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Filing date: **11/29/2011**

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

Proceeding	91197078
Party	Defendant S.P. Grossnickle, LLC dba Forty-Five North Vineyard and Winery
Correspondence Address	JAMES D HALL BOTKIN & HALL LLP 105 E JEFFERSON BLVD, SUITE 400 SOUTH BEND, IN 46601-1913 UNITED STATES
Submission	Defendant's Notice of Reliance
Filer's Name	Steven L. Smilay
Filer's e-mail	mgs@bhlawyers.net, caj@bhlawyers.net
Signature	/Steven L. Smilay/
Date	11/29/2011
Attachments	DECLARATION AS FILED.pdf (115 pages)(13046839 bytes)

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

PAUL JABOULET AINE)	
)	
Opposer,)	
)	
v.)	Opposition No. 91197078
)	
S.P. GROSSNICKLE, LLC)	
)	
Applicant.)	
_____)	

NOTICE OF RELIANCE UNDER RULE 2.123(b)

Pursuant to Trademark Rule 2.123(b), the parties have agreed in writing to submit testimony via declaration.

Pursuant to Rule 2.123(b) and the agreement between the parties, Applicant hereby makes of record the Declaration of Eric Grossnickle and attached exhibits.

Dated: November 29, 2011

Respectfully submitted.

/Steven L. Smilay/
Steven L. Smilay (26233-43)
Christopher A. Johnson
BOTKIN & HALL, LLP
105 East Jefferson Blvd., Ste. 400
South Bend, Indiana 46601
Telephone: (574) 234-3900
Fax: (574) 236-2839
Attorneys for Applicant/Defendant

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing has been served upon the following
via United States Regular Mail on November 29, 2011:

Julie B. Seyler, Esq.
Abelman, Frayne & Schwab
666 Third Avenue
New York, New York 10017

/Michelle G. Stambaugh/
Michelle G. Stambaugh

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

PAUL JABOULET AINE)	
)	
Opposer,)	
)	
v.)	Opposition No. 91197078
)	Serial No. 77806650
S.P. GROSSNICKLE, LLC)	
)	
Applicant.)	
_____)	

DECLARATION OF ERIC GROSSNICKLE

I, Eric Grossnickle, hereby declare that I have personal knowledge of all the facts set forth below and in such cases where I do not have personal knowledge, I have consulted business records of S. P. Grossnickle, LLC, d.b.a. Forty-Five North Winery and Vineyard, (hereinafter referred to as SPG).

The Declarant's Background

1. I am presently employed in the position of Creative Director of SPG, a company which produces and sells many varieties of award-winning wines.
2. I have held my position of Creative Director since inception of the company, at least as early as, March 26, 2007.
3. My present duties at SPG include responsibility for the marketing of both our wines and our tasting room at our vineyard. I was involved in the selection and design of the 45 and design mark, an example of which is presented in Exhibit 1.
4. SPG markets and sells wines primarily from our tasting room in Leeleanu, Michigan, and to a lesser extent in other parts of Michigan and in Warsaw, Indiana.

Declarant's knowledge of the selection and Use of 45 and design

5. SPG has been selling wine under the 45 and design mark since at least as early as July 4, 2008.
6. The 45 and design mark is a design mark consisting of a stylized numeral "45" with a stylized circle around the same and having a triangle extending upwardly from the circle.

7. We chose the 45 and design mark for our wines to indicate that our vineyard is located at 45 degrees North latitude.
8. Prior to filing Trademark Application No. 77/806,650, SPG received a trademark search report which returned and analyzed marks used in areas of commerce related to wine. The search primarily focused on marks including the numeral "45." The results of this search are attached as Exhibit 2, and are summarized in pertinent part as follows:
 - a. PARALLELE "45"
 - b. PRINCE CHARLES EDWARD'S LIQUEUR DRAMBUIE A LINK WITH THE 45
 - c. CACHAZA 45
 - d. CLUSTER 45
 - e. VIN45
 - f. ROUTE 45
 - g. 45 MAGIC
 - h. 45YGB
 - i. BLOCK NO. 45
 - j. WESTBAY EASTBAY 45 N
 - k. OLD NO. 45 STOUT
 - l. COLT 45
9. We decided to pursue registration of the 45 and design mark in light of the search report and in consultation with counsel. Due to the abundance of marks using the numeral "45" for goods related to alcoholic beverages, it was clear that our mark would not be confusingly similar with the existing marks.
10. In the process of seeking registration of the 45 and design mark, the Examining Attorney performed a trademark search and determined that there is no likelihood of confusion with Opposer's mark, or any of the other "45" marks as related to alcoholic beverages. A copy of the file history of Trademark Application No. 77/806,650 is attached as Exhibit 3.
11. As used on goods and advertisements, the 45 and design mark is used alone or in combination with the stylized text "FORTY-FIVE NORTH."
12. The majority of our wines are sold at our winery and tasting room located in Lake Leelanau, Michigan. Both our winery and tasting room only stock our wines, and so no confusion of origin exists for the wines sold on our premises. Additionally, we sell our wines through our Internet store, where there is similarly no likelihood of confusion with Opposer's wine.
13. We also sell wines through Elite Imperial Beverage in Michigan and Nelson Beverage in Warsaw, Indiana. Additionally a small volume of our wines are sold through local retailers in Leelanau and Grand Traverse Michigan.

14. Our wine bottles always include an indication of origin on the front label of the bottle, such as "Michigan," "Leelanau Peninsula" or "American" to identify the geographic origin of our wines.
15. SPG markets and sells a wide variety of wines under the 45 and design mark, an abbreviated list including: Sauvignon Blanc, Riesling, Pinot Gris, Chenin Blanc, Pinot Noir, Chardonnay, Cherry, Strawberry, and Peach. Examples of the 45 and design mark, as used on these and other labels, are included as Exhibit 4.
16. The purchasers of our wine are generally discerning as between varieties of wine, and consider origin of wine when making purchasing decisions. Specifically, visitors to Michigan's wine country specifically seek out wines which are made in the region, and have a strong prejudice against wines from outside of the region.
17. The 45 and design mark is featured in many ways on our labels and in our advertising, and in some cases is colored red. In other cases, the 45 and design mark is pictured as part of a piece of fruit, such as a peach with the peel removed to resemble the shape of the mark, such as is shown in Exhibit 5. In either case, our mark is not confusingly similar to Opposer's mark since our mark also includes the design elements, such as the surrounding circle, which are absent from Opposer's mark. As such, even though color may be similar in some cases, Opposer certainly can't claim a monopoly on all uses of red as are related to wine.

Declarant's knowledge of the Use of PARALLELE 45

18. I became aware of the existence of Opposer's PARALLELE "45" mark at least as early as receipt of the search report described above.
19. The dominant portion of Opposer's mark is "PARALLELE" as it contains nine characters compared to the two of "45."
20. Further, in light of the many other marks using the numeral "45" on goods related to alcoholic beverages, as cited above, there is no reason to believe that our mark is likely to confuse consumers as to the source of our wines.
21. In addition, Opposer's mark is typically used in combination with the PAUL JABOULET AINE parent mark to further identify the origin of the wine, as shown in Exhibit 6. Indeed, in many cases Opposer will make a single reference to PARALLELE "45" on his wine bottles, but will make several references to PAUL JABOULET AINE (such as on the body label, the shoulder label and the neck label), which, when viewed as a whole, lessens the emphasis on the PARALLELE 45 mark.
22. In no instance have we used any variation of PAUL JABOULET AINE on our wine.

23. I am unaware of any instances where a person has been confused into thinking that our wine was a product of Opposer or where Opposer's wine was thought to be a product of SPG.
24. Our wines have been on sale since at least as early as July 4, 2008, I have reviewed our business records and consulted with employees, and no instances of actual confusion have been reported to SPG.
25. The look and feel of our wine bottles is readily distinguishable from Opposer's. Our bottles typically feature a clean, uncluttered look, and feature the name of the specific beverage along with our 45 and design mark, and occasionally the stylized text "FORTY-FIVE NORTH." Opposer's bottles are distinguishable as they typically include both the PARALLELE 45 mark and the PAUL JABOULET AINE parent mark. Further, Opposer's bottles typically include other writing in French to indicate the French origin of the wine. Our bottles never feature any French writing, and have a completely different look and feel as compared to Opposer's bottles. The extent of these differences further limits or removes any likelihood of confusion.
26. I am aware of partnerships between American and French winemakers. I have visited the website for Domain Carneros at www.domainecarneros.com, which is partnered with the French winemaker Taittinger, and it is noted that the labels on Domain Carneros wine make clear that they are produced by Taittinger. I have also visited the website for Domain Chandon at www.chandon.com, which is partnered with the French winemaker Moet et Chandon, and the Chandon mark, which is shared by both entities, is clearly present on the Domain Chandon label. I have also visited the website for Opus One, at www.opusonewinery.com, a wine produced as a joint venture between Robert Mondavi, an American winemaker, and Baroness Philippine de Rothschild, a French winemaker, and the website and labels prominently feature signatures of both partners to indicate the joint origin of the wine. In each of these three cases, the French winemaker associated with the American wine has made clear on the front of the respective wine bottle that the American wine is associated with the French winemaker, indeed, it is my experience that this is the standard procedure in such partnerships. Nothing in our advertising, labels, or other promotion of our wine suggests a connection to a French winemaker; nothing about our promotion would lead a consumer to assume any connection between our winery and a French winemaker. On the contrary, we are proud of our Michigan origins and proudly proclaim as much on our labels, which further removes any likelihood of confusion with Opposer's wine. The homepages of the above-identified webpages are included in Exhibit 7.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dated this 29 day of November, 2011.



Eric Grossnickle
Creative Director of S.P. Grossnickle, LLC

Respectfully submitted,

/Christopher A. Johnson/
Christopher A. Johnson
Steven L. Smilay
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Fax: (574) 236-2839
Attorneys for Applicant

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Julie B. Seyler
Abelman, Frayne & Schwab
666 Third Avenue
New York, New York 10017-5621

/Michelle G. Stambaugh/
Michelle G. Stambaugh

EXHIBIT 1



EXHIBIT 2

Strategy

Your Reference 1729-003

Selected Databases Trademark Databases U.S. Federal, U.S. State, Canada, Mexico

Criteria Options: Active Only: on, Plurals: on, Cross References: on

Q1	357	-	Trademark : 45
Q2	10472	-	Goods : spirit
Q3	63368	-	Goods : drinks
Q4	4	-	Trademark : 45, Goods : spirit drinks
Q5	46306	-	Goods : wine,
Q6	37033	-	Goods : beer,
Q7	5971	-	Goods : liquor
Q8	17	-	Trademark : 45, Goods : wine, beer, liquor
Q9	18	-	Q4 OR Q8

Search Date 2009/08/12 19:43 GMT

Hits 1 to 21 of 24

Q4: U.S. Federal No Hits Found

Q4: U.S. State No Hits Found

Q4: Canada 1 - 2 of 2

PARALLELE "45"

CA-1:Q4

Trademark PARALLELE "45"
Thomson CompuMark Trademark PARALLELE "45"
Trademark Translation PARALLEL "45"
Design Type WORD ONLY
Database Canada
Application Number 107063900
Registration Number TMA579295
Mark Type Trade-Mark
Status REGISTERED
Chronology Filed: 18-AUG-2000
 Formalized: 22-AUG-2000
 Advertised: 10-JUL-2002 Vol: 49 No: 2489
 Allowed: 27-SEP-2002
 Registered: 09-APR-2003
 Registration Type: TMA - Trademark Act
Thomson CompuMark Class 33 (Wines and spirits)
 (es)
Goods and Services (1) Vins.
Wares Translation (1) Wines, sparkling wines, French wines namely champagne, alcohols, spirits, liqueurs, ciders and spirits. (2) Wines.
Applicant/Registrant PAUL JABOULET AINE
 LES JALETS - RN7
 LA ROCHE DE GLUN
 2660 TAIN L'HERMITAGE
 France
First Use Information Used in CANADA since at least as early as 1988 on wares marked (1)
Subject Headings PARALLELE "45"
 NUMERALS-45
Action History Rep for Service Changed evidence on File No. 1070639
 Rep for Service Changed on 21-OCT-2004 From: 13146 To: / Voir Preuve au dossier/See Registered on 09-APR-2003
 Rep for Service Changed on 02-APR-2003 From: 796 To: 13146
 Agent changed on 02-APR-2003 From: 796 To: 13146

Allowance Notice Sent on 27-SEP-2002
Response Due by 27-MAR-2003
Allowed on 27-SEP-2002
Correspondence Created on 23-SEP-2002
Advertised on 10-JUL-2002 Vol.49 Issue 2489
Extracted for Advertisement on 26-JUN-2002 Vol.49 Issue 2489 2002/07/10
Translation Received on 25-JUN-2002
Translation Requested on 11-JUN-2002 20020625150657
Response Due by 03-JUL-2002
Approved on 05-JUN-2002
Correspondence Created on 08-MAY-2002
Response Due by 08-SEP-2002
Examiner's First Report on 18-JAN-2002
Response Due by 18-MAY-2002
Search Recorded on 03-JAN-2002
Note to file on 24-AUG-2000 Corrected TM (quotation marks not transmitted through EC.)
Formalized on 22-AUG-2000
Created on 21-AUG-2000
Filed on 18-AUG-2000

DRAMBUIE & LABEL DESIGN

CA-2:Q4

Image



Trademark DRAMBUIE & LABEL DESIGN
Thomson CompuMark Trademark PRINCE CHARLES EDWARD'S LIQUEUR DRAMBUIE A LINK WITH THE 45
Design Type DESIGN ONLY
Database Canada
Application Number 021653200
Registration Number UCA044225
Mark Type Trade-Mark
Status REGISTERED
Chronology Filed: 05-NOV-1952
Registered: 05-NOV-1952
Registration Type: UCA - Unfair Competition Act
Renewed: 05-NOV-1997
Thomson CompuMark Class(es) 33 (Wines and spirits)
Goods and Services (1) Liqueurs, wines and spirits.
Applicant/Registrant THE DRAMBUIE LIQUEUR COMPANY LIMITED
18 Westerton Road
Broxburn, Scotland
EH52 5AQ
United Kingdom
Representative for Service DENNISON ASSOCIATES
133 RICHMOND STREET WEST
SUITE 301
TORONTO
ONTARIO M5H 2L7
416-368-8313
First Use Information Date of first use in CANADA 1925 on wares marked (1)
Foreign Usage Information Used in UNITED KINGDOM
Design Phrase A rectangular label in the centre of which appears a horizontal panel the central portion of which bulges outwardly, reading matter in large capital letters appearing on the panel, and further reading matter being accurately disposed above and below the panel, the whole being enclosed within a frame-like margin.
Associated Marks TMA525,267
TMA525,269
TMA525,270
UCA49920
TMDA25958
Footnotes CHANGE IN TITLE/CHANGEMENT EN TITRE:
TYPE OF CHANGE/GENRE DE CHANGEMENT:
Name/Nom
DATE REGISTERED/DATE DE L'ENREGISTREMENT:
25 avr/Apr 1958
DATE OF CHANGE/DATE DE CHANGEMENT:
26 mai/May 1956
COMMENTS/COMMENTAIRES:

G0203

THE DRAMBUIE LIQUEUR COMPANY LIMITED
SEE EVIDENCE ON FILE/VOIR PREUVE SUR LE DOSSIER 99013

OWNER ADDRESS CHANGE/CHANGEMENT D'ADRESSE DU PROPRIÉTAIRE:
DATE REGISTERED/DATE DE L'ENREGISTREMENT:
15 oct/Oct 1999
COMMENTS/COMMENTAIRES:

Voir Preuve au dossier/See evidence on File No. 99013

OWNER ADDRESS CHANGE/CHANGEMENT D'ADRESSE DU PROPRIÉTAIRE:
DATE REGISTERED/DATE DE L'ENREGISTREMENT:
20 fév/Feb 2002
COMMENTS/COMMENTAIRES:

Voir Preuve au dossier/See evidence on File No. 99013

OWNER ADDRESS CHANGE/CHANGEMENT D'ADRESSE DU PROPRIÉTAIRE:
DATE REGISTERED/DATE DE L'ENREGISTREMENT:
29 août/Aug 2005
COMMENTS/COMMENTAIRES:
Voir Preuve au dossier/See evidence on
File No. 376031

OWNER ADDRESS CHANGE/CHANGEMENT D'ADRESSE DU PROPRIÉTAIRE:
DATE REGISTERED/DATE DE L'ENREGISTREMENT:
19 nov/Nov 2007
COMMENTS/COMMENTAIRES:
Voir Preuve au dossier/See evidence on
File No. 376031

Subject Headings LABEL
RECTANGLES
PRINCE CHARLES EDWARD'S LIQUEUR
DRAMBULE
A LINK WITH THE 45
NUMERALS - 45

Action History Amendment to Registration on File No. 376031
Amendment to Registration on 19-NOV-2007 Owner Address Change / Voir Preuve au dossier/See evidence
Rep for Service Changed evidence on File No. 376031
Rep for Service Changed on 19-NOV-2007 From: 3272 To: 3072 / Voir Preuve au dossier/See
Amendment to Registration on File No. 376031
Amendment to Registration on 29-AUG-2005 Owner Address Change / Voir Preuve au dossier/See evidence
Amendment to Registration on File No. 99013
Amendment to Registration on 20-FEB-2002 Owner Address Change / Voir Preuve au dossier/See evidence
Amendment to Registration on 15-OCT-1999 Owner Address Change
Renewed on 05-NOV-1997 DP:1997/10/20 RD: 1997/10/06
Renewed on 05-NOV-1982
Registered on 05-NOV-1952
Filed on 05-NOV-1952

Q4: Mexico 1 - 2 of 2

CACHAZA 45

MX-1:Q4

Trademark CACHAZA 45
Design Type WORD ONLY
Database Mexico
Application Number 437132
Registration Number 670445
Status REGISTERED

G0204

Application Date 19-JUL-2000
Registration Date 30-AUG-2000
Gazette Registration AUG-2000
Mark Type TRADEMARK
International Class(es) 33 (Wines and spirits)
Goods and Services TODA CLASE DE BEBIDAS ALCOHOLICAS (CON EXCEPCION DE CERVEZAS).
Goods and Services Translation ALL CLASSES OF ALCOHOLIC DRINKS (EXCEPT BEERS).
Owner at Registration SANTIAGO RAMON DE LA RIVA GONZALEZ
LOPES COTILLA # 763 DEPTO. 4, COL. DEL VALLE, MEXICO, D.F., 03100
MX (MEXICO)

