



August 8, 2018

**Via Email:** Janet.Scalese@ttb.gov

Ms. Janet M. Scalese, Director  
Alcohol and Tobacco Tax and Trade Bureau (TTB)  
Alcohol Labeling and Formulation Division  
1310 G Street, NW, Box 12  
Washington, DC 20005

**Re: COLA Revocation Request for “The Willametter” (TTB ID 18036001000343) and Objection to Elouan Case Markings**

Dear Ms. Scalese:

I am the President of the Oregon Winegrowers Association (OWA), the only statewide wine industry trade organization representing the interests of Oregon’s over 725 wineries and 1000 vineyards. OWA focuses on promoting the economic and political interests of the Oregon wine industry. One of OWA’s fundamental roles is the diligent protection of Oregon’s state and local appellations of origin for wine.

Copper Cane LLC (“Copper Cane”) is a California winery located in Rutherford, California. Copper Cane sells wine that is ostensibly produced from Oregon grown grapes under the brand names “The Willametter” and “Elouan.” It appears that Copper Cane purchases bulk wine produced in Oregon and vints and bottles the wine at its winery location in Rutherford, California, under “The Willametter” and “Elouan” wine labels. Copper Cane holds a Certificate of Label Approval (COLA) for these wines, for which Copper Cane listed the appellation as “Oregon.”

OWA is concerned that the label for Copper Cane’s “The Willametter” wine and case packaging for the “Elouan” wines are likely to cause confusion as to the geographic origin of the wine. Furthermore, the label and case packaging appear to misuse Oregon geographic terms of viticultural significance, and such misuse is likely to damage the goodwill of Oregon’s protected appellations of origin, in violation of several sections of 27 CFR part 4. OWA requests that, based on these violations of federal wine labeling and advertising laws, the TTB revoke approval for Copper Cane’s “The Willametter” COLA, and censure Copper Cane for its improper “Elouan” case markings. Copies of “The Willametter” COLA, photograph of “The Willametter” bottle of wine as actually labeled, and photographs of “Elouan” wine case packaging are attached to this letter for reference, as Attachments A, B, and C, respectively.

**“The Willametter” Wine Label:** “The Willametter” wine label (Attachment A) contains several terms and phrases that are highly likely to lead to geographic confusion and to muddle consumer perception of Oregon’s well respected wine appellations of origin. First, the wine label does not contain a valid appellation of origin, but references a mix of various geographic areas in Oregon.



Specifically the label references “the Willamette region of Oregon’s coastal range” and the “Territory of Oregon.” Neither of these are federally approved expressions of appellation of origin per 27 CFR 4.25(a)(1), and neither are accurate geographic locations. Oregon is a state, not a territory. Further, the Willamette is a valley, called the Willamette Valley, which is also an approved AVA per 27 CFR 9.90. The Willamette Valley AVA is not in the coastal region, as the Willamette Valley is separated from the Oregon coast by a mountain range, called the Oregon Coast Range. Accordingly, the use of these quasi-geographic terms should be prohibited pursuant to 27 CFR 4.39(a)(1), which prohibits “[a]ny statement that is false or untrue in any particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter, tends to create a misleading impression.”

Second, the brand name “The Willametter” and “The Willametter Journal” appear to violate 27 CFR 4.33(b), which prohibits misleading brand names that “in association with other printed or graphic matter” on the label and case packaging creates an erroneous impression as to the origin of the wine. 27 CFR 4.39(i) more specifically prohibits brand names of viticultural significance “unless the wine meets the appellation of origin requirements for the geographic area named.” The wine label as actually printed and used on bottles of “The Willametter” wine at retail changed the font color of the word “Willamette” on the brand label from black on the approved COLA to red (Attachment B, photograph of actual labeled wine). The changing of the color of the letters to red in a field of otherwise black lettering calls immediate notice to the geographic term “Willamette” on the brand label. A consumer will see the word “Willamette” and is likely to presume that the wine’s appellation of origin is the Willamette Valley AVA. Thus, “The Willametter” wine label makes invalid reference both in the brand name and on the brand label to Willamette Valley, an approved AVA. The appellation used on the COLA for “The Willametter” is Oregon, not the Willamette Valley. It is unclear if the wine meets Willamette Valley AVA viticultural labeling requirements in 27 CFR 4.25(e)(3) (85% of the grapes grown in the Willamette Valley AVA and wine fully finished in Oregon).

Even disregarding the fact that the Willamette Valley has special protection as a designated AVA, 27 CFR 4.39(j) prohibits the use of any product names with specific geographical significance “unless the appropriate TTB officer finds that because of their long usage, such names are recognized by consumers as fanciful product names and not representations as to origin. In such cases the product names shall be qualified with the word “brand” immediately following the product name, in the same size of type, and as conspicuous as the product name itself.” Here, “The Willametter” is not qualified per regulation, it is a new use (COLA was approved in February 2018), and so a consumer is likely to be confused as to geographic origin of the wine, and continued use will harm the viticultural significance of the Willamette Valley AVA.

