

ESTTA Tracking number: **ESTTA598260**

Filing date: **04/14/2014**

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

Proceeding	91211807
Party	Defendant D&E Solutions LLC
Correspondence Address	MATTHEW H SWYERS THE TRADEMARK COMPANY 344 MAPLE AVENUE WEST, STE 151 Vienna, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com
Submission	Other Motions/Papers
Filer's Name	Matthew H. Swyers
Filer's e-mail	mswyers@thetrademarkcompany.com
Signature	/Matthew H. Swyers/
Date	04/14/2014
Attachments	Amended Motion to Amend Applicant's Trademark Application.pdf(175091 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

Serial No. 85/578,685
For the mark RED ROCKET and Design:



Lazier Industries, Inc,	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. 91211807
	:	
D&E Solutions, LLC,	:	
	:	
Applicant.	:	

**AMENDED MOTION TO AMEND FEDERAL TRADEMARK
APPLICATION SERIAL NO. 85/578,685**

COMES NOW the Applicant, D&E Solutions, LLC (hereinafter "Applicant"), by its counsel, and pursuant to 37 C.F.R. § 2.133(a) and TBMP § 514 et. seq., moves the Trademark Trial and Appeal Board for an order restricting the Applicant's identification of goods in the subject Federal Trademark Application Serial No. 85/578,685 for the mark RED ROCKET and

Design:  , as follows:

Current: Energy drinks; Soft drinks.

Proposed: Energy drinks.

The Applicant's proposed amendment to Federal Trademark Application Serial No. 85/578,685 is to restrict the identification of goods is proper according to 37 C.F.R. § 2.71 as it merely limits those goods found in the original identification. In view of the foregoing, approval of the amendment by the Board pursuant to 37 C.F.R. § 2.133(a) is believed appropriate.

The instant Amended Motion to Amend Federal Trademark Application 85/578,685 is being filed in response to the Board's Order dated March 13, 2014 providing that the Applicant must also secure the consent of Opposer Bear Republic Brewing Co., Inc. in Opposition Proceeding No. 91212717 in order for the Board to approve the proposed amendment to its application pursuant to Trademark Rule 2.133(a) and TBMP Section 514.02 (3d ed. Rev2. 2013).

Finally, Opposer Lazier Industries, Inc. in Opposition Proceeding No. 91211807 and Opposer Bear Republic Brewing Co., Inc. in Opposition Proceeding No. 91212717 have provided their consent to the instant proposed amendment as verified by their respective counselor's signatures below.

Respectfully submitted this 14th day of April, 2014.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/
Matthew H. Swyers
344 Maple Avenue West, Suite 151
Vienna, VA 22180
Telephone (800) 906-8626 x100
Facsimile (270) 477-4574
mswyers@TheTrademarkCompany.com
Attorney for Applicant

Consented to by:

/Glenn K. Robbins II/

Glenn K. Robbins II, Esq.
SPENCER FANE BRITT & BROWNE LLP
1 North Brentwood Boulevard, Suite 1000
St. Louis, MO 63105-3925
Telephone (314) 333-3932
Facsimile (314) 862-4656
Attorney for Opposer Lazier Industries, Inc.

Consented to by:

/Eugene Pak/

Eugene Pak, Esq.
Wendel Rosen Black & Dean LLP
1111 Broadway, 24th Floor
Oakland, CA 94607
Telephone (510)-834-6600
Facsimile (510)-808-4726
Counsel for Opposer Bear Republic Brewing Co., Inc.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

Serial No. 85/578,685
For the mark RED ROCKET and Design:



Lazier Industries, Inc,	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. 91211807
	:	
D&E Solutions, LLC,	:	
	:	
Applicant.	:	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 14th day of April, 2014
to be served, via first class mail, postage prepaid, upon:

Glenn K. Robbins II, Esq.
SPENCER FANE BRITT & BROWNE LLP
1 North Brentwood Boulevard, Suite 1000
St. Louis, MO 63105-3925

and

Eugene Pak, Esq.
Wendel Rosen Black & Dean LLP
1111 Broadway, 24th Floor
Oakland, CA 94607

/Matthew H. Swyers/
Matthew H. Swyers