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

Proceeding	92065799
Party	Defendant Hillside Plastics, Inc.
Correspondence Address	IRA J LEVY GOODWIN PROCTER LLP 620 EIGHTH AVENUE NEW YORK, NY 10018 UNITED STATES NY-TMAdmin@goodwinprocter.com
Submission	Motion to Suspend for Civil Action
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Date	06/07/2017
Attachments	FINAL Hillside Motion to Suspend.pdf(39018 bytes) FINAL Exhibit A Hillside Motion to Suspend.pdf(1421022 bytes)

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

SALBRO BOTTLE INC.

Petitioner

vs-

HILLSIDE PLASTICS, INC.

Registrant.

Cancellation No 92065799

Registration No. 1605584



Mark:

REGISTRANT'S MOTION TO SUSPEND

Registrant, Hillside Plastics, Inc. (“Hillside”), through its counsel, hereby moves pursuant to Trademark Rule 2.117(a) (37 C.F.R. § 2.117(a)) and Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) § 510.02(a) that the Board suspend proceedings in the above-captioned cancellation, pending the disposition of an action pending in the United States District Court for the District of Massachusetts concerning the same mark and that involves related issues of law and fact. As grounds for this Motion, Hillside states as follows:

FACTS & HISTORY

As early as November of 2016 Registrant placed Petitioner, Salbro Bottle Inc. (“Salbro”) on notice of Registrant’s rights in the subject registration. This notice was based, in part, on an infringing product that was being offered for sale by a company by the name of Dominion & Grimm, a customer of Salbro. Salbro and Dominion & Grimm responded through a single counsel. On March 31, 2017, Hillside filed a Complaint and Demand for Jury Trial (“Complaint”) in the United States District Court for the District of Massachusetts against Dominion & Grimm USA, Inc. and Dominion & Grimm, Inc. (collectively, “D&G”). A copy of Hillside’s Complaint is attached hereto as Exhibit A. In its Complaint, Hillside asserts claims for

injunctive and other relief under the Federal Trademark Act, 15 U.S.C. § 1051, et seq. (“Lanham Act”), particularly 15 U.S.C. §§ 1114 and 1125, for infringement of a registered trademark, false designation of origin, false description or representation, trademark dilution and related unfair competition. Ex. A ¶¶ 27-44. Hillside also asserts claims under state law for infringement and unfair competition. *Id.* ¶¶ 45-53. Hillside’s claims arise out of D&G’s sale of blow-molded plastic jugs alleged to bear Hillside’s Mark. *See, e.g., id.* ¶ 18. In particular, in its Complaint, Hillside alleged that, “upon information and belief, Defendants [D&G] contracted with non-party Salbro Bottle, Inc. . . . to manufacture the [allegedly infringing] jugs according to specifications that Defendants provided to Salbro.” *Id.* Dominion & Grimm USA, Inc.’s response to the Complaint is due on June 20, and Hillside is presently executing service on Dominion & Grimm, Inc. in Canada.

On that same day, Salbro filed this action seeking to cancel Registration No. 1605584, which was granted to Hillside by the United States Patent and Trademark Office in 1990. Petition to Cancel (“Petition”) ¶ 5. Salbro, a manufacturer of bottles for food and beverages, asserts that Hillside’s Registered Mark, which covers blow-plastic jugs, is functional. *Id.* ¶¶ 1-2, 25-28.

ARGUMENT

It is standard procedure for the Board to suspend administrative proceedings such as this pending the outcome of a related civil action. *See* 6 J.T. McCarthy, MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION, § 32:47 (4th ed.) (citing *Whopper-Burger, Inc. v. Burger King Corp.*, 171 USPQ 805, 1971 WL 16554 (TTAB 1971); *New Orleans Louisiana Saints LLC and NFL Properties LLC v. Who Dat?, Inc.*, 99 U.S.P.Q.2d 1550, 2011 WL 3381380 (TTAB 2011)). The TBMP states that: “Unless there are unusual circumstances, the Board will

suspend proceedings in the case before it if the final determination of the other proceeding may have a bearing on the issues before the Board.” TBMP § 510.02(a).

