

ESTTA Tracking number: **ESTTA839967**

Filing date: **08/16/2017**

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	Vina Concha y Toro S.A.
Granted to Date of previous extension	08/16/2017
Address	Nueva Tajamar 481 Torre Norte, Piso 15 Las Condes Santiago, 0 CHILE

Correspondence information	George W. Lewis Westerman, Hattori, Daniels & Adrian, LLP 1250 Connecticut Ave., NW Suite 700 Washington, DC 20036 UNITED STATES Email: trademarkmail@whda.com, glewis@whda.com, tjeffery@whda.com Phone: 202.822.1100
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Applicant Information

Application No	87254798	Publication date	04/18/2017
Opposition Filing Date	08/16/2017	Opposition Period Ends	08/16/2017
Applicant	Citadel Trading Corp. c/o Natter & Natter, 501 Fifth Avenue e; New York, NY 10010 UNITED STATES		

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: Sangria; Wines

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.	2917361	Application Date	12/15/2003
Registration Date	01/11/2005	Foreign Priority Date	NONE
Word Mark	AMELIA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1996/01/22 First Use In Commerce: 1996/01/22 Wines and sparkling wines

Attachments	78340827#TMSN.png(bytes) Notice of Opposition 87254798 MYLIA.pdf(887491 bytes)
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Signature	/george lewis/
Name	George W. Lewis
Date	08/16/2017

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

Viña Concha y Toro SA)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	Application Serial No. 87254798
Citadel Trading Corp.)	Mark: MYLIA
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

In the matter of an application to register a trademark under the Trademark Act of 1946, Serial No. 87254798 for the mark MYLIA (“Applicant’s Mark”) filed December 2, 2016 in the name of Citadel Trading Corp. (Applicant), published for opposition in the Official Gazette of April 18, 2017.

The Opposer, Viña Concha y Toro SA ("Opposer"), a Chilean corporation, located at Nueva Tajamar 481, Torre Norte, Las Condes, Santiago, Chile, believes that it is or will be damaged by registration of said Application Serial No. 87254798 in Class 33 and hereby opposes same. The grounds for opposition are as follows:

1. Opposer is engaged in the production, bottling and distribution of wine. Founded in 1883 by Don Melchor de Santiago Concha y Toro and his wife, Emiliana Subercaseaux, Opposer is Latin America’s largest producer of wine and accounts for nearly a quarter of Chile’s total wine production. Opposer is America’s largest exporter of wine from Chile. Opposer owns and operates vineyards in Chile in the Maipo Valley, Maule Valley, Rapel Valley, Casablanca Valley and the Mendoza Valley in Argentina.

2. Opposer is the second largest vintner in the world in terms of planted hectares, being responsible for 10,750 hectares of grapes.

3. Opposer has enjoyed a consistent presence in the Power 100 ranking of the world's leading spirits and wine brands since 2006. A panel of experts from the wine and spirits industry, with vast financial and commercial knowledge, analyzed over 10,000 brands from all over the world to produce a list of the top 100 most powerful brands. The study defines as powerful a brand that has the ability to generate value for its owners. This value is defined by parameters including market share, brand growth, price positioning, market scope, brand awareness and relevancy as well as heritage and perception. In 2014 and 2015, Opposer attained the No. 1 spot for most powerful wines brands, unseating such well-known competitors as Gallo and Robert Mondavi in the U.S. and Australians Hardy's and Jacob's Creek. The top ten rankings for 2014 are as follows: (1) CONCHA Y TORO; (2) GALLO; (3) ROBERT MONDAVI; (4) HARDY'S; (5) BAREFOOT; (6) YELLOWTAIL; (7) SUTTER HOME; (8) BERINGER; (9) JACOBS CREEK; and (10) LINDEMANS.

4. On numerous occasions Opposer's wines have received 90 and 96 points in Wine Spectator magazine. It is also the only Chilean wine that has appeared on the Top 100 Wines of the Year six times—and twice in 4th place in this prestigious ranking, confirming the consistent quality and rich history of its 24 vintages of Chilean wine.

5. Opposer's AMELIA trademark has been used in interstate commerce within the United States and in commerce between the U.S. and Chile to identify and distinguish Opposer's wine since as early as January 22, 1996 and continues to be in such use.

