

ESTTA Tracking number: **ESTTA1182084**

Filing date: **01/02/2022**

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	Bronco Wine Company
Granted to date of previous extension	01/01/2022
Address	6342 BYSTRUM ROAD CERES, CA 95307 UNITED STATES

Correspondence information	ANGELA C. WILCOX WILCOX IP, P.C. 20 NORTH WACKER DRIVE SUITE 1000 CHICAGO, IL 60606 UNITED STATES Primary email: awilcox@wilcoxip.com Secondary email(s): mcadrot@wilcoxip.com 3122241501
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Applicant information

Application no.	88632699	Publication date	11/02/2021
Opposition filing date	01/02/2022	Opposition period ends	01/01/2022
Applicant	Mark Anthony Group Inc. UNIT 100 565 GREAT NORTHERN WAY , VANCOUVER BRITISH COLUMBIA, V5T0H8 CANADA		

Goods/services affected by opposition

Class 033. First Use: 2016/08/00 First Use In Commerce: 2016/08/00 All goods and services in the class are opposed, namely: Wines
Class 040. First Use: 2016/08/00 First Use In Commerce: 2016/08/00 All goods and services in the class are opposed, namely: Winery services

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. application/ registration no.	NONE	Application date	NONE
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Register	NONE
Registration date	NONE
Mark	CHECKMATE
Goods/services	Wine

Attachments	Notice of Opposition CHECKMATE ARTISANAL WINERY.pdf(153622 bytes)
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Signature	/Angela C. Wilcox/
Name	ANGELA C. WILCOX
Date	01/02/2022

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

RE: U.S. Trademark Application Serial No. 88632699 for CHECKMATE ARTISANAL WINERY

BRONCO WINE COMPANY,)	
)	
Opposer,)	
)	Opposition No. _____
-v-)	
)	
MARK ANTHONY GROUP, INC.,)	
)	
Applicant.)	
)	
)	

NOTICE OF OPPOSITION

To The Commissioner of Trademarks:

In the matter of U.S. Trademark Application Serial No. 88632699 filed on September 26, 2019 (the “Application”) by Mark Anthony Group, Inc. (“Applicant”) to register the mark CHECKMATE ARTISANAL WINERY (the “Opposed Mark”), Bronco Wine Company (“Opposer”) believes that it will be damaged by registration of the Opposed Mark for the services claimed in the Application, and hereby opposes same. The relevant facts and grounds for this opposition are as follows:

1. Opposer is a company organized under the laws of the State of California, with its business address at 6342 Bystrum Road, Ceres, California.

2. The Application identifies the Opposed Mark in connection with the following products in Class 33: “Wine” and the following services in Class 40: “Winery Services” (hereinafter “Applicant’s Claimed Products/Services”).

3. Opposer is the owner of the CHECKMATE trademark and United States App. No. 97199878 thereof for “Wine” in Class 33, which mark was first used in commerce in connection with the aforesaid products at least as early as August 2011.

4. Opposer acquired the rights in the CHECKMATE trademark through an asset purchase on September 19, 2019.

5. Opposer acquired said rights in and to the CHECKMATE trademark through this asset purchase, as the trademark had been continuously in use in commerce by the seller to identify wine products since at least as early as August 2011.

6. Opposer has continuously used the CHECKMATE trademark in commerce to identify wine products since the date of the asset purchase.

7. Opposer has rights in and to the CHECKMATE trademark in association with wine products since prior to the September 26, 2019 date of filing of the Opposed Mark or any other date on which Applicant may rely for purposes of claiming priority.

Count I - Likelihood of Confusion

8. Opposer repeats and realleges paragraphs 1 through 7 above.

9. Opposer has rights in and to the CHECKMATE trademark which are prior and superior to any rights that Applicant may have in the Opposed Mark.

10. The Opposed Mark is highly similar to the CHECKMATE trademark in sight, sound, meaning, connotation and commercial impression.

11. Applicant's Claimed Products/Services and Opposer's products, as set forth in paragraphs 3 through 7 above, are identical, overlapping and/or closely related and are provided or will be provided to the same categories of consumers through identical or highly similar channels of trade.

12. The Opposed Mark so resembles the CHECKMATE trademark, in which Opposer has prior and superior rights, as to be likely, when used in connection with Applicant's Claimed Products/Services, to cause confusion, to cause mistake, or to deceive, by creating the erroneous impression that Applicant's Claimed Products/Services originate from or are associated with Opposer, or that Applicant's Claimed Products/Services are authorized, endorsed by or sponsored by Opposer.

13. Applicant's filing of the Application for the Opposed Mark is without license, authorization or permission from Opposer.

14. The granting of a trademark registration for the Opposed Mark would violate and diminish the prior and superior rights of Opposer in the CHECKMATE trademark, in violation of 15 U.S.C. §1052(d).

15. Opposer would be damaged if the Opposed Mark is registered because Applicant will obtain statutory rights in the Opposed Mark in violation and derogation of the prior and superior rights of Opposer in Opposer's SAVVAS® and SAVVAS LEARNING COMPANY® Trademarks CHECKMATE trademark.

COUNT II – Likelihood of Dilution

16. Opposer repeats and realleges paragraphs 1 through 15 above.

17. The CHECKMATE trademark is distinctive and famous in that it is widely recognized by wine consumers as a designation of the source of Opposer's products and were famous before Applicant's September 26, 2019 application date.

18. If Applicant is permitted to register the Opposed Mark, Opposer will be damaged because, among other reasons, such registration and use would be likely to impair the distinctive quality of Opposer's famous mark and brand and otherwise cause injury to Opposer's business reputation and brand, in violation of 15 U.S.C. § 1125.

Count III – Fraud in the Application

19. Opposer reasserts and realleges paragraphs 1 through 18 above.

20. Upon information and belief, the specimens filed by Applicant to support the use date of the Opposed Mark are not accurate representations that show commercial use of the Opposed Mark in association with the Applicant's Claimed Products/Services in commerce since at least as early as September, 2016.

21. Applicant's verified statement in the Application that the Opposed Mark has been continuously used in commerce since at least as early as September, 2016 was made with the intent to deceive in order to procure a registration to which it was not entitled.

22. Applicant's verified statements in the Application were made with reckless disregard for the truth of the statement.

23. Upon information and believe, the Application contained materially false misrepresentations of fact made with the intent to deceive and/or reckless disregard for the truth of the facts, constituting fraud.

WHEREFORE, Opposer requests that its Opposition be sustained, that Application Serial No. 88632699 be rejected, and that registration of the CHECKMARK ARTISANAL WINERY mark in Serial No. 88632699 be refused, and for such other relief as may be deemed just and proper.

Respectfully Submitted

BRONCO WINE COMPANY

Dated: January 1, 2022

/Angela C. Wilcox/ _____
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