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

Proceeding	91161914
Party	Defendant Velasco, Monty Velasco, Monty 2006 Linsey Ave. Tampa, FL 33605
Correspondence Address	Brian Gibbons BRIAN R GIBBONS P A 3936 S SEMORAN BLVD STE 330 ORLANDO, FL 32822-4015
Submission	Answer and Counterclaim
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Date	03/02/2005
Attachments	cancuniguana.10.pdf (4 pages)

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

WILLIAM GRANT & SONS, INC.
a New Jersey corporation,
Opposer

v.

MONTY VELASCO,
an individual,
Applicant

In the matter of
Application Serial No. 78/243,307
For the mark: CANCUN IGUANA

Published in the Official Gazette
On August 17, 2004

Opposition No. 91161914

ANSWER AND COUNTERCLAIM

ANSWER

Monty Velasco, by and through his undersigned counsel, answers the Amended Notice of Opposition as follows:

1. Denied. Applicant lacks sufficient knowledge as to these assertions made by Opposer.
2. Denied.
3. Denied. Applicant lacks sufficient knowledge as to these assertions made by Opposer.
4. Admitted.
5. Denied.
6. Denied.
7. Denied.
8. Denied.
9. Denied.
10. Denied.

Opposition No. 91161914

Answer and Counterclaim

Page 2 of 4

COUNTERCLAIM

In the matter of Opposer's cited registration, Registration No. 2,048,911 for the mark CANCUN, Applicant has learned through Opposer's recent responses to discovery requests that such registration may have been improper under Section 2(a) of the Trademark Act, and, as Applicant believes it will be damaged by the above-identified registration, therefore counterclaims to cancel such registration.

The grounds for cancellation are as follows:

1. Opposer filed for registration of the mark CANCUN upon the Principal Register in connection with tequila on February 27, 1996, was approved for publication by the examining attorney without comment, and achieved registration on April 1, 1997.
2. The primary significance of the word 'Cancun' is that of the name of a geographical location, an island off the northeastern coast of Quintana Roo, Mexico.
3. Indeed, the only meaning of the word 'Cancun' is as the name of a geographical location.
4. The geographical location of Cancun and its environs are noted by consumers as being a source of alcoholic beverages.
5. On information and belief, Opposer's adoption and use of the word 'Cancun' as a mark is based upon Cancun's reputation as a source of alcoholic beverages.

BRIAN R. GIBBONS

Attorney at Law

Opposition No. 91161914

Answer and Counterclaim

Page 3 of 4

6. On information and belief, Opposer's products are neither bottled, shipped nor distributed from Cancun, nor from anywhere on the Yucatan Peninsula.
7. On information and belief, there exists no relationship between Opposer and the geographical location of Cancun.
8. On information and belief, there exists no relationship between Opposer and the entire Yucatan Peninsula.
9. On information and belief, Opposer's CANCUN mark consists of a geographical indication which identifies a place other than the origins of its goods.
10. On information and belief, Opposer's CANCUN mark consists of matter which is deceptive and misleading to consumers.
11. If Opposer is permitted to maintain Registration No. 2,048,911, Opposer would continue to have at least a prima facie right to the use of the mark CANCUN in connection with such products. Registration No. 2,048,911 would thus be a source of damage and injury to Applicant.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed, that Registration No. 2,048,911 be canceled, and that this opposition be sustained in favor of Applicant.

BRIAN R. GIBBONS

Attorney at Law

Opposition No. 91161914

Answer and Counterclaim

Page 4 of 4

Respectfully submitted,



Brian R. Gibbons
Attorney for Applicant

3/2/05

Date

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Carol L. B. Matthews, Holland & Knight LLP, 2099 Pennsylvania Ave. NW, Suite 100, Washington, D.C. 20037 this 2nd day of March, 2005.



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