

ESTTA Tracking number: **ESTTA649857**

Filing date: **01/13/2015**

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	Flowers Vineyard and Winery, LLC
Granted to Date of previous extension	01/14/2015
Address	28500 Seaview Rd. Cazadero, CA 95421 UNITED STATES
Party who filed Extension of time to oppose	Flowers Vineyard & Winery, LLC
Relationship to party who filed Extension of time to oppose	The opposer's name was misidentified as "Flowers Vineyard & Winery, LLC" instead of "Flowers Vineyard and Winery, LLC" through mistake. As explained in opposer's post-registration Section 7 request for U.S. Registration No. 3,105,412, previous counsel for opposer did not correctly record a name change of the opposer to "Flowers Vineyard and Winery, LLC" and mistakenly identified opposer's new name as "Flowers Vineyard & Winery, LLC." That error was only recently detected and has been corrected with the trademark office assignment branch.
Attorney information	Jennifer Lee Taylor Morrison & Foerster 425 Market Street San Francisco, CA 94105-2482 UNITED STATES tmdocket@mof.com, jtaylor@mof.com, jliou@mof.com

Applicant Information

Application No	86348425	Publication date	09/16/2014
Opposition Filing Date	01/13/2015	Opposition Period Ends	01/14/2015
Applicant	THE WINE GROUP LLC 4596 S. TRACY BLVD. TRACY, CA 95377 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

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.	3105412	Application Date	04/06/1999
Registration Date	06/20/2006	Foreign Priority Date	NONE
Word Mark	FLOWERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1998/03/18 First Use In Commerce: 1998/03/18 WINE		

Attachments	Notice of Opposition - Serial No. 86348425 FLORET.pdf(194881 bytes) Exhibit A.pdf(128189 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	/Jennifer Lee Taylor/
Name	Jennifer Lee Taylor
Date	01/13/2015

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

FLOWERS VINEYARD AND WINERY, LLC,

Opposer,

vs.

THE WINE GROUP LLC,

Applicant.

Opposition No.: TO BE ASSIGNED

Application No.: 86/348,425

Mark: FLORET

Filed on July 25, 2014

Published for Opposition on September 15,
2014

NOTICE OF OPPOSITION

Flowers Vineyard and Winery, LLC (“Opposer”), a Delaware limited liability company having its principal place of business at 28500 Seaview Road, Cazadero, California 95421, believes that it will be damaged by the use and registration of the mark shown in U.S. Application Serial No. 86/348,425 for FLORET, filed by The Wine Group LLC (“Applicant”), a Delaware limited liability company having its principal place of business at 4596 S. Tracy Blvd., Tracy, California 95377, and hereby opposes the same.

As grounds for the opposition, it is alleged as follows:

1. Opposer is in the business of producing and selling wine. Opposer produces a well-known and critically acclaimed wine that is offered under the FLOWERS mark. Opposer and its predecessor-in-interest, Camp Meeting Ridge Winery, Inc., have enjoyed great success and gained a reputation for the quality for their wines, including wine offered under the FLOWERS mark.

2. Opposer’s predecessor in interest commenced using the FLOWERS mark in connection with wine since as early as March 18, 1998. Opposer was assigned the FLOWERS

mark from its predecessor in interest in December 30, 2008 and has continued to use the FLOWERS mark in connection with wine. As a result of Opposer's and/or its predecessor in interest's continuous use and promotion of the FLOWERS mark, Opposer has acquired and owns common law rights in the FLOWERS mark.

3. Opposer also owns U.S. Registration No. 3,105,412 for the FLOWERS mark in connection with wine in International Class 33, registered on June 20, 2006, based on use of the mark since at least as early as March 18, 1998. The underlying application was filed on April 6, 1999. The registration is incontestable under the Lanham Act. Attached as Exhibit A is a true and correct copy of the registration certificate and trademark assignment abstract of title for U.S. Registration No. 3,105,412.

4. Opposer is the exclusive owner of the goodwill and the reputation associated with wine offered under and symbolized by the FLOWERS mark. Through Opposer and/or its predecessor in interest's continuous use and promotion of the FLOWERS mark, the mark has become widely known and recognized by the public as identifying Opposer's wine.

5. Applicant seeks to register the FLORET mark for wine in International Class 33 in U.S. Application Serial No. 86/348,425. The opposed FLORET application was filed on an intent-to-use basis on July 25, 2014, over fifteen years after Opposer's predecessor in interest filed its application to register the FLOWERS mark that matured into U.S. Registration No. 3,105,412. The FLORET application was published in the *Official Gazette* on September 16, 2014. Opposer obtained a ninety-day extension of time until January 14, 2015 to oppose the FLORET Application.

