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Filing date: **11/06/2015**

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

Proceeding	91224070
Party	Defendant Classic Liquor Importers Ltd.
Correspondence Address	MAX MOSKOWITZ OSTROLENK FABER LLP 1180 AVENUE OF THE AMERICAS FL 7 NEW YORK, NY 10036-8443 tm@ostrolenk.com
Submission	Motion to Suspend for Civil Action
Filer's Name	Max Moskowitz
Filer's e-mail	smcmahon@ostrolenk.com, tm@ostrolenk.com
Signature	/MM/
Date	11/06/2015
Attachments	T-6320-82 - Applicant Motion to Suspend (01832935).PDF(3144837 bytes)

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

In the Matter of Serial No. 86/439,435

-----X
SPIRITS INTERNATIONAL B.V.,

Opposer,

v.

CLASSIC LIQUOR IMPORTERS LTD.,

Applicant.
-----X

Opposition No.: 91224070

MOTION TO SUSPEND FOR CIVIL ACTION

Applicant, Classic Liquor Importers Ltd., by its attorneys Ostrolenk Faber LLP, hereby moves for suspension of these proceedings pursuant to Trademark Rule 2.117(a), 37 C.F.R. § 2.117(a).

Opposer filed its Notice of Opposition on September 28, 2015. But, on August 18, 2015, well prior to the filing date of Opposer's Notice of Opposition, Applicant filed a Complaint for Declaratory Judgment of No Trademark Infringement, and For Cancellation of Trademark Registrations ("Complaint") in the United States District Court for the Southern District of New York against Opposer, Spirits International B.V. The Complaint has been assigned Civil Action No. 15-cv-6503. Applicant subsequently filed its First Amended Complaint for Declaratory Judgment of No Trademark Infringement, and For Cancellation of Trademark Registrations ("First Amended Complaint") on October 28, 2015. A copy of Applicant's First Amended Complaint is attached hereto as Exhibit A.

Count I of the First Amended Complaint seeks a declaration that Applicant's mark does not infringe upon any of Opposer's rights, including Opposer's pleaded registrations. Count II of the First Amended Complaint seeks cancellation of Opposer's pleaded United States Trademark Registrations Nos. 4,537,800 and 4,567,379. A Declaration of Non-Infringement is likely to resolve the issue of likelihood of confusion in this opposition proceeding. Moreover, cancellation of Opposer's pleaded United States Trademark Registrations Nos. 4,537,800 and 4,567,379 would also render Opposer's claim of priority and likelihood of confusion as to those registrations moot. Applicant submits that suspension is especially warranted here to avoid inconsistency.

When a party or parties to an action pending before the Trademark Trial and Appeal Board (the "Board") are involved in a civil action which may have a bearing on the Board proceeding, the Board may suspend the proceeding before its pending determination of the civil action. 37 CFR § 2.117(a); *See General Motors Corp. v. Cadillac Club Fashions Inc.*, 22 USPQ2d 1933, 1936-37 (TTAB 1992); *Toro Co. v. Hardigg Industries, Inc.*, 187 USPQ 689, 692 (TTAB 1975), *rev'd on other grounds*, 549 F.2d 785, 193 USPQ 149 (CCPA 1977); *Other Telephone Co. v. Connecticut National Telephone Co.*, 181 USPQ 125, 126-27 (TTAB 1974); *petition denied*, 181 USPQ 779 (Comm'r 1974); *Tokaido v. Honda Associates Inc.*, 179 USPQ 861, 862 (TTAB 1973). Applicant respectfully requests that these proceedings be suspended since the issues to be resolved in the civil action are likely to have a direct bearing on these proceedings.

Applicant seeks federal registration for the trademark ROYAL ELITE for wines and spirits in International Class 33. Opposer claims that Applicant's mark is confusingly similar to its marks set forth in U.S. Trademark Reg. No. 3,044,248, 4,537,800 and 4,567,379 and that registration of Applicant's mark for wines and spirits is likely to create confusion. By its Notice of Opposition, Opposer requests that the Board order that Application Serial No. 86/439,435 be denied. In the First

Amended Complaint attached hereto as Exhibit A, Applicant seeks a Declaration of Non-Infringement and cancellation of Registration Nos. 4,537,800 and 4,567,379. In view of the issues raised in Applicant's First Amended Complaint, a decision in the civil action will have a direct bearing on the outcome of a Section 2(d) Lanham Act claim before the Board and suspension is appropriate. *Other Telephone Co. v. Connecticut National Telephone Co.*, 181 USPQ 125, 126-27 (TTAB 1974), *pet. denied*, 181 USPQ 779 (Comm'r 1974); *see also Whopper-Burger, Inc. v. Burger King Corp.*, 171 USPQ 805, 806-07 (TTAB 1971).

In view of the above, Opposer, therefore, respectfully requests that these proceedings be suspended pending the disposition of the pending civil action pursuant to Trademark Rule 2.117(a), 37 C.F.R. § 2.117(a).

