Trademark Act Section 2(a)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3558945	Application Date	11/20/2003
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Registration Date	01/06/2009	Foreign Priority Date	NONE
Word Mark	CARABAO		
Design Mark			
Description of Mark	<p>The mark consists of a white animal head outlined in yellow with black eyes, black nose, black and white horns and a red bird design on the forehead. The head is contained within a red circle, which in turn is outlined by a yellow ring, which in turn is contained within a green background. The horns of the animal extend beyond the circles. Behind the animal's right horn, cutting into the red and yellow circles, is a white star with white prongs radiating from it. The word "CARABAO" appears in white on the green background beneath the design. The word is outlined in black.</p>		
Goods/Services	<p>Class 032. First use: First Use: 2002/10/00 First Use In Commerce: 2004/03/00 Non-medicated energy drinks, mineral water, aerated water; non-alcoholic beverages, namely, non-alcoholic beer, soft drinks, fruit juice, isotonic drinks and electrolyte replacement beverages; non-alcoholic fruit extracts used in the preparation of beverages; beer; soda water and sport drinks</p>		

Attachments	78330948#TMSN.png(bytes) Notice of Opposition.pdf(140084 bytes) exhibit A.pdf(854803 bytes)
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Signature	/Angela S. Kalsi/
Name	Angela S. Kalsi
Date	07/05/2018

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

In the Matter of Application:

Appl. No. : 87655055
Filed : October 22, 2017
Published : March 6, 2018
Mark : CARABAO
Applicant : Buffalo Generator Inc.

Carabao Tawandang Co., Ltd.)	
Opposer,)	Opposition No. (Not Yet Assigned)
)	
v.)	
)	
Buffalo Generator Inc.)	
Applicant.)	

NOTICE OF OPPOSITION

Carabao Tawandang Co., Ltd. believes it will be harmed by registration of the trademark CARABAO by Buffalo Generator Inc. (“Applicant”) as applied for in U.S. Application Serial No. 87655055. Accordingly, Carabao Tawandang Co., Ltd. (“Carabao” or “Opposer”) by its attorneys IpHorgan Ltd, hereby opposes registration of Applicant’s applied-for mark. In support of this Notice of Opposition, Carabao states as follows:

- 1) Opposer Carabao is a Thai Limited Liability Company located at 393 Silom Building, 7-10th Flrs 393 Silom Road Silom Bangrak, Bangkok, Thailand 10500.
- 2) Carabao is the owner of the trademark CARABAO for use with a wide variety of beverages. “Carabao” is the Tagalog word for “water buffalo.” Used in connection with beverages, CARABAO is a highly distinct trademark.
- 3) Carabao is one of the world’s leading energy drink manufacturers and has gained popularity in the United States. As a result of Carabao’s longstanding and

continuous use of CARABAO in the U.S., the relevant consuming public recognizes the CARABAO trademark as identifying Carabao as the source of the goods offered thereunder and serving to distinguish those goods from the goods of others.

4) Moreover, because of Carabao's efforts in advertising and promoting its CARABAO drinks in the United States, Carabao enjoys goodwill in its CARABAO trademark.

5) Carabao is the owner of U.S. Trademark Registration No. 3558945 for the



mark, filed on November 20, 2003, and registered on January 6, 2009 ("CARABAO Registration"). The CARABAO Registration covers the following goods:

Non-medicated energy drinks, mineral water, aerated water; non-alcoholic beverages, namely, non-alcoholic beer, soft drinks, fruit juice, isotonic drinks and electrolyte replacement beverages; non-alcoholic fruit extracts used in the preparation of beverages; beer; soda water and sport drinks.

The CARABAO Registration has a first use in commerce date of March 2004. Attached hereto as Exhibit A is a true and correct copy of the registration certificate and TESS printout for the CARABAO Registration. This registration is valid, subsisting, and in full force and effect.

6) Carabao filed a Declaration of Use and Incontestability under Sections 8 and 15 of the Lanham Act for the CARABAO Registration. The Declaration was accepted by the U.S. Patent and Trademark Office. As a result, the CARABAO Registration is incontestable under Section 15 of the Lanham Act.

7) The goods claimed in the CARABAO Registration are not limited as to their nature, type, channels of trade, or class of purchasers. Accordingly, it is presumed that this registration encompasses all goods of the type described, that they move in all normal channels of trade, and that they are available to all classes of purchasers.

