

ESTTA Tracking number: **ESTTA882045**

Filing date: **03/08/2018**

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	Hundred Acre Wine Estate, LLC		
Entity	Limited Liability Company	Citizenship	California
Address	1050 Adams Street, Suite C St. Helena, CA 94574 UNITED STATES		

Attorney information	Ronald P. Oines Rutan & Tucker, LLP 611 Anton Blvd., Ste. 1400 Costa Mesa, CA 92626 UNITED STATES Email: roines@rutan.com, lhulley@rutan.com, csolorzano@rutan.com, trademarks@rutan.com Phone: 714-641-5100		
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Applicant Information

Application No	87595375	Publication date	02/06/2018
Opposition Filing Date	03/08/2018	Opposition Period Ends	03/08/2018
Applicant	Hidden Acre Vines LLC 16323 Tudor Drive Encino, CA 91436 UNITED STATES		

Goods/Services Affected by Opposition

Class 031. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Grapes, fresh; Fresh grapes; Fresh grapes for winemaking; Fresh wine grapes
Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Grape juice; Grape juice beverages; Grape must; Fruit juice, namely, grape juice
Class 033. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Grape wine


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2778658	Application Date	10/30/2001
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Registration Date	10/28/2003	Foreign Priority Date	NONE
Word Mark	HUNDRED ACRE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2003/01/10 First Use In Commerce: 2003/01/10 wines		

U.S. Registration No.	4396244	Application Date	03/01/2013
Registration Date	09/03/2013	Foreign Priority Date	NONE
Word Mark	HUNDRED ACRE		
Design Mark			
Description of Mark	The mark consists of a vertical rectangle outlined in a border with the words "HUNDRED ACRE" in block letters in two separate lines at the top of the rectangle, and under which are five stars displayed in a circular formation.		
Goods/Services	Class 033. First use: First Use: 2003/02/00 First Use In Commerce: 2003/02/00 Wines		

U.S. Registration No.	4509133	Application Date	01/29/2013
Registration Date	04/08/2014	Foreign Priority Date	NONE
Word Mark	HUNDRED ACRE THIS IS THE STORY OF A MAN,WHO WAS NEVER AT A LOSS. HE HAD TRAVELLED FAR IN THE WORLD AFTER THE SACK OF TROY, THE VIRGIN FORTRESS; HE SAW MANY CITIES OF MEN, AND LEARNED THEIR MINDS. HE ENDURED MANY TROUBLES AND HARD-SHIPS IN THE STRUGGLE TO SAVE HIS OWN LIFE AND TO BRING BACK HIS MEN SAFE TO THEIR HOMES. HE DID HIS BEST, BUT HE COULD NOT SAVE HIS COMPANIONS FOR THEY...		

Design Mark	
Description of Mark	<p>The mark consists of a cream-colored rectangle outlined in gold at the top of which are the words "HUNDRED ACRE" in black, block letters in two separate lines, and under which are the following embossed words in block letters, which are shown in the color black merely to represent embossing representing cream-colored embossed letters on the cream-colored background, but the color black as shown in these words is not claimed as part of the mark: "THIS IS THE STORY OF A MAN, WHO WAS NEVER AT A LOSS. HE HAD TRAVELLED-FAR IN THE WORLD AFTER THE SACK TROY, THE VIRGIN FORTRESS; HE SAW MANY CITIES OF MEN, AND LEARNED THEIR MINDS. HE ENDURED MANY TROUBLES AND HARDSHIPS IN THE STRUGGLE TO SAVE HIS OWN LIFE AND TO BRINGBACK HIS MEN SAFE TO THEIR HOMES. HE DID HIS BEST, BUT HE COULD NOT SAVE HIS COMPANIONS FOR THEY...". Superimposed over these words are five gold stars displayed in a circular formation.</p>
Goods/Services	Class 033. First use: First Use: 2003/02/00 First Use In Commerce: 2003/02/00 Wines

Attachments	85864271#TMSN.png(bytes) 85835089#TMSN.png(bytes) Notice of Opposition.pdf(473199 bytes)
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Signature	/Ronald P. Oines/
Name	Ronald P. Oines
Date	03/08/2018

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

HUNDRED ACRE WINE ESTATE, LLC,

Opposer,

v.

HIDDEN ACRE VINES LLC,

Applicant.

