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Filing date: **11/13/2013**

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

Proceeding	91208855
Party	Plaintiff Greater Louisville Convention & Visitors Bureau
Correspondence Address	JOHN A GALBREATH GALBREATH LAW OFFICES PC 2516 CHESTNUT WOODS CT REISTERSTOWN, MD 21136 UNITED STATES jgalbreath@galbreath-law.com
Submission	Motion to Compel Discovery
Filer's Name	John A. Galbreath
Filer's e-mail	jgalbreath@galbreath-law.com
Signature	/John A. Galbreath/
Date	11/13/2013
Attachments	91208855-Plaintiff's Motion to Compel-Main Body.pdf(272793 bytes) 91208855-Plaintiff's Motion to Compel-Exhibits 1-10.pdf(5630386 bytes) 91208855-Plaintiff's Motion to Compel-Exhibits 11-18.pdf(645504 bytes)

**Greater Louisville Convention
and Visitors Bureau**

Opposer

v.

The Wine Group LLC

Applicant

) **IN THE UNITED STATES**
) **PATENT AND TRADEMARK OFFICE**
)
)
) **TRADEMARK TRIAL AND APPEAL BOARD**
)
)
) **APPL. NO. 85/736,374**
)
) **OPPOSITION NO. 91208855**
)

OPPOSER’S MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND THINGS

Greater Louisville Convention and Visitor’s Bureau (“Louisville”, “Opposer”, or “Plaintiff”), by and through its below-identified attorneys, hereby moves under Rule 2.120(e) to compel production of documents and things by The Wine Group LLC’s (“Wine Group”, “Applicant”, or “Defendant”), and states as follows:

I. Suspension of Proceedings.

Pursuant to Rule 2.120(e)(2), Louisville respectfully requests that proceedings be suspended as of the filing date of this motion, and that the remaining discovery and trial dates be reset when the motion is decided.

II. Wine Group Has Not Produced Documents As Promised, Despite Louisville’s Many Attempts To Get It To Do So.

On June 13, 2013, Louisville served requests for production of documents and things on Wine Group. Exhibit 1. On July 15, Wine Group responded to these requests, promising to produce documents for at least request nos. 3, 12, 18, and 62. Exhibit 2.

On July 14, 2013, Wine Group sent a letter to Louisville, stating that it would retain its responsive documents where they were located. Exhibit 3, p. 1, para. 4. Louisville did not complain about this, since permitting inspection and copying of documents where they are located is allowed under the rules. Instead, on July 26, 2013 Louisville sent a letter to Wine Group, scheduling an August 29-30 trip to Wine Group's location to inspect and copy Wine Group's documents. Exhibit 4. Wine Group received Louisville's letter by email and by regular mail, and did not object to this arrangement. Accordingly, Louisville made its travel and lodging accommodations. Exhibits 5-6.

On August 15, 2013, Louisville sent a follow-up letter to Wine Group, referencing the scheduled inspection of Wine Group's documents and requesting information on where the documents were located. Exhibit 7. Only then did Wine Group reply by email that it would be unavailable for the document inspection on August 29-30. Exhibit 8. Louisville responded by email that day, pointing out that Wine Group had not previously objected to the scheduled inspection on August 29-30. Exhibit 9. Nonetheless, in view of Wine Group's new objection, Louisville proposed rescheduling the document inspection for the week of September 9, 2013, and requested that Wine Group provide available dates for that week. *Id.* Wine Group never responded to this request.

On August 29, 2013, Louisville sent another follow-up letter to Wine Group, and requested available dates for document inspection in the week of September 23, since the week of September 9 "window" had closed by then with no response from Wine Group. Exhibit 10. Wine Group replied by email the next day, contending that the request for available document inspection dates was moot in view of the Board's suspension order of August 30, 2013. Exhibit 11.

This was incorrect. As Louisville pointed out in an email reply that day, Louisville's document requests were served well before Wine Group's July 15, 2013 motion to compel, and as such, Wine Group was required under Rule 2.120(e)(2) to produce the requested documents. Exhibit 12.

Wine Group then contended that Louisville's document requests were the subject of Wine Group's motion to compel. Exhibit 13. This was also incorrect, as Wine Group's motion to compel concerned Wine Group's document requests, not Louisville's document requests. Wine Group also stated that it would not permit inspection of its responsive documents in the week of September 23. *Id.* Louisville responded that the situation appeared to be at an impasse, and it would proceed accordingly. Exhibit 14. A brief email exchange followed, which did not resolve the impasse. Exhibit 15.

As soon as the Board's order was issued deciding Wine Group's motion to compel and resuming proceedings, Louisville again attempted to schedule an inspection of Wine Group's documents. On November 4, 2013, Louisville sent a letter to Wine Group, requesting available dates for the document inspection in the week of December 2, 2013. Exhibit 16. Wine Group did not respond, and thus on November 8, 2013 Louisville sent a follow-up letter to Wine Group, again asking for available dates for the document inspection in the week of December 2. Exhibit 17. To date, Louisville has received no response.

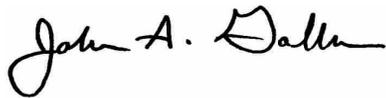
As can be seen from the foregoing, Louisville has made repeated good faith attempts to resolve this discovery issue, to no avail. Wine Group has steadfastly refused to permit inspection of its responsive documents, and thus should be compelled to do so. Alternatively, Wine Group can choose to send its responsive documents to Louisville – but it must do one or the other.

The sworn declaration of the undersigned is attached as Exhibit 18, attesting to the genuineness of the facts stated and exhibits referred to herein.

CONCLUSION

For all the above reasons, Louisville's motion to compel should be granted.

Respectfully submitted,

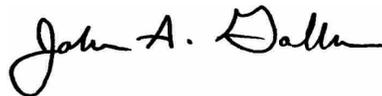


John A. Galbreath
Galbreath Law Offices
2516 Chestnut Woods Ct.
Reisterstown, MD 21136-5523
TEL: 410-628-7770
FAX: 410-666-7274
EMAIL: jgalbreath@galbreath-law.com

Attorneys for Opposer

Certificate of Service: I certify that on the date below, the foregoing Motion to Compel Production of Documents and Things, and referenced attachments, if any, were deposited with the United States Postal Service as first-class mail addressed to:

PAUL W. REIDL
LAW OFFICE OF PAUL W. REIDL
241 EAGLE TRACE DRIVE, SECOND FLOOR
HALF MOON BAY, CA 94019



13 November 2013

John A. Galbreath

EXHIBITS

Greater Louisville Convention and Visitors Bureau	)	IN THE UNITED STATES
	)	PATENT AND TRADEMARK OFFICE
)	
Opposer)	
	)	TRADEMARK TRIAL AND APPEAL BOARD
v.)	
)	
The Wine Group LLC	)	APPL. NO. 85/736,374
)	
Applicant	)	OPPOSITION NO. 91208855
<hr/>)	

**OPPOSER'S FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS AND THINGS, NOS. 1 - 66**

Pursuant to Rule 2.120(d) of the U.S. Patent and Trademark Office's ("PTO") Trademark Rules of Practice, 37 C.F.R. § 2.120(d), and Rule 34 of the Federal Rules of Civil Procedure ("FRCP"), Greater Louisville Convention and Visitors Bureau (hereinafter referred to as "Louisville", "Opposer", or "Plaintiff") hereby requests that The Wine Group LLC (hereinafter referred to as "Wine Group", "Applicant", or "Defendant"), produce the following documents and things at Galbreath Law Offices, P.C., 2516 Chestnut Woods Ct., Reisterstown, MD 21136 within thirty (30) days of service hereof in accordance with Rule 2.120(a) of the PTO's Trademark Rules of Practice and FRCP 34. Applicant is requested to supplement its responses from time to time as appropriate in accordance with FRCP 26(e).

DEFINITIONS

A. The terms "Wine Group", "Applicant", or "Defendant" shall refer to The Wine Group LLC, and any present or former owner, officer, director, employee, servant, agent, attorney or other representative acting on its behalf, and shall include any parent corporation, or wholly-owned or partially-owned subsidiary, predecessor, successor, or

affiliate either within the United States or a foreign country.

B. The term "Louisville", "Opposer", or "Plaintiff" shall refer to Greater Louisville Convention and Visitors Bureau, and any present or former owner, officer, director, employee, servant, agent, attorney or other representative acting on its behalf, and shall include any parent corporation, or wholly-owned or partially-owned subsidiary, predecessor, successor, or affiliate either within the United States or a foreign country.

C. The term "you" shall mean the party or person to whom the Production Request is propounded, all agents, employees, servants, attorneys, and all other representatives, and persons over whom the person or party to whom the Production Request is propounded has the right to or does control or direct any activities.

D. The term "document" shall mean any tangible thing upon which information is or has been stored, recorded, or communicated, and any written, printed, typed and visually or aurally reproduced material of any kind, whether or not privileged, such as (by way of example and not by way of limitation) correspondence including email and other electronic correspondence, letters, notes, memoranda, diaries, invoices, purchase orders, records, minutes, interoffice communications, bills, contracts, agreements, orders, receipts, price lists, studies, drawings or sketches, tapes or discs capable of being mechanically read, films, pictures, catalogs, photographs, electronic mail, advertising or promotional literature, operating manuals or instructional materials, voice recording, cables or telegrams, maps, charts, surveys, test data, HTML code, website pages and reports; every copy of every such writing or record where the original is not in the possession, custody or control of Applicant, and every copy of every such writing or record where such copy is not identical copy of the original or where such copy contains any commentary that does not appear on the original.

E. The term "thing" shall mean all tangible objects of any type, composition, construction or nature.

F. The term "communication(s)" includes the disclosure, transfer or exchange of information by any means, written, verbal, electronic or otherwise.

G. The term "person" shall include both natural persons and corporate or other business entities, whether or not in the employ of Applicant, and the acts and knowledge of a person are defined to include the acts and knowledge of that person's directors, officers, members, employees, representatives, agents and attorneys.

H. The term "trademark" or "mark" includes trademarks, service marks, collective marks, certification marks and trade names as defined in 15 U.S.C. §1127.

I. The term "concerning" means relating to, referring to, describing, evidencing or constituting.

J. A document or thing "relating or referring" or which "relates" to any given subject means any document or thing that comprises, constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any way pertinent to that subject, including, without limitation, documents concerning the preparation of other documents.

K. The term "all" or "each" shall be construed to include all and each.

L. The term "and" shall be construed to include "or" and *vice versa*, and shall be the logical equivalent of "and/or," as necessary in order to bring within the scope of the request all responses which might otherwise be construed to be outside its scope.

M. The use of the singular form of any word also includes the plural and *vice versa*.

N. The phrases "use in commerce," "use in United States commerce," "used in

commerce" and "used in United States commerce", or similar phrases, shall mean and refer to the definition provided under 15 U.S.C. §1127.

O. The term "Applicant's Mark" shall mean the mark depicted in Application No. 85/736,374.

P. The term "Opposer's Mark" or "Opposer's Marks" shall mean the marks as alleged by Opposer in this opposition.

GENERAL INSTRUCTIONS

1. If you claim that any document requested is privileged, please provide all information falling within the scope of the Request for Production which is not privileged, and identify with sufficient particularity for purposes of a Motion to Compel each item, document or thing, separately, with respect to which you claim a privilege, and state:

- a. the basis on which the privilege is claimed;
- b. the author of the document, if applicable;
- c. each individual or other person to whom the document or copy thereof was sent or otherwise disclosed;
- d. the date of the document;
- e. the type of document (e.g., letter, memorandum, etc.); and;
- f. the general subject matter of the document.

You are not requested to provide privileged information or information for which you claim privilege, but only to identify such information, document or thing.

2. If any document which you would have produced in response to any Request was, but is no longer, in your present possession or subject to your control or is no longer

in existence, please state whether any such document is:

- a. missing or lost;
 - b. destroyed;
 - c. transferred to others; and
 - d. otherwise disposed of, and in such instance, set forth the surrounding circumstances and any authorization of such disposition and state the approximate date of any such disposition, and the present location and custodian of such document.
3. Applicant's responses to the following Requests for Production are to be promptly supplemented to include subsequently acquired information in accordance with the requirements of Rule 26(e) of the Federal Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 1:

All documents and things identified in response to Opposer's Interrogatories.

REQUEST FOR PRODUCTION NO. 2:

All documents and things consulted in preparing responses to Opposer's Interrogatories.

REQUEST FOR PRODUCTION NO. 3:

All documents and things referring or relating to Applicant's selection, adoption, development, or creation of Applicant's Mark, including, but not limited to, invoices,

advertisements in any media, promotional materials in any media, brochures, catalogs, labels, tags, packaging, containers, point-of-sale displays, or websites, produced by or on behalf of Applicant.

REQUEST FOR PRODUCTION NO. 4:

All documents and things referring or relating to any variations of Applicant's Mark and/or the goods and/or services with which such variations were used or with which Applicant plans to use Applicant's Mark, including, but not limited to, invoices, advertisements in any media, promotional materials including email advertisements and promotions, catalogs, brochures, tags, labels, packaging, containers, point of sale displays, or websites, produced by or on behalf of Applicant.

