

ESTTA Tracking number: **ESTTA484269**

Filing date: **07/18/2012**

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

Proceeding	91204667
Party	Defendant Caymus Medical, Inc.
Correspondence Address	DONALD E. STOUT STOUT, UXA, BUYAN & MULLINS, LLP 4 VENTURE STE 300 IRVINE, CA 92618-7384 dstout@patlawyers.com
Submission	Answer and Counterclaim
Filer's Name	Donald E. Stout
Filer's e-mail	dstout@patlawyers.com, cfisher@patlawyers.com
Signature	/Donald E. Stout/
Date	07/18/2012
Attachments	Answer -- Exhibit A.pdf (3 pages)(386892 bytes) Answer -- Exhibit B.pdf (2 pages)(178252 bytes) Answer -- Exhibit C.pdf (5 pages)(1104575 bytes) Answer -- Exhibit D.pdf (3 pages)(456159 bytes) Answer -- Exhibit E.pdf (2 pages)(3473598 bytes) Answer -- Exhibit F.pdf (6 pages)(1381922 bytes) Answer -- Exhibit G.pdf (5 pages)(1185027 bytes) Answer -- Exhibit H.pdf (3 pages)(348533 bytes) Answer -- Exhibit I.pdf (6 pages)(594274 bytes) A05036Answer.pdf (17 pages)(1092532 bytes)

Registration Subject to the filing

Registration No	1833996	Registration date	05/03/1994
Registrant	CAYMUS VINEYARDS 8700 Conn Creek Rd. Rutherford, CA 94573 UNITED STATES		
Grounds for filing	The registration was obtained fraudulently.		

Goods/Services Subject to the filing

Class 033. First Use: 1972/09/09 First Use In Commerce: 1972/09/09 All goods and services in the class are requested, namely: wine

EXHIBIT A



U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

SERIAL NO. 74/386086 CAYMUS VINEYARDS		APPLICANT	PAPER NO.
MARK CAYMUS		<i>rw</i> Commissioner of Patents and Trademarks Washington, D.C. 20231	ADDRESS
ADDRESS Scott W. Petersen Hill, Steadman & Simpson, P.C. 85th Floor Sears Tower Chicago, IL 60605			If no fees are enclosed, the address should include the words "BOX 5."
FORM PTO-1525 (5-90)		ACTION NO. 01	Please provide in all correspondence:
U.S. DEPT. OF COMM. PAT. & TM OFFICE		MAILING DATE 10/15/93	1. Filing date, serial number, mark, and applicant's name.
		REF. NO. 93.0946	2. Mailing date of this Office action.
			3. Your telephone number and ZIP code.
			4. Examining attorney's name and law office number.

A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID ABANDONMENT. For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.

386086

The assigned examining attorney has reviewed the referenced application and determined the following.

The applicant must indicate whether CAYMUS has any significance in the relevant trade, any geographical significance or any meaning in a foreign language. 37 C.F.R. Section 2.61(b).

The applicant must indicate whether the person who signed the application is an officer of the applicant. TMEP section 803.09. If so, the applicant must state the signer's proper title. If not, the applicant should note the following.

If the application was not signed by the applicant or by a person having color of authority to sign, the application is void. 37 C.F.R. Section 2.21(a)(6). To be properly signed, an application must be signed by the applicant, a member of the applicant firm (e.g., a general or active partner of an applicant partnership), or an officer of the applicant corporation or association. Trademark Act Section 1, 15 U.S.C Section 1051.

386086

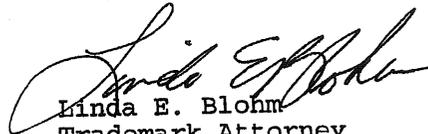
If the application was not signed by the appropriate person as described above, but the applicant asserts that the person who signed had color of authority to do so, the applicant must submit evidence that the person who signed:

- (1) had firsthand knowledge of the truth of the statements in the verification or declaration, and
- (2) had actual or implied authority to act on behalf of the applicant.

If the examining attorney determines that the person who signed the application had color of authority, the application will not be deemed void as filed. However, a substitute verification or declaration under 37 C.F.R. Section 2.20, signed by the proper person, must be submitted. 37 C.F.R. Section 2.71(c).

The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01.

LB:ics



Linda E. Blohm
Trademark Attorney
Law Office 12
(703) 308-9112 ext. 224

NOTE: The Trademark Office is committed to improving the quality of our service. The Assistant Commissioner for Trademarks would like to have your comments and suggestions on ways we can improve the quality of the examination process. In the event there are any areas causing you recurrent problems, please let us know of them.

COMMENTS SHOULD NOT BE INCLUDED WITH THE RESPONSE TO AN OFFICE ACTION, BUT SHOULD BE SENT IN A SEPARATE COMMUNICATION TO THE FOLLOWING ADDRESS:

Office of Trademark Quality Review
c/o Commissioner of Patents and Trademarks
Washington, DC 20231.

EXHIBIT B



U. S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

SERIAL NO. 74/386086 **APPLICANT** CAYMUS VINEYARDS

PAPER NO. 2A

MARK

CAYMUS

ADDRESS

Scott W. Petersen
 Hill, Steadman & Simpson, P.C.
 65th Floor Sears Tower
 Chicago, IL 60606

ACTION NO.
02

MAILING DATE
12/02/93

REF. NO.

93.0946

ADDRESS:
 Commissioner of Patents
 and Trademarks
 Washington, D.C. 20231

If no fees are enclosed, the address should include the words "BOX 5."

Please provide in all correspondence:

1. Filing date, serial number, mark, and applicant's name.
2. Mailing date of this Office action.
3. Your telephone number and ZIP code.
4. Examining attorney's name and law office number.

FORM PTO-1525 (5-90)

U.S. DEPT. OF COMM. PAT. & TM OFFICE

12.01.93/smt/386086

EXAMINER'S AMENDMENT

In accordance with the telephone conversation of November 1, 1993, with Scott W. Petersen this Office has entered the amendments noted below in the referenced application. The applicant need not file a response in this case unless the applicant objects to the noted amendment.

The signatory of the declaration, Charles F. Wagner, is President of applicant corporation.

The wording "CAYMUS" has no meaning other than trademark significance.

This application will subsequently be approved for publication.

LEB:smt

Linda E. Blohm
 Trademark Attorney
 Law Office 12
 (703) 308-9112 ext. 224

EXHIBIT C

The ethno-geography of the Pomo and neighboring Indians

Old Village Sites.

ka'imūs, on the site of the present town of Yountville. The people of this village are the ones referred to by Menefee. Menefee, in speaking of the Indians of Napa valley, says, upon the authority of Mr. George C. Yount who was the first American settler in Napa valley: "At the time of Mr. Yount's arrival in the valley, in 1831, there were six tribes of Indians in it, speaking different, though cognate dialects, and almost constantly at war with each other. The Mayacomas tribe dwelt near the hot springs (Aguas Calientes) now Calistoga, at the upper end of this valley, and the Callajōmanas, on the lands now known as the Bale Rancho, near St. Helena. The Caymus tribe dwelt upon the Yount grant, to which they gave their name. The Nāpa Indians occupied the Mexican grant of Entre Napa, that is, the land between Napa River and Napa Creek, to which they also gave their tribe name. . . . The Ulucas dwelt on the east side of Napa river, near Napa City, and one of their words survives in Tulocay Ranch and Cemetery. The Susol tribe occupied the Susol Grant, . . ." In speaking of the population he says: "In 1843 there were from fifty to one hundred on the Bale Rancho, four hundred upon the Caymus Rancho, six hundred upon the Salvador Rancho, a large number on the Juarez and the Higuera Ranchos, and a still larger number at Susol. . . . A few remain upon some of the ranchos named, but there are not one hundred all told in the entire county." This last statement probably refers to the date of publication of the "Sketch Book." C. A. Menefee, Historical and Descriptive Sketch Book of Napa, Sonoma, Lake and Mendocino, Napa City, 1873; pp. 18, 19. as

