

ESTTA Tracking number: **ESTTA606703**

Filing date: **05/28/2014**

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	Treana Winery d/b/a
Granted to Date of previous extension	06/11/2014
Address	P.O. Box 3260 Paso Robles, CA 93447 UNITED STATES

Correspondence information	Treana Winery d/b/a P.O. Box 3260 Paso Robles, CA 93447 UNITED STATES scott.petersen@hkllaw.com Phone:312.578.6689
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Applicant Information

Application No	86065971	Publication date	02/11/2014
Opposition Filing Date	05/28/2014	Opposition Period Ends	06/11/2014
Applicant	SCHEINFELD WINE COMPANY, LLC 65 Livingston Avenue Roseland, NJ 07068 UNITED STATES		

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

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3973460	Application Date	09/20/2010
Registration Date	06/07/2011	Foreign Priority Date	NONE
Word Mark	TROUBLEMAKER		

Design Mark	TROUBLEMAKER
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2010/08/15 First Use In Commerce: 2010/08/15 wine

Attachments	85133376#TMSN.jpeg(bytes) Treana Opposition.pdf(355117 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	/Scott W. Petersen/
Name	Treana Winery d/b/a
Date	05/28/2014

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

TREANA WINERY LLC)	
dba Hope Family Wines,)	
)	Opp. No. _____
Opposer)	
)	
v.)	Serial No. 86/065,971
)	
SCHEINFELD WINE COMPANY)	Mark: WINE MAKERS.
)	CHANGE MAKERS.
Applicant)	TROUBLE MAKERS.
_____)	

NOTICE OF OPPOSITION

In the matter of Application Serial No. 86/065,971 for registration of the mark WINE MAKERS. CHANGE MAKERS. TROUBLE MAKERS., filed September 16, 2013, by Scheinfeld Wine Company, LLC of 65 Livingston Avenue, Roseland, NJ 07068 (hereinafter "Applicant") and published for opposition in the *Official Gazette* of February 11, 2014; Treana Winery LLC dba Hope Family Wines, a Limited Liability Company of California, having a mailing address of P.O. Box 3260, Paso Robles, CA 93447 (hereinafter "Opposer") would be damaged by registration of said alleged trademark and hereby gives notice of its opposition to the registration of said trademark.

Application Serial No. 86/065,971 is herein referred to collectively as "the Application." The mark WINE MAKERS. CHANGE MAKERS. TROUBLE MAKERS., as set forth in the Application, is herein referred to collectively as "Applicant's Mark."

Opposer has sought and received the requisite extensions of time in which to oppose this application, making this Notice of Opposition timely.

As grounds for opposition, Opposer states as follows:

1. Opposer is a major California Vineyard whose wines are known in the United States and around the world. Opposer is the owner of all right, title, and interest in and to the well known and famous trademark TROUBLEMAKER. The wines sold under the Opposer's trademarks ("Opposer's Goods") are renowned among members of the general public in the United States and around the world.

2. Opposer is the owner of United States Trademark Reg. No. 3,973,460 for the mark TROUBLEMAKER for wine in International Class 33 ("Opposer's Registration"), which issued on June 7, 2011. Opposer's Registration is valid and subsisting. In accordance with 37 CFR §2.122(d) a current print out from the electronic database of the U.S. Patent and Trademark Office and showing the current status and title of Opposer's Registration, is attached to this Notice of Opposition as Exhibit 1. Opposer's Registration is conclusive evidence of Opposer's ownership of the mark TROUBLEMAKER, of the validity of the Opposer's Mark, and of Opposer's exclusive right to use the mark in commerce in connection with Opposer's goods. The Opposer's mark TROUBLEMAKER has been used in conjunction with a nationally-famous advertising campaign and promotion.