REQUEST FOR PRODUCTION NO. 5:

All documents and things referring or relating to Applicant's current use in United States commerce of Applicant's Mark, including, but not limited to, invoices, advertisements in any media, promotional materials including email advertisements and promotions, catalogs, brochures, tags, labels, packaging, containers, point of sale displays, or websites, produced by or on behalf of Applicant.

REQUEST FOR PRODUCTION NO. 6:

All documents and things sufficient to identify each person who participated in the adoption, development, creation, or selection of Applicant's Mark, or any variation

thereof.

REQUEST FOR PRODUCTION NO. 7:

All documents and things sufficient to identify each mark considered by Applicant to be a variation of Applicant's Mark.

REQUEST FOR PRODUCTION NO. 8:

All documents and things referring or relating to Applicant's past use, current use, or plans for future use of Applicant's Mark in connection with all goods and/or services with which Applicant's Mark is used.

REQUEST FOR PRODUCTION NO. 9:

All documents and things concerning any search, business, legal or other opinions regarding any mark containing the design shown in Applicant's mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 10:

All documents and things concerning any inquiry or investigation made by or on behalf of Applicant with respect to any mark cited by any trademark search related to Applicant's Mark.

REQUEST FOR PRODUCTION NO. 11:

All documents and things concerning any opinion regarding Applicant's right to use Applicant's Mark.

REQUEST FOR PRODUCTION NO. 12:

All documents and things sufficient to identify all goods and/or services Applicant offers or intends to offer under Applicant's Mark, or any variation thereof, including:

- a) The nature and intended use of the products and/or services;
- b) The projected date and nature of the first use of Applicant's Mark, or any variation thereof, for each of the products and/or services;
- c) The projected date and nature of the first use of Applicant's Mark, or any variation thereof, in U.S. commerce;
- d) The present stage of development of each product and/or service;
- e) The steps that have been taken toward the exploitation of Applicant's Mark, or any variation thereof, in connection with each product and/or service; and
- f) Applicant's intent to use Applicant's Mark, or any variation thereof, in connection with each product and/or service.

REQUEST FOR PRODUCTION NO. 13:

All documents and things sufficient to identify the period or periods of use of Applicant's Mark, or any variation thereof, since the date of first use of Applicant's Mark.

REQUEST FOR PRODUCTION NO. 14:

Representative samples of invoices, purchase orders, sales reports, shipping orders, inventory reports, and other records concerning any sales or offerings of goods and/or services to any person or entity under Applicant's Mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 15:

All documents and things, including financial, accounting and corporate records concerning:

- a) your total income from the sale or license of goods and/or services sold under Applicant's Mark annually by good or service per calendar year, from first use of Applicant's Mark for each such good or service to the present; and
- b) your projected income from the sale or license of goods and/or services sold under Applicant's Mark annually by good or service per calendar year.

REQUEST FOR PRODUCTION NO. 16:

All documents and things, including financial, accounting and corporate records concerning:

- a) the total amount spent on promoting and advertising Applicant's Mark; and
- b) the projected total amount that will be spent on promoting and advertising Applicant's Mark.

REQUEST FOR PRODUCTION NO. 17:

All documents and things sufficient to establish the date of first use in commerce of Applicant's Mark, or any variation thereof, in connection with each good and/or service rendered under Applicant's Mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 18:

All documents and thing sufficient to show how Applicant uses or intends to use Applicant 's Mark, or any variation thereof, including, but not limited to, advertising and advertising mockups and proposals, promotional materials including emails and websites, catalogs, forms, letterhead, membership materials, purchase orders, press and/or media kits, point-of-purchase displays, and promotional goods.

REQUEST FOR PRODUCTION NO. 19:

All documents and things sufficient to identify each channel of trade or distribution through which Applicant markets or intends to market its goods and/or services under Applicant's Mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 20:

All documents and things sufficient to identify each type of media or publication through which Applicant advertises and promotes or intends to advertise and promote goods and/or services under Applicant's Mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 21:

All documents and things sufficient to identify each type of sponsorship through which Applicant advertises and promotes or intends to advertise and promote goods and/or services under Applicant's Mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 22:

All documents and things relating or referring to, or tending to show, the amount of money spent by any authorized user of Applicant's Mark for promotional activities or advertisements for Applicant's Mark.

REQUEST FOR PRODUCTION NO. 23:

All documents and things relating to, referring to or showing market research conducted by Applicant in connection with Applicant's Mark, including, but not limited to, surveys or statistics showing Applicant's target audience of consumers.

REQUEST FOR PRODUCTION NO. 24:

All documents and things concerning, relating or referring to Opposer or Opposer's Marks.

REQUEST FOR PRODUCTION NO. 25:

All documents and things concerning business plans, including, but not limited to, marketing plans, advertising plans and business forecasts, for Applicant's goods and/or services used in connection with Applicant's Mark.

REQUEST FOR PRODUCTION NO. 26:

All documents and things concerning any efforts to enforce the rights in Applicant's Mark against any third person(s) or third party(ies).

REQUEST FOR PRODUCTION NO. 27:

All documents and things relating or referring to or showing ownership of any claimed predecessor-in-title to Applicant's Mark.

REQUEST FOR PRODUCTION NO. 28:

All documents and things referring or relating to any attempts by Applicant to register Applicant's Mark, or any variation thereof, under the laws of any state or before the U.S. Patent and Trademark Office.

REQUEST FOR PRODUCTION NO. 29:

All documents and things that refer or relate to any plans by Applicant to expand use of Applicant's Mark, or any variation thereof, or sales or distribution of the goods and/or services, including, but not limited to, expansion of marketing lines, channels of

distribution, the number of products or services in connection with which Applicant's Mark is used, the customer base or geographical areas served.

REQUEST FOR PRODUCTION NO. 30:

All documents and things relating or referring to, or showing how Applicant's Mark has been and is being advertised or promoted since the date of its initial adoption to the present, including but not limited to, internal memorandums, brochures, flyers, newspaper articles, advertisements (both print and electronic versions), websites, billboards, pamphlets, magazine or trade journal articles, and radio or television advertisements.

REQUEST FOR PRODUCTION NO. 31:

All documents and things referring or relating to, or tending to show, any current or anticipated advertisements or promotions of goods and/or services in connection with Applicant's Mark, including but not limited to, internal memorandums, brochures, flyers, newspaper articles, advertisements (both print and electronic versions), websites, billboards, pamphlets, magazine or trade journal articles, and radio or television advertisements.

REQUEST FOR PRODUCTION NO. 32:

A sample of each product and/or service provided under Applicant's Mark since its initial adoption.

REQUEST FOR PRODUCTION NO. 33:

All documents and things sufficient to identify each trade and/or professional association through which Applicant promotes or intends to promote its goods and/or services under Applicant's Mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 34:

All documents and things referring or relating to any trade shows attended by, or proposed to be attended by, Applicant where goods and/or services provided under Applicant's Mark, or any variation thereof, were sold, advertised or promoted or are intended to be sold, advertised or promoted.

REQUEST FOR PRODUCTION NO. 35:

All documents and things sufficient to identify each class of persons, including, but not limited to, gender, age, ethnicity, and socioeconomic status, who purchase Applicant's goods and/or services under Applicant's Mark.

REQUEST FOR PRODUCTION NO. 36:

All documents sufficient to identify each public relations firm, advertising agency, and marketing firm that has been engaged to advertise or promote Applicant's Mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 37:

All communications between Applicant and any public relations firm, advertising agency, and marketing firm that has been engaged to advertise or promote Applicant's goods and/or services under Applicant's Mark.

REQUEST FOR PRODUCTION NO. 38:

Each press release issued by or on behalf of Applicant which refers to Applicant's Mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 39:

Each unsolicited press mention, article, release or other story relating to Applicant's Mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 40:

All advertisements in any magazine, newspaper or other printed publication, relating to Applicant's Mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 41:

All documents and things sufficient to identify each retail store or other channel by which Applicant 's goods and/or services under Applicant's Mark are provided.

REQUEST FOR PRODUCTION NO. 42:

All documents and things sufficient to identify the specific geographic area(s) within which Applicant has provided goods and/or services under Applicant's Mark, or any variation thereof, over the time period in which Applicant's Mark has been used.

REQUEST FOR PRODUCTION NO. 43:

All documents and things sufficient to identify the specific geographic areas within which Applicant has promoted goods and/or services under Applicant's Mark, or any variation thereof, over the time period in which Applicant's Mark have been used.

REQUEST FOR PRODUCTION NO. 44:

All documents and things concerning the marketing, advertisement, promotion and/or sale of Applicant's goods and/or services under Applicant's Mark, including, but not limited to, subscription lists, or other materials identifying actual or prospective clients and customers in the United States.

REQUEST FOR PRODUCTION NO. 45:

All documents sufficient to identify the approximate annual sales in both units and dollars of all goods and/or services offered in connection with Applicant's Mark, or any variation thereof, annually by calendar year, from Applicant's first use of Applicant's Mark until

present.

REQUEST FOR PRODUCTION NO. 46:

All documents and things relating or referring to any discontinuation of use of Applicant's Mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 47:

All documents and things concerning, referring, or relating to Applicant's first awareness of Opposer's Marks.

REQUEST FOR PRODUCTION NO. 48:

All documents and things which refer or relate to Opposer, Opposer's Marks, or to any good and/or service of Opposer, including but not limited to, Opposer's Goods and Opposer's Services.

REQUEST FOR PRODUCTION NO. 49:

All documents and things evidencing, referring or relating to third party use of Applicant's Mark, or any variation thereof, including, but not limited to, authorizations, assignments, licenses agreements, including but not limited to, manufacturing agreements, whether in draft form or executed.

REQUEST FOR PRODUCTION NO. 50:

All documents and things evidencing, referring or relating to the sale of each and every good and/or service in connection with Applicant's Mark by Applicant, or a related company or licensee.

REQUEST FOR PRODUCTION NO. 51:

Documents and things sufficient to identify the approximate dollar amount expended annually by calendar year in the United States by Applicant in advertising the goods and/or services provided under Applicant's Mark since initial adoption of Applicant's Mark to the present.

REQUEST FOR PRODUCTION NO. 52:

A copy of each market survey and other research documents, including, but not limited to surveys, polls, tests, focus group studies Applicant has conducted, has commissioned, or plans to conduct concerning:

- a) Applicant 's goods and/or services rendered under Applicant's Mark, or any variation thereof;
- b) Applicant's Mark, or any variation thereof, as perceived by purchasers and potential purchasers;
- c) confusion between Applicant's Mark, or any variation thereof, and the mark or name of any other entity; or

- d) possible use in this opposition proceeding.

REQUEST FOR PRODUCTION NO. 53:

All unsolicited communications to Applicant that refer to Opposer's Marks, or any variation thereof.

REQUEST FOR PRODUCTION NO. 54:

All documents and things concerning any inquiry or investigation made by, or on behalf of, Applicant with respect to Opposer's Marks.

REQUEST FOR PRODUCTION NO. 55:

All documents and things which evidence, refer, or relate to any confusion, or the likelihood or possibility of confusion, between Applicant and Opposer, or between the goods and services offered, sold, or distributed by Opposer or Applicant, including, but not limited to consumer statements, misdirected mail and inquiries as to affiliation.

REQUEST FOR PRODUCTION NO. 56:

All documents and things concerning any complaint or statement by any person about the quality of Applicant's goods and/or services offered under Applicant's Mark.

REQUEST FOR PRODUCTION NO. 57:

All communications intended for Opposer that were received by Applicant.

REQUEST FOR PRODUCTION NO. 58:

All documents and things referring to, relating to, or tending to show a disclaimer made by Applicant as to an association with Opposer.

REQUEST FOR PRODUCTION NO. 59

All documents and things referring or relating to any adversarial proceeding, excluding the present proceeding, involving Applicant's Mark, or any variation thereof, before the Trademark Trial and Appeal Board in the United States Patent and Trademark Office, the United States Bureau of Customs, the United States Federal Trade Commission, or any other court or government agency in the United States.

REQUEST FOR PRODUCTION NO. 60:

All documents and things referring or relating to any objection raised, other than by Opposer, to Applicant 's use or registration of Applicant's Mark, or any variation thereof, by any third party.

REQUEST FOR PRODUCTION NO. 61:

All documents and things referring or relating to any objections made by Applicant to the use by another of mark(s) believed by Applicant to be confusingly similar to Applicant's

Mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 62:

All documents and things which support or tend to support Applicant's contentions and allegations in its Answer, Affirmative Defenses & Petition for Cancellation filed in this opposition, including but not limited to, all documents and things that support or tend to support each Affirmative Defense therein and each contention in any Counterclaim therein.

REQUEST FOR PRODUCTION NO. 63:

For each expert whose opinion Applicant may rely upon in this proceeding, each document concerning:

- a) any opinions that may be presented in the opposition;
- b) the reason for such opinions;
- c) any data or information considered by the witness in forming the opinions;
- d) any exhibits used in support of or summarizing the opinions; and
- e) the compensation being paid to the witness.

REQUEST FOR PRODUCTION NO. 64:

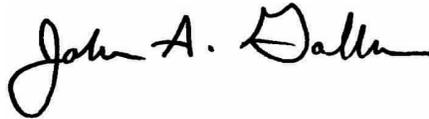
All documents and things bearing Applicant's Mark, or any variation thereof.

