

ESTTA Tracking number: **ESTTA74606**

Filing date: **04/05/2006**

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

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	RussellG.Weiner
Granted to Date of previous extension	04/05/2006
Address	P.O. BOX 27740 Las Vegas, NV 89126 UNITED STATES

Attorney information	Ian K. Boyd, Esq. Harvey Siskind LLP Four Embarcadero Center, 39th Floor San Francisco, CA 94111 UNITED STATES iboyd@harveysiskind.com, sappel@harveysiskind.com, clee@harveysiskind.com
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**Applicant Information**

Application No	78976392	Publication date	12/06/2005
Opposition Filing Date	04/05/2006	Opposition Period Ends	04/05/2006
Applicant	JMBP, Inc. 2nd Floor 640 North Sepulveda Boulevard Los Angeles, CA 90049 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 021. All goods and services in the class are opposed, namely: Beverage glassware, namely glasses and mugs, and beverage accessories namely swizzle sticks
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Attachments	Notice of Opposition.060405.FINAL.pdf ( 3 pages )
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Signature	/Ian K. Boyd/
Name	Ian K. Boyd, Esq.
Date	04/05/2006

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IAN K. BOYD (SBN 191434)  
2 SETH I. APPEL (SBN 233421)  
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5 Attorneys for Opposer,  
Russell G. Weiner

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

9 RUSSELL G. WEINER, an individual

10 Opposer,

11 v.

12 JMBP, INC., a California corporation

13 Applicant.

**NOTICE OF OPPOSITION**

Opposition No.

Application Serial No. 78976392

Published in the Official Gazette  
on December 6, 2005

15 Opposer RUSSELL G. WEINER believes that he will be damaged by registration of the mark  
16 shown in Serial No. 78976392 and hereby opposes the same.

17 **Description of Applicant's Application:** Filed on June 7, 2004. Published for Opposition in  
18 the Official Gazette on December 6, 2005. Mark: ROCKSTAR in Class 21 for "Beverage glassware,  
19 namely glasses and mugs, and beverage accessories namely swizzle sticks."

20 As grounds of opposition, Opposer alleges that:

21 1. **Ownership of Registered Marks.** Opposer is the owner of numerous U.S. Trademark  
22 Registrations for ROCKSTAR and similar marks in connection with beverages, including the  
23 following:

24 •ROCKSTAR (Stylized), Reg. No. 2784403, for "sports drinks, namely, energy drinks" in  
25 Class 32; Opposer filed his application to register this mark on December 13, 2002, and the mark was  
26 registered on the Principal Register on November 18, 2003

1 •ROCKSTAR ENERGY DRINK, Reg. No. 2613067, for “sports drinks, namely, energy  
2 drinks” in Class 32; Opposer filed his application to register this mark on August 19, 1999, and the  
3 mark was registered on the Principal Register on August 27, 2002

4 •PARTY LIKE A ROCKSTAR, Reg. No. 2545247, for “sports drinks, namely, energy  
5 drinks” in Class 32; Opposer filed his application to register this mark on February 29, 2000, and the  
6 mark was registered on the Principal Register on March 5, 2002

7 The foregoing registrations were based upon applications filed in the United States Patent and  
8 Trademark Office on dates prior to the date of filing of Applicant’s application. Said registered  
9 marks of Opposer are valid and subsisting and constitute prima facie evidence of Opposer’s exclusive  
10 right to use said marks in commerce on the goods specified in said registrations. In view of the  
11 similarity of the parties’ respective marks and the related nature of the parties’ respective goods,  
12 Opposer alleges that Applicant’s claimed mark so resembles Opposer’s registered marks as to be  
13 likely to cause confusion, or to cause mistake, or to deceive.

14 2. **Ownership of Pending Applications.** In addition to the Registered Marks noted  
15 above, Opposer is the owner of numerous pending U.S. Trademark Applications for ROCKSTAR  
16 and similar marks in connection with beverages, whose filing dates precede that of Applicant’s  
17 application, including the following:

18 •ROCKSTAR, App. No. 78113129, for “distilled spirits and alcoholic beverage produced  
19 from a brewed malt base with natural flavors” in Class 33, filed on March 7, 2002

20 •ROCKSTAR, App. No. 78219472, for “hotel and restaurant services” in Class 43 and  
21 “operating social clubs which feature food, drink and entertainment” in Class 45, filed on February  
22 26, 2003

23 •ROCKSTAR (Stylized), App. No. 78192472, for “distilled spirits and alcoholic beverage  
24 produced from a brewed malt base with natural flavors” in Class 33, filed December 9, 2002

25 •PARTY LIKE A ROCKSTAR, App. No. 78113122, for “distilled spirits and alcoholic  
26 beverages produced from a brewed malt base with natural flavors” in Class 33, filed March 7, 2002

27 •ROCKSTAR 21, App. No. 78718845, for “Distilled spirits and alcoholic beverage produced  
28 from a brewed malt base with natural flavors” in Class 33, filed September 22, 2005

1 •ROCKSTAR 21, App. No. 78718839, for "Sports drinks, namely, energy drinks; beer" in  
2 Class 32, filed September 22, 2005.

3 The foregoing Applications have priority over Applicant's application. Again, in view of the  
4 similarity of the parties' respective marks and the related nature of the parties' respective goods,  
5 Opposer alleges that Applicant's claimed mark so resembles Opposer's applied-for marks as to be  
6 likely to cause confusion, or to cause mistake, or to deceive.

7 **3. Extensions of Time to File Opposition.** Opposer timely filed notices of extensions of time  
8 to file the within Opposition with the United States Patent and Trademark Office.

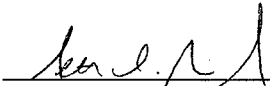
9 WHEREFORE, Opposer prays that said application Serial No. 78976392 be rejected, that no  
10 registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

11 Opposer hereby appoints Harvey Siskind LLP, a law firm composed of members of the bar of the  
12 State of California, to act as attorneys for Opposer herein, with full power to prosecute said opposition,  
13 to transact all relevant business with the Patent and Trademark Office and in the United States Courts,  
14 and to receive all official communication in connection with this opposition.

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16 Dated: April 5, 2006

Respectfully submitted,

17 HARVEY SISKIND LLP  
18 IAN K. BOYD  
19 SETH I. APPEL

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