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

Proceeding	91231903
Party	Defendant BAI Brands, LLC
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Consejo Regulador de la Denominacion de Origen
Rioja,

Opposers,

v.

BAI Brands, LLC,

Applicant.

) Proceeding No.: 91231903
) Serial No.: 86/973,400
) Mark: BAI RIOJA ROOT BEER
) I hereby certify that this correspondence and all marked
) attachments are being electronically filed with the
) Trademark Trial and Appeal Board through their web site
) located at <http://estta.uspto.gov> on:

January 30, 2017

(Date)

Jonathan A. Hyman

**MOTION TO DISMISS; MOTION TO AMEND GOODS IN APPLICATION; AND
MOTION TO SUSPEND PROCEEDING PENDING OUTCOME OF MOTION**

UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1451
Alexandria, VA 22313-1451

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Applicant, BAI Brands, LLC, by and through its undersigned counsel, submits this Motion to Dismiss the opposition filed by Consejo Regulador de la Denominacion de Origen Rioja ("Opposer") for failure to state a claim upon which relief can be granted.

Pursuant to Trademark Rule 37 CFR § 2.133, Applicant requests that the Board enter Applicant's post-publication amendment to narrow the goods.

In addition, pursuant to Trademark Rule 2.127(d), Applicant requests that the Board suspend all deadlines in the proceeding pending a decision on this Motion.

I. INTRODUCTION MOTION TO DISMISS

Opposer filed a Notice of Opposition alleging four opposition grounds: (1) Priority and likelihood of confusion under Section 2(d) of the Trademark Act; (2) Primarily geographically

deceptively misdescriptiveness under Section 2(e)(3) of the Trademark Act; (3) False suggestion of a connection under Section 2(a) of the Trademark Act; and (4) Geographic indication which, if used on or in connection with wine or spirits, identifies a place other than the origin of the goods under Section 2(a) of the Trademark Act. However, Opposer has failed to state a claim for relief. As such, the Notice of Opposition should be dismissed for the reasons set forth below.

II. MOTION TO DISMISS STANDARD

Specifically, in the context of an opposition “to withstand a motion to dismiss, petitioner need only allege such facts which, if proved, would establish that petitioner is entitled to the relief sought; that is, (1) petitioner has standing to bring the proceeding, and (2) a valid statutory ground exists for [denying] the registration.” Corporacion Habanos, S.A. v. Rodriguez, 99 U.S.P.Q.2d 1873, 1874 (T.T.A.B. 2011); T.B.M.P. § 503.02.

The pleading must be examined in its entirety, construing the allegations therein liberally, as required by Fed. R. Civ. P. 8(f), to determine whether it contains any allegations which, if proved, would entitle plaintiff to the relief sought. *See* Lipton Industries, Inc. v. Ralston Purina Co., 670 F.2d 1024, 213 USPQ 185 (CCPA 1982); Kelly Services Inc. v. Greene's Temporaries Inc., 25 USPQ2d 1460 (TTAB 1992); and TBMP § 503.02. For purposes of determining a motion to dismiss for failure to state a claim upon which relief can be granted, all of plaintiff's well-pleaded allegations must be accepted as true, and the complaint must be construed in the light most favorable to plaintiff. *See* Advanced Cardiovascular Systems Inc. v. SciMed Life Systems Inc., 988 F.2d 1157, 26 USPQ2d 1038 (Fed. Cir. 1993). *See also* 5A Wright & Miller, Federal Practice And Procedure: Civil 2d §1357 (1990) and Fair Indigo LLC v. Style Conscience, 85 USPQ2d 1536, 1538 (TTAB 2007). While all well-pled facts are accepted as true, legal conclusions are not entitled to the same presumption. Ashcroft v. Iqbal, 556 U.S. 662, 129 S. Ct. 1937 (2009).

1. Geographic Indication

In order to properly plead a claim of a geographic indication in violation of Trademark Act Section 2(a), a plaintiff must plead (and later prove) that: (1) the primary significance of the relevant term or design is geographic; (2) purchasers would be likely to think that the goods originate in the geographic place identified in the mark; (3) the goods do not originate in the place identified in the mark; (4) a purchaser's erroneous belief as to the geographic origin of the goods would materially affect the purchaser's decision to buy the goods; and (5) the mark was first used in commerce by the applicant on or after January 1, 1996. However, a critical threshold issue is that the mark being challenged must be for "wines and spirits."

