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June 20, 2006

Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

By First Class Mail

Re: **MARK: TWENTY ROWS**
Ser. No.: 78/458716
Opp. No. 91168224
Applicant: Twenty Rows LLC

Dear Sir/Madam:

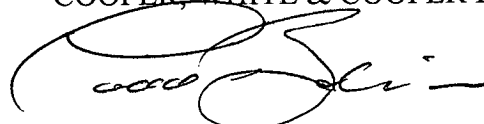
Enclosed for filing are:

1. Applicant Twenty Row, LLC's Response to Unfiltered Napa, LLC's Motion for Summary Judgment Papers, Action No. 91168224, and;
2. A Certificate of Mailing and Certificate of Service re same.
3. A self-addressed, stamped postcard to serve as notification of receipt.

Should you require anything further please call the undersigned. Thank you for your assistance.

Very truly yours,

COOPER, WHITE & COOPER LLP



Todd Evan Bolinger

Enclosure

542033.1/14165-32501

cc: Marcy J. Bergman, Esq. (w/out encl)
Vijay K. Toke, Esq. (w/out encl)



06-22-2006

U.S. Patent & TMO/TM Mail Rcpt Dt. #:

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

In The Matter of Application Serial No. 78/458,716

Filed on: July 29, 2004

For the Mark: TWENTY ROWS

Published in the *Official Gazette (Trademarks)* on October 25, 2005

UNFILTERED NAPA LLC

Opposer,

v.

TWENTY ROWS LLC

Applicant.

Opposition No. 91168224

**MEMORANDUM OF POINTS
AND AUTHORITIES IN
OPPOSITION TO UNFILTERED
NAPA LLC'S MOTION FOR
SUMMARY JUDGMENT**

I. INTRODUCTION

Opposer, Unfiltered Napa LLC ("Unfiltered" or "Opposer") moves for summary judgment based on four declarations purportedly showing that there is no triable issue of material fact on the issue of likelihood of confusion. Opposer offers no survey evidence showing a likelihood of confusion, but only inadmissible anecdotal declarations suggesting that unnamed third parties have been or may be confused. Opposer's evidence does not support a finding of likelihood of confusion. On the contrary, the evidence demonstrates that there is no likelihood of confusion.

This proceeding involves two trademarks used for wine -- Opposer uses the TWENTY BENCH mark and Applicant's wine is sold under the TWENTY ROWS mark. Opposer relies on three elements of the test of likelihood of confusion set out in *In Re E I DuPont de Nemours*, 76 F.2d 1357 (C.C.P.A. 1973): Similarity of goods, similarity of marks, and actual confusion. The

evidence supplied, however, supports only one element—both marks are used for wine. As to similarity of the marks, the sound, appearance, and overall commercial impression of the marks as used is entirely different. The trademark examiner properly recognized this and concluded that the marks are only superficially similar; therefore the TWENTY ROWS mark was approved for publication. On the element of actual confusion, Opposer has failed to provide any credible evidence of consumer confusion. The record Opposer has placed before the Board consists of inadmissible hearsay declarations that cannot support any finding of actual confusion.

Moreover, the declarations, even if considered, do not establish a likelihood of consumer confusion, but only speculation and a rare instance of a mistake by a wine retailer employee.

Based on the evidence presented by Opposer and by Applicant in this opposition, Opposer's motion for summary judgment should be denied and summary judgment should be granted in favor of Applicant.

A. Summary Judgment Standard.

Summary judgment is a device to dispose of cases in which, based on the evidence developed by discovery and affidavit evidence, that there "is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law."¹ In deciding a motion for summary judgment, the Trademark Trial and Appeal Board (TTAB) must not try issues of fact, but must "determine instead if there any genuine issues of material fact to be tried."² The non-moving party "must be given the benefit of all reasonable doubt as to whether genuine issues of material fact exist; the evidentiary record on summary judgment, and all inferences to be drawn from the undisputed facts, must be viewed in the light most favorable to the non-moving

¹ TBMP §528.01; Fed. R. Civ. P. 56(c).

² TBMP §528.01; *Dyneer Corp. v. Automotive Products plc*, 37 U.S.P.Q. 1251, 1254 (T.T.A.B. 1995).

party."³ However, if the TTAB "concludes that there is no genuine issue of material fact, but that the *nonmoving* party is the one entitled to judgment as a matter of law, the Board may enter summary judgment sua sponte in favor of the nonmoving party."⁴ (emphasis added).

B. There Is No Likelihood of Confusion Between the Marks.

To determine if a likelihood of confusion exists between two marks, the TTAB employs a multi-factor test first announced by the Court of Customs and Patent Appeals in the *E I DuPont* case. The TTAB considers the following factors in this analysis: 1) the similarity/dissimilarity of the marks as to their appearance, sound, connotation, and overall commercial impression, 2) the similarity/dissimilarity of the goods and services, 3) the similarity/dissimilarity of trade channels, 4) the conditions under which buyers to whom sales are made (i.e., impulse versus careful, sophisticated purchasing), 5) the fame of the prior mark, 6) the number and nature of similar marks in use on similar goods, 7) the nature and extent of any actual confusion, 8) the length of time during and conditions under which there has been concurrent use without evidence of actual confusion, 9) the variety of goods on which the mark is or is not used, 10) the market interface between the applicant and the owner of the prior mark, 11) the extent to which the applicant has a right to exclude others from use of its mark on its goods, 12) the extent of potential confusion, and 13) any other established fact probative of the effect of use.⁵ The TTAB

³ TBMP §528.01; see *Lloyd's Food Prods., Inc. v. Eli's, Inc.*, 987 F.2d 766, 25 U.S.P.Q.2d 2027 (Fed. Cir. 1993) (impermissible inferences against nonmovant).

⁴ TBMP §528.01.

⁵ *In re E I DuPont de Nemours*, 476 F.2d at 1361.

reviews "factual underpinnings" of the likelihood of confusion analysis (i.e., the *DuPont* factors) for "substantial evidence."⁶

Of the *DuPont* factors, the most relevant here are the similarity of the marks, the number and nature of similar marks on similar goods, the fame/strength of the senior user's mark, the conditions under which sales are made and the sophistication of the target consumers, the nature and extent of actual confusion, and the length of concurrent use of the marks without instances of actual confusion. Each of these factors supports Applicant and strongly suggests consumer confusion is not likely. In fact, the Examining Attorney evaluated Applicant's TWENTY ROWS mark under the *E I DuPont* test, and properly approved the TWENTY ROWS mark for publication. As shown below, there is simply no basis for a finding of likelihood of confusion.

1. **The marks are dissimilar, and there are numerous examples of marks used for wine that contain a "number/word" construction similar to that used by Applicant and Opposer.**

Marks are compared as to their appearance, sound, connotation, and commercial impression.⁷ The basic principle in determining confusion between marks is that "the marks must be compared in their entireties and must be considered in connection with the particular goods or services for which they are used."⁸

Here, the overall appearance, sound, connotation, and commercial impression of the marks are different. As noted by the Seventh Circuit, "it is essential to consider the marks' visual characteristics" as used by the competing users in analyzing likelihood of confusion.⁹

⁶ *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée 1772*, 396 F.3d 1369, 1371, 73 U.S.P.Q.2d 1689 (Fed. Cir. 2005).

⁷ *In re E.I. DuPont de Nemours & Co.*, 476 F.2d 1357, 1361 (C.C.P.A. 1973).

⁸ *In re National Data Corp.*, 224 U.S.P.Q. 749, 750 (TTAB 1978).

⁹ *Barbecue Marx, Inc. v. 551 Ogden, Inc.*, 235 F.3d 1041, 1044 (7th Cir. 2000).

Applicant's TWENTY ROWS mark and Opposer's mark share only their first word - "TWENTY" - a common word that has no distinguishing significance as to wine. Opposer suggests that not only is "TWENTY" the dominant part of each mark, but that the additional words in the marks, "ROWS" and "BENCH," are similar in meaning because they are commonly used agricultural terms. The connection of "rows" and "bench" as related agricultural terms is plainly a strained interpretation. Actually, the dictionary definitions of "rows" and "bench" have no similarity.

"Row" commonly means "a number of objects arranged in a usually straight line" or "the line along which such objects are arranged" (see Bergman Decl., Ex. 1), and most consumers would think of rows of grape vines when considering Applicant's mark. Indeed, Applicant's wine label depicts rows of grapevines. (See Applicant's label, below, on Page 8) "Bench," on the other hand, is a long seat, a place where a judge sits in court, or a long worktable. (See Bergman Decl., Ex. 2). Opposer' suggested definition of "bench" as a "grafting technique used to treat grape vines resistant to phylloxera, which infest untreated grape vines" is obscure, and not even cited in the Merriam-Webster dictionary. There is no evidence that consumers understand "Bench" as an agricultural term. Thus, the second words in the two marks bear no phonetic or visual resemblance, nor are they similar in meaning. Therefore, these words serve to distinguish the marks rather than create any confusion between them.

Moreover, number/word combination marks are frequently used as part of wine trademarks. Therefore, the number "TWENTY" cannot be said to be the dominant or distinctive part of these marks. For example, registrations exist for THREE GARDENS, THREE VINEYARDS, THREE CORNERS, THREE SISTERS and THREE TREES LANE (Bergman Decl., Ex. 3); for TWO ROCK, TWO ACRES, TWO PADDOCKS, and TWO RIVERS

WINERY (Bergman Decl., Ex. 4); and for FIVE HILLS BLUE and FIVE RIVERS RANCH (Bergman Decl., Ex. 5). Wine is currently sold under the brand name ROW ELEVEN, and there is even a THIRTY BENCH wine made in Ontario, Canada. (Bergman Decl., Ex. 6)

Opposer itself uses the mark SEVEN SINNERS, coexisting with several other wine brands currently using the number "seven" as the first word in a number/word combination: SEVEN PEAKS, SEVEN HILLS, THE SEVEN DEADLY ZINS, and SEVEN TERRACES – all of which have USPTO trademark registrations. (Bergman Decl. Ex. 7) Opposer applied for and obtained registration of its SEVEN SINNERS mark years after the first three of these marks were registered in the USPTO. Clearly, the number "SEVEN" in these marks is not considered the dominant or distinguishing element in determining the similarity of the marks, and consumers are readily able to distinguish among the several wine brands that use "SEVEN" as the first word of their mark. Surely, there is no reason the number "TWENTY" is any more distinctive or likely to cause confusion than the number "SEVEN".

Opposer also uses several different number/word combinations in names for its related wine brands sold under the parent wine company umbrella – NINE NORTH: TWENTY BENCH, PARCEL 41, TEN MILE, THOUSAND FOOT, AND SEVEN SINNERS. (Bergman Decl., Ex. 8) While Opposer uses the mark PARCEL 41 (and has a pending application for registration of that mark for wine), there is also a wine sold in the United States called "L'ECOLE NO. 41," which has been registered for wine since 1996 and is now incontestable. (Bergman Dec., Ex. 9) Presumably, Opposer sees no likelihood of confusion simply because both brands use the number "41" in combination with other words.

The fact that the number/word construction is commonly used in the wine industry suggests that the combination of words—not the first word as Opposer posits—must be evaluated and that such marks should not be parsed into "dominant" and less important parts.¹⁰

The marks as used in commerce are also readily distinguishable. When considering whether two marks are confusingly similar, it is appropriate to consider how the marks are used in commerce and how consumers will encounter the two marks.¹¹ Indeed, "a comparison of the labels rather than simply the trademarks is appropriate. When a prospective purchaser goes to the supermarket to buy salad dressing, it is the label that the purchaser sees."¹² Differing labels lessen a finding of similarity of the marks.¹³

The labels associated with Applicant's and Opposer's marks are plainly distinguishable:

¹⁰ Opposer cites *Russell v. Caesar*, 62 U.S.P.Q.2d 1125, 1129 (N.D. Cal. 2001) for the proposition that because the first word of each mark is the same, the marks are similar as a matter of law. *Russell*, however, is inapposite and does not stand for the universal position that two marks with the same first word are, as a matter of law, similar for a likelihood of confusion analysis. Instead, in the *Russell* case, the senior user had used its mark, RABBIT RIDGE, for 18 years when the junior user adopted its mark, and the senior user annually sold 1.2 million cases of wine under its mark, making the mark extremely strong. Here, Opposer started to market its wine fewer than two years prior to Applicant. In addition, Applicant makes three different varieties of wine under its mark, while Opposer only makes one variety of wine under its mark. (Nuss Decl., ¶¶2-4) Moreover, the number "Twenty" is a descriptive word, similar to many other numbers used as part of wine trademarks, while "RABBIT" is arbitrary, and clearly a strong mark as used in connection with wine.

