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

Proceeding	92024108
Party	Plaintiff GALLEON S.A., BACARDI-MARTINI U.S.A. AND BACARDI & COMPANY LIMITED
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Submission	Response to Board Order/Inquiry
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Date	10/16/2009
Attachments	DOC072.PDF (19 pages)(3661976 bytes)

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

GALLEON S.A.,
BACARDI-MARTINI U.S.A., INC., and
BACARDI & COMPANY LIMITED,
Petitioners,

-against-

HAVANA CLUB HOLDINGS, S.A. and
EMPRESA CUBANA EXPORTADORA
DE ALIMENTOS Y PRODUCTOS
VARIOS, S.A. D/B/A CUBAEXPORT,
Respondents.

Cancellation No. 92/024,108

RESPONSE TO SEPTEMBER 28, 2009 ORDER

Petitioners submit this response to the Board's September 28, 2009 order. Civil Action No. 1:04-CV-00519 (the "Civil Action") remains pending in the United States District Court for the District of Columbia. On August 4, 2008, the United States District Court for the District of Columbia entered an order staying further proceedings in this action pending appeal of the USPTO's August 3, 2006 order canceling Reg. No. 1,031,651 for the mark HAVANA CLUB. As shown on the docket sheet for the Civil Action attached hereto as Exhibit A, the Civil Action remains stayed. Accordingly, there has been no final resolution of the Civil Action, and this proceeding should remain suspended.

Dated: New York, New York
October 16, 2009

KELLEY DRYE & WARREN LLP
Attorneys for Petitioners

By



William R. Golden, Jr.
Matthew D. Marcotte

101 Park Avenue
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing RESPONSE TO SEPTEMBER 28, 2009 ORDER has been served upon registrant's attorney, Herbert Schwartz, Fish & Neave IP Group, Ropes & Gray LLP, 1211 Avenue of the Americas, New York NY 10036, the address designated by said attorney for that purpose by depositing a true copy thereof with the United States Postal Service as first-class mail on October 16, 2009.

Dated: October 16, 2009



Matthew D. Marcotte

CERTIFICATE OF FILING

The undersigned hereby certifies that the foregoing RESPONSE TO SEPTEMBER 28, 2009 ORDER has been filed electronically with the United States Patent and Trademark Office.

New York, New York
October 16, 2009



Matthew D. Marcotte

STAYED, TYPE-E

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:04-cv-00519-EGS**

BARCARDI & COMPANY LIMITED et al v. EMPRESA
CUBANA EXPORTADORA DE ALIMENTOS Y
PRODUCTOS VARIOS et al
Assigned to: Judge Emmet G. Sullivan
Cause: 28:1331 Fed. Question: Trademark

Date Filed: 03/29/2004
Jury Demand: None
Nature of Suit: 840 Trademark
Jurisdiction: Federal Question

Plaintiff

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LIMITED**

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V.

Defendant

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Y PRODUCTOS VARIOS**
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TERMINATED: 07/28/2005

Date Filed	#	Docket Text
03/29/2004	<u>1</u>	COMPLAINT against EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS, HAVANA CLUB HOLDING S.A. (Filing fee \$ 150.) , filed by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC.(td,) (Entered: 04/05/2004)
03/29/2004	<u>2</u>	LCvR 7.1 - CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests (td,) (Entered: 04/05/2004)
03/29/2004		Summons (2) Issued as to EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS, HAVANA CLUB HOLDING S.A..

