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

Proceeding	91228559
Party	Defendant Quintessential Brands S.A.
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Date	09/29/2016
Attachments	Answer 9-29-16.pdf(27063 bytes)

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

REBEL WINE CO. LLC,

Opposer,

v.

QUINTESSENTIAL BRANDS S.A.

Applicant.

Opposition No. 91228559

Serial No. 86/692,880

Mark: THE FORTY THIEVES

ANSWER

Applicant Quintessential Brands S.A. (hereinafter “Applicant”) hereby files its Answer, in response to the Notice of Opposition of Rebel Wine Co., LLC. (hereinafter “Opposer”). To the extent any allegation in the Notice of Opposition is not specifically admitted, qualified, or denied herein, all averments of the Notice of Opposition are hereby denied.

1. Applicant seeks to register THE FORTY THIEVES as a trademark for whisky; whiskey in International Class 33 based on its intent to use the mark in commerce, as evidenced by the publication of such mark on February 23, 2016. The application for such mark was filed with the USPTO on July 14, 2015.

ANSWER TO PARAGRAPH 1:

Admit.

2. Opposer is the owner of the name and mark THREE THIEVES which has been continuously used in association with wine since 2003 (U.S. Trademark Registration No. 2,789,854), as well as the marks BARREL THIEF for wine (U.S. Trademark Registration No. 3,274,348) and LE THIEF for wine (U.S. Trademark Registration No. 3,932,672) (collectively, "Opposer's THIEF Marks").

ANSWER TO PARAGRAPH 2:

Applicant lacks knowledge or sufficient information to admit or deny the allegations of Paragraph 2 and therefore denies the same.

3. The constructive and actual first use dates for each of Opposer's THIEF Marks precede any known date of first use or constructive filing date for Applicant's THE FORTY THIEVES mark for whisky; whiskey.

ANSWER TO PARAGRAPH 3:

Applicant lacks knowledge or sufficient information to admit or deny the allegations of Paragraph 3 and therefore denies the same.

4. Opposer alleges that Applicant's applied-for mark is likely to cause confusion, mistake or to deceive the public. Applicant's THE FORTY THIEVES mark for whisky; whiskey is similar to Opposer's THIEF Marks for wine and the respective goods on which the marks are used are identical, substantially similar or related and said products are purchased by the same group of consumers. Accordingly, Applicant's mark is confusingly similar to Opposer's mark such that Applicant is not entitled to register its mark and Applicant's application should be denied in accordance with Section 2(d) of the Trademark Act of 1946, 15 U.S.C. §1052(d).

ANSWER TO PARAGRAPH 4:

Applicant admits that the Opposer alleges that Applicant's applied-for mark is likely to cause confusion, but denies that merits of the allegation. Applicant denies the remaining allegations of Paragraph 4.

5. Opposer avers that if Applicant is granted the registration herein opposed, it would interfere with Opposer's exclusive right to use its THIEF Marks herein relied upon, all to the detriment and damage of Opposer. Accordingly, Opposer avers that for the reasons aforesaid, it will be damaged by a grant of registration to Applicant of its trademark which is the subject of Application Serial No. 86/692,880.

ANSWER TO PARAGRAPH 5:

Denied.

Respectfully submitted,



Dated: September 29, 2016

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing ANSWER was served on counsel for Opposer on this 29th day of September, 2016, via First Class Mail, postage prepaid, addressed as follows:

J. Scott Gerien
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