

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM384888

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Innocent Bystander Pty Ltd.		05/04/2016	Proprietary Limited Company: AUSTRALIA
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Brown Brothers Milawa Vineyard Pty. Limited		
<b>Street Address:</b>	239 Milawa Bobinawarra Road		
<b>City:</b>	Milawa, Victoria		
<b>State/Country:</b>	AUSTRALIA		
<b>Postal Code:</b>	3678		
<b>Entity Type:</b>	Proprietary Limited Company: AUSTRALIA		
<b>PROPERTY NUMBERS Total: 3</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	3349271	INNOCENT BYSTANDER	
<b>Registration Number:</b>	3244931	INNOCENT BYSTANDER	
<b>Registration Number:</b>	4150352	MEA CULPA	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	9192868199		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Phone:</b>	919 286-8000		
<b>Email:</b>	PTO_TMconfirmation@mvalaw.com		
<b>Correspondent Name:</b>	MOORE & VAN ALLEN PLLC		
<b>Address Line 1:</b>	3015 CARRINGTON MILL BOULEVARD		
<b>Address Line 2:</b>	SUITE 400		
<b>Address Line 4:</b>	MORRISVILLE, NORTH CAROLINA 27560		
<b>ATTORNEY DOCKET NUMBER:</b>	042394.000		
<b>DOMESTIC REPRESENTATIVE</b>			
<b>Name:</b>	John E. Slaughter, III		
<b>Address Line 1:</b>	3015 Carrington Mill Blvd., Suite 400		
<b>Address Line 4:</b>	Morrisville, NORTH CAROLINA 27560		
<b>NAME OF SUBMITTER:</b>	John E. Slaughter, III.		

OP \$90.00 3349271

<b>SIGNATURE:</b>	/jes/
<b>DATE SIGNED:</b>	05/19/2016
<b>Total Attachments: 17</b> source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page1.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page2.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page3.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page4.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page5.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page6.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page7.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page8.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page9.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page10.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page11.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page12.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page13.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page14.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page15.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page16.tif source=Deed of Assignment of Intellectual Property and Goodwill dated 4 May 2016#page17.tif	

FINLAYSONS

**Deed of Assignment of Intellectual  
Property and Goodwill**

Innocent Bystander Pty Ltd

and

Brown Brothers Milawa Vineyard Pty. Limited

FINLAYSONS LAWYERS  
Level 8 81 Flinders Street Adelaide  
Our Ref: LNL:350449/39:DLO  
[www.finlaysons.com.au](http://www.finlaysons.com.au)

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Date 4 May 2016

Parties

**Assignor** Innocent Bystander Pty Ltd ACN 105 805 061 of 336 Marcondah Highway, HEALESVILLE VIC 3777

**Assignee** Brown Brothers Milawa Vineyard Pty. Limited ACN 005 349 235 of 239 Milawa Bobinawarra Road, MILAWA VIC 3678

Background

- A. The Assignor is the legal and beneficial owner of the Intellectual Property.
- B. Pursuant to an agreement dated 4 May 2016, the Assignor has agreed to sell, and the Assignee has agreed to purchase (amongst other matters) the Intellectual Property and the Goodwill (*Business and Assets Sale Agreement*).
- C. The parties wish to formalise the assignment of the Intellectual Property and the Goodwill on the terms and conditions set out in this Deed.

It is agreed as follows.

1. Preliminary

1.1 Definitions

In this Deed:

**Assets** has the meaning set out in the Business and Assets Sale Agreement;

**Business** has the meaning set out in the Business and Assets Sale Agreement;

**Business Day** means a day that is not a Saturday, Sunday or public holiday in the State of Victoria;

**Cause of Action** means rights of the Assignor in respect of any cause of action, chose in action or other right arising from any infringement of the Assignor's ownership or other legal or equitable rights in any of the Intellectual Property or Goodwill that has arisen or accrued prior to the date of this Deed;

**Confidential information** means rights of the Assignor in respect of any information held by it which relates to the Assets or the Business and which by its nature is confidential, or is designated by the Assignor as confidential, or which a party to whom that information has been disclosed knows, or ought to know, is confidential. For the avoidance of doubt, information comprised in the Databases constitutes Confidential Information;

