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

Proceeding	91267740
Party	Defendant Sun Stars & Sons Pte. Ltd.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Carpathian Springs S.A. and Valvis Holding  
S.A.,

Opposers,

v.

Sun Stars & Sons Pte. Ltd.,

Applicant.

Opposition No. 91267740

Serial No.: 88477788

Mark:



**APPLICANT’S MOTION FOR A MORE DEFINITE STATEMENT**

Sun Stars & Sons Pte. Ltd (“Applicant”), through its undersigned attorney and pursuant to Fed. R. Civ. P. 12(e) and TBMP §505, hereby moves the Trademark Trial and Appeal Board for entry of an Order requiring a more definite statement of the pleadings of Carpathian Springs S.A. and Valvis Holding S.A. (“Opposers”) in their Notice of Opposition. Opposers have not included enough definition to its claims to allow Applicant a fair opportunity to respond. For example, the Opposer has conflated features of the two different registrations and redefined the registrations to come up with a definition of the “Opposers’ Mark” which is unlike either mark individually. Thus, it is impossible to follow how Opposers’ factual basis for likelihood of confusion as to either Registration. Moreover, while features of two Registrations of two different entities have been combined, the requisite relationship between the two has not been set forward. Finally, Opposers have taken diametrically opposed positions in a series of complex, ongoing related European Union and Romanian litigation and opposition actions between the

parties.<sup>1</sup> As such, Applicant requests an order requiring Opposers to define the actual factual basis of its claims against Applicant sufficient to allow for an answer thereto.

### **I. Legal Standard and Argument**

The Opposers' Notice of Opposition must "include enough detail to give the defendant fair notice of the basis for each claim." TBMP §309.03(a)(2). An order for a more definite statement of an opposer's pleading is appropriate where the pleading is "so vague or ambiguous that the movant cannot make a pleading in good faith or without prejudicing itself." TBMP §505.01. Here, in the present instance, Opposers' Notice is so vague, ambiguous, and contradictory that the Applicant cannot form a response in good faith and without prejudicing itself.

First, the Opposers have conflated the two Registrations into a third nebulous item defined as "Opposers' Mark". That "Opposers' Mark" does not correspond to either one of the actual registrations under which the Opposition has been brought. Then, the Opposer compares the Application to this conflated "Opposers' Mark" and even then, it is unclear as to the factual basis of its allegations.

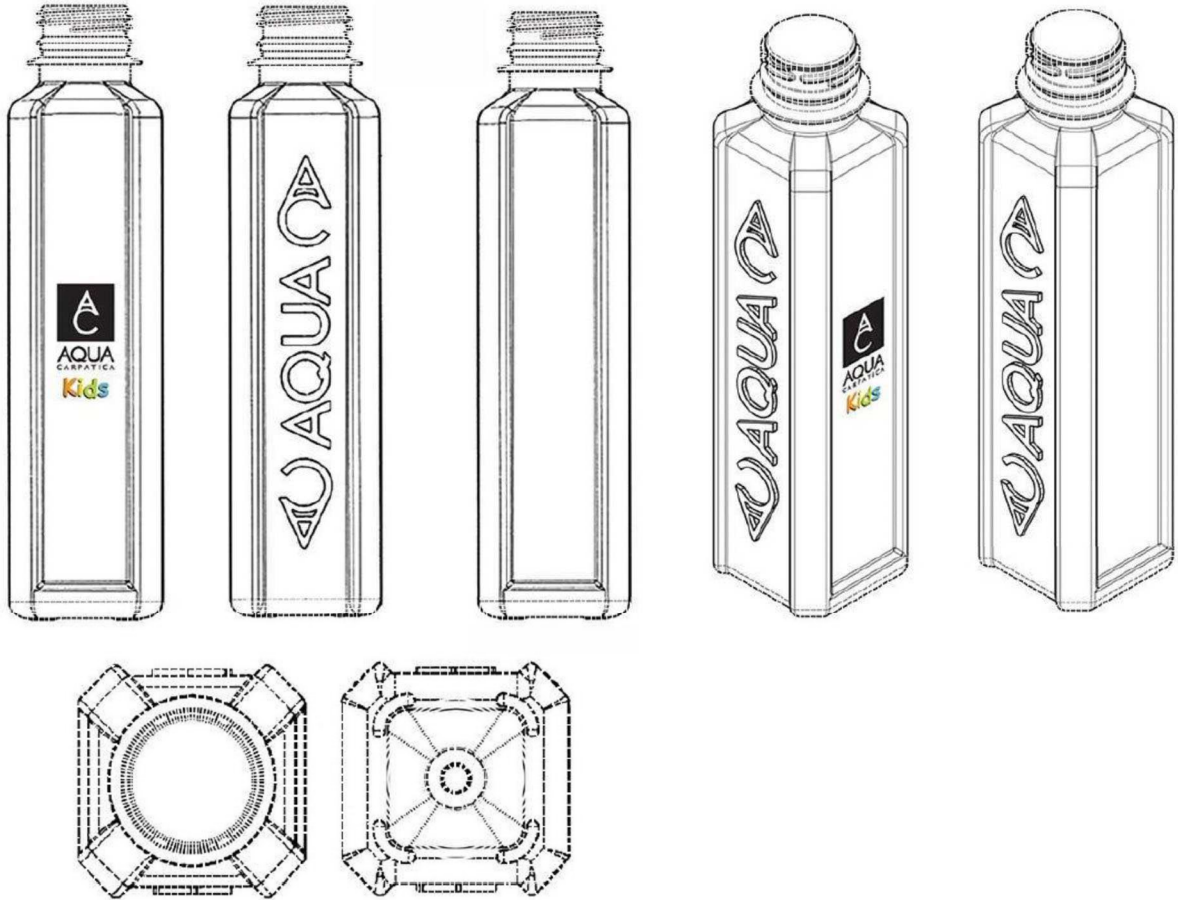
In paragraph 5 of the Opposition, this conflated "Opposers' mark is given a description. As such, the Opposition is apparently directed at a third, unregistered and unknown trademark that is co-owned by these unrelated companies. With such vagueness, providing a response, without a more definite statement is not possible.

