

ESTTA Tracking number: **ESTTA351983**

Filing date: **06/09/2010**

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

Proceeding	91184456
Party	Plaintiff L'Oreal USA, Inc.
Correspondence Address	Robert L. Sherman Paul, Hastings, Janofsky & Walker LLP 75 East 55th Street New York, NY 10022 UNITED STATES rls@paulhastings.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Natalie G. Furman
Filer's e-mail	rls@paulhastings.com
Signature	/ngf/
Date	06/09/2010
Attachments	Exhibit C-08 [JACK DANIEL_S (2003) App, OA, Tarr] 300 dpi.pdf (73 pages) (2222889 bytes) Exhibit C-09 [DOM PERIGNON App, OA, Tarr] 300 dpi.pdf (21 pages) (227586 bytes) Exhibit C-10 [ABSOLUT WATER App, OA, Tarr] 300 dpi.pdf (61 pages) (2378375 bytes)

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

In the Matter of Application Serial No. 76/596,736
Published in the Official Gazette on May 6, 2008
Mark: L'OREAL PARIS

L'ORÉAL S.A. and L'ORÉAL USA, INC.,

Opposer,

v.

ROBERT VICTOR MARCON,

Applicant.

Opposition No. 91184456

ORAL ARGUMENT REQUESTED

OPPOSER'S NOTICE OF RELIANCE

(Part 1 continued beginning with Opposer's Exhibit C-8)

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

In the Matter of Application Serial No. 76/596,736
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Mark: L'OREAL PARIS

L'ORÉAL S.A. and L'ORÉAL USA, INC.,

Opposer,

v.

ROBERT VICTOR MARCON,

Applicant.

Opposition No. 91184456

ORAL ARGUMENT REQUESTED

EXHIBIT C-8 TO OPPOSER'S NOTICE OF RELIANCE

Trademark/Service Mark Application, Principal Register, with Declaration

Serial Number: 78288359
Filing Date: 08/17/2003

The table below presents the data as entered.

Input Field	Entered
MARK	JACK DANIEL'S
OWNER	
NAME	MARCON, ROBERT, VICTOR
STREET	3471 SINNICKS AVENUE
CITY	NIAGARA FALLS
STATE	ONTARIO
ZIP/POSTAL CODE	L2J2G6
COUNTRY	Canada
PHONE	905 354 2543
FAX	905 354 7693
EMAIL	HASTINGS1066@SYMPATICO.CA
AUTHORIZED EMAIL COMMUNICATION	Yes
LEGAL ENTITY	
TYPE	INDIVIDUAL
COUNTRY OF CITIZENSHIP	CANADA
CORRESPONDENCE	
NAME	MARCON, ROBERT, VICTOR
STREET	3471 SINNICKS AVENUE
CITY	NIAGARA FALLS
STATE	ONTARIO

ZIP/POSTAL CODE	L2J2G6
COUNTRY	Canada
EMAIL	HASTINGS1066@SYMPATICO.CA
AUTHORIZED EMAIL COMMUNICATION	Yes
GOODS AND/OR SERVICES	
INTERNATIONAL CLASS	032
DESCRIPTION TEXT	BEER, WATER, STILL WATER, MINERAL WATER, SPRING WATER, AERATED WATER, CARBONATED WATER, SPARKLING WATER, ICE WATER, ICEBERG WATER, ICE, CRUSHED ICE, JUICES, FLAVORED DRINKS(EXCEPT BEVERAGES BASED ON COFFEE, TEA, OR COCOA AND MILK BEVERAGES), NUTRIENT DRINKS, NON-ALCOHOLIC BEVERAGES, PREPARATIONS FOR MAKING BEVERAGES, SYRUPS.
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES	
INTERNATIONAL CLASS	032
DESCRIPTION TEXT	BEER, WATER, STILL WATER, MINERAL WATER SPRING WATER, AERATED WATER CARBONATED WATER SPARKLING WATER, ICE WATER, ICEBERG WATER, ICE, CRUSHED ICE, JUICES, FLAVORED DRINKS(EXCEPT BEVERAGES BASED ON COFFEE, TEA, OR COCOA AND MILK BEVERAGES), NUTRIENT DRINKS, NON-ALCOHOLIC BEVERAGES, PREPARATIONS FOR MAKING BEVERAGES, SYRUPS
FILING BASIS	Section 44(d)
FOREIGN APPLICATION NUMBER	1168014
FOREIGN APPLICATION COUNTRY NAME	Canada
FOREIGN FILING DATE	02/18/2003

SIGNATURE INFORMATION	
SIGNATURE	/ROBERT V MARCON/
SIGNATURE DATE	08/17/2003
SIGNATORY NAME	ROBERT V MARCON
SIGNATORY POSITION	APPLICANT
PAYMENT	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	335
TOTAL AMOUNT	335
RAM SALE NUMBER	462
RAM ACCOUNTING DATE	08/18/2003
FILING INFORMATION	
SUBMIT DATE	Sun Aug 17 12:03:14 EDT 2003
TEAS STAMP	USPTO/BAS-2162096817 2-200308171203146300 12-78288359-2004aa6c 50476ace3330c1da3e6b b5eb8c-CC-462-200308 17115913737141

PTO Form 1478 (Rev 4/2000)
OMB Control #0651-0009 (Exp. 08/31/2004)

Trademark/Service Mark Application, Principal Register, with Declaration

Serial Number: 78288359

Filing Date: 08/17/2003

To the Commissioner for Trademarks:

MARK: JACK DANIEL'S

The applicant, ROBERT, VICTORMARCON, a citizen of CANADA, residing at 3471 SINNICKS AVENUE, NIAGARA FALLS, ONTARIO Canada L2J2G6, requests registration of the trademark/service mark shown on the drawing page in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 032: BEER, WATER, STILL WATER, MINERAL WATER, SPRING WATER, AERATED WATER, CARBONATED WATER, SPARKLING WATER, ICE WATER, ICEBERG WATER, ICE, CRUSHED ICE, JUICES, FLAVORED DRINKS(EXCEPT BEVERAGES BASED ON COFFEE, TEA, OR COCOA AND MILK BEVERAGES), NUTRIENT DRINKS, NON-ALCOHOLIC BEVERAGES, PREPARATIONS FOR MAKING BEVERAGES, SYRUPS.

Priority based on foreign filing: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services and asserts a claim of priority based upon a foreign application. 15 U.S.C. Section 1126(d), as amended.

Based on Canada application number 1168014, filed 02/18/2003:

International Class 032: BEER, WATER, STILL WATER, MINERAL WATER SPRING WATER, AERATED WATER CARBONATED WATER SPARKLING WATER, ICE WATER, ICEBERG WATER, ICE, CRUSHED ICE, JUICES, FLAVORED DRINKS(EXCEPT BEVERAGES BASED ON COFFEE, TEA, OR COCOA AND MILK BEVERAGES), NUTRIENT DRINKS, NON-ALCOHOLIC BEVERAGES, PREPARATIONS FOR MAKING BEVERAGES, SYRUPS

A fee payment in the amount of \$335 will be submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /ROBERT V MARCON/ Date: 08/17/2003

Signatory's Name: ROBERT V MARCON

Signatory's Position: APPLICANT

Mailing Address:

MARCON, ROBERT, VICTOR

3471 SINNICKS AVENUE

NIAGARA FALLS, ONTARIO L2J2G6

RAM Sale Number: 462

RAM Accounting Date: 08/18/2003

Serial Number: 78288359

Internet Transmission Date: Sun Aug 17 12:03:14 EDT 2003

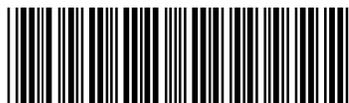
TEAS Stamp: USPTO/BAS-21620968172-20030817120314630012-78288359-
2004aa6c50476ace3330c1da3e6bb5eb8c-CC-462-20030817115913737141

FILING DATE:

2003/08/17

SERIAL NUMBER:

78/288359



TRADEMARK APPLICATION

FEE RECORD SHEET

RAM SALE NUMBER: 462

RAM ACCOUNTING DATE: 20030818

Description	Fee Code	Fee Amount	Number Of Classes	Total Fees Paid
New App	7001	335	1	335

To: MARCON, ROBERT, VICTOR (HASTINGS1066@SYMPATICO.CA)

Subject: TRADEMARK APPLICATION NO. 78288359 - JACK DANIEL'S - N/A

Sent: 1/16/04 9:26:03 PM

Sent As: ECom112

Attachments: [Attachment - 1](#)
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UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/288359

APPLICANT: MARCON, ROBERT, VICTOR

CORRESPONDENT ADDRESS:
MARCON, ROBERT, VICTOR
3471 SINNICKS AVENUE
NIAGARA FALLS; ONC - ONTARIO
L2J2G6
CAX - CANADA

RETURN ADDRESS:
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514
ecom112@uspto.gov

MARK: JACK DANIEL'S

CORRESPONDENT'S REFERENCE/DOCKET NO: N/A

CORRESPONDENT EMAIL ADDRESS:
HASTINGS1066@SYMPATICO.CA

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.

Serial Number 78/288359

The assigned examining attorney has reviewed the referenced application and determined the following.

Prior Conflicting Applications

Information regarding pending Application Serial Nos. 76034621 and 76404923 is enclosed. The filing dates of the referenced applications precede applicant's filing date. There may be a likelihood of confusion under Trademark Act Section 2(d) between applicant's mark and the referenced marks. If one or more of the referenced applications registers, registration may be refused in this case under Section 2(d). 37 C.F.R. §2.83; TMEP §1208.01.

Likelihood of Confusion

Registration of the proposed mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 0394017, 0441002, 0582789, 1630258, 1758658, 1923981, 1942451, 2026758, 2026759, 2090313, 2209684, 2476018, 2465399, 2518234, 2560175, 2609281, 2612179, 2624566, 2734619, 2765098, 2789278 and 2795048. Trademark Act Section 2(d), 15 U.S.C. §1052(d); TMEP §§1207.01 *et seq.* See the enclosed registrations.

A likelihood of confusion determination requires a two-part analysis. First the marks are compared for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Second, the goods or services are compared to determine whether they are similar or related or whether the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re Int'l Tel. and Tel. Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Prods. Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); TMEP §§1207.01 *et seq.*

Applicant proposes the mark JACK DANIEL'S for use in connection with "beer, water, still water, mineral water, spring water, aerated water, carbonated water, sparkling water, ice water, iceberg water, ice, crushed ice, juices, flavored drinks (except beverages based on coffee, tea, or cocoa and milk beverages), nutrient drinks, non-alcoholic beverages, preparations for making beverages, syrups. Registrant in 0394017 provides "whiskey" in connection with the mark JACK DANIEL'S NO. 7 and design. Registrant in 0441002 provides "whiskey" in connection with the mark JACK DANIEL'S. Registrant in 0582789 provides "whiskey" in connection with the mark JACK DANIEL'S. Registrant in 1630258 provides "cordials" in connection with the mark JACK DANIEL'S COUNTRY COCKTAILS. Registrant in 1758658 provides "cordials" in connection with the mark JACK DANIEL'S. Registrant in 1923981 provides "whiskey" in connection with the mark JACK DANIEL'S. Registrant in "1942451" provides "whiskey" in connection with the mark JACK DANIEL'S OLD TIME NO. 7 BRAND QUALITY TESSESSEE SOUR MASH WHISKEY. Registrant in 2026758 provides "whiskey" in

connection with the mark JACK DANIEL'S MASTER DISTILLER. Registrant in 2026759 provides "whiskey" in connection with the mark JACK DANIEL'S MASTER DISTILLER TENNESSEE WHISKEY JACK DANIEL. DISTILLER and design. Registrant in 2090313 provides "beer" in connection with the mark JACK DANIEL'S 1866 CLASSIC. Registrant in 2209684 provides "alcoholic beverages, namely, whiskey" in connection with the mark JACK DANIEL'S SILVER SELECT. Registrant in 2476018 provides "alcoholic beverages, namely, whiskey" in connection with the mark JACK DANIEL'S MONOGRAM. Registrant in 2465399 provides "alcoholic beverages, namely, distilled spirits" in connection with the mark JACK DANIEL'S OLD TIME DISTILLERY OLD TIME SOUR MASH NO. 7 BRAND QUALITY TENNESSEE WHISKEY and design. Registrant in 2518234 provides "alcoholic beverages, namely, whiskey" in connection with the mark JACK DANIEL'S COUNTRY COCKTAILS GREAT AMERICAN TAILGATE PARTY. Registrant in 2560175 provides "restaurant and bar services" in connection with the mark JACK DANIEL'S. Registrant in 2609281 provides "restaurant and bar services" in connection with the mark JACK DANIEL'S GRILL. Registrant in 2612179 provides "restaurant and bar services" in connection with the mark JACK DANIEL'S GRILL and design. Registrant in 2624566 provides "alcoholic beverages, namely, distilled spirits" in connection with the mark JACK DANIEL. Registrant in 2734619 provides "alcoholic beverages; namely, distilled spirits" in connection with the mark JACK DANIEL'S OLD NO7 BRAND and design. Registrant in 2765098 provides "alcoholic beverages, namely, Tennessee sour mash whiskey" in connection with the mark JACK DANIEL'S OLD TIME NO. 2 TENNESSEE WHISKEY BOTTLEY AT THE DISTILLERY. Registrant in 2789278 provides "alcoholic beverages, namely, Tennessee sour mash whiskey" in connection with the mark JACK DANIEL'S OLD TIME NO.7 BRAND QUALITY TENNESSEE SOUR MASH WHISKEY and design. Registrant in 2795048 provides "alcoholic beverages, namely distilled spirits" in connection with the mark JACK DANIEL.

The same Registrant owns U.S. Registration Nos. 0394017, 0441002, 0582789, 1630258, 1758658, 1923981, 1942451, 2026758, 2026759, 2090313, 2209684, 2476018, 2465399, 2518234, 2560175, 2609281, 2612179, 2624566, 2734619, 2765098, 2789278 and 2795048.

With respect to Registration Nos. 04410020582789, 1758658, 1923981, 2560175, 2624566 and 2795048, the examining attorney finds that the applicant's mark JACK DANIEL'S is identical or the phonetic equivalent to each of the cited registrations. The marks are essentially phonetic equivalents and are thus similar sounding. Similarity in sound alone may be sufficient to support a finding of likelihood of confusion. *RE/MAX of America, Inc. v. Realty Mart, Inc.*, 207 USPQ 960, 964 (TTAB 1980); *Molenaar, Inc. v. Happy Toys Inc.*, 188 USPQ 469 (TTAB 1975); *In re Cresco Mfg. Co.*, 138 USPQ 401 (TTAB 1963); TMEP §1207.01(b)(iv). Thus the marks are confusingly similar and impart a similar commercial impression.

