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

Proceeding	91223456
Party	Defendant t & beer, inc
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Date	10/02/2015
Attachments	113077643_1.pdf(35299 bytes)

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

In the Matter of Trademark Application No.: 86/566,095

Brouwerij Nacional Balashi N.V.,	:	Opposition No. 91223456
	:	
Opposer,	:	Serial No. 86/566,095
	:	MARK: BALASHI SPIRITS
v.	:	I hereby certify that this submission and
	:	all marked attachments, if any, is being electronically
t & beer, inc.,	:	filed with the Trademark Trial and Appeal Board
	:	through their website located at http://estta.uspto.gov
	:	on October 2, 2015.
	:	
Applicant.	:	<u> /s/ Gregory J. Winsky </u>
	:	GREGORY J. WINSKY, ESQUIRE

APPLICANT t & beer, inc.’s ANSWER TO NOTICE OF OPPOSITION

Applicant, t & beer, inc., by and through its undersigned counsel, hereby sets forth its Answer and Affirmative Defenses to Opposer Brouwerij Nacional Balashi N.V.’s Notice of Opposition in the instant proceeding, as follows:

As to the first unnumbered paragraph of the Notice of Opposition, Applicant admits only that its registration application, Application No. 86/566,095 has been published in the Official Gazette for the mark BALASHI SPIRITS. Applicant denies each and every other allegation contained in the first unnumbered paragraph of the Notice of Opposition, including the argumentative assumption that Opposer is entitled to any of the requested relief.

1. Admitted only that Applicant filed the U.S. Trademark Application No. 85/795,933 for the mark BALASHI BEER as indicated. Applicant expressly denies any relevance of the prior application referenced in this Paragraph.

2. Admitted.

3. Admitted.

4. Denied.

5. Denied.

6. Denied.

7. Denied.

8. The allegations contained in this Paragraph are unintelligible and therefore, require no response. To the extent a response is required, the allegations contained in this Paragraph are denied.

9. Denied.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph and therefore, denies same.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph and therefore, denies same. Applicant further states that Application No. 86/701,463 has not yet been published for opposition but upon publication, Applicant intends to oppose Application No. 86/701,463.

12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph and therefore, denies same. Applicant further states that Application No. 86/701,470 has not yet been published for opposition but upon publication, Applicant intends to oppose Application No. 86/701,470.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph and therefore, denies same. Applicant further states that Application No. 86/701,475 has not yet been published for opposition but upon publication, Applicant intends to oppose Application No. 86/701,475.

14. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph and therefore, denies same. Applicant further states that Application No. 86/734,984 has not yet been published for opposition but upon publication, Applicant intends to oppose Application No. 86/734,984.

15. Denied.

16. The allegations in this Paragraph require no response. To the extent a response is required, the allegations contained in this Paragraph are denied.

17. Denied.

18. Denied.

19. Denied.

20. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph and therefore, denies same.

21. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph and therefore, denies same.

22. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph and therefore, denies same.

23. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph and therefore, denies same.

24. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph and therefore, denies same.

25. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph and therefore, denies same.

26. Denied.

27. Denied.

28. Denied.

29. Denied that Opposer has any enforceable BALASHI mark.

30. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph and therefore, denies same.

31. Admitted only that distilled spirits and beer are alcoholic beverages.

32. Denied as stated.

33. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph and therefore, denies same.

34. Denied that Opposer has any enforceable BALASHI mark.

35. Denied.

AFFIRMATIVE DEFENSES

1. Opposer's Notice of Opposition should be dismissed on the ground that Opposer has failed to state a claim upon which relief can be granted.

2. The claims set forth in the Notice of Opposition lack merit and are insufficient to justify denial of Applicant's application for registration.

3. Applicant has neither abandoned nor discontinued use of the mark BALASHI SPIRITS.

4. Opposer's Applications referenced herein are not valid and will be opposed upon publication, and therefore, cannot serve as a basis for opposing Applicant's application for registration.

5. Opposer's claims are barred because Opposer admits it does not sell any products bearing the mark BALASHI in the United States.

6. Opposer's claims are barred, precluded, or limited insofar as Opposer does not hold a valid or enforceable trademark or trade name in BALASHI.

7. Opposer's claims are barred because Applicant's Application has priority over Opposer's applications referenced herein.

8. Opposer's claims are barred, precluded, or limited by laches.
9. Opposer's claims are barred, precluded, or limited by estoppel.
10. Opposer's claims are barred, precluded, or limited by the applicable statute of limitations.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be denied and dismissed with prejudice and that Application No. 86/566,095 be granted and such other relief as may be just and proper.

Respectfully submitted,

ARCHER & GREINER
A Professional Corporation
*Attorneys for Applicant
t & beer, Inc.*

By: /s/ Gregory J. Winsky Reg. No. 30,435
GREGORY J. WINSKY, ESQUIRE
KERRI E. CHEWNING, ESQUIRE

Dated: October 2, 2015.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Answer to Notice of Opposition** was served on counsel for the Opposer, this 2nd day of October, 2015, by sending the same via U.S. First Class mail, postage prepaid, and emailed to:

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By: /s/ Gregory J. Winsky
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