



W211

OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET  
(TRADE MARKS AND DESIGNS)

Trade Marks Department

Alicante, 14/12/2010

**Notification of provisional refusal of protection based on an opposition pursuant to Article 5 of the Madrid Protocol and Rule 17 (1), (2) of the Common Regulations under the Madrid Agreement and Protocol and to Rule 115\***

<b>International Registration No:</b>	<b>1024989</b>
Date of notification to OHIM:	21-01-2010
Trade mark:	LA VIALLA
Applicant/Holder:	FATTORIA LA VIALLA DI GIANNI, ANTONIO E BANDINO LO FRANCO - SOCIETA' AGRICOLA SEMPLICE Via di Meliciano, 26 I-52100 AREZZO
<i>Opposition number:</i>	B 1651671

Protection of the above-mentioned mark is provisionally refused for the European Community.

The provisional refusal is based on the fact that an opposition has been filed against the international registration.

I. The grounds for the opposition are as follows:

Conflict with an earlier mark because of similarity of the goods and services and similarity of the marks concerned, and likelihood of confusion (Article 8 (2) CTMR\*\*).

II. Name and address of the opposing party:

**Bodenhald GmbH**  
**Bodenhald 8**  
**D-77704 Oberkirch**  
**ALEMANIA**

III. The opposition is based on a mark which was the subject of an application or registration.

- type of mark : **Community trade mark registration.**
- filing date, registration date and, if applicable, priority date:  
**01/04/1996; 06/04/1998.**
- filing number and, if different, registration number: **93419**
- reproduction of the mark: (see annex)
- list of goods and services on which the opposition is based: (see annex)

\*Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 207/2009 on the Community trade mark (codified version of Council Regulation (EC) No 40/94).

\*\* Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark.

Regulations on the internet:

CTM (<http://oami.europa.eu/en/mark/aspects/reg.htm>)  
(<http://oami.europa.eu/en/mark/madrid/default.htm>)

Madrid Protocol

The opposition is based on more than one earlier right : (see annex)

- III. The provisional refusal relates to only to the following goods and services covered by the designation of the EC:

Class 33

Alcoholic drinks (except beers), alcoholic extracts, liqueurs and spirits, wines, sparkling wines, grappas.

V. The OHIM will notify the opposition separately to the holder of the international registration, including all evidence on which it is based, pursuant to Rule 18(1)\*. The OHIM will set time limits for the holder. The notification will open an (extendable) cooling-off period of two months and a further period of two months for the opponent to substantiate the opposition. The notification will set a time limit of, in principle, six months for the holder of the international registration to submit observations.

MARIA JOSE GIL  
Examiner

Annex: Opposition notice of 23 pages.



**Xavier DE RYCK**  
Avocat à la Cour

Ligne directe : 01 44 42 92 60  
DERYCK@wanadoo.fr

**O H M I**  
**Receiving Unit**  
Avenida de Europa n° 4  
E-03008 Alicante  
Espagne

**Per fax : 00 34 965 131 344**  
**and per post mail**

Paris, April 21, 2010

XDR/VM

☛ **Opposition to registration of CTM trademark LA VIALLA (Italy) No. 1024989**  
**by Bodenhald GmbH**

**Your Re.: Opposition to the CTMA No. 1024989**  
**Opposed trademark: LA VIALLA**  
**Opponent: BODENHALD GmbH**

Dear Sirs,

You will please find enclosed a notice of opposition against the CTMA No. 1024989, I am sending in the name of my client, Bodenhald GmbH.

The transfer of the fees amounting 350.- Euros will be ordered tomorrow.

