

**NOTICE OF OPPOSITION**

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

In re Application Serial No. : 76/376189  
For the Mark : Los Tesoros de Zorro  
Filed : February 28, 2002  
Published in the Trademark  
Official Gazette on : January 7, 2003

Zorro Productions, Inc.,

Opposer,

v.

Murrieta' Well, LLC,

Applicant.

Opposition No.

03-06-2003

U.S. Patent & TMOrc/TM Mail RcptDt. #70

BOX TTAB – FEE  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**NOTICE OF OPPOSITION**

Dear Sir or Madam:

Zorro Productions, Inc., a California corporation, residing at 125 University Avenue, Berkeley, California 94710, USA, the above-identified "Opposer," which holds no less than twenty-five federally registered marks for the word and/or character "Zorro," 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 this opposition are as follows:

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A. Unfair Competition

1. If the application in question, "Los Tesoros de Zorro," (which is translated on the application in question as "The Treasures of Zorro") is granted registration, the result will be a likelihood of confusion in the marketplace, as defined in 15 USC§1125(a)(1)(A).

2. The word "zorro" in Spanish means "fox". However, Applicant's use of that term in this application is not intended to denote a fox. Nowhere on this application, as shown on the USPTO website, is there any reference to a fox. Furthermore, foxes do not have treasures. Applicant specifically uses "Zorro" as a proper noun in the translated text of its desired trademark. Therefore, the clear intent is to convey an association with the famous legendary hero of "Zorro," who has been the subject of numerous licenses, including, but not limited to, live and animated television shows, costumes, publications, toys, food products, clothing and accessories, and movies, the most recent of which was the 1998 U.S. box office hit, "The Mask of Zorro," starring Antonio Banderas, Anthony Hopkins and Catherine Zeta-Jones.

3. Applicant has developed a name for a wine label that seeks to associate its winery's name, Murrieta's Well, named after a possible historical figure, with the romantic nature of this famous fictional character. If Joaquin Murrieta really existed, he and "Zorro" would have been contemporaries. Further, Joaquin Murrieta was a primary figure in the storyline of the movie, "The Mask of Zorro." He was a character so entwined with the character of "Zorro" that, in that film's tale, the two could not be separated.

4. Based upon the visibility of this famous character, in commerce and the public eye over the past six decades, it will be extraordinarily difficult for the public to be able to disassociate Applicant's wine label with Opposer's registered and famous marks of "Zorro."

B. Dilution of A Famous Trademark

5. If this application is permitted registration on the Federal Registry, the result will be the diluting of a famous mark as defined in 15 USC §1125(c).

6. For the reasons stated in paragraphs 1 – 4 above, as well as other evidence that shall be submitted in accordance with the TTAB's rules, use of the term "Zorro" on Applicant's wine label will draw a direct connection between Applicant's mark and Opposer's marks, creating a direct association between the two entities, blurring the distinction between the two and co-opting the public to believe that the wine was authorized by Opposer pursuant to the laws of intellectual property.

For the foregoing reasons, Opposer asks the TTAB to deny approval to Applicant for registration of application serial 76376189.

A duplicate copy of this Notice of Opposition is enclosed, as well as a check in the amount of \$300 in payment of the filing fee.

Respectfully submitted,



Susan Berger  
Vice President – Legal Affairs  
Enclosures

CERTIFICATE OF MAILING

I, Mike Rosmis, hereby certify that this correspondence is being deposited with the courier service FEDERAL EXPRESS in an envelope addressed to: Commissioner for Trademarks, BOX TTAB FEE, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on March 3, 2003.



Mike Rosmis