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Filing date: **12/15/2006**

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

Proceeding	91164950
Party	Plaintiff C.A.T. Tobacco Corporation C.A.T. Tobacco Corporation ,
Correspondence Address	MITCHELL H STABBE DOW LOHNES & ALBERTSON PLLC 1200 NEW HAMPSHIRE AVENUE N.W. SUITE 800 WASHINGTON, DC 20036 UNITED STATES
Submission	Other Motions/Papers
Filer's Name	Mitchell H. Stabbe
Filer's e-mail	trademark@dowlohn.com, mstabbe@dowlohn.com
Signature	/Mitchell H. Stabbe/
Date	12/15/2006
Attachments	1530339_1.pdf ( 3 pages )(18929 bytes ) TORANONoticeSuspension.pdf ( 2 pages )(38097 bytes )

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

In the matter of  
Serial No. 78/302,599  
Date of Publication: January 4, 2005  
Mark: RESERVA SELECTO VIII

C.A.T. TOBACCO CORPORATION,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91164950
	)	
ANNCAS, INC.,	)	
	)	
Applicant.	)	

OPPOSER’S MOTION TO SUPPLEMENT RECORD

Opposer C.A.T. Tobacco Corporation d/b/a Toraño Cigars (“Toraño Cigars”), by its undersigned counsel, requests leave to supplement the record in connection with the pending cross-motions for summary judgment, pursuant to which the Board will come to final determination in lieu of trial. The grounds for this motion are set forth below.

In Opposer’s Response to Applicant’s Motion for Summary Judgment, Opposer noted that the Examiner assigned to Opposer’s application for its RESERVA SELECTA mark issued an office action and preliminarily reached the conclusion the mark was merely descriptive. In addition, however, the Examiner had not yet then had an opportunity to consider Opposer’s response. In its response to the office action, Opposer asserted that the mark was not merely descriptive, but that only the term RESERVA need be disclaimed.

The Examiner has now considered Opposer’s response to the office action. Consistent with the action taken on Opposer’s application for registration of its CARLOS TORAÑO RESERVA SELECTA mark and with Opposer’s position herein, the Examiner has withdrawn

the refusal., accepted the limited disclaimer and suspended the application, pending a disposition of Applicant's application that is the subject of this proceeding.

Accordingly, the Board should have the benefit of the complete record of events before making its decision on the merits. A copy of the notice of suspension, which Opposer has produced to Applicant, is attached.

Respectfully submitted,

C.A.T. TOBACCO CORPORATION

By: /Mitchell H. Stabbe/  
Mitchell H. Stabbe  
Its Attorney

DOW, LOHNES PLLC  
1200 New Hampshire Ave., N.W.  
Suite 800  
Washington, D.C. 20036  
(202) 776-2000

December 15, 2006

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Opposer's Motion to Supplement Record was served on the following person, by electronic mail, at his said address as shown below, on this 15th day of December 2006:

Jesus Sanchelima, Esq.  
legal@sanchelima.com,  
Sanchelima & Associates, P.A.  
235 Southwest LeJeune Road  
Miami, FL 33134

/Mitchell H. Stabbe/  
Mitchell H. Stabbe

**To:** C.A.T. Tobacco Corporation ([trademark@dowlohnes.com](mailto:trademark@dowlohnes.com))  
**Subject:** TRADEMARK APPLICATION NO. 78754281 - RESERVA SELECTA - 16711.0011  
**Sent:** 10/30/2006 1:25:04 PM  
**Sent As:** ECOM106@USPTO.GOV  
**Attachments:**

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**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 78/754281

**APPLICANT:** C.A.T. Tobacco Corporation

**\*78754281\***

**CORRESPONDENT ADDRESS:**

MITCHELL H. STABBE  
DOW, LOHNES & ALBERTSON, PLLC  
1200 NEW HAMPSHIRE AVE NW STE 800  
WASHINGTON, DC 20036-6800

**RETURN ADDRESS:**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

If no fees are enclosed, the address should include the words  
"Box Responses - No Fee."

**MARK:** RESERVA SELECTA

**CORRESPONDENT'S REFERENCE/DOCKET NO:** 16711.0011

Please provide in all correspondence:

**CORRESPONDENT EMAIL ADDRESS:**  
[trademark@dowlohnes.com](mailto:trademark@dowlohnes.com)

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

Serial Number 78/754281

**NOTICE OF SUSPENSION**

**SUSPENSION PROCEDURE:** This suspension notice serves to suspend action on the application for the reason(s) specified below. No response is needed. 37 C.F.R. §2.67. However, the examining attorney will conduct periodic status checks and may issue inquiries at 6 month intervals from the mailing date of this notice. TMEP §716.05. If a status inquiry Office action issues, applicant will have 6 months from the mailing or e-mailing date of the status inquiry to respond. 15

**TORANO 00851**

U.S.C. §1062(b); 37 C.F.R. §2.62.

**MAILING/E-MAILING DATE INFORMATION:** If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Action on this application is suspended pending the disposition of:

- Application Serial No(s). **78302599**

Since applicant's effective filing date is subsequent to the effective filing date of the above-identified application(s), the latter, if and when it registers, may be cited against this application in a refusal to register under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d). See 37 C.F.R. §2.83; TMEP §§1208 et seq. A copy of information relevant to this pending application(s) **was sent previously**.

Applicant may submit a request to remove the application from suspension to present arguments related to the potential conflict between the relevant application(s) or other arguments related to the ground for suspension. TMEP §716.03. Applicant's election not to present arguments during suspension will not affect the applicant's right to present arguments later should a refusal in fact issue. If a refusal does issue, applicant will be afforded 6 months from the mailing or e-mailing date of the Office action to submit a response. 15 U.S.C. §1062(b); 37 C.F.R. §2.62.

The following refusal is maintained and continued: Trademark Act Section 2(e)(1).

/Dannean J Hetzel/

Trademark Examining Attorney

Law Office 106

Phone - 571-272-8858

Fax - 571-273-9106

**TORANO 00852**