

ESTTA Tracking number: **ESTTA721221**

Filing date: **01/19/2016**

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

Proceeding	92062802
Party	Defendant 0779147 B.C. Ltd.
Correspondence Address	PAUL A MCLEAN GREENBERG TAURIG LLP 1900 UNIVERSITY AVE 5TH FL EAST PALO ALTO, CA 94303 UNITED STATES gtipmail@gtlaw.com, mcleand@gtlaw.com, lanej@gtlaw.com, zuluetai@gtlaw.com
Submission	Answer
Filer's Name	Paul A. McLean, Esq., Greenberg Traurig
Filer's e-mail	gtipmail@gtlaw.com, mcleand@gtlaw.com, lanej@gtlaw.com, zuluetai@gtlaw.com
Signature	/Paul A. McLean/
Date	01/19/2016
Attachments	Answer.pdf(124130 bytes)

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

Dogfish Head Marketing, LLC, Petitioner, v. 0779147 B.C. Ltd., Registrant.	Cancellation No. 92062802
--	---------------------------

ANSWER TO PETITIONER'S PETITION FOR PARTIAL CANCELLATION

Registrant, 0779147 B.C. Ltd. ("Registrant"), is the owner of U.S. Trademark Registration Nos. 4,838,714 (SHELTER), 4,838,713 (SHELTER RESTAURANTS), 838,712 (FOOD WINE SHELTER), and 4,833,958 (SEEK SHELTER), each covering goods and services in classes 25, 32 and 42 (collectively, "Registrant's SHELTER Marks"). On or about December 8, 2015, Petitioner, Dogfish Head Marketing, LLC ("Petitioner"), filed a Petition for Partial Cancellation (the "Partial Cancellation Action") against Registrant's SHELTER Marks on the alleged basis of priority and likelihood of confusion solely with respect to the class 32 goods in Registrant's SHELTER Marks, namely, "beverages, namely, beer".

On or about January 7, 2016, Registrant filed pursuant to T.B.M.P. §514.03 (2015) (Amendment Without Consent), and 37 C.F.R. § 2.133 (Amendment of application or registration during proceedings), a Motion to Amend Registrations and Dismiss Cancellation Action requesting the Board to amend each of Registrant's SHELTER Marks to delete the class 32 goods therefrom, i.e., "beverages, namely, beer", and Registrant confirmed in the foregoing Motion that it is not using any of

Registrant's SHELTER Marks for "beverages, namely, beer" and that deleting these goods from Registrant's SHELTER Marks will avoid an alleged likelihood of confusion with Petitioner's SHELTER and SHELTER PALE ALE marks. Because the Partial Cancellation Action was filed by Petitioner solely with respect to the class 32 goods in Registrant's SHELTER Marks, and because Registrant is deleting through the foregoing Motion the class 32 goods from each of Registrant's SHELTER Marks, the Partial Action filed by Petitioner is now moot and Registrant therefore respectfully requested through the foregoing Motion that the Board dismiss Cancellation No. 92062802.

Because the Board has not yet acted on the foregoing Motion and because Registrant's deadline to file an Answer to the Partial Cancellation Action is due by January 19, 2016, Registrant answers the allegations in the Partial Cancellation Action as follows. Paragraph numbers in this document correspond to the paragraph numbers in the Partial Cancellation Action.

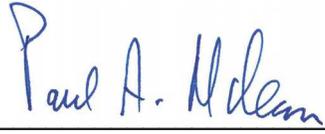
1. Registrant is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in Paragraph 1, and on that basis denies each and every allegation thereof.
2. Registrant admits the allegations contained in Paragraph 2.
3. Registrant is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in Paragraph 3, and on that basis denies each and every allegation thereof.
4. Registrant is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in Paragraph 4, and on that basis denies each and every allegation thereof.

5. Registrant is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in Paragraph 5, and on that basis denies each and every allegation thereof.
6. Registrant is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in Paragraph 6, and on that basis denies each and every allegation thereof.
7. Registrant is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in Paragraph 7, and on that basis denies each and every allegation thereof.
8. Registrant admits only that it obtained registrations for and is the owner of Registrant's SHELTER Marks. Because Registrant is without sufficient knowledge or information upon which to form a belief as to the truth of the remaining allegations contained in Paragraph 8, on that basis Registrant denies each and every remaining allegation thereof.
9. Registrant denies each and every allegation contained in Paragraph 9.
10. Registrant is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in Paragraph 10, and on that basis denies each and every allegation thereof.
11. Registrant denies each and every allegation contained in Paragraph 11.
12. Registrant is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in Paragraph 12, and on that basis denies each and every allegation thereof.

WHEREFORE, Registrant prays that Cancellation No. 92062802 be dismissed.

Respectfully submitted,

GREENBERG TRAURIG LLP

By: 
Paul A. McLean
Attorneys for Registrant
0779147 B.C. Ltd.,
1900 University Avenue, Fifth Floor
East Palo Alto, CA 94303
(650-289-7890)

CERTIFICATE OF SERVICE

I do hereby certify that the foregoing ANSWER TO PETITIONER'S PETITION FOR PARTIAL CANCELLATION was served on Petitioner by First Class U.S. Mail at the following address of its attorney of record:

JOHN J DABNEY
DOGFISH HEAD MARKETING LLC
#6 CANNERY VILLAGE CENTER
MILTON, DE 19968

With a copy to:

JOHN J. DABNEY, ESQ.
MARY D. HALLERMAN, ESQ.
MCDERMOTT WILL & EMERY LLP
500 NORTH CAPITOL STREET NW
WASHINGTON, D.C. 20001

this 19th day of January, 2016.

By: 
Karen Nelson