

ESTTA Tracking number: **ESTTA746740**

Filing date: **05/16/2016**

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

Proceeding	91220927
Party	Defendant Jonathan A Claypool
Correspondence Address	JONATHAN A CLAYPOOL 17062 MURPHY AVE IRVINE, CA 92614-5914 UNITED STATES jclaypool@zymoresearch.com;jac@claypool
Submission	Opposition/Response to Motion
Filer's Name	Jonathan A Claypool
Filer's e-mail	jclaypool@zymoresearch.com
Signature	/Jonathan A Claypool/
Date	05/16/2016
Attachments	Reply_SJM_Opposition_91220927.pdf(1487899 bytes )

Heineken Asia Pacific Ltd. (Opposer)  
(Tiger; Tiger plus Design)  
v.

Jonathan A Claypool (Applicant)  
(Tiger Shark)  
Application No.: 86/394137

Marks: Tiger Shark vs Tiger; Tiger plus Design

For: **Opposition: No. 91220927** | **TM-1626**

**APPLICANT’S REPLY TO OPPOSER’S MOTION FOR SUMMARY JUDGMENT**

Applicant, Jonathan A Claypool, asserts he had and maintains a bona fide intent-to-use the Tiger Shark mark in commerce on beer. Applicant presents arguments to clarify his discovery responses and to refute allegations that he has no plans to use the mark and has taken no steps to use the mark by presenting additional affidavit evidence regarding added circumstances. In total this shows material facts regarding a bona fide intent-to-use the Tiger Shark mark in commerce are in dispute rendering this case unsuitable to disposition on summary judgment.

**COUNTER STATEMENT OF DISPUTED FACTS (CSDF)**

Jonathan A Claypool, Applicant, responds to Opposer’s “Statement of Undisputed Material Facts” as follows:

- 1. Admitted.**
- 2. Admitted.**
- 3. Admitted.**
- 4. Admitted.**
- 5. Admitted.**
- 6. Admitted.**
- 7. Admitted.**

**8. Denied.** Applicant asserts that he has made preparations to “use” the Tiger Shark mark by forming a branding strategy and has conducted ongoing research and development for perfecting the yeast used and the taste of beers by brewing beer on a small scale, based on input, but has not yet manufactured it a large scale for sale (See Applicants Declaration No. 8). It is also true there are not “written plans” per se but nevertheless there is affirmative evidence of mental or memorized plans that are evident in the record and that can be inferred from conduct related thereto or otherwise (See Applicants Declaration No. 5, 6, 7, 8, 9, 10, 11, 12, 13 and Exhibits 1-6). Applicant’s branding strategy is clearly seen from the filing the Tiger Shark application in conjunction with the trademark application for Subterranean on the same date September 13, 2015 for only the specific goods of beer (See Exhibit 1; Exhibit 6). This shows a firm and bona fide intent-to-use both marks for the specific good beer exclusively—indicating that the filings are not merely for reserving the marks for a variety of goods generally or for other purposes. Further, the added trademarks filed subsequently, again for beer only, show a clear and firm branding plan and is sufficiently contemporaneous evidence of a bona-fide-intent to sell beer under the Tiger Shark mark and others since they are less than nine months subsequent to the dual filing of Tiger Shark and Subterranean marks (i.e. Cobalt, Roman, Saxon) in the ordinary course of operating a brewery and not importantly for other goods or other purposes (See Applicant’s Declaration, Exhibit 3; Exhibit 4; Exhibit 5).

**9. Denied.** Applicant produced the Tiger Shark Application and Tess Search related thereto which shows the plan to brand beer under this mark free of conflicting marks (See Applicant’s Declaration, Exhibits 6-7). Documents for branding with other marks filed as part of applicant’s affirmative branding plan (See Applicant’s Declaration, No. 7, Exhibits 2-5) were not supplied since the request for production were directed to only plans for use of the Tiger Shark mark and not for other such marks or brands.

**10. Admitted** that applicant conceived and selected the Tiger Shark mark about 1-2 years before filing the Tiger Shark application, when the activities for moving forward started in earnest, since the mark Tier Shark evoked a unique commercial impression and did not have potentially conflicts for beer or other alcoholic beverages with similar marks from early and subsequent searches (See Applicant’s Declaration, Exhibit 7).

**11. Denied.** Applicant stated in response to Opposer’s interrogatory No. 7 he had plans to sell beer under the Tiger Shark mark in 2-3 years starting in California that relate directly to the

Tiger Shark mark as well as others of applicant's planned brewery. For clarity Applicant has undertaken activities such as research and development, planning including branding as well as distribution channels including a tap rooms are distinct from other distribution channels (See Opposer's Exhibit 9, admission No. 5 and No. 6, especially; See also Applicant's declaration, No., 6).

**12. Denied.** Applicant refers to his declaration at Nos 5 and 6, to clarify that he meant by that "no specifics" in relation to "production and manufacture" of beer that since activities are focused on the research contingent on feedback and not yet production or manufacture.

**13. Admitted,** that Opposer moved to amend the Notice of Opposition; **Denied** with respect to the allegation of applicant's lack on a bona fide intent-to-use the Tiger Shark mark for beer.

**14. Denied.** Applicant asserts that his discovery requests show his good faith bona fide intent-to-use the Tiger shark mark since they are themselves affirmative activities in defending and show his planning in that they seek to elicit admissions and answers related to markets (See Applicant's Declaration and attached Exhibits for: No. 5, 6, 7, 8, 9, 10, 11, 12, 13).

### **Legal Standard**

Summary judgment is notoriously inappropriate for determination of claims in which issues of intent, good faith and other subjective feelings play dominant roles *Giant Food, Inc. v. Standard Terry Mills, Inc.*, 229 USPQ 955, 962 (TTAB 1986). Summary judgment should be granted if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." *Kellogg Co. v. Pack'Em Enters., Inc.*, 14 U.S.P.Q.2D 1545, 1990 TTAB LEXIS 3 at \*9-10 (TTAB Feb. 2, 1990). As a general rule, the factual question of intent is particularly unsuited to disposition on summary judgment.

*Copelands' Enterprises Inc. v. CNV Inc.*, 945 F.2d 1563, 20 USPQ2d 1295 (Fed. Cir. 1991).

Movant's burden: to demonstrate the absence of any genuine dispute of material fact and that it is entitled to judgment as a matter of law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 256-57 (1986). A material fact is a fact that could matter to (have legal impact on) the outcome of the case. *Anderson* at 248. If met, non-movant must proffer countering evidence to show there is a genuine dispute for trial. *Octocom Systems Inc. v. Houston Computer Services Inc.*, 918 F.2d 937, 16 USPQ2d, 1783, 1786 (Fed. Cir. 1990). Non-movant is given benefit of doubt. *Lloyd's*

*Food Products Inc. v. Eli's Inc.*, 987 F.2d 766, 25 USPQ2d 2027, 2029 (Fed. Cir. 1993).

Summary Judgment is only proper if after a sufficient time for discovery the non-moving party is unable to demonstrate sufficient evidence to withstand a directed verdict motion. *Street v. J.C. Bradford & Co.*, 886 F.2d 1472 (6<sup>th</sup> Cir. 1989).

## **Argument**

### **A. Applicant had upon filing and maintains a good faith bona fide intent-to-use the Tiger Shark mark in commerce for beer.**

The Applicant will present affirmative evidence in order to defeat the summary judgment motion of Opposer based on all the circumstances. *Street v. J.C. Bradford & CO.*, 886 F.2d 1472 (6<sup>th</sup> Cir. 1989); *Anderson v. Liberty Lobby Inc.*, 477 U.S. 242, 106 S.Ct. at 2514, 91 L.Ed.2d 202 (1986); *Saul Zaentz Co. v. Bumb*, 95 U.S.P.Q.2d 1723, 1726 (TTAB 2010) (“[T]he determination of whether an applicant has a bona fide intention to use the mark in commerce is to be a fair, objective determination based on all the circumstances.”). Here, applicant has submitted his declaration and its Exhibits 1-7 that clarify responses to Opposer discovery requests and clearly set forth compelling and contemporaneous affirmative actions as evidence of his good faith bona fide intent-to-use the Tiger Shark mark when filed continuing to the present (CSDF No. 8, 9, 11, 12). Applicant asserts that he has been performing research and development in making beer at small scale, with input from third party tastings, and that this is not producing and manufacturing for Tiger Shark for any particular beer since this determination has not been made (CSDF No. 8). Further, at the time of filing the Tiger Shark mark the Subterranean mark was also filed and subsequently added marks for Cobalt, Roman and Saxon were filed—all for beer (CSDF No. 8). These substantially contemporaneous filings and prosecution efforts show a good faith plan to brand and a good faith intent-to-sell beer via the plan within a reasonable time (CSDF No. 6 and 10). *Imedia Corp. v. (The fact that applicant did not have current plans to use the mark did not mean that the applicant had no plans to use the mark)*, No. 92043288, 2007 WL 1697344, at \*16 (TTAB, 2007); *Lane Ltd. v. Jackson International Trading Co.* 33 USPQ Q2d at 1507) (*Evidence of a bona fide intent-to use can be sufficiently contemporaneous*). Finally, applicant has made contacts and is pursuing financing which are affirmative actions that show a bona fide good faith intent-to-use these marks (CDSF No. 8). In total this shows that material facts regarding a bona fide intent-to-use the Tiger Shark

mark in commerce are in dispute rendering this case unsuitable to disposition on summary judgment. *Burroughs Wellcome Co. v. Nutrience, Inc.* No 92334, 1996 TTAB Lexis 499 (TTAB, Apr. 11, 1996) (*Summary Judgment is not warranted on the issue of bona fide intent-to-use a mark where material facts are genuinely in dispute*).

**B. Opposer should responds to Applicant's Discovery Requests.**

Applicant requests the Opposer to suspend the obligation to respond to his discovery requests be denied, since these are added evidence of Applicant's planning and are part of the totality of circumstances regarding applicant's bona fide intent-to-use the Tiger Shark mark.

**Conclusion**

Applicant respectfully requests the Opposer's Motion for Summary Judgment be denied since based on the total circumstances material facts are in dispute since regarding applicant's bona fide intent-to-use the Tiger Shark. Applicant's total actions show good faith efforts that are affirmative evidence of his bona fide intent-to-use the Tiger Shark mark. Thus Opposer has not met the necessary burden of showing the absence of any genuine dispute of material fact and that it is entitled to judgment as a matter of law. It follows the Opposer's Motion for Summary Judgment must be denied.

