

ESTTA Tracking number: **ESTTA705761**

Filing date: **10/30/2015**

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

Proceeding	91224601
Party	Plaintiff Darden Concepts, Inc.
Correspondence Address	Belinda J. Scrimenti Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP 200 South Wacker Drive, Suite 2900 Chicago, IL 60606 UNITED STATES bscrimenti@pattishall.com, pab@pattishall.com, kep@pattishall.com, sm@pattishall.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Belinda J. Scrimenti
Filer's e-mail	bscrimenti@pattishall.com, pab@pattishall.com, kep@pattishall.com, sm@pattishall.com
Signature	/Belinda J. Scrimenti/
Date	10/30/2015
Attachments	Darden Concepts v Bahama Bucks Opp No. 91224601 FIRST AMENDED Notice of Opposition 103015 849868_1.pdf(154665 bytes) First Amended Notice of Opposition Exhibits Opp No 91224601 Serial No. 86515649 - Copy.pdf(1185405 bytes)

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD



In The Matter of Application Serial No. 86/515,649:
Published in the *Official Gazette* of June 30, 2015, in Class 43

Darden Concepts, Inc.,)
)
 Opposer,)
)
 v.) Opposition No. _____
)
 Bahama Buck's Franchise Corp.,)
)
 Applicant.)

FIRST AMENDED NOTICE OF OPPOSITION

Opposer, Darden Concepts, Inc., a Florida Corporation having a principal place of business at 1000 Darden Center Drive, Orlando, FL 32837, believes it will be damaged by the

registration of the mark  (“BAHAMA BUCK’S Mark”) shown in Application Serial No. 86/515,649 (the “Application”) and hereby opposes the same.

The grounds for opposition are as follows:

Opposer’s Business and Trademarks

1. Opposer, itself, and through its related companies, its predecessors and their licensees, and related companies (hereinafter “Darden”), has been offering restaurant services under the mark BAHAMA BREEZE in the United States since November 29, 1995 and in interstate commerce in the United States since at least as early as February 19, 1996 (“BAHAMA BREEZE Restaurants”).

2. The Darden family of restaurants features some of the most recognizable and successful brands in the industry. Through subsidiaries Darden owns and operate more than 1,500 restaurants. In addition to its other brands, including Olive Garden[®], LongHorn Steakhouse[®], Seasons 52[®], The Capital Grille[®], Eddie V's[®] and Yard House,[®] Darden owns and operates 37 BAHAMA BREEZE Restaurants throughout the country.

3. Long prior to the filing date of the Application opposed herein, Darden has continuously advertised, marketed and offered restaurant services and related goods and/or services under or in connection with the BAHAMA BREEZE word mark, as well as other “BAHAMA” formative marks, including the mark BAHAMARITA for one of its signature beverages. (The word marks BAHAMA BREEZE and BAHAMARITA are collectively referred to as the “BAHAMA BREEZE Marks”).

4. The BAHAMA BREEZE Restaurants are well known for the restaurant concept's Caribbean and tropical theme. As part of its tropical-inspired offerings, the BAHAMA BREEZE Restaurants offer a vast drink menu that includes numerous iced drinks and beverages such as smoothie-type drinks, slush drinks, frozen blended drinks, and fruit-based drinks, both alcoholic and non-alcoholic.

5. Darden owns the following registrations for its BAHAMA BREEZE Marks for restaurant services and related goods and services in the United States Patent and Trademark Office:

<u>Trademark</u>	<u>Services/Goods And Class</u>	<u>Reg. No.</u>	<u>Priority Date (ITU filing priority or first use)</u>	<u>Registration Date</u>
BAHAMA BREEZE	Restaurant services IC 42 [43]	2,086,857	08/25/1995	08/12/1997

<u>Trademark</u>	<u>Services/Goods And Class</u>	<u>Reg. No.</u>	<u>Priority Date (ITU filing priority or first use)</u>	<u>Registration Date</u>
BAHAMA BREEZE	Apparel, namely, T- shirts and hats IC 25	2,123,169	02/19/1996	12/23/1997
BAHAMA BREEZE	Promotional newspapers IC 16	2,114,359	10/02/1995	11/18/1997
BAHAMARITA	Prepared non- alcoholic beverages, namely, fruit- flavored non- alcoholic drinks and prepared alcoholic beverages, namely, prepared alcoholic cocktails IC 32, 33	2,567,077	02/19/1996	05/07/2002

All of the above registrations are valid and subsisting, and are incontestable in accordance with 15 U.S.C. §§ 1065 and 1115(b). All of the registrations protect all elements of the mark, without disclaimer of the “BAHAMA” element. Print-outs from the United States Patent and Trademark Office records showing the current status of these registrations are attached hereto as Exhibits 1A – 1D.

