

08-08-2007

Form PTO-1594 (Rev. 07/05)  
OMB Collection 0651-0027 (exp

U.S. DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office



103434746

To the Director of the U. S. P.

documents or the new address(es) below.

8.6.07

1. Name of conveying party(ies):

Klosterbrauerei Andechs

- Individual(s)
- General Partnership
- Corporation- State: Andechs, Germany
- Other \_\_\_\_\_
- Association
- Limited Partnership

Citizenship (see guidelines) \_\_\_\_\_

Additional names of conveying parties attached?  Yes  No

3. Nature of conveyance /Execution Date(s) :

Execution Date(s) July 26, 2007

- Assignment
- Security Agreement
- Other Reaffirmance of May 7 Assignment
- Merger
- Change of Name

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached?  Yes  No

Name: Klosterbrauerei Andechs

Internal

Address: \_\_\_\_\_

Street Address: Bergstrasse 2

City: \_\_\_\_\_

State: Andechs

Country: Germany Zip: 82346

- Association
- General Partnership
- Limited Partnership
- Corporation
- Other \_\_\_\_\_

If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No  
(Designations must be a separate document from assignment)

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1,779,807; 1,726,589 1,787,601

Additional sheet(s) attached?  Yes  No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

5. Name & address of party to whom correspondence concerning document should be mailed:

Name: Thomas J. Burger, Esq.

Internal Address: \_\_\_\_\_

Street Address: 441 Vine Street

2700 Carew Tower

City: Cincinnati

State: OH Zip: 45202

Phone Number: 513 241 2324

Fax Number: 513 241 6234

Email Address: tburger@whepatent.com

6. Total number of applications and registrations involved:

3

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ \_\_\_\_\_

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

a. Credit Card Last 4 Numbers \_\_\_\_\_  
Expiration Date \_\_\_\_\_

b. Deposit Account Number 23-3000

Authorized User Name Thomas J. Burger

9. Signature:

Signature

August 1, 2007

Date

Thomas J. Burger Reg. No. 32.662

Name of Person Signing

Total number of pages including cover sheet, attachments, and document:  8

OFFICE OF PUBLIC RECORDS  
2007 AUG -6 PM 3:38  
FINANCE SECTION

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to:  
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

08/07/2007 MJAMA1 00000031 233000 1779807

01 FC:8521  
02 FC:8522

( 40.00 DA  
50.00 DA )

TRADEMARK  
REEL: 003600 FRAME: 0646

**IN THE UNITED STATES TRADEMARK OFFICE**

Registration No. 1,779,807, KLOSTER ANDECHS

Registration No. 1,726,589, ANDECHS

Registration No. 1,787,601, KLOSTER ANDECHS

**DECLARATION OF FATHER VALENTIN ZIEGLER OSB  
REGARDING ASSIGNMENT DATED MAY 7, 2007**

- 1) I am currently the President of Klosterbrauerei Andechs and authorized to act on its behalf. Klosterbrauerei Andechs is fully owned by KLOSTER ANDECHS, the famous Monastery located in Andechs Germany.
- 2) Klosterbrauerei Andechs and Kloster Andechs is a very well known entity, particularly in Germany, but also in the United States and around the world, known for its traditional brewery and its beer, among other things. Klosterbrauerei Andechs is located near Munich, the capital of Bavaria. Klosterbrauerei Andechs has developed an excellent reputation for beer and brewing, based on tradition that dates back to the 1400s. Similar to all traditional German breweries, Klosterbrauerei Andechs complies with the Bavarian beer purity law which is referred to as the "Reinheitsgebot".
- 3) An Oregon-based company called Andechs Trading Company "ATC", via agreement with Klosterbrauerei Andechs, was granted rights to brew beer in North America subject to certain conditions. In that context, ATC was also permitted to register the three registrations identified above („the Registrations"). The agreement between ATC and Klosterbrauerei Andechs did not give ATC infinite rights to the Registrations. The agreement had a finite duration.
- 4) As such Klosterbrauerei Andechs and ATC always understood that Klosterbrauerei Andechs was and is the ultimate owner of the famous trademarks KLOSTER ANDECHS, ANDECHS and variations thereof and that ATC's continued rights related to these famous marks in North America depended on ATC's continued efforts in complying with the conditions of the agreement.
- 5) To help assure such compliance Klosterbrauerei Andechs has held a position in the management of ATC since inception back in 1990. On filing date May 7, 2007 I was the President of ATC.
- 6) On May 8, 2007, I was for the first time preceded by Father Edmund Smith in that role. Father Edmund Smith is no representative and not related to Klosterbrauerei Andechs and therefore not authorized to act on behalf of Klosterbrauerei Andechs.

