

ESTTA Tracking number: **ESTTA799872**

Filing date: **02/07/2017**

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	Institut National de l'Origine et de la Qualite
Granted to Date of previous extension	03/08/2017
Address	12 rue Henri Rol-Tanguy TSA 30003 Montreuil-Sous-Bois Cedex, 93555 FRANCE
Attorney information	Peter M. Brody Ropes & Gray LLP 2099 Pennsylvania Avenue, NW Washington, DC 20006-6807 UNITED STATES ustrademarkmail@ropesgray.com Phone:2025084612

Applicant Information

Application No	86958491	Publication date	11/08/2016
Opposition Filing Date	02/07/2017	Opposition Period Ends	03/08/2017
Applicant	Mediterranean Cellars, LLC 8295 Falcon Glen Road Warrenton, VA 20186 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 2002/10/23 First Use In Commerce: 2004/02/11 All goods and services in the class are opposed, namely: Wine

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
The mark is primarily geographically deceptively misdescriptive	Trademark Act Section 2(e)(3)
Geographic indication which, if used on or in connection with wine or spirits, identifies a place other than the origin of the goods	Trademark Act Section 2(a)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Word Mark	The IGP designation of MEDITERRANEE for certain wines originating in an area along the Mediterranean coast of France, in accordance with methods and limitations set forth in French law.
Goods/Services	Certain wines originating in an area along the Mediterranean coast of France, in accordance with methods and limitations set forth in French law.

Attachments	20170207_125297_NOO_Pleading.pdf(277707 bytes)
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Signature	/p brody/
Name	Peter M. Brody
Date	02/07/2017

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_____)	
INSTITUT NATIONAL DE L'ORIGINE)	Opposition No. _____
ET DE LA QUALITÉ,)	
)	Application Serial No. 86/958,491
Opposer,)	
)	Mark: MEDITERRANEAN CELLARS
v.)	
)	Published in the Official Gazette
MEDITERRANEAN CELLARS, LLC,)	of November 8, 2016
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Opposer, the Institut National de l'Origine et de la Qualité (hereinafter "INAO"), an entity organized and existing under the laws of the Republic of France and headquartered at 12, rue Henri Rol-Tanguy, TSA 30003, 93555 Montreuil-Sous-Bois Cedex, France, hereby opposes the application ("Application") filed on March 30, 2016, by applicant Mediterranean Cellars, LLC ("Applicant") to register the mark "MEDITERRANEAN CELLARS" in International Class 33 based on use of said mark on or in connection with "wine" (U.S. Application Serial No. 86/958,491, published for opposition in the Official Gazette of November 8, 2016). Opposer believes that it will be damaged by registration of the subject mark, and as grounds of opposition avers as follows:

1. Opposer INAO is a public body, under the aegis of the Ministry of Agriculture, which was established by decree-law of the French Republic dated July 30, 1935. The INAO's principal functions include defining and recognizing French *appellations d'origine*, or appellations of origin, and the products entitled to bear those appellations, and protecting French

appellations of origin from misuse and misappropriation in France and abroad. “Appellation of origin” refers to a geographical designation (country, region or locality) that designates a product originating therein, the quality and characteristics of which are due exclusively or primarily to the geographic environment, including natural and human factors.

2. Certain products identified and classified according to the French system of appellations are entitled to bear an *indication géographique protégée* or “protected geographic indication” (an “IGP”). Each IGP is recognized by a regulation which defines the geographic area to which the appellation pertains and specifies the agricultural products from which the product may be derived and the agricultural and production methods and techniques that may be used to make the product. The regulations governing IGPs have subsequently been amended from time to time to clarify or modify the particular requirements applicable to the designation.

3. Compliance with the system of appellations of origin, including IGPs, is monitored by the INAO, in conjunction with other governmental agencies and certain nongovernmental organizations, which are responsible for the protection of specific appellations of origin. The INAO receives funds listed in the budget of the Ministry of Agriculture, the amount of which generally reflects a portion of the proceeds of a special tax paid by producers of French appellation of origin products, and which is based on the volume of such products produced and sold under this system.

4. “*Méditerranée*” is an IGP title covering wines originating in an area along the Mediterranean coast of France, roughly comprising the Provence wine region and a part of the Rhône Valley. Winegrowing is vital to the culture and economy in this part of France, and the Méditerranée IGP is used as a geographical indicator for a wide range of wines.

