

ESTTA Tracking number: **ESTTA383183**

Filing date: **12/10/2010**

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

Proceeding	91190642
Party	Defendant ASV Wines, Inc.
Correspondence Address	ANNE HIARING HOCKING HIARING + SMITH 101 LUCAS VALLEY ROAD, SUITE 300 SAN RAFAEL, CA 94903 UNITED STATES info@hiaringsmith.com
Submission	Other Motions/Papers
Filer's Name	Anne Hiaring Hocking
Filer's e-mail	anne@hiaringsmith.com, vijay@hiaringsmith.com, kristin@hiaringsmith.com
Signature	/anne hiaring hocking/
Date	12/10/2010
Attachments	AHH Decl 121010 w-Slip Sheet 1.pdf (6 pages)(449268 bytes) Ex. A.pdf (10 pages)(332013 bytes) Ex. B-1.pdf (21 pages)(523348 bytes) Ex. B-2.pdf (33 pages)(1229868 bytes) Ex. B-3.pdf (6 pages)(332560 bytes) Ex. B-4.pdf (3 pages)(131536 bytes) Ex. C-1.pdf (18 pages)(598148 bytes) Ex. C-2.pdf (4 pages)(155377 bytes) Ex. C-3.pdf (4 pages)(151342 bytes) Ex. C-4.pdf (3 pages)(121286 bytes)

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

Constellation Wines U.S., Inc. v. ASV Wines, Inc.
Opposition No. 91190642
Serial No.: 77/630,676

Anne Hiaring Hocking, Esq.
Hiaring + Smith, LLP
101 Lucas Valley Road, Suite 300
San Rafael, CA 94903
(415) 457-2040
info@hiaringsmith.com

**DECLARATION OF ANNE HIARING HOCKING, ESQ. IN SUPPORT OF
APPLICANT ASV WINES, INC.'S MOTION FOR SANCTIONS AND ENTRY OF
JUDGMENT OR, IN THE ALTERNATIVE, MOTION TO COMPEL
COMPLIANCE WITH DISCOVERY AND TEST SUFFICIENCY OF
RESPONSES TO ADMISSION REQUESTS (37 C.F.R. §§ 2.120(e), (g)-(h))**

PART 1 OF 3

This filing submission contains:

- 1. DECLARATION OF ANNE HIARING HOCKING, ESQ.**
- 2. EXHIBITS A to C-4**

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

Constellation Wines U.S., Inc.,)	Opposition No. 91190642
)	Serial No.: 77/630,676
)	
)	DECLARATION OF ANNE
vs.)	HIARING HOCKING, ESQ. IN
)	SUPPORT OF APPLICANT ASV
ASV Wines, Inc.,)	WINES, INC.'S MOTION FOR
)	SANCTIONS AND ENTRY OF
)	JUDGMENT OR, IN THE
Applicant.)	ALTERNATIVE, MOTION TO
)	COMPEL COMPLIANCE WITH
)	DISCOVERY AND TEST
)	SUFFICIENCY OF RESPONSES
)	TO ADMISSION REQUESTS (37
)	C.F.R. §§ 2.120(e), (g)-(h))

**DECLARATION OF ANNE HIARING HOCKING, ESQ. IN SUPPORT OF
APPLICANT'S MOTION FOR SANCTIONS AND ENTRY OF JUDGMENT OR, IN THE
ALTERNATIVE, MOTION TO COMPEL COMPLIANCE WITH DISCOVERY AND
TEST SUFFICIENCY OF RESPONSES TO ADMISSION REQUESTS (37 C.F.R. §§
2.120(e), (g)-(h))**

I, Anne Hiaring Hocking, Esq., declare as follows:

1. I represent and am an attorney of record for Applicant ASV Wines, Inc. ("Applicant" or "ASV") in the above-referenced proceeding. I have personal knowledge of the matters set forth in the Declaration and could testify thereto if called as a witness.
2. Attached as Exhibit A is a true and correct copy of Opposer's Supplemental Responses to Applicant's First Requests for the Production of Documents to Opposer, served November 16, 2010.
3. Attached as Exhibit B are the following true and correct copies of Opposer's responses and supplemental responses to Applicant's First Set of Requests for Production of Documents, excluding Exhibit A referred to in Paragraph 2, above:
 - a. Exhibit B-1 is Opposer's Objections and Responses to Applicant's First Requests for the Production of Documents to Opposer, served September 23, 2009, excluding confidential portions. A separate copy of this

document is being filed under seal and marked as confidential per 37 C.F.R. Sections 2.27(d)-(e), 2.126(c).

- b. Exhibit B-2 is Opposer's Supplemental Responses to Applicant's First Requests for the Production of Documents to Opposer, served July 13, 2010;
- c. Exhibit B-3 is Opposer's Supplemental Objections and Responses to Applicant's First Requests for the Production of Documents to Opposer, served August 30, 2010; and
- d. Exhibit B-4 is Opposer's Second Supplemental Objections and Responses to Applicant's First Requests for Production of Documents to Opposer, served October 14, 2010.

4. Attached as Exhibit C are the following true and correct copies of Opposer's responses and supplemental responses to Applicant's Second Set of Requests for Production of Documents:

- a. Exhibit C-1 is Opposer's Objections and Responses to Applicant's Second Requests for the Production of Documents to Opposer, served July 30, 2010.
- b. Exhibit C-2 is Opposer's Supplemental Objections and Responses to Applicant's Second Requests for the Production of Documents to Opposer, served July 30, 2010.
- c. Exhibit C-3 is Opposer's Second Supplemental Objections and Responses to Applicant's Second Requests for the Production of Documents to Opposer, served October 14, 2010.
- d. Exhibit C-4 is Opposer's Second Requests for the Production of Documents to Opposer, served November 19, 2010.
- e. Exhibit C-5 is Opposer's Supplemental Objections and Responses to Applicant's Second Requests for the Production of Documents to Opposer, served November 30, 2010.

5. Attached as Exhibit D are true and correct copies of the following discovery meet and confer letters exchanged between counsel for Applicant and Opposer concerning the inadequacy of Opposer's discovery responses:

- a. Exhibit D-1 is Applicant's counsel's August 18, 2010 letter to Opposer's counsel;
- b. Exhibit D-2 is Opposer's counsel's August 30, 2010 letter to ASV's counsel regarding the August 18, 2010 letter;
- c. Exhibit D-3 is Applicant's counsel's September 22, 2010 letter to Opposer's counsel again addressing the inadequacy of Opposer's discovery responses; and
- d. Exhibit D-4 is the October 15, 2010 letter from Opposer's counsel to Applicant's counsel responding to the September 22, 2010 letter; and
- e. Exhibit D-5 is Applicant's counsel's December 1, 2010 letter to Opposer's counsel concerning Applicant's efforts to reach an amicable resolution of the discovery disputes.

6. Attached as Exhibit E is a true and correct copy of Opposer's First Set of Requests for the Production of Documents and Things to Applicant, served November 30, 2009.

7. Attached as Exhibit F is a true and correct copy of correspondence dated July 12, 2010 received by Applicant's counsel from Opposer's counsel concerning Applicant's Service of Process and Subpoena to Testify at a Deposition in Civil Action to Peak Wines International, Inc.

8. Attached as Exhibit G are true and correct copies of page nos. 8:23-10:1 and Exhibit 1 from the Deposition of Kenneth Volk taken on July 14, 2010.

9. Attached as Exhibit H is a true and correct copy of Opposer's Objections and Responses to Applicant's Third Set of Requests for Admissions to Opposer, served July 30, 2010.

10. Attached as Exhibit I is a true and correct copy of Opposer's Response to Applicant's Second Set of Interrogatories to Opposer, served June 11, 2010.

11. Attached as Exhibit J is a true and correct copy of Opposer's Notice of Opposition (as amended) dated September 3, 2009.

12. Attached as Exhibit K are true and correct copies of Opposer's documents that Applicant believes are responsive to its discovery requests with an accompanying chart for reference purposes only created by Applicant's counsel, excluding confidential portions. A separate set of documents marked as confidential is being filed contemporaneously under seal per 37 C.F.R. Sections 2.27(d)-(e), 2.126(c).

13. Attached as Exhibit L is a true and correct copy of Opposer's complete set of documents produced to date, excluding confidential portions. A separate set of documents marked as confidential is being filed contemporaneously under seal per 37 C.F.R. Sections 2.27(d)-(e), 2.126(c).

The undersigned, being warned that willful, false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that the facts set forth in this declaration are true; all statements made of her own knowledge are true; and all statements made on information and belief are believed to be true.

Date: December 10, 2010

By:



Anne Haring Hocking, Esq.

CERTIFICATE OF SERVICE BY UNITED PARCEL SERVICE

This is to certify that one copy of the foregoing **DECLARATION OF ANNE HIARING HOCKING, ESQ. IN SUPPORT OF APPLICANT ASV WINES, INC.'S MOTION FOR SANCTIONS AND ENTRY OF JUDGMENT OR, IN THE ALTERNATIVE, MOTION TO COMPEL COMPLIANCE WITH DISCOVERY AND TEST SUFFICIENCY OF RESPONSES TO ADMISSION REQUESTS (37 C.F.R. §§ 2.120(e), (g)-(h))** was sent via United Parcel Service this day to Opposer's counsel:

Stephen J. Baker, Esq.
Neil Friedman, Esq.
Moirra J. Selenka, Esq.
Baker and Rannells, PA
575 Route 28, Suite 102
Raritan, NJ 08869
Tel: (908) 722-5640
Fax: (908) 725-7088
Email: s.baker@br-tmlaw.com
n.friedman@br-tmlaw.com
m.selinka@br-tmlaw.com

Attorneys for Opposer

Dated: December 10, 2010

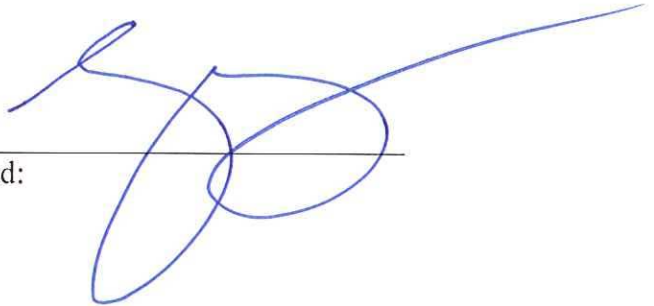
Signed: 

EXHIBIT A

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

CONSTELLATION WINES U.S., INC.

Opposition No. 91190642

Opposer,

Mark: PAINTED HORSE &
DESIGN

v.

Serial No. 77/630,676

ASV WINES, INC.

Applicant.

**OPPOSER'S SUPPLEMENTAL RESPONSES TO APPLICANT'S FIRST REQUESTS
FOR THE PRODUCTION OF DOCUMENTS TO OPPOSER**

Opposer, Constellation Wines U.S., Inc. ("Opposer"), in accordance with the Board's Order dated October 18, 2010, hereby provides its fourth set of supplemental responses to the First Requests for Production of Documents, specifically with regard to Nos. 7, 9, and 11-17 served by Applicant, ASV Wines, Inc. ("Applicant") as follows:

GENERAL OBJECTIONS

1. This fourth supplemental response adopts all of the general objections incorporated in Opposer's Objections and Responses to Applicant's First and Second Requests for the Production of Documents and all Supplemental Responses thereto.

REQUESTS

Request No. 1

Representative samples of each actual use of the Applicant's Mark on wines, including on the bottles and on boxes in which wine is shipped.

Response:

Opposer objects to this request on the grounds that Opposer should not have to produce to Applicant Applicant's own labels and packaging. Opposer has not, nor has ever had, possession of the boxes in which Applicant's wine is shipped.

Request No. 2

All uses of Applicant's Mark on collateral material, including advertising, price lists, websites, shelf talkers, and promotional materials including such items as t-shirts, hats, wine openers, wine glasses.

Response:

Opposer objects to this request on the grounds that it is impossible to answer as Opposer does not have Applicant's collateral material.

Request No. 3

All documents concerning any action undertaken by Opposer to enforce its rights in Opposer's Mark in any court, including the TTAB.

Response:

None.

Supplemental Response: The only documents in possession of Opposer are those filed for Cancellation No. 92049187 which are accessible online at the TTAB.

Request No. 4

All documents concerning any enforcement action by a third party brought against Opposer's Mark in any court, including the TTAB.

Response:

Opposer is not aware whether any such documents exist.

Request No. 5

All documents concerning the circumstances under which Opposer first learned or became aware of Applicant's use of Applicant's Mark.

Response: Opposer is not aware that Applicant had begun use of its mark.

Request No. 6

All documents that refer or relate to the actual date of first use in commerce of Opposer's Mark.

Response:

Opposer's Mark was adopted years prior to acquisition of the mark by Opposer and Opposer is not currently aware of the existence of any documents relating to the date of first use in commerce.

Supplemental Response: Opposer hereby provides responsive documents at Bates numbers 000966-000985.

Request No. 7

All documents that evidence continuous use in commerce Opposer's mark on Opposer's Goods.

Response:

Opposer objects to this request on the grounds that it is unintelligible.

Supplemental Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the foregoing objection and each and every General Objection, Opposer provided representative examples. See Bates Nos. 986-988 which are deemed TRADE SECRET/COMMERCIALY SENSITIVE.

Request No. 8

All advertisements that refer or relate to each of the products offered under Opposer's Mark.

Response:

Opposer objects to this request as unduly burdensome. Notwithstanding the foregoing objection and each and every General Objection, representative samples will be provided for inspection at the place where such documents are typically kept.

Supplemental Response: Attached at Ex. C are representative examples of advertising for the products offered under Opposer's Mark.

Request No. 9

All promotional materials, such as catalogues, posters, brochures, flyers, sales sheets or price lists, that have been used to promote Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Supplemental Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the foregoing objection and each and every General Objection, Opposer states that it has already provided the requested information on July 19, 2010 in response to Applicant's subpoena duces tecum to Christine Lilienthal. In addition, Opposer provided additional responsive documents. See Bates Nos. 28-704 and 707-730.

