

ESTTA Tracking number: **ESTTA682879**

Filing date: **07/10/2015**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Dehner Distillery, LLC		
Entity	limited liability company	Citizenship	Iowa
Address	7500 University Avenue, Suite E Clive, IA 50325 UNITED STATES		

Attorney information	Timothy J. Zarley Zarley Law Firm, P.L.C. 400 Locust Street, Suite 200 Capital Square Des Moines, IA 50309-2350 UNITED STATES tzarley@zarleylaw.com Phone:515.558.0200		
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Registration Subject to Cancellation

Registration No	4715638	Registration date	04/07/2015
Registrant	Allied Lomar, Inc. 401 California Drive, Suite 500 Burlingame, CA 94010 UNITED STATES		

Goods/Services Subject to Cancellation

Class 033. First Use: 2014/08/14 First Use In Commerce: 2014/08/14 All goods and services in the class are cancelled, namely: Distilled Spirits
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	86653620	Application Date	06/05/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	RED BOOT		

Design Mark	RED BOOT
Description of Mark	NONE
Goods/Services	Class 011. First use: First Use: 2013/02/01 First Use In Commerce: 2013/02/01 Stills, namely, stills for the manufacture of distilled spirits Class 033. First use: First Use: 2013/02/01 First Use In Commerce: 2013/02/01 Distilled spirits

Attachments	86653620#TMSN.png(bytes) Petition for Cancellation & Exhts 1-13.pdf(3041850 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	/Timothy J. Zarley/
Name	Timothy J. Zarley
Date	07/10/2015

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

In the Matter of Trademark Registration No. **4,715,638**

For the mark **RED BOOT**

Date registered **April 7, 2015**

DEHNER DISTILLERY, LLC,	:	
	:	Cancellation No. _____
Petitioner,	:	
	:	Reg. 4,715,638
v.	:	
	:	Mark: RED BOOT
ALLIED LOMAR, INC.,	:	
	:	
Registrant.	:	
	:	
	:	

PETITION FOR CANCELLATION

Petitioner, Dehner Distillery, LLC (hereinafter “Petitioner” or “Dehner”) believes that it has been or will be damaged by Registrant Allied Lomar, Inc.’s (hereinafter “Registrant” or “Allied Lomar”) U.S. Trademark Registration No. 4,715,638 (hereinafter the “Challenged Registration”) for the mark “RED BOOT” in international class of goods and services 33 for use with the “distilled spirits” and accordingly petitions the Board to cancel such registration pursuant to 15 U.S.C. § 1064.

INTRODUCTION

1. The Registration should be cancelled under 15 U.S.C. § 1052(d) due to a likelihood of confusion because the mark claimed in the Challenged Registration is confusingly similar to Petitioner’s mark “RED BOOT,” which has priority of use.
2. Upon information and belief, the Registration should also be cancelled under 15

U.S.C. § 1051(a) due to nonuse of the mark in the Challenged Registration.

PARTIES

3. Petitioner is a company organized and existing under the laws of the State of Iowa and has its principal place of business located at 7500 University Ave, Clive, IA 50325 where it operates a small distillery and still manufacturing.

4. Upon information and belief, Registrant is a company organized and existing under the laws of the State of California having an address of 401 California Dr. Suite 500, Burlingame, CA 94010.

STANDING

5. On or about as early as February 1, 2013 Petitioner commenced using the trademark “RED BOOT” (hereinafter “Petitioner’s Mark”) in commerce in connection with distilled spirits as well as with its still manufacturing business.

6. Petitioner’s use has been continuous and conspicuous since its initial use.

7. Unbeknownst to Petitioner, on August 15, 2014 Registrant applied to register the mark “RED BOOT,” U.S. Application Serial No. 86/368,575 identifying international class of goods and services 033 for use with “distilled spirits”. (**Exhibit 1**).

8. Registrant’s application identified Basis “1(a)” and therefore was filed as an “actual use” application. Registrant’s application claimed a date of first use of August 14, 2014, and included a label as a specimen of use. (**Exhibit 1**).

9. Registrant’s application was allowed to mature without issue into U.S. Registration No. 4,715,638. (**Exhibit 1**).

10. Shortly after becoming aware of the Challenged Registration, Petitioner filed its own federal trademark application, U.S. Application Serial No. 86/653,620 for the mark “RED

BOOT” identifying international class of goods and services 033 for use with “distilled spirits” as well as identifying international class of goods and services 011 for use with “stills, namely, stills for the manufacture of distilled spirits” (hereinafter “Petitioner’s Application”). (**Exhibit 2**).

11. Petitioner’s Application claims a date of first use which predates Registrant’s date or first use. (**Exhibit 2**). Therefore Petitioner’s Mark has priority of use.

THE HARM TO PETITIONER

12. Petitioner anticipates that Petitioner’s Application will be rejected in view of the Challenged Registration. Unless the Challenged Registration is cancelled, Petitioner will be damaged because Registrant will have presumptive exclusive rights to the mark shown in the Challenged Registration, which is identical to Petitioner’s Mark, for identical or related goods and services.

PETITIONER’S PRIOR USE

13. Petitioner has used the “RED BOOT” mark continuously and conspicuously since its initial use. Some examples of these uses follow.

14. Petitioner has operated the website www.dehnerdistillery.com, which prominently showcases its Red Boot Whiskey, continuously since well before Registrant’s alleged date of first use. (**Exhibit 3**)

15. Petitioner has operated the website www.redbootstills.com which prominently showcases its Red Boot Stills, continuously since well before Registrant’s alleged date of first use. (**Exhibit 4**).

16. Prior to Registrant’s alleged date of first use, Applicant applied for approval of several labels that use the “Red Boot” mark through the COLA Registry (Certification/Exception

of Label/Bottle Approval) operated by the Alcohol and Tobacco Tax and Trade Bureau of the U.S. Department of the Treasury, with the first label being approved for use on February 1, 2013. **(Exhibit 5)**.

17. Prior to Registrant's alleged date of first use, Applicant has shipped cases of "Red Boot" distilled spirits to retailers and distributors. **(Exhibit 6** – invoice dated April 1, 2013).

18. Petitioner has operated a Facebook page for Dehner Distillery which prominently showcases its Red Boot Distilled Spirits, continuously since well before Registrant's alleged date of first use. **(Exhibit 7)**.

19. Petitioner's Facebook page includes pictures Mr. Joe Dehner with "Red Boot" whiskey packaged for shipping as well as on the shelves of a store dated April 12, 2013. **(Exhibit 7)**.

20. Petitioner's distillery and its "Red Boot" whiskey was featured in an article in The Des Moines Register dated April 24, 2013. **(Exhibit 8)**.

21. Petitioner's distillery and its "Red Boot" whiskey was featured in an article in the Des Moines Juice publication dated May 15, 2013. **(Exhibit 9)**.

22. Petitioner's "Red Boot" whiskey was featured in an advertisement in the Des Moines Juice publication dated November 27, 2013. **(Exhibit 10)**.

23. Petitioner purchased an advertisement in the Artesian Spirit magazine to promote its "Red Boot" stills on October 23, 2013. **(Exhibit 11)**.

