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

Proceeding	91201070
Party	Defendant Harnden, Matthew, Scommegna, Roger
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Submission	Answer
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Date	09/19/2011
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PROCEEDING NO. 91201070

Anderson Valley Acquisition Company, LLC

v.

Matthew Harnden and Roger Scommegna

Serial No. 85178395

Mark: BOONVILLE CIDER HOUSE BITE HARD CIDER

ANSWER

Respondents, Matthew Harnden and Roger Scommegna. (“Applicants”), by their attorneys, Boyle Fredrickson, S.C., as and for their Answer to the claims asserted in the Notice of Opposition (“Opposition”) filed on behalf of Opposer, Anderson Valley Acquisition Company, LLC (“Opposer”), denies that Opposer will be damaged by the registration of Applicant’s mark Boonville Cider House Bite Hard Cider (Serial No. 85178395) (the “Application”). With respect to the specific assertions in the Opposition, Applicant respectfully responds as follows:

1. Applicant is without sufficient information to admit or deny the allegations in Paragraph 1 of the Opposition and therefore denies the same.
2. Applicant is without sufficient information to admit or deny the allegations in Paragraph 2 of the Opposition and therefore denies the same.
3. Applicant is without sufficient information to admit or deny the allegations in Paragraph 3 of the Opposition and therefore denies the same.

4. Applicant is without sufficient information to admit or deny the allegations in Paragraph 4 of the Opposition and therefore denies the same.
5. Applicant is without sufficient information to admit or deny the allegations in Paragraph 5 of the Opposition and therefore denies the same.
6. Denied.
7. Denied.
8. Applicant is without sufficient information to admit or deny the allegations in Paragraph 8 of the Opposition and therefore denies the same.
9. Admitted that Opposer claims ownership of Registration of 3,801,569 which is for the recited goods. Applicant is without sufficient information to admit or deny the remaining allegations in Paragraph 9 of the Opposition and therefore denies the same.
10. Admitted that Applicant has begun using the mark Boonville Cider House Bite Hard Cider and has applied to federally register the Mark. Applicant denies the remaining allegations of Paragraph 10 of the Opposition.
11. Applicant is without sufficient information to admit or deny the allegations in Paragraph 11 of the Opposition and therefore denies the same.
12. Denied.
13. Admitted.

AFFIRMATIVE DEFENSES

1. There is no likelihood of confusion between Applicant's mark and Opposer's mark and therefore no basis for denying Applicant a Registration.
2. The Opposition fails to state a claim upon which relief may be granted.
3. Opposer has not used its claimed marks as a trademark in commerce so as to be able to establish prior use of the mark.
4. To the extent Opposer has made any trademark use of its claimed mark, its use has been geographically limited to only a small portion of the country.
5. To the extent Opposer has made any trademark use of its claimed mark, its use has been in different channels of trade from those in which Applicant's marks will be used.
6. To the extent Opposer has made any trademark use of its claimed mark, its goods have been marketed to and used by different consumers from those of Applicant.
7. Opposer's trademark registration is invalid because Opposer knew or should have known that it had not made use of the mark in connection with all of the goods set forth in the registration at the time of the filing of the Statement of Use or at the time of the filing of the Section 8 and 15 Affidavit.
8. Opposer is not the proper owner of the mark THE LEGENDARY BOONVILLE BEER and/or the asserted registration.

WHEREFORE Applicants respectfully requests that the Opposition be denied
and/or dismissed in its entirety.

Date: September 19, 2011

/Adam L. Brookman/
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer has been served by mailing a copy on September 19, 2011, via First Class Mail, postage prepaid to:

Thomas R. Leavens
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/Adam L. Brookman/
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