

ESTTA Tracking number: **ESTTA426102**

Filing date: **08/19/2011**

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	08/24/2011
Address	803 Jefferson Highway New Orleans, LA 70121 UNITED STATES

Attorney information	Kathryn D. Duvall Cooley LLP 777 6th St., NWSuite 1100 Washington, DC 20001 UNITED STATES kduvall@cooley.com , trademarks@cooley.com Phone:650-843-5000
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Applicant Information

Application No	85231152	Publication date	04/26/2011
Opposition Filing Date	08/19/2011	Opposition Period Ends	08/24/2011
Applicant	Osez Vous? International Spirits, LLC 1313 N. Market Street, Suite 5100 Wilmington, DE 19801 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Alcoholic beverages except beers

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
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Attachments	HONEY BARREL_Notice of Opposition_FINAL_08192011.pdf (4 pages) (121612 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	/KDD/
Name	Kathryn D. Duvall
Date	08/19/2011

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

In the matter of application Serial No. 85/231,152
For the Trademark HONEY BARREL
Published in the Official Gazette on April 26, 2011

SAZERAC COMPANY, INC.)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
OSEZ VOUS? INTERNATIONAL SPIRITS, LLC)	
)	
Applicant.)	
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NOTICE OF OPPOSITION

Opposer Sazerac Company, Inc. (“Sazerac”), a Louisiana corporation having its principal place of business at 803 Jefferson Highway, New Orleans, Louisiana 70152 , will be damaged by the issuance of a registration for the mark HONEY BARREL (the “Applicant’s Mark”), as applied for in Application Serial No. 85/231,152 filed on February 1, 2011 by Applicant Osez Vous? International Spirits, LLC (“Applicant”). Sazerac, having previously been granted an extension of time to oppose Applicants’ Mark, hereby opposes same.

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. Upon information and belief, Sazerac alleges that on February 1, 2011 Applicant filed an Application to register the mark HONEY BARREL on an intent to use basis (Section 1(b)). Applicant seeks registration in connection with “alcoholic beverages, except beers.”

3. Upon information and belief, Sazerac alleges that Applicant intends to use the mark HONEY BARREL in connection with whiskey.

Count I – Violation of 15 U.S.C. § 1052(e)(1)

4. Sazerac realleges Paragraphs 1 through 3 of its Notice of Opposition.

5. On information and belief, Applicant’s mark is used by consumers and others in the alcoholic beverages industry to refer to a single barrel whiskey that has been selected for its exceptional profile as the best barrel in the warehouse, which is bottled and sold without blending other barrels.

6. On information and belief, whiskey distillers, and whiskey aficionados, have been using the phrase “Honey Barrels” to describe their “best of the lot” barrels of whiskey for decades.

7. The primary meaning of Applicant’s mark is to describe a single barrel whiskey.

8. When used on or in connection with the applicable goods set forth in Applicant’s application, Applicant’s Mark will reasonably be understood by the majority of consumers to describe its goods, i.e. one of the best (“select”) single barrels of whiskey from the entire aging warehouse, rather than as a trademark or product source identifier.

9. On information and belief, Applicant’s mark is merely descriptive and not inherently distinctive. Applicant’s mark has not become distinctive of Applicant’s goods or services in commerce. Applicant has not acquired secondary meaning in the mark HONEY BARREL for its applicable goods.

10. Applicant's mark will interfere with the rights of spirits distillers, consumers, and others affiliated with the alcoholic beverages industry in describing the nature and feature of alcoholic spirits, namely, whiskey

11. On information and belief, every major bourbon distillery in Kentucky and Virginia, including Sazerac, refer to their best barrels of whiskey as "Honey Barrels."

12. 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 and others in the alcoholic beverages industry.

13. Registration of Applicant's mark would violate 15 U.S.C. §1052(e)(1) as the mark is merely descriptive of Applicant's goods.

14. Wherefore, for all the foregoing reasons Sazerac prays that this Opposition be sustained and that Application Serial No. 85/231,152 be denied and refused registration.

COOLEY LLP

Date: August 19, 2011

By: Kathryn D. Duvall

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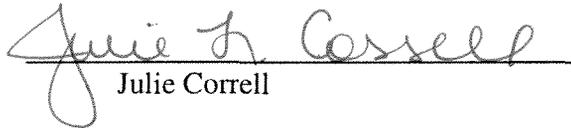
CERTIFICATE OF SERVICE

I hereby certify that on August 19, 2011 I mailed the foregoing NOTICE OF OPPOSITION regarding Sazerac North America, Inc. v. Osez Vous International Spirits 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:

Osez Vous? International Spirits, LLC
1313 N. Market Street, Suite 5100
Wilmington, DE 19801

Mr. Robert Cooper
2633 Trenton Ave
Philadelphia, PA 19125-1837

Date: August 19, 2011


Julie Correll