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

Proceeding	91239589
Party	Plaintiff Maker's Mark Distillery, Inc.
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Date	10/29/2020
Attachments	MAKERS NOR 2.pdf(7945 bytes) Exhibit 5 Parks SJ Deposition and Exhibit Redacted.pdf(1451966 bytes)

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

MAKER'S MARK DISTILLERY, INC.,

Opposer,

v.

BOWMAKER'S WHISKEY COMPANY,

Applicant.

Opposition No. 91239589

Serial No. 87,383,989

Mark: BOWMAKER'S WHISKEY

OPPOSER'S SECOND NOTICE OF RELIANCE [REDACTED PUBLIC VERSION]

Opposer Maker's Mark Distillery, Inc. ("Opposer"), by its undersigned attorneys and pursuant to 37 C.F.R. § 2.120(k), 37 C.F.R. § 2.27(e), and TBMP § 704.02, hereby gives notice that it intends to rely at trial on the following evidence, relevant to the issues raised by the pleadings:

1. Pursuant to 37 C.F.R. § 2.120(k)(1) and TBMP § 704.02, Opposer submits the discovery deposition transcript and exhibit of Mr. Bryan Parks, sole officer of Applicant Bowmaker's Whiskey Company (Exhibit 5). This document is relevant to this matter as it includes information on subjects including the origin and selection of the Contested Mark. Because portions of this document were designated CONFIDENTIAL under the terms of the Standard Protective Order applicable in this proceeding, the confidential portions have been redacted from this public version and a confidential version has been submitted concurrently herewith.

Dated: October 29, 2020

Maker's Mark Distillery, Inc.

By: /s/ Richard M. Assmus
Michael D. Adams
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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing Opposer's Second Notice of Reliance, with Exhibit 5, was served via email on counsel for Applicant at the following addresses on October 29, 2020:

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EXHIBIT 5

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

3
4 MAKER'S MARK DISTILLERY, INC.,

5 Opposer,

6 vs.

Opposition No. 91239589

7 Serial No. 87/383,989

8 Mark: Bowmaker's Whiskey

9 BOWMAKER'S WHISKEY COMPANY,

10 Applicant.
11 _____

12
13
14 The Deposition of BRYAN PARKS,

15 Taken at 277 South Rose Street, Suite 5000,

16 Kalamazoo, Michigan,

17 Commencing at 8:57 a.m.,

18 Wednesday, July 24, 2019,

19 Before Alison C. Webster, CSR-6266, RPR, RMR, CRR.

20
21
22
23
24
25 Job No: 164769

1 APPEARANCES:

2
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Declaration of Bryan Parks	

BRYAN PARKS

Kalamazoo, Michigan

Wednesday, July 24, 2019

8:57 a.m.

COURT REPORTER: Mr. Parks, would you please raise your right hand?

Do you swear or affirm the testimony you are about to give in this matter will be the truth, the whole truth, and nothing but the truth?

MR. PARKS: I do.

BRYAN PARKS,
was thereupon called as a witness herein, and after having first been duly sworn to testify to the truth, the whole truth and nothing but the truth, was examined and testified as follows:

MR. ASSMUS: Richard Assmus on behalf of Maker's Mark Distillery, Inc, for Mayer Brown, LLP.

MR. VIRTUE: Daniel Virtue on behalf of Maker's Mark Distillery, Incorporated, on behalf of -- or from Mayer Brown.

MR. BREINER: Theodore Breiner on behalf of the applicant, Bowmaker's Whiskey Company, in this opposition, and I would just like to make a brief statement.

1 BRYAN PARKS

2 This deposition is being taken pursuant to
3 the Trademark Trial and Appeal Board order dated
4 July 2, 2019. In that order, the board stated that
5 opposer, Maker's Mark, may take the Rule 56(d)
6 deposition of Mr. Parks.

7 The board stated that the deposition must
8 be limited to the topics raised in the deponent's
9 declaration, and may include testimony regarding any
10 document exhibit attached to the declaration, so we're
11 here within that limited scope, and if we get outside
12 of that scope, I intend to object.

13 MR. ASSMUS: Thank you.

14 EXAMINATION

15 BY MR. ASSMUS:

16 Q. Mr. Parks, could you state your full name for the
17 record?

18 A. Brian Shawn Parks.

19 Q. How do you spell Shawn?

20 A. S-h-a-w-n.

21 Q. As you heard, my name is Rich Assmus. I represent
22 Maker's Mark in this opposition, here to ask you some
23 questions today. We're going to learn a little bit
24 about your background and then focus on the
25 declaration that you submitted in connection with the

BRYAN PARKS

summary judgment motion.

