

ESTTA Tracking number: **ESTTA156642**

Filing date: **08/14/2007**

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

Name	Corporacion CIMEX, S.A.
Granted to Date of previous extension	08/15/2007
Address	Edificio Sierra Maestra First Ave corner 0 St Miramar, Ciudad de la Habana, CUBA
Party who filed Extension of time to oppose	Corporacion Cimex S.A.
Relationship to party who filed Extension of time to oppose	CIMEX should be capitalized, with a comma after CIMEX. There has been no name change.

Attorney information	David B. Goldstein Rabinowitz, Boudin, Standard, Krinsky & Lieberman, PC 111 Broadway Suite 1102 New York, NY 10006 UNITED STATES dgoldstein@rbskl.com Phone:212-254-1111 x103
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Applicant Information

Application No	75697908	Publication date	04/17/2007
Opposition Filing Date	08/14/2007	Opposition Period Ends	08/15/2007
Applicant	DM Enterprises & Distributors, Inc. 8300 West Flagler, Suite 116 Miami, FL 33144 UNITED STATES		

Goods/Services Affected by Opposition

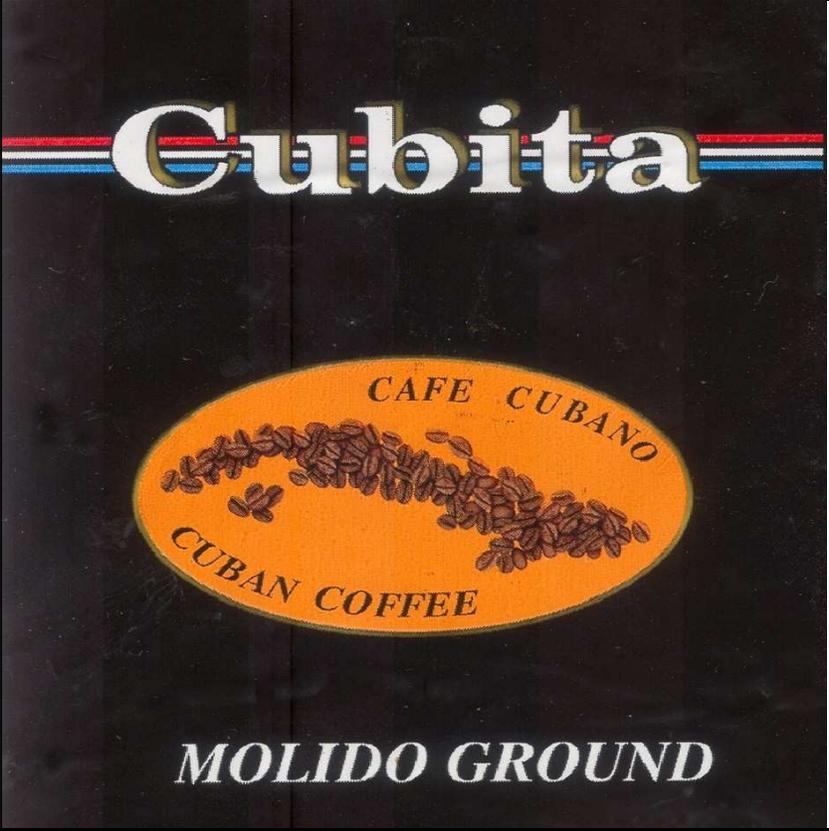
Class 030. First Use: 1994/02/13 First Use In Commerce: 1994/02/13 All goods and services in the class are opposed, namely: coffee

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
The mark is primarily geographically deceptively misdescriptive	Trademark Act section 2(e)(3)
Other	Interfering mark under Inter-American Convention, Article 7; Trademark Act, Section

	44.
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Design Mark			
Goods/Services	coffee		

Attachments	Cubita.notice opposition.pdf (29 pages)(947685 bytes) Cuban Cubita mark.JPG
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Signature	/David B. Goldstein/
Name	David B. Goldstein
Date	08/14/2007

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

In the matter of trademark application
Serial No. 75/697908
Filed May 4, 1999
For the mark CUBITA & DESIGN
Published in the *Official Gazette* on April 17, 2007

CORPORACION CIMEX, S.A.,)	
)	
Opposer,)	
)	
v.)	Opposition No.
)	
DM ENTERPRISES & DISTRIBUTORS, INC.,)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Opposer CORPORACION CIMEX, S.A. (hereinafter "CIMEX") believes that it will be damaged by registration on the principal register of the mark CUBITA & DESIGN, in Application Serial No. 75/697908 (hereinafter "Application"), which was published for opposition on April 17, 2007, and, by and through its undersigned attorneys, hereby opposes the registration of this Application, and avers as follows:

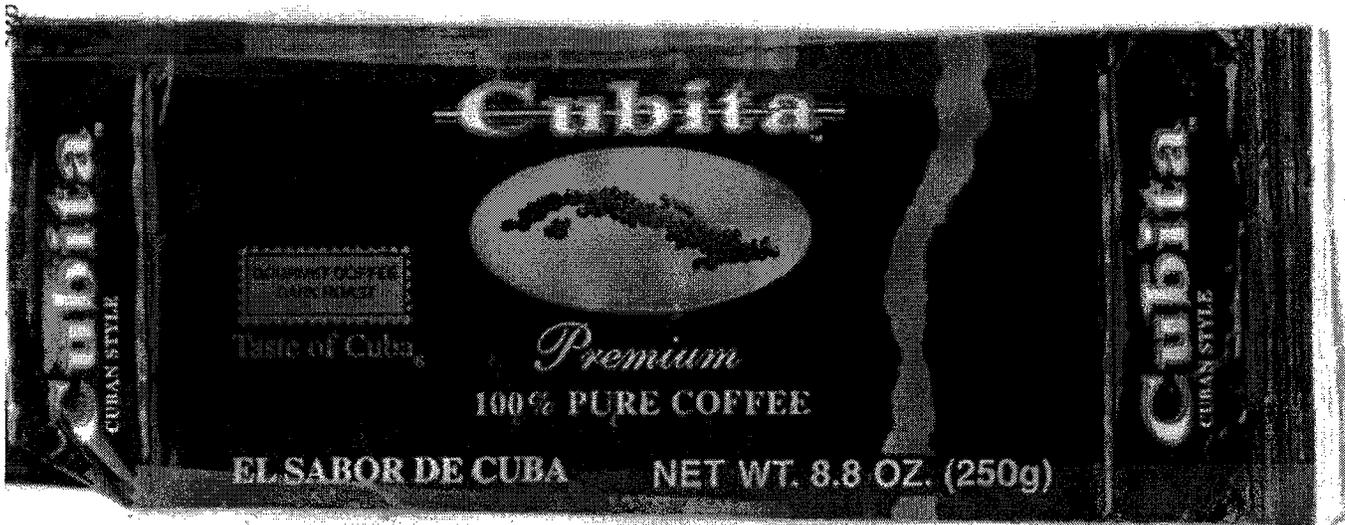
THE MARK AND PARTIES

1. Applicant DM Enterprises & Distributors, Inc. (hereinafter "Applicant") is a Florida corporation located in Miami, Florida. On or about May 4, 1999, Applicant filed Application Serial No. 75/697908 in the United States Patent and Trademark Office ("USPTO"), for registration of the following mark in International Class 30 for "coffee," on the basis of section 1(a) of the Lanham Act, 15 U.S.C. § 1051(a):

Cubita

The Application claimed a first use date and a first use in interstate commerce date of February 13, 1994.

2. Applicant submitted the following as a specimen of the mark as used in commerce, a color image of which is available in the USPTO's TDR database:

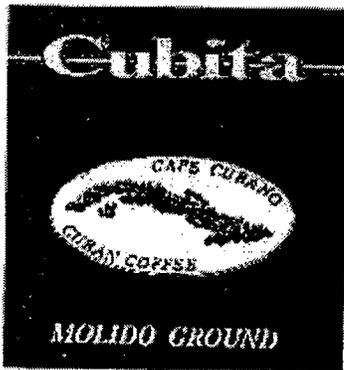


The central image under "Cubita" is a depiction of the island of Cuba made of coffee beans.

3. CIMEX is a corporation with legal personality organized under the laws of Cuba.

It has its principal place of business in Havana, Cuba.

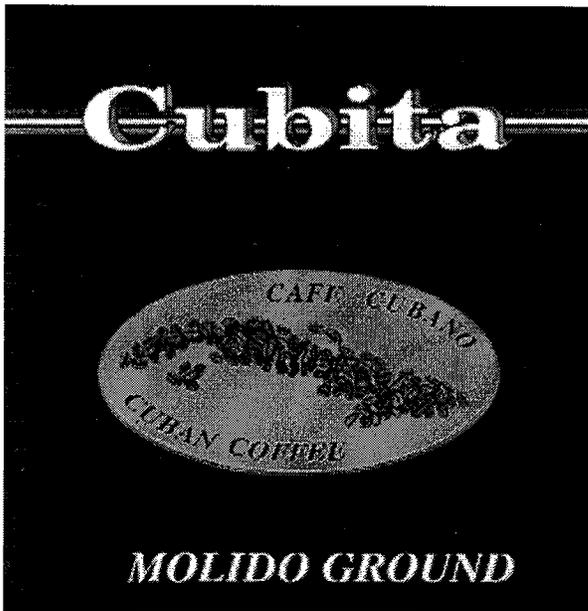
4. CIMEX owns the registration in Cuba for the mark CUBITA & DESIGN in IC 30 for "roasted coffee" ("café tostado"), as follows:



The central image under “Cubita” is a depiction of the island of Cuba made of coffee beans.

