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Filing date: **12/23/2013**

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

Proceeding	92057236
Party	Defendant Analog Wine Co., LLC
Correspondence Address	MATTHEW H SWYERS THE TRADEMARK COMPANY PLLC 344 MAPLE AVENUE WEST, SUITE 151 VIENNA, VA 22180 UNITED STATES mswyers@TheTrademarkCompany.com
Submission	Opposition/Response to Motion
Filer's Name	Matthew Swyers
Filer's e-mail	mswyers@thetrademarkcompany.com
Signature	/Matthew H. Swyers/
Date	12/23/2013
Attachments	Opposition to Motion to Compel.pdf(242773 bytes) Petitioner's Discovery to Registrant.pdf(1882956 bytes) Registrant's Statutory Objection to to Pet 1st Set of Rogs.pdf(326262 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

Registration No. 4,020,012
For the mark ANALOG WINE CO.
Registered on the Principal Register August 30, 2011

DOGFISH HEAD MARKETING, LLC,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. 92057236
	:	
ANALOG WINE CO., LLC,	:	
	:	
Registrant.	:	

OPPOSITION TO MOTION TO COMPEL

COMES NOW the Registrant, Analog Wine Co., LLC (hereinafter “Registrant”), by and through counsel, The Trademark Company, PLLC, and files the instant Opposition to the Motion to Compel filed by Petitioner stating as follows:

STATEMENT OF FACTS

1. On or about August 14, 2013 Petitioner submitted interrogatories, requests for production of documents, as well as requests for admissions to the Registrant.
2. On or about October 13, 2013, Registrant provided its answers to Petitioner’s admissions, a statutory objection to Registrant’s interrogatories, as well as a response to the document requests but did not provide actual responsive documents to the requests.
3. Said responses were timely under an extension of time granted by counsel for Registrant.
4. The instant motion concerning Registrant’s statutory objection and documents produced, or lack thereof, now follows.

Interrogatories

A party in a cancellation proceeding is limited to 75 interrogatories in the absence of requesting an Order from the Board, for good cause, to be entitled to exceed that amount. TBMP § 405.03(e).

Petitioner in the instant matter served only eleven (11) numbered interrogatories on the Registrant. However, in conjunction with those interrogatories Petitioner incorporated sub parts to interrogatory number 11 requesting that for any of the 191 requests for admission also served on Registrant not admitted Registrant explain, in full, the basis therefore. *See Petitioner's Discovery Served Upon Registrant* attached hereto. Moreover, interrogatory 11 itself asked two separate question for each admission so denied: (1) the factual basis for the denial and (2) to identify all documents supporting the same.

Registrant denied 137 of Petitioner's specifically-worded requests for admission. *See Registrant's Answers to Admissions* attached hereto. In that regard, and based upon the nature of interrogatory number 11, the same incorporates 274 subparts – 137 denials multiplied times 2, the number of questions found in interrogatory number 11.

Accordingly, it is submitted that the Petitioner has worded interrogatory 11 in a manner that, when combined with the voluminous admissions, has transformed the number of interrogatories requested from 11 to 284 (interrogatories 1 through 10 plus 137 admissions which were denied multiplied by 2: $10 + (137 \times 2) = 284$). As such, pursuant to TBMP § 405.03(e) it is submitted that the statutory objection is proper and it is requested that the same be found to be well-founded.

Request for Production of Documents

Registrant concedes the Petitioner's motion.

Respectfully submitted this 23rd day of December. 2013.

/Matthew H. Swyers/

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Counsel for Registrant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

Registration No. 4,020,012
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vs.	:	Cancellation No. 92057236
	:	
ANALOG WINE CO., LLC,	:	
	:	
Registrant.	:	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 23rd day of December, 2013 to be served, via first class mail, postage prepaid, upon:

JOHN J. DABNEY, ESQ.
MCDERMOTT WILL & EMERY LLP
500 NORTH CAPITOL STREET NW
WASHINGTON, DC 20001

/Matthew H. Swyers/
Matthew H. Swyers

B. “Registrant’s Mark” means the mark ANALOG, whether alone or in combination with any other term(s) or design(s), including ANALOG WINE CO. shown in U.S. Trademark Registration No. 4,020,012.

C. “Registrant’s Products” means alcohol beverages, including the products listed in U.S. Trademark Registration No. 4,020,012, namely, “wines” in Class 33.

D. “Petitioner” means Dogfish Head Marketing, LLC, the Petitioner in Cancellation Proceeding No. 92057236, and all of its owners, officers, directors, agents, servants, employees, in-house and outside attorneys, accountants, consultants, corporate parents, affiliates, subsidiaries, or other persons or entities acting on its behalf.

E. “Petitioner’s Marks” means the mark ANALOG whether alone or in combination with any other term(s) and/or design(s), including ANALOG BEER FOR THE DIGITAL AGE, shown in U.S. Registration No. 4,246,128.

F. “Petitioner’s Products” means all alcohol beverages, including beer.

G. “Document” is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), except that “document” specifically includes, without limitation, any electronically stored data or information. Drafts and non-identical duplicates constitute separate documents. Attachments, exhibits, appendices, schedules, and enclosures to documents are considered part of the same document.

H. “Thing” refers to any tangible object other than a document.

I. “Concerning” means constituting, comprising, relating to, referring to, reflecting, evidencing, or in any way relevant within the meaning of Federal Rule of Civil Procedure 26(b)(1).

J. “Including” means including but not limited to.

K. "Person" or "persons" means (a) natural persons; (b) legal entities, including, without limitation, corporations, partnerships, firms, associations, professional corporations, and proprietorships; and (c) governmental bodies or agencies.

L. "And" or "or" shall be construed conjunctively or disjunctively as necessary in order to make the request inclusive rather than exclusive.

M. "U.S. Commerce" or "United State Commerce" means commerce which the United States may regulate.

N. The past tense includes the present tense, and vice-versa. The singular includes the plural, and vice-versa. The male pronoun includes the female pronoun, and vice-versa.

O. As used herein, the term "identify" means:

(1) In the case of a person, to state:

- a. full name;
- b. present or last known residence and business address and telephone numbers relating to each; and
- c. occupation and business position held.

(2) In the case of a company, to state:

- a. full name and legal form (*e.g.*, corporation, partnership, etc.) and where incorporated or formed, if applicable;
- b. the address and principal place of business; and
- c. the identity of the persons having knowledge of the matter with respect to which the company is identified.

(3) In the case of a document, to state:

- a. the identity of the persons who prepared it, the senders and recipients, if any;
 - b. the title or a description of the general nature of its subject matter;
 - c. the date and manner of distribution and publication, if any;
 - d. the location of each copy and the identity of the present custodian or persons responsible for its filing or other disposition; and
 - e. the identity of the persons who can authenticate or identify it.
- (4) In the case of an act, circumstance, event, or omission, to state:
- a. a complete description of the act, circumstance, event, or omission;
 - b. when and where it occurred;
 - c. the identity of the persons performing said act (or, in the case of an omission, the identity of the persons failing to act) or involved in said event;
 - d. the identity of all persons who have knowledge, information or belief about the act, circumstance, event or omission;
 - e. when the act, circumstance, event or omission first became known; and
 - f. the circumstances and manner in which such knowledge was first obtained.