6. Long prior to the filing date of the Application opposed herein, Darden’s BAHAMA BREEZE Marks have identified Darden and its restaurant services. Darden has made over \$2 Billion in sales of its restaurant services and related goods and services in connection with its BAHAMA BREEZE Marks. It also has spent substantial sums in connection with advertising and promoting its restaurant services and related goods and services in connection with the BAHAMA BREEZE Marks in numerous locations throughout the United States.

7. The restaurant services and related goods and services sold under the BAHAMA BREEZE Marks have enjoyed great commercial success. As a result, the BAHAMA BREEZE Marks represent an enormously valuable goodwill for Darden, currently and in terms of future expansion.

8. As between Darden and the claimed ownership of marks by Applicant as set forth below, Darden is the priority owner of U.S. registrations and common law rights for restaurant services for word marks incorporating the word BAHAMA, with and without disclaimer of the word BAHAMA.

Applicant's Business and Trademarks

9. Applicant operates a business known as BAHAMA BUCK'S which currently provides restaurant services offering a variety of beverages and desserts. The business is built around a tropical theme, and offers for sale a variety of tropical-themed menu items, including shaved ice (sno), smoothies, sodas (including one named "Bahama Breeze"), lemonade and limeade, and other "island specialties," as well as seasonal fresh fruits, hot chocolate, coffees, frozen coffees, and other frozen drink and dessert treats.

10. On January 27, 2015, Applicant filed its Application to register the stylized word mark "BAHAMA BUCK'S Original Shaved Ice Company" at issue, Serial No. 86/515,649, for "restaurant services featuring shaved ice and tropical drinks." In its Application, Applicant claims a first use in commerce date of March 7, 1996 that is subsequent to the date of Darden's dates of priority and/or first use of its BAHAMA BREEZE Marks for restaurant services and other goods and services.

11. Applicant claims in its Application, its prior registration No. 2173029 for the mark BAHAMA BUCK'S ORIGINAL SHAVED ICE COMPANY & Design  for “restaurant services featuring shaved ice and tropical drinks” with application and registration dates respectively of July 14, 1997 and July 14, 1998, and with a claimed first use in commerce date of June 1990. That mark depicts two dominant elements: the design and the word “BUCK’S.”

12. Applicant also claims in its Application, its prior registration No. 3223656 for the word mark BAHAMA BUCK’S for “restaurant services featuring shaved ice and tropical drinks,” with application and registration dates respectively of October 24, 2005 and April 3, 2007, with a claimed first use in commerce date of June 12, 1990. In that registration, Applicant disclaimed use of the word “BAHAMA.”

13. Applicant claims to have opened its first BAHAMA BUCK’S business location in June 1990. That location was in Lubbock, Texas where the then-owner Blake Buchanan was a student. As described on the BAHAMA BUCK’S website (attached as Exhibit 2), such location was not a restaurant, but rather a “store” the owner “construct[ed] by hand.” In fact, the business, as depicted in the following photo appearing on the website, was a walk-up/drive up sno-cone vending stand, not a “restaurant”:



14. Applicant's claimed prior applications erroneously asserted claims of first use in commerce in June 1990 for "restaurant services featuring shaved ice and tropical drinks," rather than for the more limited actual business activity in the nature of Class 35 retail store, vending stand, or concession services featuring shaved ice and tropical drinks. Such erroneous descriptions of, and upon information and belief, intentionally false and misleading exaggeration of, the then-scope of services, may render invalid such prior applications and resulting registrations.

15. Further, upon information and belief, the first Lubbock, Texas sno-cone stand allegedly operated by Applicant in 1990 engaged in only local business activity and offered services to a highly localized audience of such a nature that the alleged use did not rise to the level of use "in commerce" as contemplated by the U.S. Trademark Act, 15 U.S.C. §1127, and interpretations thereof. Applicant did not own or operate a second BAHAMA BUCK'S business location anywhere until several years later in Arizona.

16. Irrespective of the validity or invalidity of the Applicant's prior claimed registrations, Darden has priority rights over Applicant as to formatives of BAHAMA word and stylized word marks that do not disclaim "BAHAMA" for any type of restaurant services, including the stylized BAHAMA BUCK'S Mark at issue in the Application.

17. Applicant's proposed use, actual use, and application to register the stylized BAHAMA BUCK'S Mark for any type of "restaurant services," without disclaimer of "BAHAMA," is without Darden's consent or permission.