In the second step of the analysis, the examining attorney finds that the registrant's goods and the applicant's goods are commercially related. If the marks of the respective parties are identical, the relationship between the goods or services of the respective parties need not be as close to support a finding of likelihood of confusion as might apply where differences exist between the marks. *Amcors, Inc. v. Amcor Industries, Inc.*, 210 USPQ 70 (TTAB 1981); TMEP §1207.01(a).

With respect to Registration Nos. 0394017, 1630258, 1942451, 2026758, 2026759, 2090313, 2209684, 2476018, 2465399, 2518234, 2609281, 2612179, 2734619, 2765098, 2789278 the applicant shares the identical leading term JACK DANIEL'S with each cited registration. The additional terms in the respective registrations do not obviate the likelihood of confusion because the terms are descriptive or do

not change the overall commercial impression of the mark. That is the significant terms in the Registered marks and in the applicant's mark is JACK DANIEL'S. The mere addition of a term to a registered mark is not sufficient to overcome a likelihood of confusion under Section 2(d). *Coca-Cola Bottling Co. v. Joseph E. Seagram & Sons, Inc.*, 526 F.2d 556, 188 USPQ 105 (CCPA 1975) ("BENGAL" and "BENGAL LANCER"); *Lilly Pulitzer, Inc. v. Lilli Ann Corp.*, 376 F.2d 324, 153 USPQ 406 (CCPA 1967) ("THE LILLY" and "LILLI ANN"); *In re El Torito Restaurants Inc.*, 9 USPQ2d 2002 (TTAB 1988) ("MACHO" and "MACHO COMBOS"); *In re United States Shoe Corp.*, 229 USPQ 707 (TTAB 1985) ("CAREER IMAGE" and "CREST CAREER IMAGES"); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) ("CONFIRM" and "CONFIRMCELLS"); *In re Riddle*, 225 USPQ 630 (TTAB 1985) ("ACCUTUNE" and "RICHARD PETTY'S ACCU TUNE"); *In re Cosvetic Laboratories, Inc.*, 202 USPQ 842 (TTAB 1979) ("HEAD START" and "HEAD START COSVETIC"). While the examining attorney cannot ignore a disclaimed portion of a mark and must view marks in their entireties, one feature of a mark may be more significant in creating a commercial impression. *Tektronix, Inc. v. Daktronics, Inc.*, 534 F.2d 915, 189 USPQ 693 (CCPA 1976); *In re El Torito Restaurants Inc.*, 9 USPQ2d 2002 (TTAB 1988); *In re Equitable Bancorporation*, 229 USPQ 709 (TTAB 1986). Disclaimed matter is typically less significant or less dominant.

In the second step of the analysis, the examining attorney finds that the registrant's goods and the applicant's goods are commercially related. Both the applicant and the registrant provide alcoholic beverages, beer and whiskey. These goods are likely to be served via the restaurant and bar services as well. Thus these goods and services are likely to travel in the same channels of trade.

For these reasons, it is likely that the purchasing public would confuse the goods as originating from the same source. Therefore, the examining attorney refuses registration of the applicant's mark under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d).

The applicant should also note the following additional ground for refusal.

False Association

Registration is refused because the proposed mark consists of or comprises matter which may falsely suggest a connection with JACK DANIEL'S for "whiskey." JACK DANIEL'S is so famous that consumers would presume a connection with applicant. Trademark Act Section 2(a), 15 U.S.C. §1052(a); TMEP §§1203.03, 1203.03(e) and 1203.03(f); *See generally University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co.*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *University of Alabama v. BAMA-Werke Curt Baumann*, 231 USPQ 408 (TTAB 1986); *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *Buffett v. Chi-Chi's, Inc.*, 226 USPQ 428 (TTAB 1985).

The following is required for a showing of false connection under Section 2(a):

- · the mark sought to be registered is the same as or a close approximation of the name or identity of a person or institution;
- · the mark would be recognized as such;
- · the person or institution identified in the mark is not connected with the goods sold or services performed by applicant under the mark; and
- · the fame or reputation of the named person or institution is of such a nature that a connection with such person or institution would be presumed when applicant's mark is used

on its goods or services.

In re Cotter & Co., 228 USPQ 202, 204 (TTAB 1985); *See Buffett v. Chi?Chi's, Inc.*, 226 USPQ 428, 429 (TTAB 1985).

If applicant's goods or services are of a type that the named person or institution sells or uses, and the named party is sufficiently famous, then it may be inferred that purchasers of the goods or services would be misled into making a false connection of sponsorship, approval, support or the like with the named party. *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *In re National Intelligence Academy*, 190 USPQ 570 (TTAB 1976).

The fact that purchasers would realize, at some point after purchase, that no connection exists between the listed goods or services and the person or institution falsely connected, is not relevant. The focus is on "the initial reaction or impact of the mark when viewed in conjunction with the applicable goods or services." *In re Bicentennial Society*, 197 USPQ 905, 906 (TTAB 1978).

For these reasons the examining attorney refuses registration of the mark under Section 2(a) of the Trademark Act for false association with a famous mark.

Applicant May Respond

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following informalities.

Identification of Goods

The wording in the identification of goods needs clarification because it is too broad and could include goods classified in other international classes. Applicant may substitute the following wording, if accurate: TMEP §§1402.01 and 1402.03.

Nutritional drink mixes for use as a meal replacement. *International Class 5.*

Ice, crushed ice. *International Class 30.*

Beer, water, still water, mineral water, spring water, aerated water, carbonated water, sparkling water, ice water, iceberg water; juices, fruit flavored drinks, soft drinks; preparations for making fruit drinks; syrups for use in making soft drinks. *International Class 32.*

Classification

Applicant must correct the classification of the goods in the application and amend the application to classify them in International Classes 5, 30 and 32. 37 C.F.R. §§2.32(a)(7) and 2.85; TMEP §§1401.02(a)

and 1401.03(b).

Combined Application

If applicant prosecutes this application as a combined, or multiple-class application, then applicant must comply with each of the following for those goods and/or services based on an intent to use the mark in commerce under Trademark Act Section 1(b):

- (1) (1) Applicant must list the goods and/or services by international class with the classes listed in ascending numerical order. TMEP § 1403.01; and
- (2) (2) Applicant must submit a filing fee for each international class of goods and/or services not covered by the fee already paid. 37 C.F.R. §2.86(a)(2); TMEP §§810.01 and 1403.01.

Current fees are sufficient for one class only.

Dual Filing Bases §§1(b) and 44(d)

If applicant wishes to proceed relying on the applicant's intent to use the mark in commerce under Trademark Act Section 1(b) as the sole basis for registration, with the claim of priority under Section 44(d), then applicant should so advise the trademark examining attorney. TMEP §§806.02(f) and 806.04(b). If applicant chooses to do so, this Office will approve the mark for publication without waiting for applicant to submit a copy of the foreign registration, once all other outstanding issues are resolved. Moreover, while the application may be approved for publication, the mark will not register until after an acceptable allegation of use has been filed.

If applicant does not indicate otherwise, this Office will presume that applicant wishes to rely on the foreign registration as an additional basis for registration and will require applicant to submit the copy of the foreign registration and, if appropriate, an English translation signed by the translator. TMEP §§1004.01 and 1004.01(b).

Designation of Domestic Representative

Applicant may designate a domestic representative upon whom notices or process may be served. Trademark Act Section 1(e), 15 U.S.C. §1051(e); 37 C.F.R. §2.24; TMEP §§604, 811 and 1013. If applicant does not designate a domestic representative, notices or process in proceedings affecting the mark may be served on the Director of the USPTO. Trademark Act Section 1(e), 15 U.S.C. §1051(e).

DESIGNATION OF DOMESTIC REPRESENTATIVE

Identify the mark

Serial No.

Name of applicant

Date of signature

(Name of domestic representative)

whose postal address is

is hereby designated applicant's representative upon whom notice or process in proceedings affecting the mark may be served.

(Signature of applicant)

If the applicant has any questions or needs assistance in responding to this Office action, please call or e-mail the assigned examining attorney.

/D. Beryl Gardner/
D. Beryl Gardner
Examining Attorney - Law Office 112
www.uspto.gov/teas/index.html (file responses)
beryl.gardner@uspto.gov (submit questions only)
703-308-9112 x180

How to respond to this Office Action:

To respond formally using the Office's Trademark Electronic Application System (TEAS), visit <http://www.uspto.gov/teas/index.html> and follow the instructions.

To respond formally via E-mail, visit <http://www.uspto.gov/web/trademarks/tmelecresp.htm> and

follow the instructions.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.

Print: Jan 15, 2004

71429345

DESIGN MARK

Serial Number

71429345

Status

REGISTERED AND RENEWED

Word Mark

JACK DANIEL'S NO 7

Registration Number

0394017

Date Registered

1942/03/17

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

JACK DANIEL'S PROPERTIES CORPORATION DELAWARE 4040 CIVIC CENTER
DRIVE., STE 528 SAN RAFAEL CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 033. US 049. G & S: Whiskey. First
Use: 1915/00/00. First Use In Commerce: 1915/00/00.

Prior Registration(s)

0323914

Disclaimer Statement

Applicant disclaims any right to the exclusive use of "Brand",
"Whiskey", "Distilled and bottled by" and "Distillery", except as
shown.

Filing Date

1940/03/08

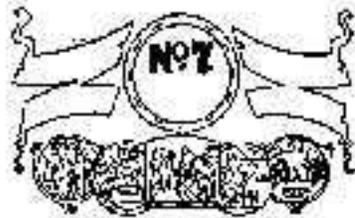
Examining Attorney

UNKNOWN

Attorney of Record

DAVID S GOODER

JACK DANIEL'S



Print: Jan 15, 2004

71525555

DESIGN MARK

Serial Number

71525555

Status

REGISTERED AND RENEWED

Word Mark

JACK DANIEL'S

Registration Number

0441002

Date Registered

1948/10/12

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

JACK DANIEL DISTILLERY, LEM MOTLOW, PROP., INC. CORPORATION KENTUCKY
LYNCHBURG TENNESSEE 37352

Goods/Services

Class Status -- ACTIVE. IC 033. US 049. G & S: WHISKEY. First
Use: 1875/00/00. First Use In Commerce: 1875/00/00.

Prior Registration(s)

0298102;0323914;0394017;0394018;AND OTHERS

Filing Date

1947/07/02

Examining Attorney

UNKNOWN

Attorney of Record

KLINE, ROMMEL & COLBERT

JACK DANIEL'S

Print: Jan 15, 2004

71634575

DESIGN MARK

Serial Number

71634575

Status

REGISTERED AND RENEWED

Word Mark

JACK DANIEL'S

Registration Number

0582789

Date Registered

1953/11/24

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

JACK DANIEL'S PROPERTIES, INC. CORPORATION DELAWARE 4040 CIVIC CENTER
DRIVE SUITE 428 SAN RAFAEL CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 033. US 049. G & S: WHISKEY. First
Use: 1875/00/00. First Use In Commerce: 1875/00/00.

Prior Registration(s)

0298102;0323914;0394017;0394018;0441002;0513088

Filing Date

1952/08/28

Examining Attorney

UNKNOWN

Attorney of Record

DAVID S GOODER

JACK DANIEL'S

Print: Jan 15, 2004

73817965

TYPED DRAWING

Serial Number

73817965

Status

REGISTERED AND RENEWED

Word Mark

JACK DANIEL'S COUNTRY COCKTAILS

Registration Number

1630258

Date Registered

1991/01/01

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

JACK DANIEL'S PROPERTIES, INC. CORPORATION DELAWARE 4040 CIVIC CENTER DRIVE SUITE 528 SAN RAFAEL CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 033. US 049. G & S: CORDIALS. First Use: 1989/01/31. First Use In Commerce: 1989/01/31.

Prior Registration(s)

0298102;0323914;0394017;0394018;0441002;0577199;0582789;0620518;0790175-;1288090;1290702;1329704;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COCKTAILS" APART FROM THE MARK AS SHOWN.

Filing Date

1989/08/08

Examining Attorney

PRICE, JERRY L.

Print: Jan 15, 2004

74290193

TYPED DRAWING

Serial Number

74290193

Status

REGISTERED AND RENEWED

Word Mark

JACK DANIEL'S

Registration Number

1758658

Date Registered

1993/03/16

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

JACK DANIEL'S PROPERTIES, INC. CORPORATION DELAWARE 4040 CIVIC CENTER DRIVE, SUITE 528 SAN RAFAEL CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 033. US 049. G & S: cordials. First Use: 1992/02/01. First Use In Commerce: 1992/02/01.

Prior Registration(s)

0298102;0394017;0441002;0582789;1630258;AND OTHERS

Name/Portrait Statement

The name "JACK DANIEL'S" shown in the mark does not identify a living individual.

Filing Date

1992/07/01

Examining Attorney

UNKNOWN

Attorney of Record

DAVID S GOODER

Print: Jan 15, 2004

74557769

DESIGN MARK

Serial Number

74557769

Status

REGISTERED

Word Mark

JACK DANIEL'S 1866 CLASSIC

Registration Number

2090313

Date Registered

1997/08/26

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

Jack Daniel Distillery, Lem Motlow, Prop., Inc. CORPORATION KENTUCKY
Lynchburg TENNESSEE 33572

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: beer.
First Use: 1995/02/01. First Use In Commerce: 1995/02/01.

Prior Registration(s)

0582789;1758658;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "1866 CLASSIC" APART
FROM THE MARK AS SHOWN.

Name/Portrait Statement

The name in the drawing does not identify a living individual.

Filing Date

1994/08/05

Examining Attorney

LEETZOW, KAREN

Attorney of Record

Print: Jan 15, 2004

74557769

Christopher C. Larkin

Jack Daniel's
1866
CLASSIC

Print: Jan 15, 2004

74575005

TYPED DRAWING

Serial Number

74575005

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

JACK DANIEL'S

Registration Number

1923981

Date Registered

1995/10/03

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

JACK DANIEL'S PROPERTIES, INC. CORPORATION DELAWARE 4040 CIVIC CENTER DRIVE, STE 528 SAN RAFAEL CALIFORNIA 94903

Name Change

BY MERGER

Original Owner

Jack Daniel Distillery, Lem Motlow, Prop., Inc. CORPORATION Lynchburg TENNESSEE 37352

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: whiskey. First Use: 1875/00/00. First Use In Commerce: 1875/00/00.

Prior Registration(s)

0323914;0441002;AND OTHERS

Name/Portrait Statement

The name "JACK DANIEL'S" does not identify a living individual.

