

ESTTA Tracking number: **ESTTA428304**

Filing date: **09/01/2011**

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	Round Hill Cellars		
Entity	Corporation	Citizenship	California
Address	1680 Silverado Trail S St. Helena, CA, CA 94574-9542 UNITED STATES		

Attorney information	Paul W. Reidl Law Office of Paul W. Reidl 3300 Wycliffe Drive Modesto, CA 95355 UNITED STATES paul@reidllaw.com Phone:(209) 526-1586		
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Registration Subject to Cancellation

Registration No	2761544	Registration date	09/09/2003
Registrant	Lolonis Winery 1905 Road D Redwood Valley, CA 95470 UNITED STATES		

Goods/Services Subject to Cancellation

Class 033. First Use: 1989/01/30 First Use In Commerce: 1994/12/01 All goods and services in the class are cancelled, namely: WINE

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Lolonis Petition.pdf (3 pages)(76587 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	/pwr/
Name	Paul W. Reidl
Date	09/01/2011

UNITED STATE PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Registration No. 2,761,544

Trademark: Ladybug Design

ROUND HILL CELLARS,
Petitioner,
v.
LOLONIS WINERY,
Respondent.

Cancellation No.

PETITION FOR CANCELLATION

Petitioner, Round Hill Cellars (“RHC”) by and through its counsel, hereby petitions to cancel Registration No. 3,738,068. As grounds for its petition, RHC alleges as follows:

1. RHC owns and sells a wine brand called PREDATOR. The face label of the wine contains the depiction of a ladybug.
2. Respondent, Lolonis Winery (“Lolonis”), owns Registration No 2,761,544 for wines in Class 33 which is the design of a ladybug.
3. Lolonis has demanded that RHC cease its use of the PREDATOR label because, in its view, the use of a ladybug on the label infringes on and dilutes the distinctiveness of the mark depicted in Registration No. 2,761,544 in violation of the Lanham Act.
4. On October 3, 2008, Lolonis filed its Declaration of Continuing Use under Sections 8 and 15 of the Lanham Act. The Declaration stated that the specimen attached thereto was in use and had been continuously in use for five consecutive years since the date of the registration. This was accepted and acknowledged by the United States Patent and Trademark Office on October 8, 2008.

1 But for the filing and acceptance of the Declaration, Registration No. 2,761,544 would have been
2 cancelled.

3 5. At the time the Declaration of Continuing Use was filed, Lolonis was not using the
4 mark depicted in Registration No. 2,761,544, as a trademark or in the manner depicted in the
5 specimen, and there had not been continuous use for a period of five consecutive years. The
6 Declaration was therefore void, the acceptance of the Declaration was void, and the registration is
7 therefore void and invalid.

8 6. Respondent has ceased using the mark depicted in Registration No. 2,761,544, with
9 the intention not to resume use.

10 7. The continued registration of Respondent's ladybug design Registration No. 2,761,544
11 for wines would be inconsistent with Petitioner's rights and would cause damage and injury to
12 Petitioner.

13 **WHEREFORE**, Petitioner respectfully requests that the Petition for Cancellation be
14 granted and that Registration No. 2,761,544 be cancelled. The \$300 fee has been paid at the time
15 of this filing.

16 Respectfully submitted

17 Dated: September 1, 2011

18 **LAW OFFICE OF PAUL W. REIDL**

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20
21 Paul W. Reidl
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23 Modesto, CA 95355
24 (209) 526-1586
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Attorney for Petitioner,
Round Hill Cellars

PROOF OF SERVICE AND MAILING

On September 1, 2011, I caused to be served the foregoing document described as follows:
PETITION FOR CANCELLATION on Respondent in this action by placing a true copy thereof enclosed in an envelope, postage prepaid, addressed as follows:

Lolonis Winery
1905 Road D
Redwood Valley, CA 95470

Executed on September 1, 2011, at Modesto, California.



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