

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-2737

WINE MASTER CELLARS, LLLP,  
a Colorado limited liability limited partnership,

Plaintiff,

v.

STACT WINE DISPLAYS INC., a Canadian corporation,

Defendant.

---

**COMPLAINT AND JURY DEMAND**

---

Plaintiff Wine Master Cellars, LLLP ("Wine Master" or "Plaintiff") for its Complaint against Defendant STACT Wine Displays Inc. ("STACT" or "Defendant"), alleges as follows:

**I. NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 101, *et seq.*

2. In this action, Wine Master seeks injunctive and monetary relief for Defendant's infringement of Wine Master's U.S. Patent Nos. 8,231,015 ("the '015 Patent"), 8,684,194 ("the '194 Patent"), and 9,364,085 ("the '085 Patent") (collectively "the Asserted Patents").

## **II. THE PARTIES**

3. Wine Master is a limited liability limited partnership organized under the laws of the State of Colorado with its principal place of business at 10645 East 47<sup>th</sup> Avenue, Denver, Colorado 80239.

4. Upon information and belief, STACT is a Canadian corporation with a principal place of business at PH4 – 380 W 10<sup>th</sup> Avenue, Vancouver, British Columbia V5Y 1S3 Canada.

## **III. JURISDICTION AND VENUE**

5. The Court has original subject matter jurisdiction over the asserted claims pursuant to 28 U.S.C. §§ 1331 and 1338.

6. STACT is subject to personal jurisdiction in this judicial district because it purposefully directs its activities—which give rise to Wine Master's claims against STACT—at residents of this judicial district. More specifically, upon information and belief, STACT makes, uses, sells, and/or offers for sale in the United States, and/or imports into the United States, infringing wine racks that it introduces into the stream of commerce with knowledge and/or intent that the infringing wine racks will enter this judicial district. Upon information and belief, infringing wine racks made, used, sold, offered for sale, and/or imported by STACT are used, sold, and/or offered for sale in this judicial district by Premier Wine Cellars (including on Premier Wine Cellars' website, <<https://www.premierwinecellars.com/collections/stact-reg-wine-racks>>), by Wine Racks America, Inc. (including on Wine Racks America, Inc.'s website, <<http://www.wineracksamerica.com/stact>>), and elsewhere. Additionally, STACT is subject to personal jurisdiction in this judicial district because it operates a website hosted at the domain <<http://www.getstact.com>> soliciting sales from Internet users in this judicial district of, among

other things, wine racks that infringe the Asserted Patents. These activities have damaged Wine Master in this judicial district and give rise to Wine Master's claims against STACT.

7. Venue is proper within this judicial district pursuant to 28 U.S.C. §§ 1391(a) and 1400(b) because STACT is subject to personal jurisdiction in this judicial district and at least a part of the events giving rise to the asserted claims and damages resulting therefrom occurred in this judicial district.

#### IV. GENERAL ALLEGATIONS

##### A. The '015 Patent

8. The '015 Patent, entitled "WINE RACK," was duly and legally issued by the United States Patent and Trademark Office just after 12:00 a.m. EDT on July 31, 2012. *See Encore Wire Corp. v. Southwire Co.*, No. 3:10-cv-86, 2011 U.S. Dist. LEXIS 22073 (N.D. Ga. Mar. 4, 2011) (explaining that patents issue at just after 12:00 a.m. EDT on the issue date); *see also Exxon Chemical Patents, Inc. v. Lubrizol Corp.*, 935 F.2d 1263 (Fed. Cir. 1991). A true and correct copy of the '015 Patent is attached hereto as Exhibit A.

9. The '015 Patent includes one independent claim and four dependent claims, all directed to a wine rack as reflected in Claim 1:

1. A wine rack comprising:
  - (a) a first wine bottle body frame element adapted to be attached to a structure;
  - (b) a second wine bottle body frame element adapted to be attached to the structure in parallel to the first wine bottle body element;
  - (c) a first wine bottle body support member having:
    - (i) a proximal portion extending perpendicularly from the first wine bottle body frame element;
    - (ii) a first recessed portion extending from the proximal portion, the first recessed portion adapted to support a wine bottle body;
    - (iii) an intermediate portion parallel to the proximal portion and extending from the first recessed portion;

- (iv) a second recessed portion extending from the intermediate portion, the second recessed portion adapted to support a wine bottle body;
- (v) a free end portion of the first wine bottle body support member extending from the second recessed portion;
  - (aa) wherein the free end portion includes an upwardly extending tip;
  - (bb) wherein the upwardly extending tip extends substantially to a plane created by the proximal portion and the intermediate portion;
- (d) a second wine bottle body support member having:
  - (i) a proximal portion extending perpendicularly from the body frame element;
  - (ii) a first recessed portion extending from the portion, the first recessed portion adapted to support a wine bottle body;
  - (iii) an intermediate portion extending from the first recessed portion;
  - (iv) a second recessed portion extending from the intermediate portion, the second recessed portion adapted to support a wine bottle body;
  - (v) a free end portion of the second wine bottle body support member extending from the second recessed portion;
    - (aa) wherein the free end portion includes an upwardly extending tip;
    - (bb) wherein the upwardly extending tip extends substantially to above a plane created by the proximal portion and the intermediate portion; and
  - (e) wherein when the first and second body frame elements are oriented vertically, the proximal portions of both the first and second body support members are oriented horizontally.

Exhibit A, '015 Patent, col. 10, ll. 11-55.

10. Wine Master is the owner of all rights, title, and interest in and to the '015 Patent, and is entitled to sue for infringement thereof.

**B. The '194 Patent**

11. The '194 Patent, entitled "WINE RACK," was duly and legally issued by the United States Patent and Trademark Office just after 12:00 a.m. EDT on April 1, 2014. *See Encore Wire*, 2011 U.S. Dist. LEXIS 22073; *see also Exxon Chemical Patents*, 935 F.2d 1263. A true and correct copy of the '194 Patent is attached hereto as Exhibit B.

12. The '194 Patent includes one independent claim and four dependent claims, all directed to a wine rack as reflected in Claim 1:

1. A wine rack comprising:
  - (a) a first wine bottle body frame element adapted to be attached to a structure;
  - (b) a second wine bottle body frame element adapted to be attached to the structure in parallel to the first wine bottle body element;
  - (c) a first wine bottle body support member having:
    - (i) a proximal portion extending perpendicularly from the first wine bottle body frame element;
    - (ii) a first recessed portion extending from the proximal portion, the first recessed portion adapted to support a wine bottle body;
    - (iii) an intermediate portion parallel to the proximal portion and extending from the first recessed portion;
    - (iv) a free end portion of the first wine bottle body support member extending from the intermediate recessed portion;
      - (aa) wherein the free end portion includes an upwardly extending tip;
      - (bb) wherein the upwardly extending tip extends substantially to a plane created by the proximal portion and the intermediate portion;
  - (d) a second wine bottle body support member having:
    - (i) a proximal portion extending perpendicularly from the body frame element;
    - (ii) a first recessed portion extending from the portion, the first recessed portion adapted to support a wine bottle body;
    - (iii) an intermediate portion extending from the first recessed portion;
    - (iv) a free end portion of the second wine bottle body support member extending from the intermediate recessed portion;
      - (aa) wherein the free end portion includes an upwardly extending tip;
      - (bb) wherein the upwardly extending tip extends substantially to above a plane created by the proximal portion and the intermediate portion; and
  - (e) wherein when the first and second body frame elements are oriented vertically, the proximal portions of both the first and second body support members are oriented horizontally.

