

ESTTA Tracking number: **ESTTA1218072**

Filing date: **06/28/2022**

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	E. & J. GALLO WINERY
Granted to date of previous extension	06/29/2022
Address	600 YOSEMITE BLVD MODESTO, CA 95354 UNITED STATES

Attorney information	MICHAEL J SALVATORE HOLMES WEINBERG PC 30765 PACIFIC COAST HIGHWAY SUITE 411 MALIBU, CA 90265 UNITED STATES Primary email: msalvatore@holmesweinberg.com Secondary email(s): hwtrademarks@gmail.com 3104576100
Docket no.	

Applicant information

Application no.	90674481	Publication date	03/01/2022
Opposition filing date	06/28/2022	Opposition period ends	06/29/2022
Applicant	Blank. Farm LLC 385 SYLVAN AVE., STE. 14 ENGLEWOOD CLIFFS, NJ 07632 UNITED STATES		

Goods/services affected by opposition

Class 033. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Alcoholic beverages except beers; Distilled spirits
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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.	5224725	Application date	09/15/2016
Register	Principal		

Registration date	06/13/2017	Foreign priority date	NONE
Word mark	BLANK STARE		
Design mark			
Description of mark	NONE		
Goods/services	Class 033. First use: First Use: Apr 18, 2017 First Use In Commerce: Apr 18, 2017 Alcoholic beverages, except beer		

Attachments	Notice of Opposition re BLANK. [MDRN] 4872-2302-0581 v.1.pdf(245534 bytes)
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Signature	/MJSalvatore/
Name	MICHAEL J SALVATORE
Date	06/28/2022

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

In re Serial No. 90/674,481

E. & J. Gallo Winery,

Opposer,

v.

Blank. Farm LLC,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

TO: TRADEMARK TRIAL AND APPEAL BOARD
 U.S. PATENT AND TRADEMARK OFFICE
 PO Box 1451
 Alexandria, VA 22313-1451

Opposer E. & J. Gallo Winery (“Gallo”), a corporation organized and existing under the laws of the State of California, believes that it would be damaged by registration of the above-referenced mark, and hereby opposes the same. As grounds for this Opposition, Gallo respectfully alleges as follows:

1. Gallo is a corporation organized and existing under the laws of the State of California, having a place of business at 600 Yosemite Blvd., Modesto, California 95354.
2. Gallo is the owner in the United States of the federally registered BLANK STARE trademark for “Alcoholic beverages, except beer” (Reg. No. 5224725), as registered on the Principal Register on June 13, 2017, and of common law rights therein (the “BLANK STARE® Mark”).
3. Reg. No. 5224725 is valid and enforceable.

4. The mark subject to this Opposition is BLANK. [MDRN], Serial No. 90/674,481 (the “Opposed Mark”) for “Alcoholic beverages except beers; Distilled spirits” in IC 033.

5. Applicant filed United States Application Serial No. 90/674,481 with the U.S. Patent and Trademark Office on or about April 27, 2021. The Application for the Opposed Mark is based on an intent to use. Upon information and belief, Applicant has not used the Opposed Mark in commerce.

6. Because Gallo and its predecessor first used the BLANK STARE® Mark on wines before Applicant filed its application for the Opposed Mark, and such use has been continuous, Gallo has priority of use.

7. By virtue of Gallo and its predecessor’s continuous and exclusive use and marketing, promotion, and sale of wines under the BLANK STARE® Mark, the BLANK STARE® Mark has come to be recognized by the relevant public as identifying wines having their origin or otherwise associated exclusively with Gallo.

8. The Opposed Mark for the International Class 033 goods is confusingly similar in appearance, sound, and overall commercial impression to the BLANK STARE® Mark. Thus, the Opposed Mark evokes the same or a highly similar connotation as the BLANK STARE® Mark. Further, Applicant’s stated goods for the Opposed Mark are legally identical and commercially related to the goods for which Gallo uses the BLANK STARE® Mark. Accordingly, it is likely that consumers will mistakenly believe that the Opposed Mark for the International Class 033 goods is connected to or associated with Gallo or its BLANK STARE® wines.

9. The registration of the Opposed Mark would be inconsistent with Gallo’s rights in its BLANK STARE® Mark and will cause damage to Gallo.

WHEREFORE, Gallo respectfully prays that registration of the Opposed Mark not be permitted.

DATED this 28th day of June, 2022

Respectfully submitted,

By: /s/ Michael J. Salvatore
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Attorneys for Opposer E. & J. Gallo Winery

For assistance with TSDR, email teas@uspto.gov and include your serial number, the document you are looking for, and a screenshot of any error messages you have received.

Processing Wait Times: Please note that due to an extraordinary surge in applications, processing times are longer than usual. See [current trademark processing wait times](#) for more information.

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Mark: BLANK STARE

BLANK STARE

US Serial Number: 87172486

Application Filing Date: Sep. 15, 2016

US Registration Number: 5224725

Registration Date: Jun. 13, 2017

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status

LIVE/REGISTRATION/Issued and Active

Descriptor:



The trademark application has been registered with the Office

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Jun. 13, 2017

Publication Date: Feb. 07, 2017

Notice of Allowance Date: Apr. 04, 2017

Mark Information

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Alcoholic beverages, except beer

International Class(es): 033 - Primary Class

U.S Class(es): 047, 049

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 18, 2017

Use in Commerce: Apr. 18, 2017

Basis Information (Case Level)

Current Owner(s) Information

Owner Name: E. & J. GALLO WINERY

Owner Address: 600 YOSEMITE BOULEVARD
MODESTO, CALIFORNIA UNITED STATES 95354

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

[Attorney/Correspondence Information](#)

[Prosecution History](#)

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