Count I: Likelihood of Confusion

18. Applicant incorporates herein the allegations of Paragraphs 1 through 17.

19. Applicant's actual use and registration of the stylized BAHAMA BUCK'S Mark at issue in the Application for "restaurant services featuring shaved ice and tropical drinks," is likely to result in confusion, mistake or deception with Darden, its BAHAMA BREEZE restaurant concept and/or the goods and/or services sold and offered by Darden under its BAHAMA BREEZE Marks, or to result in the erroneous belief that Applicant or its BAHAMA BUCK'S services are in some way legitimately connected with, affiliated with, licensed by or approved by Darden or the BAHAMA BREEZE restaurant chain.

20. Registration of the Application would damage Opposer. Such damage is particularly acute as Applicant has in recent years greatly expanded its restaurant operations, including most recently into markets in which Darden's BAHAMA BREEZE restaurants have had a long-established presence.

WHEREFORE, Darden respectfully prays that this opposition be sustained and that App. Ser. No. 86/515,649 be denied registration.

Darden submits the requisite filing fee in the amount of \$300.00. Please charge any deficiencies in fees to our Deposit Account, No. 16-0650. Please address all correspondence to

Belinda J. Scrimenti, Esq., Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP, 200
S. Wacker Drive, Suite 2900, Chicago, Illinois 60606, telephone (312) 554-8000.

Respectfully submitted,

PATTISHALL, MCAULIFFE, NEWBURY,
HILLIARD & GERALDSON LLP

By: /Belinda J. Scrimenti/
Belinda J. Scrimenti
Paul A. Borovay
200 South Wacker Drive
Suite 2900
Chicago, Illinois 60606
Telephone (312) 554-8000

Attorneys for Darden Concepts, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing FIRST AMENDED NOTICE OF OPPOSITION has been served upon the attorney of record for Applicant, Paul B. Heynssens, Paul B. Heynssens Attorney at Law PLC, 4340 E Indian School Rd, Suite 21-474, Phoenix, Arizona 85018-5396, by United States first class mail, postage prepaid, on this 30th day of October 2015.

/Belinda J. Scrimenti/
Belinda J. Scrimenti

UNITED STATES PATENT AND TRADEMARK OFFICE
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Darden submits the requisite filing fee in the amount of \$300.00. Please charge any deficiencies in fees to our Deposit Account, No. 16-0650. Please address all correspondence to

Belinda J. Scrimenti, Esq., Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP, 200
S. Wacker Drive, Suite 2900, Chicago, Illinois 60606, telephone (312) 554-8000.

Respectfully submitted,

PATTISHALL, MCAULIFFE, NEWBURY,
HILLIARD & GERALDSON LLP

By: /Belinda J. Scrimenti/
Belinda J. Scrimenti
Paul A. Borovay
200 South Wacker Drive
Suite 2900
Chicago, Illinois 60606
Telephone (312) 554-8000

Attorneys for Darden Concepts, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing FIRST AMENDED NOTICE OF OPPOSITION has been served upon the attorney of record for Applicant, Paul B. Heynssens, Paul B. Heynssens Attorney at Law PLC, 4340 E Indian School Rd, Suite 21-474, Phoenix, Arizona 85018-5396, by United States first class mail, postage prepaid, on this 30th day of October 2015.

/Belinda J. Scrimenti/
Belinda J. Scrimenti

EXHIBIT 1A



Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Oct 28 03:20:49 EDT 2015

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LAST DOC

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 9 out of 9**

TSDR ASSIGN Status TTAB Status (Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark BAHAMA BREEZE

Goods and Services IC 042. US 100 101. G & S: restaurant services. FIRST USE: 19951129. FIRST USE IN COMMERCE: 19960219

Mark Drawing Code (1) TYPED DRAWING

Serial Number 74720934

Filing Date August 25, 1995

Current Basis 1A

Original Filing Basis 1B

Published for Opposition May 20, 1997

Registration Number 2086857

Registration Date August 12, 1997

Owner (REGISTRANT) DARDEN CORPORATION CORPORATION FLORIDA 5900 LAKE ELLENOR DR. ORLANDO FLORIDA 32859
(LAST LISTED OWNER) DARDEN CONCEPTS, INC. CORPORATION FLORIDA 1000 Darden Center Drive Intellectual Property Law Orlando FLORIDA 32837

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Belinda J. Scrimenti

Type of Mark SERVICE MARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070727.

Renewal 1ST RENEWAL 20070727

Live/Dead Indicator LIVE

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The recently released version of TSDR has been rolled back to the earlier version in order to repair minor defects. The new version will be re-released in the near future.

