



World Intellectual Property
Organisation (WIPO)
International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Your Reference:
International Registration No:
WO0000001269362
Examiner: Claire Woodman
Direct Telephone: +44(0)1633814566
Date: 27 April 2016

Intl Reg No: WO0000001269362
Mark: SENSE
Holder: "VINPROM PESHTERA" S.A.
Class(es): 33

**Notification Of A Provisional Total Refusal Of Protection Based On An
Opposition By The United Kingdom Intellectual Property Office In
Accordance With Article 5 Of The Madrid Protocol**

I am writing to inform you that following receipt of an opposition to the above trade mark, it is necessary to issue this formal provisional refusal letter. This provisional refusal covers all of the goods and services of the International Registration.

Please find attached a copy of the TM7 'Notice of Opposition', which includes details of any marks referred to in the statement of case, which was received by the United Kingdom Trade Mark Registry. Copies of these documents have been sent to the holder informing them of this provisional refusal.

If the holder of the International Registration wishes to file a counterstatement, they must complete the form TM8 'Notice of defence and counterstatement', which is available at ipo.gov.uk/tmforms and **return it to this office** within **two months** of the date of this letter. This period cannot be extended, except in the circumstances described below. The holder should note that failure to file a TM8 will result in the provisional refusal being upheld.

If both parties to this dispute wish to negotiate and want to enter a 'cooling off period' then the time for filing the TM8 can be extended for a further seven months by the filing the form TM9c 'Request for a cooling off period, which is available at ipo.gov.uk/tmforms

The TM8 should be received on or before **27 June 2016** unless a cooling off period is entered into by the parties.

If one is not provided within this time the refusal will be made final.

Claire Woodman

Trade Marks Registry



Intellectual
Property
Office

M5-IPO-FAX
15/APR/2016

J765355/ 0001 D02824 TM07.....
18APR16 200.00 ACCOUNT 0P000406437

Form TM7

Notice of opposition and statement of grounds

Fee ☐ £100 Opposition based on Section 5(1) and/or 5(2) ONLY



£200

Opposition based on, or including, any other grounds

Note: If you wish to oppose under Section 5(1) and/or 5(2) and one or more other grounds, the fee will be £200

Use this form to notify of an opposition to a trade mark application or international registration and to set out the grounds on which you are basing this opposition.

Do not use this form if you wish to file a Fast Track opposition under Section 5(1) and/or 5(2): use Form TM7F.

1. Trade mark number

Number of the trade mark you are opposing. If the opposition concerns an International Registration, help us identify the correct trade mark by adding "IR"

IR 1269362

2. Full name of applicant/holder

Whose trade mark you are opposing

"VINPROM PESHTERA" S.A.

3. Full name of opponent

Person opposing the trade mark

SENSI VIGNE & VINI S.R.L.

Address

If the address is not within the United Kingdom, European Economic Area (EEA – which includes the European Union) or the Channel Islands you must have a representative in one of these regions and complete section 4 below

VIA CERBAIA, 107 - FRAZ. CERBAIA

LAMPORECCHIO (PT)

ITALY

Postcode I-51035

Email address

Complete if you have no representative and would like us to correspond with you by email

4. Representative name

If you have no representative, go to section 5.

Maguire Boss

Address

The address provided in this section must be in the UK, European Economic Area (EEA) or the Channel Islands.

24 East Street

St. Ives

Cambridge

Postcode PE27 5PD

NOTE: We will communicate with the representative if this section has been completed.

Email address

Complete if you would like us to correspond with you by email

tmrks@maguires.co.uk

5. Related proceedings

If applicable, select location of any related proceedings and enter the case number allocated to the proceedings.

IPO Registry

UK Courts

OHIM

Number

6. Opposition notification date

If you have informed the applicant/holder of an intention to oppose the trade mark application, designation – enter the date you notified them.
[=See Note]

11 Mar 2016

Note: An opposition launched without giving the applicant/holder a reasonable opportunity to withdraw the application, international designation or amendment may result in the opponent being ineligible for an award of costs.

7. Declaration

I believe that the facts stated in this form and the attached statement of grounds are true.

Signature

Maguire Boss

Name

(BLOCK CAPITALS)

MAGUIRE BOSS

Date

15 Apr 2016

8. Your reference

Complete if you would like us to quote this in communications with you, otherwise leave blank.

G3735

Contact details

Name, daytime telephone number of the person to contact in case of query.

David Tate
Tel: 01480 301588

Number of sheets attached to this form

51

Checklist

Please make sure you have remembered to:

- ☐ Sign and date the form.
- ☐ Complete fee sheet (Form FS2).
- ☐ Enclose the fee and fee sheet. Make cheques payable to Intellectual Property Office.

Where to send

Intellectual Property Office
Trade Marks Registry
Concept House
Cardiff Road
Newport
South Wales
NP10 8QQ

Please tick on what grounds you are opposing the trade mark and continue to the relevant section(s)

☒

Opposition is based on Sections 5(1) or 5(2): The trade mark is either identical or similar to an earlier trade mark and is to be registered for identical and/or similar goods and services.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark.

> **COMPLETE SECTION A**

☐

Opposition is based on Section 5(3): The trade mark is either identical or similar to an earlier trade mark which has a reputation. Using the later mark would take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier mark.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark. Ticking this box means that the total fee for this form is £200.

> **COMPLETE SECTION B**

☒

Opposition is based on Section 5(4)(a): Where the use of the applicant's trade mark would be contrary to law, in particular, the law of passing off.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier right. Ticking this box means that the total fee for this form is £200.

> **COMPLETE SECTION C**

☐

Opposition is based on Section 3: The trade mark is excluded from registration because it describes the goods/services, or is not distinctive, or consists of signs that are customary within the trade, or the application was made in bad faith.

Note: Ticking this box means that the total fee for this form is £200.

> **COMPLETE SECTION D**

☐

Opposition is based on other grounds.

Note: Ticking this box means that the total fee for this form is £200.

