

TTAB

HANBEV.017M

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Monster Cable Products, Inc.,

Opposer,

v.

Hansen Beverage Company,

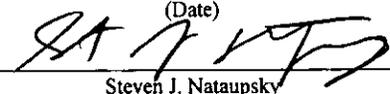
Applicant.

Opposition No. 91159903
Serial No. 78/253,931

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on

May 4, 2004

(Date)



Steven J. Nataupsky

ANSWER TO NOTICE OF OPPOSITION

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514



05-10-2004

U.S. Patent & TMO/tm Mail Rcpt Dt. #22

ATT: BOX TTAB NO FEE

Dear Sir:

Applicant Hansen Beverage Company ("Hansen"), a Delaware corporation, having its principal place of business at 1010 Railroad Street, Corona, CA 92882 hereby answers the Notice of Opposition filed against its application for the M MONSTER trademark (Serial No. 78/253,931) by Monster Cable Products, Inc. ("Opposer").

1. Answering Paragraph 1 of the Notice of Opposition, Applicant lacks sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

2. Answering Paragraph 2 of the Notice of Opposition, Applicant lacks sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

3. Answering Paragraph 3 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 2,184,002 and that that Registration was granted on August 25, 1998. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 3 and accordingly denies the allegations.

4. Answering Paragraph 4 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 2,197,793 and that that Registration was granted on October 20, 1998. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 4 and accordingly denies the allegations.

5. Answering Paragraph 5 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,690,903 and that that Registration was granted on June 2, 1992. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 5 and accordingly denies the allegations.

6. Answering Paragraph 6 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,342,164 and that that Registration was granted on June 18, 1985. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 6 and accordingly denies the allegations.

7. Answering Paragraph 7 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,340,229 and that that Registration was granted on June 11, 1985. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 7 and accordingly denies the allegations.

8. Answering Paragraph 8 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,384,076 and that that Registration

was granted on February 25, 1986. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 8 and accordingly denies the allegations.

9. Answering Paragraph 9 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,144,700 and that that Registration was granted on December 30, 1980. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 9 and accordingly denies the allegations.

10. Answering Paragraph 10 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,336,372 and that that Registration was granted on May 21, 1985. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 10 and accordingly denies the allegations.

11. Answering Paragraph 11 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,844,244 and that that Registration was granted on July 12, 1994. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 11 and accordingly denies the allegations.

12. Answering Paragraph 12 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,738,114 and that that Registration was granted on December 8, 1992. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 12 and accordingly denies the allegations.

13. Answering Paragraph 13 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,537,306 and that that Registration was granted on May 2, 1989. Applicant lacks sufficient knowledge or information to form a

belief as to the remainder of the allegations contained in Paragraph 13 and accordingly denies the allegations.

14. Answering Paragraph 14 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,665,277 and that that Registration was granted on November 19, 1991. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 14 and accordingly denies the allegations.

15. Answering Paragraph 15 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,759,527 and that that Registration was granted on March 23, 1993. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 15 and accordingly denies the allegations.

16. Answering Paragraph 16 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,428,215 and that that Registration was granted on February 10, 1987. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 16 and accordingly denies the allegations.

17. Answering Paragraph 17 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,351,414 and that that Registration was granted on July 30, 1985. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 17 and accordingly denies the allegations.

18. Answering Paragraph 18 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,812,892 and that that Registration was granted on December 21, 1993. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 18 and accordingly denies the allegations.

19. Answering Paragraph 19 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 1,414,284 and that that Registration was granted on October 21, 1986. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 19 and accordingly denies the allegations.

20. Answering Paragraph 20 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 2,381,246 and that that Registration was granted on August 29, 2000. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 20 and accordingly denies the allegations.

21. Answering Paragraph 21 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 2,381,247 and that that Registration was granted on August 29, 2000. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 21 and accordingly denies the allegations.

22. Answering Paragraph 22 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 2,330,194 and that that Registration was granted on March 14, 2000. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 22 and accordingly denies the allegations.

23. Answering Paragraph 23 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 2,537,106 and that that Registration was granted on February 5, 2000. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 23 and accordingly denies the allegations.

