

ESTTA Tracking number: **ESTTA312711**

Filing date: **10/21/2009**

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	Chatam International Incorporated		
Entity	Corporation	Citizenship	Delaware
Address	1105 N. Market Street Suite 1300 Wilmington, DE 19801 UNITED STATES		

Attorney information	Paul Lewis, Esquire 2633 Trenton Avenue Philadelphia, PA 19125 UNITED STATES plewis@jacquins.com Phone:215-425-9300
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Applicant Information

Application No	77516519	Publication date	09/22/2009
Opposition Filing Date	10/21/2009	Opposition Period Ends	10/22/2009
Applicants	Whitney, Laurel 7 Longfellow Drive Succasunna, NJ 07876 UNITED STATES Almakias, Mordechai 7 Longfellow Drive Succasunna, NJ 07876 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. All goods and services in the class are opposed, namely: Malt liquor, beer, and non-alcoholic cocktail mixes
Class 033. All goods and services in the class are opposed, namely: Liquor, vodka, rum, tequila, gin, whiskey, wine, and alcoholic cocktail mixes

Grounds for Opposition

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

U.S. Registration No.	2103842	Application Date	03/29/1995
Registration Date	10/07/1997	Foreign Priority	NONE

		Date	
Word Mark	HOT SEX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1997/06/26 First Use In Commerce: 1997/06/26 mixed drink consisting of ginger liqueur and chocolate		

Attachments	Opposition SEXXX.pdf (3 pages)(54102 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 Overnight Courier on this date.

Signature	/paul m. lewis/
Name	Paul Lewis, Esquire
Date	10/21/2009

Opposition Against "SEXXX" in Classes 32 and 33, Serial No. 77/516519

As grounds of opposition, it is alleged that:

1. Opposer is the owner of U.S. Trademark Registration No. 2,103,842 for the mark "HOT SEX" for "mixed drink consisting of ginger liqueur and chocolate" which was registered on the Principal Register on October 7, 1997. Said registration was based on an application filed in the U.S. Patent and Trademark Office on March 29, 1995, which is a date prior to the date of filing of Applicant's application of July 8, 2008.
2. Said registered mark of Opposer is valid and subsisting and is prima facie evidence of Opposer's exclusive right to use said mark in commerce on the goods specified in said registration.
3. In view of the similarity of the respective marks and the related nature of the goods of the respective parties, it is alleged that Applicant's mark so resembles Opposer's registered mark, as to be likely to cause confusion, or to cause mistake, or to deceive.
4. Opposer, since its first date of use of June 26, 1997, has continuously used and offered Opposer's goods bearing the mark "HOT SEX" to the public through various channels of trade in commerce.
5. Opposer believes it will be damaged by the registration of Applicant's mark "SEXXX" in that the mark makes a confusing similar commercial impression to Opposer's "HOT SEX" mark, and Applicant's mark will be used in connection with goods that are similar in nature to the goods offered to the public by Opposer.
6. Based on the similarity in the marks and the nature of the goods in issue, as well as the likely overlap in the channels of trade, the public is likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's goods marketed under Applicant's mark and misled into believing such goods are produced by, emanate from, or are in some way directly or indirectly associated with Opposer, or that there exists some affiliation or relationship between Applicant and Opposer.
7. Based on the confusing similarity in commercial impression between Opposer's mark and

Applicant's mark, Opposer believes that a likelihood of confusion will exist and Opposer will subsequently suffer damage and injury.

8. If Applicant is granted a registration for the mark "SEXXX" for the goods identified in application Serial No. 77/516519, it would obtain thereby at least prima facie exclusive right to use such mark. Such registration would be a source of damage and injury to Opposer.

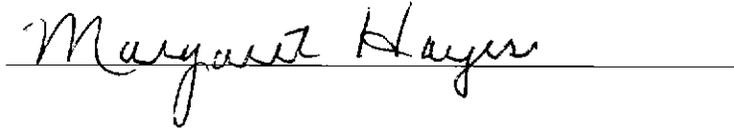
WHEREFORE, Opposer prays that this Opposition be sustained in favor of Opposer; that Application Serial No. 77/516519 be rejected; and that registration of the mark therein sought be denied and refused.

This Notice of Opposition was served on Applicant's Attorney of Record by UPS Next Day Air to the correspondence address of record as maintained by the Trademark Office on this same day.

CERTIFICATE OF SERVICE

This certifies that the foregoing NOTICE OF OPPOSITION was served on Applicant's Attorney of Record by UPS Next Day Air to the correspondence address of record as maintained by the Trademark Office, this 21st day of October, 2009, as follows:

Jody H. Drake, Esquire
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3212

A handwritten signature in cursive script, reading "Margaret Hayer", is written over a horizontal line.