> **COMPLETE SECTION E**

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number
Your trade mark

011631983

Type of mark
Please tick

UK



Community

International

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

Please see "Attachment 1".

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input type="checkbox"/>	All goods and services
<input checked="" type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)
All Class 33 goods.	

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☐ Yes

☒ No > GO TO Q4

Q3. Has the trade mark been used?

☐ Yes

☐ No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

Please see "Attachment 8".

4/14/2016

EUIPO - eSearch



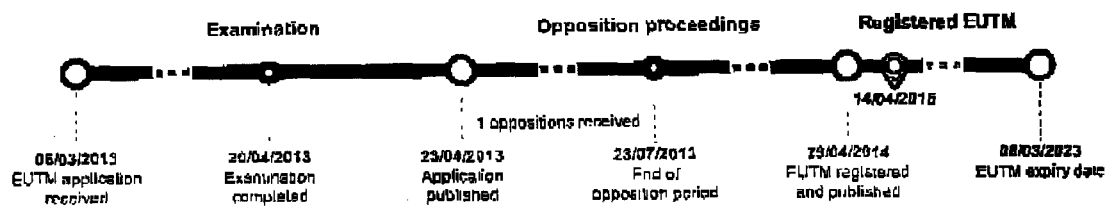
Protect your Intellectual property in the European Union

" ATTACHMENT 1 "

EUTM file information

SENSI
011631983

Timeline



Graphic representation

SENSI

Trade mark information

Name	SENSI	Filing date	06/03/2013
Filing number	011631983	Registration date	25/04/2014
Basis	EUTM	Expiry date	06/03/2023
Date of receipt	06/03/2013	Designation date	
Type	Figurative	Filing language	Italian
Nature	Individual	Second language	French
Nice classes	29, 33, 35 (Nice Classification)	Application reference	DOTT.FC2013/16/COM
Vienna Classification	27.05.01 (Vienna)	Trade mark status	Registered

4/14/2016

EUIPO - eSearch

Classification)

Acquired distinctiveness

No

Goods and services

English (en)

29 Olive oil for food.

33 Wine; Spirits; Liqueurs; Alcoholic beverages (except beers).

35 Services carried out for and/or on behalf of others in the advertising and business sectors; Public relations and market research; Advertising and promotion for the marketing of wines, spirits, aperitifs and liqueurs.

Description

English (en)

Description The trademark consists of the word "SENSI" written in fanciful letters.
Colour

Owners

SENSI VIGNE & VINI S.R.L.

ID	S87494	Country	IT - Italy	Correspondence address	
Organisation	SENSI VIGNE & VINI S.R.L.	State/country	n/a	SENSI VIGNE & VINI S.R.L.	Can be accessed and changed by authorised user via the User Area
Legal status	Legal entity	Town	LAMPORECCH (PT)	VIA CERBAIA, 107 - FRAZ. CERBAIA	
		Post code	51035	I-51035 LAMPORECCHIO (PT) ITALIA	Can be accessed and changed by authorised user via the User Area
		Address	VIA CERBAIA, 107 - FRAZ. CERBAIA		Can be accessed and changed by authorised user via the User Area

Representatives

DOTT. FRANCO CICOGNA & C.SRL

ID	14838	Country	IT - Italy	Correspondence address	00 39-0276000209
Organisation	n/a	State/country	n/a	DOTT. FRANCO CICOGNA & C.SRL	
Legal status	Legal person	Town	Milano	Via Visconti di Modrone, 14/A	00 39-0276009604
Type	Association	Post code	20122	I-20122 Milano	
		Address	Via Visconti di Modrone, 14/A	ITALIA	ufficio@brevettidicogna.com

Cancellation

Decisions

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number
Your trade mark

004371898

Type of mark
Please tick

UK



Community

International

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

Please see "Attachment 2".

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☒ Yes

☐ No > GO TO Q4

Q3. Has the trade mark been used?

☒ Yes

☐ No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

Please see "Attachment 8".

EUIPO - eSearch

Page 1 of 2

"ATTACHMENT 2"

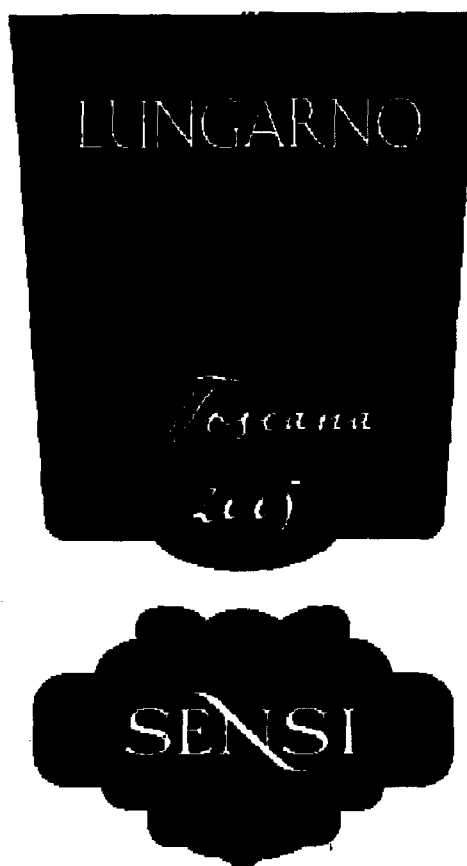
Protect your intellectual property in the European Union

EUTM file information

**LUNGARNO Cabernet Toscana INDICAZIONI
GEOGRAFICA TIPICA 2005 CANTINE SENSI DAL
1890**

004371696

Graphic representation



Trade mark information

Name	LUNGARNO Cabernet Toscana INDICAZIONI GEOGRAFICA TIPICA 2005 CANTINE SENSI DAL 1890	Filing date	03/05/2005
		Registration date	04/08/2006
		Expiry date	03/05/2025
Filing number	004371696	Designation date	
Basis	EUTM	Filing language	Italian
Date of receipt	03/05/2005	Second language	French
Type	Figurative	Application reference	GC/mm - 05-2/0620
Nature	Individual	Trade mark status	Registered

EUIPO - eSearch

Page 2 of 2

Nice classes	33 (Nice Classification)	Acquired distinctiveness	No
Vienna Classification	01.01.04, 01.01.10, 23.05.05, 24.01.03, 24.01.07, 24.01.18, 25.01.17, 25.01.25 (Vienna Classification)		

Goods and services

English (en) ☐

33 Wines from Tuscany.

Owners

SENSI VIGNE & VINI S.R.L.