P. These interrogatories seek responses as of the date on which Registrant responds; however, these interrogatories shall be deemed continuing and must be supplemented as required by the Federal Rules of Civil Procedure. If, after providing responses to these interrogatories, Registrant becomes aware of any further document(s), thing(s), or information responsive to

these interrogatories, Registrant is required to serve upon Petitioner such further responses promptly after Registrant has acquired additional documents, things, knowledge or information.

Q. Any information concerning any oral communication withheld in responding to these interrogatories on the ground of privilege is to be identified by the persons involved in the communication, including the name of the person who made the communication, the recipients of the communication, job titles of all persons involved, the date the communication occurred, the subject matter of the communication, and the nature of the privilege claimed.

R. If any interrogatory is objected to, in whole or in part, Registrant shall state with specificity the reasons for the objection.

S. Any document withheld in responding to these interrogatories on the ground of privilege is to be identified by authors, recipients, persons to whom copies were furnished, job titles of all of the foregoing, as well as the date and subject matter of each document, and the nature of the privilege claimed.

INTERROGATORIES

INTERROGATORY NO. 1 Identify and fully describe Registrant's first use of Registrant's Mark for Registrant's Products.

INTERROGATORY NO. 2 Identify and fully describe how Registrant first learned of Petitioner and Petitioner's Marks, including the persons who learned, when they learned, and how they learned.

INTERROGATORY NO. 3 Identify and fully describe all communications concerning Petitioner, Petitioner's Marks, or Petitioner's products or services.

INTERROGATORY NO. 4 For each of Registrant's Products bearing Registrant's Mark, state the number of units sold and the revenues received from the sale of such products on a monthly basis since sales commenced.

INTERROGATORY NO. 5 Identify and fully describe all communications that you have had with the Alcohol and Tobacco Tax and Trade Bureau (TTB) concerning Registrant's Products sold under Registrant's Mark and state all reasons why a Certificate of Label Approval (COLA) or label approval was never sought or obtained for Registrant's Products sold under Registrant's Mark.

INTERROGATORY NO. 6 Identify and fully describe each instance where Registrant or any person acting on Registrant's behalf has received any communication, written or oral, from any person which demonstrates, suggests or implies that that person or any other person believed or may have believed that Registrant, Registrant's Mark or Registrant's products or services were approved or sponsored by or connected, associated or affiliated in any way with Petitioner, Petitioner's Marks, or Petitioner's Products, including, without limitation, any instances where an inquiry was made by any person concerning whether Registrant's Products originate from Petitioner, or there is or may be a connection or some kind of business relationship between Registrant, Registrant's Mark or Registrant's Products, on the one hand, and Petitioner, Petitioner's Marks, or Petitioner's Products, on the other hand, and identify all documents and things relating thereto.

INTERROGATORY NO. 7 Identify and describe the places in which Registrant's Products under Registrant's Mark have been advertised or promoted, including each

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2013, I served a true and correct copy of the foregoing Petitioner's First Set of Interrogatories via e-mail to counsel for Registrant pursuant to the parties' agreement:

**Matthew H. Swyers
The Trademark Company PLLC
344 Maple Avenue West, Suite 151
Vienna, VA 22180
mswyers@TheTrademarkCompany.com**

/Mary D. Hallerman/

Mary D. Hallerman

Attorney for Petitioner

Dogfish Head Marketing, LLC

DM_US 44110912-1.088254.0118

D. "Petitioner" means Dogfish Head Marketing, LLC, the Petitioner in Cancellation Proceeding No. 92057236, and all of its owners, officers, directors, agents, servants, employees, in-house and outside attorneys, accountants, consultants, corporate parents, affiliates, subsidiaries, or other persons or entities acting on its behalf.

E. "Petitioner's Marks" means the mark ANALOG whether alone or in combination with any other term(s) and/or design(s), including ANALOG BEER FOR THE DIGITAL AGE, shown in U.S. Registration No. 4,246,128.

F. "Petitioner's Products" means all alcohol beverages, including beer.

G. "Document" is synonymous in meaning and equal in scope to the usage of the term "documents or electronically stored information" in Federal Rule of Civil Procedure 34(a). Drafts and non-identical duplicates constitute separate documents. Attachments, exhibits, appendices, schedules, and enclosures to documents are considered part of the same document.

H. "Thing" refers to any tangible object other than a document.

I. "Concerning" means constituting, comprising, relating to, referring to, reflecting, evidencing, or in any way relevant within the meaning of Federal Rule of Civil Procedure 26(b)(1).

J. "Person" or "persons" means (a) natural persons; (b) legal entities, including, without limitation, corporations, partnerships, firms, associations, professional corporations, and proprietorships; and (c) governmental bodies or agencies.

L. "U.S. Commerce" or "United State Commerce" means commerce which the United States may regulate.

N. Answers to the following requests must specifically admit or deny the matter set forth in the request or set forth in detail the reasons why you cannot truthfully admit or deny the matter.

O. When good faith requires you to qualify an answer or deny only a part of a matter in a request, the answer must specify the part admitted and qualify or deny the remainder.

P. Lack of information or knowledge may not be given as a reason for failure to admit or deny, unless you state that you have made reasonable inquiries and that the information known or readily obtainable by you is insufficient to enable you to admit or deny the request.

Q. All objections shall be set forth with specificity and shall include a brief statement of the grounds for such objections.

REQUESTS FOR ADMISSION

REQUEST NO. 1 Admit that Petitioner's Mark ANALOG BEER FOR THE DIGITAL AGE is inherently distinctive.

REQUEST NO. 2 Admit that Petitioner's Mark ANALOG BEER is inherently distinctive.

REQUEST NO. 3 Admit that Petitioner's Marks do not describe an attribute of Petitioner's Products.

REQUEST NO. 4 Admit that Petitioner's Marks do not suggest an attribute of Petitioner's Products.

REQUEST NO. 5 Admit that Registrant's Mark is inherently distinctive.

REQUEST NO. 6 Admit that Registrant's Mark does not describe an attribute of Registrant's Products.

REQUEST NO. 7 Admit that Registrant's Mark does not suggest an attribute of Registrant's Products.

REQUEST NO. 8 Admit that Registrant's Mark contains the word "Analog."

REQUEST NO. 9 Admit that Petitioner's Marks contain the word "Analog."

REQUEST NO. 10 Admit that the word "Analog" in Registrant's Mark and the word "Analog" in Petitioner's Marks are similar to one another in sight.

REQUEST NO. 11 Admit that the word "Analog" in Registrant's Mark and the word "Analog" in Petitioner's Marks are identical to one another in sight.

REQUEST NO. 12 Admit that Registrant's Mark and Petitioner's Marks are similar to one another in sight.

REQUEST NO. 13 Admit that the word "Analog" in Registrant's Mark and the word "Analog" in Petitioner's Marks are similar to one another in sound.

REQUEST NO. 14 Admit that the word "Analog" in Registrant's Mark and the words "Analog" in Petitioner's Marks are identical to one another in sound.

