

ESTTA Tracking number: **ESTTA1002958**

Filing date: **09/18/2019**

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 parties oppose registration of the indicated application.

**Opposers Information**

Name	Comite Interprofessionnel du vin de Champagne
Granted to Date of previous extension	09/18/2019
Address	5 RUE HENRI MARTIN EPERNAY, 51321 FRANCE

Name	Institut National de l'Origine et de la Qualite
Granted to Date of previous extension	09/18/2019
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 ustrademarkmail@ropesgray.com 2025084612
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**Applicant Information**

Application No	88276222	Publication date	05/21/2019
Opposition Filing Date	09/18/2019	Opposition Period Ends	09/18/2019
Applicant	Fancher, Lydia 1303 West Yale Street Orlando, FL 32804 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 030. First Use: 2017/10/01 First Use In Commerce: 2017/10/01 All goods and services in the class are opposed, namely: Kombucha tea
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act Section 2(d)
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The mark is deceptively misdescriptive	Trademark Act Section 2(e)(1)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)

### 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 CHAMPAGNE for certain sparkling wines produced in the Champagne region of France, in accordance with methods and limitations set forth in French law.		
Goods/Services	Certain sparkling wines produced in the Champagne region of France, in accordance with methods and limitations set forth in French law.		

Attachments	20190918_132049_NOO_Pleading.pdf(256167 bytes )
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Signature	/p brody/
Name	PETER M. BRODY
Date	09/18/2019



Official Gazette of May 21, 2019). Opposers believe that they will be damaged by registration of the subject mark, and as grounds of opposition, aver as follows:

1. “CHAMPAGNE” is a well-known French *appellation d’origine contrôlée* (“AOC”), or controlled appellation of origin, for certain sparkling wines produced in the Champagne region of France, in accordance with methods and limitations set forth in French law.

2. 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, including wines and spirits, bear “*appellations d’origine contrôlée*” (“AOCs”), or controlled appellations of origin. Each AOC for wine is recognized by a decree which delimits the specific area to which the appellation pertains but also specifies, for example, the grape variety or varieties, and methods of planting, harvesting, and production to be used. Compliance with the appellation of origin and AOC system, as administered by the INAO, is endorsed and monitored by the French government pursuant to French law, in conjunction with the efforts of various *interprofessionnels*, including the CIVC, 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. Opposer CIVC is a quasi-regulatory organization dedicated to the defense and the promotion of the Champagne AOC. CIVC is made up of representatives of all Champagne houses and growers, as well as the government. Among other functions, CIVC, in conjunction with Opposer, INAO, participates in the creation or broadening of laws and regulations that protect the Champagne appellation and in legal actions against all forms of abuse, detected in all major markets as part of a systematic surveillance operation.

4. "CHAMPAGNE" is among the particular AOCs for wines recognized and protected by the INAO. By decree law of June 29, 1936, France has restricted the use of this AOC to products produced in a specified area within the Champagne region of France, and in accordance with conditions specified in and pursuant to the AOC laws. Use of this AOC constitutes an assurance to customers by the INAO, the French regulatory authority specifically charged with safeguarding the integrity of this important French designation, that the products bearing that designation have been produced in accordance with these strict standards.

5. The use of the AOC "CHAMPAGNE" is in fact controlled by a certifier and limited to products meeting the certifier's standards of regional origin.

6. The AOC "CHAMPAGNE" denotes, and is understood 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 date of filing of the subject application and continuing to the present. The AOC "CHAMPAGNE" is symbolic of the good will and consumer recognition built up through the efforts and investments of the INAO and CIVC in the

appellation of origin system and its AOCs, including that specific AOC, and through the promotion and sales of these quality products by those certified by the INAO to use this AOC.

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

8. Applicant’s mark so resembles the protected AOC “CHAMPAGNE” as to be likely, when used in connection with the goods identified in the Application, 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, 15 U.S.C. § 1052(d).

9. Applicant’s mark, when used on or in connection with the goods identified in the Application, would cause dilution by blurring and by tarnishment of the famous “CHAMPAGNE” AOC and mark in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

10. Applicant’s mark, when used on or in connection with the goods identified in the Application, is deceptively misdescriptive of such goods in violation of Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1). Specifically, the mark falsely suggests that the goods contain genuine AOC CHAMPAGNE wine as an ingredient or are similar to genuine AOC CHAMPAGNE wine in their nature, characteristics, or qualities. On information and belief, the goods do not contain genuine AOC CHAMPAGNE wine or any wine as an ingredient, and they are not similar to genuine AOC CHAMPAGNE wine in their nature, characteristics, or qualities.

For all of the foregoing reasons, Applicant’s alleged mark is not entitled to registration on the Principal Register under Section 2 of the Lanham Act of 1946, 15 U.S.C. § 1052 and Section 2.69 of the Trademark Rules of Practice, 37 C.F.R. § 2.69.

WHEREFORE, Opposers pray that application Serial No. 88/276,222 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposers.

Opposers hereby appoint 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/

Peter M. Brody, Esq.  
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Attorneys for the Institut National de l'Origine et al  
Qualité and Comité Interprofessionnel du Vin de  
Champagne

Dated: September 18, 2019

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

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INSTITUT NATIONAL DE L'ORIGINE )	
ET DE LA QUALITÉ, )	
)	
and )	
)	Opposition No. _____
COMITÉ INTERPROFESSIONNEL DU VIN DE )	
CHAMPAGNE )	Application Serial No. 88/276,222
)	
)	Mark: CHAMPAGNE OF LIFE
Opposers, )	
)	Published in the Official Gazette
v. )	of May 21, 2019
)	
LYDIA FANCHER, )	
)	
Applicant. )	
_____)	

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 18<sup>th</sup> day of September, 2019, a true and correct copy of this Notice of Opposition was served upon Applicant's counsel by e-mail in accordance with 37 CFR 2.119, to:

Lydia Fancher  
[lydia.fancher@gmail.com](mailto:lydia.fancher@gmail.com)  
1303 West Yale Street  
Orlando, FL 32804

  
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Ronald M. Duvernay  
ROPES & GRAY LLP