

ESTTA Tracking number: **ESTTA749556**

Filing date: **06/01/2016**

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	BOURBON BARREL FOODS LLC
Granted to Date of previous extension	06/01/2016
Address	1201 Story Avenue Suite 175 Louisville, KY 40206 UNITED STATES

Attorney information	Ekundayo Seton Wyatt, Tarrant & Combs, LLP 500 West Jefferson Street, Suite 2800 Louisville, KY 40202 UNITED STATES trademarks@wyattfirm.com, dseton@wyattfirm.com
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Applicant Information

Application No	86691086	Publication date	02/02/2016
Opposition Filing Date	06/01/2016	Opposition Period Ends	06/01/2016
Applicant	Madava Sugar Maple, LLC 47 McCourt Road Dover Plains, NY 12522 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. First Use: 2015/07/06 First Use In Commerce: 2015/07/06 All goods and services in the class are opposed, namely: Maple syrup, maple candy, maple sugar, maple mustard, maple sauce, savory sauces used as condiments, salad dressings

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
No use of mark in commerce before application or amendment to allege use was filed	Trademark Act Sections 1(a) and (c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4145495	Application Date	06/02/2011
Registration Date	05/22/2012	Foreign Priority Date	NONE
Word Mark	BOURBON BARREL FOODS		

Design Mark	BOURBON BARREL FOODS
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2006/11/00 First Use In Commerce: 2006/11/00 Sauces; spices; sugar; salt; vanilla; and condiments, namely, salad dressings, seasonings, and spice rubs

Attachments	85336020#TMSN.png(bytes) BBF_Madava_Notice of Opposition.pdf(81036 bytes) Exhibit A.pdf(90183 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 USPS Express Mail Post Office to Addressee on this date.

Signature	/Ekundayo Seton/
Name	Ekundayo Seton
Date	06/01/2016

Certificate of Electronic Filing

I hereby certify that this document is being electronically filed as of **June 1, 2016**, with the United States Patent and Trademark Office, Trademark Trial and Appeal Board.

/Ekundayo Seton/
Ekundayo Seton

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

BOURBON BARREL FOODS LLC,)		
)		
Opposer,)	Opposition No.	_____
)		
v.)		
)	Serial No.	86/691086
MADAVA SUGAR MAPLE, LLC,)	Mark:	BB BOURBON
)		BARREL AGED
)	Intl Class:	030
Applicant.)		

NOTICE OF OPPOSITION

Bourbon Barrel Foods LLC (“Bourbon Barrel Foods”), by counsel, hereby files its Notice of Opposition to the application filed by Applicant Madava Sugar Maple, LLC (“Madava”). As grounds for its Opposition, Bourbon Barrel Foods states as follows:

Introductory Paragraph

Applicant has filed an application under the Application Serial No. 86/691086 to register the mark BB BOURBON BARREL AGED & Design (“Madava Mark”) for use in connection with maple syrup, maple candy, maple sugar, maple mustard, maple sauce, savory sauces used as condiments, and salad dressings in International Class 030. Bourbon Barrel Foods, however, believes that the application should be denied because of the likelihood of confusion between Applicant’s mark and one of Bourbon Barrel Food’s registered marks. Alternatively, Applicant’s application should be denied because Applicant has not used the Madava Mark on all of the products identified in its Section 1(a) application as required by the Trademark Act.

Allegations

1. Bourbon Barrel Foods is a Kentucky limited liability company with its principal place of business at 1201 Story Avenue, Suite 175, Louisville, Kentucky 40206.

2. Since as early as November 2006, Bourbon Barrel Foods has used the trademark BOURBON BARREL FOODS mark (“Mark”) for use in connection with food products, specifically, sauces, spices, sugar, salt, salad dressing, seasoning and other condiments. The BOURBON BARREL FOODS mark is protected by Reg. No. 4145495. A true and correct copy of the Mark is attached hereto as **Exhibit A**.

3. Bourbon Barrel Foods has not abandoned its BOURBON BARREL FOODS mark. In fact, it has created extensive good will in the Mark through substantial investment of time and effort in advertising and promoting the Mark.

4. On July 13, 2015, Applicant filed what is now Application Serial No. 86/691086 for the registration of the Madava Mark for use in connection with maple syrup, maple candy, maple sugar, maple mustard, maple sauce, savory sauces used as condiments, and salad dressings in International Class 030.

5. Bourbon Barrel Foods holds several registered marks in International Class 030, the class in which Applicant’s application is currently pending.

6. The similarities between the Madava Mark and Opposer’s BOURBON BARREL FOODS mark is unmistakable. Both marks share the same dominant words “Bourbon Barrel” and are being used in connection with food items listed under Class 030.

7. No proximity analysis is required in this case because Applicant seeks to register its mark for use on at least two products that Bourbon Barrel Foods has built extensive goodwill and customer recognition for its BOURBON BARREL FOODS mark.

8. Because Applicant intends to use the Madava Mark on and in connection with the same products that Bourbon Barrel Foods has been using its BOURBON BARREL FOODS mark, Applicant's products will move through the same channels of trade as products bearing Bourbon Barrel Foods' Mark.

9. In view of the similarity of the respective marks; the fact that both marks are used, or are to be used, in connection with the same products; and the fact that both marks will likely move through the same channels of trade, Applicant's mark so resembles the BOURBON BARREL FOODS mark as to be likely to cause confusion or to cause mistake or to deceive. A likelihood of confusion, therefore, exists between Applicant's mark and the BOURBON BARREL FOODS.

10. Alternatively, Section 1(a) of the Trademark Act requires that all applicants filing under that section must use their marks in commerce in connection with all of their goods and/or services as a condition for obtaining registration.

11. On information and belief, Applicant filed its application under Section 1(a) without using its Madava Mark on several of the goods identified in its application.

12. Applicant's application is in violation of Section 1(a) of the Trademark Act and conflicts with the declaration that Applicant provided, attesting to use of the BOURBON BARREL AGED & Design mark on all of the goods identified in its application.

For the reasons stated herein, Bourbon Barrel Foods requests that this opposition be sustained in its favor and that Application Serial No. 86/691086 be rejected and no registration be issued for Applicant's mark.

Respectfully submitted,

s/ Ekundayo Seton

Matthew A. Williams

Ekundayo Seton

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Counsel for Bourbon Barrel Foods LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the foregoing Notice of Opposition has been served upon:

Laura B. Siegal, Esq.
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via U.S. Mail, postage prepaid, this **1st** day of **June, 2016**.

/Ekundayo Seton/

One of Counsel for Bourbon Barrel Foods LLC.

61506922.1

1. The Post Registration "Maintenance Tab" has been temporarily disabled. It will return soon.
2. TSDR now displays information regarding [TM5 Common Status Descriptors](#).

STATUS

DOCUMENTS

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Mark: BOURBON BARREL FOODS

BOURBON BARREL FOODS

US Serial Number: 85336020

Application Filing Date: Jun. 02, 2011

US Registration Number: 4145495

Registration Date: May 22, 2012

Register: Principal

Mark Type: Trademark

**TM5 Common Status
Descriptor:**



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with

Status: Registered. The registration date is used to determine when post-registration maintenance occurs.

Status Date: May 22, 2012

Publication Date: Mar. 06, 2012

Mark Information

Goods and Services

Basis Information (Case Level)

Current Owner(s) Information

Attorney/Correspondence Information

Prosecution History

TM Staff and Location Information

Assignment Abstract Of Title Information - Click to Load

Proceedings - Click to Load

