

ESTTA Tracking number: **ESTTA614809**

Filing date: **07/09/2014**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	ChristopherLohring
Granted to Date of previous extension	07/09/2014
Address	19 Carlton Street Salem, MA 01970 UNITED STATES

Attorney information	DANIEL N SMITH NEW ENGLAND PATENT & TRADEMARK 1 Salem Green, Suite 405 Salem, MA 01970 UNITED STATES smith@patentstrademarklaw.com Phone:9788820160
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Applicant Information

Application No	85920112	Publication date	03/11/2014
Opposition Filing Date	07/09/2014	Opposition Period Ends	07/09/2014
Applicant	Three Notch'd Brewing Company, LLC 946 Grady Ave Suite 9 Charlottesville, VA 22903 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 2013/08/29 First Use In Commerce: 2013/08/29 All goods and services in the class are opposed, namely: Beer

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3955799	Application Date	03/13/2010
Registration Date	05/03/2011	Foreign Priority Date	NONE
Word Mark	NOTCH		

Design Mark	<h1>Notch</h1>
Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 2010/05/01 First Use In Commerce: 2010/05/01 Beer, ale, lager, stout and porter; De-alcoholised beer

Attachments	77958348#TMSN.jpeg(bytes) NoticeofOpposition.pdf(3549956 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Daniel N. Smith/
Name	DANIEL N SMITH
Date	07/09/2014

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

In the Matter of Application Serial No. 85/920112
International Class: 032
Filed: May 1, 2013



Mark: _____ *Charlottesville, Va*

Christopher Lohring)	
)	
Opposer)	
)	NOTICE OF OPPOSITION
v.)	In Re Serial. No. 85/920112
)	Mark:
THREE NOTCH'D BREWING COMPANY, LLC)	
)	<i>Charlottesville, Va</i>
Applicant)	International Class: 032
)	Filed: May 1, 2013
)	Opposition No.: _____

Commissioner for Trademarks
P.O. Box 1451
Arlington, VA 22313-1451

NOTICE OF OPPOSITION

Opposer Christopher Lohring (hereinafter referred to as "Opposer") having an address of 19 Carlton Street, Salem, Massachusetts 01970, believes that it will be damaged by the registration

of Application Serial No. 85/920112 for the trademark  *Charlottesville, Va*, filed May

1, 2013 by Three Notch'd Brewing Company, LLC (hereinafter referred to as "Applicant"), and hereby opposes the same.

As grounds for opposition, Opposer alleges that:

Background

1. On May 1, 2013, Applicant, a limited liability company organized under the laws of Virginia, with an address of 946 Grady Avenue, Suite 9, Charlottesville, Virginia 22903 filed



Application Serial No. 85/920112 for the trademark _____, for use on “beer” (hereinafter referred to “Serial. No. 85/920112”) in International Class 32.

2. Serial No. 85/920112 was filed by George H. Kastendike, V, with the listed position of general partner of Applicant.

3. Opposer owns U.S. Trademark Registration No. 3,955,799, for the mark NOTCH for “beer, ale, lager, stout, and porter; de-alcoholised beer” in International Class 32, which registration issued May 4, 2011 and is based on an application filed in the United States Patent and Trademark Office on March 13, 2010 (hereinafter referred to “NOTCH mark” or “Reg. No. 3,955,799”). A copy of Reg. No. 3,955,799 is attached hereto as **Exhibit 1**.

4. The filing and issue date of Opposer’s Reg. No. 3,955,799 are both prior to the filing date of Applicant’s Application Serial No. 85/920112.

5. Since at least May 2010, Opposer has been continuously used and promoted the NOTCH trademark, Reg. No. 3,955,799, in interstate commerce in connection with its goods.

6. Application Serial. No. 85/920112 was filed on May 1, 2013, and is based on Applicant’s use of the mark in commerce on August 29, 2013. Opposer’s use of its NOTCH mark predates Applicant’s use of its mark.

7. On August 20, 2013, a non-final office action was issued by the United States Patent and Trademark Office in connection with Applicant’s Application Serial No. 85/920112. The August 20, 2013 office action stated that Application Serial No. 85/654200 preceded the filing

date of Serial No. 85/920112, and that if Application Serial No. 85/654200 registered, Serial No. 85/920112 may be refused under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d) because of a likelihood of confusion between the two marks. A copy of this August 20, 2013 non-final office action is attached as **Exhibit 2**.

8. Application Serial No. 85/654200 for the trademark THREE NOTCH'D BREWING COMPANY for use on "beer" in International Class 32 and "brewery services" in International Class 040 (hereinafter referred to "Serial. No. 85/654200") was filed on June 18, 2012 by George H. Kastendike, V on behalf of Three Notch'd Beer And Brew Company, a Virginia partnership with an address of 217 Huntley Ave, Charlottesville, Virginia, 22903.

9. On information and belief, the Three Notch'd Beer And Brew Company partnership, the owner of Application Serial No. 85/654200, was reorganized into the limited liability company that is the Applicant.

10. On April 24, 2013, a final office action issued by the United States Patent and Trademark Office in connection with Serial No. 85/654200 for the mark THREE NOTCH'D BREWING COMPANY, refused registration of Serial No. 85/654200 because of a likelihood of confusion with Opposer's Reg. No. 3,955,799 under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d). In the October 8, 2012 non-final office action, the Examining Attorney found that the sole feature of Reg. No. 3,955,799 mark is "NOTCH" and applicant's mark contains "THREE NOTCH'D" and that "NOTCH'D" is the phonetic equivalent of "notch" such that the marks at issue create the same commercial impression because it is by "Notch/NOTCH'D" that the public will recall and remember each of the marks at issue. A copy of April 24, 2013 final office action is attached hereto as **Exhibit 3**.

11. A Notice of Abandonment for Serial No. 85/654200 was issued on December 2,

2013.

12. On January 16, 2014, Applicant disclaimed the wording “Brewing Company” and “Charlottesville, VA”, apart from the mark as shown in Serial No. 85/920112.

13. Serial No. 85/920112 was published for opposition on March 11, 2014.

14. Opposer filed a 90-day extension to oppose Application Serial No. 85/920112 on April 10, 2014 until July 9, 2014.

15. Opposer’s Reg. No. 3,955,799 is valid, unrevoked, and uncancelled and constitutes *prima facie* evidence of the validity of the registered marks, and of Opposer’s ownership of the marks.

16. By virtue of Opposer’s continuous use of the NOTCH mark in interstate commerce, the NOTCH mark has become an identifier of Opposer and its goods, and distinguishes Opposer’s goods from the goods of others. Opposer has built up valuable goodwill in the NOTCH mark.

17. Applicant seeks a U.S. Federal registration for the mark



for beer. As such, if a registration issues for the mark



, such registration will constitute *prima facie* evidence of the Applicant’s exclusive right to use the registered mark in commerce on or in connection with the goods of “beer” throughout the United States with no limitation thereon.

18. As with the mark THREE NOTCH’D BREWING COMPANY (Serial No.

85/654200), the mark  (Serial No. 85/920112) should be refused registration because of a likelihood of confusion with Opposer’s Reg. No. 3,955,799 under

Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

19. The sole feature of Opposer’s Reg. No. 3,955,799 is the term "NOTCH". The

wording "NOTCH'D" of the mark  is the dominant portion as the wording "Three" is a common term, and the wording “Brewing Company” and “Charlottesville, VA” have been disclaimed from the mark. “NOTCH’D” is the phonetic equivalent of “Notch” such that the marks at issue create the same commercial impression because it is the “Notch/NOTCH’D” that the public will recall and remember for each of the marks at issue. The

mere addition of a term "three" to the  does not obviate the similarity between the marks nor does it overcome a likelihood of confusion under Trademark Act Section 2(d).

20. The “NOTCH’D” wording of Applicant’s mark  is substantially similar in appearance, sound, and connotation to Opposer’s NOTCH mark, and engenders the same commercial impression. Accordingly, the purchasing public is likely to falsely associate Applicant’s products with Opposer’s products, or will erroneously believe that such products are sponsored, licensed, or otherwise authorized by Opposer, to the harm and damage to the goodwill and reputation of Opposer. This likelihood of harm and damage is increased where, as here, Opposer will have no control over the quality of Applicant’s products

and commercial activities in selling and marketing its  branded products.

