

ESTTA Tracking number: **ESTTA545854**

Filing date: **06/28/2013**

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	Corporation	Citizenship	Oregon
Address	1767 12th Street Hood River, OR 97031 UNITED STATES		

Attorney information	Hillary A. Brooks Marger Johnson & McCollom PC 210 SW Morrison Street Suite 400 Portland, OR 97204 UNITED STATES litigationdocketing@techlaw.com, hillary.brooks@techlaw.com, amanda.bernardy@techlaw.com Phone: 503-222-3613
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Registration Subject to Cancellation

Registration No	3625529	Registration date	05/26/2009
Registrants	Bentz, Robert A. 2101 Centrepark West Drive, Suite 100 West Palm Beach, FL 33409 UNITED STATES Bentz, Karen 2101 Centrepark West Drive, Suite 100 West Palm Beach, FL 33409 UNITED STATES		

Goods/Services Subject to Cancellation

Class 032. First Use: 2008/03/04 First Use In Commerce: 2008/03/04 All goods and services in the class are cancelled, namely: Ale; Beer
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Grounds for Cancellation

Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3597649	Application Date	05/02/2008
Registration Date	03/31/2009	Foreign Priority Date	NONE

Word Mark	NAKED WINERY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2005/11/18 First Use In Commerce: 2005/11/30 wine; natural wines; table wines; white wine; and red wine		

U.S. Registration No.	3502269	Application Date	12/18/2006
Registration Date	09/16/2008	Foreign Priority Date	NONE
Word Mark	NAKED WINERY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2007/07/05 First Use In Commerce: 2007/07/05 wine; natural wines; table wines; white wine; and red wine		

U.S. Registration No.	3677064	Application Date	08/07/2007
Registration Date	09/01/2009	Foreign Priority Date	NONE
Word Mark	NAKED WINERY NAUGHTY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2009/06/29 First Use In Commerce: 2009/06/29 Wine; natural wines; table wines; white wine		

U.S. Registration No.	3828747	Application Date	11/30/2007
Registration Date	08/03/2010	Foreign Priority Date	NONE
Word Mark	NAKED WINERY DIVA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2010/04/13 First Use In Commerce: 2010/04/16 wine; natural wines; table wines; and red wine		

U.S. Registration No.	3693297	Application Date	11/28/2007
Registration Date	10/06/2009	Foreign Priority Date	NONE
Word Mark	NAKED WINERY VIXEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2009/06/26 First Use In Commerce: 2009/06/26		

	wine; natural wines; table wines; and red wine
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U.S. Registration No.	3558709	Application Date	11/28/2007
Registration Date	01/06/2009	Foreign Priority Date	NONE
Word Mark	SIP INTO SOMETHING A LITTLE MORE NAKED		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2007/07/05 First Use In Commerce: 2007/07/05 wine; natural wines; table wines; white wine; and red wine		

Attachments	NAKED ED'S Petition To Cancel.pdf(15334 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	06/28/2013

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

In the matter of trademark registration No. 3,625,529
Filed March 26, 2008
For the mark NAKED ED'S
Published in the Official Gazette March 10, 2009
Class 32

NAKED WINES, LLC)	
)	Petition No. _____
Petitioner,)	
)	
v.)	
)	
BENTZ, ROBERT A. and BENTZ, KAREN,)	
)	
Registrants.)	

PETITION TO CANCEL

1. NAKED WINES, LLC, an Oregon corporation having its principal place of business at 1767 12th St. Hood River, Oregon 97031 (“Petitioner”), believes that it is damaged by registration of the mark NAKED ED’S that is the subject of U.S. Trademark Registration No. 3,625,529 for ale; beer by Robert A. Bentz and Karen Bentz, individuals having an address at 2101 Centrepark West Drive, Suite 100, West Palm Beach, Florida 33409 (“Registrant”). U.S. Trademark Registration No. 3,625,529 was filed March 26, 2008, published in the Official Gazette on March 10, 2009, and registered on May 26, 2009. Petitioner requests cancellation of U.S. Trademark Registration No. 3,625,529.

As first grounds for cancellation, Petitioner alleges as follows:

2. Petitioner owns U.S. Trademark Registration No. 3,597,649 for the mark NAKED WINERY for wine; natural wines; table wines; white wine; and red wine. Petitioner owns U.S. Trademark Registration No. 3,502,269 for the design mark NAKED WINERY for wine; natural wines; table wines; white wine; and red wine. Petitioner owns U.S. Trademark Registration No.

3,677,064 for the mark NAKED WINERY NAUGHTY for wine; natural wines; table wines; white wine; and red wine. Petitioner owns U.S. Trademark Registration No. 3,828,747 for the mark NAKED WINERY DIVA for wine; natural wines; table wines; white wine; and red wine. Petitioner owns U.S. Trademark Registration No. 3,693,297 for NAKED WINERY VIXEN for wine; natural wines; table wines; white wine; and red wine. Petitioner owns U.S. Trademark Registration No. wine; natural wines; table wines; white wine; and red wine. Petitioner owns U.S. Trademark Registration No. 3,558,709 for the mark SIP INTO SOMETHING A LITTLE MORE NAKED for wine; natural wines; table wines; white wine; and red wine. Collectively, Petitioner's marks referred to in this Petition to Cancel as "NAKED WINERY Marks".

3. Registrant's mark NAKED ED'S so resembles Petitioner's NAKED WINERY Marks as to be likely, when used on or in connection with the goods of the Registrant, to cause confusion, mistake or deception.

As second, alternative, grounds for cancellation, Petitioner alleges as follows:

4. Petitioner, since prior to Registrant's filing date or any date of first use upon which Registrant can rely, has used and not abandoned the NAKED WINERY Marks as trademarks for wine.

As third, alternative, grounds for cancellation, Petitioner alleges as follows:

5. Upon information and belief, Registrant has not, or is no longer, using the mark shown in U.S. Trademark Registration No. 3,625,529 as a trademark in commerce for the Registrant's goods in the United States, and has no intent to resume such use.

6. Upon information and belief, Registrant has abandoned any and all rights it may have had in U.S. Trademark Registration No. 3,625,529.

As fourth, alternative, grounds for cancellation, Petitioner alleges as follows:

5. Upon information and belief, Registrant has not fulfilled regulatory requirements for registration and use of the mark NAKED ED'S.

Petitioner requests the Board cancel U.S. Trademark Registration No. 3,625,529.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

/Hillary A. Brooks/

Hillary A. Brooks

Reg. No. 45,815

Attorneys 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 June 28, 2013.

CERTIFICATE OF SERVICE

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

ROBERT A. BENTZ AND KAREN BENTZ
2101 CENTERPARK WEST DRIVE, SUITE 100
WEST PALM BEACH, FLORIDA 33409

and courtesy copy to

ADAM HOLGUIN
BENTZ & HOLGUIN LAW FIRM
19 S. LASALLE ST., SUITE 1500
CHICAGO, IL 60603

on this 28 day of June, 2013.

/Amanda K. Bernardy/
Amanda K. Bernardy