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Filing date: **09/24/2008**

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

Proceeding	92049242
Party	Plaintiff El-Kharif Limited
Correspondence Address	Michael Culver Millen White Zelano & Branigan, P.C. 2200 Clarendon Blvd, Suite 1400 Arlington, VA 22201 UNITED STATES major@mwzb.com, culver@mwzb.com
Submission	Motion for Summary Judgment
Filer's Name	Michael Culver
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Signature	/michaelculver/
Date	09/24/2008
Attachments	Petitioner's Motion for Summary Judgment.pdf (34 pages)(2068610 bytes)

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

EL-KHARIF LIMITED)	
)	
Petitioner)	
)	
v.)	Cancellation No. 92049242
)	Registration No. 3167866
LEBANESE ARAK CORPORATION)	Mark: ARAK EL RIF
)	
Respondent)	

PETITIONER’S MOTION FOR SUMMARY JUDGMENT

Petitioner, El-Kharif Limited, hereby moves for summary judgment under Rule 56 of the Federal Rules of Civil Procedure and Trademark Rule 2.127, 37 CFR § 2.127. Summary judgment is appropriate because there is no genuine issue of material fact in dispute that Respondent, Lebanese Arak Corporation, has not used the subject mark in commerce on the product vodka, as sworn to in the application, and the subject registration must therefore be cancelled for Respondent’s fraud in connection with obtaining this registration. Accordingly, the Petition for Cancellation should be granted, as based on the facts and arguments set forth herein.

Statement of Undisputed Facts

On July 21, 2005, Respondent (then Applicant) filed, by counsel, Application No. 78675653 (the ‘653 Application) to register the mark ARAK EL RIF. As claimed in the ‘653 Application, the goods identified by the mark were “alcoholic beverages” and the asserted date of first use anywhere and in commerce was August 5, 1996.

On January 4, 2006, Respondent filed a Preliminary Amendment for the '653 Application that submitted two specimens of use for the mark. A copy of the second such specimen is attached hereto as Exhibit A.

In response to an Office Action dated February 16, 2006, Respondent filed a Response to Office Action on May 1, 2006. Therein, Respondent amended the identification of goods to state "alcoholic beverages, namely arak and vodka."

Without any further amendment, the ARAK EL RIF mark of the '653 Application was published for opposition on August 22, 2006, and issued as the subject registration in this proceeding, Reg. No. 3167866, on November 7, 2006.

In response to Petitioner's written discovery in this proceeding, Respondent has admitted to the following:

1. Respondent has not used in the United States the words ARAK EL RIF as a mark to identify vodka.
2. Respondent has not obtained any federal approval for a label in connection with the use in the United States of the words ARAK EL RIF for vodka.
3. Respondent has not sold, advertised or distributed in the United States any vodka identified as ARAK EL RIF.

See Responses of Respondent Lebanese Arak Corporation to Petitioner's First Admission Requests, Exhibit B hereto.¹

Correlated to the above, Petitioner served three interrogatories each stating, "Unless Respondent's response to Petitioner's Admission Request No. [1-3] is an

¹ In response no. 3 above, Respondent used the word "[has]" since the original request had mistakenly used the word "had" which was erroneous and inconsistent with requests 1 and 2.

unqualified admission, explain the factual basis for any denial or other response by Respondent.” In each response, Respondent offered no further factual explanation, and instead stated as the complete response for each interrogatory “Not applicable.” *See* Respondent Lebanese Arak Corporation’s Responses to Petitioner’s First Set of Interrogatories, Exhibit C hereto.

By document requests, Petitioner sought all documents referring or relating to “any use in commerce by Respondent of the words ARAK EL RIF in connection with vodka,” “any federal approval for a label in connection with the use in the United States of the words ARAK EL RIF for vodka,” and “Respondent’s claim of using ARAK EL RIF for vodka in connection with Registration No. 3167866.” In each instance, Respondent stated it was unable to comply because it “has no, and has never had any, such documents.” *See* Responses of Respondent Lebanese Arak Corporation to Petitioner’s First Set of Documents Requests, Exhibit D hereto.