3. Opposer has been using Opposer's Mark in connection with Opposer's Goods continuously since 2010. During such time, Opposer has

spent considerable time, effort and money in advertising and promoting its TROUBLEMAKER wine product under Opposer's Mark. As a result of Opposer's vigorous marketing, advertising, and promotion of its goods under the mark TROUBLEMAKER, Opposer's Mark has become well-known and famous as a distinctive indicator of the origin of Opposer's Goods, has acquired a highly favorable reputation among members of the purchasing public, and has become a valuable symbol of Opposer's goodwill.

4. Opposer's wines offered under the TROUBLEMAKER brand and TROUBLEMAKER trademark are among the most highly acclaimed wines in the world. When entering "TROUBLEMAKER" in Google with "wine," there are thousands of records.

5. Opposer's trademark TROUBLEMAKER is strong, inherently distinctive, and arbitrary as applied to Opposer's Goods. Moreover, the distinctiveness of Opposer's Mark as a source indicator for Opposer's Goods has been increased by virtue of Opposer's long-term use and vigorous promotion of Opposer's Mark over the last six years.

6. Opposer's trademark TROUBLEMAKER is famous and became famous prior to the adoption by Applicant of Applicant's Marks and prior to the filing dates of the Application.

7. Notwithstanding Opposer's prior rights in Opposer's Mark, Applicant filed the Application in the U.S. Patent and Trademark Office on September 16, 2013 (Serial No. 86/065,971) for the purpose of obtaining U.S. registration of the Applicant's Mark. The goods identified in the Application is

"wine" in International Class 33 ("Applicant's Goods"). The Application was filed on the basis of Applicant's intent to use the mark in Commerce, under 15 U.S.C. Section 1051(b).

8. On information and belief, Applicant has made no use of Applicant's Mark in connection with any goods.

9. Opposer has used, advertised and promoted Opposer's Mark and Opposer's Trade Name in interstate commerce from a date prior to the filing date of the Application and on information and belief and prior to any use by Applicant's Mark.

10. Opposer's Registration issued prior to the filing date of the Application and prior to any use by Applicant of Applicant's Mark.

11. Upon information and belief, at the time Applicant filed the Application and prior to any use of Applicant's Mark, Applicant knew or had reason to know of Opposer's prior rights in the trademark TROUBLEMAKER.

12. Opposer's Registration, which issued on June 7, 2011, constitutes constructive notice to Applicant of Opposer's claim of ownership of its trademark TROUBLEMAKER, as provided in 15 U.S.C. Section 1072.

COUNT I

Dilution - §43(c)

13. Opposer realleges and incorporates by reference the allegations contained in paragraphs 1 through 12, above, as if set forth in their entirety herein.

14. Applicant's Mark WINE MAKERS. CHANGE MAKERS. TROUBLE MAKERS., set forth in Application Serial No. 86/065,971, contains the entirety of the Opposer's mark -- "Trouble Maker."

15. That literal portion of Applicant's Mark WINE MAKERS. CHANGE MAKERS. TROUBLE MAKERS., as set forth in Application Serial No. 86/065,971, is essentially identical to Opposer's Mark.

16. The goods of the Applicant's Mark (wine) are identical to the Opposer's goods as both marks are used or intended to be used with beverages.

17. The International Class in which the Applicant's Mark designates goods is the identical International Class the Opposer's Mark designates (Class 32).

18. Use of Applicant's Mark is likely to and will cause dilution by blurring and dilution by tarnishment of Opposer's Mark, impairing the distinctive quality of the Opposer's Mark.

19. Use or registration of Applicant's Mark will promote an association in the minds of the public between Applicant's Mark and Opposer's Mark, arising from the similarity between Applicant's Mark and Opposer's Mark, thereby impairing the distinctiveness of Opposer's Mark by lessening the capacity of Opposer's Mark to identify and distinguish Opposer's Goods.

20. On information and belief, Applicant intended to create an association between Applicant's Mark and Opposer's Mark because of the fame and good reputation of Opposer's Mark.

21. Use and registration of the Applicant's Mark will deprive Opposer of the ability to protect its reputation, persona, and goodwill.

