

ESTTA Tracking number: **ESTTA275255**

Filing date: **03/31/2009**

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

Proceeding	91161954
Party	Plaintiff PABST BREWING COMPANY
Correspondence Address	WILLIAM B. NASH JACKSON WALKER L.L.P. 112 E. PECAN STREET, SUITE 2100 SAN ANTONIO, TX 78205 UNITED STATES bnash@jw.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	William B. Nash
Filer's e-mail	bnash@jw.com, mfassold@jw.com, llapidario@jw.com, lstuder@jw.com
Signature	/William B. Nash/
Date	03/31/2009
Attachments	2009-03-31 Opposer's Ninth Notice of Reliance.pdf (20 pages)(249283 bytes)

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

	X	
)	
Pabst Brewing Company)	Opposition No. 91161954
Opposer,)	Opposition No. 91161955
)	
v.)	
)	Serial Nos.: 75/883,254 and 75/883,253
Lone Star Steakhouse & Saloon)	Mark: LONE STAR (and Design)
Applicant.)	
	X	

OPPOSER’S NINTH NOTICE OF RELIANCE

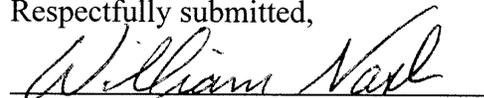
Opposer, Pabst Brewing Company (“Pabst”), by and through its attorney of record, submits this Ninth Notice of Reliance pursuant to 37 CFR § 2.122(e). Specifically, Opposer relies on Official Records of the U.S. Patent and Trademark Office (TESS database records) evidencing specimens in the application file to Registration No. 2,992, 302, which shows a composite mark that does not evidence the applied for marks.

Opposer hereby introduces the following:

Exhibit A: Application Serial No. 78/445,281 which issued on September 6, 2005 as Registration No. 2,992,302.

Dated: March 31, 2009

Respectfully submitted,



William B. Nash, Reg. No. 33,743
Jackson Walker, L.L.P.
112 East Pecan St., Suite 2100
San Antonio, Texas 78205
(210) 978-7700
(210) 978-7790 (Fax)
Attorneys For Opposer Pabst Brewing
Company

CERTIFICATE OF SERVICE

This is to certify that on this 31st day of March, 2009, a true and correct copy of the foregoing Opposer's Ninth Notice of Reliance was served via electronic mail to the following:

Phillip L. Free, Jr., OBA #15765
Marie S. Johnston, OBA # 19847
Crowe & Dunlevy, P.C.
20 North Broadway, Suite 1800
Oklahoma City, OK 73102-8273

phil.free@crowedunlevy.com

Attorney for Applicant Lone Star Steakhouse & Saloon



William B. Nash
Attorney for Opposer

Exhibit

A

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,992,302

Registered Sep. 6, 2005

**TRADEMARK
PRINCIPAL REGISTER**

**LONE STAR
STEAKHOUSE &
SALOON**

LONE STAR STEAKHOUSE & SALOON, INC.
(DELAWARE CORPORATION)
SUITE 700
224 EAST DOUGLAS
WICHITA, KS 672023424

FOR: CLOTHING, NAMELY MEN'S AND WOMEN'S SHIRTS AND CAPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 10-12-1989; IN COMMERCE 10-12-1989.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,731,247, 2,596,707 AND OTHERS.

SER. NO. 78-445,281, FILED 7-2-2004.