Have you ever been deposed before?

A. Yes.

Q. How many times?

A. Once.

Q. And what was the nature of that case?

A. It was a medical malpractice case.

Q. And were you the plaintiff or the defendant?

A. I was one of several plaintiffs.

Q. Is that the only time you've been deposed?

A. Yes.

Q. Have you ever been questioned under oath in any other circumstances?

A. No.

Q. So given that you've been deposed before, some of this may be familiar to you. The court reporter is taking this down stenographically, so we need a written record of that, so it's important that you answer with words and not with nods or gestures.

A. Understood.

Q. If we could try not to talk over each other, I'll try to let you finish your answers, and if you could try to let me finish my questions.

A. Understood.

1 BRYAN PARKS

2 Q. And if -- if at any time you do not understand a
3 question, feel free to ask me or -- ask me to reword
4 it.

5 A. Very good.

6 Q. Any reason that you can't provide your truthful
7 testimony today?

8 A. No.

9 Q. This isn't a marathon. In fact, given -- this
10 deposition is probably more like a 5k, if it was
11 anything. But if you need a break at any point, just
12 feel free to ask. There's drinks over there,
13 restrooms available whenever you need it.

14 A. Very good.

15 Q. Could you tell me what you did to prepare for today's
16 deposition?

17 A. I read the literature generated in the process that
18 we've been going through for the last couple years and
19 I met with my lawyer.

20 Q. And how long did you meet with your lawyer? Is
21 that -- strike that.

22 You met with Mr. Breiner?

23 A. Yes.

24 Q. And for how long?

25 A. I don't recall exactly. A couple hours.

BRYAN PARKS

Q. And without telling me what they are, did you review any documents during -- in preparation for the deposition?

MR. BREINER: Objection. Are you talking about -- scratch it. I'll let it go.

BY MR. ASSMUS:

Q. You can answer.

A. I had read all of the documents prior to meeting with him, so we did briefly discuss, but we didn't necessarily, line for line, go through documents.

Q. Great. Other than Mr. Breiner, have you had discussions with anyone else regarding this deposition?

A. Casual discussions with my wife.

Q. Perfect. Anyone else?

A. No.

Q. I want to learn a little bit more about your background before getting to your declaration. I understand you were trained as a anesthetist; is that correct?

A. Certified registered nurse anesthetist, master's degree.

Q. Is that from Bradley University?

A. Bradley University is the university involved, yes.

1 BRYAN PARKS

2 Q. And you have a undergraduate degree from there as
3 well?

4 A. No.

5 Q. Where -- do you have a college degree?

6 A. Yes.

7 Q. And where is that from?

8 A. Northern Illinois University.

9 Q. NIU, perfect. What year did you graduate from NIU?

10 A. 1981, if I recall correctly.

11 Q. And with a what major?

12 A. Bachelor's of science in nursing.

13 Q. Okay. So have you spent your entire career in the
14 medical field?

15 A. Yes, with a brief sojourn into factory work.

16 Q. Great. And where was the factory work?

17 A. It was a box plant.

18 Q. And are you -- I think I read in one of -- maybe it
19 was your LinkedIn or something. Are you retired from
20 the medical field now?

21 A. Semi-retired.

22 Q. "Semi-retired." So what does that mean?

23 A. That means I don't hold a full-time position at any
24 institution and I work as a locum tenens when I find
25 it necessary to do so.

1 BRYAN PARKS

2 Q. The word you used, I saw it in something. What was
3 the word you used? It sounded like Latin.

4 A. Locum tenens.

5 Q. What does that mean?

6 A. It means, temporary, to take the place of.

7 Q. So it's like you're a temporary anesthetist from time
8 to time?

9 A. I'm a freelancer.

10 Q. Got it. Got it. Okay. And when did you last work
11 full-time as an anesthetist?

12 A. I don't recall the exact date. Approximately two and
13 a half years ago was the last time -- when I quit the
14 full-time position.

15 Q. Other than your temporary work now, any other forms of
16 employment today?

17 A. No.

18 MR. ASSMUS: Can we mark this as Exhibit 1?

19 MARKED FOR IDENTIFICATION:

20 EXHIBIT 1

21 9:04 a.m.

22 BY MR. ASSMUS:

23 Q. Mr. Parks, I'm going to put in front of you what the
24 court reporter has marked as Exhibit 1. Do you
25 recognize this document?

BRYAN PARKS

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A. Yes.

Q. This is the -- the declaration you submitted in connection with Bowmaker's Whiskey Company's motion for summary judgment; is that correct?