Date: New York, New York
November 6, 2015

Respectfully submitted,



Max Moskowitz

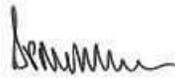
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Attorneys for Applicant

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing **MOTION TO SUSPEND FOR CIVIL ACTION** was served upon counsel for Opposer, this 6th day of November, 2015, by First-Class mail, postage prepaid, addressed as follows:

Kathleen Gallagher-Duff, Esq.
COVINGTON & BURLING LLP
One CityCenter, 850 Tenth Street, N.W.
Washington, D.C. 20001
United States



Sean P. McMahon

EXHIBIT A

Max Moskowitz
Ariel S. Peikes
OSTROLENK FABER, LLP
1180 Avenue of the Americas
New York, New York 10036
Tel. (212) 382-0700
Fax (212) 382-0888
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
CLASSIC LIQUOR IMPORTERS, LTD.,	:
	: Civil Action No. 15cv6503
	: (JSR)
Plaintiff,	:
	:
v.	:
	:
SPIRITS INTERNATIONAL B.V.,	:
	:
Defendant.	:
-----X	

**FIRST AMENDED COMPLAINT FOR DECLARATORY JUDGMENT
OF NO TRADEMARK INFRINGEMENT, AND FOR
CANCELLATION OF TRADEMARK REGISTRATIONS**

Plaintiff, CLASSIC LIQUOR IMPORTERS, LTD., through its counsel and for the complaint against SPIRITS INTERNATIONAL B.V., states as follows:

1. This is an action for a Declaration of no trademark Infringement under the federal Lanham Act, for no unfair competition under the Lanham Act and for cancellation of certain of the Defendant’s trademark registrations.

THE PARTIES

2. Plaintiff CLASSIC LIQUOR IMPORTERS, LTD. ("Classic Liquor") is a New York corporation with an address at 20 West 47th Street, Suite 206B, New York, NY 10036.

3. On information and belief, Defendant Spirits International B.V. ("SPI") is a corporation of Luxembourg with an address at 3, rue du Fort Rheinsheim L-2419 Luxembourg.

JURISDICTION AND VENUE

4. This action arises under the trademark laws of the United States, 15 U.S.C. §§ 1501, et seq., and seeks relief, *inter alia*, under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. This Court has jurisdiction under 28 U.S.C. § 1338(a). Venue is proper in this judicial district under 28 U.S.C. §§1391(c) and 1400(b).

FACTUAL BACKGROUND

5. Classic Liquor was founded over a year ago with the aim of becoming a leading developer, manufacturer, importer and seller of high quality spirits and wines, commencing with a specialty in spirits and, more specifically, the vodka spirit flavor.

6. To date, Classic Liquor has committed millions of dollars in developing its first product, a vodka product, and as part of that investment, invested a large sum of money in selecting and applying to register trademarks in the United States and throughout the world relating to that vodka product and to other future products.

7. Classic Liquor selected as its primary housemark, the name ROYAL ELITE.

8. A trademark application for the name ROYAL ELITE was filed in the United States Patent and Trademark Office (“PTO”) and the application thereof was approved for publication. See **Exhibit A** hereto.

9. Similarly, Classic Liquor filed for the name RE and related logo in the United States and abroad, in the form illustrated. See **Exhibit B**.

10. Similarly, Classic Liquor filed to register the trademark for another RE version of a logo in the United States and abroad, in the form illustrated. See **Exhibit C**.

11. Similarly, Classic Liquor filed for a first specific bottle design for its vodka product and filed an application for trademark registration on the design in the United States and abroad, in the form shown. See **Exhibit D**.

12. In the same vein, Classic Liquor created another bottle design and trademark applications on the specific look and appearance thereof was filed in the United States and abroad. See **Exhibit E**.

13. ROYAL ELITE is presently ready to market five different versions of vodka, including a so-called Royal Elite Luxury Vodka; a Premium Vodka brand; a Supreme Vodka brand; a Gluten-Free Vodka distilled from apricots; and a Royal Elite Gluten-Free Vodka distilled from quinces (the “Royal Elite Vodka Products”).

14. Classic Liquor is ready to distribute the Royal Elite Vodka Products in the United States within a month or so hereof, in unique bottle shapes and several distinguishing trademark and trade dress indicia. See **Exhibit F**.

15. Notwithstanding the care and unique group of trademarks, as noted above, including the special bottle designs that clearly sets the vodka products of Classic Liquor apart from any others that are on the market, Classic Liquor received a cease and desist letter from SPI

dated May 5, 2015, alleging that the use of ROYAL ELITE by Classic Liquor on vodka would infringe on SPI's United States trademark registration nos. 4,537,800; 4,567,379; 3,044,248; and 3,325,498. See **Exhibit G**.

16. In its letter, SPI alleges that the use of the term ROYAL ELITE with "wine and spirits" and many other beverages for that matter, "is likely to cause confusion in the marketplace with SPI's aforementioned trademarks."

17. SPI has further requested that Classic Liquor withdraw its application for the trademark ROYAL ELITE serial no. 86/439,435 and limit the application for the trademark ROYAL ELITE in serial no. 86/521,045 so as to exclude wines and spirits and many other beverages.

18. Thus, SPI asserts infringement of four of its trademarks which are referred to below as the SPI:

- A. "elit stylized" trademark (U.S. Registration No. 4,537,800);
- B. "elit/Flame Design" trademark (U.S. Registration No. 4,567,379);
- C. "Stolichnaya /elit / Russian elit" trademark (U.S. Registration No. 3,044,248); and
- D. "Stolichnaya / elit" trademark (U.S. Registration No. 3,325,498).

19. The Classic Liquor bottles and vodka bottles are not using any flame design, nor the words STOLICHNAYA, nor any Russian letters, nor the term "elit", as in the stylized format shown in SPI's first, second and third SPI trademarks identified above.

20. The Classic Liquor vodka products do not use an elit-stylized form, as shown in SPI's U.S. trademark registration no. 4,537,800. See **Exhibit H**.

21. On May 21, 2015, Classic Liquor responded to SPI's letter (**Exhibit I**), noting that SPI's elit stylized registered trademark has a unique appearance and pronunciation that is different from Plaintiff's approved "ROYAL ELITE" trademark.

22. Importantly, SPI represented to the trademark Examining Attorney in the PTO, in order to obtain its trademark, that the term "elit" has no meaning.