G0205

4-5-6

MX-2:Q4

Trademark 4-5-6
Cross References 456
Design Type WORD ONLY
Database Mexico
Application Number 299620
Registration Number 608123
Status REGISTERED
Application Date 26-JUN-1997
Registration Date 30-APR-1999
Gazette Registration APR-1999
Mark Type TRADEMARK
International Class(es) 29 (Meats and processed foods)
Goods and Services ACEITES COMESTIBLES, ACEITUNAS EN CONSERVA, ALBUMINA PARA USO ALIMENTICIO, ALGAS (EXTRACTOS DE), PARA USO ALIMENTICIO, ALIMENTOS (GELATINA PARA), ALMEJAS (QUE NO ESTEN VIVAS), ALMENDRAS PREPARADAS, ANCHOAS, ARENQUES, ATUN, AVES (CARNE), BEBIDASLACTEADAS, EN LAS QUE PREDOMINA LA LECHE, BOGAVANTES (QUE NO ESTEN VIVOS), CACAHUATE (MANTEQUILLA DE), CACAHUATES PREPARADOS, CACAO (MANTEQUILLA DE), CALDOS, CALDOS (PREPARACION PARA HACER), CANGREJOS (QUE NO ESTEN VIVOS), CARACOLES (HUEVOS DE)(PARA EL CONSUMO), C ARNE, CAME (EXTRACTOS DE), CARNE (GELATINA DE), CARNE (JUGO DE), CAME DE CERDO, CASCARAS DE FRUTAS, CASELNA PARA USO ALIMENTICIO, CAVIAR, CAZA, CEBOLLAS (LEGUMBRES) EN CONSERVA, CLARA DE HUEVO, COCO (ACEITE DE), COCO (GRASA DE),COCO (MANTEQUILLA DE), COC O (NUEZ DE) DESECADA, COLZA (ACEITE DE) COMBUSTIBLE, CONCENTRADOS (CALDOS), CONFITADAS (ESCARCHADAS) (FRUTAS), CONGELADAS (FRUTAS), CONSOMES, DATILES, ENCURTIDOS, ENSALADAS PARA VERDURAS ENSALADAS PARA FRUTAS (MACEDONIA DEFRUTAS), ESCARCHADAS (FRUTAS), F ILETES DE PESCADO, FRUTAS (CASCARAS (CORTEZA DE), FRUTAS (CORTEZA (CASCARA) DE), FRUTAS (ENSALADAS DE) MACEDONIA), FRUTAS (JALEAS DE), FRUTAS (PULPAS DE), FRUTAS (RODAJAS DE), FRUTAS CONSERVADAS EN ALCOHOL, FRUTAS ENCONSERVA, GAMBAS (QUE NO ESTEN VIVAS), GELATINA PARA USO ALIMENTICIO, GIRASOL (ACEITE DE) COMESTIBLES, GRANOS DE SOYA EN CONSERVA PARA USO ALIMENTICIO, GRASA (MEZCLAS QUE CONTENGAN) PARA UNTAR REBANADAS, GRASA DE COCO, GRASAS COMESTIBLES, GRASASCOMESTIBLES (MATERIAS GRASAS PARA LA FABRICACION DE), GUIANTES EN CONSERVA, HABAS EN CONSERVA, HIGADO, HIGADO (PALES DE),HORTALIZAS EN CONSERVA, HUESOS (ACEITE DE) COMESTIBLE, HUEVO (CLARA DE), HUEVO (YEMA DE), HUEVOS, HUEVOS DE CARACOLES(PARA ELCONSUMO), HUEVOS EN POLVO, ICTIOCOLA PARA USO ALIMENTI CIO, JALEAS COMESTIBLES, JAMONES, JENGIBRE (MERMELADA), JUGO DE CARNE, JULIANAS (SOPAS (SOPAS DE VERDURAS), KEFIR, LACTEADAS (BEBIDAS) EN LAS QUE PREDOMINA LA LECHE, LACTEOS (PRODUCTOS),LANGOSTAS (QUE NO ESTEN VIVAS), LECHE, LECHE (SUERO DE), LEGUMBRES (ENSALADAS DE), LEGUMBRES COCIDAS, LEGUMBRES EN CONSERVA, LEGUMBRES SECAS, LENTEJAS (LEGUMBRES) EN CONSERVA, MAIZ (ACEITE DE), MANTECA DE CERDO, MANTEQUILLA, MANTEQUILLA (CREMA DE),MANTEQUILLA DE CACAHUATE, MANTEQUILLA DE CACAO, MANTEQUILLA DE COCO, MARGA RINA, MARISCOS (QUE NO ESTEN VIVOS), MEJILLONES (MOLUSCOS) (QUE NO ESTEN VIVOS) MERMELADAS, MOLUSCOS COMESTIBLES (QUE NO ESTEN VIVOS), MOLUSCOS COMESTIBLES, MORCILLA(CHARCUTERIA), NABINA (ACEITE DE) COMESTIBLE, NATA (PRODUCTO LACTEO), NATA BATIDA, NUECES PREPARADAS, NUEZ DE COCO DESECADA, NUEZ DE PALMERAS (ACEITE DE) (ALIMENTACION), OLIVA (ACEITE DE) COMESTIBLE, OSTRAS (QUE NO ESTEN VIVAS), PALMA (ACEITE DE)(ALIMENTACION), PASAS, PATATAS CHIPS (PATATAS FRITAS A LA INGLESA), PATES DE HIGADO, PECTINAS PAR A USO ALIMENTICIO, PESCA (PRODUCTOS DE LA), PESCADO, PESCADO EN CONSERVA, PICCALILLI, PLATOS A BASE DE PESCADO, PROTEINAS PARA LA ALIMENTACION HUMANA,PULPA DE FRUTA, PURE DE TOMATES, QUESOS, QUISQUILLAS (QUE NO ESTEN VIVAS), RODAJAS DE FRUTAS, SALAZONES, SALCHICHAS, SALCHICHON, SALMON, SARDINAS, SEBO COMESTIBLE, SESAMO (ACEITE DE), SOYA (GRANOS DE) EN CONSERVA PARA USO ALIMENTICIO, SOPA (PREPARACIONES PARA HACER), SOPAS, SUERO DE LECHE, TOCINO, TUFO, TOMATE (PURE DE), TOMATE (ZUMO DE) PARA LA COCINA, TRI PAS (CALLOS), TRUFAS EN CONSERVA), TUETANO PARA USO ALIMENTICIO, UNTAR REBANADAS (MEZCLAS QUE

G0206

CONTENGAN GRASA PARA), YEMA DE

Goods and Services Translation EDIBLE OILS, PRESERVED OLIVES, ALBUMEN FOR FOOD, SEAWEED (EXTRACTS OF), FOR ALIMENTARY PURPOSES, FOODSTUFFS (GELATINE FOR), CLAMS (NOT LIVE), GROUND ALMONDS, ANCHOVY, HERRINGS, TUNA FISH, POULTRY (MEAT), MILKY DRINKS, MILK PREDOMINATING, LOBSTERS(NOT LIVE), CACAHUATE (BUTTER), PEANUTS PREPARATIONS, COCOA (BUTTER), BOUILLON, BROTHS (PREPARATIONS FOR MAKING), CRAYFISH (NOT LIVE), SNAILS (EGGS) (FOR CONSUMPTION), C ARNE, CAME (EXTRACTS OF), MEAT (GELATINE), MEAT (JUICES OF), CAMEPORK, FRUIT PEEL, CASEIN FOR FOOD, CAVIAR, GAME, PRESERVED ONIONS (VEGETABLES), WHITE OF EGGS, COCONUT (OIL), COCONUT (FAT), COCONUT (BUTTER), BEAN OR DRIED (NUT), RAPE FUEL (OIL), CONCENTRATED (BROTHS), CRYSTALLIZED FRUITS (FROSTED) (FRUITS),FROZEN (FRUITS), SOUPS, DATES, PICKLES, SALADS FOR VEGETABLES SALADS FOR FRUITS (MACEDONIA FRUITS), FROSTED (FRUITS), F ILETES FISH, FRUITS (PEELS (PEEL), FRUITS (PEEL (PEELS)), FRUITS MACEDONIA (SALADS)), FRUITS (JELLIES), FRUITS (PULPS),FRUITS (SLICES), FRUITS PRESERVED IN ALCOHOL, PRESERVED FRUITS, SHRIMPS (NOT LIVE), GELATINE FOR FOOD, SUNFLOWER EDIBLE (OIL), SOYA BEANS PRESERVED FOR FOOD, FAT FOR GREASING SLICES (MIXTURES CONTAINING THEM), COCONUT FAT, EDIBLE FATS, EDIBLE FATS(SUBSTANCES FATTY FOR FABRICACIO) N), PRESERVED PEAS, PRESERVED BEANS, LIVER, LIVER (BLADES), PRESERVED GARDEN HERBS, BONES EDIBLE (OIL), EGG (WHITE), EGG (YOLK), EGGS, SNAILS EGGS (FOR CONSUMPTION), POWDERED EGGS, ISINGLASS FOR USE ALIMENTICIO, JELLIES FOR FOOD, HAMS, GINGER (MARMALADE), MEAT GRAVIES, VEGETABLE SOUP PREPARATIONS (SOUPS (SOUPS OF VEGETABLES), KEFIR, MILK (DRINKS) MILK PREDOMINATING, MILK (PRODUCTS), LOBSTERS (NOT LIVE), MILK, MILK (WHEY), VEGETABLES(SALADS), COOKEDVEGETABLES, PRESERVED VEGETABLES, DRIED VEGETABLES, PRESERVED LENTILS (VEGETABLES), CORN (OIL), LARD FOR FOOD, BUTTER, BUTTER (CREAM), PEANUT BUTTER, CHOCOLATE NUT BUTTER, COCONUT BUTTER, MARL RINA, SEAFOOD (NOT LIVE), MARMALADE MOLDS (MUSSELS) (NOT LIVE), SHELLS (NOT LIVE), SHELLS, BLOOD SAUSAGE (PORK), TURNIP SEED EDIBLE (OIL), CREAM (MILK PRODUCTS), WHIPPED CREAM, NUTS PREPARED, DESICCATED COCONUT, PALM NUTS (OIL) (FOOD), OLIVE EDIBLE (OIL), OYSTERS (NOT LIVE), PALM (OIL) (FOOD),RAISINS, POTATO CHIPS (FRENCH FRIES ENGLISH STYLE), LIVER PASTES, PECTINS FOR FOR USE AS FOOD, FISHING (PRODUCTS OF), FISH, FISH PRESERVES, PICCALILLI, FOOD PRODUCTS MADE FROM FISH, PROTEIN FOR HUMAN CONSUMPTION, FRUIT PULP, TOMATO PUREE, CHEESES,MARINE SHRIMP (NOT LIVE), FRUIT SLICES, SALTED FOODS, SAUSAGES, SAUSAGES, SALMON, SARDINES, SUET FOR FOOD, SESAME (OIL), SOYA PRESERVES FOR ALIMENTARY PURPOSES (GRAINS), SOUP (PREPARATIONS FOR MAKING), SOUPS, WHEY, BACON, OFFENSIVE SMELL, TOMATO (PUREES), COOKED TOMATOES (JUICES OF), TRI PAS (HORNS), PRESERVED TRUFFLES), ANIMAL MARROW FOR FOOD, GREASING SLICES (MIXTURES FOR CONTAINING FAT), YOLK OF EGGS, YOGHURT.

Owner at Registration ISAAC HILU ALFILLE
 CALLE OESTE # 12, COL. SAN LUIS TLATILCO, NAUCALPAN, EDO. DE MEX., 53630
 MX (MEXICO)

Q8: U.S. Federal 1 - 11 of 11

LOVE 3 2 1 4 5 6

US-1:Q8

Image

G0207



Trademark LOVE 3 2 1 4 5 6
Cross References LOVE 321456
Design Type WORD AND DESIGN
Database U.S. Federal
Application Number 77717846
Status PENDING
 Intent to Use
Status According to PTO (681) PUBLICATION & ISSUE REVIEW COMPLETE
USPTO Status Date 22-JUL-2009
Application Date 20-APR-2009
International Class(es) 33 (Wines and spirits)
Goods and Services (INT. CL. 33) WINE
Applicant COLORADO CREATIVE BEVERAGE MARKETING, LLC
 COLORADO LIMITED LIABILITY CO.
 13786 DETROIT STREET
 THORNTON, COLORADO 80602
Filing Attorney TERESA C. BAIRD
Reference Number 7328-2.A
Correspondent Info TERESA C. BAIRD
 FAIRFIELD AND WOODS, P.C.
 1700 LINCOLN ST STE 2400
 DENVER, CO 80203-4524
Claims COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.
Design Phrase THE MARK CONSISTS OF A STYLIZED HEART FOLLOWED BY THE WORD "LOVE" IN
 LOWER CASE FONT WITH A NUMERICALLY PATTERNED GARLAND ("3 2 1 4 5 6") AND SIX
 HANGING ORNAMENTS ALONG THE BOTTOM BORDER.
Design Codes 011302 ATOMS, MOLECULAR MODELS
 021101 HEARTS, INCLUDING FIGURES OF HEARTS AS DEPICTED ON PLAYING CARDS
 200308 GRAPH PAPER, DIAGRAMS, BLUEPRINTS
History 05-AUG-2009 NOTICE OF PUBLICATION
 22-JUL-2009 LAW OFFICE PUBLICATION REVIEW COMPLETED
 22-JUL-2009 ASSIGNED TO LIE
 14-JUL-2009 APPROVED FOR PUB - PRINCIPAL REGISTER
 09-JUL-2009 ASSIGNED TO EXAMINER
 24-APR-2009 NOTICE OF DESIGN SEARCH CODE AND PSEUDO MARK MAILED
 23-APR-2009 NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM
 23-APR-2009 NEW APPLICATION ENTERED IN TRAM

G0208

CLUSTER M45

US-2:Q8

Image

CLUSTER M45

Trademark CLUSTER M45
Cross References CLUSTER M 45
Design Type BLOCK LETTERS
Database U.S. Federal
Application Number 77706863
Status PUBLISHED (PENDING)
 Intent to Use
Status According to PTO (686) PUBLISHED FOR OPPOSITION
USPTO Status Date 28-JUL-2009
Application Date 03-APR-2009
Published 28-JUL-2009
International Class(es) 33 (Wines and spirits)
Goods and Services (INT. CL. 33) ALCOHOLIC BEVERAGES EXCEPT BEERS
Owner at Publication CAMBRIEN PTY LTD
 AUSTRALIA PROPRIETARY LIMITED COMPANY (P/L OR PTY. LTD.)
 DRUMMOND'S LANE
 HEATHCOTE, VICTORIA 3523
 AU (AUSTRALIA)
Applicant CAMBRIEN PTY LTD
 AUSTRALIA PROPRIETARY LIMITED COMPANY (P/L OR PTY. LTD.)
 DRUMMOND'S LANE
 HEATHCOTE, VICTORIA 3523
 AU (AUSTRALIA)
Filing Attorney ROBERT B. BURLINGAME
Reference Number 017127-03794
Correspondent Info ROBERT B. BURLINGAME
 PILLSBURY WINTHROP SHAW PITTMAN LLP
 P.O. BOX 7880
 CALENDAR/DOCKETING DEPARTMENT
 SAN FRANCISCO, CA 94120-7880
History 28-JUL-2009 PUBLISHED FOR OPPOSITION
 08-JUL-2009 NOTICE OF PUBLICATION
 25-JUN-2009 LAW OFFICE PUBLICATION REVIEW COMPLETED
 24-JUN-2009 ASSIGNED TO LIE
 24-JUN-2009 APPROVED FOR PUB - PRINCIPAL REGISTER
 22-JUN-2009 ASSIGNED TO EXAMINER
 09-APR-2009 NOTICE OF PSEUDO MARK MAILED
 08-APR-2009 NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM
 07-APR-2009 NEW APPLICATION ENTERED IN TRAM

G0209

VIN45

US-3:Q8

Image

vin45

Trademark VIN45
Full Text Translation THE ENGLISH TRANSLATION OF THE WORD "VIN" IN THE MARK IS WINE.
Cross References VIN 45
Trademark Translation WINE 45
Design Type BLOCK LETTERS
Database U.S. Federal
Application Number 77672446
Status PUBLISHED (PENDING)
 Intent to Use
Status According to PTO (686) PUBLISHED FOR OPPOSITION
USPTO Status Date 30-JUN-2009
Application Date 18-FEB-2009
Published 30-JUN-2009
International Class(es) 39 (Transportation and storage services)
 43 (Services for providing food and drink; temporary accommodation)
Goods and Services (INT. CL. 39) WINE CLUB SERVICES FEATURING PERIODIC SHIPMENTS OF WINE TO MEMBERS
 (INT. CL. 43) PROVIDING A WEB SITE WHERE USERS CAN POST RATINGS, REVIEWS AND RECOMMENDATIONS ON WINES FOR WINE APPRECIATION PURPOSES; PROVIDING INFORMATION ABOUT WINE CHARACTERISTICS; SOMMELIER SERVICES, NAMELY, PROVIDING ADVICE ON WINE AND WINE ANDFOOD PAIRING
Owner at Publication VIN45, LLC
 OREGON LIMITED LIABILITY CO.
 7303 SE LANGWOOD ST
 HILLSBORO, OREGON 97123
Applicant VIN45, LLC
 OREGON LIMITED LIABILITY CO.
 7303 SE LANGWOOD ST
 HILLSBORO, OREGON 97123
Correspondent Info VIN45,LLC
 VIN45,LLC
 7303 SE LANGWOOD ST
 HILLSBORO, OR 97123
History 30-JUN-2009 PUBLISHED FOR OPPOSITION
 10-JUN-2009 NOTICE OF PUBLICATION
 22-MAY-2009 LAW OFFICE PUBLICATION REVIEW COMPLETED
 22-MAY-2009 ASSIGNED TO LIE
 21-MAY-2009 APPROVED FOR PUB - PRINCIPAL REGISTER
 21-MAY-2009 TEAS/EMAIL CORRESPONDENCE ENTERED
 20-MAY-2009 CORRESPONDENCE RECEIVED IN LAW OFFICE
 20-MAY-2009 TEAS RESPONSE TO OFFICE ACTION RECEIVED
 11-MAY-2009 NOTIFICATION OF NON-FINAL ACTION E-MAILED
 11-MAY-2009 NON-FINAL ACTION E-MAILED
 11-MAY-2009 NON-FINAL ACTION WRITTEN
 11-MAY-2009 REMOVED FROM TEAS PLUS
 09-MAY-2009 ASSIGNED TO EXAMINER
 24-FEB-2009 NOTICE OF PSEUDO MARK MAILED
 23-FEB-2009 NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM
 21-FEB-2009 NEW APPLICATION ENTERED IN TRAM