		(td,) (Entered: 04/05/2004)
05/03/2004	<u>3</u>	MOTION for Extension of Time to File Answer re <u>1</u> Complaint by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC, EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS, HAVANA CLUB HOLDING S.A.. (cp,) (Entered: 05/04/2004)
05/05/2004		MINUTE ORDER granting <u>3</u> the Consent Motion for Extension of Time to Answer or Otherwise Respond until June 22, 2004. Signed by Judge Emmet G. Sullivan on May 5, 2004. (lcegs1) (Entered: 05/05/2004)
06/22/2004	<u>4</u>	MOTION for Summary Judgment by HAVANA CLUB HOLDING S.A.. (Boyden, Bruce) (Entered: 06/22/2004)
06/22/2004	<u>5</u>	MOTION for Summary Judgment <i>Statement of Points and Authorities</i> by HAVANA CLUB HOLDING S.A.. (Boyden, Bruce) (Entered: 06/22/2004)
06/22/2004	<u>6</u>	AFFIDAVIT re <u>4</u> MOTION for Summary Judgment, <u>5</u> MOTION for Summary Judgment <i>Statement of Points and Authorities Declaration of Charles Sims</i> by HAVANA CLUB HOLDING S.A.. (Attachments: # <u>1</u> # <u>2</u> Exhibit Exhibit 2# <u>3</u> Exhibit Exhibit 3# <u>4</u> Exhibit Exhibit 4# <u>5</u> Exhibit Exhibit 5# <u>6</u> Exhibit Exhibit 6# <u>7</u> Exhibit Exhibit 7# <u>8</u> Exhibit Exhibit 8# <u>9</u> Exhibit Exhibit 9# <u>10</u> Exhibit Exhibit 10# <u>11</u> Exhibit Exhibit 11# <u>12</u> Exhibit Exhibit 12# <u>13</u> Exhibit Exhibit 13# <u>14</u> Exhibit Exhibit 14# <u>15</u> Exhibit Exhibit 15# <u>16</u> Exhibit Exhibit 16# <u>17</u> Exhibit Exhibit 17# <u>18</u> Exhibit Exhibit 19# <u>19</u> Exhibit Exhibit 19)(Boyden, Bruce) (Entered: 06/22/2004)
06/22/2004	<u>7</u>	MOTION for Summary Judgment <i>Proposed Order</i> by HAVANA CLUB HOLDING S.A.. (Boyden, Bruce) (Entered: 06/22/2004)
06/22/2004	<u>8</u>	MOTION for Summary Judgment <i>Rule 56.1 Statement</i> by HAVANA CLUB HOLDING S.A.. (Boyden, Bruce) (Entered: 06/22/2004)
06/22/2004	<u>9</u>	LCvR 7.1 - CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests (Boyden, Bruce) (Entered: 06/22/2004)
06/22/2004	<u>10</u>	CERTIFICATE of Counsel re <u>8</u> MOTION for Summary Judgment <i>Rule 56.1 Statement</i> , <u>4</u> MOTION for Summary Judgment, <u>5</u> MOTION for Summary Judgment <i>Statement of Points and Authorities</i> , <u>6</u> Affidavit,, <u>7</u> MOTION for Summary Judgment <i>Proposed Order CERTIFICATE OF SERVICE</i> by Bruce E. Boyden on behalf of HAVANA CLUB HOLDING S.A. (Boyden, Bruce) (Entered: 06/22/2004)
06/22/2004	<u>11</u>	MOTION to Dismiss <i>the Complaint</i> by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS. (Attachments: # <u>1</u> Text of Proposed Order Dismissing case# <u>2</u> Affidavit Declaration in support of motion to dismiss# <u>3</u> Exhibit Exhibit 1# <u>4</u> Exhibit Exhibit 2# <u>5</u> Exhibit Exhibit 3# <u>6</u> Exhibit Exhibit 4# <u>7</u> Exhibit Exhibit 5# <u>8</u> Exhibit Exhibit 6 (See Dkt# 12) (9) Exhibit Exhibit 7# <u>10</u> Exhibit Exhibit 8# <u>11</u> Exhibit Exhibit 9# <u>12</u> Exhibit Exhibit 10# <u>13</u> Exhibit Exhibit 11# <u>14</u> Exhibit Exhibit 12# <u>15</u> Exhibit Exhibit 13# <u>16</u> Exhibit Exhibit 14# <u>17</u> Exhibit Exhibit 15# <u>18</u> Affidavit Certificate of Service)(Rainey, Richard) Modified on 6/23/2004 (rje,). Modified on 6/23/2004 (rje,). (Entered: 06/22/2004)

06/22/2004	<u>12</u>	ERRATA <i>Corrected version of Exhibit 6 to Cubaexport Motion to Dismiss</i> by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS. (Rainey, Richard) (Entered: 06/22/2004)
07/08/2004	<u>13</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>4</u> MOTION for Summary Judgment, <u>11</u> MOTION to Dismiss <i>the Complaint</i> by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order)(Henn, Emily) (Entered: 07/08/2004)
07/09/2004		MINUTE ORDER granting <u>13</u> the Consent Motion for Extension of Time to File Response/Reply re <u>11</u> MOTION to Dismiss and <u>4</u> MOTION for Summary Judgment. Respons due by 8/30/2004. Reply due by 10/5/2004. Signed by Judge Emmet G. Sullivan on July 9, 2004. (lcegs1) (Entered: 07/09/2004)
08/30/2004	<u>14</u>	MOTION for Leave to File Excess Pages by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order)(Henn, Emily) (Entered: 08/30/2004)
08/30/2004	<u>15</u>	Memorandum in opposition to motion re <u>11</u> <i>Defendant Cubaexport's Motion to Dismiss and Defendant HCH's Motion to Dismiss Or, in the Alternative, for Summary Judgment</i> filed by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Affidavit Golden Declaration# <u>2</u> Exhibit Exh. 1 to Golden Decl.# <u>3</u> Exhibit Exh. 2 to Golden Decl.# <u>4</u> Exhibit Exh. 3 to Golden Decl.# <u>5</u> Exhibit Exh. 4 to Golden Decl.# <u>6</u> Exhibit Exh. 5 to Golden Decl.# <u>7</u> Exhibit Exh. 6 to Golden Decl.# <u>8</u> Exhibit Exh. 7 to Golden Decl.# <u>9</u> Exhibit Exh. 8 to Golden Decl.# <u>10</u> Exhibit Exh. 9 to Golden Decl.# <u>11</u> Affidavit Garibaldi Declaration)(Henn, Emily) (Entered: 08/30/2004)
08/30/2004	<u>16</u>	RESPONSE to <i>Defendant HCH's Statement of Undisputed Facts</i> filed by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Henn, Emily) (Entered: 08/30/2004)
08/31/2004		MINUTE ORDER granting <u>14</u> the Consent Motion for Leave to File Excess Pages. Signed by Judge Emmet G. Sullivan on August 31, 2004. (lcegs1) (Entered: 08/31/2004)
10/05/2004	<u>17</u>	REPLY to opposition to motion re <u>4</u> <i>Dismiss</i> filed by HAVANA CLUB HOLDING S.A.. (Attachments: # <u>1</u> # <u>2</u> Exhibit Exhibit A to Paine Decl.# <u>3</u> Exhibit Exhibit B to Paine Declaration# <u>4</u> Exhibit Exhibit C to Paine Declaration# <u>5</u> Exhibit Exhibit D to Paine Declaration# <u>6</u> Exhibit Exhibit E to Paine Declaration)(Boyden, Bruce) (Entered: 10/05/2004)
10/05/2004	<u>18</u>	REPLY to opposition to motion re <u>11</u> <i>Motion to Dismiss</i> filed by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS. (Rainey, Richard) (Entered: 10/05/2004)
01/07/2005	<u>19</u>	NOTICE OF CHANGE OF NAME by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS (Stasio, Renee) (Entered: 01/07/2005)
01/07/2005	<u>20</u>	NOTICE of Appearance by Renee L. Stasio on behalf of EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS (Stasio,