21. The products identified by Applicant’s mark (beer) and Opposer’s mark (beer,

ale, lager, stout, and porter; de-alcoholised beer) are identical.

22. Accordingly, Opposer will be damaged by the registration of Serial. No. 85/920112, in that the “NOTCH’D” wording including in the trademark



so resembles Opposer’s NOTCH trademark registered in the United States Patent and Trademark Office, as to be likely, when used on or in connection with the goods as they are identified in Serial. No. 85/920112, as to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

23. In view of Opposer’s prior rights to its NOTCH mark, Applicant is not entitled to



federal registration of the mark pursuant to Section 43(c) of the Lanham Act, 15 U.S.C. § 1025(c).

WHEREFORE, Opposer prays that this Notice of Opposition be sustained for the reasons set forth above, and that the Registration for Application Serial No. 85/920112 be denied.

DATED this 9th day of July 2014.

Respectfully submitted,

A handwritten signature in blue ink that reads "Daniel N. Smith".

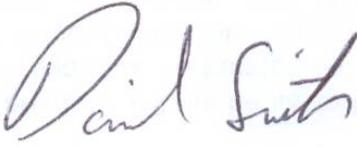
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New England Patent & Trademark
One Salem Green, Suite 405
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Telephone: 978-882-0160
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E-Mail:
smith@PatentsTrademarkLaw.com

CERTIFICATE OF SERVICE

Under 37 C.F.R. § 2.119, the undersigned hereby certifies that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** was served on Opposer's attorney of record at the correspondence address of record in the United States Patent and Trademark Office by mailing a true copy thereof, by First Class Mail; postage prepaid this 9th day of July, 2014, in an envelope addressed as follows:

Thomas F. Bergert
Williams Mullen
321 E. Main Street, Suite 400
Charlottesville, VA 22902
UNITED STATES

Date: July 9th, 2014



Daniel N. Smith
Counsel for Opposer

EXHIBIT 1

Christopher Lohring v. THREE NOTCH'D BREWING COMPANY, LLC
NOTICE OF OPPOSITION
In Re Serial. No. 85/920112
Opposition No.: _____

United States of America

United States Patent and Trademark Office

Notch

Reg. No. 3,955,799

LOHRING, CHRISTOPHER (UNITED STATES INDIVIDUAL)
19 CARLTON STREET
SALEM, MA 01970

Registered May 3, 2011

Int. Cl.: 32

FOR: BEER, ALE, LAGER, STOUT AND PORTER; DE-ALCOHOLISED BEER, IN CLASS 32
(U.S. CLS. 45, 46 AND 48).

TRADEMARK

FIRST USE 5-1-2010; IN COMMERCE 5-1-2010.

PRINCIPAL REGISTER

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

SN 77-958,348, FILED 3-13-2010.

HENRY S. ZAK, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office

EXHIBIT 2

Christopher Lohring v. THREE NOTCH'D BREWING COMPANY, LLC
NOTICE OF OPPOSITION
In Re Serial. No. 85/920112
Opposition No.: _____

To: Three Notch'd Brewing Company, LLC (gkastendike@3notchedbrewing.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85920112 - THREE NOTCH'D BREWING COMPANY - N/A
Sent: 8/20/2013 5:52:12 PM
Sent As: ECOM108@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
[Attachment - 5](#)
[Attachment - 6](#)
[Attachment - 7](#)
[Attachment - 8](#)
[Attachment - 9](#)
[Attachment - 10](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 85920112

MARK: THREE NOTCH'D BREWING COMPANY

85920112

CORRESPONDENT ADDRESS:

THREE NOTCH'D BREWING COMPANY, LLC
THREE NOTCH'D BREWING COMPANY, LLC
946 GRADY AVE STE 9
CHARLOTTESVILLE, VA 22903-4487

CLICK HERE TO RESPOND TO
<http://www.uspto.gov/trademarks/teas/r>

APPLICANT: Three Notch'd Brewing Company, LLC

CORRESPONDENT'S REFERENCE/DOCKET NO :

N/A

CORRESPONDENT E-MAIL ADDRESS:

gkastendike@3notchedbrewing.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 8/20/2013

TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE: Applicants who filed their application online using the reduced-fee TEAS Plus application must continue to submit certain documents online using TEAS, including responses to Office actions. *See* 37 C.F.R. §2.23(a)(1). For a complete list of these documents, see TMEP §819.02(b). In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and must maintain a valid e-mail address. 37 C.F.R. §2.23(a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these requirements must submit an additional fee of \$50 per international class of goods and/or services. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04. In appropriate situations and where all issues can be resolved by amendment, responding by telephone to authorize an examiner's amendment will not incur this additional fee.

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

Prior Pending Application

The filing date of pending Application Serial No. 85654200 precedes applicant's filing date. See attached referenced application. If the mark in the referenced application registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

Applicant Appears to Share Common Ownership over the Cited Registrations(s)/Application(s)

Applicant appears to share common ownership over the cited registration(s)/application(s). However, USPTO records indicate ownership of the cited registration(s)/application(s) only in an entity or entities other than applicant. Therefore, applicant must demonstrate ownership of this/these registration(s)/application(s), or that a unity of control exists between the applicant's and the cited registrant(s)/applicant(s) marks. *See* TMEP §812.01; TMEP § 1201.07(a)-(b).

Applicant can provide evidence of ownership of the marks by satisfying one of the following:

- (1) Record the assignment with the Office's Assignment Services Branch (ownership transfer documents such as assignments can be filed online at <http://etas.uspto.gov>) and promptly notify the trademark examining attorney that the assignment has been duly recorded;

(2) Submit copies of documents evidencing the chain of title; or

(3) Submit the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: **“Applicant is the owner of U.S. Registration/Application Nos. [LIST EACH REGISTRATION OR APPLICATION NUMBER].”**

TMEP §812.01; *see* 15 U.S.C. §1060; 37 C.F.R. §§2.193(e)(1), 3.25, 3.73; TMEP §502.02(a).

Merely recording a document with the Assignment Services Branch does **not** constitute a response to an Office action. TMEP §503.01(d).

Below is a sample of an acceptable declaration under 37 C.F.R. §2.20 as discussed under Number 3 above:

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that he/she is authorized to sign this declaration on behalf of applicant; that applicant is the owner of **U.S. Registration/Application Nos. [LIST EACH REGISTRATION OR APPLICATION NUMBER]**; declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

(Signature)

(Print or Type Name and Position)

(Date)

Unity of Control

If no direct ownership of the cited registration(s)/application(s) exist(s), but applicant and cited registrant(s)/applicant(s) is/are related, the closeness of this relationship may be sufficient to obviate a likelihood of confusion in the public mind if the related companies constitute a single source. TMEP § 1207.07(a). If applicant claims that applicant and cited registrant(s)/applicant(s) constitute a single source, applicant has the burden to demonstrate that a unity of control exists between applicant’s and cited registrant(s)/applicant(s) marks. TMEP § 1201.07(b).

Examples of a unity of control include the following. If *either* the applicant or the cited registrant(s)/applicant(s) owns *all* of the other entity/ies, and no contradictory evidence in the record exists, then the marks are deemed to establish a unity of control, emanate from a single source and obviate a likelihood of confusion. This situation would apply to an individual who owns all of the stock of a corporation, and to a corporation and a wholly-owned subsidiary. In this circumstance, applicant is merely required to state for the record that one entity owns all of the other entity. TMEP § 1201.07(b)(i).

If *either* the applicant or the cited registrant(s)/applicant(s) own(s) *substantially* all of the other entity, and

contradictory evidence exists in the record, applicant must provide an affidavit or declaration under 37 CFR § 2.20 making such a claim. This affidavit or declaration must state that one party controls the activities of the other party, including the selection, adoption and use of trademarks. TMEP § 1201.07(b)(ii).

