

ESTTA Tracking number: **ESTTA1130169**

Filing date: **04/28/2021**

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	Sawmill Brewing Company, LLC
Granted to Date of previous extension	04/28/2021
Address	1001 CANDELARIA ROAD NE ALBUQUERQUE, NM 87107 UNITED STATES
Attorney information	SETH GARDENSWARTZ BLACKGARDEN LAW 317 COMMERCIAL ST. NE, THIRD FLOOR ALBUQUERQUE, NM 87102 UNITED STATES Primary Email: seth.gardenswartz@blackgardenlaw.com Secondary Email(s): trademarks@blackgardenlaw.com, luke.batty@blackgardenlaw.com, tj@blackgardenlaw.com, liz.natal@blackgardenlaw.com 888 317 3556
Docket Number	

**Applicant Information**

Application No.	88206608	Publication date	12/29/2020
Opposition Filing Date	04/28/2021	Opposition Period Ends	04/28/2021
International Registration No.	NONE	International Registration Date	NONE
Applicant	Speymalt Whisky Distributors Limited GEORGE HOUSE BOROUGHBRIGGS ROAD ELGIN, MORAY, IV301JY UNITED KINGDOM		


**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: Gin, the goods being limited to expressly exclude wine

**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.	5900139	Application Date	03/01/2018
Registration Date	11/05/2019	Foreign Priority Date	NONE
Word Mark	Â· RED DOOR Â· BREWING CO. ABQ NM		
Design Mark			
Description of Mark	<p>The mark consists of the outline of a pint glass shape in the center with threedoor panels inside with a small circle on the right-hand side of the right-mostdoor panel representing a doorknob, giving the overall impression of both a door and a pint glass filled with beer. Above the center are the words "Â· RED DOOR Â·" in a downward curved format. Below the center are the words "BREWING CO." in an upward curved format, bracketed by five chevron shapes on each side. To the left of the center is the abbreviation "ABQ" and to the right of the center is the abbreviation "NM".</p>		
Goods/Services	Class 032. First use: First Use: 2014/09/16 First Use In Commerce: 2014/09/16 Beer		

U.S. Registration No.	5900140	Application Date	03/01/2018
Registration Date	11/05/2019	Foreign Priority Date	NONE
Word Mark	RED DOOR BREWING CO.		

Design Mark	<b>RED DOOR BREWING CO.</b>
Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 2014/09/16 First Use In Commerce: 2014/09/16 Beer

Attachments	87816790#TMSN.png( bytes ) 87816798#TMSN.png( bytes ) RedDoor_Opposition.pdf(106130 bytes ) RDBCMark1.pdf(29327 bytes ) RDBC Mark 2.pdf(23889 bytes )
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Signature	/Seth Gardenswartz/
Name	SETH GARDENSWARTZ
Date	04/28/2021

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

In Re Serial No. 88/206,608	)	
Filed: November 27, 2018	)	
Standard Character Mark	)	
Mark: RED DOOR	)	
Published: December 29, 2020	)	
	)	
	)	
SAWMILL BREWING COMPANY, LLC	)	
D/B/A RED DOOR BREWING CO.	)	
	)	Opposition No. _____
Opposer,	)	
	)	
v.	)	
	)	
SPEYMALT WHISKY DISTRIBUTORS	)	
LIMITED	)	
	)	
Applicant.	)	
_____	)	

**NOTICE OF OPPOSITION**

Sawmill Brewing Company, LLC D/B/A Red Door Brewing Co. (“RDBC”) believes it will be damaged by the registration of the mark shown in Application Serial No. 88/206,608 for the standard character mark including the words “RED DOOR” (the “Application”) by Speymalt Whisky Distributors Limited (“Applicant”) and hereby opposes the same under the provisions of 15 U.S.C. § 1063. As grounds for opposition, RDBC asserts the following:

1. RDBC is a New Mexico limited liability company with an address at 1000 Candelaria Rd. NE, Albuquerque, New Mexico 87107.

2. RDBC is the owner of and relies on U.S. Registration No. 5,900,139 for the mark



(“RDBC Mark 1”) in Class 032 for “Beer,” that was registered on the Principal

Register on November 5, 2019. The RDBC Mark 1 is based on an application

filed in the United States Patent and Trademark Office on March 1, 2018 and claims a date of first use of September 16, 2014. A copy of the electronic status record of RDBC Mark 1 is attached.

3. RDBC is the owner of and relies on U.S. Registration No. 5,900,140 for the word mark “RED DOOR BREWING CO.” (“RDBC Mark 2”) in Class 032 for “Beer,” that was registered on the Principal Register on November 5, 2019. The RDBC Mark 2 is based on an application filed in the United States Patent and Trademark Office on March 1, 2018 and claims a date of first use of September 16, 2014. A copy of the electronic status record of RDBC Mark 2 is attached.

