

ESTTA Tracking number: **ESTTA529264**

Filing date: **03/28/2013**

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	Leblon Holdings LLC		
Entity	limited liability company	Citizenship	Delaware
Address	41 West 25th Street, Fifth Floor New York, NY 10010 UNITED STATES		

Attorney information	Lora A. Moffatt Salans LLP Rockefeller Center, 620 Fifth Avenue New York, NY 10020 UNITED STATES lmoffatt@salans.com, thicks@salans.com, Trademarks@salans.com Phone:212-632-8436
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Applicant Information

Application No	85776139	Publication date	02/26/2013
Opposition Filing Date	03/28/2013	Opposition Period Ends	03/28/2013
Applicant	Liquid Evolutions LLC 48 Union Street #1C Stamford, CT 06906 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Alcoholic beverages except beers; Prepared alcoholic cocktails
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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.	3119488	Application Date	01/19/2005
Registration Date	07/25/2006	Foreign Priority Date	NONE
Word Mark	LEBLON		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2005/09/02 First Use In Commerce: 2005/10/04 Cachaça, namely, Brazilian rum

U.S. Registration No.	3783397	Application Date	03/12/2009
Registration Date	05/04/2010	Foreign Priority Date	NONE
Word Mark	LEBLON		
Design Mark			
Description of Mark	The mark consists of the word leblon vertically and in the middle of a twin-peaked mountain. To the left of the twin-peaks, there is a lower mountain with a flat top and to right of the twin-peaks, there is another mountain with a flat top that is lower than the mountain on the left.		
Goods/Services	Class 033. First use: First Use: 2005/09/02 First Use In Commerce: 2005/10/04 Cachaça, namely, Brazilian rum		

Attachments	78550330#TMSN.jpeg (1 page)(bytes) 77689818#TMSN.jpeg (1 page)(bytes) LEBLVDOPPOSITION.pdf (10 pages)(853031 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	/lora a moffatt/
Name	Lora A. Moffatt

Date	03/28/2013
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial No. 85776139

For the mark LEBLVD

Published in the Official Gazette on February 26, 2013

LEBLON HOLDINGS LLC,

:

Opposer,

:

v.

:

Opposition No.

LIQUID EVOLUTIONS,

:

Applicant.

:

NOTICE OF OPPOSITION

LEBLON HOLDINGS LLC, a Delaware limited liability company with a place of business located at 41 West 25th Street, Fifth Floor, New York, New York 10010 (“Opposer”), believes that it will be damaged by the registration of the mark shown in the above-identified application, and hereby opposes the same. The grounds for opposition are as follows:

1. Since at least as early as October 4, 2005, Opposer has manufactured, distributed, marketed, and sold cachaça, a distilled alcoholic beverage made from sugar cane, under the trademark LEBLON. Cachaça is also known as Brazilian rum.
2. Opposer owns two U.S. Trademark Registrations for the mark LEBLON and LEBLON and Design in connection with “cachaça, namely, Brazilian rum” in International Class 33: U.S. Trademark Registration No. 3,119,488 and U.S. Trademark Registration No. 3,783,397 (collectively, “the LEBLON Marks”). Opposer’s cachaça is distributed, marketed, and sold throughout the fifty states in over 10,000 establishments,

including major restaurants, bars, supermarkets, pharmacies, specialty shops, and hotels, such as Cheesecake Factory, P. F. Chang's, House of Blues, Morton's, Outback Steakhouse, Target, Safeway, Walgreens, Beverages & More, Fairmont Hotels, Hyatt Hotels, Marriott Hotels, Ritz Carlton Hotels, Westin Hotels, and W Hotels.

3. Each of the LEBLON Marks is valid, subsisting and in full force and effect. True and correct copies of TESS printouts from the www.uspto.gov web site showing Opposer's current ownership status of each of the LEBLON Marks are attached hereto as Exhibit A.

4. Since its first use of the LEBLON trademark for cachaça, Opposer has extensively advertised and promoted its goods under the LEBLON Marks throughout the United States and worldwide. Goods produced under the LEBLON Marks are advertised in nationally and internationally recognized magazines and newspapers including *The Wall Street Journal*, *The New York Times*, *USA Today*, *Wallpaper*, *GQ*, *Time Out New York*, *Maxim*, *Wine and Spirits Magazine*, and *Bartender* magazine. Opposer's LEBLON cachaça has won numerous accolades from the international spirits industry and received consistent top honors, including the prestigious Double Gold award in 2007 at the San Francisco World Spirits Competition, the Best of Class Award at the Rum Experience International Tasting Competition in London and the 2006 Beverage Tasting Institute's Gold Medal. As a result, the LEBLON Marks have become well known and are identified in the minds of the public and in the trade as evidencing goods that emanate from Opposer.

