

ESTTA Tracking number: **ESTTA838980**

Filing date: **08/10/2017**

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

## Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

### Petitioner Information

Name	Mammoth Beers, Inc.		
Entity	Corporation	Citizenship	California
Address	PO Box 611 Mammoth Lakes, CA 93546 UNITED STATES		

Attorney information	Lorie K. Mallari The Craft Beer Attorney, APC 5095 Murphy Canyon Rd, Ste 240 San Diego, CA 92123 UNITED STATES Email: tm@craftbeerattorney.com Phone: 6197494115
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### Registration Subject to Cancellation

Registration No.	4064887	Registration date	11/29/2011
Registrant	MENDOCINO BREWING COMPANY, INC. 1601 AIRPORT ROAD UKIAH, CA 94582 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 032. First Use: 2006/01/04 First Use In Commerce: 2006/01/25 All goods and services in the class are subject to cancellation, namely: Ales, Lagers and Pilsners
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### Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Yosemite Cancellation 08.10.2017.pdf(159061 bytes )
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Signature	/lmallari/
Name	Lorie K. Mallari
Date	08/10/2017

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

In the Matter of:

Trademark Application Registration No. **4064887**  
For the mark **YOSEMITE**  
Date Registered: **November 29, 2011**

<hr/> <b>Mammoth Beers, Inc.,</b>	)	
	)	
Petitioner,	)	Cancellation No. _____
	)	
v.	)	
	)	
<b>Mendocino Brewing Company, Inc.,</b>	)	
	)	
Respondent.	)	
<hr/>	)	

**PETITION FOR CANCELLATION**

Mammoth Beers, Inc., doing business as Mammoth Brewing Company, (hereinafter “Petitioner”), a corporation duly organized and existing under the laws of California, having a principal place of business located at PO Box 611, Mammoth Lakes, CA 93546, by its attorney, believes that it is damaged by the registration of the mark shown in Registration No. 4064887, issued on November 29, 2011, for the “YOSEMITE” mark (hereinafter “the Registration”) in International Class 032 owned by Mendocino Brewing Company, a corporation duly organized in California, having a principal place of business located at 1601 Airport Road, Ukiah, CA 94582. Petitioner hereby moves for the cancellation of the Registration.

As grounds for this Cancellation, Petitioner hereby states as follows:

1. Petitioner has been operating in the craft beer industry since at least as early as August 1, 2002, as evidenced in its Registration No. 2981372.

2. Respondent has obtained under the provisions of the Lanham Act, registration on the Principal Register for the “YOSEMITE” mark on November 29, 2011, for “Ales, Lagers and Pilsners” in International Class 032, which is evidenced in Registration No. 4064887.

3. On March 25, 2016, Petitioner filed a trademark application, as evidenced in Application Serial No. 86953456, seeking registration on the Principal Register for the trademark “YOSEMITE PALE ALE” in two classes: (1) International Class 025 for “Sweatshirts; T-shirts; Baseball caps and hats”; and (2) International Class 032 for “beer.”

4. On July 6, 2016, the United States Patent and Trademark Office refused registration of Applicant’s “YOSEMITE PALE ALE” mark in International Class 032 for “beer” citing a likelihood of confusion with the Registration.

5. On January 19, 2017, Petitioner responded to the office action regarding Petitioner’s mark in International Class 032 for “beer”.

6. On March 3, 2017, the Examining Attorney issued a subsequent office action, again, refusing registration of Petitioner’s mark in International Class 032 as confusingly similar to the Registration.

7. The cancellation of the Registration would avoid a finding of likelihood of confusion between the marks.

#### Abandonment

8. Petitioner realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 7 as though fully set forth herein.

9. On information and belief, Respondent has abandoned the “YOSEMITE” mark in International Class 032 as covered by the Registration.

10. On information and belief, Respondent has no intention of resuming use of the

“YOSEMITE” design mark in International Class 032 covered as by the Registration.

11. Continued registration of the mark shown in the Registration in International Class 032 will result in damage to Petitioner pursuant to the allegations stated above, and will create a cloud on the lawful right of Petitioner to adopt and use the mark “YOSEMITE” mark and will prevent Petitioner from obtaining federal registration of the mark “YOSEMITE” mark in the name of the Petitioner.

WHEREFORE, Petitioner respectfully requests that its Petition for Cancellation be sustained and that the Registration of the “YOSEMITE” mark in International Class 032 therein be cancelled.

This Petition for Cancellation is being filed electronically with the United States Patent and Trademark Office Trademark Trial and Appeal Board.

Date: August 10, 2017

By: 

Lorie K. Mallari, Esq.  
The Craft Beer Attorney, APC  
5095 Murphy Canyon Road,  
Suite 240  
San Diego, CA 92123

Attorney for Petitioner

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

In the Matter of:

Trademark Application Registration No. **4064887**

For the mark **YOSEMITE**

Date Registered: **November 29, 2011**

**Mammoth Beers, Inc.,**

Petitioner,

v.

**Mendocino Brewing Company, Inc.,**

Respondent.

Cancellation No. \_\_\_\_\_

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Petition for Cancellation, duly signed by attorney for Petitioner, has been served upon Registrant's Correspondent of Record by e-mailing a copy on 8/10/2017, addressed to:

GORDON E R TROY  
Coblentz, Patch, Duffy & Bass LLP  
One Montgomery Street, Suite 3000  
San Francisco, CA 94104  
[tm@cpdb.com](mailto:tm@cpdb.com)

Date: August 10, 2017

By:   
Lorie K. Mallari, Esq.