

ESTTA Tracking number: **ESTTA238399**

Filing date: **09/23/2008**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Carriage House Imports Ltd.
Granted to Date of previous extension	09/24/2008
Address	99 Morris Avenue Springfield, NJ 07081 UNITED STATES

Name	Bosca Cora, S.p.A.
Granted to Date of previous extension	09/24/2008
Address	14053 Canelli Asti, 00 ITALY

Attorney information	Laura Goldbard George Stroock & Stroock & Lavan LLP 180 Maiden Lane New York, NY 10038-4982 UNITED STATES lgoldbard@stroock.com, afisher@stroock.com, tm@stroock.com Phone:212-806-5400
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Applicant Information

Application No	77370590	Publication date	05/27/2008
Opposition Filing Date	09/23/2008	Opposition Period Ends	09/24/2008
Applicant	Banfi Products Corporation 1111 Cedar Swamp Road Old Brookville, NY 11545 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Wines
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2228600	Application Date	02/26/1998
Registration Date	03/02/1999	Foreign Priority Date	NONE
Word Mark	VERDI SPUMANTE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1995/03/03 First Use In Commerce: 1995/03/03 Alcoholic brewed malt beverage containing natural flavors		

Attachments	Opposition FERDI.pdf (11 pages)(282980 bytes)
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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	/laura goldbard george/
Name	Laura Goldbard George
Date	09/23/2008

Client Matter No. 104912.0900

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

Application Serial No. 77/370,590

Mark: FERDI

Published: May 27, 2008

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BOSCA CORA, S.P.A. and :
CARRIAGE HOUSE IMPORTS LTD., :
 :
Opposers, :
 :
 :
v. :
 :
BANFI PRODUCTS CORPORATION, :
 :
Applicant. :
-----X

Opposition No.

Commissioner for Trademarks
P.O. Box 1451
Arlington, Virginia 22313-1451

NOTICE OF OPPOSITION

Opposers, Bosca Cora, S.p.A. (hereinafter “Bosca”) and Carriage House Imports Ltd. (hereinafter “Carriage House”) (Bosca and Carriage House will be collectively referred to as “Opposers”) believe that they will be damaged by registration of the mark FERDI for wine, in International Class 33, Application Serial No. 77/370,590 (“Application”), filed on an intention to use basis, in the name of Banfi Products Corporation, and hereby oppose registration of same. As grounds for the Opposition, Opposers allege as follows:

1. Opposer, Bosca, is a corporation existing under the laws of Italy, located at 14053 Canelli, Asti, Italy.

2. Opposer, Carriage House, is a Delaware corporation, located at 99 Morris Avenue, Springfield, New Jersey 07081.

3. Applicant, Banfi Products Corporation, is a New York corporation, located at 1111 Cedar Swamp Road, Old Brookville, New York 11545.

4. Bosca is the owner of the mark VERDI SPUMANTE for an alcoholic brewed malt beverage containing natural flavors and for a wine specialty beverage.

5. Bosca is the owner of Registration No. 2,228,600 issued on March 2, 1999 for the mark VERDI SPUMANTE for alcoholic brewed malt beverages containing natural flavors. This registration is valid and subsisting, in full force and effect and incontestable. The term “Spumante” has been disclaimed. A copy of Registration No. 2,228,600, along with the TARR record, is annexed hereto as Exhibit 1.

6. For many years prior to the filing of the Application, Opposers have been using the trademark VERDI SPUMANTE in foreign commerce with the United States and interstate commerce within the United States. More specifically, the mark VERDI SPUMANTE has been in use in connection with alcoholic brewed malt beverages containing natural flavors since 1995 and in connection with wine specialty beverages since at least as early as 1994 (collectively, the “Products”).

7. Carriage House is the exclusive importer in the United States of the Products and sells the Products throughout the United States.

8. By reason of extensive distribution, sale and promotion of Opposers’ Products in and throughout the United States for more than thirteen (13) years, Bosca’s VERDI SPUMANTE mark has acquired substantial goodwill, distinctiveness and secondary meaning for

alcoholic brewed malt beverages containing natural flavors and wine specialty beverages having their origin exclusively with Bosca.

9. On January 14, 2008, Applicant, Banfi Products Corporation, filed an intention-to-use application, application Serial No. 77/370,590, for the mark FERDI for wines (the “Goods”).

10. Applicant’s mark is likely to cause confusion with Opposers’ mark. The mark sought to be registered, namely, FERDI, is substantially identical to VERDI, with an “F” replacing the “V”, resulting in a mark that looks and sounds confusingly similar.

11. The Goods in the Application are closely related to Opposers’ Products. Applicant’s mark is for a wine while Opposers’ goods are alcoholic brewed malt beverages containing natural flavors and wine specialty beverages. In fact, Opposers’ and Applicant’s goods will be sold through the same or similar channels of trade and will be or are sold and marketed to the same purchasers. As Opposers’ and Applicant’s goods are closely related, there is a likelihood that consumers would be confused because the respective goods are or will be sold under confusingly similar marks.