24. Petitioner's Dehner Distillery and "Red Boot" whiskey was the subject of an article in Distilled Opinion dated February 13, 2014. **(Exhibit 12)**.

25. These are only a small subset of evidence and examples of Petitioner's use of the "Red Boot" mark well before Registrant's alleged date of first use.

CANCELLATION BASED ON PETITIONER'S SUPERIOR RIGHTS

26. The mark contained in Registrant's Challenged Registration is confusingly similar to the mark contained in Petitioner's Application, which covers identical or related goods and services.

27. Registrant's use of its confusingly similar mark in connection with its identified goods is likely to cause confusion, or to cause mistake, or to deceive.

28. Petitioner has superior rights by virtue of its prior use of Petitioner's Mark.

29. Accordingly, the Challenged Registration should be cancelled pursuant to 15 U.S.C. § 1052(d).

CANCELLATION BASED ON REGISTRANT'S NONUSE AND/OR ABANDONMENT

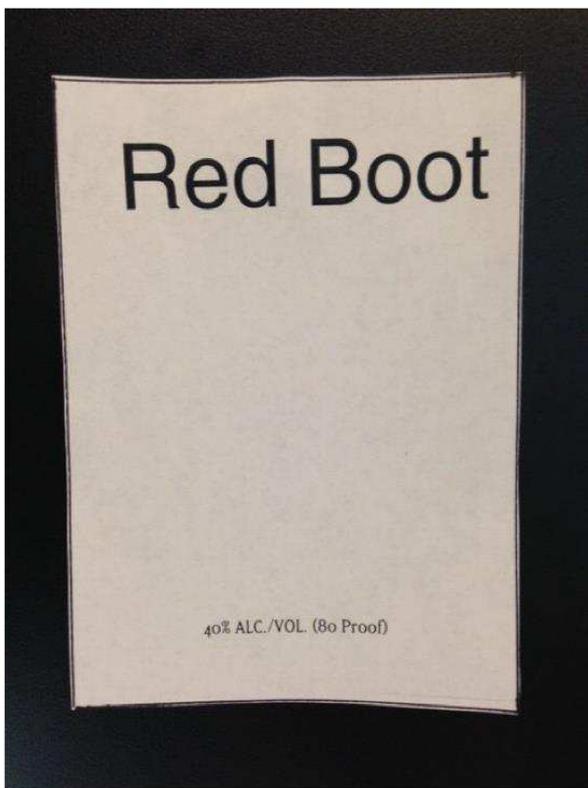
30. On information and belief, Registrant does not now sell or offer for sale in commerce the goods identified in the Challenged Registration. Petitioner's information and belief is based on its investigation regarding Registrant's use of the "Red Boot" mark, which uncovered no evidence of such use.

31. On information and belief, Registrant has never sold or offered for sale in commerce the goods identified in the Challenged Registration. Petitioner's information and belief is based on its investigation regarding Registrant's use of the "Red Boot" mark, which uncovered no evidence of such use.

32. As one example, it is Petitioner's understanding that a label for distilled spirits must be approved before use through the COLA Registry (Certification/Exception of Label/Bottle Approval) directed by the Alcohol and Tobacco Tax and Trade Bureau of the U.S. Department of the Treasury. Petitioner's search for "Red Boot" on the COLA Registry reveals only Petitioner's approved labels. **(Exhibit 5)**.

33. As another example, Petitioner questions Registrant’s specimen of actual use submitted with its trademark application, which appears to be a label for a bottle of Registrant’s distilled spirits as, in Petitioner’s opinion, this purported label would not comply with the Distilled Spirits Labeling Regulations in the Code of Federal Regulations (CFR). (**Exhibit 13**).

34. Specifically, when comparing Registrant’s submitted specimen of actual use (from **Exhibit 1**) with the Distilled Spirits Labeling Regulations in the CFR (from **Exhibit 13**), deficiencies appear, as is shown below:



Registrant’s Submitted Specimen
(**Exhibit 1**)



Distilled Spirits Labeling
Regulations example
(**Exhibit 13**)

35. Applying the requirements for a distilled spirits label (from **Exhibit 13**), Registrant’s purported label does not include: (a) the name and address of the bottler or importer,

(b) the class/type designation that accurately identifies the product in the bottle (such as gin, vodka, rum, tequila, cordials and liqueurs), (c) the net contents of the distilled spirit contained in the bottle, (d) the required health warning statement, or (e) the country of origin if the distilled spirit is imported.

36. For these reasons, Petitioner believes the submitted specimen of actual use cannot serve as an adequate label for the identified goods “distilled spirits” as it would not comply with the laws regulating distilled spirit labels (see **Exhibit 13**).

37. After a diligent investigation, Petitioner has been unsuccessful in locating any location where Registrant’s goods can be purchased.

38. Based on this information, Petitioner has a reasonable basis to believe that Registrant has not and did not make a bona fide use of the “Red Boot” mark in connection with the goods identified in the Challenged Registration prior to the filing of the use-based application for registration under the Trademark Act 1(a), 15 U.S.C. § 1051(a).

WHEREFORE, Petitioner respectfully requests that the Challenged Registration, U.S. Trademark Registration No. 4,715,638 be cancelled, that this Petition be granted in favor of Petitioner, and that the Board grant any such other relief deemed proper.

Respectfully submitted,

Dated: July 10, 2015

/Timothy J. Zarley/
Timothy J. Zarley, Reg. No. 45,253
ZARLEY LAW FIRM, P.L.C.
Capital Square
400 Locust, Suite 200
Des Moines, IA 50309-2350
(515) 558-0200 Telephone
(515) 558-7790 Facsimile
E-mail: tzarley@zarleylaw.com
Website: www.zarleylaw.com

CERTIFICATE OF MAILING AND SERVICE

I certify that on July 10, 2015, the foregoing PETITION FOR CANCELLATION is being electronically filed via the ESTTA on-line filing process.

I further certify that on July 10, 2015, the foregoing PETITION FOR CANCELLATION was served upon the Registrant by mailing a true and complete copy thereof by U.S. First Class Mail, postage prepaid and via e-mail transmission to:

Allied Lomar, Inc.
401 California Drive, Suite 500
Burlingame, California 94010
Phone: (650) 696-1700
Via E-mail: julie@inbeverage.com
Via E-mail: marci@inbeverage.com

/Timothy J. Zarley/
Timothy J. Zarley, Reg. No. 45,253

Correspondent e-mail: julie@inbeverage.com marci@inbeverage.com

Correspondent e-mail Yes
Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Apr. 07, 2015	REGISTERED-PRINCIPAL REGISTER	
Jan. 20, 2015	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jan. 20, 2015	PUBLISHED FOR OPPOSITION	
Dec. 31, 2014	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Dec. 11, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 01, 2014	ASSIGNED TO EXAMINER	72615
Aug. 27, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Aug. 19, 2014	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Apr. 07, 2015

United States of America
United States Patent and Trademark Office

Red Boot

Reg. No. 4,715,638

Registered Apr. 7, 2015

Int. Cl.: 33

TRADEMARK

PRINCIPAL REGISTER

ALLIED LOMAR, INC. (CALIFORNIA CORPORATION)
401 CALIFORNIA DRIVE, SUITE 500
BURLINGAME, CA 94010

FOR: DISTILLED SPIRITS, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 8-14-2014; IN COMMERCE 8-14-2014.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 86-368,575, FILED 8-15-2014.

