

ESTTA Tracking number: **ESTTA1327032**  
Filing date: **12/07/2023**

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.		
Entity	Corporation	Incorporated or registered in	North Carolina
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): totety@ktslaw.com, erevilla@ktslaw.com, kteilhaber@ktslaw.com, tadmin@ktslaw.com 3366077300		
Docket no.			

### Applicant information

Application no.	97390598	Publication date	11/07/2023
Opposition filing date	12/07/2023	Opposition period ends	12/07/2023
Applicant	HIGHLANDS HARRIS LLC 9550 SPRING GREEN BLVD, STE 408225 KATY, TX 77494 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; Electronic cigarettes
--

### Grounds for opposition

No bona fide intent to use mark in commerce for identified goods or services	Trademark Act Section 1(b), 44(e) or 66(a)
--	--

Attachments	2023.12.07 Notice of Opposition_VICEROY.pdf(115232 bytes )
-------------	--

Signature	/Tiffani D. Otey/
Name	Tiffani D. Otey
Date	12/07/2023



**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. 97390598
	)	
	)	Mark: VICEROY
	)	
v.	)	Opposition No. _____
	)	
HIGHLANDS HARRIS LLC	)	
	)	
	)	
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 VICEROY in Class 34 as shown in the above-identified application (the “Application”) filed by Highlands Harris LLC (“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 began using the trademark VICEROY in commerce in connection with cigarettes at least as early as 1935.

3. Reynolds previously owned registrations for the VICEROY trademark in word and design form for use in connection with cigarettes from at least as early as April 2, 1963, until March 20, 2020.

4. On May 1, 2022, Applicant filed an intent-to-use application to register the VICEROY mark (the “Applicant’s Mark”) for “Cigarettes; electronic cigarettes” in International Class 34. The Applicant’s Application was assigned U.S. Trademark App. Ser. No. 97/390,598.

5. On October 24, 2023, Opposer filed an intent-to-use application to register Opposer’s VICEROY mark (the “Opposer’s Mark”) for “Cigarettes” in International Class 34. This application was assigned U.S. Trademark App. Ser. No. 98/229,155 (the “Opposer’s Application”).

6. Opposer has a bona fide intent to use the VICEROY mark in commerce in connection with cigarettes.

7. Opposer’s Application is likely to be refused based on the Application filed by Applicant because the marks are identical and the goods are highly similar and related. Such a refusal would result in damage to the Opposer and its business because Opposer would be prevented from registering a mark which it has a bona fide intent to use. Opposer therefore has standing to bring this action.

8. Upon information and belief, as of the filing date of the Application, Applicant did not have a bona fide intent to use Applicant’s Mark in connection with cigarettes or electronic cigarettes in interstate commerce.

9. Upon information and belief, Applicant is located in Texas and is not shown on the Texas Comptroller’s database of active cigarette/tobacco non-retailers; the Texas

Comptroller's database of cigarette tobacco and/or e-cigarette retailers; nor the Texas Comptroller's list of active cigarette/tobacco registered manufacturers.

10. Upon information and belief, Applicant is not authorized by the FDA or any other federal regulatory agency, to import, sell, manufacture, or distribute tobacco products in U.S. commerce.

11. Upon information and belief, Applicant is not listed by the FDA as a tobacco establishment engaging in manufacturing, labeling, packaging, blending, storing or testing tobacco products in the U.S.

12. Upon information and belief, Applicant has not, to date, used the VICEROY mark in interstate commerce in connection with cigarettes or electronic cigarettes.

13. Registration should be refused to Applicant pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b), on the ground that the Application is void ab initio, because as of the filing date of the Application, Applicant did not have a bona fide intent to use Applicant's Mark in connection with cigarettes or electronic cigarettes.

**WHEREFORE**, Opposer requests that registration of Applicant's VICEROY 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. Revilla, 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 7th day of December, 2023.

Respectfully submitted,

/Tiffani D. Otey/

William M. Bryner

Tiffani D. Otey

Emily M. Revilla

KILPATRICK TOWNSEND & STOCKTON LLP

1001 West Fourth Street

Winston-Salem, North Carolina 27101

(336) 607-7300

bbryner@kilpatricktownsend.com

totey@kilpatricktownsend.com

eyates@kilpatricktownsend.com

*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, December 7, 2023.

*/Tiffani D. Otey/*

*Counsel for Opposer*