23. Now, SPI has taken the position that the English word "ELITE", which is part of the overall trademark of Classic Liquor ROYAL ELITE, is confusingly similar and has the identical commercial impression as SPI's own trademark "elit."

24. Had SPI applied to register the word ELITE as its trademark for its vodka, it would have had its application rejected because "ELITE", standing alone, would have been considered a merely descriptive term and not registrable pursuant to 15 U.S.C. § 1052(e).

25. Classic Liquor also responded to SPI's letter by stating that Plaintiff's published application for the trademark ROYAL ELITE is indicative of the PTO's consideration and rejections of SPI's assertions herein.

26. Classic Liquor also noted to SPI the simultaneous existence with (SPI's "elit" trademark) of such trademarks as THE PINOT ELITE for alcoholic beverages; the PERRO ELITE mark for distilled spirits; the ELITE ARAK mark for alcoholic beverages; the approval for registration of the trademark ELITIST ITALIAN VODKA for vodka, all in coexistence with SPI's registration and use of the mark "elit". SPI does not own and never was granted the exclusive right to the word "ELITE" for use with vodka.

27. The registration of GOMI ELITE for vodka and its coexistence with SPI's elit (stylized) trademark also bar SPI's assertions against the Plaintiff herein. It was also pointed out to SPI that in the GOMI ELITE registration, the term ELITE was disclaimed as being

descriptive. It was also pointed out that the mark BRANDSELITE for wine and distilled spirits was registered and coexisted with SPI's elit (stylized) registration and that the trademark ELITE OF RUSSIA also, similarly, coexisted with SPI's elit (stylized) registration. Lastly, it was also noted that the trademark RUSSIAN BILLIONAIRE VODKA ELITE CLUB is in the process of being registered for use with vodka.

28. SPI never responded substantively to Classic Liquor's responses presented in its May 21, 2015 letter.

29. Instead, SPI has filed an opposition to Classic Liquor's application to register the trademark ROYAL ELITE in Turkey, without advising Classic Liquor of that filing, as of this date.

30. SPI also retained U.S. counsel, who requested an extension of time to oppose the application for ROYAL ELITE that has been approved and published by the PTO. Then, in SPI's Notice of Opposition, which was filed with the PTO on September 28, 2015, SPI states that: "The words 'Elit' and 'Elite' are identical in sound and *commercial impression*, and are nearly identical in appearance." (emphasis supplied).

31. The sum and totality of the foregoing activities of SPI show that SPI is actively interfering with a business that has already been launched by Classic Liquor to sell a vodka product in unique bottle shapes, accompanied by unique logos and indicia that clearly demarcate the Classic Liquor vodka products from vodka products being marketed by SPI, including the SPI vodka products that are depicted in **Exhibit J** hereto.

32. Without this Court's intervention and determination that Classic Liquor's products do not infringe on any of the trademarks, trade dress or other intellectual property of

SPI, Classic Liquor stands to suffer imminent and severe harm in the marketplace, from the mere allegations and actions of SPI in the various world Trademark Offices and in the marketplace.

COUNT I

**The Designs of Classic Liquor Vodka Bottles and
the Trademarks and Trade Dress Used Thereon
Do Not Infringe any of SPI's Trademarks**

33. This is an action for Declaratory Judgment that Classic Liquor's use of its vodka bottles and various trademarks noted above on its vodka bottles are not likely to cause confusion or to cause mistake or deceive the public with regard to SPI's alleged trademark rights in the term "elit", in any and all four renditions thereof.

34. Classic Liquor repeats and realleges the averment contained in paragraphs 1-32 of this Complaint as if fully set forth herein.

35. On information and belief, any rights that SPI may have in the letters "elit" and its particular style do not extend to nor bar Classic Liquor's use of its vodka products in the form and branding fashion as presented herein.

36. Classic Liquor is under real, imminent threat that SPI will bring suit against it in the immediate future for trademark infringement, together with other related causes of action.

37. By reason of the foregoing, Classic Liquor has suffered and will continue to suffer irreparable harm from SPI, in the manner set forth above unless a Declaratory Judgment issues precluding SPI from interfering with Classic Liquor or taking any other action based upon the aforesaid acts.

38. Classic Liquor has no adequate remedy at law.

COUNT II

Cancellation of SPI's Registrations Nos. 4,537,800 and 4,567,379

39. This is an action for cancellation of SPI's United States trademark registration numbers 4,537,800 and 4,567,379, marks consisting of the letters elit (stylized) (registration no. 4,537,800) and for the letters elit with a flame design in registration no. 4,567,379, pursuant to Section 2(e) of the Lanham Act, 15 U.S.C. § 1052(e), and §14(3) of the Lanham Act, 15 U.S.C. §1064, on the grounds that "elit", according to SPI, has the exact same meaning as "elite", a descriptive term that cannot be registered with the PTO pursuant to 15 U.S.C. § 1052(e).

40. Classic Liquor repeats and realleges the averment contained in paragraphs 1-38 of this Complaint as if fully set forth herein.

41. SPI's United States trademark registrations numbered 4,537,800 and 4,567,379 were registered with the PTO within the past five years and are contestable.

42. SPI previously represented to the trademark Examining Attorney at the PTO that the term "elit" has no meaning.

43. SPI now takes the position that "elit" and "elite" are identical in their commercial impression, and that consumers cannot distinguish between "elit" and the descriptive word "elite."

44. The PTO cannot register descriptive terms, such as "elite" standing alone, that have not acquired secondary meaning. 15 U.S.C. § 1052(e)

45. By reason of the foregoing, the Court must cancel SPI's United States trademark registration nos. 4,537,800 and 4,567,379 because SPI has declared that "elit" is identical to "elite", a merely descriptive term.