Registrant respectfully submits that this cancellation proceeding should be suspended pending the outcome of related litigation pending in the United States District Court for the District of Massachusetts. Suspension of this proceeding is proper because the District Court’s decision regarding the trademark at issue clearly “may have a bearing on the issues before the Board.” *See* TBMP § 510.02(a). Both proceedings concern the same Registered Mark and, at bottom, the same allegedly infringing products. *Compare, e.g.,* Ex. A ¶¶ 14, 18 *with* Petition ¶¶ 4, 5. Indeed, Salbro and D&G apparently believe that their interests with regard to the Registered Mark are aligned as Salbro’s counsel in this action has also been representing D&G in negotiations with Hillside concerning the federal district court litigation. Moreover, while Salbro is not a party in the Massachusetts action, as noted above, the allegedly infringing products at issue in that case are believed to have been manufactured by Salbro. Ex. A ¶ 18. And Hillside would anticipate taking discovery from Salbro in the District Court action, as a third-party. As such, any decision by the federal district court concerning whether D&G has infringed upon a valid trademark by directing Salbro to manufacture the jugs at issue will necessarily bear on the issues raised by this cancellation proceeding. And while D&G has yet to file an answer in the Massachusetts action, it does not strain credulity to expect that D&G will defend the action, at least in part, on the issues raised by Salbro in this cancellation. As such, it is reasonable to anticipate that the District Court will be deciding, at least in part, the identical issue presented by this cancellation proceeding. Where the decision by the court may be dispositive of the issues before the Board, a “motion to suspend is well taken.” *See General Motors Corp. v. Cadillac Club Fashions Inc.*, 22 USPQ2d 1933 (TTAB 1992), *abrogation on*

other grounds recognized by Gaylord Enter. Co. v. Calvin Gilmore Prod., Inc., 59 USPQ2d 1369 (TTAB 2000); *see also New Orleans Louisiana Saints LLC*, 2011 WL 3381380, at *2 (“Thus, the civil action does not have to be dispositive of the Board proceeding to warrant suspension, it need only have a bearing on the issues before the Board.”); *Kearns-Tribune, LLC v. Salt Lake Tribune Publ’g Co., LLC*, Opp. No. 151,843, 2003 WL 22134916, at *3 (TTAB Sept. 11, 2003) (citing *General Motors* and suspending proceeding where outcome of civil action “may have a bearing on the issues before the Board”).

WHEREFORE, for all the foregoing reasons, Registrant Hillside respectfully prays that this Board suspend all proceedings herein pending the disposition of the litigation in the United States District Court for the District of Massachusetts.

Respectfully submitted,

Dated: June 7, 2017
New York, New York

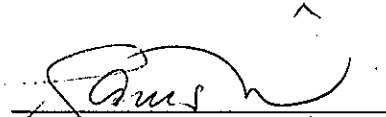
By: /s/ Ira J. Levy
Ira J. Levy
GOODWIN PROCTER LLP
620 Eighth Avenue
New York, NY 10018
Tel: (212) 813-8800
Fax: (212) 355-3333

Attorneys for Registrant

CERTIFICATE OF SERVICE

I Janis Nici, hereby certify that on this 7th day of June, 2017, the foregoing Registrant's Motion to Suspend was served on the attorney of record for the Petitioner by email to Petitioner's counsel of record, as indicated below:

Rebecca Liebowitz
trademarkdocket@venable.com; rliebowitz@venable.com, mkent@venable.com,
emitros@venable.com



Janis Nici

Senior Trademark Paralegal

GOODWIN PROCTER LLP

620 Eighth Avenue

New York, NY 10018

EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

HILLSIDE PLASTICS, INC.,

Plaintiff,

v.

DOMINION & GRIMM USA, INC., and,
DOMINION & GRIMM, INC.,

Defendants.

Civil Action No. 17-30037

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Hillside Plastics, Inc. (“Hillside” or “Plaintiff”), through its attorneys, Goodwin Procter LLP, for its complaint, alleges as follows, upon personal knowledge as to its own actions and upon information and belief as to the actions of Defendants Dominion & Grimm USA, Inc. and Dominion & Grimm, Inc. (collectively “Defendants”):

THE PARTIES

1. Hillside is a Massachusetts company organized and existing under the laws of the Commonwealth of Massachusetts with its principal place of business at 262 Millers Falls Road, Turners Falls, MA 01376.

2. Upon information and belief, Defendant Dominion & Grimm USA, Inc. (“D&G USA”) is a corporation organized and existing under the laws of the State of Vermont having a principal place of business at 164 Yankee Park Road, Fairfax, VT 05454 and an office at 10883 State Route 19A, Fillmore, NY 14735. Upon information and belief, D&G USA sells its products throughout the United States, including in this District, and has authorized dealers for its products within this District.