— 269 —

the Caymus. This is a Spanish orthography of the Indian *ka'imūs* and has been quite universally used. Engelhardt, op. cit., p. 451; Bancroft, Native Races, I, 363, 452; and various other writers. The name is preserved in Caymus rancho. The Caymus rancho was granted to Mr. Yount, above mentioned, and consisted of two square leagues of land about the present town of Yountville—Slocum, Bowen and Company, op. cit., Napa county, p. 49; also King and Morgan's Map of the Central Portion of Napa Valley and the Town of St. Helena, 1881. but is not now otherwise in use.

annakō'tanōma, The ending *nō'ma* which occurs so frequently on Wappo village names is evidently from the same root as *-nom* which occurs frequently in the Yuki proper and Huchnom dialects with the significance of people of bull-snake village, on the town site of St. Helena in Napa valley. The Callajolmanas spoken of by Menefee See note 308. as living on the Bale ranch near St. Helena may be the same as the people of *annakō'tanōma*. Bancroft Native Races, I, 452. also mentions them upon the authority of Hittell.

tse'manōma, from *tse'ma*, ear, and *nō'ma*, village, in the foothills on the eastern side of Napa valley at a point probably about two miles northeast of the town of St. Helena.

wī'likōs (Southern Moquelumnan dialect name), at the head of Sonoma creek. Taylor California Farmer, March 30, 1860. mentions the "Guillicas" and states that they lived "northwest of Sonoma on the old Wilson ranch of 1846," as does also Bancroft Native Races, I, 363, 450. upon his authority. The reference is undoubtedly to the people of *wī'likōs*. The village of "Huiluc" mentioned by Engelhardt Op. cit., p. 451. may, however, refer to this village or to *wī'lōk* a short distance northwest. The Guillicos rancho The Guillicos rancho is an old Mexican grant embracing 18,833 acres of land, lying along the headwaters of Sonoma creek to the southeast of Santa Rosa.—Bowers, Map of Sonoma, 1882. includes the site of the old Indian village of that name. The name is also found as that of a school district in this vicinity Thompson, Sonoma County, p. 5; and Central Sonoma, p. 4. and is applied to the upper part of the valley along Sonoma creek.

maiya'kma, One of the villages near the town of Calistoga was called by the people of the Southeastern Pomo

dialect *xō'mūi*, the people of this part of the valley being called *ma'imfo*. at a point about a mile south of the town of

— 270 —

Calistoga near the head of Napa valley. According to one informant this village was also called *nī'Lektsōnōma*. Menefee See note 308. mentions the "Mayacommas" as living near Calistoga, as does Bancroft *Native Races*, I, 452. upon the authority of Hittell, and as do Slocum, Bowen and Company *Op. cit.*, Napa county, p. 44. upon the authority of both Menefee and Bancroft. Bancroft *Native Races*, I, 451. also mentions, quoting from Taylor, the "Mayacmas" as inhabiting "the vicinity of Clear lake and the mountains of Napa and Mendocino counties." It seems certain, however, that these people are identical with the Mayacommas of his list as above mentioned. The "Mayacma" mentioned by Engelhardt *Op. cit.*, p. 451. as a "tribe" that furnished converts at the Sonoma mission undoubtedly refers to the people of this village, and it is not unlikely that by the "Tlayacma" mentioned farther on the same people are meant. The name is now used as that of a range of mountains which, according to Menefee, *Op. cit.*, p. 33. is divided into two branches, one on the west and one on the east of Napa valley. The name is also applied to the mountains extending northwestward from Mt. St. Helena, Bowers, *Map of Sonoma County*, 1882. and to a school district lying to the east of Healdsburg. This is also evidently the origin of the name "Mallacomes" which is one of the names given to the old Mexican land grant See *mū'tistūl*. in Knight's valley.

nī'Lektsōnōma, See note 319. from *nīLek*, a species of hawk, *tsō*, ground, and *nō'ma*, village, just northeast of the town of Calistoga near the head of Napa valley. One informant says that this is simply another name for the village of *maiya'kma*.

tse'lmēnan, See note 319. from *tsel*, charcoal, *me*, water, and *nan*, a well or other deep hole containing water, near the foot-hills at a point about a mile north of the town of Calistoga.

mū'tistūl, from *mū'ti*, north, and *fūl*, large valley, in Knight's valley, in the mountains separating the drainage of Russian river

— 271 —

from that of Napa river, and at a point about four and one-half miles west of the town of Calistoga. Gibbs *Schoolcraft*, III, 110. mentions the "Mutistul" as living "between the heads of Napa and Potos creeks," as does also Bancroft *Native Races*, I, 452. upon Gibbs' authority. This name may also be the source of "Multiculmo" given by Engelhardt *Op. cit.*, p. 451. as one of the "tribes" with converts at Sonoma mission. The old Berryessa rancho "Mallacomes or Muristul y Plan de Agua Caliente" According to Slocum, Bowen and Company, *op. cit.*, Napa Co., p. 50, this rancho, consisting of 17,742 acres, was located "near the head of Napa valley, embracing the site of Calistoga and the country adjacent thereto," while Bowers on his "Map of Sonoma County" locates it in Knight's valley and gives it as comprising only 12,540 acres. undoubtedly derived its name from this village.

kō'ticōmōta, from *ko'tic*, black oak, and *mō'ta*, hill, or *tcelhe'lle* (Southern Pomo dialect name), from *tcel*, white oak (?), and *he'lle*, flat, at a point about half a mile northeast of the eastern end of the Alexander valley bridge across Russian river, and about five and a half miles northeast of the town of Healdsburg. According to the story of the Pomo-Wappo war See note 307. this village with others in Alexander valley was formerly occupied by the Southern Pomo, who at that time owned the valley and surrounding country. After the occupation of this valley by the Wappo this site was inhabited by them, its name changing to the one here given.

cī' mēla, from *cī'*, clover, and *mē'la*, place (?), or *ōssōkō'wi*, (Southern Pomo dialect name), from *ō'ssō*, clover, and *kō'wī*, valley, on the northeast bank of Russian river at a point about a mile north of the present Alexander valley village and about five miles northeast of the town of Healdsburg. According to the story told concerning the Pomo-Wappo war See note 307. this village was the scene of the fighting. The Pomo formerly occupied this site, and later upon the Wappo taking possession of that section they also occupied it, changing its name to that above given.

pīpōhō'lma, from *pī'pō*, white oak, *hol*, tree, and *ma*, grove, or *djelheldjīseka'nī* (Southern Pomo dialect name), from *dje'lhe*, white oak (?), and *djīseka'nī*, ?, on the east bank of Russian

river due east of the town of Geyserville. This site is located at a point about a quarter of a mile up stream from the Geyserville bridge. The people of this village, who called themselves *mī'cēwal*, and who were called by the Southern Pomo *a'cōtca'mai* or *a'cōtentca'wī*, formerly owned only the portion of Russian river valley extending from a point about three miles up stream from Geyserville southward to the small stream, called by them *pō'pōetc*, about four miles down stream. After the Pomo-Wappo war, in which it appears only the people of *pīpōhō'lma* and those of *cī' mēla* engaged, the territory of the Wappo was extended southward to the limits shown on the accompanying maps. The captain of *pīpōhō'lma* at the time of this war was *mītcē-he'l*, turtle anus, and he it was who led the Wappo against the Pomo and later arranged a settlement of the feud with them.

In addition to these villages along Russian river which were occupied by the Wappo, names of four other sites were obtained which, so far as can be learned, were not occupied by the Wappo but were occupied by the Southern Pomo before the Wappo took possession of this section, and for which only Pomo names could be obtained. These sites are all located in what is known as Alexander valley.

malalatca'LI, from *mala'la*, mosquito, and *tca'LI*, village, about half a mile north of Lyttons station.

aca'ben, from *a'ca*, fish, and *ben*, probably a curved pond, at a point about a mile northeast of Lyttons station.

gaiye'tcin, from *ga'iye* or *ka'iye*, manzanita, and *tcin*, to hang down, at a point about a mile north of Lyttons station.

kolo'kō, from *ko'lo*, mortar basket, and *kō*, long, indefinitely located but probably on the northeast bank of Russian river at a point about three and one-half miles northeast of Lyttons station.

