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January 23, 2006

Kathryn M. Wheble  
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**BY EXPRESS MAIL**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**Re: Request to Amend Registration**  
**Registrant: The Wine Group, LLC**  
**Registration Number: 513,080**  
**Our Reference Number: 1103525.0008**

Dear Commissioner:

Enclosed for filing is a Request to Amend Registration for the above-referenced mark. In addition, we also enclosed a \$100.00 check for the filing fee.

Very truly yours,

Kathryn M. Wheble

Enclosures

cc: Kevin D. Sterling



01-24-2006

U.S. Patent & TMO/TM Mail Rcpt Dt. #30

UNITED STATES PATENT AND TRADEMARK OFFICE  
POST-REGISTRATION UNIT

In re U.S. Registration Number 513,080 )

Trademark: BRAVO )

Registration Date: August 2, 1949 )

Registrant: The Wine Group, LLC )

REQUEST TO AMEND REGISTRATION

Registrant, through its attorneys, requests amendment of the registration above to reflect the word BRAVO as a word mark, with no stylization or design elements.

Amendment is proper under 15 U.S.C. §1057(e) if it does not comprise material alteration of the mark. "An amendment of a registered mark is acceptable if the modified mark contains the essence of the original mark" as registered, and "the mark as amended creates the same impression as the original mark." TMEP §1609.02(a). If the mark would not need to be re-published, then amendment is appropriate. *In re Umax Data Systems, Inc.* Registration No. 1,614,692 (unpublished) (September 9, 1996),

The Office is liberal in its construction of what constitutes a material alteration. *In Re Richards-Wilcox Mrf. Co.*, 181 U.S.P.Q. 735 (Comm'r Patents 1974). Registrant shows the good cause required because amendment does not comprise material alteration of the mark.

A mark consisting of a word and design may be amended if the design is merely background embellishment or display that is not integrated into the mark in any significant way.

TMEP § 1609.02(a).

02/01/2006 GTHOMAS2 00000106 0513080

01 FD:6214

100.00 DP

This is the case here. The essence of the Mark is the word BRAVO. The elements of stylization consist of a thick typeface, the word printed in a slight semicircular slant, and a slightly emphasized "a."

Amendment here would not require republication of the Mark given that the stylization is secondary to the word "bravo" in the commercial impression that the Mark creates. Accordingly, the mark should be amended. *Umax* is instructive here. In that case, the T.T.A.B. granted amendment. The attached Exhibit A shows the stylized mark. Like here, the amendment involved a minimal change to stylized letters, in particular the two middle ones: "m" and "a." Like the change in typeface to the middle two letters in UMAX, the change in BRAVO is essentially to the "a", which is larger than the other letters.

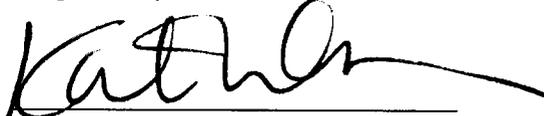
Attached hereto as Exhibit B is a substitute drawing reflecting the Mark in plain block letters.

Attached hereto as Exhibit C is a substitute specimen and declaration from a person authorized under 37 C.F.R. § 2.20 as a person properly authorized to bind the Registrant. Because the Mark as amended is in block letters that encompass any format, the Mark may be shown in stylized form on the specimen.

Exhibit D is a certified copy of the original registration certificate.

For the reasons set forth above, Registrant requests amendment of the Mark.

Respectfully submitted,



Kathryn M. Wheble  
Kirkpatrick & Lockhart Nicholson Graham LLP  
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San Francisco, CA 94111  
Telephone No.: (415) 249-1045  
Facsimile No.: (415) 249-1001

**CERTIFICATE OF MAILING**

I hereby certify that a true and complete copy of the foregoing REQUEST TO AMEND REGISTRATION was mailed by Express Mail No. EV154427165US to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451 postage prepaid, on this the 23rd day of January, 2006.

By: *Grace Gabriel*  
Grace Gabriel

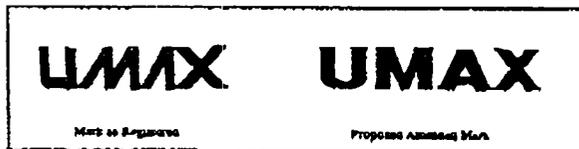
Exhibit A

## PART III

Commissioner's decisions on petitions. (Note: "\_\_\_USPQ2d\_\_\_ (Com'r Pats. and Trademarks)" in heading indicates that the decision is under consideration for publication. Name in [ ] indicates primary drafter.)

