ESTTA Tracking number:

ESTTA802915

Filing date:

02/22/2017

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

Proceeding	91222284
Party	Plaintiff E. & J. Gallo Winery
Correspondence Address	MICHAEL J SALVATORE HOLMES WEINBERG PC 30765 PACIFIC COAST HIGHWAY SUITE 411 MALIBU, CA 90265 UNITED STATES msalvatore@holmesweinberg.com, hwtrademarks@gmail.com
Submission	Opposition/Response to Motion
Filer's Name	Michael J. Salvatore
Filer's e-mail	msalvatore@holmesweinberg.com
Signature	/MJSalvatore/
Date	02/22/2017
Attachments	Gallo Redacted Opp to MSJ 1.pdf(880239 bytes) Gallo Redacted Opp to MSJ 2.pdf(5130452 bytes) Gallo Redacted Opp to MSJ 3.pdf(1735836 bytes) Gallo Redacted Opp to MSJ 4.pdf(4923733 bytes) Gallo Redacted Opp to MSJ 5.pdf(3645531 bytes) Gallo Redacted Opp to MSJ 6.pdf(4486704 bytes)

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

In re App. Serial No. 77/859,042

E. & J. Gallo Winery,

Opposer,

V.

Opposition No. 91222284

Thunder Road Brands, LLC,

Applicant.

OPPOSER'S OPPOSITION TO

APPLICANT'S MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

Applicant Thunder Road Brands, LLC's ("Applicant") Motion for Summary Judgment ("MSJ") addresses a very different case than what is actually at issue in this Opposition.

Applicant's entire focus is on its product having an alleged nexus to a 1958 film, and to comparisons between its THUNDER ROAD mark for "alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine" in Class 33, and the mark THUNDERBIRD® for beer.

There are two fatal flaws with Applicant's MSJ: first, Applicant's identification of goods for the applied for mark does not reference any relationship to a film, and thus under well-established precedent it is not relevant to this proceeding. Second, Opposer E. & J. Gallo Winery's ("Gallo" or "Opposer") pleaded registrations are for "wine" and "alcoholic beverages except beers," respectively. Opposer has not pleaded anything having to do with beer in this

Opposition. Thus, all of Applicant's references to uses of THUNDERBIRD® for beer and third-party marks applied for, registered or used for beer are not relevant to this proceeding.

The only goods relevant to this proceeding are those that have been pleaded, and the pleaded goods are identical: Opposer's pleaded goods, "alcoholic beverages except beers" fully encompass Applicant's "alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine." And since there are no stated limitations as to the nature or sophistication of or types of consumers or channels of trade, the respective products are presumed to travel in the same channels of trade and to have the same or overlapping consumers. Since these products are not expensive, the sophistication of these consumers is legally deemed to be low. Further, as shown by Applicant's own evidence, the sales of its alcoholic beverages began quite recently and are very small and are limited solely to sales in its licensee's distillery in the remote town of Kodak, Tennessee. Under these facts, there is virtually no chance that there would be an opportunity for actual confusion, and if there has been any, that either Applicant or Opposer would have heard about it.

Applicant's MSJ accordingly must be denied because there are multiple disputed material factual issues, including the similarity of the marks and the strength of the THUNDERBIRD® mark. Specifically, as shown in this opposition to the MSJ, Opposer's THUNDERBIRD® mark for its pleaded goods, a mark used continuously since 1957, is very strong, and as the brand awareness studies made of record show, is recognized by a materially significant number of relevant consumers. Further, with only a few exceptions, all of the third party uses and registrations argued by Applicant to allegedly have weakened the THUNDERBIRD® mark are for beers, and thus are not relevant to this proceeding. And the remainder of them have had no effect on the strength of the THUNDERBIRD® mark.

The words THUNDERBIRD and THUNDER are arbitrary for the pleaded goods. Both parties' marks begin with THUNDER and their additional elements are both four letter, one syllable words sharing an "R" and ending with a "D." The law is well-established that consumers usually rely on the first portion of a mark as being the dominant portion, which here is THUNDER. Their connotations also are similar; there is no evidence that consumers associate the THUNDER ROAD mark with the 1958 film of that name, and Opposer denies that they do. Accordingly, Opposer very much disputes Applicant's claims that the marks at issue are not similar and that THUNDERBIRD® is not strong. These disputed material facts require that Applicant's Motion for Summary Judgment be denied.

II. STATEMENT OF FACTS

The facts supporting this opposition to Applicant's MSJ are set out in the supporting declarations of Tim Cannon (the "Cannon Dec.") and Michael J. Salvatore (the "Salvatore Dec."). While, for purposes of this motion, Gallo admits paragraphs 1-2, 6, 8-10, 30-32 and 38-39 of Applicant's Statement of Undisputed Material Facts ("SUMF"), the remaining facts in the SUMF are disputed or objected to by Opposer as being irrelevant, and the testimony relating to them as both not relevant and improper.²

This proceeding, as set out in the Notice of Opposition, only involves the attempted registration of THUNDER ROAD for "alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine" and the opposition thereto based on the federally registered mark THUNDERBIRD® for "wine" and "alcoholic beverages except beers."

- 3 -

¹ Applicant has not submitted any surveys, studies or consumer declarations as to consumer understanding of its mark. Its only purported evidence is the testimony of its counsel, which is both not relevant and improper, as discussed *infra*.

² Opposer's objections to Applicant's evidence is set out in relevant places in this Opposition Brief and summarized in the Appendix hereto.

Gallo's THUNDERBIRD® product is a fortified wine, and fortified wines are made with distilled spirits, (Cannon Dec. ¶ 3, Ex. A), and thus it is both a wine and an alcoholic beverage other than beer. THUNDERBIRD® fortified wine was first offered in US commerce in 1957, and the THUNDERBIRD® mark has been in use consistently since that time. (Cannon Dec. ¶ 8). The THUNDERBIRD® mark was registered on the Principal Register in 1958, and Gallo's exclusive rights in THUNDERBIRD® for wines are incontestable. (Cannon Dec. ¶ 12, Ex. D). There are two types of THUNDERBIRD® fortified wine products (hereinafter referred to as the "THUNDERBIRD® alcoholic beverages"), which currently are offered in over premise retailers throughout the United States. (Cannon Dec. ¶¶ 4-5). Case sales of THUNDERBIRD® alcoholic beverages from 2009 through 2016 are approximately meaning that over bottles of THUNDERBIRD® alcoholic beverages were sold during that time, resulting in approximately \$ in revenue to Gallo. (Cannon Dec. ¶¶ 9-10, Ex. C). The THUNDERBIRD® mark appears prominently on every bottle of THUNDERBIRD® alcoholic beverages. (Cannon Dec. ¶ 13). The average retail price of a bottle of THUNDERBIRD® is below \$4.99. (Cannon Dec. ¶ 11).

THUNDERBIRD® is a historic brand that has been the subject of significant marketing efforts over its sixty-year history. (Cannon Dec. ¶ 14, Ex. E). Two YouTube® videos featuring historic THUNDERBIRD® television ads currently have over 221,000 views. (*Id.*) The well-known slogan "What's the word? THUNDERBIRD" has become the title of a rock and roll song that has been performed by a number of artists including ZZ Top. (*Id.*) Further, recent brand awareness studies commissioned by Gallo of the THUNDERBIRD® brand indicate that between 24% and 76% of relevant consumers in the range of 21-40 years old are aware of

the THUNDERBIRD® brand, thus making THUNDERBIRD® a readily recognizable, valuable and powerful brand for fortified wines. (Cannon Dec. ¶ 16, Ex. F).

Applicant filed a USPTO application for the THUNDER ROAD mark for "Alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine" on October 28, 2009, namely Application Serial No. 77/859,042. Applicant has not limited the trade channels, pricing, intended consumers or any other aspects of the identification of goods in its USPTO application for the THUNDER ROAD mark, nor has Applicant in its application specified any relationship to the 1958 film "Thunder Road." Applicant's mark currently is in use for moonshine products, which are widely discussed in various internet articles as being illicit, illegal, high-proof and even lethal in nature. (Salvatore Dec. ¶¶ 4, 8, 15, Exs. B, F, M).

Gallo filed its Notice of Opposition on June 9, 2015 (Dkt. No. 1).

III. ARGUMENT

A. The Summary Judgment Standard Favors the Non-Moving Party

Summary judgment may be granted only when the pleadings, discovery responses, and admissions on file, together with any affidavits, demonstrate that there "is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. Proc. 56(a); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23, 106 S.Ct. 2548 (1986). The moving party bears the initial burden of demonstrating that no genuine dispute of material fact exists. *Celotex*, 477 U.S. at 323.

The evidence must be viewed in a light most favorable to the non-moving party and all justifiable inferences are to be drawn in that party's favor. *Lloyd's Food Prods., Inc. v. Eli's, Inc.*, 987 F.2d 766, 766, 25 USPQ.2d 2027, 2029 (Fed. Cir. 1993). The Board may not resolve issues of material fact on summary judgment; it may only ascertain whether such issues are

present. See Lloyd's Food Prods., 25 USPQ.2d at 2029; Olde Tyme Foods, Inc. v. Roundy's Inc., 961 F.2d 200, 202, 22 USPQ.2d 1542, 1544 (Fed. Cir. 1992).

B. All Doubts Must Be Resolved in Favor of the Prior Registrant

"[A] new entrant presenting a new mark for registration has an obligation to avoid confusion with established marks in the same market...[t]here is a heavy burden on the newcomer to avoid consumer confusion as to products and their source." *Bridgestone Americas Tire Operations, LLC v. Federal Corp.*, 673 F.3d 1330, 1333, 1337 (Fed. Cir. 2012); *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265 (Fed. Cir. 2002) ("This court resolves doubts about the likelihood of confusion against the newcomer because the newcomer has the opportunity and obligation to avoid confusion with existing marks."); *In re H.D. Vest, Inc.*, 2011 WL 481330 (T.T.A.B. 2011) ("To the extent there are any doubts, we resolve them, as we must, in registrant's favor."). Accordingly, any doubts as to likelihood of confusion are to be resolved in favor of Gallo. *Kenner Parker Toys Inc. v. Rose Art Industs. Inc.*, 22 U.S.P.Q.2d 1453, 1458 (Fed. Cir. 1992) ("In the event of doubts about the likelihood of confusion, the Board and this court should resolve those doubts against the newcomer").

C. There Are Genuine Disputes of Material Fact Regarding Likelihood of Confusion

In determining whether a party's registration of a mark will result in a likelihood of confusion under Section 2(d) of the Lanham Act, the Board considers the factors enumerated in *In re E.I. DuPont de Nemours & Co.*, 177 U.S.P.Q. 563, 566–67 (CCPA 1973). While each of the factors is evaluated, the following factors are key considerations in determining a likelihood of confusion: (1) the similarity of the marks as to appearance, sound, meaning and commercial impression, (2) the similarity of the goods as described in the registrations, and (3) the conditions

under which, and the buyers to whom, sales are made. *Id.*; TMEP § 1207.01. As shown below, there are many genuine disputes of material fact that preclude summary judgment here.

- 1. Applicant's Arguments Regarding Admissions of Likelihood of Confusion and Fraud by Opposer are Erroneous.
 - a. This Proceeding Only Relates to the Pleaded Goods, and Hence All of Applicant's Arguments Based on Applications, Registrations and Uses of THUNDER Marks for Beer are Legally Erroneous.

Gallo's Notice of Opposition is based *only* on its registrations of THUNDERBIRD® for "wine" and "alcoholic beverages except beers." Applicant thus erroneously spends most of its arguments on Gallo's non-pleaded pending application for beer and the purported effect of third party registrations and purported uses of marks for beers, none of which is relevant to this proceeding.

Specifically, Applicant erroneously asserts that (a) Opposer's not having challenged a third-party application for registration of THUNDER ROAD for beer is a concession that the marks involved in this proceeding are not confusingly similar (MSJ at 16-17); (b) that Gallo's filing of an application for THUNDERBIRD for beer after a registration issued for the third party's THUNDER ROAD mark for beer is fraud (MSJ at 17-18) and (c) that the existence of third party registrations and purported uses of marks with THUNDER in them for beer weakens the strength of the THUNDERBIRD® mark for the pleaded goods (MSJ at 22-23).

First, beer is not an issue in this proceeding. The THUNDERBIRD registrations pleaded are for wine and alcoholic beverages *except beers*. The only application being challenged in this opposition is THUNDER ROAD for "alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine." Accordingly, since the determination of likelihood of confusion here is to be based on the marks and goods as pleaded, marks for beer are simply not relevant. *Pep Boys-Manny, Moe and Jack v. Edwin F. Guth Co.*, 197 F.2d 527, 528 (C.C.P.A. 1952) ("[S]ince

the notice of opposition did not allege use of the mark on any product other than storage batteries, no other product can be considered in this proceeding."); *See generally 3 McCarthy on Trademarks and Unfair Competition* § 20:24(4th ed.)(and cases cited therein)

For the same reason, the third-party registration of THUNDER ROAD for beer and Opposer's having filed an application to register THUNDERBIRD for beer, which was not pleaded as a basis for this opposition, also are not relevant to this proceeding.

Further, the law as to whether the signing of an application declaration constitutes fraud is black letter, and under that law, fraud could not be found here. At the time the application for THUNDERBIRD for beer was filed, Opposer did not believe that anyone, including the THUNDER ROAD third-party registrant, had superior rights in the mark for beer. (Cannon Decl. ¶18). See Intellimedia Sports Inc. v. Intellimedia Corp., 43 U.S.P.Q.2d 1203, 1206-1207 (T.T.A.B. 1997) (allegations of cancellation based on fraud were insufficient and claim was dismissed for failure to state a claim. "If the other person's rights in the mark, vis-à-vis the applicant's rights, are not known by applicant to be superior or clearly established, e.g., by court decree or prior agreement of the parties, then the applicant has a reasonable basis for believing that no one else has the right to use the mark in commerce, and the applicant's averment of that reasonable belief in its application declaration or oath is not fraudulent."); Maids to Order of Ohio, Inc. v. Maid-to-Order, Inc., 78 U.S.P.Q.2d 1899 (T.T.A.B. 2006) (No fraud where applicant had a reasonable basis to believe that a prior registrant did not have rights in a limited territorial region. The failure to disclose to the U.S.P.T.O. the existence of a prior registration is not fraud.).

Moreover, and significantly, Applicant itself declared in its response to a USPTO Office Action relating to the application at issue here that the third-party THUNDER ROAD mark for

beer is not in use in U.S. commerce. (Salvatore Dec. ¶ 9, Ex. G). And as a matter of law, the mere existence of a registration for that mark (which happened to have been filed under Section 44(d) of the Act), did not create the kind of superior rights which could be the basis of a fraud claim. *See In re Mighty Leaf Tea*, 601 F.3d 1342, 1347, 94 U.S.P.Q.2d 1257 (Fed. Cir. 2010) (The mere fact of registration does not itself prove that third party registrations are in fact still in use or the extent of their usage.). *See also ProQuest Information and Learning Company v. Jacques R. Island*, 83 U.S.P.Q.2d 1351 (T.T.A.B. 2007) (Third-party registrations "do not provide evidence that the marks have been used to such an extent that customers have become accustomed to seeing the marks and hence have learned to distinguish them based on minor differences in the marks.").

b. The Determination of a USPTO Examiner Does Not Bind the Board.

Applicant also argues that likelihood of confusion cannot be found here because the USPTO examining attorney did not cite Gallo's THUNDERBIRD® registrations against Applicant's mark during prosecution. Here again, Applicant's argument fails. It is well-settled that the *ex parte* determination of a USPTO examining attorney does not preclude a subsequent challenge before the Board under Section 2(d). *Gruen Industries, Inc. v. Ray Curran & Co.*, 152 U.S.P.Q. 778 (T.T.A.B. 1967). Thus, the examining attorney's not having cited Gallo's THUNDERBIRD® registrations has no preclusive, or any other effect on the issue of likelihood of confusion in this proceeding. *H. Sichel Sohne, GmbH v. John Gross & Co.*, 204 U.S.P.Q. 257 (T.T.A.B. 1979).

2. There Are Genuine Disputed Material Facts on the Issue of the Similarity of the Marks

Applicant alleges that the material facts on which the issue of the Similarity of the Marks can be decided are undisputed, and on those facts the marks are not similar. Applicant is incorrect. There are many material facts in dispute on this issue, as discussed below.

a. The Goods at Issue Are Legally Identical, Which Increases the Similarity of the Marks.

It is well-settled that registrability "must be decided on the basis of the identification of goods...set forth in the application." *Packard Press, Inc. v. Hewlett-Packard Co.*, 227 F.3d 1352, 56 USPQ.2d 1351 (Fed. Cir. 2000). When the goods at issue are closely related, as here, "the degree of similarity to support a conclusion of likelihood of confusion declines." *Century 21 Real Estate Corp. v. Century Life of Am.*, 23 U.S.P.Q.2d 1698, 1700 (Fed. Cir. 1992); *In re Mighty Leaf Tea*, 94 U.S.P.Q.2d 1257; *Top Tobacco, LP v. North Atlantic Operating Co., Inc.*, 101 U.S.P.Q.2d 1163 (T.T.A.B. 2011); *Hard Rock Café International (USA), Inc. v. Elsea*, 56 U.S.P.Q.2d 1504 (T.T.A.B. 2000). The goods specified in Gallo's pleaded Reg. No. 4403211 for THUNDERBIRD® are "alcoholic beverages except beers," which fully encompass the Applicant's goods, "alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine." (Cannon Dec. ¶ 12, Ex. D; Salvatore Dec. ¶ 9, Ex. G). Thus, the goods at issue are overlapping and identical as a matter of law.

Fortified wines such as Gallo's THUNDERBIRD® are made with distilled spirits.

(Cannon Dec. ¶ 3, Ex. A). Opposer is aware of at least one fortified wine product called SPODEE that is made with moonshine (Salvatore Dec. ¶ 11, Ex. I). Significantly, Applicant's license agreement with its licensee for the sale of the moonshine product at issue specifically grants a license to sell wine in addition to moonshine (Salvatore Dec. ¶¶ 3-7, Exs. A-E at TRBRANDS00000284).

The Board recently has held that these goods are commercially related for purposes of determining likelihood of confusion. *See, e.g., In re Sugarlands Distilling Company, LLC*, Serial No. 85818277 (November 20, 2015) [not precedential] (wine and moonshine related; registration refused); *In re Millbrook Distillery, LLC*, Serial Nos. 85924732 and 8595455 (February 5, 2015) [not precedential] (wine and whiskey related; registration refused).

Moreover, various third party uses and registrations indicate that wines, whiskey and moonshine are offered under the same mark and at the same establishments throughout the United States. (Salvatore Dec. ¶¶ 10, 12, Exs. H, J). Indeed, even Applicant's licensee for its THUNDER ROAD moonshine products, Dumplin Creek Distillery, LLC, owns four USPTO applications and one USPTO registration of marks for moonshine, whiskey *and* wines. (Salvatore Dec. ¶ 13, Ex. K).

In light of the foregoing, the goods at issue are overlapping and legally identical and the similarity required for a likelihood of confusion here is reduced. To the extent that Applicant alleges that the goods are not identical or overlapping, there exists a genuine dispute as to the material facts related thereto.

- b. The Marks at Issue are Similar as a Matter of Law, Particularly Since They are Used for Legally Identical Goods.
 - i. The Marks Share an Identical Dominant Element and Are Similar In Appearance.

It is well-settled that "[t]he proper emphasis [in assessing likelihood of confusion] is...on the recollection of the average consumer, who normally retains general rather than a specific impression of trademarks." *Spoons Rests. Inc. v. Morrison Inc.*, 23 U.S.P.Q.2d 1735, 1741 (T.T.A.B. 1991). The Board regularly has held that "it is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered" when making

purchasing decisions. *Presto Prods., Inc. v. Nice-Pak Prods., Inc.*, 9 USPQ2d 1895, 1897 (T.T.A.B. 1988); *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369 (Fed. Cir. 2005); *Eveready Battery Company, Inc. v. Green Planet, Inc.*, 91 U.S.P.Q.2d 1511 (T.T.A.B. 2009); *Schering Corporation v. Alza Corporation*, 207 USPQ 504, 509-10 (T.T.A.B. 1980) (finding applicant's mark CHRONOMER likely to cause confusion with opposer's marks CHRONOSULE and CHRONOTAB). Here, the dominant first word of both parties' marks is the arbitrary word THUNDER. In addition to sharing the same dominant element, the marks at issue both end in four-letter words sharing an "R" and ending in a "D." Thus, there is a genuine dispute of material fact as to the similarity of the marks in appearance.

Applicant improperly encourages the Board on this issue to consider elements of its "branding," which it claims are closely tied to the 1958 film "Thunder Road." (MSJ at 19-22). Applicant also raises the red herring argument that the THUNDERBIRD® mark is always used in connection with a particular logo. (MSJ at 20). However, it is well-established that the use of a design element, such as the THUNDERBIRD® logo or Applicant's "branding" is irrelevant to the comparison of the marks in a word mark case since the marks must be compared as applied for. The Federal Circuit has long held that elements such as trade dress that are not part of the mark as applied for are not relevant. *Kimberly-Clark Corp. v. H. Douglas Enterprises, Ltd.*, 774 F.2d 1144, 1147 (Fed. Cir. 1985) (rejecting the argument that the trade dress used with the word mark shown in the opposed application prevented a likelihood of confusion. "The reason is that such dress might well be changed at any time; only the word mark itself is to be registered."); *In re Shell Oil Co.*, 992 F.2d 1204, 1207 n.4 (Fed. Cir. 1993) (applicant's use in the marketplace of the SHELL trademark with the applied-for mark is irrelevant because the SHELL trademark was not part of the mark sought for registration.); *Mini Melts Inc. v. Recklitt Benckiser LLC*, 118

U.S.P.Q.2d 1464, 1470 (T.T.A.B. 2016) (that applicant's word mark MINI-MELTS was used with the house mark MUCINEX is irrelevant where only the mark MINI-MELTS was sought for registration.); *Interstate Brands Corp.v. McKee Foods Corp.*, 53 U.S.P.Q.2d 1910 (T.T.A.B. 2000) (holding that applicant's use of its house mark LITTLE DEBBIE and a picture of a little girl on its packaging and Opposer's use of its house mark on its product packaging are not relevant because only the marks in issue are to be considered in an opposition).

The fact that Gallo's business name does not appear on the THUNDERBIRD® wine product, an issue raised by Applicant, also is irrelevant. (MSJ at 21). *In re Polar Music Intern.*AB, 714 F.2d 1567, 1571 (Fed. Cir. 1983) ("[T]he public need not know the name of the owner of the mark"); *Nextel Communications, Inc. v. Motorola, Inc.*, 91 U.S.P.Q.2d 1393 (T.T.A.B. 2009) ("The anonymous source rule essentially states that a consumer need not know the identity of the manufacturer of goods or the provider of services, and that all that is necessary to establish secondary meaning is that the consumer associates the proposed mark with a single source.").

ii. The Marks Are Similar In Sound.

Applicant argues that marks are not similar in sound. Opposer disagrees. The Board has held that "it is impossible to predict how the public will pronounce a particular mark." *Edwards Lifesciences Corporation v. VigiLanz Corporation*, 94 U.S.P.Q.2d 1399 (T.T.A.B. 2010) (expert testimony of a linguist as to the correct pronunciation of the mark VIGILANZ (opposed by VIGILANCE) had "little probative value."); *Interlego AG v. Abrams/Gentile Entertainment Inc.*, 63 U.S.P.Q.2d 1862 (T.T.A.B. 2002). Moreover, other than the fact that the identical dominant word THUNDER in both parties' marks is pronounced identically, there is no evidence in the record as to how the marks at issue may be pronounced. Thus, there also is a genuine dispute of material fact as to how the marks are pronounced.

iii. The Marks Have Overlapping Connotations.

Applicant's claims that its mark is associated with a 1958 film are not relevant to this proceeding because there is no such relationship identified in Applicant's USPTO application. *The State Historical Society of Wisconsin v. Ringling Bros, Barnum & Bailey Combined Shows, Inc.*, 190 U.S.P.Q. 25 n. 3 (T.T.A.B. 1976)(any use not identified in the application is not relevant); *see Kimberly-Clark Corp.*, 774 F.2d at 1147; *Vornado, Inc. v. Breuer Electric Mfg. Co.*, 390 F.2d 724, 726 (C.C.P.A. 1968)(trade dress not identified in the application is not considered); *Union Carbide Corp. v. Lin-Gas, Inc.*, 161 U.S.P.Q. 745, *4 (T.T.A.B. 1969) ("In the absence of any restriction...as to the nature of the [applied-for goods], the use therefor, and the purchasers thereof, we must consider applicant's goods as encompassing all [such goods]"). Moreover, aside from the self-serving declarations of Applicant and its counsel, there is no evidence that anyone other than Applicant associates the THUNDER ROAD products with a film. Accordingly, Opposer objects to Applicant's SUMF 45-64 and all supporting testimony as irrelevant, and with respect to counsel's testimony, improper under Federal Rule of Civil Procedure 56(c).³

Assuming arguendo that one were to accept Applicant's contention that its mark has the connotation of classic cars and the "independent spirit of Americana," (see Declaration of William H. Blalock, Jr. ISO MSJ at ¶ 12) the connotations of the marks actually overlap. A

3

³ To the extent that statements in the attorney declarations submitted with the MSJ express opinions, for example the William H. Blalock Declaration Paragraphs 7, 9, 10, 12, and 19, and the Peter Brewer Declaration Paragraphs 8, 10, 13, and 14, such testimony is improper and inadmissible. On motions for summary judgment, courts often decline to consider portions of attorney affidavits or declarations that would be inadmissible at trial. *See In re Boardwalk Dev. Co.*, 72 B.R. 152, 155-56 (Bankr. E.D.N.C. 1987); *Curran v. Aetna Life Ins. Co.*, No. 13-CV-00289 (NSR), 2016 WL 3843085, at *8 (S.D.N.Y. July 11, 2016) (on cross-motions for summary judgment, court disregarded legal arguments and factual averments made in counsel's declaration). Further, as discussed *infra* none of this testimony regarding the Thunder Road film, or the trade dress or packaging for Applicant's product or interiors of the distillery in which Applicant's products are sold are relevant, and accordingly are objected to on that basis as well.

number of the respondents surveyed for Gallo's 2014 THUNDERBIRD® Brand Equity Report stated that they associated the THUNDERBIRD® brand with American heritage, individuality and a historical connotation.⁴ (Cannon Dec. ¶ 16, Ex. F).

Further, to the extent that Applicant's allegations regarding the alleged perceived quality or cost of THUNDERBIRD® are considered,⁵ it is without question that moonshine has been identified as being a high-proof, illicit, illegal and potentially lethal product evidenced by various internet articles and pop culture references to moonshiners engaging in illegal activity and producing potentially harmful high-alcohol products. (Salvatore Dec. ¶ 15, Ex. M).

Thus, if the Board considers any evidence of the marks' connotation other than that they begin with the identical word THUNDER followed by four letter words sharing an "R" and ending in a "D" and are used for alcoholic beverages, there are genuine disputes of material fact as to the connotations of the marks precluding summary judgment.

c. The Fame of THUNDERBIRD® Further Supports Similarity and Likelihood of Confusion.

"[T]he Lanham Act's tolerance for similarity between competing marks varies inversely with the fame of the prior mark. As a mark's fame increases, the Act's tolerance for similarities in competing marks fails." *Kenner Parker Toys, Inc., Inc.*, 963 F.2d at 352-53. Fame is measured by the length of time the mark has been in use, the volume of sales under the mark, and the extent of advertising. *Giant Food, Inc. v. Nation's Foodservice, Inc.*, 710 F.2d 1565

⁴ Opposer objects to Applicant's reliance on a Webster's dictionary definition of "Thunderbird" on the grounds that it is irrelevant and without evidentiary value. Applicant offers no information as to how many people have ever viewed this website page, if any, or if any of those persons are consumers or potential consumers of either party's goods.

Opposer objects to Applicant's reference to various Washington State banned alcoholic products lists as irrelevant to the strength of the THUNDERBIRD mark, or this proceeding. Opposer also objects to Applicant's allegation that THUNDERBIRD is not listed on www.gallo.com as irrelevant. See San Fernando Electric Mfg. Co. v. JFD Electronics Components Corp., 565 F.2d 683 (C.C.P.A. 1977) (a registrant's rights "are not to be tied into its current business practices, which may change at any time").

(Fed. Cir. 1983); *Bose Corp. v. QSC Audio Products, Inc.*, 293 F.3d 1367 (Fed. Cir. 2002) ("[W]e have consistently accepted statistics of sales and advertising as indicia of fame: when the numbers are large, we have tended to accept them without any further supporting proof.").

Gallo's THUNDERBIRD® fortified wine product was first offered in US commerce in 1957, and the THUNDERBIRD® mark has consistently been in use since that time. (Cannon Dec. ¶ 8). The THUNDERBIRD® mark was registered on the Principal Register in 1958, and the exclusive right to use the THUNDERBIRD® mark for wines is incontestable. (Cannon Dec. ¶ 12, Ex. D). THUNDERBIRD® alcoholic beverages currently are offered in over off-premise retailers throughout the United States. (Cannon Dec. ¶ 5). Case sales of THUNDERBIRD® alcoholic beverages from 2009 through 2016 are approximately meaning that over bottles of THUNDERBIRD® were sold during that time, resulting in approximately \$\text{in revenue to Gallo. (Cannon Dec. ¶ 9, Ex. C). The THUNDERBIRD® mark appears prominently on every bottle of THUNDERBIRD® alcoholic beverages. (Cannon Dec. ¶ 13).

THUNDERBIRD® is a historic brand that has been the subject of significant marketing efforts over its sixty-year history. (Cannon Dec. ¶ 14, Ex. E). YouTube® videos featuring historic THUNDERBIRD® television ads currently have over 221,000 views. (*Id.*) The well-known THUNDERBIRD® slogan "*What's the word? THUNDERBIRD®*" has become the title of a rock and roll song performed by a number of artists including ZZ Top. (*Id.*) Further, recent brand awareness studies of the THUNDERBIRD® brand indicate that between 24% and 76% of alcoholic beverage consumers in the 21-40 age group are aware of the THUNDERBIRD® mark and brand, thus making THUNDERBIRD® a readily recognizable, valuable and powerful brand, and Opposer believes that this level of recognition may be higher

among older alcoholic beverage consumers. (Cannon Dec. ¶ 16, Ex. F). This evidence of fame is sufficient to create a genuine issue of material fact as to the strength of the THUNDERBIRD® mark such that summary judgment must be denied.

d. The Alleged Third Party Uses of THUNDER Marks Are Inapposite.

Applicant has asserted that third-party applications, registration or uses of THUNDER marks for alcoholic beverages other than beer, or for beer, weaken the strength of the THUNDERBIRD® mark. (See MSJ at 22-23). Here again, Applicant's assertions are incorrect and thus disputed. The third-party THUNDER marks for beer are not relevant to this proceeding because, as earlier discussed, the use of THUNDERBIRD for beer is not at issue. ⁶ As to the few non-beer third-party marks cited by applicant, as shown below, they have no effect on the strength of the THUNDERBIRD® mark.

To begin with, the Board often has observed that: "it is entirely reasonable for the [trademark owner] to object to the use of certain marks in use on some goods which it believes would conflict with the use of its marks ... while not objecting to use of a similar mark on other goods which it does not believe would conflict with its own use." *McDonald's Corp. v. McKinley*, 13 U.S.P.Q.2d 1895, 1899-1900 (T.T.A.B. 1989).

The third-party registrations of TROPICAL THUNDER, TENNESSEE THUNDER and CAJUN THUNDER cited by Applicant are *not* THUNDER+ marks, but the opposite, and thus are inapposite here. With respect to the pending application of THUNDER OAK, Opposer was unaware of it until it received Applicant's MSJ, and thus has not as yet taken action against it. (Cannon Dec. ¶ 19).

_

⁶ Opposer objects to all purported evidence relating to third-party marks for beer on the basis that beer, nor the strength of THUNDERBIRD for beer have been pleaded or are at issue in this proceeding such that these alleged third party uses and registrations all are irrelevant to this Opposition.

With respect to THUNDER MOUNTAIN WINERY, THUNDER BAY WINERY and THUNDER RIDGE VINEYARD, Opposer also was not aware of these small, local wineries until the discovery period in this proceeding. (Cannon Dec. ¶ 19). Moreover, there is no evidence that any of these businesses are operational, and if so, whether they distribute any wines outside of their single locations, whether they sell any quantities beyond *de minimis* quantities and with respect to THUNDER MOUNTAIN WINERY and THUNDER BAY WINERY, whether bottled wines are even offered by these purported establishments. There is no evidence that THUNDER VODKA is sold in the U.S., or that THUNDER LIQUORS is actually in business, or is anything more than a single liquor store. Thunder Road Wine and Spirits is Applicant's licensee and thus not a separate trademark use as apart from Applicant itself. (Salvatore Dec. ¶ 3, Ex. A).

Indeed, Opposer was not aware of any of these third-parties and none of them have had any impact on Opposer. (Cannon Dec. ¶ 19). Under Board precedent, none of these purported third-party uses rises to the level that would obligate Opposer to enforce against them. *See McDonald's Corp.*, 13 U.S.P.Q.2d at 1899-1900.

Accordingly, none of the third-party marks relied on by Applicant affect the strength of THUNDERBIRD® for the pleaded goods. Accordingly, there is a genuine dispute of material fact as to the strength of THUNDERBIRD®, which precludes summary judgment

e. Identical Trade Channels Also Supports Similarity and Likelihood of Confusion.

Since THUNDERBIRD® and THUNDER ROAD are used for legally identical goods, the Board "must presume that...the parties' respective goods...will be travelling through the same channels of trade to the same classes of consumers." *Starbucks U.S. Brands LLC v. Ruben*,

78 U.S.P.Q.2d 1741, 1751 (T.T.A.B. 2006); see also Packard Press, Inc., 227 F.3d at 1361; Kangol Ltd. v. KangaRoos U.S.A., 974 F.2d 161 (Fed. Cir. 1992) (if the channels of trade in both registrations are unrestricted, "[t]he issue of likelihood of confusion is resolved by considering the normal and usual channels of trade and method of distribution."). Opposer also has introduced evidence of high cross-purchasing data among purchasers of fortified wines and spirits, including whiskey and American whiskey, indicating that the goods at issue here are often sold in the same channels of trade to the same class of consumers. (Cannon Dec. ¶ 17). This is another genuine dispute of material fact precluding summary judgment.

f. The Fact that Alcoholic Beverage Consumers are Unsophisticated Further Supports Similarity and Likelihood of Confusion.

The Board has held that likely confusion is measured by purchasers of "not only expensive wines sold to careful, discriminating wine connoisseurs through fine wine and spirits stores but also less expensive wines sold to ordinary consumers through liquor stores, grocery stores, supermarkets, drug stores and the like." *In re Bercut-Vandervoort & Co.*, 229 U.S.P.Q. 763 (T.T.A.B. 1986); *In re Millbrook Distillery, LLC*, Serial Nos. 85924732 and 8595455 (February 5, 2015) [not precedential] ("we cannot assume that all customers for [wine and whiskey] will be careful purchasers...not everyone who purchases whiskey or wine will be that discriminating...wine and whiskey may be bought by ordinary purchasers who have no particular sophistication about the products, and who buy them without exercising great care"); *see also Palm Bay Imports, Inc.*, 396 F.3d at 1376 ("general consumers, not just connoisseurs, occasionally purchase champagne or sparkling wine on celebratory occasions, with little care or prior knowledge."). Other courts have agreed with this analysis. *Nova Wines, Inc. v. Adler Fels Winery LLC*, 467 F. Supp. 2d 965, 981 (N.D. Cal. 2006) (wine purchasers typically exercise a

lower degree of care); *Russell v. Caesar*, 62 U.S.P.Q.2d 1125 (N.D. Cal. 2001) (purchasers of \$15/bottle wine are "unsophisticated;" this enhances the likelihood of confusion between similar marks); *E. & J. Gallo Winery v. Consorzio Del Gallo Nero*, 782 F. Supp. 457 (N.D. Cal. 1991) (The American wine-buying public is not "sophisticated" and does not devote a great deal of care in choosing a brand, which "significantly enhances the likelihood of confusion.").

There also is evidence of record showing that both fortified wines and moonshine products are generally inexpensive goods (Salvatore Dec. ¶ 14, Ex. L), which further supports a finding that consumers will be inclined to exercise a low degree of care, and to make impulse purchases, another material disputed fact which precludes summary judgment.

3. A Lack of Actual Confusion Is Not Determinative as to Likelihood of Confusion.

It is well-settled that evidence of actual confusion is not necessary for a finding of a likelihood of confusion. *In re Majestic Distilling Co., Inc.*, 65 USPQ.2d 1201 (Fed. Cir. 2003) ("With regard to the seventh DuPont factor, we agree with the Board that Majestic's uncorroborated statements of no known instances of actual confusion are of little evidentiary value."); *Herbko Intern., Inc. v. Kappa Books, Inc.*, 64 USPQ.2d 1375 (Fed. Cir. 2002) ("a showing of actual confusion is not necessary to establish a likelihood of confusion."); *Weider Publications, LLC v. D & D Beauty Care Company, LLC*, 109 U.S.P.Q.2d 1347, 1360 (T.T.A.B. 2014) (It is not required that opposer show instances of factual confusion in order to prove a likelihood of confusion).

Further, and significantly, given the scant sales of Applicant's THUNDER ROAD products and the fact that its distribution is limited to a single distillery in Kodak, Tennessee, if there were instances of actual confusion with respect to the marks at issue, it would be highly unlikely that Opposer would ever be aware of this given the limited exposure of Applicant's

mark to consumers. (Salvatore Dec. ¶¶ 4-5, Exs. B-C). Thus, there are material issues of disputed fact as to the actual confusion issue such that summary judgment is inappropriate.

IV. CONCLUSION

The record is replete with genuine disputes of material facts precluding summary judgment in this proceeding. The disputed material facts pertaining to the similarity of the marks and the strength of THUNDERBIRD® are alone sufficient to preclude summary judgment in this Opposition. Accordingly, Applicant's MSJ must be denied.

Dated: February 22, 2017 Respectfully submitted,

HOLMES WEINBERG, PC

/Steven M. Weinberg / Steven M. Weinberg Michael J. Salvatore

30765 Pacific Coast Highway, Suite 411

Malibu, CA 90265 Tel: 310.457.6100 Fax: 310.457.9555

Email: <u>msalvatore@holmesweinberg.com</u> <u>smweinberg@holmesweinberg.com</u>

Attorneys for Opposer E. & J. Gallo Winery

APPENDIX

SUMMARY OF FACTS ADMITTED, DISPUTED AND OBJECTED TO BY OPPOSER IN RESPONSE TO APPLICANT'S STATEMENT OF UNDISPUTED FACTS

Applicant's Numbered Statements of Undisputed Fact	Opposer's Response	Basis for Objection
1-2, 6, 8-10 and 30-32, 38, 39	Admitted	
3-6	Objected to as irrelevant.	Applicant's state registration is not relevant
7	Objected to as irrelevant.	Examiner's not citing THUNDERBIRD registrations during prosecution not relevant and has no preclusive effect
11-15	Objected to as irrelevant.	The third-party registration for THUNDER ROAD for beer is not relevant
16-25	Objected to as irrelevant.	Gallo's application of THUNDERBIRD for beer is not relevant and it's not yet objecting to the third-party registration is not relevant
26-28	Objected to as irrelevant.	What appears or does not appear on Opposer's website or on product labels is not relevant
29	Objected to as irrelevant.	A dictionary definition without any evidence of consumer understanding is not relevant.
33-37	Objected to as irrelevant	Not relevant to any issue in this proceeding; there is no supporting testimony or evidence that these documents have had any effect on the public understanding of the THUNDERBIRD mark
40-41	Denied; Objected to as irrelevant	The Brand Report did not "find" the described statements and is an incomplete statement of all of the statements made by respondents; further, consumer likes or dislikes of a product is not relevant.
42-44	Denied; Objected to as irrelevant	The Brand Report did not "feature" the described statements and is an incomplete statement of all of the statements made by respondents; further, consumer likes or dislikes of a product is not relevant.

45-64	Objected to as irrelevant	All references to the 1958 film are not relevant; any references to trade dress and marketing strategies, including the distillery interiors, also not relevant; similarly, whether or not Gallo has knowledge of the film is not relevant; accordingly, the entire declarations of William H. Blalock and Peter L. Brewer are objected to as not relevant; and any observations or opinions expressed in the Blalock Declaration (Paragraphs 7, 9, 10, 12, 19) and in the Brewer declaration (Paragraphs 8, 10, 13, 14) also are objected to as improper testimony by counsel
65	Admitted, but immaterial	There is no evidence that the cited third party registrations have had any impact on the strength of the THUNDERBIRD mark; the evidence (Cannon Dec.¶19) is that there has been no impact
66	Denied; hearsay; immaterial	Websites merely show what they show, but there is no independent evidence that there are actual sales of the products or that if there are such sales, that they have had any impact on the strength of the THUNDERBIRD mark; the evidence (Cannon Dec.¶19) is that there has been no impact
67-68	Objected to as irrelevant	There is no relevance to whether or not Opposer filed proceedings against third-parties
69-73	Objected to as irrelevant	Third-party applications, registrations and purported uses of THUNDER marks for beer, are not relevant
74-77	Denied; hearsay; immaterial	Websites merely show what they show, but there is no independent evidence that there are actual sales of the products or that if there are such sales, that they have had any impact on the strength of the THUNDERBIRD mark; the evidence (Cannon Dec.¶19) is that there has been no impact
78	Admitted, but given the circumstances, objected to as immaterial	With THUNDER ROAD alcoholic beverages only being sold in one distillery in a small town in TN, and

those sales all being fairly recent, if
there has been any confusion there
is little chance that Opposer would
be aware of it

CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2017, a true and correct copy of the following documents were served by email only to Applicant's counsel at the below email address: (1) OPPOSER'S OPPOSITION TO APPLICANT'S MOTION FOR SUMMARY JUDGMENT, (2) DECLARATION OF TIM CANNON IN SUPPORT OF OPPOSER'S OPPOSITION; and (3) DECLARATION OF MICHAEL J. SALVATORE IN SUPPORT OF OPPOSER'S OPPOSITION.

Maia T. Woodhouse BAKER DONELSON BEARMAN ET AL mwoodhouse@bakerdonelson.com trademarks@bakerdonelson.com pbrewer@bakerdonelson.com sgibbs@bakerdonelson.com

> /Michael J. Salvatore/ Michael J. Salvatore

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

E. & J. Gallo Winery,	
Opposer,	
v.	Opposition No. 91222284
Thunder Road Brands, LLC,	
Applicant.	

DECLARATION OF TIM CANNON IN SUPPORT OF OPPOSER'S OPPOSITION TO APPLICANT'S MOTION FOR SUMMARY JUDGMENT

I, Tim Cannon hereby declares as follows:

In re App. Serial No. 77/859,042

- 1. I am a Director, Marketing, of Opposer E. & J. Gallo Winery ("Opposer" or "Gallo"). I have personal knowledge of the facts set out in this declaration. I am submitting this declaration in support of Gallo's Opposition to Applicant's Motion for Summary Judgment. All of the facts set forth herein are of my own personal knowledge or are from my review of Gallo's business records.
- 2. I began working for Gallo in May of 2006. Prior to assuming my current position, I was a Senior Marketing Manager for Gallo. In my current role, I have overall responsibility for the marketing of the THUNDERBIRD® brand. I have been in this latter role since February of 2015.
- 3. THUNDERBIRD® is a fortified wine product. A fortified wine is a wine to which a distilled spirit is added, resulting in a product with a higher alcoholic content than wine.

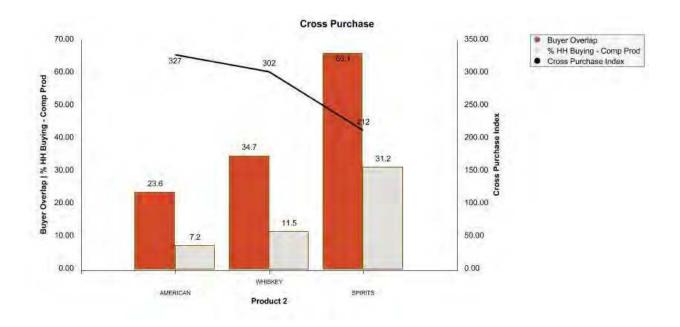
A true and correct copy of the Wikipedia page for fortified wine, which explains fortified wines, is attached hereto as **Exhibit A**.

- 4. Gallo offers two varieties of THUNDERBIRD®: a 14% alcohol content fortified wine and an 18% alcohol content fortified wine. True and correct copies of bottle images of these THUNDERBIRD® products are attached hereto as **Exhibit B**.
- 5. THUNDERBIRD® wines are sold in over off-premise retailers throughout the United States. An off-premise retailer is one in which wines can be purchased, but not consumed on the premises, such as a grocery store, liquor store, convenience store or market.
- 6. Over the course of my employment with Gallo, I have become personally knowledgeable about the history of the marketing and sales of products sold under the THUNDERBIRD® brand, both from reviewing the business records of the company as well as from my oversight of the marketing of this line of products.
- 7. The name THUNDERBIRD has no relationship to wine or other alcoholic beverages and was a purely arbitrary name choice.
- 8. THUNDERBIRD® fortified wines were first offered in US commerce by Gallo in 1957, and have been offered and sold continuously since that time.
- 9. Case sales of THUNDERBIRD® in the United States from 2009 through 2016 are approximately cases. Since each case of THUNDERBIRD® contains twelve 750 ml bottles, approximately bottles of THUNDERBIRD® products have been sold in the U.S. since 2009. A true and correct copy of a business record reflecting this information is attached hereto as **Exhibit C**.
- 10. Revenue to Gallo from sales of THUNDERBIRD® products between 2009 and 2016 is approximately \$ _______.

- 11. While we do not set the retail price of the THUNDERBIRD® products, I have observed that the retail price per bottle is usually under \$4.99.
- 12. Gallo owns U.S. Patent and Trademark Office Registration Nos. 0656907, 3853584 and 4403211 of the trademark THUNDERBIRD® for "wines" and "alcoholic beverages except beers," respectively. Gallo's exclusive rights in the marks registered under Reg. Nos. 0656907 and 3853584 are incontestable as shown by the records of the USPTO. True and correct copies of each of these trademark registrations are attached hereto as **Exhibit D**.
- 13. The THUNDERBIRD® mark appears prominently on every bottle of THUNDERBIRD® products.
- 14. THUNDERBIRD® is a historic Gallo brand and has been the subject of significant marketing efforts over its sixty-year history. Examples of two historic television commercials for THUNDERBIRD® products that were broadcast on television can be found on YouTube at: https://www.youtube.com/watch?v=0xY7mBQrzXU and https://www.youtube.com/watch?v=gTDEpSYD25M. These two videos have combined views on YouTube of over 221,000. Attached hereto as **Exhibit E** are true and correct copies of numerous examples of historic THUNDERBIRD® marketing materials, including signs, posters and other point-of-sale materials that were actually used. Our well-known slogan, "What's the word, THUNDERBIRD," which has become part of Americana, also became the title of a Rock & Roll song that has been performed by a number of performing artists, including ZZ Top. Examples can be found on YouTube at: https://www.youtube.com/watch?v=Roq-BD4U-Jc and https://www.youtube.com/watch?v=Roq-BD4U-Jc and https://www.youtube.com/watch?v=Roq-BD4U-Jc and https://www.youtube.com/watch?v=Roq-BD4U-Jc and

- 15. As a result of the marketing and sales of the THUNDERBIRD® products, the THUNDERBIRD® mark is a readily recognizable, valuable and powerful brand for wines.
- 16. The continued brand awareness of THUNDERBIRD® is shown in two marketing studies recently commissioned by Gallo in connection with the development of a possible new product line to be offered under the THUNDERBIRD® mark. These studies were commissioned by Gallo to assist us in determining the likely demographic for our new potential THUNDERBIRD® product line: the first study, entitled the September 30, 2014 Boone's Farm and Thunderbird Brand Equity Report, surveyed a representative sample of persons ages 21-40 who drink alcohol at least 3+ times per week. In this aided awareness study, 24% of these millennial and GenX respondents were aware of THUNDERBIRD®. In a second aided awareness study, the May 26, 2015 Thunderbird Product and Brand Development Research Report, which involved a similar sample, 76% of respondents were aware of THUNDERBIRD®. The results of these studies tell us that the awareness of the THUNDERBIRD® brand by this younger group of consumers is high – between 24% and 76%. This number is of particular significance because the historical consumers of the THUNDERBIRD® brand, as shown by Gallo's business records, skews older than the demographic tested in these two studies. Given this, I believe that this awareness number would have been significantly higher had the survey respondents included people older than 41. True and correct copies of these reports are attached hereto as Exhibit F, which reports have been regularly relied on by myself and my team in continuing to market and position the THUNDERBIRD® brand.
- 17. I am aware that the Applicant in this proceeding has applied to register the mark THUNDER ROAD for "alcoholic beverages, namely, Tennessee sour mash whiskey and

moonshine." As part of my role at Gallo, I regularly utilize market data from the industry-leading market research firm IRI (Information Resources Inc.). IRI Consumer Panel Data shows very high interaction and cross-purchasing data between the categories of fortified wines and spirits, including high-alcohol spirits such as whiskey, which tells me that fortified wines and high-alcohol spirits such as whiskey are sold in many of the same trade channels to the same class of consumers. The IRI chart depicted below shows a 66.1% correlation between purchasers of fortified wines and spirits, a 34.7% correlation between purchasers of fortified wines and whiskey, and a 23.6% correlation between purchasers of fortified wines and American whiskey:



I have been advised that the Applicant in this proceeding has claimed that when Gallo filed its recent application for registration of THUNDERBIRD for beer, it should have identified a company that had obtained a federal registration of THUNDER ROAD for beer as having better rights than Gallo. Gallo did not at the time of applying or since then believe that that company had better rights since, to the best of our knowledge, THUNDER ROAD beer has not been sold and is not being sold in the United States.

- 19. I have been made aware that the Applicant has referenced in its motion that there are various third-party marks for alcoholic beverages other than beers that are subject to federal applications or registrations, and which may or may not be in use. As a business, we were not aware of any of these third-party marks until this proceeding, and certainly none of them, if they are in use, have had any impact of any kind on the notoriety of the THUNDERBIRD brand.
- 20. I firmly believe that the Applicant's moonshine and whiskey brand will cause damage to our THUNDERBIRD® mark. Given the notoriety of the THUNDERBIRD® mark, I believe as a marketing and branding professional that a competing moonshine and/or whiskey product named THUNDER ROAD has a confusingly similar connotation to the well-known THUNDERBIRD® mark, the result being that consumers will mistakenly believe that the THUNDER ROAD product, is associated or otherwise connected with our well-known THUNDERBIRD® fortified wine products.

I declare under penalty of perjury, under the laws of the United States of America that the foregoing is true and correct.

Executed this 21 day of February, 2017, at Modesto, California.

TÍM CANNON

Exhibit A

Fortified wine - Wikipedia 2/14/17, 2:43 PM

Fortified wine

From Wikipedia, the free encyclopedia

Fortified wine is a wine to which a distilled spirit, usually brandy, is added.^[1] Many different styles of fortified wine have been developed, including Port, Sherry, Madeira, Marsala, Commandaria wine and the aromatised wine Vermouth.^[2]

Contents

- 1 Production
- 2 Varieties
 - 2.1 Commandaria wine
 - 2.2 Madeira wine
 - 2.3 Marsala wine
 - 2.4 Mistelle
 - 2.5 Moscatel de Setúbal
 - 2.6 Port wine
 - 2.7 Sherry
 - 2.8 Vermouth
 - 2.9 Vins doux naturels
 - 2.10 Low-end fortified wines
- 3 Terminology
- 4 See also
- 5 References
- 6 External links



A glass of port, a fortified wine.



A collection of vermouth and quinquina bottles, including Noilly Prat Extra Dry, Lillet Blanc, Dolin Rouge, and Martini & Rossi Rosso

Production



Sherry barrels aging.

One reason for fortifying wine was to preserve it, since ethanol is a natural antiseptic. However, since the fortified wine-style started in about 1650, it is quite unlikely that this was the original reason for it. It is not until about 1850 that antiseptic action and even the function of yeasts were discovered. It is much more likely that the start of fortification was a fortunate accident. Even though other preservation methods now exist, fortification continues to be used because the process can add distinct flavors to the finished product.

Fortified wine - Wikipedia 2/14/17, 2:43 PM

Although grape brandy is most commonly added to produce fortified wines, the additional alcohol may also be neutral spirit that has been distilled from grapes, grain, sugar beets or sugarcane. Regional appellation laws may dictate the types of spirit that are permitted for fortification. For example, in the U.S. only spirits from grapes may be used.

The source of the additional alcohol and the method of its distillation can affect the flavour of the fortified wine. If neutral spirit is used, it will usually have been produced with a continuous still, rather than a pot still.^[2]

When added to wine before the fermentation process is complete, the alcohol in the distilled beverage kills the yeast and leaves residual sugar behind. The end result is a wine that is both sweeter and stronger, normally containing about 20% alcohol by volume (ABV).

During the fermentation process, yeast cells in the must continue to convert sugar into alcohol until the must reaches an alcohol level of 16%–18%. At this level, the alcohol becomes toxic to the yeast and kills it. If fermentation is allowed to run to completion, the resulting wine will (in most cases) be low in sugar and will be considered a dry wine. The earlier in the fermentation process that alcohol is added, the sweeter the resulting wine will be. For drier fortified wine styles, such as sherry, the alcohol is added shortly before or after the end of the fermentation.

In the case of some fortified wine styles (such as late harvest and botrytized wines), a naturally high level of sugar will inhibit the yeast. This causes fermentation to stop before the wine can become dry.^[2]

Varieties

Commandaria wine

Commandaria is made in Cyprus' unique AOC region north of Limassol from high altitude vines of Mavro and Xynisteri, sun dried and aged in oak barrels. Recent developments have produced different styles of Commandaria, some of which are not fortified.

Madeira wine

Madeira is a fortified wine made in the Madeira Islands. The wine is produced in a variety of styles ranging from dry wines which can be consumed on their own as an aperitif, to sweet wines more usually consumed with dessert. Madeira is deliberately heated and oxidised as part of its maturation process, resulting in distinctive flavours and an unusually long lifespan once a bottle is opened.



The commandaria wine tasting

Marsala wine

Fortified wine - Wikipedia 2/14/17, 2:43 PM

Marsala wine is a wine from Sicily that is available in both fortified and unfortified versions.^[3] It was first produced in 1772 by an English merchant, John Woodhouse, as an inexpensive substitute for sherry and port, and gets its name from the island's port, Marsala. The fortified version is blended with brandy to make two styles, the younger, slightly weaker *Fine*, which is at least 17% abv and aged at least four months; and the *Superiore*, which is at least 18%, and aged at least two years. The unfortified Marsala wine is aged in wooden casks for five years or more and reaches a strength of 18% by evaporation.^[3]

Mistelle



Mistelle (Italian: *mistella*; French: *mistelle*; Spanish, Portuguese, Galician and Catalan: *mistela*, from Latin MIXTELLA/MIXTVM "mix") is sometimes used as an ingredient in fortified wines, particularly Vermouth, Marsala and Sherry, though it is used mainly as a base for apéritifs such as the French Pineau des Charentes.^[5] It is produced by adding alcohol to non-fermented or partially fermented grape juice.^[6] The addition of alcohol stops the fermentation and, as a consequence Mistelle is sweeter than fully fermented grape juice in which the sugars turn to alcohol.^[7]

Moscatel de Setúbal

Moscatel de Setúbal is a Portuguese wine produced around the Setúbal Municipality on the Península de Setúbal. The wine is made primarily from the Muscat of Alexandria grape and typically fortified with aguardente. The style was believed to have been invented by José Maria da Fonseca, the founder of the oldest table wine company in Portugal dating back to 1834.

Port wine

Port wine (also known simply as Port) is a fortified wine from the Douro Valley in the northern provinces of Portugal. [8] It is typically a sweet red wine, but also comes in dry, semi-dry and white varieties.

Sherry

Sherry is a fortified wine made from white grapes that are grown near the town of Jerez, Spain. The word "sherry" itself is an anglicisation of Jerez. In earlier times, sherry was known as *sack* (from the Spanish *saca*, meaning "a removal from the solera"). In the European Union "sherry" is a protected designation of origin; therefore, all wine labelled as "sherry" must legally come from the Sherry Triangle, which is an area in the province of Cádiz between Jerez de la Frontera, Sanlúcar de Barrameda and El Puerto de Santa María. [9]

After fermentation is complete, sherry is fortified with brandy. Because the fortification takes place after fermentation, most sherries are initially dry, with any sweetness being added later. In contrast, port wine (for example) is fortified halfway through its fermentation, which stops the process so that not all of the sugar is

turned into alcohol.

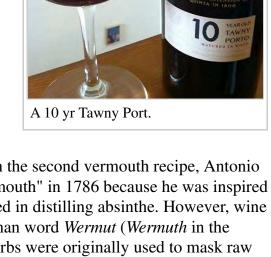
Sherry is produced in a variety of styles, ranging from dry, light versions such as finos to much darker and sometimes sweeter versions known as olorosos.



Vermouth

Vermouth is a fortified wine flavoured with aromatic herbs and spices ("aromatised" in the trade) using closely guarded recipes (trade secrets). Some of the herbs and spices used may include cardamom, cinnamon,

marjoram and chamomile.^[10] Some vermouth is sweetened; however, unsweetened or dry, vermouth tends to be bitter. The person credited with the second vermouth recipe, Antonio Benedetto Carpano from Turin, Italy, chose to name his concoction "vermouth" in 1786 because he was inspired by a German wine flavoured with wormwood, an herb most famously used in distilling absinthe. However, wine flavoured with wormwood goes back to ancient Rome. The modern German word *Wermut* (*Wermuth* in the spelling of Carpano's time) means both *wormwood* and *vermouth*. The herbs were originally used to mask raw flavours of cheaper wines,^[11] imparting a slightly medicinal "tonic" flavor.





Vins doux naturels are lightly fortified wines typically made from white Muscat grapes or red Grenache grapes in the south of France. The production of vins doux naturels was perfected by Arnaud de Villeneuve at the University of Montpellier in the 13th century and they are now quite common in the Languedoc-Roussillon region of southern France.

As the name suggests, Muscat de Beaumes-de-Venise, Muscat de Rivesaltes and Muscat de Frontignan are all made from the white Muscat grape, whilst Banyuls and Maury are made from red Grenache. Regardless of the grape, fermentation is stopped by the addition of up to 10% of a 190 proof (95%) grape spirit. [12] The Grenache vins doux naturels can be made in an oxidised or unoxidised style whereas the Muscat wines are protected from oxidation to retain their freshness. [13]



A Grenache-based VdN from Rasteau.

Low-end fortified wines

Inexpensive fortified wines, such as Thunderbird and Wild Irish Rose, became popular during the Great Depression for their relatively high alcohol content. The term *wino* was coined during this period to describe impoverished people who drank these wines solely for their inebriating effect. [14]

These wines continue to be associated with the homeless, mainly because marketers have been aggressive in targeting low-income communities as



Martini Bianco, an Italian vermouth

ideal consumers of these beverages; organisations in cities such as Los Angeles, San Francisco, Seattle and Portland have urged makers of

inexpensive fortified wine, including E & J Gallo Winery, to stop providing such products to liquor stores in impoverished areas. ^[15] In 2005, the Seattle City Council asked the Washington State Liquor Control Board to prohibit the sale of certain alcohol products in an impoverished "Alcohol Impact Area." Among the products sought to be banned were over two dozen beers, and six fortified wines: Cisco, Gino's Premium Blend, MD 20/20, Night Train, Thunderbird, and Wild Irish Rose. ^[16] The Liquor Control Board approved these restrictions on August 30, 2006. ^[17]

Terminology

Fortified wines are often termed dessert wines in the United States to avoid association with hard drinking.^[18] The term "Vins de liqueur" is used by the French.^[19]

Under European Union legislation, a liqueur wine is a fortified wine that contains 15 - 22% abv, with Total Alcoholic Strength no less than 17.5%, and that meets many additional criteria. Exemptions are allowed for certain quality liqueur wines.^[20]

See also

- Vin de liqueur
- Wine and health

References

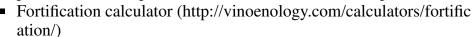
Notes

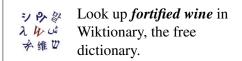
- 1. Lichine, Alexis (1987). *Alexis Lichine's New Encyclopedia of Wines & Spirits* (5th ed.). New York: Alfred A. Knopf. p. 236. ISBN 0-394-56262-3.
- 2. Robinson, J., ed. (2006). *The Oxford Companion to Wine* (3rd ed.). New York: Oxford University Press. p. 279. ISBN 0-19-860990-6.
- 3. Ned Halley (January 2005). *The Wordsworth Dictionary of Drink: An A-Z of Alcoholic Beverages*. Wordsworth Editions. p. 384. ISBN 978-1-84022-302-6. Retrieved 2009-04-04.
- 4. John R. Hailman (2006). *Thomas Jefferson on Wine*. Univ. Press of Mississippi. p. 306. ISBN 978-1-57806-841-8. Retrieved 2009-04-04.
- 5. 'Mistela' (http://www.winepros.com.au/jsp/cda/reference/oxford_entry.jsp?entry_id=2032) in *Oxford Companion to Wine*, ed. by Jancis Robinson, 2nd ed. (Oxford: Oxford University Press, 1999), s.v.
- 6. "mistelle Definition in the Wine Dictionary at Epicurious.com". epicurious.com. Archived from the original on June 6, 2011. Retrieved 2009-04-05.
- 7. Biancalana, Antonello. "Production of Fortified Wines DiWineTaste". diwinetaste.com. Retrieved 2009-04-05.
- 8. Porter, Darwin; Price, Danforth (2000). Frommer's Portugal (16th ed.). IDG Books Worldwide. ISBN 0-02-863601-5.
- 9. Spanish law (http://www.nicks.com.au/index.aspx?link_id=76.1232)
- 10. Clarke, Paul (2008-08-15). "The Truth About Vermouth: The secret ingredient in today's top cocktails remains misunderstood". *The San Francisco Chronicle*.
- 11. Ray Foley (18 September 2006). *Bartending For Dummies*. John Wiley & Sons. p. 112. ISBN 978-0-470-10752-2. Retrieved 2009-04-05.
- 12. John J. Baxevanis (1 January 1987). *The Wines of Champagne, Burgundy, Eastern and Southern France*. Rowman & Littlefield. p. 268. ISBN 978-0-8476-7534-0. Retrieved 2009-04-05.
- 13. thewinedoctor.com (http://www.thewinedoctor.com/author/sweetmutage.shtml)
- 14. Zraly, Kevin (2006). Kevin Zraly's American Wine Guide. New York: Sterling. p. 238. ISBN 1-4027-2585-X.
- 15. Jorgensen, Janice (1993). *Encyclopedia of Consumer Brands: Consumable Products*. Detroit: St. James Press. p. 492. ISBN 1-55862-336-1.
- 16. Hector Castro (December 7, 2005). "City could soon widen alcohol impact areas". Seattle Post-Intelligencer.
- 17. Seattle's Alcohol Impact Areas: The Extended Central Core AIA (http://wayback.archive.org/web/20130101013846/http://www.seattle.gov/BAN/public_safety_AIA.htm), City of Seattle website.
- 18. Charles L. Sullivan (1 September 1998). A Companion to California Wine: An Encyclopedia of Wine and Winemaking from the Mission Period to the Present. University of California Press. p. 120. ISBN 978-0-520-92087-3. Retrieved 2009-04-05.
- 19. Robert Joseph (2006). *Wine Travel Guide to the World*. Footprint Handbooks. p. 36. ISBN 978-1-904777-85-4. Retrieved 2009-04-05.
- 20. COUNCIL REGULATION (EC) No 479/2008; Annex IV, §3 (European Union document). (http://eur-lex.europa.eu/Lex

UriServ/LexUriServ.do?uri=OJ:L:2008:148:0001:0061:EN:PDF) See page 46.

External links

• Fortified Wines (https://web.archive.org/web/20121101064716/htt p://www.thatsthespirit.com/en/wine/wine_fortified.asp)





- Dessert Wines (http://www.musingsonthevine.com/tips_des2.shtml) (fortified wine production).
- Commandaria wine (http://cypruswine.wordpress.com/tag/commandaria-wine/) and its evolution.

Retrieved from "https://en.wikipedia.org/w/index.php?title=Fortified_wine&oldid=759905826"

Categories: Fortified wine | Wine styles

- This page was last modified on 13 January 2017, at 20:04.
- Text is available under the Creative Commons Attribution-ShareAlike License; additional terms may apply. By using this site, you agree to the Terms of Use and Privacy Policy. Wikipedia® is a registered trademark of the Wikimedia Foundation, Inc., a non-profit organization.

Exhibit B





Exhibit C

CONFIDENTIAL – FILED UNDER SEAL

Exhibit D

Int. Cl.: 33

Prior U.S. Cl.: 47

Reg. No. 656,907

United States Patent and Trademark Office

Registered Jan. 7, 1958

10 Year Renewal

Renewal Term Begins Jan. 7, 1998

TRADEMARK PRINCIPAL REGISTER

Thunderbird

E. & J. GALLO WINERY (CALIFORNIA CORPORATION) 600 YOSEMITE BOULEVARD MODESTO, CA 95353 FOR: WINES, IN CLASS 47 (INT. CL. 33).
FIRST USE 4-22-1957; IN COMMERCE 4-22-1957.

SER. NO. 72-029,056, FILED 4-29-1957.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Apr. 28, 1998.

COMMISSIONER OF PATENTS AND TRADEMARKS

656,907 Registered Jan. 7, 1958

PRINCIPAL REGISTER Trademark

Ser. No. 29,056, filed Apr. 29, 1957

Thunderbird

E. & J. Gallo Winery (California corporation) Fairbanks Ave. Modesto, Calif.

For: WINES, in CLASS 47. First use Apr. 22, 1957; in commerce Apr. 22, 1957.

CONNE. AFF. SEC. 8 & 15

United States of America Huited States Matent and Arademark Office United States Patent and Trademark Office

THUNDERBIRD

Reg. No. 3,853,584 E. & J. GALLO WINERY (CALIFORNIA CORPORATION)

600 YOSEMITE BOULEVARD

Registered Sep. 28, 2010 MODESTO, CA 95354

Int. Cl.: 33 FOR: WINES, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 4-22-1957; IN COMMERCE 4-22-1957. TRADEMARK

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-PRINCIPAL REGISTER

TICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 656,907.

SER. NO. 77-960,592, FILED 3-16-2010.

KHANH LE, EXAMINING ATTORNEY



Director of the United States Patent and Trademark Office



THUNDERBIRD

Reg. No. 4,403,211 E. & J. GALLO WINERY (CALIFORNIA CORPORATION)

600 YOSEMITE BOULEVARD

Registered Sep. 17, 2013 MODESTO, CA 95354

Int. Cl.: 33 FOR: ALCOHOLIC BEVERAGES EXCEPT BEERS, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 4-22-1957; IN COMMERCE 4-22-1957. **TRADEMARK**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-PRINCIPAL REGISTER

TICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 656,907 AND 3,853,584.

SER. NO. 85-845,174, FILED 2-8-2013.