Filing Date

1994/09/19

Examining Attorney

Print: Jan 15, 2004

74575005

MIRMAN, DONNA

Attorney of Record

DAVID S GOODER

DESIGN MARK

Serial Number

74587817

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

JACK DANIEL'S OLD TIME OLD NO. 7 BRAND QUALITY TENNESSEE SOUR MASH WHISKEY

Registration Number

1942451

Date Registered

1995/12/19

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

JACK DANIEL'S PROPERTIES, INC. CORPORATION DELAWARE 4040 CIVIC CENTER DRIVE SUITE 528 SAN RAFAEL CALIFORNIA 94903

Name Change

BY MERGER

Original Owner

Jack Daniel Distillery, Lem Motlow, Prop., Inc. CORPORATION Lynchburg TENNESSEE 37352

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: whiskey. First Use: 1991/00/00. First Use In Commerce: 1991/00/00.

Prior Registration(s)

0042663;0044460;0582789;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BRAND QUALITY TENNESSEE SOUR MASH WHISKEY" APART FROM THE MARK AS SHOWN.

Name/Portrait Statement

The name "JACK DANIEL'S" does not identify a living individual.

Print: Jan 15, 2004

74587817

Filing Date

1994/10/20

Examining Attorney

MIRMAN, DONNA



Print: Jan 15, 2004

75012732

TYPED DRAWING

Serial Number

75012732

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

JACK DANIEL'S MASTER DISTILLER

Registration Number

2026758

Date Registered

1996/12/31

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

JACK DANIEL'S PROPERTIES, INC. CORPORATION DELAWARE 4040 CIVIC CENTER DRIVE, SUITE 528 SAN RAFAEL CALIFORNIA 94903

Name Change

BY CHANGE OF NAME, BY MERGER

Original Owner

Jack Daniel Distillery, Lem Motlow, Prop., Inc. CORPORATION Lynchburg TENNESSEE 33572

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: whiskey. First Use: 1993/06/00. First Use In Commerce: 1993/06/00.

Prior Registration(s)

0582789;1758658;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DISTILLER" APART FROM THE MARK AS SHOWN.

Name/Portrait Statement

The name "JACK DANIEL'S" does not identify any particular living individual.

Print: Jan 15, 2004

75012732

Filing Date

1995/10/31

Examining Attorney

MIRMAN, DONNA

Attorney of Record

Christopher C. Larkin

DESIGN MARK

Serial Number

75012733

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

JACK DANIEL'S MASTER DISTILLER TENNESSEE WHISKEY JACK DANIEL,
DISTILLER

Registration Number

2026759

Date Registered

1996/12/31

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

JACK DANIEL'S PROPERTIES, INC. CORPORATION DELAWARE 4040 CIVIC CENTER
DRIVE, SUITE 528 SAN RAFAEL CALIFORNIA 94903

Name Change

BY CHANGE OF NAME, BY MERGER

Original Owner

Jack Daniel Distillery, Lem Motlow, Prop., Inc. CORPORATION Lynchburg
TENNESSEE 33572

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: whiskey. First
Use: 1993/06/00. First Use In Commerce: 1993/06/00.

Prior Registration(s)

0582789;1758658;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DISTILLER" and
"TENNESSEE WHISKEY" APART FROM THE MARK AS SHOWN.

Name/Portrait Statement

The name "JACK DANIEL'S," and the picture of "JACK DANIEL", a deceased

Print: Jan 15, 2004

75012733

historical person, do not identify any particular living individual.

Filing Date

1995/10/31

Examining Attorney

MIRMAN, DONNA

Attorney of Record

Christopher C. Larkin

JACK DANIEL'S



**MASTER
DISTILLER**

Tennessee Whiskey

DESIGN MARK

Serial Number

75264295

Status

REGISTERED

Word Mark

JACK DANIEL'S MONOGRAM

Registration Number

2476018

Date Registered

2001/08/07

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

JACK DANIEL'S PROPERTIES, INC. CORPORATION DELAWARE 4040 CIVIC CENTER DRIVE, SUITE 528 SAN RAFAEL CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: alcoholic beverages, namely, whiskey. First Use: 1997/12/01. First Use In Commerce: 1997/12/01.

Prior Registration(s)

0441002;0582789;1630258;AND OTHERS

Name/Portrait Statement

The name "JACK DANIEL'S" does not identify any particular living individual, but instead refers to the deceased historical person "Jack Daniel".

Filing Date

1997/03/26

Examining Attorney

LORENZO, ROBERT

Attorney of Record

DAVID S GOODER

JACK DANIEL'S MONOGRAM

TYPED DRAWING

Serial Number

75264812

Status

REGISTERED

Word Mark

JACK DANIEL'S SILVER SELECT

Registration Number

2209684

Date Registered

1998/12/08

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Jack Daniel Distillery, Lem Motlow, Prop., Inc. CORPORATION KENTUCKY
Highway 55 Lynchburg TENNESSEE 37352

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: alcoholic
beverages, namely, whiskey. First Use: 1997/09/18. First Use In
Commerce: 1997/09/18.

Prior Registration(s)

0441002;0582789;1630258;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SELECT" APART FROM THE
MARK AS SHOWN.

Name/Portrait Statement

The name "JACK DANIEL" does not identify a living individual.

Filing Date

1997/03/26

Examining Attorney

LORENZO, ROBERT

Print: Jan 15, 2004

75264812

Attorney of Record
DAVID S GOODER

Print: Jan 15, 2004

75772861

DESIGN MARK

Serial Number

75772861

Status

REGISTERED

Word Mark

JACK DANIEL'S COUNTRY COCKTAILS GREAT AMERICAN TAILGATE PARTY

Registration Number

2518234

Date Registered

2001/12/11

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Jack Daniel's Properties, Inc. CORPORATION DELAWARE 4040 Civic Center Drive, Suite 528 San Rafael CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverages, namely, whiskey. First Use: 1999/10/00. First Use In Commerce: 1999/10/00.

Prior Registration(s)

0394017;1630258;1758656

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COCKTAILS" APART FROM THE MARK AS SHOWN.

Filing Date

1999/08/10

Examining Attorney

EPPS, TONYE

Attorney of Record

David S. Gooder

JACK DANIEL'S COUNTRY COCKTAILS
GREAT AMERICAN TAILGATE PARTY

DESIGN MARK

Serial Number

75919621

Status

REGISTERED

Word Mark

JACK DANIEL'S OLD TIME DISTILLERY OLD TIME SOUR MASH NO.7 BRAND
QUALITY TENNESSEE WHISKEY

Registration Number

2465399

Date Registered

2001/07/03

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Jack Daniel's Properties, Inc. CORPORATION DELAWARE 4040 Civic Center
Drive Suite 528 San Rafael CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic
beverages, namely distilled spirits. First Use: 1939/00/00. First
Use In Commerce: 1939/00/00.

Prior Registration(s)

0394017;1266561;1942451;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DISTILLERY; SOUR MASH;
BRAND" and/or "QUALITY TENNESSEE WHISKEY" APART FROM THE MARK AS
SHOWN.

Lining/Stippling Statement

The lining and stippling shown in the drawing of the mark are features
of the mark and do not indicate color.

Name/Portrait Statement

The name "JACK DANIEL'S" in the mark is not the name of a living
individual.

Description of Mark

The mark consists of the words "JACK DANIELS; OLD TIME DISTILLERY; OLD TIME SOUR MASH" enclosed on banner designs; "NO. 7 BRAND" enclosed within a circular design; and "QUALITY TENNESSEE WHISKEY". Also included in the mark is the design of five overlapping coins or medals or shields.

Filing Date

2000/02/14

Examining Attorney

LOUGHRAN, BARBARA A.

Attorney of Record

David S. Gooder

JACK DANIEL'S
Old Time Distillery



QUALITY
Tennessee
WHISKEY

DESIGN MARK

Serial Number

76034621

Status

SU - RESPONSE AFTER NON-FINAL ACTION - ENTERED

Word Mark

JACK DANIEL'S OLD TIME OLD NO.7 BRAND QUALITY TENNESSEE SOUR MASH WHISKEY

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Jack Daniel's Properties, Inc. CORPORATION DELAWARE 4040 Civic Center Drive Suite 528 San Rafael CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 021. US 002 013 023 029 030 033 040 050.
G & S: ceramic mugs, ceramic pitchers, ceramic jugs, wood coasters, cork coasters, swizzle sticks; bowls; glass beveragewear; plastic cups; drinking flasks; sponges for household purposes; non-metal decorative boxes; containers for food; thermal insulated containers for food or beverages; and serving trays not of precious metal.

Prior Registration(s)

0394017;1266561;1290702;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BRAND" APART FROM THE MARK AS SHOWN.

Name/Portrait Statement

The name "JACK DANIEL'S" in the mark is not the name of a living individual.

Filing Date

2000/04/25

Examining Attorney

LOUGHRAN, BARBARA A.

Attorney of Record

Print: Jan 15, 2004

76034621

David S. Gooder



JACK DANIEL'S

Tennessee
**Old
No. 7
BRAND**

Tennessee

WHISKEY

DESIGN MARK

Serial Number

76076152

Status

REGISTERED

Word Mark

JACK DANIEL'S

Registration Number

2560175

Date Registered

2002/04/09

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Jack Daniel's Properties, Inc. CORPORATION DELAWARE 4040 Civic Center Drive, Suite 528 San Rafael CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Restaurant and Bar Services. First Use: 1997/03/01. First Use In Commerce: 1997/03/01.

Prior Registration(s)

0582789;1758658;1923981;AND OTHERS

Name/Portrait Statement

The name in the mark does not identify any particular living individual.

Filing Date

2000/06/22

Examining Attorney

ALTREE, NICHOLAS

Attorney of Record

David S. Gooder

JACK DANIEL'S

Print: Jan 15, 2004

76235780

DESIGN MARK

Serial Number

76235780

Status

REGISTERED

Word Mark

JACK DANIEL'S GRILL

Registration Number

2609281

Date Registered

2002/08/20

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Jack Daniel's Properties, Inc. CORPORATION DELAWARE 4040 Civic Center Drive Suite 528 San Rafael CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Restaurant and bar services. First Use: 1997/01/27. First Use In Commerce: 1997/01/27.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GRILL" APART FROM THE MARK AS SHOWN.

Name/Portrait Statement

The name "JACK DANIEL'S" in the mark is not the name of a living individual.

Filing Date

2001/04/03

Examining Attorney

LOUGHRAN, BARBARA A.

Attorney of Record

David S. Gooder

JACK DANIEL'S GRILL

DESIGN MARK

Serial Number

76235781

Status

REGISTERED

Word Mark

JACK DANIEL'S GRILL

Registration Number

2612179

Date Registered

2002/08/27

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Jack Daniel's Properties, Inc. CORPORATION DELAWARE 4040 Civic Center Drive Suite 528 San Rafael CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Restaurant and bar services. First Use: 1997/01/27. First Use In Commerce: 1997/01/27.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GRILL" APART FROM THE MARK AS SHOWN.

Name/Portrait Statement

The name "JACK DANIEL'S" in the mark is not the name of a living individual.

Filing Date

2001/04/03

Examining Attorney

LOUGHRAN, BARBARA A.

Attorney of Record

David S. Gooder

**JACK DANIEL'S
GRILL**

DESIGN MARK

Serial Number

76246508

Status

REGISTERED

Word Mark

JACK DANIEL'S OLD TIME OLD NO.7 BRAND QUALITY TENNESSEE SOUR MASH WHISKEY

Registration Number

2789278

Date Registered

2003/12/02

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Jack Daniel's Properties, Inc. CORPORATION DELAWARE 4040 Civic Center Drive, Suite 528 San Rafael CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: ALCOHOLIC BEVERAGES, NAMELY, TENNESSEE SOUR MASH WHISKEY. First Use: 1991/12/31. First Use In Commerce: 1991/12/31.

Prior Registration(s)

0582789;1758658;1923981;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BRAND" and "QUALITY TENNESSEE SOUR MASH WHISKEY" APART FROM THE MARK AS SHOWN.

Name/Portrait Statement

The name "JACK DANIEL'S" does not identify a living individual.

Description of Mark

The mark consists of the claims the color white on black shown in the mark as a feature of the mark. The color black appears in the background and the color white appears in the text and graphics in the mark as shown..

Print: Jan 15, 2004

76246508

Filing Date

2001/04/25

Examining Attorney

LOUGHRAN, BARBARA A.

Attorney of Record

David S. Gooder



DESIGN MARK

Serial Number

76301935

Status

REGISTERED

Word Mark

JACK DANIEL'S OLD TIME OLD NO.2 TENNESSEE WHISKEY BOTTLEY AT THE DISTLLERY

Registration Number

2765098

Date Registered

2003/09/16

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Jack Daniel's Properties, Inc. CORPORATION DELAWARE 4040 Civic Center Drive, Suite 528 San Rafael CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverages, namely, Tennessee sour mash whiskey. First Use: 2001/08/15. First Use In Commerce: 2001/08/15.

Prior Registration(s)

0394017;0888775;1942451;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TENNESSEE WHISKEY"; "BRAND"; "QUALITY TENNESSEE SOUR MASH WHISKEY"; and "BOTTLED AT THE DISTILLERY" APART FROM THE MARK AS SHOWN.

Lining/Stippling Statement

The lining and stippling shown in the drawing of the mark is for shading purposes only and not intended to indicate color.

Name/Portrait Statement

The name "JACK DANIEL" in the mark is not the name of a living individual.

Description of Mark

The mark consists of the configuration of the bottle container for the goods, having an embossed ridge or scalloped design on the neck portion of the bottle, and an embossed signature design comprised of the words "JACK DANIEL". The mark also contains a neck label bearing the words "JACK DANIEL'S OLD NO. 7 TENNESSEE WHISKEY" and a bottle label containing a fillagree design border, oval and multi-loop cartouche design, and the words "JACK DANIEL'S"; "OLD TIME"; "OLD NO. 7 BRAND"; "QUALITY TENNESSEE SOUR MASH WHISKEY"; and "BOTTLED AT THE DISTILLERY". The dotted or broken lines in the drawing are intended to show the position of the distinctive elements of the mark.

Filing Date

2001/08/17

Examining Attorney

LOUGHRAN, BARBARA A.

Attorney of Record

David S. Gooder



DESIGN MARK

Serial Number

76313440

Status

REGISTERED

Word Mark

JACK DANIEL

Registration Number

2624566

Date Registered

2002/09/24

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

Jack Daniel's Properties, Inc. CORPORATION DELAWARE 4040 Civic Center Drive Suite 528 San Rafael CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverages, namely distilled spirits. First Use: 2001/08/15. First Use In Commerce: 2001/08/15.