Request No. 10

Documents sufficient to evidence Opposer's advertising or promotional expenditures for every product offered under Opposer's Mark.

Response:

Opposer objects to this request on the grounds that it seeks documents that contain confidential business information. Without waiver of and subject to the above objections and each and every General Objection, Opposer states that representative non-privileged documents will be made available for inspection and copying at the place where such documents are typically kept, upon Applicant making suitable and reasonable arrangements with Opposer's attorneys subject to the Standard Protective Order.

Supplemental Response:

Opposer objects to this request on the grounds that it seeks documents that contain confidential business information. Without waiver of and subject to the above objections and each and every General Objection, Opposer provided responsive documents at Bates Nos. 986-987 which are deemed TRADE SECRET/COMMERCIALY SENSITIVE.

Request No. 11

Documents sufficient to identify the channels of trade through which Opposer's Goods are sold.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Supplemental Response:

Opposer states that it has already provided the requested information on July 19, 2010 in response to Applicant's subpoena duces tecum to Christine Lilienthal. In addition, Opposer provided additional representative examples for the channels of trade. See Bates Nos. 28-704 and 738-764.

Request No. 12

All documents sufficient to identify the retail store customers for Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Supplemental Response:

Opposer objects to this request on the grounds that the names of customers constitute confidential information and are not discoverable (See TBMP 414(3) and *Johnston Pump/General Valve Inc. v. Chromalloy American Corp.*, 10 USPQ2d 1671, 1675 (TTAB 1988).

Request No. 13

All documents sufficient to identify the distributors of Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Supplemental Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the foregoing objection and each and every General Objection, the response to this document request is deemed HIGHLY CONFIDENTIAL subject to the protective order for such information and has been provided in Opposer's previously-served, supplemental response. See Bates Nos. 949-960. In addition, Opposer notes that Michigan, New Hampshire, Pennsylvania, Utah and Wyoming are Control states where sales are through state-owned liquor stores.

Request No. 14

All documents concerning any actual or intended licensing or assignment arrangement between Opposer and any person concerning Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Supplemental Response:

Opposer is unaware of any such agreements.

Request No. 15

All documents concerning any mention by the media in the United States of Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Supplemental Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the above objections and each and every General Objection, Opposer provided representative samples of responsive documents. See Bates Nos. 765-943.

Request No. 16

All documents concerning consumers' awareness of or perceptions concerning the products and services offered under Opposer's Goods, including but not limited to consumer research, studies, surveys, focus groups or other market research concerning the sale or marketing of any product or service offered under Opposer's Mark.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods and does not offer any products or services under goods.

Supplemental Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the above objections and each and every General Objection, Opposer states that it is not aware of any such documents at this time.

Request No. 17

All documents that set forth, refer or relate to any actual or potential confusion or likelihood of confusion between Opposer's Goods and Applicant's Goods including but not limited to all documents concerning letters or other communications from actual or potential consumers evidencing actual or potential confusion or likelihood of confusion.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Supplemental Response:

Opposer hereby provides a copy of Applicant's voluntary surrender of its registration submitted in connection with Cancellation No. 92049187. See Bates No. 944.

Request No. 18

All documents that refer or relate to any use by any affiliated companies of Opposer's Mark.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant means by the term "affiliated."

Request No. 19

Documents sufficient to show Opposer's corporate structure and identify Opposer's officers, directors and managers, and related companies.

Response:

Opposer objects to this request on the grounds that it is overbroad and requests confidential information as Opposer is not a public company. Without waiver of the foregoing objection and each and every general objection Opposer attaches at Exhibit A a copy of the Corporation Organization chart for Constellation Wines U.S., Inc. marked "Attorneys Eyes Only" as well as a list of Constellation Wines U.S., Inc. officers marked "Attorneys Eyes Only."

Request No. 20

Documents that evidence each owner of Wild Horse Winery.

Response: Opposer is unaware of any legal entity know as Wild Horse Winery.

Request No. 21

Documents that evidence the sale of assets of Wild Horse Winery.

Response:

Opposer is unaware of any legal entity know as Wild Horse Winery.

Request No. 22

Documents that evidence transfer of trademark rights to Opposer from its predecessor in interest.

Response:

Opposer objects to this request as unintelligible. Opposer does not know which trademark rights Applicant is referring to.

Request No. 23

Document that evidence transfer of trademark rights from the original owner of rights in Opposer's Mark to each successive owner, including to Opposer.

Response:

Opposer objects to this request as being unduly burdensome. Opposer is under no obligation to produce documents evidencing transfer of trademark rights other than a transfer to itself. Subject to the foregoing objection and each and every General Objection, Opposer hereby produces at Exhibit B a copy of the merger document of Peak Wines International, Inc. into Constellation Wines U.S., Inc. whereby Opposer obtained its rights to Opposer's Mark.

Request No. 24

Documents in Opposer's possession that evidence all third-party use of a horse design on wines.

Response:

No such documents exist at this time.

Request No. 25

All documents identified in the accompanying Applicant's First Set of Interrogatories to Opposer or which support the answer to any such interrogatory.

Response:

None.

Dated: November 16, 2010

BAKER AND RANNELLS, PA

By: 

Stephen L. Baker

Moirra J. Selinka

Attorneys for Opposer

575 Route 28, Suite 102

Raritan, New Jersey 08869

(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Opposer's Supplemental Responses to Applicant's First Request for Production of Documents** in re: Constellation Wines U.S., Inc. v. ASV Wines, Inc., Opposition No. 91190642 was forwarded by first class, postage pre-paid mail by depositing the same with the U.S. Postal Service on this 16th day of November, 2010 to the attorneys for the Applicant at the following address:

Anne Hiaring Hocking, Esq.
Hiaring & Smith, LLP
101 Lucas Valley Road, Suite 300
San Rafael, CA 94903



Moira J. Selinka

EXHIBIT B-1

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

CONSTELLATION WINES U.S., INC.

Opposition No. 91190642

Opposer,

Mark: PAINTED HORSE &
DESIGN

v.

Serial No. 77/630,676

ASV WINES, INC.

Applicant.

**OPPOSER'S OBJECTIONS AND RESPONSES TO APPLICANT'S FIRST REQUESTS
FOR THE PRODUCTION OF DOCUMENTS TO OPPOSER**

Opposer, Constellation Wines U.S., Inc. ("Opposer"), responds to the First Requests for Production of Documents served by Applicant, ASV Wines, Inc. ("Applicant") as follows:

GENERAL OBJECTIONS

1. The following general objections are incorporated by reference in Opposer's response to each and every request for production of documents and things set forth below.
2. The specific responses set forth below are for the purposes of discovery only, and Opposer neither waives nor intends to waive, but expressly reserves, any and all objections it may have to the relevance, competence, materiality, admission, admissibility or use at trial of any information, documents or writing produced, identified or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such response.

3. Opposer expressly reserves its right to rely, at any time including trial, upon subsequently discovered information or documents or information or documents omitted from the specific responses set forth below as a result of mistake, oversight or inadvertences.
4. The specific responses set forth below are based upon Opposer's interpretation of the language used in the requests for production of documents and things, and Opposer reserves its right to amend or to supplement its responses in the event Applicant asserts an interpretation that differs from Opposer's interpretation.
5. By making these responses, Opposer does not concede it is in possession of any information responsive to any particular request for production of documents and things or that any response given is relevant to this action.
6. Subject to and without waiving the general and specific responses and objections set forth herein, Opposer will provide herewith information that Opposer has located and reviewed to date. Opposer will continue to provide responsive information as such is discovered. Opposer's failure to object to a particular document request or willingness to provide responsive information pursuant to a document request is not, and shall not be construed as, an admission of the relevance, or admissibility into evidence, of any such information or documents, nor does it constitute a representation that any such information or documents in fact exist.
7. Because Opposer may not have discovered all the information that is possibly within the scope of the Document Requests, Opposer expressly reserves its right to amend or to supplement these Responses and Objections with any additional information or documents that emerges through discovery or otherwise.
8. Opposer objects to the Document Requests to the extent that they require the production of documents protected from disclosure by the attorney-client privilege, the attorney

work product doctrine, the joint defense privilege or any other applicable privilege or immunities. Opposer responds to the Document Requests on the condition that the inadvertent response regarding information covered or the inadvertent production of a document or documents covered by such privilege, rule or doctrine does not waive any of Opposer's right to assert such privilege, rule or doctrine and the Opposer may withdraw any such response or document inadvertently made or produced as soon as identified.

9. Opposer objects to the Document Requests to the extent that they seek proprietary, sensitive, or confidential documents or commercial information or information made confidential by law or any agreement or that reflects trade secrets. Opposer responds to the Document Requests on the condition that the inadvertent responses or documents regarding any proprietary, sensitive, or confidential information does not waive any of Opposer's rights and that Opposer may withdraw any such response or documents inadvertently made as soon as identified.

10. Opposer objects to the Document Requests to the extent that they seek information that is not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence.

11. Opposer objects to the Document Requests to the extent that they are vague, ambiguous and overbroad and therefore not susceptible to a response as propounded. To the extent that any Request for Documents requires Opposer to produce a sample of each different document used for any particular category, or to produce "all documents", Opposer objects to the same as being overly broad, overly burdensome, and beyond what is required of Opposer under the applicable rules. Accordingly, to the extent that Opposer agrees to make available for

inspection or produce documents in response to any such requests, such production shall be limited to representative documents.

12. Opposer objects to the Document Requests to the extent that they exceed the requirements of the Federal Rules of Civil Procedure or the Trademark Rules of Practice.

13. Opposer objects to the Document Requests to the extent that they require Opposer to undertake any investigation to ascertain information or to obtain documents not presently within its possession, custody or control on the grounds of undue burden and because information from other sources is equally available to Applicant.

14. Opposer objects to the Document Requests to the extent that they require Opposer to undertake such an extensive review that such Document Requests are unduly burdensome and harassing.

15. Opposer's only obligation pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rule 34(b) of the Federal Rules of Civil Procedure is to produce documents where they are normally kept during the normal course of business. For the most part, those documents are kept at its offices in New York and may be inspected and copied where kept upon proper notice at a mutually convenient date and time.

REQUESTS

Request No. 1

Representative samples of each actual use of the Applicant's Mark on wines, including on the bottles and on boxes in which wine is shipped.

Response:

Opposer objects to this request on the grounds that Opposer should not have to produce to Applicant Applicant's own labels and packaging. Opposer has not, nor has ever had, possession of the boxes in which Applicant's wine is shipped.

Request No. 2

All uses of Applicant's Mark on collateral material, including advertising, price lists, websites, shelf talkers, and promotional materials including such items as t-shirts, hats, wine openers, wine glasses.

Response:

Opposer objects to this request on the grounds that it is impossible to answer as Opposer does not have Applicant's collateral material.

Request No. 3

All documents concerning any action undertaken by Opposer to enforce its rights in Opposer's Mark in any court, including the TTAB.

Response:

None.

Request No. 4

All documents concerning any enforcement action by a third party brought against Opposer's Mark in any court, including the TTAB.

Response:

Opposer is not aware whether any such documents exist.

Request No. 5

All documents concerning the circumstances under which Opposer first learned or became aware of Applicant's use of Applicant's Mark.

Response:

Opposer is not aware that Applicant had begun use of its mark.

Request No. 6

All documents that refer or relate to the actual date of first use in commerce of Opposer's Mark.

Response:

Opposer's Mark was adopted years prior to acquisition of the mark by Opposer and Opposer is not currently aware of the existence of any documents relating to the date of first use in commerce.

Request No. 7

All documents that evidence continuous use in commerce Opposer's mark on Opposer's Goods.

Response:

Opposer objects to this request on the grounds that it is unintelligible.

Request No. 8

All advertisements that refer or relate to each of the products offered under Opposer's Mark.

Response:

Opposer objects to this request as unduly burdensome. Notwithstanding the foregoing objection and each and every General Objection, representative samples will be provided for inspection at the place where such documents are typically kept.

Request No. 9

All promotional materials, such as catalogues, posters, brochures, flyers, sales sheets or price lists, that have been used to promote Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 10

Documents sufficient to evidence Opposer's advertising or promotional expenditures for every product offered under Opposer's Mark.

Response:

Opposer objects to this request on the grounds that it seeks documents that contain confidential business information. Without waiver of and subject to the above objections and each and every General Objection, Opposer states that representative non-privileged documents will be made available for inspection and copying at the place where such

documents are typically kept, upon Applicant making suitable and reasonable arrangements with Opposer's attorneys subject to the Standard Protective Order.

Request No. 11

Documents sufficient to identify the channels of trade through which Opposer's Goods are sold.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 12

All documents sufficient to identify the retail store customers for Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 13

All documents sufficient to identify the distributors of Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 14

All documents concerning any actual or intended licensing or assignment arrangement between Opposer and any person concerning Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 15

All documents concerning any mention by the media in the United States of Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 16

All documents concerning consumers' awareness of or perceptions concerning the products and services offered under Opposer's Goods, including but not limited to consumer research, studies, surveys, focus groups or other market research concerning the sale or marketing of any product or service offered under Opposer's Mark.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods and does not offer any products or services under goods.

Request No. 17

All documents that set forth, refer or relate to any actual or potential confusion or likelihood of confusion between Opposer's Goods and Applicant's Goods including but not limited to all documents concerning letters or other communications from actual or potential consumers evidencing actual or potential confusion or likelihood of confusion.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 18

All documents that refer or relate to any use by any affiliated companies of Opposer's Mark.

Response:

Opposer objects to this request as untelligible. Opposer does not know what Applicant means by the term "affiliated."

Request No. 19

Documents sufficient to show Opposer's corporate structure and identify Opposer's officers, directors and managers, and related companies.