Informalities

1. Color Claim Required

Applicant claims that its mark does not contain color. However, the mark in the drawing contains colors other than black, white or gray. Therefore, a color claim is required. Applications for marks depicted in color must include a complete list of all the colors claimed as a feature of the mark. 37 C.F.R. §2.52(b)(1); *see* TMEP §§807.07(a) *et seq.*

If black, white and/or gray are not being claimed as a color feature of the mark, applicant must state that the colors black, white and/or gray represent background, outlining, shading and/or transparent areas and are not part of the mark. TMEP §807.07(d). Generic color names must be used to identify the colors in the mark, e.g., magenta, yellow, turquoise. TMEP §807.07(a)(i)-(a)(ii).

Therefore, applicant must provide the required color claim. The following is suggested, if accurate:

The colors red and brown are claimed as a feature of the mark.

TMEP §807.07(a)(i).

2. Amendment to the Description of the Mark Statement Required

Applicant has submitted a description of the mark statement. However, it is indefinite and does not include color. Applications for marks depicted in color must include a description of all the literal and design elements in the mark that specifies where all the colors appear in those elements. 37 C.F.R. §§2.37, 2.52(b)(1); *see* TMEP §§807.07(a) *et seq.*

If black, white and/or gray are not being claimed as a color feature of the mark, applicant must state that the colors black, white and/or gray represent background, outlining, shading and/or transparent areas and are not part of the mark. TMEP §807.07(d). Generic color names must be used to describe the colors in the mark, e.g., magenta, yellow, turquoise. TMEP §807.07(a)(i)-(a)(ii).

Therefore, applicant must provide a description of the literal and design elements in the mark that specifies where all the colors appear in those elements. The following description is suggested, if accurate:

The mark consists of three thick lines in red. To the right of these lines is the wording “THREE NOTCH’D” in red over the wording “BREWING COMPANY” in brown. Beneath these lines and this wording is the wording “CHARLOTTESVILLE, VA” in red centered in between brown lines.

TMEP §807.07(a)(ii).

3. **Requirement for a Disclaimer**

Applicant must disclaim the descriptive wording “BREWING COMPANY” and “CHARLOTTESVILLE, VA” apart from the mark as shown. *See* 15 U.S.C. §1056(a); TMEP §§1213, 1213.03(a).

The term “BREWING COMPANY” refers to an entity that makes beer. See the enclosed encyclopedia entry. The term “BREWING COMPANY” merely describes the provider of the goods, namely, a maker of beer.

The term “CHARLOTTESVILLE, VA” refers to a well-known location in the State of Virginia. See the enclosed geographic dictionary definition. Applicant is located in Charlottesville, Virginia. Because the place is not remote or obscure and the applicant is located there, a goods/place association in the mind of the prospective consumer is presumed. Therefore, the wording “CHARLOTTESVILLE, VA” is primarily geographically descriptive of the goods and must be disclaimed.

A “disclaimer” is a statement that applicant does not claim exclusive rights to an unregistrable component of a mark. TMEP §1213. A disclaimer does not affect the appearance of the applied-for mark. *See* TMEP §1213.10.

A disclaimer does not physically remove the disclaimed matter from the mark, but rather is a written statement that applicant does not claim exclusive rights to the disclaimed wording and/or design separate and apart from the mark as shown in the drawing. TMEP §§1213, 1213.10.

The following is the standard format used by the Office:

No claim is made to the exclusive right to use “BREWING COMPANY” and “CHARLOTTESVILLE, VA” apart from the mark as shown.

TMEP §1213.08(a)(i); *see In re Owatonna Tool Co.*, 231 USPQ 493 (Comm’r Pats. 1983).

CONSULTATION WITH TRADEMARK ATTORNEY RECOMMENDED

Because of the legal technicalities involved in this application, applicant may wish to hire an attorney specializing in trademark or intellectual property law. For attorney referral information, applicant may consult the American Bar Association’s Consumers’ Guide to Legal Help at <http://www.abanet.org/legalservices/findlegalhelp/home.cfm> or a local telephone directory. The USPTO cannot aid in the selection of an attorney. 37 C.F.R. §2.11.

Only If Applicable - Examiner’s Amendment Recommended

Examiner’s Amendments cannot be issued for partial amendments. However, if all of the outstanding issues can be resolved through an Examiner’s Amendment, the applicant is encouraged to respond to this Office Action by amending the application in a telephone call with the examining attorney to expedite the processing of the application. Generally, only the submission of arguments to overcome a substantive

refusal or an informal requirement, a requirement for the submission of specimens, a particular document or declaration, or the payment of a fee cannot be handled over the telephone.

Responding to Office Action

The USPTO applies the following legal authorities when processing a trademark and service mark application:

- The Trademark Act of 1946;
- The Trademark Rules of Practice;
- Precedential court and Trademark Trial and Appeal Board decisions;
- USPTO's *Trademark Manual of Examining Procedure* (TMEP) (6th ed. 2009); and
- USPTO's *Trademark Trial and Appeal Board Manual of Procedure* (TBMP).

15 U.S.C. §§1051 *et seq.*; 37 C.F.R. Parts 2, 3, 6, 7, 10, and 11; *see* TMEP intro., §§101, 107, 110.

Official USPTO letters and notices sent to applicants generally refer to one or more of these legal resources. Both the Trademark Act and the Trademark Rules of Practice can be viewed online at the Trademarks' Home Page at <http://www.uspto.gov/trademarks/index.jsp> by clicking on "Laws & Regulations" on the left side of the screen. The TMEP is also available via the Home Page by clicking on "Manuals, Guides, Official Gazette" on the left side of the screen. Trademark Trial and Appeal Board decisions and the TBMP can be found at the website at <http://www.uspto.gov/trademarks/process/appeal/index.jsp>.

Please note that applicant must explicitly address all issues raised in this Office Action. If the issues are substantive refusals, the applicant may respond with arguments and evidence to overcome the refusal. To respond to requirements/informalities the applicant must specifically request that changes to the record be made.

There is no required format or form for responding to an Office Action. The Office recommends applicants use the Trademark Electronic Application System (TEAS) to respond to Office Actions online at <http://www.uspto.gov/teas/index.html>.

If applicant responds on paper via regular mail, applicant should include the following information on all correspondence with the Office: (1) the name and law office number of the trademark examining attorney, (2) the serial number and filing date of the application, (3) the date of issuance of this Office action, (4) applicant's name, address, telephone number and e-mail address (if applicable), and (5) the mark. 37 C.F.R. §2.194(b)(1); TMEP §302.03(a).

The Trademark Applications and Registrations Retrieval (TARR) database on the USPTO website at <http://tarr.uspto.gov> provides detailed, up to the minute information about the status and prosecution history of trademark/service mark applications and registrations. To access the TARR database, applicant will need to provide an application serial number or registration number. The TARR database is available 24 hours a day, 7 days a week.

/Michael A. Wiener/
Trademark Attorney

Law Office 108
(T): (571) 272-8836
E-Mail (unofficial correspondence only):
michael.wiener@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

Print: Aug 20, 2013

85654200

DESIGN MARK

Serial Number

85654200

Status

FINAL REFUSAL - MAILED

Word Mark

THREE NOTCH'D BREWING COMPANY

Standard Character Mark

Yes

Type of Mark

TRADEMARK; SERVICE MARK

Register

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Owner

Three Notch'd Beer And Brew Company PARTNERSHIP VIRGINIA 217 Huntley Ave Charlottesville VIRGINIA 22903

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Beer.

Goods/Services

Class Status -- ACTIVE. IC 040. US 100 103 106. G & S: Brewery services.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE BREWING COMPANY APART FROM THE MARK AS SHOWN.

Filing Date

2012/06/18

Examining Attorney

NELSON, EDWARD H.

Three Notch'd Brewing Company



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Brewery

From Wikipedia, the free encyclopedia
(Redirected from Brewing company)

 It has been suggested that *microbrewery* be merged into this article. (Discuss)
Proposed since January 2013.

A **brewery** is a dedicated building for the making of *beer*, though beer can be made at home, and has been for much of beer's history. A company that makes beer is called either a brewery or a brewing company.

