

ESTTA Tracking number: **ESTTA925764**

Filing date: **10/02/2018**

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	Pernod Ricard Portugal-Distribui�es, S.A.
Granted to Date of previous extension	11/28/2018
Address	Centro Empresarial Quinta da Fonte Rua dos Malh�es, 2 and 2A Pa�so de Arcos, P2770-071 PORTUGAL
Attorney information	Louis S. Ederer & Paul C. Llewellyn ARNOLD & PORTER KAYE SCHOLER LLP 601 MASSACHUSETTS AVE, NWIP DOCKETING IP DOCKETING WASHINGTON, DC 20001 UNITED STATES trademarkdocketing@arnoldporter.com, louis.ederer@arnoldporter.com, palak.mayani@arnoldporter.com, paul.llewellyn@arnoldporter.com, elisa- beth.richards@arnoldporter.com 202-942-5000

Applicant Information

Application No	87823757	Publication date	07/31/2018
Opposition Filing Date	10/02/2018	Opposition Period Ends	11/28/2018
Applicant	Maccieri, Antonio 101 Parada Inglesa Rua Antonio Domingues de Carvalho Sao Paulo, 02242-005 BRAZIL		

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: Alcoholic beverages, except beer; Sparkling wines; Wines

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disreputable	Trademark Act Section 2(a)

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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	5313385	Application Date	10/26/2016
Registration Date	10/17/2017	Foreign Priority Date	NONE
Word Mark	MACIEIRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1930/03/00 First Use In Commerce: 2002/00/00 Alcoholic beverages, except beers		

U.S. Registration No.	4825735	Application Date	01/13/2015
Registration Date	10/06/2015	Foreign Priority Date	NONE
Word Mark	MACIEIRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1930/03/00 First Use In Commerce: 2002/00/00 Brandy		

U.S. Registration No.	1022824	Application Date	03/18/1974
Registration Date	10/14/1975	Foreign Priority Date	NONE
Word Mark	"MACIEIRA"		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1930/03/00 First Use In Commerce: 1956/03/00 BRANDY		

U.S. Registration	696587	Application Date	02/03/1958
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No.			
Registration Date	04/19/1960	Foreign Priority Date	NONE
Word Mark	"MACIEIRA"		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1930/03/00 First Use In Commerce: 1956/03/00 BRANDY		

Attachments	87216346#TMSN.png(bytes) 73016217#TMSN.png(bytes) Notice of Opposition Against ANTONIO MACCIERI WINEMAKER and Design - 87823757.pdf(38016 bytes)
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Signature	/Paul C. Llewellyn/
Name	Paul C. Llewellyn
Date	10/02/2018

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

PERNOD RICARD PORTUGAL -
DISTRIBUIÇÃO S.A.,

Opposer,

v.

MACCIERI, ANTONIO,

Applicant.

Opposition No. _____

Serial No. 87823757


Mark: ANTONIO MACCIERI
WINEMAKER & design

NOTICE OF OPPOSITION

Opposer, Pernod Ricard Portugal - Distribuição S.A. (“Opposer”), a corporation organized under the laws of Portugal with a place of business at Centro Empresarial Quinta da Fonte, Rua dos Malhões 2, 2A, Edif. D. Dinis – Q55, Floor 3-E, Paço de Arcos, Portugal, believes it will be damaged by the registration of the mark ANTONIO MACCIERI WINEMAKER & design shown in Application Serial No. 79202575, and hereby opposes the same.

As grounds for opposition, Opposer alleges that:

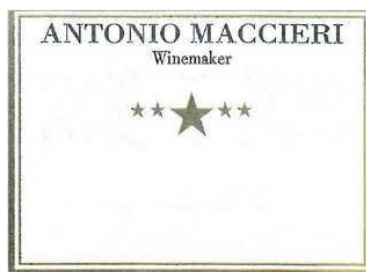
1. Opposer and its predecessors in interest have long used the trademark MACIEIRA in the United States in connection with alcoholic beverage products, with a date of first use in commerce of 1956.
2. Opposer is the owner of extensive common law rights in the mark MACIEIRA, as well as several federal registrations for the mark MACIEIRA, covering alcoholic beverages except beers, and brandy.
3. In particular, Opposer owns the following federal trademark registrations for the mark MACIEIRA:

