

ESTTA Tracking number: **ESTTA713588**

Filing date: **12/09/2015**

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

Proceeding	91224634
Party	Defendant POWAY BREWING COMPANY, LLC
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Submission	Answer
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Date	12/09/2015
Attachments	ANSWER - Prescott Brewing Company v Poway Brewing Company.pdf(73803 bytes)

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

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Prescott Brewing Company, Inc.)	
)	
Opposer,)	
)	
vs.)	Opposition No. 91224634
)	Application Serial No.86/609451
Poway Brewing Company, LLC)	
)	
Applicant.)	
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Attorney Ref: 131806-393079		

OPPOSER'S ANSWER

Applicant, Poway Brewing Company, LLC, through counsel, hereby Answers the Notice of Opposition as follows:

Applicant denies each and every allegation of the Notice of Opposition (“Notice”) unless otherwise admitted or responded to as follows:

1. Applicant admits it was formed in or about April 2015. Applicant admits it is in the process of opening a brewery and brew pub, with its initial headquarters located in San Diego County, CA. Applicant admits that its website states “Our mission is to manufacture, distribute and supply the highest quality homemade and handcrafted beer products to the local San Diego craft beer industry including restaurants, bars, liquor stores and supermarkets.” Applicant denies any remaining allegations in this paragraph.
2. Admitted.
3. Admitted.

4. Applicant lacks knowledge or information sufficient to form a belief concerning the allegations of paragraph 4 of the Notice, and therefore denies the same.
5. Applicant lacks knowledge or information sufficient to form a belief concerning the allegations of paragraph 5 of the Notice, and therefore denies the same.
6. Applicant lacks knowledge or information sufficient to form a belief concerning the allegations of paragraph 6 of the Notice, and therefore denies the same.
7. Applicant lacks knowledge or information sufficient to form a belief concerning the allegations of paragraph 7 of the Notice, and therefore denies the same.
8. Applicant lacks knowledge or information sufficient to form a belief concerning the allegations of paragraph 8 of the Notice, and therefore denies the same.
9. Applicant admits that Registration No. 4000733 (the “’733 Registration”) is listed in the online USPTO records as registered to Opposer, and that said records indicate the ‘733 Registration issued on July 26, 2011. Applicant admits the ‘733 Registration lists “beverages, namely, beer and ale,” in Class 32, and “bar and restaurant services,” in Class 43. Paragraph 9 also contains legal conclusions, to which no response is required. Nonetheless, Applicant denies those portions of paragraph 9 that call for legal conclusions. Applicant lacks knowledge or information sufficient to form a belief concerning any remaining allegations of paragraph 9 of the Notice, including but not limited to any allegations in footnote 1, and therefore denies the same.
10. Applicant admits that both Applicant’s Application and the ‘733 Registration include “beer” in their respective descriptions of goods. Applicant denies any remaining allegations in paragraph 10 of the Notice.

11. Denied.
12. Applicant admits that neither Applicant's Application nor the '733 Registration contains any restrictions on channels of trade through which the goods will travel or the class of consumers to whom the goods will be marketed. Applicant denies any remaining allegations in paragraph 12 of the Notice.
13. Denied.
14. Denied.
15. Denied.

AFFIRMATIVE DEFENSES

16. Opposer's pleaded mark is weak, and therefore entitled to only a narrow scope of protection.
17. Opposer does not have the exclusive right to use the mark PBC on or in connection with beer.

WHEREFORE, Applicant prays that the Notice of Opposition be denied and dismissed with prejudice, and that Applicant's Application proceed to registration without further delay.

Respectfully submitted,



Dated: December 9, 2015

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CERTIFICATE OF SERVICE

The undersigned, attorney for Applicant, hereby certifies that this 9th day of December 2015, he served, by first-class mail, postage prepaid, a copy of the OPPOSER'S ANSWER upon

Robert J. Itri
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