

ESTTA Tracking number: **ESTTA1210371**

Filing date: **05/19/2022**

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

Proceeding no.	91264972
Party	Plaintiff Constellation Brands U.S. Operations Inc.
Correspondence address	KENNETH L WILTON SEYFARTH SHAW LLP 2029 CENTURY PARK EAST SUITE 3500 LOS ANGELES, CA 90067 UNITED STATES Primary email: kwilton@seyfarth.com Secondary email(s): emaluf@seyfarth.com, laxttabdoCKET@seyfarth.com, hkang@seyfarth.com, jheinboCKel@seyfarth.com 310-277-7200
Submission	Other Motions/Submissions
Filer's name	Kenneth L. Wilton
Filer's email	kwilton@seyfarth.com
Signature	/Kenneth L. Wilton/
Date	05/19/2022
Attachments	FINAL 2022-05-22 91264972 Opposers Reply Brief ISO MtC Wilton Dec and Response to Request for In Camera Hearing.pdf(109790 bytes )

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

In the Matter of Application Serial Nos.:  
88008025 (CRABB'S BLACK BURGUNDY)

CONSTELLATION BRANDS U.S.  
OPERATIONS, INC.,

Opposer,

v.

THE VINEYARD HOUSE LLC,

Applicant.

Opposition No. 91264972

**OPPOSER'S COMBINED REPLY IN SUPPORT OF ITS MOTION TO COMPEL AND**  
**RESPONSE TO APPLICANT'S CONDITIONAL REQUEST FOR IN CAMERA**  
**HEARING**

**I. INTRODUCTION**

In its Motion to Compel, Opposer outlined a litany of examples of Applicant's failure to properly engage in the discovery process. These included the interposing of improper boilerplate objections, a failure to produce documents, and a failure to respond properly to otherwise clear interrogatories and requests for admission. Applicant has ignored the substance of the Motion in its entirety.

Instead, in a transparent attempt to deflect attention from its failure to fulfill its discovery obligations, Applicant filed what essentially is an irrelevant request for an *in camera, ex parte* hearing with the Board to discuss the reasons why its principal, Mr. Jeremy Nickel, is unavailable to participate in these proceedings. Applicant has taken the position that, by filing its Motion to Suspend these proceedings for a period of at least six months, and perhaps indefinitely, [17 TTABVUE], it is excused from any further participation in these proceedings

until *its* motion is decided. “Absent relief,” Applicant argues, “Applicant cannot respond to Opposer’s Motion to Strike [sic], except as to legal objections.” [20 TTABVUE 4.]

The Board’s May 2, 2022 Order made it clear that the “Board will consider both motions [the Motion to Compel and the Motion to Suspend] at the same time.” [21 TTABVUE.]

Applicant therefore was on notice that it was required to address the Motion to Compel.

Applicant itself acknowledged that it could at least have raised “legal objections” to the Motion to Compel. It chose not to do so. Having failed to oppose the Motion, the Motion should be deemed conceded, granted in full, and Applicant required to provide supplemental response and documents as requested.

With regard to its request for an *in camera* hearing, it is likely Mr. Nickel’s status will have changed at the time the Motion to Compel is decided. Opposer therefore suggests that, concurrent with its order on the Motion to Compel, the Board require Applicant to report within 20 days of the order whether its Motion to Suspend still needs to be addressed and, if so, to provide evidence regarding the purported continued unavailability of Mr. Nickel.

If the Board considers the Motion to Suspend and the Request on their merits, they both should be denied. Applicant believes that the only way to prove Mr. Nickel’s unavailability is by providing the Board evidence and argument of the same outside of Opposer’s view. Such a hearing would prejudice Opposer, is unwarranted, and ultimately would not resolve the insufficiency at the heart of this latest dispute: that Applicant cannot show good cause for its failure to participate in discovery and its request to suspend these proceedings for an indefinite period of time.

## II. ARGUMENT

### A. Opposer's Motion To Compel Should Be Granted

In its Motion<sup>1</sup>, Opposer asked the Board to require Applicant to amend its discovery responses to remove its improper general and boilerplate objections, produce the documents it represented in December, 2021, that it was going to produce in response to Request for Production Nos. 1, 3, 4, 5, 6, 9, 10, 12, 13, 15, 17, 18, 19, 21, 22, 23, 24, 25, 27, 28, 29, and 32, state whether documents were being withheld from production, provide amended responses to Interrogatory Nos. 1, 15-18, & 26-29, and provide amended responses to Request for Admission Nos. 1-4, 6-10 12-13, & 31.<sup>2</sup>

Applicant made no effort to oppose the Motion. While acknowledging that a “Motion to Strike [sic]” was pending, and that it at least could have raised “legal objections” to the Motion, it did not. As a result, the Motion should be granted in its entirety. 37 CFR § 2.127(a) (“When a party fails to file a brief in response to a motion, the Board may treat the motion as conceded.”).

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<sup>1</sup> Opposer concurrently filed motions to compel in this proceeding and related Opposition No. 91264970. Opposer’s filing in this proceeding inadvertently omitted the accompanying Declaration of Kenneth L. Wilton supporting the Motion and instead included a duplicate copy of Opposer’s Motion. [18 TTABVUE 26-48.] All exhibits required by and relied upon in the Motion *were* included with the ESTTA submission. [Id. at 49-188.] The omitted declaration is identical to that filed in Opposition No. 91264970. For completeness, Opposer now attaches the omitted Declaration as Exhibit A to this submission.

