

ESTTA Tracking number: **ESTTA1080471**

Filing date: **09/08/2020**

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	Riu Hotels S.A.
Granted to Date of previous extension	09/09/2020
Address	RIU CENTER LAS MARAVILLAS PLAYA DE PALMA PALMA DE MALLORCA, 07610 SPAIN
Attorney information	RICHARD LEHV FROSS ZELNICK LEHRMAN & ZISSU, P.C. 151 WEST 42ND STREET 17TH FLOOR NEW YORK, NY 10036 UNITED STATES Primary Email: rlehv@fzlj.com Secondary Email(s): tpenta@fzlj.com 2128135928
Docket Number	RIU

**Applicant Information**

Application No.	88671565	Publication date	05/12/2020
Opposition Filing Date	09/08/2020	Opposition Period Ends	09/09/2020
Applicant	BOURBON ADMINISTRADORA, COMERCIO E SERVIÇOS HOTELEIROS LTDA CENTRO, 80020-060 RUA CANDIDO LOPES, 102 CURITABA, PARANA, 0000 BRAZIL		

**Goods/Services Affected by Opposition**

Class 043. First Use: 0 First Use In Commerce: 0  
All goods and services in the class are opposed, namely: Hotels; Making reservations and bookings for temporary lodging; Reservation of hotel rooms for travelers

**Applicant Information**

Application No.	88671574	Publication date	05/19/2020
Opposition Filing Date	09/08/2020	Opposition Period Ends	

International Registration No.	NONE	International Registration Date	NONE
Applicant	BOURBON ADMINISTRADORA, COMERCIO E SERVIÇOS HOTELEIROS LTDA CENTRO, 80020-060 RUA CANDIDO LOPES, 102 CURITABA, PARANA, 0000 BRAZIL		

## Goods/Services Affected by Opposition

Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Hotels, making reservations for temporary lodging; making hotel reservations for others
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## 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.	4963904	Application Date	09/16/2015
Registration Date	05/24/2016	Foreign Priority Date	NONE
Word Mark	RIU HOTELS & RESORTS		
Design Mark			
Description of Mark	The mark consists of "RIU" above the words "HOTELS & RESORTS", all of which is written in a white, stylized font. A gold crown is above the "I" in "RIU", and all of this is contained within a red box.		
Goods/Services	Class 043. First use: First Use: 0 First Use In Commerce: 0 Providing temporary accommodation; bar and restaurant services; catering services; hotel and restaurant reservation services for others; providing information on restaurants and hotels for travelers; hotel services, namely, providing hotel accommodation and information about hotel facilities; travel agency services, namely, making reservations and booking for temporary lodging including time shares; boarding for animals; providing general purpose facilities for events, namely, providing conference, meeting, and social function facilities		

U.S. Registration No.	5685991	Application Date	07/12/2018
Registration Date	02/26/2019	Foreign Priority Date	NONE
Word Mark	RIU HOTELS & RESORTS		
Design Mark			
Description of Mark	The mark consists of the red, stylized wording "RIU" above the red, stylized wording "HOTELS & RESORTS".		
Goods/Services	Class 043. First use: First Use: 0 First Use In Commerce: 0 Providing of food and drink; temporary accommodation reservations; making hotel reservations for others		

U.S. Registration No.	3138214	Application Date	03/08/2005
Registration Date	09/05/2006	Foreign Priority	12/01/2004

		Date	
Word Mark	RIU		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 [ (Based on 44(e)) Musical sound recordings ]</p> <p>Class 032. First use: First Use: 0 First Use In Commerce: 0 [ (Based on 44(e)) Beer and soft drinks]</p> <p>Class 037. First use: First Use: 0 First Use In Commerce: 0 [ (Based on 44(e)) Construction services, namely, maintenance and renovation of buildings and property; construction supervision and management ]</p> <p>Class 039. First use: First Use: 0 First Use In Commerce: 0 (Based on 44(e)) Coordinating travel arrangements for individuals and for groups' organization of holidays and travel; travel agency services, namely, making reservations and booking for transportation; transportation reservation services</p> <p>Class 043. First use: First Use: 1993/05/00 First Use In Commerce: 1993/05/00 (Based on Use in Commerce) Hotel and restaurant services</p> <p>Class 044. First use: First Use: 0 First Use In Commerce: 0 [ (Based on 44(e)) Beauty salon services; health spa services, namely, cosmetic body care, body and face care services, and massages ]</p> <p>Class 045. First use: First Use: 0 First Use In Commerce: 0 (Based on 44(e)) Hotel concierge services [ ; escort services ]</p>		

U.S. Registration No.	5818215	Application Date	09/14/2018
Registration Date	07/30/2019	Foreign Priority Date	05/28/2018
Word Mark	RIU AS YOU LIKE IT		
Design Mark			
Description of Mark	The mark consists of the wording "RIU" in a red stylized font, and the wording "AS YOU LIKE IT" in a different, black stylized font. The white background is also claimed as a feature of the mark.		
Goods/Services	Class 043. First use: First Use: 0 First Use In Commerce: 0 Providing food and drink; temporary accommodation reservations; making hotel reservations for others		

U.S. Registration No.	5706135	Application Date	01/12/2018
Registration Date	03/26/2019	Foreign Priority Date	NONE
Word Mark	RIU PLAZA		
Design Mark			
Description of Mark	The mark consists of "RIU PLAZA" in stylized font.		
Goods/Services	Class 043. First use: First Use: 0 First Use In Commerce: 0 Providing food and drink; providing temporary accommodation; services provided by accommodation agencies, namely, agency services for booking hotel and boarding house accommodation; making hotel reservations for others		