ID	587494	Country	IT - Italy	Correspondence address	
Organisation	SENSI VIGNE & VINI S.R.L.	State/country	n/a	SENSI VIGNE & VINI S.R.L. VIA CERBAIA, 107 - FRAZ. CERBAIA	Can be accessed and changed by authorised user via the User Area
Legal status	Legal entity	Town	LAMPORECCH (PT)	I-51035 LAMPORECCHIO (PT) ITALIA	Can be accessed and changed by authorised user via the User Area
		Post code	51035		
		Address	VIA CERBAIA, 107 - FRAZ. CERBAIA		Can be accessed and changed by authorised user via the User Area

Representatives

DOTT. FRANCO CICOGLA & C.SRL

ID	14838	Country	IT - Italy	Correspondence address	00 39-0276000209
Organisation	n/a	State/country	n/a	DOTT. FRANCO CICOGLA & C.SRL	
Legal status	Legal person	Town	Milano	Via Visconti di Modrone, 14/A	00 39-02760009604
Type	Association	Post code	20122	I-20122 Milano ITALIA	
		Address	Via Visconti di Modrone, 14/A		ufficio@bravaticogla.com

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number
Your trade mark

012167409

Type of mark
Please tick

☐ UK

☒

Community

☐ International

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

Please see "Attachment 3".

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☐ Yes

☒ No > GO TO Q4

Q3. Has the trade mark been used?

☐ Yes

☐ No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

Please see "Attachment B".

4/14/2016

EUIPO - eSearch



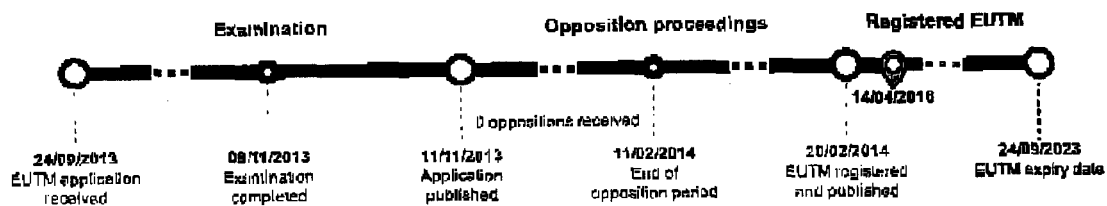
Protect your intellectual property in the European Union

" ATTACHMENT 3 "

EUTM file information

18 K SENSI
012167409

Timeline



Trade mark information

Name	18 K SENSI	Filing date	24/09/2013
Filing number	012167409	Registration date	18/02/2014
Basis	EUTM	Expiry date	24/09/2023
Date of receipt	24/09/2013	Designation date	
Type	Word	Filing language	Italian
Nature	Individual	Second language	French
Nice classes	33 (Nice Classification)	Application reference	DOTT.AT2013/102/COM
Vienna Classification		Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en)

33 Wine; Alcoholic aperitifs; Sparkling wine; Liqueurs and alcoholic beverages (except beers).

Description

No entry

Owners

SENSI VIGNE & VINI S.R.L.

ID	587494	Country	IT - Italy	Correspondence address	
Organisation	SENSI VIGNE & VINI S.R.L.	State/country	n/a	SENSI VIGNE & VINI S.R.L. VIA CERBAIA, 107 - FRAZ. CERBAIA I-51035 LAMPORECCHIO (PT)	Can be accessed and changed by authorised user via the User Area
Legal status	Legal entity	Town	LAMPORECCH (PT)		
		Post code	51035		

4/14/2016

EUIPO - eSearch

Address

VIA CERBAIA,
107 - FRAZ.
CERBAIA

ITALIA

Can be accessed and
changed by authorised user
via the User AreaCan be accessed and
changed by authorised user
via the User Area

Representatives

DOTT. FRANCO CICO GNA & C.SRL

ID	14838	Country	IT - Italy	Correspondence address	00 39-0276000209
Organisation	n/a	State/county	n/a	DOTT. FRANCO CICO GNA & C.SRL	
Legal status	Legal person	Town	Milano	Via Visconti di Modrone, 14/A	00 39-0276009604
Type	Association	Post code	20122	I-20122 Milano	
		Address	Via Visconti di Modrone, 14/A	ITALIA	ufficio@brevetticicogna.com

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number
Your trade mark

013409719

Type of mark
Please tick

☐ UK

☒

Community

☐ International

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

Please see "Attachment 4".

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☐ Yes

☒ No > GO TO Q4

Q3. Has the trade mark been used?

☐ Yes

☐ No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

> GO TO Q4.

18

TM7

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="checked" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

Please see "Attachment 8".

