

ESTTA Tracking number: **ESTTA549483**

Filing date: **07/19/2013**

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	Sazerac Company, Inc.
Granted to Date of previous extension	08/21/2013
Address	3850 N. Causeway Blvd., Suite 1695 Metairie, LA 70002 UNITED STATES

Attorney information	Todd S. Bontemps Cooley LLP 1299 PENNSYLVANIA AVE NW STE 700 Washington, DC 20004 UNITED STATES tbontemps@cooley.com,jpo@cooley.com,trademarks@cooley.com
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Applicant Information

Application No	85553951	Publication date	04/23/2013
Opposition Filing Date	07/19/2013	Opposition Period Ends	08/21/2013
Applicant	Sidney Frank Importing Co., Inc. 20 Cedar Street, Suite 203 New Rochelle, NY 10801 UNITED STATES		

Goods/Services Affected by Opposition

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

The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark is deceptively misdescriptive	Trademark Act section 2(e)(1)

Attachments	SD-#856980-v2-Sazerac_Notice_of_Opposition_re_JUST_VODKA.pdf(79467 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	/TSB5/
Name	Todd S. Bontemps
Date	07/19/2013

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

In the matter of application Serial No. 85/553,951
For the Trademark JUST VODKA
Published in the Official Gazette on April 23, 2013

SAZERAC COMPANY, INC.)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
SIDNEY FRANK IMPORTING CO., INC.)	
)	
Applicant.)	
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NOTICE OF OPPOSITION

Opposer Sazerac Company, Inc. (“Sazerac”), a Louisiana corporation having its principal place of business at 3850 N. Causeway Blvd., Suite 1695, Metairie, Louisiana 70002, will be damaged by the issuance of a registration for the mark JUST VODKA (the “Applicant’s Mark”), as applied for in Application Serial No. 85/553,951 filed on February 27, 2012 by Applicant Sidney Frank Importing Co., Inc. (“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.

2. Upon information and belief, Sazerac alleges that on February 27, 2012 Applicant filed an Application to register the mark JUST VODKA on an intent-to-use basis (Section 1(b)). Applicant seeks registration in connection with “Vodka.”

3. When used on or in connection with the applicable goods set forth in Applicant’s application, Applicant’s Mark will reasonably be understood by consumers as a product descriptor rather than as a trademark or product source identifier.

4. Upon information and belief, the words “Just Vodka” are merely descriptive of the type of spirit–vodka–that comprises the applicable goods. Applicant’s Mark will reasonably be understood by consumers to describe goods containing just vodka with no other additives.

5. On information and belief, Applicant’s mark is not inherently distinctive, and has not become distinctive of Applicant’s goods or services in commerce. Applicant has not acquired secondary meaning in the mark JUST VODKA for its applicable goods.

6. Applicant’s mark will interfere with the rights of others affiliated with the alcohol industry in identifying their goods, namely as just vodka.

7. 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 beverage industry.

8. Alternatively, if Applicant intends to sell alcoholic products under the JUST VODKA mark other than just vodka, then Applicant’s Mark will be deceptively misdescriptive of Applicant’s goods.

9. The proposed mark in this case would be misdescriptive due to the fact that consumers would immediately relate applicant's goods to ones produced by a distiller of only vodka. It is likely that consumers will expect a mark comprised of the words "Just Vodka" to be used in connection with only vodka and nothing else.

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

11. Wherefore, for all the foregoing reasons Sazerac prays that this Opposition be sustained and that Application Serial No. 85/553,951 be denied and refused registration.

COOLEY LLP

Date: July 19, 2013

By: /John Paul Oleksiuk/
Todd S. Bontemps, Esq.
John Paul Oleksiuk
Attorneys for Opposer
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Suite 700
Washington, DC 20004
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CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2013, I mailed the foregoing NOTICE OF OPPOSITION to Counsel 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:

EDWARD E. VASSALLO
FITZPARTICK, CELLA, HARPER & SCINTO
1290 AVENUE OF THE AMERICAS FL 17
NEW YORK, NEW YORK 10104-3800
UNITED STATES

Date: July 19, 2013

/John Paul Oleksiuk/
John Paul Oleksiuk