Response:

Opposer objects to this request on the grounds that it is overbroad and requests confidential information as Opposer is not a public company. Without waiver of the foregoing objection and each and every general objection Opposer attaches at Exhibit A a copy of the Corporation Organization chart for Constellation Wines U.S., Inc. marked "Attorneys Eyes Only" as well as a list of Constellation Wines U.S., Inc. officers marked "Attorneys Eyes Only."

Request No. 20

Documents that evidence each owner of Wild Horse Winery.

Response:

Opposer is unaware of any legal entity know as Wild Horse Winery.

Request No. 21

Documents that evidence the sale of assets of Wild Horse Winery.

Response:

Opposer is unaware of any legal entity know as Wild Horse Winery.

Request No. 22

Documents that evidence transfer of trademark rights to Opposer from its predecessor in interest.

Response:

Opposer objects to this request as unintelligible. Opposer does not know which trademark rights Applicant is referring to.

Request No. 23

Document that evidence transfer of trademark rights from the original owner of rights in Opposer's Mark to each successive owner, including to Opposer.

Response:

Opposer objects to this request as being unduly burdensome. Opposer is under no obligation to produce documents evidencing transfer of trademark rights other than a transfer to itself. Subject to the foregoing objection and each and every General Objection, Opposer hereby produces at Exhibit B a copy of the merger document of Peak Wines International, Inc. into Constellation Wines U.S., Inc. whereby Opposer obtained its rights to Opposer's Mark.

Request No. 24

Documents in Opposer's possession that evidence all third-party use of a horse design on wines.

Response:

No such documents exist at this time.

Request No. 25

All documents identified in the accompanying Applicant's First Set of Interrogatories to Opposer or which support the answer to any such interrogatory.

Response:

None.

Dated: September 23, 2009

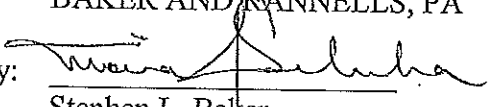
BAKER AND RANNELLS, PA
By: 
Stephen L. Baker
Moirra J. Selinka
Attorneys for Opposer
575 Route 28, Suite 102
Raritan, New Jersey 08869
(908) 722-5640

EXHIBIT A

REDACTED

ATTORNEYS
EYES ONLY

001

REDACTED

ATTORNEYS
EYES ONLY

#002

EXHIBIT B

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
March 12, 2008.

A handwritten signature in cursive script that reads "Paul LaPointe".

Paul LaPointe
Special Deputy Secretary of State

CT-07

080228000849

CERTIFICATE OF MERGER
OF
ATLAS PEAK VINEYARDS, INC., BUENA VISTA WINERY, INC., CLOS DU BOIS
WINES, INC., GARY FARRELL WINES, INC. AND PEAK WINES INTERNATIONAL,
INC.
INTO
CONSTELLATION WINES U.S., INC.

Under Section 904 of the Business Corporation Law of the State of New York

It is hereby certified that:

1. The name of each constituent corporation is as follows:
 - (a) Constellation Wines U.S., Inc., a New York corporation, originally incorporated under the name Canandaigua West, Inc.;
 - (b) Atlas Peak Vineyards, Inc., a California corporation;
 - (c) Buena Vista Winery, Inc., a California corporation;
 - (d) Clos du Bois Wines, Inc., a California corporation;
 - (e) Gary Farrell Wines, Inc., a California corporation; and
 - (f) Peak Wines International, Inc., a Delaware corporation.
2. The name of the surviving corporation is Constellation Wines U.S., Inc.
3. The number of outstanding shares of the constituent entities are as follows, all of which are entitled to vote and the number of such shares are not subject to change prior to the effective date of the merger:
 - (a) Constellation Wines U.S., Inc. has 100 shares of common stock outstanding;
 - (b) Atlas Peak Vineyards, Inc. has 3,860 shares of common stock outstanding;
 - (c) Buena Vista Winery, Inc. has 7,756 shares of common stock outstanding;
 - (d) Clos du Bois Wines, Inc. has 100 shares of common stock outstanding;
 - (e) Gary Farrell Wines, Inc. has 125 shares of common stock outstanding; and

(f) Peak Wines International, Inc. has 1,000 shares of common stock outstanding.

4. The effective date of the merger shall be February 29, 2008.
5. The Certificate of Incorporation of Constellation Wines U.S., Inc. was filed by the Department of State of the State of New York on July 8, 1994, under the original name of Canandaigua West, Inc.
6. The Certificate of Incorporation of Atlas Peak Vineyards, Inc. was filed by the Department of State of the State of California on November 19, 1985, and it has not filed an application for authority to do business in New York.
7. The Certificate of Incorporation of Buena Vista Winery, Inc. was filed by the Department of State of the State of California on October 6, 1967, and it has not filed an application for authority to do business in New York.
8. The Certificate of Incorporation of Clos du Bois Wines, Inc. was filed by the Department of State of the State of California on July 22, 1982, and it has not filed an application for authority to do business in New York.
9. The Certificate of Incorporation of Gary Farrell Wines, Inc. was filed by the Department of State of the State of California on June 30, 1988, and it has not filed an application for authority to do business in New York.
10. The Certificate of Incorporation of Peak Wines International, Inc. was filed by the Department of State of the State of Delaware on May 5, 2003, and it filed an application for authority to do business in New York on September 17, 2003.
11. Each of Atlas Peak Vineyards, Inc., Buena Vista Winery, Inc., Clos du Bois Wines, Inc. and Gary Farrell Wines, Inc. has complied with the applicable provisions of the laws of the State of California, in which it is incorporated, and this merger is permitted by such laws.
12. Peak Wines International, Inc. has complied with the applicable provisions of the laws of the State of Delaware, in which it is incorporated, and this merger is permitted by such laws.
13. The Agreement and Plan of Merger was adopted by unanimous written consent of the Board of Directors of Constellation Wines U.S., Inc. on February 25, 2008, by written consent of the sole shareholder of Constellation Wines U.S., Inc. on February 27, 2008 and by unanimous written consent of the stockholders and Boards of Directors of Atlas Peak Vineyards, Inc., Buena Vista Winery, Inc., Clos du Bois Wines, Inc., Gary Farrell Wines, Inc. and Peak Wines International, Inc. on February 27, 2008.

[Signature Page Follows]

IN WITNESS WHEREOF, this Certificate has been signed on the 27th day of February, 2008.

SURVIVING COMPANY:

CONSTELLATION WINES U.S., INC.

By: *Ronald C. Fondiller*
Name: Ronald C. Fondiller
Title: Senior Vice President

MERGED COMPANIES:

ATLAS PEAK VINEYARDS, INC.

By: *Ronald C. Fondiller*
Name: Ronald C. Fondiller
Title: Senior Vice President

BUENA VISTA WINERY, INC.

By: *Ronald C. Fondiller*
Name: Ronald C. Fondiller
Title: Senior Vice President

CLOS DU BOIS WINES, INC.

By: *Ronald C. Fondiller*
Name: Ronald C. Fondiller
Title: Senior Vice President

GARY FARRELL WINES, INC.

By: *Ronald C. Fondiller*
Name: Ronald C. Fondiller
Title: Senior Vice President

PEAK WINES INTERNATIONAL, INC.

By: *Ronald C. Fondiller*
Name: Ronald C. Fondiller
Title: Senior Vice President

CT-07

080228000849

CERTIFICATE OF MERGER

OF

ATLAS PEAK VINEYARDS, INC., BUENA VISTA WINERY, INC., CLOS DU BOIS
WINES, INC., GARY FARRELL WINES, INC. AND PEAK WINES INTERNATIONAL,
INC.

INTO

CONSTELLATION WINES U.S., INC.

Under Section 904 of the Business Corporation Law of the State of New York

1 cc
FEB 28 2008
TAXS
Y: SC
ONTA

Dawn Trafficanti
Nixon Peabody LLP
Clinton Square
Rochester, New York 14604

Cust Ref 7167010 CS

DRAWDOWN

2008 FEB 28 PM 1:46

RECEIVED

10017244.1

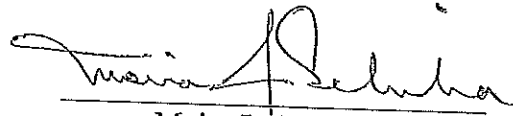
927

#007

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Opposer's Objections and Responses to Applicant's First Request for Production of Documents in re Constellation Wines U.S., Inc. v. ASV Wines, Inc., Opposition No. 91190642 was forwarded by first class, postage pre-paid mail by depositing the same with the U.S. Postal Service on this 23rd day of September, 2009 to the attorneys for the Applicant at the following address:

Anne Hiaring Hocking, Esq.
Law Offices of Anne Hiaring
711 Grand Avenue, Suite 260
San Rafael, CA 94901



Moira J. Selinka

EXHIBIT B-2

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

CONSTELLATION WINES U.S., INC.

Opposition No. 91190642

Opposer,

Mark: PAINTED HORSE &
DESIGN

v.

Serial No. 77/630,676

ASV WINES, INC.

Applicant.

**OPPOSER'S SUPPLEMENTAL RESPONSES TO APPLICANT'S FIRST REQUESTS
FOR THE PRODUCTION OF DOCUMENTS TO OPPOSER**

Opposer, Constellation Wines U.S., Inc. ("Opposer"), responds to the First Requests for Production of Documents served by Applicant, ASV Wines, Inc. ("Applicant") as follows:

GENERAL OBJECTIONS

1. The following general objections are incorporated by reference in Opposer's response to each and every request for production of documents and things set forth below.
2. The specific responses set forth below are for the purposes of discovery only, and Opposer neither waives nor intends to waive, but expressly reserves, any and all objections it may have to the relevance, competence, materiality, admission, admissibility or use at trial of any information, documents or writing produced, identified or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such response.

3. Opposer expressly reserves its right to rely, at any time including trial, upon subsequently discovered information or documents or information or documents omitted from the specific responses set forth below as a result of mistake, oversight or inadvertences.
4. The specific responses set forth below are based upon Opposer's interpretation of the language used in the requests for production of documents and things, and Opposer reserves its right to amend or to supplement its responses in the event Applicant asserts an interpretation that differs from Opposer's interpretation.
5. By making these responses, Opposer does not concede it is in possession of any information responsive to any particular request for production of documents and things or that any response given is relevant to this action.
6. Subject to and without waiving the general and specific responses and objections set forth herein, Opposer will provide herewith information that Opposer has located and reviewed to date. Opposer will continue to provide responsive information as such is discovered. Opposer's failure to object to a particular document request or willingness to provide responsive information pursuant to a document request is not, and shall not be construed as, an admission of the relevance, or admissibility into evidence, of any such information or documents, nor does it constitute a representation that any such information or documents in fact exist.
7. Because Opposer may not have discovered all the information that is possibly within the scope of the Document Requests, Opposer expressly reserves its right to amend or to supplement these Responses and Objections with any additional information or documents that emerges through discovery or otherwise.
8. Opposer objects to the Document Requests to the extent that they require the production of documents protected from disclosure by the attorney-client privilege, the attorney

work product doctrine, the joint defense privilege or any other applicable privilege or immunities. Opposer responds to the Document Requests on the condition that the inadvertent response regarding information covered or the inadvertent production of a document or documents covered by such privilege, rule or doctrine does not waive any of Opposer's right to assert such privilege, rule or doctrine and the Opposer may withdraw any such response or document inadvertently made or produced as soon as identified.

9. Opposer objects to the Document Requests to the extent that they seek proprietary, sensitive, or confidential documents or commercial information or information made confidential by law or any agreement or that reflects trade secrets. Opposer responds to the Document Requests on the condition that the inadvertent responses or documents regarding any proprietary, sensitive, or confidential information does not waive any of Opposer's rights and that Opposer may withdraw any such response or documents inadvertently made as soon as identified.

10. Opposer objects to the Document Requests to the extent that they seek information that is not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence.

11. Opposer objects to the Document Requests to the extent that they are vague, ambiguous and overbroad and therefore not susceptible to a response as propounded. To the extent that any Request for Documents requires Opposer to produce a sample of each different document used for any particular category, or to produce "all documents"; Opposer objects to the same as being overly broad, overly burdensome, and beyond what is required of Opposer under the applicable rules. Accordingly, to the extent that Opposer agrees to make available for

inspection or produce documents in response to any such requests, such production shall be limited to representative documents.

12. Opposer objects to the Document Requests to the extent that they exceed the requirements of the Federal Rules of Civil Procedure or the Trademark Rules of Practice.

13. Opposer objects to the Document Requests to the extent that they require Opposer to undertake any investigation to ascertain information or to obtain documents not presently within its possession, custody or control on the grounds of undue burden and because information from other sources is equally available to Applicant.

14. Opposer objects to the Document Requests to the extent that they require Opposer to undertake such an extensive review that such Document Requests are unduly burdensome and harassing.

15. Opposer's only obligation pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rule 34(b) of the Federal Rules of Civil Procedure is to produce documents where they are normally kept during the normal course of business. For the most part, those documents are kept at its offices in New York and may be inspected and copied where kept upon proper notice at a mutually convenient date and time.

REQUESTS

Request No. 1

Representative samples of each actual use of the Applicant's Mark on wines, including on the bottles and on boxes in which wine is shipped.

Response:

Opposer objects to this request on the grounds that Opposer should not have to produce to Applicant Applicant's own labels and packaging. Opposer has not, nor has ever had, possession of the boxes in which Applicant's wine is shipped.

Request No. 2

All uses of Applicant's Mark on collateral material, including advertising, price lists, websites, shelf talkers, and promotional materials including such items as t-shirts, hats, wine openers, wine glasses.

Response:

Opposer objects to this request on the grounds that it is impossible to answer as Opposer does not have Applicant's collateral material.

Request No. 3

All documents concerning any action undertaken by Opposer to enforce its rights in Opposer's Mark in any court, including the TTAB.

Response:

None.

