

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85084569
LAW OFFICE ASSIGNED	LAW OFFICE 111
MARK SECTION	
MARK	http://tmng-al.uspto.gov/resting2/api/img/85084569/large
LITERAL ELEMENT	EL MATADOR
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ARGUMENT(S)	
<p>On June 18, 2015, Applicant's counsel, Paulo A. deAlmeida, sent an email to the Examining Attorney with attached copies of a co-existence agreement between Applicant and the owner of the mark cited under Section 2(d). On August 11, 2015, the Examining Attorney emailed Applicant's counsel indicating that she had not received the attachments. Applicant sent another email on August 11, 2015 with the attachments. On August 12, 2015, the Examining Attorney acknowledged receipt of the attachments. To expedite the processing of Applicant's request for a concurrent use application, Applicant has submitted this formal response to the Examining Attorney's office action with additional copies of the agreement. Applicant respectfully requests that the Examining Attorney process the request accordingly. The Examining Attorney may contact Applicant's counsel at (818) 380-1900 if there are any questions.</p>	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_767924266-20150831151759847106_Executed_Concurrent_Use_Agreement_Chalon_s_signature.pdf
CONVERTED PDF FILE(S) (4 pages)	\\TICRS\EXPORT16\IMAGEOUT16\850\845\85084569\xml21\ROA0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\850\845\85084569\xml21\ROA0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\850\845\85084569\xml21\ROA0004.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\850\845\85084569\xml21\ROA0005.JPG
ORIGINAL PDF FILE	evi_767924266-20150831151759847106_Executed_Concurrent_Use_Agreement_Mocore_signature.pdf
CONVERTED PDF FILE(S) (4 pages)	\\TICRS\EXPORT16\IMAGEOUT16\850\845\85084569\xml21\ROA0006.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\850\845\85084569\xml21\ROA0007.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\850\845\85084569\xml21\ROA0008.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\850\845\85084569\xml21\ROA0009.JPG
DESCRIPTION OF EVIDENCE FILE	Signed co-existence agreement
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Alex Patel/
SIGNATORY'S NAME	Alex Patel

SIGNATORY'S POSITION	Attorney
SIGNATORY'S PHONE NUMBER	(818) 380-1900
DATE SIGNED	08/31/2015
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Aug 31 15:31:26 EDT 2015
TEAS STAMP	USPTO/ROA-XX.XX.XXX.XX-20 150831153126201481-850845 69-54072449dbb72f539a34d3 ed0d311a491d5e1ece41a2bff ac3f65a10b83a1f3bd8-N/A-N /A-20150831151759847106

PTO Form 1957 (Rev 9/2005)
OMB No. 0651-0050 (Exp. 07/31/2017)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **85084569** EL MATADOR(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/85084569/large>) has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

On June 18, 2015, Applicant's counsel, Paulo A. deAlmeida, sent an email to the Examining Attorney with attached copies of a co-existence agreement between Applicant and the owner of the mark cited under Section 2(d). On August 11, 2015, the Examining Attorney emailed Applicant's counsel indicating that she had not received the attachments. Applicant sent another email on August 11, 2015 with the attachments. On August 12, 2015, the Examining Attorney acknowledged receipt of the attachments. To expedite the processing of Applicant's request for a concurrent use application, Applicant has submitted this formal response to the Examining Attorney's office action with additional copies of the agreement. Applicant respectfully requests that the Examining Attorney process the request accordingly. The Examining Attorney may contact Applicant's counsel at (818) 380-1900 if there are any questions.

EVIDENCE

Evidence in the nature of Signed co-existence agreement has been attached.

