

ESTTA Tracking number: **ESTTA303516**

Filing date: **08/28/2009**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Conorzio Vino Chianti Classico		
Entity	consortium	Citizenship	Italy
Address	Via Pianigiani 9 Radda di Chianti, I-53017 ITALY		

Attorney information	Cecelia m. Perry McGlew and Tuttle, P.C. Scarborough Station Scarborough, NY 10510-9227 UNITED STATES cperry@mcglewtuttle.com Phone:914-941-5600
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Registration Subject to Cancellation

Registration No	3426709	Registration date	05/13/2008
Registrant	RMV LLC c/o Smyth & Mason 701 5th Ave #7100 Seattle, WA 98104 UNITED STATES		

Goods/Services Subject to Cancellation

Class 033. First Use: 2007/09/01 First Use In Commerce: 2007/10/13 All goods and services in the class are cancelled, namely: (Based on Use in Commerce) Grape wine
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3449630	Application Date	05/05/2006
Registration Date	06/17/2008	Foreign Priority Date	NONE
Word Mark	CHIANTI CLASSICO DAL 1716		

Design Mark	
Description of Mark	The mark consists of a rounded label with an irregular edge in the centre of which is a black cock on a shaded gold background delimited by a circular white and brown ribbon drawn with a three-dimensional effect; the exterior red annulus is delimited by a circumference in gold which contains in the upper part the inscription "CHIANTI CLASSICO" in white and in the lower part the inscription "DAL 1716"; outside the annulus is an irregular red field which gives the mark the appearance of a wax seal.
Goods/Services	Class 033. First use: Wine

U.S. Registration No.	889138	Application Date	06/25/1968
Registration Date	04/07/1970	Foreign Priority Date	NONE

Word Mark	CHIANTI CLASSICO CONSORZIO VINO CHIANTICLASSICO
Design Mark	
Description of Mark	NONE
Goods/Services	Class U047 (International Class 033). First use: First Use: 1967/06/00 First Use In Commerce: 1967/08/00 CLASSIC CHIANTI WINE

Attachments	79030723#TMSN.jpeg (1 page)(bytes) 72301331#TMSN.gif (1 page)(bytes) t72604.5.pdf (15 pages)(348007 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	/cecelia m. perry/
Name	Cecelia m. Perry
Date	08/28/2009

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

Consorzio Vino Chianti Classico.	:	Cancellation No:
Petitioner,	:	Registration no. 3426709
	:	Date Registered: May 13, 2008
v.	:	Mark: walking rooster design mark
	:	Filed: October 13, 2007
RMV LLC.,	:	
Respondent	:	

PETITION TO CANCEL

Consorzio Vino Chianti Classico, an Italian Consortium, having its principal place of business at Via Pianigiani, 9, I-53017 Radda di Chianti, Italy,

The above-identified Petitioner believes that it has been and/or will be damaged by Registration No. 3426709, a walking rooster design mark, and hereby petitions to cancel the same.

As grounds for cancellation, Petitioner alleges that:

1. According to information and belief the respondent, RMV LLC, is a limited liability company organized under the laws of the state of Washington with an address/principal place of business of c/o Smythe & Mason, 701 5th Avenue #1700, Seattle, Washington 98104.

2. Petitioner is the owner of U.S. Trademark Registration No. 3449630 for the mark of a rooster design for wine which was registered on the Principal Register on June 16, 2008. Said registration was based on an application filed in the United States Patent and Trademark Office on May 5, 2006. This is prior to the date of filing of Respondent's application and prior to Respondent's claimed date of use. A TARR record showing status and title is attached as Exhibit A.

3. Said registered mark of Petitioner is valid and subsisting and prima facie evidence of Petitioner's exclusive right to allow use of said mark in commerce on the goods specified in said registration.

4. Petitioner is also the owner of U.S. Trademark Registration No. 889138 for the mark of a rooster design for classic Chianti wine which was registered on the Principal Register on April 7, 1970. This is prior to the date of filing of Respondent's application and prior to Respondent's claimed date of first use. A TARR record showing status and title is attached as Exhibit B.

5. Said registered mark of Petitioner is valid and subsisting and prima facie evidence of petitioner's exclusive right to allow use of said mark in commerce on the goods specified in said registration.