Prior Registration(s)

0582789;1758658;1923981;AND OTHERS

Name/Portrait Statement

The name "JACK DANIEL" does not identify a living individual.

Filing Date

2001/09/12

Examining Attorney

LOUGHRAN, BARBARA A.

Attorney of Record

David S. Gooder, Esq.

Jack Daniel

DESIGN MARK

Serial Number

76404923

Status

NOTICE OF ALLOWANCE - ISSUED

Word Mark

JACK DANIEL'S ORIGINAL HARD COLA OLD NO. 7 BRAND

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Jack Daniel's Properties, Inc. CORPORATION DELAWARE 4040 Civic Center Drive, Suite 528 San Rafael CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverage produced from a brewed malt base with natural flavors.

Prior Registration(s)

0582789;1758658;1923981;2418109;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ORIGINAL HARD COLA" and/or "BRAND" APART FROM THE MARK AS SHOWN.

Name/Portrait Statement

The name "JACK DANIEL'S" in the mark is not the name of a living individual.

Filing Date

2002/05/09

Examining Attorney

LOUGHRAN, BARBARA A.

Attorney of Record

David S. Gooder, Esq.



Print: Jan 15, 2004

76451393

DESIGN MARK

Serial Number

76451393

Status

REGISTERED

Word Mark

JACK DANIEL'S OLD NO7 BRAND

Registration Number

2734619

Date Registered

2003/07/08

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Jack Daniel's Properties, Inc. CORPORATION DELAWARE 4040 Civic Center Drive, Suite 528 San Rafael CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverages; namely, distilled spirits. First Use: 1999/12/31. First Use In Commerce: 1999/12/31.

Prior Registration(s)

0582789;1758658;1923981;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BRAND" APART FROM THE MARK AS SHOWN.

Name/Portrait Statement

The name "JACK DANIEL'S" in the mark is not the name of a living individual.

Filing Date

2002/09/20

Examining Attorney

AMOS, TANYA

Print: Jan 15, 2004

76451393

Attorney of Record
David S. Gooder



TYPED DRAWING

Serial Number

78216130

Status

REGISTERED

Word Mark

JACK DANIEL

Registration Number

2795048

Date Registered

2003/12/16

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Jack Daniel's Properties, Inc. CORPORATION DELAWARE 4040 Civic Center Drive, Suite 528 San Rafael CALIFORNIA 94903

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverages, namely distilled spirits. First Use: 2001/08/15. First Use In Commerce: 2001/08/15.

Prior Registration(s)

0582789;1758658;1923981;2624566;AND OTHERS

Name/Portrait Statement

The name, portrait, and or signature shown in the mark does not identify a particular living individual.

Filing Date

2003/02/18

Examining Attorney

CLARK, GLENN

Attorney of Record

David S. Gooder, Esq.

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2010-06-08 19:15:12 ET

Serial Number: 78288359 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark (words only): JACK DANIEL'S

Standard Character claim: No

Current Status: [Abandoned-Failure To Respond Or Late Response](#)

Date of Status: 2006-02-16

Filing Date: 2003-08-17

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 112](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: [M3X -TMO Law Office 112 - Examining Attorney Assigned](#)

Date In Location: 2006-02-16

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. [MARCON, ROBERT, VICTOR](#)

Address:

[MARCON, ROBERT, VICTOR](#)
[3471 SINNICKS AVENUE](#)
[NIAGARA FALLS L2J2G6](#)
[Canada](#)

Legal Entity Type: [Individual](#)

Country of Citizenship: [Canada](#)

Phone Number: [905 354 2543](#)

Fax Number: [905 354 7693](#)

GOODS AND/OR SERVICES

International Class: 029**Class Status:** Active

Meat juices, and broth comprising meat juices; Preparations for making bouillon, and bouillon cubes

Basis: 1(b)**First Use Date:** (DATE NOT AVAILABLE)**First Use in Commerce Date:** (DATE NOT AVAILABLE)**International Class:** 032**Class Status:** Active

BEER, WATER, STILL WATER, MINERAL WATER, SPRING WATER, AERATED WATER, CARBONATED WATER, SPARKLING WATER, ICE WATER, ICEBERG WATER, ICE, CRUSHED ICE, JUICES, FLAVORED DRINKS(EXCEPT BEVERAGES BASED ON COFFEE, TEA, OR COCOA AND MILK BEVERAGES), NUTRIENT DRINKS, NON-ALCOHOLIC BEVERAGES, PREPARATIONS FOR MAKING BEVERAGES, SYRUPS

Basis: 1(b)**First Use Date:** (DATE NOT AVAILABLE)**First Use in Commerce Date:** (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Foreign Application Number: 1168016**Country:** Canada**Foreign Filing Date:** 2003-02-18

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2006-02-17 - Abandonment Notice Mailed - Failure To Respond

2006-02-16 - Abandonment - Failure To Respond Or Late Response

2005-07-05 - Final refusal mailed

2005-07-03 - Final Refusal Written

2005-04-18 - Amendment From Applicant Entered

2005-03-16 - Communication received from applicant

2005-03-16 - PAPER RECEIVED

2004-09-22 - Non-final action mailed

2004-09-21 - Non-Final Action Written
2004-09-20 - NON-FINAL ACTION E-MAILED
2004-09-20 - Non-Final Action Written
2004-08-10 - Amendment From Applicant Entered
2004-07-16 - Communication received from applicant
2004-07-16 - PAPER RECEIVED
2004-01-16 - Non-final action e-mailed
2004-01-11 - Assigned To Examiner
2003-09-02 - Applicant amendment prior to exam entered
2003-09-02 - Communication received from applicant
2003-09-02 - TEAS Voluntary Amendment Received

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Robert V. Marcon

Correspondent

ROBERT V. MARCON
3471 SINNICKS AVENUE
NIAGARA FALLS; ONTARIO
L2J2G6
CANADA
Phone Number: 905 354 2543
Fax Number: 905 354 7693

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

In the Matter of Application Serial No. 76/596,736
Published in the Official Gazette on May 6, 2008
Mark: L'OREAL PARIS

L'ORÉAL S.A. and L'ORÉAL USA, INC.,

Opposer,

v.

ROBERT VICTOR MARCON,

Applicant.

Opposition No. 91184456

ORAL ARGUMENT REQUESTED

EXHIBIT C-9 TO OPPOSER'S NOTICE OF RELIANCE

Trademark/Service Mark Application, Principal Register, with Declaration

Serial Number: 78288358
Filing Date: 08/17/2003

The table below presents the data as entered.

Input Field	Entered
MARK	DOM PERIGNON
OWNER	
NAME	MARCON, ROBERT, VICTOR
STREET	3471 SINNICKS AVENUE
CITY	NIAGARA FALLS
STATE	ONTARIO
ZIP/POSTAL CODE	L2J2G6
COUNTRY	Canada
PHONE	905 354 2543
FAX	905 354 7693
EMAIL	HASTINGS1066@SYMPATICO.CA
AUTHORIZED EMAIL COMMUNICATION	Yes
LEGAL ENTITY	
TYPE	INDIVIDUAL
COUNTRY OF CITIZENSHIP	CANADA
CORRESPONDENCE	
NAME	MARCON, ROBERT, VICTOR
STREET	3471 SINNICKS AVENUE
CITY	NIAGARA FALLS
STATE	ONTARIO

ZIP/POSTAL CODE	L2J2G6
COUNTRY	Canada
EMAIL	HASTINGS1066@SYMPATICO.CA
AUTHORIZED EMAIL COMMUNICATION	Yes
GOODS AND/OR SERVICES	
INTERNATIONAL CLASS	032
DESCRIPTION TEXT	BEER, WATER, STILL WATER, MINERAL WATER, SPRING WATER, AERATED WATER, CARBONATED WATER, SPARKLING WATER, ICE WATER, ICEBERG WATER, ICE, CRUSHED ICE, JUICES, FLAVORED DRINKS(EXCEPT BEVERAGES BASED ON COFFEE, TEA, OR COCOA AND MILK BEVERAGES), NUTRIENT DRINKS, NON-ALCOHOLIC BEVERAGES, PREPARATIONS FOR MAKING BEVERAGES, SYRUPS.
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES	
INTERNATIONAL CLASS	032
DESCRIPTION TEXT	BEER, WATER, STILL WATER, MINERAL WATER SPRING WATER, AERATED WATER CARBONATED WATER SPARKLING WATER, ICE WATER, ICEBERG WATER, ICE, CRUSHED ICE, JUICES, FLAVORED DRINKS(EXCEPT BEVERAGES BASED ON COFFEE, TEA, OR COCOA AND MILK BEVERAGES), NUTRIENT DRINKS, NON-ALCOHOLIC BEVERAGES, PREPARATIONS FOR MAKING BEVERAGES, SYRUPS
FILING BASIS	Section 44(d)
FOREIGN APPLICATION NUMBER	1168014
FOREIGN APPLICATION COUNTRY NAME	Canada
FOREIGN FILING DATE	02/18/2003

SIGNATURE INFORMATION	
SIGNATURE	/ROBERT V MARCON/
SIGNATURE DATE	08/17/2003
SIGNATORY NAME	ROBERT V MARCON
SIGNATORY POSITION	APPLICANT
PAYMENT	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	335
TOTAL AMOUNT	335
RAM SALE NUMBER	460
RAM ACCOUNTING DATE	08/18/2003
FILING INFORMATION	
SUBMIT DATE	Sun Aug 17 11:49:56 EDT 2003
TEAS STAMP	USPTO/BAS-2162096817 2-200308171149568940 11-78288358-200a9358 62494bd1ced5df0b41e6 de9f58e-CC-460-20030 817114101963133

PTO Form 1478 (Rev 4/2000)
OMB Control #0651-0009 (Exp. 08/31/2004)

Trademark/Service Mark Application, Principal Register, with Declaration

Serial Number: 78288358

Filing Date: 08/17/2003

To the Commissioner for Trademarks:

MARK: DOM PERIGNON

The applicant, ROBERT, VICTORMARCON, a citizen of CANADA, residing at 3471 SINNICKS AVENUE, NIAGARA FALLS, ONTARIO Canada L2J2G6, requests registration of the trademark/service mark shown on the drawing page in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 032: BEER, WATER, STILL WATER, MINERAL WATER, SPRING WATER, AERATED WATER, CARBONATED WATER, SPARKLING WATER, ICE WATER, ICEBERG WATER, ICE, CRUSHED ICE, JUICES, FLAVORED DRINKS(EXCEPT BEVERAGES BASED ON COFFEE, TEA, OR COCOA AND MILK BEVERAGES), NUTRIENT DRINKS, NON-ALCOHOLIC BEVERAGES, PREPARATIONS FOR MAKING BEVERAGES, SYRUPS.

Priority based on foreign filing: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services and asserts a claim of priority based upon a foreign application. 15 U.S.C. Section 1126(d), as amended.

Based on Canada application number 1168014, filed 02/18/2003:

International Class 032: BEER, WATER, STILL WATER, MINERAL WATER SPRING WATER, AERATED WATER CARBONATED WATER SPARKLING WATER, ICE WATER, ICEBERG WATER, ICE, CRUSHED ICE, JUICES, FLAVORED DRINKS(EXCEPT BEVERAGES BASED ON COFFEE, TEA, OR COCOA AND MILK BEVERAGES), NUTRIENT DRINKS, NON-ALCOHOLIC BEVERAGES, PREPARATIONS FOR MAKING BEVERAGES, SYRUPS

A fee payment in the amount of \$335 will be submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /ROBERT V MARCON/ Date: 08/17/2003

Signatory's Name: ROBERT V MARCON

Signatory's Position: APPLICANT

Mailing Address:

MARCON, ROBERT, VICTOR

3471 SINNICKS AVENUE

NIAGARA FALLS, ONTARIO L2J2G6

RAM Sale Number: 460

RAM Accounting Date: 08/18/2003

Serial Number: 78288358

Internet Transmission Date: Sun Aug 17 11:49:56 EDT 2003

TEAS Stamp: USPTO/BAS-21620968172-20030817114956894011-78288358-
200a935862494bd1ced5df0b41e6de9f58e-CC-460-20030817114101963133

FILING DATE:

2003/08/17

SERIAL NUMBER:

78/288358



TRADEMARK APPLICATION

FEE RECORD SHEET

RAM SALE NUMBER: 460

RAM ACCOUNTING DATE: 20030818

Description	Fee Code	Fee Amount	Number Of Classes	Total Fees Paid
New App	7001	335	1	335

To: MARCON, ROBERT, VICTOR (HASTINGS1066@SYMPATICO.CA)
Subject: TRADEMARK APPLICATION NO. 78288358 - DOM PERIGNON - N/A
Sent: 1/15/04 7:22:09 PM
Sent As: ECom112
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/288358

APPLICANT: MARCON, ROBERT, VICTOR

CORRESPONDENT ADDRESS:

MARCON, ROBERT, VICTOR
3471 SINNICKS AVENUE
NIAGARA FALLS; ONC - ONTARIO
L2J2G6
CAX - CANADA

RETURN ADDRESS:

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514
ecom112@uspto.gov

MARK: DOM PERIGNON

CORRESPONDENT'S REFERENCE/DOCKET NO: N/A

CORRESPONDENT EMAIL ADDRESS:

HASTINGS1066@SYMPATICO.CA

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.

Serial Number 78/288358

The assigned examining attorney has reviewed the referenced application and determined the following.

Likelihood of Confusion

Registration of the proposed mark is refused because of a likelihood of confusion with the mark in U.S. Registration Nos. 0820411 and 1934899. Trademark Act Section 2(d), 15 U.S.C. §1052(d); TMEP §§1207.01 *et seq.* See the enclosed registrations.

When determining whether there is a likelihood of confusion, all circumstances surrounding the sale of the goods and/or services are considered. *Industrial Nucleonics Corp. v. Hinde*, 475 F.2d 1197, 177 USPQ 386 (C.C.P.A. 1973). These circumstances include the marketing channels, the identity of the prospective purchasers and the degree of similarity between the marks and between the goods and/or services. In comparing the marks, similarity in any one of the elements of sound, appearance or meaning is sufficient to find a likelihood of confusion. In comparing the goods and/or services, it is necessary to show that they are related in some manner. *In re Mack*, 197 USPQ 755, 757 (TTAB 1977); TMEP §§1207.01 *et seq.*

Applicant proposes the mark DOM PERIGNON for use in connection with “beer, water, still water, mineral water, spring water, aerated water, carbonated water, sparkling water, ice water, iceberg water, ice, crushed ice, juices, flavored drinks (except beverages based on coffee, tea, or cocoa and milk beverages), nutrient drinks, non-alcoholic beverages, preparations for making beverages, syrups. Registrant in 1934899 provides “champagne” in connection with the mark DOM PERIGNON. Registrant in 0820411 provides “champagne wines” in connection with the mark CUVÉE DOM PERIGNON. The same registrant owns 0820411 and 1934899.