46. Classic Liquors has no adequate remedy at law.

WHEREFORE, Plaintiff Classic Liquor prays that judgment be entered:

- A. Declaring that Classic Liquor has not infringed and is not likely to infringe the SPI trademarks in U.S. Trademark Registration nos. 3,044,248, 3,325,498, 4,537,800 and 4,567,379.
- B. Cancelling U.S. Trademark Registrations with nos. 3,044,248 and 3,325,498 for the term “elit” being a merely descriptive term.
- C. Ordering that Classic Liquor be granted such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff Classic Liquor Importers, Ltd. hereby demands a trial by jury in the above captioned action of all issues triable by jury.

Dated: October 28, 2015

Respectfully submitted,

/s/ Max Moskowitz

Max Moskowitz

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Ariel S. Peikes

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Attorneys for Plaintiff

Exhibit A



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ROYAL ELITE

Word Mark ROYAL ELITE
Goods and Services IC 033. US 047 049. G & S: Wines and spirits
Standard Characters
Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 86439435
Filing Date October 30, 2014
Current Basis 1B
Original Filing Basis 1B
Published for Opposition March 31, 2015
Owner (APPLICANT) Classic Liquor Importers Ltd. CORPORATION NEW YORK 20 West 47th Street, Suite 205 New York NEW YORK 10036
Attorney of Record Max Moskowitz
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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Exhibit B



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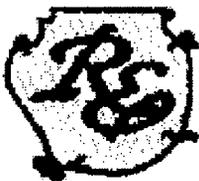
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Word Mark RE

Goods and Services IC 030. US 046. G & S: Tea-based beverages, iced tea

IC 032. US 045 046 048. G & S: Vegetable juices, water beverages, fruit beverages, fruit-based beverages, fruit-flavored beverages, non-alcoholic beer flavor beverages, non-alcoholic beverages, namely, carbonated beverages, non-alcoholic beverages containing fruit juices, non-alcoholic beverages with tea flavor, non-alcoholic sparkling fruit juice beverages, syrups for beverages

IC 033. US 047 049. G & S: Wines and spirits

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 24.01.03 - Shields or crests with letters, punctuation or inscriptions contained therein or superimposed thereon

Serial Number 86521065

Filing Date February 2, 2015

Current Basis 1B

Original Filing Basis 1B

Published

for
Opposition

May 26, 2015

International

Registration Number 1240079

Owner (APPLICANT) Classic Liquor Importers Ltd. CORPORATION NEW YORK 20 West 47th Street, Suite 205 New York NEW YORK 10036

Attorney of Record Max Moskowitz

Description of Mark Color is not claimed as a feature of the mark. The mark consists of the letters "R" and "E" inside a stylized crest.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Exhibit C



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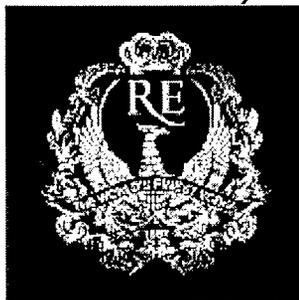
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Word Mark RE THE WORLD'S FINEST VODKA 1867

Goods and Services IC 033. US 047 049. G & S: spirits, namely, vodka

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code

- 03.15.01 - Eagles
- 03.15.19 - Birds or bats in flight or with outspread wings
- 05.05.25 - Daffodils; Iris (flower); Other flowers
- 24.01.02 - Shields or crests with figurative elements contained therein or superimposed thereon
- 24.09.07 - Advertising, banners; Banners
- 24.11.01 - Crowns closed at the top

Serial Number 86705309

Filing Date July 27, 2015

Current Basis 1B

Original Filing Basis 1B

Owner (APPLICANT) Classic Liquor Importers Ltd. CORPORATION NEW YORK 20 West 47th Street, #206B New York NEW YORK 10036