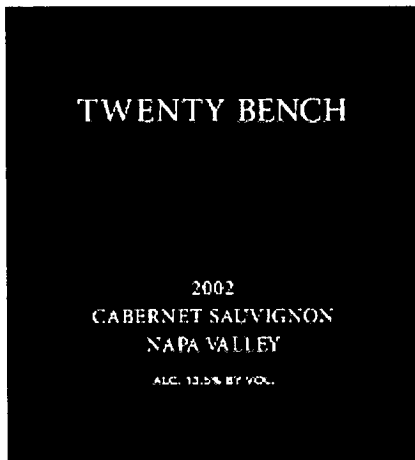
¹¹ See *Russell v. Caesar*, 62 U.S.P.Q.2d 1125, 1129 (N.D. Cal. 2001) ("While the Court agrees that the first term of a composite mark fosters confusion, this characteristic alone does not resolve the similarity analysis . . . [T]he similarity of the marks must also be considered in light of the way the marks are encountered in the market place.").

¹² See *Henri's Food Prods. Co. v. Kraft, Inc.*, 717 F.2d 352, 355 (7th Cir. 1983); see also *Packman v. Chicago Tribune Co.*, 267 F.3d 628, 644 (7th Cir. 2001) ("Although the words on defendants' and [plaintiff's] t-shirts are the same, the words' appearances do not resemble each other and are not likely to cause confusion").

¹³ *Russell*, 62 U.S.P.Q.2d at 1129 (comparing the labels associated with two competing word marks and finding that "the manner in which the marks are encountered suggests a finding of dissimilarity").



As shown above, Applicant's label uses a circular picture depicting rows of grape vines surrounded by an oval band within which the mark "TWENTY ROWS" is written in a shadowed, stylized font. By contrast, Opposer's label is a stark black and red format:



As shown above, Opposer's label uses a solid black background against which a simple red humanoid figure carrying a spear appears to be leaping, with the "TWENTY BENCH" mark in block white letters at the top.

Therefore, when consumers view the two marks, the labels eliminate any potential for consumer confusion.¹⁴ Thus, the marks' sound, appearance, and commercial impression are dissimilar.

2. **Opposer's mark lacks commercial strength.**

The strength of marks is measured in two ways: inherent strength and acquired strength.¹⁵ Opposer has supplied no evidence to establish that its mark has acquired sufficient commercial strength to distinguish itself from the many marks used in the wine industry with a similar "number/word" construction. Acquired strength may be proven by consumer testimony or surveys.¹⁶ Opposer has supplied neither. The extent and success of advertising on the subject mark, sales volume, and consumer base are also relevant to assess acquired strength.¹⁷ Opposer has provided no such evidence to prove acquired strength. Therefore, this element supports a finding that no confusion is likely.

3. **The relevant consumers are sophisticated and frequently encounter brand names for wine with common words and are therefore unlikely to be confused between Twenty Rows and Twenty Bench wine.**

¹⁴ Both labels presumably have been approved by the ATF for use on wine and have valid certificates of label approval. As such, Opposer's conjecture that Applicant might someday use the mark in a manner that grossly emphasizes the number "TWENTY" and hides the word "ROWS" is highly unlikely and purely speculative.

¹⁵ See *Edison Bros. Stores, Inc. v. Cosmair, Inc.*, 651 F.Supp. 1547, 1555 (S.D.N.Y. 1987) ("In evaluating the 'strength' of a mark . . . one considers not only its conceptual strength . . . but also its commercial strength.")

¹⁶ *20th Century Wear, Inc. v. Sanmark-Stardust, Inc.*, 815 F.2d 8, 10 (2d Cir. 1987).

¹⁷ *Nutri/Sys, Inc. v. Con-Stan Indus., Inc.*, 809 F.2d 601, 605 (9th Cir. 1987) ("advertising remains only one of many factors taken into account when classifying the strength of marks"); *Bank of Tex. v. Commerce Southwest, Inc.*, 741 F.2d 785, 788 (5th cir. 1984) ("it is not the amount of money spent on advertising that is important, but the results achieved"); *Charles of Ritz Group, Ltd. v. Quality King Distribs., Inc.*, 832 F.2d 1317, 1321 (2d Cir. 1987) (considering "commercial success" in determining acquired strength).

Various factors inform the sophistication of consumers and degree of care exercised with purchases. For example, the cost of the items,¹⁸ personal sales by knowledgeable salespersons,¹⁹ whether the purchasers have a "reasonably focused need" or specific purpose involving the product,²⁰ whether the purchaser is an enthusiast,²¹ whether the product is purchased in order to satisfy personal tastes,²² and whether the consumer is a professional or retail buyer.²³ Each of these factors suggests the relevant consumers—who are wine retailers and their customers—are sophisticated and unlikely to be confused.

In the increasingly complex and competitive wine retail business, wine retailers and consumers are faced with myriad brand choices. (Nuss Decl., ¶ 7; Loustau Decl., ¶ 2; DiStefano Decl., ¶ 3) This is especially true in the California cabernet market, where retailers stock numerous brands. Wine retailers typically purchase wine through a sales representative who will discuss the wines in detail—including the branding, vinification, final grape varietal blend, soil type, and other such information—in order to educate the retailer who in turn can educate their

¹⁸ *Weiss Assocs, Inc. v. HRL Assocs., Inc.*, 902 F.2d 1546, 1548, 14 U.S.P.Q.2d 1840, 1841 (Fed. Cir. 1990) (in making purchasing decisions regarding costly goods, "the reasonably prudent person standard is elevated to the standard of the 'discriminating purchaser'").

¹⁹ *See, e.g., Astra Pharm. Prods., Inc. v. Beckman Instruments, Inc.*, 718 F.2d 1070, 220 U.S.P.Q. 786, 790-91 (1st Cir. 1983) (devices and pharmaceutical products sold to various individuals in hospitals and hospitals labs by knowledgeable sales representatives).

²⁰ *G.H. Mumm & Cie v. Desnoes & Geddes, Ltd.*, 917 F.2d 1292, 16 U.S.P.Q.2d 1635, 1638 (Fed. Cir. 1990) (champagne consumers have a "focused need" for the product).

²¹ *Turtle Wax, Inc. v. First Brands Corp.*, 781 F.Supp. 1314, 22 U.S.P.Q.2d 1013, 1024 and n. 18 (N.D. Ill. 1991) (car enthusiasts purchasing car polish).

²² *Société Anonyme de la Grande Distillerie v. Julius Wile & Sons & Co.*, 165 F.Supp. 545, 117 U.S.P.Q. 257, 260 (S.D.N.Y. 1958) (crème de menthe).

²³ *Checkpoint v. Check Point*, 269 F.3d 270, 284-85, 60 U.S.P.Q.2d 1609 (3d Cir. 2001) (where the relevant consumers are professional buyers, sophistication is often presumed, and such consumers are considered "sophisticated enough not to be confused by trademarks that are closely similar.")

customers about a particular wine. (Diane Harder Decl., ¶ 2; see also Declaration of Katherine Strange, provided by Opposer, at ¶ 2, discussing sales calls on wine buyers in Southern California). Thus, wine retailers are sophisticated consumers and make purchases carefully, lessening any likelihood of confusion.

End consumers are also sophisticated and exercise care in making purchases. Wine consumers are familiar with the large range of choices they have and they typically spend significant amounts of time selecting their purchases. (Decl. of Brian Nuss, ¶ 7; Diane Harder Decl., ¶¶ 3, 5) They also often discuss wine purchases with sales associates at wine retailers. This care and degree of sophistication is heightened as the price of a given wine exceeds \$15 per bottle and where, as here, the wines are sold mostly at specialty wine shops. (Diane Harder Decl., ¶ 3)

Moreover, consumers of wine frequently encounter brands with similar names and have learned to distinguish between them. (Loustau Decl., ¶ 2; Diane Harder Decl., ¶ 5; DiStefano Decl., ¶ 3) For example, wine with the following trademarks are currently available to consumers: STAGS LEAP WINERY and STAGS LEAP WINE CELLARS; NICKEL & NICKEL WINERY and WOODEN NICKEL; SILVER OAK, SILVER STONE, and SILVER RIDGE; and VILLA MT. EDEN and MT. EDEN VINEYARDS. (Nuss Decl., ¶ 5) Therefore, end consumers understand that there are many wines with similar names and, as such, they have learned to distinguish between and among them. Wine buyers at the retail level and wine consumers are sufficiently sophisticated to distinguish between brands that use words in common as part of their trademarks. (Loustau Decl., ¶ 2, Diane Harder Decl., ¶¶ 3, 6; DiStefano Decl., ¶ 3)

4. **There is no competent evidence of actual confusion.**

The evidence Opposer submits in support of its claim of "actual confusion" is pure hearsay and double hearsay and must be stricken from the record is inadmissible.

a. **Opposer's evidence of alleged actual confusion is inadmissible.**

The Federal Rules of Civil Procedure require that the evidence submitted in support of a motion for summary judgment be admissible.²⁴ Moreover, evidence of actual confusion may only be considered if it is properly proved.²⁵ "Although anecdotal evidence is admissible to establish actual consumer confusion, it is within a district court's broad discretion to rule upon the admissibility of those anecdotes."²⁶ Opposer proffers three hearsay declarations to show instances of "actual confusion." This evidence is not admissible and should not be considered.²⁷

First, Opposer provides the declaration of its co-owner and director, James Harder, reciting three conversations with third parties. This evidence seeks to establish the state of mind of someone who is not the declarant and therefore, is clearly inadmissible hearsay. First, Mr. Harder states that an accountant at a wine store in Santa Barbara, California mistakenly called him to get a copy of an invoice that was actually for the purchase of wine from Applicant.²⁸ This is not evidence of actual consumer confusion. The accountant was neither a wine buyer nor an actual consumer, nor does the reported incident suggest any confusion in a purchasing decision

²⁴ Fed. R. Civ. Proc. 56(e).

²⁵ *Ga.-Pac. Corp. v. Great Plains Bag Co.*, 614 F.2d 757, 204 U.S.P.Q. 697, 701 (C.C.P.A. 1980).

²⁶ *Nora Beverages v. Perrier Group*, 269 F.3d 114, 124, 60 U.S.P.Q.2d 1038, 1044 (2d Cir. 2001).

²⁷ *Ocean Bio-Chem., Inc. v. Turner Network Television, Inc.*, 741 F.Supp. 1546, 1559, 16 U.S.P.Q.2d 1264, 1272 and n.7 (S.D. Fla. 1990); *Programmed Tax Sys., Inc. v. Raytheon Co.*, 439 F.Supp. 1128, 1131 n. 1, 197 U.S.P.Q. 509, 510 n.1 (S.D.N.Y. 1977) (state of mind exception unavailable for out-of-court declarant statement to the witness about "the state of someone else's mind.").

²⁸ James Harder Decl., ¶3, served with Opposer's motion for summary judgment.

or as to source or origin of the goods.²⁹ Such speculative evidence is of no value in a likelihood of confusion analysis.

Second, Mr. Harder relates a story he heard from the owner of a Napa Valley wine shop, who allegedly stated that he accepted an order for TWENTY BENCH wine from a customer, thinking he had the wine in stock, only to learn that it was TWENTY ROWS wine in his inventory, not TWENTY BENCH.³⁰ He then contacted Unfiltered to purchase TWENTY BENCH wine to complete his customer's order. Once again, there is no confusion in this instance. The shop owner apparently believed he had purchased Twenty Bench wine, when in fact he had not. This is simply a failure of recollection, not evidence of confusion. When he realized that he had not purchased any Twenty Bench wine, he was not confused; rather, he understood that the two marks were two distinct brands and called to order TWENTY BENCH. Moreover, this story is inadmissible hearsay, and supplies no evidence from any witness with personal knowledge about the reason for the mistake.

