

ESTTA Tracking number: **ESTTA595675**

Filing date: **03/31/2014**

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	BROOKLYN CRAFT WORKS LLC
Granted to Date of previous extension	04/02/2014
Address	1200 WEST AVENUE, UNIT 507 MIAMI, FL 33139 UNITED STATES
Attorney information	Kenneth L. Wilton Seyfarth Shaw LLP 2029 Century Park East, Suite 3500 Los Angeles, CA 90067-3021 UNITED STATES kwilton@seyfarth.com, jmyers@seyfarth.com, kelko@seyfarth.com Phone:310 277-7200

Applicant Information

Application No	85972755	Publication date	12/03/2013
Opposition Filing Date	03/31/2014	Opposition Period Ends	04/02/2014
Applicant	Brooklyn Ace Distillers LLC 117 Dwight Street Brooklyn, NY 11231 NY		

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
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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.	3832757	Application Date	04/25/2009
Registration Date	08/10/2010	Foreign Priority Date	NONE
Word Mark	BG BROOKLYN GIN		

Design Mark	
Description of Mark	The mark consists of an outline of an arch with the stylized letters "B" and "G" within the arch all above the language "BROOKLYN GIN", where the term "GIN" has a short horizontal line on each side.
Goods/Services	Class 033. First use: First Use: 2010/06/03 First Use In Commerce: 2010/06/03 Distilled Spirits; Gin; Liquor

Attachments	77722410#TMSN.jpeg(bytes) Notice of Opposition.pdf(76149 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	/Kenneth L. Wilton/
Name	Kenneth L. Wilton
Date	03/31/2014

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

In the Matter of Application Serial No. 85/972,755
Published in the Official Gazette of December 3, 2013

BROOKLYN CRAFT WORKS LLC,

Opposer,

v.

BROOKLYN ACE DISTILLERS LLC,

Applicant.

Opposition No.

NOTICE OF OPPOSITION

Opposer Brooklyn Craft Works LLC (“Opposer”) believes that it will be damaged by registration of the mark shown in Application Serial No. 85/972,755, and hereby opposes the same. As grounds for opposition, Opposer alleges as follows:

1. Opposer is a limited liability company organized and existing under the laws of the State of Florida, with a principal place of business at 1200 West Avenue, Unit 507, Miami, Florida 33139.

2. Opposer is the owner of the mark BROOKLYN GIN & Design (the “Mark”), which it has used in commerce in connection with “distilled spirits, gin, and liquor,” since at least as early as June 3, 2010.

3. Opposer also owns a federal registration for the Mark (U.S. Reg. No. 3,832,757), which was filed on April 25, 2009, and was registered on August 10, 2010, for use in connection with “distilled spirits, gin, and liquor” in International Class 33. A copy of the current printout

of information from the electronic database records of the USPTO showing the current status and title of this registration is attached hereto as Exhibit 1 and is incorporated by reference herein as if set forth in full.

4. Notwithstanding Opposer's long prior rights in and to the Mark, Applicant, on information and belief, on June 28, 2013, filed an application for registration of the trademark BROOKLYN ACE for "distilled spirits" in International Class 33, and the mark was published for opposition in the Trademark Official Gazette of December 3, 2013 (the "Opposed Application").

FIRST CLAIM FOR RELIEF
(Likelihood of Confusion With Registered Mark)

5. Opposer repeats and realleges the allegations in preceding paragraphs 1 through 4, inclusive, as if fully set forth herein.

6. The BROOKLYN ACE mark shown in the Opposed Application so resembles Opposer's registered Mark as to be likely, when used on or in connection with the goods identified in the Opposed Application, to cause confusion, to cause mistake, or to deceive, and Applicant's mark is thus unregistrable under Section 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d).

7. Opposer will be damaged by registration of the mark shown in the Opposed Application because registration will give Applicant *prima facie* evidence of its ownership of, and its exclusive nationwide right to use, a mark that is confusingly similar to Opposer's Mark.

SECOND CLAIM FOR RELIEF
(Likelihood of Confusion With Previously-Used Trademark)

8. Opposer repeats and realleges the allegations in preceding paragraphs 1 through 7, inclusive, as if fully set forth herein.

