

ESTTA Tracking number: **ESTTA1066984**

Filing date: **07/08/2020**

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	LC TM HOLDING, LLC
Granted to Date of previous extension	07/08/2020
Address	421 AVIATION BLVD SANTA ROSA, CA 95403 UNITED STATES

Attorney information	J. SCOTT GERIEN DICKENSON, PEATMAN & FOGARTY 1455 FIRST STREET, SUITE 301 NAPA, CA 94559 UNITED STATES Primary Email: tmltg@dpf-law.com Secondary Email(s): bbarrera@dpf-law.com 7072527122
Docket Number	

Applicant Information

Application No.	88341661	Publication date	03/10/2020
Opposition Filing Date	07/08/2020	Opposition Period Ends	07/08/2020
Applicant	E. & J. Gallo Winery 600 YOSEMITE BOULEVARD MODESTO, CA 95354 UNITED STATES		

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: Wines

Grounds for Opposition

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

U.S. Registration No.	2393573	Application Date	11/12/1999
Registration Date	10/10/2000	Foreign Priority Date	NONE

Word Mark	LA CREMA
Design Mark	LA CREMA
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1987/10/00 First Use In Commerce: 1987/10/00 Wines

Attachments	75847860#TMSN.png(bytes) 20200708 Notice of Opposition CASK CREAM.pdf(30266 bytes)
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Signature	/Joy Durand/
Name	Joy Durand
Date	07/08/2020

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

LC TM Holding, LLC
Opposer,
vs.
E. & J. Gallo Winery,
Applicant.

OPPOSITION NO.

NOTICE OF OPPOSITION

TO THE COMMISSIONER OF TRADEMARKS:

LC TM Holding, LLC, a Delaware limited liability company located at 421 Aviation Boulevard, Santa Rosa, California 95403 (“Opposer”), believes it will be damaged by registration of the mark CASK & CREAM for “wines,” shown in U.S. Trademark Application Serial No. 88/341,661, filed on March 15, 2019, by E. & J. Gallo Winery (“Applicant”) and opposes same.

Solely for the purpose of this proceeding, Opposer alleges the following as grounds for opposition:

1. Applicant seeks to register CASK & CREAM as a trademark for wines in International Class 33, U.S. Trademark Application Serial No. 88/341,661 (the “Application”), based on Applicant’s alleged intent to use the mark in United States commerce, as evidenced by the publication of such mark on March 10, 2020. Applicant’s Application was filed on March

1 15, 2019.

2 2. Opposer is the owner of the trademark LA CREMA for wine and the LA CREMA
3 mark has been used on and in association with wine in U.S. commerce by Opposer and/or its
4 affiliates since at least as early as October 1987, more than thirty-one (31) years prior to the
5 constructive use date of the Application.

6 3. Opposer is the owner of incontestable U.S. Trademark Registration No. 2,393,573
7 for the mark LA CREMA for wine in International Class 33, with a first use in commerce date of
8 October 1987 and constructive first use date of November 12, 1999, both of which precede the
9 filing date of Applicant's Application.

10 4. Applicant's CASK & CREAM mark is likely to cause confusion, mistake or to
11 deceive the public because it is virtually identical to Opposer's LA CREMA mark and the goods
12 on which Opposer uses Opposer's LA CREMA mark are virtually identical, substantially similar
13 or related to the goods identified in Applicant's Application and said goods are purchased by the
14 same group of consumers. Accordingly, Applicant's CASK & CREAM mark is confusingly
15 similar to Opposer's LA CREMA mark such that Applicant is not entitled to register the mark
16 CASK & CREAM and the Application should be denied in accordance with Section 2(d) of the
17 Trademark Act of 1946, 15 U.S.C. §1052(d).

18 5. Opposer avers that if Applicant is granted the registration herein opposed, it
19 would interfere with Opposer's exclusive right to use its LA CREMA mark herein relied upon,
20 all to the detriment and damage of Opposer. Accordingly, Opposer avers that for the reasons set
21 forth above, it will be damaged by a grant of registration to Applicant of CASK & CREAM
22 which is the subject of U.S. Trademark Application Serial No. 88/341,661.

23 WHEREFORE, Opposer prays as follows:

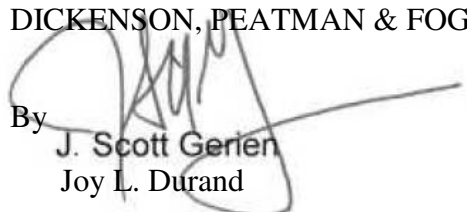
- 24 1. That this Opposition be sustained; and
25 2. That U.S. Trademark Application Serial No. 88/341,661 for the mark
26 CASK & CREAM be rejected; and
27 3. That registration of the mark CASK & CREAM shown and specified in
28 U.S. Trademark Application Serial No. 88/341,661 be refused and denied.

1 Please charge Opposer's Deposit Account #505444 the \$400 filing fee for the
2 Opposition, and any other fees which may be necessary to effectuate the filing of this
3 opposition.

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5 Dated: July 8, 2020

6 Respectfully submitted,

7 DICKENSON, PEATMAN & FOGARTY

8 By 
9 J. Scott Gerien
Joy L. Durand

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14 Attorneys for Opposer,
15 LC TM Holding, LLC
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