

ESTTA Tracking number: **ESTTA594484**

Filing date: **03/25/2014**

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	Hillbilly Hooch LLC
Granted to Date of previous extension	03/26/2014
Address	303 Broadway#104-140 Laguna Beach, CA 92651 UNITED STATES

Attorney information	Dwayne K. Goetzel Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. P.O. Box 398 Austin, TX 78767-0398 UNITED STATES dkgpto@intprop.com Phone:512-853-8800
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### Applicant Information

Application No	85804056	Publication date	11/26/2013
Opposition Filing Date	03/25/2014	Opposition Period Ends	03/26/2014
Applicant	Ole Smoky Distillery, LLC 236 E MAIN ST # 136 SEVIERVILLE, TN 378623531 TUNISIA		

### Goods/Services Affected by Opposition

Class 033. First Use: 0 First Use In Commerce: 0  
All goods and services in the class are opposed, namely: Distilled Spirits, excluding vodka

### 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.	4248195	Application Date	06/01/2010
Registration Date	11/27/2012	Foreign Priority Date	NONE
Word Mark	HILLBILLY HOOCH		

Design Mark	<b>Hillbilly Hooch</b>
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2005/08/11 First Use In Commerce: 2005/09/00 Alcoholic beverages, namely, a fruit-based and/or fruit flavored distilled spirit, excluding vodka

Attachments	85051612#TMSN.jpeg( bytes ) Ntc of Opposition.pdf(900853 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	/Dwayne K. Goetzel/
Name	Dwayne K. Goetzel
Date	03/25/2014

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

In the Matter of the Trademark Application Serial No. 85804056 for  
the mark “HILLBILLY MOONSHINE” filed by Ole Smoky Distillery, LLC and  
Published in the Official Gazette on November 26, 2012

Hillbilly Hooch LLC	)	
	)	
Opposer	)	
	)	
v.	)	
	)	Opposition No. _____
Ole Smokey Distillery, LLC	)	
	)	
Applicant	)	
_____	)	

**NOTICE OF OPPOSITION**

Hillbilly Hooch LLC, a California limited liability company, having an address of 303 Broadway #104-140, Laguna Beach, California 92651 (“Opposer”), believes that it will be damaged by registration of the mark HILLBILLY MOONSHINE that is the subject of application Serial No. 85804056, published in the *Official Gazette* on November 26, 2012, and therefore requests that registration to Applicant be refused.

As grounds in support of its opposition, Opposer asserts as follows:

1. On or about June 1, 2010, Opposer filed a trademark application to register its HILLBILLY HOOCH mark (“Opposer’s Mark”) in class 33.
  
2. On or about November 27, 2012, Opposer’s Mark in class 33 was registered with the United States Patent & Trademark Office (“USPTO”), and assigned U.S. Reg. No. 4248195.

3. Opposer's Mark in class 33 is used in connection with the following goods: "alcoholic beverages, namely, a fruit-based and/or fruit flavored distilled spirit, excluding vodka." See printout from the USPTO online database, attached as **Exhibit A**.

4. On or about December 17, 2012, Applicant filed intent-to-use application serial no. 85804056, seeking to register HILLBILLY MOONSHINE ("Applicant's Mark") in International Class 33 for use in connection with "distilled spirits, excluding vodka." See printout from the USPTO online database, attached as **Exhibit B**.

5. On or about December 3, 2013, Opposer filed a request for an extension of time to oppose the application for Applicant's Mark, which was granted by the USPTO. The time for opposition to Applicant's Mark was extended until March 26, 2014.

6. Prior to the filing date for the application for Applicant's Mark, the application for Opposer's Mark was filed, Opposer's Mark was in use in commerce, and the registration for Opposer's Mark was issued. Opposer therefore has priority of rights to Applicant.

7. Opposer has dedicated a great deal of time, money and effort in creating and advertising Opposer's Mark, and creating goodwill in connection therewith.

8. Applicant's HILLBILLY MOONSHINE mark utilizes the primary formative of Opposer's Mark, namely HILLBILLY. In addition, "Moonshine" has the same or similar meaning to "hooch." See references from Dictionary.com, attached hereto as **Exhibit C** ("hooch" = "liquor illicitly distilled and distributed," while "moonshine" = "smuggled or illicitly distilled liquor").

9. As a result of the foregoing, Applicant's Mark is confusingly similar to Opposer's Mark with respect to, *inter alia*, the sight, sound and meaning of the marks.

