

ESTTA Tracking number: **ESTTA757788**

Filing date: **07/12/2016**

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

Proceeding	92060348
Party	Plaintiff BuzzBallz, L.L.C.
Correspondence Address	JOHN T WILSON WILSON LEGAL GROUP PC 16610 DALLAS PARKWAY, SUITE 1000 DALLAS, TX 75248 UNITED STATES ecf@wilsonlegalgroup.com, john@wilsonlegalgroup.com, kance@wilsonlegalgroup.com, ryan@wilsonlegalgroup.com, eservice@wilsonlegalgroup.com
Submission	Other Motions/Papers
Filer's Name	John T. Wilson
Filer's e-mail	eservice@wilsonlegalgroup.com, murphy@sbemp.com, tala@sbemp.com
Signature	/John T. Wilson/
Date	07/12/2016
Attachments	Notice of Final Determination of Civil Action.pdf(119979 bytes)

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

RE: U.S. Trademark Registration No. 4618174 and 4646160
Registered on October 7, 2014 and November 25, 2014

BuzzBallz, L.L.C.	§	
	§	
Petitioner,	§	
	§	
v.	§	Cancellation No. 92060348
	§	Cancellation No. 92061050
BuzzBox Beverages, Inc.	§	
	§	
Registrant.	§	
	§	

NOTICE OF FINAL DETERMINATION OF CIVIL ACTION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

To the Commissioner for Trademarks:

COMES NOW, Petitioner BuzzBallz, L.L.C. who files this Notice of Final Determination of Civil Action and would respectfully show the Board as follows:

1. On or about May 11, 2015, the Board consolidated and jointly suspended these cancellation proceedings pending disposition of the civil lawsuit between the parties filed under Case No. 5:14-cv-01725 in the United States District Court Central District of California (the “Civil Action”).

2. On or about May 16, 2016, the Board requested an update as to the status of Civil Action which occasioned the suspension of this cancellation proceeding.

3. On or about June 7, 2016, the jury trial for the Civil Action commenced and concluded on or about June 10, 2016.

4. On or about June 15, 2016, the parties filed their Joint Status Update in response to the Board's May 16, 2016 request.

5. On or about June 16, 2016, the Board reaffirmed the suspension of this cancellation proceeding pending final determination of the Civil Action and directed the parties to notify the Board of the final determination of the Civil Action by or before the expiration of twenty (20) days therefrom.

6. On or about June 27, 2016, the Court entered its Judgment on the Verdict in the Civil Action (the "Judgment"). Said Judgment is attached hereto as "Exhibit 1" and is incorporated by reference as if fully set forth herein.

7. In accordance with the Board's June 16, 2016 Order, Petitioner hereby notifies the Board of the Judgment entered in the Civil Action on June 27, 2016, attached hereto, so that this proceeding may be called up for appropriate action.

DATED: July 12, 2016

Respectfully submitted,
WILSON LEGAL GROUP P.C.

By: /s/John T. Wilson
John T. Wilson
State Bar No. 24008284
16610 Dallas Parkway, Suite 1000
Dallas, Texas 75248
(T) 972.248.8080
(F) 972.248.8088
(E) eservice@wilsonlegalgroup.com

**ATTORNEY FOR PETITIONER
BUZZBALLZ, L.L.C.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the foregoing *Notice of Final Determination of Civil Action* has been served on Registrant BuzzBox Beverages, Inc.'s attorney of record, Mr. Shaun M. Murphy, by mailing said copy on July 12, 2016, via First Class Mail, postage prepaid to:

Mr. Shaun M. Murphy
Slovak, Baron, Empey, Murphy & Pinkney L.L.P.
1800 East Tahquitz Canyon Way
Palm Springs, California 92270

/s/John T. Wilson
John T. Wilson

“EXHIBIT 1”

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

BUZZBALLZ, L.L.C., a Texas Limited Liability Company,)	Case No.: 5:14-cv-01725
)	Assigned to Hon. William D. Keller
)	
Plaintiff/Counterclaim Defendant,)	
)	
vs.)	
)	JUDGMENT ON THE VERDICT
BUZZBOX BEVERAGES, INC.,)	
a Nevada Corporation; and)	
BENDISTILLERY, INC., an Oregon Corporation, d/b/a BUZZBOX, d/b/a BUZZBOX COCKTAILS, and d/b/a BUZZBOX BEVERAGES,)	
)	
Defendants/Counterclaim Plaintiffs.)	Trial Date: June 7-10, 2016 Courtroom: 9

A trial before a jury was held on June 7, 2016 through June 10, 2016 in the above-captioned matter. Plaintiff BUZZBALLZ, L.L.C. (“BUZZBALLZ”) and Defendants BUZZBOX BEVERAGES, INC. (“BUZZBOX”) and BENDISTILLERY, INC. (“BENDISTILLERY”) were each represented by counsel. On June 10, 2016, the

1 jury returned a verdict, finding (1) that BUZZBOX’s use of its word mark for the term
2 “BuzzBox” (U.S. Reg. 4,618,174) (the “BuzzBox Word Mark”) has not caused a
3 likelihood of confusion with BuzzBallz’ marks for the term “BuzzBallz” (U.S. Reg.
4 3,865,524 & 4,498,235) (the “BuzzBallz Marks”); (2) that BUZZBOX’s use of its
5 graphic mark for the term “BuzzBox” (U.S. Reg. 4,646,160) (the “BuzzBox Graphic
6 Mark”) has caused a likelihood of confusion with the BuzzBallz Marks; and (3) that
7 BENDISTILLERY had not used either the BuzzBox Graphic Mark or the BuzzBox
8 Word Mark in a way that has caused a likelihood of confusion with the BuzzBallz
9 Marks. The jury awarded no actual damages to BUZZBALLZ.

10 Accordingly, it is hereby **ORDERED, ADJUDGED, AND DECREED** that
11 Plaintiff BUZZBALLZ, INC. recover nothing from Defendants BUZZBOX
12 BEVERAGES, INC. and BENDISTILLERY, INC.

13 **IT IS SO ORDERED**

14 Dated: June 27, 2016



15 _____
HON. WILLIAM D. KELLER
16 UNITED STATES DISTRICT JUDGE

17 Approved as to form and content.

18 /s/John T. Wilson
Attorney for Plaintiff

19 /s/Shawn M. Murphy
Attorney for Defendants

21