



02-13-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #01

Attorney Docket: AN USA OP002

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

In the Matter of Application Serial No. 76/074,330
Published in the *Official Gazette* on January 28, 2003
For the Mark: WILD GEESE

-----X	
AUSTIN NICHOLS & CO., INC. dba	:
PERNOD RICARD U.S.A.	:
	:
Opposer,	:
	:
v.	:
	:
STICHTING LODESTAR	:
	:
Applicant.	:
-----X	

Opposition No.:

NOTICE OF OPPOSITION

Opposer Austin, Nichols & Co., Inc., dba Pernod Ricard U.S.A. (hereinafter "Opposer"), a corporation organized and existing under the laws of the State of Delaware and located as 777 Westchester Ave., White Plains, NY 10604, believes that it will be damaged by the registration of the mark WILD GEESE, Serial No. 76/074,330, filed on June 6, 2000, by Stitching Lodestar, Prinses Irenestraat 59, 1077 WV Amsterdam, Netherlands (hereinafter "Applicant"), published for opposition in the *Official Gazette* on January 28, 2003, and hereby opposes the same.

The grounds for opposition are as follows:

1. Since 1942, Opposer has manufactured, distributed, and sold in commerce in the United States various alcoholic beverage products bearing the trademark WILD TURKEY. Opposer owns the following U.S. trademark registrations for this mark for the words alone and in conjunction with other words, stylized lettering and/or designs:

Registration No. 2,263,231

Mark:	WILD TURKEY
Class/Goods:	33/Whiskey
Registration No.	513,549
Mark:	WILD TURKEY Stylized
Class/Goods:	33/Whiskey
Registration No.	1,912,713
Mark:	WILD TURKEY KENTUCKY COOLERS
Class/Goods:	33/Alcoholic Beverages, namely bourbon combined with a non-alcoholic mixer
Registration No.	1,670,450
Mark:	WILD TURKEY KENTUCKY LEGEND BEYOND DUPLICATION & DESIGN
Class/Goods:	33/Distilled alcoholic beverages, namely whiskey
Registration No.	1,299,830
Mark:	WILD TURKEY ONE-O-ONE & DESIGN
Class/Goods:	33/Whiskey
Registration No.	1,085,002
Mark:	WILD TURKEY
Class/Goods:	33/Liqueur

These marks are hereinafter referred to collectively as the "WILD TURKEY Marks."

3. Since introducing its alcoholic beverage products, Opposer has sold millions of cases of such products bearing the WILD TURKEY Marks throughout the United States.

4. Since introducing its alcoholic beverage products, Opposer has expended millions of dollars on advertising and sales promotion for such products bearing the WILD TURKEY Marks throughout the United States.

5. As a result of Opposer's extensive sales and expenditures for advertising and promotion of its alcoholic beverage products, Opposers' WILD TURKEY Marks are famous marks and have come to signify products originating with Opposer and to symbolize goodwill of incalculable value. Alcoholic beverages bearing Opposer's WILD TURKEY Marks have become well-known leading brands of alcoholic beverages in the United States.

6. On January 28, 2003, Applicant's WILD GEESE mark for "beers, mineral and aerated waters; cola; soft drinks, namely, pop; lemonade; carbonated soft drinks; low calorie soft drinks; non-carbonated soft drinks; fruit drinks and fruit juices; syrups and preparations for making beers, mineral and aerated waters, cola, carbonated drinks, soft drinks, lemonade, carbonated soft drinks, low calorie soft drinks, non-carbonated soft drinks, fruit drinks and fruit juices" in international Class 32 and "alcoholic beverages, namely, wine, rum, gin, vodka, whiskey, alcoholic bitters, brandy, hard cider, distilled spirits, distilled liquor, alcoholic aperitif bitters, aperitif wines; aperitifs with a distilled alcoholic liquor base; aperitifs with a wine base; sake and prepared alcoholic cocktails" in International Class 33 (hereinafter "Applicant's Mark"), was published for opposition in the *Official Gazette*. The application was filed on June 20, 2000 based upon Section 44(e) of the Lanham Act.

