

ESTTA Tracking number: **ESTTA424268**

Filing date: **08/10/2011**

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	Anderson Valley Acquisition Company, LLC
Granted to Date of previous extension	08/24/2011
Address	17700 Highway 253 Boonville, CA 95415 UNITED STATES

Correspondence information	Anderson Valley Acquisition Company, LLC 17700 Highway 253 Boonville, CA 95415 UNITED STATES tleavens@lsglegal.com
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**Applicant Information**

Application No	85178395	Publication date	04/26/2011
Opposition Filing Date	08/10/2011	Opposition Period Ends	08/24/2011
Applicants	Harnden, Matthew 21270 Clearfield Ct. Brookfield, WI 53045 UNITED STATES  Scommegna, Roger 21270 Clearfield Ct. Brookfield, WI 53045 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 033. All goods and services in the class are opposed, namely: Hard cider
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**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.	3801569	Application Date	01/31/2008
Registration Date	06/15/2010	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY BOONVILLE BEER		

Design Mark	
Description of Mark	<p>The mark consists of the wording "THE LEGENDARY BOONVILLE BEER" and a design of fanciful figure of a bear with deer horns; the color red appears on the letters of the words "BOONVILLE" and "BEER"; the color black appears on the letters of the words "THE LEGENDARY", the outlining of the wording "BOONVILLE BEER", the hair of the bear, as shading on the bear nose and the deer horns; the color brown appears on the hair of the bear; the color beige appears on the nose of the bear, the deer horns and as background for the wording and the designs of the mark; the color yellow appears on an outer oval design enclosing the wording and designs of the mark.</p>
Goods/Services	<p>Class 032. First use: First Use: 1987/12/26 First Use In Commerce: 1987/12/26 Beer, ale, lager, stout and porter; Malt liquor</p>

Attachments	<p>77385545#TMSN.jpeg ( 1 page )( bytes )  Notice of Opposition - BOONVILLE CIDER HOUSE BITE HARD CIDER.pdf ( 4 pages )(78565 bytes )</p>
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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	/thomas r. leavens/
Name	Anderson Valley Acquisition Company, LLC
Date	08/10/2011

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

In the Matter of Application Serial No. 85178395:  
BOONVILLE CIDER HOUSE BITE HARD CIDER,  
Published in the Official Gazette of April 26, 2011, in International Class 33

ANDERSON VALLEY ACQUISITION COMPANY, LLC, )	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No.
	)	
MATTHEW HARNDEN and ROGER SCOMMEGNA	)	
	)	
Applicants.	)	

**NOTICE OF OPPOSITION**

Anderson Valley Acquisition Company, LLC, a California limited liability company, P.O. Box 505 - 17700 Hwy 253, Boonville, CA 95415-0505 (“Opposer”) believes it will be damaged by registration of the mark shown in Application Serial No. 85178395, and hereby opposes the same.

As grounds for opposition, Opposer alleges the following:

1. Since 1987, Opposer has been engaged in the business of producing, distributing, marketing, and selling alcoholic beverages, including beer, ale, lager, stout and porter, and malt liquor, since 1987.
2. Opposer’s production and administration facilities have been located in Boonville, California since it began producing its alcoholic beverages in 1987.
3. Opposer has continuously used the name and mark THE LEGENDARY BOONVILLE BEER in connection with its alcoholic beverages, namely beer, ale, lager, stout and porter, and malt liquor, since at least as early as December, 1987.

4. Opposer has achieved substantial sales of beer, ale, lager, stout and porter and malt liquor under Opposer's mark THE LEGENDARY BOONVILLE BEER.

5. Opposer has spent substantial sums of money in advertising and promoting its alcoholic beverages under Opposer's mark THE LEGENDARY BOONVILLE BEER.

6. As a result of Opposer's substantial use, sales and advertising, Opposer's mark THE LEGENDARY BOONVILLE BEER has become well known to the relevant public and represents a most valuable good will owned by Opposer.

7. As a result of Opposer's substantial sales and advertising, and its continued location in Boonville, California, the relevant public associates Opposer with alcoholic beverages marketed and sold under the name or mark BOONVILLE.

8. Opposer is the owner of a trademark registration for its mark THE LEGENDARY BOONVILLE BEER, Registration No. 3,801,569 for "beer, ale, lager, stout and porter, malt liquor", which registration is valid and subsisting and in full force and effect.

9. Registration No. 3,801,569 constitutes evidence of the validity of the registered mark, of Opposer's ownership of the registered mark, and Opposer's exclusive right to use the registered mark in commerce with the identified goods pursuant to Section 7(b) of the Lanham Act, 15 USC § 1057(b).

10. More than twenty years after Opposer began using the mark THE LEGENDARY BOONVILLE BEER, and long after the relevant public began to associate Opposer with alcoholic beverages marketing and sold under the name or mark BOONVILLE, Applicant applied to use BOONVILLE CIDER HOUSE BITE HARD CIDER for "hard cider", an alcoholic beverage, in Class 33.

11. Applicant's goods will likely be marketed, advertised, and sold to the same customers, through the same channels of trade, as Opposer's goods.

12. Applicant's use of BOONVILLE CIDER HOUSE BITE HARD CIDER is likely to cause confusion, mistake or deception as to the source, sponsorship or approval of applicant's products, and to result in the belief by purchasers and others that applicant or the products it provides under its BOONVILLE CIDER HOUSE BITE HARD CIDER mark are in some way authorized, licensed, certified or approved by Opposer or are otherwise legitimately connected with Opposer.

13. Opposer has not consented to applicant's use of Opposer's mark THE LEGENDARY BOONVILLE BEER.

WHEREFORE, registration of applicant's aforesaid mark would be damaging to Opposer.

Opposer submits herewith the requisite filing fee of \$300.

Please address all correspondence to Thomas R. Leavens, Esq., Leavens, Strand, Glover & Adler, LLC, 203 North LaSalle Street, Suite 2550, Chicago, Illinois 60601.

Respectfully submitted,

Leavens, Strand, Glover & Adler, LLC

By: \_\_\_\_\_  
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Attorneys for Opposer

**CERTIFICATE OF MAILING**

I hereby certify that this document and accompanying fee are being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Trademarks, Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, Virginia 22313-1451, on this date of August \_\_\_\_\_, 2011.

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