

ESTTA Tracking number: **ESTTA554668**

Filing date: **08/18/2013**

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	THE CANDY WRAPPERS, LLC
Granted to Date of previous extension	08/17/2013
Address	1835 W. ALABAMA STREET Houston, TX 77098 UNITED STATES

Attorney information	Michael S. Spradley Spradley, PLLC 1 Riverway, Suite 1700 Stafford, TX 77477 UNITED STATES trademarks@myidealaw.com Phone:713-728-3687
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### Applicant Information

Application No	85832429	Publication date	06/18/2013
Opposition Filing Date	08/18/2013	Opposition Period Ends	08/17/2013
Applicant	Haze Tobacco, LLC 10350 Fountaingate Drive Stafford, TX 77477 UNITED STATES		

### Goods/Services Affected by Opposition

Class 034. First Use: 2013/01/18 First Use In Commerce: 2013/01/18 All goods and services in the class are opposed, namely: Flavored tobacco; Hookah tobacco; Leaf tobacco; Molasses tobacco; Pipe tobacco; Roll your own tobacco; Rolling tobacco; Smoking tobacco; Tobacco
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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.	3448690	Application Date	10/11/2007
Registration Date	06/17/2008	Foreign Priority Date	NONE
Word Mark	CANDYLICIOUS		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2000/04/01 First Use In Commerce: 2000/04/01 Candy Class 035. First use: First Use: 2000/04/01 First Use In Commerce: 2000/04/01 Retail candy store

Attachments	pleading.pdf(117732 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	/Michael Sean Spradley/
Name	Michael S. Spradley
Date	08/18/2013

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

The Candy Wrappers, LLC

Opposer,

vs.

Haze Tobacco, LLC

Applicant.

§ Opposition No. \_\_\_\_\_  
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In re U.S. Trademark Application Serial No. 85/832,429 for the mark CANDYLICIOUS, filed on January 25, 2013, published on June 18, 2013, but owned by The Candy Wrappers, LLC

**NOTICE OF OPPOSITION**

Commissioner:

The Candy Wrappers, LLC (“Opposer”), a Texas limited liability company, having a business address of 1835 W. Alabama Street, Houston, TX, 77098, believes that it would be damaged by registration of the mark CANDYLICIOUS, shown in U.S. Trademark Application Serial No. 85/832,429, and hereby opposes the same under the provisions of the Trademark Act of 1946, § 1063 of Title 15 of the United States Code.

Opposer asserts the following as grounds for the opposition:

1. Applicant filed the opposed U.S. Trademark Application Serial No. 85/832,429 for the trademark CANDYLICIOUS on January 25, 2013 (“429 Application”), as evidenced

by publication of the mark in the Official Gazette on June 18, 2013. The '429 Application recites "Flavored tobacco; Hookah tobacco; Leaf tobacco; Molasses tobacco; Pipe tobacco; Roll your own tobacco; Rolling tobacco; Smoking tobacco; Tobacco." in International Class 034, and was filed under 15 U.S.C. § 1051(a).

2. Opposer owns the registered trademark mark CANDYLICIOUS for use in connection with "candy" in IC 30 and "retail candy store" in IC 35, registration number 3,448,690. ("Opposer's Mark"). Opposer's Mark was first used in the United States, and in interstate commerce, at least as early as April 1, 2000 and has been used continuously in the United States thereafter.
3. Opposer's Mark has not been abandoned.
4. Opposer's rights in Opposer's Mark pre-date the filing date of the '429 Application.
5. Opposer's rights in Opposer's Mark pre-date any use by Applicant of the CANDYLICIOUS mark represented in the '429 Application. Thus, Opposer's Mark has priority of use over Applicant's CANDYLICIOUS mark.
6. Applicant's Mark is identical in sight, sound, meaning, and commercial impression to Opposer's CANDYLICIOUS mark.
7. The goods identified in the '429 Application, or offered by Applicant or intended to be offered by Applicant under the CANDYLICIOUS mark are confusingly similar to the goods that have been and are presently offered and sold under Opposer's Mark, as they are both consumable, low cost retail goods.
8. Applicant operates his business in substantially the same area as Opposer.

9. Applicant's mark so resembles Opposer's CANDYLICIOUS Mark as to be likely, when applied to Applicant's goods, to cause confusion, to cause mistake or to deceive, and Opposer will be damaged by the registration sought by Applicant.

**WHEREFORE**, Opposer prays that registration of the mark shown in U.S. Trademark Application Serial No. 85/832,429 for CANDYLICIOUS be refused and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,



Michael Spradley, Reg. No. 69177  
Spradley PLLC  
1 Riverway, Suite 1700  
Houston, TX 77056  
(713) 728-3687

8/18/2013

Filed Electronically

trademarks@myidealaw.com

**CERTIFICATION OF SERVICE**

I hereby certify that a copy of the above and foregoing **NOTICE OF OPPOSITION** was served on the 18th day of August, 2013 on the following via U.S. first class mail, postage pre-paid and properly addressed to Applicant's counsel of record as follows:

KEVIN SHENKMAN  
SHENKMAN & HUGHES  
28905 WIGHT RD  
MALIBU, CALIFORNIA 90265-4001

Respectfully submitted,



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