10. Given the similarity between the marks and the products offered in connection therewith, use of Applicant's Mark will create confusion amongst relevant consumers, and within the same or similar trade channels, as to whether there is any sponsorship, affiliation or relationship as between Applicant and Opposer.

11. If the Applicant is granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to use HILLBILLY MOONSHINE in connection with the specified goods. Such registration would be a source of damage and injury to Opposer and its prior trademark rights.

12. In light of the foregoing, the USPTO should refuse to register Applicant's HILLBILLY MOONSHINE mark in light of Opposer's prior use of the HILLBILLY HOOCH mark.

WHEREFORE, Opposer prays that application Serial No. 85804056 be rejected, and that the mark therein sought for the services therein specified be denied and refused.

Respectfully submitted,

/Dwayne K. Goetzel/

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Dwayne K. Goetzel  
Texas State Bar No. 08059500  
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(512) 853-8801 (facsimile)

**ATTORNEYS FOR OPPOSER  
HILLBILLY HOOCH LLC**

**CERTIFICATE OF SERVICE**

I hereby certify I caused a true and correct copy of the foregoing *Notice of Opposition* to be served upon Applicant's attorney of record, as set forth below, by first class U.S. Mail, postage prepaid, on this 25<sup>th</sup> day of March 2014.

Michael E. Robinson  
Robinson IP Law, PLLC  
800 S. Gay St., Ste. 700  
Knoxville, Tennessee 37929

/Dwayne K. Goetzel/

---

Dwayne K. Goetzel

# EXHIBIT A



## United States Patent and Trademark Office

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# Hillbilly Hooch

<b>Word Mark</b>	HILLBILLY HOOCH
<b>Goods and Services</b>	IC 033. US 047 049. G & S: Alcoholic beverages, namely, a fruit-based and/or fruit flavored distilled spirit, excluding vodka. FIRST USE: 20050811. FIRST USE IN COMMERCE: 20050900
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85051612
<b>Filing Date</b>	June 1, 2010
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	September 11, 2012
<b>Registration Number</b>	<b>4248195</b>
<b>Registration Date</b>	November 27, 2012
<b>Owner</b>	(REGISTRANT) Hillbilly Hooch LLC LIMITED LIABILITY COMPANY CALIFORNIA #104-140 303 Broadway Laguna Beach CALIFORNIA 92651
<b>Attorney of Record</b>	Dwayne K. Goetzel
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HOOCH" APART FROM THE MARK AS

SHOWN  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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# **EXHIBIT B**



## United States Patent and Trademark Office

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## Record 1 out of 1

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) *( Use the "Back" button of the Internet Browser to return to TESS)*

# HILLBILLY MOONSHINE

<b>Word Mark</b>	HILLBILLY MOONSHINE
<b>Goods and Services</b>	IC 033. US 047 049. G & S: Distilled Spirits, excluding vodka
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	<b>85804056</b>
<b>Filing Date</b>	December 17, 2012
<b>Current Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	November 26, 2013
<b>Owner</b>	(APPLICANT) Ole Smoky Distillery, LLC LIMITED LIABILITY COMPANY TENNESSEE 236 E MAIN ST # 136 SEVIERVILLE TENNESSEE 378623531
<b>Attorney of Record</b>	Michael E. Robinson
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MOONSHINE" APART FROM THE MARK AS SHOWN
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

# EXHIBIT C

# hooch

### Related Searches

- Turner and hooch
- Hooch recipe
- Hooch ingredients
- Hooch clothing
- Alcoholic hooch rec...
- Homemade hooch
- Hooch snuff
- Prison hooch

### Nearby Words

- hoo-ah
- hoo-ha
- hoo-hah
- hooch**
- hooch head
- hooch hound
- hooched (up)

## hooch [Use Hooch in a sentence](#)

[Catheter Supplies](#) Ads  
[www.topcathetersupplies.com](http://www.topcathetersupplies.com)  
 Best Urinary Catheters Covered By Medicare. Free Home Shipping.

[Bible Dictionary](#)  
[www.dailybibleguide.com](http://www.dailybibleguide.com)  
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**hooch**<sup>1</sup> [hooch] [Show IPA](#)

- noun** *Slang.*
- alcoholic liquor.
  - liquor illicitly distilled and distributed.

### Relevant Questions

Also, **hootch**.

**Origin:**  
 1895–1900; shortening of [hoochinoo](#)

**hooch**<sup>2</sup> [hooch] [Show IPA](#) *Dictionary.com Unabridged*

- noun** *Military Slang.*
- a thatched hut of southeast Asia.
  - any living quarters, as a barracks.
  - a prostitute's dwelling.
    - any place, as a house, room, or shack, where a serviceman sets up housekeeping with a local woman.