2. False Suggestion Of A Connection

In order to assert properly a ground of false suggestion of a connection under Section 2(a) of the Trademark Act, a plaintiff must plead (and later prove) that: (1) defendant's mark is the same or a close approximation of plaintiff's previously used name or identity; (2) that the mark would be recognized as such, in that it points uniquely and unmistakably to plaintiff; (3) that plaintiff is not connected with the goods and/or service sold or rendered by defendant under the mark; and (4) that plaintiff's name or identity is of sufficient fame or reputation that when defendant's mark is used on its goods and/or services, a connection with plaintiff would be presumed. *See* Petróleos Mexicanos V. Intermix SA, 97 USPQ2d 1403, 1405 (TTAB 2010); Boston Red Sox Baseball Club LP v. Sherman, 88 USPQ2d 1581, 1593 (TTAB 2008).

3. Primarily Geographically Deceptively Misdescriptiveness

In order to properly plead a claim of primarily geographically deceptively misdescriptiveness under Section 2(e)(3) of the Trademark Act, a plaintiff must plead (and later prove) that: (1) The primary significance of the mark is a generally known geographic place; (2) The goods or services do not originate in the place identified in the mark; (3) Purchasers would

be likely to believe that the goods or services originate in the geographic place identified in the mark; and (4) The misrepresentation would be a material factor in a substantial portion of the relevant consumer's decision to buy the goods or use the services. *In re Spirits Int'l N.V.*, 563 F.3d 1347, 90 U.S.P.Q.2d 1489, 1490-95 (Fed. Cir. 2009); *In re California Innovations*, 329 F.3d 1334, 66 U.S.P.Q.2d 1853, 1858 (Fed. Cir. 2003).

4. Likelihood Of Confusion

In order to properly plead a likelihood of confusion under Section 2(d) of the Trademark Act, a plaintiff must plead (and later prove) that: (1) it has priority and (2) there is a likelihood of confusion.

III. MOTION TO DISMISS

1. Geographic Indication

Opposer's Notice of Opposition fails to state a claim under which relief can be granted on the ground of a geographic indication used on wines and spirits in violation of Section 2(a) of the Trademark Act. The critical threshold issue is that the mark being challenged must be for "wines and spirits." This cause of action is only available if the application covers "wines and spirits." In fact, the cause of action is not available to beer as beer is not wine, nor is it a "spirit" which refers to "a strong distilled alcoholic liquor" (e.g., gin, rum, vodka, whiskey, or brandy). More importantly, in this instance, it is unavailable if the applied-for mark does not cover wines or spirits, which is the case with Applicant's mark. Applicant's mark only covers non-alcoholic beverages. In fact, on December 15, 2016, prior to the institution of the opposition, Applicant filed an amendment specifically amending the goods to clarify the goods are non-alcoholic and that the goods do not cover wine.

As the goods at issue do not cover wine or sprits, Opposer has failed to meet this critical element, along with the other elements of a Section 2(a) claim. Moreover, given the nature of

this specific cause of action, under the “plausibility standard” set forth in *Iqbal*, Opposer can set for no set of facts that is plausible on its face to support a claim of false association. *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S. Ct. 1937 (2009). As such, this cause of action should be dismissed with prejudice.

2. False Suggestion Of A Connection

Opposer’s Notice of Opposition fails to state a claim under which relief can be granted under Section 2(a) of the Trademark Act on the ground of false suggestion of a connection. Again, a claim under Section 2(a) for false suggestion must do more than parrot Section 2(d).

The Notice of Opposition is devoid of any allegations that the mark at issue is the same or a close approximation of Opposer’s “previously used name or identity.” Similarly, the Notice of Opposition is devoid of any allegations that the mark at issue would be recognized as such, in that “it points uniquely and unmistakably to [Opposer]’s persona and/or identity.” Moreover, the Notice of Opposition is devoid of any allegations that Opposer’s “name or identity is of sufficient fame or reputation that when [Applicant]’s mark is used on its goods and/or services, a connection with plaintiff would be presumed.” *See* Petróleos MexicanosV. Intermix SA, 97 USPQ2d 1403, 1405 (TTAB 2010); Boston Red Sox Baseball Club LP v. Sherman, 88 USPQ2d 1581, 1593 (TTAB 2008).

