

ESTTA Tracking number: **ESTTA778049**

Filing date: **10/20/2016**

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	The Arsenal Football Club Public Limited Company
Granted to Date of previous extension	10/22/2016
Address	Highbury House75 Drayton Park London, N5 1BU UNITED KINGDOM
Attorney information	Laura Popp-Rosenberg Fross Zelnick Lehrman & Zissu, P.C. 866 UN Plaza New York, NY 10017 UNITED STATES lpopp-rosenberg@fzlz.com, lkittay@fzlz.com Phone:212-813-5900

Applicant Information

Application No	86965427	Publication date	08/23/2016
Opposition Filing Date	10/20/2016	Opposition Period Ends	10/22/2016
Applicant	Arsenal Cider House & Wine Cellar, Inc. 300 39th Street Pittsburgh, PA 15201 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 2008/05/22 First Use In Commerce: 2010/06/19 All goods and services in the class are opposed, namely: Fruit wine; Hard cider; Honey wine; Mead; Wine

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.	2653016	Application Date	09/24/1997
Registration Date	11/26/2002	Foreign Priority Date	NONE
Word Mark	ARSENAL		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 video games software and hardware; computer games software and hardware; video game machines for use with televisions; computer programs for playing games; [camera cases;] but not including any such goods relating to weapons, ammunition or other military apparatus</p> <p>Class 014. First use: First Use: 0 First Use In Commerce: 0 medals and medallions; jewelry and imitation jewelry; clocks and watches [; jewelry cases of precious metal]</p> <p>Class 016. First use: First Use: 0 First Use In Commerce: 0 stationery; folders; binders; diaries and personal organizers; writing instruments; posters; photographs; albums, namely, photograph and collector card albums; philatelic stamps; stickers; decalomanias; calendars; [maps;] writing paper; drawing paper; note books; [address books;] ordinary playing cards; [coasters of paper; table mats of paper; flags and pennants of paper;] but not including any such goods relating to weapons, ammunition or other military equipment</p> <p>Class 018. First use: First Use: 0 First Use In Commerce: 0 cases, namely, attache cases, business card cases, credit card cases, calling card cases, document cases, [key cases,] overnight cases, passport cases, cosmetic cases sold empty, toiletry cases sold empty, vanity cases sold empty; [suitcases; articles of luggage;] umbrellas; bags, namely, school book bags, barrel bags, beach bags, book bags, carry-on bags, clutch bags, diaper bags, duffel bags, gym bags, leather shopping bags, overnight bags, school bags, shoulder bags, tote bags, travel bags, garment bags, shoe bags, bags for merchandise packaging consisting of envelopes and pouches; holdalls; wallets; purses; key cases; leather or imitation leather key fobs</p> <p>Class 020. First use: First Use: 0 First Use In Commerce: 0 cushions</p> <p>Class 024. First use: First Use: 0 First Use In Commerce: 0 cloth flags and pennants; bed covers; sheets and pillow cases; household cloths for drying glasses and dishes; towels; bar cloths; textile articles, namely, curtains, duvet covers, table mats and coasters; [table linen;] table mats and coasters not of paper</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0 articles of outer clothing, namely, sweatshirts, shorts, rain jackets, polo shirts, hooded tops, T-shirts, jackets, swim suits, [bikinis,] swim shorts, bath robes, boxer shorts, overshirts, sweaters, pullovers, jumpers, [jeans,] ties, hats, footwear, headwear [and belts; leather or imitation leather belts]</p> <p>Class 028. First use: First Use: 0 First Use In Commerce: 0 board games; card games; bath toys; infant toys; mechanical toys and parts and fittings therefor; [toy model hobby craft kits and parts and fittings therefore;] but not including any such goods being toy weapons or goods relating to toy weapons</p> <p>Class 041. First use: First Use: 0 First Use In Commerce: 0 [providing facilities for seminar presentations]</p> <p>Class 042. First use: First Use: 0 First Use In Commerce: 0 [rental of rooms; providing convention facilities; providing facilities for exhibitions; provision of restaurant, bar and catering facilities; provision of wedding, party and banqueting facilities]</p>

U.S. Registration No.	2987168	Application Date	02/26/2003
Registration Date	08/23/2005	Foreign Priority	NONE

		Date	
Word Mark	ARSENAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 0 First Use In Commerce: 0 ((Organization of sporting events;; namely, arranging and conducting athletic, soccer, [and football]competitions; providing facilities for [gymnastic and] recreation activities; providing facilities for soccer matches;[providing facilities for athletic tournaments;])) provision of sports information services; ((butnot including any such services relating to weapons, ammunition or military apparatus))		