Third, Mr. Harder submits the conclusory report that an unnamed sales person at a Los Angeles, California wine store told him that unspecified customers "frequently" mistake the TWENTY ROWS label with the TWENTY BENCH label.³¹ This statement is double hearsay and inadmissible for any purpose. Moreover, such evidence does not provide any meaningful information about who was confused, when, about what, and under what circumstances.

²⁹ See, e.g., *Windsor, Inc. v. Intravco Travel Centers, Inc.*, 799 F.Supp. 1513, 25 U.S.P.Q.2d 1111, 1119 (S.D.N.Y. 1992) (rejecting proffered evidence of actual confusion where supplier presented bill to plaintiff for services rendered to defendant, but "no testimony was elicited from any witness with personal knowledge of the incident as to the reason the bill was sent to the wrong company.").

³⁰ James Harder Decl., ¶4, served with Opposer's motion for summary judgment.

³¹ Id. at ¶ 4 (the declaration includes two paragraphs numbered "4," but this citation is to the last paragraph in the Harder declaration, which should have been numbered "5").

Therefore, the Harder declaration contains no admissible evidence of consumer confusion, is entirely inadmissibly hearsay, and should be stricken from the record.

Opposer also provides the declaration of one of its sales representatives, Katherine Strange, who relates a conversation with a wine buyer who decided not to purchase TWENTY BENCH wine. The declaration contains only the speculation that the buyer (not even the declarant) thinks consumers "would be confused" if she stocked both wines. In addition to being clearly speculative, this evidence is inadmissible hearsay which seeks to introduce evidence of the state of mind of unidentified and theoretical third parties.³² This declaration should be stricken and not considered.

Finally, Opposer offers the declaration of Denise Johnson, the general manager of a wine shop, who offers only the conclusion: "Customers are frequently confused between the two brands." This declaration, too, is inadmissible hearsay. It also provides no evidentiary basis for the conclusion and identifies no confused consumer(s). As noted by the Board, actual confusion "is too important to be established by means of an inference, unsupported by corroborating evidence."³³ Therefore, the Johnson Declaration should be stricken from the record and is entitled to no persuasive value.

b. **There has been no evidence of actual confusion during the time both marks have been used.**

Contrary to Opposer's contention, the evidence establishes that there has been no actual confusion between the marks. Applicant has sold wine under its TWENTY ROWS mark since

³² Opposer does not offer any declaration of the retailer or its buyer – April Langford – nor allege that Ms. Langford was actually confused.

³³ *Toys "R" Us, Inc. v. Lamps R Us*, 219 U.S.P.Q. 340, 346 (T.T.A.B. 1983).

June 1, 2004.³⁴ Opposer alleges it first sold its wine under its TWENTY BENCH mark on November 15, 2002. Thus, there has been roughly two years of overlapping usage. As set out in the declaration of Brian Nuss, the co-owner of Applicant Twenty Rows LLC, Mr. Nuss has not been contacted by any wine store or wine buyer, or by any consumers about any instances of confusion between the two marks, nor has he received any complaints about mistaken purchases.³⁵ Moreover, the declaration of Didier Loustau, a former wine buyer at Dean & DeLuca, a prominent Napa Valley wine retailer, indicates that during the time Dean & DeLuca sold both Applicant's and Opposer's wines, he never witnessed or heard of any instances of actual confusion.³⁶ Applicant has also submitted the declaration of James DiStefano, an East Coast wine distributor, who states that he is aware of no instances of confusion between TWENTY BENCH and TWENTY ROWS wine. Mr. DiStefano also declares based on his experience in the wine business, he does not believe that any wine retailers or consumers have been or will be confused between the two marks. Thus, despite nearly two years of competition, the evidence supports the conclusion that consumers have not been confused.

Moreover, Opposer's declarations suggest that there has been no actual confusion between the wines. Applicant's and Opposer's wines have competed since June 2004, and yet none of the evidence submitted by Opposer reflects any alleged confusion until December 2005, suggesting that no consumers were confused in the first year and a half that each party's wines were contemporaneously sold. In fact, all of the alleged instances of actual confusion proffered by Opposer occurred after the TWENTY ROWS marks was published for opposition in October

³⁴ See TARR report for Applicant's mark, attached as part of Exhibit 10 to Bergman Decl.

³⁵ Nuss Decl., ¶ 4.

³⁶ Loustau Decl., ¶ 2.

2005 and within weeks of Opposer's filing of its opposition. The earliest alleged incident was on December 16, 2005, shortly after the TWENTY ROWS mark was published for opposition, while the incident described by Ms. Strange's declaration allegedly occurred on April 12, 2006, just days before Opposer filed this motion. Thus, despite nearly two years of competition, the evidence supports the conclusion that consumers have not been confused.

C. Triable Issues Remain on Applicant's Affirmative Defenses.

Opposer argues that Applicant's affirmative defenses, laches and estoppel, fail as a matter of law. However, triable issues remain as to these defenses. First, Opposer alleges that it first learned of Applicant's use of the TWENTY ROWS mark in the Fall of 2004, when Opposer's co-owner made a sales call to a wine shop and learned that the shop was selling Applicant's TWENTY ROWS wine. Yet Opposer did nothing for over six months, waiting until May 25, 2005 to send a cease and desist letter to Applicant. Applicant's counsel at the time, Richard Kirkpatrick of the Pillsbury Winthrop firm, responded on June 10, 2005, just sixteen days after the cease and desist letter was sent to Applicant. (See Exhibit H to Opposer's brief in support of this motion) Opposer once again delayed for months, responding to Mr. Kirkpatrick's letter on September 25, 2005 while Applicant's TWENTY ROWS wine continued to be sold on the market. (See Exhibit H to Opposer's brief in support of this motion). Such delay is a classic example of a situation where laches and/or estoppel applies. At the very least, triable issues remain on these affirmative defenses, and Opposer's motion should be denied.

II. CONCLUSION

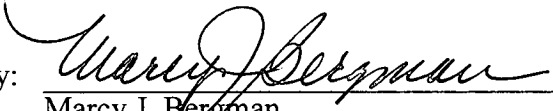
Opposer provides no competent evidence of a likelihood of confusion between its mark and Applicant's TWENTY ROWS mark. On the contrary, the evidence establishes that there is no likelihood of confusion between the marks. Therefore, Opposer's motion should be denied,

and summary judgment should be granted in favor of Applicant. Applicant's mark should be permitted to proceed to registration on the Principal Register.

DATED: June 6, 2006

Respectfully submitted,

COOPER, WHITE & COOPER LLP

By: 

Marcy J. Bergman
Attorneys for Twenty Rows LLC

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

In The Matter of Application Serial No. 78/458,716

Filed on: July 29, 2004

For the Mark: TWENTY ROWS

Published in the *Official Gazette (Trademarks)* on October 25, 2005

UNFILTERED NAPA LLC

Opposer,

v.

TWENTY ROWS LLC

Applicant.

Opposition No. 91168224

**DECLARATION OF DIDIER
LOUSTAU IN SUPPORT OF
TWENTY ROWS LLC'S
OPPOSITION TO UNFILTERED
NAPA LLC'S MOTION FOR
SUMMARY JUDGMENT**

I, Didier Loustau, declare;

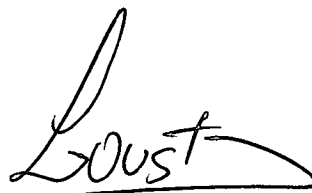
1. I am currently the Owner for Loustau Wines & Marketing, located in Napa, California. I was the Senior Wine Buyer of the St. Helena, California store of Dean & DeLuca from 2001 to August 2004. I have worked in the wine industry for over 25 years and am very familiar with the marketing, distributing, branding, and selling of wine. As part of my duties at Dean & DeLuca, I frequently spoke with wine customers and observed customers in the wine department of the store.

2. While I was employed by Dean & DeLuca, the wine department store sold both TWENTY ROWS wines and TWENTY BENCH wines. During this period of time, I never witnessed any instances of a customer confusing the two wine brands. Nor did I receive or hear of any complaints or other instances in which a customer was confused between TWENTY ROWS wine and TWENTY BENCH wine. As a long-time member of the wine industry, I do

not believe the two marks are confusing. There are thousands of wine brands on the market today, many of which have similar sounding names. In my experience, both wine shop buyers and consumers are frequently asked to differentiate between wines with similar names and have no trouble in doing so.

I attest to the foregoing from personal knowledge, under penalty of perjury under the laws of the State of California, and could and would testify thereto if called to do so.

Executed on May 31, 2006 at Napa, California.

A handwritten signature in black ink, appearing to read "Loustau", written over a horizontal line.

Didier Loustau

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

In The Matter of Application Serial No. 78/458,716

Filed on: July 29, 2004

For the Mark: TWENTY ROWS

Published in the *Official Gazette (Trademarks)* on October 25, 2005

UNFILTERED NAPA LLC

Opposer,

v.

TWENTY ROWS LLC

Applicant.

Opposition No. 91168224

**DECLARATION OF DIANE C.
HARDER IN SUPPORT OF
TWENTY ROWS LLC'S
OPPOSITION TO UNFILTERED
NAPA LLC'S MOTION FOR
SUMMARY JUDGMENT**

I, Diane Harder, declare:

1. I am currently the owner of Diane C. Harder Wine Company located in Manhattan Beach, California. I have owned my own wine distribution/brokerage company since June 1986. I have been working in the wine industry as a distributor and broker for over twenty-two years. I am well versed in the industry, including the supply chain of wine as well as the types of brand names and trade marks typically used throughout the industry.

2. The wine industry is a multi-billion dollar industry annually in the United States. Though a small fraction of wine is sold directly to consumers by domestic wineries, the vast majority of wine sold in the United States goes through a distributor system in which distributors promote and sell wine to wine store accounts. Distributors educate their wine store clients about individual products and typically provide or make available information about each product to help those stores sell a particular wine. I have found in my business that wine store clients are

diligent in researching the wines they sell to their customers. Distributors' sales representatives will often provide a variety of information about a particular wine being offered to a wine store client, such as the grape varietal blend, the vinification techniques, oak aging, soil type, and other such information to allow the wine stores to better differentiate and sell the wines to end consumers.

3. I have also learned in my experience in the wine business that end consumers of wine are also sophisticated in their purchasing. They often speak with sales associates at wine stores in order to inform themselves about wine and receive recommendations as to which wines to purchase. I have found that consumers are particularly diligent in their efforts to learn about the wines they purchase when the wines cost \$15 or more.

4. I have sold Applicant Twenty Rows LLC's ("Applicant") wine under its TWENTY ROWS trademark since August 17, 2004. In that time, I have not witnessed, heard of, or received any complaints of consumer confusion between Applicant's TWENTY ROWS trademarked wines and Opposer Unfiltered Napa LLC's ("Opposer") TWENTY BENCH trademarked wines. Nor have any of my wine store clients been confused between the two wines or relayed to me any complaints from their customers as to any confusion between the two marks. I do not believe these two marks are confusing.

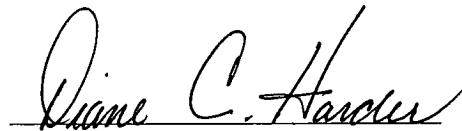
5. Based on my experience in the wine industry, I believe that there are thousands of wine trademarks, many of which have similar names. Despite these common similarities, I have found that the sophistication of both my wine store clients as well as end consumers allows them to discern between the similar wordings or phrases prevalent in wine branding.

6. Based on my experience in the wine business and my experience with both wine store clients and end consumers, I do not believe that the marks TWENTY ROWS and

TWENTY BENCH are confusing. I do not believe that wine stores or end consumers would be confused between these two marks.

I attest to the foregoing from personal knowledge, under penalty of perjury under the laws of the State of California, and could and would testify thereto if called to do so.

Executed on June 1, 2006 at Manhattan Beach, California.

