

ESTTA Tracking number: **ESTTA824030**

Filing date: **05/31/2017**

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	SPOETZL BREWERY, INC.
Granted to Date of previous extension	05/31/2017
Address	14800 SAN PEDRO AVENUE SAN ANTONIO, TX 78232 UNITED STATES

Attorney information	J. Scott Gerien / Joy Durand Dickenson, Peatman & Fogarty 1455 First Street, Suite 301 Napa, CA 94559 UNITED STATES tmltg@dpf-law.com
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Applicant Information

Application No	87140284	Publication date	01/31/2017
Opposition Filing Date	05/31/2017	Opposition Period Ends	05/31/2017
Applicant	BaseTenn LLC 520 E. Colfax Ave. Denver, CO 80203 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 2013/09/01 First Use In Commerce: 2013/09/01
All goods and services in the class are opposed, namely: Beer

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Other	common law

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3552392	Application Date	10/26/2001
Registration Date	12/30/2008	Foreign Priority Date	NONE
Word Mark	WICKED		

Design Mark	WICKED
Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 2001/08/01 First Use In Commerce: 2001/08/01 BEER [AND ALE]

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	WICKED		
Goods/Services	beer		

Attachments	76330260#TMSN.png(bytes) Notice of Opposition-LONGEST WICKEDEST WIT.pdf(226245 bytes)
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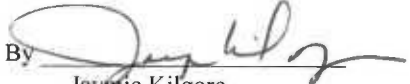
Signature	/Jaymie Kilgore/
Name	Jaymie Kilgore
Date	05/31/2017

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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://estta.uspto.gov>>.

Dated: May 31, 2017

By 
Jaymie Kilgore

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

Spoetzl Brewery, Inc.,
Opposer,
vs.
BaseTenn LLC,
Applicant.

OPPOSITION NO.
NOTICE OF OPPOSITION

TO THE COMMISSIONER OF TRADEMARKS:

Spoetzl Brewery, Inc. a Texas corporation located at 14800 San Pedro Avenue, Suite 300, San Antonio, Texas 78232 (“Opposer”), believes it will be damaged by registration of the mark LONGEST WICKEDEST WIT for beer shown in Application Serial No. 87/140,284 filed on August 16, 2016, by BaseTenn LLC (“Applicant”), and hereby opposes same.

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

1. Applicant seeks to register LONGEST WICKEDEST WIT as a trademark for beer in International Class 32, U.S. Trademark Application Serial No. 87/140,284 (the “Application”), based on applicant’s alleged use of the mark in United States commerce, as

1 evidenced by the publication of such mark on January 31, 2017. Applicant's Application was
2 filed on August 16, 2016.

3 2. Opposer is the owner of incontestable U.S. Trademark Registration No.
4 3,552,392 issued on December 30, 2008, for the mark WICKED for beer, in International Class
5 32, with a first use date of August 1, 2001, and constructive first use date of October 26, 2001,
6 both of which precede the filing date of Applicant's Application.

7 3. Applicant's LONGEST WICKEDEST WIT mark is likely to cause confusion,
8 mistake or to deceive the public because it is virtually identical to Opposer's WICKED mark
9 and the goods on which Opposer uses Opposer's WICKED mark are virtually identical,
10 substantially similar or related to the goods identified in Applicant's Application and said goods
11 are purchased by the same group of consumers. Accordingly, Applicant's LONGEST
12 WICKEDEST WIT mark is confusingly similar to Opposer's WICKED mark such that
13 Applicant is not entitled to register the mark LONGEST WICKEDEST WIT, and Applicant's
14 Application should be denied in accordance with Section 2(d) of the Trademark Act of 1946, 15
15 U.S.C. §1052(d).

16 4. Opposer avers that if Applicant is granted the registration herein opposed, it
17 would interfere with Opposer's exclusive right to use Opposer's WICKED mark herein relied
18 upon, all to the detriment and damage of Opposer. Accordingly, Opposer avers that for the
19 reasons set forth above, it will be damaged by a grant of registration to Applicant of the mark
20 LONGEST WICKEDEST WIT which is the subject of U.S. Trademark Application Serial No.
21 87/140,284.

22
23 WHEREFORE, Opposer prays as follows:

- 24 1. That this Opposition be sustained;
- 25 2. That U.S. Trademark Application Serial No. 87/140,284 be rejected; and
- 26 3. That registration of the trademark LONGEST WICKEDEST WIT shown
27 and specified in U.S. Trademark Application Serial No. 87/140,284 be
28 refused and denied.

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Please charge Opposer's counsel's Deposit Account #503564 the \$400 filing fee for the Opposition, and any other fees which may be necessary to effectuate the filing of this opposition.

Dated: May 31, 2017

DICKENSON, PEATMAN & FOGARTY



By: J. Scott Gerien
Joy L. Durand

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Napa, California 94559
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Attorneys for Opposer,
Spoetzl Brewery, Inc.