SUPPLEMENTAL RESPONSE: The only documents in possession of Opposer are those filed for Cancellation No. 92049187 which are accessible online at the TTAB.

Request No. 4

All documents concerning any enforcement action by a third party brought against Opposer's Mark in any court, including the TTAB.

Response:

Opposer is not aware whether any such documents exist.

Request No. 5

All documents concerning the circumstances under which Opposer first learned or became aware of Applicant's use of Applicant's Mark.

Response:

Opposer is not aware that Applicant had begun use of its mark.

Request No. 6

All documents that refer or relate to the actual date of first use in commerce of Opposer's Mark.

Response:

Opposer's Mark was adopted years prior to acquisition of the mark by Opposer and Opposer is not currently aware of the existence of any documents relating to the date of first use in commerce.

Request No. 7

All documents that evidence continuous use in commerce Opposer's mark on Opposer's Goods.

Response:

Opposer objects to this request on the grounds that it is unintelligible.

Request No. 8

All advertisements that refer or relate to each of the products offered under Opposer's Mark.

Response:

Opposer objects to this request as unduly burdensome. Notwithstanding the foregoing objection and each and every General Objection, representative samples will be provided for inspection at the place where such documents are typically kept.

SUPPLEMENTAL RESPONSE: Attached at Ex. C are representative examples of advertising for the products offered under Opposer's Mark.

Request No. 9

All promotional materials, such as catalogues, posters, brochures, flyers, sales sheets or price lists, that have been used to promote Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 10

Documents sufficient to evidence Opposer's advertising or promotional expenditures for every product offered under Opposer's Mark.

Response:

Opposer objects to this request on the grounds that it seeks documents that contain confidential business information. Without waiver of and subject to the above objections and each and every General Objection, Opposer states that representative non-privileged documents will be made available for inspection and copying at the place where such documents are typically kept, upon Applicant making suitable and reasonable arrangements with Opposer's attorneys subject to the Standard Protective Order.

Request No. 11

Documents sufficient to identify the channels of trade through which Opposer's Goods are sold.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 12

All documents sufficient to identify the retail store customers for Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 13

All documents sufficient to identify the distributors of Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 14

All documents concerning any actual or intended licensing or assignment arrangement between Opposer and any person concerning Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 15

All documents concerning any mention by the media in the United States of Opposer's Goods.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 16

All documents concerning consumers' awareness of or perceptions concerning the products and services offered under Opposer's Goods, including but not limited to consumer research, studies, surveys, focus groups or other market research concerning the sale or marketing of any product or service offered under Opposer's Mark.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods and does not offer any products or services under goods.

Request No. 17

All documents that set forth, refer or relate to any actual or potential confusion or likelihood of confusion between Opposer's Goods and Applicant's Goods including but not limited to all documents concerning letters or other communications from actual or potential consumers evidencing actual or potential confusion or likelihood of confusion.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant is referring to with regard to Opposer's Goods.

Request No. 18

All documents that refer or relate to any use by any affiliated companies of Opposer's Mark.

Response:

Opposer objects to this request as unintelligible. Opposer does not know what Applicant means by the term "affiliated."

Request No. 19

Documents sufficient to show Opposer's corporate structure and identify Opposer's officers, directors and managers, and related companies.

Response:

Opposer objects to this request on the grounds that it is overbroad and requests confidential information as Opposer is not a public company. Without waiver of the foregoing objection and each and every general objection Opposer attaches at Exhibit A a copy of the Corporation Organization chart for Constellation Wines U.S., Inc. marked "Attorneys Eyes Only" as well as a list of Constellation Wines U.S., Inc. officers marked "Attorneys Eyes Only."

Request No. 20

Documents that evidence each owner of Wild Horse Winery.

Response:

Opposer is unaware of any legal entity know as Wild Horse Winery.

Request No. 21

Documents that evidence the sale of assets of Wild Horse Winery.

Response:

Opposer is unaware of any legal entity know as Wild Horse Winery.

Request No. 22

Documents that evidence transfer of trademark rights to Opposer from its predecessor in interest.

Response:

Opposer objects to this request as unintelligible. Opposer does not know which trademark rights Applicant is referring to.

Request No. 23

Document that evidence transfer of trademark rights from the original owner of rights in Opposer's Mark to each successive owner, including to Opposer:

Response:

Opposer objects to this request as being unduly burdensome. Opposer is under no obligation to produce documents evidencing transfer of trademark rights other than a transfer to itself. Subject to the foregoing objection and each and every General Objection, Opposer hereby produces at Exhibit B a copy of the merger document of Peak Wines International, Inc. into Constellation Wines U.S., Inc. whereby Opposer obtained its rights to Opposer's Mark.

Request No. 24

Documents in Opposer's possession that evidence all third-party use of a horse design on wines.

Response:

No such documents exist at this time.

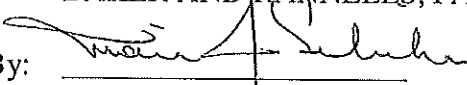
Request No. 25

All documents identified in the accompanying Applicant's First Set of Interrogatories to Opposer or which support the answer to any such interrogatory.

Response:

None.

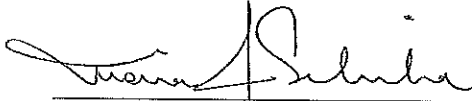
Dated: July 13, 2010

BAKER AND RANNELLS, PA

By: _____
Stephen L. Baker
Moirra J. Selinka
Attorneys for Opposer
575 Route 28, Suite 102
Raritan, New Jersey 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Opposer's Supplemental Responses to Applicant's First Request for Production of Documents in re Constellation Wines U.S., Inc. v. ASV Wines, Inc., Opposition No. 91190642 was forwarded by first class, postage pre-paid mail by depositing the same with the U.S. Postal Service on this 13th day of July, 2010 to the attorneys for the Applicant at the following address:

Anne Hiaring Hocking, Esq.
Hiaring & Smith, LLP
101 Lucas Valley Road, Suite 300
San Rafael, CA 94903



Moira J. Selinka

EXHIBIT C



WILD HORSE
WINERY & VINEYARDS

ENJOY NATURALLY

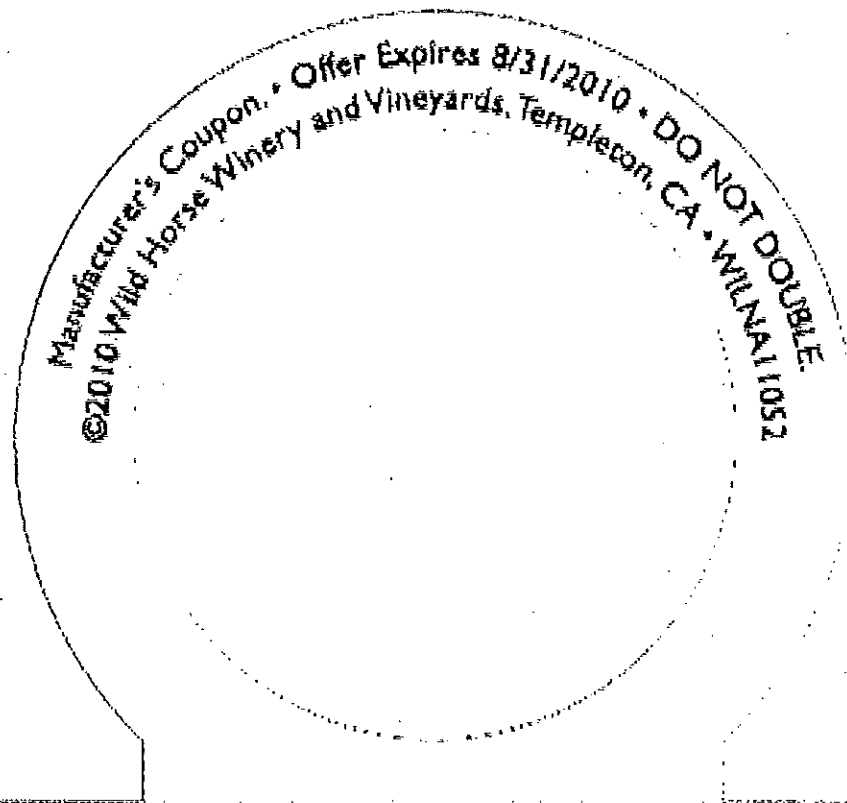
VOTED BEST LOCAL WINERY, 17+ YEARS



WILD HORSE
WINERY & VINEYARDS

ENJOY NATURALLY

VOTED BEST LOCAL WINERY, 17+ YEARS



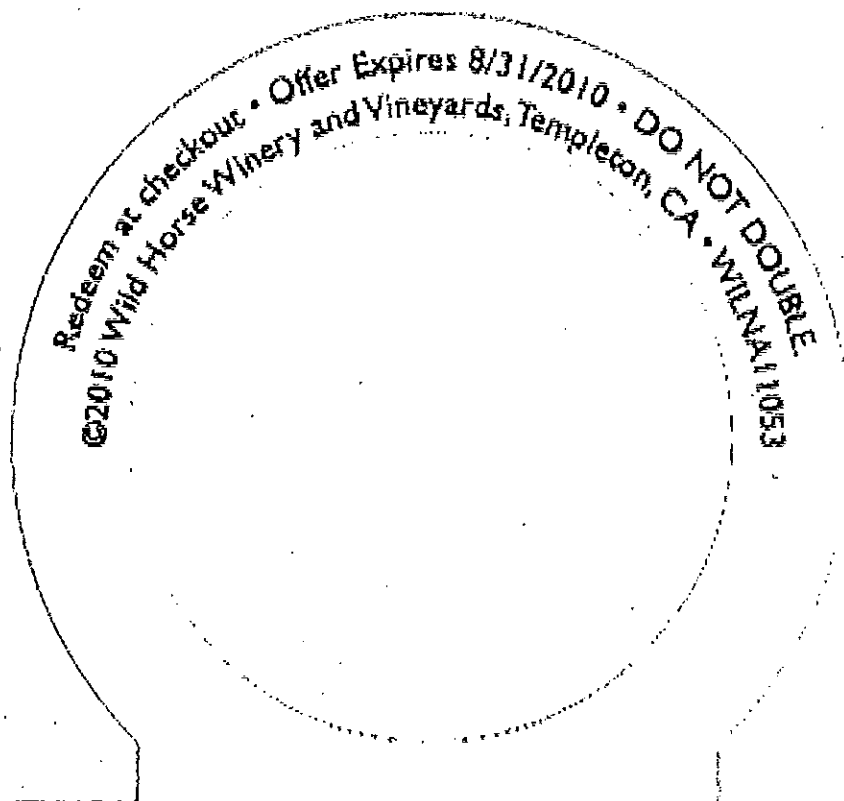
Manufacturer's Coupon • Offer Expires 8/31/2010 • DO NOT DOUBLE
©2010 Wild Horse Winery and Vineyards, Templeton, CA • WILNA110352



WILD HORSE
WINERY & VINEYARDS

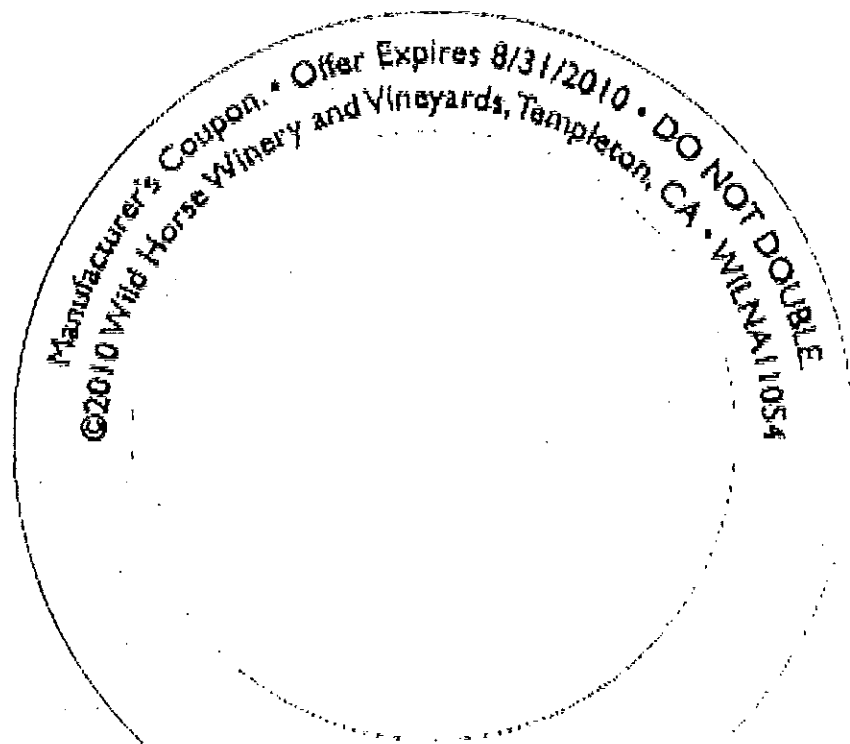
SAVE \$1.00 NOW
ON ANY BOTTLE OF
WILD HORSE WINE