Yours sincerely,

**Xavier DE RYCK**  
Avocat à la Cour

Enclosure



## OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET (OHIM)

## NOTICE OF OPPOSITION

Number of pages (including this one) <b>22</b>	Opponent's/representative's reference number (not more than 20 characters)  Opposition against CTMA <input checked="" type="checkbox"/> Opposition against IR <input type="checkbox"/>		Mod 007										
<b>Opponent</b> Name of legal entity or first name and surname Tel, fax, e-mail Address Street and number City and postal code Country Postal address (if different) Nationality	ID number <span style="border: 1px solid black; padding: 0 20px;"> </span> <input type="checkbox"/> multiple opponents <div style="border: 1px solid black; padding: 2px;">           BODENHALD GmbH             Bodenwald 8             OBERKIRCH 77704            GERMANY             German         </div>												
<b>Representative</b> Name Tel, fax, e-mail Address Street and number City and postal code Country Postal address (if different)	ID number <span style="border: 1px solid black; padding: 0 20px;"> </span> <input type="checkbox"/> multiple representatives <div style="border: 1px solid black; padding: 2px;">           DE RYCK XAVIER            33144429262      33145502730      deryck@wanadoo.fr            rue de Bourgogne 12            PARIS 75007            PARIS         </div>												
Type of representative <input checked="" type="checkbox"/> legal practitioner <input type="checkbox"/> professional representative <input type="checkbox"/> association of representatives <input type="checkbox"/> employee													
<b>Challenged application</b> CTMA / IR No <span style="border: 1px solid black; padding: 0 20px;">1024989</span> Date of publication (DD/MM/YYYY) <span style="border: 1px solid black; padding: 0 20px;">25 / 01 / 2010</span>													
Name of CTM applicant or IR holder <span style="border: 1px solid black; padding: 0 20px;">Fattoria La Violla Di Gianni,</span> Language of the opposition <table border="1" style="display: inline-table; text-align: center; font-size: 0.8em;"> <tr> <td>ES</td> <td>DE</td> <td>EN</td> <td>FR</td> <td>IT</td> </tr> <tr> <td></td> <td></td> <td>✓</td> <td></td> <td></td> </tr> </table>				ES	DE	EN	FR	IT			✓		
ES	DE	EN	FR	IT									
		✓											
<b>Extent of the opposition</b> <input type="checkbox"/> against all the goods and services in the application <input checked="" type="checkbox"/> against part of the goods and services in the application, namely: <div style="border: 1px solid black; padding: 5px; min-height: 40px;">           Alcoholic Drinks (except beers), alcoholic extracts, liqueurs and spirits, wines, sparkling wines, grappas.         </div> <div style="text-align: right;"><input type="checkbox"/> continuation sheet(s)</div>													
<b>Payment of fee</b> Current account with OHIM <input type="checkbox"/> Account No <span style="border: 1px solid black; padding: 0 20px;"> </span> <input type="checkbox"/> Do not use my current account with OHIM Transfer to account of OHIM <input type="checkbox"/> Banco Bilbao Vizcaya Argentaria <input checked="" type="checkbox"/> La Caixa Date of transfer (DD/MM/YYYY) <span style="border: 1px solid black; padding: 0 20px;">22 / 04 / 2010</span>		<b>Signature</b> Name <span style="border: 1px solid black; padding: 0 20px;">DE RYCK</span> Signature <div style="border: 1px solid black; padding: 10px; min-height: 50px;"> </div>											



## NOTICE OF OPPOSITION

## BASIS OF OPPOSITION: TRADE MARK REGISTRATION / APPLICATION

## Identification of the earlier mark

☒ Trade mark registration☐ Trade mark application☒ Community trade mark☐ National trade mark☐ International registration with effect in one or more Member State(s)

Member State(s)

EM BG BX CZ DK DE EE GR ES FR IE IT CY LV LT HU MT AT PL PT RO SI SK FI SE GB

Filing date (DD/MM/YYYY)

01 / 04 / 1996

Filing number

000093153

Registration date (DD/MM/YYYY)

06 / 04 / 1998

Registration number

000093153

Representation of the mark (in colour if applicable)

## Type of mark

☒ Word mark

VIALA

☐ Figurative mark☐ Other (specify)

## Goods and services on which the opposition is based:

☒ all the goods and services covered by the registration / application☐ part of the goods and services, namely:☐ attached☐ continuation sheet(s)

## Entitlement of opponent

☒ Owner☐ Authorised licensee

Copy of registration / application

☒ attached☐ to follow

Translation

☐ attached

## Grounds for opposition

☐ Article 8(1)(a) CTMR - the CTMA IR is identical to the earlier mark and covers identical goods and/or services☒ Article 8(1)(b) CTMR - there exists a likelihood of confusion on the part of the public☐ Article 8(5) CTMR - the use without due cause of the contested mark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark

## Explanation of grounds and other remarks:

see appendix 1

☒ continuation sheet(s)

## Territory where the earlier mark has a reputation:

EM BG BX CZ DK DE EE GR ES FR IE IT CY LV LT HU MT AT PL PT RO SI SK FI SE GB

## Goods and services for which the trade mark has a reputation

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## Evidence of reputation

☐ attached☐ to follow

Translation

☐ attached

page number

12 of 122



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000093419

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Filing date (DD/MM/YYYY)

24 / 12 / 1993

Filing number

613591

Registration date (DD/MM/YYYY)

24 / 12 / 1993

Registration number

613591

Representation of the mark (in colour if applicable)

## Type of mark

☐ Word mark☒ Figurative mark☐ Other (specify)

