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Filing date: **04/21/2006**

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

Proceeding	91165519
Party	Defendant Anncas, Inc. Anncas, Inc. 16112 N.W. 13th Avenue, Suite E Miami, FL 33169
Correspondence Address	JESUS SANCHELIMA, ESQ. SANCHELIMA & ASSOCIATES, P.A. 235 S.W. LE JEUNE ROAD MIAMI, FL 33134-1762
Submission	Motion to Quash
Filer's Name	Henry Rodriguez
Filer's e-mail	legal@sanchelima.com
Signature	/hr/
Date	04/21/2006
Attachments	060421MotionQuashDepo.pdf (12 pages)(266400 bytes)

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

In the matter of Trademark Application
Serial No. 78/363,024

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CORPORACION HABANOS, S.A.,)	
)	
Opposer,)	
)	Opposition No. 91165519
v.)	
)	
ANNCAS, INC.,)	
)	
Applicant.)	
-----))	

MOTION TO QUASH
OPPOSER'S NOTICE OF DEPOSITION

Pursuant to section 521 of the Trademark Board Manual of Procedure, Applicant moves to quash the Notice of Deposition served on April 14, 2006, by Opposer and in support thereof avers as follows.

1. The Notice of Deposition requires that Mr. Nestor Placencia, a non-party appear on May 12, 2006, at the offices of Applicant's attorneys in Miami, Florida.

Ex. 1.

2. The Applicant is a foreign natural person residing in Honduras and Nicaragua with a place of business in Panama. Exs. 2-4.

3. The Notice, therefore, improperly seeks to force Mr. Nestor Placencia to come to the United States for the taking of his oral deposition, in violation of section 404.03(c) of the Trademark Board Manual of Procedure.

WHEREFORE, Applicant moves for an order quashing the Notice of Deposition served on April 14, 2006.

Attorneys for Applicant,

SANCHELIMA & ASSOCIATES, P.A.

Attorneys for Applicant

235 S.W. Le Jeune Road

Miami, FL 33134-1762

Telephone: (305) 447-1617

Telecopier: (305) 445-8484

By: /Henry Rodriguez/
Henry Rodriguez, Esq.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true correct copy of the foregoing, Motion to Quash Notice of Deposition, was served via email and U.S. First Class Mail pursuant to 37 C.F.R. §1.10, this 21st of April, 2006, to David B. Goldstein and Michael Krinsky, Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., Attorney for Opposer, 111 Broadway, Eleventh Floor, New York, New York 10006-1901.

BY: /Henry Rodriguez/
Henry Rodriguez

EXHIBIT 1

[Opposer's Notice of Deposition dated April 14, 2006]

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

In the matter of Trademark Application
Serial No. 78/363024
Filed February 5, 2004
For the mark HAVANA CLUB
Published in the *Official Gazette* on December 14, 2004

CORPORACION HABANOS, S.A.,)	
)	
Opposer,)	Opposition No. 91165519
)	
v.)	
)	
ANNCAS, INC.,)	
)	
Applicant.)	

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE THAT, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure and Title 37 of the Code of Federal Regulations Section 2.120, Opposer Corporacion Habanos, S.A. will take the deposition upon oral examination of Mr. Nestor Placencia. The deposition will be held at the offices of Sanchelima & Associates, P.A., 235 SW Le Jeune Road, Miami, Florida, 33134, on May 12, 2006, at 9:30 a.m., and will continue from day to day until completed. The deposition will be held before a notary public or other person authorized by law to administer oaths, and will be recorded by stenographic means.

Dated: New York, New York
April 14, 2006

RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

By: /David B. Goldstein/
DAVID B. GOLDSTEIN
111 Broadway – Eleventh Floor
New York, New York 10006
(212) 254-1111
Attorneys for Opposer
Corporacion Habanos, S.A.

To: Henry Rodriguez
Sanchelima & Associates, P.A.
235 SW Le Jeune Rd.
Miami, FLORIDA 33134
Attorney for Applicant Anncas, Inc.

Certificate of Service

The undersigned certifies that the foregoing document was served upon Applicant by email and by placing it in an official depository of the United States Postal Service, postage prepaid, on April 14, 2006, addressed as follows:

Henry Rodriguez
Sanchelima & Associates, P.A.
235 SW Le Jeune Rd.
Miami, FLORIDA 33134
rodriguez@sanchelima.com
Attorney for Applicant Anncas, Inc.