5. The CUBITA mark was first registered in Cuba on October 15, 1991, to KAVE COFFEE, S.A. KAVE COFFEE, S.A. transferred and assigned the mark to Distribuidora CIMEX, S.A.. Subsequently, Distribuidora CIMEX, S.A. transferred and assigned the mark to Opposer CIMEX. Each of the foregoing transfers took place in Cuba and was executed and registered according to Cuban law in the Cuban Industrial Property Office (“OCPI”) and its predecessor National Office of Inventions, Information Technology and Trademarks in Cuba. On January 2, 1996, the aforesaid National Office issued Resolution No. 04/96, and, on December 16, 2002, OCPI, issued Resolution No. 1966/2002, transferring, assigning and recording the change of ownership of the CUBITA mark from KAVE COFFEE, S.A. to Distribuidora CIMEX, S.A., and from the latter to Corporacion CIMEX. The certificate of registration renewal was issued in the name of Opposer Corporacion CIMEX, S.A. on December 16, 2002, effective until September 4, 2011, when it may then be renewed under Cuban law. True copies of the aforesaid certificate of registration, resolutions, and certificate of registration renewal, with certified translations, are annexed hereto as Exhibit A and incorporated herein by reference.

6. CIMEX, and before it, its predecessors KAVE COFFEE, S.A. and Distribuidora CIMEX, S.A., have sold coffee under the CUBITA & DESIGN mark in Cuba and in numerous countries throughout the world, continuously since at least as early as 1991, using the following packaging (in color the oval is orange and the lines through “Cubita” are red, white and blue):



7. On August 10, 2007, CIMEX filed an application with the USPTO for the mark CUBITA & DESIGN, Serial No. 77252382, based on its Cuban registration, pursuant to section 44(e) of the Lanham Act, 15 U.S.C. § 1126(e).

8. The United States Treasury Department’s Cuban Assets Control Regulations, 31 C.F.R. Part 515 (“CACR”), permit trademarks owned by Cuban entities to be filed and registered in the USPTO, 31 C.F.R. § 515.527.

9. Since 1963, the CACR have prohibited the sale of almost all categories of Cuban origin goods in the United States, including CIMEX’s CUBITA-labeled coffee.

10. Upon information and belief, unless registration is refused, Applicant’s Application will block the registration of CIMEX’s pending application for CUBITA for coffee.

11. Upon information and belief, “Cubita” is not an actual word in the Spanish or English languages. The suffix “ita” in the Spanish language is commonly appended to a name to form the diminutive of that name. Thus, “Cubita” appears as the diminutive form of the word “Cuba” in the Spanish language, and is linguistically very similar to “Cuba,” although “Cubita” itself is not a word.

12. Both Applicant and the Examining Attorney understood and recognized the association between “Cubita” and “Cuba.” In an August 18, 1999 Office Action concerning the Application, the Examiner stated, “After researching, it is believed the mark means “LITTLE CUBA.” In its September 27, 1999 Response, Applicant stated, “Applicant accepts Examiner’s proposed significance of the mark.” In its December 11, 2006 Response to Office Action, Applicant repeated that CUBITA “means or signifies LITTLE CUBA.” (Opposer notes that this translation of Applicant’s mark does not appear in the USPTO’s TARR or TESS database, or in the Trademark Snap Shot Publication Stylesheet, dated February 28, 2007, available on TDR).

13. Applicant likewise translated “CUBITA” as “small Cuba” in its application for CUBITA & DESIGN in IC 32, registered on September 21, 2004, Reg. No. 2886904.

14. During the application process, Applicant commenced a cancellation petition against a prior registrant of CUBITA in IC 30 for coffee, *DM Enters. & Distributors, Inc. v. Ruta Maya Royalty, Ltd*, Canc. No. 92029327 (T.T.A.B.), concerning Reg. No. 2252228. In its decision denying Applicant’s petition to cancel, the Board rejected Applicant’s claim, based on a purported license or assignment, that it first used the mark in February 1994, as Applicant had asserted in its Application. The Board further found that Applicant’s “direct first use of the mark occurred in July 1999.” *DM Enterprises & Distributors, Inc. v. Ruta Maya Royalty, Ltd*, Canc. No. 92029327, at 16 (T.T.A.B. May 28, 2004). Applicant is bound by these findings of the

Board in the instant Opposition proceeding.

15. Despite the Board's May 28, 2004 decision, Applicant has not amended the February 13, 1994 claimed first use date and claimed first use in commerce date asserted in its Application.

