

ESTTA Tracking number: **ESTTA687256**

Filing date: **08/03/2015**

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	E. & J. GALLO WINERY
Granted to Date of previous extension	08/05/2015
Address	600 YOSEMITE BOULEVARD MODESTO, CA 95354 UNITED STATES
Attorney information	Steven M. Weinberg Holmes Weinberg, PC 30765 Pacific Coast Hwy. Suite 411 Malibu, CA 90265 UNITED STATES hwtrademarks@gmail.com, msalvatore@holmesweinberg.com Phone:310 457 6100

Applicant Information

Application No	79152447	Publication date	04/07/2015
Opposition Filing Date	08/03/2015	Opposition Period Ends	08/05/2015
International Registration No.	1217111	International Registration Date	08/25/2014
Applicant	CAVE DES PRODUCTEURS REUNIS Route d'Aire sur l'Adour FRANCE		

Goods/Services Affected by Opposition

Class 033. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Wines with protected geographical indication, namely IGP C�tes de Gascogne, IGPGers, Armagnac et Floc de Gascogne
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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. Registration No.	2358740	Application Date	02/10/1998
Registration Date	06/13/2000	Foreign Priority Date	NONE

Word Mark	GASCON
Design Mark	GASCON
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1998/10/00 First Use In Commerce: 1998/10/00 alcoholic beverages, namely, wine

Attachments	75979224#TMSN.png(bytes) 2015.08 03_Notice of Opposition re 1-4 D'HEURE GASCON.pdf(143850 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	/Nelda Piper/
Name	Nelda Piper
Date	08/03/2015

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

In re Serial No. 79/152,447

E. & J. Gallo Winery,

Opposer,

v.

Cave Des Producteurs Reunis,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

TO: ASSISTANT COMMISSIONER FOR TRADEMARKS
BOX TTAB –FEE
2900 Crystal Drive
Arlington, VA 22202-3513

Opposer E. & J. Gallo Winery (“Gallo”), a corporation organized and existing under the laws of the State of California, believes that it would be damaged by registration of the above-referenced mark, and hereby opposes the same. As grounds for this Opposition, Gallo respectfully alleges as follows:

1. Opposer Gallo is a corporation organized and existing under the laws of the State of California, having a place of business at 600 Yosemite Blvd., Modesto, California 95354.
2. Gallo is the exclusive licensee in the United States of the federally registered trademark GASCON for “alcoholic beverages, namely, wine” (Reg. No. 2358740), as registered on the Principal Register on June 13, 2000 (the “GASCON® Mark”).
3. This registration is valid and enforceable, and Gallo and its licensor’s exclusive rights in the GASCON® Mark are incontestable.

- a. The mark subject to this Opposition is ¼ D'HEURE GASCON, Serial No. 79/152,447 (the "Opposed Mark") for "Wines with protected geographical indication, namely IGP Côtes de Gascogne, IGP Gers, Armagnac et Floe de Gascogne," in International Class 033.
4. Applicant filed United States Application Serial No. 79/152,447 with the U.S. Patent and Trademark Office on or about August 25, 2014. The Application for the Opposed Mark is based on the Madrid Protocol.
5. Because Gallo and its licensor first used the GASCON® Mark on wines before Applicant filed its application for, or began using the Opposed Mark, and such use has been continuous, Gallo has priority of use.
6. By virtue of Gallo and its licensor's long, continuous, extensive and exclusive use and marketing, promotion and sale of wines under the GASCON® Mark, the GASCON® Mark has come to be recognized by the relevant public as identifying wines having their origin or otherwise associated exclusively with Gallo.
7. The Opposed Mark for the International Class 033 goods is confusingly similar, *inter alia*, in appearance and overall commercial impression to the GASCON® Mark. For example, both marks are comprised of the word GASCON. Thus, the Opposed Mark evokes the same or a highly similar connotation as the GASCON® Mark. Applicant's stated goods for the Opposed Mark are commercially related to the goods for which Gallo uses the GASCON® Mark. Specifically, both parties' goods are wines. Accordingly, it is likely that consumers will mistakenly believe that the Opposed Mark for the International Class 033 goods is connected to or associated with Gallo or its GASCON® wines.

8. The registration of the Opposed Mark would be inconsistent with Gallo's rights in the GASCON® Mark and will cause damage to Gallo.

WHEREFORE, Gallo respectfully prays that registration of the Opposed Mark not be permitted.

DATED this 3rd day of August, 2015.

Respectfully submitted,

By: /s/ Michael J. Salvatore
Michael J. Salvatore
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Attorneys for Opposer E. & J. Gallo Winery

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing NOTICE OF OPPOSITION was served by U.S. Priority Mail to Applicant's counsel at the following address:

Mr. L. Jeremy Craft
Mr. Andrew Chu
Craft Chu PLLC
1445 North Loop West, Suite 410
Houston, TEXAS 77008

DATED: August 3, 2015

By: /s/ Nelda Piper
Nelda Piper