A. Yes.

Q. Did you draft this declaration?

A. No.

Q. Your attorney drafted it?

A. Yes.

Q. And you reviewed it?

A. Yes.

Q. So the first sentence says that you're a manager of the applicant, Bowmaker's Whiskey Company. Does Bowmaker's Whiskey Company have any other employees?

A. No.

Q. Do you take a salary from your position as manager?

A. No.

Q. And is it correct that you've -- you founded Bowmaker's Whiskey Company?

A. Yes.

Q. And you're the owner of it?

A. Yes.

Q. Are there any other owners?

A. No.

BRYAN PARKS

Q. Your declaration says it has a place of business in Schoolcraft, Michigan. Where is Schoolcraft, Michigan?

A. It is southwest of Kalamazoo slightly.

Q. And what -- what is the business address of Bowmaker's Whiskey Company?

A. My home address is the official business address as of this time.

Q. Okay. We saw in, I think it's your Facebook page, that there is a location in Lake City, Michigan.

A. Correct.

Q. What is that location in association with Bowmaker's Whiskey Company?

A. The warehouse.

Q. The warehouse. Other than your home and the warehouse in Lake City, does Bowmaker's Whiskey Company have any other locations?

A. No.

Q. Physical locations?

A. No.

Q. And Lake City, Michigan, is several hours north of here; is that correct?

A. Yes.

Q. What's the address of the warehouse?

BRYAN PARKS

A. 2626 North Decker Road, Lake City, Michigan, 49651.

Q. And do you have a second home or a place where you could live near there?

A. There is a residence building that we have built on adjoining property; however, we don't occupy that at this point.

Q. The real estate that the warehouse is on, do you own that?

MR. BREINER: Objection to -- you mean you, Bowmaker's Whiskey Company, or --

MR. ASSMUS: That's a fair point.

MR. BREINER: -- or Mr. --

MR. ASSMUS: Let me restate it. Thank you.

BY MR. ASSMUS:

Q. Does Bowmaker's Whiskey Company own the building where the warehouse is?

A. Yes.

Q. In the name of the company?

A. Yes.

Q. Okay. Obviously I don't -- well, let me ask.

Presumably, the business address in Schoolcraft, that's owned by you and your wife?

A. Correct.

Q. Has Bowmaker's Whiskey Company ever had any other

BRYAN PARKS

1
2 locations?

3 A. No.

4 Q. Is -- are either of the two locations, the one in
5 Schoolcraft or the one in Lake City, open to the
6 public?

7 A. No.

8 Q. The second paragraph of your declaration says, "As a
9 hobby, I am a bowmaker." How long have you had that
10 hobby?

11 A. 26 years.

12 Q. And where did you pick that up?

13 A. I started that as a recreational pursuit while I was
14 in grad school.

15 Q. And you said in your declaration, in other words, "I
16 make bows for archery."

17 I understand you brought a bow today.

18 A. I did.

19 Q. Can you tell me about that bow?

20 A. What do you want to know about it?

21 Q. When you made it; how you made it; why you made it.

22 A. This was a bow I made for my late father-in-law. He
23 was an avid hunter. I wanted to produce a bow that
24 would be easy for him to take into the woods and
25 that -- he's a treasured man in my life, so I wanted

BRYAN PARKS

to give him a gift, so I produced this bow for him to use for hunting.

Q. And that particular bow that you brought, it's not strung and -- forgive me if I'm not using the right technical words. I don't know much about archery. But it doesn't have a string on it or --

A. Not at this time, no.

Q. Yeah, got it. What would it be made of if it did? Like what's the proper term for the thing you would pull back?

A. A string.

Q. String, perfect. Thank you. What would it be strung with?

A. I'm sorry? A string.

Q. The material.

A. The material.

Q. Yes.

A. It can be many, many things. I traditionally use Dacron.

Q. And do you make the arrows as well?

A. I make arrows, yes.

Q. And do you hunt with these bows personally?

A. Yes.

Q. Are they put to any other purpose, the bows?

BRYAN PARKS

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A. Could you rephrase?

Q. Do you do target practice with these bows?

A. Yes.

Q. Do you have any other hobbies?

A. Multitudinous.

Q. Can you give me some examples of some of your other hobbies?

A. Aviation, RC aviation, landscaping, gardening. I'm an autodidact in many areas.

Q. Good word. Aviation. Do you have a pilot's license?

A. I do.

Q. Do you own your own plane?

A. Yes.

Q. One that you fly yourself?

A. Yes.

Q. And you mentioned RC aviation. That means remote control planes?

A. Radio control planes.

Q. Good. How long have you been an aviator?

A. Since 2008.

Q. Your declaration goes on to say that, "Based on this hobby, I selected the name Bowmaker's Whiskey for the distilled spirits, whiskey, and bourbon, which applicant intends to offer under the trademark

BRYAN PARKS

Bowmaker's Whiskey."

