

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 75/010230

APPLICANT: COMPANIA DE LICORES INTERNACIONALES S.A.

JUL - 9 2003

CORRESPONDENT ADDRESS:

PEDRO J CRUZ-SOTO
CRUZ-SOTO & FERNANDEZ-VALLEJO PSC
1225 PONCE DE LEON AVE STE 703
SAN JUAN PR 00907

RETURN ADDRESS:

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514
ecom111@uspto.gov

MARK: OLD HAVANA

CORRESPONDENT'S REFERENCE/DOCKET NO: LICORES5350.

CORRESPONDENT EMAIL ADDRESS:

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1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

RE: Serial Number 75/010230

REQUEST FOR SUSPENSION

Applicant submitted June 23, 2003, an Appeal Brief following the filing April 23, 2003, of its Notice of Appeal in response to the final refusal to register issued October 25, 2002. Normally, an Examiner's Appeal Brief in reply to applicant's Appeal Brief would be issued at this juncture, however, do to a recent decision by the Court of Appeals for the Federal Circuit, a request is made for action on this appeal to be suspended.

The Court of Appeals for the Federal Circuit in the case of *In re California Innovations, Inc.*, application no. 74/650,703 (Fed Cir, decided May 22, 2003), decided that the mark "California Innovations and design" was not primarily geographically deceptively misdescriptive for various goods not originating in California, because the misrepresentation would not constitute a material factor in a purchaser's decision. The Court then vacated and remanded the case to the Trademark Trial & Appeal Board for further proceedings in accordance with the ruling.

Because the standard for determining whether a mark is unregistrable under Trademark Act § 2(e)(3) is in flux and that decision has a direct affect upon this case, it is requested that action on this application be suspended pending the final resolution of *California Innovations*, supra.

This application has been forwarded to the Trademark Trial & Appeal Board for its determination on the request for suspension.



/David C. Reihner/, Examining Attorney
Law Office 111, 703-308-9111 ext. 469
703-746-8107 fax. ecom107@uspto.gov

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