

ESTTA Tracking number: **ESTTA591936**

Filing date: **03/11/2014**

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	Le Reve Ventures, LLC		
Entity	Limited Liability Company	Citizenship	Texas
Address	362 Piney Point Road Houston, TX 77024 UNITED STATES		

Attorney information	Sheila Fox Morrison Davis Wright Tremain LLP 1300 S.W. 5th Avenue, Suite 2400 Portland, OR 97201 UNITED STATES pdxtrademarks@dwt.com, sheilafoxmorrison@dwt.com Phone:(503) 241-2300		
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Registration Subject to Cancellation

Registration No	4283391	Registration date	01/29/2013
Registrant	Wine Dive, LLC 309 Clematis Street West Palm Beach, FL 33401 FL		

Goods/Services Subject to Cancellation

Class 043. First Use: 2012/01/01 First Use In Commerce: 2012/01/01 All goods and services in the class are cancelled, namely: Bar and restaurant services; Restaurant; Restaurant and bar services; Restaurant and bar services, including restaurantcarryout services; Restaurant services,including sit-down service of food and take-out restaurant services; Restaurantservices, namely, providing of food andbeverages for consumption on and off the premises; Wine bars

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3309972	Application Date	08/11/2006
Registration Date	10/09/2007	Foreign Priority Date	NONE
Word Mark	MAX'S WINE DIVE		

Design Mark	MAX'S WINE DIVE
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 2006/12/15 First Use In Commerce: 2006/12/15 Restaurant services

U.S. Application No.	86112718	Application Date	11/07/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MAX'S WINE DIVE		
Design Mark			
Description of Mark	The mark consists of the registered mark "MAX'S WINE DIVE" with the term "MAX'S" in large upper case white font with the terms "WINE DIVE" in a smaller upper case white font beneath the term "MAX'S".The words are against a black background framed by a white outline.		
Goods/Services	Class 043. First use: First Use: 2006/12/15 First Use In Commerce: 2006/12/15 Restaurant and bar services		

U.S. Application No.	85164124	Application Date	10/28/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	WINE DIVE		

Design Mark	WINE DIVE
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2006/12/15 First Use In Commerce: 2006/12/15 Retail store services featuring wine Class 043. First use: First Use: 2006/12/15 First Use In Commerce: 2006/12/15 Restaurant and bar services

Attachments	78950165#TMSN.jpeg(bytes) 86112718#TMSN.jpeg(bytes) 85164124#TMSN.jpeg(bytes) Petition for Cancellatio_001.pdf(200416 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 Overnight Courier on this date.

Signature	/Sheila F. Morrison/
Name	Sheila Fox Morrison
Date	03/11/2014

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

LE REVE VENTURES, LLC, a Texas limited liability company

Petitioner,

v.

WINE DIVE, LLC, a Florida limited liability company

Registrant.

Cancellation No. _____

Registration No. 4,283,391

PETITION FOR CANCELLATION

TO THE COMMISSIONER FOR TRADEMARKS
TRADEMARK TRIAL AND APPEAL BOARD:

Le Reve Ventures, LLC, a limited liability company of the State of Texas (hereinafter "Petitioner"), having a place of business at 362 Piney Point Road, Houston, TX 77024-6525, believes that it is being damaged by registration of the trademark shown in Registration No. 4,283,391, in International Class 43, and hereby petitions to cancel the same. As grounds for the cancellation, Petitioner alleges as follows.

1. On information and belief, Wine Dive, LLC is a Florida limited liability company having a place of business at 319 Clemantis St., West Palm Beach, Florida 33401 (hereinafter "Registrant").

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1 2. Registrant is the owner of Registration No. 4,283,391 (the "Registration"), for the
2 mark SNOOTY'S WINE DIVE (the "Mark") for use in connection with bar and restaurant
3 services in International Class 43.

4 3. The Registration issued on January 29, 2013, setting forth a date of first use of
5 January 1, 2012.

6 4. Continuously and without interruption since long prior to any date upon which
7 Registrant can rely, Petitioner has used the marks WINE DIVE and MAX'S WINE DIVE for
8 restaurant services.

9 5. Petitioner is the owner of U.S. Trademark Registration No. 3,309,972 for the
10 mark MAX'S WINE DIVE for restaurant services in International Class 43. Said registration
11 issued October 9, 2007, setting forth a date of first use of December 15, 2006. Registration
12 No. 3,309,972 is currently valid, subsisting, and incontestable.

13 6. Petitioner is the owner of U.S. Application Serial No. 86/112,718 for the MAX'S
14 WINE DIVE logo for restaurant and bar services in International Class 43. The application was
15 filed November 13, 2013, and sets forth a date of first use of December 15, 2006.

16 7. Petitioner filed U.S. Application Serial No. 85/164,124 for the WINE DIVE mark
17 for restaurant and bar services in International Class 43. The application was filed October 28,
18 2010, and sets forth a date of first use of December 15, 2006.