WANDA KAY PRICE, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

From: TMOfficialNotices@USPTO.GOV
Sent: Tuesday, January 20, 2015 00:29 AM
To: julie@inbeverage.com
Cc: marci@inbeverage.com
Subject: Official USPTO Notice of Publication Confirmation: U.S. Trademark SN 86368575: RED BOOT

TRADEMARK OFFICIAL GAZETTE PUBLICATION CONFIRMATION

U.S. Serial Number: 86368575
Mark: RED BOOT
International Class(es): 033
Owner: Allied Lomar, Inc.
Docket/Reference Number:

The mark identified above has been published in the Trademark Official Gazette (TMOG) on Jan 20, 2015.

To Review the Mark in the TMOG:

Click on the following link or paste the URL into an internet browser: <https://tmog.uspto.gov/#issueDate=2015-01-20&serialNumber=86368575>

On the publication date or shortly thereafter, the applicant should carefully review the information that appears in the TMOG for accuracy. If any information is incorrect due to USPTO error, the applicant should immediately email the requested correction to TMPostPubQuery@uspto.gov. For applicant corrections or amendments after publication, please file a post publication amendment using the form available at <http://teasroa.uspto.gov/ppa/>. For general information about this notice, please contact the Trademark Assistance Center at 1-800-786-9199.

Significance of Publication for Opposition:

- * Any party who believes it will be damaged by the registration of the mark may file a notice of opposition (or extension of time therefor) with the Trademark Trial and Appeal Board. If no party files an opposition or extension request within thirty (30) days after the publication date, then eleven (11) weeks after the publication date a certificate of registration should issue.

To check the status of the application, go to http://tsdr.uspto.gov/#caseNumber=86368575&caseType=SERIAL_NO&searchType=statusSearch or contact the Trademark Assistance Center at 1-800-786-9199. Please check the status of the application at least every three (3) months after the application filing date.

To view this notice and other documents for this application on-line, go to http://tsdr.uspto.gov/#caseNumber=86368575&caseType=SERIAL_NO&searchType=documentSearch. NOTE: This notice will only become available on-line the next business day after receipt of this e-mail.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

Dec 31, 2014

NOTICE OF PUBLICATION

- | | |
|--------------------------------------|---|
| 1. Serial No.:
86-368,575 | 2. Mark:
RED BOOT
(STANDARD CHARACTER MARK) |
| 3. International Class(es):
33 | |
| 4. Publication Date:
Jan 20, 2015 | 5. Applicant:
Allied Lomar, Inc. |

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the *Official Gazette* on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the *Official Gazette* containing the publication of the mark may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954
Phone: 202-512-1800

By direction of the Commissioner.

Email Address(es):

julie@inbeverage.com
marci@inbeverage.com

From: TMOfficialNotices@USPTO.GOV
Sent: Wednesday, December 31, 2014 03:32 AM
To: julie@inbeverage.com
Cc: marci@inbeverage.com
Subject: Official USPTO Notification of Notice of Publication: U.S. Trademark SN 86368575: RED BOOT

NOTIFICATION OF "NOTICE OF PUBLICATION"

Your trademark application (Serial No. 86368575) is scheduled to publish in the *Official Gazette* on Jan 20, 2015. To preview the Notice of Publication, go to <http://tdr.uspto.gov/search.action?sn=86368575>. If you have difficulty accessing the Notice of Publication, contact TDR@uspto.gov.

PLEASE NOTE:

1. The Notice of Publication may not be immediately available but will be viewable within 24 hours of this e-mail notification.
2. You will receive a second e-mail on the actual "Publication Date," which will include a link to the issue of the *Official Gazette* in which the mark has published.

Do NOT hit "Reply" to this e-mail notification. If you have any questions about the content of the Notice of Publication, contact TMPostPubQuery@uspto.gov.

Trademark Snap Shot Publication Stylesheet
(Table presents the data on Publication Approval)

OVERVIEW

SERIAL NUMBER	86368575	FILING DATE	08/15/2014
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	PRICE, WANDA KAY	L.O. ASSIGNED	103

PUB INFORMATION

RUN DATE	12/12/2014		
PUB DATE	N/A		
STATUS	680-APPROVED FOR PUBLICATON		
STATUS DATE	12/11/2014		
LITERAL MARK ELEMENT	RED BOOT		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPub 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	RED BOOT

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Allied Lomar, Inc.
ADDRESS	401 California Drive, Suite 500 Burlingame, CA 94010
ENTITY	03-CORPORATION
CITIZENSHIP	California

GOODS AND SERVICES

INTERNATIONAL CLASS	033
DESCRIPTION TEXT	Distilled Spirits

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	033	FIRST USE DATE	08/14/2014	FIRST USE IN COMMERCE DATE	08/14/2014	CLASS STATUS	6-ACTIVE
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MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
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PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
12/11/2014	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	004
12/01/2014	DOCK	D	ASSIGNED TO EXAMINER	003
08/27/2014	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
08/19/2014	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	NONE
CORRESPONDENCE ADDRESS	ALLIED LOMAR, INC. Allied Lomar Inc 401 California Dr Ste 500 Burlingame, CA 94010-4008
DOMESTIC REPRESENTATIVE	NONE



Red Boot

NOTE TO THE FILE

SERIAL NUMBER: 86368575

DATE: 12/11/2014

NAME: wkprice

NOTE:

Searched:

Google
 Lexis/Nexis
 OneLook
 Wikipedia
 Acronym Finder
 Other:

Discussed ID with:

Senior Atty
 Managing Atty

 Protest evidence reviewed

Checked:

Geographic significance
 Surname
 Translation
 ID with ID/CLASS mailbox

Discussed Geo. Sig. with:

Senior Atty
 Managing Atty

Checked list of approved Canadian attorneys and agents

Discussed file with

Attorney/Applicant via:

<input type="checkbox"/> phone	<input type="checkbox"/> Left message with Attorney/Applicant
<input type="checkbox"/> email	
<input type="checkbox"/> Requested Law Library search for:	<input type="checkbox"/> Issued Examiner's Amendment and entered changes in TRADEUPS
<input type="checkbox"/> PRINT	<input type="checkbox"/> Added design code in TRADEUPS
<input type="checkbox"/> DO NOT PRINT	
<input type="checkbox"/> Description of the mark	<input type="checkbox"/> Re-imaged standard character drawing
<input type="checkbox"/> Translation statement	
<input type="checkbox"/> Negative translation statement	<input type="checkbox"/> Contacted TM MADRID ID/CLASS about misclassified definite ID
<input type="checkbox"/> Consent of living individual	
<input type="checkbox"/> Changed TRADEUPS to:	

OTHER: X-Search statistics not showing for #5. Viewed all live hits.