The critical requirement in a Section 2(a) false suggestion of a connection case is that the name or identity embodied in a mark, and uniquely associated with a particular person or institution, be appropriated by another and used in a manner so as to indicate that the mark represents the name or identity of the plaintiff. Rickson Gracie LLC v. Gracie 73 U.S.P.Q.2d 1379 (TTAB 2004). *See also* In re Cotter & Company, 228 USPQ 202 (TTAB 1985) and The University of Notre Dame du Lac v. J.C. Gourmet Food Imports, Co., Inc., 703 F.2d 1372, 217 USPQ 505 (Fed.Cir. 1983). Opposer has failed to meet this critical element,

along with the other elements of a Section 2(a) claim. Moreover, given the nature of this specific cause of action, under the “plausibility standard” set forth in *Iqbal*, Opposer can set for no set of facts that is plausible on its face to support a claim of false association. *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S. Ct. 1937 (2009). As such, this cause of action should be dismissed with prejudice.

3. Primarily Geographically Deceptively Misdescriptiveness

Opposer's Notice of Opposition fails to state a claim under which relief can be granted under Section 2(e)(3) of the Trademark Act on the ground of primarily geographically deceptively misdescriptiveness. The primary significance of “Rioja” is not a generally known geographic place. Despite Opposer’s contentions, there are numerous “Riojas” in the world. For example:

“Rioja” region in Peru which is known for coffee, not wine. See Exhibit A https://en.wikipedia.org/wiki/Rioja,_Peru visited January 30, 2017.

“Rioja” region in Andalusia, Spain – which is not the same region as Opposer’s alleged mark and is not known for its wine. See Exhibit B https://en.wikipedia.org/wiki/Rioja,_Almer%C3%ADa visited January 30, 2017.

“Rioja” wine region in Argentina, not associated with Opposer. See Exhibit C https://en.wikipedia.org/wiki/La_Rioja_Province,_Argentina visited January 30, 2017.

Applicant respectfully requests that the Board take judicial notice of these other geographic areas. As there are numerous geographic areas with the name “Rioja”, purchasers would be likely to believe that the goods originate in the geographic place identified in the mark. In addition, Applicant’s use of RIOJA on its beverages is arbitrary and Applicant’s mark is not used in such a way as to misrepresent the source. Moreover, the alleged “misrepresentation” would not be a material factor in a substantial portion of the relevant consumer's decision to buy the goods. Accordingly, Opposer has failed to meet, and cannot meet, the critical elements of a

Section 2(e)(3) claim. Moreover, given the nature of this specific cause of action, under the “plausibility standard” set forth in *Iqbal*, Opposer can set for no set of facts that is plausible on its face to support a claim of false association. *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S. Ct. 1937 (2009). As such, this cause of action should be dismissed with prejudice.

4. Likelihood Of Confusion

Opposer's Notice of Opposition fails to state a claim under which relief can be granted under Section 2(d) of the Trademark Act on the ground of primarily geographically deceptively misdescriptiveness.

In order to properly plead a likelihood of confusion under Section 2(d) of the Trademark Act, a plaintiff must plead (and later prove) that: (1) it has priority and (2) there is a likelihood of confusion. In this instance, Opposer's alleged mark is a certification mark for wine and its rights are limited to wine. Applicant's application does not cover wine or any alcoholic products. Accordingly, as a matter of law, there can be no likelihood of confusion. As such, Opposer has failed to state a claim of a likelihood of confusion. Thus, the likelihood of confusion cause of action should be dismissed.

IV. MOTION TO AMEND APPLICATION

On December 15, 2016, prior to the institution of the opposition, Applicant filed an amendment specifically amending the goods to clarify the goods are non-alcoholic and that the goods do not cover wine. A copy of the amendment is attached as Exhibit D. This amendment is limiting in nature and should have been granted by Trademark Operation. However, prior to Trademark Operation entering the amendment, the instant opposition was filed. Accordingly, Applicant respectfully requests that the Board enter the amendment to amend the goods to read as follows:

Non-alcoholic beverages containing fruit juices; Non-alcoholic soft drinks; Non-alcoholic Fruit flavoured carbonated drinks; Non-alcoholic soft drinks enhanced with antioxidants; Non-alcoholic Fruit flavoured carbonated drinks enhanced with antioxidants; all the foregoing being non-alcoholic and expressly excluding wine in Class 32.

