

ESTTA Tracking number: **ESTTA566158**

Filing date: **10/21/2013**

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	Luxco, Inc.
Granted to Date of previous extension	12/25/2013
Address	1010 Clark Street St. Louis, MO 63102 UNITED STATES

Attorney information	Michael R. Annis Husch Blackwell LLP 190 Carondelet Plaza, Suite 600 St. Louis, MO 63105 UNITED STATES mike.annis@huschblackwell.com, alan.nemes@huschblackwell.com, andy.gilfoil@huschblackwell.com Phone:314-480-1500
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**Applicant Information**

Application No	77752453	Publication date	08/27/2013
Opposition Filing Date	10/21/2013	Opposition Period Ends	12/25/2013
International Registration No.	NONE	International Registration Date	NONE
Applicant	RADILLO, JOSE ADRIAN CORONA AV. LA PAZ 1690 COL. AMERICANA GUADALAJARA, MEXICO		

**Goods/Services Affected by Opposition**

Class 033. All goods and services in the class are opposed, namely: Tequila
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	727786	Application Date	04/11/1961
Registration Date	02/20/1962	Foreign Priority Date	NONE
Word Mark	REBEL YELL		

Design Mark	
Description of Mark	NONE
Goods/Services	Class U049 (International Class 033). First use: First Use: 1937/08/00 First Use In Commerce: 1937/08/00 Straight Bourbon Whiskey

U.S. Registration No.	3632812	Application Date	05/05/2008
Registration Date	06/02/2009	Foreign Priority Date	NONE
Word Mark	REBEL RESERVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2008/09/29 First Use In Commerce: 2008/09/29 liquors and distilled spirits		

U.S. Application No.	77758725	Application Date	06/12/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FOUR REBELS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: Vodka		

U.S. Application No.	77758705	Application Date	06/12/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	4 REBELS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: Vodka		

Attachments	EPROGRA~1omtoolOMTOOL~1WebAPIOMTOOL~1FILETR~15d62696b-e510-4a86-90af-c02216f43392.PDF(188654 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/ Michael R. Annis
Name	Michael R. Annis
Date	10/21/2013

**CERTIFICATE OF MAILING VIA ELECTRONIC TRANSMISSION**

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals on October 21, 2013.

/s/ Andrew Gilfoil

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

Mark: GENERACION REBELDE  
U.S. Application Serial No. 77/752,453

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LUXCO, INC.,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
JOSE ADRIAN CORONA	)	
RADILLO,	)	U.S. App. No. 77/752,453
	)	
Applicant.	)	

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**NOTICE OF OPPOSITION**  
**TO APPLICATION SERIAL NO. 77/752,453**

LUXCO, Inc. (“LUXCO” or “Opposer”), a corporation organized and existing under the laws of the State of Missouri, having its principal place of business at Luxco, Inc., 1010 Clark Street, St. Louis, Missouri, believes it will be damaged by registration of the mark GENERACION REBELDE claimed in Applicant’s Application Serial Nos. 77/752,453.

As grounds for its opposition, it is alleged that:

1. Applicant Jose Adrian Corona Radillo (“Applicant”), in U.S. Application Serial No. 77/752,453 (the “453 Application”), applied for registration of the trademark GENERACION REBELDE on June 4, 2009, for “tequila” in International Class 33 under Section 1(b) of the Lanham Act (the “GENERACION REBELDE Mark”). The basis for the

'453 Application was amended after Petition to the Commissioner to 44(e), and was ultimately published for opposition in the Official Gazette on August 27, 2013. Appropriate extension of time was obtained from the Board for this opposition.

2. LUXCO is the owner of the mark REBEL YELL in connection with straight bourbon whiskey and the mark REBEL RESERVE in connection with liquors and distilled spirits. LUXCO is also the owner of the below-noted United States Trademark Registrations associated with those marks with the identified dates of first use in commerce for each:

<b>MARKS</b>	<b>U.S. REG./SER. NO.</b>	<b>GOODS DESCRIPTION</b>	<b>DATE FIRST USED IN COMMERCE</b>
REBEL YELL	Reg. No. 727,786	Straight Bourbon Whiskey	August 1, 1937
REBEL RESERVE	Reg. No.3,632,812	Liquors and Distilled Spirits	September 29, 2008

3. In addition, Luxco also owns certain common law rights in the REBEL YELL and REBEL RESERVE trademarks.

4. Luxco is also the owner by assignment of the marks FOUR REBELS and 4 REBELS in connection with vodka, and the United States applications noted below:

<b>MARKS</b>	<b>U.S. REG./SER. NO.</b>	<b>GOODS DESCRIPTION</b>
FOUR REBELS	Ser. No. 77/758,725	Vodka
4 REBELS	Ser. No. 77,758,705	Vodka

5. In addition, Luxco also owns certain common law rights in the 4 REBELS and FOUR REBELS trademarks.

6. Luxco's aforementioned common law rights and the above-noted registrations and/or applications in REBEL YELL, REBEL RESERVE, FOUR REBELS and 4 REBELS are collectively referred herein as the "REBEL Marks."

