

ESTTA Tracking number: **ESTTA213213**

Filing date: **05/22/2008**

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	26 Brix LLC dba B Cellars		
Entity	LLC	Citizenship	California
Address	30472 Via Festivo San Juan Capistrano, CA 92675 UNITED STATES		

Attorney information	Kristen E. Caverly Hnederson & Caverly LLP P.O. Box 9144 Rancho Santa Fe, CA 92067 UNITED STATES kcaverly@hcesq.com Phone:8587566342		
----------------------	---	--	--

Applicant Information

Application No	77315915	Publication date	04/22/2008
Opposition Filing Date	05/22/2008	Opposition Period Ends	05/22/2008
Applicant	Eugene Wine Cellars, LLC 255 Madison Street Eugene, OR 97402 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 2006/02/16 First Use In Commerce: 2006/02/16 All goods and services in the class are opposed, namely: Wines
--

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3185013	Application Date	02/16/2005
Registration Date	12/12/2006	Foreign Priority Date	NONE
Word Mark	°B		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2005/07/31 First Use In Commerce: 2005/07/31		

	wines		
U.S. Application No.	78796947	Application Date	01/23/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	B CELLARS		
Design Mark			
Description of Mark	The mark consists of words "B CELLARS" in black, capital letters in OCTAVIAN font.		
Goods/Services	Class 033. First use: Wine Class 041. First use: Entertainment services, namely, wine tastings		
U.S. Application No.	78588300	Application Date	03/16/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	°B		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: wines Class 041. First use: entertainment services, namely, wine tastings		
U.S. Application No.	78569058	Application Date	02/16/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	B		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: entertainment services, namely, wine tastings		
Related Proceedings	91181677, 91181291, 91179901		
Attachments	78977684#TMSN.jpeg (1 page)(bytes) 78796947#TMSN.jpeg (1 page)(bytes) 78588300#TMSN.jpeg (1 page)(bytes) 78569058#TMSN.jpeg (1 page)(bytes) Statement in support of opposition.pdf (1 page)(10492 bytes)		

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	/kec at hc/
Name	Kristen E. Caverly
Date	05/22/2008

Additional Statement of Facts in Support of Opposition

1. 26 Brix LLC dba B Cellars opposes registration of Applicant's B mark for wines based on priority and likelihood of confusion between the proposed mark and B Cellars' registered B mark, Registration No. 3185013, and B Cellars' allowed marks B CELLARS, Serial No. 78796947, and B mark, Serial No. 78588300, all of which are in the same class and for the same goods, namely "wines". In addition, B Cellars opposes registration based on dilution of its above referenced marks in Classes 33 and 41, as well as B Cellars' B mark, Serial No. 78569058, in Class 41 for wine tasting services.

2. B Cellars alleges on information and belief that one or more of its above identified registrations and/or pending applications has priority over Applicant's mark and that if Applicant's mark is allowed to register that the public is likely to be confused as to the source of Applicant's goods and/or to associate Applicant's goods with Opposer to the detriment of Opposer. Opposer additionally alleges on information and belief that Applicant's use of the mark as applied for will dilute one or more of Opposer's registered and/or applied for marks for which Opposer has priority.