Exhibit B, '194 Patent, col. 10, ll. 13-54.

13. Wine Master is the owner of all rights, title, and interest in and to the '194 Patent, and is entitled to sue for infringement thereof.

**C. The '085 Patent**

14. The '085 Patent, entitled "WINE RACK," was duly and legally issued by the United States Patent and Trademark Office just after 12:00 a.m. EDT on June 14, 2016. *See Encore Wire*, 2011 U.S. Dist. LEXIS 22073; *see also Exxon Chemical Patents*, 935 F.2d 1263. A true and correct copy of the '085 Patent is attached hereto as Exhibit C.

15. The '085 Patent includes two independent claims and twelve dependent claims, all directed to a wine rack as reflected in Claim 1:

1. A wine rack comprising:
    - (a) a first wine bottle support member having:
      - (i) a proximal portion extending from a substantially vertical planar surface,
      - (ii) a first recessed portion extending from the proximal portion, the first recessed portion adapted to support a first portion of a first wine bottle;
      - (iii) a first intermediate portion extending from the first recessed portion;
      - (iv) a second recessed portion extending from the first intermediate portion, the second recessed portion adapted to support a first portion of a second wine bottle; and
      - (v) a free end portion;
    - (b) a second wine bottle support member having:
      - (i) a proximal portion extending from the substantially vertical planar surface,
      - (ii) a first recessed portion extending from the proximal portion, the first recessed portion adapted to support a second portion of the first wine bottle;
      - (iii) a first intermediate portion extending from the first recessed portion;
      - (iv) a second recessed portion extending from the first intermediate portion, the second recessed portion adapted to support a second portion of the second wine bottle; and
      - (v) a free end portion,
- wherein the proximal portions of both the first and second wine bottle support members are oriented substantially horizontally, and the first and second

wine bottle support members are adapted to hold the first wine bottle substantially perpendicular to the proximal portions thereof.

Exhibit C, '085 Patent, col. 10, ll. 15-47.

16. Wine Master is the owner of all rights, title, and interest in and to the '085 Patent, and is entitled to sue for infringement thereof.

**D. Background**

17. Wine Master has a long history of innovation in the wine rack industry.

18. Doug McCain, the named inventor of the Asserted Patents, invented the label-forward wine rack in 2001, when the traditional "cork-forward" design still prevailed. Mr. McCain's innovations helped change the way an industry looked at wine.

19. A label-forward wine rack permits the user to see the labels on all of the wine bottles, which provides the user with an interactive wine experience and makes the user's wine collection easy to navigate.

**E. STACT's Infringing Conduct**

20. In general, the Asserted Patents cover wine racks.

21. Upon information and belief, STACT has advertised, made, used, sold, and/or offered for sale in the United States—including, but not limited to, in Colorado—and/or imported into the United States, the L-Type Wine Rack, which infringes one or more claims of the '015 Patent, one or more claims of the '194 Patent, and one or more claims of the '085 Patent, through at least STACT's webpage at <https://www.getstact.com/products/wine-racks-label-out>, STACT's LinkedIn webpage at <https://www.linkedin.com/company/3292993>, STACT's Facebook webpage at <https://www.facebook.com/getstact>, Premier Wine Cellars' webpage at <https://www.premierwinecellars.com/collections/stact-reg-wine-racks>, Wine Racks America,

Inc.'s webpage at <http://www.wineracksamerica.com/stact>, Underground Cellar's Facebook webpage at <https://www.facebook.com/ucellar>, and MMXVI Gear Patrol, LLC's Gear Patrol webpage at <http://gearpatrol.com/2016/09/27/today-in-gear-september-27-2016>. A true and accurate copy of STACT's L-Type Wine Rack shown on STACT's website on October 28, 2016, is attached hereto as Exhibit D. A true and accurate copy of STACT's L-Type Wine Rack shown on STACT's website on November 1, 2016, is attached hereto as Exhibit E. A true and accurate copy of the STACT L-Type Wine Rack Installation Template and Manual, as linked to Premier Wine Cellars' webpage and downloaded from [https://cdn.shopify.com/s/files/1/1193/2986/files/STACT\\_manual\\_L-type.pdf](https://cdn.shopify.com/s/files/1/1193/2986/files/STACT_manual_L-type.pdf), is attached hereto as Exhibit F. A true and accurate copy of STACT's LinkedIn webpage on November 1, 2016, is attached hereto as Exhibit G. A true and accurate copy of STACT's Facebook webpage on November 1, 2016, is attached hereto as Exhibit H. A true and accurate copy of STACT's L-Type Wine Rack listed on Premier Wine Cellars webpage is attached hereto as Exhibit I. A true and accurate copy of STACT's L-Type Wine Rack listed on Wine Racks America, Inc.'s webpage is attached hereto as Exhibit J. A true and accurate copy of Underground Cellar's Facebook webpage on November 1, 2016, with annotations, is attached hereto as Exhibit K. A true and accurate copy of Gear Patrol's "Today in Gear: September 27, 2016" is attached hereto as Exhibit L.

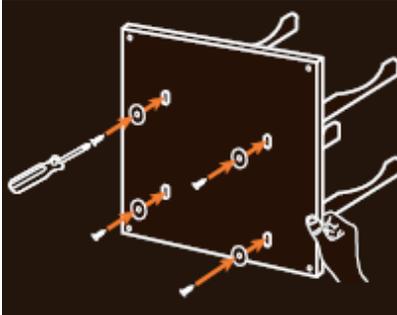
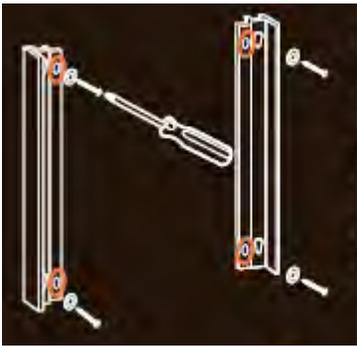
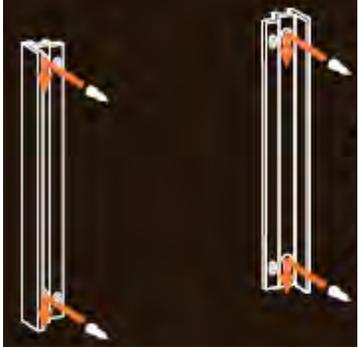
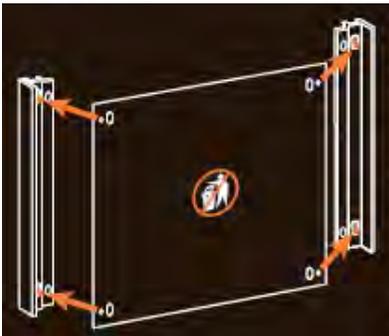
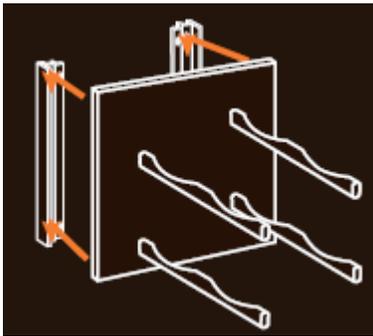
22. Upon information and belief, STACT has shipped its L-Type Wine Racks to its warehouse in the United States. *See* Exhibit G, p. 2 (posting on October 19, 2016, "Our first batch of L-type units have been packed, and about to be shipped to our warehouses in Denmark, Australia, Canada, and the USA. Preorder yours while they last!").