REQUEST NO. 15 Admit that Registrant's Mark and Petitioner's Marks are similar in sound.

REQUEST NO. 16 Admit that the word "Analog" in Registrant's Mark and the word "Analog" in Petitioner's Marks are similar to one another in meaning.

REQUEST NO. 17 Admit that the word "Analog" in Registrant's Mark and the word "Analog" in Petitioner's Marks are identical to one another in meaning.

REQUEST NO. 18 Admit that Registrant's Mark and Petitioner's Marks are similar to one another in meaning.

REQUEST NO. 19 Admit that the words “Wine Co.” in Registrant’s Mark are disclaimed in Registrant’s registration.

REQUEST NO. 20 Admit that Registrant’s Mark is similar to Petitioner’s Marks.

REQUEST NO. 21 Admit that there is a likelihood of confusion between Registrant’s Mark and Petitioner’s Marks.

REQUEST NO. 22 Admit that Registrant knew of Petitioner prior to adopting Registrant’s Mark.

REQUEST NO. 23 Admit that Registrant knew of Petitioner’s Products prior to adopting Registrant’s Mark.

REQUEST NO. 24 Admit that Registrant knew of Petitioner prior to filing a U.S. trademark application for registration of Registrant’s Mark in the United States.

REQUEST NO. 25 Admit that Registrant knew of Petitioner prior to using Registrant’s Mark.

REQUEST NO. 26 Admit that Registrant knew of Petitioner’s use of Petitioner’s Mark prior to filing a U.S. application for registration of Registrant’s Mark in the United States.

REQUEST NO. 27 Admit that Petitioner owns Registration No. 4,246,128.

REQUEST NO. 28 Admit that the first use date stated on Petitioner’s Registration No. 4,246,128 is 1998.

REQUEST NO. 29 Admit that the first use date in U.S. commerce stated on Petitioner's Registration No. 4,246,128 is 1998.

REQUEST NO. 30 Admit that Petitioner began using Petitioner's Mark shown in Petitioner's Registration No. 4,246,128 prior to the September 30, 2009, the filing date of Registrant's Intent-to-Use Application Serial No. 77838035.

REQUEST NO. 31 Admit that Petitioner began using Petitioner's Mark shown in Petitioner's Registration No. 4,246,128 prior to May 5, 2010, the date of first use alleged by Registrant in Registrant's Registration No. 4,020,012.

REQUEST NO. 32 Admit that May 5, 2010 is the earliest date on which Registrant may rely concerning use or constructive use of Registrant's Mark in the United States.

REQUEST NO. 33 Admit that Petitioner used Petitioner's Mark shown in Petitioner's Registration No. 4,246,128 in U.S. commerce prior to November 27, 2010, the date of first use in U.S. commerce alleged by Registrant in Registrant's Registration No. 4,020,012.

REQUEST NO. 34 Admit that Petitioner used Petitioner's Mark shown in Petitioner's Registration No. 4,246,128 in U.S. commerce prior to Registrant commencing business as Analog Wine Co., LLC.

REQUEST NO. 35 Admit that Petitioner used Petitioner's Mark shown in Petitioner's Registration No. 4,246,128 in U.S. commerce prior to Registrant's registration of Analog Wine Co., LLC with the California Secretary of State.

REQUEST NO. 36 Admit that the goods offered in connection with Registrant's Mark are wine.

REQUEST NO. 37 Admit that the goods offered in connection with Petitioner's Marks are beer.

REQUEST NO. 38 Admit that beer and wine are both beverages.

REQUEST NO. 39 Admit that the goods identified in Petitioner's Registration No. 4,246,128 are related to the goods identified in Registrant's Registration No. 4,012,020.

REQUEST NO. 40 Admit that the goods offered in connection with Registrant's Mark are intended for consumers seeking retail beverage products.

REQUEST NO. 41 Admit that the goods offered in connection with Registrant's Mark are intended for consumers seeking beverage products.

REQUEST NO. 42 Admit that Registrant advertises Registrant's Products to consumers in the retail beverage market.

REQUEST NO. 43 Admit that Registrant advertised Registrant's Products to consumers in the retail beverage market.

REQUEST NO. 44 Admit that Registrant advertises Registrant's Products to consumers in the beverage market.

REQUEST NO. 45 Admit that Registrant advertised Registrant's Products to consumers in the beverage market.

REQUEST NO. 46 Admit that Registrant offers for sale Registrant's Products to distributors of beverage products.

REQUEST NO. 47 Admit that Registrant offered for sale Registrant's Products to distributors of beverage products.

REQUEST NO. 48 Admit that Registrant's Products are sold at retail.

REQUEST NO. 49 Admit that Registrant's Products were sold at retail.

REQUEST NO. 50 Admit that Registrant's Products are sold in grocery stores.

REQUEST NO. 51 Admit that Registrant's Products were sold in grocery stores.

REQUEST NO. 52 Admit that Registrant's Products are sold in restaurants.

REQUEST NO. 53 Admit that Registrant's Products were sold in restaurants.

REQUEST NO. 54 Admit that Registrant's Products are sold in bars.

REQUEST NO. 55 Admit that Registrant's Products were sold in bars.

REQUEST NO. 56 Admit that Registrant's Products are sold in wine & beer stores (e.g., Total Wine).

REQUEST NO. 57 Admit that Registrant's Products were sold in wine & beer store (e.g., Total Wine).

REQUEST NO. 58 Admit that Registrant's Products are advertised on the Internet, including at its website, www.analogwineco.com/buy/.

REQUEST NO. 59 Admit that Registrant's Products are offered in the same channels of trade as Petitioner's Products.

REQUEST NO. 60 Admit that Petitioner's Products are targeted towards consumers of beverages.

REQUEST NO. 61 Admit that customers encountering Registrant's Mark are likely to believe that such mark is associated with Petitioner.

REQUEST NO. 62 Admit that prospective customers encountering Registrant's Mark are likely to believe that such mark is associated with Petitioner.

REQUEST NO. 63 Admit that customers and prospective customers encountering Registrant's Products are likely to believe that such mark is sponsored by Petitioner.

REQUEST NO. 64 Admit that customers and prospective customers encountering Registrant's Products are likely to believe that such goods are affiliated with Petitioner.

REQUEST NO. 65 Admit that Registrant is aware of instances of actual confusion between Registrant's Mark and Petitioner's Marks.

REQUEST NO. 66 Admit that at the website www.dogfish.com the entity Dogfish Head Craft Brewery, Inc., advertises its beer products.

REQUEST NO. 67 Admit that Dogfish Head Craft Brewery has offered a beer named "Analog Beer," as described on its website (specifically, <http://www.dogfish.com/brews-spirits/the-brews/brewpub-exclusives/analog-beer.htm>).

REQUEST NO. 68 Admit that in the description of Analog Beer on www.dogfish.com (specifically, <http://www.dogfish.com/ brews-spirits/the-brews/brewpub-exclusives/analog-beer.htm>), Dogfish Head Craft Brewery, Inc. states that Analog Beer is inspired by “old world techniques” and the buckwheat used to make the beer “is also a shout-out to rustic farming tradition.”