3. Upon information and belief, Defendant Dominion & Grimm, Inc. (“D&G I”) is a corporation organized and existing under the laws of Canada, with a principal place of business in the province of Quebec at 8250 Marconi Anjou, Montreal, QC H1J 1B2. Upon information and belief, D&G I is the owner of D&G USA. D&G USA and D&G I are collectively referred to as Defendants.

JURISDICTION AND VENUE

4. This is an action for injunctive and other relief under the Federal Trademark Act, 15 U.S.C. § 1051, et seq. (“Lanham Act”), particularly 15 U.S.C. §§ 1114 and 1125, for infringement of a registered trademark, false designation of origin, false description or representation, trademark dilution and related unfair competition. Plaintiff also asserts claims under state law for infringement and unfair competition.

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1338(b). This Court also has jurisdiction pursuant to 15 U.S.C. § 1121(a), 28 U.S.C. § 1332 and the doctrine of supplemental jurisdiction.

6. This Court has personal jurisdiction over Defendants under Mass. Gen. Laws ch. 223A § 3, including for the reason that Defendants conducted and continue to conduct business in the Commonwealth of Massachusetts when they (i) sell products in Massachusetts and conduct or solicit business through advertising, offering for sale and selling a confusingly similar product in Massachusetts; and (ii) commit acts of trade dress infringement, as more fully described below, in whole or in part in Massachusetts. In addition Defendants, directly and/or through their distribution networks, regularly place their products within the stream of commerce, with the knowledge and/or understanding that such products will be sold in Massachusetts.

7. Venue is proper under 28 U.S.C. §§ 1391(b) and 1391(c) in that, upon information

and belief, Defendants do business in the Commonwealth of Massachusetts, and/or the wrongful acts committed by Defendants occurred in and are causing injury in the Commonwealth of Massachusetts.

PLAINTIFF AND PLAINTIFF'S TRADEMARK

8. Plaintiff is a leading provider of high-quality containers to the household, automotive, industrial and food and beverage industries.

9. At least as early as June 1980, and long prior to the acts of Defendants complained of herein, Plaintiff designed, adopted and used in commerce the distinctive SUGARHILL[®] JUG DESIGN Trademark for and in connection with blow-molded plastic jugs (“products”). Such use has been continuous since that time. Plaintiffs’ SUGARHILL[®] JUG DESIGN Trademark products have been sold to wholesale bottlers, food distributors, and maple syrup farmers.

10. Plaintiff has invested considerable time, money and effort in designing its SUGARHILL[®] Jug, including significant investment in molds for the manufacture of its unique and distinctive design, as well as investments in advertising, marketing and promotion of its product.

11. As a result of these efforts Plaintiff has sold millions of SUGARHILL[®] Jug products over the years, yielding tens of millions of dollars of revenue, throughout the United States, including the Commonwealth of Massachusetts, and worldwide. For calendar year 2016 alone, sales of SUGARHILL[®] Jug products were in excess of \$10,000,000.00. As a result of these efforts, Plaintiff has developed substantial recognition and goodwill in its SUGARHILL[®] JUG DESIGN Trademark. Consumers have come to recognize and associate the SUGARHILL[®] JUG DESIGN Trademark with Plaintiff, and it has acquired secondary meaning in the marketplace.

12. The SUGARHILL[®] JUG DESIGN Trademark has been featured in a variety of local, regional and national publications. For example, the SUGARHILL[®] JUG DESIGN

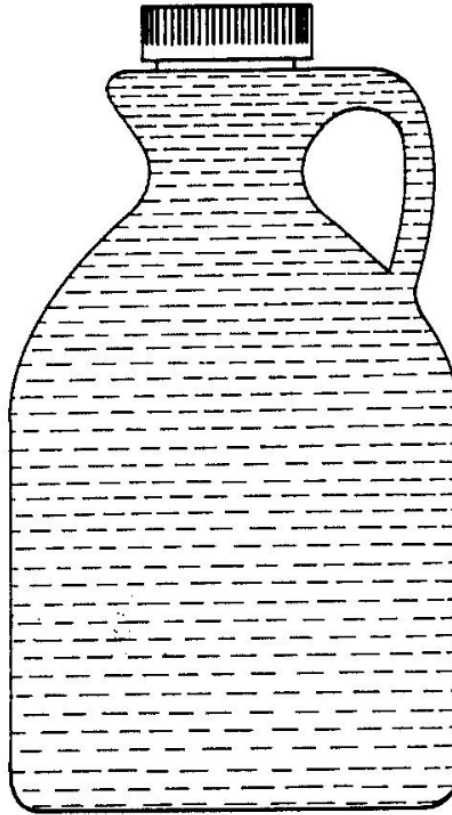
Trademark is featured on the website of the Massachusetts Maple Producers Association, a non-profit organization dedicated to the preservation and promotion of maple sugaring in Massachusetts.