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## Explanation of grounds and other remarks:

see appendix 1

☒ continuation sheet(s)

## Territory where the earlier mark has a reputation:

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## Evidence of reputation

☐ attached☐ to follow

Translation

☐ attached

page number

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**Appendix 1  
OPPOSITION  
VIALA vs. LA VIALLA**

**Statement of the reasons for the opposition**

The company registered under Italian law **FATTORIA LA VIALLA DI GIANNI, ANTONIO E BANDINO LO FRANCO – SOCIETA AGRICOLA SEMPLICE** which has its registered office at Via di Meliciano, 26 I-52100 AREZZO ITALY, has on 20<sup>th</sup> October 2009 with no. 001024989 filed an application for registration of a Community trademark concerning the word trademark "**LA VIALLA**" to notably designate the following products in class 33:

Alcoholic drinks (except of beer), alcoholic extracts, liqueurs and spirits, wines, sparkling wines, grappas

*(hereinafter referred to as the "Later Filing")*

The company **Bodenhald** is the owner of:

- the CTM word trademark "**VIALA**" n° 0093153,
- the CTM hereafter figurative trademark n°0093419,

**VIALA**

both filed on 1<sup>st</sup> April 1996, to designate the following products in class 33:  
Alcoholic beverages (except beers), in particular wines,

- the International word trademark "**VIALA**" n°560152 filed on the 31<sup>st</sup> August 1990 notably in Austria, Bosnia, Benelux, Belarus, Czech Republic, Germany, Spain, France, Hungary, Italy, Moldavia, Macedonia, Portugal, Serbia, Slovenia, Slovakia, San Marin to designate the following products in class 33: wines and sparkling wines,
- the International hereafter figurative trademark n°613591 filed on the 24<sup>th</sup> December 1993 notably in Austria, Bulgaria, Benelux, Belarus, Czech Republic, , Spain, France, Hungary, Italy, Macedonia, Poland, Portugal, Romania, Serbia, Slovenia, Slovakia, San Marin to designate the following products in class 33: Alcoholic beverages (except beers), in particular wines

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The word "VIALA" is written in a simple, handwritten style using black ink. The letters are slightly irregular and spaced out.

*(hereinafter referred to as the "Prior trademarks")*

➤ **Comparison of the signs**

The Prior Trademarks are a nominative and figurative trademarks made up of the word "VIALA" with no special meaning.

The trademark claimed by the Later Filing which is the subject of this opposition is a nominative trademark made of the definite article "LA" and the word "VIALLA" which has no special meaning either.

Between the Prior Trademarks and the Later Filing there is a similarity that creates a risk of confusion in the mind of the public which damages the rights of the owner of the opposing trademark.

It is not contestable that the essential element of the Later Filing is the word "VIALLA" that has to be compared to the single element of the Prior Trademarks "VIALA".

**1 – Visual Similarities**

In visual terms, it must be noted that:

- both signs contain the letters V, I, A, L and A at the same places,
- the Prior Trademarks contain 5 letters and the essential element of the Later Filing contains 6 letters and both signs contain 5 identical letters at the same places,
- the only difference existing between the signs relates to the letter L which is doubled in the essential element of the Later Filing.

This difference is minimal and cannot be sufficient to avoid the creation of a risk of confusion between the trademarks, given the other element repeated identically in the two terms.

In visual terms, it must be noted that this difference between the Prior Trademarks and the Later Filing does not change the overall impression left by the Later Filing for an average consumer who does not have both trademarks in sight.

**2 – Phonetic Similarities**

In phonetic terms, it must be noted that there is an identity between the Prior Trademarks and the essential element of the Later Filing as the word "VIALA" and "VIALLA" are identically pronounced.

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### 3- Conceptual Similarities

Finally, from an intellectual or conceptual viewpoint, no difference can be established between the two signs made up of the word "VIALA" for the Prior Trademarks and the word "LA VIALLA" for the Later Filing.

The usage of the representation of the words "VIALA" or "VIALLA" is entirely distinctive to designate wines and alcoholic beverages designated in the filings.

It is clear that consumers with average attention will be misled and will consider that the Later Filing is just a sub-trademark or a special version for a beverage produced of the Prior Trademarks.

### 4 – Overall assessment of the risk of confusion

Hence, a risk of confusion is created between these trademarks.

According to the case law of the European Court of Justice, the risk of confusion between two trademarks "must be assessed overall, taking into account all the relevant features of the present case. That global appreciation of the visual, oral or conceptual similarity of the trademarks in question, must be based on the overall impression given by the trademarks, bearing in mind, in particular, their distinctive and dominant components." (cf. Ruling of the Court of Justice handed down on 11 November 1997, Sabèl/Puma, C-251/95, OJ OHIM no. 1/1998, p.91 section 23).