Respondent has recorded the subject registration with the U.S. Customs and Border Protection. *See* Exhibit E.²

Argument

Summary Judgment Standard

The granting of summary judgment under Fed. R. Civ. P. 56 is appropriate where the pleadings, depositions, answers to interrogatories, admissions on file, together with any supporting affidavits, show that there is no genuine issue of material fact in dispute, and that the moving party is entitled to judgment in its favor as a matter of law. *See Celotex Corp. v. Catrett*, 477 U.S. 317 (1986). “The burden on the moving party may be

² The data for recordation in the on-line database, as shown in Exhibit E, mistakenly lists the mark as ARAK AL RIF, although the other data shown is correct for this registration.

discharged by ... pointing out ... that there is an absence of evidence to support the nonmoving party.” *Id.* at 322. “[T]he dispute about a material fact is ‘genuine,’ ... if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby*, 477 U.S. 242, 248 (1986). “[T]he mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there is no *genuine* issue of *material* fact.” *Id.* at 247-48 (emphasis in original). The nonmoving party must do more than “simply show that there is some metaphysical doubt as to the material facts.” *Matsushita Electric Industrial Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). “[T]he nonmoving party must come forward with ‘specific facts showing that there is a *genuine issue for trial*.’” *Id.* at 587 (emphasis in original, quoting Rule 56(e)). “If the evidence [favoring the nonmoving party] is merely colorable, or is not significantly probative, summary judgment may be granted.” *Anderson*, 477 U.S. at 249-50 (citations omitted).

Given the appropriate factual predicate, the issue of securing or maintaining a registration through fraud is capable of resolution through summary judgment. *See, e.g., Torres v. Cantine Torresella S.r.l.*, 808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986); *Hurley International LLC v. Volta*, 82 USPQ2d 1339 (TTAB 2007).

The Claimed Use of the Mark for Vodka Is Fraud on the PTO

Respondent’s responses to Petitioner’s written discovery clearly establish that the subject mark has not been used to identify vodka, contrary to the claim in the ‘653 Application. That application asserted use of the mark for arak and vodka which are distinctly different products. Vodka is generally defined as “a colorless distilled liquor

originally from Russia that is made from a grain such as rye or wheat or from potatoes.” See dictionary definition attached at Exhibit F. See also 27 CFR § 5.22 (“The Standards of Identity” by the Alcohol and Tobacco Tax and Trade Bureau stating vodka “is neutral spirits so distilled, or so treated after distillation with charcoal or other materials, as to be without distinctive character, aroma, taste, or color”). Arak, on the other hand, “is a clear, colourless, unsweetened aniseed-flavoured distilled alcoholic drink, produced in the eastern Mediterranean countries” See Wikipedia entry at Exhibit G. The anise flavor is a hallmark characteristic: “The ratio of alcohol to aniseed may vary, it’s one of the major factors of the quality of the final product.” *Id.*³

This case is controlled by the Board’s *Medinol* decision and its progeny. *Medinol Ltd. v. Neuro Vasx, Inc.*, 67 USPQ2d 1205 (TTAB 2003). “Fraud in procuring a trademark registration occurs when an applicant for registration knowingly makes a false, material representation of fact in connection with an application to register.” *Hurley Int’l*, 82 USPQ2d at 1343. Here, the claimed use of the mark for vodka was clearly false. “[T]he law is clear that an applicant may not claim a Section 1(a) filing basis unless the mark was in use in commerce on or in connection with *all* the goods or services covered by the Section 1(a) basis as of the application filing date.” *Id.* at 1344-45 (emphasis in original). Further, “[s]tatements regarding the use of the mark on goods and services are certainly material to issuance of a registration.” *Id.* at 1344. “The specific or actual intent of [the applicant] is not material to the question of fraud.” *Herbaceuticals Inc. v. Xel Herbaceuticals Inc.*, 86 USPQ2d 1572, 1578 (TTAB 2008). Fraud occurs when the

³ Wikipedia indicates “arak” is distinct from the liquor “arrack” while other sources indicate one is a variant spelling of the other. See dictionary entries at Exhibit H. Any difference in these two liquors is immaterial to the distinction from vodka.

applicant makes a false material representation that it knew or should have known was false. *Id.*; *Hurley Int'l*, 82 USPQ2d at 1345.