REQUEST NO. 69 Admit that on Dogfish Head Craft Brewery’s website (specifically, <http://www.dogfish.com/analog-a-go-go/index.htm>), Dogfish Head Craft Brewery, Inc. advertises its annual beer and vinyl records festival called “Analog-A Go-Go.”

REQUEST NO. 70 Admit that in the description of Olde School Barleywine on www.dogfish.com (specifically, <http://www.dogfish.com/ brews-spirits/the-brews/occasional-rarities/olde-school-barleywine.htm>), Dogfish Head Craft Brewery, Inc. recommends pairing Olde School Barleywine with “almond-stuffed dates, pumpernickel, tart cherries, [and] blue cheese with honey.”

REQUEST NO. 71 Admit that for certain beers advertised on www.dogfish.com, food pairings are recommended.

REQUEST NO. 72 Admit that in the description of Olde School Barleywine on www.dogfish.com (specifically, <http://www.dogfish.com/ brews-spirits/the-brews/occasional-rarities/olde-school-barleywine.htm>), there is a glassware recommendation for “snifter.”

REQUEST NO. 73 Admit that for certain beers advertised on www.dogfish.com, a specific type of glassware is recommended.

REQUEST NO. 74 Admit that in the description of Olde School Barleywine on www.dogfish.com (specifically, <http://www.dogfish.com/brews-spirits/the-brews/occasional-rarities/olde-school-barleywine.htm>), a comparable wine of “ruby port” is listed.

REQUEST NO. 75 Admit that for certain beers advertised on www.dogfish.com, a comparable wine is listed.

REQUEST NO. 76 Admit that Dogfish Head Craft Brewery, Inc.’s beer product, Raison D’être, is advertised on www.dogfish.com

REQUEST NO. 77 Admit that the description of Raison D’être (specifically, <http://www.dogfish.com/brews-spirits/the-brews/year-round-brews/raison-detre.htm>), states that “[Raison D’être is] as tasty and complex as a fine red wine.”

REQUEST NO. 78 Admit that Dogfish Head Craft Brewery, Inc.’s beer product, Red & White, is advertised on www.dogfish.com.

REQUEST NO. 79 Admit that the description of Red & White on www.dogfish.com (specifically, <http://www.dogfish.com/brews-spirits/the-brews/occasional-rarities/red-white.htm>) states that Red & White is “brewed at coriander and orange peel and fermented with pinot noir juice.”

REQUEST NO. 80 Admit that Dogfish Head Craft Brewery, Inc.’s beer product, Repoterroir, is advertised on www.dogfish.com.

REQUEST NO. 81 Admit that the description of Repoterroir on www.dogfish.com (specifically, <http://www.dogfish.com/brews-spirits/the-brews/collaborations/repoterroir.htm>)

states that “this sessionable lager beer reclaims the earthbound mantle of terroir from the grape-soaked, buttoned-down world of wine and repurposes it in a new sudsy sense.”

REQUEST NO. 82 Admit that Dogfish Head Craft Brewery, Inc.’s beer product, Noble Rot, is advertised on www.dogfish.com.

REQUEST NO. 83 Admit that the description of Noble Rot on www.dogfish.com (specifically, <http://www.dogfish.com/brews-spirits/the-brews/occasional-rarities/noble-rot.htm>) states that “[t]his saison-esque science project gets complexity and fermentable sugars from two unique wine grapes.”

REQUEST NO. 84 Admit that the description of Noble Rot on www.dogfish.com (specifically, <http://www.dogfish.com/brews-spirits/the-brews/occasional-rarities/noble-rot.htm>) states that “[t]his is the absolute closest to equal meshing of the wine world and the beer world that’s ever been done commercially,” says Dogfish’s Sam Calagione.”

REQUEST NO. 85 Admit that Dogfish Head Craft Brewery, Inc.’s, beer product, Sixty-One, is advertised on www.dogfish.com.

REQUEST NO. 86 Admit that the description of Sixty-One on www.dogfish.com (specifically, <http://www.dogfish.com/brews-spirits/the-brews/year-round-brews/sixty-one.htm>) states that “Sixty-One captures that tradition in a bottle and marries two Dogfish Head innovations: beer/wine hybrids—which Dogfish has focused on for well over a decade with beers like Midas Touch and Raison D’être – and continually-hopped IPAs.”

REQUEST NO. 87 Admit that Dogfish Head Brewery, Inc., has an online store available at www.dogfish.com/store.

REQUEST NO. 88 Admit that Dogfish Head Brewery, Inc., offers for sale a Men's Red Logo Tee with the slogan, "Analog Beers for the Digital Age," on its online store (specifically, <http://www.dogfish.com/store/nakedness-prevention/guys/mens-red-logo-tee.htm>).

REQUEST NO. 89 Admit that Dogfish Head Brewery, Inc., offers for sale a 2013 Analog Tee with the phrase, "Analog A-Go-Go," on its online store (specifically, <http://www.dogfish.com/store/nakedness-prevention/guys/analog-tee.htm>).

REQUEST NO. 90 Admit that Dogfish Head Brewery, Inc., offers for sale a Ladies Steampunk Flowerpot Tee with the slogan, "Analog Beer for the Digital Age," on its online store (specifically, <http://www.dogfish.com/store/nakedness-prevention/gals/ladies-steampunk-flowerpot-tee.htm>).

REQUEST NO. 91 Admit that Dogfish Head Brewery, Inc., offers for sale a Ladies Kickin' It Tee with the slogan, "Analog Beer for the Digital Age," on its online store (specifically, <http://www.dogfish.com/store/nakedness-prevention/gals/ladies-ls-kickin-it-tee.htm>).

REQUEST NO. 92 Admit that Dogfish Head Brewery, Inc., offers for sale a 2013 Mens Bike Jersey with the slogan, "Analog Beer for the Digital Age," on its online store (specifically, <http://www.dogfish.com/store/nakedness-prevention/athletic-type-stuff/2013-mens-bike-jersey.htm>).

REQUEST NO. 93 Admit that Dogfish Head Brewery, Inc., offers for sale a 2013 Ladies Bike Jersey with the slogan, "Analog Beer for the Digital Age," on its online store

(specifically, <http://www.dogfish.com/store/nakedness-prevention/athletic-type-stuff/2013-ladies-bike-jersey.htm>).

REQUEST NO. 94 Admit that Dogfish Head Brewery, Inc., offers for sale a 2013 Beer Tasting Journal, stating “We’re keeping it analog” in the product’s description, on its online store (specifically, <http://www.dogfish.com/store/whatnot/cool-junk/beer-tasting-journal.htm>).

REQUEST NO. 95 Admit that Dogfish Head Brewery, Inc., offers for sale a Analog-A-Go-Go Screen Print on its online store (specifically, <http://www.dogfish.com/store/style-out-your-digs/original-artwork/analog-a-go-go-screen-print.htm>).