STATUS

DOCUMENTS

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Mark: BAHAMA BREEZE

No Image exists for this case.

US Serial Number: 74720934

Application Filing Date: Aug. 25, 1995

US Registration Number: 2086857

Registration Date: Aug. 12, 1997

Register: Principal

Mark Type: Service Mark

Status: The registration has been renewed.

Status Date: Jul. 27, 2007

Publication Date: May 20, 1997

▼ **Mark Information**

▲ Collapse All

Mark Literal Elements: BAHAMA BREEZE

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

▼ **Goods and Services**

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: restaurant services

International Class(es): 042 - Primary Class

U.S Class(es): 100, 101

Class Status: ACTIVE

Basis: 1(a)

First Use: Nov. 29, 1995

Use in Commerce: Feb. 19, 1996

▼ **Basis Information (Case Level)**

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

▼ **Current Owner(s) Information**

Owner Name: DARDEN CONCEPTS, INC.

Owner Address: 1000 Darden Center Drive
Intellectual Property Law

Legal Entity Type:	Orlando, FLORIDA 32837 UNITED STATES	State or Country Where Organized:	FLORIDA
	CORPORATION		

▼ Attorney/Correspondence Information

Attorney of Record

Attorney Name: Belinda J. Scrimenti

Correspondent

Correspondent Name/Address: Bruce A. Brown
DARDEN CONCEPTS, INC.
1000 Darden Center Drive
Intellectual Property Law
Orlando, FLORIDA 32837
UNITED STATES

Phone: 407-245-6224

Fax: 407-241-6378

Correspondent e-mail: iplaw@darden.com

Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Bruce A. Brown

Phone: 407-245-6224

Fax: 407-241-6378

Domestic Representative e-mail: iplaw@darden.com

Domestic Representative e-mail Authorized: Yes

▼ Prosecution History

Date	Description	Proceeding Number
Jul. 17, 2014	ATTORNEY REVOKED AND/OR APPOINTED	
Jul. 17, 2014	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jul. 17, 2014	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Sep. 21, 2010	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Sep. 21, 2010	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jul. 27, 2007	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	73376
Jul. 27, 2007	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Jul. 23, 2007	ASSIGNED TO PARALEGAL	73376
Jun. 27, 2007	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
Jun. 27, 2007	TEAS SECTION 8 & 9 RECEIVED	
Mar. 23, 2007	CASE FILE IN TICRS	
Feb. 03, 2006	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 01, 2005	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Aug. 24, 2003	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Jun. 02, 2003	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Jun. 02, 2003	PAPER RECEIVED	
Jun. 02, 2003	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Aug. 12, 1997	REGISTERED-PRINCIPAL REGISTER	
May 20, 1997	PUBLISHED FOR OPPOSITION	
Apr. 18, 1997	NOTICE OF PUBLICATION	
Feb. 27, 1997	APPROVED FOR PUB - PRINCIPAL REGISTER	
Feb. 27, 1997	USE AMENDMENT ACCEPTED	

Sep. 16, 1996	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Nov. 08, 1996	PREVIOUS ALLOWANCE COUNT WITHDRAWN	
Oct. 22, 1996	APPROVED FOR PUB - PRINCIPAL REGISTER	
Sep. 16, 1996	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Mar. 15, 1996	NON-FINAL ACTION MAILED	
Mar. 01, 1996	ASSIGNED TO EXAMINER	73362

▼ **Maintenance Filings or Post Registration Information**

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Aug. 12, 2007

▼ **TM Staff and Location Information**

TM Staff Information - None

File Location

Current Location: POST REGISTRATION

Date in Location: Jul. 27, 2007

▼ **Assignment Abstract Of Title Information - Click to Load**

▼ **Proceedings - Click to Load**

EXHIBIT 1B



Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Oct 28 03:20:49 EDT 2015

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Start List At: OR Jump to record: **Record 7 out of 9**

TSDR ASSIGN Status TTAB Status (Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark BAHAMA BREEZE

Goods and Services IC 025. US 022 039. G & S: apparel, namely, T-shirts,[tank tops, polo shirts, sweatshirts,] * and * hats [and jackets]. FIRST USE: 19960219. FIRST USE IN COMMERCE: 19960219

Mark Drawing Code (1) TYPED DRAWING

Serial Number 75153935

Filing Date August 21, 1996

Current Basis 1A

Original Filing Basis 1A

Published for Opposition September 30, 1997

Registration Number 2123169

Registration Date December 23, 1997

Owner (REGISTRANT) Darden Corporation CORPORATION FLORIDA 5900 Lake Ellenor Drive P.O. Box 593330 Orlando FLORIDA 328593330

(LAST LISTED OWNER) DARDEN CONCEPTS, INC. CORPORATION FLORIDA 1000 Darden Center Drive Intellectual Property Law Orlando FLORIDA 32837

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record BELINDA J SCRIMENTI

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20071213.