		Renee) (Entered: 01/07/2005)
01/31/2005	<u>21</u>	NOTICE of Appearance by Peter M. Brody on behalf of EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS (Brody, Peter) (Entered: 01/31/2005)
01/31/2005	<u>22</u>	NOTICE of Withdrawal of Richard Rainey by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS (Rainey, Richard) (Entered: 01/31/2005)
02/02/2005	<u>23</u>	ORDER denying without prejudice <u>4</u> Motion for Summary Judgment and denying without prejudice <u>11</u> Motion to Dismiss subject to refiling after limited discovery. It is further ORDERED that defendants file a responsive pleading by no later than 3/2/2005; an Initial Status Conference is set for 4/1/2005 at 10:15 am in Courtroom One. Order sets out further instructions to counsel. Signed by Judge Emmet G. Sullivan on February 2, 2005. (lcegs1) (Entered: 02/02/2005)
02/02/2005		Set Deadlines/Hearings: Defendant's Response to Dispositive Motions due by 3/2/2005. Initial Conference set for 4/1/2005 10:15 AM in Courtroom 1 before Judge Emmet G. Sullivan. (clv,) (Entered: 02/02/2005)
02/25/2005	<u>24</u>	STIPULATION AND ORDER by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC, EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS, HAVANA CLUB HOLDING S.A.. (Brody, Peter) (Entered: 02/25/2005)
02/25/2005		MINUTE ORDER approving <u>24</u> Stipulation. Upon consideration of the stipulation submitted by the parties, it is hereby ordered that defendants answer or otherwise respond to the complaint by no later than 4/4/05; counsel shall confer by no later than 4/18/05 and submit their Rule 16.3(c) statement by no later than 4/25/05; and the Initial Scheduling Conference shall be held on 5/6/05 at 10:00 am in Courtroom One. The Initial Scheduling Conference previously scheduled for 4/1/05 is vacated. Signed by Judge Emmet G. Sullivan on February 25, 2005. (lcegs1,) (Entered: 02/25/2005)
03/03/2005	<u>25</u>	Consent MOTION for Leave to Appear Pro Hac Vice of William R. Golden, Jr. by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Affidavit # <u>2</u> Text of Proposed Order)(Henn, Emily) (Entered: 03/03/2005)
03/03/2005	<u>26</u>	Consent MOTION for Leave to Appear Pro Hac Vice of Michelle M. Graham by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Affidavit # <u>2</u> Text of Proposed Order)(Henn, Emily) (Entered: 03/03/2005)
03/04/2005		MINUTE ORDER granting <u>25</u> Motion for Leave to Appear Pro Hac Vice by William R. Golden, Jr., granting <u>26</u> Motion for Leave to Appear Pro Hac Vice by Michelle M. Graham. Signed by Judge Emmet G. Sullivan on March 4, 2005. (lcegs1) (Entered: 03/04/2005)
03/04/2005	<u>27</u>	Joint MOTION to Reschedule Initial Scheduling Conference by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order)(Henn, Emily) (Entered: 03/04/2005)