Respectfully submitted, Jonathan A Claypool.

Date: May 16, 2016

/Jonathan A Claypool/

Jonathan A Claypool  
Applicant

17062 Murphy Avenue, Irvine, CA 92614  
jclaypool@zymoresearch.com  
949-679-1190, Ext. 284

**CERTIFICATE OF SERVICE**

Applicant, Jonathan A Claypool, hereby certifies that a copy of this APPLICANT'S REPLY TO OPPOSER'S MOTION FOR SUMMARY JUDGMENT has been served upon Opposer HEINEKEN ASIA PACIFIC Pte. Ltd., via its counsel on May 16, 2016, by email at the following addresses:

kbukrinsky@mwe.com  
jdabney@mwe.com

McDermott Will & Emery LLP, The McDermott Building, 500 North Capitol Street, N.W.,  
Washington, DC 20001

/Jonathan A Claypool/  
Jonathan A Claypool  
Applicant

**Declaration**

Heineken Asia Pacific Ltd. (Opposer)  
(Tiger; Tiger plus Design)  
v.

Jonathan A Claypool (Applicant)  
(Tiger Shark)  
Application No.: 86/394137

Marks: TIGER SHARK vs TIGER; TIGER plus  
Design

For: **Opposition: No. 91220927**

**DECLARATION OF JONATHAN A CLAYPOOL OF APPLICANT'S  
REPLY TO SUMMARY JUDGMENT**

I, Jonathan A Claypool, do declare that:

1. I am over twenty-one years of age and am competent to make the following assertions.
2. I am a research scientist with a PhD in biology with extensive experience in molecular biology and yeast genetics. I also am a member of the Washington State Bar and am general and IP counsel at Zymo Research Corp. where I work in multiple roles conducting yeast and *E. coli* research having developed at least 7 products with one patent and one patent pending; assist with business development, as well as primarily manage most legal matters. I am also an accomplished brewer at small scale and have won awards for three beers in competitions.
3. I have personal knowledge of the facts set forth in this declaration and the authenticity of documents attached as exhibits to this declaration. I can and will testify to these facts in a court of law.



4 I am the applicant for the Tiger Shark mark, Application No 86/394137 and have searched to clear the mark and had upon filing and maintain a good faith bona fide intent-to-use the Tiger Shark mark in commerce for beer. I have prepared all responses to Opposer's first requests for production of document and things, interrogatories, and admissions (See below Exhibit 5 and 7; See also Opposer: Exhibits 4, 5 and 6, respectively). I assert that there are material facts in dispute, namely Opposer's collective contention that "...I have no bona fide intent to use the Tiger Shark mark..." (See Opposer's Statement of Undisputed Material Facts: 8, 9, and 11). The following exhibits and statement will show my affirmative activities that objectively show a good faith intent-to-use the Tiger Shark mark and thus support the above assertion that material facts are in dispute in this case.

5. I have been actively performing research and development on all aspect making beer from yeast strain selection, formulation of grain and hops, and fermentation parameters, starting before the Tiger Shark application and continuing with ongoing activities including taste testing by third parties. This research and development is not part of a written plan to "produce or manufacture" applicant's goods (See Opposer Request 30) since this activity is still in the research phase and is not yet ready for "producing or manufacturing" which are understood to mean large scale production of particular defined products (i.e. a specific beer). Here, no recipes, type of beer (lager, ale, steam, etc.) or fermentation parameters have been finalized and is dependent to changes being made from ongoing taste testing input from third parties for the beers under development. This research and development is designed to improve the beers and assign each to the marks including Tiger Shark based on the overall taste, look and feel as evaluated internally and externally.

6. I have a simple mental memorized plan that is in fact a basic business plan, simply not written: (1) Brand the beers with strong trademarks clear of conflicts; (2) Product excellent beers, (3)

finance a small brewery with a tap room to sell the beer as the man profit center while limiting debt and maintaining control. Though not formally written this is a bona fide and good faith plan.

7. Exhibit 1 to this declaration is a copy of the mark Subterranean filed contemporaneously on September 13, 2015 with the Tiger Shark mark.

8. I have spoken with Manuel Krispin, a former colleague and now Director of Research and Development at MDxHealth, with contacts to high net worth individuals about leading financing efforts for a brewery from about sometime in December 2014 till the present. He is interested in this project and asked me to file a trademark for Raccoon which he has a bona fide intent-to-use for beer in this regard.

9. Exhibit 2 to this declaration is a copy of the Raccoon mark filed on June 11, 2015.

10. I have selected, conducted clearance searches and then filed and actively prosecuted additional marks with a good faith bona fide intent-to-use for beer as part the plan set forth above in No. 6. This process was performed sufficiently contemporaneously to objectively show good faith bona fide intent-to-use the Tiger Shark and these marks for beer and. These added filings are few and all for the same goods, namely beer showing shows focus and a collective plan.

11. Exhibit 3 to this declaration is a copy of the Cobalt mark filed by applicant on June 06, 2015.

12. Exhibit 4 to this declaration is a copy of the Roman mark filed by applicant on June 06, 2015.

13. Exhibit 5 to this declaration is a copy of the Saxon mark filed by applicant on June 06, 2015.

14. Exhibit 6 to this declaration is a copy of the Tiger Shark mark filed by applicant on September 13, 2016.

15. Exhibit 7 to this declaration is a copy of the Tiger Shark Search submitted to Opposer on March 28, 2016.

Respectfully submitted, Jonathan A Claypool.

Date: 05/16/2016

*/Jonathan A. Claypool/*

Jonathan A Claypool, PhD  
Applicant

# **Exhibit 1**

Generated on: This page was generated by TSDR on 2016-05-14 16:02:36 EDT

Mark: SUBTERRANEAN

# Subterranean

US Serial Number: 86394132

Application Filing Date: Sep. 13, 2014

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: A second request for extension of time to file a Statement of Use has been granted.

Status Date: Apr. 26, 2016

Publication Date: Feb. 03, 2015

Notice of Allowance Date: Mar. 31, 2015

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## Mark Information

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Mark Literal Elements: SUBTERRANEAN

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

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## Goods and Services

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Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: Beer, ale and lager

International Class(es): 032 - Primary Class

U.S Class(es): 045, 046, 048

Class Status: ACTIVE

Basis: 1(b)

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## Basis Information (Case Level)

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Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: Yes

Currently ITU: Yes

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

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## Current Owner(s) Information

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Owner Name: Jonathan A Claypool

Owner Address: 17062 Murphy Ave.  
Irvine, CALIFORNIA 92614  
UNITED STATES

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

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## Attorney/Correspondence Information

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### Attorney of Record

**Attorney Name:** Jonathan A Claypool

**Attorney Primary Email Address:** [jclaypool@zymoresearch.com](mailto:jclaypool@zymoresearch.com)

**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** JONATHAN A CLAYPOOL  
ZYMO RESEARCH CORP.  
17062 MURPHY AVE  
IRVINE, CALIFORNIA 92614-5914  
UNITED STATES

**Phone:** 949-679-1190

**Fax:** 949-266-9452

**Correspondent e-mail:** [jclaypool@zymoresearch.com](mailto:jclaypool@zymoresearch.com)  
[jac@claypoolip.com](mailto:jac@claypoolip.com)

**Correspondent e-mail Authorized:** Yes

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Apr. 27, 2016	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Apr. 26, 2016	EXTENSION 2 GRANTED	75298
Mar. 31, 2016	EXTENSION 2 FILED	75298
Apr. 25, 2016	NOTICE OF REVIVAL - E-MAILED	
Apr. 25, 2016	EXTENSION RECEIVED WITH TEAS PETITION	
Apr. 25, 2016	PETITION TO REVIVE-GRANTED	88889
Apr. 25, 2016	TEAS PETITION TO REVIVE RECEIVED	
Oct. 07, 2015	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Oct. 06, 2015	EXTENSION 1 GRANTED	75298
Sep. 30, 2015	EXTENSION 1 FILED	75298
Oct. 05, 2015	CASE ASSIGNED TO INTENT TO USE PARALEGAL	75298
Sep. 30, 2015	TEAS EXTENSION RECEIVED	
Mar. 31, 2015	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Feb. 04, 2015	NOTICE OF PUBLICATION	
Feb. 03, 2015	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Feb. 03, 2015	PUBLISHED FOR OPPOSITION	
Jan. 14, 2015	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Dec. 27, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 27, 2014	ASSIGNED TO EXAMINER	76136
Sep. 20, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Sep. 17, 2014	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information

**TM Attorney:** PENDLETON, CAROLYN A

**Law Office Assigned:** LAW OFFICE 103

### File Location

**Current Location:** INTENT TO USE SECTION

**Date in Location:** Oct. 05, 2015

## Petition to Revive Abandoned Application - Failure to File Timely Statement of Use or Extension Request

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	86394132
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 103
<b>DATE OF NOTICE OF ABANDONMENT</b>	00/00/0000
<b>MARK SECTION</b>	
<b>MARK</b>	<a href="http://tmng-al.uspto.gov/resting2/api/img/86394132/large">http://tmng-al.uspto.gov/resting2/api/img/86394132/large</a>
<b>LITERAL ELEMENT</b>	SUBTERRANEAN
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>MARK STATEMENT</b>	The mark consists of standard characters, without claim to any particular font style, size or color.
<b>PETITION</b>	
<b>PETITION STATEMENT</b>	Applicant has firsthand knowledge that the failure to file an SOU or Extension Request by the specific deadline was unintentional, and requests the USPTO to revive the abandoned application.
<b>NOTICE OF ALLOWANCE</b>	Notice of Allowance was received by applicant.
<b>EXTENSION OF TIME TO FILE STATEMENT OF USE</b>	
<b>OWNER SECTION</b>	
<b>NAME</b>	Jonathan A Claypool
<b>STREET</b>	17062 Murphy Ave.
<b>CITY</b>	Irvine
<b>STATE</b>	California
<b>ZIP/POSTAL CODE</b>	92614
<b>COUNTRY</b>	United States
<b>PHONE</b>	949-679-1190
<b>FAX</b>	949-266-9452
<b>EMAIL</b>	jaclaypool@icloud.com
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	032
<b>CURRENT IDENTIFICATION</b>	Beer, ale and lager
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>EXTENSION SECTION</b>	