7. LUXCO's REBEL Marks are inherently distinctive and uniquely associated with LUXCO in connection with LUXCO's goods offered under the REBEL Marks by reason of the continuous use and promotion by LUXCO and/or its predecessors-in-interest.

8. LUXCO or its predecessors-in-interest have used the mark REBEL YELL in connection with straight bourbon whiskey since as early as August 1, 1937, long before Applicant's filing of the '453 Application. Similarly, LUXCO has used the mark REBEL RESERVE in connection with liquors and distilled spirits since at least as early as September 29, 2008, long before Applicant filed the '453 Application.

9. LUXCO, its licensees and/or its predecessors-in-interest have promoted, caused to be promoted, and are now promoting and causing to be promoted the REBEL Marks in interstate commerce within the United States for identifying these goods.

10. Through this use, LUXCO has established valuable goodwill in the REBEL Marks, and the relevant public has come to recognize the REBEL Marks as an indication of the products that emanate from LUXCO or its designated licensees.

11. LUXCO and its licensees have spent substantial sums of money to widely and extensively advertise and promote the goods it sells and offers under the REBEL Marks.

12. Notwithstanding LUXCO'S prior rights in the REBEL Marks, on June 4, 2009, Applicant filed the '453 Application in the United States Patent and Trademark Office for registration of the mark GENERACION REBELDE for "tequila" in International Class 33.

13. On information and belief, Applicant knew or had reason to know of LUXCO'S prior rights in the REBEL Marks when filing the '453 Application.

14. The application for the GENERACION REBELDE Mark herein opposed so resembles LUXCO's REBEL Marks as to be likely, if used in conjunction with Applicant's

goods, to cause confusion, mistake or deceive customers, and Applicant's Mark under the '453 Application are confusingly and deceptively similar to LUXCO's REBEL Marks when used in connection with Applicant's goods.

15. Similarly, Applicant's goods will be targeted, offered, and sold to the same class of prospective buyers as those for LUXCO's goods, and Applicant's and LUXCO's goods are so commercially related that Applicant's GENERACION REBELDE Mark under the '453 Application and LUXCO's REBEL Marks, when used in conjunction with their respective goods, are confusingly similar.

16. Applicant's suggested intent to use its GENERACION REBELDE under the '453 Application, which so resembles LUXCO's REBEL Marks, is likely to cause confusion, mistake or deception of purchasers as to the source of Applicant's goods and will inevitably falsely suggest a trade connection between LUXCO and Applicant.

17. Registration of the opposed GENERACION REBELDE Mark will support and assist Applicant in the confusing and misleading use of the GENERACION REBELDE Mark and will cause LUXCO to lose control over the good and valuable reputation derived from the REBEL Marks, causing irreparable harm and injury to LUXCO.

18. Upon information and belief, Applicant lacks and has lacked the requisite *bona fide* intent to use the GENERACION REBELDE Mark in US commerce on the specified goods when it filed its intent-to-use application for the mark and when it converted the basis of the '453 Application to 44(e).

WHEREFORE, Opposer LUXCO, Inc. prays that Application Serial No. 77/752,453 be refused and that no registration issue thereon to Applicant, and, further that this Opposition be sustained in favor of LUXCO.

DATED: October 21, 2013.

LUXCO, INC.

By: /Michael Annis/  
Michael R. Annis  
Andrew R. Gilfoil  
HUSCH BLACKWELL LLP  
190 Carondelet Plaza, Suite 600  
St. Louis, MO 63108  
Telephone: (314) 480-1500  
Facsimile: (314) 480-1505  
[mike.annis@huschblackwell.com](mailto:mike.annis@huschblackwell.com)  
[andy.gilfoil@huschblackwell.com](mailto:andy.gilfoil@huschblackwell.com)

*Attorneys for LUXCO, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that a copy of the foregoing CONSOLIDATED NOTICE OF OPPOSITION was served by First Class Mail, postage prepaid on this 21st day of October, 2013, upon:

Stacey R. Halpern  
Knobbe, Martens, Olson & Bear, LLP  
2040 Main Street, 14<sup>th</sup> Floor  
Irvine, CA 92614

and

Jose Adrian Corona Radillo  
La Paz 1690 Col. Americana  
Guadalajara, Mexico

/Andrew Gilfoil/