EXHIBIT 1

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Mark: BG BROOKLYN GIN



US Serial Number: 77722410
Application Filing Date: Apr. 25, 2009
US Registration Number: 3832757
Registration Date: Aug. 10, 2010
Filed as TEAS Plus: Yes
Currently TEAS Plus: Yes
Register: Principal
Mark Type: Trademark
Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.
Status Date: Aug. 10, 2010
Publication Date: Mar. 23, 2010
Notice of Allowance Date: May 18, 2010

Mark Information

Mark Literal Elements: BG BROOKLYN GIN
Standard Character Claim: No
Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)
Description of Mark: The mark consists of an outline of an arch with the stylized letters "B" and "G" within the arch all above the language "BROOKLYN GIN", where the term "GIN" has a short horizontal line on each side.
Color(s) Claimed: Color is not claimed as a feature of the mark.
Disclaimer: "GIN"
Design Search Code(s): 07.09.06 - Arches
26.17.01 - Bars, straight; Lines, straight; Bands, straight; Straight line(s), band(s) or bar(s)
26.17.05 - Bands, horizontal; Bars, horizontal; Horizontal line(s), band(s) or bar(s); Lines, horizontal

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Distilled Spirits; Gin; Liquor
International Class(es): 033 - Primary Class
U.S Class(es): 047, 049
Class Status: ACTIVE
Basis: 1(a)
First Use: Jun. 03, 2010
Use in Commerce: Jun. 03, 2010

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: BROOKLYN CRAFT WORKS LLC
Owner Address: 1200 WEST AVENUE, UNIT 507
MIAMI, FLORIDA 33139
UNITED STATES
Legal Entity Type: LIMITED LIABILITY COMPANY
State or Country Where: FLORIDA

Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Joseph V. Myers III
Attorney Primary Email Address: TMATLANTA@seyfarth.com
Docket Number: MVS-001
Attorney Email Authorized: No

Correspondent

Correspondent Name/Address: Joseph V. Myers III
Seyfarth Shaw LLP
1075 Peachtree Street, NE
Suite 2500
Atlanta, GEORGIA 30309
UNITED STATES
Phone: 404-885-1500
Fax: 404-892-7056
Correspondent e-mail Authorized: TMATLANTA@seyfarth.com No

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 06, 2013	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Sep. 09, 2011	COUNTERCLAIM OPP. NO. 999999	200676
Jan. 11, 2011	NOTICE OF SUIT	
Dec. 28, 2010	NOTICE OF SUIT	
Aug. 18, 2010	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Aug. 10, 2010	REGISTERED-PRINCIPAL REGISTER	
Jul. 03, 2010	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Jul. 02, 2010	LAW OFFICE REGISTRATION REVIEW COMPLETED	70138
Jul. 01, 2010	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jun. 30, 2010	STATEMENT OF USE PROCESSING COMPLETE	66230
Jun. 07, 2010	USE AMENDMENT FILED	66230
Jun. 29, 2010	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66230
Jun. 07, 2010	TEAS STATEMENT OF USE RECEIVED	
May 18, 2010	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Apr. 12, 2010	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 23, 2010	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Mar. 23, 2010	PUBLISHED FOR OPPOSITION	
Feb. 17, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	70138
Feb. 17, 2010	ASSIGNED TO LIE	70138
Jan. 20, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jan. 19, 2010	EXAMINER'S AMENDMENT ENTERED	88888
Jan. 19, 2010	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Jan. 19, 2010	EXAMINERS AMENDMENT E-MAILED	6328
Jan. 19, 2010	EXAMINERS AMENDMENT -WRITTEN	77966
Jan. 05, 2010	ATTORNEY REVOKED AND/OR APPOINTED	
Jan. 05, 2010	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jul. 19, 2009	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jul. 19, 2009	NON-FINAL ACTION E-MAILED	6325
Jul. 19, 2009	NON-FINAL ACTION WRITTEN	77966
Jul. 19, 2009	ASSIGNED TO EXAMINER	77966
Apr. 30, 2009	NOTICE OF DESIGN SEARCH CODE MAILED	
Apr. 29, 2009	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Jul. 02, 2010

Assignment Abstract Of Title Information

Summary

Total Assignments: 2

Registrant: Maverick Spirits, LLC

Assignment 1 of 2

Conveyance: CHANGE OF NAME

Reel/Frame: [4259/0840](#)

Pages: 4

Date Recorded: Aug. 12, 2010

Supporting Documents: [assignment-tm-4259-0840.pdf](#)

Assignor

Name: [MAVERICK SPIRITS, LLC](#)

Execution Date: May 07, 2010

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: FLORIDA

Assignee

Name: [BROOKLYN DISTILLING COMPANY LLC](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: FLORIDA