6. Petitioner has valid common law rights in its rooster trademarks in that Petitioner,

since at least as early as 1967, has been and is now, allowing use of said marks on wine by wine producers who meet certain standards. Said use has been valid and continuous since its date of first use and has not been abandoned.

7. Said marks of Petitioner are symbolic of extensive good will and consumer recognition built up by Petitioner through the expenditure of substantial sums of money and time and effort in advertising and promotion of the denomination of Chianti Classico, its territory of origin and its controlled production standards and the wine that meets these standards.

8. As a result of the substantial marketing efforts of Petitioner and its length of use, its efforts to protect its right to allow use the mark to identify wine that meets certain standards, and the substantial sale of wine bearing the rooster design mark, the rooster design has become distinctive of wine since before the filing date and first use date of the respondent's mark.

9. In view of the similarity of the respective marks and goods of the respective marks, it is alleged that Respondent's registered mark so resembles Petitioner's marks previously used and registered in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake or to deceive.

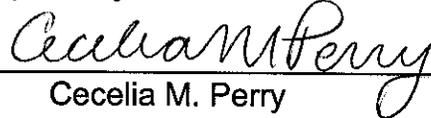
10. By virtue of the long and exclusive use of the marks, Petitioner's trademarks have acquired distinctiveness as a trademark for wines that meet certain standards and is

now a famous and well known mark throughout the United States as used on wine.

11. If Respondent is permitted to keep the registration, it would maintain a prima facie exclusive right to its mark. Such registration would be a source of damage and injury to Petitioner.

WHEREFORE, Petitioner prays that Registration No. 3426709 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

Respectfully submitted for Petitioner


Cecelia M. Perry

McGlew and Tuttle, P.C.
Scarborough Station
Scarborough, New York 10510
Telephone: 914-942-5600
Facsimile: 914-941-5855
Email: cperry@mcglewtuttle.com

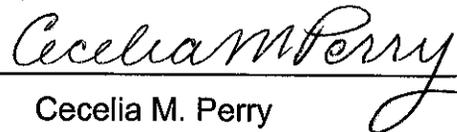
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF CANCELLATION is being served by first class mail, postage prepaid, this 28th day of August, 2009, on Respondent at:

RMV LLC
c/o Smyth & Mason 701 5th Ave #71
Seattle, Washington 98014

and

RMV LLC
RMV LLC
Seattle, Washington 98014


Cecelia M. Perry

T72604.5

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-08-28 13:00:34 ET

Serial Number: 79030723 Assignment Information Trademark Document Retrieval

Registration Number: 3449630

Mark



(words only): CHIANTI CLASSICO DAL 1716

Standard Character claim: No

Current Status: Registered.

Date of Status: 2008-06-17

Filing Date: 2006-05-05

Transformed into a National Application: No

Registration Date: 2008-06-17

Register: Principal

Law Office Assigned: LAW OFFICE 116

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2008-06-17

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CONSORZIO VINO CHIANTI - CLASSICO

Address:

CONSORZIO VINO CHIANTI - CLASSICO
Via Pianigiani, 9 I-53017 RADDA DI CHIANTI (SI)

Italy

Legal Entity Type: CONSORTIUM

State or Country Where Organized: Italy

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

Wine

Basis: 66(a)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Color(s) Claimed: The color(s) black, gold, white, brown, and red is/are claimed as a feature of the mark.

Disclaimer: "DAL 1716"

Description of Mark: The mark consists of a rounded label with an irregular edge in the centre of which is a black cock on a shaded gold background delimited by a circular white and brown ribbon drawn with a three-dimensional effect; the exterior red annulus is delimited by a circumference in gold which contains in the upper part the inscription "CHIANTI CLASSICO" in white and in the lower part the inscription "DAL 1716"; outside the annulus is an irregular red field which gives the mark the appearance of a wax seal.

Translation: The English translation of "CHIANTI CLASSICO DAL 1716" is CLASSIC CHIANTI SINCE 1716.

