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

Ex parte appeal no.	79283305
Appellant	Milk & Honey Distillery Ltd.
Applied for mark	M&H WHISKY DISTILLERY
Correspondence address	JOEL KARNI SCHMIDT/ERIC J. SHIMANOFF COWAN, LIEBOWITZ & LATMAN, P.C. 114 WEST 47TH STREET NEW YORK, NY 10036 UNITED STATES Primary email: trademark@cll.com Secondary email(s): ejs@cll.com, jks@cll.com, lrm@cll.com 2127909200
Submission	Motion for suspension
Attachments	Motion to Suspend - 79283305.pdf(73041 bytes ) ExA1.pdf(5716323 bytes ) ExA2.pdf(4559517 bytes ) ExA3.pdf(4278772 bytes )
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Date	03/30/2022

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

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: *In re Milk & Honey Distillery Ltd.* :  
: Ex Parte Appeal No. 79283305 :  
: For Mark: M&H WHISKEY DISTILLERY :  
----- X

**MOTION TO SUSPEND APPEAL PENDING**  
**RESOLUTION OF CIVIL LITIGATION**

Pursuant to C.F.R. § 2.117(a) and TBMP § 510.02(a), Applicant Milk & Honey Distillery Ltd. (“Applicant”) hereby moves to suspend this *ex parte* appeal concerning Applicant’s Application Ser. No. 79283305 for the mark M&H WHISKEY DISTILLERY (the “Subject Mark”) for “Alcoholic beverages, namely, distilled spirits, whisky, and whisky-based beverages” in International Class 33 pending the resolution of a litigation filed in the United States District Court for the Eastern District of Wisconsin (the “Litigation”) by Applicant against M&H Spirits, LLC (“Defendant”), seeking: (1) a declaration that Applicant’s marks M&H,



M&H WHISKEY DISTILLERY, MILK & HONEY DISTILLERY, and




(“Applicant’s Marks”) do not infringe and are not likely to be confused with



Defendant's marks MILK & HONEY, M&H, M&H Spirits and ("Defendant's Marks"); and (2) cancellation in whole or part of the following United States trademark registrations for Defendant's Marks:

(a) Reg. No. 5200413 for the word mark MILK & HONEY for "Liquor and liqueur beverages, namely, distilled spirits, liqueurs, and prepared alcoholic drinks" in International Class 33 (the "413 Registration");



(b) Reg. No. 6182398 for the stylized mark  for "Liquor and liqueur beverages, namely, distilled spirits, liqueurs, and prepared alcoholic drinks" in International Class 33 (the "398 Registration"); and

(c) Reg. No. 5229644 for the word mark M&H for "Liquor and liqueur beverages, namely, distilled spirits, liqueurs, and prepared alcoholic drinks" in International Class 33 (the "644 Registration").

A copy of the Complaint in the Litigation is attached hereto as **Exhibit A**.

Pursuant to 37 C.F.R. § 2.117, "[w]henver it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action . . . which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action . . . ." *See also* TBMP § 510.02(a). The Board routinely grants motions to suspend opposition proceedings pending the outcome of a civil action where issues of trademark infringement, unfair competition and cancellation are



**MOTION TO SUSPEND APPEAL PENDING  
RESOLUTION OF CIVIL LITIGATION**

**EXHIBIT A**

**Part 1 of 3**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN**

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MILK & HONEY DISTILLERY LTD.,

Civil Action No. 2:22-cv-397

Plaintiff,

**COMPLAINT**

-against-

**JURY TRIAL DEMANDED**

M&H SPIRITS, LLC,

Defendant.

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Plaintiff Milk & Honey Distillery Ltd. (“Plaintiff”), by and through its undersigned attorneys, as and for its declaratory judgment Complaint against Defendant M&H Spirits (“Defendant”), alleges as follows:

**NATURE OF THE ACTION**

1. Plaintiff brings this action under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and the trademark laws of the United States (Lanham Act of 1946), 15 U.S.C. § 1051 *et seq.*, as well as corresponding state law.

2. Plaintiff seeks a declaration that Plaintiff’s use of its marks M&H, M&H WHISKEY DISTILLERY and MILK & HONEY DISTILLERY in connection with whiskey and gin has not and does not infringe, violate, or impinge upon in any manner Defendant’s claimed rights in its marks M&H and MILK & HONEY for cream liqueur. In light of all marketplace conditions, including the vast and obvious dissimilarities between the parties’ respective trade dress, as shown below, no reasonable consumer will mistakenly believe that Plaintiff’s spirits originate from the same source as or has any affiliation with Defendant’s cream liqueur.

Plaintiff's Whiskey



Defendant's Cream Liqueur



3. Plaintiff also seeks cancellation of Defendant's registrations for its MILK & HONEY marks on the grounds that such marks are merely descriptive of its cream liqueur and have not acquired distinctiveness through secondary meaning; and, in the alternative for Defendant's MILK & HONEY marks and in the first instance for Defendant's M&H mark, Plaintiff seeks partial cancellation of Defendant's registrations on the ground that Plaintiff's marks have only been used for cream liqueur sold in Massachusetts, Wisconsin, and New Hampshire.

**THE PARTIES**

4. Plaintiff is a limited company organized and existing under the laws of Israel with an address at 16 Hachiya Street, Tel Aviv, 6423201, Israel.

5. Upon information and belief, Defendant is a limited liability company organized and existing under the laws of Wisconsin with a principal place of business at 3260 North 53<sup>rd</sup>

Street, Milwaukee, Wisconsin 53216 and a registered agent c/o Justin Lubin, 1961 West Windsor Circle, Glendale, Wisconsin 53209.

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction under 28 U.S.C. §§ 2201 and 2202 to declare the rights of any party seeking such declaration, under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338 over Plaintiff's claims arising under the Lanham Act and under 28 U.S.C. § 1367 over Plaintiff's claims arising under state law.

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

### **FACTUAL ALLEGATIONS**

#### **Plaintiff and its Marks**

8. Plaintiff owns and operates Israel's first whiskey distillery.

9. Plaintiff distills in Israel and sells in Israel and other countries, including the United States, whisky and gin ("Plaintiff's Spirits") under the names and marks M&H, M&H WHISKEY

DISTILLERY, MILK & HONEY DISTILLERY,



and M&H WHISKY DISTILLERY ("Plaintiff's Marks").

10. Plaintiff promotes Plaintiff's Spirits under Plaintiff's Marks *inter alia* via the website located at [www.mh-distillery.com](http://www.mh-distillery.com), including as shown in **Exhibit A** hereto.

11. Plaintiff's Spirits under Plaintiff's Marks almost always are sold in bottles and/or boxes identical or nearly identical to those shown below:











(“Plaintiff’s Trade Dress”).

12. Plaintiff’s Trade Dress for all of Plaintiff’s Spirits includes: (a) a glass bottle with a wide squarish body with high distinctive shoulders; (b) a label that does not cover the entire bottle such that a significant portions of the alcohol therein is visible through the glass bottle; and



(c) the prominent use of a striped bull logo (in black and yellow, grey and yellow or grey and black) (the “Striped Bull Logo”).

13. Plaintiff’s Trade Dress for its Classic, Elements and Apex whiskies also includes: (a) the prominent use of the word CLASSIC, APEX or ELEMENTS in all caps with the term “single malt whisky” presented in italics thereunder; (b) a bottle that is indented in the shape of a large trapezium with the embossed mark “M&H” in a circle right below the neck; (c) a label that also is shaped like a trapezium that sits inside the indentation of the bottle and is presented in one or more colors (the labels on the Apex whiskies have a split label with the bottom label in a color)

and has multi-lined banner across the top; (d) a bottle that expands slightly to a block at the base; (e) often a box for the bottle, which box also prominently displays the Striped Bull Logo and contains one or more diagonal banners.

14. Plaintiff's Trade Dress for its Young Single Malt (Last One) and Whiskey in Bloom whiskies also includes: (a) the Striped Bull Logo in a tear ribbon in the upper left of the label; (b) a square label in one or more colors; (c) a label that prominently features multi-colored diagonal banners; (d) prominent use of the terms YOUNG SINGLE MALT, WHISKEY IN BLOOM, and/or THE LAST ONE; and (e) images of the striped bull on the seal around the bottle neck.

15. Plaintiff's Trade Dress for its Levantine Gin also includes: (a) the Striped Bull Logo in a tear ribbon in the upper left-hand corner of the label; (b) a square label in one or more colors; (c) prominent use of the terms GIN and LEVANTINE; and (e) images of the striped bull on the seal around the bottle neck.

16. Plaintiff's Spirits under Plaintiff's Marks typically retail for approximately \$50 to \$150 per 750 ml bottle.

17. Plaintiff's Spirits under Plaintiff's Marks always contain at least 46% alcohol by volume.

18. Plaintiff is the owner of the following U.S. trademark applications:



(a) App. Serial No. 79283289 for the mark **WHISKY DISTILLERY** for "Alcoholic beverages, namely, distilled spirits, whisky, and whisky-based beverages, none of the aforesaid products containing or mixed with energy drinks or

formulated caffeinated drinks; none of the aforesaid products containing or mixed with energy drinks or formulated caffeinated drinks” in International Class 33, filed under Lanham Act Section 66(a), with a filing date of December 23, 2019 and a priority date of July 9, 2019 (the “289 Application”);

- (b) App. Serial No. 79283305 for the word mark M&H WHISKY DISTILLERY for “Alcoholic beverages, namely, distilled spirits, whisky, and whisky-based beverages” in International Class 33, filed under Lanham Act Section 66(a), with a filing date of December 23, 2019 and a priority date of July 9, 2019 (the “305 Application”); and
- (c) App. Serial No. 79283267 for the word mark MILK & HONEY DISTILLERY for “Alcoholic beverages, namely, distilled spirits, whisky, and whisky-based beverages” in International Class 33, filed under Lanham Act Section 66(a), with a filing date of December 23, 2019 and a priority date of July 9, 2019 (the “267 Application,” and with the 289 Application and the 305 Application, “Plaintiff’s Applications”).

**Defendant and its Marks**

19. Upon information and belief, Defendant manufactures and sells cream liqueur (“Defendant’s Cream Liqueur”) under the names and marks MILK & HONEY, M&H, M&H



20. Upon information and belief, Defendant promotes Defendant's Cream Liqueur under Defendant's Marks *inter alia* via the website located at [www.realmilkandhoney.com](http://www.realmilkandhoney.com) ("Defendant's Website"), including as shown in **Exhibit B** hereto.

21. Upon information and belief, Defendant's Cream Liqueur under Defendant's Marks is sold in liquor stores only in Wisconsin, New Hampshire and Massachusetts.

22. Upon information and belief, Defendant's Cream Liqueur is sold only in the bottle shown below:



("Defendant's Trade Dress").

23. Defendant's Trade Dress contains at least: (a) a bottle in a shape known as a "Burgundy" wine bottle with a cylindrical shape with no indentations or embossing, with graceful, light sloping shoulders beginning approximately halfway up the bottle, and a prominent neck that accounts for approximately 1/3 of the bottle; (b) a label that covers the entire bottle; (c) a label

with a background that is nearly all white but changes to black near the beginning of the neck of the bottle with a black tear drop shape seeming to fall from the center of the bottle at the neck; (d) the mark MILK & HONEY presented in black in a thick all caps font centered on the vertical axis of the bottle, with the word MILK above the word HONEY and the & between MILK and HONEY with horizontal lines stemming from each side of the & reaching until approximately the ends of the word MILK; (e) a large fan-shaped palm frond with dates at the center bottom of the frond, all in black and appearing directly above the words MILK & HONEY; (f) the phrase “DIVINE ORIGINAL” in black in all caps in a font smaller than that of “MILK & HONEY” but framed on the top and bottom by horizontal lines and on the sides by stars or plus symbols; and (g) the term “CREAM LIQUEUR” in black plain non-italicized font below the seal.

24. Upon information and belief, Defendant’s Cream Liqueur under Defendant’s Marks typically retails for approximately \$25 to \$35 per 750 ml bottle.


25. Upon information and belief, Defendant’s Cream Liqueur under Defendant’s Marks typically contains approximately 12.5% alcohol by volume.

26. Upon information and belief, Defendant is the owner of record of the following U.S. trademark registrations:

- (a) Reg. No. 5200413 for the word mark MILK & HONEY for “Liquor and liqueur beverages, namely, distilled spirits, liqueurs, and prepared alcoholic drinks” in International Class 33, with a registration date of May 9, 2017 and a claimed date of first use of March 22, 2017 (the “413 Registration”), which it has recorded with U.S. Customs & Border Protection (“CBP”) under Trademark Customs Recordation No. TMK 17-00817;





- (b) Reg. No. 6182398 for the stylized mark  for “Liquor and liqueur beverages, namely, distilled spirits, liqueurs, and prepared alcoholic drinks” in International Class 33, with a registration date of October 27, 2020 and a claimed date of first use of March 22, 2017 (the “398 Registration”); and
- (c) Reg. No. 5229644 for the word mark M&H for “Liquor and liqueur beverages, namely, distilled spirits, liqueurs, and prepared alcoholic drinks” in International Class 33, with a registration date of June 20, 2017 and a claimed date of first use of March 22, 2017 (the “644 Registration,” and with the 413 Registration and the 398 Registration, “Defendant’s Registrations”), which it has recorded with CBP under Trademark Customs Recordation No. TMK 21-00163.

### **The Descriptive Nature of Defendant’s Marks**

27. Upon information and belief, Defendant’s marks MILK & HONEY and




(“Defendant’s MILK & HONEY Marks”) are merely descriptive and have not acquired distinctiveness through secondary meaning.

28. Upon information and belief, Defendant’s MILK & HONEY Marks describe the ingredients, characteristics, quality, function, purpose and/or use of Defendant’s Cream Liqueur.

29. Upon information and belief, the ingredients in Defendant's Cream Liqueur are light cream, neutral grain spirits and date honey. Upon information and belief, cream is a type of milk product or a product derived from milk; specifically, cream is the fatty part of non-homogenized (or raw) milk that floats to the top and is then skimmed and extracted for use. Because Defendant's MILK & HONEY Marks immediately describe two of the three ingredients of Defendant's Cream Liqueur, the marks are merely descriptive.

30. Upon information and belief, "Milk & Honey" (or "Milk and Honey") is the name of a type of cocktail not unique to any one source that is made with milk and/or cream, spirits and a sweetener, such as honey, which are the precise ingredients in Defendant's Liqueur, further showing that Defendant's MILK & HONEY Marks are merely descriptive.

31. Upon information and belief, the addition of the large fan-shaped palm frond with dates at the center bottom of the frond in Plaintiff's mark  is a literal representation of the dates from which the honey in Defendant's Cream Liqueur is extracted and thus is descriptive itself and does not make the overall mark any less descriptive.

32. Upon information and belief, Defendant is aware that Defendant's MILK & HONEY Marks are merely descriptive and therefore Defendant itself advertises Defendant's Cream Liqueur as "THE *REAL* MILK & HONEY" on Defendant's Website:


  
**THE *REAL* MILK & HONEY**  
Gluten Free, All Natural, 100% Dangerously Delicious

33. Upon information and belief, Defendant's MILK & HONEY Marks have not acquired distinctiveness through secondary meaning, including because Defendant's sales, advertising, marketing, and promotion of Defendant's Cream Liqueur under Defendant's MILK & HONEY Marks all have been minimal in scope and time and because Defendant's MILK & HONEY Marks have received very little unsolicited attention in the media.

**Plaintiff's Pending Applications for Plaintiff's Marks**

34. As noted above, Plaintiff has filed three trademark applications with the United States Patent and Trademark Office ("USPTO") seeking to register Plaintiff's Marks. The USPTO has refused to register to all three of Plaintiff's Applications based on Defendant's Registrations. Specifically, the USPTO has refused to register:



- (a) Plaintiff's 289 Application for the mark  under Lanham Act Section 2(d), 15 U.S.C. § 1052(d), based on a purported likelihood of confusion with Defendant's 644 Registration for the mark M&H;
- (b) Plaintiff's 305 Application for the mark M&H WHISKY DISTILLERY under Lanham Act Section 2(d), 15 U.S.C. § 1052(d), based on a purported likelihood of confusion with Defendant's 644 Registration for the mark M&H; and
- (c) Plaintiff's 267 Application for the mark MILK & HONEY DISTILLERY under Lanham Act Section 2(d), 15 U.S.C. § 1052(d), based on a purported likelihood of confusion with Defendant's 413 Registration for the mark

MILK & HONEY and Defendant's 398 Registration for the mark



35. Plaintiff has appealed to the Trademark Trial and Appeal Board (“TTAB”) the USPTO’s refusals to register all three of Plaintiff’s Applications, which appeals are pending.

36. Concurrent with filing this Complaint, Plaintiff intends to request the TTAB suspend all three appeals pending a final determination of this civil litigation.

**Defendant’s Cease-and-Desist Demands to Plaintiff**

37. Defendant has made demands to Plaintiff, objecting to Plaintiff’s use and registration of Plaintiff’s Mark in connection with Plaintiff’s Spirits and threatening to take legal action against Plaintiff and Plaintiff’s Marks.

38. On July 28, 2020, counsel for Defendant sent to Plaintiff a letter, claiming Defendant had prior nationwide registered and common law trademark rights in Defendant’s Marks, citing two of Defendant’s Registrations, objecting to Plaintiff’s use of Plaintiff’s Mark for Plaintiff’s Spirits in the United States, asserting that Plaintiff’s use of Plaintiff’s Marks for Plaintiff’s Spirits in the United States was likely to cause consumer confusion with Defendant’s Marks, citing the USPTO’s initial rejection of Plaintiff’s Applications in light of Defendant’s Registrations, claiming Plaintiff’s use of Plaintiff’s Marks for Plaintiff’s Spirits constituted willful trademark infringement in violation of the Lanham Act, demanding that Plaintiff “immediately cease and desist all use of” Plaintiff’s marks in connection with Plaintiff’s Spirits, claiming Plaintiff was entitled to injunctive relief and damages under the Lanham Act and threatening that Plaintiff was “prepared to take any and all available actions at law to enforce its trademark rights

in the United States.” Defendant also copied on the July 28, 2020 demand letter Impex Beverages, Inc., an importer of Plaintiff’s Spirits under Plaintiff’s Marks in the United States. A true and correct copy of Defendant’s July 28, 2020 demand letter is attached hereto as **Exhibit C**.

39. On September 21, 2020, counsel for Plaintiff sent to Defendant’s counsel a letter in response to Defendant’s July 28, 2020 demand letter, disputing and denying Defendant’s claims, including of likely confusion, and refusing to comply with Defendant’s demands. A true and correct copy of Plaintiff’s September 21, 2020 letter is attached hereto as **Exhibit D**.

40. Defendant also has objected to Plaintiff’s use and registration of Plaintiff’s Marks for Plaintiff’s Spirits since the initial July 28, 2020 letter and has pointed to its CBP trademark recordations, which could block the importation of Plaintiff’s Spirits into the U.S.

41. Most recently, on January 6, 2022, Defendant sent an email to Plaintiff, threatening that Defendant was prepared to “immediately proceed with enforcing our trademark rights against [Plaintiff].”

42. Defendant’s allegations have created significant uncertainty as to Plaintiff’s ability to continue to use and to register Plaintiff’s Marks without objection from Defendant.

43. Moreover, Defendant’s allegations against Plaintiff have created an actual, substantial, immediate, and real controversy between Plaintiff and Defendant concerning Plaintiff’s right to continue to use and to register Plaintiff’s Marks and Defendant’s rights in its own marks.

44. A valid and justiciable case or controversy thus has arisen and exists between Plaintiff and Defendant within the meaning of 28 U.S.C. § 2201.

45. A judicial determination is necessary to determine Defendant's purported trademark rights and the issue of non-infringement, no false designation of origin and no unfair competition under federal and/or state law.

46. A judgment would serve a useful purpose in settling the legal issues, and a judgment would resolve the controversy and offer relief from uncertainty.

**The Lack of Likely Confusion between the Parties' Respective Marks**

47. Upon information and belief, the vast differences between the Plaintiff's Trade Dress and Defendant's Trade Dress conclusively shows confusion between the parties' marks and goods is not likely. Such differences include, without limitation and as shown below: the shapes of the parties' respective bottles; the type of labels used on the parties' respective bottles (full covering for Plaintiff versus partial covering for Defendant); the colors used on the parties' respective labels; the prominent use by Plaintiff of Plaintiff's Striped Bull Logo; the prominent use by Defendant of a large fan-shaped palm frond with dates at the center bottom of the frond; the different locations on the parties' labels in which their respective marks appear; Plaintiff's use of the mark MILK & HONEY prominently on the front center of its label (and Defendant's lack of the use of that mark on the front of its label); Defendant's use of the mark M&H WHISKEY DISTILLERY prominently on its label (and Defendant's lack of use of that mark or any M&H mark on the front of its label); and Plaintiff's use of diagonal banners on most of its labels.

Plaintiff's Trade Dress



Defendant's Trade Dress



48. Upon information and belief, the differences between the parties' products, namely, cream liqueur, on the one hand, and gin and whiskey, on the other hand, and the vastly different alcohol by volume content therein, further shows confusion between the parties' marks and goods is not likely.

49. Upon information and belief, the significant differences between the retail price of the parties' products further show confusion between the parties' marks and goods is not likely.

50. Upon information and belief, the higher price point of the parties' goods will cause consumers to exercise more care in making their purchasing decisions, further showing confusion between the parties' marks and goods is not likely.

51. Upon information, consumers of the parties' products tend to be older, wealthier and better educated. Such a high level of sophistication among the consumer base for the parties' products further shows confusion between the parties' marks and goods is not likely.

52. Upon information and belief, the parties' products are not "impulse" items in that consumers will take time and care examining the parties' products and marks before making

purchasing decisions, further showing confusion between the parties' marks and goods is not likely.

53. Plaintiff is unaware of any specific instances of actual confusion between the parties, their products or their marks, despite their co-existence in the marketplace, further showing confusion between the parties' marks and goods is not likely.

54. Upon information and belief, and as set forth above, Defendant's MILK & HONEY Marks are descriptive and thus conceptually weak, further showing confusion between the parties' marks and goods is not likely.

55. Upon information and belief, several third parties use marks or names containing or comprising "Milk & Honey" in connection with alcoholic beverages and related goods and services, further weakening the commercial strength of Defendant's Marks and also showing that consumers will exercise care and look to other product attributes and trade dress to distinguish from among various goods when making purchasing decisions, further showing confusion between the parties' marks and goods is not likely.

56. Plaintiff acted in good faith, adopting Plaintiff's Marks in Israel years before Defendant began using or sought to register Defendant's Marks in connection with Defendant's Cream Liqueur, further showing confusion between the parties' marks and goods is not likely.

57. Upon information and belief, Defendant's Cream Liqueur and Plaintiff's Spirits are and will be sold in different sections of stores that sell alcoholic beverages and such sections typically will be labeled by the product type, further showing confusion between the parties' marks and goods is not likely.

58. Upon information and belief, Defendant's Marks are commercially weak, including because Defendant's sales, advertising, marketing, and promotion of Defendant's Cream Liqueur



under Defendant's Marks all have been minimal in scope and time, especially compared to competitors, and because Defendant's Marks have received very little unsolicited attention in the media. The commercial weakness of Defendant's Marks further shows confusion between the parties' marks and goods is not likely.

**FIRST CLAIM FOR RELIEF**

**(DECLARATORY JUDGMENT FOR NON-INFRINGEMENT, NO FALSE  
DESIGNATION OF ORIGIN AND NO UNFAIR COMPETITION)**

59. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1-58 above, with the same force and effect as if set forth herein.

60. A valid and justiciable controversy has arisen and exists between Plaintiff and Defendant within the meaning of 28 U.S.C. § 2201 concerning Plaintiff's use and registration of Plaintiff's Marks and the scope and validity of Defendant's Marks.

61. Plaintiff's Marks do not infringe Defendant's Marks pursuant to Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1) because *inter alia* and as set forth above, Defendant's MILK & HONEY Marks are merely descriptive and have not acquired distinctiveness through secondary meaning and Plaintiff's Marks for Plaintiff's Spirits do not cause a likelihood of confusion as to source, sponsorship or affiliation with respect to Defendant's Marks for Defendant's Cream Liqueur.

62. Plaintiff's Marks do not constitute false designation of origin pursuant to Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) because *inter alia* and as set forth above, Defendant's MILK & HONEY Marks are merely descriptive and have not acquired distinctiveness through secondary meaning and Plaintiff's Marks for Plaintiff's Spirits do not cause a likelihood

of confusion as to source, sponsorship, or affiliation with respect to Defendant's Marks for Defendant's Cream Liqueur.

63. Plaintiff's Marks do not constitute unfair competition or trademark infringement pursuant to state law because *inter alia* and as set forth above, Defendant's MILK & HONEY Marks are merely descriptive and have not acquired distinctiveness through secondary meaning and Plaintiff's Marks for Plaintiff's Spirits do not cause a likelihood of confusion as to source, sponsorship, or affiliation with respect to Defendant's Marks for Defendant's Cream Liqueur.

64. Consequently, Plaintiff is entitled to a declaration and judgment that Plaintiff's Marks do not infringe Defendant's Marks, including those marks that are the subject of Defendant's Registrations, and that Plaintiff has not violated Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1), Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) or any state or common trademark infringement or unfair competition law.

### **SECOND CLAIM FOR RELIEF**

#### **(CANCELLATION OF DEFENDANT'S MARKS IN WHOLE OR PART)**

65. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1-64 above, with the same force and effect as if set forth herein.

66. As set forth above, Defendant's MILK & HONEY Marks are merely descriptive and have not acquired distinctiveness through secondary meaning.

67. As such, the Court should order the USPTO to cancel Defendant's 413 Registration and Defendant's 398 Registration for Defendant's MILK & HONEY Marks pursuant to Sections 14(3) and 2(e) of the Lanham Act, 15 U.S.C. §§ 1064, 1052(e).

68. Should the Court decide not to cancel Defendant's 413 Registration and Defendant's 398 Registration for Defendant's MILK & HONEY Marks pursuant to Sections 14(3)

and 2(e) of the Lanham Act, 15 U.S.C. §§ 1064, 1052(e), the Court should order the USPTO to partially cancel both registrations by restricting the goods covered by the registrations to “cream liqueur sold only in Massachusetts, Wisconsin, and New Hampshire” in International Class 33 pursuant to Section 18 of the Lanham Act, 15 U.S.C. § 1068.

69. In any event, pursuant to Sections 14(3) and 2(e) of the Lanham Act, 15 U.S.C. §§ 1064, 1052(e), the Court should order the USPTO to partially cancel Defendant’s 644 Registration for the mark M&H by restricting the goods covered by the registration to “cream liqueur sold only in Massachusetts, Wisconsin, and New Hampshire” in International Class 33 pursuant to Section 18 of the Lanham Act, 15 U.S.C. § 1068.

70. The foregoing restrictions would reflect the Defendant’s actual use of Defendant’s Marks and the limited scope of Defendant’s rights with respect to the marks. It would also help clarify the significant differences between the parties’ respective goods.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully demands:

- (a) A declaration and judgment pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, that Plaintiff’s Marks do not infringe Defendant’s Marks, and that Plaintiff has not violated Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1), Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) or any trademark infringement or unfair competition state law;
- (b) An order directing the USPTO to cancel Defendant’s U.S. Trademark Registrations No. 5200413 and No. 6182398 pursuant to Section 14(3) and 2(e) of the Lanham Act, 15 U.S.C. §§ 1064(3), 1052(e), or, in the alternative, an order directing the

USPTO to partially cancel Defendant's U.S. Trademark Registrations No. 5200413 and No. 6182398 pursuant Section 18 of the Lanham Act, 15 U.S.C. § 1068;

- (c) An order directing the USPTO to partially cancel Defendant's U.S. Trademark Registration No. 5229644 pursuant Section 18 of the Lanham Act, 15 U.S.C. § 1068;
- (d) An order granting Plaintiff its reasonable attorneys' fees and costs incurred in connection with this matter; and
- (e) Such other, further, additional relief as the Court deems equitable and proper.

**JURY TRIAL DEMANDED**

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a jury trial on all issues triable as of right by jury in this case.

Dated: New York, New York  
March 30, 2022

Respectfully submitted,  
COWAN, LIEBOWITZ & LATMAN, P.C.

By: s/ Eric J. Shimanoff  
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*Attorneys for Plaintiff Milk & Honey Distillery Ltd.*

# **EXHIBIT A**

# OUR SINGLE MALT WHISKY

DISCOVER MORE >>



## OUR SPIRIT



### ADVENTUROUS

It started with a dream to build Israel's First Whisky Distillery. To make top-class whisky from an unexpected place.



### TOP QUALITY

We aspire for the best. Custom-made equipment, top-quality ingredients, hand-selected casks, and, most importantly, a team of passionate, dedicated professionals.



### INNOVATION

Tried-and-true methods are entwined with discoveries made possible thanks to Israel's unique characteristics, that allows us to age our whisky in unique interesting locations.



### MEDITERRANEAN SUN

Israel's 300 sunny days in an average year and the Mediterranean climate are our greatest advantage. This allows our whisky to mature relatively quickly.



### CRAFTED IN THE CITY OF TEL AVIV

We share Tel Aviv's ever-evolving creative, vibrant atmosphere. M&H is a part of the urban landscape; a must-stop spot in the Nonstop City.



### FOLLOWING SCOTTISH STANDARDS

We hired the late Dr Jim Swan, one of the world's most accomplished master distillers, as an advisor. Our whisky is double-distilled and we age it for minimum 3 years in a barrel.

**VIEW OUR PRODUCTS**

# WHO WE ARE

**We fulfilled our dream and established Israel's first whisky distillery.**

We take great care to ensure that what we make is an honest product. We neither compromise, nor take shortcuts. We use high quality barley, custom-made whisky stills and expertly selected casks.

Whether it's our single malt whisky or other premium spirits, we take pride in what we do and what we make.

**MORE**

## MADE IN TEL AVIV



The first Israeli whisky distillery is located in the first city of Israel. Symbolic? Maybe, but it wasn't for historic reasons that we chose to set the distillery here: Tel Aviv is the heart of Israel's culinary and drinking scene. There are amazing indoor and outdoor markets here, world-class bars, and restaurants like no other place in the world. We are excited to be a part of the city that never stops.



## VISIT OUR DISTILLERY

**Come visit us – a working distillery right in Tel Aviv, one-of-its-kind place in the whole country and join us in our process.**

In our one hour tour, you will learn about the history and process of distillation, walk through the various stages of spirit making – from grain to glass – and finish with a guided tasting of our creations. Our distillery shop offers bottles, including special limited edition, exclusively available there, as well as unique gifts for whisky lovers and fans. We welcome individuals and groups, and are available for booking of private parties, groups and events. Advanced booking is required; go to our Visitor Center page for more details.

**Advance booking required.**

**Opening hours:**

**SUN – THURS** 09:30 – 18:00

**FRIDAY** 09:00 – 14:00

**Address** 16 HaThiya St. Tel Aviv-Yafo Israel

**Tel** +972-3-6320491

**MORE INFO**



## OUR NEWSLETTER

Your Email:

I'm not a robot



[Register >](#)

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INQUIRIES  
AND  
VISITOR  
CENTER

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**THANK YOU** Special thanks for all our early supporters on **Indiegogo**

[SUPPORTER'S PAGE >](#)



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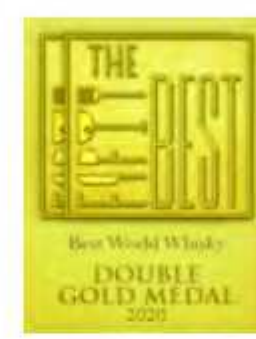
# CLASSIC

## SINGLE MALT WHISKY

Matured under the Tel-Aviv sun

Our Classic Single Malt Whisky is made using the finest ex-bourbon casks and our special red-wine STR casks, giving it a light and balanced character.

46% alc. 700ml



### NOSE

Gentle vanilla sweetness, followed by light oak and floral notes.

### PALATE

Light body, vanilla, caramel and honey sweetness, balanced by oaky notes and light black pepper spiciness.

### FINISH

Short but delicate. The oak notes linger in the palate for a while with a nice light spiciness.



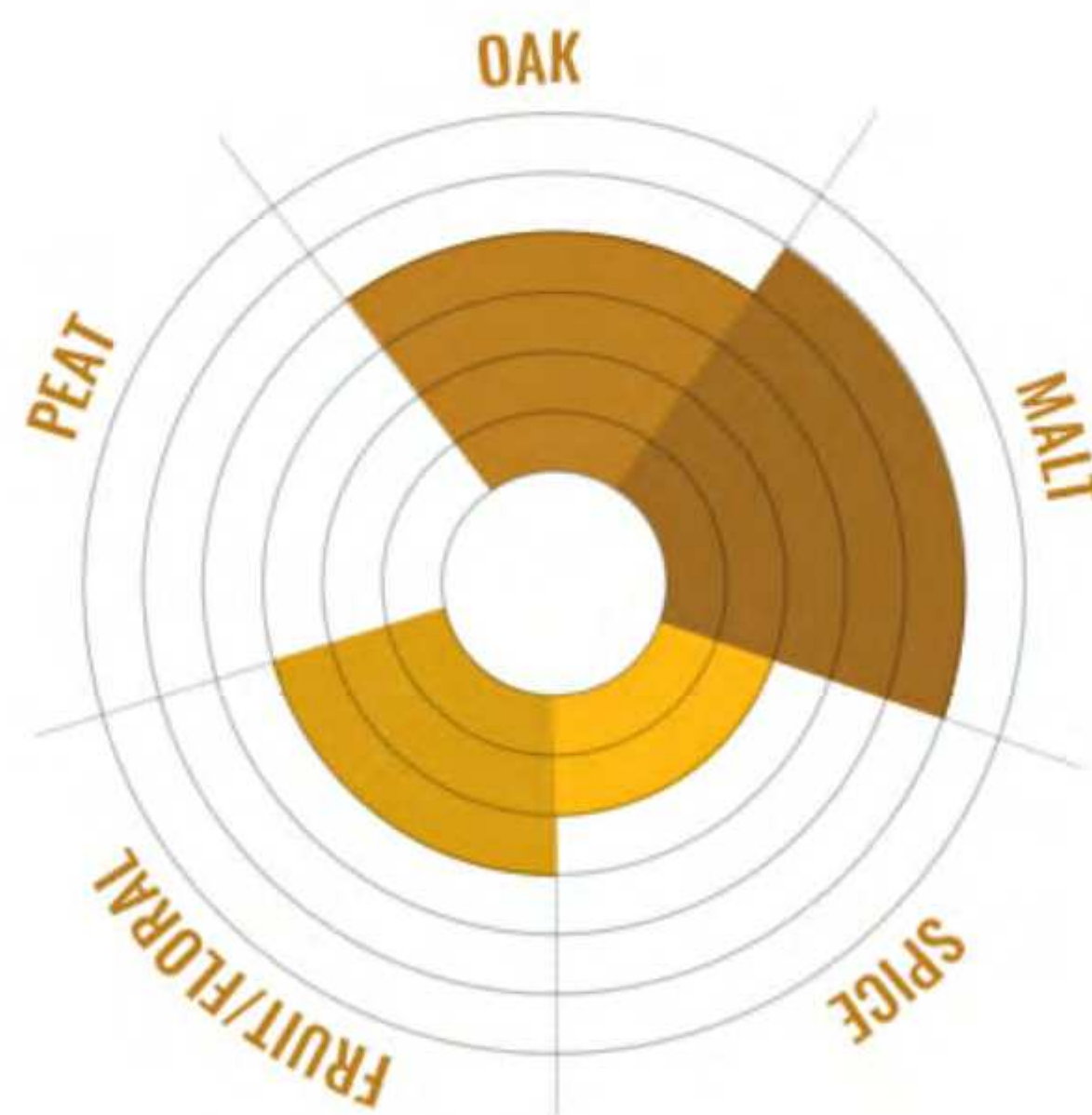
Honey



Vanilla



Oak



Caramel



Pepper



Jasmine



CASK TYPE

Bourbon & STR



BARLEY STYLE

Unpeated



NON CHILL FILTER



COLOR

Natural Color

# ELEMENTS SERIES

The M&H Elements series is a composition of flavors and aromas assembled from meticulously selected casks that bring forward characters enhanced by the casks' wood, origin, and history. Each expression in this series begins with the M&H CLASSIC Single Malt Whisky and complemented with whisky matured in a variety of hand-picked, superlative and quality oak casks, culminating in a beautiful natural color, impressive flavors and a well-balanced single malt.

The M&H Elements manifest the combination of traditional distillation methods with rapid but graceful hot climate maturation.





# APEX DEAD SEA

AGING WHISKY 423 METERS  
BELOW SEA LEVEL

**BUY NOW**

Contact your local distributor for purchase

This single malt is the first ever whisky aged in the lowest place on earth, the Dead Sea. With temperatures climbing as high as 50°C, this whisky is as strong and intense as the conditions under which it was matured in.



## AROMA

*Sweet with French vanilla and mocha, notes of cigar box and a refreshing hint of spearmint, pleasant oakiness in the background throughout*

## PALATE

*A gentle beginning with black tea leaves followed by a powerful wave of warm spices such as cinnamon and coriander seeds, dark cocoa powder and a pinch of crushed white pepper*

## FINISH

*Long and satisfying with candied ginger and cloves, joined by a bouquet of toasted herbs and coarse sea salt*



# APEX

SERIES



The M&H Apex is a culmination of years of work and research that exemplifies our spirit of innovation and creativity. Driven by boldness and an aspiration to reach new heights, we composed our apex - an exclusive opportunity of limited editions.

A bottle of M&H Apex is an exploration of places and matters: our Head Distiller, Tomer Goren, specifically selects exceptional casks for each batch, chosen for their distinct location of maturation or to showcase the magic of wood and terroir.



APEX RUM CASK



APEX WHITE WINE CASK



APEX POMEGRANATE



APEX COGNAC CASK



PEATED STR CASK



FORTIFIED RED WINE CASK



APEX DEAD SEA



APEX PEATED FORTIFIED RW CASKS



APEX SHERRY

# RUM CASK

## SMALL BATCH

This small batch single malt whisky was fully matured in ex-rum casks from Jamaica and Cuba, bringing out intriguing layers of complexity in every sip.

Non chilled filter. Natural color. 57.3% alc/vol



### AROMA

*Banana yogurt with dark chocolate chips, fragrant wildflower honey and crushed white pepper.*

### PALATE

*Rich molasses followed by pecan pie sprinkled with toasted coconut, warm spice mix of nutmeg and cloves.*

### FINISH

*Tropical fruit, papaya and cantaloupe accompanied by fresh mint.*

# WHITE WINE CASK

## SMALL BATCH

This small batch, single malt whisky gains its distinctive character from local Chardonnay wine casks that bring forward earthy and grassy flavors.

Non chilled filter. Natural color. 61.2% alc/vol



### AROMA

*Strong, fruity aroma, combined with earthy notes. Apricot and peach pair with a bouquet of white flowers, are followed by a light citrus and a slight mineral flintiness in the background.*

### PALATE

*Medium body. Delicate notes of oak are accompanied by dried apricots, lemongrass and a pleasant earthiness.*

### FINISH

*Long. Hints of rich, dried fruit, with lingering flavors of citrus and oak and a gentle touch of resin in the background.*

# POMEGRANATE WINE CASK

## SMALL BATCH

This small batch, single malt whisky was aged in ex-Bourbon casks and finished in fortified style pomegranate wine casks for a period of six months. The unique pomegranate fruit offers this whisky its exceptional flavors.

Non chilled filter. Natural color.  
60.3% alc/vol



### AROMA

*Ripe pomegranate, followed by a swirl of rich vanilla, roasted coffee and butterscotch. Strong earthiness, accompanied by notes of orris root, spearmint and freshly baked sour apple.*

### PALATE

*Juicy, with crushed pomegranate grains, dried figs and a bouquet of spicy-sour herbs.*

### FINISH

*Long and dry, with a hint of toasted oak, followed by sourdough pretzels with a side of red fruits.*

# COGNAC CASK

## SMALL BATCH

This small batch, single malt whisky reveals the finest flavors of 400-liter, French Limousin oak casks, previously used to mature superb Cognac. A vatting of carefully selected, ex-Bourbon and STR casks precedes a finish in ex-Cognac casks.

Non chilled filter.  
Natural color.  
59.4% alc/vol



### AROMA

*Warm spices, complete with cloves, thyme and star-anise, evolving into an exotic combo of cacao powder and mango followed by notes of dark chocolate truffle and stone fruit.*

### PALATE

*Rich texture and a warm mouthfeel, with a hint of nutmeg spiciness. Sweet fruit, with a touch of tart red berries.*

### FINISH

*Baked apple pie, rich in butter and enhanced by cacao and sweet toasted barley.*

# PEATED STR CASK

## SMALL BATCH

This single malt whisky was crafted in ex-red wine casks that have been Shaved, Toasted and Re-charred and filled with our peated new make spirit. The STR technique was developed by the late Dr. Jim Swan, who was our consultant and friend. This process enables the casks to release rich flavors and red fruit notes.

Non chilled filter.  
Natural  
color.58.9%  
alc/vol



## AROMA

*Sea breeze, gentle saltiness, stroke of varnish, gingerbread rich in cloves and allspice, hints of freshly cut hay.*

## PALATE

*French vanilla cream, crushed white peppercorns, sweet mint, toasted dry leaves.*

## FINISH

*Cinnamon, roasted chestnuts, buttery popcorn.*

# FORTIFIED

## RED WINE

Natural  
color.58.9%  
alc/vol

# FORTIFIED

**DEAD SEA**  
casks it produces.

Non chilled filter.  
Natural color. 60.4%  
alc/vol



cacao.

# APEX DEAD SEA

This single malt is the first ever whisky aged in the lowest place on earth, the Dead Sea. With temperatures climbing as high as 50°C, this whisky is as strong and intense as the conditions under which it was matured in.



Non chilled filter. Natural color. 56.2. % alc/vol

## AROMA

*Sweet with French vanilla and mocha, notes of cigar box and a refreshing hint of spearmint, pleasant oakiness in the background.*

## PALATE

*A gentle beginning with black tea leaves followed by a powerful wave of warm spices such as cinnamon and coriander seeds, dark cocoa powder and a pinch of crushed white pepper.*

## FINISH

*Long and satisfying with candied ginger and cloves, joined by a bouquet of toasted herbs and coarse sea salt.*

# APEX



# SHERRY

This single malt whisky was matured under the Mediterranean sun in selected PX and Oloroso ex-sherry casks. Full-bodied with abundant sweetness and piquant spices, it offers a wide range of complex aromas and intriguing flavors.



Non chilled filter.  
Natural color.  
53.6% alc/vol

## AROMA

*Toasted oak followed by dark chocolate dotted with dried red fruit, hints of fragrant bergamot.*

## PALATE

*Shortbread and dried fruit, crushed black peppercorns and and freshly zested lemon.*

## FINISH

*Long, dry and meaty with notes of caramelized sugar, black liquorice and allspice.*

# APEX PEATED FORTIFIED RW CASKS

This unique single malt whisky was distilled from superb peated barley and fully matured in port-style Israeli red wine casks, hand-selected from the cellars of some of our favorite local craft wineries.



Non chilled filter.  
Natural color. 55.3%  
alc/vol

## AROMA

*Flinty and fragrant with potpourri and cigar box, with hints of caramelized sugar and wine cellar*

## PALATE

*Juicy red fruit with a side of raw cocoa beans, earthy smoke and a touch of star anise*

## FINISH

*Bold with cloves and fresh oak, followed by chocolate-coated orange peel*

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# OUR GINS



LEVANTINE GIN



OAK AGED GIN

## LEVANTINE GIN

### SINGLE MALT GIN

Our gin starts the same as our single malt series – 100% pure malted barley that’s mashed in-house and distilled in our pot still. Then we add a heap of Juniper and botanicals, hand-sourced from Tel Aviv’s Levinsky market: *origanum syriacum*, lemon peel, orange, chamomile, verbena, cinnamon, and black pepper.

We then let the botanicals rest in the still for 48 hours and then distill for the third time in our 250L pot still, for extra smoothness. 46% abv./92 proof.



#### AROMA

Delicate notes of juniper berries, lemon and *origanum syriacum*.

#### PALATE

Delicate botanical tastes, with juniper and lemon being the dominant notes.

#### FINISH

Medium-bodied, a little oily. Long, lemony finish.

#### TIP

Levantine Gin is a fantastic base for a classic martini or G&T, and any cocktail that calls for a flavorful, higher-proof, no-nonsense juniper-based spirit.



← Online Purchase

# OAK AGED GIN

## SINGLE MALT GIN

We age our Levantine Gin in red wine STR casks for a few months. The oak aged Gin reveals a subtle vanilla flavor, combined with lemon and juniper. 700ml, 46% abv.



### AROMA

'gentle scent of juniper berries, lemon and hyssop accompanied with delicate oak and vanilla in the background'

### PALATE

medium body, a little oily. very subtle oak flavor, vanilla and citrus combined with spices, lemon and juniper

### FINISH

a long lemon finish, a bit spicy, the herb flavors stays in the mouth for a long time along side a gentle oak flavor



← **Online  
Purchase**

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**MOTION TO SUSPEND APPEAL PENDING  
RESOLUTION OF CIVIL LITIGATION**

**EXHIBIT A**

**Part 2 of 3**



# ARCHIVE



ISRAEL'S FIRST SINGLE MALT WHISKY



SINGLE MALT WHISKY 2ND EDITION



SINGLE MALT WHISKY FOUNDER'S EDITION

## ISRAEL'S FIRST SINGLE MALT WHISKY

### EXPERIMENTAL SERIES

The Milk & Honey Distillery, Israel's first whisky distillery, is proud to launch Israel's First Single Malt Whisky. Made in Israel from start to finish, this is the first release of a single malt spirit that was matured for 3 years and hence complies with the definition of whisky in Scotland and many other parts of the world. This exclusive edition of 391 numbered bottles is released under the Milk & Honey's Experimental Series, a harbinger of world-class whisky, scheduled for world-wide distribution in 2019. Israel's First Single Malt Whisky is a refreshing non-filtered single cask whisky, bottled at 46% abv. The whisky is mature and complex for its young age, thanks to Israel's hot



#### AROMA

*Light maltiness with a gentle touch of orange, combined with notes of oak, cinnamon lemon and marzipan.*

#### PALATE

*Light bodied, a hint of citrus and orange peel followed by soft notes of black pepper spiciness. A fine balance between gentle fruitiness and spiciness.*

#### FINISH

*Long and slightly spicy, with lingering chocolate notes and delicate maltiness.*

climate conditions. Israel's First Single Malt Whisky was Aged in new 225 liter American oak cask, and after two and a half years spent additional 7 months in ex-bourbon barrel. Israel's First Single Malt Whisky is the creation of Tomer Goren, Milk & Honey's Head Distiller, and the late Dr. Jim Swan, Milk & Honey's first master distiller and consultant, who has long been held as the world's leading expert on hot climate whisky and that passed away on February 2017.

# SINGLE MALT WHISKY 2ND EDITION EXPERIMENTAL SERIES

The Milk & Honey Distillery's second edition whisky is the newest addition to our experimental series, that made history with Israel's first ever single-malt whisky in June 2017. This whisky was crafted from lightly peated malt, made in-house and matured for 32 months in new American oak barrel, before being transferred to an ex-bourbon barrel for additional 11 months, bottled at a perfect timing. Distillation of the cask was carried out in a small pot still in a warehouse in the Sharon region by head distiller Tomer



## AROMA

*Gentle maltiness with a hint of lemon in the background, light oak and cinnamon. Light peat smoke.*

## PALATE

*Light body, sweet maltiness, lemon and orange peels, light black pepper spiciness and peat smoke.*

## FINISH

*Long, with fine peat that takes over the finish, delicate maltiness and dark chocolate.*

Goren, accompanied by the late Dr. Jim Swan, an international master distiller, in his role as a consultant to the distillery at the time. This second edition of our experimental series is a balanced and complex whisky thanks to Israel's hot climate conditions. Only 324 bottles. Bottled at 46% abv.

# SINGLE MALT WHISKY FOUNDER'S EDITION

The Founder's Edition is a Limited Edition of single malt whisky reserved exclusively for our backers during M&H's 2013 crowdfunding campaign. This special Founder's Edition was matured in ex-bourbon & STR red wine casks and finished in PX kosher sherry butts, seasoned specifically for our distillery. It was perfected by the hot and humid climate of vibrant Tel Aviv in to a well-balanced, smooth and delicate whisky. Limited Edition of Only 1,000 bottles. Bottled at 57% abv.



## AROMA

*Dominant sherry notes, Red fruits followed by gentle woody smell, cocoa and dark chocolate.*

## PALATE

*Medium body, Dark chocolate and wood notes, dried fruits, vanilla sweetness and light spiciness.*

## FINISH

*Long and dry, the wood taste lingers in the palate and changes to dark chocolate combined with lightly spicy notes.*

**PLEASE DRINK RESPONSIBLY**

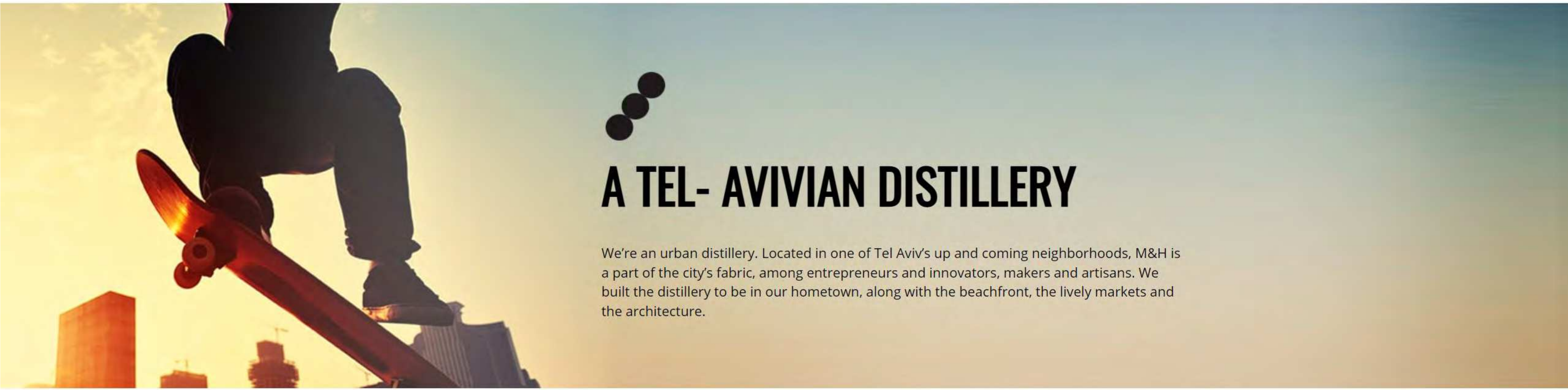
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## WHO WE ARE

### ISRAEL'S FIRST WHISKY DISTILLERY



## A TEL-AVIVIAN DISTILLERY

We're an urban distillery. Located in one of Tel Aviv's up and coming neighborhoods, M&H is a part of the city's fabric, among entrepreneurs and innovators, makers and artisans. We built the distillery to be in our hometown, along with the beachfront, the lively markets and the architecture.



## HOT CLIMATE MATURATION

Israel's 300 sunny days in an average year and the Mediterranean climate are our greatest advantage. Hot climate maturation means that our whisky ages rapidly, yet significantly gracefully. Whisky made in warmer weather takes on specific terroir which yields unique flavors that somewhat differ from their Old-World counterparts. Our methods, technique and equipment carry on centuries-old knowledge and we keep the tradition of minimum three years of aging.



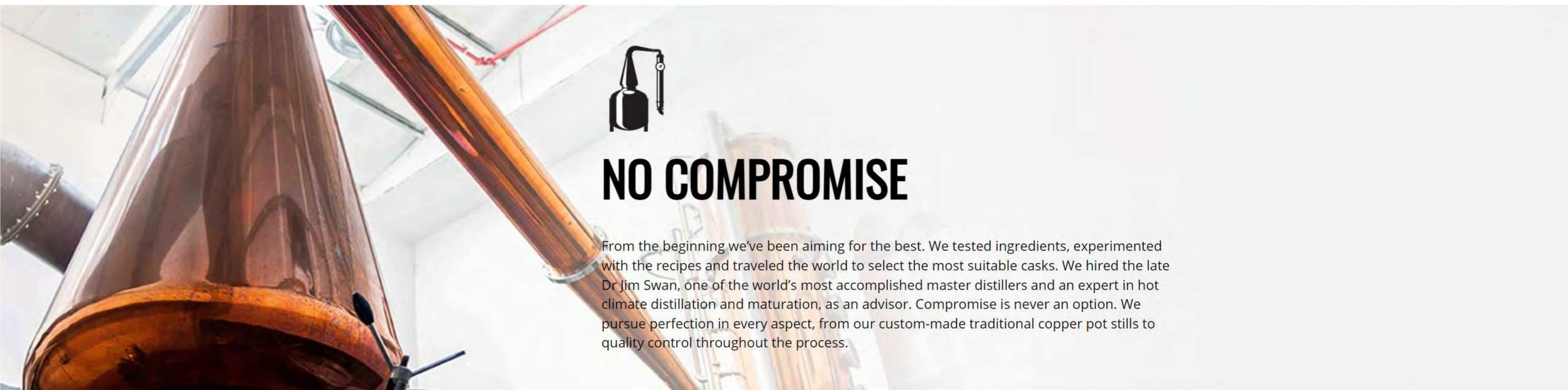
## CASK SELECTION

our casks are selected after a meticulous screening process, with thought and planning years ahead. Alongside our cure range of ex-bourbon casks, ex-red wine casks and STR casks, we constantly seek for new and interesting casks like pomegranate wine, kosher sherry, rum, etc.



## NO COMPROMISE

From the beginning we've been aiming for the best. We tested ingredients, experimented with the recipes and traveled the world to select the most suitable casks. We hired the late Dr Jim Swan, one of the world's most accomplished master distillers and an expert in hot climate distillation and maturation, as an advisor. Compromise is never an option. We pursue perfection in every aspect, from our custom-made traditional copper pot stills to quality control throughout the process.



## LEARN MORE

We welcome you to browse the website, learn about **our products** and taste them at **our points of sale**.

OR BETTER YET, **VISIT US**



# OUR DISTRIBUTORS



Australia



Austria



Belgium



Canada



Poland



USA



Spain



The Netherlands



France



Norway



Denmark



Israel



Germany



South Africa



EAU



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# WHAT THEY SAY ABOUT US

## M&H APEX COGNAC CASK

28.02.2020

FORBS



One of four new limited edition releases from Israel's first whisky distillery

READ MORE

## NEW YEAR'S TOAST

08.09.2020

THE NEW YORK TIMES



A distiller from Tel Aviv has made a single-malt kosher whiskey, aged in sherry casks.

READ MORE

## MASTER OF MALT TASTES

20.10.2020

MASTER OF MALT



It is a big challenge to be the pioneer of the industry

READ MORE

## L'CHAIM TO THE DREAM! THE M&H DISTILLERY

23.10.2019

Whisky Magazine



This dedication to craft and the pursuit of perfection, shared with the M&H's team seems certain to put their whisky and M&H on the map.

READ MORE

## ISRAEL'S FIRST WHISKY IS COMING TO AMERICA

08.08.2020

YAHOO



M&H is part of a new generation of distillers producing whisky in decidedly hot climates, which create flavor profiles all their own.

READ MORE

## HIGH SCORE IN WHISKY ADVOCATE

27.10.2020

ISRAEL21C



Two single malt whiskies distilled in Tel Aviv recently received top scores from Whisky Advocate, one of the leading whisky magazines in the world.

READ MORE

## HOW A WHISKY REVOLUTION IS HAPPENING IN ISRAEL

07.09.2019

INDEPENDENT



## ISRAEL'S FIRST WHISKY, WILL ARRIVE IN AMERICA

09.08.2020

SPIRITEDZINE



## TOP NON-AMERICAN WHISKIES OF THE YEAR

26.12.2018

FORBS





It is not just how the distillery uses its unusual geography that sets it apart, it is the youthful exuberance and curiosity.

[READ MORE](#)

### CNN TRAVEL'S 19 PLACES TO VISIT IN 2019

08.01.2019

CNN Travel



Jaffa is home to the first whisky distillery in all of Israel, the aptly named Milk & Honey. And before you have to ask -- yes, it's kosher.

[READ MORE](#)

### ISRAEL'S M&H WHISKEY HITS THE US MARKET

04.09.2020

FORWARD



Something's brewing in south Tel Aviv. After years of maturation, Israel's first whiskey distillery is making its US commercial debut.

[READ MORE](#)

### SUN, SEA, SAND AND...SCOTCH?

01.01.2019

EasyJet Traveler



Israel has been quietly engineering a whisky revolution over the past three years and it's first single malts are just coming of age.

[READ MORE](#)



The Classic Single Malt presents aromas of gentle vanilla sweetness followed by light oak and floral notes.

[READ MORE](#)

### ISRAEL, THE LAND OF MILK AND HONEY – AND WHISKY

31.01.2020

CJN



M&H puts extensive effort into barrel selection, using only traditional barrels used for bourbon, Israeli wine, Cask Islay and STR casks.

[READ MORE](#)

### NEW LINE OF SINGLE MALT WHISKY

19.02.2019

TastingTable



Gone are the days when single malt whiskies could only be synonymous with Scotland or Japan

[READ MORE](#)

### ISRAEL: THE LAND OF MILK, HONEY AND WHISKY

12.12.2018

SCOTCHWHISKY



Israel's burgeoning whisky scene presents an unexplored realm of flavours

[READ MORE](#)



The first Israeli single malt whiskey, produced by the perfectly named Milk & Honey in Tel Aviv, is a winner.

[READ MORE](#)

### MILK & HONEY DISTILLERY: A TASTE OF TEL AVIV

23.07.2019

MASTER of MALT



Tel Aviv's Milk & Honey Distillery is taking conventional whisky-making and turning it on its head in pursuit of bold flavour and a focus on locality.

[READ MORE](#)

### ISRAEL'S FIRST SINGLE MALT WHISKY

05.03.2019

Master Of Malt



We talk extreme climate ageing, Israeli terroir and Jim Swan's influence on world whisky with the team at Milk & Honey (or M&H to its friends).

[READ MORE](#)

### THE LESSER KNOWN WHISKY PRODUCING COUNTRIES

16.01.2019

THE MANUAL



Perhaps what will help Israel more than some other world whisky countries will be its dynamic geography in the small country.

[READ MORE](#)

### MINI-BOOM OF WHISKY DISTILLERIES IN ISRAEL

26.11.2018 Forbes



10 distilleries where you Can buy An entire cask Of Whisky. I actually had a chance to try its new make spirit, and it was delicious.

[READ MORE](#)

### MILK AND HONEY: NECTAR FROM HEAVEN

26.03.2018 Wizards of Whisky



I've been to Whisky Live Israel twice, and visited Milk & Honey just as it was starting to produce spirit.

[READ MORE](#)

### GREAT ESCAPES: JERUSALEM & TEL AVIV

30.11.2018 BARRON'S



A good night starts with a tasting at Tel Aviv's single malt whisky distillery.

[READ MORE](#)

### OUR FAVORITE ONE-OF-A-KIND EXPERIENTIAL GIFTS

02.12.2019 ICONICLIFE



Forget about Scottish and Japanese distilleries for a moment. Instead, consider Milk & Honey, Israel's first-ever whisky distillery.

[READ MORE](#)

### THE LAND OF MILK AND HONEY AND NOW WHISKY?

11.08.2017 DailyMail



The country's first whiskey distillery is preparing to release Israel's first single malt whiskey.

[READ MORE](#)

### M&H SETS ISRAELI WHISKY ON THE MAP

08.08.2018 THE MANUAL



The audience wants a better story, whisky coming from different places, using different sources, climates, and environments of aging

[READ MORE](#)

### FIRST TIME ISRAELI MADE WHISKY LAUNCH

PURSUIT



Their "Triple Cask" – a combination of ex-red wine, ex-bourbon and ex-Islay barreled whisky – recently won...

[READ MORE](#)

### FIRST ISRAELI WHISKY LAUNCHED

30.05.2017 Drinksint International



Israeli distillery Milk & Honey will put 391 bottles of Israel's first single malt whisky on sale in June.

[READ MORE](#)

### THE HOLY LAND'S FIRST SINGLE MALT WHISKY

30.03.2016 CNN Money



As global demand for whisky booms, one small Israeli distillery is getting into the game as the only place in the Holy Land to produce a single malt.

[READ MORE](#)



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# CONTACT US

Fill out this form or give us a call and we will get back to you as soon as possible:

**Full Name \***  **Phone Number \***

**Email \***

**Message \***

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**SEND**

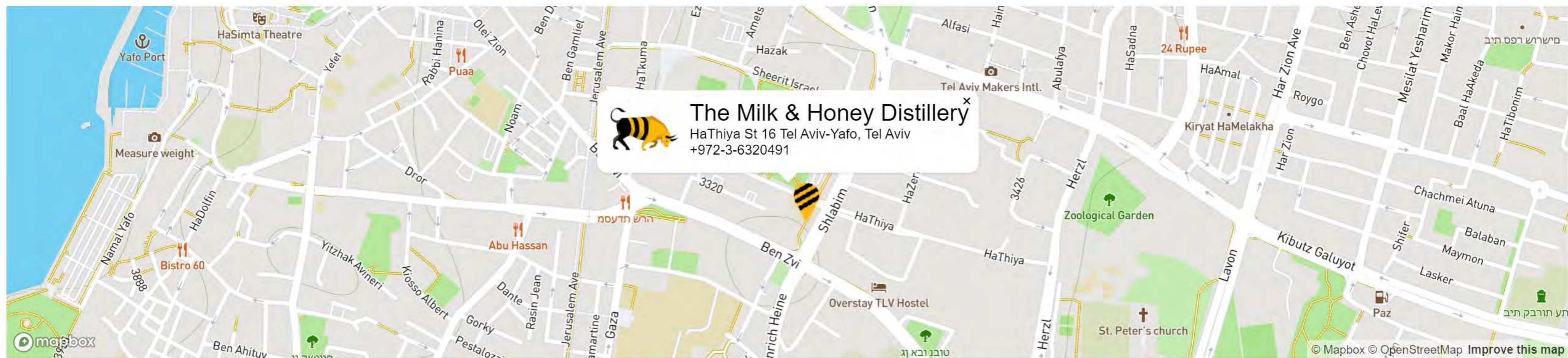
**THE VISITOR CENTER IS AVAILABLE FOR TASTINGS AND TOURS BY APPOINTMENT ONLY.**

Please find the tour schedule here.

## OFFICE HOURS

SUNDAY	09:30 - 18:00
MONDAY	09:30 - 18:00
TUESDAY	09:30 - 18:00
WEDNESDAY	09:30 - 18:00
THURSDAY	09:30 - 18:00
FRIDAY	By appointment only
SATURDAY	CLOSED

Address 16 HaThiya St. Tel Aviv-  
Yafo Israel  
Tel +972-3-6320491



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The process of preparing the whiskey is an experience that involves all the senses. It is a traditional craft, loaded with history and chemistry, technology and handicrafts. We



The process of preparing the whiskey is an experience that involves all the senses. It is a traditional craft, loaded with history and chemistry, technology and handicrafts. We opened the visitor center out of a desire to share in our work those who do not experience the making, tastes and smells on a daily basis. The visitor center is open to individuals and groups. We offer varied tours and private events for private groups of up to 35 participants by prior arrangement

## The Milk & Honey Distillery reserves the right to cancel, postpone or change tours and workshops in accordance with its needs and the guidelines of the Ministry of Health

Booking a tour is subject to our [cancellation policy](#)



Tours

### The secrets from the barrel room

₪ 89.00:ticket price

[More info](#)



Tours

### Private experience in the barrel room

₪ 500.00

[More info](#)



Tours

### A tour of the magical world of whiskey

₪ 55.00:ticket price

[More info](#)



Tours

### Blending workshop

₪ 249.00:ticket price

[More info](#)



Tours

### Whiskey and chocolate workshop

₪ 150.00:ticket price

[More info](#)



Tours

### Whiskey and cheese workshop

₪ 150.00:ticket price

[More info](#)



Tours

### Cocktail workshop and tour of the distillery

₪ 180.00:ticket price

[More info](#)

The Milk & Honey Distillery reserves the right to cancel, postpone or change tours and workshops as per its needs. We act in accordance with the \*\* guidelines of the Ministry of Health

Booking a tour is subject to our [cancellation policy](#)

Your Purchase Is Secured And Recognized By The Credit Card Companies



Search The Store

...Product Search

SEARCH

Shop

- Alcohol
- Clothing
- additional products

Follow Us



Contact

:Address  
The Revival 16, Tel Aviv-Yafo

:phone  
03-6320491

:Email  
shop@mh-distillery.com

**MOTION TO SUSPEND APPEAL PENDING  
RESOLUTION OF CIVIL LITIGATION**

**EXHIBIT A**

**Part 3 of 3**



## **EXHIBIT B**

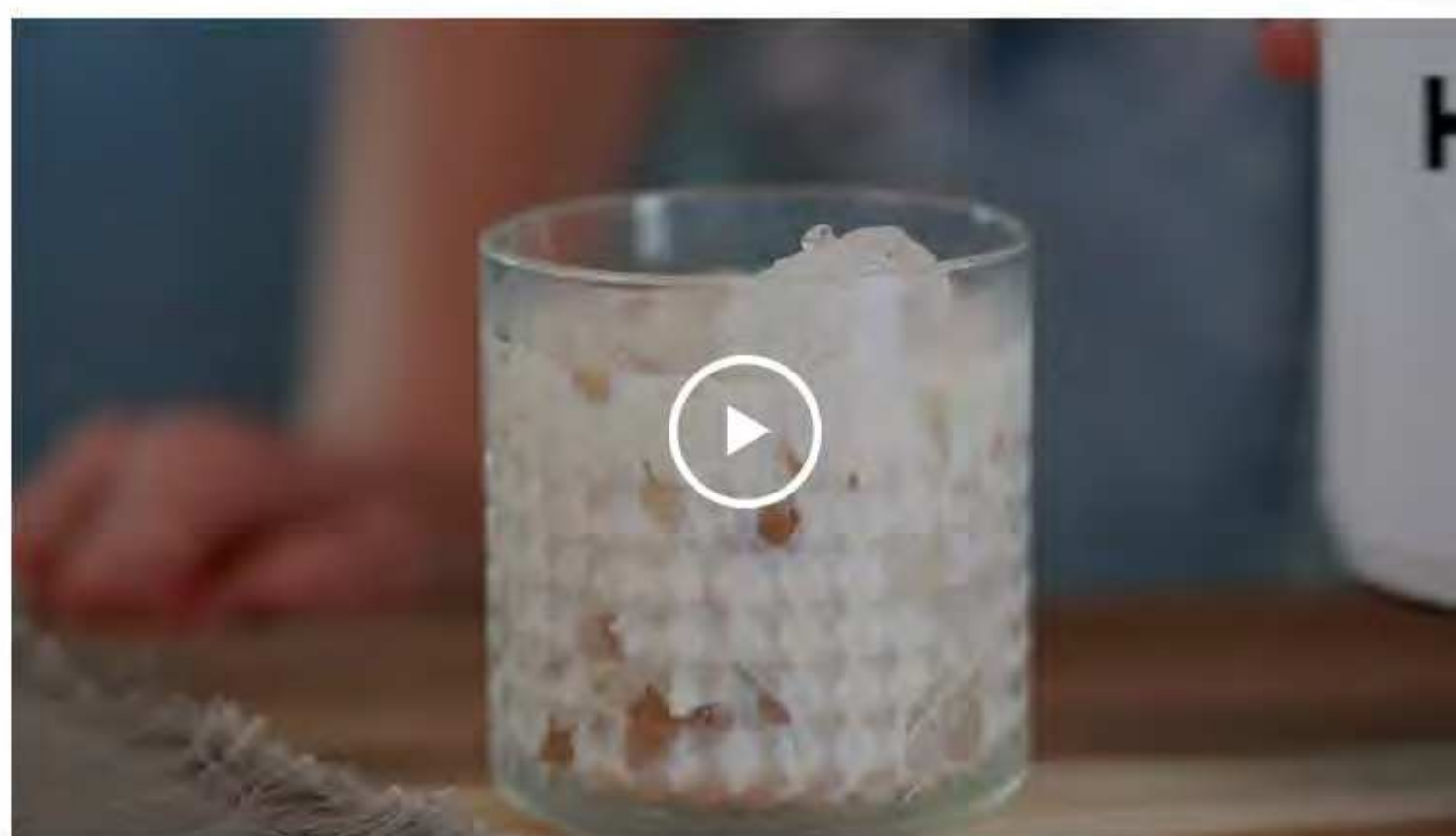


12.5% abv



# THE REAL MILK & HONEY

Gluten Free, All Natural, 100% Dangerously Delicious



Find M&H Near You



## MILK & HONEY DRINKS ARE SUPER EASY TO MAKE!

- 2 oz Milk & Honey
- 1/2 oz Great Spirit
- Stir/Shake
- Enjoy over ice

Perfect with bourbon, Irish whiskey, scotch, rum, brandy, gin, cognac, tequila, good vodkas. Coffee and hot chocolate are also amazing!



## MAKE A "PERFECT IRISH" The ultimately Irish Cream



"Milk & Honey is love and blessing in a bottle. Please, enjoy it with people you love."  
- Justin, M&H Spirits



## MORE AMAZING RECIPES

ALL NATURAL CREAM LIQUEUR - 12.5 % ABV - GLUTEN FREE

[info@realmilkandhoney.com](mailto:info@realmilkandhoney.com)



DATE HONEY

STORY

RECIPES

STORES

LOVE & BLESSING

## DATE HONEY

From as far back as 3,000 B.C., date palms were cultivated for their sweet, delicious fruit. History records that the finest dates in the world were produced in the ancient Mediterranean kingdom of Judea. The Greeks and Romans referred to this region as the "Land of the Date". Emperors no less than Augustus and Pompeii extolled the virtues of Judean dates. Mark Anthony gifted Judean date plantations to Cleopatra as a symbol of his love and affection.



Ancient Judean Coin  
(Circa 135 CE)



Judean dates were processed into a dark, rich syrup called date honey. It was date honey - not bee honey - that was the real honey of the legendary "land flowing with milk and honey". In ancient times, milk and date honey was revered as a divine elixir of love, blessing, and prosperity.

Milk & Honey brings this original, authentic, milk and honey back to life. Made with premium neutral grain spirits, Upstate New York Dairy Cream, and medjool date honey, sourced from a small date palm farm near the historic Sea of Galilee. Milk & Honey is all natural, smooth, and incredibly delicious. If you ever wondered what the *real* milk and honey tastes like - this is it!



Find M&H Near You

MA

WI

NH

ALL NATURAL CREAM LIQUEUR - 12.5 % ABV - GLUTEN FREE

[info@realmilkandhoney.com](mailto:info@realmilkandhoney.com)



DATE HONEY

STORY

RECIPES

STORES

LOVE & BLESSING

## STORY

My name is Justin, and I am the founder of M&H Spirits. My great-grandfather was Papa "Mo" Simms, a New England bootlegger who made a name for himself during Prohibition. In those days, Papa's crew picked up the "juice" from Cape Cod and sold product to local speakeasies in South Boston.

It was risky business. People went to jail, and things sometimes got violent. Papa was once kidnapped by another gang and escaped. In 1933, Prohibition ended, and Papa's operation went legit. The original liquor license - dated one day after Prohibition ended - still hangs on the company wall.



My father worked in the family business, and I grew up surrounded by spirits and liqueurs. I remember the smell of the warehouse, the big guys moving cases on hand carts, the forklifts and the trucks. It was a magical place.

My dad inspired me to become a spiritual person. My personal journey led me to Jerusalem. Jerusalem blew my mind- the energy, the people, the history. I began studying and learning, exploring ancient tomes written in ancient languages, some, thousands of years old.

One day, I discovered a very, very old manuscript. It told the fascinating true story of the "land flowing with milk and honey." It explained that the real honey of 3000 years ago was not bee honey. It was date honey - *de'vash tamarim* in Hebrew - a rich, dark syrup made from dates of the Judean palm.



Very curious, I found a source of date honey - a small plantation on the shores of the historic Sea of Galilee. This beautiful, Rift Valley plantation grows some of the world's choicest dates, and their authentic, hand-crafted date honey is a unique and special blend of Medjool and Nour varieties. Its the finest date honey in the world.

I mixed the date honey with fresh, cold milk, and drank. . . .

Wow! . . . Amazing! . . . Incredible! . . .

### I had discovered The Divine Original, Recipe From Heaven.

We use only the finest and freshest ingredients - locally produced Upstate New York light cream, premium neutral grain spirits, and hand-crafted medjool date honey straight from the Sea of Galilee.

Milk & Honey is more than a great tasting spirit. It is love and blessing in a bottle. Milk & Honey is a celebration of the good things that make life wonderful.

Thank you for drinking Milk & Honey. Enjoy!

Find M&H Near You



ALL NATURAL CREAM LIQUEUR - 12.5 % ABV - GLUTEN FREE

[info@realmilkandhoney.com](mailto:info@realmilkandhoney.com)



DATE HONEY

STORY

RECIPES

STORES

LOVE & BLESSING

Find M&H Near You



[What is date honey?](#)

## RECIPES FROM HEAVEN

We created Milk & Honey to show the world how good, delicious, and wonderful life can be. Kick back with people you love and pour some M&H on ice - the bottle will be gone in no time!



Milk & Honey On Ice



Spiced Milk & Honey w/ Jager



Bourbon Milk & Honey w/ Jim Beam Black

## MILK & HONEY DRINKS ARE SUPER EASY TO MAKE!

- 2 oz Milk & Honey
- 1/2 oz Great Spirit
- Stir/Shake
- Enjoy over ice

### DIVINE ORIGINAL



On ice, with people you love.

### SMOOTH OPERATOR



Guaranteed to make you smile.

### PERFECT IRISH



A custom Irish cream using YOUR FAVORITE Irish whiskey. An incredible mix!

### NICE & RIGHT



Add a whisper of good scotch to M&H on ice. Just incredibly delicious.

### MOMMY'S HELPER



Ahh, honey, where's the bottle of Milk & Honey?

### COFFEE CLOUD 9



WARNING - This mix is dangerous

### PEACH CLOUD 9



Otherwise known as "Peaches & Dream"

### ADULT SMOOTHIES



Milk & Honey, blender, ice, and strawberry, banana, or coffee. Fuggtaboutit!

### GIN & MILK & HONEY



Aboslutely. Unconventionally. Fantastic.

**BUSTA' NUT**



Super heavenly pina colada favorite. Party!

**LECHE MEXICANA**



Date honey and agave notes. Delicioso!

**24K MAGIC**



Smooth . . . and incredibly delicious.

**CROWN APPLE PIE**



Love at first sip.

**OMG**



This drink was named by customers who tried it.  
For real people, the OMG is legit!

**SPICED MILK & HONEY**



2.5 oz M&H + .5 oz Fernet (Serve Hot!)

Load More

---

**ALL NATURAL CREAM LIQUEUR - 12.5 % ABV - GLUTEN FREE**

[info@realmilkandhoney.com](mailto:info@realmilkandhoney.com)



## DIVINE ORIGINAL



IPNG



On ice, with people you love.



♡ 4



## SMOOTH OPERATOR

2 PNG



Guaranteed to make you smile.



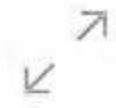


## PERFECT IRISH

3.PNG



A custom Irish cream using YOUR FAVORITE  
Irish whiskey. An incredible mix!

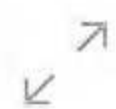


## NICE & RIGHT

4.PNG



Add a whisper of good scotch to M&H on ice.  
Just incredibly delicious.

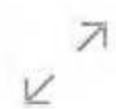


## MOMMY'S HELPER

12.PNG



Ahh, honey, where's the bottle of Milk & Honey?



♡ 3



## COFFEE CLOUD 9

8 PNG



WARNING - This mix is dangerous



## PEACH CLOUD 9

7.PNG



Otherwise known as "Peaches & Dream"



## ADULT SMOOTHIES

5.PNG



Milk & Honey, blender, ice, and strawberry,  
banana, or coffee. Fuggetaboutit!





## GIN & MILK & HONEY



GIN & MILK &  
HONEY.PNG

Aboslutely. Unconventionally. Fantastic.



♡ 2



## BUSTA' NUT

11.PNG



Super heavenly pina colada favorite. Party!



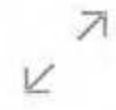


## LECHE MEXICANA

10.PNG



Date honey and agave notes. Delicioso!



## 24K MAGIC

6.PNG



Smooth . . . and incredibly delicious.



♡ 3

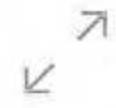


## CROWN APPLE PIE

9.PNG



Love at first sip.



♡ 2



**OMG**

14.PNG



This drink was named by customers who tried it.  
For real people, the OMG is legit!



## SPICED MILK & HONEY



2.5 oz M&H + .5 oz Fernet (Serve Hot!)

\_TOP 10  
RECIPES, BLURB, WHITE,  
PNG





## SPICEY WHITE

13.PNG



My cousin Mike's favorite. Just delicious.



DATE HONEY

STORY

RECIPES

STORES

LOVE & BLESSING



12.5% abv



# THE *REAL* MILK & HONEY

WHERE TO BUY M&H

MA

WI

NH

We're a baby brand and hope that one day,  
everybody can get Milk & Honey.

ALL NATURAL CREAM LIQUEUR - 12.5 % ABV - GLUTEN FREE



[DATE HONEY](#)

[STORY](#)

[RECIPES](#)

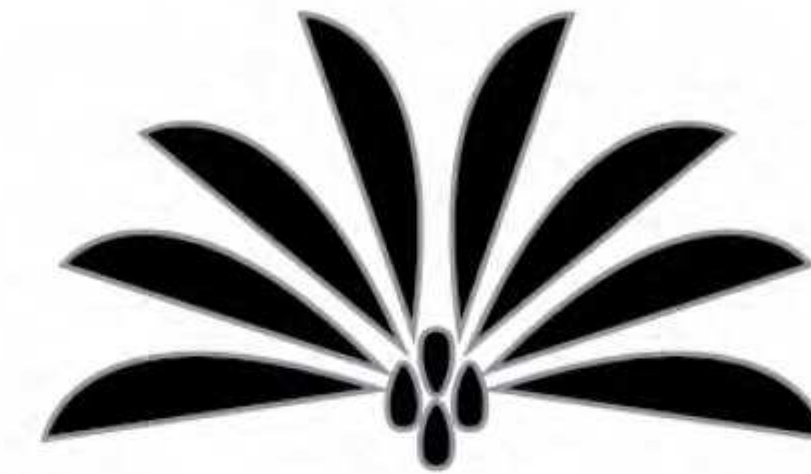
[STORES](#)

[LOVE & BLESSING](#)

## WHY 8 LEAVES ON THE PALM?

The number 7 symbolizes this world, the world of sensory experience - the days of the week, the colors of the rainbow, the notes of music. The number 8 symbolizes the "encircling light" of awareness.

The secret of the 8 is that its the place beyond the 7, beyond this world. It is the place of not knowing



## LOVE & BLESSING

The Roman general Antony gifted date plantations to Cleopatra as a sign of his love... This true romantic story inspired our drop necklace bottle design!

Our bottle design also captures the purpose of our brand, to show the world that the One Above loves us so much, he/she/it gave us Milk & Honey! The drop represents divine love coming from above. The palm represents divine blessing (people!) rising up from below. The union of love and blessing is the delight of Milk & Honey.

Milk & Honey is, truly, love and blessing in a bottle. Please, enjoy it with people you love.



Find M&H Near You

MA

WI

NH

ALL NATURAL CREAM LIQUEUR - 12.5 % ABV - GLUTEN FREE

[info@realmilkandhoney.com](mailto:info@realmilkandhoney.com)



# **EXHIBIT C**



2911 HUNTER MILL ROAD  
SUITE 303  
OAKTON, VA 22124  
t: 202-449-3739  
f: 202-478-5189  
w: www.bevlaw.com

**FRE 408 COMMUNICATION**

**July 28, 2020**

**Sent by email to:** [mh@mh-distillery.com](mailto:mh@mh-distillery.com)  
**cc:** [office@impexbev.com](mailto:office@impexbev.com)

**Sent via USPS to:** Milk & Honey Distillery Ltd.  
c/o S. Horowitz & Co.  
31 Ahad Haam St.,  
P.O.B. 2499  
6102402 Tel-Aviv  
Israel

**with a copy to:** Impex Beverages, Inc.  
360 Swift Ave.  
Side B, Ste. 9  
South San Francisco, CA 94080

**RE: UNAUTHORIZED USE OF M&H AND MILK & HONEY TRADEMARKS**

To Whom It May Concern:

We represent M&H Spirits LLC in its trademark matters. My client owns U.S. Trademark Registration No. 5,200,413 for the mark **MILK & HONEY** in connection with “liquor and liqueur beverages, namely, distilled spirits, liqueurs, and prepared alcoholic drinks”; and U.S. Trademark Registration No. 5,229,644 for the mark **M&H** in connection with the same goods. My client’s trademark registrations entitle it to the nationwide exclusive right to use the marks M&H and MILK & HONEY in connection with distilled spirits in the United States.

It has recently come to our attention that you are currently causing the importing and sale of distilled spirits products bearing the marks M&H and MILK AND HONEY in the United States. Impex Beverages, Inc., has obtained at least seven Certificates of Label Approval (“COLAs”) from the Alcohol and Tobacco Tax and Trade Bureau (TTB) for labels that prominently bear the marks M&H and MILK AND HONEY. See **Exhibit A**. Additionally, you advertise on your website that your products are available in the United States and provide a link to Impex Beverages’ webpage for your products. See **Exhibit B**. Finally, a July 10, 2020, article from Whiskey Advocate indicates that your products are available in “more than a dozen states.” See **Exhibit C**.

We understand that you operate a distillery and sell distilled spirits under the marks M&H and MILK AND HONEY in Israel. Whatever rights you may have to these marks in Israel do not, however, entitle you to use these marks in connection with distilled spirits in the United States.

There is no issue here as to whether your use of M&H and MILK AND HONEY in connection with distilled spirits in the United States is likely to cause confusion with my client's marks. The marks and goods in connection with which you use them are *identical* to the marks and goods in my client's federal trademark registrations. Your products travel in the same channels of commerce and are sold to the same class of purchasers as my client's products. Additionally, my client has been made aware of several instances of actual confusion, where consumers and industry members have mistakenly believed that your products originate with my client.

There also appears to be no issue here regarding my client's priority rights to use the marks M&H and MILK & HONEY in the United States. My client's nationwide exclusive rights to these marks began on the filing date of my client's federal trademark applications: February 11, 2015, for MILK & HONEY; and September 19, 2016, for M&H. The earliest COLA we can find for your products was issued on September 19, 2019 – *three years* after my client's priority filing date for M&H, and more than *four years* after my client's priority filing date for MILK & HONEY. An approved COLA is required before lawfully importing distilled spirits into the United States. Accordingly, we suspect that the *earliest* date you could claim lawful use of the marks M&H and/or MILK AND HONEY in the United States is September 19, 2019. If you believe that you can substantiate a date of first use that predates my client's priority date, please provide evidence showing the same.

Otherwise, given my client's priority rights to the marks M&H and MILK & HONEY, and given that your use of M&H and MILK AND HONEY is likely to cause confusion with our marks, we consider your use of these marks to constitute trademark infringement under 15 U.S.C. § 1125, and demand that you immediately cease and desist all use of the marks M&H and MILK AND HONEY and any confusingly similar marks in connection with distilled spirits and other alcoholic beverages in the United States.

It appears that you are already aware of my client's registered trademarks and that your use of the same marks is likely to cause confusion. Specifically, the USPTO has refused your applications for MILK & HONEY DISTILLERY (Serial No. 79283267); M&H WHISKY DISTILLERY (Serial No. 79283305); and a stylized design incorporating the literal element M&H WHISKEY DISTILLERY (Serial No. 79283289) based on a likelihood of confusion with my client's registered trademarks. Notwithstanding these refusals, you continue to cause your products bearing these marks to be imported into and sold in the United States, as well as continue to advertise and market your products to United



States consumers. Your continued export, sale, and advertising of your infringing products in the United States, with the knowledge of my client's federally registered trademarks and notice that they cause a likelihood of confusion, may constitute willful infringement of my client's registered trademarks.

My client is prepared to take any and all available actions at law to enforce its trademark rights in the United States. Under U.S. Trademark Law, a trademark owner is entitled to enjoin an infringer from continuing to infringe the trademark owner's rights. 15 U.S.C. § 1116. A trademark owner is also entitled to recover from an infringer the infringer's profits, the trademark owner's sustained damages, and the costs of the civil action. 15 U.S.C. § 1117. Alternatively, a trademark owner may elect to recover statutory damages, which can amount to up to \$2,000,000 per mark in the case of willful infringement.

That said, my client would prefer to avoid litigation, and believes that we can settle this matter amicably. If you agree to immediately cease and desist your infringing activity, my client is willing to discuss terms under which you may phase out your unauthorized use of my client's marks. Alternatively, my client would be willing to discuss licensing its marks to you, in exchange for payment and an ongoing royalty, and in accordance with the terms and conditions of a valid licensing agreement, so that you may continue selling your products bearing my client's marks in the United States.

**Please respond no later than August 10, 2020**, with confirmation that you have complied with our demands in this letter. Please send confirmation to me via email at [frank.knizner@bevlaw.com](mailto:frank.knizner@bevlaw.com). If you have any questions regarding this letter, I can be reached by email at the above address. We look forward to your timely response.

Sincerely,

Frank Knizner  
*Attorney for M&H Spirits LLC*

# EXHIBIT A

<b>FOR TTB USE ONLY</b>			<b>DEPARTMENT OF THE TREASURY</b> <b>ALCOHOL AND TOBACCO TAX AND TRADE BUREAU</b> <b>APPLICATION FOR AND</b> <b>CERTIFICATION/EXEMPTION OF LABEL/BOTTLE</b> <b>APPROVAL</b> (See Instructions and Paperwork Reduction Act Notice on Back)
<b>TTB ID</b> 19238001000910			
<b>1. REP. ID. NO. (If any)</b>	<b>CT</b> 191	<b>OR</b> 56	

**PART I - APPLICATION**

<b>2. PLANT REGISTRY/BASIC PERMIT/BREWER'S NO. (Required)</b> CA-I-16075		<b>3. SOURCE OF PRODUCT (Required)</b> <input type="checkbox"/> Domestic <input checked="" type="checkbox"/> Imported	<b>8. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, BASIC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DBA OR TRADENAME IF USED ON LABEL (Required)</b>  IMPEX BEVERAGES, INC. 360 SWIFT AVE SUITE 9 SI  SOUTH SAN FRANCISCO CA 94080
<b>4. SERIAL NUMBER (Required)</b> 19MH02	<b>5. TYPE OF PRODUCT (Required)</b> <input type="checkbox"/> WINE <input checked="" type="checkbox"/> DISTILLED SPIRITS <input type="checkbox"/> MALT BEVERAGE		
<b>6. BRAND NAME (Required)</b> M & H DISTILLERY		<b>8a. MAILING ADDRESS, IF DIFFERENT</b>	
<b>7. FANCIFUL NAME (If any)</b> YOUNG SINGLE MALT LIGHTLY PEATED			
<b>9. FORMULA</b>	<b>10. GRAPE VARIETAL(S) (Wine Only)</b> N/A	<b>14. TYPE OF APPLICATION (Check applicable box(es))</b> a. <input checked="" type="checkbox"/> CERTIFICATE OF LABEL APPROVAL  b. <input type="checkbox"/> CERTIFICATE OF EXEMPTION FROM LABEL APPROVAL "For sale in _____ only" (Fill in State abbreviation.)  c. <input type="checkbox"/> DISTINCTIVE LIQUOR BOTTLE APPROVAL. TOTAL BOTTLE CAPACITY BEFORE CLOSURE _____ (Fill in amount)  d. <input type="checkbox"/> RESUBMISSION AFTER REJECTION TTB ID. NO. _____	
<b>11. WINE APPELLATION (If on label)</b>			
<b>12. PHONE NUMBER</b> (650) 872-1113	<b>13. EMAIL ADDRESS</b>		

15. SHOW ANY INFORMATION THAT IS BLOWN, BRANDED, OR EMBOSSED ON THE CONTAINER (e.g., net contents) ONLY IF IT DOES NOT APPEAR ON THE LABELS AFFIXED BELOW. ALSO, SHOW TRANSLATIONS OF FOREIGN LANGUAGE TEXT APPEARING ON LABELS.

**PART II - APPLICANT'S CERTIFICATION**

Under the penalties of perjury, I declare; that all statements appearing on this application are true and correct to the best of my knowledge and belief; and, that the representations on the labels attached to this form, including supplemental documents, truly and correctly represent the content of the containers to which these labels will be applied. I also certify that I have read, understood and complied with the conditions and instructions which are attached to an original TTB F 5100.31, Certificate/Exemption of Label/Bottle Approval.

<b>16. DATE OF APPLICATION</b> 08/26/2019	<b>17. SIGNATURE OF APPLICANT OR AUTHORIZED AGENT</b> (Application was e-filed)	<b>18. PRINT NAME OF APPLICANT OR AUTHORIZED AGENT</b> SAM FILMUS
--	--	--

**PART III - TTB CERTIFICATE**

This certificate is issued subject to applicable laws, regulations and conditions as set forth in the instructions portion of this form.

<b>19. DATE ISSUED</b> 09/19/2019	<b>20. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU</b>
--------------------------------------	---

*Manoah L. Heath*

**FOR TTB USE ONLY**

**QUALIFICATIONS**

TTB has not reviewed this label for type size, characters per inch or contrasting background. The responsible industry member must continue to ensure that the mandatory information on the actual labels is displayed in the correct type size, number of characters per inch, and on a contrasting background in accordance with the TTB labeling regulations, 27 CFR parts 4, 5, 7, and 16, as applicable.

**STATUS**

THE STATUS IS APPROVED.

**CLASS/TYPE DESCRIPTION**

OTHER IMPORTED WHISKY FB

**EXPIRATION DATE (if any)**

AFFIX COMPLETE SET OF LABELS BELOW

Image Type:

Brand (front) or keg collar

Actual Dimensions: 7 inches W X 4.2 inches H

Note: The image below has been reduced to fit the page. See actual dimensions above.



Image Type:

Back

Actual Dimensions: 2.5 inches W X 3.5 inches H

**WHISKY**  
**IN BLOOM YOUNG SINGLE MALT**  
46% alc/vol [92 proof] | 750ml  
PRODUCED AND BOTTLED BY:  
THE M&H DISTILLERY, TEL-AVIV, ISRAEL  
www.mh-distillery.com  
IMPORTED BY:  
IMPEX BEVERAGES, INC.  
SOUTH SAN FRANCISCO, CA 94080  
WWW.IMPEXBEV.COM

**KOSHER**  
BY TEL AVIV RABBINATE



GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

---

TTB F 5100.31 (06-2016) PREVIOUS EDITIONS ARE OBSOLETE



<b>FOR TTB USE ONLY</b>			<b>DEPARTMENT OF THE TREASURY</b> <b>ALCOHOL AND TOBACCO TAX AND TRADE BUREAU</b> <b>APPLICATION FOR AND</b> <b>CERTIFICATION/EXEMPTION OF LABEL/BOTTLE</b> <b>APPROVAL</b> (See Instructions and Paperwork Reduction Act Notice on Back)
<b>TTB ID</b> 19353001001078			
<b>1. REP. ID. NO. (If any)</b>	<b>CT</b> 191	<b>OR</b> 56	

**PART I - APPLICATION**

<b>2. PLANT REGISTRY/BASIC PERMIT/BREWER'S NO. (Required)</b> CA-I-16075	<b>3. SOURCE OF PRODUCT (Required)</b> <input type="checkbox"/> Domestic <input checked="" type="checkbox"/> Imported	<b>8. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, BASIC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DBA OR TRADENAME IF USED ON LABEL (Required)</b>  IMPEX BEVERAGES, INC. 360 SWIFT AVE SUITE 9 SI  SOUTH SAN FRANCISCO CA 94080
<b>4. SERIAL NUMBER (Required)</b> 19MH03	<b>5. TYPE OF PRODUCT (Required)</b> <input type="checkbox"/> WINE <input checked="" type="checkbox"/> DISTILLED SPIRITS <input type="checkbox"/> MALT BEVERAGE	

<b>6. BRAND NAME (Required)</b> M&H DISTILLERY	<b>8a. MAILING ADDRESS, IF DIFFERENT</b>
<b>7. FANCIFUL NAME (If any)</b> CLASSIC	

<b>9. FORMULA</b>	<b>10. GRAPE VARIETAL(S) (Wine Only)</b> N/A	<b>14. TYPE OF APPLICATION (Check applicable box(es))</b> a. <input checked="" type="checkbox"/> CERTIFICATE OF LABEL APPROVAL  b. <input type="checkbox"/> CERTIFICATE OF EXEMPTION FROM LABEL APPROVAL "For sale in _____ only" (Fill in State abbreviation.)  c. <input type="checkbox"/> DISTINCTIVE LIQUOR BOTTLE APPROVAL. TOTAL BOTTLE CAPACITY BEFORE CLOSURE _____ (Fill in amount)  d. <input type="checkbox"/> RESUBMISSION AFTER REJECTION TTB ID. NO. _____
<b>11. WINE APPELLATION (If on label)</b>		
<b>12. PHONE NUMBER</b> (650) 872-1113	<b>13. EMAIL ADDRESS</b>	

15. SHOW ANY INFORMATION THAT IS BLOWN, BRANDED, OR EMBOSSED ON THE CONTAINER (e.g., net contents) ONLY IF IT DOES NOT APPEAR ON THE LABELS AFFIXED BELOW. ALSO, SHOW TRANSLATIONS OF FOREIGN LANGUAGE TEXT APPEARING ON LABELS.

**PART II - APPLICANT'S CERTIFICATION**

Under the penalties of perjury, I declare; that all statements appearing on this application are true and correct to the best of my knowledge and belief; and, that the representations on the labels attached to this form, including supplemental documents, truly and correctly represent the content of the containers to which these labels will be applied. I also certify that I have read, understood and complied with the conditions and instructions which are attached to an original TTB F 5100.31, Certificate/Exemption of Label/Bottle Approval.

<b>16. DATE OF APPLICATION</b> 12/19/2019	<b>17. SIGNATURE OF APPLICANT OR AUTHORIZED AGENT</b> (Application was e-filed)	<b>18. PRINT NAME OF APPLICANT OR AUTHORIZED AGENT</b> SAM FILMUS
--	--	--

**PART III - TTB CERTIFICATE**

This certificate is issued subject to applicable laws, regulations and conditions as set forth in the instructions portion of this form.

<b>19. DATE ISSUED</b> 01/07/2020	<b>20. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU</b>
--------------------------------------	---

	
--	--

**FOR TTB USE ONLY**

**QUALIFICATIONS**

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**EXPIRATION DATE (if any)**

**STATUS**

THE STATUS IS APPROVED.

**CLASS/TYPE DESCRIPTION**

OTHER IMPORTED WHISKY FB

AFFIX COMPLETE SET OF LABELS BELOW

Image Type:

Brand (front) or keg collar

Actual Dimensions: 3.35 inches W X 5 inches H



Image Type:

Back

Actual Dimensions: 2.75 inches W X 3.74 inches H



TTB F 5100.31 (06-2016) PREVIOUS EDITIONS ARE OBSOLETE

<b>FOR TTB USE ONLY</b>			<b>DEPARTMENT OF THE TREASURY</b> <b>ALCOHOL AND TOBACCO TAX AND TRADE BUREAU</b> <b>APPLICATION FOR AND</b> <b>CERTIFICATION/EXEMPTION OF LABEL/BOTTLE</b> <b>APPROVAL</b> (See Instructions and Paperwork Reduction Act Notice on Back)
<b>TTB ID</b> 20003001000635			
<b>1. REP. ID. NO. (If any)</b>	<b>CT</b> 191	<b>OR</b> 56	

**PART I - APPLICATION**

<b>2. PLANT REGISTRY/BASIC PERMIT/BREWER'S NO. (Required)</b> CA-I-16075		<b>3. SOURCE OF PRODUCT (Required)</b> <input type="checkbox"/> Domestic <input checked="" type="checkbox"/> Imported	<b>8. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, BASIC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DBA OR TRADENAME IF USED ON LABEL (Required)</b>  IMPEX BEVERAGES, INC. 360 SWIFT AVE SUITE 9 SI  SOUTH SAN FRANCISCO CA 94080
<b>4. SERIAL NUMBER (Required)</b> 20MH05	<b>5. TYPE OF PRODUCT (Required)</b> <input type="checkbox"/> WINE <input checked="" type="checkbox"/> DISTILLED SPIRITS <input type="checkbox"/> MALT BEVERAGE		
<b>6. BRAND NAME (Required)</b> M&H DISTILLERY		<b>8a. MAILING ADDRESS, IF DIFFERENT</b>	
<b>7. FANCIFUL NAME (If any)</b> ELEMENTS SHERRY			
<b>9. FORMULA</b>	<b>10. GRAPE VARIETAL(S) (Wine Only)</b> N/A	<b>14. TYPE OF APPLICATION (Check applicable box(es))</b> a. <input checked="" type="checkbox"/> CERTIFICATE OF LABEL APPROVAL  b. <input type="checkbox"/> CERTIFICATE OF EXEMPTION FROM LABEL APPROVAL "For sale in _____ only" (Fill in State abbreviation.)  c. <input type="checkbox"/> DISTINCTIVE LIQUOR BOTTLE APPROVAL. TOTAL BOTTLE CAPACITY BEFORE CLOSURE _____ (Fill in amount)  d. <input type="checkbox"/> RESUBMISSION AFTER REJECTION TTB ID. NO. _____	
<b>11. WINE APPELLATION (If on label)</b>			
<b>12. PHONE NUMBER</b> (650) 872-1113	<b>13. EMAIL ADDRESS</b>		

15. SHOW ANY INFORMATION THAT IS BLOWN, BRANDED, OR EMBOSSED ON THE CONTAINER (e.g., net contents) ONLY IF IT DOES NOT APPEAR ON THE LABELS AFFIXED BELOW. ALSO, SHOW TRANSLATIONS OF FOREIGN LANGUAGE TEXT APPEARING ON LABELS.

**PART II - APPLICANT'S CERTIFICATION**

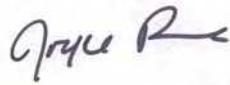
Under the penalties of perjury, I declare; that all statements appearing on this application are true and correct to the best of my knowledge and belief; and, that the representations on the labels attached to this form, including supplemental documents, truly and correctly represent the content of the containers to which these labels will be applied. I also certify that I have read, understood and complied with the conditions and instructions which are attached to an original TTB F 5100.31, Certificate/Exemption of Label/Bottle Approval.

<b>16. DATE OF APPLICATION</b> 01/03/2020	<b>17. SIGNATURE OF APPLICANT OR AUTHORIZED AGENT</b> (Application was e-filed)	<b>18. PRINT NAME OF APPLICANT OR AUTHORIZED AGENT</b> SAM FILMUS
--	--	--

**PART III - TTB CERTIFICATE**

This certificate is issued subject to applicable laws, regulations and conditions as set forth in the instructions portion of this form.

<b>19. DATE ISSUED</b> 01/21/2020	<b>20. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU</b>
--------------------------------------	---


**FOR TTB USE ONLY**
**QUALIFICATIONS**

TTB has not reviewed this label for type size, characters per inch or contrasting background. The responsible industry member must continue to ensure that the mandatory information on the actual labels is displayed in the correct type size, number of characters per inch, and on a contrasting background in accordance with the TTB labeling regulations, 27 CFR parts 4, 5, 7, and 16, as applicable.

**EXPIRATION DATE (if any)**
**STATUS**

THE STATUS IS APPROVED.

**CLASS/TYPE DESCRIPTION**

OTHER IMPORTED WHISKY FB

AFFIX COMPLETE SET OF LABELS BELOW

Image Type:

Brand (front) or keg collar

Actual Dimensions: 3.35 inches W X 5 inches H



Image Type:

Back

Actual Dimensions: 2.75 inches W X 3.74 inches H



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TTB F 5100.31 (06-2016) PREVIOUS EDITIONS ARE OBSOLETE

<b>FOR TTB USE ONLY</b>			<b>DEPARTMENT OF THE TREASURY</b> <b>ALCOHOL AND TOBACCO TAX AND TRADE BUREAU</b> <b>APPLICATION FOR AND</b> <b>CERTIFICATION/EXEMPTION OF LABEL/BOTTLE</b> <b>APPROVAL</b> (See Instructions and Paperwork Reduction Act Notice on Back)
<b>TTB ID</b> 20166001000070			
<b>1. REP. ID. NO. (If any)</b>	<b>CT</b> 191	<b>OR</b> 56	

**PART I - APPLICATION**

<b>2. PLANT REGISTRY/BASIC PERMIT/BREWER'S NO. (Required)</b> CA-I-16075		<b>3. SOURCE OF PRODUCT (Required)</b> <input type="checkbox"/> Domestic <input checked="" type="checkbox"/> Imported		<b>8. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, BASIC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DBA OR TRADENAME IF USED ON LABEL (Required)</b>  IMPEX BEVERAGES, INC. 360 SWIFT AVE SUITE 9 SI  SOUTH SAN FRANCISCO CA 94080	
<b>4. SERIAL NUMBER (Required)</b> 20MHE1		<b>5. TYPE OF PRODUCT (Required)</b> <input type="checkbox"/> WINE <input checked="" type="checkbox"/> DISTILLED SPIRITS <input type="checkbox"/> MALT BEVERAGE			
<b>6. BRAND NAME (Required)</b> M&H DISTILLERY			<b>8a. MAILING ADDRESS, IF DIFFERENT</b>		
<b>7. FANCIFUL NAME (If any)</b> ELEMENTS PEATED					
<b>9. FORMULA</b>		<b>10. GRAPE VARIETAL(S) (Wine Only)</b> N/A		<b>14. TYPE OF APPLICATION (Check applicable box(es))</b> a. <input checked="" type="checkbox"/> CERTIFICATE OF LABEL APPROVAL  b. <input type="checkbox"/> CERTIFICATE OF EXEMPTION FROM LABEL APPROVAL "For sale in _____ only" (Fill in State abbreviation.)  c. <input type="checkbox"/> DISTINCTIVE LIQUOR BOTTLE APPROVAL. TOTAL BOTTLE CAPACITY BEFORE CLOSURE _____ (Fill in amount)  d. <input type="checkbox"/> RESUBMISSION AFTER REJECTION TTB ID. NO. _____	
<b>11. WINE APPELLATION (If on label)</b>					
<b>12. PHONE NUMBER</b> (650) 872-1113		<b>13. EMAIL ADDRESS</b>			

15. SHOW ANY INFORMATION THAT IS BLOWN, BRANDED, OR EMBOSSED ON THE CONTAINER (e.g., net contents) ONLY IF IT DOES NOT APPEAR ON THE LABELS AFFIXED BELOW. ALSO, SHOW TRANSLATIONS OF FOREIGN LANGUAGE TEXT APPEARING ON LABELS.

**PART II - APPLICANT'S CERTIFICATION**

Under the penalties of perjury, I declare; that all statements appearing on this application are true and correct to the best of my knowledge and belief; and, that the representations on the labels attached to this form, including supplemental documents, truly and correctly represent the content of the containers to which these labels will be applied. I also certify that I have read, understood and complied with the conditions and instructions which are attached to an original TTB F 5100.31, Certificate/Exemption of Label/Bottle Approval.

<b>16. DATE OF APPLICATION</b> 06/14/2020	<b>17. SIGNATURE OF APPLICANT OR AUTHORIZED AGENT</b> (Application was e-filed)	<b>18. PRINT NAME OF APPLICANT OR AUTHORIZED AGENT</b> SAM FILMUS
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**PART III - TTB CERTIFICATE**

This certificate is issued subject to applicable laws, regulations and conditions as set forth in the instructions portion of this form.

<b>19. DATE ISSUED</b> 07/09/2020	<b>20. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU</b>
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**FOR TTB USE ONLY**

**QUALIFICATIONS**

TTB has not reviewed this label for type size, characters per inch or contrasting background. The responsible industry member must continue to ensure that the mandatory information on the actual labels is displayed in the correct type size, number of characters per inch, and on a contrasting background in accordance with the TTB labeling regulations, 27 CFR parts 4, 5, 7, and 16, as applicable.

**EXPIRATION DATE (if any)**

**STATUS**

THE STATUS IS APPROVED.

**CLASS/TYPE DESCRIPTION**

OTHER IMPORTED WHISKY FB

AFFIX COMPLETE SET OF LABELS BELOW

Image Type:

Brand (front) or keg collar

Actual Dimensions: 3.35 inches W X 5 inches H



Image Type:



Back

Actual Dimensions: 2.75 inches W X 3.74 inches H



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TTB F 5100.31 (06-2016) PREVIOUS EDITIONS ARE OBSOLETE

<b>FOR TTB USE ONLY</b>			<b>DEPARTMENT OF THE TREASURY</b> <b>ALCOHOL AND TOBACCO TAX AND TRADE BUREAU</b> <b>APPLICATION FOR AND</b> <b>CERTIFICATION/EXEMPTION OF LABEL/BOTTLE</b> <b>APPROVAL</b> (See Instructions and Paperwork Reduction Act Notice on Back)
<b>TTB ID</b> 20166001000071			
<b>1. REP. ID. NO. (If any)</b>	<b>CT</b> 191	<b>OR</b> 56	

**PART I - APPLICATION**

<b>2. PLANT REGISTRY/BASIC PERMIT/BREWER'S NO. (Required)</b> CA-I-16075		<b>3. SOURCE OF PRODUCT (Required)</b> <input type="checkbox"/> Domestic <input checked="" type="checkbox"/> Imported	<b>8. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, BASIC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DBA OR TRADENAME IF USED ON LABEL (Required)</b>  IMPEX BEVERAGES, INC. 360 SWIFT AVE SUITE 9 SI  SOUTH SAN FRANCISCO CA 94080
<b>4. SERIAL NUMBER (Required)</b> 20MHE2	<b>5. TYPE OF PRODUCT (Required)</b> <input type="checkbox"/> WINE <input checked="" type="checkbox"/> DISTILLED SPIRITS <input type="checkbox"/> MALT BEVERAGE		
<b>6. BRAND NAME (Required)</b> M&H DISTILLERY		<b>8a. MAILING ADDRESS, IF DIFFERENT</b>	
<b>7. FANCIFUL NAME (If any)</b> ELEMENTS RED WINE CASK			
<b>9. FORMULA</b>	<b>10. GRAPE VARIETAL(S) (Wine Only)</b> N/A	<b>14. TYPE OF APPLICATION (Check applicable box(es))</b> a. <input checked="" type="checkbox"/> CERTIFICATE OF LABEL APPROVAL  b. <input type="checkbox"/> CERTIFICATE OF EXEMPTION FROM LABEL APPROVAL "For sale in _____ only" (Fill in State abbreviation.)  c. <input type="checkbox"/> DISTINCTIVE LIQUOR BOTTLE APPROVAL. TOTAL BOTTLE CAPACITY BEFORE CLOSURE _____ (Fill in amount)  d. <input type="checkbox"/> RESUBMISSION AFTER REJECTION TTB ID. NO. _____	
<b>11. WINE APPELLATION (If on label)</b>			
<b>12. PHONE NUMBER</b> (650) 872-1113	<b>13. EMAIL ADDRESS</b>		

15. SHOW ANY INFORMATION THAT IS BLOWN, BRANDED, OR EMBOSSED ON THE CONTAINER (e.g., net contents) ONLY IF IT DOES NOT APPEAR ON THE LABELS AFFIXED BELOW. ALSO, SHOW TRANSLATIONS OF FOREIGN LANGUAGE TEXT APPEARING ON LABELS.

**PART II - APPLICANT'S CERTIFICATION**

Under the penalties of perjury, I declare; that all statements appearing on this application are true and correct to the best of my knowledge and belief; and, that the representations on the labels attached to this form, including supplemental documents, truly and correctly represent the content of the containers to which these labels will be applied. I also certify that I have read, understood and complied with the conditions and instructions which are attached to an original TTB F 5100.31, Certificate/Exemption of Label/Bottle Approval.

<b>16. DATE OF APPLICATION</b> 06/14/2020	<b>17. SIGNATURE OF APPLICANT OR AUTHORIZED AGENT</b> (Application was e-filed)	<b>18. PRINT NAME OF APPLICANT OR AUTHORIZED AGENT</b> SAM FILMUS
--	--	--

**PART III - TTB CERTIFICATE**

This certificate is issued subject to applicable laws, regulations and conditions as set forth in the instructions portion of this form.

<b>19. DATE ISSUED</b> 07/08/2020	<b>20. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU</b>
--------------------------------------	---

*Authentic Imported*

**FOR TTB USE ONLY**

**QUALIFICATIONS**

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**EXPIRATION DATE (if any)**

**STATUS**

THE STATUS IS APPROVED.

**CLASS/TYPE DESCRIPTION**

OTHER IMPORTED WHISKY FB

AFFIX COMPLETE SET OF LABELS BELOW

Image Type:

Brand (front) or keg collar

Actual Dimensions: 3.35 inches W X 5 inches H



Image Type:

Back

Actual Dimensions: 2.75 inches W X 3.74 inches H



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TTB F 5100.31 (06-2016) PREVIOUS EDITIONS ARE OBSOLETE

<b>FOR TTB USE ONLY</b>			<b>DEPARTMENT OF THE TREASURY</b> <b>ALCOHOL AND TOBACCO TAX AND TRADE BUREAU</b> <b>APPLICATION FOR AND</b> <b>CERTIFICATION/EXEMPTION OF LABEL/BOTTLE</b> <b>APPROVAL</b>  (See Instructions and Paperwork Reduction Act Notice on Back)		
TTB ID 20166001000081					
1. REP. ID. NO. (If any)	CT 191	OR 56			

**PART I - APPLICATION**

2. PLANT REGISTRY/BASIC PERMIT/BREWER'S NO. (Required) CA-I-16075		3. SOURCE OF PRODUCT (Required) <input type="checkbox"/> Domestic <input checked="" type="checkbox"/> Imported		8. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, BASIC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DBA OR TRADENAME IF USED ON LABEL (Required)  IMPEX BEVERAGES, INC. 360 SWIFT AVE SUITE 9 SI  SOUTH SAN FRANCISCO CA 94080	
4. SERIAL NUMBER (Required) 20IMP4		5. TYPE OF PRODUCT (Required) <input type="checkbox"/> WINE <input checked="" type="checkbox"/> DISTILLED SPIRITS <input type="checkbox"/> MALT BEVERAGE			
6. BRAND NAME (Required) THE IMPEX COLLECTION			8a. MAILING ADDRESS, IF DIFFERENT		
7. FANCIFUL NAME (If any) M&H SINGLE CASK					
9. FORMULA		10. GRAPE VARIETAL(S) (Wine Only) N/A		14. TYPE OF APPLICATION (Check applicable box(es))	
11. WINE APPELLATION (If on label)				a. <input checked="" type="checkbox"/> CERTIFICATE OF LABEL APPROVAL	
12. PHONE NUMBER (650) 872-1113		13. EMAIL ADDRESS		b. <input type="checkbox"/> CERTIFICATE OF EXEMPTION FROM LABEL APPROVAL "For sale in _____ only" (Fill in State abbreviation.)	
				c. <input type="checkbox"/> DISTINCTIVE LIQUOR BOTTLE APPROVAL. TOTAL BOTTLE CAPACITY BEFORE CLOSURE _____ (Fill in amount)	
				d. <input type="checkbox"/> RESUBMISSION AFTER REJECTION TTB ID. NO. _____	

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**PART II - APPLICANT'S CERTIFICATION**

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16. DATE OF APPLICATION 06/14/2020	17. SIGNATURE OF APPLICANT OR AUTHORIZED AGENT (Application was e-filed)	18. PRINT NAME OF APPLICANT OR AUTHORIZED AGENT SAM FILMUS
---------------------------------------	---	---

**PART III - TTB CERTIFICATE**

This certificate is issued subject to applicable laws, regulations and conditions as set forth in the instructions portion of this form.

19. DATE ISSUED 06/22/2020	20. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
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Case 2:22-cv-00397 Filed 03/30/22 Page 21 of 41 Document 1-3

*Marsha L. Heath*

**FOR TTB USE ONLY**

**QUALIFICATIONS**

TTB has not reviewed this label for type size, characters per inch or contrasting background. The responsible industry member must continue to ensure that the mandatory information on the actual labels is displayed in the correct type size, number of characters per inch, and on a contrasting background in accordance with the TTB labeling regulations, 27 CFR parts 4, 5, 7, and 16, as applicable.

**EXPIRATION DATE (if any)**

**STATUS**

THE STATUS IS APPROVED.

**CLASS/TYPE DESCRIPTION**

OTHER IMPORTED WHISKY FB

AFFIX COMPLETE SET OF LABELS BELOW

Image Type:

Brand (front) or keg collar

Actual Dimensions: 3.27 inches W X 2.25 inches H



Image Type:

Back

Actual Dimensions: 3.27 inches W X 2.25 inches H



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TTB F 5100.31 (06-2016) PREVIOUS EDITIONS ARE OBSOLETE

<b>FOR TTB USE ONLY</b>			<b>DEPARTMENT OF THE TREASURY</b> <b>ALCOHOL AND TOBACCO TAX AND TRADE BUREAU</b> <b>APPLICATION FOR AND</b> <b>CERTIFICATION/EXEMPTION OF LABEL/BOTTLE</b> <b>APPROVAL</b>  (See Instructions and Paperwork Reduction Act Notice on Back)		
TTB ID 20177001000904					
1. REP. ID. NO. (If any)	CT 191	OR 56			

**PART I - APPLICATION**

2. PLANT REGISTRY/BASIC PERMIT/BREWER'S NO. (Required) CA-I-16075		3. SOURCE OF PRODUCT (Required) <input type="checkbox"/> Domestic <input checked="" type="checkbox"/> Imported		8. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, BASIC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DBA OR TRADENAME IF USED ON LABEL (Required)  IMPEX BEVERAGES, INC. 360 SWIFT AVE SUITE 9 SI  SOUTH SAN FRANCISCO CA 94080	
4. SERIAL NUMBER (Required) 20MH11		5. TYPE OF PRODUCT (Required) <input type="checkbox"/> WINE <input checked="" type="checkbox"/> DISTILLED SPIRITS <input type="checkbox"/> MALT BEVERAGE			
6. BRAND NAME (Required) THE IMPEX COLLECTION			8a. MAILING ADDRESS, IF DIFFERENT		
7. FANCIFUL NAME (If any) M&H SINGLE CASK					
9. FORMULA		10. GRAPE VARIETAL(S) (Wine Only) N/A		14. TYPE OF APPLICATION (Check applicable box(es))	
11. WINE APPELLATION (If on label)				a. <input checked="" type="checkbox"/> CERTIFICATE OF LABEL APPROVAL	
12. PHONE NUMBER (650) 872-1113		13. EMAIL ADDRESS		b. <input type="checkbox"/> CERTIFICATE OF EXEMPTION FROM LABEL APPROVAL "For sale in _____ only" (Fill in State abbreviation.)	
				c. <input type="checkbox"/> DISTINCTIVE LIQUOR BOTTLE APPROVAL. TOTAL BOTTLE CAPACITY BEFORE CLOSURE _____ (Fill in amount)	
				d. <input type="checkbox"/> RESUBMISSION AFTER REJECTION TTB ID. NO. _____	

15. SHOW ANY INFORMATION THAT IS BLOWN, BRANDED, OR EMBOSSED ON THE CONTAINER (e.g., net contents) ONLY IF IT DOES NOT APPEAR ON THE LABELS AFFIXED BELOW. ALSO, SHOW TRANSLATIONS OF FOREIGN LANGUAGE TEXT APPEARING ON LABELS.

**PART II - APPLICANT'S CERTIFICATION**

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16. DATE OF APPLICATION 06/25/2020	17. SIGNATURE OF APPLICANT OR AUTHORIZED AGENT (Application was e-filed)	18. PRINT NAME OF APPLICANT OR AUTHORIZED AGENT SAM FILMUS
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**PART III - TTB CERTIFICATE**

This certificate is issued subject to applicable laws, regulations and conditions as set forth in the instructions portion of this form.

19. DATE ISSUED 06/29/2020	20. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
-------------------------------	--

Case 2:22-cv-00397 Filed 03/30/22 Page 24 of 41 Document 1-3




**FOR TTB USE ONLY**
**QUALIFICATIONS**

TTB has not reviewed this label for type size, characters per inch or contrasting background. The responsible industry member must continue to ensure that the mandatory information on the actual labels is displayed in the correct type size, number of characters per inch, and on a contrasting background in accordance with the TTB labeling regulations, 27 CFR parts 4, 5, 7, and 16, as applicable.

**EXPIRATION DATE (if any)**
**STATUS**

THE STATUS IS APPROVED.

**CLASS/TYPE DESCRIPTION**

OTHER IMPORTED WHISKY FB

AFFIX COMPLETE SET OF LABELS BELOW

Image Type:

Brand (front) or keg collar

Actual Dimensions: 3.27 inches W X 2.25 inches H



Image Type:

Back

Actual Dimensions: 3.27 inches W X 2.25 inches H



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**TTB F 5100.31** (06-2016) PREVIOUS EDITIONS ARE OBSOLETE

# EXHIBIT B



Australia



Austria



Belgium



Canada



Poland



USA



Spain



The Netherlands



France



Norway



Denmark



Israel



Germany



South Africa



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**M&H**  
**WHISKY DISTILLERY**

Take true passion for single malt whisky, add the boldness and cutting-edge innovation that the Israeli startup ecosystem is famous for, mix it with no-compromising commitment to craftsmanship and tradition, and you get M&H, Israel's first whisky distillery.

Founded in 2012, under the expert guidance of the late Dr. Jim Swan, the passionate and dedicated team of the M&H distillery has boldly crafted single malt spirits, matured by the hot and humid climate of vibrant Tel Aviv.

The casks that the M&H distillery use to mature their spirit ensure a wide and exceptional spectrum of flavors.

The core range are ex-bourbon casks along with red wine STR casks. The M&H team are always on the lookout for unique barrels such as pomegranate wine, red wine casks from

selected wineries in Israel, kosher sherry, 400 liters French Limousin oak casks that were used to mature Kosher Cognac, rum, etc.

## Double Cask



### Stay Updated on the Whisky News ×

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#### Reviews

This special edition of our Whisky in Bloom has characteristics that will reflect our future classic single malt whisky.

A unique double cask bottling: ex-red wine (STR) and ex-bourbon, aged for only 24 months.

Surprisingly well-balanced and smooth, with dominant notes of vanilla and oak.

## Lightly Peated – Triple Cask

#### Description

#### Tasting Notes

#### Reviews

This is a special single malt blend of three cask types: ex-bourbon, ex-red wine (STR) and ex-Islay casks previously used to mature peated whisky from Islay in Scotland.



The ex-Islay casks provide an additional layer of light peatiness and maritime aroma.

Each of the different casks

✕

## Stay Updated on the Whisky News

Sign Up Now

## Classic Single Malt

Description
Tasting Notes
Awards
<p>Arriving June/July</p> <p>The first commercial Single Malt Whisky by M&amp;H</p> <p>Classic single malt whisky is made using the finest ex-bourbon casks and our special red-wine STR casks, giving it a light and balanced character.</p> <p>Matured under the Tel Avivi'n sun.</p>



✕

## Stay Updated on the Whisky News

## Levantine Gin

Description
Tasting Notes
<p>Arriving June/July</p> <p>Gin starts the same as M&amp;H single malt series – 100% pure malted barley that’s mashed in-house and distilled in the pot still. Then a heap of Juniper is added and botanicals, hand-sourced from Tel Aviv’s Levinsky market: organum syriacum, lemon peel, orange, chamomile, verbena, cinnamon, and black pepper. Then the botanicals let rest in the still for 48 hours and then distill for the third time in M&amp;H 250L pot still, for</p>





# M&H Elements Sherry



## Description

## Tasting Notes

M&H Elements Sherry is the first ever single malt whisky that was matured in Kosher sherry casks, seasoned exclusively for our distillery – straight from Jerez. Bourbon, Oloroso and PX sherry casks characterized its fruity flavors, rich aromas, with a special deep and natural color. Matured under the Tel Aviv sun.



# EXHIBIT C

WHISKY WEEKEND (/TAG/WHISKY-WEEKEND/)

Nikka Days, Booker's Boston Batch & More New Whisky

JULY 10, 2020 | WHISKY ADVOCATE ([HTTPS://WWW.WHISKYADVOCATE.COM/AUTHOR/ADMIN/](https://www.whiskyadvocate.com/author/admin/))



Nikka Days, which is intended for everyday sipping, will now be available in the U.S.

The summer days are growing hotter and if you're like us, you're [mixing some cocktails](/magazine/summer-2020-cocktails-made-simple/) into your whisky regimen. But this week also brings a diverse array of options for those seeking a new dram to try neat.

Japan's [Nikka Whisky](https://www.nikka.com/eng/) is bringing their Nikka Days blend stateside. The 40% ABV whisky, priced at \$50, is intended to be sipped during casual everyday drinking occasions, and available in a handful of states with expansion planned next year.

The second [Booker's](https://www.bookersbourbon.com/home) release of the year is here. Named "Boston Batch," it is limited and listed for \$90.

[Michter's](https://michters.com) is rolling out their 10 year old Single Barrel rye for \$160. This will be the only release of the 10 year old rye this year, with limited availability.

[Milk & Honey Distillery](https://mh-distillery.com) in Israel has two new whiskies: their flagship Classic (\$60) and the partially sh



**Kilchoman** (<https://kilchomandistillery.com/?v=7516fd43adaa>), has a 14 year old single cask on the way, that is one of—if not the—oldest releases from the Islay distillery. There are just over 200 bottles available in the U.S., priced at \$220.

And finally, **Garrison Brothers** (<https://www.garrisonbros.com>), in Texas has a honey-infused bourbon coming later this month for \$90. Currently available only at the distillery, the whiskey will be available nationwide in August.

Read on for full details.



### **NIKKA DAYS**

Style: Blended whisky

Origin: Japan

Age: Not stated

Proof: 40% ABV

Price: \$50

Release: July 2020

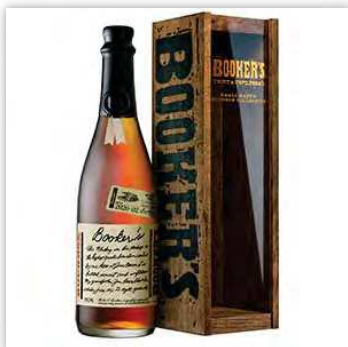
Availability: CA, FL, IL, MA, NY, TX, and TN

#### **Need to know:**

Japan's Nikka Whisky is bringing a new blend, Nikka Days, stateside with an emphasis on casual everyday sipping. The blend includes [Coffey Grain Whisky](/ratings-reviews/?search=&submit=&review_id=2902) ([/ratings-reviews/?search=&submit=&review\\_id=2902](/ratings-reviews/?search=&submit=&review_id=2902)), and non-peated Miyagikyo malts, along with a touch of [Coffey Malt Whisky](/ratings-reviews/?search=&submit=&review_id=2374) ([/ratings-reviews/?search=&submit=&review\\_id=2374](/ratings-reviews/?search=&submit=&review_id=2374)) and Yoichi malts. The whisky is available in select markets with expansion planned in 2021.

#### **Whisky Advocate says:**

Nikka Days was previously available overseas, but this summer marks its U.S. debut. Nikka deployed a similar rollout in 2018 for Nikka From the Barrel which went on to earn our top prize of [Whisky of the Year](/top20/2018/1-nikka-from-the-barrel/) (</top20/2018/1-nikka-from-the-barrel/>). While that whisky, at 51.4% ABV, was a good deal stronger than Days, we are eager to taste the new release all the same. Look for a review in an upcoming issue.



### **BOOKER'S 2020-02 "BOSTON BATCH"**

Style: Straight bourbon

Origin: Kentucky

Age: 6 years, 3 months, 10 days

Proof: 63.25% ABV

Price: \$90

Release: July

Availability: Limited

#### **Need to know:**

Following up 2020-01 "Granny's Batch," released in March, comes the second Booker's release of the year.

#### **Whisky Advocate says:**

The name refers not to the city in Massachusetts, but Boston, Kentucky, home to the production site where Booker Noe first started his distilling career. Purchased by the **James B. Beam Distilling Co.** (<https://www.jimbeam.com/>), in the early 1950's, and used for mass-scale production, the facility, now known as the Booker Noe Distillery, was later removed from day-to-day operations, allowing Booker to experiment more. Legend has it that if you were looking for Booker, you'd find him in Boston.

While each batch of Booker's is distinct in its own way, they are consistently high quality with "Granny's Batch" scoring **93 points** ([/ratings-reviews/?search=&submit=&review\\_id=5360](/ratings-reviews/?search=&submit=&review_id=5360)) in the Summer 2020 Buying Guide. We look forward to trying "Boston Batch" and seeing how it compares.



### **MICTER'S 10 YEAR OLD SINGLE BARREL RYE (2020 RELEASE)**

Style: Straight rye  
Origin: Kentucky  
Age: 10 years old  
Proof: 46.4% ABV  
Price: \$160  
Release: July 2020  
Availability: Limited

#### **Need to know:**

Michter's is releasing their latest 10 year old Single Barrel rye, which will be the only such release for 2020.

#### **Whisky Advocate says:**

A highly sought-after bottle, the 10 year old Single Barrel Rye consistently scores high, with the 2019 release earning **93 points** ([/ratings-reviews/?search=&submit=&review\\_id=5128](/ratings-reviews/?search=&submit=&review_id=5128)).



### **M&H CLASSIC**

Style: Single malt  
Origin: Israel  
Age: Not stated  
Proof: 46% ABV  
Price: \$60  
Release: July 2020  
Availability: For sale in AK, CA, CO, CT, FL, GA, IN, IL, MA, MD, MN, OK, OR, NJ, NY, and TN

#### **Need to know:**

The flagship single malt from Tel Aviv's M&H Distillery, this whisky was matured in both bourbon and STR (shaved, toasted, re-charred) casks. It's non-chill filtered and certified kosher.

### **M&H ELEMENTS**





Style: Single malt

Origin: Israel

Age: Not stated

Proof: 46% ABV

Price: \$70

Release: July 2020

Availability: For sale in AK, CA, CO, CT, FL, GA, IN, IL, MA, MD, MN, OK, OR, NJ, NY, and TN

**Need to know:**

Made at Tel Aviv's M&H Distillery, this is the first single malt to be matured in kosher sherry casks—in this case, oloroso and Pedro Ximénez sherry—as well as bourbon casks.

**Whisky Advocate says:**

While some folks who keep kosher (including some rabbis who rule on what is or isn't kosher) hold that all whiskies are kosher, others have divergent opinions about whiskies matured in wine casks, including sherry casks. M&H Distillery had its sherry casks custom-made and seasoned in Jerez under kosher certification guidelines, making this sherried single malt a true first.

Not many distilleries go through the rigorous steps of producing kosher whisky, although there are a few in addition to M&H. Scotland's **Tomintoul Distillery** (<https://www.tomintoulwhisky.com/>), offers a whole range of kosher single malts, and **Buffalo Trace** (<https://www.buffalotracedistillery.com/>) recently launched three kosher American whiskeys—**two straight bourbons and a straight rye** (</knob-creek-12-year-bardstown-bourbon-whiskey-whisky/>).



**KILCHOMAN 14 YEAR OLD IMPEX CASK EVOLUTION SINGLE CASK (CASK NO. 18/2006)**

Style: Single malt

Origin: Scotland (Islay)

Age: 14 years old

Proof: 53% ABV

Price: \$220

Release: July 2020

Availability: 208 bottles for the U.S. only

**Need to know:**

One of the earliest Kilchomans ever put into cask, in 2006, this single bourbon barrel yielded just 208 bottles. They're all coming to the U.S. via ImpEx Beverages, which is celebrating the 10th anniversary of its importing relationship with Kilchoman.

**Whisky Advocate says:**

In addition to the regular Kilchoman lineup, ImpEx brings in several special releases from the distillery each year, including its Cask Evolution series (**93 points** (</ratings-reviews/?>



[reviews/?search=&submit=&review\\_id=4911](#)), for the 11 year old single bourbon cask) and USA Small Batch series ([92 points](#) ([/ratings-reviews/?search=&submit=&review\\_id=5221](/ratings-reviews/?search=&submit=&review_id=5221)), for the first release and [91 points](#) ([/ratings-reviews/?search=&submit=&review\\_id=5460](/ratings-reviews/?search=&submit=&review_id=5460)), for the second release). As you can see, these bottlings typically score well. Kilchoman makes excellent whisky, and ImpEx seems to pick the best. Expect this 14 year old—the oldest Kilchoman ever bottled—to go fast.



## **GARRISON BROTHERS HONEYDEW**

Style: Honey-infused bourbon

Origin: Texas

Age: Not stated

Proof: 40% ABV

Price: \$90

Release: July 2020 at the distillery; August 2020 nationwide

Availability: Widely available

### **Need to know:**

The base whiskey in HoneyDew is Garrison Brothers Small Batch Bourbon. Master distiller Donnis Todd emptied the bourbon into stainless steel tanks to mellow for 7 months, and then sawed the barrels the bourbon aged in into cubes. The cubes were immersed in Burleson's Texas Wildflower Honey, and then infused with even more honey by Matt Albrecht of River Drive Cooperage, using a technique called "Fiber Infusion Technology." Todd then immersed the cubes in the bourbon daily for 6 months using a cheesecloth to infuse the honey from the wood into the liquid.

HoneyDew will be available nationwide in August, but Garrison Brothers is holding a **drive-thru release** ([https://www.facebook.com/events/896151604201477?context=%7B%22action\\_history%22%3A%7B%22surface%22%3A%22page%22%2C%22mechanism%22%3A%22drive-thru%22%7D%22%7D](https://www.facebook.com/events/896151604201477?context=%7B%22action_history%22%3A%7B%22surface%22%3A%22page%22%2C%22mechanism%22%3A%22drive-thru%22%7D%22%7D)) at its Hye, Texas distillery on July 18.

### ***Whisky Advocate* says:**

Though the infusion of honey technically makes this a flavored whiskey, Garrison Brothers describes HoneyDew as a honey-infused bourbon. This sets it apart from some of the well-known honey-flavored whiskeys such as Jack Daniel's Tennessee Honey and Jim Beam Honey—which both use honey liqueur and fall below the 40% ABV minimum for bourbon and American whiskey.

BOURBON ([HTTPS://WWW.WHISKYADVOCATE.COM/TAG/BOURBON/](https://www.whiskyadvocate.com/tag/bourbon/))

JAPANESE WHISKY ([HTTPS://WWW.WHISKYADVOCATE.COM/TAG/JAPANESE-WHISKY/](https://www.whiskyadvocate.com/tag/japanese-whisky/))

NEW RELEASES ([HTTPS://WWW.WHISKYADVOCATE.COM/TAG/NEW-RELEASES/](https://www.whiskyadvocate.com/tag/new-releases/))

SCOTCH ([HTTPS://WWW.WHISKYADVOCATE.COM/TAG/SCOTCH/](https://www.whiskyadvocate.com/tag/scotch/))

WHISKY WEEKEND ([HTTPS://WWW.WHISKYADVOCATE.COM/TAG/WHISKY-WEEKEND/](https://www.whiskyadvocate.com/tag/whisky-weekend/))





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 u=<https://www.whiskyadvocate.com/2021/08/26/whisky-advocate-2021-2021-nikka-days-days-bookers-boston-batch-more-new-whisky-2021/>)

MORE FROM WHISKY WEEKEND (/TAG/WHISKY-WEEKEND/)



Balcones Lineage, Compass Box Rogues' Banquet & More New Whisky  
 (<https://www.whiskyadvocate.com/balcones-lineage-compass-box-rogues-banquet-more-new-whisky/>)

Plus, Kilchoman debuts a "mess" of a scotch, Yellowstone Limited Edition 2020 has an unusual cask finish, and new releases from Nevada and California are hitting shelves.

(<https://www.whiskyadvocate.com/balcones-lineage-compass-box-rogues-banquet-more-new-whisky/>).



More Macallan Double Cask, Award-Winning Islay Scotch & More New Whisky  
 (<https://www.whiskyadvocate.com/macallan-double-cask-laphroaig-kilchoman-whisky-whiskey/>)

The 2020 Laphroaig Càirdeas features port and red wine casks, Kilchoman Loch Gorm returns, and a special edition of Westward American single malt supports small businesses.

(<https://www.whiskyadvocate.com/macallan-double-cask-laphroaig-kilchoman-whisky-whiskey/>).







Knob Creek 15 Year Old, Old Forester Birthday Bourbon & More New Whisky (<https://www.whiskyadvocate.com/knob-creek-15-year-old-forester-birthday-bourbon-whisky-whiskey/>)

Plus, Jim Beam revives a historic bourbon brand, Italy's malt whisky hits U.S. shores, and a non-alcoholic "bourbon" makes its debut.

(<https://www.whiskyadvocate.com/knob-creek-15-year-old-forester-birthday-bourbon-whisky-whiskey/>).


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## **EXHIBIT D**

September 21, 2020

VIA EMAIL  
FRANK.KNIZNER@BEVLAW.COM  
VIA FIRST-CLASS MAIL

Frank Knizner  
Lehrman Beverage Law  
2911 Hunter Mill Road  
Oakton, VA 22124

Re: Milk and Honey Distillery

Dear Mr. Knizner:

We write in response to your July 28, 2020 to Milk & Honey Distillery Ltd (“MHD”). Our client respects intellectual property rights, but it does not believe that confusion as to the source of goods is likely in this case.

To evaluate the likelihood of consumer confusion, courts apply various version of the multi-factor test set forth in *Polaroid Corp. v. Polarad Elecs. Corp.*, 287 F.2d 492, 495 (2d Cir. 1961). This test requires analysis of several non-exclusive factors, including: (1) the strength of the mark, (2) the degree of similarity between the two marks, (3) the competitive proximity of the products, (4) actual confusion, (5) the likelihood the plaintiff will bridge the gap, (6) the defendant’s good faith in adopting its mark, (7) the quality of the defendant’s products, and (8) the sophistication of the purchasers. See *Mobil Oil Corp. v. Pegasus Petroleum Corp.*, 818 F.2d 254, 256 [2 USPQ2d 1677] (2d Cir. 1987) (citing *Polaroid*, 287 F.2d at 495); *Gruner*, 991 F.2d at 1077. No single factor is dispositive, nor is a court limited to consideration of only these factors. *Polaroid*, 287 F.2d at 495. Further, “each factor must be evaluated in the context of how it bears on the ultimate question of likelihood of confusion as to the source of the product.” *Lois Sportswear, U.S.A., Inc. v. Levi Strauss & Co.*, 799 F.2d 867, 872 [230 USPQ 831] (2d Cir. 1986).

The evaluation of confusion is not taken in a vacuum but accounts for the nature of the affected consumers and their purchasing decisions. The Second Circuit has ruled that purchasers of alcoholic beverages are sophisticated consumers who understand

**Murtha Cullina LLP**  
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T 203.772.7700  
F 203.772.7723

and are not likely to be confused concerning the source of alcoholic beverages they purchase because of the use of similar marks. See generally *Star Indus., Inc. v. Bacardi & Co.*, 412 F.3d 373, 390 (2d Cir. 2005); *Banfi Products Corp. v. Kendall-Jackson Winery, Ltd.*, 74 F. Supp. 2d 188, 199 (E.D.N.Y. 1999) (determining purchasers of wine are sophisticated).

This view is supported by considerable evidence that consumers of alcoholic beverages are a sophisticated demographic with a high disposable income, education level, and life position that enables them to discriminate and distinguish between two similarly branded alcoholic beverages. See *Douglas W. Murray & Martin A. O'Neill, Craft Beer: Penetrating A Niche Market*, 114 *British Food J.* 899, 903 (2012) (“What is striking is the overall profile of the respondent sample: approximately 72 percent . . . earned a Bachelor’s or higher graduate degree; [and] 63 percent (approximate) enjoy household annual incomes over \$75,000 . . . .”); *Banfi*, 74 F.Supp.2d at 195 (surveys of wine consumers reflect that they “tend to be older, wealthier, and better educated than the average population” and that a typical wine consumer earns at least \$60,000 in income). Liquor store are organized by alcohol type, and purchases are typically made with a high level of scrutiny and care, so confusion is even less likely. See *Star Industries, Inc., v. Bacardi & Company Limited, Bacardi U.S.A., and Anheuser-Busch, Inc.*, 412 F.3d 373, 390 (2d Cir. 2005). Sophisticated purchasers of alcohol are therefore less likely to confuse a brand for MHD’s distilled spirits, on the one hand, and your client’s cream liqueur, on the other hand.

In addition to the sophistication factor, other *Polaroid* factors also weigh heavily against a finding of a likelihood of confusion. For example, the labels for the products in question are quite distinct. Consumers encountering these labels on cream liqueur and, for example, whiskey, are unlikely to assume a common point of origin.



The recipe from HEAVEN! Super smooth and dangerously delicious. Enjoy on ice, stir in coffee, or mix with a splash of bourbon, Irish whiskey, tequila, cognac, vodka, and more!

— [realmilkandhoney.com](http://realmilkandhoney.com) —

**GOVERNMENT WARNING:** (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGE IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

Bottled by M&H SPIRITS  
TEMPERANCE, MI  
**NO REFRIGERATION NECESSARY**  
CONTAINS CARAMEL COLOR



The strength of the mark factor is particularly significant in this case. There are several other alcohol brands that use Milk & Honey on their labels, including:

- Herman Story Milk & Honey Wine – (this appears to predate your client's trademark application) [https://shopbanquet.com/brix26/products/herman-story-milk-and-honey-tempranillo-blend-2018/5e82571c70908d421e2edc58?ref=gp&gclid=EAlaIQobChMlupbCy\\_HF6wVVCY6zCh2YMwWAEAQYAYABEgK6avD\\_BwE](https://shopbanquet.com/brix26/products/herman-story-milk-and-honey-tempranillo-blend-2018/5e82571c70908d421e2edc58?ref=gp&gclid=EAlaIQobChMlupbCy_HF6wVVCY6zCh2YMwWAEAQYAYABEgK6avD_BwE)
- Milk & Honey Hard Cider - <https://dolcevitawine.net/milk-honey-heirloom-4-pack-4-pack-101300.html>

- Milk & Honey Stout Beer - <https://drizly.com/beer/ale/stout/903-brewers-land-of-milk-and-honey/p60498>
- Green Point Beer & Ale Co Milk & Honey Blond  
<https://www.brewerydb.com/beer/EOmUTv>

Clearly, your client has been aware of other uses of Milk & Honey with respect to alcoholic beverages. It is not without reason that your client URL is [www.therealmilkandhoney.com](http://www.therealmilkandhoney.com) and that the headline of the homepage of your client's website clearly state: "The Real Milk and Honey".

Evidence of widespread third-party use of marks containing a certain shared term is competent to suggest that purchasers have been conditioned to look to the other elements of the marks as a means of distinguishing the source of goods or services in the field. *In re Broadway Chicken*, 38 USPQ2d 1559, 1555-56 (TTAB 1996). The use of Milk & Honey on multiple alcohol labels is evidence that the mark does not signify a single source or origin of the products that use the term. Moreover, your client having tolerated the use of the term Milk & Honey on these products has further weakened its claim.

Further, because your client's product is domestic and MHD's spirits are produced at distillery in Israel, consumers are unlikely to believe that MHD's distilled spirits are produced or associated with your client. The geographic origin of products is an important factor in the selection of alcoholic beverages. See T.R.I.P.S. Agreement § 23.

Our review of your client's labeling and other marketing materials shows a limited product line – one that does not support all the goods identified in the asserted registrations. Those registrations may be vulnerable to partial or complete cancellation for non-use and/or fraud.

In addition, as you are certainly aware, Milk & Honey is particularly evocative of Israel. Exodus 3:8 ("a land flowing with milk and honey"). Thus, even if we assume that your client's product has real connection to Israel and therefore is not misleading, it cannot prevent other genuine use of this term with respect to products which completely originate from Israel.

Moreover, MHD has been acting in a complete good faith. It has been using "Milk & Honey" (and the abbreviation M&H) since its incorporation back in 2013. It has published its activity worldwide, including the USA. For example. During 2013 MHD lunched an "Indiegogo" campaign (see: <https://www.indiegogo.com/projects/the-milk-honey-distillery#/>) in the framework of which about 150 "backers" originated from the US. MHD has been in direct contact with those "backers", as well as with other entities from the USA and its unique products have been delivered and marketed to the USA for

a long time. MHD has never encountered any confusion in the market, including with respect to your client's liqueur and has never received any complaints in this regard. Trademark rights can accrue without actual sales in cases such as this where the owner adopts and uses the mark in a way sufficiently public to identify or distinguish the marked goods in an appropriate segment of the public mind" as those of the owner. *Telegram Messenger Inc. v. Lantah*, 782 Fed. Appx. 528 (9<sup>th</sup> Cir. 2019).

For these reasons (and others), purchasers of MHD's distilled spirits are not likely to mistakenly believe that they originate your client. MHD therefore, rejects your client's arguments and demands. MHD will defend its use by all available means, including challenges to your client's rights. Nevertheless, MHD is willing to consider a reasonable business resolution and to discuss same directly with MHD's principals. If your client agrees we can provide a contact.

This letter is written without prejudice to any of the rights, claims, remedies and defenses of Milk & Honey Distillery, all of which are expressly reserved.

Very truly yours,

A handwritten signature in black ink that reads "Andy Corea". The signature is written in a cursive, slightly slanted style.

Andy I. Corea

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.)

Place an "X" in the appropriate box (required): [ ] Green Bay Division [X] Milwaukee Division

I. (a) PLAINTIFFS
Milk & Honey Distillery Ltd.
(b) County of Residence of First Listed Plaintiff Israel
(c) Attorneys (Firm Name, Address, and Telephone Number)
Eric J Shimanoff / Joel K. Schmidt - Cowan, Liebowitz & Latman, P.C.
114 West 47th Street, 21st Floor, New York, NY 10036
212 790-9200

DEFENDANTS
M&H Spirits, LLC
County of Residence of First Listed Defendant Milwaukee
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
[ ] 2 U.S. Government Defendant
[X] 3 Federal Question (U.S. Government Not a Party)
[ ] 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 [ ] 1 [ ] 1 Incorporated or Principal Place of Business In This State [ ] 4 [ ] 4
Citizen of Another State [ ] 2 [ ] 2 Incorporated and Principal Place of Business In Another State [ ] 5 [ ] 5
Citizen or Subject of a Foreign Country [ ] 3 [ ] 3 Foreign Nation [ ] 6 [ ] 6

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

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal codes like 110 Insurance, 310 Airplane, 365 Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)
[X] 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):
Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and Lanham Act of 1946, 15 U.S.C. § 1051 et seq.
Brief description of cause:
seeking Declaratory Judgment that Plaintiff's trademarks do not infringe upon Defendant's trademarks

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: [X] Yes [ ] No

VIII. RELATED CASE(S) IF ANY (See updated instructions): JUDGE DOCKET NUMBER

DATE 03/30/2022 SIGNATURE OF ATTORNEY OF RECORD