

ESTTA Tracking number: **ESTTA138543**

Filing date: **05/02/2007**

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	Barton Brands, Ltd.
Granted to Date of previous extension	05/02/2007
Address	One South Dearborn Street Suite 1700 Chicago, IL 60603 UNITED STATES

Attorney information	Jeffrey H. Brown Michael Best & Friedrich LLP Two Prudential Plaza 180 N. Stetson, Suite 2000 Chicago, IL 60601 UNITED STATES jhbrown@michaelbest.com, dlrupick@michaelbest.com Phone:312.222.0800
----------------------	---

Applicant Information

Application No	78896278	Publication date	01/02/2007
Opposition Filing Date	05/02/2007	Opposition Period Ends	05/02/2007
Applicant	Star Industries, Inc. 425 Underhill Blvd. Syosset, NY 11791 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 1973/00/00 First Use In Commerce: 1973/00/00 All goods and services in the class are opposed, namely: scotch

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.		Application Date	
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		

Goods/Services			
U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	HARTLEY		
Goods/Services	brandy		

Attachments	C0777947.PDF (3 pages)(125599 bytes)
-------------	---

Signature	/Jeffrey H. Brown/
Name	Jeffrey H. Brown
Date	05/02/2007

CERTIFICATE OF TRANSMISSION

I hereby certify that this Notice of Opposition is being transmitted by the Electronic System for Trademark Trials and Appeals to the United States Patent and Trademark Office on May 2, 2007.


Gina A. Bilotto

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

In the Matter of Trademark Applicant:)
)
Star Industries, Inc.)
)
Serial No. : 78/896278)
)
Filed : May 30, 2006)
)
Mark: : HARTLEY PARKER'S)

Published in the Official Gazette dated January 2, 2007

BARTON BRANDS, LTD.)
)
Opposer,)
)
v.) Opp. No.
)
STAR INDUSTRIES, INC.,)
)
Applicant.)

NOTICE OF OPPOSITION

Barton Brands, Ltd. ("Opposer"), a Delaware corporation, believes that it will be damaged by the registration of the mark HARTLEY PARKER'S shown in Serial No. 78/896278, in International Class 33 for scotch ("Applicant's Mark"), by Star Industries, Inc. ("Applicant"), and hereby opposes the registration of said application.

As grounds of opposition, Opposer alleges:

1. For many years, and long before Applicant's actual or constructive first use of Applicant's Mark, Opposer, including by and through a related company and its and their predecessors in interest, has continuously used, and presently uses, the trademark HARTLEY in interstate commerce throughout the United States in connection with brandy (the "HARTLEY Mark").

2. Opposer and its predecessors in interest have used the HARTLEY Mark in interstate commerce in connection with brandy since at least as early as May 14, 1943.

3. Opposer is the owner of United States Patent and Trademark Office Application Serial No. 77/170616 for "brandy."

4. Opposer, including by and through a related company, and its and their predecessors in interest, has, at great expense, continuously engaged in the sale and promotion of brandy under and in connection with the HARTLEY Mark.

5. Opposer, including by and through a related company, and its and their predecessors in interest, has, at great expense, extensively and continuously offered to the public high quality goods under the HARTLEY Mark. By reason of such efforts and by virtue of the excellence of the goods sold under the HARTLEY Mark, the public and trade have come to recognize the HARTLEY Mark as signifying Opposer and the goods offered under the HARTLEY Mark, and Opposer enjoys exceedingly valuable goodwill in connection with the goods offered under and in connection with the HARTLEY Mark.

6. The mark proposed for registration by Applicant is confusingly similar in sight, sound, meaning, and commercial impression to the HARTLEY Mark which has been used in interstate commerce prior to any use or application for trademark registration by Applicant. Moreover, the goods provided under the HARTLEY Mark, namely, brandy, and the goods opposed herein are related, and would be promoted through the same channels of trade for sale to, and use by, the same category of purchasers.

7. If Applicant is permitted to use and register its HARTLEY PARKER'S mark for its goods as specified in the application herein opposed, such registration and use by Applicant are likely to cause confusion, deception and mistake, and will seriously damage Opposer. Persons familiar with the

HARTLEY Mark would be likely to buy Applicant's goods as and for goods made and sold by Opposer. Any such confusion in trade inevitably would result in loss of sales to Opposer. Furthermore, any defect, objection or fault found with Applicant's goods marketed under Applicant's Mark would reflect upon and seriously injure the reputation which has been established for the goods sold under the HARTLEY Mark.

8. If Applicant were granted the registration herein opposed for the goods herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of Applicant's Mark. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that Applicant's application, Serial No. 78/896278, be rejected, and that the mark therein sought for the goods specified therein be denied and refused.

The PTO is authorized to deduct the filing fee for this Notice of Opposition from deposit account 501965.

The Opposer hereby consents and appoints Jeffrey H. Brown and Luke DeMarte, members of the bar of the State of Illinois, whose address is Michael Best & Friedrich LLP, 180 N. Stetson Avenue, Suite 2000, Chicago, IL 60601, as its duly authorized agents and attorneys in the matter of the opposition above-identified to prosecute said opposition, to transact all business in the Patent and Trademark Office and in the United States courts in connection with this opposition, to sign its name to all papers which may hereafter be filed in connection therewith, and to receive all communications related to the same.

Dated: May 2, 2007

Respectfully submitted,

BARTON BRANDS, LTD.

By: 
One of its Attorneys

Jeffrey H. Brown
Luke W. DeMarte
Michael Best & Friedrich LLP
180 N. Stetson Avenue
Suite 2000
Chicago, IL 60601
(312) 222-0800
Attorneys for BARTON BRANDS, LTD.

S:\CLIENT\017587\9001\C0777500.0