DOMINIC FATHY, EXAMINING ATTORNEY



Exhibit E



AWARDS 2003

Thunderbird

... the word for fun!



GALLO 000021







Mixed or Straight.



ORANGEBIRD

PHA SOUTH CATEGOR HAPP spille of Aortic cash; THE A VALLE AND IN STREET CHI IN MICH. SE parts Thursdayburd WHAT SHAN NOW A COUNTRY were you press High textilates on bigs. Strong Prince

SHAKE EM UP

there are it through time easing their to first WAY BOWN BY THE parts Thursdorbert and one part ACCUSE OF ROSE IN W tail glass with ico. Sain highlift will garnish with fruit.

TAT

A tail cool surprise. Mar one park Thursderbird to one SHIFT YOUNG OF sensite are an elegant WILL AN ARM MAN MAN SALAMA



THUNDERADE

**** (1994)

y considerations, NOT THE WAY BUT WHICH WHICH FIRM MAN PHARMEN THE WHITE WHILE NEW WAY SAME SAME OFFI DATE OF THE PARTY OF THE PARTY



COLABIRD

26 275 1841 - A. C. Therewood VI CHANGE AND SHAPE SHAPE CONTRACTOR SALES A THE BUILDING What's the word?



Thumderbird

Perry Wine & Matural Pure Flavors, Thunderbird Ltd., Modeste, Calif. 18-339-6

Exhibit F

CONFIDENTIAL – FILED UNDER SEAL

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

E. & J. Gallo Winery, Opposer,	
V.	Opposition No. 911222284
Thunder Road Brands, LLC,	
Applicant.	

In re App. Serial No. 77/859,042

DECLARATION OF MICHAEL J. SALVATORE IN SUPPORT OF OPPOSER'S OPPOSITION TO APPLICANT'S MOTION FOR SUMMARY JUDGMENT

I, MICHAEL J. SALVATORE, hereby declare as follows:

- 1. I am counsel of record for Opposer E. & J. Gallo Winery ("Opposer" or "Gallo"). I am submitting this declaration in support of Gallo's Opposition to Applicant's Motion for Summary Judgment. I have personal knowledge of the facts set forth herein and if called as a witness, I could and would testify competently thereto.
- 2. On February 8-9 and 14, 2017, I conducted internet research pertaining to the use and marketing of the marks at issue in this proceeding, third party marks for wines and moonshine and general information about moonshine as a product and its depictions in popular culture. I have taken screenshots of representative examples of my findings, and attach those screenshots as Exhibits to this declaration. A computer "screenshot" is a depiction of a computer's screen at any given time. In making a screenshot, the user captures the contents of its computer screen in a picture format for fidelity.

- 3. Attached hereto as **Exhibit A** is a true and correct copy of Applicant's Responses to Opposer's First Set of Interrogatories.
- 4. Attached hereto as **Exhibit B** is a true and correct copy of Applicant's Responses to Opposer's Second Set of Interrogatories.
- Attached hereto as Exhibit C is a true and correct copy of Applicant's
 Confidential For Attorneys' Eyes Only Responses to Opposer's Second Set of Interrogatories.
- 6. Attached hereto as **Exhibit D** is a true and correct copy of Applicant's Responses to Opposer's First Set of Requests for Admission.
- 7. Attached hereto as **Exhibit E** are true and correct copies of documents produced by Applicant in this proceeding, namely TRBRANDS00000130 TRBRANDS00000151, TRBRANDS00000252 TRBRANDS00000265, TRBRANDS00000270 TRBRANDS00000287 and TRBRANDS00000983 TRBRANDS00000989.
- 8. Attached hereto as **Exhibit F** is a true and correct copy of a screenshot I took of the Thunder Road Distillery website, found at: http://www.thunderroaddistillery.com/spirits/, which was identified by Applicant in its response to Opposer's Interrogatory No. 3.
- 9. On February 8, 2017, I accessed the USPTO website, www.uspto.gov. Attached hereto as **Exhibit G** is a true and correct copy of the current record for USPTO App. Serial No. 77/859,042, for the mark Thunder Road for "Alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine," as well as a true and correct copy of Applicant's December 3, 2014 Response to Office Action relating to this application.
- 10. Attached hereto as **Exhibit H** are true and correct copies of screenshots I took of third party websites showing wines and whiskey being sold under the same mark and/or at the same establishment, namely (1) WOODSTONE CREEK in Cincinnati, OH at

http://www.woodstonecreek.com/index.html, (2) CEDAR RIDGE Winery & Distillery in Cedar Rapids, IA at http://www.crwine.com/, (3) Nashoba Valley Winery and Spirits in Bolton, MA at http://nashobawinery.com/spirits/, (4) CHARBAY® Artisan Distillery and Winery in St. Helena, CA at http://www.charbay.com/ and https://www.charbaywinery.com/, (5) AeppelTreow Winery & Distillery in Burlington, WI at http://aeppeltreow.com/, (6) River Hill Distillery Whiskey & Wine in Luray, VA at http://riverhilldistillery.com/pricelist.htm, and (7) FLAG HILL Winery & Distillery in Lee, NH at http://www.flaghill.com/. These websites show that wine products and whiskey products appear to be offered for sale under the same mark and at the same establishment throughout the United States.

- 11. Attached hereto as **Exhibit I** is a true and correct copy of the website for SPODEE, a product that is identified as a blend of wine and moonshine, at http://www.spodeewine.com/about/.
- 12. Attached hereto as **Exhibit J** are true and correct copies of the current records for various third party USPTO Registrations based on actual use for marks that are registered for both wine and whiskey, and one USPTO Application based on an intent to use for a mark that is applied for wine, whiskey and moonshine, as shown at www.uspto.gov. They are (1) Reg. No. 2672674 for the mark FORTY CREEK, (2) Reg. No. 2775036 for the mark GELSON'S, (3) Reg. No. 3245309 for the mark SOUTHERN MOST, (4) Reg. No. 4309253 for the mark SLOONSHINE, (5) Reg. No. 4594423 for the mark OFFICER'S CHOICE, (6) Reg. No. 4992323 for the mark CLAYTON JAMES TENNESSEE WHISKEY, and (7) App. Serial No. 87/003,858 for the mark DANIELLE PARTON.

- 13. Attached hereto as **Exhibit K** are true and correct copies of the current records for four USPTO Applications based on intent to use and one USPTO Registration based on actual use for goods including both wine, whiskey and moonshine, each of which is under the ownership of Dumplin Creek Distillery, LLC, Applicant's licensee for its Thunder Road moonshine and whiskey products. They are (1) App. Serial No. 86/710,118 for the mark C.A. JACKSON, (2) App. Serial No. 86/710,088 for the mark CAL F JOHNSON, (3) App. Serial No. 86/509,210 for the mark OLD TENNESSEE DISTILLERY, (4) App. Serial No. 86/140,733 for the mark TAIL OF THE DRAGON, and (5) Reg. No. 5082913 for the mark TENNESSEE FROST. Also attached is the specimen of use lodged with the USPTO for Reg. No. 5082913, which depicts the TENNESSEE FROST product with one of Applicant's THUNDER ROAD corn whiskey products on a sales receipt from the Thunder Road distillery owned by Applicant's licensee in Kodak, TN.
- 14. Attached hereto as **Exhibit L** are true and correct copies of screenshots I took of the BevMo! website, found at http://shop.bevmo.com/search?w=moonshine, which depict the price points of various third party fortified wine and moonshine products.
- 15. On February 14, 2017, I conducted internet research into moonshine as a product and its depictions in popular culture. Attached hereto as **Exhibit M** are true and correct copies of various internet articles I found discussing the illicit, illegal, high-proof and potentially lethal nature of moonshine products, as well as examples of the often negative depictions of moonshine and moonshine producers in popular culture, including the popular Li'l Abner cartoon and the recent Discovery Channel docudrama television series "Moonshiners."

I declare under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct.

Executed this 22nd day of February, 2017, at Malibu, California.

_/s/ Michael J. Salvatore MICHAEL J. SALVATORE

Exhibit A

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

In the Matter of U.S. Trademark Application Serial No.: 77/859,042 Mark: THUNDER ROAD

Application Filing Date: October 28, 2009

E. & J. GALLO WINERY,)	
)	
Opposer,)	
)	Opposition No. 91/222,284
VS.)	
)	Serial No. 77/859,042
THUNDER ROAD BRANDS, LLC,)	,
)	
Applicant.)	

THUNDER ROAD BRANDS, LLC'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES

COMES NOW Thunder Road Brands, LLC ("Applicant") and hereby submits the following Objections and Responses to E. & J. Gallo Winery's ("Opposer") First Set of Interrogatories.

GENERAL OBJECTIONS

The following general objections apply to each interrogatory, and to any amendments, modifications or supplements to these responses, which may be provided at a later date:

1. Applicant's responses and objections are made solely for the purpose of this action. Each response is subject to all objections as to competence, relevance, materiality, propriety and admissibility, and any and all other objections and grounds that would require the exclusion of any statement contained herein if made by any witness present and testifying in court or arbitration. All such objections and grounds are reserved and may be interposed at the time of trial or arbitration.

- 2. The following responses are based upon information presently available to Applicant based upon a reasonably diligent investigation. Except for explicit facts admitted herein, no incidental or implied admissions are intended hereby. The fact that Applicant has answered all or part of any interrogatory is not intended and shall not be construed to be a waiver of any objection to any interrogatory. Applicant reserves the right to supplement or modify these responses based upon the discovery of additional or different information.
- 3. Applicant objects to the Interrogatories insofar as they purport to require disclosure of communications and information, which are shielded from disclosure by the attorney/client privilege, attorney work product doctrine, and/or other applicable privileges.
- 4. Applicant objects to the Interrogatories to the extent that they are vague, cumulative, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.
- 5. Applicant objects to the Interrogatories to the extent that they purport to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure or Trademark Trial and Appeal Board Manual of Procedure.
- 6. Applicant objects to the Interrogatories to the extent that they seek documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit.
- 7. Applicant reserves the right to object to the admission into evidence or other use of any of these responses at the trial of this action or at any other proceeding in this action or any other action.

- 8. Applicant reserves the right to object at any time to any demand for further responses to the Interrogatories or any other discovery procedures involving or relating to the subject matter of the Interrogatories.
- 9. Applicant reserves the right at any time to revise, correct, add to, or clarify any of the responses to the Interrogatories set forth herein.
- 10. Applicant objects to the Interrogatories to the extent that they seek disclosure of information already in Opposer's knowledge, possession and/or control.
- 11. Applicant objects to the interrogatories to the extent they seek information and/or documents that have already been provided in connection with this action.
- 12. Applicant objects to Opposer's "Definitions" section in its entirety to the extent that Opposer seeks to (a) create obligations beyond those required by the Federal Rules of Civil Procedure and/or Trademark Trial and Appeal Board Manual of Procedure, and (b) use to the definitions to create additional Interrogatories and subparts to such interrogatories beyond the limits of Rule 33 of the Federal Rules of Civil Procedure and Rule 405 of the Trademark Trial and Appeal Board Manual of Procedure.
- 13. Applicant incorporates by reference these general objections in response to each and every Interrogatory set forth below.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1: IDENTIFY DOCUMENTS EVIDENCING APPLICANT'S first use in commerce of APPLICANT'S MARK for each of APPLICANT'S GOODS, if any.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the

discovery of admissible evidence. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant further objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 1.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant and/or its predecessors-in-interest have used the phrase "THUNDER ROAD" since the filming of the *Thunder Road* movie began in 1957. Applicant was formed as a limited liability company under the laws of the State of Tennessee on September 30, 2009. Applicant licensed the THUNDER ROAD trademark for use in connection with certain barbecue sauces and other food products at least as early as 2009. Applicant filed the application-at-issue for the THUNDER ROAD trademark in October of 2009. Applicant commenced efforts to license the THUNDER ROAD trademark in connection with the distillation and sale of distilled spirits in or around 2010. Applicant states that, to the best of its knowledge, its first use in commerce of the THUNDER ROAD trademark for the goods identified in the application-at-issue commenced at least as early as January 1, 2010. Applicant further incorporates by reference its responses and objections to Opposer's Request for Production No. 1.

INTERROGATORY NO. 2: IDENTIFY DOCUMENTS EVIDENCING APPLICANT'S intended uses in commerce of APPLICANT'S MARK for each of APPLICANT'S GOODS.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 2, and incorporates by reference its responses and objections to Opposer's Request for Production No. 2. Further, Applicant objects to this Interrogatory because the application-atissue identifies the goods/services at issue in this proceeding.

INTERROGATORY NO. 3: IDENTIFY DOCUMENTS describing each of APPLICANT'S GOODS.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 3. Further, Applicant objects to this Interrogatory because the application-at-issue identifies the goods/services at issue in this proceeding.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant does not sell goods or services, but rather, licenses use of the THUNDER ROAD trademark for use by related companies whose use inures to Applicant's benefit. Applicant has produced documents in its possession, custody, or control demonstrating its former and/or current licensees of the THUNDER ROAD trademark, including, without limitation, Hillside Orchard Farms, Inc.; Free Spirits Distillery, LLC; Bush Holdings, LLC d/b/a Thunder Road Wine & Spirits; and Dumplin Creek Distillery, LLC. Applicant refers Opposer to the application-at-issue and the website located at www.thunderroaddistillery.com. Applicant incorporates by reference its responses and objections to Opposer's Request for Production No. 3.

INTERROGATORY NO. 4: State the meaning of APPLICANT'S MARK.

RESPONSE: Applicant objects to the term "meaning" as vague and ambiguous. Applicant further objects to this Interrogatory as calling for information that is within the knowledge or possession of Opposer.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that the history of the THUNDER ROAD trademark dates back to the mid-1950s, when Robert Mitchum wrote, directed, produced, and played the lead role in the film *Thunder Road*. The movie portrays the life of a returning Korean War veteran who begins selling moonshine to support his family. The "meaning" of the THUNDER ROAD trademark relates to the long-standing and continuous association of the THUNDER ROAD trademark with alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine.

<u>INTERROGATORY NO. 5:</u> IDENTIFY all DOCUMENTS RELATING to the clearance of APPLICANT'S MARK, including without limitation all trademark clearance

searches and opinions RELATING to such clearance. As used here, "clearance" means the activities engaged in or on behalf of APPLICANT RELATING to determining whether APPLICANT'S MARK was available for use and registration for the goods identified in the APPLICATION.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence, in that it seeks without limitation in time, scope, or circumstance, "all" documents. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant further objects to this Interrogatory to the extent it seeks documents or information protected by the attorney-client privilege and/or work product doctrine. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 4.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that there are no documents in its possession, custody, or control responsive to this Interrogatory. Applicant further incorporates by reference its responses and objections to Opposer's Request for Production No. 4

INTERROGATORY NO. 6: IDENTIFY all DOCUMENTS RELATING to the selection of APPLICANT'S MARK, including without limitation any and all other trademarks and names considered by APPLICANT as alternatives for APPLICANT'S MARK.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence, in that it seeks without limitation in time, scope, or circumstance, "all" documents. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant further objects to this Interrogatory to the extent it seeks documents or information protected by the attorney-client privilege and/or work product doctrine. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 5.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that the history of the THUNDER ROAD trademark dates back to the mid-1950s, when Robert Mitchum wrote, directed, produced, and played the lead role in the film *Thunder Road*. The selection of the THUNDER ROAD trademark relates to the long-standing and continuous association of Applicant's THUNDER ROAD trademark with alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine. Applicant states that it has filed additional U.S. trademark applications for product marks incorporating Applicant's THUNDER ROAD trademark, including, without limitation, U.S. Trademark Serial No. 86/754,145, filed September 11, 2015 for the MITCHUM'S THUNDER ROAD word mark; and U.S. Trademark Serial No. 86/754,349 filed September 11, 2015 for MITCHUM'S THUNDER ROAD CLASSIC AMERICAN CORN WHISKEY and design. Applicant further states that it has considered additional product marks incorporating the THUNDER ROAD trademark,

including, without limitation, the phrase THUNDER ROAD MOUNTAIN MOON. Applicant incorporates by reference its responses and objections to Opposer's Request for Production No. 5.

INTERROGATORY NO. 7: For each of APPLICANT'S GOODS, IDENTIFY each distributor and retailer through which APPLICANT sells or has sold such goods, if any

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence, in that it seeks documents and/or information without limitation in time, scope, or circumstance. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 6. Applicant further objects to the terms "distributor" and "retailer" as vague and ambiguous.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant does not sell goods or services, but rather, licenses use of the THUNDER ROAD trademark for use by related companies whose use inures to Applicant's benefit. Applicant has produced documents in its possession, custody, or control demonstrating its former and/or current licensees of the THUNDER ROAD trademark, including, without limitation, Hillside Orchard Farms, Inc.; Free Spirits Distillery, LLC; Bush Holdings, LLC d/b/a Thunder Road Wine & Spirits; and Dumplin Creek Distillery, LLC.

Applicant incorporates by reference its responses and objections to Opposer's Request for Production No. 6.

INTERROGATORY NO. 8: For each of APPLICANT'S GOODS, IDENTIFY each distributor and retailer through which APPLICANT intends to sell such goods.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 7. Applicant further objects to the terms "distributor" and "retailer" as vague and ambiguous.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant does not sell goods or services, but rather, licenses use of the THUNDER ROAD trademark for use by related companies whose use inures to Applicant's benefit. Applicant incorporates by reference its responses and objections to Opposer's Interrogatory No. 7 and Request for Production No. 6. Applicant states that it currently has no plans to enter into any additional licensing agreements for the THUNDER ROAD trademark.

INTERROGATORY NO. 9: For each of APPLICANT'S GOODS, IDENTIFY each of the CHANNELS OF TRADE through which APPLICANT sells or has sold such goods, if any.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence, in that it seeks documents and/or information without limitation in time, scope, or circumstance. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 8.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant does not sell goods or services, but rather, licenses use of the THUNDER ROAD trademark for use by related companies whose use inures to Applicant's benefit. Applicant states that the goods identified in the application-at-issue are sold through its licensed distillery in Sevier County, Tennessee. Applicant incorporates by reference its responses and objections to Opposer's Interrogatory Nos. 7 and 8 and Request for Production Nos. 6, 7, and 8.

INTERROGATORY NO. 10: For each of APPLICANT'S GOODS, IDENTIFY each of the CHANNELS OF TRADE through which APPLICANT intends to sell such goods.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 9.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant does not sell goods or services, but rather, licenses use of the THUNDER ROAD trademark for use by related companies whose use inures to Applicant's benefit. Applicant states that the goods identified in the application-at-issue are sold through its licensed distillery in Sevier County, Tennessee. Applicant incorporates by reference its responses and objections to Opposer's Request for Production Nos. 6, 7, 8, and 9.

INTERROGATORY NO. 11: For each of APPLICANT'S GOODS, IDENTIFY any and all MARKETING for each such good and the MEDIA and/or CHANNELS OF TRADE of such MARKETING.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence, in that it seeks without limitation in time, scope, or circumstance, "any and all" documents and/or information. Applicant objects to this Interrogatory as compound. Applicant objects to this Interrogatory because it seeks documents

and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 10. Applicant also objects to this Interrogatory on the grounds of overbreadth and/or undue burden as it would require Applicant to obtain information from separate third-party entities that may or may not be in their possession, custody, or control.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant does not sell goods or services, but rather, licenses use of the THUNDER ROAD trademark for use by related companies whose use inures to Applicant's benefit. Applicant states that the goods identified in the application-at-issue are advertised and marketed by its licensees, whose use is controlled by Applicant with respect to the nature and quality of the goods or services on or in connection with which the mark is used. Applicant refers Opposer to its licensee's website located at www.thunderroaddistillery.com. Applicant incorporates by reference its responses and objections to Opposer's Request for Production No. 10.

INTERROGATORY NO. 12: For each of APPLICANT'S GOODS, IDENTIFY any and all planned or intended MARKETING for each such good and the MEDIA and/or CHANNELS OF TRADE in which APPLICANT plans to MARKET each such good.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence, in that it seeks without limitation in time, scope, or

circumstance, "any and all" documents and/or information. Applicant objects to this Interrogatory as compound. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 11. Applicant also objects to this Interrogatory on the grounds of overbreadth and/or undue burden as it would require Applicant to obtain information from separate third-party entities that may or may not be in their possession, custody, or control.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant does not sell goods or services, but rather, licenses use of the THUNDER ROAD trademark for use by related companies whose use inures to Applicant's benefit. Applicant states that the goods identified in the application-at-issue are advertised and marketed by its licensees, whose use is controlled by Applicant with respect to the nature and quality of the goods or services on or in connection with which the mark is used. Applicant states that it has discussed with its licensee, Dumplin Creek Distillery, LLC, potential marketing plans wherein Jim Mitchum may make personal appearances to promote the THUNDER ROAD goods and services identified in the application-at-issue. Applicant incorporates by reference its responses and objections to Opposer's Request for Production Nos. 10 and 11.

INTERROGATORY NO. 13: For each of APPLICANT'S GOODS, IDENTIFY the suggested retail purchase price of such goods.

RESPONSE: Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant further objects on the grounds that such information is readily available to Opposer from public sources.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant does not sell goods or services, but rather, licenses use of the THUNDER ROAD trademark for use by related companies whose use inures to Applicant's benefit. Applicant states that its licensee, Dumplin Creek Distillery, LLC, sets the retail price of the goods sold under the THUNDER ROAD trademark. Dumplin Creek Distillery, LLC may be contacted through counsel for Applicant.

<u>INTERROGATORY NO. 14:</u> IDENTIFY all PERSONS who are in charge of or who have primary responsibility for sales of APPLICANT'S GOODS.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence, in that it seeks without limitation in time, scope, or circumstance, "all" persons. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant further objects

to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 15.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant does not sell goods or services, but rather, licenses use of the THUNDER ROAD trademark for use by related companies whose use inures to Applicant's benefit. Applicant states that its licensee Dumplin Creek Distillery, LLC currently has primary responsibility for sales of the goods identified in the application-at-issue, and that Dumplin Creek Distillery, LLC's use inures to the benefit of Applicant and is controlled by Applicant with respect to the nature and quality of the goods or services on or in connection with which the mark is used. Applicant states that Kent Merritt, an employee of Dumplin Creek Distillery, LLC, is responsible for the day-to-day operations of the Thunder Road Distillery. Applicant refers Opposer to its Initial Disclosures served in this case. Dumplin Creek Distillery, LLC may be contacted through counsel for Applicant. Applicant incorporates by reference its responses and objections to Opposer's Request for Production No. 15.

<u>INTERROGATORY NO. 15:</u> IDENTIFY all PERSONS who are in charge of or who have primary responsibility for the MARKETING of APPLICANT'S GOODS.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence, in that it seeks without limitation in time, scope, or circumstance, "all" persons. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the

requested documents and/or information outweighs its likely benefit. Applicant further objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 16.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant does not sell goods or services, but rather, licenses use of the THUNDER ROAD trademark for use by related companies whose use inures to Applicant's benefit. Applicant states that its licensee Dumplin Creek Distillery, LLC currently has primary responsibility for marketing of the goods identified in the application-at-issue, and that Dumplin Creek Distillery, LLC's use inures to the benefit of Applicant and is controlled by Applicant with respect to the nature and quality of the goods or services on or in connection with which the mark is used. Applicant states that Kent Merritt, an employee of Dumplin Creek Distillery, LLC, is responsible for marketing plans for the Thunder Road Distillery. Applicant refers Opposer to its Initial Disclosures served in this case. Dumplin Creek Distillery, LLC may be contacted through counsel for Applicant. Applicant incorporates by reference its responses and objections to Opposer's Request for Production No. 16.

<u>INTERROGATORY NO. 16:</u> IDENTIFY all PERSONS employed by or under contract with YOU who sell APPLICANT'S GOODS.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence, in that it seeks without limitation in time, scope, or circumstance, "all" persons. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the

importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant further objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 17.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant does not sell goods or services, but rather, licenses use of the THUNDER ROAD trademark for use by related companies whose use inures to Applicant's benefit. Applicant incorporates by reference its responses and objections to Opposer's Interrogatory Nos. 14 and 15 and Request for Production No. 17.

INTERROGATORY NO. 17: IDENTIFY all THIRD PARTIES YOU use or will use in connection with the MARKETING of APPLICANT'S GOODS.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence, in that it seeks without limitation in time, scope, or circumstance, "all" third parties. Applicant objects to this Interrogatory as compound. Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as unreasonably

cumulative and duplicative of Opposer's Interrogatory No. 18 and Request for Production No. 18, 19, and 20.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant does not sell goods or services, but rather, licenses use of the THUNDER ROAD trademark for use by related companies whose use inures to Applicant's benefit. Applicant states that its licensee, Dumplin Creek Distillery, LLC, has used advertising agencies and/or marketing companies, including, without limitation, Killed It Media and Namey Design Studios. Applicant incorporates by reference its responses and objections to Opposer's Interrogatory No. 18 and Request for Production No. 15, 16, 18, 19, and 20.

INTERROGATORY NO. 18: IDENTIFY all of YOUR primary contacts at each of the MARKETING and BRAND IDENTITY agencies YOU have used or intend to use in connection with the MARKETING of APPLICANT'S GOODS.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence; in that it seeks without limitation in time, scope, or circumstance, "all of YOUR primary contacts". Applicant objects to this Interrogatory as compound. Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant further objects to the phrase "marketing and brand identity agencies" as vague and ambiguous. Applicant

objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 17 and Request for Production Nos. 18, 19, and 20.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that Applicant does not sell goods or services, but rather, licenses use of the THUNDER ROAD trademark for use by related companies whose use inures to Applicant's benefit. Applicant does not itself use any "marketing or brand identity" agencies. Applicant incorporates by reference its responses and objections to Opposer's Interrogatory No. 17 and Request for Production Nos. 15, 16, 18, 19 and 20.

INTERROGATORY NO. 19: DESCRIBE all facts EVIDENCING YOUR assertion in YOUR first affirmative defense that "The Notice of Opposition fails to state a claim for which relief may be granted."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or circumstance, "all facts". Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this action. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 20 and Request for Production No. 21.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant refers Opposer to its Answer filed in this case. Applicant states that the history of Applicant's THUNDER ROAD trademark dates back to the mid-1950s, when Robert Mitchum wrote, directed, produced, and played the lead role in the film *Thunder Road*. The

movie portrays the life of a returning Korean War veteran who begins selling moonshine to support his family. Applicant's THUNDER ROAD trademark is inspired by the *Thunder Road* film. Applicant owns longstanding common law rights in the THUNDER ROAD trademark in connection with the goods identified in the application-at-issue.

Applicant further states that Ernest and Julio Gallo, founders of Opposer, were considered friends of the Mitchum family and had knowledge of the history of the *Thunder Road* film and Applicant's and/or its predecessors-in-interest's use of "THUNDER ROAD" since at least as early as the 1960s. Opposer has had actual knowledge of Applicant's use and ownership of the THUNDER ROAD trademark since at least 2011 when counsel for Opposer wrote a demand letter to counsel for Applicant regarding Applicant's THUNDER ROAD trademark. Applicant disputes that its THUNDER ROAD trademark is confusingly similar to Opposer's alleged trademarks under the factors articulated in *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Applicant further incorporates by reference its responses and objections to Interrogatory No. 20 and Opposer's Request for Production No. 21.

Applicant reserves the right to supplement its response as discovery proceeds.

INTERROGATORY NO. 20: IDENTIFY all DOCUMENTS EVIDENCING YOUR assertion in YOUR first affirmative defense that "The Notice of Opposition fails to state a claim for which relief may be granted."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or circumstance, "all facts". Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant

objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this action. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 19 and Request for Production No. 21.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant refers Opposer to its Answer filed in this case. Applicant further incorporates by reference its responses and objections to Opposer's Interrogatory No. 19 and Request for Production No. 21. Applicant reserves the right to supplement its response as discovery proceeds.

INTERROGATORY NO. 21: DESCRIBE all facts EVIDENCING YOUR assertion in YOUR second affirmative defense that "Opposer's claims may be barred by the doctrines of estoppel, waiver, and/or laches."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or circumstance, "all facts". Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this action. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 22 and Request for Production No. 22.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant refers Opposer to its Answer filed in this case. Applicant states that the history of Applicant's THUNDER ROAD trademark dates back to the mid-1950s, when Robert Mitchum wrote, directed, produced, and played the lead role in the film *Thunder Road*. The

movie portrays the life of a returning Korean War veteran who begins selling moonshine to support his family. Applicant's THUNDER ROAD trademark is inspired by the *Thunder Road* film. Applicant owns longstanding common law rights in the THUNDER ROAD trademark in connection with the goods identified in the application-at-issue.

Applicant further states that Ernest and Julio Gallo, founders of Opposer, were considered friends of the Mitchum family and had knowledge of the history of the *Thunder Road* film and Applicant's and/or its predecessors-in-interest's use of "THUNDER ROAD" since at least as early as the 1960s. Opposer has had actual knowledge of Applicant's use and ownership of the THUNDER ROAD trademark since at least 2011 when counsel for Opposer wrote a demand letter to counsel for Applicant regarding Applicant's THUNDER ROAD trademark. Applicant disputes that its THUNDER ROAD trademark is confusingly similar to Opposer's alleged trademarks under the factors articulated in *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Applicant further incorporates by reference its responses and objections to Opposer's Interrogatory No. 22 and Request for Production No. 22.

Applicant reserves the right to supplement its response as discovery proceeds.

INTERROGATORY NO. 22: IDENTIFY all DOCUMENTS EVIDENCING YOUR assertion in YOUR second affirmative defense that "Opposer's claims may be barred by the doctrines of estoppel, waiver, and/or laches."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or circumstance, "all" documents. Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant

objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this action. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 21 and Request for Production No. 22.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant refers Opposer to its Answer filed in this case. Applicant further incorporates by reference its responses and objections to Opposer's Interrogatory No. 21 and Request for Production No. 22. Applicant reserves the right to supplement its response as discovery proceeds.

INTERROGATORY NO. 23: DESCRIBE all facts EVIDENCING YOUR assertion in YOUR third affirmative defense that "Opposer does not have priority over or rights superior to T.R. Brands' rights in the THUNDER ROAD marks or U.S. Serial No. 77/859,042 for the goods and services provided by T.R. Brands under U.S. Serial No. 77/859,042."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or circumstance, "all facts". Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this action. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 24 and Request for Production No. 23.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant refers Opposer to its Answer filed in this case. Applicant states that the history of Applicant's THUNDER ROAD trademark dates back to the mid-1950s, when Robert

Mitchum wrote, directed, produced, and played the lead role in the film *Thunder Road*. The movie portrays the life of a returning Korean War veteran who begins selling moonshine to support his family. Applicant's THUNDER ROAD trademark is inspired by the *Thunder Road* film. Applicant owns longstanding common law rights in the THUNDER ROAD trademark in connection with the goods identified in the application-at-issue.

Applicant further states that Ernest and Julio Gallo, founders of Opposer, were considered friends of the Mitchum family and had knowledge of the history of the *Thunder Road* film and Applicant's and/or its predecessors-in-interest's use of "THUNDER ROAD" since at least as early as the 1960s. Opposer has had actual knowledge of Applicant's use and ownership of the THUNDER ROAD trademark since at least 2011 when counsel for Opposer wrote a demand letter to counsel for Applicant regarding Applicant's THUNDER ROAD trademark. Applicant disputes that its THUNDER ROAD trademark is confusingly similar to Opposer's alleged trademarks under the factors articulated in *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Applicant further incorporates by reference its responses and objections to Opposer's Interrogatory No. 21, 22, and 24 and Request for Production No. 23. Applicant reserves the right to supplement its response as discovery proceeds.

INTERROGATORY NO. 24: IDENTIFY all DOCUMENTS EVIDENCING YOUR assertion in YOUR third affirmative defense that "Opposer does not have priority over or rights superior to T.R. Brands' rights in the THUNDER ROAD marks or U.S. Serial No. 77/859,042 for the goods and services provided by T.R. Brands under U.S. Serial No. 77/859,042."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or circumstance, "all DOCUMENTS". Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this action. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 23 and Request for Production No. 23.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant refers Opposer to its Answer filed in this case. Applicant further incorporates by reference its responses and objections to Opposer's Interrogatory Nos. 21, 22, and 23 and Request for Production No. 23. Applicant reserves the right to supplement its response as discovery proceeds.

INTERROGATORY NO. 25: DESCRIBE all facts EVIDENCING YOUR assertion in YOUR fourth affirmative defense that "Opposer's THUNDER ROAD mark will not be used for any services that are likely to be confused with any alleged goods or services of Opposer."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or circumstance, "all facts". Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this

action. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 26 and Request for Production No. 24.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant refers Opposer to its Answer filed in this case. Applicant states that the history of Applicant's THUNDER ROAD trademark dates back to the mid-1950s, when Robert Mitchum wrote, directed, produced, and played the lead role in the film *Thunder Road*. The movie portrays the life of a returning Korean War veteran who begins selling moonshine to support his family. Applicant's THUNDER ROAD trademark is inspired by the *Thunder Road* film. Applicant owns longstanding common law rights in the THUNDER ROAD trademark in connection with the goods identified in the application-at-issue. Applicant disputes that its THUNDER ROAD trademark is confusingly similar to Opposer's alleged trademarks under the factors articulated in In re E.I. du Pont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973), including, without limitation, in appearance, sound, connotation or commercial impression, and the conditions under which and buyers to whom sales are made. Applicant further incorporates by reference its responses and objections to Opposer's Interrogatory No. 26 and Request for Production No. 24. Applicant reserves the right to supplement its response as discovery proceeds.

INTERROGATORY NO. 26: IDENTIFY all DOCUMENTS EVIDENCING YOUR assertion in YOUR fourth affirmative defense that "Opposer's THUNDER ROAD mark will not be used for any services that are likely to be confused with any alleged goods or services of Opposer."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or

circumstance, "all" documents. Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this action. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 25 and Request for Production No. 24.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant refers Opposer to its Answer filed in this case. Applicant incorporates by reference its responses and objections to Opposer's Interrogatory No. 25 and Request for Production No. 24. Applicant reserves the right to supplement its response as discovery proceeds.

INTERROGATORY NO. 27: DESCRIBE all facts EVIDENCING YOUR assertion in YOUR fifth affirmative defense that "The field of marks employing the term "THUNDER" and variations thereof is crowded and hence weak. Therefore, Opposer's purported rights extend no further than to the specific marks that Opposer alleges it owns, none of which are the same as or likely to cause confusion with T.R. Brands' proposed mark."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or circumstance, "all facts". Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this action. Applicant further objects on the grounds that such information is already within the

knowledge or possession of Opposer, or readily available to Opposer from public domain sources – namely, the USPTO website and internet search engines. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 28 and Request for Production No. 25.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant refers Opposer to its Answer filed in this case. Applicant incorporates by reference its responses and objections to Opposer's Interrogatory No. 28 and Request for Production No. 25. Applicant reserves the right to supplement its response as discovery proceeds.

INTERROGATORY NO. 28: IDENTIFY all DOCUMENTS EVIDENCING YOUR assertion in YOUR fifth affirmative defense that "The field of marks employing the term "THUNDER" and variations thereof is crowded and hence weak. Therefore, Opposer's purported rights extend no further than to the specific marks that Opposer alleges it owns, none of which are the same as or likely to cause confusion with T.R. Brands' proposed mark."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or circumstance, "all DOCUMENTS". Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this action. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 27 and Request for Production No. 25. Applicant further objects on the grounds that such information is already within the knowledge or

possession of Opposer, or is readily available to Opposer from public domain sources – namely, the USPTO website and internet search engines.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant refers Opposer to its Answer filed in this case. Applicant incorporates by reference its responses and objections to Opposer's Interrogatory No. 27 and Request for Production No. 25. Applicant reserves the right to supplement its response as discovery proceeds.

INTERROGATORY NO. 29: DESCRIBE all facts EVIDENCING YOUR assertion in YOUR sixth affirmative defense that "Opposer has not and will not be damaged by the registration of the mark in U.S. Serial No. 77/859,042. Indeed, on February 8, 2013, Opposer filed U.S. Serial No. 85/845,174 (the "174 Application") for the THUNDERBIRD mark for use in connection with "Alcoholic beverages except beers," which issued into U.S. Registration No. 4,403,211. In so filing, Opposer averred that, "to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when applied to the goods or services of such other person, to cause confusion or mistake." At the time of filing the '174 Application, Opposer had actual knowledge of T.R. Brands' use of the mark THUNDER ROAD as a result of numerous communications with attorney Steven M. Weinberg. Notwithstanding such knowledge, Opposer filed the '174 Application thereby admitting, expressly or implicitly, that Opposer's alleged marks forming the basis of its Notice of Opposition are not the same as or likely to cause confusion with T.R. Brands' THUNDER ROAD Mark or U.S. Serial No. 77/859,042."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or

circumstance, "all facts". Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this action. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 30 and Request for Production No. 26.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant refers Opposer to its Answer filed in this case. Applicant states that the history of Applicant's THUNDER ROAD trademark dates back to the mid-1950s, when Robert Mitchum wrote, directed, produced, and played the lead role in the film *Thunder Road*. The movie portrays the life of a returning Korean War veteran who begins selling moonshine to support his family. Applicant's THUNDER ROAD trademark is inspired by the *Thunder Road* film. Applicant owns longstanding common law rights in the THUNDER ROAD trademark in connection with the goods identified in the application-at-issue.

Applicant states that Ernest and Julio Gallo, founders of Opposer, were considered friends of the Mitchum family and had knowledge of the history of the *Thunder Road* film and Applicant's and/or its predecessors-in-interest's use of "THUNDER ROAD" since at least as early as the 1960s. Opposer further has had actual knowledge of Applicant's use and ownership of the THUNDER ROAD trademark since at least 2011 when counsel for Opposer wrote a demand letter to counsel for Applicant regarding Applicant's THUNDER ROAD trademark. Notwithstanding such knowledge, Opposer filed the '174 Application on February 8, 2013 averring that, "to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be

likely, when applied to the goods or services of such other person, to cause confusion or mistake." Opposer also filed an intent-to-use trademark application, U.S. Application Serial No. 85/845,213 for the mark "THUNDER BIRD," on February 8, 2013 averring that, "to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when applied to the goods or services of such other person, to cause confusion or mistake." Applicant incorporates by reference its responses and objections to Opposer's Interrogatory No. 30 and Request for Production No. 26. Applicant reserves the right to supplement its response as discovery proceeds.

INTERROGATORY NO. 30: IDENTIFY all DOCUMENTS EVIDENCING YOUR assertion in YOUR sixth affirmative defense that "Opposer has not and will not be damaged by the registration of the mark in U.S. Serial No. 77/859,042. Indeed, on February 8, 2013, Opposer filed U.S. Serial No. 85/845,174 (the "'174 Application") for the THUNDERBIRD mark for use in connection with "Alcoholic beverages except beers," which issued into U.S. Registration No. 4,403,211. In so filing, Opposer averred that, "to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when applied to the goods or services of such other person, to cause confusion or mistake." At the time of filing the '174 Application, Opposer had actual knowledge of T.R. Brands' use of the mark THUNDER ROAD as a result of numerous communications with attorney Steven M. Weinberg. Notwithstanding such knowledge, Opposer filed the '174 Application thereby admitting, expressly or implicitly, that Opposer's alleged marks forming the basis of its Notice of Opposition are not the same as or

likely to cause confusion with T.R. Brands' THUNDER ROAD Mark or U.S. Serial No. 77/859,042."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or circumstance, "all DOCUMENTS". Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this action. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 29 and Request for Production No. 26.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant incorporates by reference its responses and objections to Opposer's Interrogatory No. 29 and Request for Production No. 26.

INTERROGATORY NO. 31: DESCRIBE all facts EVIDENCING YOUR assertion in YOUR seventh affirmative defense that "T.R. Brands' target customers are not likely to confuse T.R. Brands' services with any goods or services on which Opposer allegedly uses its existing marks."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or circumstance, "all facts". Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this

action. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 32 and Request for Production No. 27.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant refers Opposer to its Answer filed in this case. Applicant states that the history of Applicant's THUNDER ROAD trademark dates back to the mid-1950s, when Robert Mitchum wrote, directed, produced, and played the lead role in the film *Thunder Road*. The movie portrays the life of a returning Korean War veteran who begins selling moonshine to support his family. Applicant's THUNDER ROAD trademark is inspired by the *Thunder Road* film. Applicant owns longstanding common law rights in the THUNDER ROAD trademark in connection with the goods identified in the application-at-issue. Applicant disputes that its THUNDER ROAD trademark is confusingly similar to Opposer's alleged trademarks under the factors articulated in In re E.I. du Pont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973), including, without limitation, in appearance, sound, connotation or commercial impression, and the conditions under which and buyers to whom sales are made. Applicant incorporates by reference its responses and objections to Opposer's Interrogatory Nos. 19, 20, 25, 26, 27, 28, 32 and Request for Production Nos. 21, 24, 25, and 27. Applicant reserves the right to supplement its response as discovery proceeds.

INTERROGATORY NO. 32: IDENTIFY all DOCUMENTS EVIDENCING YOUR assertion in YOUR seventh affirmative defense that "T.R. Brands' target customers are not likely to confuse T.R. Brands' services with any goods or services on which Opposer allegedly uses its existing marks."

RESPONSE: Applicant objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and harassing, in that it seeks without limitation in time, scope, or

circumstance, "all DOCUMENTS". Applicant further objects to this Interrogatory to the extent that it purports to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure. Applicant objects to this Interrogatory on the grounds that it is premature, as discovery is ongoing in this action. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 31 and Request for Production No. 27.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant refers Opposer to its Answer filed in this case. Applicant incorporates by reference its responses and objections to Opposer's Interrogatory No. 31 and Request for Production No. 27. Applicant reserves the right to supplement its response as discovery proceeds.

INTERROGATORY NO. 33: IDENTIFY for each of the foregoing Interrogatories each PERSON who provided information or DOCUMENTS RELATING to each such answer.

RESPONSE: William Blalock, Jim Mitchum, and Applicant's counsel of record.

INTERROGATORY NO. 34: IDENTIFY each expert consulted by APPLICANT in connection with this proceeding.

RESPONSE: Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as being premature on the basis that discovery is ongoing and any disclosures related to experts and any other witness whose testimony Applicant intends to use in this

litigation will be made as required by the Federal Rules of Civil Procedures, TTAB Manual of Procedure, and the Board's Notice and Trial Dates, as extended. To the extent this Interrogatory seeks information and/or documents that Applicant and/or its counsel "intends" to use in the preparation of its case, Applicant objects to this Interrogatory to the extent it seeks documents or information protected by the attorney-client privilege and/or work product doctrine. Applicant further objects to this Interrogatory to extent that it seeks information that might or will be used to cross examine a witness in this case because such request exceeds the scope of discovery permitted by Rule 26 of the Federal Rules of Civil Procedure and violates the protection of the work product doctrine and attorney/client privilege.

INTERROGATORY NO. 35: IDENTIFY all DOCUMENTS provided to YOU by each expert, including all written reports contemplated by F.R.C.P 26(a)(2)(b).

RESPONSE: Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 29. Applicant objects to this Interrogatory as being premature on the basis that discovery is ongoing and any disclosures related to experts and any other witness whose testimony Applicant intends to use in this litigation will be made as required by the Federal Rules of Civil Procedures, TTAB Manual of Procedure, and the Board's Notice and Trial Dates, as extended. To the extent this Interrogatory seeks information and/or documents that Applicant and/or its counsel "intends" to use in the preparation of its case, Applicant objects to this Interrogatory to the extent

it seeks documents or information protected by the attorney-client privilege and/or work product doctrine. Applicant further objects to this Interrogatory to extent that it seeks information that might or will be used to cross examine a witness in this case because such request exceeds the scope of discovery permitted by Rule 26 of the Federal Rules of Civil Procedure and violates the protection of the work product doctrine and attorney/client privilege.

INTERROGATORY NO. 36: IDENTIFY all DOCUMENTS RELATING to each and every survey, study or poll conducted by or on behalf of YOU in connection with this proceeding.

RESPONSE: Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 37 and Request for Production Nos. 30 and 31. Applicant objects to this Interrogatory as being premature on the basis that discovery is ongoing and any disclosures related to experts and any other witness whose testimony Applicant intends to use in this litigation will be made as required by the Federal Rules of Civil Procedures, TTAB Manual of Procedure, and the Board's Notice and Trial Dates, as extended. To the extent this Interrogatory seeks information and/or documents that Applicant and/or its counsel "intends" to use in the preparation of its case, Applicant objects to this Interrogatory to the extent it seeks documents or information protected by the attorney-client privilege and/or work product doctrine. Applicant further objects to this Interrogatory to extent that it seeks information that might or will be used to cross examine a witness in this case because such request exceeds the scope of discovery permitted by Rule 26 of the Federal Rules of Civil Procedure and violates the protection of the work product doctrine and attorney/client privilege.

INTERROGATORY NO. 37: IDENTIFY all DOCUMENTS RELATING to each and every survey, study or poll conducted by or on behalf of YOU RELATING to APPLICANT'S MARK.

RESPONSE: Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Interrogatory No. 36 and Request for Production Nos. 30 and 31. Applicant objects to this Interrogatory as being premature on the basis that discovery is ongoing and any disclosures related to experts and any other witness whose testimony Applicant intends to use in this litigation will be made as required by the Federal Rules of Civil Procedures, TTAB Manual of Procedure, and the Board's Notice and Trial Dates, as extended. To the extent this Interrogatory seeks information and/or documents that Applicant and/or its counsel "intends" to use in the preparation of its case, Applicant objects to this Interrogatory to the extent it seeks documents or information protected by the attorney-client privilege and/or work product doctrine. Applicant further objects to this Interrogatory to extent that it seeks information that might or will be used to cross examine a witness in this case because such request exceeds the scope of discovery permitted by Rule 26 of the Federal Rules of Civil Procedure and violates the protection of the work product doctrine and attorney/client privilege.

<u>INTERROGATORY NO. 38:</u> IDENTIFY all DOCUMENTS to be offered by YOU at trial (during your Testimony Period) in this proceeding.

RESPONSE: Applicant objects to this Interrogatory because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant objects to this Interrogatory as unreasonably cumulative and duplicative of Opposer's Request for Production No. 32. Applicant objects to this Interrogatory as being premature on the basis that discovery is ongoing and any disclosures related to experts and any other witness whose testimony Applicant intends to use in this litigation will be made as required by the Federal Rules of Civil Procedures, TTAB Manual of Procedure, and the Board's Notice and Trial Dates, as extended. To the extent this Interrogatory seeks information and/or documents that Applicant and/or its counsel "intends" to use in the preparation of its case, Applicant objects to this Interrogatory to the extent it seeks documents or information protected by the attorney-client privilege and/or work product doctrine. Applicant further objects to this Interrogatory to extent that it seeks information that might or will be used to cross examine a witness in this case because such request exceeds the scope of discovery permitted by Rule 26 of the Federal Rules of Civil Procedure and violates the protection of the work product doctrine and attorney/client privilege.

INTERROGATORY NO. 39: DESCRIBE APPLICANT'S policy with respect to retention of documents, including business records.

RESPONSE: Applicant does not have an official document retention policy.

DATED this 7th day of July 2016.

Respectfully submitted,

/Maia T. Woodhouse/

Maia T. Woodhouse BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, P.C.

211 Commerce Street, Suite 800 Nashville, Tennessee 37201 (615) 726-5753 (office) (615) 744-5753 (fax)

mwoodhouse@bakerdonelson.com

Peter L. Brewer
Registration No. 41,636
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.
265 Brookview Centre Way
Suite 600
Knoxville, Tennessee 37919
pbrewer@bakerdonelson.com

Attorneys for Applicant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Initial Disclosures was served by U.S. Priority Mail and electronic mail to Opposer's counsel at the following address:

Steven M. Weinberg Michael J. Salvatore Holmes Weinberg, PC 30765 Pacific Coast Highway Suite 411 Malibu, California 90265

Email: MSalvatore@holmesweinberg.com

Dated: July 7th, 2016 /Maia T. Woodhouse/

Maia T. Woodhouse Attorney for Applicant

Exhibit B

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

In the Matter of U.S. Trademark Application Serial No.: 77/859,042 Mark: THUNDER ROAD

Application Filing Date: October 28, 2009

E. & J. GALLO WINERY,)
Opposer,))) Opposition No. 91/222,284
vs.)
) Serial No. 77/859,042
THUNDER ROAD BRANDS, LLC,)
Applicant.))

THUNDER ROAD BRANDS, LLC'S OBJECTIONS AND RESPONSES TO OPPOSER'S SECOND SET OF INTERROGATORIES

COMES NOW Thunder Road Brands, LLC ("Applicant") and hereby submits the following Objections and Responses to E. & J. Gallo Winery's ("Opposer") Second Set of Interrogatories.

GENERAL OBJECTIONS

The following general objections apply to each interrogatory, and to any amendments, modifications or supplements to these responses, which may be provided at a later date:

1. Applicant's responses and objections are made solely for the purpose of this action. Each response is subject to all objections as to competence, relevance, materiality, propriety and admissibility, and any and all other objections and grounds that would require the exclusion of any statement contained herein if made by any witness present and testifying in court, administrative proceeding, or arbitration. All such objections and grounds are reserved and may be interposed at the time of deposition, testimony, trial, or arbitration.

- 2. The following responses are based upon information presently available to Applicant based upon a reasonably diligent investigation. Except for explicit facts admitted herein, no incidental or implied admissions are intended hereby. The fact that Applicant has answered all or part of any interrogatory is not intended and shall not be construed to be a waiver of any objection to any interrogatory. Applicant reserves the right at any time to revise, correct, add to, or clarify any of the responses to the Interrogatories set forth herein.
- 3. Applicant objects to the Interrogatories insofar as they purport to require disclosure of communications and information, which are shielded from disclosure by the attorney/client privilege, attorney work product doctrine, and/or other applicable privileges.
- 4. Applicant objects to the Interrogatories to the extent that they are vague, cumulative, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.
- 5. Applicant objects to the Interrogatories to the extent that they purport to impose obligations upon Applicant other than those imposed by the Federal Rules of Civil Procedure or Trademark Trial and Appeal Board Manual of Procedure.
- 6. Applicant objects to the Interrogatories to the extent that they seek documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit.
- 7. Applicant reserves the right to object to the admission into evidence or other use of any of these responses at the trial of this action or at any other stage in this action or any other action.

- 8. Applicant reserves the right to object at any time to any demand for further responses to the Interrogatories or any other discovery procedures involving or relating to the subject matter of the Interrogatories.
- 9. Applicant objects to the Interrogatories to the extent that they seek disclosure of information already in Opposer's knowledge, possession and/or control.
- 10. Applicant objects to the interrogatories to the extent they seek information and/or documents that have already been provided in connection with this action.
- 11. Applicant objects to Opposer's "Definitions" section in its entirety to the extent that Opposer seeks to (a) create obligations beyond those required by the Federal Rules of Civil Procedure and/or Trademark Trial and Appeal Board Manual of Procedure, and (b) use to the definitions to create additional Interrogatories and subparts to such interrogatories beyond the limits of Rule 33 of the Federal Rules of Civil Procedure and Rule 405 of the Trademark Trial and Appeal Board Manual of Procedure.
- 12. Applicant incorporates by reference these general objections in response to each and every Interrogatory set forth below.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 40: IDENTIFY each COMMUNICATION EVIDENCING that "Ernest and Julio Gallo, founders of Opposer, were considered friends of the Mitchum family and had knowledge of the history of the Thunder Road film and/or its predecessors-in-interest's use of "THUNDER ROAD" since at least as early as the 1960's," as alleged in APPLICANT'S responses to Interrogatories 19, 21 and 23 of "Thunder Road Brands, LLC's Objections and Responses to Opposer's First Set of Interrogatories."

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence, in that it seeks without limitation in time, scope, or circumstance, "each" communication. Applicant objects to this Request because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that, to its knowledge and understanding, no documents responsive to this Interrogatory exist in its possession, custody, or control. Applicant further states that Jim Mitchum has personal knowledge of the relationship between the Gallo and Mitchum families. James Mitchum's parents (Robert and Dorothy Mitchum) were guests in the home of Ernest Gallo. After release of the movie "Thunder Road" in 1958, Ernest Gallo and Julio Gallo arranged for a commemorative bottle of "moonshine" to be made for the Mitchum family. The bottle was kept in the home of the Mitchum family for many years.

INTERROGATORY NO. 41: IDENTIFY each DOCUMENT in APPLICANT'S possession, custody or control EVIDENCING sales of each LICENSED PRODUCT by each of APPLICANT'S LICENSEES during the TERM of each LICENSE.

RESPONSE: Applicant designates its response to this Interrogatory as CONFIDENTIAL – FOR ATTORNEYS' EYES ONLY.

INTERROGATORY NO. 42: IDENTIFY each DOCUMENT once but no longer in APPLICANT'S possession, custody or control EVIDENCING sales of LICENSED PRODUCTS by each of APPLICANT'S LICENSEES during the TERM of each LICENSE.

RESPONSE: Applicant designates its response to this Interrogatory as CONFIDENTIAL – FOR ATTORNEYS' EYES ONLY.

INTERROGATORY NO. 43: For each of APPLICANT'S LICENSEES, IDENTIFY the total revenue received by APPLICANT during each year of the LICENSE with each such LICENSEE.

RESPONSE: Applicant designates its response to this Interrogatory as CONFIDENTIAL – FOR ATTORNEYS' EYES ONLY.

<u>INTERROGATORY NO. 44:</u> For each of APPLICANT'S LICENSEES, IDENTIFY the LICENSED PRODUCTS that were sold by the APPLICANT'S LICENSEE.

RESPONSE: Applicant designates its response to this Interrogatory as CONFIDENTIAL – FOR ATTORNEYS' EYES ONLY.

INTERROGATORY NO. 45: For each of the LICENSED PRODUCTS, IDENTIFY the total revenue received by APPLICANT from such sales.

RESPONSE: Applicant designates its response to this Interrogatory as CONFIDENTIAL – FOR ATTORNEYS' EYES ONLY.

INTERROGATORY NO. 46: For each of the LICENSED PRODUCTS, IDENTIFY the town or city in which each was sold and the period of time when each was sold.

RESPONSE: Applicant objects to this Interrogatory as overly broad, unduly burdensome and seeking documents and/or information that is not relevant or likely to lead to the discovery of admissible evidence, in that it seeks without limitation in time, scope, or

circumstance, "each DOCUMENT". Applicant objects to this Request because it seeks documents and/or information that are not proportional to the needs of the case, considering the amount in controversy, the importance of the issues at stake in the action, the parties' resources, the importance of the discovery in resolving the issue, and whether the burden or expense of the requested documents and/or information outweighs its likely benefit. Applicant further objects to Opposer's definition of the phrase "LICENSED PRODUCT" as overbroad, vague, and ambiguous.

Subject to and without waiving the foregoing objections, and Applicant's General Objections, Applicant states that, since 2012, its licensee Hillside Orchard Farms, Inc. sells products under the THUNDER ROAD trademark from its farm-to-market location between well its online Lakemont and Tiger, Georgia, as as storefront located shop.hillsideorchardfarms.net, through which Hillside Orchard Farms, Inc. accepts orders from any person in any city in the United States.

Applicant states that, since 2015, its licensee Dumplin Creek Distillery, Inc. has sold products under the THUNDER ROAD trademark from its location in Kodak, Tennessee.

Applicant states that, since 2013, its licensee Thunder Road Wine and Liquor has sold products from its retail location in Knoxville, Tennessee. However, upon information and belief, no THUNDER ROAD branded products have been sold.

DATED this 12th day of October 2016.

Respectfully submitted,

/Maia T. Woodhouse/

Maia T. Woodhouse BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, P.C. 211 Commerce Street, Suite 800 Nashville, Tennessee 37201 (615) 726-5753 (office) (615) 744-5753 (fax) mwoodhouse@bakerdonelson.com

Peter L. Brewer
Registration No. 41,636
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.
265 Brookview Centre Way
Suite 600
Knoxville, Tennessee 37919
pbrewer@bakerdonelson.com

Attorneys for Applicant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing document was served by U.S. Priority Mail and electronic mail to Opposer's counsel at the following address:

Steven M. Weinberg Michael J. Salvatore Holmes Weinberg, PC 30765 Pacific Coast Highway Suite 411 Malibu, California 90265

Email: MSalvatore@holmesweinberg.com

Dated: October 12, 2016 /Maia T. Woodhouse/

Maia T. Woodhouse Attorney for Applicant

Exhibit C

CONFIDENTIAL – FILED UNDER SEAL

Exhibit D

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

Mark: THUNDER ROAD Application Filing Date: October 28, 2009		
E. & J. GALLO WINERY,)	
)	
Opposer,)	
)	Opposition No. 91/222,284
vs.)	
)	Serial No. 77/859,042
THUNDER ROAD BRANDS, LLC,)	
)	
Applicant.)	

THUNDER ROAD BRANDS, LLC'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION

COMES NOW Applicant Thunder Road Brands, LLC ("Applicant") and hereby submits the following Objections and Responses to Opposer E. & J. Gallo Winery's ("Opposer") First Set of Requests for Admission:

GENERAL OBJECTIONS

- 1. All of Applicant's responses are subject to the following general objections, in addition to any and all specific objections that may be stated in response to each individual request.
- 2. Applicant's responses and objections are made solely for the purpose of this action. Each response is subject to all objections as to competence, relevance, materiality, propriety and admissibility, and any and all other objections and grounds that would require the exclusion of any statement contained herein if made by any witness present and testifying in

court or arbitration. All such objections and grounds are reserved and may be interposed at the time of trial or arbitration.

- 3. The following responses are based upon information presently available to Applicant based upon a reasonably diligent investigation. Except for explicit facts admitted herein, no incidental or implied admissions are intended hereby. The fact that Applicant has answered all or part of any request is not intended and shall not be construed to be a waiver of any objection to any request. Applicant reserves the right to supplement or modify these responses based upon the discovery of additional or different information.
- 4. Applicant objects to Opposer's requests insofar as the requests seek information or communications that are protected from discovery by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable law, right, privilege, immunity, rule and/or duty of confidentiality that precludes or limits disclosure of information. The disclosure of information by Applicant to Opposer is not intended to be, and shall not be deemed to be, a waiver of any applicable law, right, privilege, immunity, rule and/or duty of confidentiality that precludes or limits disclosure of information.
- 5. Applicant objects to Opposer's requests to the extent that they seek to impose obligations upon Applicant beyond those obligations set forth in the applicable rules, including but not limited to the Federal Rules of Civil Procedure and/or Trademark Trial and Appeal Board Manual of Procedure. By responding to these requests, Applicant does not agree to abide by any such additional instructions or requirements.
- 6. Applicant reserves the right to object to the admission into evidence or other use of any of these responses at the trial of this action or at any other proceeding in this action or any other action.

- 7. Applicant reserves the right to object at any time to any demand for further responses to the requests or any other discovery procedures involving or relating to the subject matter of the requests.
- 8. Applicant reserves the right at any time to revise, correct, add to, or clarify any of the responses to the requests set forth herein.
- 9. Applicant objects to the requests to the extent that they seek disclosure of information already in Opposer's knowledge, possession and/or control.
- 10. Applicant objects to the requests to the extent they seek information and/or documents that have already been provided in connection with this action.
- 11. Applicant objects to Opposer's "Definitions and Instructions" section in its entirety to the extent that Opposer seeks to create obligations beyond those required by the Federal Rules of Civil Procedure and/or Trademark Trial and Appeal Board Manual of Procedure.
- 12. Applicant reserves the right to interpose other objections, both general and specific, that may be applicable.
- 13. Applicant incorporates by reference these general objections in response to each and every request set forth below.

RESPONSES TO REQUESTS FOR ADMISSIONS

REQUEST NO. 1: The attached document(s) (labeled as "Exhibit A") are genuine, authentic, true and accurate.

RESPONSE: Subject to and without waiving the general objections above, Applicant admits that Exhibit A to Opposer's First Requests for Admission appears to be a genuine,

authentic, true and accurate copy of the Trademark License Agreement produced by Applicant as TRBRANDS0000270-TRBRANDS0000287.

REQUEST NO. 2: The attached document (labeled as "Exhibit A") was executed by APPLICANT.

RESPONSE: Applicant objects to this Request because Exhibit A to Opposer's First Set of Requests for Admission speaks for itself. Applicant further objects to the term "executed" as vague and ambiguous. Subject to and without waiving the foregoing objections, and the general objections above, Applicant admits that Exhibit A to Opposer's First Requests for Admission appears to be a genuine, authentic, true and accurate copy of the Trademark License Agreement produced by Applicant as TRBRANDS0000270-TRBRANDS0000287. Applicant further admits that Applicant entered into and signed a Trademark License Agreement with Dumplin Creek Distillery, LLC, which was produced by Applicant as TRBRANDS0000270-TRBRANDS0000287.

DATED this 23rd day of September 2016.

Respectfully submitted,

/Maia T. Woodhouse/

Maia T. Woodhouse BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, P.C. 211 Commerce Street, Suite 800 Nashville, Tennessee 37201 (615) 726-5753 (office) (615) 744-5753 (fax) mwoodhouse@bakerdonelson.com

Peter L. Brewer
Registration No. 41,636
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.
265 Brookview Centre Way
Suite 600
Knoxville, Tennessee 37919
pbrewer@bakerdonelson.com

Attorneys for Applicant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing document was served by U.S. Priority Mail and electronic mail to Opposer's counsel at the following address:

Steven M. Weinberg Michael J. Salvatore Holmes Weinberg, PC 30765 Pacific Coast Highway Suite 411 Malibu, California 90265

Email: MSalvatore@holmesweinberg.com

Dated: September 23, 2016 /Maia T. Woodhouse/

Maia T. Woodhouse Attorney for Applicant

Exhibit E

TRADEMARK COEXISTENCE AGREEMENT

This Trademark Coexistence Agreement ("Agreement"), entered into and effective as of the 12th day of August, 2013, (the "Effective Date"), is between Elixir Signature Pty, ("Elixir") organized and existing under the laws of Australia, having a place of business in the United States at 1980 Macount Blud State 30, Macount Blud State 2012 2012 2013 and Thunder Road Brands, LLC ("T.R. Brands") a limited liability company organized and existing under the laws of the State of Tennessee, having a principal place of business at P. O. Box 3280, Gainesville, Georgia, (each, a "Party" and collectively, the "Parties").

RECITALS

WHEREAS, Elixir is the owner of pending U.S. Trademark Application Serial No. 77/885,911 for the Trademark <u>THUNDER ROAD</u> covering goods described as "Beer" in International Class 032, (the "Elixir Mark"). A copy of the Application as filed is identified on Schedule "A", attached hereto and made a part hereof;

WHEREAS, T.R. Brands, is the owner of a pending U.S. Trademark Application Serial No. 77/859,042 for the Trademark <u>THUNDER ROAD</u> covering goods described as "Alcoholic Beverages", namely, Tennessee sour mash whiskey and moonshine (the T.R. Brands Mark). A copy of the Application as filed is identified as Schedule B attached hereto and made a part hereof;

WHEREAS, the Parties wish to set forth their respective rights to use and register the trademarks set forth in Schedules A and B hereto and any colorable imitations, variations or derivatives thereof ("the Marks").

NOW, THEREFORE, in consideration of the mutual promises, warranties and covenants contained in this Agreement, the receipt and sufficiency of which for consideration is hereby acknowledged, and the above recitals, which are incorporated in the operative terms of this Agreement by reference, the Parties agree as follows:

TERMS AND CONDITIONS

 <u>Recitals</u>. The Parties agree that the above Recitals are true and correct and are hereby incorporated into this Agreement.

2. Acknowledgment of Rights.

- a. (1) T.R. Brands acknowledges Elixir's ownership of and exclusive right to use and register the Elixir Mark in connection with the manufacture and sale of beer ("Elixir's Goods and Services") and agrees not to oppose, petition to cancel, or otherwise challenge or object to the use of, or assist any third party to oppose, petition to cancel, or otherwise challenge or object to the use of, any current application, registration or subsequent application for registration by Elixir of the Elixir Mark, as long as such use and registration is otherwise in accordance with the terms of this Agreement.
- (2) Elixir acknowledges T.R. Brands' ownership of and exclusive right to use and register the T.R. Brands Mark in connection with the manufacture and sale of Tennessee sour mash whiskey and moonshine, and other related distilled spirits ("T.R. Brands' Goods and Services"), and agrees not to oppose, petition to cancel, or otherwise challenge or object to the use of, or assist any third party to oppose, petition to cancel, or otherwise challenge or object to the use of, any current application,

registration or subsequent application for registration by T.R. Brands of the T.R. Brands Mark, as long as such use and registration is otherwise in accordance with the terms of this Agreement.

(3) Each Party may develop branding for its respective Marks, including art work, logos and composite marks. Each Party may file subsequent applications for trademark registrations with the U.S. Patent and Trademark Office or with any state trademark agency for its respective goods.

3. Enforcement.

- a. In the event that a Party deems any action or omission by the other Party to be in default or breach of the terms of this Agreement, such Party shall notify the other Party of such breach and the other Party shall have sixty (60) days to cure such breach. In the event that a timely cure of such breach has not been effected, the non-breaching Party shall have available any remedy in law or equity except for any remedies that would effect a modification or termination of all or any part of this Agreement.
- b. This Agreement does not restrict or affect either Party's right to enforce its respective Marks or the rights therein against any third party.
- c. This Agreement will be binding on and inure to the benefit of the Parties, their successors, assigns, licensees, subsidiaries, divisions, affiliates and all others acting by or through them or with or under their direction or in privity with them.

This Agreement is likewise binding upon any permitted assignee of the Marks by either Party.

- d. The Parties respectively represent and warrant that they have the full legal right and authority to enter into this Agreement and to perform any obligations undertaken pursuant to this Agreement, that the persons signing on their behalf are legally authorized to do so, and that they have not sold, assigned, or otherwise transferred, prior to the date of this Agreement, any claim or demand that they had or might have had against the other Party.
- e. (1) In the event that a T.R. Brands' application (or registration) for the T.R. Brands Mark is cited against an Elixir application for registration of the Elixir Mark for Elixir's Goods and Services and bars its registration, then so long as this Agreement is in force and adhered to by Elixir, T.R. Brands will cooperate with Elixir, at Elixir's expense, by providing its written consent, or by restricting its applications and registrations to the T.R. Brands Goods and Services, or by taking any other action reasonably necessary to permit the registration of Elixir's rights in the Elixir Mark for Elixir's Goods and Services.
- (2) In the event that an Elixir application (or registration) for the Elixir Mark is cited against a T.R. Brands application for registration of the T.R. Brands Mark for T.R. Brands' Goods and Services and bars its registration, then so long as this Agreement is in force and adhered to by T.R. Brands, Elixir will cooperate with T.R. Brands, at T.R. Brands' expense, by providing its written consent, or by restricting its applications and registrations to the Elixir Goods and Services, or by taking any other

action reasonably necessary to permit the registration of T.R. Brands' rights in the T.R. Brands Mark for T.R. Brands' Goods and Services.

4. <u>Term</u>. This Agreement shall remain in full force and effect until the expiration of all rights in and to the Marks in the United States.

