

ESTTA Tracking number: **ESTTA404077**

Filing date: **04/15/2011**

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 | Sazerac Company, Inc. |
| Granted to Date of previous extension | 05/25/2011 |
| Address | 803 Jefferson Highway New Orleans, LA 70152 UNITED STATES |

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| Attorney information | Lori F Mayall COOLEY LLP 777 6TH ST NW, STE 1100 WASHINGTON, DC 20001 UNITED STATES trademarks@cooley.com, lmayall@cooley.com Phone:650-843-5000 |
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Applicant Information

| | | | |
|--------------------------------|--|---------------------------------|------------|
| Application No | 85104632 | Publication date | 01/25/2011 |
| Opposition Filing Date | 04/15/2011 | Opposition Period Ends | 05/25/2011 |
| International Registration No. | NONE | International Registration Date | NONE |
| Applicant | VILLALOBOS JIMENEZ, BENJAMIN GOLFO DE CORTEZ 4137 GUADALAJARA, 44670 MEXICO | | |

Goods/Services Affected by Opposition

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| Class 033. All goods and services in the class are opposed, namely: ALCOHOLIC BEVERAGES EXCEPT BEER |
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Grounds for Opposition

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

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|-----------------------|------------------|-----------------------|------------|
| U.S. Registration No. | 2460552 | Application Date | 12/30/1998 |
| Registration Date | 06/12/2001 | Foreign Priority Date | NONE |
| Word Mark | CORAZON DE AGAVE | | |

| | |
|---------------------|---|
| Design Mark | |
| Description of Mark | NONE |
| Goods/Services | Class 033. First use: First Use: 2000/06/09 First Use In Commerce: 2000/06/09 Liquor, namely tequila |

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 2667817 | Application Date | 08/25/2000 |
| Registration Date | 12/31/2002 | Foreign Priority Date | NONE |

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|-----------|---------|
| Word Mark | CORAZON |
|-----------|---------|

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|-------------|--|
| Design Mark |  |
|-------------|--|

| | |
|---------------------|------|
| Description of Mark | NONE |
|---------------------|------|

| | |
|----------------|---|
| Goods/Services | Class 033. First use: First Use: 2000/06/09 First Use In Commerce: 2000/06/09 Liquor, namely tequila |
|----------------|---|

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3287327 | Application Date | 07/13/2006 |
| Registration Date | 09/04/2007 | Foreign Priority Date | NONE |

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|-----------|------------------|
| Word Mark | CORAZON DE AGAVE |
|-----------|------------------|

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|-------------|------------------|
| Design Mark | CORAZON DE AGAVE |
|-------------|------------------|

| | |
|---------------------|------|
| Description of Mark | NONE |
|---------------------|------|

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|----------------|---|
| Goods/Services | Class 033. First use: First Use: 2000/06/09 First Use In Commerce: 2000/06/09 LIQUOR, NAMELY TEQUILA |
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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3643376 | Application Date | 12/02/2008 |
| Registration Date | 06/23/2009 | Foreign Priority Date | NONE |

| | |
|-----------|--------------------------|
| Word Mark | STRAIGHT FROM THE HEART. |
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|---------------------|--|
| Design Mark | STRAIGHT FROM THE HEART. |
| Description of Mark | NONE |
| Goods/Services | Class 033. First use: First Use: 2007/08/15 First Use In Commerce: 2007/08/15 Tequila |

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|-------------|--|
| Attachments | 76116847#TMSN.gif (1 page)(bytes) 76663015#TMSN.gif (1 page)(bytes) 77624820#TMSN.jpeg (1 page)(bytes) NOO re CORAZON MAYA 4.15.11.pdf (5 pages)(101120 bytes) |
|-------------|--|

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 | /lfm/ |
| Name | Lori F Mayall |
| Date | 04/15/2011 |

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

In the matter of application Serial No. 85/104,632
For the Trademark CORAZON MAYA
Published in the Official Gazette on January 25, 2011

| | | |
|--|---|----------------|
| SAZERAC COMPANY, INC. |) | |
| |) | |
| |) | |
| Opposer, |) | |
| |) | Opposition No. |
| v. |) | |
| |) | |
| BENJAMIN VILLALOBOS JIMENEZ |) | |
| |) | |
| Applicant. |) | |
| <hr style="border: 0.5px solid black;"/> | | |

NOTICE OF OPPOSITION

Opposer Sazerac Company, Inc. (“Sazerac”), a Delaware corporation having its principal place of business at 803 Jefferson Highway, New Orleans, LA 701522, will be damaged by the issuance of a registration for the mark CORAZON MAYA (the “Applicant’s Mark”), as applied for in Application Serial No. 85/104,632 filed on August 10, 2010 by Applicant Benjamin Villalobos Jimenez (“Applicant”).