Renewal 1ST RENEWAL 20071213

Live/Dead Indicator LIVE

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP PREV LIST CURR LIST NEXT LIST FIRST DOC PREV DOC NEXT DOC

LAST DOC

The recently released version of TSDR has been rolled back to the earlier version in order to repair minor defects. The new version will be re-released in the near future.

STATUS	DOCUMENTS	Back to Search	Print
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Generated on: This page was generated by TSDR on 2015-10-28 14:55:23 EDT

Mark: BAHAMA BREEZE No Image exists for this case.

US Serial Number: 75153935	Application Filing Date: Aug. 21, 1996
US Registration Number: 2123169	Registration Date: Dec. 23, 1997
Register: Principal	
Mark Type: Trademark	
Status: The registration has been renewed.	
Status Date: Dec. 13, 2007	
Publication Date: Sep. 30, 1997	

▼ Mark Information

[▲ Collapse All](#)

Mark Literal Elements: BAHAMA BREEZE
Standard Character Claim: No
Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

▼ Goods and Services

Note:

- The following symbols indicate that the registrant/owner has amended the goods/services:
- Brackets [...] indicate deleted goods/services;
 - Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
 - Asterisks *..* identify additional (new) wording in the goods/services.

For: apparel, namely, T-shirts,[tank tops, polo shirts, sweatshirts,] * and * hats [and jackets]
International Class(es): 025 - Primary Class **U.S Class(es):** 022, 039
Class Status: ACTIVE
Basis: 1(a)
First Use: Feb. 19, 1996 **Use in Commerce:** Feb. 19, 1996

▼ Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

▼ Current Owner(s) Information

Owner Name: DARDEN CONCEPTS, INC.
Owner Address: 1000 Darden Center Drive
 Intellectual Property Law

Legal Entity Type:	Orlando, FLORIDA 32837 UNITED STATES	State or Country Where Organized:	FLORIDA
	CORPORATION		

▼ Attorney/Correspondence Information

Attorney of Record

Attorney Name: BELINDA J SCRIMENTI

Correspondent

Correspondent Name/Address: Bruce A. Brown
DARDEN CONCEPTS, INC.
1000 Darden Center Drive
Intellectual Property Law
Orlando, FLORIDA 32837
UNITED STATES

Phone: 407-245-6224

Fax: 407-241-6378

Correspondent e-mail: iplaw@darden.com

Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Bruce A. Brown

Phone: 407-245-6224

Fax: 407-241-6378

Domestic Representative e-mail: iplaw@darden.com

Domestic Representative e-mail Authorized: Yes

▼ Prosecution History

Date	Description	Proceeding Number
Jul. 17, 2014	ATTORNEY REVOKED AND/OR APPOINTED	
Jul. 17, 2014	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jul. 17, 2014	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Sep. 21, 2010	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Sep. 21, 2010	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Dec. 13, 2007	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	68502
Dec. 13, 2007	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Dec. 12, 2007	ASSIGNED TO PARALEGAL	68502
Dec. 10, 2007	TEAS SECTION 8 & 9 RECEIVED	
Apr. 26, 2007	CASE FILE IN TICRS	
Feb. 03, 2006	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 01, 2005	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 12, 2003	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Oct. 07, 2003	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Jun. 02, 2003	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 23, 1997	REGISTERED-PRINCIPAL REGISTER	
Sep. 30, 1997	PUBLISHED FOR OPPOSITION	
Aug. 29, 1997	NOTICE OF PUBLICATION	
Jul. 15, 1997	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 01, 1997	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Jan. 31, 1997	NON-FINAL ACTION MAILED	
Jan. 29, 1997	ASSIGNED TO EXAMINER	73362

Jan. 22, 1997	ASSIGNED TO EXAMINER	73729
Jan. 18, 1997	ASSIGNED TO EXAMINER	68118

▼ **Maintenance Filings or Post Registration Information**

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Dec. 23, 2007

▼ **TM Staff and Location Information**

TM Staff Information - None

File Location

Current Location: POST REGISTRATION

Date in Location: Dec. 13, 2007

▼ **Assignment Abstract Of Title Information - Click to Load**

▼ **Proceedings - Click to Load**

EXHIBIT 1C



Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Oct 28 03:20:49 EDT 2015

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG BOTTOM HELP PREV LIST CURR LIST NEXT LIST FIRST DOC PREV DOC NEXT DOC

