

ESTTA Tracking number: **ESTTA683578**

Filing date: **07/14/2015**

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	The Gambrinus Company
Granted to Date of previous extension	07/15/2015
Address	14800 SAN PEDRO AVENUE, SUITE 300 SAN ANTONIO, TX 78232 UNITED STATES
Attorney information	J. Scott Gerien; Christopher Passarelli Dickenson, Peatman & Fogarty 1455 First Street, Ste. 301 Napa, CA 94559 UNITED STATES tmltg@dpf-law.com Phone:7072527122

Applicant Information

Application No	86251332	Publication date	03/17/2015
Opposition Filing Date	07/14/2015	Opposition Period Ends	07/15/2015
Applicant	Andrew J. Grygiel P.O. Box 80106 Billings, MT 59108 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Beer

Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1646210	Application Date	07/05/1990
Registration Date	05/28/1991	Foreign Priority Date	NONE
Word Mark	WICKED ALE		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 032. First use: First Use: 1987/02/26 First Use In Commerce: 1987/06/22 beer
----------------	---

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	WICKED ALE		
Goods/Services	beer		

U.S. Registration No.	1761609	Application Date	11/15/1991
Registration Date	03/30/1993	Foreign Priority Date	NONE
Word Mark	PETE'S WICKED ALE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1987/02/26 First Use In Commerce: 1987/06/22 beer		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	PETE'S WICKED ALE		
Goods/Services	beer		

U.S. Registration No.	3552392	Application Date	10/26/2001
Registration Date	12/30/2008	Foreign Priority Date	NONE
Word Mark	WICKED		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2001/08/01 First Use In Commerce: 2001/08/01 BEER [AND ALE]		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	WICKED		
Goods/Services	beer [and ale]		

Attachments	76330260#TMSN.png(bytes) Notice of Opposition - WICKED STREET BREWING COMPANY.pdf(327213 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	/Jaymie Kilgore/
Name	Jaymie Kilgore
Date	07/14/2015

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://esta.uspto.gov>.

Dated: 7/14/15

By Jaymie Kilgore

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

The Gambrinus Company,
Opposer,

vs.

Andrew J. Grygiel, DBA Wicked Street Brewing Company

Applicant.

OPPOSITION NO.

NOTICE OF OPPOSITION

TO THE COMMISSIONER OF TRADEMARKS:

The Gambrinus Company, a Texas corporation located at 14800 San Pedro Avenue, Suite 300, San Antonio, Texas 78232 ("Opposer"), believes it will be damaged by registration of the mark WICKED STREET BREWING COMPANY for beer, shown in U.S. Trademark Application Serial No. 86/251,332, filed on April 14, 2014, by Andrew J. Grygiel, DBA Wicked Street Brewing Company ("Applicant") and hereby opposes same.

Solely for the purpose of this proceeding, Opposer alleges the following as grounds for opposition:

1. Applicant seeks to register WICKED STREET BREWING COMPANY as a trademark for Beer in International Class 32, U.S. Trademark Application Serial No. 86/251,332 (the "Application"), based on Applicant's alleged intent to use the mark in United States

1 commerce, as evidenced by the publication of such mark on March 17, 2015. Applicant's
2 Application was filed on April 14, 2014.

3 2. Opposer is the owner of incontestable U.S. Trademark Registration No. 1,646,210
4 issued on May 28, 1991, for the mark WICKED ALE for beer, in International Class 32, with a
5 first use date of June 22, 1987, and constructive first use date of July 5, 1990, both of which
6 precede the filing date of Applicant's Application.

7 3. Opposer is the owner of incontestable U.S. Trademark Registration No. 1,761,609
8 issued on March 30, 1993, for the mark PETE'S WICKED ALE for beer, in International Class
9 32, with a first use date of June 22, 1987, and constructive first use date of November 15, 1991,
10 both of which precede the filing date of Applicant's Application.

11 4. Opposer is the owner of U.S. Trademark Registration No. 3,552,392 issued on
12 December 30, 2008, for the mark WICKED for beer, in International Class 32, with a first use
13 date of August 1, 2001, and constructive first use date of October 26, 2001, both of which
14 precede the filing date of Applicant's Application.

15 5. Applicant's WICKED STREET BREWING COMPANY mark is likely to cause
16 confusion, mistake or to deceive the public because it is virtually identical to each of Opposer's
17 WICKED ALE, PETE'S WICKED ALE, and WICKED marks (collectively, "Opposer's
18 WICKED Marks") and the goods on which Opposer uses each of Opposer's WICKED Marks are
19 virtually identical, substantially similar or related to the goods identified in Applicant's
20 Application and said goods are purchased by the same group of consumers. Accordingly,
21 Applicant's WICKED STREET BREWING COMPANY mark is confusingly similar to each of
22 Opposer's WICKED Marks such that Applicant is not entitled to register the mark WICKED
23 STREET BREWING COMPANY, and Applicant's Application should be denied in accordance
24 with Section 2(d) of the 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 each of Opposer's WICKED Marks herein
27 relied upon, all to the detriment and damage of Opposer. Accordingly, Opposer avers that for
28 the reasons set forth above, it will be damaged by a grant of registration to Applicant of the mark

1 WICKED STREET BREWING COMPANY which is the subject of U.S. Trademark Application
2 Serial No. 86/251,332.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WHEREFORE, Opposer prays as follows:

1. That this Opposition be sustained;
2. That U.S. Trademark Application Serial No. 86/251,332 be rejected; and
3. That registration of the trademark WICKED STREET BREWING COMPANY shown and specified in U.S. Trademark Application Serial No. 86/251,332 be refused and denied.

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

Dated: July 14, 2015

DICKENSON, PEATMAN & FOGARTY

By 
J. Scott Gerien
Christopher J. Passarelli

1455 First Street, Ste. 301
Napa, California 94559
Telephone: 707-252-7122
Facsimile: 707-255-6876

Attorneys for Opposer,
The Gambrinus Company

PROOF OF SERVICE

I declare that I am over the age of 18 years, employed in the County of Napa, and not a party to the within action; my business address is 1455 First Street, Ste. 301, Napa, CA 94559.

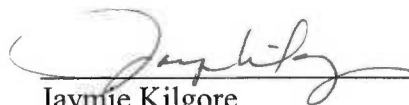
On July 14, 2015, I served the attached **NOTICE OF OPPOSITION** on the person(s) listed below:

Andrew J. Grygiel
P.O. Box 80106
Billings, Montana 59108

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

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

Executed July 14, 2015, at Napa, California.


Jaymie Kilgore
Legal Secretary