As stated above, the overall assessment of the risk of confusion implies a certain interdependence between the factors, and in particular, the similarity of the trademarks and that of the products designated (Ruling of the Court of Justice handed down on 11 November 1997, Sabèl/Puma, C-251/95, cited above).

As stated by the European Court of Justice, "*a lesser degree of similarity between the goods or services designated may be offset by a greater degree of similarity between the trademarks and vice versa.*" (Cf. Ruling of the Court of Justice handed down on 29 September 1998, Canon Kabushiki Kaisha/Metro-Goldwyn Mayer Inc., C-39197, section 17). This assessment was kept constant by the Court; and in particular, in the scope of the ruling by the Court on 22 June 1999, Lloyd Schuhfabrik Meyer, C-342197 (point 17) and the ruling of the Court of 15 January 2003, Mystery Drinks/OHIM - Karlsberg Brauerei (MYSTERY), T-99101.

In the present case, the degree of similarity between the products is particularly high and is even exceeded to form an identity, since the products claimed by the Later Filing are identical to the products protected by the Prior Trademarks.

The degree of similarity between the signs is also high, as shown by the numerous points of identity and resemblance discussed above in the previous points.

The identical products concern the same consumers, i.e., purchasers of wines and alcoholic beverages.

With regard to identical products, they can be found on the same shelves of the

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same shops, whether these are shops that specialise in wines, independent cellars or retail businesses, whether large or small supermarkets.

However, account should be taken of the fact that the average consumer only rarely has the chance to make a direct comparison between the different trademarks but must place his trust in the imperfect picture of them that he has kept in his mind (Lloyd Schuhfabrik Meyer ruling, above, point 26).

The risk of confusion, for a normally attentive consumer but one who does not have both trademarks in sight to compare them, will automatically deduce from the near identity of the signs that the products originate with the same company, at least businesses that are linked commercially or legally.

In the field of business of the companies FATTORIA LA VIALLA DI GIANNI, and Bodenhold GmbH, namely the production and retailing of beverages and particularly wines, the concept of guarantee of origin of the products is essential, and the consumer puts great stock in the source of the products he purchases. Because of this, the use in the Later Filing of the word "VIALLA" that is almost identical to the Prior Trademarks and that is essential and entirely distinctive presents a risk of confusion that is extremely great.

In light of these factors, the risk of confusion, for the consumer with average attention who does not have both trademarks in sight at the same time, or hearing them within a short space of time, is reinforced, and the use of the Later Filing, particularly similar to the Prior Trademark, for identical products meant for the same public and marketed according to the same distribution channels, will create disturbance to business and will constitute an attack on the prior rights of the Filer concerning the Prior Trademarks.

Because of this, the Later Filing "VIALLA" may therefore not be adopted as a trademark for products identical to those designated in the Prior Trademark without harming the prior rights of the Opponent over the Prior Trademark, since it constitutes infringement by imitation of the Prior Trademark.

The Opponent therefore requests the rejection of protection of the application for Community registration no. 001024989 for all the products claimed for class 33.

#### **LIST OF THE EXHIBITS PRODUCED IN SUPPORT OF THE OPPOSITION**

- 1- Certificate of registration of the CTM trademark n°0093153**
- 2- Certificate of registration of the CTM trademark n°0093419**
- 3- Certificate of registration of the International Trademark n°560152**
- 4- Certificate of registration of the International Trademark n°613591**
- 5- Community trademark application LA VIALLA no. 001024989**
- 6- Extract of the web site [www.la-vialla.com](http://www.la-vialla.com)**

3/22

OHIM

The Trade Marks and Designs Registration Office of the European Union

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Ex. 1.

CTM-ONLINE - Detailed trade mark information



Trade mark name : Viata  
Trade mark No : 000093153  
Trade mark basis: CTM  
Number of results: 1 of 1  
Online Inspection Request form (for MyPage users with current account only)

<b>Filing date:</b>	01/04/1996
<b>Date of registration:</b>	06/04/1998
<b>Expiry date:</b>	01/04/2016
<b>Nice Classification:</b>	33 ( <a href="#">↗</a> Nice classification )
<b>Trade mark:</b>	Individual
<b>Type of mark:</b>	Word
<b>Acquired distinctiveness:</b>	No
<b>Applicant's reference:</b>	11-EU-33-0188
<b>Status of trade mark:</b>	CTM registered ( <a href="#">↗</a> Glossary ) CTM registration published (B1) ( <a href="#">↗</a> ) ( <a href="#">↗</a> Publication B1 or Publication B2 ) ( <a href="#">↗</a> History of statuses )
<b>Filing language:</b>	German
<b>Second language:</b>	English

**Graphic representation**

No entry for application number: 000093153.