REQUEST FOR PRODUCTION NO. 65:

All documents and things referring or relating to Applicant's first knowledge of Opposer or Opposer's Marks.

REQUEST FOR PRODUCTION NO. 66:

All documents and things referring or relating to Applicant 's knowledge of any third party use of trade names, trademarks or service marks for or containing the design shown in Applicant's mark, or any variation thereof.



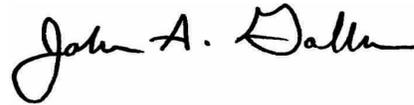
John A. Galbreath

Galbreath Law Offices, P.C.
2516 Chestnut Woods Ct.
Reisterstown, MD 21136-5523
TEL: 410-628-7770
FAX: 410-666-7274
EMAIL: jgalbreath@galbreath-law.com

Attorneys for Plaintiff/Opposer

Certificate of Service: I certify that on the date below, the foregoing Requests for Production and referenced attachments, if any, were sent by first-class mail to:

PAUL W. REIDL
LAW OFFICE OF PAUL W. REIDL
241 EAGLE TRACE DRIVE, SECOND FLOOR
HALF MOON BAY, CA 94019

A handwritten signature in black ink that reads "John A. Galbreath". The signature is written in a cursive style with a horizontal line underneath it.

13 June 2013

John A. Galbreath

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

Application Serial No. 85/736,374

Mark: (B)URBAN

Class: 33

**GREATER LOUISVILLE
CONVENTION & VISITORS
BUREAU,**

Opposer/Respondent,

v.

THE WINE GROUP, LLC,

Applicant/Counterclaimant.

Opposition No. 91208855

**APPLICANT'S OBJECTIONS AND
RESPONSES TO OPPOSER'S FIRST
SET OF REQUESTS FOR PRODUCTION
OF DOCUMENTS**

Pursuant to Federal Rule of Civil Procedure 34 and the Board's Rules, Applicant and Counterclaimant The Wine Group ("TWG") hereby submits the following responses and objections to Opposer/Respondent's ("GLCVB'S") First Set of Requests for Production of Documents.

PRELIMINARY STATEMENT

1. TWG incorporates by reference each and every General Objection and Specific Objection set forth below into each and every specific response. From time to time a specific response may restate a General Objection or Specific Objection for emphasis or for some other reason. The failure to include any General Objection or Specific Objection in any specific response shall not constitute a waiver of any General Objection or Specific Objection to that request.

EXHIBIT 2, p. 2

1 2. No incidental or implied admissions are intended by the responses included
2 herein. The fact that TWG has answered or objected to a request does not constitute an admission.
3 The fact that TWG has answered part or all of a request is not intended to be, and shall not be
4 construed to be, a waiver by TWG of any part of any objection to the request.

5 3. These responses are made solely for the purpose of this action. TWG does not
6 waive the right to object to the admissibility into evidence of any documents or information
7 provided in response to the requests. TWG further does not waive the right to raise all questions
8 of authenticity, relevancy, materiality and privilege for any purpose with regard to the
9 documents or information provided in response to the requests, which may arise in any
10 subsequent proceeding and/or the trial of this or any other action. Moreover, the assertion by
11 TWG of various General Objections and Specific Objections is not a waiver of other objections
12 that might be applicable or become so at some future time.

13 5. The responses of TWG to the requests are based only on TWG's present
14 knowledge.

15 6. GLCVB's requests are overly broad, oppressive and not reasonably calculated to
16 lead to the discovery of admissible evidence. They are comprehensive boilerplate requests for
17 infringement litigation, the purpose of which is to determine the likelihood of confusion based on
18 use of the mark. The present proceeding is, however, much narrower and is directed toward
19 whether TWG has a right to register the mark for the goods specified in the application
20 notwithstanding GLCVB's prior registrations of its marks for chamber of commerce services.
21 This is a much different question, to be decided by applying the factors set forth in *E. I DuPont*
22 *de Nemours & Co*, 476 F.2d 1357 (Fed. Cir. 1973) ("DuPont"). Requests that do not seek
23 information relevant to the *DuPont* inquiry, such as those requesting documents concerning
24

EXHIBIT 2, p. 3

1 “variations” of Applicant’s Mark and documents concerning use or potential use on other goods
2 or services are improper and not made in good faith.

3 7. Many of the requests ask for documents concerning “use” of the mark. The
4 application at issue is an Intent-to-Use application; no use is alleged and none has occurred.
5 Thus, there are few documents responsive to the requests. GLCVB knows this and therefore has
6 not propounded these requests in good faith.

GENERAL OBJECTIONS

7
8 1. TWG objects to each Definition and request to the extent that it purports to
9 impose any requirement or discovery obligation upon TWG other than as set forth in the Federal
10 Rules of Civil Procedure as interpreted and applied by the Board..

11 2. TWG objects to each Definition and request seeking to discover information not
12 relevant to any claim or defense and not reasonably calculated to lead to the discovery of
13 admissible evidence.

14 3. TWG objects to each Definition and request that calls for information that is not
15 within TWG’s possession, custody, or control, or that calls for TWG to prepare documents
16 and/or things that do not exist.

17 4. TWG objects to each Definition and request to the extent that it seeks information
18 protected by the attorney-client privilege, attorney work product immunity, or any other
19 applicable restriction upon discovery. No documents will be provided that is subject to the
20 attorney-client privilege and/or the work product immunity and/or any other applicable
21 restriction upon discovery.

22 5. TWG objects to each Definition and request to the extent that it purports to
23 impose upon TWG the burden of seeking documents theoretically located in offices throughout
24

EXHIBIT 2, p. 4

1 the world other than TWG's offices in California. TWG believes that any information or
2 documents responsive to the requests located in offices other than its California offices should
3 also be found in and duplicated by the information and documents located in its headquarters
4 office. The burden on TWG of searching each of its non-California offices would be oppressive.

5 6. TWG further objects to each Definition and request to the extent that it purports to
6 impose upon TWG the requirement that it provide information about its business activities in
7 countries other than the United States. Such information is not reasonably likely to lead to the
8 discovery of admissible evidence.

9 7. TWG objects to each Definition and request to the extent it seeks information or
10 identification of documents already in GLCVB'S possession or available to GLCVB from public
11 sources.

12 8. TWG objects to each request to the extent it is premature at this early stage of the
13 proceeding.

14 9. TWG objects to each Definition and request to the extent it seeks discovery of
15 information within the scope of Fed. R. Civ. P. 26 (b)(4), and therefore constitutes a premature
16 attempt to conduct discovery of expert opinion under the Board's Scheduling Order.

17 10. TWG has interpreted the requests using the ordinary meanings of words. To the
18 extent that any request purports to seek information other than as so interpreted, TWG objects on
19 the ground that any such request is vague, ambiguous, and overbroad.

SPECIFIC OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

20
21 1. TWG objects to the requirement that documents be produced thirty (30) days
22 from the date of service as improper under the Board's Rules. TWG will produce responsive
23 documents at the time required by the Board's Rules.

EXHIBIT 2, p. 5

1 2. TWG objects to the requirement that these requests be supplemented as beyond
2 the requirements of Federal Rule of Civil Procedure 26.

3 3. TWG objects to Definitions A, C and G as overly broad, unduly burdensome and
4 not reasonably calculated to lead to the discovery of admissible evidence.

5 4. TWG objects to Definition D as overly broad and unduly burdensome.

6 5. TWG objects to General Instruction 2 as overly broad, unduly burdensome, and
7 beyond the requirements of Rule 34 of the Federal Rules of Civil Procedure.

8 6. TWG objects to general Instruction 3 as beyond the requirements of Rule 26 (e)
9 of the Federal Rules of Civil Procedure.

WRITTEN RESPONSES

REQUEST FOR PRODUCTION NO. 1:

12 All documents and things identified in response to Opposer's Interrogatories.

RESPONSE

13 Subject to the Preliminary Statement, the General Objections and the Specific Objections,
14 TWG responds as follows: there are no responsive documents.

REQUEST FOR PRODUCTION NO. 2:

17 All documents and things consulted in preparing responses to Opposer's Interrogatories.

RESPONSE

18 Subject to the Preliminary Statement, the General Objections and the Specific Objections,
19 TWG responds as follows: there are no responsive documents.

REQUEST FOR PRODUCTION NO. 3:

22 All documents and things referring or relating to Applicant's selection, adoption,
23 development, or creation of Applicant's Mark, including but not limited to, invoices,
24

EXHIBIT 2, p. 6

1 advertisements in any media, promotional materials in any media, brochures, catalogs, labels,
2 tags, packaging, containers, point-of-sale-displays, or websites, produced by or on behalf of
3 Applicant.

RESPONSE

4
5 In addition to the Preliminary Statement, the General Objections and the Specific
6 Objections, TWG objects to this request as vague and ambiguous because the qualifying phrase
7 and the enumerated items thereafter have nothing to do with the subject matter of the original
8 request. Subject to these objections, TWG states that responsive, non-privileged documents will
9 be produced.

REQUEST FOR PRODUCTION NO. 4:

10
11 All documents and things referring or relating to any variations of Applicant's Mark
12 and/or the goods and/or services with which such variations were used or with which Applicant
13 plans to use Applicant's mark, including but not limited to, invoices, advertisements in any
14 media, promotional materials in any media, brochures, catalogs, labels, tags, packaging,
15 containers, point-of-sale-displays, or websites, produced by or on behalf of Applicant.

RESPONSE

16
17 In addition to the Preliminary Statement, the General Objections and the Specific
18 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
19 admissible evidence in this proceeding because the requested information is not relevant to any
20 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
21 not the right to use. TWG further objects to the extent that request seeks documents concerning
22 variations of Applicant's Mark as not reasonably calculated to lead to the discovery of
23
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EXHIBIT 2, p. 7

1 admissible evidence because this proceeding is confined to the applied mark and goods as
2 specified in the application. Subject to these objections, TWG responds as follows:
3 there are no responsive documents.

REQUEST FOR PRODUCTION NO. 5:

5 All documents and things referring or relating to Applicant's current use in United States
6 commerce of Applicant's Mark, including but not limited to, invoices, advertisements in any
7 media, promotional materials in any media, brochures, catalogs, labels, tags, packaging,
8 containers, point-of-sale-displays, or websites, produced by or on behalf of Applicant.

RESPONSE

10 In addition to the Preliminary Statement, the General Objections and the Specific
11 Objections, TWG objects to this request as overly broad and unduly burdensome, and improper
12 under Rule 34, because it requests every document in the company concerning the use of
13 Applicant's Mark. Subject to these objections, TWG response as follows: there are no
14 responsive documents.

REQUEST FOR PRODUCTION NO. 6:

16 All documents and things sufficient to identify each person who participated in the
17 adoption, development, creation, or selection of Applicant's Mark, or any variation thereof.

RESPONSE

19 Subject to the Preliminary Statement, the General Objections and the Specific Objections,
20 TWG responds as follows: there are no responsive documents.

IREQUEST FOR PRODUCTION NO. 7:

22 All documents and things sufficient to identify each mark considered by Applicant to be a
23 variation of Applicant's Mark.

EXHIBIT 2, p. 8

RESPONSE

1
2 In addition to the Preliminary Statement, the General Objections and the Specific
3 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
4 admissible evidence in this proceeding because the requested information is not relevant to any
5 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
6 not the right to use. TWG further objects to the extent that request seeks documents concerning
7 variations of Applicant's Mark as not reasonably calculated to lead to the discovery of
8 admissible evidence because this proceeding is confined to the applied mark and goods as
9 specified in the application. Subject to these objections, TWG responds as follows:
10 there are no responsive documents.

REQUEST FOR PRODUCTION NO. 8:

12 All documents and things referring or relating to Applicant's past use, current use, or
13 plans for future use of Applicant's Mark in connection with all goods and/or services with which
14 Applicant's Mark is used.

RESPONSE

16 In addition to the Preliminary Statement, the General Objections and the Specific
17 Objections, TWG objects to this request as duplicative of request number 5. TWG further
18 objects to the request to the extent it requests documents concerning other goods or services for
19 which Applicant's Mark might be used as not reasonably calculated to lead to the discovery of
20 evidence admissible on any of the *DuPont* factors; the only goods/services at issue are those
21 specified in the application for Applicant's Mark. TWG further objects to this request as overly
22 broad and unduly burdensome, and improper under Rule 34, because it literally requests every
23
24

EXHIBIT 2, p. 9

1 document in the company concerning Applicant's Mark. Subject to these objections, TWG
2 responds as follows: there are no responsive documents.

REQUEST FOR PRODUCTION NO. 9:

4 All documents and things concerning any search, business, legal or other opinions
5 regarding any mark containing the design shown in Applicant's Mark, or any variation thereof.

RESPONSE

7 In addition to the Preliminary Statement, the General Objections and the Specific
8 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
9 admissible evidence in this proceeding because the requested information is not relevant to any
10 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
11 not the right to use. TWG further objects to the extent that request seeks documents concerning
12 variations of Applicant's Mark as not reasonably calculated to lead to the discovery of
13 admissible evidence because this proceeding is confined to the applied mark and goods as
14 specified in the application. Subject to these objections, TWG responds as follows: there are no
15 responsive documents; Applicant's Mark does not have a design component.

