

EXHIBITS

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

02 SEP 10 AM 12:25

BOLLORE
:
Opposer
:
v.
:
THE HAVANA GROUP
:
Applicant

Opposition No. 124,073
Serial No. 76/042,035
Mark: ZIGARETTES

U.S. Patent & TMO/c/TM Mail Rcpt. Dt. #57

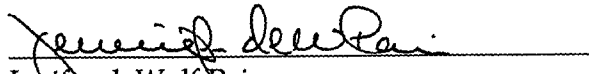
07-31-2002

NOTICE OF RELIANCE


Opposer hereby gives notice of its reliance on responses 3, 4, and 8 of Applicant's Responses to Opposer's First Set of Interrogatories, attached.

Respectfully Submitted,

Date: 7/29/2002


Jennifer deWolf Paine
PROSKAUER ROSE LLP
1585 Broadway
New York, NY 10036
Tel.: 212.969.3000
Attorneys for Opposer Bolloré

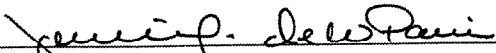
**CERTIFICATE OF MAILING BY "EXPRESS MAIL"
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DATE OF DEPOSIT July 29, 2002
I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE "EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE UNDER 37 CFR 1.10 ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO THE COMMISSIONER OF PATENTS AND TRADEMARKS, ARLINGTON, VA 22202
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(Signature of Person Mailing Paper or Fee)

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on **July 29, 2002**, I served a copy of the foregoing Notice of Reliance on counsel for Applicant by overnight delivery as follows:

George L. Pinchak, Esq.
Watts, Hoffmann, Fisher & Heinke Co., L.P.A.
1100 Superior Avenue, Suite 1750
Cleveland, OH 44144-2518



Jennifer deWolf Paine

TRADEMARK

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

BOLLORÉ

Opposer,

v.

THE HAVANA GROUP, INC.

Applicant

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Opposition No: 124,073
Serial No: 76/042,035
Mark: ZIGARETTES

APPLICANT'S RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES
TO APPLICANT

GENERAL OBJECTIONS

1. These general objections are hereby incorporated by reference into the responses made with respect to each separate interrogatory ("interrogatory"). The inclusion of any specific objection to an interrogatory in any response set forth below is not intended as, nor shall in any way be deemed, as a waiver of any general objection made herein or that may be asserted at another date. In addition, the failure to include any general or specific objection to an interrogatory at this time is not intended as a waiver of Applicant The Havana Group, Inc.'s right to assert that or any other objection at a later date, which rights Applicant The Havana Group Inc. ("Applicant") reserves to the greatest extent permitted by law.

2. Applicant objects to each interrogatory to the extent that it seeks information protected by attorney-client privilege, the attorney work product doctrine, and any other

applicable statutory or common law privilege, prohibition, limitation or immunity from disclosure. Applicant will not provide such information, and any inadvertent disclosure thereof shall not be deemed a waiver of any privilege, immunity, prohibition or limitation with respect to such information. Nothing contained in these responses is intended as a waiver of the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege, immunity, prohibition or limitation, and Applicant reserves the right to assert objections on the basis of such privileges, immunities, prohibitions and limitations to the greatest extent permitted by law.

3. Applicant will respond to each interrogatory based on the best of its present knowledge, information and belief. The responses, are at all times, subject to such additional or different information and additional documents that future discovery or investigation may disclose. Applicant reserves the right to supplement or amend these objections and responses upon, among other things, discovery of additional information and documents and other developments in this opposition proceeding.

4. Applicant's response to any interrogatory is not intended to waive, does not constitute any waiver of, any objection which it may have to the admissibility, relevance, competency, or relevance of the interrogatory.

5. Applicant objects to each interrogatory, or any portion of an interrogatory, which seeks information beyond the permissible scope of the Federal Rules of Civil Procedure, the Rules of Practice in Trademark Cases (37 C.F.R. § 2.1 et seq.), or the Trademark Trial and Appeal Board Manual of Procedure on the ground that such information is not relevant to the subject matter involved in the pending opposition proceeding and is not reasonably calculated to lead to the discovery of admissible evidence.

6. Applicant will comply with Opposer's definitions and instructions only to the

extent required by the Federal Rules of Civil Procedure.

7. Applicant objects to each interrogatory to the extent that it seeks information which subjects Applicant to annoyance, embarrassment or oppression; or which is overly broad or requires undue burden or expense to obtain.