**Contract for Sale of the Land** has the meaning set out in the Business and Assets Sale Agreement;

**Copyright** means copyright in:

- (a) any and all works or other subject matter which display, exhibit or contain any of the Trade Marks and created by or on behalf of the Vendor;
- (b) any and all packaging, advertising or other materials and created by or on behalf of the Vendor:
  - (i) for which any of the Trade Marks are, or have been, used; or
  - (ii) which are, or have been, used in connection with the Assets or the Business; and
- (c) any other works or subject matter created or used in the conduct of the Business but not to the extent they relate to the Excluded Assets,

being the exclusive right to do, and to authorise others to do, any and all acts vested in the owner of copyright at common law and pursuant to the Copyright Act and its equivalent laws in any jurisdiction (except in respect of Moral Rights);

**Copyright Act** means the *Copyright Act 1968* (Cth);

**Databases** means rights of the Assignor in all databases, spreadsheets, tables and other records maintained in physical copy or electronic format which are created, updated and/or maintained by or on behalf of the Assignor in connection with the Assets or the Business, including any supplier, customer or loyalty club member lists or information;

**Domain Names** means the Assignor's contractual rights and interests in URL [innocentbystander.com.au](http://innocentbystander.com.au) and all URLs of webpages forming part of the website accessible from that URL, as well as the domain name licence associated with that URL;

**Encumbrance** means any interest or power:

- (a) reserved in, or over any interest in, any asset including any retention of title; or
- (b) created or otherwise arising in, or over any interest in, any assets under a bill of sale, mortgage, charge, lien, pledge, trust or power,

by way of security for the payment of any debt or other monetary obligation, or the performance of any other obligation and whether existing or agreed to be granted or created and includes any:

- (i) "security interest" as that term is defined in the *Personal Property Securities Act 2009* (Cth); and
- (ii) preferential rights, interest or arrangement, easement, public right of way, restriction or positive covenant or any agreement to create any of them or allow them to exist.

**Excluded Assets** has the meaning set out in the Business and Assets Sale Agreement;

**Goodwill** means all of the goodwill accrued by or on behalf of the Assignor, arising from trade in the particular goods and services for which the Trade Marks have been used;

**Intellectual Property** means the Confidential Information, Copyright, Databases, Domain Names, Social Media Accounts and Trade Marks;

**Moral Rights** means moral rights as described in Part IX of the *Copyright Act* and any analogous rights arising under statute or common law that exist, or may come to exist, in any jurisdiction, associated with the Copyright;

**Parties** means the parties to this Deed;

**Registered Trade Marks** means the trade marks the subject of the registrations set out in Schedule 1, as well as the Vendor's:

- (a) rights in and to those registrations;
- (b) colour variations of those trade marks;
- (c) rights to apply for registration of any equivalents of those trade marks in any country with respect to any goods or services; and
- (d) other legal and equitable rights in and to those trade marks worldwide;

**Social Media Accounts** means the contractual rights and interests of the Assignor in social media accounts set out in Schedule 3 which are capable of assignment;

**Trade Marks** means the Registered Trade Marks and the Unregistered Trade Marks, collectively;

**Trade Marks Act** means the *Trade Marks Act 1995* (Cth); and

**Unregistered Trade Marks** means all of the trade marks set out in Schedule 2, as well as the Vendor's:

- (a) rights in and to those trade marks;
- (b) colour variations of those trade marks;
- (c) rights to apply for registration of any of those trade marks in any country with respect to the goods or services on or in connection with the Assignor has used them; and
- (d) other legal and equitable rights in and to those trade marks worldwide.

## 1.2 Interpretation

In this Deed, unless the context requires otherwise:

- (a) a word importing the singular includes the plural and vice versa;
- (b) words denoting individuals shall include corporations, firms, authorities, associations (whether incorporated or unincorporated) and instrumentalities;
- (c) the headings used in this Deed are for convenience only and shall not affect the interpretation of this Deed;
- (d) references to clauses are to clauses of this Deed;
- (e) the Schedules form part of this Deed;
- (f) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;
- (g) a reference to a Party to this Deed includes the Party's executors, administrators, successors, permitted assigns and substitutes;
- (h) nothing in this Deed is to be interpreted against a Party solely on the ground that the Party put forward this Deed or any part of it; and
- (i) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements or any of them.

