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

Proceeding	92058411
Party	Plaintiff Luxco, Inc.
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Signature	/s/ Andrew R. Gilfoil
Date	10/22/2014
Attachments	Opici--Motion_to_Compel_(as_filed).PDF(1355746 bytes)

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

LUXCO, INC.,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92/058,411
)	
OPICI IP HOLDINGS, LLC)	
)	
Registrant.)	

LUXCO’S REPLY BRIEF IN SUPPORT OF ITS MOTION TO COMPEL

Opici fails to establish any reason why the Board should not grant Luxco’s Motion to Compel. Insisting that it can refuse to disclose relevant information and documents based on “privilege” or “attorney work product” protection, Opici offers no authority from the Board or any court endorsing its expansive assertion of privilege. More importantly, Opici now makes clear in its amended discovery responses that it intends to refuse production based on its claimed reliance on “the advice of counsel” in this matter. Well settled precedent holds that by so doing Opici has waived any protection for those communications and documents relating to the subject matter of the advice. That is, Opici cannot rely on undisclosed advice of counsel and, at the same time, refuse to provide that underlying “advice” in discovery due to claimed privilege. Simply stated, the Board should grant Luxco’s Motion, order that Opici provide supplemental document production and interrogatory responses without objection, and further order that Opici be precluded from relying on any facts or documents at trial in this matter which its fails to provide in response to the Board’s forthcoming order or contends is not subject to discovery because of privilege.

ARGUMENT AND AUTHORITIES

I. **OPICI OFFERS NO SUPPORT FOR ITS REFUSAL TO FULLY RESPOND TO LUXCO'S PRODUCTION REQUESTS WITHOUT OBJECTION**

A. **Opici's Blanket Refusal to Produce Responsive Documents on the Basis of Alleged "Privilege" or "Work Product" Protection Is Unsupportable**

As confessed by Opici, many of Luxco's Production Requests (Nos. 32-35 and 38) relate to Opici's allegations as to what it claims to be "numerous third party uses" of trademarks it contends are relevant to this case. (*See* Motion to Compel [Dkt. 15], pp. 12-14.) In response, Opici submits that the only documents responsive to these requests are purportedly "privileged" and, that other than privileged documents, it has no further "documents to produce." (*See* Opp. Br. [Dkt. 20], p. 14.) Opici's claims in this regard are directly at odds with the nearly two hundred Requests for Admission Opici admits it has propounded on Luxco attaching various TTB Certificates of Label Approval ("COLA") and trademark registrations for third-parties that Opici claims are relevant to this case. (*See* Opp. Br. [Dkt. 20], p. 13.) Opici does not explain why it failed to produce these public records in response to Luxco's prior production requests. To be sure, Opici's voluntary disclosure of these documents to Luxco plainly "waives the work product protection as to items . . . disclosed." *Grumman Aerospace Corp. v. Titanium Metals Corp. of America*, 91 F.R.D. 84, 90 (E.D.N.Y. 1981). Opici also provides no explanation for how attaching a document to a Request for Admission propounded on an adversary satisfies Opici's independent discovery obligations under Rule 34. In truth, Luxco can only assume that Opici is attempting to play games in an effort to preclude Luxco from utilizing potentially relevant documents as evidence in this matter.

Opici's brief equally provides no support for its claim that it is not obligated to produce those document categories identified in its own Initial Disclosures (Luxco RFP No. 31) or any

search reports which Opici has received (Luxco RFP No. 6). Opici appears to claim that by simply accessing public documents, counsel can shroud otherwise relevant information in a cloak of “work product” protection not subject to production or disclosure. Opici offers no authority endorsing its expansive assertion of privilege. Opici’s suggestion that Luxco “needs to conduct its own research” is anathema to the Board’s discovery procedures, which are squarely aimed at preventing unfair surprise. *See* TBMP §401 (citing Misc. Changes to Trademark Trial and Appeal Board Rules, 72 Fed. Reg. 42242 (Aug. 1, 2007)).