With respect to the mark in Registration No. 1934899, the examining attorney finds that the applicant’s mark is identical to the registrant’s mark. In the second step of the analysis, the examining attorney finds that the registrant’s goods and the applicant’s goods are commercially related. Both the applicant and the registrant provide alcoholic beverages. Nevertheless, if the marks of the respective parties are identical, the relationship between the goods or services of the respective parties need not be as close to support a finding of likelihood of confusion as might apply where differences exist between the marks. *Ancor, Inc. v. Ancor Industries, Inc.*, 210 USPQ 70 (TTAB 1981); TMEP §1207.01(a).

With respect to the mark in Registration No. 0820411, the examining attorney finds that the applicant’s mark shares the identical terms DOM PERIGNON with the registrant’s mark CUVÉE DOM PERIGNON. The mere addition of a term to a registered mark is not sufficient to overcome a likelihood of confusion under Section 2(d). *Coca-Cola Bottling Co. v. Joseph E. Seagram & Sons, Inc.*, 526 F.2d 556, 188 USPQ 105 (CCPA 1975) (“BENGAL” and “BENGAL LANCER”); *Lilly Pulitzer, Inc. v. Lilly Ann Corp.*, 376 F.2d 324, 153 USPQ 406 (CCPA 1967) (“THE LILLY” and “LILLY ANN”); *In re El Torito Restaurants Inc.*, 9 USPQ2d 2002 (TTAB 1988) (“MACHO” and “MACHO COMBOS”); *In re United States Shoe Corp.*, 229 USPQ 707 (TTAB 1985) (“CAREER IMAGE” and “CREST CAREER IMAGES”); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (“CONFIRM” and “CONFIRMCELLS”); *In re Riddle*, 225 USPQ 630 (TTAB 1985) (“ACCUTUNE” and “RICHARD PETTY’S ACCU TUNE”); *In re Cosvetic Laboratories, Inc.*, 202 USPQ 842 (TTAB 1979) (“HEAD START” and “HEAD START COSVETIC”). Thus the addition of the term CUVÉE to the Registrant’s mark does not obviate the likelihood of confusion. The marks are overall confusingly similar and impart a similar commercial impression. In the second step of the analysis, the examining attorney finds that the applicant’s goods are similar to the Registrants’ goods because both provide alcoholic beverages. If the goods or services of the respective parties are closely related, the degree of similarity between marks required to support a finding of

likelihood of confusion is not as great as would apply with diverse goods or services. *Century 21 Real Estate Corp. v. Century Life of America*, 23 USPQ2d 1698 (Fed. Cir. 1992); *In re J.M. Originals Inc.*, 6 USPQ2d 1393 (TTAB 1987); *ECI Division of E-Systems, Inc. v. Environmental Communications Inc.*, 207 USPQ 443 (TTAB 1980); TMEP §1207.01(b).

For these reasons, it is likely that the purchasing public would confuse the goods as originating from the same source. Therefore, the examining attorney refuses registration of the applicant's mark under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d).

The applicant should also note the following additional ground for refusal.

False Association

Registration is refused because the proposed mark consists of or comprises matter which may falsely suggest a connection with DOM PERIGNON for champagne. DOM PERIGNON is so famous that consumers would presume a connection with applicant. Trademark Act Section 2(a), 15 U.S.C. §1052(a); TMEP §§1203.03, 1203.03(e) and 1203.03(f); *See generally University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co.*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *University of Alabama v. BAMA-Werke Curt Baumann*, 231 USPQ 408 (TTAB 1986); *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *Buffett v. Chi?Chi's, Inc.*, 226 USPQ 428 (TTAB 1985).

The following is required for a showing of false connection under Section 2(a):

- the mark sought to be registered is the same as or a close approximation of the name or identity of a person or institution;
- the mark would be recognized as such;
- the person or institution identified in the mark is not connected with the goods sold or services performed by applicant under the mark; and
- the fame or reputation of the named person or institution is of such a nature that a connection with such person or institution would be presumed when applicant's mark is used on its goods or services.

In re Cotter & Co., 228 USPQ 202, 204 (TTAB 1985); *See Buffett v. Chi?Chi's, Inc.*, 226 USPQ 428, 429 (TTAB 1985).

If applicant's goods or services are of a type that the named person or institution sells or uses, and the named party is sufficiently famous, then it may be inferred that purchasers of the goods or services would be misled into making a false connection of sponsorship, approval, support or the like with the named party. *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *In re National Intelligence Academy*, 190 USPQ 570 (TTAB 1976).

The fact that purchasers would realize, at some point after purchase, that no connection exists between the listed goods or services and the person or institution falsely connected, is not relevant. The focus is on "the initial reaction or impact of the mark when viewed in conjunction with the applicable goods or services." *In re Bicentennial Society*, 197 USPQ 905, 906 (TTAB 1978).

For these reasons the examining attorney refuses registration of the mark under Section 2(a) of the

Trademark Act for false association with a famous mark.

Applicant May Respond

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following informalities.

Name of Individual

Applicant must clarify whether the name in the mark identifies a particular living individual. If the name <specify> shown in the mark identifies a particular living individual, then applicant must submit a signed, written consent from that individual, authorizing applicant to register the name. In addition, applicant must submit the following statement for the record:

“DOM PERIGNON identifies a particular living individual whose consent is of record.”

However, if the name does *not* identify a living individual, then applicant must submit the following statement for the record:

“DOM PERIGNON does not identify a particular living individual.”

Trademark Act Section 2(c), 15 U.S.C. §1052(c); TMEP §§813 and 1206.

Identification of Goods

The wording in the identification of goods needs clarification because it is too broad and could include goods classified in other international classes. Applicant may substitute the following wording, if accurate: TMEP §§1402.01 and 1402.03.

Nutritional drink mixes for use as a meal replacement. *International Class 5.*

Ice, crushed ice. *International Class 30.*

Beer, water, still water, mineral water, spring water, aerated water, carbonated water, sparkling water, ice water, iceberg water; juices, fruit flavored drinks, soft drinks; preparations for making fruit drinks; syrups for use in making soft drinks. *International Class 32.*

Classification

Applicant must correct the classification of the goods in the application and amend the application to classify them in International Classes 5, 30 and 32. 37 C.F.R. §§2.32(a)(7) and 2.85; TMEP §§1401.02(a) and 1401.03(b).

Combined Application

If applicant prosecutes this application as a combined, or multiple-class application, then applicant must comply with each of the following for those goods and/or services based on an intent to use the mark in commerce under Trademark Act Section 1(b):

- (1) Applicant must list the goods and/or services by international class with the classes listed in ascending numerical order. TMEP § 1403.01; and
- (2) Applicant must submit a filing fee for each international class of goods and/or services not covered by the fee already paid. 37 C.F.R. §2.86(a)(2); TMEP §§810.01 and 1403.01.

Current fees are sufficient for one class only.

Dual Filing Bases §§1(b) and 44(d)

If applicant wishes to proceed relying on the applicant's intent to use the mark in commerce under Trademark Act Section 1(b) as the sole basis for registration, with the claim of priority under Section 44(d), then applicant should so advise the trademark examining attorney. TMEP §§806.02(f) and 806.04(b). If applicant chooses to do so, this Office will approve the mark for publication without waiting for applicant to submit a copy of the foreign registration, once all other outstanding issues are resolved. Moreover, while the application may be approved for publication, the mark will not register until after an acceptable allegation of use has been filed.

If applicant does not indicate otherwise, this Office will presume that applicant wishes to rely on the foreign registration as an additional basis for registration and will require applicant to submit the copy of the foreign registration and, if appropriate, an English translation signed by the translator. TMEP §§1004.01 and 1004.01(b).

Designation of Domestic Representative

Applicant may designate a domestic representative upon whom notices or process may be served. Trademark Act Section 1(e), 15 U.S.C. §1051(e); 37 C.F.R. §2.24; TMEP §§604, 811 and 1013. If applicant does not designate a domestic representative, notices or process in proceedings affecting the mark may be served on the Director of the USPTO. Trademark Act Section 1(e), 15 U.S.C. §1051(e).

DESIGNATION OF DOMESTIC REPRESENTATIVE

Identify the mark

Serial No.

Name of applicant

Date of signature

(Name of domestic representative)

whose postal address is

is hereby designated applicant's representative upon whom notice or process in proceedings affecting the mark may be served.

(Signature of applicant)

If the applicant has any questions or needs assistance in responding to this Office action, please call or e-mail the assigned examining attorney.

/D. Beryl Gardner/
D. Beryl Gardner
Examining Attorney - Law Office 112
www.uspto.gov/teas/index.html (file responses)
beryl.gardner@uspto.gov (submit questions only)
703-308-9112 x180 (submit questions only)
703-308-9112 x180

How to respond to this Office Action:

To respond formally using the Office's Trademark Electronic Application System (TEAS), visit <http://www.uspto.gov/teas/index.html> and follow the instructions.

To respond formally via E-mail, visit <http://www.uspto.gov/web/trademarks/tmelecresp.htm> and follow the instructions.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.

Print: Jan 15, 2004

72227477

DESIGN MARK

Serial Number

72227477

Status

REGISTERED AND RENEWED

Word Mark

CUVEE DOM PERIGNON

Registration Number

0820411

Date Registered

1966/12/13

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

SCHIEFFELIN & CO. CORPORATION DELAWARE 30 COOPER SQUARE NEW YORK NEW YORK 10003

Goods/Services

Class Status -- ACTIVE. IC 033. US 047. G & S: CHAMPAGNE WINES.
First Use: 1936/11/00. First Use In Commerce: 1936/11/00.

Prior Registration(s)

0634170

Disclaimer Statement

NO CLAIM IS MADE TO THE WORD "CUVEE" APART FROM THE MARK AS SHOWN.

Name/Portrait Statement

THE NAME "DOM PERIGNON" IS THAT OF A LONG DECEASED FRENCH CELLAR-MASTER, POPULARLY CREDITED WITH BEING THE INVENTOR OF CHAMPAGNE.

Filing Date

1965/09/09

Examining Attorney

UNKNOWN

Cuvée Dom Pérignon

DESIGN MARK

Serial Number

74529279

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

DOM PERIGNON

Registration Number

1934899

Date Registered

1995/11/14

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

Schieffelin & Co. CORPORATION DELAWARE 19 EAST 57TH STREET New York
NEW YORK 10022

Goods/Services

Class Status -- ACTIVE. IC 033. US 047. G & S: champagne. First
Use: 1981/00/00. First Use In Commerce: 1981/00/00.

Prior Registration(s)

0634170;0820411

Name/Portrait Statement

The name "DOM PERIGNON" does not identify a living individual.

Filing Date

1994/05/25

Examining Attorney

BATTLE, KENNETH D.

DOM PÉRIGNON

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2010-06-08 19:15:50 ET

Serial Number: 78288358 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark (words only): DOM PERIGNON

Standard Character claim: No

Current Status: [Abandoned-Failure To Respond Or Late Response](#)

Date of Status: 2007-06-19

Filing Date: 2003-08-17

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 112](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: [M3X -TMO Law Office 112 - Examining Attorney Assigned](#)

Date In Location: 2007-06-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. [MARCON, ROBERT, VICTOR](#)

Address:

[MARCON, ROBERT, VICTOR](#)
[3471 SINNICKS AVENUE](#)
[NIAGARA FALLS L2J2G6](#)
[Canada](#)

Legal Entity Type: [Individual](#)

Country of Citizenship: [Canada](#)

Phone Number: [905 354 2543](#)

Fax Number: [905 354 7693](#)

GOODS AND/OR SERVICES

International Class: [029](#)

Class Status: [Active](#)

[Meat juices, and broth comprising meat juices](#)

Basis: [1\(b\), 44\(d\)](#)

First Use Date: [\(DATE NOT AVAILABLE\)](#)

First Use in Commerce Date: [\(DATE NOT AVAILABLE\)](#)

ADDITIONAL INFORMATION

Foreign Application Number: [1168014](#)

Country: [Canada](#)

Foreign Filing Date: [2003-02-18](#)

MADRID PROTOCOL INFORMATION

[\(NOT AVAILABLE\)](#)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

[2007-06-19 - Abandonment Notice Mailed - Failure To Respond](#)

[2007-06-19 - Abandonment - Failure To Respond Or Late Response](#)

[2006-11-20 - Non-final action mailed](#)

[2006-11-17 - Non-Final Action Written](#)

[2006-10-25 - Amendment From Applicant Entered](#)

[2006-10-18 - Communication received from applicant](#)

[2006-10-18 - PAPER RECEIVED](#)

[2006-04-27 - Continuation of final refusal mailed](#)

[2006-04-27 - Action Continuing A Final - Completed](#)

[2006-04-07 - Notice Of Reinstatement Mailed](#)

[2006-04-04 - Reinstated](#)

[2006-03-20 - Petition To Revive-Received](#)

[2006-03-20 - PAPER RECEIVED](#)

[2006-02-17 - Abandonment Notice Mailed - Failure To Respond](#)

2006-02-16 - Abandonment - Failure To Respond Or Late Response

2005-07-03 - Continuation of final refusal e-mailed

2005-07-03 - Action Continuing A Final - Completed

2005-04-18 - Amendment From Applicant Entered

2005-03-16 - Communication received from applicant

2005-03-16 - PAPER RECEIVED

2004-09-17 - Fax Sent

2004-09-13 - Final refusal e-mailed

2004-09-13 - Final Refusal Written

2004-08-10 - Amendment From Applicant Entered

2004-07-16 - Communication received from applicant

2004-07-16 - PAPER RECEIVED

2004-01-15 - Non-final action e-mailed

2004-01-11 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Robert V. Marcon

Correspondent

ROBERT V. MARCON

3471 SINNICKS AVENUE

NIAGARA FALLS, ONTARIO

L2J2G6

CANADA

Phone Number: 905 354 2543

Fax Number: 905 354 7693

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

In the Matter of Application Serial No. 76/596,736
Published in the Official Gazette on May 6, 2008
Mark: L'OREAL PARIS

L'ORÉAL S.A. and L'ORÉAL USA, INC.,

Opposer,

v.

ROBERT VICTOR MARCON,

Applicant.

