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

Proceeding	91198984
Party	Defendant Freixenet, S.A.
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Date	04/15/2011
Attachments	Freixenet Elyssia Answer to Notice of Opposition (2).pdf ( 4 pages )(92347 bytes )

**UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

QUADY WINERY INC.	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91198984
	)	
FREIXENET, S.A.	)	
	)	
Applicant.	)	

**ANSWER TO NOTICE OF OPPOSITION**

Applicant, Freixenet, S.A. (“Applicant”), hereby answers the Notice of Opposition filed by Quady Winery Inc. (“Opposer”) as follows:

1. Applicant admits that Opposer is listed as the registrant of U.S. Trademark Registration No. 1,511,192, for the mark ELYSIUM in Class 33 for "wines" in the United States Patent and Trademark Office’s Trademark Applications and Registrations Retrieval (TARR) system. Applicant also admits that the record for this registration on the TARR system lists a filing date of March 2, 1988, a claimed first use in commerce date of May 9, 1984, and a registration date of November 1, 1988. Applicant also admits TARR records indicate that Opposer filed a Combined Section 8 & 15 Declaration on December 13, 1993, and that Exhibit A to the Notice of Opposition is a copy of Opposer's Certificate of Registration as it appears in TARR records. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph, and therefore denies them.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and therefore denies them.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and therefore denies them.

4. Applicant admits that on September 9, 2009, it filed a territorial extension into the United States, Serial No. 79/075401, of its International Registration No. 1019540 of the mark



for "sparkling wines" in International Class 33, under Section 66(a) of the Trademark Act, claiming a priority filing date of April 5, 2009, under the Paris Convention

5. Applicant admits that the bottle shape is not claimed as part of the mark, and denies the remaining allegations in this paragraph.

6. Applicant affirmatively alleges that the mark sought to be registered in the application opposed herein is the mark depicted in the official drawing of record in the application opposed herein, and otherwise denies the allegations of this paragraph.

7. Applicant admits that Exhibit B to the Notice of Opposition is a copy of a page from Applicant's web site. Applicant denies the remaining allegations of this paragraph.

8. Denied.

9. Denied.

10. Applicant admits that Opposer's Mark and Applicant's Mark both cover goods in International Class 33, and denies the remaining allegations of this paragraph.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11, and therefore denies them.

12. Denied.

13. Denied.

14. Applicant admits that if Applicant's Mark is permitted to register, the registration would entitle Applicant to the presumptions and rights set forth in the Trademark Act. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14 that Opposer has expended considerable sums and effort in promoting Opposer's Mark, and therefore denies them. Applicant denies the remaining allegations of Paragraph 14.

WHEREFORE, Applicant requests that the Notice of Opposition be dismissed and the subject application proceed to registration.

Dated: April 15, 2011

Respectfully submitted,

PATTISHALL, McAULIFFE, NEWBURY,  
HILLIARD & GERALDSON LLP

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of Applicant's **ANSWER TO NOTICE OF OPPOSITION** was served upon the following by first-class mail, postage prepaid on April 15, 2011:

Margaret C. McHugh  
Tali L. Alban  
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/Alexis E. Payne/\_\_\_\_\_