8. Applicant objects to each interrogatory to the extent that it seeks information which constitutes business confidential and/or trade secret information.

Subject to the foregoing and without waiver of said objections, Applicant responds as follows:

APPLICANT'S RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

1. Identify each and every person who was involved in the decision to adopt the Applied For Mark.

RESPONSE: Applicant objects to this interrogatory to the extent it calls for information which constitutes business confidential and/or trade secret information. Applicant also objects to this interrogatory to the extent it seeks information subject to a claim of attorney-client privilege and/or the attorney work product doctrine. Without waiving any of the foregoing general or specific objections, Applicant responds as follows: Bill Miller.

2. Identify the persons associated with Applicant having primary knowledge of the use and promotion of Marked Goods.

RESPONSE: Applicant objects to this interrogatory to the extent it calls for information while constitutes business confidential and/or trade secret information. Applicant further objects to this interrogatory as being vague and ambiguous as to the meaning of "primary knowledge".

Without waiving any of the foregoing general or specific objections, and the extent this interrogatory is understood, Applicant responds as follows: Bill Miller.

3. If Applicant ever conducted any trademark investigations, surveys, opinions, registrability searches, infringement searches, or availability searches in connection with the Applied For Mark or any variation thereof, then state the date(s) any such investigation, survey, opinion, or search was conducted, the person or entity that conducted the investigation, survey, opinion, or search, and the results of each such investigation, survey, opinion, or search.

RESPONSE: Applicant objects to this interrogatory to the extent it calls for information which constitutes business confidential and/or trade secret information. Applicant further objects to this interrogatory as being overly broad and unduly burdensome. Applicant further objects to this interrogatory as being vague and ambiguous. Applicant also objects to this interrogatory to the extent it seeks information subject to a claim of attorney-client privilege and/or the attorney work product doctrine. Without waiving any of the foregoing general or specific objections, Applicant responds as follows: None.

4. Identify all documents concerning Applicant's decision to adopt the Applied for Mark (or any version thereof).

RESPONSE: Applicant objects to this interrogatory to the extent is calls for information or documents which constitute business confidential and/or trade secret information or documents. Applicant further objects to this interrogatory as being overly broad and unduly burdensome. Applicant also objects to this interrogatory to the extent it seeks information subject to a claim of attorney-client privilege and/or the attorney work product doctrine. Without

waiving any of the foregoing general or specific objections, Applicant responds as follows: File history of serial number. 76/042,035. Other nonprivileged, nonconfidential documents, if any, responsive to this interrogatory will be produced. Confidential, nonprivileged documents, if any, responsive to this interrogatory will be produced upon execution of a suitable protective order. Documents subject to a claim of attorney-client privilege and/or attorney work product doctrine will not be produced.

5. Identify all persons, whether or not associated with Applicant, with whom Applicant communicated regarding Applicant's decision or desire to adopt the Applied For Mark (or any variation thereof).

RESPONSE: Applicant objects to this interrogatory to the extent it calls for information which constitutes business confidential and/or trade secret information. Applicant further objects to this interrogatory to the extent it seeks information subject to a claim of attorney-client privilege and/or the attorney work product doctrine. Without waiving any of the foregoing general or specific objections, Applicant responds as follows: Bill Miller, Gary Corbett, George Pinchak, U.S. Patent and Trademark Office.

6. Identify all agreements (including, but not limited to, assignments, licenses, coexistence arrangements, permissions to use, or consents) entered into by Applicant, or negotiated by Applicant but not consummated, regarding the Applied For Mark (or any variation thereof).

RESPONSE: Applicant objects to this interrogatory to the extent is calls for information or documents which constitute business confidential and/or trade secret information or

documents. Applicant further objects to this interrogatory as being overly broad and unduly burdensome. Applicant also objects to this interrogatory to the extent it seeks information subject to a claim of attorney-client privilege and/or the attorney work product doctrine. Without waiving any of the foregoing general or specific objections, Applicant responds as follows: Nonprivileged, nonconfidential documents, if any, responsive to this interrogatory will be produced. Confidential, nonprivileged documents, if any, responsive to this interrogatory will be produced upon execution of a suitable protective order. Documents subject to a claim of attorney-client privilege and/or attorney work product doctrine will not be produced.

7. Identify all Marked Goods by common commercial name.

RESPONSE: Applicant objects to the this interrogatory as being vague and ambiguous as to the meaning of "common commercial name". Without waiving any of the foregoing general or specific objections, and to the extent this interrogatory is understood, Applicant responds as follows: See goods description recited in serial number 76/042,035.