G0210

ROUTE 45

US-4:QB

Image

Route 45

Trademark ROUTE 45
Design Type BLOCK LETTERS
Database U.S. Federal
Application Number 77505053
Status PENDING
Intent to Use
Status According to PTO (654) REPORT COMPLETED SUSPENSION CHECK - CASE STILL SUSPENDED
USPTO Status Date 30-APR-2009
Application Date 23-JUN-2008
International Class(es) 33 (Wines and spirits)
Goods and Services (INT. CL. 33) WINE
Applicant DESTINATION INTERNATIONAL DBA VINNOVATIVE IMPORTS
NORTH CAROLINA CORPORATION
2841 BACKWOODS TRAIL
DENVER, NORTH CAROLINA 28037
Correspondent Info DESTINATION INTERNATIONAL
DESTINATION INTERNATIONAL
2841 BACKWOODS TRL
DENVER, NC 28037-8861
History 30-APR-2009 REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED
30-APR-2009 ASSIGNED TO LIE
30-OCT-2008 NOTIFICATION OF LETTER OF SUSPENSION E-MAILED
30-OCT-2008 LETTER OF SUSPENSION E-MAILED
30-OCT-2008 SUSPENSION LETTER WRITTEN
29-SEP-2008 TEAS/EMAIL CORRESPONDENCE ENTERED
29-SEP-2008 CORRESPONDENCE RECEIVED IN LAW OFFICE
29-SEP-2008 TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED
26-SEP-2008 NOTIFICATION OF LETTER OF SUSPENSION E-MAILED
26-SEP-2008 LETTER OF SUSPENSION E-MAILED
26-SEP-2008 SUSPENSION LETTER WRITTEN
26-SEP-2008 ASSIGNED TO EXAMINER
26-JUN-2008 NEW APPLICATION ENTERED IN TRAM

G0211

45YGB

US-5:Q8

Image

45YGB

Trademark 45YGB
Cross References 45 YGB
Design Type BLOCK LETTERS
Database U.S. Federal
Application Number 77138046
Status PUBLISHED (PENDING)
 Intent to Use
Status According to PTO (731) SECOND EXTENSION - GRANTED
USPTO Status Date 21-JAN-2009
Application Date 22-MAR-2007
Published 30-OCT-2007
International Class(es) 26 (Fancy goods)
 33 (Wines and spirits)
 36 (Insurance and financial services)
Goods and Services (INT. CL. 26) SHOE LACES
 (INT. CL. 33) WINE
 (INT. CL. 36) CHARITABLE FOUNDATION SERVICES, NAMELY, CHARITABLE FUND
 RAISING, PROVIDING CHARITABLE FINANCIAL ASSISTANCE AND GRANTS TO
 INDIVIDUALS AND ORGANIZATIONS IN THE FIELD OF BRAIN CANCER RESEARCH,
 PROVIDING GRANTS FOR INCREASING PUBLIC AWARENESS IN THE FIELD OF BRAIN
 CANCER, PROVIDING EDUCATIONAL SCHOLARSHIPS AND GRANTS
Owner at Publication THE TUG MCGRAW FOUNDATION
 PENNSYLVANIA CORPORATION
 1303 JEFFERSON STREET, SUITE 100B
 NAPA, CALIFORNIA 94559
Applicant THE TUG MCGRAW FOUNDATION
 PENNSYLVANIA CORPORATION
 1303 JEFFERSON STREET, SUITE 100B
 NAPA, CALIFORNIA 94559
Filing Attorney ADAM L. BAREA
Reference Number 302447-801
Correspondent Info PETER J. WILLSEY
 COOLEY GODWARD KRONISH LLP
 777 6TH ST., N.W., SUITE 1100
 WASHINGTON DC 20001
History 10-AUG-2009 CASE ASSIGNED TO INTENT TO USE PARALEGAL
 02-JUL-2009 TEAS REQUEST TO DIVIDE RECEIVED
 02-JUL-2009 TEAS EXTENSION RECEIVED
 02-JUL-2009 TEAS STATEMENT OF USE RECEIVED
 21-JAN-2009 EXTENSION 2 GRANTED
 21-JAN-2009 EXTENSION 2 FILED
 21-JAN-2009 TEAS EXTENSION RECEIVED
 21-JUL-2008 EXTENSION 1 GRANTED
 21-JUL-2008 EXTENSION 1 FILED
 21-JUL-2008 TEAS EXTENSION RECEIVED
 19-MAY-2008 TEAS CHANGE OF CORRESPONDENCE RECEIVED
 22-JAN-2008 NOA MAILED - SOU REQUIRED FROM APPLICANT
 30-OCT-2007 PUBLISHED FOR OPPOSITION
 10-OCT-2007 NOTICE OF PUBLICATION
 24-SEP-2007 LAW OFFICE PUBLICATION REVIEW COMPLETED

G0212

24-SEP-2007 ASSIGNED TO LIE
21-AUG-2007 APPROVED FOR PUB - PRINCIPAL REGISTER
21-AUG-2007 TEAS/EMAIL CORRESPONDENCE ENTERED
21-AUG-2007 CORRESPONDENCE RECEIVED IN LAW OFFICE
21-AUG-2007 TEAS RESPONSE TO OFFICE ACTION RECEIVED
29-JUN-2007 NOTIFICATION OF NON-FINAL ACTION E-MAILED
29-JUN-2007 NON-FINAL ACTION E-MAILED
29-JUN-2007 NON-FINAL ACTION WRITTEN
29-JUN-2007 ASSIGNED TO EXAMINER
28-MAR-2007 NOTICE OF PSEUDO MARK MAILED
27-MAR-2007 NEW APPLICATION ENTERED IN TRAM

G0213

45 MAGIC

US-6:Q8

Image

45 MAGIC

Trademark 45 MAGIC
Design Type BLOCK LETTERS
Database U.S. Federal
Application Number 77064133
Registration Number 3491062
Status REGISTERED
Status According to PTO (700) REGISTERED
USPTO Status Date 26-AUG-2008
Application Date 14-DEC-2006
Published 10-JUN-2008
Registration Date 26-AUG-2008
International Class(es) 33 (Wines and spirits)
Goods and Services (INT. CL. 33) WINE
International Class International Class: 33
First Used: 13-JUN-2006
In Commerce: 13-JUN-2006
Registrant GILSTRAP BROTHERS WINE COMPANY, LLC
OREGON LIMITED LIABILITY CO.
69789 ANTLES LANE
COVE, OREGON 97824
Owner at Publication GILSTRAP BROTHERS WINE COMPANY, LLC
OREGON LIMITED LIABILITY CO.
69789 ANTLES LANE
COVE, OREGON 97824
Applicant GILSTRAP BROTHERS WINE COMPANY, LLC
OREGON LIMITED LIABILITY CO.
69789 ANTLES LANE
COVE, OREGON 97824
TTAB Information **Ex Parte Number:** 77064133
Date: 11-APR-2008
Outcome: TERMINATED, 07-JUL-2008
Plaintiff: GILSTRAP BROTHERS WINE COMPANY, LLC
Application Number: 77064133
Registration Number: 0000000
Mark: 45 MAGIC
Correspondent:
SHEILA FOX MORRISON
DAVIS WRIGHT TREMAINE LLP
1300 SW 5TH AVE STE 2300
PORTLAND
OR
97201-5630
TTAB Entry: #5 TERMINATED, 07-JUL-2008
TTAB Entry: #4 APPEAL TO BOARD, 11-APR-2008
Filing Attorney SHEILA FOX MORRISON
Reference Number 58892-4
Correspondent Info SHEILA FOX MORRISON
DAVIS WRIGHT TREMAINE LLP
1300 SW 5TH AVE STE 2300

G0214

PORTLAND, OR 97201-5682

History 26-AUG-2008 REGISTERED-PRINCIPAL REGISTER
10-JUN-2008 PUBLISHED FOR OPPOSITION
21-MAY-2008 NOTICE OF PUBLICATION
05-MAY-2008 LAW OFFICE PUBLICATION REVIEW COMPLETED
05-MAY-2008 APPROVED FOR PUB - PRINCIPAL REGISTER
11-APR-2008 EX PARTE APPEAL-INSTITUTED
11-APR-2008 JURISDICTION RESTORED TO EXAMINING ATTORNEY
11-APR-2008 EXPARTE APPEAL RECEIVED AT TTAB
03-APR-2008 TEAS/EMAIL CORRESPONDENCE ENTERED
03-APR-2008 CORRESPONDENCE RECEIVED IN LAW OFFICE
03-APR-2008 ASSIGNED TO LIE
02-APR-2008 TEAS REQUEST FOR RECONSIDERATION RECEIVED
12-OCT-2007 FINAL REFUSAL MAILED
12-OCT-2007 FINAL REFUSAL WRITTEN
24-SEP-2007 ASSIGNED TO EXAMINER
18-SEP-2007 TEAS/EMAIL CORRESPONDENCE ENTERED
17-SEP-2007 CORRESPONDENCE RECEIVED IN LAW OFFICE
17-SEP-2007 TEAS RESPONSE TO OFFICE ACTION RECEIVED
11-APR-2007 NON-FINAL ACTION MAILED
11-APR-2007 NON-FINAL ACTION WRITTEN
10-APR-2007 ASSIGNED TO EXAMINER
20-DEC-2006 NEW APPLICATION ENTERED IN TRAM

G0215

F PORT 65-70 RED 60-65 YOUNG RED 55-60 WHITE 50-55 ROSE 45-50 CHAMPAGNE 38-45

US-7:Q8

Image **F PORT RED YOUNG RED**
65 - 70 60 - 65 55 - 60
WHITE ROSE CHAMPAGNE
50 - 55 45 - 50 38 - 45

Trademark F PORT 65-70 RED 60-65 YOUNG RED 55-60 WHITE 50-55 ROSE 45-50 CHAMPAGNE 38-45
Cross References F PORT 65 70 RED 60 65 YOUNG RED 55 60 WHITE 50 55 ROSE 45 50 CHAMPAGNE 38 45
Design Type STYLIZED LETTERS
Database U.S. Federal
Application Number 78947889
Registration Number 3354676
Status REGISTERED
 Supplemental Register
Status According to PTO (700) REGISTERED
USPTO Status Date 11-DEC-2007
Application Date 08-AUG-2006
Registration Date 11-DEC-2007
International Class(es) 8 (Hand tools)
Goods and Services (INT. CL. 8) INFRARED TEMPERATURE SENSOR FOR INDICATING OPTIMAL DRINKING TEMPERATURES FOR WINE AND WINE BOTTLES CONTAINING WINE, SOLD AS AN INTEGRAL COMPONENT OF A MULTI-FUNCTION HAND TOOL COMPRISED OF A KNIFE, A CAN OPENER, A CORK SCREW AND SUCHINFRARED TEMPERATURE SENSOR
International Class **International Class:** 08
First Used: 01-MAR-2005
In Commerce: 01-MAR-2005
Application Amended 09-JUL-2007
Registrant PROLOGIX INTERNATIONAL CORPORATION
 FLORIDA CORPORATION
 9365 AEGEAN DRIVE
 BOCA RATON, FLORIDA 33496
Applicant PROLOGIX INTERNATIONAL CORPORATION
 FLORIDA CORPORATION
 9365 AEGEAN DRIVE
 BOCA RATON, FLORIDA 33496
Filing Attorney DAVID A. GAST
Correspondent Info DAVID A. GAST
 MALLOY & MALLOY, P.A.
 2800 SW 3RD AVENUE
 MIAMI FL 33129
Claims COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.
Design Phrase THE MARK CONSISTS OF TABLE OF OPTIMAL DRINKING TEMPERATURES OF VARIOUS WINES IN DEGREES FAHRENHEIT.
History 20-JUN-2008 ATTORNEY REVOKED AND/OR APPOINTED
 20-JUN-2008 TEAS REVOKE/APPOINT ATTORNEY RECEIVED
 11-DEC-2007 REGISTERED-SUPPLEMENTAL REGISTER
 06-NOV-2007 LAW OFFICE PUBLICATION REVIEW COMPLETED
 20-SEP-2007 APPROVED FOR REGISTRATION SUPPLEMENTAL REGISTER
 22-AUG-2007 EXAMINERS AMENDMENT MAILED
 22-AUG-2007 EXAMINER'S AMENDMENT ENTERED
 22-AUG-2007 EXAMINERS AMENDMENT -WRITTEN
 26-JUL-2007 TEAS/EMAIL CORRESPONDENCE ENTERED
 26-JUL-2007 CORRESPONDENCE RECEIVED IN LAW OFFICE
 26-JUL-2007 ASSIGNED TO LIE
 09-JUL-2007 TEAS RESPONSE TO OFFICE ACTION RECEIVED
 08-JAN-2007 NON-FINAL ACTION MAILED
 08-JAN-2007 NON-FINAL ACTION WRITTEN
 01-JAN-2007 ASSIGNED TO EXAMINER

G0216

14-AUG-2006 NEW APPLICATION ENTERED IN TRAM

G0217

BLOCK NO. 45

US-8:Q8

Image

BLOCK NO. 45

Trademark BLOCK NO. 45
Cross References BLOCK NUMBER 45
Design Type BLOCK LETTERS
Database U.S. Federal
Application Number 78546938
Registration Number 3163804
Status REGISTERED
Status According to PTO (700) REGISTERED
USPTO Status Date 24-OCT-2006
Application Date 13-JAN-2005
Published 01-NOV-2005
Registration Date 24-OCT-2006
International Class(es) 33 (Wines and spirits)
Goods and Services (INT. CL. 33) WINES
International Class International Class: 33
First Used: 01-APR-2005
In Commerce: 01-APR-2005
Registrant ASV WINES, INC.
CALIFORNIA CORPORATION
1998 ROAD 152
DELANO, CALIFORNIA 93215
Owner at Publication ASV WINES, INC.
CALIFORNIA CORPORATION
1998 ROAD 152
DELANO, CALIFORNIA 93215
Applicant ASV WINES, INC.
CALIFORNIA CORPORATION
1998 ROAD 152
DELANO, CALIFORNIA 93215
Filing Attorney ANNE HIARING, ESQ.
Reference Number ASV 1.1
Correspondent Info ANNE HIARING, ESQ.
LAW OFFICE OF ANNE HIARING
19 BROOKMONT
SAN ANSELMO, CA 94960-1412
History 24-OCT-2006 REGISTERED-PRINCIPAL REGISTER
15-SEP-2006 LAW OFFICE REGISTRATION REVIEW COMPLETED
01-SEP-2006 ASSIGNED TO LIE
27-AUG-2006 ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED
23-AUG-2006 STATEMENT OF USE PROCESSING COMPLETE
24-JUL-2006 USE AMENDMENT FILED
24-JUL-2006 TEAS STATEMENT OF USE RECEIVED
24-JAN-2006 NOTICE OF ALLOWANCE-MAILED
01-NOV-2005 PUBLISHED FOR OPPOSITION

G0218

12-OCT-2005 NOTICE OF PUBLICATION
13-SEP-2005 LAW OFFICE PUBLICATION REVIEW COMPLETED
26-AUG-2005 ASSIGNED TO LIE
20-AUG-2005 APPROVED FOR PUB - PRINCIPAL REGISTER
15-AUG-2005 ASSIGNED TO EXAMINER
26-JAN-2005 NEW APPLICATION ENTERED IN TRAM

ASAHI DRAFT BEER THE BEER FOR ALL SEASONS SUPER DRY ASAHI BEER IS BREWED FROM SELECTED INGREDIENTS USING OUR PURE CULTURED YEAST AND OUR ADVANCED BREWING TECHNIQUES ASAHI BEER HAS EXCELLENT RICHNESS TRULY REFRESHING DRINKABILITY AND SATINSMOOTHNESS. NET CONTENTS: 21.4FL OZ (1PINT 5.45FL OZ)633ML US-9:Q8

Image



Trademark ASAHI DRAFT BEER THE BEER FOR ALL SEASONS SUPER DRY ASAHI BEER IS BREWED FROM SELECTED INGREDIENTS USING OUR PURE CULTURED YEAST AND OUR ADVANCED BREWING TECHNIQUES ASAHI BEER HAS EXCELLENT RICHNESS TRULY REFRESHING DRINKABILITY AND SATINSMOOTHNESS. NET CONTENTS: 21.4FL OZ (1PINT 5.45FL OZ)633ML

Full Text Translation THE FOREIGN WORDING IN THE MARK TRANSLATES INTO ENGLISH AS "DRAFT""SUPER DRY" AND "ASAHI BEER." THE ENGLISH TRANSLATION OF WORD "ASAHI" IS "RISING SUN".

Cross References ASAHI DRAFT BEER THE BEER FOR ALL SEASONS SUPER DRY ASAHI BEER IS BREWED FROM SELECTED INGREDIENTS USING OUR PURE CULTURED YEAST AND OUR ADVANCED BREWING TECHNIQUES ASAHI BEER HAS EXCELLENT RICHNESS TRULY REFRESHING DRINKABILITY AND SATIN SMOOTHNESSNET CONTENTS 21.4 FL OZ 1 PINT 5.45 FL OZ 633 ML

Trademark Translation DRAFT, SUPER DRY, DRAFT BEER RISING SUN

Design Type WORD AND DESIGN

Database U.S. Federal

Application Number 78145548

Registration Number 2858820

Status REGISTERED

Status According to PTO (700) REGISTERED

USPTO Status Date 29-JUN-2004

Application Date 19-JUL-2002

Allowance Filed 04-NOV-2003

Published 12-AUG-2003

Declaration Approved 13-APR-2004

Registration Date 29-JUN-2004

OG Amended 05-APR-2005

International Class(es) 32 (Light beverages)

Goods and Services (INT. CL. 32) BEER

International Class International Class: 32
First Used: 14-SEP-2002
In Commerce: 14-SEP-2002

G0220

Registrant ASAHI BREWERIES, LTD.
JAPAN JOINT STOCK COMPANY'
7-1, KYOBASHI 3-CHOME, CHUO-KU
TOKYO
JP (JAPAN)

Owner at Publication ASAHI BREWERIES, LTD.
JAPAN JOINT STOCK COMPANY
7-1, KYOBASHI 3-CHOME, CHUO-KU
TOKYO
JP (JAPAN)

Applicant ASAHI BREWERIES, LTD.
JAPAN JOINT STOCK COMPANY
7-1, KYOBASHI 3-CHOME, CHUO-KU
TOKYO
JP (JAPAN)

Other U.S. Registrations 0686984, 1516598, 2398046, 2467218 AND OTHERS

Reference Number DT-6247

Correspondent Info KATRIN LEWERTOFF
SIDLEY AUSTIN LLP
787 7TH AVE
NEW YORK, NY 10019

Domestic Representative DAVID TOREN

Claims IN THE HEADING DELETE CLASS 33, AND, "CLASS 32" ?SHOULD BE INSERTED. ?IN THE STATEMENT, COLUMN 1, LINE 8 AFTER 2,398,046, 2,467,218 SHOULD BE INSERTED. IN THE STATEMENT, COLUMN 2, LINE 9 DRAFT BEER, SHOULD BE DELETED, AND, ASAHI BEER SHOULD BEINSERTED.

Disclaims "DRAFT", "DRAFT BEER", "SUPER DRY" AND "NET CONTENTS 12 FL OZ. 355 ML"

Design Phrase THE MARK CONSISTS OF THE COLORS BLACK, GRAY AND RED AND CONTAINS, IN PART, THE FOLLOWING WORDING "ASAHI BEER IS BREWED FROM SELECTED INGREDIENTS USING OUR PURE CULTURED YEAST AND OUR ADVANCED BREWING TECHNIQUES ASAHI BEER HAS EXCELLENT RICHNESS TRULYREFRESHING DRINKABILITY AND SATIN SMOOTHNESS".

