

ESTTA Tracking number: **ESTTA881806**

Filing date: **03/07/2018**

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	03/07/2018
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

Applicant Information

Application No	87161630	Publication date	11/07/2017
Opposition Filing Date	03/07/2018	Opposition Period Ends	03/07/2018
International Registration No.	NONE	International Registration Date	NONE
Applicant	Dymocks Holdings Pty Ltd L6 428 George Street Sydney, NSW, 2606 AUSTRALIA		

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: Liqueurs


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.	1809473	Application Date	07/28/1992
Registration Date	12/07/1993	Foreign Priority Date	NONE

Word Mark	PATRON
Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1990/08/00 First Use In Commerce: 1990/08/00 tequila

U.S. Registration No.	2969941	Application Date	08/25/2003
Registration Date	07/19/2005	Foreign Priority Date	NONE
Word Mark	PATRON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2003/02/28 First Use In Commerce: 2003/02/28 Tequila; distilled spirits		

Attachments	78292016#TMSN.png(bytes) Notice of Opposition - PATONS - Dymocks Holdings Pty Ltd.pdf(118210 bytes)
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Signature	/jessica bromall sparkman/
Name	Jessica Bromall Sparkman
Date	03/07/2018

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

PATRÓN SPIRITS INTERNATIONAL AG, Opposer, v. DYMOCKS HOLDINGS PTY LTD., Applicant.	Opposition No.: _____ Application Serial No.: 87/161,630 Mark: PATONS Published for Opposition: November 7, 2017 Atty. Ref. No.: 57062-0644
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Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

NOTICE OF OPPOSITION

Opposer Patrón Spirits International AG ("Opposer"), a Switzerland company, having an address of Quaistrasse 11, 8200 Schaffhausen, Switzerland believes that it will be damaged by the registration of PATONS in connection with "Liqueurs" in Int. Cl. 33. The mark PATONS is the subject of App. Ser. No. 87/161,630, filed by Dymocks Holdings Pty Ltd. ("Applicant"), 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 and liqueur.
2. Opposer is the source of the well-known PATRON[®] brand of premium tequila and other alcoholic beverages. Opposer has enjoyed tremendous success in selling its

PATRON[®] tequila and related products throughout the United States. Opposer and its predecessors-in-interest have continuously sold the successful PATRON[®] brand of tequila and related products in the United States since at least as early as August 31, 1990. By, among other things, developing premium quality products and investing millions of dollars in advertising and promoting those products, Opposer and its predecessors-in-interest have developed a preeminent brand reputation in the name PATRON[®] in connection with premium quality tequila, and other alcoholic beverages. As a result, Opposer has common law rights in the PATRON[®] trademark which predate Applicant's rights.

3. Opposer is the owner of record of U.S. Trademark Reg. No. 1,809,473, issued on December 7, 1993, for the mark PATRON for "tequila," as well as 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 July 28, 1992. Opposer's registration has not been revoked or cancelled.

4. Opposer is the owner of record of U.S. Trademark Reg. No. 2,969,941, issued on July 19, 2005, for the mark PATRON for "tequila; distilled spirits," as well as 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 August 25, 2003. Opposer's registration has not been revoked or cancelled.

5. Opposer's PATRON marks described in Paragraphs 2-4 above, and as reflected in Opposer's U.S. Reg. Nos. 1,809,473 and 2,969,941 are collectively referred to herein as "Opposer's Marks."

6. On information and belief, Applicant is the owner of record of trademark App. Ser. No. 87/161,630 filed on September 6, 2016 for registration of the mark PATONS

("Applicant's Mark") for use in connection with, *inter alia*, "Liqueurs" in Int. Cl. 33 ("Applicant's Goods").

7. Since long prior to September 6, 2016, the filing date of Applicant's application, Opposer has widely advertised and promoted Opposer's Marks in connection with alcoholic beverages and related products and services, with the result that Opposer's Marks have become well-known and associated with Opposer in the United States.

8. By virtue of the widespread and longstanding distribution of goods under Opposer's Marks, Opposer's Marks have come to identify the source of such goods and to distinguish such goods from the goods of others. By virtue of the quality of the products distributed under Opposer's Marks, the marks have come to identify the source of such goods as a supplier of high quality tequila and other alcoholic beverages. Because of these efforts, and by virtue of the excellence and success of the alcoholic beverages offered and provided by Opposer under Opposer's Marks, Opposer has built up a valuable reputation and tremendous goodwill in Opposer's Marks belonging exclusively to Opposer.

9. Applicant's Mark so resembles Opposer's Marks as to be likely, when used in connection with Applicant's Goods, to 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 PATONS in connection with Applicant's Goods is in some way associated or connected with, sponsored, authorized, approved or licensed by Opposer.

10. Applicant's Mark so resembles Opposer's Marks as to be 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 in connection with the goods offered in connection with Opposer's Marks.

11. PATRON[®] is a famous mark as defined by U.S.C.A. §1125(c)(1) and such fame was acquired before September 6, 2016, the filing date of Applicant's application.

12. If Applicant is granted the registration herein opposed, Applicant would thereby obtain at least a prima facie exclusive right to use of the mark PATONS in connection with Applicant's Goods as identified in application Serial No. 87/161,630. 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 Serial No. 87/161,630 be refused.

Respectfully submitted,

Dated: March 7, 2018

/s/ JESSICA BROMALL SPARKMAN
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