

ESTTA Tracking number: **ESTTA272045**

Filing date: **03/13/2009**

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	Brandbrew S.A.
Granted to Date of previous extension	03/15/2009
Address	Parc d'Activite Syrdall 5 Munsbach, LUXEMBOURG
Domestic Representative	David A. Weinstein 695 South Colorado Boulevard, Suite 360 Denver, CO 80246 UNITED STATES davidaweinstein@qwestoffice.net Phone:303-863-8818

Applicant Information

Application No	79045887	Publication date	09/16/2008
Opposition Filing Date	03/13/2009	Opposition Period Ends	03/15/2009
International Registration No.	0942750	International Registration Date	10/04/2007
Applicant	BAROSSA VALLEY ESTATE LIMITED Seppeltsfield Road MARANANGA SA 5355 AUSTRALIA		

Goods/Services Affected by Opposition

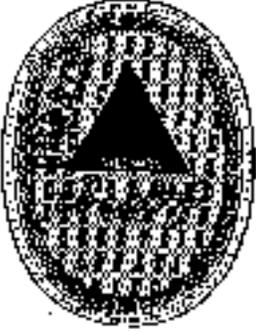
Class 033. All goods and services in the class are opposed, namely: Wines
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	88266	Application Date	08/02/1911
Registration Date	09/10/1912	Foreign Priority Date	NONE
Word Mark	BASS AND CO'S		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class U048 (International Class 032). First use: First Use: 1856/00/00 First Use In Commerce: 1856/00/00 PALE ALE AND BEER		

U.S. Registration No.	343198	Application Date	10/16/1936
Registration Date	02/09/1937	Foreign Priority Date	NONE

Word Mark	BASS
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Design Mark			
Description of Mark	NONE		
Goods/Services	Class U048 (International Class 032). First use: BEER ALE, STOUT, AND PORTER		

U.S. Registration No.	1723695	Application Date	05/22/1991
Registration Date	10/13/1992	Foreign Priority Date	NONE

Word Mark	BASS
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1965/07/01 First Use In Commerce: 1965/07/01 pens, pencils, beer coasters made of paper, posters and tent cards

U.S. Registration No.	1598860	Application Date	03/28/1988
Registration Date	05/29/1990	Foreign Priority Date	NONE
Word Mark	BASS & COS. PALE ALE ENGLANDS FIRST REGD. TRADEMARK BASS I.P.A.		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1856/00/00 First Use In Commerce: 1985/11/30 BEER, ALE, STOUT, LAGER AND PORTER		

U.S. Registration No.	1837700	Application Date	11/03/1988
Registration Date	05/31/1994	Foreign Priority Date	NONE
Word Mark	BASS		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 006. First use: First Use: 1965/07/01 First Use In Commerce: 1965/07/01 METAL KEY RINGS</p> <p>Class 018. First use: First Use: 1965/07/01 First Use In Commerce: 1965/07/01 UMBRELLAS, LUGGAGE TAGS, BAG TAGS FOR USE ON TRAVELLING BAGS AND TOTE BAGS, ALL-PURPOSE SPORT BAGS</p> <p>Class 020. First use: First Use: 1850/00/00 First Use In Commerce: 1965/07/01 MIRRORS</p> <p>Class 021. First use: First Use: 1965/07/01 First Use In Commerce: 1965/07/01 GLASSWARE FOR DOMESTIC USE, METAL TRAYS FOR DOMESTIC AND SERVING USES, IN HOUSEHOLDS, RESTAURANTS AND BARS</p> <p>Class 024. First use: First Use: 1985/01/01 First Use In Commerce: 1985/01/01 SPORT TOWELS</p> <p>Class 028. First use: First Use: 1965/07/01 First Use In Commerce: 1965/07/01 GOLF TEES AND MARKERS, DARTBOARD CABINETS, GOLF BAGS, BAG TAGS FOR GOLF BAGS</p> <p>Class 034. First use: First Use: 1930/00/00 First Use In Commerce: 1965/07/01 ASHTRAYS[, AND DISPOSABLE LIGHTERS]</p>

