

ESTTA Tracking number: **ESTTA154283**

Filing date: **08/01/2007**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Fransican Vineyards, Inc.
Granted to Date of previous extension	08/01/2007
Address	1178 GALLERON ROAD ST. HELENA, CA 94574 UNITED STATES
Attorney information	Stephen L. Baker Baker and Rannells PA 575 Route 28 Suite 102 Raritan, NJ 08869 UNITED STATES officeactions@br-tmlaw.com,K.Hnasko@br-tmlaw.com,r.mcgonigle@br-tmlaw.com

Applicant Information

Application No	78783236	Publication date	04/03/2007
Opposition Filing Date	08/01/2007	Opposition Period Ends	08/01/2007
Applicant	Domaines Pinnacle, Inc. 150 Richford Road Frelighsburg, JOL 1C0 CANADA		

Goods/Services Affected by Opposition

Class 032. All goods and services in the class are opposed, namely: Apple juices and apple-based non-alcoholic beverages

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Applicant lacks requisite intent to use the mark in commerce as described in the application.

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	997378	Application Date	11/20/1973
Registration Date	11/05/1974	Foreign Priority Date	NONE

Word Mark	PINNACLES
Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1971/05/12 First Use In Commerce: 1971/05/12 WINE

Attachments	NOOP_DomainePinnacle.pdf (4 pages)(341052 bytes) ExA_DomainePinnacleNOOP.pdf (1 page)(956051 bytes)
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Signature	/Ryan A. McGonigle/
Name	Ryan A. McGonigle
Date	08/01/2007

Goods intended to be offered under its alleged mark DOMAINE PINNACLE AND DESIGN.

3. Opposer is now and has been, for many years prior to any date which may be claimed by Applicant, engaged in the use Opposer's Mark for wine and goods and services related thereto.

4. Opposer is now and has been, for many years prior to any date which may be claimed by Applicant, engaged in the sale of a wide variety of wine and goods and services related thereto under Opposer's Mark.

5. Since long prior to any date which may be claimed by Applicant, Opposer on its own behalf has been, and is now engaged in the sale of the goods identified in paragraphs 3 and 4 hereinabove under the Opposer's Mark in interstate commerce.

6. Opposer is the owner of, inter alia, the following U.S. trademark registration(s), all of which are in good order, and in the name of and owned by the Opposer.

MARK	Registration No.	Goods
PINNACLES*	0997378	Wine

* denotes an incontestable registration

7. The use by Opposer of the Opposer's Mark for the Opposer's goods and services alleged herein, is long prior to any date which may be lawfully claimed by Applicant, and Opposer has priority.

8. Upon information and belief, Applicant intends to distribute and sell its goods through the same channels of trade as Opposer, and direct its respective goods to the same ultimate consumer as Opposer.

9. The Opposer's Mark and Applicant's DOMAINE PINNACLE AND DESIGN mark are confusingly similar when applied to the goods of the parties.

10. The goods of Applicant and Opposer are substantially related in part and generally related in part, and Applicant's intended use of DOMAINE PINNACLE AND DESIGN in connection with its goods is without the consent or permission of Opposer.

11. Since Opposer owns the Opposer's Mark by virtue of prior use, mistake or deception as to the source of origin of the goods will arise and will injure and damage the Opposer and its goodwill.

As for a First Cause of Action

12. The registration of the mark DOMAINE PINNACLE AND DESIGN to Applicant will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Applicant's goods are made by, licensed by, controlled by, sponsored by, or in some way connected, related or associated with Opposer, all to Opposer's irreparable damage.

As for a Second Cause of Action

13. Upon information and belief, Applicant also lacks the requisite intent to use the mark DOMAINE PINNACLE AND DESIGN in commerce for the goods claimed in the application, namely: Apple juices and apple-based non-alcoholic beverages.

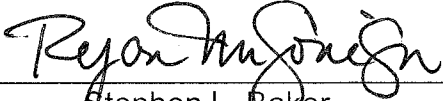
14. Upon information and belief, Applicant's business is limited to the manufacture and sale of alcoholic beverages derived from apples. On its website, no non-alcoholic apple juices or apple-based beverages are mentioned and/or available for sale. See <http://www.icecider.com/us/products.html> (visited August 1, 2007), annexed hereto as Exhibit "A".