Opposition No. 91184456

ORAL ARGUMENT REQUESTED

EXHIBIT C-10 TO OPPOSER'S NOTICE OF RELIANCE

Drawing Page

Serial Number:

78230510

Applicant:

MARCON ROBERT VICTOR
3471 SINNICKS AVENUE
NIAGARA FALLS ONTARIO Canada L2J2G6



Date of Foreign Filing:

06/21/2001

Goods and Services:

AERATED WATER, MINERAL WATER, SPRING WATER, BOTTLED WATER

Goods and Services:

AERATED WATER, MINERAL WATER, SPRING WATER, BOTTLED WATER

Goods and Services:

AERATED WATER, MINERAL WATER, SPRING WATER, BOTTLED WATER

Mark:

ABSOLUT WATER



NO OCR



03-26-2003

Internet Transmission Date:

2003/03/26

Serial Number:

78230510

Filing Date:

2003/03/26



TRADEMARK APPLICATION

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

TOTAL FEES PAID: \$335

RAM SALE NUMBER: 426
RAM ACCOUNTING DATE: 03/27/2003



NO OCR



03-26-2003

DOCUMENT INFORMATION**TRADEMARK/SERVICEMARK APPLICATION****VERSION 1.24****APPLICANT INFORMATION**

NAME	MARCON ROBERT VICTOR
STREET	3471 SINNICKS AVENUE
CITY	NIAGARA FALLS
STATE	ONTARIO
COUNTRY	Canada
ZIP/POSTAL CODE	L2J2G6
TELEPHONE NUMBER	905 354 2543
FAX NUMBER	905 354 7693
E-MAIL ADDRESS	HASTINGS1066@SYMPATICO.CA
AUTHORIZE E-MAIL COMMUNICATION	Yes

APPLICANT ENTITY INFORMATION

INDIVIDUAL: COUNTRY OF CITIZENSHIP	CANADA
--	--------

TRADEMARK/SERVICEMARK INFORMATION

MARK	ABSOLUT WATER
TYPED FORM	Yes

BASIS FOR FILING AND GOODS/SERVICES INFORMATION

INTENT TO USE: SECTION 1(b)	Yes
INTERNATIONAL CLASS NUMBER	032

LISTING OF GOODS AND/OR SERVICES	AERATED WATER, MINERAL WATER, SPRING WATER, BOTTLED WATER
BASIS FOR FILING AND GOODS/SERVICES INFORMATION	
FOREIGN PRIORITY: SECTION 44(d)	Yes
INTERNATIONAL CLASS NUMBER	032
LISTING OF GOODS AND/OR SERVICES	AERATED WATER, MINERAL WATER, SPRING WATER, BOTTLED WATER
COUNTRY OF FOREIGN FILING	Canada
FOREIGN APPLICATION NUMBER	1106349
DATE OF FOREIGN FILING	06/21/2001
BASIS FOR FILING AND GOODS/SERVICES INFORMATION	
FOREIGN REGISTRATION: SECTION 44(e)	Yes
INTERNATIONAL CLASS NUMBER	032
LISTING OF GOODS AND/OR SERVICES	AERATED WATER, MINERAL WATER, SPRING WATER, BOTTLED WATER
COUNTRY OF FOREIGN REGISTRATION	Canada
FOREIGN REGISTRATION NUMBER	1106349
FOREIGN REGISTRATION DATE	06/21/2001
OPTIONAL INFORMATION	

DISCLAIMER	No claim is made to the exclusive right to use WATER apart from the mark as shown.
TRANSLATION	The foreign wording in the mark translates into English as ABSOLUTE.
FEE INFORMATION	
TOTAL FEES PAID	335
NUMBER OF CLASSES PAID	1
NUMBER OF CLASSES	1
LAW OFFICE INFORMATION	
E-MAIL ADDRESS FOR CORRESPONDENCE	HASTINGS1066@SYMPATICO.CA
SIGNATURE AND OTHER INFORMATION	
SIGNATURE	/ROBERT MARCON/
DATE	03/26/2003
NAME	ROBERT MARCON
TITLE	APPLICANT
MAILING ADDRESS	
LINE	MARCON ROBERT VICTOR
LINE	3471 SINNICKS AVENUE
LINE	NIAGARA FALLS ONTARIO Canada L2J2G6
SERIAL NUMBER INFORMATION	
SERIAL NUMBER	78230510
RAM INFORMATION	
RAM SALE NUMBER	426
RAM ACCOUNTING DATE	03/27/2003
INTERNET	Wed Mar 26 20:20:58 EST 2003

TRANSMISSION DATE	
TEAS STAMP	USPTO/BAS-2162096986-20030326202058948483-78230510- 2004b502236e7c7d83fa4fb8c84dea6cf-RAM-426-20030326201255805374
E-MAIL ADDRESS FOR ACKNOWLEDGMENT	HASTINGS1066@SYMPATICO.CA

<SERIAL NUMBER> 78230510

<FILING DATE> 03/26/2003

<DOCUMENT INFORMATION>

<TRADEMARK/SERVICEMARK APPLICATION>

<VERSION 1.24>

<APPLICANT INFORMATION>

<NAME> MARCON ROBERT VICTOR
<STREET> 3471 SINNICKS AVENUE
<CITY> NIAGARA FALLS
<STATE> ONTARIO
<COUNTRY> Canada
<ZIP/POSTAL CODE> L2J2G6
<TELEPHONE NUMBER> 905 354 2543
<FAX NUMBER> 905 354 7693
<E-MAIL ADDRESS> HASTINGS1066@SYMPATICO.CA
<AUTHORIZE E-MAIL COMMUNICATION> Yes

<APPLICANT ENTITY INFORMATION>

<INDIVIDUAL: COUNTRY OF CITIZENSHIP> CANADA

<TRADEMARK/SERVICEMARK INFORMATION>

<MARK> ABSOLUT WATER

<TYPED FORM> Yes

~Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended).~

<BASIS FOR FILING AND GOODS/SERVICES INFORMATION>

<INTENT TO USE: SECTION 1(b)> Yes

~ The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).~

<INTERNATIONAL CLASS NUMBER> 032

<LISTING OF GOODS AND/OR SERVICES> AERATED WATER, MINERAL WATER, SPRING WATER, BOTTLED WATER

<BASIS FOR FILING AND GOODS/SERVICES INFORMATION>

<FOREIGN PRIORITY: SECTION 44(d)> Yes

~ Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services and asserts a claim of priority based upon a foreign application. 15 U.S.C. Section 1126(d), as amended.~

<INTERNATIONAL CLASS NUMBER> 032
<LISTING OF GOODS AND/OR SERVICES> AERATED WATER, MINERAL WATER,
SPRING WATER, BOTTLED WATER
<COUNTRY OF FOREIGN FILING> Canada
<FOREIGN APPLICATION NUMBER> 1106349
<DATE OF FOREIGN FILING> 06/21/2001

<BASIS FOR FILING AND GOODS/SERVICES INFORMATION>

<FOREIGN REGISTRATION: SECTION 44(e)> Yes
~ Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and will submit a certification or certified copy of the foreign registration before the application may proceed to registration. 15 U. S.C. Section 1126(e), as amended.~

<INTERNATIONAL CLASS NUMBER> 032
<LISTING OF GOODS AND/OR SERVICES> AERATED WATER, MINERAL WATER,
SPRING WATER, BOTTLED WATER
<COUNTRY OF FOREIGN REGISTRATION> Canada
<FOREIGN REGISTRATION NUMBER> 1106349
<FOREIGN REGISTRATION DATE> 06/21/2001

<OPTIONAL INFORMATION>

<DISCLAIMER> No claim is made to the exclusive right to use WATER apart from the mark as shown.

<TRANSLATION> The foreign wording in the mark translates into English as ABSOLUTE.

<FEE INFORMATION>

<TOTAL FEES PAID> 335
<NUMBER OF CLASSES PAID> 1
<NUMBER OF CLASSES> 1

<LAW OFFICE INFORMATION>

~The USPTO is authorized to communicate with the applicant's attorney at the below e-mail address~

<E-MAIL ADDRESS FOR CORRESPONDENCE> HASTINGS1066@SYMPATICO.CA

<SIGNATURE AND OTHER INFORMATION>

~The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of

his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.~

<SIGNATURE> /ROBERT MARCON/
<DATE> 03/26/2003
<NAME> ROBERT MARCON
<TITLE> APPLICANT

<MAILING ADDRESS>

<LINE> MARCON ROBERT VICTOR
<LINE> 3471 SINNICKS AVENUE
<LINE> NIAGARA FALLS ONTARIO Canada L2J2G6

<SERIAL NUMBER INFORMATION>

<SERIAL NUMBER> 78230510

<RAM INFORMATION>

<RAM SALE NUMBER> 426
<RAM ACCOUNTING DATE> 03/27/2003
<INTERNET TRANSMISSION DATE> Wed Mar 26 20:20:58 EST 2003
<TEAS STAMP>
USPTO/BAS-2162096986-20030326202058948483-78230510-
2004b502236e7c7d83fa4fb8c84dea6cf-RAM-426-20030326201255805374
E-MAIL ADDRESS FOR ACKNOWLEDGMENT> HASTINGS1066@SYMPATICO.CA

To: MARCON ROBERT VICTOR (HASTINGS1066@SYMPATICO.CA)

Subject: TRADEMARK APPLICATION NO. 78230510 - ABSOLUT WATER - N/A

Sent: 9/9/03 10:23:54 AM

Sent As: ECom112

Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
[Attachment - 5](#)
[Attachment - 6](#)
[Attachment - 7](#)
[Attachment - 8](#)
[Attachment - 9](#)
[Attachment - 10](#)
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[Attachment - 39](#)
[Attachment - 40](#)
[Attachment - 41](#)
[Attachment - 42](#)

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/230510

APPLICANT: MARCON ROBERT VICTOR

CORRESPONDENT ADDRESS:
MARCON ROBERT VICTOR
3471 SINNICKS AVENUE
NIAGARA FALLS ONTARIO Canada L2J2G6

RETURN ADDRESS:
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514
ecom112@uspto.gov

MARK: ABSOLUT WATER

CORRESPONDENT'S REFERENCE/DOCKET NO: N/A

CORRESPONDENT EMAIL ADDRESS:
HASTINGS1066@SYMPATICO.CA

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.

Serial Number 78/230510

The assigned examining attorney has reviewed the referenced application and determined the following.

LIKELIHOOD OF CONFUSION—SECTION 2(d)

The examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d), because the applicant's mark, when used on or in connection with the identified goods/services, so resembles the marks in U.S. Registration Nos. 1302003, 1570118, 1590115, 1868516, 1893279, 2002725,

2023285, 2399045, 2472717, 2529817, 2540331, 2651084 and 75616228 as to be likely to cause confusion, or to cause mistake, or to deceive. TMEP §§1207.01 *et seq.* See the enclosed registrations. The examining attorney also encloses information regarding pending Application Serial Nos. 76/395489, 76/444497, 76/444157, and 76/443040. 37 C.F.R. §2.83. There may be a likelihood of confusion between the applicant's mark and the marks in the above noted applications under Section 2(d) of the Act. The filing dates of the referenced applications precede the applicant's filing date. If one or more of these earlier-filed applications matures into a registration, the examining attorney may refuse registration under Section 2(d).

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the examining attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978). TMEP §§1207.01 *et seq.*

A. Similarity Between Marks

The test of likelihood of confusion is not whether the marks can be distinguished when subjected to a side-by-side comparison. The issue is whether the marks create the same overall impression. *Visual Information Institute, Inc. v. Vicon Industries Inc.*, 209 USPQ 179 (TTAB 1980). The focus is on the recollection of the average purchaser who normally retains a general rather than specific impression of trademarks. *Chemetron Corp. v. Morris Coupling & Clamp Co.*, 203 USPQ 537 (TTAB 1979); *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106 (TTAB 1975); TMEP §1207.01(b). The marks share the identical arbitrary wording ABSOLUT.

B. Similarity Between the Goods

The goods/services of the parties need not be identical or directly competitive to find a likelihood of confusion. They need only be related in some manner, or the conditions surrounding their marketing be such, that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods/services come from a common source. *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984); *Guardian Products Co., Inc. v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); *In re International Telephone & Telegraph Corp.*, 197 USPQ 910 (TTAB 1978). TMEP §1207.01(a)(i).

The examining attorney must determine whether there is a likelihood of confusion on the basis of the goods/services identified in the application and registration. If the application describes the goods/services broadly and there are no limitations as to their nature, type, channels of trade or classes of purchasers, it is presumed that the application encompasses all goods/services of the type described, that they move in all normal channels of trade, and that they are available to all potential customers. TMEP §1207.01(a)(iii).

The examining attorney must consider any goods or services in the registrant's normal fields of expansion to determine whether the registrant's goods or services are related to the applicant's identified goods or services under Section 2(d). *In re General Motors Corp.*, 196 USPQ 574 (TTAB 1977). TMEP

§1207.01(a)(v). The examining attorney notes that it is a common practice for the same type of goods specified in the applicant's and registrant's identification to be marketed in the same channels of trade. The applicant's attention is directed to the attached third-party registrations as evidence of this practice (Registration Nos. 2657482, 2653848, 2622543, 2597184 and 2595289).

In conclusion, the similarity between the marks and the goods of the parties is sufficient to establish a likelihood of confusion. The examining attorney must resolve any doubt regarding a likelihood of confusion in favor of the prior registrant. *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir., 1988).

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

INFORMALITIES

If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following informalities.

44(d) Basis Not Valid

The applicant has claimed priority under Trademark Act Section 44(d), 15 U.S.C. §1126(d), as the basis for filing. However, the applicant did not file in the United States within six months of the foreign filing, as Section 44(d) requires. Therefore, this basis for filing is invalid, and the applicant is not entitled to priority. TMEP §1003.02. The applicant must delete the Section 44(d) basis from the application.

Certificate of Registration Required

An application under Trademark Act Section 44(e), 15 U.S.C. §1126(e), must include a copy of a foreign registration from the applicant's country of origin. The applicant's country of origin must either be a party to a convention or treaty relating to trademarks to which the United States is also a party, or must extend reciprocal registration rights to nationals of the United States by law. *See* TMEP §§1002.01 and 1004.

The application does not contain a copy of the foreign registration. Therefore, the applicant must submit a true copy, a photocopy, a certification, or a certified copy of the foreign registration. If the foreign certificate of registration is not written in English, the applicant must provide an English translation. The translator should sign the translation. *See* TMEP §§1004.01 and 1004.01(b).

Basis for Registration

The applicant has filed relying on its claim of a bona fide intention to use the mark in commerce under Trademark Act Section 1(b), 15 U.S.C. §1051(b), and on a foreign registration under Section 44(e), 15 U.S.C. §1126(e). The foreign registration alone may serve as the basis for obtaining a U.S. registration resulting from this application. The applicant must advise the examining attorney, however, if the applicant intends to rely solely on the foreign registration as the basis for registration.