Design Codes 260954 SQUARES INSIDE OF SQUARES
260911 SQUARES WITH ONE OR MORE ROUNDED CORNERS
261103 RECTANGLES MISSING TWO OR MORE ENTIRE EDGES
280103 INSCRIPTIONS IN CHINESE OR JAPANESE CHARACTERS
020725 PILGRIMS, COLONIALS, COLONIAL MILITIAMEN
300101 A
300119 S
300101 A
300108 H
300109 I
300503 FIRST LETTER OF A WORD FIRST NUMERAL OF A NUMBER STRING
300504 LETTERS EMBEDDED IN A WORD NUMERALS EMBEDDED IN A NUMBER STRING
200310 BOTTLE LABELS SUCH AS WINE LABELS WHISKEY BOTTLE LABELS

History 06-JUL-2006 TEAS CHANGE OF CORRESPONDENCE RECEIVED
23-FEB-2005 CERTIFICATE OF CORRECTION ISSUED
13-JAN-2005 PAPER RECEIVED
15-NOV-2004 SEC 7 REQUEST FILED
15-NOV-2004 PAPER RECEIVED
16-AUG-2004 SEC 7 REQUEST FILED
16-AUG-2004 PAPER RECEIVED
29-JUN-2004 REGISTERED-PRINCIPAL REGISTER
13-APR-2004 ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED
06-APR-2004 ASSIGNED TO EXAMINER
05-APR-2004 CASE FILE IN TICRS
01-APR-2004 STATEMENT OF USE PROCESSING COMPLETE
24-MAR-2004 USE AMENDMENT FILED
24-MAR-2004 TEAS STATEMENT OF USE RECEIVED
04-NOV-2003 NOTICE OF ALLOWANCE-MAILED
12-AUG-2003 PUBLISHED FOR OPPOSITION
24-JUL-2003 PAPER RECEIVED
23-JUL-2003 NOTICE OF PUBLICATION

13-JUN-2003 APPROVED FOR PUB - PRINCIPAL REGISTER
15-APR-2003 CORRESPONDENCE RECEIVED IN LAW OFFICE
15-APR-2003 TEAS RESPONSE TO OFFICE ACTION RECEIVED
11-DEC-2002 NON-FINAL ACTION MAILED
21-NOV-2002 ASSIGNED TO EXAMINER
09-AUG-2002 TEAS PRELIMINARY AMENDMENT RECEIVED

PARALLELE 45

US-10:Q8

Trademark PARALLELE 45
Full Text Translation THE ENGLISH TRANSLATION OF "PARALLELE" IS "PARALLEL".
Trademark Translation PARALLEL
Design Type WORD ONLY
Database U.S. Federal
Application Number 76146225
Registration Number 2682366
Status REGISTERED
Affidavit Section REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.
Affidavit Date 31-DEC-2008
Status According to PTO (702) SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date 31-DEC-2008
Application Date 12-OCT-2000
Published 12-NOV-2002
Registration Date 04-FEB-2003
International Class(es) 33 (Wines and spirits)
Goods and Services (INT. CL. 33) WINES
International Class **International Class:** 33
First Used: 1978
In Commerce: 1978
Registrant PAUL JABOULET AINE
FRANCE CORPORATION
LES JALETS - RN7, LA ROCHE DE GLUN
26600 TAIN L'HERMITAGE
FR (FRANCE)
Owner at Publication PAUL JABOULET AINE
FRANCE CORPORATION
LES JALETS - RN7, LA ROCHE DE GLUN
26600 TAIN L'HERMITAGE
FR (FRANCE)
Applicant PAUL JABOULET AINE
FRANCE CORPORATION
LES JALETS - RN7, LA ROCHE DE GLUN
26600 TAIN L'HERMITAGE
FR (FRANCE)
TTAB Information **Opposition Number:** 91181507
Date: 26-DEC-2007
Outcome: TERMINATED, 29-DEC-2008
Defendant: CAB 4 TEN, LLC
Application Number: 77080475
Registration Number: 0000000
Mark: PARALLEL NAPA VALLEY
Trademark Defendant Correspondent:
RANDALL B. BATEMAN
BATEMAN IP LAW GROUP
8 EAST BROADWAY, SUITE 5500, P.O. BOX 1319
SALT LAKE CITY
UT
84110-1319
Plaintiff: PAUL JABOULET AINE
Application Number: 76146225
Registration Number: 2682366
Mark: PARALLELE 45
Correspondent:
JULIE B. SEYLER
ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE

G0223

NEW YORK
NY
10017
TTAB Entry: #17 WITHDRAWAL OF COUNTERCLAIM, 11-DEC-2008
TTAB Entry: #16 RESPONSE DUE RE: CIVIL ACTION, 12-NOV-2008

Foreign Registration Claimed 1240707
Foreign Registration Date 12-JUL-1993
Foreign Registration Expires 12-JUL-2003
Foreign Registration Country France
Reference Number 866309
Correspondent Info LAWRENCE E. ABELMAN
ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK NY 10017-5621

Domestic Representative LAWRENCE E. ABELMAN

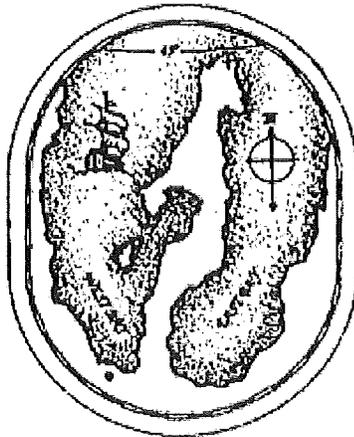
History 31-DEC-2008 REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.
15-DEC-2008 ASSIGNED TO PARALEGAL
09-DEC-2008 TEAS SECTION 8 & 15 RECEIVED
23-MAR-2008 COUNTERCLAIM OPP. NO. 999999
06-FEB-2008 CASE FILE IN TICRS
02-SEP-2006 REVIEW OF CORRESPONDENCE COMPLETE
21-AUG-2006 PAPER RECEIVED
04-FEB-2003 REGISTERED-PRINCIPAL REGISTER
12-NOV-2002 PUBLISHED FOR OPPOSITION
23-OCT-2002 NOTICE OF PUBLICATION
11-JUL-2002 APPROVED FOR PUB - PRINCIPAL REGISTER
08-MAY-2002 CORRESPONDENCE RECEIVED IN LAW OFFICE
08-MAY-2002 PAPER RECEIVED
01-FEB-2002 FINAL REFUSAL MAILED
23-AUG-2001 CORRESPONDENCE RECEIVED IN LAW OFFICE
13-MAR-2001 NON-FINAL ACTION MAILED

G0224

WESTBAY EASTBAY 45 N

US-11:Q8

Image



Trademark WESTBAY EASTBAY 45 N
Design Type WORD AND DESIGN
Database U.S. Federal
Application Number 75118676
Registration Number 2097065
Status RENEWED (REGISTERED)
Affidavit Section REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED
Affidavit Date 26-JUL-2007
Status According to PTO (800) REGISTERED AND RENEWED
USPTO Status Date 26-JUL-2007
Application Date 31-MAY-1996
Published 24-JUN-1997
Registration Date 16-SEP-1997
OG Renewal 28-AUG-2007
Renewed 16-SEP-2007
International Class(es) 33 (Wines and spirits)
 35 (Advertising and business services)
Goods and Services (INT. CL. 33) WINES
 (INT. CL. 35) WHOLESALE AND RETAIL DISTRIBUTORSHIP SERVICES FEATURING WINE
International Class International Class: 33
First Used: 20-MAY-1995
In Commerce: 17-APR-1996
 International Class: 35
First Used: 20-MAY-1995
In Commerce: 17-APR-1996
Registrant GRAPE HARBOR, INC. DBA "OLD MISSION PENINSULA CELLARS"
 MICHIGAN CORPORATION
 2464 KROUPA ROAD
 TRAVERSE CITY, MICHIGAN 49686
Owner at Publication GRAPE HARBOR, INC. DBA "OLD MISSION PENINSULA CELLARS"
 MICHIGAN CORPORATION
 2464 KROUPA ROAD
 TRAVERSE CITY, MICHIGAN 49686
Applicant GRAPE HARBOR, INC. DBA "OLD MISSION PENINSULA CELLARS"
 MICHIGAN CORPORATION
 2464 KROUPA ROAD

G0225

TRVERSE CITY, MICHIGAN 49686

Filing Attorney DOUGLAS S. BISHOP

Correspondent Info DOUGLAS S. BISHOP
BISHOP & HEINTZ, P.C.
P.O. BOX 707
440 W. FRONT AT OAK STREET
TRVERSE CITY MI 49685-0707

Lining Stippling THE STIPPLING SHOWN IN THE DRAWING IS A FEATURE OF THE MARK AND IS NOT INTENDED TO INDICATE COLOR.

Design Codes 200310 BOTTLE LABELS SUCH AS WINE LABELS WHISKEY BOTTLE LABELS
011714 WORLD MAPS
180703 VIKING BOATS, ANCIENT SAILING VESSELS, CHINESE JUNKS, BOATS WITH SINGLE SQUARE SAIL
170705 DIRECTIONAL COMPASSES, INCLUDING MARINERS' COMPASSES EXCLUDING: COMPASS CARDS (1.1.6)

History 27-SEP-2008 NOTICE OF DESIGN SEARCH CODE MAILED
26-JUL-2007 REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)
26-JUL-2007 REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED
20-JUL-2007 ASSIGNED TO PARALEGAL
27-JUN-2007 REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED
27-JUN-2007 TEAS SECTION 8 & 9 RECEIVED
02-MAR-2007 CASE FILE IN TICRS
13-NOV-2002 REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.
23-SEP-2002 REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED
23-SEP-2002 PAPER RECEIVED
16-SEP-1997 REGISTERED-PRINCIPAL REGISTER
24-JUN-1997 PUBLISHED FOR OPPOSITION
23-MAY-1997 NOTICE OF PUBLICATION
21-APR-1997 APPROVED FOR PUB - PRINCIPAL REGISTER
11-APR-1997 PREVIOUS ALLOWANCE COUNT WITHDRAWN
24-MAR-1997 APPROVED FOR PUB - PRINCIPAL REGISTER
05-MAR-1997 CORRESPONDENCE RECEIVED IN LAW OFFICE
24-JAN-1997 CORRESPONDENCE RECEIVED IN LAW OFFICE
24-JAN-1997 CORRESPONDENCE RECEIVED IN LAW OFFICE
24-FEB-1997 NON-FINAL ACTION MAILED
06-JAN-1997 NON-FINAL ACTION MAILED
26-DEC-1996 ASSIGNED TO EXAMINER

Q8: U.S. State 1 - 1 of 1

OLD NO. 45 STOUT

ST-1:Q8

Trademark OLD NO. 45 STOUT

Cross References OLD NUMBER 45 STOUT

Design Type WORD AND DESIGN

Database U.S. State

Registered in CALIFORNIA

Registration Number 89318

Status REGISTERED CA

Registration Date 26-JAN-1989

Mark Type TRADEMARK

International Class(es) 32 (Light beverages)

Official State Class(es) 48

Goods and Services BREWED BEER

Date First Use State 02-SEP-1988

Date First Use Anywhere 30-JUN-1988

Owner MARK E. RUEDRICH
DBA NORTH COAST BREWING COMPANY
LIMITED PARTNERSHIP

G0226

444 NORTH MAIN STREET
FORT BRAGG, CALIFORNIA 95437

THOMAS MOORE ALLEN
DBA NORTH COAST BREWING COMPANY
444 NORTH MAIN STREET
FORT BRAGG, CALIFORNIA 95437

JOE ROSENTHAL
DBA NORTH COAST BREWING COMPANY
444 NORTH MAIN STREET
FORT BRAGG, CALIFORNIA 95437

Design Phrase "OLD NO. 45 STOUT" AND DESCRIPTION CONSISTING OF FORWARD-FACING STEAM TRAIN ON TRACKS WITH NORTH COAST BREWING COMPANY EMBLEM ABOVE AND RIBBON WITH CENTRAL DISC WITH NAME PRINTED THEREON BELOW

Manner of Display ON LABELS AND TAGS AFFIXED TO CONTAINERS OF THE GOODS

Q8: Canada 1 - 3 of 3

PARALLELE "45"

CA-1:Q8

Trademark PARALLELE "45"
Thomson CompuMark Trademark PARALLELE "45"
Trademark Translation PARALLEL "45"
Design Type WORD ONLY
Database Canada
Application Number 107063900
Registration Number TMA579295
Mark Type Trade-Mark
Status REGISTERED
Chronology Filed: 18-AUG-2000
 Formalized: 22-AUG-2000
 Advertised: 10-JUL-2002 Vol: 49 No: 2489
 Allowed: 27-SEP-2002
 Registered: 09-APR-2003
 Registration Type: TMA - Trademark Act
Thomson CompuMark Class (es) 33 (Wines and spirits)
Goods and Services (1) Vins.
Wares Translation (1) Wines, sparkling wines, French wines namely champagne, alcohols, spirits, liqueurs, ciders and spirits. (2) Wines.
Applicant/Registrant PAUL JABOULET AINE
 LES JALETS - RN7
 LA ROCHE DE GLUN
 2660 TAIN L'HERMITAGE
 France
First Use Information Used in CANADA since at least as early as 1988 on wares marked (1)
Subject Headings PARALLELE "45"
 NUMERALS-45
Action History Rep for Service Changed evidence on File No. 1070639
 Rep for Service Changed on 21-OCT-2004 From: 13146 To: / Voir Preuve au dossier/See Registered on 09-APR-2003
 Rep for Service Changed on 02-APR-2003 From: 796 To: 13146
 Agent changed on 02-APR-2003 From: 796 To: 13146
 Allowance Notice Sent on 27-SEP-2002
 Response Due by 27-MAR-2003
 Allowed on 27-SEP-2002
 Correspondence Created on 23-SEP-2002

G0227

Advertised on 10-JUL-2002 Vol.49 Issue 2489
Extracted for Advertisement on 26-JUN-2002 Vol.49 Issue 2489 2002/07/10
Translation Received on 25-JUN-2002
Translation Requested on 11-JUN-2002 20020625150657
Response Due by 03-JUL-2002
Approved on 05-JUN-2002
Correspondence Created on 08-MAY-2002
Response Due by 08-SEP-2002
Examiner's First Report on 18-JAN-2002
Response Due by 18-MAY-2002
Search Recorded on 03-JAN-2002
Note to file on 24-AUG-2000 Corrected TM (quotation marks not transmitted through EC.)
Formalized on 22-AUG-2000
Created on 21-AUG-2000
Filed on 18-AUG-2000

G0228

COLT 45 & DESIGN

CA-2:Q8

Image



Trademark COLT 45 & DESIGN
Thomson CompuMark Trademark COLT 45
Design Type DESIGN ONLY
Database Canada
Application Number 039280900
Registration Number TMA228117
Mark Type Trade-Mark
Status REGISTERED
Chronology Filed: 19-DEC-1975
Registered: 26-MAY-1978
Registration Type: TMA - Trademark Act
Renewed: 26-MAY-2008
Thomson CompuMark Class (es) 32 (Light beverages)
Goods and Services (1) Beer, ale, porter and malt liquor.
Applicant/Registrant CARLING NATIONAL BREWERIES, INC.
7 East Redwood Street
Baltimore, Maryland
21202
United States of America
Current Owner 841419 Alberta Ltd.
c/o 551 Clair Street West,
Guelph,
Ontario
N1H 6H9
Representative for Service GOWLING LAFLEUR HENDERSON LLP
SUITE 2600, 160 ELGIN STREET
OTTAWA
ONTARIO K1P 1C3
613-233-1781
Interested Parties **Old Owner:**
COLT BREWERIES OF AMERICA B.V.
11 Museumplein
Amsterdam
NETHERLANDS

G0229

Old Owner:
 Miller Brewing Company
 100 RIVER PLACE
 DETROIT, MICHIGAN 48207
 UNITED STATES OF AMERICA

Old Owner:
 Pabst Brewing Company
 (a Delaware corporation)
 100 Shoreline Highway,
 Mill Valley, CA 94941
 UNITED STATES OF AMERICA

Old Owner:
 PBC Canada Inc.
 c/o 100 Shoreline Highway,
 Mill Valley, CA 94941
 UNITED STATES OF AMERICA

Old Owner:
 THE STROH BREWERY COMPANY
 100 RIVER PLACE
 DETROIT, MICHIGAN 48207
 UNITED STATES OF AMERICA

Declaration of Use Information Declaration of use filed May 16, 1978 on wares marked (1)

Associated Marks TMA161,598

Footnotes **CHANGE IN TITLE/CHANGEMENT EN TITRE:**
 TYPE OF CHANGE/GENRE DE CHANGEMENT:
 Owner/Propriétaire
 DATE REGISTERED/DATE DE L'ENREGISTREMENT:
 20 nov/Nov 1979
 DATE OF CHANGE/DATE DE CHANGEMENT:
 23 mars/Mar 1979
 COMMENTS/COMMENTAIRES:
 C & N HOLDINGS LIMITED (A DELAWARE
 CORPORATION)
 SEE EVIDENCE ON FILE/VOIR PREUVE SUR LE DOSSIER
 310340

CHANGE IN TITLE/CHANGEMENT EN TITRE:
 TYPE OF CHANGE/GENRE DE CHANGEMENT:
 Assignment/Cession
 DATE REGISTERED/DATE DE L'ENREGISTREMENT:
 19 janv/Jan 1982
 DATE OF CHANGE/DATE DE CHANGEMENT:
 20 nov/Nov 1980
 COMMENTS/COMMENTAIRES:
 NATIONAL BREWING COMPANY NV
 SEE EVIDENCE ON FILE/VOIR PREUVE SUR LE DOSSIER
 310340

CHANGE IN TITLE/CHANGEMENT EN TITRE:
 TYPE OF CHANGE/GENRE DE CHANGEMENT:
 Assignment/Cession
 DATE REGISTERED/DATE DE L'ENREGISTREMENT:
 19 janv/Jan 1982
 DATE OF CHANGE/DATE DE CHANGEMENT:
 04 mars/Mar 1981
 COMMENTS/COMMENTAIRES:
 COLT BREWERIES OF AMERICA B.V. 11
 Museumplein Amsterdam, The Netherlands
 SEE EVIDENCE ON FILE/VOIR PREUVE SUR LE DOSSIER
 310340

CHANGE IN TITLE/CHANGEMENT EN TITRE:

G0230

TYPE OF CHANGE/GENRE DE CHANGEMENT:
Assignment/Cession
DATE REGISTERED/DATE DE L'ENREGISTREMENT:
27 janv/Jan 1998
DATE OF CHANGE/DATE DE CHANGEMENT:
02 oct/Oct 1997
COMMENTS/COMMENTAIRES:
FROM: COLT BREWERIES OF AMERICA B.V.
TO:
THE STROH BREWERY COMPANY
Voir Preuve au dossier/See evidence on File No. 310340

CHANGE IN TITLE/CHANGEMENT EN TITRE:
TYPE OF CHANGE/GENRE DE CHANGEMENT:
Assignment/Cession
DATE REGISTERED/DATE DE L'ENREGISTREMENT:
13 juil/Jul 1999
DATE OF CHANGE/DATE DE CHANGEMENT:
30 avr/Apr 1999
COMMENTS/COMMENTAIRES:
FROM: THE STROH BREWERY COMPANY
TO:
Miller Brewing Company
Voir Preuve au dossier/See evidence on File No. 310340