6. Opposer is the owner of U.S. Trademark Registration No. 2917361 for the mark AMELIA that issued to registration on January 11, 2005 in connection with "Wines and sparkling wines" in Class 33. This registration is in full force and effect, and constitutes *prima facie* evidence of Opposer's ownership of Opposer's Mark and its exclusive right to use Opposer's Mark in commerce under Section 7(b) of the Trademark Act, as amended, 15 U.S.C. 1057. A copy of this registration is attached as Exhibit A.

7. Opposer's AMELIA Chardonnay 2011 received a 90 point rating in 2014 from eRobertParker.com.

8. Opposer's AMELIA Chardonnay 2010 received a 90 point rating in 2013 from Wine Spectator online edition.

9. Opposer's AMELIA Chardonnay 2009 received a 90 point rating in 2012 from eRobertParker.com.

10. Notwithstanding Opposer's established prior rights, Applicant filed on December 2, 2016 in the United States Patent and Trademark Office an intent to use based application for trademark registration of the mark MYLIA which, as published, identifies goods in Class 33 as "Sangria; Wines."

11. Commencing at least as early as January 22, 1996 and long prior to the December 2, 2016 date of filing of the opposed intent to use based application herein, Opposer has adopted and used and is now using the mark AMELIA ("Opposer's Mark") alone and in combination with design features in association with the sale, preparation, bottling, distribution and marketing of wines (Opposer's Goods").

12. Opposer's Registration No. 2917361 issued January 11, 2005 long prior to the December 2, 2016 filing date of the Opposed Application herein.

13. The use of the mark sought to be registered by Applicant is likely to cause confusion or mistake in the minds of purchasers and lead purchasers and prospective purchasers to believe Applicant's goods are the goods of Opposer, or in some way backed by, sponsored by, franchised by, approved by, associated with, or otherwise connected with the good name and reputation of Opposer, to the damage and injury of the purchasing public, and to the damage and injury of Opposer and its goodwill in the AMELIA mark.

14. Applicant's MYLIA mark is a colorable imitation of, and so resembles Opposer's Mark, that when applied to the goods of the Applicant, the opposed mark would cause confusion, or cause mistake or to deceive consumers, resulting in damage and detriment to Opposer and its reputation.

15. Opposer believes that it will be damaged by the issuance of a registration to Applicant for its asserted MYLIA mark, as set forth in the subject Application Serial No. 87254798, in that the mark is substantially similar to, and a colorable imitation of Opposer's Marks and, upon information and belief, is intended to be used in connection with the identified goods which are the same as and/or related to the goods of Opposer under Opposer's Mark.

WHEREFORE, this Opposer believes and avers that it will be damaged by registration of the published MYLIA mark in Class 33, and respectfully requests that Application Serial No. 87254798 be rejected and that no registration issue thereon, and that this Opposition be sustained by issuance of judgment in favor of Opposer.

Respectfully submitted,

VIÑA CONCHA Y TORO SA

Date: August 16, 2017

By: /George Lewis/
George W. Lewis, Esq.
Westerman, Hattori, Daniels & Adrian, LLP
Attorneys for Opposer
1250 Connecticut Ave., NW, Ste. 700
Washington, D.C. 20036
(202) 822-1100 (phone)
(202) 393-5350 (facsimile)
glewis@whda.com (email)

Atty. Docket No.: OT170010US00

Exhibit A

Int. Cl.: 33

Prior U.S. Cls.: 47 and 49

United States Patent and Trademark Office

Reg. No. 2,917,361

Registered Jan. 11, 2005

**TRADEMARK
PRINCIPAL REGISTER**

AMELIA

VIÑA CONCHA Y TORO S.A. (CHILE CORPORATION)
NUEVA TAJAMAR 481, TORRE NORTE, PISO 15
LAS CONDES
SANTIAGO, CHILE

FOR: WINES AND SPARKLING WINES, IN
CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 1-22-1996; IN COMMERCE 1-22-1996.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-340,827, FILED 12-15-2003.

KIMBERLY FRYE, EXAMINING ATTORNEY