LIKELIHOOD OF CONFUSION

6. Since at least as early as 1998, substantially prior to Applicant's filing date for the FLORET application and, on information and belief, substantially prior to any use or use-in-commerce by Applicant of the FLORET mark, Opposer and/or its predecessor in interest in the FLOWERS mark have continuously offered and promoted wine under the FLOWERS mark.

7. On information and belief, any use or use-in-commerce of the FLORET mark by Applicant does not predate Opposer's rights in the FLOWERS mark and/or the filing date of Opposer's U.S. Registration No. 3,105,412.

8. Opposer's FLOWERS mark is virtually identical to Applicant's FLORET mark in sound, appearance, meaning, connotation, and commercial impression. Both Opposer's and Applicant's marks begin with the same three letters. The term "flowers" in Opposer's FLOWERS mark refers to a seed-bearing part of a plant known as a flower. The term "floret" in Applicant's FLORET mark refers to a small flower, and thus has a similar meaning, connotation, and commercial impression as Opposer's FLOWERS mark. (See <http://www.merriam-webster.com/dictionary/floret>.) Accordingly, Opposer's FLOWERS mark and Applicant's FLORET mark are confusingly similar in sound, appearance, meaning, connotation, and commercial impression.

9. Applicant's FLORET wine is competitive, complementary with, or otherwise closely related to the wine offered under Opposer's FLOWERS mark.

10. On information and belief, consumers of Applicant's FLORET wine are likely to consist of many of the same consumers who are familiar with the FLOWERS mark used in connection with Opposer's wine.

11. On information and belief, Applicant is likely to offer and distribute its FLORET wine through channels of trade that overlap with those used by Opposer to offer and distribute its FLOWERS wine.

12. In view of the fact that Applicant's FLORET mark is confusingly similar to Opposer's FLOWERS mark, that Applicant's wine and Opposer's wine are competitive, complementary, or closely related, and that the customers and trade channels for Applicant's wine and Opposer's wine are the same or overlapping, Applicant's FLORET mark is likely to cause confusion with Opposer's FLOWERS mark, or to cause mistake, or to deceive as to the origin, sponsorship, or approval of Applicant's wine. Opposer would thereby be injured by the use and registration of Applicant's FLORET mark.

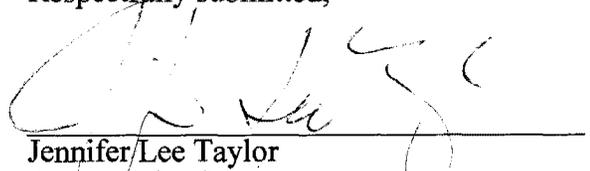
Filing Fee: The United States Patent & Trademark Office is authorized to charge \$300.00 for the filing fee for the Notice of Opposition to Morrison & Foerster LLP's Deposit Account 03-1952 (Reference No. 67715-6033501).

WHEREFORE, Opposer prays that U.S. Application Serial No. 86/348,425 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully submitted,

Dated: January 13, 2015

By:


Jennifer Lee Taylor
Attorney for Opposer
Flowers Vineyard and Winery, LLC

Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-6538
Facsimile: (415) 268-7522

PROOF OF SERVICE BY MAIL

I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California, 94105; I am not a party to the within cause; I am over the age of eighteen years and I am readily familiar with Morrison & Foerster's practice for collection and processing of correspondence for mailing with the United States Postal Service and know that in the ordinary course of Morrison & Foerster's business practice the document described below will be deposited with the United States Postal Service on the same date that it is placed at Morrison & Foerster with postage thereon fully prepaid for collection and mailing.

I further declare that on January 13, 2015, I served a copy of:

NOTICE OF OPPOSITION

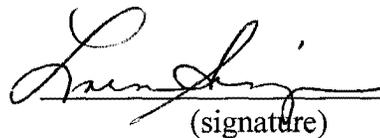
on the following by placing a true copy thereof enclosed in a sealed envelope addressed as follows for collection and mailing at Morrison & Foerster LLP, 425 Market Street, San Francisco, California, 94105, in accordance with Morrison & Foerster's ordinary business practices:

Dijana Kristo
The Wine Group LLC
4596 S Tracy Blvd.
Tracy, CA 95377-8106

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed at San Francisco, California, this 13th day of January, 2015.