8) Applicant is a Delaware corporation with an address at 8 The Green STE A, Dover, Delaware 19901.

9) Applicant filed on October 22, 2017, U.S. Application Serial No. 87655055 for the mark CARABAO under Trademark Act Section 1(a) (“CARABAO Application”). The application covers the following goods:

Alternators; Compressors for machines; Current generators; Dynamo belts; Generators of electricity; Hydraulic turbines, other than for land vehicles; Printing machines; Starters for motors and engines; Tilling machines for agricultural use.

10) Applicant asserts that its CARABAO mark was first used in commerce in the United States on August 1, 2017.

11) The CARABAO Application was published for opposition in the March 6, 2018, edition of the USPTO’s *Official Gazette*.

12) Carabao believes it will be injured by registration of the CARABAO Application.

13) Carabao has not consented to Applicant’s use or registration of the CARABAO mark.

14) Opposer’s CARABAO Registration has a filing date, registration date, and first use date that precedes the filing date and asserted use date of the CARABAO Application. Therefore, the CARABAO Registration has priority over the CARABAO Application.

15) Applicant's mark is CARABAO in standard characters. Opposer's mark is a combination mark comprising the word CARABAO and a design. Applicant's mark is therefore identical to the literal portion of Opposer's mark. Consumers viewing Opposer's mark will not pronounce the design and will refer to it only as "CARABAO." The parties' marks, in effect, are identical.

16) The CARABAO Application claims goods that are not restricted as to their nature, type, channels of trade, or class of purchasers. Therefore, the machines claimed in the CARABAO Application could be used in the manufacture of beverages, which would be highly related to the goods covered by the CARABAO Registration.

17) Owing to Carabao's use of and priority of rights in its CARABAO trademark, the identity of the parties' marks, and the related nature of the goods, Applicant's CARABAO mark is likely to cause confusion or mistake, or to deceive, within the meaning of 15 U.S.C. § 1052(d).

18) Further, because (a) Applicant's applied-for CARABAO mark is identical to Carabao's name; (b) Applicant's applied-for mark used in connection with its claimed goods would be recognized by purchasers as pointing uniquely and unmistakably to Carabao; (c) Carabao is not connected with any goods sold under Applicant's mark; and (d) Carabao's name is famous and of high reputation, a false connection between the goods sold under Applicant's applied-for CARABAO mark and Carabao would be presumed within the meaning of 15 U.S.C. § 1052(a).

19) Registration of the applied-for CARABAO mark will impair Carabao's ability to continue deriving benefits from the valuable reputation and goodwill it has accrued in the CARABAO trademark and name.

20) For the foregoing reasons, Applicant's applied-for CARABAO mark should be denied registration under 15 U.S.C. §§ 1052(d) and (a).

WHEREFORE, Opposer requests that this Notice of Opposition be sustained and that U.S. Application Serial No. 87655055 be refused registration.

Date: July 5, 2018

Respectfully submitted,

/Angela S. Kalsi/
Angela S. Kalsi
IpHorgan, Ltd
195 Arlington Heights Road, Suite 125
Buffalo Grove, Illinois 60089
Tel: (847) 808-5500
Fax: (847) 808-7238
Email: mail@iphorgan.com; akalsi@iphorgan.com

Attorneys for Opposer
Carabao Tawandang Co., Ltd.

Int. Cl.: 32

Prior U.S. Cls.: 45, 46, and 48

Reg. No. 3,558,945

United States Patent and Trademark Office

Registered Jan. 6, 2009

**TRADEMARK
PRINCIPAL REGISTER**



CARABAO TAWANDANG CO., LTD. (THAI-
LAND LIMITED LIABILITY COMPANY)
462/59 NANG LINCHEE RD.
CHONG NONSI, YANNAWA BANGKOK, THAI-
LAND 10120

FOR: NON-MEDICATED ENERGY DRINKS, MI-
NERAL WATER, AERATED WATER; NON-ALCO-
HOLIC BEVERAGES, NAMELY, NON-ALCOHOLIC
BEER, SOFT DRINKS, FRUIT JUICE, ISOTONIC
DRINKS AND ELECTROLYTE REPLACEMENT
BEVERAGES; NON-ALCOHOLIC FRUIT EX-
TRACTS USED IN THE PREPARATION OF BEV-
ERAGES; BEER; SODA WATER AND SPORT
DRINKS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 10-0-2002; IN COMMERCE 3-0-2004.

