

ESTTA Tracking number: **ESTTA620709**

Filing date: **08/11/2014**

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

Proceeding	92053854
Party	Plaintiff Serine-Cannonau Vineyard, Inc. dba Terry Hoage Vineyards
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Date	08/11/2014
Attachments	Response to Status Inquiry_081114.pdf(232335 bytes )

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

In the Matter of Registration No. 3,523,399  
Mark: TH  
Registration Date: October 28, 2008

SERINE-CANNONAU VINEYARD, INC.,  
DBA TERRY HOAGE VINEYARDS,

Petitioner,

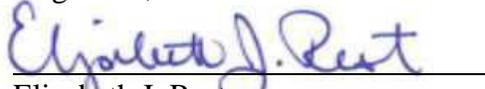
v.

VIÑA UNDURRAGA S.A.,

Registrant.

Cancellation No. 92053854

I hereby certify that this correspondence is being deposited with the United States Patent and Trademark Office, Trademark Trial and Appeal Board via electronic filing through its website located at <http://estta.uspto.gov/> on August 11, 2014:

  
Elizabeth J. Rest

**REPORT ON STATUS OF CANCELLATION PROCEEDING**

Petitioner SERINE-CANNONAU VINEYARD, INC., DBA TERRY HOAGE VINEYARDS (“Petitioner”) hereby files its Response to the Order issued by the Board on May 9, 2014, requesting that the parties inform the Board of the status of the discovery and ongoing settlement discussions in this proceeding.

This Cancellation action was filed on April 6, 2011, and an Answer was filed on May 17, 2011.

In as early as June, 2011, the parties reached a reasonable starting point for a settlement, and therefore moved the Trademark Trial and Appeal Board for an extension of the discovery and trial periods, with consent.

In June of 2011, the parties held their mandatory discovery conference, and the parties made their Initial Disclosures in September, 2011. No further discovery has been conducted in this proceeding.

Since June of 2011, settlement discussions have been ongoing. Indeed, in June 2011, a draft settlement agreement was circulated by counsel for Petitioner for Registrant's consideration. Despite numerous reminders, counsel for Registrant, George Lewis, did not respond with edits or revisions until March 15, 2012 – 9 months later. Petitioner accepted all of Registrant's changes; there was only one paragraph of the revised version that Petitioner took issue with, which appeared to be a typographical error. Registrant is aware that this is the only outstanding issue between the parties.

Counsel for Petitioner has followed up with counsel for Registrant with regard to this one paragraph numerous times beginning in March, 2012, and continuing to the present. Because Petitioner received no response to its numerous communications regarding this misplaced paragraph in the proposed Settlement Agreement, on October 30, 2012, Petitioner's counsel took the liberty of sending Registrant's counsel a revised Settlement Agreement, without the paragraph in issue, and informed counsel that Petitioner was ready to execute the revised Settlement Agreement.

Not having received any response to the October 30, 2012, draft of the Settlement Agreement, on February 4, 2013, Petitioner's counsel provided Registrant's counsel with an execution version of the Settlement Agreement, and stated again that Petitioner was ready to sign.

Not having received any substantive response, in December of 2012, the parties were again in the position of needing a further extension of time to complete the settlement. On December 10, 2012, counsel for Registrant informed Petitioner's counsel that his client had changed counsel in Chile (where the Registrant is located), and that was the reason for the continued delays.

Counsel for Petitioner has repeatedly asked Registrant's counsel for an update on the settlement. In response, Registrant's counsel has been nonresponsive.

After numerous requests for a substantive response to Petitioner's revised Settlement Agreement, on March 4, 2013, Registrant's counsel finally responded and stated that he believed he could substantively respond to the October, 2012, Settlement Agreement within 30 days. No such response was received.

At the request of Petitioner's counsel, on July 16, 2013, the parties had a telephonic conference with the TTAB Interlocutory Attorney assigned to this matter. During that conference, Registrant's counsel assured Petitioner's counsel and the Board that a substantive response to the Settlement Agreement would be forthcoming. To date, Petitioner has received no such response.

On April 20, 2014, counsel for Petitioner again asked counsel for Registrant if Petitioner could receive a substantive response to the Settlement Agreement. In response, Registrant's counsel responded that he was out of the country and would return to the U.S. on May 18, 2014, at which time he would follow up with his client. Counsel for Petitioner had no response from counsel for Registrant.

On June 17, 2014, counsel for Petitioner again asked counsel for Registrant to provide a substantive response to the Settlement Agreement, and indicated the need for a further extension. Registrant's counsel simply responded "OK." When Petitioner's counsel followed up seeking a status update for this report, no response was received.

On June 24, 2014, Petitioner filed a Motion for Extension of Answer or Discovery or Trial Periods With Consent. The Board denied the Motion on July 19, 2014.

On July 28, 2014, Petitioner's counsel spoke on the telephone with counsel for Registrant. In that call, Registrant's counsel stated that he would make an effort to obtain a response from Registrant regarding the settlement. While counsel did not guarantee that a response would be forthcoming, he indicated that he would get back to Petitioner's counsel. Petitioner's counsel asked for that status today, August 11, 2014.

Prior to preparing this Report, Petitioner's counsel emailed Registrant's counsel asking for a 30 day extension of time for Plaintiff to file its Pretrial Disclosures, and also asked for an update on the settlement. Registrant's counsel consented to the extension.

Petitioner is ready and willing to execute the Settlement Agreement provided to Registrant in October of 2012.

After receipt of the Board's July 19, 2014, Order, Petitioner's counsel emailed Wendy Cohen, the Interlocutory Attorney assigned to this matter, to request a teleconference. Petitioner has diligently tried to work with opposing counsel and believe that without the Board's involvement in securing a telephone conference with counsel for both sides, and having such a productive conference, it will be difficult to get opposing counsel's attention to the settlement agreement.

Petitioner requests that the Board schedule a telephonic Settlement Conference with the Interlocutory Attorney to help bring the parties together and resolve this matter. Petitioner's counsel is available at any of the following dates and times, or at such other time as is convenient to the Interlocutory Attorney:

August 18, 2014, at 9:00 a.m. PST; or

August 18, 2014, at 10:00 a.m. PST; or

August 19, 2014, at 9:00 a.m. PST; or

August 20, 2014, at 9:00 a.m. PST; or

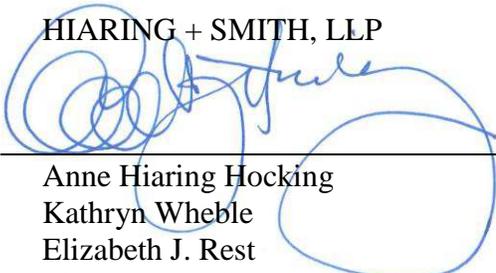
August 20, 2014, at 10:00 a.m. PST.

Respectfully submitted,

HIARING + SMITH, LLP

Dated: August 11, 2014

By:



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*Attorneys for Petitioner*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the REPORT ON STATUS OF CANCELLATION PROCEEDING has been served on attorneys for Registrant, as listed below, by mailing said copy on August 11, 2014, via First Class Mail, postage prepaid to the address below, and by sending a courtesy copy via electronic mail to the addresses listed below:

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Dated: August 11, 2014

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*Attorneys for Petitioner*