The diversity of size in breweries is matched by the diversity of processes, degrees of *automation*, and kinds of beer produced in breweries. A brewery is typically divided into distinct sections, with each section reserved for one part of the *brewing* process.

Contents [hide]

- 1 History
 - 1.1 The industrialization of the brewery
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Kettles in a modern Trappist brewery

History [edit source]



See also: History of beer

The oldest, still functional, brewery in the world is believed to be the German state-owned *Weihenstephan* brewery in the city of *Freising, Bavaria*. It can trace its history back to 1040 AD (this is disputed by the nearby *Weltenburg Abbey* brewery, who can trace back its beer-brewing tradition to at least 1050 AD, claiming the *Weihenstephan* document is at least controversial. The *Zatec* brewery in the Czech Republic claims it can prove that it paid a beer tax in 1004 AD).

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- Suomi
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- Українська
- West-Vlams

[Edit links](#)



A 16th-century brewery.

claims it can prove that it paid a beer tax in 1004 AD).

The industrialization of the brewery [\[edit source\]](#)

Beer, in some form, can be traced back almost 5000 years to [Mesopotamian](#) writings describing daily rations of beer and bread to workers. Before the rise of production breweries, the production of beer took place at home and was the domain of women, as baking and brewing were seen as "women's work". Breweries, as production facilities reserved for making beer, did not emerge until [monasteries](#) and other [Christian](#) institutions started producing beer not only for their own consumption but also to use as payment. This industrialization of brewing shifted the responsibility of making beer to men.

Early breweries were almost always built on multiple stories, with equipment on higher floors used earlier in the production process, so that [gravity](#) could assist with the transfer of product from one stage to the next. This layout often is preserved in breweries today, but mechanical pumps allow more flexibility in brewery design.

Early breweries typically used large copper vats in the brewhouse, and [fermentation](#) and packaging took place in lined wooden containers. Such breweries were common until the [Industrial Revolution](#), when better materials became available, and scientific advances led to a better understanding of the brewing process. Today, almost all brewery equipment is made of [stainless steel](#).

Major technological advances [\[edit source\]](#)

A handful of major breakthroughs have led to the modern brewery and its ability to produce the same beer consistently.

The [steam engine](#), vastly improved in 1765 by [James Watt](#), brought automatic stirring mechanisms and pumps into the brewery. It gave brewers the ability to mix liquids more reliably while heating, particularly the [mash](#), to prevent scorching, and a quick way to transfer liquid from one container to another. Almost all breweries now use electric-powered stirring mechanisms and pumps. The steam engine also allowed the brewer to make greater quantities of beer, as human power was no longer a limiting factor in moving and stirring.

[Carl von Linde](#), along with others, is credited with developing the [refrigeration](#) machine in 1871.

Refrigeration allowed beer to be produced year-round, and always at the same temperature. [Yeast](#) is very sensitive to temperature, and, if a beer were produced during summer, the yeast would impart unpleasant flavors onto the beer. Most brewers would produce enough beer during winter to last through the summer, and store it in underground cellars, or even caves, to protect it from summer's heat.

The discovery of [microbes](#) by [Louis Pasteur](#) was instrumental in the control of fermentation. The idea that yeast was a [microorganism](#) that worked on [wort](#) to produce beer led to the isolation of a single yeast cell by [Emil Christian Hansen](#). Pure yeast cultures allow brewers to pick out yeasts for their fermentation characteristics, including flavor profiles and fermentation ability. Some breweries in Belgium, however, still rely on "spontaneous" fermentation for their beers (see [lambic](#)).

The modern brewery [\[edit source\]](#)



19th century brewery installations

 This section **does not cite any references or sources**. Please help improve this section by [adding citations to reliable sources](#). Unsourced material may be challenged and [removed](#). *(April 2012)*



Breweries today are made predominantly of [stainless steel](#), although vessels often have a decorative [copper](#) cladding for a nostalgic look. Stainless steel has many favorable characteristics that make it a well-



Finished bottles being cased at a modern brewery

suited material for brewing equipment. It imparts no flavor in beer, it reacts with very few chemicals, which means almost any [cleaning solution](#) can be used on it (concentrated chlorine [bleach] being a notable exception) and it is very sturdy. Sturdiness is important, as most tanks in the brewery have positive pressure applied to them as a matter of course, and it is not unusual that a vacuum will be formed incidentally during cleaning.

Heating in the brewhouse usually is achieved through pressurized steam, although direct-fire systems are not unusual in small breweries. Likewise, cooling in other areas of the brewery is typically done by cooling jackets on tanks, which allow the brewer to control precisely the temperature on each tank individually,

although whole-room cooling is also common.

Today, modern brewing plants perform myriad analyses on their beers for quality control purposes. Shipments of ingredients are analyzed to correct for variations. Samples are pulled at almost every step and tested for [oxygen] content, unwanted microbial infections, and other beer-aging compounds. A representative sample of the finished product often is stored for months for comparison, when complaints are received.

Brewing process [\[edit source\]](#)

Main article: [Brewing](#)

Work in the brewery is typically divided into 9 steps: Malting, Milling, Mashing, Lautering, Boiling, Fermenting, Conditioning, Filtering, and Filling.

Mashing is the process of mixing milled grain (typically [malting](#) grain) with water, and heating this mixture up with rests at certain temperatures to allow [enzymes](#) in the malt to break down the [starch](#) in the grain into [sugars](#), typically [maltose](#).

[Lautering](#) is the separation of the extracts won during mashing from the spent grain to create [wort](#). It is achieved in either a [lauter tun](#), a wide vessel with a false bottom, or a mash filter, a plate-and-frame filter designed for this kind of separation. Lautering has two stages: first wort run-off, during which the extract is separated in an undiluted state from the spent grains, and [sparging](#), in which extract that remains with the grains is rinsed off with hot water.

Boiling the wort ensures its sterility, and thus prevents infections. During the boil, hops are added, which contribute their bitterness, aroma and flavor compounds to the beer. Along with the heat of the boil, they cause proteins in the wort to coagulate and the [pH](#) of the wort to fall, and they inhibit the later growth of certain bacteria. Finally, the vapors produced during the boil volatilize off-flavors, including [dimethyl sulfide](#) precursors.

The boil must be conducted so that it is even and intense. The boil lasts between 60 and 120 minutes, depending on its intensity, the hop addition schedule, and volume of wort the [brewer](#) expects to [evaporate](#).

Fermenting [\[edit source\]](#)

Fermentation, as a step in the brewing process, starts as soon as yeast is added to the cooled wort. This is also the point at which the product is first called beer. It is during this stage that fermentable sugars won from the [malt](#) (maltose, maltotriose, glucose, fructose and sucrose) are metabolized into [alcohol](#) and [carbon dioxide](#). Fermentation tanks come in all sorts of forms, from enormous cylindroconical vessels that can look like [storage silos](#), to five [gallon](#) glass [carboys](#) in a homebrewer's closet.

Most breweries today use cylindroconical vessels, or CCVs, which have a conical bottom and a cylindrical top. The cone's [aperture](#) is typically around 70°, an angle that will allow the yeast to flow smoothly out through the cone's apex at the end of fermentation, but is not so steep as to take up too much vertical space. CCVs



The entrance of the Karlsruhe Moninger brewery, Germany. An old boil kettle has been placed outside as decoration.



can handle both fermenting and conditioning in the same tank. At the end of fermentation, the yeast and other solids that have fallen to the cone's apex can be simply flushed out through a port at the apex.

Open fermentation vessels are also used, often for show in brewpubs, and in Europe in wheat beer fermentation. These vessels have no tops, which makes harvesting top-fermenting yeasts very easy. The open tops of the vessels make the risk of infection greater, but with proper cleaning procedures and careful protocol about who enters fermentation chambers, the risk can be well controlled.

Fermentation tanks are typically made of stainless steel. If they are simple cylindrical tanks with beveled ends, they are arranged vertically, as opposed to conditioning tanks, which are usually laid out horizontally.

