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

Proceeding	91216137
Party	Plaintiff JDZ, Inc.
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Submission	Answer to Counterclaim
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Date	06/23/2014
Attachments	Alesmith Answer to Sonoma counterclaim.pdf(1785742 bytes)

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

In the Matter of:

Trademark Application Serial No. 86/080,216

For the mark SONOMA CIDER CERTIFIED ORGANIC BOURBON THE ANVIL

Published in the Official Gazette on December 31, 2013

<u>JDZ, Inc.,</u>)	Opposition No. 91216137
)	
Opposer,)	
)	
v.)	
)	
<u>Sonoma Beverage Works, Inc.,</u>)	
)	
Applicant)	

OPPOSER'S ANSWER TO COUNTERCLAIM

JDZ, Inc. (hereinafter "Opposer"), by its attorney, Candace L. Moon, for its Answer to Applicant's Counterclaim, states as follows:

1. Opposer is without information or belief as to the truth of the allegations included in Paragraph 1 of the Applicant's Counterclaim.
2. Opposer admits that on December 11, 2013 the USPTO issued a Notice of Publication for Applicant's mark. Opposer admits that on December 31, 2013 Applicant's mark was published in the USPTO's Trademark Official Gazette.
3. Opposer admits that on August 23, 2002 Opposer applied to register the ALESMITH BREWING COMPANY design mark for beer, ale, and porter in International Class 32 on an intent-to-use basis. Opposer admits that on May 24, 2004 Opposer filed a Statement of Use for the ALESMITH BREWING COMPANY design mark and listed 1995 as the date of first use and date of first use in commerce.

4. Opposer admits that on August 31, 2004 the USPTO issued Registration Number 2880049 for the ALESMITH BREWING COMPANY design mark. Opposer admits and avers that the ALESMITH BREWING COMPANY design mark is the basis for Opposer's standing to oppose Applicant's mark. Opposer admits and avers that it has priority with respect to Applicant in the present controversy and that there is a likelihood of confusion between Applicant's mark and Opposer's mark. Opposer admits that the pictured mark in Paragraph 4 of Applicant's counterclaim is a picture of Opposer's original mark.
5. Opposer admits that on February 17, 2014 Opposer filed an application for an additional design mark, Serial Number 86195487, for beer in International Class 32. Opposer admits and avers a first use date of August 31, 1995 and first use in commerce date of January 31, 2003 for the additional mark. Opposer admits that the pictured mark in Paragraph 5 of Applicant's counterclaim is a picture of Opposer's additional mark.
6. Opposer admits that the words "ALESMITH BREWING COMPANY" are not present in Opposer's additional mark. Opposer admits that the beer glass in the additional mark does not have rectangular shadings. Opposer admits that the anvil in the additional mark appears at a slight angle rather than a 90-degree profile. Opposer denies the remaining allegations contained in Paragraph 6 in their entirety.
7. Opposer admits and avers a first use date of August 31, 1995 and first use in commerce date of January 31, 2003 for the additional mark. Opposer denies the remaining allegations contained in Paragraph 7 in their entirety.
8. Opposer denies the allegations contained in Paragraph 8 of Applicant's counterclaim.
9. Opposer admits that on or around May 16, 2012 Opposer filed applications for Certificate of Label Approval ("COLA") with the United States Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau ("TTB") for new labels for its beer products, all of which featured the additional mark. Opposer admits that it had previously obtained COLA approvals

for beer labels featuring the original mark. Opposer denies the remaining allegations contained in Paragraph 9 in their entirety.

10. Opposer denies the allegations contained in Paragraph 10 of Applicant's counterclaim.

11. Opposer denies the allegations set forth in Paragraph 11 of the Applicant's counterclaim in their entirety.

WHEREFORE, Opposer respectfully requests that the Application be in all respects denied.

By: Candace L. Moon
Candace L. Moon, Esq.

Dated: June 19, 2014

The Craft Beer Attorney, APC
3914 Murphy Canyon Rd., Ste. A244
San Diego, CA 92123
Attorney for Opposer

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this paper is being deposited with the United States Patent and Trademark Office, Trademark Trial and Appeal Board via the electronic filing procedure on June 23, 2014 at San Diego, California.

By:

Candace L Moon

CERTIFICATE OF SERVICE

I, Candace L. Moon, counsel JDZ, Inc., hereby certify that a copy of the foregoing Answer to Applicant's Counterclaim, was served upon the attorney for the Applicant, via first class mail, postage prepaid and electronic mail on June 23, 2014 at the following address:

John B. Dawson & Jay M. Behmke
100 B Street, Suite 400
Santa Rosa, California 95401

By:

Candace L Moon