A handwritten signature in cursive script that reads "Diane C. Harder". The signature is written in black ink and is positioned above a horizontal line.

Diane C. Harder

ORIGINAL

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

In The Matter of Application Serial No. 78/458,716

Filed on: July 29, 2004

For the Mark: TWENTY ROWS

Published in the *Official Gazette (Trademarks)* on October 25, 2005

UNFILTERED NAPA LLC

Opposer,

v.

TWENTY ROWS LLC

Applicant.

Opposition No. 91168224

DECLARATION OF BRIAN NUSS
IN SUPPORT OF TWENTY ROWS
LLC'S OPPOSITION TO
UNFILTERED NAPA LLC'S
MOTION FOR SUMMARY
JUDGMENT

I, Brian Nuss, declare:

1. I am currently the President, founder, and winemaker for Twenty Rows, LLC ("Twenty Rows"), located in Napa, California. I am familiar with the history, operations, and products of Twenty Rows. I have been in the wine business since 1990 and have been involved in all aspects of the business, from vineyard development and management to wine making to wine sales and marketing. Based on my experience in the wine business, as well as the fact that Twenty Rows sells wine through distributors and through direct sales to end consumers, I am well versed in the production and ultimate marketing, distributing, and selling of wines. I am also aware of the purchasing habits of wine consumers.

2. Twenty Rows was started in March 2004. The initial wine sold by Twenty Rows was a California cabernet sauvignon from the 2002 vintage. Twenty Rows also makes other varietals and blends, specifically merlot and a zinfandel blend called the "Grappler." Twenty

Rows sold its first wines in mid-2004. Typically, in the past two vintages, Twenty Rows has produced roughly 3000 cases of its cabernet sauvignon, 2000-2500 cases of the Grappler, and roughly 800 cases of its merlot. Though it sells all of its wines well, Twenty Rows has gained some notoriety for its "The Grappler" wine, which, as a zinfandel blend, is an unusual wine not normally found on the market.

3. On information and belief, I understand that the only wine Opposer Unfiltered Napa LLC ("Opposer") markets under its "Twenty Bench" brand is a California cabernet sauvignon. I believe that Opposer first started selling its "Twenty Bench" wines in 2002.

4. Both Twenty Rows' and Opposer's wines have been on the market concurrently since mid-2004. During that time to the present, I have not witnessed or been informed of any customer confusion, either by wine store buyers or end consumers of wine. In addition, other than Opposer, no one has suggested to Twenty Rows that the two marks are confusing.

5. In my experience in the wine business, I am familiar with numerous cases in which the same word is used as part of the brand name for wine. The following are examples from the current wine marketplace that show wine brands that have coexisted on the market:

- THREE GARDENS, THREE VINEYARDS, THREE CORNERS, THREE SISTERS and THREE TREES LANE
- TWO ROCK, TWO ACRES, TWO PADDOCKS, and TWO RIVERS WINERY
- FIVE HILLS BLUE and FIVE RIVERS RANCH
- SEVEN SINNERS, SEVEN PEAKS, SEVEN HILLS, THE SEVEN DEADLY ZINS, and SEVEN TERRACES
- PARCEL 41 and L'ECOLE NO. 41
- VILLA MT. EDEN and MT. EDEN VINEYARDS
- SILVER OAK, SILVER RIDGE and SILVER STONE
- STAGS LEAP WINERY and STAGS LEAP WINE CELLARS

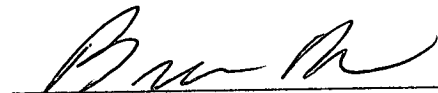
- NICKEL & NICKEL WINERY and WOODEN NICKEL

6. I do not believe there is any likelihood of confusion between TWENTY ROWS wine and Opposer's TWENTY BENCH wine.

7. The wine market has become increasingly complex and competitive over the past few years as American consumers have been exposed to more and more wine from all over the world. Wine buyers and end consumers face myriad brand choices. As the number of choices in wine has increased, so has the sophistication and knowledge of wine retailers and end consumers. Based on my experience in the wine industry, I have found that consumers are able to distinguish between wines even when their brand names are similar or share common words.

I attest to the foregoing from personal knowledge, under penalty of perjury under the laws of the State of California, and could and would testify thereto if called to do so.

Executed on May 31, 2006 at Napa, California.



Brian Nuss

ORIGINAL

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

In The Matter of Application Serial No. 78/458,716

Filed on: July 29, 2004

For the Mark: TWENTY ROWS

Published in the *Official Gazette (Trademarks)* on October 25, 2005

UNFILTERED NAPA LLC

Opposer,

v.

TWENTY ROWS LLC

Applicant.

Opposition No. 91168224

**DECLARATION OF JAMES
DISTEFANO IN SUPPORT OF
TWENTY ROWS LLC'S
OPPOSITION TO UNFILTERED
NAPA LLC'S MOTION FOR
SUMMARY JUDGMENT**

I, James DiStefano, declare:

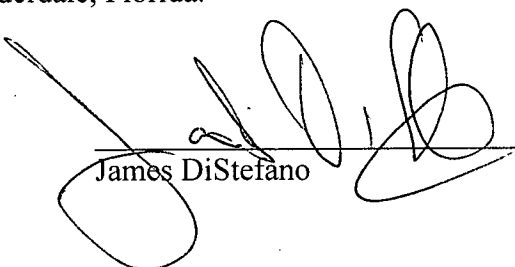
1. I am currently Southeastern Region Wine Sales Representative for Vinoce, the producers of Twenty Rows wines. I distribute wines for Vinoce throughout most of Southern Florida. I have been working in the wine industry as a distributor/sales representative for over ten years. I am very familiar with the wine industry and regularly speak with wine retailers in Southern Florida. I also travel extensively to wine retailers throughout this area and observe wine consumers selecting and purchasing wine.

2. I have sold Twenty Rows LLC's ("Applicant") TWENTY ROWS wines since June 1, 2005. Since that date, I have never witnessed any instances of my retail clients confusing the Applicant's mark with Opposer Unfiltered Napa LLC's ("Opposer") mark. Nor have I received or heard of any such instances directly from any consumers or from any of my retail clients.

3. In my estimation and experience with wine retail stores and end consumers, I do not believe that the marks TWENTY ROWS and TWENTY BENCH are confusing. Having spent over ten years in the wine business, I have noted that retail wine stores and end consumers are accustomed to seeing wine brands with similar names and are able to distinguish between them. I do not believe that wine stores or end consumers have been or would be confused between the TWENTY ROWS and TWENTY BENCH marks.

I attest to the foregoing from personal knowledge, under penalty of perjury under the laws of the State of California, and could and would testify thereto if called to do so.

Executed on May 31, 2006 at Ft. Lauderdale, Florida.


James DiStefano

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

In The Matter of Application Serial No. 78/458,716
Filed on: July 29, 2004
For the Mark: TWENTY ROWS
Published in the *Official Gazette (Trademarks)* on October 25, 2005

UNFILTERED NAPA LLC

Opposer,

v.

TWENTY ROWS LLC

Applicant.

Opposition No. 91168224

**DECLARATION OF MARCY J.
BERGMAN IN OPPOSITION TO
UNFILTERED NAPA LLC'S
MOTION FOR SUMMARY
JUDGMENT**

I, Marcy J. Bergman, declare:

1. I am a partner with the firm of Cooper, White & Cooper LLP, located at 201 California Street, 17th Floor, San Francisco, California 94111, counsel of record for Applicant Twenty Rows LLC.
2. Attached as Exhibit 1 is a true and correct copy of the definition of the English word "row" from the Merriam-Webster online dictionary, located at www.m-w.com.
3. Attached as Exhibit 2 is a true and correct copy of the definition of the English word "bench" from the Merriam-Webster online dictionary, located at www.m-w.com.
4. Attached as Exhibit 3 are true and correct copies of TARR reports for the registrations of the following marks: THREE GARDENS, THREE VINEYARDS, THREE CORNERS, THREE SISTERS and THREE TREES LANE.

5. Attached as Exhibit 4 are true and correct copies of TARR reports for the registrations of the following marks: TWO ROCK, TWO ACRES, TWO PADDOCKS, and TWO RIVERS WINERY.

6. Attached as Exhibit 5 are true and correct copies of TARR reports for the registrations of the following marks: FIVE HILLS BLUE and FIVE RIVERS RANCH.

7. Attached as Exhibit 6 are true and correct copies of web pages showing wines being sold under the marks ROW ELEVEN and THIRTY BENCH.

8. Attached as Exhibit 7 are true and correct copies of TARR reports for the registrations of the following marks: SEVEN PEAKS, SEVEN HILLS, THE SEVEN DEADLY ZINS, and SEVEN TERRACES.

9. Attached as Exhibit 8 are true and correct copies of TARR reports for the applications and registrations of the following marks used by Opposer: TWENTY BENCH, PARCEL 41, TEN MILE, THOUSAND FOOT, and SEVEN SINNERS.

10. Attached as Exhibit 9 is a true and correct copy of a TARR report for the registrations of the mark L'ECOLE NO. 41 for wine.

11. Attached as Exhibit 10 is a true and correct copy of a TARR report for Applicant's application to the USPTO for registration of its TWENTY ROWS mark.

I attest to the foregoing under penalty of perjury under the laws of the State of California and could and would testify thereto from personal knowledge if called to do so.

Executed on June 5, 2006 at San Francisco, California.



Marcy J. Bergman

EXHIBIT 1



Merriam-Webster OnLine

Merriam-Webster FOR KIDS

Encyclopædia BRITANNICA

Merriam-Webster ONLINE

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Merriam-Webster Online

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- Thesaurus



Browse by letter:

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NOPQRSTUVWXYZ

Browse words next to:

row



row

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M-WUnabridged.com
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[WORD FOR THE WISE](#)
[ONLINE STORE](#)
[HELP](#)

[Merriam-Webster Inc.
Company Information](#)

Merriam-Webster Online Dictionary

[Thesaurus](#)

row

11 entries found for **row**. The first 10 are listed below.
To select an entry, click on it. For more results, [click here](#).

- row[1,verb]
- row[2,noun]
- row[3,noun]
- row[4,transitive verb]
- row[5,noun]
- row[6,intransitive verb]

Main Entry: ³row

Function: *noun*

Etymology: Middle English *rawe*; akin to Old English *r* [AE] *w row*, Old High German *rlga* line, and perhaps to Sanskrit *rikhati* he scratches

1 : a number of objects arranged in a usually straight line <a row of bottles>; *also* : the line along which such objects are arranged <planted the corn in parallel rows>

2 a : **WAY, STREET** **b** : a street or area dominated by a specific kind of enterprise or occupancy <doctors' row>

3 : **TWELVE-TONE ROW**

4 a : a continuous strip usually running horizontally or parallel to a base line **b** : a horizontal arrangement of items

- **in a row** : one after another : **SUCCESSIVELY**

For [More Information on "row"](#) go to [Britannica.com](#)

Get the [Top 10 Search Results for "row"](#)

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Corporate Relocation

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[www.movecenter.com](#)

EXHIBIT 2



Merriam-Webster OnLine

Merriam-Webster FOR KIDS

Encyclopædia BRITANNICA

Merriam-Webster ONLINE

Merriam-Webster COLLEGIATE

Merriam-Webster UNABRIDGED



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Merriam-Webster Inc.
Company Information

Merriam-Webster Online Dictionary

Thesaurus

Merriam-Webster Online

Dictionary

Thesaurus

Go

Browse by letter:

A B C D E F G H I J K L M
N O P Q R S T U V W X Y Z

Browse words next to:

bench

bench

12 entries found for **bench**. The first 10 are listed below.
To select an entry, click on it. For more results, [click here](#).

