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August 3, 2005

Our File Number: 04VK-109468

Honorable Commissioner of Trademarks  
Trademark Trial and Appeal Board  
United States Patent and Trademark Office  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Re: Viña Santa Rita, LTDA, et al. v. DyDo Drinco, Inc.  
Notice of Opposition Proceeding Serial No. 78/466,518

Dear Sir:

I have enclosed for filing an original and one copy of the Notice of Opposition.

Please charge all processing fees to deposit account number 501395.

Sincerely,

Mironda Lewis  
Secretary to  
Brian Anderson

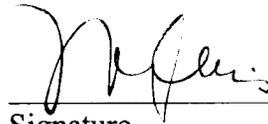
W02-SF:FML\61463894.1  
Enclosures



08-04-2005  
U.S. Patent & TMO/TM Mail Rcpt Dt. #64

**CERTIFICATE OF EXPRESS MAIL UNDER 37 CFR § 1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service as "Express Mail" postage prepaid in an envelope addressed to: Commissioner of Trademarks, U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, Virginia 22313-1451 on August 3, 2005



Signature

Mironda Lewis

Name

August 3, 2005

Date

Notice of Opposition (4 pg);  
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**ED329242973US**

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

Viña Santa Rita, LTDA; Sociedad  
Anónima Viña Santa Rita,

Opposers,

v.

DyDo Drinco, Inc.,

Applicant.

Opposition No.: \_\_\_\_\_

Serial No.: 78/466,518

Filed: August 12, 2004

Published: July 5, 2005

Trademark: **120 (and Design)**

**NOTICE OF OPPOSITION**

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Viña Santa Rita, LTDA, a Chilean corporation with offices located at Casilla 1483, Panamericana Norte 4480, Santiago, Chile, and Sociedad Anónima Viña Santa Rita, a Chilean corporation with offices located at Avenida Apoquindo 3669, 6th Floor, Los Candes, Santiago, Chile, (collectively, "Opposers"), believe they will be damaged by the registration of the proposed trademark shown in Application Serial No. 78/466,518 for the goods identified in International Class 32 and hereby oppose said application for the goods identified in International Class 32 under Section 13 of the United States Trademark Act, 15 U.S.C. § 1063.

DyDo Drinco, Inc. ("Applicant"), a Japanese corporation with offices located at Sanei Building, 10F 1-2-4, Nishishinsaibashi, Chuo-ku Osaka 542-0086, Japan, filed Application Serial No. 78/466,518 for the proposed 120 mark (and design) on August 12, 2004 (The "Application"). The Application was published for opposition on July 5, 2005. The identification of goods for the Application reads as follows "[f]ruit and vegetable juice, tomato juice, fruit drink and juice" in International Class 32.

Opposers' grounds for opposition are as follows:

1. Opposers manufacture, advertise and sell wines under the 120 mark (and design) in international and U.S. domestic interstate commerce. Viña Santa Rita, LTDA has continually offered and sold wines under the 120 mark since at least as early as March 13, 1984. Sociedad Anónima Viña Santa Rita has continually offered and sold wines under the 120 mark (and design) since at least as early as 1986.

2. Viña Santa Rita, LTDA is the owner of record of, *inter alia*, Registration No. 1420375, Application Serial No. 73/587,222, filed on March 10, 1986, for the 120 mark for use in connection with "wines" in International Class 33. Sociedad Anónima Viña Santa Rita is the owner of record of, *inter alia*, Registration No. 2064477, Application Serial No. 74/713,877, filed on August 10, 1995, for the 120 mark (and design) for use in connection with "wines" in International Class 33. Opposers, which are related entities, file this Opposition as Joint Opposers because they are listed as separate entities on the Registrations at issue in this opposition proceeding.

3. Opposers have each invested millions of dollars in advertising and promotion of their wines, including those bearing the 120 mark (and design). Opposers use the 120 mark (and design) on their wines throughout the world, including in the United States. On information and belief, the 120 mark (and design) has become well-known and recognized as Opposers' mark (and design) among consumers in the relevant industry.

4. Applicant's proposed 120 word mark is identical to Opposers' previously used and registered 120 word mark. Further, Applicant's design associated with the 120 mark is substantially similar to Sociedad Anónima Viña Santa Rita's design associated with its previously used and registered 120 mark (and design). Coexistence of these identical marks and

substantially similar designs is likely to cause confusion, to cause mistake, and to deceive the public, injuring Opposers and the consuming public.

5. Applicant's use of the proposed 120 mark (and design) in connection with the goods identified in International Classes 32—" [f]ruit and vegetable juice, tomato juice, fruit drink and juice" —is likely to cause confusion, to cause mistake, and to deceive the public, injuring Opposers and the consuming public. These goods are very similar to "wines" in International Class 33—*they are all beverages made of fruit*.

6. Opposers' 120 marks (and design) are of sufficient fame and have a sufficient reputation among consumers such that, if and when Applicant's proposed 120 mark (and design) is used in connection with the goods identified in International Class 32, consumers will presume that Applicant's use is associated with Opposers.

7. On information and belief, Applicant's use of the proposed 120 mark (and design) will disparage Opposers, falsely suggest an association with Opposers, and/or bring Opposers into disrepute.

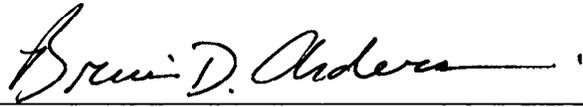
8. The registration of Applicant's proposed 120 mark (and design) on the Principal Register would be inconsistent with Opposers' rights under its preexisting Registrations and common law, and would thus damage Opposers.

THEREFORE, Opposers respectfully requests that Application Serial No. 78/466,518 for the goods in International Class 32 be rejected, that no registration be issued in connection with this Application for the goods in International Class 32 and that the Board rule in favor of Opposers in this Opposition Proceeding.

DATED: August 3, 2005

SHEPPARD MULLIN RICHTER & HAMPTON LLP

By



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BRIAN D. ANDERSON  
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Viña Santa Rita, LTDA and  
Sociedad Anónima Viña Santa Rita

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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this **Notice Of Opposition** was served on the following counsel for Applicant/Registrant by first class mail postage, prepaid, August 3, 2005.

DyDo Drinco, Inc.  
Sanei Building, 10F 1-2-4,  
Nishishinsaibashi,  
Chuo-ku Osaka 542-0086  
Japan



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Mironda Lewis