- 7) In the recent past, Klosterbrauerei Andechs has asked ATC to supply details about its performance in North America under the agreement, particularly in the United States. This inquiry also involved public statements made regarding ATC's performance under the agreement. However, despite my position as President of ATC until 8<sup>th</sup> May 2007, Klosterbrauerei Andechs could not get definitive answers to those questions. Klosterbrauerei Andechs still has not received answers to those questions as of today.
- 8) On May 7, 2007, I signed a document entitled „Assignment“ (the „May 7 Assignment“). A copy is attached. The purpose of the May 7 Assignment was to transfer the three above-identified trademark registrations (the „Registrations“) to Klosterbrauerei Andechs, for the reasons described in that Assignment. More particularly, the third paragraph of that Assignment reads as follows:

*"WHEREAS, ATC and KA acknowledge and recognize that KA is the worldwide owner of the famous Andechs and Kloster Andechs brands (the „Andechs Brands“) and that the need for preserving and protecting the famous Andechs Brand, and also the opportunity for exploiting the Andechs Brands in the US now require verification of KA's ownership and legal title to the Registrations."*

I believe that the above statement was true on May 7, 2007 and that it remains true. The May 7 Assignment was not submitted in error, nor was it based on erroneous information. The need still exists to preserve and protect the famous Andechs brands and the May 7 Assignment is one step in that direction. I understand that the May 7, 2007 Assignment was recorded with the United States Trademark Office.

- 9) I also understand that, on behalf of ATC, Father Edmund Smith recently sent to the United States Trademark Office a notice stating that the May 7 Assignment was „submitted with erroneous information“ and that „the proper owner continues to be Andechs Trading Company.“
- 10) I disagree with Father Smith's characterization of the May 7 Assignment. It was not erroneous and with this Declaration I reaffirm the substance of the May 7 Assignment, that the ownership of the Registrations, along with any goodwill associated therewith, properly transferred to Klosterbrauerei Andechs on May 7, 2007.

- 11) I understand that this Declaration will also be submitted to the Assignment Branch of the United States Trademark Office, to clarify any possible confusion that may have been caused by ATC's filing of a document which alleges that the May 7 Assignment was „erroneous“.
- 12) The undersigned being hereby warned that willful false statements so made are punishable by fine or imprisonment, or both under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the Registrations, declares that: he is properly authorized to execute this application on behalf of the Klosterbrauerei Andechs; he believes Klosterbrauerei Andechs to be entitled to use the corresponding marks in commerce; to the best of his knowledge and belief no other person, firm, corporation or association has the right to use such marks in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods or services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Andechs, 26<sup>th</sup> July 2007

**Klosterbrauerei Andechs**

Bergstraße 2

82546 Andechs

Father Valentin Ziegler OSB

On behalf of Klosterbrauerei Andechs

IN THE UNITED STATES TRADEMARK OFFICE

Registration No. 1,779,807, KLOSTER ANDECHS  
Registration No. 1,726,589, ANDECHS  
Registration No. 1,787,601, KLOSTER ANDECHS

STATEMENT EXPLAINING DECLARATION OF FATHER VALENTIN ZIEGLER OSB  
REGARDING ASSIGNMENT DATED MAY 7, 2007

The undersigned attorney filed an Assignment with the U.S. Trademark Office related to the three above-identified trademark registrations (the "Registrations"). This Assignment was signed on May 7, 2007 (the "May 7 Assignment"), and was recorded at Reel/Frame 003536/0202. A copy is attached. The accompanying Declaration of Father Valentin Ziegler, also attached, reaffirms the May 7 Assignment. It is also being submitted to the USPTO for recordal.