23. STACT has had actual and/or constructive notice of Wine Master's rights under the Asserted Patents because STACT changed its L-Type Wine Rack webpage sometime between October 29 and October 31, 2016, to add the note "(not available within USA)." *Compare* Exhibit D, p. 1, *and* Exhibit E, p. 2. Additionally, Wine Master marks its products with applicable patent numbers and/or "Patent Pending." Despite such notice, STACT continues to make, use, sell, and/or offer for sale in the United States the L-Type Wine Rack identified in Paragraph 21, an example of which is shown in Exhibit D.

24. STACT competes with Wine Master in this judicial district and elsewhere in the United States. Upon information and belief, STACT copied Wine Master's patented label-forward design in an attempt to usurp a portion of Wine Master's popularity and success.

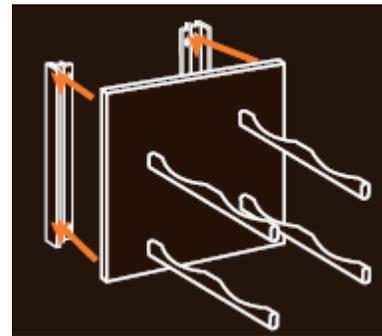
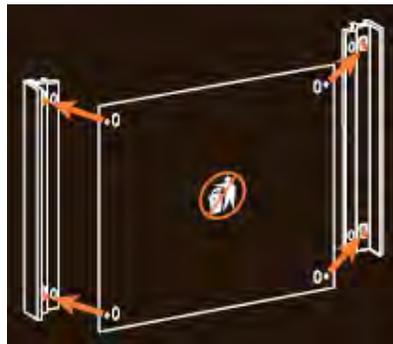
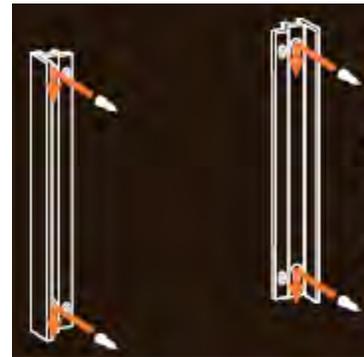
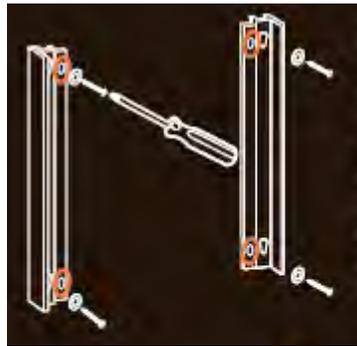
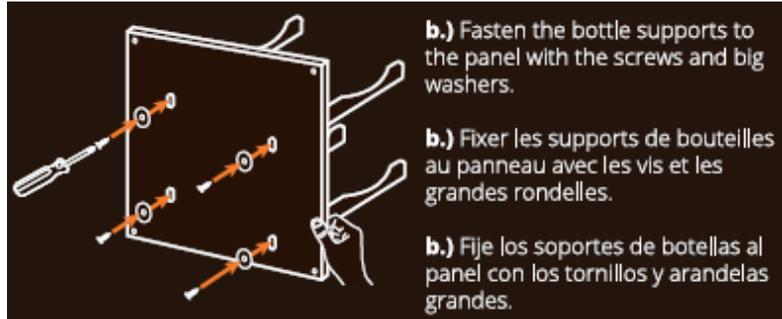
25. Upon information and belief, STACT is manufacturing, importing, selling, offering to sell, and/or distributing its L-Type Wine Rack products in willful violation of Wine Master's exclusive rights in the '015, '194, and '085 Patents. To the extent one or more elements of the claims of the '015, '194, and '085 Patents are not directly literally infringed, those elements are infringed under the doctrine of equivalents.

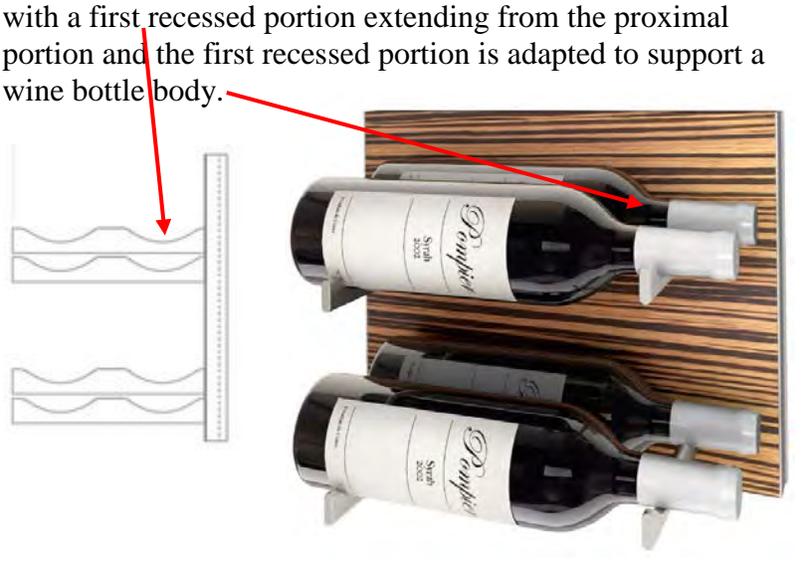
26. Specifically, STACT's L-Type Wine Rack contains all of the elements recited in at least Claim 1 of the '015 Patent, Claim 1 of the '194 Patent, and Claim 1 of the '085 Patent as exemplified below:

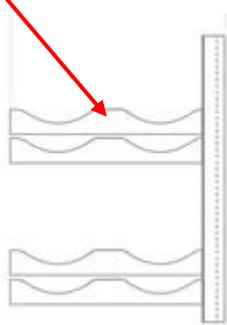
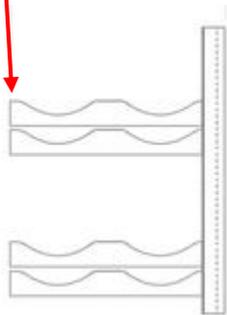
Claim 1 of the '015 Patent	STACT's Infringing L-Type Wine Rack
<p>1. A wine rack comprising:</p> <p>(a) a first wine bottle body frame element adapted to be attached to a structure;</p>	<p>The wine rack has a first wine bottle body frame element adapted to be attached to a structure.</p> <div data-bbox="609 436 1388 751">  <p><b>b.)</b> Fasten the bottle supports to the panel with the screws and big washers.</p> <p><b>b.)</b> Fixer les supports de bouteilles au panneau avec les vis et les grandes rondelles.</p> <p><b>b.)</b> Fije los soportes de botellas al panel con los tornillos y arandelas grandes.</p> </div> <div data-bbox="609 787 966 1134">  </div> <div data-bbox="998 787 1356 1134">  </div> <div data-bbox="609 1165 998 1501">  </div> <div data-bbox="1031 1165 1404 1501">  </div>

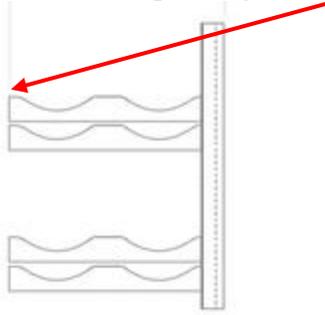
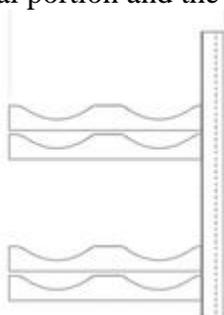
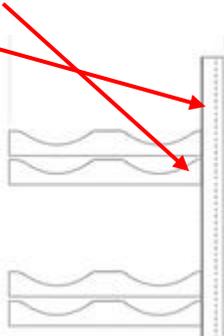
(b) a second wine bottle body frame element adapted to be attached to the structure in parallel to the first wine bottle body element;

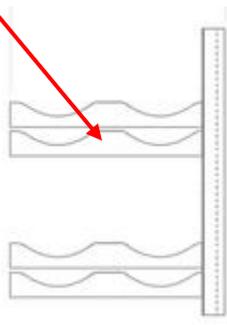
The wine rack has a second wine bottle body frame element adapted to be attached to the structure in parallel to the first wine bottle body element.

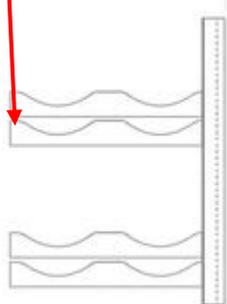
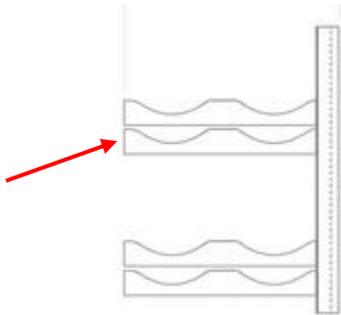


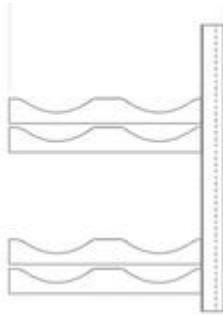
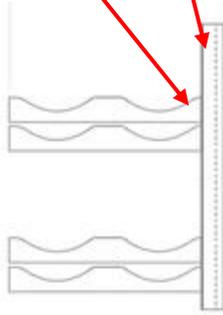
<p>(c) a first wine bottle body support member having:                  (i) a proximal portion extending perpendicularly from the first wine bottle body frame element</p>	<p>The wine rack has a first wine bottle body support member with a proximal portion extending perpendicularly from the first wine bottle body frame element.</p>  <p>The diagram on the left shows two wine bottle outlines with a vertical support member to their right. A red arrow points from the text to the proximal portion of this support member. The photograph on the right shows two wine bottles in a wooden rack. A red arrow points from the text to the proximal portion of the support member holding the top bottle.</p>
<p>(ii) a first recessed portion extending from the proximal portion, the first recessed portion adapted to support a wine bottle body;</p>	<p>The wine rack has a first wine bottle body support member with a first recessed portion extending from the proximal portion and the first recessed portion is adapted to support a wine bottle body.</p>  <p>The diagram on the left shows two wine bottle outlines with a vertical support member to their right. A red arrow points from the text to a recessed portion on the support member. The photograph on the right shows two wine bottles in a wooden rack. A red arrow points from the text to the recessed portion of the support member holding the top bottle.</p>

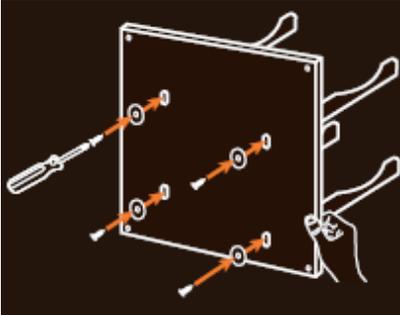
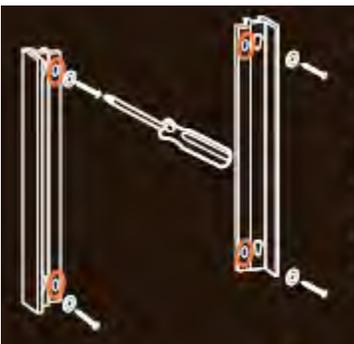
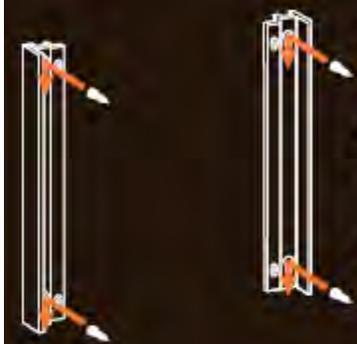
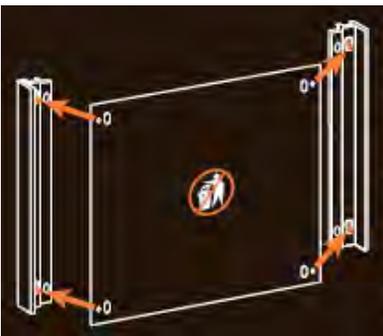
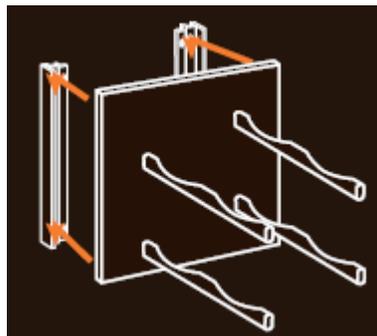
<p>(iii) an intermediate portion parallel to the proximal portion and extending from the first recessed portion;</p>	<p>The wine rack has a first wine bottle body support member with an intermediate portion parallel to the proximal portion and extending from the first recessed portion.</p> 
<p>(iv) a second recessed portion extending from the intermediate portion, the second recessed portion adapted to support a wine bottle body;</p>	<p>The wine rack has a first wine bottle body support member with a second recessed portion extending from the intermediate portion, the second recessed portion adapted to support a wine bottle body.</p> 
<p>(v) a free end portion of the first wine bottle body support member extending from the second recessed portion;</p>	<p>The wine rack has a free end portion of the first wine bottle body support member extending from the second recessed portion.</p> 