CHANGE IN TITLE/CHANGEMENT EN TITRE:
TYPE OF CHANGE/GENRE DE CHANGEMENT:
Assignment/Cession
DATE REGISTERED/DATE DE L'ENREGISTREMENT:
13 juil/Jul 1999
DATE OF CHANGE/DATE DE CHANGEMENT:
30 avr/Apr 1999
COMMENTS/COMMENTAIRES:
FROM: Miller Brewing Company
TO:
Pabst Brewing Company
(a Delaware corporation)
Voir Preuve au dossier/See evidence on File No. 310340
Security Agreement Placed on File/Accord de sécurité inscrit au dossier
DATE RECORDED/DATE CONSIGNEE:
13 juil/Jul 1999
DATE OF CHANGE/DATE DE CHANGEMENT:
13 juil/Jul 1999
COMMENTS/COMMENTAIRES:
LEHMAN COMMERCIAL PAPER INC.
Voir Preuve au dossier/See evidence on File No. 310340
Security Agreement Removed/Accord de sécurité retiré
DATE RECORDED/DATE CONSIGNEE:
28 oct/Oct 1999
DATE OF CHANGE/DATE DE CHANGEMENT:
28 oct/Oct 1999
COMMENTS/COMMENTAIRES:
Lehman Commercial Paper Inc., as
Administrative Agent
Voir Preuve au dossier/See evidence on File No. 48756

CHANGE IN TITLE/CHANGEMENT EN TITRE:
TYPE OF CHANGE/GENRE DE CHANGEMENT:
Assignment/Cession
DATE REGISTERED/DATE DE L'ENREGISTREMENT:
07 déc/Dec 1999
DATE OF CHANGE/DATE DE CHANGEMENT:
10 sept/Sep 1999
COMMENTS/COMMENTAIRES:
FROM: Pabst Brewing Company
(a Delaware corporation)

G0231

TO:
 PBC Canada Inc.
 Voir Preuve au dossier/See evidence on File No. 48756
 Record License Agreement/Accord de licence enregistré
 DATE RECORDED/DATE CONSIGNEE:
 08 déc/Dec 1999
 DATE OF CHANGE/DATE DE CHANGEMENT:
 08 déc/Dec 1999
 COMMENTS/COMMENTAIRES:
 The Stroh Brewery Company (Quebec) Ltd.
 Voir Preuve au dossier/See evidence on File No. 48756
 Record License Agreement/Accord de licence enregistré
 DATE RECORDED/DATE CONSIGNEE:
 08 déc/Dec 1999
 DATE OF CHANGE/DATE DE CHANGEMENT:
 08 déc/Dec 1999
 COMMENTS/COMMENTAIRES:
 841412 Alberta Ltd.
 Voir Preuve au dossier/See evidence on File No. 48756
 Security Agreement Placed on File/Accord de sécurité inscrit au dossier
 DATE RECORDED/DATE CONSIGNEE:
 08 déc/Dec 1999
 DATE OF CHANGE/DATE DE CHANGEMENT:
 08 déc/Dec 1999
 COMMENTS/COMMENTAIRES:
 841419 Alberta Ltd.
 Voir Preuve au dossier/See evidence on File No. 48756

CHANGE IN TITLE/CHANGEMENT EN TITRE:
 TYPE OF CHANGE/GENRE DE CHANGEMENT:
 Assignment/Cession
 DATE REGISTERED/DATE DE L'ENREGISTREMENT:
 09 avr/Apr 2001
 DATE OF CHANGE/DATE DE CHANGEMENT:
 13 mars/Mar 2001
 COMMENTS/COMMENTAIRES:
 FROM: PBC Canada Inc.
 TO:
 841419 Alberta Ltd.
 Voir Preuve au dossier/See evidence on File No. 48756

Subject Headings COLT 45
 HORSE
 HORSESHOE
 NUMERALS - 45

Action History Renewed HENDERSON LLP
 Renewed on 26-MAY-2008 DP:2008/05/28 RD:2008/05/27 RR:(8390) GOWLING LAFLEUR
 Change of Title No. 48756
 Change of Title on 09-APR-2001 Assignment / Voir Preuve au dossier/See evidence on File
 Rep for Service Name Changed on 04-JUL-2000
 Agent Name Changed on 04-JUL-2000
 Rep for Service Changed on 11-MAY-2000 From: 10655 To: 8390
 Record Security Interest/License Agreements on 08-DEC-1999 Security Agreement Placed on File
 Record Security Interest/License Agreements on 08-DEC-1999 Record License Agreement
 Record Security Interest/License Agreements on 08-DEC-1999 Record License Agreement
 Change of Title on 07-DEC-1999 Assignment
 Agent changed on 07-DEC-1999 From: To: 10655
 Rep for Service Changed on 07-DEC-1999 From: 3089 To: 10655
 Record Security Interest/License Agreements on 28-OCT-1999 Security Agreement Removed
 Record Security Interest/License Agreements on 13-JUL-1999 Security Agreement Placed on File
 Change of Title on 13-JUL-1999 Assignment
 Change of Title on 13-JUL-1999 Assignment
 Rep for Service Changed on 27-JAN-1998 From: 3272 To: 3089
 Change of Title on 27-JAN-1998 Assignment
 Renewed on 26-MAY-1993

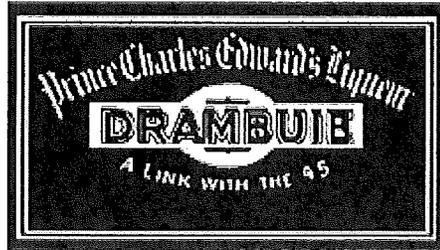
G0232

Registered on 26-MAY-1978
Filed on 19-DEC-1975

DRAMBUIE & LABEL DESIGN

CA-3:Q8

Image



Trademark DRAMBUIE & LABEL DESIGN
Thomson CompuMark Trademark PRINCE CHARLES EDWARD'S LIQUEUR DRAMBUIE A LINK WITH THE 45
Design Type DESIGN ONLY
Database Canada
Application Number 021653200
Registration Number UCA044225
Mark Type Trade-Mark
Status REGISTERED
Chronology Filed: 05-NOV-1952
Registered: 05-NOV-1952
Registration Type: UCA - Unfair Competition Act
Renewed: 05-NOV-1997
Thomson CompuMark Class(es) 33 (Wines and spirits)
Goods and Services (1) Liqueurs, wines and spirits.
Applicant/Registrant THE DRAMBUIE LIQUEUR COMPANY LIMITED
18 Westerton Road
Broxburn, Scotland
EH52 5AQ
United Kingdom
Representative for Service DENNISON ASSOCIATES
133 RICHMOND STREET WEST
SUITE 301
TORONTO
ONTARIO M5H 2L7
416-368-8313
First Use Information Date of first use in CANADA 1925 on wares marked (1)
Foreign Usage Information Used in UNITED KINGDOM
Design Phrase A rectangular label in the centre of which appears a horizontal panel the central portion of which bulges outwardly, reading matter in large capital letters appearing on the panel, and further reading matter being accurately disposed above and below the panel, the whole being enclosed within a frame-like margin.
Associated Marks TMA525,267
TMA525,269
TMA525,270
UCA49920
TMDA25958
Footnotes CHANGE IN TITLE/CHANGEMENT EN TITRE:
TYPE OF CHANGE/GENRE DE CHANGEMENT:
Name/Nom
DATE REGISTERED/DATE DE L'ENREGISTREMENT:
25 avr/Apr 1958
DATE OF CHANGE/DATE DE CHANGEMENT:
26 mai/May 1958
COMMENTS/COMMENTAIRES:

G0234

THE DRAMBUJE LIQUEUR COMPANY LIMITED
 SEE EVIDENCE ON FILE/VOIR PREUVE SUR LE DOSSIER 99013

OWNER ADDRESS CHANGE/CHANGEMENT D'ADRESSE DU PROPRIÉTAIRE:
 DATE REGISTERED/DATE DE L'ENREGISTREMENT:
 15 oct/Oct 1999
 COMMENTS/COMMENTAIRES:

Voir Preuve au dossier/See evidence on File No. 99013

OWNER ADDRESS CHANGE/CHANGEMENT D'ADRESSE DU PROPRIÉTAIRE:
 DATE REGISTERED/DATE DE L'ENREGISTREMENT:
 20 fév/Feb 2002
 COMMENTS/COMMENTAIRES:

Voir Preuve au dossier/See evidence on File No. 99013

OWNER ADDRESS CHANGE/CHANGEMENT D'ADRESSE DU PROPRIÉTAIRE:
 DATE REGISTERED/DATE DE L'ENREGISTREMENT:
 29 août/Aug 2005
 COMMENTS/COMMENTAIRES:
 Voir Preuve au dossier/See evidence on
 File No. 376031

OWNER ADDRESS CHANGE/CHANGEMENT D'ADRESSE DU PROPRIÉTAIRE:
 DATE REGISTERED/DATE DE L'ENREGISTREMENT:
 19 nov/Nov 2007
 COMMENTS/COMMENTAIRES:
 Voir Preuve au dossier/See evidence on
 File No. 376031

Subject Headings LABEL
 RECTANGLES
 PRINCE CHARLES EDWARD'S LIQUEUR
 DRAMBULE
 A LINK WITH THE 45
 NUMERALS - 45

Action History Amendment to Registration on File No. 376031
 Amendment to Registration on 19-NOV-2007 Owner Address Change / Voir Preuve au dossier/See evidence
 Rep for Service Changed evidence on File No. 376031
 Rep for Service Changed on 19-NOV-2007 From: 3272 To: 3072 / Voir Preuve au dossier/See
 Amendment to Registration on File No. 376031
 Amendment to Registration on 29-AUG-2005 Owner Address Change / Voir Preuve au dossier/See evidence
 Amendment to Registration on File No. 99013
 Amendment to Registration on 20-FEB-2002 Owner Address Change / Voir Preuve au dossier/See evidence
 Amendment to Registration on 15-OCT-1999 Owner Address Change
 Renewed on 05-NOV-1997 DP:1997/10/20 RD: 1997/10/06
 Renewed on 05-NOV-1982
 Registered on 05-NOV-1952
 Filed on 05-NOV-1952

Q8: Mexico 1 - 2 of 2

CACHAZA 45

MX-1:Q8

Trademark CACHAZA 45
 Design Type WORD ONLY
 Database Mexico
 Application Number 437132
 Registration Number 670445
 Status REGISTERED

G0235

Application Date 19-JUL-2000
Registration Date 30-AUG-2000
Gazette Registration AUG-2000
Mark Type TRADEMARK
International Class(es) 33 (Wines and spirits)
Goods and Services TODA CLASE DE BEBIDAS ALCOHOLICAS (CON EXCEPCION DE CERVEZAS).
Goods and Services ALL CLASSES OF ALCOHOLIC DRINKS (EXCEPT BEERS).
Translation
Owner at Registration SANTIAGO RAMON DE LA RIVA GONZALEZ
LOPES COTILLA # 763 DEPTO. 4, COL. DEL VALLE, MEXICO, D.F., 03100
MX (MEXICO)

G0236

COLT 45

MX-2:Q8

Image



Trademark COLT 45
Design Type WORD AND DESIGN
Database Mexico
Application Number 109975
Registration Number 429837
Status RENEWED (REGISTERED)
Application Date 04-APR-1991
Registration Date 25-JAN-1993
Gazette Registration JAN-1993
Renewed through 04-APR-2011
Mark Type TRADEMARK
International Class(es) 32 (Light beverages)
Goods and Services CERVEZAS
Goods and Services BEERS
Translation
Owner at Registration COLT BREWERIES OF AMERICA BV
7 JOH, VERMEERSTRAAT, AMSTERDAM, 00000
NL (NETHERLANDS)
Owner History Gazette Renewal: MAR-2001
Renewed through: 04-APR-2011
Assignee: MILLER BREWING COMPANY
Gazette Assignment: JUL-2000
Assignee: PABST BREWING COMPANY
Gazette Assignment: JUL-2000
Assignee: THE STROH BREWERY COMPANY
Gazette Assignment: DEC-1997

G0237

EXHIBIT 3

Side - 1



NOTICE OF PUBLICATION UNDER §12(a)

MAILING DATE: Apr 7, 2010

PUBLICATION DATE: Apr 27, 2010

The mark identified below will be published in the Official Gazette on Apr 27, 2010. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Certificate of Registration.

To view the Official Gazette online or to order a paper copy, visit the USPTO website at <http://www.uspto.gov/web/trademarks/tmog/> any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at <http://bookstore.gpo.gov> or 202-512-1800. To check the status of your application, go to <http://tarr.uspto.gov/>.

SERIAL NUMBER: 77806650

MARK: 45

OWNER: S.P. Grossnickle, LLC

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

JAMES D. HALL
BOTKIN & HALL, LLP
105 E JEFFERSON BLVD STE 400
SOUTH BEND, IN 46601-1913

Trademark Snap Shot Publication & Issue Review Stylesheet
 (Table presents the data on Publication & Issue Review Complete)

OVERVIEW

SERIAL NUMBER	77806650	FILING DATE	08/18/2009
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	BUCHANAN WILL, NORA	L.O. ASSIGNED	116

PUB INFORMATION

RUN DATE	03/23/2010		
PUB DATE	04/27/2010		
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE		
STATUS DATE	03/22/2010		
LITERAL MARK ELEMENT	45		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	RE PUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	NO
LITERAL MARK ELEMENT	45

MARK DRAWING CODE	3-AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	S.P. Grossnickle, LLC
ADDRESS	1428 S. Freedom Parkway Winona Lake, IN 46590
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Indiana
DBA/AKA	DBA Forty-Five North Vineyard and Winery

GOODS AND SERVICES

INTERNATIONAL CLASS	033
DESCRIPTION TEXT	Wine

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	FIRST USE DATE	FIRST USE IN COMMERCE DATE	CLASS STATUS
033	03/15/2008	07/04/2008	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
COLORS CLAIMED STATEMENT	Color is not claimed as a feature of the mark.
DESCRIPTION OF MARK	The mark consists of stylized numbers 45 with a stylized circle around the same.

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
03/22/2010	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	012
03/22/2010	ALIE	A	ASSIGNED TO LIE	011
03/04/2010	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	010
12/30/2009	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	009
12/30/2009	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	008
12/30/2009	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	007
11/23/2009	CNRT	F	NON-FINAL ACTION MAILED	006

11/21/2009	CNRT	R	NON-FINAL ACTION WRITTEN	005
11/21/2009	DOCK	D	ASSIGNED TO EXAMINER	004
08/22/2009	MDSC	O	NOTICE OF DESIGN SEARCH CODE MAILED	003
08/21/2009	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
08/21/2009	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	James D. Hall
CORRESPONDENCE ADDRESS	JAMES D. HALL BOTKIN & HALL, LLP 105 E JEFFERSON BLVD STE 400 SOUTH BEND, IN 46601-1913
DOMESTIC REPRESENTATIVE	NONE



Trademark Snap Shot Publication Stylesheet
(Table presents the data on Publication Approval)

OVERVIEW

SERIAL NUMBER	77806650	FILING DATE	08/18/2009
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	BUCHANAN WILL, NORA	L.O. ASSIGNED	116

PUB INFORMATION

RUN DATE	03/05/2010
PUB DATE	N/A
STATUS	680-APPROVED FOR PUBLICATION
STATUS DATE	03/04/2010
LITERAL MARK ELEMENT	45

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	NO
LITERAL MARK ELEMENT	45

MARK DRAWING CODE	3-AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	S.P. Grossnickle, LLC
ADDRESS	1428 S. Freedom Parkway Winona Lake, IN 46590
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Indiana
DBA/AKA	DBA Forty-Five North Vineyard and Winery

GOODS AND SERVICES

INTERNATIONAL CLASS	033
DESCRIPTION TEXT	Wine

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	033	FIRST USE DATE	03/15/2008	FIRST USE IN COMMERCE DATE	07/04/2008	CLASS STATUS	6-ACTIVE
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MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
COLORS CLAIMED STATEMENT	Color is not claimed as a feature of the mark.
DESCRIPTION OF MARK	The mark consists of stylized numbers 45 with a stylized circle around the same.

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
03/04/2010	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	010
12/30/2009	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	009
12/30/2009	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	008
12/30/2009	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	007
11/23/2009	CNRT	F	NON-FINAL ACTION MAILED	006
11/21/2009	CNRT	R	NON-FINAL ACTION WRITTEN	005
11/21/2009	DOCK	D	ASSIGNED TO EXAMINER	004

08/22/2009	MDSC	O	NOTICE OF DESIGN SEARCH CODE MAILED	003
08/21/2009	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
08/21/2009	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	James D. Hall
CORRESPONDENCE ADDRESS	JAMES D. HALL BOTKIN & HALL, LLP 105 E JEFFERSON BLVD STE 400 SOUTH BEND, IN 46601-1913
DOMESTIC REPRESENTATIVE	NONE



Trademark Snap Shot Amendment & Mail Processing Stylesheet
(Table presents the data on Amendment & Mail Processing Complete)

OVERVIEW

SERIAL NUMBER	77806650	FILING DATE	08/18/2009
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	BUCHANAN WILL, NORA	L.O. ASSIGNED	116

PUB INFORMATION

RUN DATE	12/31/2009		
PUB DATE	N/A		
STATUS	661-RESPONSE AFTER NON-FINAL-ACTION-ENTERED		
STATUS DATE	12/30/2009		
LITERAL MARK ELEMENT	45		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPub 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	NO
LITERAL MARK ELEMENT	45

MARK DRAWING CODE	3-AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	S.P. Grossnickle, LLC
ADDRESS	1428 S. Freedom Parkway Winona Lake, IN 46590
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Indiana
DBA/AKA	DBA Forty-Five North Vineyard and Winery

GOODS AND SERVICES

INTERNATIONAL CLASS	033
DESCRIPTION TEXT	Wine

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	FIRST USE DATE	FIRST USE IN COMMERCE DATE	CLASS STATUS
033	03/15/2008	07/04/2008	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
COLORS CLAIMED STATEMENT	Color is not claimed as a feature of the mark.
DESCRIPTION OF MARK	The mark consists of stylized numbers 45 with a stylized circle around the same.

