

ESTTA Tracking number: **ESTTA833642**

Filing date: **07/17/2017**

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 parties oppose registration of the indicated application.

Opposers Information

| | |
|---------------------------------------|---|
| Name | Institut National de l'Origine et de la Qualite |
| Granted to Date of previous extension | 07/16/2017 |
| Address | 12 rue Henri Rol-Tanguy TSA 30003 Montreuil-Sous-Bois Cedex, 93555 FRANCE |

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|---------------------------------------|--|
| Name | Comite interprofessionnel du vin de Champagne |
| Granted to Date of previous extension | 07/16/2017 |
| Address | 5 rue Henri Martin Epernay, 51321 FRANCE |

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| Attorney information | Peter M. Brody Ropes & Gray LLP 2099 Pennsylvania Avenue, NW Washington, DC 20006-6807 UNITED STATES Email: ustrademarkmail@ropesgray.com Phone: 2025084612 |
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Applicant Information

| | | | |
|------------------------|--|------------------------|------------|
| Application No | 87134407 | Publication date | 01/17/2017 |
| Opposition Filing Date | 07/17/2017 | Opposition Period Ends | 07/16/2017 |
| Applicant | Beverly Hills Rose LLC 126 1/2 South Kings Road Los Angeles, CA 90048 UNITED STATES | | |

Goods/Services Affected by Opposition

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| Class 033. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Sparkling wines with the protected appellation of origin Champagne; Sparkling grape wine with the protected appellation of origin Champagne |
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Grounds for Opposition

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| The mark is primarily geographically deceptively misdescriptive | Trademark Act Section 2(e)(3) |
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| Dilution by blurring | Trademark Act Sections 2 and 43(c) |
| Dilution by tarnishment | Trademark Act Sections 2 and 43(c) |

Mark Cited by Opposer as Basis for Opposition

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|------------------------------------|--|------------------|------|
| U.S. Application/ Registration No. | NONE | Application Date | NONE |
| Registration Date | NONE | | |
| Word Mark | The AOC Designation of CHAMPAGNE for certain sparkling wines produced in the Champagne region of France, in accordance with methods and limitations set forth in French law. | | |
| Goods/Services | Certain sparkling wines produced in the Champagne region of France, in accordance with methods and limitations set forth in French law. | | |

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| Attachments | 20170717_127527_NOO_Pleading.pdf(105613 bytes) |
|-------------|---|

| | |
|-----------|----------------|
| Signature | /p brody/ |
| Name | Peter M. Brody |
| Date | 07/17/2017 |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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| INSTITUT NATIONAL DE L'ORIGINE |) | |
| ET DE LA QUALITÉ, |) | |
| |) | |
| and |) | |
| |) | Opposition No. : _____ |
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| COMITÉ INTERPROFESSIONNEL DU VIN DE |) | Application Serial No.: 87/134,407 |
| CHAMPAGNE |) | |
| |) | Mark: BEVERLY HILLS |
| Opposers, |) | CHAMPAGNE 2014 |
| |) | |
| v. |) | Published in the Official |
| |) | Gazette of January 17, 2017 |
| BEVERLY HILLS ROSE LLC |) | |
| |) | |
| Applicant. |) | |
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NOTICE OF OPPOSITION

Opposers, 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, and Comité Interprofessionnel du Vin de Champagne ("CIVC"), an entity organized and existing under the laws of the Republic of France, 5 rue Henri Martin, Epernay, 51321 France, hereby oppose the application ("Application") filed on August 10, 2016, by applicant Beverly Hills Rose LLC ("Applicant") to register the mark "BEVERLY HILLS CHAMPAGNE 2014" in International Class 33 based on the intent to use said mark on or in connection with "Sparkling wines with protected appellation of origin Champagne; Sparkling grape wine with the protected appellation of origin Champagne" (U.S. Application Serial No. 87/134,407, published for opposition in the

Official Gazette of January 17, 2017). Opposers believe that they will be damaged by registration of the subject mark, and as grounds of opposition aver as follows:

1. “CHAMPAGNE” is a well-known French *appellation d’origine contrôlée* (“AOC”), or controlled appellation of origin, for certain sparkling wines produced in the Champagne region of France, in accordance with methods and limitations set forth in French law.

2. 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. Certain products identified and classified according to this system may bear an *appellation d’origine contrôlée* (an “AOC”), or controlled appellation of origin. Each AOC is recognized by a decree-law which not only delimits the specific area to which the appellation pertains, but also 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.