The purpose of this second submittal is to clarify any possible confusion created by an intervening filing by a company called Andechs Trading Company ("ATC"), the prior owner of these Registrations. More specifically, ATC recently filed a paper with the USPTO asserting that the May 7 Assignment was "submitted with erroneous information." Notably, the ATC submittal fails to identify what is alleged to be erroneous about the May 7 Assignment.

Contrary to ATC's recent assertion, the May 7 Assignment was not "submitted with erroneous information." The accompanying Declaration of Father Valentin Ziegler OSB states that he was the President of ATC on May 7, 2007, and that he knowingly signed the May 7 Assignment. The May 7 Assignment was not an error or a mistake by either Klosterbrauerei Andechs or ATC, for the reasons stated therein. (See Declaration of Father Valentin.) Thus, the basis for ATC's recent assertion is unclear.

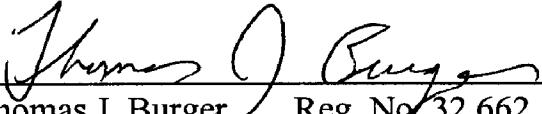
On the other hand, it seems that the current President of ATC now disagrees with the conduct of the past President of ATC, namely the May 7 Assignment. But if that is indeed the case,

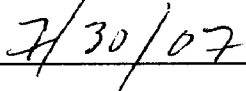
this is an ownership dispute over the Registrations, not some mistake based on "erroneous information."

If it eventually becomes necessary for Klosterbrauerei Andechs to take steps to protect its ownership in and rights to the famous "Kloster Andechs" and "Andechs" trademarks, including the Registrations, it will do so. But for now, these papers are being submitted to the U.S. Trademark Office to clarify any confusion that may have been caused by ATC's intervening filing.

For these reasons, the undersigned respectfully requests that these papers be recorded with the Assignment Branch of the U.S. Trademark Office. If there are any questions regarding this request, the undersigned attorney asks that he be contacted by telephone.

Respectfully submitted,

  
\_\_\_\_\_  
Thomas J. Burger Reg. No. 32,662

  
\_\_\_\_\_  
Date

## ASSIGNMENT

WHEREAS, Andechs Trading Company, a Delaware corporation with its principal place of business at 1000 Yonge St. Toronto, Ontario M4W 2J2, Canada ("ATC") is identified as the registrant of the three US trademark registrations listed on attached Exhibit A ("the Registrations").

WHEREAS, Klosterbrauerei Andechs, a corporation organized under the laws of the Federal Republic of Germany, with a business address of Bergstasse 2, 82346 Andechs, Germany ("KA") wishes to acquire the Registrations and the goodwill associated therewith.

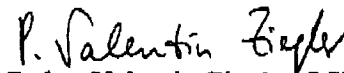
WHEREAS, ATC and KA acknowledge and recognize that KA is the worldwide owner of the famous Andechs and Kloster Andechs brands (the "Andechs Brands"), and that the need for preserving and protecting the famous Andechs Brands, and also the opportunity for exploiting the Andechs Brands in the US now require verification of KA's ownership and legal title to the Registrations.

NOW, THEREFORE, for good and valuable consideration, receipt of which is acknowledged, ATC assigns to KA all of the rights it has as to the Registrations and the goodwill associated therewith, and any other rights it purportedly holds as to the Andechs Brands.

This Assignment becomes effective the date it is signed by ATC.

ANDECHS TRADING COMPANY

Date 7<sup>th</sup> May 2007

  
Father Valentin Ziegler OSB  
President of Andechs Trading Company

Accepted by Klosterbrauerei Andechs


  
Father Valentin Ziegler OSB  
Chief Executive of Klosterbrauerei Andechs

EXHIBIT A

TRADEMARKS:

<u>MARK</u>	<u>REGISTRATION NO.</u>
KLOSTER ANDECHS	1,779,807
ANDECHS	1,726,589
KLOSTER ANDECHS	1,787,601