

ESTTA Tracking number: **ESTTA914064**

Filing date: **08/07/2018**

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

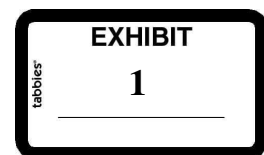
Proceeding	91241903
Party	Defendant IPack Sarl
Correspondence Address	I. Edward Marquette Kutak Rock LLP 2300 Main Street Suite 800 Kansas City, MO 64108 UNITED STATES Email: ed.marquette@kutakrock.com, ttab.gillette@kutakrock.com, meredith.webster@kutakrock.com
Submission	Opposition/Response to Motion
Filer's Name	I. Edward Marquette
Filer's email	ttab.gillette@kutakrock.com, andrea.black@kutakrock.com
Signature	/I. Edward Marquette/
Date	08/07/2018
Attachments	Exhibit_1_Motion to Dismiss.pdf(2782849 bytes) Exhibit_2_Motion to Stay.pdf(709594 bytes) Exhibit_3A.pdf(4897139 bytes) Exhibit_3B.pdf(550193 bytes) Exhibit_3C.pdf(341652 bytes) IPacks Opposition to Tailgates Motion to Suspend.pdf(194503 bytes)

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

TAILGATE BEER, LLC)	
)	Case No.: 3:18-cv-00563
Plaintiff,)	
)	Chief Judge Waverly D. Crenshaw, Jr.
v.)	
)	Magistrate Judge Jeffery S. Frensley
BOULEVARD BREWING COMPANY,)	
DUVEL MOORTGAT USA, LTD.,)	
)	
Defendants.)	

DEFENDANTS' MOTION TO DISMISS

Defendants Boulevard Brewing Company (“Boulevard”) and Duvel Moortgat USA, Ltd. (“DUSA”) (collectively, “Defendants”), by and through their counsel of record, and pursuant to Rule 12(b)(2) and (3) of the Federal Rules of Civil Procedure and L.R. 7.01, move for an Order dismissing Plaintiff Tailgate Beer, LLC’s (“Tailgate”) Complaint for lack of personal jurisdiction and improper venue, or in the alternative, transferring the case to the District of Delaware. Tailgate cannot establish general or specific jurisdiction over Boulevard or DUSA. Defendants file a Memorandum in Support of this Motion to Dismiss simultaneously herewith.



Dated: July 13, 2018

Respectfully submitted,

KUTAK ROCK LLP

By */s/ Gregory R. Crochet*

Gregory R. Crochet (TN Bar #26962)
303 Peachtree Street NE, Suite 2750
Atlanta, Georgia 30308-3218
(404) 222- 4600(Telephone)
(404) 222- 4654 (Facsimile)
Greg.Crochet@kutakrock.com

**ATTORNEY FOR DEFENDANTS
BOULEVARD BREWING COMPANY AND
DUVEL MOORTGAT USA, LTD.**

CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2018, *Defendants' Motion to Dismiss* was filed using the Court's CM/ECF e-filing system, which will send notification of such filing to the following counsel of record:

Richard S. Busch
Joshua D. Wilson
King & Ballow
315 Union Street
Suite 1100
Nashville, TN 37201
(615) 259-3456
Email: rbusch@kingballow.com
Email: jwilson@kingballow.com
ATTORNEYS FOR PLAINTIFF

/s/ Gregory R. Crochet
Gregory R. Crochet

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

TAILGATE BEER, LLC)	
)	Case No.: 3:18-cv-00563
Plaintiff,)	
)	Chief Judge Waverly D. Crenshaw, Jr.
v.)	
)	Magistrate Judge Jeffery S. Frensley
BOULEVARD BREWING COMPANY,)	
DUVEL MOORTGAT USA, LTD.,)	
)	
Defendants.)	

**DEFENDANTS’ MEMORANDUM IN SUPPORT OF MOTION TO DISMISS FOR
LACK OF PERSONAL JURISDICTION AND IMPROPER VENUE**

Defendants Boulevard Brewing Company (“Boulevard”) and Duvel Moortgat USA, Ltd. (“DUSA”) (collectively, “Defendants”) state the following in support of Defendants’ Motion to Dismiss Plaintiff Tailgate Beer, LLC’s (“Tailgate”) Complaint for lack of personal jurisdiction and improper venue, pursuant to Fed. R. Civ. P. 12(b)(2) and (3) (the “Motion”)¹:

INTRODUCTION

This is a trademark and copyright infringement lawsuit in which Tailgate alleges that Defendants infringed Tailgate’s registered word and design marks, despite the United States Patent

¹ Defendants reserve their rights under Fed. R. Civ. P. 12(h)(2) to raise additional defenses, including, but not limited to, failure to state a claim and failure to join a party under Rule 19.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.