Luxco demanded weeks prior to filing its Motion to Compel that “any of the document categories identified in Opici’s initial disclosures should have already been produced in response to Luxco’s production requests.” (*See* Opp. Br. [Dkt. 20], Ex. 7, p. 1, Sept. 26, 2014 e-mail correspondence from A. Gilfoil to J. Rannells.) Nevertheless, Opici suggests that it is faithfully supplementing its production but provides no explanation for why it has failed to date to produce the above-referenced COLA approvals nor any documents showing the actual purported use in commerce of third-party marks branding an alcoholic beverage by the name REBEL or REBELLION. (*See* Opp. Br. [Dkt. 20], at Ex. 7, p. 1). Opici’s failure to produce responsive documents is all the more troubling because Opici apparently had many of the referenced COLAs over two months ago. (*See, e.g.*, Ex. 3 attached to Opici’s responses to Luxco’s 1st RFAS, a copy of which is attached hereto as Ex. A—date stamped 8/11/2014.)

B. Claimed “Privilege” Cannot Be Used as a Sword and a Shield

As these production requests seek the very documents Opici contends it will rely on in this matter, Opici’s assertion of “privilege” or “attorney work product privilege” is baseless. *See Teal Bay Alliances, Inc. v. Southbound One, Inc.*, 2014 WL 1630211, *4 (D. Md. Apr. 21,

2014)(party who relies on advice of counsel regarding the adoption, registration and use of a trademark waives privilege as to any communications relating to that subject matter). The Board should overrule Opici's objections, order that Opici produce all documents responsive to Luxco's Request Nos. 6, 31-35 and 38, and further hold that Opici will be precluded from using any documents or information obtained from such documents that it fails to produce in this matter based upon objection or claimed privileges. *Presto Products Inc. v. Nice-Pak Products Inc.*, 9 U.S.P.Q.2d 1895, 1897 n. 5 (TTAB 1988).

Opici's explanation for its refusal to fully respond to Luxco's request for documents relating to the development and adoption of the REBELLION mark (Luxco RFP No. 7) is equally troubling. The bottle exemplar rendition that Opici references was not prepared until over a year after Opici filed the application which matured into the '601 Registration. (*See* Motion to Compel, Ex. Q [Dkt. 18], at p. 2.) Opici filed the subject application under section 1(b) of the Lanham Act, declaring that as of October 11, 2011 Opici had a *bona fide* intent to use the REBELLION mark in U.S. commerce. Opici attests in response to Luxco's interrogatories that the Rebellion name was proposed "shortly prior to the adoption of the mark" during a "brain storming session considering the mark." (*See* Motion to Compel, at Ex. D [Dkt. 16], Interrogatory No. 18.) However, Opici provides no documents relating to this event, nor any other contemporaneous documents that substantiate Opici's purported *bona fide* intent to use the mark as of October 11, 2011. Opici similarly testifies that it received a search report from counsel on July 20, 2010 yet refuses to produce the report and opinion despite asserting reliance on the advice of counsel in this matter. (*See* Motion to Compel, Ex. D [dkt. 16], p. 7 and Opp. Br. [Dkt. 20], Ex. 9.) Opici again claims that it is "continuing its review" but offers no explanation for its failure to produce a single document contemporaneous with Opici's filing of

the applied-for mark. The Board should order that Opici produce all responsive documents without objection or confirm that it has no additional responsive documents.

II. **OPICI PROVIDES NO SUPPORT FOR ITS REFUSAL TO RESPOND TO LUXCO'S PREVIOUS INTERROGATORIES**

A. **The Attorney-Client Privilege and Attorney Work Product Doctrine Do Not Support Opici's Efforts to Hide Discoverable Facts**

As Opici concedes, many of Luxco's interrogatories (namely Interrogatory Nos. 23-28) deal directly with Opici's stated allegations regarding "numerous third party uses" that it submits are relevant here. (*See* Motion to Compel [Dkt. 15], pp. 8-9.) In response, Opici states that the "sources" forming the bases of these allegations and any "results" of such searches would all "obviously" be "protected by the attorney work product doctrine." (*See* Opp. Br. [Dkt. 20], pp. 8-9.) Opici cites no Board or other court endorsing its expansive view of attorney work product. The reason for this failure is clear—no such authority exists.

