

**Notice of Opposition to
Application No. 78/101,064
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The grounds for this opposition are alleged as follows:

1. Latrobe Brewing Company L.L.C. is the owner of U.S. Trademark Numbers 386,752 for the mark ROLLING ROCK and Design, 1,215,133 for the mark ROCK and Design, and 1,215,134 for the mark ROLLING ROCK, 1,941,428 for the mark ROCK as well as other registered marks, including those identified below, containing the word "rock" for use with beer and ale and other goods.

2. Latrobe Brewing Company L.L.C. was established in Latrobe, Pennsylvania in 1893. The brewery has produced beer continuously, except for the Prohibition era, since its founding. The brewery continued operations in 1933, when Prohibition ended, and began using the mark ROLLING ROCK in 1939 for beer. The use of the mark ROLLING ROCK has been continuous since 1939.

3. Latrobe Brewing Company L.L.C. is presently actively manufacturing and selling beer and ale throughout the United States and other countries under the marks ROLLING ROCK and ROCK as well as other marks containing the word "rock."

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4. Latrobe Brewing Company L.L.C. is the owner of the following marks for use with beer and ale.

<u>Reg. No.</u>	<u>Mark</u>	<u>Goods/Status</u>
386,223	ROLLING ROCK & Design	Beer, ale, and other malt beverages Renewal Accepted
386,752	ROLLING ROCK & Design	Beer, ale, and other malt beverages Renewal Accepted
1,215,133	ROLLING ROCK & Design	Beer and ale Secs. 8 & 15 Accepted
1,215,134	ROLLING ROCK	Beer and ale Secs. 8 & 15 Accepted
1,677,814	ROLLING ROCK LIGHT	Beer Renewal Accepted
1,941,428	ROCK	Beer Section 8 Accepted
1,941,933	ROCK LIGHT	Alcoholic beverages; namely, beer Section 8 Accepted
2,037,416	ROCK LIGHT	Beer Registered

A copy of each of these registrations is attached as an exhibit to this Notice of Opposition.

5. The numerous valid registrations of Latrobe Brewing Company L.L.C. are conclusive evidence of the opposer's exclusive right to use and to control use of the marks shown in its U.S. registrations in interstate commerce on the goods specified in the registrations.

6. The federally registered marks shown in the U.S. registrations of Latrobe Brewing Company L.L.C. embody and are

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symbolic of extensive and valuable reputation, goodwill, and consumer recognition built up by the opposer through substantial amounts of time, effort, and money expended in advertising, promotion, sale, and rendering of goods over the years.

7. Latrobe Brewing Company L.L.C. uses its mark ROCK in its various forms to promote its beer with special events and promotions. The mark is used on promotional goods distributed at these events. This use includes the Rolling Rock Town Fair, a widely advertised event featuring leading national and local rock bands. The festival is now in its third year and attracts over 50,000 fans per event. Latrobe Brewing Company L.L.C. also uses its ROCK mark to promote its beer with slogans such as "Classic Rock," "Pittsburgh Rocks," and "Alternative Rock."

8. The applicant, Mr. Jeffrey L. Cooke, d.b.a. River Rock Beverage Co., filed U.S. Application Serial No. 78/101,064 on January 5, 2002 for use with beer, ale and lager in International Class 032. The application is based upon the intent to use the mark in interstate commerce.

Count 1
Likelihood of Confusion

9. The opposer incorporates by reference paragraphs 1 through 8 of this Notice of Opposition.

10. The applicant's mark, as shown in its application and as applied to the applicant's intended goods set forth in its application, so resembles the opposer's registered marks, as

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applied to the goods of the opposer, as to be likely to cause confusion, to cause mistake, and to deceive.

11. The goods recited in the applicant's U.S. Application Serial No. 78/101,064 and the goods with which the opposer uses its registered marks as identified in the opposer's aforementioned registrations are the same or substantially the same or are sufficiently, closely related as to emanate from one and the same entity.

12. By virtue of the opposer's U.S. registrations, the applicant has had constructive notice of the use for and by the opposer in interstate commerce of the marks shown in the opposer's U.S. registrations, as identified above, on the goods specified in those registrations since 1939, a date which is long prior to applicant's application for the mark shown in U.S. Application Serial No. 78/101,064.

13. By virtue of the similarity between the applicant's mark shown in U.S. Application Serial No. 78/101,064 on the one hand, and the opposer's registered marks on the other hand, the identity, substantial identity, or closely related nature of the goods for which they are used, and the manner in which the marks are used in special events and in printed and other advertising and promotional materials, the opposer will be damaged by the registration of the applicant's mark on the Principal Register in the United States Patent and Trademark Office. A registration issued to the applicant for the mark shown in U.S. Application

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Serial No. 78/101,064, and the presumptions flowing therefrom, would be inimical to the opposer's interests and inconsistent with the opposer's superior and sole right, by priority of adoption and use, to the use in interstate commerce of the opposer's registered marks for beer and ale. A registration issued to the applicant for the mark shown in U.S. Application Serial No. 78/101,064 would also be inimical to the opposer's interests and inconsistent with the opposer's right to statutory presumptions flowing from its aforementioned registrations.

