

ESTTA Tracking number: **ESTTA537765**

Filing date: **05/14/2013**

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

Proceeding	91210379
Party	Defendant ATLAS BEER WORKS LLC
Correspondence Address	Evan Clark Banner & Witcoff, Ltd. 1100 13th Street, N.W., 12th Floor Washington, DC 20005 BWPTOTM@bannerwitcoff.com;EClark@banner
Submission	Answer
Filer's Name	Anna L. King
Filer's e-mail	bwlitdocket@bannerwitcoff.com, eclark@bannerwitcoff.com, aking@bannerwitcoff.com
Signature	/Anna King/
Date	05/14/2013
Attachments	Atlas_Answer to Notice of Opposition.pdf(324728 bytes)

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

Atlas Brewing Company, LLC,)	
)	
Opposer,)	Opposition No. 91210379
v.)	Serial No. 85/642,549
)	
Atlas Brew Works LLC,)	Mark: ATLAS
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

Applicant, Atlas Brew Works LLC, formerly known as Volstead Beer Works LLC and Atlas Beer Works LLC, by and through its undersigned attorneys, responds to the Notice of Opposition of Opposer Atlas Brewing Company, LLC. Attached as Exhibit A are Applicant's change of name documents, which were recorded with the USPTO Assignment Division.

With regard to the preamble and electronic information and listing of registrations attached to the Notice of Opposition, Applicant notes that its name is Atlas Brew Works LLC and not Volstead Beer Works, LLC. Applicant lacks sufficient information to form a belief as to the truth or falsity of the remainder of the allegations, and therefore denies them. With respect to the numbered paragraphs of the notice of opposition, Applicant Answers each numbered paragraph as follows:

1. Admitted.
2. Denied. Applicant filed its intent-to-use application on June 4, 2012.
3. Admitted.
4. Admitted.

5. Admitted.

6. Applicant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations set forth in numbered paragraph 6 of the Notice of Opposition and, therefore, denies said allegations. On information and belief, Opposer did not have a federal brewing license and was not selling its own beers prior to July 18, 2012.

7. Applicant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations set forth in numbered paragraph 7 of the Notice of Opposition and, therefore, denies said allegations.

8. Applicant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations set forth in numbered paragraph 8 of the Notice of Opposition and, therefore, denies said allegations.

9. Applicant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations set forth in numbered paragraph 9 of the Notice of Opposition and, therefore, denies said allegations.

10. Applicant denies knowledge of Opposer's trade name usage at the time it filed its intent-to-use application and Applicant has insufficient knowledge or information upon which to form a belief as to the truth of the remainder of the allegations set forth in numbered paragraph 10 of the Notice of Opposition and, therefore, denies said allegations.

11. Applicant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations set forth in numbered paragraph 11 of the Notice of Opposition and, therefore, denies said allegations.

12. Applicant admits that it did not send correspondence to Opposer until March 11, 2013. Applicant has insufficient knowledge or information upon which to form a belief as to the

truth of the allegations set forth in numbered paragraph 12 of the Notice of Opposition and, therefore, denies said allegations.

13. Admitted.

14. Applicant admits to receiving correspondence from Opposer's counsel dated February 26, 2013. Applicant admits that the correspondence included an allegation that Applicant's use of the "ATLAS" mark would create a likelihood of confusion with Opposer's "ATLAS BREWING COMPANY" and "ATLAS GOLDEN ALE" marks. The correspondence did not mention Applicant's federal trademark application or withdrawal thereof.

15. Paragraph 15 attempts to state a legal conclusion to which no response is required. To the extent that a response to this paragraph is deemed necessary, Applicant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations set forth in numbered paragraph 15 of the Notice of Opposition and, therefore, denies said allegations.

16. Paragraph 16 attempts to state a legal conclusion to which no response is required. To the extent that a response to this paragraph is deemed necessary, Applicant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations set forth in numbered paragraph 16 of the Notice of Opposition and, therefore, denies said allegations.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Applicant denies that Opposer will be damaged by registration of its mark. The remaining statements in this paragraph contain the prayer for relief that do not require an admission or denial of fact by Applicant. To the extent any other statements are included,

Applicant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations set forth in numbered paragraph 21 of the Notice of Opposition and, therefore, denies said allegations.

