

ESTTA Tracking number: **ESTTA193758**

Filing date: **02/20/2008**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Vinedos Y Bodegas Corpora S.A.		
Entity	Corporation	Citizenship	Chile
Address	Avenida Andres Bello 2777, Floor 28 of 2801 Las Condes, Santiago, CHILE		

Correspondence information	Robert Alpert, Esq. 26 West 61st Street New York, NY 10023 UNITED STATES ralpert@ladas.com Phone:212-708-1860
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Registrations Subject to Cancellation

Registration No	3157121	Registration date	10/17/2006
International Registration No.	NONE	International Registration Date	NONE
Registrant	BODEGAS PORTIA, S.L. C/NUEVA 3. POLIG. INDUSTRIAL ALLENDEDUEROARANDA DE DUERO BURGOS, 09400 SPAIN		

Goods/Services Subject to Cancellation

Class 033. All goods and services in the class are cancelled, namely: Alcoholic beverages, namely wines
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)		
Registration No	3346964	Registration date	12/04/2007
Registrant	Bodegas Portia, S.L. C/Nueva 3. Polig. Industrial Allendeduero Aranda de Duero, Burgos, 09400 SPAIN		

Goods/Services Subject to Cancellation

Class 033. First Use: 2005/09/28 First Use In Commerce: 2005/09/28 All goods and services in the class are cancelled, namely: Alcoholic beverages, namely, wines

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3049845	Application Date	11/18/2004
Registration Date	01/24/2006	Foreign Priority Date	NONE
Word Mark	PORTA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1997/00/00 First Use In Commerce: 1999/04/00 Wine		

U.S. Registration No.	2159134	Application Date	07/22/1993
Registration Date	05/19/1998	Foreign Priority Date	NONE
Word Mark	VINA PORTA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1993/04/19 First Use In Commerce: 1993/04/19 wine		

Attachments	78519278#TMSN.jpeg (1 page)(bytes) 74415252#TMSN.gif (1 page)(bytes) Vinedos y Bodegas Petition to Cancel.pdf (4 pages)(108254 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/RA/
Name	Robert Alpert, Esq.
Date	02/20/2008

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

IN THE MATTERS OF:

Registration Nos.: 3,157,121 and 3,346,964
Registered: October 17, 2006 and December 4, 2007
Marks: PORTIA and PORTIA PRIMA and Design

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:
VINEDOS Y BODEGAS CORPORA S.A., :
:
Petitioner, : Cancellation No.
:
v. :
:
BODEGAS PORTIA, S.L., :
:
Respondent. :
:
-----X

Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

COSOLIDATED PETITION TO CANCEL

Vinedos Y Bodegas Corpora S.A., a Chilean corporation with an office at Avenida Andres Bello 2777, Floor 28 of 2801, Las Condes, Santiago, Chile, believes that it is or will be damaged by the registrations for the trademarks PORTIA and PORTIA PRIMA and Design, both issued on the Principal Register in connection with “[a]lcoholic beverages, namely, wines” in Class 33 and owned by Bodegas Portia, S.L., a Spanish corporation with an office at C/Nueva 3. Polig. Industrial Allendeduero Aranda de Duero, Burgos Spain 09400.

The grounds for petitioning to cancel Registration Nos. 3,157,121 for the mark PORTIA and 3,346,964 for the mark PORTIA PRIMA and Design, are as follows:

1. Petitioner is the owner of PORTA Registration No. 3,049,845 and VINA PORTA Registration No. 2,159,134 in connection with “wines” and of the goodwill associated therewith (collectively, the “PORTA Marks”).

2. Petitioner has adopted and continuously used its PORTA Marks in connection with “wines” long prior to the filing date, claimed priority date or date of first use for the marks PORTIA and PORTIA PRIMA and Design.

3. Petitioner has advertised, promoted and marketed wines in connection with its PORTA Marks such that the public has come to know and recognize the PORTA Marks as identifying wines which originate with or are authorized by Petitioner.

4. Respondent’s use of the mark PORTIA for “[a]lcoholic beverages, namely wines” constitutes use of a mark that is confusingly similar to Petitioner’s PORTA Marks. Respondent’s PORTIA mark is virtually identical to Petitioner’s PORTA mark, and the goods covered by Respondent’s PORTIA mark, wines, are identical to those in connection with which Petitioner uses its PORTA Marks, wines. The average purchaser is likely to be confused and deceived into believing that Respondent’s wines marketed and sold under the PORTIA mark also originate with or are authorized by Petitioner.

5. Respondent’s use of the mark PORTIA PRIMA and Design for “[a]lcoholic beverages, namely wines” constitutes use of a mark that is confusingly similar to Petitioner’s PORTA Marks. The term PORTIA is virtually identical to PORTA and is the predominant element of PORTIA PRIMA and Design. Moreover, the goods covered by Respondent’s PORTIA PRIMA and Design mark, wines, are identical to those marketed and sold by Petitioner in connection with its PORTA Marks, wines. The average purchaser is likely to be confused and

deceived into believing that Respondent's wines marketed and sold under the PORTIA PRIMA and Design mark also originate with or are authorized by Petitioner.

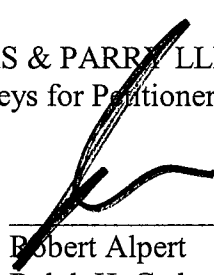
WHEREFORE, Petitioner hereby requests that Registration Nos. 3,157,121 and 3,346,964 for the marks PORTIA and PORTIA PRIMA and Design, respectively, be cancelled.

Respectfully submitted,

LADAS & PARRY LLP
Attorneys for Petitioner

Dated: February 20, 2008

By:

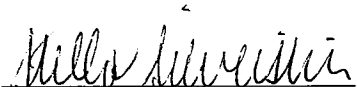


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CERTIFICATE OF TRANSMISSION

I, Stella Silverstein, hereby certify that a copy of the foregoing **CONSOLIDATED PETITION TO CANCEL** is being electronically transmitted to the United States Patent and Trademark Office on the date indicated:

Dated: February 20, 2008


Stella Silverstein

CERTIFICATE OF SERVICE

I, Stella Silverstein, hereby certify that a copy of the foregoing **CONSOLIDATED PETITION TO CANCEL** was served, on the date indicated below, by First-Class mail, postage prepaid, as follows:

Laurel V. Dineff
Dineff Trademark Law Limited
160 North Wacker Drive
Chicago, IL 60606

Dated: February 20, 2008


Stella Silverstein