*** User:wkprice ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	83238	N/A	0	0	0:01	*red*[bi,ti] or *read*[bi,ti]
02	12190	N/A	0	0	0:01	*boot*[bi,ti] or *bout*[bi,ti] or *bewt*[bi,ti]
03	196	106	90	87	0:01	1 and 2
04	3998	N/A	0	0	0:01	2 and "033"[cc]
05	197	105	0	0	0:01	4 and ("033"[ic] or A[ic] or B[ic] or 200[ic])
06	437	N/A	0	0	0:01	*kline*[bi,ti]
07	39	27	0	0	0:01	6 and "025"[ic]
08	143	85	10	5	0:01	*klein*[bi,ti] and "025"[ic]
09	31692	N/A	0	0	0:02	1 and "033"[cc]
10	3031	N/A	0	0	0:02	9 and ("033"[ic] or A[ic] or B[ic] or 200[ic])
11	1642	N/A	6	6	0:02	10 and registrant[on]

Session started 12/11/2014 10:15:40 PM

Session finished 12/11/2014 11:08:09 PM

Total search duration 0 minutes 14 seconds

Session duration 52 minutes 29 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 86368575

Trademark/Service Mark Application, Principal Register

Serial Number: 86368575

Filing Date: 08/15/2014

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86368575
MARK INFORMATION	
*MARK	Red Boot
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Red Boot
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Allied Lomar, Inc.
*STREET	401 California Drive, Suite 500
*CITY	Burlingame
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	94010
PHONE	(650) 696-1700
FAX	(650) 342-9003
EMAIL ADDRESS	julie@inbeverage.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
LEGAL ENTITY INFORMATION	

TYPE	corporation
STATE/COUNTRY OF INCORPORATION	California
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	033
*IDENTIFICATION	Distilled Spirits
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/14/2014
FIRST USE IN COMMERCE DATE	At least as early as 08/14/2014
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT\16\863\685\86368575\xml1\ APP0003.JPG
SPECIMEN DESCRIPTION	digitally photographed label
CORRESPONDENCE INFORMATION	
NAME	Allied Lomar, Inc.
FIRM NAME	Allied Lomar, Inc.
STREET	401 California Drive, Suite 500
CITY	Burlingame
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	94010
PHONE	(650) 696-1700
FAX	(650) 342-9003
EMAIL ADDRESS	julie@inbeverage.com;marci@inbeverage.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
SIGNATURE INFORMATION	
SIGNATURE	/mp/
SIGNATORY'S NAME	Marci Palatella

SIGNATORY'S POSITION	President
DATE SIGNED	08/15/2014

Trademark/Service Mark Application, Principal Register

Serial Number: 86368575

Filing Date: 08/15/2014

To the Commissioner for Trademarks:

MARK: Red Boot (Standard Characters, see [mark](#))

The literal element of the mark consists of Red Boot.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Allied Lomar, Inc., a corporation of California, having an address of

401 California Drive, Suite 500

Burlingame, California 94010

United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 033: Distilled Spirits

In International Class 033, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 08/14/2014, and first used in commerce at least as early as 08/14/2014, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) digitally photographed label.

[Specimen File 1](#)

The applicant's current Correspondence Information:

Allied Lomar, Inc.

Allied Lomar, Inc.

401 California Drive, Suite 500

Burlingame, California 94010

(650) 696-1700(phone)

(650) 342-9003(fax)

julie@inbeverage.com;marci@inbeverage.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /mp/ Date: 08/15/2014
Signatory's Name: Marci Palatella
Signatory's Position: President
RAM Sale Number: 86368575
RAM Accounting Date: 08/18/2014

Serial Number: 86368575
Internet Transmission Date: Fri Aug 15 22:34:49 EDT 2014
TEAS Stamp: USPTO/BAS-50.76.38.241-20140815223449186
999-86368575-500534b1492afeba42e56bba202
bf913b93573de4e8e83c0ff26ceff2e9ee27-CC
-5663-20140815222646871845

Red Boot

Red Boot

40% ALC./VOL. (80 Proof)

Red Boot

Red Boot

40% ALC./VOL. (80 Proof)

EXHIBIT 2
Dehner Distillery, LLC v. Allied Lomar, Inc.
Petitioner, Dehner Distillery, LLC



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RED BOOT

Word Mark **RED BOOT**

Goods and Services IC 011. US 013 021 023 031 034. G & S: Stills, namely, stills for the manufacture of distilled spirits. FIRST USE: 20130201. FIRST USE IN COMMERCE: 20130201

IC 033. US 047 049. G & S: Distilled spirits. FIRST USE: 20130201. FIRST USE IN COMMERCE: 20130201

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 86653620

Filing Date June 5, 2015

Current Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Dehner Distillery, LLC LIMITED LIABILITY COMPANY IOWA 7500 University Avenue, Suite E Clive IOWA 50325

Attorney of Record Christopher A. Proskey

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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EXHIBIT 3
Dehner Distillery, LLC v. Allied Lomar, Inc.
Petitioner, Dehner Distillery, LLC

www.dehnerdistillery.com/



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New Products

1. Dehner Distillery 151 is now out!

Hang in there! We are updating everything on our website!

Coming soon

1. Atomic cinnamon whiskey
2. Havana Judge spiced rum
3. HEMP infused vodka

7/7/2015



Sinfully good spirits!™

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Red Boot Whiskey

This is a great smooth corn whiskey with some flare. We only use 80% corn the rest of the 20% is make up of malted barley, malted rye, malted red wheat. Having this combination we feel gives it a more flavorful notes, also a more enjoyable product experience.

Corn Whiskey

The corn whiskey is everything listed above. Our corn whiskey costs a lot more to make than 100% corn, but we think you will see why we do what we do when you taste it.

Spiced Whiskey

Spiced whiskey is born as our corn whiskey only we take it one step further. We steep spices in our great corn whiskey to give it a totally different profile. The spices are very lite and smooth. The spices are there to accent the whiskey and not over power it. We think you'll agree it's different but in a great way!

EXHIBIT 4
Dehner Distillery, LLC v. Allied Lomar, Inc.
Petitioner, Dehner Distillery, LLC

www.redbootstills.com/



7/7/2015



About

Joe Dehner has more than 20 years experience in manufacturing, two degrees in electronics and system automation, and 12 years experience in the distilling field. He is the proprietor of Dehner Distillery in Iowa, and he knows what it takes to design, build and operate a successful micro distillery (DSP).

Please check out the Dehner Distillery Web Site:
www.dehnerdistillery.com

Ninety percent of our products are made right here in Iowa, and I'm very proud of that. With overseas manufacturing taking so many jobs away, I want to do what I can to promote American-made products and ingenuity.



EXHIBIT 5

Dehner Distillery, LLC v. Allied Lomar, Inc.

