

ESTTA Tracking number: **ESTTA743409**

Filing date: **04/29/2016**

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                                  | Klosterbrauerei Andechs                    |
| Granted to Date of previous extension | 05/08/2016                                 |
| Address                               | Bergstrasse 2<br>Andechs, 82346<br>GERMANY |

|                      |   |
|----------------------|---|
| Attorney information | Michael J. Leonard<br>Fox Rothschild LLP<br>997 Lenox Drive, Bldg. 3<br>Lawrenceville, NJ 08648-2311<br>UNITED STATES<br>ipdocket@foxrothschild.com, mleonard@foxrothschild.com |
|----------------------|---|

**Applicant Information**

|                        |   |                        |            |
|------------------------|---|------------------------|------------|
| Application No         | 86634099  | Publication date       | 11/10/2015 |
| Opposition Filing Date | 04/29/2016  | Opposition Period Ends | 05/08/2016 |
| Applicant              | Pabst Brewing Company, LLC<br>10635 Santa Monica Boulevard, Suite 350<br>Los Angeles, CA 90025<br>UNITED STATES |                        |            |

**Goods/Services Affected by Opposition**

|  |
|--|
| Class 032. First Use: 0 First Use In Commerce: 0<br>All goods and services in the class are opposed, namely: beer, malt beer |
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**Grounds for Opposition**

|                                      |                            |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act Section 2(d) |
|--------------------------------------|----------------------------|

**Marks Cited by Opposer as Basis for Opposition**

|                       |            |                       |            |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 4823056    | Application Date      | 03/31/2014 |
| Registration Date     | 09/29/2015 | Foreign Priority Date | NONE       |
| Word Mark             | ANDECHS    |                       |            |

|                     |   |
|---------------------|---|
| Design Mark         | <h1>ANDECHS</h1>  |
| Description of Mark | NONE  |
| Goods/Services      | Class 032. First use: First Use: 1455/00/00 First Use In Commerce: 2013/00/00<br>beer |

|                       |  |                       |            |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 3700617  | Application Date      | 06/28/2007 |
| Registration Date     | 10/27/2009   | Foreign Priority Date | NONE       |
| Word Mark             | KLOSTER ANDECHS SEIT 1455 GENUß# FÄ#R LEIB & SEELE |                       |            |

|             |   |
|-------------|---|
| Design Mark |  |
|-------------|---|

|                     |  |
|---------------------|--|
| Description of Mark | NONE   |
| Goods/Services      | <p>Class 021. First use: First Use: 0 First Use In Commerce: 0<br/>drinking glasses, namely, beer mugs, beer glasses, beer steins[, schnapps glasses, liqueur glasses]</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0<br/>[clothing, namely, hats, T-shirts, sweatshirts, aprons]</p> <p>Class 032. First use: First Use: 0 First Use In Commerce: 0<br/>beer</p> <p>Class 033. First use: First Use: 0 First Use In Commerce: 0</p> |

|  |  |
|--|--|
|  | [alcoholic beverages, namely, liqueurs and schnapps]<br>Class 043. First use: First Use: 0 First Use In Commerce: 0<br>[restaurant and bar services] |
|--|--|

|                      |  |                       |            |
|----------------------|--|-----------------------|------------|
| U.S. Application No. | 86204324   | Application Date      | 02/26/2014 |
| Registration Date    | NONE   | Foreign Priority Date | NONE       |
| Word Mark            | KLOSTER ANDECHS  |                       |            |
| Design Mark          |    |                       |            |
| Description of Mark  | NONE   |                       |            |
| Goods/Services       | Class 032. First use: First Use: 0 First Use In Commerce: 0<br>beer<br>Class 033. First use: First Use: 0 First Use In Commerce: 0<br>alcoholic beverages, namely, liqueurs and schnapps |                       |            |

|             |   |
|-------------|---|
| Attachments | 86236710#TMSN.png( bytes )<br>76678863#TMSN.png( bytes )<br>86204324#TMSN.png( bytes )<br>ANDEKER Notice of Opposition.pdf(124907 bytes ) |
|-------------|---|

### 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 | /michael leonard/  |
| Name      | Michael J. Leonard |
| Date      | 04/29/2016         |

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

RE: U.S. Trademark Application Serial No. 86/634099  
Published in the Official Gazette on 10 November 2015

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|                            |   |                      |
|----------------------------|---|----------------------|
| KLOSTERBRAUEREI ANDECHS,   | : |                      |
|                            | : |                      |
| Opposer,                   | : |                      |
|                            | : |                      |
| v.                         | : |                      |
|                            | : | Opposition No. _____ |
| PABST BREWING COMPANY LLC, | : |                      |
|                            | : |                      |
| Applicant.                 | : |                      |

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**NOTICE OF OPPOSITION**

Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22314

Commissioner:

In the matter of Application Serial No. 86/634099 filed 19 May 2015 by Pabst Brewing Company, LLC (“Applicant”), to register the mark ANDEKER covering goods in Class 32 described as " beer, malt beer” (“Applicant’s Goods”), which was published in the Official Gazette on 10 November 2015, Klosterbrauerei Andechs (“Opposer”) of Germany believes it will be damaged by the registration of the ANDEKER Mark and opposes registration of same.

The grounds for the oppositions are as follows:

1. Applicant, Pabst Brewing Company, LLC is a California Limited Liability Company having an address at 10635 Santa Monica Boulevard, Suite 350, Los Angeles, CA 90025.

2. On 19 May 2015, Applicant filed Application Serial No. 86/634099 for the ANDEKER mark for “beer, malt beer” in International Class 32 based on Applicant's intent to use the mark in United States commerce.