<sup>2</sup> Opposer inadvertently couched its motion regarding Applicant’s objections and responses to Requests for Admission as a “Motion to Compel” when it properly should have been a motion to test the sufficiency of Applicant’s responses. Fed. R. Civ. P. 36(a)(6); TBMP § 524. Because a motion to test the sufficiency of a request for admission response is procedurally and functionally equivalent to a motion to compel regarding interrogatories and requests for production, Opposer respectfully requests the portion of its Motion regarding requests for admission be treated as a motion under Fed. R. Civ. P. 36(a)(6). See *Estudi Moline Dissey, S.L. v. BioUrn Incorporated*, 2017 BL 302951, \*1 n.1 (TTAB 2017) (citing 37 CFR § 2.120(i)(1)) (holding that, “as it applies to Petitioner’s requests for admission, the Board construes the motion to compel as a motion to test the sufficiency of Respondent’s response to Petitioner’s requests for admission.”)

**B. Applicant's Request To Present New Evidence On Its Motion To Suspend Should Be Denied**

In its Request, Applicant admits that the justification for both its failure to comply with discovery and its request to suspend these proceedings is both “vague” and “insufficient.” [20 TTABVUE 3.] Applicant now seeks to remedy those deficiencies by appearing “before the Board *in camera*, outside the presence of Opposer” to provide information about Mr. Nickel’s health and “respond to the Board’s concerns.” [Id. at 4.] In short, Applicant is asking to present both evidence and argument that it concedes should have been presented in its moving papers.

Even if the Board allows Applicant to present such evidence now, an *ex parte* hearing where it can “respond to the Board’s concerns” is unwarranted, improper, and prejudicial.

First, Opposer once again notes that “Applicant” is a limited liability company, not an individual. Applicant, a juristic entity, and its managing member, Mr. Nickel, are not one and the same. Applicant’s Request does not address the fact its Motion to Suspend did not include any evidence that it lacks personnel that could participate in this proceeding. Thus, regardless of Mr. Nickel’s availability, good cause does not exist because Applicant has not proven that it cannot proceed without him.

Second, because there are alternative means for Applicant to have submitted evidence in a confidential manner that would protect the privacy of Mr. Nickel, there is no compelling reason to keep Opposer or its counsel completely in the dark.

Third, granting Applicant an *ex parte* audience to argue the merits of its Request runs counter to basic tenets of jurisprudence, particularly in light of certain misstatements of fact that appear in its Request.

If the Board deems it useful to address the issues raised by both parties’ submissions, Opposer will readily participate in a hearing that includes counsel for both parties.

i. **Proof of Mr. Nickel's Absence Alone Would Not Show Good Cause To Suspend**

Applicant insists that it cannot participate in these proceedings without Mr. Nickel's participation, and indeed has not done so by not opposing the Motion to Compel. But because Applicant is The Vineyard House LLC, and not Jeremy Nickel, proof of Mr. Nickel's absence, without more, is neither sufficient to establish good cause for granting Applicant's Motion to Suspend nor a justification for Applicant's failure to participate in discovery.

Applicant is a limited liability company. It publicizes key employees on its website. In the district court litigation between the parties, Applicant even offered testimony from current and former employees at trial. Those employees should be able to assist Applicant in this proceeding.

Additionally, the parties have litigated a federal trademark infringement lawsuit and several other Board proceedings involving the same core set of facts: namely, the identity of H.W. Crabb and whether Applicant's wines have any connection to his historic vineyard. Given the common facts in each of these proceedings, Applicant and its counsel should have no difficulty providing facts and documents responsive to Opposer's discovery requests, especially those that Applicant indicated nearly five months ago that it would produce.

Finally, Applicant's insistence that it can only participate in these proceedings with Mr. Nickel's involvement is also inconsistent with that, after filing its Motion to Suspend, Applicant:

- On April 7, 2022, Mr. Nickel signed corporate documents on behalf of To Kalon Stock Farm, LLC. [Wilton Decl. Ex. B];
- On April 8, 2022, Mr. Nickel signed, on behalf of Applicant, Requests for Extension of Time to File a Statement of Use in connection with App. Serial Nos. 87944980, 87944977 and 87944987 (all of which were previously subject to the opposition in the child proceeding to this proceeding) [Wilton Decl. Ex. C];

- On April 25, 2022, Applicant filed an Answer in *Constellation Brands U.S. Operations, Inc. v. The Vineyard House, LLC*, TTAB Opp. No. 91275093, 4 TTABVUE; and
- On April 25, 2022, Applicant filed an Answer in *Foxen Vineyard House v. The Vineyard House, LLC*, TTAB Opp. No. 91275094, 4 TTABVUE.

Because Applicant seems to be capable of participating in other proceedings, Applicant's proposed hearing is not warranted.

ii. **An Ex Parte Hearing is Not Necessary for Applicant to Demonstrate Mr. Nickel's Incapacity**

Applicant seeks to show that "Applicant's medical condition prevents Applicant from currently participating in this proceeding." [20 TTABVUE 4.] To the extent the Board believes such proof is useful for it to decide the Motion to Suspend, an *in camera* hearing is not necessary. The Board's rules provide alternative, and more efficient, mechanisms for Applicant to make confidential submissions.