Redline version:

Non-alcoholic beverages containing fruit juices; ~~fruit flavored beverages; fruit-flavored drinks; fruit-based beverages; fruit-based beverages enhanced with antioxidants; fruit flavored beverages enhanced with antioxidants;~~ **Non-alcoholic** soft drinks; **Non-alcoholic** Fruit flavoured carbonated drinks; **Non-alcoholic** soft drinks enhanced with antioxidants; **Non-alcoholic** Fruit flavoured carbonated drinks enhanced with antioxidants; **all the foregoing being non-alcoholic and expressly excluding wine** in Class 32.

V. CONCLUSION

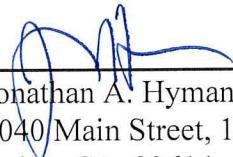
On the basis of the facts and the law, Opposer cannot establish that it has stated a claim on which relief can be granted. As such, the opposition should be dismissed. Accordingly, Applicant requests that the Board grant the motion to dismiss.

Applicant also requests that the Board enter the amendment as previously submitted to Trademark Operations.

Applicant also requests that the Board suspend all deadlines pending a decision on this Motion pursuant to Trademark Rule 2.127(d).

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: January 30, 2017

By: 
Jonathan A. Hyman
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Irvine, CA 92614
(310) 551-3450
Attorneys for Applicant, CAPP & CO LIMITED

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **MOTION TO DISMISS; MOTION TO AMEND GOODS IN APPLICATION; AND MOTION TO SUSPEND PROCEEDING PENDING OUTCOME OF MOTION** upon Opposer via email on January 30, 2017, addressed as follows:

Justin R. Young, Esq.
DINEFF TRADEMARK LAW LIMITED
jyoung@dineff.com



Jonathan A. Hyman

25123033

EXHIBIT A

Coordinates: 6°03′00″S 77°08′30″W

Rioja, Peru

From Wikipedia, the free encyclopedia

Rioja is the capital of Rioja Province in the San Martín Region in northern Peru. It is situated to the west of Moyobamba. There are 24,263 inhabitants according to the 2007 census.

The town is 848 metres above sea level and has a semi-humid subtropical climate.

Contents

- 1 History
- 2 Geography
- 3 Communications and Transport
 - 3.1 Land
 - 3.2 Air
 - 3.3 River
- 4 References

History

During the period of the Incas, the Rioja Province was inhabited by two tribes, the Uquihuas and the Chepenes.

At the end of the 16th century, one of the first Catholic missionaries arrived at Uquihua.

Rioja was founded in September, 1782 and was originally named *Santo Toribio de la Nueva Rioja*.

Rioja

Town



Location of Rioja in Peru

Coordinates: 6°03′00″S 77°08′30″W

Country	 Peru
Region	San Martín
Province	Rioja
District	Rioja District
Elevation	848 m (2,782 ft)
Population <p>• Estimate (2015)^[1]</p>	22,197
Demonym(s)	Riojano/a
Website	www.rioja.com.pe <p>(http://www.rioja.com.pe/)</p>

Geography

Rioja is situated in the valley of the upper Mayo River in the north of the San Martín Region. Its coordinates are longitude 77°08'30" and latitude 06°03'00".

The peaks surrounding Rioja exceed 1,000 metres above sea level.

The average temperature is 22.5°C. with actual temperatures varying between 16.5°C and 28.4°C.



The Plaza de Armas in Rioja

Communications and Transport

Rioja is connected to the rest of the country by land, air, and water.

Land

Connections via the "Carretera Marginal" (the main jungle highway). There are daily bus services as well as minibuses, collective taxis and lorries.

Air

The Rioja Airport accommodates small and medium sized airplanes, both for passengers and cargo.

River

Motor boats, canoes and rafts use the Mayo, Tonchima and Negro rivers for small cargo.

