

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	SECURITY INTEREST

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
KB WINES, LLC		09/11/2009	LIMITED LIABILITY COMPANY: CALIFORNIA

RECEIVING PARTY DATA

Name:	SILICON VALLEY BANK
Street Address:	3700 Old Redwood Highway
Internal Address:	Suite 220
City:	Santa Rosa
State/Country:	CALIFORNIA
Postal Code:	95403
Entity Type:	CORPORATION: CALIFORNIA

PROPERTY NUMBERS Total: 6

Property Type	Number	Word Mark
Serial Number:	77460658	KOSTA BROWNE WINERY
Serial Number:	77456005	KOSTA BROWNE WINERY
Serial Number:	77455971	KOSTA BROWNE WINERY
Registration Number:	3495085	KOSTA BROWNE WINERY
Registration Number:	3384878	KOSTA BROWNE
Registration Number:	3384875	KOSTA BROWNE

CORRESPONDENCE DATA

Fax Number: (858)550-6420
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
 Phone: 858-550-6403
 Email: erin.obrien@cooley.com
 Correspondent Name: Erin O'Brien
 Address Line 1: c/o Cooley Godward Kronish LLP
 Address Line 2: 4401 Eastgate Mall

CH \$165.00 77460658

900143211

**TRADEMARK
 REEL: 004061 FRAME: 0667**

Address Line 4: San Diego, CALIFORNIA 92121

ATTORNEY DOCKET NUMBER: 194491-1243 KB WINES

NAME OF SUBMITTER: Erin O'Brien

Signature: /Erin O'Brien/

Date: 09/15/2009

Total Attachments: 9

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INTELLECTUAL PROPERTY SECURITY AGREEMENT

This **INTELLECTUAL PROPERTY SECURITY AGREEMENT** (this "IP Agreement") is made as of September 11, 2009 by and between KB WINES, LLC, a California limited liability company ("Grantor"), and SILICON VALLEY BANK, a California banking corporation ("Bank").

RECITAL

Bank will make credit extensions to Grantor as described in the Loan and Security Agreement dated as of the date hereof (as amended, restated, or otherwise modified, the "Loan Agreement"), but only if Grantor grants Bank a security interest in its Copyrights, Patents and Trademarks. Defined terms used but not defined herein shall have the same meanings as in the Loan Agreement.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged and intending to be legally bound, as collateral security for the prompt and complete payment when due of Grantor's Obligations under the Loan Agreement, Grantor hereby represents, warrants, covenants and agrees as follows:

1. Grant of Security Interest. As collateral security for the prompt and complete payment and performance of all the Obligations, Grantor hereby grants a security interest in all of Grantor's right, title and interest in, to and under its intellectual property (all of which shall collectively be called the "Intellectual Property Collateral"), including, without limitation, the following:

(a) Any and all copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including without limitation those set forth on Exhibit A attached hereto (collectively, the "Copyrights");

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, acquired or held;

(c) Any and all design rights that may be available to Grantor now or hereafter existing, created, acquired or held;

(d) All patents, patent applications and like protections including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, including without limitation the patents and patent applications set forth on Exhibit B attached hereto (collectively, the "Patents");

(e) Any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Grantor connected with and symbolized by such trademarks, including without limitation those set forth on Exhibit C attached hereto (collectively, the "Trademarks");

(f) Any and all claims for damages by way of past, present and future infringements of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

(g) All licenses or other rights to use any of the Copyrights, Patents, and Trademarks and all license fees and royalties arising from such use to the extent permitted by such license or rights;

(h) All amendments, extensions, renewals and extensions of any of the Copyrights, Patents, or Trademarks; and

(i) All proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

2. **Authorization and Request.** Grantor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks record this IP Agreement.