<b>EXTENSION PERIOD(S)</b>	2
<b>ONGOING EFFORT</b>	product or service research or development
<b>ALLOWANCE MAIL DATE</b>	03/31/2015
<b>PAYMENT SECTION</b>	
<b>PETITION FEE</b>	100
<b>NUMBER OF CLASSES IN USE</b>	1
<b>EXTENSION FEE</b>	150
<b>TOTAL AMOUNT</b>	250
<b>SIGNATURE SECTION</b>	
<b>PETITION SIGNATURE</b>	/Jonathan A Claypool/
<b>SIGNATORY'S NAME</b>	Jonathan A Claypool
<b>SIGNATORY'S POSITION</b>	Attorney of record
<b>DATE SIGNED</b>	04/25/2016
<b>SIGNATORY'S PHONE NUMBER</b>	949-6709-1190
<b>DECLARATION SIGNATURE</b>	/Jonathan A Claypool/
<b>SIGNATORY'S NAME</b>	Jonathan A Claypool
<b>SIGNATORY'S POSITION</b>	Attorney of record Washington state bar member
<b>DATE SIGNED</b>	04/25/2016
<b>SIGNATORY'S PHONE NUMBER</b>	9496791190
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Mon Apr 25 13:02:14 EDT 2016
<b>TEAS STAMP</b>	USPTO/PSE-XX.XX.XXX.XXX-2 0160425130214367796-86394 132-55072e0a95aae9b907494 79d5b89a75378aa9ef21139d4 b62430a9fa1c8cc794d-CC-10 884-20160425125307488842



## **Petition to Revive Abandoned Application - Failure to File Timely Statement of Use or Extension Request**

To the Commissioner for Trademarks:

**MARK:** SUBTERRANEAN(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86394132/large>)  
**SERIAL NUMBER:** 86394132

### **PETITION**

Signatory has firsthand knowledge that the failure to file an SOU or Extension Request by the specific deadline was unintentional, and requests the USPTO to revive the abandoned application.  
Notice of Allowance was received by applicant.

### **EXTENSION OF TIME TO FILE STATEMENT OF USE**

The applicant, Jonathan A Claypool, having an address of  
17062 Murphy Ave.  
Irvine, California 92614  
United States

requests revival of the application identified above, and submits extension(s) of time to file the Statement of Use under 37 C.F.R. Section 2.89.  
The Notice of Allowance mailing date was 03/31/2015.

The applicant is filing extension number(s): 2

The applicant has made the following ongoing efforts to use the mark in commerce on or in connection with each of those goods/services covered by the extension request: product or service research or development

For International Class 032:

Current identification: Beer, ale and lager

The applicant has a continued bona fide intention, and is entitled, to use the mark in commerce on or in connection with all of the goods/services listed in the Notice of Allowance or as subsequently modified for this specific class.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the petition fee.

A fee payment in the amount of \$150 will be submitted with the form, representing payment for the extension fee.

A fee payment in the total amount of \$250 will be submitted.

### **Petition**

Signature: /Jonathan A Claypool/ Date Signed: 04/25/2016

Signatory's Name: Jonathan A Claypool

Signatory's Position: Attorney of record

Signatory's Phone: 949-6709-1190

### **Declaration**

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

STATEMENTS FOR PETITION TO REVIVE: The signatory believes that he/she has firsthand knowledge that the applicant's failure to timely file a statement of use (SOU) or request for an extension of time to file a statement of use (extension request) was unintentional; and requests that the USPTO revive the application.

STATEMENTS FOR SOU: The signatory believes that: if the applicant is filing the SOU under 15 U.S.C. §1051(d), the applicant is the owner of the mark sought to be registered; **for a trademark or service mark application**, the applicant is using the mark in commerce on or in connection with all the goods/services in the notice of allowance or as subsequently modified; **for a collective trademark, collective service mark, or collective membership mark application**, the applicant is exercising legitimate control over the use of the mark in commerce by members on or in connection with the goods/services/collective membership organization in the notice of allowance or as subsequently modified; **for a certification mark application**, the applicant is exercising legitimate control over the use of the mark in commerce by authorized users on or in connection with the goods/services in the notice of allowance or as subsequently modified and the applicant is not engaged in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant; that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive; and the specimen(s) shows the mark as used on or in connection with the goods/services/collective membership organization in commerce.

STATEMENTS FOR EXTENSION REQUEST: The signatory believes that: if the applicant is filing the extension request under 15 U.S.C. §1051(d), **for a trademark or service mark application**, the applicant has a continued bona fide intention to use the mark in commerce on or in connection with all the goods/services under §1(b) in the notice of allowance or as subsequently modified; **for a collective trademark, collective service mark, or collective membership mark application**, the applicant has a bona fide intention to exercise legitimate control over the use of the mark in commerce by members on or in connection with the goods/services/collective membership organization in the notice of allowance or as subsequently modified; **for a certification mark application**, the applicant has a bona fide intention to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the goods/services in the notice of allowance or as subsequently modified and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant; and that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.

Signature: /Jonathan A Claypool/ Date Signed: 04/25/2016  
Signatory's Name: Jonathan A Claypool  
Signatory's Position: Attorney of record Washington state bar member  
Signatory's Phone: 9496791190

Serial Number: 86394132  
Internet Transmission Date: Mon Apr 25 13:02:14 EDT 2016  
TEAS Stamp: USPTO/PSE-XX.XX.XXX.XXX-2016042513021436  
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CC-10884-20160425125307488842

RAM SALE NUMBER: 86394132  
RAM ACCOUNTING DATE: 20160425

INTERNET TRANSMISSION DATE:  
2016/04/25

SERIAL NUMBER:  
86/394132

Description	Fee Code	Transaction	Total Fees Paid
POA	7005	2016/04/25	100
ESU	7004	2016/04/25	150

## Request for Extension of Time to File a Statement of Use (15 U.S.C. Section 1051(d))

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	86394132
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 103
<b>MARK SECTION</b>	
<b>MARK</b>	SUBTERRANEAN
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>LITERAL ELEMENT</b>	SUBTERRANEAN
<b>OWNER SECTION (current)</b>	
<b>NAME</b>	Jonathan A Claypool
<b>STREET</b>	17062 Murphy Ave.
<b>CITY</b>	Irvine
<b>STATE</b>	California
<b>ZIP/POSTAL CODE</b>	92614
<b>COUNTRY</b>	United States
<b>PHONE</b>	949-679-1190
<b>FAX</b>	949-266-9452
<b>EMAIL</b>	jclaypool@zymoresearch.com
<b>OWNER SECTION (proposed)</b>	
<b>NAME</b>	Jonathan A Claypool
<b>STREET</b>	17062 Murphy Ave.
<b>CITY</b>	Irvine
<b>STATE</b>	California
<b>ZIP/POSTAL CODE</b>	92614
<b>COUNTRY</b>	United States
<b>PHONE</b>	949-679-1190
<b>FAX</b>	949-266-9452
<b>EMAIL</b>	jaclaypool@icloud.com
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	032
<b>CURRENT IDENTIFICATION</b>	Beer, ale and lager

<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>EXTENSION SECTION</b>	
<b>EXTENSION NUMBER</b>	1
<b>ALLOWANCE MAIL DATE</b>	03/31/2015
<b>STATEMENT OF USE</b>	NO
<b>PAYMENT SECTION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>SUBTOTAL AMOUNT</b>	150
<b>TOTAL AMOUNT</b>	150
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/Jonathan A Claypool/
<b>SIGNATORY'S NAME</b>	Jonathan A Claypool
<b>SIGNATORY'S POSITION</b>	Attorney of record, Washington state bar member
<b>DATE SIGNED</b>	09/30/2015
<b>SIGNATORY'S PHONE NUMBER</b>	949-679-1190
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Wed Sep 30 21:47:04 EDT 2015
<b>TEAS STAMP</b>	USPTO/ESU-XX.XX.XXX.XXX-2 0150930214704288754-86394 132-5405f5d6b89fa3c54f7a7 3eb167827ace44f53e9e43915 5d181d0df62c270f3ab-CC-13 757-20150930213815851020

---

**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

**MARK:** SUBTERRANEAN  
**SERIAL NUMBER:** 86394132

The applicant, Jonathan A Claypool, having an address of  
17062 Murphy Ave.  
Irvine, California 92614  
United States

requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 03/31/2015.

For International Class 032:  
Current identification: Beer, ale and lager

For a trademark/service mark: The applicant has a continued bona fide intention, and is entitled, to use the mark in commerce on or in connection with all of the goods/services listed in the Notice of Allowance or as subsequently modified for this specific class; for a collective/certification mark: the applicant has a continued bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce on or in connection with the goods/services/collective membership organization listed in the Notice of Allowance, or as subsequently modified for this specific class.

This is the first extension request.

A fee payment in the amount of \$150 will be submitted with the form, representing payment for 1 class.

