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

Proceeding	92059832
Party	Defendant Hanson Spirits, LLC
Correspondence Address	HANSON SPIRITS LLC 669 BRIDGEWAY SAUSALITO, CA 94965 UNITED STATES
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Attachments	Answer to HANSON BROS. Cancellation.FINAL.2014.09.29.pdf(82061 bytes)

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

In the matter of Trademark Application:

Serial No.: 86100380
By: Hanson Spirits, LLC
For the Trademark: HANSON OF SONOMA

HANSON BROTHERS BEER, LLC and
HANSONOPOLY, INC.,

Petitioners,

v.

HANSON SPIRITS, LLC,

Respondent.

Cancellation No. 92059832

ANSWER AND AFFIRMATIVE DEFENSES

Hanson Spirits, LLC (“Respondent” or “Registrant”), by and through its counsel, hereby answers the captioned Petition to Cancel by addressing each allegation and stating affirmative defenses.

Answering the preamble of the Petition to Cancel, Respondent is without knowledge or information sufficient to admit or deny the place of incorporation and location of Hanson Brothers, LLC or Hansonopoly, Inc. (collectively, “Petitioners”), and their claim of damage, and on that basis denies such allegations. Answering the second part of the preamble, Respondent admits the current owner of the above-referenced registration for HANSON OF SONOMA (the “Registration”) is Hanson Spirits, LLC, with an address of 699 Bridgeway, Sausalito, California 94965, United States.

ANSWER

1. Answering the allegations of Paragraph 1 of the Petition to Cancel, Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 1, and on that basis, denies the allegations.

2. Answering the allegations of Paragraph 2 of the Petition to Cancel, Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 2, and on that basis, denies the allegations.

3. Answering the allegations of Paragraph 3 of the Petition to Cancel, Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 3, and on that basis, denies the allegations.

4. Answering the allegations of Paragraph 4 of the Petition to Cancel, Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 4, and on that basis, denies the allegations.

5. Answering the allegations of Paragraph 5 of the Petition to Cancel, Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 5, and on that basis, denies the allegations.

6. Answering the allegations of Paragraph 6 of the Petition to Cancel, Respondent denies that consumers associate the marks HANSON or HANSON BROTHERS with Petitioner Hanson Brothers Beer, LLC's purported beer products. As for the remaining allegations of Paragraph 6 of the Petition to Cancel, Respondent is without sufficient knowledge or information to form a belief as to the truth of those allegations, and on that basis, denies them.

7. Answering the allegations of Paragraph 7 of the Petition to Cancel, Respondent admits that the printouts attached as Exhibit A to the Petition to Cancel appear to be printouts from the USPTO database. Respondent further admits that Hansonopoly is listed as the owner of record of the referenced registrations. Respondent admits that it appears that Section 15 declarations were filed relating to the listed registrations. Petitioner denies the remainder of the allegations in Paragraph 7.

8. Answering the allegations of Paragraph 8 of the Petition to Cancel, Respondent admits that Petitioner Hanson Brothers Beer LLC appears to have filed an in-use trademark application for the mark HANSON BROTHERS for beer on June 12, 2013, claiming a first use in December 2011 and first use in commerce of May 20, 2013. Respondent further admits that the application appears to have been published for opposition on March 11, 2014. Respondent also admits that Exhibit B appears to be an accurate printout of the USPTO record for the referenced application. Respondent denies the remaining allegations in Paragraph 8.

9. Answering the allegations of Paragraph 9 of the Petition to Cancel, Respondent admits that it filed an intent-to-use trademark application with the USPTO for the mark HANSON OF SONOMA for vodka, Serial No. 86100380, on October 24, 2013, which was published for opposition on May 6, 2014. Respondent further admits that it filed an Amendment to Allege Use on February 28, 2014, providing a first use of at least as early as August 8, 2013 and a first use in commerce of at least as early as November 15, 2013. Respondent further admits that its HANSON OF SONOMA mark was registered on July 22, 2014, Reg. No. 4,571,243.