**List of goods and services**

**Nice Classification:** 33  
**List of goods and services:** Alcoholic beverages (except beers), in particular wines.

**Description**

**Description of the mark:** -

**Owner**

**Name:** Bodenhald GmbH  
**ID No:** 341617  
**Natural or legal person:** Legal entity  
**Address:** Bodenhald 8  
**Post code:** 77704  
**Town:** Oberkirch  
**Country:** GERMANY  
**Correspondence address:** Bodenhald GmbH Bodenhald 8 D-77704 Oberkirch  
ALEMANIA

**Representative**

No entry for application number: 000093153.

[http://oami.europa.eu/CTMOnline/RequestManager/en\\_ResultsDetailed\\_NoReg](http://oami.europa.eu/CTMOnline/RequestManager/en_ResultsDetailed_NoReg)

19/22  
21/04/2010

<b>Seniority</b>	
<b>Country:</b>	GERMANY
<b>Registration number:</b>	1 148 259
<b>Status:</b>	Accepted
<b>Exhibition priority</b>	
No entry for application number: 000093153.	
<b>Priority</b>	
No entry for application number: 000093153.	
<b>Publication</b>	
<b>Bulletin no.:</b>	1997/018
<b>Date of publication:</b>	08/09/1997
<b>Part:</b>	A.1
<b>Bulletin no.:</b>	1998/069
<b>Date of publication:</b>	14/09/1998
<b>Part:</b>	B.2
<b>Bulletin no.:</b>	<b>2006/035</b>
<b>Date of publication:</b>	28/08/2006
<b>Part:</b>	D.1
<b>Opposition</b>	
No entry for application number: 000093153.	
<b>Cancellation</b>	
No entry for application number: 000093153.	
<b>Appeals</b>	
No entry for application number: 000093153.	
<b>Records</b>	
<b>Title:</b>	Representative
<b>Sub-title:</b>	Replacement of representative
<b>ID No:</b>	002047051
<b>Bulletin no.:</b>	<b>2007/053</b>
<b>Date of publication:</b>	24/09/2007
<b>Part:</b>	C.2.2
<b>Title:</b>	Owners
<b>Sub-title:</b>	Change of name and adress of owner
<b>ID No:</b>	002047085
<b>Bulletin no.:</b>	<b>2007/037</b>
<b>Date of publication:</b>	30/07/2007
<b>Part:</b>	C.1.3
<b>Title:</b>	Owners
<b>Sub-title:</b>	Total Transfer
<b>ID No:</b>	003322594
<b>Bulletin no.:</b>	<b>2008/033</b>
<b>Date of publication:</b>	18/08/2008
<b>Part:</b>	C.1.1
<b>Renewals</b>	
<b>Expiry Date:</b>	01/04/2016
<b>Status of renewal:</b>	Renewed
<b>Type of renewal:</b>	Total
<b>History of status</b> (→ Glossary)	<b>Status date</b>
Renewed	02/04/2006
Renewal fee paid	01/02/2006
Need to renew communicated	04/09/2005

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Ex. 2.

## CTM-ONLINE - Detailed trade mark information



**Trade mark name :** VIALA  
**Trade mark No :** 000093419  
**Trade mark basis:** CTM  
**Number of results:** 1 of 1  
Online Inspection Request form (for MyPage users with current account only)

<b>Filing date:</b>	01/04/1996
<b>Date of registration:</b>	06/04/1998
<b>Expiry Date:</b>	01/04/2016
<b>Nice Classification:</b>	33 (⇒ Nice classification)
<b>Trade mark:</b>	Individual
<b>Type of mark:</b>	Figurative
<b>Vienna Classification:</b>	27.5.15 (⇒ Vienna Classification)
<b>Acquired distinctiveness:</b>	No
<b>Applicant's reference:</b>	11-EU-33-0348
<b>Status of trade mark:</b>	CTM registered (⇒ Glossary) CTM registration published (B1) (⇒ Publication B1 or Publication B2) (⇒ History of statuses) German English

## Graphic representation



## List of goods and services

**Nice Classification:** 33  
**List of goods and services** Alcoholic beverages (except beers), in particular wines.

## Description

**Description of the mark:**

-

## Owner

**Name:** Bodenheld GmbH  
**ID No:** 341617

[http://oami.europa.eu/CTMOnline/RequestManager/en\\_ResultsDetailed\\_NoReg](http://oami.europa.eu/CTMOnline/RequestManager/en_ResultsDetailed_NoReg)

21/04/2010

12/27

**Natural or legal person:** Legal entity  
**Address:** Bodenhald 8  
**Post code:** 77704  
**Town:** Oberkirch  
**Country:** GERMANY  
**Correspondence address:** Bodenhald GmbH Bodenhald 8 D-77704 Oberkirch  
ALEMANIA

**Representative**

No entry for application number: 000093419.

