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Filing date: **07/19/2013**

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

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	Grupo Peñaflores S.A.		
Entity	Corporation	Citizenship	Argentina
Address	Arenales 460, Vicente Lopez Buenos Aires, ARGENTINA		

Attorney information	Perla M. Kuhn Edwards Wildman Palmer LLP 750 Lexington Avenue New York, NY 10022 UNITED STATES trademark@edwardswildman.com,pkuhn@edwardswildman.com,stenney@edwardswildman.com Phone:212-912-2708		
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### Registration Subject to Cancellation

Registration No	3544475	Registration date	12/09/2008
Registrant	Harlan Estate Winery, Inc. P.O. Box 352 Oakville, CA 94562 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 033. First Use: 2008/09/15 First Use In Commerce: 2008/09/15 All goods and services in the class are cancelled, namely: Wine
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### Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	22560634_1.pdf(12803 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Perla M. Kuhn/
Name	Perla M. Kuhn
Date	07/19/2013



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

GRUPO PEÑAFLORES S.A.

Petitioner,

v.

HARLAN ESTATE WINERY, INC.

Respondent.

Cancellation No. :

Registration No. : 3,544,475

Trademark : THE MASCOT

**PETITION FOR CANCELLATION**

Grupo Peñaflores S.A. (“Petitioner”), a corporation duly organized and existing under the laws of Argentina, and having its principal place of business at Arenales 460, Vicente Lopez, Buenos Aires, Argentina, believes that it will be damaged by the continued existence of U.S. Trademark Registration No. 3,544,475 for THE MASCOT in the name of Harlan Estate Winery, Inc. (“Respondent”) on the Principal Register, and hereby petitions to cancel the same. As grounds for this Petition for Cancellation (the “Petition”), Petitioner relies upon the rights developed by it, and alleges on knowledge as to itself and otherwise upon information and belief, as follows:

1. On December 9, 2008, the U.S. Patent and Trademark Office issued Trademark Registration No. 3,544,475 for the mark THE MASCOT for “wine” in International Class 33. Respondent is the record owner of Registration No. 3,544,475.

2. On September 18, 2012, Petitioner filed an application to register the trademark FINCA LA MASCOTA with the U.S. Patent and Trademark Office, Application Serial No. 85/731,853, for “wines” in International Class 33 (“Petitioner’s Application”).

3. On January 22, 2013, Petitioner’s Application was refused registration under Section 2(d) of the Trademark Act on the ground of likelihood of confusion with the mark of Registration No. 3,544,475.

**COUNT 1: Abandonment**

4. Petitioner incorporates by reference the allegations contained in Paragraphs 1 through 3 above, as if fully set forth herein.

5. Upon information and belief, Respondent is not currently selling wines under the mark THE MASCOT in the ordinary course of trade and has not done so for at least three years preceding the date of this Petition.

6. Upon information and belief, Respondent has no intention of resuming use of the mark THE MASCOT in connection with wines.

7. As a result of its failure to use the mark THE MASCOT and its intent not to resume such use, Respondent has abandoned the mark of Registration No. 3,544,475.

8. Petitioner’s ability to use and register its mark FINCA LA MASCOTA in connection with the promotion and sale of its products will be impaired by the continued registration of Respondent’s mark.

WHEREFORE, Petitioner believes that it is or will be damaged by Registration No. 3,544,475 and petitions for cancellation of the same.

Respectfully submitted,

EDWARDS WILDMAN PALMER, LLP

Dated: July 22, 2013  
New York, NY

By: /Perla M. Kuhn/

Perla M. Kuhn  
H. Straat Tenney

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*Attorneys for Petitioner*

**CERTIFICATE OF ELECTRONIC MAILING**

I hereby certify that the foregoing Petition for Cancellation is being submitted electronically through the Trademark Trial and Appeal Board's ESTTA System on this 22nd day of July, 2013.

Dated: July 22, 2013  
New York, NY

By: /Varant Ekmekjian/  
Varant Ekmekjian

**CERTIFICATE OF SERVICE**

I hereby certify that I am over the age of 18 years, not a party to this action, and that on the 22nd day of July, 2013, I caused to be served a true and correct copy of the foregoing Petition for Cancellation by first class mail to Respondent and the correspondence address of record for Respondent:

Melville Owen  
Owen, Wickersham & Erickson, P.C.  
455 Market Street, Suite 1910  
San Francisco, CA 94105-5408

Dated: July 22, 2013  
New York, NY

By: /Varant Ekmekjian/  
Varant Ekmekjian