

ESTTA Tracking number: **ESTTA450498**

Filing date: **01/10/2012**

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	Screaming Eagle Partners, LLC		
Entity	Limited Liability Company	Citizenship	California
Address	P.O. Box 12 Oakville, CA 94562 UNITED STATES		

Attorney information	Rod S. Berman, Esq. JEFFER, MANGELS, BUTLER & MITCHELL LLP 1900 Avenue of the Stars, Seventh Floor Los Angeles., CA 90067 UNITED STATES trademarkdocket@jmbm.com Phone:(310) 203-8080		
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Applicant Information

Application No	85369931	Publication date	12/13/2011
Opposition Filing Date	01/10/2012	Opposition Period Ends	01/12/2012
Applicant	Weiss, Tony 11334 Graceland Lane Frisco, TX 75034 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. All goods and services in the class are opposed, namely: Pubs; Restaurant and bar services; Tavern services

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2925140	Application Date	11/14/2003
Registration Date	02/08/2005	Foreign Priority Date	NONE
Word Mark	SCREAMING EAGLE		

Design Mark	SCREAMING EAGLE
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1995/09/20 First Use In Commerce: 1995/10/01 Wine

Attachments	78328097#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (4 pages)(24382 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	/S/ ROD S. BERMAN
Name	Rod S. Berman, Esq.
Date	01/10/2012

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

SCREAMING EAGLE PARTNERS, LLC, Opposer, v. TONY WEISS, Applicant.	Opposition No.: _____ Application Serial No.: 85/369,931 Mark: SCREAMING EAGLE Published for Opposition: December 13, 2011 Atty. Ref. No.: 68958-0025
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Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

NOTICE OF OPPOSITION

Opposer Screaming Eagle Partners, LLC, a California limited liability company, ("Opposer"), having an address of P.O. Box 12, Oakville, California 94562, believes that it will be damaged by the registration on the Principal Register of the SCREAMING EAGLE mark ("Applicant's Mark") that is the subject of Federal trademark application Serial No. 85,369,931 ("the Application"), allegedly owned by Tony Weiss ("Applicant"), in connection with "pubs; restaurant and bar services" in International Class 43 ("Applicant's Services") as identified in the Application, and Opposer hereby opposes registration thereof.

As grounds for this Opposition, it is alleged that:

1. Opposer is the owner of record of Registration No. 2,925,140, issued on February 8, 2005, for SCREAMING EAGLE ("Opposer's Mark"), as well as of the goodwill connected therewith. Opposer has been using Opposer's Mark in commerce in connection with wine. Opposer's registration is unrevoked and incontestable.

2. On information and belief, Applicant is an individual with an address of 11334 Graceland Lane, Frisco, Texas 75034.

3. On information and belief, Applicant is the owner of record of the Application.

4. As recited in Opposer's registration identified above, Opposer has been using Opposer's Mark in connection with wine since at least as early as 1995.

5. Since long prior to July 13, 2011, the filing date of the Application, Opposer has widely advertised and promoted Opposer's Mark in connection with wine with the result that Opposer's Mark has become well known and associated with Opposer in the United States. Because of these efforts, and by virtue of the excellence and success of the wine offered and provided by Opposer under Opposer's Mark, Opposer has built up a valuable reputation and tremendous goodwill in Opposer's Mark, belonging exclusively to Opposer.

6. As a result of its efforts, Opposer's Mark is famous mark as defined in U.S.C. §1125(c)(2)(a), and was famous at least as early as July 13, 2011, the filing date of Applicant's application.

7. Applicant's Mark – SCREAMING EAGLE - is identical to Opposer's mark - SCREAMING EAGLE - so as likely to cause confusion, mistake, or deception when used in connection with the Applicant's Services. Applicant's Mark, therefore, creates a confusingly similar commercial impression. Thus, consumers will likely believe that Applicant's use of the mark SCREAMING EAGLE in connection with Applicant's Services is in some way associated or connected with, sponsored, authorized, approved or licensed by Opposer.

8. The goods and/or services of the parties need not be identical or directly competitive to find a likelihood of confusion, and the courts have found that it is sufficient that the goods and/or services are related in some manner and/or the conditions surrounding their marketing are such that they would be encountered by the same purchasers under circumstances

that would give rise to the mistaken belief that the goods and/or services come from a common source.

9. Applicant's Mark so resembles and completely incorporates Opposer's Mark as to be likely to create a false designation of origin and false or misleading representation of fact that is likely to cause confusion, or to cause mistake, or to deceive as to an affiliation, connection, or association between Opposer and Applicant. Any objection or fault with Applicant's Services may reflect upon and seriously injure Opposer's reputation in connection with the goods offered in connection with Opposer's Mark.

10. Applicant's Mark so resembles Opposer's Mark as to be likely, when used in connection with Applicant's Services, as to cause dilution of Opposer's Mark.

11. If Applicant is granted the registration herein opposed, Applicant would thereby obtain at least a prima facie exclusive right to use of Applicant's Mark in connection with Applicant's Services. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, in accordance with Section 13 of the Trademark Act (15 U.S.C. § 1063), Opposer prays that this Opposition be sustained and that Application Serial No. 85/369,931 be refused.

Respectfully submitted,

Dated: January 10, 2012

/S/ ROD S. BERMAN

Rod S. Berman
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Attorneys for Opposer Screaming Eagle Partners, LLC

CERTIFICATE OF SERVICE

It is hereby certified that on **January 10, 2012**, a copy of the foregoing NOTICE OF OPPOSITION has been sent by first class mail, postage prepaid to Applicant at the correspondence address of record in the Patent and Trademark Office:

Tony Weiss
11334 Graceland Lane
Frisco, Texas 75034



Esther Silverman