**Declaration**

STATEMENTS: The signatory believes that: the applicant has a continued bona fide intention, and is entitled, to use the mark in commerce on or in connection with all the goods/services under Section 1(b) in the notice of allowance or as subsequently modified, or, if applicable, the applicant has a continued bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce on or in connection with all the goods/services/collective membership organization under Section 1(b) in the notice of allowance or as subsequently modified; and that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, members and concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any resulting registration, declares that all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /Jonathan A Claypool/ Date Signed: 09/30/2015  
Signatory's Name: Jonathan A Claypool  
Signatory's Position: Attorney of record, Washington state bar member  
Signatory's Phone: 949-679-1190

RAM Sale Number: 86394132  
RAM Accounting Date: 10/01/2015

Serial Number: 86394132

Internet Transmission Date: Wed Sep 30 21:47:04 EDT 2015

TEAS Stamp: USPTO/ESU-XX.XX.XXX.XXX-2015093021470428

8754-86394132-5405f5d6b89fa3c54f7a73eb16

7827ace44f53e9e439155d181d0df62c270f3ab-

CC-13757-20150930213815851020

**TEAS ROUTING SHEET**

**To: INTENT TO USE UNIT**

**Work Loc: INTENT TO USE SECTION**

**Doc Type: Extension Request for SOU**



**Serial Number: 86394132**



**Mark: SUBTERRANEAN**

**Mail Date: 2015/09/30**



**Examiner Number: 76136**



**Examiner Name:  
PENDLETON, CAROLYN A**

**L.O. Assigned: LAW OFFICE 103**

**Special Instruction(s):**

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
Extension Request for SOU	7004	20150930	\$150	1	\$150



## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

Serial Number: 86394132

Filing Date: 09/13/2014

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<a href="#">Subterranean</a>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Subterranean
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Jonathan A Claypool
*STREET	17062 Murphy Ave.
*CITY	Irvine
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	92614
PHONE	949-679-1190
FAX	949-266-9452
EMAIL ADDRESS	jclaypool@zymoresearch.com
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	INDIVIDUAL
* COUNTRY OF CITIZENSHIP	United States
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
* INTERNATIONAL CLASS	032
*IDENTIFICATION	Beer, ale and lager

<b>*FILING BASIS</b>	SECTION 1(b)
<b>ADDITIONAL STATEMENTS INFORMATION</b>	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Jonathan A Claypool
<b>FIRM NAME</b>	Zymo Research Corp.
<b>STREET</b>	17062 Murphy Ave.
<b>CITY</b>	Irvine
<b>STATE</b>	California
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	92614
<b>PHONE</b>	949-679-1190
<b>FAX</b>	949-266-9452
<b>EMAIL ADDRESS</b>	jclaypool@zymoresearch.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>CORRESPONDENCE INFORMATION</b>	
*NAME	Jonathan A Claypool
<b>FIRM NAME</b>	Zymo Research Corp.
*STREET	17062 Murphy Ave.
*CITY	Irvine
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE	92614
<b>PHONE</b>	949-679-1190
<b>FAX</b>	949-266-9452
*EMAIL ADDRESS	jclaypool@zymoresearch.com;jac@claypoolip.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	275
*TOTAL FEE PAID	275

**SIGNATURE INFORMATION**

<b>* SIGNATURE</b>	/Jonathan A Claypool/
<b>* SIGNATORY'S NAME</b>	Jonathan A Claypool
<b>* SIGNATORY'S POSITION</b>	Attorney of record, Washington state bar member
<b>SIGNATORY'S PHONE NUMBER</b>	949-679-1190
<b>* DATE SIGNED</b>	09/13/2014

---

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

**Serial Number: 86394132**

**Filing Date: 09/13/2014**

#### To the Commissioner for Trademarks:

**MARK:** Subterranean (Standard Characters, see [mark](#))

The literal element of the mark consists of Subterranean.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Jonathan A Claypool, a citizen of United States, having an address of  
17062 Murphy Ave.  
Irvine, California 92614  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

#### For specific filing basis information for each item, you must view the display within the Input Table.

International Class 032: Beer, ale and lager

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

#### The applicant's current Attorney Information:

Jonathan A Claypool of Zymo Research Corp.  
17062 Murphy Ave.  
Irvine, California 92614  
United States

#### The applicant's current Correspondence Information:

Jonathan A Claypool  
Zymo Research Corp.  
17062 Murphy Ave.  
Irvine, California 92614  
949-679-1190(phone)  
949-266-9452(fax)  
jclaypool@zymoresearch.com;jac@claypoolip.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

#### Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the

right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Jonathan A Claypool/ Date Signed: 09/13/2014

Signatory's Name: Jonathan A Claypool

Signatory's Position: Attorney of record, Washington state bar member

RAM Sale Number: 86394132

RAM Accounting Date: 09/15/2014

Serial Number: 86394132

Internet Transmission Date: Sat Sep 13 20:35:04 EDT 2014

TEAS Stamp: USPTO/FTK-XX.XX.XXX.XXX-2014091320350440

0890-86394132-500e3979f3b683494a02311074

b8c2735e297b81285d4b357338d4a6a6a849f-CC

-6532-20140913202121353773

Subterranean

## **Exhibit 2**



United States Patent and Trademark Office

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Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Fri May 13 03:21:14 EDT 2016

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[LAST DOC](#)

Please logout when you are done to release system resources allocated for you.

List At:  OR  to record:  **Record 1 out of 2**

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[TTAB Status](#)
*( Use the "Back" button of the Internet Browser to return to TESS)*

# Raccoon

**Word Mark** RACCOON  
**Goods and Services** IC 032. US 045 046 048. G & S: **Beer**  
**Standard Characters Claimed**  
**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Serial Number** 86659898  
**Filing Date** June 11, 2015  
**Current Basis** 1B  
**Original Filing Basis** 1B  
**Published for Opposition** May 17, 2016  
**Owner** (APPLICANT) Manuel Krispin INDIVIDUAL FED REP GERMANY 23485 Caminito Norte Laguna Hills CALIFORNIA 92653  
**Attorney of Record** Jonathan A Claypool  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

[TESS HOME](#)
[NEW USER](#)
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Generated on: This page was generated by TSDR on 2016-05-16 20:08:53 EDT

Mark: RACCOON

# Raccoon

US Serial Number: 86659898

Application Filing Date: Jun. 11, 2015

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: Review prior to publication completed.

Status Date: Apr. 08, 2016

Publication Date: May 17, 2016

## Mark Information

Mark Literal Elements: RACCOON

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

## Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (..) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*.\* identify additional (new) wording in the goods/services.

For: Beer

International Class(es): 032 - Primary Class

U.S Class(es): 045, 046, 048

Class Status: ACTIVE

Basis: 1(b)

## Basis Information (Case Level)

Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: Yes

Currently ITU: Yes

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

## Current Owner(s) Information

Owner Name: Manuel Krispin

Owner Address: 23485 Caminito Norte  
Laguna Hills, CALIFORNIA 92653  
UNITED STATES

Legal Entity Type: INDIVIDUAL

Citizenship: GERMANY

## Attorney/Correspondence Information

Attorney of Record

**Attorney Name:** Jonathan A Claypool

**Docket Number:** 1727US

**Attorney Primary Email Address:** [jaclaypool@icloud.com](mailto:jaclaypool@icloud.com)

**Attorney Email Authorized:** Yes

**Correspondent**

**Correspondent Name/Address:** JONATHAN A CLAYPOOL  
68 Southwind  
Aliso Viejo, CALIFORNIA 92656  
UNITED STATES

**Phone:** 949-293-6278

**Correspondent e-mail:** [jaclaypool@icloud.com](mailto:jaclaypool@icloud.com) [jclaypool@zymoresearch.com](mailto:jclaypool@zymoresearch.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

## Prosecution History

Date	Description	Proceeding Number
Apr. 27, 2016	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Apr. 05, 2016	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 29, 2016	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Mar. 28, 2016	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Mar. 28, 2016	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Mar. 28, 2016	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Sep. 28, 2015	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Sep. 28, 2015	NON-FINAL ACTION E-MAILED	6325
Sep. 28, 2015	NON-FINAL ACTION WRITTEN	69225
Sep. 21, 2015	ASSIGNED TO EXAMINER	69225
Jun. 16, 2015	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jun. 15, 2015	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

**TM Staff Information**

**TM Attorney:** MILTON, PRISCILLA W

**Law Office Assigned:** LAW OFFICE 110

**File Location**

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Apr. 08, 2016



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451  
www.uspto.gov

Apr 27, 2016

## NOTICE OF PUBLICATION

1. Serial No.:  
86-659,898
2. Mark:  
RACCOON  
(STANDARD CHARACTER MARK)
3. International Class(es):  
32
4. Publication Date:  
May 17, 2016
5. Applicant:  
Manuel Krispin

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the *Official Gazette* on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a notice of allowance pursuant to section 13(b) of the Statute.

Copies of the trademark portion of the *Official Gazette* containing the publication of the mark may be obtained from:

The Superintendent of Documents  
U.S. Government Printing Office  
PO Box 371954  
Pittsburgh, PA 15250-7954  
Phone: 202-512-1800

By direction of the Commissioner.

---

**Email Address(es):**

jaclaypool@icloud.com  
jclaypool@zymoresearch.com

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

Serial Number: 86659898

Filing Date: 06/11/2015

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<a href="#">Raccoon</a>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Raccoon
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Manuel Krispin
*STREET	23485 Caminito Norte
*CITY	Laguna Hills
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	92653
PHONE	949-231-8152
EMAIL ADDRESS	manuel_krispin@email.de
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	INDIVIDUAL
* COUNTRY OF CITIZENSHIP	Germany
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
* INTERNATIONAL CLASS	032
*IDENTIFICATION	Beer
*FILING BASIS	SECTION 1(b)

<b>ADDITIONAL STATEMENTS INFORMATION</b>	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
<b>ATTORNEY INFORMATION</b>	
NAME	Jonathan A Claypool
ATTORNEY DOCKET NUMBER	1727US
STREET	254 Chiquita St.
CITY	Laguna Beach
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	92651
PHONE	949-293-6278
EMAIL ADDRESS	jaclaypool@icloud.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>CORRESPONDENCE INFORMATION</b>	
*NAME	Jonathan A Claypool
*STREET	254 Chiquita St.
*CITY	Laguna Beach
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE	92651
PHONE	949-293-6278
*EMAIL ADDRESS	jaclaypool@icloud.com;jclaypool@zymoresearch.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
*TOTAL FEE PAID	225
<b>SIGNATURE INFORMATION</b>	
* SIGNATURE	/Jonathan A Claypool/
* SIGNATORY'S NAME	Jonathan A Claypool

<b>* SIGNATORY'S POSITION</b>	Attorney of record, Washington state bar member
<b>SIGNATORY'S PHONE NUMBER</b>	949-293-6278
<b>* DATE SIGNED</b>	06/11/2015

---

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

Serial Number: 86659898

Filing Date: 06/11/2015

#### To the Commissioner for Trademarks:

**MARK:** Raccoon (Standard Characters, see [mark](#))

The literal element of the mark consists of Raccoon.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Manuel Krispin, a citizen of Germany, having an address of  
23485 Caminito Norte  
Laguna Hills, California 92653  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

#### For specific filing basis information for each item, you must view the display within the Input Table.

International Class 032: Beer

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services. (15 U.S.C. Section 1051(b)).

#### The applicant's current Attorney Information:

Jonathan A Claypool  
254 Chiquita St.  
Laguna Beach, California 92651  
United States

The attorney docket/reference number is 1727US.

