

ESTTA Tracking number: **ESTTA530194**

Filing date: **04/03/2013**

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	Vranken-Pommery Production
Granted to Date of previous extension	04/03/2013
Address	56, Boulevard Henry Vasnier Villa Demoiselle Reims, 51100 FRANCE

Attorney information	Denise I. Mroz Woodcock Washburn LLP Cira Centre, 12th Flr, 2929 Arch Street Philadelphia, PA 19104 UNITED STATES trademarks@woodcock.com, dmroz@woodcock.com Phone:215-568-3100
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Applicant Information

Application No	85605301	Publication date	12/04/2012
Opposition Filing Date	04/03/2013	Opposition Period Ends	04/03/2013
Applicant	Amuse Bouche LLC 1040 Main Street, Suite 100 Napa, CA 94559 UNITED STATES		

Goods/Services Affected by Opposition

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

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

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2337013	Application Date	04/10/1997
Registration Date	04/04/2000	Foreign Priority Date	NONE
Word Mark	DIAMANT BLEU		

Design Mark	DIAMANT BLEU
Description of Mark	NONE
Goods/Services	Class 033. First use: wines of French origin, namely, champagne

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	DIAMANT BLANC		
Goods/Services	Champagne wines		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	DIAMANT ROSE		
Goods/Services	Champagne wines		

Attachments	75272421#TMSN.gif (1 page)(bytes) ADSG4noo.pdf (11 pages)(258065 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	/Denise I. Mroz/
Name	Denise I. Mroz
Date	04/03/2013

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

Vranken-Pommery Production,

Opposer,

v.

Amuse Bouche LLC,

Applicant.

In Re:

Serial No.: 85605301

Filed: April 23, 2012

Published: December 4, 2012

Mark: DIAMANT BRUT

Opposition No.:

NOTICE OF OPPOSITION

Opposer, Vranken-Pommery Production (“Vranken-Pommery” or “Opposer”), a corporation organized under the laws of France with a principal place of business at 56, Boulevard Henry Vasnier, Villa Demoiselle, Reims, 51100, France, believes it will be damaged by registration of the mark DIAMANT BRUT, which is the subject of U.S. Trademark Application Serial No. 85605301, filed by Amuse Bouche LLC (“Applicant”), a California limited liability company with a principal place of business at 1040 Main Street, Suite 100, Napa, California 94559, and Vranken-Pommery hereby opposes the same.

As grounds of opposition, it is alleged that:

1. Vranken-Pommery is the owner and registrant of numerous trademarks throughout the world, including in the United States, for marks containing the term DIAMANT for Champagne wines.

2. In the U.S., Vranken-Pommery owns U.S. registrations 2,337,013 for DIAMANT BLEU for “wines of French origin, namely, champagne,” in Class 33. This registration issued

on April 4, 2000 (hereinafter the “DIAMANT BLEU Registration”).¹ A copy of the certificate of registration for the DIAMANT BLEU Registration is attached hereto as Exhibit 1.

3. A Section 15 Affidavit has since been filed and accepted for the DIAMANT BLEU Registration and, as such, the mark has obtained incontestable status in the U.S. The DIAMANT BLEU Registration was subsequently renewed on March 24, 2010.

4. Vranken-Pommery also claims U.S. common law rights to the marks DIAMANT BLANC and DIAMANT ROSE, both for Champagne wines. These marks have been used in U.S. commerce since prior to 2003.

5. Vranken-Pommery’s DIAMANT BLEU, DIAMANT BLANC and DIAMANT ROSE trademarks (hereinafter “DIAMANT Marks”) are inherently distinctive and represent the exceedingly valuable good will of Vranken-Pommery. As such, the relevant public has come to rely upon and recognize the DIAMANT Marks, and these marks have substantial goodwill associated with them.

6. Prior to filing date of the subject application, Vranken-Pommery commenced and has continuously used its DIAMANT mark in U.S. commerce for Champagne wines.

7. At the present time, Vranken-Pommery owns the only U.S. registration for a trademark containing the term DIAMANT for a sparkling wine product. There are no other active U.S. trademark registrations containing the term DIAMANT for any variety of sparkling wine.

