

ESTTA Tracking number: **ESTTA1093996**

Filing date: **11/08/2020**

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

Proceeding	91264972
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 Primary Email: fbhatti@buchalter.com Secondary Email(s): ipdocket@buchalter.com 949-224-6272
Submission	Motion to Amend/Amended Answer or Counterclaim
Filer's Name	Farah P. Bhatti
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Signature	/fbhatti/
Date	11/08/2020
Attachments	Amended Answer to Opposition No 91264972 - CRABBS BLACK BUR-GUNDY.pdf(34226 bytes )





5. Applicant lacks sufficient information or knowledge sufficient to admit or deny the allegations of Paragraph 5 of the Opposition and based upon said lack of information or knowledge, denies each and every allegation contained therein.

6. Applicant admits that H.W. Crabb previously owned property which he called HERMOSA VINEYARD. Applicant also admits that Hamilton W. Crabb is also known as Henry Walker Crabb and H.W. Crabb. To the extent not expressly admitted or denied, Applicant denies all other allegations in Paragraph 6 of the Opposition.

7. Applicant admits that H.W. Crabb owned property which he called "To Kalon." To the extent not expressly admitted or denied, Applicant denies all other allegations in Paragraph 7 of the Opposition.

8. Applicant admits that H.W. Crabb was associated with the brand "To Kalon." To the extent not expressly admitted or denied, Applicant denies all other allegations in Paragraph 8 of the Opposition.

9. Applicant denies the allegations in Paragraph 9 of the Opposition.

10. Applicant denies the allegations in Paragraph 10 of the Opposition.

11. Applicant lacks sufficient information or knowledge sufficient to admit or deny the allegations of Paragraph 11 of the Opposition and based upon said lack of information or knowledge, denies each and every allegation contained therein.

12. Applicant lacks sufficient information or knowledge sufficient to admit or deny the allegations of Paragraph 12 of the Opposition and based upon said lack of information or knowledge, denies each and every allegations contained therein.

13. Applicant lacks sufficient information or knowledge sufficient to admit or deny the allegations of Paragraph 13 of the Opposition and based upon said lack of information or knowledge, denies each and every allegation contained therein.

14. Applicant lacks sufficient information or knowledge sufficient to admit or deny the allegations of Paragraph 14 of the Opposition and based upon said lack of information or knowledge, denies each and every allegation contained therein.

15. Applicant admits that it has adopted and intends to use the CRABB'S BLACK BURGUNDY Mark. To the extent not expressly admitted or denied, Applicant denies all other allegations in Paragraph 15 of the Opposition.

16. Applicant admits that it filed Application Serial No. 88/008025 for the mark CRABB'S BLACK BURGUNDY on June 20, 2018 for use in connection with "wines" in Class 33. To the extent not expressly admitted or denied, Applicant denies all other allegations in Paragraph 16 of the Opposition.

17. Applicant denies the allegations in Paragraph 17 of the Opposition.

18. Applicant admits that in the January 13, 2020, Applicant stated that "The goods are not intended to be made with grapes originate in or near Cahors, France" and in response to the inquiry "List the geographical origin of the ingredients and/or intended ingredients for Applicant's goods," Applicant stated that "the intended ingredients will be from Applicant's vineyard in Oakville California." To the extent not expressly admitted or denied, Applicant denies all other allegations in Paragraph 18 of the Opposition.

19. Applicant repeats and realleges the afore-mentioned responses in Paragraphs 1 to 18, as if fully set forth herein.

20. Applicant admits that CRABB'S is a reference to H.W. Crabb and that H.W. Crabb is a deceased person of historical importance in the Napa Valley. To the extent not expressly admitted or denied, Applicant denies all other allegations in Paragraph 20 of the Opposition.

21. Applicant lacks sufficient information or knowledge sufficient to admit or deny the allegations of Paragraph 21 of the Opposition and based upon said lack of information or knowledge, denies each and every allegation contained therein.

22. Applicant denies the allegations in Paragraph 22 of the Opposition.

23. Applicant denies the allegations in Paragraph 23 of the Opposition.
24. Applicant admits the allegations in Paragraph 24 of the Opposition.
25. Applicant denies the allegations in Paragraph 25 of the Opposition.
26. Applicant denies the allegations in Paragraph 26 of the Opposition.
27. Applicant denies the allegations in Paragraph 27 of the Opposition.
28. Applicant repeats and realleges the afore-mentioned responses in Paragraphs 1 to 27, as if fully set forth herein.
29. Applicant denies the allegations in Paragraph 29 of the Opposition.
30. Applicant denies the allegations in Paragraph 30 of the Opposition.
31. Applicant repeats and realleges the afore-mentioned responses in Paragraphs 1 to 30, as if fully set forth herein.
32. Applicant lacks sufficient information or knowledge sufficient to admit or deny the allegations of Paragraph 32 of the Opposition and based upon said lack of information or knowledge denies each and every allegation contained therein.
33. Applicant denies the allegations in Paragraph 33 of the Opposition.
34. Applicant denies the allegations in Paragraph 34 of the Opposition.
35. Applicant denies the allegations in Paragraph 35 of the Opposition.
36. Applicant denies the allegations in Paragraph 36 of the Opposition.

#### **AFFIRMATIVE DEFENSES**

37. Opposer has failed to state a claim upon which relief can be granted.

38. There is no likelihood of confusion, mistake or deception between Applicant's mark and the pleaded marks of Opposer as the respective parties' marks are not confusingly similar, including, but not limited to, the following reasons:

(a) The marks themselves are not confusingly similar as they differ in sound/pronunciation, appearance, connotation and commercial impression;

(b) There is no evidence of threatened or actual confusion.

39. Opposer does not have exclusive rights to utilize the term CRABB to the exclusion of all other third parties and should not be permitted to monopolize the marks that are not confusingly similar to Opposer's marks.

40. Opposer has suffered no damages nor will it suffer damages in the future by Registration of Applicant's mark.

41. The claims alleged by Opposer in the Notice of Opposition are frivolous, alleged with the knowledge that there is no likelihood of confusion between the marks of the respective parties and alleged in bad faith.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be dismissed in its entirety, with prejudice, and Applicant's marks may be allowed to proceed towards registration.

Dated: November 8, 2020

Respectfully Submitted,

**To Kalon Stock Farm, LLC**

By:           /fbhatti/          

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