

ESTTA Tracking number: **ESTTA729137**

Filing date: **02/24/2016**

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	Caymus Vineyards
Granted to Date of previous extension	02/24/2016
Address	8700 Conn Creek Rd. PO Box 268 Rutherford, CA 94573 UNITED STATES

Attorney information	Stephen J. Jeffries Holland & Knight LLP 800 17th Street NW, Suite 1100 Washington, DC 20006 UNITED STATES stephen.jeffries@hklaw.com, ptcketing@hklaw.com Phone:202-419-2404
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Applicant Information

Application No	86588244	Publication date	10/27/2015
Opposition Filing Date	02/24/2016	Opposition Period Ends	02/24/2016
Applicant	Rancho Caymus, LLC 101 S Coombs Street, Ste A Napa, CA 94559 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Hotels; Resort hotel services
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Applicant Information

Application No	86588271	Publication date	10/27/2015
Opposition Filing Date	02/24/2016	Opposition Period Ends	
Applicant	Rancho Caymus, LLC 101 S Coombs Street, Ste A Napa, CA 94559 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Hotels; Resort hotel services
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Applicant Information

Application No	86588279	Publication date	10/27/2015
Opposition Filing Date	02/24/2016	Opposition Period Ends	
Applicant	Rancho Caymus, LLC 101 S Coombs Street, Ste A Napa, CA 94559 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Hotels; Resort hotel services
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Grounds for Opposition

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

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1833996	Application Date	05/04/1993
Registration Date	05/03/1994	Foreign Priority Date	NONE
Word Mark	CAYMUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1972/09/09 First Use In Commerce: 1972/09/09 wine		

Attachments	rancho caymus notice of opposition_02_24_2016_14_36_29_738.pdf(461289 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	/Stephen J. Jeffries/
Name	Stephen J. Jeffries
Date	02/24/2016

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

Caymus Vineyards)	
)	Opp. No. _____
Opposer)	
)	
v.)	(Serial No. 86588244)
)	
Rancho Caymus, LLC)	(Serial No. 86588271)
)	
Applicant)	(Serial No. 86588279)

NOTICE OF OPPOSITION

In the matter of :

- Application Serial No. 86588244 for registration of the mark RANCHO CAYMUS, for service identified as “hotels; resort hotel services” in International Class 43 (hereinafter, “Applicant’s Services”), filed by Caymus Medical, Inc. (hereinafter "Applicant") on April 6, 2015 and published for opposition in the *Official Gazette* of October 27, 2015;
- Application Serial No. 86588271 for registration of the mark RANCHO CAYMUS HOTEL, for Applicant’s Services, filed by the Applicant on April 6, 2015 and published for opposition in the *Official Gazette* of October 27, 2015; and
- Application Serial No. 86588279 for registration of the mark RANCHO CAYMUS INN, for Applicant’s Services, filed by the Applicant on April 6, 2015 and published for opposition in the *Official Gazette* of October 27, 2015;

Caymus Vineyards, a corporation of California, having a mailing address at 8700 Conn Creek Road PO Box 268, Rutherford, CA 94573 (hereinafter "Opposer") believes it will be damaged by the registration of the marks set forth in the Applications and hereby opposes the registration of the marks.

Applications Serial Nos. 86588244, 86588271 and 86588279 are herein referred to collectively as "the Applications." The marks RANCHO CAYMUS, RANCHO CAYMUS HOTEL and RANCHO CAYMUS INN, as set forth in the Applications, are herein referred to collectively as "Applicant's Marks."

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

As grounds for opposition, Opposer states as follows:

1. Opposer is a major domestic vineyard, grower of grapes and producer of fine wines. Opposer is the owner of all right, title, and interest in and to the well known and famous trademark CAYMUS. Opposer has been operating a vineyard, growing grapes and marketing its wine products under the trademark CAYMUS ("Opposer's Mark") and the corporate and trade name "Caymus Vineyards" ("Opposer's Trade Name") since at least as early as 1972. The wines sold under the CAYMUS trademark ("Opposer's Goods") are renowned among wine connoisseurs and members of the general public in the United States and around the world.