¹ The registration initially issued to Compagnie Vranken pour le Haut Commerce. It was later assigned to Heidsieck & Co. Monopole. Opposer acquired the registration in 2009, as Champagne Vranken. Opposer later changed its name to Vranken-Pommery Production in 2011. These transactions are recorded with the U.S. Patent and Trademark Office (“USPTO”). See Exhibit 2, showing the chain of title as recorded with the USPTO.

8. On April 23, 2012, Applicant filed a U.S. trademark application for the mark DIAMANT BRUT in International Class 33 for “sparkling wines.” This application was assigned Serial No. 85605301 (hereinafter “the Application”).

9. The Application was filed based on Applicant’s intent to use the mark in U.S. commerce. To date, Applicant has not submitted evidence to the U.S. Trademark Office demonstrating that the mark DIAMANT BRUT is being used in U.S. commerce.

10. There is no issue of priority. The Application was filed with the U.S. Patent and Trademark Office nearly twelve (12) years after the issuance date of the DIAMANT BLEU Registration, and Applicant does not allege any actual use of the DIAMANT BRUT mark in U.S. commerce.

11. Applicant’s mark DIAMANT BRUT and Opposer’s DIAMANT Marks both have the identical first word DIAMANT. Further, Applicant’s mark DIAMANT BRUT and Opposer’s DIAMANT BLEU marks both have the identical first word DIAMANT followed by a second four-letter term that starts with the letter “B”. As such, Applicant’s mark DIAMANT BRUT is substantially similar, if not nearly identical, in appearance, sound, and meaning to the DIAMANT Marks, particularly the DIAMANT BLEU.

12. The goods associated with the Applicant’s DIAMANT BRUT mark and the DIAMANT Marks are both sparkling wines. As such, the goods are identical, and will likely travel through identical channels of trade.

13. Vranken-Pommery’s and Applicant’s target customers are likely similar, if not identical.

14. Applicant’s use of the mark DIAMANT BRUT in connection with “sparkling wines” is likely to cause confusion, mistake, or deception within the meaning of Section 2(d) of

the Lanham Act, 15 U.S.C. § 1052(d). Such confusion, mistake, or deception regarding the origin of Applicant's goods or their affiliation with, endorsement by, or sponsorship by Vranken-Pommery and the DIAMANT Marks will cause loss, damage, and/or injury to Vranken-Pommery, its family of DIAMANT Marks, and/or the public.

15. If Applicant is permitted to register the mark DIAMANT BRUT for "sparkling wines," and, thereby, obtain the *prima facie* exclusive right to use DIAMANT BRUT mark in commerce in connection with goods closely related, if not identical, to those associated with the DIAMANT Marks, confusion is likely to result, and Vranken-Pommery will be damaged thereby.

16. Applicant's use and registration of the mark DIAMANT BRUT in connection with "sparkling wines" is likely to cause dilution of the distinctive quality of the DIAMANT Marks, within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

17. Vranken-Pommery is likely to be damaged by the registration for DIAMANT BRUT sought by Applicant because such registration will give Applicant statutory rights in violation and derogation of Vranken-Pommery's prior and superior rights.

18. A duplicate copy of this Notice of Opposition and the fee required in §2.6(1) are enclosed herewith.

WHEREFORE, Vranken-Pommery prays that allowance of Serial No. 85605301 be refused and that this Opposition be sustained.

Respectfully submitted,



Date: April 3, 2013

Denise I. Mroz
Woodcock Washburn LLP
Cira Centre, 12th Floor, 2929 Arch Street
Philadelphia, PA 19104-2891

Attorneys for Opposer

EXHIBIT 1

Int. Cl.: 33

Prior U.S. Cls.: 47 and 49

Reg. No. 2,337,013

United States Patent and Trademark Office

Registered Apr. 4, 2000

**TRADEMARK
PRINCIPAL REGISTER**

DIAMANT BLEU

COMPAGNIE VRANKEN POUR LE HAUT
COMMERCE (FRANCE CORPORATION)
CHATEAU DES CASTAIGNES
F-51270 MONTMORT-LUCY, FRANCE

1342645, DATED 10-31-1995, EXPIRES
10-31-2005.