#### The applicant's current Correspondence Information:

Jonathan A Claypool  
254 Chiquita St.  
Laguna Beach, California 92651  
949-293-6278(phone)  
jaclaypool@icloud.com;jclaypool@zymoresearch.com (authorized)

**E-mail Authorization:** I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

#### Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection



with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Jonathan A Claypool/ Date Signed: 06/11/2015  
Signatory's Name: Jonathan A Claypool  
Signatory's Position: Attorney of record, Washington state bar member

RAM Sale Number: 86659898  
RAM Accounting Date: 06/12/2015

Serial Number: 86659898  
Internet Transmission Date: Thu Jun 11 18:01:33 EDT 2015  
TEAS Stamp: USPTO/FTK-XX.XX.XXX.XXX-2015061118013397  
2097-86659898-530baeb197d38e42a6b4e59b6e  
6252f19666fe474d61a2981298d71ffa918a4629  
-CC-17484-20150611174841318798

Raccoon

## **Exhibit 3**

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

Serial Number: 86654104

Filing Date: 06/06/2015

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<a href="#">Cobalt</a>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Cobalt
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Jonathan A Claypool
*STREET	17062 Murphy Avenue
*CITY	Irvine
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	92614
PHONE	949-679-1190
FAX	949-266-9452
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	INDIVIDUAL
* COUNTRY OF CITIZENSHIP	United States
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
* INTERNATIONAL CLASS	032
*IDENTIFICATION	Ale; Beer; Lager
*FILING BASIS	SECTION 1(b)

<b>ADDITIONAL STATEMENTS INFORMATION</b>	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
<b>ATTORNEY INFORMATION</b>	
NAME	Jonathan A Claypool
ATTORNEY DOCKET NUMBER	1686US
FIRM NAME	Zymo Research Corp.
STREET	17062 Murphy Avenue
CITY	Irvine
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	92614
PHONE	949-679-1190
FAX	949-266-9452
EMAIL ADDRESS	jclaypool@zymoresearch.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>CORRESPONDENCE INFORMATION</b>	
*NAME	Jonathan A Claypool
FIRM NAME	Zymo Research Corp.
*STREET	17062 Murphy Avenue
*CITY	Irvine
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE	92614
PHONE	949-679-1190
FAX	949-266-9452
*EMAIL ADDRESS	jclaypool@zymoresearch.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225

<b>* TOTAL FEE PAID</b>	225
<b>SIGNATURE INFORMATION</b>	
<b>* SIGNATURE</b>	/Jonathan A Claypool/
<b>* SIGNATORY'S NAME</b>	Jonathsan A Claypool
<b>* SIGNATORY'S POSITION</b>	Attorney of record, Washington State bar member
<b>SIGNATORY'S PHONE NUMBER</b>	949-679-1190
<b>* DATE SIGNED</b>	06/06/2015

---

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

**Serial Number: 86654104**

**Filing Date: 06/06/2015**

#### To the Commissioner for Trademarks:

**MARK:** Cobalt (Standard Characters, see [mark](#))

The literal element of the mark consists of Cobalt.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Jonathan A Claypool, a citizen of United States, having an address of  
17062 Murphy Avenue  
Irvine, California 92614  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

#### For specific filing basis information for each item, you must view the display within the Input Table.

International Class 032: Ale; Beer; Lager

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services. (15 U.S.C. Section 1051(b)).

#### The applicant's current Attorney Information:

Jonathan A Claypool of Zymo Research Corp.  
17062 Murphy Avenue  
Irvine, California 92614  
United States

The attorney docket/reference number is 1686US.

#### The applicant's current Correspondence Information:

Jonathan A Claypool  
Zymo Research Corp.  
17062 Murphy Avenue  
Irvine, California 92614  
949-679-1190(phone)  
949-266-9452(fax)

jclaypool@zymoresearch.com (authorized)

**E-mail Authorization:** I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

#### Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the

applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Jonathan A Claypool/ Date Signed: 06/06/2015

Signatory's Name: Jonathsan A Claypool

Signatory's Position: Attorney of record, Washington State bar member

RAM Sale Number: 86654104

RAM Accounting Date: 06/08/2015

Serial Number: 86654104

Internet Transmission Date: Sat Jun 06 19:15:17 EDT 2015

TEAS Stamp: USPTO/FTK-XX.XX.XXX.XXX-2015060619151755

3968-86654104-53077b6466e1d16138eb470f2b

2251e196ff96d4d63e04eeb368972c69a62f9b0-

CC-7746-20150606190830687079



# Cobalt

## **Exhibit 4**

Generated on: This page was generated by TSDR on 2016-05-14 16:05:05 EDT

Mark: ROMAN

# Roman

US Serial Number: 86654098

Application Filing Date: Jun. 06, 2015

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: Notice of Allowance (NOA) sent (issued) to the applicant. Applicant must file a Statement of Use or Extension Request within six months of the NOA issuance date.

Status Date: Dec. 22, 2015

Publication Date: Oct. 27, 2015

Notice of Allowance Date: Dec. 22, 2015

## Mark Information

Mark Literal Elements: ROMAN

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

## Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (..) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*.\* identify additional (new) wording in the goods/services.

For: Beer; Lager

International Class(es): 032 - Primary Class

U.S Class(es): 045, 046, 048

Class Status: ACTIVE

Basis: 1(b)

## Basis Information (Case Level)

Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: Yes

Currently ITU: Yes

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

## Current Owner(s) Information

Owner Name: Jonathan A Claypool

Owner Address: 17062 Murphy Avenue  
Irvine, CALIFORNIA 92614  
UNITED STATES

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Jonathan A Claypool  
**Attorney Primary Email Address:** [jclaypool@zymoresearch.com](mailto:jclaypool@zymoresearch.com)  
**Docket Number:** 1683US  
**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** JONATHAN A CLAYPOOL  
Zymo Research Corp  
17062 Murphy Ave  
Irvine, CALIFORNIA 92614-5914  
UNITED STATES  
**Phone:** 949-679-1190  
**Fax:** 949-266-9452  
**Correspondent e-mail:** [jclaypool@zymoresearch.com](mailto:jclaypool@zymoresearch.com) [ahafers@zymoresearch.com](mailto:ahafers@zymoresearch.com)  
**Correspondent e-mail Authorized:** Yes

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Dec. 22, 2015	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Oct. 27, 2015	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Oct. 27, 2015	PUBLISHED FOR OPPOSITION	
Oct. 07, 2015	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Sep. 18, 2015	APPROVED FOR PUB - PRINCIPAL REGISTER	
Sep. 16, 2015	ASSIGNED TO EXAMINER	73708
Jun. 11, 2015	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jun. 10, 2015	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information

**TM Attorney:** MCMORROW, RONALD G  
**Law Office Assigned:** LAW OFFICE 118

### File Location

**Current Location:** INTENT TO USE SECTION  
**Date in Location:** Dec. 22, 2015

# Trademark/Service Mark Application, Principal Register

## TEAS Plus Application

Serial Number: 86654098

Filing Date: 06/06/2015

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<a href="#">Roman</a>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Roman
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Jonathan A Claypool
*STREET	17062 Murphy Avenue
*CITY	Irvine
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	92614
PHONE	949-579-1190
FAX	949-266-9452
EMAIL ADDRESS	jclaypool@zymoresearch.com
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	INDIVIDUAL
* COUNTRY OF CITIZENSHIP	United States
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
* INTERNATIONAL CLASS	032
*IDENTIFICATION	Beer; Lager

<b>*FILING BASIS</b>	SECTION 1(b)
<b>ADDITIONAL STATEMENTS INFORMATION</b>	
<b>*TRANSLATION</b> (if applicable)	
<b>*TRANSLITERATION</b> (if applicable)	
<b>*CLAIMED PRIOR REGISTRATION</b> (if applicable)	
<b>*CONSENT (NAME/LIKENESS)</b> (if applicable)	
<b>*CONCURRENT USE CLAIM</b> (if applicable)	
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Jonathan A Claypool
<b>ATTORNEY DOCKET NUMBER</b>	1683US
<b>FIRM NAME</b>	Zymo Research Corp.
<b>STREET</b>	17062 Murphy Avenue
<b>CITY</b>	Irvine
<b>STATE</b>	California
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	92614
<b>PHONE</b>	949-679-1190
<b>FAX</b>	949-266-9452
<b>EMAIL ADDRESS</b>	jclaypool@zymoresearch.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>CORRESPONDENCE INFORMATION</b>	
<b>*NAME</b>	Jonathan A Claypool
<b>FIRM NAME</b>	Zymo Research Corp.
<b>*STREET</b>	17062 Murphy Avenue
<b>*CITY</b>	Irvine
<b>*STATE</b> (Required for U.S. applicants)	California
<b>*COUNTRY</b>	United States
<b>*ZIP/POSTAL CODE</b>	92614
<b>PHONE</b>	949-679-1190
<b>FAX</b>	949-266-9452
<b>*EMAIL ADDRESS</b>	jclaypool@zymoresearch.com;ahafers@zymoresearch.com
<b>*AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>APPLICATION FILING OPTION</b>	TEAS Plus
<b>NUMBER OF CLASSES</b>	1

<b>FEE PER CLASS</b>	225
<b>*TOTAL FEE PAID</b>	225
<b>SIGNATURE INFORMATION</b>	
<b>* SIGNATURE</b>	/Jonathan A Claypool/
<b>* SIGNATORY'S NAME</b>	Jonathan A Claypool
<b>* SIGNATORY'S POSITION</b>	Attorney of record, Washington State bar member
<b>SIGNATORY'S PHONE NUMBER</b>	949-679-1190
<b>* DATE SIGNED</b>	06/06/2015

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## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

Serial Number: 86654098

Filing Date: 06/06/2015

#### To the Commissioner for Trademarks:

**MARK:** Roman (Standard Characters, see [mark](#))

The literal element of the mark consists of Roman.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Jonathan A Claypool, a citizen of United States, having an address of  
17062 Murphy Avenue  
Irvine, California 92614  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

#### For specific filing basis information for each item, you must view the display within the Input Table.

International Class 032: Beer; Lager

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services. (15 U.S.C. Section 1051(b)).

#### The applicant's current Attorney Information:

Jonathan A Claypool of Zymo Research Corp.  
17062 Murphy Avenue  
Irvine, California 92614  
United States

The attorney docket/reference number is 1683US.

