

ESTTA Tracking number: **ESTTA479243**

Filing date: **06/20/2012**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Grupo Industrial Muyaad S.A. DE C.V.
Granted to Date of previous extension	07/14/2012
Address	Leandro Valle 289Tonalia Centro Tonala, Jasico, 45400 MEXICO

Attorney information	Michael Machat Machat & Associates, P.C. 9107 Wilshire Blvd., Ste. 500 Beverly Hills, CA 90210 UNITED STATES michael@machatlaw.com Phone:310 860 1833
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Applicant Information

Application No	77917080	Publication date	05/15/2012
Opposition Filing Date	06/20/2012	Opposition Period Ends	07/14/2012
International Registration No.	NONE	International Registration Date	NONE
Applicant	LICORES VERACRUZ, S.A. DE C.V. KM. 341.5, CARRT. CORDOBA-VERACRUZ CORDOBA, VERACRUZ, 94500 MEXICO		

Goods/Services Affected by Opposition


Class 033. All goods and services in the class are opposed, namely: Tequila
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Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85165314	Application Date	10/29/2010
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	NONE
Design Mark	
Description of Mark	The mark consists of a revolver used as a bottle for alcoholic beverages.
Goods/Services	Class 033. First use: Alcoholic beverages except beers

Attachments	85165314#TMSN.jpeg (1 page)(bytes) Notice of Opposition.PDF (3 pages)(128213 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/MM/
Name	Michael Machat
Date	06/20/2012

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

In the matter of Application Serial No. 7791780 for the mark consisting of a three dimensional design of a beverage bottle in the shape of a revolver,
Published in the *Official Gazette* on May 15, 2012

GRUPO INDUSTRIAL MUYAAD S.A. DE C.V.)	
)	
Opposer,)	
)	
v.)	Opposition No.
)	
LICORES VERACRUZ, S.A. DE C.V.,)	
)	
Applicant)	
)	
)	

NOTICE OF OPPOSITION

Opposer, GRUPO INDUSTRIAL MUYAAD S.A. DE C.V., a Mexican corporation located at Leandro Valle 289, Tonalá Centro, Tonalá, Jalisco, 45400 Mexico, believes that it will be damaged by the registration of Applicant's mark consisting of a three dimensional design of a beverage bottle in the shape of a revolver, Application Serial No. 7791780, filed on January 21, 2010, by Licores Veracruz, S.A. DE C.V., a Mexican corporation with an address of KM.341.5, Carrt. Córdoba-Veracruz Córdoba, Veracruz, Mexico 94500 (hereinafter "Applicant") published in the *Official Gazette* on May 15, 2012, and hereby opposes the same.

The grounds for opposition are as follows:

1. Since at least as early as 2008, Opposer or Opposer's predecessors in interest have manufactured, distributed and sold in the United States, tequila sold in a bottle designed in the shape of a revolver.

2. An application for a U.S. Trademark of the bottle design which Opposer has been selling tequila in was filed by Opposer on October 29, 2010. U.S. Trademark Application Serial No. 85165314 was issued for Opposer's mark consisting of a three dimensional design of a beverage bottle in the shape of a revolver.

3. Opposer began manufacturing, distributing and selling its tequila product with its revolver bottle design mark in the United States since at least as early as 2008, two years prior to the date that Applicant filed its application with the USPTO.

4. Opposer's Goods that utilize its design mark have been widely advertised, offered for sale and sold throughout various states of the United States under Opposer's aforementioned design mark as well as under the brand name FUN CALIBER.

5. Opposer's FUN CALIBER brand with its revolver design mark is distinctive and famous, as a result of Opposer's sales, advertising and promotion.

6. Opposer's FUN CALIBER brand with its revolver design mark became distinctive and famous prior to any date which may be lawfully claimed by Applicant for use of Applicant's Mark.

7. Applicant's design mark is almost identical to Opposer's design mark.

8. The goods of Applicant are the same as Opposer's Goods.

9. Applicant's intended use of Applicant's Mark in connection with its goods is without the consent or permission of Opposer.

10. Applicant plans to distribute Applicant's Goods throughout the same channels of trade as Opposer uses to distribute its Goods, and Applicant plans to direct its

respective goods to the same ultimate consumer as Opposer directs each and every one of Opposer's Goods. Prospective purchasers of Applicant's goods are likely to erroneously believe that such goods are produced by or under the authority of Opposer, or to erroneously assume that there is some other trade connection between Opposer and Applicant.

11. Applicant's Mark so resembles Opposer's revolver design mark that when used on or in conjunction with the goods of Applicant:

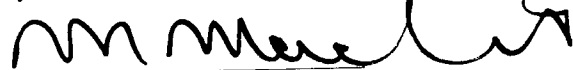
- (a) It is likely to cause confusion, or to cause mistake, or to deceive;
- (b) It falsely suggests a connection with Opposer;
- (c) It tends to damage Opposer's goodwill in its trademarks;
- (d) It is likely to dilute the distinctive qualities of Opposer's revolver design mark.

WHEREFORE, Opposer prays that its Opposition to the registration of Application Serial No. 7791780 be sustained.

Dated: June 20, 2012

Respectfully submitted for Opposer,

By:



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