

TTAB

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

|                              |   |                                |
|------------------------------|---|--------------------------------|
| Rebel Wine Co. LLC           | ) | Opposition No. 91/202,468      |
|                              | ) |                                |
| Opposer,                     | ) | Mark:        THE WHISKEY THIEF |
|                              | ) | App. No.:    85/265,667        |
|                              | ) |                                |
| v.                           | ) |                                |
|                              | ) |                                |
| Undisputed International LLC | ) |                                |
|                              | ) |                                |
| Applicant.                   | ) |                                |
|                              | ) |                                |

**ANSWER TO NOTICE OF OPPOSITION**

Applicant, Undisputed International LLC (“Applicant”), hereby submits its Answer to the Notice of Opposition filed by Opposer Rebel Wine Co., LLC (“Opposer”) by reference to the numbered paragraphs of the Notice of Opposition.

1. Admitted.
2. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 2 and therefore denies them. (a) Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 2, subsection a, and therefore denies them. (b) Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 2, subsection b, and therefore denies them.
3. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 3, and therefore denies them.
4. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 4, and therefore denies them.
5. Denied.
6. Denied.

FURTHERMORE, Applicant sets forth the following in support of its position:

7. Applicant’s mark is unique and distinctive



12-20-2011

8. Applicant's mark and Opposer's marks are for different consumer goods; respectively whiskey and wine
9. Applicant's mark and Opposer's marks create different commercial impressions
10. It is extremely uncommon for whiskey producers to also produce wine, or for wine producers to also produce whiskey
11. It is extremely uncommon for whiskey or wine producers to sell products in both categories under the same or related brand name
12. Consumers do not correlate whiskey and wine brands as coming from a sole producer
13. The wording in Applicant's mark THE WHISKEY THIEF and Opposer's mark THREE THIEVES are completely different and share no common words
14. Applicant's mark contains the word "THE" not found in Opposer's mark THREE THIEVES
15. Applicant's mark contains the word "WHISKEY" not found in Opposer's mark THREE THIEVES
16. Applicant's mark contains the word "THIEF" not found in Opposer's mark THREE THIEVES
17. Opposer's mark contains the word "THREE" not found in Applicant's mark
18. Opposer's mark contains the word "THIEVES" not found in Applicant's mark
19. The wording in Applicant's mark THE WHISKEY THIEF and Opposer's mark LE THIEF are different
20. Applicant's mark contains the word "THE" not found in Opposer's mark LE THIEF
21. Applicant's mark contains the word "WHISKEY" not found in Opposer's mark LE THIEF
22. Opposer's mark contains the word "LE" not found in Applicant's mark
23. Grape Visions, LLC (a 3<sup>rd</sup> party that does not appear to have any relationship to Opposer) filed for the mark BARREL THIEF (Registration No. 3,274,348) on August 17, 2005, in International Class 33, for wine, and stated its first use in commerce for the mark as March 1, 2004. That mark was registered on August 7, 2007.
24. The mark BARREL THIEF was filed after Opposer's mark THREE THIEVES was filed and registered, in the same exact category of consumer goods for wine, and the application was accepted and granted registration.
25. Opposer's mark LE THIEF was filed and registered after the mark BARREL THIEF had been filed, in the same exact category of consumer goods for wine, and the application was accepted and granted registration.

26. The BARREL THIEF mark and Opposer's mark LE THIEF, both contain the word "THIEF", both are for wine, and both have co-existed as separate registered marks owned by two separate parties.

WHEREFORE, Applicant prays:

1. That Opposer's Notice of Opposition is dismissed with prejudice;
2. That a Notice of Allowance issues on Applicant's application; and
3. That registration of the trademark THE WHISKEY THIEF shown and specified in Application Serial No. 85/265,667 be accepted and approved.

Respectfully submitted,

Dated: December 17, 2011

By: \_\_\_\_\_



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**CERTIFICATE OF SERVICE**

I, Amir Peay, managing member for Applicant, hereby certify that on this 17<sup>th</sup> day of December, 2011, a true a correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served via first class mail, postage prepaid upon:

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CC:

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