- bench[1,noun]
- bench[2,verb]
- benchmark
- bench press
- bench seat
- bench warrant

Go

Main Entry: **1**bench

Pronunciation: 'bench

Function: *noun*

Etymology: Middle English, from Old English *benc*; akin to Old High German *bank* bench

1 a : a long seat for two or more persons **b** : a thwart in a boat **c (1)** : a seat on which the members of an athletic team await a turn or opportunity to play **(2)** : the reserve players on a team

2 a : the seat where a judge sits in court **b** : the place where justice is administered : **COURT** **c** : the office or dignity of a judge **d** : the persons who sit as judges

3 a : the office or dignity of an official **b** : a seat for an official **c** : the officials occupying a bench

4 a : a long worktable; *also* : **LABORATORY** <*bench* chemist> <*bench* test> **b** : a table forming part of a machine

5 : **TERRACE, SHELF**: as **a** : a former wave-cut shore of a sea or lake or floodplain of a river **b** : a shelf or ridge formed in working an open excavation on more than one level

6 : a compartmented platform on which dogs or cats are kept at a show when not being judged

For **More Information on "bench"** go to [Britannica.com](#)

Get the **Top 10 Search Results for "bench"**

Ads by Google




bench

Find

Bench

From Wikipedia, the free encyclopedia

 Look up *bench* in Wiktionary, the free dictionary.

- A **bench** is a long backless seat, typically used for sitting at an outdoor table for casual eating.

Bench may also refer to:

- Bench (weight training), a piece of weight training equipment, often very similar to the above "wide backless chair"
- Bench language (Bench-non), a language spoken in southeastern Ethiopia
- Workbench, a place of work consisting of a table and perhaps places to keep an arrangement of tools and materials.
- Bench press, an open-chained form of free-weightlifting
- Bench (clothing), an urban lifestyle brand of clothing in the UK
- Bench (apparel), a chain of retail clothing stores in the Philippines

Bench may also refer to:

- The location where judges or members of Parliament sit while in court or in Parliament
- In surveying and civil engineering, a landform consisting of a long strip of land at constant height in an otherwise sloped area. It may be natural but usually refers to artificial earthworks (c.f. benchmark, q.v. berm)

Retrieved from "<http://en.wikipedia.org/wiki/Bench>"

Categories: Disambiguation

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EXHIBIT 3

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:30:02 ET

Serial Number: 78310404

Registration Number: 2881840

Mark (words only): THREE GARDENS

Standard Character claim: No

Current Status: Registered.

Date of Status: 2004-09-07

Filing Date: 2003-10-07

Transformed into a National Application: No

Registration Date: 2004-09-07

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2004-09-16

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Langmeil Pty Ltd

Address:

Langmeil Pty Ltd
Langmeil and Para Roads
Tanunda, South Australia 5352
Australia

Legal Entity Type: PRIVATE LIMITED LIABILITY COMPANY

State or Country Where Organized: Australia

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

Wine, distilled spirits and liqueurs

Basis: 1(a)

First Use Date: 2002-04-04

First Use in Commerce Date: 2002-04-04

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-09-07 - Registered - Principal Register

2004-06-15 - Published for opposition

2004-06-11 - TEAS Change of Correspondence Received

2004-05-26 - Notice of publication

2004-04-18 - Approved for Pub - Principal Register (Initial exam)

2004-04-18 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

Neil F. Martin (Attorney of record)

Neil F. Martin
Gordon & Rees LLP
101 West Broadway Suite 1600
San Diego CA 92101

Phone Number: (619) 696-6700

Fax Number: (619) 696-7124

Domestic Representative

Neil F. Martin

Phone Number: 619-238-0999

Fax Number: 619-238-0062

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:31:00 ET

Serial Number: 75913856

Registration Number: 2490241

Mark (words only): THREE VINEYARDS

Standard Character claim: No

Current Status: Registered.

Date of Status: 2001-09-18

Filing Date: 2000-02-10

Transformed into a National Application: No

Registration Date: 2001-09-18

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2002-09-23

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. American Wine Trade, Inc.

Address:

American Wine Trade, Inc.
195 N. E. Gilman Boulevard
Issaquah, WA 98027
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Washington

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

red wine

Basis: 1(a)

First Use Date: 1997-01-16

First Use in Commerce Date: 1997-01-16

ADDITIONAL INFORMATION

Disclaimer: "VINEYARDS"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2001-09-18 - Registered - Principal Register
2001-06-26 - Published for opposition
2001-06-13 - Notice of publication
2001-02-01 - Approved for Pub - Principal Register (Initial exam)
2001-02-01 - Case file assigned to examining attorney
2000-10-23 - Communication received from applicant
2000-07-12 - Non-final action mailed
2000-07-03 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

DON E. DASCENZO (Attorney of record)

DON E DASCENZO
INSLEE BEST DOEZIE & RYDER PS
777 108TH AVENUE NE SUITE 1900
PO BOX C-90016
BELLEVUE WASHINGTON 98009-9016

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:31:40 ET

Serial Number: 76413340

Registration Number: 2741373

Mark (words only): THREE CORNERS

Standard Character claim: No

Current Status: Registered.

Date of Status: 2003-07-29

Filing Date: 2002-05-23

Transformed into a National Application: No

Registration Date: 2003-07-29

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-08-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Riverina Wines Pty Ltd.

Address:

Riverina Wines Pty Ltd.
700 Kidman Way
Griffith NSW 2680
Australia

Legal Entity Type: Company

State or Country Where Organized: Australia

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

Wine

Basis: 44(e)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Foreign Application Number: 912388
Foreign Registration Number: 912388
Foreign Registration Date: 2002-12-23
Country: Australia
Foreign Filing Date: 2002-05-09
Foreign Expiration Date: 2012-05-09

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-07-29 - Registered - Principal Register
2003-05-06 - Published for opposition
2003-04-16 - Notice of publication
2003-02-23 - Approved for Pub - Principal Register (Initial exam)
2003-01-24 - Communication received from applicant
2003-01-24 - PAPER RECEIVED
2002-09-19 - Communication received from applicant
2002-09-09 - Non-final action mailed
2002-09-06 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

Paul D. Greeley (Attorney of record)

PAUL D. GREELEY
OHLANDT, GREELEY, RUGGIERO & PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CONNECTICUT 06901-2682

Phone Number: (203) 327-4500

Fax Number: (203) 327-6401

Domestic Representative

OHLANDT, GREELEY, RUGGIERO & PERLE, LLP

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:32:33 ET

Serial Number: 75596221

Registration Number: 2495303

Mark (words only): THREE SISTERS

Standard Character claim: No

Current Status: Registered.

Date of Status: 2001-10-09

Filing Date: 1998-11-30

Transformed into a National Application: No

Registration Date: 2001-10-09

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-02-12

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Cakebread Cellars, Inc.

Address:

Cakebread Cellars, Inc.
8300 St. Helena Highway P.O. Box 216
Rutherford, CA 945730216
United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

WINE

Basis: 1(a)

First Use Date: 1997-02-00

First Use in Commerce Date: 1998-09-08

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2001-10-09 - Registered - Principal Register

2001-07-17 - Published for opposition

2001-07-04 - Notice of publication

2001-02-08 - Approved for Pub - Principal Register (Initial exam)

2000-05-04 - Case file assigned to examining attorney

1999-11-03 - Case file assigned to examining attorney

1999-03-29 - Letter of suspension mailed

1999-03-23 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

MELVILLE OWEN (Attorney of record)

MELVILLE OWEN
OWEN WICKERSHAM & ERICKSON
455 MARKET ST FL 19
SAN FRANCISCO CA 94105-2420

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:33:20 ET

Serial Number: 76064058 Assignment Information

Registration Number: 2815303 Assignment Information

Mark (words only): THREE TREES LANE

Standard Character claim: No

Current Status: Registered.

Date of Status: 2004-02-17

Filing Date: 2000-06-05

Transformed into a National Application: No

Registration Date: 2004-02-17

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2004-02-23

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Crowther, Geoffrey

Address:

Crowther, Geoffrey
803 Kemp Street
Burbank, CA 91505
United States

Legal Entity Type: Individual

Country of Citizenship: United States

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active
wine

Basis: 1(a)

First Use Date: 2003-10-06

First Use in Commerce Date: 2003-10-06

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-02-17 - Registered - Principal Register

2004-01-20 - PAPER RECEIVED

2003-12-15 - Allowed for Registration - Principal Register (SOU accepted)

2003-12-10 - Case file assigned to examining attorney

2003-12-09 - Case File in TICRS

2003-11-12 - Statement of use processing complete

2003-11-12 - Amendment to Use filed

2003-11-12 - TEAS Statement of Use Received

2003-06-16 - PAPER RECEIVED

2003-05-19 - Extension 4 granted

2003-05-19 - Extension 4 filed

2003-05-19 - TEAS Extension Received

2003-02-10 - PAPER RECEIVED

2003-01-24 - Extension 3 granted

2002-12-03 - Extension 3 filed

2002-12-03 - TEAS Extension Received

2002-05-29 - TEAS Extension Received

2002-04-02 - Extension 2 granted

2002-03-14 - Extension 2 filed

2001-12-06 - Extension 1 granted

2001-11-26 - Extension 1 filed

2001-06-26 - Notice of allowance - mailed

2001-04-03 - Published for opposition

2001-03-21 - Notice of publication

2000-11-20 - Approved for Pub - Principal Register (Initial exam)

2000-11-14 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

Douglas D. Hancock (Attorney of record)

DOUGLAS D. HANCOCK
IPSOLON LIP
4370 N.E. HALSEY STREET
PORTLAND, OREGON 97213

EXHIBIT 4

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:38:32 ET

Serial Number: 78044348

Registration Number: 2768074

Mark (words only): TWO ROCK

Standard Character claim: No

Current Status: Registered.

Date of Status: 2003-09-23

Filing Date: 2001-01-22

Transformed into a National Application: No

Registration Date: 2003-09-23

Register: Principal

Law Office Assigned: LAW OFFICE 102

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-09-29

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. E. & J. GALLO WINERY

Address:

E. & J. GALLO WINERY
600 Yosemite Boulevard
Modesto, CA 95354
United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

WINES

Basis: 1(a)

First Use Date: 2001-08-15

First Use in Commerce Date: 2001-08-15

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-09-23 - Registered - Principal Register
2003-05-23 - Allowed for Registration - Principal Register (SOU accepted)
2003-05-09 - Communication received from applicant
2003-01-13 - Non-final action mailed
2002-12-18 - Case file assigned to examining attorney
2002-12-13 - Statement of use processing complete
2002-10-21 - Amendment to Use filed
2002-10-21 - TEAS Statement of Use Received
2002-05-02 - Extension 1 granted
2002-04-29 - Extension 1 filed
2002-04-29 - TEAS Extension Received
2001-11-13 - Notice of allowance - mailed
2001-08-21 - Published for opposition
2001-08-01 - Notice of publication
2001-06-12 - Approved for Pub - Principal Register (Initial exam)
2001-06-11 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent
E. & J. GALLO WINERY
600 YOSEMITE BLVD
MODESTO CA 95354-2760

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:38:57 ET

Serial Number: 76025524

Registration Number: 2533618

Mark (words only): TWO ACRES

Standard Character claim: No

Current Status: Registered.

Date of Status: 2002-01-29

Filing Date: 2000-04-13

Transformed into a National Application: No

Registration Date: 2002-01-29

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2002-02-08

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Officer, Kendal H.

Address:

Officer, Kendal H.
1623 Willowside Road
Santa Rosa, CA 95401
United States

Legal Entity Type: Individual

Country of Citizenship: United States

2. Officer, Michael R.

Address:

Officer, Michael R.
1623 Willowside Road
Santa Rosa, CA 95401
United States

Legal Entity Type: Individual

Country of Citizenship: United States

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

WINE

Basis: 1(a)

First Use Date: 2000-03-02

First Use in Commerce Date: 2000-03-02

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2002-01-29 - Registered - Principal Register

2001-11-06 - Published for opposition

2001-10-17 - Notice of publication

2001-06-25 - Approved for Pub - Principal Register (Initial exam)

2000-11-13 - Unresponsive/Duplicate Paper Received

2000-09-28 - Non-final action mailed

2000-09-24 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

ANDREA L. ANDERSON

BEER & WINE SERVICES, INC.

211 WAPOO, SUITE 202

CALISTOGA, CA 94515

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:39:21 ET

Serial Number: 75595273

Registration Number: 2430327

Mark (words only): TWO PADDOCKS

Standard Character claim: No

Current Status: Registered.