REQUEST NO. 96 Admit that Dogfish Head Brewery, Inc., offers for sale a book entitled “He Said Beer, She Said Wine” on its online store. *See* <http://www.dogfish.com/store/whatnot/entertainment/he-said-beer-she-said-wine-paperback.htm>.

REQUEST NO. 97 Admit that the description of “He Said Beer, She Said Wine” (*see* <http://www.dogfish.com/store/whatnot/entertainment/he-said-beer-she-said-wine-paperback.htm>) states that Sam Calagione, founder of Dogfish Head Craft Brewery, co-authored the book with a wine sommelier.

REQUEST NO. 98 Admit that the description of “He Said Beer, She Said Wine” (*see* <http://www.dogfish.com/store/whatnot/entertainment/he-said-beer-she-said-wine-paperback.htm>) states that the book is “the first fully illustrated book on the market to give in-depth instruction on how to successfully pair both beer and wine with a wide variety of foods.”

REQUEST NO. 99 Admit that, at <http://www.dogfish.com/community/news/trophy-list/wine-enthusiast-editors-recommend-dogfish-beers.htm>, an online posting titled “Wine Enthusiast editors recommend Dogfish beers” appears.

REQUEST NO. 100 Admit that, <http://www.dogfish.com/ancientales>, Dogfish Head Craft Brewery Inc. describes its five “Ancient Ales” and states “we just might be the most traditional modern brewery in the world.”

REQUEST NO. 101 Admit that Registrant knew of Petitioner prior to the date Registrant applied for ANALOG WINE CO.

REQUEST NO. 102 Admit that Petitioner’s Marks are well-known.

REQUEST NO. 103 Admit that on December 13, 2010, the USPTO issued a Notice of Abandonment to Registrant because Registrant “failed to file for a statement of use or extension of time.”

REQUEST NO. 104 Admit that on June 13, 2011, the USPTO issued a second Notice of Abandonment to Registrant because Registrant again “failed to file for a statement of use or an extension of time.”

REQUEST NO. 105 Admit that Registrant lists places where consumers may purchase Registrant’s Products at <http://analogwineco.com/find/>.

REQUEST NO. 106 Admit that Registrant’s Products have not been sold in A16 in San Francisco (listed on Registrant’s website) in over three years.

REQUEST NO. 107 Admit that Registrant's Products have not been sold in A16 in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 108 Admit that Registrant's Products have not been sold in Boulevard in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 109 Admit that Registrant's Products have not been sold in Boulevard in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 110 Admit that Registrant's Products have not been sold in Café des Amis in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 111 Admit that Registrant's Products have not been sold in Café des Amis in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 112 Admit that Registrant's Products have not been sold in Clift in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 113 Admit that Registrant's Products have not been sold in Clift in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 114 Admit that Registrant's Products have not been sold in Delfina in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 115 Admit that Registrant's Products have not been sold in Delfina in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 116 Admit that Registrant's Products have not been sold in Ferry Plaza Wine Merchant in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 117 Admit that Registrant's Products have not been sold in Ferry Plaza Wine Merchant in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 118 Admit that Registrant's Products have not been sold in Gary Danko in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 119 Admit that Registrant's Products have not been sold in Gary Danko in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 120 Admit that Registrant's Products have not been sold in Incanto in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 121 Admit that Registrant's Products have not been sold in Incanto in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 122 Admit that Registrant's Products have not been sold in Jardiniere in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 123 Admit that Registrant's Products have not been sold in Jardiniere in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 124 Admit that Registrant's Products have not been sold in Marlowe in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 125 Admit that Registrant's Products have not been sold in Marlowe in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 126 Admit that Registrant's Products have not been sold in Masa's in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 127 Admit that Registrant's Products have not been sold in Masa's in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 128 Admit that Registrant's Products have not been sold in Michael Mina in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 129 Admit that Registrant's Products have not been sold in Michael Mina in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 130 Admit that Registrant's Products have not been sold in Prospect in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 131 Admit that Registrant's Products have not been sold in Prospect in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 132 Admit that Registrant's Products have not been sold in Ristobar in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 133 Admit that Registrant's Products have not been sold in Ristobar in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 134 Admit that Registrant's Products have not been sold in RN74 in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 135 Admit that Registrant's Products have not been sold in RN74 in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 136 Admit that Registrant's Products have not been sold in Saison in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 137 Admit that Registrant's Products have not been sold in Saison in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 138 Admit that Registrant's Products have not been sold in Salt House in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 139 Admit that Registrant's Products have not been sold in Salt House in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 140 Admit that Registrant's Products have not been sold in Spruce in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 141 Admit that Registrant's Products have not been sold in Spruce in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 142 Admit that Registrant's Products have not been sold in Town Hall in San Francisco (listed on Registrant's website) in over three years.

REQUEST NO. 143 Admit that Registrant's Products have not been sold in Town Hall in San Francisco (listed on Registrant's website) in over two years.

REQUEST NO. 144 Admit that Registrant's Products have not been sold in L' Auberge in Carmel, California (listed on Registrant's website) in over three years.

REQUEST NO. 145 Admit that Registrant's Products have not been sold in L' Auberge in Carmel, California (listed on Registrant's website) in over two years.

REQUEST NO. 146 Admit that Registrant's Products have not been sold in Murray Circle Restaurant in Cavallo Point, California (listed on Registrant's website) in over three years.

REQUEST NO. 147 Admit that Registrant's Products have not been sold in Murray Circle Restaurant in Cavallo Point, California (listed on Registrant's website) in over two years.

REQUEST NO. 148 Admit that Registrant's Products have not been sold in Murray Circle Restaurant in Sausalito, California (listed on Registrant's website) in over three years.

REQUEST NO. 149 Admit that Registrant's Products have not been sold in Murray Circle Restaurant in Sausalito, California (listed on Registrant's website) in over two years.

REQUEST NO. 150 Admit that Registrant's Products have not been sold in Mayfield Café in Palo Alto, California (listed on Registrant's website) in over three years.

REQUEST NO. 151 Admit that Registrant's Products have not been sold in Mayfield Café in Palo Alto, California (listed on Registrant's website) in over two years.

REQUEST NO. 152 Admit that Registrant's Products have not been sold in Pizza Antica in Mill Valley, California (listed on Registrant's website) in over three years.

REQUEST NO. 153 Admit that Registrant's Products have not been sold in Pizza Antica in Mill Valley, California (listed on Registrant's website) in over two years.

REQUEST NO. 154 Admit that Registrant's Products have not been sold in Pizza Antica in Lafayette, California (listed on Registrant's website) in over three years.

REQUEST NO. 155 Admit that Registrant's Products have not been sold in Pizza Antica in Lafayette, California (listed on Registrant's website) in over two years.

REQUEST NO. 156 Admit that Registrant's Products have not been sold in Pizza Antica in Santana Row, California (listed on Registrant's website) in over three years.

REQUEST NO. 157 Admit that Registrant's Products have not been sold in Pizza Antica in Santana Row, California (listed on Registrant's website) in over two years.

REQUEST NO. 158 Admit that Registrant's Products have not been sold in The Village Pub in Woodside, California (listed on Registrant's website) in over three years.

