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

Proceeding	91242020
Party	Defendant Enovation Brands, Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re: Application No. 87/637,050

For: Cognador

_____)	
Bureau National Interprofessionnel)	
du Cognac)	
)	
Opposer,)	
)	
vs.)	Opposition No. 91242020
)	
Enovation Brands, Inc.,)	
)	
Applicant.)	
)	
_____)	

ANSWER TO NOTICE OF OPPOSITION

Trademark Trial and Appeal Board
US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Comes now Enovation Brands, Inc. (“Applicant”) and answers Bureau National Interprofessionnel du Cognac’s (“Opposer”) Notice of Opposition in the above-captioned proceeding as follows:

1. Applicant seeks to register COGNADOR as a trademark for spirits; spirits and liqueurs; wines; distilled spirits in International Class 33, as evidenced by the publication of application Serial No. 87/637,050 on March 19, 2018. The application for such mark was filed with the USPTO on October 6, 2017 and was based on intended use pursuant to Section 1(b).

RESPONSE: Admitted.

2. Opposer is a trade association that represents the interests of producers of COGNAC brandy located in the Cognac region of France. Opposer controls and enforces the common law certification mark COGNAC for brandy. See Bureau National Interprofessionnel du Cognac v. International Better Drinks Corporation, 6 USPQ2d 1610 (TTAB 1988). Upon information and belief, Opposer's rights in the COGNAC certification mark precede any rights which can be claimed by Applicant in the COGNADOR mark, based either on use or the filing of its application

RESPONSE: The Applicant lacks sufficient information to form a belief with respect to the truth of the allegations recited in Paragraph 2 of the Notice of Opposition and therefore they are DENIED.

3. Opposer alleges that Applicant's applied-for mark is likely to cause confusion, mistake or to deceive the public. Applicant's COGNADOR mark for alcoholic beverages is similar to Opposer's COGNAC certification mark for brandy and the respective goods on which the marks are used or intended to be used are identical, substantially similar or related and said goods are directed to the same group of consumers. Accordingly, Applicant's mark is confusingly similar to Opposer's certification mark such that Applicant is not entitled to register its mark and Applicant's application should be denied in accordance with Section 2(d) of the Trademark Act of 1946, 15 U.S.C. §1052(d)

RESPONSE: DENIED.

4. Upon information and belief, in adopting the COGNADOR mark Applicant also intended to trade upon the reputation of quality brandy from the Cognac region certified under

the COGNAC mark by Opposer, thereby falsely suggesting a connection with Certifier and brandy from the Cognac region certified under the certification mark. Accordingly, Applicant's mark should be denied in accordance with Section 2(a) of the Trademark Act of 1946, 15 U.S.C. §1052(a), as it falsely suggests a connection with Opposer as the certifier of COGNAC brandy and trade association representing the interests of producers of COGNAC brandy in the Cognac region of France.

RESPONSE: DENIED.

5. Upon information and belief, Applicant will not use the COGNADOR mark in association with brandy originating in the Cognac region of France and consumers seeing the COGNADOR mark will mistakenly believe the product originates from the Cognac region of France and will purchase such product based on such mistaken belief. Accordingly, Applicant's mark is geographically deceptive such that Applicant is not entitled to register its mark and Applicant's application should be denied in accordance with Section 2(a) of the Trademark Act of 1946, 15 U.S.C. §1052(a) and Section 2(e)(3) of the Trademark Act of 1946, 15 U.S.C. §1052(e)(3).

RESPONSE: Applicant admits it does not intend to sell brandy originating from the Cognac region of France in association with the COGNADOR mark. The remaining allegations recited in Paragraph 5 are DENIED.

6. COGNAC is a recognized geographical indication for spirits. Upon information and belief, Applicant will not use the COGNADOR mark in association with alcohol beverages originating from the Cognac region of France. Accordingly, upon information and belief, the COGNADOR mark consists of or comprises a geographical indication which, when used on or in connection with wine or spirits,

identifies a place other than the origin of the goods and will be first used on or in connection with wine or spirits by the applicant on or after January 1, 1996, such that Applicant is not entitled to register its mark and Applicant's application should be denied in accordance with Section 2(a) of the Trademark Act of 1946, 15 U.S.C. §1052(a).

RESPONSE: Applicant admits that it does not intend to use the COGNADOR mark in association with alcohol beverages originating from the Cognac region of France. The APPLICANT denies that COGNADOR represents any geographic origin. The Applicant lacks sufficient information to form a belief with respect to the truth of the remainder allegations recited in Paragraph 6 of the Notice of Opposition and therefore they are DENIED.

7. COGNAC is a famous designation for brandy and enjoys a world-wide reputation as superior and prestigious quality brand. COGNAC is symbolic of the extensive goodwill and consumer recognition built up through the substantial efforts and investments of BNIC in the COGNAC certification mark, and through the promotion and sales of these quality products over many years. Applicant will not use the COGNADOR mark in association with brandy originating from the Cognac region of France. Applicant will not use the COGNADOR mark with the permission or authority of Opposer. The COGNADOR mark will call to mind Opposer's COGNAC mark among consumers. Accordingly, upon information and belief, Applicant's use of the COGNADOR mark creates an association with the famous COGNAC mark such that the distinctiveness of the COGNAC mark is impaired and Applicant's actions are likely to cause dilution through blurring in violation of 15 U.S.C. §1125(c).

RESPONSE: Applicant admits it will not use the COGNADOR mark in association with brandy originating from the Cognac region of France. Applicant also admits that it has not sought permission to use the COGNADOR mark with the permission or authority of Opposer and affirmatively states that no such permission or authority is required. Applicant denies that COGNADOR mark will call to mind Opposer's COGNAC mark among consumers and denies Applicant's use of the COGNADOR mark creates an association with the famous COGNAC mark such that the distinctiveness of the COGNAC mark is impaired and further denies that Applicant's actions are likely to cause dilution through blurring in violation of 15 U.S.C. §1125(c). With respect to the remainder of the allegations in paragraph 7 of the Notice of Opposition, the Applicant lacks sufficient information to form a belief with respect to the truth of the remainder allegations recited therein and therefore they are DENIED.

8. Opposer avers that if Applicant is granted the registration herein opposed, it would interfere with Opposer's exclusive right to control the COGNAC certification mark herein relied upon, as well as cause harm to Opposer and its members as a result of the consumer deception which would occur and misuse of the geographical indication, as well as dilution of the famous COGNAC certification mark, all to the detriment and damage of Opposer and those parties properly using COGNAC. Accordingly, Opposer avers that for the reasons aforesaid, it will be damaged by a grant of registration to Applicant of its trademark which is the subject of Serial No. 87/637,050.

RESPONSE: Denied

WHEREFORE, the Applicant submits that:

The opposition should be dismissed; and

That Application Serial No. 86/763,245 should proceed to registration.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 5th Day of August 2018 a copy of the foregoing Answer to Notice to Opposition was mailed, first class, postage prepaid class to

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