Original PDF file:

[evi_767924266-20150831151759847106_.Executed_Concurrent_Use_Agreement_Chalon_s_signature.pdf](#)

Converted PDF file(s) (4 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

Original PDF file:

[evi_767924266-20150831151759847106_.Executed_Concurrent_Use_Agreement_Mocore_signature.pdf](#)

Converted PDF file(s) (4 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

SIGNATURE(S)

Response Signature

Signature: /Alex Patel/ Date: 08/31/2015

Signatory's Name: Alex Patel
Signatory's Position: Attorney

Signatory's Phone Number: (818) 380-1900

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 85084569

Internet Transmission Date: Mon Aug 31 15:31:26 EDT 2015

TEAS Stamp: USPTO/ROA-XX.XX.XXX.XX-20150831153126201

481-85084569-54072449dbb72f539a34d3ed0d3

11a491d5e1ece41a2bfffac3f65a10b83a1f3bd8-

N/A-N/A-20150831151759847106

CONCURRENT USE AGREEMENT

THIS CONCURRENT USE AGREEMENT ("**Agreement**") is entered into on April 14, 2015, by and between Mocore, LLC, a Washington limited liability company ("**Mocore**"), and Chalon Adventures Inc., a California corporation ("**Chalon**") (individually "**Party**", collectively the "**Parties**") and is in consideration of their mutual undertakings as set forth in this Agreement.

RECITALS

A. Mocore has used the marks THE MATADOR (the "**THE MATADOR Mark**") and CASA DEL MATADOR (the "**CASA DEL MATADOR Mark**") in connection with restaurant and bar services, and has registered the marks with the United States Patent and Trademark Office ("**USPTO**") for such services, including U.S. Trademark Registration No. 3,939,399 for THE MATADOR and Registration No. 3,953,015 for THE MATADOR (& design), in connection with restaurant and bar services and take-out restaurant services, namely, serving Tex-Mex foods and beverages for consumption on or off the premises, claiming a date of first use at least as early as January 27, 2004 (collectively the "**THE MATADOR Registrations**"), and Registration No. 3,943,437 for CASA DEL MATADOR in connection with restaurant and bar services, and claiming a date of first use at least as early as December 2007 (the "**CASA DEL MATADOR Registration**").

B. Chalon has used the mark EL MATADOR (the "**EL MATADOR Mark**") in connection with its Mexican restaurant located at 1768 Newport Blvd., Costa Mesa, CA 92627 (the "**El Matador Restaurant**") and has applied for the registration of such mark with the USPTO for such goods and services, namely, U.S. Trademark Application Serial No. 85/084,569, filed July 14, 2010 for EL MATADOR in connection with cocktail lounges and restaurant services, claiming a date of first use of approximately 1966 (the "**EL MATADOR Application**").

C. Based upon the best information available to the Parties, it appears that they have become entitled to each use their respective marks (the THE MATADOR Mark, CASA DEL MATADOR Mark and EL MATADOR Mark, sometimes collectively referred to as "marks") as a result of their concurrent lawful use in commerce on such goods or services, and in such a manner that confusion, mistake, or deception would not likely result from such continued concurrent use.

D. The Parties are each interested in securing and/or maintaining Federal Trademark Registrations for their respective marks which are the subject of the registrations and application identified above.

E. The Parties are willing to take all reasonable steps to cooperate and work together to avoid causing confusion in their respective businesses and to eliminate any confusion that may arise in the future in connection with the marks.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises herein, and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

I. Scope. The Parties believe that there is no likelihood of confusion or conflict between the marks described above which are the subject of the identified THE MATADOR Registrations, CASA DEL MATADOR Registration and EL MATADOR Application when used in association with the above-identified businesses and services in their respective trade territories. The Parties agree that any

associated registrations using the term "MATADOR", including without limitation any state or territorial registrations for such marks, are subject to the terms regarding the corresponding trade territories as set forth below.

2. Territories.

2.1 Chalon Territory. As used herein Chalon Territory shall be defined as that territory within the United States, its territories, and its possessions consisting of the State of California ("Chalon Territory").

2.2 Mocore Territory. As used herein Mocore Territory shall be defined as that territory consisting of all the United States, its territories, and its possessions other than of the State of California ("Mocore Territory").

3. Restrictions on Use. Taking into account the long period of mutual co-existence of the marks in their respective marketplaces and the different look and feel of the Parties respective restaurants, the Parties agree to their respective uses as set forth herein to avoid any likelihood of confusion:

3.1 El Matador. Chalon agrees to restrict its use and registration of the EL MATADOR Mark to the Chalon Territory. Chalon agrees not to adopt a similar look or feel to any of Mocore's restaurants.

3.2 The Matador. Mocore agrees to restrict its use and registrations of the THE MATADOR Mark to the Mocore Territory. Mocore agrees not to adopt a similar look or feel to any of Chalon's restaurants.

