

ESTTA Tracking number: **ESTTA499532**

Filing date: **10/11/2012**

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 | Hanzell Vineyards, Ltd. |
| Granted to Date of previous extension | 10/14/2012 |
| Address | 18596 Lomita Avenue Sonoma, CA 95476 UNITED STATES |

| | |
|----------------------|---|
| Attorney information | Susan E. Hollander, Jocelyn M. Belloni K&L Gates 630 Hansen Way Palo Alto, CA 94304 UNITED STATES pltrademarks@klgates.com, jocelyn.belloni@klgates.com Phone:650-798-6700 |
|----------------------|---|

Applicant Information

| | | | |
|------------------------|--|------------------------|------------|
| Application No | 85460699 | Publication date | 04/17/2012 |
| Opposition Filing Date | 10/11/2012 | Opposition Period Ends | 10/14/2012 |
| Applicant | Red Mountain Viticulture, LLC Suite 7100 701 5th Avenue Seattle, WA 98104 UNITED STATES | | |

Goods/Services Affected by Opposition

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| Class 033. All goods and services in the class are opposed, namely: Wine; Wines |
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Grounds for Opposition

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|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

Mark Cited by Opposer as Basis for Opposition

| | | | |
|----------------------|----------------------------|-----------------------|------------|
| U.S. Application No. | 85730979 | Application Date | 09/17/2012 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMBASSADOR'S 1953 VINEYARD | | |

| | |
|---------------------|---|
| Design Mark | AMBASSADOR'S 1953 VINEYARD |
| Description of Mark | NONE |
| Goods/Services | Class 033. First use: First Use: 2006/06/00 First Use In Commerce: 2006/07/00 Wine |

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|-------------|---|
| Attachments | 85730979#TMSN.jpeg (1 page)(bytes) NOP-Hanzell vs. Red Mountain Viticulture.pdf (9 pages)(169060 bytes) |
|-------------|---|

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 | /Jocelyn M. Belloni// |
| Name | Susan E. Hollander, Jocelyn M. Belloni |
| Date | 10/11/2012 |

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

**In the matter of Application Serial No. 85/460,699
Published in the *Official Gazette* on April 17, 2012
Mark: AMBASSADOR VINEYARD**

Hanzell Vineyards, Ltd.,

Opposer,

v.

**Red Mountain Viticulture, LLC DBA La Coyo
Vineyards,**

Applicant.

OPPOSITION NO. _____

NOTICE OF OPPOSITION

Hanzell Vineyards, Ltd., a corporation organized and existing under the laws of California, with a business address of 18596 Lomita Avenue, Sonoma, California 95476 (“Opposer”) believes that it will be damaged by registration of the AMBASSADOR VINEYARD mark shown in Application No. 85/460,699, and hereby opposes its registration pursuant to 15 U.S.C. §§ 1051 *et seq.*, including specifically 15 U.S.C. § 1063.

This Notice of Opposition has been timely filed. As grounds for its opposition, Opposer alleges as follows:

1. Upon information and belief, applicant Red Mountain Viticulture, LLC DBA La Coyo Vineyards is a Washington limited liability company with a mailing address of Suite 7100 701 5th Avenue Seattle, Washington 98104 (“Applicant”).

2. As illustrated in Application Serial No. 85/460,699, Applicant seeks to register the mark AMBASSADOR VINEYARD for “wine” in International Class 33.

3. Since at least as early as June 2006, Opposer has been using in commerce in the United States the AMBASSADOR'S 1953 VINEYARD trademark in connection with wine.

4. Opposer owns pending federal trademark Application No. 85/730,979 for its AMBASSADOR'S 1953 VINEYARD mark for "wine" in International Class 33. True and correct copies of pages printed from the USPTO's online database reflecting this application are attached hereto as Exhibit A, and the mark represented in this application is distinctive (the AMBASSADOR'S 1953 VINEYARD mark is hereinafter referred to as the "AMBASSADOR'S 1953 VINEYARD Mark").

5. Today, Opposer's AMBASSADOR'S 1953 VINEYARD Mark is a highly recognizable and valuable mark in the wine industry. Moreover, due to the national consumer recognition and goodwill of Opposer's AMBASSADOR'S 1953 VINEYARD Mark, consumers have come to recognize the AMBASSADOR'S 1953 VINEYARD Mark as also symbolizing the goodwill inherent in the AMBASSADOR'S 1953 VINEYARD Mark, and further, associate the AMBASSADOR'S 1953 VINEYARD Mark solely with Opposer and its high quality wine.

6. No issue of priority exists with respect to Opposer's first use of its AMBASSADOR'S 1953 VINEYARD Mark as set forth above and Applicant's AMBASSADOR VINEYARD mark. Opposer has used, promoted and advertised its goods, under its AMBASSADOR'S 1953 VINEYARD Mark in commerce since at least as early as June 2006. Conversely, Applicant filed Serial No. 85/460,699 for AMBASSADOR VINEYARD on October 31, 2011, as an application based on Section 1(b) of the Lanham Act.

7. Applicant's proposed AMBASSADOR VINEYARD mark is confusingly similar to Opposer's AMBASSADOR'S 1953 VINEYARD Mark because it is similar in appearance, meaning, and overall impression pursuant to 15 U.S.C. § 1052(d). Among other things, the

dominant portion of Applicant's proposed mark is the term AMBASSADOR, which is also the dominant portion of Opposer's mark. In addition, Applicant's proposed mark incorporates the term VINEYARD in an identical manner to Opposer's mark. The marks are nearly identical in appearance, meaning, and overall impression.