Attachments	RIU - RIO Notice of Opposition.pdf(129157 bytes )
Signature	/Richard Lehv/
Name	RICHARD LEHV
Date	09/08/2020

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

In the Matter of Application Serial Nos. 88671565  
Mark: RIO HOTEL BY BOURBON  
Filed: October 29, 2019  
Published: May 12, 2020

In the Matter of Application Serial No. 88671574  
Mark: RIO HOTEL BY BOURBON and Design  
Filed: October 29, 2019  
Published: May 19, 2020

RIU HOTELS, S.A.,

Opposer,

-against-

BOURBON ADMINISTRADORA, COMERCIO  
E SERVIÇOS HOTELEIROS LTDA,

Applicant.

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

Opposer, Riu Hotels, S.A., a company organized and existing under the laws of Spain, located and doing business at Riu Center Playa De Palma, Las Maravillas, Palma De Mallorca, 07610, Spain, believes it will be damaged by the registration of the marks shown in Application Serial Nos. 88671565 and 88671574 and opposes those applications under Section 13(a) of the Trademark Act of 1946, 15 U.S.C. § 1063(a).

As grounds for its opposition, Opposer, by its attorneys, Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:

1. Opposer is using the mark RIU on and in connection with a variety of hotel services and related goods and services, in commerce in the United States. Such use commenced long prior to any date on which Applicant may rely.

2. Opposer is the owner of the following U.S. Registrations:

Mark	Reg. No.	Date	Services	Class
RIU Hotels & Resorts and Design	4963904	May 24, 2016	Providing temporary accommodation; bar and restaurant services; catering services; hotel and restaurant reservation services for others; providing information on restaurants and hotels for travelers; hotel services, namely, providing hotel accommodation and information about hotel facilities; travel agency services, namely, making reservations and booking for temporary lodging including time shares; boarding for animals; providing general purpose facilities for events, namely, providing conference, meeting, and social function facilities	43
RIU Hotels & Resorts	5685991	February 26, 2019	Providing of food and drink; temporary accommodation reservations; making hotel reservations for others	43
RIU	3138214	September 5, 2006	Hotel and restaurant services	43
RIU As you like it	5818215	July 30, 2019	Providing food and drink; temporary accommodation reservations; making hotel reservations for others	43
RIU PLAZA	5706135	March 26, 2019	Providing food and drink; providing temporary accommodation; services provided by accommodation agencies, namely, agency services for booking hotel and boarding house accommodation; making hotel reservations for others	43

The foregoing Registrations are valid and subsisting, and in full force and effect.

3. In view of the foregoing, Opposer is the owner of statutory and common law rights in the RIU mark in the United States.

4. Applicant filed Application Serial Nos. 88671565 and 88671574, for the marks RIO HOTEL BY BOURBON and RIO HOTEL BY BOURBON and Design, for “Hotels; Making reservations and bookings for temporary lodging; Reservation of hotel rooms for travelers” and “Hotels, making reservations for temporary lodging; making hotel reservations for others,” respectively, in Class 43.

5. Applicant’s marks are confusingly similar to Opposer’s marks. The dominant element of Applicant’s mark is RIO, which is virtually identical to Opposer’s RIU mark. Further, both parties use the word HOTEL in their marks. Opposer uses RIU HOTELS, while Applicant uses RIO HOTEL. The parties’ marks create confusingly similar commercial impressions and are confusingly similar in meaning, appearance and sound.

6. Not only are the marks confusingly similar, but also the parties’ services are identical: hotel services and relate services.

7. Upon information and belief, Applicant applied to register the RIO HOTELS mark with full knowledge of Opposer’s prior rights in the RIU and RIU HOTELS marks and with full knowledge of Opposer’s existing federal trademark registrations for the identical or closely related services. Further, under 15 U.S.C. § 1072, the registration of Opposer’s marks constituted constructive notice of Opposer’s claim of ownership of its marks.

8. Applicant’s applications and the presumption of exclusivity that would come from granting registrations to Applicant are inconsistent with the prior rights of Opposer in its marks and the rights of Opposer flowing from its own federal trademark registrations.

9. Applicant's use and registration of marks confusingly similar to Opposer's marks for identical and highly related services is likely to create the mistaken impression that Applicant's services are rendered by, come from, or are otherwise associated with Opposer or its hotel services or that Applicant's services are endorsed, sponsored, or in some other way connected with Opposer. Any use of the marks in Application Serial Nos. 88671565 and 88671574 on or in connection hotel services is likely to cause confusion or mistake or to deceive the public into the belief that hotel services offered by Applicant under its marks come from or are otherwise authorized or sponsored by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

10. By reason of all the foregoing, Opposer will be damaged by the registration of the marks RIO HOTEL BY BOURBON and RIO HOTEL BY BOURBON and Design to Applicant.

WHEREFORE, Opposer respectfully requests that this Opposition be sustained and that the registration of the marks in Application Serial No. 88671565 and 88671574 be denied.

Dated: New York, New York  
September 8, 2020

Respectfully submitted,

FROSS ZELNICK LEHRMAN  
& ZISSU, P.C.

By: /Richard Lehv/

Richard Lehv  
151 West 42<sup>nd</sup> Street, 17<sup>th</sup> Floor  
New York, New York 10036  
(212) 813-5900  
*Attorneys for Opposer*