Attorney of Record Max Moskowitz

Description of Mark Color is not claimed as a feature of the mark. The mark consists of a crest surround by flowers with a crown on the top. The letters "RE" above an eagle, with a banner with the wording "THE WORLD'S FINEST VODKA" and 1867 below the eagle.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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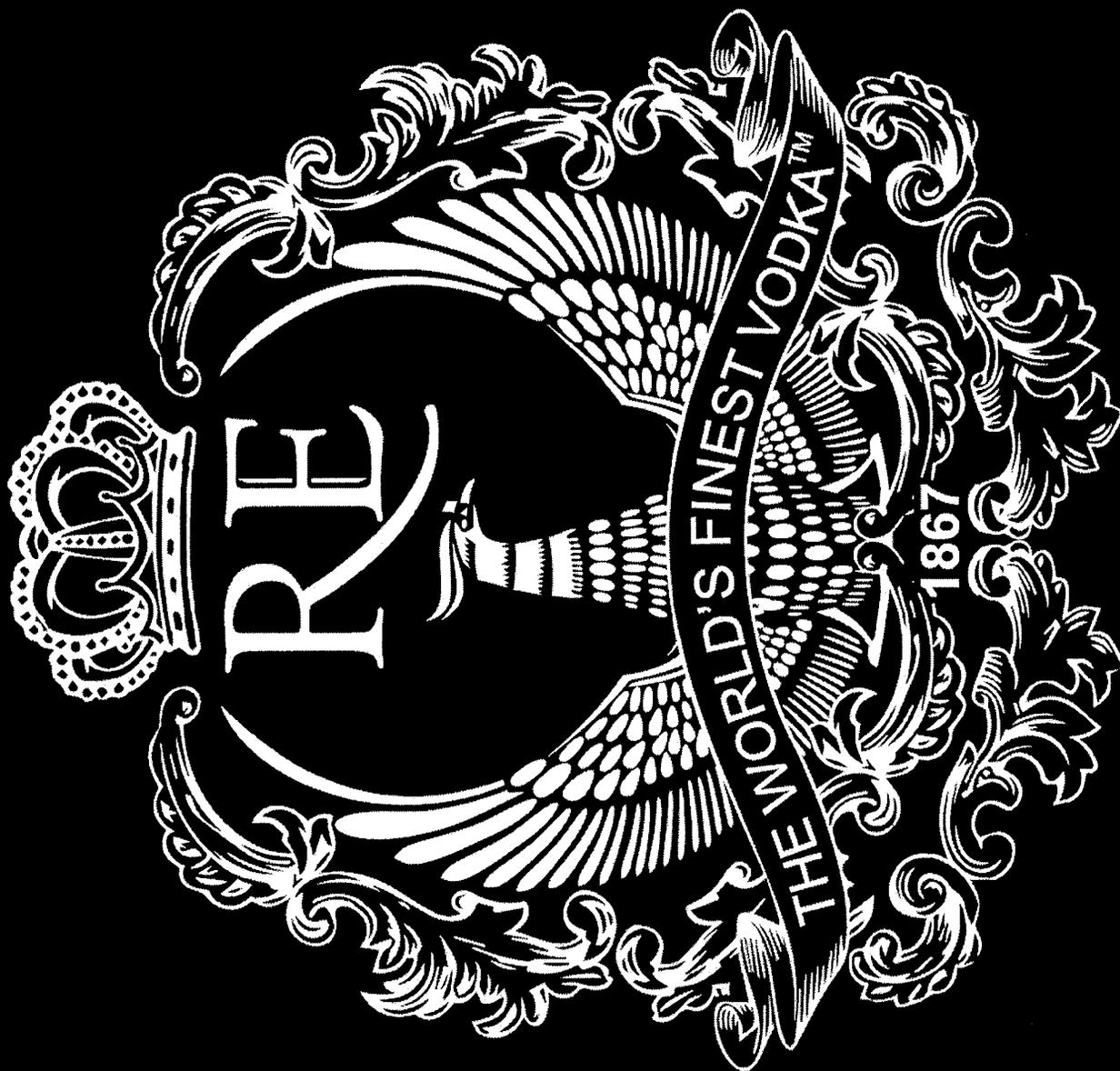


Exhibit D



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Record 1 out of 1

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Goods and Services IC 033. US 047 049. G & S: wines and spirits

Mark Drawing Code (2) DESIGN ONLY

Design Search Code 19.09.02 - Bottles, jars or flasks with bulging, protruding or rounded sides; Flasks with bulging or protruding sides; Jars with bulging or protruding sides

Serial Number 86528609

Filing Date February 9, 2015

Current Basis 1B

Original Filing Basis 1B

International Registration Number 1246926

Owner (APPLICANT) Classic Liquor Importers Ltd. CORPORATION NEW YORK 20 West 47th Street, Suite 205 New York NEW YORK 10036

Attorney of Record Max Moskowitz

Description of Mark Color is not claimed as a feature of the mark. The mark consists of a three-dimensional configuration of a bottle.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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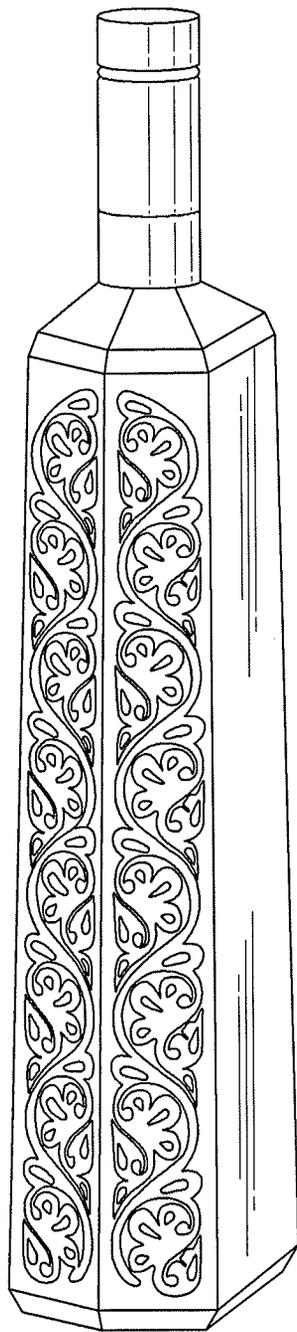