Opici's adamant refusal to provide responsive information without objection is unsupportable.¹ Luxco's principal brief provided Opici with extensive authority holding that a party cannot use the work product doctrine to hide the facts themselves. (*See* Motion to Compel [Dkt. 15], pp. 8-9 and cases cited therein.) Opici makes no attempt to address or distinguish. In so doing Opici effectively concedes that this rule of law squarely applies here.

Moreover, Opici's opposition brief now makes clear that Opici intends to assert "advice of counsel" in response to discovery relating to these very issues. (*See* Opp. Br. [Dkt. 20], at Ex.

¹ Notwithstanding Opici's assertion that "this matter is now resolved" by its amended responses, which Opici submitted on October 1, it is not. Indeed, cursory review of the same shows that Opici has simply elaborated on its blanket refusal to provide any responsive information and affirmatively stated that Opici now intends to rely on the "advice of counsel" in this matter. (*See* Opp. Br. [Dkt. 20], Ex. 9, at pp. 5-6.)

9.) Where a party relies on advice-of-counsel as a defense in a trademark matter, it waives attorney client privilege and work product protection relative to the subject matter of the advice. *Teal Bay Alliances, Inc. v. Southbound One, Inc.*, 2014 WL 1630211, *3-4 (D. Md. Apr. 21, 2014)(waiver ensures that “party against whom the defense is asserted is not prevented from discovering relevant information”); *see also JJK Mineral Comp., LLC v. Swiger*, 292 F.R.D. 323, 330 (N.D.W.V. 2013). Thus, Opici’s waiver applies “not only to otherwise privileged communications between the attorney and client, but also to any of the attorney’s documents which reflect the substance of such advice, even if such documents would otherwise be immune from discovery under the work-product doctrine.” *Brigham and Women’s Hosp. Inc. v. Teva Pharm. USA, Inc.*, 707 F.Supp.2d 463, 473 (D.Del. 2010)(quoting *In re EchoStar Comm. Corp.*, 448 F.3d 1294, 1301 (Fed. Cir. 2006.)

As Opici has now expressly put its “advice of counsel” at issue in this case any “privilege” or “attorney work product” claim is thus waived. The Board should overrule Opici’s objections, order that it provide supplemental responses, and further order that Opici will be precluded from relying on any information at trial which it fails to provide as so ordered in the Board’s forthcoming order. *See Fed. R. Civ. P. 37(c); Presto Products*, 9 U.S.P.Q.2d at 1897 n. 5.

B. Opici Has Failed to Comply With Rule 2.120(d)(1) and Has Waived its Super-Numerosity Claim

Opici’s opposition brief similarly fails to articulate any support for its claim that Opici has not waived its claim that Luxco has somehow exceeded the submission of 75 interrogatories. Instead, Opici draws the Board’s attention to the first portion of Rule 2.120(d)(1) stating that the 75 limit rule applies to a “proceeding” and not a specific set of interrogatories. (*See Opp. Br.*

[Dkt. 20], p. 5-6.) Opici does not explain why this unremarkable proposition has anything to do with the question of waiver.

More importantly, Opici's brief tellingly omits reference to the remainder of Rule 2.120(d)(1). This is presumably because the rule goes on to state that where a party is served with interrogatories that it believes exceeds the seventy-five subpart limitation "and is **not willing to waive this basis for objection**, the party **shall, within the time for** (and **instead of**) serving answers and specific objections to the interrogatories, **serve a general objection on the ground of their excessive number**." 37 C.F.R. §2.120(d)(1)(emphasis added). This rule is imminently clear and consistent with the general discovery rule holding that a party who fails to raise an objection in response to discovery waives that objection. *See* Fed. R. Civ. P. 33(b)(4)(stating that "[a]ny ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure"); *Church & Dwight Co., Inc. v. Mayer Labs, Inc.*, 2011 WL 6119146, *2 (N.D. Cal. Dec. 8, 2011).