REQUEST NO. 159 Admit that Registrant's Products have not been sold in The Village Pub in Woodside, California (listed on Registrant's website) in over two years.

REQUEST NO. 160 Admit that Registrant's Products have not been sold in Bottega in Yountville, California (listed on Registrant's website) in over three years.

REQUEST NO. 161 Admit that Registrant's Products have not been sold in Bottega in Yountville, California (listed on Registrant's website) in over two years.

REQUEST NO. 162 Admit that Registrant's Products have not been sold in Cyrus in Healdsburg, California (listed on Registrant's website) in over three years.

REQUEST NO. 163 Admit that Registrant's Products have not been sold in Cyrus in Healdsburg, California (listed on Registrant's website) in over two years.

REQUEST NO. 164 Admit that Registrant's Products have not been sold in Farm in Caneros Inn, California (listed on Registrant's website) in over three years.

REQUEST NO. 165 Admit that Registrant's Products have not been sold in Cyrus in Healdsburg, California (listed on Registrant's website) in over two years.

REQUEST NO. 166 Admit that Registrant's Products have not been sold in Oxbow Wine Merchant in Napa, California (listed on Registrant's website) in over three years.

REQUEST NO. 167 Admit that Registrant's Products have not been sold in Oxbow Wine Merchant in Napa, California (listed on Registrant's website) in over two years.

REQUEST NO. 168 Admit that Registrant's Products have not been sold in Redd in Yountville, California (listed on Registrant's website) in over three years.

REQUEST NO. 169 Admit that Registrant's Products have not been sold in Redd in Yountville, California (listed on Registrant's website) in over two years.

REQUEST NO. 170 Admit that Registrant's Products have not been sold in St. Helena Wine Center in St. Helena, California (listed on Registrant's website) in over three years.

REQUEST NO. 171 Admit that Registrant's Products have not been sold in St. Helena Wine Center in St. Helena, California (listed on Registrant's website) in over two years.

REQUEST NO. 172 Admit that Registrant's Products have not been sold in V Wine Cellar in Yountville, California (listed on Registrant's website) in over three years.

REQUEST NO. 173 Admit that Registrant's Products have not been sold in V Wine Cellar in Yountville, California (listed on Registrant's website) in over two years.

REQUEST NO. 174 Admit that Registrant did not sell Registrant's Products bearing Registrant's Mark in 2012.

REQUEST NO. 175 Admit that Registrant did not sell Registrant's Products bearing Registrant's Mark in 2013.

REQUEST NO. 176 Admit that Registrant did not sell Registrant's Products bearing Registrant's Mark in 2011.

REQUEST NO. 177 Admit that Registrant did not sell a 2006 vintage wine under Registrant's Mark.

REQUEST NO. 178 Admit that Registrant did not sell a 2007 vintage wine under Registrant's Mark.

REQUEST NO. 179 Admit that Registrant did not sell a 2008 vintage wine under Registrant's Mark.

REQUEST NO. 180 Admit that Registrant did not sell a 2009 vintage wine under Registrant's Mark.

REQUEST NO. 181 Admit that Registrant did not sell a 2010 vintage wine under Registrant's Mark.

REQUEST NO. 182 Admit that Registrant did not sell a 2011 vintage wine under Registrant's Mark.

REQUEST NO. 183 Admit that Registrant did not sell a 2012 vintage wine under Registrant's Mark.

REQUEST NO. 184 Admit that Registrant did not sell a 2013 vintage wine under Registrant's Mark.

REQUEST NO. 185 Admit that the only wine that Registrant sold under Registrant's Mark was a 2005 vintage wine.

REQUEST NO. 186 Admit that Registrant sold wine under Registrant's Mark without receiving approval of the label from the Alcohol and Tobacco Tax and Trade Bureau ("TTB").

REQUEST NO. 187 Admit that the specimen of use that Registrant submitted to the Trademark Office in connection with its application was not approved by the Alcohol and Tobacco Tax and Trade Bureau (TTB).

REQUEST NO. 188 Admit that the specimen of use that Registrant submitted to the Trademark Office in connection with its application was not submitted to the Alcohol and Tobacco Tax and Trade Bureau (TTB).

REQUEST NO. 189 Admit that Registrant did not receive a label approval from the Alcohol and Tobacco Tax and Trade Bureau (TTB) for a label that contained the word "Analog."

REQUEST NO. 190 Admit that each of the documents that Registrant has produced in this proceeding is authentic.

REQUEST NO. 191 Admit that some companies sell wine and beer under the same mark.

DOGFISH HEAD MARKETING, LLC

Dated: August 14, 2013

By: /John J. Dabney/
John J. Dabney
Mary D. Hallerman
McDermott Will & Emery LLP
500 North Capitol Street, NW
Washington, D.C. 20001
Telephone: 202.756.8000
Facsimile: 202.756.8087

*Attorneys for Petitioner
Dogfish Head Marketing, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2013, I served a true and correct copy of the foregoing Petitioner's First Set of Interrogatories via e-mail to counsel for Registrant pursuant to the parties' agreement:

**Matthew H. Swyers
The Trademark Company PLLC
344 Maple Avenue West, Suite 151
Vienna, VA 22180
mswyers@TheTrademarkCompany.com**

/Mary D. Hallerman/
Mary D. Hallerman

*Attorney for Petitioner
Dogfish Head Marketing, LLC*

B. “Registrant’s Mark” means the mark ANALOG, whether alone or in combination with any other term(s) and/or design(s), including ANALOG WINE CO. shown in U.S. Trademark Registration No. 4,020,012.

C. “Registrant’s Products” means alcohol beverages, including the products listed in U.S. Trademark Registration No. 4,020,012, namely, “wines” in Class 33.

D. “Petitioner” means Dogfish Head Marketing, LLC, the Petitioner in Cancellation Proceeding No. 92057236, and its owners, officers, directors, agents, servants, employees, in-house and outside attorneys, accountants, consultants, corporate parents, affiliates, subsidiaries, or other persons or entities acting on its behalf.

E. “Petitioner’s Marks” means the mark ANALOG whether alone or in combination with any other term(s) and/or design(s), including ANALOG BEER FOR THE DIGITAL AGE, shown in U.S. Registration No. 4,246,128.

F. “Petitioner’s Products” means all alcohol beverages, including beer.

G. “Document” is synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Federal Rule of Civil Procedure 34(a). Drafts and non-identical duplicates constitute separate documents. Attachments, exhibits, appendices, schedules, and enclosures to documents are considered part of the same document.

H. “Thing” refers to any tangible object other than a document.

I. “Concerning” means constituting, comprising, relating to, referring to, reflecting, evidencing, or in any way relevant within the meaning of Federal Rule of Civil Procedure 26(b)(1).

J. “Including” means including but not limited to.

K. “Person” or “persons” means (a) natural persons; (b) legal entities, including, without limitation, corporations, partnerships, firms, associations, professional corporations, and proprietorships; and (c) governmental bodies or agencies.

L. “And” or “or” shall be construed conjunctively or disjunctively as necessary in order to make the request inclusive rather than exclusive.