Opposition No.:

Application Serial No.: 87595375

Trademark: HIDDEN ACRE VINES

NOTICE OF OPPOSITION

Opposer, Hundred Acre Wine Estate, LLC (“Opposer”), a California limited liability company having a place of business at 1050 Adams Street, Suite C, St. Helena, California 94574, believes that it will be damaged by registration of the mark HIDDEN ACRE VINES, shown in U.S. Application Serial No. 87595375 (“Application”), filed by Hidden Acre Vines LLC (“Applicant”), and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is in the business of producing and selling wine and is the producer of a well-known and critically acclaimed wine that is offered under the HUNDRED ACRE trademark. Opposer has been using HUNDRED ACRE as its trade name and the HUNDRED ACRE trademark since 2003, prior to the filing date of the Application. As a result, Opposer’s HUNDRED ACRE mark was well-known and recognizable to the public prior to the filing date of the Application for the proposed mark.

2. Opposer has long maintained registrations for the mark HUNDRED ACRE in Class 33 for wine in the United States Patent and Trademark Office (the “USPTO”). Among said registrations owned by Opposer (collectively “Opposer’s Marks”) are:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class</u>
HUNDRED ACRE	2,778,658	October 28, 2003	33



4,396,244

September 3, 2013

33



4,509,133

April 8, 2014

33

3. The registrations for Opposer’s Marks are valid and subsisting, and are owned by Opposer together with the business and goodwill connected therewith. Copies of the TSDR records for Opposer’s Marks showing the current status and title are attached hereto as **Exhibit A**.

Applicants’ Trademark Application

4. Applicant seeks registration of the mark HIDDEN ACRE VINES (“Applicant’s Mark”) on the basis of an intent-to-use application filed on September 4, 2017, pursuant to Section 1(b) of the Lanham Act.

5. As published on January 17, 2018, the Application covers “Grapes, fresh; Fresh grapes; Fresh grapes for winemaking; Fresh wine grapes” in International Class 31, “Grape juice; Grape juice beverages; Grape must; Fruit juice, namely, grape juice” in International Class 32, and “Grape wine” in International Class 33.

**CLAIM FOR RELIEF
Likelihood of Confusion
Section 2(d) of The Lanham Act; 15 U.S.C. §1052(d)**

6. Opposer hereby incorporates the foregoing paragraphs as fully set forth herein.

7. Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), prohibits registration on the principal register of a mark that consists of or comprises a mark which so resembles a mark

previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive.

8. Upon information and belief, the goods identified in the Application includes goods that are identical and goods that are related and/or complementary to the goods offered under Opposer's Marks.

9. Applicant's Mark so resembles Opposer's Marks, as to be likely, when used in connection with the goods identified in the Application, to cause confusion, to cause mistake, or to deceive.

10. The Trademark Trial and Appeal Board has authority under 15 U.S.C. § 1068 to refuse to register Applicant's Mark.

WHEREFORE, Opposer prays that the Application be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

Please recognize Ronald P. Oines and Lindsay J. Hulley and the law firm of Rutan & Tucker, LLP, as attorneys for Opposer in this proceeding and address all communications to Mr. Oines at the address below. This Notice of Opposition is being submitted electronically through ESTTA. The required fee is authorized to be charged against the Deposit Account of the Attorney for Opposer.

Respectfully submitted,

Dated: March 8, 2018

By: /Ronald P. Oines/
Ronald P. Oines
Lindsay J. Hulley
Rutan & Tucker, LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, California 92626
Telephone: (714) 641-5100
roines@rutan.com
lhulley@rutan.com

Attorneys for Opposer,
Hundred Acre Wine Estate, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is one of the attorneys for Opposer Hundred Acre Estate, LLC, in the above-captioned Opposition proceeding and that on the date which appears below, he caused a copy of the foregoing **NOTICE OF OPPOSITION** to be served on Applicant's counsel below by email:

Applicant's Attorney of Record:

Neil M. Popowitz
FREILICH & POPOWITZ
16323 Tudor Drive
Encino, CA 91436
E-mail: neil@hiddenacrevines.com

Dated: March 8, 2018
Costa Mesa, California

/Ronald P. Oines/
Ronald P. Oines

EXHIBIT A



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Typed Drawing

Word Mark	HUNDRED ACRE
Goods and Services	IC 033. US 047 049. G & S: wines. FIRST USE: 20030110. FIRST USE IN COMMERCE: 20030110
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	78090803
Filing Date	October 30, 2001
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	July 30, 2002
Registration Number	2778658
International Registration Number	0946966
Registration Date	October 28, 2003
Owner	(REGISTRANT) Hundred Acre Wine Estate, LLC LIMITED LIABILITY COMPANY CALIFORNIA 1050 Adams Street, Suite C St. Helena CALIFORNIA 94574
Attorney of Record	Hani Z. Sayed
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20131016.
Renewal	1ST RENEWAL 20131016
Live/Dead Indicator	LIVE