19 8. Petitioner has not authorized Registrant's use of the Mark, and Registrant is not
20 associated or affiliated with Petitioner. Petitioner does not endorse or sponsor Registrant or its
21 services.

22 9. The Mark so resembles Petitioner's MAX'S WINE DIVE mark and WINE DIVE
23 when used in association with the services claimed by the Registration as to be likely to cause
24 confusion, or to cause mistake, or to deceive within the meaning of Section 2(d) of the Lanham
25 Act, 15 U.S.C. § 1052(d).

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1 10. Petitioner is being damaged by the Registration owned by Registrant insofar as the
2 registration is prima facie evidence of the validity of the Registration and Registrant's ownership
3 of and exclusive right to use the Mark for the services claimed by the Registration when, in fact,
4 Registrant is not entitled such rights by virtue of Petitioner's prior and continuous use of the
5 marks WINE DIVE and MAX'S WINE DIVE, and by virtue of Petitioner's Registration No.
6 3,309,972 for the MAX'S WINE DIVE mark.

7 11. Petitioner was damaged by the Registration owned by Registrant because
8 Petitioner's U.S. Trademark Application, Serial No. 85/164,124, for the mark WINE DIVE for
9 restaurant and bar services was refused registration because of a likelihood of confusion with the
10 Mark, despite prior and continuous use of the WINE DIVE mark by Petitioner and despite
11 Petitioner owning Registration No. 3,309,972 for the mark MAX'S WINE DIVE. In addition, the
12 Registration is likely to continue to preclude Petitioner from registering its WINE DIVE mark.

13 12. Based upon the foregoing, registration of the Mark shown by Registration No.
14 4,283,391, filed January 29, 2013, is causing injury and damage to Petitioner.

15 13. Petitioner has served a copy of this Petition upon Registrant consistent with the
16 requirements of 37 C.F.R. § 2.111 and 37 C.F.R. § 2.119 by mailing a copy if this Amended
17 Petition for Cancellation to Registrant and to counsel for Registrant as indicated by the
18 Certificate of Service affixed hereafter.

19 WHEREFORE, Petitioner respectfully requests that Registration No. 4,283,391 be
20 cancelled under Section 14 of the Lanham Act, 15 U.S.C. § 1064 and Section 2(d) of the Lanham
21 Act, 15 U.S.C. § 1052(d), and that this Cancellation be sustained.

22 /////

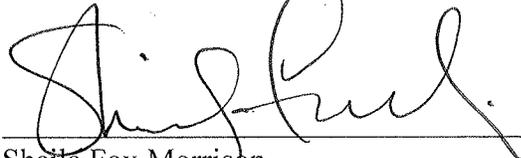
23 /////

1 Please charge the filing fee of US \$300.00 to Deposit Account No. 04-0258 of
2 Petitioner's counsel noted below. Please charge any additional fees that may be due, or credit
3 any overpayment, to the same account.

4 DATED this 11th day of March, 2014.

5 Respectfully submitted,

6 DAVIS WRIGHT TREMAINE LLP

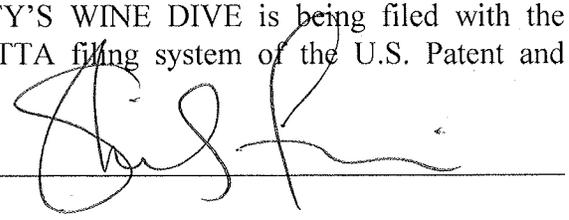
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14 Of Attorneys for Petitioner
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1 **CERTIFICATE OF FILING**

2 I hereby certify that this PETITION FOR CANCELLATION of U.S. Trademark
3 Registration No. 4,283,391, for the mark SNOOTY'S WINE DIVE is being filed with the
4 Trademark Trial and Appeal Board using the ESTTA filing system of the U.S. Patent and
Trademark Office on the below date.

5 Date: March 11, 2014



6 **CERTIFICATE OF SERVICE**

7
8 I hereby certify that this PETITION FOR CANCELLATION of U.S. Trademark
9 Registration No. 4,283,391, for the mark SNOOTY'S WINE DIVE is being duly served upon the
10 Applicant and on Applicant's counsel by mailing copies thereof via United Parcel Service and
addressed to each of the following addresses:

11 WINE DIVE, LLC
12 309 CLEMATIS STREET
13 WEST PALM BEACH, FLORIDA 33401
UNITED STATES

14 And to counsel for Registrant at:

15 TIMOTHY L. GRICE, ESQUIRE
16 LAW OFFICE OF TIMOTHY L. GRICE, PA
17 319 CLEMATIS STREET
WEST PALM BEACH, FLORIDA 33401
UNITED STATES

18
19 Date: March 11, 2014