Here, the fraud in securing the registration is clearly established, and thus the registration must be cancelled. *See Torres*, 1 USPQ2d at 1485 (fraud established by use for wine only while claiming wine, vermouth and champagne); *Medinol*, 67 USPQ2d at 1210 (fraud established by use for catheters only while claiming neurological stents and catheters). No misunderstanding, confusion or oversight by an applicant can cure what is an obviously false claim of use: “There were only two goods identified in the notice of allowance; the mark was either in use on both, or it was not.” *Id.* at 1209. *See also Herbaceuticals*, 86 USPQ2d at 1577 (“the mark was either in use on all of those goods, or it was not”); *Hachette Filipacchi Presse v. Elle Belle LLC*, 85 USPQ2d 1090, 1094 (TTAB 2007) (that applicant was “unaware” of the coverage of the claimed use and had difficulty with the English language does not change the “clear and unambiguous” language of the application); *Hurley Int'l*, 82 USPQ2d at 1345 (“[t]he fact that applicants allegedly misunderstood a clear and unambiguous requirement for an application based on use, were not represented by legal counsel, and were suffering health problems does not change our finding of fraud herein”).

Petitioner has standing in this proceeding

In this cancellation proceeding, Section 14 of the Trademark Act permits standing for “any person who believes that he is or will be damaged” by the subject registration. 15 U.S.C. § 1064. Standing is established when the plaintiff has a “real interest” in the proceeding beyond that of a mere intermeddler. *See Selva & Sons, Inc. v. Nina*

Footwear, Inc., 705 F.2d 1315, 217 USPQ 641, 648 (Fed. Cir. 1983); *Golden Gate Salami Co. v. Gulf States Paper Corp.*, 332 F.2d 184, 141 USPQ 661, 664 (CCPA 1964).

Respondent has essentially admitted that Petitioner has this requisite real interest. The specimen of use filed for the '653 Application (Exhibit A) is a photograph of a bottled product labeled as "100% PURE OLD LEBANESE ARAK." Those words on the product label are immediately followed by the statement "Produced, Bottled & Sealed by El Kharif Ltd." Namely, the product producer is the present Petitioner.

These statements on the specimen of use "may be used as evidence *against* the applicant or registrant, that is, as admissions against interest and the like." TBMP § 704.04 (2d ed. June 2003, 1st rev. March 2004) (emphasis in original). *See also Mason Engineering and Design Corp.*, 225 USPQ 956, 961 n.11 (TTAB 1985) (using specimen to determine scope of services); *Eikonix Corp. v. CGR Medical Corp.*, 209 USPQ 607, 613 n.7 (TTAB 1981) (using specimen to determine nature of goods); *McKesson & Robbins, Inc. v. Mannitone Corp.*, 77 USPQ 537 (Comr. Pat. 1948) (relying on ingredient statement from label of food product).

The present case is thus analogous to *Porcelaine de Paris, Sarl v. I. Freeman & Son, Inc.*, 118 USPQ 369 (Comr. Pat. 1958). Therein, Assistant Commissioner Leeds stated the following:

As a mere importer and reseller of petitioner's goods bearing petitioner's marks, respondent acquired no right of ownership in petitioner's marks or any part or component of such marks. Respondent was not entitled to the registration of the mark, and under the facts here, *damage to petitioner from the continued existence of the registration will be presumed.*

Id. at 370 (emphasis added). *See also Bakker v. Steel Nurse of America Inc.*, 176 USPQ 447, 448 (TTAB 1972) ("it is well established that the importer of the goods bearing the

mark of a foreign manufacturer does not acquire any rights in the trademark merely by importing the goods and selling them in the United States”).

Respondent’s product label establishes Petitioner as the product source and thus Respondent as the importer. With that admission against interest, Petitioner’s standing is established.

Additionally, Respondent’s recordation of the subject registration with the U.S. Customs and Border Protection deters Petitioner’s shipments of ARAK EL RIF brand arak—which it produces, as admitted in Respondent’s specimen of use—into the United States. *See* 15 U.S.C. § 1524 (providing that “no article of imported merchandise ... which shall copy or simulate a trademark registered in accordance with the provisions of this Act ... shall be admitted to entry at any customhouse of the United States” and providing for recordation of the trademark “in order to aid the officers of the customs in enforcing this prohibition...”). This deterrence of trade also establishes Petitioner’s standing in this proceeding. *See Lipton Industries, Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 213 USPQ 185, 189 (CCPA 1982), citing *Plastilite Corp. v. Kassnar Imports*, 508 F.2d 824, 184 USPQ 348 (CCPA 1975).⁴

Conclusion

Based on the undisputed factual record, Respondent submitted a false claim of use—that the mark was used on vodka—in obtaining the subject registration. Based on the application of clearly settled law, Respondent’s fraud and Petitioner’s standing are established beyond dispute. Accordingly, Petitioner’s motion should be granted and the registration thus cancelled.