Even where the actual trademarks are described, the scope of the marks and the actual protection afforded by the Registrations is nowhere to be found. For example, a single image is

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<sup>1</sup> As set forth below, this calls into question whether this proceeding should be stayed pending resolution of the European Union and Romanian National matters.

shown in the opposition for the Registration No. 6031945. Yet, the '945 registration is defined by a plurality of images, as reproduced below.<sup>2</sup>



Furthermore, the description set forth in the '945 Registration is *nowhere* to be found in the description of this fictitious description of "Opposers' Mark". The description of the '945 Registration is "The mark consists of a three-dimensional configuration of a water bottle. The front face of the bottle contains the stylized wording "AC AQUA CARPATICA KIDS". The wording "AC" is contained in a shaded square. Underneath the square is the wording "AQUA CARPATICA" with the wording "KIDS" underneath it. The letter "K" in "KIDS" is orange, the

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<sup>2</sup> Interestingly, and only to add further confusion, the bottle images are internally inconsistent. For example, and not the only inconsistency, the top view is completely inconsistent with all five images, as is the bottom view.

*letter "I" in "KIDS" is yellow, the letter "D" in "KIDS" is green and the letter "S" in "KIDS" is blue. The sides of the bottle to the left and to the right of it contain the stylized literal element "AC AQUA AC". The colors black and white represent background, outlining and/or transparent areas and are not part of the mark. The broken lines depicting the screw top and the base indicate placement of the mark on the goods and are not part of the mark. Compare that with what is stated in Paragraph 5 of the Opposition – nowhere to be found.*

Moreover, even when images are provided, such as in paragraph 1 and 7, specifically claimed elements of the Registrations are fully omitted. Again, those elements do not form a part of the fictitious “Opposers’ Mark”.

Not only have the Opposer’s created this fictitious “Opposers’ Mark”, but there is not even a sufficient relationship set forth in the registrations or in the Opposition. Merely stating that the companies “having common shareholders and administrators”, *See Paragraph 6 in the Notice of Opposition*, does not mean the Opposers have joint ownership to assert control over both Registrations. See, TMEP §1201.07(a). Nevertheless, we have created a singular “Opposers’ Mark” from the combination of two registrations from companies that may not have the requisite relationship necessary to maintain the two Registrations. Again, it is difficult to respond to these vague statements of Paragraph 6, where these statements do not provide sufficient information to even determine if the proper relationship standard exists. TMEP §1201.07(a).

Finally, while there is no real understanding as to either Opposers position relative to their individual marks, and instead only some position on a fictitious “Opposers’ Mark”, it appears that the Opposers are taking a position in the present Opposition that are entirely inconsistent with the positions taken for either identical, Internationally related and/or highly similar marks in a series of complex, ongoing European Union and Romanian National actions between the

parties. A more definite statement may also provide adequate basis to understand and/or determine as to how and why inconsistent statement are being made. Also, the question of Suspension of the action pending resolution of at least some of these European Union and Romanian National Cases may be warranted. *See, i.e., Birlinn Ltd. v. Angus Stewart*, 111 USPQ2d 1905 (TTAB 2014), *citing Marie Claire Album S.A. v. Kruger GmbH & Co. KG*, 29 USPQ2d 1792, 1793-4 (TTAB 1993).

## II. Conclusion

Applicant respectfully seeks an order from the Trademark Trial and Appeal Board for entry of an Order requiring a more definite statement of the pleadings of Opposers in their Notice of Opposition.

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THE WATSON IP GROUP, PLC

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