U.S. Registration No.	4441792	Application Date	09/29/2011
Registration Date	12/03/2013	Foreign Priority Date	03/31/2011
Word Mark	ARSENAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 0 First Use In Commerce: 0 Dentifrices</p> <p>Class 006. First use: First Use: 0 First Use In Commerce: 0 Metal name badges; buckles of metal; metal keys for locks, metal key rings, metal key chains and trophies of metal; metal money boxes; non-luminous and non-mechanical metal signs, statues and statuettes; none being of precious metal or coated therewith</p> <p>Class 014. First use: First Use: 0 First Use In Commerce: 0 Medals and medallions; jewellery and imitation jewellery; boxes of precious metal; charms in precious metal; wall plaques made of precious metal; clocks and watches; key fobs of precious metal; tie pins, cufflinks clips</p> <p>Class 021. First use: First Use: 0 First Use In Commerce: 0 Household utensils, namely, pot and panscrapers, chopping blocks, wire baskets, rolling pins, spatulas, turners, whisks, graters, sieves, strainers; containers for household or kitchen use; combs, hair brushes; sponges for household use, cosmetic brushes, and bath sponges; brush-making materials; steelwool; unworked or semi-worked glass except glass used in building; beverage glassware, porcelain and earthenware mugs, and sculptures of earthenware, glass and porcelain</p> <p>Class 026. First use: First Use: 0 First Use In Commerce: 0 Ornamental novelty badges; belt buckles; hair ornaments; clasps for clothing; buttons, fabric appliques; ribbons, braids and rosettes of textile materials; cloth patches for clothing</p> <p>Class 027. First use: First Use: 0 First Use In Commerce: 0 Carpets, rugs, mats and matting; linoleum for covering existing floors; coverings for existing floors; non-textile wallhangings</p> <p>Class 032. First use: First Use: 0 First Use In Commerce: 0 Mineral and aerated waters and other non-alcoholic drinks, namely, cider, soft</p>		

	<p>drinks; syrups and other preparations for making beverages, namely soft drinks, fruit drinks, isotonic sports beverages, and sports beverages</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0</p> <p>Advertising; business management; business administration; office functions; arranging commercial transactions over electronic communication networks and the Internet; promotional events relating to sport, sporting activities and/or football matches</p> <p>Class 036. First use: First Use: 0 First Use In Commerce: 0</p> <p>Insurance brokerages; insurance information; insurance underwriting services for all types of insurance; financial affairs and monetary affairs, namely, financial information, management and analysis services; real estate financing services; vacation real estate time-sharing</p> <p>Class 038. First use: First Use: 0 First Use In Commerce: 0</p> <p>Telecommunications, in particular, telephone, radio and television communication services; radio and/or television broadcasting; data transmission</p> <p>Class 039. First use: First Use: 0 First Use In Commerce: 0</p> <p>Transport by ferry, boat, rail, air and bus; packaging and storage of goods; travel arrangement</p> <p>Class 043. First use: First Use: 0 First Use In Commerce: 0</p> <p>Café, canteen restaurant and catering services, services for providing facilities for exhibition; rental of rooms as temporary living accommodations; rental of rooms for social functions; rental of room for conferences, exhibitions and seminars</p>
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U.S. Registration No.	4843392	Application Date	06/26/2014
Registration Date	11/03/2015	Foreign Priority Date	NONE
Word Mark	ARSENAL		
Design Mark	ARSENAL		
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 0 First Use In Commerce: 0</p> <p>Sporting kit comprised of shirts, shorts, and socks; football base layers; jackets; rain jackets, casual jackets, softshell jackets; pitchside jackets; tops; shirts; t-shirts; polo shirts; sweatshirts; hooded sweatshirts; turtlenecks; fleece pullovers, fleece shorts, fleece tops, fleece tracksuits, fleece jogging bottoms, fleece dressing gowns, fleece sleepsuits, fleece gloves, fleece slippers; shorts; trousers; knitwear, namely, shirts, jackets, bottoms, cardigans, and jumpers; jumpers and cardigans; sweatbands, headbands; gloves; swimwear; sweatpants; belts; rugby shirts; gilets; shawls; scarves; jogging suits; baby and infant body suits; baby coveralls; cloth bibs; pyjamas; bathrobes; boxer shorts; slippers; aprons; socks; football boots; wellington boots; sandals; flip flops; slippers; trainers; sports shoes; booties; baseball caps; sunhats; woollen hats, acrylic hats; beanies; bobble hats; military caps</p> <p>Class 028. First use: First Use: 0 First Use In Commerce: 0</p> <p>Shin guards for athletic use; footballs; mini footballs; beach balls; snow globes; flying discs; golf balls; golf tees; gift sets comprising golf tees, golf club head covers, golf balls and golf clips; head covers for golf clubs; dummies for baby dolls, namely, pacifiers; bath ducks; toys designed to be attached to prams; baby</p>		

	rattles; plush toys; goalkeepers' gloves
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Attachments	79118323#TMSN.png(bytes) 79157505#TMSN.png(bytes) Notice of Opposition Arsenal Cider House Wine Cellar Inc.PDF(1562147 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	/Laura Popp-Rosenberg/
Name	Laura Popp-Rosenberg
Date	10/20/2016

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

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THE ARSENAL FOOTBALL CLUB PLC,	:	
	:	
Opposer,	:	
	:	
- against -	:	
	:	
ARSENAL CIDER HOUSE & WINE	:	
CELLAR, INC.,	:	
	:	
Applicant.	:	
-----X		

