

ESTTA Tracking number: **ESTTA642940**

Filing date: **12/05/2014**

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	BrandPremiums BV
Granted to Date of previous extension	12/06/2014
Address	Keizersgracht 125-127 1015 CJ Amsterdam, 1015 CJ NETHERLANDS

Attorney information	Andrew J. Mitchell Paine Hamblen LLP 717 W. Sprague Ave.Suite 1200 Spokane, WA 99201 UNITED STATES andrew.mitchell@painehamblen.com, shamus.odoherty@painehamblen.com
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### Applicant Information

Application No	86265387	Publication date	10/07/2014
Opposition Filing Date	12/05/2014	Opposition Period Ends	12/06/2014
Applicant	RK GLASSWARE, iNC 2839 El Presidio Street Carson, CA 90810 UNITED STATES		

### Goods/Services Affected by Opposition

Class 021. First Use: 2014/04/01 First Use In Commerce: 2014/04/01  
All goods and services in the class are opposed, namely: BEVERAGE GLASSWARE

### Applicant Information

Application No	86261432	Publication date	11/11/2014
Opposition Filing Date	12/05/2014	Opposition Period Ends	12/11/2014
Applicant	RK GLASSWARE, INC. 2839 El Presidio Street Carson, CA 90810 UNITED STATES		

### Goods/Services Affected by Opposition

Class 021. First Use: 2014/04/01 First Use In Commerce: 2014/04/01  
All goods and services in the class are opposed, namely: Glassware

## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is primarily geographically deceptively misdescriptive	Trademark Act section 2(e)(3)
Dilution	Trademark Act section 43(c)

## Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	AMSTERDAM GLASS		
Goods/Services	GLASSWARE		

Attachments	Complaint (01361085x7AC1D).pdf(91213 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 USPS Express Mail Post Office to Addressee on this date.

Signature	/Andrew J. Mitchell/
Name	Andrew J. Mitchell
Date	12/05/2014

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

In the Matter of:  
Application Serial No. 86/265,387,  
Published October 7, 2014; and,  
Application Serial No. 86/261,432,  
Published November 11, 2014

BRANDPREMIUMS BV,	)	
	)	
Opposer,	)	Marks: AMSTERDAM HOME, and
	)	AMSTERDAM HOME and Design
	)	
v.	)	Opposition No.
	)	
RK GLASSWARE, INC.	)	
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Opposer, BRANDPREMIUMS BV, a corporation organized and existing under the laws of the Netherlands, with its primary office at Keizersgracht 125-127, 1015 CJ Amsterdam, Netherlands, believes that it will be damaged by registration of the mark “AMSTERDAM HOME” in International Class 21 as shown in Application Serial No. 86/265,387 and the mark “AMSTERDAM HOME and Design” in International Class 21 as shown in Application Serial No. 86/261,432, both filed by Applicant, RK GLASSWARE, INC., a corporation organized and existing under the laws of the State of Nevada, with offices at 2839 El Presidio Street, Carson, California 90810. Opposer hereby opposes the above referenced applications and requests that registration to Applicant be refused.

As grounds for its opposition, Opposer alleges, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to other matters, the following:

1. Applicant seeks to register the marks “AMSTERDAM HOME” for beverage glassware in International Class 21 and “AMSTERDAM HOME and Design” for glassware in International Class 21. Both applications allege a date of first use of April 1, 2014.
2. Opposer has obtained the necessary extension of time within which to file this Notice of Opposition.
3. For years Opposer has used the term “AMSTERDAM GLASS” as a trademark in its business of designing, manufacturing, and selling glassware within the United States and throughout numerous international markets.
4. Opposer has widely used the “AMSTERDAM GLASS” trademark throughout the United States and the world for, and in advertising and promotion of, the sale of glassware. In addition, Opposer uses the “AMSTERDAM GLASS” mark on glassware product packaging and point-of-purchase advertising.
5. All goods sold by Opposer have originated from the city of Amsterdam, where Opposer maintains its primary place of business.
6. In the past, Opposer contractually engaged Applicant to distribute Opposer’s “AMSTERDAM GLASS” products within the United States; however, that contractual relationship expired.
7. Following expiration of its distribution contract with Opposer, Applicant applied for registration of the marks “AMSTERDAM HOME” and “AMSTERDAM HOME and Design” on April 29, 2014 and April 24, 2014, respectively. Both applications sought protection in connection with goods that are identical to the goods which Opposer applies its “AMSTERDAM GLASS” mark towards.

8. Applicant's applied for marks so resemble Opposer's mark as to be likely to cause confusion, or to cause mistake, or to deceive.
9. Opposer has used its "AMSTERDAM GLASS" mark in commerce prior to Applicant's April 1, 2014 alleged date of first use, and prior to Applicant's April 24, 2014 and April 29, 2014 filing dates of the opposed applications.
10. Applicant had actual knowledge of Opposer's prior use of the "AMSTERDAM GLASS" trademark because Applicant was Opposer's prior distributor of products bearing the mark.
11. Despite knowledge of Opposer's long-standing prior rights in the "AMSTERDAM GLASS" mark for glassware in International Class 21, Applicant filed its applications to register the marks "AMSTERDAM HOME" for beverage glassware in International Class 21 and "AMSTERDAM HOME" and Design for glassware in International Class 21.
12. Furthermore, Applicant's use of the applied for marks improperly give the commercial impression that Applicant's goods originate from Amsterdam; however, Applicant's goods are actually made by a United States company in China, and have no association with Amsterdam.
13. Applicant's use of the applied for marks constitute a geographic indication which identifies a place, namely Amsterdam, which is not the true origin of the Applicant's goods. Such use is likely to mislead or confuse the public and is primarily geographically deceptively misdescriptive and in violation of 15 U.S.C. §1052(e).
14. If a registration is issued to Applicant for the "AMSTERDAM HOME" marks for use on glassware which does not originate from Amsterdam, prospective consumers are likely to be deceived and injured.

15. Additionally, registration to Applicant would damage the goodwill and image of Opposer which has been developed over years of use of its “AMSTERDAM GLASS” mark in relation to glassware products which do originate from Amsterdam.

16. In both applications, Applicant has disclaimed the exclusive right to use “HOME” apart from the marks as a whole, and in its application to register “AMSTERDAM HOME” and Design Applicant has disclaimed the exclusive right to use “AMSTERDAM HOME” apart from the mark as a whole.

17. Lastly, Through Opposer’s extensive and continuous use of the mark “AMSTERDAM GLASS,” the public has come to recognize the “AMSTERDAM GLASS” mark in relation to glassware as being uniquely associated with Opposer. Opposer has developed, at great effort and expense, exceedingly valuable goodwill with respect to the “AMSTERDAM GLASS” mark. Opposer’s “AMSTERDAM GLASS” mark was in use long prior to Applicant’s alleged date of first use in commerce in the subject applications.

18. Issuance of a registration to Applicant would diminish and dilute the distinctive quality of Opposer’s rights in its “AMSTERDAM GLASS” mark and could in the event of any mishaps involving, or poor quality of, the goods offered by Applicant, tarnish such distinctiveness, in violation of 15 U.S.C. § 1125(c).

WHEREFORE, Opposer requests that this Opposition be sustained and Application Serial Nos. 86/265,387 and 86/261,432 be refused registration.

Respectfully submitted,

BRANDPREMIUMS BV

Date: December 5, 2014

By: /Andrew J. Mitchell/  
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