

ESTTA Tracking number: **ESTTA697761**

Filing date: **09/23/2015**

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

Proceeding	91223370
Party	Defendant Bar 25 LLC
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Attachments	00139779.PDF(280735 bytes)

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

B C MARKETING CONCEPTS, INC.)
d/b/a FULL SAIL BREWING COMPANY)
)
Opposer,)
)
)
v.)
)
BAR 25 LLC d/b/a MARKET GARDEN)
BREWERY,)
)
Applicant.)
_____)

Opposition No. 91223370

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Without prejudice to Bar 25, LLC d/b/a Market Garden Brewery’s (“Applicant”) pending motion to stay this opposition proceeding until resolution of other proceedings before the Trademark Trial and Appeal Board, Applicant, by and through counsel, states the following in answer to the Notice of Opposition filed by B.C. Marketing Concepts, Inc. d/b/a Full Sail Brewing Company (“Opposer”) in the above-captioned proceeding.

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant answers the numbered paragraphs set forth in the Notice of Opposition as follows:

1. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations, set forth in Paragraph 1, that “Opposer, B C Marketing Concepts, Inc. dba Full Sail Brewing Company, is a manufacturer and distributor of brewed malt based alcoholic beverages, namely beer, ales and lagers and the owner of intellectual property rights.” Applicant denies the allegation, set forth in Paragraph 1, that Opposer owns any exclusive “rights to use SESSION for brewed malt based alcoholic beverages, including beer, ales and lagers.”

2. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations, set forth in Paragraph 2, that “Opposer has marketed brewed malt based alcoholic beverages, namely beer, ales and lagers throughout the United States under the well-known name SESSION since at least May 10, 2005.” Applicant admits the allegation, set forth in Paragraph 2, that Opposer “owns Reg. No. 3,113,041, registered July 4, 2006 for the mark SESSION.” Applicant admits the allegation, set forth in Paragraph 2, that “[a] copy of Reg. No. 3,113,041 is attached” to the Notice of Opposition.

3. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations, set forth in Paragraph 3, that “Opposer has marketed beer, ale and lager; brewed malt based alcoholic beverages in the nature of beer throughout the United States under the well-known name SESSION & Design since at least May 10, 2005.” Applicant admits the allegation, set forth in Paragraph 3, that Opposer “owns Reg. No. 4,224,510, registered October 16, 2012 for the mark SESSION & Design.” Applicant admits the allegation, set forth in Paragraph 3, that “[a] copy of Reg. No. 4,224,510 is attached” to the Notice of Opposition.

4. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations, set forth in Paragraph 4, that “Opposer has marketed beer, ale and lager; brewed malt based alcoholic beverages in the nature of beer throughout the United States under the well-known name SESSION in a stylized format since at least May 10, 2005.” Applicant admits the allegation, set forth in Paragraph 4, that Opposer “owns Reg. No. 4,224,511, registered October 16, 2012 for the mark SESSION (Stylized).” Applicant admits the allegation, set forth in Paragraph 4, that “[a] copy of Reg. No. 4,224,511 is attached” to the Notice of Opposition.

5. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations, set forth in Paragraph 5, that “Opposer has marketed brewed malt based alcoholic beverages in the nature of a beer; lagers throughout the United States under the well-known name

SESSION FEST since at least October 1, 2011.” Applicant admits the allegation, set forth in Paragraph 5, that Opposer “owns Reg. No. 4,265,584, registered December 25, 2012 for the mark SESSION FEST.” Applicant admits the allegation, set forth in Paragraph 5, that “[a] copy of Reg. No. 4,265,584 is attached” to the Notice of Opposition.

6. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations, set forth in Paragraph 6, that “Opposer has marketed brewed malt based alcoholic beverages in the nature of a beer; lagers throughout the United States under the well-known name SESSION LAGER since at least May 10, 2005.” Applicant admits the allegation, set forth in Paragraph 6, that Opposer “owns Reg. No. 4,265,585, registered December 25, 2012, for the mark SESSION LAGER.” Applicant admits the allegation, set forth in Paragraph 6, that “[a] copy of Reg. No. 4,265,585 is attached” to the Notice of Opposition.

7. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations, set forth in Paragraph 7, that “Opposer has marketed brewed malt based alcoholic beverages in the nature of a beer; lagers throughout the United States under the well-known name SESSION BLACK since at least June 24, 2009.” Applicant admits the allegation, set forth in Paragraph 7, that Opposer “owns Reg. No. 4,265,586, registered December 25, 2012 for the mark SESSION BLACK.” Applicant admits the allegation, set forth in Paragraph 7, that “[a] copy of Reg. No. 4,265,586 is attached” to the Notice of Opposition.

8. Applicant denies the allegations set forth in Paragraph 8.

9. Applicant denies the allegations set forth in Paragraph 9.

10. Applicant denies the allegations set forth in Paragraph 10.

11. Applicant denies the allegation, set forth in Paragraph 11, that Opposer has “rights in and to its SESSION marks.” Applicant admits the allegation, set forth in Paragraph 11, that Applicant on “February 13, 2015, filed an application for registration of the mark HOP DRIVE SESSION IPA

for beer.” Applicant admits the allegation, set forth in Paragraph 11, that Applicant’s “application was given Serial No. 86534177, and published for opposition in the Official Gazette on July 21, 2015.”

12. Applicant denies the allegations set forth in Paragraph 12.

Applicant further denies that Opposer is entitled to the relief that it seeks. In all other respects, to the extent any allegation in the Notice of Opposition has not been specifically admitted herein, such allegation is hereby denied.

WHEREFORE, Applicant prays that Applicant’s application for registration be granted.

APPLICANT’S AFFIRMATIVE DEFENSES

13. To the extent Opposer’s alleged marks are comprised of the word “session,” Opposer’s rights in and to any such portion of its alleged trademarks are generic and, therefore, inherently unprotectable.

Respectfully submitted,

**BAR 25 LLC dba MARKET GARDEN
BREWERY**

Dated: September 24, 2015

 /s/ James Niehaus
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Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Applicant's Answer to Notice of Opposition** has been served on B.C. Marketing Concepts Inc. d/b/a Full Sail Brewing Company by mailing said copy via First Class Mail, postage prepaid, to:

Sheila Fox Morrison
1300 S.W. 5th Avenue, Suite 2400
Portland, Oregon 97201

on this 24th day of September, 2015

 /s/ James Niehaus
James Niehaus

CERTIFICATE OF TRANSMITTAL

I certify that the attached Applicant's Answer to Notice of Opposition is being filed electronically with the TTAB via ESTTA on September 24, 2015.

_____/s/ James Niehaus
James Niehaus