3. Compliance with the appellation of origin and AOC system is monitored by the INAO, in conjunction with other governmental agencies and certain nongovernmental organizations, which are responsible for the protection of specific AOCs. 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. Opposer, CIVC, is a quasi-regulatory organization dedicated to the defense and the promotion of the Champagne AOC. CIVC is made up of representatives of all Champagne houses and growers, as well as the government. Among other functions, CIVC, in conjunction with Opposer, INAO, participates in the creation or broadening of laws and regulations that protect the Champagne appellation and in legal actions against all forms of abuse, detected in all major markets as part of a systematic surveillance operation.

5. “CHAMPAGNE” is among the particular AOCs for wines recognized and protected by the INAO. By decree law of June 29, 1936, France has restricted the use of this AOC to products produced in a specified area within the Champagne region of France, and in accordance with conditions specified in and pursuant to the AOC laws. Use of this AOC constitutes an assurance to customers by the INAO, the French regulatory authority specifically charged with safeguarding the integrity of this important French designation, that the products bearing that designation have been produced in accordance with these strict standards.

6. The use of the AOC “CHAMPAGNE” is in fact controlled by a certifier and limited to products meeting the certifier’s standards of regional origin.

7. The AOC “CHAMPAGNE” denotes, and is understood to denote, a specific regional origin. Products qualifying for this AOC have been validly and continuously sold in the United States for a period beginning long prior to the date of filing of the subject application and

continuing to the present. The AOC “CHAMPAGNE” is symbolic of the good will and consumer recognition built up through the efforts and investments of the INAO and CIVC in the appellation of origin system and its AOCs, including that specific AOC, and through the promotion and sales of these quality products by those certified by the INAO to use this AOC.

8. The use of the AOC CHAMPAGNE is thus controlled by a certifier and limited to products meeting the certifier’s standards of regional origin.

9. Products qualifying for the AOC CHAMPAGNE have been legally and continuously sold in the United States for a period beginning many years before the filing date of the Application.

10. The AOC CHAMPAGNE is understood by wine consumers and others in the United States to denote a specific regional place of origin.

11. The AOC CHAMPAGNE is symbolic of the good will and consumer recognition built up through the efforts and investments of the INAO in the appellation of origin system and its AOCs, and through the promotion and sales of high-quality products by those certified by the INAO to use that AOC.

12. The AOC CHAMPAGNE is a certification mark of regional origin within the meaning of Section 45 of the Lanham Act, 15 U.S.C. § 1127.

13. The AOC CHAMPAGNE is a famous mark within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1127(c).

14. The Application identifies the goods on or in connection with which Applicant uses the subject mark as “Sparkling wines with protected appellation of origin Champagne; Sparkling grape wine with the protected appellation of origin Champagne”

15. The mark incorporates two different geographical terms – “BEVERLY HILLS” and “CHAMPAGNE.” Beverly Hills is a location in California, not the Champagne region of France. Accordingly, the subject mark, when used on or in connection with the goods identified in the Application, consists of or comprises a mark that is primarily geographically deceptively misdescriptive of such goods, insofar as it indicates that those goods originate in the Beverly Hills area of California. 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 is likely, when applied to the goods identified in the Application, to cause dilution of the AOC and famous certification mark CHAMPAGNE by blurring and by tarnishment (for example, by fostering the impression that CHAMPAGNE is merely a generic designation for a type or style of wine that may originate in various locations, such as Beverly Hills, California, when it is in fact a distinctive geographical indication). Accordingly, registration of Applicant’s mark should be refused under Section 13(a) and 43(c) of the Trademark Act of 1946, 15 U.S.C. §§ 1063, 1125(c).

17. The forms of damage that Opposer believes it or 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 AOC CHAMPAGNE, damage to the rights and interests of Opposer, and damage to the rights and interests of those certified to use the AOC CHAMPAGNE on their wines.

WHEREFORE, Opposer prays that Application Serial No. 87/134,407 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/

Peter M. Brody, Esq.
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Attorneys for the Institut National de l'Origine et al
Qualité and Comité Interprofessionnel du Vin de
Champagne

Dated: July 17, 2017

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| |) | |
| Applicant. |) | |
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July, 2017, a true and correct copy of this Notice of Opposition was served upon Applicant by e-mail, in accordance with 37 CFR 2.119, to:

Beverly Hills Rose LLC
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jkranzdorf@eahlink.net
126 ½ South Kings Road
Los Angeles, CA 90048

/ronald duvernay/
Ronald M. Duvernay
ROPES & GRAY LLP