

ESTTA Tracking number: **ESTTA976659**

Filing date: **05/28/2019**

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	Wm. Wrigley Jr. Company
Granted to Date of previous extension	05/26/2019
Address	1132 West Blackhawk Street Chicago, IL 60642 UNITED STATES

Attorney information	Douglas N. Masters Loeb & Loeb LLP 321 N. Clark Street, Suite 2300 Chicago, IL 60654 UNITED STATES tmlit@loeb.com, dmasters@loeb.com, tgilles@loeb.com, eoneill@loeb.com 312-464-3100
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Applicant Information

Application No	87877760	Publication date	11/27/2018
Opposition Filing Date	05/28/2019	Opposition Period Ends	05/26/2019
Applicant	Beverage Specialists Inc. 905 Industry Drive Tukwila, WA 98188 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Concentrates used in the preparation of energy drinks and fruit-flavored beverages, sold for commercial uses


Grounds for Opposition


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

U.S. Registration No.	1000007	Application Date	02/23/1973
Registration Date	12/17/1974	Foreign Priority Date	NONE
Word Mark	STARBURST		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 1966/03/21 First Use In Commerce: 1966/03/21 FRUIT CANDY

U.S. Registration No.	1545544	Application Date	10/05/1988
Registration Date	06/27/1989	Foreign Priority Date	NONE
Word Mark	STARBURST		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1982/11/00 First Use In Commerce: 1982/11/00 CANDY		

U.S. Registration No.	4175344	Application Date	11/21/2011
Registration Date	07/17/2012	Foreign Priority Date	NONE
Word Mark	STARBURST		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2005/12/00 First Use In Commerce: 2006/01/00 Lip gloss		

U.S. Registration No.	4867837	Application Date	06/25/2014
Registration Date	12/08/2015	Foreign Priority Date	NONE
Word Mark	STARBURST		

Design Mark	STARBURST
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2014/12/31 First Use In Commerce: 2014/12/31 Bubble gum; Chewing gum

U.S. Registration No.	4625960	Application Date	08/05/2013
Registration Date	10/21/2014	Foreign Priority Date	NONE
Word Mark	STARBURST		
Design Mark	STARBURST		
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2014/02/28 First Use In Commerce: 2014/02/28 Frozen confections		

Attachments	73756140#TMSN.png(bytes) 85478034#TMSN.png(bytes) 86319655#TMSN.png(bytes) 86029183#TMSN.png(bytes) Wrigley -- Notice of Opposition re STARBURST POWER.pdf(143773 bytes)
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Signature	/Elisabeth K. O'Neill/
Name	Elisabeth K. O'Neill
Date	05/28/2019

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

In the Matter of Application Serial No. 87/877,760: STARBURST POWER

WM. WRIGLEY JR. COMPANY,)	
)	
Opposer,)	
)	
v.)	Opposition No.: _____
)	
BEVERAGE SPECIALISTS INC.,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION


Wm. Wrigley Jr. Company (“Opposer” or “Wrigley”), a Delaware corporation, located and doing business at 1132 West Blackhawk Street, Chicago, Illinois 60642, believes it will be damaged by the registration on the Principal Register of the trademark application for STARBURST POWER, Application Serial No. 87/877,760 (the “Application”), filed by Beverage Specialists Inc. (“Applicant”), a Washington corporation, located and doing business at 905 Industry Drive, Tukwila, Washington 98188, for “concentrates used in the preparation of energy drinks and fruit-flavored beverages, sold for commercial uses,” in International Class 32 (“Applicants’ Goods”), and Wrigley opposes the Application on the basis of likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

As grounds for this Opposition, Opposer alleges:

1. Wrigley is a leading manufacturer and seller of confectionery products under various brands.
2. From time to time, Wrigley also licenses its brands for goods other than confectionery, including beverage products.

3. Since long prior to April 16, 2018, the Application’s filing date, Opposer has continuously marketed its products under or in connection with its STARBURST marks (“STARBURST Marks”).

4. Opposer owns several registrations for the STARBURST Marks with the United States Patent and Trademark Office (“USPTO”), including the following registrations:

Mark	Class / Goods	Reg. No.	Status
STARBURST	30: fruit candy	1,000,007	Incontestable
	30: Candy	1,545,544	Incontestable
STARBURST	3: Lip gloss	4,175,344	Incontestable
STARBURST	30: Bubble gum; Chewing gum	4,867,837	Registered
STARBURST	30: Frozen confections	4,625,960	Registered

The registrations are valid, subsisting, and owned by Opposer. Many of these registrations are incontestable pursuant to 15 U.S.C. §§1064 and 1115(b).

5. Opposer has sold millions of dollars worth of goods in connection with its STARBURST Marks.

6. Opposer has spent significant sums advertising and promoting its STARBURST Marks throughout the United States.

7. By virtue of the popularity of Opposer’s goods offered in connection with the STARBURST Marks, and its advertising and promotion of the STARBURST Marks, Opposer has built up and now own an extremely valuable goodwill which is symbolized by the STARBURST Marks.

8. On April 16, 2018, Applicant filed the Application on a 1(b) intent-to-use basis seeking registration of STARBURST POWER for Applicants' Goods in the beverage category.

9. Applicant's STARBURST POWER mark incorporates Wrigley's STARBURST mark in its entirety and is confusingly similar to the STARBURST Marks.

10. Registration of STARBURST POWER for Applicants' Goods is likely to cause confusion, mistake, or deception, in that consumers are likely to believe Applicants' Goods are Opposer's goods, or the goods of a company that is sponsored, authorized or licensed by, or in some other way legitimately connected with, Opposer.

11. Applicant's proposed use and registration of STARBURST POWER for Applicants' Goods is without Opposer's consent or permission, and would be damaging to Opposer.

WHEREFORE, Opposer respectfully prays that this opposition be sustained and that the Application Serial No. 87/877,760 be denied registration.

Please debit our Deposit Account No. 502876 for the filing fee and any additional necessary fees.

Please address all correspondence to Douglas N. Masters, Loeb & Loeb LLP, 321 N. Clark Street, Ste. 2300, Chicago, Illinois 60654.

Dated: May 28, 2019

LOEB & LOEB LLP

By: /s/ Douglas N. Masters
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