4/14/2016

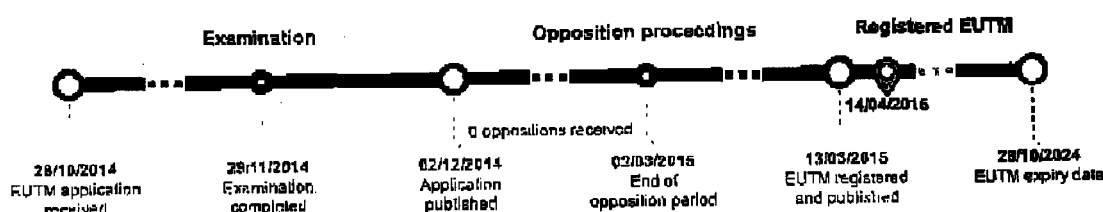
EUIPO - eSearch



Protect your intellectual property in the European Union

" ATTACHMENT 4 "**EUTM file information**

SPRITZIN' BY SENSI
013409719

Timeline**Trade mark information**

Name	SPRITZIN' BY SENSI	Filing date	28/10/2014
Filing number	013409719	Registration date	11/03/2015
Basis	EUTM	Expiry date	28/10/2024
Date of receipt	28/10/2014	Designation date	
Type	Word	Filing language	Italian
Nature	Individual	Second language	French
Nice classes	33 (Nice Classification)	Application reference	DOTTFC2014111COM
Vienna Classification		Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en)

33 Wine; Alcoholic aperitifs; Sparkling wines; Liqueurs and Alcoholic beverages (except beers).**Description**

No entry

Owners**SENSI VIGNÉ & VINI S.R.L.**

ID	587494	Country	IT - Italy	Correspondence address	Can be accessed and changed by authorised user via the User Area
Organisation	SENSI VIGNÉ & VINI S.R.L.	State/country	n/a	SENSI VIGNÉ & VINI S.R.L. VIA CERBAIA, 107 - FRAZ. CERBAIA I-51035 LAMPORECCHIO (PT)	
Legal status	Legal entity	Town	LAMPORECCH (PT)		
		Post code	51035	20	

4/14/2016

EUIPO - eSearch

Address

VIA CERBALA,
107 - FRAZ.
CERBAIA

ITALIA

Can be accessed and
changed by authorised user
via the User AreaCan be accessed and
changed by authorised user
via the User Area

Representatives

DOTT. FRANCO CICOĞNA & C.SRL

ID	14338	Country	IT - Italy	Correspondence address	00 39-0276000209
Organisation	n/a	State/county	n/a	DOTT. FRANCO CICOĞNA & C.SRL	
Legal status	Legal person	Town	Milano	Via Visconti di Modrone, 14/A	00 39-0276009604
Type	Association	Post code	20122	I-20122 Milano	
		Address	Via Visconti di Modrone, 14/A	ITALIA	ufficio@brevetdicogna.com

M5-IPO-FAX
15/APR/2016**MAGUIRE BOSS**

Patent & Trade Mark Attorneys

FACSIMILE TRANSMISSION SHEET

TO:

FROM:

David Tate

COMPANY:

UK-IPO

DATE:

15 APRIL 2016

YOUR REFERENCE:

OUR REFERENCE:

G3735-03/DT:bg

FAX NUMBER:

01633 817777

NO OF PAGES (INCLUDING THIS ONE):

31 (Part 2 of 2)

NOTES/COMMENTS:

Please note that due to the size of this fax (55 pages not including fax cover sheets), it is being sent in 2 parts.

This is **PART 2** of 2

This written message is for the exclusive use of the addressee and contains confidential, privileged and non-disclosable information. If this message is received by anyone other than the addressee or a person responsible for delivering the message to the addressee, you are prohibited from reading or using the message in any way. If you have received the message by mistake please telephone us immediately and destroy the message.

If this facsimile is not received in full or there are any problems please contact us immediately.

**24 EAST STREET, ST IVES, CAMBRIDGE,
PE27 5PD, UNITED KINGDOM**Tel : +44 (0)1480 301588
Fax : +44 (0)1480 464405
Website: www.maguire.co.ukE-Mail : patents@maguires.co.uk marks@maguires.co.uk

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number
Your trade mark

1127549

Type of mark
Please tick

☐ UK

☐ Community



International

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

Please see "Attachment 5".

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☐ Yes

☒ No > GO TO Q4

Q3. Has the trade mark been used?

☐ Yes

☐ No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

Please see "Attachment 8".

"ATTACHMENT 5"

WIPO - ROMARIN - International Registration Details

1127549

15.4.2016

- 151** **Date of the registration**
18.05.2012
- 180** **Expected expiration date of the registration/renewal**
18.05.2022
- 270** **Language of the application**
French

Current Status

- 732** **Name and address of the holder of the registration**
SENSI VIGNE & VINI S.R.L. Via Cerbaia, 107, Frazione Cerbaia I-51035 Lamporecchio (PT)
Italy
- 812** **Contracting State or Contracting Organization in the territory of which the holder has a real and effective industrial or commercial establishment**
IT (Italy)
- 740** **Name and address of the representative**
Dott. Franco Cicogna & C. Srl - 01077 Dott. Alessandro Turato Via Visconti di Modrone, 14/A I-
20122 MILANO Italy
- 540** **Mark**



- 531** **International Classification of the Figurative Elements of Marks (Vienna Classification) - VCL(6)**
05.05.20 ; 25.01.15 ; 27.05.01

571 **Description of the mark**

The composite mark comprises graphic and verbal elements. The word "Dolcevita" in special characters can be read inside an imaginary impression above "SPARKLING SWEET WINE dei" and further down "SENSI". The above words are surrounded by three stylized flowers. "1890" is written at the bottom.

La marque présente une structure complexe car elle est constituée d'éléments graphiques et littéraires. On lit, notamment le libellé "Dolcevita" en caractères spéciaux à l'intérieur d'une empreinte imaginaire et dessous "SPARKLING SWEET WINE dei" et dessous encore "SENSI". Ces libellés sont entourés de trois fleurs stylisées. On y lit dessous le libellé "1890".

La marca presenta una estructura compuesta, formada por elementos denominativos y elementos figurativos. La etiqueta "Dolcevita" en caracteres especiales en el interior de un dibujo imaginario, debajo, los términos "SPARKLING SWEET WINE dei" y, debajo de éstos, el término "SENSI". Todo ello rodeado de tres flores estilizadas. El número "1890".

