

ESTTA Tracking number: **ESTTA995751**

Filing date: **08/19/2019**

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	Rhubarb Food Design Limited
Granted to Date of previous extension	10/09/2019
Address	5-25 BURR ROAD LONDON, SW18 4SQ UNITED KINGDOM

Attorney information	DAVID A.W. WONG; KATHLEEN S. FENNESSY BARNES & THORNBURG LLP 11 SOUTH MERIDIAN STREET INDIANAPOLIS, IN 46204 UNITED STATES dwong@btlaw.com, kfennesy@btlaw.com, tmindocket@btlaw.com 3172361313
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Applicant Information

Application No	88376463	Publication date	06/11/2019
Opposition Filing Date	08/19/2019	Opposition Period Ends	10/09/2019
Applicant	Sutter Home Winery, Inc. 100 St. Helena Hwy South, P.O. Box 248 St. Helena, CA 94574 UNITED STATES		

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: Alcoholic beverages except beers

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. Registration No.	5795875	Application Date	07/06/2018
Registration Date	07/02/2019	Foreign Priority Date	NONE
Word Mark	WILD INK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 2019/03/15 First Use In Commerce: 2019/03/15 Restaurant and caf� services; bar services; providing of food and drink; restaurant services, namely, providing of food and beverages for consumption both on and off premises

Attachments	88028300#TMSN.png(bytes) Notice of Opposition WILD INK.pdf(97919 bytes) Exhibits WILD INK.pdf(197555 bytes)
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Signature	/dwong/
Name	DAVID A.W. WONG; KATHLEEN S. FENNESSY
Date	08/19/2019

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

Rhubarb Food Design Limited,

Opposer,

v.

Sutter Home Winery, Inc.,

Applicant

Opposition No.: _____

Mark: WILD INK

Serial No.: 88376463

Published: June 11, 2019

NOTICE OF OPPOSITION

Rhubarb Food Design Limited (“Opposer”) believes that it will be damaged by registration of WILD INK trademark (“Applied-For Mark”) shown in U.S. Application Serial No. 88376463 (“Application”), published in the Official Gazette of June 11, 2019 and hereby opposes registration of the same. The grounds for opposition are as follows:

1. Opposer is an international hospitality group that delivers premium food and beverage experiences across events and iconic locations.

2. Since at least as early as March 2019, Opposer has used the mark WILD INK (the “WILD INK Mark”) in connection with bar and restaurant services. Opposer has expended substantial resources to advertise and promote the services covered by the WILD INK Mark.

3. Opposer owns US Registration No. 5795875 for the WILD INK Mark on the Principal Register (the “WILD INK Registration”). Opposer applied to register the WILD INK

Mark on July 6, 2018, the application to register the WILD INK Mark was published for opposition on December 11, 2018, and the WILD INK Mark registered on July 2, 2019. The WILD INK Registration is valid and subsisting in full force and effect. A printout from the TSDR, evidencing the current status and ownership of this registration is attached as **Exhibit A**.

4. Through Opposer's advertising and promotion of its services under the WILD INK Mark, together with the very popular nature of Opposer's services, the relevant public has come to recognize the WILD INK Mark as signifying Opposer and its services, and Opposer has built up extensive and valuable goodwill in the WILD INK Mark.

5. On April 8, 2019, Sutter Home Winery, Inc. (the "Applicant") filed the Application seeking registration of the WILD INK mark in connection with alcoholic beverages in Class 33 based on its intent to use the mark, which was published for opposition in the Official Gazette of June 11, 2019. A printout from the TSDR, evidencing the current status and ownership of this application is attached as **Exhibit B**.

6. Applicant's WILD INK trademark is identical to and confusingly similar in appearance and sound to Opposer's WILD INK Mark.

7. Opposer began using the WILD INK Mark in the United States and sought registration of the WILD INK Mark before Applicant filed the Application or first used the Applied-For Mark.

8. The goods covered by the Application are highly related to and overlap with the services sold and provided by Opposer under the WILD INK Mark.

9. Applicant's goods are likely to be marketed and sold to identical consumers and through the same channels of trade as Opposer's services.

10. The Applied-For Mark is confusingly similar to Opposer's WILD INK Mark, and its registration and use by Applicant in connection with the goods covered in

the Application is likely to cause confusion, deception, and mistake as to the origin of Applicant's services and to confuse, mislead and deceive members of the public into believing that Applicant's goods originate from, or are sponsored, approved, or licensed by Opposer, or are in some way connected to Opposer.

11. Applicant's use and registration of the Applied-For Mark in connection with the goods identified in the Application is likely to cause confusion, deception, and/or mistake among the relevant public.

12. If Applicant were granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to use the Applied-For Mark. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that registration of Application Serial No. 88376463 be denied.

Respectfully submitted,

Date: August 19, 2019

By: /s/ David A.W. Wong
David A. W. Wong
Kathleen S. Fennessy
BARNES & THORNBURG LLP
11 South Meridian Street
Indianapolis, Indiana 46204
Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this Notice of Opposition has been filed via ESTTA on August 19, 2019.