#### The applicant's current Correspondence Information:

Jonathan A Claypool  
Zymo Research Corp.  
17062 Murphy Avenue  
Irvine, California 92614  
949-679-1190(phone)  
949-266-9452(fax)

jclaypool@zymoresearch.com;ahafers@zymoresearch.com (authorized)

**E-mail Authorization:** I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

#### Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the



applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Jonathan A Claypool/ Date Signed: 06/06/2015

Signatory's Name: Jonathan A Claypool

Signatory's Position: Attorney of record, Washington State bar member

RAM Sale Number: 86654098

RAM Accounting Date: 06/08/2015

Serial Number: 86654098

Internet Transmission Date: Sat Jun 06 18:45:42 EDT 2015

TEAS Stamp: USPTO/FTK-XX.XX.XXX.XXX-2015060618454201

6669-86654098-53098c5a76ba4dab1b1e93e098

86b8614bcb92d9c331d89e433b562627ec16b6e3

-CC-7729-20150606183819802743

Roman

## **Exhibit 5**

Generated on: This page was generated by TSDR on 2016-05-14 16:07:42 EDT

Mark: SAXON

# Saxon

US Serial Number: 86654097

Application Filing Date: Jun. 06, 2015

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/APPLICATION/Under Examination

The trademark application has been accepted by the Office (has met the minimum filing requirements) and that this application has been assigned to an examiner.

Status:

An Office action suspending further action on the application has been sent (issued) to the applicant. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Feb. 26, 2016

## Mark Information

Mark Literal Elements: SAXON

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

## Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: Beer

International Class(es): 032 - Primary Class

U.S Class(es): 045, 046, 048

Class Status: ACTIVE

Basis: 1(b)

## Basis Information (Case Level)

Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: Yes

Currently ITU: Yes

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

## Current Owner(s) Information

Owner Name: Jonathan A Claypool

**Owner Address:** 17062 Murphy Avenue  
Irvine, CALIFORNIA UNITED STATES 92614

**Legal Entity Type:** INDIVIDUAL

**Citizenship:** UNITED STATES

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Jonathan A Claypool  
**Attorney Primary Email Address:** [jclaypool@zymoresearch.com](mailto:jclaypool@zymoresearch.com)  
**Docket Number:** 1682US  
**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** JONATHAN A CLAYPOOL  
Zymo Research Corp  
17062 Murphy Ave  
Irvine, CALIFORNIA UNITED STATES 92614-5914  
**Phone:** 949-679-1190  
**Fax:** 949-266-9452  
**Correspondent e-mail:** [jclaypool@zymoresearch.com](mailto:jclaypool@zymoresearch.com) [ahafers@zymoresearch.com](mailto:ahafers@zymoresearch.com)  
**Correspondent e-mail Authorized:** Yes

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Mar. 02, 2016	UNDELIVERABLE MAIL - COURTESY COPY MAILED	99888
Feb. 26, 2016	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Feb. 26, 2016	LETTER OF SUSPENSION E-MAILED	6332
Feb. 26, 2016	SUSPENSION LETTER WRITTEN	73708
Feb. 23, 2016	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Feb. 22, 2016	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Feb. 22, 2016	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Sep. 18, 2015	UNDELIVERABLE MAIL - COURTESY COPY MAILED	88899
Sep. 17, 2015	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Sep. 17, 2015	NON-FINAL ACTION E-MAILED	6325
Sep. 17, 2015	NON-FINAL ACTION WRITTEN	73708
Sep. 17, 2015	PREVIOUS ALLOWANCE COUNT WITHDRAWN	
Sep. 17, 2015	APPROVED FOR PUB - PRINCIPAL REGISTER	
Sep. 16, 2015	ASSIGNED TO EXAMINER	73708
Jun. 11, 2015	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jun. 10, 2015	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information

**TM Attorney:** MCMORROW, RONALD G  
**Law Office Assigned:** LAW OFFICE 118

### File Location

**Current Location:** TMO LAW OFFICE 118- EXAMINING ATTORNEY ASSIGNED  
**Date in Location:** Feb. 26, 2016

## Response to Office Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	86654097
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 118
<b>MARK SECTION</b>	
<b>MARK</b>	<a href="http://tmng-al.uspto.gov/resting2/api/img/86654097/large">http://tmng-al.uspto.gov/resting2/api/img/86654097/large</a>
<b>LITERAL ELEMENT</b>	SAXON
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>MARK STATEMENT</b>	The mark consists of standard characters, without claim to any particular font style, size or color.
<b>ARGUMENT(S)</b>	
<p><b>Section 2d Refusal</b>                      The Examining Attorney has refused registration of the subject mark based on an the potential likelihood of confusion under Section 2(d) of the Trademark Act with the mark in U.S. Registration No. 0903977 (Saxony) and also noting that the prior pending application number 86474183 (Saxony Pilsner) could be cited similarly if it matures to a registration since its filing date precedes that of applicant.</p> <p>Applicant respectfully requests reconsideration of the refusal to register under Section 2(d) of the Trademark Act based on U.S. Registration No. 0903977 since this registered mark has been cancelled making the rejection mute. Thus applicant respectfully requests that the Examining Attorney withdraw the refusal to register under Section 2(d) of the Trademark Act.</p> <p>Applicant will present arguments in due course if application number 86474183 (Saxony Pilsner) matures to registration noting the potential for suspension of this case.</p> <p><b>Inquiry on Significance</b>                      Applicant does not know of any significance in the beer or brewing trade or industry for the term Saxon.</p>	
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/Jonathan A Claypool/
<b>SIGNATORY'S NAME</b>	Jonathan A Claypool
<b>SIGNATORY'S POSITION</b>	Attorney of record, Washington state bar member
<b>SIGNATORY'S PHONE NUMBER</b>	949-679-1190
<b>DATE SIGNED</b>	02/22/2016
<b>AUTHORIZED SIGNATORY</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Mon Feb 22 19:26:14 EST 2016
<b>TEAS STAMP</b>	USPTO/ROA-XX.XX.XXX.XXX-2 0160222192614392651-86654 097-5509af7c3ce2bc2120372 f8c65671165da53a0e58a4d55 d9b2cbae68d73279b1-N/A-N/ A-20160222191917542775

## Response to Office Action

### To the Commissioner for Trademarks:

Application serial no. **86654097** SAXON(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86654097/large>) has been amended as follows:

#### ARGUMENT(S)

**In response to the substantive refusal(s), please note the following:**

#### Section 2d Refusal

The Examining Attorney has refused registration of the subject mark based on an the potential likelihood of confusion under Section 2(d) of the Trademark Act with the mark in U.S. Registration No. 0903977 (Saxony) and also noting that the prior pending application number 86474183 (Saxony Pilsner) could be cited similarly if it matures to a registration since its filing date precedes that of applicant.

Applicant respectfully requests reconsideration of the refusal to register under Section 2(d) of the Trademark Act based on U.S. Registration No. 0903977 since this registered mark has been cancelled making the rejection mute. Thus applicant respectfully requests that the Examining Attorney withdraw the refusal to register under Section 2(d) of the Trademark Act.

Applicant will present arguments in due course if application number 86474183 (Saxony Pilsner) matures to registration noting the potential for suspension of this case.

#### Inquiry on Significance

Applicant does not know of any significance in the beer or brewing trade or industry for the term Saxon.

#### SIGNATURE(S)

##### Response Signature

Signature: /Jonathan A Claypool/ Date: 02/22/2016

Signatory's Name: Jonathan A Claypool

Signatory's Position: Attorney of record, Washington state bar member

Signatory's Phone Number: 949-679-1190

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 86654097

Internet Transmission Date: Mon Feb 22 19:26:14 EST 2016

TEAS Stamp: USPTO/ROA-XX.XX.XXX.XXX-2016022219261439

2651-86654097-5509af7c3ce2bc2120372f8c65

671165da53a0e58a4d55d9b2cbae68d73279b1-N

/A-N/A-20160222191917542775

# Trademark/Service Mark Application, Principal Register

## TEAS Plus Application

Serial Number: 86654097

Filing Date: 06/06/2015

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<a href="#">Saxon</a>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Saxon
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Jonathan A Claypool
*STREET	17062 Murphy Avenue
*CITY	Irvine
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	92614
PHONE	949-679-1190
FAX	949-266-9452
EMAIL ADDRESS	jclaypool@zymoresearch.com
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	INDIVIDUAL
* COUNTRY OF CITIZENSHIP	United States
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
*INTERNATIONAL CLASS	032
*IDENTIFICATION	Beer



<b>*FILING BASIS</b>	SECTION 1(b)
<b>ADDITIONAL STATEMENTS INFORMATION</b>	
<b>*TRANSLATION</b> (if applicable)	
<b>*TRANSLITERATION</b> (if applicable)	
<b>*CLAIMED PRIOR REGISTRATION</b> (if applicable)	
<b>*CONSENT (NAME/LIKENESS)</b> (if applicable)	
<b>*CONCURRENT USE CLAIM</b> (if applicable)	
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Jonathan A Claypool
<b>ATTORNEY DOCKET NUMBER</b>	1682US
<b>FIRM NAME</b>	Zymo Research Corp.
<b>STREET</b>	17062 Murphy Avenue
<b>CITY</b>	Irvine
<b>STATE</b>	California
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	92614
<b>PHONE</b>	949-679-1190
<b>FAX</b>	949-266-9452
<b>EMAIL ADDRESS</b>	jclaypool@zymoresearch.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>CORRESPONDENCE INFORMATION</b>	
<b>*NAME</b>	Jonathan A Claypool
<b>FIRM NAME</b>	Zymo Research Corp.
<b>*STREET</b>	17062 Murphy Avenue
<b>*CITY</b>	Irvine
<b>*STATE</b> (Required for U.S. applicants)	California
<b>*COUNTRY</b>	United States
<b>*ZIP/POSTAL CODE</b>	92614
<b>PHONE</b>	949-679-1190
<b>FAX</b>	949-266-9452
<b>*EMAIL ADDRESS</b>	jclaypool@zymoresearch.com;ahafers@zymoresearch.com
<b>*AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>APPLICATION FILING OPTION</b>	TEAS Plus
<b>NUMBER OF CLASSES</b>	1

<b>FEE PER CLASS</b>	225
<b>*TOTAL FEE PAID</b>	225
<b>SIGNATURE INFORMATION</b>	
<b>* SIGNATURE</b>	/Jonathan A Claypool/
<b>* SIGNATORY'S NAME</b>	Jonathan A Claypool
<b>* SIGNATORY'S POSITION</b>	Attorney of record, Washington bar member
<b>SIGNATORY'S PHONE NUMBER</b>	949-679-1190
<b>* DATE SIGNED</b>	06/06/2015

---

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

Serial Number: 86654097

Filing Date: 06/06/2015

#### To the Commissioner for Trademarks:

**MARK:** Saxon (Standard Characters, see [mark](#))

The literal element of the mark consists of Saxon.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Jonathan A Claypool, a citizen of United States, having an address of  
17062 Murphy Avenue  
Irvine, California 92614  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

#### For specific filing basis information for each item, you must view the display within the Input Table.

International Class 032: Beer

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services. (15 U.S.C. Section 1051(b)).