3. **Covenants and Warranties.** Grantor represents, warrants, covenants and agrees as follows:

(a) Grantor is now the sole owner of the Intellectual Property Collateral, except for non-exclusive licenses granted by Grantor in the ordinary course of business;

(b) Performance of this IP Agreement does not conflict with or result in a breach of any other agreement covering the Intellectual Property Collateral to which Grantor is bound, except to the extent that such other intellectual property agreements prohibit the assignment of the rights thereunder to a third party without the licensor's or other party's consent;

(c) During the term of this IP Agreement, Grantor will not transfer or otherwise encumber any interest in the Intellectual Property Collateral, except for (i) non-exclusive licenses and similar arrangements for the use of the property of Borrower or its subsidiaries in the ordinary course of business and (ii) Permitted Liens;

(d) Each of the Patents is valid and enforceable, and no part of the Intellectual Property Collateral has been judged invalid or unenforceable, in whole or in part, and, to Grantor's knowledge, no claim has been made that any part of the Intellectual Property Collateral violates the rights of any third party;

(e) Grantor shall promptly advise Bank of any material adverse change in the composition of the Intellectual Property Collateral, including but not limited to any subsequent ownership right of the Grantor in or to any Copyright, Patent or Trademarks specified in this IP Agreement;

(f) Grantor shall (i) protect, defend and maintain the validity and enforceability of the Copyrights, Patents and Trademarks that are material to Grantor's business (ii) use its best efforts to detect infringements of the Copyrights, Patents and Trademarks and promptly advise Bank in writing of material infringements detected and (iii) not allow any Copyrights, Patents and Trademarks material to Grantor's business to be abandoned, forfeited or dedicated to the public without the written consent of Bank, which shall not be unreasonably withheld, unless Grantor determines that reasonable business practices suggest that abandonment is appropriate;

(g) Grantor shall not register any Copyrights with the United States Copyright Office unless it: (i) has given at least fifteen (15) days' prior notice to Bank of its intent to register such Copyrights and has provided Bank with a copy of the application it intends to file with the United States Copyright Office (excluding exhibits thereto); (ii) executes a security agreement or such other documents as Bank may reasonably request in order to maintain the perfection and priority of Bank's security interest in the Copyrights proposed to be registered with the United States Copyright Office; and (iii) records such security documents with the United States Copyright Office contemporaneously with filing the Copyright application(s) with the United States Copyright Office. Grantor shall promptly provide to Bank a copy of the Copyright application(s) filed with the United States Copyright Office, together with evidence of the recording of the security documents necessary for Bank to maintain the perfection and priority of its security interest in such Copyrights. Grantor shall provide written notice to Bank of any application filed by Grantor in the United States Patent Trademark Office for a patent or to register a trademark or service mark within 30 days of any such filing;

(h) This IP Agreement creates, and in the case of after acquired Intellectual Property Collateral, this IP Agreement will create at the time Grantor first has rights in such after acquired Intellectual Property Collateral, in favor of Bank a valid and perfected first priority security interest in the Intellectual Property Collateral in the United States securing the payment and performance of the obligations evidenced by the Loan Agreement upon making the filings referred to in clause (i) below;

(i) To its knowledge (except for, and upon, the filing with the United States Patent and Trademark office with respect to the Patents and Trademarks and the Register of Copyrights with respect to the Copyrights necessary to perfect the security interests created hereunder, and except as has been already made or

obtained) no authorization, approval or other action by, and no notice to or filing with, any U.S. governmental authority of U.S. regulatory body is required either (i) for the grant by Grantor of the security interest granted hereby or for the execution, delivery or performance of this IP Agreement by Grantor in the U.S. or (ii) for the perfection in the United States or the exercise by Bank of its rights and remedies thereunder;

(j) All information heretofore, herein or hereafter supplied to Bank by or on behalf of Grantor with respect to the Intellectual Property Collateral is accurate and complete in all material respects;

(k) Grantor shall not enter into any agreement that would materially impair or conflict with Grantor's obligations hereunder without Bank's prior written consent, which consent shall not be unreasonably withheld. Grantor shall not permit the inclusion in any material contract to which it becomes a party of any provisions that could or might in any way prevent the creation of a security interest in Grantor's rights and interest in any property included within the definition of the Intellectual property Collateral acquired under such contracts, except that certain contracts may contain anti-assignment provisions that could in effect prohibit the creation of a security interest in such contracts; and

(l) Upon any executive officer of Grantor obtaining actual knowledge thereof, Grantor will promptly notify Bank in writing of any event that materially adversely affects the value of any Intellectual Property Collateral, the ability of Grantor to dispose of any Intellectual Property Collateral of the rights and remedies of Bank in relation thereto, including the levy of any legal process against any of the Intellectual Property Collateral.