The following villages are located in other parts of the Wappo territory and had no connection with any other people than the Wappo.

tekena'ntsōnōma, from *teke*, the mineral left as a deposit after the evaporation of the water from the springs at the Geysers in Sonoma county, *nan*, well or other deep hole containing water, *tsō*, ground, and *nō'ma*, village, just north of the Geysers near the head of the main branch of Sulphur creek and at a point about twelve miles a little south of east of Cloverdale.

pe'tīnōma, west of Putah creek at a point about a mile north-northwest of Middletown. This site is but a short distance north of the cemetery at Middletown.

lō'knōma, from *lok*, goose, and *nōma*, village, or *laka'hyōme* (Northern Moquelumnan dialect name), at a point about three-quarters of a mile northeast of Middletown and at present on the opposite side of Putah creek from that place. The creek formerly ran to the northeast of this site but since the coming of white settlers has been diverted so that it now flows to the southwest of it. The valley about Middletown, probably taking its name from this village, was early known as Loconoma valley, Slocum, Bowen and Company, op. cit., Lake county, pp. 4, 45. and the name "Lal-nap-o-een" "The Lal-nap-o-een tribe had their habitat on the St. Helena creek, just west of the present site of Middletown, in Loconoma valley. They numbered ninety but have dwindled down to ten. Chu-puh was their chief; —ibid, p. 36.—In the Eastern Pomo district *Lal* signifies goose, and *napō'* signifies village; thus giving the same signification as the Wappo name *lō'knōma*. given by Slocum, Bowen and Company to a village in this valley probably refers to *lōknō'ma*. Their information concerning this village was obtained from Augustine, a former captain of the *kūLa'napō*, one of the divisions of the Eastern Pomo in Big valley. Continuing, they say, "These are the Locollomillos of Bancroft's list." The statement made by Bancroft *Native Races*, 1, 451. is, "The Guenocks and Locollomillos lived between Clear Lake and Napa," and is made upon the authority of Taylor, who says, *California Farmer*, March 30, 1860. "Before reaching Clear Lake from Napa there was a rancheria called Guenocks, and in their neighborhood were the Locollomillos." However, in view of the indefiniteness of these statements, particularly the original one (Taylor's), and the fact that the old Mexican grant The Locallomi rancho

was granted to Julien Pope in 1841 and comprised two square leagues of land in and about Pope valley.—Slocum, Bowen and Company, op. cit., Lake county, p. 50. in Pope valley bears the name Locallomi rancho, it is possible that the people referred to as Locallomillos lived in or about Pope valley, though it seems more probable that they lived in the vicinity of Middletown.

ūyū'hanōma, on the east bank of Putah creek at a point about a mile and a half nearly due east of Middletown.

About this text

Courtesy of The Bancroft Library, University of California, Berkeley, CA 94720-6000; <http://bancroft.berkeley.edu/>
<http://content.cdlib.org/view?docId=hb9779p385&brand=calisphere>

Title: The ethno-geography of the Pomo and neighboring Indians, by S.A. Barrett

By: Barrett, S. A. (Samuel Alfred), 1879-1965, Author

Date: 1908

Contributing Institution: The Bancroft Library, University of California, Berkeley, CA 94720-6000;
<http://bancroft.berkeley.edu/>

Copyright Note:

Copyright status unknown. Some materials in these collections may be protected by the U.S. Copyright Law (Title 17, U.X.C.). In addition, the reproduction of some materials may be restricted by terms of University of California gift or purchase agreements, donor restrictions, privacy and publicity rights, licensing and trademarks.

Transmission or reproduction of materials protected by copyright beyond that allowed by fair use requires the written permission of copyright owners. Works not in the public domain cannot be commercially exploited without permission of the copyright owner. Responsibility for any use rests exclusively with the user.

All requests to reproduce, publish, quote from, or otherwise use collection materials must be submitted in writing to the Head of Access Services, The Bancroft Library, University of California, Berkeley 94720-6000. Consent is given on behalf of The Bancroft Library as the owner of the physical items and does not constitute permission from the copyright owner. Such permission must be obtained from the copyright owner. See: <http://bancroft.berkeley.edu/reference/permissions.html>

[Home](#) | [Themed Collections](#) | [California Cultures](#) | [JARDA](#) | [Terms of Use](#) | [Privacy Policy](#) | [Site Map](#)

Calisphere is a service of the UC Libraries, powered by the California Digital Library.

Copyright © 2011 The Regents of The University of California.

EXHIBIT D

- Ránchos of California
- List of Ránchos of California

References

1. ^ Ogden Hoffman, 1862, *Reports of Land Cases Determined in the United States District Court for the Northern District of California*, Numa Hubert, San Francisco
2. ^ Diseño del Rancho Caymus (<http://content.cdlib.org/ark:/13030/hb4h4nb21s/>)
3. ^ Hoover, Mildred B.; Hero & Ethel Rensch, and William N. Abeloe (1966). *Historic Spots in California*. Stanford University Press. ISBN 978-0-8047-4482-9.
4. ^ Slocum, Bowen & Co, Lyman L. Palmer, 1881, *History of Napa and Lake Counties, California*
5. ^ United States. District Court (California : Northern District) Land Case 32 ND (<http://content.cdlib.org/view?docId=hb109nb422&chunk.id=dsc-1.3.6&brand=oac>)
6. ^ Report of the Surveyor General 1844 - 1886 (http://www.slc.ca.gov/Misc_Pages/Historical/Surveyors_General/reports/Willey_1884_1886.pdf)
7. ^ George Yount Blockhouse (http://www.parks.ca.gov/listed_resources/default.asp?num=564)
8. ^ George Yount Blockhouse (California State Historical Landmark No. 564) (http://ceres.ca.gov/geo_area/counties/Napa/landmarks.html)
9. ^ Grave of George C. Yount (http://www.parks.ca.gov/listed_resources/default.asp?num=693)
10. ^ Grave of George C. Yount (California State Historical Landmark No. 693) (http://ceres.ca.gov/geo_area/counties/Napa/landmarks.html)

Retrieved from "http://en.wikipedia.org/w/index.php?title=Rancho_Caymus&oldid=492110458"

Categories: California ranchos | Ranchos of Napa County, California

-
- This page was last modified on 12 May 2012 at 00:27.
 - Text is available under the Creative Commons Attribution-ShareAlike License; additional terms may apply. See Terms of use for details.
Wikipedia® is a registered trademark of the Wikimedia Foundation, Inc., a non-profit organization.

EXHIBIT E

GOOD INDIAN GO BIG HILL
BAD INDIAN GO BAD PLACE

INTERRED IN THIS SPOT ARE THE
ASHES OF THE WAPPO VILLAGE KAYMUS
(CAYMUS) INDIAN TRIBE, WHO WERE IN THE
AMERICAN PERIOD KNOWN AS THE
GEORGE C. YOUNT INDIANS.

THIS TRIBE CREMATED THEIR DEAD AND
ALL THEIR ARTICLES, USUALLY ON A PYRE
OR IN A SWEAT HOUSE.

A PORTION OF THE CAREFULLY PRESERVED
ASHES WERE MIXED WITH PITCH AND DAUBED
ON FACES AND BODIES OF THE MOURNERS.

ERECTED BY THE BROWNVILLE CEMETERY ASSOCIATION - DONATED BY GLENN BROWNE

APRIL 21, 1950

Unusual and colorful mem

1787-1851

George C. Yount 1794-1865

**Caymus Indian Tribe tribut
1950**

A History Discovery

General Rob Moores Grave

General Moores Grave

Brownsville Cemetery

Forbestown Cemetery

Forbestown Cemetery

Lone Childs Grave

Lone Childs Grave

Lone Childs Grave

Bangor Cemetery

Bangor Cemetery

Bangor Cemetery

Honcut Cemetery

[Newer Post](#)

[Home](#)

[Older Post](#)

[Subscribe to: Post Comments \(Atom\)](#)

EXHIBIT F



Feature Query Results

Click the feature name for details and to access map services

Click any column name to sort the list ascending ▲ or descending ▼

Feature Name	ID	Class	County	State	Latitude	Longitude	Elev(ft)	Map ▲	BGN Date	Entry Date
Caymus Park	1827171	Park	Sacramento	CA	382745N	1212159W	46	Elk Grove	-	01-APR-1999
Caymus	233645	Civil	Napa	CA	382716N	1222403W	141	Rutherford	-	19-JAN-1981
Caymus Vineyards	1800355	Locale	Napa	CA	382758N	1222336W	148	Rutherford	-	20-JUL-1998
Caymus (historical)	1800354	Populated Place	Napa	CA	382420N	1222149W	102	Yountville	-	20-JUL-1998

[View & Print all](#) [Save as pipe "|" delimited file](#)

1 - 4

Note: If data are returned and the column headings display but no data appear, click any column heading.