I wanted to focus on the selection of the name. When did you select that name?

A. I don't recall the exact date. It was just prior to the application.

Q. Okay. And did you consider any other names at that time?

MR. BREINER: Objection, the board's already said that that's not a proper area of inquiry.

You can answer yes or no, but then we're not going to go into that.

A. We -- yes.

BY MR. ASSMUS:

Q. What were the other names you considered?

A. I don't recall.

Q. Do you recall how many names you considered?

MR. BREINER: Same objection to this line of questioning. I'll let you go over a little bit, but the board said that other names were not appropriate subject of testimony. That's why they didn't let you request documents to that effect.

BY MR. ASSMUS:

Q. You can answer.

A. What was the question again?

BRYAN PARKS

Q. Do you recall how many names you considered?

A. No.

Q. And sitting here today, you don't recall any of the other names you considered?

A. Not specifically, no.

Q. At the time you selected the name Bowmaker's Whiskey, did you take any steps to determine whether that name was available for use?

A. Yes.

Q. And what were those steps?

MR. BREINER: Objection, outside the scope of the testimony. In other words, you asked for interrogatories and document requests related to trademark searches and the Trademark Trial and Appeal Board said that those were not proper subject to discovery. I let him answer to the fact that he did, but I object to going into any specifics on what he did.

MR. ASSMUS: Are you instructing the witness not to answer that question?

MR. BREINER: I'll let --

Can you read the question back, please?

(The requested portion of the record was read as follows by the reporter at

BRYAN PARKS

9:14 a.m.)

COURT REPORTER: Question: At the time you selected the name Bowmaker's Whiskey, did you take any steps to determine whether that name was available for use?

Answer: Yes.

Question: And what were those steps?

MR. BREINER: I'll let him answer that question.

A. I employ a graphic artist and team to assist me in development of the business. I asked him to do a search on the name. He did so.

BY MR. ASSMUS:

Q. And he reported those results to you?

A. He reported those results to me as there were no conflicts.

Q. And what's the name of the graphic artist?

A. His name is Marcus Jenkins.

Q. And where is he located?

A. Currently offices in Grand Rapids.

Q. Does he operate through a company?

A. He does.

Q. And what's the name of the company?

A. iDeed, i-D-e-e-d.

1 BRYAN PARKS

2 Q. That's a tough one. Is that all one word?

3 A. Yes.

4 Q. You mentioned the graphic artist and team. Were you
5 referring to anybody other than Mr. Jenkins and iDeed?

6 A. No. All of his team are in iDeed.

7 Q. Is iDeed the company that developed the labels
8 attached to your declaration?

9 A. He's my graphic artist.

10 Q. I take it that's a yes?

11 A. Yes.

12 Q. You don't have any other graphic artists?

13 A. No.

14 Q. Are you a graphic designer by training, whether
15 informal or not?

16 A. I thought we had already established that I'm a
17 certified registered nurse anesthetist.

18 Q. Maybe you misunderstood my question. Do you have any
19 training in graphic design?

20 A. No.

21 Q. No. So you wouldn't do graphic design yourself?

22 A. No.

23 Q. Mr. Jenkins, is he an attorney?

24 A. No.

25 Q. Do you know whether Mr. Jenkins consulted with any

1 BRYAN PARKS

2 attorneys in connection with his -- strike that.

3 You said Mr. Jenkins did a search of the
4 name for you. In connection with that search, do you
5 know whether Mr. Jenkins consulted with any attorneys?

6 A. Not as part of the search.

7 Q. Did he consult with attorneys in any other ways in
8 connection with the search?

9 A. The application process through Telemarkia [ph] uses
10 attorneys.

11 Q. Understood. Thank you.

12 Did Mr. Jenkins report the results of that
13 search to you in writing?

14 A. No. No. Not that I recall, no.

15 MR. BREINER: Just for the record, all
16 these questions on the trademark search are objected
17 to, so I'll make a -- is it okay that I have a
18 continuing objection to the scope of the questions so
19 I don't have to object each time?

20 MR. ASSMUS: With respect to this line of
21 questioning, that's fine.

22 MR. BREINER: Okay.

23 MR. ASSMUS: I don't want to debate it on
24 the record, but our view is that these questions
25 relate to Mr. Parks' declaration, which we think is

1 BRYAN PARKS

2 within the scope of the board-ordered deposition.

