

ESTTA Tracking number: **ESTTA734525**

Filing date: **03/18/2016**

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	Chatham Imports, Inc.		
Entity	Corporation	Citizenship	New York
Address	245 Fifth Avenue, Suite 1402 New York, NY 10016 UNITED STATES		

Attorney information	Peter D. Vogl & Kristin S. Cornuelle Orrick, Herrington & Sutcliffe LLP 51 West 52nd Street New York, NY 10019 UNITED STATES ipprosecu- tion@orrick.com,pvogl@orrick.com,kcornuelle@orrick.com,achen@orrick.com Phone:212-506-5000		
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Applicant Information

Application No	86775483	Publication date	03/08/2016
Opposition Filing Date	03/18/2016	Opposition Period Ends	04/07/2016
Applicant	Farmers Restaurant Group, LLC Suite 201 Kensington, MD 20895 UNITED STATES		

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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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3829294	Application Date	05/01/2009
Registration Date	08/03/2010	Foreign Priority Date	NONE
Word Mark	FARMER'S		

Design Mark	FARMER'S
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2010/05/00 First Use In Commerce: 2010/05/00 Alcoholic beverages, namely, distilled spirits

U.S. Registration No.	3871604	Application Date	07/15/2008
Registration Date	11/02/2010	Foreign Priority Date	NONE
Word Mark	FARMER'S BOTANICAL		
Design Mark	FARMER'S BOTANICAL		
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2010/05/00 First Use In Commerce: 2010/05/00 GIN		

Attachments	77726733#TMSN.png(bytes) 77980449#TMSN.png(bytes) FARMER TO STILL 86775483-NOO.pdf(33894 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	/Kristin S. Cornuelle/
Name	Kristin S. Cornuelle
Date	03/18/2016

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

In the Matter of Application Serial No. 86/775,483
Published in the *Official Gazette* on March 8, 2016
Designation: FARMER TO STILL

CHATHAM IMPORTS, INC.,

Opposer,

v.

FARMERS RESTAURANT GROUP, LLC,

Applicant.

NOTICE OF OPPOSITION

Chatham Imports, Inc. (“Opposer”), a New York corporation having an address at 245 Fifth Avenue, Suite 1402, New York, New York, 10016, believes it will be damaged by registration of the designation FARMER TO STILL as shown in Serial No. 86/775,483 in International Class 33 and hereby opposes the same.

As grounds for opposition, Opposer alleges:

1. Farmers Restaurant Group, LLC. (“Applicant”), has filed an application to register the designation FARMER TO STILL for “distilled spirits” in International Class 33 as evidenced by the publication of such designation in the *Official Gazette* on March 8, 2016.

3. Applicant is, upon information and belief, a Delaware limited liability company with an address at 10605 Concord Street, Suite 201, Kensington, Maryland, 20895.

4. Opposer has used its trademarks FARMER'S and FARMER'S BOTANICAL in connection with the marketing, sale and distribution of alcoholic beverages, including distilled spirits, for years in the United States, as well as in other countries.

5. Opposer is the owner of U.S. Trademark Registration No. 3,829,294 for the trademark FARMER'S for "alcoholic beverages, namely, distilled spirits" in International Class 33, and U.S. Registration No. 3,871,604 for the trademark FARMER'S BOTANICAL for "gin" in International Class 33.

6. Opposer's Registrations Nos. 3,829,294 and 3,871,604 are valid and subsisting, and are *prima facie* evidence of the validity of each registered mark set forth therein, and of Opposer's exclusive right to use each registered mark set forth therein.

7. Opposer's application for FARMER'S was filed on May 1, 2009 based on a *bona fide* intent to use the mark in commerce pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. Section 1051(b). This application confers a right of priority as of Opposer's May 1, 2009 filing date pursuant to Section 7(c) of the Lanham Act, 15 U.S.C. § 1057(c).

8. Opposer's application for FARMER'S BOTANICAL was filed on July 15, 2008 based on a *bona fide* intent to use the mark in commerce pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b). This application confers a right of priority as of Opposer's July 15, 2008 filing date pursuant to Section 7(c) of the Lanham Act, 15 U.S.C. § 1057(c).