## 2. Assignment of Intellectual Property and Goodwill

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- (a) The Assignor hereby assigns to, and the Assignee hereby accepts all right, title and interest in:

- (i) the Intellectual Property;
  - (ii) the Goodwill; and
  - (iii) any and all Causes of Action.
- (b) Without prejudice to any rights of the Assignee pursuant to the Business and Assets Sale Agreement, the Assignor will provide to the Assignee as soon as reasonably practicable and in any event no later than 30 days after the date of this Deed:
- (i) all physical and electronic documents, packaging and other materials displaying any of the Trade Marks in the possession or control of the Assignor;
  - (ii) all physical and electronic documents, packaging and other materials comprising the content the subject of the Copyright in the possession or control of the Assignor; and
  - (iii) all physical and electronic copies of all Confidential Information, Databases and Social Media Accounts in the possession or control of the Assignor.

### **3. Assignor Not to Use or Register Trade Marks**

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On and from the date of this Deed, but subject to its rights under clause 5.8 of the Business and Assets Sale Agreement, the Assignor:

- (a) will cease to, and will not at any future time, use;
- (b) will not register, or apply to register;
- (c) will not oppose, challenge or seek to remove on the grounds of non-use; and
- (d) will not assist any third party to undertake any of the acts described in clauses 3(a) to 3(c) inclusive in respect of,

the Trade Marks, or any other sign or trade mark which is substantially identical, or deceptively similar, to the Trade Marks.

### **4. Recording of Assignments**

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The Assignor shall, at the Assignee's expense, undertake all necessary acts, including executing all necessary documents, as shall reasonably be required to enable the recording of the assignment of the Registered Trade Marks and to otherwise perfect the title of the Assignee to the Trade Marks.

### **5. Notices**

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- (a) Any notice given under this Deed must be in writing and must be sent to:
  - (i) the address for the recipient specified in this Deed; or
  - (ii) any other address which has been notified by the recipient to the sender as the recipient's updated address for the purposes of this Deed.
- (b) Notices will be taken to be duly given:
  - (i) in the case of delivery in person, when delivered;



- (ii) in the case of delivery by post, 5 Business Days after the date of posting (if posted to an address in the same country) or 9 Business Days after the date of posting (if posted to an address in another country); and
- (iii) in the case of email:
  - (A) at the time the sender's computer or other device generates a report confirming that the email has been received by the recipient's information system; or
  - (B) if no such report is generated, 1 Business Day after the date on which the email is sent, provided that the sender has not by that time received a delivery failure notification (or a similar notification).
- (c) If the result under clause 5(b) is that a notice would be taken to be given on a day that is not a business day in the place of receipt, then it will be taken to have been given on the next business day.

## **6. Costs**

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Subject to clause 7, each Party shall bear its own costs in relation to the preparation, negotiation and execution of this Deed and all things to be done hereunder.

## **7. Stamp Duty**

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All stamp duty assessed on or in respect of this Deed shall be paid by the Assignee. The Assignee will be responsible for arranging any stamping of this Deed required by law, and the Assignor shall promptly provide its duly executed original counterpart of this Deed for that purpose.

## **8. Law**

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The law of this Deed is the law of Victoria and the Commonwealth of Australia and the Parties submit themselves to the jurisdiction of the Courts of Victoria and the Commonwealth of Australia for any matters arising in relation to this Deed.

## **9. Further Assurances**

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Each Party agrees to do all things and sign all documents which are reasonably necessary to give full effect to the provisions of this Deed and the transactions contemplated by it.

## **10. Amendments**

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No amendment or variation of this Deed is valid or binding on a Party unless made in writing and executed by both Parties.

## **11. Entire agreement**

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This Deed together with the Business and Assets Sale Agreement and the Contract for Sale of the Land constitutes the entire agreement between the Parties as to its subject matter and supersedes all prior agreements and understandings.

