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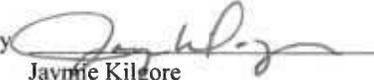
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91226521
Party	Defendant Rancho Caymus, LLC
Correspondence Address	KATJA LOEFFELHOLZ Dickenson Peatman & Fogarty 1455 1st St Ste 301 Napa, CA 94559-2822 tmdept@dpf-law.com
Submission	Answer
Filer's Name	Jaymie Kilgore
Filer's e-mail	tmltg@dpf-law.com
Signature	/Jaymie Kilgore/
Date	03/30/2016
Attachments	Answer to Notice of Opposition.pdf(689795 bytes)

Certificate of Electronic Filing

I hereby certify that this correspondence is being electronically filed with the Trademark Trial and Appeal Board through the ESTTA system located at <<http://estta.uspto.gov>>.

Dated: 3/30/16

By 
Jaymie Kilgore

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

Caymus Vineyards,
Opposer,
vs.
Rancho Caymus, LLC,
Applicant.

OPPOSITION NO. 91226521

ANSWER TO NOTICE OF OPPOSITION

TO THE COMMISSIONER OF TRADEMARKS:

Applicant Rancho Caymus, LLC (“Rancho” or “Applicant”) denies each and every allegation of the Notice of Opposition (“Notice”) unless otherwise admitted or responded to as follows:

In response to the allegations related to Applicant’s trademark applications Serial No. 86/588,244, filed April 6, 2015 (seeking registration of the mark RANCHO CAYMUS), Serial No. 86/588,271, filed April 6, 2015 (seeking registration of the mark RANCHO CAYMUS INN) and Application Serial No. 86/588,279, filed April 6, 2015 (seeking registration of RANCHO CAYMUS HOTEL) (jointly and severally, the “Applications”), Applicant states that the details regarding each of the Applications are a matter of public record and speak for themselves. Applicant specifically denies that Application Serial No. 86/588,244 was filed by

1 Caymus Medical, Inc. and denies all the remaining allegations set forth in Opposer's
2 introductory paragraphs and specifically denies that Opposer has been or will be damaged by
3 registration of any of the marks that are the subject of the Applications.

4
5 Applicant pleads as follows:

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

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

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

17 4. Answering paragraph 4 of the Notice, Applicant lacks sufficient information to admit
18 or deny the allegations contained in paragraph 4 of the Notice of Opposition, and accordingly
19 denies same.

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

23 6. Answering paragraph 6 of the Notice, Applicant lacks sufficient information to admit
24 or deny the allegations contained in paragraph 6 of the Notice of Opposition, and accordingly
25 denies same.

26 7. Answering paragraph 7 of the Notice, the details concerning Oppositions No.
27 91092049 and 91092113 are a matter of public record and speak for themselves. Applicant
28 denies the remaining allegations contained in paragraph 7 of the Notice.

1 8. Answering paragraph 8 of the Notice, the details related to the Applications and
2 Registration, including filing dates and other details concerning the Applicant, are a matter of
3 public record and speak for themselves. Applicant denies the remaining allegations contained in
4 paragraph 8 of the Notice.

5 9. Answering paragraph 9 of the Notice, Applicant admits that to date Applicant has made
6 no use of the Applicant’s marks in connection with any services. Applicant denies the remaining
7 allegations contained in paragraph 9 of the Notice.

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

11 11. Answering paragraph 11 of the Notice, Applicant states that the details related to the
12 Applications and Registration, including filing dates and registration dates, are a matter of public
13 record and speak for themselves, and that no trademark use of the Applicant’s marks has yet
14 been made. Applicant denies the remaining allegations contained in paragraph 11 of the Notice

15 12. Answering paragraph 12 of the Notice, Applicant denies the allegations contained in
16 paragraph 12 of the Notice.

17 13. Answering paragraph 13 of the Notice, Applicant denies the allegations contained in
18 paragraph 13 of the Notice.

19 **COUNT I**
20 Dilution - Lanham Act § 43(c)

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

23 15. Answering paragraph 15 of the Notice, Applicant denies the allegations contained in
24 paragraph 15 of the Notice.

25 16. Answering paragraph 16 of the Notice, Applicant denies the allegations of paragraph
26 16 of the Notice.

27 17. Answering paragraph 17 of the Notice, Applicant denies the allegations of paragraph
28 17 of the Notice.

1 18. Answering paragraph 18 of the Notice, Applicant denies the allegations of paragraph
2 18 of the Notice.

3 19. Answering paragraph 19 of the Notice, Applicant denies the allegations of paragraph
4 19 of the Notice.

5 20. Answering paragraph 20 of the Notice, Applicant denies the allegations of paragraph
6 20 of the Notice.

7 21. Answering paragraph 21 of the Notice, Applicant denies the allegations of paragraph
8 21 of the Notice.

9 **COUNT II**

10 Likelihood of Confusion – Lanham Act § 2(d)

11 22. Answering paragraph 22 of the Notice, Applicant incorporates its answers to
12 paragraphs 1-21 above as if fully set forth herein.

13 23. Answering paragraph 23 of the Notice, Applicant denies the allegations of paragraph
14 23 of the Notice.

15 24. Answering paragraph 24 of the Notice, Applicant denies the allegations of paragraph
16 24 of the Notice.

17 25. Answering paragraph 25 of the Notice, Applicant denies the allegations of paragraph
18 25 of the Notice.