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78445281
LAW OFFICE ASSIGNED	LAW OFFICE 111
MARK SECTION	
MARK	LONE STAR STEAKHOUSE & SALOON
ATTORNEY SECTION	
ORIGINAL ADDRESS	JOSEPH J. FERRETTI CROWE & DUNLEVY, P.C. TM1754US25 20 N BROADWAY AVE STE 1800 OKLAHOMA CITY OK 73102-8273 (405) 239-6651 (405) 235-7700 IPmail@crowedunlevy.com
CORRESPONDENCE SECTION	
ORIGINAL ADDRESS	JOSEPH J. FERRETTI CROWE & DUNLEVY, P.C. TM1754US25 20 N BROADWAY AVE STE 1800 OKLAHOMA CITY OK 73102-8273 (405) 239-6651 (405) 235-7700 IPmail@crowedunlevy.com
NEW ATTORNEY ADDRESS	
STATEMENT TEXT	By submission of this request, the undersigned REVOKES the power of attorney currently of record, as listed above, and hereby APPOINTS the following new attorney:
NAME	Phillip L. Free, Jr.
FIRM NAME	Crowe & Dunlevy, P.C.

INTERNAL ADDRESS	Suite 1800
STREET	20 North Broadway
CITY	Oklahoma City
STATE	Oklahoma
COUNTRY	United States
POSTAL/ZIP CODE	73102-8273
PHONE	(405) 235-7700
FAX	(405) 239-6651
EMAIL	IPmail@crowedunlevy.com
ATTORNEY AUTHORIZED TO COMMUNICATE VIA E-MAIL	YES
NEW CORRESPONDENCE ADDRESS	
NAME	Phillip L. Free, Jr.
FIRM NAME	Crowe & Dunlevy, P.C.
INTERNAL ADDRESS	Suite 1800
STREET	20 North Broadway
CITY	Oklahoma City
STATE	Oklahoma
COUNTRY	United States
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PHONE	(405) 235-7700
FAX	(405) 239-6651
EMAIL	IPmail@crowedunlevy.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	YES
SIGNATURE SECTION	
SIGNATURE	/Phillip L. Free, Jr./
SIGNATORY NAME	Phillip L. Free, Jr.
SIGNATORY DATE	07/06/2005
SIGNATORY POSITION	Attorney for Applicant

FILING INFORMATION SECTION	
SUBMIT DATE	Wed Jul 06 13:03:54 EDT 2005
TEAS STAMP	USPTO/RAA-12.147.224.62-2 0050706130354432029-78314 404-250bad17c989e7c464bc1 9d6c2b6e896561-N/A-N/A-20 050706122001834972

PTO Form 2196 (Rev 9/2005)
OMB No. 0651-0056 (Exp 09/30/2011)

Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative

To the Commissioner for Trademarks:
MARK: LONE STAR STEAKHOUSE & SALOON
SERIAL NUMBER: 78445281

The original attorney
JOSEPH J. FERRETTI
CROWE & DUNLEVY, P.C.
TM1754US25
20 N BROADWAY AVE STE 1800
OKLAHOMA CITY OK 73102-8273
(405) 239-6651
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Original Correspondence Address :
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(405) 239-6651
(405) 235-7700
IPmail@crowedunlevy.com

By submission of this request, the undersigned REVOKES the power of attorney currently of record, as listed above, and hereby APPOINTS the following new attorney:

Newly Appointed Attorney:

Phillip L. Free, Jr.
Crowe & Dunlevy, P.C.
Suite 1800
20 North Broadway
Oklahoma City, Oklahoma 73102-8273
United States
(405) 235-7700
(405) 239-6651

The following is to be used as the correspondence address:

Phillip L. Free, Jr.
Crowe & Dunlevy, P.C.
Suite 1800
20 North Broadway
Oklahoma City, Oklahoma 73102-8273
United States

(405) 235-7700
(405) 239-6651
IPmail@crowedunlevy.com

Signature: /Phillip L. Free, Jr./ Date: 07/06/2005
Signatory's Name: Phillip L. Free, Jr.
Signatory's Position: Attorney for Applicant

Serial Number: 78445281
Internet Transmission Date: Wed Jul 06 13:03:54 EDT 2005
TEAS Stamp: USPTO/RAA-12.147.224.62-2005070613035443
2029-78314404-250bad17c989e7c464bc19d6c2
b6e896561-N/A-N/A-20050706122001834972

Side - 1

NOTICE OF PUBLICATION UNDER §12(a)

MAILING DATE: May 25, 2005

PUBLICATION DATE: Jun 14, 2005

The mark identified below will be published in the Official Gazette on Jun 14, 2005. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Certificate of Registration. To view the Official Gazette online or to order a paper copy, visit the USPTO website at <http://www.uspto.gov/web/trademarks/tmog/> any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at <http://bookstore.gpo.gov> or 202-512-1800. To check the status of your application, go to <http://tarr.uspto.gov/>.

