

ESTTA Tracking number: **ESTTA768958**

Filing date: **09/06/2016**

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	Noble Ale Works, Inc.
Granted to Date of previous extension	09/07/2016
Address	1621 South Sinclair Suite B Anaheim, CA 92806 UNITED STATES
Attorney information	Gregory Nylan Lobb & Cliff, LLP 1650 Spruce Street Suite 410 Riverside, CA 92507 UNITED STATES gnylan@lobbcliff.com Phone:(310) 701-3406

**Applicant Information**

Application No	86842603	Publication date	05/10/2016
Opposition Filing Date	09/06/2016	Opposition Period Ends	09/07/2016
Applicant	Noble Beast Brewing LLC 1864 W. 45th St. Cleveland, OH 44102 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Beer
Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Brewpub services; taproom services; taproom services featuring beer brewed on premises

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act Section 2(d)
Other	Common law rights as asserted in the Notice of Opposition

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

U.S. Registration No.	4926677	Application Date	08/12/2015
Registration Date	03/29/2016	Foreign Priority	NONE

		Date	
Word Mark	NOBLE ALE WORKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2010/01/07 First Use In Commerce: 2010/01/07 Beer		

Attachments	86723197#TMSN.png( bytes ) Opposition.pdf(365359 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Gregory Nylen/
Name	Gregory Nylen
Date	09/06/2016



International Class 32 and “brewpub services; taproom services featuring beer brewed on premises” in International Class 43 based on alleged intent-to-use the mark in interstate commerce.

2. Since at least 2010, long before the filing date the Application, Opposer has been, and still is, engaged in the development, production, marketing, and sale of adult beverage products (specifically, beer) bearing Opposer’s NOBLE ALE WORKS mark.

3. Opposer markets, advertises and sells its products bearing the NOBLE ALE WORKS mark through a variety of trade channels, and has done so continuously since at least 2009. The NOBLE ALE WORKS-branded adult beverages are marketed and distributed regionally, including (1) through large national and regional off-premise locations, such as Whole Foods, Total Wine, and Beverages & More, among others, as well as more than 200 independent bottle shops and liquor stores; (2) at regional on-premises locations including House of Blues, BJ’s Restaurant and Brewhouse, McCormick & Schmicks, Whole Foods, Maestro’s Steakhouse, and Eureka Restaurant Group, and (3) as part of several national festivals, including the Great American Beer Festival in Denver, Colorado and the Craft Brewers Conference (“CBC”) in several locations, including Philadelphia, where Opposer was chosen as the Best Small Craft Brewery in the World in 2016 at the World Beer Cup, as well as CBC’s in Denver, San Diego, and Portland.

4. Since at least 2010, Opposer has continuously used and promoted its NOBLE ALE WORKS mark in connection with its NOBLE ALE WORKS line of adult beverages. For example, Opposer has and continues to widely market and promote its NOBLE ALE WORKS mark in the industry and to consumers by displaying the NOBLE ALE WORKS mark on bottles, case cartons, apparel, merchandise, promotional and point of sale materials, in industry

publications, on the noblealeworks.com website and social media sites, at Opposer's taproom and brewery and at trade shows.

5. By virtue of Opposer's continuous and substantial use, Opposer's NOBLE ALE WORKS mark has developed into a well-known identifier of Opposer and its high-quality beer. As a result, Opposer has built up, at great expense and effort, valuable goodwill in its NOBLE ALE WORKS mark and has developed strong common law rights in Opposer's NOBLE ALE WORKS mark, which has appeared on over approximately 400,000 bottles of beer, in Opposer's taproom and brewery, and in extensive promotions and marketing. Opposer's common law rights in its NOBLE ALE WORKS mark predates the filing date of the Application, and Opposer relies on its common law trademark rights.

6. In addition to its common law rights, Opposer owns and relies on U.S. Trademark Registration 4,926,677 (the "677 Registration") for the mark NOBLE ALE WORKS for beer in International Class 32, which registration issued March 29, 2016 and is based on an application filed in the United States Patent and Trademark Office ("PTO") on August 12, 2015. The filing date of Opposer's '677 Registration is prior to the filing date of the Application. A true copy of the specifics of the '677 Registration obtained from the PTO's TESS, and TSDR databases and a copy of the Registration Certificate for the NOBLE ALE WORKS Mark are attached collectively hereto as Exhibit 1 and made of record.

7. Since at least before the filing date of the Application, Opposer has continuously used and promoted the NOBLE ALE WORKS mark, including the 677 Registration, in interstate commerce in connection with its goods, including the goods identified in such Registration. In addition Opposer's NOBLE ALE WORKS mark was well established long before Applicant filed its Application for registration of the NOBLE BEAST mark.

