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

Proceeding	91212812
Party	Defendant Cerveceria Artesanal Lach, S.A. DE C.V.
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Date	11/13/2013
Attachments	La CH's 1st Amended Answer to Notice of Opposition.pdf(643207 bytes)

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

Abita Brewing Company, LLC
Opposer

v.

Cerveceria Artesanal Lach, S.A. de C.V.
Applicant

* Opposition No.: 91212812
*
* Serial No. 85/828,864
*
* Proposed Design:

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FIRST AMENDED ANSWER TO OPPOSITION

Applicant, Cerveceria Artesanal Lach, S.A. de C.V. (hereinafter “Applicant”), by and through counsel, De Novo Legal PC and The Wiegand Law Firm, P.C. files this its Answer and Grounds of Defense to the Notice of Opposition filed by Abita Brewing Company, LLC (“Opposer”) and in response to Opposer’s allegations states as follows:

ANSWER

In response to the specifically enumerated paragraphs of the Opposer’s Notice of Opposition, Applicant responds as follows:

1. Applicant admits to the allegations set forth in Paragraph 1 of the Notice of Opposition.
2. Applicant is without knowledge of the allegations set forth in Paragraph 2 of the Notice of Opposition and therefore denies the same.
3. Applicant is without knowledge of the allegations set forth in Paragraph 3 of the Notice of Opposition and therefore denies the same.

4. Applicant is without knowledge of the allegations set forth in Paragraph 4 of the Notice of Opposition and therefore denies the same.
5. Applicant is without knowledge of the allegations set forth in Paragraph 5 of the Notice of Opposition and therefore denies the same.
6. Applicant is without knowledge of the allegations set forth in Paragraph 6 of the Notice of Opposition and therefore denies the same.
7. Applicant is without knowledge of the allegations set forth in Paragraph 7 of the Notice of Opposition and therefore denies the same.
8. Applicant is without knowledge of the allegations set forth in Paragraph 8 of the Notice of Opposition and therefore denies the same.
9. Applicant denies the allegations set forth in Paragraph 9 of the Notice of Opposition and demands strict proof thereof.
10. Applicant denies the allegations set forth in Paragraph 10 of the Notice of Opposition and demands strict proof thereof.
11. Applicant denies the allegations set forth in Paragraph 11 of the Notice of Opposition and demands strict proof thereof.
12. Applicant denies the allegations set forth in Paragraph 12 of the Notice of Opposition and demands strict proof thereof.
13. Applicant denies the allegations set forth in Paragraph 13 of the Notice of Opposition and demands strict proof thereof.
14. Applicant denies the allegations set forth in Paragraph 14 of the Notice of Opposition and demands strict proof thereof.

DEFENSES

15. Applicant's AMARGATOR IPA design does not create a likelihood of confusion with Opposer's mark for the following reason, among others:
- a. The logos are different.
 - b. The name of Applicant's beer does not refer to an alligator as does Opposer's beer.
 - c. The prefix of the opposing name is a different word: "Amar" (Applicant's) vs. "Andy" (Opposer's).
 - d. The Applicant's beer is a "craft" beer. Consumers of craft beer are specific about their choice of beers. The Applicant's beer is clearly labeled as an "IPA" style beer. The Opposer's beer is a "doppelbock" or double bock beer. These are 2 distinctly different styles of beer.
 - e. Moreover, the logo, design, marks, packaging and labeling of AMARGATOR IPA brand, as set out in the attached Exhibits A, B and C, which are true and correct copies of photographs accurately depicting the AMARGATOR IPA carton and bottle, the beer bottle, and the label for the beer bottle, respectively, are distinctly different from the labeling for Opposer's beer.

Applicant further denies all allegations not specifically, actually or constructively, admitted in the foregoing paragraphs of this its Answer and Grounds of Defense.

THEREFORE, Applicant requests that the Notice of Opposition of Abita Brewing Company, LLC be dismissed and that Applicant have such other and further relief, both legal and equitable, to which it may be justly entitled.

Submitted this 13th day of November, 2013.

Respectfully submitted,

By: /s/ Marc F. Wiegand

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CERVECERIA ARTESANAL LACH, S.A. DE C.V.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forward via *email and the trademark trials and appeals electronic filing system* to the following counsel of record in this cause on this the 13th day of November, 2013:

Via Trademark Trials and Appeals Electronic Filing System
And Via E-mail: areaux@carverdarden.com

Mr. Raymond G. Areaux (#33,643)
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/s/ Marc F. Wiegand

Marc F. Wiegand

Exhibit A





Exhibit B

Answer to Opposition
Serial No. 85/828,864

Filed By ESTTA
Cerveceria Artesanal LACH, S.A. de C.V.



Exhibit C