

ESTTA Tracking number: **ESTTA1384987**

Filing date: **09/20/2024**

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

Proceeding no.	92083154
Party	Defendant VSWC LLC
Correspondence address	WALTER CLEMENTS VSWC LLC 1148 WESLEY AVENUE EVANSTON, IL 60202 UNITED STATES Primary email: walter@meta.wine 773-368-0101
Submission	Other Motions/Submissions
Filer's name	Walter Clements
Filer's email	walter@meta.wine
Signature	/Walter Clements/
Date	09/20/2024
Attachments	Respondent VSWC LLC Notice of Opposition to Motion for Summary Judgment.pdf(2053187 bytes)

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

Metabev LLC)	
)	
)	
Petitioner,)	
)	Cancellation No. 92083154
)	Reg. No. 5617930
vs.)	
)	
VSWC LLC)	
)	
Respondent.)	
_____)	

**Respondent VSWC LLC’s Notice of Opposition to Motion for Summary
Judgement**

Applicant, VSWC LLC (“Respondent”), by and through its undersigned counsel, hereby files its Opposition to Petitioner, Metabev LLC’s Motion for Summary Judgement and states the following: Petitioner has failed to meet its burden.

1. Respondent has use of the mark META WINE mark since as early as June 9, 2017 in U.S. Registration No. 5,617,930. **(Exhibit A)**.
2. Respondent has continued commercial use of the META WINE mark, engaging clients in the market by planning custom, private label wine programs as evidenced by **(Exhibit B)** a true and current copy of a Letter of Intent from Compass Group, dated March 28, 2024 for its food service and hospitality operations at Northwestern University in Evanston, Illinois, **(Exhibit C)** a true and correct copy of a Letter of Intent from Navigator Tap Room, dated March 8, 2024 for its tavern business based in Chicago, Illinois.
3. Respondent has obtained a lease for a commercial space in Evanston, Illinois as evidenced by **(Exhibit D)** a true and correct copy of its sublease agreement, dated June 1, 2024.
4. Respondent has received a Federal Basic Permit as a Bonded Winery, permitted by

the Tax and Trade Bureau of the United States Department of Treasury, as evidenced by **(Exhibit E)** a true and correct copy of its Bonded Winery Permit, dated August 8, 2024.

WHEREFORE, Respondent, VSWC LLC respectfully requests that this Motion for Summary Judgment be dismissed, with judgment entered in its favor and against Metabev LLC and that this Honorable Court award all other relief to Respondent which it deems fair and reasonable under the circumstances of this case.

--- SIGNATURE PAGE TO FOLLOW ---

Dated: September 20, 2024

Respectfully submitted,

Walter Clements
Respondent
1148 Wesley Avenue
Evanston, IL 60202
Telephone: (773) 368-0101
Email: walter@meta.wine

By: /Walter Clements/
Walter Clements, Respondent

CERTIFICATE OF ONLINE SUBMISSION

I certify that a true and correct copy of the foregoing was filed online with the Trademark Trial and Appeal Board using ESTTA, this 20th day of September 2024.

By: /Walter Clements/
Walter Clements, Respondent

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served per agreement electronically via e-mail this 20th day of September 2024 to the following person(s).

Counsel for Petitioner:

Hank Fasthoff, Esq.
Fasthoff Law Firm, PLLC
21 Waterway Avenue
Suite 300
The Woodlands, Texas 77380

Phone: 713 929 9314
Email: hank@fasthofflawfirm.com

By: /Walter Clements/
Walter Clements, Respondent

EXHIBIT A

United States of America

United States Patent and Trademark Office

META WINE

Reg. No. 5,617,930

Registered Nov. 27, 2018

Int. Cl.: 33, 40

Service Mark

Trademark

Principal Register

VSWC LLC (ILLINOIS LIMITED LIABILITY COMPANY)
1148 Wesley Avenue
Evanston, ILLINOIS 60202

CLASS 33: Wine

FIRST USE 6-9-2017; IN COMMERCE 6-9-2017

CLASS 40: Custom production of wine for others

FIRST USE 11-2-2017; IN COMMERCE 11-2-2017

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 the following apart from the mark as shown:
"WINE"

SER. NO. 87-147,297, FILED 08-23-2016



Andrei Iancu

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.