*Elevations are from the [National Elevation Dataset](#)

**The map name is not necessarily the name of the community containing the feature. See [FAQs](#) for details.

[U.S. Department of the Interior](#) || [U.S. Geological Survey](#)

12201 Sunrise Valley Drive, Reston, VA 20192, USA

gnis_manager@usgs.gov

Form updated: April 27, 2012

[USGS Privacy Policy and Disclaimers](#)



Feature Detail Report for: Caymus

ID: 233645

Name: Caymus

Class: Civil ([Definitions](#))

Citation: U.S. Geological Survey. Geographic Names Phase I data compilation (1976-1981). 31-Dec-1981. Primarily from U.S. Geological Survey 1:24,000-scale topographic maps (or 1:25K, Puerto Rico 1:20K) and from U.S. Board on Geographic Names files. In some instances, from 1:62,500 scale or 1:250,000 scale maps.

Entry Date: 19-Jan-1981

*Elevation: 141/43

*Elevations in feet/meters from the [National Elevation Dataset](#)

Variant Names

Variant Name

Paraje En Napa [Citation](#)

Counties

Sequence	County	Code	State	Code	Country
1	Napa	055	California	06	US

Coordinates (One point per USGS topographic map containing the feature, NAD83)

Sequence	Latitude(DEC)	Longitude(DEC)	Latitude(DMS)	Longitude(DMS)	Map Name
1	38.4543544	-122.4008118	382716N	1222403W	Rutherford
2	38.4465768	-122.3696999	382648N	1222211W	Yountville

Mapping Services



References to non-U.S. Department of the Interior (DOI) products do not constitute an endorsement by the DOI. By viewing the Google Maps API on this web site the user agrees to these [TERMS of Service](#) set forth by Google. [The latest of Google Map API Terms of Service](#)

[GNIS in Google Map](#)

[HomeTownLocator](#)

[ACME Mapper 2.0](#)

[USGS The National Map](#)

[Microsoft Virtual Earth](#)

[TerraFly.com](#)

[TerraServer DOQ](#)

[TerraServer DRG](#)

[Find the Watershed](#)

[MapQuest](#)

[Yahoo! Local Maps](#)

Important Links

[GNIS Home](#)

[U.S. Board on Geographic Names](#)

[Mapping Information](#)



Feature Detail Report for: Caymus Park

ID: 1827171

Name: Caymus Park

Class: Park (Definitions)

Citation: Sacramento/Solano Counties Street Guide and Directory. Updated Edition. Irvine, California: Thomas Brothers Maps, 1994.

Entry Date: 01-Apr-1999

*Elevation: 46/14

*Elevations in feet/meters from the [National Elevation Dataset](#)

Counties

Sequence	County	Code	State	Code	Country
1	Sacramento	067	California	06	US

Coordinates (One point per USGS topographic map containing the feature, NAD83)

Sequence	Latitude(DEC)	Longitude(DEC)	Latitude(DMS)	Longitude(DMS)	Map Name
1	38.4624088	-121.3663403	382745N	1212159W	Elk Grove

Designations

Designation

Administered Municipal

Mapping Services



References to non-U.S. Department of the Interior (DOI) products do not constitute an endorsement by the DOI. By viewing the Google Maps API on this web site the user agrees to these TERMS of Service set forth by Google. [The latest of Google Map API Terms of Service](#)

- [GNIS in Google Map](#)
- [HomeTownLocator](#)
- [ACME Mapper 2.0](#)
- [USGS The National Map](#)
- [Microsoft Virtual Earth](#)
- [TerraFly.com](#)
- [TerraServer DOQ](#)
- [TerraServer DRG](#)
- [Find the Watershed](#)
- [MapQuest](#)
- [Yahoo! Local Maps](#)

Important Links

- [GNIS Home](#)
- [U.S. Board on Geographic Names](#)
- [Mapping Information](#)

**Feature Detail Report for: Caymus (historical)**

ID: 1800354

Name: Caymus (historical)

Class: Populated Place ([Definitions](#))

History: Yukian Wappo settlement

Description: Was located at Yountville

Smithsonian Institution, Bureau of American Ethnology. Washington, DC: Government Printing Office. Bulletin 30 - Handbook of American Indians

Citation: North of Mexico, Edited by Frederick Webb Hodge, part 1 published in 1907, part 2 published in 1910. Use either code US-T142/B30/PT1/1907/p# or US-T142/B30/PT2/1910/p#. B30/pt1/1907/p222

Entry Date: 20-Jul-1998

*Elevation: 102/31

*Elevations in feet/meters from the [National Elevation Dataset](#)**Variant Names****Variant Name**Caymas [Citation](#)**Counties**

Sequence	County	Code	State	Code	Country
1	Napa	055	California	06	US

Coordinates (One point per USGS topographic map containing the feature, NAD83)

Sequence	Latitude(DEC)	Longitude(DEC)	Latitude(DMS)	Longitude(DMS)	Map Name
1	38.4054669	-122.3635884	382420N	1222149W	Yountville

Designations**Designation**

Historical

Mapping ServicesReferences to non-U.S. Department of the Interior (DOI) products do not constitute an endorsement by the DOI. By viewing the Google Maps API on this web site the user agrees to these TERMS of Service set forth by Google. [The latest of Google Map API Terms of Service](#)[GNIS in Google Map](#)[HomeTownLocator](#)[ACME Mapper 2.0](#)[USGS The National Map](#)[Microsoft Virtual Earth](#)[TerraFly.com](#)[TerraServer DOQ](#)[TerraServer DRG](#)[Find the Watershed](#)[MapQuest](#)[Yahoo! Local Maps](#)**Important Links**[GNIS Home](#)[U.S. Board on Geographic Names](#)[Mapping Information](#)



Feature Detail Report for: Caymus Vineyards

ID: 1800355

Name: Caymus Vineyards

Class: Locale (Definitions)

Citation: Napa & Lake Counties. Modesto, California: Compass Maps, 1989.

Entry Date: 20-Jul-1998

*Elevation: 148/45

*Elevations in feet/meters from the National Elevation Dataset

Counties

Sequence	County	Code	State	Code	Country
1	Napa	055	California	06	US

Coordinates (One point per USGS topographic map containing the feature, NAD83)

Sequence	Latitude(DEC)	Longitude(DEC)	Latitude(DMS)	Longitude(DMS)	Map Name
1	38.4660207	-122.3933117	382758N	1222336W	Rutherford

Mapping Services

 References to non-U.S. Department of the Interior (DOI) products do not constitute an endorsement by the DOI. By viewing the Google Maps API on this web site the user agrees to these TERMS of Service set forth by Google. The latest of Google Map API Terms of Service

[GNIS in Google Map](#)

[HomeTownLocator](#)

[ACME Mapper 2.0](#)

[USGS The National Map](#)

[Microsoft Virtual Earth](#)

[TerraFly.com](#)

[TerraServer DOQ](#)

[TerraServer DRG](#)

[Find the Watershed](#)

[MapQuest](#)

[Yahoo! Local Maps](#)

Important Links

[GNIS Home](#)

[U.S. Board on Geographic Names](#)

[Mapping Information](#)

EXHIBIT G

Rancho Caymus

Napa Valley California

Or for Reservations Call
1-800-845-1777

[Book Now](#)

- [Home](#)
- [Accommodations](#)
- [Special Offers](#)
- [Our Vineyards](#)
- [Weddings](#)
- [Explore Napa](#)
- [Photos](#)
- [Dining](#)
- [About Us](#)
- [Location](#)
- [Contact Us](#)

[Click Here to Book Now](#)

Join Our Email List

About Us

There is something special about the history of the Napa Valley, and when you visit, **Rancho Caymus** wants you to experience some of that history. Our Napa Valley Inn takes its name from land awarded in 1836 by General Mariano Vallejo to pioneer George C. Yount, Napa's first land grant. A sprawling hacienda named Caymus Rancho was built on the site and opened its doors to all those who visited the valley.

