

ESTTA Tracking number: **ESTTA692775**

Filing date: **08/31/2015**

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	Mas Cantinas LLC
Granted to Date of previous extension	10/21/2015
Address	147 DEL ORO LAGOON Navaro, CA 94948 UNITED STATES

Attorney information	JOHN L. HALLER GORDON & REES LLP 101 WEST BROADWAY, SUITE 1600 SAN DIEGO, CA 92101 UNITED STATES ipdocket@gordonrees.com, jhaller@gordonrees.com, kknapp@gordonrees.com
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Applicant Information

Application No	86518323	Publication date	06/23/2015
Opposition Filing Date	08/31/2015	Opposition Period Ends	10/21/2015
Applicants	Johnny D. Gabriel 104 Lou Jon San Antonio, TX 78213 UNITED STATES Rosalie Gabriel 104 Lou Jon San Antonio, TX 78213 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 except beers

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
Genericness	Trademark Act section 23

Attachments	MEZQUILA Notice of Opposition 2015-08-31.pdf(311998 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 Overnight Courier on this date.

Signature	/John L. Haller/
Name	JOHN L. HALLER
Date	08/31/2015

2. Opposer has filed applications for United States federal trademark registrations with the United States Patent and Trademark Office, Serial Number 86/609601 for the mark SANTO ESPIRITU MEZQUILA and Serial Number 86/609616 for the mark SANTO MEZQUILA (hereinafter, together, “Opposer’s U.S. Applications”).

3. Opposer received office actions on Opposer’s U.S. Applications issued August 4, 2015, notifying Opposer that its applications may be barred by prior-pending application 86/18323, the subject of this Notice of Opposition. The Examining Attorney stated that after receipt of response to the office actions, the applications may be suspended pending final disposition of the earlier-filed reference application.

4. Applicant’s mark MEZQUILA, Serial No. 86/518323, (hereinafter “Applicant’s Mark”), is merely descriptive and has not acquired distinctiveness sufficient for registration on the Principal Register, as indicated by the fact that the application is an intent-to-use application.

5. Applicant’s Mark is also generic for liquor goods containing mezcal and tequila and is merely a combination or telescoping of dominant portions of those well-known generic terms.

6. Registration of Applicant’s Mark will provide statutory presumptions inconsistent with the rights of Opposer to use and register Opposer’s Mark in the United States, thus damaging Opposer.

7. The services purported to be provided by Applicant are identical and/or highly related to those provided by Opposer, specifically, alcoholic beverages, and thus Opposer has sufficient interest in preventing registration of Applicant’s Mark, which is without inherent or acquired distinctiveness.

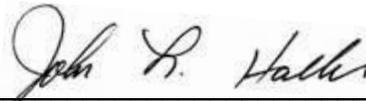
WHEREFORE, Opposer prays that Application Serial No. 86/518,323 be refused and denied registration as Opposer believes and avers that it will be damaged by the registration of Serial No. 86/518,323 filed January 29, 2015, as aforesaid and requests that Applicant be required to answer the allegations of this Notice of Opposition and that the opposition to the said application be sustained.

This Notice of Opposition is being submitted electronically. The required fee is authorized to be charged against the Deposit Account No. 501990 of the Attorney for Opposer.

DATE: August 31, 2015

Respectfully submitted,

GORDON & REES LLP



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Certificate of Mailing by “Federal Express Delivery”

I hereby certify that a copy of this NOTICE OF OPPOSITION is being served by Federal Express service and/or e-mail, to Addressees on August 31, 2015 as follows:

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