

ESTTA Tracking number: **ESTTA1145329**

Filing date: **07/08/2021**

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	Hard Rock Cafe International (USA), Inc.
Granted to Date of previous extension	07/14/2021
Address	5701 STIRLING ROAD DAVIE, FL 33314 UNITED STATES
Attorney information	STEPHEN F. ROTH LERNER DAVID LITTENBERG KRUMHOLZ & MENTLIK 20 COMMERCE DRIVE CRANFORD, NJ 07016 UNITED STATES Primary Email: sroth@lernerdavid.com Secondary Email(s): litigation@lernerdavid.com, mailroom@mg-ip.com No phone number provided.
Docket Number	

Applicant Information

Application No.	88466987	Publication date	03/16/2021
Opposition Filing Date	07/08/2021	Opposition Period Ends	07/14/2021
Applicant	Chapman, Myra Suzan P.O. BOX 1462 PICKENS, SC 29671 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. First Use: 2019/04/29 First Use In Commerce: 2019/12/11
All goods and services in the class are opposed, namely: Non-medicated skin and body lotions containing CBD and ingredients solely derived from hemp with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weigh basis


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.	2029870	Application Date	10/10/1995
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Registration Date	01/14/1997	Foreign Priority Date	NONE
Word Mark	HARD ROCK HOTEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1995/04/30 First Use In Commerce: 1995/04/30 hair shampoo, hair conditioner and bathgel Class 024. First use: First Use: 1995/04/30 First Use In Commerce: 1995/04/30 beach towels Class 026. First use: First Use: 1995/04/30 First Use In Commerce: 1995/04/30 [embroidered emblems]		

U.S. Registration No.	2029866	Application Date	10/10/1995
Registration Date	01/14/1997	Foreign Priority Date	NONE
Word Mark	HARD ROCK HOTEL		
Design Mark	 <p>The logo features the words "Hard Rock" in a large, stylized, outlined font with a 3D effect. Below "Hard Rock", the word "HOTEL" is written in a smaller, bold, outlined font. The entire logo is enclosed within a circular border.</p>		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1995/04/30 First Use In Commerce: 1995/04/30 hair shampoo, hair conditioner and bathgel Class 024. First use: First Use: 1995/04/30 First Use In Commerce: 1995/04/30 beach towels Class 026. First use: First Use: 1995/04/30 First Use In Commerce: 1995/04/30 [embroidered emblems]		

Attachments	75003099#TMSN.png(bytes) notice of opposition 07-08-21.pdf(106136 bytes)
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Signature	/Stephen F. Roth/
Name	Stephen F. Roth

Date	07/08/2021
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

HARD ROCK CAFÉ INTERNATIONAL (USA), INC.,	:	Serial No. 88/466,987
	:	
	:	Filed: 7/8/19
Opposer,	:	
	:	Mark: HARD ROCK HEMP
v.	:	
	:	
MYRA SUZAN CHAPMAN,	:	Published: 3/16/21
	:	
Applicant.	:	
	:	x

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451


NOTICE OF OPPOSITION

Opposer, Hard Rock Café International (USA), Inc., a Florida corporation, having a place of business at 5701 Stirling Road, Davie, Florida, 33314, believes it will be damaged by the registration of the mark HARD ROCK HEMP shown in application Serial No. 88/466,987 (the “Application”) by Myra Suzan Chapman (“Applicant”) and hereby opposes registration of such mark. The specific grounds for such opposition are as follows:

1. Opposer owns and uses through its licensed affiliated companies a family of trademarks, including the mark HARD ROCK, in connection with various goods and services offered globally and in interstate commerce in the United States (collectively, the “HARD ROCK marks”).

2. Opposer has been using the HARD ROCK marks for 50 years, long before Applicant used the HARD ROCK HEMP mark, and long prior to June 10, 2019, the date Applicant filed for registration of that mark.

3. Included amongst the HARD ROCK marks are the following trademark registrations:

Mark	Registration No:	Goods
HARD ROCK HOTEL	2,029,870	(Class 3) hair shampoo, hair conditioner and bath gel; (Class 24) beach towels.
	2,029,866	(Class 3) hair shampoo, hair conditioner and bath gel; (Class 24) beach towels.

4. Applicant's mark HARD ROCK HEMP so resembles Opposer's HARD ROCK marks as to result in a likelihood of confusion.

5. Applicant's mark HARD ROCK HEMP is used for, or will be used for, goods such that the marks are likely to be confused. Such goods include the following in Class 3:

Non-medicated skin and body lotions containing CBD and ingredients solely derived from hemp with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weigh basis.

6. The consuming public will be confused and Opposer will suffer harm as a result of the confusion likely to arise from the registration of the HARD ROCK HEMP mark and Opposer's prior and ongoing use of the HARD ROCK marks.

7. This opposition is timely given that the publication date of the Application was March 16, 2021, and an extension of the time within which Opposer could oppose such mark was granted until July 14, 2021.

WHEREFORE, Opposer requests that its opposition be sustained, and the Board refuse registration of Application Serial No. 88/466,987.

Please charge the fee of \$600.00 for a Notice of Opposition in one class to our Deposit Account No. 12-1095. The undersigned is authorized to make charges to said deposit account.

Respectfully submitted,
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
Attorneys for Opposer
20 Commerce Drive
Cranford, NJ 07016
Tel: 908.654.5000

Dated: July 8, 2021

By Stephen F. Roth
Stephen F. Roth

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the within NOTICE OF OPPOSITION was served upon the following this 8th day of July, 2021, as follows:

VIA EMAIL TO HFREEMAN@BURR.COM

Hunter S. Freeman, Esq.
Burr & Forman LLP
104 S Main Street Suite 700
Greenville, SC 29601

s/ Stephen F. Roth

Stephen F. Roth