References

1. Perú: Población estimada al 30 de junio y tasa de crecimiento de las ciudades capitales, por departamento, 2011 y 2015. *Perú: Estimaciones y proyecciones de población total por sexo de las principales ciudades, 2012-2015* (Report). Instituto Nacional de Estadística e Informática. March 2012. Retrieved 4 June 2015.

Retrieved from "https://en.wikipedia.org/w/index.php?title=Rioja,_Peru&

oldid=666083536"

Categories: Populated places in the San Martín Region

| San Martín Region geography stubs

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EXHIBIT B

Coordinates: 36°56′N 2°27′W

Rioja, Almería

From Wikipedia, the free encyclopedia

Rioja is a municipality of Almería province, in the autonomous community of Andalusia, Spain. It should not be confused with La Rioja (autonomous community) in the north, known for its distinctive wine.

Demographics

Rioja, Spain	
<div><div> <div></div> <div></div> </div><div> <div>Flag</div> </div></div>	
Coordinates: 36°56′N 2°27′W	
Country	Spain
Community	Andalusia
Municipality	Almería
Government	
 • Mayor	María Isabel Sánchez Siles
Area	
 • Total	36 km ² (14 sq mi)
Elevation	122 m (400 ft)
Population (2005)	
 • Total	1,329
 • Density	37/km ² (96/sq mi)
Time zone	CET (UTC+1)
 • Summer (DST)	CEST (UTC+2)

Historical population		
Year	Pop.	±%
1999	1,186	—
2000	1,191	+0.4%
2001	1,199	+0.7%
2002	1,213	+1.2%
2003	1,213	+0.0%
2004	1,278	+5.4%
2005	1,329	+4.0%

Source: INE (Spain) (http://www.ine.es)

External links

- **(Spanish)** Rioja (<http://www.juntadeandalucia.es/institutodeestadistica/sima/htm/sm04078.htm>) - Sistema de Información Multiterritorial de Andalucía
- **(Spanish)** Rioja (<http://i1.dipalme.org/Servicios/Municipios/pueblos.nsf/rioja.html>) - Diputación Provincial de Almería

Retrieved from "https://en.wikipedia.org/w/index.php?title=Rioja,_Almería&oldid=701625314"

Categories: Municipalities in the Province of Almería

Populated places in the Province of Almería | Andalusia geography stubs

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EXHIBIT C

Coordinates: 29°26′S 66°51′W

La Rioja Province, Argentina

From Wikipedia, the free encyclopedia

La Rioja (Spanish pronunciation: [laˈrjoxa]) is one of the provinces of Argentina and is located in the west of the country. Neighboring provinces are from the north clockwise Catamarca, Córdoba, San Luis and San Juan. The dinosaur *Riojasaurus* is named after the province.

Contents

- 1 History
- 2 Geography and climate
- 3 Economy
- 4 Political division
- 5 See also
- 6 References
- 7 External links

History

Petroglyphs created by early indigenous peoples at the Talampaya National Park are dated around 10,000 years BC. Succeeding cultures of indigenous peoples developed here. The Diaguita, Capayan and the Olongasta peoples inhabited the territory of present-day La Rioja Province at the time of encounter

La Rioja

Province



Flag



Coat of arms



Country	Argentina
Capital	La Rioja
Divisions	18 departments
Government	
 • Governor	Sergio Casas



Facundo Quiroga, La Rioja's popular fighter for autonomy.

with
the

• Senators	Ada Maza Carlos Menem Teresita Quintela
Area	
• Total	89,680 km ² (34,630 sq mi)
Population (2010 ^[1])	
• Total	333,642
• Rank	21st
• Density	3.7/km ² (9.6/sq mi)
Demonym(s)	<i>Riojano</i>
Time zone	ART (UTC−3)
ISO 3166 code	AR-F
Website	larioja.gov.ar (http://larioja.gov.ar)

Spanish colonists in the 16th century.

Juan Ramírez de Velazco founded *Todos los Santos de la Nueva Rioja* in 1591 under the government of Tucumán of the Viceroyalty of Peru. In 1630 the Calchaquí people revolted against the Spanish, but the governor Albornoz suppressed them.