**Count 2
Dilution**

14. The opposer incorporates by reference paragraphs 1 through 13 of this Notice of Opposition.

15. The applicant's mark, as shown in its application and as applied to the applicant's intended goods set forth in its application, so resembles the opposer's registered marks, as applied to the goods of the opposer, as to cause dilution of the distinctive quality of the opposer's famous marks. A registration issued to the applicant for the mark shown in U.S. Application Serial No. 78/101,064 would be inimical to the opposer's interests and inconsistent with the opposer's rights under 15 U.S.C. § 1125(c).

16. Based on the foregoing, registration of the applicant's mark shown in U.S. Application No. 78/101,064 on the Principal

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Register of the United States Patent and Trademark Office would be improper and will cause injury and damage to the opposer.

17. The opposer requests that this opposition be sustained and that the applicant be denied registration of the mark shown in U.S. Application Serial No. 78/101,064.

18. A duplicate copy of this opposition, including exhibits, is filed with this opposition to be forwarded to the applicant's attorney in accordance with 37 C.F.R. §§ 2.104(a) and 2.105. The opposer is serving an additional copy of this opposition upon counsel for the applicant as a courtesy to the applicant.

19. The fee for this opposition to all classes identified for the applicant's mark accompanies this Notice of Opposition. If the amount of this check is incorrect, please credit or charge deposit account number 12-1210.

Respectfully submitted,

Latrobe Brewing Company L.L.C.

3 JAN. 2003
Date



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MARKS

WORDS

Registered Apr. 1, 1941

RENEWED

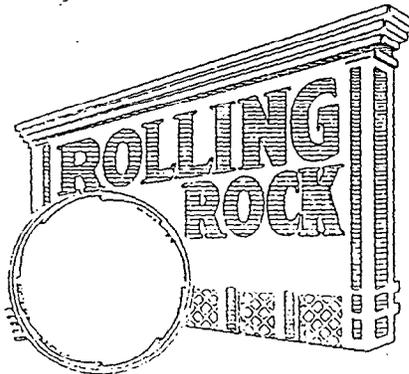
Trade-Mark 386,223

UNITED STATES PATENT OFFICE

Latrobe Brewing Company, Latrobe, Pa.

Act of February 20, 1905

Application February 8, 1940, Serial No. 428,362



STATEMENT

To the Commissioner of Patents:

Latrobe Brewing Company, a corporation duly organized under the laws of the State of Delaware and located in Latrobe, Pennsylvania, and doing business in Latrobe, Pennsylvania, has adopted and used the trade-mark shown in the accompanying drawing, for BEER, ALE, AND OTHER MALT BEVERAGES, in Class 48. Malt beverages and liquors, and presents herewith five facsimiles showing the trade-mark as actually used by applicant upon the goods, and requests that the same be registered in the United States Patent Office in accordance with the act of February 20, 1905. The trade-mark has been continuously used and applied to said goods in applicant's business since October 3, 1934.

The trade-mark is applied or affixed to the goods by stenciling it on the bottles in ceramic colors, or by applying labels containing the mark to the bottles, or to the packages for the bottles. The lettering is lined to indicate blue color.

The undersigned hereby appoints Archworth Martin, Esq., 513 Union Trust Bldg., Pittsburgh, Pennsylvania, its attorney, to prosecute this application for registration, with full power of substitution and revocation, to sign the drawing, to make alterations and amendments, to receive the certificate and to transact all business in the Patent Office connected therewith.

LATROBE BREWING COMPANY,
By JOSEPH TITO,
Vice President.

Registered Apr. 22, 1941

MARKS
WORDS

Trade-Mark 386,752

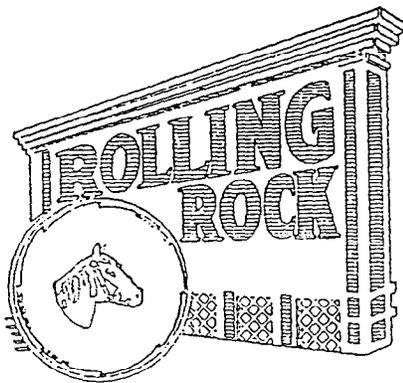
RENEWED

UNITED STATES PATENT OFFICE

Latrobe Brewing Company, Latrobe, Pa.

Act of February 20, 1905

Application November 14, 1940, Serial No. 437,871



STATEMENT

To the Commissioner of Patents:

Latrobe Brewing Company, a corporation duly organized under the laws of the State of Delaware and located in Latrobe, Pennsylvania, and doing business in Latrobe, Pennsylvania, has adopted and used the trade-mark shown in the accompanying drawing, for BEER, ALE AND OTHER MALT BEVERAGES, in Class 48, Malt beverages and liquors, and presents herewith five facsimiles showing the trade-mark as actually used by applicant upon the goods, and requests that the same be registered in the United States Patent Office in accordance with the act of February 20, 1905. The trade-mark has been continuously used and applied to said goods in applicant's business since October 9, 1940.