4. **Bank's Rights.** Bank shall have the right, but not the obligation, to take, at Grantor's sole expense, any actions that Grantor is required to take under this IP Agreement but which Grantor fails to take. Grantor shall reimburse and indemnify Bank for all costs and reasonable expenses incurred in the exercise of its rights under this section 4.

5. **Inspection Rights.** Grantor hereby grants to Bank and its employees, representatives and agents the right to visit, during reasonable hours upon prior reasonable notice to Grantor, and any of Grantor's plants and facilities that manufacture, install or store products (or that have done so during the prior twelve-month period) that are sold utilizing any of the Intellectual Property Collateral, and to inspect the products and quality control records relating thereto upon reasonable written notice to Grantor and as often as may be reasonably requested, but not more than once (1) in every twelve (12) months so long as no Event of Default has occurred and is continuing; provided, however, nothing herein shall entitle Bank access to Grantor's trade secrets and other proprietary information.

6. **Further Assurances; Attorney in Fact.**

(a) On a continuing basis, Grantor will, subject to any Permitted Liens, prior licenses, encumbrances and restrictions and prospective licenses, make, execute, acknowledge and deliver, and file and record in the proper filing and recording places in the United States, all such instruments, including appropriate financing and continuation statements and collateral agreements and filings with the United States Patent and Trademarks Office and the Register of Copyrights, and take all such action as may reasonably be deemed necessary or advisable, or as reasonably requested by Bank, to perfect Bank's security interest in all Copyrights, Patents, and Trademarks in the United States and otherwise to carry out the intent and purposes of this IP Agreement, or for reasonably assuring and confirming to Bank the grant or perfection of a security interest in all Intellectual Property Collateral.

(b) Grantor hereby irrevocably appoints Bank as Grantor's attorney-in-fact, with full authority in the place and stead of Grantor and in the name of Grantor, Bank or otherwise, from time to time in Bank's discretion, upon Grantor's failure or inability to do so, to take any action and to execute any instrument which Bank may deem reasonably necessary or advisable to accomplish the purposes of this IP Agreement, including:

(i) To modify, in its sole discretion but with prompt notice to Grantor, this IP Agreement without first obtaining Grantor's approval of or signature to such modification by amending Exhibit A, Exhibit B, and Exhibit C hereof, as appropriate, to include reference to any right, title or interest in any Copyrights,

Patents, or Trademarks acquired by Grantor after the execution hereof or to delete any reference to any right, title or interest in any Copyrights, Patents, or Trademarks in which Grantor no longer has or claims any right, title or interest; provided, however, that Grantor shall have the right, exercisable within ten (10) days after it has been notified by the Bank of the specific identification of any such Intellectual Property Collateral, to advise the Bank of any inaccuracy of the representations and warranties made by the Grantor hereunder with respect to such Intellectual Property Collateral, and the Grantor agrees that it will use its commercially reasonable efforts to take such action as shall be necessary in order to make all representations and warranties hereunder true and correct in all material respects with respect to such Intellectual Property Collateral within thirty (30) days after the date it has been notified by the Bank of the specific identification of such Intellectual Property Collateral; and

(ii) To file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Intellectual Property Collateral without the signature of Grantor where permitted by law.

7. **Events of Default.** The occurrence of any of the following shall constitute an Event of Default under this IP Agreement:

- (a) An Event of Default occurs under the Loan Agreement; or
- (b) Grantor breaches, in any material respect, any warranty or agreement made by Grantor in this IP Agreement.

