

From: Boone, Cory

Sent: 5/24/2013 9:08:17 AM

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CC:

Subject: U.S. TRADEMARK APPLICATION NO. 85649865 - RASCAL - 49331 - Request for Reconsideration Denied - Return to TTAB - Message 1 of 4

Attachment Information:

Count: 10

Files: 5-24-2013 8-41-08 AM.jpg, 5-24-2013 8-41-46 AM.jpg, 5-24-2013 8-41-28 AM.jpg, hh1-1.jpg, hh1-2.jpg, hh1-3.jpg, hh1-4.jpg, hh1-5.jpg, hh45-1.jpg, 85649865.doc

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 85649865

MARK: RASCAL



CORRESPONDENT ADDRESS:

SHEILA FOX MORRISON

DAVIS WRIGHT TREMAINE LLP

1300 SW 5TH AVE STE 2400

PORTLAND, OR 97201-5610

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/trademarks/index.jsp>

APPLICANT: Stone Wolf Vineyards, Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO:

49331

CORRESPONDENT E-MAIL ADDRESS:

pdxtrademarks@dwt.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 5/24/2013

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. *See* 37 C.F.R. §2.64(b); TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a). The refusal made final in the Office action dated November 9, 2012, is maintained and continues to be final. *See* TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a).

In the present case, applicant's request has not resolved the outstanding issue, nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Accordingly, the request is denied.

The filing of a request for reconsideration does not extend the time for filing a proper response to a final Office action or an appeal with the Trademark Trial and Appeal Board (Board), which runs from the date the final Office action was issued/mailed. *See* 37 C.F.R. §2.64(b); TMEP §715.03, (a)(2)(B), (a)(2)(E), (c).

If time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to comply with and/or overcome any outstanding final refusal and/or to file an appeal with the Board. TMEP §715.03(a)(2)(B), (c). However, if applicant has already filed a timely notice of appeal with the Board, the Board will be notified to resume the appeal when the time for responding to the final Office action has expired. *See* TMEP §715.04(a).

/Cory Boone/

Cory Boone

Trademark Examining Attorney

Law Office 104

Phone: (571) 270-1510

Fax: (571) 270-2510

cory.boone@uspto.gov



Rascal

Mark

RASCAL

Goods and Services

IC 033. US 047 049. G & S: Wine. FIRST USE: 20090602. FIRST USE IN COMMERCE: 20090602

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

- 03.01.07 - Dogs displayed in silhouettes or as shadows
- 03.01.08 - Dogs; Puppies
- 03.01.24 - Stylized cats, dogs, wolves, foxes, bears, lions, tigers
- 04.01.02 - Angels; Cherubs; Cupids; Halos on animals or humans; Winged personages
- 26.11.01 - Rectangles as carriers or rectangles as single or multiple line borders
- 26.11.21 - Rectangles that are completely or partially shaded
- 26.11.25 - Rectangles with one or more curved sides

Serial Number

85649865

Filing Date

June 12, 2012

Current Filing Basis

1A

Original Filing Basis

1A

Owner Name and Address

(APPLICANT) Stone Wolf Vineyards, Inc. CORPORATION OREGON 2155 N.E. Lafayette Avenue McMinville OREGON 97128

Description of Mark

Color is not claimed as a feature of the mark. The mark consists of the word "RASCAL" and a stylized drawing of a standing dog with

Text to Search

Plurals

2 and wine\$[gs]

#	Hits	Status	Search term
1	1		85649865 [SN]
2	132		*RA(*S*1:2){("CQ"1:2){v0:1}L*[bi,t
3	3		2 and (*033*) [ic]
4	3		2 and wine\$[gs]

Hit List

Tag List All Tagged Browse Strategy

#	Serial	Filed	Status	Mark	GoTo
<input type="checkbox"/>	1	85649865	20120612	V	RASCAL
<input type="checkbox"/>	2	85586205	20120402	V	SANCHEZ CARRASCAL
<input type="checkbox"/>	3	79073540	20090903	V	THE RASCAL

The Rascal

Mark

THE RASCAL

Goods and Services

IC 033, US 047 049, G & S: Wines

Standard Characters Claimed

STANDARD CHARACTERS CLAIMED

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Serial Number

79073540

Filing Date

September 3, 2009

Current Filing Basis

66A

Original Filing Basis

66A

Publication for Opposition Date

February 2, 2010

Registration Number

3778333

Registration Date

April 20, 2010

Owner Name and Address

(REGISTRANT) Hugh Hamilton Wines Pty Ltd COMPANY AUSTRALIA McMurtrie Road McLaren Vale SA 5171 AUSTRALIA

International Registration number(s)

1015046

Type of Mark

Text to Search

Plurals

2 and wine\${gs}

#	Hits	Status	Search term
1	1		85649865 [SN]
2	132		*R{("S"1:2)}{"CKQ"1:2}{v0:1}L* [bi, t
3	3		2 and ("033") [ic]
4	3		2 and wine\${gs}

Hit List

#	Serial	Filed	Status	Mark	GoTo	
<input type="checkbox"/>	1	85649865	20120612	V	RASCAL	
<input type="checkbox"/>	2	85586205	20120402	V	SANCHEZ CARRASCAL	
<input checked="" type="checkbox"/>	3	79073540	20090903	V	THE RASCAL	



Mark

SANCHEZ CARRASCAL

Goods and Services

IC 033. US 047 049. G & S: Wine

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

- 05.13.01 - Bulbs, plant; Ginger; Ginseng; Roots
- 20.03.10 - Bottle labels; Labels for bottles
- 26.11.03 - Incomplete rectangles; Rectangles (incomplete)
- 26.11.21 - Rectangles that are completely or partially shaded