THE COLOR(S) BLACK, WHITE, RED, YELLOW
AND GREEN IS/ARE CLAIMED AS A FEATURE OF
THE MARK.

THE MARK CONSISTS OF A WHITE ANIMAL
HEAD OUTLINED IN YELLOW WITH BLACK
EYES, BLACK NOSE, BLACK AND WHITE HORNS
AND A RED BIRD DESIGN ON THE FOREHEAD.
THE HEAD IS CONTAINED WITHIN A RED CIR-
CLE, WHICH IN TURN IS OUTLINED BY A YEL-
LOW RING, WHICH IN TURN IS CONTAINED
WITHIN A GREEN BACKGROUND. THE HORNS
OF THE ANIMAL EXTEND BEYOND THE CIR-
CLES. BEHIND THE ANIMAL'S RIGHT HORN,
CUTTING INTO THE RED AND YELLOW CIRCLES,
IS A WHITE STAR WITH WHITE PRONGS RADIAT-
ING FROM IT. THE WORD "CARABAO" APPEARS
IN WHITE ON THE GREEN BACKGROUND BE-
NEATH THE DESIGN. THE WORD IS OUTLINED
IN BLACK.

SN 78-330,948, FILED 11-20-2003.

JEAN IM, EXAMINING ATTORNEY



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Word Mark	CARABAO
Goods and Services	IC 032. US 045 046 048. G & S: Non-medicated energy drinks, mineral water, aerated water; non-alcoholic beverages, namely, non-alcoholic beer, soft drinks, fruit juice, isotonic drinks and electrolyte replacement beverages; non-alcoholic fruit extracts used in the preparation of beverages; beer; soda water and sport drinks. FIRST USE: 20021000. FIRST USE IN COMMERCE: 20040300
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	01.01.05 - Stars - one or more stars with seven or more points 03.07.03 - Heads of oxen, cows, calves, bulls 03.13.03 - Horns (of animal) along (not part of heads), antlers 26.01.20 - Circles within a circle 26.01.21 - Circles that are totally or partially shaded. 26.11.02 - Plain single line rectangles; Rectangles (single line) 26.11.13 - Rectangles (exactly two rectangles); Two rectangles 26.11.16 - Rectangles touching or intersecting 26.17.07 - Heat, lines depicting; Lines depicting speed, propulsion, heat or wind; Propulsion, lines depicting; Speed, lines depicting; Wind, lines depicting 26.17.25 - Other lines, bands or bars
Trademark Search Facility Classification Code	ANI-MISC Part of the animals including animal bones, horns, claws, shells, eyes, coral, paws, eggs, feathers, hides or skins GROT-BIRD Exaggerated depiction of a bird SHAPES-ASTRO Astronomical shapes consisting of celestial bodies, globes and geographical maps SHAPES-CIRCLE Circle figures or designs including semi-circles and incomplete circles SHAPES-COLORS-3-OR-MORE Design listing or lined for three or more colors SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons
Serial Number	78330948
Filing Date	November 20, 2003
Current Basis	1A
Original Filing	1B

Basis

Published for Opposition March 15, 2005

Registration Number **3558945**

Registration Date January 6, 2009

Owner (REGISTRANT) Carabao Tawandang Co., Ltd. LIMITED LIABILITY COMPANY THAILAND 393 Silom Building, 7-10th Flrs 393 Silom Road Silom Bangrak, Bangkok THAILAND 10500

Attorney of Record Paul Fields

Description of Mark The color(s) black, white, red, yellow and green is/are claimed as a feature of the mark. The mark consists of a white animal head outlined in yellow with black eyes, black nose, black and white horns and a red bird design on the forehead. The head is contained within a red circle, which in turn is outlined by a yellow ring, which in turn is contained within a green background. The horns of the animal extend beyond the circles. Behind the animal's right horn, cutting into the red and yellow circles, is a white star with white prongs radiating from it. The word "CARABAO" appears in white on the green background beneath the design. The word is outlined in black.

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

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