

ESTTA Tracking number: **ESTTA1192402**

Filing date: **02/22/2022**

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	QUINTA DO GRIFO - SOCIEDADE AGRÁ#COLA, S.A.
Granted to date of previous extension	02/19/2022
Address	QUINTA DO GRIFO, E.N. 221 AO KM 100 FREIXO-DE-ESPADA-Ã#-CINTA FREIXO-DE-ESPADA-Ã#-CINTA, P5180-909 PORTUGAL
Attorney information	JEFFREY H. GREGER HAUPTMAN HAM, LLP 2318 MILL RD. SUITE 1400 ALEXANDRIA, VA 22314 UNITED STATES Primary email: jhggroup@ipfirm.com Secondary email(s): jhgreger@ipfirm.com No phone number provided
Docket no.	1169-OP672

Applicant information

Application no.	90621012	Publication date	12/21/2021
Opposition filing date	02/22/2022	Opposition period ends	02/19/2022
Applicant	GRIFFO DISTILLERY LLC 1320 SCOTT ST, SUITE A PETALUMA, CA 94954 UNITED STATES		

Goods/services affected by opposition

Class 033. First Use: Dec 1, 2015 First Use In Commerce: Dec 1, 2015
All goods and services in the class are opposed, namely: (Based on Use in Commerce) Liquor; Spirits (Based on Intent to Use) Prepared alcoholic cocktail

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.	3936889	Application date	07/01/2010
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Register	Principal		
Registration date	03/29/2011	Foreign priority date	NONE
Word mark	TERRAS DO GRIFO		
Design mark	TERRAS DO GRIFO		
Description of mark	NONE		
Goods/services	Class 033. First use: First Use: None First Use In Commerce: None Wine		

Attachments	79085391#TMSN.png(bytes) GRIFFO DISTILLERY - Opposition.pdf(507780 bytes) EXHIBIT A.pdf(524705 bytes)
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Signature	/jhg/
Name	JEFFREY H. GREGER
Date	02/22/2022

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

QUINTA DO GRIFO – SOCIEDADE)	Opposition No. t/b/a
AGRÍCOLA, S.A.,)	
)	
Opposer,)	
)	Mark: GRIFFO DISTILLERY
v.)	
)	
GRIFFO DISTILLERY LLC,)	Application No. 90621012
)	
Applicant.)	
)	Application Date: April 2, 2021

NOTICE OF OPPOSITION

COMES NOW QUINTA DO GRIFO - SOCIEDADE AGRÍCOLA, S.A., having a current address of Quinta do Grifo, E.N. 221 ao Km 100 Freixo-de-Espada-à-Cinta Freixo-de-Espada-à-Ci PORTUGAL P5180-909 (hereinafter "Opposer"), believing that it will be damaged if a registration is matured from U.S. Trademark Application Serial No. 90621012, hereby files this opposition against Application Serial No. 90621012 (hereinafter referred to as the '012 application) which is owned by GRIFFO DISTILLERY LLC, (hereinafter "Applicant"). Opposer filed an extension of time to oppose which was granted until February 19, 2022. February 19, 2022 falling on a weekend and the USPTO being closed on February 21 due to a federal holiday, this Opposition is being filed on February 22, 2022 and is therefore timely.

Notice Of Opposition

The grounds for this opposition are:

Facts Common to All Counts

1. Since as early as 2012, Opposer has used the trademark TERRAS DO GRIFO in the United States commerce as a brand for wine.
2. Opposer is the owner of U.S. trademark registration number 3936889 for the mark TERRAS DO GRIFO covering wine. Hereinafter Opposer's above-referenced registration number 3936889 is referred to as the '889 registration. A copy of the '889 registration is attached at **Exhibit A**.
3. The '889 registration is valid and incontestability.
4. Opposer's '889 registration matured on March 29, 2011.
5. The '889 registration issued with coverage in standard characters providing Opposer rights in the mark not limited to any particular stylization or presentation of use.
6. Opposer also has established common law trademark rights based upon Opposer's actual uses of its TERRAS DO GRIFO mark for the goods in the '889 registration since at least as early 2012.
7. Opposer's wine using the TERRAS DO GRIFO mark is imported and sold in the normal channels of trade for wine sales including but not limited to using the internet and promoted using the internet.
8. Opposer's uses of the TERRAS DO GRIFO mark appear on labels for wine bottles in different presentations including but not limited to vintage offerings showing the term GRIFO in large letters as appears below.