5. Limitations on Rights.

- a. (1) T.R. Brands agrees that it will not in the future use or apply for registration of any service mark, trademark or trade name consisting of or incorporating the term Thunder Road, or any term that may be confusingly similar to "Thunder Road" relating to the manufacture and sale of beer. Furthermore, T.R. Brands agrees not to apply for registration of the T.R. Brands Mark in any foreign jurisdiction outside of the United States without the consent of Elixir.
- (2) Elixir agrees that it will not in the future use or apply for registration of any trademark, service mark or trade name consisting of or incorporating the term Thunder Road, or any term that may be confusingly similar to "Thunder Road" relating to the manufacture and sale of Tennessee sour mash whiskey and moonshine or other distilled spirits in the United States.
- b. This Agreement does not create in any way any association, partnership, joint venture, or relationship of principal and agent between the Parties.
- 6. <u>Severable Terms.</u> If any provision of this Agreement is held to be void or unenforceable, in whole or in part, the court or tribunal so holding shall reform the provision to make it enforceable while maintaining the spirit and goal of the provision

and if the court or tribunal finds it cannot so reform that provision, such provision or part thereof shall be treated as severable leaving valid the remainder of the Agreement.

- 7. <u>Counterparts</u>. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one agreement.
- 8. <u>Injunctive Relief</u>. The Parties acknowledge and agree that any breach of this Agreement may result in irreparable harm to the other Party and that there will be no adequate remedy at law for either Party's failure to comply with the terms herewith. Accordingly, in the event that either Party fails to comply with the terms of this Agreement and fails to cure such breach within the time allowed, both Parties agree that the non-breaching Party shall have the right to seek to have any breach or default of this Agreement remedied by equitable relief by way of a temporary restraining order, preliminary injunction, permanent injunction, and such other alternative relief as may be appropriate without the necessity of the non-breaching Party posting a bond or proving damages.
- 9. <u>Actual Confusion.</u> In the event that either Party becomes aware of any actual confusion or mistake occurring as a result of their uses of their respective marks, the Parties agree to communicate all details of each such instance to each other, and to cooperate reasonably to take steps to abate the cause of confusion or mistake, and to prevent any such confusion or mistake from arising again. Each Party further agrees not to associate itself with the other Party or the other Party's goods and services in an effort to avoid possible confusion.

- 10. <u>Modification of Agreement.</u> This Agreement may not be altered, amended, modified, or otherwise changed except by a writing duly signed by all Parties hereto.
- 11. Voluntary Agreement. The Parties hereto acknowledge that they are entering into this Agreement freely and voluntarily, that they have ascertained and weighed all the facts and circumstances likely to influence their judgment herein, that they have given due consideration to the provisions contained herein, and that they thoroughly understand and consent to all provisions hereof. Each Party has reviewed this Agreement and, accordingly, the rule of construction to the effect that any ambiguities are to be resolved against the drafting Party will not be employed in any interpretation of this Agreement.
- 12. No Waiver. No delay or omission to exercise any right, power, or remedy accruing to any Party, upon any breach or default under this Agreement, shall impair any such right, power, or remedy of such Party or be construed to be a wavier of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. All of a Party's remedies including without limitation recovery of attorneys' fees and costs, either under this Agreement, or by law or otherwise afforded to such Party, shall be cumulative and not alternative.
- 13. Notices. All communications required or permitted to be made under this Agreement shall be in writing and either shall be delivered personally or sent by United States Postal Service certified or registered mail, postage prepaid and return receipt

requested, to the address or addresses set forth in the first paragraph hereof, or to such other address or addresses as either Party may notify the other of pursuant to this Section.

Elixir Signature Pty.

Philip Withers, Managing Director

Thunder Road Brands, LLC

James R. Mitchum, Member

By: Munimi (Ollitto)

450044-1 15011.0 7/9/13

SCHEDULE A

Trademark/Service Mark Application, Principal Register TEAS Plus Application

Serial Number: 77885911 Filing Date: 12/04/2009

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered	
TEAS Plus	YES	
MARK INFORMATION		
*MARK	THUNDER ROAD	
*STANDARD CHARACTERS	YES	
USPTO-GENERATED IMAGE	YES	
LITERAL ELEMENT	THUNDER ROAD	
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.	
REGISTER	Principal	
APPLICANT INFORMATION		
*OWNER OF MARK	Elixir Signature Pty Ltd	
INTERNAL ADDRESS	Level 3	
*STREET	333 Flinders Lane	
*CITY	Melbourne	
*COUNTRY	Australia	
*ZIP/POSTAL CODE (Required for U.S. applicants only)	3000	
EMAIL ADDRESS	chris.round@middletons.com	
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes	

LEGAL ENTITY INFORMATION			
*ТҮРЕ	LIMITED LIABILITY COMPANY		
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	Australia		
GOODS AND/OR SERVICES AND BASIS INFORMATION			
*INTERNATIONAL CLASS	032		
IDENTIFICATION	Beer		
*FILING BASIS	SECTION 44(d)		
FOREIGN APPLICATION NUMBER	1302783		
*FOREIGN APPLICATION COUNTRY	Australia		
*FOREIGN FILING DATE	06/05/2009		
ADDITIONAL STATEMENTS INFORMATION			
*TRANSLATION (if applicable)			
*TRANSLITERATION (if applicable)			
*CLAIMED PRIOR REGISTRATION (if applicable)			
*CONSENT (NAME/LIKENESS) (if applicable)			
*CONCURRENT USE CLAIM (if applicable)			
CORRESPONDENCE INFORMATION			
*NAME	Elixir Signature Pty Ltd		
FIRM NAME	Elixir Signature Pty Ltd		
INTERNAL ADDRESS	Level 3		
*STREET	333 Flinders Lane		
*CITY	Melbourne		
*COUNTRY	Australia		
*ZIP/POSTAL CODE	3000		
*EMAIL ADDRESS	chris.round@middletons.com		
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes		
FEE INFORMATION			

NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
* SIGNATURE	/philip withers/
* SIGNATORY'S NAME	Philip Withers
* SIGNATORY'S POSITION	Managing Director
* DATE SIGNED	12/04/2009

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 77885911 Filing Date: 12/04/2009

To the Commissioner for Trademarks:

MARK: THUNDER ROAD (Standard Characters, see mark)
The literal element of the mark consists of THUNDER ROAD.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Elixir Signature Pty Ltd, a limited liability company legally organized under the laws of Australia, having an address of

Level 3, 333 Flinders Lane Melbourne 3000 Australia

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 032: Beer

Priority based on foreign filing: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services and asserts a claim of priority based on Australia application number 1302783, filed 06/05/2009. 15 U.S.C. Section 1126(d), as amended.

The applicant's current Correspondence Information:

Elixir Signature Pty Ltd
Elixir Signature Pty Ltd
Level 3
333 Flinders Lane
Melbourne 3000, Australia
chris.round@middletons.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /philip withers/ Date Signed: 12/04/2009

Signatory's Name: Philip Withers Signatory's Position: Managing Director

RAM Sale Number: 6119

RAM Accounting Date: 12/04/2009

Serial Number: 77885911

Internet Transmission Date: Fri Dec 04 00:53:14 EST 2009 TEAS Stamp: USPTO/FTK-203.37.212.89-2009120400531406

0070-77885911-460bd19e3f2645d8cca45e4c7b e62f8eb2-CC-6119-20091204004538405342

THUNDER ROAD

SCHEDULE B

PTO Form 1478 (Rev 9/2006) OMB No. 0651-0009 (Exp 12/31/2011)

Trademark/Service Mark Application, Principal Register TEAS Plus Application

Serial Number: 77859042 Filing Date: 10/28/2009

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	Thunder Road
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Thunder Road
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Thunder Road Brands, LLC
INTERNAL ADDRESS	Suite 600 Hunt Tower
*STREET	200 Main Street N.W.
*CITY	Gainesville
*STATE (Required for U.S. applicants)	Georgia
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	30501

SCHEDULE B

PHONE	(865) 297-5102	
FAX	(865) 329-5102	
EMAIL ADDRESS	pbrewer@bakerdonelson.com	
LEGAL ENTITY INFORMATION		
*TYPE	LIMITED LIABILITY COMPANY	
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	Tennessee	
GOODS AND/OR SERVICES AND BA	SIS INFORMATION	
*INTERNATIONAL CLASS	033	
IDENTIFICATION	Alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine	
*FILING BASIS	SECTION 1(b)	
ADDITIONAL STATEMENTS INFORMATION		
*TRANSLATION (if applicable)		
*TRANSLITERATION (if applicable)	;	
*CLAIMED PRIOR REGISTRATION (if applicable)		
*CONSENT (NAME/LIKENESS) (if applicable)	:	
*CONCURRENT USE CLAIM (if applicable)		
ATTORNEY INFORMATION		
NAME	Peter L. Brewer	
ATTORNEY DOCKET NUMBER	2911314-000005	
FIRM NAME	Baker, Donelson	
INTERNAL ADDRESS	Suite 600	
STREET	265 Brookview Centre Way	
CITY	Knoxville	
STATE	Tennessee	
COUNTRY	United States	
ZIP/POSTAL CODE	37919	
PHONE	865-297-5102	

FAX	865-329-5102	
EMAIL ADDRESS	pbrewer@bakerdonelson.com	
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes	
OTHER APPOINTED ATTORNEY	Carl Davis, Micheline Johnson, Wendy Robertson	
CORRESPONDENCE INFORMATION		
*NAME	Peter L. Brewer	
FIRM NAME	Baker, Donelson	
INTERNAL ADDRESS	Suite 600	
*STREET	265 Brookview Centre Way	
*CITY	Knoxville	
*STATE (Required for U.S. applicants)	Tennessee	
*COUNTRY	United States	
*ZIP/POSTAL CODE	37919	
PHONE	865-297-5102	
FAX	865-329-5102	
*EMAIL ADDRESS	pbrewer@bakerdonelson.com	
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes	
FEE INFORMATION		
NUMBER OF CLASSES	1	
FEE PER CLASS	275	
*TOTAL FEE PAID	275	
SIGNATURE INFORMATION		
* SIGNATURE	/Peter L. Brewer/	
* SIGNATORY'S NAME	Peter L. Brewer	
* SIGNATORY'S POSITION	Intellectual Property Counsel	
* DATE SIGNED	10/28/2009	

PTO Form 1478 (Rev.9/2006) OMB No. 0651-0009 (Exp 12/31/2011)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 77859042 Filing Date: 10/28/2009

To the Commissioner for Trademarks:

MARK: Thunder Road (Standard Characters, see <u>mark</u>)
The literal element of the mark consists of Thunder Road.
The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Thunder Road Brands, LLC, a limited liability company legally organized under the laws of Tennessee, having an address of

Suite 600 Hunt Tower, 200 Main Street N.W. Gainesville, Georgia 30501 United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 033: Alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

Peter L. Brewer and Carl Davis, Micheline Johnson, Wendy Robertson of Baker, Donelson Suite 600

265 Brookview Centre Way

Knoxville, Tennessee 37919

United States

The attorney docket/reference number is 2911314-000005. The docket/reference number is 2911314-000005.

The applicant's current Correspondence Information:

Peter L. Brewer Baker, Donelson Suite 600
265 Brookview Centre Way
Knoxville, Tennessee 37919
865-297-5102(phone)
865-329-5102(fax)
pbrewer@bakerdonelson.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Peter L. Brewer/ Date Signed: 10/28/2009

Signatory's Name: Peter L. Brewer

Signatory's Position: Intellectual Property Counsel

RAM Sale Number: 6955

RAM Accounting Date: 10/28/2009

Serial Number: 77859042

Internet Transmission Date: Wed Oct 28 10:31:50 EDT 2009 TEAS Stamp: USPTO/FTK-12.21.74.161-20091028103150232

914-77859042-460881d24bd8a8bdf553cf2c962 d9f8224-CC-6955-20091028100346369065

CONFIDENTIAL – FILED UNDER SEAL

Exhibit F



SPIRITS

DISTILLERY
LEGEND
LOCATE
BLOG
CONTACT



Sun. 12pm-7pm Mon. - Thu. 11am-9pm Fri. - Sat. 10am-9pm

3605 Outdoor Sportsman Place

Kodak, TN 37765 (865) 401 - 2574

I-40 Exit 407, Next to Bass Pro Shop

"I'd rather have a bottle in front of me than a frontal labotomy."

-Dorthy Parker

"Too much of anything is bad, but too much good whiskey is barely enough."

-Mark Twain

"There cannot be good living where there is no good drinking."



THUNDER ROAD SPIRITS



COCONUT RUM

Kick back and relax with our artisan coconut flavored rum. Perfect for mixing or sipping.

-Nigel Denby, Nutrition for Dummies

"Candy is dandy but liquor is quicker."

-Ogden Nash, Hard Lines

"When I read about the evils of drinking, I gave up reading."

-Henry Youngman

"Be wary of strong drink, it can make you shoot at the tax collector...and miss."

-Robert A. Heinlein, *Time Enough for Love*

"I spent a lot of my money on booze, birds, and fast cars – the rest I just squandered."

-George Best

"There is no such thing as a bad whisky. Some whiskies just happen to be better than others."

-William Faulkner

"The problem with some people is that when they aren't drunk, they're sober."

-William Butler Yeats



MITCHUM'S THUNDER ROAD CLASSIC AMERICAN CORN WHISKEY

Inspired by the Mountain Boy himself, Mitchum's Thunder Road is a 90 proof classic American corn whiskey. To craft a spirit worthy of stardom, our master distiller Dwight Bearden worked directly with Jim Mitchum to create a distinct character and bold flavor worthy of the Mitchum name.

VIEW RECIPE »







Worthy of a real boxcar run, Thunder Road Runner's Rye features our 100 proof handcrafted moonshine with notes of rye and a spicy peppery finish. This exclusive blend was a medal winner in the 2015 New York International Spirits Competition.

VIEW RECIPE »



BARRELED RENEGADE RUM

Proof that some things get better with time, our Aged Renegade Rum is given the same attention to detail as our Original Renegade Rum, but it's then given the time it takes to infuse the character, color, and flavor of the wooden barrels.



RENEGADE RUM

Our Thunder Road Renegade Rum is a 92 proof silver rum, handcrafted from molasses by our head distiller to create a dignified rum flavor with a subtle whiskey finish. True to its roots, our Thunder Road Renegade Rum is a legend in and of itself.

VIEW RECIPE »



CORN WHISKEY

Revving, roaring and blazing, just how we like it. This classic 100 proof American corn whiskey is smooth to taste with a strong, biting whiskey finish. Quality distilled from corn, malted barley and wheat.

VIEW RECIPE »

DUMPLIN CREEK SPIRITS

WEW



CHOCOLATE MERRIMENT

Keep in the holiday spirit all year long with this festive blend of chocolate and peppermint!

WEW



SALTED CARAMEL

A decadent mix of salty and sweet, perfect for any sweet tooth in your life.

WW



BUTCHER'S 8 YEAR OLD SINGLE BARREL WHISKEY

Nobody knows better than a whiskey runner that there's a time for speed and a time to take things slow. Our Butcher's Bourbon is an example of the latter. In fact, it takes 8 years to make each bottle. So slow down and sample a bourbon for the ages.



VODKA

Discover our 90 proof vodka produced by our master distiller. Its neutral flavor makes it perfect for mixing or serving straight over ice.







A handcrafted traditional gin with a smooth citrus finish as only Thunder Road could make it. Try the silver medal winner from the 2015 New York International Spirits Competition.



PUMPKIN PATCH

A nip in the air, changing colors, falling leaves, and of course, the Great Pumpkin! It's sweater weather, but with Dumplin Creek Pumpkin Patch, you can keep warm.



S'MORES SHINE

Campfires, marshmallows, graham crackers and chocolate. Add in a few good friends and a bottle of Dumplin Creek S'more Shine to keep warm. That's what Fall means.



BANANASHINE

With one part delight and one part the big classic flavor; our Bananashine was something we just knew we had to share. Think banana popsicle enjoyed lakeside when you spot our Bananashine for your next summer libation.



SUMMER STRAWBERRY MOONSHINE

Our Summer Strawberry Moonshine flavor resembles a fresh basket of handpicked strawberries at the peak of the season. Ideal for a Strawberry Mint Mojito.

VIEW RECIPE »



BONFIRE

Feel the flames with our dangerously spicy yet sweet Bonfire. Smooth enough to shoot, but enough heat to keep you warm.



WATERMELON FALLS

Perfect for spiking your next watermelon picnic! Authentic in flavor, our Watermelon Falls Moonshine is one of our new choice additions, hand-crafted here in East Tennessee.

VIEW RECIPE »



AUTUMN MAPLE

Just like the turn of the red maple leaves in October, the sweet buttery taste of our Autumn Maple Moonshine is a fall favorite.

VIEW RECIPE »



TENNESSEE FROST

Our 100 proof traditional moonshine is made from corn ground at the old mill in Pigeon Forge, Tennessee. This is shine, the way it's been made for hundreds of years, just how the Doolin family would have liked it.

VIEW RECIPE »



RED HAVEN PEACH

Another popular pick, our Red Haven Peach Moonshine reveals fruity notes of the indigenous Appalachian peach. Light and sweet in flavor, just like biting into a fresh peach.

VIEW RECIPE »



LITTLE RIVER LEMON

A Thunder Road Distillery favorite, our Little River Lemon Moonshine gives a light, citrus flavor, best served chilled. We think it pairs perfectly with a Tennessee summer night and good company. Pucker up for this refreshing twist to your traditional moonshine beverage.

VIEW RECIPE »



BLACKBERRY BRAMBLE

Sure to remind you of berry pickin' by the pound, our Blackberry Bramble Moonshine is derived from the ripe East Tennessee berry. Grandma's homemade blackberry jam has nothing on us.

VIEW RECIPE »

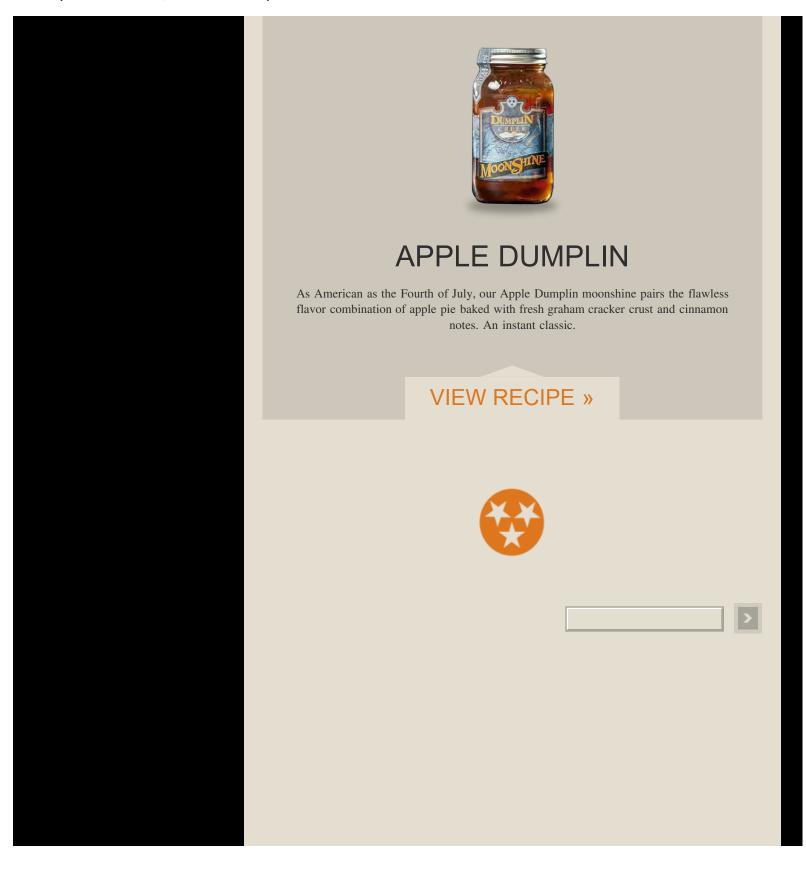


Exhibit G

United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Feb 8 03:47:02 EST 2017

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG

Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

ASSIGN Status

TTAB Status

(Use the "Back" button of the Internet Browser to return to TESS)

Thunder Road

Word Mark THUNDER ROAD

Goods and

IC 033. US 047 049. G & S: Alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine **Services**

Standard

Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77859042

Filing Date October 28, 2009

Current Basis

Original Filing 1B

Basis

Published for

February 10, 2015 Opposition

Owner (APPLICANT) Thunder Road Brands, LLC LIMITED LIABILITY COMPANY TENNESSEE Suite 600 Hunt Tower

200 Main Street N.W. Gainesville GEORGIA 30501

Attorney of Record Peter L. Brewer Type of Mark **TRADEMARK** Register **PRINCIPAL**

Live/Dead Indicator LIVE

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG

HELP

| HOME | SITE INDEX | SEARCH | eBUSINESS | HELP | PRIVACY POLICY

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77859042
LAW OFFICE ASSIGNED	LAW OFFICE 114
MARK SECTION	
MARK	http://tsdr.uspto.gov/img/77859042/large
LITERAL ELEMENT	THUNDER ROAD
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.

ARGUMENT(S)

Applicant is in receipt of an Office Action from Examining Attorney Suzanne Blane. In the Office Action, Attorney Blane has rejected the present application, holding that THUNDER ROAD for distilled spirits is confusingly similar to a mark THUNDER ROAD owned by an Australian entity (Elixir Signature Pty Ltd.) for beer. Examiner Blane has further suggested that Applicant has attempted to unilaterally change the terms of a Coexistence Agreement between Thunder Road Brands, LLC and Elixir. Applicant respectfully disagrees with the Trademark Examiner's analysis.

In connection with an earlier Response to Office Action, Applicant submitted the Coexistence Agreement that was executed by both Applicant herein and Elixir Signature Pty Ltd. ("Elixir"). (A copy of the Coexistence Agreement is again submitted herewith.) Elixir is the owner of the registration that has been cited by the Examining Attorney in support of the original rejection. Under the Coexistence Agreement, Elixir acknowledges, *inter alia*, T.R. Brand's "ownership and exclusive right to use and register" the mark THUNDER ROAD "in connection with the manufacture and sale of Tennessee sour mash whiskey and moonshine, and other related distilled spirits." Reciprocally, T.R. Brands acknowledges, *inter alia*, Elixir's "ownership and exclusive right to use and register" the mark THUNDER ROAD "in connection with the manufacture and sale of beer." This is standard co-existence agreement language that is often recognized by the Trademark Office.

Applicant has further (previously) attached a separate consent letter from counsel for Elixir. The letter, signed by attorney Sana Hakim of K&L Gates, states that Elixir consents to the submission of the Coexistence Agreement to the U.S. Patent and Trademark Office in support of the present application.

Applicant is now further attaching screen shots from web pages owned by Elixir. These web pages demonstrate that Elixir is brewing beer, but is not distributing or selling distilled spirits. The web pages also, incidentally, demonstrate that Elixir is operating only in Australia.

The primary reviewing court for the Trademark Trial and Appeal Board has recognized that the Board should give "great weight" to consent agreements, so long as such consent agreements are not merely "naked" consent agreements. *Bongrain International v. Delice de France*, 811 F.2d 1479 (Fed. Cir. 1987). In the present case, the Examining Attorney has stated that the "submitted consent agreement" is a "naked" consent. The undersigned counsel respectfully disagrees with this characterization of the Coexistence Agreement.

The Examiner has listed five factors to be weighed when considering a consent agreement. Those include:

- (1) Whether the consent shows an agreement between both parties;
- (2) Whether the agreement includes a clear indication that the goods and/or services travel in separate trade channels;
- (3) Whether the parties agree to restrict their fields of use;
- (4) Whether the parties will make efforts to prevent confusion, and cooperate and take steps to avoid any confusion that

may arise in the future; and

(5) Whether the marks have been used for a period of time without evidence of actual confusion.

Applicant respectfully submits that the elements are met without need of a new coexistence agreement.

Concerning the first element, the Coexistence Agreement is signed by both parties and clearly indicates a desire by the parties to coexist in the market place. The title of the Agreement itself is "Trademark Coexistence Agreement." Section 2(a)(3) of the Agreement provides that "[e]ach Party may develop branding for its respective Marks, including art work, logos and composite marks. Each party may file subsequent applications for trademark registrations with the U.S. Patent and Trademark Office or with any state trademark agency for its respective goods." Section 11 confirms that the parties are entering into the Agreement voluntarily, and have "weighed all the facts and circumstances likely to influence their judgment herein," and that "they have given due consideration to the provisions contained herein"

It is observed here that in many Southern states (where Thunder Road Brands, LLC is located), the retail sales of beer and of distilled spirits are required to be made through separate and distinct retail outlets. Applicant seeks to register the goods in connection with alcoholic beverages that are manufactured through a distillation process by a distiller. Applicant has described the goods as "alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine." On the other hand, beer is manufactured by a brewer through a fermentation process. Even though both products contain alcohol (as, incidentally, do many other products such as mouth wash), they are substantively different and are regulated in different ways and are frequently sold in separate stores. The parties have expressly agreed to restrict their fields of use.

Concerning the second element, Section 2(a) of the Agreement identifies separate channels of trade to be used by the parties. Elixir acknowledges T.R. Brand's exclusive right to use and register the mark THUNDER ROAD in connection with the manufacture and sale of distilled spirits, while T.R. Brands acknowledges Elixir's exclusive right to use the mark THUNDER ROAD in connection with the manufacture and sale of beer.

Concerning the third element, Section 5 of the Coexistence Agreement reflects that T.R. Brands and Elixir have agreed to restrict the use of their marks in their respective fields of use. In Section 5(a)(1), "T.R. Brands [has agreed] that it will not in the future use or apply for registration of any service mark, trademark or trade name consisting of or incorporating the term Thunder Road, or any term that may be confusingly similar to 'Thunder Road' relating to the manufacture and sale of beer." Reciprocally, in section 5(a)(2) "Elixir [has agreed] that it will not in the future use or apply for registration of any trademark, service mark or trade name consisting of or incorporating the term Thunder Road, or any term that may be confusingly similar to 'Thunder Road' relating to the manufacture and sale of Tennessee sour mash whiskey and moonshine or other distilled spirits in the United States."

Concerning the fourth element, the parties have agreed to make efforts to prevent confusion, and to cooperate and take steps to avoid any confusion that may arise in the future. Section 9 of the Trademark Coexistence Agreement provides that "[i]n the event either Party becomes aware of any actual confusion or mistake occurring as a result of their uses of their respective marks, the Parties agree to communicate all details of such instance to each other, and to cooperate . . to take steps to abate the cause of confusion or mistake, and to prevent any such confusion or mistake from arising again." Further, each party has agreed not to "associate itself with the other Party or the other Party's goods . . . in an effort to avoid possible confusion." Thus, the parties are agreeing to cooperate in avoiding any consumer confusion and to take steps to avoid any confusion that may arise in the future.

Concerning the fifth element, T.R. Brands does not believe that Elixir has sold any beer in the United States. Elixir's website provides no indication that beer is sold outside of Australia. (See http://www.thunderroadbrewing.com/aboutus/)

T.R. Brands is unaware of any instances of confusion in the marketplace in the United States or elsewhere between the products of Elixir d/b/a Thunder Road Brewing Company and the products of Thunder Road Brands, LLC. T.R. Brands has recently contracted to license its brand with a distillery, which is producing distilled spirits under the Thunder Road brand in the southeast United States. T.R. Brands has no plan or interest in branding a beer or malt beverage.

Applicant believes that the Coexistence Agreement is appropriate in this case, and that the parties are in the best position to police their respective marks and understand the likelihood *vel non* of consumer confusion. The Federal Circuit has noted the value of coexistence agreements in resolving trademark disputes and in militating against a likelihood of confusion. *See, e.g., Bongrain International (American) Corporation v. Delice de France Inc.*, 811 F.2d 1479 (Fed. Cir. 1987) (the Board should accept the parties' reasonable appraisal of marketplace conditions); and *In re E. I. du Pont de Nemours & Co.*, 177 USPQ at 568 ("when those most familiar with use in the marketplace and most interested in precluding confusion enter an agreement designed to avoid it, the scales of evidence are clearly tilted. It is at least difficult to maintain a subjective view that confusion will occur when those directly concerned say it won't'"). See also *Bd. of Regents, Univ. of Tex. Sys. v. S. Ill. Miners, LLC*, 110 USPQ2d 1182, 1195 n.20 (TTAB 2014) (noting that the presence of a Coexistence Agreement countenances against a likelihood of confusion). See also *In re Buhler Technologies GmbH*, Serial No. 79034792 (TTAB 2009), wherein the TTAB found no likelihood of consumer confusion between industrial products where the cited mark was registered under treaty rights but was not being used in the United States, and wherein a consent letter was in place.

Examiner Blane has suggested that Applicant has tried to modify the terms of the Coexistence Agreement through a letter of clarification. In actuality, the opposite is true. The undersigned counsel originally (accidentally) misquoted the Coexistence Agreement in the Response to

Office Action, and then promptly corrected the quote in a follow-up letter dated July 14, 2014. The letter did not represent a change to the original agreement, nor was any such attempt made; rather, the letter was an attempt to correct counsel's reference to the Agreement. The undersigned counsel apologizes for any misunderstanding he may have caused.

Applicant respectfully submits that it is entitled to registration of its THUNDER ROAD mark for Tennessee sour mash whiskey and moonshine.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_122174171-20141203115018411089THUNDER_ROAD_Coexistence_Agreement.pdf
CONVERTED PDF FILE(S) (21 pages)	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xm17\ROA0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0004.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0005.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0006.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0007.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0008.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0009.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0010.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0011.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0012.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0013.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0014.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0015.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0016.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0017.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0018.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0019.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0020.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0021.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0022.JPG
ORIGINAL PDF FILE	evi_122174171-20141203115018411089Letter_of_Bill_Blalock.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0023.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0024.JPG
ORIGINAL PDF FILE	evi_122174171-20141203115018411089Australia_Thunder_Road_Brewing_Web_Pages.pdf
CONVERTED PDF FILE(S) (4 pages)	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0025.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0026.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xml7\ROA0027.JPG

	\\\TICRS\EXPORT16\IMAGEOUT16\778\590\77859042\xm17\ROA0028.JPG
DESCRIPTION OF EVIDENCE FILE	The original Co-Existence Agreement is re-submitted for the convenience of the Examining Trademark Attorney. A letter from Member Bill Blalock updating the status of use of the THUNDER ROAD mark is also provided. Finally, web pages from Thunder Road Brewing Company in Australia are submitted.
ADDITIONAL STATEMENTS SECTION	N
MISCELLANEOUS STATEMENT	A Co-Existence Agreement has been entered into with Elixir Signature Pty Ltd. d/b/a Thunder Road Brewing Company of Australia
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Peter L. Brewer/
SIGNATORY'S NAME	Peter L. Brewer
SIGNATORY'S POSITION	Registered Patent Attorney Licensed in Tennessee
SIGNATORY'S PHONE NUMBER	865-971-5102
DATE SIGNED	12/03/2014
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Dec 03 12:17:55 EST 2014
TEAS STAMP	USPTO/ROA-XX.XX.XXXXX20 141203121755079975-778590 42-5007e189b83b97152fbe2c e30f976eda4dbd08ebad9c23f f49991115f207412ba44-N/A- N/A-20141203115018411089

PTO Form 1957 (Rev 9/2005)
OMB No. 0651-0050 (Exp. 07/31/2017)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **77859042** THUNDER ROAD(Standard Characters, see http://tsdr.uspto.gov/img/77859042/large) has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Applicant is in receipt of an Office Action from Examining Attorney Suzanne Blane. In the Office Action, Attorney Blane has rejected the present application, holding that THUNDER ROAD for distilled spirits is confusingly similar to a mark THUNDER ROAD owned by an Australian entity (Elixir Signature Pty Ltd.) for beer. Examiner Blane has further suggested that Applicant has attempted to unilaterally change the terms of a Coexistence Agreement between Thunder Road Brands, LLC and Elixir. Applicant respectfully disagrees with the Trademark Examiner's analysis.

In connection with an earlier Response to Office Action, Applicant submitted the Coexistence Agreement that was executed by both Applicant herein and Elixir Signature Pty Ltd. ("Elixir"). (A copy of the Coexistence Agreement is again submitted herewith.) Elixir is the owner of the registration that has been cited by the Examining Attorney in support of the original rejection. Under the Coexistence Agreement, Elixir acknowledges, *inter alia*, T.R. Brand's "ownership and exclusive right to use and register" the mark THUNDER ROAD "in connection with the manufacture and sale of Tennessee sour mash whiskey and moonshine, and other related distilled spirits." Reciprocally, T.R. Brands acknowledges, *inter alia*, Elixir's "ownership and exclusive right to use and register" the mark THUNDER ROAD "in connection with the

manufacture and sale of beer." This is standard co-existence agreement language that is often recognized by the Trademark Office.

Applicant has further (previously) attached a separate consent letter from counsel for Elixir. The letter, signed by attorney Sana Hakim of K&L Gates, states that Elixir consents to the submission of the Coexistence Agreement to the U.S. Patent and Trademark Office in support of the present application.

Applicant is now further attaching screen shots from web pages owned by Elixir. These web pages demonstrate that Elixir is brewing beer, but is not distributing or selling distilled spirits. The web pages also, incidentally, demonstrate that Elixir is operating only in Australia.

The primary reviewing court for the Trademark Trial and Appeal Board has recognized that the Board should give "great weight" to consent agreements, so long as such consent agreements are not merely "naked" consent agreements. *Bongrain International v. Delice de France*, 811 F.2d 1479 (Fed. Cir. 1987). In the present case, the Examining Attorney has stated that the "submitted consent agreement" is a "naked" consent. The undersigned counsel respectfully disagrees with this characterization of the Coexistence Agreement.

The Examiner has listed five factors to be weighed when considering a consent agreement. Those include:

- (1) Whether the consent shows an agreement between both parties;
- (2) Whether the agreement includes a clear indication that the goods and/or services travel in separate trade channels;
- (3) Whether the parties agree to restrict their fields of use;
- (4) Whether the parties will make efforts to prevent confusion, and cooperate and take steps to avoid any confusion that may arise in the future; and
- (5) Whether the marks have been used for a period of time without evidence of actual confusion.

Applicant respectfully submits that the elements are met without need of a new coexistence agreement.

Concerning the first element, the Coexistence Agreement is signed by both parties and clearly indicates a desire by the parties to coexist in the market place. The title of the Agreement itself is "Trademark Coexistence Agreement." Section 2(a)(3) of the Agreement provides that "[e]ach Party may develop branding for its respective Marks, including art work, logos and composite marks. Each party may file subsequent applications for trademark registrations with the U.S. Patent and Trademark Office or with any state trademark agency for its respective goods." Section 11 confirms that the parties are entering into the Agreement voluntarily, and have "weighed all the facts and circumstances likely to influence their judgment herein," and that "they have given due consideration to the provisions contained herein"

It is observed here that in many Southern states (where Thunder Road Brands, LLC is located), the retail sales of beer and of distilled spirits are required to be made through separate and distinct retail outlets. Applicant seeks to register the goods in connection with alcoholic beverages that are manufactured through a distillation process by a distiller. Applicant has described the goods as "alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine." On the other hand, beer is manufactured by a brewer through a fermentation process. Even though both products contain alcohol (as, incidentally, do many other products such as mouth wash), they are substantively different and are regulated in different ways and are frequently sold in separate stores. The parties have expressly agreed to restrict their fields of use.

Concerning the second element, Section 2(a) of the Agreement identifies separate channels of trade to be used by the parties. Elixir acknowledges T.R. Brand's exclusive right to use and register the mark THUNDER ROAD in connection with the manufacture and sale of distilled spirits, while T.R. Brands acknowledges Elixir's exclusive right to use the mark THUNDER ROAD in connection with the manufacture and sale of beer.

Concerning the third element, Section 5 of the Coexistence Agreement reflects that T.R. Brands and Elixir have agreed to restrict the use of their marks in their respective fields of use. In Section 5(a)(1), "T.R. Brands [has agreed] that it will not in the future use or apply for registration of any service mark, trademark or trade name consisting of or incorporating the term Thunder Road, or any term that may be confusingly similar to 'Thunder Road' relating to the manufacture and sale of beer." Reciprocally, in section 5(a)(2) "Elixir [has agreed] that it will not in the future use or apply for registration of any trademark, service mark or trade name consisting of or incorporating the term Thunder Road, or any term that may be confusingly similar to 'Thunder Road' relating to the manufacture and sale of Tennessee sour mash whiskey and moonshine or other distilled spirits in the United States."

Concerning the fourth element, the parties have agreed to make efforts to prevent confusion, and to cooperate and take steps to avoid any confusion that may arise in the future. Section 9 of the Trademark Coexistence Agreement provides that "[i]n the event either Party becomes aware of any actual confusion or mistake occurring as a result of their uses of their respective marks, the Parties agree to communicate all details of such instance to each other, and to cooperate . . to take steps to abate the cause of confusion or mistake, and to prevent any such confusion or mistake from arising again." Further, each party has agreed not to "associate itself with the other Party or the other Party's goods . . . in an effort to avoid possible confusion." Thus, the parties are agreeing to cooperate in avoiding any consumer confusion and to take steps to avoid any confusion that may arise in the future.

Concerning the fifth element, T.R. Brands does not believe that Elixir has sold any beer in the United States. Elixir's website provides no indication that beer is sold outside of Australia. (See http://www.thunderroadbrewing.com/aboutus/)

T.R. Brands is unaware of any instances of confusion in the marketplace in the United States or elsewhere between the products of Elixir d/b/a Thunder Road Brewing Company and the products of Thunder Road Brands, LLC. T.R. Brands has recently contracted to license its brand with a distillery, which is producing distilled spirits under the Thunder Road brand in the southeast United States. T.R. Brands has no plan or interest in branding a beer or malt beverage.

Applicant believes that the Coexistence Agreement is appropriate in this case, and that the parties are in the best position to police their respective marks and understand the likelihood *vel non* of consumer confusion. The Federal Circuit has noted the value of coexistence agreements in resolving trademark disputes and in militating against a likelihood of confusion. *See, e.g., Bongrain International (American) Corporation v. Delice de France Inc.*, 811 F.2d 1479 (Fed. Cir. 1987) (the Board should accept the parties' reasonable appraisal of marketplace conditions); and *In re E. I. du Pont de Nemours & Co.*, 177 USPQ at 568 ("when those most familiar with use in the marketplace and most interested in precluding confusion enter an agreement designed to avoid it, the scales of evidence are clearly tilted. It is at least difficult to maintain a subjective view that confusion will occur when those directly concerned say it won't"). See also *Bd. of Regents, Univ. of Tex. Sys. v. S. Ill. Miners, LLC*, 110 USPQ2d 1182, 1195 n.20 (TTAB 2014) (noting that the presence of a Coexistence Agreement countenances against a likelihood of confusion). See also *In re Buhler Technologies GmbH*, Serial No. 79034792 (TTAB 2009), wherein the TTAB found no likelihood of consumer confusion between industrial products where the cited mark was registered under treaty rights but was not being used in the United States, and wherein a consent letter was in place.

Examiner Blane has suggested that Applicant has tried to modify the terms of the Coexistence Agreement through a letter of clarification. In actuality, the opposite is true. The undersigned counsel originally (accidentally) misquoted the Coexistence Agreement in the Response to Office Action, and then promptly corrected the quote in a follow-up letter dated July 14, 2014. The letter did not represent a change to the original agreement, nor was any such attempt made; rather, the letter was an attempt to correct counsel's reference to the Agreement. The undersigned counsel apologizes for any misunderstanding he may have caused.

Applicant respectfully submits that it is entitled to registration of its THUNDER ROAD mark for Tennessee sour mash whiskey and moonshine.

EVIDENCE

Evidence in the nature of The original Co-Existence Agreement is re-submitted for the convenience of the Examining Trademark Attorney. A letter from Member Bill Blalock updating the status of use of the THUNDER ROAD mark is also provided. Finally, web pages from Thunder Road Brewing Company in Australia are submitted. has been attached.

Original PDF file:

 $\underline{evi_122174171\text{-}20141203115018411089}__THUNDER_ROAD_Coexistence_Agreement.pdf$

Converted PDF file(s) (21 pages)

Evidence-1

Evidence-2

Evidence-3

Evidence-4

Evidence-4
Evidence-5

Evidence-6

Evidence-7

Evidence-8

Evidence-9

Evidence-10

Evidence-11

Evidence-12

Evidence-13

Evidence-14

Evidence-15

Evidence-16

Evidence-17

Evidence-18

Evidence-19

Evidence-20

Evidence-21

Original PDF file:

evi_122174171-20141203115018411089_._Letter_of_Bill_Blalock.pdf

Converted PDF file(s) (2 pages)

Evidence-1

Evidence-2

Original PDF file:

evi_122174171-20141203115018411089_._Australia_Thunder_Road_Brewing_Web_Pages.pdf

Converted PDF file(s) (4 pages)

Evidence-1

Evidence-2

Evidence-3

Evidence-4

ADDITIONAL STATEMENTS

Miscellaneous Statement

A Co-Existence Agreement has been entered into with Elixir Signature Pty Ltd. d/b/a Thunder Road Brewing Company of Australia

SIGNATURE(S)

Response Signature

Signature: /Peter L. Brewer/ Date: 12/03/2014

Signatory's Name: Peter L. Brewer

Signatory's Position: Registered Patent Attorney -- Licensed in Tennessee

Signatory's Phone Number: 865-971-5102

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 77859042

Internet Transmission Date: Wed Dec 03 12:17:55 EST 2014 TEAS Stamp: USPTO/ROA-XX.XX.XXX.XXX-20141203121755079

975-77859042-5007e189b83b97152fbe2ce30f9 76eda4dbd08ebad9c23ff49991115f207412ba44

-N/A-N/A-20141203115018411089

TRADEMARK COEXISTENCE AGREEMENT

This Trademark Coexistence Agreement ("Agreement"), entered into and effective as of the 12th day of August, 2013, (the "Effective Date"), is between Elixir Signature Pty, ("Elixir") organized and existing under the laws of Australia, having a place of business in the United States at 1990 Mocorthor Blod Ste 300, Notice A and Thunder Road Brands, LLC ("T.R. Brands") a limited liability company organized and existing under the laws of the State of Tennessee, having a principal place of business at P. O. Box 3280, Gainesville, Georgia, (each, a "Party" and collectively, the "Parties").

RECITALS

WHEREAS, Elixir is the owner of pending U.S. Trademark Application Serial No. 77/885,911 for the Trademark <u>THUNDER ROAD</u> covering goods described as "Beer" in International Class 032, (the "Elixir Mark"). A copy of the Application as filed is identified on Schedule "A", attached hereto and made a part hereof;

WHEREAS, T.R. Brands, is the owner of a pending U.S. Trademark Application Serial No. 77/859,042 for the Trademark <u>THUNDER ROAD</u> covering goods described as "Alcoholic Beverages", namely, Tennessee sour mash whiskey and moonshine (the T.R. Brands Mark). A copy of the Application as filed is identified as Schedule B attached hereto and made a part hereof;

WHEREAS, the Parties wish to set forth their respective rights to use and register the trademarks set forth in Schedules A and B hereto and any colorable imitations, variations or derivatives thereof ("the Marks").

NOW, THEREFORE, in consideration of the mutual promises, warranties and covenants contained in this Agreement, the receipt and sufficiency of which for consideration is hereby acknowledged, and the above recitals, which are incorporated in the operative terms of this Agreement by reference, the Parties agree as follows:

TERMS AND CONDITIONS

 <u>Recitals</u>. The Parties agree that the above Recitals are true and correct and are hereby incorporated into this Agreement.

2. Acknowledgment of Rights.

- a. (1) T.R. Brands acknowledges Elixir's ownership of and exclusive right to use and register the Elixir Mark in connection with the manufacture and sale of beer ("Elixir's Goods and Services") and agrees not to oppose, petition to cancel, or otherwise challenge or object to the use of, or assist any third party to oppose, petition to cancel, or otherwise challenge or object to the use of, any current application, registration or subsequent application for registration by Elixir of the Elixir Mark, as long as such use and registration is otherwise in accordance with the terms of this Agreement.
- (2) Elixir acknowledges T.R. Brands' ownership of and exclusive right to use and register the T.R. Brands Mark in connection with the manufacture and sale of Tennessee sour mash whiskey and moonshine, and other related distilled spirits ("T.R. Brands' Goods and Services"), and agrees not to oppose, petition to cancel, or otherwise challenge or object to the use of, or assist any third party to oppose, petition to cancel, or otherwise challenge or object to the use of, any current application,

registration or subsequent application for registration by T.R. Brands of the T.R. Brands Mark, as long as such use and registration is otherwise in accordance with the terms of this Agreement.

(3) Each Party may develop branding for its respective Marks, including art work, logos and composite marks. Each Party may file subsequent applications for trademark registrations with the U.S. Patent and Trademark Office or with any state trademark agency for its respective goods.

3. Enforcement.

- a. In the event that a Party deems any action or omission by the other Party to be in default or breach of the terms of this Agreement, such Party shall notify the other Party of such breach and the other Party shall have sixty (60) days to cure such breach. In the event that a timely cure of such breach has not been effected, the non-breaching Party shall have available any remedy in law or equity except for any remedies that would effect a modification or termination of all or any part of this Agreement.
- b. This Agreement does not restrict or affect either Party's right to enforce its respective Marks or the rights therein against any third party.
- c. This Agreement will be binding on and inure to the benefit of the Parties, their successors, assigns, licensees, subsidiaries, divisions, affiliates and all others acting by or through them or with or under their direction or in privity with them.

This Agreement is likewise binding upon any permitted assignee of the Marks by either Party.

- d. The Parties respectively represent and warrant that they have the full legal right and authority to enter into this Agreement and to perform any obligations undertaken pursuant to this Agreement, that the persons signing on their behalf are legally authorized to do so, and that they have not sold, assigned, or otherwise transferred, prior to the date of this Agreement, any claim or demand that they had or might have had against the other Party.
- e. (1) In the event that a T.R. Brands' application (or registration) for the T.R. Brands Mark is cited against an Elixir application for registration of the Elixir Mark for Elixir's Goods and Services and bars its registration, then so long as this Agreement is in force and adhered to by Elixir, T.R. Brands will cooperate with Elixir, at Elixir's expense, by providing its written consent, or by restricting its applications and registrations to the T.R. Brands Goods and Services, or by taking any other action reasonably necessary to permit the registration of Elixir's rights in the Elixir Mark for Elixir's Goods and Services.
- (2) In the event that an Elixir application (or registration) for the Elixir Mark is cited against a T.R. Brands application for registration of the T.R. Brands Mark for T.R. Brands' Goods and Services and bars its registration, then so long as this Agreement is in force and adhered to by T.R. Brands, Elixir will cooperate with T.R. Brands, at T.R. Brands' expense, by providing its written consent, or by restricting its applications and registrations to the Elixir Goods and Services, or by taking any other

action reasonably necessary to permit the registration of T.R. Brands' rights in the T.R. Brands Mark for T.R. Brands' Goods and Services.

4. <u>Term</u>. This Agreement shall remain in full force and effect until the expiration of all rights in and to the Marks in the United States.

5. Limitations on Rights.

- a. (1) T.R. Brands agrees that it will not in the future use or apply for registration of any service mark, trademark or trade name consisting of or incorporating the term Thunder Road, or any term that may be confusingly similar to "Thunder Road" relating to the manufacture and sale of beer. Furthermore, T.R. Brands agrees not to apply for registration of the T.R. Brands Mark in any foreign jurisdiction outside of the United States without the consent of Elixir.
- (2) Elixir agrees that it will not in the future use or apply for registration of any trademark, service mark or trade name consisting of or incorporating the term Thunder Road, or any term that may be confusingly similar to "Thunder Road" relating to the manufacture and sale of Tennessee sour mash whiskey and moonshine or other distilled spirits in the United States.
- b. This Agreement does not create in any way any association,
 partnership, joint venture, or relationship of principal and agent between the Parties.
- 6. <u>Severable Terms.</u> If any provision of this Agreement is held to be void or unenforceable, in whole or in part, the court or tribunal so holding shall reform the provision to make it enforceable while maintaining the spirit and goal of the provision

and if the court or tribunal finds it cannot so reform that provision, such provision or part thereof shall be treated as severable leaving valid the remainder of the Agreement.

- 7. <u>Counterparts</u>. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one agreement.
- 8. <u>Injunctive Relief.</u> The Parties acknowledge and agree that any breach of this Agreement may result in irreparable harm to the other Party and that there will be no adequate remedy at law for either Party's failure to comply with the terms herewith. Accordingly, in the event that either Party fails to comply with the terms of this Agreement and fails to cure such breach within the time allowed, both Parties agree that the non-breaching Party shall have the right to seek to have any breach or default of this Agreement remedied by equitable relief by way of a temporary restraining order, preliminary injunction, permanent injunction, and such other alternative relief as may be appropriate without the necessity of the non-breaching Party posting a bond or proving damages.
- 9. <u>Actual Confusion.</u> In the event that either Party becomes aware of any actual confusion or mistake occurring as a result of their uses of their respective marks, the Parties agree to communicate all details of each such instance to each other, and to cooperate reasonably to take steps to abate the cause of confusion or mistake, and to prevent any such confusion or mistake from arising again. Each Party further agrees not to associate itself with the other Party or the other Party's goods and services in an effort to avoid possible confusion.

- 10. <u>Modification of Agreement.</u> This Agreement may not be altered, amended, modified, or otherwise changed except by a writing duly signed by all Parties hereto.
- 11. Voluntary Agreement. The Parties hereto acknowledge that they are entering into this Agreement freely and voluntarily, that they have ascertained and weighed all the facts and circumstances likely to influence their judgment herein, that they have given due consideration to the provisions contained herein, and that they thoroughly understand and consent to all provisions hereof. Each Party has reviewed this Agreement and, accordingly, the rule of construction to the effect that any ambiguities are to be resolved against the drafting Party will not be employed in any interpretation of this Agreement.
- 12. No Waiver. No delay or omission to exercise any right, power, or remedy accruing to any Party, upon any breach or default under this Agreement, shall impair any such right, power, or remedy of such Party or be construed to be a wavier of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. All of a Party's remedies including without limitation recovery of attorneys' fees and costs, either under this Agreement, or by law or otherwise afforded to such Party, shall be cumulative and not alternative.
- 13. Notices. All communications required or permitted to be made under this Agreement shall be in writing and either shall be delivered personally or sent by United States Postal Service certified or registered mail, postage prepaid and return receipt

requested, to the address or addresses set forth in the first paragraph hereof, or to such other address or addresses as either Party may notify the other of pursuant to this Section.

Elixir Signature Pty.

By:_

Philip Withers, Managing Director

Thunder Road Brands, LLC

Ву:_

James R. Mitchum, Member

Bv:

William H. Blalock, Jr., Member

450044-1 15011.0 7/9/13



Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 77885911 Filing Date: 12/04/2009

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	THUNDER ROAD
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	THUNDER ROAD
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Elixir Signature Pty Ltd
INTERNAL ADDRESS	Level 3
*STREET	333 Flinders Lane
*CITY	Melbourne
*COUNTRY	Australia
*ZIP/POSTAL CODE (Required for U.S. applicants only)	3000
EMAIL ADDRESS	chris.round@middletons.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes

*TYPE	LIMITED LIABILITY COMPANY
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	Australia
GOODS AND/OR SERVICES AND BA	SIS INFORMATION
*INTERNATIONAL CLASS	032
IDENTIFICATION	Beer
*FILING BASIS	SECTION 44(d)
FOREIGN APPLICATION NUMBER	1302783
*FOREIGN APPLICATION COUNTRY	Australia
*FOREIGN FILING DATE	06/05/2009
ADDITIONAL STATEMENTS INFOR	MATION
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	V
*NAME	Elixir Signature Pty Ltd
FIRM NAME	Elixir Signature Pty Ltd
INTERNAL ADDRESS	Level 3
*STREET	333 Flinders Lane
*CITY	Melbourne
*COUNTRY	Australia
*ZIP/POSTAL CODE	3000
*EMAIL ADDRESS	chris.round@middletons.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes

NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
* SIGNATURE	/philip withers/
* SIGNATORY'S NAME	Philip Withers
* SIGNATORY'S POSITION	Managing Director
* DATE SIGNED	12/04/2009

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 77885911 Filing Date: 12/04/2009

To the Commissioner for Trademarks:

MARK: THUNDER ROAD (Standard Characters, see <u>mark</u>)
The literal element of the mark consists of THUNDER ROAD.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Elixir Signature Pty Ltd, a limited liability company legally organized under the laws of Australia, having an address of

Level 3.

333 Flinders Lane

Melbourne 3000

Australia

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table. International Class 032: Beer

Priority based on foreign filing: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services and asserts a claim of priority based on Australia application number 1302783, filed 06/05/2009. 15 U.S.C. Section 1126(d), as amended.

The applicant's current Correspondence Information:

Elixir Signature Pty Ltd Elixir Signature Pty Ltd Level 3 333 Flinders Lane Melbourne 3000, Australia

chris.round@middletons.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /philip withers/ Date Signed: 12/04/2009

Signatory's Name: Philip Withers Signatory's Position: Managing Director

RAM Sale Number: 6119

RAM Accounting Date: 12/04/2009

Serial Number: 77885911

Internet Transmission Date: Fri Dec 04 00:53:14 EST 2009 TEAS Stamp: USPTO/FTK-203.37.212.89-2009120400531406

0070-77885911-460bd19e3f2645d8cca45e4c7b e62f8eb2-CC-6119-20091204004538405342

THUNDER ROAD

SCHEDULE B

PTO Form 1478 (Rev 9/2006) OMB No. 0651-0009 (Exp 12/31/2011)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 77859042 Filing Date: 10/28/2009

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered	
TEAS Plus	YES	
MARK INFORMATION		
*MARK	Thunder Road	
*STANDARD CHARACTERS	YES	
USPTO-GENERATED IMAGE	YES	
LITERAL ELEMENT	Thunder Road	
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.	
REGISTER	Principal	
APPLICANT INFORMATION		
*OWNER OF MARK	Thunder Road Brands, LLC	
INTERNAL ADDRESS	Suite 600 Hunt Tower	
*STREET	200 Main Street N.W.	
*CITY	Gainesville	
*STATE (Required for U.S. applicants)	Georgia	
*COUNTRY	United States	
*ZIP/POSTAL CODE (Required for U.S. applicants only)	30501	

SCHEDULE B

PHONE	(865) 297-5102
FAX	(865) 329-5102
EMAIL ADDRESS	pbrewer@bakerdonelson.com
LEGAL ENTITY INFORMATION	
*TYPE	LIMITED LIABILITY COMPANY
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	Tennessee
GOODS AND/OR SERVICES AND BA	SIS INFORMATION
*INTERNATIONAL CLASS	033
IDENTIFICATION	Alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine
*FILING BASIS	SECTION 1(b)
ADDITIONAL STATEMENTS INFOR	MATION
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
ATTORNEY INFORMATION	
NAME	Peter L. Brewer
ATTORNEY DOCKET NUMBER	2911314-000005
FIRM NAME	Baker, Donelson
INTERNAL ADDRESS	Suite 600
STREET	265 Brookview Centre Way
CITY	Knoxville
STATE	Tennessee
COUNTRY	United States
ZIP/POSTAL CODE	37919
PHONE	865-297-5102

FAX	865-329-5102	
EMAIL ADDRESS	pbrewer@bakerdonelson.com	
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes	
OTHER APPOINTED ATTORNEY	Carl Davis, Micheline Johnson, Wendy Robertson	
CORRESPONDENCE INFORMATION		
*NAME	Peter L. Brewer	
FIRM NAME	Baker, Donelson	
INTERNAL ADDRESS	Suite 600	
*STREET	265 Brookview Centre Way	
*CITY	Knoxville	
*STATE (Required for U.S. applicants)	Tennessee	
*COUNTRY	United States	
*ZIP/POSTAL CODE	37919	
PHONE	865-297-5102	
FAX	865-329-5102	
*EMAIL ADDRESS	pbrewer@bakerdonelson.com	
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes	
FEE INFORMATION		
NUMBER OF CLASSES	1	
FEE PER CLASS	275	
*TOTAL FEE PAID	275	
SIGNATURE INFORMATION		
* SIGNATURE	/Peter L. Brewer/	
* SIGNATORY'S NAME	Peter L. Brewer	
* SIGNATORY'S POSITION	Intellectual Property Counsel	
* DATE SIGNED	10/28/2009	

PTO Form 1478 (Rev.9/2006) OMB No. 0651-0009 (Exp 12/31/2011)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 77859042 Filing Date: 10/28/2009

To the Commissioner for Trademarks:

MARK: Thunder Road (Standard Characters, see <u>mark</u>)
The literal element of the mark consists of Thunder Road.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Thunder Road Brands, LLC, a limited liability company legally organized under the laws of Tennessee, having an address of

Suite 600 Hunt Tower, 200 Main Street N.W. Gainesville, Georgia 30501 United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seg.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 033: Alcoholic beverages, namely, Tennessee sour mash whiskey and moonshine

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

Peter L. Brewer and Carl Davis, Micheline Johnson, Wendy Robertson of Baker, Donelson

Suite 600

265 Brookview Centre Way

Knoxville, Tennessee 37919

United States

The attorney docket/reference number is 2911314-000005.

The docket/reference number is 2911314-000005.

The applicant's current Correspondence Information:

Peter L. Brewer

Baker, Donelson

Suit 600
265 Brookview Centre Way

Knoxville, Tennessee 37919
865-297-5102(phone)
865-329-5102(fax)
pbrewer@bakerdonelson.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Peter L. Brewer/ Date Signed: 10/28/2009

Signatory's Name: Peter L. Brewer

Signatory's Position: Intellectual Property Counsel

RAM Sale Number: 6955

RAM Accounting Date: 10/28/2009

Serial Number: 77859042

Internet Transmission Date: Wed Oct 28 10:31:50 EDT 2009 TEAS Stamp: USPTO/FTK-12.21.74.161-20091028103150232

914-77859042-460881d24bd8a8bdf553cf2c962 d9f8224-CC-6955-20091028100346369065





Thunder Road Brands, LLC

P.O. Box 3280 Gainesville, GA 30503 770.536.0101 ext. 327 • fax: 770.532.2171 email: wblalock@smf-law.com

December 2, 2014

Commissioner Deborah Cohn Commissioner for Trademarks U.S. Patent Trademark Office P. O. Box 1451 Alexandria, VA 22313-1451

RF.

Thunder Road Brand, LLC

U.S. Trademark Application No.: 77/859,042

Dear Commissioner Cohn:

I am the minority member of Thunder Road Brands, LLC, hereinafter referred to as "T.R. Brands." I am also an attorney licensed to practice law in the State of Georgia. The majority member of T.R. Brands is James (Jim) R. Mitchum, a retired actor and the son of well-known deceased actor, Robert Mitchum. Jim and his dad, Robert Mitchum, co-starred in the movie *Thunder Road* as filmed in 1957. The movie portrayed the life of a fictional moonshine runner (Lucas Doolin), and was set in the Kentucky-Tennessee section of the southeastern United States. Upon its release in 1958, the film became an instant hit and has since established itself as the preeminent "moonshine" film classic. Since 1957, Jim Mitchum has been involved in various ventures directly related to the theme of the film and its enduring popularity.

In 2009, Jim Mitchum and I created Thunder Road Brands, LLC for the express purpose of promoting and licensing various products under the Thunder Road brand and preserving the legacy of the movie. We have directed our commercial activities toward the branding of food products and moonshine (or corn whiskey) due to the fact that a large portion of the general public instantly associates the name "Thunder Road" with moonshine whiskey. Since 2009, T.R. Brands has engaged in licensing negotiations with various distilleries which have indicated an interest in licensing the Thunder Road brand for one or more distilled spirit products. T.R. Brands has recently contracted to license its brand with a distillery in the Southeast which is producing a number of distilled spirits under the Thunder Road brand.

T.R. Brands has never had nor does it currently have any plan or interest in branding a beer or malt beverage. Further, T.R. Brands is unaware of any instances of

Commissioner Deborah Cohn December 2, 2014 Page 2

consumer confusion between its mark for distilled spirits and Thunder Road Brewing Company's mark for beer, which is only used thus far in Australia.

Based upon the foregoing, Thunder Road Brands, LLC would respectfully request that its trademark application be approved without further delay.

Sincerely yours,

William H. Blalock, Jr. Junior Member T.R. Brands, LLC

WHBjr:rs

533186-2 15011.0

U.S. Trademark Application for THUNDER ROAD

U.S. Serial No. 77/859,042

Web Pages From Unrelated Australian Company Thunder Road Brewing Company www.thunderroadbrewing.com













Exhibit H



VISIT US | WINE | MEAD | SPIRITS

"VISIT US" LINK ANSWERS MOST QUESTIONS

WHY ST BERNARD YOU ASK?: Woodstone Creek reopened November 15th, following a year long odyssey to find a new home. It was tough going and it looked like, at one point, we would have to give up and destroy the whiskey. St Bernard held out a helping hand and has definitely shown they want new business. With all the new construction in town (Friar's Club, library, police and fire station, condos, infrastructure improvements), planned streetscaping and a new (free!) parking lot next door, the main shopping area can evolve into something pretty great. They still have some bargain buildings available - a nice bistro would be more than welcome!

SPIRIT NEWS

Our single peated malt whisky "The Murray Cask" is still available at a few outlets across the state. It rated 92 in Jim Murray's "Whisky Bible, 2009" - just a half point below #1. Read the review. We have it at the distillery in 750 mL, 375 mL and airline bottles. Bailment #9671B

OHIO BOURBON BARREL #1, 2 & 3 is sold out at the distillery. May still be available at random liquor stores in Cincinnati and from our former distributor in Kentucky, Heidelberg. We're selling barrel #4 at the distillery. Bailment #9670B

Our spirits are available at various liquor stores and restaruants near Cincinnati and scattered around the state of Ohio. Contact your liquor store or favorite restaurant for availability near you. Ohio Liquor Control's website lists liquor stores that have our products. Ohio liquor agents, outside the Cincinnati distribution area, can contact us for a warehouse transfer.

As a true artisan winery and boutique distillery, Woodstone Creek produces 100-200 cases of wine, mead and distilled spirit yearly. The offerings change seasonally - Ohio grape varietals from dry to sweet, honeywine from local honey, port with our own potstilled brandy and fruit wine from area farms. Woodstone offers an unusual range of mead (7-10) from dry to sweet and fortified dessert wines. Woodstone's potstill produces brandy, honey liqueur, five grain bourbon, single malt whisky (peated and unpeated), rum, gin, bierschnaaps and vodka. Truly unique - all the fermentation arts come together at Woodstone Creek. Our winemaker is a certified brewmaster, mead mazer and master distiller all in one!

THE DISTILLERY:

Woodstone Creek makes the world's rarest spirits in Cincinnati Ohio. One of our microdistiller counterparts has said about microdistilleries, in general,"we make less than the big guys spill on the floor". Woodstone Creek makes three barrels a year - give or take. We have no production lines - no automated equipment, no computers, no bottling line and no employees. Woodstone Creek is true single barrel spirit - produced on a 238 gallon potstill designed by the distiller. For the most part, Woodstone Creek spirits are made much the same way they were made prior to the Industrial Revolution.

CINCINNATI'S DRINKING HISTORY:

Most popularly known for it's beer, Cincinnati history is notable for distilling and winemaking, too. Cincinnati's distilleries eclipsed breweries in the 1800's in both number and political influence. As a port on the Ohio River, it played a major role on the Bourbon Trail. Just prior to Prohibition, when taxes were closing down many distilling operations, clandestine shipments easily made their way to the river's banks for waiting barges. In 1865, Cincinnati distilleries churned out a total of 1100 barrels of whiskey a week - a major force in the local economy. When the infamous George Remus came to Cincinnati to set up his bootleg operation during Prohibition (and avoid competition from Al Capone), he brought a list of 80 closed distilleries as potential production locations. He quickly became wealthy and politically powerful - a colorful figure in Cincinnati history.

As the birthplace of the commercial wine industry, a local historian has said Nicholas Longworth began producing his world famous sparkling Catawba in Cincinnati to encourage whiskey drinkers reduce their alcohol intake.

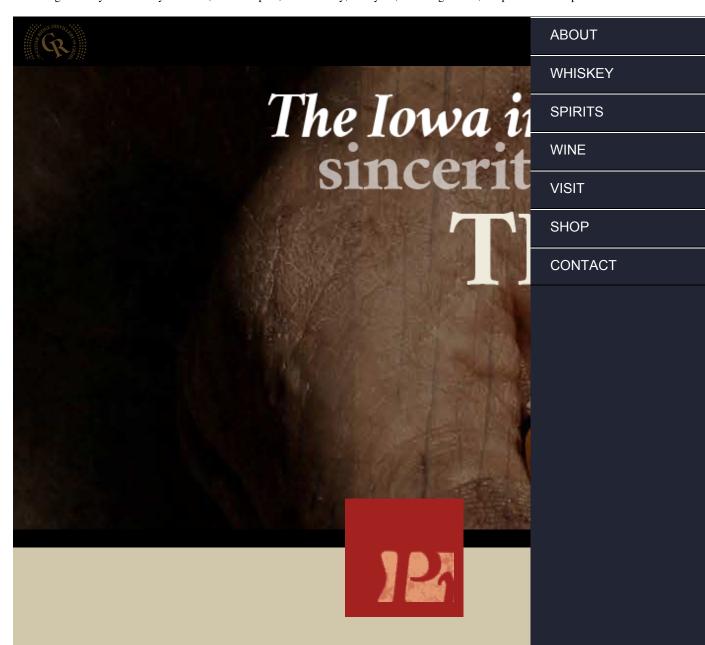
ACCOLADES:

Our Ohio Bourbon and Cincinnati Vodka are rated "Recommended" by the prestigious Beverage Testing Institute's international panel of judges.

Our single cask, peated, single malt whisky was sampled at the American Distiller Institute's competition in 2008. Judge Jim Murray, author of "The Whisky Bible", gave it a glowing review in his 2009 edition. Read the review.

In a blind taste test reported by *CityBeat*, Woodstone's vodka wins over 10 nationally known brands! Read about it: <u>VODKA SCHMODKA</u>

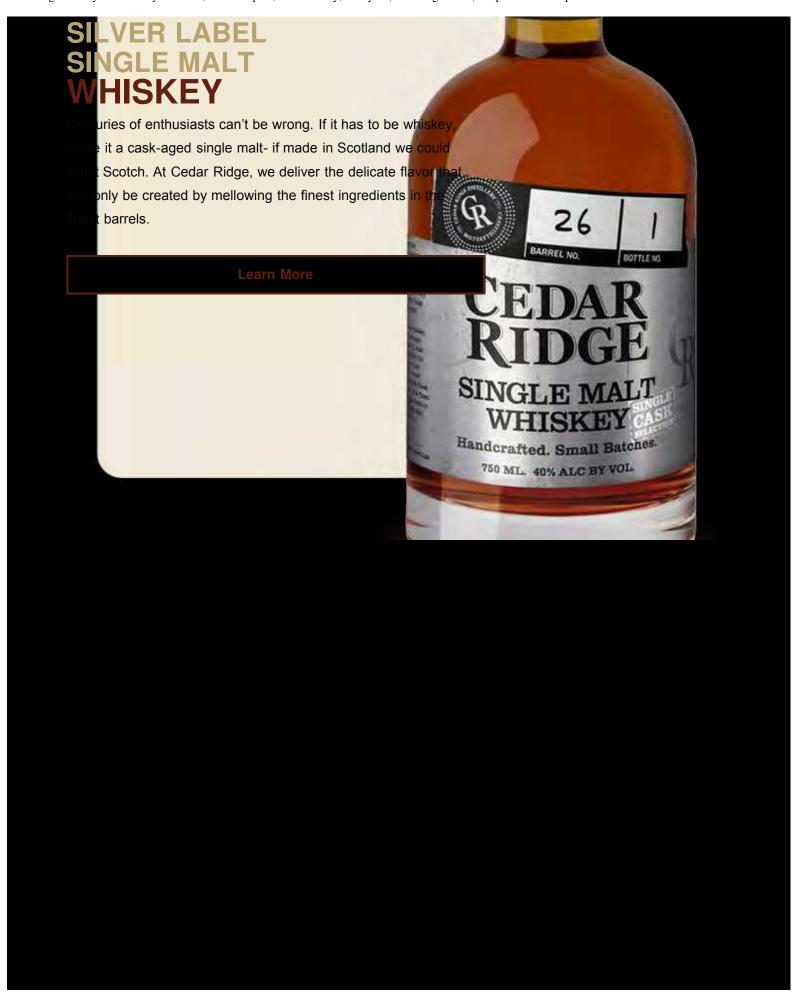




Cedar Ridge Winery and Distillery is rooted right in lowa. Iowans understand the value of a hard day at the job, and the From acres of Iowa grown grapes, to our unending bushels of cor Midwestern soil, we put only the best into our wines and spirits – r nature as our ultimate guide, we age our whiskeys in a non-tempera allow for Mother Nature to guide the way.