#### The applicant's current Attorney Information:

Jonathan A Claypool of Zymo Research Corp.  
17062 Murphy Avenue  
Irvine, California 92614  
United States

The attorney docket/reference number is 1682US.

#### The applicant's current Correspondence Information:

Jonathan A Claypool  
Zymo Research Corp.  
17062 Murphy Avenue  
Irvine, California 92614  
949-679-1190(phone)  
949-266-9452(fax)

jclaypool@zymoresearch.com;ahafers@zymoresearch.com (authorized)

**E-mail Authorization:** I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

#### Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the

applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Jonathan A Claypool/ Date Signed: 06/06/2015  
Signatory's Name: Jonathan A Claypool  
Signatory's Position: Attorney of record, Washington bar member

RAM Sale Number: 86654097  
RAM Accounting Date: 06/08/2015

Serial Number: 86654097  
Internet Transmission Date: Sat Jun 06 18:35:31 EDT 2015  
TEAS Stamp: USPTO/FTK-XX.XX.XXX.XXX-2015060618353106  
6687-86654097-5306174d6bba265921ef42983a  
4ea3adfa0f8747b18f0606e05aee4a23d8382a8-  
CC-7720-20150606182313505914

Saxon

## **Exhibit 6**

Generated on: This page was generated by TSDR on 2016-03-26 16:19:07 EDT

Mark: TIGER SHARK

# Tiger Shark

US Serial Number: 86394137

Application Filing Date: Sep. 13, 2014

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Mar. 05, 2015

Publication Date: Feb. 03, 2015

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## Mark Information

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Mark Literal Elements: TIGER SHARK

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

---

## Goods and Services

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Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: Beer

International Class(es): 032 - Primary Class

U.S Class(es): 045, 046, 048

Class Status: ACTIVE

Basis: 1(b)

---

## Basis Information (Case Level)

---

Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: Yes

Currently ITU: Yes

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

---

## Current Owner(s) Information

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Owner Name: Jonathan A Claypool

Owner Address: 17062 Murphy Ave.  
Irvine, CALIFORNIA UNITED STATES 92614

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

---

## Attorney/Correspondence Information

---

**Attorney of Record**

**Attorney Name:** Jonathan A Claypool **Docket Number:** 1026US  
**Attorney Primary Email Address:** [jclaypool@zymoresearch.com](mailto:jclaypool@zymoresearch.com) **Attorney Email Authorized:** Yes

**Correspondent**

**Correspondent Name/Address:** JONATHAN A CLAYPOOL  
 17062 MURPHY AVE  
 IRVINE, CALIFORNIA UNITED STATES 92614-5914  
**Phone:** 949-679-1190 **Fax:** 949-266-9452  
**Correspondent e-mail:** [jclaypool@zymoresearch.com](mailto:jclaypool@zymoresearch.com) [jac@claypoolip.com](mailto:jac@claypoolip.com) **Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found****Prosecution History**

Date	Description	Proceeding Number
Mar. 05, 2015	OPPOSITION INSTITUTED NO. 999999	220927
Mar. 05, 2015	OPPOSITION PAPERS RECEIVED AT TTAB	
Feb. 03, 2015	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Feb. 03, 2015	PUBLISHED FOR OPPOSITION	
Jan. 14, 2015	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Dec. 27, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 27, 2014	ASSIGNED TO EXAMINER	76136
Sep. 20, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Sep. 17, 2014	NEW APPLICATION ENTERED IN TRAM	

**TM Staff and Location Information****TM Staff Information**

**TM Attorney:** PENDLETON, CAROLYN A **Law Office Assigned:** LAW OFFICE 103

**File Location**

**Current Location:** PUBLICATION AND ISSUE SECTION **Date in Location:** Dec. 29, 2014

**Proceedings****Summary**

**Number of Proceedings:** 1

**Type of Proceeding: Opposition**

**Proceeding Number:** [91220927](#) **Filing Date:** Mar 05, 2015  
**Status:** Pending **Status Date:** Mar 05, 2015  
**Interlocutory Attorney:** YONG OH (RICHARD) KIM

**Defendant**

**Name:** Jonathan A Claypool  
**Correspondent Address:** JONATHAN A CLAYPOOL  
 17062 MURPHY AVE  
 IRVINE CA UNITED STATES , 92614-5914  
**Correspondent e-mail:** [jclaypool@zymoresearch.com](mailto:jclaypool@zymoresearch.com); [jac@claypool](mailto:jac@claypool)

**Associated marks**

Mark	Application Status	Serial Number	Registration Number
TIGER SHARK	Opposition Pending	<a href="#">86394137</a>	

**Plaintiff(s)**

**Name:** HEINEKEN ASIA PACIFIC Pte. Ltd.



**Correspondent** JOHN J DABNEY  
**Address:** MCDERMOTT WILL & EMERY LLP  
 500 NORTH CAPITOL ST NW  
 WASHINGTON DC UNITED STATES , 20001

**Correspondent e-mail:** [jdabney@mwe.com](mailto:jdabney@mwe.com) , [dciplit@mwe.com](mailto:dciplit@mwe.com) , [kbukrinsky@mwe.com](mailto:kbukrinsky@mwe.com)

<b>Associated marks</b>			
<b>Mark</b>	<b>Application Status</b>	<b>Serial Number</b>	<b>Registration Number</b>
TIGER	739	<a href="#">79022061</a>	<a href="#">3294199</a>
TIGER	739	<a href="#">79021877</a>	<a href="#">3318461</a>

<b>Prosecution History</b>			
<b>Entry Number</b>	<b>History Text</b>	<b>Date</b>	<b>Due Date</b>
1	FILED AND FEE	Mar 05, 2015	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Mar 05, 2015	Apr 14, 2015
3	PENDING, INSTITUTED	Mar 05, 2015	
4	ANSWER	Apr 11, 2015	
5	STIP TO SUSP PEND SETTL NEGOTIATIONS	Jun 12, 2015	
6	SUSPENDED	Jun 12, 2015	
7	STIP TO SUSP PEND SETTL NEGOTIATIONS	Jul 10, 2015	
8	SUSPENDED	Jul 10, 2015	
9	STIP FOR EXT	Aug 06, 2015	
10	EXTENSION OF TIME GRANTED	Aug 06, 2015	
11	STIP TO SUSP PEND SETTL NEGOTIATIONS	Oct 20, 2015	
12	SUSPENDED	Oct 20, 2015	

---

**From:** TMOOfficialNotices@USPTO.GOV  
**Sent:** Tuesday, February 3, 2015 00:32 AM  
**To:** jclaypool@zymoresearch.com  
**Cc:** jac@claypoolip.com  
**Subject:** Official USPTO Notice of Publication Confirmation: U.S. Trademark SN 86394137: TIGER SHARK: Docket/Reference No. 1026US

---

### **TRADEMARK OFFICIAL GAZETTE PUBLICATION CONFIRMATION**

**U.S. Serial Number:** 86394137  
**Mark:** TIGER SHARK  
**International Class(es):** 032  
**Owner:** Jonathan A Claypool  
**Docket/Reference Number:** 1026US

The mark identified above has been published in the Trademark Official Gazette (TMOG) on Feb 03, 2015.

#### **To Review the Mark in the TMOG:**

Click on the following link or paste the URL into an internet browser: <https://tmog.uspto.gov/#issueDate=2015-02-03&serialNumber=86394137>

On the publication date or shortly thereafter, the applicant should carefully review the information that appears in the TMOG for accuracy. If any information is incorrect due to USPTO error, the applicant should immediately email the requested correction to [TMPostPubQuery@uspto.gov](mailto:TMPostPubQuery@uspto.gov). For applicant corrections or amendments after publication, please file a post publication amendment using the form available at <http://teasroa.uspto.gov/ppa/>. For general information about this notice, please contact the Trademark Assistance Center at 1-800-786-9199.

#### **Significance of Publication for Opposition:**

- \* Any party who believes it will be damaged by the registration of the mark may file a notice of opposition (or extension of time therefor) with the Trademark Trial and Appeal Board. If no party files an opposition or extension request within thirty (30) days after the publication date, then eleven (11) weeks after the publication date a notice of allowance (NOA) should issue. (Note: The applicant must file a complete Statement of Use or Extension Request with the required fees within six (6) months after the NOA issues to avoid abandonment of the application.)

To check the status of the application, go to [http://tsdr.uspto.gov/#caseNumber=86394137&caseType=SERIAL\\_NO&searchType=statusSearch](http://tsdr.uspto.gov/#caseNumber=86394137&caseType=SERIAL_NO&searchType=statusSearch) or contact the Trademark Assistance Center at 1-800-786-9199. Please check the status of the application at least every three (3) months after the application filing date.

To view this notice and other documents for this application on-line, go to [http://tsdr.uspto.gov/#caseNumber=86394137&caseType=SERIAL\\_NO&searchType=documentSearch](http://tsdr.uspto.gov/#caseNumber=86394137&caseType=SERIAL_NO&searchType=documentSearch). NOTE: This notice will only become available on-line the next business day after receipt of this e-mail.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451  
www.uspto.gov

Jan 14, 2015

## NOTICE OF PUBLICATION

1. Serial No.:  
86-394,137
2. Mark:  
TIGER SHARK  
(STANDARD CHARACTER MARK)
3. International Class(es):  
32
4. Publication Date:  
Feb 3, 2015
5. Applicant:  
Jonathan A Claypool

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the *Official Gazette* on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a notice of allowance pursuant to section 13(b) of the Statute.

