

ESTTA Tracking number: **ESTTA55165**

Filing date: **11/28/2005**

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

<b>Name</b>	Austin Nichols & Co., Inc. dba Pernod Ricard, U.S.A.		
<b>Entity</b>	Corporation	<b>Citizenship</b>	Delaware
<b>Address</b>	777 Westchester Avenue White Plains, NY 10604 UNITED STATES		

<b>Attorney information</b>	Louis S. Ederer, Esq. Torys LLP 237 Park Avenue New York, NY 10017 UNITED STATES trademarks@torys.com Phone:212.880.6000		
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#### Applicant Information

<b>Application No</b>	79000112	<b>Publication date</b>	11/01/2005
<b>Opposition Filing Date</b>	11/28/2005	<b>Opposition Period Ends</b>	12/01/2005
<b>International Registration No.</b>	0814790	<b>International Registration Date</b>	11/19/2003
<b>Applicant</b>	Lodestar Anstalt Lova-Center P.O. Box 1150		

FL-9490 Vaduz, LIECHTENSTEIN
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### Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: WHISKEY OF IRISH ORIGIN
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### 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

<b>U.S. Registration No.</b>	513549	<b>Application Date</b>	01/30/1946
<b>Registration Date</b>	08/16/1949		
<b>Word Mark</b>	WILD TURKEY		
<b>Goods/Services</b>	Class U049 (International Class 033). First use: First Use: 19420529 First Use In Commerce: 19420529 WHISKEY		

<b>U.S. Registration No.</b>	1912713	<b>Application Date</b>	02/25/1993
<b>Registration Date</b>	08/15/1995		
<b>Word Mark</b>	WILD TURKEY KENTUCKY COOLERS		
<b>Goods/Services</b>	Class 033. First use: First Use: 19930317 First Use In Commerce: 19930317 alcoholic beverages; namely, Bourbon combined with a non-alcoholic mixer		

<b>U.S. Registration</b>	2263231	<b>Application Date</b>	08/14/1998
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<b>No.</b>			
<b>Registration Date</b>	07/20/1999		
<b>Word Mark</b>	WILD TURKEY		
<b>Goods/Services</b>	Class 033. First use: First Use: 19420529First Use In Commerce: 19420529 WHISKEY		

<b>U.S. Registration No.</b>	2882234	<b>Application Date</b>	09/07/2001
<b>Registration Date</b>	09/07/2004		
<b>Word Mark</b>	WILD TURKEY FREEDOM		
<b>Goods/Services</b>	Class 033. First use: First Use: 20040201First Use In Commerce: 20040201 Alcoholic beverages, namely, whiskey		

<b>U.S. Registration No.</b>	3006403	<b>Application Date</b>	04/03/2003
<b>Registration Date</b>	10/11/2005		
<b>Word Mark</b>	WILD TURKEY BOURBON		
<b>Goods/Services</b>	Class 033. First use: First Use: 19781201First Use In Commerce: 19781201 Potable Distilled Spirits		

<b>U.S. Registration No.</b>	1670450	<b>Application Date</b>	02/13/1991
<b>Registration Date</b>	12/31/1991		
<b>Word Mark</b>	WILD TURKEY KENTUCKY LEGEND BEYOND DUPLICATION		
<b>Goods/Services</b>	Class 033 First use: First Use: 19910211First Use In Commerce:		

	19910211 distilled alcoholic beverages; namely, whiskey
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<b>U.S. Application No.</b>	78233721	<b>Application Date</b>	04/03/2003
<b>Word Mark</b>	WILD TURKEY BOURBON 101		
<b>Goods/Services</b>	Class 033. First use: Potable Distilled Spirits		

<b>Related Proceedings</b>	Opposer has filed Opposition No. 91155165 against a nearly identical mark WILD GEESE. Opposer believes the owner of the WILD GEESE application and the instant WILD GEESE RARE IRISH WHISKEY application is the same or related entity.
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<b>Attachments</b>	71495649#TMSN.gif ( 1 page ) 76310804#TMSN.gif ( 1 page ) 74138849#TMSN.gif ( 1 page ) WGRIW.pdf ( 4 pages )
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<b>Signature</b>	/Louis S. Ederer/
<b>Name</b>	Louis S. Ederer, Esq.
<b>Date</b>	11/28/2005

# **WILD TURKEY**

# **WILD TURKEY FREEDOM**



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

In the Matter of Application Serial No. 79/000,112

Published in the *Official Gazette* on November 1, 2005

For the Mark: WILD GEESE RARE IRISH WHISKEY

AUSTIN, NICHOLS & CO., INC. dba	X	
PERNOD RICARD U.S.A.,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No.:
	:	
LODESTAR ANSTALT,	:	
	:	
Applicant.	:	
	X	

**NOTICE OF OPPOSITION**

Opposer Austin, Nichols & Co., Inc., dba Pernod Ricard U.S.A. (hereinafter "Opposer"), a corporation organized and existing under the laws of the State of Delaware and located at 777 Westchester Ave., White Plains, NY 10604, believes that it will be damaged by the registration of the mark WILD GEESE RARE IRISH WHISKEY, Application Serial No. 79/000,112, filed on November 19, 2003 by Lodestar Anstalt, Lova-Center, P.O. Box 1150 FL-9490 Vaduz, Liechtenstein (hereinafter "Applicant"), published for opposition in the *Official Gazette* on November 1, 2005, and hereby opposes the same.