(www.massmaple.org, last visited March 8, 2017).

13. Plaintiff has a reputation as an innovator in the field. As a result of innovation in maple syrup bottling and distribution, in 2000, Plaintiff's then president was inducted into the Maple Syrup Hall of Fame.

14. On June 23, 1989 Plaintiff filed an application with the United States Patent and Trademark Office ("PTO") to register its SUGARHILL[®] JUG DESIGN Trademark in connection with "blow-molded plastic jugs for commercial use, sold empty." After examination at the trademark office the subject application was published for a period of public opposition on April 17, 1990. No opposition to such application having been made, such application was allowed by the PTO and issued on July 10, 1990 as Trademark Registration Number 1605584 (the "'584 Registration.")

15. A copy of the drawing from the '584 Registration (Exhibit A) appears below:



16. By virtue of Plaintiffs' compliance with the strictures of 15 USC § 1058 and 15 USC § 1065, the '584 Registration has achieved incontestable status.

17. Plaintiff's registration constitutes constructive notice to Defendants of Plaintiff's ownership of the trademark in connection with the goods and services identified in its registration.

DEFENDANTS' ACTIVITIES

18. For a number of years, and continuing to this day, Defendants have offered for sale, through their catalogs and otherwise, products under Plaintiff's SUGARHILL[®] JUG DESIGN Trademark. As a result, Defendants have been long aware of the nature of the goods sold under Plaintiff's trademark, and their success in the marketplace. Long subsequent to Plaintiff's adoption

and use of the SUGARHILL[®] JUG DESIGN Trademark in commerce, Defendants commenced the distribution, and sale in commerce of blow-molded jugs (“infringing jugs”) bearing the SUGARHILL[®] JUG DESIGN Trademark, or a colorable imitation thereof. Further, upon information and belief, Defendants contracted with non-party Salbro Bottle, Inc. (“Salbro”) to manufacture the SUGARHILL[®] JUG DESIGN branded jugs according to specifications that Defendants provided to Salbro.

19. As a company that has purchased from Plaintiff and has distributed Plaintiff’s SUGARHILL[®] JUG DESIGN branded jugs, Defendants are well aware and, since long prior to the acts of Defendants complained of herein, have been well aware of the goodwill represented and symbolized by the SUGARHILL[®] JUG DESIGN Trademark. Defendants have been well aware that the SUGARHILL[®] JUG DESIGN Trademark is widely recognized and relied upon by the public and the trade as identifying Plaintiff and its products and as distinguishing said products from the products of others.

20. Notwithstanding that knowledge, and indeed by reason of such knowledge, Defendants engaged in a deliberate and willful scheme to trade upon and to misappropriate for themselves the vast goodwill represented and symbolized by the SUGARHILL[®] JUG DESIGN Trademark, by adopting and using in commerce the accused trademark, and offering products bearing the SUGARHILL[®] JUG DESIGN Trademark to parties that have previously purchased Plaintiffs goods.

21. A copy of the current catalog page for the infringing jugs appears below (Exhibit B):



22. Defendants' products are offered to the same customers through the same channels of trade as Plaintiff's goods bearing the SUGARHILL® JUG DESIGN Trademark as reflected by their side by side offering in Defendants' catalog:

PLASTIC JUGS

Capacity	All States	Vermont	New York	Alone	New Hampshire	Qty/Box	Price
A 3.4oz	S20020	S20585	S25704	S205687	S205508	100	\$ 6.99
B 1/2 Pint	S20617	S205812	S25713	S205614	S205515	100	\$ 1.10
C Pint	S20624	S205829	S25720	S205621	S205522	100	\$ 1.14
D Quart	S20631	S205836	S25727	S205628	S205529	100	\$ 1.34
E 1/2 Gallon	S20638	S205843	S25734	S205635	S205536	50	\$ 1.71
F Gallon	S20645	S205850	S25741	S205642	S205543	24	\$ 2.24

TAMPER EVIDENT CAPS FOR JUGS (NOT SHOWN)