SAVE \$1.00 NOW
ON ANY BOTTLE OF
WILD HORSE WINE



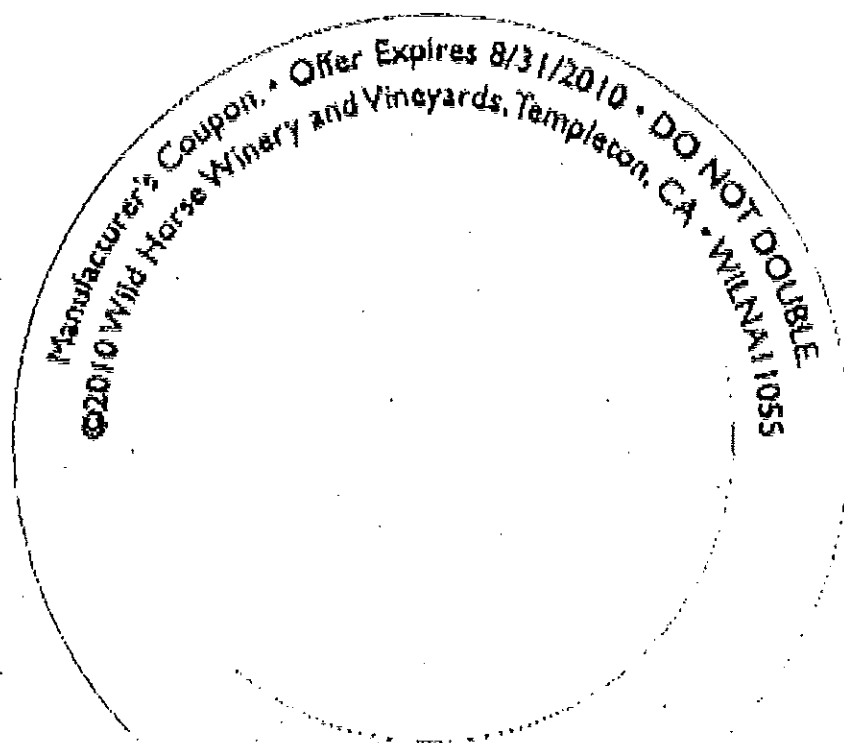


WILD HORSE
WINERY & VINEYARDS

SAVE \$1.00 NOW
OFF YOUR
TOTAL PURCHASE

NO WINE PURCHASE REQUIRED
MINIMUM \$5 PURCHASE REQUIRED



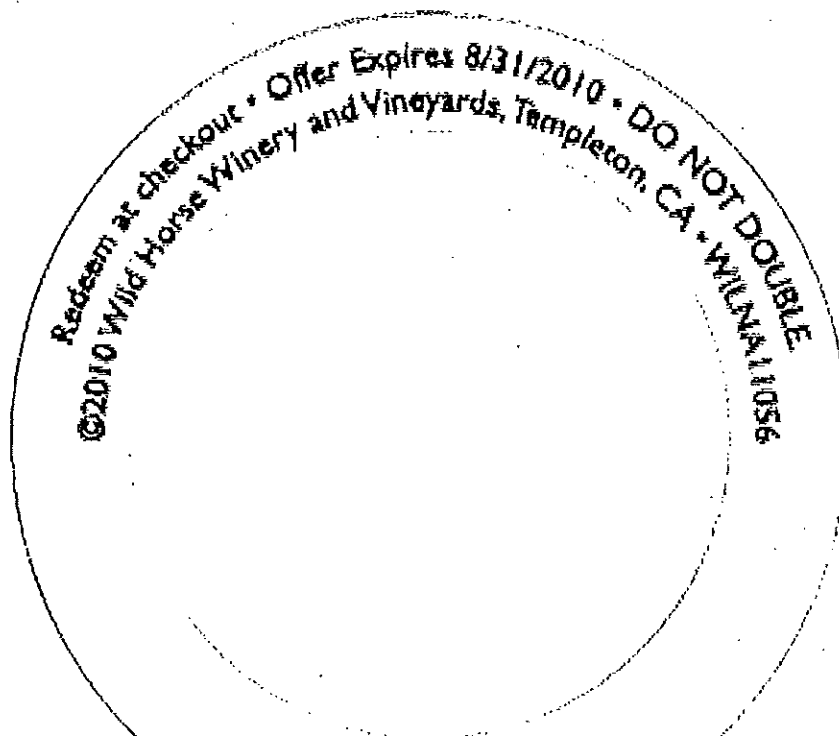


WILD HORSE
WINERY & VINEYARDS

SAVE \$2.00 NOW
OFF YOUR
TOTAL PURCHASE

WINE PURCHASE REQUIRED
MINIMUM \$5 PURCHASE REQUIRED,
EXCLUDES WINE PURCHASE

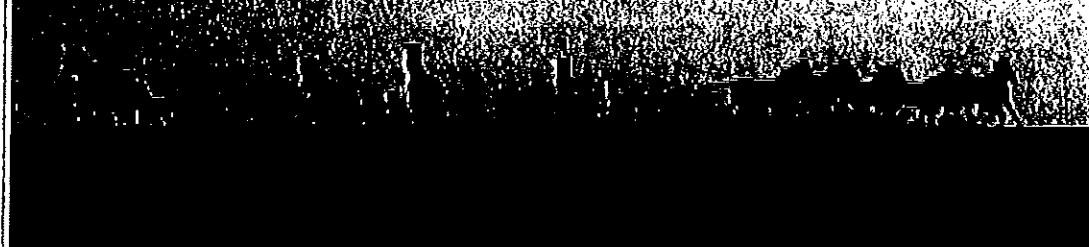


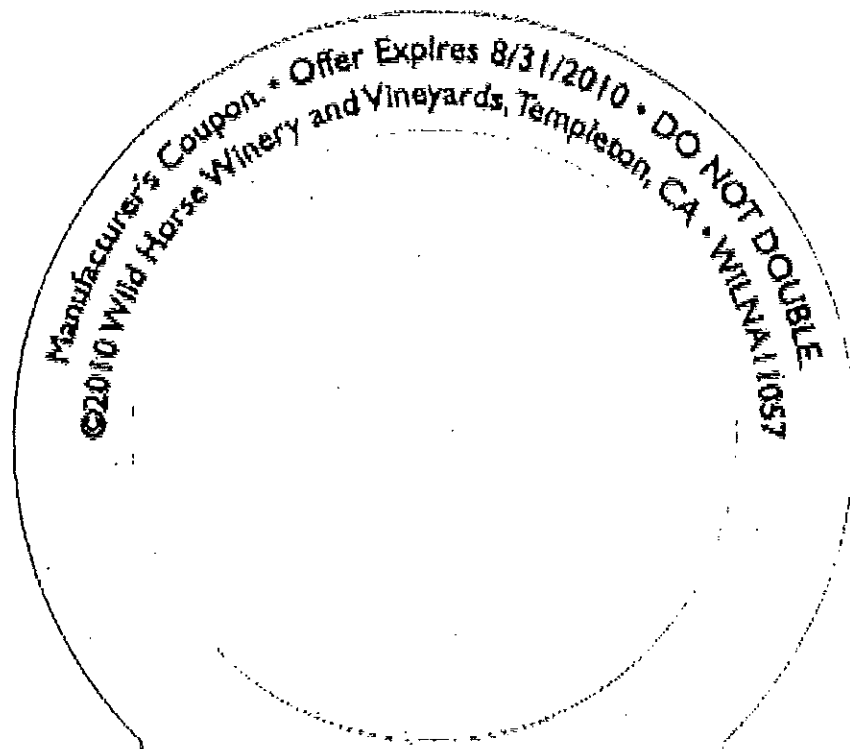


WILD HORSE
WINERY & VINEYARDS

SAVE \$2.00 NOW
OFF YOUR
TOTAL PURCHASE

WINE PURCHASE REQUIRED
MINIMUM \$5 PURCHASE REQUIRED,
EXCLUDES WINE PURCHASE





WILD HORSE
WINERY & VINEYARDS

SAVE \$1.00 NOW
ON
GOURMET CHEESE

MINIMUM \$2 PURCHASE REQUIRED
NO WINE PURCHASE REQUIRED

Manufacturer's Coupon • Offer Expires 8/31/2010 • DO NOT DOUBLE
©2010 Wild Horse Winery and Vineyards, Templeton, CA • WILNA11058



WILD HORSE
WINERY & VINEYARDS

SAVE \$2.00 NOW
ON
GOURMET CHEESE

WINE PURCHASE REQUIRED
MINIMUM PURCHASE REQUIRED

Redeem at checkout • Offer Expires 8/31/2010 • DO NOT DOUBLE
©2010 Wild Horse Winery and Vineyards, Templeton, CA • WILNA110359



WILD HORSE
WINERY & VINEYARDS

SAVE \$2.00 NOW
ON
GOURMET CHEESE

WINE PURCHASE REQUIRED
MINIMUM \$4 PURCHASE REQUIRED



Mail-in Rebate • Offer Expires 8/31/2010 • WILNA11052
©2010 Wild Horse Winery and Vineyards, Templeton, CA



WILD HORSE
WINERY & VINEYARDS

SAVE UP TO
\$30.00

ON

WILD HORSE WINE

Mall-in Rebate • Offer Expires 8/31/2010 • WILNA11064
©2010 Wild Horse Winery and Vineyards, Templeton, CA



WILD HORSE
WINERY & VINEYARDS

SAVE \$5.00
OFF YOUR
TOTAL PURCHASE

WINE PURCHASE REQUIRED
MINIMUM \$5 PURCHASE REQUIRED
EXCLUDES WINE PURCHASE

Mail-in Rebate • Offer Expires 8/31/2010 • WILNA11055
©2010 Wild Horse Winery and Vineyards, Templeton, CA



WILD HORSE
WINERY & VINEYARDS

SAVE \$2.00
ON
GOURMET CHEESE

MINIMUM \$4 PURCHASE REQUIRED
NO WINE PURCHASE REQUIRED

Mail-in Rebate • Offer Expires 8/31/2010 • WILNA 1066
©2010 Wild Horse Winery and Vineyards, Templeton, CA




WILD HORSE
WINERY & VINEYARDS

SAVE \$3.00
ON
GOURMET CHEESE

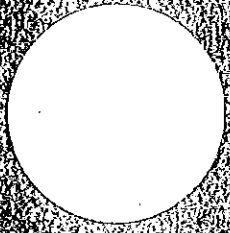
WINE PURCHASE REQUIRED
MINIMUM \$6 PURCHASE REQUIRED

IRC w/pn
#115014



WILD HORSE

EST. 1986




WILDCRACK COBBLE OFFER 2/10/07-2/10/08

SAVE \$10.00 instantly on any
Prime Beef or Shell Fish Selections

with purchase of TWO 750ml Wild Horse Wines

**INSTANT REDEMPTION
IN-STORE COUPON**



This coupon must be
presented at time of purchasing
See back for details
Coupons not to be doubled

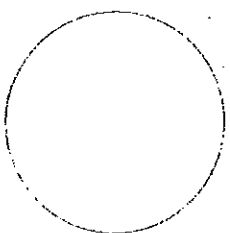
©2006 Beam Wine Estates, Inc., Healdsburg, CA

INSTANT IN-STORE COUPON, LIMIT ONE (1) COUPON PER PERSON.
PRESENT THIS CERTIFICATE AT TIME OF PURCHASE.

**Save \$2.00 instantly on any Prime Beef or Shell Fish
with purchase of any TWO 750ml Wild Horse Wines.**


COUPON CONDITIONS: Offer valid for any Prime Beef or Shell Fish and TWO 750ml Wild Horse Wines purchased in the 50 United States and D.C. by February 21, 2008. The highest redeemable certificate must be presented at time of purchase. Customer pays state sales tax, if applicable. Limit one (1) coupon per person. This coupon may not be sold, doubled, transferred or otherwise. Any other use constitutes fraud. This offer cannot be used in conjunction with any other offer. Offer valid through February 21, 2008. Cash value 1/100¢. **TO THE REDEMPTION DEPARTMENT:** Please mail your money back with this coupon for payment. You represent that you have redeemed this coupon in strict accordance with the terms of this offer, without this coupon at time of customer retail purchase. If you are not by mail, this coupon for payment. This coupon is valid only when redeemed by you at the time of the instant purchase of any Prime Beef or Shell Fish and two 750ml Wild Horse Wines at your store. Instant purchase of minimum quantities of Prime Beef or Shell Fish and TWO 750ml Wild Horse Wines is required. Properly redeemed coupons by mail on upon request. Failure to do so voids all cash claims. Send properly redeemed coupons by mail to: Wild Horse, 11000 N 150th, PO Box 80061, D 1500, TX 75082-0601. Coupons must be presented, no later than 21 days after expiration of this program. © 2006 Beam Wine Estates, Inc., Healdsburg, CA

PLEASE ENJOY OUR WINES RESPONSIBLY. WILDHORSEWINERY.COM



5 189854 100001 0 (8101) 0 60002 0107

600023

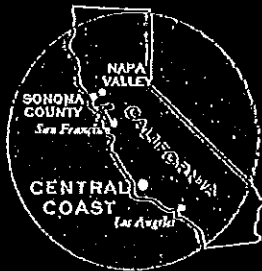




WILD HORSE

WINERY & VINEYARDS

DISCOVER
**CALIFORNIA'S
SUSTAINABLE
CENTRAL COAST**




WILD HORSE WINERY
**COMMITTED TO INNOVATIVE
WINEGROWING METHODS**
— AND —
**ORGANIC & SUSTAINABLE
AGRICULTURAL PRACTICES**



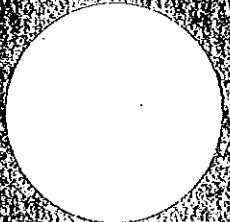
Learn more at:

WWW.WILDHORSEWINERY.COM

IRC wpm
#115340



WILD HORSE

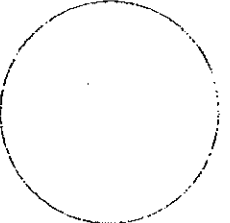


SAVE \$10.00 instantly on any "Surf & Turf" Beef or Seafood

Instantly on any TWO 750ml bottles of Wild Horse Wines

INSTANT REDEMPTION COUPON
 IN-STORE ONLY
 Minimum \$1.00 Redeemable
 on any purchase of Wild Horse Wines

This coupon cannot be presented at time of purchase. See back for details. Offer good only in the United States.




INSTANT IN-STORE COUPON, LIMIT ONE (1) COUPON PER PERSON. PRESENT THIS CERTIFICATE AT TIME OF PURCHASE.

Save \$10.00 instantly on "Surf & Turf" Beef or Seafood with purchase of any TWO 750ml bottles of Wild Horse Wines.

