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

Proceeding	92058716
Party	Defendant Prichard's Distillery, Inc.
Correspondence Address	PRICHARD'S DISTILLERY INC PO BOX 100 KELSO, TN 37348 UNITED STATES
Submission	Answer
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Date	04/03/2014
Attachments	Answer.pdf(74037 bytes )

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

In the matter of Registration No. 4,420,193  
Registered: October 22, 2013  
Registrant: Prichard's Distillery, Inc.  
Mark: DOUBLE BARRELLED

SAZERAC COMPANY, INC.	)	
	)	
Petitioner,	)	
	)	Cancellation No. 92058716
	)	
v.	)	
	)	
PRICHARD'S DISTILLERY, INC.	)	
	)	
Registrant.	)	
	)	
_____	)	

**ANSWER TO PETITION FOR CANCELLATION**

Registrant/respondent Prichard's Distillery, Inc. (hereinafter "Registrant" or "Prichard's"), a Tennessee corporation having its principal place of business at 11 Kelso Smithland Road, Kelso, Tennessee 37348-6112, is the owner of all right, title, and interest in and to Registration No. 4,420,193, registered on October 22, 2013, for the trademark DOUBLE BARRELED (hereinafter "the Mark" or "Registrant's Mark"). Prichard's hereby answers the Petition for Cancellation filed by Petitioner Sazerac Company, Inc. (hereinafter "Petitioner").

1. Prichard's is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 1 of the Petition for Cancellation and, therefore, denies the same.

2. Prichard's is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 2 of the Petition for Cancellation and, therefore, denies the same.

3. Prichard's admits that it filed a used-based application for the Mark DOUBLE BARRELED on May 14, 2013 and therefore admits the allegations in paragraph 3.

4. Prichard's admits that it was issued Registration No. 4,420,193 on October 22, 2013 for DOUBLE BARRELED for "distilled spirits" in International Class 033 and therefore admits the allegations in paragraph 4.

5. Prichard's denies all allegations in paragraph 5 of the Petition for Cancellation.

6. Prichard's incorporates by reference the responses to the allegations set forth in paragraphs 1-5 above.

7. Prichard's denies the allegations in paragraph 7 of the Petition for Cancellation because the Mark refers to, *inter alia*, a double barreled shotgun.

8. Prichard's denies the allegations in paragraph 8.

9. Prichard's denies the allegations in paragraph 9. Prichard's has acquired secondary meaning within the alcoholic beverages industry for the registered Mark DOUBLE BARRELED for its goods.

10. Prichard's denies the allegations in paragraph 10.

11. Prichard's denies the allegations in paragraph 11.

12. Prichard's admits that its registration for the registered Mark DOUBLE BARRELED gives it *prima facie* evidence of the validity and ownership of the DOUBLE BARRELED Mark and of its exclusive right to use the term with the identified

goods, but Prichard's denies that such lawfully granted rights are to the detriment of Petitioner or of any third party.

13. Prichard's denies the allegations in paragraph 13.

Prichard's requests the Petition for Cancellation be denied and dismissed.

### **AFFIRMATIVE DEFENSES**

Prichard's alleges the following affirmative defenses:

1. Lack of Standing. Petitioner lacks standing to challenge Registrant's registration and to pursue this action because the Petitioner has or had no viable interest in the subject matter of the registration.

2. Laches. Petitioner's action should be barred by the laches doctrine because the Petitioner has failed to challenge Prichard's longstanding use of the Mark until February 2014. In the alternative, Petitioner's action is barred by the doctrines of waiver, acquiescence, and/or estoppel.

3. Unclean Hands. Petitioner's action should be barred because Petitioner has unclean hands and is pursuing this action for an improper purpose.

4. Not Generic or Merely Descriptive. Petitioner's action should be barred because Registrant's Mark is not generic or merely descriptive, but instead is distinctive due to its arbitrary, fanciful, and suggestive associations between the registered Mark, the goods marked, and the unrelated item of a double barreled shotgun.

5. Secondary Meaning. Petitioner's action should be barred because Registrant's Mark has become distinctive through acquired secondary meaning and serves as an indication of the source or origin of Registrant's goods in the relevant purchasing public.

6. Double Entendre. Petitioner's action should be barred because Registrant's Mark creates a double entendre associated with the commonly understood usage of "double barreled" to refer to a double barreled shotgun.

7. Failure to State a Claim. Petitioner's action should be barred because Petitioner has failed to state a claim on which relief may be granted.

8. Prior Registration. Petitioner's action should be barred because Registrant owns prior incontestable Registration No. 2,809,224 for a similar mark including the words DOUBLE BARRELED.

**Wherefore.** Registrant/Respondent Prichard's Distillery, Inc. requests the following relief:

- A. That the Petition for Cancellation be denied and dismissed with prejudice;
- B. That Registrant's Registration No. 4,420,193 be upheld;
- C. That Registrant be awarded its reasonable attorney's fees and costs; and
- D. For such other and further relief as the Board may in its discretion deem appropriate.

Respectfully submitted,

Date: April 03, 2014

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on April 03, 2014, a true and correct copy of the foregoing **ANSWER TO PETITION FOR CANCELLATION** was sent via electronic transmission to counsel for Petitioner pursuant to 37 CFR 2.119(b)(6) based upon mutual agreement between the parties obtained via a telephone call on April 03, 2014 between counsel for Petitioner, J.P. Oleksiuk, and counsel for Registrant, Matthew C. Cox, at the following email addresses:

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Date: April 03, 2014

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