

ESTTA Tracking number: **ESTTA1294063**

Filing date: **06/28/2023**

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	Reynolds Brands Inc.
Granted to date of previous extension	07/01/2023
Address	401 NORTH MAIN STREET WINSTON-SALEM, NC 27101 UNITED STATES
Attorney information	WILLIAM M. BRYNER KILPATRICK TOWNSEND & STOCKTON LLP 1001 WEST FOURTH STREET WINSTON-SALEM, NC 27101 UNITED STATES Primary email: bbryner@ktslaw.com Secondary email(s): totey@ktslaw.com, eyates@ktslaw.com, kteilhaber@ktslaw.com, tmadmin@ktslaw.com 3366077300
Docket no.	1389629

Applicant information

Application no.	90647685	Publication date	05/02/2023
Opposition filing date	06/28/2023	Opposition period ends	07/01/2023
Applicant	J & E TRADEMARK HOLDINGS CORP 8455 N. WEST 74 STREET MEDLEY, FL 33166 UNITED STATES		

Goods/services affected by opposition

Class 034. First Use: None First Use In Commerce: None
All goods and services in the class are opposed, namely: Cigarettes; Cigarettes and cigars

Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark cited by opposer as basis for opposition

U.S. registration no.	1176451	Application date	08/06/1979
Register	Principal		

Registration date	11/03/1981	Foreign priority date	NONE
Word mark	MONARCH		
Design mark			
Description of mark	NONE		
Goods/services	Class 034. First use: First Use: Jun 20, 1979 First Use In Commerce: Jun 20, 1979 Cigarettes		

Attachments	2023.06.28 Notice of Opposition_90647685.pdf(167491 bytes)
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Signature	/William M. Bryner/
Name	WILLIAM M. BRYNER
Date	06/28/2023

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

REYNOLDS BRANDS INC.,)	
)	In the matter of Application
Opposer,)	Serial No. 90/647,685
)	
)	Mark: MONARCA
)	
v.)	Opposition No. _____
)	
J & E TRADEMARK HOLDINGS)	
CORP)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Reynolds Brands Inc. (“Opposer”), a North Carolina corporation having its principal place of business at 401 North Main Street, Winston-Salem, North Carolina 27101, believes that it will be damaged by the registration of the trademark MONARCA in Class 34 as shown in the above-identified application (the “Application”) filed by J & E Trademark Holdings Corp (“Applicant”), and, being entitled to a statutory cause of action, hereby opposes the same.

As grounds for the opposition, Opposer alleges the following:

1. Opposer – through its affiliates, its licensees, its predecessors-in-interest, and its predecessors-in-interests’ respective affiliates and licensees – has been and is engaged in the manufacture, distribution, and sale of cigarettes and tobacco products. Opposer’s predecessors, affiliates, and licensees shall be referred to collectively as “Reynolds.”

2. Reynolds has used the trademark MONARCH (the “MONARCH Mark”) in interstate commerce throughout the United States since at least as early as June 20, 1979, which is long before Applicant’s April 15, 2021 filing date shown in the Application, and long before any date on which the Applicant can rely for the purposes of priority.

3. Opposer owns the following U.S. Trademark Registration for the MONARCH Mark (the “MONARCH Registration”) on the Principal Register of the United States Patent and Trademark Office (the “USPTO”):

Mark	Status and Date	Goods and Services	Owner
MONARCH App 73226477 Reg 1176451	USPTO Status: Registered and renewed USPTO Status Date: 17-MAR-2022 App 06-AUG-1979 Pub 11-AUG-1981	Goods and Services: INT. CL. 34 CIGARETTES	REYNOLDS BRANDS INC. NORTH CAROLINA CORPORATION 401 NORTH MAIN STREET WINSTON SALEM, NORTH CAROLINA, 27101

4. On April 15, 2021, Applicant filed an intent-to-use application to register the MONARCA Mark (the “MONARCA Mark”) for “Cigarettes; Cigarettes and cigars” in International Class 34. The Application was assigned U.S. Trademark App. Ser. No. 90/647,685.