FIG. 1

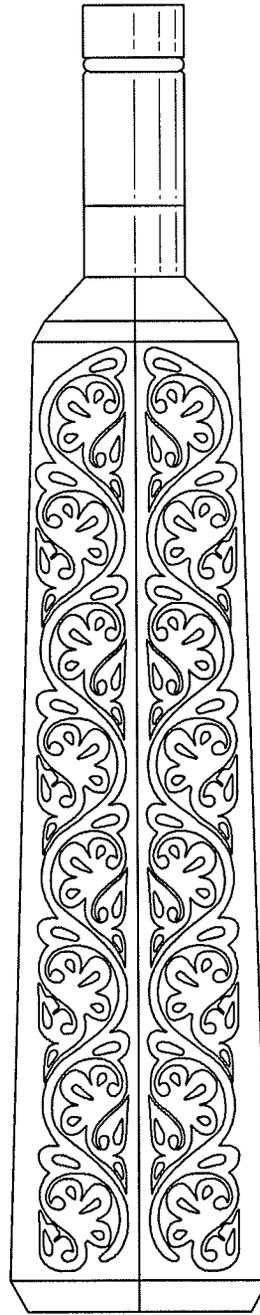


FIG. 2

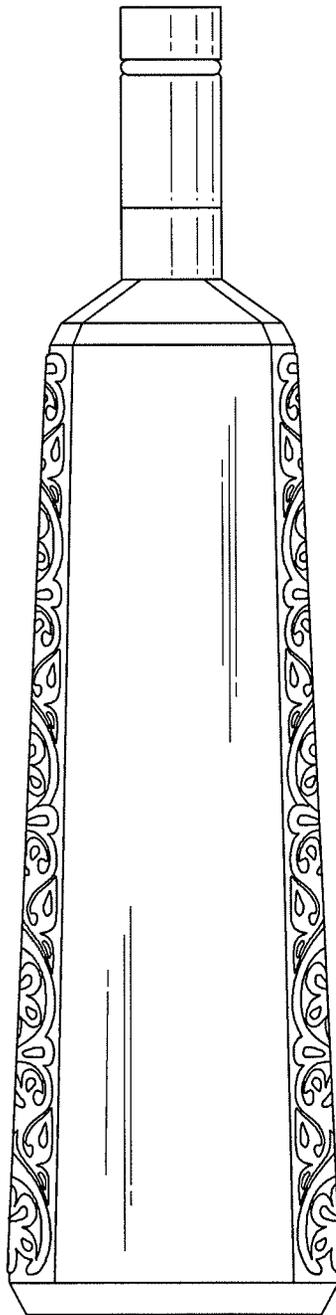


FIG. 3

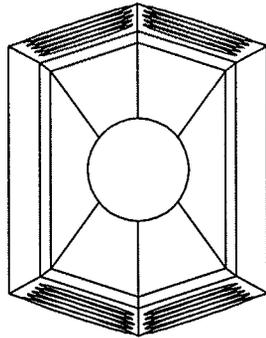


FIG. 4

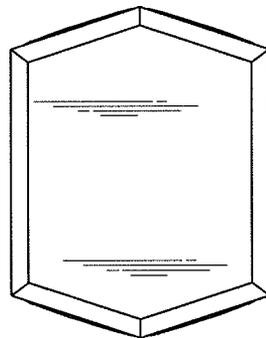


FIG. 5

Exhibit E



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Goods and Services	IC 033. US 047 049. G & S: wines and spirits
Mark Drawing Code	(2) DESIGN ONLY
Design Search Code	19.09.03 - Bottles, jars or flasks with straight, vertical sides; Flasks with straight or vertical sides; Jars with straight or vertical sides
Serial Number	86528623
Filing Date	February 9, 2015
Current Basis	1B
Original Filing Basis	1B
International Registration Number	1246925
Owner	(APPLICANT) Classic Liquor Importers Ltd. CORPORATION NEW YORK 20 West 47th Street, Suite 205 New York NEW YORK 10036
Attorney of Record	Max Moskowitz
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of a three-dimensional configuration of a bottle.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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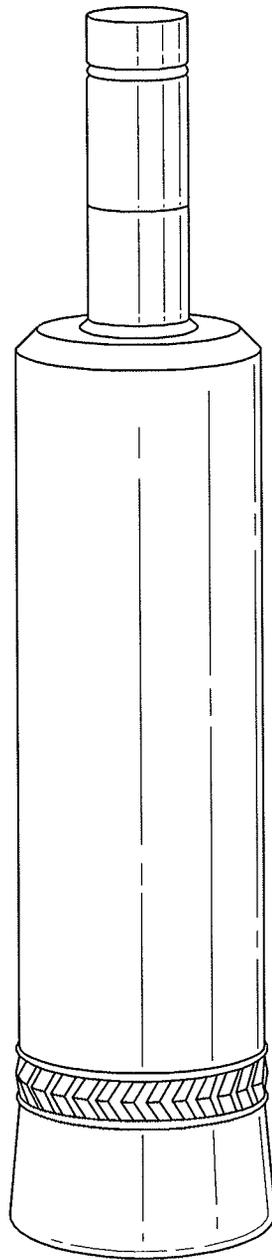


FIG. 1

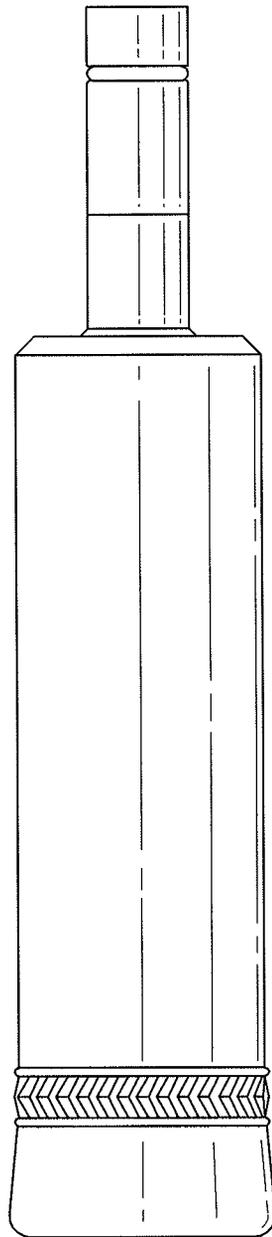


FIG. 2

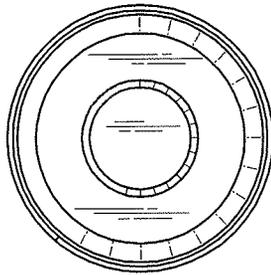


FIG. 3

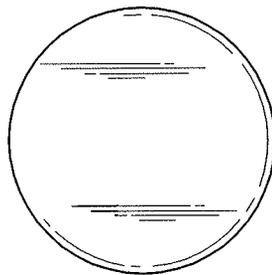


FIG. 4

Exhibit F



Exhibit G

CLASSIC LIQUOR IMPORTERS LTD.