AFFIRMATIVE DEFENSES AND ALLEGATIONS

14. Opposer has failed to state a claim on which relief can be granted.

15. The constructive date of first use of Applicant's mark is June 4, 2012. On information and belief, none of Opposer's alleged activities prior to the constructive date of first use of Applicant's mark would give rights to support a claim of priority by Opposer in this proceeding. Accordingly, Applicant is entitled to registration upon use of its mark and Opposer's opposition should be dismissed.

WHEREFORE, the Applicant, Atlas Brew Works LLC, prays that this Opposition be dismissed and that the notice of allowance be issued.

Respectfully submitted,

Date: May 14, 2013

By: /Anna King/

Anna L. King
Evan M. Clark
Banner & Witcoff, Ltd.
10 South Wacker Drive
Chicago, Illinois 60606
Telephone: (312) 463-5000
Facsimile: (312) 463-5001
Email: BWPTOTM@bannerwitcoff.com

Attorneys for Applicant, Atlas Brew Works LLC

EXHIBIT A:

Applicant's Change of Name Documents Recorded with the USPTO Assignment Division

CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2013, a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served on the following counsel of record for Opposer via first class mail, postage prepaid, addressed as follows:

Lema A. Khorshid
Fuksa Khorshid, LLC
70 W. Erie, 2nd Floor
Chicago, IL 60654

/Anna King/

EXHIBIT A

COPY OF APPLICANT'S CHANGE OF
NAME DOCUMENTS RECORDED WITH
THE USPTO ASSIGNMENT DIVISION

TRADEMARK ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT										
NATURE OF CONVEYANCE:	CHANGE OF NAME										
CONVEYING PARTY DATA											
<table border="1"> <thead> <tr> <th>Name</th> <th>Formerly</th> <th>Execution Date</th> <th>Entity Type</th> </tr> </thead> <tbody> <tr> <td>Volstead Beer Works LLC</td> <td></td> <td>06/15/2012</td> <td>CORPORATION: DELAWARE</td> </tr> </tbody> </table>				Name	Formerly	Execution Date	Entity Type	Volstead Beer Works LLC		06/15/2012	CORPORATION: DELAWARE
Name	Formerly	Execution Date	Entity Type								
Volstead Beer Works LLC		06/15/2012	CORPORATION: DELAWARE								
RECEIVING PARTY DATA											
Name:	Atlas Beer Works LLC										
Street Address:	1124 7th St Ne										
City:	Washington										
State/Country:	DISTRICT OF COLUMBIA										
Postal Code:	20002										
Entity Type:	CORPORATION: DELAWARE										
PROPERTY NUMBERS Total: 1											
<table border="1"> <thead> <tr> <th>Property Type</th> <th>Number</th> <th>Word Mark</th> </tr> </thead> <tbody> <tr> <td>Serial Number:</td> <td>85642549</td> <td>ATLAS</td> </tr> </tbody> </table>				Property Type	Number	Word Mark	Serial Number:	85642549	ATLAS		
Property Type	Number	Word Mark									
Serial Number:	85642549	ATLAS									
CORRESPONDENCE DATA											
Fax Number:	2028243001										
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>											
Phone:	202-824-3000										
Email:	BWPTOTM@bannerwitcoff.com										
Correspondent Name:	Evan M. Clark										
Address Line 1:	1100 13th Street, N.W., 12th Floor										
Address Line 4:	Washington, DISTRICT OF COLUMBIA 20005										
ATTORNEY DOCKET NUMBER:	008150.00002										
NAME OF SUBMITTER:	Evan M. Clark										
Signature:	/Evan M. Clark/										
Date:	04/04/2013										
<p>Total Attachments: 3</p> <p>source=VOLSTEAD BEERS WORKS LLC to ATLAS BEER WORS LLC change of name (8150.2)#page1.tif</p> <p>source=VOLSTEAD BEERS WORKS LLC to ATLAS BEER WORS LLC change of name (8150.2)#page2.tif</p> <p>source=VOLSTEAD BEERS WORKS LLC to ATLAS BEER WORS LLC change of name (8150.2)#page3.tif</p>											

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Delaware

PAGE 1

The First State

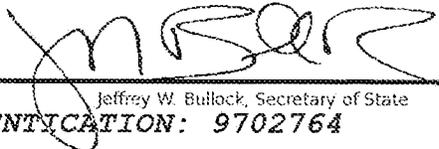
I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "VOLSTEAD BEER WORKS LLC", CHANGING ITS NAME FROM "VOLSTEAD BEER WORKS LLC" TO "ATLAS BEER WORKS LLC", FILED IN THIS OFFICE ON THE EIGHTEENTH DAY OF JUNE, A.D. 2012, AT 11:30 O'CLOCK A.M.

