

ESTTA Tracking number: **ESTTA588729**

Filing date: **02/21/2014**

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

**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Sazerac Company, Inc.		
Entity	Corporation	Citizenship	Louisiana
Address	3850 N. Causeway Blvd., Suite 1695 Metairie, LA 70002 UNITED STATES		

Attorney information	John Paul Oleksiuk Cooley LLP 1299 Pennsylvania Avenue NW, Suite 700 Washington, DC 20004 UNITED STATES trademarks@cooley.com,jpo@cooley.com Phone:310.883.6400		
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**Registration Subject to Cancellation**

Registration No	4420193	Registration date	10/22/2013
Registrant	Prichard's Distillery, Inc. P.O. Box 100 Kelso, TN 37348 TUNISIA		

**Goods/Services Subject to Cancellation**

Class 033. First Use: 2002/12/10 First Use In Commerce: 2002/12/10 All goods and services in the class are cancelled, namely: distilled spirits
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**Grounds for Cancellation**

Genericness	Trademark Act section 23
The mark is merely descriptive	Trademark Act section 2(e)(1)

Attachments	SD- #889257-v1-Sazerac_-_Petition_to_Cancel_DOUBLE_BARRELED_(merely_descriptive_or_generic).pdf(135901 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	/John Paul Oleksiuk/
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Name	John Paul Oleksiuk
Date	02/21/2014

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

In the matter of Registration No. 4,420,193  
Registered: October 22, 2013  
Registrant: Prichard's Distillery, Inc.  
Mark: DOUBLE BARRELED

SAZERAC COMPANY, INC.	)	
	)	
Petitioner,	)	
	)	Cancellation No.
v.	)	
	)	
PRICHARD'S DISTILLERY, INC.	)	
	)	
Registrant.	)	
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	)	

**PETITION FOR CANCELLATION**

Petitioner Sazerac Company, Inc. (hereinafter "Petitioner" or "Sazerac"), a Louisiana corporation having its principal place of business at 3850 N. Causeway Blvd., Suite 1695, Metairie, Louisiana 70002, will be damaged by the continued registration for the mark shown in Registration No. 4,420,193 registered on October 22, 2013 for DOUBLE BARRELED ("Registrant's Mark") by Prichard's Distillery, Inc. ("Registrant"). Sazerac hereby petitions to cancel Registration No. 4,420,193 under Section 14 of the Trademark Act of 1947, 15 U.S.C. § 1064.

As grounds for this Petition, Petitioner alleges:

1. Petitioner is a company that markets and sells a number of different types and brands of alcoholic beverages and distilled spirits including bourbon whiskey. Petitioner has

marketed and sold alcoholic beverages and distilled spirits in the United States for over a century.

2. Petitioner's Buffalo Trace Distillery has used a process called "double barreling" to age its distilled spirits.

3. Upon information or belief, Registrant filed a use-based application for the mark DOUBLE BARRELED on May 14, 2013.

4. Registrant was issued Registration No. 4,420,193 on October 22, 2013 for DOUBLE BARRELED for "distilled spirits" in International Class 033.

5. As set forth in detail below, on information and belief, the term "double barreled" is the generic term for distilled spirits that have undergone a standard and industry-accepted alcoholic beverage-aging process, or the term "double barreled" is merely descriptive in that it informs customers about a characteristic of the relevant products, i.e., how the distilled spirits are aged. The phrase as used by Registrant does not function as a trademark or product source identifier. As a present or potential competitor of Registrant, Petitioner believes that it is and will continue to be damaged by the continued registration of Registration No. 4,420,193.

#### **CLAIM FOR RELIEF**

#### **REGISTRATION NO. 4,420,193 SHOULD BE CANCELLED BECAUSE IT IS MERELY DESCRIPTIVE OF A STEP IN THE AGING PROCESS OF REGISTRANT'S GOODS AND/OR THE GENERIC TERM FOR A FEATURE OR CHARACTERISTIC OF REGISTRANT'S GOODS**

6. Petitioner incorporates by reference Paragraphs 1 through 5, inclusively, as if fully set forth herein.

7. Upon information and belief, "double barreled" is understood by the relevant purchasing public to be the common term or class name for distilled spirits that have been aged in two barrels prior to bottling. The term refers to the practice of removing an alcoholic beverage

from one barrel and re-barreling it in a second barrel to add flavors to the product as the aging process is completed.

8. Upon information and belief, numerous third party companies in the alcoholic beverage industry currently use the term “double barreled” other than as a trademark to accurately identify the process by which they age their alcoholic beverages. Registrant has not made substantially exclusive use of the term “double barreled” in connection with distilled spirits.

9. On information and belief, the term “double barreled” is not inherently distinctive, and has not become distinctive of Registrant’s goods in commerce. Registrant has not acquired secondary meaning within the alcoholic beverages industry for the term “double barreled” for its goods.

10. Registrant’s registration for DOUBLE BARRELED does and/or will interfere with the rights of others active in or affiliated with the alcoholic beverage industry to identify the “double barreling” process by which they age their products.

11. Additionally, Registrant’s registration for DOUBLE BARRELED prevents and/or will prevent Petitioner and others in the alcoholic beverage industry from using the term “double barreled” to accurately refer to or describe their products that have been transferred from one barrel to another during the beverage-aging process.

12. Registrant’s registration for DOUBLE BARRELED gives Registrant prima facie evidence of the validity and ownership of this descriptive and/or generic term and of Registrant’s exclusive right to use the term, all to the detriment of Petitioner and others in the alcoholic beverage industry.

13. The registration of the phrase DOUBLE BARRELED is therefore in violation of 15 U.S.C. §§ 1052 and 1052(e)(1), as well as TMEP § 1209.01(b) and 1209.01(c) as the mark is merely descriptive of or generic for Registrant's goods. Accordingly, Registration No. 4,420,193 should be cancelled under Section 14 of the Trademark Act of 1964, 15 U.S.C. § 1064.

WHEREFORE, for all the foregoing reasons, Petitioner requests that the present Petition for Cancellation be sustained and Registration No. 4,420,193 be cancelled.

COOLEY LLP

Date: February 21, 2014

By: /John Paul Oleksiuk/  
Todd S. Bontemps, Esq.  
John Paul Oleksiuk, Esq.  
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Suite 700  
Washington, DC 20004  
(310) 883-6400

**CERTIFICATE OF SERVICE**

I hereby certify that on February 21, 2014, I mailed the foregoing PETITION FOR CANCELLATION to Counsel for Registrant 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:

Matthew C. Cox  
Wadley & Patterson, P.C.  
1600 Division Street  
Suite 500  
Nashville, TN 37203

Date: February 21, 2014

/John Paul Oleksiuk/  
John Paul Oleksiuk