

ESTTA Tracking number: **ESTTA1263288**

Filing date: **01/31/2023**

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	Bookwalter Winery, L.L.C.		
Entity	limited liability company	Citizenship	Washington
Address	894 TULIP LANE RICHLAND, WA 99352 UNITED STATES		

Attorney information	WINFIELD B. MARTIN PERKINS COIE LLP 1201 THIRD AVENUE SUITE 4900 SEATTLE, WA 98101 UNITED STATES Primary email: pctrademarks@perkinscoie.com Secondary email(s): wmartin@perkinscoie.com 2063598000		
Docket no.	66223-7006		

Registration subject to cancellation

Registration no.	5423699	Registration date	03/13/2018
Register	Principal		
Registrant	Novel Brewing Company, LLC 5527 MARSHALL STREET OAKLAND, CA 94608 UNITED STATES		

Goods/services subject to cancellation

Class 032. First Use: Jun 4, 2016 First Use In Commerce: Jun 4, 2016 All goods and services in the class are subject to cancellation, namely: Beer

Grounds for cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	SIGNED NOVEL BREWING CO Petition for Cancellation.pdf(271593 bytes)
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Signature	/Winfield B. Martin/
Name	Winfield B. Martin
Date	01/31/2023

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

BOOKWALTER WINERY, L.L.C.,

Petitioner,

v.

NOVEL BREWING COMPANY, LLC,

Registrant.

Cancellation No.:

PETITION FOR CANCELLATION

Mark: NOVEL BREWING CO
Registration No.: 5423699
Registration Date: March 13, 2018

Bookwalter Winery, L.L.C. ("Petitioner") believes that it will be damaged by the continued registration of Novel Brewing Company, LLC ("Registrant") for the mark NOVEL BREWING CO (the "Registered Mark") for use in connection with those goods (the "Registered Goods") listed in Registration No. 5423699 (the "Registration"), and hereby petitions to cancel the Registration. As grounds for its petition, Petitioner alleges as follows:

I. PARTIES

1. Petitioner is a Washington limited liability company, having a place of business in Richland, Washington.
2. On information and belief, Registrant is a California limited liability company, having a place of business in Oakland, California.

II. PETITIONER'S MARK AND APPLICATION

3. Petitioner is a winery, providing or intending to provide alcoholic beverages (other than beer) and restaurant and bar services ("Petitioner's Business").
4. Petitioner has filed application Serial No. 97675894 ("Petitioner's Application") to register the mark NOVEL DISTILLING ("Petitioner's Mark") with those goods ("Petitioner's Goods") listed in Petitioner's Application.

5. An excerpt from the Trademark Office's on-line records showing Petitioner's Application is attached as **Exhibit A**.
6. Petitioner has a bona fide intent to use Petitioner's Mark in commerce with Petitioner's Goods.

III. THE REGISTERED MARK AND REGISTRATION

7. The Registration was issued on March 13, 2018, from application No. 86470827 (the "Application") filed by Registrant on December 3, 2014.
8. The Registration claims first use of the Registered Mark with the Registered Services on June 4, 2016.
9. After diligent inquiry, Petitioner is unable to locate any ongoing use of the Registered Mark by Registrant or any other party associated with Registrant.

IV. ABANDONMENT CLAIM

10. On information and belief, Registrant has ceased using the Registered Mark, with an intent not to resume use of the Registered Mark.
11. The Trademark Office preliminarily refused registration of Petitioner's Mark for Petitioner's Goods on December 19, 2022, on the grounds that the Registered Mark, as used with those goods listed in the Registration, is confusingly similar to Petitioner's Mark, as used with Petitioner's Goods.
12. The continued registration of the Registered Mark would thus prevent Petitioner from establishing, developing and exercising exclusive control over and goodwill in Petitioner's Mark. Therefore, the continued registration of the Registered Mark would damage and injure Petitioner.
13. Because the Registered Mark has been abandoned, and because continued registration of the Registered Mark would damage and injure Petitioner, the Registration should be canceled.

V. REQUEST FOR RELIEF

WHEREFORE, Petitioner requests that registration No. 5423699 be canceled.


VI. FEES

14. Petitioner has paid the \$600 filing fee at the time of filing this Petition.

DATED: January 31, 2023

Respectfully submitted,

PERKINS COIE LLP

By: 

Winfield B. Martin

Alexandra Pierce

Katie Christensen

Attorneys for Opposer
1201 Third Avenue, 49th Floor
Seattle, Washington 98101-3099
(206) 359-3036

Exhibit A

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Mark: NOVEL BREWING CO

NOVEL BREWING CO

US Serial Number: 86470827

Application Filing Date: Dec. 03, 2014

US Registration Number: 5423699

Registration Date: Mar. 13, 2018

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Mar. 13, 2018

Publication Date: Sep. 05, 2017 Notice of Allowance Date: Oct. 31, 2017

Mark Information

Mark Literal Elements: NOVEL BREWING CO

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Disclaimer: "BREWING CO"

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (..) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Beer

International Class(es): 032 - Primary Class

U.S Class(es): 045, 046, 048

Class Status: ACTIVE

Basis: 1(a)

First Use: Jun. 04, 2016

Use in Commerce: Jun. 04, 2016

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Filed ITU: Yes

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Novel Brewing Company, LLC

Owner Address: 5527 Marshall Street
Oakland, CALIFORNIA UNITED STATES 94608

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: CALIFORNIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: H. Michael Drumm

Docket Number: Novel Brewin

Attorney Primary Email Address: trademark@drummlaw.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: H. Michael Drumm
Drumm Law, LLC
14656 W. 56th Dr.
Arvada, COLORADO UNITED STATES 80002

Phone: 720-257-9060

Fax: 720-310-2025

Correspondent e-mail: trademark@drummlaw.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 13, 2018	REGISTERED-PRINCIPAL REGISTER	
Feb. 03, 2018	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Feb. 02, 2018	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jan. 18, 2018	STATEMENT OF USE PROCESSING COMPLETE	66530
Jan. 05, 2018	USE AMENDMENT FILED	66530
Jan. 17, 2018	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66530
Jan. 05, 2018	TEAS STATEMENT OF USE RECEIVED	
Oct. 31, 2017	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Sep. 05, 2017	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Sep. 05, 2017	PUBLISHED FOR OPPOSITION	
Aug. 16, 2017	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Aug. 03, 2017	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 31, 2017	SUSPENSION CHECKED - TO ATTORNEY FOR ACTION	73797
Jan. 26, 2017	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	73797
Jan. 26, 2017	ASSIGNED TO LIE	73797
Jul. 18, 2016	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Jan. 04, 2016	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Jun. 30, 2015	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Jun. 30, 2015	LETTER OF SUSPENSION E-MAILED	6332
Jun. 30, 2015	SUSPENSION LETTER WRITTEN	91239
Jun. 12, 2015	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jun. 12, 2015	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jun. 12, 2015	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jun. 12, 2015	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jun. 11, 2015	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jun. 11, 2015	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Mar. 18, 2015	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Mar. 18, 2015	NON-FINAL ACTION E-MAILED	6325

Mar. 18, 2015	NON-FINAL ACTION WRITTEN	91239
Mar. 18, 2015	ASSIGNED TO EXAMINER	91239
Dec. 10, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED	
Dec. 06, 2014	NEW APPLICATION ENTERED	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Feb. 02, 2018