SERIAL NUMBER: 78445281

MARK: LONE STAR STEAKHOUSE & SALOON

OWNER: Lone Star Steakhouse & Saloon, Inc.

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

JOSEPH J FERRETTI
CROWE & DUNLEVY PC
20 N BROADWAY AVE STE 1800
OKLAHOMA CITY, OK 73102-8273

*** User:sdubois ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	2323	N/A	0	0	0:01	*lone*[bi,ti]
02	25888	N/A	0	0	0:01	*star*[bi,ti]
03	1645	N/A	0	0	0:01	*steak*[bi,ti]
04	295	N/A	0	0	0:01	*saloon*[bi,ti]
05	307	N/A	0	0	0:01	1 and 2
06	95	48	47	26	0:04	5 and 025[cc]
07	19	8	11	5	0:01	(1 or 2) and (3 or 4)

Session started 2/7/05 1:20:14 PM

Session finished 2/7/05 1:23:59 PM

Total search duration 0 minutes 10 seconds

Session duration 3 minutes 45 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 78445281

*** User:sdubois ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	21	8	13	8	0:03	saloon[ds] and 025[ic]
02	47	18	8	4	0:03	saloon[bi,ti] and 025[ic]
03	17	6	4	2	0:03	steakhouse[bi,ti] and 025[ic]

Session started 2/7/05 1:23:31 PM

Session finished 2/7/05 1:25:52 PM

Total search duration 0 minutes 9 seconds

Session duration 2 minutes 21 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 78445281

Trademark/Service Mark Application, Principal Register

Serial Number: 78445281

Filing Date: 07/02/2004

The table below presents the data as entered.

Input Field	Entered
MARK SECTION	
MARK	LONE STAR STEAKHOUSE & SALOON
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	LONE STAR STEAKHOUSE & SALOON
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
OWNER SECTION	
NAME	Lone Star Steakhouse & Saloon, Inc.
INTERNAL ADDRESS	Suite 700
STREET	224 East Douglas
CITY	Wichita
STATE	KS
ZIP/POSTAL CODE	67202-3424
COUNTRY	United States
AUTHORIZED EMAIL COMMUNICATION	No
LEGAL ENTITY SECTION	
TYPE	CORPORATION
STATE/COUNTRY OF INCORPORATION	Delaware
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	025

DESCRIPTION	Clothing, namely men's and women's shirts and caps
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 10/12/1989
FIRST USE IN COMMERCE DATE	At least as early as 10/12/1989
SPECIMEN FILE NAME(S)	\\ticrs\EXPORT10\IMAGEOUT 10\784\452\78445281\xml1\ APP0003.JPG
SPECIMEN DESCRIPTION	Digital photograph of cap bearing the mark
ADDITIONAL STATEMENTS SECTION	
PRIOR REGISTRATION(S)	Applicant claims ownership of U.S. Registration Number(s) 1731247, 2229771, 2596707, and others.
SIGNATURE SECTION	
SIGNATURE	/Joseph J. Ferretti/
SIGNATORY NAME	Joseph J. Ferretti
SIGNATORY DATE	07/02/2004
SIGNATORY POSITION	Attorney for Applicant
PAYMENT SECTION	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	335
TOTAL AMOUNT	335
ATTORNEY	
NAME	Joseph J. Ferretti
FIRM NAME	Crowe & Dunlevy, P.C.
INTERNAL ADDRESS	Suite 1800
STREET	20 North Broadway
CITY	Oklahoma City
STATE	OK
ZIP/POSTAL CODE	73102-8273

