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FREEHILLS
PATENT ATTORNEYS

PATENTS TRADE MARKS DESIGNS

5 June 1998

Our ref SMS:JPB 40073478
Phone 03 9288 1602
Doc no MELCDA98156017.1

Mr John Braybrooks
Registrar of Trade Marks
IP Australia
PO Box 200
WODEN ACT 2606

Dear Sir

Australian Trade Mark Application number 7047794 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.

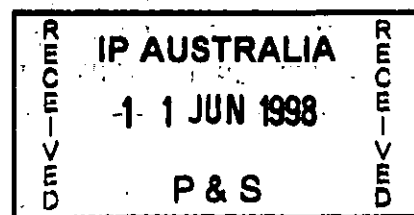
In passing, I would like to emphasise the fact that every single Declarant that we have approached has been very willing to assist in this matter. All of them have instantly recognised and been adamant about their own and public's recognition of the Veuve Clicquot Orange and its association with the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

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

Yours faithfully
FREEHILLS PATENT ATTORNEYS


James Cherry

encl.



101 Collins Street Melbourne Victoria 3000 Australia
Telephone (03) 9288 1577 Int+ (61 3) 9288 1577 Facsimile (03) 9288 1567
DX 240 Melbourne

OFFICES IN MELBOURNE AND SYDNEY

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 88 [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. Healy
MARK HEINRICH KRENZER

MKS
~~Freehill Hollingdale & Page~~

(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.

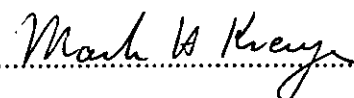
- 5 In my experience, members of the wine buying public also associate the Veuve Clicquot Orange with Veuve Clicquot. It is quite common, in my experience, for members of the wine buying public to ask for and identify Veuve Clicquot's products by reference to the Veuve Clicquot Orange colour when purchasing 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 MCCOY & JOHN SMITH.
at MELBOURNE in the State of VICTORIA
this Fourteenth day of June 1998



Before me: 

MARK HEINRICH KRENZER
Freehill Hollingdale & Page
101 Collins Street Melbourne
A natural person who is a current
practitioner within the meaning of
the Legal Practice Act 1996.

AUSTRALIA
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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.

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DECLARED by the said

at _____ in the State of _____
this _____ day of _____ 1998

Before me: Barry Stt

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