3. Opposer, Klosterbrauerei Andechs, (hereinafter "Andechs"), is a Corporation organized and existing under the laws of Germany, having an address at Bergstrasse 2, Andechs, Germany 82346 and is the owner and user of the trademarks ANDECHS, KLOSTER ANDECHS, and KLOSTER ANDECHS SEIT 1455 GENUß FÜR LEIB & SEELE and Design.

4. Opposer is the owner of Trademark Registration No. 4,823,056 filed 31 March 2014 and issued 29 September 2015 for the mark ANDECHS covering “beer” in International Class 32.

5. Opposer is the owner of Registration No. 3,700,617 issued on 27 October 2009 for the mark KLOSTER ANDECHS SEIT 1455 GENUß FÜR LEIB & SEELE and Design covering goods described as “drinking glasses, namely, beer mugs, beer glasses, beer steins;” in International Class 21 and “beer” in International Class 32.

6. Opposer is the owner of pending Trademark Application Serial No. 86/204324 filed 26 February 2014 for the mark KLOSTER ANDECHS covering “beer” in Class 32 and “alcoholic beverages, namely, liqueurs and schnapps” in International Class 33.

7. The goods recited in the Registrations and prior pending application identified in Paragraphs 4 – 6 are collectively referred to herein as “Opposer’s Goods.”

8. Opposer's Registrations are valid and subsisting, and are *prima facie* evidence of the validity of the registered ANDECHS and KLOSTER ANDECHS SEIT 1455 GENUß FÜR LEIB & SEELE and Design Marks set forth therein, and Opposer's exclusive right

to use the registered ANDECHS and KLOSTER ANDECHS SEIT 1455 GENUß FÜR LEIB & SEELE and Design Marks in connection with the Goods specified in its Registrations.

9. Applicant's filing of Application Serial No. 86/634099 for the ANDEKER Mark is without license, authorization or permission from Opposer.

10. The 19 May 2015 filing date/constructive date of first use for Application Serial No. 86/634099 is subsequent to the dates Opposer first used the ANDECHS and KLOSTER ANDECHS SEIT 1455 GENUß FÜR LEIB & SEELE and Design Marks in the United States.

11. The 19 May 2015 filing date of Application Serial No. 86/634099 is subsequent to the filing dates set forth in Registration No. 4,823,056 for the mark ANDECHS (31 March 2014); Registration No. 3,700,617 for the mark KLOSTER ANDECHS SEIT 1455 GENUß FÜR LEIB & SEELE and Design (28 June 2007); and Application No. 86/204324 for the mark KLOSTER ANDECHS (26 February 2014).

12. Opposer's customers and the public in general have come to know and recognize Opposer's ANDECHS, KLOSTER ANDECHS, and KLOSTER ANDECHS SEIT 1455 GENUß FÜR LEIB & SEELE and Design Marks and associate the foregoing Marks with Opposer and/or Opposer's Goods.

13. Applicant's ANDEKER Mark is confusingly similar to Opposer's ANDECHS, KLOSTER ANDECHS, and KLOSTER ANDECHS SEIT 1455 GENUß FÜR LEIB & SEELE and Design Marks in that the ANDECHS and ANDEKER terms are very similar in appearance, sound and meaning and the respective marks cover identical goods. Thus, when the ANDEKER Mark is used in connection with Applicant's Goods, it is likely to cause

confusion or mistake or to deceive purchasers resulting in damage and detriment to Opposer and its reputation.

14. Opposer's Goods and Applicant's Goods are likely to be offered through the same channels of trade, and will likely be purchased and rendered to the same general class of purchasers.

15. Opposer's customers, and the public in general, are likely to be confused, mistaken or deceived as to the origin, affiliation, endorsement and sponsorship of Applicant's Goods sold, offered for sale, and marketed under Applicant's ANDEKER Mark and misled into believing that such Goods are produced, distributed, offered, sold, or are in some way associated with Opposer, to the damage and detriment of Opposer and its reputation.

16. Opposer will be damaged by Applicant's registration of the ANDEKER Mark as set forth in Application Serial No. 86/634099 in that Applicant's ANDEKER Mark is confusingly similar in appearance, sound and commercial impression to Opposer's ANDECHS, KLOSTER ANDECHS, and KLOSTER ANDECHS SEIT 1455 GENUß FÜR LEIB & SEELE and Design Marks and covers identical and overlapping goods.

17. Applicant's registration of the ANDEKER Mark would be contrary to 15 U.S.C. § 1052(d) and would violate and diminish the prior and superior rights of Opposer to its ANDECHS, KLOSTER ANDECHS, and KLOSTER ANDECHS SEIT 1455 GENUß FÜR LEIB & SEELE and Design Marks.

WHEREFORE, Opposer prays that its Opposition be sustained, that Application Serial No. 86/634099 for the ANDEKER Mark be refused and for such other relief as may be deemed just and proper.

Respectfully submitted,

**KLOSTERBRAUEREI ANDECHS**

Date: 29 April 2016

By: /michael leonard./  
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Lawrenceville, NJ 08648-2311  
*ipdocket@foxrothschild.com*

*Attorneys for Opposer*

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Notice of Opposition was served on Applicant's counsel on this 29th day of April 2016 by sending same via electronic mail and First Class Mail, postage prepaid, to:

Anne H. Peck  
Cooley LLP  
1299 Pennsylvania Avenue, NW, Suite 700  
Washington, DC 20004  
[trademarks@cooley.com](mailto:trademarks@cooley.com)

/michael leonard/\_\_\_\_\_