Opici does not dispute that it failed to comply with this mandatory obligation in its response to Luxco's Interrogatories or in its response to Luxco's golden rule letter. (*See* Ex. D and H.) Opici also makes no effort to suggest that "good cause" somehow excuses its failure. Instead, in an effort to suggest that the present motion purportedly seeks an "advisory opinion"² Opici states that no revised interrogatories have been disclosed or identified to Petitioner to date. (*See* Opp. Br. [Dkt. 20], p. 2.) In truth, over two month ago, on August 21, Luxco proposed a revised version of Interrogatory No. 19 to Opici in a good faith effort to resolve Opici's concerns with the wording of same—directly in response to Opici's request that Luxco "state what it is

² As Opici has now made abundantly clear that it refuses to respond to any interrogatories "revised or otherwise" (*see* Motion to Compel, Ex. J [dkt. 17], at p. 2-3) there is plainly a concrete dispute between the parties relative to Luxco's efforts to obtain a substantive response from Opici to Interrogatory No. 19.

you wish to revise.” (See Motion to Compel, Ex. J [Dkt. 17], at p. 2.) Opici’s counsel never responded. As Opici has waived its supernumerosity claim its adamant continued refusal to provide any substantive response to proposed revised interrogatories other than with a “general objection” is procedurally improper and lacking in good faith. See Fed. R. Civ. P.

33(b)(4)(stating that “[a]ny ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure”); *Herrmann v. Rain Link, Inc.*, 2012 WL 1207232, *11 (D. Kan. 2012)(objections waived where party “failed to initially raise” in “response to the discovery requests”).

III. THE BOARD SHOULD REVIEW OPICI’S SUPPLEMENTAL PRIVILEGE LOG IN CAMERA IN LIGHT OF OPICI’S EXPRESS RELIANCE ON “ADVICE OF COUNSEL”

Finally, Opici again offers no support for its claim that its service of a second amended/revised privilege log on September 26, 2014 has “resolved” this matter. (See Opp. Br. [Dkt. 20], p. 15.) To the contrary, subsequent to the filing of Luxco’s Motion to Compel Opici has now, as of October 1, 2014, served Luxco with amended discovery responses to certain of Luxco’s Interrogatories (Nos. 23-24 and 26-28) testifying for the first time that Opici is expressly refusing production based on alleged reliance on “the advice of counsel” as a defense in this matter. (See Opp. Br. [Dkt. 20], Ex. 9, at pp. 5-6.) As noted above, the accepted standard governing the scope of Opici’s waiver applies to all “communications relating to the same subject matter” of claimed advice. *Fort James Corp. v. Solo Cup Co.*, 412 F.3d 1340, 1349 (Fed. Cir. 2005). Thus, the Board should, consistent with Opici’s invitation, order that Opici produce for *in camera* inspection any trademark search documents withheld from production, as well as any documents identified by Opici in its second revised privilege log so that the Board can determine whether the documents for which Opici claims protection fall within the scope of

Opici's waiver. *See Teal Bay Alliances*, 2014 WL 1630211, * 5 (scope of subject matter waiver is "broader than communications that contain advice" and encompasses all communications between attorney and client on subject for which advice-of-counsel is asserted).

CONCLUSION

For the foregoing reasons, the Board should order Opici to produce supplemental written responses and documents responsive to Luxco's prior discovery requests, without objection. At a minimum, the Board should order that Opici do so within twenty (20) days of entry of the Board's order. The Board should further hold that if Opici violates any portion of the Board's order that it will be subject to sanctions and precluded from relying on any information or documents Opici does not produce as evidence on its behalf. Upon entry of its Order Luxco prays that the Board extend all outstanding periods by at least thirty (30) days so that the parties will not be prejudiced in accomplishing necessary follow-up discovery.

DATED: October 22, 2014

Respectfully submitted,

By: /s/ Andrew R. Gilfoil

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the foregoing was served via e-mail and First Class Mail, postage prepaid, as well as electronic mail on this 22nd day of October, 2014 upon:

Stephen L. Baker
Baker & Rannells P.A.
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Raritan, NJ 08869
baker@tmlaw.com

/s/ Andrew R. Gilfoil

EXHIBIT A

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

LUXCO, INC.,)	
)	
Petitioner/Counter Registrant,)	
)	
v.)	Cancellation No. 92/058,411
)	
OPICI IP HOLDINGS, LLC)	
)	
Registrant/Counter Petitioner.)	

