

ESTTA Tracking number: **ESTTA868316**

Filing date: **01/02/2018**

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	Patron Spirits International AG
Granted to Date of previous extension	01/03/2018
Address	Quaistrasse 11 Schaffhausen, 8200 SWITZERLAND

Attorney information	Jessica Bromall Sparkman Jeffer Mangels Butler & Mitchell LLP 1900 Avenue of the Stars, 7th Floor Los Angeles, CA 90067 UNITED STATES Email: trademarkdocket@jmbm.com Phone: 310-203-8080
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**Applicant Information**

Application No	87429513	Publication date	09/05/2017
Opposition Filing Date	01/02/2018	Opposition Period Ends	01/03/2018
Applicant	Super Bakery Inc. Suite 455 5700 Corporate Drive Pittsburgh, PA 15237 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Powders used in the preparation of sports drinks
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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.	2058075	Application Date	05/09/1995
Registration Date	04/29/1997	Foreign Priority Date	NONE
Word Mark	PYRAT RUM		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1996/07/00 First Use In Commerce: 1996/07/00 rum

U.S. Registration No.	2727996	Application Date	11/07/2001
Registration Date	06/17/2003	Foreign Priority Date	NONE

Word Mark	PYRAT
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1996/07/31 First Use In Commerce: 1996/07/31 DISTILLED SPIRITS

Attachments	76335729#TMSN.png( bytes ) Notice of Opposition - PIRATEADE - Super Bakery.pdf(114906 bytes )
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Signature	/jessica bromall sparkman/
Name	Jessica Bromall Sparkman
Date	01/02/2018

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

PATRÓN SPIRITS INTERNATIONAL AG, a Swiss company  Opposer,  v.  SUPER BAKERY INC., a Pennsylvania corporation  Applicant.	Opposition No.: _____  Application Serial No.: 87/429,513  Mark: PIRATEADE  Published for Opposition: September 5, 2017  Atty. Ref. No.: 57062-0643
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**NOTICE OF OPPOSITION**

Opposer Patrón Spirits International AG ("Opposer"), a Swiss company, having an address of Quaistrasse 11, 8200 Schaffhausen, Switzerland believes that it will be damaged by the registration of PIRATEADE on the Principal Register in connection with "Powders used in the preparation of sports drinks" in Int. Cl. 32. The mark PIRATEADE is the subject of App. Ser. No. 87/429,513, allegedly owned by Super Bakery Inc. ("Applicant"), a Pennsylvania corporation, and Opposer hereby opposes registration thereof.

Opposer has obtained the necessary extensions of time in which to file this Notice of Opposition.

As grounds for this Opposition, it is alleged that:

1. Opposer, through its related and affiliated companies, produces and markets a range of alcoholic beverages, including tequila, liqueur, vodka, and rum products.
2. Opposer is the source of PYRAT<sup>®</sup> brand rum products. Opposer distributes and sells PYRAT<sup>®</sup> products throughout the United States and throughout the world. Opposer, and its predecessors-in-interest, have continuously used the PYRAT<sup>®</sup> mark, and have continuously sold PYRAT<sup>®</sup> brand products in the United States since at least as early as July

1996. As a result, Opposer has common law rights in the PYRAT<sup>®</sup> trademark. Opposer and its predecessors-in-interest have developed a reputation in the name PYRAT<sup>®</sup> in connection with rum products.

3. Opposer is the owner of record of U.S. Trademark Reg. No. 2,058,075, issued on April 29, 1997, for the mark PYRAT RUM for "rum," and is also the owner of all common law rights in the mark, including all of the business and goodwill connected therewith. This registration issued from an application filed on May 9, 1995. This registration has not been revoked or cancelled.

4. Opposer is the owner of record of U.S. Trademark Reg. No. 2,727,996, issued on June 17, 2003, for the mark PYRAT for "distilled spirits," and is also the owner of all common law rights in the mark, including all of the business and goodwill connected therewith. This registration issued from an application filed on November 7, 2001. This registration has not been revoked or cancelled.

5. Opposer's PYRAT marks described in Paragraphs 2 through 4 above, and as reflected in Opposer's U.S. Reg. Nos. 2,058,075 and 2,727,996, are collectively referred to herein as "Opposer's Mark."

6. On information and belief, Applicant is the owner of record of trademark application Ser. No. 87/429,513 filed on April 28, 2017, for registration of the mark PIRATEADE ("Applicant's Mark") in standard characters for use in connection with "Powders used in the preparation of sports drinks" in Int. Cl. 32 ("Applicant's Goods").

7. PYRAT is pronounced like the word "pirate" and is a spelling of the word "pirate" that was commonly used in or around the 1500s through the 1800s, and is sometimes still used today.

8. Opposer's registrations for Opposer's Mark predate Applicant's application. Opposer has sold PYRAT<sup>®</sup> brand products in the United States continuously since 1996; and PYRAT<sup>®</sup> brand products have been the subject of press, including magazines and third party blogs and websites. As a result, Opposer's Mark has become well known and associated with Opposer in the United States. Because of Opposer's efforts, and by virtue of the excellence of the goods offered and provided by Opposer under Opposer's Mark, Opposer has built a valuable reputation and significant goodwill in Opposer's Mark belonging exclusively to Opposer.

9. Applicant's Mark so resembles Opposer's Mark, including with respect to sight, sound, and meaning, that it is likely that when Applicant's Mark is used in connection with Applicant's Goods, it will cause confusion, mistake, or deception. Applicant's Mark, therefore, creates a confusingly similar commercial impression. Thus, consumers will likely believe that Applicant's use of the mark PIRATEADE in connection with Applicant's Goods is in some way associated with, connected with, or sponsored, authorized, approved, or licensed by Opposer.

10. Applicant's Mark so resembles Opposer's Mark that it is likely to create a false designation of origin and false or misleading representation of fact that is likely to cause confusion, or to cause mistake, or to deceive as to an affiliation, connection, or association between Opposer and Applicant. Any objection or fault with the goods offered in connection with Applicant's Mark may reflect upon and injure Opposer's reputation or the goodwill Opposer has established in Opposer's Mark.

11. If Applicant is granted the registration herein opposed, Applicant would thereby obtain at least a prima facie exclusive right to use of the mark PIRATEADE in

connection with Applicant's Goods as identified in application Serial No. 87/429,513. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, in accordance with Section 13 of the Trademark Act (15 U.S.C. § 1063), Opposer prays that this Opposition be sustained and that application Ser. No. 87/429,513 be refused.

Respectfully submitted,

Dated: January 2, 2018

/s/ JESSICA BROMALL SPARKMAN  
Jessica Bromall Sparkman, Esq.  
Bernard R. Gans, Esq.  
Attorney for Opposer Patrón Spirits International AG  
Jeffer Mangels Butler & Mitchell LLP  
1900 Avenue of the Stars, Seventh Floor  
Los Angeles, CA 90067-5010  
Telephone: (310) 203-8080  
Fax: (310) 203-0567  
**E-mail: trademarkdocket@jmbm.com**