5. By pertinent regulation, France has restricted the use of the Méditerranée IGP to wines produced in a specified area, in accordance with the conditions set forth in the pertinent laws and regulations. Use of the Méditerranée IGP constitutes an assurance to consumers by the INAO, the French regulatory authority specifically charged with safeguarding the integrity of this important French designation, that the products bearing this designation have been produced in accordance with these strict standards.

6. The use of the Méditerranée IGP for wines is thus controlled by a certifier and limited to products meeting the certifier's standards of regional origin.

7. Products qualifying for the Méditerranée IGP have been legally and continuously sold in the United States for a period beginning many years before the filing date of the Application and the asserted date of first use of the subject mark in commerce by Applicant, and continuing to the present.

8. The geographical indication Méditerranée and the English-language term "Mediterranean" are understood by wine consumers and others in the United States to denote a specific geographic place.

9. The Méditerranée IGP is a certification mark of regional origin within the meaning of Section 45 of the Lanham Act, 15 U.S.C. § 1127.

10. The subject mark of the Application is "MEDITERRANEAN CELLARS." The subject mark thus incorporates as the first and predominant portion of the mark the geographical place name "Mediterranean."

11. The Application identifies the goods on or in connection with which Applicant is using the subject mark as "wine."

12. The identification of goods set forth in the Application contains no geographical limitation, and specifically, does not restrict the goods to wines originating in the Méditerranée IGP wine region and grown and produced in accordance with all other conditions set forth in the regulations governing that IGP. Nor does the identification of goods even limit the goods to wines originating in the Mediterranean geographic area.

13. On information and belief, none of the goods in connection with which Applicant uses and seeks to use the subject mark originate in the Méditerranée IGP region of France or anywhere in the Mediterranean area. Indeed, on information and belief, none of the goods identified in the Application originate anywhere in France.

14. Accordingly, the subject mark comprises a geographical indication (i.e., Méditerranée) which, when used on or in connection with wines, identifies a place other than the origin of the goods (i.e., the Méditerranée region of France). Registration of Applicant's mark therefore should be refused under Section 2(a) of the Trademark Act of 1946, 15 U.S.C. § 1052(a).

15. Likewise, the subject mark, when used on or in connection with the goods identified in the Application, is primarily geographically deceptively misdescriptive of such goods, insofar as it indicates that those goods originate in the Méditerranée region of France or in the Mediterranean area or, at a minimum, in some part of France. Accordingly, registration of Applicant's mark should be refused under Section 2(e)(3) of the Trademark Act of 1946, 15 U.S.C. § 1052(e)(3).

16. In addition, the subject mark so resembles the geographical indication Méditerranée, as to be likely, when applied to the goods identified in the Application, to cause

confusion, or to cause mistake, or to deceive as to the source, sponsorship or affiliation of Applicant's goods. Accordingly, registration of Applicant's mark should be refused under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

17. The forms of damage that Opposer believes it and persons it represents are likely to suffer as a result of the registration of the subject mark include, but are not limited to, damage to the reputation of, and goodwill attached to, the geographical indication Méditerranée, damage to the rights and interests of Opposer, and damage to the rights and interests of those certified to use the Méditerranée IGP on their wines.

WHEREFORE, Opposer prays that Application Serial No. 86/958,491 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Opposer hereby appoints Ropes & Gray to act as its attorneys with full power to prosecute this opposition, to transact all relevant business with the Patent and Trademark Office and to receive all official communications with respect to this opposition.

Respectfully submitted,

/Peter M. Brody/
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Attorneys for the Institut National
de l'Origine et de la Qualité

Dated: February 7, 2017

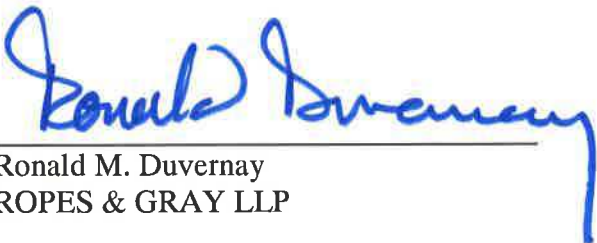
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of February, 2017, a true and correct copy of this Notice of Opposition was served upon Applicant's counsel by first class mail, postage prepaid to:

Philip Carter Strother
Strother Law Offices, PLC
15 East Franklin Street
Richmond, VA 23219



Ronald M. Duvernay
ROPES & GRAY LLP