

ESTTA Tracking number: **ESTTA662606**

Filing date: **03/23/2015**

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

Proceeding	91220585
Party	Defendant Tower Brew Co., LLC
Correspondence Address	CANDACE L. MOON The Craft Beer Attorney Apc 3914 Murphy Canyon Rd Ste A244 San Diego, CA 92123-4462 candace@craftbeerattorney.com
Submission	Answer and Counterclaim
Filer's Name	Candace L. Moon
Filer's e-mail	candace@craftbeerattorney.com
Signature	/clm/
Date	03/23/2015
Attachments	Sactown Answer and Counterclaim.pdf(1217523 bytes)

Registration Subject to the filing

Registration No	4410239	Registration date	10/01/2013
Registrant	Union Craft Brewing Company, LLC 1700 Union Avenue Baltimore, MD 21211 UNITED STATES		

Goods/Services Subject to the filing

Class 032. First Use: 2012/06/01 First Use In Commerce: 2012/06/01
All goods and services in the class are requested, namely: Beers

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

In the Matter of Application Serial Number 86358183
For the mark SACTOWN UNION BREWERY and Design
Published in the Official Gazette on October 14, 2014

UNION CRAFT BREWING)
COMPANY, LLC dba UNION)
CRAFT BREWING COMPANY, a)
Maryland Limited Liability)
Company,)
Opposer,)
v.)
TOWER BREW CO., LLC dba)
SACTOWN UNION BREWERY, a)
California Limited Liability)
Company,)

Opposition No.: 91220585

Applicant.

ANSWER TO NOTICE OF OPPOSITION AND COUNTERCLAIM TO CANCEL

OPPOSER'S REGISTRATION NO. 4,410,239

Tower Brew Co., LLC doing business as Sactown Union Brewery ("Applicant"), by its attorney, Candace L. Moon, hereby answers the Opposition filed by Union Craft Brewing Company, LLC doing business as Union Craft Brewing Company ("Opposer"):

1. In answer to Paragraph 1 of the Notice of Opposition, Applicant admits the registration and ownership of the mark UNION CRAFT BREWING for "beers," U.S. Registration No. 4,410,239; Applicant denies Opposer's ownership of the mark "union" for beer.

2. In answer to Paragraph 2 of the Notice of Opposition, Applicant denies goodwill and value attributed to Opposer for the mark “union” in beer and denies knowledge or information sufficient to form a belief as to the truth of the goodwill or value attributed to Opposer for the mark UNION CRAFT BREWING for beer.

3. In answer to Paragraph 3 of the Notice of Opposition, Applicant admits the date of use for the mark UNION CRAFT BREWING for “beers,” U.S. Registration No. 4,410,239, as June 6, 2012 as having priority over Applicant’s date of first use; Applicant denies Opposer’s date of first use for the mark “union” for beer.

4. In answer to Paragraph 4 of the Notice of Opposition, Applicant admits ownership of the application, Serial No. 86358183, for the mark SACTOWN UNION BREWERY and Design for “beer” on an intent-to-use basis.

5. In answer to Paragraph 5 of the Notice of Opposition, Applicant denies the allegations contained therein.

6. In answer to Paragraph 6 of the Notice of Opposition, Applicant admits the allegations contained therein.

7. In answer to Paragraph 7 of the Notice of Opposition, Applicant admits the allegations contained therein.

8. In answer to Paragraph 8 of the Notice of Opposition, Applicant admits the allegations contained therein.

9. In answer to Paragraph 9 of the Notice of Opposition, Applicant denies the allegations contained therein.

10. In answer to Paragraph 10 of the Notice of Opposition, Applicant denies the allegations contained therein.

11. In answer to Paragraph 11 of the Notice of Opposition, Applicant denies the allegations contained therein.

COUNTERCLAIM - PETITION FOR CANCELLATION

As grounds for this Cancellation, Applicant hereby states as follows:

12. On January 9, 2013, Opposer filed Application Serial No. 85819370 for the mark UNION CRAFT BREWING with the U.S. Patent and Trademark Office, claiming it had used the mark in commerce for beer.

13. On May 3, 2013, via an Examiner's Amendment, Opposer disclaimed "Craft Brewing" as an unregistrable component of the mark.

14. On October 1, 2013, the Patent and Trademark Office issued Registration No. 4,410,239 for the mark UNION CRAFT BREWING for beer in the name of the Opposer.

CLAIM FOR RELIEF BASED ON NONUSE OF THE MARK

15. Applicant repeats and re-alleges each and every allegation contained in paragraphs 12-14 as if fully set forth herein.

16. On information and belief, Opposer had not made use of the mark UNION CRAFT BREWING in commerce as of the January 9, 2013 filing date for the Application Serial No. 85819370 based on the lack of a U.S. Treasury Tax and Trade Bureau (TTB) certificate of label approval which is required when shipping alcohol across state lines.

17. Accordingly, the registration is void for nonuse and must be cancelled.

WHEREFORE, Applicant respectfully prays that the mark sought to be registered be accepted and any such further relief be granted to Applicant as may be deemed appropriate.

Dated: March 23, 2015

By: *Candace L. Moon*

Candace L. Moon, Esq.
Attorney for Applicant
Tower Brew Co., LLC doing business as
Sactown Union Brewery

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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this paper is being deposited with the United States Patent and Trademark Office, Trademark Trial and Appeal Board via the electronic filing procedure on March 23, 2015 at San Diego, California.

By: Candace Moon

CERTIFICATE OF SERVICE

I, Candace L. Moon, counsel for Tower Brew Co. doing business as Sactown Union Brewery, hereby certify that a copy of the foregoing Answer to Notice of Opposition and, was served upon the attorney for the Opposer, via first class mail, postage prepaid on March 23, 2015 at the following address:

Glenn A. Rice, Esq.
Funkholder Vegosen Liebman & Dunn Ltd.
55 West Monroe Street, Suite 2300
Chicago, Illinois 60603

Dated: March 23, 2015

By: Candace Moon
Candace L. Moon, Esq.
Attorney for Applicant
Tower Brew Co., LLC doing business as Sactown
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