3 BY MR. ASSMUS:

4 Q. Other than the search that Mr. Jenkins performed, did
5 you take any other steps to determine whether the name
6 was available?

7 A. No.

8 Q. Did you discuss your selection of the name Bowmaker's
9 Whiskey with anyone other than Mr. Jenkins?

10 A. My spouse.

11 Q. Anyone else besides your spouse?

12 A. No.

13 Q. Your declaration indicates that you intend to use the
14 name Bowmaker's Whiskey for the distilled spirits --
15 well -- strike that.

16 Your declaration states that you intend to
17 use the name Bowmaker's Whiskey in connection with
18 distilled spirits, whiskey, and bourbon. Are there
19 any other distilled spirits besides whiskey and
20 bourbon that you intend to use the name Bowmaker's
21 Whiskey with?

22 MR. BREINER: Objection, vague as to time.

23 BY MR. ASSMUS:

24 Q. Sitting here today.

25 MR. BREINER: You can answer.

BRYAN PARKS

1

2 A. Yes.

3 BY MR. ASSMUS:

4 Q. And what are those additional distilled spirits?

5 A. Corn liquor and apple brandy.

6 Q. What does corn liquor mean?

7 A. Whiskey made from corn.

8 Q. Corn whiskey.

9 A. Corn whiskey.

10 Q. Got it. Okay. Moonshine.

11 A. Yes.

12 Q. Can you tell me what you understand to be the
13 distinction between whiskey and bourbon?

14 A. Whiskey is a generalized term. Bourbon is a specific
15 term with rules regarding its production and aging
16 prior to bringing to market.

17 Q. And I understand from your declaration that Bowmaker's
18 Whiskey Company intends to offer a bourbon; is that
19 correct?

20 A. Varieties of.

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ ■ [REDACTED]

■ ■ [REDACTED]

[illegible]

Row	Category	Value
1	A	100
2	B	80
3	C	20
4	D	90
5	E	30
6	F	95
7	G	100
8	H	100
9	I	60
10	J	20
11	K	95
12	L	30
13	M	90
14	N	70
15	O	85
16	P	90
17	Q	50
18	R	40
19	S	20
20	T	75
21	U	100
22	V	45

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8 Where did you learn how to make whiskey?

9 A. I had mentioned previously that I'm autodidact.

10 Q. So you taught yourself?

11 A. Yes.

12 In addition, I should say that I did take a
13 course in Louisville.

14 Q. Where --

15 A. A distiller's course.

16 Q. Who offers that distiller's course?

17 A. Moonshine University.

18 Q. Moonshine. Great name. How long did you spend down
19 there?

20 A. It was a week-long course.

21 Q. And when was that?

22 A. The exact date -- I wouldn't hold me to this, but I
23 believe it was October '16.

24 Q. You attached to your declaration two sample labels,
25 Exhibits 1 and 2. If I could ask you to turn to

1 BRYAN PARKS

2 Exhibit 1. This is one of the labels that Mr. Jenkins
3 designed for you?

4 MR. BREINER: Objection, I'm not sure that
5 that properly characterizes his testimony.

6 You can answer.

7 A. This is one that we have been working on. This is a
8 permutation of the labels that we've been working on.
9 This is the latest version.

10 BY MR. ASSMUS:

11 Q. And the one I'm looking at, Exhibit 1, is this the
12 label for -- is it pronounced Fistmele bourbon?

13 A. Correct.

14 Q. And what does Fistmele mean?

15 A. Fistmele is an archery term. Fistmele is a term that
16 comes from Old English. When an English long bow --
17 during the Hundred Year War between England and
18 France, when the generals would ask if the archers
19 were ready, a properly strung long bow, you put your
20 hand on the belly of the bow and the string will touch
21 your thumb, so that means that it's ready to be used
22 in battle.

23 So when the general would raise the flag
24 for the archers so that they would know that the
25 archers were prepared, they would signal back,

BRYAN PARKS

fistmele, our bows are strong. That's where that term comes from.

Q. And the type of bow that you brought today, is that a long bow?

A. No.

Q. What's the category of bow that is?

A. That would be -- general category, this would be a facsimile of an Eastern Woodland Indian whitewood flat bow --

Q. Flat bow.

A. -- with rawhide backing for extra durability.

Q. Do you make any other categories of bows?

A. Yes.

Q. What other types?

A. Long bows, multiple flat bows out of different woods. I have also made multiple recurves. I have done some short horse bows, sinew-backed horse bows, which would be similar to what the Plains Indians would have used on horseback for hunting buffalo.