Date of Status: 2001-02-20

Filing Date: 1998-11-25

Transformed into a National Application: No

Registration Date: 2001-02-20

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2001-09-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Two Paddocks Limited

Address:

Two Paddocks Limited
Gibbston Back Road Gibbston Valley
Queenstown
New Zealand

Legal Entity Type: Company

State or Country Where Organized: New Zealand

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

Wine

Basis: 1(a), 44(e)

First Use Date: 1998-04-01

First Use in Commerce Date: 2000-03-05

ADDITIONAL INFORMATION

Foreign Application Number: 293016
Foreign Registration Number: 293016
Foreign Registration Date: 1999-08-09
Country: New Zealand
Foreign Filing Date: 1998-05-29
Foreign Expiration Date: 2005-05-29

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2001-08-03 - Section 7 correction issued
2001-06-06 - Section 7 correction issued
2001-04-19 - Section 7 amendment filed
2001-02-20 - Registered - Principal Register
2000-10-25 - Allowed for Registration - Principal Register (SOU accepted)
2000-10-23 - Case file assigned to examining attorney
2000-08-18 - Statement of use processing complete
2000-08-18 - Amendment to Use filed
2000-03-21 - Notice of allowance - mailed
1999-12-28 - Published for opposition
1999-11-26 - Notice of publication
1999-10-13 - Approved for Pub - Principal Register (Initial exam)
1999-10-07 - Examiner's amendment mailed
1999-08-17 - Communication received from applicant
1999-03-25 - Non-final action mailed
1999-03-22 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent
Robert H G Lockwood (Attorney of record)

ROBERT H G LOCKWOOD
SMITH GAMBRELL & RUSSELL

PROMENADE II
1230 PEACHTREE ST NE STE 3100
ATLANTA GA 30309-3592

Domestic Representative
Robert G. Lockwood

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:39:46 ET

Serial Number: 75570426

Registration Number: 2402632

Mark (words only): TWO RIVERS WINERY

Standard Character claim: No

Current Status: Registered.

Date of Status: 2000-11-07

Filing Date: 1998-10-14

Transformed into a National Application: No

Registration Date: 2000-11-07

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2004-08-23

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. RGW Associates, Inc.

Address:

RGW Associates, Inc.
2703 Midway Avenue
Grand Junction, CO 81506
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Texas

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

Wine

Basis: 1(a)

First Use Date: 1999-07-27

First Use in Commerce Date: 1999-11-15

ADDITIONAL INFORMATION

Disclaimer: "WINERY"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2000-11-07 - Registered - Principal Register
2000-06-28 - Allowed for Registration - Principal Register (SOU accepted)
2000-06-26 - Case file assigned to examining attorney
2000-06-21 - Statement of use processing complete
2000-04-27 - Amendment to Use filed
2000-01-25 - Notice of allowance - mailed
1999-08-11 - Extension Of Time To Oppose Received
1999-07-13 - Published for opposition
1999-06-11 - Notice of publication
1999-02-22 - Approved for Pub - Principal Register (Initial exam)
1999-02-18 - Examiner's amendment mailed
1999-02-16 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent
RGW ASSOCIATES INC
2703 MIDWAY AVE
GRAND JUNCTION CO 81506

EXHIBIT 5

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:41:59 ET

Serial Number: 78135813

Registration Number: 2799288

Mark (words only): FIVE HILLS BLUE

Standard Character claim: No

Current Status: Registered.

Date of Status: 2003-12-23

Filing Date: 2002-06-14

Transformed into a National Application: No

Registration Date: 2003-12-23

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2004-01-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Fetzer Vineyards

Address:

Fetzer Vineyards
12901 Old River Road
Hopland, CA 95449
United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

Phone Number: 415 446 5225

Fax Number: 415 446 5230

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

Alcoholic beverages; namely, wine

Basis: 1(a)

First Use Date: 2002-09-30

First Use in Commerce Date: 2002-09-30

ADDITIONAL INFORMATION

Prior Registration Number(s):
2602679

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-11-15 - TEAS Change Of Owner Address Received
2003-12-23 - Registered - Principal Register
2003-10-30 - Allowed for Registration - Principal Register (SOU accepted)
2003-10-27 - Case file assigned to examining attorney
2003-10-27 - Case File in TICRS
2003-10-17 - Statement of use processing complete
2003-09-26 - Amendment to Use filed
2003-09-26 - TEAS Statement of Use Received
2003-09-02 - Notice of allowance - mailed
2003-06-10 - Published for opposition
2003-05-21 - Notice of publication
2003-04-15 - Approved for Pub - Principal Register (Initial exam)
2003-03-17 - Communication received from applicant
2003-03-17 - PAPER RECEIVED
2002-10-10 - Non-final action mailed
2002-09-26 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

David S. Gooder (Attorney of record)

David S. Gooder
Brown-Forman Brands
4040 Civic Center Drive, Suite 528
San Rafael CA 94903

Phone Number: 415 446 5225
Fax Number: 415 446 5230

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:42:24 ET

Serial Number: 76223532

Registration Number: 2602679

Mark (words only): FIVE RIVERS RANCH

Standard Character claim: No

Current Status: Registered.

Date of Status: 2002-07-30

Filing Date: 2001-03-13

Transformed into a National Application: No

Registration Date: 2002-07-30

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2002-08-26

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Fetzer Vineyards

Address:

Fetzer Vineyards
12901 Old River Road
Hopland, CA 95449
United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

Alcoholic beverages, namely, wine

Basis: 1(a)

First Use Date: 2001-07-31

First Use in Commerce Date: 2001-07-31

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-11-15 - TEAS Change Of Owner Address Received
2002-07-30 - Registered - Principal Register
2002-05-13 - Allowed for Registration - Principal Register (SOU accepted)
2002-05-13 - Case file assigned to examining attorney
2002-05-02 - Statement of use processing complete
2002-05-02 - Amendment to Use filed
2002-05-02 - TEAS Statement of Use Received
2001-11-20 - Notice of allowance - mailed
2001-08-28 - Published for opposition
2001-08-08 - Notice of publication
2001-06-10 - Approved for Pub - Principal Register (Initial exam)
2001-06-05 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

David S. Gooder (Attorney of record)

David S. Gooder
Brown-Forman Brands
4040 Civic Center Drive, Suite 528
San Rafael CA 94903

Phone Number: 415 446 5225

Fax Number: 415 446 5230

EXHIBIT 6



Row 11

Row Eleven

Pinot Noir

home
the winemaker
the wines
corporate club
gift certificates
buy some wine
my bag

How do you make great Pinot Noir?

First, you have to find a winemaker brave enough to make it.

Second, there are 30,000 acres grown in California that can make authentic Pinot Noir. You have to find which eleven rows are the best.

That is what we are about. The best Rows from the best Blocks from the best Vineyards, made into the best Pinot Noir in California. To be one of the best it must be smooth as silk, refreshing as the ripest red berries and cherries, and elegant as the rich earth that bore it.

You can find Row 11
and other great wines
at thewinelifelife.com



[shipping info](#)

[F.A.Q.'s](#)

[contact us](#)



Home



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Wines & Tasting Notes



Printable Wine List



Print & Fax Order Form



Specials



Tours & Tasting



Awards & Reviews



Contact Us



News & Events



Futures



THIRTY BENCH Vineyard & Winery

4281 Mountainview Road
P.O. Box 1172
Beamsville, Ontario L0R 1B0
Phone: (905) 563-1698
Fax: (905) 563-3921
E-mail: wine@thirtybench.com



A small estate winery...three winemakers...and special vineyard and vinification techniques make this winery unique. We specialize in producing Premium VQA wines, Cabernets, Merlot, Chardonnays, Rieslings and Icewines. Our goal is to create quality wines at competitive prices, for both the collector and the consumer. Educational tastings are offered in a friendly, fun atmosphere.

At Thirty Bench Vineyard and Winery it is our aim to create local wines of distinction from the Beamsville Bench, comparable to traditional wine regions of the world. Our first commercial wines were produced in the early 1990's. With a current production of 8,500 cases annually, Thirty Bench is recognized as a "boutique winery" dedicated to the production of small scale, locally crafted wines of superior quality and varietal character. The careful integration of vineyard and winery, our team approach and the artisan methods of production are all reflected in the quality and character of our award-winning wines.

Our Name

Thirty Bench's vineyard & winery is situated near the Thirty Mile Creek on the Beamsville Bench (Niagara Peninsula) hence the name.

Visiting our Winery

Those who visit Thirty Bench Wines on tour will have the opportunity to experience the art of winemaking from start to finish as they enjoy one of the many award-winning wines while overlooking the vineyards and developing harvest. Visitors are invited to sample from a variety of Cabernets, Merlots and Chardonnays, as well as Rieslings ranging from bone-dry to Icewines, including Botrytis-affected wines. Our special premium wines display outstanding flavour intensity, which is achieved by "crop thinning". In August, a certain percentage of grapes are taken off the vines and thrown away, causing the remaining grapes to become highly concentrated...therefore producing a more concentrated wine. Thirty Bench offers several private tour and tasting packages

We have recently partnered with **Winerytohome** - the first web-based service of its kind to be licensed in Ontario. This will enable you to buy our wine on-line and arrange to have it delivered directly to your home or office. Deliveries can now be made anywhere in Ontario. [Click here to shop!!](#)

Hours of Operation

December 26th to May 31th - Daily from 11am to 5pm
(Additional hours by appointment)

June 1st to December 23rd - Daily from 10am to 6pm

Days Closing at 5pm

October 31st(Hallowe'en)
December 24th (Christmas Eve)
December 31st (New Year's Eve)

Days Closed

December 25th (Christmas Day)
December 26th (Boxing Day)
January 1st (New Year's Day)
April 14th (Good Friday)
April 16th (Easter Sunday)

Web design and management by [JEFS Online](#)
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EXHIBIT 7

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:49:31 ET

Serial Number: 75216197 Assignment Information

Registration Number: 2145516 Assignment Information

Mark (words only): SEVEN PEAKS

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2005-08-06

Filing Date: 1996-12-20

Transformed into a National Application: No

Registration Date: 1998-03-17

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2005-08-06

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. JEAN-CLAUDE BOISSET WINES, USA, INC.

Address:
JEAN-CLAUDE BOISSET WINES, USA, INC.
650 FIFTH STREET SUITE 403
SAN FRANCISCO, CA 94107
United States
Legal Entity Type: Corporation
State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 033
Class Status: Active
wine
Basis: 1(a)
First Use Date: 1997-06-04
First Use in Commerce Date: 1997-06-04

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-08-06 - Section 8 (6-year) accepted & Section 15 acknowledged
2005-08-06 - Assigned To Paralegal
2004-09-09 - Section 8 (6-year) and Section 15 Filed
2004-09-09 - Section 8 (6-year) and Section 15 Filed
2004-09-09 - Section 8 (6-year) and Section 15 Filed
2004-09-09 - TEAS Section 8 & 15 Received
1998-03-17 - Registered - Principal Register
1998-01-13 - Allowed for Registration - Principal Register (SOU accepted)
1998-01-08 - Case file assigned to examining attorney
1997-12-24 - Statement of use processing complete
1997-11-13 - Amendment to Use filed
1997-10-28 - Notice of allowance - mailed
1997-08-05 - Published for opposition
1997-07-04 - Notice of publication
1997-06-05 - Approved for Pub - Principal Register (Initial exam)
1997-06-05 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent
ANNE HIARING
LAW OFFICE OF ANNE HIARING
19 BROOKMONT
SAN ANSELMO, CA 94960-1412

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:50:02 ET

Serial Number: 75400870 Assignment Information

Registration Number: 2216391 Assignment Information

Mark (words only): SEVEN HILLS

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2005-01-22

Filing Date: 1997-12-05

Transformed into a National Application: No

Registration Date: 1999-01-05

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 834 -Post Registration

Date In Location: 2005-01-22

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. SEVEN HILLS WINERY, LLC

Address:

SEVEN HILLS WINERY, LLC
212 NORTH THIRD AVE
WALLA WALLA, WA 99362
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Washington

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

wine

Basis: 1(a)

First Use Date: 1984-12-31

First Use in Commerce Date: 1984-12-31

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-01-22 - Section 8 (6-year) accepted & Section 15 acknowledged

2004-09-30 - Section 8 (6-year) and Section 15 Filed

2004-09-30 - Section 8 (6-year) and Section 15 Filed

2004-09-30 - TEAS Section 8 & 15 Received

1999-01-05 - Registered - Principal Register

1998-10-13 - Published for opposition

1998-09-11 - Notice of publication

1998-08-01 - Approved for Pub - Principal Register (Initial exam)

1998-07-06 - Communication received from applicant

1998-05-11 - Non-final action mailed

1998-05-05 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

ROBERT C CUMBOW (Attorney of record)

ROBERT C CUMBOW
GRAHAM & DUNN PC
2801 ALASKAN WAY, STE 300
SEATTLE WA 98121

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:50:39 ET

Serial Number: 76330214

Registration Number: 2641012

Mark (words only): THE SEVEN DEADLY ZINS

Standard Character claim: No

Current Status: Registered.