16. Applicant's first use of the mark and first use of the mark in commerce occurred no earlier than July 1999.

17. Subsequent to the Board's May 28 2004 decision in favor of the registrant for CUBITA for coffee, Reg. No. 2252228, that registrant failed to file a section 8 Affidavit, and on February 7, 2007, the USPTO cancelled that registration.

18. On April 17, 2007, the instant Application was published for opposition.

19. On May 14, 2007, CIMEX filed a timely request for a 90-day extension of time to oppose the instant Application. The Board granted the request for an extension until August 15, 2007.

20. The United States and Cuba are both parties to the General Inter-American Convention for Trade Mark and Commercial Protection, 46 Stat. 2907 ("IAC"), which remains in force between Cuba and the United States as determined by the United States Department of State. *See Treaties in Force 2007*, Section 2, at 86-87, available at

<http://www.state.gov/s/l/treaty/treaties/2007/index.htm> .

21. Article 7 of the IAC entitles the owner of a mark protected in Cuba to prevent another person from registering an interfering mark in the United States, upon proof that the person who is seeking to register the interfering mark in the United States had knowledge, prior to that person's use of the interfering mark, of the existence and continuous use in Cuba of the mark upon goods of the same class, as follows:

Any owner of a mark protected in one of the Contracting States in accordance with its domestic law, who may know that some other person is using or applying to register or deposit an interfering mark in any other of the Contracting States, shall have the right to oppose such use, registration or deposit and shall have the right to employ all legal means, procedure or recourse provided in the country in which such interfering mark is being used or where its registration or deposit is being sought, and upon proof that the person who is using such mark, or applying to register or deposit it, had knowledge of the existence and continuous use in any of the Contracting States of the mark on which opposition is based upon goods of the same class, the opposer may claim for himself the preferential right to use such mark in the country where the opposition is made or priority to register or deposit it in such country, upon compliance with the requirements established by the domestic legislation in such country and by this Convention.

22. Applicant had knowledge of the existence and continuous use in Cuba of the mark CUBITA upon coffee products prior to its claimed first use of the mark in the United States of February 13, 1994, and prior to any other subsequent claim of right or priority based on any claimed or purported license or assignment from a third party, or otherwise.

23. Applicant had knowledge of the existence and continuous use in Cuba of the mark CUBITA upon coffee products prior to its first direct use of the mark in the United States no earlier than July 1999.

24. Applicant had knowledge of the existence and continuous use in Cuba of the mark CUBITA upon coffee products prior to its Application for the mark for coffee in the United States on May 4, 1999.

25. Applicant's mark not only uses the identical term, "Cubita," as CIMEX's mark, but also copies the typeface of and the lines through "Cubita" of CIMEX's CUBITA mark, as used in Cuba since at least 1991, and as registered in Cuba since 1991. *See paras. 1, 4, 6, supra.*

26. Applicant's CUBITA specimen filed with the USPTO not only copies the stylized term "CUBITA," as used and registered by CIMEX, but it also uses an identical copy of the image of the island of Cuba made from coffee beans, found in CIMEX's registered CUBITA

mark in Cuba and on the labels for CUBITA coffee products, as used in Cuba by CIMEX and its predecessors since at least 1991.

27. The colors on Applicant's CUBITA specimen are the same as the colors on the labels for CUBITA coffee products, including the red, white and blue lines through "Cubita" and the orange central oval, used in Cuba by CIMEX and its predecessors since at least 1991. *See* paras. 2, 4, 6, *supra*.

28. Applicant's CUBITA-labeled coffee products do not come from Cuba, and Applicant's CUBITA-labeled coffee is not made with any ingredients, including coffee beans, grown, produced or processed in Cuba.

29. Applicant has no lawful means of obtaining Cuban coffee or coffee beans grown, produced or processed in Cuba, because, *inter alia*, the CACR, including specifically 31 C.F.R. §§ 515.201, 515.204, prohibit any such activity.

30. Coffee is identified in the *Encyclopedia Britannica* and the *Columbia Gazetteer*, as well as in other publications, as one of Cuba's important crops, and coffee processing is one of the major industrial activities in eastern Cuban cities such as Guantanamo. *See* "Cuba," *The Encyclopedia Britannica* (2007); "Cuba," *The Columbia Gazetteer of North America* (2000); *see also* U.S. Department of State, "Background Note: Cuba" (May, 2007), *available at* <http://www.state.gov/> (identifying coffee as one of Cuba's main exports).

31. Cuba is well known and noted for its coffee among coffee consumers, including in the United States.

32. CIMEX's CUBITA coffee products are made from 100% Cuban-origin coffee, processed in Cuba from coffee beans grown in Cuba, and are marketed as Cuban-origin coffee.

33. The primary significance of Applicant's CUBITA mark is the geographic location

of Cuba, regardless whether “Cubita” is an actual Spanish word, as both the Examiner and Applicant recognized, in translating “Cubita” as “little Cuba” and “small Cuba,” and consumers will reasonably make a linguistic and geographic association between Cubita and Cuba.