APPLICANT'S FIRST REQUESTS FOR ADMISSION

Exhibit 3

TTB ID		DEPARTMENT OF THE TREASURY ALCOHOL AND TOBACCO TAX AND TRADE BUREAU APPLICATION FOR AND CERTIFICATION/EXEMPTION OF LABEL/BOTTLE APPROVAL <small>(See instructions and Partwork Notification for details on Form)</small>	
1. PTD ID NO. (if any)	2. PLANT REGISTRATION PERMIT/REF ID NO. (if any)	PART I - APPLICATION	
3. BRAND NUMBER (if any)	4. TYPE OF PRODUCT <input type="checkbox"/> BEER <input type="checkbox"/> WINE <input type="checkbox"/> DISTILLED SPIRITS <input type="checkbox"/> SPOUL BEVERAGE	5. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, USDC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DEA OR TRADEMARK IF USED ON THE LABEL. (Required)	6. MARKING ADDRESS IF DIFFERENT
7. BRAND NAME (Required)	8. TARIFF CLASSIFICATION (if any)	9. TYPE OF OPERATION (Check appropriate box) <input type="checkbox"/> CERTIFY CONT. OF LABEL APPROVAL <input type="checkbox"/> CERTIFY LABEL EXEMPTION FROM LABEL APPROVAL <small>For only in _____ only (if a 10% or more)</small>	10. LAB. NO. & CATEGORY-IMPORT NO. & DATE (if any)
11. NET CONTENTS	12. ALCOHOL CONTENT	13. VINE APPELLATION (if on label)	14. DATE OF APPLICATION
15. WINE VINTAGE DATE (if on label)	16. PUBLIC TRADING	17. TAX NUMBER	18. DATE OF APPLICATION
19. SHOW ANY WORKING OR APPLICANT OR EMPLOYEE SIGNATURE APPLICABLE TO THE CONTAINER (e.g., glass bottle) OR, IF OTHER THAN THE LABEL, ANY OTHER WORKING OR APPLICANT OR EMPLOYEE SIGNATURE ON THE CONTAINER (e.g., metal cap) AND THIS WORKING OR APPLICANT OR EMPLOYEE SIGNATURE MUST BE PLACED IN THE MIDDLE PORTION OF THE LABEL AT THE BOTTOM. ALSO PROVIDE TRANSLATIONS OF FOREIGN LANGUAGE TEXT APPEARING ON LABEL.			

PART II - APPLICANT'S CERTIFICATION

Under the penalties of perjury, I declare that all statements appearing on this application are true and correct to the best of my knowledge and belief and that the representations on the label are true to the facts, including supplemental documents truly and correctly represent the contents of the containers to which they refer and be applied. I take notice that I have read, understand and complied with the conditions and regulations which are attached to an original TTB Form of a similar description of this label.

20. DATE OF APPLICATION

21. SIGNATURE OF APPLICANT OR AUTHORIZED REPRESENTATIVE

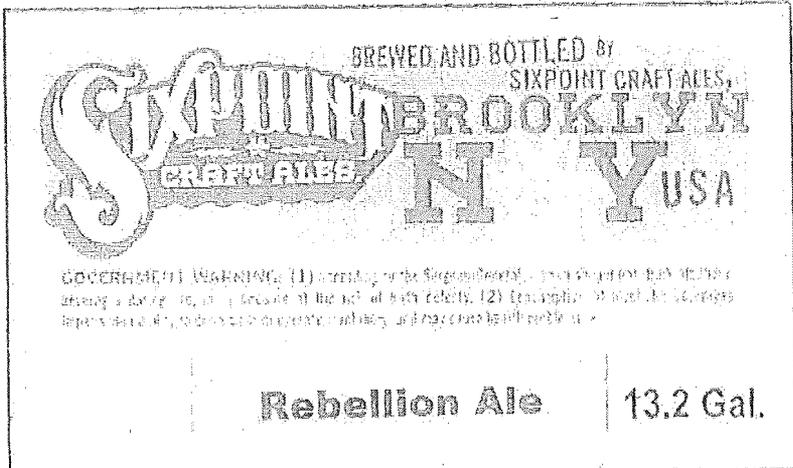
22. DATE ISSUED

23. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

FOR TTB USE ONLY

EXPIRES ON: 12/31/2007

ALSO COMPLETE OUT OF LABELS BEFORE THIS EXPIRES DATE: 12/31/07



FOR TTB USE ONLY			DEPARTMENT OF THE TREASURY ALCOHOL AND TOBACCO TAX AND TRADE BUREAU APPLICATION FOR AND CERTIFICATION/EXEMPTION OF LABEL/BOTTLE APPROVAL (See Instructions and Paperwork Reduction Act Notice on Back)
TTB ID 08024001000328			
1. REP. ID. NO. (If any)	CT 902	OR 02	

