

ESTTA Tracking number: **ESTTA619905**

Filing date: **08/06/2014**

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	08/06/2014
Address	3850 N. Causeway Blvd., Suite 1695 Metairie, LA 70002 UNITED STATES

Attorney information	Timothy D. Hance Cooley LLP 1299 Pennsylvania Avenue, NW, Suite 700 Washington, DC 20004 UNITED STATES trademarks@cooley.com, thance@cooley.com, tbontemps@cooley.com Phone:3108836400
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Applicant Information

Application No	86099955	Publication date	04/08/2014
Opposition Filing Date	08/06/2014	Opposition Period Ends	08/06/2014
Applicant	Daiquiri Ice, LLC 713 Helios Street Metairie, LA 70005 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Alcoholic beverages containing fruit; Alcoholic beverages, namely, daiquiris; Alcoholic cocktails in the form of frozenpops; Alcoholic fruit cocktail drinks

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.	3362465	Application Date	07/21/2006
Registration Date	01/01/2008	Foreign Priority Date	NONE
Word Mark	THE SPIRIT OF NEW ORLEANS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1970/02/15 First Use In Commerce: 1970/02/15 LIQUEUR PREPARED FROM HERBS AND DISTILLED SPIRITS

U.S. Registration No.	4109617	Application Date	06/28/2010
Registration Date	03/06/2012	Foreign Priority Date	NONE
Word Mark	SPIRIT OF THE FRENCH QUARTER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2011/12/00 First Use In Commerce: 2011/12/00 Alcoholic beverages, namely, liqueur, whiskey and vodka		

Attachments	78934521#TMSN.png(bytes) 85072710#TMSN.png(bytes) Notice of Opposition re TASTE OF NEW ORLEANS.pdf(23817 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	/Timothy D. Hance/
Name	Timothy D. Hance
Date	08/06/2014

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

In the matter of application Serial No. 86/099,955
For the Trademark THE TASTE OF NEW ORLEANS
Published in the Official Gazette on April 8, 2014

SAZERAC COMPANY, INC.)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
DAIQUIRI ICE, LLC)	
)	
Applicant.)	
_____)	

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 THE TASTE OF NEW ORLEANS (the “Applicant’s Mark”), as applied for in Application Serial No. 86/099,955 filed on October 24, 2013 by Applicant Daiquiri Ice, LLC, a Louisiana limited liability company (“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 vodkas, whiskeys, tequilas, and specialty 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 its famous HERBSAINT-branded liqueurs under THE SPIRIT OF NEW ORLEANS mark for over forty years. By virtue of its efforts and by virtue of the excellence of the underlying products, the public has come to know, rely on, and recognize THE SPIRIT OF NEW ORLEANS as a source identifier for Sazerac's liqueurs and distilled spirits. Sazerac has gained valuable reputation and a substantial amount of goodwill through the use and recognition of this mark.

3. Sazerac owns the following United States trademark registrations:

THE SPIRIT OF NEW ORLEANS (Reg. No. 3,362,465), issued January 1, 2008 for "liqueur prepared from herbs and distilled spirits"; and

SPIRIT OF THE FRENCH QUARTER (Reg. No. 4,109,617), issued March 6, 2012 for "alcoholic beverages, namely, liqueur, whiskey and vodka" (referred to collectively as Sazerac's "SPIRIT Marks").

4. Upon information and belief, Sazerac alleges that on October 24, 2013 Applicant filed an application to register the mark THE TASTE OF NEW ORLEANS on an intent to use basis in connection with "alcoholic beverages containing fruit; Alcoholic beverages, namely, daiquiris; Alcoholic cocktails in the form of frozen pops; Alcoholic fruit cocktail drinks."

5. Sazerac's SPIRIT Marks have priority through use in commerce and/or a filing date prior to Applicant's filing date of October 24, 2013.

6. Applicant's Mark is likely to be confused with and mistaken for Sazerac's liqueurs and distilled spirits marketed under its SPIRIT Marks because Applicant's Mark is similar to Sazerac's SPIRIT Marks similar in sight, sound, meaning, and commercial impression.

7. Applicant's Mark is intended for use in connection with products that overlap with and are related to products Sazerac offers under Sazerac's SPIRIT Marks, namely alcoholic beverages and liqueurs.

8. Applicant's targeted customer base overlaps with the consumers of Sazerac's alcoholic beverages.

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 SPIRIT 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 alcohol-based products overlap with channels of trade used by Sazerac in marketing, selling, and otherwise distributing its alcohol-based products marketed under Sazerac's SPIRIT 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 marks would likely perceive Applicant's products as associated or 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 goods marketed under Applicant's THE TASTE OF NEW ORLEANS mark would necessarily reflect on and seriously injure the reputation that Sazerac has established for its alcoholic beverage products.

13. Sazerac's THE SPIRIT OF NEW ORLEANS mark has become famous and distinctive as a result of its forty-four years of use in commerce in connection with Sazerac's HERBSAINT product line.

14. 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.

15. Wherefore, Sazerac prays that this Opposition be sustained and that Application Serial No. 86/099,955 be denied and refused registration.

COOLEY LLP

Date: August 6, 2014

By: /s/ Timothy D. Hance

Todd S. Bontemps, Esq.
Timothy D. Hance, Esq.
Attorneys for Opposer
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Suite 700
Washington, DC 20004
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CERTIFICATE OF SERVICE

I hereby certify that on August 6, 2014, I mailed the foregoing NOTICE OF OPPOSITION regarding Sazerac Company, Inc. v. Daiquiri Ice, LLC to correspondent 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:

MARIE BREAU
M BREAU INTELLECTUAL PROPERTY LAW LLC
700 Camp Street
Suite 418
New Orleans, LOUISIANA 70130

Date: August 6, 2014

By: /s/ Timothy D. Hance
Timothy D. Hance