8. **Remedies.** Upon the occurrence and continuance of an Event of Default, Bank shall have the right to exercise all the remedies of a secured party under the California Uniform Commercial Code, including without limitation the right to require Grantor to assemble the Intellectual Property Collateral and any tangible property in which Bank has a security interest granted under this IP Agreement and to make it available to Bank at a place designated by Bank. Bank shall have a nonexclusive, royalty free license to use the Copyrights, Patents, and Trademarks to the extent reasonably necessary to permit Bank to exercise its rights and remedies upon the occurrence of an Event of Default. Grantor will pay any reasonable expenses (including reasonable attorney's fees) incurred by Bank in connection with the exercise of any of Bank's rights hereunder, including without limitation any reasonable expense incurred in disposing of the Intellectual Property Collateral. All of Bank's rights and remedies with respect to the Intellectual Property Collateral shall be cumulative.

9. **Indemnity.** Grantor agrees to defend, indemnify and hold harmless Bank and its officers, employees, and agents against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party in connection with the transactions contemplated by this IP Agreement, and (b) all losses or expenses in any way suffered, incurred, or paid by Bank as a result of or in any way arising out of, following or consequential to transactions between Bank and Grantor under this IP Agreement (including without limitation, reasonable attorneys fees and reasonable expenses), except for losses arising from or out of Bank's gross negligence or willful misconduct.

10. **Reassignment.** At such time as Grantor shall completely satisfy all of the Obligations, Bank shall execute and deliver to Grantor all deeds, assignments, and other instruments as may be necessary or proper to reinvest in Grantor full title to the property assigned hereunder, subject to any disposition thereof which may have been made by Bank pursuant hereto.

11. **Course of Dealing.** No course of dealing, any failure to exercise, or any delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

12. **Attorneys' Fees.** If any action relating to this IP Agreement is brought by either party hereto against the other party, the prevailing party shall be entitled to recover reasonable attorneys' fees, costs and disbursements.

13. **Amendments.** This IP Agreement may be amended only by a written instrument signed by both parties hereto.

14. Counterparts. This IP Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument.

15. Law and Jurisdiction. This IP Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard for choice of law provisions. Grantor and Bank consent to the nonexclusive jurisdiction of any state or federal court located in California.

16. Confidentiality. In handling any confidential information, Bank shall exercise the same degree of care that it exercises with respect to its own proprietary information of the same types to maintain the confidentiality of any non-public information thereby received or received pursuant to this IP Agreement except that the disclosure of this information may be made (i) to the affiliates of the Bank, (ii) to prospective transferee or purchasers of an interest in the obligations secured hereby, (iii) as required by law, regulation, rule or order, subpoena judicial order or similar order and (iv) as may be required in connection with the examination, audit or similar investigation of Bank.

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IN WITNESS WHEREOF, the parties hereto have executed this IP Agreement on the day and year first above written.

Address of Grantor:

P.O. Box 1555
Sebastopol, CA 95473

GRANTOR:

KB WINES LLC

By: Peter Scott

Name: Peter Scott

Title: CEO

Address of Bank:

3700 Old Redwood Highway, Suite 220
Santa Rosa, CA 95403

BANK:

SILICON VALLEY BANK

By: [Signature]

Name: Daniel Agullar

Title: Senior Relationship Manager

**EXHIBIT A
COPYRIGHTS**

Copyright	Registration Number	Registration Date
Kosta Browne 4-Barrel wine label	pending	pending (Application filed 05/20/08)
Kosta Browne wine label	pending	pending (Application filed 05/20/08)
Kosta Browne winery website	pending	pending (Application filed 09/02/08)

**EXHIBIT B
PATENTS**

Patent Description

Application / Patent Number

**Application / Issue
Date**

**Exhibit C
TRADEMARKS**

Trademark Description	Serial / Trademark Number	Application / Registration Date
KOSTA BROWNE WINERY	77/460,658	04/29/08
KOSTA BROWNE WINERY	77/456,005	04/23/08
KOSTA BROWNE WINERY	77/455,971	04/23/08
KOSTA BROWNE WINERY	3,495,085	09/02/08
KOSTA BROWNE	3,384,878	02/19/08
KOSTA BROWNE	3,384,875	02/19/08