PART I - APPLICATION

2. PLANT REGISTRY/BASIC PERMIT/BREWER'S NO. (Required) BR-NY-MAD-15000		3. SOURCE OF PRODUCT (Required) <input checked="" type="checkbox"/> Domestic <input type="checkbox"/> Imported		8. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, BASIC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DBA OR TRADENAME IF USED ON LABEL. (Required) Sixpoint Craft Ales, MAD SCIENTISTS BREWING PARTNERS LLC 40 VAN DYKE ST BROOKLYN NY 11231 SIXPOINT CRAFT ALES (Used on label)	
4. SERIAL NUMBER (Required) 080034		5. TYPE OF PRODUCT (Required) <input type="checkbox"/> WINE <input type="checkbox"/> DISTILLED SPIRITS <input checked="" type="checkbox"/> MALT BEVERAGE			
6. BRAND NAME (Required) SIXPOINT CRAFT ALES			8a. MAILING ADDRESS, IF DIFFERENT		
7. FANCIFUL NAME (If any) REBELLION					
9. EMAIL ADDRESS LABELS@SIXPOINT.COM		10. FORMULA/SOP NO. (If any)		11. LAB. NO. & DATE / PREIMPORT NO. & DATE (If any)	
12. NET CONTENTS 7.75 GAL. (1/4 BBL)		13. ALCOHOL CONTENT		14. WINE APPELLATION IF ON LABEL	
15. WINE VINTAGE DATE IF ON LABEL		16. PHONE NUMBER (646) 389-7385		17. FAX NUMBER (347) 227-8676	
18. TYPE OF APPLICATION (Check applicable box(es))					
a. <input checked="" type="checkbox"/> CERTIFICATE OF LABEL APPROVAL					
b. <input type="checkbox"/> CERTIFICATE OF EXEMPTION FROM LABEL APPROVAL "For sale in _____ only" (Fill in State abbreviation.)					
c. <input type="checkbox"/> DISTINCTIVE LIQUOR BOTTLE APPROVAL. TOTAL BOTTLE CAPACITY BEFORE CLOSURE _____ (Fill in amount)					
d. <input type="checkbox"/> RESUBMISSION AFTER REJECTION TTB ID. NO. _____					
19. SHOW ANY WORDING (a) APPEARING ON MATERIALS FIRMLY AFFIXED TO THE CONTAINER (e.g., caps, celoseals, corks, etc.) OTHER THAN THE LABELS AFFIXED BELOW, OR (b) BLOWN, BRANDED OR EMBOSSED ON THE CONTAINER (e.g., net contents etc.). THIS WORDING MUST BE NOTED HERE EVEN IF IT DUPLICATES PORTIONS OF THE LABELS AFFIXED BELOW. ALSO, PROVIDE TRANSLATIONS OF FOREIGN LANGUAGE TEXT APPEARING ON LABELS. "SIXPOINT CRAFT ALES BROOKLYN, NY" APPEARS ON THE KEG CAP.					

PART II - APPLICANT'S CERTIFICATION

Under the penalties of perjury, I declare; that all statements appearing on this application are true and correct to the best of my knowledge and belief; and, that the representations on the labels attached to this form, including supplemental documents, truly and correctly represent the content of the containers to which these labels will be applied. I also certify that I have read, understood and complied with the conditions and instructions which are attached to an original TTB F 5100.31, Certificate/Exemption of Label/Bottle Approval.

