

ESTTA Tracking number: **ESTTA984176**

Filing date: **06/28/2019**

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 has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Labeauti, Inc.		
Entity	Corporation	Citizenship	Louisiana
Address	410 Bourbon Street New Orleans, LA 70116 UNITED STATES		

Attorney information	Kenneth L. Tolar Tolar Harrigan & Morris LLC 1055 St. Charles Avenue Suite 208 New Orleans, LA 70130 UNITED STATES ktolar@nolaipa.com 5045715317		
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Registration Subject to Cancellation

Registration No.	4560266	Registration date	07/01/2014
Registrant	Nicholas S. Karno #1, Inc. 732 St. Louis Street New Orleans, LA 70130 UNITED STATES		

Additional Registrant Information

Additional registrant information provided by the petitioner	Nicholas S. Karno #1, Inc. 700 Bourbon Street New Orleans, LA 70116 UNITED STATES no email provided no phone number provided
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Goods/Services Subject to Cancellation

Class 032. First Use: 1996/12/01 First Use In Commerce: 1996/12/01 All goods and services in the class are subject to cancellation, namely: Beers
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Grounds for Cancellation

The mark is merely descriptive	Trademark Act Sections 14(1) and 2(e)(1)
The mark is or has become generic	Trademark Act Section 14(3), or Section 23 if on Supplemental Register

Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)
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Attachments	petition for cancellation of Huge Ass Beer.pdf(114283 bytes) Exhibit 1.pdf(1524755 bytes)
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Signature	/kenneth l tolar/
Name	Kenneth L Tolar
Date	06/28/2019

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

In the Matter of Trademark Registration No. 4,560,266

Mark: HUGE ASS BEER

Registered: July 1, 2014

Labeauti, Inc. *

*

v. *

*

Nicholas S. Karno #1, Inc. *

Cancellation No. _____

Via ESTTA

Assistant Commissioner for Trademarks

P.O. Box 1451

Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

Petitioner Labeauti, Inc. (“Labeauti” or “Petitioner”) hereby seeks cancellation of registration no. No. 4,560,266 (the ‘266 Registration) for the mark HUGE ASS BEER for the following reasons.

1. Petitioner, Labeauti, Inc. is a Louisiana corporation with its principal place of business in New Orleans, Louisiana, and is sometimes doing business as “Beerfest.”
2. Made Respondent herein is Nicholas S. Karno #1, Inc. (“Karno”), a Louisiana corporation with its principal place of business in New Orleans, Louisiana.
3. Karno owns U.S. Trademark Registration No. 4,560,266 (the ‘266 Registration) for the mark HUGE ASS BEER for use with “beer.” The ‘266 Registration issued on July 1, 2014.
4. Respondent operates various restaurants and nightclubs in the French

Quarter of New Orleans where it offers a beer under the designation HUGE ASS BEER. The beer offered and sold under the registered trademark is simply a huge or extra-large beer.

5. In early 2019, Petitioner began offering a beer under the mark GAIN ASS BEER.

6. Karno immediately filed suit against the petitioner and other related entities and officers asserting the '266 Registration, which is currently pending in the Eastern District of Louisiana as case no. 19-1745. Specifically, Respondent alleges that Petitioner's use of the GIANT ASS BEER constitutes trade dress infringement, unfair competition and dilution of its trademark rights in HUGE ASS BEER. Exhibit 1.

7. Upon information and belief, the beer offered and sold under the purported trademark "HUGE ASS BEER" is packaged in 32-ounce containers, which is substantially larger than a typical beer container.

8. "Huge ass" is a term commonly used to describe something large.

9. Pursuant to 15 U.S.C. §1052(e), any mark that is merely descriptive is not registerable on the principal register.

10. A mark is merely descriptive if it conveys an ingredient, quality, characteristic, function, feature, purpose or use of the specified goods or services.

11. Respondent's HUGE ASS BEER mark is merely descriptive in that it immediately conveys to a potential consumer a characteristic or feature of the goods offered under the mark, namely a large beer.

12. Respondent admits the highly descriptive nature of the term when stating in

the complaint in the above-referenced lawsuit: “‘Giant’ is synonymous with both ‘Huge’ and ‘Big.’” Exhibit 1. According to Plaintiff’s own words, the term describes something that is big.

13. Respondent’s HUGE ASS BEER mark has not acquired distinctiveness and is so highly descriptive as to be incapable of ever functioning as a trademark. Therefore, the ‘266 registration is invalid.

14. Respondent also filed trademark application number 86139795 for BIG ASS BEER on December 10, 2013, but the application was rejected based upon registration no. 2,265,207 for BIG ASS for use with beer, which had been registered since July 27, 1999.

15. Respondent received notice of the BIG ASS registration on March 6, 2014 while its application to register HUGE ASS BEER was pending. If Respondent’s reasoning that “huge” and “big” are synonymous were applied, Respondent was actively and knowingly infringing the BIG ASS registration when it filed its application to register HUGE ASS BEERS.