03/07/2005		MINUTE ORDER granting <u>27</u> Joint Motion to Reschedule Initial Scheduling Conference. The Initial Scheduling Conference previously scheduled for 5/6/05 at 10:00 is now vacated; the Initial Scheduling Conference shall be held on 5/11/05 at 10:45 am in Courtroom One. Signed by Judge Emmet G. Sullivan on March 7, 2005. (lcegs1) (Entered: 03/07/2005)
04/04/2005	<u>28</u>	ANSWER to Complaint by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS, HAVANA CLUB HOLDING S.A.. (Stasio, Renee) (Entered: 04/04/2005)
04/04/2005	<u>29</u>	LCvR 7.1 - CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS (Stasio, Renee) (Entered: 04/04/2005)
04/25/2005	<u>30</u>	MEET AND CONFER STATEMENT. (Henn, Emily) (Entered: 04/25/2005)
05/17/2005	<u>31</u>	TRANSCRIPT of Status Conference held on May 11, 2005 before Judge Emmet G. Sullivan. Court Reporter: Jon Hundley (MILLER). The public may view the document in the Clerk's Office between the hours of 9:00 a.m. and 4:00 p.m, Monday through Friday. (jf,) (Entered: 05/20/2005)
05/23/2005	<u>32</u>	SCHEDULING ORDER: Discovery due by 8/15/2005. Dispositive Motions due by 9/1/2005. Response to Dispositive Motions due by 10/3/2005. Reply to Dispositive Motions due by 10/24/2005. Pursuant to the Initial Scheduling Conference held in open court on May 11, 2005, and the joint report filed pursuant to Local Rule 16.3, it is hereby ORDERED that: (1) Renewed dispositive motions shall be filed on or before September 1, 2005. Opposition pleadings shall be filed on or before October 3, 2005. Replies shall be filed on or before October 24, 2005. (2) Discovery related to the renewed dispositive motions shall be completed by August 15, 2005. All other fact discovery shall be stayed pending resolution of the dispositive motions. Signed by Judge Emmet G. Sullivan on May 23, 2005. (lcegs1,) (Entered: 05/23/2005)
05/23/2005		Set/Reset Deadlines: Discovery due by 8/15/2005. Dispositive Motions due by 9/1/2005. Response to Dispositive Motions due by 10/3/2005. Reply to Dispositive Motions due by 10/24/2005; Discovery related to the renewed dispositive motions shall be completed by 8/15/05;. (clv,) (Entered: 05/23/2005)
07/19/2005	<u>33</u>	MOTION for Leave to Appear Pro Hac Vice of <i>Michelle M. Winneker</i> by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS. (Attachments: # <u>1</u> Declaration# <u>2</u> Text of Proposed Order)(Brody, Peter) (Entered: 07/19/2005)
07/19/2005	<u>34</u>	MOTION for Leave to Appear Pro Hac Vice of <i>Herbet F. Schwartz</i> by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS. (Attachments: # <u>1</u> Declaration# <u>2</u> Text of Proposed Order)(Brody, Peter) (Entered: 07/19/2005)
07/19/2005	<u>35</u>	MOTION for Leave to Appear Pro Hac Vice of <i>Vincent N. Palladino</i> by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS. (Attachments: # <u>1</u> Declaration# <u>2</u> Text of Proposed Order)(Brody,

		Peter) (Entered: 07/19/2005)
07/19/2005	<u>36</u>	MOTION for Leave to Appear Pro Hac Vice of <i>Pablo D. Hendler</i> by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS. (Attachments: # <u>1</u> Declaration# <u>2</u> Text of Proposed Order)(Brody, Peter) (Entered: 07/19/2005)
07/20/2005		ORDER granting <u>33</u> Motion for Leave to Appear Pro Hac Vice; granting <u>34</u> Motion for Leave to Appear Pro Hac Vice, granting <u>35</u> Motion for Leave to Appear Pro Hac Vice, granting <u>36</u> Motion for Leave to Appear Pro Hac Vice. Attorneys Pablo D. Hendler, Michelle M. Winneker, Herbert F. Schwartz, and Vincent N. Palladino may appear pro hac vice in this matter. Signed by Judge Emmet G. Sullivan on July 20, 2005. (lcegs1) (Entered: 07/20/2005)
07/28/2005	<u>37</u>	NOTICE of Appearance by Mark J. Biros on behalf of HAVANA CLUB HOLDING S.A. (Biros, Mark) (Entered: 07/28/2005)
07/28/2005	<u>38</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to HAVANA CLUB HOLDING S.A.. Attorney Bruce E. Boyden terminated. (Boyden, Bruce) (Entered: 07/28/2005)
08/03/2005	<u>39</u>	Joint MOTION for Extension of Time to Complete Discovery by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order)(Henn, Emily) (Entered: 08/03/2005)
08/05/2005		MINUTE ORDER granting <u>39</u> Joint Motion for Extension of Time to Complete Discovery. Discovery related to the renewed dispositive motions shall be extended until September 29, 2005. Renewed dispositive motions shall be filed on or before October 14, 2005. Opposition pleadings shall be filed on or before November 14, 2005. Replies shall be filed on or before December 5, 2005. Signed by Judge Emmet G. Sullivan on August 5, 2005. (lcegs1) (Entered: 08/05/2005)
08/05/2005		Set/Reset Deadlines: Discovery related to the renewewd dispositive motions due by 9/29/2005. Dispositive Motions due by 10/14/2005. Response to Dispositive Motions due by 11/14/2005. Reply to Dispositive Motions due by 12/5/2005. (clv,) (Entered: 08/05/2005)
08/25/2005	<u>40</u>	Joint MOTION for Protective Order by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order Protective Order)(Henn, Emily) (Entered: 08/25/2005)
08/26/2005		MINUTE ORDER granting <u>40</u> parties Joint Motion for Protective Order. Signed by Judge Emmet G. Sullivan on August 26, 2005. (GK,) (Entered: 08/26/2005)
10/06/2005	<u>41</u>	Joint MOTION for Extension of Time to Complete Discovery by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order)(Henn, Emily) (Entered: 10/06/2005)
10/12/2005		MINUTE ORDER granting <u>41</u> Joint Motion for Extension of Time to Complete Discovery. (1) Discovery related to the renewed dispositive motions shall be extended until November 15, 2005. (2) Renewed dispositive motions shall be filed on or before December 12, 2005. Opposition pleadings shalla be filed on