Petitioner, Dehner Distillery, LLC

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U.S. Department of the Treasury

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ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

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<u>TTB ID</u>	<u>Permit No.</u>	<u>Serial Number</u>	<u>Completed Date</u>	<u>Fanciful Name</u>	<u>Brand Name</u>	<u>Origin</u>	<u>Class/Type</u>
13007001000019	DSP-IA-21003	13RB02	02/01/2013	RED BOOT	DEHNER DISTILLERY	20	143
13017001000054	DSP-IA-21003	131173	02/27/2013	RED BOOT	DEHNER DISTILLERY	20	149
13264001000012	DSP-IA-21003	13HJBR	11/07/2013	HAVANA JUDGE BLACK	RED BOOT	20	410
13264001000013	DSP-IA-21003	13HJR1	11/07/2013	HAVANA JUDGE	RED BOOT	20	410
13299001000143	DSP-IA-21003	13RBCR	12/24/2013	HAVANA JUDGE	RED BOOT	20	644
15147001000017	DSP-IA-21003	155261	06/26/2015		RED BOOT	20	210

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TTB ID: 13007001000019 [Printable Version](#)
Status: APPROVED

Vendor Code: 24441

Serial #: 13RB02

Class/Type Code: CORN WHISKY

Origin Code: IOWA

Brand Name: DEHNER DISTILLERY

Fanciful Name: RED BOOT

Type of Application: LABEL APPROVAL

For Sale In:
Total Bottle Capacity:
Wine Vintage:
Formula :
Approval Date: 02/01/2013

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.

Plant Registry/Basic Permit/Brewers No (Principal Place of Business):

DSP-IA-21003
 DEHNER DISTILLERY, JOSEPH DEHNER
 7500 E UNIVERSITY AVE , STE E
 CLIVE, IA 50325

Plant Registry/Basic Permit/Brewers No (Other):

Contact Information:

Joseph Dehner
Phone Number: (515) 559-4879
Fax Number:
jolede029@yahoo.com

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TTB ID: 13017001000094 [Printable Version](#)
Status: APPROVED

Vendor Code: 24441

Serial #: 131173

Class/Type Code: OTHER WHISKY

Origin Code: IOWA

Brand Name: DEHNER DISTILLERY

Fanciful Name: RED BOOT

Type of Application: LABEL APPROVAL

For Sale In:
Total Bottle Capacity:
Wine Vintage:
Formula : 1175830

Approval Date: 02/27/2013

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.

Plant Registry/Basic Permit/Brewers No (Principal Place of Business):

DSP-IA-21003
 DEHNER DISTILLERY, JOSEPH DEHNER
 7500 E UNIVERSITY AVE , STE E
 CLIVE, IA 50325

Plant Registry/Basic Permit/Brewers No (Other):

Contact Information:

Joseph Dehner
Phone Number: (515) 559-4879
Fax Number:
jolede029@yahoo.com

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TTB ID: 13264001000012

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Status: APPROVED

Vendor Code: 24441

Serial #: 13HJBR

Class/Type Code: U.S. RUM (GOLD)

Origin Code: IOWA

Brand Name: RED BOOT

Fanciful Name: HAVANA JUDGE BLACK

Type of Application: LABEL APPROVAL

For Sale In:
Total Bottle Capacity:
Wine Vintage:
Formula :
Approval Date: 11/07/2013

Qualifications:

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Plant Registry/Basic Permit/Brewers No (Principal Place of Business):

DSP-IA-21003
 DEHNER DISTILLERY, JOSEPH DEHNER
 7500 E UNIVERSITY AVE , STE E
 CLIVE, IA 50325

Plant Registry/Basic Permit/Brewers No (Other):

Contact Information:

Joseph Dehner
Phone Number: (515) 559-4879
Fax Number:
jolede029@yahoo.com

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TTB ID: [?](#) 13264001000013 [Printable Version](#)
Status: [?](#) APPROVED

Vendor Code: [?](#) 24441

Serial #: [?](#) 13HJR1

Class/Type Code: [?](#) U.S. RUM (GOLD)

Origin Code: [?](#) IOWA

Brand Name: [?](#) RED BOOT

Fanciful Name: [?](#) HAVANA JUDGE

Type of Application: [?](#) LABEL APPROVAL

For Sale In: [?](#)
Total Bottle Capacity: [?](#)
Wine Vintage: [?](#)
Formula : [?](#)
Approval Date: 11/07/2013

Qualifications: [?](#)

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Plant Registry/Basic Permit/Brewers No (Principal Place of Business): [?](#)

DSP-IA-21003
 DEHNER DISTILLERY, JOSEPH DEHNER
 7500 E UNIVERSITY AVE , STE E
 CLIVE, IA 50325

Plant Registry/Basic Permit/Brewers No (Other): [?](#)

Contact Information:

Joseph Dehner
Phone Number: (515) 559-4879
Fax Number:
jolede029@yahoo.com

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Status: APPROVED

Vendor Code: 24441

Serial #: 13RBCR

Class/Type Code: RUM SPECIALTIES

Origin Code: IOWA

Brand Name: RED BOOT

Fanciful Name: HAVANA JUDGE

Type of Application: LABEL APPROVAL

For Sale In:
Total Bottle Capacity:
Wine Vintage:
Formula : 1188949

Approval Date: 12/24/2013

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.

Plant Registry/Basic Permit/Brewers No (Principal Place of Business):

DSP-IA-21003
 DEHNER DISTILLERY, JOSEPH DEHNER
 7500 E UNIVERSITY AVE , STE E
 CLIVE, IA 50325

Plant Registry/Basic Permit/Brewers No (Other):

Contact Information:

Joseph Dehner
Phone Number: (515) 559-4879
Fax Number:
jolede029@yahoo.com

[Back](#)

Alcohol and Tobacco Tax and Trade Bureau, 2003 Contact us at webmaster@ttb.treas.gov



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ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
U.S. Department of the Treasury

COLA Registry

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
**TTB F 5100.31: Application For and Certification/
Exemption of Label/Bottle Approval**

COLA Detail

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TTB ID: 15147001000017 [Printable Version](#)
Status: APPROVED

Vendor Code: 24441

Serial #: 155261

Class/Type Code: GIN

Origin Code: IOWA

Brand Name: RED BOOT

Fanciful Name:
Type of Application: LABEL APPROVAL

For Sale In:
Total Bottle Capacity:
Wine Vintage:
Formula :
Approval Date: 06/26/2015

Qualifications:

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Approved despite error(s) in your GWS. When new labels are printed, change the statement so the spelling, punctuation, appearance, bold header, and capitalization are in compliance with 27 CFR 16, as follows:
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. (A PERIOD MUST APPEAR AFTER THE FIRST SENTENCE OF THE GWS.)

Plant Registry/Basic Permit/Brewers No (Principal Place of Business):

DSP-IA-21003

DEHNER DISTILLERY, JOSEPH DEHNER
7500 E UNIVERSITY AVE , STE E
CLIVE, IA 50325

Plant Registry/Basic Permit/Brewers No (Other): 

Contact Information:

Joseph Dehner
Phone Number: (515) 559-4879
Fax Number:
jolede029@yahoo.com

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TTB COLAS Version 3.11.17

EXHIBIT 6
Dehner Distillery, LLC v. Allied Lomar, Inc.
Petitioner, Dehner Distillery, LLC

Shipping B.O.L.