If you're ever in the area, we encourage you to sand unwind with your favorite bottle of wine. An have a story from your day – we're always







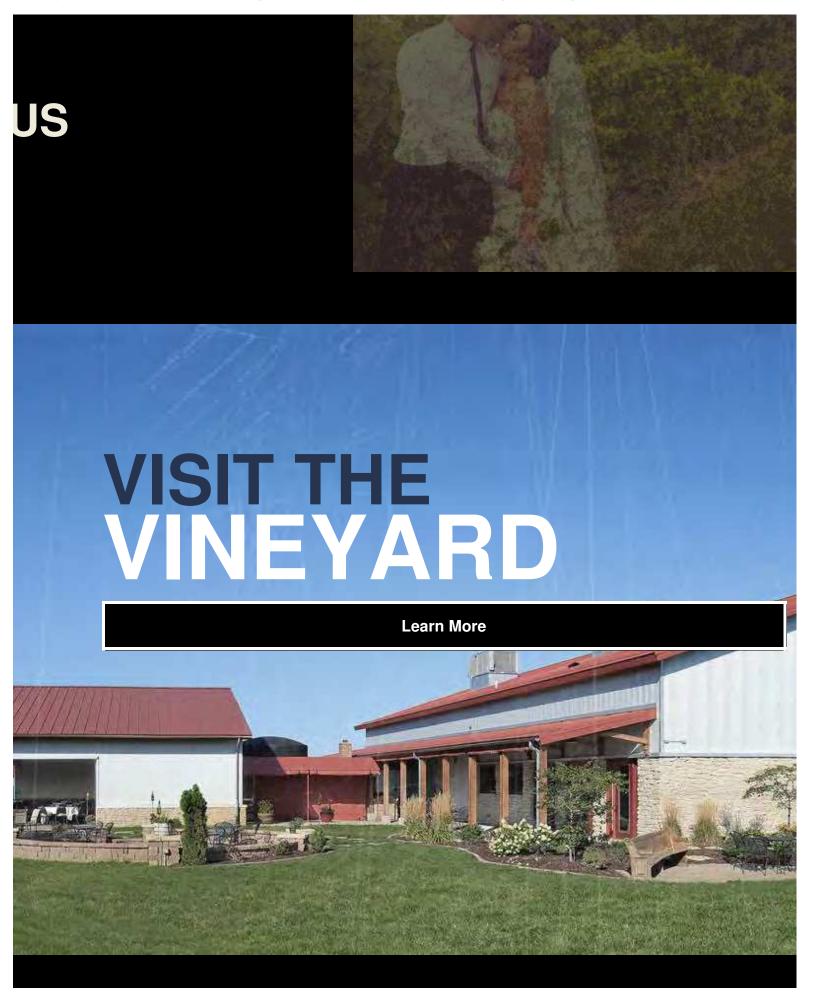
ST. CROIX ROSÉ WINE

Our French-style rosé, made from estate grown St. Croix, exhibits soft aromatics of strawberries and violets. This off-dry wine finishes clean with subtle hints of cranberry; pairing well with anything from fine cheeses, to burgers or holiday turkey.

Learn More













CRAFT WHISKEY" AT NEW YORK WORLD SPIRITS COMPETITION

Family-Owned & Operated Cedar Ridge™ Distillery (Swisher, Iowa) Wins "Best American Craft Whiskey in Show" at the 2016 New York World Wine

READ MORE

DISTILLERIES LOOK TO EVEN THE ODDS

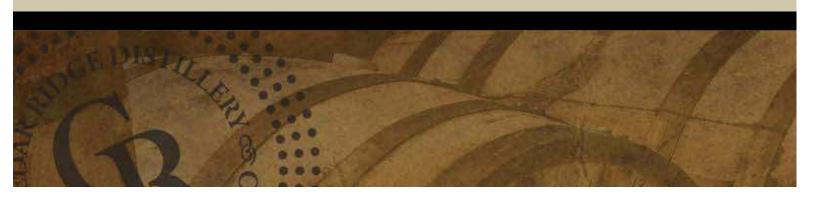
Iowa Distilleries Look to Even the Odds
By Joseph Huisinga SWISHER, IOWA —
Iowa continues to see more breweries and
wineries but craft

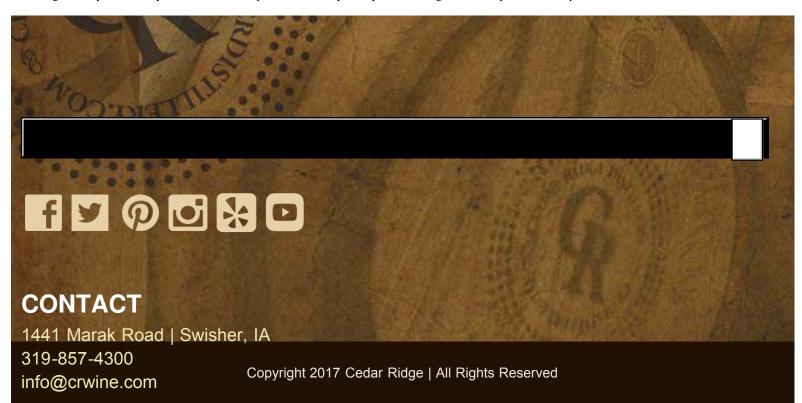
READ MORE

WHISKEY BOURBO COCKTAIL

Strawberry Basil Whiskey Bot Cocktail Spruce up a whiskey the upcoming spring season to dose of fresh strawberries!

READ MORE







SELECT A PAGE

Wine Tastings Everyday ::: Tours – Saturday and Sunday – No Reservations Required

Latest News

Healing Garden Charity Event

Fact Sheet

Purchase Wine OnLine

News Categories

Other

Wine Tastings

With the exception July 4th, Thanksgiving Day, Christmas Day and New Year's Day we are open every day for tastings. To participate in the Tasting of our wines you must arrive and pay for your tasting at least 30 minutes before we close. This will allow you adequate time to enjoy our wines, beers and spirits. Tastings are sold between the hours detailed below:

Monday – 11am to 4:30pm Tuesday – 11am to 4:30pm Wednesday, 11am to 5:30pm Thursday – 11am to 5:30pm Friday – 11am to 5:30pm Saturday – 10am-5:30 pm Sunday – 10am -4:30 pm

No Reservations Required. If you are a group greater than 15 people, planning to visit and taste wines on a weekday we would appreciate an email (email@nashobawinery.com) informing us of the date and time so that we can staff accordingly. We do not recommend coming with a large group on weekends during the fall if you are intending to do a tasting all at the same time since space will probably not be available.



Unfamiliar with our wines? Looking for the perfect wine for dinner? You've had the Chardonnay, Cabernet, and Merlot but want to try something a bit more adverturious like the Strawberry Rhubarb Wine! Well then, step up to the tasting bar – try before you buy! All of our guests (21 years of age and older) are welcome and encouraged to enjoy samples of our delicious and unique grape and fruit wines. Our knowledgeable staff is happy to serve you and answer all of your questions and help you make your selections.

There is a \$8.00 fee for our tasting bar which includes a complimentary tasting glass plus five -5/8 of an ounce tasting of any five of our standard wines. Customers are limited to a maximum of 10 - 5/8 of an ounce servings. Premium wines and ports may carry an additional fee. Reservations are not necessary. The tasting area is open whenever the wine shope is open. However, while wine tastings can continue up to the time of closing, we stop selling tickets for wine tastings 30 minutes prior to closing to ensure that you have an adequate amount of time to complete your tasting prior to closing.

Winery Tours

Saturday & Sunday 11 am to 4

pm. No Reservations Required

Guided tours of our wine-making and distilling facility are held every Saturday and Sunday throughout the year. The first tour on Saturday and Sunday starts at 11:00 a.m. with additional tours conducted approximately every hour. On the weekend we offer an informative tour that will interest novices and seasoned wine veterans alike. Each tour will guide you through the entire wine making process from the pressing of the fruit to the bottling of our wines. Winery tours also include a quick review of our still and distilling process and the creation of some world class spirits. Tours last approximately 3/4 of an hour and the last tour of the day starts at 4:00 p.m.



Explore our production facility and discover the process we use for making our highly-acclaimed fruit wines, brandies and distillates. Our friendly, knowledgeable staff specializes in providing our guests with a unique glimpse of the winemaking process.

Our tours includes a complimentary tasting glass plus six – 5/8 of an ounce tasting of four wines selected by our staff plus 2 additional selections from standard wines. The tour includes a commemorative wine glass for you to take home. Premium wines and ports may carry an additional fee.

Reservations are not required and not accepted. Accomodations for tours are based on a first come first serve basis and are limited to 35 people per tour. A small fee of \$12.00 per person (21 years of age and older) is charged. Under 21 years of age are free. Children are allowed to accompany parents on the tours providing that they are properly supervised.

Private Group Tours

Private tours are available on weekdays ONLY (Monday

through Friday) from 11:00 a.m. to 4:00 p.m. Reservations are required and must be booked at least 7 days in advance. In addition, reservations are subject to our production schedule. The cost is as follows:

1 to 30 people - \$360.00

31 to 40 people – \$12.00 per person is required

Groups greater than 30 will be split into two or more groups but will still incur a charge of \$12.00 per person.

You should allow approximately one hour for your group's visit. For groups in excess of 30, you should plan an additional ½ hour for each additional tour. This will provide adequate time for the tour, wine sampling, browsing and shopping at the Wine Shoppe. Depending on the season, you may choose to extend your visit to include lunch in our rustic farm house restaurant, a barbecue in our outdoor pavilion, or a picnic lunch to go from our restaurant J's, pick your own fruit (July through October), or just delight in the scenery. Weekend tours are open to the general public. Because weekends are very busy, we are unable to schedule private tours or guarantee time and space availability for "walk-in" group tours. Each private group tour includes a commemorative Nashoba Valley wine glass for each guest to take home. The minimum non-refundable private group tour fee of \$360.00 must be paid in advance by check or major credit card (American Express, VISA or MasterCard) to guarantee your reservation. The remaining balance is due at the start of your tour.

Please call 978-779-5521 for additional information.

Winery Hours of Operations

Monday	11:00-5:00 Same time even on Holidays	
Tuesday	11:00-5:00	
Wednesday	11:00-6:00	
Thursday	11:00-6:00	
Friday	11:00-6:00	
Saturday	10:00-6:00	
Sunday	10:00-5:00	

The Winery is Closed On the follow days

July 4th, Thanksgiving Day, Christmas Day and New Year's Day. Otherwise the winery is open every day during the hours noted above. Closes at 4:00 PM Christmas Eve, December 24th

Restaurant Seating Hours

Monday	Closed Every Monday Even on Holidays
Tuesday	Closed Every Tuesday Even on Holidays
Wednesday Lunch Seatings from 11:30	am to 2:00 Evening Seatings from 5:00 pm to 8:00 pm
Thursday Lunch Seatings from 11:30	am to 2:00 Evening Seatings from 5:00 pm to 8:00 pm
Friday Lunch Seatings from 11:30	am to 2:00 Evening Seatings from 5:00 pm to 8:00 pm
Saturday Lunch Seatings from 11:30	am to 2:00 Evening Seatings from 5:00 pm to 8:00 pm
Sunday Sund	ay Brunch Seatings from 10:00 am to 2:00 pm

The Restaurant is Closed on the Following Days

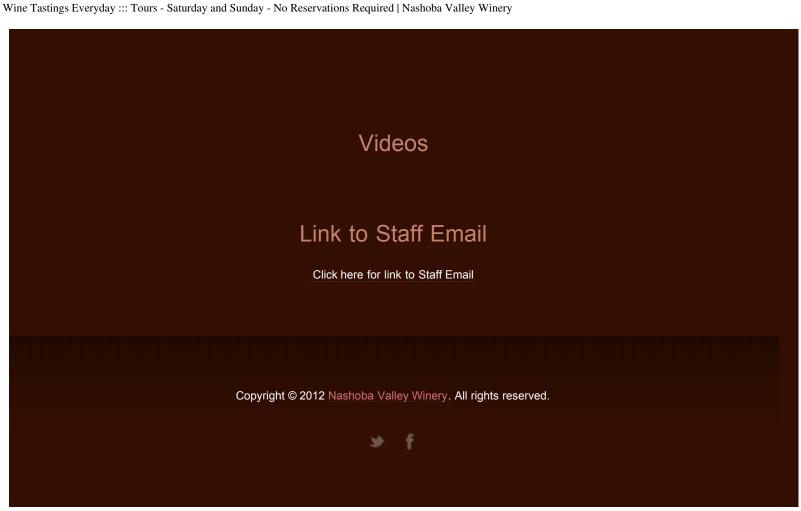
New Year's Day, Fourth of July, Thanksgiving Eve, Thanksgiving Day, Christmas Eve and Christmas Day and New Year's Day. Winter Vacation - January 4th to the 19th, 2016 Summer Vacation - To Be Determined based on Weddings Booked but usually Early July

Contact

Nashoba Valley Spirits, Ltd
Winery, Distillery, Brewery, Orchard, & J's Restaurant
100 Wattaquadock Hill Road
Bolton, Massachusetts 01740
Wine Shoppe - 978-779-5521
J's Restaurant - 978-779-9816
Email - Click Here
www.nashobawinery.com

Email List

Click Here to sign up for our Newsletters





SELECT A PAGE

Spirits

Latest News

Healing Garden Charity Event

Fact Sheet

Purchase Wine OnLine

News Categories

Other

FIRST FARMERS-DISTILLER LICENSE IN MASSACHUSETTS ISSUE FEBRUARY 26TH, 2003 TO NASHOBA VALLEY!

When and where distilling was first practiced is still a mystery. Where and when the first farmers-distiller license was issued in Massachusetts will be a trivia question for the future. Issued License Number FD-1 on February, 26th, 2003, Nashoba Valley offers a wonderful selection of distilled spirits in addition to its wines and beers. Combining our award winning artistry of fermentation with years of experience in distillation, Nashoba Valley produces and sells some of the finest brandies, eau de vie, cordials and vodka (distilled from 100% apples) ever produced. These are exciting times at Nashoba Valley and exciting times for Massachusetts.

Nashoba "Single Malt" Whiskey

Released November 14th, 2009

Boston Globe Feature 1/31/2010 (archived version) Original article (subscription required)

Our very first bottling of a single malt whiskey represents our way of stimulating our commitment to excellence and quality. Carefully selected oak cask from our winery, imparts the unique quality of our wines to the tradition of the world's favorite sprit. Over the past five years, the contents of this bottle matured quietly in our cellars developing the rich golden color and subtle smooth flavors of a fine American Whiskey.

Our whiskey is 100 percent barley malt oak aged for a minimum of 5 years in new and used oak cask. We have used the actual wood staves from the barrels that our whiskey was aged in to create and unique and authentic closure. The used winery cast gives our malt a slight hint of fruit and generous oak flavors. As of this date, our single malt whiskey generally is very aromatic, smooth and medium bodied, with palates that range from lushly complex to floral delicacy.

Our malt whisky is produced, aged and bottled at our distillery in Bolton, Massachusetts.

Foggy Bog

Released - May 2003

Simply a home run. First released in 2003, Massachusetts cranberries and apple brandy are combined in a "geist". Distillation of the geist gives us a cranberry brandy which we blend with cranberry wine, cranberry juice concentrate, sugar and 8 different spices. It is bottled in 375 ml bottles at 21% alcohol by volume and 14% sugar by weight. Our best selling spirit and one of our best selling all around products. The essence of New England in a bottle.

375 ml - \$21.00

Vodka

Released - May 2003

Also first released in 2003, our vodka is produced 100 percent from apples. Moderately full-bodied. Chocolate, anise, dried herbs, charcoal. Rich, smooth texture. Amazingly little heat in the finish. Clear and colorless. Tripled distilled and charcoal filtered for 8 hours gives an exceptionally smooth neutral spirit. 750 ml – \$24.00

For a great article about our Vodka featured in Yankee Magazine click here. Copyright Yankee Magazine.

Cherry Brandy – Eau-de-vie

Released - January 2004

Originally released in 2004, our clear cherry brandy portrays a distinctive cherry essence. Silky smooth and bone dry with an underlying suggestion of cherry fruit that lingers eternally on the finish. Clear and colorless our eau de vie puts the emphasis on freshness, liveliness, and capturing the intense essence of fruit — rather than on depth, weight, and the complexity that comes from years of interaction between spirit, oxygen and wood.

Vidal Grappa

Released - January 2004

Release in 2004, our pomace Brandy (Italian Grappa and French Marc are the best-known examples) is Brandy made from the pressed grape pulp, skins, and stems that remain after the grapes are crushed and pressed to extract most of the juice for wine. Our grappa a fresh, fruity aroma of the type of grape used, a characteristic that is lost in regular oak-aged Brandy. Generous and complex violet, fresh fruit and mineral aromas. A smooth attack leads to a moderately full-bodied palate with a touch of heat and exceptional grappa flavors. Clear and colorless. An acquired taste! 375 ml – \$22.00

Elephant Heart

Released July 30, 2005

Similar in style to our Foggy Bog, Elephant Heart is natural grape brandy made by fermenting and distilling locally grown grapes and blending this quality brandy with natural plum flavors. The name is derived from one of the varieties of plums grown at our orchard. Youthful, super-complex aromas of plum and chocolate, plus an ineffable mineral element. Wonderful penetrating sweetness in the mouth; dense, thick, very intensely flavored.

375 ml - \$21.00

Silk

Released - July 30, 2005

Soft, velvety and elegant, Silk is a product of all things peachy. Peach brandy sweetened with peach juice and peach wine. Sunny light golden color. Sweet, natural peach juice aromas. A viscous, supple entry leads to a moderately sweet, fruity full-bodied palate with rich, ripe fruit and simple syrup flavors followed by a breath of warming brandy.

375 ml - \$22.00

Pear Brandy

Released - August, 2005

Clear and colorless. Outstanding waxy pear aromas are very faithful. Smooth, oily and textured on the palate, with wonderful pear flavors throughout. Finishes rather smoothly.

750 ml - \$26.00

Gin – "The Perfect 10"

Released - December, 2005

Combining 10 botanicals of juniper berries, elderberry, lemon, orange peel, allspice, cloves, nutmeg, cinnamon, anise and fennel, we are proud to introduce Gin to our product line. Unlike liqueurs, where flavorings are added to the distilled spirits, our Gin is made by re-distilling the spirit with the flavoring ingredients in the still and by passing the vapor through the flavoring agents during distillation. The name Gin comes from genievre, French for juniper. The "Perfect 10" comes from the results.

Oak Aged Apple Brandy

Released - December, 2005

Deep amber, with a light chestnut cast. Apple, citrus, floral, and sweet herbal aromas. Compact texture. Opens with a light sweet, juicy feel yet turns dry and angular. Has a grainy touch which carries a bit of heat.

375 ml - \$24.00

Baerenfang

Released - December, 2005

The strong variant is also called "Baerenfang" (bear catch), because it is said that two or so hundred years ago bears were caught in the forests of Northern Europe by putting out pans of honey brandy, and when they (the bears, not their hunters) got drunkenly asleep they could be caught without danger.

375 ml - \$18.50

Northern Comfort

Released - December, 2005

Our version of cognac. A unique blend of brandy, oak, maple and lemon creates a balanced and complex liquor, The silky rich bouquet slowly releases the unique blend of brandy, oak, maple and lemon. A succession of aromas, spices and delicately fragrant flowers blend with a viscous sweet finish.

200 ml - \$15.00 750 ml - \$35.00

Elderberry Brandy

Released - November 16th, 2006

Elderberry brandy sweetened with natural elderberry juice Clear. Muted aromas are rather mineral with a faint suggestion of licorice. Sweet elderberries are evident on the long finish.

375 ml – \$19.00

Nashoba "Single Malt" Whiskey

Released November 14th, 2009

Read an Interesting Story About the Delay

Our very first bottling of a single malt whiskey represents our way of stimulating our commitment to excellence and quality. Carefully selected oak cask from our winery, imparts the unique quality of our wines to the tradition of the world's favorite sprit. Over the past five years, the contents of this bottle matured quietly in our cellars developing the rich golden color and subtle smooth flavors of a fine American Whiskey.

Our whisky is 100 percent barley malt oak aged for a minimum of 5 years in new and used oak cask. We have used the actual wood staves from the barrels that our whiskey was aged in to create and unique and authentic closure. The used winery cast gives our malt a slight hint of fruit and generous oak flavors. As of this date, our single malt whiskey generally is very aromatic, smooth and medium bodied, with palates that

range from lushly complex to floral delicacy.

Our malt whisky is produced, aged and bottled at our distillery in Bolton, Massachusetts.

750ml - \$59.00

The family-owned orchard, winery & restaurant, set on 52 rolling acres, boasts a state-of-the art wine-making and distillation facility, an exceptional wine and gift shoppe, a brewery, and a gourmet restaurant. With over 100 national and international medals to its credit and accolades from such noteworthy publications as

"Boston Magazine", "Wine Enthusiast",

"Cooking Light",

"Food & Wine", and

"The Yankee Magazine" 2003 Editors Choice

Nashoba Valley Winery is the ultimate destination for any wine connoisseur. We take the art of winemaking seriously. And with over 20 varieties of wines, a variety of hand crafted beers and distilled spirits, Nashoba Valley is dedicated to quality and is recognized as a premium producer.

Plan a visit to a truly unique American farm and learn why Nashoba Valley was selected as one of the ultimate destination places on the east coast.

Please call our wine shop (978-779-5521)

Winery Hours of Operations

Monday	11:00-5:00 Same time even on Holidays	
Tuesday	11:00-5:00	
Wednesday	11:00-6:00	
Thursday	11:00-6:00	
Friday	11:00-6:00	
Saturday	10:00-6:00	
Sunday	10:00-5:00	

The Winery is Closed On the follow days

July 4th, Thanksgiving Day, Christmas Day and New Year's Day.

Otherwise the winery is open every day during the hours noted above.

Closes at 4:00 PM Christmas Eve, December 24th

Restaurant Seating Hours

Monday	Closed Every Monday Even on Holidays
Tuesday	Closed Every Tuesday Even on Holidays
Wednesday Lunch Seatings from	11:30 am to 2:00 Evening Seatings from 5:00 pm to 8:00 pm
Thursday Lunch Seatings from	11:30 am to 2:00 Evening Seatings from 5:00 pm to 8:00 pm
Friday Lunch Seatings from	11:30 am to 2:00 Evening Seatings from 5:00 pm to 8:00 pm
Saturday Lunch Seatings from	11:30 am to 2:00 Evening Seatings from 5:00 pm to 8:00 pm
Sunday	Sunday Brunch Seatings from 10:00 am to 2:00 pm

The Restaurant is Closed on the Following Days

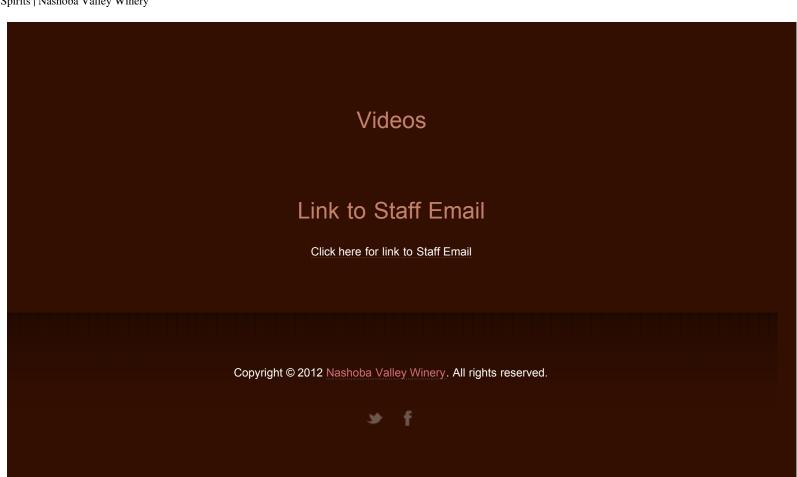
New Year's Day, Fourth of July, Thanksgiving Eve, Thanksgiving Day, Christmas Eve and Christmas Day and New Year's Day. Winter Vacation - January 4th to the 19th, 2016 Summer Vacation - To Be Determined based on Weddings Booked but usually Early July

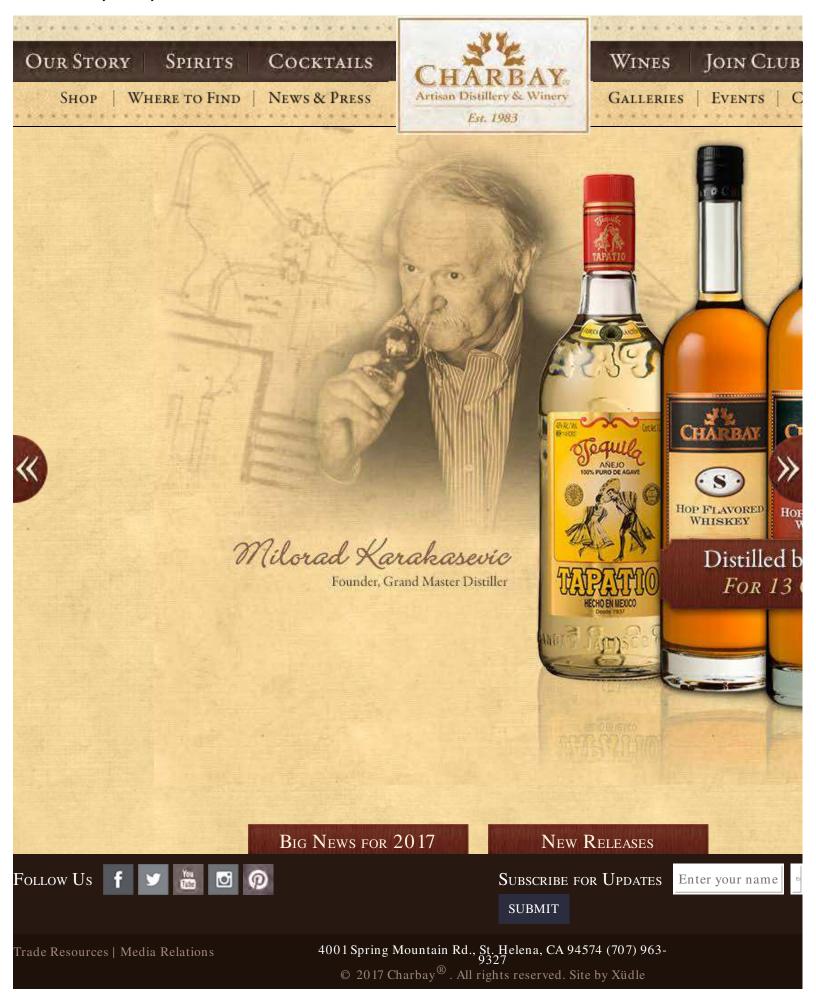
Contact

Nashoba Valley Spirits, Ltd
Winery, Distillery, Brewery, Orchard, & J's Restaurant
100 Wattaquadock Hill Road
Bolton, Massachusetts 01740
Wine Shoppe - 978-779-5521
J's Restaurant - 978-779-9816
Email - Click Here
www.nashobawinery.com

Email List

Click Here to sign up for our Newsletters



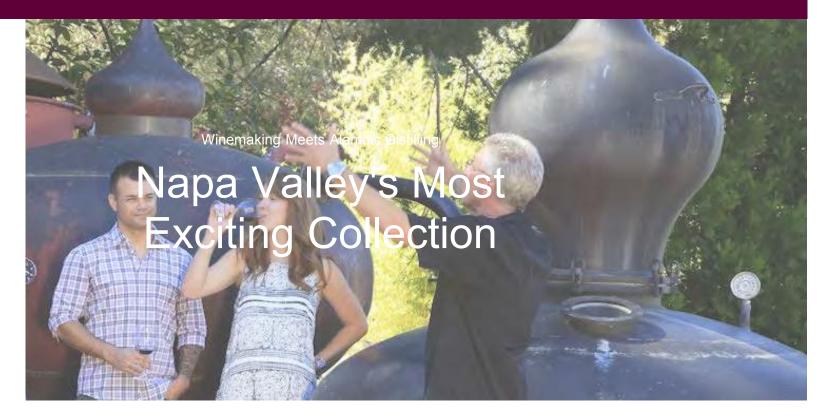




2017 Winner: Regional Award of Merit (Napa/SF) for 'Innovative Wine Tourism Experience' -Great Wine Capitals of the World Rated #1 of 10 Best Wineries in Napa Valley to Sip & Swirl - USA Today

BOUT SHOP VISITUS CLUB REVIEWS BLOG EVENTS GALLERY



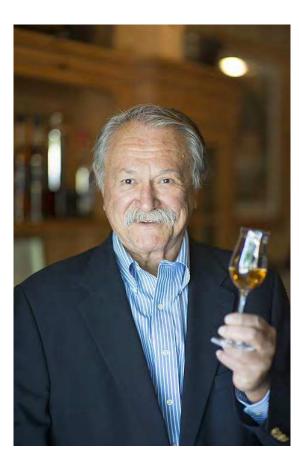


About Charbay Winery

The Secret: 13 Generations

What were you doing when you were 7? If it wasn't winemaking & distilling alongside your dad, that's ok! Charbay began its American story in 1983 – when Miles & Susan Karakasevic launched their own dream, following in this family's European tradition. Since then, the journey has encompassed both wines & spirits that have caught the attention of wine enthusiasts & spirits lovers across the country - and two generations here in the U.S.

MEET THE FAMILY



SHOP WINE & GIFTS





BLIV NOV

BUY NOW





BUY NOW

BUY NOW

SHOP FULL COLLECTION

Tasting Room Hours

Tue: 10am - 4pm Wed: 10am - 4pm Thu: 10am - 4pm Fri: 10am - 4pm Sat: 10am - 4pm

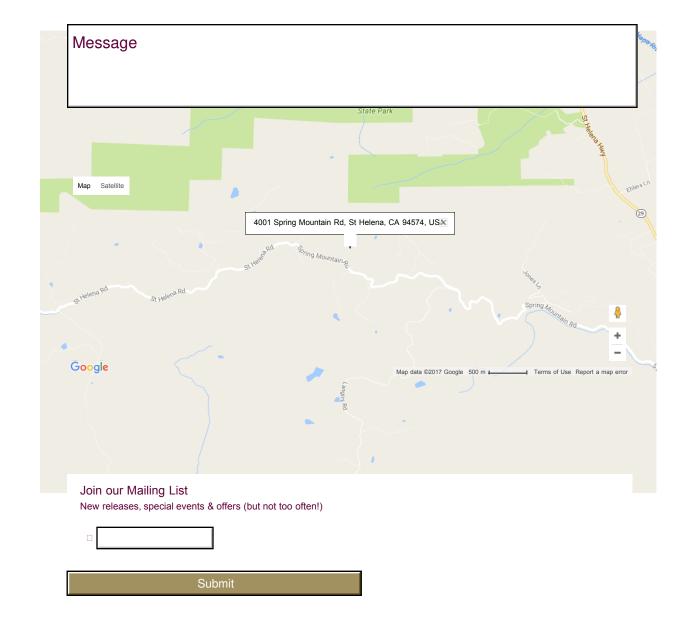
Featuring live Alambic distilling (seasonal), small lot wines, aperitifs & ports made with Charbay's own 30-year cellar of Alambic brandy. Choose a hand-rolled cigar from our humidor and stay a while! Rated #1 of '10Best' Wineries to Sip & Swirl in Napa Valley – USA Today

BOOK NOW



Contact

We'd love to hear from you! Give us a call, send us an email or drive out to meet us.







Home

Blog

Visit Us

Products

Learn More

For Industry

Welcome

ÆppelTreow Winery & Distillery is a producer of small batch cider, perry and spirits.

Cider and Perry? We use the pre-Prohibition meaning of 'cider', so we're talking about fermented or 'hard' cider. Perry is the pear analogue to cider. We use lots of different kinds of apples and pears in our products. Some modern. Some heirloom – no longer grown for stores. We make a range of styles: sparkling, draft, still/table, and fortified/dessert. Within a style, we lean to the dry end – but also have some medium-sweet offerings.

We are also a distillery. We use Wisconsin grown crops and wood to make whiskey and brandies. Distilled spirits may be powerful, but they are also flexible. They are nice neat (straight up), and even more fun in cocktails. We encourage people to mix our products up and add their own creative touch.

BUSINESS HOURS THIS

SEASON (DEC-APRIL):

BY APPOINTMENT

Table of Hours for Whole Year

Tasting Room hours for today, Thursday:
By Appointment: (262)
496-7508

RECENT UPDATES

hacked by 3needan

COMMENTS OFF ON

HACKED BY 3NEEDAN

Special Hours:12/31/16

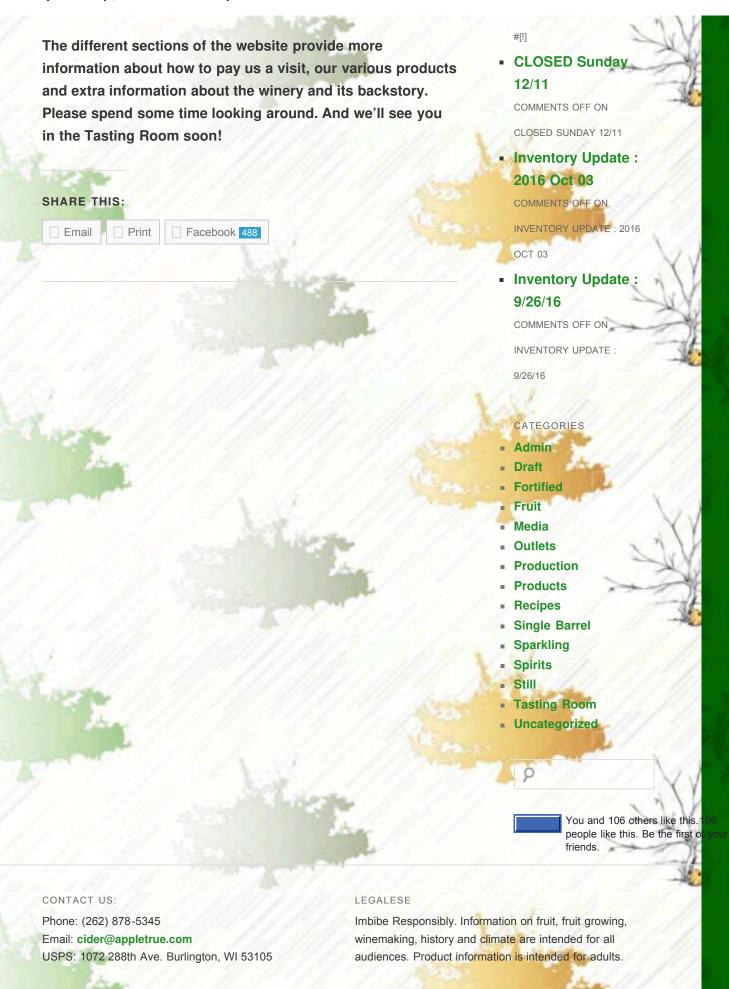
COMMENTS OFF ON

SPECIAL HOURS: 12/31/16

[!]# HaCkeD By Dr.SiInt HilL #[!]

COMMENTS OFF ON [!]#

HACKED BY DR.SILNT HILL







Meni

Pricelists

River Hill Distillery Whiskey & Wine

Item	Per Bottle
River Hill Bourbon, 375 ml	\$20.85 [*]
River Hill Corn Whiskey, 375 ml	\$14.20 [*]
River Hill Wine	\$15.00

River Hill Farms Beef

Item	Per Pound
Ground Beef	\$4.00

River Hill Farms Beef - STEAKS

Item	Per Pound
T Bone	\$12.00
Delmonico (boneless ribs)	\$10.00
Sirloin	\$9.00
Cubed Round Steak	\$5.00
Filet	\$15.00

River Hill Farms Beef - ROASTS

Item	Per Pound
Chuck	\$4.00
Bottom Round	\$6.00
London Broil	\$6.00
Rump	\$6.00

River Hill Farms Beef - Other

Item Price

Liver, Soup Bones, Tongue FREE

*Sales tax extra.

Prices as of October, 2014. Prices subject to change, items limited to availability.



Copyright ©2014 River Hill Wine and Spirits LLC. All Rights Reserved. • Website by Shenandoah Valley Productions LLC



* Winery ~ Distillery ~ Catering & Events *





Established in 1990, Flag Hill has grown from a family operated business to the largest vineyard in NH with an established winery producing distinguished wines from our own vineyard. Embarking on a new venture, owner Frank Reinhold secured Flag Hill as the first distillery in NH in 2004, producing high quality distilled spirits such as General John Stark Vodka and Josiah Bartlett Barrel Aged Apple Brandy. With a distinguished reputation for hosting one of a kind weddings and events on site, Flag Hill Catering & Events has become a highly regarded full service venue for social gatherings and corporate functions year round.

Make Flag Hill a destination to learn how our vodka is made first hand, taste from a variety of New Hampshire made wines, stroll through the vineyard, picnic on the grounds, make reservations for a dinner event, plan a wedding or business function or browse through our gift shop.

* News & Updates *

Valentine's Day is for lovers... enjoying romantic dinner with food & wine pairings Valentine's Day is for lovers... Lovers who enjoy a romantic dinner with wine and spirit

Flag Hill hosts our first Chef's Table Dinner on January 21!

Tickets are \$60 per and can be purchased through calling Flag hill directly at 603-659-2949-

Tasting Room Closed

The Tasting Room and Gift Store will be closed Sunday, January 1st, 2017 (New Year's

Tasting Room 10/23

This Sunday, October 23rd, the Tasting Room will be open from 11 AM to 1

Sign Up for our Email Newsletter









Flag Hill is open to the public Wed-Sun, 11am-5pm, year round. Public Tours: Saturdays & Sundays @ Noon. Closed on some holidays & during special events.

603-659-2949

wine-info@flaghill.com

297 North River Road (Route 155), Lee, NH

2012 © FlagHill Enterprises. All rights reserved.





Exhibit I



ABOUT

MERCH

LOCATOR

RECIPES



THE ORIGINAL Spodee RED

While nobody knows the true origin of White Mule Farms, one thing we know for sure; it was a name synonymous with bootlegging. Among those in the know, White Mule Farms was the secret knock, the special handshake, the insider wink, and if you knew, you knew. While some superstitious but otherwise honest folk went seeking the white stag, which sometimes meant good fortune, other more independent (and adventurous) types went looking for the much more reliable White Mule, which always meant good times.

Today, Spodee is crafted and brewed in a place as reliable as you can get: Brotherhood Winery, America's oldest, built in 1839 and still standing today. Spodee was a Depression era hooch that mixed up homemade country wines with garden herbs, spices and moonshine. The resulting brew was then put into whatever containers they happened to have lying around...hence, the milk bottle. It may not be fancy pants, but it sure is tasty and best enjoyed ice cold!!



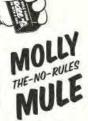




With SPODEE White we've concocted the perfect tropical depression era hooch and put a message in a bottle. Country wine, pineapple, and toasted coconut create a cool breeze cocktail of killer beach vibes, sun-splashed island flavors, and high tide times. Pop an umbrella in your glass and don't look at that watch, because it's five o'clock everywhere.

Spodee White is a blended white wine that is fortified with a high proof alcohol (like moonshine). Light and fruity with notes of pineapple, amaretto and toasted coconut, Spodee White is the ultimate summer sipper.

Spodee White is best enjoyed when served chilled over ice. Mix it with a variety of citrus juices and top it off with something fizzy like club soda or ginger ale. Add fresh fruit for easy punches and Sangrias, or incorporate Spodee White into your favorite tropical tiki cocktail.













PINTEREST

GRAMS

TWEETS

FACEBOOK

Spodee Email: info@spodeewine.com

© White Mule Farms Spodee, LLC. All Rights Reserved

Terms of Use

Privacy Policy

Exhibit J



TSDR

Word Mark

United States Patent and Trademark Office

TTAB Status

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Feb 8 03:47:02 EST 2017

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG	BOTTOM HELP P	PREV LIST CURR LIST NEXT LIST FIRST DOC
PREV DOC NEXT DOC LAST DOC		
Please logout when you are done to release s	ystem resources all	llocated for you.
List At: OR Jump to record: Re	cord 572 ou	ıt of 635

(Use the "Back" button of the Internet Browser to return to TESS)

FORTY CREEK

ASSIGN Status

Goods and IC 033. US 047 049. G & S: WINE AND SPIRITS; NAMELY, WHISKEY. FIRST USE: 20000300. FIRST USE IN

Services COMMERCE: 20000300

FORTY CREEK

Mark Drawing Code (1) TYPED DRAWING

Serial Number 76010005

Filing Date March 27, 2000

Current Basis 1A
Original Filing
Basis
1B

Published for Opposition November 27, 2001

Registration Number 2672674

Registration January 7, 2003

Owner (REGISTRANT) KITTLING RIDGE LTD. CORPORATION CANADA 197 South Service Road Grimsby, Ontario

CANADA L3M 1Y6

(LAST LISTED OWNER) CAMPARI AMERICA LLC LIMITED LIABILITY COMPANY DELAWARE 1255 BATTERY

ST., SUITE 500 SAN FRANCISCO CALIFORNIA 94111

Assignment ASSIGNMENT RECORDED

Attorney of Record Bassam N. Ibrahim Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130124.

Renewal 1ST RENEWAL 20130124

Live/Dead LIVE Indicator

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP PREV LIST CURR LIST NEXT LIST FIRST DOC

PREV DOC NEXT DOC LAST DOC

 $| \ \ \mathsf{HOME} \ | \ \ \mathsf{SITE} \ \ \mathsf{INDEX}| \ \ \mathsf{SEARCH} \ | \ \ \mathsf{eBUSINESS} \ | \ \ \mathsf{HELP} \ | \ \ \mathsf{PRIVACY} \ \ \mathsf{POLICY}$



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Feb 8 03:47:02 EST 2017

NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG HELP TESS HOME PREV LIST CURR LIST NEXT LIST FIRST DOC Воттом PREV DOC NEXT DOC LAST DOC

Please logout when you are done to release system resources allocated for you.

to record: Record 582 out of 635 List At:

TSDR

ASSIGN Status

TTAB Status

(Use the "Back" button of the Internet Browser to return to TESS)

GELSON'S

Word Mark **GELSON'S**

Goods and IC 033. US 047 049. G & S: VODKA, GIN, SCOTCH, WHISKEY, BOURBON, RYE WHISKEY, RUM, WINE.

FIRST USE: 19520101. FIRST USE IN COMMERCE: 19520101 Services

Mark Drawing

(1) TYPED DRAWING Code

Serial Number 76455374

Filing Date September 23, 2002

Current Basis 1A Original Filing 1A

Basis

Published for July 29, 2003 Opposition

Registration 2775036

Number

Registration

October 21, 2003 Date

Owner (REGISTRANT) Gelson's Markets CORPORATION CALIFORNIA 2020 South Central Avenue Compton

CALIFORNIA 90220

Assignment ASSIGNMENT RECORDED Recorded

Attorney of Bruce D. Holloway Record

TRADEMARK Type of Mark PRINCIPAL-2(F) Register

SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130727. **Affidavit Text**

Trademark Electronic Search System (TESS)

Renewal 1ST RENEWAL 20130727

Live/Dead

LIVE Indicator TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP PREVLIST CURR LIST NEXT LIST FIRST DOC PREV DOC NEXT DOC LAST DOC | HOME | SITE INDEX | SEARCH | eBUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Feb 8 03:47:02 EST 2017

STRUCTURED FREE FORM BROWSE DICT SEARCH OG HELP NEW USER PREV LIST CURR LIST NEXT LIST FIRST DOC TESS HOME Воттом PREV DOC NEXT DOC LAST DOC Please logout when you are done to release system resources allocated for you. to record: Record 500 out of 635 List At:

TSDR

ASSIGN Status

TTAB Status

(Use the "Back" button of the Internet Browser to return to TESS)

SOUTHERN MOST

Word Mark SOUTHERN MOST

Goods and IC 033. US 047 049. G & S: Wines, distilled spirits, whiskey, brandy, cognac, cordials, liqueurs and aperitifs with a

Services wine base. FIRST USE: 20030522. FIRST USE IN COMMERCE: 20060610

Standard Characters Claimed

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Serial Number 78254389 Filing Date May 27, 2003

Current Basis Original Filing 1B

Basis

Published for

October 12, 2004

Registration Number

Opposition

3245309

Registration **Date**

May 22, 2007

Owner (REGISTRANT) La Inversora S.A. CORPORATION ARGENTINA Juan B. Alberdi 87, 1 Floor Neuquen (8300),

Neuquen Province ARGENTINA

(LAST LISTED OWNER) BODEGA DEL FIN DEL MUNDO S.A. CORPORATION ARGENTINA JUAN BAUTISTA

ALBERDI 87, PISO 1 CIUDAD DE NEUQUEN, PROVINCIA DE NEUQUEN ARGENTINA CP8300HLA

Assignment Recorded

ASSIGNMENT RECORDED

Attorney of

Record

Arturo Perez-Guerrero

Type of Mark Register

TRADEMARK **PRINCIPAL**

Affidavit Text

SECT 8 (6-YR).

Live/Dead

LIVE

Indicator

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP PREV LIST CURR LIST NEXT LIST FIRST DOC PREV DOC NEXT DOC LAST DOC

| HOME | SITE INDEX| SEARCH | eBUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

Home Site Index Search FAQ Glossary Guides Contacts eBusiness eBiz alerts News Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Feb 8 03:47:02 EST 2017

STRUCTURED FREE FORM BROWSE DICT SEARCH OG **NEW USER** PREV LIST CURR LIST NEXT LIST FIRST DOC TESS HOME Воттом HELP PREV DOC NEXT DOC LAST DOC Please logout when you are done to release system resources allocated for you. Record 283 out of 635 List At: to record:

TSDR

ASSIGN Status

TTAB Status

(Use the "Back" button of the Internet Browser to return to TESS)

SLOONSHINE

Word Mark SLOONSHINE

Goods and **Services**

IC 033. US 047 049. G & S: alcoholic beverages, except beers, namely, wine, sparkling wine, bourbon, rum, gin, vodka, cognac, whiskey, tequila, liqueurs and distilled spirits. FIRST USE: 20120801. FIRST USE IN COMMERCE:

20120801

Standard Characters Claimed

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Serial Number

85772885

Filing Date November 6, 2012

Current Basis 1A Original Filing **Basis**

Published for

January 8, 2013 Opposition

Registration Number

4309253

Registration

March 26, 2013

Date

(REGISTRANT) Michael Ballard INDIVIDUAL UNITED STATES 12997 SD Highway 34 Sturgis SOUTH DAKOTA Owner

57785

Attorney of Record

Mark D. Passler

Type of Mark TRADEMARK

Trademark Electronic Search System (TESS)

Register PRINCIPAL

Live/Dead Indicator LIVE

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP PREV LIST CURR LIST NEXT LIST FIRST DOC

PREV DOC NEXT DOC LAST DOC

| HOME | SITE INDEX| SEARCH | eBUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

Home Site Index Search FAQ Glossary Guides Contacts eBusiness eBiz alerts News Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Feb 8 03:47:02 EST 2017

STRUCTURED FREE FORM BROWSE DICT SEARCH OG HELP **NEW USER** PREV LIST CURR LIST NEXT LIST FIRST DOC TESS HOME Воттом PREV DOC NEXT DOC LAST DOC Please logout when you are done to release system resources allocated for you. Record 255 out of 635 List At: to record:

TSDR

ASSIGN Status

TTAB Status

(Use the "Back" button of the Internet Browser to return to TESS)

OFFICER'S CHOICE

Word Mark OFFICER'S CHOICE

Goods and IC 033. US 047 049. G & S: Alcoholic beverages except beers; blended spirits; brandy; distilled spirits; gin;

Services liqueurs; rum; vodka; whiskey; wines. FIRST USE: 19881013. FIRST USE IN COMMERCE: 20140218

Standard Characters Claimed

Mark Drawing

(4) STANDARD CHARACTER MARK Code

Serial Number 86091019

Filing Date October 14, 2013

Current Basis Original Filing 1B **Basis**

Published for March 4, 2014 Opposition

Registration Number

4594423

Registration **Date**

August 26, 2014

Owner (REGISTRANT) Allied Blenders And Distillers Private Limited CORPORATION INDIA 394-C, Lamington Chamber,

Lamington Road Mumbai INDIA 400004

Attorney of Record

Paul W. Reidl

TRADEMARK Type of Mark

Register **PRINCIPAL**

Live/Dead

Trademark Electronic Search System (TESS)

Indicator	IVE
-----------	-----





United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Feb 8 03:47:02 EST 2017

STRUCTURED FREE FORM BROWSE DICT SEARCH OG HELP NEW USER PREV LIST CURR LIST NEXT LIST FIRST DOC TESS HOME Воттом PREV DOC NEXT DOC LAST DOC

Please logout when you are done to release system resources allocated for you.

Record 195 out of 635 to record: List At:

ASSIGN Status TTAB Status TSDR (Use the "Back" button of the Internet Browser to return to TESS)

Clayton James Tennessee Whiskey

Word Mark CLAYTON JAMES TENNESSEE WHISKEY

Goods and IC 025. US 022 039. G & S: Clothing, namely, dress shirts, t-shirts, and caps. FIRST USE: 20141005. FIRST **Services**

USE IN COMMERCE: 20141005

IC 033. US 047 049. G & S: Wines and Spirits; Distilled spirits, namely, whiskey. FIRST USE: 20141005. FIRST

USE IN COMMERCE: 20141005

Standard Characters Claimed

Mark Drawing (4) STANDARD CHARACTER MARK Code

Serial Number 86798866

October 26, 2015 Filing Date

Current Basis 1A Original Filing 1A **Basis**

Published for Opposition

April 19, 2016

Registration 4992323 Number

Registration Date July 5, 2016

Owner (REGISTRANT) Tenn South Distillery, LLC LIMITED LIABILITY COMPANY TENNESSEE 1800 Abernathy Road

Lynnville TENNESSEE 38472

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TENNESSEE" FOR CLASS 25 AND "TENNESSEE

WHISKEY" FOR CLASS 33 APART FROM THE MARK AS SHOWN

Type of Mark **TRADEMARK** Register PRINCIPAL

Other Data

The names CLAYTON and JAMES identifies Clayton Cutler and James Blair Butler, respectively and whose consents to register are made of record.

Live/Dead LIVE Indicator

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP PREV LIST CURR LIST NEXT LIST FIRST DOC

PREV DOC NEXT DOC

| HOME | SITE INDEX| SEARCH | @BUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Feb 8 03:47:02 EST 2017

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG BOTTOM HELP PREV LIST CURR LIST NEXT LIST FIRST DOC

PREV DOC NEXT DOC

Logout Please logout when you are done to release system resources allocated for you.

List At: OR lump to record: Record 1 out of 6

TSDR ASSIGN Status

TTAB Status

(Use the "Back" button of the Internet Browser to return to TESS)

DANIELLE PARTON

Word Mark DANIELLE PARTON

Goods and Services IC 033. US 047 049. G & S: Alcoholic beverages, namely, bourbon whiskey, moonshine and wine

Standard Characters

Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 87003858 Filing Date April 18, 2016

Current Basis 1B
Original Filing Basis 1B

Published for

Opposition

September 13, 2016

Owner (APPLICANT) MOUNTAIN MELODIES, LLC LIMITED LIABILITY COMPANY TENNESSEE 501 GRIFFIN

CIRCLE HERMITAGE TENNESSEE 37076

Attorney of Record Jonathan Hudis

Type of Mark TRADEMARK

Register PRINCIPAL

Other Data The name "DANIELLE PARTON" identifies a living individual whose consent is of record.

Live/Dead Indicator LIVE

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP PREV LIST CURR LIST NEXT LIST FIRST DOC

PREV DOC NEXT DOC

LAST DOC

| HOME | SITE INDEX| SEARCH | eBUSINESS | HELP | PRIVACY POLICY



Exhibit K



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Feb 8 03:47:02 EST 2017

STRUCTURED FREE FORM BROWSE DICT SEARCH OG HELP NEW USER PREV LIST CURR LIST NEXT LIST FIRST DOC TESS HOME Воттом PREV DOC NEXT DOC LAST DOC Please logout when you are done to release system resources allocated for you. to record: Record 3 out of 6 List At:

TSDR

ASSIGN Status

TTAB Status

(Use the "Back" button of the Internet Browser to return to TESS)

C. A. JACKSON

Word Mark C. A. JACKSON

Goods and IC 033. US 047 049. G & S: Alcoholic beverages except beers; Alcoholic beverages, namely, flavor-infused whiskey; **Services** Alcoholic beverages, namely, whiskey, rum, **moonshine**, sake, bourbon, **wine**, scotch, and gin.; Alcoholic mixed

beverages except beers; Rum; Spirits

Standard Characters

Claimed

Mark **Drawing**

(4) STANDARD CHARACTER MARK

Code Serial Number

86710118

Filing Date July 30, 2015

Current **Basis**

1B

Original

1B **Filing Basis**

Published

February 16, 2016 for

Opposition

(APPLICANT) Dumplin Creek Distillery, L.L.C. LIMITED LIABILITY COMPANY TENNESSEE P. O. Box 4662 Owner

Sevierville TENNESSEE 37864

Attorney of Record

Esther Roberts Bell

Type of

TRADEMARK Mark

Register PRINCIPAL

Other Data The name(s), portrait(s), and/or signature(s) shown in the mark does not identify a particular living individual.

Live/Dead Indicator

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP PREV LIST CURR LIST FIRST DOC

PREV DOC NEXT DOC LAST DOC

| HOME | SITE INDEX | SEARCH | @BUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Feb 8 03:47:02 EST 2017

STRUCTURED FREE FORM BROWSE DICT SEARCH OG HELP PREV LIST CURR LIST NEXT LIST FIRST DOC NEW USER TESS HOME Воттом PREV DOC NEXT DOC LAST DOC Please logout when you are done to release system resources allocated for you. to record: Record 4 out of 6 List At:

TSDR

ASSIGN Status

TTAB Status

(Use the "Back" button of the Internet Browser to return to TESS)

CAL F JOHNSON

Word Mark CAL F JOHNSON

Goods and IC 033. US 047 049. G & S: Alcoholic beverages except beers; Alcoholic beverages, namely, flavor-infused whiskey; **Services**

Alcoholic beverages, namely, whiskey, rum, moonshine, sake, bourbon, wine, scotch, and gin; Alcoholic mixed

beverages except beers; Rum; Spirits

Standard Characters

Claimed

Mark **Drawing** Code

(4) STANDARD CHARACTER MARK

Serial Number

86710088

Filing Date July 30, 2015

Current 1B **Basis**

Original 1B

Filing Basis

Published

February 16, 2016 for

Opposition

(APPLICANT) Dumplin Creek Distillery, L.L.C. LIMITED LIABILITY COMPANY TENNESSEE P. O. Box 4662 Owner

Sevierville TENNESSEE 37864

Attorney of Record

Esther Roberts Bell

Type of

TRADEMARK Mark

Register PRINCIPAL

Other Data The name(s), portrait(s), and/or signature(s) shown in the mark does not identify a particular living individual.

Live/Dead Indicator

LIVE

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP PREV LIST CURR LIST NEXT LIST FIRST DOC

PREV DOC NEXT DOC LAST DOC

| HOME | SITE INDEX | SEARCH | eBUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Feb 8 03:47:02 EST 2017

STRUCTURED FREE FORM BROWSE DICT SEARCH OG HELP **NEW USER** PREV LIST CURR LIST NEXT LIST FIRST DOC TESS HOME Воттом PREV DOC NEXT DOC LAST DOC Please logout when you are done to release system resources allocated for you. to record: Record 2 out of 6 List At: **TSDR ASSIGN Status TTAB Status** (Use the "Back" button of the Internet Browser to return to TESS)

OLD TENNESSEE DISTILLERY

Word Mark OLD TENNESSEE DISTILLERY

Goods and Services IC 043. US 100 101. G & S: Bar and cocktail lounge services; Bar and restaurant services; Bar services; Bar services featuring spirits, beer, rum, bourbon, tequila, sake, wine and moonshine; Restaurant and bar services; Restaurant and bar services, including restaurant carryout services; Restaurant and catering services; Restaurant services; Restaurant services, namely, providing of food and beverages for consumption on and off the premises; Restaurant, bar and catering services; Restaurants; Serving of food and drink/beverages

Standard Characters Claimed

Mark **Drawing**

(4) STANDARD CHARACTER MARK

Code

Serial 86509210 Number

Filing Date January 21, 2015

Current Basis

1B

Original

Filing 1B

Basis

Published

May 12, 2015 for

Opposition

(APPLICANT) Dumplin Creek Distillery, L.L.C. LIMITED LIABILITY COMPANY TENNESSEE P. O. Box 4662 Sevierville Owner

TENNESSEE 37864

Attorney of Record

Esther Roberts Bell

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TENNESSEE DISTILLERY" APART FROM THE MARK AS

SHOWN

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Live/Dead

ndicator	LIVE										
		STRUCTURED LAST DOC		BROWSE DICT	SEARCH OG	Тор	HELP	PREV LIST	CURR LIST	NEXT LIST	FIRST DOC
			H C	OME SITE INI	DEX SEARCH	eBUSINESS	HELP PRIV	ACY POLICY			



United States Patent and Trademark Office

Home Site Index Search FAQ Glossary Guides Contacts eBusiness eBiz alerts News Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Feb 8 03:47:02 EST 2017

STRUCTURED FREE FORM BROWSE DICT SEARCH OG HELP NEW USER PREVISIT CURR LIST NEXT LIST FIRST DOC TESS HOME Воттом PREV DOC NEXT DOC LAST DOC Please logout when you are done to release system resources allocated for you. to record: Record 6 out of 6 List At:

TSDR

ASSIGN Status

TTAB Status

(Use the "Back" button of the Internet Browser to return to TESS)

TAIL OF THE DRAGON

Word Mark TAIL OF THE DRAGON

Goods

IC 033. US 047 049. G & S: Alcoholic beverage produced from a brewed malt base with natural flavors; Alcoholic and beverages containing fruit; Alcoholic beverages except beers; Alcoholic beverages of fruit; Alcoholic beverages, namely, Services flavor-infused whiskey; Alcoholic beverages, namely, whiskey, rum, moonshine in the nature of whiskey, sake, bourbon,

wine, scotch, and gin; Alcoholic mixed beverages except beers; Spirits

Standard Characters Claimed

Mark Drawing

(4) STANDARD CHARACTER MARK

Code

Serial

86140733 Number

Filing Date December 11, 2013

Current

1B **Basis**

Original

Filing 1B

Basis

Published

for October 7, 2014

Opposition

Owner (APPLICANT) Dumplin Creek Distillery, L.L.C. LIMITED LIABILITY COMPANY TENNESSEE P. O. Box 4662 Sevierville

TENNESSEE 37864

Attorney of Record

Esther Roberts Bell

Type of

Trademark Electronic Search System (TESS)

Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP PREV LIST CURR LIST NEXT LIST FIRST DOC

PREV DOC NEXT DOC LAST DOC

| HOME | SITE INDEX | SEARCH | eBUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Feb 8 03:47:02 EST 2017

STRUCTURED FREE FORM BROWSE DICT SEARCH OG HELP **NEW USER** PREV LIST CURR LIST NEXT LIST FIRST DOC TESS HOME Воттом PREV DOC NEXT DOC LAST DOC Please logout when you are done to release system resources allocated for you. to record: Record 5 out of 6 List At:

TSDR

ASSIGN Status

TTAB Status

(Use the "Back" button of the Internet Browser to return to TESS)

TENNESSEE FROST

Word Mark TENNESSEE FROST

Services

Goods and IC 033. US 047 049. G & S: Alcoholic beverage produced from a brewed malt base with natural flavors; Alcoholic beverages containing fruit; Alcoholic beverages except beers; Alcoholic beverages of fruit; Alcoholic beverages, namely, flavor-infused whiskey; Alcoholic beverages, namely, whiskey and rum; moonshine, namely, whiskey, sake, bourbon, wine, scotch, and gin; Alcoholic cocktail mixes; Alcoholic cocktails containing milk; Alcoholic coffee-based beverage; Alcoholic cordials; Alcoholic fruit cocktail drinks; Alcoholic malt coolers; Alcoholic mixed beverages except beers; Alcoholic tea-based beverage; Rum; Spirits. FIRST USE: 20150326. FIRST USE IN COMMERCE: 20150326

Standard Characters Claimed

Mark

Drawing

(4) STANDARD CHARACTER MARK

Code Serial

86557243

Number Filing Date

March 9, 2015

Current

Basis

1A

Original

Filing Basis

Published

for

March 8, 2016

Opposition

 $\begin{array}{c} \textbf{Registration} \\ 5082913 \end{array}$ Number

Date

Registration November 15, 2016

Owner (REGISTRANT) Dumplin Creek Distillery, L.L.C. LIMITED LIABILITY COMPANY TENNESSEE P. O. Box 4662

Sevierville TENNESSEE 37864

Attorney of Record

Esther Roberts Bell

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TENNESSEE" APART FROM THE MARK AS SHOWN

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live/Dead Indicator

LIVE

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG	Тор	HELP	PREV LIST	CURR LIST	NEXT LIST	First Doc
PREV DOC NEXT DOC LAST DOC						

| HOME | SITE INDEX| SEARCH | eBUSINESS | HELP | PRIVACY POLICY

3/26/2015 3:17 PM

Sales Receipt #6

Store: 1



SEVIERVILLE. TN Thunder Road Distillery 3605 Outdoor Sportman's Place Suite #100 Kodak, TN 37764

Cashier: hope

Item Name	Qty	Price	Ext Price
Moonshine - Tennes 750ml	- 1	\$24.99	\$24.99 T
Moonshine - Tennes 750ml	1	\$24.99	\$24.99 T
TR - Corn Whiskey - 750ml	1	\$29.99	\$29.99 T
Party Shot Cups	6	\$2.99	\$17.94 T
artistical and industrial and		Subtotal	: \$97.91
Local Sales Tax	(9 75 % Tax	+ \$9 55

RECEIPT TOTAL: \$107.46

Amount Tendered: \$107.50 Change Given: \$0.04

Cash: \$107.50

Thanks for shopping with us!



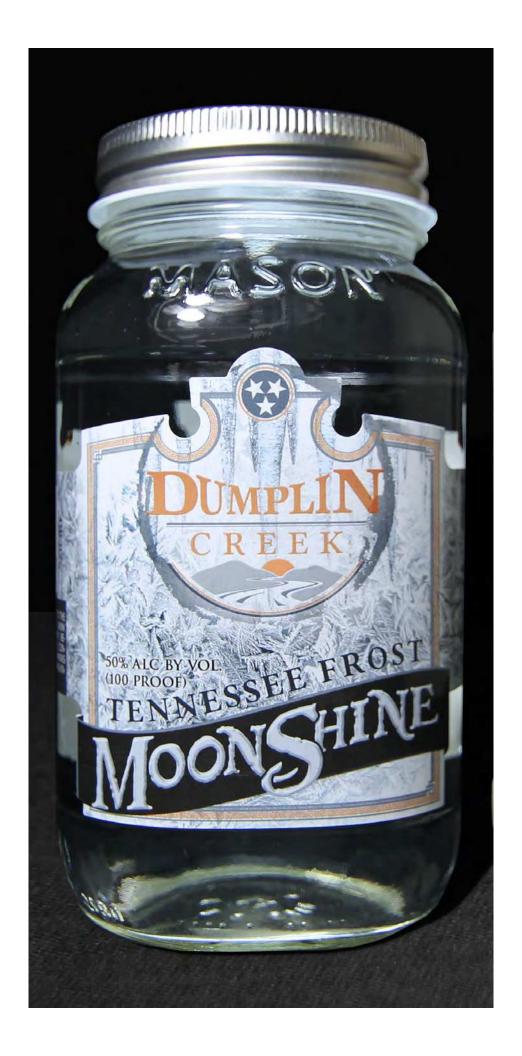


Exhibit L





YOUR STORE [CHANGE] Ship to: California





Q Search



Account



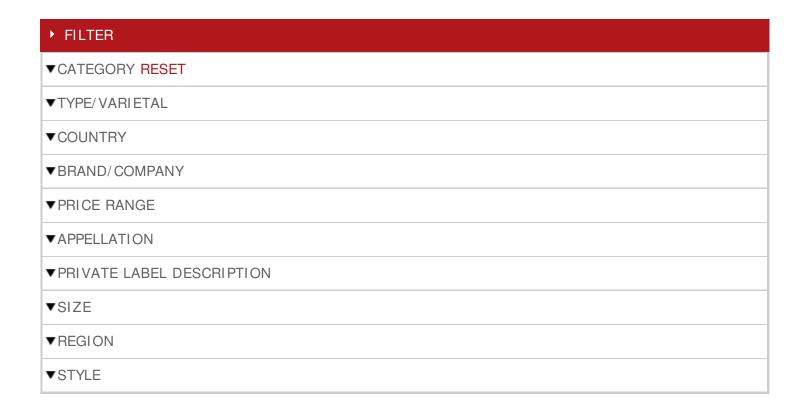
SHOP BY

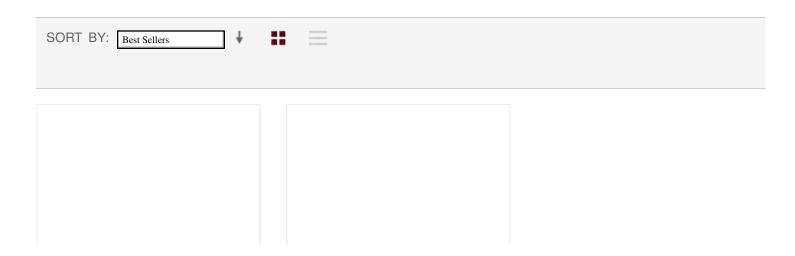
Currently Shopping by

Category: Wine



Clear All







JUSTINO HENRIQUES RAINWATER MADEIRA (750 ML)

\$17.99

CLUB**BEV!** \$12.99



STELLA ROSA BLACK 250ML (250 ML) \$5.99

CLUB**BEV!** \$4.99







LILLET ROSE (750 ML) \$23.99

CLUB**BEV!** \$21.99



CHRISTIAN BROTHERS RUBY PORT (750 ML)

\$5.99

CLUB**BEV!** \$4.99





LUSTAU SHERRY LIGHT FINO JARANA (750 ML)

\$21.99

CLUB**BEV!** \$16.99



CHAUCERS BLACKBERRY (500 ML)

\$17.99

CLUB**BEV!** \$15.99







STONES GINGER WINE (750 ML)

\$17.99

CLUB**BEV!** \$14.99



NOILLY PRAT SWEET VERMOUTH (750 ML)

\$12.99

CLUB**BEV!** \$10.99





SANDEMAN PORTO 10 YEAR-OLD TAWNY (750 ML)

\$41.99

CLUB**BEV!** \$36.99



FLORIO SWEET MARSALA (750 ML)

\$18.99

CLUB**BEV!** \$12.99







PACIFIC RIM FRAMBOISE (375 ML)

\$16.99

CLUB**BEV!** \$15.99



BUNRATTY MEADE (750 ML)

\$24.99

CLUB**BEV!** \$22.99





QUADY ELYSIUM BLACK MUSCAT (750 ML)

\$24.99

CLUB**BEV!** \$21.99



TERRA D'ORO ZINFANDEL PORT (750 ML) \$25.99

CLUB**BEV!** \$21.99

OUT OF STOCK





RL BULLER FINE MUSCAT (375 ML)

\$23.99



JUSTINO HENRIQUES MADEIRA FULL RICH (750 ML)

\$17.99

CLUB**BEV!** \$12.99

OUT OF STOCK





BLANDY'S MADEIRA BUAL 10 YEAR (500 ML)

\$36.99

CLUB**BEV!** \$29.99



STELLA ROSA PLATINUM 250ML (250 ML)

\$5.99

CLUB**BEV!** \$4.99







MANISCHEWITZ BLACKBERRY WINE (750 ML)

\$7.99

CLUB**BEV!** \$6.99



SHEFFIELD CELLARS VERY DRY SHERRY (750 ML)

\$8.99

CLUB**BEV!** \$6.99





SANDEMAN SHERRY CREAM ARMADA (750 ML)

\$19.99

CLUB**BEV!** \$15.99



WINE (750 ML)

\$6.99

CLUB**BEV!** \$5.99







JACKSON-TRIGGS VIDAL ICE WINE (187 ML)

\$29.99

CLUB**BEV!** \$28.99



CHAUCERS MEAD WINE (750 ML)

\$16.99

CLUB**BEV!** \$15.99

OUT OF STOCK





LUSTAU DELUXE CREAM CAPATAZ (750 ML)

\$21.99

CLUB**BEV!** \$19.99



MELILLO SWEET MARSALA 500 ML (500 ML)

\$13.49

OUT OF STOCK





SHEFFIELD CELLARS CREAM SHERRY (750 ML)

\$8.99

CLUB**BEV!** \$6.99



JORGE ORDONEZ SELECCION ESPECIAL # 1 (375 ML)

\$23.99

CLUB**BEV!** \$17.99







CAROL SHELTON BLACK MAGIC LATE HARVEST ZINFANDEL (375 ML)

\$24.99

CLUB**BEV!** \$17.99



HARTLEY & GIBSON CREAM SHERRY (750 ML)

\$14.99

CLUBBEV! \$10.99







DRY SACK SHERRY (750 ML) \$22.99
CLUBBEVI \$17.99



FLORIO DRY MARSALA (750 ML)

\$18.99

CLUBBEV! \$12.99





Show More

Search Suggestions: Madeira | Madeira Wine | Rainwater Madeira | Portugal | Dry Sherry | Chaucer | Berry Wine | Blackberry Wine



CUSTOMER SERVICE

LIVE CHAT
CUSTOMER SERVICE
TERMS OF USE
PRIVACY POLICY
CONTACT US

ABOUT BEVMO!