A very few breweries still use wooden vats for fermentation but wood is difficult to keep clean and infection-free and must be repitched more or less yearly.

After high kraeusen, a bung device (German: *Spundapparat*) is often put on the tanks to allow the $C O_2$ produced by the yeast to naturally carbonate the beer. This bung device can be set to a given pressure to match the type of beer being produced. The more pressure the bung holds back, the more carbonated the beer becomes.

Conditioning [edit source]

When the sugars in the fermenting beer have been almost completely digested, the fermentation slows down and the yeast cells will naturally start to die off and begin to settle toward the bottom of the tank at an accelerated rate.

At this stage, especially if the beer is cooled to around freezing, most of the remaining live yeast cells will quickly go into a dormant state and will also begin to settle out along with the heavier protein chains due simply to gravity and molecular dehydration.

If the fermentation tanks have cooling jackets on them, as opposed to the whole fermentation cellar being cooled, conditioning can take place in the same tank as fermentation. Otherwise, separate tanks (in a separate cellar) must be employed.

On the other hand, often beers from the brewpubs will barely be conditioned, if at all. An active yeast culture from an on-going batch is added to the next boil after chilling to 80F. This allows the brewer to rapidly produce a fresh and highly palatable beer that can be easily duplicated in mass quantity.

Filtering [edit source]

Filtering the beer stabilizes flavor, and gives beer its polished shine and brilliance.

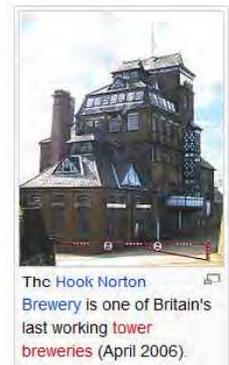
Not all beer will be actively filtered after the conditioning stage, as not all conditioning will even involve an actual temperature drop.

For instance, most home brewers and probably even a majority of craft breweries consider the natural gravitational settlement and coagulation of organic impurities that occurs during the (sometimes prolonged) conditioning stage to be entirely sufficient.

In localities where a tax assessment is collected by government pursuant to local laws, any additional filtration will typically be done using an active filtering system, the filtered product finally passing into a calibrated vessel for measurement just after any cold conditioning and prior to final packaging.

Filters come in many types. Many use pre-made filtration media such as sheets or candles, while others use a fine powder made of, for example, *diatomaceous earth*, also called *kieselguhr*, which is introduced into the beer and recirculated past screens to form a filtration bed.

Filters range from rough filters that remove much of the yeast and any solids (e.g., hops, grain particles) left in the



beer, to filters tight enough to strain color and body from the beer. Used filtration ratings are normally divided into rough, fine, and sterile. Rough filtration leaves some cloudiness in the beer, but it is noticeably clearer than unfiltered beer. Fine filtration gives a glass of beer that you could read a newspaper through, with no noticeable cloudiness. Finally, as its name implies, sterile filtration is fine enough that almost all microorganisms in the beer are removed during the filtration process.

Filling [\[edit source\]](#)

Filling (a.k.a. "packaging") is putting the beer into the containers in which it will leave the brewery. The containers are usually [bottles](#), [cans](#), or [kegs](#); sometimes bulk tanks are used for high-volume customers.

Brewing companies [\[edit source\]](#)

 This section **has an unclear citation style**. The references used may be made clearer with a different or consistent style of [citation](#), [footnoting](#), or [external linking](#). *(June 2013)*

Brewing companies range widely in the volume and variety of beer produced, ranging from small breweries, such as [Ringwood Brewery](#), to massive multinational conglomerates, like [SABMiller](#) in London or [Anheuser-Busch InBev](#), that produce hundreds of [millions](#) of barrels annually. The biggest brewer in the world is the Belgian company [Anheuser-Busch InBev](#). Some commonly used descriptions of breweries are:

- **Microbrewery**—A late-20th-century name for a small brewery. The term started to be replaced with [craft brewer](#) at the start of the 21st century.^[*citation needed*]
- **Farmhouse brewery**—A farmhouse brewery, or farm brewery, is a brewery that primarily brews its beer on a farm. Crops grown on the farm, such as barley, wheat, and/or hops, are usually used in the beers brewed. A farmhouse brewery is similar in concept to a vineyard which grows its own grapes and uses them to make wine.
- **Brewpub**—A brewery whose beer is brewed primarily on the same site from which it is sold to the public, such as a [pub](#) or [restaurant](#). If the amount of beer that a brewpub distributes off-site exceeds 75%, it may also be described as a craft or microbrewery.
- **Contract brewing company** or **contract brewery**—A business that hires another brewery to produce its beer. The contract brewing company generally handles all of the beer's marketing, sales, and distribution, while leaving the brewing and packaging to the producer-brewery (which confusingly is also sometimes referred to as a contract brewer). Contract breweries have been criticized by traditional brewing companies for avoiding the costs associated with a physical brewery.^[1]
- **Regional brewery**—An established term for a brewery that supplies beer in a fixed geographical location.
- **Craft brewer** is a term coined by the American Brewers Association; it gives a definition of "small, independent and traditional": small defined as an "annual production of 6 million barrels of beer or less", independent defined as at least 75% owned or controlled by a craft brewer, and traditional defined as at least 50% of its volume being all malt beer.^[22] The Brewers Association further groups craft brewers as microbrewery: annual production less than 15,000 US beer barrels (1,800,000 L); brewpub: sells 25% or more of its beer on site; regional craft brewery: at least 50% of its volume is all malt beers.^[4] Of the 1,759 breweries in America, only 43 are not defined as craft brewers, and 100 not defined as either a micro or brewpub.^[5]
- **Macrobrewery** or **Megabrewery**—Terms for a brewery that is too large or economically diversified to be a microbrewery, which sometimes carry a negative connotation.
- A *braumaster* (German: *braumeister*) is a person who is in charge of the production of beer. The main



Brewery promotion, Salt Lake City, 1912



Yuengling Brewery, a regional brewery in Pottsville, Pennsylvania

- A brewmaster (German: *braumeister*) is a person who is in charge of the production of beer. The major breweries employ engineers with a [Chemistry/Biotechnology](#) background. The title of Brewmaster is given to a person after 2½ years of extra study in the art of [brewing](#) thus earning a degree equivalent to a [master's degree](#).^[*citation needed*]

There are organizations that assist the development of brewing, such as the [Seibel Institute of Technology](#) in the USA and the [Institute of Brewing and Distilling](#) in the UK.

Largest brewing companies [edit source]

In 2012 the four largest brewing companies controlled 50% of the market^[2]

- Anheuser-Busch InBev
- SABMiller
- Heineken International
- Carlsberg Group

See also [edit source]

- [Breweriana](#)—the hobby of brewery advertising collecting
- [Homebrewing](#)
- [List of microbreweries](#)



References [edit source]

1. ↑ Acitelli, Tom (2013). *The Audacity of Hops: The History of America's Craft Beer Revolution*. Chicago: Chicago Review Press. p. 240. ISBN 9781613743881. OCLC 828193572.
2. ↑ "Modelo may not quench thirst for beer deals | Reuters". In.reuters.com. 2012-06-29. Retrieved 2013-04-22.