4. RDBC Mark 1 and RDBC 2 shall be collectively referred to as (the “RDBC Marks”).

5. RDBC has invested substantial amounts of time, effort, and resources in developing and protecting the RDBC Marks and related brand throughout the United States. In addition to the RDBC Marks, RDBC is the owner of common law trademarks for “RED DOOR” in connection with beer, hard cider, and taproom services.

6. RDBC has evolved into a top selling brand in New Mexico and can be found both in package and on tap in dozens of liquor stores, bars, and restaurants in the southwestern United States, including RDBC’s taprooms.

7. The RDBC Marks have been printed on virtually every product produced by RDBC, including its website, marketing materials, merchandise, glassware, and used as the house mark for its beer and taproom services.

8. RDBC has invested substantial effort and expense to advertise and promote the RDBC brand, resulting in a strong brand that consumers have come to know, rely upon, and recognize as a distinct source for beer and craft alcoholic beverages.

9. Prior to the filing date of the Application, RDBC has continuously used and promoted the RDBC brand in interstate commerce in connection with the goods and services identified in the RDBC Marks, namely, beer. By virtue of RDBC's continuous and substantial use, the RDBC Marks have become an identifier of RDBC brand. As a result, RDBC has built up at great expense and effort valuable goodwill in the RDBC Marks.

10. Applicant is United Kingdom private limited company located at George House Boroughbriggs Road Elgin, Moray United Kingdom IV301JY.

11. The Application for "RED DOOR" ("Applicant's Mark") was filed on November 27, 2018, after RDBC first filed the RDBC Marks on March 1, 2018. Accordingly, RDBC has priority over Applicant.

12. Applicant's Mark is confusingly similar to the RDBC Marks due to the identical elements and decidedly related goods associated with the respective marks.

13. Applicant's Mark shown in the Application creates the same connotation and commercial impression as the RDBC Marks due to the common elements.

14. Applicant intends to use Applicant's Mark for gin among other similar and related goods in Class 033 that are closely related to the goods protected by and used in connection with the RDBC Marks.

15. The goods for which Applicant seeks registration are likely to be perceived as closely related to, those in connection with the RDBC Marks.

16. RDBC will be damaged by the registration sought by Applicant because that registration will support and assist Applicant in the confusing and misleading use of Applicant's Mark sought to be registered and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of RDBC.

17. RDBC has used the RDBC Marks continuously in interstate commerce in the United States in connection with beer since September 16, 2014. RDBC has prior and superior rights to Applicant, who filed the Application on November 27, 2018.

18. RDBC brings this Notice of Opposition to prevent Applicant from unfairly capitalizing on the distinctiveness of the RDBC Mark by registering the Applicant's Mark for a alcoholic beverage product that is not affiliated with RDBC in any manner.

19. RDBC timely filed and was granted an extension of time to oppose on January 27, 2021 and February 27, 2021. The current deadline to oppose is April 28, 2021. Therefore, this Notice of Opposition is timely.

**COUNT 1: LIKELIHOOD OF CONFUSION**

20. RDBC incorporates by reference all of the foregoing paragraphs and realleges them as if set forth in full.

21. RDBC has used the RDBC Marks in connection with beer as of the dates in its respective registrations, which predates any priority that could be claimed by Applicant.

22. RDBC began continuous use of its RDBC Marks with beer, cider, and taproom services in 2014.

23. Applicant was on notice of RDBC's rights when RDBC filed its applications to register the RDBC Marks on March 1, 2018. Beyond the formalities of federal trademark registration, RDBC's rights in the RDBC Marks commenced as soon as the marks were used.

24. Applicant's Mark is so similar to RDBC's Marks that RDBC's customers are likely to mistakenly believe that Applicant's Mark is a product offered under the RDBC brand.

25. On information and belief, alcoholic beverages and related products with similar names are often incorrectly associated with the wrong mark or source.

26. On information and belief, as alcoholic products, RDBC Marks and Applicant's Mark are likely to appear on the same shelves of the same stores and behind the same bars. Such overlapping channels of trade are likely to cause RDBC's customers to mistakenly attribute Applicant's products to RDBC's senior brand.

27. Registration should be refused pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), on the ground that Applicant's Mark so closely resembles the RDBC's Marks as to be likely, when used on or in connection with the goods identified the Application, to cause confusion, or to cause mistake, or to deceive prospective consumers as to the origin, sponsorship or approval of Applicant's listed goods, with the consequent injury to RDBC and to the public.

