

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

In the matter of trademark application Serial no. 75907511
For the mark: LE MOULIN ROUGE
Published in the Official Gazette on: September 10, 2002
For: Wines in class 25
Filing date: February 1, 2000

MOULIN ROUGE S.A.,
Opposer

v.

SUGARLOAF FARMING CORP.,
Applicant

NOTICE OF OPPOSITION

Opposer:
Moulin Rouge S.A.
a French corporation
86, boulevard de Clichy
75018 Paris, France

The above-identified Opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

COUNT 1 – LIKELIHOOD OF CONFUSION AND UNFAIR COMPETITION

1. Opposer is the owner of the trademark MOULIN ROUGE in France and has used such mark continuously in connection with entertainment services, namely live

musical stage shows and theater productions since 1889. Almost since it opened, Opposer's music hall in Paris was known worldwide and it has since remained famous, immortalized in the paintings of Toulouse-Lautrec and featured in films. The recent film released by Twentieth Century Fox, "Moulin Rouge" was extremely popular and successful worldwide, recently winning two academy awards. Opposer also uses and has used its MOULIN ROUGE name and mark for a variety of goods, including Cognac, Armagnac, Pernod, champagne and champagne glasses.

2. Since long prior to the filing date of the application opposed herein, Opposer has continuously used the MOULIN ROUGE name and mark in commerce with the United States, to identify and designate Opposer, its famous Parisian music hall, services and products, and to distinguish those goods and services from those of others. Opposer has extensively and continuously used, advertised, promoted and offered its services and goods under the MOULIN ROUGE name and mark to the public through various channels of trade in interstate commerce, and the MOULIN ROUGE name, mark and institution has been widely publicized, with the result that the public have come to know and recognize Opposer's MOULIN ROUGE name and mark and to associate same with Opposer and its music hall, its goods and services. Therefore, prior to the filing date of the within application, Opposer had built up extensive good will in the United States and on a worldwide basis such that Opposer's mark has become "famous" and uniquely and unmistakably identified with Opposer, its music hall, and services.

3. Opposer is the owner of U.S. Trademark Application no. 75808546, for the mark MOULIN ROUGE for entertainment services, namely live musical stage shows and theater productions, which was based on an application filed in the United States Patent and Trademark Office on September 14, 1999. Opposer will rely herein on the registration, which will issue on said application.

4. Opposer is the owner of U.S. Trademark Application no. 75808547, for the mark MOULIN ROUGE PARIS for entertainment services, namely live musical stage shows and theater productions, which was based on an application filed in the United States Patent and Trademark Office on September 24, 1999. Opposer will rely herein on the registration, which will issue on said application.

5. Opposer is the owner of U.S. Trademark Application no. 76399350, for the mark MOULIN ROUGE for perfumes, cosmetics and other class 3 goods, based upon an application filed in the United States Patent and Trademark Office on April 22, 2002. Opposer will rely herein on the registration, which will issue on said application.

6. Upon information and belief, notwithstanding Opposer's long and well-known prior rights in and to the distinctive and famous MOULIN ROUGE name and mark, Applicant filed an application for registration of the mark LE MOULIN ROUGE on February 1, 2000. The application was assigned serial number 75907511 and was published for opposition on September 10, 2002, identifying the goods as "Wines in class 33."

7. The mark sought to be registered by Applicant is identical to, a simulation and colorable imitation of, and confusingly similar to, Opposer's famous MOULIN ROUGE name and mark.

8. Upon information and belief, Applicant's goods are similar and/or related to Opposer's services and/or goods, and are advertised, promoted and/or sold through the same and/or similar channels of trade and to the same general class of purchasers as Opposer's services and/or goods sold under Opposer's MOULIN ROUGE name and mark.

9. Upon information and belief, customers of Opposer, as well as the public in general, are likely to be confused, mistaken or deceived as to the origin or sponsorship of Applicant's aforesaid goods which are marketed, promoted and/or sold under, or in connection with, the opposed mark sought to be registered by Applicant herein, and further, said persons are likely to be misled into believing that Applicant and/or Applicant's aforesaid goods are rendered by, emanate from, or in some way are directly or indirectly, associated with or connected to Opposer and/or its services, products and/or music hall, to the damage and detriment of Opposer, its goodwill and reputation.