U.S. Registration No.	2087927	Application Date	09/04/1992
Registration Date	08/12/1997	Foreign Priority Date	NONE
Word Mark	BASS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1965/07/01 First Use In Commerce: 1965/07/01 paper carrier bags; wall and desk calendars; pocket and desk diaries; posters; pub signs made of fibre board; coasters made of paper; paper place mats; table linen of paper; stationery; pens; pencils</p> <p>Class 021. First use: First Use: 1965/07/01 First Use In Commerce: 1965/07/01 meal trays and serving trays not made of precious metal; mugs; plastic coasters and coasters not made of paper and not being table linen; beverage glassware; ceramics, namely, ornaments, steins and dishes for restaurant and domestic use</p>		

Attachments	71057992#TMSN.gif (1 page)(bytes) 71384403#TMSN.gif (1 page)(bytes) 74169064#TMSN.gif (1 page)(bytes) 73719218#TMSN.gif (1 page)(bytes) 73761633#TMSN.gif (1 page)(bytes) Notice of Opposition 3-13-09.pdf (13 pages)(342990 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/david a. weinstein/
Name	David A. Weinstein
Date	03/13/2009

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

In re Trademark Application of: Barossa Valley Estate Limited Proprietary Limited Company

Serial No.: 79045887
Filing Date: October, 4, 2007
Mark: E BASS
For: Wines
Class: 33
Published in the Official Gazette on September 16, 2008

Brandbrew S.A., a corporation organized)	
and existing under the laws of Luxembourg,)	
)	
Opposer)	Opposition No.
)	
v.)	
)	
Barossa Valley Estate Limited Proprietary)	
Limited Company,)	
Applicant)	

NOTICE OF OPPOSITION

Brandbrew S.A. (hereafter ("Opposer")), a corporation organized and existing under the laws of Luxembourg, with a principal place of business at 5 Parc d'Activite Syrdall, 5365 Munsbach, Luxembourg believes and alleges that it will be damaged by registration of the mark shown in Serial No.79/045887 (hereafter "Application") filed by Barossa Valley Estate Limited Proprietary Limited Company, Seppeltsfield Road, Marananga SA 5355, Australia ("Applicant") and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is and has been for many years engaged in the production, distribution, marketing, advertising and sale of a wide variety of goods including, among others, beer, ale, stout, and porter (hereafter "Opposer's Goods) on its own behalf and through others. In

connection therewith Opposer has used in interstate commerce the trademark BASS and variations thereof (hereafter individually and collectively Opposer's Trademark), since long prior to Applicant's date of first use in the United States of the trademark E BASS (hereafter "Applicant's Trademark")

2. Opposer owns the following United States Patent and Trademark Office registrations: Registration No. 88,266; Registration No.343,198; Registration No.1,723,695; Registration No.1,598,860; Registration No.1,837,700; Registration No.2,087,927; and Registration No.2,106,633. A true copy of each registration is attached hereto as Opposer's Exhibit 1.

3. Opposer's Goods bearing Opposer's Trademark have been extensively and continuously offered to the public through various channels of trade in the United States. Opposer's Goods have been extensively advertised under Opposer's Trademark throughout the United States. By reason of such advertising and wide distribution of Opposer's Goods bearing Opposer's Trademark, the public has come to recognize Opposer's Trademark as signifying Opposer and its goods, and Opposer has built up extensive good will in connection with the sale of goods under Opposer's Trademark.

4. Notwithstanding Opposer's Trademark and the aforementioned registrations thereof, Applicant filed the Application.

5. Applicant filed the Application on October, 4, 2007 for registration of Applicant's Trademark for the goods the Application covers (hereafter "Applicant's Goods"). The Application is based on an application for Applicant's Mark filed in Australia on May 25, 2007 under application number 1178319 and International Registration No. 0942750 issued October 4,

2007.