Specifically, the Board's Standard Protective Order provides protections to submit evidence confidentially. If a heightened degree of confidentiality is needed, Applicant could designate such supporting materials as "Confidential - Attorneys' Eyes Only"—which restricts review to outside counsel and, under certain circumstances not readily apparent here, independent experts.

Opposer has not requested, and does not need, a detailed or intrusive explanation of Mr. Nickel's medical condition. A doctor's note, submitted with a supporting declaration from counsel, simply advising of his unavailability and its anticipated duration (or, ideally, proposing reasonable accommodations) would suffice.

The proposed hearing is not necessary to accomplish Applicant's desired outcome. Should the Board need additional information from Applicant, Applicant should be able to provide such information through ESTTA as it would any other submission.

iii. **Allowing Applicant To Make *Ex Parte* Representations To The Board Would Prejudice Opposer**

Contrary to Applicant's Request, there is no justifiable reason for Applicant to hide its alleged good cause from Opposer or, at least, Opposer's counsel. The various disputes between Opposer and Applicant have proceeded for more than three years in numerous venues and jurisdiction, during which Applicant has continuously sold goods bearing the objectionable trademarks. Allowing Applicant to communicate, *ex parte*, with the Board would be prejudicial to Opposer.

In its Request, for example, Applicant asserts that Opposer has not shown that it would be prejudiced because "neither party has used the marks at issue in these proceedings[.]" [20 TTABVUE 3.] Putting aside whether that is the relevant standard for prejudice, this statement is simply not true. On April 22, 2020, Applicant filed an allegation to allege use in connection with the Opposed Application. Every day that Applicant drags out these proceedings without justification is another day that Applicant misleads consumers to Opposer's detriment.

To maintain the impartiality and decorum of the Board, the Trademark Rules of Practice specifically provide that "A practitioner shall not (b) Communicate *ex parte* with [a judge, hearing officer, administrative law judge, administrative patent judge, administrative trademark judge, juror, prospective juror, employee or officer of the Office, or other official] during the proceeding unless authorized to do so by law, rule or court order." 37 C.F.R. § 11.305. There is no justification to allow such a communication here.

**III. CONCLUSION**

As discussed above, because Applicant failed to oppose the Motion to Compel, it should be granted in its entirety. Further, because Applicant's Motion to Suspend may have become moot by the time the Board considers Opposer's Motion to Compel, Opposer requests that the



order on the Motion to Compel require Applicant to report within 20 days of the order whether its Motion to Suspend still needs to be addressed and, if so, to provide evidence regarding the purported continued unavailability of Mr. Nickel.

If the Board considers the Motion to Suspend and the Request for a hearing, because the request for an *in camera* hearing is unwarranted and will ultimately not satisfy the deficiencies with Applicant's Motion to Suspend, it should be denied and the Motion to Suspend decided on the briefing. Should the Board deem it appropriate to provide Applicant an additional opportunity to provide support for its allegation of good cause, the Board should do so in a manner that allows for Opposer's participation, such as a confidential ESTTA submission.

Date: May 19, 2022

By: /Kenneth L. Wilton/

Kenneth L. Wilton  
kwilton@seyfarth.com

John C. Heinbockel  
jheinbockel@seyfarth.com

Attorneys for Opposer  
CONSTELLATION BRANDS U.S.  
OPERATIONS, INC.

## REPLY DECLARATION OF KENNETH L. WILTON

I, Kenneth L. Wilton, hereby declare under penalty of perjury:

1. I am a partner in the firm Seyfarth Shaw LLP, attorneys for Opposer Constellation Brands U.S. Operations, Inc. (“Opposer”) in these opposition proceedings. I submit this reply declaration in support of Opposer’s Combined Reply In Support Of Its Motion To Compel And Response To Applicant’s Conditional Request For In Camera Hearing in Proceeding No. 91264972. I make this declaration based on personal knowledge of the facts and circumstances set forth herein and on my review of the documents attached hereto.

2. Opposer concurrently filed motions to compel in this proceeding and related Opposition No. 91264970 on April 21, 2022. Opposer’s filing in this proceeding inadvertently omitted the accompanying Declaration of Kenneth L. Wilton supporting the Motion and instead included a duplicate copy of Opposer’s Motion. [18 TTABVUE 26-48.] All exhibits required by and relied upon in the Motion *were* included with the ESTTA submission. [Id. at 49-188.] The omitted declaration is identical to that filed in Opposition No. 91264970. A true and correct copy of the omitted Declaration of Kenneth L. Wilton is attached as Exhibit A.

3. On April 1, 2022, Applicant filed a motion to suspend these proceedings on the basis that its principal, Mr. Jeremy Nickel was unavailable to participate in litigating the dispute.

4. Applicant has not provided any explanation for Mr. Nickel’s unavailability other than “medical exigencies.” [20 TTABVUE 2.]

5. Nevertheless, on April 7, 2022, To Kalon Stock Farm, LLC, filed its 2022 “Florida Limited Liability Company Annual Report”. The report was electronically signed by “Jeremy J. Nickel” on April 7, 2022. A true and correct copy of the 2022 “Florida Limited Liability Company Annual Report” bearing Mr. Nickel’s electronic signature is attached as Exhibit B.

6. On April 8, 2022, Applicant submitted to the USPTO three Requests For Extensions of Time To Submit Statements Of Use in connection with Application Nos. 87944987, 87944980, and 87944977. Each request was electronically signed by “Jeremy Justin Nickel.” True and correct copies of the Requests For Extensions of Time To Submit Statements Of Use in connection with Application Nos. 87944987, 87944980, and 87944977 are attached as Exhibit C.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 19th day of May, 2022 at Los Angeles, California.