16. Moreover, in the Complaint in the above-captioned lawsuit, Respondent admits to using the mark BIG ASS BEER since 2013 despite its prior knowledge that another entity had registered the identical mark for use with identical goods and has been using the mark since at least October 1, 1998.

17. Furthermore, in the application to register the mark HUGE ASS BEER, Respondent alleges a date of first use in commerce of December 1, 1996. However, in an application to register the identical mark with the Louisiana Secretary of

State, Respondent alleges a date of first use of December 1, 1999. If Respondent deliberately misrepresented the date of first use in order to circumvent the earlier date of first use of the BIG ASS registration, such act could constitute fraudulent procurement of a trademark registration under 15 U.S.C. 1064(3).

18. Because of the litigation described above and Respondent's interference with Petitioner's right to use GIANT ASS BEER, Petitioner is authorized to bring this cancellation proceeding pursuant to 15 U.S.C. §1064 since it is being damaged by the '266 registration.

FIRST BASIS FOR CANCELLATION-DESCRIPTIVENESS

19. Petitioner reincorporates Paragraphs 1-18, as set forth herein.

20. The term "huge ass" is a merely descriptive, generic and common term for something large, and "beer" is clearly generic for beer. Therefore, because the entire mark consists of descriptive, generic and unprotectable terms, the '266 Registration should be cancelled pursuant to 15 U.S.C. §§1064 and 1119.

SECOND BASIS FOR CANCELLATION-FRAUD

21. Petitioner reincorporates Paragraphs 1-18, as set forth herein.

22. Respondent fraudulently procured the '266 registration by falsely claiming that it first used the mark in 1996, despite previously admitting that the mark had not been used until 1999. Therefore, the registration should be cancelled pursuant to 15 U.S.C. §1064(3) and 1119.

23. Pursuant to the Lanham Act, the USPTO is authorized to cancel the '266 registration due to its inability to serve as a proper indicator of origin, its genericness

and/or descriptiveness and because the registration was obtained by fraud.

WHEREFORE, Petitioner, Labeauti, Inc. prays that U.S. Registration No. 4560266 be cancelled as being merely descriptive and/or generic, and because the registration was obtained by fraud.

/s/ kenneth l. tolar

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT COURT OF LOUISIANA**

NICHOLAS S. KARNO #1, Inc.

Plaintiff,

v.

SILVER BOURBON, INC.; LABEAUTI,
INC.; BOURBON BURLESQUE CLUB, INC;
PAMELA J. OLANO, individually; and GUY
W. OLANO, Jr., individually.

Defendants.

CIVIL ACTION NO.

JUDGE:

MAGISTRATE JUDGE:

SECTION:

COMPLAINT

Plaintiff, Nicholas S. KARNO #1, Inc. (“NSK”) submits this Complaint against Defendants, Silver Bourbon, Inc., Labeauti, Inc., Bourbon Burlesque Club, Inc., Pamel J. Olano (“Ms. Olano”), and Guy W. Olano, Jr. (“Mr. Olano”), individually, (collectively “Defendants”) and alleges as follows:

NATURE OF ACTION

For more than twenty-two (22) years, locals and tourists strolling through the French Quarter in New Orleans have seen many people enjoying NSK’s world-famous HUGE ASS BEERS, BIG ASS BEERS and HALF ASS BEERS (collectively “NSK’s HUGE ASS BEERS Family of Marks”). In fact, one of the first things locals and tourists see when they step on Bourbon Street are NSK’s signs like those shown below:

Exhibit 1



Those who follow the signs can buy a large or small beer from NSK sold in containers using its Huge Ass Beers Family of Marks. Some examples of NSK's containers are shown below:



Because of the success of NSK's HUGE ASS BEERS Family of Marks, marks from NSK's HUGE ASS BEERS Family of Marks have been copied and exploited by competitors; some also operating in the French Quarter. This lawsuit arises out of the most recent effort by direct competitors to trade off the goodwill obtained by NSK from over two (2) decades of its promoting, marketing, advertising, offering for sale, and selling beer using NSK's HUGE ASS BEERS Family of Marks.

Upon information and belief, on or before February 23, 2019, Defendants, at the direction

and authority of Mr. Olano and Ms. Olano, began using the mark GIANT ASS BEER in connection with the sale of beer. An image of Defendants use of the mark is shown below:



Defendants' egregious and blatant act of using a mark confusingly similar to NSK's HUGE ASS BEERS Family of Marks is intended to trade off of the goodwill obtained by NSK over two (2) decades of use. Therefore, NSK is forced to file this lawsuit in order to stop Defendants' infringement of NSK's exclusive trademark rights in its HUGE ASS BEERS Family of Marks.

THE PARTIES

1. Plaintiff, Nicholas S. Karno #1, Inc., is a Louisiana corporation, with a principal office at 700 Bourbon Street, New Orleans, Louisiana 70116.

2. Upon information and belief, Silver Bourbon, Inc. ("SBI") is a Louisiana corporation doing business as "Beerfest" located at 410 Bourbon Street, New Orleans.

