

ESTTA Tracking number: **ESTTA706971**

Filing date: **11/05/2015**

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	Sazerac Brands, LLC
Granted to Date of previous extension	12/02/2015
Address	10400 Linn Station Road Suite 300 Louisville, KY 40223 UNITED STATES
Party who filed Extension of time to oppose	Sazerac Company, Inc.
Relationship to party who filed Extension of time to oppose	Sazerac Company, Inc. has assigned all of its trademarks to Sazerac Brands, LLC. Sazerac Brands, LLC is a wholly-owned subsidiary of Sazerac Company, Inc.

Attorney information	Thomas M. Hadid Cooley LLP 1299 Pennsylvania Ave., NW Suite 700 Washington, DC 20004 UNITED STATES trademarks@cooley.com, vbadolato@cooley.com, pwillsey@cooley.com, thadid@cooley.com, Phone:6508497007
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Applicant Information

Application No	86591330	Publication date	08/04/2015
Opposition Filing Date	11/05/2015	Opposition Period Ends	12/02/2015
Applicant	Graton Spirits Company Suite 200 San Francisco, CA 94104 UNITED STATES		


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: Spirits
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Grounds for Opposition

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

U.S. Registration No.	3233043	Application Date	05/19/2006
Registration Date	04/24/2007	Foreign Priority Date	NONE
Word Mark	RICH & RARE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1962/03/30 First Use In Commerce: 1962/03/30 Potable distilled spirits		

Attachments	78888228#TMSN.png(bytes) Sazerac - NOO re RRR.pdf(22229 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	/Thomas M. Hadid/
Name	Thomas M. Hadid
Date	11/05/2015

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

In the Matter of Application Serial No. 86/591,330
For the Trademark RRR
Published in the *Official Gazette* on July 15, 2015

SAZERAC BRANDS, LLC,)	
)	
Sazerac,)	
)	Opposition No.
v.)	
)	
GRATON SPIRITS COMPANY,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Opposer Sazerac Brands, LLC (“Sazerac”), a Delaware limited liability company having its principal place of business at 10400 Linn Station Road, Suite 300, Louisville, Kentucky 40223, will be damaged by the issuance of a registration for the mark RRR (the “Applicant’s Mark”), as applied for in Application Serial No. 86/591,330, filed on April 8, 2015, by Applicant Graton Spirits Company, a California limited liability company with a mailing address of 9119 Graton Road, Graton, California 95444 (“Applicant”).

As grounds for opposition, Sazerac alleges as follows.

1. Sazerac, through its parent company, Sazerac Company, Inc. (“SCI”), markets and sells a number of different types and brands of alcoholic beverages and distilled spirits, including vodkas, whiskeys, tequilas, and specialty liqueurs. SCI has marketed and sold alcoholic beverages and distilled spirits in the United States for over a century.

2. Sazerac owns United States Registration No. 3,233,043 for RICH & RARE, issued on April 24, 2007, for “potable distilled spirits.” In addition, Sazerac, through SCI, has consistently and continually marketed and sold distilled spirits under its RICH & RARE RESERVE mark, sometimes shortened and referred to as “RRR,” since 1962 (all of the foregoing collectively referred to as the “Sazerac Marks”). By virtue of its marketing and by virtue of the excellence of the underlying products, the public has come to know, rely on, and recognize the Sazerac Marks as source identifiers for Sazerac’s products.

1. Sazerac’s RICH & RARE-branded products have grown substantially in popularity across the United States.

2. On April 8, 2015, Applicant filed an application to register the mark RRR upon an intent-to-use basis in connection with “[s]pirits” in International Class 33.

3. The Sazerac Marks have priority through use in commerce and/or a filing date prior to Applicant’s filing date of April 8, 2015.

4. Applicant’s Mark is similar in sight, sound, meaning, and commercial impression to the Sazerac Marks.

5. Applicant’s Mark is intended for use in connection with products that are identical or highly related to the products offered under the Sazerac Marks.

6. Applicant’s targeted customer base overlaps with the consumers of the alcoholic beverages offered under the Sazerac Marks.

7. As Applicant’s goods description contains no restrictions or limitations as to Applicant’s channels of trade, Sazerac may assume that Applicant’s Mark, like the Sazerac Marks, will be used in all accepted channels of trade. Therefore, in addition to overlapping consumer bases, Applicant’s intended channels of trade for its alcohol-based products overlap

with channels of trade used for the marketing, selling, and distribution of alcohol-based products marketed under the Sazerac Marks.

8. If Applicant is permitted to register Applicant's Mark for the goods specified in the Application herein opposed, confusion resulting in damage and injury to Sazerac would occur. Persons familiar with the Sazerac Marks would likely perceive Applicant's products as associated with, affiliated with, or sponsored by Sazerac or SCI. Such confusion would inevitably result in damage to Sazerac.

9. Sazerac's customers and the relevant public are likely to misapprehend Applicant's Mark as a Sazerac mark rather than a mark of Applicant and/or believe in error that goods offered under the Applicant's Mark are offered by, in association with, or under license from Sazerac or SCI.

10. Any defect, objection to, or fault found with Applicant's alcoholic beverages marketed under its RRR mark would necessarily reflect on and seriously injure the reputation that Sazerac and SCI have established for alcoholic beverage products offered under the Sazerac Marks.

11. Registration of Applicant's Mark would give Applicant *prima facie* evidence of the validity and ownership of Applicant's Mark and of Applicant's exclusive right to use its RRR mark, all to the detriment of Sazerac.

12. Applicant's registration of the RRR mark will cause substantial harm to Sazerac's prior existing, superior, and valuable rights in the Sazerac Marks, and will interfere with Sazerac's enjoyment of those rights. As such, for the reasons set forth herein, registration of Applicant's Mark should be denied pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

WHEREFORE, based on the foregoing, Sazerac requests that the Board sustain this Opposition and that registration of Application Serial No. 86/591,330 be refused.

COOLEY LLP

Date: November 5, 2015

By: /s/ Thomas M. Hadid

Peter J. Willsey, Esq.

Vincent J. Badolato, Esq.

Thomas M. Hadid, Esq.

1299 Pennsylvania Ave., NW

Suite 700

Washington, DC 20004

(650) 843-5000

*Attorneys for Sazerac,
Sazerac Brands, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2015, I mailed the foregoing NOTICE OF OPPOSITION regarding *Sazerac Brands, LLC. v. Graton Spirits Company* to correspondent for Applicant by depositing a true and correct copy of the same with the United States Postal Service, first class mail, postage prepaid, in an envelope addressed to:

Mr. Kit Knudsen
Commins & Knudsen
400 Montgomery Street, Suite 200
San Francisco, California 94104-1209

Date: November 5, 2015

By: /s/ Thomas M. Hadid
Thomas M. Hadid