

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court Northern District of California on the following Patents or Trademarks:

DOCKET NO. CV 12-04232 HRL	DATE FILED 8/10/2012	U.S. DISTRICT COURT 280 South First Street, Rm 2112, San Jose, CA 95113
PLAINTIFF MADISON VINEYARD HOLDINGS LLC		DEFENDANT A.V.V. WINERY CO.LLC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 3,167,412		SEE ATTACHED COMPLAINT
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In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGEMENT

CLERK Richard W. Wiekling	(BY) DEPUTY CLERK Betty Walton	DATE August 15, 2012
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6 Attorneys for Plaintiffs
MADISON VINEYARD HOLDINGS, LLC
7
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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11
12 MADISON VINEYARD HOLDINGS, L.C.V.
13 Plaintiff,
14 v.
15 A.V.V. WINERY CO., LLC,
16 Defendant.

12 No. 4232

COMPLAINT FOR DECLARATORY
RELIEF
JURY TRIAL DEMANDED

FILED
2012 AUG 10 P 3:19
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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LSS

HRL

1 Plaintiff MADISON VINEYARD HOLDINGS, LLC ("Madison"), for its Complaint against
2 Defendant A.V.V. WINERY CO., LLC ("AVV"), alleges as follows:

3 **NATURE OF ACTION**

4 1. This is an action for declaratory relief under authority of 28 U.S.C. §2201. Plaintiff
5 Madison seeks a declaration that Plaintiff's use of the mark WHIPLASH REDEMPTION in
6 connection with a red wine blend does not violate any rights, if any, of Defendant in the words
7 REDEMPTION ZIN used in connection with a zinfandel wine.

8 **PARTIES**

9 2. Plaintiff Madison is a limited liability company organized and existing under the laws of
10 the State of Delaware, with its headquarters located at 5619 DTC Parkway, Suite 800, Greenwood
11 Village, Colorado 80111. Madison owns and operates the Reata Winery in Napa County,
12 California.

13 3. On information and belief, Defendant AVV is a limited liability company organized and
14 existing under the laws of the State of California, with its principal place of business in Healdsburg,
15 California. On information and belief, Defendant AVV is in the business of making, distributing
16 and selling wine.

17 **JURISDICTION AND VENUE**

18 4. This Court has federal question jurisdiction over the subject of this action pursuant to 15
19 U.S.C. §1121(a) and 28 U.S.C. §§1331, 1338, involving allegations of violations of the Lanham
20 Act, and jurisdiction over actions for declaratory judgment under 28 U.S.C. §2201, *et. seq.*, and
21 jurisdiction over any State law claims under 15 U.S.C. § 1367. Acts giving rise to the claims
22 asserted herein have been expressly aimed at, have occurred in, and will continue to occur in
23 California and this District.

24 5. Venue properly lies within this District pursuant to 28 U.S.C. §1391(c) and in this Court
25 because Plaintiff's operations of Reata Winery is located in Napa County and Defendant is located
26 in Sonoma County.

27 **INTRADISTRICT ASSIGNMENT**

28 6. This action is an intellectual property action within the meaning of Local Rule 3-2(c)

COMPLAINT FOR DECLARATORY RELIEF

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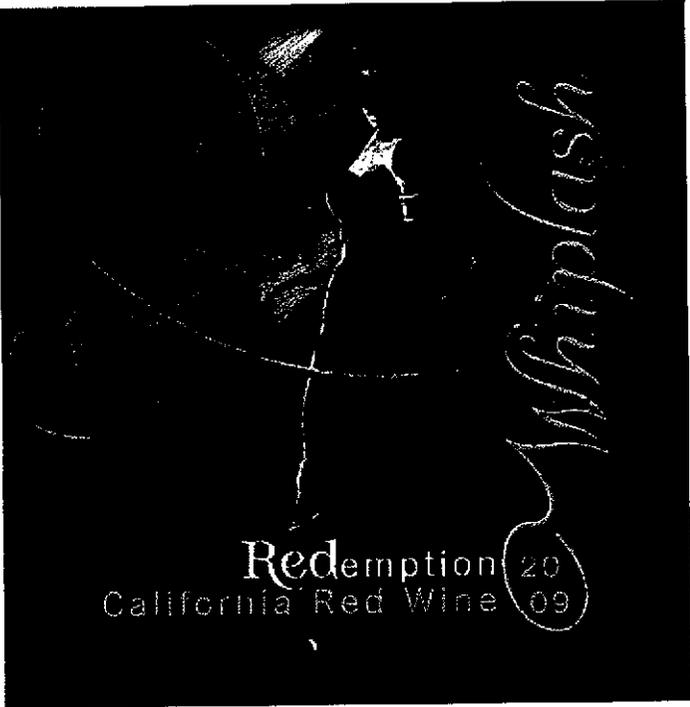
and therefore is not subject to intradistrict venue provisions.

