

ESTTA Tracking number: **ESTTA127799**

Filing date: **03/02/2007**

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	The Naked Tequila Company
Granted to Date of previous extension	03/04/2007
Address	2 Lakeside Drive Falmouth, ME 04105 UNITED STATES
Attorney information	Peter J. Karol Bromberg & Sunstein LLP 125 Summer Street Boston, MA 02110 UNITED STATES pkarol@bromsun.com, jhuston@bromsun.com Phone:617-443-9292

Applicant Information

Application No	78640095	Publication date	09/05/2006
Opposition Filing Date	03/02/2007	Opposition Period Ends	03/04/2007
International Registration No.	NONE	International Registration Date	NONE
Applicants	David Franklin Thomas Wright Wedgewood House, Cricket Green Lane Hartley Witney, Hampshire, RG27 8PH UNITED KINGDOM Nigel Charles Frank de Mestre Blundell The Meade, Pankridge Street, Crondall Farnham, Surrey, GU10 5QU UNITED KINGDOM		

Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Wines
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Attachments	Notice of Opposition - THE NAKED GRAPE.pdf (4 pages)(12676 bytes)
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Signature	/Peter J. Karol/
Name	Peter J. Karol
Date	03/02/2007

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

In the Matter of Application:

Serial No.: 78/640,095
Filed: May 31, 2005
Applicant: David Franklin Thomas Wright and Nigel Charles Frank de Mestre
Blundell
Mark: THE NAKED GRAPE
For: Wines
Published: September 5, 2006

THE NAKED TEQUILA COMPANY,)
)
Opposer,)
)
v.) NOTICE OF OPPOSITION
)
DAVID FRANKLIN THOMAS WRIGHT)
)
&)
NIGEL CHARLES FRANK)
DE MESTRE BLUNDELL)
)
Applicants.)
_____)

Sir or Madam:

The Naked Tequila Company (“Naked Tequila”), a partnership organized and existing under the laws of the State of Maine, composed of Gregory Caswell, USA and Lance Wieland, USA, and having its principal place of business at 2 Lakeside Drive, Falmouth, ME 04105, believes that it will be damaged by registration of the mark shown in Application Serial No. 78/640,095 (the “Application”), filed on May 31, 2005, and thus opposes that Application on the following grounds:

1. Application Serial No. 78/640,095, filed by David Franklin Thomas Wright and Nigel Charles Frank de Mestre Blundell (“Applicants”) on May 31, 2005, as amended, seeks registration of the mark THE NAKED GRAPE in connection with wines, in International Class 33, on the basis of 15 U.S.C. §1126(e) [Lanham Act § 44(e)].

2. The Application claims priority from, and is based upon, European Community Trademark No. 4319588 (the “CTM”). Applicants filed an application for the CTM on February 24, 2005 and the CTM was registered on February 1, 2006.

3. On information and belief, Applicants are individuals and citizens of Great Britain, and reside in the United Kingdom.

4. On September 26, 2006, Naked Tequila was granted a 90-day extension of the time to oppose the Application for good cause until January 3, 2007. On December 21, 2006, Naked Tequila was granted an additional 60-day extension of the time to oppose the Application upon consent of Applicants until March 4, 2007.

5. On information and belief, Applicants have never used the mark THE NAKED GRAPE in connection with any goods or services in the United States.

6. On information and belief, Applicants have never used the mark THE NAKED GRAPE in commerce in the United States in connection with the goods described in the Application.

7. Naked Tequila is the owner of an intent-to-use application, App. Ser. No. 78/481,448 for the mark NAKED, which was filed on September 10, 2004 and allowed on November 15, 2005, for distilled spirits in International Class 33. Naked Tequila is also the owner of an intent-to-use application, App. Ser. No. 78/134,321 for the mark NAKED TEQUILA, which was filed on June 10, 2002 and allowed on August 2, 2005, for tequila made from Agave in International Class 33. Collectively, the marks claimed in these applications shall be referred to as “the NAKED Marks.”

8. Naked Tequila has a bona fide intention to use the NAKED Marks with the goods listed in the respective applications in the future.

9. Both of Naked Tequila's applications for the NAKED Marks were filed before the Application was filed and before the CTM was filed.

10. Applicants' THE NAKED GRAPE mark is similar to Naked Tequila's NAKED mark and Naked Tequila's NAKED TEQUILA mark. The dominant and distinctive feature of Applicants' THE NAKED GRAPE mark is the term NAKED, which feature is fully encompassed by both Naked Tequila's NAKED mark and Naked Tequila's NAKED TEQUILA mark. Applicants' THE NAKED GRAPE mark could create a similar overall commercial impression as that created by Naked Tequila's NAKED mark and Naked Tequila's NAKED TEQUILA mark.

11. The description of goods contained in the Application, wines, and the goods that Naked Tequila intends to sell in connection with the NAKED Marks may be considered to be similar goods, as they may be sold through the same marketing channels to the same class of purchasers.

12. Applicants' use and registration of the later filed and confusingly similar THE NAKED GRAPE mark could cause purchasers, prospective purchasers, users, and others to be confused, mistaken, or deceived into the belief, contrary to fact, that Applicants' goods emanate from or are sponsored or approved by Naked Tequila or are related to Naked Tequila's goods, thus damaging Naked Tequila.

WHEREFORE, The Naked Tequila Company prays that the present opposition be sustained and registration of the THE NAKED GRAPE mark sought by David Franklin Thomas Wright and Nigel Charles Frank de Mestre Blundell be refused.

Dated: Boston, Massachusetts
March 2, 2007

THE NAKED TEQUILA COMPANY
By its attorneys,

s/ Peter J. Karol/

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