

ESTTA Tracking number: **ESTTA524907**

Filing date: **03/05/2013**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Anchor Brewing Company LLC
Granted to Date of previous extension	03/06/2013
Address	1705 Mariposa Street San Francisco, CA 94107 UNITED STATES
Attorney information	James Wesley Kinnear Kinnear Law Firm PC 220 Montgomery St.#695 San Francisco, CA 94104 UNITED STATES jwk@kinnearlaw.com Phone:415.223.8280

Applicant Information

Application No	85639126	Publication date	11/06/2012
Opposition Filing Date	03/05/2013	Opposition Period Ends	03/06/2013
Applicant	Mountain Shippers LLC 6 MOUNTAIN FARMS RD West Hartford, CT 06117 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 1997/11/27 First Use In Commerce: 1997/11/27 All goods and services in the class are opposed, namely: Ale, Beer, Lager, Stout, non-alcoholic beer, low-calorie beer, mixed drinks containing primarily beer
--

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	Likely confusion (Trademark Act section 43(a)), dilution (Trademark Act section 43(c))

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1206783	Application Date	09/05/1978
Registration Date	08/31/1982	Foreign Priority Date	NONE

Word Mark	STEAM BEER
Design Mark	
Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 1934/00/00 First Use In Commerce: 1971/12/09 Beer

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ANCHOR STEAM BEER		
Goods/Services	International Class 032, Beer		

Attachments	73184711#TMSN.gif (1 page)(bytes) ABC Notice of Opposition to City Steam.pdf (6 pages)(102276 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/James Wesley Kinnear/
Name	James Wesley Kinnear
Date	03/05/2013

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Anchor Brewing Company LLC		
Entity	California Limited liability Company	Citizenship	UNITED STATES
Address	1705 Mariposa Street San Francisco, CA 94107		

Attorney Information	James Wesley Kinnear KINNEAR LAW FIRM PC 220 Montgomery Street, Suite 695 San Francisco, CA 94104 jwk@kinnearlaw.com 415.223.8280 Fax: 415.223.8281
----------------------	---

Applicant Information

Application No.	85639126	Publication Date	November 6, 2012
Opposition Filing Date	March 5, 2013	Opposition Period Ends	March 6, 2013
Applicant	Mountain Shippers LLC 6 Mountain Farms Rd. West Hartford, CT 06117 UNITED STATES		

Goods/Services Affected by the Opposition

Int. Class 32. First Use: 1997. First Use in Commerce: 1997.

All goods and services in the class are opposed, namely: Ale, Beer, Lager, Stout, non-alcoholic beer, low-calorie beer, mixed drinks containing primarily beer.

Grounds for Opposition

Priority and likelihood of confusion	Lanham Act § 2(d); 15 U.S.C. § 1052(d);
--------------------------------------	---

	Lanham Act § 43(a); 15 U.S.C. §1125(a).
Dilution	Lanham Act § 13(a); 15 U.S.C. § 1063(a); Lanham Act § 43(c) ; 15 U.S.C. §1125(d).

Marks Cited by Opposer as Basis for Opposition

Mark	Registration No.	Description of Goods/Services
ANCHOR STEAM BEER		Beer
STEAM BEER	1206783	Beer

Certificate of Service

The undersigned hereby certified that a copy of this paper has been served upon all parties, at their address of record by First Class Mail on this date.

Signature: /s/_____

Name: James Wesley Kinnear

Date: March 5, 2013

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

ANCHOR BREWING COMPANY, LLC, Opposer, v. MOUNTAIN SHIPPERS LLC Applicant.	Opposition No.: _____ Application Serial No. 85639126 Mark: CITY STEAM Published for Opposition: November 6, 2012 Atty. Ref. No.:
---	---

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

NOTICE OF OPPOSITION

Opposer ANCHOR BREWING COMPANY, LLC (“ANCHOR”), a California limited liability company, with a mailing address of 1705 Mariposa Street, San Francisco, CA 94107, believes that it will be damaged by the registration on the Principal Register of CITY STEAM, in connection with “Ale, Beer, Lager, Stout, non-alcoholic beer, low-calorie beer, mixed drinks containing primarily beer” in International Class 032. The mark CITY STEAM is the subject of federal trademark application Serial No. 85639126, allegedly owned by Mountain Shippers LLC (“Applicant”), and ANCHOR hereby opposes registration thereof. Applicant seeks to register a Mark, CITY STEAM, which is substantially identical to STEAM BEER (Registration No. 1206783) and ANCHOR STEAM BEER, the long-established trademarks of ANCHOR and its predecessors in interest (collectively, “ANCHOR”) for goods in Class 32, including beer (collectively, the “STEAM MARKS”).

