

ESTTA Tracking number: **ESTTA778377**

Filing date: **10/21/2016**

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	Reed Candle Company
Granted to Date of previous extension	10/22/2016
Address	1531 West Poplar San Antonio, TX 78207 UNITED STATES
Attorney information	Derrick A. Pizarro The Pizarro Firm 3619 Paesanos Parkway, Suite 102 San Antonio, TX 78231 UNITED STATES derrick.pizarro@pizarrofirm.com, ipdocket@pizarrofirm.com Phone:2109411274

**Applicant Information**

Application No	86960159	Publication date	08/23/2016
Opposition Filing Date	10/21/2016	Opposition Period Ends	10/22/2016
Applicant	Indio Products, Inc. 5331 E. Slauson Ave. Commerce, CA 90040 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 004. First Use: 1992/01/01 First Use In Commerce: 1992/01/01 All goods and services in the class are opposed, namely: Candles
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act Section 2(d)
The mark is merely descriptive	Trademark Act Section 2(e)(1)
The mark is generic	Trademark Act Sections 1, 2 and 45
Related Proceedings	We are opposing more of Applicant's proposed marks in addition to the above: 86960207, 86960144, 86960137, 86960123, 86960193, 86960186, 86960179, 86960134, 86960154, 86960151
Attachments	Reed Candle Co v Indio Prods_Opposition_RompeBloque_86960159.pdf(390034 bytes )

## 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	/dapizarro/
Name	Derrick A. Pizarro
Date	10/21/2016

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

In the Matter of Application Serial No. 86960159



For the mark:

Class: 004

Published: August 23, 2016

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Reed Candle Company, :  
 : **Opposition No.**  
 : \_\_\_\_\_  
Opposer, :  
 :  
v. :  
 :  
Indio Products, Inc., :  
 :  
Applicant. :  
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**NOTICE OF OPPOSITION**

Opposer, Reed Candle Company, a corporation organized and existing under the laws of Texas with a principal place of business at 1531 West Poplar, San Antonio, TX 78207 believes that it will be damaged by the issuance of a registration for the alleged mark shown in the above-identified application. Opposer hereby opposes same pursuant to Sections 2(e) and 2(d) of the Lanham Trademark Act of 1946 ("Lanham Act"), 15 U.S.C. §§ 1052(e), (d).

As grounds for opposition, Opposer alleges as follows:

### BACKGROUND

1. Upon information and belief, Applicant, Indio Products, Inc., with an address at 5331 E. Slauson Ave., Commerce, CA, on March 31, 2016 filed the above-identified application for the alleged trademark shown above (the “**Applicant’s Mark**”) in connection with “candles” in the above-identified class.

2. Opposer is a candle making company specializing in religious and mystical prayer candles. After seventy-six years in operation, Opposer now makes over three hundred fifty different candle products, employs over two hundred employees in the San Antonio, TX area and has become a leader in the religious and mystical prayer candle industry throughout the United States.

3. Opposer has used the words **ROMPE BLOQUE** (“**Opposer’s Mark**”) in interstate commerce in the United States continuously since before the year 1990 in connection with the manufacture, distribution, provision, sale, marketing, advertising and promotion of mystical candles.

4. The goods Opposer offers under the Opposer’s Mark are of high quality mystical candles in glass vessels. The user purchases and lights the candle to activate the mystical “spell” associated with the candle.

### FIRST GROUND FOR OPPOSITION – GENERICNESS

5. The Applicant’s Mark is barred from registration because it consists of words which, when used in connection with the alleged goods of Applicant, are incapable of distinguishing the source of the goods pursuant to 15 U.S.C. § 1052.

6. The relevant category of goods is “rompe bloque” (also known as “block buster” or “spellbreaker”) mystical candles.

7. The relevant public, here, the hoodoo or esoterica communities (such as the Santería community), primarily understands the Mark as referring to that category of goods.

8. The words comprising the Mark provide a common name for the goods with which Applicant associates the Mark. In particular, the words “rompe bloque” in this context commonly refer to a mystical formula said to be embodied in such goods. Lighting a “rompe bloque” candle is believed to bust obstacles or blockages in front of you.

9. Registration of Applicant’s Mark on the Class 004 goods set forth in Appln. No. 86960159, will restrict Opposer Reed’s ability to use Opponent’s Mark to properly identify Opposer Reed’s goods, thereby damaging Opposer Reed.

#### SECOND GROUND FOR OPPOSITION – DESCRIPTIVENESS

10. In the alternative, the Applicant’s Mark is barred from registration because it consists of words that describe and provides the function or purpose of the goods within the meaning of 15 U.S.C. § 1052(e).

11. Applicant’s candle goods use the Applicant’s Mark to explain and provide the function or purpose of the candle, namely, the mystical “spell” that use of the candle will activate.

12. The term “rompe bloque” refers to a “spell” commonly attached to a candle or other item of mysticism (also known as hoodoo or esoterica) such as incense, crystals, and bath salts. The purpose of lighting a “rompe bloque” candle is to bust or blow apart blockages and obstacles in front of you.

13. The term “rompe bloque” is a Spanish phrase meaning “block buster,” which similarly refers to such spell and often appears on the same candle.

14. Registration of Applicant’s Mark on the Class 004 goods set forth in Appln. No. 86960159 will restrict Opposer Reed’s ability to use Opponent’s Mark descriptively in its business, thereby damaging Opposer Reed.

### THIRD GROUND FOR OPPOSITION – LIKELIHOOD OF CONFUSION

15. In the alternative, the Applicant’s Mark is barred from registration because it consists of or comprises a mark which so resembles Opposer’s Mark as to be likely, when used in connection with the alleged goods of Applicant, to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

16. Opposer has expended substantial time, money and resources marketing, advertising, and promoting the goods sold under the Opposer’s Mark including through trade shows, distributors and retail stores throughout the United States.

17. As a result of its widespread and continuous use of the Opposer’s Mark to identify certain of its mystical candles and Opposer as their source, Opposer owns valid and subsisting common law rights to the Opposer’s Mark.

18. Applicant allegedly began using the Applicant’s Mark on January 1, 1992, several years after Opposer began using Opposer’s Mark.

19. Opposer’s Mark has priority over Applicant’s Mark throughout the United States because Opposer’s use date predates the Applicant’s filing date, alleged date of first use, and/or any other date on which the Applicant may rely for purposes of priority.

20. Applicant’s Mark is identical or nearly identical to Opposer’s Mark. Both consist of the words ROMPE BLOQUE, though the font or degree of stylization may vary.

21. The Class 004 goods on which Applicant claims it has used in conjunction with Applicant's Mark include and are used for the same purposes, and are or will be advertised and promoted to and directed at the same trade channels, the same purchasers, and or will be used in the same environment as Opposer Reed's goods. Opposer and Applicant both make and sell mystical candles in glass vessels.

22. Simultaneous use of Applicant's Marks in the Class 004 goods set forth in Appln. No. 86960159 and Opposer Reed's Mark on its goods, as set forth above, is likely to cause confusion, mistake or deception among purchasers, users, and the public, thereby damaging Opposer.

23. As set forth above, Applicant's Mark is likely to cause confusion with Opposer's prior **ROMPE BLOQUE** Mark, in violation of §2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer respectfully prays that its opposition be sustained and that registration to Applicant be refused.

[Opposer authorizes the Board to charge any fees that may be required, or credit any overpayment, to Deposit Account No. 506678.

Dated: October 21, 2016

Respectfully submitted,

THE PIZARRO FIRM

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