6. Applicant's Trademark was refused registration under Section 2(d) by the United States Patent and Trademark Office on January 25, 2008, based upon Opposer's Registration Nos. 88,266; 343,198; 1,598,860; Registration No.1,837,700; and.2,106,633.

7. The Application was published for opposition in the Official Gazette of September 16, 2008.

8. On information and belief, Applicant has made no use of Applicant's Trademark in the United States in connection with Applicant's Goods or closely related goods prior to the Application filing date.

9. Opposer requested and obtained extensions of time to oppose the Application, the last extension being granted by the United States Patent and Trademark on January 14, 2009, extending the time for filing to March 15, 2009.

10. Applicant's Trademark is confusingly similar to Opposer's Trademark.

11. Applicant's Goods are similar to Opposer's Goods of the kind that are alcoholic beverages and would be sold in the same trade channels as well as advertised, promoted, and directed to the same purchases and members of the trade.

12. Applicant's Goods are intended to be used in the same environment as Opposer's Goods of the kind that are alcoholic beverages.

13. Use of Applicant's Mark on or in connection with Applicant's Goods is likely to cause confusion, deception, and mistake among members of the relevant public and trade, thereby damaging Opposer.

14. Use of Applicant's Mark on or in connection with Applicant's Goods is likely to lead to

the belief Applicant's Goods are sponsored by, affiliated with, approved by or otherwise emanate from Opposer, thereby damaging Opposer.

15. Applicant's use of Applicant's Trademark interferes with Opposer's use of Opposer's Trademark, and Applicant's continued use and Applicant's registration of Applicant's Trademark will damage and injure Opposer.

WHEREFORE, Opposer believes it will be damaged by registration of Applicant's Trademark and prays that: this opposition be sustained, that Applicant's Trademark be denied and refused registration, the Trademark Trial and Appeal Board award Opposer its attorney and expert witness fees and costs in connection with this opposition, and that the Trademark Trial and Appeal Board enter such other relief to Opposer as it deems just and proper.

A copy of this Notice of Opposition is being mailed to Applicant.

Respectfully,

/david a. weinstein/
David A. Weinstein
Opposer's Attorney
695 South Colorado Boulevard, Suite 360
Denver, Colorado
303-863-8818
303-863-8820 telefax
davidaweinstein@qwestoffice.net

CERTIFICATE OF FILING AND MAILING

I hereby certify that this document was electronically filed with the United States Patent and Trademark Office on March 13, 2009 and a copy thereof will be deposited on March 13, 2009 in the United States mail first-class mail postage paid addressed to:

Applicant's Attorney of Record
Craig A. Fieschko
Intellectual Property Law Department
DeWitt Ross & Stevens S.C.
2 East Mifflin Street, Suite 600
Madison, WI 53703-2865

/david a. weinstein/
David A. Weinstein

EXHIBIT 1

Brandbrew S.A v. Barossa Valley Estate Limited Proprietary Limited Company,

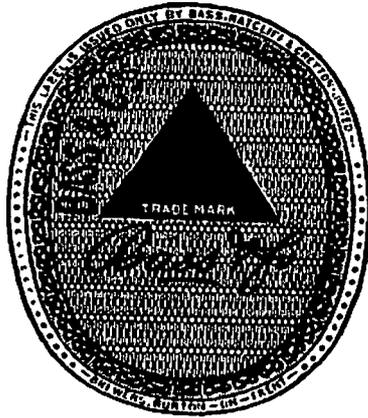
Int. Cl.: 32

Prior U.S. Cl.: 48

United States Patent and Trademark Office
10 Year Renewal

Reg. No. 88,266
Registered Sep. 10, 1912
Renewal Term Begins Sep. 10, 1992

TRADEMARK
PRINCIPAL REGISTER



BASS PUBLIC LIMITED COMPANY
(UNITED KINGDOM COMPANY)
HIGH STREET
BURTON-ON-TRENT, ENGLAND, BY
ASSIGNMENT, CHANGE OF NAME,
ASSIGNMENT, CHANGE OF NAME
AND CHANGE OF NAME FROM
BASS, RADCLIFF & GRETTON, LIM-
ITED (GREAT BRITAIN COMPANY)
BURTON-UPON-TRENT, STAFFORD-
SHIRE, ENGLAND

OWNER OF U.S. REG. NO. 8,773.