M. “U.S. Commerce” or “United State Commerce” means commerce which the United States may regulate.

N. The past tense includes the present tense, and vice-versa. The singular includes the plural, and vice-versa. The male pronoun includes the female pronoun, and vice-versa.

O. These requests seek the production of documents and things as of the date on which Registrant responds; however, these requests shall be deemed continuing and must be supplemented as required by the Federal Rules of Civil Procedure. If, after producing documents and things, Registrant becomes aware of any further document(s), thing(s), or information responsive to these Requests, Registrant is required to produce such additional documents, things, and/or information to Petitioner promptly upon acquiring possession of such.

P. If any document or thing is not produced based on a claim of privilege or Registrant contends a document or thing is otherwise excludable from discovery, Registrant shall provide Petitioner with a privilege log that conforms with Federal Rule of Civil Procedure 26(b)(5).

Q. If Registrant objects to any request as overly broad or unduly burdensome, Registrant shall produce those documents and/or things which are unobjectionable and specifically identify the respect in which the request is allegedly overly broad or burdensome, respectively.

REQUESTS FOR PRODUCTION

REQUEST NO. 1 All documents concerning the creation and design of Registrant’s Mark, including, without limitation, all marketing reports and all correspondence with any consultant, design firm, advertising agency, exhibitor, supplier, printer, and the like, regarding the creation or design of Registrant’s Mark.

REQUEST NO. 2 All documents that Registrant reviewed or consulted in connection with the adoption of Registrant’s Mark, including all documents concerning the reasons why

Registrant adopted Registrant's Mark, documents referring to any alternative marks that Registrant considered adopting in lieu of Registrant's Mark and all minutes and notes from any meetings or communications where any of the foregoing topics were discussed.

REQUEST NO. 3 All documents concerning any search or evaluation of any documents or records conducted by or on behalf of Registrant to determine whether any person had used or sought registration of any name or mark similar to Registrant's Mark, or whether the use or registration of Registrant's Mark might conflict with the rights of any person, including all trademark search reports and trademark use investigations.

REQUEST NO. 4 All wine labels used by Registrant bearing Registrant's Mark on Registrant's Products.

REQUEST NO. 5 All documents concerning the creation of any wine label bearing Registrant's Mark, including all communications with any design firm or advertising agency.

REQUEST NO. 6 Documents sufficient to identify each product offered or intended to be offered under Registrant's Mark.

REQUEST NO. 7 All documents concerning Registrant's first use of Registrant's Mark anywhere.

REQUEST NO. 8 All documents concerning Registrant's first use of Registrant's Mark in commerce.

REQUEST NO. 9 All documents and things concerning Registrant's first bona fide sale of wine under Registrant's Mark in United States commerce, including, without limitation,

documents sufficient to show the date of the first bona fide sale; all documents concerning the identity and geographic location of the first customer of Registrant's products, and all documents concerning any money or other remuneration received from the first such sale.

REQUEST NO. 10 All documents concerning the geographic scope of the advertising, distribution, and sale of products offered or intended to be offered under Registrant's Mark, including, without limitation, documents sufficient to show all geographical locations in the United States in which Registrant has advertised, distributed and sold Registrant's Products, or intends to advertise, distribute and sell Registrant's Products.

REQUEST NO. 11 All documents concerning the sale of Registrant's Products under Registrant's Mark, including all purchase orders and sales receipts and the like and all documents sent to or received from any person relating to the sale or potential sale of Registrant's Products under Registrant's Mark.

REQUEST NO. 12 All documents concerning the distribution of Registrant's Products under Registrant's Mark, including all documents sent to or received from distributors referring to the distribution of Registrant's Products under Registrant's Mark.

REQUEST NO. 13 All documents and things concerning the channels of trade through which Registrant sells, advertises or promotes its products, or through which Registrant intends to sell, advertise or promote its products and services, including, without limitation, identification of all retail stores, online retailers and other retail channels in which Registrant has sold or intends to sell products under Registrant's Mark.

REQUEST NO. 14 All documents concerning the advertising, promotion and marketing of Registrant's Products under Registrant's Mark in United States commerce.

REQUEST NO. 15 Documents sufficient to show the date on which Registrant started using Registrant's Mark for wine in U.S. commerce and the circumstances surrounding that use, including the first purchaser of Registrant's wine bearing Registrant's Mark.

REQUEST NO. 16 All documents concerning business plans for selling, distributing or advertising Registrant's Products bearing Registrant's Mark.

REQUEST NO. 17 Documents sufficient to show the amount of money that has been spent on advertising Registrant's Products bearing Registrant's Mark in the United States on an annual basis since Registrant first commenced such advertising.

REQUEST NO. 18 Documents sufficient to show the number of units sold of Registrant's Products bearing Registrant's Mark on an monthly basis since such sales commenced.

REQUEST NO. 19 Documents sufficient to show the number of units distributed of Registrant's Products bearing Registrant's Mark on a monthly basis since such distributions commenced.

REQUEST NO. 20 Documents sufficient to show the revenues received by Registrant on a monthly basis from the sales of Registrant's Products bearing Registrant's Mark commencing from Registrant's first sale of Registrant's Products under Registrant's Mark.

REQUEST NO. 21 All documents and things concerning the purchasers of Registrant's Products under Registrant's Mark, including, without limitation, all documents concerning the age, income level, educational level and gender of actual and potential purchasers of Registrant's Products under Registrant's Mark.

REQUEST NO. 22 All advertising and promotional materials and point-of-sale displays bearing Registrant's Mark, whether used or not, including, without limitation, all advertisements, catalogs, promotional materials, price sheets, press kits, Internet materials, and archived copies of internet web sites.

REQUEST NO. 23 All documents and things concerning Petitioner, Petitioner's Products, or Petitioner's Marks, including, without limitation, any document received from or sent to any person referring to Petitioner, Petitioner's Products, or Petitioner's Marks, and any notes, letters and correspondence referring to Petitioner, Petitioner's Products or Petitioner's Marks.

REQUEST NO. 24 All documents sent to and received from Petitioner and all notes concerning all such communications.

REQUEST NO. 25 All documents concerning the design and manufacturing of the label that Registrant submitted to the United States Patent and Trademark Office in connection with the application for Registrant's Mark, including all documents sent to or received from the designer of the label or the person who manufactured the labels.

REQUEST NO. 26 All documents concerning any investigation, trademark search, or other inquiry made by Registrant concerning Petitioner's trademark rights, including without

limitation, all documents referring or relating to the results of said investigation, trademark search or other inquiry.

REQUEST NO. 27 All documents and things concerning any similarity between Petitioner's Marks and Registrant's Mark, including, without limitation, all documents relating to any statement, comment or communication from any person regarding the similarity between Petitioner's Marks and Registrant's Mark.

REQUEST NO. 28 All documents and things concerning any instance in which any person was, or may have been confused, mistaken or deceived about the connection or relationship between Registrant, Registrant's Mark or Registrant's Products, on the one hand, and Petitioner, Petitioner's Marks or Petitioner's Products, on the other hand, including, without limitation, all documents concerning any communication regarding whether Registrant or Registrant's Products are associated, affiliated or connected with Petitioner, Petitioner's Products or Petitioner's Marks, whether Petitioner approved or sponsored Registrant's Products, whether Registrant is a distributor, affiliate, licensee or joint venturer of Petitioner or Petitioner's Products, or whether Registrant's Products originate from Petitioner.

