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

Proceeding	91233428
Party	Defendant Patagonia Provisions, Inc.
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Date	04/24/2017
Attachments	Answer and Defenses to Opposition re Wine.pdf(20627 bytes )

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

OTTER CREEK BREWING COMPANY LLC,

Opposer,

v.

PATAGONIA PROVISIONS, INC.,

Applicant.

Opposition No. 91233428

Serial No. 87107161

**ANSWER AND DEFENSES TO OPPOSITION**

Patagonia Provisions, Inc. (“Patagonia” or “Applicant”) answers and avers as follows in response to the Opposition of Otter Creek Brewing Company LLC (“Otter Creek” or “Opposer”):

1. Patagonia lacks knowledge sufficient to admit or deny the allegations of paragraph 1 and on that basis denies them.

2. Patagonia lacks knowledge sufficient to admit or deny the allegations of paragraph 2 and on that basis denies them.

3. Patagonia lacks knowledge sufficient to admit or deny the allegations of paragraph 3 and on that basis denies them.

4. Patagonia admits that the U.S. Patent and Trademark Office shows Otter Creek as the owner of the identified registration. Except as admitted, Patagonia lacks knowledge sufficient to admit or deny the allegations of paragraph 4 and on that basis denies them.

5. Patagonia admits that the U.S. Patent and Trademark Office shows Otter Creek as the owner of the identified registration. Except as admitted, Patagonia lacks knowledge sufficient to admit or deny the allegations of paragraph 5 and on that basis denies them.

6. Patagonia admits that the U.S. Patent and Trademark Office shows Otter Creek as the owner of the identified registration. Except as admitted, Patagonia lacks knowledge sufficient to admit or deny the allegations of paragraph 6 and on that basis denies them.

7. Patagonia admits that the U.S. Patent and Trademark Office shows Otter Creek as the owner of the identified registrations and that the exhibits A, B, and C are visible on the USPTO website. Except as admitted, Patagonia lacks knowledge sufficient to admit or deny the allegations of paragraph 7 and on that basis denies them.

8. Patagonia denies the allegation that Opposer's alleged marks have become well-known. Patagonia lacks knowledge sufficient to admit or deny the remaining allegations of paragraph 8, and on that basis denies them.

9. Patagonia admits the allegations in paragraph 9.

10. Patagonia admits the allegations in paragraph 10.

11. Patagonia admits the allegations in paragraph 11.

12. Patagonia admits that it intends to use the TIN SHED mark to offer and sell wine. Patagonia admits that it intends to use the TIN SHED mark to offer and sell beer, ale, lager, stout, and porter. Except as admitted, at this time Patagonia lacks knowledge sufficient to admit or deny the remaining allegations of paragraph 12, and on that basis denies them.

13. Patagonia admits the allegations in paragraph 13.

14. Patagonia admits the allegations in paragraph 14.

15. Patagonia admits the allegations in paragraph 15.

16. Patagonia denies the allegations in paragraph 16.

17. Patagonia denies the allegations in paragraph 17.

18. Patagonia denies the allegations in paragraph 18.

19. Patagonia denies the allegations in paragraph 19.

20. Patagonia denies the allegations in paragraph 20.

21. Patagonia avers that the effect of a federal trademark registration is a legal question and that no answer is required to that part of paragraph 21. Patagonia denies the remainder of paragraph 21.

#### **AFFIRMATIVE DEFENSES**

22. Patagonia's mark is not confusingly similar to Opposer's mark with respect to the goods set forth in the application, nor would use and/or registration of Patagonia's mark create a likelihood of confusion, deception, or mistake, nor would said use and/or registration result in damage to Opposer's claimed rights.

23. Patagonia reserves the right to assert additional Affirmative Defenses as it learns facts relevant to this dispute through or following discovery.

#### **PRAYER FOR RELIEF**

Having fully answered and set forth its Affirmative Defenses, Patagonia prays that the TTAB dismiss this opposition with prejudice, award costs to Patagonia, and permit Patagonia's applied-for trademark to register on the principal register as allowed by the Examining Attorney.

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

Dated: April 24, 2017

By: / Ryan Bricker /  
Ryan Bricker

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**CERTIFICATE OF TRANSMISSION**

I hereby certify that this Answer and Affirmative Defenses is being transmitted to the United States Patent and Trademark Office via ESTTA on the date shown below.

/Amy Wells/  
Name: Amy M. Wells

Dated: April 24, 2017

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