Further reading [edit source]

- ISBN 3-921690-49-8: *Technology Brewing and Malting*, Wolfgang Kunze, 2004, 3rd revised edition, VLB Berlin. Available at [their website](#)
- [BrewersAssociation.org](#) Craft brewer definition from the Brewers association.
- *Straub Brewery* By John Schlimm, Arcadia Publishing, 2005, ISBN 0-7385-3843-4

External links [edit source]

- Media related to [Breweries](#) at Wikimedia Commons

Categories: [Brewing](#) | [Manufacturing plants](#)

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TYPE OF PLACE	city
LOCATION	Virginia, United States
COORDINATES	38°02'N 78°29'W
POPULATION	40,315

Charlottesville (SHAHR-luhts-vil), [Historical Population](#)
independent city (□ 10 sq mi/26 sq km; 1990
population40,341; 2000 population45,049), • [Albemarle](#) county,
separate from county, central Virginia, 70 mi/113 km NW of
[Richmond](#), on [Rivanna River](#), in [Piedmont](#) region; 38°02'N 78°29'
W. Railroad junction. Manufacturing (building materials, electronic
equipment, furniture, computer circuit boards, consumer goods,
printing and publishing); agriculture (grain; livestock, poultry;
dairying). British General John Burgoyne's captured army was

dairying). British General John Burgoyne's captured army was quartered nearby in 1779–1780, and in 1781 Sir Banastre Tarleton raided the city. To SE are [Monticello](#), home of Thomas Jefferson; Ash Lawn, home of James Monroe. Michie Tavern Museum and the birthplaces of Meriwether Lewis and George Rogers Clark are here. Seat of University of Virginia, founded 1819 by Thomas Jefferson; the Institute of Textile Technology is to W; Piedmont Virginia Community College is to S. Charlottesville–Albemarle Airport to N. Lake Monticello reservoir to SE. Founded 1762, chartered as a city 1888.

Citations

MLA

"Charlottesville." *Columbia Gazetteer of the World Online*. 2013. Columbia University Press. 20 Aug. 2013.
<<http://www.columbiagazetteer.org/main/ViewPlace/26867>>

Chicago Manual of Style

Columbia Gazetteer of the World Online, s.v. "Charlottesville," <http://www.columbiagazetteer.org/main/ViewPlace/26867> (accessed August 20, 2013).

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To: Three Notch'd Brewing Company, LLC (gkastendike@3notchedbrewing.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85920112 - THREE NOTCH'D BREWING COMPANY - N/A
Sent: 8/20/2013 5:52:12 PM
Sent As: ECOM108@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **8/20/2013** FOR U.S. APPLICATION SERIAL NO. 85920112

Your trademark application has been reviewed. The trademark examining attorney assigned by the USPTO to your application has written an official letter to which you must respond. Please follow these steps:

(1) **READ THE LETTER** by clicking on this [link](#) or going to <http://tsdr.uspto.gov/>, entering your U.S. application serial number, and clicking on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) **RESPOND WITHIN 6 MONTHS** (*or sooner if specified in the Office action*), calculated from **8/20/2013**, using the Trademark Electronic Application System (TEAS) response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions.

(3) **QUESTIONS** about the contents of the Office action itself should be directed to the trademark examining attorney who reviewed your application, identified below.

/Michael A. Wiener/
Trademark Attorney
Law Office 108
(T): (571) 272-8836
E-Mail (unofficial correspondence only):
michael.wiener@uspto.gov

WARNING

Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application. For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

EXHIBIT 3

Christopher Lohring v. THREE NOTCH'D BREWING COMPANY, LLC
NOTICE OF OPPOSITION
In Re Serial. No. 85/920112
Opposition No.: _____

To: Three Notch'd Beer And Brew Company (george.h.kastendike@gmail.com)

Subject: U.S. TRADEMARK APPLICATION NO. 85654200 - THREE NOTCH'D BREWING COMPANY - N/A

Sent: 4/24/2013 6:38:56 AM

Sent As: ECOM106@USPTO.GOV

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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 85654200

MARK: THREE NOTCH'D BREWING COMPANY

85654200

CORRESPONDENT ADDRESS:

THREE NOTCH'D BEER AND BREW COMPANY
217 HUNTLEY AVE
CHARLOTTESVILLE, VA 22903-2989

CLICK HERE TO RESPOND TO THIS LETTER
http://www.uspto.gov/trademarks/teas/response_forms.jsp

APPLICANT: Three Notch'd Beer And Brew Company

CORRESPONDENT'S REFERENCE/DOCKET NO :

N/A

CORRESPONDENT E-MAIL ADDRESS:

george.h.kastendike@gmail.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 4/24/2013

THIS IS A FINAL ACTION.

This Office action is in response to applicant's communication filed on March 30, 2013.

The refusal to register made pursuant to Section 2(d) of the Act is continued and made FINAL. The requirement for a disclaimer of "Brewing Company" has been satisfied and the Office has entered the required disclaimer based upon applicant's statement in the March 30, 2013, response. It is noted, that Serial No. 85/258822 has been abandoned and will not be cited as a bar to the registration of this application

In any likelihood of confusion determination, two key considerations are similarity of the marks and similarity or relatedness of the goods and/or services. *See Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976); *In re Iolo Techs., LLC*, 95 USPQ2d 1498, 1499 (TTAB 2010); TMEP §1207.01; *see also In re Dixie Rests. Inc.*, 105 F.3d 1405, 1406-07, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997). That is, the marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Additionally, the goods and/or services are compared to determine whether they are similar or commercially related or travel in the same trade channels. *See Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §1207.01, (a)(vi).

Here, the sole feature of the registered mark is NOTCH. Applicant's mark is THREE NOTCH'D BREWING COMPANY. The applicant uses the sole feature of the registered mark in a predominant manner that will result in the commercial impression left with the purchasing public of being for

“NOTCH’D.” Slight differences in the sound of similar marks will not avoid a likelihood of confusion. *In re Energy Telecomm. & Elec. Ass’n*, 222 USPQ 350, 351 (TTAB 1983); *see In re Viterra Inc.*, 671 F.3d 1358, 1367, 101 USPQ2d 1905, 1912 (Fed. Cir. 2012).

Although marks are compared in their entireties, one feature of a mark may be more significant or dominant in creating a commercial impression. *See In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Nat’l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 751 (Fed. Cir. 1985); TMEP §1207.01(b)(viii), (c)(ii). Greater weight is often given to this dominant feature when determining whether marks are confusingly similar. *See In re Nat’l Data Corp.*, 753 F.2d at 1058, 224 USPQ at 751.

The addition of “Three” in front of NOTCH (‘D) does not change the commercial impression as between the two marks at issue. The mere addition of a term to a registered mark generally does not obviate the similarity between the marks nor does it overcome a likelihood of confusion under Trademark Act Section 2(d). *See, e.g., In re Chatam Int’l Inc.*, 380 F.3d 1340, 71 USPQ2d 1944 (Fed. Cir. 2004); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266 (TTAB 2009); *In re El Torito Rests., Inc.*, 9 USPQ2d 2002 (TTAB 1988). The only exceptions are when the matter common to the marks is merely descriptive or diluted, and not likely to be perceived by purchasers as distinguishing source, or when the marks in their entireties convey a significantly different commercial impression. TMEP §1207.01(b)(iii); *see, e.g., Shen Mfg. Co. v. Ritz Hotel Ltd.*, 393 F.3d 1238, 73 USPQ2d 1350 (Fed. Cir. 2004); *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 94 USPQ2d 1645 (TTAB 2010); *In re Shawnee Milling Co.*, 225 USPQ 747 (TTAB 1985); *In re S.D. Fabrics, Inc.*, 223 USPQ 54 (TTAB 1984).

Furthermore, “notch” is defined by the dictionary as “a V-shaped cut or indentation; nick, to score or achieve, the team notched up its fourth win.” See attachment. So not only do these words look, appear and sound alike but they have the same meaning and are different forms of the same word.

Disclaimed matter is typically less significant or less dominant when comparing marks. *See In re Dixie Rests., Inc.*, 105 F.3d 1405, 1407, 41 USPQ2d 1531, 1533-34 (Fed. Cir. 1997); *In re Nat’l Data Corp.*, 753 F.2d 1056, 1060, 224 USPQ 749, 752 (Fed. Cir. 1985); TMEP §1207.01(b)(viii), (c)(ii).

Thus, where the goods are the same “beer” and “beer, ale, lager, stout and porter” confusion is likely between the marks at issue as to International Class 32.

The trademark examining attorney has attached evidence from the USPTO’s X-Search database consisting of a number of third-party marks registered for use in connection with the same or similar goods and/or services as those of both applicant and registrant in this case. This evidence shows that the goods and/or services listed therein, namely “brewery services” and “beer, ale, lager, stout and porter,” are of a kind that may emanate from a single source under a single mark. *See In re Anderson*, 101 USPQ2d 1912, 1919 (TTAB 2012); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988); TMEP §1207.01(d)(iii).