Dehner Distillery

7500 University Ave. Suite-E
Clive, IA 50325
Phone: (515) 559-4879
Email: jolede029@yahoo.com
Contact : Joseph Dehner

www.dehnerdistillery.com

Date: 4-1-13
Invoice number:
PO number: 5363
Due Date: 4-2-13
Dock Time: 1:15 pm
Shipping method: pickup truck

Billing Address:

Shipping Address:

State of Iowa ABD warehouse
Ankeny, IA

Item	Description	Qty/ Cases	# of Pallets	Total / Cases
27597	RED BOOT SPICED WHISKEY	41	1	41

RECEIVED BY:

*Chad
Schubert*

Total Weight : 1332.5 LB

Total Cases : 41

Shipping B.O.L.

Dehner Distillery

7500 University Ave. Suite-E
Clive, IA 50325
Phone: (515) 559-4879
Email: jolede029@yahoo.com
Contact : Joseph Dehner

www.dehnerdistillery.com

Date: 5-7-13
Invoice number:
PO number: 5699
Due Date: 5-7-13
Dock Time: 1:30 pm
Shipping method: pickup truck

Billing Address:

Shipping Address:

State of Iowa ABD warehouse
Ankeny, IA

Item	Description	Qty/ Cases	# of Pallets	Total / Cases
27597	RED BOOT SPICED WHISKEY	42	1	42

Ben Haro

5-7-13

RECEIVED BY:

Total Weight : 1365 LB

Total Cases : 42

EXHIBIT 7
Dehner Distillery, LLC v. Allied Lomar, Inc.
Petitioner, Dehner Distillery, LLC

https://www.facebook.com/Dehner-Distillery/

Dehner Distillery

Dehner Distillery Wine/Spirits

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ABOUT

Dehner Distillery is a micro-distillery located in Clive, IA.
<http://www.dehnerdistillery.com/>

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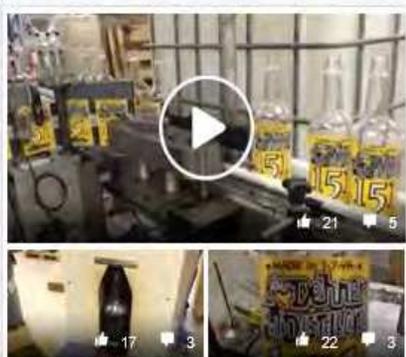
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Dehner Distillery
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This is the first shipment made April 2nd 2013. 41 cases of Red Boot Spiced Whiskey.



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Dehner Distillery in West Des Moines, Iowa
April 12, 2013 · 🌐



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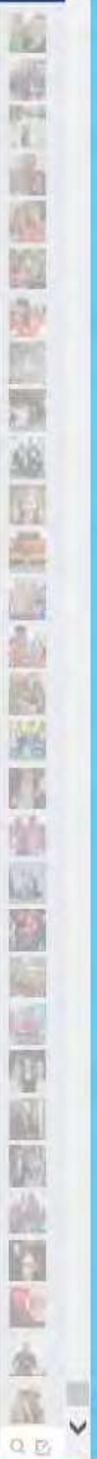
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FOODSTUFFS: News and notes from Iowa's culinary scene

All the whisk(e)y news that's fit to print

There has been a recent rash of new distilleries, concocting all sorts of artisan booze, in Iowa. The latest addition is **Dehner Distillery** in Clive, which produces **Red Boot Spiced Whiskey**, now available in stores.

Distillery owner and founder Joseph Dehner says all the 80-proof hooch is made with Iowa corn that is milled in-house. All the equipment was also made from the ground up by Dehner.

Check it out at www.dehnerdistillery.com.

And speaking of whiskey, **Cedar Ridge Distillery in Swisher**, up and running since 2006, has released the first four casks of **Cedar Ridge Single Malt Whisky** to the public. Single malt whiskey is traditionally made in Scotland and sold in the U.S. as Scotch whisky — and no, Scotch whisky does not have an “e” in it.

“The Cedar Ridge name has become synonymous with our corn-based bourbon whiskey here,” Quint said. “What most people don’t realize is that nearly all single malt scotch is aged in used bourbon barrels that Scotland imports from the U.S.”

In deference to the immutable laws of supply and demand, Scotch whisky (no-“e”) lovers should pony up PDQ and



JENNIFER MILLER covers the Iowa food and restaurant scene for the Register. Have a story idea? Email Jennifer at jennmille@dmreg.com, or call 515-699-7073.

reserve up to two bottles of Cedar Ridge’s single malt now by going to www.crdistillery.com.

A portion of the first four barrels also will be available at the Swisher location starting May 3.

Cedar Ridge plans to release a total of 12 single malt casks this year. A single malt release party with live music, exclusive tastings and tours is scheduled at Cedar Ridge on the weekend of May 3-5. It is located just off I-380, exit 10, in rural Swisher.

More information

about Cedar Ridge Distillery and Cedar Ridge Single Malt Whisky can be found at www.crdistillery.com.

But wait, there's more!

In case that's not whiskey (or whisky) news enough, put on your scotch goggles for the Des Moines-area stop of the 28-week, cross-country **Ardbeg Rocket Tour** — celebrating the “world’s first space experiment” (with scotch anyway). The experiment will test the effects of micro-gravity on maturation. The Scotch whisky was blasted off to the International Space Station in the fall of 2011 and the maturation experiment will test the interaction of Ardbeg-crafted molecules with charred oak.

The tour will touch down here May 1-4 and will feature special promotions each day. Obvi-

ously, the love of science is a good enough reason to get out there and see the tour events, but in case you need more incentive, there will be a life-sized rocket, Rocket and Ardbeg “girls,” drink specials, samples and tour bottle pricing. Look for the rocket/semi in Des Moines:

» May 1: At landmark sites around town, such as the Iowa state Capitol area, AE Dairy’s cows, Exile Brewery’s liberty crown, the Iowa State Fairgrounds

» May 2: 4-7 p.m. at Ingersoll Wine & Spirits, 3500 Ingersoll Ave.

» May 3: 3-6 p.m. at Hy-Vee Wine & Spirits, 555 S. 51st St., West Des Moines, 8-11 p.m. at Tonic, West Glen Shopping Center in West Des Moines

» May 4: 11 a.m.-2 p.m. at Hy-Vee Wine & Spirits, 1725 Jordan Creek Parkway, West Des Moines; 5-8 p.m. and Royal Mile, 210 Fourth St.

Amuse-bouches

» **Centro** has introduced **Pizza and Peroni Night**. Get half-price pizza and bottles of Peroni beer at Centro every Monday from 4 p.m. to close (dine-in only); 1003 Locust St., 248-1780.

» Get tickets for the 11th annual **Winefest Des Moines** events now. They are available at all Dahl’s locations and www.winefestdesmoines.com. The festival offers an entire week of events to choose from June 1-8.

» The Kentucky Derby is coming up and if you’re looking for an excuse to bust out the seersucker or a Princess Di hat, head to **Creme Cupcake + Dessert**, 543 28th St. from 6 to 10 p.m. Thursday for **Derby Thursday**. Kick off the celebrations early with Southern-inspired desserts, \$5 mint juleps and 10 percent off for anyone that wears a big hat or seersucker. 288-1050

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culture shock

Distill local



Use the LifelnAction app to peek inside the distillery. Go to dmjuice.com to watch the video and get a recipe to try with Red Boot Spiced Whiskey.



