

ESTTA Tracking number: **ESTTA465038**

Filing date: **04/03/2012**

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	Bodega Ruca Malen S.A.
Granted to Date of previous extension	04/11/2012
Address	Tte. Gral. J.D. Peron 667 Buenos Aires, (1038) ARGENTINA

Attorney information	John Clarke Holman and Robert S. Pierce Jacobson Holman PLLC 400 7th St., NW Washington, DC 20004 UNITED STATES trademark@jhip.com, rpierce@jhip.com, jholman@jhip.com Phone:202-638-6666
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**Applicant Information**

Application No	85373118	Publication date	12/13/2011
Opposition Filing Date	04/03/2012	Opposition Period Ends	04/11/2012
Applicant	Patridge, Monty R 921 N Harbor Blvd #189 La Habra, CA 90631 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 033. All goods and services in the class are opposed, namely: Distilled Spirits
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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.	3308386	Application Date	02/14/2005
Registration Date	10/09/2007	Foreign Priority Date	NONE
Word Mark	RUCA MALEN		

Design Mark	<b>RUCA MALEN</b>
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2001/10/00 First Use In Commerce: 2005/03/14 Wines

Attachments	78566955#TMSN.jpeg ( 1 page )( bytes ) 106535 opposition notice.pdf ( 10 pages )(372502 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	/Robert S. Pierce/
Name	John Clarke Holman and Robert S. Pierce
Date	04/03/2012

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

In re the application of:

PATRIDGE, MONTY R.  
Serial No. 85373118  
Filed: July 16, 2011  
Mark: LA RUCA  
Published: December 13, 2011

BODEGA RUCA MALEN S.A.,	)	
	)	
Opposer,	)	
	)	Opposition No.: _____
v.	)	
	)	
PATRIDGE, MONTY R.,	)	
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Bodega Ruca Malen S.A. (hereinafter "BRM") believes that it will be damaged by registration of the mark shown in the above-identified application and hereby opposes same.

As grounds for opposition, BRM alleges:

1. BRM is an Argentina corporation, located and doing business at Tte. Gral. J.D. Peron 667, (1038) Buenos Aires, Argentina.

**COUNT I - LIKELIHOOD OF CONFUSION**

2. Before the filing date of the application opposed herein, BRM has, and is now, engaged in the distribution and sale of wine in commerce in the United States,

under and in connection with the trademark **RUCA MALEN**. BRM continuously has used this **RUCA MALEN** Mark in commerce in connection with BRM's products, advertised, offered for sale, and sold by BRM, and to identify and designate same, and to distinguish those goods and business from those of others.

3. BRM is the owner of, and will rely on herein, U.S. trademark Registration No. 3308386 **RUCA MALEN**, registered October 9, 2007, first used anywhere on October 2001, and first used in commerce in the United States on March 14, 2005, on wines. This registration is valid and subsisting, and constitutes *prima facie* evidence of BRM's ownership of the **RUCA MALEN** Mark, and exclusive right to use same in commerce in connection with the goods set forth in this registration. Enclosed as Exhibit A is the printout of the registration certificate accompanied by proof of status of the registration shown in TARR.

4. Since BRM's initial use of its **RUCA MALEN** Mark, it has used, and advertised, produced and offered its goods and business under and in connection with this mark to the public, through various channels of trade, and in commerce, with the result that BRM's customers and the public in general have come to know and recognize this mark of BRM and associate same with BRM and/or the goods produced, advertised, marketed, distributed, and sold directly or indirectly by BRM and its business. BRM thus has built up goodwill in connection with the sale of its products under its **RUCA MALEN** Mark.

5. On July 16, 2011, Mr. Monty R. Patridge (hereinafter "Mr. Patridge") filed an application to register LA RUCA in standard characters. This application was

accorded Serial No. 85373118 and was published for opposition in the Official Gazette of December 13, 2011, expressing an intention to use the mark in commerce on or in connection with goods identified as "distilled spirits" in International Class 33.

6. BRM timely filed a Request for a 90-day Extension of Time to oppose Serial No. 85373118 on January 10, 2012. The Trademark Trial and Appeal Board granted the request for an extension through April 11, 2012. This opposition is timely filed on April 3, 2012.

7. On information and belief, the LA RUCA Mark sought to be registered by Mr. Patridge is confusingly similar to BRM's prior **RUCA MALEN** Mark as shown in the attached registration.

8. On information and belief, the goods set forth in the opposed application are and/or will be sold through the same and/or similar channels of trade, and/or to the same general class of purchasers, in and to which BRM's products, services, and business are or will be marketed and/or sold.

9. On information and belief, the registration and/or use of the LA RUCA mark, as set forth in the opposed application, is likely to cause confusion, mistake, and/or to deceive as to origin, sponsorship, and/or association of Mr. Patridge's goods to be sold under the LA RUCA Mark sought to be registered by Mr. Patridge *vis-a-vis* BRM and/or its **RUCA MALEN** Mark and/or to mislead purchasers of Mr. Patridge's goods and/or BRM's goods and services, and/or the public in general, into believing that Mr. Patridge's goods are sold by, emanate from, are endorsed by, and/or are in some way, directly or indirectly, are associated or affiliated with BRM, and/or its **RUCA**

**MALEN** Mark, products, goods, and/or business, or vice versa, to the damage and detriment of BRM

10. By virtue of the foregoing, BRM believes it will be damaged by the use and registration of Mr. Patridge's mark, as set forth in the application therefor, Serial No. 85373118.