5. On November 11, 2023, Opposer filed U.S. Trademark App. Ser. No. 97/120,784 (the “784 Application”) for its MONARCH & Design trademark for use in connection with cigarettes in Class 34. The Examining Attorney responsible for examining the ‘784 Application has issued an advisory that Applicant’s Mark may be cited as an obstacle to Opposer’s registration of its MONARCH & Design mark and has suspended the examination of the ‘784 Application on that basis.

6. Applicant’s MONARCA Mark, as shown in the Application, is confusingly similar in appearance, sound and overall commercial impression to Opposer’s previously used MONARCH Mark.

7. The goods identified in the Application are highly related to the goods on which the MONARCH Mark is used and has previously been used. Indeed, Applicant seeks registration of the MONARCA Mark for use in connection with “Cigarettes” and “Cigarettes and cigars” which are identical and highly related to Opposer’s offering of “Cigarettes”.

8. Consumers are likely to be confused or mistakenly believe that Opposer is the source of Applicant’s cigarettes and cigars or otherwise endorses, sponsors, or approves of Applicant’s cigarettes and cigars, when that is not the case.

9. Applicant’s MONARCA Mark, when used in connection with Applicant’s goods as identified in the Application, so resembles Opposer’s previously used MONARCH Mark, which Reynolds has used since at least as early as June 20, 1979, as to be likely to cause confusion, to cause mistake, and/or to deceive members of the public concerning a sponsorship or endorsement of, or an affiliation, connection, or association with the sources of goods sold under the MONARCH Mark in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), with consequent injury to Opposer, the public, and the trade.

10. Applicant’s MONARCA Mark, as shown in the Application, is confusingly similar in appearance, sound, and overall commercial impression to the previously registered MONARCH Mark as shown in the MONARCH Registration.

11. The goods identified in the Application are identical and highly related to the goods identified in the MONARCH Registration.

12. Applicant’s MONARCA Mark, when used in connection with Applicant’s goods as identified in the Application, so resembles the previously registered mark shown in the MONARCH Registration, which has been registered since November 3, 1981, as to be likely to cause confusion, to cause mistake, and/or to deceive members of the public concerning a

sponsorship or endorsement of, or an affiliation, connection, or association with the sources of goods sold under the MONARCH Mark, as shown in the MONARCH Registration, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), with consequent injury to Opposer, the public, and the trade.

13. Pursuant to Section 13(a) of the Lanham Act, 15 U.S.C. § 1063(a), Opposer believes it will be damaged by registration of Applicant's MONARCA Mark in that members of the purchasing public and/or the trade are likely to be confused or mistaken that Applicant's goods offered under Applicant's MONARCA Mark, which are directly competitive with Opposer's goods, originate from Opposer, or from the same source as goods sold under Opposer's MONARCH Mark, or that such goods of Applicant are sponsored by, endorsed by, or affiliated with the source of goods sold under the Opposer's MONARCH Mark. Such likelihood of confusion results in damage to the goodwill among purchasers and the trade that Opposer's MONARCH Mark symbolizes. Registration of Applicant's MONARCA Mark will support and assist Applicant in the confusing and misleading use of Applicant's MONARCA Mark, and, in addition, will give color and exclusive statutory right to Applicant in violation and derogation of the prior and superior rights of Opposer.

WHEREFORE, Opposer requests that registration of Applicant's MONARCA Mark as shown in the Application be refused.

The required fee for instituting this opposition is included herewith. Please charge any deficiency or refund in the filing fee to Deposit Account No. 20-1430.

Please recognize William M. Bryner, Tiffani D. Otey, Emily M. Yates, and the law firm of Kilpatrick Townsend & Stockton LLP as attorneys for Opposer in connection with this opposition proceeding. Please address all correspondence regarding this proceeding to William

M. Bryner at Kilpatrick Townsend & Stockton LLP, 1001 West Fourth Street, Winston-Salem,
NC 27101.

This the 28th day of June, 2023.

Respectfully submitted,

/William M. Bryner/

William M. Bryner

Tiffani D. Otey

Emily M. Yates

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Counsel for Opposer

CERTIFICATE OF TRANSMITTAL

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION is being filed electronically with the TTAB via ESTTA on this day, June 28, 2023.

/William M. Bryner/

Counsel for Opposer