LAST DOC

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 6 out of 9**

TSDR ASSIGN Status TTAB Status (Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark BAHAMA BREEZE

Goods and Services IC 016. US 002 005 022 023 029 037 038 050. G & S: promotional newspapers. FIRST USE: 19960219. FIRST USE IN COMMERCE: 19960219

Mark Drawing Code (1) TYPED DRAWING

Serial Number 75975870

Filing Date October 2, 1995

Current Basis 1A

Original Filing Basis 1B

Published for Opposition August 26, 1997

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 2114359

Registration Date November 18, 1997

Owner (REGISTRANT) DARDEN CORPORATION CORPORATION FLORIDA 5900 LAKE ELLENOR DR. ORLANDO FLORIDA 32859
(LAST LISTED OWNER) DARDEN CONCEPTS, INC. CORPORATION FLORIDA 1000 Darden Center Drive Intellectual Property Law Orlando FLORIDA 32837

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record BELINDA J SCRIMENTI

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20071128.

Renewal 1ST RENEWAL 20071128

Live/Dead Indicator LIVE

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP PREV LIST CURR LIST NEXT LIST FIRST DOC PREV DOC NEXT DOC

LAST DOC

The recently released version of TSDR has been rolled back to the earlier version in order to repair minor defects. The new version will be re-released in the near future.

STATUS	DOCUMENTS	Back to Search	 Print
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Generated on: This page was generated by TSDR on 2015-10-28 14:57:55 EDT

Mark: BAHAMA BREEZE No Image exists for this case.

US Serial Number: 75975870

Application Filing Date: Oct. 02, 1995

US Registration Number: 2114359

Registration Date: Nov. 18, 1997

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Nov. 28, 2007

Publication Date: Aug. 26, 1997

▼ Mark Information

[▲ Collapse All](#)

Mark Literal Elements: BAHAMA BREEZE

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

▼ Related Properties Information

Claimed Ownership of US [75003966](#)

Registrations:

Child Of: [75003966](#)

▼ Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *.* identify additional (new) wording in the goods/services.

For: promotional newspapers

International Class(es): 016 - Primary Class

U.S Class(es): 002, 005, 022, 023, 029, 037, 038, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 19, 1996

Use in Commerce: Feb. 19, 1996

▼ Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

▼ Current Owner(s) Information

Owner Name:	DARDEN CONCEPTS, INC.		
Owner Address:	1000 Darden Center Drive Intellectual Property Law Orlando, FLORIDA 32837 UNITED STATES		
Legal Entity Type:	CORPORATION	State or Country Where Organized:	FLORIDA

▼ Attorney/Correspondence Information

Attorney of Record

Attorney Name: BELINDA J SCRIMENTI

Correspondent

Correspondent Name/Address: Bruce A. Brown
DARDEN CONCEPTS, INC.
1000 Darden Center Drive
Intellectual Property Law
Orlando, FLORIDA 32837
UNITED STATES

Phone: 407-245-6224

Fax: 407-241-6378

Correspondent e-mail: iplaw@darden.com

Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Bruce A. Brown

Phone: 407-245-6224

Fax: 407-241-6378

Domestic Representative e-mail: iplaw@darden.com

Domestic Representative e-mail Authorized: Yes

▼ Prosecution History

Date	Description	Proceeding Number
Jul. 17, 2014	ATTORNEY REVOKED AND/OR APPOINTED	
Jul. 17, 2014	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jul. 17, 2014	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Sep. 21, 2010	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Sep. 21, 2010	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Nov. 28, 2007	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	67603
Nov. 28, 2007	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Nov. 20, 2007	ASSIGNED TO PARALEGAL	67603
Nov. 16, 2007	TEAS SECTION 8 & 9 RECEIVED	
Feb. 22, 2007	CASE FILE IN TICRS	
Feb. 03, 2006	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 01, 2005	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 12, 2003	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Oct. 07, 2003	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Jun. 02, 2003	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Feb. 27, 1998	CERTIFICATE OF CORRECTION ISSUED	
Nov. 30, 1997	SEC 7 REQUEST FILED	
Nov. 18, 1997	REGISTERED-PRINCIPAL REGISTER	

