

ESTTA Tracking number: **ESTTA1056300**

Filing date: **05/19/2020**

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	Chatham Imports, Inc.		
Entity	Corporation	Citizenship	New York
Address	245 Fifth Avenue, Suite 1402 New York, NY 10016 UNITED STATES		

Attorney information	James D. Weinberger Fross Zelnick Lehrman & Zissu, P.C. 151 West 42nd Street, 17th Floor New York, NY 10036 UNITED STATES jweinberger@fzlj.com (212) 813-5900		
----------------------	---	--	--

**Applicant Information**

Application No	88826680	Publication date	05/19/2020
Opposition Filing Date	05/19/2020	Opposition Period Ends	06/18/2020
Applicant	IRON FISH DISTILLERY LLC 14235 DZUIBANEK ROAD THOMPSONVILLE, MI 49683 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: DISTILLED SPIRITS

**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.	3829294	Application Date	05/01/2009
Registration Date	08/03/2010	Foreign Priority Date	NONE
Word Mark	FARMER'S		

Design Mark	<b>FARMER'S</b>
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2010/05/00 First Use In Commerce: 2010/05/00 Alcoholic beverages, namely, distilled spirits

U.S. Registration No.	3871604	Application Date	07/15/2008
Registration Date	11/02/2010	Foreign Priority Date	NONE
Word Mark	FARMER'S BOTANICAL		
Design Mark	<b>FARMER'S BOTANICAL</b>		
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2010/05/00 First Use In Commerce: 2010/05/00 GIN		

Attachments	77726733#TMSN.png( bytes ) 77980449#TMSN.png( bytes ) F3527898.pdf(102143 bytes )
-------------	---

Signature	/s/ James D. Weinberger
Name	James D. Weinberger
Date	05/19/2020

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

CHATHAM IMPORTS, INC.,

Opposer,

-against-

IRON FISH DISTILLERY LLC,

Applicant.

**NOTICE OF OPPOSITION**

Opposer Chatham Imports, Inc. (“Opposer”), a corporation organized under the laws of New York and having a principal place of business at 245 Fifth Avenue, Suite 1402, New York, New York 10016 believes that it will be damaged by the issuance of a registration for the mark MAD FARMER to Iron Fish Distiller LLC (“Applicant”) in International Class 33 applied for in Application Serial No. 88826680 and therefore opposes the same pursuant to Section 13(a) of the Lanham Trademark Act of 1946, 15 U.S.C. § 1063(a). As grounds for the opposition, Opposer alleges as follows:

1. Opposer, a leading purveyor of alcoholic beverages, has marketed and sold a range of spirits under the trademark FARMER’S since 2010 (the “FARMER’S Mark”).
2. Opposer has extensively used and promoted the FARMER’S Mark. Through such promotion and use, and the success of Opposer’s offerings under the FARMER’S Mark, Opposer’s FARMER’S Mark has come to represent substantial goodwill of Opposer.
3. Dating to long before any date upon which Applicant can rely, FARMER’S Mark has become uniquely identified with Opposer and has come to identify the goods and services of Opposer exclusively.

4. In addition to the common law rights accruing to Opposer in the FARMER'S Mark, Opposer owns U.S. Registration No. 3829294 for FARMER'S in connection with "Alcoholic beverages, namely, distilled spirits" and U.S. Registration No. 3871604 for FARMER'S BOTANICAL in connection with "gin," both in International Class 33 based on first use in May 2010. These registrations are valid, subsisting and in full effect and serve as prima facie evidence of the validity of the marks and of Opposer's exclusive right to use the marks in connection with the goods and services identified therein, pursuant to Section 33(a) of the Lanham Act, 15 U.S.C. § 1115(a). Additionally, both registrations have become incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065, and therefore serve as conclusive proof of Opposer's exclusive right to use the marks in connection with the goods and services identified therein, as provided by Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

5. Upon information and belief, Applicant is a Michigan limited liability company with an address at 14235 Dzuibanek Road, Thompsonville, Michigan 49683.

6. On March 9, 2020 Applicant filed Application Serial No. 88826680 to register the mark MAD FARMER for "distilled spirits" based on an intent to use the mark pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b) ("Applicant's Mark").

7. The FARMER'S Mark has been used continuously and/or registered by Opposer since a date prior to any date on which Applicant can rely.

8. The filing date of Applicant's application, March 9, 2020, which is the earliest date upon which Applicant can rely, is years after the use, registration, and/or acquisition of rights in the FARMER'S Mark by Opposer. As such, Opposer's rights in the FARMER'S Mark are prior and superior to any rights Applicant may claim in Applicant's Mark. The registration

of Applicant's Mark is inconsistent with Opposer's prior rights and/or statutory grant of exclusivity of use.

9. Applicant's Mark is confusingly similar to Opposer's prior used and registered FARMER'S Mark. The marks of the parties are confusingly similar in sight, sound, and commercial impressions.

10. Applicant seeks to register Applicant's Mark for goods identical to those that have been provided by Opposer under its FARMER'S Mark.

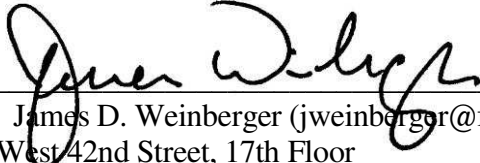
11. Applicant's use and registration of Applicant's Mark in connection with the goods identified in its application is likely to cause confusion, cause mistake, or to deceive consumers to falsely believe that Applicant's goods emanate from or otherwise are authorized, sponsored by, or affiliated with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

12. By reason of the foregoing, Opposer will be harmed by registration of Applicant's Mark.

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by Application Serial No. 88826680 be denied.

Dated: May 19, 2020  
New York, New York

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By:   
James D. Weinberger (jweinberger@fzlj.com)  
151 West 42nd Street, 17th Floor  
New York, New York 10036  
(212) 813-5900

*Attorneys for Opposer*