NOTICE OF OPPOSITION

The Arsenal Football Club plc (“Opposer”) believes that it would be damaged by the issuance of a registration for the trademark ARSENAL as applied for in Application Serial No. 86965427 (the “Application”), and therefore opposes the same. As grounds for its opposition, Opposer, by its attorneys, Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:

1. Opposer is a public limited company organized under the laws of the United Kingdom, with an address at Highbury House, 75 Drayton Park, London, N5 1BU, United Kingdom,
2. Opposer is the owner of all rights in and to the name and trademark ARSENAL as used in connection with the world-famous professional soccer team of that name.
3. Founded in 1886, the ARSENAL soccer team is one of the most successful teams in the United Kingdom and has one of the largest fan bases in the world. The ARSENAL soccer team has long had a following and a reputation in the United States.
4. Opposer has used the ARSENAL mark not only in connection with the soccer team, but also in connection with a wide variety of associated and ancillary goods and services,

including but not limited to clothing, accessories, bags, jewelry, key chains, headwear, drinkware, decorative houseware, and games.

5. In addition, for many years, Opposer has entered into sponsorship agreements with a number of companies representing a wide variety of industries, including, currently, Gatorade (sports drinks), Puma (clothing and sports gear), Citroen (automobiles), and Emirates (airlines), among others. Within the sphere of alcoholic beverages, Opposer currently has a number of regional beer sponsors as well as a multi-national wine sponsor.

6. Dating to long before any date upon which the applicant can rely, Opposer's ARSENAL mark had become uniquely associated with Opposer and had come to represent the goods and services of Opposer exclusively.

7. Opposer has extensively used and promoted the ARSENAL mark. Though this extensive promotion and use, and the success of Opposer's offerings, the ARSENAL mark has come to represent enormous goodwill for Opposer.

8. In addition to its common law rights in the ARSENAL mark developed through many years of use and promotion, Opposer owns several U.S. trademark registrations for the marks, including:

<i>Mark</i>	<i>Reg'n No.</i>	<i>Reg'n Date</i>	<i>International Classes</i>
ARSENAL	2653016	Nov. 26, 2002	9, 14, 16, 18, 20, 24, 25, 28
ARSENAL	2987168	Aug. 23, 2005	41
ARSENAL	4441792	Dec. 3, 2013	3, 6, 14, 21, 26, 27, 32, 35, 36, 38, 39, 43
ARSENAL	4843392	Nov. 3, 2015	25, 28

The foregoing registrations are valid, subsisting and in full force and effect.

5. On or about April 5, 2016, applicant Arsenal Cider House & Wine Cellar, Inc. (“Applicant”) filed the Application to register the mark ARSENAL for “Fruit wine; Hard cider; Honey wine; Mead; Wine” in Class 33.

6. Applicant is not connected to Opposer in any way and has not been authorized by Opposer to use or register any of the ARSENAL Marks.

7. Opposer’s rights in its ARSENAL mark are prior to any rights Applicant can establish in its claimed ARSENAL mark.

8. Applicant’s applied-for ARSENAL mark is identical to Opposer’s ARSENAL mark.

9. The Application covers goods closely related to goods and services for which Opposer’s ARSENAL mark is registered and/or for which Opposer’s ARSENAL mark has long been used.

10. Based on the identity of the parties’ respective marks, and the relatedness of the parties’ respective goods and services, among other factors likely to contribute to consumer confusion, consumers are likely mistakenly to associate the goods offered by Applicant under the mark ARSENAL with Opposer or with Opposer’s goods and services, or to believe that Applicant’s services are sponsored, endorsed, or licensed by Opposer, or that there is some other relationship between Applicant and Opposer.

11. For the above reasons, any use of the mark ARSENAL by Applicant in connection with the goods set forth in the Application is likely to cause confusion, to cause mistake, or to deceive the public in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

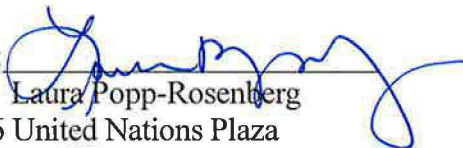
12. By reason of the foregoing, Opposer will be damaged by the registration of the mark ARSENAL to applicant.

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by the Application be denied.

Dated: New York, New York
October 20, 2016

Respectfully submitted,

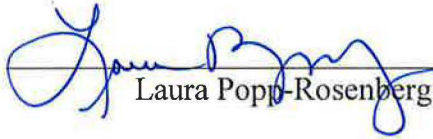
FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 
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New York, New York 10017
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Email: lpopp-rosenberg@fzlj.com

*Attorneys for Opposer
The Arsenal Football Club plc*

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of October, 2016, I have caused a true and correct copy of the foregoing **Notice of Opposition** to be sent by First Class U.S. Mail, postage pre-paid, in an envelope addressed to the correspondent of record for the opposed application:
Arsenal Cider House & Wine Cellar, Inc., 300 39th Street, Pittsburgh, PA 15201.



Laura Popp-Rosenberg