

ESTTA Tracking number: **ESTTA337721**

Filing date: **03/17/2010**

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	Institut National de l'Origine et de la Qualité		
Entity	Organization	Citizenship	France
Address	51 rue d'Anjou Paris, 75008 FRANCE		

Attorney information	Peter M. Brody Ropes & Gray LLP One Metro Center, 700 12th Street, NW Suite 900 Washington, DC 20005-3948 UNITED STATES trademarks@ropesgray.com
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Applicant Information

Application No	77539447	Publication date	02/16/2010
Opposition Filing Date	03/17/2010	Opposition Period Ends	03/18/2010
Applicant	Jose Cuervo, S.A. De C.V. Guillermo Gonzalez Camarena #800 Zedec Santa Fe, Delegacion A. Obregon Mexico D.F., C.P.01210 MEXICO		

Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Alcoholic beverages, namely, brandy
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Grounds for Opposition

Geographic indication which, if used on or in connection with wine or spirits, identifies a place other than the origin of the goods	Uruguay Round Agreements Act section 2(9)
Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is primarily geographically deceptively misdescriptive	Trademark Act section 2(e)(3)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	The controlled appellation of origins (AOCs) CHEVERNY and COUR-CHEVERNY used in connection with wines produced in a delimited		

	geographic area of France, in accordance with methods and limitations set forth in French law.
Goods/Services	The controlled appellation of origins (AOCs) CHEVERNY and COUR-CHEVERNY used in connection with wines produced in a delimited geographic area of France, in accordance with methods and limitations set forth in French law.

Attachments	Notice of Opposition.pdf (7 pages)(185300 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	/p brody/
Name	Peter M. Brody
Date	03/17/2010

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

_____)	
INSTITUT NATIONAL DE L'ORIGINE)	Opposition No. _____
ET DE LA QUALITÉ,)	
)	Application Serial No.
Opposer,)	77/539,447
)	
v.)	Published in the Official
)	Gazette on
JOSE CUERVO, S.A.,)	February 16, 2010
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Opposer, the Institut National de l'Origine et de la Qualité (the "INOQ"), an entity organized and existing under the laws of the Republic of France and located at 51 rue d'Anjou, Paris, France 75008, hereby opposes the application ("Application") filed by applicant Jose Cuervo, S.A. ("Applicant"), to register the mark "CHEVERNY" in International Class 33 based on an intent to use said mark on or in connection with "Alcoholic beverages, namely, brandy" (U.S. Application Serial No. 77/539,447, published for opposition in the Official Gazette of February 16, 2010). Opposer believes that it will be damaged by registration of the subject mark, and as grounds of opposition, avers as follows:

1. The INOQ, formerly known as the Institut National des Appellations d'Origine, is a public body, under the aegis of the Ministry of Agriculture, which was established by decree-law of the French Republic dated July 30, 1935. The INOQ's principal functions include

defining and recognizing French *appellations d'origine*, or appellations of origin, and the products entitled to bear those appellations, and protecting French appellations of origin from misuse and misappropriation in France and abroad. "Appellation of Origin" refers to a geographical designation (country, region or locality) that designates a product originating therein, the quality and characteristics of which are due exclusively or primarily to the geographic environment, including natural and human factors. Certain products identified and classified according to this system may bear an *appellation d'origine contrôlée* (an "AOC"), or controlled appellation of origin. Each AOC is recognized by a decree-law which not only delimits the specific area to which the appellation pertains, but also specifies the agricultural products from which the product may be derived and the agricultural and production methods and techniques that may be used to make the product. Compliance with the appellation of origin and AOC system is monitored by the INOQ, in conjunction with other governmental agencies and certain nongovernmental organizations, which are responsible for the protection of specific AOCs. The INOQ receives funds listed in the budget of the Ministry of Agriculture, the amount of which generally reflects a portion of the proceeds of a special tax paid by producers of French appellation of origin products, and which is based on the volume of such products produced and sold under this system.

2. "CHEVERNY" and "COUR-CHEVERNY" are, and for many years have been, among the appellations of origin for wines recognized and protected by the INOQ and are the distinctive designations of high quality products. The appellation of origin "CHEVERNY" was first recognized as a *vin délimité de qualité supérieure*, or "VDQS," in 1973, and was elevated to the category of AOC by decree law of March 26, 1993. (VDQS is a classification between the

category of AOC and the category *vin de pays*.) The appellation of origin “COUR-CHEVERNY” was recognized as an AOC by decree law of March 24, 1993.

3. By these and subsequent decree laws, France has restricted the use of these AOCs to still wines (with the AOC “CHEVERNY” restricted to still red, rosé, and white wines and the AOC “COUR-CHEVERNY” restricted to still white wines) produced in a specified area within the Department of the Loir-et-Cher, in the Touraine region of the Loire Valley of France, and in accordance with conditions specified in and pursuant to the AOC laws. Use of these AOCs constitutes an assurance to customers by the INOQ, the French regulatory authority specifically charged with safeguarding the integrity of these important French designations, that the products bearing these designations have been produced in accordance with these strict standards.