*/Kenneth L. Wilton/*  
Kenneth L. Wilton

# **EXHIBIT A**

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

In the Matter of Application Serial No.:  
88008025 (CRABB'S BLACK BURGUNDY)  
Published in the Official Gazette of June 2, 2020

CONSTELLATION BRANDS U.S.  
OPERATIONS, INC.,

Opposer,

v.

THE VINEYARD HOUSE LLC,

Applicant.

Opposition No. 91264972

**DECLARATION OF KENNETH L. WILTON IN SUPPORT OF  
OPPOSER'S MOTION TO COMPEL  
FURTHER RESPONSES TO INTERROGATORIES AND REQUESTS FOR  
ADMISSION, AND PRODUCTION OF DOCUMENTS**

I, Kenneth L. Wilton, hereby declare under penalty of perjury:

1. I am a partner in the firm Seyfarth Shaw LLP, attorneys for Opposer Constellation Brands U.S. Operations, Inc. ("Opposer") in these opposition proceedings. I submit this declaration in support of Opposer's Motion To Compel Further Responses To Interrogatories And Requests For Admission, And Production Of Documents. I make this declaration based on personal knowledge of the facts and circumstances set forth herein and on my review of the documents attached hereto.

2. These consolidated opposition proceedings are part of a larger universe of disputes between Opposer and entities owned by Mr. Jeremy Nickel. Since 2018, the parties have litigated ten oppositions and cancellations between Opposer and Applicant The Vineyard

House LLC (“Applicant”), three oppositions between Opposer and To Kalon Stock Farm, LLC (a company controlled by Applicant’s sole managing member, Mr. Nickel), and two lawsuits before the United States District Court for the Northern District of California (consolidated before the United States District Court for the Northern District of California under *The Vineyard House v. Constellation Brands U.S. Operations, Inc.*, Case No. 19-cv-01424 (the “Civil Action”)). Eight of the ten TTAB proceedings have involved the mark “TO KALON” and Hamilton W. Crabb, also known as Henry Walker Crabb and H.W. Crabb.

3. Applicant has filed 31 applications to register marks that include the word TO KALON or CRABB since June 1, 2018.

4. In November 2018, Applicant opposed registration of two of Opposer’s applications to register TO KALON trademarks. Then, in June 2019, Applicant petitioned to cancel Opposer’s incontestable registrations for TO KALON and TO KALON VINEYARD.

5. Applicant filed a lawsuit against Opposer before the United States District Court for the Northern District of California in March 2019 seeking, among other things, declaratory relief that it had the right to use the TO KALON name and cancellation of Opposer’s registrations.

6. Then, in January 2020, Opposer filed a lawsuit against Applicant alleging that Applicant’s use of the TO KALON name constituted trademark infringement. Applicant was represented by the same law firm in the Civil Action as it is in the proceedings before the Board.

7. The Civil Action proceeded to a bench trial that beginning on November 30, 2020 and concluding on December 9, 2020. On January 26, 2021, District Court a 24-page Rule 52 Order After Trial On The Merits. A true and correct copy of the Rule 52 Order After Trial On The Merits is attached hereto as **Exhibit A**. Based on my review of the District Court’s daily

minutes and the Rule 52 Order, during the trial, the Court heard from 13 witnesses, and admitted and reviewed over 600 exhibits. The District Court also issued a Judgment Under Rule 58, entering judgment against Applicant and in favor of Opposer. The District Court also entered a permanent injunction issued against Applicant, its managing member Mr. Jeremy J. Nickel, and To Kalon Stock Farm, LLC. A true and correct copy of the Judgment Under Rule 58 is attached hereto as **Exhibit B**.

8. Applicant did not appeal the judgment.

9. Following the entry of judgment, on July 26, 2021, the District Court held that the Civil Action was “exceptional” under 15 U.S.C. § 1117(a) and awarded \$2.3 million in fees and costs against Applicant. A true and correct copy of the Post-Trial Order Re: Attorneys’ Fees And Expert Fees is attached hereto as **Exhibit C**.

10. Discovery has since been ongoing in two related proceedings involving CRABB-formative marks, Opposition Nos. 91264970 and 91264972, with the parties having exchanged written discovery.

11. Opposer served Applicant with first sets of interrogatories, requests for production and requests for admission on October 29, 2021. True and correct copies of Opposer’s first set of discovery requests are attached hereto as **Exhibits D, E & F**. Applicant served its responses to the written discovery on December 20, 2021. True and correct copies of Applicant’s responses to Opposer’s first set of discovery requests are attached hereto as **Exhibits G, H & I**.

12. In its responses, Applicant represented that it would be producing documents responsive to 22 of the Requests for Production. Applicant has failed to produce any documents in either of the two related proceedings, Opposition Nos. 91264970 and 91264972.

13. As a consequence, I sent Applicant's counsel letters concerning Applicant's deficient discovery responses and failure to produce documents in those matters on March 14, 2022 (the '970 Opposition) and March 18, 2022 (the '972 Opposition). True and correct copies of my letters of March 14, 2022 and March 18, 2022 are attached hereto as **Exhibits J & K**.