511 **International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) - NCL(10)**
 33 Wine; aperitifs, spirits and liqueurs; except beer.
 821 **Basic application**
 IT (Italy), 10.05.2012, MI2012C 004874
 300 **Data relating to priority under the Paris Convention and other data relating to registration of the mark in the country of origin**
 IT (Italy), 10.05.2012, MI2012C 004874
 832 **Designation(s) under the Madrid Protocol**
 AU (Australia), GB (United Kingdom), JP (Japan), US (United States of America)
 527 **Indications regarding use requirements**
 GB (United Kingdom), US (United States of America)

Registration

450 **Publication number and date**
 2012/36 Gaz, 27.09.2012
 832 **Designation(s) under the Madrid Protocol**
 AU (Australia), JP (Japan), US (United States of America)
 527 **Indications regarding use requirements**
 US (United States of America)
 580 **Date of recording (date of notification from which the time limit to notify the refusal starts)**
 20.09.2012

861 Total provisional refusal of protection

AU (Australia)
 450 **Publication number and date**
 2012/42 Gaz, 08.11.2012
 580 **Date of notification**
 01.11.2012
Date of receipt by the International Bureau
 12.10.2012

861 Total provisional refusal of protection

US (United States of America)
 450 **Publication number and date**
 2012/48 Gaz, 20.12.2012
 580 **Date of notification**
 13.12.2012
Date of receipt by the International Bureau
 27.11.2012

861 Total provisional refusal of protection

JP (Japan)
 450 **Publication number and date**
 2013/7 Gaz, 07.03.2013
 580 **Date of notification**
 28.02.2013

Date of receipt by the International Bureau

14.02.2013

Statement of grant of protection following a provisional refusal under Rule 18ter(2)(i)

JP (Japan)

450 Publication number and date

2013/37 Gaz, 03.10.2013

580 Date of notification

26.09.2013

Date of receipt by the International Bureau

12.09.2013

Opposition possible after the 18 months time limit

AU (Australia)

450 Publication number and date

2013/39 Gaz, 17.10.2013

Ex Officio examination completed but opposition or observations by third parties still possible, under Rule 18bis(1)

US (United States of America)

450 Publication number and date

2014/5 Gaz, 13.02.2014

Opposition possible after the 18 months time limit

US (United States of America)

450 Publication number and date

2014/9 Gaz, 13.03.2014

Subsequent designation

450 Publication number and date

2014/11 Gaz, 27.03.2014

832 Designation(s) under the Madrid Protocol

GB (United Kingdom)

527 Indications regarding use requirements

GB (United Kingdom)

580 Date of recording (date of notification from which the time limit to notify the refusal starts)

27.03.2014

891 Date of subsequent designation (Rule 24(6) of the Common Regulations)

29.01.2014

Statement of grant of protection made under Rule 18ter(1)

GB (United Kingdom)

450 Publication number and date

2014/37 Gaz, 25.09.2014

Statement of grant of protection following a provisional refusal under

Rule 18ter(2)(i)

US (United States of America)

450 Publication number and date

2014/47 Gaz, 04.12.2014

580 Date of notification

04.12.2014

Date of receipt by the International Bureau

18.11.2014

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number
Your trade mark

1127550

Type of mark
Please tick

☐ UK

☐ Community

☒

International

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

Please see "Attachment 6".

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☐ Yes

☒ No > GO TO Q4

Q3. Has the trade mark been used?

☐ Yes

☐ No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

Please see "Attachment 8".

"ATTACHMENT 6"

WIPO - ROMARIN - International Registration Details

- 1127550** 15.4.2016
- 151** **Date of the registration**
18.05.2012
- 180** **Expected expiration date of the registration/renewal**
18.05.2022
- 270** **Language of the application**
French
- Current Status**
- 732** **Name and address of the holder of the registration**
SENSI VIGNE & VINI S.R.L. Via Cerbaia, 107, Frazione Cerbaia I-51035 Lamporecchio (PT)
Italy
- 812** **Contracting State or Contracting Organization in the territory of which the holder has a real and effective industrial or commercial establishment**
IT (Italy)
- 740** **Name and address of the representative**
Dott. Franco Cicogna & C. Srl - 01077 Dott. Alessandro Turato Via Visconti di Modrone, 14/A I-
20122 MILANO Italy
- 540** **Mark**
-
- 531** **International Classification of the Figurative Elements of Marks (Vienna Classification) - VCL(6)**
05.11.11 ; 25.01.16 ; 27.05.01
- 571** **Description of the mark**
The trademark consists of a complex label. The wording is "SENSI CAMPOLUCE - FAMILY OF WINEMAKERS SINCE 1890". Plant stems and leaves can be seen in the impression of the trademark.
La marque en objet est constituée d'une étiquette complexe. On y lit les libellés "SENSI CAMPOLUCE - FAMILY OF WINEMAKERS SINCE 1890". Dans l'empreinte de la marque sont reproduites des tiges et des feuilles de plantes.
La marca está compuesta por una etiqueta compleja. Los términos "SENSI CAMPOLUCE - FAMILY OF WINEMAKERS SINCE 1890". En el dibujo de la marca se reproducen tallos y hojas de plantas.
- 511** **International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) - NCL(10)**
33 Wine, aperitifs, spirits and liqueurs; except beer.
- 821** **Basic application**
IT (Italy), 24.04.2012, MI2012C 004306

300 Data relating to priority under the Paris Convention and other data relating to registration of the mark in the country of origin
IT (Italy), 24.04.2012, MI2012C 004306

832 Designation(s) under the Madrid Protocol
AU (Australia), GB (United Kingdom), JP (Japan), US (United States of America)

834 Designation(s) under the Madrid Protocol by virtue of Article 9sexies
DE (Germany)

527 Indications regarding use requirements
GB (United Kingdom), US (United States of America)

Registration

450 Publication number and date
2012/36 Gaz, 27.09.2012

832 Designation(s) under the Madrid Protocol
AU (Australia), GB (United Kingdom), JP (Japan), US (United States of America)

834 Designation(s) under the Madrid Protocol by virtue of Article 9sexies
DE (Germany)

527 Indications regarding use requirements
GB (United Kingdom), US (United States of America)

580 Date of recording (date of notification from which the time limit to notify the refusal starts)
20.09.2012

861 Total provisional refusal of protection

US (United States of America)