FIND A STORE
ABOUT US
TASTINGS &
EVENTS
FAQS
CAREERS

CONNECT WITH US

FACEBOOK FACEBOOK CAREERS

PINTEREST

y TWITTER

THIRSTY TIMES BLOG

QUICK LINKS

SITE MAP
ADVANCED SEARCH

ACCOUNT

MY ACCOUNT ORDER STATUS

Copyright © 2000-2017 BevMo.com. All rights reserved. See our Privacy Statement





YOUR STORE [CHANGE] Ship to: California





Q Search



Account



SHOP BY

▶ FILTER
▼CATEGORY
▼TYPE/VARIETAL
▼COUNTRY
▼BRAND/COMPANY
▼PRICE RANGE
▼SIZE
▼REGION
▼STYLE



STILLHOUSE ORIGINAL MOONSHINE (750 ML)

\$29.99

CLUB**BEV!** \$27.99





OLE SMOKY TENNESSE PEACH MOONSHINE (750 ML)

\$25.99

CLUB**BEV!** \$21.99





OLE SMOKY TENNESSEE CHERRIES MOONSHINE (750 ML)

\$25.99

CLUB**BEV!** \$21.99



MIDNIGHT MOON APPLE (750 ML)

\$24.99

CLUB**BEV!** \$20.99



OLE SMOKY TENN APPLE PIE MOONSHINE (750 ML)

\$25.99

CLUB**BEV!** \$21.99





MIDNIGHT MOON STRAWBERRY (750 ML)

\$24.99

CLUB**BEV!** \$20.99



MIDNIGHT MOON BLACKBERRY 750ML (750 ML)

\$24.99

CLUB**BEV!** \$20.99







TAHOE MOONSHINE STORMIN' WHISKEY (750 ML)

\$38.99

CLUB**BEV!** \$29.99



OLE SMOKY TENN WHITE LIGHT MOONSHINE (750 ML)

\$25.99

CLUB**BEV!** \$21.99







MIDNIGHT MOON CRANBERRY 750 ML (750 ML)

\$24.99

CLUB**BEV!** \$20.99







OLE SMOKY TENN BLACKBERRY MOONSHINE (750 ML)

\$25.99

CLUB**BEV!** \$21.99







LA CLANDESTINE ABSINTHE 200ML (200 ML)

\$28.99

CLUB**BEV!** \$26.99

OUT OF STOCK



OLE SMOKY APPLE PIE TENNESSEE MOONSHINE 50ML (50 ML)

\$2.99

OUT OF STOCK



H. WALKER & SONS PEACH MOONSHINE (750 ML)

\$23.99

CLUB**BEV!** \$21.49





OLE SMOKY BLUE FLAME MOONSHINE (750 ML)

\$25.99

CLUB**BEV!** \$24.99

OUT OF STOCK



TAHOE MOONSHINE SNOWFLAKE VODK (750 ML)

\$35.99

CLUB**BEV!** \$32.49

OUT OF STOCK



OLE SMOKY MOONSHINE PEACHES (750 ML)

\$25.99

CLUB**BEV!** \$24.99





TAHOE MOONSHINE JUG DEALER RUM (750 ML)

\$38.99

CLUB**BEV!** \$34.49



Search Suggestions: Corn Whiskey | 100 Proof | Stillhouse | Absinthe | Ole Smoky | Apple Moonshine | Apple | Cherries



CUSTOMER SERVICE

LIVE CHAT
CUSTOMER SERVICE
TERMS OF USE
PRIVACY POLICY
CONTACT US

ABOUT BEVMO!

FIND A STORE
ABOUT US
TASTINGS &
EVENTS
FAQS

CAREERS

CONNECT WITH US

FACEBOOK
FACEBOOK
CAREERS

PINTEREST

▼ TWITTER

×

QUICK LINKS

SITE MAP

ADVANCED SEARCH

ACCOUNT

MY ACCOUNT
ORDER STATUS

Exhibit M

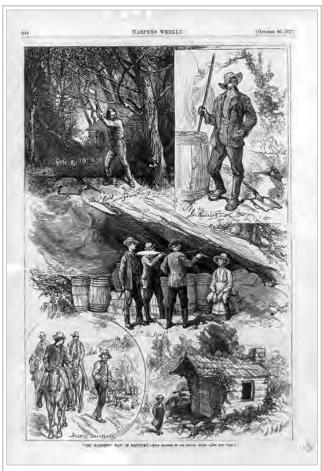
Moonshine

From Wikipedia, the free encyclopedia

Moonshine, white liquor, white lightning, mountain dew, hooch, homebrew, white whiskey, and corn liquor are terms used to describe high-proof distilled spirits that are usually produced illicitly. [1] Moonshine is typically made with corn mash, as its main ingredient. [2] Liquor-control laws in the United States that prohibit moonshining, once consisting of a total ban under the 18th Amendment of the Constitution, now focus on evasion of revenue taxation on spiritous and/or intoxicating liquors. They are enforced by the Bureau of Alcohol, Tobacco, Firearms and Explosives of the US Department of Justice; such enforcers of these laws are known by the often derisive nickname of "revenooers."

Contents

- 1 History
- 2 Safety
 - **2.1** Tests
- 3 Prevalence
- 4 See also
- 5 References
- 6 Sources
- 7 External links



The Moonshine Man of Kentucky, an illustration from Harper's Weekly, 1877, showing five scenes from the life of a Kentucky moonshiner.

History

The word "moonshine" is believed to be derived from the term "moonrakers" used for early English smugglers and the clandestine nature of the operations of the illegal Appalachian distillers who produced and distributed whiskey.^{[3][4]} The distillation was done at night to avoid discovery.^[5]

Moonshine was especially important to the Appalachian area. This white whiskey most likely entered the Appalachian region in the late 18th century to early 1800s. Scots-Irish immigrants from the province of Ulster in the north of Ireland brought their recipe for their *uisce beatha*, Gaelic for "water of life". The settlers made their whiskey without aging it, and this is the same recipe that became traditional in the Appalachian area. ^[6]

In the early 20th century, moonshine became a key source of income for many Appalachian residents like Marvin "Popcorn" Sutton, since the limited road network made it difficult and expensive to transport corn crops. As a study of farmers in Cocke County, Tennessee, observes: "One could transport much more value in corn if it was first converted to whiskey. One horse could haul ten times more value on its back in whiskey than in corn."^[7] Moonshiners in Harlan County, Kentucky, like Maggie Bailey, made the whiskey to sell in order to provide for their families.^[8] Others, like Amos Owens, from Rutherford County, North Carolina and "Popcorn" Sutton from Maggie Valley, North Carolina sold moonshine to nearby areas.

Marvin "Popcorn" Sutton's life was covered in a documentary on the Discovery Channel called "Moonshiners". The legendary bootlegger once said that the malt (a combination of corn, barley, rye) is what makes the basic moonshine recipe^[9] work.

In modern usage, the term "moonshine" ordinarily implies that the liquor is produced illegally; however, the term has also been used on the labels of some legal products as a way of marketing them as providing a similar drinking experience as found with illegal liquor.

Safety

Poorly produced moonshine can be contaminated, mainly from materials used in the construction of the still. Stills employing automotive radiators as condensers are particularly dangerous; in some cases, glycol, products from antifreeze, can appear as well. Radiators used as condensers also may contain lead at the connections to the plumbing. These methods often resulted in blindness or lead poisoning^[10] for those consuming tainted liquor.^[11] This was an issue during Prohibition when many died from ingesting unhealthy substances.

Although methanol is not produced in toxic amounts by fermentation of sugars from grain starches, [12] contamination is still possible by unscrupulous distillers using cheap methanol to increase the apparent strength of the product. Moonshine can be made both more palatable and less damaging by discarding the "foreshot"—the first few ounces of alcohol that drip from the condenser. The foreshot contains most of the methanol, if any, from the mash because methanol vaporizes at a lower temperature than ethanol. The foreshot also typically contains small amounts of other undesirable compounds such as acetone and various aldehydes.

Alcohol concentrations above about 50% alcohol by volume (101 proof) are flammable and therefore dangerous to handle. This is especially true during the distilling process when vaporized alcohol may accumulate in the air to dangerous concentrations if adequate ventilation has not been provided.

Tests

A quick estimate of the alcoholic strength, or proof, of the distillate (the ratio of alcohol to water) is often achieved by shaking a clear container of the distillate. Large bubbles with a short duration indicate a higher alcohol content, while smaller bubbles that disappear more slowly indicate lower alcohol content.

A common folk test for the quality of moonshine was to pour a small quantity of it into a spoon and set it on fire. The theory was that a safe distillate burns with a blue flame, but a tainted distillate burns with a yellow flame. Practitioners of this simple test also held that if a radiator coil had been used as a condenser, then there would be lead in the distillate, which would give a reddish flame. This led to the mnemonic, "Lead burns red and makes you dead." or "Red means dead." [13] Although the flame test will show the presence of lead and fusel oils, it will not reveal the presence of methanol (also poisonous), which burns with an invisible flame. [14]

A more reliable method of testing is to use scientific testing equipment, such as an alcoholmeter or hydrometer. A hydrometer is used during and after the fermentation process to determine the potential alcohol percent of the moonshine, whereas an alcoholmeter is used after the product has been distilled to determine the volume percent or proof.^[15]

Prevalence

Varieties of moonshine are produced throughout the world.

See also

- Desi liquor
- Bathtub gin
- Bootleggers and Baptists
- Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Congener (alcohol)
- Copperhead Road
- Corn whiskey
- Dixie Mafia
- Hokonui moonshine
- *Lawless* (Film)
- Moonshine in popular culture
- Moonshiners (TV series)
- Nip joint
- Okolehao
- Onyx Moonshine
- Poitín
- Rum-running
- Sour mash
- *Thunder Road* (film)



Former West Virginia moonshiner John Bowman explains the workings of a still. November 1996. American Folklife Center

References

1. "What Is Moonshine? Is Moonshine Illegal? – The Famous Illegal Drink of Yore". *Flasks.com*. 2013-08-27. Retrieved 2015-05-04.

- 2. Guy Logsdon, Oklahoma Historical Society. "Moonshine". *Encyclopedia of Oklahoma History & Culture*. Oklahoma State University. Archived from the original on 2014-10-31. Retrieved 21 March 2014.
- 3. Ellison, Betty Boles (2003). *Illegal Odyssey: 200 Years of Kentucky Moonshine*. IN: Author House. p. 1. ISBN 978-1-4107-8407-0.
- 4. Kellner, Esther (1971). Moonshine: its history and folklore. IN: Bobbs-Merrill. p. 5. ISBN 978-0517169667.
- 5. Jason Sumich. "It's All Legal Until You Get Caught: Moonshining in the Southern Appalachians". Appalachian State University. Retrieved 21 March 2014.
- 6. Joyce, Jamie (2014). *Moonshine: A Cultural History of America's Infamous Liquor*. Minneapolis: Zenith. pp. 8–14. ISBN 978-0-7603-4584-9.
- 7. Peine & Schafft 2012, p. 98-9.
- 8. Block, Melissa (2005-12-08). "'Queen of the Mountain Bootleggers' Maggie Bailey". *National Public Radio*. Retrieved 2015-05-04.
- 9. "Popcorn Sutton Moonshine Recipe". Whiskey Still Company.
- 10. https://www.whiskeystill.net/blogs/whiskey-still-co-blog/why-your-copper-moonshine-still-needs-to-be-lead-free
- 11. Peine & Schafft 2012, p. 97.
- 12. "Distillation: Some Purity Considerations". *Moonshine Still*. Retrieved 2015-05-05.
- 13. "Moonshine". Skylark Medical Clinic. Archived from the original on 2011-07-16. Retrieved 2008-07-23.
- 14. "Methanol fueling infrastructure for fuel cell vehicles needs assessment. Research program outline". *Methanol Institute*. Archived from the original on 2007-06-26.
- 15. "Alcoholmeter or Hydrometer: Do You Know the Difference?". Retrieved 2014-10-28.

Sources

- Davis, Elaine. *Minnesota 13: "Wet" Wild Prohibition Days* (2007) ISBN 9780979801709
- Peine, Emelie K.; Schafft, Kai A. (Spring–Fall 2012). "Moonshine, Mountaineers, and Modernity: Distilling Cultural History in the Southern Appalachian Mountains". *Journal of Appalachian Studies*. Appalachian Studies Association. **18**: 93–112. JSTOR 23337709.
- Rowley, Matthew. *Moonshine!* History, songs, stories, and how-tos (2007) ISBN 9781579906481
- Watman, Max. Chasing the White Dog: An Amateur Outlaw's Adventures in Moonshine (2010) ISBN 9781439170243
- King, Jeff. The Home Distiller's Workbook: Your Guide to Making Moonshine, Whisky, Vodka, Rum and So Much More! (2012) ISBN 9781469989396

External links

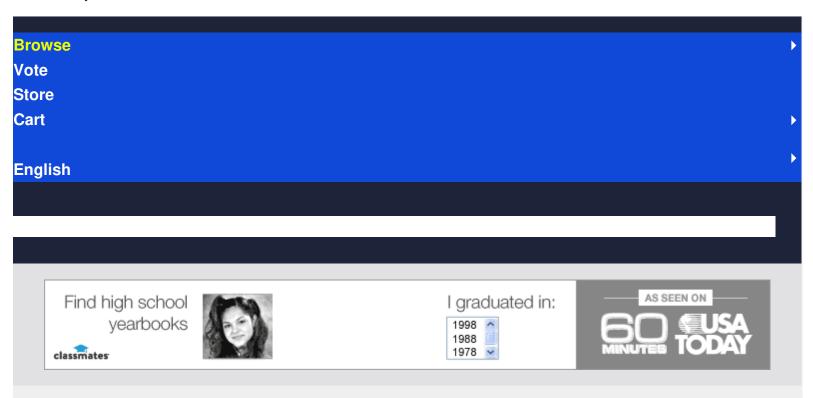
- "Moonshine Blue Ridge Style" (http://www.blueridgeinstitute.org/moonshine/index.html) An Exhibition Produced by the Blue Ridge Institute (http://www.blueridgeinstitute.org) and the Museum of Ferrum College (http://www.ferrum.edu)
- *Déantús an Phoitín (Poteen Making*), by Mac Dara Ó Curraidhín (a one-hour 1998 Irish documentary film on the origins of the craft).
- North Carolina Moonshine (http://www.ibiblio.org/moonshine/) Historical information, images, music, and film excerpts
- Moonshine news page (http://historyofalcoholanddrugs.typepad.com/alcohol_and_drugs_history/moonshine/index.html) Alcohol and Drugs History Society
- Georgia Moonshine (http://www.georgiaencyclopedia.org/nge/Article.jsp?id=h-2580) History and folk

- traditions in Georgia, USA
- "Moonshine 'tempts new generation' " (http://www.bbc.co.uk/news/world-us-canada-10556048) BBC on distilling illegal liquor in the 21st century.
- Moonshine Franklin Co Virginia (https://www.youtube.com/watch?v=TywPjx3VHeM) Moonshine Still from the past Video
- Dangers of Drinking Homemade Moonshine (http://lessaccounting.com/moonshine) Video about the dangers of drinking moonshine

Retrieved from "https://en.wikipedia.org/w/index.php?title=Moonshine&oldid=761082137"

Categories: Crimes | Whisky | Distilled drinks | Moonshine

- This page was last modified on 20 January 2017, at 19:45.
- Text is available under the Creative Commons Attribution-ShareAlike License; additional terms may apply. By using this site, you agree to the Terms of Use and Privacy Policy. Wikipedia® is a registered trademark of the Wikimedia Foundation, Inc., a non-profit organization.



TOP DEFINITION

moonshine

Moonshine is illegally distilled homemade whisky, usually with a very high alcohol content. It got its name because it was normally distilled at night "by the light of the moon." Most moonshine is distilled in West Virginia, Kentucky and Virginia.

The only reason that moonshine is illegal is because there anyone who distills spirits in the U.S. has to pay a federal tax. Moonshiners don't pay the tax. Local police usually ignore moonshiners because "they ain't hurtin' anyone."

by Silky Smooth January 27, 2004

1194 246

The Urban Dictionary T-Shirt

Smooth, soft, slim fit American Apparel shirt. Custom printed. 100% fine jersey cotton, except for heather grey (90% cotton).

BUY THE T-SHIRT



Add your own

Random Word



moonshine

General term for homemade, unaged (and therefore colorless) drinking alcohol. The term came into use during the Prohibition era in the United States when stills (homemade distilleries) throughout the southeast made liquor from corn, potatoes, sugar and other available ingredients, in direct defiance of the law, in order to meet the never-diminished demand.

Moonshine (see also "white lightning") as a term refers to the alcohol's clear, colorless potency.

Moonshine ain't nothin' but sunshine that's been cooked down a little bit, Deputy.

by pt68 August 18, 2005

350 161

The Urban Dictionary T-Shirt

Smooth, soft, slim fit American Apparel shirt. Custom printed. 100% fine jersey cotton, except for heather grey (90% cotton).

BUY THE T-SHIRT



Your browser does not support the video element.

2

Moonshine

A homemade whiskey that is not aged and therefore is clear.

Moonshine, despite popular belief, did not originate during Prohibition. After the Revolutionary War, whiskey was among the items taxed highly to pay for the war. For this reason, poor farmers built stills in the wilderness, usually in the Appalachians, and distilled whiskey at night. Hence the name "moonshine."

Also contrary to what some may believe, moonshine itself does not cause blindness, brain damage, or any medical problems aside from those that all alcohol does. Poorly made moonshine distilled by amateurs during Prohibition was the cause of this. Many people intended to make easy money and so added things like embalming fluid to their whiskey.

Moonshine is currently illegal in the United States because of taxes. It also has an extremely high alcohol content, usually in the range of 160 proof.

My grandpa and I went up to the still last night to start a batch of moonshine.

#moonshine #white lightning #white mule #mule kick #boomshine

by The Grim Creeper February 10, 2010

171 67



The Urban Dictionary T-Shirt

Smooth, soft, slim fit American Apparel shirt. Custom printed. 100% fine jersey cotton, except for heather grey (90% cotton).

BUY THE T-SHIRT

4

moonshine

A homemade drink high in alcohol. Also less commonly known as boomshine

Hey i know this girl Claritta that makes some real good moonshine

by lazyassloser March 25, 2004

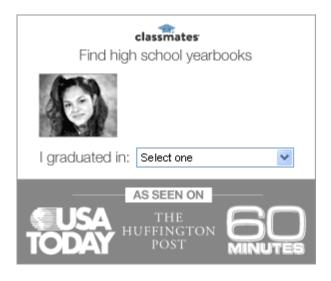
137 86

The Urban Dictionary T-Shirt

Smooth, soft, slim fit American Apparel shirt. Custom printed. 100% fine jersey cotton, except for heather grey (90% cotton).

BUY THE T-SHIRT





_

Moonshine

- 1.A drink with such a potent punch it will put hair on your chest then burn it off
- 2. Something hillbillys make when they cant afford to go to town to buy beer and of whiskey
- 3.A drink known to cause blindness and second only to petrol in potency

Damn boy you drink moonshine why dont you just go huff some paint thinner

by Wilhelm January 29, 2004

294 273

The Urban Dictionary T-Shirt



Smooth, soft, slim fit American Apparel shirt. Custom printed. 100% fine jersey cotton, except for heather grey (90% cotton).

BUY THE T-SHIRT

6

moon shine

Whisky. Usually made by the more "country" public.

Not usually weak. Can be aged. Making it smoother and stronger.

Chick-Damn,I got some of my dad's moon shine last night.It's been aging for like 14 years.That shit knocked me on my ass.

Guy-Isn't illegal to make that, and sell it?

#whisky #beer #vodka #country bumkin #shit #fuck #damn #chick #guy #woah #illegal #import #tn

by Dang;Lets Bang January 26, 2009

53 42

The Urban Dictionary T-Shirt

Smooth, soft, slim fit American Apparel shirt. Custom printed. 100% fine jersey cotton, except for heather grey (90% cotton).

BUY THE T-SHIRT





7

moonshine

Illegal alcoholic drink brewed illegally during 1930s prohibition in America. Brewers often used industrial alcohol which lead to much blindness and brain damage in those who drank it.

That moonshine gave old Jonny brain damage.

by darksidedemon May 24, 2003

123 131

The Urban Dictionary T-Shirt

Smooth, soft, slim fit American Apparel shirt. Custom



manta

SAVE 15% on bedroom





A Brief History of Moonshine















Clair McLafferty filed under: Cocktail Chemistry



Image credit:

iStock

LIKE US ON FACEBOOK



In the South, tracking down and drinking moonshine is a rite of passage. Whether it's the booze's rebellious history or its dangerous reputation, moonshine has cemented a place in the culture at large.

According to the Oxford English Dictionary, moonshine is defined as "whisky or other strong alcoholic drinks made and sold illegally." With that definition, it may be confusing to walk into liquor stores (or Costco) and find booze labeled as moonshine.

ADVERTISING

Part of the problem lies in the lack of federal requirements for labeling something as moonshine. Unlike whiskey, which must be made from grain, distilled and bottled at a certain alcohol content, and aged in oak, 'shine has no equivalent. Like vodka, it can be made from anything fermentable: fruit, sugar, grain, or milk. Like vodka, there's no upper limit on its alcohol content. Unless you want to describe it as white whiskey on the label, you can make it any way you please. So, despite what you might have read in the OED, legally made hooch labeled "moonshine" is all over the place.

Despite its super Southern connotation, hooch isn't exclusively a Southern drink. The term *moonshine* has been around since the late 15th century, but it was first used to refer to liquor in the 18th century in England.

The American roots of the practice (and of modern American whiskey production in general) have their origins in frontier life in Pennsylvania and other grain-producing states. At the time, farms with grain mills would distill their excess product so that it wouldn't spoil. Back then, whiskey was even used in some places as currency.

In 1791, the federal government imposed a tax on liquor made in the country, known as the "whiskey tax." For the next three years, distillers held off the tax collectors by less-than-legal means, which brought a U.S. marshal to Pennsylvania to collect the taxes owed. More than 500 men attacked the area's tax inspector general's home. Their commander was killed, which inspired a protest of nearly 6000 people. The tax was eventually repealed in 1801, and the events from the decade prior came to be known as the Whiskey Rebellion.

A lot of the lore and legend surrounding moonshine is true. Bad batches or certain production techniques (like distilling in car radiators) could result in liquor that could make you go blind—or worse. Though some moonshiners claim that these stories were spread in an effort to discredit their work, legal producers differ. Either way, the federal government commissioned Louis Armstrong to record radio ads about the dangers of drinking it.

Don't confuse moonshiners with bootleggers. Moonshiners make the liquor, while bootleggers smuggle it. The term *bootlegger* refers to the habit of hiding flasks in the boot tops around the 1880s, but with the introduction of cars, it came to mean anyone who smuggled booze.

Mechanics quickly found ways to soup up engines and modify cars to hide and transport as much moonshine as possible. In running from the law, these whiskey runners acquired some serious driving skills. On their off days, they'd race against each other, a pastime that would eventually breed NASCAR. The two were so closely linked, in fact, that a moonshiner gave seed money for NASCAR to its founder Bill France. Another well-known link is Robert Glenn Johnson, better known as Junior Johnson. As the son of a notorious moonshiner, this former driver and NASCAR team owner recently partnered with a North Carolina-based distillery to produce "Midnight Moon."

Whether you call it shine, rotgut, white lightning, firewater, skullpop, mountain dew, or just moonshine—its rebellious history and contentious present make it a helluva drink.

December 4, 2015 - 5:00pm











Clair McLafferty

Follow @see_clair_write

Clair is a freelance writer and bartender-at-large in Birmingham, Ala. When she's not writing, Clair is usually nerding out on trashy science-fiction or researching cocktail history. Her other writing and rambling is usually posted on Twitter @see_clair_write and at clairmclafferty.com.

Around The Web

Sponsored Links by ZergNet

COOL MATERIAL





The Shockingly Violent History of American Moonshine

LIKE

TWEET

Shares: 37

Moonshine, as we know it, hasn't been moonshine for very long. It started in England as a word to describe any work done at night by the light of the moon and wouldn't describe illegal liquor until the late 1800s. The practice of distilling moonshine also didn't start as a violent endeavor, though violence quickly became a part of the identity of moonshiners. They were a big part of the early American Revolution and Civil War tax conflicts helped shape them into the loose organization we're more familiar with, but they didn't become true "moonshiners" until Prohibition.

It's also interesting to note that producing moonshine wasn't illegal until Prohibition. That's a good two hundred year swath of American history where the mountain drink the feds loved to hate was perfectly legal. As with most issues in the US, taxes were the core of the conflict. You could make and drink as much as you wanted, but as soon as you tried to sell it, that's where things got dicey.

So in light of the recent popular resurgence moonshine's enjoying, here's where moonshine was through American history.



Origins in Immigration

In the years just before the Revolution, a massive influx of Scotch-Irish migrants moved from the northern Irish counties to the English colonies in North America. They weren't the only immigrants, since the Germans were making their way over in large numbers as well, but there were absolutely differences between the groups. About the migrants of the time, they <u>said</u>. "When the English would arrive in the new world, the first thing they would do would be to build a church, the Germans would build a barn, but the Scotch-Irish would build a whiskey still."

To colonial Americans, being Scotch-Irish wasn't much better than being just plain Irish. Yeah, it's good that they were Protestant, but that didn't go too far in redeeming them as a group. Established colonists were, to put it lightly, reluctant to have them around. As a result, the Scots settled on the edge of the English colonies in the isolation of the <u>Appalachian Mountains</u>. They rebuilt their lives, continuing their Scottish twist on old Ulster culture. Lucky for us, that culture included an almost rabid love of liquor and the distilling expertise to validate that love.

Their lives in the Appalachians were based mostly on subsistence farming and what little money they needed they either obtained selling their spirits. Or they cut out the middle man completely and made whiskey their currency. Because they lived in isolation and were fueled mostly by homemade whiskey and emotional instability, they got a reputation for being drinkers and brawlers, which would come in handy not long after they arrived in the colonies.

It must take a long time to forget you hate the English, because, during the Revolution, the descendants of those early immigrants came down hard on the invading army. They claimed one of the earliest victories of the war, killing hundreds of British troops, including a general, and winning high praise from Washington himself. They were a significant force in a war that, early on, significantly lacked significant forces.

They would stay a significant force in the early years of the constitutional United States and, in true Scots-Irish fashion, cause fairly significant problems for the fledgling government.



Whiskey Rebellion

The goodwill the Scotch-Irish built didn't last long though. For a newly begotten country, the Revolution was an expensive outing and the new republic needed money. Despite the Revolution's impetus being taxes and no one liking them, Congress decided it needed to make a quick buck. In 1791 Treasury Secretary Hamilton instituted an excise tax on liquor, jacking up the price of whiskey. Appalachian distillers in western Pennsylvania hated the tax almost as much as they'd hated the English and so began the Whiskey Rebellion.

In true American fashion, the rebels began tarring and feathering any tax collector brave/stupid enough to wander up the mountains hoping to collect, their resistance based on the belief it was a tax that disproportionately affected small farmers and citizens on the frontier. Eventually that resistance coagulated into an actual occupying force rather than sporadic violence when a rebel force attacked and destroyed a tax inspectors home in 1794. Imagine if Occupy Wall Street had actually taken over New York City and burned down Goldman Sachs, rather than just inconveniencing the NYPD in a few parks. Overall, the occupation wasn't a great sign for an experimental constitutional government like the early United States.

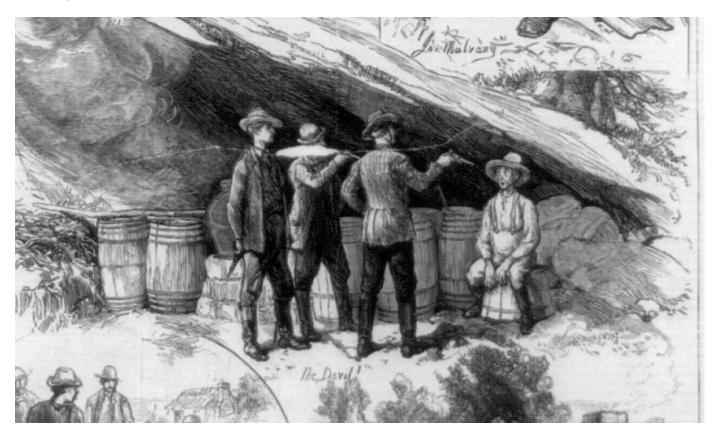
Hamilton wanted a military response, which Washington agreed to after negotiations broke down. With Washington, Hamilton, and Virginia governor Henry Lee at the head, 13,000 federal troops

marched into western Pennsylvania, ready to face a violent insurrection.

Now, if you're expecting an epic, months-long struggle between valiant freedom fighters and an oppressive, tax loving government, we had that one already. Overall, as awesome and completely livable as a country founded on freewheeling and unregulated whiskey distillation and consumption sounds, be glad the American Revolution was the only successful rebellion of the late 1700s, because had the Whiskey Rebellion turned into a hostile military conflict, it's unlikely the Constitution's brand of democratic republicanism would have survived long. By the time the federal force reached Pittsburgh, the rebels had dispersed and the Whiskey Rebellion was over.

Don't worry though, there is a happy ending here for whiskey. There were only two convictions after the rebellion and both were pardoned by Washington. The tax was also repealed by Jefferson a few years later, so the rebels, and the Scotch-Irish, were back to pretty much where they'd been during the Revolution.

It wasn't the end of the conflict between the federal government and whiskey distillers, but there was a bit of a lull. Taxes came and went while moonshiners kept trying to find ways to get around them. But then we come to the Civil War.



Civil War Tax Conflict

The government knew the Civil War was going to be expensive at about the same time people figure out other wars are going to be expensive. Namely, when it's not over by whatever holiday was closest. To offset the cost of the war, Congress <u>established</u> the Internal Revenue Service, who was tasked with collecting taxes on luxuries, including liquor and tobacco. Which is admittedly a far more badass origin story for the IRS than we thought they'd have.

Like we said earlier, the production of moonshine still wasn't illegal, even a hundred years after the Whiskey Rebellion. The illegal thing was not paying the taxes on the spirits. And a whole bunch of people not paying taxes was the reason that active patrols resumed in the Appalachian Mountains in the <u>1870s</u>.

Now, before the war, distillers were seen as farmers who were trying to make a little extra cash selling something everyone wanted. During and after the war, public perception started to shift to a more favorable opinion of the federal government and the agents, the revenuers, it sent after the moonshiners. This shift happened because, especially in northern Georgia, there was a sustained conflict over taxes and the conflict got a lot of coverage in the press. It's one of the first times illegal liquor gang mentality and tactics popped up, a mentality that would absolutely carry on through Prohibition and beyond.

Moonshiners not only violently clashed with agents trying to enforce the law, but they went after locals who were or were thought to be helping revenuers find the lawbreakers. By the 1870s, the ever-present authorities on good judgement and reasoned thinking, the Ku Klux Klan, joined the fray on the side of the moonshiners. Rule of thumb, if the KKK's on your side, reevaluate your side.

This is where the modern meaning of "moonshine" really took hold. With the federal government cracking down on the illegal distribution of alcohol, distillers were made nocturnal. Their activities were done by the light of the moon and because people are rarely creative when it comes time to nickname criminals, the term "moonshiner" was born.

Consumption's never been illegal, by the way, even during Prohibition. The wording of the laws has always forbade tax evasion or production, never the act of drinking.

By the 1880s, public opinion shifted so much that the temperance movement actually began to get some traction. Probably, and we're just guessing here, if the moonshiners hadn't been such dicks about killing federal agents and not paying taxes, the taxes would have gone the same way as those that led to the Whiskey Rebellion. The taxes weren't really supported by the public in the first place and the moonshiners could've kept right on shinin' with only a brief interruption in their otherwise favorable industry. Instead, they started shootouts and ratted each other out, because when you have a good thing going, it's just a matter of time before you ruin it yourself.

Speaking of ruining things, let's talk about Prohibition.



Prohibition

To talk about moonshine in Prohibition, we have to talk about the temperance movement. Thanks to some serious religious revivalism in the early 1800s and the moonshiners' violent resistance to taxation, the temperance movement got real strength early on. Through public demonstrations and advertisements, the movement convinced people that alcohol was to blame for immoral behavior, violence, and the overall decline of pure American values.

But speeches and ads weren't the only things they used to make their argument. Temperance advocates destroyed saloon windows and kegs of alcohol with a hatchet, which didn't really do a whole lot to validate their claim about alcohol being the cause of physical violence. Unless they were drunk, in which case, maybe they weren't there for the right reasons.

In any case, the movement built some momentum, the "noble experiment," the 18th Amendment, was ratified. The manufacture, transport, and sale of alcohol were banned. Maybe if they knew what was coming, they wouldn't have pushed so hard to get everyone to give up booze.

First off, bootlegging is directly to thank (or blame, depending on your view) for NASCAR and to NASCAR's credit, they fully embrace their origins. On their <u>official site</u> NASCAR has a whole breakdown of exactly what happened between the 18th Amendment and their first official left

turn. Basically, those Appalachian guys we've been talking so much about didn't have many options for income, just as they always haven't. Bootlegging was a choice made for them and since fancy, fast driving is something people brag about, competitions on homemade tracks started not long after. And now we have NASCAR.



We mentioned the irony of the temperance movement and their violence, so we'll double down. They're at least partially responsible for one of the biggest violent crime waves in all of American history. Before Prohibition, organized crime was fairly limited in size. During and after Prohibition, organized crime exploded and so did a whole bunch of people.

The <u>Irish</u> and the <u>Italians</u> are the two biggest examples of people who benefitted from Prohibition. While the Protestant-majority United States was distracted by its local drunk Paddy, the Irish almost completely absorbed local politics and law enforcement, with emphasis on Boston and New York. It wasn't uncommon for criminals, cops, and politicians to come from the same Irish family. They locked down virtually every part of the moonshining trade and built a criminal and political empire that took decades to even begin to fade.

For an example of Irish success during Prohibition, we only have to look at President #35. John F. Kennedy was the son of a former bootlegger, Joseph P. Kennedy, who wanted to dispel the negative reputation of Irish immigrants and Irish Americans as criminals. Missing his own point, he used mob connections to get JFK elected. Admittedly, it helped build a favorable image with society at large, but then he got greedy. His other son, Attorney General Bobby Kennedy, worsened the already violent relations between the Irish and the Italians.

The Italian involvement in Prohibition were much the same, but far more organized. Family structure and connections ensured loyalty to the brand. They never quite got the hold the Irish did over Prohibition, partially because they didn't have the influence in the police force, but with two groups of people with deeply rooted sense of community, one tribal and one family, conflict was inevitable. Ultimately, organized Italian families outlasted haphazard Irish gangs, thought the Irish hold in politics and law enforcement continued to cause problems for the Italians.

The explosive expansion of organized crime during Prohibition didn't stop with the 21st Amendment either. Devastating violence and drug abuse is still around, largely prompted by what the temperance movement "accomplished."

So far, with NASCAR and unfathomable violence, moonshine's 20th century history isn't looking great. So let's pile one more shitty thing on top. Thousands of people died from <u>poison</u> moonshine and it was mostly the fault of the <u>government</u>.

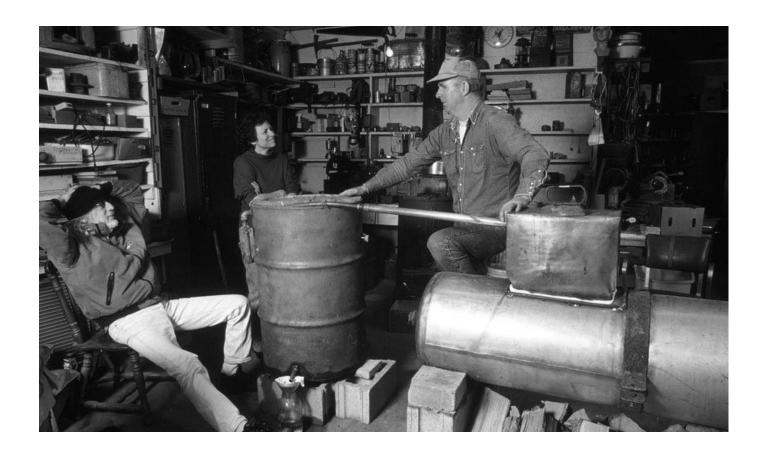
Prohibition only outlawed recreational alcohol. Not with those words, but that was the idea. But industrial alcohols were still a thing and with their normal sources gone, people got desperate. The stuff was dangerous enough before the government got involved, but the feds got pissed people were still getting pissed. They ordered that various poisonous substances be added to the alcohol, hoping they would serve as an added deterrent. Apparently "industrial alcohol" wasn't enough. But the bootleggers still stole and sold it, so by Prohibition's repeal, estimates put the number of federally sanctioned poisonings at roughly 10,000. That's just deaths, by the way, and is a lot more people than we're comfortable being poisoned by our government. For the record, we're comfortable with zero.

That poison is added on top of the dangers already present in moonshine in the form of <u>methyl</u> <u>alcohol</u>. People who are good at making moonshine know how to remove or avoid it, but, and this brings us to our next thing, not everyone making moonshine is good at their job. Just like

today's pirated movies, knock-off iPhones, and payday lenders, people were trying to capitalize on ignorance and impulse spending. Just like today, those products weren't always top quality. The difference is, today you probably won't be killed by a bad movie download.

American whiskey's current popularity has a lot to do with Prohibition's repeal. People sprinted back to the authentic stuff, since a lot of alcohol in the meantime was poisonous, blinding rotgut. If they were going to die from alcohol poisoning, they were going to do it the old-fashioned way. That is, they'd drink so many Old-Fashioneds that they died. Just like Grandaddy wanted.

We're not done yet. Moonshine's still around and you've almost definitely seen its distinctive packaging on your local distributor's shelves. There's more to say about moonshine in 2016.



Modern Moonshine

The <u>international</u> market for moonshine is still killing people. In 2015, nearly a hundred people in Mumbai were killed by a bad batch of homemade moonshine, with forty-six more hospitalized. But an incident in West Bengal saw hundreds of people poisoned by illegal alcohol. One hundred sixty-eight people died and a 2008 tragedy saw up to 180 deaths in total. Nigeria's also having

some trouble with Ogogoro, their own special brand of illegal gin.

It's still a problem in the United States, too. We're not at Prohibition levels of illegality or prevalence, but make no mistake, you can't go hocking "Mountain Mike's Bathtub Magic" at the local bar. Despite that, asshole distillers sell illegal, deadly, impure alcohol to people in poor neighborhoods. Also, law enforcement is worried about the health risks rather than tax revenue now. Seems like they're trying to make up for all the intentional poisoning they did back in the Twenties.

Interestingly, there was also a big urban shift for American moonshiners. They found it was easier to get around taxes and hide their stills on private property since law enforcement needs a search warrant to get on the premises. There's also been a change in who does the enforcing. The IRS is no longer as badass as it once was, since busting modern moonshine falls to the Bureau of Alcohol, Tobacco, and Firearms.

Ultimately though, "moonshine" today describes the style of liquor rather than the legality of it. The moonshine you're buying from your corner liquor store isn't authentic, in the traditional sense. Sure, it was made the same way and it came in a mason jar, but you found it in a store. That's really where it stops being illegal. At this point, moonshine's pretty much another word like bourbon, scotch, cognac, or one of the thousand words for wine.

Which means *Moonshiners*, the show about backwoods guys hiding from the law, <u>isn't real</u>. Those guys aren't in jail for the same reason Bryan Cranston hasn't been arrested for cooking meth. You can straight up <u>buy</u> the moonshine they make on the show, so everything you see on TV is pretty legal. In fact, your uncle with the wine casks in his basement is probably breaking more laws than the guys on *Moonshiners*.

In fact, moonshine's so legal it's in danger of becoming a <u>corporate</u> cash grab. It's actually approaching depressing. In the same way that <u>craft beer</u> companies are being bought up by the truckload, moonshine's old and storied history is slowly being edged out by larger companies looking to turn a trend into a profit. With the success of brands like Ole Smoky, Jim Beam and Jack Daniels both threw their own white whiskies on the market. Notice Jim Beam and Jack Daniels are distinctly not the names of those two guys you met on a hike who tried to sell you a triple x clay pot.

The solution here, just as it is with craft beer, is to do a bit of research before you buy. You can still enjoy an American classic, even if it's not illegal. But for the sake of all those guys who fought the government for as long as they did, stay close to tradition and buy your moonshine from a small company. Or, and this is one hundred percent not an endorsement or legal advice, make your own. We have a sneaking suspicion that the small business guys selling legal moonshine would totally understand why you decided to build your own still and would be fine with the lost business. In fact, they might even have a few tips for you.

LIKE TWEET Shares: 37

Author: Dillon McLaughlin

More: Features, Food & Drink, History, Moonshine

SHOP + PARTNERS



ADVERTISEMENT

SMARTNEWS Keeping you current

The Deadly Side of Moonshine

The Czech Republic is issuing a ban on all alcoholic drinks with a 20% or higher alcohol content in the wake of 20 deaths

By Mary Beth Griggs

SMITHSONIAN.COM

SEPTEMBER 18, 2012





















ed rotgut for a reason. The Czech Republic is issuing a ban on all alcoholic drinks with a phol content in the wake of 20 deaths. That means anything above 40 proof is off the hs.

SUBSCRIBE RENEW GIVE A GIFT Smithsonian magazine

bootleggers illi their bottles with cheaply produced alcohol that can, in some cases,

become contaminated with methanol.

From The New York Times:

BENEAT

ADVERTISEMENT

"Police officials said they believed the alcohol that was laced with methanol, a chemical used in industrial items like fuel and antifreeze, had been sold at a discount using fake labels from at least two Czech liquor makers in bottles that were not properly sealed and were labeled as vodka or other local spirits. The poisoning does not appear to have been intentional but rather a byproduct of illicit distributors trying to squeeze profits, officials said."

Methanol poisoning is a dreadful way to go. Even if you manage to avoid death, blindness and brain damage are common in survivors. (Hence the term "blind drunk.")

And this is hardly the first time in recent years that bootleg liquors have caused so much death and destruction. Last winter, illegally made liquor killed at least 169 people in India. In Estonia in 2001, 111 people were affected by a bad batch of alcohol.

Often the only noticeable warning sign that victims might detect is a strange taste to their cocktails. If identified soon enough, doctors can treat the condition with the drug fomepizole, but with such high stakes, it's safe to say that the Prohibition in Prague makes sense.

More from Smithsonian.com:

Czech Beer

Prohibition's Premier Hooch Hounds

Wayne B. Wheeler: The Man Who Turned Off the Taps

Like this article? **SIGN UP** for our newsletter

SIGN UP
Joidin Oi



PREVIOUS ARTICLE

Internet Library
Archived Every Last
Bit of News That 20
Channels Produced
Over Three Years

NEXT ARTICLE

After a Four Year Fight, Scientists Announce No Link Between XMRV and Chronic Fatigue Syndrome



TAGS

Health Trending Today



















Mary Beth Griggs is a freelance science journalist based in New York City.

Read more from this author | Follow @MaryBethGriggs

PAID CONTENT

ADVERTISEMENT

Sponsored Content



Trump Is Giving Homeowners Until February 28th To... proandeasy.club



17 Unbelievable Facts You Never Knew About World War II War Bitz



Thinking About Installing Solar Panels? Read This First Energy Bill Cruncher



See the Sweatshirt That's Getting All the Hype in...

American Giant on American Giant on



Librarians Love It - The One Website Book Lovers Need...

The Book Insider



These Are the Best Luxury Cars Yahoo Search

Recommended by **Outbrain**

COMMENT ON THIS STORY

0 Comments **Smithsonian Magazine** Login -





Just In

Print

Australia

World Trump's America

Business

Sport

Arts Analysis & Opinion

Programs

More

Email Fa

Facebook Twitter

More

Christmas moonshine kills 23 in Pakistan town, makes dozens sick, police say

Posted 27 Dec 2016, 2:42am

A toxic homemade Christmas liquor has killed at least 23 people, mostly from Pakistan's Christian minority community, and made dozens sick, police said.

RELATED STORY: Putin demands curbs on products with alcohol after deaths in Siberia

RELATED STORY: 21 dead in India alcohol poisoning incident

MAP: Pakistan

At least 45 people were treated for poisoning after drinking the moonshine in the town of Toba Tek

Singh, Punjab province, about 315 kilometres south of Islamabad.

"The maker and supplier of the toxic liquor is also included among the dead," senior police official Bilal Kamyana said.

"The maker prepared liquor at home and sold it in polythene bags for 500 rupees (about \$6) each."

Deaths from tainted liquor, often home-brewed, occur periodically in Muslim-majority Pakistan, often around religious festivals.

In March, at least 40 people, mostly Hindus, died after drinking toxic liquor days ahead of the festival of Holi

It is illegal for Muslims to buy or consume alcohol in the country, and minorities need permits to buy it in restricted quantities.

Christians make up about 1.6 per cent of Pakistan's 190 million people, with most living in Punjab.

Reuters

From other news sites:

- BBC: Toxic liquor kills at least 26 in Pakistan
- Daily Mail: Death toll from using toxic liquor jumps to 27 in Pakistan
- CBS News: Toxic liquor leaves dozens dead in Pakistan over the holidays
- · New York Times: Nearly 30 Christians in Pakistan Die After Drinking Toxic Alcohol on Christmas
- News.com.au: Christmas moonshine kills 23 in Pakistan

Powered by bing

Find out more about these links

Topics: health, alcohol, pakistan



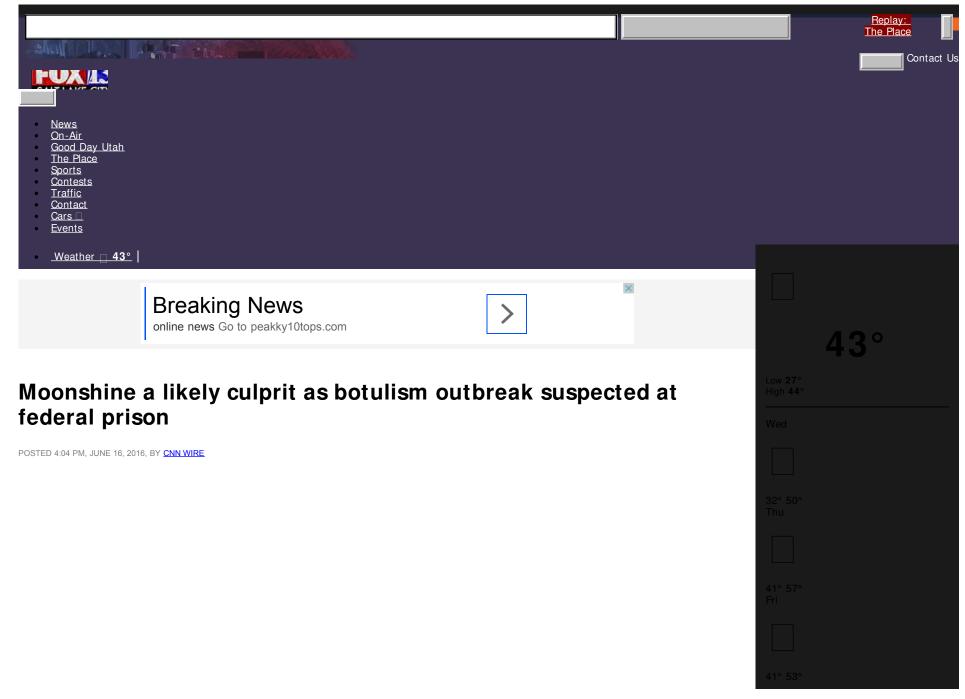
A closer look at Australia's most popular supplements

When your wife refuses conventional cancer treatment

Consumers being sold complementary medicines with unproven benefits

TOP STORIES

- Kim Jong-un's half-brother 'murdered' in Malaysia
- 'What did Trump know?' legislators seek probe into Flynn's resignation
- Air-traffic job cuts putting lives at risk, insiders warn
- Are Australian households on the edge of a debt crisis?
- Live: Cormann flags increasing tax to pay for NDISVideo shows sales team being
- forced to simulate sex acts
- Sugar tax would help Australians live 2.1 years longer: researchers
- Climate scientists sad, frustrated as extreme weather becomes the new norm
- Offensive Wicked Campers vehicles face de-registration on Queensland roads
- Pregnant reptile fossil suggests bird ancestors gave birth to live young
- 'Too frightened to live in the bush': Uarbry couple mourn fire losses
- Calls for national dementia strategy as disease set to cost \$18b by 2025
- Brothels raided in 'heavy handed' attack on Adelaide's sex industry
- Refugee camp teachers struggle to teach Syria's children



See complete forecast

Severe weather alert

PACEBOOK 21 WITER HEDDIT PRIVILERS LINKEDIN EWAIL		FACEBOOK 21	TWITTER	REDDIT	PINTEREST	LINKEDIN	☐ EMAIL
---	--	-------------	---------	--------	-----------	----------	---------

By Susan Scutti

CNN

(CNN) — Botulism is believed to be the cause of an outbreak of severe illness that has affected 20 inmates at a federal prison in Mississippi, the Federal Bureau of Prisons said Thursday. More than a dozen inmates remain hospitalized. Test results for the toxin are pending. Investigators believe the inmates became ill as a result of drinking homemade alcohol.



All the cases began at the Yazoo City Correctional Institution, a medium-security federal prison. According to officials, another inmate became ill at an Oklahoma City facility but drank the tainted moonshine before transferring there.

"Additional inmates who may have been exposed are being closely monitored," according the Bureau of Prisons. It is working with the Mississippi State Department of Health and the U.S. Centers for Disease Control and Prevention to investigate the outbreak and treat the patients.

As a precautionary measure, the Yazoo City institution, which houses 1,310 inmates, is on limited operations and has temporarily ceased family visits and release of inmates.

Liz Sharlot, a spokeswoman for the Mississippi Department of Health, said inmates began falling ill June 7 and 8.

Botulism, a rare but serious paralytic illness caused by the germ Clostridium botulinum, is not spread from person to person. Therefore, only those who consumed the contraband beverage are at risk.

Illness can begin from six hours to 10 days after exposure, although most commonly, it occurs between 12 hours and three days after consumption. Symptoms include double or blurred vision, drooping eyelids, slurred speech, difficulty swallowing and muscle weakness that moves down the body. In serious cases, botulism can result in death due to respiratory failure. Patients may have fatigue and shortness of breath for years.

Known as hooch or pruno, prison brew can be made from vegetable and fruit scraps, sugar and water.

Only 3% to 5% of patients die, according to the CDC, which reports an average of 110 cases annually. About a quarter of incidents result from food.

Botulism can also occur when spores germinate in wounds, particularly needle puncture sites on drug users. During the 1990s, wound botulism cases increased along with use of black-tar heroin, according to a 1998 study.



Moonshine Poisoning Is Still a Massive, Deadly Problem Worldwide

BY HILARY POLLACK

June 22, 2015



In the First World—the United States, namely—moonshine's status has gone from being a Prohibition-era ubiquity to something of the butt of jokes. We think of it as a beloved regional product of Appalachia, perhaps, or a potent, old-timey booze made in backyards by old men in the deep South.

But in many parts of the world, moonshine—unregulated alcohol distilled under questionable conditions—isn't just a novelty of hill-dwelling culture: It's a widely consumed beverage that subs in for vodka,

whiskey, gin, or wine, in areas where money is scarce and brand-name drinks are too pricey for much of the population. In India, it is known as *arrack*, or country liquor.

Moonshine-making has not yet followed suit with other once-dangerous technologies, and continues to be high-risk for consumers. This worrisome trend has continued to be evident in the many high-profile mass poisonings that have taken place in the past few years because of the stuff, but it is most alarming with the events that took place in the past few days in India.

Ninety-seven people (some sources are saying 99) were killed over the weekend in Mumbai as a result of drinking illegal homemade moonshine that contained highly toxic levels of methanol, a colorless form of alcohol. Commercially, it's primarily found in antifreeze, solvents, and even biofuel. And frighteningly, it tastes similar to its potable chemical cousin, but is extremely harmful when consumed—causing blindness, coma, and/or death. An additional 46 patrons of the dens remain hospitalized, many in critical condition.

Police seized more than 1,000 liters of the arrack and arrested seven people—five men and two women—who were allegedly operating the illicit "drinking dens" in the Laxmi Nagar slums in Mumbai, on charges including culpable homicide and poisoning. Some blamed one particular man, Francis D'Mello, for running one of the deadly makeshift bars.

Neighborhood dwellers told CNN that many men within the impoverished community work stressful, difficult jobs such as cleaning human waste or sweeping gutters for miniscule pay, and would drink the local moonshine as a means of escapism from the harsh realities of the slums, some to "numb their senses" from the horrific smells they were entrenched in during their daily grind.

This is hardly the first time that India has seen a bona fide massacre as a result of illegal moonshine operations. In 2011, 168 people were killed and hundreds more were hospitalized by drinking poisoned bootleg liquor in West Bengal, and the 2008 Karnataka-Tamil Nadu hooch tragedy was responsible for more than 150—possibly as many as 180—deaths in total.

Despite all of the horror stories, bootleg liquor remains popular in India as in other poor nations where legit booze can cost up to seven times as much as its homemade counterpart.

Last week, the Nigerian government banned the sale of illegally made gin known as *Ogogoro*, also called *kparaga* or *Kai-Kai*, after 56 people died in the Rivers state and Ondo states due to methanol poisoning from the drink.

Though these mass deaths are traffic, they remain all too common in many parts of the world. The only hope is that one might be frightening enough to ward off those who buy or sell this cheap booze that is all too pricey in its true costs.

TOPICS: alcohol, arrack, booze, country liquor, homemade, India, methanol, moonshine, poison, poisoning, poverty, slums, toxic

Recommended -



What It's Like as a Waitress to Watch Your Messy Valentine's Day Tinder Date



This Spicy Fried Fish Sandwich Is the Love Child of Peruvian and Japanese



Working as a Grocery Store Clerk Meant Dealing with Drunks, Thieves, and Abuse

Li'l Abner - Wikipedia 2/14/17, 2:43 PM

Li'l Abner

From Wikipedia, the free encyclopedia

Li'l Abner was a satirical American comic strip that appeared in many newspapers in the United States, Canada and Europe, featuring a fictional clan of hillbillies in the impoverished mountain village of Dogpatch, USA. Written and drawn by Al Capp (1909–1979), the strip ran for 43 years, from August 13, 1934 through November 13,

1977.^[1] It was distributed by United Feature Syndicate. Comic strips typically dealt with northern urban experiences before Capp introduced Li'l Abner, the first strip based in the South. Although Capp was from Connecticut, he spent 43 years writing about a fictional southern town. The comic strip had 60 million readers in over 900 American newspapers and 100 foreign papers in 28 countries. Author M. Thomas Inge says Capp "had a profound influence on the way the world viewed the American South."^[2]

Contents

- 1 Cast
 - 1.1 Main characters
 - 1.2 Supporting characters and villains
 - 1.3 Fearless Fosdick
- 2 Setting and fictitious locales
 - 2.1 Dogpatch
 - 2.2 Lower Slobbovia
 - 2.3 Other fictional locales
- 3 Shmoos and other mythic creatures
- 4 Dialogue and catchphrases
- 5 Toppers and alternate strips
- 6 Licensing, advertising and promotion
- 7 Awards and recognition



"It's Jack Jawbreaker!" Li'l Abner visits the corrupt Squeezeblood comic strip syndicate in a classic Sunday continuity from October 12, 1947.

Author(s) Al Capp

Current status / Concluded

schedule

Launch date August 13, 1934

Li'l Abner - Wikipedia 2/14/17, 2:43 PM

8 Influence and legacy

• 8.1 Sadie Hawkins Day

■ 8.2 Additions to the language

8.3 Franchise ownership and creators' rights

• 8.4 Integration of women in the NCS

8.5 Social commentary in comic strips

■ 8.6 *Mad*

• 8.7 Parodies and imitations

9 Popularity and production

■ 10 *Li'l Abner* in other media

■ 10.1 Radio and recordings

■ 10.2 Sheet music

■ 10.3 Comic books and reprints

■ 10.4 Public service works

■ 10.5 Animation and puppetry

■ 10.6 Stage, film and television

■ 11 Filmography

■ 11.1 Comic strip adaptations

■ 12 Beyond the comic strip

■ 13 References

■ 14 Further reading

15 External links

End date	November 13, 1977
Syndicate(s)	United Feature Syndicate
Publisher(s)	Simon & Schuster, HRW, Kitchen Sink Press, Dark Horse, IDW Publishing
Genre(s)	Humor, satire, politics

Cast

Main characters

Li'l Abner Yokum: Abner was 6' 3" and perpetually 19 "y'ars" old. A naïve, simpleminded, gullible and sweet-natured hillbilly, he lived in a ramshackle log cabin with his pint-sized parents. Capp derived the family name "Yokum" as a combination of *yokel* and *hokum*. In Capp's satirical and often complex plots, Abner was a country bumpkin Candide — a paragon of innocence in a sardonically dark and cynical world. [3] Abner typically had no visible means of support, but sometimes earned his livelihood as a "crescent cutter" for the Little Wonder privy company, later changed to "mattress tester" for the Stunned Ox mattress company. During World War II, Abner was "drafted" into becoming the mascot emblem of the Patrol Boat Squadron 29. In one Post World War II storyline Abner became a US Air Force bodyguard of Steve Cantor (a parody of Steve Canyon) against the evil bald female spy Jewell Brynner (a parody of actor Yul Brynner)^[4] Abner's primary

goal in life was evading the marital designs of Daisy Mae Scragg, the virtuous, voluptuous, barefoot Dogpatch damsel and scion of the Yokums' blood feud enemies — the Scraggs, her bloodthirsty, semi-evolved kinfolk. For 18 years, Abner slipped out of Daisy Mae's marital crosshairs time and time again. When Capp finally gave

Li'l Abner - Wikipedia 2/14/17, 2:43 PM

in to reader pressure and allowed the couple to tie the knot, it was a major media event. It even made the cover of *Life* magazine on March 31, 1952 — illustrating an article by Capp entitled "It's Hideously True!! The Creator of *Li'l Abner* Tells Why His Hero Is (*SOB!*) Wed!!"

Daisy Mae Yokum (née Scragg): Beautiful Daisy Mae was hopelessly in love with Dogpatch's most prominent resident throughout the entire 43-year run of Al Capp's comic strip. During most of the epic, the impossibly dense Abner exhibited little romantic interest in her voluptuous charms (much of it visible daily thanks to her famous polka-dot peasant blouse and cropped skirt). In 1952, Abner reluctantly proposed to Daisy to emulate the engagement of his comic strip "ideel," *Fearless Fosdick*. Fosdick's own wedding to longtime fiancée Prudence Pimpleton turned out to be a dream — but Abner and Daisy's ceremony, performed by Marryin' Sam, was permanent. Abner and Daisy Mae's nuptials were a major source of media attention, landing them on the aforementioned cover of *Life* magazine's March 31, 1952, issue. Once married, Abner became relatively domesticated. Like Mammy Yokum and the other "wimmenfolk" in Dogpatch, Daisy Mae did all the work, domestic and otherwise — while the useless menfolk generally did nothing whatsoever.

Mammy Yokum: Born Pansy Hunks, Mammy was the scrawny, highly principled "sassiety" leader and bare knuckle "champeen" of the town of Dogpatch. She married the inconsequential Pappy Yokum in 1902; they produced two strapping sons twice their own size. Mammy dominated the Yokum clan through the force of her personality, and dominated everyone else with her fearsome right uppercut (sometimes known as her "Goodnight, Irene" punch), which helped her uphold law, order and decency. She is consistently the toughest character throughout *Li'l Abner*. A superhuman dynamo, Mammy did all the household chores — and provided her charges with no fewer than eight meals a day of "po'k chops" and "tarnips," (as well as local Dogpatch delicacies like "candied catfish eyeballs" and "trashbean soup"). Her authority was unquestioned, and her characteristic phrase, "Ah has *spoken!*," signaled the end of all further discussion. Her most familiar phrase, however, is "Good is better than evil becuz it's *nicer!*" (Upon his retirement in 1977, Capp declared Mammy to be his personal favorite of all his characters.)

Pappy Yokum: Born Lucifer Ornamental Yokum, pint-sized Pappy had the misfortune of being the patriarch in a family that didn't have one. Pappy was so lazy and ineffectual, he didn't even bathe himself. Mammy was regularly seen scrubbing Pappy in an outdoor oak tub ("Once a month, rain or shine"). Ironing Pappy's trousers fell under her wifely duties as well, although she didn't bother with preliminaries — like waiting for Pappy to remove them first. While Mammy was the unofficial mayor of Dogpatch and could read, Pappy remained illiterate. Pappy is dull-witted and gullible (in one storyline after he is conned by Marry'n Sam into buying Vanishing cream because he thinks it makes him *invisible* he picks a fight with his nemesis Earthquake McGoon), but not completely without guile. He had an unfortunate predilection for snitching "presarved tarnips" and smoking corn silk behind the woodshed — much to his chagrin when Mammy caught him.

Honest Abe Yokum: Li'l Abner and Daisy Mae's little boy was born in 1953 "after a pregnancy that ambled on so long that readers began sending me medical books," wrote Capp. Initially known as "Mysterious Yokum" (there was even an Ideal doll marketed under this name) due to a debate regarding his gender (he was stuck in a pants-shaped stovepipe for the first six weeks), he was renamed "Honest Abe" (after President Abraham Lincoln) to thwart his early tendency to steal. [9] His first words were "po'k chop," and that remained his favorite food. Though his uncle Tiny was perpetually frozen at 15½ "y'ars" old, Honest Abe gradually grew from infant to grade school age, and became a dead ringer for Washable Jones — the star of Capp's early "topper" strip. He

would eventually acquire a couple of supporting character friends for his own semi-regularly featured adventures in the strip. In one storyline he lives up to his nickname when during a nationwide search for George Washington missing socks {the finder gets to shake the President of the United States hand} after dishonestly producing a fraudulent pair he confess to the truth at the last second.

Tiny Yokum: "Tiny" was a misnomer; Li'l Abner's kid brother remained perpetually innocent and 15½ "y'ars" old — despite the fact that he was an imposing, 7-foot (2.1 m) tall behemoth. Tiny was unknown to the strip until September 1954, when a relative who had been raising him reminded Mammy that she'd given birth to a second "chile" while visiting her 15 years earlier. (The relative explained that she would have dropped him off sooner, but waited until she happened to be in the neighborhood.) Capp introduced Tiny to fill the bachelor role played reliably for nearly two decades by Li'l Abner himself, until his fateful 1952 marriage threw the carefully orchestrated dynamic of the strip out of whack for a period. [10] Pursued by local lovelies Hopeful Mudd and Boyless Bailey, Tiny was even dumber and more awkward than Abner, if that can be imagined. Tiny initially sported a bulbous nose like both of his parents, but eventually, (through a plot contrivance) he was given a nose job, and his shaggy blond hair was buzz cut to make him more appealing.

Salomey: The Yokums' beloved pet. Cute, lovable and intelligent (arguably smarter than Abner, Tiny or Pappy), she was accepted as part of the family ("the youngest," as Mammy invariably introduces her). She is 100% "Hammus Alabammus" — an adorable species of pig, and the last female known in existence. A plump, juicy *Hammus Alabammus* is the rarest and most vital ingredient of "ecstasy sauce," an indescribably delicious gourmet delicacy. Consequently, Salomey is frequently targeted by unscrupulous sportsmen, hog breeders and gourmands (like **J.R. Fangsley** and **Bounder J. Roundheels**), as well as unsavory boars with improper intentions (such as **Boar Scarloff** and **Porknoy**). Her moniker was a pun on both salami and Salome.