3. Upon information and belief, Labeauti, Inc. ("LAB") is a Louisiana corporation doing business as "Voodoo Vibes" and "Sing Sing" 420 Bourbon Street and 418 Bourbon Street

New Orleans, respectively.

4. Upon information and belief, Bourbon Burlesque Club, Inc. (“BBI”) is a Louisiana corporation doing business as “Stiletto’s” located at 325 Bourbon Street, New Orleans.

5. Defendant, Pamela J. Olano (“Ms. Olano”), based on information and belief, resides in the New Orleans metropolitan area. Upon information and belief, Ms. Olano, along with Guy W. Olano, Jr., since their founding has continuously operated and controlled SBI, LAB, and BBI

6. Defendant, Guy W. Olano, Jr. (“Mr. Olano”), based on information and belief, resides in the New Orleans metropolitan area. Upon information and belief, Mr. Olano, along with Ms. Olano, since their founding, has continuously operated and controlled SBI, LAB, and BBI.

JURISDICTION

7. This Court has jurisdiction over this action, under 15 U.S.C. § 1121(a) and 28 U.S.C. § 1331 [actions arising under the Federal Trademark Act]; 28 U.S.C. §§ 1338(a) and (b) [acts of Congress relating to trademarks, and unfair competition claims joined therewith]; and, 28 U.S.C. § 1367(a) [supplemental jurisdiction over related actions arising under state law].

8. Upon information and belief, Defendants are domiciled within this jurisdiction.

9. Upon information and belief, Defendants regularly conduct business in this jurisdiction.

10. All claims alleged in this complaint were committed by the Defendants within this jurisdiction.

VENUE

11. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c).

STATEMENT OF FACTS

PLAINTIFF AND THE RIGHTS AT ISSUE

12. NSK and its affiliates are engaged, and have long been engaged, in the provision of bar, nightclub, and restaurant services in the New Orleans French Quarter doing business as *Steak Pit*, *Cornet*, and *Prohibition* (collectively “NSK Licensed Establishments”).

13. NSK claims trademark rights in HUGE ASS BEERS, BIG ASS BEERS, and HALF ASS BEERS, NSK’s HUGE ASS BEERS Family of Marks.

14. In December 1996, NSK began selling beers in the NSK Establishments under the trademark HUGE ASS BEERS. Throughout the United States, the NSK Establishments are known for their HUGE ASS BEERS. Beers sold under the trademark HUGE ASS BEERS are the most popular beers sold in the New Orleans French Quarter; thousands of beers are served at NSK's Establishments each year. The beers sold using NSK’s HUGE ASS BEERS Family of Marks have been featured, unsolicited, in a variety of social media outlets such as Yelp, Foursquare, NewOrleansOnline.com, Untapped.com, You Tube, and others.

15. NSK owns a trademark registration for HUGE ASS BEERS in International Class 032 for use with beer, registered at the U.S. Patent and Trademark Office (“USPTO”) under Registration No. 4560266. This registration is valid and subsisting, and remains in full force and effect. Copies of this registration and current status printouts of the United States Patent and Trademark Office Trademark Electronic Search System (“TESS”) for each registration are attached hereto as *Exhibit A*.

16. Since at least as early as November 22, 2013, the NSK Establishments have also been selling beers under the trademark HALF ASS BEERS. Thousands of HALF ASS BEERS

have been sold each year in the French Quarter since 2013.

17. NSK owns a trademark registration for HALF ASS BEERS in International Class 032 for use with beer, registered at the U.S. Patent and Trademark Office (“USPTO”) under Registration No. 4560403. This registration is valid and subsisting, and remains in full force and effect. Copies of this registrations and current status printouts of the TESS for each registration are attached hereto as *Exhibit B*.

18. Since at least as early as November 22, 2013, the NSK Establishments have also been selling beers under the trademark BIG ASS BEERS. Thousands of BIG ASS BEERS have been sold each year in the French Quarter since 2013.

19. The reputations of NSK’s HUGE ASS BEERS Family of Marks have grown continuously over the past 22 years and since long prior to the acts complained of herein, consumers have recognized NSK’s HUGE ASS BEERS Family of Marks as originating exclusively from NSK’s Establishments. NSK’s HUGE ASS BEERS Family of Marks are inherently distinctive, have acquired secondary meaning, and upon information and belief, are world-famous.

20. NSK undertakes significant efforts, and expends considerable sums each year, to ensure that beers using NSK’s HUGE ASS BEERS Family of Marks are not served, and cannot be purchased, at any commercial establishment that is not controlled by NSK’s directors. Thus, consumers wishing to enjoy HUGE ASS BEERS, BIG ASS BEERS, and HALF ASS BEERS may do so only at NSK’s Licensed Establishments: a) *Coronet* located at 700-706 Bourbon Street, b) *Steak Pit* located at 609 Bourbon Street, or *Prohibition* located at 333 Bourbon Street.