Copies of the trademark portion of the *Official Gazette* containing the publication of the mark may be obtained from:

The Superintendent of Documents  
U.S. Government Printing Office  
PO Box 371954  
Pittsburgh, PA 15250-7954  
Phone: 202-512-1800

By direction of the Commissioner.

---

**Email Address(es):**

jclaypool@zymoresearch.com  
jac@claypoolip.com

---

**From:** TMOfficialNotices@USPTO.GOV  
**Sent:** Wednesday, January 14, 2015 03:34 AM  
**To:** jclaypool@zymoresearch.com  
**Cc:** jac@claypoolip.com  
**Subject:** Official USPTO Notification of Notice of Publication: U.S. Trademark SN 86394137: TIGER SHARK: Docket/Reference No. 1026US

---

NOTIFICATION OF "NOTICE OF PUBLICATION"

Your trademark application (Serial No. 86394137) is scheduled to publish in the *Official Gazette* on Feb 3, 2015 . To preview the Notice of Publication, go to <http://tdr.uspto.gov/search.action?sn=86394137>. If you have difficulty accessing the Notice of Publication, contact [TDR@uspto.gov](mailto:TDR@uspto.gov).

**PLEASE NOTE:**

1. The Notice of Publication may not be immediately available but will be viewable within 24 hours of this e-mail notification.
2. You will receive a second e-mail on the actual "Publication Date," which will include a link to the issue of the *Official Gazette* in which the mark has published.

Do NOT hit "Reply" to this e-mail notification. If you have any questions about the content of the Notice of Publication, contact [TMPostPubQuery@uspto.gov](mailto:TMPostPubQuery@uspto.gov).

**Trademark Snap Shot Publication Stylesheet**  
(Table presents the data on Publication Approval)

**OVERVIEW**

SERIAL NUMBER	86394137	FILING DATE	09/13/2014
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	PENDLETON, CAROLYN A	L.O. ASSIGNED	103

**PUB INFORMATION**

RUN DATE	12/30/2014
PUB DATE	02/03/2015
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE
STATUS DATE	12/29/2014
LITERAL MARK ELEMENT	TIGER SHARK

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	RE PUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	TIGER SHARK
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

**CURRENT OWNER INFORMATION**

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Jonathan A Claypool
ADDRESS	17062 Murphy Ave. Irvine, CA 92614
ENTITY	01-INDIVIDUAL

CITIZENSHIP	United States of America
-------------	--------------------------

**GOODS AND SERVICES**

INTERNATIONAL CLASS	032
DESCRIPTION TEXT	Beer

**GOODS AND SERVICES CLASSIFICATION**

INTERNATIONAL CLASS	032	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
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**MISCELLANEOUS INFORMATION/STATEMENTS**

CHANGE IN REGISTRATION	NO
------------------------	----

**PROSECUTION HISTORY**

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
12/27/2014	CNSA	P	APPROVED FOR PUB - PRINCIPAL REGISTER	004
12/27/2014	DOCK	D	ASSIGNED TO EXAMINER	003
09/20/2014	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
09/17/2014	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

**CURRENT CORRESPONDENCE INFORMATION**

ATTORNEY	Jonathan A Claypool
CORRESPONDENCE ADDRESS	JONATHAN A CLAYPOOL 17062 MURPHY AVE IRVINE, CA 92614-5914
DOMESTIC REPRESENTATIVE	NONE

# Tiger Shark

\*\*\* User:cpendleton \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	3102	N/A	0	0	0:01	*TIGER*[bi,ti]
02	2265	N/A	0	0	0:01	*SHAR{"CKQX"}*[bi,ti]
03	55	37	18	14	0:01	1 AND 2
04	793	N/A	0	0	0:02	1 AND "032"[CC]
05	492	N/A	0	0	0:02	2 AND "032"[CC]
06	329	N/A	0	0	0:01	4 not dead[ld]
07	190	0	190	1	0:02	5 not dead[ld]
08	40	0	40	8	0:01	6 AND ("032" a b 200)[ic]

Session started 12/27/2014 6:47:52 PM

Session finished 12/27/2014 6:51:02 PM

Total search duration 0 minutes 11 seconds

Session duration 3 minutes 10 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 86394137



# Tiger Shark

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

Serial Number: 86394137

Filing Date: 09/13/2014

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<a href="#">Tiger Shark</a>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Tiger Shark
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Jonathan A Claypool
*STREET	17062 Murphy Ave.
*CITY	Irvine
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	92614
PHONE	949-679-1190
FAX	949-266-9452
EMAIL ADDRESS	jclaypool@zymoresearch.com
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	INDIVIDUAL
* COUNTRY OF CITIZENSHIP	United States
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
* INTERNATIONAL CLASS	032
*IDENTIFICATION	Beer

<b>*FILING BASIS</b>	SECTION 1(b)
<b>ADDITIONAL STATEMENTS INFORMATION</b>	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
<b>ATTORNEY INFORMATION</b>	
NAME	Jonathan A Claypool
ATTORNEY DOCKET NUMBER	1026US
STREET	17062 Murphy Ave.
CITY	Irvine
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	92614
PHONE	949-679-1190
FAX	949-266-9452
EMAIL ADDRESS	jclaypool@zymoresearch.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>CORRESPONDENCE INFORMATION</b>	
*NAME	Jonathan A Claypool
*STREET	17062 Murphy Ave.
*CITY	Irvine
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE	92614
PHONE	949-679-1190
FAX	949-266-9452
*EMAIL ADDRESS	jclaypool@zymoresearch.com;jac@claypoolip.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275
<b>SIGNATURE INFORMATION</b>	

<b>* SIGNATURE</b>	/Jonathan A Claypool/
<b>* SIGNATORY'S NAME</b>	Jonathan A Claypool/
<b>* SIGNATORY'S POSITION</b>	Attorney of record, Washington state bar member
<b>SIGNATORY'S PHONE NUMBER</b>	949-679-1190
<b>* DATE SIGNED</b>	09/13/2014

---

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

Serial Number: 86394137

Filing Date: 09/13/2014

#### To the Commissioner for Trademarks:

**MARK:** Tiger Shark (Standard Characters, see [mark](#))

The literal element of the mark consists of Tiger Shark.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Jonathan A Claypool, a citizen of United States, having an address of  
17062 Murphy Ave.  
Irvine, California 92614  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

#### For specific filing basis information for each item, you must view the display within the Input Table.

International Class 032: Beer

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

#### The applicant's current Attorney Information:

Jonathan A Claypool  
17062 Murphy Ave.  
Irvine, California 92614  
United States

The attorney docket/reference number is 1026US.

#### The applicant's current Correspondence Information:

Jonathan A Claypool  
17062 Murphy Ave.  
Irvine, California 92614  
949-679-1190(phone)  
949-266-9452(fax)  
jclaypool@zymoresearch.com;jac@claypoolip.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

#### Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and

the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Jonathan A Claypool/ Date Signed: 09/13/2014  
Signatory's Name: Jonathan A Claypool/  
Signatory's Position: Attorney of record, Washington state bar member

RAM Sale Number: 86394137  
RAM Accounting Date: 09/15/2014

Serial Number: 86394137  
Internet Transmission Date: Sat Sep 13 21:32:54 EDT 2014  
TEAS Stamp: USPTO/FTK-XX.XX.XXX.XXX-2014091321325484  
9348-86394137-5006e5edb21378531b5ad14ed8  
554e6f1a38187ee7dbf74b10393527cdcac691ef  
-CC-6548-20140913212605107812

# Tiger Shark

## **Exhibit 7**





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Refine Search Tiger [BI] and Shark[BI] and Live[LD] Submit

Current Search: S4: Tiger [BI] and Shark[BI] and Live[LD] docs: 16 occ: 50

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	86376637	008	TIGER SHARK	TSDR	LIVE
2	86066653	007	TIGER SHARK	TSDR	LIVE
3	85486774	4411617	TIGERSHARK	TSDR	LIVE
4	85262501	4041427	TIGERSHARK	TSDR	LIVE
5	85215420	4006182	TIGER SHARK	TSDR	LIVE
6	85201525	3993894	TIGERSHARK	TSDR	LIVE
7	79037693	3587221	TIGERSHARK	TSDR	LIVE
8	78318162	2947800	F-20 TIGERSHARK	TSDR	LIVE
9	78331217	2936190	TIGERSHARC	TSDR	LIVE
10	78240730	2973233	TIGER SHARK	TSDR	LIVE
11	77500153	3586064	TIGER SHARK	TSDR	LIVE
12	75525120	2346109	TIGERSHARK	TSDR	LIVE
13	75281081	2156760	TIGER SHARK	TSDR	LIVE
14	75080147	2265943	TIGER SHARK	TSDR	LIVE
15	75080146	2273213	TIGER SHARK	TSDR	LIVE
16	74103429	1708010	TIGER SHARK	TSDR	LIVE

Saws  
Pumps  
Auto engines / 012  
Huge Fans / 036  
Drum / 028  
Earplugs / 001  
Skis & snowboards / 028  
Fan model planes / 028  
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**(This page: 1 ~ 17)**

 Refine Search  

Current Search: S1: tiger[BI] and shark[BI] and live[LD] docs: 17 occ: 53

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	86394137		TIGER SHARK	TSDR	LIVE
2	86376637		TIGER SHARK	TSDR	LIVE
3	86066653		TIGER SHARK	TSDR	LIVE
4	85486774	4411617	TIGERSHARK	TSDR	LIVE
5	85262501	4041427	TIGERSHARK	TSDR	LIVE
6	85215420	4006182	TIGER SHARK	TSDR	LIVE
7	85201525	3993894	TIGERSHARK	TSDR	LIVE
8	79037693	3587221	TIGERSHARK	TSDR	LIVE
9	78318162	2947800	F-20 TIGERSHARK	TSDR	LIVE
10	78331217	2936190	TIGERSHARC	TSDR	LIVE
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14	75281081	2156760	TIGER SHARK	TSDR	LIVE
15	75080147	2265943	TIGER SHARK	TSDR	LIVE
16	75080146	2273213	TIGER SHARK	TSDR	LIVE
17	74103429	1708010	TIGER SHARK	TSDR	LIVE

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