

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 76/432463

APPLICANT: ARAMARK Corporation



CORRESPONDENT ADDRESS:
 LAURA GENOVESE MILLER
 COZEN OCONNOR
 1900 MARKET ST
 PHILADELPHIA PA 19103-3527

RETURN ADDRESS:
 Commissioner for Trademarks
 P.O. Box 1451
 Alexandria, VA 22313-1451

If no fees are enclosed, the address should include the words "Dox Responses - No Fee."

MARK: AVENTURA

CORRESPONDENT'S REFERENCE/DOCKET NO: N/A

Please provide in all correspondence:

CORRESPONDENT EMAIL ADDRESS:

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.

Serial Number 76/432463

Applicant is requesting reconsideration of a final refusal dated February 20, 2004.

Applicant has submitted evidence purported to be advertisements showing that the registrant's customers and potential customers are individuals who vacation in Mexico at registrant's resort. Applicant attempts to distinguish itself by stating that its services are different since it operates primarily as a catering business and restaurant for stadiums, arenas and convention centers. The applicant made this same argument in its original response to the Office action, and the examining attorney addressed it in the Final Office action. Applicant has not amended its own recitation of services to reflect this limitation, and the registrant does not have any limiting language in its recitation of services. As explained previously, the fact that the applicant may offer catering services does not change the fact that both the applicant and the registrant offer restaurant services, and that catering services are often an adjunct to restaurant services. It is not unusual for these services to be offered together and the examining attorney attaches additional registrations illustrative of this point. (*See attachments*).

Applicant also argues that there is and can be no actual confusion between the services of the applicant and the registrant. The test under Trademark Act Section 2(d) is whether there is a likelihood of confusion. It is unnecessary to show actual confusion in establishing likelihood of confusion. *See Weiss Associates Inc. v. HRL Associates Inc.*, 902 F.2d 1546, 14 USPQ2d 1840 (Fed. Cir. 1990), and cases cited therein. *See also In re Kangaroos U.S.A.*, 223 USPQ 1025 (TTAB 1984), wherein the Board stated as follows:

[A]pplicant's assertion that it is unaware of any actual confusion occurring as a result of the contemporaneous use of the marks of applicant and registrant is of little probative value in an ex parte proceeding such as this where we have no evidence pertaining to the nature and extent of

the use by applicant and registrant (and thus cannot ascertain whether there has been ample opportunity for confusion to arise, if it were going to); and registrant has no chance to be heard (at least in the absence of a consent agreement, which applicant has not submitted in this case). *Id.* at 1026-1027.

After careful consideration of the law and facts of the case, the examining attorney must deny the request for reconsideration and adhere to the final action as written since no new facts or reasons have been presented that are significant and compelling with regard to the point at issue.

Accordingly, applicant's request for reconsideration is *denied*. The time for appeal runs from the date the final action was mailed. 37 C.F.R. Section 2.64(b); TMEP Section 715.03(c).

NOTICE: TRADEMARK OPERATION RELOCATION

The Trademark Operation has relocated to Alexandria, Virginia. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

**Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451**

Applicants, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at <http://www.uspto.gov/teas/index.html>.

/M. Catherine Faint/
Examining Attorney
Law Office 103
phone: 571-272-9274
fax: 571-273-9103
email: Catherine.Faint@uspto.gov

Print: Dec 22, 2004

73012686

TYPED DRAWING

Serial Number

73012686

Status

REGISTERED AND RENEWED

Word Mark

CLUB MEDITERRANEE

Standard Character Mark

No

Registration Number

1006523

Date Registered

1975/03/11

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

CLUB MEDITERRANEE, S.A. CORPORATION FRANCE 8, RUE DE LA BOURSE PARIS 2
FRANCE

Goods/Services

Class Status -- ACTIVE. IC 042. US 100. G & S: HOTEL AND
RESTAURANT SERVICES.