THE ENGLISH TRANSLATION OF "DIA-
MANT BLEU" IS "BLUE DIAMOND".

FOR: WINES OF FRENCH ORIGIN,
NAMELY, CHAMPAGNE, IN CLASS 33 (U.S.
CLS. 47 AND 49).

SER. NO. 75-272,421, FILED 4-10-1997.

OWNER OF FRANCE REG. NO. 1342645,
DATED 2-14-1986, RENEWED AS REG. NO.

JENNIFER RICHARD, EXAMINING ATTOR-
NEY

EXHIBIT 2



United States Patent and Trademark Office

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Filing Dt: 04/10/1997

Reg #: [2337013](#)

Reg. Dt: 04/04/2000

Registrant: COMPAGNIE VRANKEN POUR LE HAUT COMMERCE

Mark: DIAMANT BLEU

Assignment: 1Reel/Frame: [2444/0130](#)

Received: 02/15/2002

Recorded: 02/07/2002

Pages: 5

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [COMPAGNIE VRANKEN POUR LE HAUT COMMERCE](#)

Exec Dt: 11/13/2001

Entity Type: CORPORATION

Citizenship: FRANCE

Entity Type: CORPORATION

Citizenship: FRANCE

Assignee: [HEIDSIECK & C MONOPOLE](#)

17, AVENUE DE CHAMPAGNE

17, AVENUE DE CHAMPAGNE

EPERNAY, FRANCE 51200

Correspondent: WOODCOCK WASHBURN LLP

DENISE I. MROZ

1650 MARKET STREET

ONE LIBERTY PLACE - 46TH FLOOR

PHILADELPHIA, PENNSYLVANIA 19103-7301

Assignment: 2Reel/Frame: [4100/0978](#)

Received: 11/23/2009

Recorded: 11/23/2009

Pages: 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [HEIDSIECK & CO. MONOPOLE](#)

Exec Dt: 11/23/2009

Entity Type: CORPORATION

Citizenship: FRANCE

Entity Type: SOCIETE ANONYME

Citizenship: FRANCE

Assignee: [CHAMPAGNE VRANKEN](#)

VILLA DEMOISELLE 56, BOULEVARD HENRY VASNIER

REIMS, FRANCE 51100

Correspondent: WOODCOCK WASHBURN LLP, ATTN D. MROZ

CIRA CENTRE, 12TH FLOOR, 2929 ARCH ST.

PHILADELPHIA, PA 19104-2891

Domestic rep: WOODCOCK WASHBURN LLP, C/O D. MROZ

CIRA CENTRE, 12TH FLR, 2929 ARCH ST.

PHILADELPHIA, PA 19104-2891

Assignment: 3Reel/Frame: [4513/0499](#)

Received: 04/01/2011

Recorded: 04/01/2011

Pages: 6

Conveyance: CHANGE OF NAME

Assignor: [CHAMPAGNE VRANKEN](#)

Exec Dt: 02/07/2011

Entity Type: CORPORATION

Citizenship: FRANCE

Entity Type: CORPORATION

Citizenship: FRANCE

Assignee: [VRANKEN-POMMERY PRODUCTION](#)

56, BOULEVARD HENRY VASNIER

REIMS, FRANCE 51100

Correspondent: WOODCOCK WASHBURN, LLP - DENISE I. MROZ

2929 ARCH STREET

CIRA CENTRE, 12TH FLOOR

PHILADELPHIA, PA 19104-2891

Search Results as of: 04/03/2013 10:35 AM

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Web interface last modified: July 10, 2012 v.2.3.2

CERTIFICATE OF SERVICE

I, Denise I. Mroz, hereby certified that a true and correct copy of the foregoing Notice of Opposition was served on Applicant:

Edward S. Wright
Law Office of Edward S. Wright
1100 Alma Street, Suite 207
Menlo Park, CA 94025-3344

Postage prepaid by first class mail on April 3, 2013. Executed on April 3, 2013, at Philadelphia, Pennsylvania.

A handwritten signature in cursive script, appearing to read "Denise I. Mroz", is written on a light-colored rectangular background.

Denise I. Mroz