

ESTTA Tracking number: **ESTTA190353**

Filing date: **02/01/2008**

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	HT-SANTA BARBARA, INC.
Granted to Date of previous extension	02/03/2008
Address	c/o BJ Hoppe, 645 Fifth Ave., 8th Fl. New York, NY 10022 UNITED STATES

Attorney information	Brian R. Socolow LOEB & LOEB LLP 345 Park Avenue New York, NY 10154 UNITED STATES nytrademark@loeb.com, bsocolow@loeb.com, selimelekh@loeb.com, aocasio@loeb.com Phone:212-407-4000
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**Applicant Information**

Application No	77099120	Publication date	08/07/2007
Opposition Filing Date	02/01/2008	Opposition Period Ends	02/03/2008
Applicant	ITG, LLC Suite 1115 7700 Congress Ave. Boca Raton, FL 33487 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 014. All goods and services in the class are opposed, namely: Jewelry; Watches
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2494002	Application Date	01/11/2000
Registration Date	10/02/2001	Foreign Priority Date	NONE
Word Mark	BACARA RESORT & SPA		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 042. First use: First Use: 1999/08/30 First Use In Commerce: 1999/08/30 Full service resort hotel, health spa services, and providing convention facilities

U.S. Registration No.	2847711	Application Date	02/04/2000
Registration Date	06/01/2004	Foreign Priority Date	NONE
Word Mark	BACARA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2004/01/10 First Use In Commerce: 2004/01/10 JAMS, FRUIT PRESERVES, DRIED FRUIT, OLIVE OILS, EDIBLE OILS, BUTTER, CAVIAR, SALMON FOR FOOD PURPOSES, FOIE GRAS, SOUP		

U.S. Registration No.	2845180	Application Date	02/04/2000
Registration Date	05/25/2004	Foreign Priority Date	NONE
Word Mark	BACARA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 024. First use: First Use: 2002/01/01 First Use In Commerce: 2002/01/01 TOWELS		

U.S. Registration No.	2589271	Application Date	02/04/2000
Registration Date	07/02/2002	Foreign Priority Date	NONE
Word Mark	BACARA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/09/01 First Use In Commerce: 2000/09/01 CLOTHING, NAMELY, SWEATSHIRTS AND SWEATPANTS, SHIRTS, JACKETS, TIES, SWEATERS, CAPS, VISORS, HATS, ROBES, SWIMWEAR, SOCKS		

U.S. Registration No.	2589270	Application Date	02/04/2000
Registration Date	07/02/2002	Foreign Priority Date	NONE
Word Mark	BACARA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 022. First use: First Use: 2000/09/01 First Use In Commerce: 2000/09/01 CLOTHES STORAGE BAGS		

U.S. Registration No.	2589269	Application Date	02/04/2000
Registration Date	07/02/2002	Foreign Priority Date	NONE
Word Mark	BACARA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2000/09/01 First Use In Commerce: 2000/09/01 UMBRELLAS; BAGS, NAMELY, TOILETRY CASES SOLD EMPTY, HANDBAGS, BACKPACKS, ATHLETIC BAGS, DUFFEL BAGS, COSMETIC BAGS SOLD EMPTY, LUGGAGE		

U.S. Registration No.	2589268	Application Date	02/04/2000
Registration Date	07/02/2002	Foreign Priority Date	NONE
Word Mark	BACARA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2000/05/01 First Use In Commerce: 2000/05/01 NOTE PADS; MEMO PADS; MOUNTED AND UNMOUNTED PHOTOGRAPHS; PAPER BAGS; PENS AND PENCILS; STATIONERY; BROCHURES ABOUT TRAVEL AND HEALTH AND NEWSLETTERS IN THE FIELDS OF TRAVEL AND HEALTH; POSTCARDS; POSTERS		

U.S. Registration No.	2889434	Application Date	02/04/2000
Registration Date	09/28/2004	Foreign Priority Date	NONE
Word Mark	BACARA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2004/01/01 First Use In Commerce: 2004/01/01 COFFEE, ICE CREAM DESSERT, CANDY, CONFECTIONERY CHIPS FOR BAKING, CHOCOLATE, CAKES, COOKIES, BAKERY GOODS; HERB TEAS FOR FOOD PURPOSES		

Attachments	75894243#TMSN.gif ( 1 page )( bytes ) Notice of Opposition BOCARA.pdf ( 4 pages )(521890 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Shelly Elimelekh/
Name	Shelly Elimelekh
Date	02/01/2008

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

In re Application Serial No. 77/099120

Filed: February 5, 2007

For the mark BocaRa

Published in the *Official Gazette* on August 7, 2007

HT-Santa Barbara, Inc.,

Opposer,

v.