4. Registration and Consent.

4.1 El Matador. Mocore will take no action to contest or interfere with the EL MATADOR Application (once amended to a concurrent use application pursuant to the Settlement Agreement executed by the parties), use and registration of the EL MATADOR Mark in the Chalon Territory and Mocore hereby consents to the use and registration of such mark for such territory.

4.2 The Matador. Chalon will take no action to contest or interfere with the use and continued registration of the THE MATADOR Mark in the Mocore Territory and Chalon hereby consents to the use and registration of such mark for such territory.

4.3 Casa Del Matador. Chalon will take no action to contest or interfere with the use and continued registration of the CASA DEL MATADOR Mark in the entire United States including the state of California and hereby consents to the use and registration of such mark for such territory.

5. Cooperation. Mocore and Chalon agree to cooperate and work together, in good faith, to minimize, and avoid, causing confusion in their respective trades to eliminate any potential for confusion that may arise in the future in relation to their respective marks. Each party shall take any and all steps and execute, acknowledge and deliver any and all further documents that the other may reasonably request to effectuate the intent and purpose of this Agreement.

6. Miscellaneous:

6.1 Authority. The Parties represent and warrant that they have full right, power and authority to enter into this Agreement.

6.2 Successors. This Agreement shall be binding upon the Parties, and their heirs, representatives, executors, administrators, successors, and assigns.

6.3 Entire Agreement. This Agreement constitutes the entire understanding between the Parties regarding the subject matter hereof (into which all prior negotiations, commitments, representations, inducements and undertakings with respect to the subject matter hereof are merged), and there are no other oral or written undertakings or agreements between the Parties relating to the subject matter hereof. The terms of this Agreement may not be changed except by the consent of the Parties in a writing signed by both Parties. This Agreement is the product of negotiation and preparation by and between the Parties. The Parties therefore expressly acknowledge and agree that this Agreement shall not be deemed prepared or drafted by one Party or the other, or its attorneys, and will be construed accordingly.

6.4 Full and Independent Knowledge. Each Party understands and acknowledges the significance of this Agreement and acknowledges that this Agreement is voluntary and has not been given as a result of any coercion.

6.5 Governing Law. This Agreement constitutes and shall be deemed a contract made under the laws of the State of Washington for any and all purposes, and shall be interpreted and enforced in accordance with such laws and any applicable federal laws.

6.6 Attorney's Fees. If any legal action, or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, or default, the prevailing Party will be entitled to recover reasonable attorney fees and other costs incurred in that action or proceeding, including any reasonable attorney fees or costs incurred on appeal, in addition to any other relief to which they may be entitled.

6.7 Severability. If any provision of this Agreement shall be held void or unenforceable by a court or arbiter or mediator, such provision shall be severable and shall not affect the validity or enforceability of any other provisions of this Agreement.

6.8 No Waivers. The waiver by any Party of a breach of any provision of this Agreement, or the failure by any of the Parties to exercise any right hereunder, shall not operate or be construed as a waiver of any subsequent breach of that right or a waiver of any other right. It is further expressly agreed that the waiver of any right of any Party hereunder or under the trademark laws shall be effective only if in writing and executed by an authorized officer of the affected Party.

6.9 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original.

In witness whereof, the Parties by their duly authorized representatives have executed this Agreement on the date first written above.

[Signature Page Follows]

CHALON:

Chalon Adventures Inc., a California corporation

By: 
 Print Name: Greg McCaughy
 Title: pres
 Date: 4-17-15

MOCORE:

Mocore, LLC, a Washington limited liability company

By: _____
 Print Name: _____
 Title: _____
 Date: _____

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D. The Parties are each interested in securing and/or maintaining Federal Trademark Registrations for their respective marks which are the subject of the registrations and application identified above.

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In witness whereof, the Parties by their duly authorized representatives have executed this Agreement on the date first written above.

[Signature Page Follows]

CHALON:
Chalon Adventures Inc., a California corporation

By: _____
Print Name: _____
Title: _____
Date: _____

MOCORE:
Mocore, LLC, a Washington limited liability
company

By: 
Print Name: JEFFREY CHANDLER
Title: CEO
Date: 4/14/15