OWA recognizes that a California winery can purchase bulk wine that is fully finished in Oregon, bottle it in California at their winery, and use supportable and geographically accurate Oregon appellations of origin on the wine label and related advertising materials.



However, the appellations of origin used on “The Willametter” label are inaccurate variations of accepted geographic terms, and thereby dilute the existing distinctive Oregon appellations of origin that the Oregon wine industry has worked very hard to develop and distinguish. Appellations of origin are critical marketing and educational tools for wine regions. Copper Cane’s misuse of Oregon’s distinctive appellations of origin through the use of “The Willametter,” “Willamette region of Oregon’s coastal range” and “Territory of Oregon” harm Oregon’s valuable geographic wine regions, and violate 27 CFR 4.39. For all of these reasons, OWA respectfully requests that the TTB revoke approval of “The Willametter” COLA, TTB ID 18036001000343, pursuant to authority granted in 27 CFR 13.41.

**Elouan Case Markings:** Copper Cane also owns the Elouan wine brand. Federal wine regulations apply to both labels and advertising used at retail sale, including any statements on retail displays and cases. Statements on a case cannot be inconsistent with wine labels. *See* 27 CFR 4.61 and 4.64(b). Attachment C contains photographs of Elouan wine case markings on a retail display. As with “The Willametter” label, the Elouan case markings contain misuses of Oregon appellations of origin. First, the case markings reference “Oregon Coast” which is not an approved appellation of origin per 27 CFR 4.25(a)(1).

Additionally, as with wine labels, case markings do not allow for multiple AVAs unless the AVAs overlap and 85% of the volume of the wine is derived from grapes grown in that overlapping area. *See* 27 CFR 4.25(e)(4). Per Attachment C, the AVAs used on the case at retail sale are Willamette Valley, Umpqua Valley and Rogue Valley. These Oregon AVAs do not overlap and so it is impossible for the advertised wine to be in compliance with 27 CFR 4.25(e)(4). OWA requests that the TTB Alcohol Labeling and Formulation Division (ALFD) censure Copper Cane’s misuse of Oregon AVAs and appellations of origin on its case packaging, and prohibit any future misuse.

OWA looks to the TTB’s ALFD to protect and enforce Oregon’s appellations of origin on wine labels and case packaging, and respectfully requests the TTB’s immediate revocation of “The Willametter” COLA and prohibition of the pictured Elouan case markings. We look forward to swift resolution of these matters.

Sincerely,

John Pratt  
President  
Oregon Winegrowers Association



CC: Nicole Candelora, TTB  
Gracie Joy, TTB

**ENCLOSURES:**

Attachment A: TTB COLA for The Willametter wine, TTB ID 18036001000343  
Attachment B: "The Willametter" wine label as actually applied to a wine bottle  
Attachment C: Photographs of wine cases for The Willametter wine



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**ATTACHMENT A: "The Willametter" COLA (TTB ID 18036001000343)**

OMB No. 1513-0020

<b>FOR TTB USE ONLY</b>			<b>DEPARTMENT OF THE TREASURY</b>		
TTB ID 18036001000343			ALCOHOL AND TOBACCO TAX AND TRADE BUREAU		
			<b>APPLICATION FOR AND CERTIFICATION/EXEMPTION OF LABEL/BOTTLE APPROVAL</b>		
			(See Instructions and Paperwork Reduction Act Notice on Back)		
1. REP. ID. NO. (If any)	CT	OR			
	88	38			

**PART I - APPLICATION**

<b>2. PLANT REGISTRY/BASIC PERMIT/BREWER'S NO. (Required)</b>  BWN-CA-21400		<b>3. SOURCE OF PRODUCT (Required)</b>  <input checked="" type="checkbox"/> Domestic  <input type="checkbox"/> Imported		<b>8. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, BASIC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DBA OR TRADENAME IF USED ON LABEL (Required)</b>  COPPER CANE, COPPER CANE LLC 1960 SAINT HELENA HWY  RUTHERFORD CA 94573	
<b>4. SERIAL NUMBER (Required)</b>  180201		<b>5. TYPE OF PRODUCT (Required)</b>  <input checked="" type="checkbox"/> WINE  <input type="checkbox"/> DISTILLED SPIRITS  <input type="checkbox"/> MALT BEVERAGE		THE WILLAMETTER (Used on label)	
<b>6. BRAND NAME (Required)</b>  THE WILLAMETTER			<b>8a. MAILING ADDRESS, IF DIFFERENT</b>		
<b>7. FANCIFUL NAME (If any)</b>					
<b>9. FORMULA</b>		<b>10. GRAPE VARIETAL(S) (Wine Only)</b>  Pinot noir		<b>14. TYPE OF APPLICATION (Check applicable box(es))</b>	
<b>11. WINE APPELLATION (If on label)</b>  OREGON				a. <input checked="" type="checkbox"/> CERTIFICATE OF LABEL APPROVAL	
<b>12. PHONE NUMBER</b>		<b>13. EMAIL ADDRESS</b>		b. CERTIFICATE OF EXEMPTION FROM LABEL APPROVAL "For sale in _____ only" (Fill in State)	