Foreign Country Name

FRANCE

Foreign Registration Number

708200

Foreign Registration Date

1966/05/26

Prior Registration(s)

0877565

Disclaimer Statement

APPLICANT HEREBY DISCLAIMS THE WORD "MEDITERRANEE" APART FROM THE MARK

Print: Dec 22, 2004

73012686

AS SHOWN.

Translation Statement

THE WORD "MEDITERRANEE" CAN BE TRANSLATED AS "MEDITERRANEAN."

Filing Date

1974/02/05

Examining Attorney

UNKNOWN

Attorney of Record

RICHARD S. SAMSON

TYPED DRAWING

Serial Number

73055770

Status

REGISTERED AND RENEWED

Word Mark

DISNEYLAND

Standard Character Mark

No

Registration Number

1037788

Date Registered

1976/04/13

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

WALT DISNEY COMPANY, THE CORPORATION DELAWARE 500 SOUTH BUENA VISTA STREET BURBANK CALIFORNIA 91521

Goods/Services

Class Status -- ACTIVE. IC 006. US 013. G & S: KEY RINGS. First Use: 1955/07/17. First Use In Commerce: 1955/07/17.

Goods/Services

Class Status -- ACTIVE. IC 014. US 028. G & S: COSTUME JEWELRY, MEDALLIONS, AND MONEY CLIPS. First Use: 1955/07/17. First Use In Commerce: 1955/07/17.

Goods/Services

Class Status -- ACTIVE. IC 016. US 022 038. G & S: BOOKS, MAGAZINES, GREETING CARDS, AND PLAYING CARDS. First Use: 1955/07/17. First Use In Commerce: 1955/07/17.

Goods/Services

Class Status -- ACTIVE. IC 018. US 002. G & S: BAGS FOR CARRYING VARIOUS GOODS. First Use: 1955/07/17. First Use In Commerce: 1955/07/17.

Goods/Services

Class Status -- ACTIVE. IC 021. US 033. G & S: DRINKING GLASSES AND SERVING TRAYS. First Use: 1955/07/17. First Use In Commerce: 1955/07/17.

Goods/Services

Class Status -- ACTIVE. IC 024. US 050. G & S: FLAGS. First Use: 1955/07/17. First Use In Commerce: 1955/07/17.

Goods/Services

Class Status -- ACTIVE. IC 025. US 039. G & S: SHIRTS, SWEATSHIRTS, HATS, AND SHOES. First Use: 1955/07/17. First Use In Commerce: 1955/07/17.

Goods/Services

Class Status -- ACTIVE. IC 026. US 040. G & S: PATCHES SOLD SEPARATELY FROM ARTICLES OF APPAREL AND METAL DECORATIVE BUTTONS. First Use: 1955/07/17. First Use In Commerce: 1955/07/17.

Goods/Services

Class Status -- ACTIVE. IC 028. US 022. G & S: PLAY BALLOONS AND TOY LICENSE PLATES. First Use: 1955/07/17. First Use In Commerce: 1955/07/17.

Goods/Services

Class Status -- EXPIRED. IC 034. US 002 008 009 017. G & S: [ASH TRAYS NOT OF PRECIOUS METAL OR COATED THEREWITH]. First Use: 1955/07/17. First Use In Commerce: 1955/07/17.

Goods/Services

Class Status -- ACTIVE. IC 039. US 105. G & S: TRAMCAR, BOAT, RAILROAD AND MONORAIL TRANSPORTATION SERVICES. First Use: 1959/06/14. First Use In Commerce: 1959/06/14.

Goods/Services

Class Status -- ACTIVE. IC 041. US 107. G & S: EDUCATIONAL AND ENTERTAINMENT SERVICES RENDERED IN A THEME PARK. First Use: 1955/07/17. First Use In Commerce: 1955/07/17.

Goods/Services

Class Status -- ACTIVE. IC 042. US 100. G & S: RESTAURANT SERVICES. First Use: 1955/07/17. First Use In Commerce: 1955/07/17.