COUNT I
LIKELIHOOD OF CONFUSION

12. Opposers repeat and re-allege the allegations in Paragraphs 1 through 11 as fully set forth herein.

13. In view of the confusing similarity of Applicant’s trademark FERDI and Goods, Applicant’s use and registration of the mark FERDI is likely to cause confusion, mistake and

deceive the trade and public into believing that Applicant's Goods originate with or are otherwise licensed, sponsored or authorized by Opposers.

14. The use and registration of the mark FERDI by Applicant is likely to damage and destroy the distinctiveness, goodwill, reputation and secondary meaning created and established by Bosca in its VERDI mark, through Carriage House, by virtue of the confusion, mistake and deception likely to occur between the respective marks in derogation of Opposers' exclusive right to continue to use the registered mark for their present Products and to expand the use of the VERDI SPUMANTE mark to related goods and services.

15. By reason of all the foregoing, Opposers will be gravely damaged by the registration of the mark FERDI for the Goods identified in the Application.

WHEREFORE, by reason of the confusing similarity of Applicant's and Opposers' marks, Opposers respectfully requests that the opposition be sustained and that registration of the mark FERDI be refused.

Dated: New York, New York
September 23, 2008

Respectfully submitted,

STROOCK & STROOCK & LAVAN LLP
Attorneys for Opposers
180 Maiden Lane
New York, New York 10038-4982
(212) 806-5400

By 
Laura Goldbard George

EXHIBIT 1

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 2,228,600

United States Patent and Trademark Office

Registered Mar. 2, 1999

**TRADEMARK
PRINCIPAL REGISTER**

VERDI SPUMANTE

BOSCA CORA, S.P.A. (ITALY CORPORATION)
14053 CANELLI
ASTI, ITALY

FOR: ALCOHOLIC BREWED MALT BEVER-
AGE CONTAINING NATURAL FLAVORS, IN
CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 3-3-1995; IN COMMERCE
3-3-1995.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "SPUMANTE", APART FROM
THE MARK AS SHOWN.

THE ENGLISH TRANSLATION OF "SPU-
MANTE" IS "SPARKLING".

SER. NO. 75-441,435, FILED 2-26-1998.

AMY DIXON, EXAMINING ATTORNEY

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-09-23 11:21:22 ET

Serial Number: 75441435 Assignment Information Trademark Document Retrieval

Registration Number: 2228600

Mark (words only): VERDI SPUMANTE

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2004-08-23

Filing Date: 1998-02-26

Transformed into a National Application: No

Registration Date: 1999-03-02

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2006-05-22

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Bosca Cora, S.p.A.

Address:

Bosca Cora, S.p.A.

14053 Canelli

Asti

Italy

Legal Entity Type: Corporation

State or Country of Incorporation: Italy

GOODS AND/OR SERVICES

International Class: 032

Class Status: Active

Alcoholic brewed malt beverage containing natural flavors

Basis: 1(a)

First Use Date: 1995-03-03

First Use in Commerce Date: 1995-03-03

ADDITIONAL INFORMATION

Disclaimer: "SPUMANTE"

Translation: The English translation of "SPUMANTE" is "sparkling".

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2006-05-22 - Initial Review Action Mailed - Sect 8 And 15

2005-02-28 - Section 8 (6-year) and Section 15 Filed

2005-02-28 - TEAS Section 8 & 15 Received

2004-08-23 - Section 8 (6-year) accepted & Section 15 acknowledged

2004-07-16 - Section 8 (6-year) and Section 15 Filed

2004-07-16 - TEAS Section 8 & 15 Received

1999-03-02 - Registered - Principal Register

1998-12-08 - Published for opposition

1998-11-06 - Notice of publication

1998-09-11 - Approved for Pub - Principal Register (Initial exam)

1998-08-27 - Examiner's amendment mailed

1998-08-25 - Assigned To Examiner

1998-07-23 - Non-final action mailed

1998-07-06 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

MARK I. PEROFF

Correspondent

MARK I. PEROFF

KIRKPATRICK & LOCKHART LLP

599 LEXINGTON AVENUE

NEW YORK, NY 10022-6030



Assignments on the Web > Trademark Query

No assignment has been recorded at the USPTO

For Serial Number: 75441435

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.0.1
Web interface last modified: April 20, 2007 v.2.0.1

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on counsel for Banfi Products Corporation by forwarding said copy to the attorney for Applicant, Kristen M. Walsh, Esq., Nixon Peabody LLP, 1100 Clinton Square, Rochester, New York 14604-1792, by first class mail, postage prepaid, on September 23, 2008.


Laura Goldbard George