

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Baxley

Mailed: April 26, 2005

Concurrent Use No. 94002083

El Viajero Cheese Company,
Inc.

v.

Marquez Brothers
International, Inc.

Andrew P. Baxley, Interlocutory Attorney:

The notice instituting this proceeding a copy of concurrent use application Serial No. 76130223 which were forwarded to defending registrant Marquez Brothers International, Inc. ("Marquez") were returned by the United States Postal Service as undeliverable.

An online search indicates that Marquez's corporate headquarters are located at the following address: **5801 Rue Ferrari, San Jose, CA 95138**. Accordingly, the above notice and application are remailed as indicated above.

Marquez is hereby notified of the institution of this concurrent use proceeding, in accordance with the provisions of Rule 2.99. As the record owner of Registration No. 1404276, Marquez is not required to file an answer but is allowed until **forty days** from the mailing date of this order to file such answer under Rule 2.99.

Concurrent Use No. 94002083

In addition, Marquez is requested to advise the Board of any relevant applications or registrations, other than those already referenced herein, which should be included in this concurrent use proceeding. Such response should be in writing and must be filed not later than **forty days** from the mailing date of this order.

Marquez is also allowed until **forty days** from the mailing date of this order in which to inform this Office of its correct address in order that all records may be amended. Compliance with Patent and Trademark Rule 1.4(c) and Trademark Rule 2.119(a) is required.

Any discovery requests or notices served that remain unanswered as of the mailing date of this order must be reserved in accordance with the rules, unless otherwise agreed to by the parties.

In accordance with the Trademark Rules of Practice, discovery is open, and the close of discovery and testimony dates are set as indicated below. In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

DISCOVERY PERIOD TO CLOSE: **07/08/05**

Plaintiff's 30-day testimony period to close: **10/06/05**

Concurrent Use No. 94002083

Defendant's 30-day testimony period to close: **12/05/05**

15-day rebuttal testimony period to close: **01/19/06**

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.