(P-57) *In re Umax Data System, Inc.*, Registration No. 1,614,692 [95-514], unpubl'd. Petition to reverse the decision of the Post Registration Examiner's refusing to accept an amendment pursuant to Section 7(e) of the *Trademark Act* granted, September 9, 1996. Hampton, Assistant Commissioner for Trademarks [Omelko](3 pages).

[Background: In a letter mailed August 9, 1995, the Post Registration Examiner refused to accept a proposed amendment of the mark UMAX (stylized) on the grounds that it constituted a material alteration of the mark as registered. The original mark and the proposed mark amended are reproduced below.



*Trademark Act* 15 U.S.C. §7(e)(1992) provides in part: "The Commissioner for good cause may permit any registration to be amended provided, that the amendment ... does not alter materially the character of the mark." The Act does not state any other standard related to the amendment of marks; "material alteration" is the standard for evaluating amendments to marks at all relevant stages of processing, during examination of the application and after registration *Trademark Rule* 37 CFR §§2.72 and 2.173(1995); TRADEMARK MANUAL OF EXAMINING PROCEDURE ¶¶807.14(a), 1603.10 and 1605.08.

When an Examining Attorney refuses to allow an amendment to a mark in an application, the applicant may appeal to the Trademark Trial and Appeal Board. See Sections 12(b) and 20 of the *Trademark Act* 15 U.S.C. §§1062(b) and 1070(1992), *Trademark Rule* 37 CFR §§2.141 and 2.142(1995) and TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) chapter 1200. In determining an *ex parte*

appeal, the Board reviews the appealed decision of an Examining Attorney to determine if it was correctly made. TBMP ¶1217

By contrast, under *Trademark Rules* 37 CFR §§2.146(a)(2) and 2.176(1995), a registrant may petition the Commissioner for review of an adverse action on a request for amendment of a registration pursuant to Section 7 of the *Trademark Act*. However, in the past, the Commissioner has reversed the action of a Post Registration Examiner only where there has been clear error or abuse of discretion. *In re Richards Wilcox Manufacturing Co.*, 181 USPQ 735 (Comm'r Pats. and Trademarks, 1974); *Ex parte Peerless Confection Co.*, 142 USPQ 278 (Comm'r Pats. and Trademarks 1964).

Consequently, the adverse action of a Post Registration Examiner on a request for amendment of a registration pursuant to Section 7 of the *Trademark Act* has been subject to a different standard of review than an Examining Attorney's final refusal to allow an amendment to a mark in an application. However, since the standards for determining the propriety of amendments to marks are the same for registrations and applications, the Commissioner believes that a registrant whose amendment has been refused is entitled to the same standard of review that is available to an applicant who seeks to amend a mark in an application. Henceforth, in deciding a petition to review the adverse decision of an Examiner on a proposed amendment to a registered mark under Section 7 of the *Trademark Act*, the Commissioner will review the decision to determine whether it was a correct one. To the extent that they state that the Commissioner will reverse an Examiner's decision on a Section 7 amendment only for clear error or abuse of discretion, *In re Richards-Wilcox Manufacturing Co.* and *Ex parte Peerless Confection Co.* are overruled.

The general test of whether an alteration is material is whether the mark would have to be republished after the alteration in order to fairly present the mark

Int. Cl.: 9

Prior U.S. Cls.: 21 and 26

Reg. No. 1,614,692

United States Patent and Trademark Office Registered Sep. 25, 1990

10 Year Renewal/Corrected

Renewal Term Begins Sep. 25, 2000

TRADEMARK  
PRINCIPAL REGISTER

**UMAX**

UMAX DATA SYSTEMS INC. (TAIWAN  
CORPORATION)  
PARK NO. 38, INDUSTRY EAST ROAD  
4 HSINCHU, TAIWAN

FOR: ELECTRONIC IMAGE SCAN-  
NERS FOR USE WITH A COMPUTER,  
IN CLASS 9 (U.S. CLS. 21 AND 26).  
FIRST USE 5-11-1989; IN COMMERCE  
5-11-1989.  
SER. NO. 73-808,438, FILED 6-22-1989.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on May 13, 2003.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

Exhibit B

Registrant: The Wine Group LLC  
Registration No.: 513,080  
Registration Date: August 2, 1949  
Address: 4596 S. Tracy Boulevard  
Tracy, CA 95377  
Date of First Use: October 09, 1947  
Date of First Use In Commerce: October 09, 1947  
Goods: Wines, in International Class 33

# BRAVO

Exhibit C

UNITED STATES PATENT AND TRADEMARK OFFICE  
POST-REGISTRATION UNIT

In re U.S. Registration Number 513,080 )

Trademark: BRAVO )

Registration Date: August 2, 1949 )

Registrant: The Wine Group, LLC )

**DECLARATION IN SUPPORT OF  
REQUEST TO AMEND**

I, Kathryn M. Wheble, declare as follows.