REQUEST NO. 29 All documents concerning Registrant's registration and/or use of any domain name containing the word "ANALOG," alone or in combination with any other terms, numbers or letters, including print-outs showing any content that has ever appeared on such web sites.

REQUEST NO. 30 All documents concerning the creation and design of any label for Registrant's Products bearing Registrant's Mark.

REQUEST NO. 31 All documents concerning the manufacturing and bottling of Registrant's Products sold or intended to be sold under Registrant's Mark, including all documents that you have sent to or received from any vineyard concerning Registrant's Products to be sold under Registrant's Mark.

REQUEST NO. 32 All documents concerning any key words or adwords or the like purchased by Registrant to advertise or promote Registrant's Products bearing Registrant's Mark.

REQUEST NO. 33 Documents sufficient to show all persons employed by Registrant and documents sufficient to describe their job duties and responsibilities.

REQUEST NO. 34 Documents sufficient to identify every person that has sold Registrant's Products bearing Registrant's Mark, including the name, address and telephone number of all retailers.

REQUEST NO. 35 Documents sufficient to show every vintage of wine on which Registrant's Mark was used.

REQUEST NO. 36 All documents concerning any government license or permit to sell Registrant's Products bearing Registrant's Mark in the United States, including all documents sent to and received from the Alcohol and Tobacco Tax and Trade Bureau ("TTB") and any state or federal regulatory or governmental body.

REQUEST NO. 37 All documents sent to or received from Salvestrin Wine Company concerning the manufacturing, bottling or distribution of Registrant's Products under Registrant's Mark.

REQUEST NO. 38 All documents concerning Registrant's formation as a limited liability company and all documents sent to or received from the California Secretary of State referring to Registrant's formation or maintenance of its limited liability status.

REQUEST NO. 39 All documents and things concerning this Cancellation proceeding, including, without limitation, all documents that Registrant sent to any person regarding this Cancellation, including, without limitation, a representative, agent or attorney, and all documents that Registrant received from any person concerning this Cancellation, including, without limitation, a representative, agent or attorney.

REQUEST NO. 40 All documents concerning Registrant's challenge of or opposition to any person's use, attempted use or registration of a name or mark that Registrant claimed infringed or diluted, unfairly competed with or otherwise violated Registrant's Mark, including all cease and desist letters sent to any person and all responses to such cease and desist letters and any resulting settlement agreements.

REQUEST NO. 41 All documents concerning any person's challenge of or opposition to Registrant's use, attempted use or registration of Registrant's Mark, including all cease and desist letters that Registrant received and all responses to such cease and desist letters and any resulting settlement agreements.

REQUEST NO. 42 All agreements concerning Registrant's Mark, including all license agreements, consent agreements, co-existence agreements, distributor agreements, settlement agreements and all correspondence concerning any such agreements.

REQUEST NO. 43 All documents and things reviewed by or relied upon by any expert witnesses that Registrant may use in this Cancellation proceeding.

REQUEST NO. 44 All documents and things that Registrant intends to rely upon as evidence during trial of this Cancellation proceeding.

REQUEST NO. 45 All documents and things concerning any allegation in Petitioner's Petition for Cancellation, including all documents that support the denial of any allegation in Petitioner's Petition for Cancellation.

REQUEST NO. 46 All documents and things concerning the responses in Registrant's Answer to Petitioner's Petition for Cancellation.

REQUEST NO. 47 All documents and things showing or referencing use of a mark for an alcohol beverage that includes the word ANALOG, alone or in combination with any other term(s) or design(s), other than use by Petitioner and Registrant.

REQUEST NO. 48 All documents and things that Registrant was required to identify in, or which Registrant consulted, referred to or relied upon in preparing or developing its responses to Petitioner's First Set of Interrogatories.

DOGFISH HEAD MARKETING, LLC

Dated: August 14, 2013

By:

/John J. Dabney/

John J. Dabney
Mary D. Hallerman
McDermott Will & Emery LLP
500 North Capitol Street, NW
Washington, D.C. 20001
Telephone: 202.756.8000
Facsimile: 202.756.8087

*Attorneys for Petitioner
Dogfish Head Marketing, LLC*

**PETITIONER'S FIRST SET OF
REQUESTS FOR PRODUCTION
OF DOCUMENTS AND THINGS**

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2013, I served a true and correct copy of the foregoing Petitioner's First Set of Document Requests to Registrant via e-mail to counsel for Registrant pursuant to the parties' agreement at the following address:

**Matthew H. Swyers
The Trademark Company PLLC
344 Maple Avenue West, Suite 151
Vienna, VA 22180
mswyers@TheTrademarkCompany.com**

/Mary D. Hallerman/

Mary D. Hallerman

*Attorney for Petitioner
Dogfish Head Marketing, LLC*

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

Registration No. 4,020,012
For the mark ANALOG WINE CO.
Registered on the Principal Register August 30, 2011

DOGFISH HEAD MARKETING, LLC,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. 92057236
	:	
ANALOG WINE CO., LLC,	:	
	:	
Registrant.	:	

**REGISTRANT’S STATUTORY OBJECTION TO
PETITIONER’S FIRST SET OF INTERROGATORIES**

COMES NOW the Registrant, Analog Wine Co., LLC (hereinafter “Registrant”), and pursuant to the applicable rules of court provides the following statutory objection to the Petitioner’s Interrogatories pursuant to TBMP § 405.03(e).

Specifically, Petitioner served eleven (11) numbered interrogatories on the Registrant. In conjunction with those interrogatories, however, Petitioner incorporated sub parts to interrogatory number 11 requesting that for any of the 191 requests for admission also served on Registrant not admitted Registrant explain, in full, the basis therefore.

Registrant denied 137 of Petitioner’s specifically-worded requests for admission. In that regard, and based upon the nature of interrogatory number 11, the same now, as written incorporates 137 sub-parts rendering the Petitioner’s interrogatories excessive in nature.

WHEREFORE Registrant submits the instant statutory objection to Petitioner’s interrogatories pending the party’s resolution of the same per the rules of Court.

DATED this 13th day of October, 2013.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/

Matthew H. Swyers, Esquire

344 Maple Avenue West, Suite 151

Vienna, VA 22180

Telephone (800) 906-8626 x 100

Facsimile (270) 477-4574

mswyers@TheTrademarkCompany.com

Attorney for Registrant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

Registration No. 4,020,012
For the mark ANALOG WINE CO.
Registered on the Principal Register August 30, 2011

DOGFISH HEAD MARKETING, LLC,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. 92057236
	:	
ANALOG WINE CO., LLC,	:	
	:	
Registrant.	:	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 13th day of October 2013
to be served, via first class mail, postage prepaid, upon:

JOHN J. DABNEY, ESQ.
MCDERMOTT WILL & EMERY LLP
500 NORTH CAPITOL STREET NW
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/Matthew H. Swyers/
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