

ESTTA Tracking number: **ESTTA988039**

Filing date: **07/16/2019**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Bureau National Interprofessionnel du Cognac		
Entity	an interprofessional company	Citizenship	France
Address	23, Allee Bernard Guionnet Å# BP 18 Cognac, 16101 FRANCE		

Name	Institut National Des Appellations d'Origine		
Entity	a public entity	Citizenship	France
Address	12, rue Henri Rol Å# Tanguy, TSA 30003 Montreuil-sous-Bois, 93555 FRANCE		

Attorney information	J. Scott Gerien / Joy Durand Dickenson, Peatman & Fogarty 1455 First Street, Suite 301 Napa, CA 94559 UNITED STATES tmltg@dpf-law.com 7072527122		
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Applicant Information

Application No	88024598	Publication date	06/25/2019
Opposition Filing Date	07/16/2019	Opposition Period Ends	07/25/2019
International Registration No.	NONE	International Registration Date	NONE
Applicant	Vistisen, Jan H C Oersteds Vej 50 C Frederiksberg, CPH, 1879 DENMARK		

Goods/Services Affected by Opposition

Class 033. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Cognac; Rum; Spirits

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

Dilution by tarnishment	Trademark Act Sections 2 and 43(c)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disrepute	Trademark Act Section 2(a)
Deceptiveness	Trademark Act Section 2(a)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	COGNAC		
Goods/Services	Brandy		

Attachments	20190628 Notice of Opposition to RUMNAC.PDF(141312 bytes)
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Signature	/Joy Durand/
Name	J. Scott Gerien / Joy Durand
Date	07/16/2019

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

Institut National Des Appellations d'Origine
and Bureau National Interprofessionnel du
Cognac,

 Opposers,

vs.

Jan Vistisen,

 Applicant.

OPPOSITION NO.

NOTICE OF OPPOSITION

TO THE COMMISSIONER OF TRADEMARKS:

Bureau National Interprofessionnel du Cognac, an interprofessional company organized under the laws of France and located at 23, Allee Bernard Guionnet – BP 18, Cognac, 16101 France (“BNIC”) and Institut National Des Appellations d'Origine, a public entity organized under the laws of France located at 12, rue Henri Rol – Tanguy, TSA 30003, Montreuil-sous-Bois 93555, France (“INAO”) (collectively “Opposers”), believe they will be damaged by registration of the mark RUMNAC for “Cognac; Rum; Spirits,” shown in application Serial No. 88/024,598, filed on July 3, 2018 by Jan Vistisen, an individual (“Applicant”) and hereby oppose same.

Solely for the purpose of this proceeding, Opposers allege the following as grounds for

1 opposition:

- 2 1. Applicant seeks to register RUMNAC as a trademark for “Cognac; Rum; Spirits” in
3 International Class 33, as evidenced by the publication of such mark on June 25,
4 2019. The application for such mark was filed with the USPTO on July 3, 2018 and
5 was based on Applicant’s foreign registration pursuant to Section 44(e).
- 6 2. INAO is an agency of the French government's Ministry of Agriculture, and is
7 responsible for establishing, maintaining and protecting, both in France and
8 internationally, France's "appellations of origin" system.
- 9 3. Under French law, an "appellation of origin" refers to a geographical designation
10 (country, region, or locality) that serves to designate a product originating therein,
11 the quality and characteristics of which are due exclusively or primarily to the
12 geographic environment, including natural and human factors. Certain products
13 identified and classified according to this system, including wines and spirits, bear
14 "appellations of controlled origin" (AOC), each of which is recognized by a decree
15 which delimits the specific area to which the appellation pertains but also specifies
16 the grape variety or varieties, and methods of planting, harvesting, and production to
17 be used. COGNAC is an AOC for distilled spirits that has been recognized and
18 protected by INAO and the French government for many decades.
- 19 4. BNIC is a trade association that represents the interests of producers of COGNAC
20 brandy located in the Cognac region of France. BNIC's function is to act on behalf
21 of the Cognac region's wine and spirits growers, producers and merchants by
22 promoting sales domestically and internationally, by promoting and protecting
23 the COGNAC appellation of origin, and by otherwise representing the economic and
24 legal interest of growers, producers and merchants of COGNAC wines and spirits.
25 Opposers control and enforce the common law certification mark COGNAC for
26 brandy. *See Bureau National Interprofessionnel du Cognac v. International Better*
27 *Drinks Corporation*, 6 USPQ2d 1610 (TTAB 1988). Upon information and belief,
28 Opposers’ rights in the COGNAC certification mark precede any rights which can

1 be claimed by Applicant in the RUMNAC mark, based either on use or the filing of
2 its application.

