

TTAB



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May 24, 2005

File no. RMV03

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BOX TTAB NO FEE
Assistant Commissioner for Trademarks
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, VA 22202-3513

RE: SANDHILL OPPOSITION

Dear Sir or Madam:

Enclosed for filing please find an original, sealed Second Amended Notice of Opposition, plus one additional copy. Also enclosed for filing please find an original Redacted Public Version of the Second Amended Notice of Opposition, plus one additional copy. Additionally, enclosed herein please find a postage-prepaid postcard for date stamping and return to this office. Please let me know if there is anything I can do for you.

Yours very truly,

KURT M. RYLANDER

KMR;wf

Cc: Client (w/redacted version)
Chuck McClung (w/both versions)



**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 PURSUANT TO
PROTECTIVE ORDER

SECOND 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").

CERTIFICATE OF MAILING

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 BOYD T. TABER, Assistant Commissioner for Trademarks, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3513. Date: **May 24, 2005**

KURT M. RYLANDER

2. 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.

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

As second 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]

Notably, the sale transferred to 3905039 Canada, Inc. the good will of the business, but did not transfer the trademark SANDHILL and trademark applications therefore, leaving those assets in the name of Calona Wines Ltd.

6. Opposer is informed and believes and on that basis alleges that on May 1, 2002, Calona Wines Ltd. changed its name to CANRIM PACKAGING, LTD. At the same time, 3905039 Canada, Inc. changed its name to CALONA WINES LTD. (hereinafter to avoid confusion, the new Calona Wines Ltd. will be referenced as "New Calona Wines Ltd.")

7. Accordingly, the trademark SANDHILL and the trademark applications therefore are owned by Canrim Packaging, Ltd., but the goodwill in such trademarks is owned by New Calona Wines Ltd.

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

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


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

10. 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



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Attorneys 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 May 24, 2005



KURT M. RYLANDER