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(800) 400-1353	<input type="checkbox"/> abbreviation.)  C. <input type="checkbox"/> <b>DISTINCTIVE LIQUOR BOTTLE APPROVAL.</b> <b>TOTAL BOTTLE CAPACITY BEFORE CLOSURE</b> _____ (Fill in amount)  d. <input type="checkbox"/> <b>RESUBMISSION AFTER REJECTION</b> <b>TTB ID. NO. _____</b>
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15. SHOW ANY INFORMATION THAT IS BLOWN, BRANDED, OR EMBOSSED ON THE CONTAINER (e.g., net contents) ONLY IF IT DOES NOT APPEAR ON THE LABELS AFFIXED BELOW. ALSO, SHOW TRANSLATIONS OF FOREIGN LANGUAGE TEXT APPEARING ON LABELS.

### PART II - APPLICANT'S CERTIFICATION

Under the penalties of perjury, I declare; that all statements appearing on this application are true and correct to the best of my knowledge and belief; and, that the representations on the labels attached to this form, including supplemental documents, truly and correctly represent the content of the containers to which these labels will be applied. I also certify that I have read, understood and complied with the conditions and instructions which are attached to an original TTB F 5100.31, Certificate/Exemption of Label/Bottle Approval.

<b>16. DATE OF APPLICATION</b> 02/05/2018	<b>17. SIGNATURE OF APPLICANT OR AUTHORIZED AGENT</b> (Application was e-filed)	<b>18. PRINT NAME OF APPLICANT OR AUTHORIZED AGENT</b> JAY MCPHERSON
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### PART III - TTB CERTIFICATE

This certificate is issued subject to applicable laws, regulations and conditions as set forth in the instructions portion of this form.

<b>19. DATE ISSUED</b> 02/09/2018	<b>20. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU</b> 
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### FOR TTB USE ONLY

<b>QUALIFICATIONS</b>  TTB has not reviewed this label for type size, characters per inch or contrasting background. The responsible industry member must continue to ensure that the mandatory information on the actual labels is displayed in the correct type size, number of characters per inch, and on a contrasting background in accordance with the TTB labeling regulations, 27 CFR parts 4, 5, 7, and 16, as applicable.  <b>STATUS</b>  THE STATUS IS APPROVED.  <b>CLASS/TYPE DESCRIPTION</b>  DESSERT /PORT/SHERRY/(COOKING) WINE	<b>EXPIRATION DATE (if any)</b>
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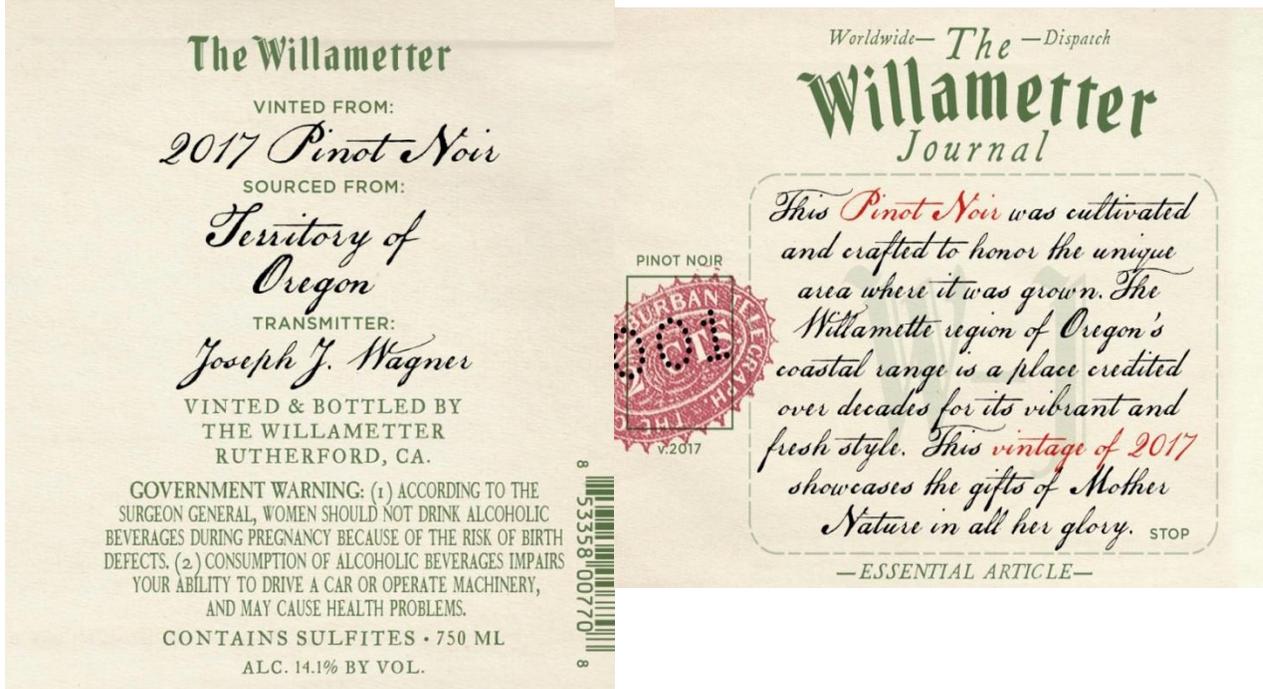
AFFIX COMPLETE SET OF LABELS BELOW