***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 United States Patent and Trademark Office (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>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

EXHIBIT B



September 20, 2024

VSWC LLC d/b/a Meta Wine
Attention: Walter Clements
148 Wesley Ave
Evanston IL 60202

RE: Meta Wine Goods and Products (“Seller”)

Dear Walter:

The Purchaser is pleased to present the following proposal to acquire future goods and products from Meta Wine. The terms and conditions of our intent to purchase future goods and products is below.

PURCHASER: Compass Group

GOODS AND PRODUCTS: Goods and Products, including wine and beverage programs

ORDERS: Purchaser intends to order goods and products, particularly to support Northwestern University’s local procurement goals.

REPRESENTATIONS: The undersigned state they have the power and authority to bind each other to the Letter of Intent.

If you are in agreement with the general terms and conditions outlined above, please indicate acceptance and approval by signing in the space provided below and returning a copy of this letter to my attention. This proposal is not intended as, and does not constitute a binding agreement by any party, nor an agreement by any party to enter into a binding agreement, but is merely intended to specify some of the proposed terms and conditions of the transaction contemplated herein to facilitate reaching a final agreement in the form of a Purchase Agreement. Please do not hesitate to call with any questions, comments, or concerns.

Sincerely,

Compass Group

Dated: March 28, 2024

By: _____

Name Robert Ryder

Its: Vice President of Operations, Northwestern University

Agreed and Accepted:

 _____

EXHIBIT C

NAVIGATOR TAPROOM

March 8, 2024

VSWC LLC d/b/a Meta Wine
Attention: Walter Clements
1148 Wesley Ave
Evanston IL 60202

RE: Meta Wine Goods and Products ("Seller")

Dear Walter:

The Purchaser is pleased to present the following proposal to acquire future goods and products from Meta Wine. The terms and conditions of our intent for future goods and products is below:

PURCHASER: Navigator Tap Room

GOODS AND PRODUCTS: Goods and Products, including wine and beverage programs

ORDERS: Purchaser intends to order goods and products, particularly to support draft wine and beverage programs

REPRESENTATIONS: The undersigned state they have the power and authority to bind each other to the Letter of Intent.

If you are in agreement with the general terms and conditions outlined above, please indicate acceptance and approval by signing in the space provided below and returning a copy of this letter to my attention. This proposal is not intended as, and does not constitute a binding agreement by any party, nor an agreement by any party to enter into a binding agreement, but is merely intended to specify some of the proposed terms and conditions of the transaction contemplated herein to facilitate reaching a final agreement in the form of a Purchase Agreement. Please do not hesitate to call with any questions, comments, or concerns.

Sincerely,

Navigator Tap Room

Dated: March 8, 2024

By: T&E Chicago LLC dba Navigator Taproom
Name: Timothy Enarson
Its: Owner

Agreed and Accepted:


3/8/24 

EXHIBIT D

ILLINOIS SUBLEASE AGREEMENT

I. THE PARTIES. This is an agreement to sublet real property ("Sublease") entered into on June 1, 2024, by and between:

SUBLESSOR(S): Frank&Stein LLC, 2002 Dempster St, Evanston, IL 60202 ("Sublessor"),

AND

SUBLESSEE(S): VSWC LLC d/b/a Meta Wine, 1148 Wesley Ave., Evanston, IL 60202 ("Sublessee").

The Sublessor agrees to sublet, and the Sublessee agrees to take possession of the property that is located and described as: blue-painted production space, adjacent to the mezzanine on lower floor of warehouse – ~1,500 sq. ft. ("Premises") under the following terms:

II. TERM. Tenancy of this Sublease shall begin with the Sublessee taking possession of denoted space on 6/1/24 and ending on the 5/31/25. Under no circumstances shall there be holdover by the Sublessee.

III. RENT. The Sublessee agrees to pay rent under this Sublease in the amount of \$1/sq foot for space described in Schedule A (attached as part of this sublease) payable on the 1st day of each Month to the Sublessor. The rent shall be paid in the following manner: check or ACH.

IV. SECURITY DEPOSIT. The Sublessor shall require a Security Deposit in the amount of \$0 that will be paid at the beginning of the term ("Security Deposit") by the Sublessee. Any damage or repairs needed at the end of the term due to the Sublessee shall be credited against the Security Deposit. Any reason for retaining a portion of the Security Deposit shall be explained in writing when returning the funds to the Sublessee. The funds shall be sent to the Sublessee within the State required time period after the Sublease has ended with the Sublessee vacating the Premises along with their possessions.