21. The State of Louisiana has been, and remains, the most important market for NSK’s goods and services. Thousands of beers sold in authentic cups from NSK and its licensees using

NSK's HUGE ASS BEERS Family of Marks are sold in New Orleans' French Quarter each week.

22. At no time has NSK licensed or otherwise authorized Defendants to use any of NSK's HUGE ASS BEERS Family of Marks.

DEFENDANTS' UNLAWFUL CONDUCT

23. Upon information and belief, Mr. Olano and Ms. Olano own, control and operate SBI doing business as "Beerfest" located at 410 Bourbon Street.

24. Upon information and belief, Mr. Olano and Ms. Olano own, control and operate LAB doing business as "Voodoo Vibes" and "Sing Sing" located at 420 Bourbon Street and 418 Bourbon Street, New Orleans, respectively.

25. Upon information and belief, Mr. Olano and Ms. Olano own, control and operate BBI doing business as "Stiletto's" 325 Bourbon Street, New Orleans.

26. The Defendants' businesses operating at 410 Bourbon Street, 420 Bourbon Street, 418 Bourbon Street, and 325 Bourbon Street shall collectively be referred to as "Defendants' Establishments".

27. Upon information and belief, on Saturday February 23, 2019, Defendants' Establishments introduced and began selling beer served in plastic bottles affixed with labels using the mark GIANT ASS BEER ("Infringing Mark"). A picture of the infringing mark as used on the plastic bottles is shown to the right.



28. Defendants' Infringing Mark is substantially similar to NSK's HUGE ASS BEERS Family of Marks. Instead of using "Huge", "Big" or "Half", Defendants' mark uses "Giant". "Giant" is synonymous with both "Huge" and "Big."

29. Defendants' are using the Infringing Mark to sell beer, exactly the same use as the

NSK's HUGE ASS BEERS Family of Marks.

30. Defendants' are selling beer using the Infringing Mark at locations in the French Quarter, the exact same channels of trade and consumers as NSK.

31. Consumers of beer, particularly in New Orleans' French Quarter, are likely to be confused as to the source of the beer served in the Defendants' Establishments. Consumers are likely to believe that Defendants' use of its Infringing Mark in connection with beer is associated with, authorized by, or endorsed by NSK.

32. NSK's HUGE ASS BEERS Family of Marks have acquired distinctiveness, and secondary meaning, as a designation for NSK's Establishments beers, as a result of NSK's longstanding, continuous use of its HUGE ASS BEERS Family of Marks in interstate commerce; NSK's considerable advertising and promotional activities; unsolicited publicity, resulting from NSK's continual use of its HUGE ASS BEERS Family of Marks with beer; and, NSK's Establishments reputation as a "first stop" for tourists and local residents visiting the French Quarter.

33. Defendants' adoption and use of their Infringing Mark which is confusingly similar to NSK's HUGE ASS BEERS Family of Marks in the manner above-described, constitutes federal trademark infringement, federal unfair competition, and federal false designation of origin, and gives rise to NSK's related state law claims against Defendants for trademark infringement, trademark dilution, and unfair trade practices.

34. Upon information and belief, Defendants have conducted business in the French Quarter for many years.

35. NSK and Defendants have had a longstanding business relationship that has recently gone sour.

36. Defendants have been familiar with NSK and NSK's HUGE ASS BEERS Family of Marks for several years.

37. Defendants have sued affiliate companies of NSK and one of its directors, Billie V. Karno, for unfair competition related to property on Bourbon Street leased to Defendants by NSK's affiliates. The lawsuit was filed in the Civil District Court for the Parish of Orleans: Pamela J. Olano, Silver Bourbon, Inc., Labeati, Inc., Bourbon Burlesque Club, Inc., Raymond Palazzolo, and Guy W. Olano, Jr. v. Billie V. Karno, Karno 410 Bourbon Real Estate, LLC, Karno 327 Bourbon Real Estate, LLC, and BVK Enterprises, Inc.; Case No. 2018-5225.

38. Upon information and belief, Defendants' use of the Infringing Mark was made in retaliation to Defendants and NSK's soured business relationship.

39. Upon information and belief, Mr. Olano is a founder of all other Defendants as a "silent partner" and owner. Upon information and belief, Mr. Olano, since founding all the other Defendants, has been continuously responsible for overseeing the operations and marketing of Defendants' goods and services, including the Defendants' promotion and sale of beer using the Infringing Mark. Upon information and belief, Mr. Olano was personally involved in the decision to offer for sale beer using the Infringing Mark. Upon information and belief, Mr. Olano approved and authorized Defendants' infringing actions and is a principal, driving force behind Defendants' past and continued infringement of NSK's HUGE ASS BEERS Family of Marks.

40. Defendants' activities, as complained of herein, were and continue to be conducted willfully, in order to trade on the substantial goodwill obtained by NSK over two (2) decades, with actual knowledge that such conduct was and remains unlawful; that such conduct was and remains in contravention of NSK's rights; and that such conduct would likely confuse, mislead, and deceive an appreciable number of relevant consumers as to the source, affiliation, and

sponsorship of the goods and services emanating from Defendants and/or NSK, resulting in injury to NSK's reputation and considerable goodwill.

