

From: <[Brewboy1@aol.com](mailto:Brewboy1@aol.com)>  
Date: Jul 15, 2010 10:51 AM  
Subject: A response from Port Brewing  
To: <[dan.bornstein@gmail.com](mailto:dan.bornstein@gmail.com)>

Mr. Bornstein,

My name is Tomme Arthur and I am The Director of Brewery Operations for Port Brewing and The Lost Abbey. I am also one of the owners of Port Brewing LLC. I am contacting you to discuss the letter which was sent by our Attorney Richardson Griswold. Please review my response below to your email from yesterday about a potential compromise in this matter. We ask that you please relay this message to your client. We will await your client's response.

As you indicated in your email, your client wishes to discuss this matter with us thereby avoiding litigation. We have the following salient points which we wish to clarify.

Port Brewing opened for business in 2006 and at that time launched The Lost Abbey line of beers. At that time, a Celtic Cross was established as the focal point of all branding, merchandise and iconic representations for the brand. The use of the Celtic Cross as it relates to The Lost Abbey is central to the branding of our beers both domestically and internationally. In short, the Celtic Cross is an integral component to the success of The Lost Abbey branding.

Earlier this year, it came to our attention that Moylan's Brewing Company would be releasing a new tap handle design featuring a Celtic Cross for the branding of Moylan's draft products. Once we confirmed the commercial use of the handle and examined photos of the tap handle, we determined there was a strong likelihood of confusion regarding the two tap handles.

I then directed Matt Wells (our brand manager) to contact Moylan's, as a courtesy, seeking clarification on their intentions respective to this tap handle design. His email was sent to [Curtis@moylan's.com](mailto:Curtis@moylan's.com) on April 20, 2010. No response to the email or acknowledgement of it being received was given.

At that time, I then directed Ms. Gautsch our Trademark Attorney to draft a letter to Moylan's Brewing Company. A letter was sent on May 20, 2010 detailing our existing (and prior) use of the handles seeking an explanation for the current use by Moylan's. We received no such assurances that the Moylan's Celtic Cross stylized tap handles were in use prior to 2007.

Seeking further clarification, Ms. Gautsch then contacted you, on the phone, to discuss our challenges with the documentation we received and our on going desire for clarification on this matter. None were catalogued assuaging our fears that our Trademark was at risk. Ms. Gautsch then directed Mr. Griswold to draft the letter showing our intent to file suit which is what led to this email today.

At this time it is our position that Port Brewing LLC owns the trademark to the Celtic Cross tap handle design. I personally do not feel Moylan's Brewing Company has been receptive to our correspondences. Additionally, assurances that our Celtic Cross Trademark hasn't been violated are tepid at best.

I have been instructed, by my business partners, to be mindful of your clients needs while at the same time maintaining our resolve to not have our Trademark weakened nor threatened. Therefore, I respectfully ask at this time for your client to submit his requests for a potential compromise. We will review his proposal and determine what is the best course of action for our Trademark. Given the lengthy, almost drawn out proceedings we have been engaged in since April, we expect his request would be delivered to us no later than 4 pm on Friday July 16, 2010.

Thank you for your time and attention in resolving this matter.

Tomme Arthur  
Director of Brewery Operations  
Port Brewing Co. and The Lost Abbey