

December 7, 2015

By Electronic Filing

Commissioner for Trademarks
Attn: TTAB
P.O. Box 1451
Alexandria, VA 22313-1451

86318'277

Re: Milwaukee Brewers Baseball Club, Limited Partnership
Combined Notice of Opposition and Petition for Cancellation
Against Brewers Tasting Room, LLC
Application to register BREWERS' TASTING ROOM FRESH
BEER COMMUNITY OF BREW and BREWERS' TASTING
ROOM
Ref. No. 21307.031

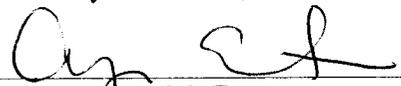
Dear Commissioner:

We enclose a Combined Notice of Opposition and Petition for Cancellation against Application Serial Number 86/318,277 published in the Official Gazette on June 9, 2015, and Supplemental Registration No. 4,741,096, issued on May 19, 2015. Enclosed is a check in the amount of \$600 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,


Aryn M. Emert

Enclosures

cc: Ms. Diane Kovach (w/encs.)
Mary L. Kevlin, Esq. (w/encs.)
Richard S. Mandel, Esq. (w/encs.)

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

In re Application Serial No. 86/318,277 and Supplemental Registration No. 4,741,096
Filed: June 24, 2014 and Supplemental Registration Issued: May 19, 2015
For Mark: BREWERS' TASTING ROOM FRESH BEER COMMUNITY OF BREWERS BTR
and Design and BREWERS' TASTING ROOM
Published in the Official Gazette: June 9, 2015

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MILWAUKEE BREWERS BASEBALL CLUB, :
LIMITED PARTNERSHIP, :
Opposer/Petitioner, :
v. :
BREWERS TASTING ROOM, LLC, :
Applicant/Registrant. :
-----X

Opposition No.
Cancellation No.

**COMBINED NOTICE OF
OPPOSITION AND PETITION
FOR CANCELLATION**

Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer/Petitioner Milwaukee Brewers Baseball Club, Limited Partnership
("Opposer/Petitioner"), a Wisconsin limited partnership, with offices at Miller Park, One
Brewers Way, Milwaukee, Wisconsin 53214, believes that it will be damaged by (1) registration
of the mark BREWERS' TASTING ROOM FRESH BEER COMMUNITY OF BREWERS BTR

U.S. PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1451

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I hereby certify that this paper or fee is being deposited with the United States
Postal Service "Priority Mail Express Post office to Addressee" service under 37
C.F.R. 1.10 on the date indicated below and is addressed to the Commissioner for
Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on



12-07-2015

U.S. Patent and Trademark Office #72

12/7/15 SHARON LYNCH
(Date of Deposit) (Print name)

Sharon Lynch
(Signature)



and Design, as depicted here:

(“Applicant/Registrant’s Design Mark”)

and as shown in Application Serial No. 86/318,277 (the “Application”) and (2) continued registration of the standard character word mark BREWERS' TASTING ROOM (“Applicant/Registrant’s BREWERS' TASTING ROOM Mark”) (together with Applicant/Registrant’s Design Mark, “Applicant/Registrant’s Marks”) as shown in Registration No. 4,741,096 (the “Supplemental Registration”), both owned by Brewers Tasting Room, LLC (“Applicant/Registrant”) and covering “Brewpub services; restaurant and bar services; bar services in the nature of tasting rooms” in International Class 43, and having been granted extensions of time to oppose the Application up to and including December 5, 2015, Opposer/Petitioner hereby opposes the Application and hereby petitions to cancel the Supplemental Registration.

As grounds for opposition, it is alleged that:

1. Opposer/Petitioner is the owner of the renowned MILWAUKEE BREWERS MAJOR LEAGUE BASEBALL club (the “Club”).
2. The Club has been based in Milwaukee, Wisconsin since 1970. The Club’s name, the “BREWERS,” is derived from the city’s strong association with the brewing industry. Some of the largest brewers are located in Milwaukee, including the Miller Brewer Company (now MillerCoors), which is the naming rights sponsor of the Club’s MILLER PARK ballpark.

3. Since long prior to May 1, 2013, Applicant/Registrant's claimed first use date, Opposer/Petitioner and its predecessors and their affiliated and related entities, licensees and/or sponsors have used the name or mark BREWERS or BREWER, alone or with other word, letter and/or design elements ("Opposer/Petitioner's BREWERS Marks"), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, concession, restaurant and bar services; beer and beverage glasses; food and beverage products; beverage containers; apparel; bags; jewelry; paper goods and printed matter; toys and sporting goods and novelty items.

4. Opposer/Petitioner owns U.S. federal registrations for Opposer/Petitioner's BREWERS Marks in International Classes 9, 14, 16, 18, 24, 25, 28, 35, 36 and 41; namely, Registration Nos. 1,062,749; 1,064,673; 1,543,238; 1,549,040; 1,607,533; 1,858,923; 2,542,640; 2,546,834; 2,549,755; 2,623,286; 2,789,452; 3,326,874; 3,326,875; 3,353,761; 3,525,776; 3,906,135; 4,069,471 and 4,338,784. Reg. Nos. 1,062,749; 1,064,673; 1,543,238; 1,549,040; 1,607,533; 1,858,923; 2,623,286; 3,326,874; 3,326,875; 3,353,761 and 3,525,776 are incontestable.