34. The coffee-consuming public is likely to believe that the place identified by the applied-for mark – Cuba – indicates the origin of the goods, or of the ingredients of the goods, bearing the CUBITA mark, when in fact the goods and the ingredients do not come from Cuba.

35. Consumers’ mistaken belief that Applicant’s coffee comes from Cuba, or is made from coffee beans grown in Cuba, would be a material factor in such consumers’ purchasing decision.

36. Applicant has acknowledged the materiality of the consumer goods/place association with Cuba by adopting the mark CUBITA for its non-Cuban coffee product, and using a label with an image of the island of Cuba, the English and Spanish phrases, “Taste of Cuba,” and “El Sabor de Cuba” (Taste of Cuba), and the phrase “Cuban style,” as shown in its specimen filed with the USPTO. *See para. 4, supra.*

37. Consumers will be deceived into believing that Applicant’s CUBITA-labeled coffee product is of Cuban origin, and consumers would base their decision to purchase such coffee sold under the CUBITA mark by their mistaken belief that such coffee is of Cuban origin.

38. Registration and use by Applicant of the CUBITA mark on coffee of non-Cuban origin will damage the current reputation that Cuban-origin coffee has in the United States.

39. Registration and use by Applicant of the CUBITA mark on coffee of non-Cuban origin will deceive consumers into believing that Cuban-origin coffee is presently available for purchase in the United States.

40. CIMEX intends and expects to use in commerce in the United States its CUBITA-

marked 100% Cuban origin coffee as soon as U.S. law permits.

41. The success of CIMEX in marketing 100% Cuban-origin coffee to United States consumers as soon as U.S. law permits will be damaged and diminished if Applicant is permitted to register the CUBITA mark for coffee, which deceptively suggests that its coffee is also of Cuban origin, when it is not.

42. CIMEX's CUBITA mark for coffee has goodwill in the United States.

FIRST GROUND FOR OPPOSITION

43. CIMEX repeats and realleges each and every allegation set forth in paragraphs 1 through 27 of this Notice of Opposition as if fully set forth herein.

44. CIMEX's CUBITA mark for coffee is protected in Cuba in accordance with Cuban law.

45. Applicant's CUBITA mark for coffee is an "interfering mark" with respect to CIMEX's attempt to register its CUBITA mark for coffee in the USPTO, within the meaning of Article 7 of the IAC.

46. Applicant had knowledge of the existence and continuous use in Cuba of the CUBITA mark for coffee prior to Applicant's first use of or application for the mark in the United States.

47. Pursuant to Article 7 of the IAC and the Lanham Act, CIMEX has priority over Applicant to register the mark CUBITA in IC 30 for coffee in the United States and is entitled to prevent the registration of Applicant's CUBITA mark in IC 30 for coffee, and Applicant's Application for registration must therefore be refused.

SECOND GROUND FOR OPPOSITION

48. CIMEX hereby incorporates by reference paragraphs 1 through 42 of this Notice

of Opposition, as if fully set forth herein.

49. Applicant's CUBITA mark, as used on or in connection with Applicant's non-Cuban-origin coffee, is deceptive and primarily geographically deceptively misdescriptive within the meaning of Sections 2(a) and 2(e)(3) of the Lanham Act, 15 U.S.C. § 1052(a), (e)(3).

50. The Application for registration must be refused under Sections 2(a) and 2(e)(3) of the Lanham Act, 15 U.S.C. § 1052(a)(e)(3).

WHEREFORE, Opposer Corporacion CIMEX, S.A. prays that Application Serial No. 75/697908 be refused registration, and that this Opposition be sustained in favor of the Opposer.

Dated: August 14, 2007

Respectfully submitted,

By: 

DAVID B. GOLDSTEIN
MICHAEL KRINSKY
RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.
111 Broadway – 11th Floor
New York, New York 10006-1901
212-254-1111

*Attorneys for Opposer
Corporacion CIMEX, S.A.*

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this Notice of Opposition to the registration of the mark CUBITA and DESIGN, No. 75/697908, is being filed electronically today, August 14, 2007, on the Electronic System for Trademark Trials and Appeals for the United States Patent Office.


David B. Goldstein

EXHIBIT A



REPUBLICA DE CUBA

*El Director de la Oficina Nacional de
Invenciones, Información Técnica y Marcas
en uso de sus facultades y de acuerdo con lo establecido en las
disposiciones legales vigentes, concede el presente*

CERTIFICADO

DE
REGISTRO DE MARCAS

*a favor de KAVE COFFEE S.A. (entidad de nacionalidad panameña,
domiciliada en calle A No. 310 entre 3ra y 5ta, Municipio
Playa, Ciudad de La Habana.*

*CERTIFICADO Nro. 118 867 válido hasta el 4 de septiembre del
2001.*

*Dado en la Ciudad de La Habana, a 15 de octubre
de 1991*

*Ing. Mario Fernández Finalé
Director*

101

REPUBLICA DE CUBA

Solicitud No.: 321/91

Clasificación Internacional: 30

Productos o Servicios: Café tostado.