FACTS

7. Madison owns and operates Reata Winery in Napa County, California.

8. Through its Reata Winery, Madison markets and sells certain wines under its WHIPLASH brand. The WHIPLASH brand of wines include a proprietary red wine blend sold in connection with the mark WHIPLASH REDEMPTION. Reata's WHIPLASH REDEMPTION red wine blend has been sold continuously in the United States since at least February 2012.

9. Reata's initial WHIPLASH REDEMPTION wine label is depicted below:



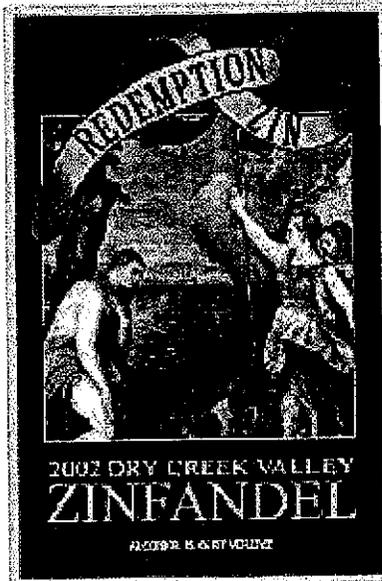
1 10. Shortly after making its first sales under the initial WHIPLASH REDEMPTION wine
2 label, Reata began using the current WHIPLASH REDEMPTION wine label, depicted below:



13 11. On or about July 3, 2012, Defendant AVV sent a letter to Madison's Reata Winery,
14 claiming: (1) that AVV has owned a federal trademark for the mark REDEMPTION ZIN since
15 2003; (2) that consumer confusion between AVV's REDEMPTION ZIN zinfandel and Madison's
16 WHIPLASH REDEMPTION "Zinfandel wine product" was "certain"; and (3) that Madison's use of
17 the term REDEMPTION in connection with the WHIPLASH REDEMPTION blend was a
18 "deceptive use" that "constitutes a federal infringement and unfair competition claim."

19 12. Defendant AVV's July 3, 2012 letter threatened that Defendant was "committed to
20 taking all appropriate action to protect their interests in the mark" and demanded assurances that
21 Madison cease "all unauthorized use of the "REDEMPTION mark."

22 13. Contrary to the assertions AVV made in its July 3, 2012 letter, AVV does not own a
23 federal registration for the word mark REDEMPTION ZIN. On information and belief, AVV holds
24 only U.S. Registration No. 3,167,412 for one particular label design. The label features a stylized,
25 ornate renaissance art as well as the words "2002 Dry Creek Valley" and "Zinfandel." The label in
26 AVV's Reg. No. 3,167,412 is attached as **Exhibit A** and depicted below:



11 14. Madison's WHIPLASH REDEMPTION wine is not marketed as a zinfandel wine. It is
12 a red wine blend that consists primarily of Syrah and Barbera juices. Although the precise blend
13 may change from time to time, the WHIPLASH REDEMPTION wine does not consist of a single
14 varietal.

15 15. Madison also does not use the REDEMPTION ZIN words in connection with the
16 marketing of the WHIPLASH REDEMPTION wine and does not use the color, design, or style
17 elements of the label shown in AVV's Reg. No. 3,167,412.

18 16. On information and belief, there is significant use by third parties of the term
19 REDEMPTION in the wine and alcohol industry, and as such the term REDEMPTION is not used
20 exclusively by any one party in connection with wine and other alcohol drinks.

21 **FIRST CAUSE OF ACTION**
22 **(Declaratory Judgment of Non-Infringing Use)**

23 17. Madison incorporates by reference Paragraphs 1-16, as if fully set forth herein.

24 18. An actual and justifiable controversy exists between the parties with respect to
25 Madison's right to use the term WHIPLASH REDEMPTION in connection with its red wine blend.

26 19. AVV asserts that Madison's use of the term infringes AVV's rights in its alleged
27 REDEMPTION ZIN trademark.

28 20. Madison asserts that there is no likelihood of confusion between AVV's REDEMPTION

1 ZIN zinfandel and Reata Winery's WHIPLASH REDEMPTION red wine blend, and that Madison's
2 use of the term WHIPLASH REDEMPTION does not infringe any trademark rights of AVV,
3 including AVV's Reg. No. 3,167,412.

4 21. Madison seeks declaratory judgment pursuant to 28 U.S.C. §2201 and Rule 57 of the
5 Federal Rules of Civil Procedure confirming Madison's rights to continue to use the term
6 WHIPLASH REDEMPTION in connection with its red wine blend.

7 **SECOND CAUSE OF ACTION**

8 **(Declaratory Judgment of No Unfair Competition or False Designation of Origin)**

9 22. Madison incorporates by reference Paragraphs 1-21, as if fully set forth herein.

10 23. An actual and justifiable controversy exists between the parties with respect to
11 Madison's right to use the term WHIPLASH REDEMPTION in connection with its red wine blend.

12 24. AVV asserts that Madison's use of the term WHIPLASH REDEMPTION is a
13 "deceptive use" that constitutes unfair competition and false designation of origin.

