

ESTTA Tracking number: **ESTTA499359**

Filing date: **10/10/2012**

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	The Metropolitan Nashville Airport Authority		
Entity	non-profit, quasi-gov. corp.	Citizenship	Tennessee
Address	One Terminal Drive Suite 501 Nashville, TN 37214 UNITED STATES		

Attorney information	Haverly MacArthur Adams and Reese LLP 424 Church Street Suite 2800 Nashville, TN 37219 UNITED STATES trademarks@arlaw.com, haverly.macarthur@arlaw.com Phone:615-259-1308		
----------------------	--	--	--

### Applicant Information

Application No	85486857	Publication date	10/02/2012
Opposition Filing Date	10/10/2012	Opposition Period Ends	11/01/2012
Applicant	BNA Wine Group, LLC Suite 521 209 10th Ave. S. Nashville, TN 37203 UNITED STATES		

### Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Wine
---

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85706350	Application Date	08/17/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BNA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 039. First use: First Use: 1937/00/00 First Use In Commerce: 1937/00/00 Airport passenger check-in services; Airport passenger shuttle services between the airport parking facilities and the airport; Airport services; Airport services featuring transit lounge facilities for passenger relaxation; Providing a website featuring information on airport parking

Attachments	85706350#TMSN.jpeg ( 1 page )( bytes ) MNAA Notice of Opposition.pdf ( 6 pages )(372940 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	/Haverly MacArthur/
Name	Haverly MacArthur
Date	10/10/2012

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

In the matter of: Trademark Application No. 85/486857  
Filed on: 12/5/2011  
For the mark: BNA WINE GROUP  
Date of Publication in the Official Gazette: 10/02/2012

The Metropolitan Nashville Airport Authority (Opposer)	) ) ) )	
v.	)	Opposition No. _____
BNA Wine Group, LLC (Applicant)	) ) )	

**NOTICE OF OPPOSITION**

The Metropolitan Nashville Airport Authority (“Opposer”), believes that it will be damaged by registration of the mark shown in Application No. 85/486857, and hereby opposes the same under § 13 of the United States Trademark Act, 15 U.S.C. §1063. The required opposition fee accompanies the electronic filing of this Notice of Opposition. As grounds for opposition, Opposer alleges as follows:

1. Opposer is a non-profit, quasi-governmental corporation organized under the laws of Tennessee, with an address of One Terminal Drive, Suite 501, Nashville, Tennessee 37214.
2. Opposer is engaged in the operation of the Nashville International Airport in Nashville, Tennessee. “BNA” is the three-letter airport code for the Nashville International Airport. Through extensive use and promotion beginning at least as early as 1937, Opposer has developed substantial goodwill and consumer

recognition of BNA (“Opposer’s Mark”) as a trademark identifying the Nashville International Airport and its goods and services.

3. Opposer is the owner of Application No. 85/706350 for BNA covering “Airport passenger check-in services; Airport passenger shuttle services between the airport parking facilities and the airport; Airport services; Airport services featuring transit lounge facilities for passenger relaxation; Providing a website featuring information on airport parking” in International Class 39, filed on the Principal Register on August 17, 2012 on the basis of use of the mark in commerce since at least as early as 1937.
4. Upon information and belief, Applicant BNA Wine Group, LLC is a Tennessee limited liability company with an address of 209 10<sup>th</sup> Avenue South, Suite 521, Nashville, Tennessee 37203.
5. On December 5, 2011, Applicant filed Application No. 85/486857 to register the mark BNA WINE GROUP on the Principal Register for “wine” in International Class 33 on the basis of Applicant’s alleged bona fide intention to use the mark in commerce on that good (“Opposed Application”).
6. Upon information and belief, Applicant, which is based in Nashville, was aware of Nashville International Airport and its BNA mark when it selected the mark shown in Application No. 85/486857 and Applicant’s intention is to trade on the goodwill of Opposer’s Mark.

**FIRST CLAIM FOR RELIEF**

**(Priority and Likelihood of Confusion)**

7. Opposer repeats and realleges the allegations in the preceding paragraphs 1-6 as if fully set forth herein.

8. Opposer's claimed First Use and First Use in Commerce Date of 1937 significantly predates the priority date of Applicant.
9. Applicant's alleged mark is virtually identical to Opposer's Mark.
10. The services specified in International Class 39 of Opposer's Application No. 85/706350 and the good specified in the Opposed Application are closely related. Because Opposer offers many services such as airport lounges, restaurants and bars, where travelers are likely to encounter wine, the public will naturally assume a connection.
11. Opposer will be damaged by the registration of the mark shown in the Opposed Application because registration will give Applicant prima facie evidence of its ownership of, and its exclusive right to use in commerce, a mark that is confusingly similar to Opposer's Mark.
12. Because Opposer's Mark and Applicant's alleged mark are virtually identical and the goods and services are closely related, Opposer's customers and the general public are likely to be confused, mistaken, or deceived as to the affiliation, connection, or association of Applicant with Opposer, and are likely to be misled into believing that Applicant's goods under the alleged mark are provided, sponsored, or approved by Opposer. Therefore, the mark in the Opposed Application is unregistrable under §2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d).

**SECOND ALTERNATIVE CLAIM FOR RELIEF**

**(Dilution)**

13. Opposer repeats and realleges the allegations in the preceding paragraphs 1-6 as if fully set forth herein.

14. Opposer's Mark is symbolic of extensive good will and consumer recognition built up by Opposer through extensive use and substantial amounts of time and effort in advertising and promotion through various channels of trade, with the result that consumers and the public in general have come to know and recognize Opposer's Mark, and to identify and associate it with Opposer.
15. Opposer's Mark is famous to the general consuming public within the meaning of § 43(c) of the United States Trademark Act, 15 U.S.C. §1125(c), by virtue of the distinctiveness of the mark, the long duration and wide extent of use of the mark in connection with the services with which it is used, the long duration, wide extent, and geographic reach of the advertising and publicity of the mark, and the high degree of recognition by the public of Opposer's Mark. In the alternative, Opposer asserts that Applicant's use of a nearly identical mark is likely to cause dilution by blurring and dilution by tarnishment under 15 U.S.C. §1125(c).

WHEREFORE, Opposer prays for judgment sustaining this opposition and refusing registration of Application No. 85/486857.

Respectfully submitted,

ADAMS AND REESE LLP

October 10, 2012

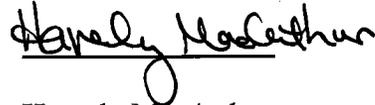
By: Haverly MacArthur

Haverly MacArthur  
Reber M. Boulton  
Attorneys for Opposer  
THE METROPOLITAN NASHVILLE  
AIRPORT AUTHORITY

424 Church Street, Suite 2800  
Nashville, Tennessee 37219  
Phone: (615) 259-1308  
Facsimile: (615) 259-1470  
[trademarks@arlaw.com](mailto:trademarks@arlaw.com)

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on the Attorneys of Record for Applicant, by mailing said copy on October 10, 2012, via Certified, First-Class Mail, to:

Robert L. Brewer, Paige W. Mills and Ryann M. Schneider  
Bass, Berry & Sims Plc  
150 3<sup>rd</sup> Avenue S., Ste 2800  
Nashville, Tennessee 37201-2017

  
Haverly MacArthur