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

Proceeding	91217290
Party	Plaintiff ChristopherLohring
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Date	09/05/2014
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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Christopher Lohring	)	
	)	
	)	
Opposer/Respondent	)	<b>NOTICE OF OPPOSITION</b>
	)	In Re Serial. No. 85/920,112
v.	)	Mark:
	)	
THREE NOTCH'D BREWING COMPANY, LLC	)	 <b>Three Notch'd</b>
	)	BREWING COMPANY
Applicant/Petitioner	)	<i>Charlottesville, Va</i>
	)	International Class: 032
	)	Filed: May 1, 2013
	)	Opposition No.: 91217290

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**ANSWER TO APPLICANT/PETITIONER'S COUNTERCLAIMS FOR  
CANCELLATION**

Opposer/Respondent Christopher Lohring ("Opposer/Respondent"), answers the Counterclaims for Cancellation filed August 15th, 2014 by Applicant/Petitioner Three Notch'd Brewing Company LLC ("Applicant/Petitioner") as follows:

Opposer/Respondent lacks knowledge or information sufficient to form a basis to admit or deny the allegation that Applicant/Petitioner has been and continues to be damaged by U.S. Registration No. 3,955,799 for the mark NOTCH and, therefore, denies such allegation.

Opposer/Respondent hereby answers Applicant/Petitioner's grounds for cancellation as follows:

1. Opposer/Respondent admits that Applicant/Petitioner is in the business of

producing and selling craft beer under the trademark  **Three Notch'd**  
BREWING COMPANY  
*Charlottesville, Va*

Opposer/Respondent denies that Applicant/Petitioner is the owner of the trademark



for beer.

2. Opposer/Respondent denies that the trademark



identifies the source and origin of

Applicant/Petitioner's beer. Opposer/Respondent denies that the trademark



serves to distinguish Applicant/Petitioner's beer from

those of others. Opposer/Respondent lacks knowledge or information sufficient to form a basis to admit or deny the remaining allegations set forth in paragraph 2 of the Counterclaims For Cancellation and, therefore, denies such allegations.

3. Opposer/Respondent admits the allegations set forth in paragraph 3 of the Counterclaims For Cancellation.

4. Opposer/Respondent admits the allegations set forth in paragraph 4 of the Counterclaims For Cancellation.

5. Opposer/Respondent admits the allegations set forth in paragraph 5 of the Counterclaims for Cancellation.

6. Opposer/Respondent admits the allegations set forth in paragraph 6 of the Counterclaims for Cancellation.

7. Opposer/Respondent repeats and re-alleges his answers to Paragraphs 1 to 6 of the Counterclaims for Cancellation as set forth above.

8. Opposer/Respondent admits the allegations set forth in paragraph 8 of the Counterclaims for Cancellation.

9. Opposer/Respondent denies the allegations set forth in paragraph 9 of the Counterclaims for Cancellation.

10. Opposer/Respondent repeats and re-alleges his answers to Paragraphs 1 to 9 of the Counterclaims for Cancellation as set forth above.

11. Opposer/Respondent denies the allegations set forth in paragraph 11 of the Counterclaims for Cancellation.

12. Opposer/Respondent repeats and re-alleges his answers to Paragraphs 1 to 11 of the Counterclaims for Cancellation as set forth above.

13. Opposer/Respondent denies the allegations set forth in paragraph 13 of the Counterclaims for Cancellation.

14. Opposer/Respondent denies the allegations set forth in paragraph 14 of the Counterclaims for Cancellation.

15. Opposer/Respondent repeats and re-alleges his answers to Paragraphs 1 to 14 of the Counterclaims for Cancellation as set forth above.

16. Opposer/Respondent denies the allegations set forth in paragraph 16 of the Counterclaims for Cancellation.

17. Opposer/Respondent denies the allegations set forth in paragraph 17 of the Counterclaims for Cancellation.

18. Opposer/Respondent denies the allegations set forth in paragraph 18 of the Counterclaims for Cancellation.

**AS TO THE ALLEGATIONS CONCERNING PRAYER FOR RELIEF**

Opposer/Respondent denies the allegations set forth in Prayer for Relief of Applicant/Petitioner's Prayer for Relief, and contends that the Applicant/Petitioner is not entitled to any relief sought therein.

**AFFIRMATIVE DEFENSES**

By way of defense to the allegations set forth in the Counterclaims for Cancellation, Opposer/Respondent asserts the following Affirmative Defenses:

**FIRST AFFIRMATIVE DEFENSE**  
**(Failure to State a Claim for Relief)**

19. Applicant/Petitioner's Counterclaims for Cancellation fail to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**  
**(Laches)**

20. Applicant/Petitioner's Counterclaims for Cancellation are barred by the doctrine of laches.

**THIRD AFFIRMATIVE DEFENSE**  
**(Estoppel)**

21. Applicant/Petitioner's Counterclaims for Cancellation are barred by estoppel.

**FOURTH AFFIRMATIVE DEFENSE**  
**(Unclean Hands)**

22. Applicant/Petitioner's Counterclaims for Cancellation are barred by the doctrine of unclean hands.

**FIFTH AFFIRMATIVE DEFENSE**  
**(Innocent Intent)**

23. Applicant/Petitioner's Counterclaims for Cancellation are barred, in whole or in part, because Opposer/Respondent's conduct was in good faith and with non-willful intent, at all

times.

**ADDITIONAL DEFENSES**

24. Opposer/Respondent reserves the right to supplement or amend this Answer, including through the addition of further affirmative defenses, based upon the course of discovery and proceedings in this action.

DATED this 5th day of September 2014.

Respectfully submitted,

/s/Daniel N. Smith  
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**CERTIFICATE OF SERVICE**

Under 37 C.F.R. § 2.119, the undersigned hereby certifies that a true and correct copy of the foregoing **ANSWER TO APPLICANT/PETITIONER'S COUNTERCLAIMS FOR CANCELLATION** was served on Applicant/Petitioner's attorney of record at the correspondence address of record in the United States Patent and Trademark Office by e-mail and by mailing a true copy thereof, by First Class Mail; postage prepaid this 5th day of September, 2014, in an envelope addressed as follows:

Thomas F. Bergert  
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Date: September 5, 2014

/s/Daniel N. Smith  
Daniel N. Smith  
Counsel for Opposer/Respondent