**Seniority**

**Country:** GERMANY  
**Registration number:** 2 048 976  
**Status:** Accepted

**Exhibition priority**

No entry for application number: 000093419.

**Priority**

No entry for application number: 000093419.

**Publication**

**Bulletin no.:** 1997/018  
**Date of publication:** 08/09/1997  
**Part:** A.1  
**Bulletin no.:** 1998/069  
**Date of publication:** 14/09/1998  
**Part:** B.2  
**Bulletin no.:** B 2006/034  
**Date of publication:** 21/08/2006  
**Part:** D.1

**Opposition**

No entry for application number: 000093419.

**Cancellation**

No entry for application number: 000093419.

**Appeals**

No entry for application number: 000093419.

**Recordals**

**Title:** Representative  
**Sub-title:** Replacement of representative  
**ID No:** 002047010  
**Bulletin no.:** B 2007/053  
**Date of publication:** 24/09/2007  
**Part:** C.2.2  
**Title:** Owners  
**Sub-title:** Change of name and adress of owner  
**ID No:** 002047085  
**Bulletin no.:** B 2007/037  
**Date of publication:** 30/07/2007  
**Part:** C.1.3  
**Title:** Owners  
**Sub-title:** Total Transfer  
**ID No:** 003322594  
**Bulletin no.:** B 2008/033  
**Date of publication:** 18/08/2008  
**Part:** C.1.1

Fax émis par : 0145502730

DOMINIQUE SCHMIDT

21-04-10 17:06

Pg : 15/43

MI/21a-X 90



# ORGANISATION MONDIALE DE LA PROPRIÉTÉ INTELLECTUELLE

34, chemin des Colombettes, case postale 18, CH-1211 GENÈVE 20 (Suisse)  
Ø (022) 730 91 11 - 412 912 ompi.ch - Adresse télégraphique: OMPI  
Télécopieur 733 5428, groupes II et III

Ex. 3

## ARRANGEMENT DE MADRID CONCERNANT L'ENREGISTREMENT INTERNATIONAL DES MARQUES

### CERTIFICAT D'ENREGISTREMENT

Le Bureau international de l'Organisation Mondiale de la Propriété Intellectuelle (OMPI) certifie que les indications figurant au verso sont conformes aux inscriptions faites au registre international des marques, à la date de l'enregistrement, en vertu de l'Arrangement de Madrid concernant l'enregistrement international des marques.

Genève, le 21 NOV. 1990

Bureau international de l'Organisation Mondiale  
de la Propriété Intellectuelle (OMPI)

S. Di Palma  
Chef des Services  
d'enregistrement international des marques  
et des dessins et modèles industriels



1 de 1

(151) 31.08.1990

560152

(180) 31.08.2010

(171) 20

(732) Bodenhald GmbH

Bodenhald 8

77704 Oberkirch (DE)

(811) DE

(740) Deckers &amp; Bähr Rechtsanwälte

Wirtschaftsprüfer Steuerberater

Partnerschaft

Postfach 416

76258 Ettlingen (DE)

(540) Viala

(511)

33 Vins et vins mousseux.

Wines and sparkling wines.

Vinos y vinos espumosos.

(821) DT, 03.10.1989

(822) DT, 19.10.1989, 1 148 259

(831) KZ

(832) GE, JP, KR, TR

(834) AT, BA, BX, BY, CH, CN, CZ, DE, ES, FR, HR, HU, IT, KG, LI, MC, MD, MK, PT, RS, RU, SI, SK, SM, UA

15/22



Ex. 4.

**ORGANISATION MONDIALE DE LA PROPRIÉTÉ INTELLECTUELLE**

34, chemin des Colombettes, case postale 18, CH-1211 GENÈVE 20 (Suisse)  
☎ (022) 730 91 11 - ☎ 412 912 ompi ch - Adresse télégraphique: OMPI  
Télécopieur 733 54 28, groupes II et III

**ARRANGEMENT DE MADRID  
CONCERNANT L'ENREGISTREMENT INTERNATIONAL DES MARQUES**

**CERTIFICAT D'ENREGISTREMENT**

Le Bureau international de l'Organisation Mondiale de la Propriété Intellectuelle (OMPI) certifie que les indications figurant au verso sont conformes aux inscriptions faites au registre international des marques, à la date de l'enregistrement, en vertu de l'Arrangement de Madrid concernant l'enregistrement international des marques.

