

ESTTA Tracking number: **ESTTA935107**

Filing date: **11/14/2018**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Republic Tobacco, L.P.
Granted to Date of previous extension	11/14/2018
Address	2301 Ravine Way Glenview, IL 60025 UNITED STATES

Name	Altesse Zigarettenhullenerzeugung und Papierverarbeitung GesmbH
Granted to Date of previous extension	11/14/2018
Address	Hainburger StraBe 34/1/13 Vienna, A-1030 AUSTRIA

Attorney information	ANTONY J. MCSHANE NEAL, GERBER & EISENBERG, LLP 2 NORTH LASALLE STREET, SUITE 1700 CHICAGO, IL 60602 UNITED STATES amcshane@nge.com, jcohen@nge.com, temanuson@nge.com, lpalumbo@nge.com, ecfdoCKET@nge.com 312-269-8000
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Applicant Information

Application No	87791285	Publication date	07/17/2018
Opposition Filing Date	11/14/2018	Opposition Period Ends	11/14/2018
Applicant	RCS Importa~o e Exporta~o de ProdutosLtda. Sig Quadra 03, Bloco B, Loja 25 Setor de Ind~strias Gr~ficas Ciudad de Bras~lia BRAZIL		

Goods/Services Affected by Opposition


Class 034. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Cigarette papers; packaged cigarette papers; smoking papers, namely, cigarette rolling papers; papers for smoke, namely, absorbent paper for tobacco pipes

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Design Mark			
Goods/Services	Cigarette papers, cigarette tubes		

Attachments	Notice of Opposition re KEEP ROLLING.pdf(94528 bytes) Exhibit A to NOO for KEEP ROLLING.pdf(148950 bytes) rolling drawing.jpg
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Signature	/Antony McShane/
Name	ANTONY J. MCSHANE
Date	11/14/2018

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

In the Matter of Application Serial No.
87/791,285 for KEEP ROLLING

Published in the Official Gazette
on July 17, 2018

REPUBLIC TOBACCO L.P.
and
ALTESSE
ZIGARETTENHULLENERZEUGUNG
UND PAPIERVERARBEITUNG GESMBH,

Opposers,

v.

RCS IMPORTAÇÃO E EXPORTAÇÃO DE
PRODUTOS LTDA.,

Applicant.

NOTICE OF OPPOSITION

This Notice of Opposition is submitted in the matter of Application Serial No. 87/791,285 for registration by RCS Importação e Exportação de Produtos Ltda. of the term KEEP ROLLING based upon its intent to use the mark in connection with “cigarette papers; packaged cigarette papers; smoking papers, namely, cigarette rolling papers; papers for smoke, namely, absorbent paper for tobacco pipes” in International Class 34, which was published for opposition in the Official Gazette on July 17, 2018. Republic Tobacco L.P., having a place of business at 2301 Ravine Way, Glenview, Illinois, 60025, and Altesse Zigarettenhullenerzeugung und Papierverarbeitung GesmbH, having a place of business at Hainburger StraBe 34/1/13 Vienna AUSTRIA A-1030 (together, “Republic”), believe that they would be damaged by the registration and therefore oppose the same.

The grounds for Opposition herein are as follows:

1. For many years, and long prior to the acts of Applicant herein alleged, Republic has been engaged, *inter alia*, in the distribution and sale of cigarette papers, which are distributed to consumers by Republic across the United States through tobacco shops, drugstores, tobacco outlets, convenience and other retail stores.

2. Republic has sold cigarette papers under the mark ROLLING since at least as early as 2006, and has built up and now owns valuable common law rights in the mark.

3. The Trademark Office has required registrants of marks comprised of the term ROLLING used in connection with cigarette papers to disclaim rights to that term apart from the mark as a whole in such registrations on the Principal Register. *See* exemplary registrations included in Exhibit A.

4. Applicant has applied to register the mark KEEP ROLLING based on its intent to use the mark in connection with “cigarette papers; packaged cigarette papers; smoking papers, namely, cigarette rolling papers; papers for smoke, namely, absorbent paper for tobacco pipes” without disclaiming the term ROLLING apart from the mark as a whole.

5. Applicant’s registration of KEEP ROLLING for such goods without disclaiming rights in the term ROLLING apart from the mark as a whole will interfere with and damage Republic’s rights in and ability to use ROLLING in connection with its cigarette papers.

6. Accordingly, Republic is likely to be damaged by the registration of Applicant’s KEEP ROLLING mark on the Principal Register.

WHEREFORE, Republic requests that the registration sought by Applicant be refused and that this Notice of Opposition be sustained.

Republic requests that the requisite filing fee of \$600.00 be charged to the deposit account of Neal, Gerber & Eisenberg, Account No. 502261.