CERTIFICADO

Sin reivindicar ninguno de los elementos que aparecen en el diseño.

Cubita



MOLIDO GROUND

(cubana de Mifano) y Sra. Mifano

les empiezas

Mr. Mario Fernandez

[seal]

REPUBLIC OF CUBA

*The Director of the National Office of
Inventions, Information Technology, and Trademarks
in exercise of his authority and in accordance with
current legal provisions grants this*

CERTIFICATE
OF
TRADEMARK REGISTRATION

To KAVE COFFEE S.A. (a Panamanian company domiciled at calle A No. 310, between
3rd and 5th [Avenues], Municipality Playa, City of Havana.

CERTIFICATE NO. 118 867 valid through September 4, 2001.

Given in the City of Havana on October 15, 1991

Ing. Mario Fernandez Finale
Director

Application No.: 321/91

International Classification: 30

Products or Services: Roasted coffee.

No claim for the elements that appear in the design.

[image]

Cubita

Café Cubano
Cuban Coffee

Molido Ground

RESOLUCION No. 04/96

POR CUANTO: El Decreto-Ley No.68 del 14 de mayo de 1983, denominado Decreto-Ley de Invenciones, Descubrimientos Científicos, Modelos Industriales, Marcas y Denominaciones de Origen, establece que la Oficina Nacional de Invenciones, Información Técnica y Marcas es la institución encargada de realizar las actividades que en el mismo se disponen.

POR CUANTO: El referido Decreto-Ley faculta al Director de la Oficina Nacional de Invenciones, Información Técnica y Marcas a dictar las resoluciones correspondientes para cumplimentar lo expresado en el **POR CUANTO** anterior.

POR CUANTO: Visto el escrito presentado el 27 de diciembre de 1995, por Lic. Cynthia Ayala Alcorta, a nombre y en representación de Distribuidora Cimex, S.A., domiciliada en Calle 8 # 314 entre Tercera y Quinta Avenidas, Miramar, municipio Playa, Ciudad de La Habana, República de Cuba., solicitando se tome razón del **TRASPASO** de la marca **CUBITA** y diseño, propiedad de la entidad **KAVE COFFEE, S.A.** a favor de su representada con Certificado No. 118 867, registro de entrada 321/91, a esos efectos acompaña Escritura de protocolización, debidamente legalizada, y del examen de dicha documentación aparece justificado el **TRASPASO** solicitado.

POR CUANTO: En uso de las facultades que me estan conferidas.

RESURLVO

PRIMERO: Que se hagan las anotaciones pertinentes según lo dispuesto en el artículo 9 del Decreto-Ley vigente, así como en la copia del Certificado que obra en el expediente, de los particulares siguientes: **TRASPASO** de la marca **CUBITA** y diseño, propiedad de la entidad **KAVE COFFEE, S.A.**, a favor de Distribuidora Cimex, S.A..

SEGUNDO: **NOTIFIQUESE** la presente Resolución a las partes, para su conocimiento y efectos pertinentes.

DADA en la Ciudad de La Habana, en la Oficina Nacional de Invenciones, Información Técnica y Marcas, a los dos días del mes de enero de mil novecientos noventa y seis..



Lic. América N. Santos Riveras
DIRECTORA

Con esta fecha me doy por notificado a
la anterior Resolución, con copia
íntegra de la misma.

La Habana 22 de Enero de 1946

Notificado a: Roberto Long
nombre

Firma: [Signature]

RESOLUTION NO. 04/96

WHEREAS: Decree-Law No. 68, dated May 14, 1983, entitled the Decree-Law on Inventions, Scientific Discoveries, Industrial Models, Trademarks and Denominations of Origin, establishes that the National Office of Inventions, Information Technology and Trademarks is the institution responsible for performing the activities addressed in the same.

WHEREAS: The referenced Decree-Law authorizes the Director of the National Office of Inventions, Information Technology and Trademarks to issue corresponding resolutions necessary to comply with the preceding WHEREAS CLAUSE.

WHEREAS: Having considered the petition filed on December 27, 1995, by Lic. Cynthia Ayala Alcorta, in the name and on behalf of Distribuidora Cimex, S.A., domiciled at Calle 8 # 314 between 3rd and 5th Avenues, Miramar, Municipality Playa, City of Havana, Republic of Cuba, requesting registration of the TRANSFER of the CUBITA trademark and design, which belong to KAVE COFFEE, S.A., to her principal through Certificate No. 118 867, record entry no. 321/91; for this purpose, she attaches the duly legalized notarial instrument and after examining the documentation, the requested TRANSFER appears to be justified.