The current **Rancho Caymus** was built in 1984 by local artist and entrepreneur Mary Lee Tildon. Her design sought to recapture the spirit of the original hacienda. In 1991, the inn was purchased by the winemaking Komes family. The family has successfully enhanced the rustic elegance of the property, while keeping its history at the forefront of the design. Each room at our **Napa Valley Inn** is named for an early Napa Valley adventurer, and you'll find their stories, that go back to the early 1800's, in every room. Names such as Black Bart, Lillie Hitchcock Coit, and Robert Lewis Stevenson, as well as members of Russian nobility, saloon keepers, stagecoach drivers and even a famous San Francisco courtesan intertwine with the warm, homelike surroundings of the inn's décor.

Flora Springs and Toad Hall Cellars

As you venture the beautiful grounds around Rancho Caymus and the Napa Valley, the desire to "have a little taste" will overwhelm you. We want you to succumb to your needs, enjoy the bounty of Napa, and our award winning wines of Flora Springs Winery and Toad Hall Cellars.

Multi night discount

Why come for just two nights when you can save 10% off our best available rates when you stay for three or more nights. Confirm only by calling 800-845-1777, available through May 31, 2012.

- [Home](#)
- [Accommodations](#)
- [Special Offers](#)
- [Our Vineyards](#)
- [Napa Events](#)
- [Explore Napa](#)
- [Photos](#)
- [Dining](#)
- [About Us](#)
- [Location](#)
- [Contact Us](#)
- [Book Now](#)

Reservations: 800-845-1777 - 1140 Rutherford Road Rutherford, CA 94573 - info@ranchocaymus.com

Copyright © 2009 Rancho Caymus Inn. All Rights Reserved.

Website & Internet Marketing by [gCommerce Solutions](#)

Rancho Caymus

Napa Valley California

Or for Reservations Call

1-800-845-1777

Book Now

- [Home](#)
- [Accommodations](#)
- [Special Offers](#)
- [Our Vineyards](#)
- [Weddings](#)
- [Explore Napa](#)
- [Photos](#)
- [Dining](#)
- [About Us](#)
- [Location](#)
- [Contact Us](#)

Click Here to Book Now

Join Our Email List

Contact Us

You may reach us by calling directly, or by completing the form below; we will respond promptly. Please note, if you are interested in planning an special event or wedding please fill out the RFP form so we can better assist you in the planning process.

Located at:

1140 Rutherford Road, Rutherford, CA 94573

Phone Number and Email Address:

Reservations: 800-845-1777

info@ranchocaymus.com

Personal Information

Full Name

Phone Number

Email Address

Rancho Caymus

Napa Valley California

Or for Reservations Call
1-800-845-1777

[Book Now](#)



Rancho Caymus Flash Slideshow

- [Home](#)
- [Accommodations](#)
- [Special Offers](#)
- [Our Vineyards](#)
- [Weddings](#)
- [Explore Napa](#)
- [Photos](#)
- [Dining](#)
- [About Us](#)
- [Location](#)
- [Contact Us](#)

[Click Here to Book Now](#)

Join Our Email List

Hotel in Napa Valley

At Rancho Caymus, a **Napa Valley inn**, you'll experience the wonders of Napa Valley with all of your senses. This **hotel in Napa Valley, CA** is nestled among the wineries of the world-famous Rutherford Bench Wine Region, Rancho Caymus is a quaint, all-suites Napa Valley inn which offers a unique sense of rustic elegance conveniently located in the heart of the Napa Valley.

Smell the fragrances of this world famous wine growing region. Located in the very center of the Napa Valley, Rancho Caymus Inn is surrounded by the agricultural wonder of world famous vineyards and wineries. Guests of Rancho Caymus are within a five minute drive of dozens of award winning wineries.

Hear the tranquility of lodging in a petite, 26-room Napa Valley inn. Each of these suites is distinctively designed and decorated to recapture the simpler times of early California. The two story hacienda style inn surrounds an award-winning garden courtyard. These elements give Rancho Caymus, more of the feeling of an "escape" than just a **hotel in Napa Valley, CA**.

Feel the warmth of staying in a family owned and operated Inn. Over the course of nearly 20 years, four generations of the Komes family have worked and overseen hospitality at Rancho Caymus in the same way they have crafted award winning wines at their winery, Flora Springs.

See the dedication to details. Built and maintained to honor the history of the Napa Valley; Rancho Caymus was created to be a Spanish Hacienda style Inn. The materials, architectural design, and furnishings are all part of that effort to recapture the spirit of Napa Valley's past.

Taste the bounty of the wine country. The Napa Valley is recognized as one of the world's foremost wine growing regions. More than great wines are produced here. The surrounding small towns of St. Helena and Yountville feature acclaimed restaurants, culinary schools, seasonal farmers markets, and gourmet shopping. Rancho Caymus Inn lies between these two culinary centers, no more than six miles away from either.

EXHIBIT H



Caymus Chapter Calistoga, California



- Joining DAR
- National Society
- California Society
- Contact Us

Welcome!

Chapter Officers

Regent:
Louise Morrison

1st Vice Regent:
Susan Silfvast

Recording Secretary:
Marjorie Preston

Corresponding Secretary:
Elizabeth Couse

Treasurer:
Mildred "Lucille" Allen

Registrar:
Marjorie McNay

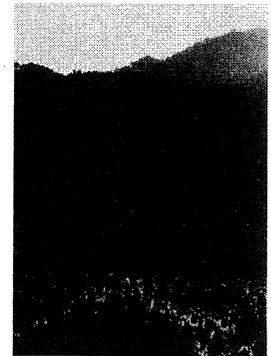
Chaplain:
Frances Tagliaferri

Historian:
Marilyn Kramer

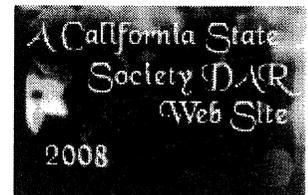
The Caymus Chapter was organized on April 15, 1972. Mrs. Earl Enholm was the chapter's first regent. The chapter's name was chosen for the Caymus Indians, a small tribe of the Mishewal Wappo, who lived in the Napa Valley. George Yount was the first white settler to receive a land grant in Napa Valley and Rancho Caymus was born. Most chapter members are from the Napa Valley area; however, some members are from other areas, as well. Local residency is not a requirement for membership in any chapter.

The Caymus Chapter meetings alternate between the last Wednesday and last Saturday of each month September through May, but not in December. If you would like to attend one of our meetings, please contact us.

We welcome any woman for membership who is over 18 years of age and who is descended from a man or woman who aided in achieving American Independence during the period between April 19, 1775, and November 26, 1783. Information on membership in the DAR can be found here.



Napa Valley



Librarian:
Ann Cox

Web hyperlinks to non-DAR sites are not the responsibility of the NSDAR,
the state organizations, or individual DAR chapters.

*This site maintained by webmaster.
Site last updated 28 September 2008.*

Advisor:
Ann Wolf

EXHIBIT I

ESTTA Tracking number: **ESTTA408777**

Filing date: **05/12/2011**

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

Proceeding	91199267
Party	Defendant Caymus Real Estate, LLC
Correspondence Address	BRIAN R. MCGINLEY SNR DENTON US LLP 233 S WACKER DR STE 7800 CHICAGO, IL 60606-6036 trademarks@sonnenschein.com
Submission	Answer
Filer's Name	Brian R. McGinley
Filer's e-mail	brian.mcginley@snrdenton.com, ttab@snrdenton.com, anita.hansen@snrdenton.com
Signature	/brian r mcginley/
Date	05/12/2011
Attachments	Answer to Notice of Opposition 91199267.pdf (4 pages)(13674 bytes)

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

In the matter of Serial No. 85/049,595)	
Filed: May 27, 2010)	
Mark: CAYMUS REAL ESTATE LLC)	
)	
Caymus Vineyards)	
)	
Opposer,)	Opposition No. 91199267
)	
v.)	
)	
Caymus Real Estate, LLC)	
)	
Applicant.)	

ANSWER

Applicant Caymus Real Estate, LLC (“Caymus Real Estate” or “Applicant”) through its undersigned counsel, hereby answers the Notice of Opposition filed by Caymus Vineyards (“Opposer”) as follows.