Accordingly, where the marks at issue are so similar, confusion is likely between the marks at issue pursuant to Section 2(d) of the Act as to International Class 40 as well.

The USPTO applies the following legal authorities when processing a trademark and/or service mark application:

- The Trademark Act of 1946, as amended
- The Trademark Rules of Practice, as amended

- Precedential court and Trademark Trial and Appeal Board decisions
- The USPTO's *Trademark Manual of Examining Procedure* (TMEP), as periodically updated
- The USPTO's *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), as periodically updated

See 15 U.S.C. §§1051 *et seq.*; 37 C.F.R. pts. 2, 3, 6, 7, 10, 11; TMEP intro., §§101, 107, 110.

Official USPTO letters and notices sent to applicants generally refer to one or more of these legal resources. Both the Trademark Act and Trademark Rules of Practice can be viewed online at <http://www.uspto.gov/trademarks/law/index.jsp>. The TMEP is available online at <http://www.uspto.gov/trademarks/resources/index.jsp> and the TBMP and Trademark Trial and Appeal Board decisions are available online at <http://www.uspto.gov/trademarks/process/appeal/index.jsp>.

Applicant must respond within six months of the date of issuance of this final Office action or the application will be abandoned. 15 U.S.C. §1062(b); 37 C.F.R. §2.65(a). Applicant may respond by providing one or both of the following:

- (1) A response that fully satisfies all outstanding requirements;
- (2) An appeal to the Trademark Trial and Appeal Board, with the appeal fee of \$100 per class.

37 C.F.R. §2.64(a); TMEP §714.04; *see* 37 C.F.R. §2.6(a)(18); TBMP ch. 1200.

In certain rare circumstances, an applicant may respond by filing a petition to the Director pursuant to 37 C.F.R. §2.63(b)(2) to review procedural issues. 37 C.F.R. §2.64(a); TMEP §714.04; *see* 37 C.F.R. §2.146(b); TBMP §1201.05; TMEP §1704 (explaining petitionable matters). The petition fee is \$100. 37 C.F.R. §2.6(a)(15).

TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE: Applicants who filed their application online using the reduced-fee TEAS Plus application must continue to submit certain documents online using TEAS, including responses to Office actions. *See* 37 C.F.R. §2.23(a)(1). For a complete list of these documents, see TMEP §819.02(b). In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and must maintain a valid e-mail address. 37 C.F.R. §2.23(a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these requirements must submit an additional fee of \$50 per international class of goods and/or services. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04. In appropriate situations and where all issues can be resolved by amendment, responding by telephone to authorize an examiner's amendment will not incur this additional fee.

/Edward Nelson/
Edward Nelson
Trademark Attorney
Law Office 106
(571) 272-9202
Edward.Nelson@USPTO.gov

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wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

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English Dictionary

Definition of "notch"

English Worldwide American English

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notch (notf )

► Definitions

noun

1. a V-shaped cut or indentation; nick
2. a cut or nick made in a tally stick or similar object
3. (*US & Canadian*) a narrow pass or gorge
4. (*informal*) a step or level (esp in the phrase **a notch above**)

verb

7. usually foll by *up* (*informal*) to score or achieve ⇒ *the team notched up its fourth win*

Word Frequency ●●●○

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▶ Word Origin

C16: from incorrect division of an *otch* (as a *notch*), from Old French *oche* notch, from Latin *obsecāre* to cut off, from *secāre* to cut

▶ Synonyms

[View thesaurus entry](#) ▶

- = [level](#), [step](#), [degree](#), [grade](#), [cut](#)
- = [cut](#), [nick](#), [incision](#), [indentation](#), [mark](#), [score](#), [clef](#)
- = [cut](#), [mark](#), [score](#), [nick](#), [scratch](#), [indent](#)

▶ Translations for 'notch'

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- [Fibroma pendulum](#)
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Suggested by [Graydy Koraj](#) (24 Apr 2013)
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- [Acrochordon](#)
Suggested by [Graydy Koraj](#) (24 Apr 2013)

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notch in August.

Brazilian Portuguese: degrau	Chinese: 等级等级级
European Spanish: nivel	French: cran
German: Kerbe	Italian: tacca
Japanese: 段階	Korean: 단계

▶ Example Sentences Including 'notch'

- But the Valley's creativity always turns up a notch during recessions.
IRISH TIMES (2002)
- Danger comes from that way," she cried, pointing to the northern notch.
Tepper, Sheri S. A PLAGUE OF ANGELS
- He leaned down and edged the throttle forward a notch , the engine picking up the beat by a couple of hundred revs.
Ierman, Douglas CORMORANI
- It was only in external affairs that Nazarbayev could notch up dramatic successes.

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2 results

- > [top-notch](#)
- > [notch effect](#)

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- ... by real life... at home to retain their crown and notch up a 10th championship success.
SUN, NEWS OF THE WORLD (2001)
- She took just 50 minutes on Court 13 to notch a 6-0 6-1 win over Cross, who officially hung up her racket last November.
SUN, NEWS OF THE WORLD (2001)
- The widespread mood for independence has been... notch. The dollar falls. Before his... of economic growth.

Browse nearby words

- > [notation](#)
- > [notch](#)
- > [notch effect](#)
- > [notchy](#)

The reprimand would be misdirected because every notch the dollar falls takes a bite out of economic growth in Canada, Europe and Japan.
GLOBE AND MAIL (2003)

The river is a broad white snake way down below her, like the belt her mother wore round her small waist, buckled a notch too tight.

Adair, Tom (Intro) THREE KINDS OF KISSING - SCOTTISH SHORT STORIES

The two boys, who didn't even have a roof over their heads, now notch up about Rs 1,800 per month.
INDIA TODAY (2002)

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DESIGN MARK

Serial Number

85244014

Status

REGISTERED

Word Mark

NEWBURGH BREWING COMPANY BREWED WITH HEART

Standard Character Mark

No

Registration Number

4151168

Date Registered

2012/05/29

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Newburgh Brewing Company, LLC LIMITED LIABILITY COMPANY NEW YORK 72
Lake Road Salisbury Mills NEW YORK 12577

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Beer, ale,
lager, stout and porter. First Use: 2012/01/01. First Use In
Commerce: 2012/01/01.

Goods/Services

Class Status -- ACTIVE. IC 040. US 100 103 106. G & S: Brewery
services. First Use: 2012/01/01. First Use In Commerce: 2012/01/01.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NEWBURGH BREWING
COMPANY" APART FROM THE MARK AS SHOWN.

Description of Mark

The mark consists of a purple heart shape the left half of which is a
beer mug with beer foam spilling over the top of the mug and the right
half is the mug's handle. There is a banner across the heart that
contains the phrase "BREWED WITH HEART". Underneath the heart-shaped

Print: Apr 24, 2013

85244014

mug is the word "NEWBURGH" in purple letters, with a staggered formation, and the "B" is partially obscured by the heart-shaped mug. Underneath the word "NEWBURGH" are the words "BREWING COMPANY" in a smaller purple lettering.

Colors Claimed

The color(s) purple is/are claimed as a feature of the mark.

Filing Date

2011/02/16

Examining Attorney

BRECKENFELD, WILLIAM

Attorney of Record

Shay A. Humphrey



DESIGN MARK

Serial Number

85331402

Status

REGISTERED

Word Mark

NAPLES BEACH BREWERY

Standard Character Mark

Yes

Registration Number

4313691

Date Registered

2013/04/02

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Lawson, Rachel A. INDIVIDUAL UNITED STATES #4 1314 Corso Palermo Ct.
Naples FLORIDA 34105

Owner

Lawson, William J. INDIVIDUAL UNITED STATES #4 1314 Corso Palermo Ct.
Naples FLORIDA 34105

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: beer.
First Use: 2012/12/14. First Use In Commerce: 2012/12/14.

Goods/Services

Class Status -- ACTIVE. IC 021. US 002 013 023 029 030 033 040 050.
G & S: beer mugs; drinking glasses; bottle openers. First Use:
2012/02/07. First Use In Commerce: 2012/02/07.

