

ESTTA Tracking number: **ESTTA695093**

Filing date: **09/10/2015**

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	Sazerac Company, Inc.
Granted to Date of previous extension	10/03/2015
Address	3850 North Causeway Boulevard Suite 1695 Metairie, LA 70002 UNITED STATES

Attorney information	Judd D. Lauter Cooley LLP 1299 Pennsylvania Ave. NW, Suite 700 Washington, DC 20004 UNITED STATES jlauter@cooley.com, vbadolato@cooley.com, pwillsey@cooley.com, trademarks@cooley.com Phone:2027287052
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Applicant Information

Application No	86379820	Publication date	08/04/2015
Opposition Filing Date	09/10/2015	Opposition Period Ends	10/03/2015
Applicant	Salt Tequila USA LLC 8226 Douglas Ave., Suite 550 Dallas, TX 75225 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 2011/08/22 First Use In Commerce: 2014/06/05 All goods and services in the class are opposed, namely: Tequila
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Applicant Information

Application No	86379789	Publication date	08/04/2015
Opposition Filing Date	09/10/2015	Opposition Period Ends	
Applicant	Salt Tequila USA LLC 8226 Douglas Ave., Suite 550 Dallas, TX 75225 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 2011/08/22 First Use In Commerce: 2014/06/05 All goods and services in the class are opposed, namely: Tequila
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Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark is deceptively misdescriptive	Trademark Act section 2(e)(1)

Attachments	Sazerac - Notice of Opposition re SALT.pdf(92673 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Judd D. Lauter/
Name	Judd D. Lauter
Date	09/10/2015

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

In the Matter of Application Serial Nos. 86/379,820 and 86/379,789
For the Trademark SALT (*Stylized*)
Published in the Official Gazette on August 4, 2015

SAZERAC COMPANY, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
SALT TEQUILA USA, LLC,)	
)	
Applicant.)	
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NOTICE OF OPPOSITION

Opposer Sazerac Company, Inc. (“Sazerac”), a Louisiana corporation having its principal place of business at 3850 N. Causeway Blvd., Suite 1695, Metairie, Louisiana 70002, will be damaged by the issuance of registrations for the mark SALT (*stylized*), as applied for in Application Serial Nos. 86/379,820 and 86/379,789 filed on August 28, 2014 (the “Applications”) by Salt Tequila USA, LLC (“Applicant”). Sazerac, having previously been granted an extension of time to oppose the Applications, hereby opposes same.

As grounds for opposition, Sazerac alleges as follows.

1. Sazerac is a company that markets and sells a number of different types and brands of alcoholic beverages and distilled spirits, including tequila, vodka, rum, and whiskey. Sazerac has marketed and sold alcoholic beverages and distilled spirits in the United States for over a century.

2. Upon information and belief, on August 28, 2014, Applicant filed the

Applications to register two stylized versions of the word SALT (the “SALT Marks”), alleging use of the marks in commerce since at least as early as June 5, 2014. Applicant seeks registrations for the SALT Marks in connection with “tequila.”

3. Upon information and belief, at least some of Applicant’s tequila products offered under the SALT Marks are infused with or incorporate salt or salt-flavored additives.

4. When used on or in connection with the applicable goods set forth in the Applications, the SALT Marks will reasonably be understood by consumers as a flavor descriptor rather than as a trademark or product source identifier.

5. Upon information and belief, tequila is often consumed with salt, as in margarita cocktails and tequila shots. Consumers therefore may also construe the SALT Marks as an indication that Applicant’s tequila products are meant to be consumed *with* salt. In other words, “SALT” merely describes a flavor and/or characteristic of Applicant’s tequila.

6. Upon information and belief, the SALT Marks are not inherently distinctive, and have not become distinctive of Applicant’s goods in commerce. Applicant has not acquired secondary meaning in the SALT Marks for its applicable goods.

7. Applicant’s SALT Marks will interfere with the rights of others affiliated with the alcohol industry in identifying a quality of their goods, namely the flavor and/or characteristic of an alcoholic beverage.

8. Registration of the SALT Marks would give Applicant *prima facie* evidence of the validity and ownership of the marks and of Applicant’s exclusive right to use the marks, all to the detriment of Sazerac and others in the alcoholic beverage industry.

9. Alternatively, if Applicant sells tequilas under the SALT Marks that are not infused with salt or salt-flavored additives, then the SALT Marks are deceptively misdescriptive of Applicant's goods under Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052.

10. Given the common consumption of tequila in combination with salt, prospective consumers are likely to believe that Applicant's tequila is flavored with salt or additives that include salt, and, in turn, are likely to rely on that misdescription in their decision to purchase Applicant's goods to the detriment of competitor tequila distillers.

11. Issuance of registrations for the SALT Marks would therefore violate 15 U.S.C. § 1052(e)(1) as the marks are either merely descriptive or deceptively misdescriptive of Applicant's goods.

12. Wherefore, for all the foregoing reasons Sazerac prays that this Opposition be sustained and that Application Serial Nos. 86/379,820 and 86/379,789 be denied and refused registration.

COOLEY LLP

Date: September 11, 2015

By: /Vincent J. Badolato/
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