20. DATE OF APPLICATION 01/24/2008	21. SIGNATURE OF APPLICANT OR AUTHORIZED AGENT (Application was e-filed)	22. PRINT NAME OF APPLICANT OR AUTHORIZED AGENT SHANE WELCH
---------------------------------------	---	--

PART III - TTB CERTIFICATE

This certificate is issued subject to applicable laws, regulations and conditions as set forth in the instructions portion of this form.

23. DATE ISSUED 01/30/2008	24. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU <i>Kent B. Nutter</i>
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FOR TTB USE ONLY

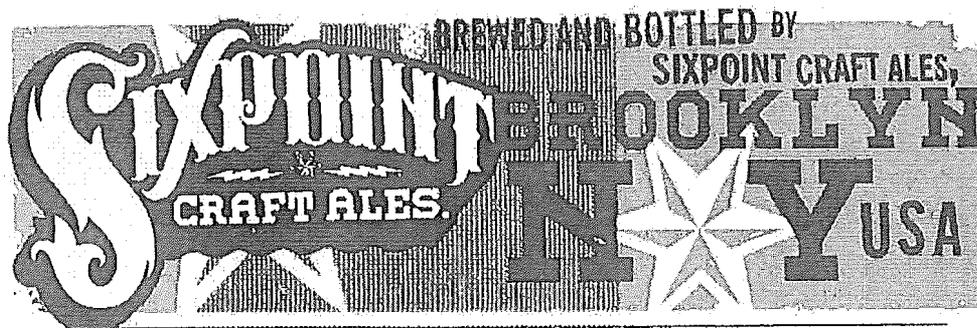
<p>QUALIFICATIONS</p> <p>Approved despite error(s) in your Warning Statement. When new labels are printed, change the statement so the spelling, punctuation, appearance and capitalization are in compliance with 27 CFR 16, as follow s: GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems. When new labels are printed, the Government Warning Statement must appear in printing at least three (3) millimeters in size. This includes low er case lettering. See 27 CFR 16.22 (a)(4).</p> <p>STATUS</p> <p>THE STATUS IS APPROVED.</p> <p>CLASS/TYPE DESCRIPTION</p> <p>ALE</p>	<p>EXPIRATION DATE (if any)</p>
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AFFIX COMPLETE SET OF LABELS BELOW

Image Type:

Brand (front)

