

ESTTA Tracking number: **ESTTA482618**

Filing date: **07/10/2012**

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	07/11/2012
Address	3850 N. Causeway Blvd. Metairie, LA 70002 UNITED STATES

Attorney information	Bryan Boyle Cooley LLP 777 6th Street, NWSuite 1100 Washington, CA 20001 UNITED STATES bryan.boyle@cooley.com, trademarks@cooley.com Phone:6508435000
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Applicant Information

Application No	85254099	Publication date	03/13/2012
Opposition Filing Date	07/10/2012	Opposition Period Ends	07/11/2012
International Registration No.	NONE	International Registration Date	NONE
Applicant	Everglades Farms Ltd. 21 Central Avenue Kingston 10, JAMAICA		

Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Rum
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Grounds for Opposition

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

U.S. Registration No.	2852432	Application Date	11/14/2001
Registration Date	06/15/2004	Foreign Priority Date	NONE
Word Mark	FIREBALL		

Design Mark	FIREBALL
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1988/09/00 First Use In Commerce: 1988/09/00 LIQUEURS

U.S. Registration No.	3550110	Application Date	05/11/2008
Registration Date	12/23/2008	Foreign Priority Date	NONE

Word Mark	FIREBALL
Design Mark	FIREBALL
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2007/04/00 First Use In Commerce: 2007/04/00 Whisky

U.S. Registration No.	3734227	Application Date	06/16/2009
Registration Date	01/05/2010	Foreign Priority Date	NONE

Word Mark	FIREBALL
Design Mark	

Description of Mark	The mark consists of Fiery headed, long tailed creature spewing flames under the curved text "FIREBALL".
Goods/Services	Class 033. First use: First Use: 2007/04/00 First Use In Commerce: 2007/04/00 Whiskey

U.S. Registration No.	2997888	Application Date	07/27/2004
Registration Date	09/20/2005	Foreign Priority Date	NONE

Word Mark	DR. MCGILLICUDDY'S FIREBALL
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 033. First use: First Use: 2001/03/00 First Use In Commerce: 2001/03/00 whiskey-based liqueurs
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U.S. Registration No.	2907946	Application Date	10/28/2003
Registration Date	12/07/2004	Foreign Priority Date	NONE

Word Mark	DR. MCGILLICUDDY'S IMPORTED FIREBALL
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 033. First use: First Use: 2001/03/00 First Use In Commerce: 2001/03/00 whiskey-based liqueurs
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U.S. Registration No.	1819150	Application Date	02/01/1993
Registration Date	02/01/1994	Foreign Priority Date	NONE

Word Mark	FIRE WATER
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 033. First use: First Use: 1991/10/10 First Use In Commerce: 1991/10/10 liqueur
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Attachments	76337349#TMSN.gif (1 page)(bytes) 77471284#TMSN.jpeg (1 page)(bytes) 77760567#TMSN.jpeg (1 page)(bytes) 78457249#TMSN.jpeg (1 page)(bytes) 76554783#TMSN.gif (1 page)(bytes) Ntc Opp RUM FIRE (85254099).pdf (5 pages)(137217 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	/Bryan Boyle/
Name	Bryan Boyle
Date	07/10/2012

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

In the matter of Application Serial No. 85/254,099
For the Trademark RUM FIRE
Published in the Official Gazette on February 28, 2011

SAZERAC COMPANY, INC.)	
)	
Opposer,)	
)	
v.)	
)	
EVERGLADES FARMS, LTD.)	Opposition No.
)	
Applicant.)	
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NOTICE OF OPPOSITION

Opposer Sazerac Company, Inc. (“Sazerac”), a Louisiana corporation having its principal place of business at 3850 North Causeway Boulevard, Suite 1695, Metairie, Louisiana 70002, will be damaged by the issuance of a registration for the mark RUM FIRE (hereafter “Applicant’s Mark”), as applied for in Application Serial No. 85/254,099 filed on February 28, 2011 by Applicant Everglades Farms, Ltd., a Jamaica corporation (“Applicant”). Sazerac, having previously been granted an extension of time to oppose Applicant’s 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 without limitation rum, brandy, wine, vodkas, whiskeys, and liqueurs. Sazerac has marketed and sold alcoholic beverages and distilled spirits in the United States for over a century.