10. On information and belief, Applicant had actual knowledge of Opposer and

its famous MOULIN ROUGE name and mark, and the goodwill and public recognition of said name and mark, prior to adopting, determining to use, and/or during the prosecution of the present application for, the mark opposed herein.

11. The registration and use by Applicant of the LE MOULIN ROUGE mark for the goods set forth in the application opposed herein is an infringement of Opposer's famous MOULIN ROUGE name and mark, and constitutes unfair competition with Opposer, in violation of its rights under Section 44 (g) and/or (h) of the Lanham Trademark Act.

COUNT II- DILUTION

12. Opposer restates and realleges paragraphs 1 – 10, inclusive, of this Notice of Opposition and hereby incorporates same as if fully set forth herein.

13. On information and belief, the registration and/or commercial use of the opposed LE MOULIN ROUGE mark by Applicant will dilute the distinctive quality of Opposer's famous and distinctive MOULIN ROUGE name and mark.

COUNT III – FALSE SUGGESTION OF A CONNECTION

14. Opposer restates and realleges paragraphs 1 – 12, inclusive, of this Notice of Opposition and hereby incorporates same as if fully set forth herein.

15. The use of the LE MOULIN ROUGE mark as forth in the application

opposed herein falsely suggests a connection or association with Opposer, its music hall, entertainment services, products and/or business, in violation of Section 2(a) of the Lanham Act.

15. By virtue of the foregoing, Opposer believes it will be damaged by the use and registration by Applicant of the opposed mark, as set forth in application serial number 75907511.

16. If Applicant is granted the registration opposed herein, and Applicant obtains such rights as conferred under the Principal Register of the Trademark Act of 1946, Applicant will obtain unlawful gain and advantage to which it is not entitled, to the detriment and harm of Opposer.

WHEREFORE, Opposer prays that judgment for Opposer and against Applicant in the present opposition be entered on each of Opposer's claims; that said application Serial No. 75907511 be rejected; that no registration be issued thereon to Applicant; and that this opposition be sustained in favor of Opposer.

DOMESTIC REPRESENTATIVE

Rozan & Nilson, LLP, whose postal address is 420 Lexington Avenue, Suite 850, New York, New York 10170, is hereby designated Opposer's representative upon whom notices or process in proceedings affecting the mark may be served.

Opposer hereby appoints Rozan & Nilson, LLP, a law firm with all partners being members of the bar of the State of New York, to act as attorneys for Opposer herein, with full power to prosecute said opposition, to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this opposition.

Respectfully submitted,

MOULIN ROUGE S.A.

By: 

Date: 10/23/02

Deborah A. Nilson, Esq.
 Rozan & Nilson, LLP
 420 Lexington Avenue
 New York, NY 10170
 (212) 687-1155

Express Mail mailing label number: EU 23 9 7 2 4 3 5 4 US

Date of deposit: 10/23, 2002

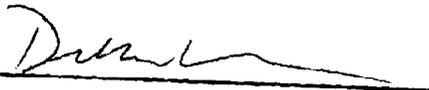
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to the

Commissioner for Trademarks

Box TTAB: FEE

2900 Crystal Drive

Arlington, VA 22202

Name: 

Date: 10/23/02

ROZAN & NILSON, LLP

ATTORNEYS AT LAW

420 LEXINGTON AVENUE

SUITE 850

NEW YORK, NY 10170

PHONE: (212) 687-1155

FACSIMILE: (212) 687-1118

EMAIL: ROZANNILSON@SPRINTMAIL.COM

ALAN N. ROZAN
DEBORAH A. NILSON
ATTORNEYS AT LAW

Tuesday, October 22, 2002

BY EXPRESS MAIL

Commissioner for Trademarks
Box TTAB: FEE
2900 Crystal Drive
Arlington, VA 22202

Re: LE MOULIN ROUGE
Serial number 75907511
Filed: February 1, 2000
Applicant: Sugarloaf Farming Corp.

Dear Sir or Madam:

Please find enclosed one original and one copy of our Notice of Opposition with respect to the above referenced application, as well as Certificate of Mailing attached. Also enclosed is a check for \$300 representing the filing fees for opposing a single class in a single application.

We trust you will find our papers to be in order.

Sincerely,



Deborah A. Nilson

Encl.