Applicant denies each and every allegation of the Notice of Opposition (“Notice”) unless otherwise admitted or responded to as follows.

In response to the allegations related to Applicant’s trademark application Serial Number 85/049,595 (the “Application”), Applicant states that the details regarding the Application are a matter of public record and speak for themselves. Applicant denies the remaining allegations set forth in Opposer’s introductory paragraph and specifically denies that Opposer has been or will be damaged by registration or the Application and that Opposer is entitled to any relief.

1. Answering paragraph 1 of the Notice, Applicant lacks sufficient information to admit the truth of the allegations contained in paragraph 1 of the Notice of Opposition, and accordingly denies same.

2. Answering paragraph 2 of the Notice, in response to the allegations related to Opposer's United States Trademark registration number 1,883,996, the details of the registration are matters of public record and speak for themselves. Applicant lacks sufficient information to admit the truth of the remaining allegations in paragraph 2 of the Notice, and accordingly denies same.

3. Answering paragraph 3 of the Notice, Applicant lacks sufficient information to admit the truth of the allegations in paragraph 3 of the Notice, and accordingly denies same.

4. Answering paragraph 4 of the Notice, Applicant lacks sufficient information to admit the truth of the allegations in paragraph 4 of the Notice, and accordingly denies same.

5. Answering paragraph 5 of the Notice, Applicant states that the allegations relating to the Application are a matter of public record and speak for themselves. Applicant denies the remaining allegations of paragraph 5 of the Notice.

6. Answering paragraph 6 of the Notice, Applicant lacks sufficient information to admit the truth of the allegations in paragraph 6 of the Notice, and accordingly denies same.

7. Answering paragraph 7 of the Notice, Applicant denies the allegations of paragraph 7 of the Notice.

8. Answering paragraph 8 of the Notice, Applicant denies the allegations of paragraph 8 of the Notice.

9. Answering paragraph 9 of the Notice, Applicant denies the allegations of paragraph 9 of the Notice.

10. Answering paragraph 10 of the Notice, Applicant denies the allegations set forth in paragraph 10 of the Notice of Opposition.

11. Answering paragraph 11 of the Notice, Applicant denies the allegations set forth in paragraph 11 of the Notice of Opposition.

Applicant denies the allegations set forth in the Opposer's prayer for relief.

Affirmative Defenses

1. Opposer's Notice of Opposition fails to state a claim upon which relief can be granted.
2. Opposer's Caymus mark is not famous within the meaning of US Trademark laws.
3. The term "Caymus" refers to a geographical region and/or an Indian tribe.
4. Applicant's registration and use of CAYMUS REAL ESTATE it not likely to cause confusion with and is not likely to dilute the alleged trademark rights of Opposer.

For the foregoing reasons, Applicant respectfully prays that the Opposer's Notice of Opposition be denied, and the Application be approved for registration.

Respectfully Submitted,

SNR DENTON US LLP
_____/s/ Brian McGinley

Date: May 12, 2011

Brian McGinley
P.O. Box #061080
Chicago, Illinois 60606-1080
Telephone: 816-460-2400
Facsimile: 816-531-7545
email: brian.mcginley@snrdenton.com
Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing Answer to be served upon:

Scott W. Petersen, Esq.
Holland & Knight LLP
131 S. Dearborn St., 30th Floor
Chicago, IL 60603

by placing same in an envelope, properly sealed and addressed, with postage prepaid and depositing same with the United States Postal Service on this 12th day of May, 2011.

/s/ Brian McGinley
Brian McGinley, Attorney for Applicant

Filed with the TTAB via
ESSTA on May 12, 2011

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

In the matter of: Serial No. 85/281308)	
Filed: March 30, 2011)	
Mark: CAYMUS MEDICAL (and design))	
And)	
Serial No. 85/279926)	
Filed: March 29, 2011)	Opposition No. 91204667
Mark: CAYMUS MEDICAL)	
)	
Caymus Vineyards,)	
Opposer,)	
v.)	
Caymus Medical, Inc. ,)	
Applicant .)	

ANSWER

Applicant Caymus Medical, Inc. ("Caymus Medical" or "Applicant") through its undersigned counsel, hereby answers the Notice of Opposition filed on April 10, 2012 by Caymus Vineyards ("Opposer") as follows.

Applicant denies each and every allegation of the Notice of Opposition ("Notice") unless otherwise admitted or responded to as follows.

In response to the allegations related to Applicant's trademark applications Serial Number 85/281308, filed March 30, 2011 (seeking registration of the mark CAYMUS MEDICAL (and design)) and Serial Number 85/279926, filed March 29, 2011 (seeking registration of the word mark CAYMUS MEDICAL) (jointly and severally, the "Applications"), Applicant states that the details regarding each of the Applications are a matter of public record and speak for themselves. Applicant denies all the remaining allegations set forth in Opposer's introductory paragraphs and specifically denies that Opposer has been or will be damaged by registration of either of the marks that are the

Opposition No. 91204667

Answer

subject of the Applications. Applicant pleads as follows:

1. Answering paragraph 1 of the Notice, Applicant lacks sufficient information to admit or deny the allegations contained in paragraph 1 of the Notice of Opposition, and accordingly denies same.

2. Answering paragraph 2 of the Notice, in response to the allegations related to Opposer's United States Trademark registration number 1,883,996 (the "Registration"), the details of the Registration are matters of public record and speak for themselves. Applicant lacks sufficient information to admit or deny the remaining allegations in paragraph 2 of the Notice, and accordingly denies same.

3. Answering paragraph 3 of the Notice, Applicant denies that Opposer's pleaded mark is well-known or famous. Applicant lacks sufficient information to admit or deny the remaining allegations in paragraph 3 of the Notice, and accordingly denies same.

4. Answering paragraph 4 of the Notice, Applicant denies that Opposer's pleaded mark is valid or incontestable. Applicant lacks sufficient information to admit or deny the remaining allegations in paragraph 4 of the Notice, and accordingly denies same.

5. Answering paragraph 5 of the Notice, Applicant lacks sufficient information to admit or deny the allegations in paragraph 5 of the Notice, and accordingly denies same.

6. Answering paragraph 6 of the Notice, Applicant denies the allegations of

Opposition No. 91204667
Answer

paragraph 6 of the Notice.

7. Answering paragraph 7 of the Notice, the details concerning Oppositions No. 91092049 and 91092113 are a matter of public record and speak for themselves. Applicant denies the remaining allegations of paragraph 7 of the Notice.

8. Answering paragraph 8 of the Notice, the details related to the Applications and Registrations, including filing dates and other details concerning the Applicant, are a matter of public record and speak for themselves. Applicant denies the remaining allegations of paragraph 8 of the Notice.

9. Answering paragraph 9 of the Notice, Applicant admits that to date Applicant has made no use of Applicant's Marks in connection with any goods. Applicant denies the remaining allegations of paragraph 9 of the Notice.

10. Answering paragraph 10 of the Notice, Applicant lacks sufficient information to admit or deny the allegations of paragraph 10 of the Notice, and accordingly denies same.

11. Answering paragraph 11 of the Notice, Applicant states that the details related to the Applications and Registrations, including filing dates and registration dates, are a matter of public record and speak for themselves, and that no trademark use of Applicant's Marks has yet been made. Applicant denies the remaining allegations of paragraph 11 of the Notice.

12. Answering paragraph 12 of the Notice, Applicant denies the allegations of

Opposition No. 91204667
Answer

paragraph 12 of the Notice.

13. Answering paragraph 13 of the Notice, Applicant denies the allegations of paragraph 13 of the Notice.

14. Answering paragraph 14 of the Notice, Applicant incorporates its answers to paragraphs 1-13 above as if fully set forth herein.