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: clothing,
namely, t-shirts, shirts, sweatshirts, jackets, shorts, hats. First
Use: 2012/02/07. First Use In Commerce: 2012/02/07.

Goods/Services

Class Status -- ACTIVE. IC 040. US 100 103 106. G & S: brewery services. First Use: 2012/11/00. First Use In Commerce: 2012/11/00.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NAPLES" AND "BREWERY" APART FROM THE MARK AS SHOWN.

Filing Date

2011/05/26

Examining Attorney

SPRUILL, DARRYL

Attorney of Record

Erica L. Loeffler

NAPLES BEACH BREWERY

DESIGN MARK

Serial Number

85462364

Status

REGISTERED

Word Mark

DAREDEVIL

Standard Character Mark

Yes

Registration Number

4283798

Date Registered

2013/01/29

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

DAREDEVIL BREWING COMPANY LLC LIMITED LIABILITY COMPANY INDIANA 7205
East Short Blue Road Shelbyville INDIANA 46176

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Beer, ale, lager, stout and porter. First Use: 2012/11/26. First Use In Commerce: 2012/11/26.

Goods/Services

Class Status -- ACTIVE. IC 040. US 100 103 106. G & S: Brewery services. First Use: 2012/11/26. First Use In Commerce: 2012/11/26.

Prior Registration(s)

3199118

Filing Date

2011/11/02

Examining Attorney

FATHY, DOMINIC

Print: Apr 24, 2013

85482384

Attorney of Record
Jonathan Faber

DAREDEVIL

DESIGN MARK

Serial Number
85671887

Status
REGISTERED

Word Mark
FOSSIL COVE BREWING CO.

Standard Character Mark
Yes

Registration Number
4297951

Date Registered
2013/03/05

Type of Mark
TRADEMARK; SERVICE MARK

Register
PRINCIPAL

Mark Drawing Code
(4) STANDARD CHARACTER MARK

Owner
BensBrew LLC DBA Fossil Cove Brewing Company LIMITED LIABILITY COMPANY
ARKANSAS 10618 Ervin McGarrah Road Lowell ARKANSAS 72745

Goods/Services
Class Status -- ACTIVE. IC 032. US 045 046 048. G & S:
Alcohol-free beers; Beer; Beer, ale, lager, stout, porter, shandy;
Beers; Black beer; Brewed malt-based alcoholic beverage in the nature
of a beer; Flavored beers; Ginger beer; Malt beer; Malt liquor;
Non-alcoholic beer; Pale beer; Soda water; Soft drinks, namely, sodas.
First Use: 2012/05/05. First Use In Commerce: 2012/05/05.

Goods/Services
Class Status -- ACTIVE. IC 040. US 100 103 106. G & S: Brewery
services. First Use: 2012/05/05. First Use In Commerce: 2012/05/05.

Disclaimer Statement
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BREWING CO." APART
FROM THE MARK AS SHOWN.

Filing Date
2012/07/09

Print: Apr 24, 2013

85671887

Examining Attorney

NADELMAN, ANDREA K.

Attorney of Record

Grace K. Johnson

Fossil Cove Brewing Co.

DESIGN MARK

Serial Number

78733600

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

TOP OF THE HILL RESTAURANT & BREWERY

Standard Character Mark

No

Registration Number

3142024

Date Registered

2006/09/12

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

MicroManagers, LLC LIMITED LIABILITY COMPANY NORTH CAROLINA 100 East Franklin Street, 3rd Floor Chapel Hill NORTH CAROLINA 27560

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Ale; Beer; Lager. First Use: 2005/04/14. First Use In Commerce: 2005/04/14.

Goods/Services

Class Status -- ACTIVE. IC 040. US 100 103 106. G & S: Brewery services. First Use: 1996/09/05. First Use In Commerce: 1996/09/05.

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant and bar services. First Use: 1996/09/05. First Use In Commerce: 1996/09/05.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "RESTAURANT & BREWERY" APART FROM THE MARK AS SHOWN.

Description of Mark

Print: Apr 24, 2013

78733800

The mark consists of the words "TOP OF THE HILL RESTAURANT & BREWERY" in stylized format with the "O" in "TOP" enlarged and containing the outline of a steeple.

Colors Claimed

Color is not claimed as a feature of the mark.

Filing Date

2005/10/14

Examining Attorney

FENNESSY, EDWARD

Attorney of Record

Matthew W. Witsil

T O P
O F  **T H E**
H I L L

RESTAURANT & BREWERY

DESIGN MARK

Serial Number

85016148

Status

REGISTERED

Word Mark

PECAN STREET BREWING

Standard Character Mark

Yes

Registration Number

4030022

Date Registered

2011/09/20

Type of Mark

TRADEMARK; SERVICE MARK

Register

SUPPLEMENTAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

New West Trading, L.L.C. LIMITED LIABILITY COMPANY TEXAS P. O. Box
1504 Johnson City TEXAS 78636

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Malt
beverages, namely, beer, ale, lager, pilsner, stout, porter and other
craft beers. First Use: 2011/06/17. First Use In Commerce:
2011/06/17.

Goods/Services

Class Status -- ACTIVE. IC 040. US 100 103 106. G & S:
Micro-brewery services. First Use: 2011/06/17. First Use In
Commerce: 2011/06/17.

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant, bar
and catering services; brewpub services. First Use: 2011/06/17.
First Use In Commerce: 2011/06/17.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BREWING" APART FROM

Print: Apr 24, 2013

85016148

THE MARK AS SHOWN.

Filing Date

2010/04/16

Amended Register Date

2011/08/10

Examining Attorney

MCBRIDE, THEODORE

Attorney of Record

CLINTON G. NEWTON

PECAN STREET BREWING

DESIGN MARK

Serial Number

85280853

Status

REGISTERED

Word Mark

PENSACOLA BAY BREWERY

Standard Character Mark

No

Registration Number

4045161

Date Registered

2011/10/25

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Pensacola Bay Brewery, LLC LIMITED LIABILITY COMPANY FLORIDA 411 East College Avenue Tallahassee FLORIDA 32301

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Beer, ale, lager, stout and porter. First Use: 2010/10/01. First Use In Commerce: 2010/10/01.

Goods/Services

Class Status -- ACTIVE. IC 040. US 100 103 106. G & S: Brewery services. First Use: 2010/10/01. First Use In Commerce: 2010/10/01.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PENSACOLA BAY BREWERY" APART FROM THE MARK AS SHOWN.

Description of Mark

The mark consists of the words, "PENSACOLA BAY" over the design of a sailing ship under full sail over the crest of a wave, with tall masts and pennants flying from the masts and with the bow emerging from a circular wreath design; at the bottom of the wreath is a ribbon banner

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85280853

on which "BREWERY" is written.

Colors Claimed

Color is not claimed as a feature of the mark.

Filing Date

2011/03/30

Examining Attorney

GOLD, BARBARA

Attorney of Record

Frank P. Rainer



To: Three Notch'd Beer And Brew Company (george.h.kastendike@gmail.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85654200 - THREE NOTCH'D BREWING COMPANY - N/A
Sent: 4/24/2013 6:38:57 AM
Sent As: ECOM106@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

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USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **4/24/2013** FOR U.S. APPLICATION SERIAL NO. 85654200

Your trademark application has been reviewed. The trademark examining attorney assigned by the USPTO to your application has written an official letter to which you must respond. Please follow these steps:

(1) **READ THE LETTER** by clicking on this [link](#) or going to <http://tsdr.uspto.gov/>, entering your U.S. application serial number, and clicking on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) **RESPOND WITHIN 6 MONTHS** (*or sooner if specified in the Office action*), calculated from **4/24/2013**, using the Trademark Electronic Application System (TEAS) response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

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(3) **QUESTIONS** about the contents of the Office action itself should be directed to the trademark examining attorney who reviewed your application, identified below.

/Edward Nelson/
Edward Nelson
Trademark Attorney
Law Office 106
(571) 272-9202
Edward.Nelson@USPTO.gov

WARNING

Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application. For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

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