Prior Registration(s)

0638597;0857667

Filing Date

1975/06/23

Examining Attorney

Print: Dec 22, 2004

73055770

UNKNOWN

Attorney of Record
MIRIAM BEEZY

TYPED DRAWING

Serial Number

73602960

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

HERSHEY

Standard Character Mark

No

Registration Number

1455684

Date Registered

1987/09/01

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

HERSHEY FOODS CORPORATION CORPORATION DELAWARE 100 MANSION ROAD EAST
HERSHEY PENNSYLVANIA 17033

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: PROVIDING AND OPERATING VISITORS INFORMATION CENTER SERVICES; [DRUG STORE SERVICES;] COMMISSARY SERVICES; CAMPGROUND SERVICES; NURSERY SERVICES; LANDSCAPES DESIGN SERVICES; HOTEL, LODGING AND RESORT FACILITIES; AND WHOLESALE DISTRIBUTORSHIP SERVICES IN THE FIELD OF TEXTILE PRODUCTS FOR THE RESTAURANT, HOTEL, AND INSTITUTIONAL/INDUSTRIAL TRADE. First Use: 1911/00/00. First Use In Commerce: 1911/00/00.

Goods/Services

Class Status -- ACTIVE. IC 041. US 107. G & S: PROVIDING A CINEMA; A COUNTRY CLUB; GOLF COURSES; SPORTS CLUBS [, ARENA AND STADIUM; A HORSE RIDING STABLE; A TOURIST GARDEN; AND AMUSEMENT PARK SERVICES]. First Use: 1907/04/00. First Use In Commerce: 1907/04/00.

Goods/Services

Class Status -- ACTIVE. IC 039. US 105. G & S: PROVIDING AND OPERATING PASSENGER AND GROUND SHUTTLE TRANSPORTATION SERVICES. First

Print: Dec 22, 2004

73602960

Use: 1979/06/00. First Use In Commerce: 1979/06/00.

Goods/Services

Class Status -- ACTIVE. IC 037. US 103. G & S: PROVIDING LAUNDRY AND DRY CLEANING SERVICES, SELF-SERVICE LAUNDROMAT SERVICES, MAINTENANCE AND SERVICING OF TEXTILE PRODUCTS FOR THE RESTAURANT, HOTEL AND INSTITUTIONAL/INDUSTRIAL TRADE, AND LANDSCAPE MAINTENANCE SERVICES. First Use: 1908/10/00. First Use In Commerce: 1908/10/00.

Goods/Services

Class Status -- ACTIVE. IC 035. US 101. G & S: CHAMBER OF COMMERCE SERVICES, NAMELY, PROMOTING TRAVEL AND TOURISM IN THE VICINITY OF HERSHEY, PENNSYLVANIA, AND PROVIDING AND OPERATING CONVENTION CENTER FACILITIES. First Use: 1974/00/00. First Use In Commerce: 1974/00/00.

Goods/Services

Class Status -- ACTIVE. IC 040. US 106. G & S: TAILORING SERVICES. First Use: 1908/10/00. First Use In Commerce: 1908/10/00.

Prior Registration(s)

1297859;1302878;AND OTHERS

Section 2f Statement

2(F) ENTIRE MARK

Filing Date

1986/06/09

Examining Attorney

UNKNOWN

Attorney of Record

ROBERT M. REESE

Print: Dec 22, 2004

74393927

TYPED DRAWING

Serial Number
74393927

Status
REGISTERED AND RENEWED

Word Mark
DISNEYLAND

Standard Character Mark
No

Registration Number
1838246

Date Registered
1994/05/31

Type of Mark
SERVICE MARK

Register
PRINCIPAL

Mark Drawing Code
(1) TYPED DRAWING

Owner
DISNEY ENTERPRISES, INC. CORPORATION DELAWARE 500 SOUTH BUENA VISTA
STREET BURBANK CALIFORNIA 91521

Goods/Services
Class Status -- ACTIVE. IC 042. US 100. G & S: hotel services.
First Use: 1955/10/05. First Use In Commerce: 1955/10/05.

