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

Proceeding	92062713
Party	Plaintiff Masciarelli Tenute Agricole S.r.I.
Correspondence Address	PHILIP Y BRAGINSKY TARTER KRINSKY & DROGIN LLP 1350 BROADWAY, 11TH FLOOR NEW YORK, NY 10018 UNITED STATES Email: docket@tarterkrinsky.com, nlippert@tarterkrinsky.com, pbragin- sky@tarterkrinsky.com
Submission	Motion to Suspend for Civil Action
Filer's Name	Nels T. Lippert
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Signature	/Nels T. Lippert/
Date	06/29/2017
Attachments	Motion to Suspend Proceedings.pdf(168169 bytes) Plaintiff Verified Compalint.PDF(4290283 bytes)

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

MASCIARELLI TENUTE AGRICOLE S.R.L., Petitioner,

v.

ROBERTA MASCIARELLI-SPAGNUOLO,

Respondent.

Cancellation No. 92062713 MARK: MASCIARELLI

#### MOTION TO SUSPEND PROCEEDINGS

Pursuant to Trademark Rule 2.117(a), 37 C. F. R. §2.117(a) Petitioner, Masciarelli Tenute Agricole S.r.I., hereby moves for an order suspending the above-identified proceeding pending disposition of the civil action styled, *San Martino Imports, Inc. d/b/a Masciarelli Wine Company and Roberta Masciarelli-Spagnuolo v. Masciarelli Tenute Agricole S.R.L. and Vintus LLC*, 1:17-cv-10798-RWZ (D.Mass.). This action was filed on May 5, 2017, involves the same parties, Masciarelli Tenute Agricole S.R.L. and Roberta Masciarelli-Spagnuolo, and concerns the same trademark Registration No. 2,986,940, as the above-identified proceeding. A copy of the verified complaint is attached hereto.

The issues raised in the civil action (*see, e.g.* paragraphs 55-60) will have a bearing on the instant cancellation proceeding. Therefore, it is submitted that suspension of this proceeding, until termination of the civil action, is appropriate.

There are no potentially dispositive motions pending before the Board in the cancellation proceeding.

Wherefore, early and favorable consideration of this motion is earnestly solicited.

Dated: New York, NY June 29, 2017

DOCKE.

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Respectfully submitted,

Nels T.Lippert

Tarter Krinsky & Drogin LLP 1350 Broadway New York, New York 10018 212 216-8000 nlippert@tarterkrinsky.com

Attorneys for Masciarelli Tenute Agricole S.r.l.

## **CERTIFICATE OF SERVICE**

I hereby certify that on June 29, 2017, a true and correct copy of the foregoing MOTION

TO SUSPEND PROCEEDINGS was served via e-mail addressed to:

Andrew J. Ferren aferren@goulstonstorrs.com

Andrew T. O'Connor acconnor@goulstorrs.com

### UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

)

SAN MARTINO IMPORTS, INC. d/b/a MASCIARELLI WINE COMPANY and ROBERTA MASCIARELLI-SPAGNUOLO, *Plaintiffs*, v. MASCIARELLI TENUTE AGRICOLE S.R.L. and VINTUS LLC, *Defendants*.

Civil Action No.

### **VERIFIED COMPLAINT**

For over 30 years, Plaintiff Roberta Masciarelli-Spagnuolo, her family, and their company, San Martino Imports, Inc. d/b/a Masciarelli Wine Company, have poured their hearts, souls, and economic fortunes into building a brand in the United States: MASCIARELLI wine. As the exclusive importer and distributor in the United States of wine bearing the name MASCIARELLI, they built the brand and the associated goodwill from scratch. And in doing so, they created a business that provides livelihoods for members of the Masciarelli family on both sides of the Atlantic Ocean.

But now, all of that is at risk. Masciarelli Tenute Agricole S.r.l., the company in Italy that produces the wine for Masciarelli Wine Company, and Vintus LLC, a U.S. importer and distributor, are flagrantly disregarding Plaintiffs' rights. They are ignoring the registered and common law trademark rights held by Ms. Masciarelli-Spagnuolo and asserting that they have the right to sell wine products bearing her registered trademark for MASCIARELLI without her consent; they are actively interfering with Masciarelli Wine Company's business relations with

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