Design Search Code(s):

03.15.03 - Chickens, hens, roosters; Chicks; Hens; Rooster

03.15.24 - Stylized birds and bats

24.05.01 - Circular or elliptical seals; Seals, circular or elliptical

24.09.07 - Advertising, banners; Banners

26.01.07 - Circles with a decorative border, including scalloped, ruffled and zig-zag edges

26.01.18 - Circles, three or more concentric; Concentric circles, three or more; Three or more concentric circles

26.01.21 - Circles that are totally or partially shaded.

Prior Registration Number(s):

889138

MADRID PROTOCOL INFORMATION

International Registration Number: 0902976

International Registration Date: 2006-05-05

Priority Claimed: No

Date of Section 67 Priority Claim: (DATE NOT AVAILABLE)

International Registration Status: Request For Extension Of Protection Processed
Date of International Registration Status: 2006-11-23
International Registration Renewal Date: 2016-05-05
Notification of Designation Date: 2006-11-23
Date of Automatic Protection: 2008-12-21
Date International Registration Cancelled: (DATE NOT AVAILABLE)
First Refusal: Yes

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-03-24 - TEAS Change Of Correspondence Received
2008-10-31 - Final Decision Transaction Processed By IB
2008-09-30 - Final Disposition Notice Sent To IB
2008-09-30 - Final Disposition Processed
2008-09-17 - Final Disposition Notice Created, To Be Sent To IB
2008-06-17 - Registered - Principal Register
2008-04-01 - Published for opposition
2008-03-12 - Notice of publication
2008-02-23 - Law Office Publication Review Completed
2008-02-23 - Assigned To LIE
2008-01-23 - Approved for Pub - Principal Register (Initial exam)
2008-01-18 - Teas/Email Correspondence Entered
2008-01-18 - Communication received from applicant
2008-01-18 - TEAS Response to Office Action Received
2007-07-26 - Change Of Address Received From IB
2007-07-18 - Examiner's Amendment/Priority Action Mailed
2007-07-18 - Examiners Amendment And/Or Priority Action - Completed
2007-07-16 - Assigned To Examiner
2007-07-09 - Correction From IB Entered - No Review Required

2007-06-21 - Correction Transaction Received From IB
2007-06-13 - TEAS Change Of Correspondence Received
2007-06-13 - Teas/Email Correspondence Entered
2007-06-13 - Communication received from applicant
2007-06-13 - TEAS Response to Office Action Received
2006-12-29 - Refusal Processed By IB
2006-12-13 - Non-Final Action Mailed - Refusal Sent To IB
2006-12-13 - Refusal Processed By MPU
2006-12-09 - Non-Final Action (Ib Refusal) Prepared For Review
2006-12-08 - Non-Final Action Written
2006-11-27 - Assigned To Examiner
2006-11-27 - New Application Entered In Tram
2006-11-23 - Sn Assigned For Sect 66a Appl From IB

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

Cecelia M. Perry
McGlew and Tuttle, P.C.
Scarborough Station
Scarborough NY 10510-9227
Phone Number: 914-941-5600
Fax Number: 914-941-5855



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VIA PIANIGIANI, 9

I-53017 RADDA DI CHIANTI (SI), ITALY

Entity Type: UNKNOWN**Citizenship:** ITALY**Correspondent:** CONSORZIO VINO CHIANTI - CLASSICO

VIA PIANIGIANI, 9

I-53017 RADDA DI CHIANTI (SI)

ITALY

Search Results as of: 08/28/2009 01:00 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.

Web interface last modified: October 18, 2008 v.2.0.2

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This page was generated by the TARR system on 2009-08-28 13:01:38 ET

Serial Number: 72301331 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 889138

Mark



(words only): CHIANTI CLASSICO CONSORZIO VINO CHIANTICLASSICO

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2000-12-15

Filing Date: 1968-06-25

Transformed into a National Application: No

Registration Date: 1970-04-07

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2008-11-21

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CONSORZIO VINO CHIANTI CLASSICO

Address:
CONSORZIO VINO CHIANTI CLASSICO
VIA PIANIGIANI 9

I-53017 RADDA IN CHIANTI (SI)
Italy
Legal Entity Type: CONSORTIUM
State or Country Where Organized: Italy

GOODS AND/OR SERVICES

U.S. Class: 047 (International Class 033)
Class Status: Active
CLASSIC CHIANTI WINE
Basis: 1(a)
First Use Date: 1967-06-00
First Use in Commerce Date: 1967-08-00

ADDITIONAL INFORMATION

Disclaimer: THE WORDS "VINO CHIANTI CLASSICO" ARE DISCLAIMED APART FROM THE MARK AS SHOWN.