As grounds for opposition, Sazerac alleges:

1. Sazerac is a company that markets and sells a number of different types and brands of alcoholic beverages and distilled spirits, including vodkas, whiskeys and tequilas. Sazerac has marketed and sold alcoholic beverages and distilled spirits in the United States for over a century.
2. Sazerac owns the following registrations in the United States:

CORAZON DE AGAVE (U.S. Reg. No. 2460552);
CORAZON And Heart Logo (U.S. Reg. No. 2667817);
CORAZON DE AGAVE (U.S. Reg. No. 3287327); and
STRAIGHT FROM THE HEART (Reg. No. 3643376).

(collectively, “CORAZON marks”)

3. Sazerac, through its predecessor-in-interest, has consistently and continually distilled, marketed, sold or otherwise distributed tequila under the CORAZON marks since June 2000. By virtue of its efforts, and the efforts of its predecessor-in-interest, and by virtue of the high quality of tequila and other distilled spirits, the public has come to know, rely on, and recognize the CORAZON marks as source identifiers for Sazerac’s tequila products. Sazerac has gained valuable reputation and a substantial amount of goodwill through the use and recognition of its CORAZON marks.

4. Upon information and belief, Sazerac alleges that on August 10, 2010 Applicant filed an Application to register the mark CORAZON MAYA based on his Mexico registration (Section 44(e)). Applicant seeks registration in connection with “tequila” according to the stipulated amendment filed in Opposition Proceeding No. 91198515.

5. Applicant’s Mark is likely to be confused with and mistaken for Sazerac’s CORAZON marks because Applicant’s Mark is confusingly similar in sight, sound, and meaning to Sazerac’s CORAZON marks; Applicant’s mark consists of the identical dominant and first component “CORAZON.” The second component of Applicant’s Mark “MAYA” is insufficient to distinguish the mark overall from Sazerac’s CORAZON marks.

6. If Applicant’s Mark is allowed to register a likelihood of confusion will be created for consumers of alcoholic beverages. Applicant’s Mark is used in connection with products that are identical with Sazerac’s products, namely tequila. The relevant customers of

Applicant's tequila products are identical to the customers and targeted customers of Sazerac's tequila products.

7. In addition to overlapping consumer bases, Applicant's channels of trade for its tequila overlaps with the channels of trade of Sazerac's tequila products, namely, restaurants, bars, and brick-and-mortar as well as online retail stores.

8. If Applicant is permitted to register its CORAZON mark for the goods specified in the Application herein opposed, confusion resulting in damage and injury to Sazerac would likely occur. Persons familiar with Sazerac's marks would likely perceive Applicants' products as associated or affiliated with or sponsored by Sazerac. Such confusion would inevitably result in damage to Sazerac.

9. Customers of Sazerac's products and the relevant public are likely to misapprehend Applicant's Mark as a Sazerac mark and/or believe in error that the tequila offered under the CORAZON MAYA mark are offered by or in association with or under license from Sazerac.

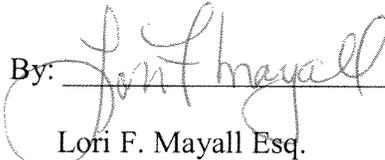
10. Any defect, objection to or fault found with Applicant's tequila marketed under the CORAZON MAYA mark would necessarily reflect on and seriously injure the reputation that Sazerac has established for its alcoholic beverages and distilled spirits.

11. Registration of Applicant's Mark would give Applicant *prima facie* evidence of the validity and ownership of Applicant's Mark and of Applicant's exclusive right to use Applicant's Mark, all to the detriment of Sazerac.

12. Wherefore, Sazerac prays that this Opposition be sustained and that Application Serial No. 85/104,632 be denied and refused registration.

COOLEY LLP

Date: April 15, 2011

By:  _____

Lori F. Mayall Esq.
Todd S. Bontemps, Esq.
Attorneys for Opposer
777 6th Street, NW
Suite 1100
Washington, DC 20001
(650) 843-5000

CERTIFICATE OF SERVICE

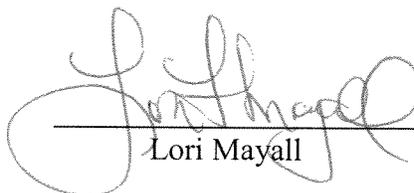
I hereby certify that on April 15, 2011 I mailed the foregoing NOTICE OF OPPOSITION regarding Sazerac Company, Inc. v. Benjamin Villalobos Jimenez to Counsel for Applicant and Applicant by depositing a true and correct copy of the same with the United States Postal Service, first class mail, postage prepaid, in an envelope addressed to:

RODRIGO MACIAS AGUILAR
HACIENDA SANTA LUCIA 89 COL. ALTAMIRA
ZAPOPAN MEXICO, 45160 MEXICO

And

BENJAMIN VILLALOBOS JIMENEZ
GOLFO DE CORTEZ 4137
GUADALAJARA 44670
Mexico

Date: April 15, 2011



Lori Mayall