

ESTTA Tracking number: **ESTTA656736**

Filing date: **02/18/2015**

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	RBZ Vineyards, LLC		
Entity	LLC	Citizenship	California
Address	920 Garden St. c/o Koenig & Associates Santa Barbara, CA 93101 UNITED STATES		

Attorney information	Kurt Koenig Koenig & Associates 920 Garden St. Santa Barbara, CA 93101 UNITED STATES Kurt@incip.com Phone:805-965-4400		
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**Registration Subject to Cancellation**

Registration No	3752727	Registration date	02/23/2010
Registrant	SONOMA WINE COMPANY 9119 GRATON ROAD GRATON, CA 95444 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 033. First Use: 2010/01/05 First Use In Commerce: 2010/01/05 All goods and services in the class are cancelled, namely: Wines
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**Grounds for Cancellation**

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

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	WHEELHOUSE		
Goods/Services	Wine, Wines		

Attachments	PetitionWHEELHOUSE.pdf(242252 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	/Kurt Koenig/
Name	Kurt Koenig
Date	02/18/2015

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

In the matter of:

Registration No.: 3752727  
For the mark: WHEELHOUSE  
Date registered: February 23, 2010

RBZ Vineyards, LLC,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. _____
	)	
Sonoma Wine Company,	)	
	)	
Respondent.	)	
	)	

**PETITION FOR CANCELLATION**

RBZ Vineyards, LLC (“Petitioner”) believes it is being or will be damaged by the continued registration of the mark identified in Registration No. 3752727 and hereby petitions the Trademark Trial and Appeal Board (“Board”) to cancel the same pursuant to Section 14 of the Lanham Act (15 U.S.C. Sec. 1064). As grounds for this Petition, it is alleged that:

1. Petitioner is a limited liability company organized and existing under the laws of California, having an address at Post Office Box 391, Paso Robles, CA 93447.
2. Petitioner is, and its predecessors-in-interest have been, engaged in the manufacture, sale, and distribution of wine.
3. Sonoma Wine Company (“Respondent”), is a California limited liability company, having a business address of 9119 Graton Road, Graton, CA 95444.
4. Petitioner has used the mark WHEELHOUSE in connection with the sale of its wines since at least as early as February 2006 and Petitioner planned to file an application to register the mark “WHEELHOUSE” in Class 33 for use in association with “*Wine; Wines.*”

5. Respondent is the owner of Registration No. 3752727 for the mark WHEELHOUSE in International Class 33 for “*Wines*” which was registered by the U.S. Patent and Trademark Office on February 23, 2010.

6. Petitioner’s planned application for the mark WHEELHOUSE is likely to be refused registration by the United States Patent and Trademark Office on the basis that it is likely to be confused with WHEELHOUSE as set forth in Respondent’s Reg. No 3752727.

7. Petitioner, for many years, and long prior to any date of first use upon which Respondent can rely, and at least as early as February 2006, has continuously manufactured, sold, distributed, and advertised in interstate commerce in the United States various wine products bearing the mark WHEELHOUSE.

8. Petitioner obtained label approval from the U.S. Alcohol and Tobacco Tax and Trade Bureau at least as early as February 2006 for Petitioner’s label bearing the mark WHEELHOUSE.

9. On information and belief, Respondent’s first use of the mark WHEELHOUSE in commerce for wine was no earlier than January 1, 2010.

10. On information and belief, Respondent’s cannot claim any rights to the WHEELHOUSE mark for wine prior to the September 27, 2007 application filing date for Registration No. 3752727.

11. On information and belief, Respondent did not obtain any label approval for the sale of wine under the mark WHEELHOUSE until December 10, 2009.

12. On information and belief, Respondent did not offer for sale any wine under the mark WHEELHOUSE prior to September 27, 2007.

13. On information and belief, Respondent did not obtain any approval from the US Alcohol and Tobacco Tax and Trade Bureau for the use of the mark WHEELHOUSE on wine prior to September 27, 2007.

14. On information and belief, Respondent did not obtain any approval from any U.S. or state government entity for the use of the mark WHEELHOUSE on wine prior to September 27, 2007.

15. On information and belief, Respondent first obtained label approval for the sale of wine under the mark WHEELHOUSE on December 10, 2009 and was issued TTB ID 09343001000339 for said label approval.

16. Petitioner's WHEELHOUSE mark has attained significant public recognition as a source identifier by virtue of Petitioner's use in connection with wine.

17. Petitioner's WHEELHOUSE mark is inherently distinctive or, in the alternative, prior to Respondent's first use of WHEELHOUSE, has acquired secondary meaning as an indicator of source for Petitioner's goods from Petitioner's considerable effort and expense in promoting the trademark and the wine sold under such mark.

18. The purchasing public has come to know, rely upon, and recognize the wine goods of Petitioner by its WHEELHOUSE Mark.

19. Petitioner has been and will continue to be damaged by the existence of Registration No. 3752727 in that the registration obtained by Respondent may be cited against an application filed by Petitioner for the mark WHEELHOUSE.

20. Petitioner has been and will continue to be further damaged by the existence of Registration No. 3752727 in that the registration obtained by Respondent confers a prima facie exclusive right to use in commerce WHEELHOUSE on goods identical to those of Petitioner despite Petitioner's prior and continuous use of the mark WHEELHOUSE.

21. Consumers will believe that Petitioner's WHEELHOUSE so resembles Respondent's WHEELHOUSE that purchasers of goods sold under WHEELHOUSE are likely to be confused into believing that such goods emanate from, are sponsored by, are endorsed by, or are otherwise affiliated with Petitioner, when in fact Petitioner has superior rights and the continued registration of WHEELHOUSE by Respondent will result in injury to Petitioner.

WHEREFORE, Petitioner prays this Petition for Cancellation be sustained in favor of Petitioner and Registration No. 3752727 be canceled.

This Petition for Cancellation is being filed via ESTTA together with the required filing fee in the amount of \$300 as required by 37 C.F.R. §2.6(a)(16).

Respectfully submitted,

Dated: February 18, 2015

By: \_\_\_\_\_



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Kurt@incip.com  
Attorneys for Petitioner:  
RBZ Vineyards, LLC

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**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that this correspondence is being transmitted by electronic mail to the United States Patent and Trademark Office via ESTTA with the required fees on the date identified below.

Dated: February 18, 2015



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Kurt Koenig

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing “PETITION FOR CANCELLATION” was served on February 18, 2015 by first-class mail, postage prepaid, to both the Registrant’s address of record and counsel of record as listed on TARR addressed as follows:

Sonoma Wine Company  
9119 GRATON ROAD  
GRATON, CALIFORNIA 95444

Dated: February 18, 2015



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Kurt Koenig