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Filing date: **05/12/2006**

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

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|------------------------|---|
| Proceeding | 91161954 |
| Party | Defendant Lone Star Steakhouse & Saloon, Inc. Lone Star Steakhouse & Saloon, Inc. 224 E. Douglas, Suite 700 Wichita, KS 67202 |
| Correspondence Address | JOSEPH J. FERRETTI CROWE DUNLEVY 20 N BROADWAY, STE 1800 OKLAHOMA CITY, OK 73102-8273 |
| Submission | Answer |
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| Signature | /Phillip L. Free, Jr./ |
| Date | 05/12/2006 |
| Attachments | 254.pdf (4 pages)(124606 bytes) |

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

In re Application of:
Lone Star Steakhouse & Saloon, Inc.
Mark: LONE STAR (and design)
Application No.: 75/883,254
Filing Date: December 29, 1999
Published for Opposition: March 23, 2004

| | | |
|-------------------------------------|---|--------------------------|
| Pabst Brewing Company |) | |
| |) | |
| Opposer, |) | |
| |) | |
| v. |) | Opposition No.: 91161954 |
| |) | |
| Lone Star Steakhouse & Saloon, Inc. |) | |
| |) | |
| Applicant |) | |

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

ANSWER TO NOTICE OF OPPOSITION

Lone Star Steakhouse & Saloon, a corporation duly organized and existing under the laws of the state of Delaware, located and doing business at 224 East Douglas, Suite Suite 700 Wichita, Kansas 67202-3424 (Hereinafter "Applicant") submits this Answer to Notice of Opposition filed by Pabst Brewing Company (Hereinafter "Opposer"), Opposition No.: 91161954 against the Mark LONE STAR (and design), Serial No.: 75/883,254 (Hereinafter "Applicant's Mark"). In response to the Notice of Opposition (Hereinafter "Opposition"), Applicant submits:

1. Applicant admits the allegations contained in Paragraph 1 of the Notice of Opposition.
2. Applicant submits that Opposer's registrations speak for themselves. Applicant is without information or knowledge sufficient to form a belief as to the truth of the

specific matters asserted in Paragraph 2 of the Notice of Opposition and therefore denies the same. Applicant also denies that the Applicant's mark is so resembles Opposer's registered marks, as to be likely to cause confusion, or to cause mistake, or to deceive.

3. Applicant submits that Opposer's registrations speak for themselves. Applicant is without information or knowledge sufficient to form a belief as to the truth of the specific matters asserted in Paragraph 3 of the Notice of Opposition and therefore denies the same.
4. Applicant is without information or knowledge sufficient to form a belief as to the truth of the matters asserted in Paragraph 4 of the Notice of Opposition and therefore denies the same.
5. Applicant is without information or knowledge sufficient to form a belief as to the truth of the matters asserted in Paragraph 5 of the Notice of Opposition and therefore denies the same.
6. Applicant is without information or knowledge sufficient to form a belief as to the truth of the matters asserted in Paragraph 6 of the Notice of Opposition and therefore denies the same.
7. Applicant denies the allegations contained in Paragraph 7 of the Notice of Opposition and therefore denies the same.
8. Applicant denies the allegations contained in Paragraph 8 of the Notice of Opposition.
9. Applicant denies the allegations contained in Paragraph 9 of the Notice of Opposition.
10. Applicant denies the allegations contained in Paragraph 10 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

1. Opposer will not be damaged by the registration of Applicant's Mark.
2. Applicant claims prior registration of reg. nos. 1,731,247 and 2,992,302 for the mark LONE STAR STEAKHOUSE & SALOON (and design) and LONE STAR STEAKHOUSE & SALOON in class 25.
3. The doctrine of laches, acquiescence, waiver and/or estoppel bar Opposer from contesting the registration for Applicant's Mark. Specifically, Applicant affirmatively alleges that the Opposer has acquiesced to numerous third party uses of the mark LONE STAR in connection with clothing related goods and services as evidenced by the presence of numerous third party registrations in class 25 containing the term "lone star". Therefore, Opposer should be estopped from opposing Applicant's Mark.
4. Applicant affirmatively alleges that the differences between the parties' marks, and channels of trade are sufficient such that purchasers are not likely to be confused by the concurrent use of the marks.
5. Applicant affirmatively alleges that due to the large number of LONE STAR marks, consumers have developed the ability to distinguish among the various LONE STAR marks based on even minor differences in the marks.

WHEREFORE, Applicant requests that the Notice of Opposition be dismissed in its entirety, and that the Board pass Applicant's Mark to registration.

Respectfully Submitted,



Phillip L. Free, Jr., OBA #15765

-Of the Firm-

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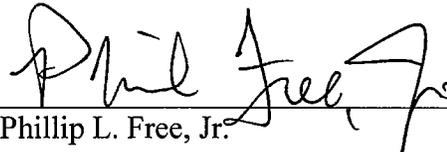
Facsimile: (405) 239-6651

ATTORNEY FOR APPLICANT

LONE STAR STEAKHOUSE & SALOON, INC.

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being electronically transmitted via ESTTA to the United States Patent and Trademark Office on this 12 of May, 2006.

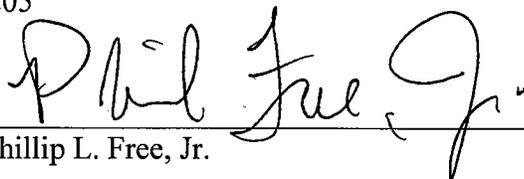


Phillip L. Free, Jr.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Answer to the Notice of Opposition* was mailed first class mail, postage prepaid, this 12 day of May, 2006 to the following:

William B. Nash
JACKSON WALKER LLP
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San Antonio, Texas 78205



Phillip L. Free, Jr.