

ESTTA Tracking number: **ESTTA571302**

Filing date: **11/18/2013**

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	MOLINOS IP S.A.
Granted to Date of previous extension	12/11/2013
Address	RTE. DU SIMPLON 16CASE POSTALE 29 Paudex, SWITZERLAND
Attorney information	Janice Housey Symbus Law Group PO Box 11085 McLean, VA 22102 UNITED STATES jhousey@symbus.com

### Applicant Information

Application No	85707345	Publication date	08/13/2013
Opposition Filing Date	11/18/2013	Opposition Period Ends	12/11/2013
Applicant	Heron, Lesley 1510 Mount Curve Ave Minneapolis, MN 55403 USX		

### Goods/Services Affected by Opposition

Class 033. First Use: 0 First Use In Commerce: 0  
All goods and services in the class are opposed, namely: Brandy

### 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.	3927249	Application Date	05/27/2008
Registration Date	03/08/2011	Foreign Priority Date	NONE
Word Mark	CADUS SINGLE VINEYARD BODEGAS NIETO SENETINER DESDE 1888		

Design Mark	
Description of Mark	The mark consists of beige diamond design, the wording "BODEGAS" appearing above the design of a vineyard house and the wording "NIETO SENETINER DESDE 1888" appearing below the house design, all in the color gold, the wording "CADUS SINGLE VINEYARD" appearing below this in the color black and a red smaller diamond design appearing at the far bottom, all inside the larger diamond design.
Goods/Services	Class 033. First use: First Use: 2005/12/00 First Use In Commerce: 2005/12/00 wines exclusively from Argentina

Attachments	77484072#TMSN.jpeg( bytes ) US Notice of Opposition CADOS 11-18-13.pdf(61431 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	/janice housey/
Name	Janice Housey
Date	11/18/2013



Class 33 and was filed based upon intent-to-use. (Hereinafter the goods in the subject application will be referred to as “Applicant’s Goods.”)

4. Opposer is well-known and recognized in the marketplace as the originator and provider of wine (“Opposer’s Goods”) as put forth in Opposer’s following particularly relevant registration:

CADUS and Design

Reg. No. 3927249

Goods: wines exclusively from Argentina

A printout from the USPTO web site for this registration is attached hereto as Exhibit A and made of record.

5. Opposer has acquired rights in its CADUS mark (“Opposer’s Mark”) in the U.S. in connection with Opposer’s Goods well before any use or constructive use date by Applicant of Applicant’s Mark.
6. Opposer is the exclusive owner of Opposer’s Mark and has secured rights in its mark prior to any actual use of Applicant’s Mark by Applicant and therefore, Opposer has priority in connection with Opposer’s Goods.
7. Opposer’s Goods are presently sold in U.S. commerce and have been sold continuously under Opposer’s Mark prior to any use of Applicant’s Mark by Applicant.
8. Upon information and belief, Applicant has not made any use of Applicant’s Mark.
9. Upon information and belief, Applicant has no bona fide intent to use Applicant’s Mark on Applicant’s Goods and thus, the subject application is void *ab initio* under Trademark Act Section 1(b), 15 U.S.C. §1051(b).

10. Applicant's Goods are closely related to Opposer's Goods and are sold in the same channels of trade and therefore, if Applicant's Mark is used in connection with Applicant's Goods, such use would likely cause confusion, mistake or deception of the relevant customers and prospective customers. Such customers and prospective customers are likely to believe that Applicant's Goods offered under Applicant's Mark emanate from, or are licensed or approved by Opposer, to Opposer's detriment.
11. Opposer's Mark has become recognized by the public as indicative of Opposer's Goods and the high quality thereof.
12. Applicant's Mark and the word portion of Opposer's Mark both consist of the letters "CAD\_\_S". Applicant's Mark is substantially similar to Opposer's mark, differing only as to the penultimate letter; the "U in Opposer's Mark is changed to an "O" in Applicant's Mark. This small change results in a virtually identical aural sound of the respective marks and a very similar visual appearance.
13. If Applicant is granted a registration for Applicant's mark, Applicant would thereby obtain a prima facie exclusive right to use Applicant's Mark, to the detriment of Opposer.

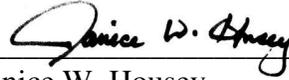
WHEREFORE, Opposer respectfully requests that its Opposition be granted and that registration of Applicant's Mark that is the subject of this opposition be denied.

Payment of \$300 for the official fees associated with this Opposition is remitted herewith.

Respectfully submitted,

Molinos IP S.A.

Date: November 18, 2013



Janice W. Housey  
Counsel for Opposer

Janice W. Housey  
Symbus Law Group, LLC  
PO Box 11085  
McLean, VA 22102  
703.957.5274 office  
540.518.9037 fax

### **CERTIFICATE OF SERVICE**

On this 18th day of November 2013, a true and correct copy of the foregoing NOTICE OF OPPOSITION is being sent via first class mail, postage prepaid and addressed as follows:

Lesley Heron  
1510 Mount Curve Ave  
Minneapolis, MINNESOTA 55403



Janice W. Housey

**EXHIBIT A**



**Word Mark** CADUS SINGLE VINEYARD BODEGAS NIETO SENETINER DESDE 1888

**Translations** The English translation of "NIETO" and "DESDE" in the mark is "GRANDSON" and "SINCE".

**Goods and Services** IC 033. US 047 049. G & S: wines exclusively from Argentina. FIRST USE: 20051200. FIRST USE IN COMMERCE: 20051200

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code** 07.01.02 - Farmhouse  
07.01.06 - Other houses  
26.07.13 - Diamonds, exactly two diamonds; Two diamonds  
26.07.21 - Diamonds that are completely or partially shaded

**Serial Number** 77484072

**Filing Date** May 27, 2008

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** December 21, 2010

**Registration Number** 3927249

**Registration Date** March 8, 2011

**Owner** (REGISTRANT) MOLINOS IP S.A. CORPORATION SWITZERLAND RTE. DU SIMPLON 16, CASE POSTALE 29 PAUDEX SWITZERLAND

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** Jess M. Collen

**Prior Registrations** 3163660;3600244

**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BODEGAS", "DESDE 1888" AND "SINGLE VINEYARD" APART FROM THE MARK AS SHOWN

**Description of Mark** The color(s) red, beige, black and gold is/are claimed as a feature of the mark. The mark consists of beige diamond design, the wording "BODEGAS" appearing above the design of a vineyard house and the wording "NIETO SENETINER DESDE 1888" appearing below the house design, all in the color gold, the wording "CADUS SINGLE VINEYARD" appearing below this in the color black and a red smaller diamond design appearing at the far bottom, all inside the larger diamond design.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator**