

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

In the Matter of Trademark Application
Serial No. 75/789,080

RMV CELLARS, LLC

Opposer,

-v-

CALONA WINES LTD

Applicant.

08-19-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

Opposition No. 91151893

CONSENTED TO MOTION FOR EXTENSION OF DEADLINES

Opposer, RMV Cellars, LLC, respectfully moves for an extension of the testimony deadlines for 90 days, as follows:

30-day testimony period for party in
position of plaintiff to close

November 26, 2003

30-day testimony period for party in
position of defendant to close

January 25, 2004

15-day rebuttal period for party in the
position of plaintiff to close

March 9, 2004

The requested extension is not for the purposes of mere delay. Opposer has submitted a motion for leave to amend the notice of opposition and to reopen discovery on limited issues. The parties wish to conserve resources and await the taking of testimony until the parties learn of the Board's decision on that motion. Chuck McClung, counsel for Applicant, has consented to this motion and the requested extension in a telephone conversation on August 11, 2003.

WHEREFORE, the Board should grant Opposer's consented to motion.

DATED THIS August 14, 2003

Respectfully submitted,

KURT M. RYLANDER TRIAL AND
PATENT ATTORNEY AT LAW PC

KURT M. RYLANDER, Reg. No. 43,897
1014 Franklin Street, Suite 206
Vancouver, WA 98660
(360) 750-9931
Attorney for Opposer

CERTIFICATE OF SERVICE TO APPLICANT

I HEREBY CERTIFY that on the date signed below I inserted an envelope containing the document to which this certificate is attached into the U.S. Mails, first class, postage pre-paid, addressed to the attorney of record for the Applicant, Chuck McClung, Chernoff Vilhauer McClung & Stenzel, L.L.P., 601 SW 2nd Ave, 1600 ODS Tower, Portland, Oregon 97204 and by facsimile to (503) 228-4373.

DATED August 14, 2003

KURT M. RYLANDER

<p><u>Certificate of Mailing</u></p> <p>I hereby certify that on the date signed below the original and two copies of the document to which this certification is attached is being deposited with the United States Postal Service as first class mail in an envelope addressed to BOX TTAB NO FEE, Assistant Commissioner for Trademarks, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3513.</p> <p>Date: August 14, 2003</p> <p>KURT M. RYLANDER</p>

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

In the matter of trademark application Serial No. 75/789,080
Filed August 31, 1999
For the mark SANDHILL
Class: 33
Published in the Official Gazette at TM 481 on January 8, 2002

RMV CELLARS, LLC

Opposer,

-v-

CALONA WINES LTD

Applicant.

Opposition No. 91151893

REDACTED PUBLIC VERSION OF
DOCUMENT FILED UNDER
PROTECTIVE ORDER

(Proposed) FIRST AMENDED NOTICE OF OPPOSITION

1. RMV CELLARS, LLC, a Washington limited liability company having its principal place of business at 2830 S. Cornett Drive, Ridgefield, WA 98642, United States (hereinafter "Opposer"), believes that it is damaged by registration of the mark SANDHILL that is the subject of U.S. Trademark Application Serial No. 75/789,080 (hereinafter "'080 application") for wines, in Class 33, by CALONA WINES LTD., a Canadian corporation having an address at 1125 Richter Street Kelowna, British Columbia CANADA V1Y 2K6 (hereinafter "Applicant"). The '080 application was filed August 31, 1999, and published for opposition on January 8, 2002 at TM 481, *Official Gazette* of the United States Patent and Trademark Office. Opposer hereby opposes registration of the SANDHILL mark as described in the '080 application.

2. The Opposition fee was filed with the original Notice of Opposition.

As the first ground for opposition, Opposer alleges as follows:

3. Opposer owns and has not abandoned the mark SANDHILL WINERY for wines, and Applicant's mark SANDHILL so resembles Opposer's mark SANDHILL WINERY as to be likely, when used on or in connection with the goods or services of the Applicant, to cause confusion, mistake or deception.

As second, alternative, grounds for opposition, Opposer alleges as follows:

4. Opposer is informed and believes and on that basis alleges that Applicant is not the owner of the '080 application

5. [REDACTED].

6. [REDACTED]

7. [REDACTED].

As third, alternative, grounds for opposition, Opposer alleges as follows:

8. Opposer is informed and believes and on that basis alleges that Opposer, since prior to Applicant's filing date or any date of first use upon which Applicant can rely, has used and not abandoned the mark SANDHILL WINERY for wines; that Applicant's mark SANDHILL so resembles Opposer's previously used mark SANDHILL WINERY as to be likely, when used on or in connection with the goods or services of the Applicant, to cause confusion, mistake or deception, and thus is not entitled to registration pursuant to Section 2(d) of the Trademark Act.

As a fourth, alternative, grounds for opposition, Opposer alleges as follows:

9. Based on the foregoing allegations, Applicant is not the real party in interest for the '080 Application, and does not have standing to pursue the '080 Application.

As fifth, alternative, grounds for opposition, Opposer alleges as follows:

10. Based on the foregoing allegations, Applicant has abandoned the '080 Application.

As sixth, alternative, grounds for opposition, Opposer alleges as follows:

11. Based on the foregoing allegations, Applicant has voided its rights to the mark SANDHILL by violation of the Anti-Assignment in Gross rule.

WHEREFORE, Opposer prays that this opposition is sustained and that registration to the Applicant is refused.

Respectfully submitted,

KURT M. RYLANDER TRIAL AND
PATENT ATTORNEY AT LAW PC

KURT M. RYLANDER, Reg. No. 43,897
1014 Franklin Street, Suite 206
Vancouver, WA 98660
(360) 750-9931
Attorneys for Opposer

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.