5061686 8100

120756685

You may verify this certificate online
at corp.delaware.gov/authver.shtml.




Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 9702764

DATE: 07-11-12

TRADEMARK
REEL: 004998 FRAME: 0841

**CERTIFICATE OF AMENDMENT
OF
VOLSTEAD BEER WORKS LLC**

This Certificate of Amendment of Volstead Beer Works LLC, a Delaware limited liability company (the "*Company*"), is being executed by the undersigned for the purpose of amending the Company's Certificate of Formation pursuant to §18-202 of the Delaware Limited Liability Company Act.

1. The name of the Company is Volstead Beer Works LLC.
2. The Certificate of Formation of the Company is hereby amended as follows: The name of the limited liability company is: "Atlas Beer Works LLC".

IN WITNESS WHEREOF, the undersigned, on behalf of Volstead Beer Works LLC, has caused this Certificate of Amendment to be duly executed this 15th day of June, 2012.

By:


Justin W. Cox
Chief Executive Officer

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	CHANGE OF NAME		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
ATLAS BEER WORKS LLC		09/25/2012	CORPORATION: DELAWARE
RECEIVING PARTY DATA			
Name:	ATLAS BREW WORKS LLC		
Street Address:	1124 7TH ST NE		
City:	WASHINGTON		
State/Country:	DISTRICT OF COLUMBIA		
Postal Code:	20002		
Entity Type:	CORPORATION: DELAWARE		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Serial Number:	85642549	ATLAS	
CORRESPONDENCE DATA			
Fax Number:	2028243001		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	202-824-3000		
Email:	BWPTOTM@bannerwitcoff.com		
Correspondent Name:	Evan Clark		
Address Line 1:	1100 13th Street, N.W., 12th Floor		
Address Line 4:	Washington, DISTRICT OF COLUMBIA 20005		
ATTORNEY DOCKET NUMBER:	008150.00002		
NAME OF SUBMITTER:	Evan M. Clark		
Signature:	/Evan M. Clark/		
Date:	04/24/2013		
Total Attachments: 3 source=ATLAS BEER WORKS LLC to ATLAS BREW WORKS LLC change of name (8150.2)#page1.tif source=ATLAS BEER WORKS LLC to ATLAS BREW WORKS LLC change of name (8150.2)#page2.tif source=ATLAS BEER WORKS LLC to ATLAS BREW WORKS LLC change of name (8150.2)#page3.tif			

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Delaware

PAGE 1

The First State

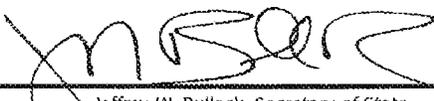
I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "ATLAS BEER WORKS LLC", CHANGING ITS NAME FROM "ATLAS BEER WORKS LLC" TO "ATLAS BREW WORKS LLC", FILED IN THIS OFFICE ON THE TWENTY-SEVENTH DAY OF SEPTEMBER, A.D. 2012, AT 11:30 O'CLOCK A.M.

5061686 8100

121078610

You may verify this certificate online
at corp.delaware.gov/authver.shtml




Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 9906203

DATE: 10-10-12

TRADEMARK
REEL: 005013 FRAME: 0229

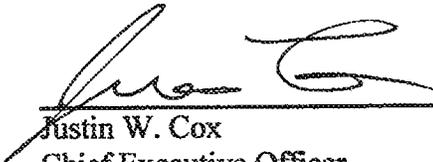
**CERTIFICATE OF AMENDMENT
OF
ATLAS BEER WORKS LLC**

This Certificate of Amendment of Atlas Beer Works LLC, a Delaware limited liability company (the "*Company*"), is being executed by the undersigned for the purpose of amending the Company's Certificate of Formation pursuant to §18-202 of the Delaware Limited Liability Company Act.

1. The name of the Company is Atlas Beer Works LLC.
2. The Certificate of Formation of the Company is hereby amended as follows: The name of the limited liability company is: "Atlas Brew Works LLC".

IN WITNESS WHEREOF, the undersigned, on behalf of Atlas Beer Works LLC, has caused this Certificate of Amendment to be duly executed this 26th day of September, 2012.

By:


Justin W. Cox
Chief Executive Officer