COUPON CONDITIONS: Offer valid for any two (2) 750ml bottles of Wild Horse wine and beef or seafood purchased in the 32 States Shown on DCE by January 31, 2007. The instant redemption certificate may be presented at time of purchase. Consumer pays sales tax, if applicable. Limit one (1) coupon per person. Minimum \$1.00 Redeemable on any purchase of Wild Horse Wines. Offer cannot be used in conjunction with any other offers. Offer valid where product is sold or imported by J.W. Egan, Inc. only for purchase from June 1, 2007 to July 31, 2007. Cash value .1000¢. **TO THE RETAILER:** J.W. Egan, Inc. will reimburse you for the face value of this coupon plus 8¢ handling if you, acting as our agent, in strict accordance with the terms of this offer, redeem this coupon at time of consumer mail purchase in your store. By submitting this coupon for payment, you represent that you have redeemed this coupon pursuant to all of the applicable terms. This coupon is valid only when redeemed by you, at the time of the consumer purchase of two (2) 750ml bottles of Wild Horse wine and minimum \$1.00 beef or seafood by consumer at your store. Instant redeeming purchase of minimum \$1.00 beef or seafood by consumer at your store. Instant redeeming purchase of instant redemption must be shown upon request. Failure to do so voids all such coupons. Submit properly redeemed coupons by mail to: Wild Horse #115340, \$10.00 on beef/seafood, P.O. Box 28000, El Paso, TX 79868-3001. Coupons must be postmarked no later than 30 days after expiration of this program. ©2007 J.W. Egan, Inc., Huddersburg, CA. PLEASE ENJOY OUR WINES RESPONSIBLY. WILDHORSEWINE.COM

600031



5 89854 00000 13 (8107) 0 60003 0707

Please enjoy our wines responsibly. www.wildhorsewinery.com

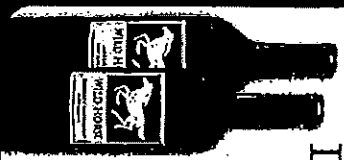


MANUFACTURER'S COUPON OFFER ENDS 01/06/08

SAVE \$2.00

Instantly

on any 750ml Wild Horse
Merlot or Cabernet
Sauvignon wines



INSTANT REDEEMABLE
IN-STORE COUPON
This coupon must be presented at time of purchase.
See back for details. Coupon not to be doubled.

22007 Beam Wine Estates, Inc., Mendocino, CA

#125839

**INSTANT IN-STORE COUPON. LIMIT ONE (1) COUPON PER PERSON.
PRESENT THIS CERTIFICATE AT TIME OF PURCHASE.**

**Save \$2.00 instantly on 750ml Wild Horse
Merlot or Cabernet Sauvignon wine.**

COUPON CONDITIONS: Offer valid for any 750ml Wild Horse Merlot or Cabernet Sauvignon wine purchased in the 50 United States and D.C. by persons 21 years of age or older. The instant redeemable certificate must be presented at time of purchase. Consumer pays state sales tax, if applicable. Limit: one (1) coupon per person. This coupon may not be sold, doubled, transferred or otherwise. Any other use constitutes fraud. This offer cannot be used in conjunction with any other offer. Offer valid when purchased from September 1, 2007 to January 5, 2008. Cash value 1/100¢. **TO THE RETAILER:** Beam Wine Estates, Inc. will reimburse you for the face value of this coupon plus 3¢ handling fee you, acting as our agent, in strict accordance with the terms of this offer, redeem this coupon at time of consumer cash purchase to your store. By authorizing this coupon for payment, you represent that you have redeemed this coupon pursuant to all of the applicable terms. This coupon is valid only when redeemed by you, at your store, in strict accordance with the terms of this offer, redeem this coupon at time of consumer cash purchase to your store. Instant redeemable certificate of sufficient quantities of 750ml Wild Horse Merlot or Cabernet Sauvignon wine to cover coupons presented for redemption must be shown upon request. Failure to do so voids all such coupons. Submit properly redeemed coupons by mail to Wild Horse #125839, 22007 Beam Wine Estates, Inc., Mendocino, CA 95621, Box 889061, El Paso, TX 78888-0061. Coupon must be purchased no later than 30 days after expiration of this program.

PLEASE ENJOY OUR WINES RESPONSIBLY.

WILDHORSEWINERY.COM

600049



5 89854 00082 9 (8107) D 60004 0108

#215746



on Prime Beef or Seafood selections
With purchase of TWO (2) bottles
of any 750ml Wild Horse wine

INSTANT REDEEMABLE, IN-STORE COUPON
This coupon must be presented at time of purchase. See back for details. Coupon not to be doubled.
Maximum \$1.00. Please enjoy our Seaguard Selection purchases to its fullest.

Save \$10.00 INSTANTLY on Beef or Seafood with purchase of TWO (2) bottles of any 750ml Wild Horse wine.

[illegible]

WILDHORSEWINERY.COM



22 Miles Ahead

Exit Vineyard Rd - go east
Right on Templeton Road

Wild Horse Winery · Wine Tasting



EXHIBIT B-3

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

CONSTELLATION WINES U.S., INC.

Opposition No. 91190642

Opposer,

Mark: PAINTED HORSE &
DESIGN

v.

Serial No. 77/630,676

ASV WINES, INC.

Applicant.

**OPPOSER'S SUPPLEMENTAL OBJECTIONS AND RESPONSES TO APPLICANT'S
FIRST REQUESTS FOR THE PRODUCTION OF DOCUMENTS TO OPPOSER**

Opposer, Constellation Wines U.S., Inc. ("Opposer"), responds to the First Requests for Production of Documents served by Applicant, ASV Wines, Inc. ("Applicant") as follows:

GENERAL OBJECTIONS

1. The following general objections are incorporated by reference in Opposer's response to each and every request for production of documents and things set forth below.
2. The specific responses set forth below are for the purposes of discovery only, and Opposer neither waives nor intends to waive, but expressly reserves, any and all objections it may have to the relevance, competence, materiality, admission, admissibility or use at trial of any information, documents or writing produced, identified or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such response.

3. Opposer expressly reserves its right to rely, at any time including trial, upon subsequently discovered information or documents or information or documents omitted from the specific responses set forth below as a result of mistake, oversight or inadvertences.
4. The specific responses set forth below are based upon Opposer's interpretation of the language used in the requests for production of documents and things, and Opposer reserves its right to amend or to supplement its responses in the event Applicant asserts an interpretation that differs from Opposer's interpretation.
5. By making these responses, Opposer does not concede it is in possession of any information responsive to any particular request for production of documents and things or that any response given is relevant to this action.
6. Subject to and without waiving the general and specific responses and objections set forth herein, Opposer will provide herewith information that Opposer has located and reviewed to date. Opposer will continue to provide responsive information as such is discovered. Opposer's failure to object to a particular document request or willingness to provide responsive information pursuant to a document request is not, and shall not be construed as, an admission of the relevance, or admissibility into evidence, of any such information or documents, nor does it constitute a representation that any such information or documents in fact exist.
7. Because Opposer may not have discovered all the information that is possibly within the scope of the Document Requests, Opposer expressly reserves its right to amend or to supplement these Responses and Objections with any additional information or documents that emerges through discovery or otherwise.
8. Opposer objects to the Document Requests to the extent that they require the production of documents protected from disclosure by the attorney-client privilege, the attorney

work product doctrine, the joint defense privilege or any other applicable privilege or immunities. Opposer responds to the Document Requests on the condition that the inadvertent response regarding information covered or the inadvertent production of a document or documents covered by such privilege, rule or doctrine does not waive any of Opposer's right to assert such privilege, rule or doctrine and the Opposer may withdraw any such response or document inadvertently made or produced as soon as identified.

9. Opposer objects to the Document Requests to the extent that they seek proprietary, sensitive, or confidential documents or commercial information or information made confidential by law or any agreement or that reflects trade secrets. Opposer responds to the Document Requests on the condition that the inadvertent responses or documents regarding any proprietary, sensitive, or confidential information does not waive any of Opposer's rights and that Opposer may withdraw any such response or documents inadvertently made as soon as identified.

10. Opposer objects to the Document Requests to the extent that they seek information that is not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence.

11. Opposer objects to the Document Requests to the extent that they are vague, ambiguous and overbroad and therefore not susceptible to a response as propounded. To the extent that any Request for Documents requires Opposer to produce a sample of each different document used for any particular category, or to produce "all documents", Opposer objects to the same as being overly broad, overly burdensome, and beyond what is required of Opposer under the applicable rules. Accordingly, to the extent that Opposer agrees to make available for

inspection or produce documents in response to any such requests, such production shall be limited to representative documents.

12. Opposer objects to the Document Requests to the extent that they exceed the requirements of the Federal Rules of Civil Procedure or the Trademark Rules of Practice.

13. Opposer objects to the Document Requests to the extent that they require Opposer to undertake any investigation to ascertain information or to obtain documents not presently within its possession, custody or control on the grounds of undue burden and because information from other sources is equally available to Applicant.

14. Opposer objects to the Document Requests to the extent that they require Opposer to undertake such an extensive review that such Document Requests are unduly burdensome and harassing.

15. Opposer's only obligation pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rule 34(b) of the Federal Rules of Civil Procedure is to produce documents where they are normally kept during the normal course of business. For the most part, those documents are kept at its offices in New York and may be inspected and copied where kept upon proper notice at a mutually convenient date and time.

REQUESTS

Request No. 6

All documents that refer or relate to the actual date of first use in commerce of Opposer's Mark.

Response:

Opposer's Mark was adopted years prior to acquisition of the mark by Opposer and Opposer is not currently aware of the existence of any documents relating to the date of first use in commerce.

Supplemental Response: Opposer hereby provides responsive documents at Bates numbers 000966-000985.

Dated: August 30, 2010

BAKER AND RANNELLS, PA

By: 

Stephen L. Baker

Moirra J. Selinka

Attorneys for Opposer

575 Route 28, Suite 102

Raritan, New Jersey 08869

(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Opposer's Supplemental Objections and Responses to Applicant's First Request for Production of Documents** in re Constellation Wines U.S., Inc. v. ASV Wines, Inc., Opposition No. 91190642 was forwarded by first class, postage pre-paid mail by depositing the same with the U.S. Postal Service on this 30th day of August, 2010 to the attorneys for the Applicant at the following address:

Anne Hiaring Hocking, Esq.
Hiaring & Smith LLP
101 Lucas Valley Road, Suite 300
San Rafael, CA 94903

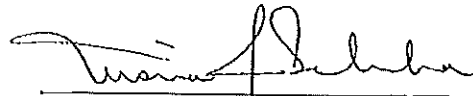

Moira J. Selinka

EXHIBIT B-4

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

CONSTELLATION WINES U.S., INC.

Opposition No. 91190642

Opposer,

Mark: PAINTED HORSE &
DESIGN

v.

Serial No. 77/630,676

ASV WINES, INC.

Applicant.

**OPPOSER'S SECOND SUPPLEMENTAL OBJECTIONS AND RESPONSES TO
APPLICANT'S FIRST REQUESTS FOR THE PRODUCTION OF DOCUMENTS TO
OPPOSER**

Opposer, Constellation Wines U.S., Inc. ("Opposer"), provides this Second Supplemental response to the First Requests for Production of Documents served by Applicant, ASV Wines, Inc. ("Applicant") as follows:

GENERAL OBJECTIONS

1. This second supplemental response adopts all of the general objections incorporated in Opposer's Objections and Responses to Applicant's First Requests for the Production of Documents dated September 23, 2009.
2. The responses herein contain TRADE SECRET/COMMERCIALY SENSITIVE information as defined in the Standard Protective Order governing the disclosure of information during this proceeding. As such, Applicant and its counsel are forewarned to treat these responses as required by the Standard Protective Order, and subject to any sanctions and penalties arising therefrom.

SPECIFIC SUPPLEMENTAL RESPONSES TO DOCUMENT REQUESTS

Request No. 10


Documents sufficient to evidence Opposer's advertising or promotional expenditures for every product offered under Opposers's Mark.

Supplemental Response:

Opposer objects to this request on the grounds that it seeks documents that contain confidential business information. Without waiver of and subject to the above objections and each and every General Objection, Opposer hereby provides responsive documents at Bates Nos. 986-987.

Dated: October 14, 2010

BAKER AND RANNELLS, PA


By: 

Stephen L. Baker
Moira J. Selinka
Attorneys for Opposer
575 Route 28, Suite 102
Raritan, New Jersey 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Opposer's Second Supplemental Objections and Responses to Applicant's First Request for Production of Documents** in re Constellation Wines U.S., Inc. v. ASV Wines, Inc., Opposition No. 91190642 was forwarded by first class, postage pre-paid mail by depositing the same with the U.S. Postal Service on this 14th day of October, 2010 to the attorneys for the Applicant at the following address:

Anne Hiaring Hocking, Esq.
Hiaring & Smith LLP
101 Lucas Valley Road, Suite 300
San Rafael, CA 94903



Moira J. Selinka

EXHIBIT C-1

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

CONSTELLATION WINES U.S., INC.

Opposition No. 91190642

Opposer,

Mark: PAINTED HORSE &
DESIGN

v.

Serial No. 77/630,676

ASV WINES, INC.

Applicant.

**OPPOSER'S OBJECTIONS AND RESPONSES TO APPLICANT'S SECOND
REQUESTS FOR THE PRODUCTION OF DOCUMENTS TO OPPOSER**

Opposer, Constellation Wines U.S., Inc. ("Opposer"), responds to the Second Requests for Production of Documents served by Applicant, ASV Wines, Inc. ("Applicant") as follows:

GENERAL OBJECTIONS

1. The following general objections are incorporated by reference in Opposer's response to each and every request for production of documents and things set forth below.
2. The specific responses set forth below are for the purposes of discovery only, and Opposer neither waives nor intends to waive, but expressly reserves, any and all objections it may have to the relevance, competence, materiality, admission, admissibility or use at trial of any information, documents or writing produced, identified or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such response.