		or before January 23, 2006. Replies shall be filed on or before February 13, 2006. Signed by Judge Emmet G. Sullivan on October 12, 2005. (GK,) (Entered: 10/12/2005)
10/13/2005		Set/Reset Deadlines: Discovery due by 11/15/2005. Dispositive Motions due by 12/12/2005. Response to Dispositive Motions due by 1/23/2006. Reply to Dispositive Motions due by 2/13/2006. (clv,) (Entered: 10/13/2005)
10/21/2005	<u>42</u>	MOTION for Protective Order <i>Under Fed. R. Civ. P. 26(C)</i> by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS, HAVANA CLUB HOLDING S.A.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Text of Proposed Order)(Biros, Mark) (Entered: 10/21/2005)
10/25/2005	<u>43</u>	SUPPLEMENTAL MEMORANDUM to re <u>42</u> MOTION for Protective Order <i>Under Fed. R. Civ. P. 26(C)</i> Request for Oral Argument filed by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS, HAVANA CLUB HOLDING S.A.. (Biros, Mark) (Entered: 10/25/2005)
10/27/2005	<u>44</u>	NOTICE of Appearance by Jenny C. Ellickson on behalf of BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC (Ellickson, Jenny) (Entered: 10/27/2005)
10/28/2005	<u>45</u>	MOTION to Compel <i>Discovery</i> by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order # <u>2</u> Exhibit A# <u>3</u> Exhibit B# <u>4</u> Exhibit C# <u>5</u> Exhibit D# <u>6</u> Exhibit E# <u>7</u> Exhibit F) (Ellickson, Jenny) (Entered: 10/28/2005)
11/01/2005	<u>46</u>	Memorandum in opposition to motion re <u>42</u> <i>Protective Order</i> filed by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order # <u>2</u> Exhibit A (Part 1 of 2)# <u>3</u> Exhibit A (Part 2 of 2))(Ellickson, Jenny) (Entered: 11/01/2005)
11/08/2005	<u>47</u>	STIPULATION re <u>42</u> MOTION for Protective Order <i>Under Fed. R. Civ. P. 26 (C)</i> Extending Time For Reply Brief on Defendants' Motion For Protective Order <i>Under Fed. R. Civ. P. 26(C)</i> by HAVANA CLUB HOLDING S.A.. (Biros, Mark) (Entered: 11/08/2005)
11/08/2005	<u>48</u>	Memorandum in opposition to motion re <u>45</u> <i>Plaintiff's Motion to Compel Discovery from Defendants' Cubaexport and Havana Club Holdings, S.A.</i> filed by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS, HAVANA CLUB HOLDING S.A.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F (1)# <u>7</u> Exhibit F (2)# <u>8</u> Exhibit F (3)# <u>9</u> Exhibit G# <u>10</u> Exhibit H# <u>11</u> Exhibit I# <u>12</u> Exhibit J# <u>13</u> Declaration of Philippe Coutin# <u>14</u> Declaration of Jose Pellon# <u>15</u> Declaration of Charles S Sims# <u>16</u> Exhibit Sims A# <u>17</u> Exhibit Sims B# <u>18</u> Exhibit Sims C# <u>19</u> Exhibit Sims D# <u>20</u> Exhibit Sims E# <u>21</u> Exhibit Sims F# <u>22</u> Exhibit Sims G (1)# <u>23</u> Exhibit Sims G (2)# <u>24</u> Text of Proposed Order)(Brody, Peter) (Entered: 11/08/2005)
11/15/2005	<u>49</u>	Joint MOTION for Extension of Time to Complete Discovery by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order)(Ellickson, Jenny) (Entered: 11/15/2005)

11/15/2005	<u>50</u>	STIPULATION re <u>45</u> MOTION to Compel <i>Discovery Extending Time for Reply Brief</i> by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Ellickson, Jenny) (Entered: 11/15/2005)
11/15/2005	<u>51</u>	NOTICE of Appearance by Robert M. Bernstein on behalf of HAVANA CLUB HOLDING S.A. (Bernstein, Robert) (Entered: 11/15/2005)
11/15/2005	<u>52</u>	REPLY to <u>42</u> <i>STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR A PROTECTIVE ORDER PROHIBITING PLAINTIFFS FROM SEEKING DISCOVERY FROM NON-PARTIES MICHAEL KRINSKY, ESQ. AND PERNOD RICARD USA</i> filed by HAVANA CLUB HOLDING S.A.. (Bernstein, Robert) (Entered: 11/15/2005)
11/16/2005		ORDER granting <u>49</u> Motion for Extension of Time to Complete Discovery. Discovery related to the renewed dispositive motions will conclude on January 16, 2006. The deadlines of the Court's August 5, 2005 Order are also extended. Renewed dispositive motions are due February 13, 2006, oppositions are due March 13, 2006, and replies are due April 3, 2006. Signed by Judge Emmet G. Sullivan on November 16, 2005. (lcegs1) (Entered: 11/16/2005)
11/17/2005		Set/Reset Deadlines: Discovery due by 1/16/2006. Dispositive Motions due by 2/13/2006. Response to Dispositive Motions due by 3/13/2006. Reply to Dispositive Motions due by 4/3/2006. (clv,) (Entered: 11/17/2005)
11/22/2005	<u>53</u>	REPLY to opposition to motion re <u>45</u> <i>Motion to Compel Discovery</i> filed by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Exhibit A)(Ellickson, Jenny) (Entered: 11/22/2005)
01/13/2006	<u>54</u>	Joint MOTION for Extension of Time to Complete Discovery by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order)(Ellickson, Jenny) (Entered: 01/13/2006)
01/17/2006		MINUTE ORDER granting <u>54</u> Motion for Extension of Time to Complete Discovery. Discovery due February 27, 2006. Renewed dispositive motions are due March 27, 2006, opposition pleadings are due April 24, 2006, and replies are due May 15, 2006. Signed by Judge Emmet G. Sullivan on January 17, 2006. (lcegs1) (Entered: 01/17/2006)
01/17/2006		Set/Reset Deadlines: Discovery due by 2/27/2006. Dispositive Motions due by 3/27/2006. Response to Dispositive Motions due by 4/24/2006. Reply to Dispositive Motions due by 5/15/2006. (clv,) (Entered: 01/17/2006)
01/23/2006	<u>55</u>	NOTICE of Change of Address by Mark J. Biros (Biros, Mark) (Entered: 01/23/2006)
02/27/2006	<u>56</u>	Joint MOTION for Extension of Time to Complete Discovery by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order)(Ellickson, Jenny) (Entered: 02/27/2006)
02/28/2006		MINUTE ORDER granting <u>56</u> Motion for Extension of Time to Complete Discovery. Discovery is due April 10, 2006. The briefing schedule is likewise extended; renewed dispositive motions are due May 8, 2006; oppositions are due June 5, 2006; and replies are due June 26, 2006. Signed by Judge Emmet G. Sullivan on February 28, 2006. (lcegs1) (Entered: 02/28/2006)