<p>(aa) wherein the free end portion includes an upwardly extending tip;</p>	<p>The free end portion includes an upwardly extending tip.</p> 
<p>(bb) wherein the upwardly extending tip extends substantially to a plane created by the proximal portion and the intermediate portion;</p>	<p>The upwardly extending tip extends substantially to a plane created by the proximal portion and the intermediate portion.</p> 
<p>(d) a second wine bottle body support member having: (i) a proximal portion extending perpendicularly from the body frame element;</p>	<p>The wine rack has a second wine bottle body support member with a proximal portion extending perpendicularly from the body frame element.</p> 

<p>(ii) a first recessed portion extending from the portion, the first recessed portion adapted to support a wine bottle body;</p>	<p>The wine rack has a second wine bottle body support member with a first recessed portion extending from the proximal portion, the first recessed portion adapted to support a wine bottle body.</p>  <p>The diagram on the left shows two cross-sectional views of a wine rack. The top view shows a vertical support member with a horizontal recessed portion. A red arrow points from the text above to this recessed portion. The bottom view shows a similar structure with a slightly different recessed profile. To the right is a photograph of a wooden wine rack with two wine bottles. A red arrow points from the text above to the top bottle's resting position, which is supported by a recessed portion of the rack.</p>
<p>(iii) an intermediate portion extending from the first recessed portion;</p>	<p>The wine rack has a second wine bottle body support member with an intermediate portion extending from the first recessed portion.</p>  <p>The diagram shows two cross-sectional views of a wine rack. The top view shows a vertical support member with a horizontal recessed portion. A red arrow points from the text above to a small, raised intermediate portion that extends from the proximal end of the recessed portion. The bottom view shows a similar structure with a different intermediate profile.</p>

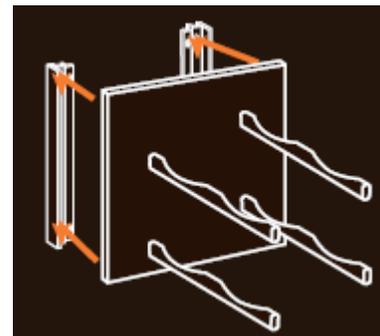
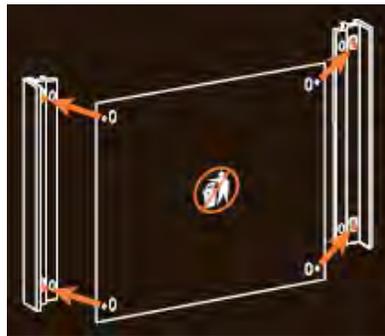
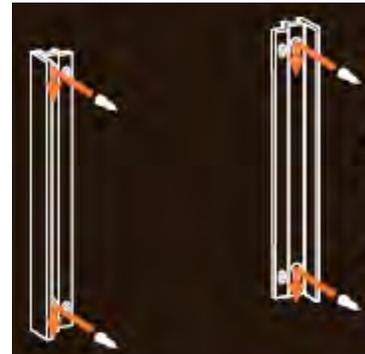
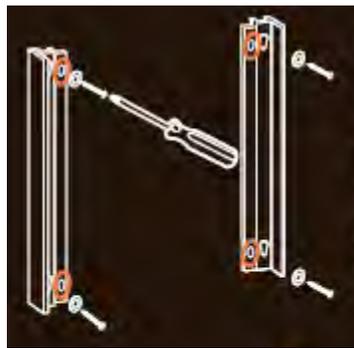
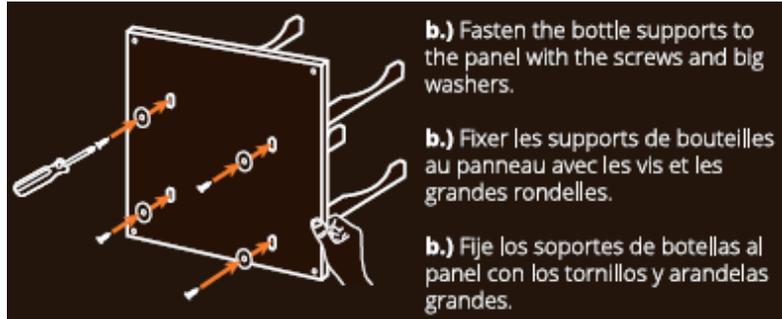
<p>(iv) a second recessed portion extending from the intermediate portion, the second recessed portion adapted to support a wine bottle body;</p>	<p>The wine rack has a second wine bottle body support member with a second recessed portion extending from the intermediate portion, the second recessed portion adapted to support a wine bottle body.</p> 
<p>(v) a free end portion of the second wine bottle body support member extending from the second recessed portion;</p>	<p>The wine rack has a free end portion of the second wine bottle body support member extending from the second recessed portion.</p> 
<p>(aa) wherein the free end portion includes an upwardly extending tip;</p>	<p>The free end portion includes an upwardly extending tip.</p> 

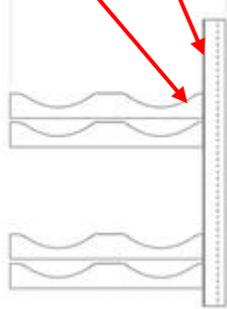
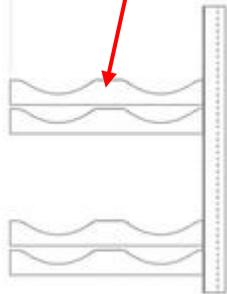
<p>(bb) wherein the upwardly extending tip extends substantially to above a plane created by the proximal portion and the intermediate portion; and</p>	<p>The upwardly extending tip extends substantially to a plane created by the proximal portion and the intermediate portion.</p> 
<p>(e) wherein when the first and second body frame elements are oriented vertically, the proximal portions of both the first and second body support members are oriented horizontally.</p>	<p>When the first and second body frame elements are oriented vertically, the proximal portions of both the first and second body support members are oriented horizontally.</p> 

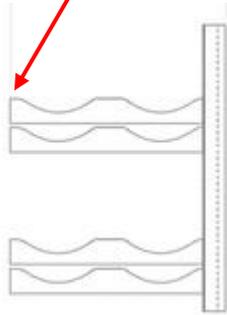
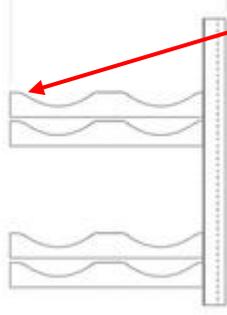
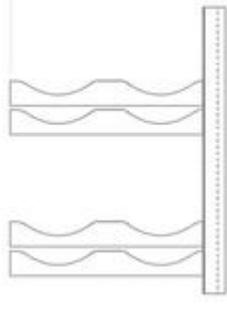
Claim 1 of the '194 Patent	STACT's Infringing L-Type Wine Rack
<p>1. A wine rack comprising:</p> <p>(a) a first wine bottle body frame element adapted to be attached to a structure;</p>	<p>The wine rack comprises a first wine bottle body frame element adapted to be attached to a structure.</p> <div data-bbox="636 436 1412 751">  <p><b>b.)</b> Fasten the bottle supports to the panel with the screws and big washers.</p> <p><b>b.)</b> Fixer les supports de bouteilles au panneau avec les vis et les grandes rondelles.</p> <p><b>b.)</b> Fije los soportes de botellas al panel con los tornillos y arandelas grandes.</p> </div> <div data-bbox="636 785 990 1129">  </div> <div data-bbox="1023 785 1380 1129">  </div> <div data-bbox="636 1163 1019 1499">  </div> <div data-bbox="1042 1163 1419 1499">  </div>

