

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

WINE & CANVAS DEVELOPMENT LLC,)
Plaintiff,)
v.) Case No. 1:11-cv-01598-TWP-DKL
THEODORE WEISSER,)
CHRISTOPHER MUYLLE,)
YN CANVAS CA, LLC,)
WEISSER MANAGEMENT GROUP, LLC,)
Defendants.)

CHRISTOPHER MUYLLE,)
THEODORE WEISSER,)
TAMARA SCOTT, ANTHONY SCOTT,)
WINE & CANVAS DEVELOPMENT LLC,)
DONALD MCCRACKEN,)
Counter Claimants,)
v.)
WINE & CANVAS DEVELOPMENT LLC,)
WINE & CANVAS DEVELOPMENT LLC,)
CHRISTOPHER MUYLLE,)
Counter Defendants.)

CHRISTOPHER MUYLLE,)
Third Party Plaintiffs,)
v.)
TAMARA SCOTT, ANTHONY SCOTT,)
DONALD MCCRACKEN,)
Third Party Defendants.

ENTRY ON MOTIONS FOR MORE DEFINITE STATEMENT

This matter is before the Court on Counter-Defendant, Wine & Canvas Development LLC's ("Wine & Canvas"), Motions for More Definite Statement against Counter-Claimants Christopher Muylle (Dkt. 46) and Theodore Weisser (Dkt. 53). Having considered the Motions, the Court makes the following rulings:

I. DISCUSSION

A. Wine & Canvas's Motion for More Definite Statement from Mr. Muylle (Dkt. 46)

On April 30, 2013, Mr. Muylle filed an Amended Answer with Counter-Claim against Wine & Canvas (Dkt. 66). Thereafter, on June 18, 2013, Wine & Canvas filed an Amended Answer to the Amended Counter-Claim (Dkt. 101). A motion for more definite statement is properly granted only where a major ambiguity or omission in the complaint renders it unanswerable. Such motions are made because the claims made are so vague or ambiguous that the party making the motion cannot reasonably frame a response. See Fed. R. Civ. P. 12(e). Because Mr. Muylle has filed an answer, there can no longer be a need for a more definite statement. Therefore, Wine & Canvas's Motion for More Definite Statement from Mr. Muylle (Dkt. 46) is **TERMINATED as moot**.

B. Motion for More Definite Statement from Theodore Weisser (Dkt. 53)

Wine & Canvas states that it cannot adequately answer Mr. Weisser's Counter-Claim (Dkt. 52) Counts I and II, without more information. Specifically, Count I references a license agreement, but this agreement is not attached to the Counter-Claim. As for Count II, Wine & Canvas argues that it does not contain sufficient factual allegations to form the basis of Mr. Weisser's claim that Wine & Canvas's registered trademark is merely descriptive or lacks distinctiveness. The Court agrees with Wine & Canvas that Mr. Weisser should have attached

the licensing agreement at issue to the Counter-Claim. However, as to Count II, the substance and pleading is identical to Count III in Mr. Muylle's Amended Counter-Claim, to which Wine & Canvas has already made a response. Therefore, the Court finds that Mr. Weisser's Counter-Claim Count II contains sufficient information to which Wine & Canvas can respond. Accordingly, Wine & Canvas's Motion for More Definite Statement from Mr. Weisser (Dkt. 53) is **GRANTED in part** and **DENIED in part**.

II. CONCLUSION

Wine & Canvas's Motion for More Definite Statement from Mr. Muylle (Dkt. 46) is **TERMINATED as moot**. Wine & Canvas's Motion for More Definite Statement from Mr. Weisser (Dkt. 53) is **GRANTED** in that Mr. Weisser is directed to identify and attach the licensing agreement referenced in Count I of his Counter-Claim, and **DENIED** in all other respects.

SO ORDERED.

07/02/2013
Date: _____



Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

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