41. Defendants' conduct has caused, and, if allowed to continue, will continue to cause, irreparable damage to NSK's business, reputation, and goodwill, and NSK has no adequate remedy at law.

COUNT I

FEDERAL TRADE DRESS INFRINGEMENT UNDER 32(1) OF THE LANHAM ACT,
15 U.S.C. § 1114(1)

(Against All Defendants)

42. NSK repeats and re-alleges the allegations of paragraphs 1 through 41, as though fully set forth below.

43. This Count, arising under Section 32(1) of The Lanham Act, 15 U.S.C. § 1114(1), is for federal trademark infringement.

44. NSK and its licensees have used the trademark HUGE ASS BEERS embodied in NSK's U.S. Trademark Registration No. 4,560,266 continuously, and in interstate commerce, since at least as early as December 1, 1996. NSK's trademark HUGE ASS BEERS embodied in U.S. Trademark Registration No. 4,560,266 is a valid trademark identifying the source of goods, beer, provided by NSK. NSK is the senior user of the HUGE ASS BEERS trademark.

45. NSK and its licensees have used the trademark HALF ASS BEERS embodied in NSK's U.S. Trademark Registration No. 4,560,403 continuously, and in interstate commerce, since at least as early as November 22, 2013. NSK's trademark HALF ASS BEERS embodied in U.S. Trademark Registration No. 4,560,403 is a valid trademark identifying the source of goods, beer, provided by NSK. NSK is the senior user of the HALF ASS BEERS trademark.

46. NSK and its licensees have used the trademark BIG ASS BEERS continuously,

and in interstate commerce, since at least as early as November 22, 2013. NSK's trademark BIG ASS BEERS is a valid trademark identifying the source of goods, beer, provided by NSK. NSK is the senior user of the BIG ASS BEERS trademark.

47. NSK, and its licensees, have also invested substantial time, effort, and financial resources in the promotion of NSK's HUGE ASS BEERS, BIG ASS BEERS and HALF ASS BEERS trademarks, in connection with the marketing, promotion, advertising, and sale of beer.

48. NSK's trademarks HUGE ASS BEERS, BIG ASS BEERS, and HALF ASS BEERS have also acquired secondary meaning in the marketplace, and are distinctive in the minds of purchasers of NSK's beer, in that consumers have come to associate the trademarks with a single source of origin – namely, NSK, and its NSK-branded establishments. Such consumers are likely to make that same association when the trade dress is used with a competitor's product.

49. Defendants have and continue to have actual notice of the existence NSK's exclusive trademark rights in HUGE ASS BEERS, HALF ASS BEERS, and BIG ASS BEERS.

50. Defendants' Infringing Mark, GIANT ASS BEER is confusingly similar to all of NSK's HUGE ASS BEERS Family of Marks and NSK did not authorize or license Defendants' use of the Infringing Mark or NSK's HUGE ASS BEERS Family of Marks.

51. Defendants have created, marketed, advertised, offered for sale, and sold beer using the confusingly similar Infringing Mark with the intention of misleading, deceiving, and/or confusing consumers as to the origin of Defendants' goods, and, with the intention of trading on NSK's reputation and considerable goodwill.

52. Defendants' marketing, promotion, offering for sale, and sale, of beer, under the confusingly similar Infringing Mark is likely to cause, and has caused, confusion, mistake, or deception as to the source, sponsorship, or approval of Defendants' goods by NSK. The

consuming public are likely to believe that Defendants' goods originate with NSK, are licensed, sponsored, or approved by NSK, or in some way connected with or related to NSK. Defendants' infringing use of the Infringing Mark is in violation of 15 U.S.C. § 1114(1).

53. Defendants' unauthorized and infringing use of the Infringing Mark constitutes intentional and willful infringement of NSK's rights in and to its federally registered HUGE ASS BEERS and HALF ASS BEERS trademarks in violation of 15 U.S.C. § 1114(1).

54. Upon information and belief, Mr. Olano, along with Ms. Olano, since founding all the other Defendants, has been continuously responsible for overseeing the operations and marketing of Defendants' goods and services, including the Defendants' promotion and sale of beer using the Infringing Mark. Upon information and belief, Mr. Olano, along with Ms. Olano, was personally involved in the decision to offer for sale beer using the Infringing Mark. Upon information and belief, Mr. Olano approved and authorized Defendants' infringing actions and is a principal, driving force behind Defendants' past and continued infringement of NSK's HUGE ASS BEERS Family of Marks.

55. Upon information and belief, Ms. Olano, along with Mr. Olano, since founding all the other Defendants, has been continuously responsible for overseeing the operations and marketing of Defendants' goods and services, including the Defendants' promotion and sale of beer using the Infringing Mark. Upon information and belief, Ms. Olano, along with Mr. Olano, was personally involved in the decision to offer for sale beer using the Infringing Mark. Upon information and belief, Ms. Olano approved and authorized Defendants' infringing actions and is a principal, driving force behind Defendants' past and continued infringement of NSK's HUGE ASS BEERS Family of Marks.