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Word Mark	HUNDRED ACRE
Goods and Services	IC 033. US 047 049. G & S: Wines. FIRST USE: 20030200. FIRST USE IN COMMERCE: 20030200
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	01.01.10 - Stars, three or more; Three or more stars 01.01.13 - Stars - multiple stars with five points 26.01.09 - Circles having animals as a border; Circles having geometric figures as a border; Circles having humans as a border; Circles having objects as a border; Circles having plants as a border; Geometric figures, objects, humans, plants or animals forming or bordering the perimeter of a circle. 26.11.01 - Rectangles as carriers or rectangles as single or multiple line borders
Serial Number	85864271
Filing Date	March 1, 2013
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	June 18, 2013
Registration Number	4396244
Registration Date	September 3, 2013
Owner	

(REGISTRANT) Hundred Acre Wine Estate, LLC LIMITED LIABILITY COMPANY CALIFORNIA
Suite C 1050 Adams Street St. Helena CALIFORNIA 94574

Attorney of Record

Lindsay J. Hulley

Prior Registrations

2778658;3467363

Description of Mark

Color is not claimed as a feature of the mark. The mark consists of a vertical rectangle outlined in a border with the words "HUNDRED ACRE" in block letters in two separate lines at the top of the rectangle, and under which are five stars displayed in a circular formation.

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live/Dead Indicator

LIVE

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Word Mark **HUNDRED ACRE** THIS IS THE STORY OF A MAN,WHO WAS NEVER AT A LOSS. HE HAD TRAVELLED FAR IN THE WORLD AFTER THE SACK OF TROY, THE VIRGIN FORTRESS; HE SAW MANY CITIES OF MEN, AND LEARNED THEIR MINDS. HE ENDURED MANY TROUBLES AND HARDSHIPS IN THE STRUGGLE TO SAVE HIS OWN LIFE AND TO BRING BACK HIS MEN SAFE TO THEIR HOMES. HE DID HIS BEST, BUT HE COULD NOT SAVE HIS COMPANIONS FOR THEY...

Goods and Services IC 033. US 047 049. G & S: Wines. FIRST USE: 20030200. FIRST USE IN COMMERCE: 20030200

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design 01.03.03 - Stars grouped in circles, ovals, or geometric figures

Search Code 20.03.10 - Bottle labels; Labels for bottles
 26.01.09 - Circles having animals as a border; Circles having geometric figures as a border; Circles having humans as a border; Circles having objects as a border; Circles having plants as a border; Geometric figures, objects, humans, plants or animals forming or bordering the perimeter of a circle.
 26.11.20 - Rectangles inside one another

Serial Number 85835089

Filing Date January 29, 2013

Current Basis 1A

Original Filing Basis 1A

Published for Opposition January 21, 2014

Registration Number 4509133

Registration Date April 8, 2014

Owner (REGISTRANT) Hundred Acre Wine Estate, LLC LIMITED LIABILITY COMPANY CALIFORNIA Suite C 1050 Adams Street St. Helena CALIFORNIA 94574

Attorney of Record Lindsay J. Hulley

Prior Registrations 2778658;3467363

Description of Mark The color(s) black, gold and cream is/are claimed as a feature of the mark. The mark consists of a cream-colored rectangle outlined in gold at the top of which are the words "HUNDRED ACRE" in black, block letters in two separate lines, and under which are the following embossed words in block letters, which are shown in the color black merely to represent embossing representing cream-colored embossed letters on the cream-colored background, but the color black as shown in these words is not claimed as part of the mark: "THIS IS THE STORY OF A MAN, WHO WAS NEVER AT A LOSS. HE HAD TRAVELLED FAR IN THE WORLD AFTER THE SACK TROY, THE VIRGIN FORTRESS; HE SAW MANY CITIES OF MEN, AND LEARNED THEIR MINDS. HE ENDURED MANY TROUBLES AND HARDSHIPS IN THE STRUGGLE TO SAVE HIS OWN LIFE AND TO BRING BACK HIS MEN SAFE TO THEIR HOMES. HE DID HIS BEST, BUT HE COULD NOT SAVE HIS COMPANIONS FOR THEY...". Superimposed over these words are five gold stars displayed in a circular formation.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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