28. If Applicant is allowed to register the Application, Applicant's corresponding exclusive right to use Applicant's Mark nationwide will conflict with RDBC's lawful and exclusive right to use the RDBC's Marks nationwide.

29. In view of RDBC's prior rights in the RDBC's Marks, Applicant is not entitled to federal registration of Applicant's Mark pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

WHEREFOR, RDBC prays that this opposition be granted and that the registration of Applicant's Mark be refused and Application Serial No. 88/206,608 rendered void.



Respectfully submitted,

BLACKGARDEN LAW PC

Dated: April 28, 2021

By: /s/Seth Gardenswartz  
Seth Gardenswartz  
Blackgarden Law PC  
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Albuquerque, NM 87102  
888-317-3556  
seth.gardenswartz@blackgardenlaw.com

ATTORNEY FOR OPPOSER  
RED DOOR BREWING CO.

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Mark: · RED DOOR · BREWING CO. ABQ NM



US Serial Number: 87816790

Application Filing Date: Mar. 01, 2018

US Registration Number: 5900139

Registration Date: Nov. 05, 2019

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

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: Nov. 05, 2019

Publication Date: Aug. 20, 2019

## Mark Information

Mark Literal Elements: · RED DOOR · BREWING CO. ABQ NM

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of the outline of a pint glass shape in the center with three door panels inside with a small circle on the right-hand side of the right-most door panel representing a doorknob, giving the overall impression of both a door and a pint glass filled with beer. Above the center are the words "· RED DOOR ·" in a downward curved format. Below the center are the words "BREWING CO." in an upward curved format, bracketed by five chevron shapes on each side. To the left of the center is the abbreviation "ABQ" and to the right of the center is the abbreviation "NM".

Color(s) Claimed: Color is not claimed as a feature of the mark.

Disclaimer: "BREWING CO." AND "ABQ NM"

Design Search Code(s): 07.07.01 - Garage doors; Doors; Sliding doors  
11.03.01 - Glasses without stems  
26.01.02 - Circles, plain single line; Plain single line circles  
26.01.13 - Two circles; Circles, two (not concentric)  
26.17.12 - Chevrons; Angles (geometric)

## 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: Beer

International Class(es): 032 - Primary Class

U.S Class(es): 045, 046, 048

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 16, 2014

Use in Commerce: Sep. 16, 2014

## Basis Information (Case Level)

**Filed Use:** Yes  
**Filed ITU:** No  
**Filed 44D:** No  
**Filed 44E:** No  
**Filed 66A:** No  
**Filed No Basis:** No

**Currently Use:** Yes  
**Currently ITU:** No  
**Currently 44E:** No  
**Currently 66A:** No  
**Currently No Basis:** No

## Current Owner(s) Information

**Owner Name:** Sawmill Brewing Company, LLC

**DBA, AKA, Formerly:** DBA Red Door Brewing Company

**Owner Address:** 1001 Candelaria Road NE  
Albuquerque, NEW MEXICO UNITED STATES 87107

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country Where Organized:** NEW MEXICO

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Seth Gardenswartz

**Docket Number:** 00701

**Attorney Primary Email Address:** [seth@blackgardenlaw.com](mailto:seth@blackgardenlaw.com)

**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** SETH GARDENSWARTZ  
BLACKGARDEN LAW  
317 COMMERCIAL STREET NE  
3RD FLOOR  
ALBUQUERQUE, NEW MEXICO UNITED STATES 87102

**Phone:** 888-317-3556

**Correspondent e-mail:** [seth@blackgardenlaw.com](mailto:seth@blackgardenlaw.com) [sgardenswartz@gmail.com](mailto:sgardenswartz@gmail.com)  
[tj@blackgardenlaw.com](mailto:tj@blackgardenlaw.com) [paralegal@blackgardenlaw.com](mailto:paralegal@blackgardenlaw.com)

**Correspondent e-mail Authorized:** Yes

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Nov. 05, 2019	REGISTERED-PRINCIPAL REGISTER	
Aug. 20, 2019	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Aug. 20, 2019	PUBLISHED FOR OPPOSITION	
Jul. 31, 2019	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Jul. 12, 2019	ASSIGNED TO LIE	68123
Jul. 01, 2019	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 27, 2019	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jun. 26, 2019	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jun. 26, 2019	TEAS REQUEST FOR RECONSIDERATION RECEIVED	
Jan. 01, 2019	NOTIFICATION OF FINAL REFUSAL EMAILED	
Jan. 01, 2019	FINAL REFUSAL E-MAILED	
Jan. 01, 2019	FINAL REFUSAL WRITTEN	93063
Dec. 19, 2018	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Dec. 18, 2018	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Dec. 18, 2018	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jun. 20, 2018	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jun. 20, 2018	NON-FINAL ACTION E-MAILED	6325
Jun. 20, 2018	NON-FINAL ACTION WRITTEN	93063
Jun. 13, 2018	ASSIGNED TO EXAMINER	93063

