

ESTTA Tracking number: **ESTTA651133**

Filing date: **01/20/2015**

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	Rebel Wine Co. LLC		
Entity	limited liability company	Citizenship	California
Address	100 St. Helena Hwy South St. Helena, CA 94574 UNITED STATES		
Attorney information	J. Scott Gerien; Aaron D. Currie Dickenson Peatman & Fogarty 1455 First St., Ste. 301 Napa, CA 94559 UNITED STATES tmltg@dpf-law.com Phone:7072527122		

Applicant Information

Application No	86352503	Publication date	01/06/2015
Opposition Filing Date	01/20/2015	Opposition Period Ends	02/05/2015
Applicant	Bourbon Limited 96-98 Pentonville Road London, N19JB UNITED KINGDOM		

Goods/Services Affected by Opposition

Class 033. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Whiskey


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. Registration No.	2789854	Application Date	07/30/2002
Registration Date	12/02/2003	Foreign Priority Date	NONE
Word Mark	THREE THIEVES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2003/06/01 First Use In Commerce: 2003/06/01		

	Wine
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U.S. Registration No.	3932672	Application Date	10/28/2005
Registration Date	03/15/2011	Foreign Priority Date	NONE
Word Mark	LE THIEF		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2009/12/16 First Use In Commerce: 2009/12/16 Wine		

U.S. Application No.	86223106	Application Date	03/17/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THREE THIEVES XL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 0 First Use In Commerce: 0 Wine		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	THREE THIEVES		
Goods/Services	wine		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	LE THIEF		

Goods/Services	wine		
U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	THREE THIEVES XL		
Goods/Services	wine		

Attachments	78742983#TMSN.png(bytes) 86223106#TMSN.png(bytes) Notice of Opposition - WHISKEY THIEF.pdf(327111 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	/Jaymie Kilgore/
Name	Jaymie Kilgore
Date	01/20/2015

Certificate of Electronic Filing

I hereby certify that this correspondence is being electronically filed with the Trademark Trial and Appeal Board through the ESTTA system located at <http://estta.uspto.gov>.

Dated: 1/20/2015

By [Signature] Jaymie Kilgore

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

Rebel Wine Co. LLC,
Opposer,
vs.
Bourbon Limited,
Applicant.

OPPOSITION NO.

NOTICE OF OPPOSITION

TO THE COMMISSIONER OF TRADEMARKS:

Rebel Wine Co. LLC, a California limited liability company located at 100 St. Helena Hwy. South, St. Helena, California 94574 ("Opposer"), believes it will be damaged by registration of the mark WHISKEY THIEF for whiskey, shown in U.S. Trademark Application Serial No. 86/352,503, filed on July 30, 2014, by Bourbon Limited ("Applicant") and therefore opposes such registration. Solely for the purpose of this proceeding, Opposer alleges the following as grounds for opposition:

- 1. Applicant seeks to register WHISKEY THIEF as a trademark for whiskey in International Class 33 based on Applicant's intent to use the WHISKEY THIEF mark in United States commerce, as evidenced by U.S. Trademark Application Serial No. 86/352,503 filed on July 30, 2014 (the "Application").
- 2. Applicant has disclaimed the term "WHISKEY" in the Application.

1 3. Applicant's WHISKEY THIEF mark was published for opposition on January 6,
2 2015.

3 4. Opposer is the owner of the following marks (collectively the "THIEF Marks");

4 a. Opposer is the owner of incontestable U.S. Trademark Registration No.
5 2,789,854 issued on December 2, 2003, for the mark THREE THIEVES for wine in International
6 Class 33, with a first use date of June 1, 2003, and constructive first use date of July 30, 2002,
7 both of which dates precede the filing date of Applicant's Application by more than eleven (11)
8 years.

9 b. Opposer is also the owner of U.S. Trademark Registration No. 3,932,672
10 issued on March 15, 2011, for the mark LE THIEF for wine in International Class 33, with a first
11 use date of December 16, 2009, and constructive first use date of October 28, 2005, both of
12 which precede the filing date of Applicant's Application by nearly five (5) years.

13 c. Opposer is also the owner of U.S. Trademark Application Serial No.
14 86/223,106 which was issued a notice of allowance on October 7, 2014, for the mark THREE
15 THIEVES XL for wine in International Class 33, with a constructive first use date of March 17,
16 2014, which precedes the filing date of Applicant's Application.

17 5. Applicant's WHISKEY THIEF mark is likely to cause confusion, mistake or to
18 deceive the public because it is virtually identical to Opposer's THIEF Marks and the goods on
19 which Opposer uses its THIEF Marks are virtually identical, substantially similar or related to
20 the goods identified in Applicant's Application and said goods are purchased by the same group
21 of consumers. Accordingly, Applicant's WHISKEY THIEF mark is confusingly similar to
22 Opposer's THIEF Marks such that Applicant is not entitled to register the mark WHISKEY
23 THIEF for whiskey and the Application should be denied in accordance with Section 2(d) of the
24 Trademark Act of 1946, 15 U.S.C. §1052(d).

25 6. Opposer avers that if Applicant is granted the registration herein opposed, it
26 would interfere with Opposer's exclusive right to use its THIEF Marks herein relied upon, all to
27 the detriment and damage of Opposer. Accordingly, Opposer avers that for the reasons set forth
28 above, it will be damaged by a grant of registration to Applicant of WHISKEY THIEF which is

1 the subject of U.S. Trademark Application Serial No. 86/352,503.

2 WHEREFORE, Opposer prays as follows:

- 3 1. That this Opposition be sustained;
- 4 2. That U.S. Trademark Application Serial No. 86/352,503 be rejected; and
- 5 3. That registration of the trademark WHISKEY THIEF shown and specified in U.S.
6 Trademark Application Serial No. 86/352,503 be refused and denied.

7 Please charge Opposer's counsel's Deposit Account #503564 the \$300 filing fee for the
8 Opposition, and any other fees which may be necessary to effectuate the filing of this opposition.

9
10 Dated: January 26, 2015

DICKENSON, PEATMAN & FOGARTY

11
12
13 By 

J. Scott Gerien
Aaron D. Currie

14
15 1455 First Street, Ste. 301
16 Napa, California 94559
17 Telephone: 707-252-7122
18 Facsimile: 707-255-6876

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28 Attorneys for Opposer,
Rebel Wine Co. LLC

PROOF OF SERVICE


1
2 I declare that I am over the age of 18 years, employed in the County of Napa, and not a
3 party to the within action; my business address is 1455 First Street, Ste. 301, Napa, CA 94559.
4 On January 20, 2015, I served the attached **NOTICE OF OPPOSITION** on the person(s) listed
5 below:

6 BOURBON LIMITED
7 96-98 PENTONVILLE ROAD
8 LONDON
9 N19JB
10 UNITED KINGDOM

11 by enclosing a true copy in a sealed envelope addressed as shown above and placing the
12 envelope for collection and mailing following our ordinary business practices. I am readily
13 familiar with this business' practice for collecting and processing correspondence for mailing.
14 On the same day that correspondence is placed for collection and mailing, it is deposited in the
15 ordinary course of business with the United States Postal Service in a sealed envelope with
16 postage fully prepaid.

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct.

19 Executed January 20, 2015, at Napa, California.

20 
21 Jaymie Kilgore
22 Legal Secretary

DICKENSON PEATMAN & FOGARTY