/s/ Kathleen S. Fennessy

EXHIBIT A

Generated on: This page was generated by TSDR on 2019-08-16 10:35:40 EDT

Mark: WILD INK

WILD INK

US Serial Number: 88028300

Application Filing Date: Jul. 06, 2018

US Registration Number: 5795875

Registration Date: Jul. 02, 2019

Filed as TEAS RF: Yes

Currently TEAS RF: Yes

Register: Principal

Mark Type: Service Mark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Jul. 02, 2019

Publication Date: Dec. 11, 2018

Notice of Allowance Date: Feb. 05, 2019

Mark Information

Mark Literal Elements: WILD INK

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Restaurant and café services; bar services; providing of food and drink; restaurant services, namely, providing of food and beverages for consumption both on and off premises

International Class(es): 043 - Primary Class

U.S Class(es): 100, 101

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 15, 2019

Use in Commerce: Mar. 15, 2019

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Filed ITU: Yes

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Rhubarb Food Design Limited
Owner Address: 5-25 Burr Road
London UNITED KINGDOM SW184SQ
Legal Entity Type: limited company (Ltd.)

State or Country UNITED KINGDOM
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: David A.W. Wong
Attorney Primary Email Address: dwong@btlaw.com
Docket Number: 74280-280154
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: DAVID A.W. WONG
BARNES & THORNBURG LLP
11 SOUTH MERIDIAN STREET
INDIANAPOLIS, INDIANA UNITED STATES 46204-3535
Phone: 317-236-1313
Fax: 317-231-7433
Correspondent e-mail: dwong@btlaw.com TMINDocket@btlaw.com cbrinson@btlaw.com
Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jul. 02, 2019	REGISTERED-PRINCIPAL REGISTER	
May 29, 2019	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
May 28, 2019	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
May 16, 2019	STATEMENT OF USE PROCESSING COMPLETE	74055
May 01, 2019	USE AMENDMENT FILED	74055
May 16, 2019	CASE ASSIGNED TO INTENT TO USE PARALEGAL	74055
May 01, 2019	TEAS STATEMENT OF USE RECEIVED	
Feb. 05, 2019	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Dec. 11, 2018	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Dec. 11, 2018	PUBLISHED FOR OPPOSITION	
Nov. 21, 2018	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Oct. 31, 2018	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 25, 2018	ASSIGNED TO EXAMINER	93974
Jul. 12, 2018	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jul. 10, 2018	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: May 28, 2019

EXHIBIT B

Generated on: This page was generated by TSDR on 2019-08-16 10:41:14 EDT

Mark: WILD INK

WILD INK

US Serial Number: 88376463

Application Filing Date: Apr. 08, 2019

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

Status Date: Jul. 01, 2019

Publication Date: Jun. 11, 2019

Mark Information

Mark Literal Elements: WILD INK

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Alcoholic beverages except beers

International Class(es): 033 - Primary Class

U.S Class(es): 047, 049

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: Yes

Currently ITU: Yes

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: Sutter Home Winery, Inc.

Owner Address: 100 St. Helena Hwy South, P.O. Box 248
St. Helena, CALIFORNIA 94574
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: J. Scott Gerien
Attorney Primary Email Address: tmdept@dpf-law.com
Docket Number: SUTT1-2833
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: J. SCOTT GERIEN
DICKENSON, PEATMAN & FOGARTY
1455 FIRST STREET, SUITE 301
NAPA, CALIFORNIA 94559
UNITED STATES
Phone: 707-252-7122
Fax: 707-255-6876
Correspondent e-mail: tmdept@dpf-law.com
Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jul. 01, 2019	EXTENSION OF TIME TO OPPOSE RECEIVED	
Jun. 11, 2019	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jun. 11, 2019	PUBLISHED FOR OPPOSITION	
May 22, 2019	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
May 02, 2019	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 01, 2019	ASSIGNED TO EXAMINER	83696
Apr. 24, 2019	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Apr. 11, 2019	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: KHAN, AHSEN M
Law Office Assigned: LAW OFFICE 113

File Location

Current Location: PUBLICATION AND ISSUE SECTION
Date in Location: May 06, 2019

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Extension of Time

Proceeding Number: [88376463](#)
Filing Date: Jul 01, 2019
Status: Extension of Time to Oppose Filed
Status Date: Jul 01, 2019
Interlocutory Attorney:

Defendant

Name: Sutter Home Winery, Inc.
Correspondent Address: J. SCOTT GERIEN
DICKENSON, PEATMAN & FOGARTY
1455 FIRST STREET, SUITE 301
NAPA CA , 94559
Correspondent e-mail: tmdept@dpf-law.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
WILD INK	Request For Extension of Time to File Opposition	88376463	

Potential Opposer(s)

Name: Rhubarb Food Design Limited

Correspondent DAVID A.W. WONG; KATHLEEN S. FENNESSY

Address: BARNES & THORNBURG LLP
 11 SOUTH MERIDIAN STREET
 INDIANAPOLIS IN , 46204
 UNITED STATES

Correspondent e-mail: dwong@btlaw.com , kfennesy@btlaw.com , tmindocket@btlaw.com

Prosecution History

Entry Number	History Text	Date	Due Date
1	FIRST 90-DAY REQUEST TO EXT TIME TO OPPOSE	Jul 01, 2019	
2	EXT GRANTED	Jul 01, 2019	