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

Proceeding	91178682
Party	Defendant Domaines Pinnacle, Inc.
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Date	09/10/2007
Attachments	Answer to Franciscan Notice of Opposition.txt ( 2 pages )(2577 bytes )

UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

Franciscan Vineyards, Inc. )  
Opposer )

v. )

Opposition No. 91,178,68

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Domaines Pinnacle, Inc. )  
Applicant. )

ANSWER AND AFFIRMATIVE DEFENSES

Applicant Domaines Pinnacle, Inc. ("Applicant") answers the Notice of Opposition filed by Opposer Franciscan Vineyards, Inc ("Opposer") as follows:

1. Applicant is without knowledge of the goods and services, if any, offered by Opposer under the PINNACLES mark and therefore denies the allegations of Paragraph 1 of the Notice of Opposition.
2. Applicant is without knowledge of any instances whereby Opposer has traded as or been known by the mark PINNACLES and therefore denies same. Applicant denies that Opposer's goods, including wine, are substantially identical or even related to the goods Applicant intends to offer under its DOMAINE PINNACLE and Design mark.
3. Applicant is without knowledge of the allegations of Paragraph 3 of the Notice of Opposition and therefore denies same.
4. Applicant is without knowledge of the allegations of Paragraph 4 of the Notice of Opposition and therefore denies same.
5. Applicant is without knowledge of the allegations of Paragraph 5 of the Notice of Opposition and therefore denies same.
6. Admitted.
7. Applicant is without knowledge of the allegations of Paragraph 7 of the Notice of Opposition and therefore denies same.
8. Denied.
9. Denied.
10. Denied.
11. Denied.
12. Denied.
13. Denied.
14. Denied.
15. Denied.

AFFIRMATIVE DEFENSES

1. Opposer fails to state a claim upon which relief may be granted.
2. Opposer uses the word "Pinnacles" merely as the name of a varietal for wine, and not as a trademark for wines or any other goods.
3. Consumers are not likely to confuse applicant's apple-based non-alcoholic beverages and products from Quebec sold under the DOMAINE PINNACLE & Design mark with Opposer's wines sold under the PINNACLES varietal.
4. Other than wine, for which Opposer uses the PINNACLES mark as a varietal only, Opposer makes no use of the PINNACLES mark.
5. The goods of Applicant are wholly distinguishable from those of Opposer.
6. The Commercial impression created by Applicant's DOMAINE PINNACLE & Design mark is completely different from that created by the varietal

PINNACLES used by Opposer.

Respectfully Submitted,

DOMAINES PINNACLE, Inc.

/s/

Thomas W. Brooke

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