14. In the first discovery letter (relating to the '970 Opposition), I asked Applicant's counsel to provided amended responses and the responsive documents by March 25, 2022, or suggest a time prior to March 21, 2022 during which the parties could speak directly regarding the issues raised by Opposer. In the second (relating to the '970 Opposition), I asked Applicant's counsel to provide amended responses by March 25, or suggest a time to meet and confer prior to March 25, 2022.

15. Instead of responding to either discovery letter, on March 23, 2022, I received an email from Applicant's counsel that stated in pertinent part:

Due to an unforeseen event, the client is unavailable and we are unable to communicate with him for a period of time, the length of which is currently undetermined.

A true and correct copy of Applicant's counsel's March 23, 2022 email is attached hereto as **Exhibit L**.

16. On March 25, 2022, Opposer's counsel again wrote to Applicant's counsel reminding Applicant of its discovery obligations. In response, Applicant's counsel provided the same cryptic response:

“[A]s we advised you on Wednesday, due to an unforeseen event, our client is unavailable and we are unable to communicate with him for a period of time, the length of which is currently undetermined. For obvious reasons, this unavailability is impactful on the matters now pending before the Board.”

A true and correct copy of Applicant's counsel's March 25, 2022 email is attached hereto as **Exhibit M**.



17. Opposer was involved in opposition proceedings involving Applicant's related company, To Kalon Stock Farm, LLC. During those proceedings, Applicant's counsel, the same counsel of record as in this proceeding, sent me a meet and confer letter complaining about Opposer's discovery responses, and stating that "The use of boilerplate and general objections is improper under the federal rules."

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 21st day of April, 2022 at Los Angeles, California.

*/Kenneth L. Wilton/*  
Kenneth L. Wilton

# **EXHIBIT B**

**2022 FLORIDA LIMITED LIABILITY COMPANY ANNUAL REPORT**

DOCUMENT# L18000093648

**Entity Name:** TO KALON STOCK FARM, LLC

**Current Principal Place of Business:**

C/O ALVAREZ AND MARSAL PCS GROUP  
600 BRICKELL AVENUE SUITE 2950  
MIAMI, FL 33131

**Current Mailing Address:**

C/O ALVAREZ AND MARSAL PCS GROUP  
600 BRICKELL AVENUE SUITE 2950  
MIAMI, FL 33131 US

**FEI Number: NOT APPLICABLE**

**Certificate of Status Desired: No**

**Name and Address of Current Registered Agent:**

CORPORATION COMPANY OF MIAMI  
200 S. BISCAYNE BOULEVARD  
SUITE 4100 (BPR)  
MIAMI, FL 33131 US

*The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.*

**SIGNATURE:**

\_\_\_\_\_  
Electronic Signature of Registered Agent

\_\_\_\_\_  
Date

**Authorized Person(s) Detail :**

Title MGR  
Name NICKEL, JEREMY J  
Address C/O ALVAREZ AND MARSAL PCS  
GROUP  
600 BRICKELL AVENUE SUITE 2950  
City-State-Zip: MIAMI FL 33131

*I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 605, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.*

**SIGNATURE: JEREMY J. NICKEL**

**MANAGER**

**04/07/2022**

\_\_\_\_\_  
Electronic Signature of Signing Authorized Person(s) Detail

\_\_\_\_\_  
Date

# **EXHIBIT C**

## Request for Extension of Time to File a Statement of Use (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	87944977
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 123
<b>MARK SECTION</b>	
<b>MARK</b>	HALTER VALLEY VINEYARD OAKVILLE (see, <a href="https://tmng-al.uspto.gov/resting2/api/img/87944977/large">https://tmng-al.uspto.gov/resting2/api/img/87944977/large</a> )
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>LITERAL ELEMENT</b>	HALTER VALLEY VINEYARD OAKVILLE
<b>OWNER SECTION (current)</b>	
<b>NAME</b>	The Vineyard House LLC
<b>MAILING ADDRESS</b>	1581 Oakville Grade
<b>CITY</b>	Oakville
<b>STATE</b>	California
<b>ZIP/POSTAL CODE</b>	94562
<b>STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY</b>	United States
<b>OWNER SECTION (proposed)</b>	
<b>NAME</b>	The Vineyard House LLC
<b>MAILING ADDRESS</b>	1581 Oakville Grade
<b>CITY</b>	Oakville
<b>STATE</b>	California
<b>ZIP/POSTAL CODE</b>	94562
<b>STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY</b>	United States
<b>EMAIL</b>	XXXX
<b>ATTORNEY INFORMATION (current)</b>	
<b>NAME</b>	FARAH P BHATTI
<b>ATTORNEY BAR MEMBERSHIP NUMBER</b>	XXX
<b>YEAR OF ADMISSION</b>	XXXX
<b>U.S. STATE/ COMMONWEALTH/ TERRITORY</b>	XX
<b>FIRM NAME</b>	BUCHALTER A PROFESSIONAL CORPORATION