450 Publication number and date
2012/40 Gaz, 25.10.2012

580 Date of notification
18.10.2012

Date of receipt by the International Bureau
03.10.2012

Ex Officio examination completed but opposition or observations by third parties still possible, under Rule 18bis(1)

AU (Australia)

450 Publication number and date
2012/42 Gaz, 08.11.2012

Opposition end date
25.01.2013

Statement of grant of protection made under Rule 18ter(1)

GB (United Kingdom)

450 Publication number and date
2013/2 Gaz, 31.01.2013

Statement of grant of protection made under Rule 18ter(1)

AU (Australia)

450 Publication number and date

2013/6 Gaz, 28.02.2013

861 Total provisional refusal of protection

JP (Japan)

450 Publication number and date

2013/7 Gaz, 07.03.2013

580 Date of notification

28.02.2013

Date of receipt by the International Bureau

14.02.2013

861 Total provisional refusal of protection

DE (Germany)

450 Publication number and date

2013/14 Gaz, 25.04.2013

580 Date of notification

03.04.2013

Date of receipt by the International Bureau

19.03.2013

Ex Officio examination completed but opposition or observations by third parties still possible, under Rule 18bis(1)

US (United States of America)

450 Publication number and date

2013/26 Gaz, 18.07.2013

Statement of grant of protection following a provisional refusal under Rule 18ter(2)(i)

JP (Japan)

450 Publication number and date

2013/37 Gaz, 03.10.2013

580 Date of notification

26.09.2013

Date of receipt by the International Bureau

12.09.2013

Statement of grant of protection following a provisional refusal under Rule 18ter(2)(i)

US (United States of America)

450 Publication number and date

2013/45 Gaz, 28.11.2013

580 Date of notification

21.11.2013

Date of receipt by the International Bureau

06.11.2013

Statement of grant of protection following a provisional refusal under

Rule 18ter(2)(i)

DE (Germany)

450 **Publication number and date**

2014/11 Gaz, 27.03.2014

580 **Date of notification**

13.03.2014

Date of receipt by the International Bureau

05.03.2014

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number
Your trade mark

1242767

Type of mark
Please tick

☐ UK

☐ Community



International

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

Please see "Attachment 7".

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☐ Yes

☒ No > GO TO Q4

Q3. Has the trade mark been used?

☐ Yes

☐ No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

Please see "Attachment 8".

"ATTACHMENT 7"

WIPO - ROMARIN - International Registration Details

1242767

15.4.2016

- 151 **Date of the registration**
10.02.2015
- 180 **Expected expiration date of the registration/renewal**
10.02.2025
- 270 **Language of the application**
French

Current Status

- 732 **Name and address of the holder of the registration**
SENSI VIGNE & VINI SRL Via Cerbaia, 107, Frazione Cerbaia I-51035 LAMPORECCHIO (PT)
Italy
- 812 **Contracting State or Contracting Organization in the territory of which the holder has a real and effective industrial or commercial establishment**
IT (Italy)
- 740 **Name and address of the representative**
Dott. Franco Cicogna & C. Srl - 01077 Dott. Alessandro Turato Via Visconti di Modrone, 14/A I-
20122 MILANO Italy
- 540 **Mark**

SENSIWINE

- 541 **Reproduction of the mark where the mark is represented in standard characters**
- 511 **International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) - NCL(10-2015)**
- 33 Wines; alcoholic aperitifs, sparkling wines, liqueurs and alcoholic beverages excluding beer.
- 821 **Basic application**
IT (Italy), 27.01.2015, MI2015C000719
- 300 **Data relating to priority under the Paris Convention and other data relating to registration of the mark in the country of origin**
IT (Italy), 27.01.2015, MI2015C000719
- 832 **Designation(s) under the Madrid Protocol**
AU (Australia), GB (United Kingdom), US (United States of America)
- 834 **Designation(s) under the Madrid Protocol by virtue of Article 9sexies**
CN (China), DE (Germany), ES (Spain), FR (France)
- 527 **Indications regarding use requirements**
GB (United Kingdom), US (United States of America)

Registration

- 450 **Publication number and date**
2015/14 Gaz, 16.04.2015
- 832 **Designation(s) under the Madrid Protocol**
AU (Australia), GB (United Kingdom), US (United States of America)
- 834 **Designation(s) under the Madrid Protocol by virtue of Article 9sexies**
CN (China), DE (Germany), ES (Spain), FR (France)
- 527 **Indications regarding use requirements**
GB (United Kingdom), US (United States of America)

580 **Date of recording (date of notification from which the time limit to notify the refusal starts)**
16.04.2015

861 **Total provisional refusal of protection**

US (United States of America)

450 **Publication number and date**

2015/21 Gaz, 04.06.2015

580 **Date of notification**

04.06.2015

Date of receipt by the International Bureau

20.05.2015

Ex Officio examination completed but opposition or observations by third parties still possible, under Rule 18bis(1)

AU (Australia)

450 **Publication number and date**

2015/24 Gaz, 25.06.2015

Opposition end date

18.08.2015

Statement of grant of protection made under Rule 18ter(1)

GB (United Kingdom)

450 **Publication number and date**

2015/30 Gaz, 06.08.2015

Statement of grant of protection made under Rule 18ter(1)

ES (Spain)

450 **Publication number and date**

2015/37 Gaz, 24.09.2015

Statement of grant of protection made under Rule 18ter(1)

FR (France)

450 **Publication number and date**

2015/35 Gaz, 10.09.2015

Statement of grant of protection made under Rule 18ter(1)

DE (Germany)

450 **Publication number and date**

2015/35 Gaz, 10.09.2015

Statement of grant of protection made under Rule 18ter(1)

AU (Australia)

450 **Publication number and date**

2015/35 Gaz, 10.09.2015

861 **Total provisional refusal of protection**

CN (China)

450 Publication number and date

2016/8 Gaz, 03.03.2016

861 Total provisional refusal of protection

This provisional refusal is not subject to review or appeal before this Office. It is deemed to include a declaration of confirmation of total provisional refusal under Rule 18ter(3).

