

ESTTA Tracking number: **ESTTA598115**

Filing date: **04/11/2014**

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	Accolade Wines Australia Limited		
Entity	Corporation	Citizenship	Australia
Address	Reynell Road Reynella, SA 5161 AUSTRALIA		

Attorney information	J. Scott Gerien Dickenson Peatman & Fogarty 1455 First St., Ste. 301 Napa, CA 94559 UNITED STATES tmdept@dpf-law.com Phone:7072527122
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Registration Subject to Cancellation

Registration No	2843657	Registration date	05/18/2004
Registrants	VECCHIATO, MICHELE VIA VEGRI, 45 SELVAZZANO DENTRO, PADUA, ITX 35030 ITX VECCHIATO, SANDRO VIA CAVALLOTTO, 32/B RUBANO, PADUA, ITX 35010 ITX		

Goods/Services Subject to Cancellation

Class 032. First Use: 1987/11/02 First Use In Commerce: 2003/12/01 All goods and services in the class are cancelled, namely: beers, namely, beer, ale, porter and stout

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition to Cancel.pdf(272609 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	/Jaymie Kilgore/
Name	Jaymie Kilgore
Date	04/11/2014

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Certificate of Electronic Filing

I hereby certify that this correspondence is being electronically filed with the Trademark Trial and Appeal Board through the ESTTA system located at <http://estta.uspto.gov>.

Dated: 4/11/10

By Jaymie Kilgore
Jaymie Kilgore

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

Accolade Wines Australia Limited,

Petitioner,

vs.

Michele Vecchiato and Sandro Vecchiato,

Registrants.

REGISTRATION NO. 2,843,657

CANCELLATION NO.

PETITION TO CANCEL

TO THE COMMISSIONER OF TRADEMARKS:

Accolade Wines Australia Limited, a corporation organized and existing under the laws of Australia with a business address of Reynell Road, Reynella S.A., 5161, Australia (*"Petitioner"*), believes it is being damaged by registration of the mark THOMAS HARDY'S ALE and Design for beers, namely, beer, ale, porter and stout shown in U.S. Trademark Registration No. 2,843,657 (the *"Vecchiato Registration"*), owned by Michele Vecchiato and Sandro Vecchiato, Italian individuals with addresses of Via Vegri, 45, Selvazzano Dentro, Padua 35030, Italy and Via Cavallotto, 32/B, Rubano, Padua 35010, Italy, respectively (*"Registrants"*), and hereby petitions to cancel the Vecchiato Registration.

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1 Solely for the purpose of this proceeding, Petitioner alleges the following as grounds for
2 cancellation:

3 1. Petitioner owns U.S. Trademark Application No. 79/139,567, for the mark
4 THOMAS HARDY & SONS for wines in International Class 33. Petitioner's trademark
5 application for THOMAS HARDY & SONS for wines has been refused by the USPTO based on
6 the Vecchiato Registration.

7 2. For purposes of this cancellation, Petitioner alleges upon information and belief,
8 that neither Registrants nor any predecessors in interest have used in U.S. commerce the
9 THOMAS HARDY'S ALE and Design for the preceding period of three years and therefore
10 have abandoned their trademark rights in THOMAS HARDY'S ALE and Design mark with not
11 having any intent to resume use of the THOMAS HARDY'S ALE and Design mark.
12 Accordingly, Registrants are not entitled to the continued registration of their THOMAS
13 HARDY'S ALE and Design mark and the Vecchiato Registration should therefore be cancelled
14 in accordance with Section 14 of the Trademark Act of 1946, 15 U.S.C. §1064(3).

15 3. Accordingly, Petitioner avers that for the foregoing reasons, including the USPTO
16 refusal of Petitioner's trademark application, it will be damaged by the continued registration of
17 Registrants' THOMAS HARDY'S ALE and Design mark.

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WHEREFORE, Petitioner prays as follows:

1. That this petition be sustained; and
2. That registration of the trademark THOMAS HARDY'S ALE and Design shown and specified in U.S. Trademark Registration No. 2,843,657 be cancelled.

Dated: April 11, 2014

Respectfully submitted,

DICKENSON PEATMAN & FOGARTY

By: _____

J. Scott Gerien
Aaron D. Currie

1455 First Street, Suite 301
Napa, California 94559
Telephone: (707) 252-7122
Facsimile: (707) 255-6876

Attorneys for Petitioner
Accolade Wines Australia Limited

PROOF OF SERVICE

1 I declare that I am over the age of 18 years, employed in the County of Napa, and not a
2 party to the within action; my business address is 1455 First Street, Suite 301, Napa, California
3 94559. On April 11, 2014, I served the attached **PETITION TO CANCEL** on the person(s)
4 listed below:
5

6 **MICHELE VECCHIATO**
7 **VIA VEGRI, 45**
8 **SELVAZZANO DENTRO**
9 **PADUA 35030, ITALY**

SANDRO VECCHIATO
VIA CAVALLOTTO, 32/B
RUBANO,
PADUA 35010, ITALY

10 by enclosing the documents in an envelope or package provided by an overnight delivery carrier
11 and addressed to the persons at the addresses above. I placed the envelope or package for
12 collection and overnight delivery at an office or a regularly utilized drop box of the overnight
13 delivery carrier.

14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct.

16 Executed April 11, 2014, at Napa, California.

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19 Jaymie Kilgore
20 Legal Secretary
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DICKENSON PEATMAN & FOGARTY