Prior Registration(s)
0656459;0857667;1037788;1090030;AND OTHERS

Filing Date
1993/05/24

Examining Attorney
PESKA, KEVIN

Attorney of Record
BARBARA J. QUINN

Print: Dec 22, 2004

75752292

DESIGN MARK

Serial Number
75752292

Status
REGISTERED

Word Mark
JW MARRIOTT HOTEL

Standard Character Mark
No

Registration Number
2393255

Date Registered
2000/10/10

Type of Mark
SERVICE MARK

Register
PRINCIPAL

Mark Drawing Code
(1) TYPED DRAWING

Owner
Marriott International, Inc. CORPORATION DELAWARE 10400 Fernwood Road
Bethesda MARYLAND 20817

Goods/Services
Class Status -- ACTIVE. IC 042. US 100 101. G & S: HOTEL,
RESTAURANT, CATERING, BAR AND LOUNGE SERVICES; PROVISION OF FACILITIES
FOR MEETINGS, CONFERENCES AND EXHIBITIONS; MAKING HOTEL [RESERVATION]
* RESERVATIONS * FOR OTHERS. First Use: 1984/02/00. First Use In
Commerce: 1984/02/00.

Prior Registration(s)
0899900;0904029

Disclaimer Statement
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HOTEL" APART FROM THE
MARK AS SHOWN.

Name/Portrait Statement
The name "JW MARRIOTT" does not identify a living individual.

Filing Date

Print: Dec 22, 2004

75752292

1999/07/15

Examining Attorney

CLARKE, AISHA

Attorney of Record

Elisabeth Roth Escobar

JW MARRIOTT HOTEL

Print: Dec 22, 2004

75752294

DESIGN MARK

Serial Number

75752294

Status

REGISTERED

Word Mark

JW MARRIOTT HOTEL

Standard Character Mark

No

Registration Number

2399675

Date Registered

2000/10/31

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Marriott International, Inc. CORPORATION DELAWARE 10400 Fernwood Road
Bethesda MARYLAND 20817

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: HOTEL,
RESTAURANT, CATERING, BAR AND LOUNGE SERVICES; PROVISION OF FACILITIES
FOR MEETINGS, CONFERENCES AND EXHIBITIONS; MAKING HOTEL RESERVATIONS
FOR OTHERS. First Use: 1988/06/23. First Use In Commerce:
1988/06/23.

Prior Registration(s)

0899900;0904029

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HOTEL" APART FROM THE
MARK AS SHOWN.

Filing Date

1999/07/15

Examining Attorney

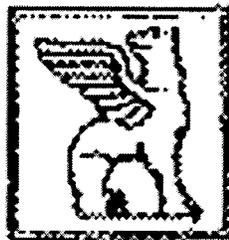
Print: Dec 22, 2004

75752294

CLARKE, AISHA

Attorney of Record

Elisabeth Roth Escobar



JW MARRIOTT HOTEL

Print: Dec 22, 2004

76556663

DESIGN MARK

Serial Number
76556663

Status
REGISTERED

Word Mark
MANDALAY BAY

Standard Character Mark
No

Registration Number
2901395

Date Registered
2004/11/09

Type of Mark
SERVICE MARK

Register
PRINCIPAL

Mark Drawing Code
(1) TYPED DRAWING

Owner
Mandalay Resort Group CORPORATION NEVADA 3950 Las Vegas Blvd South Las Vegas NEVADA 89119

Goods/Services
Class Status -- ACTIVE. IC 043. US 100 101. G & S: Resort, hotel, restaurant, bar and lounge services; providing general purpose convention facilities for sports, concerts, banquets, social functions, conventions, trade shows and exhibitions; cafeterias; snack bars; and catering. First Use: 1999/03/02. First Use In Commerce: 1999/03/02.

