

ESTTA Tracking number: **ESTTA446403**

Filing date: **12/14/2011**

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	Riley Wine Corporation
Granted to Date of previous extension	12/14/2011
Address	4191 Las Tablas Willow Creek Road Paso Robles, CA 93446 UNITED STATES

Attorney information	Aaron D. Currie Sonoma Law Group, Inc. 445 Orchard Street, Suite 204 Santa Rosa, CA 95404 UNITED STATES acurrie@sonomalawgroup.com
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Applicant Information

Application No	85287492	Publication date	08/16/2011
Opposition Filing Date	12/14/2011	Opposition Period Ends	12/14/2011
Applicant	Vintage Wine Estates, Inc. 205 Concourse Blvd. Santa Rosa, CA 95403 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 2011/03/24 First Use In Commerce: 2011/03/24
All goods and services in the class are opposed, namely: Wine

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BLACKBURN		
Goods/Services	Wine		

Related	On September 2, 2011, Riley Wine Corporation commenced litigation against
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Proceedings	Vintage Wine Estates, Inc. in the United States District Court, Northern District of California, Case No C11-04388.
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Attachments	NtcOppositionB&J (111214).pdf (4 pages)(140622 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.

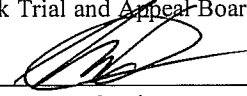
Signature	/Aaron D. Currie/
Name	Aaron D. Currie
Date	12/14/2011

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Certificate of Electronic Filing

I hereby certify that this correspondence is being electronically filed with the Trademark Trial and Appeal Board through the ESTTA system located at <<http://estta.uspto.gov>>.

Dated: December 14, 2011

By 
Aaron D. Currie

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

Riley Wine Corporation,

Opposer,

vs.

Vintage Wine Estates, Inc.,

Applicant.

OPPOSITION NO.

NOTICE OF OPPOSITION

TO THE COMMISSIONER OF TRADEMARKS:

Riley Wine Corporation, a corporation organized under the laws of the State of California and located at 4191 Las Tablas Willow Creek Road, Paso Robles, California 93446 (“Opposer”), believes it will be damaged by registration of the mark BLACKBURN & JAMES for wine, shown in application Serial No. 85/287,492 filed on April 6, 2011, by Vintage Wine Estates, Inc., a California corporation (“Applicant”), and hereby opposes same.

Solely for the purpose of this proceeding, Opposer alleges the following as grounds for opposition:

- 1 1. Applicant seeks to register BLACKBURN & JAMES as a trademark for wine in
2 International Class 33 based on its purported use of the mark in commerce at least
3 as early as March 24, 2011, as evidenced by the publication of such mark on
4 August 16, 2011. The application for such mark was filed with the USPTO on
5 April 6, 2011.
- 6 2. Opposer has continuously used the trade name and mark BLACKBURN
7 (collectively, the "BLACKBURN Mark") in association with wine and the
8 offering of wine for sale throughout the United States since as early as March 1,
9 2006. The first use date for the BLACKBURN Mark precedes any known date of
10 first use or constructive filing date for Applicant's BLACKBURN & JAMES mark
11 for wine.
- 12 3. The BLACKBURN Mark is distinctive and was distinctive prior to any date of
13 alleged actual or constructive use of the BLACKBURN & JAMES mark.
- 14 4. Opposer alleges that Applicant's applied-for mark is likely to cause confusion,
15 mistake or to deceive the public. Applicant's BLACKBURN & JAMES mark for
16 wine is similar to Opposer's BLACKBURN Mark for wine and the respective
17 goods on which the marks are used are identical, substantially similar or related
18 and said products are purchased by the same group of consumers. Accordingly,
19 Applicant's mark is confusingly similar to Opposer's mark such that Applicant is
20 not entitled to register its mark and Applicant's application should be denied in
21 accordance with Section 2(d) of the Trademark Act of 1946, 15 U.S.C. §1052(d).
- 22 5. Opposer avers that if Applicant is granted the registration herein opposed, it would
23 interfere with Opposer's exclusive right to use its BLACKBURN Mark herein
24 relied upon, all to the detriment and damage of Opposer. Accordingly, Opposer
25 avers that for the reasons aforesaid, it will be damaged by a grant of
26 registration to Applicant of its trademark which is the subject of Application Serial
27 No. 85/287,492.

1 WHEREFORE, Opposer prays as follows:

- 2 1. That this Opposition be sustained;
- 3 2. That Application Serial No. 85/287,492 be rejected; and
- 4 3. That registration of the trademark BLACKBURN & JAMES shown and specified
- 5 in Application Serial No. 85/287,492 be refused and denied.
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Dated: December 14, 2011

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Respectfully submitted,

SONOMA LAW GROUP INC.

By: 

Aaron D. Currie

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Santa Rosa, California 95404
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Attorney for Opposer
Riley Wine Corporation

PROOF OF SERVICE

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I declare that I am over the age of 18 years, employed in the County of Sonoma, and not a party to the within action; my business address is 445 Orchard Street, Suite 204, Santa Rosa, California 95404. On December 14, 2011, I served the attached **NOTICE OF OPPOSITION** on the person(s) listed below:

**Angie Gregory
2416 E. 37th St. N.
Wichita, KS 67219**

by enclosing a true copy in a sealed envelope addressed as shown above and placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed December 14, 2011, at Santa Rosa, California.



Annika Areguin
Legal Secretary