02/28/2006		Set/Reset Deadlines: Discovery due by 4/10/2006. Dispositive Motions due by 5/8/2006. Response to Dispositive Motions due by 6/5/2006. Reply to Dispositive Motions due by 6/26/2005. (clv,) (Entered: 02/28/2006)
04/06/2006		MINUTE ORDER re Order on Motion for Extension of Time to Complete Discovery. The Court's Order establishing a briefing schedule for dispositive motions is stayed until the parties' pending discovery motions are resolved. Signed by Judge Emmet G. Sullivan on April 6, 2006. (lcegs1) (Entered: 04/06/2006)
04/10/2006	<u>57</u>	Joint MOTION to Stay <i>Discovery Deadline</i> by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order)(Ellickson, Jenny) (Entered: 04/10/2006)
04/10/2006		MINUTE ORDER granting <u>57</u> Motion to Stay discovery deadline. Signed by Judge Emmet G. Sullivan on April 10, 2006. (lcegs1) (Entered: 04/10/2006)
05/12/2006		MINUTE ORDER re <u>42</u> Motion for Protective Order and <u>45</u> Motion to Compel. The Court's order of August 5, 2005 was limited to outstanding discovery, as agreed upon in the parties' joint motion of August 3. All other fact discovery closed on August 15, 2005. Plaintiff's requests, served on September 14, 2005, are clearly untimely. Therefore, defendant's motion for a protective order is GRANTED and plaintiff's motion to compel is DENIED. The deadline for all discovery requests that were outstanding as of August 15, 2005 is June 16, 2006. Renewed dispositive motions are due July 10, 2006; oppositions are due August 11, 2006; and replies are due August 21, 2006. Signed by Judge Emmet G. Sullivan on May 12, 2006. (lcegs1,) (Entered: 05/12/2006)
05/15/2006		Set/Reset Deadlines: Renewed dispositive motions due by 7/10/2006. opposition to dispositive motions due by 8/11/2006; reply to dispositive motions due by 8/21/2006. (adc) (Entered: 05/15/2006)
06/13/2006	<u>58</u>	Joint MOTION for Extension of Time to by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS. (Attachments: # <u>1</u> Text of Proposed Order)(Hendler, Pablo) (Entered: 06/13/2006)
06/14/2006		MINUTE ORDER granting <u>58</u> Motion for Extension of Time. The deadline for all discovery requests that were outstanding as of August 15, 2005 is July 21, 2006. Renewed dispositive motions are due August 31, 2006; oppositions are due September 29, 2006; and replies are due October 20, 2006. Signed by Judge Emmet G. Sullivan on June 14, 2006. (lcegs1) (Entered: 06/14/2006)
06/14/2006		Set/Reset Deadlines: Discovery due by 8/15/2006. Dispositive Motions due by 8/31/2006. Response to Dispositive Motions due by 9/29/2006. Reply to Dispositive Motions due by 10/20/2006. (clv,) (Entered: 06/14/2006)
07/21/2006		MINUTE ORDER. Discovery deadline for all discovery requests that were outstanding as of August 15, 2005 is 8/15/2006. Dispositive Motions due by 8/31/2006. Response to Dispositive Motions due by 9/29/2006. Reply to Dispositive Motions due by 10/20/2006. Signed by Judge Emmet G. Sullivan on July 21, 2006. (lcegs1) (Entered: 07/21/2006)