V. UTILITIES. The Sublessor agrees to pay for the following utilities and services: TBD

All other utilities or services shall be the responsibility and expense of the Sublessee.

VI. MOVE-IN CHECKLIST. At the time of taking possession of the Premises by the Sublessee, the Sublessor and Sublessee: (check one)

- **SHALL BE REQUIRED** to complete a move-in checklist that provides a detailed accounting of the condition of the Premises including, but not limited to, repairs needed, water damage, or material defects. This is recommended in order to protect the Security Deposit of the Sublessee.

- **SHALL NOT BE REQUIRED** to complete a move-in checklist that provides a detailed accounting of the condition of the Premises unless otherwise required by law.

VII. LEAD-BASED PAINT. The Premises: (check one)

- Was built **BEFORE** 1978 and a Lead-Based Paint Disclosure shall be attached to this Sublease.
- Was built before 1978 and a Lead-Based Paint Disclosure is not required to be attached to this Sublease.

VIII. SMOKING POLICY. Smoking on the Premises: (check one)

- Is **ALLOWED** in the following areas: [SMOKING AREAS]
- Is **NOT ALLOWED** in the Premises or any common areas.

IX. LANDLORD'S CONSENT. The original lease between the Landlord and Sublessor: (check one)

- **ALLOWS** subletting.
- Does NOT allow subletting but consent by the Landlord **HAS BEEN GRANTED** to the Sublessee to take possession of the Premises.
- Does NOT allow subletting and consent by the Landlord **WILL BE ASKED** immediately after this Sublease has been authorized. If the Sublessee is denied by the Landlord, this Sublease shall be canceled with the Security Deposit returned to the Sublessee with no further liabilities by either party.

X. LIABILITY. Sublessee agrees to surrender and deliver to the Sublessor the Premises, including all furniture and decorations within the Premises in the same condition as they were at the beginning of the term with reasonable wear and tear accepted. The Sublessee will be liable to the Sublessor for any damages occurring to the Premises, the contents thereof, the living areas, including any common spaces. All actions conducted by any guests of the Sublessee are the responsibility and liability of the Sublessee.

XI. GUESTS. There shall be no other person(s) living on the Premises other than the Sublessee. Guests of the Sublessee are allowed for periods not lasting for more than forty-eight hours unless otherwise approved by the Sublessor.

XII. MASTER LEASE. This Sublease must follow and is subject to the original lease agreement between the Sublessor and Landlord, a copy of which has been attached and is hereby referred to and incorporated as if it were set out here at length ("Master Lease"). The Sublessee agrees to assume all of the obligations and responsibilities of the Sublessor under the Master Lease for the duration of the Sublease. All disclosures and statements required by the State and listed in the Master Lease shall be made part of this Sublease and, when attached, shall be considered disclosed to the Sublessee in accordance with State and local laws.

XIII. DISPUTES. If a dispute arises during or after the term of this Sublease between the Sublessor and Sublessee, they shall agree to hold negotiations amongst themselves before any litigation.

XIV. WRITTEN AGREEMENT. This Sublease constitutes the sole agreement between the Sublessor and Sublessee with no additions, deletions, or modifications that may be accomplished without the written consent of both parties (ANY ORAL REPRESENTATIONS MADE AT THE TIME OF EXECUTING THIS LEASE ARE NOT LEGALLY VALID AND, THEREFORE, ARE NOT BINDING UPON EITHER PARTY).

XV. LANGUAGE. The words "Sublessor" and "Sublessee" as used herein include the plural as well as the singular; the language in this Sublease intends no regard for gender.

XVI. ORIGINAL COPIES. Each signatory to this Sublease acknowledges receipt of an executed copy thereof.

XVII. GOVERNING LAW. This Sublease shall be bound to the laws in the State where the Premises is located.

XVIII. ADDITIONAL TERMS AND CONDITIONS. Sublease will be month to month, with a 90 day notice of cancellation, in order to give Sublessee time to remove items from premises.

XIX. SEVERABILITY. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

XX. ENTIRE AGREEMENT. This Agreement contains the entire agreement of all parties on these matters, superseding any previous agreement between them.

Sublessor's Signature:  Date: 6/6/24

Print Name: JAMES P. KELLY

Sublessee's Signature:  Date: 6/4/2024

Print Name: Walter Clements

MASTER LEASE ATTACHED (INITIAL) WC 

Landlord's Consent





I hereby give my consent to subletting of the above-described Premises as set out in this Sublease.