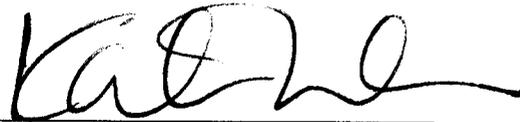
1. I am a member of the law firm Kirkpatrick & Lockhart Nicholson Graham LLP and an attorney of record for the registration herein. I thus have power of attorney for Registrant to make this Declaration.

2. I make this Declaration pursuant to 37 C.F.R. Section 2.20.

3. The specimen attached herein was in use in commerce at least as early as the date that the request to amend this registration was filed.

I declare under penalty of perjury that the foregoing is true and correct. Executed at San Francisco, California this 23 day of January 2006.

Respectfully submitted,



Kathryn M. Wheble  
Kirkpatrick & Lockhart Nicholson Graham LLP  
Four Embarcadero Center, 10<sup>th</sup> Floor  
San Francisco, CA 94111  
Telephone No.: (415) 249-1045  
Facsimile No.: (415) 249-1001



Exhibit D

1412694



# THE UNITED STATES OF AMERICA

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

**UNITED STATES DEPARTMENT OF COMMERCE**

**United States Patent and Trademark Office**

**January 12, 2006**

**THE ATTACHED U.S. TRADEMARK REGISTRATION 513,080 IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.**

**REGISTERED FOR A TERM OF 20 YEARS FROM *August 02, 1949*  
1st RENEWAL FOR A TERM OF 20 YEARS FROM *August 02, 1989*  
SECTION 8 & 15**

**SAID RECORDS SHOW TITLE TO BE IN:**

***WINE GROUP LLC, THE  
A DELAWARE LIMITED LIABILITY COMPANY***

**By Authority of the  
Under Secretary of Commerce for Intellectual Property  
and Director of the United States Patent and Trademark Office**

*P. R. Grant*  
**P. R. GRANT**  
**Certifying Officer**



Int. Cl.: 33

Prior U.S. Cl.: 47

United States Patent and Trademark Office

Renewal

Reg. No. 513,080

Registered Aug. 2, 1949

OG Date Sep. 12, 1989

TRADEMARK  
PRINCIPAL REGISTER

**BRAVO**

BEVERAGE SOURCE INC., THE (CALI-  
FORNIA CORPORATION)  
10960 WILSHIRE BLVD., SUITE 600  
LOS ANGELES, CA 90024, ASSIGNEE BY  
MESNE ASSIGNMENT AND CHANGE  
OF NAME CELLA VINEYARDS  
(CALIFORNIA CORPORATION)  
REEDLEY, CA

FOR: WINES, IN CLASS 47 (INT. CL.  
33).

FIRST USE 10-9-1947; IN COMMERCE  
10-9-1947.

SER. NO. 544,698, FILED 12-18-1947.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Sep. 12, 1989.*

COMMISSIONER OF PATENTS AND TRADEMARKS

Registered Aug. 2, 1949

Registration No. 513,080

**PRINCIPAL REGISTER**

**Trade-Mark**

**UNITED STATES PATENT OFFICE**

Cella Vineyards, Reedley, Calif.

Act of 1946

Application December 18, 1947, Serial No. 544,698

**BRAVO**

**(Statement)**

Cella Vineyards, a corporation duly organized and existing under the laws of the State of California, located and doing business on Reed Avenue, in the city of Reedley, county of Fresno, and State of California, has adopted and is using the trade-mark shown in the accompanying drawing, for WINES, in Class 47, Wines, and presents herewith five specimens (or facsimiles) showing the trade-mark as actually used in connection with such goods, the trade-mark being applied or affixed to the goods, or to the packages containing the same, by means of labels and requests that the same be registered in the United States Patent Office on the Principal Register in accordance with the act of July 5, 1946.

The trade-mark was first used on October 9, 1947 and first used in commerce among the several States which may lawfully be regulated by Congress on October 9, 1947.

**(Declaration)**

Burton B. Turner, being duly sworn, deposes

and says he is vice president of said corporation, the applicant named in the foregoing statement; that he believes said corporation to be the owner of the trade-mark, which is in use in commerce among the several States, and that said trade-mark has been in substantially exclusive and continuous use since October 9, 1947, and that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use such trade-mark in commerce which may lawfully be regulated by Congress, either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing and description truly represent the trade-mark sought to be registered, that the specimens (or facsimiles) show the trade-mark as actually used in connection with the goods, and that the facts set forth in the statement are true.

CELLA VINEYARDS,  
By BURTON B. TURNER,  
Vice-President.