

ESTTA Tracking number: **ESTTA567722**

Filing date: **10/29/2013**

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 requests to cancel indicated registration.

**Petitioner Information**

Name	Boston Beer Corporation		
Entity	Corporation	Citizenship	Massachusetts
Address	One Design Center Place, Suite 850 Boston, MA 02210-2300 UNITED STATES		

Correspondence information	Sandra Edelman Dorsey & Whitney LLP 51 West 52nd Street New York, NY 10019-6119 UNITED STATES ny.trademark@dorsey.com, edelman.sandra@dorsey.com, sunderji.fara@dorsey.com Phone:212.415.9200		
----------------------------	---	--	--

**Registration Subject to Cancellation**

Registration No	4040170	Registration date	10/18/2011
International Registration No.	NONE	International Registration Date	NONE
Registrant	Stranger & Stranger Limited 46A Carnaby Street London, GBX W1F9PS GBX		

**Goods/Services Subject to Cancellation**

Class 033. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Alcoholic beverages except beers
---

**Grounds for Cancellation**

Abandonment	Trademark Act section 14
Other	Lack of bona fide intent to use.

Attachments	BRANCHING OUT- Petition to Cancel.pdf(15607 bytes )
-------------	---

**Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/se/
Name	Sandra Edelman
Date	10/29/2013

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

**IN THE MATTER OF REGISTRATION**

Mark: BRANCHING OUT  
Registrant: Stranger & Stranger Limited  
Registration No.: 4,040,170  
Registration Date: October 18, 2011

-----X  
:  
BOSTON BEER CORPORATION, :  
:  
Petitioner, :  
:  
- against - : Cancellation No. \_\_\_\_\_  
:  
STRANGER & STRANGER LIMITED, :  
:  
Respondent. :  
:  
-----X

**PETITION TO CANCEL**

Petitioner, Boston Beer Corporation (“Petitioner”), a Massachusetts corporation with an office located at One Design Center Place, Suite 850, Boston, Massachusetts, believes that it is or will be damaged by Registration No. 4,040,170 for the trademark BRANCHING OUT (“the Mark”) issued on the Principal Register on October 18, 2011 to Stranger & Stranger Limited (“Respondent”) for “alcoholic beverage except beer” in International Class 33 (the “Registration”), and hereby petitions to cancel the same. As grounds for cancellation, it is alleged that:

1. Petitioner is the proprietor of Application Serial No. 85/831,408 for the mark BRANCH OUT for “hard cider” in International Class 33 filed on January 24, 2013 in the United States Patent and Trademark Office (“U.S.P.T.O.”) (the “Application”).

2. Petitioner's Application has been refused under Trademark Act Section 2(d) based on the Registration.

3. Respondent's Registration covers "alcoholic beverages except beers" in Class 33.

4. Upon information and belief, since the date of registration, Respondent has not used the Mark in the United States in regards to the goods identified in the Registration and has not had a continuous intention to commence use of the Mark in the ordinary course of business in connection therewith.

5. By reason of the foregoing, upon information and belief, Respondent has abandoned the Mark pursuant to 15 U.S.C. §§ 1064(3) and 1127.

6. Upon information and belief, at the time Respondent filed the application to register the Mark which matured into the Registration, Respondent did not have a *bona fide* intention to use the Mark in Commerce in the United States.

7. By virtue of the foregoing, if the aforementioned registration is permitted to remain on the Principal Register with all presumptions conferred by its status as a Principal Registration, Petitioner will be damaged and Respondent will enjoy unlawful gain and advantage to which it is not entitled under the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*

WHEREFORE, Petitioner respectfully requests that this Petition for Cancellation be granted and that Registration No. 4,040,170 be cancelled pursuant to 15 U.S.C. § 1064.

Please recognize as attorneys for Petitioner in this proceeding Sandra Edelman, Bruce R. Ewing, Sarah Robertson, Steven Fang, and Fara S. Sunderji, members of the Bar of the State of

New York, whose address is Dorsey & Whitney LLP, 51 West 52nd Street, New York, New York 10019, telephone number (212) 415-9200.

Respectfully submitted,

DORSEY & WHITNEY LLP

Dated: October 29, 2013

By: \_\_\_\_\_/se/

Sandra Edelman  
Fara S. Sunderji  
51 West 52<sup>nd</sup> Street  
New York, NY 10019  
(212) 415-9200  
[nytrademark@dorsey.com](mailto:nytrademark@dorsey.com)

Attorneys for Petitioner  
Boston Beer Corporation

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

**IN THE MATTER OF REGISTRATION**

Mark: BRANCHING OUT  
Registrant: Stranger & Stranger Limited  
Registration No.: 4,040,170  
Registration Date: October 18, 2011

-----X  
:  
BOSTON BEER CORPORATION, :  
:  
Petitioner, :  
:  
- against - : Cancellation No. \_\_\_\_\_  
:  
STRANGER & STRANGER LIMITED, :  
:  
Respondent. :  
:  
-----X

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing PETITION TO CANCEL is being served upon  
Registrant by mailing a true copy thereof by first class mail, postage prepaid, addressed to:

DANIEL M. GURFINKEL  
HUSCH BLACKWELL SANDERS WELSH & KATZ  
120 S RIVERSIDE PLZ FL 22  
CHICAGO, ILLINOIS 60606-3912

on October 29, 2013

\_\_\_\_\_  
/tk/  
Thomas Kearney