Q. So turning back to the label -- and thank you for the education on the term "fistmele." If you turn it to the side, there's some fine print there that I'll read into the record and I have a question for you about.

It says, "Our whiskey bows to different

1 BRYAN PARKS

2 taste by utilizing a 'living cask process' by using
3 some of the best United States bourbons and other
4 whiskeys sourced from quality production facilities,"
5 period. Or maybe that's a comma. I'll stop there.

6 What is a living cask process?

7 A. Living cask comes from old Scotland where the pub
8 masters would close their doors at night and gather up
9 the unfinished bottles of whiskey, emptying them into
10 a barrel in the back of the pub. When that barrel was
11 full, they would go ahead and empty it halfway or
12 partway and sell it as their own brand. It's called a
13 living cask because the barrel is never empty. I --
14 yeah, that's living cask.

15 Q. Thank you. It says that you were going to be using
16 "some of the best United States bourbons and other
17 whiskeys." What does that mean?

18 A. That I obtain whiskeys from distillers who produce
19 quality product.

20 Q. So you're referring there to the two distillers you
21 mentioned?

22 A. There are others in my line that I have not actually
23 ordered from yet, but I have at least three other
24 distillers in line to get product from as well.

25 Q. But you haven't yet obtained liquid from them?

BRYAN PARKS

A. But I haven't obtained from them as of yet.

Q. Okay.

A. The purpose of the living cask is to introduce new and different whiskeys to the cask as the process continues.

Q. Will the whiskey that you bottle actually be a blend of the whiskeys from the two distillers you are working with right now?

MR. BREINER: Objection, vague. Are you talking about this Exhibit 1, proposed or are you talking about anything?

MR. ASSMUS: In general.

A. The purpose of a living cask is to mix whiskeys of same character. So all bourbons, there will be multiple bourbons in the cask, there will be multiple ryes in the cask. The cask will never be emptied. It will always be refilled with new, fresh whiskeys garnering a brightness from the new whiskeys going in and yet maintaining a mellowness from the older whiskeys in the cask.

BY MR. BREINER:

Q. Thank you. How did you become interested in whiskey?

A. I like it.

Q. You're a whiskey drinker?

BRYAN PARKS

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A. I am.

Q. How long have you been a whiskey drinker?

A. For as long as I can recall.

Q. Prior to launching Bowmaker's Whiskey, what were some of your favored brands of whiskey?

A. I drank a fair amount of scotch, Irish and American varieties of whiskeys. I didn't have a particular brand that I would go to. I liked to surf through the brands.

Q. Had you drunk Maker's Mark prior to finding Bowmaker's Whiskey?

A. Yes.

Q. How long have you been drinking Maker's Mark?

A. I can't say.

Q. It's a brand you were familiar with?

A. In passing.

Q. Why do you say "in passing"?

A. Because I surfed. I bought a lot of brands.

Q. Turning to the second -- the second label that you attached to your declaration, Exhibit 2, this is the Fletcher's Rye Whiskey. What is Fletcher's a reference to?

A. May I show?

Q. Yes, please. If you could narrate what you're doing

BRYAN PARKS

for the court reporter.

A. This -- these feathers on the end of the arrow are fletching. The people who attach them are fletchers. People who make arrows, in general, were generally referred to as fletchers. So it refers to arrow making.

Q. Right. Seems like bow making, in general, has a lot of terms associated with it that are somewhat unusual.

A. Only to the uninitiated.

Q. Got it. And there are -- have you come up with names for all of your varieties of whiskey?

A. It's an ongoing process of development. I think I have -- yeah, it's an ongoing process. Even these have been changed recently.

Q. They have.

A. Yeah.

Q. Do you have a -- do you keep whiskeys and bourbons at home to drink?

A. I do.

Q. Do you have any Maker's Mark at home right now?

A. No.

Q. Have you ever visited the Maker's Mark distillery?

A. No.

Q. Have you ever been to any distilleries in Kentucky?

BRYAN PARKS

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A. Yes.

Q. Which ones?

A. I don't recall all the names.

Q. Have you ever --

A. There are distilleries around Bardstown, in particular.

Q. Have you ever been to the Jim Beam distillery?

A. No.

Q. Have you ever visited the Maker's Mark website?

A. No.

Q. Do you sell the bows you make?

A. No.

Q. You mentioned -- I think that maybe you even had a Facebook post about it. Can you tell me what you understand the difference between a whiskey with an E and a whiskey without an E is?