The trade-mark is applied or affixed to the goods by stenciling it on the bottles in ceramic colors, or by applying labels containing the mark to the bottles, or to the packages for the bottles. The drawing is lined to indicate blue color.

The undersigned hereby appoints Archworth Martin, Esq., 984 Union Trust Bldg., Pittsburgh, Pennsylvania, its attorney, to prosecute this application for registration, with full power of substitution and revocation, to sign the drawing, to make alterations and amendments, to receive the certificate, and to transact all business in the Patent Office connected therewith.

LATROBE BREWING COMPANY,
By ANTHONY J. TITO,
Secretary-Treasurer.

Prior U.S. Cl.: 48

United States Patent and Trademark Office

Reg. No. 1,215,133

Registered Nov. 2, 1982

TRADEMARK
Principal Register



Latrobe Brewing Company (Pennsylvania
corporation)
Latrobe, Pa. 15650

For: BEER AND ALE, in CLASS 32 (U.S. Cl.
48).
First use May 1968; in commerce May 1968.
Owner of U.S. Reg. Nos. 386,223 and 386,752.
The lining shown on the mark in the drawing is a
feature of the mark and does not indicate color.

Ser. No. 324,873, filed Aug. 24, 1981.

MICHAEL J. HYNAK, Primary Examiner

JULIE B. SEYLER, Examiner

LATROBE
Exhibit 3

Int. Cl.: 32

Prior U.S. Cl.: 48

United States Patent and Trademark Office

Reg. No. 1,215,134

Registered Nov. 2, 1982

TRADEMARK
Principal Register

ROLLING ROCK

Latrobe Brewing Company (Pennsylvania
corporation)
Latrobe, Pa. 15650

For: BEER AND ALE, in CLASS 32 (U.S. Cl.
48).
First use Oct. 3, 1934; in commerce Oct. 3, 1934.
Owner of U.S. Reg. Nos. 386,223 and 386,752.

Ser. No. 324,875, filed Aug. 24, 1981.

MICHAEL J. HYNAC, Primary Examiner

JULIE B. SEYLER, Examiner

Int. Cl.: 33

Prior U.S. Cl.: 48

United States Patent and Trademark Office

Reg. No. 1,677,814

Registered Mar. 3, 1992

TRADEMARK
PRINCIPAL REGISTER

ROLLING ROCK LIGHT

LATROBE BREWING COMPANY (PENNSYLVANIA CORPORATION)
119 JEFFERSON STREET
LATROBE, PA 15650

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "LIGHT", APART FROM THE
MARK AS SHOWN.

FOR: BEER, IN CLASS 33 (U.S. CL. 48).
FIRST USE 5-0-1990; IN COMMERCE
5-0-1990.
OWNER OF U.S. REG. NOS. 386,223, 1,470,577
AND OTHERS.

SER. NO. 74-128,306, FILED 1-7-1991.

GEOFFREY FOSDICK, EXAMINING ATTORNEY

Int. Cl.: 32

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

United States Patent and Trademark Office

Reg. No. 1,941,428

Registered Dec. 12, 1995

TRADEMARK
PRINCIPAL REGISTER

ROCK

LATROBE BREWING COMPANY (PENNSYLVANIA CORPORATION)
119 JEFFERSON STREET
LATROBE, PA 15650

FIRST USE 5-0-1990; IN COMMERCE
5-0-1990.

SN 74-376,607, FILED 4-7-1993.

FOR: BEER, IN CLASS 32 (U.S. CLS. 45, 46
AND 48).

ZHALEH KHABIRI, EXAMINING ATTORNEY

Int. Cl.: 32

Prior U.S. Cl.: 48

United States Patent and Trademark Office

Reg. No. 1,941,933

Registered Dec. 19, 1995

TRADEMARK
PRINCIPAL REGISTER

ROCK LIGHT

LATROBE BREWING COMPANY (PENNSYLVANIA CORPORATION)
119 JEFFERSON STREET
LATROBE, PA 15650

FOR: ALCOHOLIC BREWERY BEVERAGES;
NAMELY, BEER, IN CLASS 32 (U.S. CL. 43).
FIRST USE 5-0-1990; IN COMMERCE
5-0-1990.

OWNER OF U.S. REG. NOS. 1,677,814 AND
1,686,636.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "LIGHT", APART FROM THE
MARK AS SHOWN.

SER. NO. 74-312,086, FILED 9-9-1992.

JERRY L. PRICE, EXAMINING ATTORNEY

Int. Cl.: 32

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

Reg. No. 2,037,416

United States Patent and Trademark Office

Registered Feb. 11, 1997

TRADEMARK
PRINCIPAL REGISTER



LATROBE BREWING COMPANY (PENNSYLVANIA CORPORATION)
119 JEFFERSON STREET
LATROBE, PA 15650

FOR: BEER, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 5-15-1994; IN COMMERCE 5-15-1994.

OWNER OF U.S. REG. NO. 1,686,636.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "LIGHT", APART FROM THE MARK AS SHOWN.

SN 74-483,516, FILED 1-26-1994.

DARREN COHEN, EXAMINING ATTORNEY