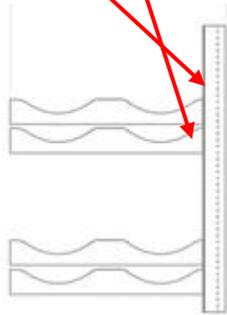
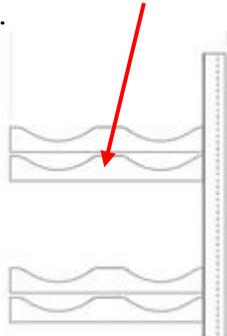
(b) a second wine bottle body frame element adapted to be attached to the structure in parallel to the first wine bottle body element;

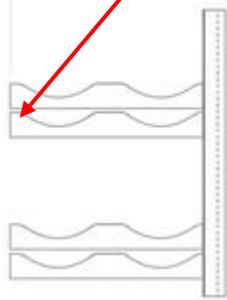
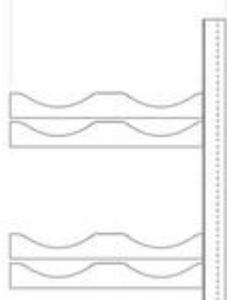
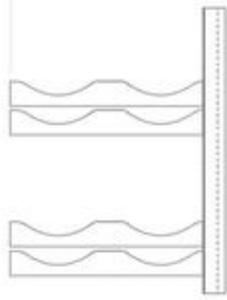
The wine rack comprises a second wine bottle body frame element adapted to be attached to the structure in parallel to the first wine bottle body element.

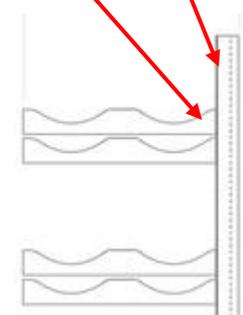


<p>(c) a first wine bottle body support member having:                  (i) a proximal portion extending perpendicularly from the first wine bottle body frame element;</p>	<p>The wine rack comprises a first wine bottle body support member with a proximal portion extending perpendicularly from the first wine bottle body frame element.</p> 
<p>(ii) a first recessed portion extending from the proximal portion, the first recessed portion adapted to support a wine bottle body;</p>	<p>The wine rack comprises a first wine bottle body support member with a first recessed portion extending from the proximal portion, the first recessed portion adapted to support a wine bottle body.</p> 
<p>(iii) an intermediate portion parallel to the proximal portion and extending from the first recessed portion;</p>	<p>The wine rack comprises a first wine bottle body support member with an intermediate portion parallel to the proximal portion and extending from the first recessed portion.</p> 

<p>(iv) a free end portion of the first wine bottle body support member extending from the intermediate recessed portion;</p>	<p>The wine rack comprises a free end portion of the first wine bottle body support member extending from the intermediate portion.</p>  <p>The diagram shows a vertical wine rack with two horizontal support members. Each support member has a wavy, undulating shape. A red arrow points to the free end portion of the top support member, which extends from the intermediate portion of the rack.</p>
<p>(aa) wherein the free end portion includes an upwardly extending tip;</p>	<p>The free end portion includes an upwardly extending tip.</p>  <p>The diagram is identical to the one above, but the red arrow points to the upwardly extending tip of the free end portion of the top support member.</p>
<p>(bb) wherein the upwardly extending tip extends substantially to a plane created by the proximal portion and the intermediate portion;</p>	<p>The upwardly extending tip extends substantially to a plane created by the proximal portion and the intermediate portion.</p>  <p>The diagram is identical to the one above, but the red arrow points to the upwardly extending tip of the free end portion of the top support member, which extends substantially to a plane created by the proximal portion and the intermediate portion.</p>

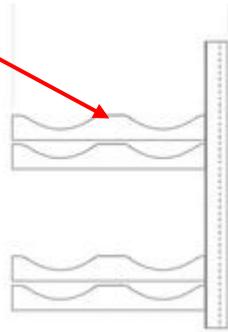
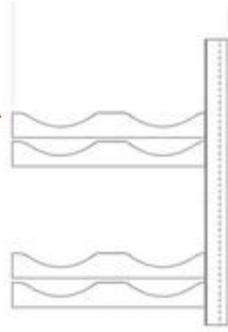
<p>(d) a second wine bottle body support member having:                  (i) a proximal portion extending perpendicularly from the body frame element;</p>	<p>The wine rack comprises a second wine bottle body support member with a proximal portion extending perpendicularly from the body frame element.</p> 
<p>(ii) a first recessed portion extending from the portion, the first recessed portion adapted to support a wine bottle body;</p>	<p>The wine rack comprises a second wine bottle body support member with a first recessed portion extending from the proximal portion, the first recessed portion adapted to support a wine bottle body.</p> 
<p>(iii) an intermediate portion extending from the first recessed portion;</p>	<p>The wine rack comprises a second wine bottle body support member with an intermediate portion extending from the first recessed portion.</p> 

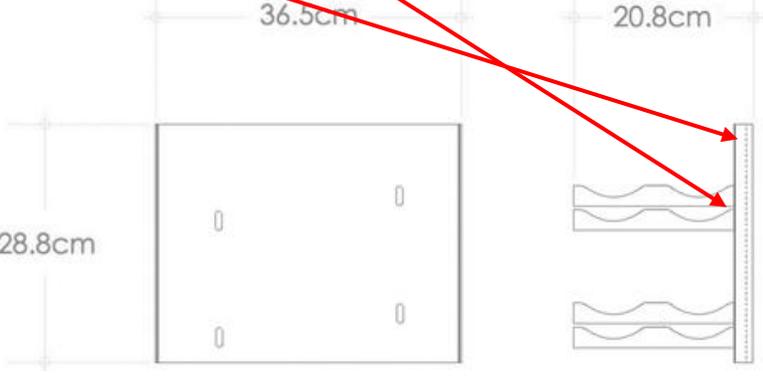
<p>(iv) a free end portion of the second wine bottle body support member extending from the intermediate recessed portion;</p>	<p>The wine rack comprises a free end portion of the second wine bottle body support member extending from the intermediate portion.</p> 
<p>(aa) wherein the free end portion includes an upwardly extending tip;</p>	<p>The free end portion includes an upwardly extending tip.</p> 
<p>(bb) wherein the upwardly extending tip extends substantially to a plane created by the proximal portion and the intermediate portion; and</p>	<p>The upwardly extending tip extends substantially to a plane created by the proximal portion and the intermediate portion.</p> 