Code	Description	Qty/Box	Price
S90559	28 mm (1 1/8") (steel)	2300	\$ 0.12
S90542	28 mm (1 1/8") (red)	2300	\$ 0.12
S90443	38 mm (1 1/2") (steel)	1400	\$ 0.18
S89942	38 mm (1 1/2") (red)	1400	\$ 0.18

RESHIPPING BOXES FOR JUGS (NOT SHOWN)

Code	Description	Qty/Box	Price
450570	24 x 100cm	25	\$ 1.36
450600	12 x 75cm	25	\$ 0.90
450631	12 x 50cm	25	\$ 0.44
450663	12 x 70mm	25	\$ 1.36
450723	6 x 2.0mm	25	\$ 1.74
450716	4 x 4.0mm	25	\$ 1.99

SUGARHILL PLASTIC JUGS (4 COLORS)

Capacity	All States	Vermont	New York	Alone	Qty/Box	Price
G 3.4oz	S21814	S21838	S21821	492136	100	\$ 1.10
H 1/2 Pint	S21845	S21869	S21852	492139	100	\$ 1.20
I Pint	S21876	S21890	S21883	492112	100	\$ 1.26
J Quart	S21906	S21920	S21913	492105	75	\$ 1.50
K 1/2 Gallon	S21937	S21951	S21944	492099	32	\$ 1.95
L Gallon	S21968	S21982	S21975	492082	24	\$ 2.44

SUGARHILL TAMPER EVIDENT CAPS FOR JUGS (NOT SHOWN)

Code	Description	Capacity	Qty/Box	Price
S90856	28 mm RATCHET STYLE (steel)		2300	\$ 0.12
S90849	38 mm RATCHET STYLE (steel)		1400	\$ 0.12

SUGARHILL MAPLE CREAM TINS

Code	Description	Capacity	Qty/Box	Price
M 491558	Maple Cream All States	1 1/2 lb	1500	\$ 1.56
N 491449	Maple Cream All States	1 lb	1500	\$ 1.55
490880	Cap only	1/2 lb	100	\$ 0.20
490844	Cap only	1 lb	100	\$ 0.35

Please note that all prices are subject to change. Visit our website: www.dominiongrimm.ca • 715

23. In addition to appearing in their catalog, Defendant D&G USA recently took out a full page advertisement in one of the industry's leading publications, Maple News, advertising the availability of the infringing jugs in the United States, including specifically Massachusetts. A copy

of this advertisement appears below (Exhibit C):



24. Defendants' use in commerce of the accused trademark is designed, is calculated, and is likely to cause confusion, to cause mistake, and to deceive customers and prospective customers as to the source, origin, or sponsorship of Defendants' products, and to cause them mistakenly to believe that Defendants' products are the products of Plaintiff, or are sponsored, licensed, authorized, or approved by Plaintiff, all to the detriment of Plaintiff, the trade, and the public.

25. Defendants' use in commerce of the accused trademark is further designed, is calculated, and is likely to dilute the distinctiveness of Plaintiffs' SUGARHILL[®] JUG DESIGN

Trademark, and to diminish the value of the goodwill represented by the same.

26. Defendants' use of the accused trademark is without the license or consent of Plaintiff.

COUNT I – FEDERAL TRADEMARK INFRINGEMENT

27. Plaintiff incorporates herein each and every allegation set forth in Paragraphs 1 through 26 as if fully set forth herein.

28. With full knowledge and awareness of Plaintiff's ownership and prior use of the SUGARHILL[®] JUG DESIGN Trademark, Defendants have intentionally used in commerce, and upon information and belief, will continue to intentionally use the accused trademark, which use is likely to cause confusion, or to cause mistake, or to deceive.

29. Defendants' aforesaid acts constitute infringement of a federal trademark registration in violation of § 32 of the Lanham Act, 15 U.S.C. § 1114.

30. Defendants' aforesaid acts have harmed Plaintiff's reputation, severely damaged Plaintiff's goodwill, and upon information and belief, have diverted sales from Plaintiff.

31. Defendants' aforesaid acts have caused and will cause great and irreparable injury to Plaintiff and, unless said acts are restrained by this Court, they will be continued and Plaintiff will continue to suffer great and irreparable injury.

32. Plaintiff has no adequate remedy at law.

COUNT II – FEDERAL DILUTION

33. Plaintiff incorporates herein each and every allegation set forth in Paragraphs 1 through 32 as if fully set forth herein.