56. As a direct and proximate result of Defendants' trademark infringement, NSK has

suffered, and will continue to suffer loss of income, profits, reputation and goodwill, and Defendants' have acquired, and will continue to unfairly acquire, income, profits, and goodwill to which they are not entitled.

57. Defendants' acts of trademark infringement will cause further, serious and irreparable injury to NSK if Defendants are not restrained from further violations of NSK's rights.

58. Pursuant to 15 U.S.C. § 1116(a), NSK is entitled to an order, preliminarily and permanently enjoining Defendants from further acts of trademark infringement.

59. Pursuant to 15 U.S.C. § 1117(a), NSK is entitled to recover from Defendants the damages sustained as a result of Defendants' aforesaid acts. NSK is unable to ascertain, at present, the full extent of the monetary damages it has suffered thereby.

60. Defendants' aforesaid conduct was intentional and willful. Accordingly, NSK is entitled to an award of treble damages against Defendants under 15 U.S.C. § 1117(a).

61. Defendants' aforesaid acts make this an exceptional case, under 15 U.S.C. § 1117(a)(3), warranting an award of NSK's attorneys' fees and costs.

COUNT II

FEDERAL UNFAIR COMPETITION

(Against All Defendant)

62. NSK repeats and re-alleges the allegations of paragraphs 1 through 61, as though fully set forth below.

63. This Count, arising under Section 43(a) of The Lanham Act, 15 U.S.C. § 1125(a), is for federal unfair competition.

64. NSK's HUGE ASS BEERS Family of Marks have become uniquely associated with NSK, and identify NSK's flagship goods to the public.

65. Defendants' unauthorized use, and threatened continued use, of the GIANT ASS BEER mark which is confusingly similar to NSK's HUGE ASS BEERS Family of Marks, in connection with a competing beer, as alleged herein, constitutes use of a false designation of origin and false or misleading representation in interstate commerce, which wrongly and falsely designates, describes, and represents the origin of Defendants' goods as originating from or being connected with NSK, and is likely to cause confusions, or to cause mistake, or deceive as to Defendants' affiliation, connection, or association with NSK, or as to the origin, sponsorship, or approval of Defendants' goods by NSK in violation of Section 43(a) of The Lanham Act, 15 U.S.C. § 1125(a).

66. Upon information and belief, Mr. Olano, along with Ms. Olano, since founding all the other Defendants, has been continuously responsible for overseeing the operations and marketing of Defendants' goods and services, including the Defendants' promotion and sale of beer using the Infringing Mark. Upon information and belief, Mr. Olano, along with Ms. Olano, was personally involved in the decision to offer for sale beer using the Infringing Mark. Upon information and belief, Mr. Olano approved and authorized Defendants' infringing actions and is a principal, driving force behind Defendants' past and continued infringement of NSK's HUGE ASS BEERS Family of Marks.

67. Upon information and belief, Ms. Olano, along with Mr. Olano, since founding all the other Defendants, has been continuously responsible for overseeing the operations and marketing of Defendants' goods and services, including the Defendants' promotion and sale of beer using the Infringing Mark. Upon information and belief, Ms. Olano, along with Mr. Olano, was personally involved in the decision to offer for sale beer using the Infringing Mark. Upon information and belief, Ms. Olano approved and authorized Defendants' infringing actions and is a principal, driving force behind Defendants' past and continued infringement of NSK's HUGE

ASS BEERS Family of Marks.

68. These acts, unless restricted by the Court will continue to cause, serious and irreparable injury to NSK, for which NSK has no adequate remedy of law.

69. As a direct and proximate result of Defendants' false designations of origin and false and misleading representations, NSK has been damaged, and unless Defendants' is restrained by this Court, NSK will continue to suffer serious, irreparable injury.

70. Pursuant to 15 U.S.C. § 1117(a), NSK is entitled to recover from Defendants the damages sustained as a result of their aforesaid acts. NSK is unable to ascertain, at present, the full extent of the monetary damages it has suffered thereby.

71. Defendants' aforesaid conduct was intentional, and without foundation in law. Accordingly, NSK is entitled to an award of treble damages against Defendants', under 15 U.S.C. § 1117(a).

72. Pursuant to 15 U.S.C. § 1116(a), NSK is entitled to an order, preliminarily and permanently enjoining Defendants from further acts of unfair competition, false designations of origin, and false and misleading representations.

73. Defendants' aforesaid acts make this an exceptional case, warranting attorney fees and costs, under 15 U.S.C. § 1117(a).

COUNT III

INJURY TO BUSINESS REPUTATION, AND TRADEMARK DILUTION UNDER THE LOUISIANA ANTIDILUTION STATUTE

(Against All Defendant)

74. NSK repeats and re-alleges the allegations of paragraphs 1 through 73, as though fully set forth below.

75. This Count, arising under La. Rev. Stat. § 51:223.1, is for injury to business

reputation, and trademark dilution.

