

ESTTA Tracking number: **ESTTA739481**

Filing date: **04/12/2016**

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 Brands, LLC
Granted to Date of previous extension	04/13/2016
Address	10400 Linn Station Road, Suite 300 Louisville, KY 40223 UNITED STATES
Attorney information	Thomas M. Hadid Cooley LLP 1299 Pennsylvania Ave., NWSuite 700 Washington, DC 20004 UNITED STATES trademarks@cooley.com, vbadolato@cooley.com, thadid@cooley.com Phone:3108836400

**Applicant Information**

Application No	86702207	Publication date	12/15/2015
Opposition Filing Date	04/12/2016	Opposition Period Ends	04/13/2016
Applicant	MAXIMUS, LLP 41 Crossing, 100 Aktobe, 030011 KAZAKSTAN		

**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, namely, vodka

**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.	1667801	Application Date	03/12/1991
Registration Date	12/10/1991	Foreign Priority Date	NONE
Word Mark	DR. MCGILLICUDDY'S		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 033. First use: First Use: 1982/01/25 First Use In Commerce: 1982/01/25 liqueurs

U.S. Registration No.	2289105	Application Date	01/05/1999
Registration Date	10/26/1999	Foreign Priority Date	NONE

Word Mark	DR. MINT
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Design Mark	<b>DR. MINT</b>
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Description of Mark	NONE
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Goods/Services	Class 033. First use: First Use: 1991/09/26 First Use In Commerce: 1991/09/26 Liqueurs
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U.S. Registration No.	2997888	Application Date	07/27/2004
Registration Date	09/20/2005	Foreign Priority Date	NONE

Word Mark	DR. MCGILLICUDDY'S FIREBALL
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Design Mark	<b>DR. MCGILLICUDDY'S FIREBALL</b>
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Description of Mark	NONE
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Goods/Services	Class 033. First use: First Use: 2001/03/00 First Use In Commerce: 2001/03/00 whiskey-based liqueurs
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U.S. Registration No.	4026782	Application Date	03/10/2010
Registration Date	09/13/2011	Foreign Priority Date	NONE

Word Mark	SHOT DOCTOR
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Design Mark	<b>SHOT DOCTOR</b>
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2010/10/18 First Use In Commerce: 2010/10/18 Distilled Spirits; Liqueurs

U.S. Registration No.	3023696	Application Date	12/03/2004
Registration Date	12/06/2005	Foreign Priority Date	NONE
Word Mark	THE DOCTOR IS IN		
Design Mark	<b>THE DOCTOR IS IN</b>		
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1996/09/30 First Use In Commerce: 1996/09/30 alcoholic beverages, namely, liqueurs		

Attachments	75617043#TMSN.png( bytes ) 78457249#TMSN.png( bytes ) 77955556#TMSN.png( bytes ) 78526640#TMSN.png( bytes ) Sazerac - Notice of Opposition re OLD DOCTOR.pdf(28859 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	/Thomas M. Hadid/
Name	Thomas M. Hadid
Date	04/12/2016

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

In the Matter of Application Serial No. 86/702,207  
For the Trademark OLD DOCTOR  
Published in the *Official Gazette* on December 15, 2015

SAZERAC BRANDS, LLC,	)	
	)	
Opposer,	)	
	)	Opposition No.
v.	)	
	)	
MAXIMUS, LLP,	)	
	)	
Applicant.	)	
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**NOTICE OF OPPOSITION**

Opposer Sazerac Brands, LLC (“Sazerac”), a Delaware limited liability company having its principal place of business at 10400 Linn Station Road, Suite 300, Louisville, Kentucky 40223, will be damaged by the issuance of a registration for the mark OLD DOCTOR (the “Applicant’s Mark”), as applied for in Application Serial No. 86/702,207 filed on July 23, 2015, by Applicant Maximus, LLP, a Kazakhstani limited liability partnership with a mailing address of 41 Crossing, 100 Aktobe, Kazakhstan 030011 (“Applicant”).

As grounds for its opposition, Sazerac alleges as follows.