A. Overall impression, whiskeys without an E are predominantly Scotch and Irish, UK varietals. Whiskeys with an E are more common in American whiskeys.

Q. And your Bowmaker's Whiskey, you use an E, correct?

A. Correct. I'm an American.

Q. Are you aware that Maker's Mark labels its whiskey without an E?

1 BRYAN PARKS

2 A. No.

3 MR. ASSMUS: Maybe we can take a quick
4 break so we can go over our notes and see what else
5 we've got, give you a chance to use the restroom,
6 maybe like ten minutes or less.

7 MR. BREINER: Okay.

8 MR. ASSMUS: Thank you.

9 (Off the record at 9:42 a.m.)

10 (Back on the record at 9:52 a.m.)

11 BY MR. ASSMUS:

12 Q. Welcome back, Mr. Parks. If we could go back to the
13 labels, actually. The second label, again, the
14 Fletcher's rye, the mark -- the phrase, "One shot at a
15 time," this particular mock-up has a circle R after
16 "One shot at a time." Is that -- is that a registered
17 trademark, to your knowledge?

18 A. We are in the process of registering that trademark.
19 We put it in the mock-up because we were assuming that
20 we would get it.

21 Q. And it was iDeed that created both of these labels?

22 A. Yes.

23 Q. How much have you spent with iDeed in doing the
24 graphic design work?

25 MR. BREINER: Objection, outside the scope

1 BRYAN PARKS

2 of the order of the deposition.

3 But you can answer the question.

4 A. I would have to go back and pull my records for two
5 years to determine how much I've spent on this. I
6 can't tell you off the top of my head.

7 BY MR. ASSMUS:

8 Q. Do you have an estimate, sitting here today?

9 A. No.

10 Q. Did the graphic design firm also assist with your
11 website and social media?

12 A. Yes. Their designs.

13 Q. At the time you selected the name Bowmaker's Whiskey,
14 did you also select your social media handles?

15 A. Which are?

16 Q. So your Twitter handle and your Facebook --

17 A. That was done by iDeed for me.

18 Q. That was done by iDeed for you.

19 What about your domain name? Did they
20 register your domain name?

21 A. Yes.

22 Q. In connection with this search that Mr. Jenkins did,
23 did you take any notes of your conversation in which
24 he reported the search results to you?

25 MR. BREINER: Objection, outside the scope.

1 BRYAN PARKS

2 BY MR. ASSMUS:

3 Q. You can answer.

4 A. No.

5 Q. Have you registered any of your labels with the
6 federal government?

7 A. No.

8 MR. BREINER: Objection. Same objection.

9 You can answer.

10 A. No.

11 BY MR. ASSMUS:

12 Q. Are you aware that your Twitter handle uses whiskey
13 without an E?

14 A. I am.

15 Q. Why -- why does it not use an E, given that your
16 company name, whiskey, uses an E?

17 A. Because of the requirements of Twitter, they won't
18 allow an additional character in the name.

19 Q. Are you aware that your Facebook handle also does not
20 use an E?

21 A. No, I did not recall that. I don't know if the rules
22 are the same for them, but it's because of their
23 rules.

24 Q. Where do you shop for your whiskey?

25 MR. BREINER: Objection, outside the scope.

1 BRYAN PARKS

2 You can answer.

3 A. There are half a dozen stores or more. I can't tell
4 you exactly which all of them are.

5 BY MR. ASSMUS:

6 Q. Do you have a favorite?

7 A. Mega-Bev is one I would frequent.

8 Q. Do they sell Maker's Mark there?

9 A. They do.

10 MR. ASSMUS: I don't have any further
11 questions.

12 MR. BREINER: I don't have any questions.
13 And as we said before, the deposition, under the
14 board's rules, is to be maintained confidential for a
15 certain period of time -- I can't recall what that
16 is -- and so I would like counsel to treat it that way
17 and then, when we get the transcript, we will go
18 through the transcript and tell you what sections
19 should be confidential and which sections should be
20 confidential attorneys' eyes only.

21 MR. ASSMUS: Very good. Thank you.

22 MR. BREINER: And the witness would like to
23 read and sign the deposition.

24 MR. ASSMUS: Great. Signature is reserved.

25 Thank you very much, Mr. Parks, for your

BRYAN PARKS

time today.

(Proceedings concluded at 9:57 a.m.)

BRYAN PARKS

CERTIFICATE OF NOTARY

STATE OF MICHIGAN)

) SS

COUNTY OF OAKLAND)

I, ALISON WEBSTER, certify that this deposition was taken before me on the date hereinbefore set forth; that the foregoing questions and answers were recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to, either party nor interested in the event of this cause.