7. Applicant's Mark is confusingly similar to Opposer's WILD TURKEY Marks in that both Applicant and Opposer sell alcoholic beverages under the marks and both marks use the word "wild" in connection with the name of a game bird.

8. The goods for which Applicant seeks to register the Applicant's Mark are identical and closely related to the goods for which Opposer has registered its WILD TURKEY Marks.

9. Upon information and belief, Applicant's goods are marketed or will be marketed through the same channels of trade and to the same class of consumers as the goods of Opposer.

10. Prospective purchasers of Applicant's goods are likely to erroneously believe that such goods are produced by or under the authority of Opposer, or to erroneously assume that there is some other trade connection between Opposer and Applicant.

11. Applicant's Mark so resembles Opposer's WILD TURKEY Marks that, when

used on or in conjunction with the goods of Applicant:

- (a) It is likely to cause confusion, or to cause mistake, or to deceive;
- (b) It falsely suggests a connection with Opposer;
- (c) It tends to damage Opposer's goodwill in its aforementioned marks; and
- (d) It is likely to dilute the distinctive qualities of Opposer's aforementioned marks.

WHEREFORE, Opposer prays that its Opposition to the registration of Application Serial No. 76/074,330 be sustained.

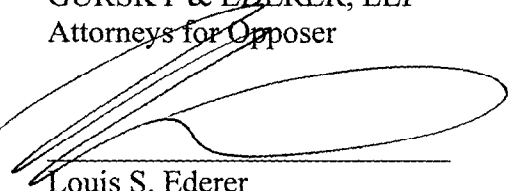
The Commissioner is authorized to charge \$600 for the Notice of Opposition and any additional fee which may be required the undersigned's Deposit Account No. 07-2490.

Please recognize Steven R. Gursky, Louis S. Ederer, Mary L. Grieco, who are members of the Bar of the State of New York and the firm of Gursky & Ederer, LLP, located at 1350 Broadway, 11th Floor, New York, New York 10018, as attorneys for Opposer.

Respectfully submitted,

GURSKY & EDERER, LLP
Attorneys for Opposer

By:



Louis S. Ederer
Mary L. Grieco
1350 Broadway, 11th Floor
New York, New York 10018
Tel.: (212) 904-1234
Fax.: (212) 967-4465

Dated: February 12, 2003



TTAB



02-13-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #01

GURSKY & EDERER, LLP
1350 BROADWAY
11TH FLOOR
NEW YORK, NEW YORK 10018
TEL: (212) 904-1234
FAX: (212) 967-4465
WWW.GURSKY-EDERER.COM

MARY L. GRIECO
MGRIECO@GURSKY-EDERER.COM

February 13, 2003

BY EXPRESS MAIL # EV 490046548 US

BOX: TTAB - FEE

Commissioner for Trademarks

2900 Crystal Drive

Arlington, Virginia 22202-3513

Re:	<u>Notice of Opposition for:</u>	
Applicant	:	Stichting Lodestar
Opposer	:	Austin Nichols & Co., Inc. dba Pernod Ricard
		U.S.A.
Mark	:	WILD GEESE
Serial No.	:	76/074,330
Published in OG	:	January 28, 2003
Attorney Docket	:	AN USA OP002

Dear Sir:

We are enclosing herewith the following documents in connection with the filing of the Opposition in the above-identified application.

- (X) An executed Notice of Opposition (in duplicate);
- (X) Certificate of Express Mail; and
- (X) An acknowledgment postcard.

Please acknowledge receipt by date stamping the enclosed postcard.

The Commissioner is authorized to charge \$600 for the Notice of Opposition and any additional fee which may be required to our Deposit Account No. 07-2490.

Respectfully yours,

GURSKY & EDERER, LLP

By:

Mary L. Grieco

MLG:yio