

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Mailed: December 7, 2004

Registration No. 2282461

Cancellation No. 92043953

J. SCOTT GERIEN  
OWEN, WICKERSHAM & ERICKSON P.C.  
455 MARKET STREET, 19<sup>TH</sup> FLOOR  
SAN FRANCISCO, CA 94105

Tri-Star Marketing, LLC

v.

Nino Franco Spumanti S.R.L.

MARTIN P. HOFFMAN  
HOFFMAN, WASSON & GITLER, P.C.  
2461 SOUTH CLARK STREET, SUITE 522  
ARLINGTON, VA 22202-3823

**Veronica White, Legal Assistant**

A petition, copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that affect the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003). Notices concerning the rules changes, as well as the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), are available at [www.uspto.gov](http://www.uspto.gov).

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

In the registration here involved, respondent has designated Martin P. Hoffman of Hoffman, Wasson & Gitler, P.C. as its U. S. representative on whom may be served notices affecting this mark.

If the respondent desires to be represented by counsel in this proceeding, a power of attorney to that effect may be filed, or respondent's chosen counsel may simply make an appearance

pursuant to Trademark Rule 2.196. Respondent's copy of communications from the Board will be sent to respondent's domestic representative until counsel is appointed or makes an appearance in behalf of respondent. See Trademark Rule 2.119(d).

**ANSWER IS DUE FORTY DAYS** after the mailing date hereof. (See Trademark Rule 2.196 for expiration date falling on Saturday, Sunday, or a holiday.)

**Discovery and testimony dates are set as indicated below.** In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Discovery period to open: **December 27, 2004**

Discovery period to close: **June 25, 2005**

30-day testimony period for party  
in position of plaintiff to close: **September 23, 2005**

30-day testimony period for party  
in position of defendant to close: **November 22, 2005**

15-day rebuttal testimony period  
to close: **January 06, 2006**

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NOTE: This proceeding is subject to the pilot project on telephone disposition of interlocutory matters. See the Official Gazette notice titled "*Pilot Project on Telephone Disposition of Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board*," 1213 TMOG 151 (August 18, 1998). The notice is available at <http://www.uspto.gov>. Any interlocutory matter proposed for discussion or resolution during a Board approved phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks, or during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

#### **New Developments at the Trademark Trial and Appeal Board**

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.