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
12/30/2009	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	009
12/30/2009	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	008
12/30/2009	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	007
11/23/2009	CNRT	F	NON-FINAL ACTION MAILED	006
11/21/2009	CNRT	R	NON-FINAL ACTION WRITTEN	005
11/21/2009	DOCK	D	ASSIGNED TO EXAMINER	004
08/22/2009	MDSC	O	NOTICE OF DESIGN SEARCH CODE MAILED	003

08/21/2009	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
08/21/2009	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	James D. Hall
CORRESPONDENCE ADDRESS	JAMES D. HALL BOTKIN & HALL, LLP 105 E JEFFERSON BLVD STE 400 SOUTH BEND, IN 46601-1913
DOMESTIC REPRESENTATIVE	NONE



Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77806650
LAW OFFICE ASSIGNED	LAW OFFICE 116
MARK SECTION (no change)	
ARGUMENT(S)	<p>The Office Action of November 23, 2009 is acknowledged. In response to the Office Action, Applicant states the following:</p> <p>I. INTRODUCTION</p> <p>The examining attorney has refused registration of the Applicant's mark under the Trademark Act § 2(d), 15 U.S.C. § 1052(d) on the ground that the mark 45 Design is likely to be confused with a similar mark for related goods (Reg. Nos. 3,491,062 for 45 MAGIC). The examining attorney has also noted that Applicant's mark may potentially be refused registration because of a likelihood of confusion with a pending application for registration (Serial No. 77/672,446 for VIN 45). The Applicant requests that the examining attorney withdraw the refusal based on the Applicant's following arguments in support of registration.</p> <p>In testing for likelihood of confusion, the similarity or dissimilarity of the marks with regard to appearance, sound, connotation, commercial impression, sophistication of the purchaser, and channels of trade should be reviewed. <i>In re E.I. DuPont DeNemours & Co.</i>, 476 F.2d 1357, 177 U.S.P.Q. 563 (C.C.P.A. 1973); TMEP § 1207.01. Similarity of the marks in one respect-sight, sound or meaning-will not automatically result in a finding of likelihood of confusion even if the goods are identical or closely related. TMEP § 1207.01(b) (i). The Applicant contends that, in this case, a likelihood of confusion does not exist.</p>

II. SECTION 2(d) REFUSAL; MARKS ARE NOT LIKELY TO CAUSE CONFUSION

A. Different and Distinct Commercial Impressions are Made by the Marks.

Applicant respectfully submits that there are more dissimilarities between the two marks than similarities and that, as a result, they create different and distinct commercial impressions. For example, the Registrant's mark consists of the numeral "45" followed by the word "magic." On the other hand, Applicant's mark consists of the numeral "45" partially encircled. Applicant's mark contains no words.

It has been held that the dissimilarity of marks with respect to appearance, sound, significance and commercial impression may be the dispositive factor under *E.I. DuPont DeNemours & Co.*, 476 F.2d 1357 (CCPA 1973). See, for example, *Champagne Louis Roederer, S.A. v. Delicato Vineyards*, 148 F.3d 1373 (Fed. Cir. 1998) in which the Federal Circuit rejected an argument to the effect that it was an error of law for the Trademark Trial and Appeals Board to rely solely on the dissimilarity of the marks in evaluating the likelihood of confusion.

Even so, in the present case, the rejection is based on only a portion of the mark, specifically, the numeral "45." However, the marks in question must be reviewed for likelihood of confusion as a whole and not broken into component parts to reach a conclusion of confusing similarity. As the court noted in *In re Hearst Corp.*, 25 U.S.P.Q.2d 1238, 1239 (Fed. Cir. 1992), "marks tend to be perceived in their entireties, and all components thereof must be given appropriate weight."

Moreover, even marks which are identical in sound and/or appearance may create sufficiently different commercial impressions when applied to the respective parties' goods so that there is no likelihood of confusion. See, for example, *In re Sears, Roebuck and Co.*, 2 U.S.P.Q.2d 1312, 1987 WL 123813 (TTAB 1987) (CROSS-OVER for bras held not likely to be confused with CROSSOVER for ladies' sportswear).

In *Hearst, supra*, the court was considering the marks VARGA GIRL and VARGAS in connection with calendars. It concluded that, "When GIRL is given fair weight, along with VARGA, confusion with VARGAS becomes less likely." This was because of the difference in the overall impression created by the two marks.

Similarly, in the present case, when either MAGIC or VIN is given fair weight along with the numeral 45, confusion with the numeral 45 alone becomes less likely. Once again, this is because of the difference in the overall impression created by the various marks.

The situation in the present case is not unlike the situation which existed in *Keebler Company v. Murray Bakery Products*, 866 F.2d 1386 (Fed. Cir.1989). In that case, the dispute related to the marks PECAN SANDIES and PECAN SHORTEES for use in connection with cookies. The Federal Circuit agreed with the Trademark Trial and Appeals Board and with Murray Bakery Products to the effect that, while both marks "contain the word 'PECAN' and both marks contain words that begin with an 's' sound and terminate in an 'ees' sound, the marks are nonetheless, readily distinguishable in appearance. More important, their principal point of similarity is the word 'PECAN,' which is, at least, merely descriptive of a principal ingredient of both parties' cookies."

Here, not only is the principal point of similarity between the marks of the registrant and Applicant the numeral "45," the presence of that numeral is the only point of similarity. Otherwise, the marks are readily distinguishable in appearance, sound and projected connotation. Specifically, Applicant's mark has no words, when pronounced sounds nothing like the word "magic" and does nothing to connote "magic."

B. The Registration and Application Cited by the Examiner Provide Evidence of the Absence of a Likelihood of Confusion.

U.S. Registration No. 3,491,062 for 45 MAGIC was issued in August of 2008. The application for registration of the VIN45 mark (Serial No. 77/672,446) was filed in February of 2009 or some six months after the 45 MAGIC was registered. Nonetheless, the VIN45 application was approved and a Notice of Allowance has been issued. The only reason that the VIN45 mark has not yet registered is that its owner has not yet started to actually use the mark in commerce.

Significantly, the 45 MAGIC mark was not cited by the USPTO in its examination of the VIN45 application. No doubt, this is because it was determined that there was no likelihood of confusion between the two marks notwithstanding the fact that the description of goods and services to which the 45 MAGIC mark applied was "wines" and the description of goods and services to which the VIN45 mark was to be applied was "wine club services featuring periodic shipments of wine to members." Since there was no likelihood of confusion between these two marks, there is no reason to believe that there is a likelihood of confusion between either of these marks and Applicant's 45 Design mark.

The absence of a likelihood of confusion is further highlighted by the fact that Applicant's mark has been in use in commerce for nearly two years. During that time there have been no instances of

actual confusion between Applicant's mark and any other mark containing the numeral "45."

C. USPTO Official Records Support Registration of Identical and Similar Marks in Connection with Related Goods.

The USPTO has long been willing to register identical and similar marks in connection with related goods. With respect to wine, in addition to 45 MAGIC and VIN45, there are no less than five marks that have either been registered or Notices of Allowance issued notwithstanding the fact that each includes the numeral "45" and the fact that the description of goods and services applicable to each either mentions "wine" or is broad enough to include "wine." These marks are as follows:

1. WESTBAY EASTBAY 45 N for "wines," among other things (U.S. Reg. No. 2,097,065)
2. PARALLELE 45 for "wines" (U.S. Reg. No. 2,682,366)
3. BLOCK NO. 45 for "wines" (U.S. Reg. No. 3,163,804)
4. 45YGB for "wine," among other things (Serial No. 77/138,046, Notice of Allowance Issued)
5. CLUSTER M45 for "alcoholic beverages except beers" (Serial No. 77/706,863, Notice of Allowance issued).

The Certificates of Registration and Notices of Allowance for each of these marks are attached hereto at Exhibits A, B, C, D & E, respectively.

Examination of an application for a sixth mark containing the numeral "45" and relating to "wines" has been suspended (Serial No. 77/505,053 for ROUTE 45). However, it is worth noting that the reasons for the suspension did not relate to the presence of the numeral "45" in a mark relating to "wines." Instead, the suspension related to the existence of yet another pending application relating to "wines." That application is for the mark ROUTE 46 (Serial No. 77/316,200). In that matter, it has been determined that ROUTE 46 may be confusingly similar to ROUTE 45. The Notice of Suspension is attached hereto as Exhibit F.

The existence of so many registrations and marks for which Notices of Allowance have been issued highlights the absence of a likelihood of confusion despite the fact that each of the marks in question contain the numeral "45."

In fact, there are many instances in which similar marks have been held not to be confusingly similar despite the fact that the marks themselves were quite similar. For example, in *Sunenblick v. Harrell*, 895 F. Supp. 616, 628, 638 (S.D.N.Y, 1995) *aff'd. mem.* 101 F3d 684 (2d Cir. 1996) *cert. den.*

117 S. Ct. 386 (1996) the court found no reverse confusion between jazz records and hip hop records sold under the identical mark UPTOWN RECORDS even though both marks were for musical products which were sold in the same stores. Similarly, in *Swanson v. Georgetown Collection, Inc.*, Civ. No. 94-1283, 1995 WL 72717 (N.D.N.Y. 1995) the court found that reverse confusion was unlikely between the mark FARAWAY FRIENDS for porcelain dolls and FAR AWAY FRIENDS for cloth dolls. In addition, as noted above, VARGAS and VARGA GIRL were found not to be confusingly similar in *In re Hearst Corp.*, 25 U.S.P.Q.2d 1328 (Fed. Cir. 1992) even though both marks were used in connection with "calendars." ALPHA and ALPHA STEEL were also found not to be confusingly similar in *Alpha Indus., Inc. v. Alpha Steel Tube & Shapes, Inc.* 616 F.2d, 440 (9th Cir. 1980) even though both marks were used in connection with steel tubing and BOND-PLUS and WONDER BOND PLUS were found not to be confusingly similar in *Indus. Adhesive Co. v. Borden, Inc.* 218 U.S.P.Q. 945 (TTAB 1975) despite the fact that both marks were used in connection with adhesives products.

CONCLUSION

Citing the arguments made above, Applicant submits that its mark **45 Design** is suitable for registration in the USPTO and respectfully requests such action.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	<u>evi 20895136180-105722910 . Exhibit A to Resp to OA of 11.23.09.pdf</u>
CONVERTED PDF FILE(S) (1 page)	<u>\\TICRS\EXPORT9\IMAGEOUT9\778\066\77806650\xml1\ROA0002.JPG</u>
ORIGINAL PDF FILE	<u>evi 20895136180-105722910 . Exhibit B to Resp to OA of 11.23.09.pdf</u>
CONVERTED PDF FILE(S) (1 page)	<u>\\TICRS\EXPORT9\IMAGEOUT9\778\066\77806650\xml1\ROA0003.JPG</u>
ORIGINAL PDF FILE	<u>evi 20895136180-105722910 . Exhibit C to Resp to OA of 11.23.09.pdf</u>
CONVERTED PDF FILE(S) (1 page)	<u>\\TICRS\EXPORT9\IMAGEOUT9\778\066\77806650\xml1\ROA0004.JPG</u>
ORIGINAL PDF FILE	<u>evi 20895136180-105722910 . Exhibit D to Resp to OA of 11.23.09.pdf</u>
CONVERTED PDF	

FILE(S) (2 pages)	\\TICRS\EXPORT9\IMAGEOUT9\778\066\77806650\xml1\ROA0005.JPG
	\\TICRS\EXPORT9\IMAGEOUT9\778\066\77806650\xml1\ROA0006.JPG
ORIGINAL PDF FILE	evi_20895136180-105722910 . Exhibit E to Resp to OA of 11.23.09.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT9\IMAGEOUT9\778\066\77806650\xml1\ROA0007.JPG
	\\TICRS\EXPORT9\IMAGEOUT9\778\066\77806650\xml1\ROA0008.JPG
ORIGINAL PDF FILE	evi_20895136180-105722910 . Exhibit F to Resp to OA of 11.23.09.pdf
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT9\IMAGEOUT9\778\066\77806650\xml1\ROA0009.JPG
	\\TICRS\EXPORT9\IMAGEOUT9\778\066\77806650\xml1\ROA0010.JPG
	\\TICRS\EXPORT9\IMAGEOUT9\778\066\77806650\xml1\ROA0011.JPG
DESCRIPTION OF EVIDENCE FILE	Registration Certificates, Notices of Allowance and Notice of Suspension.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Steven L. Smilay/
SIGNATORY'S NAME	Steven L. Smilay
SIGNATORY'S POSITION	Attorney for Applicant
DATE SIGNED	12/30/2009
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Dec 30 10:58:45 EST 2009
TEAS STAMP	USPTO/ROA-208.95.136.180-20091230105845451354-77806650-460e65f27b135e4306f21a8b7f24216cdf-N/A-N/A-20091230105722910802

**Response to Office Action
To the Commissioner for Trademarks:**

Application serial no. 77806650 has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The Office Action of November 23, 2009 is acknowledged. In response to the Office Action, Applicant states the following:

I. INTRODUCTION

The examining attorney has refused registration of the Applicant's mark under the Trademark Act § 2(d), 15 U.S.C. § 1052(d) on the ground that the mark **45 Design** is likely to be confused with a similar mark for related goods (Reg. Nos. 3,491,062 for 45 MAGIC). The examining attorney has also noted that Applicant's mark may potentially be refused registration because of a likelihood of confusion with a pending application for registration (Serial No. 77/672,446 for VIN 45). The Applicant requests that the examining attorney withdraw the refusal based on the Applicant's following arguments in support of registration.

In testing for likelihood of confusion, the similarity or dissimilarity of the marks with regard to appearance, sound, connotation, commercial impression, sophistication of the purchaser, and channels of trade should be reviewed. *In re E.I. DuPont DeNemours & Co.*, 476 F.2d 1357, 177 U.S.P.Q. 563 (C.C.P.A. 1973); TMEP § 1207.01. Similarity of the marks in one respect-sight, sound or meaning-will not automatically result in a finding of likelihood of confusion even if the goods are identical or closely related. TMEP § 1207.01(b) (i). The Applicant contends that, in this case, a likelihood of confusion does not exist.

II. SECTION 2(d) REFUSAL; MARKS ARE NOT LIKELY TO CAUSE CONFUSION

A. Different and Distinct Commercial Impressions are Made by the Marks.

Applicant respectfully submits that there are more dissimilarities between the two marks than similarities and that, as a result, they create different and distinct commercial impressions. For example, the Registrant's mark consists of the numeral "45" followed by the word "magic." On the other hand, Applicant's mark consists of the numeral "45" partially encircled. Applicant's mark contains no words.

It has been held that the dissimilarity of marks with respect to appearance, sound, significance and commercial impression may be the dispositive factor under *E.I. DuPont DeNemours & Co.*, 476 F.2d 1357 (CCPA 1973). See, for example, *Champagne Louis Roederer, S.A. v. Delicato Vineyards*, 148 F.3d 1373 (Fed. Cir. 1998) in which the Federal Circuit rejected an argument to the effect that it was an error of law for the Trademark Trial and Appeals Board to rely solely on the dissimilarity of the marks in evaluating the likelihood of confusion.

Even so, in the present case, the rejection is based on only a portion of the mark, specifically, the numeral "45." However, the marks in question must be reviewed for likelihood of confusion as a whole and not broken into component parts to reach a conclusion of confusing similarity. As the court noted in *In re Hearst Corp.*, 25 U.S.P.Q.2d 1238, 1239 (Fed. Cir. 1992), "marks tend to be perceived in their entireties, and all components thereof must be given appropriate weight."

Moreover, even marks which are identical in sound and/or appearance may create sufficiently different commercial impressions when applied to the respective parties' goods so that there is no likelihood of confusion. See, for example, *In re Sears, Roebuck and Co.*, 2 U.S.P.Q.2d 1312, 1987 WL 123813 (TTAB 1987) (CROSS-OVER for bras held not likely to be confused with CROSSOVER for ladies' sportswear).

In *Hearst, supra*, the court was considering the marks VARGA GIRL and VARGAS in connection with calendars. It concluded that, "When GIRL is given fair weight, along with VARGA, confusion with VARGAS becomes less likely." This was because of the difference in the overall impression created by the two marks.

Similarly, in the present case, when either MAGIC or VIN is given fair weight along with the numeral 45, confusion with the numeral 45 alone becomes less likely. Once again, this is because of the difference in the overall impression created by the various marks.

The situation in the present case is not unlike the situation which existed in *Keebler Company v. Murray Bakery Products*, 866 F.2d 1386 (Fed. Cir.1989). In that case, the dispute related to the marks PECAN SANDIES and PECAN SHORTEES for use in connection with cookies. The Federal Circuit agreed with the Trademark Trial and Appeals Board and with Murray Bakery Products to the effect that, while both marks "contain the word 'PECAN' and both marks contain words that begin with an 's' sound and terminate in an 'ees' sound, the marks are nonetheless, readily distinguishable in appearance. More

important, their principal point of similarity is the word 'PECAN,' which is, at least, merely descriptive of a principal ingredient of both parties' cookies."

Here, not only is the principal point of similarity between the marks of the registrant and Applicant the numeral "45," the presence of that numeral is the only point of similarity. Otherwise, the marks are readily distinguishable in appearance, sound and projected connotation. Specifically, Applicant's mark has no words, when pronounced sounds nothing like the word "magic" and does nothing to connote "magic."

B. The Registration and Application Cited by the Examiner Provide Evidence of the Absence of a Likelihood of Confusion.

U.S. Registration No. 3,491,062 for 45 MAGIC was issued in August of 2008. The application for registration of the VIN45 mark (Serial No. 77/672,446) was filed in February of 2009 or some six months after the 45 MAGIC was registered. Nonetheless, the VIN45 application was approved and a Notice of Allowance has been issued. The only reason that the VIN45 mark has not yet registered is that its owner has not yet started to actually use the mark in commerce.

Significantly, the 45 MAGIC mark was not cited by the USPTO in its examination of the VIN45 application. No doubt, this is because it was determined that there was no likelihood of confusion between the two marks notwithstanding the fact that the description of goods and services to which the 45 MAGIC mark applied was "wines" and the description of goods and services to which the VIN45 mark was to be applied was "wine club services featuring periodic shipments of wine to members." Since there was no likelihood of confusion between these two marks, there is no reason to believe that there is a likelihood of confusion between either of these marks and Applicant's 45 Design mark.

The absence of a likelihood of confusion is further highlighted by the fact that Applicant's mark has been in use in commerce for nearly two years. During that time there have been no instances of actual confusion between Applicant's mark and any other mark containing the numeral "45."

C. USPTO Official Records Support Registration of Identical and Similar Marks in Connection with Related Goods.

The USPTO has long been willing to register identical and similar marks in connection with related goods.

With respect to wine, in addition to 45 MAGIC and VIN45, there are no less than five marks that have either been registered or Notices of Allowance issued notwithstanding the fact that each includes the numeral "45" and the fact that the description of goods and services applicable to each either mentions

"wine" or is broad enough to include "wine." These marks are as follows:

1. WESTBAY EASTBAY 45 N for "wines," among other things (U.S. Reg. No. 2,097,065)
2. PARALLELE 45 for "wines" (U.S. Reg. No. 2,682,366)
3. BLOCK NO. 45 for "wines" (U.S. Reg. No. 3,163,804)
4. 45YGB for "wine," among other things (Serial No. 77/138,046, Notice of Allowance Issued)
5. CLUSTER M45 for "alcoholic beverages except beers" (Serial No. 77/706,863, Notice of Allowance issued).

The Certificates of Registration and Notices of Allowance for each of these marks are attached hereto at Exhibits A, B, C, D & E, respectively.

Examination of an application for a sixth mark containing the numeral "45" and relating to "wines" has been suspended (Serial No. 77/505,053 for ROUTE 45). However, it is worth noting that the reasons for the suspension did not relate to the presence of the numeral "45" in a mark relating to "wines." Instead, the suspension related to the existence of yet another pending application relating to "wines." That application is for the mark ROUTE 46 (Serial No. 77/316,200). In that matter, it has been determined that ROUTE 46 may be confusingly similar to ROUTE 45. The Notice of Suspension is attached hereto as Exhibit F.

