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

Proceeding	92060876
Party	Defendant Pure Order Brewing Company LLC
Correspondence Address	PURE ORDER BREWING COMPANY LLC 410 N QUARANTINA ST SANTA BARBARA, CA 93103 UNITED STATES jcburge@pureorderbrewing.com
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Date	03/24/2015
Attachments	92060876-Answer.pdf(85641 bytes)

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

**SANTA BARBARA BREWING
COMPANY, LLC**

Petitioner,

v.

Registration No. 4,570,227

Cancellation No. 92060876

**PURE ORDER BREWING COMPANY
LLC**

Respondent.

/

ANSWER AND AFFIRMATIVE DEFENSES

Respondent, PURE ORDER BREWING COMPANY LLC ("Respondent") by and through its undersigned attorneys, answers Petitioner Santa Barbara Brewing Company, LLC's Petition for Cancellation of the trademark SANTA BARBARA COMMON ALE as follows:

1. Respondent lacks sufficient information to form a belief as to the truth of this allegation and on that basis denies it.
2. Admitted.
3. Respondent lacks sufficient information to form a belief as to the truth of this allegation and on that basis denies it.
4. Respondent lacks sufficient information to form a belief as to the truth of this allegation and on that basis denies it.
5. Respondent lacks sufficient information to form a belief as to the truth of these allegations and on that basis denies them.
6. Respondent lacks sufficient information to form a belief as to the truth of this allegation and on that basis denies it.

7. Respondent lacks sufficient information to form a belief as to the truth of these allegations and on that basis denies them.
8. Respondent lacks sufficient information to form a belief as to the truth of this allegation and on that basis denies it.
9. Respondent lacks sufficient information to form a belief as to the truth of these allegations and on that basis denies them.
10. Respondent lacks sufficient information to form a belief as to the truth of this allegation and on that basis denies it.
11. Denied.
12. Respondent admits that it filed Application Serial No. 86191563, which issued on the Supplemental Register as Registration No. 4570227 on July 15, 2014 (hereinafter “Respondent’s Mark”), claiming a date of first use in intrastate commerce of January 1, 2013 and in interstate commerce of February 4, 2014, under Section 1(a) of the Trademark Act, 15 U.S.C. §1051(a). Respondent lacks sufficient information to form a belief as to the truth of the remaining allegations and on that basis denies them.
13. Respondent lacks sufficient information to form a belief as to the truth of these allegations and on that basis denies them.
14. Respondent lacks sufficient information to form a belief as to the truth of this allegation and on that basis denies it.
15. Respondent admits that Respondent’s Mark consists of the text SANTA BARBARA COMMON ALE. Respondent lacks sufficient information to form a belief as to the truth of the remaining allegations and on that basis denies them.
16. Admitted insofar as Respondent uses Respondent’s Mark on “beer.” Respondent lacks sufficient information to form a belief as to the truth of the remaining allegations and on that basis denies them.
17. Respondent lacks sufficient information to form a belief as to the truth of this allegation and on that basis denies it.

18. Respondent lacks sufficient information to form a belief as to the truth of these allegations and on that basis denies them.
19. Respondent admits Petitioner has no control over the nature or quality of the goods on which Respondent uses Respondent's Mark. Respondent lacks sufficient information to form a belief as to the truth of the remaining allegation and on that basis denies it.
20. Respondent specifically denies that Petitioner has been damaged by the existence of Respondent's Mark. Respondent lacks sufficient information to form a belief as to the truth of the remaining allegations and on that basis denies them.
21. Respondent lacks sufficient information to form a belief as to the truth of these allegations and on that basis denies them.
22. Respondent lacks sufficient information to form a belief as to the truth of these allegations and on that basis denies them.
23. Respondent lacks sufficient information to form a belief as to the truth of these allegations and on that basis denies them.
24. Respondent specifically denies that the public recognizes Petitioner's Marks as solely signifying the goods and services offered by Petitioner. Respondent lacks sufficient information to form a belief as to the truth of the remaining allegations and on that basis denies them.
25. Respondent lacks sufficient information to form a belief as to the truth of this allegation and on that basis denies it.
26. Admitted insofar as Respondent filed an application on February 12, 2014 to register the trademark SANTA BARBARA COMMON ALE in Class 32 for the goods listed, the application was assigned Serial No. 86191563, and the mark was issued a registration by the USPTO on July 15, 2014. Respondent specifically denies that Petitioner has exclusive prior rights in or to any of Petitioner's Marks.
27. Respondent lacks sufficient information to form a belief as to the truth of this allegation and on that basis denies it.

28. Respondent lacks sufficient information to form a belief as to the truth of these allegations and on that basis denies them.
29. Respondent lacks sufficient information to form a belief as to the truth of these allegations and on that basis denies them.
30. Respondent lacks sufficient information to form a belief as to the truth of these allegations and on that basis denies them.
31. Respondent admits it was not using Respondent's Mark on all of the goods identified in the registration. Respondent denies the remaining allegations.
32. Respondent admits it was not using Respondent's Mark in connection with all the goods listed in the application for Respondent's Mark at the time it filed the application.
33. Admitted.
34. As phrased, Respondent denies this allegation.
35. As phrased, Respondent denies this allegation.
36. As phrased, Respondent denies this allegation.
37. As phrased, Respondent denies this allegation.
38. As phrased, Respondent denies this allegation.
39. As phrased, Respondent denies this allegation.
40. As phrased, Respondent denies this allegation.
41. As phrased, Respondent denies this allegation.
42. As phrased, Respondent denies this allegation.
43. As phrased, Respondent denies this allegation.
44. As phrased, Respondent denies this allegation.
45. Denied.
46. Respondent admits it is not currently using Respondent's Mark in connection with all of the items listed in its registration. The remaining allegation is a legal conclusion to which no response is required.
47. Denied.

48. Respondent lacks sufficient information to form a belief as to the truth of this allegation and on that basis denies it.
49. Denied.
50. Paragraph 50 states a legal conclusion to which no response is required.
51. Paragraph 51 states a legal conclusion to which no response is required.
52. Admitted insofar as Respondent did not use Respondent's Mark on all the goods identified in the registration as of January 1, 2013 or February 4, 2014. The remaining allegations are legal conclusions to which no response is required.
53. Denied.

AFFIRMATIVE DEFENSES

1. Petitioner's claims are barred by the doctrine of laches.
2. Petitioner's claims are barred by the doctrine of acquiescence.
3. Petitioner's claim fails to state a claim on which relief may be granted.
4. Petitioner's claims are barred by the doctrine of estoppel.
5. Petitioner's claims are barred by the doctrine of waiver.
6. Petitioner's claims are barred because Petitioner's marks are generic or descriptive without secondary meaning.
7. Petitioner's claims are barred by the doctrine of unclean hands.
8. Petitioner's claims under California Business & Professions Code § 14200 are barred due to lack of jurisdiction.

Dated: March 24, 2015

Respectfully Submitted,

ORRICK, HERRINGTON
& SUTCLIFFE LLP
777 S. Figueroa St., Suite 3200

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Respondent's Answer and Affirmative Defenses has been served on by mailing said copy on March 24, 2015, via First Class Mail, postage prepaid, to Petitioner's attorney of record, to the attention of:

Kurt Koenig
Koenig & Associates
920 Garden St.
Santa Barbara, CA 93101



Annie Chen