2. Opposer is the owner of United States Trademark Reg. No. 1,833,996 for the mark CAYMUS for wine ("Opposer's Registration"), which issued on May 3, 1994. Opposer's Registration is valid and subsisting and is incontestable under the provisions of 15 U.S.C. Section 1065. In accord with 37 CFR § 2.122(d), current printouts of information from the electronic database records of the United States Patent and Trademark Office (TSDR) showing the current status and title of Opposer's Registration are attached to this Notice of Opposition at Exhibit 1. Opposer's Registration is conclusive evidence of Opposer's ownership of the mark CAYMUS, 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.

3. Opposer has been using Opposer's Mark in connection with Opposer's Goods continuously for nearly 40 years. During such time, Opposer has spent considerable time, effort and money in advertising and promoting its vineyard and wine products under Opposer's Mark. As a result of Opposer's vigorous marketing, advertising, and promotion of its goods under the mark CAYMUS, 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 CAYMUS trademark are among the most highly acclaimed wines in the world. Opposer's CAYMUS brand Special Selection Cabernet Sauvignon is the only wine to have been twice named "Wine of the Year" by Wine Spectator Magazine. Opposer's wines under the CAYMUS brand have been acclaimed in the special interest press by publications such as Wine Spectator, Quarterly Review of Wines, Wine & Spirits, and Robert

Parker's Wine Advocate, as well as in the general interest press by publications such as The New York Times, Chicago Tribune, Los Angeles Times, Washington Times, Philadelphia Inquirer, Miami Herald, Atlanta Journal and Constitution, USA Today, Dallas Morning News, Houston Chronicle, Baltimore Sun, The Times Picayune (New Orleans), San Francisco Examiner, San Francisco Chronicle, Cleveland Plain Dealer, Denver Rocky Mountain News, New York Post, Orlando Sentinel, St. Paul Pioneer Press, Forth Worth Star Telegram, South Florida Sun-Sentinel, San Antonio Express-News, Pittsburgh Post-Gazette, Sun Herald (Biloxi), Columbus Dispatch, Reno Gazette-Journal, The Sacramento Bee, Greensboro News & Record (North Carolina), Long Beach Press-Telegram, The New Journal (Wilmington), Charlotte Observer, Wichita Eagle, Akron Beacon Journal, Palm Beach Post, Buffalo News, Tulsa World, Memphis Commercial Appeal, The Oregonian, and others.

5. Opposer adopted Opposer's Trade Name at least as early as 1972. Since that time Opposer has continuously operated under Opposer's Trade Name, as a result of which Opposer's Trade Name has developed great good will as an indicator of Opposer's identity and Opposer's reputation for the highest quality products and the highest integrity in its business relationships with consumers and associates alike.

6. Opposer's trademark CAYMUS 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 many years.

7. Opposer's trademark CAYMUS is famous and became famous long prior to any use by Applicant of Applicant's Marks and long prior to the filing dates of the Applications. Opposer's mark CAYMUS was determined to be "famous" by the Trademark Trial and Appeal Board in Caymus Vineyards v. Lisa Frank, Inc., Opposition Nos. 91092049 and 91092113 (1997).

8. Notwithstanding Opposer's prior rights in Opposer's Mark, Applicant filed the Applications in the U.S. Patent and Trademark Office on April 6, 2015 for the purpose of obtaining U.S. registration of the Applicant's Marks for Applicant's Services. The Applications were filed on the basis of Applicant's intent to use each mark in Commerce, under 15 U.S.C. Section 1051(b).

9. On information and belief, Applicant is not using Applicant's Marks in connection with any services.

10. Opposer has used, advertised and promoted Opposer's Mark and Opposer's Trade Name in interstate commerce from a date long prior to the filing dates of the Applications and long prior to any use by Applicant of Applicant's Marks.

11. Opposer's Registration issued long prior to the filing dates of the Applications and long prior to any use by Applicant of Applicant's Marks.

12. Upon information and belief, at the time Applicant filed the Applications and prior to any use of Applicant's Marks, Applicant knew of Opposer's prior rights in the trademark CAYMUS.