In 1783, after the creation of the Viceroyalty of the Río de la Plata, the control of the province of 10,000 inhabitants passed to the Córdoba independency. The province acquired independence from Córdoba in 1820. Following attempts by Bernardino Rivadavia, the first elected President of Argentina, to impose a centralist constitution, the *caudillo* Juan Facundo Quiroga emerged as a popular leader. He represented their preference for more autonomy, for which they continued to press following Quiroga's 1835 assassination. After a period of internal instability in Argentina, the province finally joined the *Argentine Confederation* in 1853.

La Rioja attracted fewer immigrants from Europe than did other Argentine provinces from 1890 to the 1930s.

Some Syrian and Lebanese immigrants did settle in the province, among whom the most well-known are probably the Menem family. Coming from what had been the Ottoman Empire, Saul Menem and his wife were of Armenian and Alawi ancestry. He prospered as a traveling salesman and sent his eldest son, Carlos Menem, to Spain for college. After the younger Menem was elected governor of La Rioja Province in March 1973, he implemented a number of reforms advocated by activists for the poor, rural majority,



La Rioja Bishop Enrique Angelelli, whose advocacy for the poor and for peace cost him the support of his church and his life.

particularly those recommended by Bishop Enrique Angelelli.

Removed and imprisoned following the military ouster of President Isabel Perón in March 1976, Menem was kept in illegal confinement until the end of 1980. He was reportedly tortured during this time. The dictatorship repressed people in the province and was responsible for the brutal murder in August 1976 of Bishop Angelelli. After democracy was restored in 1983, Menem was overwhelmingly re-elected to office. He pursued conservative policies, leveraging La Rioja's dry, agreeable climate, its modest wage scale and skilled work-force, to attract La Rioja's first significant light industries, particularly bottling and food-processing.

Having presided over a growing La Rioja economy even as the nation's languished during the 1980s, Menem secured the Peronist Justicialist Party nomination for president in May 1988; in an upset, he defeated the popular Governor Antonio Cafiero of Buenos Aires Province. Elected president of Argentina in 1988, Menem served until 1999. During those years, he steered billions in federal public works spending into La Rioja. Although the province remains less developed than the average in the nation, its economy today compares favorably with those of its neighbors.

Geography and climate

Located in the Argentine Northwest area, its landscape is arid to semi-arid, and the dry climate receives annually 200 mm of precipitations, has short winters and very hot summers.

From the Andes at the west, with peaks of up to 6,795 meters (*Monte Pissis*), the relief's height descends towards the sierras of the neighbouring dry Pampas zone. Most ranges in La Rioja are oriented in a north-south fashion. The province's two largest cities, La Rioja and Chilecito are separated by Sierra de Velasco and west of Chilecito and Famatina rises the Sierra de Famatina with heights of up to 6.250 m.a.sl. (≈20500 feet).

The Talampaya National Park is a dry red-soil canyon of the ancient extinguished Talampaya river, which contains many walls and rock formations that make it an interesting tourist destination.

Economy



Vineyard in Chilecito.

La Rioja's economy, estimated at US\$1.822 billion in 2006, is the second-smallest among Argentina's provinces.^[2] Its per capita output of US\$6,283, though about 30% below the national average, makes it the most well-developed in northern Argentina.^[2]

Its economy is, likewise, very well-diversified. Agriculture (long limited by La Rioja's dry, mountainous terrain) adds less than 5% to its output. La Rioja's agriculture (as well as cities) lies on the banks of the few permanent rivers and oases that allow

irrigation, with only 190 square kilometres of cultivated land. Vineyards, nuts and olive plantations are the most common, followed by cotton.

The province's main crop is the grape, and its associated wine production, specially around the Chilecito area, with a production of 8 million litres per year.

Cattle (250,000 heads) and goats (150,000 heads) are secondary activities, particularly for skin and leather. Clay represents the main mining activity, and uranium is also extracted near *El Colorado*.

Manufacturing in La Rioja has expanded considerably since Gov. Menem began attracting investment into the province, after 1983. Limited mostly to light industry like bottling and food processing, it, nevertheless, adds about 20% to La Rioja's output. Tourism is, likewise, an expanding activity. Besides the Talampaya National Park, tourists visiting La Rioja usually go also to the Chilecito town, *Cerro de La Cruz*, *Termas de Santa Teresita* hot springs and the village of *Villa Sanagasta*.

