

ESTTA Tracking number: **ESTTA54833**

Filing date: **11/23/2005**

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

### Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

#### Opposer Information

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| <b>Name</b>                                  | Tequila Centinela, S.A. De C.V.  |
| <b>Granted to Date of previous extension</b> | 11/30/2005   |
| <b>Address</b>                               | Kilometro 2.5 Carretera ArandasTepatitlan Arandas<br>Jalisco, IN 47180<br>MEXICO |

|                             |  |
|-----------------------------|--|
| <b>Attorney information</b> | Jeffrey H. Kaufman<br>Oblon, Spivak, McClelland, Maier and Neustadt P.C.<br>1940 Duke Street<br>Alexandria, VA 22314<br>UNITED STATES<br>tmdocket@oblon.com,jkaufman@oblon.com, jhudis@oblon.com<br>Phone:703-413-3000 |
|-----------------------------|--|

#### Applicant Information

|                               |  |                               |            |
|-------------------------------|--|-------------------------------|------------|
| <b>Application No</b>         | 78429077                                       | <b>Publication date</b>       | 08/02/2005 |
| <b>Opposition Filing Date</b> | 11/23/2005                                     | <b>Opposition Period Ends</b> | 11/30/2005 |
| <b>Applicant</b>              | Bacardi & Company Limited<br>1000 Bacardi Road |                               |            |

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|--------------------|
| Nassau,<br>BAHAMAS |
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**Goods/Services Affected by Opposition**

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| Class 033. First Use: 20040500First Use In Commerce: 20040500<br>All goods and services in the class are opposed, namely: alcoholic beverages, namely, tequila |
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| <b>Related Proceedings</b> | Opposition Nos. 91125436 and 91260956, presently in suspension pending outcome of civil action in USDC, DDC. |
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|--------------------|---|
| <b>Attachments</b> | 238444-277719us-nop-final.pdf ( 4 pages ) |
|--------------------|---|

|                  |                      |
|------------------|----------------------|
| <b>Signature</b> | /Jeffrey H. Kaufman/ |
| <b>Name</b>      | Jeffrey H. Kaufman   |
| <b>Date</b>      | 11/23/2005           |

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

|                                  |   |                              |
|----------------------------------|---|------------------------------|
| _____                            | ) |                              |
| TEQUILA CENTINELA, S.A. DE C.V., | ) |                              |
|                                  | ) |                              |
| Opposer,                         | ) |                              |
|                                  | ) |                              |
| v.                               | ) | Opposition No.: _____        |
|                                  | ) | Appln. Serial No. 78/429,077 |
| BACARDI & COMPANY LIMITED,       | ) |                              |
|                                  | ) |                              |
| Applicant.                       | ) |                              |
| _____                            | ) |                              |

The Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

TEQUILA CENTINELA, S.A. DE C.V., a corporation duly organized and existing under the laws of Mexico, located and doing business at Kilometro 2.5, Carretera Arandas-Tepatitlan Arandas, Jalisco, Mexico 47180 (hereinafter "Opposer"), believing that it will be damaged by registration, hereby opposes Application Serial No. 78/429,077, filed June 2, 2004, under the Trademark Act of 1946, in the name of BACARDI & COMPANY LIMITED, published for opposition in the *Official Gazette* of August 2, 2005, Vol. 1297, No. 1, at Page TM 274, for the trademark TEQUILA CAZADORES RESPOSADO ETC. & DEER Design.

The grounds of Opposition are as follows:

1. Opposer, TEQUILA CENTINELA, S.A. de C.V., is a corporation duly organized and existing under the laws of Mexico, having its principal place of business at Kilometro 2.5, Carretera Arandas-Tepatitlan Arandas, Jalisco, Mexico 47180.

2. Opposer has engaged, and is now engaged, in the manufacture, distribution, sale, advertising and promotion in commerce of tequila and other alcoholic beverages.

3. Opposer has used, and is now using, Opposer's CABRITO & Design trademark (hereinafter sometimes referred to as "Opposer's Mark") in connection with tequila and other alcoholic beverages distributed and sold by Opposer in commerce. The design element of Opposer's CABRITO & Design mark is that of a goat.

4. Beginning prior to the filing date of Applicant's application, Opposer has used Opposer's CABRITO & Design mark for tequila and other alcoholic beverages.

5. On June 2, 2004, Applicant filed an application for registration of the alleged TEQUILA CAZADORES RESPOSADO ETC. & DEER Design trademark for "alcoholic beverages, namely, tequila" in International Class 33. Said application was assigned Serial No. 78/429,077, and was published for Opposition in the *Official Gazette* of August 2, 2005, Vol. 1297, No. 1, at Page TM 274.

6. On information and belief, Opposer has earlier rights in the trademark CABRITO & Design in the United States than can be asserted by Applicant for its TEQUILA CAZADORES RESPOSADO ETC. & DEER Design trademark as a result of Opposer's use of its trademark and the filing date of Opposer's Application Serial No. 76/112,825.

7. The goods identified in Application Serial No. 78/429,078 are identical and/or are related to the goods that Opposer previously and continuously has used in connection with Opposer's Mark, which is identified in Opposer's prior filed Application Serial No. 76/112,825.

8. If, as alleged by Bacardi & Company Limited in Opposition No. 91/125,436 (now on appeal to the U.S. District Court for the District of Columbia under Civil Action No. 1:04CV02201), there is a likelihood that the use of CABRITO & Design would cause a likelihood of confusion with the use of the mark CAZADORES & Design (the design element including that of a deer as shown in Application Serial No. 78/429,077), it follows that the use of

Applicant's DEER Design mark would cause confusion with Opposer's trademark CABRITO & Design.

9. If, hypothetically, the likelihood of confusion alleged in paragraph 8 exists, the registration of the DEER Design mark of Application Serial No. 78/429,077 would damage Opposer and would be in derogation of Trademark Act Section 2(d), 15 U.S.C. § 1052(d).

WHEREFORE, this Opposer, TEQUILA CENTINELA, S.A. de C.V., believes and avers that it is being and will continue to be damaged by registration of the TEQUILA CAZADORES RESPOSADO ETC & DEER Design trademark as aforesaid, and prays that said Application Serial No. 78/429,077 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

Opposer has appointed JEFFREY H. KAUFMAN and JONATHAN HUDIS, members of the law firm of OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C., and members of the Bar of the Commonwealth of Virginia, to prosecute this opposition proceeding and to transact all business in and before the United States Patent and Trademark Office in connection herewith. Please address all correspondence to:

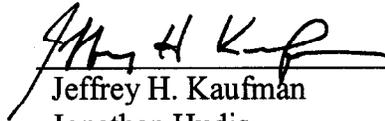
**Jeffrey H. Kaufman, Esquire**  
OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314

If filed by hand, we enclose our credit card payment form or check for the required filing fee for this Opposition. If filed electronically, our payment of the required filing fee will be submitted through e-TEAS. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 50-2014.

Respectfully submitted,

TEQUILA CENTINELA, S.A. DE C.V.

By:



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Date: November 23, 2005

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