

ESTTA Tracking number: **ESTTA467922**

Filing date: **04/18/2012**

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	Vigneron Partners, L.L.C.
Granted to Date of previous extension	04/18/2012
Address	4038 Big Ranch Road Napa, CA 94558 UNITED STATES

Attorney information	J SCOTT GERIEN DICKENSON PEATMAN & FOGARTY 809 COOMBS ST NAPA, CA 94559 UNITED STATES tmdept@dpf-law.com
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Applicant Information

Application No	85360305	Publication date	12/20/2011
Opposition Filing Date	04/18/2012	Opposition Period Ends	04/18/2012
Applicant	Foulon Carol Chemin Du Cuchant Verdille, 16140 FRANCE		

Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Spirits and liqueurs

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Application has been filed in violation of a settlement agreement reached between the parties and should be denied on such basis.

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2834075	Application Date	05/19/2003
Registration Date	04/20/2004	Foreign Priority Date	NONE
Word Mark	BLACK CHICKEN		

Design Mark	BLACK CHICKEN
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2001/03/00 First Use In Commerce: 2001/03/00 WINE

U.S. Registration No.	3183863	Application Date	02/27/2006
Registration Date	12/12/2006	Foreign Priority Date	NONE

Word Mark	POLLO BIANCO
Design Mark	POLLO BIANCO
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2006/02/22 First Use In Commerce: 2006/02/22 Wine

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BLACK CHICKEN		
Goods/Services	wine		

Related Proceedings	91187634
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Attachments	76515431#TMSN.gif (1 page)(bytes) 78824586#TMSN.jpeg (1 page)(bytes) LE BLACK - Notice of Opposition.pdf (5 pages)(371309 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	/J. Scott Gerien/
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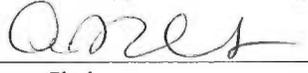
Name	J SCOTT GERIEN
Date	04/18/2012

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Certificate of Electronic Filing

I hereby certify that this correspondence is being electronically filed with the Trademark Trial and Appeal Board through the ESTTA system located at <http://estta.uspto.gov>.

Dated: 4/18/12

By 
Aleson Clarke

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

Vigneron Partners, L.L.C.,
Opposer,
vs.
Carol Foulon dba TA Xplicit Spirits,
Applicant.

OPPOSITION NO.
NOTICE OF OPPOSITION

TO THE COMMISSIONER OF TRADEMARKS:

Vigneron Partners, L.L.C., a limited liability company organized under the laws of California and located at 4038 Big Ranch Road, Napa, California 94558 (“Opposer”), believes it will be damaged by registration of the mark LE BLACK and Design for spirits and liqueurs shown in Application Serial No. 85/360,305, filed on June 30, 2011, by Carol Foulon dba TA Xplicit Spirits, a French individual (“Applicant”), and hereby opposes same.

Solely for the purpose of this proceeding, Opposer alleges the following as grounds for opposition:

1. Applicant seeks to register LE BLACK and Design as a trademark for spirits and liqueurs in International Class 33 based on Section 1(b) of the Trademark Act of

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1946, 15 U.S.C. §1051(b), as evidenced by the publication of such mark on December 20, 2011. The application for such mark was filed with the USPTO on June 30, 2011.

2. Opposer has been using the trademark BLACK CHICKEN in association with its wines since March 2001, which is long prior to any known date of first use or constructive filing date for Applicant’s LE BLACK and Design mark for spirits and liqueurs.

3. Opposer is the owner of U.S. Trademark Registration No. 2,834,075 for the mark BLACK CHICKEN for wine in International Class 33, issued on April 20, 2004, with a date of first use in U.S. commerce of March 2001. Opposer also is the owner of U.S. Trademark Registration No. 3,183,863 for the mark POLLO BIANCO for wine in International Class 33, issued on December 12, 2006, with a date of first use in U.S. commerce of February 22, 2006. Both the BLACK CHICKEN and the POLLO BIANCO marks (hereinafter the “**BLACK CHICKEN Marks**”) precede any known date of first use or constructive first-use date for Applicant’s LE BLACK and Design mark for spirits and liqueurs.

4. Opposer alleges that Applicant’s applied-for mark is likely to cause confusion, mistake or to deceive the public. Applicant’s LE BLACK and Design mark for spirits and liqueurs is highly similar to Opposer’s BLACK CHICKEN Marks for wines and the respective goods on which the marks are used are identical, substantially similar or related and said products are purchased by the same group of consumers. Accordingly, Applicant’s mark is confusingly similar to Opposer’s marks such that Applicant is not entitled to register its mark and Applicant’s application should be denied in accordance with Section 2(d) of the Trademark Act of 1946, 15 U.S.C. §1052(d).

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Dated: 4/18/12

Respectfully submitted,

DICKENSON, PEATMAN & FOGARTY

By: 
J. Scott Gerien
Aleson R. Clarke

809 Coombs Street
Napa, California 94559
Telephone: (707) 252-7122
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Attorneys for Opposer
Vigneron Partners, L.L.C.

1 **PROOF OF SERVICE**

2 I declare that I am over the age of 18 years, employed in the County of Napa, and not a
3 party to the within action; my business address is 809 Coombs Street, Napa, California 94559.

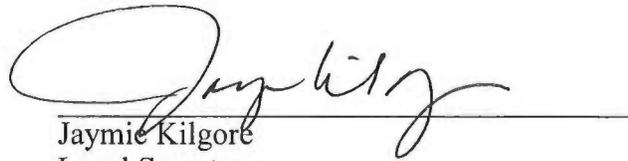
4 On April 18, 2012, I served the attached **NOTICE OF OPPOSITION** on the person(s) listed
5 below:

6 **CAROL FOULON**
7 **TA XPLICIT SPIRITS**
8 **CHEMIN DU CUCHANT**
9 **VERDILLE, 16140 FRANCE**

10 by enclosing a true copy in a sealed envelope addressed as shown above and placing the envelope
11 for collection and mailing following our ordinary business practices. I am readily familiar with
12 this business' practice for collecting and processing correspondence for mailing. On the same
13 day that correspondence is placed for collection and mailing, it is deposited in the ordinary course
14 of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct.

17 Executed April 18, 2012, at Napa, California.

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20 Jaymie Kilgore
21 Legal Secretary