

ESTTA Tracking number: **ESTTA973208**

Filing date: **05/13/2019**

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

Proceeding	91245800
Party	Defendant The Vineyard House LLC
Correspondence Address	FARAH P BHATTI BUCHALTER A PROFESSIONAL CORPORATION 18400 VON KARMAN AVE, SUITE 800 IRVINE, CA 92612 UNITED STATES trademark@buchalter.com, ipdocket@buchalter.com, fbhatti@buchalter.com, mmeeks@buchalter.com 949-224-6272
Submission	Other Motions/Papers
Filer's Name	Farah Bhatti
Filer's email	fbhatti@buchalter.com, mmeeks@buchalter.com, trademark@buchalter.com
Signature	/fbhatti/
Date	05/13/2019
Attachments	Reply To Opposers Consented Motion - 91245800.pdf(247257 bytes)

Opposer has no basis to request suspension of the instant proceeding as Applicant did not provide its consent to the supposed “consented” motion filed by Opposer on May 10, 2019. In addition, Opposer has no basis for the suspension given that the civil action referenced in Opposer’s Motion does not include the marks that are the subject of this opposition. Therefore, Applicant respectfully requests that the Trademark Trial and Appeal Board deny Opposer’s request to suspend the proceedings based on the civil action and review Applicant’s Motion to Dismiss.

Applicant notes that this filing is not meant as a complete response to the Motion filed by Opposer. This Motion is only meant to provide notice to the Trademark Trial and Appeal Board that Applicant has not consented to the suspension. In the event that Opposer’s suspension is granted, Applicant would like to reserve the right to fully respond to Opposer’s Motion as filed.

Date: May 13, 2019

Respectfully Submitted,

/fbhatti/

Farah P. Bhatti
Michael L. Meeks
Attorneys for Applicant
Buchalter, a Professional Corporation
18400 Von Karman Ave., Suite 800
Irvine, California 92612
Phone: (949) 224-6272
Email: trademark@buchalter.com
fbhatti@buchalter.com
mmeeks@buchalter.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **APPLICANT'S REPLY TO OPPOSER'S MOTION TO SUSPEND PROCEEDINGS WITH CONSENT** was served by email on this 13th day of May 2019, upon Opposer at the following addresses of record:

Kwilton@seyfarth.com
Emaluf@seyfarth.com
Debrown@seyfarth.com
JSchachter@seyfarth.com
TTABDocket@seyfarth.com

/fbhatti/
Farah P. Bhatti

EXHIBIT A

Bhatti, Farah P.

From: Wilton, Kenneth <KWilton@seyfarth.com>
Sent: Friday, April 26, 2019 1:51 PM
To: Bhatti, Farah P.; Meeks, Michael L.
Cc: Brown, Destiny; ipdocket
Subject: RE: Constellation Brands U.S. Operations, Inc. adv The Vineyard House, TTAB Nos. 91244082, 91244819, 91244817, 91245800, and 91246515

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. Bhatti:

Per your comments below, we will be filing consent motions to suspend Opposition Nos. 91244819 and 91244817 pending determination of the Civil Action. In addition, pursuant to the Board's Order at 9 TTABVUE in the '819 opposition and our client's motion at 6 TTABVUE in the '817 opposition, we will be informing the Board that the motion to dismiss in the '082 opposition was denied, thereby ending the suspension in the former and rendering our client's motion to dismiss moot in the latter.

Please confirm that you do not object to this course of action.

Best,

Ken

Kenneth L. Wilton | Partner | Seyfarth Shaw LLP
2029 Century Park East | Suite 3500 | Los Angeles, California 90067-3021
Direct: +1-310-201-5271 | Fax: +1-310-282-6971
kwilton@seyfarth.com | www.seyfarth.com



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From: Bhatti, Farah P. <fbhatti@Buchalter.com>
Sent: Friday, April 12, 2019 12:54 PM
To: Wilton, Kenneth <KWilton@seyfarth.com>; Meeks, Michael L. <mmeeks@Buchalter.com>
Cc: Brown, Destiny <debrown@seyfarth.com>; ipdocket <ipdocket@buchalter.com>
Subject: RE: Constellation Brands U.S. Operations, Inc. adv The Vineyard House, TTAB Nos. 91244082, 91244819, 91244817, 91245800, and 91246515

[EXT. Sender]

Dear Mr. Wilton:

We note the following oppositions are currently pending:

<u>Opposition No.</u>	<u>Marks</u>
91244082	THE BOSS
91244819	THE MIRACLE OF TO KALON
91244817	TO KALON 1886
91245800	HENRY WALKER CRABB HENRY WALKER (H.W.) CRABB HENRY WALKER (H.W.) HENRY WALKER H.W. CRABB HENRY W. CRABB
91246515	CRABB'S HALTER VALLEY OAKVILLE CRABB'S HALTER VALLEY HALTER VALLEY OAKVILLE HALTER VALLEY VINEYARD HALTER VALLEY VINEYARD OAKVILLE

While we agree that the pending litigation between the parties will have a bearing on the Oppositions relating to the TO KALON mark, specifically Opposition Nos. 91244817 and 91244819, we do not agree that the litigation will have a bearing on the remaining oppositions which do not include any TO KALON marks. The marks in the remaining oppositions, specifically, Opposition Nos. 91244082, 91245800 and 91246515 are for different marks which will have different facts, etc. and therefore should not be suspended pending the Northern District litigation.

While we agree to provide consent to suspend Opposition Nos. 91244819 and 91244817, we will not provide consent for the other oppositions and trust that you will not request suspension of the same.

Sincerely,
Farah

Buchalter

Farah P. Bhatti
Shareholder

T (949) 224-6272
F (949) 720-0182
fbhatti@buchalter.com

18400 Von Karman Avenue, Suite 800
Irvine, CA 92612-0514
www.buchalter.com [buchalter.com] | [Bio](#) [buchalter.com] | [LinkedIn](#)

From: Wilton, Kenneth <KWilton@seyfarth.com>
Sent: Friday, April 12, 2019 10:52 AM
To: Bhatti, Farah P. <fbhatti@Buchalter.com>; Meeks, Michael L. <mmeeks@Buchalter.com>
Cc: Brown, Destiny <debrown@seyfarth.com>
Subject: Constellation Brands U.S. Operations, Inc. adv The Vineyard House, TTAB Nos. 91244082, 91244819, 91244817, 91245800, and 91246515

Dear Ms. Bhatti and Mr. Meeks:

As you are aware, we have substituted in as counsel of record for Constellation Brands U.S. Operations, Inc. in connection with the pending TTAB proceedings between CBUSOI and The Vineyard House referenced above.

We believe that the pending litigation between the parties in the Northern District -- *The Vineyard House v. Constellation Brands U.S. Operations, Inc.*, Case No. 19-cv-01424 -- "may have a bearing on the Board case(s)" that are pending, and therefore intend to seek suspension of each of them. We are writing to ask if your client consents to such suspensions. If so, we can prepare and file Consent Motions in each of the proceedings.

If it is easier to discuss this live we are available this afternoon from noon - 2, and after 2:30.

Best,
Ken

Kenneth L. Wilton | Partner | Seyfarth Shaw LLP
2029 Century Park East | Suite 3500 | Los Angeles, California 90067-3021
Direct: +1-310-201-5271 | Fax: +1-310-282-6971
kwilton@seyfarth.com | www.seyfarth.com



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