Aug. 26, 1997	PUBLISHED FOR OPPOSITION	
Jul. 25, 1997	NOTICE OF PUBLICATION	
Mar. 21, 1997	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 21, 1997	USE AMENDMENT ACCEPTED	
Mar. 05, 1997	DIVISIONAL PROCESSING COMPLETE	
Mar. 19, 1996	NON-FINAL ACTION MAILED	
Mar. 13, 1996	ASSIGNED TO EXAMINER	73362
Mar. 13, 1996	ASSIGNED TO EXAMINER	73362

▼ Maintenance Filings or Post Registration Information

Affidavit of Continued Use:	Section 8 - Accepted
Affidavit of Incontestability:	Section 15 - Accepted
Renewal Date:	Nov. 18, 2007
Change in Registration:	Yes
Correction made to Registration:	In the statement, Column 1, before line 1, "Darden Corporation, (Florida Corporation), 5900 Lake Ellenor Dr., Orlando, Florida 32859, assignee of" should be inserted.

▼ TM Staff and Location Information

TM Staff Information - None

File Location

Current Location:	POST REGISTRATION	Date in Location:	Nov. 28, 2007
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▼ Assignment Abstract Of Title Information - Click to Load

▼ Proceedings - Click to Load

EXHIBIT 1D



Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Oct 28 03:20:49 EDT 2015

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

[TSDR](#)

[ASSIGN Status](#)

[TTAB Status](#)

(Use the "Back" button of the Internet Browser to return to TESS)

BAHAMARITA

Word Mark BAHAMARITA

Goods and Services IC 032. US 045 046 048. G & S: PREPARED NON-ALCOHOLIC BEVERAGES, NAMELY, FRUIT-FLAVORED NON-ALCOHOLIC DRINKS. FIRST USE: 19960219. FIRST USE IN COMMERCE: 19960219

IC 033. US 047 049. G & S: PREPARED ALCOHOLIC BEVERAGES, NAMELY, PREPARED ALCOHOLIC COCKTAILS. FIRST USE: 19960219. FIRST USE IN COMMERCE: 19960219

Mark Drawing Code (1) TYPED DRAWING

Serial Number 76187707

Filing Date January 2, 2001

Current Basis 1A

Original Filing Basis 1A

Published for Opposition February 12, 2002

Registration Number 2567077

Registration Date May 7, 2002

Owner (REGISTRANT) Darden Corporation CORPORATION FLORIDA 5900 Lake Ellenor Drive P.O. Box 593330 Orlando FLORIDA 328593330

(LAST LISTED OWNER) DARDEN CONCEPTS, INC. CORPORATION FLORIDA 1000 Darden Center Drive Intellectual Property Law Orlando FLORIDA 32837

Assignment Recorded ASSIGNMENT RECORDED

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20120319.

Renewal 1ST RENEWAL 20120319

Live/Dead Indicator LIVE

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [TOP](#) | [HELP](#)

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STATUS	DOCUMENTS	Back to Search	Print
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Generated on: This page was generated by TSDR on 2015-10-28 14:59:28 EDT

Mark: BAHAMARITA

BAHAMARITA

US Serial Number: 76187707

Application Filing Date: Jan. 02, 2001

US Registration Number: 2567077

Registration Date: May 07, 2002

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Mar. 19, 2012

Publication Date: Feb. 12, 2002

▼ Mark Information

[▲ Collapse All](#)

Mark Literal Elements: BAHAMARITA

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

▼ Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *.* identify additional (new) wording in the goods/services.

For: PREPARED NON-ALCOHOLIC BEVERAGES, NAMELY, FRUIT-FLAVORED NON-ALCOHOLIC DRINKS

International Class(es): 032 - Primary Class

U.S Class(es): 045, 046, 048

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 19, 1996

Use in Commerce: Feb. 19, 1996

For: PREPARED ALCOHOLIC BEVERAGES, NAMELY, PREPARED ALCOHOLIC COCKTAILS

International Class(es): 033 - Primary Class

U.S Class(es): 047, 049

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 19, 1996

Use in Commerce: Feb. 19, 1996

▼ Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

▼ Current Owner(s) Information

Owner Name:	DARDEN CONCEPTS, INC.		
Owner Address:	1000 Darden Center Drive Intellectual Property Law Orlando, FLORIDA 32837 UNITED STATES		
Legal Entity Type:	CORPORATION	State or Country Where Organized:	FLORIDA

▼ Attorney/Correspondence Information

Attorney of Record - None

Correspondent

Correspondent Name/Address:	Bruce A. Brown DARDEN CONCEPTS, INC. 1000 Darden Center Drive Intellectual Property Law Orlando, FLORIDA 32837 UNITED STATES		
Phone:	407-245-6224	Fax:	407-241-6378
Correspondent e-mail:	iplaw@darden.com	Correspondent e-mail Authorized:	Yes

