

ESTTA Tracking number: **ESTTA256716**

Filing date: **12/22/2008**

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

Notice of Opposition

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

Opposer Information

Name	BA Victory Corp.
Granted to Date of previous extension	12/31/2008
Address	513 East 6th Street New York, NY 10009 UNITED STATES

Attorney information	Ralph H. Cathcart Ladas & Parry LLP 26 West 61st Street New York, NY 10023 UNITED STATES rcathcart@ladas.com, rroa@ladas.com, probinson@ladas.com Phone:212-708-1920
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Applicant Information

Application No	77275793	Publication date	09/02/2008
Opposition Filing Date	12/22/2008	Opposition Period Ends	12/31/2008
Applicant	Javier Eduardo Peire Martinez 11 Street, 4th bis. Avenue San Jose, COSTA RICA		

Goods/Services Affected by Opposition

Class 043. All goods and services in the class are opposed, namely: services for providing food and drink
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Grounds for Opposition

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

U.S. Registration No.	3285046	Application Date	11/17/2006
Registration Date	08/28/2007	Foreign Priority Date	NONE
Word Mark	BUENOS AIRES		

Design Mark	BUENOS AIRES
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 2006/03/10 First Use In Commerce: 2006/03/10 Restaurant services

Attachments	77046695#TMSN.jpeg (1 page)(bytes) Notice of Opposition - Javier Eduardo Peire Martinez.pdf (4 pages)(106969 bytes)
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Certificate of Service

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

Signature	/Ralph H. Cathcart/
Name	Ralph H. Cathcart
Date	12/22/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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BA VICTORY CORP., :
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Opposer, : Opposition No.: _____
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v. :
:
JAVIER EDUARDO PEIRE MARTINEZ, :
:
Applicant. :
:
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NOTICE OF OPPOSITION

In the matter of Application Serial No. 77/275,793 filed on September 10, 2007 by Javier Eduardo Peire Martinez, an individual with an address at 11 Street, 4th bis. Avenue, San Jose, Costa Rica, in International Class 43 seeking registration on the Principal Register of the trademark LA ESQUINA DE BUENOS AIRES in connection with “services for providing food and drink”, which application was published for opposition on September 2, 2008;

Opposer, BA Victory Corp., a New York company with an office at 516 East 6th Street, New York, NY 10009, believes that it is or will be damaged by registration of Application No. 77/275,793 and hereby opposes registration of said application on the following grounds:

1. Opposer is the owner of the mark BUENOS AIRES, including U.S. Registration No. 3,285,046 and of the good will associated with such mark (the “BUENOS AIRES Mark”).

2. Opposer adopted and has continuously used the BUENOS AIRES Mark in connection with “[r]estaurant services” since prior to the filing of applicant’s LA ESQUINA DE BUENOS AIRES application.

3. Opposer has extensively advertised, promoted and marketed its restaurant services such that consumers have come to know and recognize the BUENOS AIRES Mark as identifying restaurant services which originate with or are authorized by opposer.

4. Applicant’s use of the mark BUENOS AIRES in connection with “services for providing food and drink” constitutes use of a mark confusingly similar to opposer’s BUENOS AIRES Mark. Applicant’s mark wholly incorporates opposer’s BUENOS AIRES Mark, and applicant’s LA ESQUINA DE BUENOS AIRES Mark is likely to be perceived by purchasers as a variation, or another, of opposer’s BUENOS AIRES Marks. Moreover, the services covered by Applicant’s LA ESQUINA DE BUENOS AIRES application are seemingly identical to the services marketed and sold by opposer under its BUENOS AIRES Mark.

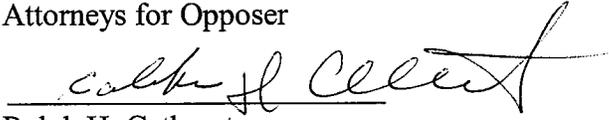
5. Applicant’s LA ESQUINA DE BUENOS AIRES mark is likely to be confused with opposer’s BUENOS AIRES Mark, such that the average purchaser is likely to be confused and deceived into believing that applicant’s services and/or products also originate or are in some way associated with, or are connected, sponsored or authorized by opposer.

WHEREFORE, opposer requests that the opposition be sustained and Application No. 77/275,793 be refused registration.

Respectfully submitted,

LADAS & PARRY LLP
Attorneys for Opposer

Dated: December 19, 2008

By: 

Ralph H. Cathcart
26 West 61st Street
New York, NY 10023
(212) 708-1860
(Our Ref: 080379)

CERTIFICATE OF TRANSMISSION

I, Reinaldo M. Roa, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** has been electronically transmitted to the United States Patent and Trademark Office on the date indicated:

Dated: December 22, 2008



Reinaldo M. Roa

CERTIFICATE OF SERVICE

I, Reinaldo M. Roa, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served on the person listed below, on the date indicated below, by FedEx courier, as follows:

Mr. Javier Eduardo Peire Martinez
La Esquina de Buenos Aires
Calle 11, Avenida 4
San Jose, Costa Rica

Dated: December 22, 2008



Reinaldo M. Roa

CERTIFICATE OF SERVICE

I, Reinaldo M. Roa, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served on the persons listed below by First-Class Mail, postage prepaid, on the date indicated:

Mr. Javier Eduardo Peire Martinez
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11 Street, 4th bis Avenue
San Jose, Costa Rica

Barbara H. Loewenthal, Esq.
Gottlieb, Rackman & Reisman
270 Madison Avenue, 8th Floor
New York, NY 10016

Dated: December 22, 2008



Reinaldo M. Roa