FOR: PALE ALE AND BEER, IN
CLASS 48 (INT. CL. 32).

FIRST USE 0-0-1856; IN COMMERCE
0-0-1856.

SER. NO. 71-057,992, FILED 8-2-1911.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Mar. 16, 1993.*

COMMISSIONER OF PATENTS AND TRADEMARKS

Registered Feb. 9, 1937

Trade-Mark 343,198

UNITED STATES PATENT OFFICE

Bass, Ratcliff & Gretton Limited, Burton-on-Trent, England

Act of February 20, 1905

Application October 16, 1936, Serial No. 384,403

BASS

STATEMENT

To the Commissioner of Patents:

Bass, Ratcliff & Gretton Limited, a corporation organized under the laws of the United Kingdom of Great Britain and Northern Ireland, located in Burton-on-Trent, Staffordshire, England, and doing business at High Street, Burton-on-Trent, Staffordshire, England, has adopted and used the trade-mark shown in the accompanying drawing, for BEER, ALE, STOUT, AND PORTER, in Class 48, Malt beverages and liquors, and presents herewith five specimens (or 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, as amended.

The trade-mark has been continuously used and applied to said goods in applicant's business and that of its predecessors in business, Bass, Ratcliff & Gretton Limited, and Bass & Co., since the year 1855.

The said trade-mark is applied or affixed to the goods, or to the packages containing the same by placing thereon a printed label on which the trade-mark is shown, and in other convenient ways.

Said trade-mark has been registered in the

United Kingdom under No. 292,276 dated the 20th April, 1907.

Applicant is the owner of United States trade-mark registrations Nos. 88,264 and 88,266, both dated the 10th September, 1912.

Edward S. Rogers and James F. Hogs, or either of them, whose postal address is 41 East 42nd Street, New York city, is designated on whom process or notice of proceedings affecting the right to ownership of said trade-mark brought under the laws of the United States may be served.

The undersigned hereby appoints Edward S. Rogers and James F. Hoge, of 41 East 42nd Street, New York city, and Francis L. Browne, Dudley Browne, and Thomas L. Mead, Jr., 850 Munsey Building, Washington, D. C., its attorneys, to prosecute this application for registration, with full powers of substitution and revocation, and to make alterations and amendments therein, to receive the certificate, and to transact all business in the Patent Office connected therewith.

BASS, RATCLIFF & GRETTON LIMITED,
By D. BURRELL,
Secretary.

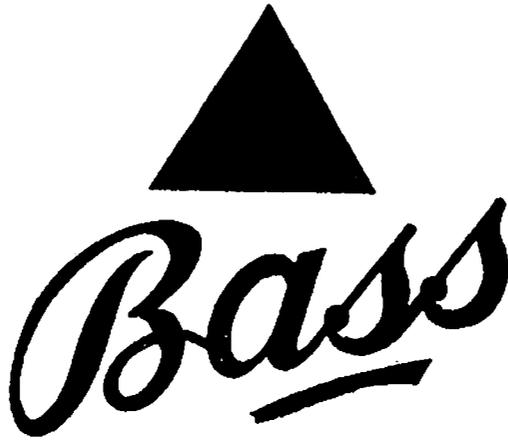
Int. Cl.: 16

Prior U.S. Cls.: 2, 32, 37 and 38

United States Patent and Trademark Office

Reg. No. 1,723,695
Registered Oct. 13, 1992

**TRADEMARK
PRINCIPAL REGISTER**



BASS PUBLIC LIMITED COMPANY (UNITED
KINGDOM COMPANY)
66 CHILTERN STREET
LONDON, W1M 1PR, ENGLAND

FOR: PENS, PENCILS, BEER COASTERS
MADE OF PAPER, POSTERS AND TENT
CARDS, IN CLASS 16 (U.S. CLS. 2, 32, 37 AND
38).