2. Sazerac has consistently and continually marketed and sold liqueurs under its FIREBALL trademark and associated FIREBALL component marks since 1988. Sazerac and its predecessor-in-interest have also consistently and continually marketed and sold liqueurs under its FIRE WATER trademark since 1991. By virtue of their marketing and by virtue of the excellence of the underlying products, the public has come to know, rely on, and recognize the FIREBALL trademark, associated FIREBALL component marks, and FIRE WATER mark as source identifiers for Sazerac's alcoholic beverages and distilled spirits.

3. Sazerac owns the following United States trademark registrations with respect to its FIREBALL and FIREBALL component marks as well as its FIRE WATER mark:

FIREBALL (Reg. No. 2,852,432), issued June 15, 2004 for liqueurs (class 33);

FIREBALL (Reg. No. 3,550,110), issued December 23, 2008, for whisky (class 33);

FIREBALL And Design (Reg. No. 3,734,227), issued January 5, 2010 (class 33);

DR. MCGILLICUDDY'S FIREBALL (Reg. No. 2,997,888), issued September 20, 2005 for whiskey-based liqueurs (class 33);

DR. MCGILLICUDDY'S IMPORTED FIREBALL (Reg. No. 2,907,946), issued December 7, 2004 for whiskey-based liqueurs (class 33);

FIRE WATER (Reg. No. 1,819,150), issued February 1, 1994 for liqueur (class 33);

(hereafter the "FIRE Component Marks").

4. Sazerac has used the FIRE Component Marks in commerce prior to Applicant's filing date of February 28, 2011.

5. Upon information and belief, Sazerac alleges that on February 28, 2011, Applicant filed an application to register the mark RUM FIRE in connection with International Class 33. Applicant seeks registration in connection with an alcoholic beverage, namely, “rum.”

6. Applicant’s Mark is likely to be confused with and mistaken for Sazerac’s distilled spirits products marketed under the FIRE Component Marks because Applicant’s Mark is confusingly similar in sight, sound, meaning, and commercial impression to Sazerac’s FIRE Component Marks.

7. Applicant’s Mark is intended for use in connection with products that overlap with and are related to Sazerac’s products used in connection with its FIRE Component Marks.

8. Applicant’s targeted customer base overlaps with the consumers of Sazerac’s alcoholic beverages and distilled spirits products.

9. As Applicant’s goods description contains no restrictions or limitations as to Applicant’s channels of trade, Sazerac may assume that Applicant’s Mark, like Sazerac’s own FIRE Component Marks, will be used in all accepted channels of trade. Therefore, in addition to overlapping consumer bases, Applicant’s intended channels of trade for its alcoholic beverage products overlap with channels of trade used by Sazerac in marketing, selling, and otherwise distributing its alcohol-based products marketed under its FIRE Component Marks.

10. If Applicant is permitted to register Applicant’s 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 FIRE Component Marks would likely perceive Applicant’s products as associated with, affiliated with, or sponsored by Sazerac. Such confusion would inevitably result in damage to Sazerac.

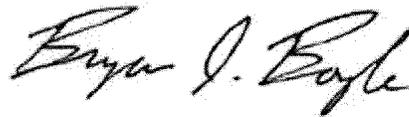
11. Sazerac's customers and the relevant public are likely to misapprehend Applicant's Mark as a Sazerac mark rather than a mark of Applicant and/or believe in error that goods offered under the Applicant's Mark are offered by, in association with, or under license from Sazerac.

12. Any defect, objection to, or fault found with Applicant's beverages marketed under its RUM FIRE mark would necessarily reflect on and seriously injure the reputation that Sazerac has established for its alcoholic beverage products.

13. 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 its RUM FIRE mark, all to the detriment of Sazerac.

14. Wherefore, Sazerac prays that this Opposition be sustained and that Application Serial No. 85/254,099 be denied and refused registration.

Cooley LLP



Dated: July 10, 2012

By: _____

Bryan J. Boyle, Esq.
Attorneys for Opposer
777 6th Street, NW Suite 1100
Washington, DC 20001
(650) 843-5000

CERTIFICATE OF SERVICE

I hereby certify that on the date below, I mailed the foregoing **NOTICE OF OPPOSITION** regarding Everglades Farms, Ltd. to Applicant and attorney for 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:

Everglades Farms, Ltd.
21 Central Ave.
Kingston 10
JAMAICA

and

Shawn K. Look
Look Law Firm, PLLC
P.O. Box 364
Eudora, AR 71640-0364

Date: July 10, 2012



Maria Weiland

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