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

Proceeding	92067807
Party	Defendant Baughman Spirits & Beverage, LLC DBA Gold River Distillery
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**UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**Purple Wine Company LLC,  
Graton Spirits Company LLC,**

**Cancellation No. 92067807**

**Petitioners,**

**v.**

**Baughman Spirits and Beverages Inc.,  
dba Gold River Distillery,**

**Registrant**

**ANSWER AND AFFIRMATIVE DEFENSES**

COMES NOW the Registrant, Baughman Spirits and Beverages Inc., dba Gold River Distillery, (“Registrant”), by and through counsel, Ryder, Lu, Mazzeo & Konieczny LLC, and files its Answer and Affirmative Defenses to the Petition to Cancel in response to Petitioners’ Purple Wine Company LLC (“Purple Wine”), and Graton Spirits Company LLC (“Graton”) (collectively, “Petitioners”) allegations and states as follows:

**ANSWER**

1. Admitted in part, denied in part. It is admitted that Registrant owns a valid trademark registration of the mark WHEEL HOUSE (Registration No. 4,894,709). Registrant denies the remainder of the allegations set forth in paragraph 1 of the Petition to Cancel and therefore denies the same.
2. Registrant is without knowledge of the allegations set forth in paragraph 2 of the Petition to Cancel and therefore denies the same.
3. Registrant is without knowledge of the allegations set forth in paragraph 3 of the Petition to Cancel and therefore denies the same.

4. Admitted in part, denied in part. Registrant was a California limited liability company until very recently, but it has now been converted to an S corporation. It is further denied that GRD is a separate entity from Baughman, therefore, references to GRD are in fact all references to Baughman and will be referenced herein as “Registrant.” The remaining allegations of this paragraph are admitted.

4. (sic) Registrant is without knowledge of the allegations set forth in paragraph 4 of the Petition to Cancel and therefore denies the same.

5. Registrant is without knowledge of the allegations set forth in paragraph 5 of the Petition to Cancel and therefore denies the same. Further denied as conclusions of law.

6. Registrant is without knowledge of the allegations set forth in paragraph 6 of the Petition to Cancel and therefore denies the same.

7. Registrant is without knowledge of the allegations set forth in paragraph 7 of the Petition to Cancel and therefore denies the same.

8. Registrant is without knowledge of the allegations set forth in paragraph 8 of the Petition to Cancel and therefore denies the same.

9. Registrant is without knowledge of the allegations set forth in paragraph 9 of the Petition to Cancel and therefore denies the same.

10. Registrant is without knowledge of the allegations set forth in paragraph 10 of the Petition to Cancel and therefore denies the same.

11. Registrant is without knowledge of the allegations set forth in paragraph 11 of the Petition to Cancel and therefore denies the same.

12. Registrant is without knowledge of the allegations set forth in paragraph 12 of the Petition to Cancel and therefore denies the same. Further denied as conclusions of law.

13. Registrant is without knowledge of the allegations set forth in paragraph 13 of the Petition to Cancel and therefore denies the same. It is specifically denied that use of WHEELHOUSE with distilled spirits such as gin, vodka and whiskey is in the natural zone of expansion for Petitioner's use of the mark with wines.

14. Admitted in part, denied in part. It is admitted that Registrant produces, among other products under the mark WHEEL HOUSE, American Dry Gin, Sacramento Vodka, and Absinthe Verte. It is denied that Registrant will soon offer whiskey under the mark, as it currently offers Corn Whiskey and Malted Rice Whiskey under the mark. By way of further response, see Registrant's response to #4 above.

15. Admitted in part, denied in part. It is admitted that on May 13, 2015, Registrant filed U.S. Trademark Application Serial No. 86628402 for the mark WHEEL HOUSE for gin and vodka in International Class 33 alleging a date of first use of July 1, 2014. It is also admitted that on February 2, 2016, the WHEEL HOUSE mark was registered to Registrant, Registration No. 4,894,709. The remaining allegations of this paragraph are denied.

16. Admitted in part, denied in part. It is admitted that Registrant's CEO received an email forwarded to him by one of its distributors from Purple Wine's counsel on or about December 6, 2017. It is further admitted that Registrant CEO responded to the email on December 7, 2017 informing Purple Wine's counsel that Registrant owned a valid trademark registration for WHEEL HOUSE and requested that Purple Wine withdraw its application in connection with spirits, *inter alia*. The remainder of allegations in this paragraph are denied.

17. Denied. Further denied as conclusions of law. By way of further response, the mark in Petitioner's Serial Application No. 87/684,711 is confusingly similar to Registrant's registration for WHEEL HOUSE given the nearly identical appearance of the marks and goods.

18. Admitted in part, denied in part. It is admitted that Petitioner's intended use of WHEEL HOUSE in connection with gin, vodka and whiskey, as set forth in Serial Application No. 87/684,711 is likely to confuse the consuming public. The remaining allegations of this paragraph are denied as conclusions of law.

19. Denied. Further denied as conclusions of law.

20. Denied. Further denied as conclusions of law.

21. Denied. Further denied as conclusions of law.

22. Denied. Further denied as conclusions of law.

23. Denied. Further denied as conclusions of law.

24. Denied. Further denied as conclusions of law.

25. Denied. Further denied as conclusions of law.

26. Denied. Further denied as conclusions of law.

#### **AFFIRMATIVE DEFENSES**

1. Petitioners' claims are barred by laches.

2. Petitioners' claims are barred by estoppel.

3. Petitioners' claims are barred by priority of use.

2. Petitioners' claims are barred by fraud.

3. Petitioners' claims are barred by fair use.

4. Petitioners' claims are barred by waiver.

5. Petitioners' claims are barred by license.

6. Petitioners do not have standing to bring this action.

7. Petitioners' claims are barred by abandonment of their trademark rights.

WHEREFORE, Registrant prays that the Petition to Cancel be dismissed with prejudice.

Dated: March 9, 2018

Respectfully submitted,

Ryder, Lu, Mazzeo & Konieczny LLC

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*Attorney for Registrant*

**Certificate of Service**

The undersigned certifies that on the date set forth below a true and correct copy of the ANSWER AND AFFIRMATIVE DEFENSES has been served on the following via email:

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Dated: March 9, 2018

Ryder, Lu, Mazzeo & Konieczny LLC

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