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Filing date: **04/08/2020**

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

Proceeding	91253795
Party	Plaintiff Heaven Hill Distilleries, Inc.
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Submission	Answer to Counterclaim
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Date	04/08/2020
Attachments	Answer to Counterclaim Petition to Cancel.pdf(559869 bytes)

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

In the Matter of Application Serial No. 88468304 for DANT & HEAD

Published in the Official Gazette October 8, 2019

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HEAVEN HILL DISTILLERIES, INC.,	:	
	:	OPPOSITION NO. 91253795
Opposer,	:	
	:	
v.	:	
	:	
LOG STILL DISTILLING, LLC	:	
	:	
Applicant.	:	
-----	X	

OPPOSER’S ANSWER TO APPLICANT’S COUNTERCLAIM

Heaven Hill Distilleries, Inc. (“Opposer”), by counsel, for its Answer to the Counterclaim filed by Log Still Distilling, LLC (“Applicant”), hereby alleges and states as follows:

FIRST DEFENSE

The Counterclaim, in whole or in part, fails to state a claim upon which relief may be granted and, therefore, should be dismissed.

SECOND DEFENSE

The Counterclaim fails to plead Applicant’s standing to bring its Counterclaim Petition to Cancel Opposer’s Registration Number 376057.

THIRD DEFENSE

Applicant's claims are barred in whole or in part because there is no factual basis to support a claim of abandonment of Opposer's Registration Number 376057.

FOURTH DEFENSE

Applicant's claims are barred in whole or in part based on the United States Patent and Trademark Office's acceptance of Opposer's Section 8 declarations and Section 9 renewals of Opposer's Registration Number 376057.

FIFTH DEFENSE

Applicant's claims are barred in whole or in part by the doctrine of unclean hands.

SIXTH DEFENSE

Opposer reserves the right to assert any additional affirmative defense and matters in avoidance, which may be discovered during the course of investigation and discovery.

SEVENTH DEFENSE

With regard to the specific allegations contained in the Counterclaim, Opposer states as follows:

1. Opposer lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Counterclaim and therefore denies the same.
2. Opposer admits the allegations contained in Paragraph 2 of the Counterclaim.
3. Opposer admits the allegations contained in Paragraph 3 of the Counterclaim.
4. As to the allegations contained in Paragraph 4 of the Counterclaim, Opposer admits that it cited three registrations, including Registration Number 320981, Registration Number 376057, and Registration Number 878428, as a basis for its Notice of Opposition against Applicant under

Section 2(d) of the Trademark Act. Opposer denies any allegations contained in Paragraph 4 not specifically admitted herein.

5. Opposer denies the allegations contained in Paragraph 5 of the Counterclaim.

6. Opposer lacks knowledge and information sufficient to form a belief as to what Applicant “has searched for” or “has found” as alleged in Paragraph 6 of the Counterclaim and therefore denies the same. Opposer denies the remaining allegations contained in Paragraph 6 of the Counterclaim.

7. Opposer denies the allegations contained in Paragraph 7 of the Counterclaim.

8. Opposer denies the allegations contained in Paragraph 8 of the Counterclaim.

9. Opposer denies the allegations contained in Paragraph 9 of the Counterclaim.

10. Opposer denies the allegations contained in Paragraph 10 of the Counterclaim and specifically denies that Applicant has standing under 15 U.S.C. § 1063(a) as that statute provides standing for a notice of opposition, which is not the appropriate standing for Applicant bringing its Counterclaim petition for cancellation.

11. Opposer lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 11 of the Counterclaim and therefore denies the same.

12. Opposer denies that Applicant is entitled to the relief sought in its prayer for relief.

13. Any allegations of the Counterclaim not specifically admitted or otherwise admitted herein are denied.

Dated: April 8, 2020

Respectfully Submitted,

HEAVEN HILL DISTILLERIES, INC.

/Matthew A. Williams/

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Heaven Hill Distilleries, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Applicant's Counterclaim has been served on counsel for Applicant, Log Still Distilling, Inc., by forwarding said copy on April 8, 2020, via email to: trademarks@troutmansanders.com and austin.padgett@troutmansanders.com.

Signature: / Matthew A. Williams/
Date: April 8, 2020