

ESTTA Tracking number: **ESTTA971402**

Filing date: **05/03/2019**

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	Anchor Brewing Company, LLC
Granted to Date of previous extension	05/05/2019
Address	1705 Mariposa Street San Francisco, CA 94107 UNITED STATES

Correspondence information	Duy Thai Of Counsel Teraoka & Partners, LLP One Embarcadero Center, Suite 1020 San Francisco, CA 94111 UNITED STATES duy@teraokalaw.com 4152969927
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**Applicant Information**

Application No	87925027	Publication date	11/06/2018
Opposition Filing Date	05/03/2019	Opposition Period Ends	05/05/2019
Applicant	D.G. Yuengling & Son, Inc. 310 Mill Creek Avenue Pottsville, PA 17901 UNITED STATES		

**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: Beer
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**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.	1206783	Application Date	09/05/1978
Registration Date	08/31/1982	Foreign Priority Date	NONE
Word Mark	STEAM BEER		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1934/00/00 First Use In Commerce: 1971/12/09 Beer		

U.S. Application No.	88137986	Application Date	10/01/2018
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ANCHOR STEAM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1909/00/00 First Use In Commerce: 1933/00/00 Beer		

U.S. Application No.	88137994	Application Date	10/01/2018
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ANCHOR STEAM BEER MADE IN SAN FRANCISCO SINCE 1896		

Design Mark	
Description of Mark	<p>The mark consists of an oval outlined with two ovals; centered on the inside top of the oval is a banner image; the words "ANCHOR STEAM BEER" appear on the banner in all capital letters; in the center of the oval and below the banner is an image of an anchor with a rope looped around the anchor; to the left of the anchor is an image of a hop vine; to the right of the anchor are images of wheat and a hop vine; centered at the bottom inside of the oval are the words "MADE IN SAN FRANCISCO SINCE 1896".</p>
Goods/Services	<p>Class 032. First use: First Use: 1968/00/00 First Use In Commerce: 1971/00/00 Beer</p>

Attachments	<p>73184711#TMSN.png( bytes )  88137986#TMSN.png( bytes )  88137994#TMSN.png( bytes )  Anchor JRSB Opposition.pdf(99067 bytes )</p>
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Signature	/duy thai/
Name	Duy Thai
Date	05/03/2019

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

Anchor Brewing Company, LLC

Opposer,

v.

D.G. Yuengling & Son, Inc.,

Applicant.

Opposition No. \_\_\_\_\_

Mark: JAMES RIVER STEAM  
BREWERY

Ser. No. 87925027

**NOTICE OF OPPOSITION**

Anchor Brewing Company, LLC (“Opposer”), a California limited liability company having its principal place of business at 1705 Mariposa Street, San Francisco, California, believes it is being, and will be, damaged by the registration of the application by D.G. Yuengling & Son, Inc. (“Applicant”) for JAMES RIVER STEAM BREWERY (“Applicant’s Mark”), Application Serial No. 87925027, filed May 17, 2018 (the “Subject Application”), and hereby opposes the same.

As grounds, Opposer alleges the following:

1. Opposer is the owner of United States Trademark Registration No. 1206783 (“Opposer’s Registration”), registered August 31, 1982, for STEAM BEER [and design], which mark has been used in commerce on “beer” since 1934. The registration date of Opposer’s Registration precedes the filing date of the Subject Application.

2. Opposer is the owner of United States Trademark Application Serial No. 88137986, filed October 1, 2018, for ANCHOR STEAM, which mark has been used in commerce on “beer” since 1909. The date of first use in commerce of Application Serial No. 88137986 precedes the filing date of the Subject Application.

3. Opposer is the owner of United States Trademark Application Serial No. 88137994, filed October 1, 2018, for ANCHOR STEAM BEER MADE IN SAN FRANCISCO SINCE 1896 [and design], which mark has been used in commerce for “beer” since 1968. The

date of first use in commerce of Application Serial No. 88137994 precedes the filing date of the Subject Application.

4. STEAM BEER [and design], ANCHOR STEAM, and ANCHOR STEAM BEER MADE IN SAN FRANCISCO SINCE 1896 [and design] are herein referred to as “Opposer’s Marks.” By virtue of Opposer’s extensive use and promotion of Opposer’s Marks since long before Applicant’s priority date, Opposer has established valuable goodwill in Opposer’s Marks, and consumers have come to associate those marks, and the verbal element STEAM common to all of them, with Opposer. As such, consumers have come to know STEAM and STEAM BEER as an indication of goods that originate from Opposer.

5. Opposer has a history that goes back to the California Gold Rush and was one of the original brewers of an indigenous style of beer known as California common beer. Opposer has used and is using the verbal elements STEAM and STEAM BEER in commerce as part of its distinctive trademarks for beer. Opposer has also been recognized as a pioneer in the craft brewery and micro-brewery movement that took off in the latter part of the twentieth century. The goods sold under Opposer’s Marks were among the first beers to be known for their artisanal quality and standards. As such, Opposer’s Marks are famous in the field of beer.

6. The Subject Application was filed under Lanham Act § 1(b), 15 U.S.C. § 1051(b), for “beer” in Class 32. Its May 17, 2018 filing date is junior to the registration date or first use date of Opposer’s Marks. Upon information and belief, Applicant does not have superior common law rights in Applicant’s Mark based on current or continuous past use.

7. Applicant’s Mark is confusingly similar to Opposer’s Marks. Applicant’s Mark incorporates the verbal element STEAM from Opposer’s Marks. The goods specified in Subject Application is identical to the goods identified in Opposer’s Registration and to the goods with which Opposer has been using Opposer’s Marks since long before the filing date of the Subject Application. The goods specified in the Subject Application are likely to be offered, promoted, or sold in the same channels of trade as the goods offered, promoted, or sold under Opposer’s Marks.

8. As a result of the similarity between Applicant’s Mark and Opposer’s Marks, and because of the highly related nature of the parties’ goods, the registration and use of

Applicant's Mark in connection with the applied-for goods is likely to create the false impression that Applicant's goods are provided by, related to, endorsed by, or associated with Opposer; or otherwise likely to cause injury to Opposer's rights in Opposer's Marks, with consequent damage to Opposer and the public. Applicant's Mark "so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive." 15 U.S.C § 1052(d).

9. Accordingly, Applicant is not entitled to registration of JAMES RIVER STEAM BREWERY and the Subject Application should be refused registration under Lanham Act § 2(d), 15 U.S.C § 1052(d).

In view of the foregoing and other facts, Opposer requests that this opposition be sustained and that registration of Application Serial No. 86655729 be denied.

Please recognize Duy Thai, a member of the State Bar of California, and Yaeri Kim Yamamoto, a member of the State Bar of California, as the attorneys of record for Opposer. Please address all communications regarding this Opposition Proceeding to Duy Thai at the address below.

DATED: May 3, 2019

Respectfully submitted,

/duy thai/

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