

ESTTA Tracking number: **ESTTA891747**

Filing date: **04/23/2018**

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

Proceeding	91240016
Party	Defendant New Era Brewing, LLC
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Submission	Answer
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Filer's email	<a href="mailto:iplaw@gablelaw.com">iplaw@gablelaw.com</a>
Signature	/todd a. nelson/
Date	04/23/2018
Attachments	Answer.pdf(160951 bytes )

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

**In re Application No.:** 87/503,074  
**Filed:** June 23, 2017  
**Mark:** NEW ERA FINE FERMENTATIONS  
**Published in the Official Gazette:** November 14, 2017

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NEW ERA CAP CO., INC.,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91240016
	)	
NEW ERA BREWING, LLC	)	
	)	
Applicant.	)	

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Commissioner for Trademarks  
PO Box 1451  
Alexandria, Virginia 22313-1415

**ANSWER TO NOTICE OF OPPOSITION**

New Era Brewing, LLC (“Applicant”), for its answer to the Notice of Opposition filed by New Era Cap Co., Inc. (“Opposer”), denies each and every allegation contained therein except as hereinafter specifically admitted and further responds to each numbered paragraph of the Notice of Opposition as follows:

1. Upon information and belief, Applicant admits the allegations contained in Paragraph 1 of the Notice of Opposition.
2. Applicant admits the allegations contained in Paragraph 2 of the Notice of Opposition.
3. Upon information and belief, Applicant denies the allegations contained in Paragraph 3 of the Notice of Opposition with regard to use of Opposer’s Marks with the referenced

services in interstate commerce. Applicant is without sufficient knowledge or information to form a belief as to the truth or falsity of any remaining allegations contained in Paragraph 3 of the Notice of Opposition and therefore denies the same.

4. Applicant admits that Opposer filed U.S. application numbers 87/626,847 and 87/626,810 subsequent to Applicant's opposed application but, upon information and belief, denies Opposer's purported first use dates with respect to interstate commerce. Applicant is without sufficient knowledge or information to form a belief as to the truth or falsity of any remaining allegations contained in Paragraph 4 of the Notice of Opposition and therefore denies the same.

5. Applicant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 5 of the Notice of Opposition and therefore denies the same.

6. Applicant admits that it filed the subject application to register and that such application speaks for itself. Applicant denies the allegations contained in Paragraph 6 of the Notice of Opposition with regard to Opposer's purported prior rights.

7. Applicant admits the allegations contained in Paragraph 7 of the Notice of Opposition.

8. Upon information and belief, Applicant admits the allegations contained in Paragraph 8 of the Notice of Opposition.

9. Upon information and belief, Applicant denies the allegations contained in Paragraph 9 of the Notice of Opposition.

10. Upon information and belief, Applicant admits that it has not received permission, consent or license from Opposer, but denies that any such permission, consent or license from

Opposer is required and further denies any remaining allegations contained in Paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations contained in Paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations contained in Paragraph 12 of the Notice of Opposition.

#### **AFFIRMATIVE DEFENSES**

1. Opposer's opposition is barred by Applicant's prior and superior rights, including but not limited to Applicant's rights represented by Applicant's U.S. Application No. 87/503,074.

2. There is no likelihood of confusion, mistake or deception between Opposer's marks and Applicant's mark.

3. Applicant reserves the right to raise such other defenses as may be warranted by discovery in this proceeding.

#### **RELIEF REQUESTED**

WHEREFORE, Applicant prays that this opposition proceeding be dismissed and that its registration issue forthwith.



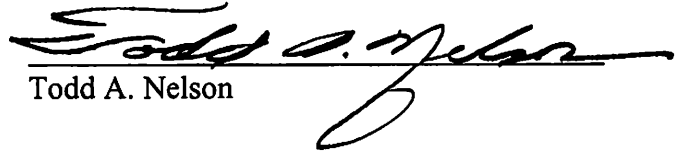
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*Attorneys for Applicant, New Era Brewing, LLC*

**CERTIFICATE OF TRANSMITTAL - ESTTA**

Date of Deposit April 23, 2018

I hereby certify that this correspondence is being transmitted to the UNITED STATES PATENT AND TRADEMARK OFFICE via the ESTTA system on April 23, 2018.

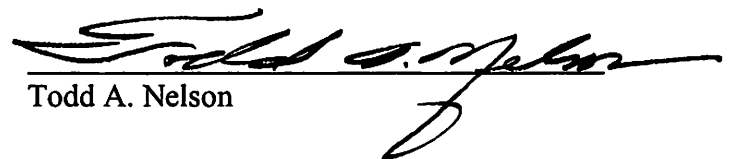


Todd A. Nelson

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 23rd day of April, 2018, a true and correct copy of the foregoing was mailed, postage prepaid, to:

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