07/21/2006		Set/Reset Deadlines: Discovery due by 8/15/2006. Dispositive Motions due by 8/31/2006. Response to Dispositive Motions due by 9/29/2006. Reply to Dispositive Motions due by 10/20/2006. (clv,) (Entered: 07/22/2006)
08/15/2006	<u>59</u>	MOTION for Extension of Time to Complete Discovery by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order # <u>2</u> Exhibit A)(Ellickson, Jenny) (Entered: 08/15/2006)
08/16/2006	<u>60</u>	Consent MOTION for Joinder <i>Defendants' Joint Consent to Bacardi's Motion to Extend Time</i> by HAVANA CLUB HOLDING S.A.. (Bernstein, Robert) (Entered: 08/16/2006)
08/16/2006		MINUTE ORDER granting <u>59</u> Motion for Extension of Time to Complete Discovery, granting <u>60</u> Motion for Joinder. Discovery related to the renewed dispositive motions that was outstanding as of August 15, 2005 shall be extended until September 15, 2006. Renewed dispositive motions shall be filed no later than October 2, 2006. Oppositions shall be filed no later than October 30, 2006. Replies shall be filed no later than November 20, 2006. Signed by Judge Emmet G. Sullivan on August 16, 2006. (lcegs1) (Entered: 08/16/2006)
08/16/2006		Set/Reset Deadlines: Discovery due by 9/15/2006. Dispositive Motions due by 10/2/2006. Response to Dispositive Motions due by 10/30/2006. Reply to Dispositive Motions due by 11/20/2006. (zclv,) (Entered: 08/16/2006)
09/15/2006	<u>61</u>	MOTION to Stay (<i>Partially-Consented</i>) Pending Final Resolution of PTO Action by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Affidavit # <u>2</u> Exhibit Exhibit A to Henn Declaration# <u>3</u> Exhibit Exhibit B to Henn Declaration# <u>4</u> Exhibit Exhibit C to Henn Declaration# <u>5</u> Exhibit Exhibit D to Henn Declaration# <u>6</u> Exhibit Exhibit E to Henn Declaration# <u>7</u> Exhibit Exhibit F to Henn Declaration# <u>8</u> Text of Proposed Order)(Henn, Emily) (Entered: 09/15/2006)
09/21/2006	<u>62</u>	MOTION to Dismiss <i>Counts II-IV and Opposition to Plaintiffs' Motion to Stay Counts II-IV</i> by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS. (Attachments: # <u>1</u> Declaration of Vincent N. Palladino# <u>2</u> Exhibit 1# <u>3</u> Exhibit 2# <u>4</u> Exhibit 3# <u>5</u> Exhibit 4# <u>6</u> Exhibit 5# <u>7</u> Exhibit 6# <u>8</u> Exhibit 7# <u>9</u> Exhibit 8# <u>10</u> Text of Proposed Order)(Brody, Peter) (Entered: 09/21/2006)
09/21/2006	<u>63</u>	MOTION to Dismiss for Lack of Jurisdiction <i>Counts II-IV</i> by HAVANA CLUB HOLDING S.A.. (Attachments: # <u>1</u> # <u>2</u> Affidavit Decl. of Charles S. Sims# <u>3</u> Text of Proposed Order # <u>4</u> Exhibit # <u>5</u> Exhibit # <u>6</u> Exhibit # <u>7</u> Exhibit # <u>8</u> Exhibit # <u>9</u> Exhibit # <u>10</u> Exhibit # <u>11</u> Exhibit)(Bernstein, Robert) (Entered: 09/21/2006)
09/21/2006	<u>64</u>	Memorandum in opposition to re <u>61</u> MOTION to Stay (<i>Partially-Consented</i>) Pending Final Resolution of PTO Action filed by HAVANA CLUB HOLDING S.A.. (Attachments: # <u>1</u> Affidavit Declaration of Charles S. Sims# <u>2</u> Exhibit Exhibit #1# <u>3</u> Exhibit Exhibit #2# <u>4</u> Exhibit Exhibit #3a# <u>5</u> Exhibit Exhibit #3b# <u>6</u> Exhibit Exhibit #4# <u>7</u> Exhibit Exhibit #5# <u>8</u> Exhibit Exhibit #6a# <u>9</u> Exhibit Exhibit #6b# <u>10</u> Exhibit Exhibit #7# <u>11</u> Exhibit Text of Proposed Order) (Bernstein, Robert) (Entered: 09/21/2006)

09/28/2006	<u>65</u>	REPLY to opposition to motion re <u>61</u> MOTION to Stay (<i>Partially-Consented</i>) Pending Final Resolution of PTO Action filed by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Henn, Emily) (Entered: 09/28/2006)
09/29/2006	<u>66</u>	MOTION for Extension of Time to <i>Respond to Defendants' Renewed Motions To Dismiss</i> by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order)(Henn, Emily) (Entered: 09/29/2006)
10/06/2006	<u>67</u>	Memorandum in opposition to re <u>66</u> MOTION for Extension of Time to <i>Respond to Defendants' Renewed Motions To Dismiss</i> filed by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS, HAVANA CLUB HOLDING S.A.. (Brody, Peter) (Entered: 10/06/2006)
10/16/2006	<u>68</u>	REPLY to opposition to motion re <u>66</u> MOTION for Extension of Time to <i>Respond to Defendants' Renewed Motions To Dismiss</i> filed by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Ellickson, Jenny) (Entered: 10/16/2006)
01/19/2007	<u>69</u>	NOTICE of Change of Address by Peter M. Brody (Brody, Peter) (Entered: 01/19/2007)
04/10/2007	<u>70</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. Attorney Jenny C. Ellickson terminated. (Henn, Emily) (Entered: 04/10/2007)
05/24/2007	<u>71</u>	ORDER granting <u>61</u> Plaintiffs' Motion to Stay; denying without prejudice <u>62</u> Cubaexport's Motion to Dismiss; denying without prejudice <u>63</u> HCH's Motion to Dismiss for Lack of Jurisdiction; denying as moot <u>66</u> Plaintiffs' Motion for Extension of Time to Respond; STAYING the case until further order of the Court; and directing parties to jointly file a status report and recommendation for future proceedings by no later than July 24, 2007. Signed by Judge Emmet G. Sullivan on May 24, 2007. (lcegs1) (Entered: 05/24/2007)
05/24/2007	<u>72</u>	MEMORANDUM OPINION. Signed by Judge Emmet G. Sullivan on May 24, 2007. (lcegs1) (Entered: 05/24/2007)
05/24/2007		Set/Reset Deadlines: Joint Status Report and recommendations for future proceedings due by 7/24/2007. (cp,) (Entered: 05/25/2007)
07/20/2007	<u>73</u>	STATUS REPORT <i>and Joint Recommendations</i> by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of Proposed Order)(Henn, Emily) (Entered: 07/20/2007)
07/25/2007	<u>74</u>	ORDER maintaining stay in this case and directing parties to either advise the Court of any change in status or to file a joint status report by February 1, 2008. Signed by Judge Emmet G. Sullivan on July 25, 2007. (lcegs1) (Entered: 07/25/2007)
07/26/2007		Set/Reset Deadlines: Status Report due by 2/1/2008. (clv,) (Entered: 07/26/2007)
02/01/2008	<u>75</u>	STATUS REPORT <i>and Joint Recommendations</i> by BARCARDI & COMPANY LIMITED, BARCARDI U.S.A. INC. (Attachments: # <u>1</u> Text of