ITG, LLC,

Applicant.

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

**NOTICE OF OPPOSITION**

1. HT-Santa Barbara, Inc. ("Opposer"), a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 645 Fifth Avenue, New York, New York 10022, believes that it will be damaged by registration of the mark BocaRa shown in the above-identified application Serial No. 77/099120 (hereinafter referred to as the "Opposed Application") filed by ITG, LLC ("Applicant") and hereby opposes the same pursuant to 37 C.F.R. § 2.101(b).

2. Upon information and belief, Applicant is a limited liability company organized and existing under laws of the State of Florida with a principal place of business at 7700 Congress Avenue, Suite 1115, Boca Raton Florida, 33487.

3. For over eight years, and before Applicant filed the Opposed Application, Opposer has owned and operated a full-service resort hotel and spa located in Santa Barbara, California named Bacara Resort & Spa and known as Bacara.

4. Opposer is the owner of numerous United States trademark registrations for goods and services using its famous BACARA and BACARA RESORT & SPA marks, including Reg. Nos. 2,494,002; 2,847,711; 2,845,180; 2,589,271; 2,589,270; 2,589,269; 2,589,268; and 2,889,434 (the "BACARA Marks"). Opposer's rights in these marks arise from its valid trademark registrations obtained from the United States Patent and Trademark Office and from its common law rights that have arisen through Opposer's open and continuous use of the BACARA Marks. Due to Opposer's extensive marketing effort, the BACARA Marks have become famous and exclusively associated with Opposer's hotel and spa and related goods and services.

5. On February 5, 2007, Applicant filed the Opposed Application for the BocaRa mark for use in connection with jewelry and watches in Class 14, after Opposer had continuously and exclusively used and promoted its BACARA Marks in connection with its well-known resort hotel and spa and related goods and services, after Opposer had invested significant resources in publicizing and marketing the BACARA Marks and expanding its business under the distinctive BACARA mark, and after Opposer's marks had become famous and exclusively associated with Opposer's hotel, spa, and related goods and services.

6. Applicant's use of the BocaRa mark is likely to cause confusion, mistake or deception as to the source, sponsorship or approval of Applicant's jewelry and watches and/or to result in the mistaken belief that Applicant's jewelry and watches are affiliated, connected or associated with Opposer and/or Bacara Resort & Spa.

7. On August 7, 2007 the Opposed Application was published for opposition.

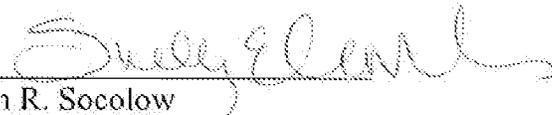
8. If Applicant is granted the registration herein opposed, Applicant would thereby obtain at least a prima facie exclusive right to the use of the proposed mark. Such registration would be a source of damage and injury to Opposer and to the general public due to the likelihood of confusion that would occur between Opposer's BACARA Marks and the related goods and services and Applicant's proposed BocaRa Mark and Applicant's goods.

WHEREFORE, Opposer prays that this Opposition be sustained and that the Opposed Application be rejected and that registration of the alleged trademark recited therein be refused and denied.

Please recognize as attorneys for Opposer Brian R. Socolow (member of the Bar of the State of New York), Shelly Elimelekh (member of the Bar of the State of New York), and the firm of Loeb & Loeb LLP, 345 Park Avenue, New York, New York 10154. Please address all communications to Brian R. Socolow of said firm and address.

LOEB & LOEB LLP

Dated: February 1, 2008

By:   
Brian R. Socolow  
Shelly Elimelekh  
345 Park Avenue, 18<sup>th</sup> Floor  
New York, New York 10154  
(212) 407-4000

Attorneys for Opposer  
HT-SANTA BARBARA, INC.

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing NOTICE OF OPPISITION is being served upon counsel for Applicant by depositing a copy of the same in the U.S. mail, first class postage prepaid, in an envelope addressed to:

Stewart L. Gitler  
Hoffman, Wasson & Gitler, P.C.  
Intellectual Property Law  
Crystal Center 2  
2461 South Clark Street Suite 522  
Arlington, Virginia 22202-3823

Executed this 1st day of February 2008.

/s/ Angela Ocasio