

## VINEYARD AND BLOCK DESIGNATES

# Branding strategies in agricultural commodities

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Vineyard-designated wine is one lesson in value-added agricultural branding that presents both the winery and vineyard owner or lessee with a number of marketing and legal issues.

Recognition of the value of vineyard-designated names, vineyards have long been designating blocks within their vineyards with proprietary names.

In this way, even though multiple wineries purchase grapes from the same vineyard property, each winery can have a distinct name to refer to the vineyard block where the grapes were grown, also known as the “block designate.”

If a vineyard owner sells wine grapes to a winery under a vineyard designate or block designate, the winery may use that vineyard or block name on wine produced from those grapes to designate origin, provided such use complies with the vineyard designation labeling requirements of the Alcohol and Tobacco Tax and Trade Bureau (TTB). Accordingly, the vineyard owner—not the winery—theoretically owns rights in the name.

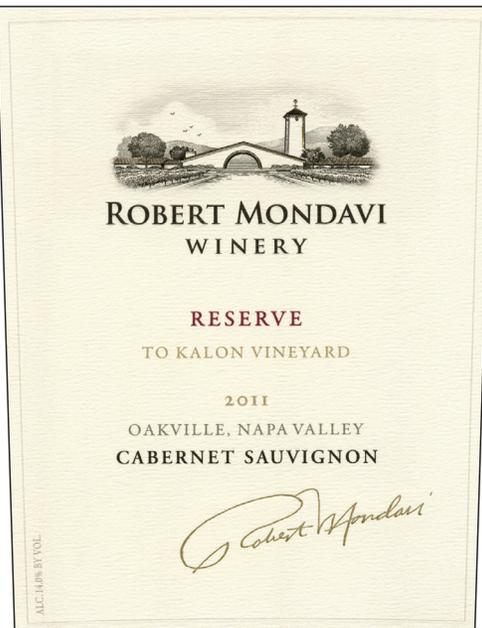
## ToKalon Vineyard

Wineries may consequently find their vineyard-designated wines embroiled in a trademark dispute between different winery owners. One of the most well-publicized vineyard name trademark disputes involved the famed To Kalon Vineyard in Oakville, Calif.

Originally planted in 1868, To Kalon was eventually divided up and, by the 1990s, both the Robert Mondavi Winery and Andy Beckstoffer owned portions of the vineyard. Mondavi secured federal trademark registrations for both the To Kalon and To Kalon Vineyard marks.

Schrader Cellars in Calistoga, Calif., entered into an agreement to purchase grapes from Beckstoffer, and Schrader planned to use the “Beckstoffer Original To Kalon Vineyard” designation on the label for its 2000 Cabernet Sauvignon.

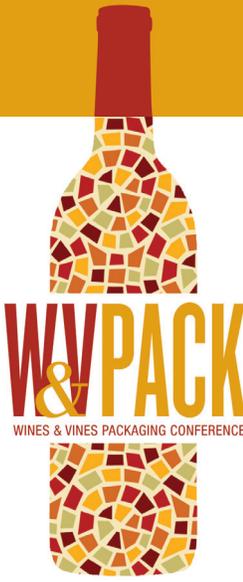
In 2002, Mondavi sued Schrader Cellars and sought an injunction to bar Schrader’s sale of “To Kalon Vineyard” designated wine. The parties eventually settled their dispute, and Beckstoffer was granted a royalty-free license to continue using the To Kalon name.



Thus, when the vineyard is owned by another party, the risk to the winery in marketing vineyard- and block-designated wines made from contract grapes is that once the contract ends, so can the rights to continue use of the vineyard and/or block designation.

## Risks and rewards

A winery must accept that by producing and marketing vineyard-designated wine made from grapes grown in a vineyard the winery does not own, the winery is potentially spending time and money building brand equity for someone else. When the grape contract ends, there is considerable risk that the “brand” of the vineyard owner may be used by the vineyard owner itself, or potentially



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by other wineries that contract with the vineyard owner.

Wineries are often unaware that a vineyard designation or block designation actually belongs to the vineyard owner. Many wineries feel that if they are using the vineyard designation on a wine, and popularizing the vineyard name, they should own the rights to the vineyard or block designate as a trademark.

## To maintain trademark rights, an owner must control the quality of goods sold under the mark.

While this may be a questionable legal position, this attitude among some wineries may nevertheless be problematic from a practical perspective. Should a winery successfully register rights in a mark that is used as a vineyard- or block-designate, the vineyard owner will need to spend considerable time and money in a potentially unsuccessful effort to regain

clear rights to the name. The best way a vineyard owner can protect him or herself is to register their brands and properly license them to a winery.

### Licensing of rights

To maintain trademark rights, an owner must control the quality of goods sold under the mark. For a vineyard owner, this can be accomplished through specific provisions in a grape contract or through a related trademark license agreement, which is separate from the grape contract.

A license will clearly establish that, as between the vineyard and the winery, the vineyard is the owner of the mark and the winery (and its use of the designate) is subject to the terms of the license as well as the vineyard owner's control of the quality of wine provided under the mark.

In practice, such quality control can often be administered in a nondisruptive, nonintrusive manner (i.e., sufficient quality may be presumed based on maintenance of quality heretofore maintained by the winery operation).

The strategy of enhancing the value of grapes by identifying their origin from a certain vineyard is also widely used to enhance the value of other agri-

## Are you adequately protecting your vineyard designate or agricultural commodity?

cultural commodities, such as cattle from a certain ranch, or spinach from a particular farm.

As the commodity producer, it is important to register the trademarks for the brands used with these agricultural products so that the commodities themselves (as well as the land from which they come) can accrue value, prestige and reputation, which inures to the brand assets.

Are you adequately protecting your vineyard designate or agricultural commodity? [PWV](#)

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