Landlord's Signature: Reed L. Reider Date: 6/7/2024

Print Name: REED L. REIDER

EXHIBIT E

DEPARTMENT OF THE TREASURY – ALCOHOL AND TOBACCO TAX AND TRADE BUREAU		1. PERMIT NUMBER IL-W-21074
BASIC PERMIT (Under Federal Alcohol Administration Act)		2. DATE OF PERMIT 03/31/2020
5. NAME AND ADDRESS OF PERMITTEE (Number and street, city or town, State and Zip Code) VSWC LLC DBA: META WINE 2002 W DEMPSTER ST STE 2 EVANSTON, IL 60202		3. REGISTRY NUMBER (if applicable) BWN-IL-21066
6. TRADE NAMES AUTHORIZED BY THIS PERMIT (Trade name approval does not constitute approval as a brand name for labeling purposes. If needed, list on reverse or use continuation sheet.) See Attached		4. DATE OF APPLICATION FOR AMENDMENT 07/26/2024
		
7. PERMIT GRANTED FOR (ONE TYPE OF OPERATION ONLY)		
Pursuant to the application of the date indicated in item 4, you are authorized and permitted to engage, at the above address, in the business of:		
a. <input type="checkbox"/> Distilled Spirits - <input type="checkbox"/> distiller <input type="checkbox"/> rectifier (processor) <input type="checkbox"/> warehouseman and/or <input type="checkbox"/> warehouseman and bottler and while so engaged, to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the distilled spirits so distilled or rectified, or warehoused and bottled, or the wines so rectified, b. <input checked="" type="checkbox"/> Wine - <input checked="" type="checkbox"/> producer and blender <input type="checkbox"/> blender and while so engaged, to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the wine so produced or blended, c. <input type="checkbox"/> Importer - importing into the United States the following alcoholic beverages: while so engaged, to sell, offer to deliver for sale, contract to sell or ship, in interstate or foreign commerce, the alcoholic beverages so imported, d. <input type="checkbox"/> Wholesaler – Purchasing for resale at wholesale the following alcoholic beverages: while so engaged, to receive or to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the alcoholic beverages so Purchased.		
<p>This Permit is conditioned upon your compliance with the Federal Alcohol Administration Act; the Twenty-first Amendment and laws relating to its enforcement; all other Federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect to them; the Federal Water Pollution Control Act; and, all applicable regulations made pursuant to law which are now, or may hereafter be, in force.</p> <p>This basic permit is effective from the date shown above and will remain in force until suspended, revoked, annulled, voluntarily surrendered, or automatically terminated.</p> <p>THIS PERMIT WILL AUTOMATICALLY TERMINATE THIRTY DAYS AFTER ANY CHANGE IN PROPRIETORSHIP OR CONTROL OF THE BUSINESS, unless an application for a new basic permit is made by the transferee or permittee within the thirty day period. If an application for a new basic permit is timely filed, the outstanding basic permit will continue in effect until the application is acted on by the District Director, Alcohol and Tobacco Tax and Trade Bureau.</p> <p>THIS PERMIT IS NOT TRANSFERABLE. ANY CHANGE IN THE TRADE NAME, CORPORATE NAME, MANAGEMENT OR ADDRESS OF THE BUSINESS COVERED BY THIS PERMIT, OR ANY CHANGE IN STOCK OWNERSHIP (MORE THAN 10%) MUST BE REPORTED TO THE NATIONAL REVENUE CENTER OR PUERTO RICO FIELD OFFICE WITHOUT DELAY.</p>		
THIS IS AN <input type="checkbox"/> ORIGINAL PERMIT		<input checked="" type="checkbox"/> AMENDED PERMIT
REASON FOR AMENDMENT See Attached		DATE OF AMENDMENT 08/09/2024
SIGNATURE AND TITLE OF AUTHORIZED TTB OFFICIAL 		

AUTHORIZED TRADE NAMES

*Used for Contract Bottling or Packaging/Branding Purposes

PERMIT NUMBER: IL-W-21074

REGISTRY NUMBER: BWN-IL-21066

TYPE
Labeling Trade Name

TRADE NAME
VSWC Imports

REASON FOR AMENDMENT

Change in Premises Location