Dated: 8-5-2019

Alison Webster

ALISON C. WEBSTER, CSR-6266, RPR, RMR, CRR.
Notary Public,
Oakland County, Michigan.

My Commission expires: May 1, 2023

ERRATA SHEET

Case Name:

Deposition Date:

Deponent:

Pg.	No.	Now Reads	Should Read	Reason
6	_____	_____	_____	_____
7	_____	_____	_____	_____
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19	_____	_____	_____	_____

Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME

THIS _____ DAY OF _____, 2019.

(Notary Public) MY COMMISSION EXPIRES:_____

EXHIBIT 1

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

MAKER'S MARK DISTILLERY, INC.,)	
)	
Opposer,)	
)	Opposition No. 91239589
v.)	
)	
)	USSN 87/383,989
)	Mark: BOWMAKER'S WHISKEY
BOWMAKER'S WHISKEY COMPANY,)	
)	
Applicant.)	

DECLARATION OF BRYAN PARKS

Bryan Parks declares that:

1. I am a Manager of applicant Bowmaker's Whiskey Company having a place of business in Schoolcraft, Michigan ("Applicant"). I have personal knowledge of the facts set forth in this declaration unless otherwise stated.
2. As a hobby, I am a bowmaker. In other words, I make bows for archery. Based on this hobby, I selected the name BOWMAKER'S WHISKEY for the distilled spirits, whiskey and bourbon which Applicant intends to offer under the trademark BOWMAKER'S WHISKEY.
3. Attached hereto as Exhibits 1 and 2 are samples of labels which Applicant has designed for the BOWMAKER'S WHISKEY products.

I declare under penalty of perjury that the foregoing is true and correct.

December 20, 2018

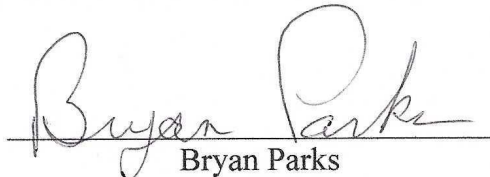

Bryan Parks

Exhibit A



BOWMAKER'S

W H I S K E Y

ONE SHOT AT A TIME

FISTMELE BOURBON

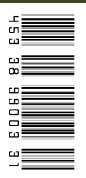
With Fistmele Bourbon Whiskey, finished in fine Sherry casks, we are ready to take on the most discerning palates. Ready to pair with foods not usually taken with whiskey. Big on the notes of fruit and with a hint of the soft sweetness of Sherry, we are ready!

750 ML

45% ALC/VOL (90 PROOF)

750 ML

GOVERNMENT WARNING:
(1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.



OUR WHISKEY BOASTS A DIFFERENT TASTE BY UTILIZING A "LIVING CASK" PROCESS,
BY USING SOME OF THE BEST UNITED STATES BOURBONS AND OTHER WHISKEYS
SOURCED FROM QUALITY PRODUCTION FACILITIES.
WE FOSTER A GENUINELY UNIQUE SPIRIT.

WE TAKE PRIDE IN WATCHING OUR WHISKEY MATURING TO PERFECTION.
WHISKEY AS IN ARCHERY. WE LIKE TO TAKE IT "ONE SHOT AT A TIME."

FINISHED IN RUM CASKS & BOTTLED BY BOWMAKER'S WHISKEY CO.
IN LAKE CITY, MI.



HAND CRAFTED RYE

BOWMAKER'S WHISKEY

ONE SHOT AT A TIME®

FLETCHER'S RYE WHISKEY

With Fletcher's Rye Whiskey we finish the whiskey
in rum casks, allowing for a rich taste that spins correctly for you.
Changes like these can allow a whiskey to hit marks like
pairing to different foods or events.
We want this whiskey to be perfect for the palate looking for difference.

750 ML

45% ALC/VOL (90 PROOF)

750 ML

GOVERNMENT WARNING:
1) According to the Surgeon General, drinking alcoholic beverages during pregnancy
can cause mental or physical problems for the child. 2) Consumption of alcoholic beverages impairs your ability to
drive a car or operate machinery, and may cause health problems.



FINISHED IN RUM CASKS & BOTTLED BY BOWMAKER'S WHISKEY CO. IN LAKE CITY, MI.

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WE FOSTER A GENUINE, UNIQUE SPIRIT. WE TAKE PRIDE IN WATCHING OUR WHISKEY MATURING TO
PERFECTION. WHISKEY AS IN ARCHERY, WE LIKE TO TAKE IT "ONE SHOT AT A TIME."