WHEREAS: In exercise of the powers vested in me.

I RESOLVE

ONE: That the following notation be made, in accordance with the provisions of Article 9 of the current Decree-Law, as well as in the copy of the Certificate contained in the file: TRANSFER of the CUBITA trademark and design, property of KAVE COFFEE, S.A., to Distribuidora Cimex, S.A.

TWO: INFORM the parties of this resolution for their information and the relevant purposes.

GIVEN in the City of Havana, in the National Office of Inventions, Information Technology and Trademarks, on January 2, 1996.

[signature]
Lic. America N. Santos Riveras
DIRECTOR

[Stamp]

On this date, I acknowledge being notified of and receiving a complete copy of the preceding Resolution.

Havana, January 22, 1996.

Notice given to: [signature]
Name

Signature: [signature]

RESOLUCIÓN No. 1966/2002

POR CUANTO: El Decreto-Ley No. 203 de 29 de diciembre de 1999, denominado De Marcas y Otros Signos Distintivos, establece que la **OFICINA CUBANA DE LA PROPIEDAD INDUSTRIAL (OCPI)** es la institución estatal encargada de realizar las actividades relativas al registro de marcas y otros signos distintivos y faculta al Director General de ésta para dictar las resoluciones correspondientes en esta materia.

POR CUANTO: En fecha 11 de marzo de 2002, fue presentada ante la Oficina Cubana de la Propiedad Industrial, la solicitud de anotación No. 105/2002 relativa al **CAMBIO EN LA PERSONA DEL TITULAR** por Roberto Vizcaino Martínez, Agente Oficial con oficinas en Consultoría Jurídica Internacional, a nombre y en representación de **CORPORACIÓN CIMEX, S.A.** domiciliado en Edificio Sierra Maestra, Avenida Primera, esquina a calle Cero, Miramar, Playa, Ciudad de La Habana, República de Cuba.

POR CUANTO: Vista la solicitud de anotación presentada a razón de la cesión de la marca **CUBITA** y diseño, con No. de registro **118867** para distinguir productos comprendidos en la clase 30 de la Clasificación Internacional de Productos y Servicios para el Registro de las Marcas, propiedad de **DISTRIBUIDORA CIMEX, S.A.**, a favor de **CORPORACIÓN CIMEX S.A.**, domiciliado en Edificio Sierra Maestra, Avenida Primera, esquina a calle Cero, Miramar, Playa, Ciudad de La Habana, República de Cuba, lo cual consta en los documentos que se acompañan los que fueron debidamente examinados.

POR CUANTO: El Artículo 77 del mencionado Decreto-Ley establece que la Oficina anotará los cambios en la persona del solicitante o titular.

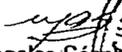
POR TANTO: En uso de las facultades que me están conferidas:

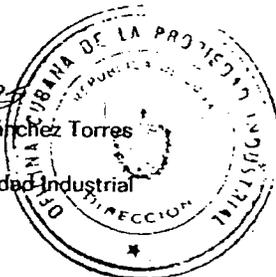
RESUELVO

PRIMERO: Que se hagan las anotaciones correspondientes al **CAMBIO EN LA PERSONA DEL TITULAR** de la marca **CUBITA** y diseño, registro no. **118867**, a favor de **CORPORACIÓN CIMEX S.A.**, surtiendo efectos ante terceros a partir de la fecha de la presente Resolución.

SEGUNDO: **NOTIFÍQUESE** la presente Resolución a las partes, haciéndoseles saber que contra la misma pueden establecer demanda en proceso administrativo ante el Tribunal Provincial Popular de Ciudad de La Habana dentro de los treinta días siguientes a su notificación.

DADA en Ciudad de La Habana, a los dieciséis días del mes de diciembre del año dos mil dos.


Ing. María de los Angeles Sánchez Torres
Directora General
Oficina Cubana de la Propiedad Industrial



Con esta fecha me doy por notificado
a la anterior resolución, con copia ínte-
gra de la misma

La Habana 13 de 1 de 03

Notario: *Miguel Ángel López*

Firma: *[Handwritten Signature]*

RESOLUTION NO. 1966/2002

WHEREAS: Decree-Law No. 203, dated December 29, 1999, entitled On Trademarks and Other Distinctive Signs, establishes that the CUBAN INDUSTRIAL PROPERTY OFFICE (OCPI) is the government institution responsible for performing the activities associated with the registration of marks and other distinctive signs and authorizes the Director General of this institution to issue resolutions on the subject.