76. Defendants' use, and continued use, of the confusingly similar and Infringing Mark, under the circumstances described above is likely to injure, NSK's business reputation, and has diluted, or will dilute, the distinctive character of NSK's HUGE ASS BEERS Family of Marks, through blurring and/or tarnishment, in violation of La. Rev. Stat. § 51:223.1, and to NSK's irreparable harm, notwithstanding the presence or absence of confusion as to the source of Defendants' goods or services.

77. Unless enjoined, Defendants' aforesaid conduct will cause NSK further irreparable harm, and NSK is entitled to damages and injunctive relief pursuant to La. Rev. Stat. § 51:223.1.

COUNT IV

UNFAIR TRADE PRACTICES

(Against All Defendant)

78. NSK repeats and re-alleges the allegations of paragraphs 1 through 77, as though fully set forth below.

79. This Count, arising under La. Rev. Stat. § 51:1401 *et seq.*, is for unfair methods of competition and unfair and deceptive acts or practices.

80. Defendants' aforesaid activities comprise unfair methods of competition, and unfair and deceptive acts and practices in the conduct of trade and commerce, in violation of La. Rev. Stat. § 51:1405, and to NSK's irreparable harm.

81. Pursuant to La. Rev. Stat. § 51:1409, NSK is entitled to recover from Defendants all actual damages sustained by NSK as a result of Defendants' aforesaid acts. NSK is unable to ascertain, at present, the full extent of the monetary damages it has suffered thereby.

Unless enjoined, Defendants' unfair methods of competition, and unfair and deceptive acts

and practices will cause NSK further irreparable harm, and NSK is entitled to injunctive relief, pursuant to, *inter alia*, La. Rev. Stat. §§ 51:1407 and 51:1408.

PRAYER FOR RELIEF

WHEREFORE, NSK prays for and seeks relief as follows:

A. That the Court enter a temporary restraining order, a preliminary injunction, and grant permanent injunctive relief, against Defendants, their agents, representatives, officers, employees, and all those acting in concert therewith, to restrain and enjoin Defendants' use of the Infringing Mark, and any and all other marks and designations which infringe NSK's rights in and to NSK's HUGE ASS BEERS Family of Marks, or which are confusingly similar thereto, and to restrain and enjoin Defendants' acts of unfair competition, false designation of origin, and false and misleading representations with respect thereto;

B. That, pursuant to 15 U.S.C. § 1117(a), the Court order Defendants' to pay the actual damages suffered by NSK, and any and all profits resulting from Defendants' infringement of NSK's HUGE ASS BEERS Family of Marks, and from Defendants' acts of unfair competition, false designation of origin, and false and misleading representation with respect thereto;

C. That, pursuant to 15 U.S.C. § 1117(a), the Court order Defendants to pay treble damages to NSK; and,

D. That, pursuant to 15 U.S.C. § 1117(a), the Court order Defendants to pay to NSK the full costs of this action, including attorney fees.

E. That, pursuant to La. Rev. Stat. § 51:223.1, the Court enter a temporary restraining order, a preliminary injunction, and grant permanent injunctive relief against Defendants, its agents, representatives, officers, employees, and all those acting in concert therewith, to restrain and

enjoin Defendants from any and all acts which may injure NSK's business reputation or dilute the distinctive character of NSK's HUGE ASS BEERS Family of Marks.

F. That, pursuant to La. Rev. Stat. §§ 51:1407 and/or 51:1408, the Court enter a temporary restraining order, a preliminary injunction, and grant permanent injunctive relief against Defendants, its agents, representatives, officers, employees, and all those acting in concert therewith, to restrain and enjoin Defendants from further unfair methods of competition, and unfair and deceptive acts or practices with respect to NSK;

G. That, pursuant to La. Rev. Stat. § 51:1409, the Court order Defendants to pay the actual damages suffered by NSK as a result of Defendants' unfair methods of competition, and unfair and deceptive acts and practices; and,

H. That, pursuant to La. Rev. Stat. § 51:1409, the Court order Defendants to pay to NSK, its reasonable attorney's fees and the costs of this action, and,

I. That the Court provide NSK with such other and further relief as the Court deems just and equitable.

Dated: February 26, 2019

RESPECTFULLY SUBMITTED,

/s/ Kent Barnett
Gregory D. Latham (25955)
Kent C. Barnett T.A. (33002)
INTELLECTUAL PROPERTY CONSULTING, LLC
334 Carondelet Street, Suite B
New Orleans, Louisiana 70130
Phone: (504) 322.7166
Fax: (504) 322.7184
glatham@iplawconsulting.com
kbarnett@iplawconsulting.com

ATTORNEYS FOR NICHOLAS S. NSK #1, INC.