Respondent admits it is the owner of that registration. Respondent denies the remaining allegations of Paragraph 9.

10. Answering the allegations of Paragraph 10 of the Petition to Cancel, Respondent denies each and every allegation in this paragraph.

11. Answering the allegations of Paragraph 11 of the Petition to Cancel, Respondent reincorporates by reference its Responses to Paragraphs 1 through 10.

12. Answering the allegations of Paragraph 12 of the Petition to Cancel, Respondent denies each and every allegation in this paragraph.

13. Answering the allegations of Paragraph 13 of the Petition to Cancel, Respondent denies each and every allegation in this paragraph.

14. Answering the allegations of Paragraph 10 of the Petition to Cancel, Respondent admits that its registration does not restrict its consumers or channels or trade. Respondent denies each and every remaining allegation in this paragraph.

15. Answering the allegations of Paragraph 15 of the Petition to Cancel, Respondent denies each and every allegation in this paragraph.

16. Answering the allegations of Paragraph 16 of the Petition to Cancel, Respondent denies each and every allegation in this paragraph.

17. Answering the allegations of Paragraph 17 of the Petition to Cancel, Respondent denies each and every allegation in this paragraph.

18. Answering the allegations of Paragraph 18 of the Petition to Cancel, Respondent reincorporates by reference its Responses to Paragraphs 1 through 17.

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19. Answering the allegations of Paragraph 19 of the Petition to Cancel, Respondent denies that Petitioner Hansonopoly's HANSON mark is inherently distinctive. Respondent denies each and every remaining allegation in this paragraph.

20. Answering the allegations of Paragraph 20 of the Petition to Cancel, Respondent denies each and every allegation in this paragraph.

21. Answering the allegations of Paragraph 21 of the Petition to Cancel, Respondent denies each and every allegation in this paragraph.

Respondent therefore respectfully requests denial of Petitioner's prayer for relief as set forth.

AFFIRMATIVE DEFENSES

Respondent asserts the following affirmative defenses without conceding that it has the burden of proof or burden of producing evidence with respect to any of these issues.

1. As a First Affirmative Defense, Respondent asserts that Petitioners' claims are barred by the doctrine of unclean hands because Petitioners' claimed first use in commerce is based on illegal use that cannot qualify as a basis for the claimed trademark rights.

2. As a Second Affirmative Defense, Respondent asserts that Petitioner Hanson Brothers Beer, LLC's Application for the mark HANSON BROTHERS, Serial No. 85957686, is susceptible to cancellation for fraud on the USPTO. If Petitioner Hanson Brothers Beer, LLC's application is not otherwise abandoned in a pending opposition relating to that application and proceeds to republication or registration, Respondent intends to petition to cancel or oppose such application, as the case may be.

3. As a Third Affirmative Defense, Respondent asserts that it is the prior user for the purposes of this proceeding.

4. Respondent hereby reserves all rights to assert additional defenses should Respondent learn of grounds for such defenses during the course of this proceeding.

Wherefore, Respondent respectfully requests that the Petition to Cancel be rejected and Respondent's Marks be allowed to proceed to registration.

Date: September 29, 2014

COBALT LLP

By: /s/ Vijay K. Toke
Vijay K. Toke
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 29th day of September, 2014, a true and correct copy of the foregoing **RESPONDENT'S ANSWER AND AFFIRMATIVE DEFENSES** was served upon Petitioners by placing a true copy thereof enclosed in a sealed envelope, for collection and mailing with the United States Postal Service. I am readily familiar with my firm's business practice for collection and processing of correspondence for mailing with the United States Postal Service, where it would be deposited for first class delivery, postage fully prepaid, that same day in the ordinary course of business addressed as set forth below:

Michael Chiappetta
FROSS ZELNICK LEHRMAN & ZISSU PC
866 United Nations Plaza
New York, NY 10502

/s/ Nikki Abdallah

Nikki Abdallah