Mar. 09, 2018 NOTICE OF DESIGN SEARCH CODE E-MAILED  
Mar. 08, 2018 NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM  
Mar. 05, 2018 NEW APPLICATION ENTERED IN TRAM

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## TM Staff and Location Information

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TM Staff Information - None

File Location

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Nov. 05, 2019

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Mark: RED DOOR BREWING CO.

RED DOOR BREWING CO.

US Serial Number: 87816798

Application Filing Date: Mar. 01, 2018

US Registration Number: 5900140

Registration Date: Nov. 05, 2019

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

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: Nov. 05, 2019

Publication Date: Aug. 20, 2019

## Mark Information

Mark Literal Elements: RED DOOR BREWING CO.

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

Disclaimer: "BREWING CO."

## 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
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For: Beer

International Class(es): 032 - Primary Class

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Basis: 1(a)

First Use: Sep. 16, 2014

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## Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Filed ITU: No

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

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**Docket Number:** 00701

**Attorney Primary Email Address:** [seth@blackgardenlaw.com](mailto:seth@blackgardenlaw.com)

**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** SETH GARDENSWARTZ  
BLACKGARDEN LAW  
317 COMMERCIAL STREET NE 3RD FLOOR  
ALBUQUERQUE, NEW MEXICO UNITED STATES 87102

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[tj@blackgardenlaw.com](mailto:tj@blackgardenlaw.com) [paralegal@blackgardenlaw.com](mailto:paralegal@blackgardenlaw.com)

**Correspondent e-mail Authorized:** Yes

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Nov. 05, 2019	REGISTERED-PRINCIPAL REGISTER	
Aug. 20, 2019	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
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Jul. 31, 2019	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Jul. 12, 2019	ASSIGNED TO LIE	68123
Jul. 03, 2019	EXPARTE APPEAL TERMINATED	816798
Jul. 01, 2019	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 28, 2019	EX PARTE APPEAL-INSTITUTED	816798
Jun. 28, 2019	JURISDICTION RESTORED TO EXAMINING ATTORNEY	816798
Jun. 28, 2019	EXPARTE APPEAL RECEIVED AT TTAB	
Jun. 27, 2019	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
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Jun. 13, 2018	ASSIGNED TO EXAMINER	93063
Mar. 08, 2018	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Mar. 05, 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:** Nov. 05, 2019

# Proceedings

**Summary****Number of Proceedings:** 1**Type of Proceeding: Exparte Appeal****Proceeding Number:** [87816798](#)**Filing Date:** Jun 27, 2019**Status:** Terminated**Status Date:** Jul 03, 2019**Interlocutory Attorney:****Plaintiff(s)****Name:** Sawmill Brewing Company, LLC**Correspondent Address:** SETH GARDENSWARTZ  
BLACKGARDEN LAW  
317 COMMERCIAL STREET NE 3RD FLOOR  
ALBUQUERQUE NM UNITED STATES , 87102**Correspondent e-mail:** [reciepts@blackgardenlaw.com](mailto:reciepts@blackgardenlaw.com) , [trademarks@blackgardenlaw.com](mailto:trademarks@blackgardenlaw.com) , [seth.gardenswartz@blackgardenlaw.com](mailto:seth.gardenswartz@blackgardenlaw.com) , [seth@blackgardenlaw.com](mailto:seth@blackgardenlaw.com) , [sgardenswartz@gmail.com](mailto:sgardenswartz@gmail.com) , [tj@blackgardenlaw.com](mailto:tj@blackgardenlaw.com) , [paralegal@blackgardenlaw.com](mailto:paralegal@blackgardenlaw.com)**Associated marks**

Mark	Application Status	Serial Number	Registration Number
RED DOOR BREWING CO.	Registered	<a href="#">87816798</a>	<a href="#">5900140</a>

**Prosecution History**

Entry Number	History Text	Date	Due Date
1	APPEAL TO BOARD	Jun 27, 2019	
2	APPEAL ACKNOWLEDGED; CASE REMANDED	Jun 28, 2019	
3	INSTITUTED	Jun 28, 2019	
4	REQ FOR RECON	Jun 26, 2019	
5	TERMINATED	Jul 03, 2019	