

ESTTA Tracking number: **ESTTA626386**

Filing date: **09/10/2014**

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	Mya Saray, LLC
Granted to Date of previous extension	09/10/2014
Address	43671 Trade Center Place Unit 114 Sterling, VA 20166 UNITED STATES

Correspondence information	M. Keith Blankenship Attorney of Record Da Vinci's Notebook, LLC 10302 Bristow Center Drive No. 52 Bristow, VA 20136 UNITED STATES keith@dnotebook.com Phone:703-646-1406
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Applicant Information

Application No	86025182	Publication date	05/13/2014
Opposition Filing Date	09/10/2014	Opposition Period Ends	09/10/2014
International Registration No.	NONE	International Registration Date	NONE
Applicant	Dabes, Ibrahim Neuburger Str. 109 Augsburg, 86167 GERMANY		

Goods/Services Affected by Opposition

Class 034. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Tobacco; smoking articles, namely, cigarettes, cigars, smoking pipes, and shishas
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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.	3031439	Application Date	01/09/2004
Registration Date	12/20/2005	Foreign Priority Date	NONE

Word Mark	MYA
Design Mark	
Description of Mark	NONE
Goods/Services	Class 034. First use: First Use: 2002/03/01 First Use In Commerce: 2002/03/01 Water pipes for smoking

U.S. Registration No.	3031440	Application Date	01/09/2004
Registration Date	12/20/2005	Foreign Priority Date	NONE
Word Mark	MYA		
Design Mark			
Description of Mark	The mark consists of The name MYA in stylized form.		
Goods/Services	Class 034. First use: First Use: 2002/03/01 First Use In Commerce: 2002/03/01 Water pipes for smoking		

U.S. Registration	3684312	Application Date	10/09/2008
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No.			
Registration Date	09/15/2009	Foreign Priority Date	NONE
Word Mark	ECONO-MYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 034. First use: First Use: 2009/06/29 First Use In Commerce: 2009/06/29 Tobacco products, namely, hookahs and hookah accessories, namely, hookah stems, hookah bases, hookah tongs, hookah plates, hookah bowls, hookah hoses, hookah cases, and hookah grommets		

U.S. Registration No.	3684311	Application Date	10/08/2008
Registration Date	09/15/2009	Foreign Priority Date	NONE
Word Mark	ECONO-MYA		
Design Mark			
Description of Mark	The mark consists of the stylized term "econo-mya".		
Goods/Services	Class 034. First use: First Use: 2009/06/29 First Use In Commerce: 2009/06/29 Tobacco products, namely, hookahs and hookah accessories, namely, hookah stems, hookah bases, hookah tongs, hookah plates, hookah bowls, hookah hoses, hookah cases, and hookah grommets		

U.S. Registration No.	3840577	Application Date	12/28/2009
Registration Date	08/31/2010	Foreign Priority Date	NONE
Word Mark	MYA		

Design Mark			
Description of Mark	<p>The mark consists of the word "MYA" in white letters set inside a seal embellished with scrolls and botanical elements in shades of white and gray. Above the seal is an arch comprised of white five-pointed stars. The rectangular background shape is intended to show the shading of the background but the rectangle is not part of the mark. The colors white, black and gray are not features of the mark, but are intended to show background and shading.</p>		
Goods/Services	<p>Class 034. First use: First Use: 2009/12/15 First Use In Commerce: 2009/12/15 Tobacco products, namely, hookahs and hookah accessories, namely, hookah stems, hookah bases, hookah tongs, hookah plates, hookah bowls, hookah hoses, hookah cases, and hookah grommets</p>		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Design Mark	
Goods/Services	Tobacco and related products.

Attachments	78349755#TMSN.png(bytes) 78349903#TMSN.png(bytes) 77589193#TMSN.png(bytes) 77588552#TMSN.png(bytes) 77901697#TMSN.png(bytes) Mya_Circle.jpg DNMYA-0051_Notice of Opposition AMY.pdf(86120 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	/M. Keith Blankenship/
Name	M. Keith Blankenship
Date	09/10/2014

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

In the Matter of Application Serial No. 86/025,182
Published in the Official Gazette (Trademarks) on May 13, 2014.

MYA SARAY, LLC,

Opposer

v.

DABES, IBRAHIM DBA
DABES EGYPTIAN IMPORTS,

Applicant

Opposition No. _____

NOTICE OF OPPOSITION

Opposer, Mya Saray, LLC (the “Opposer”) believes that it will be damaged by registration of the designation AMY GOLD TOBACCO MOLASSES (as stylized) in International Class 034 for its stated goods and services, and alleges on knowledge as to its own acts, and otherwise on information and belief, as grounds for opposition as follows:

1. The Opposer is a limited liability company organized and existing under the laws of Virginia doing business at 43671 Trade Center Place, Unit 114; Sterling, Virginia 20166.

2. Applicant, Dabes, Ibrahim dba Dabes Egyptian Imports (the “Applicant”), is a sole proprietorship, with a mailing address of Neuburger Str. 109 Augsburg; Fed Rep Germany 86167.

