

ESTTA Tracking number: **ESTTA655894**

Filing date: **02/13/2015**

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	E. & J. Gallo Winery
Granted to Date of previous extension	02/15/2015
Address	600 Yosemite Boulevard Modesto, CA 95354 UNITED STATES

Attorney information	Steven M. Weinberg Holmes Weinberg, PC 600 Yosemite Boulevard Modesto, CA 95354 UNITED STATES hwtrademarks@gmail.com, msalvatore@holmesweinberg.com Phone:310 457 6100
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Applicant Information

Application No	86146041	Publication date	08/19/2014
Opposition Filing Date	02/13/2015	Opposition Period Ends	02/15/2015
Applicant	Societa' Agricola LA RAIA S.S. Strada Monterotondo, 79 Novi Ligure (AL), 15067 ITALY		

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: Alcoholic beverages except beers; Liqueurs; Sparkling wines; Wines

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.	1904572	Application Date	06/09/1994
Registration Date	07/11/1995	Foreign Priority Date	NONE
Word Mark	CARLO ROSSI		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1962/00/00 First Use In Commerce: 1962/00/00 wines

Attachments	2015.02.13_Notice of Opposition re TENIMENTI ROSSI CAIRO.pdf(143937 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	/Nelda Piper/
Name	Nelda Piper
Date	02/13/2015

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

In re Serial No. 86/146,041

E. & J. Gallo Winery,

Opposer,

v.

Societa' Agricola LA RAIA S.S.,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

TO: ASSISTANT COMMISSIONER FOR TRADEMARKS
BOX TTAB –FEE
2900 Crystal Drive
Arlington, VA 22202-3513

Opposer E. & J. Gallo Winery (“Gallo”), a corporation organized and existing under the laws of the State of California, believes that it would be damaged by registration of the above-referenced mark, and hereby opposes the same. As grounds for this Opposition, Gallo respectfully alleges as follows:

1. Opposer Gallo is a corporation organized and existing under the laws of the State of California, having a place of business at 600 Yosemite Blvd., Modesto, California 95354.
2. Gallo is the exclusive owner in the United States of the federally registered trademark CARLO ROSSI for “wines” (Reg. No. 1904572), as registered on the Principal Register on July 11, 1995 (the “CARLO ROSSI® Mark”).
3. This registration is valid and enforceable, and Gallo’s exclusive rights in the CARLO ROSSI® Mark are incontestable.

4. Gallo has used the CARLO ROSSI trademark in the United States since at least as early as 1962. For more than fifty years, Gallo has produced, advertised, promoted, distributed and sold wines in interstate commerce under its CARLO ROSSI® Mark.

5. The mark subject to this Opposition is TENIMENTI ROSSI CAIRO, Serial No. 86/146,041 (the “Opposed Mark”) for “Alcoholic beverages except beers; Liqueurs; Sparkling wines; Wines,” in International Class 033.

6. Applicant filed United States Application Serial No. 86/146,041 with the U.S. Patent and Trademark Office on or about December 17, 2013.

7. Because Gallo first used the CARLO ROSSI® Mark on wines several decades before Applicant filed its application for the Opposed Mark or used the Opposed Mark in United States commerce, and Gallo’s use has been continuous, Gallo has priority of use.

8. By virtue of Gallo’s long, continuous, extensive and exclusive use and marketing, promotion and sale of wines under the CARLO ROSSI® Mark, the CARLO ROSSI® Mark has come to be recognized by the relevant public as identifying wines having their origin or otherwise associated exclusively with Gallo.

9. The Opposed Mark for the International Class 033 goods is confusingly similar, *inter alia*, in appearance and overall commercial impression to the CARLO ROSSI® Mark. For example, both the CARLO ROSSI® Mark and the Opposed Mark are comprised of the word ROSSI. Thus, the Opposed Mark evokes the same or a highly similar connotation as the CARLO ROSSI® Mark. Applicant’s stated goods for the Opposed Mark are commercially related to the goods for which Gallo uses the CARLO ROSSI® Mark. Thus, it is likely that consumers will mistakenly believe that the Opposed Mark for the International Class 033 goods is connected to or associated with Gallo or its CARLO ROSSI® wines.

10. The registration of the Opposed Mark would be inconsistent with Gallo's rights in its CARLO ROSSI® Mark and will cause damage to Gallo.

WHEREFORE, Gallo respectfully prays that registration of the Opposed Mark not be permitted.

DATED this 13th Day of February 2015.

Respectfully submitted,

By: /s/ Michael J. Salvatore
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Attorneys for Opposer E. & J. Gallo Winery

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing NOTICE OF OPPOSITION was served by U.S. Priority Mail and email to Applicant's counsel at the following address:

Franco A. Serafini
Themis Law
7660 Fay Ave., Suite H-535
La Jolla, California 92037
fserafini@themisipc.com

DATED: February 13, 2015

By: /s/ Nelda Piper
Nelda Piper
Paralegal