

ESTTA Tracking number: **ESTTA966712**

Filing date: **04/12/2019**

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	Rebel Wine Co. LLC
Granted to Date of previous extension	04/13/2019
Address	100 St. Helena Highway South P.O. Box 248 St. Helena, CA 94574 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, jdurand@dpf-law.com, jkilgore@dpf-law.com 7072527122
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Applicant Information

Application No	88131984	Publication date	02/12/2019
Opposition Filing Date	04/12/2019	Opposition Period Ends	04/13/2019
Applicant	River Bandit, LLC 51 Evelyns Way Chepachet, RI 02814 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: Beer

Applicant Information

Application No	88131990	Publication date	02/12/2019
Opposition Filing Date	04/12/2019	Opposition Period Ends	
Applicant	River Bandit, LLC 51 Evelyns Way Chepachet, RI 02814 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: Beer


Grounds for Opposition

Priority and likelihood of confusion

Trademark Act Section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3311926	Application Date	02/02/2006
Registration Date	10/16/2007	Foreign Priority Date	NONE
Word Mark	BANDIT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2004/12/31 First Use In Commerce: 2004/12/31 Wine		

U.S. Registration No.	3974340	Application Date	10/20/2010
Registration Date	06/07/2011	Foreign Priority Date	NONE
Word Mark	BANDIT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2004/08/24 First Use In Commerce: 2004/08/24 Alcoholic beverages except beers		

U.S. Application/ Registration No.	NONE	Application Date	NONE
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Registration Date	NONE
Word Mark	BANDIT
Goods/Services	alcoholic beverages except beer

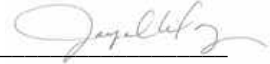
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Signature	/Jaymie Kilgore/
Name	Jaymie Kilgore
Date	04/12/2019

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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: April 12, 2019 By: 
Jaymie Kilgore

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

Rebel Wine Co., LLC,
Opposer,
vs.
River Bandit, LLC,
Applicant.

OPPOSITION NO.
NOTICE OF OPPOSITION

TO THE COMMISSIONER OF TRADEMARKS:

Rebel Wine Co., LLC, a California limited liability company with a mailing address of P.O. Box 248, St. Helena, California, 94574 (“Opposer”), believes it will be damaged by registration of the marks RIVER BANDIT CRAFT BEER and Design for beer shown in Application Serial No. 88/131,984 and RIVER BANDIT CRAFT BEER for beer shown in Application Serial No. 88/131,990, both filed on September 26, 2018 by River Bandit, 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 RIVER BANDIT CRAFT BEER and Design as a trademark for beer in International Class 32, U.S. Trademark Application Serial No.

1 88/131,984, based on Applicant's alleged intent to use the mark in United States commerce, as
2 evidenced by the publication of such mark on February 12, 2019. Applicant's RIVER BANDIT
3 CRAFT BEER and Design application was filed on September 26, 2018.

4 2. Applicant also seeks to register RIVER BANDIT CRAFT BEER as a trademark
5 for beer in International Class 32, U.S. Trademark Application Serial No. 88/131,990, based on
6 Applicant's alleged intent to use the mark in United States commerce, as evidenced by the
7 publication of such mark on February 12, 2019. Applicant's RIVER BANDIT CRAFT BEER
8 application was filed on September 26, 2018. Applicant's Trademark Application Nos.
9 88/131,984 and 88/131,990 are referred to collectively as the "Applications" and the marks
10 reflected in the Applications are referred to collectively as the "RIVER BANDIT Marks."

11 3. Opposer is the owner of incontestable U.S. Trademark Registration No.
12 3,311,926 issued on October 16, 2007, for the mark BANDIT for wine in International Class 33
13 with a first use in commerce date as early as December 31, 2004, and a constructive first use
14 date of February 2, 2006.

15 4. Opposer is the owner of incontestable U.S. Trademark Registration No.
16 3,974,340 issued on June 7, 2011 for the mark BANDIT for alcoholic beverages except beer in
17 International Class 33 with a first use in commerce date as early as August 24, 2004, and a
18 constructive first use date of October 20, 2010.

19 5. Opposer has continuously used the trade name and mark BANDIT in association
20 with wine and the offering of wine for sale throughout the United States since as early as
21 August 24, 2004. (Opposer's BANDIT name and mark as referenced in paragraphs 3-5 of this
22 Notice of Opposition is hereinafter collectively referred to as the "BANDIT Mark").

23 6. All actual and constructive first use dates for the BANDIT Mark precede any
24 known date of first use or constructive filing date for Applicant's RIVER BANDIT Marks for
25 beer.

26 7. Applicant's RIVER BANDIT Marks are likely to cause confusion, mistake or to
27 deceive the public because they are virtually identical to Opposer's BANDIT Mark and the
28 goods on which Opposer uses Opposer's BANDIT Mark are virtually identical, substantially

1 similar or related to the goods identified in Applicant's Applications and said goods are
2 purchased by the same group of consumers. Accordingly, Applicant's RIVER BANDIT Marks
3 are confusingly similar to Opposer's BANDIT Mark such that Applicant is not entitled to
4 register the RIVER BANDIT Marks, and Applicant's Applications should be denied in
5 accordance with Section 2(d) of the Trademark Act of 1946, 15 U.S.C. §1052(d).

6 8. Opposer avers that if Applicant is granted the registrations herein opposed, it
7 would interfere with Opposer's exclusive right to use Opposer's BANDIT Mark herein relied
8 upon, all to the detriment and damage of Opposer. Accordingly, Opposer avers that for the
9 reasons set forth above, it will be damaged by a grant of registration to Applicant of the RIVER
10 BANDIT Marks which are the subject of the Applications.

11
12 WHEREFORE, Opposer prays as follows:

- 13 1. That this Opposition be sustained;
- 14 2. That U.S. Trademark Application Serial Nos. 88/131,984 and 88/131,990
15 be rejected; and
- 16 3. That registration of the RIVER BANDIT Marks shown and specified in
17 U.S. Trademark Application Serial Nos. 88/131,984 and 88/131,990 be refused and
18 denied.

19
20 Please charge Opposer's counsel's Deposit Account #503564 the \$800 filing fee for the
21 Opposition, and any other fees which may be necessary to effectuate the filing of this
22 opposition.

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Dated: April 12, 2019

DICKENSON, PEATMAN & FOGARTY



By: J. Scott Gerien
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Attorneys for Opposer,
Rebel Wine Co., LLC