3. On July 31, 2013 (“Filing Date”) Applicant filed trademark application serial no. 86/025,182 in International Class 034 for AMY GOLD TOBACCO MOLASSES (as stylized) presently claiming use for the following goods: tobacco; smoking articles, namely, cigarettes,

cigars, smoking pipes, and shishas (“Applicant’s Goods”).

4. Opposer is the owner of numerous trademarks (“Opposer’s Marks”) for a wide range of tobacco, and tobacco-related, products including hookahs, tobacco, and non-tobacco substitutes (“Opposer’s Goods”). Opposer’s Marks include MYA, versions of MYA, and various depictions of MYA. Examples of Opposer’s registered trademarks are as follows:

#	Mark	Serial No.	Reg. No.	Reg. Date	Class/Goods
1	MYA	78349755	3031439	12/20/2005	34/ Water pipes for smoking.
2	MYA (stylized)	78349903	3031440	12/20/2005	34/ Water pipes for smoking.
3	ECONO- MYA	77589193	3684312	9/15/2009	34/ Tobacco products, namely, hookahs and hookah accessories, namely, hookah stems, hookah bases, hookah tongs, hookah plates, hookah bowls, hookah hoses, hookah cases, and hookah grommets
4	ECONO- MYA (stylized)	77588552	3684311	9/15/2009	34/ Tobacco products, namely, hookahs and hookah accessories, namely, hookah stems, hookah bases, hookah tongs, hookah plates, hookah bowls, hookah hoses, hookah cases, and hookah grommets
5	MYA	77901697	3840577	8/31/2010	34/ Tobacco products, namely, hookahs and hookah accessories, namely, hookah stems, hookah bases, hookah tongs, hookah plates, hookah bowls, hookah hoses, hookah cases, and hookah grommets.
6	(Product Configuration)	77959010	3845276	9/7/2010	34/ Hookahs

5. Opposer currently, prior to Applicant's Filing Date, and prior to any date which may be claimed by Applicant, has utilized Opposer's Marks to sell, offer to sell, publicize, and otherwise commercialize Opposer's Goods.

6. The owner of 27 utility and design patents for Opposer's Goods, Opposer strives to create brand recognition through unique designs and novel functionality in Opposer's Goods, and has been largely successful.

7. Opposer's Goods are available on the Internet at www.myasaray.com, through distributors, and third party stores and other channels customary in the trade.

8. Opposer's Goods have been widely advertised, offered for sale, and sold throughout the United States under Opposer's Marks.

9. Opposer is now and has been for many years trading as and known by Opposer's Marks, identifying Opposer as the source of high quality tobacco products. Opposer has been in existence since the late 1800s and using Opposer's Marks, including MYA, since that time.

10. Applicant's Goods are the same or substantially similar to Opposer's Goods and/or are within Opposer's ever expanding natural progression of goods and channels of trade.

11. Opposer is now and has been, for many years prior to any date which may be claimed by Applicant, engaged in the use of Opposer's Marks for Opposer's Goods, including without limitation hookahs (shishas) and other pipes for smoking, tobacco, tobacco substitutes, and related goods and services.

12. Opposer is now, and has been for many years prior to any date which may be claimed by Applicant, engaged in the sale of high quality tobacco products and other related goods under Opposer's Mark in interstate commerce.

13. The use by Opposer of Opposer's Marks for Opposer's Goods alleged herein, is

long prior to any date which may be lawfully claimed by Applicant, and Opposer has priority.

14. Opposer's Marks, including MYA, and Applicant's Mark are substantially identical and confusingly similar when applied to the goods of the parties.

15. Applicant's use, and intended use, of Applicant's Mark in connection with Applicant's Goods is without the consent or permission of Opposer.

16. Since Opposer owns Opposer's Marks by virtue of prior use, confusion, mistake or deception as to the source of the origin of tobacco products will arise and will injure and damage the Opposer and its goodwill if Applicant registers AMY GOLD TOBACCO MOLASSES (as stylized).

17. The registration of AMY GOLD TOBACCO MOLASSES (as stylized) to Applicant will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Applicant's tobacco products are made by, licensed by, controlled by, sponsored by, or in some way connected, related, or associated with Opposer, all to Opposer's irreparable damage.

18. Opposer believes that it is, and will be, damaged by the registration of AMY GOLD TOBACCO MOLASSES (as stylized) by Applicant.

WHEREFORE, Opposer prays that the application for registration of AMY GOLD TOBACCO MOLASSES (as stylized), Serial No. 86/025,182, filed on July 31, 2013 be denied and that this Opposition be sustained.

DATED: September 10, 2014

By: /M. Keith Blankenship/
Attorney for Opposer
M. Keith Blankenship, Esq.
Da Vinci's Notebook, LLC
10302 Bristow Center Dr. #52
Bristow, VA 20136
Ph: (703) 646-1406
keith@dnotebook.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the forgoing Notice of Opposition has been served on counsel for Applicant by mailing said copy via First Class Mail, postage prepaid to:

Paul D. Bianco
Fleit Gibbons Gutman Bongini & Bianco PL
21355 E Dixie Hwy Ste 115
Miami, Florida 33180-1244
United States

this 10th day of September, 2014

By /M. Keith Blankenship/
M. Keith Blankenship