15. Opposer believes that it is and will be damaged by registration of the mark applied by Applicant.

WHEREFORE, Opposer prays that the application for registration of DOMAINE PINNACLE AND DESIGN, Serial No. 78783236, filed on December 30, 2005, be denied and that this Opposition be sustained.

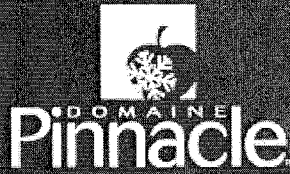
Respectfully submitted for Opposer
Franciscan Vineyards, Inc.

By:



~~Stephen L. Baker~~
Ryan A. McGonigle
BAKER & RANNELLS, PA
575 Route 28, Suite 102
Raritan, NJ 08869
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Dated: August 1, 2007



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Pinnacle

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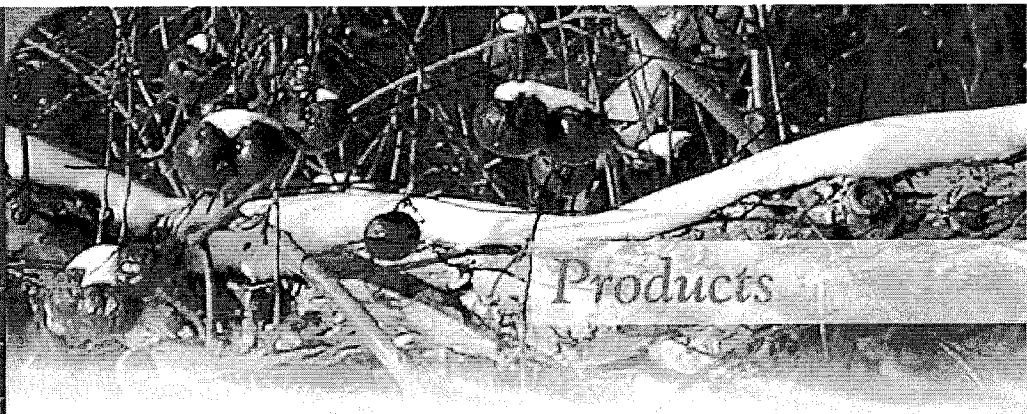
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CAMUS



Award-winning and critically-acclaimed, Pinnacle Ice Apple Wine is produced from a select blend of hand-picked apples, harvested after frost and extracted naturally over the winter months. The unique combination of ideal summer growing conditions and cold Canadian winters create a product like nothing else you have ever tasted!

Rich, golden and full-bodied in the glass, our Ice Apple Wine has an appealing mellow flavor and clean, distinct taste of apples that builds from its smooth, velvety start to its well-balanced, long-lasting finish.

Domaine Pinnacle Ice Apple Wine

Characteristics

- Stunning richness... over 80 apples used to produce each bottle!
- Incredible complexity... made from a blend of 6 varieties of apples
- Exceptionally balanced... fresh apple taste with sweet, smooth finish
- All natural... no additives whatsoever

Service

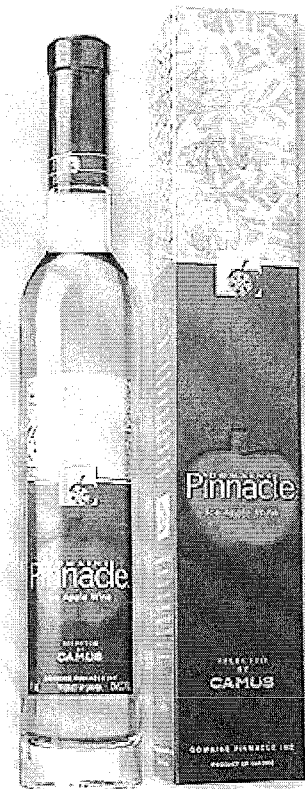
Due to product complexity, can be served on its own or as an exceptional complement to a variety of foods...

- as an apéritif
- with pâtés, game or poultry
- with spicy dishes
- with fine cheeses, particularly blue, goat, aged cheddar and brie
- with desserts, including of course, many apple-based classics
- on its own, as a digestif, to end a perfect meal!

For more service ideas, refer to our [Recipes](#) section.

375 ml. 12.5% Alc./Vol.
SERVE WELL CHILLED (40-45°F)

[Click here for printable Product Spec Sheet \(PDF file\).](#)



Domaine Pinnacle
Products Are
Certified Kosher



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