⁴ Additionally, Petitioner has filed Application No. 77551302 to register ARAK EL RIF for arak. If necessary, the pleadings can be amended accordingly.

Date: September 24, 2008

By: Michael Culver

Scott J. Major
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Attorneys for Petitioner

Certificate of Service

This is to certify that a copy of the foregoing was this 24th day of September 2008 sent by first class mail, postage prepaid, to the following:

Douglas H. Morseburg, Esq.
Sheldon Mark Rose & Anderson
Third Floor
100 East Corson Street
Pasadena, CA 91103-3842

By: Michael Culver
Attorney for Petitioner

Exhibit A

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INSURANCE COMPANY



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SPECIAL
PRICES

THE GREAT EASTERN
INSURANCE COMPANY

INCORPORATED IN THE STATE OF NEW YORK
OFFICE: 100 WALL STREET, NEW YORK

AGENTS: J. M. W. & CO., 100 WALL STREET, NEW YORK

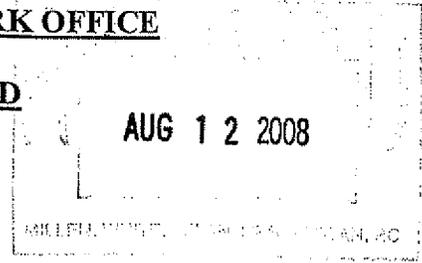
THE GREAT EASTERN INSURANCE COMPANY
INCORPORATED IN THE STATE OF NEW YORK

OFFICE: 100 WALL STREET, NEW YORK

Exhibit B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK TRIAL AND APPEAL BOARD



EL-KHARIF LIMITED	:	Cancellation No. 92049242
Petitioner,	:	Registration No. 3167866
v.	:	Mark: ARAK EL RIF
LEBANESE ARAK CORPORATION	:	
Respondent	:	

**RESPONSES OF RESPONDENT LEBANESE ARAK CORPORATION
TO PETITIONER'S FIRST ADMISSION REQUESTS**

Respondent Lebanese Arak Corporation ("LAC") responds as follows Petitioner's First Admission Requests (the "Requests"):

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

A. LAC is presently pursuing an investigation of the facts relating to this proceeding and has not yet completed its discovery or preparation for trial. These responses are being made without prejudice to its right to seek to change or amend its responses, and subject to its right to produce evidence of any subsequently discovered fact or any subsequently discovered documents.

B. LAC expressly reserves all objections as to relevancy, materiality, propriety, and admissibility of any fact which is the subject of the Requests. All objections and grounds for objections are expressly reserved and may be interposed by Lebanese at any later stage of this proceeding, including at the time of trial.

C. Except for explicit facts admitted in response to any individual request, LAC does not intend any incidental or implied admissions by its responses.

RESPONSES TO REQUESTS FOR ADMISSION

ADMISSION REQUEST NO.1:

Respondent has not used in the United States the words ARAK EL RIF as a mark to identify vodka.

RESPONSE TO REQUEST:

Admit.

ADMISSION REQUEST NO.2:

Respondent has not obtained any federal approval for a label in connection with the use in the United States of the words ARAK EL RIF for vodka.

RESPONSE TO REQUEST:

Admit.

ADMISSION REQUEST NO.3:

Respondent [has] not sold, advertised or distributed in the United States any vodka identified as ARAK EL RIF.

RESPONSE TO REQUEST:

Admit.

Date: August 7, 2008

LEBANESE ARAK CORPORATION

By: Douglas H. Morseburg
Douglas H. Morseburg

SHELDON MAK ROSE & ANDERSON
100 Corson Street, 3d Floor
Pasadena, California 91103
626.796.4000 Telephone
626.795.6321 Fax
doug@usip.com
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing

**RESPONSES OF RESPONDENT LEBANESE ARAK CORPORATION TO
PETITIONER'S FIRST ADMISSION REQUESTS**

has been served by first class mail, postage prepaid, this 7th day of August, 2008, as follows:

Scott J. Major
Michael Culver
Millen, White, Zelano & Branigan, P.C.
2200 Clarendon Blvd., Suite 1400
Arlington, VA 22201