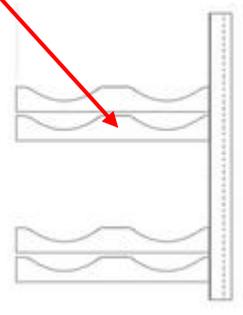
<p>(e) wherein when the first and second body frame elements are oriented vertically, the proximal portions of both the first and second body support members are oriented horizontally.</p>	<p>When the first and second body frame elements are oriented vertically, the proximal portions of both the first and second body support members are oriented horizontally.</p> 
--	---

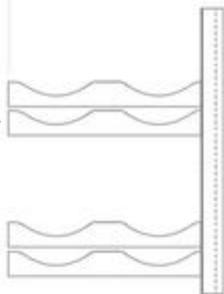
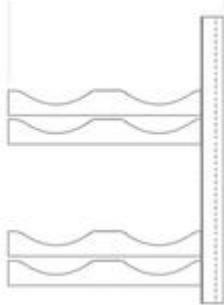
Claim 1 of the '085 Patent	STACT's Infringing L-Type Wine Rack
<p>A wine rack comprising: (a) a first wine bottle support member having:</p>	<p>The wine rack comprises a first wine bottle support member.</p> 

<p>(i) a proximal portion extending from a substantially vertical planar surface,</p>	<p>The wine rack comprises a first wine bottle support member with a proximal portion extending from a substantially vertical planar surface.</p> 
<p>(ii) a first recessed portion extending from the proximal portion, the first recessed portion adapted to support a first portion of a first wine bottle;</p>	<p>The wine rack comprises a first wine bottle support member with a first recessed portion extending from the proximal portion, the first recessed portion adapted to support a first portion of a first wine bottle.</p> 

<p>(iii) a first intermediate portion extending from the first recessed portion;</p>	<p>The wine rack comprises a first wine bottle support member with a first intermediate portion extending from the first recessed portion.</p>  <p>The diagram shows a vertical support member with two horizontal recessed portions. A red arrow points to the first intermediate portion, which is a wavy line extending from the first recessed portion.</p>
<p>(iv) a second recessed portion extending from the first intermediate portion, the second recessed portion adapted to support a first portion of a second wine bottle; and</p>	<p>The wine rack comprises a first wine bottle support member with a second recessed portion extending from the first intermediate portion, the second recessed portion adapted to support a first portion of a second wine bottle.</p>  <p>The diagram shows a vertical support member with two horizontal recessed portions. A red arrow points to the second recessed portion, which is adapted to support a first portion of a second wine bottle. The photograph shows a wooden wine rack with two wine bottles. A red arrow points to the second recessed portion of the support member, which is adapted to support a first portion of a second wine bottle.</p>
<p>(v) a free end portion;</p>	<p>The wine rack comprises a first wine bottle support member with a free end portion.</p>  <p>The diagram shows a vertical support member with two horizontal recessed portions. A red arrow points to the free end portion, which is a wavy line extending from the first recessed portion.</p>

<p>(b) a second wine bottle support member having:</p>	<p>The wine rack comprises a second wine bottle support member.</p> 
<p>(i) a proximal portion extending from the substantially vertical planar surface,</p>	<p>The wine rack comprises a second wine bottle support member with a proximal portion extending from the substantially vertical planar surface.</p> 

<p>(ii) a first recessed portion extending from the proximal portion, the first recessed portion adapted to support a second portion of the first wine bottle;</p>	<p>The wine rack comprises a second wine bottle support member with a first recessed portion extending from the proximal portion, the first recessed portion adapted to support a second portion of the first wine bottle.</p>  <p>The image shows a technical drawing on the left and a photograph on the right. The technical drawing consists of two side-view cross-sections of a wine rack. The top drawing shows a vertical support member with a horizontal recessed portion. A red arrow points from the text above to this recessed portion. The bottom drawing shows a similar view from a different angle. The photograph shows a wooden wine rack with two wine bottles. A red arrow points from the text above to the recessed portion of the rack that holds the bottles.</p>
<p>(iii) a first intermediate portion extending from the first recessed portion;</p>	<p>The wine rack comprises a second wine bottle support member with a first intermediate portion extending from the first recessed portion.</p>  <p>The image shows a technical drawing of a wine rack. It consists of two side-view cross-sections. The top drawing shows a vertical support member with a horizontal recessed portion. A red arrow points from the text above to an intermediate portion that extends from the recessed portion. The bottom drawing shows a similar view from a different angle.</p>

<p>(iv) a second recessed portion extending from the first intermediate portion, the second recessed portion adapted to support a second portion of the second wine bottle; and</p>	<p>The wine rack comprises a second wine bottle support member with a second recessed portion extending from the first intermediate portion, the second recessed portion adapted to support a second portion of the second wine bottle.</p> 
<p>(v) a free end portion,</p>	<p>The wine rack comprises a second wine bottle support member with a free end portion.</p> 
<p>wherein the proximal portions of both the first and second wine bottle support members are oriented substantially horizontally, and</p>	<p>The proximal portions of both the first and second wine bottle support members are oriented substantially horizontally.</p> 

<p>the first and second wine bottle support members are adapted to hold the first wine bottle substantially perpendicular to the proximal portions thereof.</p>	<p>The first and second wine bottle support members are adapted to hold the first wine bottle substantially perpendicular to the proximal portions thereof.</p>  A photograph showing two wine bottles held by a wooden rack. The bottles are positioned horizontally, with their necks pointing to the right. The rack is made of wood with a vertical grain pattern. The bottles are held in a way that they are perpendicular to the proximal portions of the rack.
---	--

**V. FIRST CLAIM FOR RELIEF**  
**(Infringement of the '015 Patent)**

27. Wine Master realleges the allegations contained in the foregoing paragraphs as if fully set forth herein.

28. STACT's activities in manufacturing, using, selling, and/or offering to sell in the United States, and/or importing into the United States, its L-Type Wine Racks, examples of which are depicted below and depicted in Exhibits D-F and I-J, constitute direct infringement of the '015 Patent, in violation of 35 U.S.C. § 271(a).



**STACT's L-Type Wine Rack**

29. Upon information and belief, STACT is inducing direct infringement of the '015 Patent by others by actively instructing, assisting, and/or encouraging others to practice one or more of the inventions claimed in the '015 Patent, in violation of 35 U.S.C. § 271(b).

30. Upon information and belief, STACT is contributing to direct infringement of the '015 Patent by others by manufacturing one or more components that constitute a material part of the invention defined by the claims of the '015 Patent, knowing the same to be especially made or especially adapted for use in an infringement of the '015 Patent, and which components are not staple articles or commodities of commerce suitable for substantial non-infringing use, in violation of 35 U.S.C. § 271(c).

31. Upon information and belief, STACT has acted in concert with and has induced or contributed to the infringement of the '015 Patent by instructing individual distributors, interior designers, tradesmen, and purchasers to commit acts that result in infringement of the '015 Patent.