8. With respect to each Marked Good identified in Interrogatory No. 7, identify (a) the persons most knowledgeable about the Marked Good; (b) the seller or licensor of the Marked Good; © the channels of trade in which the Marked Good is sold.

RESPONSE: Applicant objects to this interrogatory to the extent it seeks information which constitutes business confidential and/or trade secret information. Applicant further objects to this interrogatory as being overly broad and unduly burdensome. Without waiving any of the foregoing general or specific objections, Applicant responds as follows:

a) Bill Miller;

b) Applicant; and

c) mail order, internet and retail store sales.

9. With respect to each Marked Good identified in Interrogatory No. 7, identify the date on which the Marked Good was first used in commerce and describe the circumstances surrounding such first use.

RESPONSE: Applicant objects to this interrogatory to the extent it seeks information which constitutes business confidential and/or trade secret information. Without waiving any of the foregoing general or specific objections, Applicant responds as follows: See Amendment to Allege Use in Serial No. 76/042,035.

10. With respect to each Marked Good identified in Interrogatory No. 7, state the dollar amount of sales for the Marked Good, on a yearly basis, from the date of first use to the present.

RESPONSE: Applicant objects to this interrogatory to the extent it seeks information which constitutes business confidential and/or trade secret information. Applicant further objects to this interrogatory as not being reasonably calculated to lead to the discovery of admissible evidence.

11. With respect to each Marked Good identified in Interrogatory No. 7, state the dollar volume expended by Applicant in the United States in advertising or promoting said Marked Good, on a yearly basis, from the date of first use to the present.

RESPONSE: Applicant objects to this interrogatory to the extent it seeks information

which constitutes business confidential and/or trade secret information. Applicant further objects to this interrogatory as not being reasonably calculated to lead to the discovery of admissible evidence.

12. Identify representative copies of all tags, labels, posters, flyers, advertisements, catalogs, brochures, and any other advertising or promotional materials which have been used by Applicant in connection with Marked Goods.

RESPONSE: Applicant objects to this interrogatory as being overly broad and unduly burdensome. Applicant also objects to this interrogatory as being vague and ambiguous. Applicant further objects to this interrogatory as not being reasonably calculated to lead to the discovery of admissible evidence. Without waiving any of the foregoing general or specific objections, Applicant responds as follows: See specimen attached to the Amendment to Allege Use in serial number 76/042,035. Other nonconfidential, nonprivileged documents, if any, responsive to this interrogatory will be produced. Confidential, nonprivileged documents, if any, responsive to this interrogatory will be produced upon execution of a suitable protective order. Documents subject to a claim of attorney-client privilege and/or attorney work product doctrine will not be produced.

13. Identify by name, date, and location every trade show or fair in the United States where Applicant has displayed, promoted, advertised, offered for sale, or sold Marked Goods.

RESPONSE: Applicant objects to this interrogatory to the extent it seeks information which constitutes business confidential and/or trade secret information. Applicant further objects to this interrogatory as not being reasonably calculated to lead to the discovery of admissible

evidence.

14. To the extent not otherwise set forth, describe, in detail, Applicant's promotional activities of Marked Goods.

RESPONSE: Applicant objects to this interrogatory to the extent it seeks information which constitutes business confidential and/or trade secret information. Applicant further objects to this interrogatory as not being reasonably calculated to lead to the discovery of admissible evidence.

15. For each expert Applicant has retained to give testimony in the proceeding, provide the information required in Rule 26(a)(2)(B), Fed.R.Civ.P.

RESPONSE: Applicant objects to the interrogatory to the extent it seeks information subject to a claim of attorney-client privilege and/or attorney work product doctrine. Without waiving any of the foregoing general or specific objections, Applicant responds as follows: Applicant has not yet identified its expert witnesses.

16. State whether Applicant is aware of any inquiries or communications of any kind or confusion on the part of any person as to the source, sponsorship, affiliation or approval of any Marked Good and, if so, identify all documents and set forth all facts relating to these incidents, including the identity of the persons and products involved, and identify all present or former employees of Applicant or any licensee, franchisee, dealer, distributor of Applicant who has knowledge of such incidents.