34. The SUGARHILL[®] JUG DESIGN Trademark is famous and possesses a high degree of distinctiveness.

35. Defendants' aforesaid acts, commencing after the SUGARHILL® JUG DESIGN Trademark became famous and distinctive, constitute dilution in violation of § 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

36. Defendants' aforesaid acts have harmed Plaintiff's reputation, severely damaged Plaintiff's goodwill, and diluted the SUGARHILL® JUG DESIGN Trademark.

37. Defendants' aforesaid acts have caused and will cause great and irreparable injury to Plaintiff and, unless said acts are restrained by this Court, they will be continued and Plaintiff will continue to suffer great and irreparable injury.

38. Plaintiff has no adequate remedy at law.

**COUNT III – FALSE DESIGNATION, DESCRIPTION,
AND REPRESENTATION UNDER THE LANHAM ACT**

39. Plaintiff incorporates herein each and every allegation set forth in Paragraphs 1 through 38 as if fully set forth herein.

40. Defendants have intentionally used and, upon information and belief, will continue to use, in commerce the accused trademark, which use constitutes a false designation of origin, false or misleading description of fact, or a false or misleading representation of fact, which are likely to cause confusion, or to cause mistake, or to deceive as to affiliation, connection, or association with Plaintiff, or origin, sponsorship, or approval of Defendants' products by Plaintiff.

41. Defendants' aforesaid acts constitute unfair competition, false designation of origin, and/or false description or representation in violation of § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

42. Defendants' aforesaid acts have harmed Plaintiff's reputation, severely damaged Plaintiff's goodwill, and upon information and belief, have diverted sales from Plaintiff.

43. Defendants' aforesaid acts have caused and will cause great and irreparable injury to Plaintiff and, unless said acts are restrained by this Court, they will be continued and Plaintiff will continue to suffer great and irreparable injury.

44. Plaintiff has no adequate remedy at law.

COUNT IV – UNFAIR COMPETITION

45. Plaintiff incorporates herein each and every allegation set forth in Paragraphs 1 through 44 as if fully set forth herein.

46. Defendants' aforesaid acts constitute infringement, misappropriation, and misuse of the SUGARHILL[®] JUG DESIGN Trademark, unfair competition, palming-off and passing-off against Plaintiff, and unjust enrichment of Defendants, all in violation of Plaintiff's rights at common law and under Chapter 93A § 11 of the Massachusetts General Laws.

47. Both Plaintiff and Defendants engage in the conduct of trade or commerce within the meaning of Mass. Gen. Laws ch. 93A §§ 1, 11.

48. Defendants' acts and conduct constitute unfair and deceptive acts and practices in the conduct of trade or commerce in violation of Mass. Gen. Laws ch. 93A §§ 2, 11.

49. Defendants' unfair and deceptive acts and practices occurred within Massachusetts.

50. Defendants' unfair and deceptive acts and practices constitute knowing and/or willful violations of Mass. Gen. Laws ch. 93A §§ 2, 11.

51. Defendants' aforesaid acts have harmed Plaintiff's reputation, severely damaged Plaintiff's goodwill, and upon information and belief, have diverted sales from Plaintiff.

52. Defendants' aforesaid acts have caused and will continue to cause great and irreparable injury to Plaintiff and, unless said acts are restrained by this Court, they will be continued and Plaintiff will continue to suffer great and irreparable injury.

53. As a direct and proximate result of the foregoing deceptive acts and practices of Defendants, Plaintiff is entitled to damages, treble damages, and recovery of its attorneys' fees and costs.

JURY DEMAND

Plaintiff demands trial by jury of all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

A. That this Court adjudge that the SUGARHILL® JUG DESIGN Trademark has been infringed and diluted as a direct and proximate result of the acts of Defendants as set forth in this Complaint, in violation of Plaintiff's rights under the Lanham Act, 15 U.S.C. § 1051 et seq., and the common law.

B. That this Court adjudge that Defendants have competed unfairly with Plaintiff as set forth in this Complaint, in violation of Plaintiff's rights under the Lanham Act, 15 U.S.C. § 1125(a), the common law, and Chapter 93A § 11 of the Massachusetts General Laws.

C. That Defendants, and all officers, directors, agents, servants, employees, affiliates, attorneys, successors, and assigns, and all persons in active concert or participation therewith, be preliminarily and permanently enjoined and restrained:

1) From using the accused trademark, or any designation or trademark similar thereto, in any way, in connection with software or hardware products or related services; and

2) From doing any other act or thing likely to cause the public or the trade mistakenly to believe that there is any connection between Defendants and Plaintiff, or their respective products; and

3) From otherwise infringing or diluting any trademark owned by Plaintiff or engaging in unfair competition against Plaintiff.