Mark	Reg. No.	Class / Goods
MACIEIRA	5313385	Class 33: Alcoholic beverages, except beers.
MACIEIRA	4825735	Class 33: Brandy
	1022824	Class 33: Brandy
“MACIEIRA”	696587	Class 33: Brandy

4. The foregoing registrations are valid and subsisting, and Opposer hereby gives notice, in accordance with Trademark Rule of Practice 2.122(d)(2), that it will rely thereon as evidence in this proceeding, and a status copy thereof showing present title will be introduced into evidence on its behalf during Opposer’s testimony period.

5. As a result of long use, promotion, and advertising, Opposer’s trademark MACIEIRA has become a valuable asset of Opposer, serving as a symbol for Opposer’s goods, and the goodwill which is associated with that mark.

6. Despite Opposer’s long prior common law and statutory rights in the mark MACIEIRA, Applicant — with at least constructive notice of the above-referenced federal registrations, and long after Opposer established rights in and to its marks — adopted and filed an application for registration of the mark ANTONIO MACCIERI WINEMAKER & design for “Alcoholic beverages, except beer; Sparkling wines; Wines” in Class 33, with the word “WINEMAKER” disclaimed and presented less prominently than “ANTONIO MACCIERI,” as shown below:



7. Applicant's mark is confusingly similar to Opposer's mark MACIEIRA mark, including in appearance, sound and commercial impression. Among other things, the surname MACCIERI in Applicant's mark, which is the most prominent element of that mark, is highly similar to Opposer's mark MACIEIRA, and could well be confused by U.S. consumers as being the same name or mark.

8. Applicant's goods and services, as described in its application, are identical in part, and otherwise highly related to Opposer's goods. In particular, both parties' marks cover "alcoholic beverages" excluding beer, and the Applicant's other goods – sparkling wines and wines – are highly related to the Opposer's goods "brandy," because brandy is typically made from wine. Moreover, such goods and services are offered through the same or similar channels of trade to the same or similar customers or users as those goods offered by Opposer under its MACIEIRA mark.

9. Opposer believes, and therefore alleges, that use and registration of the applied-for mark will damage Opposer for the following reasons, among others:

- a. customers and purchasers of the respective goods would be confused, mistaken, or deceived as to the source or origin of Applicant's goods rendered under the applied-for mark; and
- b. customers and purchasers of the respective goods will assume, contrary to fact, that Applicant's goods come from, are associated with, sponsored by, approved by, or otherwise related to or affiliated with Opposer, the source of products under the MACIEIRA mark.

FIRST CLAIM FOR RELIEF

Likelihood of Confusion

10. Opposer repeats and realleges the allegations of Paragraphs 1 through 9 above as if fully set forth herein.

11. Applicant's applied-for mark so resembles Opposer's MACIEIRA mark as to be likely, when applied to the goods and services set forth in Applicant's application, to cause confusion, mistake or deception within the meaning of 15 U.S.C. § 1052(d).

SECOND CLAIM FOR RELIEF

False Suggestion of a Connection

12. Opposer repeats and realleges the allegations of Paragraphs 1 through 9 above as if fully set forth herein.

13. Opposer previously has used in commerce, in connection with its MACIEIRA-branded products, the name and mark MACIEIRA, such that that name or mark has become a name or identity of substantial reputation that is closely identified with Opposer. Applicant's applied-for mark is highly similar to the previously used name and mark MACIEIRA so as to be likely, when applied to the goods and services set forth in the application at issue, to point uniquely to Opposer, and to falsely suggest a connection with Opposer within the meaning of 15 U.S.C. § 1052(a).

WHEREFORE, Opposer respectfully prays that this Opposition be sustained and that registration to Applicant be refused.

The Patent and Trademark Office and Trademark Trial and Appeal Board are hereby authorized to collect any fees necessitated by this Notice of Opposition from the credit card on file for Arnold & Porter Kaye Scholer LLP.

Dated: October 2, 2018

Respectfully submitted,

/Paul C. Llewellyn/

Louis S. Ederer

Paul C. Llewellyn

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*Attorney for Opposer Pernod Ricard Portugal -
Distribuição S.A.*