RESPONSE: Applicant objects to this interrogatory to the extent it calls for information

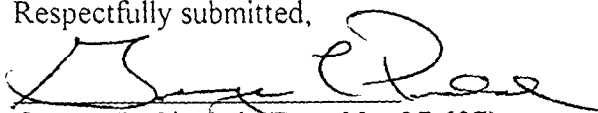
which constitutes business confidential and/or trade secret information. Applicant also objects to this interrogatory to the extent it seeks information subject to a claim of attorney-client privilege and/or the attorney work product doctrine. Without waiving any of the foregoing general or specific objections, Applicant responds as follows: None.

17. Identify each person who supplied information for or participated in responding to these Interrogatories and Opposer's First Set of Requests for Production of Documents.

RESPONSE: Applicant objects to the interrogatory to the extent it seeks information subject to a claim of attorney-client privilege and/or attorney work product doctrine. Without waiving any of the foregoing general or specific objections, applicant responds as follows: Bill Miller, George Pinchak.

Date: 5/22/02

Respectfully submitted,



George L. Pinchak (Reg. No. 37,697)

Stephen J. Schultz (Reg. No. 29,108)

William A. Johnston (Reg. No. 47,687)

Watts, Hoffmann, Fisher & Heinke Co., L.P.A.

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Cleveland, OH 44114-2518

Telephone: (216) 241-6700

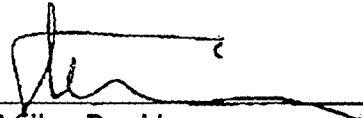
Facsimile: (216) 241-8151

Email: iplaw@wattshoff.com

ATTORNEYS FOR APPLICANT

VERIFICATION

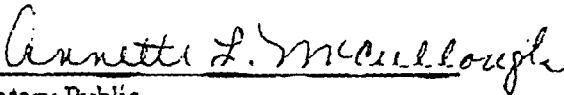
I, Bill Miller, state that I have read the foregoing Applicant's Responses to Opposer's First Set of Interrogatories to Applicant and that they are true and correct to the best of my knowledge and belief.



Bill Miller, President

Subscribed and sworn to before me this 21 day of May, 2002.


ANNETTE L. McCULLOUGH
Notary Public - State of Ohio
My Commission Expires April 30, 2008



Notary Public

Date: 5/22/02 *SEP*
5/21/02

Objections By:



George L. Pinchak (Reg. No. 37,697)
Stephen J. Schultz (Reg. No. 29,108)
William A. Johnston (Reg. No. 47,687)

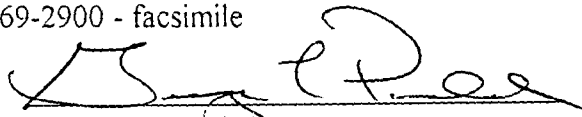
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Email: iplaw@wattshoff.com

ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANT'S RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT The Havana Group, Inc. has been served this 22nd day of May, 2002 via first class U.S. mail on Opposer's attorney:

Jenifer deWolf Paine, Esq.
Proskauer Rose, LLP
1585 Broadway
New York, NY 10036
(212) 969-3000 - telephone
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Jenifer deWolf Paine
Attorney at Law

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LOS ANGELES
WASHINGTON
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PARIS

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PROSECUTOR GENERAL
APPEAL BOARD

July 29, 2002

BOX TTAB - NO FEE

Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

U.S. Patent & TMOfo/TM Mail Rcpt. Dt. #57



07-31-2002

Re: Bollore' v. The Havana Group, Inc.
Opposition No. 124,073

Dear Sir:

Enclosed are the following documents to be filed in connection with the above-referenced matter:

- 1) Notice of Reliance on responses 1, 2, 3, 4, 7, 8, 9, 11, 12, 20, 21 of Applicant's Responses to Opposer's First Set of Document Requests
- 2) Notice of Reliance on responses 1, 2, 3, 5, and 6 of Applicant's Responses to Opposer's First Set of Requests for Admission
- 3) Notice of Reliance on responses 3, 4, and 8 of Applicant's Responses to Opposer's First Set of Interrogatories
- 4) Notices of Reliance for Registration Nos. 610,530; 1,127,946; 2,309,274 and 2,309,438
- 5) Notice of Reliance on portions of Testimony of Tom Helms III
- 6) Exhibits to Helms Deposition
- 7) Notice of Reliance on portions of Testimony of Steve Dickman

Please acknowledge receipt of the enclosed documents by stamping the acknowledgment card and returning it to this office.

Sincerely yours,

Jenifer deWolf Paine

Enclosures