

ESTTA Tracking number: **ESTTA527901**

Filing date: **03/20/2013**

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	Mr. Alfred W. Cortese Jr.
Granted to Date of previous extension	05/19/2013
Address	113 3rd ST NE Washington, DC 20002 UNITED STATES
Correspondence information	Mr. Alfred W. Cortese Jr. Cortese PLLC 113 3rd ST NE Washington, DC 20002 UNITED STATES awc@cortesepllc.com Phone:202-637-9696

Applicant Information

Application No	85488431	Publication date	11/20/2012
Opposition Filing Date	03/20/2013	Opposition Period Ends	05/19/2013
Applicant	Nowezki Cortese, Diana P. 611 Pennsylvania Ave., N.W., Ste 191 Washington, DC 200034303 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. First Use: 2009/08/31 First Use In Commerce: 2010/12/14 All goods and services in the class are opposed, namely: Olive Oil; cured olives
Class 035. First Use: 2009/08/31 First Use In Commerce: 2010/12/14 All goods and services in the class are opposed, namely: Offering business management assistance in the establishment and/or operation of restaurants; Business consulting service in the field of restaurant and winery industries
Class 043. First Use: 2009/08/31 First Use In Commerce: 2010/12/14 All goods and services in the class are opposed, namely: Consulting services in the field of culinary arts; Sommelier services, namely, providing advice on wine and wine and food pairing; Chef services provided to restaurants and hotels in the nature of preparation of food and beverages
Class 045. First Use: 2009/08/31 First Use In Commerce: 2010/12/14 All goods and services in the class are opposed, namely: Personal chef services

Grounds for Opposition

Consists of or comprises a name, portrait, or signature of a living individual without written	Trademark Act section 2(c)
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consent, or the name, portrait, or signature of a deceased president without the written consent of the surviving spouse	
Priority and likelihood of confusion	Trademark Act section 2(d)
Other	No product or service was ever sold in commerce by applicant under or carrying the mark. Opposer created the mark in his family name in October 2009 and registered it as an internet domain name. He designed and paid for the labels and the bottling of the product pictured in the application and will timely exercise the option in the March 11, 2013 Judgment in Cortese v. Nowezki to purchase as sole owner all of applicant's attendant interests in the property carrying the name applicant seeks to trademark and he has and will produce wine, olives and olive oil grown on that property branded as Cascina Cortese products.

Marks Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CASCINA CORTESE		
Goods/Services	Olives, Olive Oil, Grapes, Wine, and other food products.		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CASCINACORTESE.COM		
Goods/Services	Olives, Olive Oil, Grapes, Wine, and other food products		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CASCINADICORTESE.COM		
Goods/Services	Olives, Olive Oil, Grapes, Wine, and other food products		

Related Proceedings	SUPERIOR COURT OF THE DISTRICT OF COLUMBIA, Domestic Relations Branch, Family Court ALFRED W. CORTESE, JR., Plaintiff v. DIANA P. NOWEZKI, Defendant, Case No. 2011-DRB-3877, Judge Danya Dayson
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Attachments	STATEMENT IN OPPOSITION TO TRADEMARK APPLICATION 032113_Ex App 1.pdf (3 pages)(31711 bytes) STMNT in OPPOS to TRADEMARK EXH 1_032013 001.pdf (1 page)(811063 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	/Alfred W. Cortwese, Jr./
Name	Mr. Alfred W. Cortese Jr.
Date	03/20/2013

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

Applicant: Nowezki Cortese, Diana P.

Opposer: Cortese, Jr., Alfred W.

Application Serial Number: 85488431

Application Filing Date: 12/06/2011

Mark: CASCINA CORTESE

STATEMENT OF CLAIM IN OPPOSITION

Alfred W. Cortese, Jr, 113 3rd ST NE, Washington DC 20002, respectfully submits this Statement of Claim in Opposition to the above referenced Application for a Trademark:

1. Applicant seeks a trademark for goods and services that have never been sold in commerce. The Application totally fails to prove that any sale of goods or services carrying the mark was ever made in commerce.
2. The only evidence of sale or use in commerce in the Application is a blurry photograph of a label on a bottle of olive oil and a copy of a badge identifying CASCINA CORTESE, LLC and applicant as a manufacturer /producer at a NASFT Fancy Food Show on June 17-19, 2012.
3. There is no evidence that any of the bottles of olive oil were sold and to Opposer's knowledge none were ever sold. Nor is there any evidence that Cascina Cortese, LLC ever manufactured or produced anything.
4. Applicant and Opposer purchased a property in Solvang CA as husband and wife on October 14, 2009 with the intention of retiring there and establishing a small vineyard and olive grove.
5. Soon after the property was purchased Opposer created the name "Cascina Cortese" by combining the Italian word for "farm" or "farmhouse" with his family name. He then registered the name as an internet Domain Name as a Trade Name

for the Solvang CA property and registered two email addresses:
cascinacortese.com and cascinaadicortese.com.

6. Later, the marriage deteriorated, Opposer separated from Applicant on March 4, 2011, and sued for divorce on December 15, 2011 in the SUPERIOR COURT OF THE DISTRICT OF COLUMBIA, Domestic Relations Branch, Family Court, ALFRED W. CORTESE, JR., Plaintiff, v. DIANA P. NOWEZKI, Defendant, Case No. 2011-DRB-3877, Judge Danya Dayson .

7. This Application was filed on December 6, 2012 without the knowledge or consent of Opposer during the period the parties were separated and a few days before Opposer filed the action for Divorce. Opposer learned of this Application through discovery in the divorce action.

8. The photograph in the Application apparently is of one of the bottles of olive oil that Opposer had bottled at his expense for personal use that were produced from olives grown on “Cascina Cortese”, the Solvang CA property then jointly owned by Opposer and Applicant, and carrying the label designed and paid for by Opposer. A copy of a sheet of the labels that Opposer designed and purchased that were affixed to the bottles of olive oil is attached as Exhibit 1.

9. In December, 2010 Opposer arranged and paid for the olives grown on trees at “Cascina Cortese”, the Solvang CA property, to be harvested, pressed and bottled in 162, 200 ml. bottles. None of these bottles were sold, but were consumed for personal use or given away as gifts.

10. On March 11, 2013 Judgment was entered in *Cortese v. Nowezki* granting Opposer an option to purchase as sole owner all of applicant's attendant interests in “Cascina Cortese”, the Solvang CA property. Opposer will timely exercise the option and occupy the property as his principal residence and will produce wine, olives, olive oil and other products grown on that property branded as “Cascina Cortese” products.

11. In sum: (a) Applicant has not proved a sale in commerce of any product or service, (b) the Mark consists of Opposer’s family name, (c) it will conflict with identical names previously registered and used, and (d) because Opposer will exercise his option under the Judgment in the referenced divorce action to purchase “Cascina Cortese”, the Solvang, CA property, and all attendant interests in that property including the Mark applied for herein and will produce products from “Cascina Cortese” under that trade name, granting the application and awarding

the same Mark to Applicant who will have no connection whatsoever to “Cascina Cortese” will supersede a prior Trade name and cause confusion in the market place.

Therefore, for the above reasons, Opposer requests that the Application be denied or held in abeyance pending final disposition and entry of a final decree in the divorce action.

Respectfully submitted,

Alfred W. Cortese, Jr.
113 3rd ST NE
Washington DC 20002

Olio d'Oliva
del
Cascina Cortese



Extra Virgin
First Cold Press
California
Olive Oil

Organically Grown & Milled
Rancho Alisal
Santa Ynez Valley
California
200 ml

Olio d'Oliva
del
Cascina Cortese



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EXHIBIT 1.