24. Answering Paragraph 24 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 2,211,670 and that that Registration

was granted on December 15, 1998. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 24 and accordingly denies the allegations.

25. Answering Paragraph 25 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 2,153,562 and that that Registration was granted on April 28, 1998. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 25 and accordingly denies the allegations.

26. Answering Paragraph 26 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 2,227,322 and that that Registration was granted on March 2, 1999. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 26 and accordingly denies the allegations.

27. Answering Paragraph 27 of the Notice of Opposition, Applicant admits that Opposer purports to be the owner of U.S. Registration No. 2,183,518 and that that Registration was granted on August 25, 1998. Applicant lacks sufficient knowledge or information to form a belief as to the remainder of the allegations contained in Paragraph 27 and accordingly denies the allegations.

28. Answering the first sentence of Paragraph 28 of the Notice of Opposition, Applicant lacks sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations. Applicant denies the allegations set forth in the second and third sentences of Paragraph 28 of the Notice of Opposition.

29. Answering Paragraph 29 of the Notice of Opposition, Applicant denies the allegations contained therein.

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AFFIRMATIVE DEFENSES

Applicant raises the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

Due to the dramatic differences between the parties' goods and services, there is no likelihood of confusion, deception or mistake between Opposer's alleged trademarks and Applicant's trademark.

SECOND AFFIRMATIVE DEFENSE

Due to the differences between the parties' trademarks, there is no likelihood of confusion, deception or mistake between Opposer's alleged trademarks and Applicant's trademark.

THIRD AFFIRMATIVE DEFENSE

Due to the dramatic differences between the parties' goods and services, Applicant's use of Applicant's trademark has not, does not and will not interfere with Opposer's use of its alleged trademarks.

FOURTH AFFIRMATIVE DEFENSE

Due to the differences between the parties' trademarks, Applicant's use of Applicant's trademark has not, does not and will not interfere with Opposer's use of its alleged trademarks.

FIFTH AFFIRMATIVE DEFENSE

Due to the dramatic differences between the parties' goods and services, Opposer will not be damaged by Applicant's use or registration of Applicant's trademark.

SIXTH AFFIRMATIVE DEFENSE

Due to the differences between the parties' trademarks, Opposer will not be damaged by Applicant's use or registration of Applicant's trademark.

SEVENTH AFFIRMATIVE DEFENSE

Due to the dramatic differences between the parties' goods and services, Applicant's use of Applicant's trademark will not dilute the distinctive quality of Opposer's alleged trademarks.

EIGHTH AFFIRMATIVE DEFENSE

Due to the differences between the parties' trademarks, Applicant's use of Applicant's trademark will not dilute the distinctive quality of Opposer's alleged trademarks.

NINTH AFFIRMATIVE DEFENSE

Opposer's marks are not famous.

RELIEF REQUESTED

In view of the foregoing, Applicant respectfully requests that this Opposition be dismissed and that Applicant's application be passed to allowance.

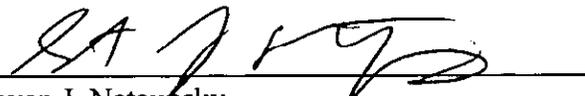
Please charge Deposit Account No. 11-1410 for any fees that may be required.

Please direct all correspondence with respect to this Opposition to the undersigned at the address listed below.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: May 4, 2009

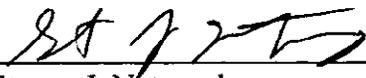
By: 

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Danielle Klausner
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Fourteenth Floor
Irvine, CA 92614
(949) 760-0404
Attorneys for Applicant,
Hansen Beverage Company

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** upon Opposer's counsel by depositing one copy thereof in the United States Mail, first-class postage prepaid, on May 4, 2004, addressed as follows:

Matthew A. Powelson
LaRIVIERE, GRUBMAN & PAYNE, LLP
19 Upper Ragsdale Drive, Suite 200
P.O. Box 3140
Monterey, CA 93942-3140



Steven J. Nataupsky