Serial Number

85586205

Filing Date

April 2, 2012

Current Filing Basis

1B

Original Filing Basis

1B

Publication for Opposition Date

September 18, 2012

Owner Name and Address

(APPLICANT) CORPORACION SANCHEZ CARRASCAL, S.L. CORPORATION SPAIN c/o DEMOS GLOBAL NETWORK, SL Av. Cortes Valencianas 39, piso 1 Valencia SPAIN 46015

Description of Mark

The color(s) white, purple and gold is/are claimed as a feature of the mark. The mark consists of a rectangle with the white background that contains on the left a soil divided in the colors purple and gold separated by a curved white line with roots extending from the top left and

Text to Search

Plurals

2 and wine\$[gs]

#	Hits	Status	Search term
1	1		85649865 [SN]
2	132		*RA{"S":1:2} {"CKQ":1:2} {v0:1}L* [b1,t
3	3		2 and ("033") [ic]
4	3		2 and wine\$[gs]

Hit List | [Tag List](#) | [All Tagged](#) | [Browse](#) | [Strategy](#)

#	Serial	Filed	Status	Mark	Go To
<input type="checkbox"/>	1	85649865	20120612	V RASCAL	
<input checked="" type="checkbox"/>	2	85586205	20120402	V SANCHEZ CARRASCAL	
<input type="checkbox"/>	3	79073540	20090903	W THE RASCAL	

HUGH HAMILTON

M C L A R E N V A L E

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- THE WINES
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- BLACK SHEEP CLUB
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The Wines

Our Names

We like to have a good time here and don't take ourselves too seriously, which is why we have a tradition of fun names for our wines. Who can forget a name like 'The Mongrel' for a blend of three red grape varieties? Then there's 'The Rascal' Shiraz. We have let loose a whole flock of other Black Sheep characters that express all aspects of a Black Sheep's personality.

Our Wines

The names may not be serious but the wines are. Our objective is to produce better wines every year, as it is the appeal of the wine, which keeps our brand relevant.

We give our wines serious attention. We want you to experience the true taste of the fruit we grow. Our objective is to make and bottle our white wines at their very best, which is young.

All our reds spend some time in oak casks. Our preference is for French oak because of the softer, subtle effect obtained. Maturation occurs for different lengths of time depending on the wines. For example 'The Mongrel' spends only three months in oak compared to 'The Rascal' and 'The Villain' that spend up to 15 months. The objective is not to 'over oak' our wines. It is to produce wines which have character, complexity and are a delight to drink. We believe our wines should express the region, the season, the vineyard and the winemaking. All our wines have excellent third party endorsements.

We'd like to introduce you to our interesting flock, some familiar and some new.

The Flock





'THE TRICKSTER' PINOT
GRIGIO
2013
\$19.50 qty:



'THE SCALLYWAG'
CHARDONNAY
2012
\$19.50 qty:



'THE LOOSE CANNON'
VIOGNIER
2011
\$22.50 qty:



'THE FLOOZIE' SANGIOVESE
ROSÉ
2011
\$19.50 qty:



'THE MONGREL' SANGIOVESE
BLEND
2012
\$24.50 qty:



'THE SCOUNDREL'
TEMPRANILLO
2012
\$24.50 qty:



'THE RATBAG' MERLOT
2011
\$24.50 qty:



'THE RASCAL' SHIRAZ
2011
\$29.50 qty:

\$24.50 Qty: 

\$24.50 Qty: 



'THE VILLAIN' CABERNET
SAUVIGNON
2011

\$29.50 Qty: 

'THE MADAM' SPARKLING
MERLOT
2012

\$22.50 Qty: 

'GOLDILOCKS' MOSCATO
2013

\$15.50 Qty: 

'THE RUFFIAN' LIQUEUR
MUSCAT
NV

\$29.50 Qty: 

Limited Release





'BLACK OPS' SHIRAZ
SAPERAVI
2010
\$29.50 Qty:

'BLACK BLOOD I' CELLAR
VINEYARD SHIRAZ
2011
\$70.00 Qty:

Black Sheep Exclusives



'SHEARER'S CUT' SHIRAZ
2011

'JEKYLL & HYDE' SHIRAZ
VIOGNIER
2010

'THE ODDBALL' SAPERAVI
2009

Hugh's Treasures





'THE VILLAIN' CABERNET
MERLOT FAMILY RESERVE
MAGNUM
1994
\$120.00 Qty:



'THE RATBAG' MERLOT
FAMILY RESERVE MAGNUM
1994
\$120.00 Qty:



'JEKYLL & HYDE' SHIRAZ
VIOGNIER MUSEUM
2006
\$60.00 Qty:



"Every family has one"

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'The Rascal' Shiraz



Availability: In stock

\$29.50

Qty: [ORDER](#)

'Shiraz and McLaren Vale'. What a famous pairing. Are there others? The Royal Family and Corgis? Gin and Tonic? Bogart and Bacall? But why the connection? Pedigree and history; the variety has shown its suitability for so long to the region's maritime but warm climate, and old yet well-preserved soils, that it's hard to imagine one without the other! 'The Rascal' has a sweet, alluring nose. It's complex, even at this early stage. We did not let the fruit get over-ripe, so raspberry rather than blackberry, liquorice rather than prune; ink and olive rather than fruitcake.

'The Rascal' is what McLaren Vale should be about and is the perfect partner to the classics of roast and