The grounds for opposition are as follows:

1. Since 1942, Opposer has manufactured, distributed, and sold in commerce in the United States various alcoholic beverage products bearing the trademark WILD TURKEY.

Opposer owns the following U.S. trademark registrations for this mark:

Mark:	WILD TURKEY
Registration No.	2,263,231
Class/Goods:	33/Whiskey
Mark:	WILD TURKEY Stylized
Registration No.	513,549
Class/Goods:	33/Whiskey
Mark:	WILD TURKEY FREEDOM
Registration No.	2,882,234
Class/Goods:	33/Alcoholic beverages, namely, whiskey
Mark:	WILD TURKEY BOURBON
Registration No.	3,006,403
Class/Goods:	33/Potable Distilled Spirits
Mark:	WILD TURKEY KENTUCKY COOLERS
Registration No.	1,912,713
Class/Goods:	33/Alcoholic Beverages, namely bourbon combined with a non-alcoholic mixer
Mark:	WILD TURKEY KENTUCKY LEGEND BEYOND DUPLICATION & Design
Registration No.	1,670,450
Class/Goods:	33/Distilled alcoholic beverages, namely whiskey
Mark:	WILD TURKEY BOURBON 101
Application Ser. No.	78/233,721
Class/Goods:	33/Potable Distilled Spirits

These marks are hereinafter referred to collectively as the “WILD TURKEY Marks.” A certified copy of each registration will be filed during Opposer’s testimony period.

2. Since introducing its alcoholic beverage products, Opposer has sold millions of cases of products bearing the WILD TURKEY Marks throughout the United States.

3. Since introducing its alcoholic beverage products, Opposer has expended millions of dollars on advertising and sales promotion for products bearing the WILD TURKEY Marks throughout the United States.

4. As a result of Opposer's extensive sales and expenditures for advertising and promotion of its alcoholic beverage products, Opposer's WILD TURKEY Marks are famous marks and have come to signify products originating with Opposer and to symbolize goodwill of incalculable value. Alcoholic beverages bearing Opposer's WILD TURKEY Marks have become well-known leading brands of alcoholic beverages in the United States.

5. Applicant's application was filed on November 19, 2003 based upon Section 66(a) of the Lanham Act.

6. On November 1, 2005, Applicant's WILD GEESE RARE IRISH WHISKEY mark for "whiskey of Irish origin" in International Class 33 (hereinafter "Applicant's Mark"), was published for opposition in the *Official Gazette*. Applicant was required to disclaim the exclusive right to use the words "Rare Irish Whiskey" apart from Applicant's Mark.

7. Applicant's Mark is confusingly similar to Opposer's WILD TURKEY Marks in that both Applicant and/or Opposer sell alcoholic beverages under the marks and both marks use the word "wild" in connection with the name of a game bird.

8. The goods for which Applicant seeks to register the Applicant's Mark are identical and/or closely related to the goods for which Opposer has registered its WILD TURKEY Marks.

9. Upon information and belief, Applicant's goods are or will be marketed through the same channels of trade and to the same class of consumers as the goods of Opposer.

10. Prospective purchasers of Applicant's goods are likely to erroneously believe that such goods are produced by or under the authority of Opposer, or to erroneously assume that there is some other trade connection between Opposer and Applicant.

11. Applicant's Mark so resembles Opposer's WILD TURKEY Marks that, when used on or in conjunction with the goods of Applicant:

- (a) It is likely to cause confusion, or to cause mistake, or to deceive;
- (b) It falsely suggests a connection with Opposer;
- (c) It tends to damage Opposer's goodwill in the WILD TURKEY marks; and
- (d) It is likely to dilute the distinctive qualities of Opposer's WILD TURKEY marks.

WHEREFORE, Opposer prays that its Opposition to the registration of Application Serial No. 79/000,112 be sustained.

**The Commissioner is authorized to charge \$600 for the Notice of Opposition and any additional fee which may be required the undersigned's Deposit Account No. 502793.**

Please recognize Louis S. Ederer, Steven R. Schoenfeld, John Maltbie, Alan Veronick, Dorothy C. Alevizatos, Sophie B. Anger, and Alisa Cahan who are members of the Bar of the State of New York and the firm of TORYS, LLP, located at 237 Park Avenue, New York, New York 10017, as attorneys for Opposer.

Respectfully submitted,  
TORYS, LLP  
Attorneys for Opposer

By:



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Dated: November 28, 2005