Actual Dimensions: 5 inches W X 3 inches H



GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems. *

DATE
FILED

BEER
TYPE

REBELLION ALE

7.75 Gal.

TTB F 5100.31 (6/2006) PREVIOUS EDITIONS ARE OBSOLETE

FOR TTB USE ONLY			DEPARTMENT OF THE TREASURY ALCOHOL AND TOBACCO TAX AND TRADE BUREAU APPLICATION FOR AND CERTIFICATION/EXEMPTION OF LABEL/BOTTLE APPROVAL (See Instructions and Paperwork Reduction Act Notice on Back)	
TTB ID 11311001000432				
1. REP. ID. NO. (If any)	CT 902	OR 02		
PART I - APPLICATION				
2. PLANT REGISTRY/BASIC PERMIT/BREWER'S NO. (Required) BR-NY-MAD-15000	3. SOURCE OF PRODUCT (Required) <input checked="" type="checkbox"/> Domestic <input type="checkbox"/> Imported	8. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, BASIC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DBA OR TRADENAME IF USED ON LABEL (Required) SIXPOINT CRAFT ALES, MAD SCIENTISTS BREWING PARTNERS LLC 40 VAN DYKE ST BROOKLYN NY 11231 SIXPOINT BREWERY (Used on label)		
4. SERIAL NUMBER (Required) 110103	5. TYPE OF PRODUCT (Required) WINE DISTILLED SPIRITS <input checked="" type="checkbox"/> MALT BEVERAGE			
6. BRAND NAME (Required) REBELLION		8a. MAILING ADDRESS, IF DIFFERENT		
7. FANCIFUL NAME (If any)				
9. EMAIL ADDRESS LABELS@SIXPOINT.COM	10. GRAPE VARIETAL(S) (If any)	11. FORMULA	18. TYPE OF APPLICATION (Check applicable box(es))	
12. NET CONTENTS 13.2 GAL. 5.16 GAL.	13. ALCOHOL CONTENT	14. WINE APPELLATION IF ON LABEL	a. <input checked="" type="checkbox"/> CERTIFICATE OF LABEL APPROVAL b. <input type="checkbox"/> CERTIFICATE OF EXEMPTION FROM LABEL APPROVAL "For sale in _____ only" (Fill in State abbreviation.) c. <input type="checkbox"/> DISTINCTIVE LIQUOR BOTTLE APPROVAL. TOTAL BOTTLE CAPACITY BEFORE CLOSURE _____ (Fill in amount) d. <input type="checkbox"/> RESUBMISSION AFTER REJECTION TTB ID. NO. _____	
15. WINE VINTAGE DATE IF ON LABEL	16. PHONE NUMBER (646) 389-7385	17. FAX NUMBER (347) 227-8676		
19. SHOW ANY WORDING (a) APPEARING ON MATERIALS FIRMLY AFFIXED TO THE CONTAINER (e.g., caps, celoseals, corks, etc.) OTHER THAN THE LABELS AFFIXED BELOW, OR (b) BLOWN, BRANDED OR EMBOSSED ON THE CONTAINER (e.g., net contents etc.). THIS WORDING MUST BE NOTED HERE EVEN IF IT DUPLICATES PORTIONS OF THE LABELS AFFIXED BELOW. ALSO, PROVIDE TRANSLATIONS OF FOREIGN LANGUAGE TEXT APPEARING ON LABELS.				
PART II - APPLICANT'S CERTIFICATION				
Under the penalties of perjury, I declare; that all statements appearing on this application are true and correct to the best of my knowledge and belief; and, that the representations on the labels attached to this form, including supplemental documents, truly and correctly represent the content of the containers to which these labels will be applied. I also certify that I have read, understood and complied with the conditions and instructions which are attached to an original TTB F 5100.31, Certificate/Exemption of Label/Bottle Approval.				
20. DATE OF	21. SIGNATURE OF APPLICANT OR AUTHORIZED AGENT		22. PRINT NAME OF APPLICANT OR	

APPLICATION 11/07/2011	(Application was e-filed)	AUTHORIZED AGENT SHANE WELCH
PART III - TTB CERTIFICATE		
This certificate is issued subject to applicable laws, regulations and conditions as set forth in the instructions portion of this form.		
23. DATE ISSUED 11/10/2011	24. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU <i>Kent B. Martin</i>	

FOR TTB USE ONLY	
QUALIFICATIONS TTB has not reviewed this label for type size, characters per inch or contrasting background. The responsible industry member must continue to ensure that the mandatory information on the actual labels is displayed in the correct type size, number of characters per inch, and on a contrasting background in accordance with the TTB labeling regulations, 27 CFR parts 4, 5, 7, and 16, as applicable.	EXPIRATION DATE (if any)
STATUS THE STATUS IS APPROVED.	
CLASS/TYPE DESCRIPTION ALE	

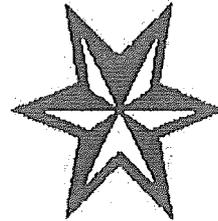
AFFIX COMPLETE SET OF LABELS BELOW

Image Type:

Brand (front)

Actual Dimensions: 6 inches W X 6 inches H

JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEPT | OCT | NOV | DEC



Net Contents:

- 15.5 U.S. Gallons
- 5.16 U.S. Gallons
- 13.2 U.S. GALLONS

GOVERNMENT WARNING:

(1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

ATTENTION - READ BEFORE TAPPING

THIS KEG MAY RUPTURE AND CAUSE INJURY IF OVER-PRESSURIZED WITH COMPRESSED AIR OR CO₂. TAPPING SYSTEM AND PRESSURE REGULATOR SHOULD EACH BE EQUIPPED WITH A PRESSURE RELIEF (BLOW OFF) DEVICE. IF YOU ARE NOT FAMILIAR WITH TAPPING EQUIPMENT, CONSULT YOUR RETAILER OR LOCAL BEER DISTRIBUTOR.

Brewed by:
SIXPOINT BREWERY
 40 Van Dyke St.
 Brooklyn, NY 11231
 www.sixpoint.com

Rebellion Ale

TTB F 5100.31 (5/2011) PREVIOUS EDITIONS ARE OBSOLETE