

ESTTA Tracking number: **ESTTA1246704**

Filing date: **11/08/2022**

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	Monster Energy Company
Granted to date of previous extension	11/12/2022
Address	1 MONSTER WAY CORONA, CA 92879 UNITED STATES
Attorney information	JOSEPH A. R. GERBER KNOBBE MARTENS OLSON & BEAR LLP 1155 AVENUE OF THE AMERICAS, 24TH FLOOR NEW YORK, NY 10036 UNITED STATES Primary email: efiling@knobbe.com Secondary email(s): MEC.TTAB@knobbe.com (212) 849-3000
Docket no.	HANB.15941M

Applicant information

Application no.	97185050	Publication date	09/13/2022
Opposition filing date	11/08/2022	Opposition period ends	11/12/2022
Applicant	Walmart Apollo, LLC 702 SW 8TH STREET, MS 0215 BENTONVILLE, AR 72716 UNITED STATES		

Goods/services affected by opposition

Class 033. First Use: None First Use In Commerce: None
All goods and services in the class are opposed, namely: Wine; Alcoholic beverages, except beer; Alcoholic cocktail mixes; Ready-to-drink alcoholic beverages, other than beer-based

Applicant information

Application no.	97185053	Publication date	09/13/2022
Opposition filing date	11/08/2022	Opposition period ends	
Applicant	Walmart Apollo, LLC 702 SW 8TH STREET, MS 0215 BENTONVILLE, AR 72716 UNITED STATES		

Goods/services affected by opposition

Class 032. First Use: None First Use In Commerce: None
All goods and services in the class are opposed, namely: Bottled water; Energy drinks; Fruit juice; Malt extracts for making beer; Malt extracts for making liquors; Soft drinks; Sports drinks; Syrups for beverages; Water beverages; Concentrates and powders used in the preparation of energy drinks and fruit-flavored beverages; Non-alcoholic cocktail mixes

Grounds for opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Other	Common law rights as asserted in the Notice of Opposition


Marks cited by opposer as basis for opposition


U.S. registration no.	2903214	Application date	05/07/2003
Register	Principal		
Registration date	11/16/2004	Foreign priority date	NONE
Word mark	M		
Design mark			
Description of mark	NONE		
Goods/services	Class 032. First use: First Use: Mar 27, 2002 First Use In Commerce: Apr 18, 2002 Drinks, namely, carbonated soft drinks, carbonated drinks enhanced with vitamins, minerals, nutrients, amino acids and/or herbs, carbonated and non-carbonated energy or sports drinks, fruit juice drinks having a juice content of 50% or less by volume that are shelf stable, [andwater;]*but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not.*		

U.S. registration no.	3434821	Application date	09/07/2007
Register	Principal		
Registration date	05/27/2008	Foreign priority date	NONE
Word mark	M		
Design mark			
Description of mark	The mark consists of the letter "m" in the form of a claw.		
Goods/services	Class 005. First use: First Use: Mar 27, 2002 First Use In Commerce: Apr 18, 2002 Nutritional supplements		

U.S. registration no.	3434822	Application date	09/07/2007
Register	Principal		
Registration date	05/27/2008	Foreign priority	NONE

		date	
Word mark	M		
Design mark			
Description of mark	The mark consists of the letter "m" in the form of a claw.		
Goods/services	Class 032. First use: First Use: Mar 27, 2002 First Use In Commerce: Apr 18, 2002 Non-alcoholic beverages, namely, energydrinks, excluding perishable beverage products that contain fruit juice or soy		
U.S. registration no.	3134841	Application date	05/07/2003
Register	Principal		
Registration date	08/29/2006	Foreign priority date	NONE
Word mark	M MONSTER ENERGY		

Design mark			
Description of mark	NONE		
Goods/services	<p>Class 032. First use: First Use: Mar 27, 2002 First Use In Commerce: Apr 18, 2002</p> <p>Beverages, namely, carbonated soft drinks, carbonated soft drinks enhanced with vitamins, minerals, nutrients, amino acids and/or herbs, carbonated [and non-carbonated] energy and sports drinks, fruit juice drinks having a juice content of 50% or less by volume that are shelf stable, [and aerated water, soda water and seltzer water,] but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not</p>		
U.S. registration no.	4625118	Application date	06/04/2014
Register	Principal		
Registration date	10/21/2014	Foreign priority date	NONE
Word mark	M		

Design mark			
Description of mark	The mark consists of the letter "M" in the form of a claw.		
Goods/services	<p>Class 029. First use: First Use: Mar 18, 2013 First Use In Commerce: Mar 18, 2013 Dairy-based beverages; dairy-based energy shakes; energy shakes; coffee energy shakes; chocolate energy shakes</p> <p>Class 030. First use: First Use: Apr 27, 2007 First Use In Commerce: Apr 27, 2007 Ready to drink tea and tea based beverages; ready to drink flavored tea, tea based beverages; ready to drink coffee and coffee based beverages; ready to drink flavored coffee and coffee based beverages; ready to drink chocolate-based beverages</p>		
U.S. registration no.	4865702	Application date	02/02/2015
Register	Principal		
Registration date	12/08/2015	Foreign priority date	NONE
Word mark	M MONSTER ENERGY		

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