Also, **hootch**, **hooch·ie**.

**Origin:**  
 1950–55 probably < Japanese uchi house (by back formation, construing -i as -y<sup>2</sup>-); initial h perhaps by association with [hut](#) or < Ryukyuan dial. form of uchi with prothetic h-

**Hooch** [hooch; Dutch hohkH] [Show IPA](#)

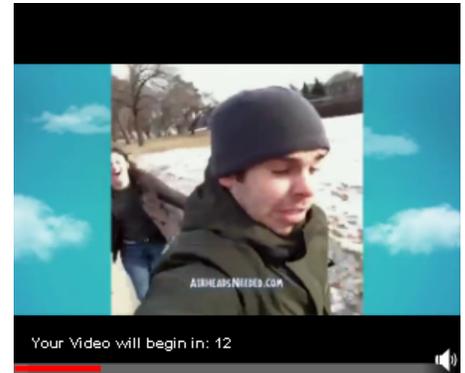
**noun**  
**Pie-ter de** [pee-ter duh; Dutch pee-tuh R duh] [Show IPA](#),  
 1629?–88?, Dutch painter.

Also, **Hoogh**.

Dictionary.com Unabridged  
 Based on the Random House Dictionary, © Random House, Inc. 2014.  
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### Example sentences for hooch

Despite not understanding the [lyrics](#) to the melvins **hooch**, they enjoyed it nonetheless.



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### Related Words

Hooch                      Hoogh  
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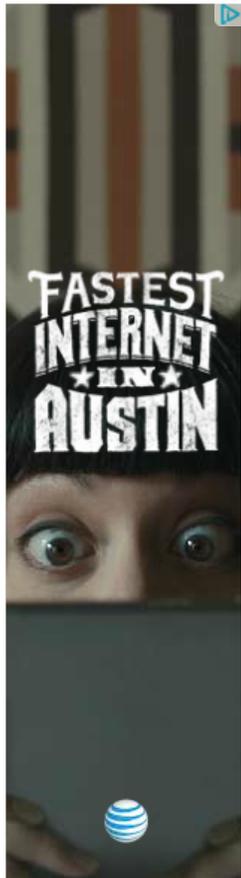
### Slang

hooch head                      hooch hound  
 hooch hound

### Quote Of The Day

*"There is a certain embarrassment about being a storyteller in these times when stories are..."*

-Flannery O'Connor  
[MORE](#)



## World English Dictionary

Collins

**hooch** or **hootch** (hu:tʃ)— *n**informal chiefly* ( *US* ), ( *Canadian* ) alcoholic drink, esp illicitly distilled spirits[C20: shortened from Tlingit *Hootchinoo*, name of a tribe that distilled a type of liquor]**hootch** or **hootch**— *n*[C20: shortened from Tlingit *Hootchinoo*, name of a tribe that distilled a type of liquor]**Hooch** or **Hoogh** (hu:tʃ, *Dutch* ho:x, hu:tʃ, *Dutch* ho:x)— *n***Pieter de** ('pi:tər də). 1629--?1684, Dutch genre painter, noted esp for his light effects**Hoogh** or **Hoogh**— *n*

Collins English Dictionary - Complete & Unabridged 10th Edition  
 2009 © William Collins Sons & Co. Ltd. 1979, 1986 © HarperCollins  
 Publishers 1998, 2000, 2003, 2005, 2006, 2007, 2009  
[Cite This Source](#)

## Word Origin &amp; History

Etymonline

**hooch**

"cheap whiskey," 1897, shortened form of Hoochinoo (1877) "liquor made by Alaskan Indians," from the name of a native tribe in Alaska whose distilled liquor was a favorite with miners in 1898 Klondike gold rush; the tribe's name is from Tlingit Hutsnuwu, lit. "grizzly bear fort."