3. Opposer expressly reserves its right to rely, at any time including trial, upon subsequently discovered information or documents or information or documents omitted from the specific responses set forth below as a result of mistake, oversight or inadvertences.

4. The specific responses set forth below are based upon Opposer's interpretation of the language used in the requests for production of documents and things, and Opposer reserves its right to amend or to supplement its responses in the event Applicant asserts an interpretation that differs from Opposer's interpretation.

5. By making these responses, Opposer does not concede it is in possession of any information responsive to any particular request for production of documents and things or that any response given is relevant to this action.

6. Subject to and without waiving the general and specific responses and objections set forth herein, Opposer will provide herewith information that Opposer has located and reviewed to date. Opposer will continue to provide responsive information as such is discovered. Opposer's failure to object to a particular document request or willingness to provide responsive information pursuant to a document request is not, and shall not be construed as, an admission of the relevance, or admissibility into evidence, of any such information or documents, nor does it constitute a representation that any such information or documents in fact exist.

7. Because Opposer may not have discovered all the information that is possibly within the scope of the Document Requests, Opposer expressly reserves its right to amend or to supplement these Responses and Objections with any additional information or documents that emerges through discovery or otherwise.

8. Opposer objects to the Document Requests to the extent that they require the production of documents protected from disclosure by the attorney-client privilege, the attorney

work product doctrine, the joint defense privilege or any other applicable privilege or immunities. Opposer responds to the Document Requests on the condition that the inadvertent response regarding information covered or the inadvertent production of a document or documents covered by such privilege, rule or doctrine does not waive any of Opposer's right to assert such privilege, rule or doctrine and the Opposer may withdraw any such response or document inadvertently made or produced as soon as identified.

9. Opposer objects to the Document Requests to the extent that they seek proprietary, sensitive, or confidential documents or commercial information or information made confidential by law or any agreement or that reflects trade secrets. Opposer responds to the Document Requests on the condition that the inadvertent responses or documents regarding any proprietary, sensitive, or confidential information does not waive any of Opposer's rights and that Opposer may withdraw any such response or documents inadvertently made as soon as identified.

10. Opposer objects to the Document Requests to the extent that they seek information that is not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence.

11. Opposer objects to the Document Requests to the extent that they are vague, ambiguous and overbroad and therefore not susceptible to a response as propounded. To the extent that any Request for Documents requires Opposer to produce a sample of each different document used for any particular category, or to produce "all documents", Opposer objects to the same as being overly broad, overly burdensome, and beyond what is required of Opposer under the applicable rules. Accordingly, to the extent that Opposer agrees to make available for

inspection or produce documents in response to any such requests, such production shall be limited to representative documents.

12. Opposer objects to the Document Requests to the extent that they exceed the requirements of the Federal Rules of Civil Procedure or the Trademark Rules of Practice.

13. Opposer objects to the Document Requests to the extent that they require Opposer to undertake any investigation to ascertain information or to obtain documents not presently within its possession, custody or control on the grounds of undue burden and because information from other sources is equally available to Applicant.

14. Opposer objects to the Document Requests to the extent that they require Opposer to undertake such an extensive review that such Document Requests are unduly burdensome and harassing.

15. Opposer's only obligation pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rule 34(b) of the Federal Rules of Civil Procedure is to produce documents where they are normally kept during the normal course of business. For the most part, those documents are kept at its offices in New York and may be inspected and copied where kept upon proper notice at a mutually convenient date and time.

REQUESTS

Request No. 1

Produce all documents identified or that were used to answer Applicant's First, Second and Third Set of Interrogatories to Opposer.

Response:

First Set already answered (none.)

Second Set already answered (none.)

Third Set (none identified, interrogatories over the limit)

Request No. 2

Produce all searches, including, but not limited to, trademark searches, conducted or caused to be conducted by or on behalf of Opposer, including all documents concerning such searches, that refer to, mention, concern, or relate to any of Opposer's Marks.

Response:

None.

Request No. 3

Produce all searches, including, but not limited to, trademark searches, conducted or caused to be conducted by or on behalf of Opposer, including all documents concerning such searches, that refer to, mention, concern, or relate to Applicant.

Response:

None.

Request No. 4

Produce all searches, including, but not limited to, trademark searches, conducted or caused to be conducted by or on behalf of Opposer, including all documents concerning such searches, that refer to, mention, concern, or relate to Applicant's Mark.

Response:

None.

Request No. 5

Produce all searches, including, but not limited to, trademark searches, conducted or caused to be conducted by or on behalf of Opposer, including all documents concerning such searches, that refer to, mention, concern, or relate to Applicant's First PAINTED HORSE & Design mark.

Response:

None.

Request No. 6

Produce all searches, including, but not limited to, trademark searches, conducted or caused to be conducted by or on behalf of Opposer, including all documents concerning such searches, that refer to, mention, concern, or relate to horse designs.

Response:

None.

Request No. 7

Produce all documents relating to White Horse Distillers Limited and Opposer and/or any of Opposer's related entities, prior owners, and/or assignors (including Peak Wines International, Inc. and Santa Lucia Winery, Inc.).

Response:

Opposer objects to this request on the grounds that it is unintelligible, overbroad and unduly burdensome. Without waiver of and subject to the above objections and each and every General Objection, Opposer states that it does not possess any documents relating to White Horse Distillers Limited, and with regard to Peak Wines International, Inc., Opposer has already provided to Applicant as a response to Document Request No. 23 in Applicant's first set of document requests, a copy of the merger document of Peak Wines International, Inc. into Constellation Wines U.S., Inc.

Request No. 8

Produce any and all agreements that refer or relate to settlement of Opposition No. 91075682.

Response:

Opposer objects to this request on the grounds that it requests confidential business information. Without waiver of and subject to the above objections and each and every General Objection, Opposer states that it does not possess any documents relating to the settlement of Opp. No. 91075682.

Request No. 9

Produce all agreements, including, but not limited to, co-existence, license, assignment, and consent agreements, with any third party that refer to, mention, concern, or relate to any of Opposer's Marks.

Response:

Opposer is unaware of any such agreements.

Request No. 10

Produce all agreements, including, but not limited to, co-existence, license, assignment, and consent agreements, with any third party that refer to, mention, concern, or relate to any use or registration of a horse design for wine.

Response:

Opposer is unaware of any such agreements.

Request No. 11

For each expert whose opinion may be relied upon in this proceeding, produce each document which concerns: (i) any opinions that may be presented at trial; (ii) the reasons for any such opinions; (iii) any data or information considered by the witness in forming the opinions; (iv) any exhibits used in support of or summarizing the opinions; (v) the compensation being paid to the witness, and (vi) any cases which the witness has testified at trial or by deposition.

Response:

To date, Opposer has not identified any experts and no such documents exist.

Request No. 12

All documents, including without limitation any communications, that refer to, mention, concern, or relate to any instance of confusion or mistake, if any, between any of Opposer's Marks and Applicant's First PAINTED HORSE & Design Mark.

Response:

See produced documents.

Request No. 13

All documents, including without limitation any communications, that refer to, mention, concern, or relate to any instance of confusion or mistake, if any, between any of Opposer's Marks and Applicant.

Response:

None.

Request No. 14

All documents, including without limitation any communications, that refer to, mention, concern, or relate to any instance of confusion or mistake, if any, between any of Opposer's Marks and Applicant's Mark.

Response:

None.

Request No. 15

Representative samples of marketing materials, including, but not limited to, advertisements, press releases, Internet web site pages, brochures, in-store displays, price lists, catalogues, newspapers, magazines, trade articles, and other such promotional materials bearing any of Opposer's marks or used to promote Opposer's Goods sold under any of Opposer's Marks from the earliest date(s) of first use upon which Opposer relies to the present.

Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the foregoing objection and each and every General Objection, Opposer states that it already provided the requested information on July 19, 2010 in response to Applicant's subpoena duces tecum to Christine Lilienthal. In addition, Opposer hereby provides additional responsive documents.

Request No. 16

Produce a specimen of (or photocopy or photograph of) each label, packaging or other printed material bearing each of Opposer's Marks.

Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the above objections and each and every General Objection, Opposer provides representative samples of labels bearing Opposer's Marks.

Request No. 17

All uses of Opposer's Marks on collateral material, including but not limited to, advertising, price lists, websites, shelf talkers, and promotional materials such as t-shirts, hats, wine openers, wine glasses.

Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the above objections and each and every General Objection, Opposer provides representative samples of the requested documents.

Request No. 18

All documents, including without limitation any communications, that refer to, mention, concern or relate to the circumstances under which Opposer first learned or became aware of Applicant's use of Applicant's First PAINTED HORSE & Design Mark.

Response:

Opposer objects to this request on the grounds that it requests attorney/client privileged information.

Request No. 19

All documents that evidence, refer to, or record, or reflect the continuous use of each of Opposer's Marks from the earliest date(s) of first use upon which Opposer relies to the present.

Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the foregoing objection and each and every General Objection, Opposer provides representative examples.

Request No. 20

All promotional materials, including but not limited to, catalogues, posters, brochures, flyers, sales sheet, or price lists that have been used and are currently use to promote Opposer's Goods sold under Opposer's Marks.

Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the foregoing objection and each and every General Objection, Opposer states that it has already provided the requested information on July 19, 2010 in response to Applicant's subpoena duces tecum to Christine Lilienthal. In addition, Opposer hereby provides additional responsive documents.

Request No. 21

All documents sufficient to identify the channels of trade through which Opposer sells Opposer's Goods sold under Opposer's Marks.

Response:

Opposer states that it has already provided the requested information on July 19, 2010 in response to Applicant's subpoena duces tecum to Christine Lilienthal. In addition, Opposer hereby provides additional representative examples for the channels of trade.

Request No. 22

All documents sufficient to identify the retail customers of Opposer's Goods sold under Opposer's Marks.

Response:

Opposer objects to this request on the grounds that the names of customers constitute confidential information and are not discoverable (See TBMP 414(3) and *Johnston Pump/General Valve Inc. v. Chromalloy American Corp.*, 10 USPQ2d 1671, 1675 (TTAB 1988).

Request No. 23

All documents sufficient to identify the wholesale distributors of Opposer's Goods sold under Opposer's Marks.

Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the foregoing objection and each and every General Objection, the response to this document request is deemed HIGHLY CONFIDENTIAL subject to the protective order for such information and is being provided in Opposer's simultaneously-served, supplemental response.

Request No. 24

Documents that evidence, refer to, record, or reflect Opposer's annual sales revenue generated from the sale of Opposer's Goods sold under any of Opposer's Marks from the earliest date(s) of first use upon which Opposer relies to the present.

Response:

Opposer objects to this request on the grounds that it seeks documents that contain confidential business information, and on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the above objections and each and every General Objection, the response to this document request is deemed TRADE SECRET/COMMERCIALY SENSITIVE subject to the protective order for such information and is being provided in Opposer's simultaneously-served, supplemental response.

Request No. 25

All documents that refer to, mention, concern, or relate to any statement, publication or mention by any media in the U.S. of Opposer's goods sold under Opposer's Marks.

Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the above objections and each and every General Objection, Opposer provides representative samples of responsive documents.

Request No. 26

All documents concerning consumer's awareness or perception of Opposer's Goods sold under Opposer's Marks, including but not limited to, consumer research, studies, surveys, focus groups or other such market research.

Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the above objections and each and every General Objection, Opposer states that it is not aware of any such documents at this time.

Request No. 27

All documents including without limitation any communications, that refer to, mention, concern, or relate to any actual or potential confusion or likelihood of confusion between Opposer's Goods sold under Opposer's Marks and Applicant's Goods sold under Applicant's First PAINTED HORSE & Design mark.

Response:

Opposer hereby provides a copy of Applicant's voluntary surrender of its registration submitted in connection with Cancellation No. 92049187.

Request No. 28

All documents including without limitation any communications, that refer to, mention, concern, or relate to any use of any of Opposer's Marks by an affiliate of Opposer.

Response:

Opposer objects to this request on the grounds that it is overbroad, unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence.

Request No. 29

All documents that evidence, record, or reflect the transfer of trademark ownership interest in and to the WILD HORSE wine brand from the earliest dates(s) of first use upon which Opposer relies to the present.

Response:

Opposer objects to this request as being unduly burdensome and states that it has already provided to Applicant as a response to Document Request No. 23 in applicant's first set of document requests, a copy of the merger document of Peak Wines International, Inc. into Constellation Wines U.S., Inc. whereby Opposer obtained its rights to Opposer's Marks. Opposer also objects to this request on the grounds that it is under no obligation to produce documents evidencing transfer of trademark rights other than a transfer to itself. Without

waiver of and subject to the foregoing objections and each and every General Objection, Opposer also provides a copy of the Trademark Assignment Abstract of Title page from the USPTO with the transfer of title information for U.S. Trademark Reg. No. 1483753.

Request No. 30

All documents, including without limitation any communications, that refer to, mention, concern, or relate to the transfer of assets of Peak Wines International, Inc. to Opposer in connection with Opposer's Marks.

Response:

Opposer objects to this request on the grounds that it requests confidential business information and/or information subject to the attorney/client privilege and is unduly burdensome. Without waiver of and subject to the above objections and each and every General Objection, Opposer states that has already provided to Applicant as a response to Document Request No. 23 in applicant's first set of document requests, a copy of the merger document of Peak Wines International Inc. into Constellation Wines U.S., Inc. whereby Opposer obtained its rights to Opposer's Mark.

Request No. 31

Documents that evidence or depict any and all horse designs used and/or registered by third parties in connection with wine of which Opposer is aware.

Response:

Opposer hereby objects to this request on the grounds that horse designs that are not confusingly similar to Opposer's Marks or that do not depict a wild horse are irrelevant and as such Opposer does not have any.