Legal & TM Department
20 West 47th Street, Suite 205
New York
NEW YORK, 10036
UNITED STATES

Nyon, May 5th 2015

**UNITED STATES – CLASSIC LIQUOR IMPORTERS LTD. Trademark applications ROYAL ELITE
(Ser. Nos. 86439435 of October 30, 2014 and 86521045 of February 02, 2015)**

Dear Sirs,

It has been brought to our attention that you have applied for the registration in the United States of the trademarks ROYAL ELITE (Ser. No. 86439435) for “Wines and Spirits” in international class 33 and ROYAL ELITE (Ser. No. 86521045) for «Beverages with tea, iced tea» in international class 30, «Vegetable juices, water beverages, fruit beverages, fruit-based beverages, fruit-flavored beverages, non-alcoholic beer flavor beverages, non-alcoholic beverages, namely, carbonated beverages, non-alcoholic beverages containing fruit juices, non-alcoholic beverages with tea flavor, non-alcoholic sparkling fruit juice beverages, syrups for beverages» in international class 32 and «Wines and Spirits» in international class 33.

Spirits International B.V. is the owner of, and has successfully registered the following trademarks in international class 33 in the United States:

ELIT (stylized) U.S. Reg. No. 4537800 for “vodka”



ELIT (figurative) U.S. Reg. No. 4567379 for “vodka”



STOLICHNAYA ELIT (figurative) U.S. Reg. No. 3044248 for “distilled spirits; vodka; prepared vodka-based alcoholic beverages”.



STOLICHNAYA ELIT U.S. Reg. No. 3325498 for “vodka”.

Spirits International B.V. has used the ELIT and STOLICHNAYA ELIT trademarks for many years in the United States and in many other markets in the world to identify its alcoholic beverage products and, as a result of such long and extensive use of these marks in the United States, the ELIT and STOLICHNAYA ELIT trademarks are famous in the United States and in other markets in the world. As a consequence, the ELIT and STOLICHNAYA ELIT marks enjoy a strong reputation associated with the high quality of the alcoholic beverage products identified with these brands.

Spirits International B.V. vigorously protects its trademarks against any use and/or registration by third parties that may cause the loss of its trademarks' effectiveness and distinctiveness.

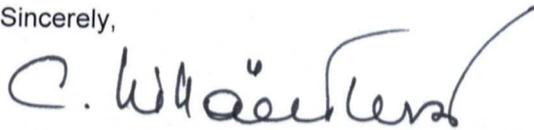
The Federal registrations of these trademarks provide Spirits International B.V. with exclusive proprietary rights entitling it to restrict the use of the same trademarks or of similar trademarks by third parties that are likely to cause confusion with, or dilution of, its registered trademarks.

Given the similarities in appearance, sound, and commercial impression between your proposed ROYAL ELITE marks and Spirits International B.V. long established and famous ELIT and STOLICHNAYA ELIT marks, Spirits International B.V. believes that your proposed use and registration of the marks ROYAL ELITE in connection with "wine and spirits", and with "fruit beverages, fruit-based beverages, fruit-flavored beverages, non-alcoholic beer flavor beverages, non-alcoholic beverages, namely, carbonated beverages, non-alcoholic beverages containing fruit juices, non-alcoholic sparkling fruit juice beverages, syrups for beverages" is likely to cause confusion in the marketplace with, and/or is likely to dilute the distinctiveness of its famous ELIT and STOLICHNAYA ELIT marks for alcoholic beverages, in particular vodka, vodka based beverages and cocktails, flavoured vodka etc. Accordingly, your proposed registration and use of the confusingly similar trademarks ROYAL ELITE will amount to unlawful infringement and dilution of Spirits International B. V. registered trademark rights which are further used intensively and extensively.

We respect intellectual property rights of third parties and we expect others to respect ours. Thus, Spirits International B. V. requests that you withdraw your application for the mark ROYAL ELITE (Ser. No. 86439435), and, limit the application for the mark ROYAL ELITE (Ser. No. 86521045) to exclude the products listed above.

Spirits International B. V. is hopeful that the matter will be satisfactorily resolved so as to avoid any further legal action. Accordingly, Spirits International B.V. looks forward to receiving your confirmation that you are in agreement with the terms above and that you proceed with the requested limitation on or before May 28, 2015.

Sincerely,



C. Hillaert-Prevost

Head of Intellectual Property & Anti-counterfeiting
Spirits International B.V., Nyon Branch
Avenue Reverdil 14, 1260 Nyon, Switzerland
Phone: +41 22 593 88 58 – Fax: +41 22 593 88 51
catherine.hillaert-prevost@spi-group.com

Cc: OSTROLENK FABER LLP, 1180 AVENUE OF THE AMERICAS FL 7, NEW YORK, NY 10036-8443 - Mr. Max Moskowitz, Email: tm@ostrolenk.com & m Moskowitz@ostrolenk.com

Exhibit H

United States of America
United States Patent and Trademark Office

elit

Reg. No. 4,537,800

Registered May 27, 2014

Int. Cl.: 33

TRADEMARK

PRINCIPAL REGISTER

SPIRITS INTERNATIONAL B.V. (NETHERLANDS BESLOTEN VENNOOTSCHAP (B.V.))
3, RUE DU FORT RHEINSHEIM
LUXEMBOURG, LUXEMBOURG L-2419

FOR: (BASED ON USE IN COMMERCE) VODKA (BASED ON 44(E)) VODKA, IN CLASS 33
(U.S. CLS. 47 AND 49).