La Rioja's development plan is being designed by Proyectos Innovadores to encourage further economic growth in the province.

Recently, the province experienced a wave of immigration from Eastern Europe, East or South Asian and Middle Eastern countries.

Political division

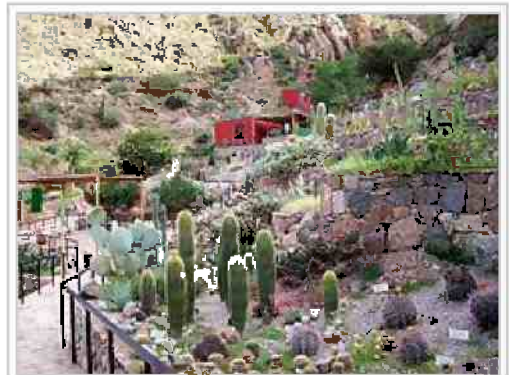
The province is divided in 18 departments (Spanish departamentos). They are formally

considered to be a single municipality, and usually contain one or more population centers (i.e. towns and cities).

1. Arauco (Aimogasta)
2. Capital (La Rioja)
3. Castro Barros (Aminga)
4. Chamental (Chamental)
5. Chilecito (Chilecito)
6. Coronel Felipe Varela (Villa Unión)
7. Famatina (Famatina)
8. General Ángel Vicente Peñaloza (Tama)
9. General Belgrano (Olta)
10. General Juan Facundo Quiroga (Malazán)
11. General Lamadrid (Villa Castelli)
12. General Ocampo (Milagro)
13. General San Martín (Ulapes)
14. Independencia (Patquía)
15. Rosario Vera Peñaloza (Chepes)
16. San Blas (San Blas)
17. Sanagasta (Sanagasta)
18. Vinchina (Vinchina)



Hangliding in the Famatina valley, La Rioja.



Chirau Mita Botanical Gardens, Chilecito.

See also

- 1894 San Juan earthquake

References

1. "Censo 2010 Argentina resultados definitivos: mapas". 200.51.91.231. Retrieved 2012-08-15.
2. "El déficit consolidado de las provincias rondará los \$11.500 millones este año" (in Spanish). Instituto Argentino para el Desarrollo de las Economías Regionales. Retrieved 10 July 2015.



Dam wall, Olta

External links

- Gobierno de La Rioja (<http://www.larioja.gov.ar/>) Official website

Retrieved from "https://en.wikipedia.org/w/index.php?title=La_Rioja_Province,_Argentina&oldid=761084737"



Wikimedia
Commons has media
related to ***La Rioja***
(***Argentina***).

Categories: Wine regions of Argentina | Provinces of Argentina
| La Rioja Province, Argentina | States and territories established in 1853

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EXHIBIT D

Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86973400
LAW OFFICE ASSIGNED	LAW OFFICE 110
MARK SECTION	
MARK	https://tmng-al.uspto.gov/resting2/api/img/86973400/large
LITERAL ELEMENT	BAI RIOJA ROOT BEER
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
EXPLANATION OF FILING	
Applicant requests amendment of the identification of goods to settle a potential opposition. The amendment is limiting in nature and should, therefore, be accepted. If the Examining Attorney has any questions, the Examining Attorney is requested to contact Jonathan Hyman at 310 551 3450.	
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	032
DESCRIPTION	
Non-alcoholic beverages containing fruit juices; fruit flavored beverages; fruit-flavored drinks; fruit based beverages; fruit based beverages enhanced with antioxidants; fruit flavored beverages enhanced with antioxidants; soft drinks; Fruit flavoured carbonated drinks; soft drinks enhanced with antioxidants; Fruit flavoured carbonated drinks enhanced with antioxidants	
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	032
TRACKED TEXT DESCRIPTION	
Non-alcoholic beverages containing fruit juices; fruit flavored beverages; <u>Non-alcoholic soft drinks;</u> fruit flavored drinks; <u>Non-alcoholic Fruit flavoured carbonated drinks;</u> fruit based beverages; <u>Non-alcoholic soft drinks enhanced with antioxidants;</u> fruit based beverages enhanced with antioxidants; <u>Non-alcoholic Fruit flavoured carbonated drinks enhanced with antioxidants;</u> fruit flavored beverages enhanced with antioxidants; <u>all the foregoing being non-alcoholic and expressly excluding wine;</u> soft drinks; <u>Fruit flavoured carbonated drinks;</u> soft drinks enhanced with antioxidants; <u>Fruit flavoured carbonated drinks enhanced with antioxidants</u>	
FINAL DESCRIPTION	
Non-alcoholic beverages containing fruit juices; Non-alcoholic soft drinks; Non-alcoholic Fruit flavoured carbonated drinks; Non-alcoholic soft drinks enhanced with antioxidants; Non-alcoholic Fruit flavoured carbonated drinks enhanced with antioxidants; all the foregoing being non-alcoholic and expressly excluding wine	
FILING BASIS	Section 1(b)
SIGNATURE SECTION	
RESPONSE SIGNATURE	/jhh/