DATED: August 7, 2008

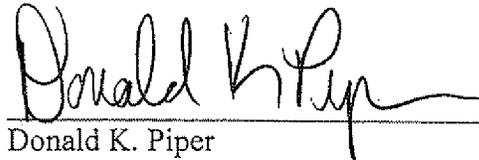
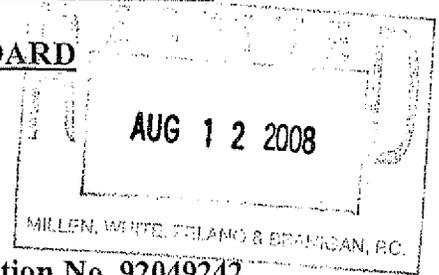

Donald K. Piper

Exhibit C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK TRIAL AND APPEAL BOARD



EL-KHARIF LIMITED	:	Cancellation No. 92049242
	:	
Petitioner,	:	Registration No. 3167866
	:	
v.	:	Mark: ARAK EL RIF
	:	
LEBANESE ARAK CORPORATION	:	
	:	
Respondent.	:	

**RESPONDENT LEBANESE ARAK CORPORATION'S RESPONSES
TO PETITIONER'S FIRST SET OF INTERROGATORIES**

Respondent Lebanese Arak Corporation ("LAC") responds as follows to Petitioner's First Set of Interrogatories (the "Interrogatories"):

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

A. LAC is presently pursuing an investigation of the facts relating to this proceeding and has not yet completed its discovery or preparation for trial. These responses are being made without prejudice to its right to seek to change or amend its responses, and subject to its right to produce evidence of any subsequently discovered fact or any subsequently discovered documents.

B. LAC expressly reserves all objections as to relevancy, materiality, propriety, and admissibility of any fact which is the subject of the Interrogatories. All objections and grounds for objections are expressly reserved and may be interposed by LAC at any later stage of this proceeding, including at the time of trial.

C. Except for explicit facts admitted in response to any interrogatory, LAC does not intend any incidental or implied admissions by its responses.

RESPONSES TO INTERROGATORIES

Interrogatory No. 1:

Unless Respondent's response to Petitioner's Admission Request No. 1 is an unqualified admission, explain the factual basis for any denial or other response by Respondent.

Response to Interrogatory:

Not applicable.

Interrogatory No. 2:

Unless Respondent's response to petitioner's Admission Request No. 2 is an unqualified admission, explain the factual basis for any denial or other response by Respondent.

Response to Interrogatory:

Not applicable.

Interrogatory No. 3:

Unless Respondent's response to petitioner's Admission Request No. 3 is an unqualified admission, explain the factual basis for any denial or other response by Respondent.

Response to Interrogatory:

Not applicable.

Date: August 7, 2008

LEBANESE ARAK CORPORATION

By: *Douglas H. Morseburg*
Douglas H. Morseburg

SHELDON MAK ROSE & ANDERSON

100 Corson Street, 3d Floor

Pasadena, California 91103

626.796.4000 Telephone

626.795.6321 Fax

doug@usip.com

Attorney for Respondent

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing

**RESPONDENT LEBANESE ARAK CORPORATION'S RESPONSES TO
PETITIONER'S FIRST SET OF INTERROGATORIES**

has been served by first class mail, postage prepaid, this 7th day of August, 2008, as follows:

Scott J. Major
Michael Culver
Millen, White, Zelano & Branigan, P.C.
2200 Clarendon Blvd., Suite 1400
Arlington, VA 22201

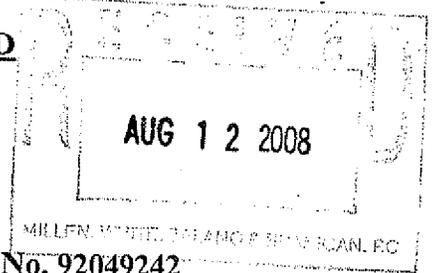
DATED: August 7, 2008


Donald K. Piper

Exhibit D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK TRIAL AND APPEAL BOARD



EL-KHARIF LIMITED	:	Cancellation No. 92049242
Petitioner,	:	Registration No. 3167866
v.	:	Mark: ARAK EL RIF
LEBANESE ARAK CORPORATION	:	
Respondent	:	

**RESPONSES OF RESPONDENT LEBANESE ARAK CORPORATION
TO PETITIONER'S FIRST SET OF DOCUMENT REQUESTS**

Respondent Lebanese Arak Corporation ("LAC") responds as follows to Petitioner's First Set of Document Requests (the "Requests"):

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

A. LAC is presently pursuing an investigation of the facts relating to this proceeding and has not yet completed its discovery or preparation for trial. These responses are being made without prejudice to its right to seek to change or amend its responses, and subject to its right to produce evidence of any subsequently discovered fact or any subsequently discovered documents.

