

ESTTA Tracking number: **ESTTA730899**

Filing date: **03/02/2016**

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	Peak Rock Capital LLC
Granted to Date of previous extension	03/02/2016
Address	13413 Galleria Circle Suite 300 Austin, TX 78738 UNITED STATES

Attorney information	Stewart N. Mesher Conley Rose, P.C. P.O. Box 3267 Houston, TX 77253-3267 UNITED STATES tmhou@conleyrose.com Phone:7132388000
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Applicant Information

Application No	86635192	Publication date	11/03/2015
Opposition Filing Date	03/02/2016	Opposition Period Ends	03/02/2016
Applicant	Shot-Rock Capital, LLC 4999 France Avenue South Minneapolis, MN 55410 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Investment services, namely, asset acquisition, consultation, development and management services
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution by blurring	Trademark Act section 43(c)
Dilution by tarnishment	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4374901	Application Date	08/08/2012
Registration Date	07/30/2013	Foreign Priority Date	NONE
Word Mark	PEAK ROCK CAPITAL		

Design Mark	<p style="text-align: center;">PEAK ROCK CAPITAL</p>
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 2012/07/09 First Use In Commerce: 2012/07/09 investment of funds for others

Attachments	85698010#TMSN.png(bytes) Notice of Opposition.pdf(193397 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	/Stewart N. Mesher/
Name	Stewart N. Mesher
Date	03/02/2016

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

In re U.S. Trademark Application Serial No. 86/635,195 for the mark SHOT-ROCK CAPITAL, filed on May 19, 2015, published on November 3, 2015, and having the current owner of record Shot-Rock Capital, LLC

Peak Rock Capital LLC

Opposer,

vs.

Shot-Rock Capital, LLC,

Applicant.

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Opposition No. _____

NOTICE OF OPPOSITION

Commissioner:

Peak Rock Capital LLC (hereafter, the “Opposer”), a limited liability company organized under the laws of the state of Delaware having a principal place of business at 13413 Galleria Circle, Suite 300, Austin, Texas 78738, United States, believes that it will be damaged by Shot-Rock Capital, LLC’s (hereafter, the “Applicant”) registration of the mark SHOT-ROCK CAPITAL in International Class 036 as shown in U.S. Trademark Application Serial No. 86/635,195. Accordingly, Opposer hereby opposes the same under the provisions of the Trademark Act of 1946, § 1063 of Title 15 of the United States Code.

Opposer alleges the following as standing to oppose the application and as grounds for the opposition:

1. The Opposed U.S. Trademark Application Serial No. 86/635,192 for the mark SHOT-ROCK CAPITAL was filed on May 19, 2015 by Shot-Rock Capital, LLC (“Applicant”).

2. The Opposed Application seeks registration of the SHOT-ROCK CAPITAL mark for the following services: IC 036. US 100 101 102. G & S: Investment services, namely, asset acquisition, consultation, development and management services. The Opposed Application is based on Applicant’s intent to use the mark.

3. The Opposed Application published on November 3, 2015. The U.S. Trademark Trial and Appeal Board granted Opposer extensions of time to file this opposition through March 2, 2016.

4. Pursuant to the U.S. Trademark Office records, the current owner of the Opposed Application is Shot-Rock Capital, LLC of 4999 France Avenue South, Minneapolis, Minnesota 55410.

5. Opposer is the owner of the trademark PEAK ROCK CAPITAL, and has developed rights with respect to the trademark PEAK ROCK CAPITAL, which is used in connection with investment of funds for others. PEAK ROCK CAPITAL is registered under U.S. Trademark Registration No. 4,374,901 and issued on the Principal Register on July 30, 2013.

6. Use of the PEAK ROCK CAPITAL mark, which is registered under U.S. Trademark Registration No. 4,374,901, began at least as early as July 9, 2012 in interstate commerce on or in connection with the recited services, and such use has been continuous and continues to date.

7. Opposer's rights with respect to the PEAK ROCK CAPITAL mark predate any rights Applicant can claim to the mark represented by Applicant's Opposed intent-to-use application.

8. The goodwill embodied in the PEAK ROCK CAPITAL trademark, and consequently Opposer's valuable reputation and credibility in the financial services industry, and among its consumers, depends on the integrity of the PEAK ROCK CAPITAL trademark as an identification used exclusively by Opposer, and not of any other source.

9. Applicant's Opposed SHOT-ROCK CAPITAL mark is similar to that of Opposer. Pursuant to §2(d), 15 U.S.C. § 1052(d), Opposer asserts, and intends to prove at trial, that Applicant's mark, as applied to goods or services set forth in U.S. Trademark Application Serial No. 86/635,192 for the mark SHOT-ROCK CAPITAL, so resembles plaintiff's previously used and/or registered mark and/or its previously used trade name as to be likely to cause confusion, mistake, or deception. In short, Opposer asserts that Applicant's mark so resembles a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods or services of the Applicant, to cause confusion, or to cause mistake, or to deceive.

10. Applicant's Opposed SHOT-ROCK CAPITAL mark so resembles Opposer's PEAK ROCK CAPITAL mark as to be likely, when applied to Applicant's goods or services, to cause confusion, to cause mistake or to deceive with respect to Opposer's PEAK ROCK CAPITAL mark, and Opposer will be damaged by the registration sought by Applicant.

11. Applicant's Opposed SHOT-ROCK CAPITAL mark so resembles Opposer's PEAK ROCK CAPITAL mark as to be likely, when applied to Applicant's goods or services, to

dilute Opposer's PEAK ROCK CAPITAL mark, and Opposer will be damaged by the registration sought by Applicant.

WHEREFORE, Opposer prays that registration of the mark shown in U.S. Trademark Application Serial No. 86/635,192 be refused and that this Notice of Opposition be sustained in favor of Opposer.

Authorization is hereby granted to the U.S. Patent and Trademark Office to deduct the filing fee for the present opposition in the amount of \$300.00 from Conley Rose Deposit Account No. 501515. Should any additional fees be due, please also charge them to Deposit Account No. 501515.

Respectfully submitted,

Dated: March 2, 2016

By: Stewart Mesher/mak

Stewart N. Mesher
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ATTORNEY FOR OPPOSER

CERTIFICATE OF TRANSMISSION UNDER TBMP 110

I HEREBY CERTIFY that a true and correct copy of this document, *Notice of Opposition*, opposing registration of U.S. Trademark Application Serial No. 86/635,192 for the mark SHOT-ROCK CAPITAL, is being filed electronically through <http://esta.uspto.gov> via the Trademark Trial and Appeal Board Electronic Filing System.

On the 2nd day of March, 2016.


Melissa Kirchhoff

CERTIFICATE OF SERVICE UNDER TBMP 113

I HEREBY CERTIFY that a true and correct copy of the foregoing *Notice of Opposition*, opposing registration of U.S. Trademark Application Serial No. 86/635,192 for the mark SHOT-ROCK CAPITAL, is being sent by First Class U.S. Mail, postage prepaid, to counsel for Applicant, Shot-Rock Capital, LLC, as follows:

Pamela A. Curran
Messerli & Kramer P A
100 S 5th St Ste 1400
Minneapolis, Minnesota 55402-1217
United States

On the 2nd day of March, 2016.


Melissa Kirchoff