

ESTTA Tracking number: **ESTTA259338**

Filing date: **01/07/2009**

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	Saviah Rose Winery LLC
Granted to Date of previous extension	03/11/2009
Address	1979 JB George Road Walla Walla, WA 99362 UNITED STATES

Correspondence information	Saviah Rose Winery LLC 1979 JB George Road Walla Walla, WA 99362 UNITED STATES thoffmann@hoffmanns.com
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Applicant Information

Application No	77496371	Publication date	11/11/2008
Opposition Filing Date	01/07/2009	Opposition Period Ends	03/11/2009
Applicant	JAQK, Inc 353 Broadway Street San Francisco, CA 94133 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Wine


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	78655574	Application Date	06/21/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE JACK		

Design Mark	<h1>THE JACK</h1>		
Description of Mark	NONE		
Goods/Services	Class 033. First use: Wines		

U.S. Application No.	77517561	Application Date	07/09/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE JACK SAVIAH CELLARS COLUMBIA VALLEY RED WINE 2006 ALC. 13.6% BY VOL.		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2005/08/09 First Use In Commerce: 2005/08/10 Wines		

Related Proceedings	91186124,91186123,91186120
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Attachments	78655574#TMSN.jpeg (1 page)(bytes) 77517561#TMSN.jpeg (1 page)(bytes) Opposition JAQKCHARMED.pdf (3 pages)(76528 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 Facsimile or email (by agreement only) on this date.

Signature	/Thomas J Hoffmann/
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Name	Saviah Rose Winery LLC
Date	01/07/2009

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

Opposer: **Saviah Rose Winery, LLC**

Attorney for Opposer: **Thomas J Hoffmann**
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Gambier, Ohio, 43022
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thoffmann@hoffmanns.com

Applicant: **Jaqk, Inc.**
353 Broadway Street
San Francisco, California 94133

Mark: **JAQK CHARMED**

Application Number: **77496371**

Opposition Number:

Attorney for Applicant: **Teddy K. Joe**
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4 Embarcadero Center, Suite 1450
San Francisco, California 94111-4129
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NOTICE OF OPPOSITION

Opposer Saviah Rose Winery, LLC (referred to as Saviah) will be damaged by the registration of the mark JAQK CHARMED for “wine” in application USSN 77496371 and states the grounds under 15 U.S.C. § 1063 and 37 C. F. R. § 2.101 and 2.104 for its opposition to that application:

1. Opposer is the owner of and does business as the well-known winery, Saviah Cellars, located in Walla Walla, Washington. Saviah sells and has sold a wide variety of wines throughout the United States since 2000.
2. Since at least as early as August 10, 2005, Saviah has sold wine in interstate commerce under the marks THE JACK and THE JACK AND DESIGN.
3. Saviah owns a pending, published application for the mark THE JACK for “wines” in Class 33 under USSN 78655574 filed June 21, 2005.
4. Saviah owns a pending application for the mark THE JACK AND DESIGN for “wines” in Class 33 under USSN 77517561 filed July 9, 2008 claiming use since August 10, 2005.
5. Saviah has used its THE JACK marks in commerce in connection with wines since at least as early as August 10, 2005. By virtue of continuous and extensive sales and advertising of its marks in connection with its sales of wines, Saviah’s THE JACK marks are widely and favorably known by the public throughout the United States. Saviah’s THE JACK marks are symbolic of the substantial goodwill and consumer recognition established by Saviah as a result of outstanding quality of its wines. By reason of Saviah’s extensive use and advertising of its THE JACK marks and the resulting favorable public recognition, the marks uniquely identify Saviah and its product to the public. As such, Saviah has acquired extensive common law rights in THE JACK marks in connection with wines.
6. Applicant JAQK, Inc. filed application USSN 77496371 on June 11, 2008 to register the mark JAQK CHARMED for wine on the basis of intent to use, § 1(b). Applicant’s mark was published for opposition in the Official Gazette of November 11, 2008. Opposer was

granted an extension of time through and including March 11, 2009 to oppose this application.

7. Saviah has long used its marks since long prior to Applicant's filing date.
8. Applicant's mark JAQK CHARMED is similar to Opposer's THE JACK marks.
9. Applicant's mark is proposed to be used with goods which are identical to the goods Saviah offers under its THE JACK marks, namely wine and wines
10. Saviah will be damaged by the registration of Applicant's JAQK CHARMED mark because it so resembles Saviah's previously used THE JACK marks as to be likely to cause consumer confusion, mistake and deception. Consumers familiar with Saviah's THE JACK marks for wine will be likely, erroneously, to believe the Applicant's wine is a Saviah product or is endorsed, sponsored, or licensed by Saviah. Thus, the registration of this mark on the Principal Register would be inconsistent with the rights of Saviah in THE JACK marks.
11. Opposer therefore requests that application USSN 77496371 be refused registration.

Respectfully Submitted:

/Thomas J Hoffmann/

Thomas J Hoffmann
Attorney for Opposer

CERTIFICATE OF SERVICE I hereby certify that a true copy of this document was served upon the attorney for opposer by via electronic mail to tnoah@dergnoah.com on January 7, 2009 and via first class mail on January 8, 2009 to Dergosits & Noah LLP, 4 Embarcadero Center, Suite 1450, San Francisco, California 94111-4129. /Thomas J Hoffmann/