B. LAC expressly reserves all objections as to relevancy, materiality, propriety, and admissibility of any fact which is the subject of the Requests. All objections and grounds for objections are expressly reserved and may be interposed by LAC at any later stage of this proceeding, including at the time of trial.

C. Except for explicit facts admitted in response to any individual request, LAC does not intend any incidental or implied admissions by its responses.

D. LAC generally objects to the production date specified in the Request on the grounds that it is shorter than the periods permitted for a written response and for production provided for in the Federal Rules of Civil Procedure.

E. LAC generally objects to the place of production specified in the Request on the grounds that it is unduly burdensome.

F. LAC generally objects to the instruction contained in the Request that it produce the requested documents as they are kept in the usual course of business and to specify in its written response and on labels on the documents and things produced the production request to which each document and thing is responsive on the grounds that it purports to impose on LAC obligations in excess of those specified in Rule 34 of the Federal Rules of Civil Procedure.

G. LAC generally objects to the Request to the extent it purports to require the production of documents protected by the attorney/client privilege and/or the work product doctrine which documents were dated, generated or prepared following the date this proceeding was instituted and LAC expressly declines to identify or to produce any such documents.

RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

Request No. 1

All documents referring or relating to any use in commerce by Respondent of the words ARAK EL RIF in connection with vodka.

Response to Request:

LAC is unable to comply with this request because, as LAC interprets it, LAC has no, and it has never had any, such documents.

Request No.2

All documents referring or relating to any federal approval for a label in connection with the use in the United States of the words ARAK EL RIF for vodka.

Response to Request:

LAC is unable to comply with this request because, as LAC interprets it, LAC has no, and it has never had any, such documents.

Request No. 3:

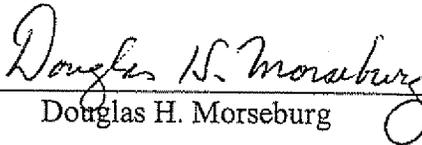
All documents referring or relating to Respondent's claim of using ARAK EL RIF for vodka in connection with Registration No. 3167866.

Response to Request:

LAC objects to this request on the grounds that the phrase "Respondent's claim of using ARAK EL RIF in connection with vodka" is vague and ambiguous. Subject to the foregoing objections, LAC responds that it is unable to comply with this request because, as it interprets this request, LAC has no, and it has never had any, such documents.

Date: August 7, 2008

LEBANESE ARAK CORPORATION

By: 
Douglas H. Morseburg

SHELDON MAK ROSE & ANDERSON
100 Corson Street, 3d Floor
Pasadena, California 91103-3842
626.796.4000 Telephone
626.795.6321 Fax
doug@usip.com
Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing

**RESPONSES OF RESPONDENT LEBANESE ARAK CORPORATION TO
PETITIONER'S FIRST SET OF DOCUMENT REQUESTS**

has been served by first class mail, postage prepaid, this 7th day of August, 2008, as follows:

Scott J. Major
Michael Culver
Millen, White, Zelano & Branigan, P.C.
2200 Clarendon Blvd., Suite 1400
Arlington, VA 22201

DATED: August 7, 2008



Donald K. Piper

Exhibit E

Effective Date: 4/2/2007
Expiration Date: 11/7/2016

Trademark**Customs Recordation Number: TMK 07-00172**

Title	ARAK AL RIF
Product	IC 033. ALCOHOLIC BEVERAGES, NAMELY ARAK AND VODKA.
Description	ARAK AL RIF, WORD MARK
Owner Name	LEBANESE ARAK CORPORATION
Gray Market Importations Restricted	NO
U.S. Patent and Trademark Office Registration Number	3167866
Firm	YES
Contact Name	DOUGLAS MORSEBURG 225 SOUTH LAKE AVENUE, 9TH FLOOR PASADENA, CALIFORNIA 91101
Phone Number	626-796-4000

Exhibit F

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vodka



- vocational
- vocational guidance
- vocational school
- vocationalism
- vocative
- vociferate
- vociferous
- vocoder
- ▶ **vodka**
- vodkatini
- vodoun
- voe
- vog
- vogue (1)
- vogue (2)
- voguish
- Vogui

vod·ka [vódkə]

noun

Definition:

colorless distilled liquor: a colorless distilled liquor originally from Russia that is made from a grain such as rye or wheat or from potatoes

[Early 19th century. < Russian, "small water" < *voda* "water"]

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Exhibit G

Arak (distilled beverage)

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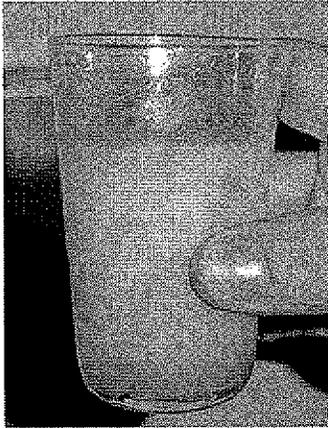
From Wikipedia, the free encyclopedia

Arak or **araq** (Arabic: عرق, pronounced [ʕaraq]; **oghi** in Armenian) is a clear, colourless, unsweetened aniseed-flavoured distilled alcoholic drink, produced and consumed in the eastern Mediterranean countries, Syria, Lebanon, Israel, Iraq, Jordan and Palestine. The word comes from Arabic *araq* عرق. Arak is not to be confused with the similarly named liquor, arack (which in some cases, such as in Indonesia--especially Bali, also goes by the name arak).

Contents

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- 2 Preparation
- 3 Variations
- 4 History
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Consumption



Arak with water and ice.

Arak is usually not drunk straight, but is mixed in approximately 1/3 arak to 2/3 water, and ice is then added.

This dilution causes the clear liquor to turn an opaque milky-white colour; this is because anethole, the essential oil of anise, is soluble in alcohol but not in water. This results in an emulsion, whose fine droplets scatter the light and turn the liquid opaque, a phenomenon known as louching. Arak is also commonly mixed with teas and juices. Drinkers may also take arak with a chaser on the side. Arak is usually served with mezza, which could include dozens of small dishes, which many arak drinkers prefer as accompaniment rather than main courses. When the main course of the meal is served, it may hardly be touched, in favour of these smaller dishes. It is also well appreciated with barbecues, along with garlic sauce.

Tradition requires that water is added before ice. If ice is added directly, it results in the formation of an aesthetically unpleasant skin on the surface of the drink, as the ice causes the fat to solidify out of the arak. If water is added first, the ethanol causes the fat to emulsify, leading to the characteristic milky colour. For the same reason some drinkers prefer not to reuse an arak-filled glass. In restaurants, when a bottle of arak is ordered, the waiter will usually bring a number of glasses along with it for this reason, whilst at home with regular drinkers it's deemed unnecessary.



"Arak Rayan", from Syria.

Preparation

It all begins with the vineyards, and the grapevine quality. The vine should be well mature, usually of a golden colour. The vineyards are not sprinkled, they are left to the care of the Mediterranean climate, natural rain and sun. The grapes are cultivated in late September and October. The grapes are squeezed and put in barrels together with the juice (in Arabic *El romeli*), and left to ferment for three weeks. Occasionally the whole mix is stirred to release the CO₂.

Now the first distillation, the goal is to get the alcohol out of the mixture that has fermented for three weeks. The distillation is done using the alembic or *el romeli* also *al karkeh*, made of copper. It's basically three parts. The lower being a container used to boil what's inside (on fire). The middle part collects the vapors coming out of the boiling ingredients. The third part is used to cool the vapor that will be transformed to liquid and collected on its way out, usually in a container of glass. So the mixture of all the fermented and squeezed grapes is put into the lower part and it is boiled at a temperature around 80°C (boiling temperature of alcohol), but below 100°C (boiling temperature of water). The idea is to collect the alcohol in the container without any water.

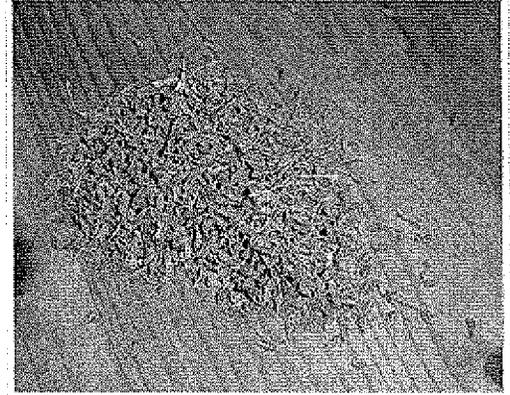
Now the second distillation, here is made the actual final product. The alcohol collected in first distillation is to be distilled again but this time mixed with aniseed. The whole alembic is washed to remove all the remains of the precedent distillation. The alcohol and the aniseed are mixed together in the lower part of the *karkeh* (called in Arabic *ddessett*). The ratio of alcohol to aniseed may vary, it's one of the major factors of the quality of the final product. Another distillation takes place, usually on the lowest possible temperature. The procedure is very slow.

Traditionally a drinking party takes place at the same time. People would gather to help the producer and have a drinking party. This is one of the most prestigious and traditional parties of the Lebanese mountains. It usually takes place in November.

Note: Once the first distillation is done, it's not mandatory to have the second one immediately after.

Variations

One of the basic varieties, considered by many to be the prototypical arak, is distilled from grapes and anise. Numerous varieties of arak are popular in all the countries edging the Mediterranean, and in parts of the Far East. In the Levant, it is distilled from fermented grape juice or, at times, sugar, and is considered by the inhabitants to be greatly superior to similar hard liquors in other countries. The same spirit is called Ouzo in Greece, Mastika in Republic of Macedonia and Bulgaria and Rakı (another form of the word arak) in Turkey; they are made from a variety of products like grain, molasses, plums, figs and potatoes. Other similar drinks are the arak of Iraq, made from fermented date juice, and the zibib of Egypt, a peasant-made drink. An Iranian variant, called *Aragh-e Sagi* (Persian: عرق سگی, literally *dog's sweat*), is produced without anise, and has a higher alcohol content than other varieties. Further west, along the northern shores of the Mediterranean, the Italian anesone, French pastis and Spanish ojén, served as aperitifs or refreshers, are all sweeter versions of arak. Also, in the Far East, a comparable drink known as arrack, distilled from palm sap or rice, is very popular; in Korea it is known as Soju.



Aniseed on wooden table.

The ABV differs from one version to another, with the most alcoholic reaching 90% or even more. The best quality arak is usually between 73% and 80%; when mixed with water it is diluted to 35-45%.

History

Jabir ibn Hayyan, a Muslim alchemist of the early Islamic era, invented the alembic, which facilitated the distillation of alcoholic spirits, the name used in Lebanon is *al karkeh* or little more formally *al kattara*. However, Muslims did not use his invention to produce alcoholic beverages since, in Islam, the consumption of alcohol is forbidden. Hence, his discovery was employed to distill perfume from flowers and to produce kohl, a women's eye cosmetic in which a black powder is liquefied, then converted to vapour and allowed to re-solidify.

The Arabs carried the art of distilling kohl to Spain from where it spread to the remainder of Europe. In these Christian lands, it took on a much different use: the production of alcoholic drinks. With the utilisation of this method of producing hard spirits, the Arabic name "*al-kohl*", which became alcohol, was adopted due to the similar method the Arabs used in manufacturing this cosmetic. The words in English relating to the art of distillation, besides alcohol, such as "alchemy", "alchemist", and "alembic" attest to an Arab origin.

Traditionally, arak was generally of local or village manufacture, but in the last few decades it has increasingly been produced in large manufacturing plants. It has remained the preference of those who enjoy alcoholic drinks in the Middle East, in competition with the many drinks imported from the West.

In Iraq, Arak is sometimes referred to as the "Lions' milk" (arabic: حليب سباع), most likely due to its milky appearance, and high alcohol content thought to only be tolerated by people "as strong as lions."

See also

- Raki, a Turkish drink
- Ouzo, a Greek drink
- Arrack, a different drink from Southeast Asia
- Airag, a Mongolian drink
- Flavored liquor

Sources and external links

- Preparing Arak, in Toula (Lebanon)
- Wine and Dine e-magazine
- Making Arak

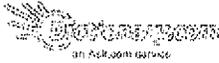
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Exhibit H



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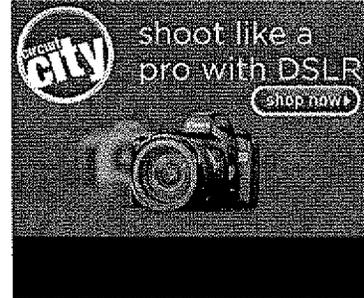
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