

ESTTA Tracking number: **ESTTA273787**

Filing date: **03/23/2009**

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

**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Naked Wines, LLC		
Entity	LLC	Citizenship	Oregon
Address	1767 12th St. Hood River, OR 97031 UNITED STATES		

Attorney information	Hillary A. Brooks Marger, Johnson & McCollom, P.C. 210 S.W. Morrison St., Ste. 400 Portland, OR 97204 UNITED STATES litigationdocketing@techlaw.com Phone:(503) 222-3613		
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**Registration Subject to Cancellation**

Registration No	3027882	Registration date	12/13/2005
Registrant	TRADICIONES JALISCIENSES SA DE CV PLACERES #1181 COLONIA CHAPALITA GUADALAJARA, JALISCO, 45042 MEXICO		

**Goods/Services Subject to Cancellation**

Class 033. First Use: 2005/05/09 First Use In Commerce: 2005/05/09 All goods and services in the class are cancelled, namely: ALCOHOLIC BEVERAGES, NAMELY, TEQUILA
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**Grounds for Cancellation**

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
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Attachments	PetitionCancel.pdf ( 4 pages )(232424 bytes )
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**Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Hillary A. Brooks/
Name	Hillary A. Brooks
Date	03/23/2009



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

In the matter of trademark registration No. 3,027,882  
Filed September 14, 2004  
For the mark TEQUILA CLIMAX  
IC 033  
Published in the Official Gazette on September 20, 2005

NAKED WINES, LLC	)	
	)	Petition No. _____
Petitioner,	)	
	)	
v.	)	
	)	
TRADICIONES JALISCIENSES SA DE CV	)	
	)	
Registrants.	)	

**PETITION TO CANCEL**

1. NAKED WINES, LLC an Oregon corporation having its principal place of business at 1767 12<sup>th</sup> St. Hood River, Oregon 97031 (Petitioner), believes that it is damaged by registration of the mark TEQUILA CLIMAX that is the subject of U.S. Trademark Registration No. 3,027,882 for alcoholic beverages, namely tequila, by TRADICIONES JALISCIENSES SA DE CV, having an address of #1181 Colonia Chapalita Guadalajara, Jalisco Mexico, 45042. U.S. Trademark Registration No. 3,027,882 was filed September 14, 2004, published in the Official Gazette on September 20, 2005, and registered on December 13, 2005. Petitioner requests cancellation of U.S. Trademark Registration No. 3,027,882.

As grounds for cancellation, Petitioner alleges as follows:

2. Petitioner has applied to register the mark CLIMAX for wine.
3. Registrant is the owner of U.S. Trademark Registration No. 3,027,882 for the mark TEQUILA CLIMAX for alcoholic beverages, namely tequila.

4. Petitioner will be damaged by continuance of Registration No. 3,027,882 in that the Registration has been cited against Petitioner's U.S. Trademark Application Serial No. 77/363,841 and may delay or impair Petitioner's ability to register its mark.

5. Upon information and belief, on May 10, 2005, Registrant filed an Amendment to Allege Use alleging a first use in commerce date of May 9, 2005.

6. Upon information and belief, Registrant was not using, or was not permitted to use, the mark shown in U.S. Trademark Registration No. 3,027,882 as a trademark for the Registrants' goods and services in the United States, as of the date claimed by Registrant in the May 10, 2005, Amendment to Allege Use.

7. Accordingly, upon information and belief, at the time Registrant filed the required Amendment to Allege Use in connection with Registration No. 3,027,882, Registrant was not using the TEQUILA CLIMAX trademark in association with the goods set forth in the registration, and the allegations of use set forth in Amendment to Allege Use were fraudulent allegations made with the intent to deceive the Patent and Trademark Office into allowing the registration for the mark for the identified goods.

8. On the basis of the actions pleaded in the preceding paragraphs, Registrant has committed fraud against the U.S. Patent and Trademark Office in maintaining Registration No. 3,027,882 in violation of 15 U.S.C. §1064.

9. Petitioner will be damaged by continuance of Registration No. 3,027,882.

Petitioner requests the Board cancel U.S. Trademark Registration No. 3,027,882.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.



Hillary A. Brooks

Reg. No. 45,815

Attorney for Petitioner

MARGER JOHNSON & McCOLLOM, P.C.  
210 SW Morrison Street  
Portland, OR 97204  
(503) 222-3613

**CERTIFICATE OF ELECTRONIC FILING**

The undersigned hereby certifies that this PETITION TO CANCEL was electronically filed with the Trademark Trial and Appeal Board on March 23, 2009.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the PETITION TO CANCEL was served via First Class Mail as follows:

TRADICIONES JALISCIENSES SA DE CV  
PLACERES #1181 COLONIA CHAPALITA  
GUADALAJARA, JALISCO 45042  
Mexico

on this 23<sup>rd</sup> day of March, 2009.

  
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