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

Proceeding	91181755
Party	Plaintiff Franciscan Vineyards
Correspondence Address	Stephen L. Baker Baker & Rannells, PA 575 Route 28, Suite 102 Raritan, NJ 08869 UNITED STATES officeactions@br-tmlaw.com,k.hnasko@br-tmlaw.com
Submission	Motion to Strike
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Signature	/Linda Kurth/
Date	08/26/2009
Attachments	mot Strike Applicant's 1st Notice of reliance.pdf ( 3 pages )(45795 bytes )

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

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FRANCISCAN VINEYARDS, INC.,

Opposer,

v.

BEAUXKAT ENTERPRISES, LLC

Applicant.

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Opposition No. 91181755

Mark: BLACK RAVEN BREWING  
COMPANY

Serial No. 77223446

Filed: January 8, 2008

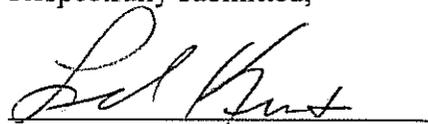
**OPPOSER'S MOTION TO STRIKE APPLICANT'S FIRST NOTICE OF RELIANCE**

Opposer hereby moves to strike Paragraph 2 and associated exhibit from Applicant's First Notice of Reliance on the bases that the exhibit attached to the Notice is neither "an answer to an interrogatory" nor "an admission to a request for admission" as contemplated by and as required by Rule 2.120(j), the Applicant is improperly using the Notice of Reliance to attempt to present testimony as to the truth of matters stated on its attached exhibits, and/or to present legal argument. Accordingly, Opposer requests that the second paragraph and exhibit attached to Applicant's First Notice of Reliance be stricken.

Attached to Applicant's First Notice of Reliance are copies of Opposer's responses to Applicant's first Set of Interrogatories and written responses to Applicant's Request for the Production of Documents. The written responses to Applicant's Request for the Production of Documents are not proper subject matter for a Notice of Reliance. As is clear from the face of the Notice and exhibits, the same are not "answers to an interrogatory" nor "admissions to a request for admission" as contemplated by and as required by Rule 2.120(j). As such, that portion of the Notice should be stricken.

In the event the portions of the First Notice regarding Opposer's written responses to Applicant's Request for the Production of Documents are not stricken, Opposer reserves the right to object to those portions of the First Notice of Reliance on substantive grounds at the time of briefing.

Respectfully submitted,

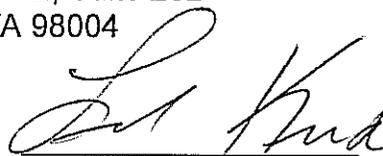


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August 26, 2009

I hereby certify that a copy of the foregoing Opposer's Motion to Strike Applicant's First Notice of Reliance in re: Franciscan Vineyards, Inc. v. Beauxkat Enterprises, LLC, Opp. No.91181755, was served on counsel for Applicant, this 26<sup>th</sup> day of August, 2009, by sending same via EMAIL to jpark@rpwfirm.com and First Class Mail, postage prepaid, to:

Justin D. Park  
Romero Park & Wiggins P.S.  
155-108<sup>th</sup> Avenue NE, Suite 202  
Bellevue, WA 98004



Linda Kurth