		Proposed Order)(Henn, Emily) (Entered: 02/01/2008)
02/07/2008		MINUTE ORDER. Pursuant to the Joint Status Report and Recommendations filed by the parties on February 1, 2008, it is hereby ORDERED that this case remain stayed pending resolution of the USPTO Petition. It is FURTHER ORDERED that the parties shall inform the Court of any change in the status of the USPTO Petition and, in the absence of any intervening change in the status of the USPTO Petition, the parties shall file a Joint Status Report on August 1, 2008 and every six (6) months thereafter. Signed by Judge Emmet G. Sullivan on February 7, 2008. (AS,) (Entered: 02/07/2008)
02/07/2008		Set/Reset Deadlines: Status Report due by 8/1/2008 (clv,) (Entered: 02/07/2008)
07/31/2008	<u>76</u>	STATUS REPORT (<i>Joint</i>) by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS. (Attachments: # <u>1</u> Text of Proposed Order)(Brody, Peter) (Entered: 07/31/2008)
08/04/2008		MINUTE ORDER. Pursuant to the Joint Status Report and Recommendations filed by the parties on July 31, 2008, it is hereby ORDERED that this case remain stayed pending resolution of the USPTO Petition. It is FURTHER ORDERED that the parties shall inform the Court of any change in the status of the USPTO Petition and, in the absence of any intervening change in the status of the USPTO Petition, the parties shall file a Joint Status Report on February 2, 2009 and every six (6) months thereafter. Signed by Judge Emmet G. Sullivan on August 4, 2008. (lcegs1) (Entered: 08/04/2008)
08/04/2008		Set/Reset Deadlines: Status Report due by 2/2/2009 (clv,) (Entered: 08/04/2008)
10/24/2008	<u>77</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS, HAVANA CLUB HOLDING S.A.. Attorney Robert M. Bernstein terminated. (Bernstein, Robert) (Entered: 10/24/2008)
10/24/2008	<u>78</u>	NOTICE of Appearance by Timothy Patrick Tobin on behalf of EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS, HAVANA CLUB HOLDING S.A. (Tobin, Timothy) (Entered: 10/24/2008)
01/27/2009	<u>79</u>	STATUS REPORT (<i>Joint</i>) by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS. (Attachments: # <u>1</u> Text of Proposed Order)(Brody, Peter) (Entered: 01/27/2009)
01/28/2009		MINTE ORDER. Upon consideration of the Joint Status Report and Recommendations, it is ORDERED that (1) the stay of proceedings ordered by this Court on 5/24/07 shall be maintained until such time as a final non-appealable decision is rendered in connection with the 10/5/06 petition filed by Defendant Cubaexport in the United States Patent and Trademark Office ("the USPTO Petition"), provided that the parties to this action retain the right to move, individually or jointly, before this Court for relief from the stay prior to that decision; (2) the parties shall advise this Court of any such change in the status of the USPTO Petition; and (3) in the absence of any intervening change in the status of the USPTO Petition, the parties shall advise this Court by 8/3/09

		and every six (6) months thereafter of the status of that Petition. Signed by Judge Emmet G. Sullivan on January 28, 2009. (lcegs1) (Entered: 01/28/2009)
01/28/2009		Set/Reset Deadlines: Status Report due by 8/3/2009 (clv,) (Entered: 01/28/2009)
04/07/2009	<u>80</u>	NOTICE of Appearance by Benjamin R. Ogletree on behalf of HAVANA CLUB HOLDING S.A. (Ogletree, Benjamin) (Entered: 04/07/2009)
04/07/2009	<u>81</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to HAVANA CLUB HOLDING S.A.. Attorney Timothy Patrick Tobin terminated. (Tobin, Timothy) (Entered: 04/07/2009)
07/31/2009	<u>82</u>	STATUS REPORT (<i>Joint</i>) by EMPRESA CUBANA EXPORTADORA DE ALIMENTOS Y PRODUCTOS VARIOS. (Attachments: # <u>1</u> Text of Proposed Order)(Brody, Peter) (Entered: 07/31/2009)

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