Unless the applicant indicates otherwise, this Office will presume that the applicant wishes to rely on Section 1(b) as well as on Section 44(e) as the bases for registration. In this case, although the application may be approved for publication, the mark will not be registered until an acceptable allegation of use has been filed.

RESPONSE GUIDELINES

No set form is required for response to this Office action. The applicant must respond to each point raised. The applicant should simply set forth the required changes or statements and request that the Office enter them. The applicant must sign the response. Please note that all electronic communications must be signed using the "/name/" format. TMEP section 710.03(c).

Applicants may now respond formally using the Office's Trademark Electronic Application System (TEAS) at <http://www.uspto.gov/teas/index.html>. When using TEAS the data the applicant submits is directly uploaded into the Office's database, which reduces the time it takes to process the applicant's response, while also eliminating the possibility of data entry errors by the Office. Applicants are strongly encouraged to use TEAS to respond to office actions.

PLEASE NOTE: Because it delays processing, submission of duplicate papers is discouraged. Unless specifically requested to do so by the Office, parties should not mail follow up copies of documents transmitted electronically or by fax. TMEP 306.04; *Cf. ITC Entertainment Group Ltd. V. Nintendo of America Inc.* 45 USPQ2d 2021 (TTAB 1998).

//jmb//

Josette M. Beverly
Trademark Attorney
Law Office 112
(703) 308-9112 x. 154
(703) 746-8112 (fax)

<http://www.uspto.gov/teas/index.html> (file responses)

josette.beverly@uspto.gov (submit questions only)

Please note: All electronic communications must be signed using the "/name/" format. TMEP section 710.03(c).

How to respond to this Office Action:

To respond formally using the Office's Trademark Electronic Application System (TEAS), visit <http://www.uspto.gov/teas/index.html> and follow the instructions.

To respond formally via E-mail, visit <http://www.uspto.gov/web/trademarks/tmelecresp.htm> and follow the instructions.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE

ASSIGNED EXAMINING ATTORNEY.

Print: Sep 8, 2003

73408325

TYPED DRAWING

Serial Number

73408325

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

ABSOLUT

Registration Number

1302003

Date Registered

1984/10/23

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

V&S VIN & SPRIT AKTIEBOLAG CORPORATION SWEDEN FORMANSVAGEN 19 S-100 72
STOCKHOLM SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 049. G & S: Vodka. First Use:
1883/12/31. First Use In Commerce: 1978/05/03.

Prior Registration(s)

1168828;1244734;AND OTHERS

Section 2f Statement

2(F) ENTIRE MARK

Translation Statement

The English equivalent of the Swedish word "absolut" is "absolute".

Filing Date

1983/01/06

Examining Attorney

UNKNOWN

Print: Sep 8, 2003

73613079

TYPED DRAWING

Serial Number

73613079

Status

REGISTERED AND RENEWED

Word Mark

ABSOLUT COUNTRY OF SWEDEN PEPPAR

Registration Number

1570118

Date Registered

1989/12/05

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

V&S VIN & SPRIT AKTIEBOLAG CORPORATION SWEDEN FORMANSVAGEN 19 SE11797
STOCKHOLM SWEDEN

Name Change

BY CHANGE OF NAME FROM

Original Owner

AB VIN -& SPRITCENTRALEN CORPORATION STOCKHOLM SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 049. G & S: VODKA.

Foreign Country Name

SWEDEN

Foreign Priority

FOREIGN PRIORITY CLAIMED

Foreign Application Number

19863227

Foreign Filing Date

1986/04/23

Print: Sep 8, 2003

73613079

Foreign Registration Number

213001

Foreign Registration Date

1989/02/17

Foreign Expiration Date

1999/02/17

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PEPPAR" AND "COUNTRY OF SWEDEN" APART FROM THE MARK AS SHOWN.

Section 2f Statement

AS TO THE WORD "ABSOLUT"

Translation Statement

THE ENGLISH TRANSLATION OF THE WORD "PEPPAR" IN THE MARK IS "PEPPER".

Filing Date

1986/08/04

Examining Attorney

UNKNOWN

Attorney of Record

SUSAN UPTON DOUGLASS

ABSOLUT
Country of Sweden
CITRON

Serial Number

73791014

Status

REGISTERED AND RENEWED

Word Mark

ABSOLUT COUNTRY OF SWEDEN CITRON

Registration Number

1590115

Date Registered

1990/04/03

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

V&S VIN & SPRIT AKTIEBOLAG CORPORATION SWEDEN SE-117 97 STOCKHOLM
SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 049. G & S: VODKA. First Use:
1988/07/05. First Use In Commerce: 1988/07/05.

Prior Registration(s)

1244734;1302003

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SWEDEN" AND "CITRON"
APART FROM THE MARK AS SHOWN.

Print: Sep 8, 2003

73791014

Section 2f Statement

AS TO "ABSOLUT"

Translation Statement

THE ENGLISH TRANSLATION OF THE WORD "ABSOLUT" IN THE MARK IS
"ABSOLUTE".

Filing Date

1989/04/03

Examining Attorney

UNKNOWN

Attorney of Record

SUSAN UPTON DOUGLASS



Serial Number

74220781

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

ABSOLUT COUNTRY OF SWEDEN KURANT

Registration Number

1868516

Date Registered

1994/12/20

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

V & S Vin & Sprit Aktiebolag COMPANY SWEDEN Formansvagen 19 S-100 72
Stockholm SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 049. G & S: vodka. First Use:
1992/09/27. First Use In Commerce: 1992/09/27.

Foreign Country Name

SWEDEN

Foreign Priority

FOREIGN PRIORITY CLAIMED

Foreign Application Number

B-91-09554

Foreign Filing Date

1991/11/07

Prior Registration(s)

1244734;1302003;1570118;1590115;1634299;AND OTHERS

Section 2f Statement

as to "ABSOLUT COUNTRY OF SWEDEN KURANT"

Translation Statement

The word "KURANT" may be translated into English as "fit; saleable; marketable".

Filing Date

1991/11/08

Examining Attorney

UNKNOWN

Attorney of Record

JOANNE LUDOVICI-LINT

ABSOLUT
Country of Sweden
VODKA

Serial Number

74494847

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

ABSOLUT COUNTRY OF SWEDEN VODKA

Registration Number

1893279

Date Registered

1995/05/09

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

V&S Vin & Sprit Aktiebolag CORPORATION SWEDEN Formansvagen 19 S-100 72
Stockholm SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 049. G & S: vodka. First Use:
1978/05/03. First Use In Commerce: 1978/05/03.

Prior Registration(s)

1129746;1176702;1302003;1634299;1660515;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "VODKA" APART FROM THE

Print: Sep 8, 2003

74494847

MARK AS SHOWN.

Section 2f Statement

as to "COUNTRY OF SWEDEN"

Translation Statement

The English translation of "ABSOLUT" is "absolute".

Filing Date

1994/02/28

Examining Attorney

JENKINS, CHARLES L.

Attorney of Record

JOANNE LUDOVICI-LINT

ABSOLUT
Country of Sweden
PEPPAR

Serial Number

74708572

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

ABSOLUT COUNTRY OF SWEDEN PEPPAR

Registration Number

2023285

Date Registered

1996/12/17

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

V&S Vin & Sprit Aktiebolag CORPORATION SWEDEN Formansvagen 19 S-100 74
Stockholm SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: vodka. First
Use: 1986/00/00. First Use In Commerce: 1986/00/00.

Prior Registration(s)

1176702;1302003;1570118;1634299;1660515;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PEPPAR" APART FROM THE
MARK AS SHOWN.

Section 2f Statement

as to "COUNTRY OF SWEDEN"

Translation Statement

The English translation of "ABSOLUT" is "absolute" and "PEPPAR" is "pepper".

Filing Date

1995/07/20

Examining Attorney

LOUGHRAN, BARBARA A.

ABSOLUT
Country of Sweden
VODKA

*This superb vodka
was distilled from grain grown
in the rich fields of southern Sweden.
It has been produced at the famous
old distilleries near Åhus
in accordance with more than
400 years of Swedish tradition.
Vodka has been sold under the name
Absolut since 1879.*

Serial Number

74708573

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

ABSOLUT VODKA COUNTRY OF SWEDEN THIS SUPERB VODKA WAS DISTILLED FROM GRAIN GROWN IN THE RICH FIELDS OF SOUTHERN SWEDEN. IT HAS BEEN PRODUCED AT THE FAMOUS OLD DISTILLERIES NEAR ÅHUS IN ACCORDANCE WITH MORE THAN 400 YEARS OF SWEDISH TRADITION. VODKA HAS BEEN SOLD UNDER THE NAME ABSOLUT SINCE 1879.

Registration Number

2002725

Date Registered

1996/09/24

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

V&S Vin & Sprit Aktiebolag CORPORATION SWEDEN Formansvagen 19 S-100 74
Stockholm SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: vodka. First
Use: 1978/05/03. First Use In Commerce: 1978/05/03.

Prior Registration(s)

1129746;1176702;1302003;1634299;1660515;1893279;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "VODKA" APART FROM THE
MARK AS SHOWN.

Section 2f Statement

as to all the wording in the mark excluding the terms "ABSOLUT" and
"VODKA"

Translation Statement

The English translation of "ABSOLUT" IS "ABSOLUTE".

Filing Date

1995/07/20

Examining Attorney

LOUGHRAN, BARBARA A.

Attorney of Record

Joanne Ludovici-Lint

ABSOLUT MANDRIN

Serial Number

75555188

Status

REGISTERED

Word Mark

ABSOLUT MANDRIN

Registration Number

2399045

Date Registered

2000/10/31

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

V&S Vin & Sprit Aktiebolag CORPORATION SWEDEN Ingenjorsvagen 2 S-117
97 Stockholm SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic
beverages, namely vodka. First Use: 1999/07/01. First Use In
Commerce: 1999/07/01.

Prior Registration(s)

1302003;1590115;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MANDARIN" APART FROM
THE MARK AS SHOWN.

Filing Date

1998/09/17

Print: Sep 8, 2003

75555188

Examining Attorney
JOHNSON, DARLENE

Attorney of Record
JOANNE LUDOVICI-LINT



Serial Number

75616227

Status

REGISTERED

Word Mark

ABSOLUT MANDRIN COUNTRY OF SWEDEN

Registration Number

2472717

Date Registered

2001/07/31

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

V&S Vin & Sprit Aktiebolag CORPORATION SWEDEN Ingenjorsvagen 2 S-117
97 Stockholm SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic
beverages, namely vodka. First Use: 1999/07/01. First Use In
Commerce: 1999/07/01.

Prior Registration(s)

1302003;1590115;1634299;1788035;1893279;2002725;2023285;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MANDARIN" APART FROM
THE MARK AS SHOWN.

Section 2f Statement

as to COUNTRY OF SWEDEN

Translation Statement

The English translation of the word "ABSOLUT" in the mark is "ABSOLUTE".

Filing Date

1999/01/06

Examining Attorney

JOHNSON, DARLENE

Attorney of Record

Joanne Ludovici-Lint

ABSOLUT
Country of Sweden
MANDRIN

Absolut Mandrin is made from a unique blend of natural mandarin and orange flavors and vodka distilled from grain grown in the rich fields of southern Sweden. The distilling and flavoring of vodka is an age-old Swedish tradition. Vodka has been sold under the name Absolut since 1879.

Serial Number

75616228

Status

REGISTERED

Word Mark

ABSOLUT MANDRIN COUNTRY OF SWEDEN

Registration Number

2673509

Date Registered

2003/01/14

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

V&S Vin & Sprit Aktiebolag CORPORATION SWEDEN Ingenjorsvagen 2 S-117
97 Stockholm SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverages, namely vodka. First Use: 1999/07/01. First Use In Commerce: 1999/07/01.

Prior Registration(s)

1302003;1590115;1634299;1788035;1893279;2002725;2023285;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MADE FROM A UNIQUE BLEND OF NATURAL MANDARIN AND ORANGE FLAVORS AND VODKA" AND "THE DISTILLING AND FLAVORING OR VODKA IS AN AGE-OLD SWEDISH TRADITION" APART FROM THE MARK AS SHOWN.

Section 2f Statement

as to "COUNTRY OF SWEDEN"

Translation Statement

The English translation of the word "ABSOLUT" in the mark is "ABSOLUTE".

Filing Date

1999/01/06

Examining Attorney

JOHNSON, DARLENE

Attorney of Record

Joanne Ludovici-Lint



Serial Number

76050012

Status

REGISTERED

Word Mark

ABSOLUT

Registration Number

2651084

Date Registered

2002/11/19

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

V&S Vin & Sprit Aktiebolag CORPORATION SWEDEN Ingenjorsvagen 2 S-117
97 Stockholm SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverages; namely, vodka. First Use: 1999/07/01. First Use In Commerce: 1999/07/01.

Prior Registration(s)

1893279;2002725;2023285;AND OTHERS

Lining/Stippling Statement

The mark is lined for the color orange, which is claimed as a feature of the mark.

Description of Mark

The mark consists of the mark "ABSOLUT" and a three-dimensional configuration of a "punt" protrusion that is hemispheric in shape, emanating from the bottom of a bottle and invading the lower portion of the bottle itself, and which "punt" is visible within and under the bottle. The broken lining in the drawing represents the distinctive shape of the bottle and is intended to show the general position of the mark and is not a part of the mark as shown.

Section 2f Statement

as to the representation of the punt design

Filing Date

2000/05/17

Examining Attorney

JOHNSON, DARLENE

Attorney of Record

Joanne Ludovici-Lint

ABSOLUT

Serial Number

76254061

Status

REGISTERED

Word Mark

ABSOLUT

Registration Number

2529817

Date Registered

2002/01/15

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

V&S Vin & Sprit Aktiebolag CORPORATION SWEDEN SE-117 97 Stockholm SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Vodka. First Use: 1979/04/17. First Use In Commerce: 1979/06/17.

Prior Registration(s)

1893279;2002725;2023285;2399045;AND OTHERS

Description of Mark

The mark consists of the stylized term ABSOLUT shown in the color red. The color red encompasses the entire mark and is not limited to any particular portion of the mark. Applicant claims the color red as a

Print: Sep 8, 2003

76254061

feature of the mark.

Filing Date

2001/05/09

Examining Attorney

FINE, STEVE

Attorney of Record

JOANNE LUDOVICI-LINT

ABSOLUT

Serial Number

76254294

Status

REGISTERED

Word Mark

ABSOLUT

Registration Number

2540331

Date Registered

2002/02/19

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

V&S Vin & Sprit Aktiebolag CORPORATION SWEDEN SE-117 97 Stockholm SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Vodka. First Use: 1979/04/17. First Use In Commerce: 1979/06/17.