REQUEST FOR PRODUCTION NO. 10:

17 All documents and things concerning any inquiry or investigation made by or on behalf
18 of Applicant with respect to any mark cited by any trademark search related to Applicant's Mark.

RESPONSE

20 In addition to the Preliminary Statement, the General Objections and the Specific
21 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
22 admissible evidence in this proceeding because the requested information is not relevant to any
23
24

EXHIBIT 2, p. 10

1 *DuPont* factor. Subject to these objections, TWG responds as follows: there are no responsive
2 documents.

REQUEST FOR PRODUCTION NO. 11:

4 All documents and things concerning any opinion regarding Applicant's right to use
5 Applicant's Mark.

RESPONSE

7 In addition to the Preliminary Statement, the General Objections and the Specific
8 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
9 admissible evidence in this proceeding because the requested information is not relevant to any
10 *DuPont* factor; this proceeding concerns the right to register the mark, not the right to use it.

11 TWG further objects because on its face the request expressly asks TWG to produce documents
12 protected by the attorney work product and attorney-client privileges. Subject to these
13 objections, TWG responds as follows: there are no responsive, non-privileged documents.

REQUEST FOR PRODUCTION NO. 12:

15 All documents and things sufficient to identify all goods and/or services Applicant offers
16 or intend to offer under Applicant's Mark, or any variation thereof, including:

- 17 1) The nature and intended use of the products and/or services;
- 18 2) The projected dates and nature of the first use of Applicant's Mark, or any
19 variation thereof, for each of the products or services;
- 20 3) The projected date and nature of the first use of Applicant's Mark, or any
21 variation thereof, in U.S. commerce;
- 22 4) The present stage of development of each product and/or service;

1 TWG further objects to the use of the term “variation” as vague and ambiguous. TWG further
2 objects to the extent that request seeks documents concerning use or potential use on other goods
3 and/or services, or variations of Applicant’s Mark, as not reasonably calculated to lead to the
4 discovery of admissible evidence because this proceeding is confined to the applied mark and
5 goods as specified in the application. Subject to these objections, TWG responds as follows:
6 there are no responsive documents.

7 **REQUEST FOR PRODUCTION NO. 14:**

8 Representative samples of invoices, purchase orders, sales reports, shipping orders,
9 inventory reports, and other records concerning any sales or offerings of goods and/or services to
10 any person or entity under Applicant’s Mark, or any variation thereof.

11 **RESPONSE**

12 In addition to the Preliminary Statement, the General Objections and the Specific
13 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
14 admissible evidence in this proceeding because the requested information is not relevant to any
15 *DuPont* factor; this proceeding concerns the right to register the mark, not the right to use it.
16 TWG further objects to the use of the term “variation” as vague and ambiguous. TWG further
17 objects to the extent that request seeks documents concerning use or potential use on other goods
18 and/or services, or variations of Applicant’s Mark, as not reasonably calculated to lead to the
19 discovery of admissible evidence because this proceeding is confined to the applied mark and
20 goods as specified in the application. Subject to these objections, TWG responds as follows:
21 there are no responsive documents.

22 //

23 //

1 **REQUEST FOR PRODUCTION NO. 15:**

2 All documents and things, including financial, accounting and corporate records
3 concerning:

4 1) your total income from the sale or license of goods and/or services sold under
5 Applicant's Mark annually by goods or services per calendar year, from first use of Applicant's
6 Mark for each good or service to the present; and

7 2) your projected income from the sale or license of goods and/or services sold
8 under Applicant's Mark annually by good or service per calendar year.

9 **RESPONSE**

10 In addition to the Preliminary Statement, the General Objections and the Specific
11 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
12 admissible evidence in this proceeding because the requested information is not relevant to any
13 *DuPont* factor; this proceeding concerns the right to register the mark, not the right to use it, and
14 there is and cannot be a damages claim in this proceeding. TWG further objects to the extent
15 that request seeks documents concerning use or potential use on other goods and/or services as
16 not reasonably calculated to lead to the discovery of admissible evidence because this proceeding
17 is confined to the applied mark and goods as specified in the application. Subject to these
18 objections, TWG responds as follows: there are no responsive documents.

19 **REQUEST FOR PRODUCTION NO. 16:**

20 All documents and things, including financial, accounting and corporate records
21 concerning:

22 1) the total amount spent on promoting and advertising Applicant's Mark; and
23
24

EXHIBIT 2, p. 15

1 goods as specified in the application. Subject to these objections, TWG responds as follows:
2 there are no responsive documents.

REQUEST FOR PRODUCTION NO. 18:

4 All documents and thing [sic] sufficient to show how Applicant uses or intends to use
5 Applicant's Mark, or any variation thereof, including, but not limited to, advertising and
6 advertising mockups and proposals, promotional materials including e-mails and websites,
7 catalogs, forms, letterhead, membership materials, purchase orders, press and/or media kits,
8 point-of-purchase displays, and promotional goods.

RESPONSE

10 In addition to the Preliminary Statement, the General Objections and the Specific
11 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
12 admissible evidence in this proceeding because the requested information is not relevant to any
13 *DuPont* factor; this proceeding concerns the right to register the mark, not the right to use it.
14 TWG further objects to the use of the term "variation" as vague and ambiguous. TWG further
15 objects to the extent that request seeks documents concerning use or potential use on other goods
16 and/or services, or variations of Applicant's Mark, as not reasonably calculated to lead to the
17 discovery of admissible evidence because this proceeding is confined to the applied mark and
18 goods as specified in the application. Subject to these objections, TWG responds as follows:
19 responsive documents will be produced.

REQUEST FOR PRODUCTION NO. 19:

21 All documents and things sufficient to identify each channel of trade or distribution
22 through which Applicant markets or intends to market its goods and/or services under
23 Applicant's Mark or any variation thereof.

RESPONSE

1
2 In addition to the Preliminary Statement, the General Objections and the Specific
3 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
4 admissible evidence in this proceeding because the requested information is not relevant to any
5 *DuPont* factor; this proceeding concerns the right to register the mark, not the right to use it.
6 TWG further objects to the use of the term “variation” as vague and ambiguous. TWG further
7 objects to the extent that request seeks documents concerning use or potential use on other goods
8 and/or services, or variations of Applicant’s Mark, as not reasonably calculated to lead to the
9 discovery of admissible evidence because this proceeding is confined to the applied mark and
10 goods as specified in the application. Subject to these objections, TWG responds as follows:
11 there are no responsive documents.

12 **REQUEST FOR PRODUCTION NO. 20:**

13 All documents and things sufficient to identify each type of media or publication through
14 which Applicant advertises and promotes or intends to advertise and promote goods and/or
15 services under Applicant’s Mark, or any variation thereof.

16 **RESPONSE**

17 In addition to the Preliminary Statement, the General Objections and the Specific
18 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
19 admissible evidence in this proceeding because the requested information is not relevant to any
20 *DuPont* factor; this proceeding concerns the right to register the mark, not the right to use it.
21 TWG further objects to the use of the term “variation” as vague and ambiguous. TWG further
22 objects to the extent that request seeks documents concerning use or potential use on other goods
23 and/or services, or variations of Applicant’s Mark, as not reasonably calculated to lead to the
24

1 discovery of admissible evidence because this proceeding is confined to the applied mark and
2 goods as specified in the application. Subject to these objections, TWG responds as follows:
3 there are no responsive documents.

4 **REQUEST FOR PRODUCTION NO. 21:**

5 All documents and things sufficient to identify each type of sponsorship through which
6 Applicant advertises and promotes or intends to advertise and promote goods and/or services
7 under Applicant's Mark, or any variation thereof.

8 **RESPONSE**

9 In addition to the Preliminary Statement, the General Objections and the Specific
10 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
11 admissible evidence in this proceeding because the requested information is not relevant to any
12 *DuPont* factor; this proceeding concerns the right to register the mark, not the right to use it.
13 TWG further objects to the use of the term "variation" as vague and ambiguous. TWG further
14 objects to the extent that request seeks documents concerning use or potential use on other goods
15 and/or services, or variations of Applicant's Mark, as not reasonably calculated to lead to the
16 discovery of admissible evidence because this proceeding is confined to the applied mark and
17 goods as specified in the application. Subject to these objections, TWG responds as follows:
18 there are no responsive documents.

19 **REQUEST FOR PRODUCTION NO. 22:**

20 All documents and things relating or referring to, or tending to show, the amount of
21 money spent by any authorized user of Applicant's Mark for promotional activities for
22 Applicant's Mark.

23 //

RESPONSE

1
2 In addition to the Preliminary Statement, the General Objections and the Specific
3 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
4 admissible evidence in this proceeding because the requested information is not relevant to any
5 *DuPont* factor; this proceeding concerns the right to register the mark, not the right to use it.
6 TWG further objects to the use of the term “authorized user” as vague and ambiguous. Subject
7 to these objections, TWG responds as follows: there are no responsive documents.

8 **REQUEST FOR PRODUCTION NO. 23:**

9 All documents and things relating to, referring to or showing market research conducted
10 by Applicant in connection with Applicant’s Mark, including, but not limited to, surveys or
11 statistics showing Applicant’s target audience of consumers.

12 **RESPONSE**

13 In addition to the Preliminary Statement, the General Objections and the Specific
14 Objections, TWG objects to this request to the extent it seeks survey research specifically
15 conducted for this proceeding as premature under the Board’s Scheduling Order. Subject to
16 these objections, TWG responds as follows: there are no responsive documents.

17 **REQUEST FOR PRODUCTION NO. 24:**

18 All documents and things concerning, relating or referring to Opposer or Opposer’s
19 Marks.

20 **RESPONSE**

21 Subject to the Preliminary Statement, the General Objections and the Specific Objections,
22 TWG responds as follows: there are no responsive documents other than the documents
23 generated in connection with this case which are either pleadings (and in the possession of
24

1 Opposer), Board Orders (and in the possession of Opposer) or attorney work product or
2 communications protected by the attorney-client privilege (which will not be produced nor will
3 Applicant provide an index to such documents because that would be impermissibly intrusive on
4 the privileges.)

5 **REQUEST FOR PRODUCTION NO. 25:**

6 All documents and things concerning business plans, including, but not limited to,
7 marketing plans, advertising plans and business forecasts, for Applicant's goods and/or services
8 used in connection with Applicant's Mark.

9 **RESPONSE**

10 In addition to the Preliminary Statement, the General Objections and the Specific
11 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
12 admissible evidence in this proceeding because the requested information is not relevant to any
13 *DuPont* factor; this proceeding concerns the right to register the mark, not the right to use it.
14 TWG further objects to the extent that request seeks documents concerning use on other goods
15 and/or services as not reasonably calculated to lead to the discovery of admissible evidence
16 because this proceeding is confined to the applied mark and goods as specified in the application.
17 Subject to these objections, TWG responds as follows: there are no responsive documents.

18 **REQUEST FOR PRODUCTION NO. 26:**

19 All documents and things concerning any efforts to enforce rights in Applicant's Mark
20 against any third person(s) or third party(ies).

21 **RESPONSE**

22 In addition to the Preliminary Statement, the General Objections and the Specific
23 Objections, TWG objects to this interrogatory as improperly requesting communications
24

1 protected from disclosure by the attorney-client privilege and work product immunity; even
2 providing a log of such communications would impinge on these privileges. Subject to these
3 objections, TWG responds as follows: there are no responsive documents.

4 **REQUEST FOR PRODUCTION NO. 27:**

5 All documents and things relating or referring to or showing ownership of any claimed
6 predecessor-in-title to Applicant's Mark.

7 **RESPONSE**

8 Subject to the Preliminary Statement, the General Objections and the Specific Objections,
9 TWG responds as follows: there are no responsive documents

10 **REQUEST FOR PRODUCTION NO. 28:**

11 All documents and things referring or relating to any attempts by Applicant to register
12 Applicant's Mark, or any variation thereof, under the laws of any state or before the U.S. Patent
13 and Trademark Office.

14 **RESPONSE**

15 In addition to the Preliminary Statement, the General Objections and the Specific
16 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
17 admissible evidence in this proceeding because the requested information is not relevant to any
18 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
19 not in any state. TWG further objects to the use of the term "variation" as vague and ambiguous.
20 TWG further objects to the extent that request seeks documents concerning variations of
21 Applicant's Mark as not reasonably calculated to lead to the discovery of admissible evidence
22 because this proceeding is confined to the applied mark and goods as specified in the application.
23 Subject to these objections, TWG responds as follows: other than the documents concerning this
24

1 proceeding (which are already in GLCVB's possession) and those on the TSDR for this
2 application, there are no non-privileged responsive documents.

3 **REQUEST FOR PRODUCTION NO. 29:**

4 All documents and things that refer or relate to any plans by Applicant to expand use of
5 Applicant's Mark, or any variation thereof, or sales or distribution of the goods and/or services,
6 including, but not limited to, expansion of marketing lines, channels of distribution, the number
7 of products or services in connection with which Applicant's Mark is used, the customer base or
8 geographical areas served.