Online Etymology Dictionary, © 2010 Douglas Harper  
[Cite This Source](#)

## Slang Dictionary

**hooch definition**

[hu:tʃ]

and hootch

*n.*

hard liquor; any alcoholic beverage, especially if illicitly obtained. :

*Let's go guzzle some hooch.*

Dictionary of American Slang and Colloquial Expressions by Richard A. Spears. Fourth Edition.  
 Copyright 2007. Published by McGraw-Hill Education.  
[Cite This Source](#)

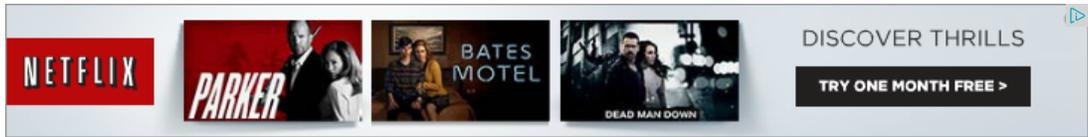
# moonshine

### Related Searches

- Corn mash moonshi...
- Cherry pie moonshine
- Homemade moonsh...
- 5 gallon moonshine ...
- 5 gallon mash recipe
- Moonshine recipe
- Free moonshine rec...
- Apple pie moonshin...

### Nearby Words

- moonset
- moonshree
- moonshell
- moonshine**
- moonshiner
- moonshiny
- moonshot



## moonshine

[Use Moonshine in a sentence](#)

[Inpatient Addiction Rehab](#)

[www.drug-and-alcohol-rehab-centers.org/](http://www.drug-and-alcohol-rehab-centers.org/)  
#1 Private & Discrete Drug/Alcohol Treatment- Insurance Or Self Pay

[Alcohol](#)

[www.rehabilitationsmart.com/](http://www.rehabilitationsmart.com/)  
Great Rehab Options Learn How Scientific Rehab Helps.

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### Example sentences

Beverages of all types are sold, including illegally produced **moonshine**.

Lard seems as outdated as a wood-burning stove, as risky as a quart of **moonshine**.

He is free of any romantic **moonshine** about the moral charms of primitives or the glories of blood-stained dictators.

**Moonshine** was produced by many settlers for both personal use and as an income source.

moon·shine  [moon-shahyn]

[Show IPA](#)

### noun

- Informal.* smuggled or illicitly distilled liquor, especially corn liquor as illicitly distilled chiefly in rural areas of the southern U.S.
- empty or foolish talk, ideas, etc.; nonsense.
- the light of the moon; moonlight.

### Origin:

1375–1425; late Middle English: moonlight. See [moon](#), [shine](#)

Dictionary.com Unabridged

Based on the Random House Dictionary. © Random House, Inc. 2014.

[Cite This Source](#) | [Link To moonshine](#)

## World English Dictionary

Collins

**moonshine** ('mu:nʃaɪn)

### — n

- another word for [moonlight](#)
- ( *US* ), ( *Canadian* ) illegally distilled or smuggled whisky or other spirit
- foolish talk or thought

Collins English Dictionary - Complete & Unabridged 10th Edition  
2009 © William Collins Sons & Co. Ltd. 1979, 1986 © HarperCollins  
Publishers 1998, 2000, 2003, 2005, 2006, 2007, 2009  
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### Relevant Questions

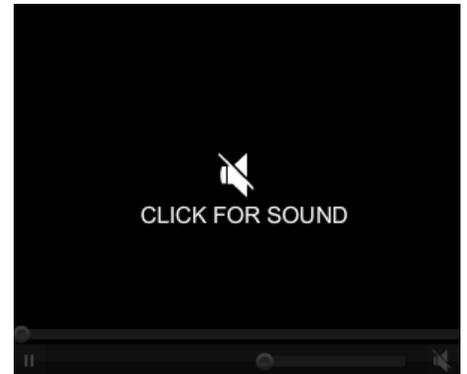
## Word Origin & History

*Etymonline*

### moonshine

"illicit liquor," 1785; used also since 1468 with a meaning "unreality," probably connected in that sense with notion of "moonshine in water" (cf. moonraker).

Online Etymology Dictionary, © 2010 Douglas Harper  
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### Related Words

- mountain dew
  - shine
  - white lightning
  - white mule
- [MORE](#)

### Matching Quote

*"Is that the wind dying? O no;  
It's only two devils, that blow  
Through a murderer's bones, to and  
fro,  
In the ghosts' moonshine."*

—Thomas Lovell Beddoes

[MORE](#)

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## Slang Dictionary

### moonshine definition

- n.  
nonsense; humbug. : *That's just moonshine! I don't believe a word.*
- n.  
homemade whiskey; any cheap or inferior liquor. : *Moonshine is supposed to be strong, not good.*
- in.  
to distill or traffic in illicit liquor. (See also [moonshiner](#).) : *You would be amazed at how much people moonshine back in the hills.*

Dictionary of American Slang and Colloquial Expressions by Richard A. Spears. Fourth Edition.

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