Date of Status: 2002-10-22

Filing Date: 2001-10-26

Transformed into a National Application: No

Registration Date: 2002-10-22

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2002-11-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Phillips Farms

Composed Of:

David Phillips, a citizen of U.S.A.

Address:

Phillips Farms

4580 West Highway 12

Lodi, CA 95240

United States

Legal Entity Type: Partnership

State or Country Where Organized: California

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

Wine

Basis: 1(a)

First Use Date: 2002-03-01

First Use in Commerce Date: 2002-03-01

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-05-21 - TEAS Change of Correspondence Received
2002-10-22 - Registered - Principal Register
2002-08-02 - Allowed for Registration - Principal Register (SOU accepted)
2002-07-31 - Case file assigned to examining attorney
2002-07-30 - Statement of use processing complete
2002-07-09 - Amendment to Use filed
2002-07-09 - PAPER RECEIVED
2002-06-11 - Notice of allowance - mailed
2002-03-19 - Published for opposition
2002-02-27 - Notice of publication
2002-01-10 - Approved for Pub - Principal Register (Initial exam)
2002-01-10 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

Robert S. Beiser (Attorney of record)

Robert S. Beiser, Esq.
VEDDER PRICE KAUFMAN & KAMMHOLZ
Suite 2400
222 North LaSalle Street
Chicago IL 60601

Phone Number: (312) 609-7500

Fax Number: (312) 609-5005

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:51:03 ET

Serial Number: 78428993

Registration Number: 3014154

Mark

SEVEN TERRACES

(words only): SEVEN TERRACES

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2005-11-08

Filing Date: 2004-06-02

Transformed into a National Application: No

Registration Date: 2005-11-08

Register: Principal

Law Office Assigned: LAW OFFICE 107

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2005-09-29

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. FOXES ISLAND WINES LTD

Address:

FOXES ISLAND WINES LTD
C/- WAIRAU RIVER WINERY 264 RAPAURA RD
BLENHEIM
New Zealand

Legal Entity Type: Corporation

State or Country of Incorporation: New Zealand

Phone Number: +64 3 572 7940

Fax Number: +64 3 572 7941

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

WINE

Basis: 1(a)

First Use Date: 2004-09-13

First Use in Commerce Date: 2004-10-12

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-11-08 - Registered - Principal Register

2005-09-26 - Law Office Registration Review Completed

2005-09-23 - Assigned To LIE

2005-09-22 - Allowed for Registration - Principal Register (SOU accepted)

2005-09-20 - Statement of use processing complete

2005-09-12 - Amendment to Use filed

2005-09-12 - TEAS Statement of Use Received

2005-09-12 - TEAS Change of Correspondence Received

2005-08-16 - Notice of allowance - mailed

2005-05-24 - Published for opposition

2005-05-04 - Notice of publication

2005-02-01 - Law Office Publication Review Completed

2005-01-10 - Assigned To LIE

2005-01-05 - Approved for Pub - Principal Register (Initial exam)

2005-01-05 - Case file assigned to examining attorney

2004-06-08 - New Application Entered In Tram

CORRESPONDENCE INFORMATION

Correspondent
Administration Manager
PO Box 1039
Blenheim NZX

EXHIBIT 8

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:53:18 ET

Serial Number: 78186974

Registration Number: 2797651

Mark (words only): TWENTY BENCH

Standard Character claim: No

Current Status: Registered.

Date of Status: 2003-12-23

Filing Date: 2002-11-20

Transformed into a National Application: No

Registration Date: 2003-12-23

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2004-01-06

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Unfiltered Napa LLC

Address:

Unfiltered Napa LLC

5012 Silverado Trail

Napa, CA 94558

United States

Legal Entity Type: Ltd Liab Jt St Co

State or Country Where Organized: California

Phone Number: 707-226-5511

Fax Number: 707-226-5512

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

Wine

Basis: 1(a)

First Use Date: 2002-09-19

First Use in Commerce Date: 2002-11-15

ADDITIONAL INFORMATION

Disclaimer: "BENCH"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2006-04-17 - TEAS Change of Correspondence Received
2003-12-23 - Registered - Principal Register
2003-09-30 - Published for opposition
2003-09-10 - Notice of publication
2003-08-04 - Approved for Pub - Principal Register (Initial exam)
2003-06-26 - ITU claim deleted
2003-06-26 - Communication received from applicant
2003-07-14 - Case File in TICRS
2003-06-26 - PAPER RECEIVED
2003-05-20 - Non-final action mailed
2003-05-09 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

Jennifer H. Hamilton
The Eclipse Group LLP
10605 Balboa Blvd., Suite 300
Granada Hills CA 91344

Phone Number: (818) 488-8141

Fax Number: (818) 332-4205

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:53:38 ET

Serial Number: 78513495

Registration Number: (NOT AVAILABLE)

Mark

PARCEL 41

(words only): PARCEL 41

Standard Character claim: Yes

Current Status: Opposition period completed, a Notice of Allowance has been issued.

Date of Status: 2005-12-27

Filing Date: 2004-11-08

The Notice of Allowance Date is: 2005-12-27

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 111

Attorney Assigned:
PRICE WANDA KAY Employee Location

Current Location: 700 -Intent To Use Section

Date In Location: 2005-12-27

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Unfiltered Napa LLC

Address:

Unfiltered Napa LLC
5012 Silverado Trail
Napa, CA 94558
United States

Legal Entity Type: Ltd Liab Jt St Co

State or Country Where Organized: California

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

Wine

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2006-04-20 - TEAS Change of Correspondence Received

2005-12-27 - Notice of allowance - mailed

2005-10-04 - Published for opposition

2005-09-14 - Notice of publication

2005-06-21 - Law Office Publication Review Completed

2005-06-17 - Assigned To LIE

2005-06-11 - Approved for Pub - Principal Register (Initial exam)

2005-06-11 - Case file assigned to examining attorney

2004-11-15 - New Application Entered In Tram

CORRESPONDENCE INFORMATION

Correspondent

Jennifer H. Hamilton (Attorney of record)

Jennifer H. Hamilton
The Eclipse Group LLP
10605 Balboa Blvd., Suite 300
Granada Hills CA 91344

Phone Number: (818) 488-8141

Fax Number: (818) 332-4205

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:54:10 ET

Serial Number: 78779855

Registration Number: (NOT AVAILABLE)

Mark

TEN MILE

(words only): TEN MILE

Standard Character claim: Yes

Current Status: Newly filed application, not yet assigned to an examining attorney.

Date of Status: 2005-12-29

Filing Date: 2005-12-22

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 011 -Initial Review/Serialization Branch(Mailroom)

Date In Location: 2005-12-29

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Unfiltered Napa LLC

Address:

Unfiltered Napa LLC

5012 Silverado Trail

Napa, CA 94558

United States

Legal Entity Type: Ltd Liab Co

State or Country Where Organized: California

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

Wine

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2006-01-03 - New Application Entered In Tram

CORRESPONDENCE INFORMATION

Correspondent

Jennifer H. Hamilton (Attorney of record)

JENNIFER H. HAMILTON
THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

Phone Number: (818) 488-8141

Fax Number: (818) 332-5205

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:54:34 ET

Serial Number: 78623240

Registration Number: (NOT AVAILABLE)

Mark

THOUSAND FOOT

(words only): THOUSAND FOOT

Standard Character claim: Yes

Current Status: Opposition period completed, a Notice of Allowance has been issued.

Date of Status: 2006-04-11

Filing Date: 2005-05-04

The Notice of Allowance Date is: 2006-04-11

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 115

Attorney Assigned:
COLLINS ALICIA Employee Location

Current Location: 700 -Intent To Use Section

Date In Location: 2006-04-11

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Unfiltered Napa LLC

Address:

Unfiltered Napa LLC
5012 Silverado Trail
Napa, CA 94558
United States

Legal Entity Type: Ltd Liab Jt St Co

State or Country Where Organized: California

Phone Number: (818) 488-8141

Fax Number: (818) 332-4205

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:56:00 ET

Serial Number: 78348475

Registration Number: 3007885

Mark

SEVEN SINNERS

(words only): SEVEN SINNERS

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2005-10-18

Filing Date: 2004-01-06

Transformed into a National Application: No

Registration Date: 2005-10-18

Register: Principal

Law Office Assigned: LAW OFFICE 114

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2005-09-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Unfiltered Napa LLC

Address:

Unfiltered Napa LLC

5012 Silverado Trail

Napa, CA 94558

United States

Legal Entity Type: Ltd Liab Jt St Co

State or Country Where Organized: California

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

Wine

Basis: 1(a)

First Use Date: 2004-01-31

First Use in Commerce Date: 2004-03-16

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2006-04-17 - TEAS Change of Correspondence Received

2005-10-18 - Registered - Principal Register

2005-09-06 - Law Office Registration Review Completed

2005-09-02 - Assigned To LIE

2005-09-01 - Allowed for Registration - Principal Register (SOU accepted)

2005-08-16 - Statement of use processing complete

2005-08-04 - Amendment to Use filed

2005-08-04 - TEAS Statement of Use Received

2005-07-19 - Notice of allowance - mailed

2005-06-01 - Extension Of Time To Oppose Process - Terminated

2004-11-30 - Extension Of Time To Oppose Received

2004-11-02 - Published for opposition

2004-10-13 - Notice of publication

2004-09-02 - Law Office Publication Review Completed

2004-08-23 - Assigned To LIE

2004-08-10 - Approved for Pub - Principal Register (Initial exam)

2004-07-26 - Combined Examiner's Amendment/Priority Action Entered

2004-07-27 - Examiner's Amendment Entered

2004-07-26 - Examiners amendment e-mailed

2004-07-22 - Case file assigned to examining attorney

2004-01-12 - New Application Entered In Tram

CORRESPONDENCE INFORMATION

Correspondent

Jennifer Hammond (Attorney of record)

Jennifer H. Hamilton
The Eclipse Group LLP
10605 Balboa Blvd., Suite 300
Granada Hills CA 91344

Phone Number: (818) 488-8141

Fax Number: (818) 332-4205

EXHIBIT 9

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 12:58:41 ET

Serial Number: 74651912

Registration Number: 1966650

Mark (words only): L'ECOLE NO 41

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2005-08-11

Filing Date: 1995-03-27

Transformed into a National Application: No

Registration Date: 1996-04-09

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2005-08-11

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Lowden Schoolhouse Corporation

Address:

Lowden Schoolhouse Corporation
41 Lowden School Road, P.O. Box 111
Lowden, WA 99360
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Washington

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

wine

Basis: 1(a)

First Use Date: 1985-08-16

First Use in Commerce Date: 1990-03-05

ADDITIONAL INFORMATION

Translation: The English translation of "L'ECOLE" is "school".

