

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

In the Matter of Application No. 78/030,875  
Published in the Official Gazette of December 10, 2002

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:  
HMR Acquisition Company, Inc.  
d/b/a Hacienda Mexican Restaurants, :

Opposer :

v. :

Casual Dining, Inc., :

Applicant :

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06-27-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

Opposition No. 91155801

**APPLICANT, CASUAL DINING, INC.'S**  
**FIRST SET OF INTERROGATORIES (Nos. 1- 14)**  
**TO OPPOSER, HMR ACQUISITION COMPANY, INC.**

TO: HMR ACQUISITION COMPANY, INC.  
% Alexander D. Foreman, Esq.  
ICE MILLER  
One American Square, Box 82001  
Indianapolis, IN 46282-0002

Pursuant to Fed. R. Civ. P. 33, Casual Dining, Inc. (hereinafter "Casual" or "Applicant") hereby propounds the following Interrogatories (Nos. 1-14) to HMR Acquisitions Company, Inc. d/b/a Hacienda Mexican Restaurants (hereinafter "HMR" or "Opposer"). It is requested that these Interrogatories be answered separately and fully in writing and under oath within thirty (30) days of service hereof.

**DEFINITIONS AND INSTRUCTIONS**

1. "You", "your" and "Opposer" mean HMR Acquisition Company, Inc.
2. "Applicant's mark" means "GUADALAJARA HACIENDA".

3. "Document" means the original of any written, printed, typed or other paper-based graphic matter of any kind or nature, however produced or reproduced, and also includes those words and images stored on magnetic, electronic, or computer based memory and storage devices, and the original of any stenographic, mechanical, electrical, or other recording, as well as any transcription thereof, and the original of any other thing from which information can be obtained. Documents include, but are not limited to film, tapes, wire recording, discs, CD-ROM, computer programs, computer memory components, hard drives, floppy discs, and print outs of their contents.

4. Identify means:

- (i) For persons: State the person's name, residence address, business address, and name of his/her employer, and title if employed; and
- (ii) For entities: State the name and address of its principal place of business, and the person in charge of the business, i.e. CEO, president, manager and the like.

5. Please remember that in answering these interrogatories you must furnish all requested information, not subject to objection, that is known by, possessed by, or available to HMR Acquisition Company, Inc. or any of its subsidiaries, employees, attorneys, consultants, representatives or agents.

6. If you are unable to answer fully any of these interrogatories, please answer them to the fullest extent possible, specify the reason(s) for your inability to answer further, and state whatever information, knowledge or belief that you have concerning the portion not answered fully.

7. Please consider each lettered subpart of a numbered interrogatory to be a separate interrogatory, for the purpose of objection. Thus, you must object separately to each subpart,

and if you object to less than all of the subparts of a numbered interrogatory, you must still respond to the remaining subparts.

8. Please remember that if you object to a request or a subpart thereof as calling for answers which are beyond the scope of discovery, you must nevertheless respond to the interrogatory or subpart to the extent that it is not otherwise objectionable.

9. If any information called for by these interrogatories is withheld on the ground that such information is for any reason exempt from discovery, then: (a) state the ground or grounds for withholding such information; (b) describe the type of information being withheld; (c) identify all persons who have knowledge of the information being withheld; and (d) furnish such other information as may be required to enable the Court to adjudicate the propriety of your refusal to furnish such information.

Respectfully submitted,



N. Elton Dry  
Attorney for Casual Dining, Inc.  
713-223-0500  
[office@drylaw.com](mailto:office@drylaw.com)

#### CERTIFICATE OF SERVICE

The undersigned, attorney of record for Casual Dining, Inc., the Applicant herein, certifies that the foregoing Change of Address was placed in the United States Mail, first class postage pre-paid, addressed to the following, attorney of record for HMR Acquisition Company, Inc., the Opposer herein, on the 24<sup>th</sup> Day of June, 2003:

Alexander D. Foreman, Esq.  
ICE MILLER  
One American Square, BOX 82001  
Indianapolis, IN 46282-0002



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N. Elton Dry

## INTERROGATORIES

1. Identify the restaurant and/or other facility at which, in 1978, Opposer for himself first used the mark "HACIENDA".

**Response:**

2. Please list sequentially, by date of acquisition, each Hacienda restaurant acquired by Opposer since its formation, and for each such restaurant identify the earliest date it adopted and commenced to use the mark "HACIENDA", and the entity from which, or whom, Opposer acquired the particular restaurant.

**Response:**

3. Identify each restaurant which uses the "HACIENDA" mark, which is located outside the State of Indiana, and which is owned or controlled by Opposer.

**Response:**

4. Describe each instance of actual confusion by any person relative to Opposer and a restaurant owned by Applicant, particularly "GUADALAJARA HACIENDA" located in Houston, Texas.

**Response:**

5. Describe the manner and procedure maintained by Opposer to record and account for actual confusion of customers and other entities, with regard to the mark "HACIENDA".

**Response:**

6. Describe each instance of actual confusion by any person relative to Opposer and any restaurant using the name or mark "HACIENDA" or "LA HACIENDA", any place in the United States.

**Response:**

7. Describe the actual injury and/or damage anticipated by Opposer should Applicant receive a registration, on the Principal Register, for the mark "GUADALAJARA HACIENDA", for Mexican style restaurant services, as separate and distinct from any injury and damage Opposer may experience as a consequence of Applicant actually operating their restaurant, using their mark: GUADALAJARA HACIENDA, with or without a registration.

**Response:**

8. For each Mexican style restaurant, using the Mark "Hacienda" or "La Hacienda",

identified and attached to Applicant's Answer and Counterclaim, explain the damage and injury, or lack thereof, suffered by Opposer as consequence of those restaurants using "Hacienda" in their name.

**Response:**

9. Identify each trademark or service mark application which had therein the word "Hacienda", which Opposer (a) opposed, (b) did not oppose, and/or (c) granted a license or some type of agreement allowing continued use of the mark "Hacienda".

**Response:**

**(a):**

**(b):**

**(c):**

10. Describe all forms of advertizing used by Opposer in 2002 and to-date in 2003, to advertize the mark "Hacienda".

**Response:**

11. How much did Opposer spend on advertizing in: 2000, 2001, 2002, and to-date in 2003, on a restaurant by restaurant basis?

**Response:**

12. Identify the person most knowledgeable, in Opposer's organization, regarding the following: (a) advertizing format for each restaurant location, (b) advertizing budgets for each restaurant location, (c) Use by the corporation of the mark "Hacienda" since 1978, (d) the injury and/or damage anticipated by Opposer as a consequence of Applicant obtaining a registration for "Guadalajara Hacienda", and (e) any actual confusion discovered by Opposer with regard to anyone's mark having the word "Hacienda" therein.

**Response:**

**(a):**

**(b):**

**(c):**

**(d):**

**(e):**

13. Identify each State in which Opposer now, or in the past, operates or has operated restaurants using the mark "Hacienda", and the dates during which such restaurants operated.

**Response:**

14. Identify each civil action which Opposer has instituted against any party for trademark infringement.

**Response:**

TTAB



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U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513  
BOX TTAB NO FEE

on June 24, 2003  
Date

Christine M. Mamerow  
Signature

Christine M. Mamerow  
Typed or printed name of person  
signing certificate