9 **RESPONSE**

10 In addition to the Preliminary Statement, the General Objections and the Specific
11 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
12 admissible evidence in this proceeding because the requested information is not relevant to any
13 *DuPont* factor; this proceeding concerns the right to register the mark, not the right to use it.
14 TWG further objects to the use of the term "variation" as vague and ambiguous. TWG further
15 objects to the extent that request seeks documents concerning use or potential use on other goods
16 and/or services, or variations of Applicant's Mark, as not reasonably calculated to lead to the
17 discovery of admissible evidence because this proceeding is confined to the applied mark and
18 goods as specified in the application. Subject to these objections, TWG responds as follows:
19 there are no responsive documents.

20 **REQUEST FOR PRODUCTION NO. 30:**

21 All documents and things relating or referring to, or showing how Applicant's Mark has
22 been and is being advertised or promoted since the date of its initial adoption to the present,
23 including but not limited to, internal memorandums [sic], brochures, flyers, newspaper articles,
24

1 Advertisements (both print and electronic versions), websites, billboards, pamphlets, magazine
2 or trade journal articles, and radio or television advertisements.

3 **RESPONSE**

4 In addition to the Preliminary Statement, the General Objections and the Specific
5 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
6 admissible evidence in this proceeding because the requested information is not relevant to any
7 *DuPont* factor; this proceeding concerns the right to register the mark, not the right to use it.
8 Subject to these objections, TWG responds as follows: there are no responsive documents.

9 **REQUEST FOR PRODUCTION NO. 31:**

10 All documents and things relating or referring to, or tending to show, and current or
11 anticipated advertisements or promotions of goods and/or services in connection with
12 Applicant's Mark, including but not limited to, internal memorandums [sic], brochures, flyers,
13 newspaper articles, Advertisements (both print and electronic versions), websites, billboards,
14 pamphlets, magazine or trade journal articles, and radio or television advertisements.

15 **RESPONSE**

16 In addition to the Preliminary Statement, the General Objections and the Specific
17 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
18 admissible evidence in this proceeding because the requested information is not relevant to any
19 *DuPont* factor; this proceeding concerns the right to register the mark, not the right to use it.
20 TWG further objects to the extent that request seeks documents concerning use or potential use
21 on other goods and/or services as not reasonably calculated to lead to the discovery of admissible
22 evidence because this proceeding is confined to the applied mark and goods as specified in the
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24

1 application. Subject to these objections, TWG responds as follows: there are no responsive
2 documents.

3 **REQUEST FOR PRODUCTION NO. 32:**

4 A sample of each product and/or service provided under Applicant's Mark since its initial
5 adoption.

6 **RESPONSE**

7 In addition to the Preliminary Statement, the General Objections and the Specific
8 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
9 admissible evidence in this proceeding because the requested information is not relevant to any
10 *DuPont* factor; this proceeding concerns the right to register the mark, not the right to use it.
11 TWG further objects to the extent that request seeks documents concerning use or potential use
12 on other goods and/or services as not reasonably calculated to lead to the discovery of admissible
13 evidence because this proceeding is confined to the applied mark and goods as specified in the
14 application. Subject to these objections, TWG responds as follows: there are no responsive
15 documents.

16 **REQUEST FOR PRODUCTION NO. 33:**

17 All documents and things sufficient to identify each trade and/or professional association
18 through which Applicant promotes or intend to promote its goods and/or services under
19 Applicant's Mark, or any variation thereof.

20 **RESPONSE**

21 In addition to the Preliminary Statement, the General Objections and the Specific
22 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
23 admissible evidence in this proceeding because the requested information is not relevant to any
24

EXHIBIT 2, p. 24

1 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
2 not the right to use. TWG further objects to the use of the term “variation” as vague and
3 ambiguous. TWG further objects to the extent that request seeks documents concerning
4 variations of Applicant’s Mark as not reasonably calculated to lead to the discovery of
5 admissible evidence because this proceeding is confined to the applied mark and goods as
6 specified in the application. Subject to these objections, TWG responds as follows: there are no
7 responsive documents.

REQUEST FOR PRODUCTION NO. 34:

9 All documents and things referring or relating to any trade shows attended by, or
10 proposed to be attended by, Applicant where goods and/or services provided under Applicant’s
11 Mark, or any variation thereof, were sold, advertised or promoted or are intended to be sold,
12 advertised or promoted.

RESPONSE

13
14 In addition to the Preliminary Statement, the General Objections and the Specific
15 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
16 admissible evidence in this proceeding because the requested information is not relevant to any
17 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
18 not the right to use. TWG further objects to the use of the term “variation” as vague and
19 ambiguous. TWG further objects to the extent that request seeks documents concerning goods or
20 services other than those applied for as not reasonably calculated to lead to the discovery of
21 admissible evidence because this proceeding is confined to the applied mark and goods as
22 specified in the application. Subject to these objections, TWG responds as follows: there are no
23 responsive documents.

1 **REQUEST FOR PRODUCTION NO. 35:**

2 All documents and things sufficient to identify each class of persons, including but not
3 limited to, gender, age, ethnicity, and socioeconomic status, who purchase Applicant's goods
4 and/or services under Applicant's Mark.

5 **RESPONSE**

6 Subject to the Preliminary Statement, the General Objections and the Specific Objections,
7 TWG responds as follows: there are no responsive documents.

8 **REQUEST FOR PRODUCTION NO. 36:**

9 All documents sufficient to identify each public relations firm, advertising agency, and
10 marketing firm that has been engaged to advertise or promote Applicant's Mark, or any variation
11 thereof.

12 **RESPONSE**

13 In addition to the Preliminary Statement, the General Objections and the Specific
14 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
15 admissible evidence in this proceeding because the requested information is not relevant to any
16 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
17 not the right to use. TWG further objects to the extent that request seeks documents concerning
18 variations of Applicant's Mark as not reasonably calculated to lead to the discovery of
19 admissible evidence because this proceeding is confined to the applied mark and goods as
20 specified in the application. Subject to these objections, TWG responds as follows: there are no
21 responsive documents.

22 //

23 //

1 **REQUEST FOR PRODUCTION NO. 37**

2 All communications between Applicant and any public relations firm, advertising agency,
3 and marketing firm that has been engaged to advertise or promote Applicant's goods and/or
4 services under Applicant's Mark.

5 **RESPONSE**

6 In addition to the Preliminary Statement, the General Objections and the Specific
7 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
8 admissible evidence in this proceeding because the requested information is not relevant to any
9 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
10 not the right to use. TWG further objects to the extent that request seeks documents concerning
11 goods or services other than those applied for as not reasonably calculated to lead to the
12 discovery of admissible evidence because this proceeding is confined to the applied mark and
13 goods as specified in the application. Subject to these objections, TWG responds as follows:
14 there are no responsive documents.

15 **REQUEST FOR PRODUCTION NO. 38**

16 Each press release issued by or on behalf of Applicant which refers to Applicant's Mark,
17 or any variation thereof.

18 **RESPONSE**

19 In addition to the Preliminary Statement, the General Objections and the Specific
20 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
21 admissible evidence in this proceeding because the requested information is not relevant to any
22 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
23 not the right to use. TWG further objects to the use of the term "variation" as vague and
24

1 ambiguous. TWG further objects to the extent that request seeks documents concerning marks
2 other than the one applied-for because this proceeding is confined to the applied mark and goods
3 as specified in the application. Subject to these objections, TWG responds as follows: there are
4 no responsive documents.

5 **REQUEST FOR PRODUCTION NO. 39**

6 Each unsolicited press mention, article, release or other story relating to Applicant's
7 Mark, or any variation thereof.

8 **RESPONSE**

9 In addition to the Preliminary Statement, the General Objections and the Specific
10 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
11 admissible evidence in this proceeding because the requested information is not relevant to any
12 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
13 not in the right to use. TWG further objects to the use of the term "variation" as vague and
14 ambiguous. TWG further objects to the extent that request seeks documents concerning marks
15 other than Applicant's Mark applied for as not reasonably calculated to lead to the discovery of
16 admissible evidence because this proceeding is confined to the applied for mark. Subject to these
17 objections, TWG responds as follows: there are no responsive documents.

18 **REQUEST FOR PRODUCTION NO. 40**

19 All advertisements in any magazine, newspaper or other printed publication, relating to
20 Applicant's Mark, or any variation thereof.

21 **RESPONSE**

22 In addition to the Preliminary Statement, the General Objections and the Specific
23 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
24

1 admissible evidence in this proceeding because the requested information is not relevant to any
2 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
3 not the right to use. TWG further objects to the use of the term “variation” as vague and
4 ambiguous. TWG further objects to the extent that request seeks documents concerning marks
5 other than Applicant’s Mark as not reasonably calculated to lead to the discovery of admissible
6 evidence because this proceeding is confined to the applied for mark. TWG also objects because
7 this request is duplicative of request nos. 30, 31 and 39. Subject to these objections, TWG
8 responds as follows: there are no responsive documents.

9 **REQUEST FOR PRODUCTION NO. 41**

10 All documents and things sufficient to identify each retail store or other channel by which
11 Applicant’s goods and/or services under Applicant’s Mark are provided.

12 **RESPONSE**

13 In addition to the Preliminary Statement, the General Objections and the Specific
14 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
15 admissible evidence in this proceeding because the requested information is not relevant to any
16 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
17 not the right to use. TWG further objects to the extent that request seeks documents concerning
18 goods or services other than those applied for as not reasonably calculated to lead to the
19 discovery of admissible evidence because this proceeding is confined to the applied mark and
20 goods as specified in the application. Subject to these objections, TWG responds as follows:
21 there are no responsive documents.

22 //

23 //

1 **REQUEST FOR PRODUCTION NO. 42**

2 All documents and things sufficient to identify the specific geographic area(s) within
3 which Applicant has provided goods and/or services under Applicant's Mark, or any variation
4 thereof, over the time period in which Applicant's Mark has been used.

5 **RESPONSE**

6 In addition to the Preliminary Statement, the General Objections and the Specific
7 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
8 admissible evidence in this proceeding because the requested information is not relevant to any
9 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
10 not the right to use. TWG further objects to the use of the term "variation" as vague and
11 ambiguous. TWG further objects to the extent that request seeks documents concerning goods or
12 services other than those applied for as not reasonably calculated to lead to the discovery of
13 admissible evidence because this proceeding is confined to the applied mark and goods as
14 specified in the application. Subject to these objections, TWG responds as follows: there are no
15 responsive documents.

16 **REQUEST FOR PRODUCTION NO. 43**

17 All documents and things sufficient to identify the specific geographic area(s) within
18 which Applicant has provided goods and/or services under Applicant's Mark, or any variation
19 thereof, over the time period in which Applicant's Mark has been used.

20 **RESPONSE**

21 In addition to the Preliminary Statement, the General Objections and the Specific
22 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
23 admissible evidence in this proceeding because the requested information is not relevant to any
24

EXHIBIT 2, p. 30

1 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
2 not the right to use. TWG further objects to the use of the term “variation” as vague and
3 ambiguous. TWG further objects to the extent that request seeks documents concerning goods or
4 services other than those applied for as not reasonably calculated to lead to the discovery of
5 admissible evidence because this proceeding is confined to the applied mark and goods as
6 specified in the application. TWG further objects because this request is duplicative of request
7 no. 42. Subject to these objections, TWG responds as follows: there are no responsive
8 documents.

REQUEST FOR PRODUCTION NO. 44

10 All documents and things concerning the marketing, advertisement, promotion and/or
11 sale of Applicants goods and services under Applicant’ s Mark, including, but not limited to,
12 subscription lists, or other materials identifying actual or prospective clients and customers in the
13 United States.

RESPONSE

15 In addition to the Preliminary Statement, the General Objections and the Specific
16 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
17 admissible evidence in this proceeding because the requested information is not relevant to any
18 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
19 not the right to use. TWG further objects to the extent that request seeks documents concerning
20 goods or services other than those applied for as not reasonably calculated to lead to the
21 discovery of admissible evidence because this proceeding is confined to the applied mark and
22 goods as specified in the application. TWG further objects because this request is duplicative.
23 Subject to these objections, TWG responds as follows: there are no responsive documents.
24

1 **REQUEST FOR PRODUCTION NO. 45**

2 All documents sufficient to identify the approximate annual sales in both units and
3 dollars of all goods and/or services offered in connection with Applicant's Mark, or any variation
4 thereof, annually by calendar year, from Applicant's first use of Applicant's mark until present.

5 **RESPONSE**

6 In addition to the Preliminary Statement, the General Objections and the Specific
7 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
8 admissible evidence in this proceeding because the requested information is not relevant to any
9 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
10 not the right to use. TWG further objects to the use of the term "variation" as vague and
11 ambiguous. TWG further objects to the extent that request seeks documents concerning goods or
12 services other than those applied for as not reasonably calculated to lead to the discovery of
13 admissible evidence because this proceeding is confined to the applied mark and goods as
14 specified in the application. Subject to these objections, TWG responds as follows: there are no
15 responsive documents.

16 **REQUEST FOR PRODUCTION NO. 46**

17 All documents and things relating or referring to any discontinuation of use of
18 Applicant's Mark, or any variation thereof.

19 **RESPONSE**

20 Subject to the Preliminary Statement, the General Objections and the Specific Objections,
21 TWG responds as follows: there are no responsive documents.