Supporting characters and villains

- Marryin' Sam: A traveling (by mule) preacher who specializes in \$2 weddings. He also offered the \$8 "ultra-deluxe speshul," a spectacular ceremony in which Sam officiates while being drawn and quartered by four rampaging jackasses. He cleans up once a year during Sadie Hawkins Day season, when slow-footed bachelors are dragged kicking and screaming to the altar by their prospective brides-to-be. [11] Sam, whose face and figure were reportedly modeled after New York City mayor Fiorello LaGuardia, started out as a stock villain but gradually softened into a genial, opportunistic comic foil. He wasn't above chicanery to achieve his ends, and was warily viewed by Dogpatch menfolk as a traitor to his gender. Sam was prominently featured on the cover of *Life* in 1952 when he presided over the celebrated wedding of Li'l Abner and Daisy Mae. In the 1956 Broadway musical and 1959 film adaptation, Sam was perfectly played by rotund actor Stubby Kaye.
- Moonbeam McSwine: The unwashed but shapely form of languid, delectable Moonbeam was one of the iconic hallmarks of *Li'l Abner* an unkempt, impossibly lazy, corncob pipe-smoking, flagrant (and *fragrant*), raven-haired, earthly (and *earthy*) goddess. Beautiful Moonbeam preferred the company of pigs to suitors much to the frustration of her equally lazy pappy, Moonshine McSwine. She was usually showcased luxuriating among the hogs, somewhat removed from the main action of the story, in a deliberate travesty of glamour magazines and pinup calendars of the day. Capp designed her in caricature of his wife Catherine (minus the dirt), who had also suggested Daisy Mae's name. In one comic it is revealed that she bears a striking resemblance to a wealthy, well-dressed and well-washed woman named Gloria Van Welbuilt; a famous socialite. Despite her lazy nature and dirty appearance she was generally

good-natured and kind as shown when she ran off to the Dogpatch, carrying two shmoos under her arms to save them from going extinct wondering if humanity will ever be good enough for them. She also consoled Abner to stop worrying about being a father. Moonbeam also seemed to have interests in romance as in some comic strips she was seen flirting with and even kissing various male characters including Abner. She once expressed the desire of having a family of her own and she actually discussed the matter of trapping a husband if she got cleaned up to Abner. In one strip it was revealed that Moonbeam was in fact in love with Abner when they were children. In the same strip it was shown that Moonbeam's disposition for filth was born out of a failure to understand the turn-ons of Abner when he was a child. Strangely she actually disliked hogs as a child but after seeing Abner ignoring the openly romantic advances of a clean Daisy Mae, she dived right into a mud-hole headfirst where some hogs were wallowing to earn his love believing that if Abner didn't like clean girls he must have liked them dirty. Much to her disappointment however this too failed to capture his attention. Moonbeam was also unknowingly the star of a horror movie directed by Rock Pincus head film director of a race known as the Pincushions from Pincus 7. Unfortunately this venture ended in tragedy for Rock when he was unknowingly grilled, put into a hot dog bun and devoured while he was still alive.

- Hairless Joe and Lonesome Polecat: The proud purveyors of "Kickapoo Joy Juice" a moonshine elixir of such stupefying potency that the fumes alone have been known to melt the rivets off battleships. Concocted in a large wooden vat by the inseparable cave-dwelling buddies Lonesome Polecat (he of the Fried Dog Indian tribe, later known as the Polecats, "the one tribe who have never been conquered,") and Hairless Joe (a hirsute, club-wielding, modern Cro-Magnon who frequently made good on his oft-repeated threat, "Ah'll bash yore haid in!") The ingredients of the brew are both mysterious and allencompassing [13] (much like the contents of their cave, which has been known to harbor prehistoric monsters). When a batch "needs more body," the formidable pair simply goes out and clubs one (often a moose), and tosses it in. Over the years, the "recipe" has called for live grizzly bears, panthers, kerosene, horseshoes and anvils, among other ingredients. An officially licensed soft drink called Kickapoo Joy Juice is still produced by the Monarch Beverage Company of Atlanta, Georgia. Lonesome Polecat was also the official team mascot of the Sioux City Soos (1940–1960), [14] a former Minor League baseball franchise of Sioux City, Iowa.
- Joe Btfsplk: The world's worst jinx, Joe Btfsplk had a perpetually dark rain cloud over his head. Instantaneous bad luck befell anyone unfortunate enough to be in his vicinity. Though well-meaning and friendly, his reputation inevitably precedes him so Joe is a very lonely little man-so he associates himself with the Scraggs-except in World War II when Joe decided to do his patriotic duty-and associate himself with Hirohito!. He has an apparently unpronounceable name, but creator Al Capp "pronounced" Btfsplk by simply blowing a "raspberry," or Bronx cheer. [15] Joe's personal storm cloud became one of the most iconic images in the strip.
- Senator Jack S. Phogbound: His name was a thinly disguised variant on "jackass," as made plain in his deathless campaign slogan (see Dialogue and catchphrases). The senator was satirist Al Capp's parody of a blustering self-serving Southern politician. Before 1947 Phogbound had been known as Fogbound, but in that year Phogbound "blackmails his fellow Washington senators to appropriate two million dollars to establish Phogbound university," and its attendant brass statue of Phogbound, both reminiscent of self-aggrandizements by Huey Long; [16] the name change allowed Capp to sharpen the joke by calling the university P.U. [17] Phogbound is a corrupt, conspiratorial blowhard; he often wears a coonskin cap and carries an old fashioned flintlock rifle to impress his gullible constituents. In one sequence, Phogbound is unable to campaign in Dogpatch so he sends his aides with an old, hot air-filled gas bag that resembles him. Nobody *noticed the difference*!
- Available Jones: Dogpatch entrepreneur Available Jones was always available for a price. He had

many sidelines, including minding babies (Dry — 5ϕ , Other kinds — 10ϕ). He provided anything from a safety pin to a battleship, but his most famous "provision" was his memorable cousin — Stupefyin' Jones.

- **Stupefyin' Jones:** A walking aphrodisiac, Stupefyin' was stunning literally. So drop-dead gorgeous that any male who glimpsed her froze petrified in his tracks and rooted to the spot in a word, *stupefied!* While she was generally favored by the males of Dogpatch, she could be deadly for a confirmed bachelor to encounter on Sadie Hawkins Day. Statuesque actress Julie Newmar became famous overnight for playing the small role in the 1956 *Li'l Abner* Broadway musical (and the 1959 film adaptation) without uttering a single line. ^[18]
- General Bullmoose: Created by Al Capp in June 1953, Bashington T. Bullmoose was the epitome of a mercenary, cold-blooded capitalist tyrant tycoon. Bullmoose's bombastic motto (see Dialogue and catchphrases) was adapted by Capp from a statement made by Charles E. Wilson, the former head of General Motors when it was America's largest corporation. In 1952 Wilson told a Senate subcommittee, "What is good for the country is good for General Motors, and vice-versa." Wilson later served as United States Secretary of Defense under President Dwight D. Eisenhower. [19] Bullmoose had a simple boyhood dream: to possess all the money in the world. He very nearly did. Bullmoose Industries seemed to own or control *everything*. He had a milksop of a son named Weakfish, and was sometimes accompanied by his delectable "secretary," Bim Bovak (whose name was a pun on both "bimbo" and bombshell actress Kim Novak). Li'l Abner became embroiled in many globetrotting adventures with the ruthless, reactionary billionaire over the years.
- Wolf Gal: A feral, irredeemable, Amazonian beauty who was raised by wolves and preferred to live among them; she lured unwary Dogpatchers to their doom to feed her ravenous pack. Wolf Gal was possibly, and even probably a cannibal although the point was never stressed since she considered herself an animal, as did the rest of Dogpatch. One of Capp's more popular villains, Wolf Gal was briefly merchandised in the fifties with her own comic book, doll, handpuppet, and even a latex Halloween mask.
- Earthquake McGoon: Billing himself as "the world's dirtiest wrassler," the bearded, bloated McGoon first appeared in *Li'l Abner* as a traveling exhibition wrestler in the late 1930s, and was reportedly partially based on real-life grappler Man Mountain Dean. He also has a look-alike cousin named **Typhoon McGoon**. McGoon became increasingly prominent in the *Li'l Abner* Cream of Wheat print ads of the 1940s, and later, with the early television exposure of gimmicky wrestlers such as Gorgeous George. [20] Earthquake is the nastiest resident of neighboring Skonk Hollow a nightmarish, notoriously lawless community where no sane Dogpatcher dares set foot. The randy McGoon often attempted to walk Daisy Mae home "Skonk Hollow style" the lascivious implications of which are never made specific.
- The (shudder!) Scraggs: Hulking, leering, gap-toothed twin miscreants Lem and Luke and their needlessly proud pappy, Romeo. Apelike and gleefully homicidal, the impossibly evil Scraggs were officially declared inhuman by an act of Congress. The Scraggs were so awful, they burned down orphanages just to have light to read by (although the joke was on them when they remembered they couldn't read!) Distant kinfolk of Daisy Mae, they carried on a blood feud with the Yokums throughout the run of the strip-in their first introduction after being run out of a Kentucky county at gunpoint, they tried to kill Li'l Abner but were beaten up by both Abner and his mother Mammy Yokam. A long-lost kid sister named "*@!!*!"-Belle Scragg briefly joined the clan in 1947. Fetchingly-attired in a prison-striped reform school miniskirt, "*@!!*!"-Belle was outwardly attractive but just as rotten as her siblings on the inside. Her censored first name was an expletive, compelling everyone who addressed her to apologize profusely afterwards.
- **Nightmare Alice:** Dogpatch's own "conjurin' woman," a hideous, cackling crone who practiced Louisiana Voodoo and black magic. Capp named her after the carnival-themed horror film, *Nightmare*

Alley (1947). Alice employs witchcraft to "whomp up" ghosts and monsters to do her bidding. She was occasionally assisted by **Doctor Babaloo**, a witch doctor of the Belgian Congo, as well as her demonchild niece **Scary Lou**, who specializes in vexing voodoo dolls that resemble Li'l Abner.

- Ole Man Mose: The mysterious Mose was reportedly hundreds of "y'ars" old, and lived like a hermit in a cave atop a mountain. (He obstinately refused to "kick the bucket," which was conveniently positioned just outside his cave door.) His wisdom is absolute ("Ole Man Mose he knows!"), and his sought-after annual Sadie Hawkins Day predictions though frustratingly cryptic and infuriatingly misleading are nonetheless 100% accurate.
- Evil-Eye Fleegle: Fleegle has a unique and terrifying skill the evil eye. An ordinary "whammy," as he called it, could stop a charging bull in its tracks. A "double whammy" could fell a skyscraper, leaving Fleegle exhausted. His dreaded "triple whammy" could melt a battleship but would practically kill Fleegle in the process. [21] The zoot suit-clad Fleegle was a native of Brooklyn, and his burlesque New York accent was unmistakable especially when addressing his "goil," the zaftig Shoiley. Fleegle was so popular, licensed plastic replicas of Fleegle's face were produced in the 1950s, to be worn like lapel pins. Battery-operated, the wearer could pull a string and produce a flashing light bulb "whammy." Fleegle was reportedly based on a real-life character, a Runyonesque local boxing trainer and hanger-on named Benjamin "Evil Eye" Finkle. Finkle and his famous "hex" were a ringside fixture in New York boxing circles during the 1930s and '40s. Fleegle was vividly portrayed by character actor Al Nesor in the aforementioned stage play and film.
- **J. Roaringham Fatback:** The self-styled "Pork King" was a greedy, gluttonous, unscrupulous business tycoon. Incensed to find that Dogpatch cast a shadow on his breakfast egg, he had Dogpatch moved instead of the egg. The bloated, porcine Fatback is, quite literally, a corporate swine.
- Gat Garson: Li'l Abner's doppelgänger a murderous racketeer, with a predilection for Daisy Mae.
- Aunt Bessie: Mammy's socialite kid sister, the Duchess of Bopshire, was the "white sheep" of the family. Bessie's string of marriages into Boston and Park Avenue aristocracy left her a class-conscious, condescending snob. Her status-seeking crusade to makeover Abner and marry him off into high society was doomed to failure, however. Aunt Bessie virtually disappeared from the strip after Abner and Daisy Mae's marriage in 1952.
- **Big Barnsmell:** The lonely "inside man" at the "Skonk Works" a dilapidated factory located on the remote outskirts of Dogpatch. Scores of locals are done in yearly by the toxic fumes of concentrated "skonk oil," which is brewed and barreled daily by Barnsmell and his cousin ("outside man" **Barney Barnsmell**) by grinding dead skunks and worn shoes into a smoldering still, for some unspecified purpose. His job played havoc with his social life ("He has an air about him," as Dogpatchers tactfully put it), and the name of his famous facility entered the modern lexicon via the Lockheed Skunk Works project.
- Soft-Hearted John: Dogpatch's impossibly mercenary, thoroughly blackhearted grocer, the ironically named Soft-Hearted John gleefully swindled and starved his clientele and looked disturbingly satanic to boot. He had an idiot of a nephew who sometimes ran the store in his stead, aptly named Soft-Headed John.
- **Smilin' Zack:** Cadaverous, outwardly peaceable mountaineer with a menacing grin and an even more menacing shotgun. He preferred things "quiet." (*Real* quiet, that is not breathing or anything.) Zack's moniker was a take-off on another comic strip, *The Adventures of Smilin' Jack* by Zack Mosley.
- **Dr. Killmare:** The local Dogpatch physician, who just happened to be a horse doctor. His name was a pun on movie, radio and TV's *Dr. Kildare* series.
- Cap'n Eddie Ricketyback: Decrepit World War I aviator and proprietor/sole operator of the even more decrepit Dogpatch Airlines. Cap'n Eddie's name was a spoof of decorated World War I flying ace, Eddie Rickenbacker. In 1970, Cap'n Eddie and his firm Trans-Dogpatch Airlines were awarded the West Berlin

Route by his old rival Count Felix Von Holenhedt.

• Count Felix Von Holenhedt: German flying ace who in 1970 (age 89) was appointed as West German Civil Aviation Chief. He was never photographed without his World War I spiked helmet on his head. He wore it to cover the hole in his head that had been caused by being shot "clean through th' haid, in a dogfight over Flanders Field in 1918" by Cap'n Eddie Ricketyback.

- Weakeyes Yokum: Before Mister Magoo there was Dogpatch's own Cousin Weakeyes, who would tragically mistake grizzly bears for romantically-inclined "rich gals" in fur coats, and end a sequence by characteristically walking off a cliff.
- Young Eddie McSkonk and U.S. Mule: Ancient, creaky, white-bearded Dogpatch postmaster and his hoary jackass mount. They were usually too feeble to handle the sacks of timeworn, cobweb-covered letters marked "Rush" at the Dogpatch Express post office.
- J. Colossal McGenius: The brilliant marketing consultant and "idea man" who charged \$10,000 per word for his sought-after business advice. McGenius was given to telling long-winded jokes with forgotten punch lines, however— as well as spells of hiccups and belches which, at ten grand a pop, usually bankrupted his unfortunate clients. (He had a regrettable fondness for gassy soft drinks like "Burpsi-Booma" and "Eleven Urp.") He was aided by his lovely and meticulously efficient secretary, Miss Pennypacker.
- **Silent Yokum:** Prudent Cousin Silent never utters a word unless it's absolutely, *vitally* important. Consequently, he hasn't spoken in 40 years. The arrival of Silent's grim visage in Dogpatch signaled earthshaking news on the horizon. Capp would milk reader suspense by having Silent "warm up" his rusty, creaking jaw muscles for a few days, before the momentous pronouncement.
- **Happy Vermin:** The "world's smartest cartoonist" a caricature of Ham Fisher who hired Li'l Abner to draw his comic strip for him in a dimly-lit closet. Instead of using Vermin's tired characters, Abner had inventively peopled the strip with hillbillies. A bighearted Vermin told his slaving assistant: "I'm proud of having created these characters!! They'll make millions for me!! And if they do I'll get *you* a new light bulb!!"
- **Big Stanislouse**; aka **Big Julius**: Stanislouse was a brutal gangster with a childish fondness for kiddie TV superheroes (like "Chickensouperman" and "Milton the Masked Martian"). Part of a virtual goon squad of comic mobsters that inhabited *Li'l Abner* and *Fearless Fosdick*, the oafish Stanislouse alternated with other all-purpose underworld thugs, including "the Boys from the Syndicate" Capp's euphemism for The Mob.
- The Square-Eyes Family: Mammy's revelatory encounter with these unpopular Dogpatch outcasts first appeared in 1956. The fable-like story was really a thinly-veiled appeal for racial tolerance. It was later issued as an educational comic book called *Mammy Yokum and the Great Dogpatch Mystery!* by the Anti-Defamation League of B'nai B'rith.
- Appassionata Von Climax: One of a series of predatory, sexually aggressive sirens who pursued Li'l Abner prior to his marriage, and even afterwards, much to the consternation of Daisy Mae. Joining a long list of dishy *femmes fatales* and spoiled debutantes that included Gloria Van Welbilt, Moonlight Sonata, Mimi Van Pett and "The Tigress"; Appassionata was memorably portrayed by both Tina Louise (onstage) and Stella Stevens (on film). Capp always wondered how he ever got her suggestive name past the censors.
- Tenderleif Ericson: Discovered frozen in the mud where her Viking ship sank in 1047, Tenderleif was Leif Ericson's beautiful, teenaged kid sister (complete with breastplate armor, Viking helmet and burlesque Norwegian accent). As soon as she saw Li'l Abner, however, she started warming up and breathing hard. "She's seventeen y'ars old," explains Mammy, "and she hain't had a date fo' nine hunnerd y'ars!"
- Princess Minihahaskirt: Decades before Disney's *Pocahontas*, the sexiest cartoon Indian princesses

could be found in *Li'l Abner*. The latest in a series of lovely native maidens who enticed the normally stoic Lonesome Polecat, the list also included **Minnie Mustache**, **Raving Dove**, **Little Turkey Wing** and **Princess Two Feathers**.

- Liddle Noodnik: A typically miserable resident of perpetually frozen Lower Slobbovia, naked local waif Liddle Noodnik was usually employed to recite a farcical poem of greeting to visiting dignitaries, or sing the absurd Slobbovian national anthem (see "setting and fictitious locales"). Like many terms in *Li'l Abner*, Noodnik's name was derived from Yiddish. *Nudnik* is a slang term for a bothersome person or pest.
- Pantless Perkins: A very late addition to the strip, Capp introduced Honest Abe's brainy, ragamuffin pal Pantless Perkins in a series of kid-themed stories in the seventies, probably to compete with *Peanuts*. Poor Pantless didn't own a single pair of trousers. He wore an over-length turtleneck sweater to hide the fact much to his embarrassment. In one storyline {Feb/March 1972}the nearest he ever got a pair of pants was when he helps Honest Abe find a long lost love of a millionaire in return for a pair of pants. Unfortunately the prospective groom drops dead after tasting the terrible cooking of his bride to be and Pantless remains pantless!
- Rotten Ralphie: The kiddie version of Earthquake McGoon, Ralphie lived up to his name he was the perfectly rotten Dogpatch neighborhood bully. Exceedingly large for his age, Ralphie always wore a cowboy outfit that was several sizes too small. In one storyline after Ralphie beats up every boy in Dogpatch at the same time, he himself is beaten up when Pantless Perkins and Honest Abe trick Ralphie into getting into a fight with the Scagg boys of Skonk Hollow!
- Marcia Perkins: Innocent, outwardly normal teenager whose lips give off 451 °F of electromagnetic heat, frying the brain of any boy who kisses her. Declared a walking health hazard, poor Marcia must wear a public warning sign ("Do Not Kiss This Girl, by Order of the Dept. of Health, Education and Welfare"). Her notoriety precedes her everywhere except Dogpatch where she meets and falls for Tiny Yokum.
- **Bet-a-Million Bashby:** Bashby amassed his colossal fortune by following one simple rule: Always bet on a sure thing, and always bet with a fool. He hadn't reckoned on fool's luck, however. All through the years Bashby bet on sure things, and all through the years Abner won.
- The Widder Fruitful: Another iconic Dogpatch "regular," often glimpsed in passing or featured in crowd scenes. The ample, fertile widow invariably held three or four naked newborns under each arm, always carried backside forward, with a healthy brood of earlier offspring following in her wake.
- Loverboynik: In 1954, Capp sent a letter to Liberace addressing his intention to spoof him in *Li'l Abner* as "Liverachy." Liberace had his lawyers threaten to sue. Capp went ahead anyway, with a significant name change. Billed as the "Sweetheart of the Piano," Loverboynik is a blonde "dimpled darling" pianist and TV heartthrob. According to Capp, Liberace was "cut to the quick" when the parody appeared. Capp insisted that Loverboynik was *not* Liberace because Loverboynik "could play the piano rather decently and rarely wore black lace underwear." [22]
- **Rock Hustler:** Unscrupulous publicity agent-turned-marketing mogul. He masterminds an ad campaign promoting the miracle diet food "Mockaroni," carefully neglecting to disclose that it's both addictive and lethal. "The more you crave, the more you eat. The more you eat, the thinner you get until you (*shudder!*) float away..."
- **Dumpington Van Lump:** The bloated, almost catatonic heir to the Van Lump fortune, Dumpington can only utter one syllable ("Urp!") ...until he sets sight on Daisy Mae. A somewhat subhuman fiend, his favorite book is the disturbingly-titled "How to Make Lampshades Out of Your Friends." Capp chose the Dumpington sequence to illustrate his lesson on continuity storytelling in the *Famous Artists Cartoon Course*.
- Sam the Centaur: A "mythical critter" with a classic, chiseled profile and Apollo-like blonde mane, Sam

is a Greek centaur who occasionally roams the mountains of Dogpatch instead of the mountains of Thessaly. Available Jones, "th' most book-educated varmint in Dogpatch," pronounces: "He *hain't* real!"

- Jubilation T. Cornpone: Dogpatch's founder and most famous son, memorialized by a town statue, is Confederate General Jubilation T. Cornpone renowned for "Cornpone's Retreat," "Cornpone's Disaster," "Cornpone's Stupidity," "Cornpone's Misjudgment," "Cornpone's Hoolmiliation" and "Cornone's Final Mistake". Cornpone was such a disastrously incompetent military leader that he came to be considered an important asset of the *opposing side*. According to the stage play, the statue was commissioned by a grateful President Abraham Lincoln! Cornpone's only victories were posthumous-in one storyline, the General's statue is filled with Kickapoo Joy juice, which brings it to "life." It then goes on a rampage, beheading all the statues of Union Army generals. As the U.S. Army can't destroy it since it's a National Monument Kickapoo Joy Juice is poured into a Union statue which results in both statutes charging one another. When the smoke clears, the animated statues have annihilated each other. At Mammy Yokum's urging the statue pieces are put together with glue. The hapless general is really best known for being the namesake of the rousing showstopper in the popular *Li'l Abner* musical, as sung by Marryin' Sam and chorus.
- **Jubilation T. Cornpone Jr:** son of General Cornpone; formerly "commanded" army mules; became Commander of all U.N. Forces against Invaders from outer space-despite being described as the most incompetent general of all time-he was given the job because no other General would take it! {Feb 1959}; fell in love with big eyes "Princess Pocahauntingeyes" and lived with her in the land above the Dogpatch via the "Trashbean stalk"; henpecked Cornpone admits to Honest Abe however that all is not bliss-his "Big eyed" wife eyes have got smaller and her mouth is bigger! {Nov 20, 1971}
- Romeo McHaystack: A would be Don Juan of Pineapple Junction whose attempts at romancing women are frustrated because the Civic Improvement league tattooed a warning about him on his forehead. Discouraged he suddenly decides to romance Dogpatch women when he discovers that because atomic waste is suspended above Dogpatch, Dogpatch is permanently in darkness! [23] {The waste was dropped on DogPatch because it was thought nobody lived there since no Income taxes had been filed there since 1776!}
- Sadie Hawkins: In the early days of Dogpatch, Sadie Hawkins was "the homeliest gal in them hills" who grew frantic waiting for suitors to come a-courtin'. Her father Hekzebiah Hawkins, a prominent Dogpatch resident, grew even more frantic about Sadie living at home for the rest of his life. So he decreed the first annual Sadie Hawkins Day, a foot race in which all the unmarried women pursued the town's bachelors, with matrimony as the consequence. [24] A pseudo-holiday entirely created in the strip, it's still observed today in the form of Sadie Hawkins dances, at which women approach (or chase after) men.
- Lena the Hyena: A hideous Lower Slobbovian gal, referred to but initially unseen or only glimpsed from the neck down in *Li'l Abner*. Lena was so ugly that anyone who saw her was immediately driven mad. No sane person, therefore, could tell you what she looked like. After weeks of teasing his readers by hiding Lena's face behind "censored" stickers and strategically placed dialogue balloons, Capp invited fans to draw Lena in a famous nationwide contest in 1946. Lena was ultimately revealed in the harrowing winning entry (as judged by Frank Sinatra, Boris Karloff and Salvador Dalí) drawn by noted cartoonist Basil Wolverton.
- Joanie Phoanie: An unabashed Communist radical and agitator, who sang revolutionary songs of class warfare (with burlesque titles like "Molotov Cocktails for Two")— while hypocritically traveling via Limousine and charging outrageous concert appearance fees to impoverished orphans. Joanie was Capp's notorious parody of protest singer/songwriter Joan Baez. The character caused a storm of controversy in 1966, and many newspapers would only run censored versions of the strips. Baez took Capp's implicit satire to heart, however, as she would admit years later in her autobiography: "Mr Capp confused me

considerably. I'm sorry he's not alive to read this, it would make him chuckle," (from *And a Voice to Sing With: A Memoir*, 1987).

■ **S.W.I.N.E.:** Capp used *Li'l Abner* to satirize current events, fads, and ephemeral popular culture (such as zoot suits in "Zoot Suit Yokum," 1943). Beginning in the mid-1960s, the strip became a forum for Capp's increasingly conservative political views. Capp, who lived in Cambridge, Massachusetts, just a stone's throw from Harvard, satirized campus radicals, militant student political groups and hippies during the Vietnam War protest era. The Youth International Party (YIP) and Students for a Democratic Society (SDS) emerged in *Li'l Abner* as S.W.I.N.E. (Students Wildly Indignant about Nearly Everything!)

Parody characters include Hop-Eye De Sailor, a parody of Popeye the Sailor, Little Orphan Andy (Little Orphan Annie); Bagwood Bumphead (Dagwood Bumstead), Rip Derby (Rip Kirby), Manrank the Musician (Mandrake the Magician), Little Danny Rooney (Little Annie Rooney), and Goon Mullins (Moon Mullins).

■ Al Capp claimed that he always strove to give incidental characters in *Li'l Abner* names that would render all further description unnecessary. In that spirit, the following list of recurring semi-regulars (and a few one-shots) are unreferenced: **Tobacco Rhoda**, **Joan L. Sullivan**, **Romeo McHaystack**, **Hamfat Gooch**, **Global McBlimp**, **Concertino Constipato**, **Jinx Rasputinburg**, **J. Sweetbody Goodpants**, **Reactionary J. Repugnant**, **B. Fowler McNest**, **Fleabrain**, **Stubborn P. Tolliver**, **Idiot J. Tolliver**, **Battling McNoodnik**, **Mayor Dan'l Dawgmeat**, **Slobberlips McJab**, **One-Fault Jones**, **Swami Riva**, **Olman Riva**, **Sir Orble Gasse-Payne**, **Black Rufe**, **Mickey Looney**, "**Ironpants**" **Bailey**, **Henry Cabbage Cod**, **Flash Boredom**, **Priceless and Liceless**, **Hopeless and Soapless**, **Disgustin' Jones**, **Skelton McCloset**, **Hawg McCall**, "**Good old" Bedly Damp**, and a host of others.

Fearless Fosdick

Li'l Abner also featured a comic strip-within-the-strip: Fearless Fosdick was a parody of Chester Gould's plainclothes detective, Dick Tracy. It first appeared in 1942, and proved so popular that it ran intermittently in Li'l Abner over the next 35 years. Gould was also personally parodied in the series as cartoonist Lester Gooch—the diminutive, much-harassed and occasionally deranged "creator" of Fearless Fosdick. The style of the Fosdick sequences closely mimicked Tracy, including the urban setting, the outrageous villains, the galloping mortality rate, the crosshatched shadows, the lettering style—even Gould's familiar signature was parodied in Fearless Fosdick. Fosdick battled a succession of archenemies with absurdly unlikely names like Rattop, Anyface, Bombface, Boldfinger, the Atom Bum, the Chippendale Chair, and Sidney the Crooked Parrot, as well as his own criminal mastermind father, "Fearful" Fosdick (aka "The Original"). The razor-jawed title character (Li'l Abner's "ideel") was perpetually ventilated by flying bullets until he resembled a slice of Swiss cheese. [25] The impervious Fosdick considered the gaping, smoking holes "mere scratches," however, and always reported back in one piece to his corrupt superior The Chief for duty the next day.

Besides being fearless, Fosdick was "pure, underpaid and purposeful," according to his creator. He also had notoriously bad aim — often leaving a trail of collateral damage (in the form of bullet-riddled pedestrians) in his wake. "When Fosdick is after a lawbreaker, there is no escape for the miscreant," Capp wrote in 1956. "There is, however, a fighting chance to escape for hundreds of innocent bystanders who happen to be in the neighborhood — but *only* a fighting chance. Fosdick's duty, as he sees it, is not so much to maintain safety as to destroy crime, and it's too much to ask any law-enforcement officer to do both, I suppose." Fosdick lived in squalor at the dilapidated boarding house run by his mercenary landlady, **Mrs. Flintnose**. He never married his own long-suffering fiancée **Prudence** (*ugh!*) **Pimpleton** (they've been engaged for 17 years), but Fosdick was

directly responsible for the unwitting marriage of his biggest fan, Li'l Abner to Daisy Mae in 1952. The bumbling detective became the star of his own NBC-TV puppet show that same year. Fosdick also achieved considerable exposure as the long-running advertising spokesman for Wildroot Cream-Oil, a popular men's hair product of the postwar period.

Setting and fictitious locales

Although ostensibly set in the Kentucky mountains, situations often took the characters to different destinations — including New York City, Washington, D.C., Hollywood, the South American Amazon, tropical islands, the Moon, Mars, etc.— as well as some purely fanciful worlds of Capp's imagination:

Dogpatch

Exceeding every burlesque stereotype of Appalachia, the impoverished backwater of Dogpatch consisted mostly of hopelessly ramshackle log cabins, "tarnip" fields, pine trees and "hawg" wallows. Most Dogpatchers were shiftless and ignorant; the remainder were scoundrels and thieves. The menfolk were too lazy to work, yet Dogpatch gals were desperate enough to chase them (see Sadie Hawkins Day). Those who farmed their turnip fields watched "turnip termites" swarm by the billions every year, locust-like, to devour Dogpatch's only crop (along with their homes, their livestock and all their clothing).

The local geography was fluid and vividly complex; Capp continually changed it to suit either his whims or the current storyline. Natural landmarks included (at various times) Teeterin' Rock, Onneccessary Mountain, Bottomless Canyon, and Kissin' Rock (handy to Suicide Cliff). Local attractions that reappeared in the strip included the West Po'k Chop Railroad; the "Skonk Works", a dilapidated factory located on the remote outskirts of Dogpatch; and the General Jubilation T. Cornpone memorial statue.

In one storyline Dogpatch's "Cannonball Express" train, after 1,563 tries, finally delivers its "cargo" to Dogpatch citizens - on Oct 12, 1946! Receiving a 13-year stack of newspapers, Li'l Abner's family realizes that the Great Depression is on and that banks should close; they race to take their money out of the bank - before realizing they have no money in the bank! Other news is the inauguration of Franklin Delano Roosevelt as President on March 4, 1933 (although Mammy Yokam thinks the President is Teddy Roosevelt) and a picture of Germany's "new leader" Adolf Hitler who claims to love peace while reviewing 20,000 new planes (April 21, 1933); Mammy doesn't trust Hitler but Li'l Abner and Pappy think Hitler is a fine feller - since Senator Fogbound (Phogbound) says so!

In the midst of the Great Depression, the hardscrabble residents of lowly Dogpatch allowed suffering Americans to laugh at yokels even worse off than themselves. [26] In Al Capp's own words, Dogpatch was "an average stone-age community nestled in a bleak valley, between two cheap and uninteresting hills somewhere." Early in the continuity Capp a few times referred to Dogpatch being in Kentucky, but he was careful afterwards to keep its location generic, probably to avoid cancellations from offended Kentucky newspapers. From then on, he referred to it as Dogpatch, USA, and did not give any specific location as to exactly where it was supposed to be located. Humorously enough, many states tried to claim ownership to the little town (Georgia, Tennessee, Alabama, etc.), yet Capp would not budge. He left it at Dogpatch USA so there would be no headaches and problems. Like the Coconino County depicted in George Herriman's *Krazy Kat* and the Okefenokee Swamp of

Walt Kelly's *Pogo*, Dogpatch's distinctive cartoon landscape became as identified with the strip as any of its characters. Later, Capp licensed and was part-owner of an 800-acre (3.2 km²) \$35 million theme park called Dogpatch USA near Harrison, Arkansas.

Lower Slobbovia

As utterly wretched as existence was in Dogpatch, there was one place even worse. Frigid, faraway Lower Slobbovia was fashioned as a pointedly political satire of backward nations and foreign diplomacy, and remains a contemporary reference.^[27] Its hapless residents were perpetually waist-deep in several feet of snow, and icicles hung from almost every frostbitten nose.^[28] The favorite dish of the starving natives was raw polar bear (and vice versa). Lower Slobbovians spoke with burlesque pidgin-Russian accents; the miserable frozen wasteland of Capp's invention abounded in incongruous Yiddish humor.

Lower Slobbovia and Dogpatch are both comic examples of modern dystopian satire. Conceptually based on Siberia, or perhaps specifically on Birobidzhan, Capp's icy hellhole made its first appearance in *Li'l Abner* in April 1946. Ruled by **Good King Nogoodnik** (sometimes known as **King Stubbornovsky the Last**), the Slobbovian politicians were even more corrupt than their Dogpatch counterparts. Their monetary unit was the "rasbucknik," of which one was worth nothing and a large quantity was worth a lot less, due to the trouble of carrying them around. The local children were read harrowing tales from "Ice-sop's Fables," which were parodies of classic Aesop Fables, but with a darkly sardonic bent (and titles like "Coldilocks and the Three Bares"). Slobbovia even had its own (absurd) national anthem, which went like this:

We are citizens of Slobbovia (Oh, Sob! That this should be happening to us!) We are giving you back to the Indians (But they are refusing, of cuss!)

PTUI on you, Slobbovia!
We are hating your icebound coast
Of all the countries in the world
WE ARE HATING SLOBBOVIA MOST!!

Other fictional locales

Other fictional locales includedSkonk Hollow, El Passionato, Kigmyland, the Republic of Crumbumbo, Lo Kunning, Faminostan, Planets Pincus Number 2 and 7, Pineapple Junction and, most notably, the Valley of the Shmoon.

Shmoos and other mythic creatures

Shmoos, introduced in 1948, were fabulous creatures that bred exponentially, consumed nothing, and eagerly provided everything that humankind could wish for. Besides producing both milk (bottled, grade A) and eggs (neatly packaged), they tasted like pork when roasted, chicken when fried, and steak when broiled. Ironically,

the shmoo's generous nature and incredible usefulness made it a threat to capitalism, to western society and perhaps to civilization itself.^[29] *Li'l Abner* featured a whole menagerie of allegorical animals over the years — each one was designed to satirically showcase another disturbing aspect of human nature. They included:

- **Kigmies** Masochistic, aboriginal creatures who loved to be kicked, thereby satisfying all human aggression... up to a point, after which they went on a rampage of retaliation. (The Kigmy story was originally fashioned as a metaphor for racial and religious oppression. Capp's surviving preliminary sketches of the kigmies make this apparent, as detailed in the introductory notes to *Li'l Abner Dailies* 1949: *Volume 15*, Kitchen Sink Press, 1992).
- The Bald Iggle A cute little wide-eyed, guileless creature whose soulful gaze compelled everyone to involuntarily tell the truth including lawyers, politicians, fishermen, advertisers, husbands, wives and used car salesmen. The Iggle was officially declared a public menace by the FBI ("The life it ruins may be your own!"), and ultimately hunted down, confiscated and exterminated.
- **Nogoodniks** or *bad* shmoos.^[30] Nogoodniks were a "sickly shade of green," had "li'l red eyes, sharp yaller teeth, an' a dirty look," and were the sworn enemies of "hoomanity." Frequently sporting 5 o'clock shadows, eye patches, scars, fangs and other ruffian attributes they devoured "good" shmoos, and wreaked havoc on Dogpatch. They're finally defeated when they get subjected to George Jessel's recording of Paul Whiteman's "Wagon Wheels," a sound so excruciating that it kills them instantly. (Similar plot devices were used in the 1978 *Attack of the Killer Tomatoes* and 1996 *Mars Attacks!*.)
- **Shminfants** Modified baby shmoos, which looked like human babies but were eternally young, came in a variety of different "colors," and never needed changing.
- Shtoonks Imported from the Slobbovian embassy, Shtoonks were mean-spirited, sharp-toothed, hairy, flying creatures which were "not only sneaky, smelly and surly, but yak! yak! just try to eat one!!" Shtoonks had only one useful trait: they loved human misery so much they actually enjoyed bringing bad news. They temporarily replaced postage stamps by delivering bills and other bad news for free.
- Mimikniks Obsessive Slobbovian songbirds who sing like anyone they've ever heard. (Those who've heard Maria Callas are valued. Those who've heard George Jessel are shot.) The only song they know the words to is Short'nin' Bread, however, due to the fact that there was only one record in Lower Slobbovia.
- **The Money Ha-Ha** An alien creature from "Planet Pincus No. 2," with ears shaped like taxi horns. It laid U.S. currency in place of eggs.
- Turnip Termites Looking like a cross between a locust and a piranha, billions of these insatiable pests swarm once a year to their ancient feeding ground, Dogpatch.
- **Shminks** Valued for making "shmink coats." They can *only* be captured by braining 'em with a kitchen door.
- **Pincushions** Alien beings from "Planet Pincus No. 7." Like the earlier **Moon Critters**, they looked like flying sausages with pinwheels on their posteriors.
- **Abominable Snow-Hams** Delectable but intelligent and sensitive beings, presenting Tiny Yokum with an ethical dilemma: Does eating one constitute cannibalism?
- The Slobbovian Amp-Eater This luminous beast consumed electric currents; a walking energy crisis.
- **Bashful Bulganiks** Timid birds that are so skittish they can't be seen by human eyes, and are thus theoretical.
- **Stunflowers** Murderous, thoroughly malevolent anthropomorphic houseplants.
- **Fatoceroses** The *only* defense against a stampede of these bloated pachyderms is a steaming plate of lethally addictive "Mockaroni."
- **Bitingales** Fiendish little devil birds whose hellish bite causes unbearable heat— for 24 years.
- The Slobbovian King Crab A huge crustacean that only eats Slobbovian kings.
- The Flapaloo A scrawny, prehistoric bird that lays 1,000 eggs per minute. The eggs, when dissolved,

turn water into gasoline. The Oil industry captures the last one in existence — and mercilessly wrings its neck!

- **Gobbleglops** Looking like a cross between a hog and a teddy bear, these insatiable creatures eat rubbish (or as Mammy calls it, "glop"). They can't be touched, as they're red-hot, living incinerators; waste goes in and nothing comes out. Mammy leads them to America's major polluted cities, where they obligingly devour all the garbage. [31] But when the glop runs out they begin to consume everything (and *everyone*) else in sight...
- **Shmeagles** The world's most amorous creatures, they pursue their females at the speed of light sometimes even *faster!*
- Hammus Alabammus Faux Latin designation for an adorable (and delectable) species of swine, with a "zoot snoot" and a "drape shape." The only known one in existence resides with the Yokums their beloved pet, Salomey.

Dialogue and catchphrases

Al Capp, a native northeasterner, wrote all the final dialogue in *Li'l Abner* using his approximation of a mock-southern dialect (including phonetic sounds, eye dialect, nonstop "creative" spelling and deliberate malapropisms). He constantly interspersed boldface type, and included prompt words in parentheses (*chuckle!*, *sob!*, *gasp!*, *shudder!*, *smack!*, *drool!*, *cackle!*, *snort!*, *gulp!*, *blush!*, *ugh!*, etc.) as asides, to bolster the effect of the printed speech balloons. Almost every line was followed by *two* exclamation marks for added emphasis.

Outside Dogpatch, characters used a variety of stock Vaudevillian dialects. Mobsters and criminal-types invariably spoke slangy Brooklynese, and residents of Lower Slobbovia spoke pidgin-Russian, with a smattering of Yinglish. Comic dialects were also devised for offbeat British characters — like **H'Inspector Blugstone** of Scotland Yard (who had a Cockney accent) and **Sir Cecil Cesspool** (whose speech was a clipped, uppercrust King's English). Various Asian, Latin, Native American and European characters spoke in a wide range of specific, broadly caricatured dialects as well. Capp has credited his inspiration for vividly stylized language to early literary influences like Charles Dickens, Mark Twain and Damon Runyon, as well as Old-time radio and the Burlesque stage.

Comics historian Don Markstein commented that Capp's "use of language was both unique and universally appealing; and his clean, bold cartooning style provided a perfect vehicle for his creations." [32]

The following is a partial list of characteristic expressions that reappeared often in *Li'l Abner*:

- "Natcherly!"
- "Amoozin' but confoozin'!"
- "Yo' big, sloppy *beast!!"* (also, "Yo' mizzable *skonk!!"*)
- "Ef Ah had mah druthers, Ah'd druther..."
- "As any fool kin plainly see!" (Response: "Ah sees!")
- "What's good for General Bullmoose is good for everybody!" (Variant from the movie: "...good for the USA!")
- "Thar's no Jack S. like *our* Jack S!"
- "Oh, happy day!"
- "Th' ideel o' ev'ry one hunnerd percent, red-blooded American boy!"

- "Ah'll bash yore haid in!!"
- "Wal, fry mah hide!" (also, "Wal, cuss mah bones!")
- "Ah has *spoken!"*
- "Good is better than evil becuz it's nicer!"
- "It hain't *hoomin*, thass whut it hain't!"

Toppers and alternate strips

- **■** *Washable Jones* (1935)
- *Advice fo' Chillun* (1935–1943)
- *Small Fry* (aka *Small Change*) (1943–1945)
- *Abbie an' Slats* by Al Capp and Raeburn van Buren (1937–1971)
- Long Sam by Al Capp and Bob Lubbers (1954–1962)

Licensing, advertising and promotion

Al Capp was a master of the arts of marketing and promotion. Publicity campaigns were devised to boost circulation and increase public visibility of *Li'l Abner*, often coordinating with national magazines, radio and television. In 1946 Capp persuaded six of the most popular radio personalities (Frank Sinatra, Kate Smith, Danny Kaye, Bob Hope, Fred Waring and Smilin' Jack Smith) to broadcast a song he'd written for Daisy Mae: (*Li'l Abner*) *Don't Marry That Girl!!* [33] Other promotional tie-ins included the Lena the Hyena Contest (1946), the Name the Shmoo Contest (1949), the Nancy O. Contest (1951), the Roger the Lodger Contest (1964) and many others.

Capp also excelled at product endorsement, and *Li'l Abner* characters were often featured in mid-century American advertising campaigns. Dogpatch characters pitched consumer products as varied as Grape-Nuts cereal, Kraft caramels, Ivory soap, Oxydol, Duz and Dreft detergents, Fruit of the Loom, Orange Crush, Nestlé's cocoa, Cheney neckties, Pedigree pencils, Strunk chainsaws, U.S. Royal tires, Head & Shoulders shampoo and General Electric light bulbs. There were even Dogpatch-themed family restaurants called "Li'l Abner's" in Louisville, Kentucky, Morton Grove, Illinois and Seattle, Washington.

Capp himself appeared in numerous print ads. A lifelong chain-smoker, he happily plugged Chesterfield cigarettes; he appeared in Schaeffer fountain pen ads with his friends Milton Caniff and Walt Kelly; pitched the Famous Artists School (in which he had a financial interest) along with Caniff, Rube Goldberg, Virgil Partch, Willard Mullin and Whitney Darrow, Jr; and, though a professed teetotaler, he personally endorsed Rheingold Beer, among other products.

■ Cream of Wheat: Throughout the 1940s and 1950s, Li'l Abner was the spokesman for Cream of Wheat cereal in a long-running series of comic strip-format ads that appeared in national magazines including *Life*, *Good Housekeeping*, and *Ladies' Home Journal*. The ads usually featured Daisy Mae calling for "halp" against a threatening menace — in the person of Earthquake McGoon or, just as often, a gorilla, grizzly bear, rampaging moose, "Injun" attack, or some natural disaster like an avalanche, fire or flood. Abner is dispatched to rescue her, but not before enjoying a "dee-lishus" enriched bowl of hot Cream of Wheat which, the reader is assured, is "ready in just 5 minutes!" [34]

■ Wildroot Cream-Oil: Fearless Fosdick was licensed for use in an advertising campaign for Wildroot Cream-Oil, a popular men's hair tonic. Fosdick's iconic profile on tin signs and advertising displays became a prominent fixture in barbershops across America — advising readers to "Get Wildroot Cream-Oil, Charlie!" A series of ads appeared in newspapers, magazines and comic books featuring Fosdick's farcical battles with "Anyface" — a murderous master of disguise. (Anyface was always given away by his telltale dandruff and messy hair, however.)

- Toys and licensed merchandise: Dogpatch characters were heavily licensed throughout the 1940s and 1950s: the main cast was produced as a set of six handpuppets and 14-inch (360 mm) dolls by Baby Barry Toys in 1957. A 10-figure set of carnival chalkware statues of Dogpatch characters was manufactured by Artrix Products in 1951, and Topstone introduced a line of 16 rubber Halloween masks prior to 1960. Licensing would reach an apex, however, with the unexpected postwar merchandising phenomenon that followed Capp's introduction of the Shmoo. As in the strip, shmoos suddenly appeared to be everywhere in 1948 and 1949. A garment factory in Baltimore turned out a whole line of shmoo apparel including "Shmooveralls." Shmoo dolls, clocks, watches, jewelry, earmuffs, wallpaper, fishing lures, air fresheners, soap, ice cream, balloons, ashtrays, comic books, records, sheet music, toys, games, Halloween masks, salt and pepper shakers, decals, pinbacks, tumblers, coin banks, greeting cards, planters, neckties, suspenders, belts, curtains, fountain pens, and other shmoo paraphernalia were produced. In a single year, shmoo merchandise generated over \$25 million in sales. Close to a hundred licensed shmoo products from 75 different manufacturers were produced, some of which sold five million units each. [35] More recently, Dark Horse Comics issued four figures of Abner, Daisy Mae, Fosdick and the Shmoo in 2000 as part of their line of Classic Comic Characters statues #8, 9, 17 and 31, respectively.
- **Kickapoo Joy Juice:** The lethal brew known as Kickapoo Joy Juice, featured in the strip and characterized as moonshine or bootleg liquor (it could also remove hair, paint and tattoos) has been a licensed brand in real-life since 1965. The National NuGrape Company first produced the beverage, which was acquired in 1968 by the Moxie Company, and eventually the Monarch Beverage Company of Atlanta, Ga. As with Mountain Dew, another euphemism for moonshine, the actual product is a soft-drink. To this day the label features Capp's characters Hairless Joe and Lonesome Polecat. Distribution currently includes the United States, Canada, Singapore, Bangladesh, China, Pakistan, Malaysia, Mongolia, Brunei, Indonesia and Thailand. [36]
- **Dogpatch USA:** In 1968, an 800-acre (3.2 km²) \$35 million theme park called Dogpatch USA opened at Marble Falls, Arkansas, based on Capp's work and with his support. The gift shops sold "hillbilly" souvenirs like corncob pipes and moonshine jugs. In addition to the newly constructed rides and attractions, many of the buildings in the park were authentic 19th century log structures purchased by general manager James H. Schermerhorn. The logs in each building were numbered, catalogued, disassembled and reassembled at the park. Dogpatch USA was a popular attraction during the 1970s, but was closed in 1993 due to mismanagement and financial difficulties. Several attempts have been made to reopen the park but at present it lies abandoned. As of late 2005, the area once devoted to a live-action facsimile of Dogpatch (including a lifesize statue in the town square of Dogpatch "founder" Jubilation T. Cornpone) has been heavily stripped by vandals and souvenir hunters, and is today slowly being reclaimed by the surrounding Arkansas wilderness.

Awards and recognition

66 Li'l Abner was a comic strip with fire in its belly and a brain in its head.

— John Updike, from My Well-Balanced Life on a Wooden Leg (1991)

Fans of the strip ranged from novelist John Steinbeck, who called Capp "very possibly the best writer in the world today" in 1953, and even earnestly recommended him for the Nobel Prize in literature — to media critic and theorist Marshall McLuhan, who considered Capp "the only robust satirical force in American life." John Updike, calling Li'l Abner a "hillbilly Candide," added that the strip's "richness of social and philosophical commentary approached the Voltairean." [37] Capp has been compared, at various times, to Fyodor Dostoevsky, Jonathan Swift, Lawrence Sterne, and Rabelais. [38] *Journalism Quarterly* and *Time* have both called him "the Mark Twain of cartoonists." Charlie Chaplin, William F. Buckley, Al Hirschfeld, Harpo Marx, Russ Meyer, John Kenneth Galbraith, Ralph Bakshi, Shel Silverstein, Hugh Downs, Gene Shalit, Frank Cho, Daniel Clowes [39] and (reportedly) even Queen Elizabeth have confessed to being fans of *Li'l Abner*.

In his seminal book *Understanding Media*, Marshall McLuhan considered *Li'l Abner's* Dogpatch "a paradigm of the human situation." Comparing Capp to other contemporary humorists, McLuhan once wrote: "Arno, Nash, and Thurber are brittle, wistful little *précieux* beside Capp!" In his essay "The Decline of the Comics," (*Canadian Forum*, January 1954) literary critic Hugh MacLean classified American comic strips into four types: daily gag, adventure, soap opera, and "an almost lost comic ideal: the disinterested comment on life's pattern and meaning." In the fourth type, according to MacLean, there were only two: *Pogo* and *Li'l Abner*. In 2002 the *Chicago Tribune*, in a review of *The Short Life and Happy Times of the Shmoo*, noted: "The wry, ornery, brilliantly perceptive satirist will go down as one of the Great American Humorists." In *America's Great Comic Strip Artists* (1997), comics historian Richard Marschall analyzed the overtly misanthropic subtext of *Li'l Abner*:

Capp was calling society absurd, not just silly; human nature not simply misguided, but irredeemably and irreducibly corrupt. Unlike any other strip, and indeed unlike many other pieces of literature, *Li'l Abner* was more than a satire of the human condition. It was a commentary on human nature itself.

Li'l Abner was also the subject of the first book-length, scholarly assessment of a comic strip ever published. Li'l Abner: A Study in American Satire by Arthur Asa Berger (Twayne, 1969) contained serious analyses of Capp's narrative technique, his use of dialogue, self-caricature and grotesquerie, the strip's overall place in American satire, and the significance of social criticism and the graphic image. "One of the few strips ever taken seriously by students of American culture," wrote Professor Berger, "Li'l Abner is worth studying...because of Capp's imagination and artistry, and because of the strip's very obvious social relevance." It was reprinted by the University Press of Mississippi in 1994.

Al Capp's life and career are the subjects of a new life-sized mural commemorating his 100th birthday, displayed in downtown Amesbury, Massachusetts. [40][41] According to the *Boston Globe* (as reported on May 18, 2010), the town has renamed its amphitheater in the artist's honor, and is looking to develop an Al Capp Museum. Capp is also the subject of an upcoming PBS *American Masters* documentary produced by his granddaughter, independent filmmaker Caitlin Manning.

■ National Cartoonists Society^[42] Reuben Award (1947) for "Cartoonist of the Year."

- Inkpot Award (1978) bestowed by Comic-Con International.
- National Cartoonists Society Elzie Segar Award (1979) for a "unique and outstanding contribution to the profession of cartooning."
- Al Capp, an inductee into the National Cartoon Museum (formerly the International Museum of Cartoon Art), is one of only 31 artists honored by inclusion into their Hall of Fame.
- Al Capp was inducted into the Will Eisner Award Hall of Fame in 2004.
- "Neither the strip's shifting political leanings nor the slide of its final few years had any bearing on its status as a classic; and in 1995, it was recognized as such by the U.S. Postal Service. [32] *Li'l Abner* was one of 20 American comic strips included in the Comic Strip Classics series of USPS commemorative stamps.

Influence and legacy

Sadie Hawkins Day

An American folk event, Sadie Hawkins Day is a pseudo-holiday entirely created within the strip. It made its debut in *Li'l Abner* on November 15, 1937. Capp originally created it as a comic plot device, but in 1939, only two years after its inauguration, a double-page spread in *Life* proclaimed, "On Sadie Hawkins Day Girls Chase Boys in 201 Colleges." By the early 1940s the comic strip event had swept the nation's imagination and acquired a life of its own. By 1952, the event was reportedly celebrated at 40,000 known venues. It became a woman-empowering rite at high schools and college campuses, long before the modern feminist movement gained prominence.

Outside the comic strip, the practical basis of a Sadie Hawkins dance is simply one of gender role-reversal. Women and girls take the initiative in inviting the man or boy of their choice out on a date — almost unheard of before 1937 — typically to a dance attended by other bachelors and their assertive dates. When Capp created the event, it wasn't his intention to have it occur annually on a specific date, because it inhibited his freewheeling plotting. However, due to its enormous popularity and the numerous fan letters he received, Capp made it a tradition in the strip every November, lasting four decades. In many localities the tradition continues.

Additions to the language

Sadie Hawkins Day and Sadie Hawkins dance are two of several terms attributed to Al Capp that have entered the English language. Others include double whammy, skunk works and Lower Slobbovia. The term shmoo has also entered the lexicon — used in defining highly technical concepts in no fewer than *four* separate fields of science.^[43]

- In socioeconomics, a "shmoo" refers to any generic kind of good that reproduces itself (as opposed to "widgets" which require resources and active production).
- In microbiology, "shmooing" is the biological term used for the "budding" process in yeast reproduction. The cellular bulge produced by a haploid yeast cell towards a cell of the opposite mating type during the mating of yeast is referred to as a "shmoo," due to its structural resemblance to the cartoon character.
- In the field of particle physics, "shmoo" refers to a high energy survey instrument— as utilized at the Los Alamos National Laboratory for the Cygnus X-3 Sky Survey performed at the LAMPF (Los Alamos Meson Physics Facility) grounds. Over one hundred white "shmoo" detectors were at one time sprinkled

around the accelerator beamstop area and adjacent mesa to capture subatomic cosmic ray particles emitted from the Cygnus constellation. The detectors housed scintillators and photomultipliers in an array that gave the detector its distinctive shmoo shape.

■ In electrical engineering, a shmoo plot is the technical term used for the graphic pattern of test circuits. (The term is also used as a verb: to "shmoo" means to run the test.)

Capp has also been credited with popularizing many terms, such as "natcherly," schmooze, druthers, and nogoodnik, neatnik, etc. (In his book *The American Language*, H.L. Mencken credits the postwar mania for adding "-nik" to the ends of adjectives to create nouns as beginning — not with beatnik or Sputnik, but earlier — in the pages of *Li'l Abner*.)

Franchise ownership and creators' rights

In the late 1940s, newspaper syndicates typically owned the copyrights, trademarks and licensing rights to comic strips. "Capp was an aggressive and fearless businessman," according to publisher Denis Kitchen. "Nearly all comic strips, even today, are owned and controlled by syndicates, *not* the strips' creators. And virtually all cartoonists remain content with their diluted share of any merchandising revenue their syndicates arrange. When the starving and broke Capp first sold *Li'l Abner* in 1934, he gladly accepted the syndicate's standard onerous contract. But in 1947 Capp sued United Feature Syndicate for \$14 million, publicly embarrassed UFS in *Li'l Abner*, and wrested ownership and control of his creation the following year."

In October 1947, Li'l Abner met **Rockwell P. Squeezeblood**, head of the abusive and corrupt Squeezeblood Syndicate, a thinly veiled dig at UFS. The resulting sequence, "Jack Jawbreaker Fights Crime!!," was a devastating satire of Jerry Siegel and Joe Shuster's notorious exploitation by DC Comics over *Superman* (see above excerpt). It was later reprinted in *The World of Li'l Abner* (1953).

Integration of women in the NCS

Al Capp was an outspoken pioneer in favor of diversifying the National Cartoonists Society by admitting women cartoonists. The NCS had originally disallowed female members into its ranks. In 1949, when the allmale club refused membership to Hilda Terry, creator of the comic strip *Teena*, Capp temporarily resigned in protest. "Capp had always advocated a more activist agenda for the Society, and he had begun in December 1949 to make his case in the Newsletter as well as at the meetings," wrote comics historian R. C. Harvey. [44] According to Tom Roberts, author of *Alex Raymond: His Life and Art* (2007), Capp authored a stirring monologue that was instrumental in changing the restrictive rules the following year. Hilda Terry was the first woman cartoonist to break the gender barrier when the NCS finally permitted female members in 1950.

Social commentary in comic strips

Through *Li'l Abner*, the American comic strip achieved unprecedented relevance in the postwar years, attracting new readers who were more intellectual, more informed on current events, and less likely to read the comics (according to Coulton Waugh, author of *The Comics*, 1947). "When *Li'l Abner* made its debut in 1934, the vast majority of comic strips were designed chiefly to amuse or thrill their readers. Capp turned that world upsidedown by routinely injecting politics and social commentary into *Li'l Abner*," wrote comics historian Rick

Marschall in *America's Great Comic Strip Artists* (1989). With adult readers far outnumbering juveniles, *Li'l Abner* forever cleared away the concept that humor strips were solely the domain of adolescents and children. *Li'l Abner* provided a whole new template for contemporary satire and personal expression in comics, paving the way for *Pogo*, *Feiffer*, *Doonesbury* and *MAD*.

Mad

Fearless Fosdick and other Li'l Abner comic strip parodies, such as "Jack Jawbreaker!" (1947) and "Little Fanny Gooney" (1952), were almost certainly an inspiration to Harvey Kurtzman when he created his irreverent Mad, which began in 1952 as a comic book that specifically parodied other comics in the same subversive manner. By the time EC Comics published Mad #1, Capp had been doing Fearless Fosdick for nearly a decade. Similarities between Li'l Abner and the early Mad include the incongruous use of mock-Yiddish slang terms, the nose-thumbing disdain for pop culture icons, the rampant black humor, the dearth of sentiment and the broad visual styling. Even the trademark comic "signs" that clutter the backgrounds of Will Elder's panels had a precedent in Li'l Abner, in the residence of Dogpatch entrepreneur Available Jones, though they're also reminiscent of Bill Holman's Smokey Stover. Tellingly, Kurtzman resisted doing feature parodies of either Li'l Abner or Dick Tracy in the comic book Mad, despite their prominence.

Capp is one of the great unsung heroes of comics. I've never heard anyone mention this, but Capp is 100% responsible for inspiring Harvey Kurtzman to create *Mad* Magazine. Just look at *Fearless Fosdick* — a brilliant parody of *Dick Tracy* with all those bullet holes and stuff. Then look at *Mad*'s "Teddy and the Pirates," "Superduperman!" or even *Little Annie Fanny*. Forget about it — *slam dunk!* Not taking anything away from Kurtzman, who was brilliant himself, but Capp was the source for that whole sense of satire in comics. Kurtzman carried that forward and passed it down to a whole new crop of cartoonists, myself included. Capp was a *genius*. You wanna argue about it? I'll fight ya, and *I'll win!*

— Ralph Bakshi at ASIFA-Hollywood, April 2008

Parodies and imitations

Al Capp once told one of his assistants that he knew *Li'l Abner* had finally "arrived" when it was first pirated as a pornographic Tijuana bible parody in the mid-1930s. [45] *Li'l Abner* was also parodied in 1954 (as "Li'l Melvin" by "Ol' Hatt") in the pages of EC Comics' humor comic, *Panic*, edited by Al Feldstein. [46] Kurtzman eventually *did* spoof *Li'l Abner* (as "Li'l Ab'r") in 1957, in his short-lived humor magazine, *Trump*. Both the *Trump* and *Panic* parodies were drawn by EC legend, Will Elder. In 1947, Will Eisner's *The Spirit* satirized the comic strip business in general, as a denizen of Central City tries to murder cartoonist "Al Slapp," creator of "Li'l Adam." Capp was also caricatured as an ill-mannered, boozy cartoonist (Capp was a teetotaler in real life) named "Hal Rapp" in the comic strip *Mary Worth* by Allen Saunders and Ken Ernst. Supposedly done in retaliation for Capp's "Mary Worm" parody in *Li'l Abner* (1956), a media-fed "feud" commenced briefly between the rival strips. It all turned out to be a collaborative hoax, however — cooked up by Capp and his longtime pal Saunders as an elaborate publicity stunt.

99

Li'l Abner's success also sparked a handful of comic strip imitators. Jasper Jooks by Jess "Baldy" Benton (1948–'49), Ozark Ike (1945–'53) and Cotton Woods (1955–'58), both by Ray Gotto, were clearly inspired by Capp's strip. Boody Rogers' Babe was a peculiar series of comic books about a beautiful hillbilly girl who lived with her kin in the Ozarks — with many similarities to Li'l Abner. A derivative hillbilly feature called Looie Lazybones, an out-and-out imitation (drawn by a young Frank Frazetta) ran in several issues of Standard's Thrilling Comics in the late 1940s. Charlton published the short-lived Hillbilly Comics by Art Gates in 1955, featuring "Gumbo Galahad," who was a dead ringer for Li'l Abner, as was Pokey Oakey by Don Dean, which ran in MLJ's Top-Notch Laugh and Pep Comics. Later, many fans and critics saw Paul Henning's popular TV sitcom, The Beverly Hillbillies (1962–'71) as owing much of its inspiration to Li'l Abner, prompting Alvin Toffler to ask Capp about the similarities in a 1965 Playboy interview.

Popularity and production

Li'l Abner made its debut on August 13, 1934 in eight North American newspapers, including the New York Mirror. Initially owned and syndicated through United Feature (now known as United Media), a division of the E.W. Scripps Company, it was an immediate success. According to publisher Denis Kitchen, Capp's "hapless Dogpatchers hit a nerve in Depression-era America. Within three years Abner's circulation climbed to 253 newspapers, reaching over 15,000,000 readers. Before long he was in hundreds more, with a total readership exceeding 60,000,000."^[47] At its peak, the strip was read daily by 70 million Americans (when the U.S. population was only 180 million), with a circulation of more than 900 newspapers in North America and Europe.



"But, cuss it, Ah is still alive!!" Li'l Abner, Daisy Mae, Mammy, Salomey and Pappy survive another narrow scrape in this strip excerpt from March 29, 1947.

During the extended peak of the strip, the workload grew to include advertising, merchandising, promotional work, comic book adaptations, public service material and other specialty work — in addition to the regular six dailies and one Sunday strip per week. Capp had a platoon of assistants in later years, who worked under his direct supervision. They included Andy Amato, Harvey Curtis, Walter Johnson and, notably, a young Frank Frazetta, who penciled the Sunday continuity from studio roughs from 1954 to the end of 1961 — before his fame as a fantasy artist.

Sensitive to his own experience working on *Joe Palooka*, Capp frequently drew attention to his assistants in interviews and publicity pieces. A 1950 cover story in *Time* even included photos of two of his employees, whose roles in the production were detailed by Capp. Ironically, this highly irregular policy has led to the misconception that his strip was "ghosted" by other hands. The production of *Li'l Abner* has been well documented, however. In point of fact, Capp maintained creative control over every stage of production for virtually the entire run of the strip. Capp himself originated the stories, wrote the dialogue, designed the major

characters, rough penciled the preliminary staging and action of each panel, oversaw the finished pencils, and drew and inked the faces and hands of the characters. "He had *the touch*," Frazetta said of Capp in 2008. "He knew how to take an otherwise ordinary drawing and really make it *pop*. I'll never knock his talent." [48]

Many have commented on the shift in Capp's political viewpoint, from as liberal as *Pogo* in his early years to as conservative as *Little Orphan Annie* when he reached middle age. At one extreme, he displayed consistently devastating humor, while at the other, his mean-spiritedness came to the fore — but which was which seems to depend on the commentator's *own* point of view. From beginning to end, Capp was acid-tongued toward the targets of his wit, intolerant of hypocrisy, and always wickedly funny. After about 40 years, however, Capp's interest in *Abner* waned, and this showed in the strip itself...

— Don Markstein's *Toonopedia*

99

Li'l Abner lasted until November 13, 1977, when Capp retired with an apology to his fans for the recently declining quality of the strip, which he said had been the best he could manage due to advancing illness. "If you have any sense of humor about your strip — and I had a sense of humor about mine — you knew that for three or four years Abner was wrong. Oh hell, it's like a fighter retiring. I stayed on longer than I should have," he admitted. [49] "When he retired Li'l Abner, newspapers ran expansive articles and television commentators talked about the passing of an era. People magazine ran a substantial feature, and even the comics-free New York Times devoted nearly a full page to the event," according to publisher Denis Kitchen. Capp, a lifelong chain smoker, died from emphysema two years later at age 70, at his home in South Hampton, New Hampshire on November 5, 1979.

In 1988 and 1989 many newspapers ran reruns of *Li'l Abner* episodes, mostly from the 1940s run, distributed by Newspaper Enterprise Association and Capp Enterprises. Following the 1989 revival of the *Pogo* comic strip, a revival of *Li'l Abner* was also planned in 1990. Drawn by cartoonist Steve Stiles, [50] the new *Abner* was approved by Capp's widow and brother, Elliott Caplin, but Al Capp's daughter, Julie Capp, objected at the last minute and permission was withdrawn.

Li'l Abner in other media

Radio and recordings

With John Hodiak in the title role, the *Li'l Abner* radio serial ran weekdays on NBC from Chicago, from November 20, 1939 to December 6, 1940. Rounding out the cast were soap opera star Laurette Fillbrandt as Daisy Mae, Hazel Dopheide as Mammy Yokum, and Clarence Hartzell (who was also a prominent actor on *Vic and Sade*) as Pappy. Durwood Kirby was the announcer. The radio show was not written by Al Capp — but by Charles Gussman. However, Gussman consulted closely with Capp on the storylines. (A familiar radio personality, Capp was frequently heard on the NBC broadcast series, *Monitor*. He also briefly filled-in for radio journalist Drew Pearson, participated in a March 2, 1948 *America's Town Meeting of the Air* debate on ABC, and hosted his own syndicated, 500-station radio show.)

- *The Shmoo Sings* with Earl Rogers 78 rpm (1948) Allegro
- *The Shmoo Club* b/w *The Shmoo Is Clean, the Shmoo Is Neat* 45 rpm (1949) Music You Enjoy, Inc.

■ *The Snuggable, Huggable Shmoo* b/w *The Shmoo Doesn't Cost a Cent* — 45 rpm (1949) Music You Enjoy, Inc.

