



09-10-2002

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TRADEMARK

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

In the Matter of Application No. 76-333,122
for the Mark THOMPSON RUM PUNCH and Design
Published for Opposition in the
Official Gazette of June 18, 2002, at TM 669

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GENERAL CIGAR CO., INC.,

Opposer,

v.

THOMPSON & CO. OF TAMPA, INC.,

Applicant.

----- X

Opposition No. _____

TRADEMARK TRIAL AND
APPEAL BOARD
02 SEP 26 PM 9:44

BOX TTAB FEE
Commissioner of Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

NOTICE OF OPPOSITION

General Cigar Co., Inc., a corporation of Delaware, with its principal place of
business at 387 Park Avenue South, New York, NY 10016, having previously been granted an

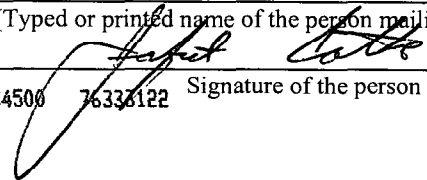
Express Mail Label No.: EV094893004 US

Date of Deposit : September 10, 2002

I hereby certify correspondence is being deposited with the United States Postal Service
"Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date
indicated above and is addressed to the Assistant Commissioner for Trademarks, 2900
Crystal Drive, Arlington, Virginia 22202-3513.

Jafet N Cotto

(Typed or printed name of the person mailing paper(s))



Signature of the person mailing paper (s)

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extension of time to oppose the subject application until September 16, 2002, believes that it will be damaged by registration of the trademark THOMPSON RUM PUNCH and Design, as shown in application Serial No. 76-333,122, and hereby opposes the registration of same pursuant to 15 U.S.C. §1063:

1. Opposer is and has for many years been engaged in the manufacture, sale and distribution of cigars and related products in the United States and in other countries.

Opposer is one of the largest manufacturers and marketers of brand name premium cigars in the U.S.

2. Since a time long prior to the filing date of the opposed application, Opposer and its predecessors in interest have continuously used the mark PUNCH in commerce to designate their cigar products. Opposer's PUNCH cigars are one of its best selling brands of premium cigar.

3. Opposer's PUNCH mark has been extensively advertised and promoted in commerce, and has received extensive third-party publicity.

4. As a result of all of the foregoing activity, Opposer's PUNCH mark is famous. It is widely and favorably known by the trade and public. The PUNCH mark is of great value to Opposer and serves to exclusively identify products originating with Opposer and to distinguish Opposer's products from those of others. Opposer is the owner of the PUNCH mark and the underlying goodwill in connection therewith.

5. Opposer is the owner of United States Trademark Registration No. 833,576, issued August 15, 1967 for the mark PUNCH in connection with "cigars" in International Class 34. Said registration for said goods is valid and subsisting, unrevoked and

uncancelled and in full force and effect. Registration No. 833,576 is also incontestable under 15 U.S.C. §1065.

6. Notwithstanding Opposer's prior rights in and to the mark PUNCH, Applicant filed an application on November 2, 2001 to register the mark THOMPSON RUM PUNCH and Design for "cigars" in International Class 34.

7. Opposer would be damaged by the registration of the mark THOMPSON RUM PUNCH and Design as aforesaid in that said mark so resembles Opposer's PUNCH trademark, as to be likely, when applied to the goods of Applicant, to cause confusion, mistake and deception, with consequent damage to Opposer's business and goodwill, and such registration will otherwise give color of the right to use, exclusive ownership and other statutory benefits in THOMPSON RUM PUNCH and Design to Applicant in violation and derogation of the prior and superior rights of Opposer.

8. Opposer would be damaged by the registration of the mark THOMPSON RUM PUNCH and Design as aforesaid in that said mark causes dilution of the distinctive quality of Opposer's famous PUNCH trademark.

9. Registration should, therefore, be refused pursuant to §2(d) of the Trademark Act of 1946, as amended, (15 U.S.C. §1052(d)) on the ground that Applicant's mark THOMPSON RUM PUNCH and Design so resembles Opposer's PUNCH mark as to cause confusion, mistake or deception, and pursuant to §§2,13(a), and 43(c) of the Trademark Act of 1946, as amended, (15 U.S.C. §§1052, 1063(a), and 1125(c)) on the ground that Applicant's mark THOMPSON RUM PUNCH and Design causes dilution of the distinctive quality of Opposer's famous PUNCH mark.

WHEREFORE, Opposer prays that this opposition be sustained and that said application by Thompson & Co. of Tampa, Inc. to register the mark THOMPSON RUM PUNCH and Design (Serial No. 76-333-122) for "cigars" be refused.

Pursuant to 37 CFR §2.6(a)(17), please charge the amount of two hundred dollars (\$200.00) in payment of the requisite fee for filing this Notice of Opposition, and any additional amounts, to the undersigned Attorney's Deposit Account No. 13-4500.

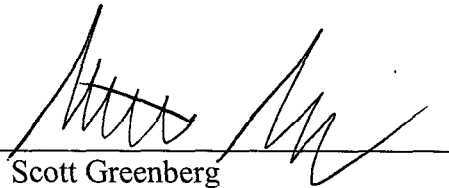
This Opposition is being submitted in quadruplicate.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: New York, New York
September 10, 2002

By:


Scott Greenberg

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New York, New York 10154
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Attorneys for Opposer