EXHIBIT A

U.S. Patent and Trademark Office Trademark Registration for HUGE ASS BEERS

Printout of the U.S. Patent and Trademark Office's Trademark Electronic Search System for
HUGE ASS BEER

United States of America

United States Patent and Trademark Office

HUGE ASS BEERS

Reg. No. 4,560,266

Registered July 1, 2014

Int. Cl.: 32

TRADEMARK

PRINCIPAL REGISTER

NICHOLAS S. KARNO #1, INC. (LOUISIANA CORPORATION)
732 ST. LOUIS STREET
NEW ORLEANS, LA 70130

FOR: BEERS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 12-1-1996; IN COMMERCE 12-1-1996.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BEERS", APART FROM THE MARK AS SHOWN.

SER. NO. 86-124,662, FILED 11-20-2013.

BARNEY CHARLON, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*
What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.



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HUGE ASS BEERS

Word Mark	HUGE ASS BEERS
Goods and Services	IC 032. US 045 046 048. G & S: Beers. FIRST USE: 19961201. FIRST USE IN COMMERCE: 19961201
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86124662
Filing Date	November 20, 2013
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	April 15, 2014
Registration Number	4560266
Registration Date	July 1, 2014
Owner	(REGISTRANT) Nicholas S. Karno #1, Inc. CORPORATION LOUISIANA 732 St. Louis Street New Orleans LOUISIANA 70130
Attorney of Record	Gregory D. Latham
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BEERS" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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EXHIBIT B

U.S. Patent and Trademark Office Trademark Registration for HALF ASS BEERS

Printout of the U.S. Patent and Trademark Office's Trademark Electronic Search System for
HALF ASS BEER

United States of America

United States Patent and Trademark Office

HALF ASS BEERS

Reg. No. 4,560,403

Registered July 1, 2014

Int. Cl.: 32

TRADEMARK

PRINCIPAL REGISTER

NICHOLAS S. KARNO #1, INC. (LOUISIANA CORPORATION)
732 ST. LOUIS STREET
NEW ORLEANS, LA 70130

FOR: BEERS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 11-22-2013; IN COMMERCE 11-22-2013.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BEERS", APART FROM THE MARK AS SHOWN.

SER. NO. 86-139,807, FILED 12-10-2013.

BARNEY CHARLON, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*
What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

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NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.



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HALF ASS BEERS

Word Mark	HALF ASS BEERS
Goods and Services	IC 032. US 045 046 048. G & S: Beers. FIRST USE: 20131122. FIRST USE IN COMMERCE: 20131122
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86139807
Filing Date	December 10, 2013
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	April 15, 2014
Registration Number	4560403
Registration Date	July 1, 2014
Owner	(REGISTRANT) Nicholas S. Karno #1, Inc. CORPORATION LOUISIANA 732 St. Louis Street New Orleans LOUISIANA 70130
Attorney of Record	Gregory D. Latham
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BEERS" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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[SEARCH OG](#)
[TOP](#)
[HELP](#)

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

NICHOLAS S. KARNO #1, INC.

(b) County of Residence of First Listed Plaintiff Orleans

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Intellectual Property Consulting, LLC, Gregory D. Latham (25955) (T.A.),
Kent Barnett (33002), 334 Carondelet Street, Suite B, New Orleans, LA
70130**DEFENDANTS**SILVER BOURBON, INC.; LABEAUTI, INC.; BOURBON
BURLESQUE CLUB, INC; PAMELA J. OLANO, individually; and GUY
W. OLANO, Jr., individually.County of Residence of First Listed Defendant Orleans

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Section 32(1) of The Lanham Act, 15 U.S.C. § 1114(1)

Brief description of cause:

This is a trademark infringement action

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

02/26/2019

SIGNATURE OF ATTORNEY OF RECORD

/Gregory D. Latham/

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

NICHOLAS S. KARNO #1, INC.

Plaintiff(s)

v.

SILVER BOURBON, INC.; LABEAUTI, INC.;
BOURBON BURLESQUE CLUB, INC; PAMELA J.
OLANO, individually; and GUY W. OLANO, Jr.,
individually.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Silver Bourbon, Inc.
Attn: Pamela J. Olano, Registered Agent
1403 West Esplanade Avenue
Kenner, LA 70065

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Intellectual Property Consulting, LLC
Gregory D. Latham, Esq.
Kent Barnett, Esq.
334 Carondelet Street, STE B
New Orleans, LA 70130

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Eastern District of Louisiana

SUMMONS IN A CIVIL ACTION

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

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AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

NICHOLAS S. KARNO #1, INC.

Plaintiff(s)

v.

SILVER BOURBON, INC.; LABEAUTI, INC.;
BOURBON BURLESQUE CLUB, INC; PAMELA J.
OLANO, individually; and GUY W. OLANO, Jr.,
individually.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Bourbon Burlesque Club, Inc.
Attn: Connie Montgomery, Registered Agent
1403 West Esplanade Avenue
Kenner, LA 70065

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Intellectual Property Consulting, LLC
Gregory D. Latham, Esq.
Kent Barnett, Esq.
334 Carondelet Street, STE B
New Orleans, LA 70130

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Eastern District of Louisiana

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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Eastern District of Louisiana

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