- Shmoo Lesson b/w A Shmoo Can Do Most Anything 45 rpm (1949) Music You Enjoy, Inc.
- Li'l Abner Goes to Town 78 rpm (1950) Capp-Tone Comic Record
- Li'l Abner (Original Cast Recording) LP (1956) Columbia
- Li'l Abner (Motion Picture Soundtrack) LP (1959) Columbia
- *An Interview with Al Capp* EP (1959) Smithsonian Folkways
- Li'l Abner fo' Chillun LP (c. 1960) 20th FOX
- *Al Capp on Campus* LP (1969) Jubilee

Selections from the *Li'l Abner* musical score have been recorded by everyone from Percy Faith and Mario Lanza to André Previn and Shelly Manne. Over the years, *Li'l Abner* characters have inspired diverse compositions in pop, jazz, country and even rock 'n' roll:

- *The Kickapoo Joy Juice Jolt* (1946) from *The Li'l Abner Suite*, was composed for The Alvino Rey Orchestra by Bud Estes.
- *Kickapoo Joy Juice*, composed by Duke Ellington, was recorded live at Carnegie Hall in December, 1947.
- Lonesome Polecat, written by Johnny Mercer & Gene de Paul for the musical Seven Brides for Seven Brothers (1954), was later recorded by Bobby Darin and the McGuire Sisters.
- Fearless Fosdick, composed by Bill Holman, was recorded live in 1954 by Vic Lewis and his Orchestra, featuring Tubby Hayes.
- *Daisy Mae*, written and recorded by Ernest Tubb, appeared on the Decca album *The Daddy of 'Em All* (1957).
- *Kickapoo Joy Juice* (1962) written by Jack Greenback, Mel Larson & Jerry Marcellino, was recorded by The Rivingtons.
- Sadie Hawkins Dance (2001) written by Matt Thiessen, was recorded by Relient K.
- *Fearless Fosdick's Tune*, composed and recorded by Umberto Fiorentino, appeared on the Brave Art/Columbia-Sony CD *Things to Come* (2002).

Sheet music

- Li'l Abner by Ben Oakland, Milton Berle & Milton Drake (1940) Leo Feist Publishers
- Sadie Hawkins Day by Don Raye & Hughie Prince (1940) Leeds Music Corp.
- The USA by Day and the RAF by Night by Hal Block & Bob Musel (1944) Paramount Music Corp.
- (Li'l Abner) Don't Marry That Girl!! by Al Capp & Sam H. Stept (1946) Barton Music Corp.
- *The Shmoo Song* by John Jacob Loeb & Jule Styne (1948) Harvey Music Corp.
- *Shmoo Songs* by Gerald Marks (1949) Bristol Music Corp.
- *The Kigmy Song* by Joe Rosenfield & Fay Tishman (1949) Town and Country Music Co.
- *I'm Lonesome and Disgusted!!!* by "Irving Vermyn" [Al Capp, Bob Lubbers & Dave Lambert] (1956) General Music Publishing Co.
- Namely You by Johnny Mercer & Gene de Paul (1956) Commander Publications
- Love in a Home by Johnny Mercer & Gene de Paul (1956) Commander Publications
- If I Had My Druthers by Johnny Mercer & Gene de Paul (1956) Commander Publications
- Jubilation T. Cornpone by Johnny Mercer & Gene de Paul (1956) Commander Publications

Comic books and reprints

- *Tip Top Comics* (1936–1948) anthology (United Feature Syndicate)
- Comics on Parade (1945–1946) anthology (UFS)
- *Sparkler Comics* (1946–1948) anthology (UFS)
- *Li'l Abner* (1947) 9 issues (Harvey Comics)
- *Li'l Abner* (1948) 3 issues (Super Publishing)
- *Tip Topper Comics* (1949–1954) anthology (UFS)
- *Al Capp's Li'l Abner* (1949–1955) 28 issues (Toby) ^[51]
- Al Capp's Shmoo Comics (1949–1950) 5 issues (Toby)
- Al Capp's Dogpatch (1949) 4 issues (Toby)
- Al Capp's Li'l Abner in The Mystery o' the Cave (1950) (Oxydol premium)
- Al Capp's Daisy Mae in Ham Sangwidges (1950) (Oxydol premium)
- Al Capp's Shmoo in Washable Jones' Travels (1950) (Oxydol premium)
- *Al Capp's Wolf Gal* (1951–1952) 2 issues (Toby)
- *Washable Jones and the Shmoo* (1953) (Toby)
- Party Time with Coke (1958) monthly digest featuring Al Capp's Boys 'n' Gals (Coca-Cola premium)

No comprehensive reprint of the series had been attempted until Kitchen Sink Press began publishing the *Li'l Abner Dailies* in hardcover and paperback, one year per volume, in 1988. The demise of KSP in 1999 stopped the reprint series at Volume 27 (1961). More recently, Dark Horse Comics reprinted the limited series *Al Capp's Li'l Abner: The Frazetta Years*, in four full-color volumes covering the Sunday pages from 1954 to 1961. They also released an archive hardcover reprint of the complete *Shmoo Comics* in 2009, followed by a second Shmoo volume of compete newspaper strips in 2011.

At the San Diego Comic Con in July 2009, IDW announced the upcoming publication of *Al Capp's Li'l Abner: The Complete Dailies and Color Sundays: Vol. 1 (1934–1936)*. The comprehensive series, a reprinting of the complete 43-year history of *Li'l Abner* [52] spanning a projected 20 volumes, began on April 7, 2010.

Public service works

Capp provided specialty artwork for civic groups, government agencies and charitable or non-profit organizations, spanning several decades.^[53] The following titles are all single-issue, educational comic books and pamphlets produced for various public services:

- Al Capp by Li'l Abner public service giveaway issued by the Red Cross (1946)
- Yo' Bets Yo' Life! public service giveaway issued by the U.S. Army (circa 1950)
- Li'l Abner Joins the Navy public service giveaway issued by the Dept. of the Navy (1950)
- Fearless Fosdick and the Case of the Red Feather public service giveaway issued by Red Feather Services, a forerunner of United Way (1951)
- *The Youth You Supervise* public service giveaway issued by the U.S. Department of Labor (1956)
- Mammy Yokum and the Great Dogpatch Mystery! public service giveaway issued by the Anti-Defamation League of B'nai B'rith (1956)
- Operation: Survival! public service giveaway issued by the Dept. of Civil Defense (1957)
- *Natural Disasters!* public service giveaway issued by the Dept. of Civil Defense (1957)
- Martin Luther King and the Montgomery Story public service giveaway issued by The Fellowship of Reconciliation (1958)^[54]

• *Li'l Abner and the Creatures from Drop-Outer Space* — public service giveaway issued by the Job Corps (1965)

In addition, Dogpatch characters were used in national campaigns for the U.S. Treasury, the Cancer Foundation, the March of Dimes, the National Heart Fund, the Sister Kenny Foundation, the Boy Scouts of America, Community Chest, the National Reading Council, Minnesota Tuberculosis and Health Association, Christmas Seals, the National Amputation Foundation and Disabled American Veterans, [55] among others.

Animation and puppetry

Beginning in 1944, *Li'l Abner* was adapted into a series of color theatrical cartoons for Columbia Pictures, directed by Sid Marcus, Bob Wickersham and Howard Swift. Al Capp was reportedly not pleased with the results, and the series was discontinued after five shorts.

Evil-Eye Fleegle and his "whammy" make an animated cameo appearance in the U.S. Armed Forces Special Weapons Project training film, *Self Preservation in an Atomic Attack* (1950). Lena the Hyena makes a brief animated appearance in *Who Framed Roger Rabbit* (1988).

In 1952, *Fearless Fosdick* proved popular enough to be incorporated into a short-lived TV series. The ambitious puppet show was created and directed by puppeteer Mary Chase, written by Everett Crosby and voiced by John Griggs, Gilbert Mack and Jean Carson. *Fearless Fosdick* premiered on Sunday afternoons on NBC; 13 episodes featuring the Mary Chase marionettes were produced. ^[56] The storylines and villains were mostly separate from the comic strip and unique to the show. Among the original TV characters were "Mr. Ditto," "Harris Tweed" (a disembodied suit of clothes), "Swenn Golly" (a Svengali-like mesmerist), counterfeiters "Max Millions" and "Minton Mooney," "Frank N. Stein," "Batula," "Match Head" (a pyromaniac), "Sen-Sen O'Toole," "Shmoozer" and "Herman the Ape Man."

Shmoos were originally meant to be included in the 1956 Broadway *Li'l Abner* musical, employing stage puppetry. The idea was reportedly abandoned in the development stage by the producers, however, for reasons of practicality. After Capp's death, the Shmoo was used in two Hanna-Barbera produced Saturday morning cartoon series for TV. First in the 1979 *The New Shmoo* (later incorporated into *Fred and Barney Meet the Shmoo*), and again from 1980 to 1981 in the *Flintstone Comedy Show*, in the *Bedrock Cops* segments.

Stage, film and television

The first *Li'l Abner* movie was made at RKO Radio Pictures in 1940, starring Jeff York (credited as Granville Owen), Martha O'Driscoll, Mona Ray and Johnnie Morris. Although it lacks the political satire and Broadway polish of the 1959 version, this film gives a fairly accurate portrayal of the various Dogpatch characters up until that time. [57] Of particular note is the appearance of Buster Keaton as Lonesome Polecat, and a title song with lyrics by Milton Berle. Other familiar silent comedy veterans in the cast include Bud Jamison, Lucien Littlefield, Johnny Arthur, Mickey Daniels, and ex-Keystone Cops Chester Conklin, Edgar Kennedy and Al St. John. The story concerns Daisy Mae's efforts to catch Li'l Abner on Sadie Hawkins Day. Since this movie predates their comic strip marriage, Abner makes a last-minute escape (natcherly!)

A much more successful musical comedy adaptation of the strip, also entitled *Li'l Abner*, opened on Broadway at the St. James Theater on November 15, 1956 and had a long run of 693 performances, ^[58] followed by a nationwide tour. Among the actors originally considered for the title role were Dick Shawn and Andy Griffith. The stage musical, with music and lyrics by Gene de Paul and Johnny Mercer, was adapted into a Technicolor motion picture at Paramount in 1959 by producer Norman Panama and director Melvin Frank, with an original score by Nelson Riddle. ^{[59][60]} Starring Peter Palmer, Leslie Parrish, Julie Newmar, Stella Stevens, Stubby Kaye, Billie Hayes, Howard St. John, Joe E. Marks, Carmen Alvarez, William Lanteau and Bern Hoffman, with cameos by Jerry Lewis, Robert Strauss, Ted Thurston, Alan Carney, Valerie Harper and Donna Douglas. Three members of the original Broadway cast did *not* appear in the film version: Charlotte Rae (who was replaced by Billie Hayes early in the stage production), Edie Adams (who was pregnant during the filming) and Tina Louise. The musical has since become a perennial favorite of high school and amateur productions, due to its popular appeal and modest production requirements.

Li'l Abner never sold as a TV series despite several attempts (including an unsold pilot that aired once on NBC on September 5, 1967), [61] but Al Capp was a familiar face on television for twenty years. No other cartoonist to date has come close to Capp's televised exposure. Capp appeared as a regular on The Author Meets the Critics. He was also a periodic panelist on ABC and NBC's Who Said That? Capp has appeared as himself on The Ed Sullivan Show, Sid Caesar's Your Show of Shows, The Today Show, The Red Skelton Show, The Merv Griffin Show, The Mike Douglas Show, and on This Is Your Life on February 12, 1961 with host Ralph Edwards and honoree Peter Palmer. He hosted at least five television programs between 1952 and 1972 — three different talk shows called The Al Capp Show (twice), Al Capp, Al Capp's America (a live "chalk talk," with Capp providing a barbed commentary while sketching cartoons), and a game show called Anyone Can Win. In addition, Capp was a frequent celebrity guest. His appearances on NBC's The Tonight Show spanned three emcees; Steve Allen, Jack Paar and Johnny Carson.

Filmography

Comic strip adaptations

Animation

- Kickapoo Juice (1944) Columbia
- Amoozin' but Confoozin' (1944) Columbia
- A Pee-kool-yar Sit-chee-ay-shun (1944) Columbia
- Porkuliar Piggy (1944) Columbia
- Sadie Hawkins Day (1944) Columbia

Live-action

- *Li'l Abner* (1940) RKO Radio Pictures
- Fearless Fosdick (1952) NBC (series) 13 episodes
- *Li'l Abner* (1959) Paramount
- Li'l Abner (5 September 1967) NBC (unsold television pilot with Sammy Jackson and Judy Canova)
- Li'l Abner (26 April 1971) ABC (TV special)



A 1971 musical special on ABC: the modern world comes to Dogpatch.

• Li'l Abner in Dogpatch Today (9 November 1978) NBC (TV special)

Beyond the comic strip

- "ABNER" was the name given to the first codebreaking computer used by the National Security Agency. According to longtime NSA computer expert Samuel Simon Snyder, "We chose the name from Li'l Abner Yokum, the comic strip character who was a big brute, but not very smart, because we believed that computers, which can be big and do brute-force operations, aren't very bright either. They can only follow simple instructions but can't think for themselves." ABNER was originally given only 15 simple programs, later doubled to 30. Nevertheless, when it was secretly completed in April 1952 it was the "most sophisticated computer of its time." [62]
- The 1989 film *I Want to Go Home* (*Je Veux Rentrer a la Maison*, screenplay by Jules Feiffer) has a scene where the main character, a retired cartoonist played by Adolph Green, makes an unexpectedly emotional appeal for Al Capp and his legacy.
- The original Dogpatch is a historical part of San Francisco dating back to the 1860s that escaped the earthquake and fire of 1906. [63] Later in the 20th century, U.S. Army and Marine Corps units in Vietnam during the Vietnam War called their housing compounds "Dogpatches," due to the primitive living conditions.
- Li'l Abner, Daisy Mae, Wolf Gal, Earthquake McGoon, Lonesome Polecat, Hairless Joe, Sadie Hawkins, Silent Yokum and Fearless Fosdick all found their way onto the painted noses of bomber aircraft during World War II and the Korean War, as did Kickapoo Joy Juice, Lena the Hyena and the Shmoo. Moonbeam McSwine was immortalized as the P-51D Mustang USAAF bomber escort fighter flown by ace pilot Capt. William T. Whisner, still operable and appearing in aviator air shows as of 2008.
- Al Capp always claimed to have effectively created the miniskirt, when he first put one on Daisy Mae in 1934.
- *Li'l Abner* was censored for the first, but not the last time in September 1947, and was pulled from papers by Scripps-Howard. The controversy, as reported in *Time*, centered on Capp's portrayal of the US Senate. Said Edward Leech of Scripps, "We don't think it is good editing or sound citizenship to picture the Senate as an assemblage of freaks and crooks... boobs and undesirables." [64]
- Li'l Abner has one odd design quirk that has puzzled readers for decades: the part in his hair always faces the viewer, no matter which direction Abner is facing. In response to the question "Which side does Abner part his hair on?," Capp would answer, "Both." Capp claimed that he found the right "look" for Li'l Abner with Henry Fonda's character Dave Tolliver in *The Trail of the Lonesome Pine* (1936). Fonda later commented, "He's never told me, but I was told he has said that." [65]
- Joan Baez took Al Capp to court in 1967 over Joanie Phoanie. She did not ask for damages; it was instead a bid to force a public retraction. The judge decided in Capp's favor, however. Declaring that satire was also protected free speech, he refused to order Capp to cease and desist. [66] In recent years, Baez has admitted to being more amused by the parody even including an excerpt in her memoirs (*And a Voice to Sing With: A Memoir*, published in 1987). "I wish I could have laughed at this at the time," she wrote in a caption under one of the strips.
- "I didn't start this Mammy Yokum did." was the reply Ralph Kramden told his wife Alice (concerning a comment made by Ralph's mother in-law) in Episode #2 *Funny Money* of *The Honeymooners*.
- In 1960, Dixieland trombonist Turk Murphy christened his San Francisco jazz club "Earthquake McGoon's," in honor of the perennial Dogpatch villain.
- In 1968, the first year of operation, Dogpatch USA had 300,000 visitors. Admission was \$1.50 for adults,

and half price for children. Al Capp's son Colin Capp worked at the park that year, and met and married Vicki Cox, the actress portraying Moonbeam McSwine. Capp had previously spoofed the idea of a theme park based on his characters in *Li'l Abner*, in a 1955 Disneyland parody called "Hal Yappland."

- Al Capp designed the 23-foot-high (7.0 m) statue of Josiah Flintabattey Flonatin ("Flinty") that graces the city of Flin Flon, Manitoba. The town's name is taken from the lead character in a 1905 dime novel, *The Sunless City* by J. E. Preston Muddock. Capp donated his time and talent to create the image. The character is of such importance to the identity of the city that the local Chamber of Commerce commissioned the minting of a \$3.00 coin, which was considered legal tender within the city during the year following its issue. The Chamber had the fiberglass sculpture moved to its present location at the Flin Flon Tourist Park in 1962.
- "Natcherly," Capp's bastardization of "naturally," turns up occasionally in popular culture even without a specifically rural theme. It can be found in *West Side Story*, for instance, in Stephen Sondheim's original lyrics to "Gee, Officer Krupke" (1957).
- Mell Lazarus, creator of *Miss Peach* and *Momma*, wrote a comic novel in 1963 titled *The Boss Is Crazy, Too*. It was partly inspired by his apprenticeship days working for Al Capp and his brother Elliot Caplin at Toby Press, which published *Shmoo Comics* in the late 1940s. In a seminar at the Charles Schulz Museum on November 8, 2008, Lazarus called his experience at Toby "the five funniest years of my life." Lazarus went on to cite Capp as one of the "four essentials" in the field of newspaper cartoonists along with Walt Kelly, Charles Schulz and Milton Caniff.
- Utah governor Gary Herbert controversially referred to himself as "Available Jones", the Dogpatch entrepreneur who does anything for a price, at a private meeting with lobbyists April 27, 2016 to raise funds for his re-election campaign.^[67]

References

- 1. Looking Back at the Class of '34, Hogan's Alley #1, 1994 (http://cartoonician.com/looking-back-at-the-class-of-34/)
- 2. M. Thomas Inge, "Li'l Abner, Snuffy, Pogo, and Friends: The South in the American Comic Strip," *Southern Quarterly* (2011) 48#2 pp 6–74
- 3. Li'l Abner "biography" at deniskitchen.com (https://web.archive.org/web/20051217203949/http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&Category_Code=bios.lilabner)
- 4. Parody of Steve Canyon! Sept 15, 1957 (https://images.search.yahoo.com/search/images;_ylt=AwrB8pbV83FWlSMAos 6JzbkF;_ylu=X3oDMTBsZ29xY3ZzBHNlYwNzZWFyY2gEc2xrA2J1dHRvbg--;_ylc=X1MDOTYwNjI4NTcEX3IDM gRiY2sDYjc0dDFoaGI1bTdsNCUyNmIIM0QzJTI2cyUzRGQyBGZyA21jYWZlZQRncHJpZANxQUo2WnlCeFRuU2 VfYVcuZThmZ0dBBG10ZXN0aWQDbnVsbARuX3N1Z2cDMQRvcmlnaW4DaW1hZ2VzLnNlYXJjaC55YWhvby5jb 20EcG9zAzAEcHFzdHIDBHBxc3RybAMEcXN0cmwDOQRxdWVyeQNNQXJ5IFdvcm0EdF9zdG1wAzE0NTAzMD g2NTMEdnRlc3RpZANJTUdQUkQ-?gprid=qAJ6ZyBxTnSe_aW.e8fgGA&pvid=papx9jY5LjGzk6GMVlsepA7ENTAu NQAAAABG1YQ7&p=MAry+Worm&fr=mcafee&fr2=sb-top-images.search.yahoo.com&ei=UTF-8&n=60&x=wrt#id =144&iurl=http%3A%2F%2Fwww.animationresources.org%2Fpics%2Fcapp0427-big.jpg&action=click)
- 5. Daisy Mae "biography" at deniskitchen.com (https://web.archive.org/web/20051217210321/http://deniskitchen.com/Mer chant2/merchant.mvc?Screen=CTGY&Category_Code=bios.daisymae)
- 6. "Big Deals: Comics' Highest-Profile Moments," *Hogan's Alley* #7, 1999 (http://cartoonician.com/big-deals-comics-highe st-profile-moments/)
- 7. Mammy Yokum "biography" at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&C ategory_Code=bios.mammyyokum)
- 8. Pappy Yokum "biography" at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&Cat egory_Code=bios.pappyyokum)
- 9. Honest Abe "biography" at deniskitchen.com (http://www.deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&

- Category_Code=bios.honest.abe)
- 10. Tiny Yokum "biography" at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&Categ ory_Code=bios.tinyyokum)
- 11. Marryin' Sam "biography" at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&Cate gory_Code=bios.marryin.sam)
- 12. "Speaking of Pictures," *Life*, 12 June 1944 (https://books.google.com/books?id=fU8EAAAAMBAJ&pg=PA12&lpg=PA 12&dq=abner+capp++time+marryin'+sam+laGuardia&source=bl&ots=C40sJJGW6s&sig=SKcobOOGR19FajlE2iFfJFP PkyE&hl=en&ei=vrpSTv_sGcTYiAKU5JjvDw&sa=X&oi=book_result&ct=result&resnum=3&ved=0CCgQ6AEwAg# v=onepage&q&f=false)
- 13. Kickapoo Joy Juice page at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&Categ ory_Code=bios.joyjuice)
- 14. Sioux City Soos at Baseball-Reference.com (http://www.baseball-reference.com/bullpen/Sioux_City_Soos)
- 15. Joe Btfsplk "biography" at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&Catego ry_Code=bios.joe.btfsplk)
- 16. [1] (https://books.google.com/books?id=IuTiI-zzjkkC&pg=PA21&lpg=PA21&dq=jack+s.+phogbound+huey+long&sour ce=bl&ots=iHIo_b2kk2&sig=H6AD0ouBGjXysJc0sOz2VADIwWc&hl=en&sa=X&ved=0CCUQ6AEwAWoVChMI5q WJ-8axyAIVg6CACh0PVApO#v=onepage&q=jack%20s.%20phogbound%20huey%20long&f=false)
- 17. [2] (https://books.google.com/books?id=mOE-VOIZDtYC&pg=PA91&lpg=PA91&dq=phogbound+university&source=bl&ots=S723qf4AQn&sig=zdU7Id-3CZpx7dpoMuNTB7VPLmM&hl=en&sa=X&ved=0CC8Q6AEwA2oVChMI7IGmw8exyAIVytOACh0Jog9l#v=onepage&q=phogbound%20university&f=false)
- 18. Stupefyin' Jones "biography" at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&C ategory Code=bios.stupefyin)
- 19. General Bullmoose "biography" at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY &Category_Code=bios.gen.bullmoose)
- 20. Earthquake McGoon "biography" at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTG Y&Category_Code=bios.mcgoon)
- 21. Evil-Eye Fleegle "biography" at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY& Category_Code=bios.evil.eye)
- 22. "The Comic Page Is the Last Refuge of Classic Art," NEMO #18, April 1986, pg. 16
- 23. Go Comics (http://www.gocomics.com/lil-abner/2013/09/01)
- 24. Sadie Hawkins "biography" at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&Ca tegory_Code=bios.evil.eye)
- 25. Fearless Fosdick "biography" at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&C ategory_Code=bios.fosdick)
- 26. Dogpatch page at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&Category_Code =bios.dogpatch)
- 27. Baker, Russell (1996-01-13). "Hillary in Lower Slobbovia "NY Times" Jan. 13, 1996". Nytimes.com. Retrieved 2009-08-29.
- 28. Lower Slobbovia page at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&Categor y_Code=bios.slobbovia)
- 29. The Shmoo "biography" at deniskitchen.com (http://deniskitchen.com/Merchant2/merchant.mvc?Screen=CTGY&Categ ory Code=bios.shmoo)
- 30. *Bad Shmoos* from the Scoop Archive 8/24/2002 (http://scoop.diamondgalleries.com/public/default.asp?t=1&m=1&c= 34&s=264&ai=41615&arch=y&ssd=8/24/2002%2012:01:00%20PM)
- 31. "The Comics on the Couch" by Gerald Clarke, *Time* Dec. 13, 1971 (http://www.time.com/time/magazine/article/0,9171,9 10181-3,00.html)
- 32. *Li'l Abner* (http://www.toonopedia.com/abner.htm) at Don Markstein's Toonopedia. Archived (http://www.webcitation.or g/6cZv96tGO) from the original on October 26, 2015.
- 33. Anything Can Happen in a Comic Strip: Centennial Reflections on an American Art Form by M. Thomas Inge (1995) Univ. Press of Mississippi, pg. 21

34. "Gallery of vintage ads featuring Li'l Abner as spokesman". TJS Labs Gallery of Graphic Design. Retrieved 2009-08-29.

- 35. Newsweek September 5, 1949 and Editor & Publisher July 16, 1949
- 36. "Official website of Kickapoo Joy Juice". Kickapoojoy.com. Retrieved 2009-08-29.
- 37. Exile in Dogpatch: The Curious Neglect of Cartoonist Al Capp, *City Journal*, Spring 2010 (http://www.city-journal.org/2 010/20_2_urb-al-capp.html)
- 38. Brown, Rodger, "Dogpatch USA: The Road to Hokum" article, *Southern Changes: The Journal of the Southern Regional Council*, Vol. 15, No. 3, 1993, pp. 18–26
- 39. Spotlight on Daniel Clowes, CBR 18 October 2010 (http://www.comicbookresources.com/?page=article&id=28945)
- 40. Town to Honor Famous Cartoonist Who Lived, Worked in Amesbury *Newburyport Daily News* April 20, 2010 (http://www.newburyportnews.com/local/x1612544031/Town-to-honor-famous-cartoonist-who-lived-worked-in-Amesbury#comment-45683673)
- 41. Amesbury Gives Li'l Abner His Due *Boston Globe* May 15, 2010 (http://www.boston.com/ae/theater_arts/articles/2010/0 5/15/amesbury_gives_lil_abner_his_due/?page=full)
- 42. "Al Capp's biography card from the National Cartoonists Society". Retrieved 2009-08-29.
- 43. The Hooded Utilitarian: Comics' contributions to colloquial English, 18 December 2010 (http://hoodedutilitarian.com/20 10/12/strange-windows-keeping-up-with-the-goonses-part-3/)
- 44. TCJ.com: "Tales of the Founding of the National Cartoonists Society Part III" from *Meanwhile...: A Biography of Milton Caniff* by R.C. Harvey, Fantagraphics (2007) (http://classic.tcj.com/history/tales-of-the-founding-of-the-national-cartooni sts-society-part-iii/)
- 45. " "Those Dirty Little Comics" by Art Spiegelman, "Salon" August 19, 1997". Salon.com. Retrieved 2009-08-29.
- 46. "Pappy's Golden Age Comics Blogzine: 464: "Li'l Melvin" ". Pappysgoldenage.blogspot.com. 2009-02-02. Retrieved 2009-08-29.
- 47. Denis Kitchen Publishing Co LLC. "Al Capp biography by Denis Kitchen". Deniskitchen.com. Retrieved 2009-08-29.
- 48. Mason, Edward (ed.), Telling Stories: The Comic Art of Frank Frazetta (Underwood Books, 2008) pp. 14–17.
- 49. Monday, Nov. 19, 1979 (1979-11-19). "Mr. Dogpatch—1979 "Time" obituary". Time.com. Retrieved 2009-08-29.
- 50. Passing Through Dogpatch: Al Capp's *Li'l Abner* by Steve Stiles (http://stevestiles.com/capp.htm)
- 51. ComicVine.com: Al Capp's Li'l Abner comics (http://www.comicvine.com/al-capps-lil-abner-comics/49-30062/?)
- 52. IDW Library of American Comics (http://www.libraryofamericancomics.com/catalog/series/1101/)
- 53. "Presarvin' Freedom: Al Capp, Treasury Man," *Hogan's Alley Online Magazine*, 9 May 2012 (http://cartoonician.com/20 12/05/presarvin-freedom-al-capp-treasury-man/)
- 54. Love, David A. "Egyptians draw inspiration from Civil Rights Movement comic book." (http://thegrio.com/2011/02/02/e ygptians-draw-inspiration-from-civil-rights-movement-comic-book/) *The Grio* (February 2, 2011).
- 55. "Al Capp Replies to Critic of Newspaper Comic Strips;" *The News and Courier*, 11 May 1950 (https://news.google.com/newspapers?nid=2506&dat=19500511&id=DZZIAAAAIBAJ&sjid=4AkNAAAAIBAJ&pg=4808,2345975)
- 56. Fearless Fosdick (TV show) at IMDB (http://www.imdb.com/title/tt0389616/epcast)
- 57. "Li'l Abner Lost In Hollywood by Michael H. Price". Comicmix.com. 2007-11-11. Retrieved 2009-08-29.
- 58. "Li'l Abner on Broadway". Povonline.com. 1956-11-15. Retrieved 2009-08-29.
- 59. "Li'l Abner in Hollywood". Povonline.com. Retrieved 2009-08-29.
- 60. DVD Verdict review 4/25/2005: Li'l Abner (http://www.dvdverdict.com/reviews/lilabner.php)
- 61. "blog entry by Mark Evanier". Newsfromme.com. Retrieved 2009-08-29.
- 62. Body of Secrets: Anatomy of the Ultra-Secret National Security Agency (Anchor Books, 2002) by James Bamford.
- 63. "Pier 70". Pier 70sf.org. Retrieved 2009-08-29.
- 64. Monday, Sep. 29, 1947 (1947-09-29). "Tain't Funny "Time"". Time.com. Retrieved 2009-08-29.
- 65. Steen, Mike. *Hollywood Speaks: An Oral History*. Putnam, 1974. (https://books.google.com/books?id=U99JAAAAMA AJ&q=fonda+%22li%27l+abner%22&dq=fonda+%22li%27l+abner%22&lr=&as_drrb_is=q&as_minm_is=0&as_miny_is=&as_maxm_is=0&as_maxy_is=&num=100&as_brr=0)
- 66. Friday, Jan. 20, 1967 (1967-01-20). " "Which One Is the Phoanie?" "Time" Jan. 20, 1967". Time.com. Retrieved 2009-08-29.
- 67. Roche, Lisa Riley (May 16, 2016). "Gov. Gary Herbert says 'tone' of fundraising will change amid criticism". *Deseret News*. Retrieved 17 May 2016.

Further reading

Since his death in 1979, Al Capp and his work have been the subject of more than 40 books, including three biographies. Underground cartoonist and *Li'l Abner* expert Denis Kitchen has published, co-published, edited, or otherwise served as consultant on nearly all of them. Kitchen is currently compiling a monograph on the life and career of Al Capp.

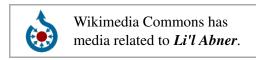
- Capp, Al, Li'l Abner in New York (1936) Whitman Publishing
- Capp, Al, Li'l Abner Among the Millionaires (1939) Whitman Publishing
- Capp, Al, Li'l Abner and Sadie Hawkins Day (1940) Saalfield Publishing
- Capp, Al, Li'l Abner and the Ratfields (1940) Saalfield Publishing
- Sheridan, Martin, Comics and Their Creators (1942) R.T. Hale & Co. (1977) Hyperion Press
- Waugh, Coulton, The Comics (1947) Macmillan Publishers
- Capp, Al, Newsweek Magazine (November 24, 1947) "Li'l Abner's Mad Capp"
- Capp, Al, Saturday Review of Literature (March 20, 1948) "The Case for the Comics"
- Capp, Al, The Life and Times of the Shmoo (1948) Simon & Schuster
- Capp, Al, The Nation (March 21, 1949) "There Is a Real Shmoo"
- Capp, Al, Cosmopolitan Magazine (June 1949) "I Don't Like Shmoos"
- Capp, Al, Atlantic Monthly (April 1950) "I Remember Monster"
- Capp, Al, Time Magazine (November 6, 1950) "Die Monstersinger"
- Capp, Al, *Life Magazine* (March 31, 1952) "It's Hideously True!!..."
- Capp, Al, *Real Magazine* (December 1952) "The REAL Powers in America"
- Capp, Al, The World of Li'l Abner (1953) Farrar, Straus & Young
- Leifer, Fred, The Li'l Abner Official Square Dance Handbook (1953) A.S. Barnes
- Mikes, George, *Eight Humorists* (1954) Allen Wingate (1977) Arden Library
- Lehrer, Tom, *The Tom Lehrer Song Book*, introduction by Al Capp (1954) Crown Publishers
- Capp, Al, Al Capp's Fearless Fosdick: His Life and Deaths (1956) Simon & Schuster
- Capp, Al, Al Capp's Bald Iggle: The Life it Ruins May Be Your Own (1956) Simon & Schuster
- Capp, Al, et al. Famous Artists Cartoon Course 3 volumes (1956) Famous Artists School
- Capp, Al, Life Magazine (January 14, 1957) "The Dogpatch Saga: Al Capp's Own Story"
- Brodbeck, Arthur J, et al. "How to Read Li'l Abner Intelligently" from *Mass Culture: Popular Arts in America*, pp. 218–224 (1957) Free Press
- Capp, Al, The Return of the Shmoo (1959) Simon & Schuster
- Hart, Johnny, Back to B.C., introduction by Al Capp (1961) Fawcett Publications
- Lazarus, Mell, Miss Peach, introduction by Al Capp (1962) Pyramid Books
- Gross, Milt, He Done Her Wrong, introduction by Al Capp (1963 Ed.) Dell Books
- White, David Manning, and Robert H. Abel, eds. *The Funnies: An American Idiom* (1963) Free Press
- White, David Manning, ed. From Dogpatch to Slobbovia: The (Gasp!) World of Li'l Abner (1964) Beacon Press
- Capp, Al, Life International Magazine (June 14, 1965) "My Life as an Immortal Myth"
- Toffler, Alvin, *Playboy Magazine* (December 1965) interview with Al Capp, pp. 89–100
- Moger, Art, et al. *Chutzpah Is*, introduction by Al Capp (1966) Colony Publishers
- Berger, Arthur Asa, Li'l Abner: A Study in American Satire (1969) Twayne Publishers (1994) Univ. Press of Mississippi ISBN 0-87805-713-7
- Sugar, Andy, Saga Magazine (December 1969) "On the Campus Firing Line with Al Capp"
- Gray, Harold, Arf! The Life and Hard Times of Little Orphan Annie, introduction by Al Capp (1970) Arlington House
- Moger, Art, Some of My Best Friends are People, introduction by Al Capp (1970) Directors Press
- Capp, Al, The Hardhat's Bedtime Story Book (1971) Harper & Row ISBN 0-06-061311-4
- Robinson, Jerry, The Comics: An Illustrated History of Comic Strip Art (1974) G.P. Putnam's Sons
- Horn, Maurice, The World Encyclopedia of Comics (1976) Chelsea House (1982) Avon

■ Blackbeard, Bill, ed. *The Smithsonian Collection of Newspaper Comics* (1977) Smithsonian Inst. Press/Harry Abrams

- Marschall, Rick, Cartoonist PROfiles #37 (March 1978) interview with Al Capp
- Capp, Al, The Best of Li'l Abner (1978) Holt, Rinehart & Winston ISBN 0-03-045516-2
- Lardner, Ring, You Know Me Al: The Comic Strip Adventures of Jack Keefe, introduction by Al Capp (1979) Harcourt Brace Jovanovich
- Van Buren, Raeburn, Abbie an' Slats 2 volumes (1983) Ken Pierce Books
- Capp, Al, Li'l Abner: Reuben Award Winner Series Book 1 (1985) Blackthorne
- Marschall, Rick, Nemo, the Classic Comics Library #18, pp. 3–32 (April 1986)
- Capp, Al, Li'l Abner Dailies 27 volumes (1988–1999) Kitchen Sink Press
- Marschall, Rick, America's Great Comic Strip Artists (1989) Abbeville Press
- Capp, Al, Fearless Fosdick (1990) Kitchen Sink ISBN 0-87816-108-2
- Capp, Al, My Well-Balanced Life on a Wooden Leg (1991) John Daniel & Co. ISBN 0-936784-93-8
- Capp, Al, Fearless Fosdick: The Hole Story (1992) Kitchen Sink ISBN 0-87816-164-3
- Goldstein, Kalman, "Al Capp and Walt Kelly: Pioneers of Political and Social Satire in the Comics" from *Journal of Popular Culture*; Vol. 25, Issue 4 (Spring 1992)
- Caplin, Elliot, Al Capp Remembered (1994) Bowling Green State University ISBN 0-87972-630-X
- Theroux, Alexander, *The Enigma of Al Capp* (1999) Fantagraphics Books ISBN 1-56097-340-4
- Lubbers, Bob, Glamour International #26: The Good Girl Art of Bob Lubbers (May 2001)
- Capp, Al, The Short Life and Happy Times of the Shmoo (2002) Overlook Press ISBN 1-58567-462-1
- Capp, Al, Al Capp's Li'l Abner: The Frazetta Years 4 volumes (2003–2004) Dark Horse Comics
- Al Capp Studios, Al Capp's Complete Shmoo: The Comic Books (2008) Dark Horse ISBN 1-59307-901-X
- Capp, Al, Li'l Abner: The Complete Dailies and Color Sundays Vol. 1: 1934–1936 (2010) IDW Publishing ISBN 1-60010-611-0
- Capp, Al, Li'l Abner: The Complete Dailies and Color Sundays Vol. 2: 1937–1938 (2010) IDW ISBN 1-60010-745-1
- Capp, Al, Li'l Abner: The Complete Dailies and Color Sundays Vol. 3: 1939–1940 (2011) IDW ISBN 1-60010-937-3
- Capp, Al, Al Capp's Complete Shmoo Vol. 2: The Newspaper Strips (2011) Dark Horse ISBN 1-59582-720-X
- Capp, Al, Li'l Abner: The Complete Dailies and Color Sundays Vol. 4: 1941–1942 (2012) IDW ISBN 1-61377-123-1
- Inge, M. Thomas, "Li'l Abner, Snuffy and Friends" from Comics and the U.S. South, pp. 3–27 (2012) Univ. Press of Mississippi ISBN 1-617030-18-X
- Capp, Al, Li'l Abner: The Complete Dailies and Color Sundays Vol. 5: 1943–1944 (2012) IDW ISBN 1-61377-514-8
- Kitchen, Denis, and Michael Schumacher, Al Capp: A Life to the Contrary (2013) Bloomsbury Publishing ISBN 1-60819-623-2

External links

- Official *Li'l Abner* website (http://www.lil-abner.com)
- "Dogpatch Confidential" by Dennis Drabelle (*Salon*, 30 Sept. 2002) (http://www.salon.com/books/feature/2002/09/30/capp/inde x.html)



- Animation Resources: Li'l Abner part I (http://animationresources.org/?p=558)
- Animation Resources: Li'l Abner part II (http://animationresources.org/?p=571)
- Animation Resources: Li'l Abner part III (http://animationresources.org/?p=592)
- Animation Resources: Li'l Abner part IV (http://animationresources.org/?p=616)
- Animation Resources: Li'l Abner part V (http://animationresources.org/?p=685)
- "Al Capp Deserves a Tribute" (Newburyport News, 28 Sept. 2009) (http://www.newburyportnews.com/op inion/x546276244/Al-Capp-deserves-a-tribute?keyword=topstory)
- NCS Spotlight on: Al Capp (http://www.reuben.org/news/?p=186)

Retrieved from "https://en.wikipedia.org/w/index.php?title=Li%271_Abner&oldid=764288253"

Categories: Comic strips set in the United States | Kentucky in fiction | American comic strips | 1934 comics debuts | 1977 comics endings | Works about Appalachia | Fictional hillbillies | Satirical comics | Fantasy comics | Li'l Abner | Li'l Abner characters | Comics adapted into animated series | American comics adapted into films | Comics adapted into radio series | 1939 radio programme debuts | 1940 radio programme endings | American comedy radio programs | NBC radio programs | Radio programs based on comic strips | Comics adapted into plays

- This page was last modified on 8 February 2017, at 02:24.
- Text is available under the Creative Commons Attribution-ShareAlike License; additional terms may apply. By using this site, you agree to the Terms of Use and Privacy Policy. Wikipedia® is a registered trademark of the Wikimedia Foundation, Inc., a non-profit organization.

Moonshiners (TV series)

From Wikipedia, the free encyclopedia

Moonshiners is an American docudrama television series on the Discovery Channel that dramatizes the life of people who produce (illegal) moonshine in the Appalachian Mountains of North Carolina, South Carolina, Tennessee, and Virginia. The series dramatizes their liquor production efforts, law-evading techniques and life.^[1] There have been claims by local officials that the show is not what it portrays to be. Virginia authorities have stated that no illegal liquor is actually being produced by the people depicted in the show. The Virginia Department of Alcoholic Beverage Control (ABC) said in March 2012 that, "If illegal activity was actually taking place, the Virginia ABC Bureau of Law Enforcement would have taken action."[2] They also said that they had requested for the producers to add a disclaimer to clarify that the show was only a dramatization, "but the request was overlooked", [2] and the show's producers, Magilla Entertainment, have stated their documentary content is real.^[3]

Portions of the show that feature Marvin "Popcorn" Sutton were taken from a documentary film by Neal Hutcheson. Hutcheson's documentary was filmed in 2002 and released the same year with the title *This is the Last Dam Run of Likker I'll Ever Make*.^[4] In 2008, a version of the documentary that was edited for television was broadcast on PBS and the Documentary Channel^[5] with the title *The Last One*, and it received a Southeast Emmy Award in 2009.^[6] Sutton was arrested in 2007 by ATF agents in Cocke County,

Moonshiners Logo Genre Docudrama Narrated by Jeremy Schwartz **Country of origin United States** No. of seasons 6 **Production Running time** 42 minutes Release **Discovery Channel** Original network Original release December 6, 2011 – present **External links** Website (http://dsc.discovery.com/tv-shows/moonsh iners)

Tennessee (led by Jim Cavanaugh of Waco siege fame) for illegally distilling liquor and possession of a handgun by a felon, and was sentenced to eighteen months in jail in 2009. He subsequently committed suicide, apparently to avoid serving the federal prison term, and because he had been diagnosed with cancer.^[7]

The show's first season premiered on December 6, 2011, and its second season premiered on November 7, 2012. Season 3 premiered on November 3, 2013. Season 4 premiered on November 4, 2014.^[8] Season 5's premiere date is November 17, 2015.

Contents

- 1 Series overview
- 2 Episodes
 - **2.1** Season 1 (2011–12)
 - **2.2** Season 2 (2012–13)
 - **2.3** Season 3 (2013–14)
 - **2.4** Season 4 (2014–15)
 - **2.5** Season 5 (2015–16)
 - **2.6** Season 6 (2016–17)
- 3 Cast
- 4 Spinoff
- 5 Theme song and introduction sequence
- 6 References
- 7 External links

Series overview

	eason	Episodes	Originally aired		Average rating	
3	Season Episodes		First aired Last aired		(millions)	
	1	7	December 6, 2011	January 4, 2012	2.76	
	2	15	November 7, 2012	January 30, 2013	3.03	
	3	13	November 5, 2013	February 4, 2014	2.53	
	4	14	November 4, 2014	February 3, 2015	2.00	
	5	17	November 17, 2015	March 8, 2016	1.85	
	6	TBA	November 15, 2016	TBA	TBA	

Episodes

Season 1 (2011-12)

No. overall	No. in season	Title	Original air date	U.S. viewers (millions)		
1	1	"Moonshine Season Starts"	December 6, 2011	2.832		
Two partne surveillance	`	l Tickle) scout for a site for their operation.	on, and an ABC agent discovers	s counter-		
2	2	"Point of No Return"	December 7, 2011	2.856		
		operating their still for the first time, which the pursues a hot tip.	ch goes smoothly until an emer	gency strikes; a		
3	3	"The Law Comes Knockin' "	December 14, 2011	2.578		
Equipment failure and an intruder threaten moonshiner Tim and his partner Tickle's first run of moonshine. Law enforcement agent Jesse Tate shuts down an illegal drinking establishment. Veteran moonshiner Popcorn Sutton shows his old-fashioned way of producing moonshine.						
4	4	"Outlaw Brotherhood"	December 21, 2011	2.791		
Moonshine threatens th		nis partner Tickle fix up Tim's car and use	e it to transport some moonshin	e. A hurricane		
5	5	"A Price to Pay"	December 28, 2011	2.618		
		niner Tim adds a second pot to the still sine ree ribs. Agent Jesse tries to arrest people	*	falls while		
6	6	"A Moonshiner's Farewell"	January 4, 2012	2.899		
Popcorn Sutton dies. Tim and Tickle produce moonshine day and night, making more money than Tim has ever made before. Agent Jesse conducts reconnaissance of an active still site.						
Special						
7	7	"Cannonball Run"	April 18, 2012	1.343		
Tim and Ti	ckle plan a	risky midday transfer.				

Season 2 (2012–13)

No. overall	No. in season	Title	Original air date	U.S. viewers (millions)			
8	1	"Rise 'n Shine!"	November 7, 2012	3.06			
Moonshine season in Appalachia has begun. Tim and Tickle are starting to try to produce some moonshine. A new law enforcement officer, Deputy Sheriff Chuck, is introduced.							
9	2	"Moonshine Goldmine"	November 14, 2012	2.23			
Josh and Bill make progress building their underground still. Mark and Jeff build a new copper still and go into the mountains to establish a new site. Tickle lures Tim back to their illegal site.							
10	3	"Moonshiner Vs. Hogzilla"	November 21, 2012	2.48			
10	_		· · · · · · · · · · · · · · · · · · ·				

Mark and Jeff call in moonshiner Jim Tom to help fix their broken still. Mark hunts and kills a wild hog. Meanwhile, Deputy Sheriff Chuck gets a tip from a hunter that leads him to an abandoned site. November 28, 2012 11 "Storm's a Brewing" 2.36 A storm hits the Carolinas, and Jeff, Mark and Jim Tom produce moonshine during the storm. Nearby, Josh and Bill experience the same storm and a flood threatens their underground still site. Then, Tickle does something. The episode includes news stories about some moonshining arrests, an ongoing tropical storm and Barney Barnwell's documentary. 5 "A Shiner's Last Stand" 12 December 5, 2012 2.19 Tickle splits from Tim, recruits Howard as a new still hand, and heads into the woods to find a new site. Mark, Jeff and Jim Tom begin work on a second still to make barley-based liquor, but needs his wife and son to run the second site. Deputy Sheriff Chuck meets a confidential informant to get information about the drop off location for an active moonshine operation. Josh and Bill make repairs to their underground still site. $3.43^{[9]}$ "Prophecy Fulfilled" 13 6 December 12, 2012 Tickle builds a new still and does something around midnight. Josh gets angry when he damages the nearly completed underground still site. Mark and Jeff make a risky move when they sell some of their product in town. Jim Tom teaches Jeff's son Lance how to measure the alcohol content of moonshine. $3.65^{[10]}$ 14 "Tickle Goes Rogue" December 19, 2012 Tickle goes it alone after his still hand Howard gets spooked by an intruder and disappears. Josh and Bill discover toxic black mold in their underground still site. Jeff's wife and son set up a second still to run barley scotch. Deputy Sheriff Chuck tries to catch moonshiners. 15 8 "Troubled Waters" $3.46^{[11]}$ January 2, 2013 Tickle gets discovered by an angry landowner, while Tim devises a new hiding spot for his back-up stash of moonshine. Josh and Bill get into a bone-breaking fight at their new still site. Mark carries moonshine by canoe at night. 16 "Adios, Mr. Still" $3.30^{[12]}$ January 9, 2013 Gunfire erupts in the bamboo patch just as Josh and Bill fire up their still for the first time in the season. Meanwhile, Jeff, Mark and Jim Tom make a batch of rye whiskey in the style of President George Washington. Tickle's still is sabotaged. 17 10 "Moonshine Treasure Hunt" January 16, 2013 $3.18^{[13]}$ Tim hunts for 200 gallons of high-value 60-year-old moonshine at the bottom of a lake. Mark and Jeff encounter a thief stealing their moonshine. Mike and Tweedy hide moonshine under a pile of cattle manure. Tickle has some interaction with his old still hand Howard. $3.17^{[14]}$ 11 "Hat in Hand" January 23, 2013 18 In debt to dangerous people, Tickle goes to Tim for help. Jeff, Mark and Jim Tom struggle with a nest of yellow jackets at their still site. Josh comes to Cutie Pie's rescue when she gets hurt at the underground still. $3.87^{[15]}$ 19 "Last Shiner Standing" 12 January 30, 2013 As Tim gets ready to go legal, Tickle loads the last batch of illegal moonshine into an RV's water tank to sell to waiting customers. Josh and Bill's above-ground still malfunctions, ending their season, but they find that their underground site is now mold-free and ready to use during the winter. Jeff, Mark, and Jim Tom run three stills at once, and Deputy Sheriff Chuck makes his move, arresting the suspect he pursued all season.

This episode was dedicated in memory of Darrin Lewis, Mike's brother.

This episode was dedicated in memory of Darrin Lewis, Mike's brother.							
Specials							
20	13	"Secret Summit Part 1"	February 6, 2013	N/A			
In Part 1 of this special, the moonshiners meet in a secluded cabin for an interview with executive producer Matthew Ostrom. They talk about run-ins with the law, why they let the cameras in, making dynamite, and old proofing methods.							
21	14	"Secret Summit Part 2"	February 13, 2013	N/A			
In Part 2 of this special, the moonshiners meet in a secluded cabin for an interview with executive producer Matthew Ostrom. They talk about the moonshiners code, leading double lives, obsessive fans, and the perils of life at the still site.							
22	15	"Tickle's Guide to Love"	February 14, 2013	N/A			

Season 3 (2013–14)

No. overall	No. in season	Title	Original air date	U.S. viewers (millions)
23	1	"Time to 'Shine"	November 5, 2013	2.52 ^[16]

It's the start of moonshine season! Moonshiners Jeff and Mark, and partners Josh and Bill hit the ground running. Meanwhile, veteran shiner Tim Smith will make a life-changing move, and Tickle is forced to realize that his time to shine has just begun.

24	2	"A Shiner in Kentucky"	November 12, 2013	$2.02^{[17]}$
<i>2</i> '	_	71 Shine in Rentacky	11010111001 12, 2013	Z.UZ

Mark and Jeff clear their remote North Carolina still site, while an argument between Josh and Bill threatens to destroy their partnership. Tim has a tough time adjusting to moonshining in a legal Kentucky distillery, and Tickle takes a road trip.

25 3 "Swamp Shiners" November 19, 2013 2.1	25
--	----

Mark and Jeff struggle to set up their remote still site, while Josh and Bill are desperate for cash to build a new copper still. Tensions run high in the Kentucky distillery with Tim and his partner Steve, and a new moonshiner appears in Mississippi.

Tim Smith hires a person with a checkered past to help at the distillery in Kentucky. Tickle learns how to make moonshine in a copper pot still from one of the best. In North Carolina, Jeff and Mark are surprised by an unexpected visitor.

27	5	"Hush Money"	December 3, 2013	2.78 ^[20]

In North Carolina, Jeff and Mark must pay hush money to the property owner of their still site, while veteran shiner Jim Tom helps Wayne perfect his moonshine recipe. In Virginia, Tickle encounters bad luck when he

		own shine.		
28	6	"First Run"	December 10, 2013	2.47 ^[21]
Equipment	t failure thre	nt, while Wayne comes up with an ingeni- eatens the production of Tim Smith's lega berry brandy.		
29	7	"Blue Moonshine"	December 17, 2013	$2.22^{[22]}$
	ion that cou	ed back to their day jobs after their shine ld risk it all. Tickle struggles to keep Tim		
30	8	"Rival Shiners"	December 24, 2013	$2.16^{[23]}$
Chico take		ne with his first bottled batch of shine. Je could cost him everything. Josh and Bil eg.	•	•
31	9	"Bootlegging Blowups"	December 31, 2013	2.45 ^[24]
		elp to investigate his new still hand, Chic shine game, as bootleggers. Jeff, Mark a		
32	10	"Moonshine War"	January 7, 2014	$3.02^{[25]}$
			• • • • • • • • • • • • • • • • • • •	3.02
bootleg shi		er in Kentucky, to find out what Chico hasic festival. But they soon hit a violent roone shot.	s been up to. Josh and Bill hit the	ne open road, to
bootleg shi	ine at a mus	sic festival. But they soon hit a violent ro	s been up to. Josh and Bill hit the	ne open road, to
bootleg shi the compet 33 Josh and B still indoor	ine at a mustition with of the suffer the su	ric festival. But they soon hit a violent roone shot. "Firewater" e consequences of bootlegging. Darlene ok, and Lance find their competition is sti	January 14, 2014 goes against her best instinct an	ne open road, to look to take out 2.65 ^[26] d lights up her
bootleg shi the compet 33 Josh and B still indoor	ine at a mustition with of the state of the suffer the state of the st	ric festival. But they soon hit a violent roone shot. "Firewater" e consequences of bootlegging. Darlene ok, and Lance find their competition is sti	January 14, 2014 goes against her best instinct an	ne open road, to look to take out 2.65 ^[26] d lights up her
bootleg shithe competed 33 Josh and Bestill indoor his legal shad 34 Jeff and Meis desperated bootleg ship in the shad bestill in the shift in the	ine at a mustition with of the suffer the s. Jeff, Marnine busines 12	"Firewater" e consequences of bootlegging. Darleneck, and Lance find their competition is sties. "Aftershock" cash in on one final run of the season. Tiete his New Orleans order, and turns to D	January 14, 2014 goes against her best instinct an II out there. Tim takes final mea January 28, 2014 ckle and Chico's still site is con	2.65 ^[26] Id lights up her sures to protect 2.77 ^[27] Inpromised. Mike
bootleg shithe competed 33 Josh and Bestill indoor his legal shad 34 Jeff and Meis desperated bootleg ship in the shad bestill in the shift in the	at a mustition with of the state of the stat	"Firewater" e consequences of bootlegging. Darleneck, and Lance find their competition is sties. "Aftershock" cash in on one final run of the season. Tiete his New Orleans order, and turns to D	January 14, 2014 goes against her best instinct an II out there. Tim takes final mea January 28, 2014 ckle and Chico's still site is con	2.65 ^[26] ad lights up her sures to protect 2.77 ^[27] appromised. Mike
bootleg shi the competence of the competence of	11 sill suffer the s. Jeff, Marnine busines 12 sark look to e to completiquor after 13 sark reach the	ric festival. But they soon hit a violent roone shot. "Firewater" e consequences of bootlegging. Darlene k, and Lance find their competition is stiss. "Aftershock" cash in on one final run of the season. Tiste his New Orleans order, and turns to Dall.	January 14, 2014 goes against her best instinct an Il out there. Tim takes final mea January 28, 2014 ckle and Chico's still site is con arlene. Josh and Bill might get February 4, 2014 not on a trail. Josh and Bill might	ne open road, to look to take out $2.65^{[26]}$ ad lights up her sures to protect $2.77^{[27]}$ in promised. Mike to sell some of $3.03^{[28]}$ at finally be back
Josh and B still indoor his legal shad I sha	11 sill suffer the s. Jeff, Marnine busines 12 sark look to e to completiquor after 13 sark reach the	ric festival. But they soon hit a violent roone shot. "Firewater" e consequences of bootlegging. Darlene rk, and Lance find their competition is stiss. "Aftershock" cash in on one final run of the season. Tiste his New Orleans order, and turns to Dall. "Liquid Courage" ne ultimate roadblock. Deputy Chuck is here.	January 14, 2014 goes against her best instinct an Il out there. Tim takes final mea January 28, 2014 ckle and Chico's still site is con arlene. Josh and Bill might get February 4, 2014 not on a trail. Josh and Bill might	ne open road, to look to take out $2.65^{[26]}$ ad lights up her sures to protect $2.77^{[27]}$ in promised. Mike to sell some of $3.03^{[28]}$ at finally be back
Josh and B still indoor his legal shad I sha	11 sill suffer the s. Jeff, Marnine busines 12 sark look to e to completiquor after 13 sark reach the	ric festival. But they soon hit a violent roone shot. "Firewater" e consequences of bootlegging. Darlene rk, and Lance find their competition is stiss. "Aftershock" cash in on one final run of the season. Tiste his New Orleans order, and turns to Dall. "Liquid Courage" ne ultimate roadblock. Deputy Chuck is hes a trip to finish off his biggest sale of the	January 14, 2014 goes against her best instinct an Il out there. Tim takes final mea January 28, 2014 ckle and Chico's still site is con arlene. Josh and Bill might get February 4, 2014 not on a trail. Josh and Bill might	ne open road, to look to take out $2.65^{[26]}$ ad lights up her sures to protect $2.77^{[27]}$ in promised. Mike to sell some of $3.03^{[28]}$ at finally be back

_	_	"Kick-off Summit"	November 5, 2013	1.91 ^[16]	
The 'shiners gather in a secluded cabin to kick off the new season. The episode features new-season highlights and clues to what lies ahead. Josh and Bill go on an adventure to Kentucky, and fans get answers to their questions.					
_	_	"Christmas Special"	December 10, 2013	2.08 ^[21]	
_	_	"The Ballad of Jim Tom"	January 7, 2014	2.26 ^[25]	
Jim Tom te music star.	•	y in song as he begins attempting to fulfil	l his lifelong dream of becomin	g a country	

Season 4 (2014–15)

No. overall	No. in season	Title	Original air date	U.S. viewers (millions)
36	1	"Shine On"	November 4, 2014	1.77 ^[29]

Tim is on the run after his operation was set on fire. Jim Tom prepares for his second coming as a moonshiner. Tickle and Tyler take their partnership to a new level. Josh and Bill sell last year's surplus shine. Jeff and Mark survey an indoor still site.

37	2	"Moonshine Waterfall"	November 11, 2014	$1.80^{[30]}$

Tickle and Tyler need to fix a bad feed line and get back to work at the moonshine cave. Jim Tom and Roy build the still that will carry them to greatness. Josh and Bill are sidelined with a crushed still. Sheriff's Deputy Chuck gains ground on Lance.

38 3 "Bullet Proof" November 18, 2014

Josh & Bill pick up the pieces of their broken still. Lance tries to brew a moonshine game changer as Sheriff's Deputy Chuck closes in. Tickle gets stranded miles from civilization. Tim sets out from Kentucky in search of greener pastures.

39 4 "Risky Whiskey" November 25, 2014
--

Josh and Bill rebuild bigger and better. Lance takes a risk on a new kind of whiskey, while Jeff and Mark prep their indoor still site. Tickle and crew battle the elements in Kentucky. Tim gives the North Carolina distillery a backwoods makeover.

40 5 "Tennessee Rising" December 2, 2014
--

Two former still hands of moonshine legend Popcorn Sutton emerge from the shadows. Tim learns that getting out of the illegal liquor business doesn't get you out of the woods. And a ton of work lies ahead for Mark and Jeff after a brush with the law.

Tickle nails down a stash spot. Josh and Bill butt heads in the backwoods. Jim Tom and Roy are back in action. Mark and Digger's still goes from old school to state-of-the-art. And Mark and Jeff put the bells and whistles on their new shine spot.

42	7	"White Lightning Wars"	December 16, 2014	1.74 ^[35]
	im big. The	e heat as the law closes in. Tim's plan to ge law cracks down on Josh and Bill. Tickle lightning.		
43	8	"Liquid Assets"	December 23, 2014	2.149 ^[36]
Josh build	an undergr	full keeping track of his liquor and Chico cound bunker to hide their shine. Tennesse ze moonshining.		
44	9	"Shine Jacked"	December 30, 2014	2.49 ^[37]
Josh and B	ill have a c	close call with authorities; a new lawman	visits two shiners in Tennessee	
45	10	"Moonshine River"	January 6, 2015	2.06 ^[38]
		riple batch run; Tickle makes a sacrifice t an produce his moonshine.	o save his partnership; Tim is r	eady to see if the
46	11	"Shine Overboard"	January 13, 2015	1.69 ^[39]
	icky moons	ine season are here. Josh & Bill's liquor g shine game-changer. Tickle gets trumped lisaster.		-
47	12	"Bootleg or Bust"	January 20, 2015	2.07 ^[40]
Josh & Bill	l go into th er. Mark ta	e water business to secretly sell their shin kes a second shot at delivering his liquor	e. Tim returns to Virginia to fil	l a huge last-
Josh & Bill minute ord	l go into th er. Mark ta	e water business to secretly sell their shin kes a second shot at delivering his liquor	e. Tim returns to Virginia to fil	l a huge last-
Josh & Bill minute ord savior almo	l go into ther. Mark ta	e water business to secretly sell their shin skes a second shot at delivering his liquor down.	e. Tim returns to Virginia to fil by boat. And Tickle's deal with	l a huge last- n a moonshine
Josh & Bill minute ord savior almo	l go into ther. Mark ta	e water business to secretly sell their shinkes a second shot at delivering his liquor down. "Bros Before Hooch"	e. Tim returns to Virginia to fil by boat. And Tickle's deal with January 27, 2015	l a huge last- n a moonshine 2.22 ^[41]
Josh & Bill minute ord savior almo	l go into ther. Mark ta	e water business to secretly sell their shinks a second shot at delivering his liquor down. "Bros Before Hooch" "The Shining"	e. Tim returns to Virginia to fil by boat. And Tickle's deal with January 27, 2015	l a huge last- n a moonshine 2.22 ^[41]
Josh & Bill minute ord savior almo 48 49 — Tim, Tickle	l go into ther. Mark taost breaks of 13 14 - e, Josh, Billim Tom su	e water business to secretly sell their shim these a second shot at delivering his liquor down. "Bros Before Hooch" "The Shining" Specials "Kick-off Summit" I, Jeff and Mark gather at a secret location arprises producers by making his debut at	January 27, 2015 February 3, 2015 November 4, 2014 n to count down the minutes to	l a huge last- n a moonshine $2.22^{[41]}$ $2.65^{[42]}$ $1.402^{[29]}$ the new season
Josh & Bill minute ord savior almo 48 49 — Tim, Tickle premiere. J	l go into ther. Mark taost breaks of 13 14 - e, Josh, Billim Tom su	e water business to secretly sell their shim these a second shot at delivering his liquor down. "Bros Before Hooch" "The Shining" Specials "Kick-off Summit" I, Jeff and Mark gather at a secret location arprises producers by making his debut at	January 27, 2015 February 3, 2015 November 4, 2014 n to count down the minutes to	l a huge last- n a moonshine $2.22^{[41]}$ $2.65^{[42]}$ $1.402^{[29]}$ the new season
Josh & Bill minute ord savior almo 48 49 Tim, Tickle premiere. J judge of a 1 The moons	l go into the er. Mark ta ost breaks of 13 14	e water business to secretly sell their shim these a second shot at delivering his liquor down. "Bros Before Hooch" "The Shining" Specials "Kick-off Summit" I, Jeff and Mark gather at a secret location arprises producers by making his debut at a taste test. "Thanksgiving Summit" her at a secret location to discuss the seasons-style, and share their favorite family recommendations.	January 27, 2015 February 3, 2015 November 4, 2014 In to count down the minutes to the roundtable. Then the guys 1 November 25, 2014 November 25, 2014 Thanksgiving table etiquetters	l a huge last- n a moonshine $2.22^{[41]}$ $2.65^{[42]}$ $1.402^{[29]}$ the new season let Tim be the $0.946^{[32]}$ e, and how to bage
Josh & Bill minute ord savior almo 48 49 Tim, Tickle premiere. J judge of a recommendation of a turkey M	l go into the er. Mark ta ost breaks of 13 14	e water business to secretly sell their shim these a second shot at delivering his liquor down. "Bros Before Hooch" "The Shining" Specials "Kick-off Summit" I, Jeff and Mark gather at a secret location arprises producers by making his debut at a taste test. "Thanksgiving Summit" her at a secret location to discuss the seasons-style, and share their favorite family recommendations.	January 27, 2015 February 3, 2015 November 4, 2014 In to count down the minutes to the roundtable. Then the guys 1 November 25, 2014 November 25, 2014 Thanksgiving table etiquetters	l a huge last- n a moonshine $2.22^{[41]}$ $2.65^{[42]}$ $1.402^{[29]}$ the new season let Tim be the $0.946^{[32]}$ e, and how to bage
Josh & Bill minute ord savior almo 48 49 Tim, Tickle premiere. Jiudge of a record a turkey M legendary records	l go into the er. Mark ta ost breaks of 13 14 14 e, Josh, Bildim Tom su moonshine shiners gath conshiners moonshine —	e water business to secretly sell their shim these a second shot at delivering his liquor down. "Bros Before Hooch" "The Shining" Specials "Kick-off Summit" I, Jeff and Mark gather at a secret location arprises producers by making his debut at a taste test. "Thanksgiving Summit" her at a secret location to discuss the seasons-style, and share their favorite family record.	January 27, 2015 February 3, 2015 November 4, 2014 In to count down the minutes to the roundtable. Then the guys November 25, 2014 On, Thanksgiving table etiquettipes. Shiner Josh and sidekick (1)	l a huge last- n a moonshine $2.22^{[41]}$ $2.65^{[42]}$ $1.402^{[29]}$ the new season let Tim be the $0.946^{[32]}$ e, and how to bag Cutie Pie visit a
Josh & Bill minute ord savior almo 48 49 Tim, Tickle premiere. J judge of a record a turkey M legendary records	l go into the er. Mark ta ost breaks of 13 14 14 e, Josh, Bildim Tom su moonshine shiners gath conshiners moonshine —	e water business to secretly sell their shims also a second shot at delivering his liquor down. "Bros Before Hooch" "The Shining" Specials "Kick-off Summit" I, Jeff and Mark gather at a secret location arprises producers by making his debut at a taste test. "Thanksgiving Summit" ner at a secret location to discuss the sease sestyle, and share their favorite family record. "A Moonshiner's Christmas"	January 27, 2015 February 3, 2015 November 4, 2014 In to count down the minutes to the roundtable. Then the guys November 25, 2014 On, Thanksgiving table etiquettipes. Shiner Josh and sidekick (1)	l a huge last- n a moonshine $2.22^{[41]}$ $2.65^{[42]}$ $1.402^{[29]}$ the new season let Tim be the $0.946^{[32]}$ e, and how to bage Cutie Pie visit a

J	Jim Tom embarks on an adventure, ending up in Music City, U.S.A.				
	_	_	"Road to Nashville, Vol. 2"	January 6, 2015	1.414 ^[38]
	_	_	"Secret Summit: Outlaw Confessions"	January 13, 2015	1.069 ^[39]

_	_	"Secret Summit: Outlaw Confessions"	January 13, 2015	1.069[39]
Season 5	(2015–16	6)		
No. overall	No. in season	Title	Original air date	U.S. viewers (millions)
50	1	"American Spirits"	November 17, 2015	1.76 ^[43]
jeopardizes		n session. Shine is in demand and the law usiness. Jeff, Mark and Lance aim to do early.		
51	2	"Whiskey Burn"	November 24, 2015	1.58 ^[44]
first run lea		shine season and outlaws are eager to turn taste. Jeff, Mark, & Lance scope out the ign.	•	
52	3	"Gone A-Rye"	December 1, 2015	$1.65^{[45]}$
the market.	4	ax Moonshine. Jeff, Mark and Lance sea	December 8, 2015	2.12 ^[46]
Shine seaso Digger enli	on is in full ist a whiske	swing as Josh & Bill find themselves wi ey legend to find out why their first run w	th no still, no home base and no	shine. Mark &
	I	bitious still site.		[47]
54	5	"Rain or Shine"	December 15, 2015	1.57 ^[47]
		e season, Josh & Bill race to finish their s ger's rye test. A deadly disaster leaves Tir		
55	6	"A Very Moonshiners Christmas"	December 22, 2015	1.98 ^[48]
		llachia! And whether it's gathering with f f shine or forging new traditions, these sl		
56	7	"Scotch on the Rocks"	December 29, 2015	1.7 ^[49]
Meanwhile		nd two steps back for Josh and Bill as the k and Lance are \$6000 in the hole after lo	•	
57	8	"Six Feet Undercover"	January 5, 2016	1.92 ^[50]
	D: :41	n help from Jim Tom, craft 150 gallons of		

58	9	matter of getting their shine into the har out On A Limb"	January 12, 2016	2.04 ^[51]
			•	
threatens P		whemoth threatens to undo months of convid's clandestine operation and battle line ferences.		
59	10	"Trouble Brewing"	January 19, 2016	1.80 ^[52]
	Poland, or	down, shiners are doubling their efforts his quest to dominate the international s		
60	11	"Caved In"	January 26, 2016	$2.04^{[53]}$
		with Bill, Josh fears he may have finally orching new brew but alarm bells have the		m to make up
61	12	"Cherry Bounce"	February 2, 2016	1.99 ^[54]
		summer and shiners are putting it all on t I it's judgment day in Virginia as Tickle p		to fill a massive
62	13	"Shine 'Til You Drop"	February 9, 2016	2.08 [55]
		as shine season nears its end. Mark and I lapeno whiskey drives them to sell in uni		a new still site
63	14	"Still Regretting"	February 16, 2016	2.08 [56]
future in je	opardy. Ch	hand and his right hand man. Snags at the ico and Sandra set out on horseback for sason begins.	• •	
64	15	"Virgin Whiskey"	February 23, 2016	1.76 ^[57]
	et to fulfillin	nxious to get back in the saddle and make ng the Poland order after all . With Jim T		_
65	16	"Presidential Shine"	March 1, 2016	1.59 [58]
Mark and I		o sell off their stash before a local fracking that a classic recipe will save their season end.		
66	17	"End of an Era"	March 8, 2016	1.85 ^[59]
lifetime. M		ountry. Tim is thousands of cases of moor ger receive the surprise of their lives in the amends.		