D. That Defendants be required to deliver up for destruction all products, labels, signs, prints, packages, promotional materials, advertisements, and other written or printed materials that bear the accused trademark, or any trademarks similar thereto.

E. That Defendants be directed to file with this Court and to serve upon Plaintiff within thirty (30) days after service of the injunction issued in this action, a written report under oath, setting forth in detail the manner of compliance with paragraphs C and D.

F. That Plaintiff recover Defendants' profits and the damages of Plaintiff arising from Defendants' acts of trademark infringement, dilution, false designation of origin, false description or representation, and unfair competition.

G. That the Court treble such damages as awarded in accordance with paragraph F.

H. That Plaintiff recover, in addition to such sums as awarded in accordance with paragraphs F and G, punitive damages in an amount that the Court deems just and proper.

I. That Plaintiff recover both pre-judgment and post-judgment interest on each and every award.

J. That Plaintiff recover its reasonable attorney fees incurred in this action.

K. That Plaintiff have and recover its taxable costs and disbursements incurred in this action.

L. That Plaintiff have other and such further relief as the Court may deem just and proper.

Dated: March 31, 2017

Respectfully submitted,

HILLSIDE PLASTICS, INC.,

By its attorneys,

/s/ Robert D. Carroll

Robert D. Carroll (BBO# 662736)

Laura B. Najemy (BBO# 678756)

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EXHIBIT A

Int. Cl.: 20

Prior U.S. Cl.: 2

United States Patent and Trademark Office

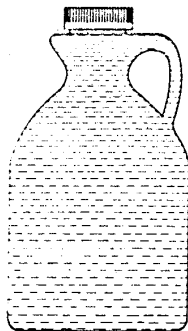
Reg. No. 1,605,584

Registered July 10, 1990

OG Date Dec. 18, 1990

Corrected

**TRADEMARK
PRINCIPAL REGISTER**



HILLSIDE PLASTICS, INC. (MASSA-
CHUSETTS CORPORATION)
MAIN STREET
SUNDERLAND, MA 01375

SEC. 2(F).

FOR: BLOW-MOLDED PLASTIC JUGS
FOR COMMERCIAL USE, SOLD
EMPTY, IN CLASS 20 (U.S. CL. 2).

OWNER OF U.S. REG. NO. 1,271,312.
THE DRAWING IS LINED FOR THE
COLORS SILVER OR GRAY; THE
LINING OF THE JUG CAP IS CLAIMED
AS A FEATURE OF THE MARK.

FIRST USE 10-0-1980; IN COMMERCE
10-0-1980.

SER. NO. 73-808,683, FILED 6-23-1989.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Dec. 18, 1990.*

COMMISSIONER OF PATENTS AND TRADEMARKS

EXHIBIT B

DOMINION & GRIMM INC.



MAPLE SUGARING
EQUIPMENT & ACCESSORIES

2017
CATALOG



www.dominiongrimm.ca

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on facebook

OVER
100 YEARS
OF TRADITION
SERVING
MAPLE SYRUP
PRODUCERS



JUGS

PACKAGING

AGAIN THIS YEAR DOMMINION GRIMM USA INC. WILL GIVE 1 PENNY FOR EACH JUG AND TIN CAN SOLD IN THE USA TO THE NORTH AMERICAN MAPLE SYRUP COUNCIL FOR RESEARCH IN THE MAPLE INDUSTRY.

PRIVATE PRINTED JUGS ALSO AVAILABLE

NEW!

OTHER STATES AVAILABLE UPON REQUEST



PLASTIC JUGS

Nutrition facts included. Caps not included

Capacity	All State	Vermont	New York	Maine	New Hampshire	Qty./Box	Price
A 3.4oz	506000	505805	505706	505607	505508	100	\$ 0.98
B ½ Pint	506017	505812	505713	505614	505515	100	\$ 1.10
C Pint	506024	505829	505720	505621	505522	100	\$ 1.14
D Quart	506031	505836	505737	505638	505539	100	\$ 1.34
E ½ Gallon	506048	505843	505744	505645	505546	50	\$ 1.71
F Gallon	506055	505850	505751	505652	505553	24	\$ 2.24

