

ESTTA Tracking number: **ESTTA572055**

Filing date: **11/20/2013**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Institut National et de l'Origine et de la Qualite
Granted to Date of previous extension	11/20/2013
Address	12 rue Henri Rol-Tanguy TSA 30003 Montreuil-Sous Bois Cedex, 93555 FRANCE

Name	Comite Interprofessionnel du Vin de Champagne
Granted to Date of previous extension	11/20/2013
Address	5 rue Henri Martin Epernay, 51321 FRANCE

Attorney information	Peter M. Brody Ropes & Gray LLP One Metro Center, 700 12th Street NW Suite 900 Washington, DC 20005-3948 UNITED STATES trademarks@ropesgray.com Phone:202-508-4612
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Applicant Information

Application No	85849178	Publication date	07/23/2013
Opposition Filing Date	11/20/2013	Opposition Period Ends	11/20/2013
Applicant	Science of Skincare, LLC 3333 N. San Fernando Blvd. Burbank, CA 91504 CANADA		

Goods/Services Affected by Opposition

Class 003. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Non-medicated skin care products, namely, facial care preparations, namely, facial masks, facial beauty masks, facial cleaning preparations, facial emulsions, facial exfoliants, wrinkle-minimizing cosmetic preparations for topical facial use; cosmetic preparations for skin care, namely, rejuvenating and illuminating lotions, serums, creams, and tonics; non-medicated acne treatment preparations; anti-wrinkle creams; non-medicated moisturizing creams, lotions, and serums for the face, body skin, and lips; facial cleansers; facial creams; facial and body scrubs; beauty gels for the face and bodyskin

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is deceptively misdescriptive	Trademark Act section 2(e)(1)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	The AOC designation of CHAMPAGNE for certain sparkling wines produced in the Champagne region of France, in accordance with methods and limitations set forth in French law.		
Goods/Services	Certain sparkling wines produced in the Champagne region of France, in accordance with methods and limitations set forth in French law.		

Attachments	20131120_108018_Opposition_Pleading.pdf(270309 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	/p brody/
Name	Peter M. Brody
Date	11/20/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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COMITÉ INTERPROFESSIONNEL DU VIN DE CHAMPAGNE)	
and)	
INSTITUT NATIONAL DE L'ORIGINE ET DE LA QUALITÉ,)	Opposition No.
)	
Opposers,)	Application Serial No.
)	85/849,178
v.)	Published in the Official
SCIENCE OF SKINCARE, LLC,)	Gazette of July 23, 2013
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposers, Comité Interprofessionnel du Vin de Champagne (“CIVC”), an entity organized and existing under the laws of the Republic of France, 5 rue Henri Martin, Epernay, 51321 France, and the Institut National et de l’Origine et de la Qualité (formerly known as the Institut National des Appellations d’Origine and still and herein designated as the “INAO”), an entity organized and existing under the laws of the Republic of France, and located at 12 rue Henri Rol-Tanguy TSA 30003, Montreuil-Sous-Bois Cedex, 93555 France, hereby oppose the application (the “Application”) filed by applicant Science of Skincare, LLC (the “Applicant”) to register the mark “CHAMPAGNE FISZZ FACIAL” for “Non-medicated skin care products, namely, facial care preparations, namely, facial masks, facial beauty masks, facial cleaning preparations, facial emulsions, facial exfoliants, wrinkle-minimizing cosmetic preparations for topical facial use; cosmetic preparations for skin care, namely, rejuvenating and illuminating

lotions, serums, creams, and tonics; non-medicated acne treatment preparations; anti-wrinkle creams; non-medicated moisturizing creams, lotions, and serums for the face, body skin, and lips; facial cleansers; facial creams; facial and body scrubs; beauty gels for the face and body skin” in International Class 003 (U.S. Application Serial No. 85/849,178, published for opposition in the Official Gazette of July 23, 2013). Opposers believe that they will be damaged by registration of the subject mark, and as grounds of opposition, aver as follows:

1. “CHAMPAGNE” is a well-known French *appellation d’origine contrôlée* (“AOC”), or controlled appellation of origin, for certain sparkling wines produced in the Champagne region of France, in accordance with methods and limitations set forth in French law.

