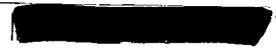


JTB

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

In the Matter of Application Serial No. 78/030,875
Filed on October 16, 2000
For the mark GUADALAJARA HACIENDA
Published in the *Official Gazette* on December 10, 2002 at Page TM 727



03-10-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #6:

HMR ACQUISITION COMPANY, INC.,)
d/b/a Hacienda Mexican Restaurants,)
Opposer)
v.)
CASUAL DINING, INC.,)
Applicant)

Opposition No.: _____

NOTICE OF OPPOSITION

Opposer, HMR Acquisition Company, Inc., having a place of business at 1501 North Ironwood Drive, South Bend, Indiana, believes that it will be damaged by the registration of the mark shown in the above-identified application, and hereby opposes the same.

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TRADEMARK TRIAL AND APPEAL BOARD

As grounds for its opposition, Opposer alleges that:

1. Opposer is a corporation organized and existing under the laws of the State of Indiana and has promoted and provided restaurant and bar services in association with its family of HACIENDA® marks since 1978.
2. Opposer is the owner of the following United States trademark registrations for the family of HACIENDA® marks:

| <u>Mark</u> | <u>Reg. No./Reg. Date</u> | <u>Goods/Services</u> |
|--------------------------|---------------------------|------------------------------|
| HACIENDA (and Design) | 1,331,341 4/16/1985 | Restaurant and bar services. |
| HACIENDA | 2,484,222 9/4/2001 | Restaurant and bar services. |
| HACIENDA | 2,466,961 7/10/2001 | Hot sauce. |

3. The foregoing registrations are valid and provide constructive notice of ownership thereof by Opposer.

4. The foregoing registrations constitute *prima facie* evidence of the validity of the registrations and the marks and of Opposer's exclusive right to use the marks in commerce.

5. Since well prior to the filing date of Applicant's intent-to-use application on October 16, 2000, Opposer and its predecessors have extensively promoted and sold its restaurant and bar services under the mark HACIENDA® in the United States.

6. Applicant's mark GUADALAJARA HACIENDA is comprised of Opposer's entire HACIENDA mark.

7. Applicant uses the mark in association with services identical to the restaurant and bar services offered under Opposer's HACIENDA® marks.

8. In view of the similarity of the parties' marks and the identical services provided by the parties, Applicant's use of the mark GUADALAJARA HACIENDA is likely to cause confusion, to cause mistake, and lead to deception as to the origin of Applicant's services.

9. Registration of the GUADALAJARA HACIENDA mark to Applicant would result in substantial damage and injury to Opposer. Persons familiar with Opposer's marks are likely to purchase Applicant's services under the mistaken belief that they originate with, or are licensed, sponsored or approved by Opposer. Any such confusion would inevitably result in loss of sales

to Opposer, and tarnish Opposer's goodwill and reputation established in its HACIENDA® marks.

WHEREFORE, Opposer respectfully requests that Application Serial No. 78/030,875 be refused and that this opposition be sustained.

A duplicate copy of this Notice of Opposition and a check in the amount of \$300.00 covering the official filing fee are enclosed. Please direct all communications to Alexander D. Forman of Ice Miller, One American Square, Box 82001, Indianapolis, Indiana 46282-0002.

Respectfully submitted,

HMR ACQUISITION COMPANY, INC.,
d/b/a Hacienda Mexican Restaurants

Dated: 3/7/03

By: Alex D. Forman

Alexander D. Forman

ICE MILLER

One American Square, Box 82001

Indianapolis, Indiana 46282-0002

(317) 236-2100

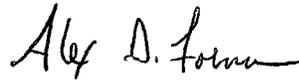
Attorneys for Opposer

March 7, 2003

If you have any questions concerning this Notice of Opposition please contact the undersigned.

Sincerely,

ICE MILLER



Alexander D. Forman
One American Square
Box 82001
Indianapolis, IN 46282-0002
Phone: (317) 236-5826
Fax: (317) 592-5433

Enclosures: Notice of Opposition to Trademark Application 78/030,875 (in duplicate)
Check in the amount of \$300.00
Postcard

1130889

03-10-2003

U.S. Patent & TMO/TM Mail Rcpt Dt.

March 7, 2003

WRITER'S DIRECT NUMBER: (317) 236-5826
Internet: forman@icemiller.com

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I hereby certify that this correspondence is being deposited with the United States Postal Services as first class mail in an envelope addressed too the Commissioner for Trademarks 2900 Crystal Drive Arlington, Virginia 22202-3513 03/07/2003
(Date of Deposit)

BOX TTAB - FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Ratti D. Ratcliff
Printed or Typed Name of the Person Signing the Certificate
Ratti D. Ratcliff
Signature
March 07 2003
Date of Signature

TRADEMARK
COMM. MAIL
04 MAR 03
09 09 AM '03

Re: Opposition to Trademark Application Serial No. 78/030,875

Dear Madam/Sir:

Enclosed please find a Notice of Opposition for filing in the matter of Trademark Application Serial No. 78/030,875 in duplicate. Also enclosed is a check in the amount of three hundred dollars (\$300.00) pursuant to 37 C.F.R. §2.6 (a) (17) in payment of the filing fee for this Notice of Opposition.

Q