13. Opposer's Registration, which issued on May 3, 1994, constitutes constructive notice to Applicant of Opposer's claim of ownership of its trademark CAYMUS, as provided in 15 U.S.C. Section 1072.

COUNT I

Dilution - §43(c)

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

15. The Applicant's Marks include Opposer's famous trademark CAYMUS.

16. Use of Applicant's Marks 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.

17. Use or registration of Applicant's Marks will promote an association in the minds of the public between Applicant's Marks and Opposer's Mark, arising from the similarity between Applicant's Marks 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.

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

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

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

21. 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)

22. Opposer realleges and incorporates by reference the allegations contained in paragraphs 1 through 21, above, as if set forth in their entirety herein.

23. The Applicant's Marks so closely resemble the Opposer's Mark and Opposer's Trade Name in appearance, sound and commercial impression that the use and registration

thereof by Applicant are likely to cause confusion, mistake, and deception as to the source or origin of Applicant's Services and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's Mark and Opposer's Trade Name.

24. The fame and renown of Opposer's Mark and Opposer's Trade Name are such that the public is likely to be confused, to be deceived, and to assume erroneously that Applicant's Marks are associated with or otherwise connected with Opposer, and to mistakenly believe that Applicant's Services 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.

25. 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 classes of prospective customers as are Applicant's Services.

26. Under the circumstances, registration and use of Applicant's Marks are 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.

27. Registration of Applicant's Marks in light of the prior rights of Opposer in Opposer's Mark and Opposer's Trade Name 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)

28. Opposer realleges and incorporates by reference the allegations contained in paragraphs 1 through 27, above, as if set forth in their entirety herein.

29. Each of the Applicant's Marks is a close approximation of Opposer's Mark and Opposer's Trade Name, which are symbols of Opposer's identity and good will.

30. The designation CAYMUS in Applicant's Marks points uniquely and unmistakably to Opposer and would be recognized by the public as the symbol of Opposer's identity and good will.

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

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

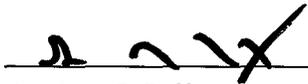
33. Applicant's Marks falsely suggest a connection with Opposer, and accordingly registration of Applicant's Marks should be refused under Section 2(a) of the Trademark Act, 15 U.S.C. §1052(a).

WHEREOF, Opposer prays that this Notice of Opposition be sustained and registration of the Applications be refused.

Respectfully submitted,

CAYMUS VINEYARDS

By:



Stephen J. Jeffries

Scott W. Petersen

Daniel C. Neustadt

HOLLAND & KNIGHT LLP

800 17th Street, NW Suite 1100

Washington, D.C. 20006

Tel: (202) 419-2404

Fax: (202) 955-5564

E-mail: stephen.jeffries@hklaw.com

Date: February 24, 2016

Counsel for Opposer

EXHIBIT 1

Intermittent TSDR Problems

TSDR is currently experiencing intermittent technical difficulties and users may be unable to access documents. The problem is being addressed by staff at the USPTO. We sincerely apologize for any inconvenience this may cause.

STATUS **DOCUMENTS** **MAINTENANCE**

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Mark: CAYMUS

No Image exists for this case.

US Serial Number: 74386086

Application Filing Date: May 04, 1993

US Registration Number: 1833996

Registration Date: May 03, 1994

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Nov. 01, 2013

Publication Date: Feb. 08, 1994

Mark Information

Mark Literal Elements: CAYMUS

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

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 incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: wine

International Class(es): 033 - Primary Class

U.S Class(es): 047

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 09, 1972

Use in Commerce: Sep. 09, 1972

Basis Information (Case Level)

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

Current Owner(s) Information

Owner Name: CAYMUS VINEYARDS
Owner Address: 8700 Conn Creek Rd.
 Rutherford, CALIFORNIA UNITED STATES 94573
Legal Entity Type: CORPORATION **State or Country Where Organized:** CALIFORNIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Scott W. Petersen **Docket Number:** 071163.00014