5. Notwithstanding Opposer's prior rights in the LEBLON Marks, on November 9, 2012, applicant Liquid Evolutions ("Applicant") filed an intent-to-use

application, Serial No. 85776139, to register LEBLVD (“Applicant’s Mark”) for use in connection with “alcoholic beverages except beers; prepared alcoholic cocktails” in International Class 33 (the “Application”).

6. Applicant’s Mark, when used in conjunction with Applicant’s goods, so resembles the LEBLON Marks as to cause confusion or cause mistake, or to deceive as to the source of origin or sponsorship of Applicant’s goods with consequent injury to Opposer and the public.

7. Applicant’s goods are the same as Opposer’s. Thus, Applicant’s Mark is confusingly similar to the LEBLON Marks and trades off the substantial goodwill established by Opposer.

8. Individuals familiar with the LEBLON Marks are likely, upon seeing Applicant’s Mark, to ascribe a common source of origin or sponsorship to the LEBLON Marks. Applicant’s Mark leaves substantially the same commercial impression as the LEBLON Marks, even though Opposer is not connected in any way with Applicant.

9. Upon information and belief, Applicant has not made any use of Applicant’s Mark in connection with the goods identified in the Application prior to November 9, 2012, the filing date of the Application. Applicant’s filing date is well after the date Opposer began using the LEBLON Marks in commerce.

10. The Application for LEBLVD should be refused in accordance with Section 2(d) of the Trademark Act of 1946, 15 U.S.C. §1052(d).

WHEREFORE, Opposer believes that it would be damaged by registration of Applicant's Mark and prays that this opposition be sustained and that the Application be denied registration.

Dated: New York, New York
March 28, 2013

SALANS LLP

By: 

Lora A. Moffatt, Esq.
Tanya D. Hicks, Esq.
620 Fifth Avenue
New York, NY 10020
Phone: (212) 632-5500
Fax: (212) 632-5555

Attorney for Opposer
LEBLON HOLDINGS LLC

EXHIBIT A



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LEBLON

Word Mark LEBLON
Goods and Services IC 033. US 047 049. G & S: Cachaça, namely, Brazilian rum. FIRST USE: 20050902. FIRST USE IN COMMERCE: 20051004
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 78550330
Filing Date January 19, 2005
Current Basis 1A
Original Filing Basis 1B
Published for Opposition May 2, 2006
Registration Number 3119488
Registration Date July 25, 2006
Owner (REGISTRANT) LEBLON HOLDINGS LLC LIMITED LIABILITY COMPANY DELAWARE 899 CASSATT ROAD 400 BERWYN PARK SUITE 115 BERWYN PENNSYLVANIA 19312
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Claudia Cantarella
Type of Mark TRADEMARK
Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).
Live/Dead Indicator LIVE

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- | | | | | | | | | | |
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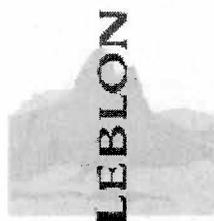
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Word Mark LEBLON
Goods and Services IC 033. US 047 049. G & S: Cachaça, namely, Brazilian rum. FIRST USE: 20050902. FIRST USE IN COMMERCE: 20051004
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code 06.01.04 - Mountains (landscapes); Scenery with mountains
 20.03.10 - Bottle labels; Labels for bottles
Trademark ART-20.03 Paper goods; documents
Search Facility BLDG-AND-SCEN A type of building or a type of scenery
Classification Code SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons
Serial Number 77689818
Filing Date March 12, 2009
Current Basis 1A
Original Filing Basis 1A
Published for Opposition February 16, 2010
Registration Number 3783397
Registration Date May 4, 2010
Owner (REGISTRANT) Leblon Holdings LLC LIMITED LIABILITY COMPANY DELAWARE 151 West 25th

Street, 6th Floor New York NEW YORK 10001

Attorney of Record

Claudia Cantarella

Prior Registrations

3119488;3587093

Description of Mark

Color is not claimed as a feature of the mark. The mark consists of the word leblon vertically and in the middle of a twin-peaked mountain. To the left of the twin-peaks, there is a lower mountain with a flat top and to right of the twin-peaks, there is another mountain with a flat top that is lower than the mountain on the left.

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live/Dead Indicator

LIVE

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LEBLON HOLDINGS LLC, :

Opposer, :

v. : **Opposition No.**

LIQUID EVOLUTIONS, :

Applicant. :

CERTIFICATE OF SERVICE BY FIRST-CLASS MAIL

I hereby certify that a true and correct copy of the foregoing NOTICE OF
OPPOSITION in the above matter, is being deposited with the United States Postal Service as
First-Class mail, postage paid, in an envelope addressed to Brad M. Behar, Brad M. Behar &
Associates, PLC, 94 2nd St., Mineola, New York 11501-3008, on this 28th day of March
2013.



Margaret Ajitsingh