

ESTTA Tracking number: **ESTTA651264**

Filing date: **01/21/2015**

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	Iron Horse Saloon, Inc.
Granted to Date of previous extension	01/21/2015
Address	1068 North US 1 Ormond Beach, FL 32174 UNITED STATES
Attorney information	Heather Bond Vargas, Esq. Cobb Cole, P.A. P.O. Box 2491 Daytona Beach, FL 32115 UNITED STATES heather.vargas@cobbcole.com, kelly.parsons@cobbcole.com, sharon.rosati@cobbcole.com, michele.staples@cobbcole.com Phone:386-255-8171

**Applicant Information**

Application No	86208174	Publication date	09/23/2014
Opposition Filing Date	01/21/2015	Opposition Period Ends	01/21/2015
Applicant	Wentura, Mark 2239-97 Black Canyon Road Ramona, CA 92065 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. First Use: 2011/08/15 First Use In Commerce: 2011/08/15  
All goods and services in the class are opposed, namely: Belts; Denim jackets; Denims; Shirts; Tops

**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.	2365882	Application Date	11/24/1998
Registration Date	07/11/2000	Foreign Priority Date	NONE
Word Mark	IRON HORSE SALOON		

Design Mark	<b>IRON HORSE SALOON</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1979/01/01 First Use In Commerce: 1979/01/01 clothing, namely t-shirts, jackets, bandanas, sweatshirts, sweatpants, sports shirts, and caps

Attachments	75596653#TMSN.png( bytes ) Notice of Opposition (01775999).PDF(12453 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	/Heather Bond Vargas/
Name	Heather Bond Vargas, Esq.
Date	01/21/2015

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

In the matter of trademark application Serial No. 86/208,174  
For the mark *The Iron Horse Clothing Company*  
Published in the Official Gazette on September 23, 2014

**Iron Horse Saloon, Inc.,**

**Opposer,**

v.

**Mark Wentura  
d/b/a The Iron Horse Clothing, Inc.,**

**Applicant.**

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**NOTICE OF OPPOSITION**

Opposer, Iron Horse Saloon, Inc., a Florida corporation located at 1068 North US 1, Ormond Beach, Florida (hereinafter referred to as "Opposer"), believes that it will be damaged by the registration of the phrase *The Iron Horse Clothing Company* (serial number 86/208,174) and hereby opposes the same.

As standing for opposition, Opposer alleges:

1. Opposer is the owner of the mark *Iron Horse Saloon* (Registration No. 2,365,882) in International Class 25 for clothing goods, namely t-shirts, jackets, bandanas, sweatshirts, sweatpants, sports shirts, and caps.
2. Opposer's filing date for its registration of the mark *Iron Horse Saloon* is November 24, 1998, with its first use in commerce in 1979.
3. Opposer will be damaged by registration of registration of the phrase *The Iron Horse Clothing Company* because Applicant, Mark Wentura, d/b/a The Iron Horse Clothing, Inc. (hereinafter referred to as "Applicant"), will obtain the benefits of registration of a mark that will cause a likelihood of confusion.

As grounds for opposition, Opposer alleges:

**OPPOSER HAS SUPERIOR RIGHTS IN THE MARK**

4. Opposer is the owner of the mark *Iron Horse Saloon* (Registration No. 2,365,882) in International Class 25 for clothing, namely t-shirts, jackets, bandanas, sweatshirts, sweatpants, sports shirts, and caps.
5. Opposer's filing date for its registration of the mark *Iron Horse Saloon* is November 24, 1998, with its first use in commerce in 1979.
6. Applicant filed its application for the phrase *The Iron Horse Clothing Company* (serial number 86/208,174), disclaiming "clothing company," in International Class 25 for clothing, namely, belts, denim jackets, denims, shirts, and tops.
7. Applicant's filing date for its application to register the phrase *The Iron Horse Clothing Company* was February 28, 2014, and the application claims first use in commerce on August 15, 2011.
8. Due to its registration and prior use of the mark *Iron Horse Saloon*, Opposer has superior rights in the mark.

**THERE IS A LIKELIHOOD OF CONSUMER CONFUSION**

9. The phrase *The Iron Horse Clothing Company* is very similar in sight, sound, connotation, and commercial impression to the mark *Iron Horse Saloon*, which is owned and used by Opposer on and in association with clothing.
10. The application for the phrase *The Iron Horse Clothing Company* is for goods, namely, belts, denim jackets, denims, shirts, and tops, which are very similar, if not identical, to the goods on which Opposer has used the mark *The Iron Horse Clothing Company*. Specifically, Opposer uses the mark *The Iron Horse Clothing Company* on clothing, namely t-shirts, jackets, bandanas, sweatshirts, sweatpants, sports shirts, and caps.
11. Upon information and belief, Applicant is offering goods bearing the phrase *The Iron Horse Clothing Company* in the same trade channels and to the same consumers as Opposer, including retail and online sales throughout the country.
12. The subject application should be denied registration because the phrase *The Iron Horse Clothing Company* is identical and/or deceptively similar to Opposer's registered mark *Iron Horse Saloon* and is likely to cause confusion as to the source of the products.
13. If Applicant is granted the registration herein opposed, it would obtain at least a *prima facie* exclusive right to use the phrase *The Iron Horse Clothing Company*, thereby causing damage and injury to Opposer. Any defect, quality deficiency, or fault found with Applicant's goods promoted under any obtained registration is likely to reflect on Opposer, and expose Opposer

to liability, and seriously injure the goodwill and superior reputation that Opposer has established for its goods.

WHEREFORE, Opposer prays that Application Serial No. 86/208,174 be rejected and stricken, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully Submitted,

Dated: January 21, 2015

By: /s/Heather Bond Vargas  
Heather Bond Vargas, Esq.  
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ATTORNEYS FOR OPPOSER

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Notice of Opposition has been served this 21st day of January, 2015, via Certified U.S. Mail, on:

Mark Wentura  
2239 Black Canyon Road, Spc 97  
Ramona, CA 92605-5570

By: /s/Heather Bond Vargas  
Heather Bond Vargas, Esq.