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

Proceeding	91227783
Party	Defendant The Craft Beer Attorney, APC
Correspondence Address	CANDACE L MOON THE CRAFT BEER ATTORNEY 5095 MURPHY CANYON RD , STE 240 SAN DIEGO, CA 92123 UNITED STATES tm@craftbeerattorney.com, TM@craftbeerattorney.com
Submission	Motion to Consolidate
Filer's Name	Karen Hawkes
Filer's e-mail	karen@craftbeerattorney.com, candace@craftbeerattorney.com, tanya@craftbeerattorney.com
Signature	/Karen Hawkes/
Date	06/08/2016
Attachments	MTC - Eugene Pak.pdf(409387 bytes)

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

In the Matter of Application Serial Number **86/504,533**
For the mark **CRAFT BEER ATTORNEY**
Published in the Official Gazette on **January 5, 2016**

_____)	
EUGENE M. PAK,)	
)	
)	
Opposer,)	Opposition No.: 91227647 (Parent <i>proposed</i>),
)	91227650, 91227651, 91227673, 91227681,
)	91227689, 91277691, 91227703, 91227705,
)	91227706, and 91227783
v.)	
)	
)	
THE CRAFT BEER ATTORNEY, APC,)	
)	
)	
Applicant.)	
_____)	

APPLICANT’S MOTION TO CONSOLIDATE

I. INTRODUCTION

Pursuant to Fed. R. Civ. P. 42(a) and § 511 of the TBMP, Applicant The Craft Beer Attorney, APC, (hereinafter “Applicant”), by its attorney, Karen M. Hawkes, of Counsel, The Craft Beer Attorney, APC, attorneys for Applicant, submits the instant Motion to Consolidate the following Opposition Nos. 91227647, 91227650, 91227651, 91227673, 91227681, 91227689, 91277691, 91227703, 91227705, 91227706, and 91227783, and a Request for Suspension, as set forth herein.

II. BACKGROUND

Eleven separate Notices of Oppositions were filed against Applicant for Trademark Application No. 86/504,533, for the mark CRAFT BEER ATTORNEY on May 3, 3016. These Oppositions were

filed within twenty four hours of one another. The Oppositions were nearly identical, and in most cases, verbatim grounds to each other. The table below provides a summation of the arguments posed in each of the eleven Notices of Opposition. It is worth noting that the majority of the Oppositions are mere copycats of the others.

No.	Date	Opposer	Opposition Number	Grounds
1	05/03/16	FUNKHOUSER VEGOSEN LIEBMAN & DUNN, LTD.	91227647	<ol style="list-style-type: none"> 1. The mark is generic (Trademark Act Sections 1, 2 and 45); 2. Fraud on the USPTO, In re Bose Corp., 580 F.3d 1240, 91 USPQ 2d 1938 (Fed. Cir. 2009); and 3. The term has not acquired distinctiveness for Applicant's services
2	05/03/16	NOSSAMAN LLP	91227650	<ol style="list-style-type: none"> 1. The mark is merely descriptive Trademark Act Section 2(e)(1); 2. The mark is generic Trademark Act Sections 1, 2 and 45; 3. Failure to function as a mark Trademark Act Sections 1, 2 and 45; 4. The mark is not inherently distinctive and has not acquired distinctiveness Trademark Act Sections 1, 2 and 45; and 5. Section 2(f) Fraud on the USPTO In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)
3	05/03/16	GRAY ROBINSON, P.A.	91227651	<ol style="list-style-type: none"> 1. The mark is merely descriptive Trademark Act Section 2(e)(1);