EMILY GENCO
emily@dmjuice.com

New breweries are hot in central Iowa, but what about the stuff closer to the product the state is known for: corn Enter Dehner Distillery, producing Red Boot Spiced Whiskey, crafted by Joe Dehner, 33.

Dehner's dream to own a business started in small-town Illinois. He had an apple orchard and cherry trees growing up. He hoped to one day own fruit trees and make juice, cider and wine.

"When I got older, I realized it would take a lot of money to buy a lot of ground and a lot of trees.

One bad winter or one bad season could wipe you out," Dehner said.

In high school, he read an article on distilling. It seemed much more practical to open a business where the raw goods are provided to him.

After studying distilling, reading books and taking classes for more than 10 years, Dehner is now producing whiskey of his own recipe in a roughly 1,750-square-foot space in Clive.

The fruits of Dehner's new dream required trial, error and patience to mature. His recipe took more than three years to develop. He received the permits allowing him to

Dehner Distillery

Sample it: Call 559-4879 to schedule a tasting.
Find it: 7500 University Ave., Suite E, Clive
Info: dehnerdistillery.com

operate in February 2013.

Red Boot Spiced Whiskey is made from 80 percent corn. The other 20 percent comes from malted products.

The way Dehner cuts his product and the spices he uses to make his 80 proof Red Boot Spiced Whiskey create a smooth drink, he said. "What I tell

people is, 'You can actually drink it. You don't have to slam it back or shoot it.'"

Dehner said water quality, the types of grain used, the brewing and distilling processes and the spices involved can all affect the taste and caliber of the whiskey.

"I wanted to shoot for 80 percent corn because we're in a corn state. It's very accessible for us."

Dehner also wanted to rely on Iowa crops to strengthen the local economy and create a value-added product.

"I'm taking something that an Iowa farmer made and turning it into an Iowa whiskey," he said.

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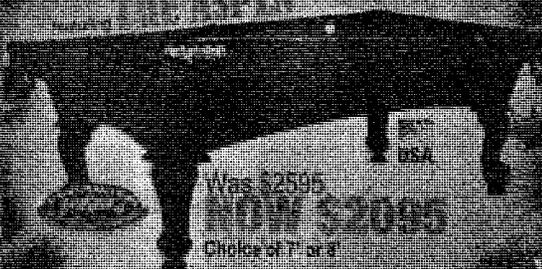
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Spiced Flavored
Whiskey from Dehner
Distillery, \$28.49 at
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\$39.99 at Ingersoll
Wine Merchants;
Prairie Fire Cinnamon
Flavored Whiskey by
Iowa Distilling
Company, \$25.99 at
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Where to find it

**Ingersoll Wine
Merchants**, 1300
50th St., West Des
Moines,
ingersollwine-
com, 327-9191.

**Court Avenue
Brewing Compa-
ny**, 309 Court
Ave., 515-282-
2739, courtave
brew.com

ZACH BOYDEN/HOLMSTADT

Date of Agreement: 10/23/2013Issue No(s): 5Issue Date(s): WINTER

Issue Closing Date(s): _____

ARTISAN SPIRIT

Business Name: RED BOOT STILLSContact Person: JOSEPH DEHNERTitle: OWNERAddress: 3200 Vine StreetCity/State/ZIP: WEST DES MOINES, IA 50265Telephone Number: 515-559-4879

Fax Number: _____

ADVERTISER INFORMATION

AD TYPE: 1/4 PGAD RATE PER ISSUE: \$637NUMBER OF ISSUES: 4

COST SUBTOTAL: _____

ARTWORK CHARGE: _____

ADDITIONAL COLOR: _____

TOTAL COST: \$ 2,548

AD TYPES, AD RATES, PREFERRED POSITIONS

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1/2 Page: \$1380

1/4 Page: \$750

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1/4 Page: \$675 (2x) | \$637 (3x+)

1/8 Page: \$315 (2x) | \$297 (3x+)

NOTES

TOTAL COST CAN BE SPLIT INTO 4 EQUAL PAYMENTS OF \$637 WITH THE FIRST PAYMENT DUE 11/8/13 AND SUBSEQUENT PAYMENTS PRIOR TO PUBLICATION OF EACH ISSUE.

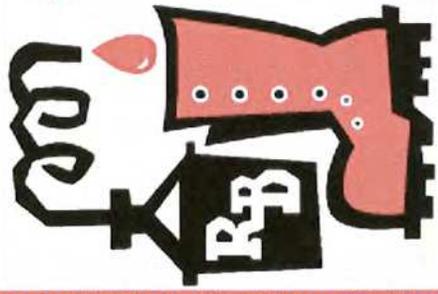
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Joseph L Dehner 11-1-2013
Advertiser Signature/Date

Artisan Spirit Magazine Representative Signature/Date

Winter 2013
Issue

Artisan Spirit mag
Page 36



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RED BOOT STILLS are proven to *perform!*
Call for an estimate **TODAY!** Ask for **JOE**.

SIS-559-4879 ★ www.REDBOOTSTILLS.com

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EXHIBIT 12
Dehner Distillery, LLC v. Allied Lomar, Inc.
Petitioner, Dehner Distillery, LLC

DISTILLED OPINION

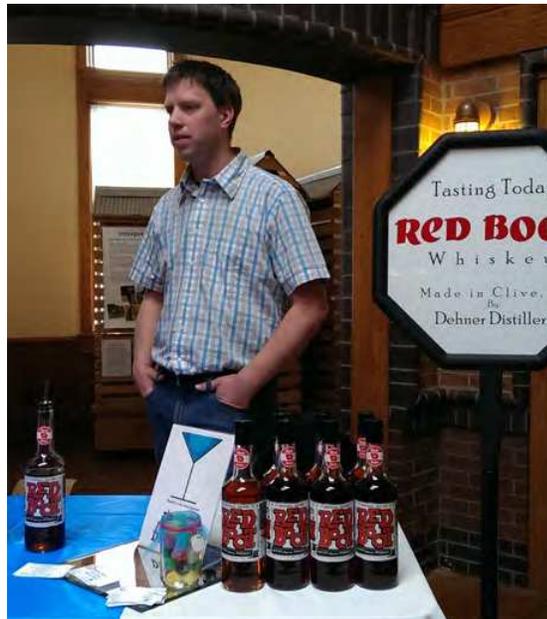
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IOWA OPINIONS ON FOOD AND DRINK

New Iowa Distillery with Great Promise: Dehner Distillery and Red Boot Whiskey

BY DISTILLEDOPINION FEBRUARY 13, 2014 CORN WHISKEY IOWA DISTILLERY WHITE DOG

Earlier this month I attended the Living History Farms' Spirits and Sweets event in which Iowa distilleries and local eateries offer sips of spirits and local desserts. I was surprised to see a new distillery that I'd not heard of before, **Dehner Distillery**. Dehner Distillery is in Clive, Iowa and makes a Red Boot Spiced Whiskey and a Red Boot Corn Whiskey. I tried the Corn Whiskey because there is no better way to understand and gauge the whiskey-making skills of a distiller than to go for a dash of the white dog.