22. Use and registration of Applicant's Mark is likely to harm the reputation of Opposer's Mark because prospective customers who encounter defects in the quality of Applicant's Goods will attribute those defects to Opposer, thereby tarnishing and harming Opposer's goodwill, as represented by Opposer's Mark.

23. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's Mark and registration should be refused pursuant to the provisions of Section 43(c) of the Trademark Act, 15 U.S.C. §1125(c).

COUNT II

Likelihood of Confusion - §2(d)

24. Opposer realleges and incorporates by reference the allegations contained in paragraphs 1 through 23, above, as if set forth in their entirety herein.

25. The Applicant's Mark, which contains the TROUBLE MAKER trademark, so closely resembles the Opposer's Mark in sound, appearance and meaning -- and in commercial impression -- that the use and registration thereof by Applicant is likely to cause confusion, mistake, and deception as to the source or origin of Applicant's Goods and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's Mark and Opposer's Trade Name.

26. The fame and renown of Opposer's Mark is such that the public is likely to be confused, to be deceived, and to assume erroneously that Applicant's Mark is associated with or otherwise connected with Opposer, and to mistakenly believe that Applicant's Goods are those of Opposer or that Applicant is in some way connected with, sponsored by, or affiliated with Opposer, all to Opposer's irreparable damage and injury.

27. Likelihood of confusion and deception is enhanced by the fact that Opposer's Goods and Opposer's commercial activities under Opposer's Mark and Opposer's Trade Name are provided or intended to be provided to the same class of prospective customers as are Applicant's Goods. The Opposer's Goods and the Applicant's Goods are beverages in International Class 33.

28. Under the circumstances, registration and use of Applicant's Mark is likely to cause Opposer to lose control over the good and valuable reputation represented by and derived from Opposer's Mark and Opposer's Trade Name.

29. Registration of Applicant's Mark in light of the prior rights of Opposer in Opposer's Mark is therefore likely to cause confusion, mistake and/or deception among members of the relevant purchasing public resulting in damage and injury to Opposer in violation of the provisions of Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d).

COUNT III

False Suggestion of a Connection - §2(a)

30. Opposer realleges and incorporates by reference the allegations contained in paragraphs 1 through 29, above, as if set forth in their entirety herein.

31. Applicant's Mark - which contains "TROUBLE MAKERS" as a virtual stand-alone component of the mark - is the same as, or a close approximation of, Opposer's Mark, which is a symbol of Opposer's identity and good will.

32. The inclusion of the term "TROUBLE MAKERS." in Applicant's Mark points uniquely and unmistakably to Opposer and would be recognized by the public as the symbol of Opposer's identity and good will.

33. Opposer is not connected with the Applicant, Applicant's Goods, or any activities performed by the Applicant under Applicant's Mark.

34. The fame and reputation of Opposer is such that, when Applicant's Mark is used with the Applicant's Goods, the public would presume, falsely, that there is a connection between Applicant and Opposer.

35. Applicant's Mark falsely suggest a connection with Opposer, and accordingly registration of Applicant's Mark should be refused under Section 2(a) of the Trademark Act, 15 U.S.C. §1052(a).

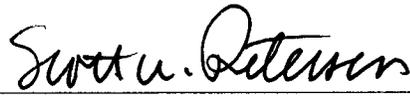
Opposer, Treana Winery LLC d/b/a Hope Family Wines, prays that this Opposition be sustained and that the registration sought by Applicant be refused.

[SIGNATURE ON THE FOLLOWING PAGE]

Respectfully Submitted,

**Treana Winery LLC d/b/a Hope
Family Wines**

DATE: May 28, 2014

By: 

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that the on May 28, 2014, the above Notice of Opposition is being electronically filed with the United States Patent and Trademark Office, Trademark Trial & Appeal Board. I further certify that a true copy of the foregoing Notice of Opposition has been served by first class mail, postage prepaid, at the following address:

Mr. Lawrence A. Weinstein
Lowenstein Sandler
65 Livingston Ave.
Roseland, NJ 07068-1725



Scott W. Petersen

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