Genève, le **22 MARS 1994**

Bureau international de l'Organisation Mondiale  
de la Propriété Intellectuelle (OMPI)

A handwritten signature in dark ink, appearing to read 'S. Di Palma', is written over the printed name.

Salvatore Di Palma

Chef  
Section de l'Administration  
Division des enregistrements internationaux



1 of 1

---

(151) 24.12.1993 613591

(180) 24.12.2013

(171) 20

(732) Bodenhald GmbH  
Bodenhald 8  
77704 Oberkirch (DE)

(811) DE

(740) Deckers & Bähr Rechtsanwälte  
Wirtschaftsprüfer Steuerberater  
Partnerschaft  
Postfach 416  
76258 Ettlingen (DE)

(540)

VIALA

(531) 27.05

(511)

33 Boissons alcooliques (à l'exception des bières), notamment vins.

(821) DE, 11.10.1993

(822) DE, 08.11.1993, 2 048 976

(300) DE, 11.10.1993, 2 048 976

(834) AT, BG, BX, BY, CH, CZ, ES, FR, HR, HU, IT, LI, MC, MK, PL, PT, RO,  
RS, RU, SI, SK, SM, UA

17/22

**OHIM**

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Ex. 5

## CTM-ONLINE - Detailed trade mark information



**Trade mark name :** LA VIALLA  
**Trade mark No :** 001024989  
**Trade mark basis:** IR designating the EC  
( → Madrid Express database)  
**Number of results:** 1 of 1

<b>Date of international registration:</b>	20/10/2009
<b>Date of international registration:</b>	20/10/2009
<b>Date of receipt at OHIM:</b>	21/01/2010
<b>Expiry Date:</b>	20/10/2019
<b>Nice Classification:</b>	29, 30, 31, 32, 33 ( → Nice classification)
<b>Trade mark:</b>	Individual
<b>Type of mark:</b>	Word
<b>Status of trade mark:</b>	Absolute grounds OK ( → Glossary) ( → History of statuses)
<b>WIPO language:</b>	English
<b>Second language:</b>	Italian

**Graphic representation**

No entry for application number: 1024989.

**List of goods and services**

<b>Nice Classification:</b>	29
<b>List of goods and services</b>	Preserves, butter, preserved fruit and vegetables, cheeses, jams, edible olive oil, cooked and raw ham, delicatessen products, pickles, sauces.
<b>Nice Classification:</b>	30
<b>List of goods and services</b>	Vinegar, confectionery products, sweets, biscuits, bread, pizza, pasta, sauces (seasonings), sauces for salad, seasoning and dressing products, honey.
<b>Nice Classification:</b>	31
<b>List of goods and services</b>	Untreated cereal corns, cereal bran, spelt, fresh fruit, fresh mushrooms, wheat, maize, fresh vegetables, seeds (for sowing), soybeans.
<b>Nice Classification:</b>	32
<b>List of goods and services</b>	Soft drinks, fruit-based beverages, fruit juices, syrups.
<b>Nice Classification:</b>	33
<b>List of goods and services</b>	Alcoholic drinks (except beers), alcoholic extracts, liqueurs and spirits, wines, sparkling wines, grappas.

**Owner**

**Name:** FATTORIA LA VIALLA DI GIANNI, ANTONIO E  
BANDINO LO FRANCO - SOCIETA' AGRICOLA  
SEMPLICE  
**Address:** Via di Meliciano, 26 I-52100 AREZZO

18/27

**Country:** ITALY**Representative before OHIM**

No entry for application number: 1024989.

**Seniority**

No entry for application number: 1024989.

**Priority****Country:** ITALY  
**Number of basic application:** MI2009C009910  
**Filing date of basic application:** 13/10/2009  
**Trade mark status:** Accepted**Publication****Bulletin no.:** B 2010/014  
**Date of publication:** 25/01/2010  
**Part:** M.1**Opposition**

No entry for application number: 1024989.

**Appeals**

No entry for application number: 1024989.

**Renewals**

No entry for application number: 1024989.



Version: 9.2.2

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Avenida de Europa 4, E-03008 Alicante, Spain - Tel: +34 96 513 9400 - e-mail:

18/27

(151) 20.10.2009 1 024 989  
 (180) 20.10.2010  
 (732) FATTORIA LA VIALLA DI GIANNI,  
 ANTONIO E BANDINO I.O FRANCO -  
 SOCIETA' AGRICOLA SEMPLICE  
 Via di Meliciano, 26  
 I-52100 AREZZO (IT).

