

ESTTA Tracking number: **ESTTA92999**

Filing date: **08/03/2006**

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	Oregon Brewing Company
Granted to Date of previous extension	08/05/2006
Address	2320 OSU Drive Newport, OR 97365 UNITED STATES

Attorney information	Douglas D. Hancock ipsolon llp 111 S.W. Columbia, Suite 710 Portland, OR 97201 UNITED STATES doug@ipsolon.com Phone:541-549-4942
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### Applicant Information

Application No	78471291	Publication date	06/06/2006
Opposition Filing Date	08/03/2006	Opposition Period Ends	08/05/2006
Applicant	Chinook Trading Company 6285 Lakeview Blvd. Lake Oswego, OR 97035 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: FOOTWEAR AND CLOTHING, NAMELY, SHIRTS, PANTS, SHORTS, JACKETS, SKIRTS, SWEAT SHIRTS, VESTS, HEAD WEAR AND SOCKS
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Attachments	Notice of Opposition_ROGUE.pdf ( 4 pages )(19271 bytes )
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Signature	/douglas d hancock/
Name	Douglas D. Hancock
Date	08/03/2006

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

*In re Trademark Application of Rogue Outdoor Brands, LLC*

Application No. 78/471,291

Mark: ROGUE

Filed: August 20, 2004

Published: June 6, 2006

Oregon Brewing Company,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
Rogue Outdoor Brands, LLC	)	
	)	
Applicant.	)	

Notice of Opposition

Opposer Oregon Brewing Company, an Oregon corporation with offices at 2320 OSU Drive, Newport, Oregon 97365, believes that it will be damaged by registration of the above-identified mark and hereby opposes the application under the provisions of 15 U.S.C. § 1063. On information and belief, Applicant Rogue Outdoor Brands, LLC is an Oregon limited liability company with offices at 6245 Lakeview Boulevard, Lake Oswego, Oregon 97035.

As grounds for opposition, Opposer alleges:

1. Opposer is and has been engaged in the business of offering and selling clothing under the mark ROGUE. Opposer controls and has controlled the nature and quality of the clothing it offers and sells under the mark ROGUE.
2. Opposer has filed an application to register its ROGUE mark for clothing. Specifically, Opposer filed US Trademark Application serial number 78/699,138 on

August 24, 2005. The goods identified in the '138 application are "clothing, namely, t-shirts, sweatshirts, polo shirts, turtlenecks, aprons, hats." The date of first use, and the date of first use in commerce alleged in the '138 application are at least as early as 1989.

3. In an Office action emailed March 13, 2006 in connection with Opposer's '138 application, the Trademark Office cited Application Serial No. 78/471,291, noting that there may be a likelihood of confusion between the mark of the '291 application and Opposer's '138 application if the '291 application registers. As a result, Opposer's '138 application is suspended.

4. Opposer has widely used, promoted and advertised the mark ROGUE in connection with clothing continuously since at least as early as 1989, and continues to use promote and advertise the mark ROGUE for clothing on a widespread basis. Opposer has not abandoned its ROGUE mark for clothing.

5. Opposer has been using its ROGUE mark for clothing from a date long prior to any first use date that Applicant might claim. In addition to the specific items of clothing listed in Opposer's '138 application listed above, Opposer has from time to time and is now engaged in the business of manufacturing, advertising and selling a variety of additional types of clothing under the ROGUE mark.

6. Through widespread and extensive use, substantial sales, advertising and promotion of Opposer's goods, Opposer's ROGUE mark has become widely known as identifying the source of Opposer's goods and has become associated in the minds of consumers with Opposer. Through Opposer's extensive use of its ROGUE mark for a variety of clothing items, and widespread promotion of such goods under the mark, the mark has attained a distinctive quality and reputation. Opposer has built and owns substantial goodwill in the mark ROGUE mark for clothing and the mark is a valuable symbol of the goodwill associated with the Opposer's business.

7. Despite Opposer's prior rights in its ROGUE mark for clothing, and with knowledge of Opposer's ROGUE mark for such goods, Applicant filed the opposed application for ROGUE for "footwear and clothing, namely, shirts, pants, shorts, jackets,

skirts, sweat shirts, vests, head wear and socks.”

8. Upon information and belief, Applicant adopted its ROGUE mark for clothing on a date after Opposer’s first use of its ROGUE mark for clothing.

9. The filing date for US Trademark application serial number 78/471,291 is after 1989.

10. Upon information and belief, Applicant is actually using the mark ROGUE in commerce for clothing, and Applicant’s first use of the mark ROGUE for clothing began on a date after Opposer’s first use of its ROGUE mark for clothing.

11. Opposer will be damaged by registration of Applicant’s mark because Opposer began use of its mark prior to any date that Applicant might allege for use of the mark of the ‘291 application.

12. Registration of the mark of application serial number 78/471,291 is barred by the provisions of 15 U.S.C. § 1052(d) because said mark consists of a mark which so resembles a mark previously used and registered in the United States by Opposer, and not abandoned, as to be likely, when used in connection with Applicant’s goods, to cause confusion, mistake or deception

13. The goods in Applicant’s ‘291 application are either identical or closely related to goods upon which Opposer has used its ROGUE mark, and as a result the public are likely to be confused, to be deceived, and to erroneously assume that Applicant’s goods are those of Opposer, or to mistakenly believe that Applicant is in some manner connected with, sponsored by or affiliated with Opposer. The likelihood of confusion between the marks is increased because the goods listed in Applicant’s ‘291 application are either identical to or closely related to goods upon which Opposer has used its ROGUE mark, and because such goods are likely to be purchased by the same categories of consumers in the same channels of trade.

14. Applicant’s mark so closely resembles Opposer’s mark that it is likely to cause deception within the meaning of § 2(a) of the Trademark Act, 15 U.S.C. § 1052(a). Specifically, Applicant’s mark is misdescriptive of the nature or origin of Applicant’s goods. As a result, consumers looking to purchase Applicant’s goods are

likely to mistakenly believe that the mark actually describes the nature or origin of the goods. This mistaken belief is likely to alter consumer's purchasing decisions.

15. Applicant's mark so closely resembles Opposer's mark that it falsely suggests a connection with Opposer within the meaning of § 2(a) of the Trademark Act, because consumers will mistakenly believe that goods offered under Applicant's mark are connected with Opposer.

WHEREFORE, Applicant prays that this Opposition be sustained, and that the application hereby opposed be refused registration.

Respectfully submitted,

By: \_\_\_\_\_  
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Of Attorneys for Opposer  
Oregon Brewing Company

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