Lorna Simpson
(typed)



(signature)

EXHIBIT A

Int. Cl.: 33

Prior U.S. Cls.: 47 and 49

United States Patent and Trademark Office

Reg. No. 3,105,412

Registered June 20, 2006

**TRADEMARK
PRINCIPAL REGISTER**

FLOWERS

CAMP MEETING RIDGE WINERY, INC. (CALI-
FORNIA CORPORATION)
28500 SEAVIEW ROAD
CAZADERO, CA 95421

FIRST USE 3-18-1998; IN COMMERCE 3-18-1998.

SER. NO. 75-675,882, FILED 4-6-1999.

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

ROBERT LORENZO, EXAMINING ATTORNEY



United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 5

Serial #: [75675882](#)

Filing Dt: 04/06/1999

Reg #: [3105412](#)

Reg. Dt: 06/20/2006

Registrant: CAMP MEETING RIDGE WINERY, INC.

Mark: FLOWERS

Assignment: 1

Reel/Frame: [3914/0895](#)

Recorded: 01/07/2009

Pages: 10

Conveyance: SECURITY INTEREST

Assignor: [FVW ACQUISITION LLC](#)

Exec Dt: 12/29/2008

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Entity Type: BANKING CORPORATION

Citizenship: CALIFORNIA

Assignee: [BANK OF THE WEST](#)

NORTH COAST ABC OFFICE, 3316 JEFFERSON STREET
NAPA, CALIFORNIA 94558

Correspondent: DOUGLAS HENDRICKS

MORRISON & FOERSTER LLP, 425 MARKET ST.
SAN FRANCISCO, CA 94105-2482

Assignment: 2

Reel/Frame: [3911/0208](#)

Recorded: 12/30/2008

Pages: 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [CAMP MEETING RIDGE WINERY, INC.](#)

Exec Dt: 12/30/2008

Entity Type: CORPORATION

Citizenship: CALIFORNIA

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Assignee: [FVW ACQUISITION, LLC](#)

1601 SILVERADO TRAIL
ST. HELENA, CALIFORNIA 94573

Correspondent: DAVID E. STOLL, FARELLA BRAUN + MARTEL

235 MONTGOMERY STREET
17TH FLOOR
SAN FRANCISCO, CA 94104

Assignment: 3

Reel/Frame: [5423/0533](#)

Recorded: 12/19/2014

Pages: 6

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE CONVEYING PART, RECEIVING PARTY, AND NATURE OF CONVEYANCE PREVIOUSLY RECORDED AT REEL: 003932 FRAME: 0934. ASSIGNOR(S) HEREBY CONFIRMS THE CHANGE OF NAME.

Assignor: [FVW ACQUISITION, LLC](#)

Exec Dt: 01/09/2009

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Assignee: [FLOWERS VINEYARD AND WINERY, LLC](#)

28500 SEAVIEW RD.
CAZADERO, CALIFORNIA 95421

Correspondent: JENNIFER LEE TAYLOR

425 MARKET STREET
MORRISON & FOERSTER LLP
SAN FRANCISCO, CA 94105

Assignment: 4

Reel/Frame: [3932/0934](#)**Recorded:** 02/10/2009**Pages:** 4**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor:** [FVW ACQUISITION, LLC.](#)**Assignee:** [FLOWERS VINEYARD & WINERY, LLC](#)28500 SEAVIEW ROAD
CAZADERO, CALIFORNIA 95421**Correspondent:** JAY M. BEHMKE
100 B STREET SUITE 400
SANTA ROSA, CA 95401-6376**Exec Dt:** 02/05/2009**Entity Type:** LIMITED LIABILITY COMPANY**Citizenship:** CALIFORNIA**Entity Type:** LIMITED LIABILITY COMPANY**Citizenship:** CALIFORNIA**Assignment: 5****Reel/Frame:** [4969/0134](#)**Recorded:** 02/22/2013**Pages:** 4**Conveyance:** RELEASE BY SECURED PARTY**Assignor:** [BANK OF THE WEST](#)**Assignee:** [FVW ACQUISITION LLC](#)28500 SEAVIEW ROAD
CAZADERO, CALIFORNIA 95421**Correspondent:** CT LIENS SOLUTIONS
187 WOLF ROAD, SUITE 101
ALBANY, NY 12205**Exec Dt:** 02/21/2013**Entity Type:** CORPORATION**Citizenship:** CALIFORNIA**Entity Type:** LIMITED LIABILITY COMPANY**Citizenship:** DELAWARE

Search Results as of: 01/13/2015 09:28 PM

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