Prior Registration(s)
2275015;2275016;2280040;2284015;2286540;AND OTHERS

Filing Date
2003/10/17

Examining Attorney
STRYZYK, KAREN M.

Attorney of Record

Print: Dec 22, 2004

76556663

Jason D. Firth

MANDALAY BAY

Print: Dec 22, 2004

78083574

TYPED DRAWING

Serial Number
78083574

Status
REGISTERED

Word Mark
YOUR MARRIOTT AWAITS

Standard Character Mark
No

Registration Number
2567627

Date Registered
2002/05/07

Type of Mark
SERVICE MARK

Register
PRINCIPAL

Mark Drawing Code
(1) TYPED DRAWING

Owner
Marriott International, Inc. CORPORATION DELAWARE 10400 Fernwood Road
Bethesda MARYLAND 20817

Goods/Services
Class Status -- ACTIVE. IC 042. US 100 101. G & S: Hotel,
restaurant, catering, bar and lounge services; provision of general
purpose facilities for meetings, conferences and exhibitions;
reservation services for hotel accommodations for others. First Use:
2001/06/01. First Use In Commerce: 2001/06/01.

Prior Registration(s)
0899900;2158064;2451587;AND OTHERS

Filing Date
2001/09/12

Examining Attorney
RADEMACHER, APRIL L.

Attorney of Record
Elisabeth Roth Escobar

Print: Dec 22, 2004

78244355

DESIGN MARK

Serial Number
78244355

Status
REGISTERED

Word Mark
G GAYLORD HOTELS

Standard Character Mark
No

Registration Number
2853711

Date Registered
2004/06/15

Type of Mark
SERVICE MARK

Register
PRINCIPAL

Mark Drawing Code
(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner
Gaylord Entertainment Company CORPORATION DELAWARE One Gaylord Drive
Nashville TENNESSEE 37214

Goods/Services
Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Providing facilities for business meetings, seminars, conferences and exhibition space for business conventions; retail store services, namely retail shops featuring candy, snacks, magazines, books, flowers, jewelry, golf equipment, golf apparel, and golf accessories. First Use: 2001/10/26. First Use In Commerce: 2001/10/26.

Goods/Services
Class Status -- ACTIVE. IC 041. US 100 101 107. G & S: Entertainment services in the nature of golf tournaments and golf related events, namely, banquets, award ceremonies and exhibitions; providing fitness facilities; golf courses; country clubs; entertainment services, namely, live musical performances, dramatico-musical programs and/or musical programs; providing facilities for educational conventions; night club services. First Use: 2001/10/26. First Use In Commerce: 2001/10/26.

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Hotel services; resort lodging services; providing general purpose convention facilities; providing banquet facilities and social function facilities for special occasions; arena services, namely, providing facilities for conventions and exhibitions; restaurant services; food catering services; bar services; cocktail lounge services. First Use: 2001/10/26. First Use In Commerce: 2001/10/26.

Goods/Services

Class Status -- ACTIVE. IC 044. US 100 101. G & S: Barbershop services; beauty salon services; health spa services, namely, cosmetic body care services. First Use: 2001/10/26. First Use In Commerce: 2001/10/26.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HOTELS" APART FROM THE MARK AS SHOWN.

Filing Date

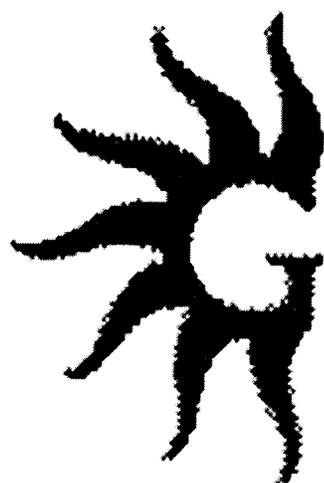
2003/05/01

Examining Attorney

ALTREE, NICHOLAS

Attorney of Record

Reber M. Boulton



GAYLORD HOTELS