

ESTTA Tracking number: **ESTTA588784**

Filing date: **02/23/2014**

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	Fine Estates From Spain, Inc.
Granted to Date of previous extension	03/05/2014
Address	745 High Street Dedham, MA 02026 UNITED STATES
Attorney information	Aaron Y. Silverstein Saunders & Silverstein LLP 14 Cedar Street, Suite 224 Amesbury, MA 01913-1831 UNITED STATES trademarks@massiplaw.com, asilverstein@massiplaw.com Phone:+1.978.463.9100

Applicant Information

Application No	85962632	Publication date	11/05/2013
Opposition Filing Date	02/23/2014	Opposition Period Ends	03/05/2014
Applicant	JASON CARIGNAN 1634 FREMONT DRIVE THOUSAND OAKS, CA 91362 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: wine and wine-based drinks

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3917662	Application Date	05/21/2009
Registration Date	02/08/2011	Foreign Priority Date	NONE
Word Mark	AVANTE		

Design Mark	AVANTE
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2010/07/26 First Use In Commerce: 2010/07/26 WINE

Attachments	77742224#TMSN.jpeg(bytes) 20140223 fefs miravante noo final.pdf(696971 bytes)
-------------	---

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	/asilverstein/
Name	Aaron Y. Silverstein
Date	02/23/2014

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

FINE ESTATES FROM SPAIN, INC.,

Opposer,

v.

JASON CARIGNAN,

Applicant.

Opposition No.

Application Serial No. 85962632

NOTICE OF OPPOSITION

Fine Estates From Spain, Inc. (“Opposer” or “Fine Estates”), a Massachusetts corporation with a principal place of business at 745 High Street, Dedham, MA 02026, believes that it will be damaged by the registration of the mark MIRAVANTE, which is the subject of Application Serial No. 85962632 (the “Application”), filed by Jason Carignan (“Applicant”).

As grounds for its opposition, Fine Estates alleges the following, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to other matters:

1. On June 18, 2013, Applicant filed the subject application to register the mark MIRAVANTE for “wines and wine-based drinks” in Class 33.

2. Applicant filed Application Serial No. 85962632 based on Applicant’s intent to use the MIRAVANTE mark in U.S. commerce pursuant to Section 1(b) of the Lanham Act, § 15 U.S.C. § 1051(b).

3. Applicant has not yet filed an Allegation of Use in support of the Application.

4. Long prior to the filing date of Applicant’s subject application, Opposer adopted the trademark AVANTE, and Opposer has since used such mark in interstate commerce continuously

and extensively in connection with goods identical or nearly identical to those identified in the Application.

5. Through extensive advertising, promotion, and use of its AVANTE trademark, Opposer has built a strong reputation for high quality goods offered thereunder.

6. Opposer's AVANTE trademark has, long prior to Applicant's filing date, come to be distinctive and to uniquely identify Opposer and its goods.

7. Opposer is the owner of the following U.S. trademark registration for its AVANTE mark for wine in Class 33:

Reg. No.	Mark	Filing Date	Reg. Date
3917662	AVANTE	May 21, 2009	February 8, 2011

A copy of the current status and title of Opposer's above-referenced trademark registration is attached as Exhibit A.

8. The MIRAVANTE mark of Application Ser. No. 85962632 is substantially and confusingly similar to Opposer's AVANTE trademark.

9. The goods recited in Application Ser. No. 85962632 are identical or nearly identical to the goods with which Opposer has used and is using its AVANTE trademark.

10. Applicant's goods will be offered to the same general class of customers to whom Opposer offers its goods under its AVANTE trademark.

11. The applied-for MIRAVANTE mark sought to be registered by Applicant so closely resembles Opposer's AVANTE trademark as to be likely to cause confusion, mistake, or deception of the relevant trade and public, all to Opposer's damage.

12. Customers and potential customers are likely to believe that Applicant's goods offered under the MIRAVANTE mark emanate from, or are licensed or approved by, Opposer, when that is not the case. Such confusion would be a source of damage to Opposer.

13. If Applicant is granted the registration herein opposed, it would thereby obtain a *prima facie* right to exclusive use of the MIRAVANTE mark, which would be a further source of damage to Opposer.

WHEREFORE, Opposer believes that it will be damaged by registration of said mark, and prays that this Opposition be sustained, that Application Serial No. 85962632 be rejected, and that the mark applied for therein be refused registration.

Respectfully submitted,

FINE ESTATES FROM SPAIN, INC.

By its attorneys,



Dated: February 23, 2014

Aaron Y. Silverstein
Saunders & Silverstein LLP
14 Cedar Street, Suite 224
Amesbury, MA 01913-1831
P: 978-463-9130
F: 978-463-9109
E: asilverstein@massiplaw.com

ATTORNEYS FOR OPPOSER
FINE ESTATES FROM SPAIN, INC.

CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2014, the foregoing Notice of Opposition was served on Applicant by delivering a true and correct copy thereof to the Correspondent of Record listed in Application Ser. No. 85962632 by depositing same with the United States Postal Service, postage pre-paid, via first class mail, addressed to:

WILLIAM STEINMEYER
STEINMEYER ROTH LLP
280 E THOUSAND OAKS BLVD STE A
THOUSAND OAKS, CALIFORNIA 91360-7755



Aaron Y. Silverstein

EXHIBIT A

STATUS **DOCUMENTS**[Back to Search](#)

Print

Generated on: This page was generated by TSDR on 2014-02-23 11:48:12 EST**Mark:** AVANTE

AVANTE

US Serial Number: 77742224**Application Filing Date:** May 21, 2009**US Registration Number:** 3917662**Registration Date:** Feb. 08, 2011**Register:** Principal**Mark Type:** Trademark**Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.**Status Date:** Feb. 08, 2011**Publication Date:** Oct. 06, 2009**Notice of Allowance Date:** Dec. 29, 2009

Mark Information

Mark Literal Elements: AVANTE**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK**Translation:** The English translation of "AVANTE" is "before", "forward", and "ahead".

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: WINE

International Class(es): 033 - Primary Class**U.S Class(es):** 047, 049**Class Status:** ACTIVE**Basis:** 1(a)**First Use:** Jul. 26, 2010**Use in Commerce:** Jul. 26, 2010

Basis Information (Case Level)

Filed Use: No**Currently Use:** Yes**Amended Use:** No**Filed ITU:** Yes**Currently ITU:** No**Amended ITU:** No**Filed 44D:** No**Currently 44D:** No**Amended 44D:** No**Filed 44E:** No**Currently 44E:** No**Amended 44E:** No**Filed 66A:** No**Currently 66A:** No**Filed No Basis:** No**Currently No Basis:** No

Current Owner(s) Information

Owner Name: Fine Estates From Spain**Owner Address:** 745 High Street
Dedham, MASSACHUSETTS 02026
UNITED STATES**Legal Entity Type:** CORPORATION**State or Country Where
Organized:** MASSACHUSETTS

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Aaron Y. Silverstein**Attorney Primary Email
Address:** trademarks@massiplaw.com**Attorney Email Authorized:** No

Correspondent

Correspondent Aaron Y. Silverstein
Name/Address: Saunders & Silverstein LLP
 14 Cedar St. Ste 224
 Amesbury, MASSACHUSETTS 01913
 UNITED STATES

Phone: 978-463-9100

Correspondent e-mail: trademarks@massiplaw.com

**Correspondent e-mail No
 Authorized:**

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Aug. 07, 2012	NOTICE OF SUIT	
Feb. 08, 2011	REGISTERED-PRINCIPAL REGISTER	
Jan. 01, 2011	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Dec. 31, 2010	LAW OFFICE REGISTRATION REVIEW COMPLETED	70138
Dec. 31, 2010	ASSIGNED TO LIE	70138
Dec. 08, 2010	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Nov. 29, 2010	ATTORNEY REVOKED AND/OR APPOINTED	
Nov. 29, 2010	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Sep. 20, 2010	STATEMENT OF USE PROCESSING COMPLETE	76985
Aug. 23, 2010	USE AMENDMENT FILED	76985
Sep. 20, 2010	CASE ASSIGNED TO INTENT TO USE PARALEGAL	76985
Aug. 23, 2010	TEAS STATEMENT OF USE RECEIVED	
Jun. 30, 2010	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Jun. 28, 2010	EXTENSION 1 GRANTED	98765
Jun. 28, 2010	EXTENSION 1 FILED	98765
Jun. 28, 2010	TEAS EXTENSION RECEIVED	
Dec. 29, 2009	NOA MAILED - SOU REQUIRED FROM APPLICANT	

Oct. 06, 2009	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Oct. 06, 2009	PUBLISHED FOR OPPOSITION	
Sep. 02, 2009	LAW OFFICE PUBLICATION REVIEW COMPLETED	77075
Sep. 02, 2009	ASSIGNED TO LIE	77075
Aug. 28, 2009	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 28, 2009	EXAMINER'S AMENDMENT ENTERED	88888
Aug. 28, 2009	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Aug. 28, 2009	EXAMINERS AMENDMENT E-MAILED	6328
Aug. 28, 2009	EXAMINERS AMENDMENT -WRITTEN	63031
Aug. 20, 2009	ASSIGNED TO EXAMINER	63031
May 26, 2009	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 25, 2009	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Dec. 31, 2010

Assignment Abstract Of Title Information - None recorded

Proceedings

United States of America

United States Patent and Trademark Office

AVANTE

Reg. No. 3,917,662

Registered Feb. 8, 2011

Int. Cl.: 33

TRADEMARK

PRINCIPAL REGISTER

FINE ESTATES FROM SPAIN (MASSACHUSETTS CORPORATION)
745 HIGH STREET
DEDHAM, MA 02026

FOR: WINE, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 7-26-2010; IN COMMERCE 7-26-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE ENGLISH TRANSLATION OF "AVANTE" IS "BEFORE", "FORWARD", AND "AHEAD".

SN 77-742,224, FILED 5-21-2009.

STEVEN R. FINE, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office