

ESTTA Tracking number: **ESTTA767158**

Filing date: **08/26/2016**

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	Terressentia Corporation
Granted to Date of previous extension	08/27/2016
Address	3525 Iron Horse Road, Suite 104 Ladson, SC 29456 UNITED STATES
Attorney information	Jason A Pittman DORITY & MANNING, P.A. P.O. Box 1449 Greenville, SC 29602 UNITED STATES jpittman@dority-manning.com, jkloiber@dority-manning.com, rwhite@dority-manning.com, Phone:864-271-1592

Applicant Information

Application No	86897263	Publication date	06/28/2016
Opposition Filing Date	08/26/2016	Opposition Period Ends	08/27/2016
Applicant	West Coast Distillation Project, LLC P.O. Box 16371 Seattle, WA 98116 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: Rum
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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. Application No.	85955196	Application Date	06/10/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	WALTER B'S RESERVE		

Design Mark	<p style="text-align: center;">WALTER B'S RESERVE</p>
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2016/06/21 First Use In Commerce: 2016/06/21 Distilled Spirits

Related Proceedings	Opposer intends to commence an Opposition related to U.S. Trademark Application Serial No.: 86/894,972 and an Opposition related to U.S. Trademark Application Serial No.: 86/894,963.
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Attachments	85955196#TMSN.png(bytes) Notice of Opposition Walters Rum.pdf(159374 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	/ Jason A. Pittman /
Name	Jason A Pittman
Date	08/26/2016

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

In the matter of trademark application **Serial No. 86/897,263**

Terressentia Corporation

Opposer,

v.

West Coast Distillation Project, LLC

Applicant.

Opposition No. _____

Serial No. 86/897,263

Mark: **WALTER'S RUM**

NOTICE OF OPPOSITION

Terressentia Corporation (“Opposer”), a corporation organized and existing under the laws of the State of South Carolina, having a place of business at 3525 Iron Horse Road, Suite 104, Ladson, South Carolina 29456, will be damaged by registration of U.S. Application Serial No. 86/897,263 for the alleged mark **WALTER'S RUM** (referred to herein sometimes as the “Applicant’s Mark”) for “Rum” in International Class 033, filed by West Coast Distillation Project, LLC (“Applicant”) on February 4, 2016, and hereby opposes registration of the same pursuant to § 13 of the Lanham Act (15 U.S.C. § 1063).

As grounds in support of its Notice of Opposition, Opposer asserts as follows:

1. Upon information and belief, West Coast Distillation Project, LLC is the owner of U.S. Trademark Application Serial No. 86/897,263 (“the ‘263 application”), filed on February 4, 2016, for the alleged mark **WALTER'S RUM** for “Rum” in International Class 033.
2. Upon information and belief, the ‘263 application was filed on an intent to use basis.

3. The '263 application was published for opposition on June 28, 2016 in the *Official Gazette* of the United States Patent and Trademark Office.

4. On July 27, 2016, Terressentia Corporation was granted a thirty day extension of time to oppose the '263 application.

5. Prior to the time that the '263 application was published for opposition, Opposer used and promoted the mark **WALTER B'S RESERVE** as a trademark and/or has analogous usage in a trademark or service mark sense or alternatively in a trade name sense, or use analogous to trademark, service mark or trade name usage, in commerce in connection with products related to the field of distilled spirits.

6. Opposer owns common law rights to its **WALTER B'S RESERVE** mark. Opposer also owns U.S. Trademark Application Serial No. 85/955,196 ("the '196 application"), filed on June 10, 2013, for its **WALTER B'S RESERVE** mark.

7. Opposer has and continues to utilize its **WALTER B'S RESERVE** mark in commerce with regard to distilled spirits and Opposer has an exclusive right to use its **WALTER B'S RESERVE** mark in commerce in connection with, at least, distilled spirits.

8. Opposer has priority of use in all respects for its **WALTER B'S RESERVE** mark relative to Applicant's alleged mark **WALTER'S RUM** set forth in the '263 application as used in conjunction with distilled spirits, including Rum.

9. Opposer's **WALTER B'S RESERVE** mark is inherently distinctive and consumers have and/or will associate the **WALTER B'S RESERVE** mark and products marketed, sold or offered for sale under or with said mark with a single source, Opposer.

10. Through continuous and exclusive use of the WALTER B'S RESERVE mark consumers have and/or will associate the WALTER B'S RESERVE mark and products marketed, sold or offered for sale under or with said mark with a single source, Opposer.

11. Opposer has made investment in marketing and promoting Opposer's goods under the WALTER B'S RESERVE mark. Opposer has used, promoted and offered Opposer's goods bearing its WALTER B'S RESERVE mark for sale, including to the public, through various channels of trade in commerce. Accordingly, Opposer's customers and ordinary consumers of distilled spirits, including Rum, have and/or will come to know and recognize Opposer's WALTER B'S RESERVE mark and to associate the same with Opposer and/or the goods sold by Opposer.

12. Opposer has offered for sale goods, including distilled spirits, bearing the WALTER B'S RESERVE mark in a trading area of broad geographical scope.

13. The WALTER B'S RESERVE mark is symbolic of the goodwill and consumer recognition that Opposer has established through expenditures of time, effort and other resources in the marketing and promotion of the goods Opposer sells and/or offers for sale under the WALTER B'S RESERVE mark.

14. As a result of Opposer's regular and continuous use of the WALTER B'S RESERVE mark, as well as the above-mentioned marketing and promotion, Opposer's WALTER B'S RESERVE mark is associated exclusively with Opposer and its high quality goods.

15. Applicant's mark is confusingly similar in sound, appearance, connotation, and overall commercial impression to Opposer's WALTER B'S RESERVE mark.

16. The goods identified under International Class 33 in the '263 application are identical to or closely related to the goods with which Opposer uses its WALTER B'S RESERVE mark. For instance, "Rum" as identified in the '263 application is identical to or closely related to the distilled spirits and other products and services offered by Opposer in conjunction with the WALTER B'S RESERVE mark.

17. The sale and offering for sale of distilled spirits, including Rum, is regulated and limited by law in such a manner that the goods identified under International Class 33 in the '263 application, Rum, and the goods with which Opposer uses its WALTER B'S RESERVE mark, distilled spirits, will be offered for sale, sold and distributed through the same established channels of trade and likely to continue channels of trade.

18. Applicant's mark so resembles Opposer's WALTER B'S RESERVE mark that registration and use of the WALTER'S RUM mark sought to be registered by Applicant in the '263 application is likely to cause confusion, mistake or to deceive consumers and lead consumers to believe that Applicant's goods and services designated with the WALTER'S RUM mark are goods and/or services of Opposer, or in some way backed by, sponsored by, franchised by, approved by, associated with, or otherwise connected with the good name and reputation of Opposer, to the damage and injury of the public, and to the damage and injury of Opposer and its goodwill in its WALTER B'S RESERVE mark. Registration of the '263 application is thus precluded under Section 2(d) of the Lanham Act (15 U.S.C. § 1052(d)).

WHEREFORE, Opposer believes it will be damaged by registration of Applicant's WALTER'S RUM mark and prays that the present Opposition be granted and that registration of the '263 application be denied.

Respectfully submitted,

Date: August 26, 2016

DORITY & MANNING, P.A.

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Attorneys for Terressentia Corporation

CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2016, I served a true and complete copy of the foregoing **NOTICE OF OPPOSITION** on Applicant via First Class Mail, postage prepaid as follows:

West Coast Distillation Project, LLC
P.O. Box 16371
Seattle, WA 98116

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/Jason A. Pittman/