1. Sazerac, through its parent company, Sazerac Company, Inc. (“SCI”), markets and sells a number of different types and brands of alcoholic beverages and distilled spirits, including vodkas, whiskeys, tequilas, and specialty liqueurs. SCI has marketed and sold alcoholic beverages and distilled spirits in the United States for over a century.

2. Sazerac (through SCI) and, where applicable, its predecessor-in-interest have for many years marketed and sold distilled spirits under a family of trademarks featuring

“DOCTOR” or “DR.”, including DR. MCGILLICUDDY’S, DR. MINT, DR. MCGILLICUDDY’S FIREBALL, SHOT DOCTOR and THE DOCTOR IS IN (collectively, Sazerac’s “DOCTOR Marks”), the first of which (“DR. MCGILLICUDDY’S”) was used as early as January 1982. Sazerac owns all rights, title and interest in and to its DOCTOR Marks.

3. Sazerac owns the following U.S. Registrations for its DOCTOR Marks:

- Incontestable Reg. No. 1,667,801 for DR. MCGILLICUDDY’S, issued on December 10, 1991, for “liqueurs”;
- Incontestable Reg. No. 2,289,105 for DR. MINT, issued on October 26, 1999, for “liqueurs”;
- Incontestable Reg. No. 2,997,888 for DR. MCGILLICUDDY’S FIREBALL, issued on September 20, 2005, for “whiskey-based liqueurs”;
- Reg. No. 4,026,782 for SHOT DOCTOR, issued on September 13, 2011, for “distilled spirits; liqueurs”; and,
- Incontestable Reg. No. 3,023,696 for THE DOCTOR IS IN, issued on December 6, 2005, for “alcoholic beverages, namely, liqueurs.”

4. Sazerac’s DOCTOR-branded products are popular across the United States, and Sazerac’s DOCTOR Marks are well-known among consumers in the alcoholic beverage marketplace.

5. On July 23, 2015, Applicant filed an application to register the mark OLD DOCTOR on an intent-to-use basis in connection with “[a]lcoholic beverages, namely, vodka” in International Class 33.

6. Sazerac’s DOCTOR Marks have priority through trademark filings and use in commerce prior to Applicant’s filing date of July 23, 2015.

7. Sazerac’s DOCTOR Marks are strong and well-known.

8. Applicant’s Mark is similar in sight, sound, meaning, and commercial impression to the DOCTOR Marks.

9. Applicant's Mark is intended for use in connection with products that are highly related to the products Sazerac offers under its DOCTOR Marks.

10. Applicant's target customer base overlaps with the consumers of Sazerac's alcoholic beverages.

11. As Applicant's description of goods contains no restrictions or limitations as to Applicant's channels of trade, the Board may assume that Applicant's Mark, like the DOCTOR 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 the channels of trade used by Sazerac (through SCI) in marketing, selling, and otherwise distributing its alcohol-based products marketed under the DOCTOR Marks.

12. 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 occur. Persons familiar with the DOCTOR Marks would likely perceive Applicant's products as associated with, affiliated with, or sponsored by Sazerac. Such confusion would inevitably result in damage to Sazerac.

13. 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.

14. Any defect, objection to, or fault found with Applicant's alcoholic beverages marketed under its OLD DOCTOR mark would necessarily reflect on and seriously injure the reputation that Sazerac has established for its alcoholic beverage products.

15. 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 its OLD DOCTOR mark, all to the detriment of Sazerac. As such, for the reasons set forth herein, registration of Applicant's Mark should be denied pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

WHEREFORE, based on the foregoing, Opposer requests that the Board sustain this Opposition and that registration of Application Serial No. 86/702,207 be refused.

COOLEY LLP

Date: April 12, 2016

By: /s/ Thomas M. Hadid  
Peter J. Willsey, Esq.  
Vincent J. Badolato, Esq.  
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*Attorneys for Opposer,  
Sazerac Brands, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 11, 2016, I mailed the foregoing NOTICE OF OPPOSITION regarding *Sazerac Brands, LLC. v. Maximus, LLP* 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:

Mr. Lawrence G. Fridman  
Silber & Fridman  
1037 Route 46, Suite 107  
Clifton, New Jersey 07013-7401

Date: April 12, 2016

By: /s/ Thomas M. Hadid  
Thomas M. Hadid

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