Correspondent

Correspondent Name/Address: Scott W. Petersen
 HOLLAND & KNIGHT LLC
 131 S DEARBORN ST 30TH FL
 CHICAGO, ILLINOIS UNITED STATES 60603

Correspondent e-mail: scott.petersen@hklaw.com **Correspondent e-mail Authorized:** No

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Nov. 20, 2014	NOTICE OF SUIT	
Jan. 15, 2014	NOTICE OF SUIT	
Nov. 01, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - MAILED	
Nov. 01, 2013	REGISTERED AND RENEWED (SECOND RENEWAL - 10 YRS)	69471
Nov. 01, 2013	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	69471

Oct. 28, 2013	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	69471
Nov. 01, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	69471
Oct. 28, 2013	TEAS SECTION 8 & 9 RECEIVED	
Aug. 09, 2012	COUNTERCLAIM OPP. NO. 999999	204667
Jul. 27, 2007	CASE FILE IN TICRS	
Sep. 11, 2003	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	
Sep. 11, 2003	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Jun. 16, 2003	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
Jun. 16, 2003	PAPER RECEIVED	
May 12, 2003	PAPER RECEIVED	
Jun. 11, 2000	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Apr. 21, 2000	RESPONSE RECEIVED TO POST REG. ACTION - SEC. 8 & 15	
Apr. 12, 2000	POST REGISTRATION ACTION MAILED - SEC. 8 & 15	
Jan. 03, 2000	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
May 03, 1994	REGISTERED-PRINCIPAL REGISTER	
Feb. 08, 1994	PUBLISHED FOR OPPOSITION	
Jan. 07, 1994	NOTICE OF PUBLICATION	
Dec. 08, 1993	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 02, 1993	EXAMINER'S AMENDMENT MAILED	
Oct. 15, 1993	NON-FINAL ACTION MAILED	
Oct. 06, 1993	ASSIGNED TO EXAMINER	69197
Sep. 24, 1993	ASSIGNED TO EXAMINER	61272
Sep. 21, 1993	ASSIGNED TO EXAMINER	70729

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: May 03, 2014

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Nov. 01, 2013

Assignment Abstract Of Title Information

Summary

Conveyance F

Total Assignments: 1

Registrant: CAYMUS VINEYARDS

Assignment 1 of 1

Proceedings - Click to Load



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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 1**Serial #:** [74386086](#)**Filing Dt:** 05/04/1993**Reg #:** [1833996](#)**Reg. Dt:** 05/03/1994**Registrant:** CAYMUS VINEYARDS**Mark:** CAYMUS**Assignment: 1****Reel/Frame:** [2358/0879](#)**Recorded:** 08/31/2001**Pages:** 10**Conveyance:** SECURITY AGREEMENT**Assignor:** [CAYMUS VINEYARDS](#)**Exec Dt:** 05/01/2001**Entity Type:** CORPORATION**Citizenship:** CALIFORNIA**Entity Type:** NATIONAL BANKING ASSOCIATION**Citizenship:** UNITED STATES**Assignee:** [WELLS FARGO BANK, NATIONAL ASSOCIATION](#)NORTH COAST REGIONAL COMMERCIAL BANKING OFFICE
200 B STREET SUITE 300
CALIFORNIA 95401**Correspondent:** WELLS FARGO BANK, NATIONAL ASSOCIATIONATTN: LOAN DOCUMENTATION AU NO. 2692
201 THIRD STREET 8TH FLOOR
SAN FRANCISCO, CA 94103

Search Results as of: 02/24/2016 02:33 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.5
Web interface last modified: July 25, 2014 v.2.5[.HOME](#) | [INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [CONTACT US](#) | [PRIVACY STATEMENT](#)

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing **NOTICE OF OPPOSITION** was sent by first class mail, postage pre-paid, to counsel for Applicant:

Katja Loeffelholz, Esq.
Dickenson Peatman & Fogarty
1455 1st St Ste 301
Napa, California 94559-2822

on this 24th day of February 2016.

A handwritten signature in black ink, appearing to be 'K. Loeffelholz', is written over a horizontal line.