8. Applicant seeks an unrestricted federal registration for NOBLE BEAST covering the goods and services set forth in the Application in Classes 32 and 43. As such, if a registration issues for the Application, such registration will constitute *prima facie* evidence of the Applicant's exclusive right to use the registered mark in commerce on in connection with the listed goods and services throughout the United States with no limitation thereon.

9. Opposer will be damaged by registration of the Application in that the NOBLE BEAST mark so resembles Opposer's NOBLE ALE WORKS mark, including as registered in the United States Patent and Trademark Office, and in which Opposer owns common law trademark rights, as to be likely, when used on or in connection with the goods as they are identified in the Application, as to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

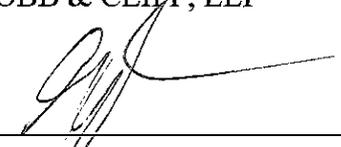
10. In view of Opposer's prior rights in its NOBLE ALE WORKS mark, Applicant is not entitled to federal registration of the NOBLE BEAST mark pursuant Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer prays that the U.S. Trademark Application Serial No. 86/842603 be rejected and stricken, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully submitted,  
LOBB & CLIFF, LLP

Dated: September 6, 2016

By: \_\_\_\_\_

  
Greg Nylén  
Attorneys for Opposer,  
Noble Ale Works, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on the Applicant's Attorney of record by mailing said copy on September 6, 2016, via Overnight Mail to:

Deidra D. Ritcherson  
AMIN, TUROCY & WATSON, LLP  
127 Public Square, Key Tower  
57<sup>th</sup> Floor, Key Tower  
Cleveland, OH 44114  
tmdocket@thepatentattorneys.com

Signature: Staci Ponce

Name: Staci Ponce

Date: September 6, 2016

TTAB Opposition No. \_\_\_\_\_  
Noble Ale Works, Inc. v. Noble Beast Brewing, LLC.

# **EXHIBIT 1**

Notice of Opposition  
Serial No. 86/842603

# United States of America

United States Patent and Trademark Office

## NOBLE ALE WORKS

**Reg. No. 4,926,677**

**Registered Mar. 29, 2016**

**Int. Cl.: 32**

**TRADEMARK**

**PRINCIPAL REGISTER**

NOBLE ALE WORKS, INC. (CALIFORNIA CORPORATION), DBA NOBLE ALE WORKS  
STE. B  
1621 SOUTH SINCLAIR  
ANAHEIM, CA 92806

FOR: BEER, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

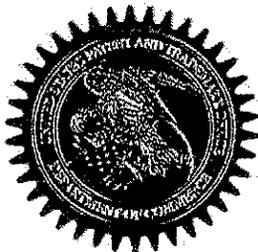
FIRST USE 1-7-2010; IN COMMERCE 1-7-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ALE WORKS", APART FROM THE MARK AS SHOWN.

SER. NO. 86-723,197, FILED 8-12-2015.

LINDA MICKLEBURGH, EXAMINING ATTORNEY



*Michelle K. Lee*

Director of the United States  
Patent and Trademark Office



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## Record 1 out of 1

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# NOBLE ALE WORKS

<b>Word Mark</b>	<b>NOBLE ALE WORKS</b>
<b>Goods and Services</b>	IC 032. US 045 046 048. G & S: Beer. FIRST USE: 20100107. FIRST USE IN COMMERCE: 20100107
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	86723197
<b>Filing Date</b>	August 12, 2015
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	January 12, 2016
<b>Registration Number</b>	4926677
<b>Registration Date</b>	March 29, 2016
<b>Owner</b>	(REGISTRANT) Noble Ale Works, Inc. DBA Noble Ale Works CORPORATION CALIFORNIA Ste. B 1621 South Sinclair Anaheim CALIFORNIA 92806
<b>Attorney of Record</b>	Gregory Nylén
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ALE WORKS" APART FROM THE MARK AS SHOWN
<b>Type of Mark</b>	TRADEMARK

Register PRINCIPAL  
Live/Dead Indicator LIVE

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2. TSDR now displays information regarding **TM5 Common Status Descriptors**.

STATUS

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Mark: NOBLE ALE WORKS

NOBLE ALE WORKS

US Serial Number: 86723197

Application Filing Date: Aug. 12, 2015

US Registration Number: 4926677

Registration Date: Mar. 29, 2016

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status  
Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the C

Status: Registered. The registration date is used to determine when post-registration maintenance documents a

Status Date: Mar. 29, 2016

Publication Date: Jan. 12, 2016

▲ Mark Information

▼ Expand All

▲ Goods and Services

▲ Basis Information (Case Level)

▲ Current Owner(s) Information

▲ Attorney/Correspondence Information

▲ Prosecution History

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