TAMPER EVIDENT CAPS FOR JUGS (NOT SHOWN)

590559	28 mm (TE) brown	2300	\$ 0.12
590542	28 mm (TE) red	2300	\$ 0.12
590443	38 mm (TE) brown	1600	\$ 0.18
589942	38 mm (TE) red	1600	\$ 0.18

RESHIPPING BOXES FOR JUGS (NOT SHOWN)

Code	Description	Qty./Box	Price
450570	24 x 100ml	25	\$ 1.36
450600	12 x 250ml	25	\$ 0.90
450631	12 x 500ml	25	\$ 1.44
450693	12 x 1 Litre	25	\$ 1.76
450723	6 x 2 Litres	25	\$ 1.74
450716	4 x 4 Litres	25	\$ 1.99



SUGARHILL PLASTIC JUGS (3 COLORS)

Nutrition facts and caps included.

Capacity	All State	Vermont	New York	Maine	Qty./Box	Price
G 3.4oz	501814	501838	501821	492136	100	\$ 1.10
H ½ Pint	501845	501869	501852	492129	100	\$ 1.20
I Pint	501876	501890	501883	492112	100	\$ 1.35
J Quart	501906	501920	501913	492105	75	\$ 1.50
K ½ Gallon	501937	501951	501944	492099	32	\$ 1.95
L Gallon	501968	501982	501975	492082	24	\$ 2.44

SUGARHILL TAMPER EVIDENT CAPS FOR JUGS (NOT SHOWN)

590854	28 mm RATCHET STYLE (brown)	\$ 0.12
590849	38 mm RATCHET STYLE (brown)	\$ 0.12

SUGARHILL MAPLE CREAM TUBS

Code	Description	Capacity	Qty./Box	Price
M 491528	Maple Crm. All State	½ lb	1500	\$ 1.35
N 491665	Maple Crm. All State	1 lb	1500	\$ 1.55
490880	Cap only	½ lb	100	\$ 0.20
490866	Cap only	1 lb	100	\$ 0.35

Please note that all prices are subject to change.

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EXHIBIT C



DOMINION & GRIMM USA INC.

NEW! D&G's Maple Jugs

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UV & HEAT RESISTANT
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Fillmore, NY
1.888.674.2506

VERMONT
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North Bennington, VT
1.844.249.3546

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

HILLSIDE PLASTICS, INC.

(b) County of Residence of First Listed Plaintiff Franklin County (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Robert D. Carroll (BBO# 662736); Laura B. Najemy (BBO# 678756) Goodwin Procter LLP, 100 Northern Avenue, Boston, MA 02210 T: 617.570.1000

DEFENDANTS

DOMINION & GRIMM USA, INC., and DOMINION & GRIMM, INC.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 U.S.C. § 1051, et seq.; 15 U.S.C. § 1114; 15 U.S.C. §§ 1125(a) and (c)

Brief description of cause: Infringement of a registered trademark, false designation of origin, false description or representation, etc.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 75,000+ CHECK YES only if demanded in complaint: JURY DEMAND: X Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 03/31/2017 SIGNATURE OF ATTORNEY OF RECORD /s/ Robert D. Carroll

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) HILLSIDE PLASTICS, INC. v. DOMINION & GRIMM USA, INC.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

I. 410, 441, 470, 535, 830*, 891, 893, 895, R.23, REGARDLESS OF NATURE OF SUIT.

II. 110, 130, 140, 160, 190, 196, 230, 240, 290,320,362, 370, 371, 380, 430, 440, 442, 443, 445, 446, 448, 710, 720, 740, 790, 820*, 840*, 850, 870, 871.

III. 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 376, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 625, 690, 751, 791, 861-865, 890, 896, 899, 950.

*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

N/A

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES NO

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division Central Division Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division Central Division Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Robert D. Carroll

ADDRESS Goodwin Procter LLP, 100 Northern Avenue, Boston, MA 02210

TELEPHONE NO. 617-570-1000

AO 120 (Rev. 08/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court _____ for the District of Massachusetts _____ on the following

Trademarks or Patents. (the patent action involves 35 U.S.C. § 292.):

DOCKET NO. 17-30037	DATE FILED	U.S. DISTRICT COURT for the District of Massachusetts
PLAINTIFF HILLSIDE PLASTICS, INC.		DEFENDANT DOMINION & GRIMM USA, INC., and DOMINION & GRIMM, INC.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 1605584	July 10, 1990	Hillside Plastics, Inc.
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy