

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

In the Matter of Registration No. 2,724,189  
For the Mark: "COLUMBUS VODKA & DESIGN"  
Date Registered on Principal Register: June 10, 2003

78/109,298

_____ )	
INVERSIONES EBLIN, S.A., )	
a Dominican Republic Corporation, )	
)	
Petitioner, )	
)	
vs. )	Cancellation No.
)	
TOKAY & ASSOCIATES )	
a Pennsylvania Partnership )	
)	
Registrant. )	
_____ )	

**PETITION TO CANCEL**

COMES NOW the Petitioner, Inversiones Eblin, S.A. ("Petitioner"), a Dominican Republic corporation having an address of Sector Hainamosa Carretera Mella, Kilometro 13, Santo Domingo, Dominican Republic, and petitions to cancel Registration No. 2,724,189 owned by Tokay & Associates, a Pennsylvania Partnership with a address of 9308 Voits Lane, Philadelphia, Pennsylvania 19115 ("Registrant"). Petitioner believes that it has been or will be damaged by Registration No. 2,724,189, and alleges the following to petition for cancellation of the same:

1. The alleged trademark sought to be cancelled is Registration No. 2,724,189, for the alleged mark COLUMBUS VODKA & DESIGN ("Registrant's Mark") for use in connection with the following goods: "Polish Vodka," in International Class 033

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(hereafter "Registrant's Goods"). Registrant's mark was filed February 17, 2002, under a use-based filing basis and resulted in a registration on June 10, 2003.

2. Upon information and belief, Registrant is not the manufacturer of the Registrant's Goods.

3. Upon information and belief, Registrant is a mere importer of Registrant's Goods, which are manufactured by another.

4. Upon information and belief, Registrant is not the owner of the mark and was not at the time of filing its application to register.

5. Registration No. 2,724,189 is void ab initio.

6. Registration No. 2,724,189 was procured by fraud, to wit, Registrant filed its application with knowledge that it is not the owner of the Mark and/or that the Mark was owned by another.

7. Petitioner has filed its own application, Serial No. 78/923,336, with the United States Patent and Trademark Office to register its mark COLUMBUS ANEJO RON DOMINICANO for use in connection with "rum" (hereafter "Petitioner's Goods", subsequently amended to "aged Dominican rum."). Registration No. 2,724,189 was cited against Petitioner's pending application, Serial No. 78/923,336 under Section 2(d) of the Lanham Act, and as a result, Petitioner is likely to be damaged by continued registration of Registrant's Mark.

8. Since long prior to any date upon which Registrant may rely, Petitioner, and/or its predecessors, adopted and used the

inherently distinctive designation and trademark COLUMBUS ANEJO RON DOMINICANO & DESIGN (hereafter or "Petitioner's Mark") for and in connection with Petitioner's Goods internationally, such that the mark has achieved international fame.

9. Since long prior to any date upon which Registrant Petitioner's Mark has been adopted and continuously used in commerce by Petitioner and/or its predecessors in the United States. Such adoption and use of the mark was in interstate commerce, and since that time, the mark has been in continuous use in interstate commerce and has not been abandoned.

10. Petitioner has expended considerable time, money, and effort in promoting its services under the Petitioner's Mark. The strength of Petitioner's Mark has continuously grown, such that Petitioner has established exceedingly valuable goodwill.

11. There is a likelihood of confusion alleged by the U.S. Patent and Trademark Office between Petitioner's Mark for use on Petitioner's Goods and Registrant's Mark for use on Registrant's Goods, as set forth in Registration No. 2,724,189.

12. Registrant's Mark in connection with Registrant's Services is in violation of §2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

13. Upon information and belief, Registrant discontinued use of Registrant's Mark in the United States for a period of three (3) or more years with the intent not to resume use.

14. Upon information and belief, Registrant has discontinued

use of Registrant's Mark in United States commerce with the intent not to resume use.

15. Upon information and belief, Registrant received an assignment in gross from the true manufacturer of Registrant's Goods and true owner of the Mark.

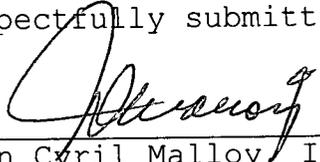
16. Upon information and belief, Registrant received an invalid verbal assignment, rendering Registration No. 2,724,189 void ab initio at the time of filing.

17. In view of the above allegations, Registrant has abandoned Registrant's Mark, as defined in Section 45 of the Trademark Act, 15 U.S.C. §1127, and as such is not entitled to continue registration of its alleged mark.

WHEREFORE, Petitioner prays that this Petition to Cancel be granted and that the aforesaid Registration No. 2,724,189 be cancelled and removed from the Federal Registry. An electronic copy of this Petition to Cancel and the fee required in 37 C.F.R §2.6(a)(16) are enclosed herewith.

Respectfully submitted,

Dated: November 29, 2007

By: 

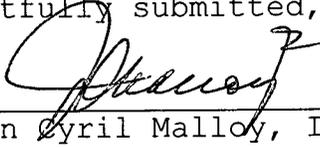
John Cyril Malloy, III  
Florida Bar No. 964,220  
Francisco J. Ferreiro  
Florida Bar No. 37,464  
jcmalloy@malloylaw.com  
MALLOY & MALLOY, P.A.  
Attorneys for Petitioner  
2800 S.W. Third Avenue  
Miami, Florida 33129  
Telephone: (305) 858-8000  
Facsimile: (305) 858-0008

**CERTIFICATE OF EXPRESS MAILING**

I HEREBY CERTIFY that an original and one true and correct copy of the foregoing document are being deposited by United States Express Mail, Label No. EV871182436US, this 29th day of November, 2007, in an envelope addressed to the following:

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Respectfully submitted,

By: 

John Cyril Malloy, III  
Florida Bar No. 964,220

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing  
Petition to Cancel was served upon the following by United States  
mail, postage pre-paid, this 29th day of November, 2007:

TOKAY & ASSOCIATES  
9308 Voits Lane  
Philadelphia, PA 19115

Joseph H. Burns, Esq.  
BURNS & BOBROW  
Courthouse Plaza  
60 Washington Street  
Morristown, New Jersey 07960

Arthur E. Vossberg III  
Law Offices of A. E. Vossberg III  
1100 Buckingham Way  
Yardley PA 19067

Respectfully submitted,

By: \_\_\_\_\_

  
John Cyril Malloy, III  
Florida Bar No. 964,220