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

Proceeding	92049023
Party	Defendant Dale W. Bronstein dba First National Wine & Spirits Co.
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Attachments	Answer to Petition for Cancellation.pdf ( 5 pages )(13413 bytes )

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

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Kespelher Wine Shippers GmbH,

Cancellation No. 92049023

Petitioner,

Mark: WILHELM BERGMANN

v.

Reg. No. 3342878

Dale W. Bronstein dba  
First National Wine & Spirits Co.,

Registrant.

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ANSWER TO PETITION TO CANCEL REGISTRATION

Registrant, Dale W. Bronstein dba First National Wine & Spirits Co., (“Registrant”), by and through its attorneys Baker & Rannells, PA, for its Answer and Affirmative Defenses to the Petition to Cancel Registration of the Petitioner, Kespelher Wine Shippers GmbH (“Petitioner”), alleges on knowledge as to its own acts and otherwise upon information and belief as follows:

With respect to the introductory paragraph of the Petition to Cancel Registration, Registrant states that it has insufficient knowledge or information upon which to form a belief as to the corporate information of Petitioner and it denies that Petitioner will be damaged by Registration No. 3342878.

COUNT I

1. Registrant admits that it is doing business as First National Wine & Spirits Co. and that it distributes and sells wines in the United States, Registrant denies each and every remaining allegation contained in Paragraph 1 of the Petition to Cancel Registration.

2. Registrant denies each and every allegation contained in Paragraph 2 of the Petition to Cancel Registration.
3. Registrant denies each and every allegation contained in Paragraph 3 of the Petition to Cancel Registration.
4. Registrant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 4 of the Petition to Cancel Registration.
5. Registrant denies each and every allegation contained in Paragraph 5 of the Petition to Cancel Registration.
6. Registrant denies each and every allegation contained in Paragraph 6 of the Petition to Cancel Registration.
7. Registrant denies each and every allegation contained in Paragraph 7 of the Petition to Cancel Registration.
8. Registrant denies each and every allegation contained in Paragraph 8 of the Petition to Cancel Registration.
9. Registrant denies each and every allegation contained in Paragraph 9 of the Petition to Cancel Registration.
10. Registrant denies each and every allegation contained in Paragraph 10 of the Petition to Cancel Registration.
11. Registrant denies that he needed authorization from anyone to file a trademark application, Registrant admits each and every remaining allegation contained in Paragraph 11 of the Petition to Cancel Registration.
12. Registrant admits each and every allegation contained in Paragraph 12 of the Petition to Cancel Registration.

13. Except that the application was filed on June 12, 2007, not June 15, 2007, Registrant admits each and every remaining allegation contained in Paragraph 13 of the Petition to Cancel Registration.

14. Registrant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 14 of the Petition to Cancel Registration.

15. Registrant denies each and every allegation contained in Paragraph 15 of the Petition to Cancel Registration.

16. Registrant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 16 of the Petition to Cancel Registration.

17. Registrant denies each and every allegation contained in Paragraph 17 of the Petition to Cancel Registration.

18. Registrant denies each and every allegation contained in Paragraph 18 of the Petition to Cancel Registration.

#### COUNT II

19. Registrant repeats and realleges its responses to the allegations set forth in Paragraphs 1 through 18 of the Petition to Cancel Registration above as if fully set forth herein.

20. Registrant denies each and every allegation contained in Paragraph 20 of the Petition to Cancel Registration.

#### COUNT III

21. Registrant repeats and realleges its responses to the allegations set forth in Paragraphs 1 through 20 of the Petition to Cancel Registration above as if fully set forth herein.

22. Registrant denies each and every allegation contained in Paragraph 22 of the Petition to Cancel Registration.

23. Registrant denies each and every allegation contained in Paragraph 23 of the Petition to Cancel Registration.

24. Registrant denies each and every allegation contained in Paragraph 20 of the Petition to Cancel Registration.

#### AFFIRMATIVE DEFENSES

1. As and for a first defense, Registrant was the first to conceive, select and adopt the WILHELM BERGMANN mark for use on and in connection with wines.

2. As and for a second defense, Petitioner is merely a contract supplier and not the owner of the WILHELM BERGMANN mark.

3. As and for a third defense, Registrant is the sole user of the WILHELM BERGMANN mark on or in connection with wines since it is the sole promoter, distributor and seller.

4. As and for a fourth defense, Registrant has priority in the WILHELM BERGMANN mark on or in connection with wines.

5. As and for a fifth defense, the Petition to Cancel is barred by the doctrine of estoppel.

6. As and for a sixth defense, the Petition to Cancel is barred in whole or in part by the unclean hands doctrine.

7. As and for a seventh defense, the Petition to Cancel fails to state a claim upon which relief can be granted

Dated: July 10, 2008

BAKER AND RANNELLS, PA

By: /s/ Neil B. Friedman  
Stephen L. Baker  
Neil B. Friedman  
Attorneys for Registrant  
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#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ANSWER TO PETITION TO CANCEL REGISTRATION was forwarded by first class mail, postage prepaid, on this 10th day of July, 2008 to the attorneys for the Petitioner at the following address:

Jeffrey H. Greger, Esq.  
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/s/ Neil B. Friedman  
Neil B. Friedman