Address: 1200 WEST AVENUE, NO. 507
MIAMI BEACH, FLORIDA 33139

Correspondent

Correspondent Name: JOSEPH V. MYERS

Correspondent Address: 1075 PEACHTREE STREET, NE, SUITE 2500
ATLANTA, GA 30309-3962

Domestic Representative - Not Found

Assignment 2 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [4954/0449](#)

Pages: 5

Date Recorded: Feb. 01, 2013

Supporting Documents: [assignment-tm-4954-0449.pdf](#)

Assignor

Name: [BROOKLYN DISTILLING COMPANY LLC](#)

Execution Date: Dec. 29, 2011

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: FLORIDA

Assignee

Name: [BROOKLYN CRAFT WORKS LLC](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: FLORIDA

Address: 1200 WEST AVENUE, UNIT 507
MIAMI, FLORIDA 33139

Correspondent

Correspondent Name: JOSEPH V. MYERS III, SEYFARTH SHAW LLP

Correspondent Address: 1075 PEACHTREE STREET NE, SUITE 2500
ATLANTA, GA 30309

Domestic Representative - Not Found

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: [91200676](#)

Filing Date: Jul 13, 2011

Status: Pending

Status Date: Jul 13, 2011

Interlocutory Attorney: CHRISTEN M ENGLISH

Defendant

Name: Brooklyn Spirits LLC

Correspondent Address: ERIK M PELTON
ERIK M PELTON & ASSOCIATES PLLC
PO BOX 100637
ARLINGTON VA , 22210
UNITED STATES

Correspondent e-mail: mark@erikpelton.com , erik@erikpelton.com , uspto@tm4smallbiz.com , XM@SECUREYOURTRADEMARK.COM

Associated marks

Mark	Application Status	Serial Number	Registration Number
BKR BROOKLYN REPUBLIC	Opposition Pending	85140277	

Plaintiff(s)

Name: Brooklyn Distilling Company

Correspondent Address: KENNETH L WILTON
SEYFARTH SHAW LLP
2029 CENTURY PARK EAST, SUITE 3500
LOS ANGELES CA , 90067-3021
UNITED STATES

Correspondent e-mail: kwilton@seyfarth.com , kelko@seyfarth.com , ibarzilay@seyfarth.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
BG BROOKLYN GIN	Registered	77722410	3832757

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jul 13, 2011	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jul 13, 2011	Aug 22, 2011
3	PENDING, INSTITUTED	Jul 13, 2011	
4	ANSWER AND COUNTERCLAIM (FEE)	Aug 22, 2011	
5	TRIAL DATES SET	Sep 08, 2011	
6	APPEARANCE	Oct 03, 2011	
7	CHANGE OF CORRESPONDENCE ADDRESS	Oct 03, 2011	
8	ANSWER TO COUNTERCLAIM	Oct 03, 2011	
9	APPEARANCE	Mar 28, 2012	
10	P'S MOTION TO AMEND PLEADING/AMENDED PLEADING	Mar 28, 2012	
11	TRIAL DATES REMAIN AS PREVIOUSLY SET	Apr 09, 2012	
12	MOTION TO AMEND ANSWER/AMENDED ANSWER OR COUNTERCLAIM	May 01, 2012	
13	ANSWER TO COUNTERCLAIM	May 22, 2012	
14	STIPULATION FOR AN EXTENSION OF TIME	May 22, 2012	
15	DATES REMAIN AS PREVIOUSLY SET	Jun 12, 2012	
16	D'S MOT FOR EXTEN. OF TIME W/ CONSENT	Jun 27, 2012	
17	EXTENSION OF TIME GRANTED	Jul 10, 2012	
18	P'S MOT FOR EXTEN. OF TIME W/ CONSENT	Jul 16, 2012	
19	EXTENSION OF TIME GRANTED	Jul 25, 2012	
20	D'S MOT FOR EXTEN. OF TIME W/ CONSENT	Jul 31, 2012	
21	P'S MOTION FOR SUMMARY JUDGMENT	Aug 01, 2012	
22	SUSPENDED PENDING DISP OF OUTSTNDNG MOT	Aug 14, 2012	
23	D'S OPPOSITION AND CROSS-MOTION FOR SJ (CONFIDENTIAL)	Sep 07, 2012	
24	SUSPENDED PENDING DISP OF OUTSTNDNG MOT	Sep 18, 2012	
25	PART 1 OF ENTRY #23 (NON-CONFIDENTIAL)	Sep 19, 2012	
26	PART 2 OF ENTRY # 23 (NON-CONFIDENTIAL)	Sep 26, 2012	
27	P'S REPLY / P'S OPPOSITION TO D'S X-MOTION	Oct 10, 2012	