				<p>2. The mark is generic Trademark Act Sections 1, 2 and 45;</p> <p>3. Failure to function as a mark Trademark Act Sections 1, 2 and 45 The mark is not inherently distinctive and has not acquired distinctiveness Trademark Act Sections 1, 2 and 45; and Section 2(f); and</p> <p>4. Fraud on the USPTO In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)</p>
4	05/04/16	TANNENBAUM HELPERN SYRACUSE & HIRSCHTRITT, LLP	91227673	<p>1. The mark is merely descriptive Trademark Act Section 2(e)(1);</p> <p>2. The mark is generic Trademark Act Sections 1, 2 and 45;</p> <p>3. Failure to function as a mark Trademark Act Sections 1, 2 and 45;</p> <p>4. The mark is not inherently distinctive and has not acquired distinctiveness Trademark Act Sections 1, 2 and 45; and Section 2(f); and</p> <p>5. Fraud on the USPTO In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)</p>
5	05/04/16	LEHRMAN BEVERAGE LAW, PLLC	91227681	<p>1. The mark is merely descriptive Trademark Act Section 2(e)(1);</p> <p>2. The mark is generic Trademark Act Sections 1, 2 and 45;</p>

				<p>3. Failure to function as a mark Trademark Act Sections 1, 2 and 45 The mark is not inherently distinctive and has not acquired distinctiveness Trademark Act Sections 1, 2 and 45; and Section 2(f); and</p> <p>4. Fraud on the USPTO In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)</p>
6	05/04/16	DAVID WRIGHT TREMAINE LLP	91227689	<p>1. The mark is merely descriptive Trademark Act Section 2(e)(1);</p> <p>2. The mark is generic Trademark Act Sections 1, 2 and 45;</p> <p>3. The mark is not inherently distinctive and has not acquired distinctiveness Trademark Act Sections 1, 2 and 45; and</p> <p>4. Section 2(f) Fraud on the USPTO In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)</p>
7	05/04/16	WARD AND SMITH P.A.	91277691	<p>1. The mark is merely descriptive Trademark Act Section 2(e)(1);</p> <p>2. The mark is generic Trademark Act Sections 1, 2 and 45;</p> <p>3. Failure to function as a mark Trademark Act Sections 1, 2 and 45;</p> <p>4. The mark is not inherently distinctive and has not acquired distinctiveness Trademark Act Sections 1, 2 and 45; and</p>

				<p>5. Section 2(f) Fraud on the USPTO In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)</p>
8	05/04/16	BEVERAGE LAW GROUP LLP	91227703	<p>1. The mark is merely descriptive Trademark Act Section 2(e)(1);</p> <p>2. The mark is generic Trademark Act Sections 1, 2 and 45; and</p> <p>3. The mark is not inherently distinctive and has not acquired distinctiveness Trademark Act Sections 1, 2 and 45; and Section 2(f)</p>
9	05/04/16	MARTIN FROST & HILL, P.C.	91227705	<p>1. The mark is merely descriptive Trademark Act Section 2(e)(1);</p> <p>2. The mark is generic Trademark Act Sections 1, 2 and 45; and</p> <p>3. The mark is not inherently distinctive and has not acquired distinctiveness Trademark Act Sections 1, 2 and 45; and Section 2(f)</p>
10	05/04/16	SPAULDING MCCULLOUGH & TANSIL LLP	91227706	<p>1. The mark is merely descriptive Trademark Act Section 2(e)(1); and</p> <p>2. The mark is generic Trademark Act Sections 1, 2 and 45</p>
11	05/04/16	EUGENE M. PAK	91227783	<p>1. The mark is merely descriptive Trademark Act Section 2(e)(1);</p> <p>2. The mark is generic Trademark Act Sections 1, 2 and 45; and</p> <p>3. Fraud on the USPTO In re Bose Corp., 580 F 580 F.3d</p>

The above-referenced Oppositions are based upon nearly identical claims and allegations.

Opposers are all law firms and/or attorneys who base their oppositions on arguments against registration of the underlying Application and not on any registration or pending application of a mark. The relief sought by all Opposers in the eleven Oppositions is identical, that Applicant's mark be denied registration.