22 //

23 //

1 **REQUEST FOR PRODUCTION NO. 47**

2 All document and things concerning, referring, or relating to Applicant's first awareness
3 of Opposer's Marks.

4 **RESPONSE**

5 Subject to the Preliminary Statement, the General Objections and the Specific Objections,
6 TWG responds as follows: the only responsive document is the Notice of Opposition which is
7 already in the possession of GLCVB.

8 **REQUEST FOR PRODUCTION NO. 48**

9 All documents and things which refer or relate to Opposer, Opposer's Marks, or to any
10 good and/or service of Opposer, including but not limited to, Opposer's Goods and Opposer's
11 Services.

12 **RESPONSE**

13 Subject to the Preliminary Statement, the General Objections and the Specific Objections,
14 TWG responds as follows: the only responsive documents are the pleadings in this case (which
15 are already in the possession of GNCVB and documents protected by the attorney-client and
16 attorney work product privileges (and TWG objects to producing a log of these communications
17 and documents because this would be impermissibly intrusive on the privileges.)

18 **REQUEST FOR PRODUCTION NO. 49**

19 All documents and things evidencing, referring or relating to third party use of
20 Applicant's Mark, or any variation thereof, including, but not limited to, manufacturing
21 agreements, whether in draft form or executed.

22 //

23 //

RESPONSE

1
2 In addition to the Preliminary Statement, the General Objections and the Specific
3 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
4 admissible evidence in this proceeding because the requested information is not relevant to any
5 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
6 not the right to use. TWG further objects to the use of the term “variation” as vague and
7 ambiguous. TWG further objects to the extent that request seeks documents concerning marks
8 other than those applied for as not reasonably calculated to lead to the discovery of admissible
9 evidence because this proceeding is confined to the applied mark and goods as specified in the
10 application. Subject to these objections, TWG responds as follows: there are no responsive
11 documents.

12 **REQUEST FOR PRODUCTION NO. 50**

13 All documents and things evidencing, referring or relating to the sale of each and every
14 good and/or service in connection with Applicant’s Mark by Applicant, or a related company or
15 licensee.

16 **RESPONSE**

17 In addition to the Preliminary Statement, the General Objections and the Specific
18 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
19 admissible evidence in this proceeding because the requested information is not relevant to any
20 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
21 not the right to use. TWG further objects to the use of the term “variation” as vague and
22 ambiguous. TWG further objects to the extent that request seeks documents concerning goods or
23 services other than those applied for as not reasonably calculated to lead to the discovery of
24

1 admissible evidence because this proceeding is confined to the applied mark and goods as
2 specified in the application. TWG further objects because this request is unreasonable, unduly
3 burdensome, and improper because it asks for every document in the company concerning
4 Applicant's Mark. Subject to these objections, TWG responds as follows: there are no
5 responsive documents.

6 **REQUEST FOR PRODUCTION NO. 51**

7 Documents and things sufficient to identify the approximate dollar amount expended
8 annually by calendar year in the United States by Applicant in advertising the goods and/or
9 services provided under Applicant's Mark since initial adoption of Applicant's Mark to the
10 present.

11 **RESPONSE**

12 In addition to the Preliminary Statement, the General Objections and the Specific
13 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
14 admissible evidence in this proceeding because the requested information is not relevant to any
15 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
16 not the right to use. TWG further objects to the extent that request seeks documents concerning
17 goods or services other than those applied for as not reasonably calculated to lead to the
18 discovery of admissible evidence because this proceeding is confined to the applied mark and
19 goods as specified in the application. TWG further objects because this request is duplicative of
20 request no. 16. Subject to these objections, TWG responds as follows: there are no responsive
21 documents.

22 //

23 //

1 **REQUEST FOR PRODUCTION NO. 52**

2 A copy of each market survey and other research documents, including but not limited to
3 surveys, polls, tests, focus group studies Applicant has conducted, has commissioned, or plans to
4 conduct concerning:

5 a) Applicant's goods and/or services rendered under Applicant's Mark or any
6 variation thereof;

7 b) Applicant's Mark, or any variation thereof, as perceived by purchasers and
8 potential purchasers;

9 c) Confusion between Applicant's Mark, or any variation thereof, and the mark of
10 name of any other entity; or

11 d) Possible use in this opposition proceeding.

12 **RESPONSE**

13 In addition to the Preliminary Statement, the General Objections and the Specific
14 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
15 admissible evidence in this proceeding because the requested information is not relevant to any
16 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
17 not the right to use. TWG further objects to the use of the term "variation" as vague and
18 ambiguous. TWG further objects to the extent that request seeks documents concerning goods or
19 services other than those applied for as not reasonably calculated to lead to the discovery of
20 admissible evidence because this proceeding is confined to the applied mark and goods as
21 specified in the application. TWG further objects to the extent that this request seeks documents
22 that are not required to be produced under Rule 26 or whose production is premature under the
23
24

1 Board's Scheduling Order. Subject to these objections, TWG responds as follows: there are no
2 responsive documents.

3 **REQUEST FOR PRODUCTION NO. 53**

4 All unsolicited communications to Applicant that refer to Opposer's Marks, or any
5 variation thereof.

6 **RESPONSE**

7 In addition to the Preliminary Statement, the General Objections and the Specific
8 Objections, TWG objects to the use of the term "variation" as vague and ambiguous. TWG
9 further objects to the extent that request seeks documents concerning goods or services other
10 marks other than the applied for mark as not reasonably calculated to lead to the discovery of
11 admissible evidence because this proceeding is confined to the applied mark and goods as
12 specified in the application. Subject to these objections, TWG responds as follows: the only
13 responsive document is the Notice of Opposition which is already in GCLVB's possession.

14 **REQUEST FOR PRODUCTION NO. 54**

15 All documents and things concerning any inquiry or investigation made by, or on behalf
16 of, Applicant with respect to Opposer's Marks.

17 **RESPONSE**

18 Subject to the Preliminary Statement, the General Objections and the Specific Objections,
19 TWG responds as follows: the only responsive documents are work product of attorneys in this
20 case which is protected by the attorney-client privilege and attorney work product doctrines, and
21 TWG will not be preparing a log of these communications because to do so would impinge on
22 these privileges.

23 //

24

1 **REQUEST FOR PRODUCTION NO. 55**

2 All documents and things which evidence, refer, or relate to any confusion, or the
3 likelihood or possibility of confusion, between Applicant and Opposer, or between the goods and
4 services offered, sold, or distributed by Opposer or Applicant, including, but not limited to
5 consumer statements, misdirected mail and inquiries as to affiliation

6 **RESPONSE**

7 In addition to the Preliminary Statement, the General Objections and the Specific
8 Objections, TWG objects to this request as overly broad and not reasonably calculated to lead to
9 the production of admissible evidence to the extent that it is requesting documents concerning
10 confusion, generally, and not confusion or likelihood of confusion arising from the trademark at
11 issue in this proceeding. Subject to these objections, TWG responds as follows: there are no
12 responsive documents.

13 **REQUEST FOR PRODUCTION NO. 56**

14 All documents and things concerning any complaint or statement by any person about the
15 quality of Applicant's goods and/or services offered under Applicant's Mark.

16 **RESPONSE**

17 In addition to the Preliminary Statement, the General Objections and the Specific
18 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
19 admissible evidence in this proceeding because the requested information is not relevant to any
20 *DuPont* factor; this proceeding concerns the right to register the mark on the Principal Register,
21 not the right to use it. TWG further objects to the extent that request seeks documents
22 concerning goods or services other than those applied for as not reasonably calculated to lead to
23 the discovery of admissible evidence because this proceeding is confined to the applied mark and
24

1 goods as specified in the application. Subject to these objections, TWG responds as follows:
2 there are no responsive documents.

3 **REQUEST FOR PRODUCTION NO. 57**

4 All communications intended for Opposer that were received by Applicant.

5 **RESPONSE**

6 In addition to the Preliminary Statement, the General Objections and the Specific
7 Objections, TWG objects to this request as not reasonably calculated to lead to the discovery of
8 admissible evidence in this proceeding because the only relevant communications are those
9 pertaining to the marks at issue in the case. Subject to these objections, TWG responds as
10 follows: there are no responsive documents.

11 **REQUEST FOR PRODUCTION NO. 58**

12 All documents and things referring to, relating to, or tending to show a disclaimer made
13 by applicant as to an association with Opposer.

14 **RESPONSE**

15 In addition to the Preliminary Statement, the General Objections and the Specific
16 Objections, TWG objects to the use of the terms “association” and “disclaimer” as vague and
17 ambiguous. It further objects on the grounds that the request is not reasonably calculated to
18 lead to the discovery of admissible evidence to the extent that the “association” is not limited to
19 that arising from the trademark at issue in the case. Subject to these objections, TWG responds
20 as follows: there are no responsive documents.

21 **REQUEST FOR PRODUCTION NO. 59**

22 All documents and things referring or relating to any adversarial proceeding, excluding
23 the present proceeding, involving Applicant’s Mark, or any variation thereof, before the
24

1 Trademark Trial and Appeal Board in the United States Patent and Trademark office, the United
2 States Bureau of Customs, the United States Federal Trade Commission, or any other court of
3 government agency in the United States.

4 **RESPONSE**

5 Subject to the Preliminary Statement, the General Objections and the Specific Objections,
6 TWG responds as follows: there are no responsive documents.

7 **REQUEST FOR PRODUCTION NO. 60**

8 All documents and things referring or relating to any objection raised, other than by
9 Opposer, to Applicant's use or registration of Applicant's Mark, or any variation thereof, by any
10 third party.

11 **RESPONSE**

12 In addition to the Preliminary Statement, the General Objections and the Specific
13 Objections, TWG objects to the use of the term "variation" as vague and ambiguous. TWG
14 further objects to the extent that request seeks documents concerning marks other than the
15 applied for mark it is not reasonably calculated to lead to the discovery of admissible evidence
16 because this proceeding is confined to the applied mark and goods as specified in the application.
17 Subject to these objections, TWG responds as follows: there are no responsive documents.

18 **REQUEST FOR PRODUCTION NO. 61**

19 All documents and things referring or relating to any objections made by Applicant to the
20 use of another mark(s) believed by Applicant to be confusingly similar to Applicant's Mark, or
21 any variation thereof.

22 //

23 //

RESPONSE

1
2 In addition to the Preliminary Statement, the General Objections and the Specific
3 Objections, TWG objects to the use of the term “variation” as vague and ambiguous. TWG
4 further objects to the extent that request seeks documents concerning marks other than the
5 applied for mark it is not reasonably calculated to lead to the discovery of admissible evidence
6 because this proceeding is confined to the applied mark and goods as specified in the application.
7 Subject to these objections, TWG responds as follows: there are no responsive documents.

8 **REQUEST FOR PRODUCTION NO. 62**

9 All documents and things which support or tend to support Applicant’s contentions and
10 allegations in its Answer, Affirmative Defenses & Petition for Cancellation filed in this
11 opposition, including but not limited to, all documents and things that support or tend to support
12 each Affirmative Defense therein and each contention in any Counterclaim therein.

13 **RESPONSE**

14 In addition to the Preliminary Statement, the General Objections and the Specific
15 Objections, TWG objects to this request as vague and non-specific, and therefore improper under
16 Rule 34. TWG further objects to this request as premature because the facts supporting these
17 contentions are in the possession of GLCVB, its licensee and its licensor, and discovery has only
18 just begun. Subject to these objections, TWG responds as follows: responsive documents will be
19 produced.

20 **REQUEST FOR PRODUCTION NO. 63**

21 For each expert whose opinion Applicant may rely on in this proceeding, each document
22 concerning:

- 23 a) any opinions that may be presented in the opposition;

1 every case good in inventory containing Applicant's Mark. Subject to these objections, TWG
2 responds as follows: there are no responsive documents.

3 **REQUEST FOR PRODUCTION NO. 65**

4 All documents and things referring or relating to Applicant's first knowledge of Opposer
5 or Opposer's Marks.

6 **RESPONSE**

7 In addition to the Preliminary Statement, the General Objections and the Specific
8 Objections, TWG objects to this request is duplicative of request no. 47. Subject to these
9 objections, TWG responds as follows: the only responsive document is the Notice of Opposition
10 which is already in GLCVB's possession.

11 **REQUEST FOR PRODUCTION NO. 66**

12 All documents and things referring or relating to Applicant's knowledge of any third
13 party use of trade names, trademarks or service marks for or containing the design shown in
14 Applicant's Mark, or any variation thereof.

15 **RESPONSE**

16 In addition to the Preliminary Statement, the General Objections and the Specific
17 Objections, TWG objects to the use of the term "variation" as vague and ambiguous. TWG
18 further objects to the extent that request seeks documents concerning marks other than the
19 applied for mark it is not reasonably calculated to lead to the discovery of admissible evidence
20 because this proceeding is confined to the applied mark and goods as specified in the application.
21 TWG further objects because this request is duplicative of request no. 49. Subject to these
22 objections, TWG responds as follows: there are no responsive documents.

