

ESTTA Tracking number: **ESTTA753736**

Filing date: **06/21/2016**

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	Rebel Wine Co. LLC
Granted to Date of previous extension	06/22/2016
Address	P.O. Box 248 100 St. Helena Highway South St. Helena, CA 94574 UNITED STATES

Attorney information	J. Scott Gerien Dickenson, Peatman & Fogarty 1455 First Street, Ste. 301 Napa, CA 94559 UNITED STATES tmltg@dpf-law.com Phone:7072527122
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### Applicant Information

Application No	86692880	Publication date	02/23/2016
Opposition Filing Date	06/21/2016	Opposition Period Ends	06/22/2016
Applicant	Quintessential Brands S.A. 121 Avenue de la Faiencerie Luxembourg, L-1511 LUXEMBOURG		

### 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: whisky; whiskey
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### 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.	3274348	Application Date	08/17/2005
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Registration Date	08/07/2007	Foreign Priority Date	NONE
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Word Mark	BARREL THIEF		
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Design Mark	<h1>Barrel Thief</h1>		
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Description of Mark	NONE		
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Goods/Services	Class 033. First use: First Use: 2003/07/01 First Use In Commerce: 2004/03/01 Wines		
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U.S. Registration No.	3932672	Application Date	10/28/2005
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Registration Date	03/15/2011	Foreign Priority Date	NONE
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Word Mark	LE THIEF		
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Design Mark	<h1>LE THIEF</h1>		
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Description of Mark	NONE		
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Goods/Services	Class 033. First use: First Use: 2009/12/16 First Use In Commerce: 2009/12/16 Wine		
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U.S. Application/ Registration No.	NONE	Application Date	NONE
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Registration Date	NONE		
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Word Mark	THREE THIEVES		
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Goods/Services	wine		
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U.S. Application/ Registration No.	NONE	Application Date	NONE
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Registration Date	NONE		
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Word Mark	BARREL THIEF		
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Goods/Services	wine		
U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	LE THIEF		
Goods/Services	wine		

Attachments	78694371#TMSN.png( bytes ) 78742983#TMSN.png( bytes ) Forty Thieves Opp.pdf(321205 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	/J. Scott Gerien/
Name	J. Scott Gerien
Date	06/21/2016

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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: 6/21/16

By   
J. Scott Gerien

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

Rebel Wine Co., LLC,  
Opposer,  
vs.  
Quintessential Brands S.A.  
Applicant.

OPPOSITION NO.  
  
NOTICE OF OPPOSITION

TO THE COMMISSIONER OF TRADEMARKS:

Rebel Wine Co., LLC, a limited liability company organized under the laws of the State of California and located at P.O. Box 248, 100 St. Helena Highway South, St. Helena, California, 94574 (“Opposer”), believes it will be damaged by registration of the mark THE FORTY THIEVES for whisky; whiskey, shown in application Serial No. 86/692,880 filed on July 14, 2015, by Quintessential Brands S.A. (Luxembourg Sociedad Anonima) (“Applicant”), and hereby opposes same.

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

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1. Applicant seeks to register THE FORTY THIEVES as a trademark for whisky; whiskey in International Class 33 based on its intent to use the mark in commerce, as evidenced by the publication of such mark on February 23, 2016. The application for such mark was filed with the USPTO on July 14, 2015.
2. Opposer is the owner of the name and mark THREE THIEVES which has been continuously used in association with wine since 2003 (U.S. Trademark Registration No. 2,789,854), as well as the marks BARREL THIEF for wine (U.S. Trademark Registration No. 3,274,348) and LE THIEF for wine (U.S. Trademark Registration No. 3,932,672) (collectively, “Opposer’s THIEF Marks”).
3. The constructive and actual first use dates for each of Opposer’s THIEF Marks precede any known date of first use or constructive filing date for Applicant’s THE FORTY THIEVES mark for whisky; whiskey.
4. Opposer alleges that Applicant’s applied-for mark is likely to cause confusion, mistake or to deceive the public. Applicant’s THE FORTY THIEVES mark for whisky; whiskey is similar to Opposer’s THIEF Marks for wine and the respective goods on which the marks are used are identical, substantially similar or related and said products are purchased by the same group of consumers. Accordingly, Applicant’s mark is confusingly similar to Opposer’s mark such that Applicant is not entitled to register its mark and Applicant’s application should be denied in accordance with Section 2(d) of the Trademark Act of 1946, 15 U.S.C. §1052(d).

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5. Opposer avers that if Applicant is granted the registration herein opposed, it would interfere with Opposer's exclusive right to use its THIEF Marks herein relied upon, all to the detriment and damage of Opposer. Accordingly, Opposer avers that for the reasons aforesaid, it will be damaged by a grant of registration to Applicant of its trademark which is the subject of Application Serial No. 86/692,880.

WHEREFORE, Opposer prays as follows:

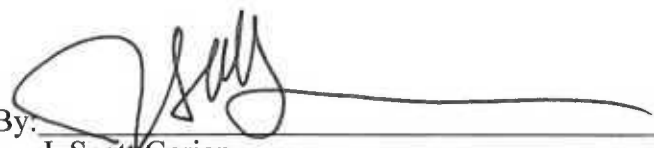
1. That this Opposition be sustained;
2. That Application Serial No. 86/692,880 be rejected; and
3. That registration of the trademark THE FORTY THIEVES shown and specified in Application Serial No. 86/692,880 be refused and denied.

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: 6/21/16

Respectfully submitted,

DICKENSON, PEATMAN & FOGARTY

By:   
J. Scott Gerien  
Christopher Passarelli  
Corinna Charlton

1455 First Street Suite 301  
Napa, California 94559  
Telephone: (707) 252-7122  
Facsimile: (707) 255-6876

Attorneys for Opposer  
Rebel Wine Co., LLC

**PROOF OF SERVICE**

1 I declare that I am over the age of 18 years, employed in the County of Napa, and not a  
2 party to the within action; my business address is 1455 First Street Suite 301, Napa, California  
3 94559. On June 21, 2016, I served the attached **NOTICE OF OPPOSITION** on the person(s)  
4 listed below:  
5

6 CHRISTOPHER M. DOLAN  
7 BRINKS GILSON & LIONE  
8 PO BOX 10395  
9 CHICAGO, IL 60610-0395

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

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

17 Executed June 21, 2016, at Napa, California.  
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20 Barbara Barrera  
21 Legal Secretary