WHEREAS: On March 11, 2002, Roberto Vizcaino Martinez, Official Agent working for Consultoria Juridica Internacional [International Legal Consulting] in the name and on behalf of CORPORACION CIMEX, S.A., domiciled at Sierra Maestra Building, Avenida Primera, corner of Calle Cero, Miramar, Playa, City of Havana, Republic of Cuba, filed application No. 105/2002 for CHANGE OF OWNERSHIP at the Cuban Industrial Property Office.

WHEREAS: Having considered the application filed with respect to the transfer of the CUBITA trademark and design, registration No. 118867, to distinguish products in International Products and Services Classification for Trademark Registration Class 30, from DISTRIBUIDORA CIMEX, S.A., to CORPORACION CIMEX, S.A., domiciled at Sierra Maestra Building, Avenida Primera, corner of Calle Cero, Miramar, Playa, City of Havana, Republic of Cuba, which is included with the enclosed documents that were duly examined.

WHEREAS: Article 77 of the aforementioned Decree-Law establishes that the Office must note the changes in the applicant or owner.

WHEREAS: In exercise of the powers vested in me.

I RESOLVE

ONE: That the notation be made reflecting the CHANGE OF OWNER of the CUBITA trademark and design, registration No. 118867, to CORPORACION CIMEX S.A., a change that will take effect starting on the date of this Resolution.

TWO: INFORM the parties of this Resolution and advise them that they may bring an administrative action against it at the City of Havana Provincial Court within thirty days following receipt of notice.

GIVEN in the City of Havana on December 16, 2002.

[signature]

Ing. Maria de los Angeles Sanchez Torres
General Director
Cuban Industrial Property Office

[stamp] Cuban Industrial Property Office
Republic of Cuba

[Stamp]

On this date, I acknowledge being notified of and receiving a complete copy of the preceding Resolution.

City of Havana, January 13, 2003.

Notice given to: [signature]

Signature: _____[signature]



REPÚBLICA DE CUBA

El Director de la Oficina Cubana de la Propiedad Industrial,
en uso de sus facultades y de acuerdo con lo establecido
en las disposiciones legales vigentes,
otorga el presente:



Certificado de Renovación de Marca.

A favor de: CORPORACIÓN CIMEX S.A.

Con domicilio en: Edificio Sierra Maestra, Avenida Primera, esquina a cero, Miramar, Playa,
Ciudad de La Habana, República de Cuba.

CERTIFICADO No.: 118867

Concedido por RESOLUCIÓN: 1967/2002

Válido por diez años y vigente hasta el: 4 de septiembre de 2011
Consistente en: la denominación CUBITA con grafismo especial y atravesada por una línea o
franja continua.

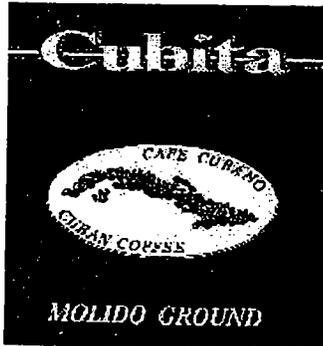
Para distinguir productos solicitados en la clase: 30
de la Clasificación Internacional de Productos y Servicios para el Registro de las Marcas.

Dado en la Ciudad de La Habana, a 16 de diciembre del año 2002.


Ing. María de los Angeles Sánchez Torres
Directora General
Oficina Cubana de la Propiedad Industrial

Solicitud No.: 142/2002
Clasificación de Elementos Figurativos: 27.05.01; 26.11.01

Reivindicación de colores:



Prioridad:
Representante Legal o Agente Oficial: Roberto Vizcaino Martínez

Lista de productos o servicios a distinguir: Café tostado.

[Letterhead] Cuban Industrial Property Office

REPUBLIC OF CUBA

The Director of the Cuban Industrial Property Office,
in exercise of her authority and in accordance
with current legal provisions grants this:

CERTIFICATE
OF
TRADEMARK RENEWAL

To: CORPORACION CIMEX, S.A.

Domiciled at: Sierra Maestra Building, Avenida Primera, corner of Cero, Miramar, Playa,
City of Havana, Republic of Cuba.

CERTIFICATE NO.: 118867

Granted by RESOLUTION: 1967/2002

Valid for 10 years, until: September 4, 2011

Consisting of: the denomination CUBITA, with a special logo crossed by a solid line or
strip.

To distinguish products in class: 30
of the International Products and Services Classification for Trademark Registration.

GIVEN in the City of Havana on December 16, 2002.

[signature]

Ing. Maria de los Angeles Sanchez Torres
General Director
Cuban Industrial Property Office

[Letterhead] Cuban Industrial Property Office

Application No.: 142/2002

Classification of Figurative Elements: 27.05.01; 26.11.01

Claim for colors:

[image]

Priority:

Legal Representative or Official Agent: Roberto Vizcaino Martinez

List of products or services to distinguish: Roasted coffee.