23 //

EXHIBIT 2, p. 43

Respectfully submitted,

LAW OFFICE OF PAUL W. REIDL



By: _____

Paul W. Reidl
Law Office of Paul W. Reidl
241 Eagle Trace Drive
Second Floor
Half Moon Bay, CA 94019
(650) 560-8530
paul@reidllaw.com

Attorney for Applicant, The Wine Group

Dated: July 15, 2013

PROOF OF SERVICE

On July 15, 2013, I caused to be served the following document:

**APPLICANT'S OBJECTION AND RESPONSES TO OPPOSER'S
FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

on Opposer by placing a true copy thereof in the United States mail enclosed in an envelope,
postage prepaid, addressed as follows to their counsel of record at his present business address:

John A. Galbreath
Galbreath Law Offices
2516 Chestnut Woods Ct.
Reisterstown, MD 21136-5523

Executed on July 15, 2013 at Half Moon Bay, California.





PAUL W. REIDL
ATTORNEY AT LAW

July 14, 2013

John L. Galbreath
Galbreath Law Offices PC
2516 Chestnut Woods Ct.
Reisterstown, MD 21136-5523

VIA E-MAIL

Re: Opposition No. 9120885

Dear Mr. Galbreath:

This letter responds to your letter of July 12, 2013, in which you responded to my second meet and confer letter dated July 8, 2013.

The Board requires you to meet and confer in good faith. You are not acting in good faith by again asserting, without elaboration, that you are right and I am wrong. Those kinds of schoolyard responses have no place in Board proceedings. While I doubt that you have a sound legal basis for your positions, the TBMP, the *Amazon Technologies* case and others are unequivocal: it is improper for you to decline to justify your positions. You are required to communicate your arguments to me **before** my client invests in a motion. That is the whole point of the meet and confer process.

As for the production of documents, your demand that I must come to Louisville to look at a "list" or a "sample" of documents has no basis in Rule 34, is economically irrational and not made in good faith. Since you have presumably already complied with the Board's rules and gathered the responsive documents, it is a simple matter for you to number, copy and produce them. Your refusal to do so is improper. When coupled with your refusal even to tell me whether your client has any documents responsive to any request, and your insistence that even after I view the list or sample you will still insist on a further meet and confer over what you will produce, it would be unreasonable for me to come to Louisville to do exactly what? Look at a list? Look at a "sample" document? That is not the way Rule 34 works and I think the Board will agree.

Your own instructions for producing documents in response to your document requests require me to produce them at your offices. Based on the holding in *Amazon Technologies* you are estopped from requiring me to do something different than what you have asked of me. In the event I am wrong, however, I am holding on to TWG's documents until the Board decides the motion. If I must come to Louisville, then you must come to Northern California.

Your refusal to participate in good faith in the meet and confer process leaves me no choice but to file the enclosed motion to compel.

Yours sincerely,

A handwritten signature in black ink that reads "Paul W. Reidl". The signature is written in a cursive, flowing style.

Paul W. Reidl

Attorney for The Wine Group



GALBREATH LAW OFFICES, P.C.

2516 Chestnut Woods Ct. Reisterstown, MD 21136-5523 U.S.A.
Phone: 1-410-628-7770 Fax: 1-410-666-7274 Email: info@galbreath-law.com
Web: www.galbreath-law.com

July 26, 2013

BY EMAIL AND REGULAR MAIL

PAUL W. REIDL
LAW OFFICE OF PAUL W. REIDL
241 EAGLE TRACE DR., 2nd FLR.
HALF MOON BAY, CA 94019

Re: Louisville Convention & Visitors Bureau v. Wine Group – Opposition 9120885

Dear Paul,

Thank you for your letter of July 14, 2013, which states that you will retain Wine Group's documents where they are located. It is your right under the rules to permit inspection and copying of documents and things where they are located in the ordinary course of business, and we are fine with that.

Accordingly, we propose inspecting and copying Wine Group's documents and things on August 29-30, 2013. Please ensure that the documents and things will be available on those dates. We assume that the documents and things are located at Wine Group as set forth in your Initial Disclosures, but please confirm this.

We wish you a good weekend.

Best regards,

A handwritten signature in black ink that reads "John A. Galbreath". The signature is written in a cursive, flowing style.

John Galbreath

EXHIBIT 5

John Galbreath

From: Southwest Airlines [SouthwestAirlines@luv.southwest.com]
Sent: Monday, July 29, 2013 10:52 AM
To: JGALBREATH@VERIZON.NET
Subject: Southwest Airlines Confirmation-GALBREATH/JOHN-Confirmation: AAQ50L

You're all set for your trip!



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[Check Flight Status](#)

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Ready for takeoff!



Thanks for choosing Southwest for your trip! You'll find everything you need to know about your reservation below. Happy travels!



AIR Itinerary

AIR Confirmation: AAQ50L

Confirmation Date: 07/29/2013

Passenger(s)	Rapid Rewards #	Ticket #	Expiration	Est. Points Earned
GALBREATH/JOHN	- None Entered -	5262147403072	Jul 29, 2014	834

Rapid Rewards points earned are only estimates. Not a member - visit <http://www.southwest.com/rapidrewards> and sign up today!

Date	Flight	Departure/Arrival
Wed Aug 28	133	Depart BALTIMORE WASHNTN (BWI) on Southwest Airlines at 3:05 PM Arrive in ATLANTA GA (ATL) at 5:00 PM Wanna Get Away
	562	Change planes to Southwest Airlines in ATLANTA GA (ATL) at 5:40 PM Arrive in SAN FRANCISCO CA (SFO) at 7:55 PM Travel Time 7 hrs 50 mins Wanna Get Away

What you need to know to travel:

- Don't forget to check in for your flight(s) 24 hours before your trip on southwest.com or your mobile device. This will secure your boarding position on your flights.
- Southwest Airlines does not have assigned seats, so you can choose your seat when you board the plane. You will be assigned a boarding position based on your checkin time. The earlier you check in, within 24 hours of your flight, the earlier you get to board.

Carry-on Items: 1 Bag + small personal item are free see full details. Checked Items: First and second bags are free, size and weight limits apply.

Fare Rule(s): 5262147403072: NONREF/NONTRANSFERABLE/STANDBY REQ UPGRADE TO Y.

Valid only on Southwest Airlines. All travel involving funds from this Confirmation Number must

Save up to 30%
Plus earn up to 2,400 Rapid Rewards® points.

Let's go!

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Let us take care of Check-in for you

ON ONE WAY
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See ratings, photos and rates for over 40,000 hotels.

Book a Hotel ✦



Rent Some Wheels

Explore your destination on the perfect set of wheels.

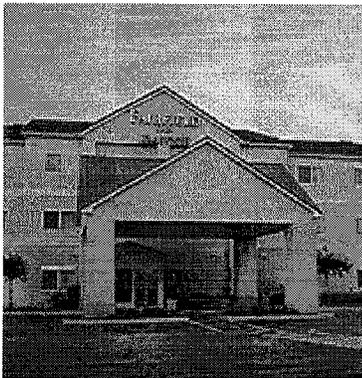
John Galbreath

From: 'Fairfield Inn By Marriott Reservation' [reservations@fairfieldinn.com]
Sent: Monday, July 29, 2013 10:30 AM
To: JGALBREATH@GALBREATH-LAW.COM
Subject: Fairfield Inn Tracy Reservation Confirmation #88713114



Fairfield Inn Tracy

2410 Naglee Road,
Tracy, California 95376 USA
Phone: 1-209-833-0135 Fax: 1-209-835-5065



Reservation for John Galbreath

Confirmation Number: 88713114
Check-in: Wednesday, August 28, 2013 (03:00 PM)
Check-out: Friday, August 30, 2013 (12:00 PM)

[Modify or Cancel reservation](#)



[View hotel website](#)



[Maps & Transportation](#)

Reservation Confirmation

Dear John Galbreath,

We are pleased to confirm your reservation with Fairfield Inn by Marriott. Below is a summary of your booking and room information. Enjoy your stay at Fairfield Inn -- warm, welcoming, affordable. Whenever you travel, keep us in mind because it's always a great day at Fairfield Inn.

Fairfield Inn Tracy

Have you been Rewarded?

As a Marriott Rewards member, you could earn **2120** points for this stay. Enroll today to begin earning rewards, and you may also qualify for bonus points. Join Marriott Rewards

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See what's happening in San Jose during your stay
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GALBREATH LAW OFFICES, P.C.

2516 Chestnut Woods Ct. Reisterstown, MD 21136-5523 U.S.A.
Phone: 1-410-628-7770 Fax: 1-410-666-7274 Email: info@galbreath-law.com
Web: www.galbreath-law.com

August 15, 2013

BY EMAIL AND REGULAR MAIL

PAUL W. REIDL
LAW OFFICE OF PAUL W. REIDL
241 EAGLE TRACE DR., 2nd FLR.
HALF MOON BAY, CA 94019

Re: Louisville Convention & Visitors Bureau v. Wine Group – Opposition 9120885

Dear Paul,

We are following up on our letter of July 26, 2013, which scheduled the inspection and copying of Wine Group's documents and things on August 29-30, 2013. Please confirm where the documents and things are located, and let us know whom we should ask for at that location, regarding inspecting and copying the documents.

Best regards,

John Galbreath

JG906:ks

John Galbreath

From: Paul Reidl [reidl@sbcglobal.net]
Sent: Thursday, August 15, 2013 3:39 PM
To: jgalbreath@galbreath-law.com
Cc: clientservice@galbreath-law.com
Subject: RE: Louisville v. Wine Group

How many times do I have to tell you that I am unavailable that week? You unilaterally selected these dates; they do not work for me or my client. Once again you are totally failing to meet and confer and forcing me to make an unnecessary motion.

From: jgalbreath@galbreath-law.com [mailto:jgalbreath@galbreath-law.com]
Sent: Thursday, August 15, 2013 11:49 AM
To: Paul Reidl
Cc: clientservice@galbreath-law.com
Subject: Louisville v. Wine Group

Please see the attached letter.

Galbreath Law Offices, P.C.
2516 Chestnut Woods Ct.
Reisterstown, MD 21136-5523 U.S.A.
TEL: 1-410-628-7770
FAX: 1-410-666-7274
EMAIL: info@galbreath-law.com

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EXHIBIT 9

John Galbreath

From: jgalbreath@galbreath-law.com
Sent: Thursday, August 15, 2013 3:54 PM
To: Paul Reidl
Cc: clientservice@galbreath-law.com
Subject: RE: Louisville v. Wine Group

Dear Paul,

Thanks for your message. However, you never responded to our July 26 letter one way or the other. You only stated in your July 26 email (repeated below) that you were unavailable for the deposition the day of August 28.

Please let us know what days are good for you in the week of September 09, for the document inspection and copying.

Best,

John

-----Original Message-----

From: Paul Reidl [mailto:reidl@sbcglobal.net]
Sent: Friday, July 26, 2013 8:38 PM
To: jgalbreath@galbreath-law.com
Cc: clientservice@galbreath-law.com
Subject: RE: Louisville v. Wine Group

Dear Mr. Galbreath:

The TTAB rules say that once a motion to compel is filed the proceedings are stayed. Thus, your notice is improper. In any event, I am unavailable that day because I will be on vacation.

Yours sincerely,

/paul reidl/

On August 15, 2013 at 3:38 PM Paul Reidl <reidl@sbcglobal.net> wrote:

How many times do I have to tell you that I am unavailable that week? You unilaterally selected these dates; they do not work for me or my client. Once again you are totally failing to meet and confer and forcing me to make an unnecessary motion.

From: jgalbreath@galbreath-law.com [mailto:jgalbreath@galbreath-law.com]
Sent: Thursday, August 15, 2013 11:49 AM
To: Paul Reidl
Cc: clientservice@galbreath-law.com
Subject: Louisville v. Wine Group

Please see the attached letter.



GALBREATH LAW OFFICES, P.C.

2516 Chestnut Woods Ct. Reisterstown, MD 21136-5523 U.S.A.
Phone: 1-410-628-7770 Fax: 1-410-666-7274 Email: info@galbreath-law.com
Web: www.galbreath-law.com

August 29, 2013

BY EMAIL AND REGULAR MAIL

PAUL W. REIDL
LAW OFFICE OF PAUL W. REIDL
241 EAGLE TRACE DR., 2nd FLR.
HALF MOON BAY, CA 94019

Re: Louisville Convention & Visitors Bureau v. Wine Group – Opposition 9120885

Dear Paul,

This represents an effort under 37 CFR § 2.120(e) to resolve a discovery-related issue. We are following up on our email of August 15, 2013, which requested available dates during the week of September 9 for inspecting and copying your documents. You never responded to our request, and the week of September 9 window has now closed.

Accordingly, we ask that you let us know promptly what days are good for you in the week of September 23, for the document inspection and copying.

Best regards,

John Galbreath

EXHIBIT 11

John Galbreath

From: Paul Reidl [reidl@sbcglobal.net]
Sent: Friday, August 30, 2013 1:48 PM
To: jgalbreath@galbreath-law.com
Cc: clientservice@galbreath-law.com
Subject: RE: Louisville v. Wine Group

In light of the Board's suspension Order issued this morning, your request is moot.

