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CJ. Braybrooks

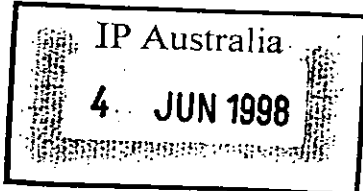
**FREEHILLS
PATENT ATTORNEYS**

PATENTS TRADE MARKS DESIGNS

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4 June 1998



Our ref SMS:JPB 40073478
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Attention: Mr John Braybrooks

Registrar of Trade Marks
IP Australia
Fax 02 6293 2278
Phone 02 6293 7444

Pin no 42336
Checked by *[Signature]*

Dear Sir

Australian Trade Mark Application number 7047798 Colour Orange in Class 33 in the name of Veuve Clicquot Ponsardin

I now enclose a copy of the sworn affidavit of Bradley Smith. I will arrange for the original to be filed shortly.

In passing, I would like to emphasise the fact that every single Declarant that we have approached has been very willing to assist in this matter. All of them have instantly recognised and been adamant about their own and public's recognition of the Veuve Clicquot Orange and its association with the Applicant.

I look forward to receiving your report in relation to this matter as soon as possible.

Yours faithfully
FREEHILLS PATENT ATTORNEYS

[Signature]
James Cherry

encls.

AUSTRALIA**Trade Marks Act 1995**

IN THE MATTER of Australian
Trade Mark Application No. 704779
in the name of **VEUVE CLICQUOT**
PONSARDIN

- and -

IN THE MATTER of the
examiner's objection thereto

STATUTORY DECLARATION

I, BRADLEY NICHOLAS JOHN SMITH, of [REDACTED]

DO SOLEMNLY AND SINCERELY DECLARE as follows:

- 1 I make this Declaration from my own knowledge.
- 2 I have worked in the retail wine industry since 1980. I have held a wide range of positions, including management positions with Aberfeldy Cellars in Hobart, Camperdown Cellars in Sydney, as well as the Melbourne Wine Gallery and Phillip Murphy Corporate Services in Melbourne.
- 3 Through my experience within the wine industry, and as a consumer myself, I am familiar with most of the wines, sparkling wines and champagnes available on the Australian retail market, including the products of the applicant, Veuve Clicquot. I am also familiar with the general opinions and perceptions of the wine buying public regarding wines available in Australia.
- 4 I am also familiar with the particular orange colour which is used by Veuve Clicquot to distinguish its products (the Veuve Clicquot Orange). I am particularly familiar with the Veuve Clicquot Orange colour from its use on Veuve Clicquot's non vintage Champagne as well as on outer case packaging and on promotional materials such as posters, magazine advertisements, in-store promotional cards and price cards. I believe that the Veuve Clicquot Orange is unique and distinctive of Veuve Clicquot's non vintage Champagne amongst all wines, sparkling wines and champagnes. Indeed, there have been occasions when I have failed to locate Veuve Clicquot's "Vintage" Champagne

Mark A. Krenzer
MARK HEINRICH KRENZER

Freehill Hollingdale & Page

Freehills Patent Attorneys MELCO\81270111.DOC 101 Collins Street Melbourne June 1998 (15:22)

A natural person who is a current
practitioner within the meaning of
the Legal Practice Act 1996

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(which has a different coloured label) in a store or a fridge display because the mental association of bright orange with Veuve Clicquot is so deeply ingrained. If I were to see the Veuve Clicquot Orange on the label or packaging of bottle of wine, sparkling wine or Champagne, or used on promotional material for wine, sparkling wine or Champagne, I would immediately associate the use of that Orange colour with Veuve Clicquot.

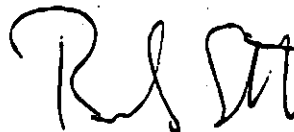
5 In my experience, members of the wine buying public also associate the Veuve Clicquot Orange with Veuve Clicquot. It is quite common, in my experience, for members of the wine buying public to ask for and identify Veuve Clicquot's products by reference to the Veuve Clicquot Orange colour when purchasing wine at retail.

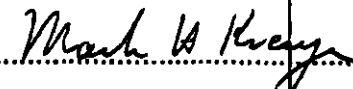
6 Furthermore, if members of the wine buying public were to see the Veuve Clicquot Orange on a bottle of wine, sparkling wine or Champagne, I believe that they would associate the use of that colour with Veuve Clicquot.

AND I MAKE THIS STATUTORY DECLARATION believing the same to be true and correct in every particular.

DECLARED by the said

BRADLEY NICHOLAS JOHN SMITH.
at MELBOURNE in the State of VICTORIA
this Fourth day of June 1998



Before me: 

MARK HEINRICH KRENZER
Freehill Hollingdale & Page
101 Collins Street Melbourne
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the Legal Practice Act 1996.