

TTAB

ATTORNEY DOCKET NO: T-69405

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

Registrant : Lawton, D. Capwell, Jr.  
Reg No. : 2,196,136  
Registered : October 13, 1998  
For : ALAMO



08-19-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #39

Assistant Commissioner for Trademarks  
Box TTAB - FEE  
2900 CRYSTAL DRIVE  
Arlington, VA 22202

ATTENTION: Trademark Trial and Appeal Board

**PETITION FOR CANCELLATION**

The PETITIONER, Bodegas Esmeralda S.A., a corporation duly organized and existing under the laws of Argentina, with a principal place of business at Guatemala 4565 (1425), Capital Federal, Argentina, (hereafter referred to as "BODEGAS"), believes that it is damaged by the ongoing registration of the mark shown in the above-identified application, and hereby petitions to cancel same, pursuant to 15 USC 1064 AND 37 CFR 2.111

As grounds for Cancellation, it is alleged that:

(1) Petitioner BODEGAS is and has been engaged in the sale and marketing of identical or highly related goods to those recited by Registrant in its application to register, since September 15, 1993, a time prior to the date of first use alleged by the Registrant.

(2) BODEGAS is and has been engaged in the sale and marketing of alcoholic beverages, namely wines, under its trademark ALAMOS.

(3) BODEGAS is the owner of the following valid and subsisting U.S. trademark application:

Mark: ALAMOS

Application No: 76/148,730

Filed: October 17, 2000

(4) BODEGAS has used its mark in commerce extensively and has acquired a considerable and valuable goodwill and widescale recognition for its mark. The public has come to associate the ALAMOS mark with Petitioner and Petitioner's alcoholic beverages, namely wines.

(5) Registrant has filed a declaration alleging first use of November 21, 1997 for the mark ALAMO. This date is approximately four years later than Applicant's date of first use in commerce in the United States.

(6) On information and belief, Registrant's mark is not being used with regard to its goods listed in the registration.

(7) On information and belief, Registrant has abandoned its mark on the goods that its registration encompasses, namely beer.

(8) On information and belief there is no use of the ALAMO mark on beer by any company related to the Registrant.

(9) BODEGAS is damaged by Registrant's registration, to the extent that the Trademark Examining Attorney has refused to register its ALAMOS mark under Section 2(d), alleging that the Registrant's goods include goods which are confusingly similar. BODEGAS is thus unable to obtain Federal Registration for its mark ALAMOS.

(10) Further, on information and belief, the Registrant's mark ALAMO has been abandoned by the Registrant in Class 32.

(11) On information and belief, Registrant has abandoned use with respect to those goods upon which the Trademark Examining Attorney has based the refusal to allow Petitioner's mark.

Petitioner BODEGAS prays that this Registration No. 2,196,136 be cancelled and that this Cancellation Petition be sustained in favor of the Petitioner BODEGAS.

Respectfully submitted for  
Petitioner Bodegas Esmeralda S.A.,

By:



Matthew C. Wagner  
COLLEN IP

Encs.: - cancellation fee \$300.00 per class  
- duplicate copy

DATED: August 13, 2002

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE VIA FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: ASSISTANT COMMISSIONER FOR TRADEMARKS 2900 CRYSTAL DRIVE, ARLINGTON, VIRGINIA 22202 ON AUGUST 13, 2002.

COLLEN *IP*

By:  Date: August 13, 2002