STREET	18400 VON KARMAN AVE STE 800
CITY	IRVINE
STATE	California
POSTAL CODE	92612
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
PHONE	949-224-6272
EMAIL	ipdocket@buchalter.com
<b>ATTORNEY INFORMATION (proposed)</b>	
NAME	FARAH P BHATTI
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
FIRM NAME	BUCHALTER A PROFESSIONAL CORPORATION
STREET	18400 VON KARMAN AVE STE 800
CITY	IRVINE
STATE	California
POSTAL CODE	92612
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
PHONE	949-224-6272
EMAIL	fbhatti@buchalter.com
<b>CORRESPONDENCE INFORMATION (current)</b>	
NAME	FARAH P BHATTI
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	ipdocket@buchalter.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	fbhatti@buchalter.com; mseror@buchalter.com; hblan@buchalter.com
<b>CORRESPONDENCE INFORMATION (proposed)</b>	
NAME	FARAH P BHATTI
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	fbhatti@buchalter.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	ipdocket@buchalter.com; hblan@buchalter.com
<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	033
CURRENT IDENTIFICATION	Wines
GOODS OR SERVICES	KEEP ALL LISTED
<b>EXTENSION SECTION</b>	
EXTENSION NUMBER	1
ALLOWANCE MAIL DATE	12/07/2021

STATEMENT OF USE	NO
<b>PAYMENT SECTION</b>	
NUMBER OF CLASSES	1
SUBTOTAL AMOUNT [EXTENSION FEE]	125
TOTAL AMOUNT	125
<b>SIGNATURE SECTION</b>	
SIGNATURE	/Jeremy Nickel/
SIGNATORY'S NAME	Jeremy Justin Nickel
SIGNATORY'S POSITION	Manager
DATE SIGNED	04/08/2022
SIGNATURE METHOD	Sent to third party for signature
<b>FILING INFORMATION</b>	
SUBMIT DATE	Fri Apr 08 14:55:52 ET 2022
TEAS STAMP	USPTO/ESU-XX.XXX.XX.XXX-2 0220408145552574299-87944 977-8006010958d68aafacf99 271c4cd71185c76d2d7b7b4b6 f07552362c2403637-DA-5550 0951-20220406162102376580

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**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

**MARK:** HALTER VALLEY VINEYARD OAKVILLE (see, <https://tmng-al.uspto.gov/resting2/api/img/87944977/large>)

**SERIAL NUMBER:** 87944977

**OWNER AND/OR ENTITY INFORMATION**

**The owner proposes to amend the following:**

**Current:** The Vineyard House LLC, having an address of

1581 Oakville Grade

Oakville, California 94562

United States

**Proposed:** The Vineyard House LLC, having an address of

1581 Oakville Grade

Oakville, California 94562

United States

Phone:

Fax:

Email: XXXX

The owner requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 12/07/2021.

For International Class 033:

Current identification: Wines

For a trademark/service mark: The applicant has a continued bona fide intention, and is entitled, to use the mark in commerce on or in connection with all of the goods/services listed in the Notice of Allowance or as subsequently modified for this specific class; for a collective/certification mark: the applicant has a continued bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce on or in connection with the goods/services/collective membership organization listed in the Notice of Allowance, or as subsequently modified for this specific class.

This is the first extension request.

**The applicant's current Attorney Information:**

FARAH P BHATTI BUCHALTER A PROFESSIONAL CORPORATION

18400 VON KARMAN AVE STE 800

IRVINE, California 92612

United States

Phone: 949-224-6272

Email: ipdocket@buchalter.com

**The applicant's proposed Attorney Information:**

FARAH P BHATTI BUCHALTER A PROFESSIONAL CORPORATION

18400 VON KARMAN AVE STE 800

IRVINE, California 92612

United States

Phone: 949-224-6272

Email: fbhatti@buchalter.com



**Correspondence Information (current):**

FARAH P BHATTI  
PRIMARY EMAIL FOR CORRESPONDENCE: ipdocket@buchalter.com  
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): fbhatti@buchalter.com; mseror@buchalter.com; hblan@buchalter.com

**Correspondence Information (proposed):**

FARAH P BHATTI  
PRIMARY EMAIL FOR CORRESPONDENCE: fbhatti@buchalter.com  
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): ipdocket@buchalter.com; hblan@buchalter.com

**Requirement for Email and Electronic Filing:** I understand that a valid email address must be maintained by the owner/holder and the owner's/holder's attorney, if appointed, and that all official trademark correspondence must be submitted via the Trademark Electronic Application System (TEAS).

A fee payment in the amount of \$125 will be submitted with the form, representing payment for 1 class.

**Declaration**

STATEMENTS: The signatory believes that: the applicant has a continued bona fide intention, and is entitled, to use the mark in commerce on or in connection with all the goods/services under Section 1(b) in the notice of allowance or as subsequently modified, or, if applicable, the applicant has a continued bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce on or in connection with all the goods/services/collective membership organization under Section 1(b) in the notice of allowance or as subsequently modified; and that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, members and concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any resulting registration, declares 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: /Jeremy Nickel/ Date Signed: 04/08/2022  
Signatory's Name: Jeremy Justin Nickel  
Signatory's Position: Manager  
Signature method: Sent to third party for signature

**Mailing Address:**

BUCHALTER A PROFESSIONAL CORPORATION  
  
18400 VON KARMAN AVE STE 800  
IRVINE, California 92612

PAYMENT: 87944977  
PAYMENT DATE: 04/08/2022

Serial Number: 87944977  
Internet Transmission Date: Fri Apr 08 14:55:52 ET 2022  
TEAS Stamp: USPTO/ESU-XX.XXX.XX.XXX-2022040814555257  
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cd71185c76d2d7b7b4b6f07552362c2403637-DA  
-55500951-20220406162102376580