15. Answering paragraph 15 of the Notice, Applicant denies the allegations of paragraph 15 of the Notice.

16. Answering paragraph 16 of the Notice, Applicant denies the allegations of paragraph 16 of the Notice.

17. Answering paragraph 17 of the Notice, Applicant denies the allegations of paragraph 17 of the Notice.

18. Answering paragraph 18 of the Notice, Applicant denies the allegations of paragraph 18 of the Notice.

19. Answering paragraph 19 of the Notice, Applicant denies the allegations of paragraph 19 of the Notice.

20. Answering paragraph 20 of the Notice, Applicant denies the allegations of paragraph 20 of the Notice.

Opposition No. 91204667
Answer

21. Answering paragraph 21 of the Notice, Applicant denies the allegations of paragraph 21 of the Notice.

22. Answering paragraph 22 of the Notice, Applicant denies the allegations of paragraph 22 of the Notice.

23. Answering paragraph 23 of the Notice, Applicant denies the allegations of paragraph 23 of the Notice.

24. Answering paragraph 24 of the Notice, Applicant denies the allegations of paragraph 24 of the Notice.

25. Answering paragraph 14 of the Notice, Applicant incorporates its answers to paragraphs 1-24 above as if fully set forth herein.

26. Answering paragraph 26 of the Notice, Applicant denies the allegations of paragraph 26 of the Notice.

27. Answering paragraph 27 of the Notice, Applicant denies the allegations of paragraph 27 of the Notice.

28. Answering paragraph 28 of the Notice, Applicant denies the allegations of paragraph 28 of the Notice.

Opposition No. 91204667
Answer

29. Answering paragraph 29 of the Notice, Applicant denies the allegations of paragraph 29 of the Notice.

30. Answering paragraph 30 of the Notice, Applicant denies the allegations of paragraph 30 of the Notice.

31. Answering paragraph 31 of the Notice, Applicant incorporates its answers to paragraphs 1-30 above as if fully set forth herein.

32. Answering paragraph 32 of the Notice, Applicant denies the allegations of paragraph 32 of the Notice.

33. Answering paragraph 33 of the Notice, Applicant denies the allegations of paragraph 33 of the Notice.

34. Answering paragraph 34 of the Notice, Applicant denies the allegations of paragraph 34 of the Notice.

35. Answering paragraph 35 of the Notice, Applicant denies the allegations of paragraph 35 of the Notice.

36. Answering paragraph 36 of the Notice, Applicant denies the allegations of paragraph 36 of the Notice.

Affirmative Defenses

FIRST AFFIRMATIVE DEFENSE

37. Opposer's Notice of Opposition fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

38. Opposer's mark cannot be accorded the deference due a strong, inherently distinctive and/or arbitrary mark, because it is neither strong, inherently distinctive nor arbitrary.

THIRD AFFIRMATIVE DEFENSE

39. There is no dilution of Opposer's pleaded mark "CAYMUS" because, inter alia, this mark is not famous within the meaning of U.S. trademark law.

FOURTH AFFIRMATIVE DEFENSE

40. There is no likelihood of confusion, mistake or deception because, inter alia, Applicant's opposed marks, which identify the source of medical and surgical devices, apparatus and instruments, and the pleaded Opposer's mark, which identifies the source of wines, are drawn to entirely different goods and/or services.

FIFTH AFFIRMATIVE DEFENSE

41. There is no likelihood of confusion, mistake or deception because, inter alia, Applicant's opposed marks, which identify the source of medical and surgical devices, apparatus and instruments, and the pleaded Opposer's mark, which identifies the source of wines, are used in

Opposition No. 91204667
Answer

different marketing channels.

SIXTH AFFIRMATIVE DEFENSE

42. There is no likelihood of confusion, mistake or deception because, inter alia, Applicant's goods are marketed to sophisticated, medically literate corporate consumers and medical professionals, who exercise a high degree of care in their purchasing decisions, and clearly understand the remote likelihood that a vineyard would be the supplier of the medical devices identified by the CAYMUS MEDICAL marks of Applicant's Applications.

SEVENTH AFFIRMATIVE DEFENSE

43. Opposer is estopped from enforcing the pleaded mark U.S. Registration No. 1,833,996 under the equitable doctrine of unclean hands because the pleaded mark was obtained and maintained fraudulently, deceitfully and/or by misrepresentation such that Opposer should be denied relief herein.

Counterclaim

FIRST GROUND

44. Applicant repeats and realleges each and every allegation set forth in the preceding paragraphs as if set forth herein. Applicant hereby seeks cancellation of Registration No. 1,833,996 because this registration was obtained fraudulently. During the prosecution of this trademark Examining Attorney Linda E. Blohm specifically required "[t]he applicant must indicate whether CAYMUS has any . . . geographical significance or any meaning in a foreign language." Exhibit A; (U.S. trademark application Serial No. 74/386086; Office Action 01, mailed on October 15, 1993 to Mr. Scott W. Peterson (Caymus Vineyards' legal representative.) In Office Action 02 Examining

Opposition No. 91204667

Answer

Attorney Blohm entered an Examiner's Amendment made "in accordance with the telephone conversation of November 1, 1993 with Scott W. Peterson" stating in part "[t]he wording "CAYMUS" has no significance other than trademark significance." Exhibit B (Examiner's Amendment mailed December 2, 1993). This statement is false, as the word "Caymus" has both historic and present geographical and cultural significance and was originally (as KAYMUS), a name in the Wappo language referring to a Native American tribe occupying a portion of the Napa Valley.

Facts Supporting First Ground

45. Originally the word "Caymus" was the name of a Native American tribe that "dwelt upon the Yount grant, to which they gave their name." (Exhibit C; Menifee, Campbell A. , Historical and Descriptive Sketch Book of Napa, Sonoma, Lake and Mendocino at 19 (Reporter Publishing House 1873) (emphasis added). The "Yount grant" was an 11,887-acre Mexican land grant given in 1836 by the acting governor of California, Nicolas Guterrez, to George C. Yount as "Rancho Caymus", and included present day Yountville, Oakville and Rutherford. See Exhibit D; Rancho Caymus, Wikipedia, (http://en.wikipedia.org/wiki/Rancho_Caymus; accessed June 12, 2012). Caymus Vineyards' website indicates the Caymus Tasting Room is located at Rutherford (within the historic Rancho Caymus) at 8700 Conn Creek Road, Rutherford, CA 94573). A large stone marker in the small town of Yountville, approximately 6 miles from Caymus Vineyards' tasting room, prominently indicates the site of the original Caymus (Kaymus) village. Exhibit E (photograph downloaded July 13, 2012 from website <http://suzlorenz.blogspot.com/2009/07/caymus-indian-tribe-tribute-from-1950.html>).

46. The recognized geographic and cultural significance of the name "Caymus" is also evidenced, at inter alia, by four listings on the United States Geological Survey's Geographic Names Information Center, three of which are located about 7 miles of each other within the historic

Opposition No. 91204667

Answer

Rancho Caymus land grant in Napa Valley, California. Caymus (ID #233645) is listed as a “civil” feature located in Rutherford, California, and Caymus (ID# 1800354) is listed as a historical “populated place” located in Yountville, California. The third listing is Caymus Vineyards (ID # 1800355), listed as a “locale” situated in Rutherford, CA. Exhibit F; (search query conducted July 13, 2012 for geographical feature CAYMUS using U.S.G.S. Geographical Names Information System at <http://geonames.usgs.gov/pls/gnispublic>).

47. Additionally, a well-known Napa Valley inn named the “Rancho Caymus Inn” is located at Rutherford, California about 1-2 miles from the Caymus Vineyards “locale”. The Rancho Caymus Inn website indicates that “[o]ur Napa Valley Inn takes its name from land awarded in 1836 by General Mariano Vallejo to pioneer George C. Yount, Napa’s first land grant. A sprawling hacienda named Caymus Rancho was built on the site” Exhibit G; (Rancho Caymus Inn website accessed July 13, 2012 at <http://www.ranchocaymus.com/about-us>)(emphasis added) . Additionally the local chapter of the Daughters of the American Revolution (DAR), located about 15 miles from Rutherford in Calistoga, California is called the “Caymus Chapter” of the DAR. See Exhibit H; (website accessed July 13, 2012 at <http://www.californiadar.org/chapters2/caymus/>).