9. Opposer's registrations have priority over Applicant's application because Opposer's applications were filed on July 15, 2008 and May 1, 2009 respectively, and Opposer's constructive use dates of July 15, 2008 and May 1, 2009 predate Applicant's filing date of October 1, 2015.

10. Opposer has sold its goods under the FARMER'S and FARMER'S BOTANICAL trademarks throughout the United States since at least as early as May 2010, and has developed exceedingly valuable goodwill with respect to the FARMER'S and FARMER'S BOTANICAL marks.

11. Opposer has made a substantial investment in advertising and promoting its FARMER'S and FARMER'S BOTANICAL trademarks. By virtue of its efforts and the expenditure of considerable sums for promotional and advertising activities, and by virtue of the excellence of its goods, Opposer, with respect to its FARMER'S and FARMER'S BOTANICAL marks, has gained extensive goodwill in the minds of the general public.

12. The designation proposed for registration by Applicant, namely, FARMER TO STILL, is likely to be confused with Opposer's marks, FARMER'S and FARMER'S BOTANICAL, because Applicant's designation and Opposer's marks are similar in appearance, sound, meaning and overall commercial impression.

13. Applicant seeks to register FARMER TO STILL in connection with goods that are virtually identical to the goods of Opposer, and such use so nearly resembles Opposer's use as to be likely to cause confusion, to cause mistake or to deceive consumers as to the origin, sponsorship and approval of Applicant's products within the meaning of 15 U.S.C. § 1052(d).

14. Applicant's designation suggests that a farmer grows ingredients that are used to distill spirits, and as such, Applicant's FARMER TO STILL designation evokes the same meaning as Opposer's FARMER'S and FARMER'S BOTANICAL marks as used in connection with distilled spirits.

15. Applicant's products sold in connection with the FARMER TO STILL designation will likely travel in the same channels of trade as Opposer's goods sold under the

FARMER'S and FARMER'S BOTANICAL trademarks; and said goods will likely be purchased by the same class of consumers, thus causing consumers and the trade to wrongly associate Applicant's products with Opposer, and causing the purchasing public to assume that goods bearing the designation FARMER TO STILL emanate from, or are approved, licensed, or sponsored by Opposer, have the same source as Opposer's products, or that Applicant is affiliated with Opposer.

16. If Applicant is permitted to use and register the FARMER TO STILL designation for its goods as specified in the opposed application, confusion in trade resulting in damage and injury to Opposer would be caused and would result by reason of the fact that Applicant's designation is confusingly similar to Opposer's marks. Persons familiar with Opposer's FARMER'S and FARMER'S BOTANICAL marks would be likely to buy Applicant's FARMER TO STILL goods as goods offered and sold by Opposer. Furthermore, any defect, objection, or fault found with Applicant's goods marketed under the FARMER TO STILL designation would be likely to reflect upon and seriously injure the reputation that Opposer has established for its goods offered under its FARMER'S and FARMER'S BOTANICAL marks.

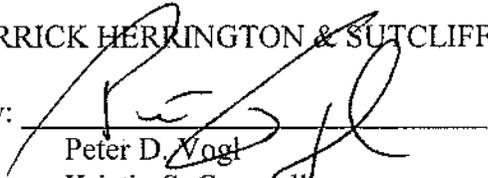
17. If Applicant is granted the registration herein opposed, such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that the opposition be sustained and that the application be refused for registration.

Respectfully submitted,

Dated: March 18, 2016

ORRICK HERRINGTON & SUTCLIFFE LLP

By: 

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Kristin S. Cornuelle

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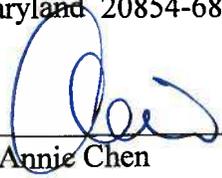
CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Notice of Opposition was served by First Class Mail, on March 18, 2016, on counsel for Applicant at the following address:

Eric J. von Vorys
Shulman Rogers Gandal Pordy & Ecker, P.A.
12505 Park Potomac Avenue, 6th Floor
Potomac, Maryland 20854-6803

Dated: March 18, 2016

By: _____


Annie Chen

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