2. The INAO is a public body, under the aegis of the Ministry of Agriculture, which was established by decree-law of the French Republic dated July 30, 1935. The INAO’s principal functions include defining and recognizing French *appellations d’origine*, or appellations of origin, and the products entitled to bear those appellations; and protecting French appellations of origin from misuse and misappropriation in France and abroad. “Appellation of origin” refers to a geographical designation (country, region, or locality) that designates a product originating therein, the quality and characteristics of which are due exclusively or primarily to the geographic environment, including natural and human factors. Certain products identified and classified according to this system, including wines and spirits, bear “*appellations d’origine contrôlée*” (“AOCs”), or controlled appellations of origin. Each AOC for wine is recognized by a decree which delimits the specific area to which the appellation pertains but also specifies the grape variety or varieties, and methods of planting, harvesting, and production to be used. Compliance with the appellation of origin and AOC system, as administered by the INAO,

is endorsed and monitored by the French government pursuant to French law, in conjunction with the efforts of various *interprofessionnels*, including the CIVC, which are responsible for the protection of specific AOCs. The INAO receives funds listed in the budget of the Ministry of Agriculture, the amount of which generally reflects a portion of the proceeds of a special tax paid by producers of French appellation of origin products, and which is based on the volume of such products produced and sold under this system.

3. Opposer, CIVC, is a quasi-regulatory organization dedicated to the defense and the promotion of the Champagne AOC. CIVC is made up of representatives of all Champagne houses and growers, as well as the government. Among other functions, CIVC, in conjunction with Opposer, INAO, participates in the creation or broadening of laws and regulations that protect the Champagne appellation and in legal actions against all forms of abuse, detected in all major markets as part of a systematic surveillance operation.

4. “CHAMPAGNE” is among the particular AOCs for wines recognized and protected by the INAO. By decree law of June 29, 1936, France has restricted the use of this AOC to products produced in a specified area within the Champagne region of France, and in accordance with conditions specified in and pursuant to the AOC laws. Use of this AOC constitutes an assurance to customers by the INAO, the French regulatory authority specifically charged with safeguarding the integrity of this important French designation, that the products bearing that designation have been produced in accordance with these strict standards.

5. The use of the AOC “CHAMPAGNE” is in fact controlled by a certifier and limited to products meeting the certifier’s standards of regional origin.

6. The AOC “CHAMPAGNE” denotes, and is understood to denote, a specific regional origin. Products qualifying for this AOC have been validly and continuously sold in the

United States for a period beginning long prior to the date of filing of the subject application and constructive date of first use in commerce of the subject mark, and continuing to the present.

The AOC “CHAMPAGNE” is symbolic of the good will and consumer recognition built up through the efforts and investments of the INAO and CIVC in the appellation of origin system and its AOCs, including that specific AOC, and through the promotion and sales of these quality products by those certified by the INAO to use this AOC.

7. The AOC “CHAMPAGNE” is, and for many years prior to the filing of the subject application, has been, a famous mark within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

8. Applicant’s mark so resembles the protected AOC “CHAMPAGNE” as to be likely, when used in connection with the goods identified in the Application, to cause confusion, or to cause mistake, or to deceive as to the source, sponsorship, or affiliation of Applicant’s goods within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

9. Applicant’s mark, when used on or in connection with the goods identified in the Application, would cause dilution of the famous “CHAMPAGNE” AOC and mark in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

10. Applicant’s mark, when used on or in connection with the goods identified in the Application, is deceptively misdescriptive of such goods in violation of Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1). Specifically, the mark falsely suggests that the goods contain genuine AOC CHAMPAGNE wine as an ingredient. On information and belief, the goods do not contain genuine AOC CHAMPAGNE wine or any wine as an ingredient.

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SCIENCE OF SKINCARE, LLC,)	
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Applicant.)	

Certificate of Service

I hereby certify that on this 20th day of November, 2013, a true copy of this Notice of Opposition was served upon Applicant's counsel by first class mail, postage prepaid, addressed as follows:

Victor T. Fu
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