19 26. Answering paragraph 26 of the Notice, Applicant denies the allegations of paragraph
20 26 of the Notice.

21 27. Answering paragraph 27 of the Notice, Applicant denies the allegations of paragraph
22 27 of the Notice.

23 **COUNT III**

24 False Suggestion of a Connection – Lanham Act § 2(a)

25 28. Answering paragraph 28 of the Notice, Applicant incorporates its answers to
26 paragraphs 1-27 above as if fully set forth herein.

27 29. Answering paragraph 29 of the Notice, Applicant denies the allegations of paragraph
28 29 of the Notice.

1 30. Answering paragraph 30 of the Notice, Applicant denies the allegations of paragraph
2 30 of the Notice.

3 31. Answering paragraph 31 of the Notice, Applicant admits the allegations of paragraph
4 31 of the Notice.

5 32. Answering paragraph 32 of the Notice, Applicant denies the allegations of paragraph
6 32 of the Notice.

7 33. Answering paragraph 33 of the Notice, Applicant denies the allegations of paragraph
8 33 of the Notice.

9

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AFFIRMATIVE DEFENSES

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FIRST AFFIRMATIVE DEFENSE

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

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SECOND AFFIRMATIVE DEFENSE

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

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THIRD AFFIRMATIVE DEFENSE

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36. There is no dilution of Opposer’s pleaded mark “CAYMUS” because, inter alia, this
20 mark is not famous within the meaning of U.S. trademark law.

21

22

FOURTH AFFIRMATIVE DEFENSE

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37. There is no likelihood of confusion, mistake or deception because, inter alia,
24 Applicant’s opposed marks, which identify the source of hotels, inns and restaurant services, and
25 the pleaded Opposer’s mark, which identifies the source of wines, are drawn to different goods
26 and/or services.

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1 **FIFTH AFFIRMATIVE DEFENSE**

2 38. There is no likelihood of confusion, mistake or deception because, inter alia,
3 Applicant's opposed marks, which identify the source of hotels, inns and restaurant services, and
4 the pleaded Opposer's mark, which identifies the source of wines, are used in different
5 marketing channels.

6
7 **SIXTH AFFIRMATIVE DEFENSE**

8 39. There is no likelihood of confusion, mistake or deception because, inter alia,
9 Applicant's opposed marks and the pleaded Opposer's mark, are dissimilar in terms of
10 appearance, sound, connotation and commercial impression.

11
12 **SEVENTH AFFIRMATIVE DEFENSE**

13 40. Opposer is barred from enforcing the pleaded Registration under the equitable doctrine
14 of laches because, on information and belief, the pleaded Registration co-existed with the
15 Rancho Caymus Inn mark for hotel and inn services for about thirty (30) years and Opposer
16 never legally enforced its Registration such that Opposer should be denied relief herein.

17
18 **EIGHTH AFFIRMATIVE DEFENSE**

19 41. Opposer is barred from enforcing the pleaded Registration under the equitable doctrine
20 of acquiescence because, on information and belief, the pleaded Registration co-existed with
21 the Rancho Caymus Inn mark for hotel and inn services for about thirty (30) years and Opposer
22 never legally enforced its Registration such that Opposer should be denied relief herein.

23
24 **NINTH AFFIRMATIVE DEFENSE**

25 42. Opposer is estopped from enforcing the pleaded Registration under the equitable
26 doctrine of unclean hands because the pleaded Registration was obtained and maintained
27 fraudulently, deceitfully and/or by misrepresentation such that Opposer should be denied relief
28 herein.

ADDITIONAL DEFENSES

43. Applicant hereby reserves the right to assert additional defenses based upon information learned or obtained during discovery.

WHEREFORE, Applicant prays for judgment as follows:

- a) this opposition be dismissed with prejudice; and
- b) Registrations for Applicant's trademark applications Serial Numbers 86/588,244, 86/588,271 and 86/588,279 be issued to Applicant.

Dated: March 30, 2016

Respectfully submitted,

DICKENSON, PEATMAN & FOGARTY

By: Katja Loeffelholz
Katja Loeffelholz

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Napa, California 94559
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Attorneys for Applicant
Rancho Caymus, LLC

PROOF OF SERVICE

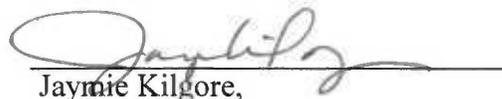
1
2 I declare that I am over the age of 18 years, employed in the County of Napa, and not a
3 party to the within action; my business address is 1455 First Street, Napa, California 94559. On
4 March 30, 2016, I served the attached **ANSWER TO NOTICE OF OPPOSITION AND**
5 **COUNTERCLAIM** on the person(s) listed below:
6

7 Stephen J. Jeffries
8 Holland & Knight LLP
9 800 17th Street NW, Suite 1100
10 Washington, DC 20006

11 by enclosing a true copy in a sealed envelope addressed as shown above and placing the
12 envelope for collection and mailing following our ordinary business practices. I am readily
13 familiar with this business' practice for collecting and processing correspondence for mailing.
14 On the same day that correspondence is placed for collection and mailing, it is deposited in the
15 ordinary course of business with the United States Postal Service in a sealed envelope with
16 postage fully prepaid.

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct.

19 Executed March 30, 2016, at Napa, California.

20
21 
22 Jaymie Kilgore,
23 Legal Secretary
24
25
26
27
28