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-08-11 - First renewal 10 year
2005-08-11 - Section 8 (10-year) accepted/ Section 9 granted
2005-05-04 - Combined Section 8 (10-year)/Section 9 filed
2005-08-09 - Assigned To Paralegal
2005-05-04 - TEAS Section 8 & 9 Received
2003-06-06 - TEAS Change of Correspondence Received
2002-10-15 - TEAS Change of Correspondence Received
2001-07-12 - Section 8 (6-year) accepted & Section 15 acknowledged
2001-05-14 - Section 8 (6-year) and Section 15 Filed
1996-04-09 - Registered - Principal Register
1996-01-16 - Published for opposition
1995-12-15 - Notice of publication
1995-10-30 - Approved for Pub - Principal Register (Initial exam)
1995-10-23 - Examiner's amendment mailed
1995-10-17 - Case file assigned to examining attorney
1995-07-17 - Communication received from applicant

CORRESPONDENCE INFORMATION

Correspondent

ROBERT C. CUMBOW (Attorney of record)

ROBERT C. CUMBOW
GRAHAM & DUNN PC
2801 ALASKAN WAY, SUITE 300 - PIER 70
SEATTLE WA 981211128

Phone Number: 206-340-9597

Fax Number: 206-374-2205

EXHIBIT 10

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-05-30 13:00:08 ET

Serial Number: 78458716

Registration Number: (NOT AVAILABLE)

Mark

TWENTY ROWS

(words only): TWENTY ROWS

Standard Character claim: Yes

Current Status: An opposition is now pending at the Trademark Trial and Appeal Board.

Date of Status: 2005-12-22

Filing Date: 2004-07-29

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 108

Attorney Assigned:
GEORGE DAHLIA AMELIA Employee Location

Current Location: 650 -Publication And Issue Section

Date In Location: 2005-09-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Twenty Rows LLC

Address:

Twenty Rows LLC
1100 Wall Road
Napa, CA 94558
United States

Legal Entity Type: Ltd Liab Co

State or Country Where Organized: California

Phone Number: 707-944-8569

Fax Number: 707-944-0145

GOODS AND/OR SERVICES

International Class: 033

Class Status: Active

Wine

Basis: 1(a)

First Use Date: 2004-03-01

First Use in Commerce Date: 2004-06-01

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-12-22 - Opposition instituted for Proceeding

2005-12-07 - Attorney Revoked And/Or Appointed

2005-12-07 - TEAS Revoke/Appoint Attorney Received

2005-11-21 - Extension Of Time To Oppose Received

2005-10-25 - Published for opposition

2005-10-05 - Notice of publication

2005-07-08 - Law Office Publication Review Completed

2005-07-07 - Assigned To LIE

2005-06-30 - Approved for Pub - Principal Register (Initial exam)

2005-06-30 - Case file assigned to examining attorney

2005-06-15 - Previous allowance count withdrawn

2005-06-10 - Withdrawn Before Publication

2005-03-31 - Law Office Publication Review Completed

2005-03-11 - Assigned To LIE

2005-03-04 - Approved for Pub - Principal Register (Initial exam)

2005-03-04 - Examiners amendment e-mailed

2005-03-04 - Examiners Amendment - Written

2005-03-03 - Case file assigned to examining attorney

2004-08-09 - New Application Entered In Tram

CORRESPONDENCE INFORMATION

Correspondent

Marcy J. Bergman (Attorney of record)

MARCY J. BERGMAN
COOPER, WHITE AND COOPER LLP
201 CALIFORNIA STREET, SUITE 1700
SAN FRANCISCO, CA 94111

Phone Number: (415) 433-1900

Fax Number: (415) 433-5530

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

In The Matter of Application Serial No. 78/458,716
 Filed on: July 29, 2004
 For the Mark: TWENTY ROWS
 Published in the *Official Gazette (Trademarks)* on October 25, 2005

UNFILTERED NAPA LLC

Opposer,

v.

TWENTY ROWS LLC

Applicant.

Opposition No. 91168224

**TWENTY ROWS LLC'S
 OBJECTIONS TO EVIDENCE
 SUBMITTED IN SUPPORT OF
 UNFILTERED NAPA LLC'S
 MOTION FOR SUMMARY
 JUDGMENT**

Applicant Twenty Rows LLC ("Applicant" or "Twenty Rows") hereby objects to the following evidence presented by Opposer Unfiltered Napa LLC ("Opposer" or "Unfiltered") in support of its motion for summary judgment before the Board:

- (1) Declaration of Katherine Strange, dated May 1, 2006, pages 1-2, paragraphs 3 and 4.

Twenty Rows objects to this evidence on the ground that it impermissibly seeks to introduce inadmissible hearsay and the state of mind of third parties other than the declarant. FRE 802; *Ga.-Pac. Corp. v. Great Plains Bag Co.*, 614 F.2d 757, 204 U.S.P.Q. 697, 701 (C.C.P.A. 1980); *Nora Beverages v. Perrier Group*, 269 F.3d 114, 124, 60 U.S.P.Q.2d 1038, 1044 (2d Cir. 2001); *Ocean Bio-Chem., Inc. v. Turner Network Television, Inc.*, 741 F.Supp. 1546, 1559, 16 U.S.P.Q.2d 1264, 1272 and n.7 (S.D. Fla. 1990); *Programmed Tax Sys., Inc. v. Raytheon Co.*, 439 F.Supp. 1128, 1131 n. 1, 197 U.S.P.Q. 509, 510 n.1 (S.D.N.Y. 1977) (state of

mind exception unavailable for out-of-court declarant statement to the witness about "the state of someone else's mind.").

Twenty Rows further objects to this evidence on the ground that it is entirely speculative and as such is irrelevant. And even if assumed relevant, its probative value is far outweighed by the prejudicial effect it might have. FRE 401, 402, and 403; *Toys "R" Us, Inc. v. Lamps R Us*, 219 U.S.P.Q. 340, 346 (T.T.A.B. 1983) (actual confusion "is too important to be established by means of an inference, unsupported by corroborating evidence.").

(2) Declaration of Denise Johnson, dated April 21, 2006, page 1, paragraph 3.

Twenty Rows objects to this evidence on the ground that it impermissibly seeks to introduce inadmissible hearsay and the state of mind of third parties other than the declarant. FRE 802; *Ga.-Pac. Corp. v. Great Plains Bag Co.*, 614 F.2d 757, 204 U.S.P.Q. 697, 701 (C.C.P.A. 1980); *Nora Beverages v. Perrier Group*, 269 F.3d 114, 124, 60 U.S.P.Q.2d 1038, 1044 (2d Cir. 2001); *Ocean Bio-Chem., Inc. v. Turner Network Television, Inc.*, 741 F.Supp. 1546, 1559, 16 U.S.P.Q.2d 1264, 1272 and n.7 (S.D. Fla. 1990); *Programmed Tax Sys., Inc. v. Raytheon Co.*, 439 F.Supp. 1128, 1131 n. 1, 197 U.S.P.Q. 509, 510 n.1 (S.D.N.Y. 1977) (state of mind exception unavailable for out-of-court declarant statement to the witness about "the state of someone else's mind.").

Twenty Rows further objects to this evidence on the ground that it is entirely speculative and as such is irrelevant. And even if assumed relevant, its probative value is far outweighed by the prejudicial effect it might have. FRE 401, 402, and 403; *Toys "R" Us, Inc. v. Lamps R Us*, 219 U.S.P.Q. 340, 346 (T.T.A.B. 1983) (actual confusion "is too important to be established by means of an inference, unsupported by corroborating evidence.").

(3) Declaration of James Harder, dated April 30, 2006,¹ pages 1-2, paragraphs 2-4.²


Twenty Rows objects to this evidence on the ground that it impermissibly seeks to introduce inadmissible hearsay and the state of mind of third parties other than the declarant. FRE 802; *Ga.-Pac. Corp. v. Great Plains Bag Co.*, 614 F.2d 757, 204 U.S.P.Q. 697, 701 (C.C.P.A. 1980); *Nora Beverages v. Perrier Group*, 269 F.3d 114, 124, 60 U.S.P.Q.2d 1038, 1044 (2d Cir. 2001); *Ocean Bio-Chem., Inc. v. Turner Network Television, Inc.*, 741 F.Supp. 1546, 1559, 16 U.S.P.Q.2d 1264, 1272 and n.7 (S.D. Fla. 1990); *Programmed Tax Sys., Inc. v. Raytheon Co.*, 439 F.Supp. 1128, 1131 n. 1, 197 U.S.P.Q. 509, 510 n.1 (S.D.N.Y. 1977) (state of mind exception unavailable for out-of-court declarant statement to the witness about "the state of someone else's mind.").

Twenty Rows further objects to this evidence on the ground that it is entirely speculative and as such is irrelevant. And even if assumed relevant, its probative value is far outweighed by the prejudicial effect it might have. FRE 401, 402, and 403; *Toys "R" Us, Inc. v. Lamps R Us*, 219 U.S.P.Q. 340, 346 (T.T.A.B. 1983) (actual confusion "is too important to be established by means of an inference, unsupported by corroborating evidence.").

DATED: June 2, 2006

Respectfully submitted,

COOPER, WHITE & COOPER LLP

By: 
Marcy J. Bergman
Attorneys for Twenty Rows LLC

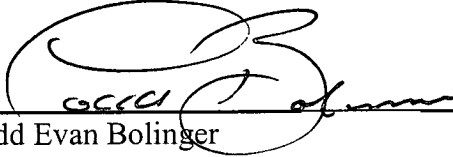
¹ This declaration is actually dated April 30, 2005. However, the events its purportedly describes all allegedly occurred after that date, ranging from December 2005 to April 2006. Therefore, Twenty Rows assumes that the declaration was inadvertently misdated.

² This declaration has two paragraphs numbered "4." Twenty Rows objects to the evidence in both of those paragraphs.

ORIGINAL

Certificate of Mailing By United States First Class Mail

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as U.S. First Class Mail in an envelope addressed to Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria VA 22313-1451, on June 20, 2006.



Todd Evan Bolinger
Trademark Legal Assistant

Dated: June 20, 2006

CERTIFICATE OF SERVICE ON COUNSEL FOR OPPOSER

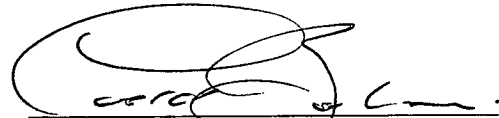
It is hereby certified that on June 20, 2006, a copy of the foregoing **TWENTY ROWS LLC'S OPPOSITION TO UNFILTERED NAPA LLC'S MOTION FOR SUMMARY JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF TWENTY ROWS LLC'S OPPOSITION TO UNFILTERED NAPA LLC'S MOTION FOR SUMMARY JUDGMENT; TWENTY ROWS LLC'S OBJECTIONS TO EVIDENCE SUBMITTED IN SUPPORT OF UNFILTERED NAPA LLC'S MOTION FOR SUMMARY JUDGMENT; DECLARATION OF DIDIER LOUSTAU IN SUPPORT OF TWENTY ROWS LLC'S OPPOSITION TO UNFILTERED NAPA LLC'S MOTION FOR SUMMARY JUDGMENT; DECLARATION OF DIANE C. HARDER IN SUPPORT OF TWENTY ROWS LLC'S OPPOSITION TO UNFILTERED NAPA LLC'S MOTION FOR SUMMARY JUDGMENT; DECLARATION OF BRIAN NUSS IN SUPPORT OF TWENTY ROWS LLC'S OPPOSITION TO UNFILTERED NAPA LLC'S MOTION FOR SUMMARY JUDGMENT; DECLARATION OF JAMES DISTEFANO IN SUPPORT OF TWENTY ROWS LLC'S OPPOSITION TO UNFILTERED NAPA LLC'S MOTION FOR SUMMARY JUDGMENT; DECLARATION OF MARCY J. BERGMAN IN SUPPORT OF TWENTY ROWS LLC'S OPPOSITION TO UNFILTERED NAPA LLC'S MOTION FOR SUMMARY JUDGMENT** has been served on

TWENTY ROWS LLC'S OPPOSITION TO UNFILTERED NAPA LLC'S MOTION FOR SUMMARY JUDGMENT IN RE OPPOSITION NO. 91168224

the attorneys for Opposer by Express Mail Receipt No. EV203837439US, postage prepaid, to their last known address of record:

Jennifer H. Hamilton
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Dated: June 20, 2006



Todd Evan Bolinger

SF:542027.1/14165-32501

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