Paul

From: jgalbreath@galbreath-law.com [mailto:jgalbreath@galbreath-law.com]
Sent: Thursday, August 29, 2013 8:14 AM
To: Paul Reidl
Cc: clientservice@galbreath-law.com
Subject: RE: Louisville v. Wine Group

Please see our attached letter.

On August 15, 2013 at 3:54 PM "jgalbreath@galbreath-law.com" <jgalbreath@galbreath-law.com> wrote:

Dear Paul,

Thanks for your message. However, you never responded to our July 26 letter one way or the other. You only stated in your July 26 email (repeated below) that you were unavailable for the deposition the day of August 28.

Please let us know what days are good for you in the week of September 09, for the document inspection and copying.

Best,

John

-----Original Message-----

From: Paul Reidl [mailto:reidl@sbcglobal.net]
Sent: Friday, July 26, 2013 8:38 PM
To: jgalbreath@galbreath-law.com
Cc: clientservice@galbreath-law.com
Subject: RE: Louisville v. Wine Group

Dear Mr. Galbreath:

The TTAB rules say that once a motion to compel is filed the proceedings are stayed. Thus, your notice is improper. In any event, I am unavailable that day because I will be on vacation.

Yours sincerely,

EXHIBIT 12

John Galbreath

From: jgalbreath@galbreath-law.com
Sent: Friday, August 30, 2013 2:08 PM
To: Paul Reidl
Cc: clientservice@galbreath-law.com
Subject: RE: Louisville v. Wine Group

Paul,

Thanks for your message. However, you are incorrect. These document requests were served well before your motion to compel. See the order, CFR, TBMP, etc: "This suspension order does not toll the time for either party to make any required discovery disclosure, to respond to discovery requests which had been duly served prior to the filing and service of the motion to compel, or to appear for a discovery deposition which had been duly noticed prior to the filing and service of the motion to compel." Trademark Rule 2.120(e)(2) et al.

Thus, you must permit inspection and copying of your documents, for the same reason that we were required to answer your 2nd set of interrogatories which were served contemporaneously with the motion to compel.

Please answer our latest email and letter on this issue, sent on August 29, and let us know what days are available in the week of September 23 for inspecting and copying your documents.

Best,

John

On August 30, 2013 at 1:47 PM Paul Reidl <reidl@sbcglobal.net> wrote:

In light of the Board's suspension Order issued this morning, your request is moot.

Paul

From: jgalbreath@galbreath-law.com [mailto:jgalbreath@galbreath-law.com]
Sent: Thursday, August 29, 2013 8:14 AM
To: Paul Reidl
Cc: clientservice@galbreath-law.com
Subject: RE: Louisville v. Wine Group

Please see our attached letter.

On August 15, 2013 at 3:54 PM "jgalbreath@galbreath-law.com" <jgalbreath@galbreath-law.com> wrote:

Dear Paul,

Thanks for your message. However, you never responded to our July 26 letter one way or the other. You only stated in your July 26 email (repeated below) that you were unavailable for the deposition the day of August 28.

EXHIBIT 13

John Galbreath

From: Paul Reidl [reidl@sbcglobal.net]
Sent: Friday, August 30, 2013 2:15 PM
To: jgalbreath@galbreath-law.com
Cc: clientservice@galbreath-law.com
Subject: RE: Louisville v. Wine Group

John:

The document requests are the subject of the motion. I stand ready to comply with the procedures you specified in your requests, but you have insisted that I do something different. We will not be producing documents on the 23d unless we follow the procedures you specified in your original notice.

Paul

From: jgalbreath@galbreath-law.com [mailto:jgalbreath@galbreath-law.com]
Sent: Friday, August 30, 2013 11:08 AM
To: Paul Reidl
Cc: clientservice@galbreath-law.com
Subject: RE: Louisville v. Wine Group

Paul,

Thanks for your message. However, you are incorrect. These document requests were served well before your motion to compel. See the order, CFR, TBMP, etc: "This suspension order does not toll the time for either party to make any required discovery disclosure, to respond to discovery requests which had been duly served prior to the filing and service of the motion to compel, or to appear for a discovery deposition which had been duly noticed prior to the filing and service of the motion to compel." Trademark Rule 2.120(e)(2) et al.

Thus, you must permit inspection and copying of your documents, for the same reason that we were required to answer your 2nd set of interrogatories which were served contemporaneously with the motion to compel.

Please answer our latest email and letter on this issue, sent on August 29, and let us know what days are available in the week of September 23 for inspecting and copying your documents.

Best,

John

On August 30, 2013 at 1:47 PM Paul Reidl <reidl@sbcglobal.net> wrote:

In light of the Board's suspension Order issued this morning, your request is moot.

Paul

EXHIBIT 14

John Galbreath

From: jgalbreath@galbreath-law.com
Sent: Friday, August 30, 2013 2:26 PM
To: Paul Reidl
Cc: clientservice@galbreath-law.com
Subject: RE: Louisville v. Wine Group

Paul,

Thanks for confirming that you will not permit us to inspect your documents where you are holding them. We are obviously at an impasse, and we'll proceed accordingly. We wish you a good holiday weekend.

Best,

John

On August 30, 2013 at 2:15 PM Paul Reidl <reidl@sbcglobal.net> wrote:

John:

The document requests are the subject of the motion. I stand ready to comply with the procedures you specified in your requests, but you have insisted that I do something different. We will not be producing documents on the 23d unless we follow the procedures you specified in your original notice.

Paul

From: jgalbreath@galbreath-law.com [mailto:jgalbreath@galbreath-law.com]
Sent: Friday, August 30, 2013 11:08 AM
To: Paul Reidl
Cc: clientservice@galbreath-law.com
Subject: RE: Louisville v. Wine Group

Paul,

Thanks for your message. However, you are incorrect. These document requests were served well before your motion to compel. See the order, CFR, TBMP, etc: "This suspension order does not toll the time for either party to make any required discovery disclosure, to respond to discovery requests which had been duly served prior to the filing and service of the motion to compel, or to appear for a discovery deposition which had been duly noticed prior to the filing and service of the motion to compel." Trademark Rule 2.120(e)(2) et al.

Thus, you must permit inspection and copying of your documents, for the same reason that we were required to answer your 2nd set of interrogatories which were served

EXHIBIT 15

John Galbreath

From: jgalbreath@galbreath-law.com
Sent: Friday, August 30, 2013 2:46 PM
To: Paul Reidl
Cc: clientservice@galbreath-law.com
Subject: RE: Louisville v. Wine Group

Paul,

Thanks for your message. We disagree, and are at an impasse. Have a good weekend.

Best,

John

On August 30, 2013 at 2:44 PM Paul Reidl <reidl@sbcglobal.net> wrote:

One that the Board will resolve in due course because that is one of the aspects of the motion.

From: jgalbreath@galbreath-law.com [mailto:jgalbreath@galbreath-law.com]
Sent: Friday, August 30, 2013 11:40 AM
To: Paul Reidl
Cc: clientservice@galbreath-law.com
Subject: Re: Louisville v. Wine Group

Paul,

Thanks for your message. Like I said, impasse.

Best,

John

On August 30, 2013 at 2:35 PM Paul Reidl <reidl@sbcglobal.net> wrote:

John,

That is misleading. I said I was willing to comply with your instructions if you were willing to comply with mine (both of which are the same). You have refused to do so, insisting on an unprecedented procedure that resulted in the motion.

Paul

From: "jgalbreath@galbreath-law.com" <jgalbreath@galbreath-law.com>
To: Paul Reidl <reidl@sbcglobal.net>



GALBREATH LAW OFFICES, P.C.

2516 Chestnut Woods Ct. Reisterstown, MD 21136-5523 U.S.A.
Phone: 1-410-628-7770 Fax: 1-410-666-7274 Email: info@galbreath-law.com
Web: www.galbreath-law.com

November 4, 2013

BY EMAIL AND REGULAR MAIL

PAUL W. REIDL
LAW OFFICE OF PAUL W. REIDL
241 EAGLE TRACE DR., 2nd FLR.
HALF MOON BAY, CA 94019

Re: Louisville Convention & Visitors Bureau v. Wine Group – Opposition 9120885

Dear Paul,

Pursuant to the Board's November 3 order, please let us know which dates in the next 30 days are good for you to come and inspect Louisville's documents. I will then check with Louisville, to ensure that the dates are convenient for both parties.

In addition, regarding our inspection of Wine Group's documents, please let us know what days are good for you in the week of December 2.

Best regards,

John Galbreath

JG823:ks



GALBREATH LAW OFFICES, P.C.

2516 Chestnut Woods Ct. Reisterstown, MD 21136-5523 U.S.A.
Phone: 1-410-628-7770 Fax: 1-410-666-7274 Email: info@galbreath-law.com
Web: www.galbreath-law.com

November 8, 2013

BY EMAIL AND REGULAR MAIL

PAUL W. REIDL
LAW OFFICE OF PAUL W. REIDL
241 EAGLE TRACE DR., 2nd FLR.
HALF MOON BAY, CA 94019

Re: Louisville Convention & Visitors Bureau v. Wine Group – Opposition 9120885

Dear Paul,

Since we did not hear from you after our November 4, 2013 letter, we are following up. Please let us know promptly what days are good for you in the week of December 2, 2013, for our inspection of Wine Group's documents.

Best regards,

John Galbreath

JG874:ks

Greater Louisville Convention and Visitors Bureau	) IN THE UNITED STATES
	) PATENT AND TRADEMARK OFFICE
)
Opposer)
	) TRADEMARK TRIAL AND APPEAL BOARD
v.)
)
The Wine Group LLC	) APPL. NO. 85/736,374
)
Applicant	) OPPOSITION NO. 91208855
_____)

Declaration of John A. Galbreath

I, JOHN A. GALBREATH, being over the age of eighteen and competent to testify, make the following declaration:

1. I am the attorney of record for Greater Louisville Convention and Visitors Bureau (“Louisville”) in the above captioned opposition proceeding.
2. Exhibits 1-17 of the motion to compel filed contemporaneously with this declaration, are true and correct copies. Specifically:
3. Exhibit 1 is a true and correct copy of Louisville’s first set of requests for production.
4. Exhibit 2 is a true and correct copy of Wine Group’s responses to Louisville’s first set of requests for production.
5. Exhibit 3 is a true and correct copy of the July 14, 2013 letter from Wine Group’s counsel to Louisville’s counsel.
6. Exhibit 4 is a true and correct copy of the July 26, 2013 letter from Louisville’s counsel to Wine Group’s counsel.
7. Exhibit 5 is a true and correct copy of the travel arrangement for Louisville’s counsel, concerning Louisville’s inspection and copying of Wine Group’s documents where they are kept.
8. Exhibit 6 is a true and correct copy of the lodging arrangement for Louisville’s counsel, concerning Louisville’s inspection and copying of Wine Group’s documents where they are kept.

9. Exhibit 7 is a true and correct copy of the August 15, 2013 letter from Louisville's counsel to Wine Group's counsel.
10. Exhibit 8 is a true and correct copy of the August 15, 2013 email from Wine Group's counsel to Louisville's counsel.
11. Exhibit 9 is a true and correct copy of the August 15, 2013 email from Louisville's counsel to Wine Group's counsel.
12. Exhibit 10 is a true and correct copy of the August 29, 2013 letter from Louisville's counsel to Wine Group's counsel.
13. Exhibit 11 is a true and correct copy of the August 30, 2013 email from Wine Group's counsel to Louisville's counsel.
14. Exhibit 12 is a true and correct copy of the August 30, 2013 email from Louisville's counsel to Wine Group's counsel.
15. Exhibit 13 is a true and correct copy of another August 30, 2013 email from Wine Group's counsel to Louisville's counsel.
16. Exhibit 14 is a true and correct copy of another August 30, 2013 email from Louisville's counsel to Wine Group's counsel.
17. Exhibit 15 is a true and correct copy of a further email exchange on August 30, 2013 email between Louisville's counsel and Wine Group's counsel.
18. Exhibit 16 is a true and correct copy of the November 4, 2013 letter from Louisville's counsel to Wine Group's counsel.
19. Exhibit 17 is a true and correct copy of the November 8, 2013 letter from Louisville's counsel to Wine Group's counsel.

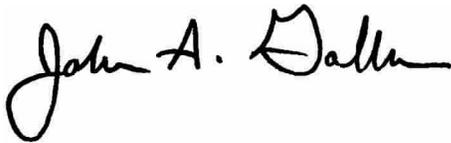
Further, the facts in Louisville's motion to compel are true and correct. Specifically:

20. Louisville's counsel scheduled a trip to Wine Group's location to inspect and copy Wine Group's documents on August 29-30, and made travel and lodging arrangements accordingly.
21. Wine Group received Louisville's July 26, 2013 letter by email and regular mail, and did not object to the arrangement proposed in it until August 15.
22. Wine Group never responded to Louisville's request for available dates in the week of September 9, 2013, for the inspection of Wine Group's documents.
23. Wine Group never responded to Louisville's November 4, 2013 letter requesting

available dates for the inspection of Wine Group's documents in the week of December 2, 2013.

24. To date, Wine Group has not responded to Louisville's November 8, 2013 follow-up letter requesting available dates for the inspection of Wine Group's documents in the week of December 2, 2013.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of this document, declares 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.



11/13/2013

John A. Galbreath

Date