

ESTTA Tracking number: **ESTTA555191**

Filing date: **08/21/2013**

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	Quintessential Brands S.A.		
Entity	Corporation	Citizenship	Luxembourg
Address	121 Avenue De La Faiencerie L-1511 Luxembourg, LUXEMBOURG		

Attorney information	Rachel Blue McAfee & Taft 1717 S. Boulder Suite 900 Tulsa, OK 74119 UNITED STATES rachel.blue@mcafeetaft.com, diane.goswick@mcafeetaft.com Phone:918-574-3007
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Applicant Information

Application No	85859169	Publication date	07/23/2013
Opposition Filing Date	08/21/2013	Opposition Period Ends	08/22/2013
Applicant	Gerberg, Jordan P.O. Box 331 Aspen, CO 81612 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Distilled Spirits; Spirits; Spirits and liqueurs

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.	3224142	Application Date	09/06/2005
Registration Date	04/03/2007	Foreign Priority Date	NONE
Word Mark	Q QUINTESSENTIAL		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 033. First use: First Use: 2005/07/10 First Use In Commerce: 2005/07/10 alcoholic beverages, namely gin
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Attachments	NOTICEOFOPPOSITIONQ85859169.pdf(1901612 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	/Rachel Blue/
Name	Rachel Blue
Date	08/21/2013

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

In re United States Application No. 85/859169
Filing Date: February 25, 2013
Mark: Q
Published in the Official Gazette on July 23, 2013

Quintessential Brands S.A.,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Jordan Gerberg,)	
)	
Applicant.)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

NOTICE OF OPPOSITION

Quintessential Brands S.A. (“Quintessential Brands”) hereby opposes registration of the mark of United States Application Serial No. 85859169 (the “Opposed Application”), which was filed by Jordan Gerberg, in International Class 33 on February 25, 2013. Quintessential Brands’ grounds for opposition are as follows:

1. Quintessential Brands S.A. is a company based in Luxembourg, with a principal place of business at 121 Avenue De La Faiencerie L-1511 Luxembourg, Luxembourg.
2. As listed in the Opposed Application, Jordan Gerberg is an individual U.S. citizen, with a principal address of P.O. Box 331 at Aspen, Colorado, 81612.

3. Applicant seeks to register the stylized mark “Q” on the Principal Register for “Distilled Spirits; Spirits; Spirits and liqueurs” in International Class 33.

4. The Opposed Application was filed February 25, 2013 under Section 1(b), based on a bona fide intent to use the mark in commerce.

5. The Opposed Application was published for opposition on July 23, 2013.

6. Quintessential Brands offers alcoholic beverages, namely gin, throughout the world, including in the United States.

7. At least as early as 2005, Quintessential Brands’ predecessor in interest began using in interstate commerce the distinctive trademark “Q Quintessential” in association with alcoholic beverages, namely gin (hereinafter, the “Q mark” or “Quintessential Brands’ mark”).

8. The Q mark has been continuously used in interstate commerce in connection with these goods since that time.

9. On September 6, 2005, Quintessential Brands’ predecessor in interest filed United States Application Serial No. 78/707115 to register the Q mark for “alcoholic beverages, namely gin” International Class 33 in the United States Patent and Trademark Office (“USPTO”).

10. On April 3, 2007, the USPTO issued United States Registration Number 3,224,142 for the Q mark on the Principal Register. A copy of that registration, now incontestable, is attached hereto as Exhibit “A” and incorporated herein.

11. Quintessential Brands has expended a great deal of effort and money to market and promote its goods associated with the Q mark. By carefully controlling the quality of the goods and services, Quintessential Brands has built up an excellent reputation and valuable goodwill in association with the Q mark.

12. The Opposed Application is for: “Distilled Spirits; Spirits; Spirits and liqueurs” in International Class 33.

13. The Opposed Application contains no restrictions on trade channels, nor the type of distilled spirits the Applicant intends to offer.

14. The goods and services identified in the Opposed Application directly overlap and/or are identical to the goods and services sold by Quintessential Brands in association with the Q Mark and covered by Quintessential Brands’ registration for the Q Mark.

15. Both marks consist of a stylized letter Q and are thus virtually identical in appearance, sound, connotation and commercial impression.

16. Quintessential Brands’ rights to the Q mark date back to at least as early as 2005. USPTO records indicate that the Applicant’s earliest possible constructive use of the mark is February 23, 2013, the filing date of the 1(b) application. Quintessential Brands thus has priority of use.

17. If Applicant is allowed to register the Opposed Mark, it will obtain statutory rights to the mark that will conflict with and substantially degrade Quintessential Brands’ rights in its above-mentioned and attached registration, as well as Quintessential Brands’ superior common law rights to the Q mark.

18. Quintessential Brands’ goodwill and reputation will be jeopardized by Applicant’s registration of the Opposed Mark due to Quintessential Brands’ lack of control over the quality of Applicant’s goods and services.

19. Concurrent use and/or registration of the Opposed Mark and Quintessential Brands’ Q mark is likely to cause confusion and lead to deception as to the origin of the goods that are associated with the Opposed Mark. Concurrent use and/or registration of the Opposed Mark and Quintessential Brands’ Q mark would allow Applicant to be unjustly enriched by, and reap the benefit of, the goodwill and reputation that Quintessential Brands has developed in

association with the Q mark. Accordingly, registration of the Opposed Mark will be a source of damage and injury to Quintessential Brands.

WHEREFORE, Quintessential Brands prays that the Opposed Application be refused and that this Opposition be sustained and any other and further relief as is deemed just and proper.

Respectfully submitted,



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Attorneys for Opposer

CERTIFICATE OF MAILING

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on Applicant by mailing said copy this 21st day of August, 2013, via first class, certified mail, return receipt requested, to:

Matthew H. Swyers
The Trademark Company
344 Maple Avenue W PMB 151
Vienna, Virginia 22180-5612

I further hereby certify that true and complete copy of the foregoing NOTICE OF OPPOSITION was transmitted electronically to the Commissioner for Trademarks at <http://estta.uspto.gov/filing-type.jsp>.



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Attorneys for Opposer

EXHIBIT "A"

Int. Cl.: 33

Prior U.S. Cls.: 47 and 49

United States Patent and Trademark Office

Reg. No. 3,224,142

Registered Apr. 3, 2007

**TRADEMARK
PRINCIPAL REGISTER**



QUINTESSENTIAL

**WHITE ROCK DISTILLERIES, INC. (MAINE
CORPORATION)
21 SARATOGA STREET
LEWISTON, ME 04240**

OWNER OF U.S. REG. NO. 2,376,974.

**FOR: ALCOHOLIC BEVERAGES, NAMELY GIN,
IN CLASS 33 (U.S. CLS. 47 AND 49).**

SER. NO. 78-707,115, FILED 9-6-2005.

FIRST USE 7-10-2005; IN COMMERCE 7-10-2005.

JULIE WATSON, EXAMINING ATTORNEY