14 25. Madison asserts that Madison's use of the term WHIPLASH REDEMPTION in
15 connection with Reata Winery's WHIPLASH REDEMPTION red wine blend does not constitute
16 unfair competition and does not otherwise constitute false designation of origin.

17 26. Madison seeks declaratory judgment pursuant to 28 U.S.C. §2201 and Rule 57 of the
18 Federal Rules of Civil Procedure confirming Madison's rights to continue to use the term
19 WHIPLASH REDEMPTION in connection with its red wine blend.

20 **PRAYER**

21 WHEREFORE, Plaintiff prays for judgment as follows:

22 1. A declaration that Plaintiff's use of the terms WHIPLASH REDEMPTION in
23 connection with its red wine blend does not infringe any trademark rights, or other rights, of
24 Defendant AVV, including rights conferred, if any, by Reg. No. 3,167,412.

25 2. A declaration that Plaintiff's use of the term WHIPLASH REDEMPTION in connection
26 with its red wine blend does not constitute unfair competition or false designation of origin;

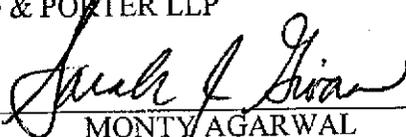
27 3. Awarding Plaintiff its attorneys' fees and expenses incurred in this matter as an
28 exceptional case under 15 U.S.C. §1117;

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- 4. Awarding Plaintiff its costs;
- 5. Any such other and further relief as the Court deems appropriate.

DATED: August 10, 2012.

ARNOLD & PORTER LLP

By: 
MONTY AGARWAL
SARAH J. GIVAN
Attorneys for Plaintiff
MADISON VINEYARD HOLDINGS, LLC

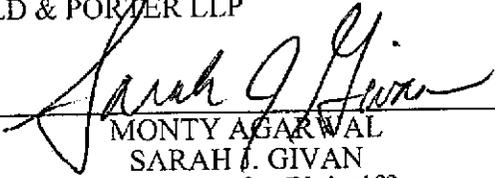
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JURY TRIAL DEMANDED

Pursuant to Rule 38(a) of the Federal Rules of Civil Procedure, Plaintiff demands trial by jury of all issues properly triable of right by a jury.

DATED: August 10, 2012.

ARNOLD & PORTER LLP

By: 
MONTY AGARWAL
SARAH J. GIVAN
Attorneys for Plaintiff
MADISON VINEYARD HOLDINGS, LLC

Int. Cl.: 33

Prior U.S. Cls.: 47 and 49

United States Patent and Trademark Office

Reg. No. 3,167,412

Registered Nov. 7, 2006

TRADEMARK
PRINCIPAL REGISTER



AVV WINERY CO., LLC (CALIFORNIA LTD
LIAB CO)
8644 HIGHWAY 128
HEALDSBURG, CA 954489642

FOR: ZINFANDEL WINES, IN CLASS 33 (U.S. CLS.
47 AND 49).

FIRST USE 5-1-2003; IN COMMERCE 5-1-2003.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "ZIN", "2002 DRY CREEK VALLEY",
"ZINFANDEL" AND "ALCOHOL 15.4% BY VO-
LUME", APART FROM THE MARK AS SHOWN.

THE COLORS YELLOW, BROWN, TAN, WHITE,
BLUE, LIGHT RED, DARK GREY AND BLACK
ARE CLAIMED AS A FEATURE OF THE MARK.

THE COLOR YELLOW APPEARS AROUND THE
OUTER BORDER OF THE MARK. THE COLOR
BROWN APPEARS ON THE BANNER OVER THE
ARTWORK FOR THE MARK, AS A VEST FOR ONE

OF THE HUMAN FIGURES, AND FOR THE HAIR
OF THE THREE HUMAN FIGURES IN THE ART-
WORK; THE COLOR TAN APPEARS ON THE
FLESH PORTION OF THE THREE HUMAN FIG-
URES IN THE ARTWORK; THE COLOR WHITE
APPEARS IN THE SKY OF THE ARTWORK; THE
COLOR BLUE APPEARS AS THE LOIN CLOTH OF
ONE OF THE FIGURES IN THE ARTWORK AND IN
THE SKY OF THE BACKDROP; THE COLOR LIGHT
RED APPEARS AS A DRESS FOR ONE OF THE
HUMAN FIGURES IN THE ARTWORK; THE COL-
OR DARK GREY APPEARS IN THE SKY OF THE
ARTWORK FOR THE MARK; THE COLOR BLACK
APPEARS TO REPRESENT THE WORDS "REDEMP-
TION ZIN". THE WORD "ZINFANDEL" APPEARS
IN THE COLOR YELLOW. THE TERMS "2002 DRY
CREEK VALLEY" AND "ALCOHOL 15.4% BY VO-
LUME" APPEAR IN THE COLOR WHITE.

SER. NO. 78-455,928, FILED 7-23-2004.

ALICIA COLLINS, EXAMINING ATTORNEY