8. In addition, Applicant's AMBASSADOR VINEYARD mark creates a similar commercial impression as Opposer's AMBASSADOR'S 1953 VINEYARD Mark. Opposer uses its AMBASSADOR'S 1953 VINEYARD Mark in connection with its well known and highly acclaimed wines. Consumers are accustomed to seeing the AMBASSADOR'S 1953 VINEYARD Mark used by Opposer in connection with Opposer's high quality wines and are likely to assume that Applicant's AMBASSADOR VINEYARD mark is associated with Opposer's AMBASSADOR'S 1953 VINEYARD Mark and wines.

9. The goods that Opposer sells under its AMBASSADOR'S 1953 VINEYARD Mark, namely, wine in International Class 33, are identical to the goods described in Applicant's application for AMBASSADOR VINEYARD.

10. Given the goodwill and public recognition arising from the association of the distinctive AMBASSADOR'S 1953 VINEYARD Mark with Opposer, consumers are likely to believe that Opposer has licensed, approved or otherwise authorized Applicant's use of the AMBASSADOR VINEYARD mark, when it has not.

11. The maturation of Applicant's application into registration will cause a likelihood of confusion, mistake or deception with respect to the source or origin of Applicant's goods. Consumers will erroneously believe that Applicant's goods are produced by or associated with Opposer.

12. Pursuant to 15 U.S.C. § 1063(a), Opposer will be damaged by registration of Applicant's proposed mark, which would grant Applicant a *prima facie* exclusive right to use the proposed mark despite Opposer's priority over Applicant and the likelihood of confusion and injury to Opposer's goodwill that will be caused by Applicant's mark.

13. In summary, registration of the proposed mark would be incorrect and improper in view of the requirements of the Trademark Act of 1946, as amended, including specifically but not limited to the provisions of 15 U.S.C. §§ 1051, *et seq.*

WHEREFORE, Opposer prays that this Opposition be sustained, and that registration to Applicant for AMBASSADOR VINEYARD in Application Serial No. 85/460,699 for the goods identified in International Class 33 be denied.

Opposer submits this Notice of Opposition via the e-filing procedure of the Trademark Trial and Appeal Board, and hereby authorizes the Board to debit Deposit Account No. 503229 of K&L Gates LLP for the appropriate filing fee of \$300.00. Please direct all notices, pleading and correspondence in this matter to the undersigned counsel for Opposer.

Respectfully submitted,

Dated: October 11, 2012



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Attorneys for Opposer
Hanzell Vineyards, Ltd.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** has been properly served, via first class mail, postage prepaid, on the following correspondent for Applicant on this 11th day of October, 2012.

Anne W. Glazer
Stoel Rives LLP
900 SW 5th Ave Ste 2600
Portland, Oregon 97204-1268


Margarita V. Reyes

EXHIBIT A

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Mark: AMBASSADOR'S 1953 VINEYARD

AMBASSADOR'S 1953 VINEYARD

US Serial Number: 85730979 **Application Filing Date:** Sep. 17, 2012

Register: Principal

Mark Type: Trademark

Status: New application will be assigned to an examining attorney approximately 3 months after filing date.

Status Date: Sep. 20, 2012

Mark Information

Mark Literal Elements: AMBASSADOR'S 1953 VINEYARD

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Wine

International Class: 033 - Primary Class **U.S Class:** 047, 049

Class Status: ACTIVE

Basis: 1(a)

First Use: Jun. 2006

Use in Commerce: Jul. 2006

Basis Information (Case Level)

| | | | | | |
|------------------------|-----|----------------------------|-----|---------------------|----|
| Filed Use: | Yes | Currently Use: | Yes | Amended Use: | No |
| Filed ITU: | No | Currently ITU: | No | Amended ITU: | No |
| Filed 44D: | No | Currently 44D: | No | Amended 44D: | No |
| Filed 44E: | No | Currently 44E: | No | Amended 44E: | No |
| Filed 66A: | No | Currently 66A: | No | | |
| Filed No Basis: | No | Currently No Basis: | No | | |

Current Owner(s) Information

Owner Name: Hanzell Vineyards, Ltd.
18596 Lomita Avenue
Owner Address: Sonoma, CALIFORNIA 95476
UNITED STATES

Legal Entity Type: CORPORATION **State or Country Where Organized:** CALIFORNIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Susan E. Hollander, Esq. **Docket Number:** 1402049.0000

Correspondent

Correspondent Name/Address: SUSAN E. HOLLANDER, ESQ.
K&L GATES
630 HANSEN WAY
PALO ALTO, CALIFORNIA 94304-1022
UNITED STATES

Phone: 650-798-6700

Fax: 650-798-6701

Correspondent e-mail: pltrademarks@klgates.com; mary.figone@klgates.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

| Date | Description | Proceeding Number |
|---------------|---|------------------------------|
| Sep. 20, 2012 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM | |
| Sep. 20, 2012 | NEW APPLICATION ENTERED IN TRAM | |

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: NEW APPLICATION
PROCESSING

Date in Location: Sep. 20, 2012