580 Date of notification

17.02.2016

Date of receipt by the International Bureau

28.01.2016

SECTION C: Opposition is based on Section 5(4)(a) of the Trade Marks Act, where the use of the applicant's trade mark would be contrary to law, in particular, the law of passing off.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER UNREGISTERED TRADE MARK

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

SENSI

Q1. When and where was the earlier right first used in the UK?

Date used:

Enter date of first use

January 2011

(at least)

Where used:

Enter name of city/region or specify
'throughout UK' if used nationally

Throughout the UK

Q2. On which goods or services has the earlier right been used for?

Wines

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q3. For which goods or services (of the application that you are opposing) do you consider that use of the applicant's mark would amount to passing off?

<input checked="checked" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (<i>please specify below, use a continuation sheet if necessary</i>)

Q4. Why would use of the applicant's trade mark be contrary to law, particularly the law of passing off?

Please see "Attachment 8".

SECTION C: Opposition is based on Section 5(4)(a) of the Trade Marks Act, where the use of the applicant's trade mark would be contrary to law, in particular, the law of passing off.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER UNREGISTERED TRADE MARK

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

SENSI VIGNE & VINI S.R.L.

Q1. When and where was the earlier right first used in the UK?

Date used:

Enter date of first use

January 2011

(at least)

Where used:

Enter name of city/region or specify
"throughout UK" if used nationally

Throughout the UK

Q2. On which goods or services has the earlier right been used for?

Wines

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q3. For which goods or services (of the application that you are opposing) do you consider that use of the applicant's mark would amount to passing off?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q4. Why would use of the applicant's trade mark be contrary to law, particularly the law of passing off?

Please see "Attachment 8".

"ATTACHMENT 8"**TRADE MARKS ACT 1994**


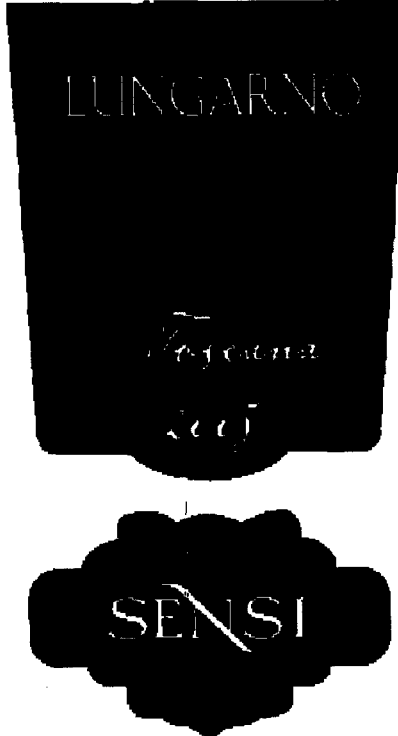
IR(GB) 1269362 SENSE in Class 33
in the name of "VINPROM
PESHTERA" S.A.


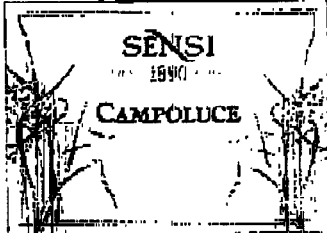
- and -

OPPOSITION thereto by Sensi
Vigne & Vini S.R.L.

STATEMENT OF GROUNDS

1. Sensi Vigne & Vini S.R.L. ("the Opponent") is the registered proprietor of the following trade mark registrations (hereinafter referred to as the "Earlier Registrations") in Class 33:

No.	Trade Mark	Goods (Class 33)
EUTM 011631983		"Wine: Spirits; Liqueurs; Alcoholic beverages (except beers)."
EUTM 004371696		"Wines from Tuscany."

No.	Trade Mark	Goods (Class 33)
EUTM 012167409	18 K SENSI	"Wine; Alcoholic aperitifs; Sparkling wine; Liqueurs and alcoholic beverages (except beers)."
EUTM 013409719	SPRITZIN' BY SENSI	"Wine; Alcoholic aperitifs; Sparkling wines; Liqueurs and Alcoholic beverages (except beers)."
IR(GB) 1127549		"Wine; aperitifs, spirits and liqueurs; except beer."
IR(GB) 1127550		"Wine; aperitifs, spirits and liqueurs; except beer."
IR(GB) 1242767	SENSIWINE	"Wines; alcoholic aperitifs, sparkling wines, liqueurs and alcoholic beverages excluding beer."

2. The trade marks registered under the Earlier Registrations are hereinafter referred to as "the Earlier Trade Marks".
3. The contested designation, IR(GB) 1269362 SENSE is hereinafter referred to as "the Contested Application".
4. The trade mark for which protection is sought under the Contested Application is hereinafter referred to as "the Contested Sign".

Section 5(2)(b) Trade Marks Act 1994 – General Principles

5. The following principles are set out in the judgments of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-

425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P:

- (a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;
- (b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;
- (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;
- (d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;
- (e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;
- (f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;
- (g) a lesser degree of similarity between the goods or services may be offset by a greater degree of similarity between the marks, and vice versa;
- (h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either *per se* or because of the use that has been made of it;
- (i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;
- (j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;
- (k) if the association between the marks creates a risk that the public will wrongly believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

Section 5(2)(b) Trade Marks Act 1994

6. The goods for which protection is sought under the Contested Application are as follows:

"Alcoholic beverages (except beers), including alcoholic energy drinks."

