

ESTTA Tracking number: **ESTTA472363**

Filing date: **05/14/2012**

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	American Outlaw Spirits Incorporated
Granted to Date of previous extension	05/16/2012
Address	1480 Old Highway 41 NW Kennesaw, GA 30152 UNITED STATES
Party who filed Extension of time to oppose	Big Balls Brewing, LLC
Relationship to party who filed Extension of time to oppose	Big Balls Brewing, LLC recorded an assignment of the JESSE JAMES U.S. Trademark Registration No. 3,355,112 to American Outlaw Spirits Incorporated with the Assignments Branch of the U.S. Patent and Trademark Office on May 14, 2012. As such, American Outlaw Spirits Incorporated is in privity with Big Balls Brewing, LLC.

Attorney information	Ben T. Lila Mandour & Associates, APC 16870 West Bernardo Drive, Suite 400 San Diego, CA 92127 UNITED STATES jmandour@mandourlaw.com, blila@mandourlaw.com, ggray@mandourlaw.com, kbruce@mandourlaw.com Phone:858-487-9300
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Applicant Information

Application No	77949206	Publication date	01/17/2012
Opposition Filing Date	05/14/2012	Opposition Period Ends	05/16/2012
Applicant	Gunn, Steven, D. 232 Pope Bend Rd South Cedar Creek, TX 78612 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. First Use: 2009/02/20 First Use In Commerce: 2009/03/25 All goods and services in the class are opposed, namely: Barbeque sauce; Chili sauce; Dipping sauces; Sauces; Sauces for barbecued meat; Steak sauce; Worcestershire sauce
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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.	3355112	Application Date	02/05/2007
Registration Date	12/18/2007	Foreign Priority Date	NONE
Word Mark	JESSE JAMES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2006/08/01 First Use In Commerce: 2006/08/01 beer		

Related Proceedings	Opposition No. 91202392
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Attachments	77099515#TMSN.jpeg (1 page)(bytes) Notice of Opposition JESSE JAMES SAUCES 05-14-12.pdf (4 pages)(18216 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	/Ben T. Lila/
Name	Ben T. Lila
Date	05/14/2012

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

In the matter of Trademark Application Serial No. 77/949,206
Published in the Official Gazette (Trademarks) on January 17, 2012
Trademark: JESSE JAMES SAUCES

American Outlaw Spirits Incorporated,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Steven Gunn,)	
)	
Applicant.)	
_____)	

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

American Outlaw Spirits Incorporated, a corporation of Georgia having an address of 1480 Old Highway 41 NW, Kennesaw, Georgia, 30152 (hereinafter “Opposer”), believes it will be damaged by the registration of the trademark registration shown in Application Serial No. 77/949,206 for the identified goods and hereby opposed that application under the provisions of 15 U.S.C § 1063.

Application Serial No. 77/949,206 was filed on March 3, 2012 on an Intent to Use basis for the trademark JESSE JAMES SAUCES in connection with “barbeque sauce; chili sauce; dipping sauces; sauces; sauces for barbecued meat; steak sauce; Worcestershire sauce” in International Class 30, and published in the Trademark Official Gazette on January 17, 2012. Having been granted extensions of time to oppose up to and including May 16, 2012, Opposer opposes registration of the above-referenced trademark application and alleges:

1. Since as early as 2006, Opposer began using the trademark JESSE JAMES in connection with alcoholic beverages and related goods and services.
2. Opposer is the owner of U.S. Trademark Registration No. 3,355,112 for JESSE JAMES for “beer” in International Class 32.
3. Opposer’s JESSE JAMES Mark has been clearly and prominently displayed on Opposer’s products. Through Opposer’s extensive sales of its JESSE JAMES beer and related products, consumers have come to recognize Opposer’s JESSE JAMES trademark as denoting a unique standard of high quality, purity and flavor. As a result, Opposer’s JESSE JAMES trademark has acquired a wide and favorable reputation, symbolizing the goodwill that Opposer has created throughout the United States in connection with the sale of beer, alcoholic beverages and related products.
4. Applicant is seeking to obtain registration on the Principal Register of the mark JESSE JAMES SAUCES for “barbeque sauce; chili sauce; dipping sauces; sauces; sauces for barbecued meat; steak sauce; Worcestershire sauce” in International Class 30.
5. The application was filed on or about March 3, 2012, based on use in commerce that is claimed to have commenced after Opposer’s date of first use, and after the December 18, 2007 registration date of Opposer’s Trademark Registration No. 3,355,112 for JESSE JAMES. Accordingly, Opposer has rights of priority in the JESSE JAMES mark superior to those of Applicant.
6. The goods set forth in Applicant’s application are related to those offered by Opposer, and are also within the natural zone of expansion of Opposer’s goods.
7. The applied-for mark JESSE JAMES SAUCES is confusingly similar to the Opposer’s JESSE JAMES mark in terms of its appearance, sound, meaning, and overall

commercial impression and it is likely to cause confusion, mistake, and deception as to an affiliation, connection, or association between Opposer and Applicant, or as to the origin, sponsorship, or approval of Applicant's goods, all to Opposer's detriment, thereby causing Opposer damage. Potential consumers are likely to believe that Applicant's goods originate from, or are sponsored or approved by Opposer, when such is not the case.

8. Applicant is not affiliated with or connected in any way to Opposer and Opposer has not consented to Applicant's use of Opposer's JESSE JAMES trademark.

9. By reason of the foregoing, Opposer believes that it will be damaged by registration of said mark, and prays that this Opposition be sustained, that Application Serial No. 77/949,206 be rejected, and that the mark applied for therein be refused registration.

Opposer has appointed Joseph A. Mandour and Ben T. Lila, Mandour & Associates, APC, 16870 West Bernardo Drive, Suite 400, San Diego, CA 92127, members of the bar of the State of California, as agents and attorneys in the matter of the opposition above-identified, to prosecute said opposition, to transact all business in the United States Patent & Trademark Office and in the United States courts in connection with this opposition, to sign his name to all papers which may hereinafter be filed in connection therewith, and to receive all communications relating to the same.

Respectfully submitted,

Date: May 14, 2012

By: /Ben T. Lila/
Ben T. Lila, Esq.
MANDOUR & ASSOCIATES, APC
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San Diego, California 92127
(858) 487-9300
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Attorneys for Opposer
American Outlaw Spirits Incorporated

CERTIFICATE OF SERVICE

The undersigned certifies that on the below date a true and correct copy of the foregoing **NOTICE OF OPPOSITION** was served via first class mail, postage prepaid on Applicant's counsel at:

Ryan A. McGonigle, Esq.
Baker and Rannells, PA
575 Route 28, Suite 102
Raritan, NJ 08869

Date: May 14, 2012

/Kim Bruce/
Kim Bruce