Season 6 (2016–17)

Season six started on November 15, 2016. [60]

Cast

indicates a season in which a person appeared **Key:** 67 1 "Whiskey Rebellion" November 15, 2016 1.579^[61] It's moonshine season in Appalachia. Josh has hit the ground running but working solo can lead to catastrophic results. And former outlaw Tim Smith is training his son JT to help run his legal outfit. 68 2 "Take Me To The River" November 22, 2016 1.511^[62] Patti & David scramble to locate a clean water source for their operation. Mark Rogers ventures into unfamiliar territory to secure new buyers. Mark & Digger use an old moonshiner's trick to spook intruders from their still site. "Hard Start" November 29, 2016 N/A A catastrophe leaves Josh desperately in need of a helping hand; Chico and Sandra's moonshine partnership puts strain on their relationship; Mark and Digger furnish still with an innovation, but their operation has attracted an unwanted visitor. 70 "Luck of the Irish" December 6, 2016 N/A Rookie mistake could leave Josh and Chuck's operation dead in the water; Tim Smith travels across the Atlantic to teach an old Irish distillery a thing or two about making moonshine; Mark and Digger's mash test is interrupted by an unwanted visitor. "Big River Redemption" December 13, 2016 71 N/A Mark and Digger struggle to get a special recipe run for a shine legend; Big Chuck attempts to redeem himself after destroying Josh's operation; Chico and Sandra continue work on their still site but disaster strikes. **72** 6 "Making Spirits Bright" December 20, 2016 N/A Mark and Digger dress up as Santa Claus for kids in need. Later, Patti and David prepare food for a holiday feast; and Bill gets ready to go Christmas caroling in true Carolina fashion. "Whiskey Time **73** 7 December 27, 2016 N/A Machine" Tim needs to rescue his operation, challenging the laws of nature and time; Mark and Digger implement a high-tech addition to their operation that could double their output; Jeff and Lance make a once-banned liquor. "Dog Days of Shining" January 3, 2017 N/A Josh and Big Chuck attempt to revive their season with a new still site; Mark and Digger prepare to put their still design to the test; Mark and Mike take their first steps to grab at a new territory. "Smokey Mountain Gin" January 10, 2017 75 N/A Tim Smith puts a whiskey time machine to the test; and Chico and Sandra try a new recipe to

N/A

revive their stalled season. Later, Mark and Digger experiment with distilling a classic on their high-speed rig.

76 10 "Green Dragon" January 17, 2017

Josh and Chuck aim to get back on top; money threatens to destroy an age-old partnership for Jeff, Mark and Lance; Mark and Digger painstakingly craft a special brew for a high rolling customer.

77 11 "Big City Bootleg" January 24, 2017 TBD

Josh and Big Chuck go underground to build a new stash site; Mark and Digger venture out of the Smokeys and into the big city for the biggest sale of their careers; Patti and David follow nature's harvest to make a sweet new brew.

78 "Big Wheels Keep On Turning" January 31, 2017 TBD

Mark and Digger bring in a moonshine legend to rev up production. Josh and Chuck turn to an old power source to prolong their operation. Chico and Sondra gear up for their first big sale of the season. Tim puts dollars on the line to save his operation.

79 "The Green Devil" February 7, 2017 TBD

Jeff and Lance attempt to salvage their absinthe recipe; Mark puts his new partner to the test; rough labor and lack of profit threaten to leave Josh up the creek without a paddle or a partner; and Patti and David are without their key ingredient.

80 14 "Thunder Pumpkins" February 14, 2017 TBD

An ingredient has Josh and Chuck ready to quit the biz; Mark and Digger band together with JB to run their signature spirit; Tim puts his turbo-aged whiskey to the test; and Chico and Sondra have their sights on a new brew.

81 "Moonshiners" February 21, 2017 TBD

Josh and Chuck struggle to finish winterizing their site; Mark and Digger bring their two-pot still out of retirement; and Mark and Mike have enjoyed a string of successful runs, but delivering the goods could land them in the crosshairs of the law.

Cast Role Season 1 Season 2 Season Season Season 3 4 5

Tim Moonshiner
Tickle Moonshiner
Marvin "Popcorn"

Sutton Moonshiner

Jesse Law Enforcement

Agent

Moonshiner

Jeff Moonshiner
Mark Moonshiner
Lance Moonshiner
Jim Tom Moonshiner
Josh Moonshiner

Bill

Howard Moonshiner **Deputy Sheriff** Chuck Mike Moonshiner Moonshiner Tweedy Chico Moonshiner **Tyler** Moonshiner Wayne Moonshiner Darlene Moonshiner Chris Thompson Moonshiner Digger Moonshiner David Moonshiner Moonshiner Patti

Spinoff

In May 2013, it was announced that, in addition to renewing *Moonshiners* for a third season, Discovery Channel would be purchasing a spinoff about Steven Ray Tickle, to be called *Tickle*.^[63] The series premiered on August 13, 2013.^[64]

Theme song and introduction sequence

The theme song for the show is Steve Earle's "Copperhead Road". The intro montage introduces the cast members, and also shows some of the difficulties they face while making the moonshine.

References

- 1. "About Show: Moonshiners: Discovery Channel". Dsc.discovery.com. Retrieved December 19, 2011.
- 2. "Virginia Authorities Claim Show 'Moonshiners' Doesn't Show Illegal Moonshining". Fox News. December 30, 2011. Retrieved March 8, 2012.
- 3. Meagan Murphy. "'Moonshiners' Producer Stands By Show's Accuracy in Face of State's Claim Show Is a Hoax". Fox News.
- 4. "The Last One Popcorn Sutton Documentary Special Edition (2012)". Retrieved April 25, 2013.
- 5. The Last One Popcorn and moonshine in North Carolina (http://blogs.newsobserver.com/tv/the-last-one-popcorn-and-moonshine-in-north-carolina#storylink=cpy), *The News & Observer*, December 11, 2008.
- 6. Popcorn Sutton Documentary Wins Emmy Award (http://blogs.newsobserver.com/tv/popcorn-sutton-documentary-wins-emmy-award), *The News & Observer*, June 30, 2009.
- 7. Tom Landess (June 1, 2009). "Marvin "Popcorn" Sutton, R.I.P.". Archived from the original on November 3, 2011.
- 8. "Moonshines: Discovery Channel". Retrieved October 11, 2013.
- 9. Bibel, Sara (December 13, 2012). "Wednesday Cable Ratings: 'Moonshiners' & 'Amish Mafia' Win Night, 'American Horror Story', 'South Beach Tow', 'Shipping Wars' & More". *TV by the Numbers*.
- 10. Bibel, Sara (December 20, 2012). "Wednesday Cable Ratings: 'Moonshiners' Wins Night + 'Amish Mafia', 'Duck Dynasty', 'Shipping Wars', NBA Basketball & More". *TV by the Numbers*.
- 11 Ribal Sara (January A 2012) "Wadnasday Cabla Patings: 'Sugar Royul' Wine Night 'Moonshinars' 'Amarican Horror

- 11. Bioci, Sara (January 4, 2013). wednesday Caule Ratings. Sugar Bowr wins reignt, proofishings, American Fiorior Story', 'Amish Mafia', 'Full Throttle Saloon' & More".
- 12. "Wednesday Cable Ratings: 'Moonshiners' & 'Amish Mafia' Win Night + 'American Horror Story', 'Duck Dynasty' & More". January 10, 2013.
- 13. "Wednesday Cable Ratings: 'Moonshiners' Wins Night, + 'Amish Mafia', 'American Horror Story', 'Workaholics', & More". January 17, 2013.
- 14. "Wednesday Cable Ratings: 'Moonshiners' Wins Night, 'American Horror Story', 'Necessary Roughness', 'Workaholics', 'Top Chef' & More". January 24, 2013.
- 15. "Wednesday Cable Ratings: 'Moonshiners' Wins Night + 'The Americans', NBA Basketball, 'Workaholics', 'Shipping Wars' & More". January 31, 2013.
- 16. "Tuesday Cable Ratings". November 6, 2013.
- 17. "Tuesday Cable Ratings". November 13, 2013.
- 18. "Tuesday Cable Ratings". November 20, 2013.
- 19. "Tuesday Cable Ratings". November 27, 2013.
- 20. "Tuesday Cable Ratings". December 4, 2013.
- 21. "Tuesday Cable Ratings". December 11, 2013.
- 22. "Tuesday Cable Ratings". December 18, 2013.
- 23. "Tuesday Cable Ratings". December 27, 2013.
- 24. "Tuesday Cable Ratings". January 2, 2013.
- 25. "Tuesday Cable Ratings". January 8, 2013.
- 26. "Tuesday Cable Ratings". January 15, 2013.
- 27. "Tuesday Cable Ratings". January 29, 2013.
- 28. "Tuesday Cable Ratings". February 5, 2013.
- 29. "Tuesday Cable Ratings: 'Sons of Anarchy' Tops Night + '19 Kids and Counting', Election Coverage & More". November 5, 2014.
- 30. "Tuesday Cable Ratings: 'Sons of Anarchy' Wins Night, '30 for 30', '19 Kids & Counting', 'Chrisley Knows Best', 'Awkward', 'Faking It' & More". November 12, 2014.
- 31. Kondolojy, Amanda (November 19, 2014). "Tuesday Cable Ratings: 'Sons of Anarchy' Tops Night + College Basketball, 'Anarchy Afterword', 'The Real Housewives of Beverly Hills' & More". TV by the Numbers. Retrieved November 19, 2014.
- 32. Bible, Sara (November 26, 2014). "Tuesday Cable Ratings: 'Curse of Oak Island' Wins Night, 'Ink Master', 'Real Housewives of Beverly Hills', 'Bad Girls Club', 'Awkward', 'Faking It' & More". TV by the Numbers. Retrieved November 26, 2014.
- 33. Kondojoly, Amanda (December 3, 2014). "Tuesday Cable Ratings: 'Sons of Anarchy' Tops Night + 'Anarchy Afterword', 'Moonshiners', 'Real Housewives of Beverly Hills' & More". TV by the Numbers. Retrieved December 3, 2014.
- 34. Bibel, Sara (December 10, 2014). "Tuesday Cable Ratings: 'Sons of Anarchy' Wins Night, 'Anarchy Afterword', 'Pretty Little Liars', 'Benched', 'Ground Floor' & More". TV by the Numbers. Retrieved December 10, 2014.
- 35. Kondolojy, Amanda (December 17, 2014). "Tuesday Cable Ratings: 'Ink Master' Tops Night + 'The Real Housewives of Beverly Hills', 'The Curse of Oak Island', NBA Basketball & More". TV by the Numbers. Retrieved December 17, 2014.
- 36. Metcalf, Mitch (December 24, 2014). "SHOWBUZZDAILY's Top 25 Tuesday Cable Originals (& Network Update): 12.23.2014". *ShowBuzzDaily*. Retrieved December 24, 2014.
- 37. Kondolojy, Amanda (January 2, 2015). "Tuesday Cable Ratings: College Football Tops Night + 'Moonshiners' The Little Couple', 'Ground Floor' & More". TV by the Numbers. Retrieved January 2, 2015.
- 38. Bibel, Sara (January 8, 2015). "Tuesday Cable Ratings: 'The Haves and the Have Nots' Wins Night' 'Pretty Little Liars', 'Switched at Birth', 'Dance Moms', 'The Real World' & More". TV by the Numbers. Retrieved January 8, 2015.
- 39. Kondojoly, Amanda (January 15, 2015). "Tuesday Cable Ratings: 'Pretty Little Liars' Tops Night + 'The Real Housewives of Beverly Hills', 'The Curse of Oak Island' & More". TV by the Numbers. Retrieved January 15, 2015.
- 40. Bibel, Sara (January 22, 2015). "Tuesday Cable Ratings: 'Real Housewives of Beverly Hills', 'The Haves & The Have Nots' & 'Fixer Upper' Win Night, 'Pretty Little Liars', 'Justified' & More". *TV by the Numbers*. Retrieved January 28, 2015
- 41. Kondolojy, Amanda (January 28, 2015). "Tuesday Cable Ratings: 'The Real Housewives of Beverly Hills' Tops Night +

2/14/17, 2:43 PM

- 'Pretty Little Liars', 'The Haves and the Have Nots', 'Sons of Liberty' & More". *TV by the Numbers*. Retrieved January 28, 2015.
- 42. Bibel, Sara (February 4, 2015). "Tuesday Cable Ratings: 'Being Mary Jane' Wins Night, 'Moonshiners', 'The Haves and the Have Nots', 'Pretty Little Liars', 'Justified' & More". *TV by the Numbers*. Retrieved February 4, 2015.
- 43. Metcalf, Mitch (November 18, 2015). "UPDATED: SHOWBUZZDAILY's Top 100 Friday Cable Originals & Network Update: 11.17.2015". *ShowBuzzDaily*. Retrieved November 18, 2015.
- 44. Metcalf, Mitch (November 25, 2015). "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Update: 11.24.2015". *ShowBuzzDaily*. Retrieved November 25, 2015.
- 45. Metcalf, Mitch (December 1, 2015). "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Update: 12.1.2015". *ShowBuzzDaily*. Retrieved December 1, 2015.
- 46. "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Update: 12.8.2015". December 8, 2015. Retrieved December 8, 2015.
- 47. "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Update: 12.15.2015". December 16, 2015. Retrieved December 16, 2015.
- 48. "Tuesday cable ratings: 'Curse of Oak Island' and 'Big Bang Theory' win the day". December 16, 2015. Retrieved December 16, 2015.
- 49. "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Update: 12.29.2015". December 31, 2015. Retrieved December 31, 2015.
- 50. "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Update: 1.5.2016". January 6, 2016. Retrieved January 6, 2016.
- 51. "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Update: 1.12.2016". January 13, 2016. Retrieved January 13, 2016.
- 52. "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Update: 1.19.2016". January 21, 2016. Retrieved January 21, 2016.
- 53. "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Update: 1.26.2016". January 26, 2016. Retrieved January 26, 2016.
- 54. "SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Finals: 2.2.2016". February 3, 2016. Retrieved February 3, 2016.
- 55. "SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Finals: 2.9.2016". February 10, 2016. Retrieved February 10, 2016.
- 56. "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Finals: 2.16.2016". February 18, 2016. Retrieved February 18, 2016.
- 57. "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Finals: 2.23.2016". February 18, 2016. Retrieved February 18, 2016.
- 58. "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Finals: 3.1.2016". February 18, 2016. Retrieved February 18, 2016.
- 59. "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Finals: 3.8.2016". February 18, 2016. Retrieved February 18, 2016.
- 60. "Rise and 'Shine... Discovery's "Moonshiners" Returns Tuesday, November 15 at 9PM ET/PT". October 20, 2016.
- 61. "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Finals: 11.15.2016". November 16, 2016.
- 62. "UPDATED: SHOWBUZZDAILY's Top 150 Tuesday Cable Originals & Network Finals: 11.22.2016". November 16, 2016
- 63. "Discovery Renews 'Moonshiners', Adds Spinoff 'Tickle' (Exclusive)". Retrieved October 2, 2013.
- 64. "New series Tickle premiers on Discovery Channel August 13 at 10pm". Retrieved October 2, 2013.

External links

Official website (http://dsc.discovery.com/tv-shows/moonshiners)

• *Moonshiners* (http://www.imdb.com/title/tt1877005/) at the Internet Movie Database

Retrieved from "https://en.wikipedia.org/w/index.php?title=Moonshiners_(TV_series)&oldid=765493643"

Categories: Discovery Channel shows | American reality television series | Works about Appalachia | Television shows set in Virginia | Television shows set in North Carolina | Television shows set in South Carolina | 2011 American television series debuts | 2010s American television series

- This page was last modified on 14 February 2017, at 18:33.
- Text is available under the Creative Commons Attribution-ShareAlike License; additional terms may apply. By using this site, you agree to the Terms of Use and Privacy Policy. Wikipedia® is a registered trademark of the Wikimedia Foundation, Inc., a non-profit organization.

Hatfields & McCoys (miniseries)

From Wikipedia, the free encyclopedia

Hatfields & McCoys is a 2012 American three-part television miniseries based on the Hatfield–McCoy feud produced by History channel. Each episode aired for two hours on May 28, 29, and 30, 2012.^[1]

Contents

- 1 Cast and characters
- 2 Production
 - **2.1** Music
- 3 Reception
 - 3.1 Critical reception
 - 3.2 Accolades
 - 3.3 Ratings
- 4 Effect on tourism
- 5 International broadcast
- 6 Home video release
- 7 References
- 8 External links

Cast and characters

- Kevin Costner as William Anderson "Devil Anse" Hatfield, leader of the Hatfields.
- Bill Paxton as Randolph "Randall" McCoy, leader of the McCoys.
- Tom Berenger as Jim Vance, uncle of Devil Anse.
- Matt Barr as Johnson "Johnse" Hatfield, Devil Anse's oldest son.
- Jena Malone as Nancy McCoy, Randall's niece.
- Sam Reid as Tolbert McCoy, Randall's son.
- Powers Boothe as Judge Valentine "Wall" Hatfield, Devil Anse's brother.
- Andrew Howard as "Bad" Frank Phillips, a bounty bunter
- Jilon VanOver as Ransom Bray, a bounty hunter.
- Sarah Parish as Levicy Hatfield, Devil Anse's wife.
- Lindsay Pulsipher as Roseanna McCoy, Randall's

Hatfields & McCoys



History

Genre Docudrama

Screenplay by Ted Mann

Ronald Parker

Story by Bill Kerby

Ted Mann

Directed by Kevin Reynolds

Starring Kevin Costner

Bill Paxton
Tom Berenger
Powers Boothe

D 1

Theme music composer John Debney

Tony Morales

Country of origin United States

Original language(s) English

daughter.

- Ronan Vibert as Perry Cline, a lawyer and cousin of Randall.
- Joe Absolom as Selkirk McCoy
- Noel Fisher as Ellison "Cotton Top" Mounts, Ellison Hatfield's son.
- Boyd Holbrook as William "Cap" Hatfield, Devil Anse's second son.
- Tom McKay as Jim McCoy, Randall's oldest son.
- Mare Winningham as Sally McCoy, Randall's wife.
- Michael Jibson as Phamer McCoy, Randall's son.
- Greg Patmore as Elias "Good 'Lias" Hatfield
- Damian O'Hare as Ellison Hatfield, Devil Anse's brother.
- Nick Dunning as Reverend Garrett

Production

The miniseries was *History*'s first aired scripted drama^[2] (the network had previously produced a scripted miniseries in 2011, *The Kennedys*, but decided against airing it in the US).^[3]

No. of episodes	3		
Production			
Producer(s)	Kevin Costner Darrell Fetty Herb Nanas		
Cinematography	Arthur Reinhart		
Editor(s)	Don Cassidy		
Running time	290 minutes		
Production company(s)	History		
	ThinkFactory Media		
	Sony Pictures Television		
Rel	Release		
Original network	History		
Original release	May 28 – May 30, 2012		
External links			
Website (http://www.history.com/shows/hatfields-an d-mccoys)			

Although the story is set in the Appalachians in West Virginia and Kentucky, the miniseries was shot in Romania, just outside Braşov with the Carpathians standing in for the Appalachians.^{[4][5]}

Music

The score for the series was composed by John Debney and Tony Morales, with additional music by Kevin Costner and Modern West.^[1] The soundtrack features vocals performed by Lisbeth Scott on *The Long Road Down*.

Reception

Critical reception

The miniseries met with favorable reviews from US critics. Based on 20 reviews from mainstream critics, it received an average score of 68/100 at Metacritic, indicating "generally favorable reviews". [6] Linda Stasi of the *New York Post* commented: "When I first heard about it, my thought was: Why? But that was before I sat through all six hours of this intense saga. Most miniseries this long tend to lose steam somewhere between the beginning of Night 1 and the middle of Night 2. Not this one... The miniseries is full of stand-out performances

from great actors... But it's the guys you may not know who will blow you away."^[7] Entertainment Weekly's Ken Tucker gave the series a B+, stating: "In stretching the tale over three nights, the pacing sags at times, and recriminations can get repetitive. It also doesn't help that Reynolds shot the miniseries in that perpetual sepia tone that gives everything a faux-antique look. But overall, Hatfields & McCoys is engrossing, and enlightening about a feud that proves to be a lot more than the bumpkin brawl of pop legend."^[8] Mary McNamara of the Los Angeles Times stated: "Although deftly nailed into its time and place with sets and costumes so vivid you can smell the blue wood smoke and the stink of moonshine sweat, Hatfields & McCoys transcends the confines of its age by revealing the feud's posturing, resentments and callous violence that mirror the dynamics of modern urban gangs... It isn't a perfect piece — when faced with a choice between historic detail and story, Hatfields & McCoys errs on the side of detail, which is both the series' greatest strength and weakness."^[9]

Among the negative critics was Verne Gay of *Newsday* who called the series "violent and dull", adding "What's not to like about *Hatfields & McCoys?* Simple: the story. It's an uninteresting one, peopled with almost criminally bland characters. In fact, as portrayed here – quite possibly accurately – they're a bunch of bibulous knuckleheads who shoot at each other year after year – or on TV, hour after hour – and have no real idea why. It's an interminable eye-for-eye, tooth-for-tooth narrative."^[10] *Washington Post*'s Hank Stuever also gave a negative review: "The point of the entire saga, it seems, is to make you lose track of what the feudin' was about, and how it managed to burn out of control. It will always be tempting to view their story through any modern analogy of one's choosing – such as partisan political stalemates or the red-blue socioeconomic divide. But maybe the story of the Hatfields and McCoys doesn't amount to anything at all. Maybe, since it also doesn't make much of miniseries, it was meant to be a footnote and nothing more."^[11]

Accolades

Hatfields & McCoys received 16 nominations at the 64th Primetime Emmy Awards, the most since the History Channel began operations.^[12] The series was nominated for Outstanding Miniseries or Movie. Kevin Costner and Bill Paxton were both nominated for Outstanding Lead Actor in a Miniseries or Movie, with Costner winning the award. Tom Berenger won Outstanding Supporting Actor in a Miniseries or Movie and Mare Winningham was nominated for Outstanding Supporting Actress in a Miniseries or Movie. Director Kevin Reynolds was nominated for Outstanding Directing for a Miniseries, Movie, or Dramatic Special. Ted Mann, Ronald Parker, and Bill Kerby were nominated for Outstanding Writing for a Miniseries, Movie, or Dramatic Special for the second part of the miniseries. The series won three of its nine technical nominations.^{[13][14]}

Award	Category	Nominee	Result
2nd Critics' Choice Television Awards	Best Movie/Miniseries Actor	Kevin Costner	Nominated
	Best Miniseries or Television Film		Won
17th Satellite Awards	Best Actor in a Miniseries or Television Film	Kevin Costner	Nominated

	Best Supporting Actress in a Series, Miniseries, or Television Film	Mare Winningham	Nominated
19th Screen	Outstanding Performance by a	Kevin Costner	Won
Actors Guild Awards	Male Actor in a Miniseries or Television Movie	Bill Paxton	Nominated
28th TCA Awards	Outstanding Achievement in Movies, Miniseries, and Specials		Nominated
	Outstanding Miniseries or Movie	Barry M. Berg, Kevin Costner, Herb Nanas, Vlad Paunescu, Nancy Dubuc, Dirk Hoogstra, Leslie Greif, and Darrell Fetty	Nominated
	Outstanding Lead Actor in a	Kevin Costner	Won
64th Primetime Emmy Awards	Miniseries or Movie	Bill Paxton	Nominated
	Outstanding Supporting Actor in a Miniseries or Movie	Tom Berenger	Won
	Outstanding Supporting Actress in a Miniseries or Movie	Mare Winningham	Nominated
	Outstanding Directing for a Miniseries, Movie, or Dramatic Special	Kevin Reynolds	Nominated
	Outstanding Writing for a Miniseries, Movie, or Dramatic Special	Bill Kerby Ted Mann Ronald Parker for "Part 2"	Nominated
	Outstanding Art Direction for a Miniseries or Movie	Serban Porupca, Derek R. Hill, John B. Vertrees, and Sally Black	
	Outstanding Casting for a Miniseries, Movie, or Special	Fern Champion and Amy Hubbard	Nominated
	Outstanding Costumes for a Miniseries, Movie, or Special	Karri Hutchinson and Adina Bucur	Nominated
	Outstanding Hairstyling for a Miniseries or Movie	Gabriele Gregorini, Peter Nicastro, and Giorgio Gregorini	Nominated
	Outstanding Make-up for a	Francesca Tampieri	

64th Primetime Creative Arts Emmy Awards	Miniseries or Movie (Non- Prosthetic)	and Mario Michisanti	Won
	Outstanding Music Composition for a Miniseries, Movie, or Special (Original Dramatic Score)	John Debney and Tony Morales for "Part 1"	Nominated
	Outstanding Single-Camera Picture Editing for a Miniseries or Movie	Don Cassidy for "Part 2"	Won
	Outstanding Sound Editing for a Miniseries, Movie, or Special	Tom Bjelic, John Laing, Darrell Hall, Steve Baine, Michael Mancuso, Dermain Finlayson, Dan Kiener, Kevin Banks, Emilie Boucek, Mark Dejczak, Alex Bullick, John Douglas Smith and Nathan Robitaille for "Part 1"	Nominated
	Outstanding Sound Mixing for a Miniseries or Movie	Christian T. Cooke, Brad Zoern, Stanomir Dragos, and for "Part 1"	Won
70th Golden Globe Awards	Best Miniseries or Television Film		Nominated
	Best Actor – Miniseries or Television Film	Kevin Costner	Won

Ratings

Part one drew the largest ever ratings for a *History* program and one of the biggest in cable TV history. 13.9 million viewers tuned into the first of three parts, making it the most-watched single broadcast on ad-supported cable ever, excluding sports. Demographic numbers were high as well, with 4.8 million viewers in the adults 18-49 demographic and 5.8 million viewers among adults 24-54.^[15] Part two was watched by 13.13 million viewers with an adult 18-49 rating of 3.7, the highest rated programming on cable of the night.^[16] Part three was watched by 14.29 million viewers with an adult 18-49 rating of 4.0, making it the number-one program of the night.^[17]

Effect on tourism

According to WYMT-TV in Hazard, Kentucky, the series has generated an increase in tourism to the area from people wanting to know about the feud. Pike County Tourism Vice Chair Reed Potter stated: "It's been beyond our expectations. We've been getting requests for brochures that tell about the feud sites and places people can visit at a rate today last I checked of about two per minute." [18]

International broadcast

Country	Networks	Series premiere	Timeslot
United Kingdom	Channel $5^{[19]}$	25/10/2012	21:00
Brazil Mexico	Space ^[20]	14/01/2013	22:00
Chile	Space ^[20]	14/01/2013	22:00 The episodes have been split on Channel 5 and Space into hour-long segments rather than playing the two hours straight.
Finland	Yle TV2	04/05/2014	21:00 Series are five parts and shown weekly.
France	Canal+	21/07/2013	21:00
Greece	Mega Channel	07/01/2014	22:30
Iran	First Channel ^[21]	27/12/2014	22:15
■ Ireland	TG4	04/09/2015	22:40

Home video release

The series was released on DVD and Blu-ray Disc formats on July 31, 2012. The bonus material includes a music video of "I Know These Hills" from Kevin Costner and Modern West from their album *Famous for Killing Each Other: Music From and Inspired By Hatfields & McCoys*.^[22]

References

- 1. "Hatfields & McCoys". History. May 24, 2012. Retrieved May 30, 2012.
- 2. Memmott, Carol (May 24, 2012). "History comes out shooting with 'Hatfields & McCoys' ". *USA Today*. Retrieved May 28, 2012.
- O D 11 ' M 44 / O / 7 A 4040' IESZOT TORZE TT' / OL | 1 D 11 IDL TZ | 1 L O / O / ' ' 1

- 5. Belloni, Matthew (January 7, 2010). EXCLUSIVE: History Channel Pulls The Kennedys; Says Controversial Miniseries 'Not a Fit' ". *The Hollywood Reporter*. Retrieved 7 January 2010.
- 4. "Hatfields & McCoys: Romania Becomes Appalachia". History Channel. Retrieved June 21, 2012.
- 5. "Interview with Kevin Costner on the set of 'Hatfields & McCoys' in Romania". Retrieved June 21, 2012.
- 6. "Hatfields & McCoys". Metacritic. Retrieved 2012-05-28.
- 7. Stasi, Linda (May 27, 2012). "Loathe thy neighbor. 'Hatfields & McCoys' no hillbilly joke.". *New York Post*. Retrieved May 31, 2012.
- 8. Tucker, Ken (May 25, 2012). "TV Review Hatfields & Mccoys (2012)". *Entertainment Weekly*. Retrieved May 31, 2012.
- 9. McNamara, Mary (May 28, 2012). "Review: 'Hatfields & McCoys' has vivid detail, fine acting". *Los Angeles Times*. Retrieved May 31, 2012.
- 10. Gay, Verne (May 25, 2012). " "Hatfields and McCoys": It's a bland feud". Newsday. Retrieved May 31, 2012.
- 11. Stuever, Hank (May 25, 2012). " "Hatfields & McCoys": Brawlers in the holler". *Washington Post*. Retrieved May 31, 2012.
- 12. Braxton, Greg (July 19, 2012). "Emmys: 'Hatfields & McCoys' feud draws 16 nominations". *Los Angeles Times*. Retrieved July 20, 2012.
- 13. "Hatfields & McCoys Emmys". emmys.com. Retrieved July 20, 2012.
- 14. "'Games of Thrones' top creative arts Emmy winner". *The Denver Post*. Associated Press. September 15, 2012. Retrieved September 16, 2012.
- 15. Porter, Rick (29 May 2012). "Hatfields & McCoys makes ratings history for History Channel". Zap2it.com. Retrieved 30 May 2012.
- 16. Bibel, Sara (May 31, 2012). "Tuesday Cable Ratings: 'Hatfields & McCoys' Wins Night, NBA Playoffs, 'Tosh.0', 'Deadliest Catch', 'Workaholics', 'Real Housewives' & More". *TV by the Numbers*. Retrieved May 31, 2012.
- 17. Bibel, Sara (May 31, 2012). "Wednesday Cable Ratings: 'Hatfields & McCoys' Wins Night, NBA Playoffs, 'Hardcore History', 'Restaurant Impossible', 'Melissa & Joey' 'Daily Show' & More". *TV by the Numbers*. Retrieved May 31, 2012.
- 18. Burks, Whitney (May 31, 2012). "Tourism increases after Hatfield-McCoy mini-series". WYMT-TV. Retrieved June 1, 2012.
- 19. Munn, Patrick (July 20, 2012). "Channel 5 Acquires UK Rights To Mini-Series 'Hatfields & McCoys' ". *TVWise*. Retrieved July 20, 2012.
- 20. "Minissérie premiada "Hatfields & McCoys" estreia nesta segunda-feira no Space". *Uol* (in Portuguese). January 14, 2013. Retrieved January 15, 2013.
- 21. tv1.ir
- 22. Lambert, David (June 1, 2012). "Hatfields and McCoys (mini-series) Sony's Official Press Release for the Just-Aired History Channel Series". *TVShowsOnDVD.com*. Retrieved June 8, 2012.

External links

- Official website (http://www.history.com/shows/hatfields-and-mccoys)
- The Story of the McCoys (http://www.thestoryofthemccoys.com) Barry McCoy Author, Hatfield McCoy Feud Historian and Official Spokesperson for the McCoy Family. The Story of the McCoys ISBN 978-0-615-67030-0
- Hatfields & McCoys (http://www.imdb.com/title/tt1985443/) at the Internet Movie Database
- TV series on Hatfield-McCoy feud aims for accuracy (http://wvgazette.com/Entertainment/201205250244
)

Retrieved from "https://en.wikipedia.org/w/index.php? title=Hatfields_%26_McCoys_(miniseries)&oldid=757994220"

Categories: 2012 television films | 2010s American television miniseries | English-language films | History (U.S. TV channel) original programs | Films directed by Kevin Reynolds | American Civil War films | Films set in Appalachia | Films set in Kentucky | Films set in West Virginia | Films shot in Romania | Films set in the 1860s | Films set in the 1870s | Films set in the 1880s | Films set in the 1890s

- This page was last modified on 2 January 2017, at 22:12.
- Text is available under the Creative Commons Attribution-ShareAlike License; additional terms may apply. By using this site, you agree to the Terms of Use and Privacy Policy. Wikipedia® is a registered trademark of the Wikimedia Foundation, Inc., a non-profit organization.

Hatfield-McCoy feud

From Wikipedia, the free encyclopedia

The Hatfield-McCov feud, or the McCov-Hatfield feud or the Hatfield-McCov war as some papers at the time called it, involved two rural families of the West Virginia-Kentucky area along the Tug Fork of the Big Sandy River in the years 1863-1891. The Hatfields of West Virginia were led by William Anderson "Devil Anse" Hatfield while the McCoys of Kentucky were under the leadership of Randolph "Ole Ran'l" McCoy. Those involved in the feud were descended from Ephraim Hatfield (born c. 1765) and William McCoy (born c. 1750). The feud has entered the American folklore lexicon as a metonym for any bitterly feuding rival parties. More than a century later, the feud has become synonymous with the perils of family honor, justice, and revenge.

William McCoy, the patriarch of the McCoys, was born in Ireland around 1750 and many of his ancestors hailed from Scotland.[1] The family, led by grandson Randolph McCoy, lived mostly on the Kentucky side of Tug Fork (a tributary of the Big Sandy River). [2] The Hatfields, led by William Anderson "Devil Anse" Hatfield, son of Ephraim and Nancy (Vance) Hatfield, lived mostly on the West Virginia side. The majority of the Hatfields, although living in Mingo County (then part of Logan County), West Virginia, fought on the Confederate side in the American Civil War; most McCoys, living in Pike County, Kentucky, also fought for the Confederacy; [3] with the exception of Asa Harmon McCoy, who fought for the Union. The first real violence in the feud was the death of Asa Harmon McCoy as he returned from the war, murdered by a group of Confederate Home Guards called the Logan Wildcats. Devil Anse Hatfield was a suspect at first, but was later confirmed to have been sick at home at the time of the murder. It was widely believed that his uncle, Jim Vance, a member of the Wildcats, committed the murder. [4]

The Hatfields were more affluent than the McCoys and were well-connected politically. Devil Anse Hatfield's timbering operation was a source of wealth for his family, while the McCoys were more of a lower-middle-class family. Ole Ran'l owned a 300-acre farm. Both families had also been involved in the manufacturing and selling of illegal moonshine.

Before and during the feud, the two families had intermarried and sometimes even switched family loyalties once the feud began.

Contents

- 1 Feud
 - 1.1 Battle of Grapevine Creek
 - 1.2 Trial
- 2 Hatfields and McCoys in the modern era
- 3 Media
 - 3.1 Film
 - 3.2 Literature
 - 3.3 Television
 - 3.4 Role playing games
 - **3.5** Music
- 4 Hatfield genealogy
 - 4.1 Devil Anse Hatfield family tree
- McCoy genealogy
 - 5.1 Randolph McCoy family tree
- 6 See also
- 7 References
- 8 Further reading
- 9 External links

Hatfield-McCoy feud



Hatfield-McCoy feud site along the Tug Fork tributary (right) in the Big Sandy River watershed

Date 1881-1891

Location Tug Fork of the Big Sandy River, West

Virginia-Kentucky

American Civil War, land disputes, Causes

revenge killings

Nine Hatfields imprisoned (including Result seven Hatfields who were imprisoned for life and one Hatfield who was

executed)

Parties to the civil conflict

Hatfield family and McCoy family and allies allies

Lead figures

Devil Anse Hatfield "Crazy Jim" Vance †

Perry Cline Franklin "Bad Frank" Bill Dempsey †

Emanuel Willis Wilson

Phillips Simon Bolivar Buckner

Randall McCoy

Casualties

4 Hatfields killed 4 supporters killed 7 McCoys killed

Feud

Asa Harmon McCoy joined the 45th KY Infantry October 20, 1863. According to his Compiled Service Records, he was "captured by Rebels" December 5, 1863 and was released four months later to a Union hospital in Maryland. At the time of his capture, he was recovering from a gunshot wound to the chest. During the early months of the Civil War he joined a company of the Pike County Home Guards, under the command of Uriah Runyon, and it is thought he sustained the wound while serving in this unit. William Francis also led a company of Pike County Guards during 1862 and a group of his guards attacked and shot Mose Christian Cline, a friend of Devil Anse Hatfield. Although Cline survived his wounds, Anse Hatfield vowed to retaliate against the responsible parties. Some time in 1863, a group of Confederate Home Guards ambushed and killed William Francis as he was leaving his house, and Anse Hatfield took credit for the deed.



Uriah Runyon later joined the 39th KY Infantry and was killed May 7, 1864 in Pike County, KY. His Compiled Service Records say "Killed by Rebels". On muster rolls beginning May 6, 1864, Asa Harmon McCoy is reported in a Lexington hospital, suffering from a leg fracture. Beginning in December 1864, the 45th KY Infantry began mustering its regiments out of service. As a Harmon's Company E was mustered out December 24, 1864 in Ashland, KY, He was killed near his home on January 7, 1865, just thirteen days after leaving the Union Army. A group of Confederate guerillas took credit for the killing and his wife's pension application states that he was "Killed by Rebels". There are no existing records pertaining to his death and no warrants were issued in connection with the murder. McCoy family tradition points to James "Jim" Vance, an uncle of Anse Hatfield and a member of a WV Militia group, as the culprit. [5][6][7][8]

The second recorded instance of violence in the feud occurred thirteen years later, in 1878, after a dispute about the ownership of a hog: Floyd Hatfield, a cousin of Devil Anse's, had the hog, but Randolph McCoy claimed it was his, $^{[9]}$ saying that the "notches" (markings) on the pig's ears were McCoy, not Hatfield, marks. The matter was taken to the local Justice of the Peace, Anderson "Preacher Anse" Hatfield, [10] who ruled for the Hatfields by the testimony of Bill Staton, a relative of both families. In June 1880, Staton was killed

by two McCoy brothers, Sam and Paris, later acquitted on the grounds of self-defense.



A section of the floodwall along the Tug Fork in Matewan, West Virginia, constructed by the U.S. Army Corps of Engineers, depicts the Hatfield–McCoy feud.

The feud escalated after Roseanna McCoy entered a relationship with Devil Anse Hatfield's son Johnson, known as "Johnse" (spelled "Jonce" in some sources), leaving her family to live with the Hatfields in West Virginia. Roseanna eventually returned to the McCoys, but when the couple tried to resume their relationship, Johnse Hatfield was arrested by the McCoys on outstanding Kentucky bootlegging warrants. He was freed from McCoy custody only when Roseanna made a desperate midnight ride to alert Devil Anse, who organized a rescue party. The Hatfield party surrounded the McCoys and took Johnse back to West Virginia before he could be transported the next day to the county seat in Pikeville, Kentucky. Despite what was seen as a betrayal of her family on his behalf, Johnse Hatfield thereafter abandoned the pregnant Roseanna for her cousin, Nancy McCoy, whom he wed in 1881.

The feud continued in 1882 when Ellison Hatfield, brother of Devil Anse, was killed by three of Roseanna McCoy's younger brothers: Tolbert, Pharmer, and Bud. During an election day in Kentucky, the three McCoy brothers fought a drunken Ellison and his other brother; Ellison was stabbed 26 times and finished off with a gunshot. The McCoy brothers were initially arrested by Hatfield constables and were taken to Pikeville for trial. Secretly, Devil Anse Hatfield organized a large group of followers and intercepted the constables and their McCoy prisoners before they reached Pikeville. The brothers were taken by force to West Virginia, to await the fate of mortally wounded Ellison Hatfield and when Ellison died from his injuries, the McCoy brothers were killed by the Hatfields' vigilante justice in turn: being tied to pawpaw bushes, where each was shot numerous times with a total of 50 shots fired. Their bodies were described as "bullet-riddled". [11]

Even though the Hatfields and most inhabitants of the area believed their revenge was warranted, up to about twenty men, including Devil Anse, were indicted. All of the Hatfields eluded arrest; this angered the McCoy family, who took their cause up with Perry Cline. Cline was married to Martha McCoy. Historians believe that Cline used his political connections to reinstate the charges and announced rewards for the Hatfields' arrest as an act of revenge. A few years prior, Cline lost a lawsuit against Devil Anse over the deed to thousands of acres of land, subsequently increasing the hatred between the two families. In 1886, Jeff McCoy killed a mail carrier named Fred Wolford, and the man who went to pursue him for his crime was acting constable Cap Hatfield. Cap and a friend named Tom Wallace shot him while on the run on the banks of Tug River. [12] Tom Wallace was soon found dead in the spring of 1887. The feud reached its peak during the 1888 New Year's Night Massacre. "Cap" Hatfield and Jim Vance led several members of the Hatfield clan to surround the McCoy cabin and opened fire on the sleeping family. [13] The cabin was set on fire in an effort to drive Randolph McCoy into the open. He escaped by making a break for it but two of his children were shot, and his wife was beaten and almost killed. With his house burning, Randolph and his remaining family members were able to escape to the woods; his children, unprepared for the elements, suffered frostbite. The remaining McCoys moved to Pikeville to escape the West Virginia raiding parties.

Battle of Grapevine Creek

Between 1880 and 1891, the feud claimed more than a dozen members of the two families. On one occasion, the Governors of West Virginia and Kentucky even threatened to have their militias invade each other's states. In response, Kentucky Governor S. B. Buckner sent his Adjutant General Sam Hill to Pike County to investigate the situation. [14] More than a dozen people died and at least 10 people were wounded. [15] A few days after the New Year's Massacre, a posse led by Pike county deputy sheriff Frank Philipps rode out to track down Devil Anse's group across the border into West Virginia. The posse's first victim was Jim Vance, who was killed in the woods after he refused to be arrested. Philipps then made other successive raids on Hatfield homes and supporters and captured three before cornering the rest in Grapevine Creek on the 19th of January. [16] Unfortunately for Philipps, Devil Anse and other Hatfields were waiting for them with an armed group of their own. A battle ensued between the two parties, and the Hatfields were eventually apprehended. [13] Two Hatfield supporters were killed, and a deputy, Bill Dempsey, was executed by Frank Philipps after they surrendered. [17] Wall Hatfield and eight others were arrested and brought to Kentucky to stand trial for the murder of Alifair McCoy, killed during the New Year's Massacre.

Trial

Because of issues of due process and illegal extradition, the United States Supreme Court became involved (*Mahon v. Justice*, 127 U.S. 700 (1888)). [19] The Supreme Court ruled 7–2 in favor of Kentucky, holding that, even if a fugitive is returned from the asylum state illegally, instead of through lawful extradition procedure, no federal law prevents him from being tried. Eventually, the men were tried in Kentucky and all were found guilty. Seven received life imprisonment, while the eighth, Ellison "Cottontop" Mounts, was executed by hanging. [20] Thousands attended the hanging in Pikeville.

- Valentine "Uncle Wall" Hatfield, elder brother of Devil Anse, was overshadowed by Devil Anse's ambitions but was one of the eight convicted, dying in prison of unknown causes. He petitioned his brothers to assist in his emancipation from jail but none came for fear of being captured and brought to trial. He was buried in the prison cemetery, which has since been paved over.
- William Anderson "Devil Anse" Hatfield, the younger and more militant brother of Valentine Hatfield, led the clan in most of their combative endeavors.
- Doc D. Mahon, son-in-law of Valentine and brother of Pliant, one of the eight Hatfields convicted, served 14 years in prison before returning home to live with his son, Melvin.
- Pliant Mahon, son-in-law of Valentine, served 14 years in prison before returning home to rejoin his ex-wife, who had remarried but left her second husband to live with Pliant again.

Fighting between the families eased following the hanging of Mounts. Trials continued for years until the 1901 trial of Johnse Hatfield, the last of the feud trials.

Hatfields and McCoys in the modern era

In 1979, the families united for a special week's taping of the popular game show *Family Feud*, in which they played for a cash prize and a pig which was kept on stage during the games. [21] The McCoy family won the week-long series three games to two. While the Hatfield family won more money – \$11,272 to the McCoys' \$8,459—the decision was made to augment the McCoy family's winnings to \$11,273. [22]

Tourists travel to parts of West Virginia and Kentucky each year to see the areas and historic relics which remain from the days of the feud. In 1999, a large project known as the "Hatfield and McCoy Historic Site Restoration" was completed, funded by a federal grant from the Small Business Administration. Many improvements to various feud sites were completed. A committee of local historians spent months researching reams of information to find out about the factual history of the events surrounding the feud. This research

was compiled in an audio compact disc, the *Hatfield–McCoy Feud Driving Tour*. The CD is a self-guided driving tour of the restored feud sites and includes maps and pictures as well as the audio CD (see external link below).

Great-great grandsons of feud patriarch Randolph McCoy, Bo McCoy of Waycross, Georgia, and his cousin, Ron McCoy of Durham, North Carolina, organized a historic joint family reunion of the Hatfield and McCoy families in 2000. More than 5,000 people attended the reunion, which attained national attention.^[23]

In 2002, Bo and Ron McCoy brought a lawsuit to acquire access to the McCoy Cemetery which holds the graves of six family members, including five slain during the feud. The McCoys took on a private property owner, John Vance, who had restricted access to the cemetery. [24]

In the 2000s, a 500-mile (800 km) all-terrain vehicle trail system, the Hatfield–McCoy Trails, was created around the theme of the feud. [25]

On June 14, 2003 in Pikeville, Kentucky, the McCoy cousins partnered with Reo Hatfield of Waynesboro, Virginia, to declare an official truce between the families. Reo Hatfield said that he wanted to show that if the two families could reach an accord, others could also. He had said that he wanted to send a broader message to the world that when national security is at risk, Americans put their differences aside and stand united: "We're not saying you don't have to fight because sometimes you do have to fight," he said. "But you don't have to fight forever." Signed by more than sixty descendants during the fourth Hatfield–McCoy Festival, the truce was touted as a proclamation of peace, saying "We ask by God's grace and love that we be forever remembered as those that bound together the hearts of two families to form a family of freedom in America." Governor Paul E. Patton of Kentucky and Governor Bob Wise of West Virginia signed proclamations declaring June 14 Hatfield and McCoy Reconciliation Day. Ron McCoy, one of the festival's founders, said it is unknown where the three signed proclamations will be exhibited. "The Hatfields and McCoys symbolize violence and feuding and fighting, but by signing this, hopefully people will realize that's not the final chapter," he said.

In 2011, the *Hatfields and McCoys Dinner Show*, a musical comedy production, opened in the resort community of Pigeon Forge, Tennessee, near the entrance to the Great Smoky Mountains National Park.

The Hatfield and McCoy Reunion Festival and Marathon are held annually in June on a three-day weekend. The events take place in Pikeville, Kentucky, Matewan, West Virginia, and Williamson, West Virginia. The festival commemorates the famed feud and includes a marathon and half-marathon (the motto is "no feudin', just runnin'"), in addition to an ATV ride in all three towns. There is also a tug-of-war across the Tug Fork tributary near which the feuding families lived, a live re-enactment of scenes from their most famous fight, a motorcycle ride, live entertainment, Hatfield–McCoy landmark tours, a cornbread contest, pancake breakfast, arts, crafts, and dancing. Launched in 2000, the festival typically attracts thousands with more than 300 runners taking part in the races. [26]

In August 2015 members of both families helped archeologists dig for ruins at a site where they believe Randolph McCoy's house was burned. [27]

In his 2016 New York Times best-selling memoir, Hillbilly Elegy, author J. D. Vance states that he is a distant descendant of the Hatfield clan.



The Hatfield–McCoy feud is featured in a musical comedy dinner show in Pigeon Forge, Tennessee.



Hatfield–McCoy production (July 2012)

Media

Film

The 1923 Buster Keaton comedy Our Hospitality centers on the "Canfield-McKay feud," a thinly disguised fictional version of the Hatfield-McCoy feud. [28]

The 1938 Merrie Melodies cartoon A Feud There Was depicts a feud between two backwoods families, called the Weavers and the McCoys. It features Egghead as a peace activist - going by the name Elmer Fudd (before he was a hunter) - trying to put an end to the two feuding hillbilly clans.

The 1939 Max Fleischer cartoon Musical Mountaineers has Betty Boop wander into the territory of the Peters family who are at war with the Hatfields.

The 1946 Disney cartoon short The Martins and the Coys in Make Mine Music animated feature was another very thinly disguised caricature of the Hatfield–McCoy feud. [29]

In 1949, the Samuel Goldwyn feature film *Roseanna McCoy* told the story of the romance between the title character, played by Joan Evans, and Johnse Hatfield, played by Farley Granger.^[30]

The 1949 Screen Songs short "Comin' Round the Mountain" features another thinly disguised caricature of the Hatfield–McCoy feud, with cats (called "Catfields") and dogs ("McHounds") fighting each other, until a new school teacher arrives.^[31]

In 1950, Warner Bros. released a spoof of the Hatfield–McCoy feud titled *Hillbilly Hare*, featuring Bugs Bunny interacting with members of the "Martin family", obviously a reference to a family in the other famous Kentucky feud, the Rowan County War who had been feuding with the "Coy family". When Bugs Bunny is asked, "Be y'all a Martin or be y'all a Coy rabbit?", Bugs answers, "Well, my friends say I'm very coy!" and laughs. The Martin brothers chase Bugs for the rest of the short and are outwitted by him at every turn. [32]

The 1951 Abbott and Costello feature Comin' Round the Mountain features a feud between the Winfields and McCoys. [33]

In 2012, Lionsgate Films released a direct-to-DVD film titled Hatfields & McCoys: Bad Blood, starring Jeff Fahey, Perry King, and Christian Slater. [34]

Literature

Ann Rinaldi authored a historical novel titled *The Coffin Quilt*, based on a fictionalized account of the feud. [35]

Manly Wade Wellman's short story "Old Devlins Was A-Waitin" has the protagonist calling up the shade of "Old Devlins" to settle a conflict on behalf of one of the latter's descendants, although the story takes some liberties with history.

Television

The Flintstones featured a feud between the Hatrocks and the Flintstones in the episode "The Flintstone Hillbillies" (aired January 16, 1964), which was loosely based upon the Hatfield–McCoy feud. [36]

The Andy Griffith Show also alluded to the rivalry in an episode called "A Feud is a Feud" (aired December 5, 1960), in which the feud is between the Wakefields and Carters. [37]

The 1968 *Merrie Melodies* cartoon "Feud with a Dude" has the character Merlin the Magic Mouse trying to make peace with the two families, only to end up as the new target. This short has Hatfield claiming McCoy stole his hen, while McCoy claims Hatfield stole his pig. [38]

A 1975 television movie titled *The Hatfields and the McCoys* told a fictionalized version of the story. It starred Jack Palance as "Devil Anse" Hatfield and Steve Forrest as "Randall" McCoy.^[39]

The two feuding Virginia families in the 2007 made-for-TV film Pumpkinhead: Blood Feud are called Hatfield and McCoy. [40]

The second-season episode *Vanished* of *NCIS* takes place in a rural valley in Virginia, the two sides of which are feuding in a manner that Leroy Jethro Gibbs compares to the Hatfields and McCoys.

From May 28–30, 2012, U.S. television network The History Channel aired a three-part miniseries titled *Hatfields & McCoys*, [41] starring Kevin Costner as William Anderson "Devil Anse" Hatfield and co-starring Bill Paxton as Randolph "Ole Ran'l" McCoy, Tom Berenger as Jim Vance, and Power Boothe as Judge Valentine "Wall" Hatfield. [42] The miniseries set the record as the most-watched entertainment telecast in the history of advertising-supported basic cable. [44]

In 2013, NBC commissioned a pilot for a television show updating the feud to present-day Pittsburgh with Rebecca De Mornay, Virginia Madsen, Sophia Bush, and James Remar^[45] but it was not picked up.^[46]

On August 1, 2013, the reality television series *Hatfields & McCoys: White Lightning* premiered on the History channel. The series begins with an investor offering to set up the feuding families into business making moonshine, and follows the families' attempt to run the business together.^[47]

In an episode of *Modern Family* originally aired January 15, 2014, titled "Under Pressure," Cam is working as a gym teacher who has plans to let parents play dodgeball with each other at the school's open house, and wants to divide the two teams into Hatfields and McCoys. The school principal frowns upon this idea, however, Gloria and a competitive mother played by Jane Krakowski decide to settle their score with such a game. Hurriedly Cam proclaims Hatfields for one side and McCoys for the other.^[48]

The fifth season of My Little Pony: Friendship Is Magic featured an episode titled "The Hooffields and McColts", in which two clans have a longstanding feud over whether to use land for farming or construction. A similar theme was covered in Season 3, episode 9 of Littlest Pet Shop, "Feud for Thought", in which two koalas are at odds with each other but don't know why, other than that their owners are in a feud.

Role playing games

In World of Warcraft, the Alliance starting zone of Elwynn Forest features two feuding farmer families called the McClure and the Stonefield and a pig they are fighting over, a reference to the Hatfield–McCoy feud.

In the action RPG Borderlands 2, the game features two rivaling families (clans), the Hodunks and Zafords, and many fans believe this is a reference to the Hatfield–McCoy feud. This idea is supported by the add-on Mad Moxxi and the Wedding Day Massacre, in which a member of each clan is to be married, a likely reference to the marriage of Nancy McCoy and Johnson Hatfield.^[49]

Music

"The Legend of Bad Jim" is a song by the rock band Majungas, which is dedicated to Jim Vance and his influence in the Hatfield/McCoy rivalry. [50][51]

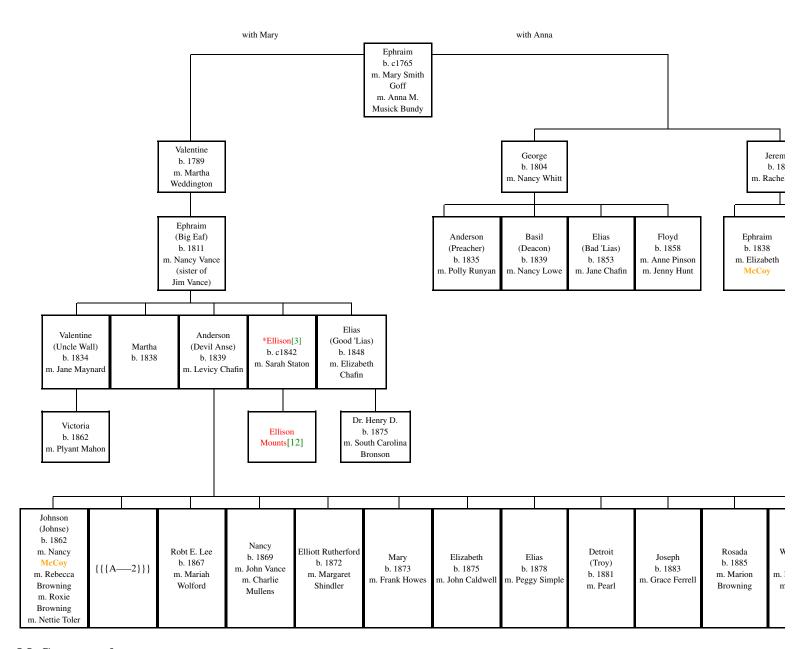
The song "Luckenbach, Texas (Back to the Basics of Love)" written by Bobby Emmons and Chips Moman, sung by Waylon Jennings and Willie Nelson, makes mention of the Hatfield/McCoy feud.

Hatfield genealogy

Devil Anse Hatfield family tree

Names in red indicate those who were killed as a direct result of the feud.^[52]
Names in orange highlight intermarriages between Hatfield and McCoy.
Numbers in green square brackets [] are cross references to the timeline in the "Deaths" section above

Devil Anse Hatfield family tree



McCoy genealogy

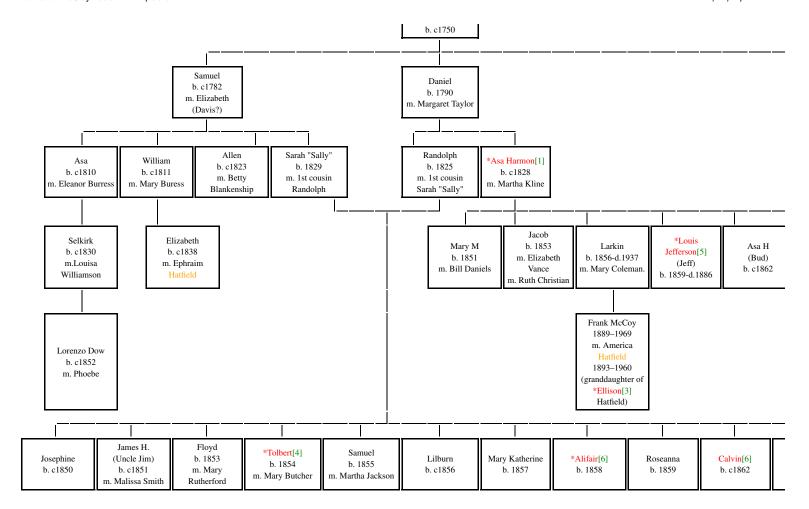
Randolph McCoy family tree

Names in red indicate those who were killed as a direct result of the feud.

Names in orange highlight intermarriages between Hatfield and McCoy.

Numbers in green square brackets [] are cross-references to the timeline in the "Deaths" section above. [52][53]

Randolph McCoy family tree



See also

- List of feuds in the United States
- Narcissism of small differences

References

- 1. "McCoy Family Genealogy". Retrieved September 22, 2014.
- 2. "From Roots to Nuts: HATFIELD Thomas, I". Genfan.com. Retrieved September 12, 2013.
- 3. "How Realistic is 'Hatfields and McCoys'?". Retrieved April 1, 2016.
- 4. Pearce p. 59-60.
- 5. The McCoys: Their Story, Truda Williams McCoy, 1976
- Fold3, Compiled Service Records of Union Soldiers 1861-1865 National Archives.
- 7. Wayne County, West Virginia in the Civil War by Jack L. Dickinson, 2003.
- 8. The Clines and Allied Families of The Tug River Valley, Cecil L. Cline, 1988.
- 9. "Hatfield-McCoy Feud, Beckley Post-Herald August 7, 1957". Wvculture.org. August 7, 1957. Retrieved September 12, 2013.
- 10. "Anderson "Preacher Anse" Hatfield". Ghat.com. Retrieved September 12, 2013.
- 11. Rice, p. 26.
- 12. Kleber, John. The Kentucky Encyclopedia. University Press of Kentucky (May 18, 1992). p. 418. ISBN 978-0813117720
- 13. History.com. "The Hatfield and McCoy Feud". Retrieved October 24, 2013.
- 14. Hill, Samuel E., Adjutant General of Kentucky: 1887–1891. "What in Sam Hill ... started the Hatfield and McCoy Feud? Report from the Adjutant General of Kentucky, 1888". National Guard History eMuseum. Kentucky.gov. Retrieved May 31, 2012.
- 15. Current Opinion.p.417 list of killed/wounded. Books.google.com. Retrieved September 12, 2013.
- 16. "The Hatfield McCoy Feud". HatfieldMcCoy County. Retrieved December 20, 2015.
- 17. "Hatfields and McCoys". Encyclopædia Britannica. Retrieved December 20, 2015.
- 18. Rice p. 70.
- 19. "Mahon v. Justice, 127 U.S. 700 (1888)". Caselaw.lp.findlaw.com. Retrieved September 12, 2013.
- 20. Rice p. 111.
- $21. \ \ Game\ Show\ Network\ airs\ milestone\ episodes,\ including\ Hatfield-McCoy\ battle. [1]\ (http://findarticles.com/p/articles/mi_m0EIN/is_2001_July_11/ai_76459805)$
- $22. \ "Family Feud\ episode\ clip".\ \textit{YouTube}.\ Retrieved\ September\ 22,\ 2014.$
- 23. "The Hatfield-McCoy reunion". Retrieved September 22, 2014.
- 24. "Hatfields' Family Feud Cemetery". Chicago Tribune. Retrieved September 22, 2014.
- 25. "Hatfield-McCoy Regional Recreation Area". Retrieved September 22, 2014.
- 26. "Hatfield and McCoy Reunion Festival and Marathon." Holidays, Festivals, and Celebrations of the World Dictionary. Detroit: Omnigraphics, Inc., 2010. Credo Reference. Web. September 17, 2012.
- 27. Hatfields, McCoys work together with experts to help pinpoint key battle site in famous feud The Daily Courier (Kelowna) August 7, 2015 (http://www.kelownadailycourier.ca/news/world_news/arti

- cle e1e7ab94-47e7-5a03-a900-683077609181.html)
- 28. Our Hospitality (http://www.imdb.com/title/tt0014341/) at the Internet Movie Database
- 29. The Martins and the Coys (http://www.imdb.com/title/tt0038729/) at the Internet Movie Database
- 30. Roseanna McCoy (http://www.imdb.com/title/tt0041824/) at the Internet Movie Database
- 31. Comin' Round the Mountain (http://www.imdb.com/title/tt0150172/) at the Internet Movie Database
- 32. "Hillbilly Hare" (http://www.imdb.com/title/tt0042555/) at the Internet Movie Database
- 33. Comin' Round the Mountain (http://www.imdb.com/title/tt0043425/) at the Internet Movie Database
- 34. Hatfields & McCoys: Bad Blood (http://www.imdb.com/title/tt2136759/) at the Internet Movie Database
- 35. "The Coffin Quilt". Retrieved September 22, 2014.
- 36. "The Flintstone Hillbillies" (http://www.imdb.com/title/tt0580170/) at the Internet Movie Database
- 37. "A Feud Is A Feud" (http://www.imdb.com/title/tt0512389/) at the Internet Movie Database
- 38. "Feud with a Dude" (http://www.imdb.com/title/tt0062966/) at the Internet Movie Database
- 39. The Hatfields and the McCovs (http://www.imdb.com/title/tt0073093/) at the Internet Movie Database
- 40. Pumpkinhead: Blood Feud (http://www.imdb.com/title/tt0790816/) at the Internet Movie Database
- 41. Imbrogno, Douglas (April 14, 2012). "Hatfield & McCoy feud fuels star treatment". Gazette-Mail. Retrieved April 16, 2012.
- 42. "Hatfields & McCoys". History.com. Retrieved April 16, 2012.
- 43. "Hatfields & McCoys (2012)". IMDb. Retrieved April 16, 2012.
- 44. "Hatfields & McCoys' is a ratings record-setter", Associated Press, June 1, 2012, archived from the original on June 5, 2012
- 45. "Hatfields & McCoys at Internet Movie Database". IMDb. Retrieved September 22, 2014.
- 46. "Chicago Tribune article "NBC passes on 'Hatfields,' six other pilots, cancels 'Deception"". Chicagotribune.com. Retrieved September 12, 2013.
- 47. Shattuck, Kathryn (August 1, 2013). "What's On Thursday". New York Times. Retrieved August 1, 2013.
- 48. http://www.imdb.com/title/tt3328416/
- 49. http://www.gamenguide.com/articles/9408/20140211/borderlands-2-news-latest-headhunter-pack-mad-moxxi-wedding-day.htm
- 50. Majungas (http://www.majungastheband.com)
- 51. Hear the Roar-iTunes (https://itunes.apple.com/us/album/hear-the-roar/id931340299)
- 52. Rice (inside rear cover)
- 53. "Family Group Record Randolph 'Ranel' MCCOY (AFN:1RJ9-QNF)". Family Search.org. Retrieved May 26, 2012.

Further reading

- Dotson, Tom (2013). The Hatfield & McCoy Feud after Kevin Costner: Rescuing History. CreateSpace Independent Publishing Platform. p. 354. ISBN 978-1484177853.
- Alther, Lisa (2012). Blood Feud: The Hatfields & the McCoys: The Epic Story of Murder and Vengeance. Lyons Press. p. 304. ISBN 978-0-7627-7918-5.
- Rice, Otis K (1982). The Hatfields and McCoys. The University Press of Kentucky. ISBN 0-8131-1459-4.
- Pearce, John Ed (1994). Days of Darkness: The Feuds of Eastern Kentucky. University Press of Kentucky. ISBN 0-8131-1874-3.
- U.S. Supreme Court Mahon v. Justice (http://supreme.justia.com/us/127/700/case.html), 127 U.S. 700 (1888)
- Jones, Virgil Carrington. The Hatfields and the McCoys. Chapel Hill: University of North Carolina Press, 1948. ISBN 0-89176-014-8.
- Waller, Altina L. Feud: Hatfields, McCoys, and Social Change in Appalachia, 1860–1900. Chapel Hill: University of North Carolina Press, 1988. ISBN 0-8078-4216-8.
- King, Dean (2013). The Feud: the Hatfields & McCoys, the true story. New York: Little, Brown and Company. p. 430. ISBN 978-0-316-16706-2.

External links

- Listen online The Story of the Hatfields and McCoys The American Storyteller Radio Journal (http://www.theamericanstoryteller.com/story-details.cfm?story=161)
- Hatfield-McCoy Feud (http://www.wvculture.org/history/notewv/hatfield.html) West Virginia Division of Culture and History
- Roseanna McCoy (http://www.imdb.com/title/tt0041824/) at the Internet Movie Database
- The Hatfields and the McCoys (http://www.imdb.com/title/tt0073093/) at the Internet Movie Database (1975)
- Hatfields & McCoys (http://www.imdb.com/title/tt1985443/) at the Internet Movie Database (2012)

Retrieved from "https://en.wikipedia.org/w/index.php?title=Hatfield-McCoy_feud&oldid=765472920"

Categories: History of Kentucky | History of West Virginia | History of the Southern United States | Culture of the Southern United States | American folklore | Appalachian society | Hatfield family | Feuds in the United States | Folklore of the Southern United States

- This page was last modified on 14 February 2017, at 16:15.
- Text is available under the Creative Commons Attribution-ShareAlike License; additional terms may apply. By using this site, you agree to the Terms of Use and Privacy Policy. Wikipedia® is a registered trademark of the Wikimedia Foundation, Inc., a non-profit organization.