## Request for Extension of Time to File a Statement of Use (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	87944980
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 123
<b>MARK SECTION</b>	
<b>MARK</b>	HALTER VALLEY VINEYARD (see, <a href="https://tmng-al.uspto.gov/resting2/api/img/87944980/large">https://tmng-al.uspto.gov/resting2/api/img/87944980/large</a> )
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>LITERAL ELEMENT</b>	HALTER VALLEY VINEYARD
<b>OWNER SECTION (current)</b>	
<b>NAME</b>	The Vineyard House LLC
<b>MAILING ADDRESS</b>	1581 Oakville Grade
<b>CITY</b>	Oakville
<b>STATE</b>	California
<b>ZIP/POSTAL CODE</b>	94562
<b>STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY</b>	United States
<b>OWNER SECTION (proposed)</b>	
<b>NAME</b>	The Vineyard House LLC
<b>MAILING ADDRESS</b>	1581 Oakville Grade
<b>CITY</b>	Oakville
<b>STATE</b>	California
<b>ZIP/POSTAL CODE</b>	94562
<b>STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY</b>	United States
<b>EMAIL</b>	XXXX
<b>ATTORNEY INFORMATION (current)</b>	
<b>NAME</b>	FARAH P BHATTI
<b>ATTORNEY BAR MEMBERSHIP NUMBER</b>	XXX
<b>YEAR OF ADMISSION</b>	XXXX
<b>U.S. STATE/ COMMONWEALTH/ TERRITORY</b>	XX
<b>FIRM NAME</b>	BUCHALTER A PROFESSIONAL CORPORATION

STREET	18400 VON KARMAN AVE STE 800
CITY	IRVINE
STATE	California
POSTAL CODE	92612
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
PHONE	949-224-6272
EMAIL	ipdocket@buchalter.com
<b>ATTORNEY INFORMATION (proposed)</b>	
NAME	FARAH P BHATTI
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
FIRM NAME	BUCHALTER A PROFESSIONAL CORPORATION
STREET	18400 VON KARMAN AVE STE 800
CITY	IRVINE
STATE	California
POSTAL CODE	92612
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
PHONE	949-224-6272
EMAIL	fbhatti@buchalter.com
<b>CORRESPONDENCE INFORMATION (current)</b>	
NAME	FARAH P BHATTI
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	ipdocket@buchalter.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	fbhatti@buchalter.com; mserror@buchalter.com; hblan@buchalter.com
<b>CORRESPONDENCE INFORMATION (proposed)</b>	
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SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	ipdocket@buchalter.com; hblan@buchalter.com
<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	033
CURRENT IDENTIFICATION	Wines
GOODS OR SERVICES	KEEP ALL LISTED
<b>EXTENSION SECTION</b>	
EXTENSION NUMBER	1
ALLOWANCE MAIL DATE	12/14/2021

STATEMENT OF USE	NO
<b>PAYMENT SECTION</b>	
NUMBER OF CLASSES	1
SUBTOTAL AMOUNT [EXTENSION FEE]	125
TOTAL AMOUNT	125
<b>SIGNATURE SECTION</b>	
SIGNATURE	/Jeremy Nickel/
SIGNATORY'S NAME	Jeremy Justin Nickel
SIGNATORY'S POSITION	Manager
DATE SIGNED	04/08/2022
SIGNATORY'S PHONE NUMBER	4159992499
SIGNATURE METHOD	Sent to third party for signature
<b>FILING INFORMATION</b>	
SUBMIT DATE	Fri Apr 08 14:56:59 ET 2022
TEAS STAMP	USPTO/ESU-XX.XXX.XX.XXX-2 0220408145659585573-87944 980-8003e72bfd1e448f45657 efb863311718592ccc4c5bdd3 2c982a92d1a3a34b5c-DA-565 70980-2022040616223704993 4

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**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

**MARK:** HALTER VALLEY VINEYARD (see, <https://tmng-al.uspto.gov/resting2/api/img/87944980/large>)

**SERIAL NUMBER:** 87944980

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United States

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United States

Phone:

Fax:

Email: XXXX

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Current identification: Wines

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This is the first extension request.

**The applicant's current Attorney Information:**

FARAH P BHATTI BUCHALTER A PROFESSIONAL CORPORATION

18400 VON KARMAN AVE STE 800

IRVINE, California 92612

United States

Phone: 949-224-6272

Email: ipdocket@buchalter.com

**The applicant's proposed Attorney Information:**

FARAH P BHATTI BUCHALTER A PROFESSIONAL CORPORATION

18400 VON KARMAN AVE STE 800

IRVINE, California 92612

United States

Phone: 949-224-6272

Email: fbhatti@buchalter.com

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**Correspondence Information (proposed):**

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Signature: /Jeremy Nickel/    Date Signed: 04/08/2022  
Signatory's Name: Jeremy Justin Nickel  
Signatory's Position: Manager  
Signatory's Phone: 4159992499  
Signature method: Sent to third party for signature

**Mailing Address:**

BUCHALTER A PROFESSIONAL CORPORATION

18400 VON KARMAN AVE STE 800  
IRVINE, California 92612

PAYMENT: 87944980  
PAYMENT DATE: 04/08/2022

Serial Number: 87944980  
Internet Transmission Date: Fri Apr 08 14:56:59 ET 2022  
TEAS Stamp: USPTO/ESU-XX.XXX.XX.XXX-2022040814565958  
5573-87944980-8003e72bfd1e448f45657efb86  
3311718592ccc4c5bdd32c982a92d1a3a34b5c-D  
A-56570980-20220406162237049934