48. It would strain credulity to the breaking point to believe that the Opposer, whose tasting room is located in the historic Rancho Caymus in Rutherford, CA and within a mile or two of the Rancho Caymus Inn, chose CAYMUS as a trademark for their wines without actual knowledge at the time of registration that the word Caymus had “significance other than trademark significance”. It cannot be convincingly disputed that Opposers chose to link their wine products to the Caymus locale at or near which the grapes are grown and/or the wine is produced. Thus, a clear intent to deceive, rather than mere negligence or misstatement, is demonstrated from Examining Attorney

Opposition No. 91204667

Answer

Blohm's statement that the Examiner's Amendment (stating "[t]he wording "CAYMUS" has no significance other than trademark significance") was made "in accordance with the telephone conversation of November 1, 1993" with Opposer's representative." Exhibit B (emphasis added). "In accordance with" can only mean that the Examining Attorney recorded that the Opposer communicated his assent to (either proposed or agreed with) the language of the Examiner's Amendment during the telephone conversation, which itself was held in response to the Examining Attorney's requirement that Opposer indicate "whether CAYMUS has any . . . geographical significance or any meaning in a foreign language"). Exhibit A . This representation that CAYMUS has only trademark significance is manifestly false, as shown by the facts stated above. Furthermore, in the December 2, 1993 Office Action the Opposer was invited to voice any objection to the amendment adding this statement. *Id.* Opposer failed to do so, despite its knowledge that the word Caymus has famous significance as a cultural and geographic name. This failure to correct a manifestly false statement can only be taken to have been made with the intent to induce agents of the United States Patent and Trademark Office to grant registration of the pleaded mark "CAYMUS" (now Registration No. 1,833,996) and, reasonably relying on the truth of these false statements, they did grant such registration.

49. Nor was this the only instance in which the Opposer caused the USPTO to rely on this false representation. In *Caymus Vineyards v. Caymus Real Estate, LLC*, Opposition No. 91199267, which also involved currently pleaded Registration No. 1,883,996, the Applicant Caymus Real Estate filed an Answer to Notice of Opposition on May 12, 2011 in which they pleaded as a third Affirmative Defense "[t]he term "Caymus" refers to a geographical region and/or an Indian tribe." Exhibit I; Answer to Notice of Opposition at 3. This allegation was repeated on page 5 of the Answer to Amended Notice of Opposition filed November 2, 2011 as well. Despite these explicit

Opposition No. 91204667

Answer

statements, which are part of the 91199267 Opposition record and must be taken as tangible evidence of Opposer's knowledge of the falsity of the representation stating "[t]he wording "CAYMUS" has no significance other than trademark significance", the present Opposer has at least thrice again fraudulently, and with intent to deceive the agents of the USPTO, failed to correct this false statement in the prosecution history of Registration No. 1,883,996, both at the time each Answer was filed (May 12, 2011 and November 2, 2011) and again prior to initiating the present Opposition. Furthermore, Applicant also earnestly believes that further evidence is likely to be revealed during discovery that would further support this claim of fraud.

50. Applicant has been and will continue to be damaged by the issuance and existence of invalid Registration No. 1,883,996 issued to the Opposer. Applicant's 1(b) trademark applications drawn to CAYMUS MEDICAL and CAYMUS MEDICAL (and design) have been published and Applicant has already invested resources towards commercializing products to be sold under the mark CAYMUS MEDICAL. Furthermore, on information and belief, as a direct result of Opposer's fraud, leading to the issuance of the invalid 1,883,996 Registration, Opposers made the invalid registration the subject of a Section 15 affidavit alleging that the registration was incontestable on June 11, 2000, thereby damaging Applicant's ability to contest the validity of Registration No. 1,883,996. Finally, Applicant is damaged by having to expend legal fees and its time in order to defend its Applications in the present opposition against Opposer's invalid registration. Thus, Opposer's fraudulent procurement of the pleaded 1,883,996 "CAYMUS" registration has proximately caused damage to Applicant resulting from the USPTO's reliance on the intentionally false representations of Opposer.

GROUND 2

51. Additionally and/or alternatively, Opposer's Registration (Registration No. 1,833,996) is not due incontestable status, and is susceptible of cancellation, because the Opposer's representative procured the registration fraudulently. Applicant repeats and realleges each and every allegation set forth in the preceding paragraphs as if set forth herein. On December 29, 1999 the Opposer filed a combined Section 15 Affidavit of Use Pursuant to 15 U.S.C. §1115(b) (actually a combined Section 8 and 15 Affidavit), alleging five (5) years' consecutive use of the mark in commerce after the date of registration, or in the alternative, the date of publication of the mark under 35 U.S.C. §112(c). Generally when the right to use a registered mark has become incontestable by filing a Section 15 affidavit, the registration is conclusive evidence of the validity of the mark and of the registrant's exclusive right to use the mark. However, as is made clear in TMEP §1605, "[t]he USPTO does not 'accept' §15 affidavits"; rather its function is the ministerial one of receiving such affidavits and noting their receipt. The incontestability of a facially incontestable mark can be defended against and the incontestability refuted if "the registration or the incontestable right to use the mark was obtained fraudulently" 15 U.S.C. §1115(b)(1). In the present case, since the mark was obtained fraudulently, as pleaded previously, the alleged incontestability of the mark is successfully overcome.

GROUND 3

52. Applicant repeats and realleges each and every allegation set forth in the preceding paragraphs as if set forth herein.

53. Applicant hereby seeks cancellation of Opposer's Registration (Registration No.

Opposition No. 91204667
Answer

1,833,996) for the mark "CAYMUS" in International Class 033.

54. The term "CAYMUS" is primarily geographically descriptive of locales, populated locations and/or a population of Native Americans. The wines identified in Registration No. 1,833,996 as being identified using the "CAYMUS" mark are grown, sold and/or made within the historic and famous Rancho Caymus area of the Napa Valley.

55. Alternatively and/or additionally, the term "CAYMUS" has not acquired secondary meaning through substantially exclusive, continuous use, and is therefore not distinctive. Opposer has repeatedly, and for periods of time of well over a decade, failed to prevent the unauthorized use of the mark "CAYMUS" by third parties, including, without limitation, a well-known Napa Valley inn, the Rancho Caymus Inn (located 1-2 miles from the Opposer's listed address in Rutherford, California), and the local "Caymus" chapter of the Daughters of the American Revolution.

56. Other third party users of the mark "Caymus", easily found through a basic internet search, include, without limitation: Caymus Equity Partners LLC, a Georgia-based private equity firm; Caymus Corporation, an Arizona general contracting firm; Caymus Capital, an internet-based private equity firm; Caymus Capital Group, LLC, a private investment group located in Los Angeles, California; Caymus Capital Partners, L.P., a financial investment advisory firm located in the Woodlands, Texas; Caymus Properties, a property management firm located in Sacramento, California; Caymus Townhomes, a housing development near Seattle, Washington and Caymus Cove, a housing subdivision in Meridian, Idaho.

57. Opposer's alleged CAYMUS trademark is therefore not distinctive and has no

Opposition No. 91204667

Answer

secondary meaning.

58. For the foregoing reasons Applicant believes that it will be damaged by the continued registration of the mark shown in Registration No. 1,833,996.

59. Applicant is herewith filing the statutory fee of \$300 for its counterclaim. For the payment of this and any additional fee that may be due, please use Deposit Account 135135.

ADDITIONAL DEFENSES AND COUNTERCLAIMS

59. Applicant hereby reserves the right to assert additional defenses and/or counterclaims based upon information learned or obtained during discovery.

Opposition No. 91204667
Answer

WHEREFORE, Applicant prays for judgment as follows:

- (a) this opposition be dismissed with prejudice;
- (b) Registration No. 1,833,996 be canceled; and
- (c) Registrations for Applicant's trademark applications Serial Numbers 85/281308 and 85/279926, be issued to the Applicant;

Respectfully Submitted,

/Donald E. Stout/

Donald E. Stout
Attorney for Applicant
STOUT, UXA, BUYAN & MULLINS LLP

4 Venture, Suite 300
Irvine, CA 92618
Telephone: 949-450-1750

Opposition No. 91204667
Answer

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing Answer to be served upon:

Anthony R. Masiello, Esq.
Holland & Knight LLP
2099 Pennsylvania Ave., N.W.
WASHINGTON, D.C. 20006

by placing same in an envelope, properly sealed and addressed, with postage prepaid and depositing same with the United States Postal Service on this 18th day of July, 2012.

_____/Donald E. Stout/_____

Donald E. Stout
Attorney for Applicant
STOUT, UXA, BUYAN & MULLINS LLP

4 Venture, Suite 300
Irvine, CA 92618
Telephone: 949-450-1750

Date: July 18, 2012