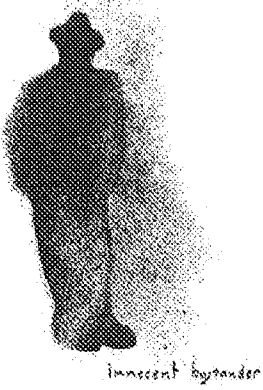

**12. Counterparts**


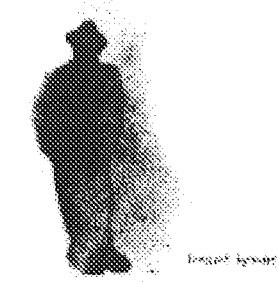
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- (a) This Deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.
- (b) No Party will be bound by this Deed unless and until all counterparts are duly exchanged between the parties.
- (c) This Deed, including counterparts of it, may be exchanged electronically (including by email).

## Schedule 1



## Registered Trade Marks

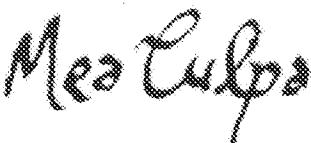


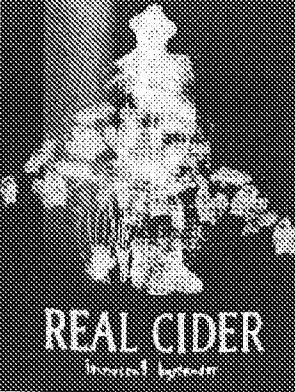
Country	Trade Mark	Number	Class	Type of Mark
Australia	INNOCENT BYSTANDER	Registration No. 969742	33,43	Word
Australia	Innocent Bystander Image 	Registration No. 993578	25,32,33	Composite
Australia	MEA CULPA	Registration No. 1192734	32,33	Word
Australia	INNOCENT BYSTANDER MOSCATO	Registration No. 1524271	33	Word
Australia	WILLING PARTICIPANT	Registration No. 1275807	33	Word
Canada	INNOCENT BYSTANDER	Registration No. TMA741346	33	Word
Canada	MEA CULPA	Registration No. TMA744207	33	Word
China	INNOCENT BYSTANDER	Registration No. 6814090	33	Word
European Community	INNOCENT BYSTANDER + Image 	Registration No. 012796207	25,33,43	Composite
European Community	INNOCENT BYSTANDER	Registration No. 012796272	25,33,43	Word
Hong Kong	INNOCENT BYSTANDER	Registration No. 301086985	33	Word
New Zealand	INNOCENT BYSTANDER	Registration No. 1014134	33	Word
Singapore	INNOCENT BYSTANDER	Registration No. T0803000J	33	Word

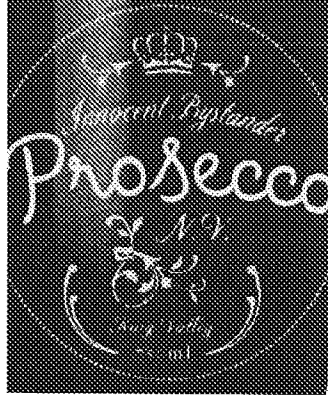
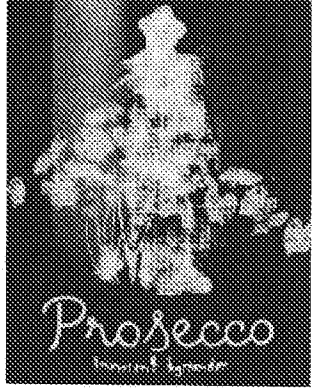
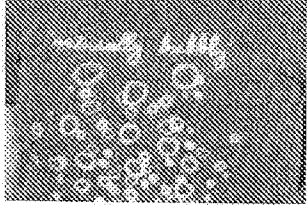
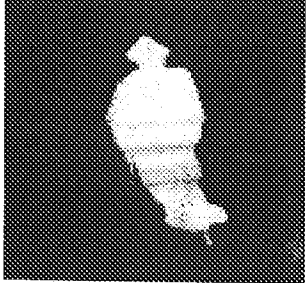
Country	Trade Mark	Number	Class	Type of Mark
UK	INNOCENT BYSTANDER	Registration No. UK00002346025	33,43	Word
UK	Innocent Bystander Image 	Registration No. UK00002355507	25,33	Composite
UK	MEA CULPA	Registration No. UK00002464130	32,33	Word
US	INNOCENT BYSTANDER	Registration No. 3349271	33	Word
US	Innocent Bystander Image 	Registration No. 3244931	33	Composite
US	MEA CULPA	Serial No. 77337341 Registration No. 4150352	33	Word