COUNTRY	United States
PHONE	(405) 235-7700
FAX	(405) 239-6651
EMAIL	IPmail@crowedunlevy.com
AUTHORIZED EMAIL COMMUNICATION	Yes
ATTORNEY DOCKET NUMBER	TM1754US25
OTHER APPOINTED ATTORNEY(S)	Phillip L. Free, Jr.; David M. Sullivan; Bruce P. LaBrie; Marie S. Johnston
CORRESPONDENCE SECTION	
NAME	Joseph J. Ferretti
FIRM NAME	Crowe & Dunlevy, P.C.
INTERNAL ADDRESS	Suite 1800
STREET	20 North Broadway
CITY	Oklahoma City
STATE	OK
ZIP/POSTAL CODE	73102-8273
COUNTRY	United States
PHONE	(405) 235-7700
FAX	(405) 239-6651
EMAIL	IPmail@crowedunlevy.com
AUTHORIZED EMAIL COMMUNICATION	Yes
FILING INFORMATION	
SUBMIT DATE	Fri Jul 02 12:50:28 EDT 2004
TEAS STAMP	USPTO/BAS-1214722462-2004 0702125028117188-78445281 -2008fddb76bf81358f545b2e 26c18f1866-CC-1073-200407 02124740609299

Trademark/Service Mark Application, Principal Register

Serial Number: 78445281

Filing Date: 07/02/2004

To the Commissioner for Trademarks:

MARK: (Standard Characters, see [mark](#))

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The literal element of the mark consists of LONE STAR STEAKHOUSE & SALOON.

The applicant, Lone Star Steakhouse & Saloon, Inc., a corporation of Delaware, residing at Suite 700, 224 East Douglas, Wichita, KS, United States, 67202-3424, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

The applicant, or the applicant's related company or licensee, is using the mark in commerce, and lists below the dates of use by the applicant, or the applicant's related company, licensee, or predecessor in interest, of the mark on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

International Class 025: Clothing, namely men's and women's shirts and caps

In International Class 025, the mark was first used at least as early as 10/12/1989, and first used in commerce at least as early as 10/12/1989, and is now in use in such commerce. The applicant is submitting or will submit one specimen for *each class* showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) Digital photograph of cap bearing the mark.

[Specimen - 1](#)

Applicant claims ownership of U.S. Registration Number(s) 1731247, 2229771, 2596707, and others.

The applicant hereby appoints Joseph J. Ferretti and Phillip L. Free, Jr.; David M. Sullivan; Bruce P. LaBrie; Marie S. Johnston of Crowe & Dunlevy, P.C., Suite 1800, 20 North Broadway, Oklahoma City, OK, United States, 73102-8273 to submit this application on behalf of the applicant. The attorney docket/reference number is TM1754US25.

The USPTO is authorized to communicate with the applicant or its representative at the following email address: IPmail@crowedunlevy.com.

A fee payment in the amount of \$335 will be submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Joseph J. Ferretti/ Date: 07/02/2004

Signatory's Name: Joseph J. Ferretti

Signatory's Position: Attorney for Applicant

Mailing Address:

Joseph J. Ferretti
Suite 1800
20 North Broadway
Oklahoma City, OK 73102-8273

RAM Sale Number: 1073

RAM Accounting Date: 07/02/2004

Serial Number: 78445281

Internet Transmission Date: Fri Jul 02 12:50:28 EDT 2004

TEAS Stamp: USPTO/BAS-1214722462-2004070212502811718

8-78445281-2008fddb76bf81358f545b2e26c18

f1866-CC-1073-20040702124740609299

LONE STAR
STEAKHOUSE &
SALOON



LONE STAR
STEAKHOUSE &
SALOON

