

EV 077328999

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

GARY TAKAHASHI, dba MARYHILL)
ORCHARDS & VINEYARDS,)
)
Opposer,)
)
v.)
)
V & C, LLC)
)
Applicant.)

In the Matter of Trademark
Application Serial No. 76/217,177
filed February 27, 2001
for registration of MARYHILL
VINEYARD AND WINERY
Published April 9, 2002

Opposition No. 91151605



07-01-2002

U.S. Patent & TMOtr/TM Mail Rcpt Dt. #61

Assistant Commissioner for Trademarks
Box TTAB No Fee
2900 Crystal Drive
Arlington, Virginia 22202-3513

ANSWER TO NOTICE OF OPPOSITION

Applicant, V & C, LLC ("V&C" or "Applicant"), in answer to the Notice of Opposition filed by Gary Takahashi dba Maryhill Orchards and Vineyards ("Takahashi" or "Opposer"), hereby alleges and states:

Regarding Opposer's preliminary and unnumbered statement, Applicant admits that it has filed a trademark application for the registration of the mark MARYHILL VINEYARD AND WINERY, and the application speaks for itself. Applicant admits that the application was published for opposition in the *Official Gazette* but denies that Opposer would be damaged if the registration of the mark MARYHILL VINEYARD AND WINERY is granted.

In more particular response to the numbered grounds of opposition, Applicant states and alleges:

1. Applicant admits paragraph 1.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2, and on that basis, denies same.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3, and on that basis, denies same.
4. Applicant denies paragraph 4.
5. Applicant denies paragraph 5.
6. Applicant denies paragraph 6.
7. Applicant denies paragraph 7.
8. Applicant denies paragraph 8.

Having answered each of the specific allegations and paragraphs of Opposer's Notice of Opposition, Applicant prays that Opposer's Notice of Opposition be dismissed with prejudice, and that the requests included therein be denied, and further that the subject V & C, LLC trademark application proceed to registration.

AFFIRMATIVE DEFENSES

Having answered each of the specific allegations of Opposer's Notice of Opposition, and by way of further answer, and/or as affirmative defenses, Applicant states and alleges as follows:

1. Opposer's Notice of Opposition fails to state grounds upon which the relief requested may be granted;
2. Opposer is attempting to extend, or overly extend, the scope of trademark and/or trade name rights as alleged in its Notice of Opposition, constituting a misuse of its trademarks.
3. There is no likelihood that the relevant consumers will be confused or misled as to the source of goods.
4. Opposer should be estopped and/or has waived any rights to claim the extended protection it is now claiming for purposes of its Notice of Opposition, due to other prior marks and/or later marks which it has knowingly allowed to coexist, and for allowing the Applicant to utilize its mark as set forth in the application.
5. The Opposer has abandoned some or all of its trademark and/or trade name rights alleged in its Notice of Opposition.

Applicant reserves the right to amend and supplement its Answer and Affirmative Defenses once discovery has been completed.

Dated this 25th day of June, 2002.

V & C, LLC

By:



Mark W. Hendricksen, Reg. No. 32,356
Wells St. John P.S.
601 West First Avenue, Suite 1300
Spokane, WA 99201-3828
Telephone: 509/624-4276
Telefax: 509/838-3424

ATTORNEYS FOR APPLICANT

CERTIFICATE OF EXPRESS MAILING

I hereby certify that the original and two copies of the Answer to Notice of Opposition by V & C, LLC are being deposited with the U.S. Postal Service as Express Mail on the below-indicated date, addressed to:

Box TTAB No Fee
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Express Mail No. EV077328999

I also hereby certify a copy of said Answer to Notice of Opposition is being deposited with the U.S. Postal Service as Express Mail on the below-indicated date, addressed to:

Patrick H. Ballew
Stratton Ballew, PLLC
213 South 12th Avenue
Yakima, WA 98902

Express Mail No. EV077329005

Date: 6/25/02

By: Jane E. Boone
Jane E. Boone

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TRADEMARK TRIAL AND
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PTO TRANSMITTAL LETTER

To: Box TTAB NO FEE
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Arlington, VA 22202-3513

From: Wells St. John P.S.
601 West First Avenue, Suite 1300
Spokane, WA 99201-3828
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Enclosed are:

- 1. Original plus two copies of Answer to Notice of Opposition
- 2. Return Postcard
- 3. PTO Transmittal Letter

Deposit Account Authorization: The Commissioner is hereby authorized to charge payment of any applicable fees to Deposit Account No. 2-0925.

Date: 6/25/02

By: Mark W. Hendricksen
Mark W. Hendricksen, Reg.No. 32,356
Attorney for Applicant