This is a very smooth whiskey. It is obviously a corn whiskey, with that sweet corn aroma and flavor profile unique to corn whiskeys. But it is the lack of any methanol burn that makes it amazing. Clearly something special is going on here. The owner is Joseph Dehner and he was kind enough to tell me his story. Mr. Dehner happens to be very handy with the welding torch and began welding at the tender age of five. After an earlier career he decided to start making whiskey stills. He hand-builds all of his still equipment. From the photos on his Facebook page it appears that he has a combo potstill/column setup. I see a lot of stainless steel, so I don't know if there is much copper in the process. If not, I'd like to know how he gets such a nice product. He uses local Iowa corn that he buys from the local Waukee Elevator just down the road.



PHOTOS



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I don't know how he does it, but I hope he continues. Even with the recent boom in local distilleries both here and around the country it is likely that there will be more than a few ringers, and I've tasted some. But this is hands-down the best corn whiskey I've tried that is made by an Iowa micro distiller. Try some and let me know if you agree.

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DISTILLED SPIRITS LABELING REGULATIONS

in the Code of Federal Regulations (CFR)

Read more about the following consumer protection regulations online at www.ttb.gov:

- Brand Name** 27 CFR 5.34
- Name and Address** 27 CFR 5.36
- Alcohol Content** 27 CFR 5.37
- Caloric and Carbohydrate Representations**
27 CFR 5.42 and TTB Ruling 2004-1
- Health Warning Statement**
27 CFR Part 16
- Country of Origin** 27 CFR 5.36(e)
- Class and Type** 27 CFR 5.35
- Presence of Neutral Spirits and Coloring, Flavoring and Blending Materials** 27 CFR 5.39
- Net Contents** 27 CFR 5.38/5.47a
- Prohibited Practices** 27 CFR 5.42
- Statements of Age and Percentage**
27 CFR 5.40
- Voluntary Disclosure of Major Food Allergens** 27 CFR 5.32a



How TTB Protects the Public

American adults who enjoy an occasional alcohol beverage of their choice do so without fear that the product they are consuming might not be labeled properly. Why don't they need to worry? Because a small Government agency takes pride in assuring that the alcohol beverages sold in the United States are properly described on the container.

TTB takes tremendous pride in its strategic mission to "Protect the Public," which is designed to assure the integrity of alcohol beverages in the marketplace, verify and substantiate industry member compliance with laws and regulations, and to provide information to the public as a means of preventing consumer deception.

TTB reviews more than 100,000 alcohol labels, as well as advertisements, each year to verify that they provide adequate information to the consumer concerning the identity and quality of each alcohol beverage and to make certain that they do not mislead consumers.

TTB investigators conduct product integrity field investigations to check that industry members are following all Federal labeling and production standards for alcohol beverages. These investigations often include a comprehensive chemical analysis conducted at one of our two state-of-the-art laboratories.

This informational pamphlet is designed to educate the American public about how to read an alcohol beverage label. If you want to learn more, visit our web Web site at www.ttb.gov.

TTB P 5190.2 (04/2008)

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A proud past...A focused future

WHAT A DISTILLED SPIRITS LABEL TELLS YOU

If you have ever taken a look behind a bar, you have seen rows upon rows of different bottles in a variety of heights, sizes, colors, and flavors. Usually the majority of these bottles are distilled spirits. Distilled spirits are generally produced by first combining various ingredients and fermenting them. The resulting fermented "mash," which has a low alcohol content, is then heated in a still until the alcohol turns into a vapor, which is captured and then turned back into liquid alcohol. This process is called "distillation," and is generally what distinguishes these products from wine and malt beverages. TTB regulations require that many types of distilled spirits, such as vodka, gin, rum, and tequila, must be bottled at no less than 40% alcohol by volume (80° proof). Other products, such as cordials, liqueurs, and specialties, may be bottled at a lower alcohol content. A careful review of the label will help you to understand the product in the bottle, and TTB designed this guide to help consumers make an informed choice when purchasing a distilled spirits product. TTB regulations can be quite detailed in regard to the production of distilled spirits and the information appearing on the bottle; not every possibility is presented here, but this guide will give you a good grasp of the fundamentals. For more detailed information please see the regulations listed on the back of this pamphlet.

BRAND NAME

The brand name is used to identify and market a distilled spirits product. A brand name may not mislead the consumer about the age, identity, origin, or other characteristics of the distilled spirit.

NAME AND ADDRESS

The name and address of the bottler or importer must appear on the container. However, the address of the bottler's principal place of business may be used instead of the actual location where the bottling took place. It is also permissible for a bottler/importer to use a duly authorized trade name in place of its usual operating name.

ALCOHOL CONTENT

A statement of alcohol content expressed in percent by volume must appear on the brand label. An additional alcohol content statement expressed in degrees of proof may be shown in addition to the required alcohol by volume statement.

HEALTH WARNING STATEMENT

By law, this statement is required on all alcohol beverages containing 0.5% or more alcohol by volume.

COUNTRY OF ORIGIN

Pursuant to regulations issued by TTB, as well as requirements of U.S. Customs and Border Protection, a Country of Origin statement is required on containers of imported distilled spirits. Acceptable statements include "Product of (insert name of country)" or "Produced in (insert name of country)."

T.L. Smith's



GIN

DISTILLED FROM GRAIN

BOTTLED BY XYZ DISTILLING CO., CITY, STATE

40% ALC./VOL. (80 PROOF) 750 ML

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.

NET CONTENTS

The net contents of a distilled spirit container must be stated in metric units of measure. Distilled spirits must be bottled in sizes of 1.75 L, 1 L, 750 ml, 375 ml, 200 ml, 100 ml, or 50 ml. A can must be filled to 355 ml, 200 ml, 100 ml, or 50 ml.

CLASS/TYPE DESIGNATION

The brand label of a distilled spirit must contain a designation that accurately identifies the product in the bottle. The regulations are quite specific as to the ingredients and processes used to produce a product of a given class or type. For instance:

Gin must derive its main characteristic flavor from juniper berries. In addition, gin labels must also show the commodity from which the product was distilled (e.g., "Distilled from grain").

Vodka is defined as neutral spirits (alcohol produced from any material at or above 190° proof) so distilled, or so treated after distillation, as to be without distinctive character, aroma, taste, or color. Like gin, vodka labels must also show the commodity from which the product was distilled.

Rum must be made from the fermented juice of sugar cane, sugar cane syrup, sugar cane molasses, or other sugar cane by-products.

Tequila must be derived principally from the Agave Tequilana Weber plant ("blue" variety). Tequila is a distinctive product of Mexico, manufactured in Mexico in compliance with the laws of Mexico.

Cordials and Liqueurs are produced from spirits in combination with fruits, flowers, plants, juices, or natural flavors and with the addition of at least 2.5% by weight of certain sugars.

A distilled spirits product may not fit into any of the classes or types of spirits found in the regulations, usually because of the addition of flavoring materials or because it was made with a non-standard blending or treating material. When this is the case, the product must be labeled with a truthful and adequate statement of composition such as "Rum with natural flavors." These products will also bear a mandatory fanciful name, such as "Spiced Rum."