Prior Registration(s)

1893279;2002725;2023285;2399045;AND OTHERS

Description of Mark

The mark consists of the stylized term "ABSOLUT" shown in the color blue. The color blue encompasses the entire mark and is not limited to any particular portion of the mark. The color blue is claimed as a feature of the mark.

Print: Sep 8, 2003

76254294

Filing Date

2001/05/09

Examining Attorney

BUCHANAN WILL, NORA

Attorney of Record

Joanne Ludovici-Lint

ABSOLUT PEPPAR

Serial Number

76395489

Status

PUBLISHED FOR OPPOSITION

Word Mark

ABSOLUT PEPPAR

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

V&S Vin & Sprit Aktiebolag CORPORATION SWEDEN SE-117 97 Stockholm SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverages, namely, vodka. First Use: 1986/00/00. First Use In Commerce: 1986/00/00.

Prior Registration(s)

1302003;2023285;2399045;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PEPPAR" APART FROM THE MARK AS SHOWN.

Translation Statement

The English translation of "ABSOLUT" is "Absolute". The English translation of "PEPPAR" is "Pepper".

Filing Date

2002/04/15

Examining Attorney

Print: Sep 8, 2003

76395489

Issue: 0000/00/00

JOHNSON, DARLENE

Attorney of Record

Joanne Ludovici-Lint

ABSOLUT VANILIA

Serial Number

76443040

Status

RESPONSE AFTER NON-FINAL ACTION - ENTERED

Word Mark

ABSOLUT VANILIA

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

V&S VIN & SPRIT AKTIEBOLAG CORPORATION SWEDEN SE-117 97 Stockholm
SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic
beverages, namely, distilled spirits.

Prior Registration(s)

1302003;1590115;2399045;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "VANILLA" APART FROM
THE MARK AS SHOWN.

Translation Statement

The English translation of the term "ABSOLUT" is "ABSOLUTE".

Filing Date

2002/08/22

Examining Attorney

JOHNSON, DARLENE

Attorney of Record

Joanne Ludovici-Lint, Esq.

ABSOLUT RASBERRI

Serial Number

76444157

Status

PUBLICATION/ISSUE REVIEW COMPLETE

Word Mark

ABSOLUT RASBERRI

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

V&S VIN & SPRIT AKTIEBOLAG CORPORATION SWEDEN SE-117 97 Stockholm
SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic
beverages, namely, distilled spirits.

Prior Registration(s)

1302003;1590115;2399045;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "RASPBERRY" APART FROM
THE MARK AS SHOWN.

Filing Date

2002/08/23

Examining Attorney

ELTON, DAVID

Attorney of Record

Joanne Ludovici-Lint

ABSOLUT RASPBERRI

Serial Number

76444497

Status

PUBLICATION/ISSUE REVIEW COMPLETE

Word Mark

ABSOLUT RASPBERRI

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

V&S VIN & SPRIT AKTIEBOLAG CORPORATION SWEDEN SE-117 97 Stockholm SWEDEN

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverages namely distilled spirits.

Prior Registration(s)

1302003;1590115;2399045;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "RASPBERRY" APART FROM THE MARK AS SHOWN.

Translation Statement

The English translation of "ABSOLUT" is "ABSOLUTE".

Filing Date

2002/08/26

Examining Attorney

JOHNSON, DARLENE

Attorney of Record

Joanne Ludovici-Lint, Esq.



Serial Number

75330825

Status

REGISTERED

Word Mark

ROSSA BY S. PELLEGRINO

Registration Number

2657482

Date Registered

2002/12/10

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

SAN PELLEGRINO S.P.A. JOINT STOCK COMPANY ITALY VIA CASTELVETRO, 17/23
MILANO ITALY

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: aerated water, preparations for making aerated water; preparations for making fruit drinks, soft drinks, and non alcoholic cocktails; non alcoholic fruit extracts for making beverages, non alcoholic fruit juice beverages, fruit juices, fruit flavored soft drinks, lemonades, lithia water, mineral water, preparation for making mineral water, orgeat, seltzer water, soda water, table waters.

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: aperitif wines, aperitifs with a distilled alcoholic liquor base, aperitifs with a wine base, alcoholic bitters, prepared alcoholic cocktails, prepared wine cocktails, curacao, whiskey, tequila, vodka, liqueurs, brandy spirits, distilled spirits, potable spirits, wine.

Foreign Country Name

ITALY

Foreign Priority

FOREIGN PRIORITY CLAIMED

Foreign Application Number

MI97C001249

Foreign Filing Date

1997/02/13

Foreign Registration Number

761377

Foreign Registration Date

1998/11/10

Foreign Expiration Date

2007/02/13

Prior Registration(s)

1112863;1432161;1844638

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ROSSA" APART FROM THE MARK AS SHOWN.

Translation Statement

The English translation of "ROSSA" is "red".

Filing Date

1997/07/25

Print: Sep 9, 2003

75330825

Examining Attorney
SPILS, CAROL

Attorney of Record
DIANE DONNELLY

Print: Sep 9, 2003

75425418

TYPED DRAWING

Serial Number

75425418

Status

REGISTERED

Word Mark

WINDFALLS SUMO

Registration Number

2622543

Date Registered

2002/09/24

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

SEARS, MIKE INDIVIDUAL UNITED KINGDOM 15 Pearce Avenue Parkstone,
Poole, Dorset ENGLAND

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Soft drinks; fruit juices; non-alcoholic drinks, namely, cola drinks and lemonade; beer, lager and porter; table waters; mineral and aerated waters; ginger ale; ginger beer, seltzer water; soda water; vegetable juices; tomato juice; syrups and preparations for making fruit and soft drinks.

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverages, namely, vodka, gin, rum and whiskey; wines; distilled spirits; liqueurs; prepared alcoholic cocktails; hard cider and perry; port wines.

Foreign Country Name

UNITED KINGDOM

Foreign Registration Number

2108373

Foreign Registration Date

Print: Sep 9, 2003

75425418

1997/03/07

Foreign Expiration Date

2006/08/24

Filing Date

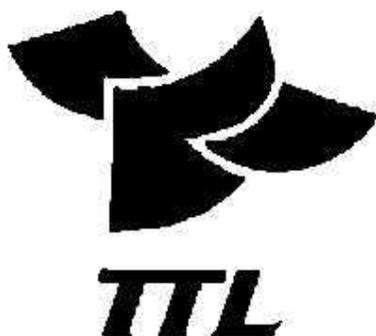
1998/01/29

Examining Attorney

STRYZ, KAREN M.

Attorney of Record

THOMAS W BROOKE



Serial Number

75982180

Status

REGISTERED

Word Mark

TTL

Registration Number

2595289

Date Registered

2002/07/16

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

TAIWAN TOBACCO AND WINE BOARD CORPORATION CHINA NO. 4, SEC. 1 NAN
CHANG ROAD TAIPEI, TAIWAN TAIWAN

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: ACRATED
WATER, BEER, COLAS, FRUIT DRINKS, FRUIT JUICES, LEMONADE, MINERAL
WATER, SODA WATER, SOFT DRINKS FLAVORED WITH TEA, SPORT DRINKS, SWEET

Print: Sep 9, 2003

75982180

CIDER, VEGETABLE JUICE. First Use: 2001/10/27. First Use In
Commerce: 2001/10/27.

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: BRANDY SPIRITS;
CHAMPAGNE; COOKING WINE; DISTILLED SPIRITS; DISTILLED SPIRITS OF RICE,
CORN, BARLEY; FRUIT WINE; GIN; HERB LIQUEURS, KIRSCH; PREPARED
ALCOHOLIC COCKTAIL; PREPARED WINE COCKTAIL; RUM; SAKE; SCHNAPPS;
SHERRY; VERMOUTH; VODKA; WHISKEY; WINE IN GENERAL. First Use:
2001/11/23. First Use In Commerce: 2001/11/23.

Filing Date

2000/01/07

Examining Attorney

MANDIR FREDERICK M

Attorney of Record

Gerald T. Shekleton

СТАРЫЙ МЕЛЬНИК

Serial Number

76143000

Status

REGISTERED

Registration Number

2597184

Date Registered

2002/07/23

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(2) DESIGN ONLY

Owner

Anadolu Efes Technical and Management Consultancy N.V. CORPORATION
NETHERLD ANTILLES Landhuis Joonchi Kava Richard J. Beaujon Z/N P.O.
Box 837 Curacao NETHERLD ANTILLES

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S:
Non-alcoholic beverages, namely, soft drinks, non-alcoholic aperitifs,
fruit juice beverages, fruit extracts for making non-alcoholic
beverages, grape must, lithia water, seltzer water, soda water, table
waters, aerated water; concentrates, syrups or powders and pastilles
used in preparation of soft drinks, aerated water, mineral water and
effervescing soft drinks; mineral water; isotonic drinks, ginger ale,
ginger beer, non-alcoholic cocktails; essences not in * the * nature
of essential oils for the manufacture of liqueurs, soft drinks and
mineral waters; lemonades, syrups for making lemonade; vegetable
juices, orgeat, beer wort, beer, malt beer, [sarsaparilla] *
sarsaparilla *, vegetable juices, fruit juices, fruit nectars, tomato
juice, malt wort, must, extracts of hops for making beer.

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic

beverages other than beer, namely, distilled spirits, alcoholic fruit-based beverages, anisette, anise, arrack, aperitifs with a wine base, aperitifs with a distilled alcoholic liquor base, brandy, wine, whisky, kirsch, vodka, gin, hydromel, mead, alcoholic bitters, perry, prepared alcoholic cocktails, curacao, liqueurs, peppermint liqueurs, cordials, piquette, distilled spirits made from rice, rum, sake, hard cider, extracts of spirituous liquors; liqueurs in the nature of alcoholic fruit extracts; alcoholic beverages containing fruits, namely, brandy, kirsch, liqueurs.

Foreign Country Name

RUSSIAN FEDERATIO

Foreign Registration Number

185043

Foreign Registration Date

1998/11/30

Foreign Expiration Date

2008/11/30

Translation Statement

The Cyrillic characters in the mark transliterate as "STARY MELNIK", which means "an old millerman" in English.

Filing Date

2000/10/06

Examining Attorney

HALLORAN, COLLEEN

Attorney of Record

MARY A MOY



Serial Number

76293658

Status

REGISTERED

Word Mark

G GRAFFITI

Registration Number

2653848

Date Registered

2002/11/26

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

Lombard Brands Limited CORPORATION UNITED KINGDOM Bourne House College
Street Ramsey ISLE OF MAN IM8 1JW

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Beers and ales, mineral and aerated water; isotonic drinks; sports drinks; non-alcoholic cocktail mixes; soft drinks; non-alcoholic malt coolers; fruit drinks and fruit juices; concentrates, syrups or powders used in the preparation of soft drinks.

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverages, namely, distilled spirits, prepared alcoholic cocktails, wine, liqueurs, whiskey, Scotch whisky, malt whisky, Scotch whisky based liqueurs, rum, tequila, vodka and gin.

Foreign Country Name

ERPN CMNTY TM OFC

Foreign Registration Number

1654318

Foreign Registration Date

2001/07/30

Foreign Expiration Date

2011/07/30

Filing Date

2001/08/01

Examining Attorney

MCCAULEY, BRENDAN

Attorney of Record

John P. Shannon

HYDRA

Serial Number

76296801

Status

NON-FINAL ACTION - MAILED

Word Mark

HYDRA

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Hydra Biosciences, Inc. CORPORATION DELAWARE 790 MEMORIAL DRIVE
CAMBRIDGE MASSACHUSETTS 02139

Goods/Services

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:
Pharmaceuticals preparations for regenerating human tissues and
organs, for blocking or promoting vessel development, and for
treatment of human disease where the treatment involves generation of,
interference with or affects upon one or more signaling molecules;
biologicals for regenerating human tissues and organs, for blocking
or promoting vessel development, and for treatment of human disease
where the treatment involves generation of interference with or
affects upon one or more signaling molecules; and genetic therapies
for regenerating human tissues and organs, for blocking or promoting
vessel development, and for treatment of human disease where the
treatment involves generation of, interference with or affects upon
one or more signaling molecules; oral contraceptives; spermicides;
tests and assays composed primarily of mammalian cells, ion channels,
signaling molecules, dedifferentiated or differentiating cells, and
cellular contractile organizational structures for identifying
molecules that can induce desirable cardiovascular, reproductive,
genitourinary, gastrointestinal, infectious, hematologic, oncologic,
metabolic, neurologic, pulmonary, immunologic, renal, rheumatologic,
dermatologic and vision diseases.

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2010-06-08 19:21:03 ET

Serial Number: 78230510 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark (words only): ABSOLUT WATER

Standard Character claim: No

Current Status: Abandoned: Applicant's express request.

Date of Status: 2005-02-21

Filing Date: 2003-03-26

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: M3X -TMO Law Office 112 - Examining Attorney Assigned

Date In Location: 2005-02-21

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. [MARCON ROBERT VICTOR](#)

Address:

[MARCON ROBERT VICTOR](#)
[3471 SINNICKS AVENUE](#)
[NIAGARA FALLS, ON L2J2G6](#)
[Canada](#)

Legal Entity Type: Individual

Country of Citizenship: Canada

Phone Number: 905 354 2543

Fax Number: 905 354 7693

GOODS AND/OR SERVICES

International Class: 032

Class Status: Active

AERATED WATER, MINERAL WATER, SPRING WATER, BOTTLED WATER; AERATED WATER, MINERAL WATER, SPRING WATER, BOTTLED WATER; AERATED WATER, MINERAL WATER, SPRING WATER, BOTTLED WATER

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Disclaimer: WATER

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2005-02-22 - Abandonment Notice Mailed - Express Abandonment

2005-02-21 - Abandonment - Express mailed

2004-12-21 - Letter Of Abandonment Processed

2004-12-21 - PAPER RECEIVED

2004-09-06 - LETTER OF SUSPENSION E-MAILED

2004-09-06 - Suspension Letter Written

2004-07-16 - PAPER RECEIVED

2004-06-24 - Amendment From Applicant Entered

2004-06-24 - Communication received from applicant

2004-06-24 - PAPER RECEIVED

2004-05-15 - LETTER OF SUSPENSION E-MAILED

2004-03-10 - Communication received from applicant

2004-03-10 - PAPER RECEIVED

2003-09-09 - Non-final action e-mailed

2003-08-25 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

ROBERT VICTOR MARCON

3471 SINNICKS AVENUE

NIAGARA FALLS ONTARIO CANADA L2J2G6

Phone Number: 905 354 2543

Fax Number: 905 354 7693
