

ESTTA Tracking number: **ESTTA31536**

Filing date: **04/27/2005**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Wine News, Inc.		
Entity	Corporation	Citizenship	New York
Address	103 Fairview Park Drive Elmsford, NY 10523 UNITED STATES		

Name	The Wine Enthusiast, Inc.		
Entity	Corporation	Citizenship	New York
Address	103 Fairview Park Drive Elmsford, NY 10523 UNITED STATES		

Attorney information	Neal R. Platt Law Office of Jack M. Platt, Esq. 1270 Avenue of the Americas Suite 2602 New York, NY 10020 UNITED STATES lawnrp@aol.com Phone:212-332-3332		
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Applicant Information

Application No	78327655	Publication date	04/26/2005
Opposition	04/27/2005	Opposition	05/26/2005

Filing Date		Period Ends	
Applicant	Wine Impact, Inc. 717 Waverly Road Bryn Mawr, PA 19010 UNITED STATES		

Goods/Services Affected by Opposition

Class 035.

All goods and services in the class are opposed, namely: ORGANIZING COMMERCIAL EXHIBITIONS FOR THE PURPOSES OF TESTING, TASTING, RATING AND GRADING WINE

Attachments	oppfile.pdf (5 pages)
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Signature	/NP1954/
Name	Neal R. Platt
Date	04/27/2005

NEAL R. PLATT, ESQ.
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(212) 332-3332
*Attorney for Opposers Wine News, Inc.
and The Wine Enthusiast, Inc.*

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

In the Matter of Application Serial No. 78/327655
for the mark STARWINE
Published in the Official Gazette of April 26, 2005

WINE NEWS, INC. and
THE WINE ENTHUSIAST, INC.,

Opposers,

-against-

WINE IMPACT, INC.,

Applicant.

OPPOSITION

Opposers Wine News, Inc. (“Wine News”) and The Wine Enthusiast, Inc. (“The Wine Enthusiast”), each of which is a corporation organized and existing under the laws of the State of New York having its principal place of business at 103 Fairview Park Drive, Elmsford, New York 10523, believe that they will be damaged by registration of the mark shown in the above-mentioned application Serial No. 78/327655 (the “Application”) and hereby oppose the Application. As grounds for opposition, it is alleged that:

Applicant

1. Applicant has filed Application Serial No. 78/327655 on an intent-to-use basis to register the word STARWINE (“Applicant’s Mark”) as Applicant’s service mark in connection with “organizing commercial exhibitions for the purposes of testing, tasting, rating and grading wine.”

2. In addition to the services in connection with which Applicant has applied to register Applicant’s Mark, Applicant is also using its mark in connection with awards presented (or to be presented) to individuals and organizations in recognition of their contributions to the wine industry, and in connection with related dinners. Such awards and dinners are substantially similar to Opposers’ WINE STAR Awards and annual WINE STAR Awards dinners, as described below.

3. Applicant has heretofore announced that it will present an award to one or more recipients of Opposers’ WINE STAR Awards, as described below.

Opposers

4. Opposers Wine News and The Wine Enthusiast are part of a group of companies under common ownership and operation, known informally as “The Wine Enthusiast Companies.” The Wine Enthusiast Companies make use of each other’s marks with each other’s consent and with the consent of the common owner(s) and operator(s). Since approximately 1994, The Wine Enthusiast Companies have been engaged in the nationwide and international direct sale of wine-related merchandise through THE WINE ENTHUSIAST[®] catalog and on the Internet through the www.winenthusiast.com website. Opposer Wine News is the owner and operator of WINE ENTHUSIAST MAGAZINE[®], and operates wine-tasting events from time to time.

Opposers’ Use of Their Mark

5. Opposer Wine News is the owner and operator of the WINE STAR Awards and the annual WINE STAR Awards dinners. (WINE STAR may be referred to hereinafter as “Opposers’ Mark”). WINE STAR awards are presented to individuals and organizations in recognition of their outstanding contributions to the wine industry. Presentation of the awards is made at the WINE STAR Awards dinner held in New York City each year. Since at least as early as May 2001, such dinners have

been held at prominent New York venues, such as the American Museum of Natural History and the New York Public Library.

6. Since the inception of Opposers' WINE STAR Awards dinners, thousands of notables in the wine, wine-publishing, and related industries have attended WINE STAR Awards dinners, and hundreds have proudly received awards. The annual WINE STAR Awards dinner is a major trade event covered by national trade press and non-trade media.

7. In addition, Opposer The Wine Enthusiast is the owner of a U.S. Reg. No. 2,540,102 for WINE STAR on the Principal Register of the U.S. Patent & Trademark Office in connection with "refrigerators for the storing and cooling of wine." The claimed date of first use is October 1, 2000, the filing date is March 13, 2001, and the registration date is February 19, 2002.

8. Opposers' Mark is symbolic of extensive good will and industry- and consumer-recognition built up by substantial amounts of time, effort, and expense in advertising and promotion.

Applicant's Knowledge of Opposers' Mark

9. Prior to the filing date of Applicant's application to register the Mark and prior to any adoption of the Mark by Applicant, Applicant had actual knowledge of Opposers' WINE STAR Awards and the annual WINE STAR Awards dinners.

10. In fact, prior to the filing date of Applicant's application to register the Mark and prior to any adoption of the Mark by Applicant, the attendees at Opposers' WINE STAR Awards Dinners have included one or more of Applicant's owners, directors, officers, and/or representatives.

11. If Applicant obtains registration of STARWINE, Opposers believe that their ability to utilize WINE STAR will be severely impaired.

Likelihood of Confusion

12. In view of the similarity of the respective marks, the closely related nature of the goods and services of the respective Opposers and Applicant, and the substantial similarity of Opposers' and Applicant's actual and target markets, it is alleged that Applicant's Mark so resembles Opposers' Mark previously used in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake or to deceive.

Applicant's Mark Not a Valid Trademark

13. In light of the above allegations, Applicant is not entitled to registration of its purported mark STARWINE in that Applicant is not entitled to the exclusive use of the phrase in commerce in connection with the goods and services specified in the Application and, further, in that Applicant's purported mark may not function to identify Applicant's goods and services, and to distinguish them from those offered by others, including, but not necessarily limited to, those of Opposers.

Appointment

14. Neal R. Platt, Esq., whose postal address is Law Office of Jack M. Platt, Esq., Suite 2602, 1270 Avenue of the Americas, Rockefeller Center, New York, New York 10020, is hereby designated Opposers' representative upon whom notices or process in this Opposition may be served.

Declaration

15. The undersigned declares that he is president of each Opposer, and is authorized to make this declaration on behalf of each Opposer, that all statements made in this Opposition of his own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Opposition or document or any decision resulting therefrom.

WHEREFORE, Opposers demand judgment sustaining this Opposition and adjudging that Applicant is not entitled to the registration of the trademark for which it has made Application Serial No. 78/327655.

Dated: New York, New York
April 27, 2005



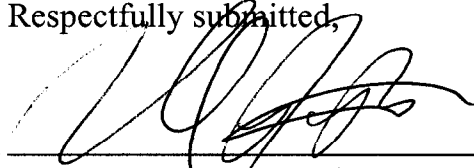
ADAM M. STRUM

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ATTORNEY'S SIGNATURE

Dated: New York, New York
April 27, 2005

Respectfully submitted,



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