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

Proceeding	91219227
Party	Defendant WHISKEY ACRES DISTILLING CO.
Correspondence Address	DANIEL E. KATTMAN REINHART BOERNER VAN DEUREN S.C. 1000 N WATER ST STE 1900 MILWAUKEE, WI 53202-6648  tmadmin@reinhardt.com
Submission	Answer
Filer's Name	Daniel E. Kattman
Filer's e-mail	tmadmin@reinhardt.com
Signature	/dek/
Date	12/16/2014
Attachments	SEED TO SPIRIT Answer.pdf(78341 bytes )

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

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Phillips Products Company, LLC,

Opposer,

v.

Opposition No. 91219227  
Serial No. 86198105

Whiskey Acres Distilling Co.,

Applicant.

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**APPLICANT'S ANSWER TO THE NOTICE OF OPPOSITION**

Applicant, Whiskey Acres Distilling Co. ("Applicant"), by its attorneys, hereby answers the allegations set forth in the Opposer's Notice of Opposition as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and conclusions of law contained in Paragraph 1 of the Notice of Opposition and, therefore, denies the same.

2. Applicant admits the information contained in Paragraph 2 of the Notice of Opposition.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and conclusions of law contained in Paragraph 3 of the Notice of Opposition and, therefore, denies the same.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and conclusions of law contained in Paragraph 4 of the Notice of Opposition and, therefore, denies the same.

5. Applicant admits the information contained in Paragraph 5 of the Notice of Opposition.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and conclusions of law contained in Paragraph 6 of the Notice of Opposition and, therefore, denies the same.

7. Applicant denies the allegations and conclusions of law contained in Paragraph 7 of the Notice of Opposition.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and conclusions of law contained in Paragraph 8 of the Notice of Opposition and, therefore, denies the same.

9. Applicant denies the allegations and conclusions of law contained in Paragraph 9 of the Notice of Opposition.

*First Affirmative Defense*

(Opposer's Mark Lacks Distinctiveness)

Opposer's alleged trademark lacks sufficient distinctiveness and/or is merely descriptive of the goods identified in Opposer's Application such that it is entitled to only a narrow scope of protection and registration of Applicant's mark is not likely to cause consumer confusion in the marketplace.

*Second Affirmative Defense*

(Exclusive Use)

Opposer has not exclusively used marks containing the words "SEED TO" in commerce and has not established the exclusive right to use such marks containing the words "SEED TO" in commerce.

Third Affirmative Defense

(Crowded Field)

Because there exists numerous third party registrations containing the words SEED TO and numerous third parties selling products or services proximately related to alcoholic beverages that use the words SEED TO in commerce, Opposer's mark is weak and entitled to only narrow protection against identical marks for identical goods. Because Applicant's mark is different from Opposer's mark in overall sound, meaning and commercial impression, Applicant's mark is not likely to cause consumer confusion in the marketplace with Opposer's mark.

*Relief Requested*

Registrant respectfully requests that this Opposition proceeding be dismissed with prejudice.

Respectfully submitted,

/dek/

Daniel E. Kattman  
Wisconsin State Bar Member.  
Attorney for Applicant

Dated: December 16, 2014

Daniel E. Kattman  
Reinhart Boerner Van Deuren s.c.  
1000 North Water Street, Suite 2100  
Milwaukee, WI 53202

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail on December 16, 2014 in an envelope with sufficient postage addressed to:

Paulette R. Carey  
Buchman Law Firm, LLP  
510 Thornall Street, Suite 200  
Edison, NJ 08837

By:           /dek/          

Daniel E. Kattman

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