Domestic Representative

Domestic Representative Name:	Bruce A. Brown		
Fax:	407-241-6378	Phone:	407-245-6224
Domestic Representative e-mail:	iplaw@darden.com	Domestic Representative e-mail Authorized:	Yes

▼ Prosecution History

Date	Description	Proceeding Number
Jul. 17, 2014	ATTORNEY REVOKED AND/OR APPOINTED	
Jul. 17, 2014	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jul. 17, 2014	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 19, 2012	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Mar. 19, 2012	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	64591
Mar. 19, 2012	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	64591
Mar. 14, 2012	TEAS SECTION 8 & 9 RECEIVED	
Mar. 12, 2012	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Sep. 21, 2010	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Sep. 21, 2010	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jan. 31, 2008	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	64591
Jan. 31, 2008	ASSIGNED TO PARALEGAL	64591
Jan. 11, 2008	TEAS SECTION 8 & 15 RECEIVED	
Aug. 23, 2007	CASE FILE IN TICRS	
Feb. 03, 2006	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 01, 2005	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Nov. 17, 2003	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Nov. 07, 2003	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
May 07, 2002	REGISTERED-PRINCIPAL REGISTER	
Feb. 12, 2002	PUBLISHED FOR OPPOSITION	
Jan. 23, 2002	NOTICE OF PUBLICATION	

Oct. 29, 2001	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 25, 2001	EXAMINERS AMENDMENT MAILED	
Jun. 18, 2001	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Apr. 30, 2001	NON-FINAL ACTION MAILED	
Apr. 27, 2001	ASSIGNED TO EXAMINER	78057

▼ **Maintenance Filings or Post Registration Information**

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: May 07, 2012

▼ **TM Staff and Location Information**

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Mar. 19, 2012

▼ **Assignment Abstract Of Title Information - Click to Load**

▼ **Proceedings - Click to Load**

EXHIBIT 2

Franchisee Login [f](#) [t](#) [i](#) [y](#)

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About

- About Us
- Buck's History
- FAQ's



BUCK'S HISTORY

The Original Shaved Ice Company...

In the summer of 1990, Blake Buchanan opened the first Bahama Buck's. He started with one ice shaver and the hope of a college job that didn't involve mowing grass or flipping burgers. Constructing the original store by hand, he enlisted volunteer help from three generations of his family, staffed it with friends and college students, and opened the doors.

The tropical sensation caught on, and with the help of his wife, Kippi, and his friend, Eric Lee, the summer job turned into a full-time vocation.

Working to keep the spirit of the original Bahama Buck's alive, we make sure that each franchise is operated with the same enthusiasm as the first Buck's. The entire Bahama Buck's team strives to ensure that each flavor becomes a favorite and each visit is a great time, every time.

Bahama Buck's is a world where paradise and enterprise have come together to create a lifestyle experience beyond compare. Our island adventure began with a vision for the "Greatest Sno on Earth," and resulted in the Bahama Buck's style, attitude, and eclectic taste of the tropics.

This inspiration represents who we are as a company: a team of talented people maximizing our time and expertise. We work together and constantly strive for excellence in keeping our company culture entrepreneurial and creative. Every Bahama Buck's team member has the opportunity to cultivate their individual strengths while growing the company. The results are rewarded by profit, pride, satisfaction, and a balanced lifestyle.

Keeping with our founder's vision, Bahama Buck's is a caring community of people who work to support and encourage each other. Our awareness reaches beyond the walls of our stores and out into the communities. We donate our time and products to a number of charity events to assist in raising funds.

As Bahama Buck's continues to experience the blessings of growth, we depend on our dedicated team to guide and drive us to the next levels of success. We can achieve amazing things together by sharing our individual gifts while always focusing on maintaining our culture of excellence.



Menu

- Taste Of Paradise
- Sno
- Smoothies
- Island Specialties
- Paradise Fruit™
- Island House Coffee®
- Nutritional Info
- Monthly Promotion

About

- About Us
- Buck's History
- FAQ's

Get SNOcial

- Surf Club
- Email Sign Up
- Facebook
- Twitter
- Instagram
- YouTube

Shop

- Dudes
- Bettys
- Long Sleeves & Hoodies
- Kids & Toddlers
- Hats
- Cool Gear
- Gift Checks

Franchise

- Franchise Overview
- Plan To Win
- The Numbers
- Island Investment
- Sno 'n Tell (Q&A)
- Plan Your Escape
- Franchise Request