

ESTTA Tracking number: **ESTTA1150753**

Filing date: **08/03/2021**

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	CB BRAND STRATEGIES, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ACTING THROUGH CB BRAND STRATEGIES, LLC, WILMINGTON, DELAWARE, USA, ZUG BRANCH
Granted to Date of previous extension	08/04/2021
Address	BAARERSTRASSE 10 ZUG, CH-6300 SWITZERLAND
Attorney information	EDWARD F. MALUF SEYFARTH SHAW LLP 620 8TH AVENUE, 32ND FLOOR NEW YORK, NY 10018 UNITED STATES Primary Email: cbidocket@seyfarth.com Secondary Email(s): ttabdocket@seyfarth.com, emaluf@seyfarth.com, aabeloff@seyfarth.com, jheinbockel@seyfarth.com No phone number provided.
Docket Number	105820-6

Applicant Information

Application No.	87081256	Publication date	04/06/2021
Opposition Filing Date	08/03/2021	Opposition Period Ends	08/04/2021
International Registration No.	NONE	International Registration Date	NONE
Applicant	CERVECERÃ#A 5 DE MAYO S.A.P.I. DE C.V. PROL. DE LA 4 SUR, NO. 504 ATLIXCO, PUEBLA, 74200 MEXICO		

Goods/Services Affected by Opposition

Class 032. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Beers, excluding any other drink

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CELEBRATE CINCO		
Goods/Services	beer		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	READY, SET, CINCO		
Goods/Services	beer		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CORONA DE MAYO		
Goods/Services	beer		

Attachments	2021-08-03 -- CERVECERIA CINCO DE MAYO noo.pdf(362301 bytes)
-------------	---

Signature	/John C. Heinbockel/
Name	John C. Heinbockel
Date	08/03/2021

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

In the Matter of Application Serial No. 87/081,256
Published in the Official Gazette of April 6, 2021

CB BRAND STRATEGIES, LLC,

Opposer,

v.

CERVECERÍA 5 DE MAYO S.A.P.I. DE C.V.,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Opposer CB Brand Strategies, LLC, a Delaware limited liability company, acting through CB Brand Strategies, LLC, Wilmington, Delaware, USA, Zug Branch, which has its office registered at Baarerstrasse 10, CH-6300 Zug, Switzerland (“**Opposer**”), believes it will be damaged by registration of the mark shown in Application Serial No. 87/081,256 (the “**Application**”), and hereby opposes the same. As grounds for its opposition, Opposer alleges as follows:

1. Opposer is the exclusive importer, marketer, and distributor of the CORONA® beer brand in the United States.
2. Opposer is the exclusive U.S. licensee of trademarks for the CORONA® beer brand.
3. Opposer is the exclusive U.S. licensee of “Cinco de Mayo” formative trademarks in connection with beer, including CELEBRATE CINCO; READY, SET, CINCO; and CORONA DE MAYO (collectively the “**Opposer’s Marks**”).
4. Opposer’s Marks are registered on the Principal register as follows:

Mark	Reg. No.	Goods	Date of First Use
CELEBRATE CINCO	5041297	Cl. 32: Beer	April 30, 2012
READY, SET, CINCO	5760995	Cl. 32: Beer	April 1, 2018
CORONA DE MAYO	4808819	Cl. 32: Beer	May 2008

5. Opposer is the exclusive U.S. licensee of common law trademark rights in Opposer’s Marks for use in connection with beer and related goods, which have a date of first use as early as May 2008.

6. For many years—and long prior to the filing date of the Application—Opposer and its predecessors-in-interest have marketed, advertised, distributed, and sold beer and related goods (collectively “**Opposer’s Goods**”) using Opposer’s Marks in U.S. commerce.

7. For many years—and long prior to the filing date of the Application—Opposer and its predecessors-in-interest have marketed, advertised, distributed, and sold beer and related goods through promotions tied to the “Cinco de Mayo” holiday.

8. By virtue of the excellence of Opposer’s Goods, Opposer’s Marks have a strong and valuable reputation.

9. Notwithstanding Opposer’s prior rights in and to Opposer’s Marks, Applicant applies to register the mark C5 CERVECERÍA CINCO DE MAYO & design for “Beers, excluding any other drink” in International Class 32 (the “**Opposed Mark**”). The Opposed Mark was published for opposition in the Trademark Official Gazette of April 6, 2021.



10. The goods for which Applicant seeks registration in International Classes 32 are identical to the goods and services with which Opposer uses Opposer's Marks.

11. Opposer requested and received an extension of time to file its opposition until August 4, 2021.

FIRST CLAIM FOR RELIEF
(Likelihood of Confusion)

12. Opposer repeats and re-alleges the allegations in preceding paragraphs 1 through 11, inclusive, as if fully set forth herein.

13. Opposer used Opposer's Marks, and has continued to use the Opposer's Marks, without interruption in U.S. commerce prior to Applicant's adoption, use, and application to register the Opposed Mark.

14. The Opposed Mark so resembles Opposer's previously used, registered, valid, and persisting Opposer's Marks as to be likely, when used on or in connection with the goods identified in the Application, to cause confusion, to cause mistake, or to deceive. The Opposed Mark is thus not registrable under Section 2(d) of the United States Trademark Act, 15 U.S.C. 1052(d).

15. Opposer will be damaged by registration of the Opposed Mark because registration will provide Applicant with *prima facie* evidence of ownership of, and exclusive nationwide right to use, a mark that is confusingly similar to Opposer's Marks.

16. Opposer will be damaged by registration of the Opposed Mark because registration will provide Applicant with *prima facie* evidence of ownership of, and exclusive nationwide right to use, "Cinco de Mayo" in connection with beer.

WHEREFORE, Opposer prays for judgment sustaining this opposition and refusing registration to Applicant of the mark shown in the Opposed Application.

Please direct all correspondence in connection with this opposition to the undersigned.

SEYFARTH SHAW LLP

Date: August 3, 2020

By: /s/ Edward F. Maluf

Edward F. Maluf

Jeremy Schachter

John C. Heinbockel

Attorneys for Opposer

CB Brand Strategies, LLC

620 Eighth Ave., 32nd Floor

New York, NY 10018

Telephone: (212) 218-5500

Facsimile: (212) 218-5526