

ESTTA Tracking number: **ESTTA548047**

Filing date: **07/12/2013**

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	La Galvanina S.p.A.
Granted to Date of previous extension	07/17/2013
Address	Via della Torretta 2 Rimini, 47923 ITALY

Attorney information	William J. Seiter Seiter Legal Studio 220 26th Street, Suite 202 Santa Monica, CA 90402 UNITED STATES williamjseiter@seiterlegalstudio.com
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Applicant Information

Application No	85281741	Publication date	03/19/2013
Opposition Filing Date	07/12/2013	Opposition Period Ends	07/17/2013
Applicant	VinnedgeDistributing Inc. 198 Sycamore Street San Carlos, CA 94070 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. All goods and services in the class are opposed, namely: Italian soda

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.	4057387	Application Date	09/07/2010
Registration Date	11/15/2011	Foreign Priority Date	NONE
Word Mark	AGRUMETO		
Design Mark			
Description of Mark	The mark consists of the word "AGRUMETO" in stylized lettering above which is a circular design having triangular segments.		

Goods/Services	Class 032. First use: First Use: 2010/10/29 First Use In Commerce: 2010/10/29 flavored water; nonalcoholic drinks made from fruit or flavored with fruit
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Attachments	Notice of Opposition (US TM App 85281741).pdf(117527 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	/wjs/
Name	William J. Seiter
Date	07/12/2013

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

In the Matter of Application Serial No. 85281741
Mark: ARGUMETO ARGUMETO RED ARANCIATA & Design
Published: March 19, 2013

La Galvanina S.p.A.)
(an Italian corporation))
)
Opposer,)
)
v.) Opposition No. _____
)
Vinnedge Distributing Inc.)
(a California corporation))
)
Applicant.)

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NOTICE OF OPPOSITION

Opposer, La Galvanina S.p.A., a corporation organized under the laws of Italy, located and doing business at Via della Torretta 2, 47923 Rimini, Italy, believes that it would be damaged by the issuance of a registration for the trademark ARGUMETO ARGUMETO RED ARANCIATA & Design as applied for by Applicant Vinnedge Distributing Inc., California corporation, in Application Serial No. 85281741, and therefore opposes the same as to all of the applied for goods in International Class 32. As grounds for its opposition, Opposer, by its attorneys Seiter Legal Studio, alleges as follows:

1. Opposer is the owner of the trademark ARGUMETO & Design, under U.S. Registration No. 4057387, filed on September 7, 2010 and registered on November 15, 2011, in International Class 32 for “flavored water; nonalcoholic drinks made from fruit or

flavored with fruit,” which Opposer has used since at least as early as October 29, 2010, and has used in U.S. commerce since at least as early as October 29, 2010.

2. The registration in Registration No. 4057387 is valid and subsisting. It constitutes prima facie evidence of the validity of the mark ARGUMETO & Design and of the registration, and of Opposer’s ownership of and exclusive right to use the mark in connection with the goods set forth in the registration.

3. Opposer’s mark ARGUMETO & Design has been promoted extensively, and the mark is well known to the consuming public. Opposer has invested substantial time, effort and money in promoting the mark. As a result, the mark has become distinctive of Opposer’s goods, has come to represent substantial goodwill for Opposer, widely recognized by the general consuming public of the United States as a designation of source of the goods of Opposer.

4. On March 30, 2011, Applicant Vinnedge Distributing Inc. filed Application Serial No. 85281741 for the mark ARGUMETO ARGUMETO RED ARANCIATA & Design on an intent-to-use basis, in International Class 32 for “Italian soda.”

5. Upon information and belief, Applicant made no use of the mark in Application Serial No. 85281741 prior to its filing date of March 30, 2011.

6. Upon information and belief, Applicant made no use of the mark in Application Serial No. 85281741 on or before September 7, 2010, the filing date of Opposer’s Trademark Application Serial No. 85124138 which resulted in the registration of its mark under Registration No. 4057387.

7. The mark that Applicant seeks to register is similar in appearance, sound and commercial impression to Opposer's mark, and could be used in connection with goods closely related to Opposer's goods. Based on the confusing similarity of the two marks and relatedness of the parties' respective goods, the public is likely to associate the goods of Applicant under the mark ARGUMENTO ARGUMENTO RED ARANCIATA & Design with Opposer and/or its licensees or with Opposer's and/or its licensees' goods under its mark ARGUMENTO & Design, or to believe that Applicant's goods are sponsored, endorsed or licensed by Opposer or its licensees, or that there exists some relationship between Applicant and Opposer and/or its licensees.

8. For the above reasons, any use of the mark ARGUMENTO ARGUMENTO RED ARANCIATA & Design by Applicant is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that the goods offered under the mark by Applicant emanate from or are otherwise sponsored or endorsed by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer believes that it will be damaged by the registration of the mark shown in filed Application Serial No. 85281741, and respectfully requests that this opposition be sustained and that the registration sought by Application Serial No. 85281741 be denied as to all of the applied for goods in International Class 32.

The Opposition fee in the amount of \$300.00 for one class is filed electronically herewith.