32. STACT's actions in infringing the '015 Patent has been, and are, willful, deliberate, and/or in conscious disregard of Wine Master's rights, making this an exceptional case within the meaning of 35 U.S.C. § 285 and entitling Wine Master to enhanced damages and an award of its attorneys' fees.

33. STACT's infringement of the '015 Patent has caused damage to Wine Master in an amount to be ascertained at trial.

34. STACT's infringement of the '015 Patent has caused and will continue to cause irreparable injury to Wine Master, to which there exists no adequate remedy at law. STACT's infringement of the '015 Patent will continue unless enjoined by this Court.

**VI. SECOND CLAIM FOR RELIEF**  
**(Infringement of the '194 Patent)**

35. Wine Master realleges the allegations contained in the foregoing paragraphs as if fully set forth herein.

36. STACT's activities in manufacturing, using, selling, and/or offering to sell in the United States, and/or importing into the United States, its L-Type Wine Racks, examples of which are depicted below and depicted in Exhibits D-F and I-J, constitute direct infringement of the '194 Patent, in violation of 35 U.S.C. § 271(a).





**STACT's L-Type Wine Rack**

37. Upon information and belief, STACT is inducing direct infringement of the '194 Patent by others by actively instructing, assisting, and/or encouraging others to practice one or more of the inventions claimed in the '194 Patent, in violation of 35 U.S.C. § 271(b).

38. Upon information and belief, STACT is contributing to direct infringement of the '194 Patent by others by manufacturing one or more components that constitute a material part of the invention defined by the claims of the '194 Patent, knowing the same to be especially made or especially adapted for use in an infringement of the '194 Patent, and which components are not staple articles or commodities of commerce suitable for substantial non-infringing use, in violation of 35 U.S.C. § 271(c).

39. Upon information and belief, STACT has acted in concert with and has induced or contributed to the infringement of the '194 Patent by instructing individual distributors, interior designers, tradesmen, and purchasers to commit acts that result in infringement of the '194 Patent.

40. STACT's actions in infringing the '194 Patent has been, and are, willful, deliberate, and/or in conscious disregard of Wine Master's rights, making this an exceptional case within the meaning of 35 U.S.C. § 285 and entitling Wine Master to enhanced damages and an award of its attorneys' fees.

41. STACT's infringement of the '194 Patent has caused damage to Wine Master in an amount to be ascertained at trial.

42. STACT's infringement of the '194 Patent has caused and will continue to cause irreparable injury to Wine Master, to which there exists no adequate remedy at law. STACT's infringement of the '194 Patent will continue unless enjoined by this Court.

**VII. THIRD CLAIM FOR RELIEF**  
**(Infringement of the '085 Patent)**

43. Wine Master realleges the allegations contained in the foregoing paragraphs as if fully set forth herein.

44. STACT's activities in manufacturing, using, selling, and/or offering to sell in the United States, and/or importing into the United States, its L-Type Wine Racks, examples of which are depicted below and depicted in Exhibits D-F and I-J, constitute direct infringement of the '085 Patent, in violation of 35 U.S.C. § 271(a).



**STACT's L-Type Wine Rack**

45. Upon information and belief, STACT is inducing direct infringement of the '085 Patent by others by actively instructing, assisting, and/or encouraging others to practice one or more of the inventions claimed in the '085 Patent, in violation of 35 U.S.C. § 271(b).

46. Upon information and belief, STACT is contributing to direct infringement of the '085 Patent by others by manufacturing one or more components that constitute a material part of the invention defined by the claims of the '085 Patent, knowing the same to be especially made or especially adapted for use in an infringement of the '085 Patent, and which components are not staple articles or commodities of commerce suitable for substantial non-infringing use, in violation of 35 U.S.C. § 271(c).

47. Upon information and belief, STACT has acted in concert with and has induced or contributed to the infringement of the '085 Patent by instructing individual distributors, interior designers, tradesmen, and purchasers to commit acts that result in infringement of the '085 Patent.

48. STACT's actions in infringing the '085 Patent has been, and are, willful, deliberate, and/or in conscious disregard of Wine Master's rights, making this an exceptional case within the meaning of 35 U.S.C. § 285 and entitling Wine Master to enhanced damages and an award of its attorneys' fees.

49. STACT's infringement of the '085 Patent has caused damage to Wine Master in an amount to be ascertained at trial.

50. STACT's infringement of the '085 Patent has caused and will continue to cause irreparable injury to Wine Master, to which there exists no adequate remedy at law. STACT's infringement of the '085 Patent will continue unless enjoined by this Court.

**VIII. PRAYER FOR RELIEF**

WHEREFORE, Wine Master prays for judgment in its favor and against STACT as follows:

A. That STACT, its officers, directors, agents, servants, employees, privies, representatives, attorneys, parent and subsidiary corporations or other related entities, successors, assigns, licensees, retail distributors, and all persons in active concert or participation with STACT, be temporarily, preliminarily, and permanently enjoined from directly infringing, inducing others to infringe, and/or contributing to the infringement of the '015 Patent;

B. That STACT, its officers, directors, agents, servants, employees, privies, representatives, attorneys, parent and subsidiary corporations or other related entities, successors, assigns, licensees, retail distributors, and all persons in active concert or participation with STACT, be temporarily, preliminarily, and permanently enjoined from directly infringing, inducing others to infringe, and/or contributing to the infringement of the '194 Patent;

C. That STACT, its officers, directors, agents, servants, employees, privies, representatives, attorneys, parent and subsidiary corporations or other related entities, successors, assigns, licensees, retail distributors, and all persons in active concert or participation with STACT, be temporarily, preliminarily, and permanently enjoined from directly infringing, inducing others to infringe, and/or contributing to the infringement of the '085 Patent;

D. That Wine Master be awarded damages in an amount to be determined at trial for STACT's infringing activities, which are at least a reasonable royalty;

E. That Wine Master be awarded treble damages by reason of the willful, wanton, and deliberate nature of STACT's infringement pursuant to 35 U.S.C. § 284;

F. That Wine Master be awarded its attorneys' fees as this is an exceptional case under

35 U.S.C. § 285;

G. The Wine Master be awarded its pre-judgment and post-judgment interest;

H. That Wine Master be awarded costs and expenses of suit, including expert witness fees; and

G. That Wine Master be awarded such other and further relief as the Court deems appropriate and just.

**IX. JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Wine Master demands a trial by jury on all issues so triable.

Respectfully submitted,

DATED: November 8, 2016

By: s/ John R. Posthumus  
John R. Posthumus  
jposthumus@sheridanross.com  
Kendria E. Pearson  
kpearson@sheridanross.com  
SHERIDAN ROSS P.C.  
1560 Broadway, Suite 1200  
Denver, Colorado 80202-5141  
Telephone: 303-863-9700  
Facsimile: 303-863-0223  
E-mail: litigation@sheridanross.com

ATTORNEYS FOR PLAINTIFF  
WINE MASTER CELLARS, LLLP