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

Proceeding	91214312
Party	Defendant Midway Trading Corp.
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Submission	Answer
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Date	02/17/2014
Attachments	TANDUAY Answer.pdf(23461 bytes)

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

In re Application Serial No. 85834409
For the Mark TANDUAY
Published in the *Official Gazette* on July 16, 2013

DIAGEO BRANDS B.V.,

Opposer,

v.

Opposition No. 91214312

MIDWAY TRADING CORP.,

Applicant.

ANSWER TO NOTICE OF OPPOSITION

Midway Trading Corp., a California corporation with an address at 130 Battery Street, San Francisco, CA 94111 (hereafter “Applicant”), responds to the Notice of Opposition against the above-referenced trademark application as follows:

1. Applicant admits the allegations in Paragraph 1 on information and belief.
2. Applicant admits that Opposer and its predecessors have used the mark TANQUERAY in connection with gin for a number of years. Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 2 and therefore denies the same.
3. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 3 and therefore denies the same.

4. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 4 and therefore denies the same.

5. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 5 and therefore denies the same.

6. Applicant admits that the TESS database on the USPTO website indicates that Opposer is the owner of the cited registrations covering the goods listed by Opposer and claiming the dates of first use as stated. Applicant further admits that the TESS database shows that Opposer has filed Section 15 declarations for each of these registrations.

7. Applicant admits the allegations of Paragraph 7.

8. Applicant admits the allegations of Paragraph 8.

9. Applicant admits that it filed the application for TANDUAY on January 28, 2013, based on use in commerce since March 29, 2012, and that this date is after the claimed first use dates for Opposer's TANQUERAY marks cited in Paragraph 6.

Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 9 and, therefore, denies the same.

10. Applicant denies the allegations in Paragraph 10.

11. Applicant denies that dry gin, gin, or vodka are identical to rum, or that any of such goods are sufficiently related to rum as to give rise to a likelihood of confusion

in the context of the respective marks. Applicant admits the remaining the allegations of Paragraph 11.

12. Applicant admits the allegations of Paragraph 12 upon information and belief.

13. Applicant denies the allegations in Paragraph 13.

14. Applicant denies the allegations in Paragraph 14.

15. Applicant denies the allegations in Paragraph 15.

16. Applicant denies the allegations in Paragraph 16.

WHEREFORE, Applicant respectfully requests that this Opposition be denied and that Application Serial No. 85834409 be allowed to proceed to registration.

Please direct all correspondence to Julia C. Archer and Rodrick J. Enns at Enns & Archer LLP, 939 Burke Street, Winston-Salem, NC 27101, 336-723-5180, jarcher@ennsandarcher.com, renns@ennsandarcher.com.

Respectfully submitted via ESTTA, this the 17th day of February, 2014.

ENNS & ARCHER LLP

A handwritten signature in black ink that reads "Julia C. Archer". The signature is written in a cursive style with a long horizontal flourish at the end.

Julia C. Archer
Rodrick J. Enns

Attorneys for Applicant Midway Trading
Corp.

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CERTIFICATE OF SERVICE

I hereby certify that on this date I served the foregoing ANSWER TO NOTICE OF OPPOSITION upon counsel of record by depositing a copy thereof in the United States mail, first class, postage prepaid and addressed to:

Evan Gourvitz
Diageo North America, Inc.
801 Main Avenue
Norwalk, CT 06851

This the 17th day of February, 2014.

/Julia C. Archer/
Julia C. Archer

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