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

Proceeding	92062999
Party	Defendant COOP Ale Works, LLC
Correspondence Address	COOP ALE WORKS LLC 4745 COUNCIL HEIGHTS ROAD OKLAHOMA CITY, OK 73179 UNITED STATES
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Date	03/04/2016
Attachments	Answer to Petition for Cancellation.pdf(18008 bytes)

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

In re United States Registration No. 3,909,738
Registration Date: January 25, 2011
Mark: COOP ALE WORKS OKLAHOMA CITY and design

JDZ, Inc.,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92,062,999
)	
COOP Ale Works, LLC,)	
)	
Registrant.)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

ANSWER TO PETITION FOR CANCELLATION

COOP Ale Works, LLC (“COOP”), an Oklahoma Limited Liability Corporation having its principal place of business at 4745 Council Heights Road, Oklahoma City, OK 73179, hereby answers the Petition for Cancellation of Petitioner JDZ, Inc. (“Petitioner”) as follows:

1. COOP is without personal information or knowledge sufficient to admit or deny the allegations of paragraph 1, and therefore denies the same.
2. The term “‘anvil’ logo” referenced in paragraph 2 is not defined. COOP is without personal information or knowledge sufficient to admit or deny the allegations of paragraph 2 concerning the “‘anvil logo” and therefore denies the same
3. The term “‘anvil’ logo” referenced in paragraph 3 is not defined. COOP is without personal information or knowledge sufficient to admit or deny the allegations of

paragraph 3 concerning the “anvil logo” and therefore denies the same. COOP specifically denies that Petitioner’s use of an anvil as a component of a trademark is or has been exclusive.

4. The terms “goods” and “marks” are not defined. COOP is without personal information or knowledge sufficient to admit or deny the allegations of paragraph 4 concerning the “goods” and “marks” referenced and therefore denies the same.

5. The term “‘anvil’ logo” referenced in paragraph 5 is not defined. COOP is without personal information or knowledge sufficient to admit or deny the allegations of paragraph 5 concerning the “anvil logo” and therefore denies the same.

6. COOP admits that, based on its review of the records available with the U.S. Patent and Trademark Office, Petitioner is the registered owner of U.S. Registration Nos. 4,601,476 in International Class 32 for “beer.” COOP further admits that, based on its review of the records available with the U.S. Patent and Trademark Office, Petitioner had previously been listed as the registered owner of U.S. Trademark Registration No. 2,880,049, which is now cancelled. Petitioner is without personal knowledge or information to admit or deny the remaining allegations of paragraph 6 and therefore denies the same.

Count I: Alleged Priority of Use and Likelihood of Confusion

7. COOP reincorporates and re-alleges its responses to paragraphs 1 through 6 as though set forth fully herein.

8. COOP denies the allegations concerning the date of first use in commerce of the mark depicted in U.S. Registration No. 3,909,738 (the “Registered Mark”). For clarification, COOP responds that the first use in commerce was on or before March 2,

2009. COOP is contemporaneously seeking to amend the registration to correct the dates of use for the Registered Mark. With respect to the remaining allegations of paragraph 8, to the extent the allegations or Paragraph 8 state legal conclusions, no answer is required. To the extent an answer is required, COOP denies the allegations. COOP is without personal information or knowledge sufficient to admit or deny the allegations of paragraph 8 concerning the “anvil mark” and therefore denies the same.

9. To the extent the allegations of paragraph 9 state legal conclusions, no answer is required. To the extent an answer is required, COOP denies the allegations. COOP is without personal information or knowledge sufficient to admit or deny the allegations of paragraph 9 concerning the “anvil logo” and “mark” and therefore denies the same.

10. Paragraph 10 consists of a legal conclusion, and no answer is required. To the extent an answer is required, COOP denies the allegations.

11. Paragraph 11 consists of a legal conclusion, and no answer is required. To the extent an answer is required, COOP denies the allegations.

12. Paragraph 12 consists of a legal conclusion, and no answer is required. To the extent an answer is required, COOP denies the allegations.

13. Denied.

PRAYER FOR RELIEF

COOP denies the allegations set forth in the Prayer for Relief and specifically denies that Petitioner is entitled to the relief requested therein.

AFFIRMATIVE DEFENSES

1. Petitioner has unreasonably delayed in filing this Petition for Cancellation. U.S. Registration No. 3,909,738 was published for opposition on November 9, 2010, and

registered on January 25, 2011. Petitioner has been on notice of the Registered Mark nearly four years, if not longer, and has unreasonably delayed in bringing this action. COOP has invested in, developed and used the Registered Mark over a prolonged period, and has been prejudiced by Petitioner's delay. Accordingly, Petitioner's claims are barred by the doctrine of laches.

2. Petitioner's conduct has led COOP to believe that Petitioner would not challenge the Registered Mark. Specifically, in early 2009, Mr. Peter Zien, the then-current President of Petitioner informed COOP that Petitioner did not object to the use of the Registered Mark. COOP relied upon Petitioner's conduct and representations when promoting, developing, and using the Registered Mark, and will be materially prejudiced by the delayed assertion of Petitioner's claim. Accordingly, Petitioner's claims are barred by the doctrine of acquiescence.

Respectfully submitted,

/Sasha L. Beling/

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Attorneys for Registrant

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing ANSWER TO PETITION FOR CANCELLATION has been served on the Attorney for Petitioner by mailing said copy this 4th day of March 2016, via first class mail, to:

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