FIRST USE 7-1-1965; IN COMMERCE
7-1-1965.

OWNER OF U.S. REG. NOS. 88,266, 1,598,860
AND OTHERS.

SER. NO. 74-169,064, FILED 5-22-1991.

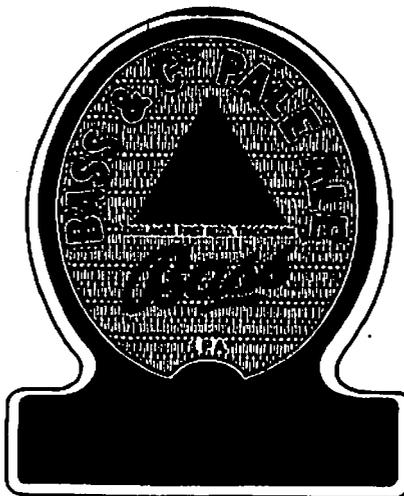
KATHLEEN COONEY, EXAMINING ATTOR-
NEY

Int. Cl.: 32

Prior U.S. Cl.: 48

United States Patent and Trademark Office **Reg. No. 1,598,860**
Registered May 29, 1990

**TRADEMARK
PRINCIPAL REGISTER**



BASS PUBLIC LIMITED COMPANY (UNITED
KINGDOM COMPANY)
HIGH STREET
BURTON-ON-TRENT, ENGLAND

FOR: BEER, ALE, STOUT, LAGER AND
PORTER, IN CLASS 32 (U.S. CL. 48).

FIRST USE 0-0-1856; IN COMMERCE
11-30-1985.

OWNER OF U.S. REG. NOS. 88,266, 1,490,420
AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "COS.", "PALE ALE", "ENG-

LAND'S FIRST REGD. TRADEMARK", AND
"I.P.A.", APART FROM THE MARK AS
SHOWN.

THE LINING ON THE DRAWING IS A FEAT-
URE OF THE MARK AND DOES NOT REP-
RESENT COLOR, AND THE STIPPLING AP-
PEARING THEREIN IS FOR SHADING PUR-
POSES ONLY.

SER. NO. 73-719,218, FILED 3-28-1988.

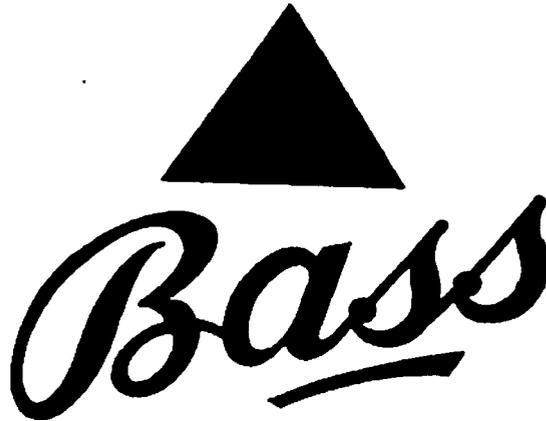
CRAIG K. MORRIS, EXAMINING ATTORNEY

Int. Cls.: 6, 18, 20, 21, 24, 28 and 34

Prior U.S. Cls.: 2, 3, 8, 13, 22, 23, 25, 30, 32, 33, 41 and 42

United States Patent and Trademark Office Reg. No. 1,837,700
Registered May 31, 1994

**TRADEMARK
PRINCIPAL REGISTER**



BASS PUBLIC LIMITED COMPANY (UNITED
KINGDOM COMPANY)
HIGH STREET
BURTON-ON-TRENT, ENGLAND

FOR: METAL KEY RINGS, IN CLASS 6 (U.S.
CLS. 13 AND 25).

FIRST USE 7-1-1965; IN COMMERCE
7-1-1965.

FOR: UMBRELLAS, LUGGAGE TAGS, BAG
TAGS FOR USE ON TRAVELLING BAGS AND
TOTE BAGS, ALL-PURPOSE SPORT BAGS, IN
CLASS 18 (U.S. CLS. 3 AND 41).