As grounds for this Opposition, it is alleged that:

1. ANCHOR has used the federally registered trademark STEAM BEER in California since no later than 1934 and in interstate commerce since no later than 1971. ANCHOR has used the trademark ANCHOR STEAM BEER in interstate commerce since no

later than 1971. The registration of the STEAM BEER mark is subsisting, uncanceled, unrevoked and uncontestable:

2. ANCHOR is the owner of the business and goodwill connected with the STEAM MARKS. ANCHOR has used STEAM BEER for beer beginning no later than 1934 in California and in interstate commerce since no later than 1971 and continuing to date. ANCHOR has used ANCHOR STEAM BEER for beer in interstate commerce beginning no later than 1971 and continuing to date.

3. ANCHOR has extensively and continually advertised and promoted its products with the STEAM MARKS. Moreover, ANCHOR has invested substantial time, energy and resources to develop the STEAM MARKS and to ensure that the general public associates those trademarks exclusively with ANCHOR and its STEAM BEER quality products. Each of the STEAM MARKS is inherently arbitrary, fanciful, distinctive or suggestive, or has otherwise acquired secondary meaning in the relevant channels of trade to refer solely to ANCHOR. The STEAM MARKS have been distinctive from the date of their first use or the first registration filing of STEAM BEER in the United States Patent and Trademark Office in 1978.

4. On information and belief, Applicant's principal place of business is located at 6 Mountain Farms Rd., West Hartford, CT 06117

5. On information and belief, Applicant is the owner of record of trademark application Serial No. 85639126 for the registration of the mark CITY STEAM ("Applicant's Mark") for use in connection with "Ale, Beer, Lager, Stout, non-alcoholic beer, low-calorie beer, mixed drinks containing primarily beer" ("Applicant's Goods").

6. Since long prior to May 31, 2012, the filing date of Applicant's application, and long prior to 1997, Applicant's claimed date of first use, ANCHOR has widely advertised and promoted each of the STEAM MARKS in connection with its goods with the result that the STEAM MARKS have become well-known. The STEAM MARKS have become famous within the meaning of 15 U.S.C. §1125(c), and associated with ANCHOR in the United States and abroad beginning long prior to 1997, the date of first use claimed by Applicant. Because of these

efforts, and by virtue of the excellence and success of the goods offered and provided by ANCHOR under the STEAM MARKS, ANCHOR has built up a valuable reputation and tremendous goodwill in its STEAM MARKS belonging exclusively to ANCHOR.

7. Applicant's Mark so resembles the STEAM MARKS as to be likely, when used in connection with Applicant's Goods, to cause confusion, or mistake, or deception. Applicant's Mark, therefore, creates a confusingly similar commercial impression. Thus consumers likely believe that Applicant's use of Applicant's Mark in connection with Applicant's Goods is in some way associated or connected with or sponsored, authorized, or warranted by ANCHOR. Any objection or fault with Applicant's Goods offered in connection with Applicant's Mark would reflect upon and seriously injure ANCHOR's reputation in connection with the goods offered under the STEAM MARKS.

8. Applicant's Mark so resembles the STEAM MARKS as to be likely, when used in connection with Applicant's Goods, to cause dilution of ANCHOR's STEAM MARKS.

9. If Applicant is granted the registration herein opposed, Applicant would thereby obtain at least a prima facie exclusive right to use of the mark CITY STEAM in connection with the goods identified in application Serial No. 85639126. Such registration would be a source of damage and injury to ANCHOR.

WHEREFORE, in accordance with Section 13 of the Lanham Act (15 U.S.C. § 1063), ANCHOR prays that this Opposition be sustained and that application Serial No. 85639126 be refused.

Respectfully submitted,

Dated: March 5, 2013

/s/ _____

James Wesley Kinnear
KINNEAR LAW FIRM PC
220 Montgomery Street, Suite 695
San Francisco, CA 94104
UNITED STATES
Email: jwk@kinnearlaw.com

Phone 415-223-8280
Fax 415-223-8281