

ESTTA Tracking number: **ESTTA392310**

Filing date: **02/08/2011**

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
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Date	02/08/2011
Attachments	Initial Disclosures.pdf ( 4 pages )(71172 bytes )

**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.	)	
_____	)	

**INITIAL DISCLOSURES PURSUANT TO  
F.R.C.P. 26(a)(1) and TRADEMARK RULE 2.120**

Comes now Applicant, S.P. Grossnicke, LLC by counsel, to make its initial disclosures as required by Federal Rules of Civil Procedure (F.R.C.P.) Rule 26(a)(1) and Trademark Rule 2.120 based on its investigation to date. These disclosures are being made without prejudice to Applicant, and may be supplemented or changed depending upon later events.

By making these disclosures Applicant does not concede that the prospective testimony of any individual identified herein, any document or category of documents identified herein, or any other information herein is discoverable, not privileged, or admissible. The following disclosures are made based on the information reasonably available to Applicant as of the date hereof, and will be supplemented pursuant to F.R.C.P. 26(e) as investigation and discovery continue.

By making these initial disclosures, Applicant does not represent that it is identifying every document, tangible thing, or witness possibly relevant to this lawsuit. Rather, Applicant's disclosures represent a good faith effort as required by F.R.C.P. 26(a)(1)(A).

Applicant's disclosures are subject to and made without waiving:

1. The right to object on the grounds of competency, privilege, relevancy and materiality, hearsay, or any other proper grounds; and
2. The right to object on any and all grounds, at any time, to any other discovery requests or proceeding involving or related to the subject matter of these disclosures.

Subject to the foregoing and pursuant to F.R.C.P. 26(a)(1) and Trademark Rule 2.120,

Applicant hereby provides the required disclosures as follows:

**A. WITNESSES**

Applicant discloses the following witnesses known to it at this time:

1. Steve Grossnickle. Mr. Grossnickle is the president of Applicant and can be contacted through counsel.
2. Eric Grossnickle. Mr. Grossnickle is the Creative Director of Applicant and can be contacted through counsel.

Steve and Eric Grossnickle have information regarding Applicant's development and use of the 45 and design mark, the nature of the goods offered under the 45 and design mark, the marketing and channels of distribution of those goods, and the absence of actual confusion with Opposer's goods.

**B. DOCUMENTS**

Applicant discloses the following categories of documents, all of which are in its possession, custody or control:

1. Documents relating to Applicant's development of the 45 and design mark.
2. Documents relating to the advertising and promotion of the 45 and design mark.

3. Documents relating to the pending application for registration of the 45 and design mark.
4. Documents relating to correspondence between Opposer and Applicant.
5. Documents relating to correspondence between counsel for Opposer and counsel for Applicant.

Applicant will supplement these disclosures as additional witnesses and evidence become known.

Respectfully submitted,

/Steven L. Smilay/  
Steven L. Smilay  
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South Bend, Indiana 46601-1913  
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Fax: (574) 236-2839  
Attorneys for Applicant

## **CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing has been served upon the following  
via United States Regular Mail on February 8, 2011:

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

/Michelle G. Stambaugh/  
Michelle G. Stambaugh