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

Proceeding	91212413
Party	Defendant Llano Estacado Winery, Inc.
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Submission	Answer
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Vina San Pedro Tarapaca S.A., <i>Opposer</i> ,	§	Serial No.: 85680552
	§	
v.	§	Mark: 1836
	§	
	§	Filed: July 18, 2012
Llano Estacado Winery, Inc., <i>Applicant</i>	§	Published: August 13, 2013
	§	
	§	Opposition No.: 91212413

**APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSES
TO OPPOSER’S NOTICE OF OPPOSITION**

Llano Estacado Winery, Inc. (“Llano”) files this Answer and Affirmative Defenses to Opposer’s Notice of Opposition and, in support thereof, respectfully shows the following:

Llano denies each and every allegation and averment of the Notice of Opposition, except as expressly admitted or otherwise denied as set forth herein below; and Llano specifically denies that Opposer is and will be in any way damaged by the registration of Llano’s mark of U.S.

Trademark Application No. 85680552.

1. Llano admits the assertions contained in Paragraph 1 of Opposer’s Notice of Opposition.
2. Llano admits the assertions contained in Paragraph 2 of Opposer’s Notice of Opposition.
3. Llano is without sufficient knowledge or information at this time to form a belief as to the allegations contained in Paragraph 3 of Opposer’s Notice of Opposition.
4. Llano admits the assertions contained in Paragraph 4 of Opposer’s Notice of Opposition.

5. Llano admits the assertions contained in Paragraph 5 of Opposer's Notice of Opposition.

6. Llano denies that the goods in the opposed application are identical to the goods sold under Opposer's 1865 SAN PEDRO mark or that Applicant's goods would be likely to be thought to have emanated from the same source as Opposer's goods, or to have been approved, endorsed or sponsored by Opposer, or to be related to Opposer's goods as Vina San Pedro Tarapaca asserts in Paragraph 6 of Opposer's Notice of Opposition.

7. Llano denies that Llano's mark might be confused for Opposer's mark or is in any way similar to Opposer's mark as asserted in Paragraph 7 of Opposer's Notice of Opposition.

8. Llano denies that Vina San Pedro Tarapaca will be damaged by the registration of Llano's mark as Vina San Pedro Tarapaca asserts in Paragraph 8 of Opposer's Notice of Opposition.

9. Llano denies that purchasers and persons in the trade will be confused or deceived as to the source and origin of Applicant's goods offered and sold under the mark 1836 as Vina San Pedro Tarapaca asserts in Paragraph 8(a) of Opposer's Notice of Opposition.

10. Llano denies that purchasers and persons in the trade will assume that Llano's goods are in any way associated with or otherwise related to the Opposer as Vina San Pedro Tarapaca asserts in Paragraph 8(b) of Opposer's Notice of Opposition.

11. Llano denies that Applicant's registration is barred by the provisions of Section 2(d) of the Trademark Act of 1946 for the reason that it consists of or compromises a mark which so resembles Opposer's trademark that it would cause confusion, mistake or deception as Vina San Pedro Tarapaca asserts in Paragraph 9 of Opposer's Notice of Opposition.

AFFIRMATIVE DEFENSES

First Affirmative Defense

1. Opposer has failed to state a claim upon which relief may be granted.

Second Affirmative Defense

2. The claims of the Notice of Opposition are barred in whole or in part because Llano's mark is not closely similar in sight, sound, appearance and commercial impression to Vina San Pedro Tarapaca's mark.

Third Affirmative Defense

3. The claims of the Notice of Opposition are barred in whole or in part because Opposer would not be damaged by the registration of Llano's mark.

Fourth Affirmative Defense

4. Llano incorporates by reference the above Affirmative Defenses raised in Llano's answer and reserves the right to rely on such other and further affirmative defenses as may be supported by the facts to be determined through such further discovery as may be undertaken and to amend its Answer to assert such affirmative defenses.

WHEREFORE, Llano submits that Opposer's Notice of Opposition is without proper foundation in fact or law. Accordingly, Llano respectfully requests that the Opposition be dismissed with prejudice and that Llano's mark 1836 be permitted to proceed to registration.

Respectfully submitted,

McCLESKEY, HARRIGER, BRAZILL
& GRAF, L.L.P.

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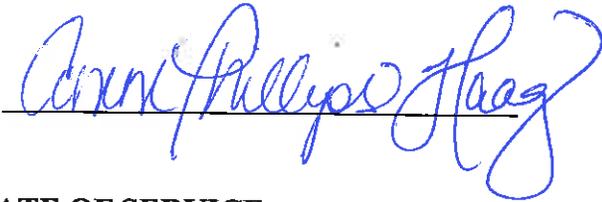
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By 
ANN PHILLIPS HAAG, SBN 24027063

ATTORNEYS FOR LLANO ESTACADO
WINERY, INC.

CERTIFICATE OF TRANSMISSION

I hereby certify that the foregoing document has been filed electronically with the Trademark Trial and Appeal Board using the Electronic System for Trademark Trials and Appeals (ESTTA) on October 17, 2013.



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was served on the following on this 17th day of October, 2013:

Via Certified Mail:

Leigh Ann Lindquist
SUGHRUE MION, PLLC
2100 Pennsylvania Ave., N.W.
Washington, D.C. 20037-3202


Ann Phillips Haag