

ESTTA Tracking number: **ESTTA637220**

Filing date: **11/05/2014**

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	Matt Brewing Co., Inc.
Granted to Date of previous extension	11/05/2014
Address	811 Edward Street Utica, NY 13502 UNITED STATES

Attorney information	Theodore C. Max Sheppard Mullin Richter & Hampton LLP 30 Rockefeller Plaza New York, NY 10112 UNITED STATES docketing@sheppardmullin.com, ipdocketingdc@sheppardmullin.com, tmax@sheppardmullin.com, tbaker@sheppardmullin.com Phone:212-653-8700
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Applicant Information

Application No	86027053	Publication date	07/08/2014
Opposition Filing Date	11/05/2014	Opposition Period Ends	11/05/2014
Applicant	Adirondack Pub & Brewery, Inc. 33 Canada St. Lake George, NY 12845 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 1999/04/28 First Use In Commerce: 1999/09/11 All goods and services in the class are opposed, namely: Beer

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2194904	Application Date	03/17/1997
Registration Date	10/13/1998	Foreign Priority Date	NONE
Word Mark	ADIRONDACK TRAIL MIX		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 1993/10/00 First Use In Commerce: 1993/10/00 beers and ale

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ADIRONDACK LAGER		
Goods/Services	beers and lager		

Attachments	Notice of Opposition - ADIRONDACK BREWERY.PDF(57954 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 First Class Mail on this date.

Signature	/Theodore C. Max/
Name	Theodore C. Max
Date	11/05/2014

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

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	:	
Matt Brewing Co., Inc.,	:	Opposition No. _____
Opposer,	:	
v.	:	NOTICE OF OPPOSITION
	:	
Adirondack Pub & Brewery, Inc.,	:	
Applicant.	:	
_____	x	

In re Application of Adirondack Pub & Brewery, Inc.:

Serial No.: 86/027053
Filed: August 2, 2013
Trademark: ADIRONDACK BREWERY
Published: July 8, 2014

Matt Brewing Co., Inc., a New York corporation (“Matt Brewing” or “Opposer”), having a mailing address of 811 Edward Street, Utica, New York 13502, believes that it may be damaged by registration of the mark ADIRONDACK BREWERY for goods in International Class 32 filed by Adirondack Pub & Brewery, Inc. (“Pub & Brewery” or “Applicant”). Therefore, Matt Brewing opposes Pub & Brewery’s application for the mark ADIRONDACK BREWERY in accordance with the provisions of Section 13 of the Trademark Act (15 U.S.C. § 1063).

Applicant’s mark is described as follows:

Mark: ADIRONDACK BREWERY
Serial No.: 86/027053
Filed: August 2, 2013
International Class: 32
Goods: Beer

The grounds for the Opposition are as follows:

1. Opposer is a well-known family-owned brewery, which has been brewing beer since 1853. Opposer is the eleventh largest craft brewery in the United States based upon volume and has won numerous awards over the past few decades for its craft beers, including its Adirondack Lager, Black & Tan and Black Forest beers. Opposer has used the distinctive “ADIRONDACK TRAIL MIX” and “ADIRONDACK LAGER” trademarks in commerce in connection with its critically acclaimed and commercially successful beers since at least as early as 1993 and 1990, respectively (“the Adirondack Marks”).

2. Upon information and belief, Applicant cannot claim a priority date for the goods and services covered in the application that precedes that of Opposer. Upon information and belief, Applicant claims a date of first use of April 28, 1999 and a date of first use in commerce of September 11, 1999 in its application.

3. Opposer owns the registration for “ADIRONDACK TRAIL MIX” in International Class 32, based upon a first use in commerce of October 1, 1993. The application for “ADIRONDACK TRAIL MIX” was filed on March 17 1997 (Registration No. 2194904) for beers and ale and the mark was registered on October 13, 1998. As the result of filing Section 8 and 15 Declarations, this mark has become incontestable.

4. Opposer also owns the common law trademark “ADIRONDACK LAGER” for use in interstate commerce in conjunction with the sale of beer and lager in International Class 32 since at least as early as August 1990.

5. Opposer uses each of the Adirondack Marks, respectively, on its beer products, on product packaging, on invoices, by means of its Internet website located at www.saranac.com, in advertising and promotional materials, in conjunction with its goods, and in other ways customary to the trade.

6. Each of the Adirondack Marks have been featured in unsolicited media in magazines, newspapers and online that have brought notoriety and fame to Opposer and to each of the Adirondack Marks.

7. The Opposer has advertised, offered for sale and sold its goods bearing each of the Adirondack Marks, respectively, in channels of trade and geographic markets that have afforded Opposer and each of its Adirondack Marks significant fame and success.

8. Opposer uses each of the Adirondack Marks to market its goods to consumers, and engages in extensive advertising and promotional efforts. By virtue of its efforts, and the expenditure of considerable sums from promotional activities, as well as the excellence of the quality of its goods and services, Opposer has gained a highly valuable reputation and goodwill through use of each of the Adirondack Marks. As a result, Opposer's ADIRONDACK TRAIL MIX and ADIRONDACK LAGER marks have become uniquely identified with Matt Brewing.

9. Opposer believes that it will be damaged by the registration of Applicant's proposed mark and opposes Applicant's application for the following reasons:

a. Applicant's proposed mark, ADIRONDACK BREWERY, is nearly identical to Opposer's ADIRONDACK TRAIL MIX and ADIRONDACK LAGER marks and is allegedly being used on identical goods as those which feature each of Opposer's Adirondack Marks. Such similarity is likely to cause confusion, to cause mistake, and to deceive

the public, who are likely to believe that Applicant's goods and services have their origin with Opposer and/or that such goods and services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer, thereby injuring Opposer and the consuming public.

b. Opposer is located in close geographic proximity to Applicant and advertises and markets goods identical to those marketed under Opposer's Adirondack Marks to the same audience and thus, Applicant's Mark, when used in connection with Applicant's goods and services, is likely to cause confusion, to cause mistake, and to deceive the public and the public, who are likely to believe that Applicant's goods and services have their origin with Opposer and/or that such goods and services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would, as a result, be injured by the granting of a registration for Applicant's Mark.

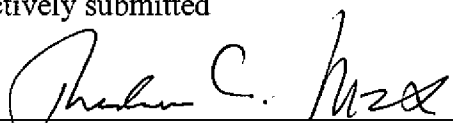
c. Applicant may intend to gain notoriety and financial success by confusing the public by using Opposer's similar ADIRONDACK TRAIL MIX and ADIRONDACK LAGER marks that have afforded Opposer a reputation of excellence.

d. Such use will also dilute the distinctive and famous nature of Opposer's ADIRONDACK TRAIL MIX and ADIRONDACK LAGER marks.

e. Therefore, Opposer prays that Applicant's proposed trademark for ADIRONDACK BREWERY be denied registration.

Dated: November 5, 2014

Respectively submitted

By: 
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Tyler Baker

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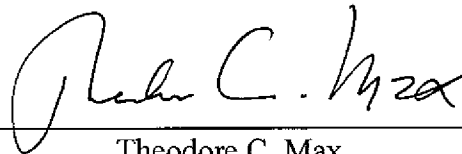
Attorneys for Opposer Matt Brewing Co., Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Adirondack Pub & Brewery, Inc. by mailing said copy on November 5, 2014 by First Class Mail, postage prepaid to:

Charles H Knull
Knull P.C.
81 Chestnut Street
Cooperstown, NY 13326

Dated: November 5, 2014



Theodore C. Max