7. The respective Class 33 goods are identical or closely similar.
8. The word SENSI is a distinctive and dominant element of all of the Earlier Trade Marks.
9. Visually, the word SENSI is closely similar to SENSE.
10. The first four letters of the words SENSI and SENSE are identical, and the respective words differ only in their final letters – "I" and "E" – which are visually similar due to the fact that both contain a vertical stem, horizontal serifs or arms at the top and bottom of the letters, and no curved or diagonal elements.
11. Phonetically, the word SENSI is closely similar to SENSE, particularly as the beginnings of words are often accentuated and the endings are often slurred. In the case of the goods in question, which are often provided in noisy venues such as bars and public houses, there is a heightened risk that the marks may be misheard.
12. Conceptually, the word SENSI brings to mind the word SENSE, and the respective marks are therefore conceptually similar.
13. The respective signs SENSI and SENSE are therefore closely similar.
14. Consumers read from left to right and thus tend to focus on the first element of a sign, making the part placed at the left of the sign the one that first catches the attention.
15. In the case of trade marks composed of both figurative and word elements, such as several of the Earlier Trade Marks, it is generally the case that the public will refer to the mark by reference to the word element only, and it will be that element which is most likely to be committed to memory.
16. In the Earlier Trade Marks which contain word elements in addition to the word SENSI, the word SENSI retains an independent distinctive role in the composite mark, and consumers would focus on that word.

17. Given that a lesser degree of similarity between the goods may be offset by a greater degree of similarity between the marks, and vice versa, where in the present case the respective goods are identical or closely similar this offsets any differences between the respective marks.
18. The Earlier Trade Marks have a highly distinctive character, both per se and because of the use that has been made of them.
19. As a consequence of the above, registration of the Contested Sign would be contrary to the provisions of section 5(2)(b) of the Trade Marks Act 1994 in that the mark for which protection is sought is similar to the Earlier Trade Marks and is sought to be protected in relation to goods identical with or similar to the goods for which the Earlier Trade Marks are registered or protected, such that there exists a likelihood of confusion on the part of the public, including a likelihood of association.
20. Also, the Earlier Trade Marks constitute a "family" of marks, and a likelihood of confusion results from the fact that consumers would erroneously believe that the Contested Sign is part of that family.

Section 5(4)(a) Trade Marks Act 1994

21. Since 1890, the Opponent and its predecessors in title have used the trade mark SENSI for wines.
22. The Opponent has used its trade mark SENSI throughout the UK for wines since at least 2011.
23. The Opponent has traded under its company name SENSI VIGNE & VINI S.R.L. throughout the UK in relation to wines since at least 2011.
24. As a consequence of its use of the trade mark SENSI and the company name SENSI VIGNE & VINI S.R.L., the Opponent enjoys an extensive goodwill and reputation in those signs.
25. The adoption by the Applicant of a trade mark similar to the Opponent's trade mark SENSI and its company name SENSI VIGNE & VINI S.R.L., namely SENSE, would constitute a misrepresentation and would cause confusion with the Opponent's trade mark and company name, and damage to the Opponent's goodwill.

26. As a consequence of the above, use of the Contested Sign is liable to be prevented by virtue of the law of passing-off in relation to the rights subsisting in the Opponent's trade mark SENSI and company name SENSI VIGNE & VINI S.R.L. Accordingly, registration of the Contested Sign would be contrary to the provisions of section 5(4)(a) of the Trade Marks Act 1994.
27. For the reasons set out above, we respectfully request that IR(GB) 1269362 SENSE be refused protection in its entirety, and that an award of costs be made in favour of the Opponent.

MAGUIRE BOSS

M5-IPO-FAX
15/APR/2016**MAGUIRE BOSS**

Patent & Trade Mark Attorneys

FACSIMILE TRANSMISSION SHEET

TO:

FROM:

David Tate

COMPANY:

UK-IPO

DATE:

15 APRIL 2016

YOUR REFERENCE:

OUR REFERENCE:

G3735-03/DT:bg

FAX NUMBER:

01633 817777

NO OF PAGES (INCLUDING THIS ONE):

26 (Part 1 of 2)

NOTES/COMMENTS:

Please note that due to the size of this fax (55 pages not including fax cover sheets), it is being sent in 2 parts.

This is PART 1 of 2

This written message is for the exclusive use of the addressee and contains confidential, privileged and non-disclosable information. If this message is received by anyone other than the addressee or a person responsible for delivering the message to the addressee, you are prohibited from reading or using the message in any way. If you have received the message by mistake please telephone us immediately and destroy the message.

If this facsimile is not received in full or there are any problems please contact us immediately.

24 EAST STREET, ST IVES, CAMBRIDGE,
PE27 5PD, UNITED KINGDOM

Tel : +44 (0)1480 301588

Fax : +44 (0)1480 464405

Website: www.maguire.co.uk

E-Mail : patents@maguires.co.uk tmarts@maguires.co.uk

MAGUIRE BOSS

Patent and Trade Mark Attorneys

P. J. Evans BA (Hons), CPA, EPA
R. Abraham BA (Hons), CPA, EPA
D. Tate LLB (Hons), LL.M., MTMA

I. P. Harwood BEng (Hons), CEng, EPA, PhD
E. L. Hewson LLB (Hons), MTMA

G. Allen (Accounts)
M. L. Oliver (Renewals/Records)

M5-IPO-FAX
15/APR/2016

24 East Street
St Ives
Cambridge
PE27 SPD
United Kingdom

Tel: +44 (0)1480 301583
Fax: +44 (0)1480 464405
Website: www.maguire.co.uk
E-mail: patents@maguire.co.uk
trademarks@maguire.co.uk

Our Ref: G3735-03/DT:bg

UK-IPO
Trade Marks Registry
Concept House
Cardiff Road
Newport
South Wales
NP10 8QQ

15 April 2016

BY FAX & MAIL

Dear Sirs

International Registration No. 1269362 (UK Designation)

SENSE (Class 33)

"VINPROM PESHTERA" S.A.

Opposition thereto by Sensi Vigne & Vini S.R.L.

Please find attached Form TM7 filing notice of opposition against the above-referenced application.

Please withdraw the appropriate fee of £200 from our Deposit Account Number D02824 in the name of Maguire Boss as set out in the attached fee sheet.

As several of the earlier trade marks contain colour elements we confirm that the original copy of this letter is being sent by mail.

Yours faithfully

**DAVID TATE**

Encl: Form TM7
Fee sheet (by fax only)