Brand (front) or keg collar

Actual Dimensions: 3.7 inches W X 3.92 inches H

Back

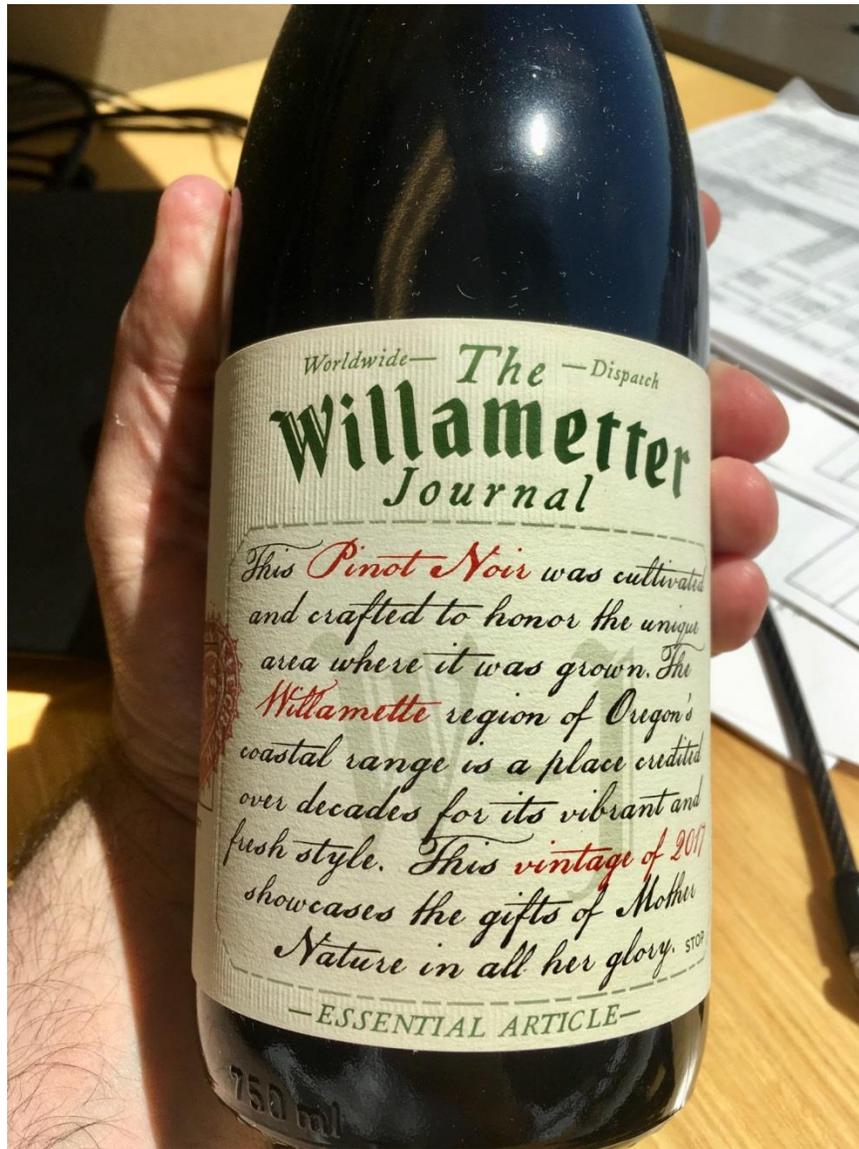
Actual Dimensions: 5.16 inches W X 3.92 inches H





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**ATTACHMENT B:** Labels actually on bottle (See red "Willamette" that is not present in COLA application label)





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**ATTACHMENT C:** Photographs of Elouan Wine Cases