Lining and Stippling: THE DRAWING IS LINED FOR THE COLORS RED AND GOLD.

Translation: THE WORDS "VINO CHIANTI CLASSICO" MAY BE TRANSLATED AS "WINE CLASSIC CHIANTI".

Design Search Code(s):

03.15.03 - Chickens, hens, roosters; Chicks; Hens; Rooster
20.03.10 - Alcohol bottle labels; Bottles, labels for alcohol bottles; Labels, alcohol bottles
24.05.01 - Circular or elliptical seals; Seals, circular or elliptical
24.09.07 - Advertising, banners; Banners

Prior Registration Number(s):
352136

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-11-21 - Case File In TICRS

2006-11-01 - Automatic Update Of Assignment Of Ownership

2000-12-15 - Second renewal 10 year

2000-12-15 - Section 8 (10-year) accepted/ Section 9 granted

2000-04-07 - Combined Section 8 (10-year)/Section 9 filed

1990-06-20 - First renewal 10 year

1990-03-20 - Section 9 filed/check record for Section 8

1990-03-20 - Post Registration action correction

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

MCGLEW AND TUTTLE

Correspondent

MCGLEW AND TUTTLE
SCARBOROUGH STATION
SCARBOROUGH, N. Y. 10510-0827

Domestic Representative

MCGLEW AND TUTTLE



United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 3

Serial #: [72301331](#)

Filing Dt: 06/25/1968

Reg #: [889138](#)

Reg. Dt: 04/07/1970

Registrant: CONSORZIO VINO CHIANTI CLASSICO

Mark: CHIANTI CLASSICO CONSORZIO VINO CHIANTIC

Assignment: 1

Reel/Frame: [0699/0722](#)

Received:

Recorded: 03/20/1990

Pages: 0

Conveyance: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

Assignor: [CONSORZIO VINO CHIANTI CLASSICO](#)

Exec Dt: 03/01/1990

Entity Type: CORPORATION

Citizenship: ITALY

Assignee: [CONSORZIO DEL GALLO NERO](#)VIA PIANIGIANI 9, RADDA IN CHIANTI
SIENA, ITALY

Entity Type: CORPORATION

Citizenship: ITALY

Correspondent:

Assignment: 2

Reel/Frame: [0911/0204](#)

Received:

Recorded: 11/06/1992

Pages: 40

Conveyance: CHANGE OF NAME

Assignor: [CONSORZIO DEL GALLO NERO](#)

Exec Dt: 05/25/1992

Entity Type: SEE DOCUMENT FOR
DETAILS

Citizenship: NONE

Assignee: [CONSORZIO DEL MARCHIO STORICO - CHIANTI CLASSICO](#)

VIA PIANIGIANI 9 RADDA IN CHIANTI SIENA ITALY

Entity Type: SEE DOCUMENT FOR
DETAILS

Citizenship: NONE

Correspondent: JESS M. COLLEN

MCGLEW AND TUTTLE, P.C.
SCARBOROUGH STATION
SCARBOROUGH, NEW YORK 10510-0827

Assignment: 3

Reel/Frame: [3419/0762](#)

Received: 11/01/2006

Recorded: 11/01/2006

Pages: 12

Conveyance: MERGER

Assignor: [CONSORZIO DEL MARCHIO STORICO CHIANTI CLASSICO](#)

Exec Dt: 05/06/2005

Entity Type: CONSORTIUM

Citizenship: ITALY

Assignee: [CONSORZIO VINO CHIANTI CLASSICO](#)VIA PIANIGIANI 9
I-53017 RADDA IN CHIANTI (SI), ITALY

Entity Type: CONSORTIUM

Citizenship: ITALY

Correspondent: CECELIA M. PERRY

MCGLEW AND TUTTLE, P.C.
SCARBOROUGH STATION
SCARBOROUGH, NY 10510-9227

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