

ESTTA Tracking number: **ESTTA706386**

Filing date: **11/03/2015**

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

Proceeding	91224029
Party	Defendant Ram's Gate Winery, LLC
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Date	11/03/2015
Attachments	Answer to Notice of Opposition.pdf(2136868 bytes)

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

In the matter of Application Serial No. 86/548,909
Applicant: Ram's Gate Winery, LLC
Mark: TOLAY CREEK
Published in the Official Gazette of July 28, 2015
Opposition No. 91224029

Bliss Canyon Winery, Inc.)
)
Opposer,)
)
vs.)
)
Ram's Gate Winery, LLC)
)
Applicant.)
)	

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant, Ram's Gate Winery, LLC (hereinafter "Applicant"), for its Answer to the Notice of Opposition filed by Bliss Canyon Winery, Inc. against the Application for Registration of Applicant's trademark, TOLAY CREEK, Serial No.86/548,909, filed February 27,2015, and published in the Official Gazette of July 28, 2015, pleads and avers as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations regarding Opposer's corporate status, and accordingly denies the allegations.

2. Answering paragraph 2 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations regarding Opposer's

use of "TOLAY SPRINGS" in connection with the production, distribution and sale of beef in California, and accordingly denies the allegations.

3. Answering paragraph 3 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations regarding Opposer's use of "TOLAY SPRINGS" in connection with the production, distribution and sale of olive oil in California, and accordingly denies the allegations.

4. Applicant denies the allegations in paragraph 4.

5. Applicant denies the allegations in paragraph 5.

6. Answering paragraph 6 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 6, and accordingly denies the allegation.

7. Applicant admits that Opposer is listed as the owner of U.S. Trademark Application No. 86/705542, for the trademark TOLAY SPRINGS for Beer and Wine, but does not have sufficient knowledge or information to form a belief as to the remainder of the allegations contained in paragraph 7 regarding Opposer's intentions to use the TOLAY SPRINGS mark in connection with the production, distribution and sale of wine and beer in the United States, and accordingly denies the allegations.

8. Applicant denies the allegations in Paragraph 8.

9. Answering paragraph 9 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in the first sentence of paragraph 9, and accordingly denies the allegations. Applicant admits that registration of Applicant's Mark would result in Applicant obtaining a prima facie right to use

the mark in connection with its sale of wine. Applicant denies the remainder of the allegations contained in paragraph 9.

10. Answering paragraph 10 of the Notice of Opposition, Applicant admits that Applicant's Mark is intended for use in connection with wine. Applicant does not have sufficient knowledge or information to form a belief as to the remaining allegations contained in paragraph 10, and accordingly denies the allegations.

11. Applicant denies the allegations in paragraph 11.

12. Answering paragraph 12 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 12, and accordingly denies the allegations.

13. Applicant denies the allegations in paragraph 13.

14. Applicant denies the allegations in paragraph 14.

15. Answering paragraph 15 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 15, and accordingly denies the allegations.

16. Applicant admits that its employee, David Oliver, visited Opposer's facility and met with a representative of Opposer on or about February 10, 2015, and that during that meeting Mr. Oliver was told that Opposer hoped to produce and distribute beer and other food related products under the TOLAY SPRINGS trademark. Applicant denies the remainder of the allegations contained in paragraph 16.

17. Answering paragraph 17 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 17, and accordingly denies the allegations.

18. Applicant admits the allegations in paragraph 18.

19. Answering paragraph 19 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 19, and accordingly denies the allegations.

20. Applicant denies the allegations in paragraph 20.

21. Applicant denies the allegations in paragraph 21.

22. Applicant denies the allegations in paragraph 22.

23. Answering paragraph 23 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 23, and accordingly denies the allegations.

24. Answering paragraph 24 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 24, and accordingly denies the allegations.

25. Applicant denies the allegations in paragraph 25.

26. Applicant denies the allegations in paragraph 26.

27. Applicant denies the allegations in paragraph 27.

28. Applicant denies the allegations in paragraph 28.

AFFIRMATIVE DEFENSES

29. Applicant alleges that the Notice of Opposition fails to allege facts sufficient to entitle Opposer to the remedy sought.

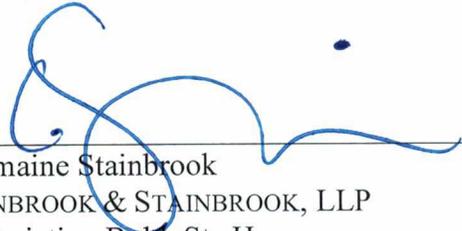
30. Applicant submits that the Examiner of the mark "TOLAY CREEK" properly allowed the application for publication based on the correct application of the relevant legal principles, and therefore Opposer's allegation that Applicant's Mark should be denied due to its being primarily geographically descriptive are without merit and should be denied.

31. Applicant hereby gives notice that it may rely on any other defenses that may become available or appear proper during discovery and hereby reserves its right to amend this Answer to assert any such defenses.

WHEREFORE, Applicant requests that the Trademark Trial and Appeal Board dismiss the Notice of Opposition and grant all other appropriate relief to Applicant as it deems just.

Respectfully submitted,

Dated: 11/3/2015

By: 
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CERTIFICATE OF SERVICE

STATE OF CALIFORNIA, COUNTY OF Sonoma

I am employed in the County of Sonoma, State of California. I am over the age of eighteen years and not a party to the within entitled cause; my business address is 412 Aviation Boulevard, Suite H, Santa Rosa, California 95403.

On November 3, 2015, I served the foregoing document described as

**APPLICANT'S ANSWER TO NOTICE OF OPPOSITION
(TTAB Opposition No. 91224029)**

on all interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed to: Ronald Wargo, Friedemann Goldberg, 420 Aviation Blvd., Suite 201, Santa Rosa, CA 95403

- BY MAIL** – I deposited such envelope in the mail at Santa Rosa, California. The envelope was mailed with postage thereon fully prepaid. I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Santa Rosa, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.
- BY PERSONAL SERVICE** – I caused each such envelope to be delivered by hand this date and leaving a true copy with the person and/or secretary at the address(es) noted below.
- VIA FACSIMILE** – I faxed said document, to the office(s) of the addressee(s) shown on the attached service list, and the transmission was reported as complete and without error.
- BY ELECTRONIC TRANSMISSION** – I transmitted a PDF version of this document by electronic mail to the party(ies) identified on the attached service list using the email address(es) indicated.
- BY OVERNIGHT DELIVERY** – I deposited such envelope for collection and delivery by Federal Express with delivery fees paid or provided for in accordance with ordinary business practices. I am “readily familiar” with the firms’ practice of collection and processing packages for overnight delivery by Federal Express. They are deposited with a facility regularly maintained by Federal Express for receipt on the same day in the ordinary course of business.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on November 3, 2015, at Santa Rosa, California.


Barbara MacDougall