4. The use of “CHEVERNY” and “COUR-CHEVERNY” as AOCs for wines is in fact controlled by a certifier and limited to products meeting the certifier’s standards of regional origin.

5. The AOCs “CHEVERNY” and “COUR-CHEVERNY” denote, and are understood by wine consumers and others to denote, a specific regional origin. Products qualifying for these AOCs have been legally and continuously sold in the United States for a period beginning many years before August 5, 2008, the filing date of the Application and the date of constructive use of the subject mark in commerce. The AOCs “CHEVERNY” and “COUR-CHEVERNY” are symbolic of the good will and consumer recognition built up through the efforts and investments of the INOQ in the appellation of origin system and its AOCs, and through the promotion and sales of these quality products by those certified by the INOQ to use these particular AOCs.

6. The Application identifies the goods on or in connection with which Applicant intends to use the subject mark as “Alcoholic beverages, namely, brandy.”

7. The Application does not allege actual use of the subject mark in commerce. The constructive use date of August 5, 2008 is more than one year after the date on which the WTO Agreement, as defined in 19 U.S.C. § 3501 (9), entered into force with respect to the United States.

8. The identification of goods set forth in the Application contains no geographical limitation, and specifically, does not restrict the goods to those originating in the specific area of France from which wines entitled to bear the AOCs “CHEVERNY” and “COUR-CHEVERNY” originate. On information and belief, the goods on or in connection with which Applicant intends to use the subject mark do not, in fact, originate in that area.

9. On information and belief, the goods in connection with which Applicant intends to use the subject mark are not certified by the INOQ to bear the AOC “CHEVERNY” or the AOC “COUR-CHEVERNY” and are not entitled to be certified to bear either of those AOCs under the laws of France.

10. Accordingly, the subject mark, when used on or in connection with the goods identified in the Application, consists of or comprises a geographical indication which, when used on or in connection with wines or spirits, identifies a place other than the origin of the goods and was first used on or in connection with wines or spirits by Applicant on or after one year after the date on which the WTO Agreement, as defined in 19 U.S.C. § 3501 (9), entered into force with respect to the United States. Accordingly, registration of Applicant’s mark should be refused under Section 2(a) of the Trademark Act of 1946, 15 U.S.C. § 1052(a).

11. Likewise, the subject mark, when used on or in connection with the goods identified in the Application, consists of or comprises a mark that is primarily geographically deceptively misdescriptive of such goods. Accordingly, registration of Applicant's mark should be refused under Section 2(e)(3) of the Trademark Act of 1946, 15 U.S.C. § 1052(e)(3).

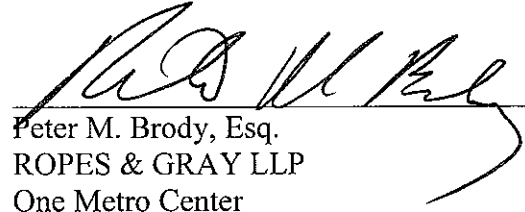
12. In addition, the subject mark consists of or comprises a mark that so resembles the protected AOCs "CHEVERNY" and "COUR-CHEVERNY" previously used within the United States by others as to be likely, when applied to the goods identified in the Application, to cause confusion, or to cause mistake, or to deceive as to the source, sponsorship or affiliation of Applicant's goods. Accordingly, registration of Applicant's mark should be refused under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

13. The forms of damage that Opposer believes it or persons it represents are likely to suffer as a result of the registration of the subject mark include, but are not limited to, damage to the goodwill attached to the AOCs "CHEVERNY" and "COUR-CHEVERNY" and damage to the rights and interests of Opposer and those certified to use the AOCs "CHEVERNY" and "COUR-CHEVERNY."

WHEREFORE, Opposer prays that Application Serial No. 77/539,447 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Opposer hereby appoints Ropes & Gray to act as its attorneys with full power to prosecute this opposition, to transact all relevant business with the Patent and Trademark Office and to receive all official communications with respect to this opposition.

Respectfully submitted,



Peter M. Brody, Esq.
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Attorneys for the Institut National
de l'Origine et de la Qualité

Dated: March 17, 2010

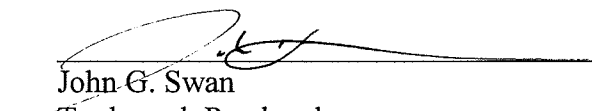
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INSTITUT NATIONAL DE L'ORIGINE)	Opposition No. _____
ET DE LA QUALITÉ,)	
Opposer,)	Application Serial No.
v.)	77/539,447
JOSE CUERVO, S.A.,)	Published in the Official
Applicant.)	Gazette on
_____)	February 9, 2010

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of March, 2010, a true and correct copy of the foregoing NOTICE OF OPPOSITION was served upon the attorney of record for Applicant, Jose Cuervo, S.A., by first class mail, postage prepaid, addressed as follows:

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