

ESTTA Tracking number: **ESTTA722326**

Filing date: **01/22/2016**

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	Viniolio Exports And Imports, LLC		
Entity	limited liability company	Citizenship	Delaware
Address	1040 Main Street, Suite 300 Napa, CA 94559 UNITED STATES		

Attorney information	J. Scott Gerien; Christopher Passarelli Dickenson Peatman & Fogarty 1455 First St., Ste. 301 Napa, CA 94559 UNITED STATES tmltg@dpf-law.com		
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Registration Subject to Cancellation

Registration No	4700836	Registration date	03/10/2015
Registrant	Justice Beverages LLC 3016 Waverly Dr Suite 105 Los Angeles, CA 90039 UNITED STATES		

Goods/Services Subject to Cancellation

Class 033. First Use: 2014/12/01 First Use In Commerce: 2014/12/01 All goods and services in the class are cancelled, namely: Liquor beverages, namely, vodka, gin, whiskey, rum, brandy

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Void ab initio

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3713775	Application Date	11/01/2007
Registration Date	11/24/2009	Foreign Priority Date	NONE
Word Mark	JUSTICE		

Design Mark	<h1>JUSTICE</h1>
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2007/09/04 First Use In Commerce: 2007/09/04 Wine

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	JUSTICE		
Goods/Services	Wine		

Attachments	77319401#TMSN.png(bytes) Petition for Cancellation - JUSTICE VODKA.pdf(367882 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.

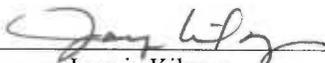
Signature	/Jaymie Kilgore/
Name	Jaymie Kilgore
Date	01/22/2016

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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://esta.uspto.gov>>.

Dated: 1/22/16

By 
Jaymie Kilgore

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

VINOLIO EXPORTS AND IMPORTS,
LLC,

Petitioner,

vs.

JUSTICE BEVERAGES LLC,

Registrant.

CANCELLATION NO.

PETITION FOR CANCELLATION

TO THE COMMISSIONER OF TRADEMARKS:

Vinolio Exports And Imports, LLC, a Delaware Limited Liability Company, with an address of 1040 Main Street, Suite 300, Napa, California 94559 (“Petitioner”) believes it is being and will continue to be damaged by registration of the mark JUSTICE VODKA for “Liquor beverages, namely, vodka, gin, whiskey, rum, brandy” in Class 33, which is subject of U.S. Trademark Registration No. 4,700,836 (hereinafter “JUSTICE VODKA Registration”), owned by Justice Beverages LLC, with an address of 3016 Waverly Dr Suite 105 Los Angeles CA 90039 (“Registrant”), and hereby petitions to cancel said registration.

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

1 1. Petitioner is owner of the trademark JUSTICE for “Wine” in Class 33, subject of
2 U.S. Trademark Registration No. 3,713,775 which was filed with the United States Patent and
3 Trademark Office on November 1, 2007, and issued on November 24, 2009, claiming a date of
4 first use in commerce at least as early as September 4, 2007 (the “JUSTICE Registration”), which
5 dates precede any known date of first use or constructive filing date for Registrant’s JUSTICE
6 VODKA Registration for Liquor beverages, namely, vodka, gin, whiskey, rum, brandy.

7 2. Registrant is the owner of U.S. Trademark Registration No. 4,700,836 for the mark
8 JUSTICE VODKA, which application was filed on November 2, 2013 and which registration
9 issued on March 10, 2015, having an alleged date of first use in commerce of December 1, 2014.

10 3. Petitioner alleges that Registrant’s mark, JUSTICE VODKA, is likely to cause
11 confusion, mistake or to deceive the public. The mark subject of the JUSTICE VODKA
12 Registration is virtually identical to Petitioner’s JUSTICE mark which is the subject of the
13 JUSTICE Registration and the goods and/or services on or in connection with which the marks
14 are used are highly related and substantially similar, and said products are purchased by the same
15 group of consumers. Accordingly, Registrant’s mark, JUSTICE VODKA, is confusingly similar
16 to Petitioner’s JUSTICE mark such that Registrant is not entitled to continued registration of its
17 mark and Registrant’s JUSTICE VODKA Registration should be cancelled in accordance with
18 Section 2(d) of the Trademark Act of 1946, 15 U.S.C. § 1052(d).

19 4. Petitioner is likely to be damaged by continued registration of Registrant’s
20 JUSTICE VODKA Registration, *inter alia*, on the grounds that, under Section 2(d) of the Lanham
21 Act, there is a likelihood of confusion between Petitioner’s JUSTICE Registration and
22 Registrant’s JUSTICE VODKA Registration, such that continued registration will interfere with
23 Petitioner’s exclusive right to use its JUSTICE mark herein relied upon, all to the detriment and
24 damage of Petitioner.

25 5. On further information and belief, Registrant has not obtained a Certificate of
26 Label Approval for the label JUSTICE VODKA with the U.S. Alcohol Tobacco Tax and Trade
27 Bureau (“TTB”) as required by law. Accordingly, on information and belief, Petitioner asserts
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1 that Registrant's mark was not in use at the time of the filing of the statement of use and the
2 registration is therefore void *ab initio*.

3 6. Continued registration of the mark shown in the JUSTICE VODKA Registration
4 will result in damage to the Petitioner pursuant to the allegations set forth above, and will create a
5 cloud on the lawful right of Petitioner to adopt and use the mark JUSTICE.

6 7. Accordingly, Registrant's JUSTICE VODKA Registration should be cancelled in
7 accordance with Lanham Act §14, 15 U.S.C. § 1064.

8 Petitioner avers that for the reasons aforesaid, it will be damaged by the continued
9 registration of the mark JUSTICE VODKA which is the subject of the JUSTICE VODKA
10 Registration.

11
12 WHEREFORE, Petitioner prays as follows:

- 13 1. That this petition be sustained; and
- 14 2. That registration of the trademark JUSTICE VODKA shown and specified in U.S.
15 Trademark Registration No. 4,700,836 be cancelled.

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17 Please charge Petitioner's counsel's Deposit Account #503564 the \$300 filing fee for the
18 Petition for Cancellation, and any other fees which may be necessary to effect the filing of this
19 petition.

20
21 Dated: 1/22/16

22 Respectfully submitted,
 23 DICKENSON PEATMAN & FOGARTY
 24 By: 
 J. Scott Gerien
 Christopher J. Passarelli

25 1455 First Street, Ste. 301
 26 Napa, California 94559
 Telephone: (707) 252-7122
 Facsimile: (707) 255-6876

27 Attorneys for Petitioner,
 28 Vinolio Exports And Imports, LLC

PROOF OF SERVICE

I declare that I am over the age of 18 years, employed in the County of Napa, and not a party to the within action; my business address is 1455 First Street, Ste. 301, Napa, California 94559.

On January 22, 2016, I placed a copy of the following document(s):

• **PETITION FOR CANCELLATION**

in a sealed envelope addressed as shown below and placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The persons served are as follows:

Justice Beverages LLC
3016 Waverly Dr., Ste 105
Los Angeles, CA 90039

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

Executed January 22, 2016, at Napa, California.



Jaymie Kilgore
Legal Secretary

DICKENSON PEATMAN & FOGARTY