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

Proceeding	92060935
Party	Defendant Sonoma Wine Company
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Date	06/08/2016
Attachments	Answer 6.8.16.pdf(765633 bytes)

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PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

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Purple Wine Company, LLC

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

RBZ VINEYARDS, LLC.,

Petitioner,

vs.

PURPLE WINE COMPANY, LLC
(ASSIGNEE) SONOMA WINE
COMPANY, LLC, (ASSIGNOR)

Respondent.

Proceeding No. 92060935

Registration No. 3752727

ANSWER

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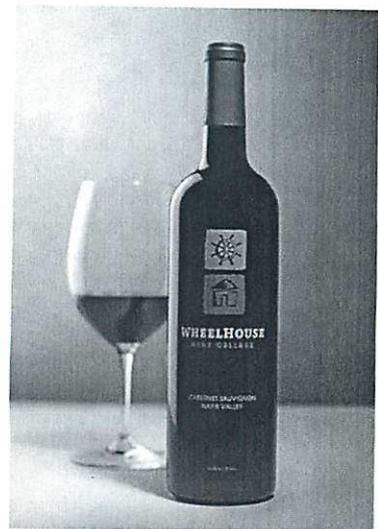
I
INTRODUCTION

Purple Wine Company, LLC (PWC), Assignee in Interest, Answers RBZ Vineyards, LLC's (RBZ), Petition to Cancel and requests that the Trademark Trial and Appeals Board deny RBZ's Petition since it is based solely upon RBZ's alleged February 2006 common law rights, and unsubstantiated speculation about a likelihood of confusion. Even if RBZ has common law rights, those rights are limited geographically and there is no evidence of confusion in the marketplace, and the products are not likely to cause consumer confusion.

RBZ VINEYARDS



PURPLE WINE COMPANY



RBZ alleges that it first used the brand WHEELHOUSE in February 2006, but has waited 10 years to assert any claim to the brand. Nowhere has RBZ alleged that PWC's federal application, registration, substantial investment in, and use of the brand was in bad faith, and RBZ's 10-year delay has substantially prejudiced PWC. *Danjaq LLC v. Sony Corp.*, 263 F.3d 942 (9th Cir. 2001). Accordingly, RBZ's petition should be denied.

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II.

GENERAL AND SPECIFIC DENIALS

PWC by its attorneys, Commins & Knudsen, P.C., as and for its Answer to the claims asserted in the Petition, generally denies that RBZ will be damaged by the issuance of PWC's registration for the design mark depicting a Design Only monkey in International Class 35. With respect to the specific assertions in the Petition, PWC respectfully responds to each allegation as follows:

PARAGRAPH 1. PWC is without sufficient information to admit or deny the allegations in Paragraph 1 of the Petition and therefore denies the same.

PARAGRAPH 2. PWC is without sufficient information to admit or deny the allegations in Paragraph 2 of the Petition and therefore denies the same.

PARAGRAPH 3. PWC admits the allegation in Paragraph 3 of the Petition.

PARAGRAPH 4. PWC is without sufficient information to admit or deny the allegations in Paragraph 1 of the Petition and therefore denies the same.

PARAGRAPH 5. PWC admits the allegation in Paragraph 5 of the Petition.

PARAGRAPH 6. PWC is without sufficient information to admit or deny the allegations in Paragraph 6 of the Petition and therefore denies the same.

PARAGRAPH 7. PWC is without sufficient information to admit or deny the allegations in Paragraph 7 of the Petition and therefore denies the same.

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PARAGRAPH 8. PWC is without sufficient information to admit or deny the allegations in Paragraph 8 of the Petition and therefore denies the same.

PARAGRAPH 9. Admitted.

PARAGRAPH 10. PWC is without sufficient information to admit or deny the allegations in Paragraph 10 of the Petition and therefore denies the same.

PARAGRAPH 11. PWC is without sufficient information to admit or deny the allegations in Paragraph 11 of the Petition and therefore denies the same.

PARAGRAPH 12. Admitted.

PARAGRAPH 13. PWC is without sufficient information to admit or deny the allegations in Paragraph 13 of the Petition and therefore denies the same.

PARAGRAPH 14. PWC is without sufficient information to admit or deny the allegations in Paragraph 14 of the Petition and therefore denies the same.

PARAGRAPH 15. PWC is without sufficient information to admit or deny the allegations in Paragraph 15 of the Petition and therefore denies the same.

PARAGRAPH 16. Denied.

PARAGRAPH 17. Denied.

PARAGRAPH 18. Denied.

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PARAGRAPH 19. Denied.

PARAGRAPH 20. Denied.

PARAGRAPH 21. Denied.

III.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

RBZ's Petition fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

PWC alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, PWC's mark and the pleaded marks of RBZ are not confusingly similar. PWC's WHEELHOUSE label and trade dress is nothing like RBZ's unregistered trademark.

THIRD AFFIRMATIVE DEFENSE

RBZ has abandoned rights in its claimed common-law marks due to nonuse.

FOURTH AFFIRMATIVE DEFENSE

To the extent RBZ has made any trademark use of its claimed common law marks, its use has been limited to a trade territory remote from PWC's usage.

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FIFTH AFFIRMATIVE DEFENSE

To the extent RBZ has made any trademark use of its claimed common law trademarks, its use has been in different channels of trade from those in which it is anticipated that PWC's trademarks have been used.

SIXTH AFFIRMATIVE DEFENSE

To the extent RBZ has made any trademark use of its claimed common law trademarks, its goods have been marketed to and used by different consumers from those of PWC.

SEVENTH AFFIRMATIVE DEFENSE

RBZ's use of the WHEELHOUSE brand has and continues to infringe PWC's federally registered WHEELHOUSE brand.

EIGHTH AFFIRMATIVE DEFENSE

RBZ's claims are barred by the doctrines of laches and estoppel.

WHEREFORE, PWC respectfully requests that RBZ's Petition be denied and dismissed in its entirety.

Dated: June 8, 2016.

COMMINS & KNUDSEN
Professional Corporation

/Kit Knudsen/
By: Kit Knudsen, attorney for Applicant,
Purple Wine Company, LLC

PROOF OF SERVICE

I, Sophia Chung, am employed in the County of San Francisco, California. I am over the age of 18 and not a party to the within action. My business address is 400 Montgomery Street, Suite 200, San Francisco, CA 94104.

On June 8, 2016, I served the following:

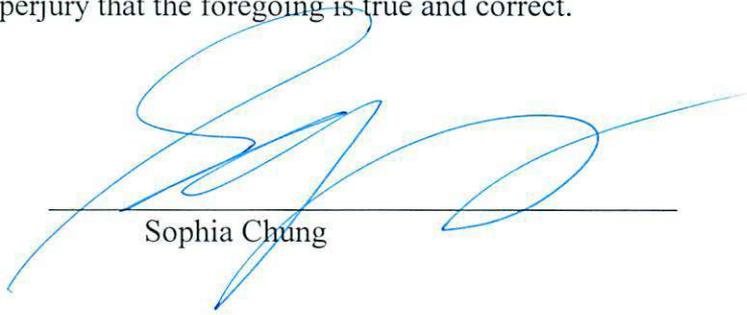
- PURPLE WINE COMPANY, LLC'S ANSWER

by First Class Mail, addressed to:

RBZ Vineyards, LLC
c/o Kurt Koenig
Koenig & Associates
920 Garden St.
Santa Barbara, CA 93101

I declare under penalty of perjury that the foregoing is true and correct.

DATED: June 8, 2016



Sophia Chung