14. If Mr. Patridge is granted the registration opposed herein and obtains such rights as conferred under the Principal Register of the Trademark Act of 1946, Mr. Patridge will obtain unlawful gain and advantage to which he is not entitled under the Trademark Act of 1946, to the detriment and harm of BRM.

WHEREFORE, BRM, Opposer, believes and alleges that it will be damaged by the registration of the LA RUCA mark of application Serial No. 8573118 and therefore BRM prays that:

- (a) judgment in the present opposition be entered in favor of BRM on this Notice of Opposition;
- (b) the present opposition be sustained; and
- (c) registration of application Serial No. 85373118 be rejected and refused.

Respectfully submitted,

BRM S.p.A.

By: /Robert S. Pierce/  
John C. Holman  
Robert S. Pierce  
Attorneys for the Opposer  
JACOBSON HOLMAN PLLC  
400 Seventh Street, Northwest  
Washington, District of Columbia 20004  
(202) 638-6666

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing ***Notice of Opposition*** was served on this 3<sup>rd</sup> day of April 2012, by first class mail, postage prepaid, addressed to Mr. Monty R. Patridge, 921 North Harbor Boulevard, Number 189, La Habra, California 90631, Applicant.

/Robert S. Pierce/

Int. Cl.: 33

Prior U.S. Cls.: 47 and 49

United States Patent and Trademark Office

Reg. No. 3,308,386

Registered Oct. 9, 2007

TRADEMARK  
PRINCIPAL REGISTER

RUCA MALEN

BODEGA RUCA MALEN S.A. (ARGENTINA  
CORPORATION)  
TTE. GRAL. J.D. PERON 667  
(1038) BUENOS AIRES, ARGENTINA

THE FOREIGN WORDING IN THE MARK  
TRANSLATES INTO ENGLISH AS THE YOUNG  
GIRL'S HOUSE.

FOR: WINES, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 10-0-2001; IN COMMERCE 3-14-2005.

SN 78-566,955, FILED 2-14-2005.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

NANCY CLARKE, EXAMINING ATTORNEY

EXHIBIT A

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

**This page was generated by the TARR system on** 2012-04-02 10:28:36 ET

**Serial Number:** 78566955 [Assignment Information](#) [Trademark Document Retrieval](#)

**Registration Number:** 3308386

**Mark**

RUCA MALEN

**(words only):** RUCA MALEN

**Standard Character claim:** Yes

**Current Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Date of Status:** 2007-10-09

**Filing Date:** 2005-02-14

**Transformed into a National Application:** No

**Registration Date:** 2007-10-09

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 102

**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](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2007-09-06

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

*EXHIBIT A*

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1. Bodega Ruca Malen S.A.

**Address:**

Bodega Ruca Malen S.A.  
Tte. Gral. J.D. Peron 667  
(1038) Buenos Aires  
Argentina

**Legal Entity Type:** Corporation**State or Country of Incorporation:** Argentina

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**GOODS AND/OR SERVICES****International Class:** 033**Class Status:** Active

Wines

**Basis:** I(a)**First Use Date:** 2001-10-00**First Use in Commerce Date:** 2005-03-14

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**ADDITIONAL INFORMATION****Translation:** The foreign wording in the mark translates into English as the young girl's house.

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**MADRID PROTOCOL INFORMATION**

(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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

2007-10-09 - Registered - Principal Register

2007-09-06 - Law Office Registration Review Completed

2007-09-06 - Assigned To LIE

2007-07-30 - Allowed for Registration - Principal Register (SOU accepted)

2007-07-29 - Statement Of Use Processing Complete

2007-07-29 - Extension 1 granted

*EXHIBIT A*

2007-05-11 - Use Amendment Filed  
2007-05-21 - Extension 1 filed  
2007-05-21 - TEAS Extension Received  
2007-05-11 - TEAS Statement of Use Received  
2006-11-21 - NOA Mailed - SOU Required From Applicant  
2006-08-29 - Published for opposition  
2006-08-09 - Notice of publication  
2006-07-05 - Law Office Publication Review Completed  
2006-06-30 - Assigned To LIE  
2006-05-30 - Assigned To LIE  
2006-05-24 - Approved For Pub - Principal Register  
2006-02-16 - Teas/Email Correspondence Entered  
2006-01-31 - Communication received from applicant  
2006-01-31 - TEAS Response to Office Action Received  
2005-09-16 - Non-final action mailed  
2005-09-16 - Non-Final Action Written  
2005-09-10 - Assigned To Examiner  
2005-02-25 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

John Clarke Holman

**Correspondent**

JACOBSON HOLMAN PLLC  
400 7TH ST NW STE 600  
WASHINGTON, DC 20004-2218

*EXHIBIT A*

Phone Number: (202) 638-6666

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**Domestic Representative**

Jacobson Holman PLLC

Phone Number: (202) 638-6666

Fax Number: (202) 393-5350

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*EXHIBIT A*