- 3 5. Opposers allege that Applicant's applied-for mark is likely to cause confusion,
4 mistake or to deceive the public. Applicant's RUMNAC mark for "Cognac; Rum;
5 Spirits" is similar to the COGNAC certification mark for brandy. Applicant's mark
6 is a combination of the generic term RUM with the latter part of Opposer's
7 COGNAC mark, i.e., "NAC." The purchasing public is likely to believe,
8 mistakenly, that goods offered by Applicant under the RUMNAC mark is COGNAC
9 brandy certified by Opposers, or are otherwise affiliated with or connected to
10 Opposers or the persons they represent, or the certified COGNAC brandy those
11 persons produce. Accordingly, Applicant's mark is confusingly similar to the
12 COGNAC certification mark such that Applicant is not entitled to register its mark
13 and Applicant's application should be denied in accordance with Section 2(d) of the
14 Trademark Act of 1946, 15 U.S.C. §1052(d).
- 15 6. Upon information and belief, in adopting the RUMNAC mark Applicant also
16 intended to trade upon the reputation of quality brandy from the Cognac region
17 certified under the COGNAC mark by Opposers, thereby falsely suggesting a
18 connection with Opposers and brandy from the Cognac region certified under the
19 certification mark. Accordingly, Applicant's mark should be denied in accordance
20 with Section 2(a) of the Trademark Act of 1946, 15 U.S.C. §1052(a), as it falsely
21 suggests a connection with BNIC as the certifier of COGNAC brandy and as a party
22 representing the interests of producers of COGNAC brandy in the Cognac region of
23 France.
- 24 7. COGNAC is a famous designation for brandy and enjoys a world-wide reputation as
25 a superior and prestigious quality brand. COGNAC is symbolic of the extensive
26 goodwill and consumer recognition built up through the substantial efforts and
27 investments of the INAO and the BNIC in the AOC system and the COGNAC AOC
28 and certification mark, and through the promotion and sales of these quality products

1 over many years. Applicant will not use the RUMNAC mark in association with
2 spirits certified under the COGNAC mark. Applicant will not use the RUMNAC
3 mark with the permission or authority of Opposers. The RUMNAC mark will call to
4 mind Opposers' COGNAC mark among consumers. Accordingly, upon information
5 and belief, Applicant's use of the RUMNAC mark creates an association with the
6 famous COGNAC mark such that the distinctiveness of the COGNAC mark is
7 impaired and Applicant's actions are likely to cause dilution through blurring in
8 violation of 15 U.S.C. §1125(c).

- 9 8. Opposers aver that if Applicant is granted the registration herein opposed, it would
10 interfere with Opposers' exclusive right to control the COGNAC certification mark
11 herein relied upon, as well as cause harm to BNIC and its members as a result of the
12 consumer deception which would occur and dilution of the COGNAC certification
13 mark all to the detriment and damage of Opposers and those parties properly using
14 COGNAC. Accordingly, Opposers aver that for the reasons aforesaid, they will be
15 damaged by a grant of registration to Applicant of its trademark which is the subject
16 of Serial No. 88/024,598.

17
18 WHEREFORE, Opposers pray as follows:

- 19 1. That this Opposition be sustained;
20 2. That Application Serial No. 88/024,598 be rejected; and
21 3. That registration of the trademark RUMNAC shown and specified in Application
22 Serial No. 88/024,598 be refused and denied.

23
24 Please charge Opposer's counsel's Deposit Account #503564 the \$800 filing fee for the
25 Opposition, such fee reflecting the sum of required fees for each party joined as Opposer, and
26 any other fees which may be necessary to effectuate the filing of this Opposition.

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Dated: July 12, 2019

Respectfully submitted,

DICKENSON, PEATMAN & FOGARTY

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