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

Proceeding	91207202
Party	Defendant Tequila Don Julio, S.A. de C.V.
Correspondence Address	LAUREN MANDELL DIAGEO NORTH AMERICA, INC. 801 MAIN AVE NORWALK, CT 06851-1127 trademarks@morganlewis.com
Submission	Answer
Filer's Name	Jordana Rubel
Filer's e-mail	jrubel@morganlewis.com, kbutcher@morganlewis.com, trademark@morganlewis.com
Signature	/JSR/
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Attachments	Opp 91207202 - Answer to Notice of Opposition.pdf (5 pages)(14579 bytes)

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

GEO G. SANDEMAN SONS & CO.,
LIMITED,

Opposer,

v.

TEQUILA DON JULIO, S.A. DE C.V.,

Applicant.

Opposition No. 91207202

Application Serial No. 85/304363

**APPLICANT TEQUILA DON JULIO, S.A. DE C.V.’S ANSWER TO
NOTICE OF OPPOSITION**

Applicant Tequila Don Julio, S.A. de C.V. (“Applicant”) hereby answers and responds to the Notice of Opposition (“Notice”) of Opposer Geo G. Sandeman Sons & Co., Limited (“Opposer”) as follows:

Introductory Paragraph: In response to the unnumbered introductory paragraph of the Notice, Applicant denies that Opposer will be damaged by the registration of Application Serial No. 85/304363. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this unnumbered paragraph and, on that basis, denies them.

Paragraph 1: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Notice and, on that basis, denies them.

Paragraph 2: Applicant admits the allegations in Paragraph 2 of the Notice.

Paragraph 3: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 of the Notice and, on that basis, denies them.

Paragraph 4: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4 of the Notice and, on that basis, denies them.

Paragraph 5: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5 of the Notice and, on that basis, denies them.

Paragraph 6: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6 of the Notice and, on that basis, denies them.

Paragraph 7: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7 of the Notice and, on that basis, denies them.

Paragraph 8: Applicant admits that it applied to register the mark depicted in Paragraph 8 for “alcoholic beverages except beers” in International Class 033 on April 25, 2011. Applicant denies the allegations in Paragraph 8 to the extent that they suggest, incorrectly, that Applicant’s mark conflicts with Sandeman’s alleged rights in the Don Figure Mark. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 8 that Opposer’s alleged rights are prior to those of Applicant’s and, on that basis, denies the allegation.

Paragraph 9: Applicant admits that the application detailed in Paragraph 8 was assigned Serial No. 85/304363. Applicant further admits that Opposer appears to oppose the ‘363 application in its entirety.

Paragraph 10: Applicant does not understand the allegations in Paragraph 10 of the Notice and, on that basis, denies them.

Paragraph 11: The allegations in Paragraph 11 of the Notice constitute conclusions of law or legal argument to which no responsive pleading is necessary and, on that basis, Applicant denies them. To the extent the allegations in Paragraph 11 do not constitute conclusions of law

or legal argument, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 of the Notice and, on that basis, denies them.

Paragraph 12: The allegations in Paragraph 12 of the Notice constitute conclusions of law or legal argument to which no responsive pleading is necessary and, on that basis, Applicant denies them.

Paragraph 13: Applicant denies the allegations in Paragraph 13 to the extent that they suggest, incorrectly, that Applicant needs Opposer's consent or permission to use Applicant's mark. The remaining allegations in Paragraph 13 of the Notice constitute conclusions of law or legal argument to which no responsive pleading is necessary and, on that basis, Applicant denies them.

Paragraph 14: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14 of the Notice that Opposer owns rights in the Don Figure Mark or that Opposer's alleged rights are prior to those of Applicant's and, on that basis, denies the allegations. Applicant denies the remaining allegations in Paragraph 14 of the Notice.

Paragraph 15: Applicant denies the allegations in Paragraph 15 of the Notice.

Paragraph 16: Applicant admits the allegations in Paragraph 16 of the Notice. Future filings should be served on Applicant through its outside counsel at the address provided below.

Conclusion Paragraph: In response to the unnumbered conclusion paragraph following Paragraph 16 of the Notice, to the extent a responsive pleading is required, Applicant denies the allegations.

ADDITIONAL DEFENSES

Without prejudice to the denials set forth in its Answer to the Notice of Opposition and without admitting any allegations in the Notice not otherwise admitted, Applicant avers and asserts the following Additional Defenses to Opposer's claims:

1. Opposer's claims are barred because Opposer fails to state a claim upon which relief can be granted.
2. There is no likelihood of confusion between Opposer's marks and Applicant's marks.
3. Applicant will rely on any and all other valid defenses that may be developed through discovery and/or the testimony periods in this proceeding.

WHEREFORE, having fully answered the claims in the Notice, Applicant respectfully requests that the Notice be dismissed with prejudice in all respects.

Dated: November 7, 2012

Respectfully submitted,

By: /s/ Jordana S. Rubel
Karen A. Butcher
Jordana S. Rubel
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave., N.W.
Washington, D.C. 20004
Tel: (202) 739-3000
Fax: (202) 739-3001

Attorneys for Applicant
Tequila Don Julia, S.A. de C.V.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer to the Notice of Opposition has been sent via first class mail, postage prepaid, on this 7th day of November 2012 to:

Stephen L. Baker
Ryan A. McGonigle
BAKER and RANNELLS, PA
575 Route 28, Suite 102
Raritan, New Jersey 08869

/s/ Jordana S. Rubel

Jordana S. Rubel