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Filing date: **10/19/2009**

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, ESQ. LAW OFFICE OF ANNE HIARING 711 GRAND AVE STE 260 SAN RAFAEL, CA 94901-3511 UNITED STATES info@hiaringlaw.com
Submission	Motion to Amend/Amended Answer or Counterclaim
Filer's Name	Anne Hiaring Hocking
Filer's e-mail	anne@hiaringlaw.com, meghan@hiaringlaw.com
Signature	/AHH/
Date	10/19/2009
Attachments	Answer to Amended Notice of Opp 101909.pdf (4 pages)(257131 bytes)

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

CONSTELLATION WINES U.S., INC.)	Opposition No. 91190642
)	
Opposer,)	ANSWER TO AMENDED NOTICE
)	OF OPPOSITION
vs.)	
)	
ASV WINES, INC.)	
)	
Applicant.)	



Mark:

PAINTED HORSE & Cave Design

Serial No.:

77/630,676

Filing Date:

December 10, 2008

U.S. Patent & Trademark Office
Trademark Trial & Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

Attorney's Reference: ASV 1.1

Dear Sir or Madam:

Pursuant to Trademark Rule 2.106, and the Federal Rules of Civil Procedure, ASV WINES, INC., Applicant in this Opposition ("Applicant") answers the amended Notice of Opposition of Opposition in Opposition No. 91190642 and hereby answers the same.

This Answer to the Amended Notice of Opposition is timely filed as the Trademark Trial and Appeal Board, in its Order dated September 25, 2009 provided that answer to the Amended Notice of Opposition Answer is due by October 25, 2009.

Applicant responds to the allegations in the Amended Notice of Opposition as follows:

1. In response to paragraph 1, Applicant admits that the goods in U.S. Trademark Registration Nos. 3,516,357 and 1,483,753 “wines” in International Class 33.
2. In response to paragraph 2, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegation in this paragraph, and on that ground, denies it.
3. In response to paragraph 3, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegation in this paragraph, and on that ground, denies it.
4. In response to paragraph 4, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegation in this paragraph and, on that ground, denies it.
5. In response to paragraph 5, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegation in this paragraph and, on that ground, denies it.
6. In response to paragraph 6, Applicant denies each and every allegation.
7. In response to paragraph 7, Applicant denies each and every allegation.
8. In response to paragraph 8, Applicant denies each and every allegation.
9. In response to paragraph 9, Applicant states that the goods covered by its Serial No. 77/630,676 are “wines”. Applicant is without sufficient knowledge or information to form a belief as to what the “goods of Opposer” are and on that basis denies these allegations. Applicant admits that it did not obtain consent or permission from Opposer because no consent or permission is necessary.
10. In response to paragraph 10, Applicant is without sufficient knowledge or information as to the allegation of Opposer’s ownership of Opposer’s Mark by virtue of prior use and, on that ground, denies it. Applicant denies each and every other allegation.
11. In response to paragraph 11, Applicant denies each and every allegation.
12. In response to paragraph 12, Applicant denies each and every allegation.

Wherefore, Applicant prays that this Opposition be dismissed and that the Certificate of Registration for the PAINTED HORSE & Cave Design mark be issued.

Respectfully submitted,

HIARING + SMITH

Dated: Oct 19 2009

By: 

Anne Haring Hocking, Esq.
Kristin Newman de la Vega, Esq.
Carol Smith, Esq.
711 Grand Avenue, Suite 260
San Rafael, California 94960
Tel: 415-457-2040
Fax: 415-457-2822
Email: info@hiaringlaw.com

Attorneys for Applicant
ASV Wines, Inc.

CERTIFICATE OF SERVICE BY MAIL

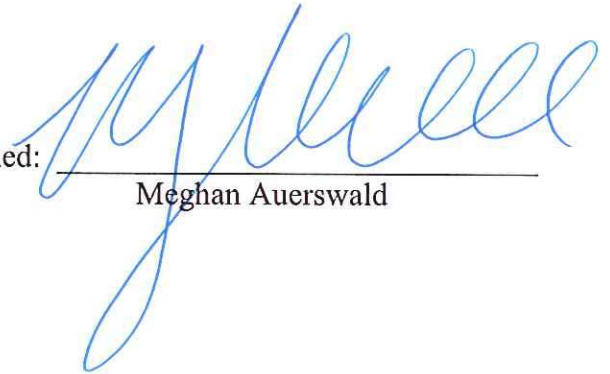
This is to certify that one copy of the foregoing **ANSWER TO AMENDED NOTICE OF OPPOSITION** was mailed by first class mail, postage prepaid, to Opposer's Counsel:

Stephen L. Baker
Moirra J. Selinka
BAKER and RANNELLS, PA
575 Route 28, Suite 102
Raritan, New Jersey 08869
Tel: (908) 722-5640
Fax: (908) 725-7088

Attorneys for Opposer

Dated: October 19, 2009

Signed: _____



Meghan Auerswald