III. ARGUMENT

In deciding a Motion to Consolidate, the Board should weigh the savings in time, effort, and expense, which may be gained from consolidation, against any prejudice or inconvenience that may be caused thereby. TBMP § 511 (citing *World Hockey Ass'n. v. Tudor Metal Products, Corp.*, 185 USPQ 246 (TTAB 1975) (consolidation ordered where issues were substantially the same and consolidation would be advantageous to both parties)).

As set forth above, the eleven oppositions are nearly, and in most cases, exactly, identical in claims, allegations and relief sought. Accordingly, the eleven proceedings will involve identical questions of law as well as nearly identical sets of facts to the matters before the Board. The witnesses, documentary evidence and timeline are undoubtedly the same.

In evaluating the instant motion, Applicant asserts that in the interests of judicial economy, and undue burden on the Applicant, the requested consolidation will serve to significantly decrease both the Board's time and effort in presiding over these matters, as well as the Applicant's respective efforts and expense in defending the eleven, nearly identical Oppositions. See *World Hockey Ass'n.*, 185 USPQ 246. The trial order dates will not be substantially affected due to the early stage of all matters, and the fact that they were all filed within twenty four hours of each other, such that the prejudice or inconvenience resulting from consolidation will be negligible.

III. CONCLUSION

Based upon the foregoing and for good case shown, it is hereby requested that the following Opposition proceedings be consolidated: 91227647, 91227650, 91227651, 91227673, 91227681, 91227689, 91277691, 91227703, 91227705, 91227706, and 91227783.

Applicant also requests that the Board suspend the proceedings for Opposition Nos. 91227647, 91227650, 91227651, 91227673, 91227681, 91227689, 91277691, 91227703, 91227705, 91227706, and 91227783 pending the Board's decision.

Dated: June 8, 2016

By: /Karen Hawkes/
Karen Hawkes, Esq.
Attorney for Applicant
The Craft Beer Attorney, APC

The Craft Beer Attorney, APC
5059 Murphy Canyon Road, Suite 240
San Diego, California 92123
Tel: (866) 290-5553
Fax: (619) 752-2224

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this paper is being deposited with the United States Patent and Trademark Office, Trademark Trial and Appeal Board via the electronic filing procedure on June 8, 2016 at San Diego, California.

By: /Karen Hawkes/
Karen Hawkes, Esq.

CERTIFICATE OF SERVICE

I, Karen Hawkes, counsel for The Craft Beer Attorney, APC, hereby certify that a copy of the foregoing Motion to Consolidate, was served upon the attorney for the Opposers, via first class mail, postage prepaid on June 8, 2016, at the following addresses:

Glenn A. Rice, Esq.
Funkhouser Vegosen Liebman & Dunn Ltd.
55 W Monroe Street Ste 2300
Chicago, IL 60603

Thomas Dover
Michael W. Schroeder
Nossaman LLP
777 South Figueroa St 34th Fl
Los Angeles, CA 90017

Kevin P. Crosby
Gray Robinson, P.A.
301 E. Pine Street, Suite 1400
Orlando, FL 33802

L. Donald Prutzman
Tannenbaum Helpert Syracuse & Hirschtritt LLP
900 Third Avenue
New York, NY 10022

Daniel Christopherson
Lehrman Beverage Law, PLLC
2911 Hunter Mill Road Ste 303
Oakton, VA 22124

Sheila Fox Morrison
Davis Wright Tremaine LLP
1300 SW 5th Street Ste 2400
Portland, OR 97201

Angela P. Doughty
Ward and Smith P.A.
1001 College Ct
New Bern, NC 28562

Thomas Kerr
Strike & Techel
556 Commercial Street
San Francisco, CA 94111

Kimberly A. Frost
Martin Frost & Hill
3345 Bee Cave Rd. Ste 105
West Lake Hills, TX 78746

Warren L. Dranit
Spaulding McCullough & Tansil LLP
90 South E. Street Ste 200
Santa Rosa, CA 95402

Eugene M. Pak
Wendel Rosen Black & Dean LLP
1111 Broadway, 24th Fl
Oakland, CA 94607

By: /Karen Hawkes/
Karen Hawkes, Esq.