SIGNATORY'S NAME	Jonathan A. Hyman
SIGNATORY'S POSITION	Attorney of record, California bar member
SIGNATORY'S PHONE NUMBER	3105513450
DATE SIGNED	12/15/2016
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Dec 15 19:07:50 EST 2016
TEAS STAMP	USPTO/PPA-XXX.XXX.XX.XX-2 0161215190750931285-86973 400-57037a8c639774dd62911 a1406759d536163fda3220bdc e5333887c5c18ab8142e-N/A- N/A-20161215190212757496

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1771 (Rev 10/2011)

OMB No. 0651-0050 (Exp 07/31/2017)

Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment

To the Commissioner for Trademarks:

Application serial no. **86973400** BAI RIOJA ROOT BEER(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/86973400/large>) has been amended as follows:

EXPLANATION OF FILING

Applicant requests amendment of the identification of goods to settle a potential opposition. The amendment is limiting in nature and should, therefore, be accepted. If the Examining Attorney has any questions, the Examining Attorney is requested to contact Jonathan Hyman at 310 551 3450.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 032 for Non-alcoholic beverages containing fruit juices; fruit flavored beverages; fruit-flavored drinks; fruit based beverages; fruit based beverages enhanced with antioxidants; fruit flavored beverages enhanced with antioxidants; soft drinks; Fruit flavoured carbonated drinks; soft drinks enhanced with antioxidants; Fruit flavoured carbonated drinks enhanced with antioxidants

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

Proposed:

Tracked Text Description: Non-alcoholic beverages containing fruit juices; ~~fruit flavored beverages;~~ Non-alcoholic soft drinks; ~~fruit-flavored drinks;~~ Non-alcoholic Fruit flavoured carbonated drinks; ~~fruit-based beverages;~~ Non-alcoholic soft drinks enhanced with antioxidants; ~~fruit-based beverages enhanced with antioxidants;~~ Non-alcoholic Fruit flavoured carbonated drinks enhanced with antioxidants; ~~fruit flavored beverages enhanced with antioxidants;~~ all the foregoing being non-alcoholic and expressly excluding wine; ~~soft drinks;~~ Fruit flavoured carbonated drinks; ~~soft drinks enhanced with antioxidants;~~ Fruit flavoured carbonated drinks enhanced with antioxidants

Class 032 for Non-alcoholic beverages containing fruit juices; Non-alcoholic soft drinks; Non-alcoholic Fruit flavoured carbonated drinks; Non-

alcoholic soft drinks enhanced with antioxidants; Non-alcoholic Fruit flavoured carbonated drinks enhanced with antioxidants; all the foregoing being non-alcoholic and expressly excluding wine

Filing Basis: Section 1(b), Intent to Use: *For a trademark or service mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. ***For a collective trademark, collective service mark, or collective membership mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. ***For a certification mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

SIGNATURE(S)

Signature: /jhh/ Date: 12/15/2016

Signatory's Name: Jonathan A. Hyman

Signatory's Position: Attorney of record, California bar member

Signatory's Phone Number: 3105513450

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 86973400

Internet Transmission Date: Thu Dec 15 19:07:50 EST 2016

TEAS Stamp: USPTO/PPA-XXX.XXX.XX.XX-2016121519075093

1285-86973400-57037a8c639774dd62911a1406

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