Respectfully submitted,

Date: November 14, 2018

By: /Antony J. McShane/
One of the Attorneys for Opposers

Antony J. McShane
Jessica Rissman Cohen
Neal, Gerber & Eisenberg LLP
Two North LaSalle Street
Chicago, Illinois 60602-3801
(312) 269-8000

EXHIBIT A

**Trademarks > Trademark Electronic Search System (TESS)**

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EMPIRE ROLLING

Word Mark	EMPIRE ROLLING
Goods and Services	IC 034. US 002 008 009 017. G & S: Cigarette rolling papers. FIRST USE: 20170101. FIRST USE IN COMMERCE: 20170420
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	87439449
Filing Date	May 6, 2017
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	April 17, 2018
Registration Number	5571541
Registration Date	September 25, 2018
Owner	(REGISTRANT) KYLE HALL INDIVIDUAL UNITED STATES P.O. BOX 650176 POTOMAC FALLS VIRGINIA 20165
Attorney of Record	/BT/
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ROLLING" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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ROLLING SUPREME

Word Mark ROLLING SUPREME

Goods and Services IC 034. US 002 008 009 017. G & S: Cigarette papers; Cigarette tubes; Machines allowing smokers to make cigarettes by themselves. FIRST USE: 20100505. FIRST USE IN COMMERCE: 20100505

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 87172194

Filing Date September 15, 2016

Current Basis 1A

Original Filing Basis 1A

Published for Opposition February 7, 2017

Registration Number 5190374

Registration Date April 25, 2017

Owner (REGISTRANT) BBK Tobacco & Foods, LLP DBA HBI International BBK Tobacco & Food Products, LLC, an Arizona limited liability company, as general partner limited liability partnership ARIZONA 3401 W Papago St Phoenix ARIZONA 85009

Attorney of Record Brendan Mahoney

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ROLLING" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK

Register PRINCIPAL-2(F)

Live/Dead Indicator LIVE

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ROLLING SUPREME

Word Mark ROLLING SUPREME

Goods and Services IC 025. US 022 039. G & S: Shirts; Hats. FIRST USE: 20050530. FIRST USE IN COMMERCE: 20050530

IC 034. US 002 008 009 017. G & S: Ashtrays; Cigarette cases; Cigarette tubes;Matches. FIRST USE: 20050510. FIRST USE IN COMMERCE: 20050510

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77276538

Filing Date September 11, 2007

Current Basis 1A

Original Filing Basis 1A

Published for Opposition December 3, 2013

Registration Number **4482896**

Registration Date February 18, 2014

Owner (REGISTRANT) BBK Tobacco & Foods Inc DBA HBI International CORPORATION ARIZONA 3401 W Papago Street Phoenix ARIZONA 85009

Attorney of Record Brendan N. Mahoney, Esq.

Prior Registrations 3750937

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ROLLING" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK

Register PRINCIPAL-2(F)

Live/Dead Indicator LIVE

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ROLLING CARD

Word Mark ROLLING CARD

Goods and Services IC 034. US 002 008 009 017. G & S: Cigarette papers; [Cigarette rolling machines;] Cigarette rolling papers. FIRST USE: 20050415. FIRST USE IN COMMERCE: 20060720

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77138696

Filing Date March 23, 2007

Current Basis 1A

Original Filing Basis 1A

Published for Opposition July 31, 2007

Registration Number **3371757**

Registration Date January 22, 2008

Owner (REGISTRANT) BBK Tobacco & Foods Inc. CORPORATION ARIZONA 3315-B W Buckeye Rd., #4 Legal Department Phoenix ARIZONA 85009

(LAST LISTED OWNER) BBK TOBACCO & FOODS, LLP DBA HBI International, INC BK Tobacco & Food Products, LLC, an Arizona limited liability company, as general partner LIMITED LIABILITY PARTNERSHIP ARIZONA 3401 W Papago Street Phoenix ARIZONA 85009

Assignment

Recorded ASSIGNMENT RECORDED
Attorney of Record Brendan N. Mahoney, Esq.
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Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20170321.
Renewal 1ST RENEWAL 20170321
Live/Dead Indicator LIVE

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Word Mark LION ROLLING CIRCUS

Goods and Services IC 034. US 002 008 009 017. G & S: cigarette rolling papers, filter tips and rolling machines. FIRST USE: 20131001. FIRST USE IN COMMERCE: 20141029

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 86440667

Filing Date October 31, 2014

Current Basis 1A

Original Filing Basis 1A

Published for Opposition April 28, 2015

Registration Number 4772175

Registration Date July 14, 2015

Owner (REGISTRANT) Budasoff, Valeria Dina INDIVIDUAL ARGENTINA Domingo de Acassuso 1026 La Lucila ARGENTINA 1636

(REGISTRANT) Budasoff, Federico Ariel INDIVIDUAL ARGENTINA Domingo de Acassuso 3780 Olivos ARGENTINA 1636

Attorney of Record Raj Abhyanker

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Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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