 /David B. Goldstein/
David B. Goldstein

EXHIBIT 2

[Applicant's response to Opposer's Interrogatory No. 16]

Identify each person with information concerning the place, or intended place, of manufacture of Applicant's cigars bearing the HAVANA CLUB mark and the blend used therein, including the binder, filler, wrapper, and the seeds used to grow that tobacco.

Mr. William Bock

INTERROGATORY NO. 16

For each variety, frontmark, or type of cigar bearing the HAVANA CLUB mark produced, promoted, distributed or sold, or intended to be produced, promoted, distributed or sold, by or on behalf of Applicant:

- a. Identify the place of manufacture and the place where the tobacco is grown.
- b. Identify the manufacturer and the supplier of the tobacco;
- c. Describe in detail the blend used, including the binder, filler, and wrapper, including in what country and what region of that country the binder, filler, and wrapper are grown;
- d. Describe in detail the manufacturing process;
- e. State whether the cigars are hand or machine rolled;
- f. Identify the country of origin of the actual seeds that are used to grow the tobacco used in the blend, and state whether the actual seeds that are used to grow the tobacco in Applicant's HAVANA CLUB-marked cigars are themselves exported from Cuba, including how and where Applicant or its suppliers or manufacturers obtains such seeds, and from whom, and if not exported from Cuba, state with particularity the history and pedigree of such seeds, including the basis for Applicant's claim that the seeds are "Cuban seed"; and
- g. Identify all persons with whom Applicant has consulted, negotiated or contracted to supply tobacco or tobacco seeds or to manufacture HAVANA CLUB cigars.

Jay - complex

Applicant has not finalized what varieties or types of cigars bearing HAVANA CLUB will be produced.

- a. **i. The cigar will be manufactured in Nicaragua, Honduras, the Dominican Republic, or any other country;**
ii. The tobacco grown for the cigar will come from any country that is available and meets Applicant's specifications.
- b. **i. Applicant has considered several manufacturers including: Caribbean Cigar Company or Palmer Tobacco**
ii. The supplier of the tobacco may be the same as the manufacturer
- c. **No blend to identify at this time**
- d. **Manufacture to be done by hand**
- e. **Hand-rolled cigars**
- f. **Applicant intends to use tobacco grown from Cuban-seed descended from seeds that were taken from Cuba in the late 1950's and early 1960's.**
- g. **Nestor Placencia, Owner of Caribbean Cigar Company.**

EXHIBIT 3

[Applicant's Produced Discovery Document, Bates No. 16]

910000

CARIBBEAN CIGARS COMPANY

DIRECCION
ADDRESS



Panama, Rep. Panama
Tel. (504) 883-2905
Fax: (504) 883-2259

Factura
Invoice

3104

Vendido a INDIAN HEAD

Sold to

Direccion 18112 N.W. 13TH AVENUE

Address SUITE -E

MIAMI FL. 33189

Condizione PHONE (305) 623-3382

Condizione FAX: (305) 623-6484

ATTN.: BILL BOCK

Fecha

Date

Su order No.

Your order No.

Instrucciones de Embarque

Shipping Instructions

Consignado a

Consigned to

DANLI, 27 DE MAYO 2005

EXHIBIT 4

[Page 18 from the Deposition of William Bock, Applicant's President,
conducted on March 24, 2006]

1 A. No, from the people that I plan to grow
2 the tobacco.

3 Q. And who is that?

4 A. Nestor Placencia.

5 Q. Where is he located?

6 A. Both Honduras and Nicaragua.

7 Q. Does he provide you with tobacco products
8 now?

9 A. Yes, he does.

10 MR. GOLDSTEIN: I am going to mark this as
11 4.

12 (Thereupon a document was marked
13 Bock Exhibit 4 for Identification in the
14 proceeding.)

15 BY MR. GOLDSTEIN:

16 Q. I'm showing you what we marked as Bock
17 Exhibit 4.

18 I would ask you if you look in the bottom
19 right-hand corner, you'll see this, like code,
20 00017, and the date, January 25, 2000, it's kind of
21 blurred out there. Do you see that?

22 A. Yes.

23 Q. That's the stamp that your attorneys put
24 on the document before they sent it to us. And
25 you'll see that the range runs from 17 to 24, if