Request No. 32

To the extent Opposer did not object to the use or registration of any third party horse design identified in Opposer's response to Interrogatory No. 16, all documents that mention, concern, refer to, or relate to Opposer's decision not to object to such use or registration.

Response:

Opposer objects to this request on the grounds that it seeks confidential business information and/or information subject to the attorney/client privilege. Without waiver of and subject to the foregoing objections and each and every General Objection, Opposer has none.

Request No. 33

All documents concerning any formal or informal complaint, objection, inter partes opposition, inter partes cancellation, administrative proceeding, or civil action filed, sent or initiated by Opposer in which Opposer relied on its use of or claimed rights in any of Opposer's Marks, including, but not limited to, all agreements concerning settlement of such proceedings or actions.

Response:

Opposer directs Applicant to documents related to TTAB Cancellation No. 92014987 which Applicant has in its own possession.

Request No. 34

All documents concerning any formal or informal complaint, objection, inter partes opposition, inter partes cancellation, administrative proceeding, or civil action filed, sent or initiated by any third party concerning Opposer's use of, application to register, registration of, or claim of rights in any of Opposer's Marks, including, but not limited to, all agreements concerning settlement of such proceedings or actions.

Response:

Opposer objects to this request on the grounds that it requests confidential business information and/or information that is subject to the attorney/client privilege and is unduly burdensome. Without waiver of and subject to the above objections and each and every General Objection, Opposer states that it has no such documents.

Request No. 35

Documents that record, reflect, describe, relate to, or concern Opposer's document retention and document destruction policies, if any.

Response:

Opposer objects to this request on the grounds that it seeks documents that contain confidential business information. Without waiver of and subject to the above objection and

each and every General Objection, the response to this document request is deemed **TRADE SECRET/COMMERCIALY SENSITIVE** subject to the protective order for such information and is being provided in Opposer's simultaneously-served, supplemental response.

Request No. 36

All documents, other than those produced in response to any of the foregoing requests, upon which Opposer intends to rely in connection with this proceeding.

Response:

Opposer objects to this request on the grounds that no decision has been made at this time as to what documents will be relied upon.

Request No. 37

All documents including without limitation any communications, that refer to, mention, concern, or relate to any survey, market research, study, poll, investigation, or search concerning potential confusion or likelihood of confusion between Opposer's Marks and Applicant's Mark.

Response:

None.

Request No. 38

All documents including without limitation any communications, that refer to, mention, concern, or relate to any survey, market research, study, poll, investigation, or search concerning potential confusion or likelihood of confusion between Opposer's Marks and Applicant's First PAINTED HORSE & Design Mark.

Response:

None.

Request No. 39

All documents that refer to, mention, concern, reflect or relate to advertising/marketing expenses incurred by Opposer and/or its predecessors in interest to the Wild Horse Winery & Vineyards for Opposer's Marks from date of first use to present.

Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome and seeks confidential business information. Without waiver of and subject to the above objections and each and every General Objection, Opposer states that it has already provided the requested information on July 19, 2010 in response to Applicant's subpoena duces tecum to Christine Lilienthal, which information is deemed **TRADE SECRET/COMMERCIALY SENSITIVE** subject to the protective order for such information.

Request No. 40

All documents that refer to, mention, concern, reflect or relate to the geographic locations in the United States in which Opposer's and any of its predecessors in interests' wine was sold or offered for sale under Opposer's Marks from the earliest date(s) of first use upon which Opposer relies to present.

Response:

Opposer objects to this request on the grounds that this request is overbroad and unduly burdensome, and not relevant as its marks have not been limited in geographic scope and, therefore, Opposer's Goods can and have been sold all over the United States. Without waiver of and subject to the foregoing objection and each and every General Objection, Opposer hereby provides responsive documents.

Request No. 41

All documents identified in Opposer's Initial Disclosures served in this Action.

Response:

The documents identified in Opposer's Initial Disclosures include 1) Photographic images depicting Opposer's use of its marks; 2) Photographic images of Opposer's products and the presentation of same; 3) Copies of Applicant's product labels; 4) Promotional materials bearing Opposer's trademark; 5) Examples of advertising bearing Opposer's trademark; and 6) Sales and advertising reports of Opposer. Opposer has already provided each of these documents in response to other Document Requests, except for #3 which it has no obligation to produce to Applicant.

Dated: July 30, 2010

BAKER AND RANNELLS, PA

By: 

Stephen L. Baker

Moirra J. Selinka

Attorneys for Opposer

575 Route 28, Suite 102

Raritan, New Jersey 08869

(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Opposer's Objections and Responses to Applicant's Second Request for Production of Documents** in re: Constellation Wines U.S., Inc. v. ASV Wines, Inc., Opposition No. 91190642 was forwarded by first class, postage pre-paid mail by depositing the same with the U.S. Postal Service on this 30th day of July, 2010 to the attorneys for the Applicant at the following address:

Anne Hiaring Hocking, Esq.
Hiaring & Smith LLP
101 Lucas Valley Road, Suite 300
San Rafael, CA 94903

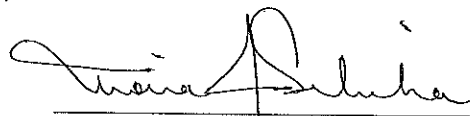

Moira J. Selinka

EXHIBIT C-2

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

CONSTELLATION WINES U.S., INC.

Opposition No. 91190642

Opposer,

Mark: PAINTED HORSE &
DESIGN

v.

Serial No. 77/630,676

ASV WINES, INC.

Applicant.

**OPPOSER'S SUPPLEMENTAL OBJECTIONS AND RESPONSES TO APPLICANT'S
SECOND REQUESTS FOR THE PRODUCTION OF DOCUMENTS TO OPPOSER**

Opposer, Constellation Wines U.S., Inc. ("Opposer"), provides this Supplemental Response to Applicant, ASV Wine, Inc.'s, Second Requests for Production of Documents as follows:

GENERAL OBJECTIONS

1. This supplemental response adopts all of the general objections incorporated in Opposer's Objections and Responses to Applicant's Second Requests for the Production of Documents dated July 30, 2010.
2. The responses herein contain TRADE SECRET/COMMERCIALY SENSITIVE information, and HIGHLY CONFIDENTIAL information, as defined in the Standard Protective Order governing the disclosure of information during this proceeding. As such, Applicant and its counsel are forewarned to treat these responses as required by the Standard Protective Order, and subject to any sanctions and penalties arising therefrom.

SPECIFIC SUPPLEMENTAL RESPONSES TO DOCUMENT REQUESTS

Request No. 23

All documents sufficient to identify the wholesale distributors of Opposer's Goods sold under Opposer's Marks.

Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the foregoing objection and each and every General Objection, Opposer hereby provides responsive documents at Bates numbers 949-960 which documents are deemed **HIGHLY CONFIDENTIAL**.

Request No. 24

Documents that evidence, refer to, record, or reflect Opposer's annual sales revenue generated from the sale of Opposer's Goods sold under any of Opposer's Marks from the earliest date(s) of first use upon which Opposer relies to the present.

Response:

Opposer objects to this request on the grounds that it seeks documents that contain confidential business information, and on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the above objections and each and every General Objection, Opposer hereby provides responsive documents at Bates numbers 961-962 which documents are deemed **TRADE SECRET/COMMERCIALY SENSITIVE**.

Request No. 35

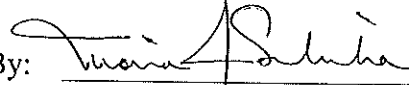
Documents that record, reflect, describe, relate to, or concern Opposer's document retention and document destruction policies, if any.

Response:

Opposer objects to this request on the grounds that it seeks documents that contain confidential business information. Without waiver of and subject to the above objection and each and every General Objection, Opposer hereby provides responsive documents at Bates numbers 963-965 which documents are deemed **TRADE SECRET/COMMERCIALY SENSITIVE**.

Dated: July 30, 2010

BAKER AND RANNELLS, PA

By: 

Stephen L. Baker
Moir J. Selinka
Attorneys for Opposer
575 Route 28, Suite 102
Raritan, New Jersey 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Opposer's Supplemental Objections and Responses to Applicant's Second Request for Production of Documents** in re: Constellation Wines U.S., Inc. v. ASV Wines, Inc., Opposition No. 91190642 was forwarded by first class, postage pre-paid mail by depositing the same with the U.S. Postal Service on this 30th day of July, 2010 to the attorneys for the Applicant at the following address:

Anne Hiaring Hocking, Esq.
Hiaring & Smith LLP
101 Lucas Valley Road, Suite 300
San Rafael, CA 94903

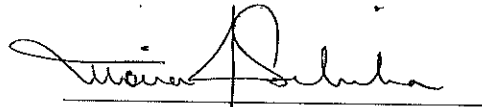

Moira J. Selinka

EXHIBIT C-3

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

CONSTELLATION WINES U.S., INC.

Opposition No. 91190642

Opposer,

Mark: PAINTED HORSE &
DESIGN

v.

Serial No. 77/630,676

ASV WINES, INC.

Applicant.

**OPPOSER'S SECOND SUPPLEMENTAL OBJECTIONS AND RESPONSES TO
APPLICANT'S SECOND REQUESTS FOR THE PRODUCTION OF DOCUMENTS TO
OPPOSER**

Opposer, Constellation Wines U.S., Inc. ("Opposer"), provides this Second Supplemental Response to Applicant, ASV Wine, Inc.'s, Second Requests for Production of Documents as follows:

GENERAL OBJECTIONS

1. This second supplemental response adopts all of the general objections incorporated in Opposer's Objections and Responses to Applicant's Second Requests for the Production of Documents dated July 30, 2010.
2. The responses herein contain TRADE SECRET/COMMERCIALY SENSITIVE information as defined in the Standard Protective Order governing the disclosure of information during this proceeding. As such, Applicant and its counsel are forewarned to treat these responses as required by the Standard Protective Order, and subject to any sanctions and penalties arising therefrom.

SPECIFIC SUPPLEMENTAL RESPONSES TO DOCUMENT REQUESTS

Request No. 24

Documents that evidence, refer to, record, or reflect Opposer's annual sales revenue generated from the sale of Opposer's Goods sold under any of Opposer's Marks from the earliest date(s) of first use upon which Opposer relies to the present.

Second Supplemental Response:

Opposer objects to this request on the grounds that it seeks documents that contain confidential business information, and on the grounds that it is overbroad and unduly burdensome. Without waiver of and subject to the above objections and each and every General Objection, Opposer hereby provides additional responsive documents at Bates numbers 986-988 which documents are deemed TRADE SECRET/COMMERCIALY SENSITIVE.

Request No. 39

All documents that refer to, mention, concern, reflect or relate to advertising/marketing expenses incurred by Opposer and/or its predecessors in interest to the Wild Horse Winery & Vineyards for Opposer's Marks from date of first use to present.

Supplemental Response:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome and seeks confidential business information. Without waiver of and subject to the above objections and each and every General Objection, Opposer hereby provides additional responsive documents at Bates numbers 986-987 which documents are deemed TRADE SECRET/COMMERCIALY SENSITIVE.

Dated: October 14, 2010

BAKER AND RANNELLS, PA

By: 

Stephen L. Baker

Maira J. Selinka

Attorneys for Opposer

575 Route 28, Suite 102

Raritan, New Jersey 08869

(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Opposer's Second Supplemental Objections and Responses to Applicant's Second Request for Production of Documents** in re: Constellation Wines U.S., Inc. v. ASV Wines, Inc., Opposition No. 91190642 was forwarded by first class, postage pre-paid mail by depositing the same with the U.S. Postal Service on this 14th day of October, 2010 to the attorneys for the Applicant at the following address:

Anne Hiaring Hocking, Esq.
Hiaring & Smith LLP
101 Lucas Valley Road, Suite 300
San Rafael, CA 94903



Moira J. Selinka

EXHIBIT C-4

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

CONSTELLATION WINES U.S., INC.

Opposition No. 91190642

Opposer,

Mark: PAINTED HORSE &
DESIGN

v.

Serial No. 77/630,676

ASV WINES, INC.

Applicant.

**OPPOSER'S THIRD SUPPLEMENTAL OBJECTIONS AND RESPONSES TO
APPLICANT'S SECOND REQUESTS FOR THE PRODUCTION OF DOCUMENTS TO
OPPOSER**

Opposer, Constellation Wines U.S., Inc. ("Opposer"), provides this third Supplemental Response to Applicant, ASV Wine, Inc.'s, Second Requests for Production of Documents as follows:

GENERAL OBJECTIONS

1. This third supplemental response adopts all of the general objections incorporated in Opposer's Objections and Responses to Applicant's Second Requests for the Production of Documents dated July 30, 2010 and all previous supplemental responses to Applicant's Second Requests for the Production of Documents.

SPECIFIC SUPPLEMENTAL RESPONSES TO DOCUMENT REQUESTS

Request No. 19

All documents that evidence, refer to, record, or reflect the continuous use of each of Opposer's Marks from the earliest date(s) of first use upon which Opposer relies to the present.


Supplemental Response:

Opposer hereby provides additional responsive documents at Bates numbers 989-999.

Dated: November 19, 2010

BAKER AND RANNELLS, PA


By:


Stephen L. Baker
Moirra J. Selinka
Attorneys for Opposer
575 Route 28, Suite 102
Raritan, New Jersey 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Opposer's Third Supplemental Objections and Responses to Applicant's Second Request for Production of Documents** in re: Constellation Wines U.S., Inc. v. ASV Wines, Inc., Opposition No. 91190642 was forwarded by first class, postage pre-paid mail by depositing the same with the U.S. Postal Service on this 19th day of November, 2010 to the attorneys for the Applicant at the following address:

Anne Hiaring Hocking, Esq.
Hiaring & Smith LLP
101 Lucas Valley Road, Suite 300
San Rafael, CA 94903


Moira J. Selinka