## LA VIALLA

(541) caractères standard / *standard characters* / caracteres estándar

(511) NCL(9)

29 Conserves, beurre, fruits et légumes conservés, fromages, confitures, huile d'olive alimentaire, jambon cru et cuit, produits d'épicerie fine, pickles, coulis.

30 Vinaigres, confiseries, bonbons, biscuits, pains, pizza, pâtes alimentaires, sauces (assaisonnements), sauces à salade, produits d'assaisonnements et garnitures, miel.

31 Mais céréalier non transformé, sons de céréales, épeautre, fruits frais, champignons frais, blé, maïs, légumes frais, semences, graines de soja.

32 Boissons sans alcool, boissons à base de fruits, jus de fruits, sirops.

33 Boissons alcoolisées (autres que bières), extraits alcooliques, liqueurs et spiritueux, vins, vins mousseux, grappas.

29 *Preserves, butter, preserved fruit and vegetables, cheeses, jams, edible olive oil, cooked and raw ham, delicatessen products, pickles, sauces.*

30 *Vinegar, confectionery products, sweets, biscuits, bread, pizza, pasta, sauces (seasonings), sauces for salad, seasoning and dressing products, honey.*

31 *Untreated cereal corns, cereal bran, spelt, fresh fruit, fresh mushrooms, wheat, maize, fresh vegetables, seeds (for sowing), soybeans.*

32 *Soft drinks, fruit-based beverages, fruit juices, syrups.*

33 *Alcoholic drinks (except beers), alcoholic extracts, liqueurs and spirits, wines, sparkling wines, grappas.*

29 *Conservas, mantequilla, frutas y hortalizas en conserva, quesos, mermeladas, aceite de oliva comestible, jamones crudos y cocidos, productos de gastronomía fina, encurtidos, salsas.*

30 *Vinagre, productos de confitería, dulces, bizcochos, pan, pizzas, pasta, salsas (condimentos), aliños para ensalada, aderezos y aliños, miel.*

31 *Cereales sin procesar, salvado, escanda, frutas frescas, champiñones frescos, trigo, maíz, hortalizas frescas, semillas para siembra, granos de soja.*

32 *Refrescos, bebidas a base de frutas, zumos de frutas, siropes.*

33 *Bebidas alcohólicas (excepto cerveza), extractos alcohólicos, licores y bebidas espirituosas, vinos, vinos espumosos, grapas.*

(821) IT, 13.10.2009, MI2009C009910.

(300) IT, 13.10.2009, MI2009C009910.

(832) EM.

(834) CH.

(270) anglais / *English* / inglés

(580) 21.01.2010



.... cultivates with love, 123 hectares/304 acres of Chianti vines....

Ex. 6

**POWER OF ATTORNEY**

I (We) the undersigned, hereby authorize lawyer Xavier DE RYCK and/or one of the partner of ASA Avocats Associés their designated representative, to represent us before the OAMI and act for us in all transactions in connection with the registration and maintenance of our trademarks VIALA (CTM n°93153, 93419, IR n°613591), industrial designs and/or patents in Europe, perform all actions in connection with registration of International and CTM Trademarks and particularly CTM LA VIALLA n°1024989 for which purpose, I (we) authorize our representative to perform all the actions mentioned below. In the case such actions are performed before date of signing of the power of attorney, the undersigned person confirm these actions by signing this power of attorney.

Acting in representational person's interests, the representative can perform following actions: prepare, sign and file applications, petitions and the like; pay taxes; file and receive documents, official filing communications, certificates and other documents; make amendments in application and registration documents; withdraw applications and registrations; file explanations, responses, appeals, oppositions, withdraw appeals and oppositions, represent us before Appeal Division of OAMI and etc.

(We) the undersigned, confirm that (We) the undersigned have all the necessary authorizations for signing the Power of Attorney, do not infringe upon the rights of legal entities, do not act ultra vires, established by the legal acts and other documents concerning legal persons, do not infringe rights of third persons by this Power of Attorney.

**Bodenhald GmbH**  
Bodenhald 8, D-77704 Oberkirch, Germany

.....  
Name and address of applicant(s)

**BODENHALD GmbH**  
Bodenhald 8  
77704 Oberkirch

.....  
Signature(s) of the applicant(s) (also print name and title of person signing)

*Oberkirch, den 16.04.2010*  
.....  
Place and date of signature

*Susanne Bimmerle*

Power of attorney does not have to be signed before a notary or legalized.

22/22