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9. Applicant is the listed owner of the '012 application opposed herein, for the mark GRIFFO DISTILLERY, covering the following goods:

Liquor; Spirits, and prepared alcoholic cocktail

10. The '012 application was filed on April 2, 2021, asserting use for liquor and spirits and intent to use for alcoholic cocktail.
11. The '012 application was filed seeking coverage in standard characters without limitation as to presentations of the mark.
12. The earliest use by the Applicant of the mark GRIFFO DISTILLERY as alleged in the '012 application for any goods is December 2015.
13. The '012 application filing date of April 2, 2021, is more than a decade later and after July 1, 2010, the filing date of Opposer's application which matured into the '889 registration on March 29, 2011.
14. Applicant submitted a specimen of use when filing the '012 application showing what appears as actual use of the applied-for mark on a bottle label with the term Griffio presented in very large letters as appears below.



15. On information and belief Applicant has never used the mark GRIFFO DISTILLERY, or any mark with the term GRIFFO in United States commerce in connection with alcoholic beverages prior to 2012.
16. Opposer's registered trademark rights and common law trademark use rights for its mark TERRAS DO GRIFO has priority over any use rights Applicant can claim as to the mark GRIFFO DISTILLERY or GRIFFO.

COUNT I - LIKELIHOOD OF CONFUSION

17. Opposer repeats and realleges paragraphs 1 through 16 as is fully set forth herein.
18. Opposer's uses of the term GRIFO in connection with its wine label are highly similar to Applicant's uses of the term GRIFFO.
19. The pronunciation of the term GRIFO and the term GRIFFO are identical.
20. The connotation of the terms are similar.
21. On information and belief, Opposer's goods are sold to the same consumers as the goods described in the '012 application.

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22. On information and belief, Opposer's goods are sold using the same marketing channels as the goods described in the '012 application.
23. Opposer's goods and Applicant's goods travel through similar trade channels.
24. On information and belief, consumers viewing the mark in the '012 Application if used on alcohol beverages as listed in the '012 application will believe goods sold under the mark are manufactured, sponsored or have an authorized affiliation with the Opposer, when in fact they do not.
25. On information and belief, consumers are likely to be confused as to source, sponsorship, and affiliation of the Applicant's goods, mistakenly believing there is an affiliation with the Opposer, thereby causing damage and injury to Opposer.
26. If the '012 application matures to registration it will provide Applicant with prima facie exclusive rights to use the mark in the '012 application and cause harm to Opposer.
27. Grant of a registration to Applicant for the mark GRIFFO DISTILLERY, should be denied based upon Opposer's senior-in-time common law rights and registered rights, because of a likelihood of confusion consistent with Section 2(d) of the Lanham Act.

Wherefore, Opposer prays that this opposition be sustained. Opposer submits the applicable filing fee of \$600.00 with this Notice of Opposition.

Respectfully submitted,

HAUPTMAN HAM, LLP

/jeffreyhgreger/

Jeffrey H. Greger
Attorney for Opposer

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February 22, 2022

EXHIBIT A

United States of America

United States Patent and Trademark Office

TERRAS DO GRIFO

Reg. No. 3,936,889

Registered Mar. 29, 2011

Int. Cl.: 33

QUINTA DO GRIFO - SOCIEDADE AGRÍCOLA, S.A. (PORTUGAL SOCIEDADE AGRICOLA, S.A.)

QUINTA DO GRIFO, E.N. 221 AO KM 100
P-5180-909 FREIXO-DE-ESPADA-À-CINTA
PORTUGAL

TRADEMARK

PRINCIPAL REGISTER

FOR: WINE, IN CLASS 33 (U.S. CLS. 47 AND 49).

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF INTERNATIONAL REGISTRATION 1045913 DATED 7-1-2010, EXPIRES 7-1-2020.

THE ENGLISH TRANSLATION OF "TERRAS DO GRIFO" IS "GRIFFIN LANDS".

SER. NO. 79-085,391, FILED 7-1-2010.

MARC LEIPZIG, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office