

A Winthrop & Weinstine blog dedicated to bridging the gap between legal & marketing types.

[The Wine Menagerie](#)

Posted on March 2, 2011 by [Sharon Armstrong](#)

[Kingsley Amis](#), that lauded British humorist and man of letters, once said that “a German wine label is one of the things life’s too short for, a daunting testimony to that peculiar nation’s love of detail and organization.” Indeed, as a recent article in the [Wall Street Journal](#) points out, it wasn’t so long ago that wine “labels were dominated by inanimate objects, like chateaus in France, and gobs of text.”

Due to the apparent branding prowess of Yellow Tail, which is credited with “populariz[ing] the living-creatures [wine] label,” consumers are now often presented with a [veritable zoo of wine label creatures](#), both real and fantastic, including [ducks](#), [unicorns](#), [boar](#), and [prairie dogs](#) – to guide their wine selections. (Because apparently even prairie dogs have a role to play in creating “[bottled poetry](#).”)

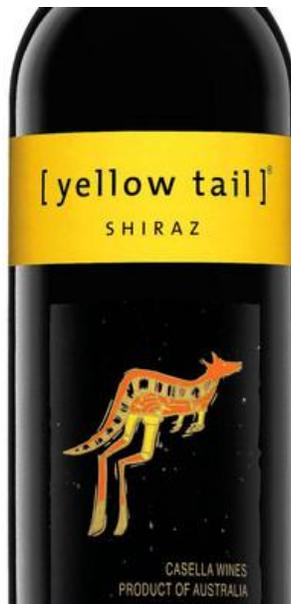
Yellow Tail itself uses a picture of the wallaby on its label. Without consulting the Internet, and before the writing of this post, I knew that a wallaby was some sort of native Australian animal. After reading the aforementioned article in the *Wall Street Journal*, however, I now know that the wallaby, like the kangaroo, is a marsupial. I also know that the wallaby, like the kangaroo, hops on its two back legs, which are longer than its front arms. And, like the kangaroo, the wallaby has a proportionally long tail, and ears that stand up, and a little front pouch in which to carry its young.

Do wallabies and kangaroos sound like similar creatures to you? Take a look at these pictures...do they look similar to you? Could you tell them apart if your life depended on it?





The makers of Yellow Tail, Casella Wines, certainly think that they are similar – and they have little faith that regular consumers like us can tell the difference. Hence Casella’s recent filing of a trademark infringement suit in New York against The Wine Group, makers of Little Roo wines, which uses – you guessed it – a kangaroo on its label. Among Casella’s claims of confusing similarity between the designs is the orientation of the creatures on both labels – both of which are facing right – and the argument that yellow-footed rock wallabies are “indistinguishable to most people” from kangaroos.



What do you think?



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