

ESTTA Tracking number: **ESTTA886582**

Filing date: **03/29/2018**

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	Institut National de l'Origine et de la Qualite
Granted to Date of previous extension	04/04/2018
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 Email: ustrademarkmail@ropesgray.com Phone: 202-508-4612
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Applicant Information

Application No	87568536	Publication date	12/05/2017
Opposition Filing Date	03/29/2018	Opposition Period Ends	04/04/2018
Applicant	Bear River Winery LLC 2751 Combie Road Meadow Vista, CA 95722 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 2017/07/30 First Use In Commerce: 2017/08/04 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)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)
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 AOC designation of BORDEAUX for certain wines produced in the Bordeaux region of France, in accordance with methods and limitations set forth in French law.		
Goods/Services	Certain wines produced in the Bordeaux region of France, in accordance with methods and limitations set forth in French law.		

Attachments	20180329_129614_NOO_Pleading.pdf(307822 bytes)
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Signature	/p brody/
Name	Peter M. Brody
Date	03/29/2018

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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INSTITUT NATIONAL DE L'ORIGINE)	
ET DE LA QUALITÉ,)	Opposition No. _____
)	
Opposer,)	Application Serial No. 87/568,536
)	
v.)	Mark: BEARDEAUX
)	
BEAR RIVER WINERY LLC)	Published in the Official Gazette
)	of December 5, 2017
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, France, hereby opposes the application ("Application") filed on August 14, 2017, by applicant Bear River Winery LLC ("Applicant") to register the mark "BEARDEAUX" in International Class 33 for use of said mark on or in connection with "Wine" (U.S. Application Serial No. 87/568,536, published for opposition in the Official Gazette of December 5, 2017). 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. 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. “Bordeaux” is one such AOC.

2. 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.

3. “Bordeaux” is among the particular “AOCs” recognized and protected by French law for many decades. This appellation is well known, and is the distinctive designation of a popular and high quality product. By decrees of 1909 and 1936, the French government has restricted the use of the name “Bordeaux” to wines and spirits that meet prescribed standards of quality and content, and that are produced in the Bordeaux region at locations, and under

conditions, specified and regulated by French law, as supervised and enforced by the INAO.

These legal requirements are comprehensive and concern, *inter alia*, the varietal type of grapes that may be used, the permitted techniques of viticulture and vinification used in the growing and making of the wine, and the prescribed duration of and methods for aging. Use of the designation “Bordeaux” constitutes an assurance by the INAO, which is charged by French law with the responsibility and authority for safeguarding the integrity of this important French designation, that the product bearing that designation has been produced in accordance with these strict standards.

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

5. The AOC “Bordeaux” denotes, and is understood by United States consumers 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 filing date of Applicant's application, and continuing to the present. The AOC “Bordeaux” 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 this specific AOC, and through the promotion and sales of these quality products by those certified by the INAO to use this AOC.

6. The AOC “Bordeaux” is recognized under United States wine labeling regulations as a foreign nongeneric name of geographic significance which is also a distinctive designation of a specific grape wine. *See* 27 C.F.R. §§ 4.24(c), 12.31(b). Those regulations restrict the use of “Bordeaux”– including use as a brand name – to wines entitled to bear the AOC “Bordeaux” under French law. *See* 27 C.F.R. §§ 4.24(c), 4.39(i).

7. The AOC “Bordeaux” is, and has been for many years prior to the date of filing of the subject application, a valid certification mark within the meaning of Section 45 of the Lanham Act, 15 U.S.C. § 1127, and indicates, and throughout that time period has indicated, the regional origin as well as the quality and characteristics of the products entitled to bear that designation under French law, pursuant to the standards established and enforced by the INAO.

8. The AOC “Bordeaux” is, and has been for many years prior to the date of filing of the subject application, a famous mark within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

9. Applicant seeks to register “BEARDEAUX” as a trademark in International Class 33 in connection with “Wine.”

10. On information and belief, the goods in connection with which Applicant uses or seeks to use the subject mark do not consist of AOC “Bordeaux” wines, do not originate in the Bordeaux region of France, or anywhere in France, and are not entitled to bear the protected AOC “Bordeaux.”

11. The subject mark consists of or comprises a geographical indication which, when used on or in connection with wines, identifies a place other than the origin of the goods. Accordingly, registration of Applicant’s mark should be refused under Section 2(a) of the Trademark Act of 1946, 15 U.S.C. § 1052(a).

12. Alternatively, Applicant’s purported mark, when used on or in connection with the goods, is primarily geographically deceptively misdescriptive of them within the meaning of Section 2(e)(3) of the Trademark Act of 1946, 15 U.S.C. § 1052(e)(3).

13. In addition, Applicant's mark so resembles the protected AOC "Bordeaux" as to be likely, when applied to the goods of the Applicant, to cause confusion, or to cause mistake, or to deceive as to the source, sponsorship, or affiliation of Applicant's goods within the meaning of Section 2(d) of the Trademark Act of 1946, 15 U.S.C. § 1052(d).

14. Finally, Applicant's purported mark, when so used, also would cause dilution of the AOC "Bordeaux" by blurring and by tarnishment within the meaning of Sections 13(a) and 43(c) of the Trademark Act of 1946, 15 U.S.C. §§ 1063, 1125(c).

15. The forms of damage that Opposer believes they or persons they represent are likely to suffer as a result of the registration of the Applicant's mark include, but are not limited to, the disparagement of Bordeaux products produced and denominated in compliance with international agreement and United States law; the impairment of the rights of the Opposer and their members in the exclusive use of the AOC "Bordeaux" as part of the "appellation of origin" classification and grading system; and the dilution of the "Bordeaux" name and the "Bordeaux" AOC.

For all the foregoing reasons, Applicant's alleged mark is not entitled to registration on the Principal Register under Section 2 of the Lanham Act, 15 U.S.C. § 1052 and Section 2.69 of the Trademark Rules of Practice, 37 C.F.R. § 2.69.

WHEREFORE, Opposer prays that application Serial No. 87/568,536 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 LLP to act as their 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: March 29, 2018