FIRST USE 7-1-1965; IN COMMERCE
7-1-1965.

FOR: MIRRORS, IN CLASS 20 (U.S. CL. 32).

FIRST USE 0-0-1850; IN COMMERCE
7-1-1965.

FOR: GLASSWARE FOR DOMESTIC USE,
METAL TRAYS FOR DOMESTIC AND SERV-
ING USES, IN HOUSEHOLDS, RESTAURANTS
AND BARS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 30
AND 33).

FIRST USE 7-1-1965; IN COMMERCE
7-1-1965.

FOR: SPORT TOWELS, IN CLASS 24 (U.S. CL.
42).

FIRST USE 1-1-1985; IN COMMERCE
1-1-1985.

FOR: GOLF TEES AND MARKERS, DART-
BOARD CABINETS, GOLF BAGS, BAG TAGS
FOR GOLF BAGS, IN CLASS 28 (U.S. CL. 22).

FIRST USE 7-1-1965; IN COMMERCE
7-1-1965.

FOR: ASHTRAYS, AND DISPOSABLE
LIGHTERS, IN CLASS 34 (U.S. CL. 8).

FIRST USE 0-0-1930; IN COMMERCE
7-1-1965.

OWNER OF U.S. REG. NOS. 57,992, 343,198
AND OTHERS.

SER. NO. 73-761,633, FILED 11-3-1988.

MARY E. HANNON, EXAMINING ATTORNEY

Int. Cls.: 16 and 21

Prior U.S. Cls.: 2, 5, 13, 22, 23, 29, 30, 33, 37, 38,
40, and 50

United States Patent and Trademark Office

Reg. No. 2,087,927

Registered Aug. 12, 1997

**TRADEMARK
PRINCIPAL REGISTER**

BASS

BASS PUBLIC LIMITED COMPANY (UNITED
KINGDOM PUBLIC LIMITED COMPANY)
HIGH STREET
BURTON-ON-TRENT, ENGLAND

FOR: PAPER CARRIER BAGS; WALL AND
DESK CALENDARS; POCKET AND DESK
DIARIES; POSTERS; PUB SIGNS MADE OF
FIBRE BOARD; COASTERS MADE OF PAPER;
PAPER PLACE MATS; TABLE LINEN OF
PAPER; STATIONERY; PENS; PENCILS, IN
CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND
50).

FIRST USE 7-1-1965; IN COMMERCE
7-1-1965.

FOR: MEAL TRAYS AND SERVING TRAYS
NOT MADE OF PRECIOUS METAL; MUGS;
PLASTIC COASTERS AND COASTERS NOT
MADE OF PAPER AND NOT BEING TABLE
LINEN; BEVERAGE GLASSWARE; CERAM-
ICS, NAMELY, ORNAMENTS, STEINS AND
DISHS FOR RESTAURANT AND DOMESTIC
USE, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33,
40 AND 50).

FIRST USE 7-1-1965; IN COMMERCE
7-1-1965.

SN 74-311,130, FILED 9-4-1992.

JEAN MARC BRUN, EXAMINING ATTORNEY

Int. Cl.: 32

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

Reg. No. 2,106,633

United States Patent and Trademark Office

Registered Oct. 21, 1997

**TRADEMARK
PRINCIPAL REGISTER**



BASS PUBLIC LIMITED COMPANY (UNITED
KINGDOM PUBLIC LIMITED COMPANY)
HIGH STREET, 20 NORTH AUDLEY STREET
LONDON, BURTON ON TRENT, ENGLAND

FIRST USE 0-0-1856; IN COMMERCE
0-0-1856.

SER. NO. 75-120,989, FILED 6-18-1996.

FOR: BEER, ALE, STOUT, LAGER, PORTER;
MINERAL AND AERATED WATERS, IN
CLASS 32 (U.S. CLS. 45, 46 AND 48).

ZHALEH DELANEY, EXAMINING ATTOR-
NEY