The existence of so many registrations and marks for which Notices of Allowance have been issued highlights the absence of a likelihood of confusion despite the fact that each of the marks in question contain the numeral "45."

In fact, there are many instances in which similar marks have been held not to be confusingly similar despite the fact that the marks themselves were quite similar. For example, in *Sunenblick v. Harrell*, 895 F. Supp. 616, 628, 638 (S.D.N.Y. 1995) *aff'd. mem.* 101 F3d 684 (2d Cir. 1996) *cert. den.* 117 S. Ct. 386 (1996) the court found no reverse confusion between jazz records and hip hop records sold under the identical mark UPTOWN RECORDS even though both marks were for musical products which were sold in the same stores. Similarly, in *Swanson v. Georgetown Collection, Inc.*, Civ. No. 94-1283, 1995 WL 72717 (N.D.N.Y. 1995) the court found that reverse confusion was unlikely between the mark FARAWAY FRIENDS for porcelain dolls and FAR AWAY FRIENDS for cloth dolls. In addition, as noted above, VARGAS and VARGA GIRL were found not to be confusingly similar in *In re Hearst Corp.*, 25 U.S.P.Q.2d 1328 (Fed. Cir. 1992) even though both marks were used in connection with "calendars."

ALPHA and ALPHA STEEL were also found not be confusingly similar in *Alpha Indus., Inc. v. Alpha Steel Tube & Shapes, Inc.* 616 F.2d, 440 (9th Cir. 1980) even though both marks were used in connection with steel tubing and BOND-PLUS and WONDER BOND PLUS were found not to be confusingly similar in *Indus. Adhesive Co. v. Borden, Inc.* 218 U.S.P.Q. 945 (TTAB 1975) despite the fact that both marks were used in connection with adhesives products.

CONCLUSION

Citing the arguments made above, Applicant submits that its mark **45 Design** is suitable for registration in the USPTO and respectfully requests such action.

EVIDENCE

Evidence in the nature of Registration Certificates, Notices of Allowance and Notice of Suspension. has been attached.

Original PDF file:

[evi 20895136180-105722910 . Exhibit A to Resp to OA of 11.23.09.pdf](#)

Converted PDF file(s) (1 page)

Evidence-1

Original PDF file:

[evi 20895136180-105722910 . Exhibit B to Resp to OA of 11.23.09.pdf](#)

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Evidence-1

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Evidence-1

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Evidence-2

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Evidence-1

Evidence-2

Original PDF file:

[evi 20895136180-105722910 . Exhibit F to Resp to OA of 11.23.09.pdf](#)

Converted PDF file(s) (3 pages)

Evidence-1

Evidence-2

Evidence-3

SIGNATURE(S)

Response Signature

Signature: /Steven L. Smilay/ Date: 12/30/2009
Signatory's Name: Steven L. Smilay
Signatory's Position: Attorney for Applicant

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 77806650
Internet Transmission Date: Wed Dec 30 10:58:45 EST 2009
TEAS Stamp: USPTO/ROA-208.95.136.180-200912301058454
51354-77806650-460e65f27b135e4306f21a8b7
f24216cdf-N/A-N/A-20091230105722910802

Int. Cls.: 33 and 35

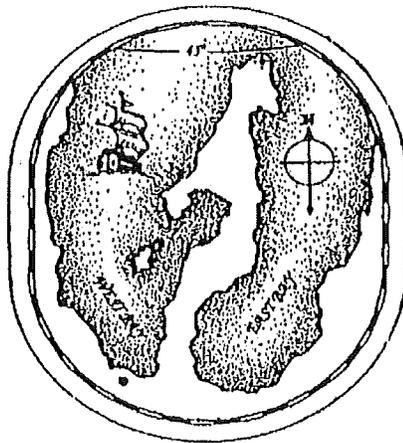
Prior U.S. Cls.: 47, 49, 100, 101 and 102

Reg. No. 2,097,065

United States Patent and Trademark Office

Registered Sep. 16, 1997

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER



GRAPE HARBOR, INC. (MICHIGAN CORPORATION), DBA "OLD MISSION PENINSULA CELLARS"
2464 KROUPA ROAD
TRAVERSE CITY, MI 49686

FOR: WINES, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 5-20-1995; IN COMMERCE 4-17-1996.

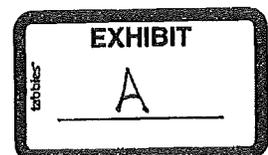
FOR: WHOLESALE AND RETAIL DISTRIBUTORSHIP SERVICES FEATURING WINE, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 5-20-1995; IN COMMERCE 4-17-1996.

THE STIPPLING SHOWN IN THE DRAWING IS A FEATURE OF THE MARK AND IS NOT INTENDED TO INDICATE COLOR.

SER. NO. 75-118,676, FILED 5-31-1996.

CAROLYN GRAY, EXAMINING ATTORNEY



Int. Cl.: 33

Prior U.S. Cls.: 47 and 49

United States Patent and Trademark Office

Reg. No. 2,682,366

Registered Feb. 4, 2003

TRADEMARK
PRINCIPAL REGISTER

PARALLELE 45

PAUL JABOULET AINE (FRANCE CORPORATION)

LES JALETS - RN7, LA ROCHE DE GLUN
26600 TAIN L'HERMITAGE, FRANCE

FOR: WINES, IN CLASS 33 (U.S. CLS. 47 AND 49).

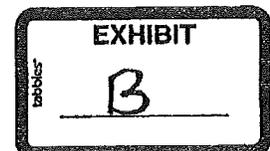
FIRST USE 0-0-1978; IN COMMERCE 0-0-1978.

OWNER OF FRANCE REG. NO. 1240707, DATED
7-12-1993, EXPIRES 7-12-2003.

THE ENGLISH TRANSLATION OF "PARALLELE" IS "PARALLEL".

SER. NO. 76-146,225, FILED 10-12-2000.

PAULA MAHONEY, EXAMINING ATTORNEY



Int. Cl.: 33

Prior U.S. Cls.: 47 and 49

United States Patent and Trademark Office

Reg. No. 3,163,804

Registered Oct. 24, 2006

TRADEMARK
PRINCIPAL REGISTER

BLOCK NO. 45

ASV WINES, INC. (CALIFORNIA CORPORATION)
1998 ROAD 152
DELANO, CA 93215

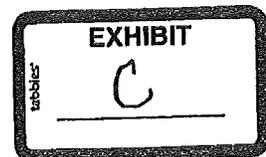
THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: WINES, IN CLASS 33 (U.S. CLS. 47 AND 49).

SN 78-546,938, FILED 1-13-2005.

FIRST USE 4-1-2005; IN COMMERCE 4-1-2005.

TONI HICKEY, EXAMINING ATTORNEY



Document Description: **Notice of Allowance**
 Mail / Create Date: **09-Oct-2009**



Corrected Oct 9, 2009

U.S. Patent and Trademark Office (USPTO)
NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Jan 22, 2008

Peter J. Willsey
 Cooley Godward Kronish LLP
 777 6th St., N.W., Suite 1100
 Washington DC 20001

ATTORNEY
 REFERENCE NUMBER

302447-801

**** IMPORTANT INFORMATION: 6 MONTH DEADLINE ****

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of Use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION.

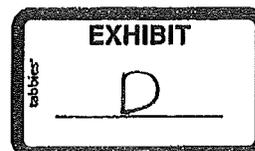
Please note that both the "Statement of Use" and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at <http://www.uspto.gov/teas/index.html> (under "File a PRE-registration form"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

**** Registration Subject to Cancellation for Fraudulent Statements ****

Ensure that statements made in filings to the USPTO are accurate, as inaccuracies may result in the cancellation of your trademark registration. The lack of a bona fide intention to use the mark with all goods and/or services included in an application or the lack of use on all goods and/or services for which you claimed use could jeopardize the validity of your registration, possibly resulting in its cancellation.

The following information should be reviewed for accuracy:

SERIAL NUMBER: 77/138046
 MARK: 45YGB (STANDARD CHARACTER MARK)
 OWNER: The Tug McGraw Foundation
 1303 Jefferson Street, Suite 100B



Napa , CALIFORNIA 94559

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO

Section 1(b): YES

Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

033 - Wine -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

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ISSUE DATE: Oct 20, 2009

ROBERT B. BURLINGAME
 PILLSBURY WINTHROP SHAW PITTMAN LLP
 P.O. BOX 7880
 CALENDAR/DOCKETING DEPARTMENT
 SAN FRANCISCO, CA 94120-7880

ATTORNEY
 REFERENCE NUMBER
 017127-03794

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You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of Use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION.

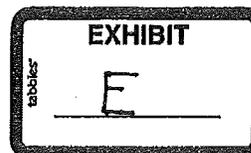
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The following information should be reviewed for accuracy:

SERIAL NUMBER: 77706863
 MARK: CLUSTER M45 (STANDARD CHARACTER MARK)
 OWNER: Cambrien Pty Ltd



Drummond's Lane
Heathcote, Victoria , AUSTRALIA 3523

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO

Section 1(b): YES

Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

033 - Alcoholic beverages except beers -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

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Document Description: **Suspension Letter**
 Mail / Create Date: **30-Oct-2008**

You are currently on page 1 of 2

To: Destination International (Shanna@capewine.com)

Subject: TRADEMARK APPLICATION NO. 77505053 - ROUTE 45 - N/A

Sent: 10/30/2008 3:02:47 PM

Sent As: ECOM110@USPTO.GOV

Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/505053

MARK: ROUTE 45

77505053

CORRESPONDENT ADDRESS:
 DESTINATION INTERNATIONAL
 DESTINATION INTERNATIONAL
 2841 BACKWOODS TRL
 DENVER, NC 28037-8861

GENERAL TRADEMARK INFORMATION:
<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Destination International

CORRESPONDENT'S REFERENCE/DOCKET NO:
 N/A

CORRESPONDENT E-MAIL ADDRESS:
Shanna@capewine.com

NOTICE OF SUSPENSION

ISSUE/MAILING DATE: 10/30/2008



SUSPENSION PROCEDURE: This suspension notice serves to suspend action on the application for the reason(s) specified below. No response is needed. However, if you wish to respond to this notice, you should use the "Response to Letter of Suspension" form found at <http://teasroa.uspto.gov/rsi/rsi>. The Office will conduct periodic status checks to determine if suspension remains appropriate.

The examining attorney has searched the Office records and has found no similar registered mark that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

Action on this application is suspended pending the disposition of:

- Application Serial No(s). **77/316200**

Since applicant's effective filing date is subsequent to the effective filing date of the above-identified application(s), the latter, if and when it registers, may be cited against this application in a refusal to register under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d). Sec 37 C.F.R. §2.83; TMEP §§1208 et seq. A copy of information relevant to this pending application(s) **was sent previously**.

Applicant may submit a request to remove the application from suspension to present arguments related to the potential conflict between the relevant application(s) or other arguments related to the ground for suspension. TMEP §716.03. Applicant's election not to present arguments during suspension will not affect the applicant's right to present arguments later should a refusal in fact issue. If a refusal does issue, applicant will be afforded 6 months from the mailing or e-mailing date of the Office action to submit a response. 15 U.S.C. §1062(b); 37 C.F.R. §2.62.

Giancarlo Castro
/Giancarlo Castro/
Trademark Attorney
Law Office 110
571-272-9357
giancarlo.castro@uspto.gov

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

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UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/806650

MARK: 45

77806650

CORRESPONDENT ADDRESS:

JAMES D. HALL
BOTKIN & HALL, LLP
105 E JEFFERSON BLVD STE 400
SOUTH BEND, IN 46601-1913

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: S.P. Grossnickle, LLC

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

1729-003

CORRESPONDENT E-MAIL ADDRESS:

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE:

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62, 2.65(a); TMEP §§711, 718.03.

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 3491062. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

In a likelihood of confusion determination, the marks are compared for similarities in their appearance, sound, meaning or connotation and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b). Similarity in any one of these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d

1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); *see* TMEP §1207.01(b).

Applicant's mark is 45 inside the design of an incomplete circle. Registrant's mark is 45 MAGIC. The two marks have similar commercial impressions and both contain the arbitrary number 45. Applicant's mark consists merely of the deletion of one term from registrant's mark.

Furthermore, the marks are for use on identical goods, namely, wines.

If the goods of the respective parties are "similar in kind and/or closely related," the degree of similarity between the marks required to support a finding of likelihood of confusion is not as great as would be required with diverse goods. *In re J.M. Originals Inc.*, 6 USPQ2d 1393, 1394 (TTAB 1987); *see Shen Mfg. Co. v. Ritz Hotel Ltd.*, 393 F.3d 1238, 1242, 73 USPQ2d 1350, 1354 (Fed. Cir. 2004); TMEP §1207.01(b).

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

PENDING MARK

The filing date of pending Application Serial No. 77/672446 (see attached) precedes applicant's filing date. See attached referenced application. If the mark in the referenced application registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

If applicant has questions about its application or needs assistance in responding to this Office action, please telephone the assigned trademark examining attorney.

/Nora Buchanan Will/
Examining Attorney
Law Office 116
ph 571-272-9135
fax 571-273-9116

RESPOND TO THIS ACTION: Applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received notification of the Office action via e-mail. For *technical* assistance with the form, please e-mail

TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

Print: Nov 21, 2009

77064133

DESIGN MARK

Serial Number

77064133

Status

REGISTERED

Word Mark

45 MAGIC

Standard Character Mark

Yes

Registration Number

3491062

Date Registered

2008/08/26

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Gilstrap Brothers Wine Company, LLC LIMITED LIABILITY COMPANY OREGON
69789 Antles Lane Cove OREGON 97824

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: wine. First
Use: 2006/06/13. First Use In Commerce: 2006/06/13.

Filing Date

2006/12/14

Examining Attorney

KAUEMAN, LAURIE

Attorney of Record

Sheila Fox Morrison

45 MAGIC

Print: Nov 21, 2009

77672446

DESIGN MARK

Serial Number

77672446

Status

NOTICE OF ALLOWANCE - ISSUED

Word Mark

VIN45

Standard Character Mark

Yes

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

vin45, LLC LIMITED LIABILITY COMPANY OREGON 7303 SE Langwood St
Hillsboro OREGON 97123

Goods/Services

Class Status -- ACTIVE. IC 039. US 100 105. G & S: Wine club
services featuring periodic shipments of wine to members.

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Providing a web
site where users can post ratings, reviews and recommendations on
wines for wine appreciation purposes; Providing information about wine
characteristics; Sommelier services, namely, providing advice on wine
and wine and food pairing.

Translation Statement

The English translation of the word "vin" in the mark is wine.

Filing Date

2009/02/18

Examining Attorney

POVARCHUK, REBECCA

vin45

*** User:nbuchanan ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:01	77806650[SN]
02	364	N/A	0	0	0:02	"45"[bi,ti]
03	12032	N/A	0	0	0:01	*fort*[bi,ti]
04	8977	N/A	0	0	0:01	*four*[bi,ti]
05	4820	N/A	0	0	0:01	*fiv*[bi,ti]
06	2	N/A	0	0	0:01	*fyv*[bi,ti]
07	20	14	6	6	0:02	*f\$r\$t\$f\$v*[bi,ti]
08	47	29	16	16	0:01	3 & 5
09	136	48	9	8	0:01	4 & 5
10	134	0	82	74	0:03	2 not dead[ld]
11	17566	N/A	0	0	0:01	260103[dc]
12	3926	N/A	0	0	0:01	260127[dc]
13	347	N/A	0	0	0:01	11 & 12
14	133	0	133	133	0:03	13 not dead[ld]

Session started 11/21/2009 2:28:22 PM

Session finished 11/21/2009 8:31:17 PM

Total search duration 0 minutes 20 seconds

Session duration 362 minutes 55 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 77806650



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

Aug 22, 2009

NOTICE OF DESIGN SEARCH CODE

JAMES D. HALL
BOTKIN & HALL, LLP
105 E JEFFERSON BLVD STE 400
SOUTH BEND, IN 46601-1913

ATTORNEY REFERENCE NUMBER: 1729-003

SERIAL NUMBER: 77/806650

MARK: 45 AND DESIGN

OWNER: S.P. Grossnickle, LLC

The USPTO may assign design search codes, as appropriate, to new applications and renewed registrations to assist in searching the USPTO database for conflicting marks. They have no legal significance and will not appear on the registration certificate.

Design search codes are numerical codes assigned to figurative, non-textual elements found in marks. For example, if your mark contains the design of a flower, design search code 05.05 would be assigned to your application. Design search codes are described on Internet Web page <http://www.uspto.gov/tmdb/dscm/index.html>.

Response to this notice is not required; however, to suggest additions or changes to the design search code(s) assigned to your mark, please e-mail TMDesignCodeComments@USPTO.GOV. You **must** reference your application serial number within your request. The USPTO will review the proposal and update the record, if appropriate. For questions, please call 1-800-786-9199 to speak to a Customer Service representative.

Design search codes assigned to the referenced serial number are listed below.

Trademark/Service Mark Application, Principal Register

Serial Number: 77806650

Filing Date: 08/18/2009

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77806650
MARK INFORMATION	
*MARK	<u>\\TICRS\EXPORT7\IMAGEOUT7</u> <u>\\778\066\77806650\xml1\AP P0002.JPG</u>
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	45
COLOR MARK	NO
*DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of stylized numbers 45 with a stylized circle around the same.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	640 x 828
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	S.P. Grossnickle, LLC
DBA/AKA/TA/Formerly	DBA Forty-Five North Vineyard and Winery
*STREET	1428 S. Freedom Parkway
*CITY	Winona Lake
*STATE (Required for U.S. applicants)	Indiana
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	46590
LEGAL ENTITY INFORMATION	
TYPE	limited liability company

STATE/COUNTRY WHERE LEGALLY ORGANIZED	Indiana
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	033
*IDENTIFICATION	Wine
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/15/2008
FIRST USE IN COMMERCE DATE	At least as early as 07/04/2008
SPECIMEN FILE NAME(S)	<u>\\TICRS\EXPORT7\IMAGEOUT7\778\066\77806650\xml1\AP P0003.JPG</u>
SPECIMEN DESCRIPTION	photograph of the mark in use on the related goods
ATTORNEY INFORMATION	
NAME	James D. Hall
ATTORNEY DOCKET NUMBER	1729-003
FIRM NAME	Botkin & Hall, LLP
INTERNAL ADDRESS	Suite 400
STREET	105 E. Jefferson Boulevard
CITY	South Bend
STATE	Indiana
COUNTRY	United States
ZIP/POSTAL CODE	46601-1913
PHONE	574-234-3900
FAX	574-236-2839
EMAIL ADDRESS	jhall@bhlawyers.net
AUTHORIZED TO COMMUNICATE VIA EMAIL	No
OTHER APPOINTED ATTORNEY	Steven L. Smilay
CORRESPONDENCE INFORMATION	
NAME	James D. Hall
FIRM NAME	Botkin & Hall, LLP
INTERNAL ADDRESS	Suite 400

STREET	105 E. Jefferson Boulevard
CITY	South Bend
STATE	Indiana
COUNTRY	United States
ZIP/POSTAL CODE	46601-1913
PHONE	574-234-3900
FAX	574-236-2839
EMAIL ADDRESS	jhall@bhlawyers.net
AUTHORIZED TO COMMUNICATE VIA EMAIL	No
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
SIGNATURE INFORMATION	
SIGNATURE	/ Steven Grossnickle 720 /
SIGNATORY'S NAME	Steven Grossnickle
SIGNATORY'S POSITION	Manager
DATE SIGNED	08/13/2009

Trademark/Service Mark Application, Principal Register

Serial Number: 77806650

Filing Date: 08/18/2009

To the Commissioner for Trademarks:

MARK: 45 (stylized and/or with design, see [mark](#))

The literal element of the mark consists of 45.

