

ESTTA Tracking number: **ESTTA233848**

Filing date: **08/29/2008**

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    | Sierra Nevada Brewing Co.                            |             |            |
| Entity  | Corporation  | Citizenship | California |
| Address | 1075 E. 20TH ST.<br>Chico, CA 95928<br>UNITED STATES |             |            |

|                            |  |
|----------------------------|--|
| Correspondence information | Leonard D. Messinger, Esq.<br>Attorney<br>Fulwider Patton LLP<br>6060 Center Drive 10th floor<br>Los Angeles, CA 90045<br>UNITED STATES<br>lmessinger@fulpat.com |
|----------------------------|--|

### Applicant Information

|                        |   |                        |            |
|------------------------|---|------------------------|------------|
| Application No         | 77269028  | Publication date       | 08/05/2008 |
| Opposition Filing Date | 08/29/2008  | Opposition Period Ends | 09/04/2008 |
| Applicant              | Red Torpedo Limited<br>c/o Masons Solicitors 33 Bothwell Street<br>Glasgow, G26NL<br>UNITED KINGDOM |                        |            |

### Goods/Services Affected by Opposition

|  |
|--|
| Class 032.<br>All goods and services in the class are opposed, namely: Beers, lagers |
|--|

### Grounds for Opposition

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

### Mark Cited by Opposer as Basis for Opposition

|                      |          |                       |            |
|----------------------|----------|-----------------------|------------|
| U.S. Application No. | 77376887 | Application Date      | 01/21/2008 |
| Registration Date    | NONE     | Foreign Priority Date | NONE       |
| Word Mark            | TORPEDO  |                       |            |
| Design Mark          |          |                       |            |
| Description of Mark  | NONE     |                       |            |

|                |  |
|----------------|--|
| Goods/Services | Class 032. First use: First Use: 2006/04/12 First Use In Commerce: 2006/04/18<br>Ale |
|----------------|--|

|                     |  |
|---------------------|--|
| Related Proceedings | Opposition to Application Serial No. 77268989 (Opposition Number not yet assigned) |
|---------------------|--|

|             |  |
|-------------|--|
| Attachments | 77376887#TMSN.jpeg ( 1 page )( bytes )<br>77269028.pdf ( 3 pages )(79850 bytes ) |
|-------------|--|

### **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 | /Leonard D. Messinger/     |
| Name      | Leonard D. Messinger, Esq. |
| Date      | 08/29/2008                 |

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

In the Matter of:  
Serial No.: 77269028  
Filed: August 31, 2007  
Mark: RED TORPEDO AND DESIGN  
Published: August 5, 2008  
Applicant: Red Torpedo Limited

**SIERRA NEVADA BREWING CO.**, a  
California Corporation ,

Opposer,

v.

**RED TORPEDO LIMITED**,

Applicant.

Opposition No.

**NOTICE OF OPPOSITION**

**SIERRA NEVADA BREWING CO.**, ("Opposer"), 1075 East 20th Street, Chico, CALIFORNIA 95928, a corporation organized and existing under the laws of the State of California, believes it will be damaged by registration of the mark shown in the above identified application, and hereby opposes that application.

The grounds for opposition are as follows:

1. Since prior to 2007, Opposer has used the mark **TORPEDO**, in interstate commerce, for ale.
2. Opposer has filed United States Trademark Application No. 77376887 for the mark **TORPEDO**, for ale.
3. Opposer owns valuable goodwill in its trademark **TORPEDO**, with respect to ale.
4. Applicant **Red Torpedo Limited** ("Applicant"), filed trademark

application Serial No. 77269028 for the mark RED TORPEDO AND DESIGN in International Class

32 ("Applicant's Application"), based on Applicant's purported bona fide intent to use that mark in commerce. At the time of publication, the goods identified in that application were beers, lagers.

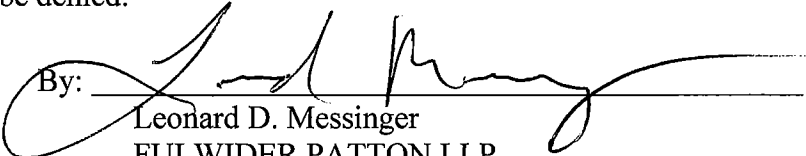
5. On March 5, 2008, the United States Patent and Trademark Office suspended Opposer's above identified application to register its mark, **TORPEDO**, for ale, pending disposition of Applicant's Trademark application Nos. 77268989 and 77269028, finding that if either of those applications proceeds to registration, it may be cited against, and may thereby result in refusal of Opposer's above identified trademark application, under section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

6. Applicant's mark **RED TORPEDO AND DESIGN**, as applied to, or used in connection with beers or lagers, so resembles Opposer's previously used mark **TORPEDO**, that it is likely to cause confusion or cause mistake, or to deceive.

7. Based upon the foregoing, registration on the Principal Register of the United States Patent and Trademark Office of the mark depicted in Application Serial No. 77269028 will cause injury and damage to Opposer.

WHEREFORE, Opposer requests that registration of applicant's mark **RED TORPEDO AND DESIGN**, Application Serial No. 77269028, be denied.

Dated: August 29, 2008

By: 

Leonard D. Messinger  
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Attorneys for Opposer

**CERTIFICATE OF SERVICE**

I hereby Certify that on the date noted below, a true copy of the foregoing

NOTICE OF OPPOSITION

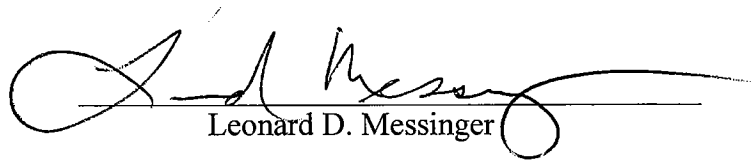
was served by First Class Mail, postage prepaid, addressed as follows:

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Date:

August 29, 2008



Leonard D. Messinger