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

Proceeding	91212861
Party	Plaintiff Fairmont Holdings, Inc.
Correspondence Address	KIM KOLBACK LAW OFFICES OF KIMBERLY KOLBACK 1395 BRICKELL AVE, SUITE 800 MIAMI, FL 33131 UNITED STATES kim@kkolbacklaw.com
Submission	Other Motions/Papers
Filer's Name	Kim Kolback
Filer's e-mail	kim@kkolbacklaw.com, jhousey@symbus.com
Signature	/s/Kim Kolback/
Date	09/02/2014
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**IN THE UNITED STATES PATENT AND TRADEMARK
OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

FAIRMONT HOLDINGS, INC.,
a Florida Corporation,

Opposer/Registrant,

vs.

Opposition No. 91212861
Application Serial No.: 85859951
Word Mark: DEWAR'S LIVE TRUE

BACARDI & COMPANY LIMITED,
a Liechtenstein Company,

Applicant/Petitioner.

EMERGENCY MOTION FOR PROTECTIVE ORDER AND SUPPORTING
MEMORANDUM OF LAW

Opposer, Fairmont Holdings, Inc., by and through its undersigned counsel, files this Emergency Motion For Protective Order, and Supporting Memorandum Of Law, and states as follows:

GENERAL FACTS

On August 22, 2014, Applicant BACARDI & COMPANY LIMITED served its: a) Notice of Taking Deposition of Fairmont Holdings, Inc.; b) Notice of Taking Deposition of Ralph Montero; and, c) Notice of Taking Deposition of Alan Rubin . The first deposition is scheduled for September 3, 2014.

Opposer intended to attend the depositions, as scheduled, and in fact, undersigned Counsel and Opposer had a meeting scheduled today to prepare for the depositions.

Late yesterday evening (at approximately 1:00 A.M.), Opposer's principle, Alan Rubin, learned of a serious infringement by Applicant of Opposer's registered and common law trademarks in the United States, in addition to other acts constituting unfair and deceptive trade practices. At the conference scheduled today (to prepare for the depositions), after discussing these acts and activities, Opposer determined that it would immediately file a federal court proceeding against

Applicant for an injunction, for infringement, for unfair and deceptive trade practices, among other causes of action. This federal court proceeding would address and likely resolve all matters before the Trademark Trial And Appeal Board in this proceeding. Upon the filing of the federal court proceeding, pursuant to 37 CFR 2.117, Opposer intends to request that the Board suspend this proceeding until the federal court proceeding is resolved.

MEMORANDUM OF LAW

Rule 412.01 of the Trademark Trial and Appeal Board Manual of Procedure provides that “On motion, showing good cause, by a party from which discovery is sought, the Board may make any order which justice requires to protect a party from annoyance, embarrassment, oppression, *or undue burden or expense*, Opposer apologizes to the Board and opposing Counsel for the emergency nature of this motion; however, in light of the recent events prompting Opposer’s imminent federal court proceeding, which would cover the issues raised in this matter, it would be unduly burdensome and expensive to proceed with the depositions at this time, since these depositions will undoubtedly be conducted in the impending federal court proceeding.

CONCLUSION

Accordingly, pursuant to TBMP Rule 412.01, Opposer requests that the Board grant this Protective Order.

I hereby certify that a true and correct copy of the above and foregoing is being submitted electronically, via the Electronic Filing System, with the Trademark Trial And Appeal Board, on September 2, 2014. I further certify that a true and correct copy of the above and foregoing was served electronically (per agreement) on September 2, 2014 upon Janice Housey, Symbus Law Group, PO Box 11085, McLean, VA 22102-7985, jhousey@symbus.com.

Respectfully submitted,
Law Offices Of Kimberly Kolback, Attorney for Opposer
1395 Brickell Ave., Suite 800
Miami, Florida 33131
Direct: (305)858-2627/ kim@kkolbacklaw.com

By: /s/ Kim Kolback
KIMBERLY KOLBACK