## Request for Extension of Time to File a Statement of Use (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	87944987
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 123
<b>MARK SECTION</b>	
<b>MARK</b>	HALTER VALLEY OAKVILLE (see, <a href="https://tmng-al.uspto.gov/resting2/api/img/87944987/large">https://tmng-al.uspto.gov/resting2/api/img/87944987/large</a> )
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>LITERAL ELEMENT</b>	HALTER VALLEY OAKVILLE
<b>OWNER SECTION (current)</b>	
<b>NAME</b>	The Vineyard House LLC
<b>MAILING ADDRESS</b>	1581 Oakville Grade
<b>CITY</b>	Oakville
<b>STATE</b>	California
<b>ZIP/POSTAL CODE</b>	94562
<b>STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY</b>	United States
<b>OWNER SECTION (proposed)</b>	
<b>NAME</b>	The Vineyard House LLC
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<b>STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY</b>	United States
<b>EMAIL</b>	XXXX
<b>ATTORNEY INFORMATION (current)</b>	
<b>NAME</b>	FARAH P BHATTI
<b>ATTORNEY BAR MEMBERSHIP NUMBER</b>	XXX
<b>YEAR OF ADMISSION</b>	XXXX
<b>U.S. STATE/ COMMONWEALTH/ TERRITORY</b>	XX
<b>FIRM NAME</b>	BUCHALTER A PROFESSIONAL CORPORATION

STREET	18400 VON KARMAN AVE STE 800
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STATE	California
POSTAL CODE	92612
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
PHONE	949-224-6272
EMAIL	ipdocket@buchalter.com
<b>ATTORNEY INFORMATION (proposed)</b>	
NAME	FARAH P BHATTI
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
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PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	ipdocket@buchalter.com
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<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	033
CURRENT IDENTIFICATION	Wines
GOODS OR SERVICES	KEEP ALL LISTED
<b>EXTENSION SECTION</b>	
EXTENSION NUMBER	1
ALLOWANCE MAIL DATE	12/07/2021



STATEMENT OF USE	NO
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NUMBER OF CLASSES	1
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TOTAL AMOUNT	125
<b>SIGNATURE SECTION</b>	
SIGNATURE	/Jeremy J. Nickel/
SIGNATORY'S NAME	Jeremy Justin Nickel
SIGNATORY'S POSITION	Manager
DATE SIGNED	04/08/2022
SIGNATORY'S PHONE NUMBER	4159992499
SIGNATURE METHOD	Sent to third party for signature
<b>FILING INFORMATION</b>	
SUBMIT DATE	Fri Apr 08 14:54:02 ET 2022
TEAS STAMP	USPTO/ESU-XX.XXX.XX.XXX-2 0220408145402010408-87944 987-800d61feb11313b3d467a c6cd15c2cc23ef6cd0d7c3ef7 e1e8eb6b619fcdab-DA-53590 907-20220406161742094905

**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

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Phone:

Fax:

Email: XXXX

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18400 VON KARMAN AVE STE 800

IRVINE, California 92612

United States

Phone: 949-224-6272

Email: ipdocket@buchalter.com

**The applicant's proposed Attorney Information:**

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United States

Phone: 949-224-6272

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**Correspondence Information (proposed):**

FARAH P BHATTI  
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Signature: /Jeremy J. Nickel/ Date Signed: 04/08/2022  
Signatory's Name: Jeremy Justin Nickel  
Signatory's Position: Manager  
Signatory's Phone: 4159992499  
Signature method: Sent to third party for signature

**Mailing Address:**

BUCHALTER A PROFESSIONAL CORPORATION

18400 VON KARMAN AVE STE 800  
IRVINE, California 92612

PAYMENT: 87944987  
PAYMENT DATE: 04/08/2022

Serial Number: 87944987  
Internet Transmission Date: Fri Apr 08 14:54:02 ET 2022  
TEAS Stamp: USPTO/ESU-XX.XXX.XX.XXX-2022040814540201  
0408-87944987-800d61feb11313b3d467ac6cd1  
5c2cc23ef6cd0d7c3ef7e1e8eb6b619fcdab-DA-  
53590907-20220406161742094905

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **DECLARATION OF KENNETH L. WILTON IN SUPPORT OF OPPOSER’S MOTION TO COMPEL FURTHER RESPONSES TO INTERROGATORIES AND REQUESTS FOR ADMISSION, AND PRODUCTION OF DOCUMENTS** has been served on Applicant The Vineyard House LLC, by forwarding said copy on April 21, 2022, via email, to the correspondence address of record for Applicant The Vineyard House LLC at fbhatti@buchalter.com, ipdocket@buchalter.com with a courtesy copy to mseror@buchalter.com and hblan@buchalter.com.

*/Helen Kang/* \_\_\_\_\_  
Helen Kang

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **OPPOSER’S REPLY BRIEF IN SUPPORT OF OPPOSER’S MOTION TO COMPEL; and OPPOSER’S RESPONSE TO APPLICANT’S CONDITIONAL REQUEST FOR IN CAMERA HEARING; REPLY DECLARATION OF KENNETH L. WILTON** has been served on Applicant The Vineyard House LLC, by forwarding said copy on May 19, 2022, via email, to the correspondence address of record for Applicant The Vineyard House LLC at fbhatti@buchalter.com, ipdocket@buchalter.com with a courtesy copy to mseror@buchalter.com and hblan@buchalter.com.

/Helen Kang/  
Helen Kang