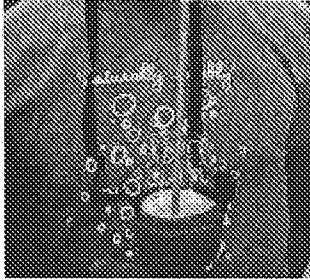
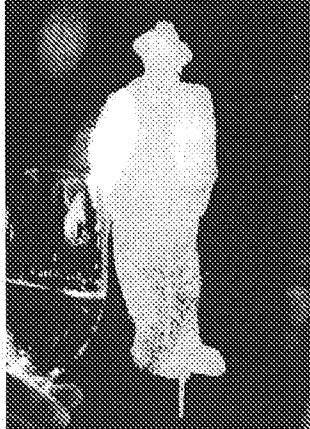
Schedule 2

Unregistered Trade Marks

Reference	Trade mark
1.	<p>innocent bystander VIGNERONS &amp; WINEMAKERS</p>
2.	<p>MOSCATO</p>
3.	
4.	

Reference	Trade mark
5.	
6.	
7.	
8.	

Reference	Trade mark
9.	
10.	
11.	
12.	

Reference	Trade mark
13.	
14.	
15.	<b>INNOCENT BYSTANDER HOUSE ROASTED COFFEE</b>
16.	The common law equivalents of each of the Registered Trade Marks



## Schedule 3

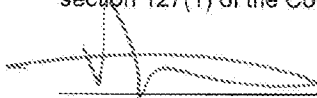
## Social Media Accounts

Reference	Platform	User/Account Name
1.	Facebook	page located at: <a href="https://www.facebook.com/ibwine/?fref=ts">https://www.facebook.com/ibwine/?fref=ts</a>
2.	Twitter	handle is @ibwine page located at: <a href="https://twitter.com/ibwine">https://twitter.com/ibwine</a>
3.	Instagram	handle is ibwine <a href="https://www.instagram.com/ibwine/?hi=en">https://www.instagram.com/ibwine/?hi=en</a>
4.	LinkedIn	registration on page located at: <a href="http://www.linkedin.com/company/3104483?trk=prof-0-cvw-curr_pos">http://www.linkedin.com/company/3104483?trk=prof-0-cvw-curr_pos</a>

Executed by the parties as a deed


Assignor

Executed by Innocent Bystander Pty Ltd ACN 105 805 061 in accordance with section 127(1) of the Corporations Act:

  
\_\_\_\_\_

Signature of director

PHILIP SEXTON  
Name (please print)

←  ←  
\_\_\_\_\_

Signature of director/secretary

STEPHEN FLAMSTEED  
Name (please print)

Assignee

Executed by Brown Brothers Milawa Vineyard Pty. Limited ACN 005 349 235 in accordance with section 127(1) of the Corporations Act:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name (please print)

← \_\_\_\_\_ ←  
Signature of director/secretary

\_\_\_\_\_  
Name (please print)

Executed by the parties as a deed

Assignor

Executed by Innocent Bystander Pty Ltd ACN 105 805 061 in accordance with section 127(1) of the Corporations Act:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

Assignee

Executed by Brown Brothers Millawa Vineyard Pty. Limited ACN 005 349 235 in accordance with section 127(1) of the Corporations Act:

*C. C. W.*  
\_\_\_\_\_  
Signature of director

*Brown John*  
\_\_\_\_\_  
Signature of director/secretary

*Charles George Wark*  
\_\_\_\_\_  
Name (please print)

*Brown John John*  
\_\_\_\_\_  
Name (please print)