5. Since long prior to May 1, 2013, Applicant/Registrant's claimed first use date, Opposer/Petitioner and its predecessors and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer/Petitioner's BREWERS Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, concession, restaurant and bar services; beer and beverage glasses; food and beverage products; beverage containers; apparel; bags; jewelry; paper goods and printed matter; toys and sporting goods and novelty items, and have offered such goods and rendered such services in commerce.

6. As a result of the sales and promotion of its goods and services bearing or offered in connection with Opposer/Petitioner's BREWERS Marks, Opposer/Petitioner has built up highly valuable goodwill in Opposer/Petitioner's BREWERS Marks, and said goodwill has become closely and uniquely identified and associated with Opposer/Petitioner.

7. On June 24, 2014, Applicant/Registrant filed an application to register Applicant/Registrant's BREWERS' TASTING ROOM Mark for "Brewpub services; restaurant and bar services; bar services in the nature of tasting rooms" in International Class 43, claiming a first use date of May 1, 2013. The Examining Attorney found that Applicant/Registrant's BREWERS' TASTING ROOM Mark was merely descriptive of Applicant/Registrant's services, and the application was later amended to the Supplemental Register and matured to Supplemental Registration No. 4,741,096 on May 19, 2015.

8. Upon information and belief, Applicant/Registrant did not use Applicant/Registrant's BREWERS' TASTING ROOM Mark in commerce in connection with the services covered by the Supplemental Registration prior to May 1, 2013, Applicant/Registrant's claimed first use date.

9. As Applicant/Registrant has claimed Applicant/Registrant's BREWERS' TASTING ROOM Mark as a standard character mark, continued registration of such mark effectively could give Applicant/Registrant rights to use Applicant/Registrant's BREWERS' TASTING ROOM Mark in any stylization, including the stylizations of Opposer/Petitioner's BREWERS Marks, which have been duly registered and/or have priority over Applicant/Registrant's BREWERS' TASTING ROOM Mark, or in stylizations confusingly similar thereto. Additionally, continued registration of such mark effectively could prevent

Opposer/Petitioner from developing additional BREWERS marks in the future and/or registering Opposer/Petitioner's BREWERS Marks for services in International Class 43 or related classes.

10. On June 24, 2014, Applicant/Registrant filed the Application for Applicant/Registrant's Design Mark for "Brewpub services; restaurant and bar services; bar services in the nature of tasting rooms" in International Class 43, claiming a first use date of May 1, 2013.

11. Upon information and belief, Applicant/Registrant did not use Applicant/Registrant's Design Mark for the services covered in the Application in United States commerce prior to its earliest claimed first use date of May 1, 2013.

12. The services covered by the Application and Supplemental Registration are identical and/or closely related to the goods offered and services rendered in connection with Opposer/Petitioner's BREWERS Marks.

13. The word BREWERS in Applicant/Registrant's Marks is identical to certain of Opposer/Petitioner's BREWERS Marks as well as the name of the BREWERS club.

14. Applicant/Registrant's Marks so resemble Opposer/Petitioner's BREWERS Marks as to be likely, when used in connection with Applicant/Registrant's services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant/Registrant's services have their origin with Opposer/Petitioner and/or that such services are approved, endorsed or sponsored by Opposer/Petitioner or associated in some way with Opposer/Petitioner. Opposer/Petitioner would thereby be injured by the granting to Applicant/Registrant of a certificate of registration for Applicant/Registrant's Design Mark and by allowing the continued registration of the Supplemental Registration for Applicant/Registrant's BREWERS' TASTING ROOM Mark.

WHEREFORE, Opposer/Petitioner believes that it will be damaged by registration of Applicant/Registrant's Design Mark and requests that the opposition be sustained and said registration be denied.

WHEREFORE, Opposer/Petitioner believes that it is being damaged by registration of the Supplemental Registration for Applicant/Registrant's BREWERS' TASTING ROOM Mark and requests that the cancellation be sustained and the Supplemental Registration be cancelled.

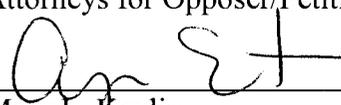
Please recognize as attorneys for Opposer/Petitioner in this proceeding Mary L. Kevlin, Richard S. Mandel and Aryn M. Emert (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York
December 7, 2015

Respectfully submitted,

COWAN LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer/Petitioner

By: 

Mary L. Kevlin
Richard S. Mandel
Aryn M. Emert
1133 Avenue of the Americas
New York, New York 10036
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on December 7, 2015, I caused a true and correct copy of the foregoing Combined Notice of Opposition and Petition for Cancellation to be sent via First Class Mail, postage prepaid, to Applicant/Registrant Brewers Tasting Room, LLC, 800 South Oregon Avenue, Tampa, Florida 33606, and Applicant/Registrant's Attorney and Correspondent of Record, Daniel R. Frijouf, Frijouf, Rust & Pyle, P.A., 201 E. Davis Blvd., Tampa, Florida 33606-3728.


Aryn M. Emert