FIRST USE 3-0-2004; IN COMMERCE 3-0-2004.

OWNER OF ERPN CMNTY TM OFC REG. NO. 011247582, DATED 9-11-2013, EXPIRES 10-8-2022.

OWNER OF U.S. REG. NOS. 3,044,248 AND 3,325,498.

THE MARK CONSISTS OF THE WORD "ELIT" IN LOWER CASE STYLIZED LETTERS.

SER. NO. 86-120,036, FILED 11-15-2013.

PATRICIA EVANKO, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

Exhibit I



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May 21, 2015

Mr. C. Hillaert-Prevost
Head of Intellectual Property & Anti-Counterfeiting
Spirits International B.V.
Nyon Branch:
Avenue Reverfil 14,
1260 Nyon, Switzerland

Re: Our Ref: 6320-1
Classic Liquor Importers Ltd.
ROYAL ELITE

Dear Mr. Hillaert-Prevost:

Your company, Spirits International B.V. ("SPI") has written to our client Classic Liquor Importers Ltd. ("Classic Liquor"), objecting to Classic Liquor's use of the trademark ROYAL ELITE relative to various products in International Classes 33, 30 and 32. As intellectual property counsel to Classic Liquor, we respond as follows.

Your letter boldly asserts that my client's planned use of the mark ROYAL ELITE relative to the products listed in its pending applications "is likely to cause confusion in the marketplace" or dilute SPI's allegedly famous ELIT and STOLICHNAYA ELIT trademarks. We categorically disagree with those assertions. In fact, SPI was not granted a registration to the English term "ELITE", per se, and does not own such rights, even under the common law. In support of our assertions herein, we cite to you the following.

1. SPI never applied to register ELITE. Had it attempted to do so, it would have been rejected because the English word "elite", standing alone, is a qualitative, descriptive term designating that the particular item or product is superior to the rest (of such items) in terms of ability or qualities.

2. Rather, SPI applied to register "elit" in a unique stylized form, namely as:

elit



Ostrolenk
Faber LLP

Mr. C. Hillaert-Prevost
Head of Intellectual Property & Anti-Counterfeiting
Spirits International B.V.
May 21, 2015
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3. In response to an inquiry from the U.S. Trademark Attorney, SPI informed the Trademark Attorney that **elit** in its trademark has no meaning. SPI is bound by its statement to the United States Trademark Office. SPI's **elit** trademark is a stylized trademark. It is a coined term and that coined term, necessarily, is different from the English term "elite".

4. The SPI's registered **elit** (stylized) trademark has an appearance and visual impression that is different from that of my client's composite ROYAL ELITE trademark.

5. A native English speaker pronounces SPI's coined ELIT term differently than the English word ELITE. **elit** in SPI's registration would be pronounced similar to "e-commerce", "e-cars", "e-foods", "e-shoes", etc. The English language has many other terms that use the "e" prefix. Therefore, English speakers would pronounce SPI's trademark as e-lit, which is different from the English pronunciation of the word "elite".

6. My client's contemplated commercial products will be sold in uniquely shaped bottles, the rendition of which is depicted in its pending trademark applications. Those bottles will also bear our client's logo and other markings which would render marketplace confusion virtually impossible.

7. The United States Trademark Office already examined, approved and published my client's ROYAL ELITE trademark, which further negates SPI's arguments of likelihood of confusion.

8. SPI's products are recognized and identified by its primary trademark STOLICHNAYA. Those products are also invariably marked with a logo in the shape of a triangle surrounding a flame, unique bottle shapes and Russian characters appearing below the stylized "elit", further negating the assertions in your aforementioned letter.

9. We note the pending application to register THE PINOT ELITE trademark for alcoholic beverages, namely wine, the registration of which we believe you do not object to.

10. We note the pending, soon to be issued trademark PERRO ELITE for distilled spirits.

11. We note the registered U.S. trademark "ELITE ARAK" for alcoholic beverages.

12. The U.S. Trademark Office approved for registration the trademark ELITIST ITALIAN VODKA for vodka, to co-exist with SPI's registrations, including the "elit" registration.



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Faber LLP

Mr. C. Hillaert-Prevost
Head of Intellectual Property & Anti-Counterfeiting
Spirits International B.V.
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13. We note that the U.S. Trademark Office has registered GOMI ELITE for vodka and that registration co-existed with SPI's elit (stylized) trademark and, significantly, the term ELITE was disclaimed.

14. We note that the Trademark Office registered BRANDSELITE for wine and distilled spirits and allowed that registration to co-exist with SPI's elit (stylized) registration.

15. We note that the Trademark Office registered ELITE OF RUSSIA for use with vodka and that registration co-existed with the various SPI elit (stylized) registrations.

16. We note the pending U.S. trademark application to register a trademark that begins with the words "Russian Billionaire Vodka Elite Club..." for use with vodka.

In summary, therefore, we reiterate and re-emphasize that our client has no intention to sell any product called ELITE or to refer to its product by that name. Its composite trademark is ROYAL ELITE and, in addition, our client will have many more indicia that absolutely avoid and prevent confusion or even remote likelihood of confusion or dilution of whatever rights SPI has in its trademarks.

To the contrary, it is quite important for my client to distinguish its own goods from those of all other players in the market segments in which it will participate. To this end, my client is open, indeed desires, to continue the dialogue with your company to assure that my client's products will always maintain their clear distinctions over your client's products.

We look forward to your positive response, reflecting the mutual desire of SPI and Classic Liquors to maximize the values of their respective brands.

Very truly yours,

OSTROLENK FABER LLP

Max Moskowitz

A handwritten signature in black ink, appearing to read 'Max Moskowitz', written over the typed name.

MM:cg

Exhibit J