The applicant is not claiming color as a feature of the mark. The mark consists of stylized numbers 45 with a stylized circle around the same.

The applicant, S.P. Grossnickle, LLC, DBA Forty-Five North Vineyard and Winery, a limited liability company legally organized under the laws of Indiana, having an address of

1428 S. Freedom Parkway
Winona Lake, Indiana 46590
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 033: Wine

In International Class 033, the mark was first used at least as early as 03/15/2008, and first used in commerce at least as early as 07/04/2008, and is now in use in such commerce. The applicant is submitting one specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) photograph of the mark in use on the related goods.

[Specimen File1](#)

The applicant's current Attorney Information:

James D. Hall and Steven L. Smilay of Botkin & Hall, LLP

Suite 400
105 E. Jefferson Boulevard
South Bend, Indiana 46601-1913
United States

The attorney docket/reference number is 1729-003.

The applicant's current Correspondence Information:

James D. Hall
Botkin & Hall, LLP

Suite 400
105 E. Jefferson Boulevard
South Bend, Indiana 46601-1913
574-234-3900(phone)
574-236-2839(fax)
jhall@bhlawyers.net (not authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

Declaration

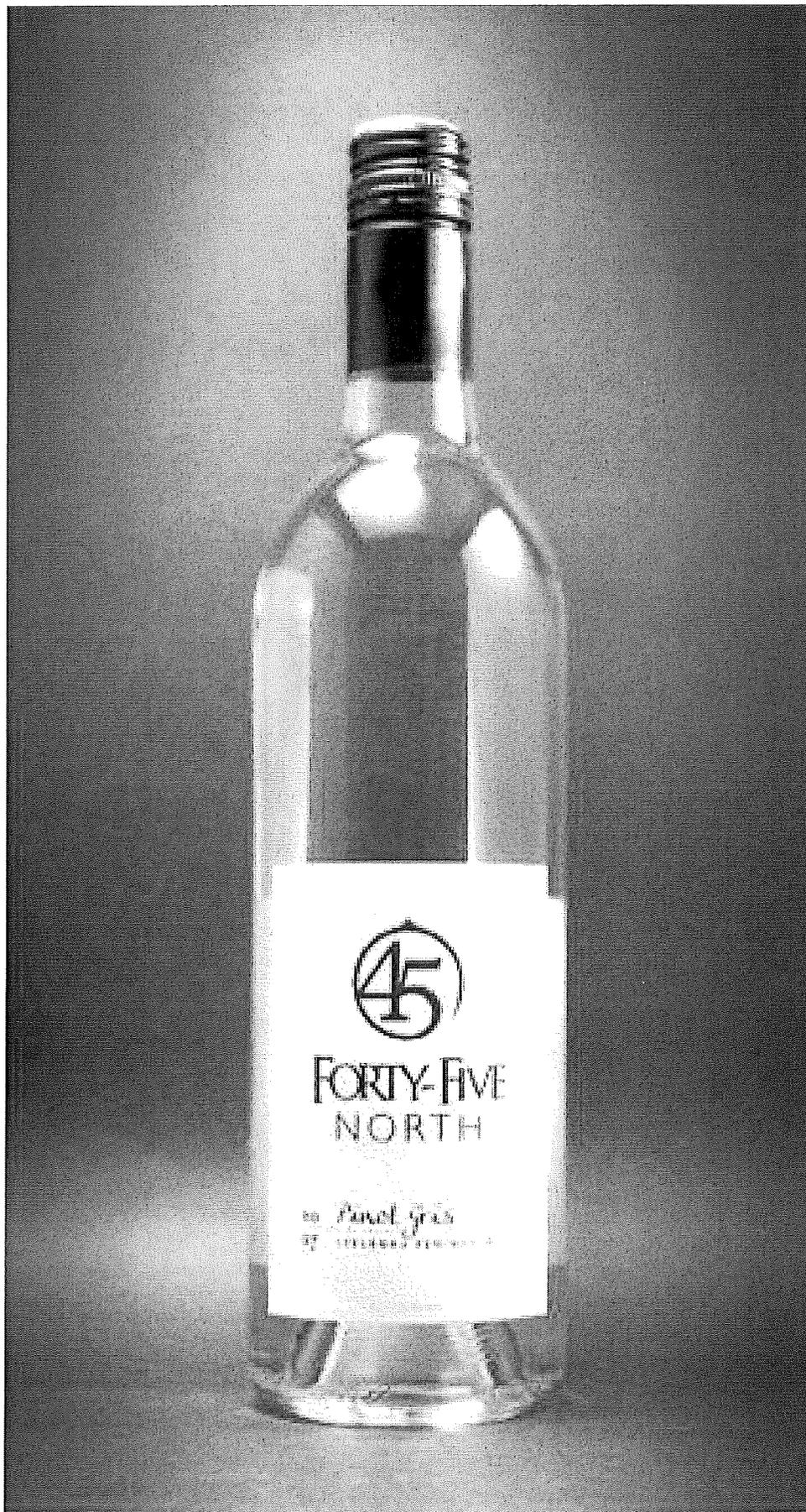
The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: / Steven Grossnickle 720 / Date Signed: 08/13/2009
Signatory's Name: Steven Grossnickle
Signatory's Position: Manager

RAM Sale Number: 7541
RAM Accounting Date: 08/18/2009

Serial Number: 77806650
Internet Transmission Date: Tue Aug 18 10:48:17 EDT 2009
TEAS Stamp: USPTO/BAS-216.117.89.39-2009081810481797
7991-77806650-400ba4d1860e5b1d6998982c2a
0dc88df-CC-7541-20090813160451322753





45

FORTY-FIVE
NORTH

100% GRAIN NEUTRAL SPIRITS





EXHIBIT 4



FORTY-FIVE
NORTH

Chardonnay

● SILVER

*Finger Lakes International
Wine Competition*

Dry and unoaked steel
fermentation, citrus fruit, great
with pasta or chicken and fish.



FORTY-FIVE
NORTH

Pinot Gris

● SILVER

*Pacific Rim International
Wine Competition*

Off dry at .5% residual sugar,
pear, honey, melon, apple, goes
well with most light fair or just
quaff on its own.



FORTY-FIVE
NORTH

Semi-Dry Riesling

● DOUBLE GOLD

*Pacific Rim International
Wine Competition*

Leaning to the dry side of
semi-dry, crisp, clean, green
apple, great with a cream
sauce.



FORTY-FIVE
NORTH

Pinot Noir Rosé

● DOUBLE GOLD

*Pacific Rim International
Wine Competition*

cherry, take this on your next
picnic and serve with cheese
from the Cheese Shanty and
fish sausage from Carlson's
Fishery.



FORTY-FIVE
NORTH

Late Harvest Vignoles

● DOUBLE GOLD

Sweet but not cloying, excel-
lent acid and sugar balance,
exotic fruits of passion, citrus,
pineapple. A dessert on its
own.



FORTY-FIVE
NORTH

Cabernet Franc

● DOUBLE GOLD

*Pacific Rim International
Wine Competition*

Dark, rich purple-red color
with an incredible aroma of
dark cherry, barrel-aged in new
French oak. Pair with red
meats and rich sauces. Drink-
able now but will certainly
improve with age.



FORTY-FIVE
NORTH

Pinot Noir

● SILVER

*Tasters Guild International
Wine Competition*

Barrel-fermented in new French oak with vanilla, black cherry, and earthy undertones. Great with grilled red meats served with mushrooms and cheese sauces, seared tuna, and dark chocolate!



FORTY-FIVE
NORTH

45 White

● SILVER

*Pacific Rim International
Wine Competition*

Our house wine is not too dry and not too sweet, just a perfect everyday wine with pear, apple, and gooseberry flavors. Excellent aperitif, but will go great with many light lunch-type foods.



FORTY-FIVE
NORTH

Reserve Chardonnay

Pleasant, toasty oak aromas enhance the rich character of this special French oak fermented Chardonnay. This wine has underlying tones of pear and apple and is excellent with all meats and rich sauces.



FORTY-FIVE
NORTH

Apple

Made with fresh-pressed, organic, antique apple varieties. Sugar was added which differentiates this and the cider.

4% residual sugar



FORTY-FIVE
NORTH

Hard Cider

Made with fresh-pressed, organic, antique apple varieties. Fermented to dryness, then juice of the base is added back to give this cider just the right sweetness. Carbonated and bottled with a screw cap for a fresh apple cider flavor.

2% residual sugar



FORTY-FIVE
NORTH

Peach Crémant

A blend of peach, apple, and white wines. This refreshing sparkling wine is perfect for brunch or to take with you to the beach or on the boat!

7% residual sugar



FORTY-FIVE
NORTH

Peach-Apricot Mead

Local honey combined with cold-pressed apricots and peaches make this a truly unique product. A great way to finish any meal!

6% residual sugar



FORTY-FIVE
NORTH

Sparkling Cherry

Tastes like sparkling cherry soda pop!

14% residual sugar



FORTY-FIVE
NORTH

Icebox Pinot Gris

Pinot gris grapes frozen and pressed at 48° Brix then fermented to 28° Brix with just enough acid to balance a truly rare and delicate wine.

28% residual sugar

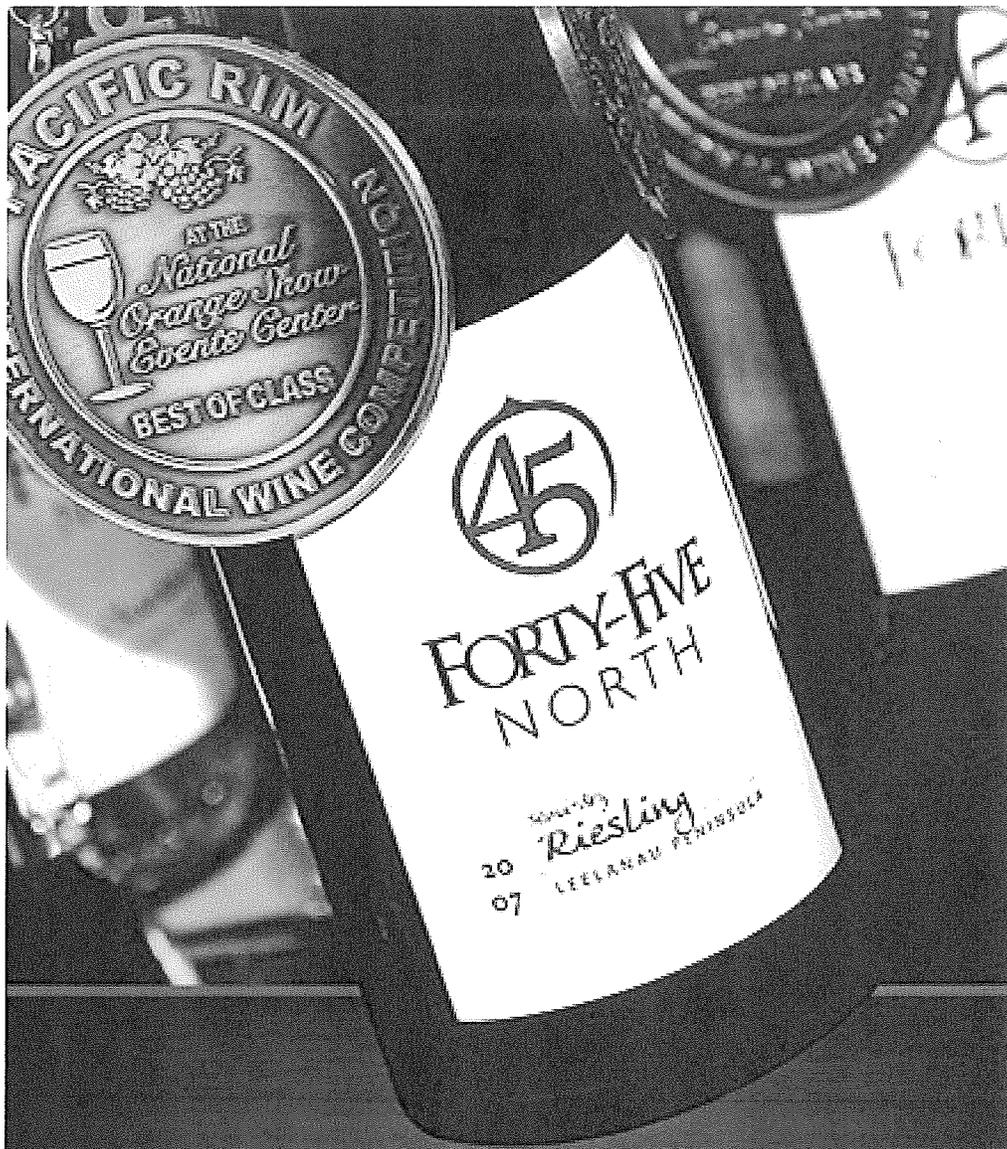


FORTY-FIVE
NORTH

Cherry Dessert

A blend of Monterrey and Balaton tart cherries cold-pressed and barrel-fermented in freshly emptied Buffalo Trace bourbon barrels and fortified with spirits. Aged in French oak for a very cherry flavor. Enjoy with ice cream, dark chocolate, or your favorite cigar.

17% residual sugar



Experience the Latitude

JOIN US ON JUNE 26th FOR OUR OFFICIAL
GRAND OPENING!

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ABOUT OUR WINES, SEE THE NEW TASTING ROOM,
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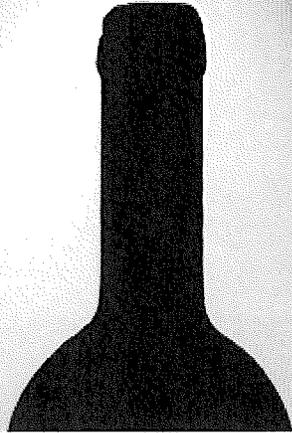


FORTY-FIVE
NORTH
VINEYARD & WINERY

8580 E. Horn Rd.
Lake Leelanau, MI
49653

231-271-1188
fortyfivenorth.com

EXHIBIT 5



PEACH CRÉMANT

*Carbonated white wine with local
peach juice added.*

ALC. 9% BY VOL.

EXHIBIT 6



EXHIBIT 7

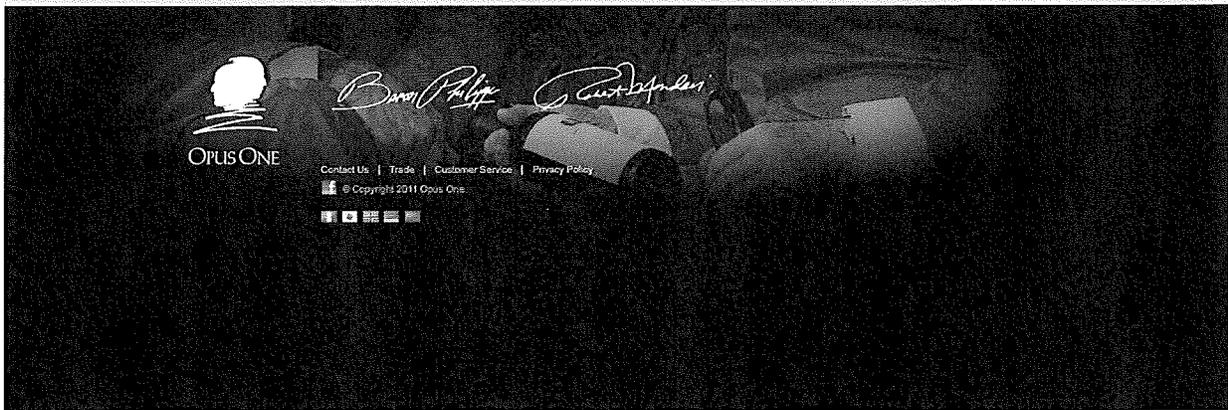


[THE WINE](#)

[THE ESTATE](#)

[OUR HISTORY](#)

[CONTACT US](#)

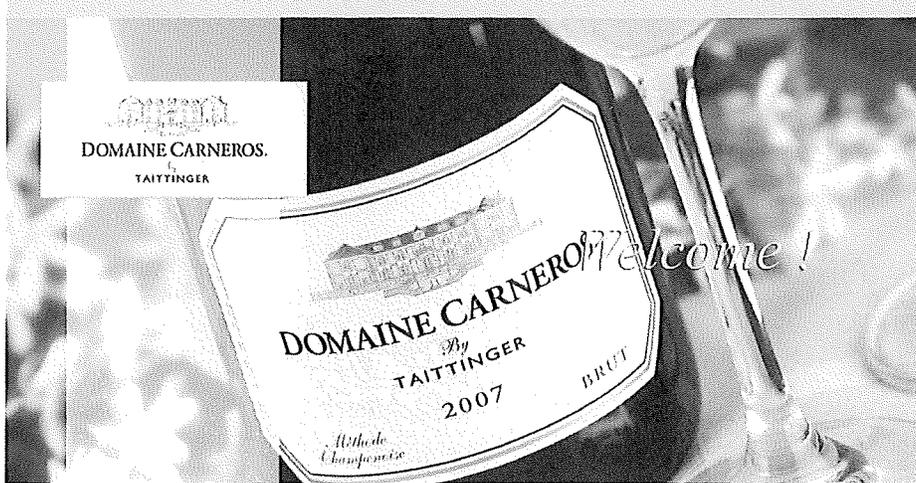


Captured at <http://www.opusonewinery.com/> on November 22, 2011



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2005 La Réserve Blanc de Blancs



95% *Vino Finitissimo*

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First Kiss Wine-Making



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Premium Sparkling Wine from Napa Valley, California

Captured at <http://www.domainecarneros.com/> on November 22, 2011



-  Directions
-  étoile Restaurant
-  Tours & Tastings

365 REASONS TO CELEBRATE

November 22

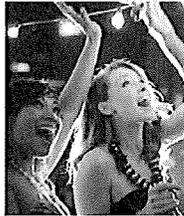
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Sign up for a free Club Chandon Membership and you'll get our best offer of the year on Chandon wines this Black Friday. [Join now](#)
Celebrate Today | [Add to your desktop calendar](#)

50% off
on your first purchase at Chandon.com

Receive 50% off your first wine purchase at Chandon.com when you join Club Chandon as a Prestige Member. Offer excludes étoile Tête de Cuvée

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