28	P'S BARZILAY DEC #2 AND EXHIBITS	Oct 10, 2012
29	APPEARANCE	Oct 11, 2012
30	CHANGE OF CORRESPONDENCE ADDRESS	Oct 11, 2012
31	D'S REPLY IN SUPPORT OF MOTION	Oct 31, 2012
32	P MOT TO JOIN/SUBSTITUTE PARTY	Apr 26, 2013
33	MOTION FOR SJ GRANTED IN PART; DENIED IN PART	May 16, 2013
34	D MOT FOR EXT W/ CONSENT	May 28, 2013
35	EXTENSION OF TIME GRANTED	May 28, 2013
36	P MOT FOR EXT W/ CONSENT	Jul 15, 2013
37	EXTENSION OF TIME GRANTED	Jul 26, 2013
38	P MOT FOR EXT W/ CONSENT	Aug 09, 2013
39	EXTENSION OF TIME GRANTED	Aug 14, 2013
40	D MOT FOR EXT W/ CONSENT	Sep 26, 2013
41	EXTENSION OF TIME GRANTED	Sep 30, 2013
42	P MOT FOR EXT W/ CONSENT	Nov 08, 2013
43	EXTENSION OF TIME GRANTED	Nov 18, 2013
44	P MOT FOR EXT W/ CONSENT	Dec 09, 2013
45	EXTENSION OF TIME GRANTED	Dec 12, 2013
46	P MOT FOR EXT W/ CONSENT	Jan 09, 2014
47	EXTENSION OF TIME GRANTED	Jan 23, 2014
48	P MOT FOR EXT W/ CONSENT	Feb 08, 2014
49	EXTENSION OF TIME GRANTED	Feb 13, 2014
50	MOT TO AMEND APPLICATION	Mar 21, 2014

Type of Proceeding: Opposition

Proceeding Number: [91196071](#)

Filing Date: Aug 13, 2010

Status: Terminated

Status Date: Sep 07, 2011

Interlocutory Attorney: ANN LINNEHAN

Defendant

Name: Breuckelen Distilling Company Incorporated

Correspondent Address: JOSEPH SHERINSKY
ORRICK HERRINGTON & SUTCLIFFE LLP
IP PROSECUTION DEPARTMENT, 4 PARK PLAZA, SUITE 1600
IRVINE CA , 92614-2558
UNITED STATES

Correspondent e-mail: ipprosecution@orrick.com , lpartmann@orrick.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
BREUCKELEN	Registered	77886132	4164948

Plaintiff(s)

Name: Brooklyn Distilling Company LLC

Correspondent Address: JOSEPH V. MYERS III
SEYFARTH SHAW LLP
1075 PEACHTREE STREET NE, SUITE 2500
ATLANTA GA , 30309
UNITED STATES

Correspondent e-mail: tmatlanta@seyfarth.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
BG BROOKLYN GIN	Registered	77722410	3832757

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Aug 13, 2010	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Aug 13, 2010	Sep 22, 2010

3	PENDING, INSTITUTED	Aug 13, 2010	
4	STIPULATION FOR AN EXTENSION OF TIME	Sep 07, 2010	
5	EXTENSION OF TIME GRANTED	Sep 07, 2010	
6	ANSWER	Oct 20, 2010	
7	D'S REQUEST TO WITHDRAW AS ATTORNEY	Oct 26, 2010	
8	P'S MOT TO SUSP PEND DISP CIV ACTION	Nov 01, 2010	
9	RESPONSE DUE 30 DAYS (DUE DATE)	Nov 03, 2010	Dec 03, 2010
10	D'S APPEARANCE OF COUNSEL/POWER OF ATTORNEY	Dec 02, 2010	
11	BOARD'S COMMUNICATION	Dec 09, 2010	
12	SUSPENDED PENDING DISP OF CIVIL ACTION	Jan 06, 2011	
13	STIP MOTION TO DISMISS	Aug 17, 2011	
14	BD'S DECISION: DISMISSED W/ PREJUDICE	Sep 07, 2011	
15	TERMINATED	Sep 07, 2011	

CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2014, I served this Notice of Opposition on the applicant by mailing a copy thereof by First Class Mail, postage prepaid, addressed to applicant's correspondence address of record as follows:

Adam Beasley, Esq.
Adam Beasley Law, PC
153 W. 27th St., Suite 204
New York, NY 10001-6384

s/ Eleanor Elko

Eleanor Elko