

ESTTA Tracking number: **ESTTA554034**

Filing date: **08/14/2013**

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	The Old Bushmills Distillery Company Limited
Granted to Date of previous extension	08/14/2013
Address	Bushmills Co. Antrim, BT57 8XH UNITED KINGDOM
Attorney information	Evan Gourvitz Diageo North America, Inc. 801 Main Avenue Norwalk, CT 06851 UNITED STATES trademarks@diageo.com, gina.vendittelli@diageo.com, evan.gourvitz@diageo.com, stuart.kauffman@diageo.com Phone:203-229-2100

Applicant Information

Application No	85844081	Publication date	04/16/2013
Opposition Filing Date	08/14/2013	Opposition Period Ends	08/14/2013
Applicant	Madikwe International, Inc. 5231 Waterbury Road Des Moines, IA 50312 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Distilled spirits
--

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	319137	Application Date	07/20/1934
Registration Date	11/20/1934	Foreign Priority Date	NONE
Word Mark	BUSHMILLS THE "OLD BUSHMILLS" DISTILLERY CO.		
Design Mark			

Description of Mark	NONE
Goods/Services	Class U049 (International Class 033). First use: First Use: 1860/00/00 First Use In Commerce: 1860/00/00 IRISH WHISKEY

U.S. Registration No.	1545581	Application Date	06/30/1988
Registration Date	06/27/1989	Foreign Priority Date	NONE
Word Mark	BUSHMILLS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1987/07/01 First Use In Commerce: 1988/02/01 IRISH WHISKEY		

U.S. Registration No.	1226834	Application Date	08/28/1980
Registration Date	02/08/1983	Foreign Priority Date	NONE
Word Mark	BLACK BUSH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: Whiskey		

Attachments	Notice of Opposition BUSHMILLS and BLACK BUSH N v. SPIRIT OF THE BUSH.pdf(4641109 bytes)
-------------	---

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	/Evan Gourvitz/
Name	Evan Gourvitz
Date	08/14/2013

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

In the Matter of Application Serial No. 85/844,081
Published in the Official Gazette on April 16, 2013
Mark: SPIRIT OF THE BUSH
International Class: 33

THE OLD BUSHMILLS
DISTILLERY COMPANY LIMITED,

Opposer,

-against-

MADIKWE INTERNATIONAL, INC.,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Opposer The Old Bushmills Distillery Company Limited (“Opposer”) believes that it will be damaged by the registration of the mark SPIRIT OF THE BUSH (“Applicant’s Mark”) for “[d]istilled spirits” in International Class 33, as shown in the above-noted intent-to-use application, Serial No. 85/844,081, and hereby opposes the same pursuant to Section 13(a) of the Trademark Act of 1946, as amended (the “Lanham Act”), 15 U.S.C. § 1063(a).

As grounds for the opposition, Opposer alleges that:

1. Opposer The Old Bushmills Distillery Company Limited is an Irish corporation with its principal place of business located at Bushmills, County Antrim, Northern Ireland.
2. Opposer and its predecessors-in-interest have owned and used marks consisting of or including BUSHMILLS in commerce in the United States in connection with alcoholic beverages since at least 1860, and have owned and used the BLACK BUSH mark in commerce in the United States in connection with alcoholic beverages since at least 1983, long

prior to the February 7, 2013 filing date of the intent-to-use application herein opposed, or any other date upon which Applicant can rely in this proceeding.

3. During its continuous use of its BUSHMILLS and BLACK BUSH marks (collectively, “Opposer’s Marks”), Opposer and its authorized wholesalers, distributors, and retail accounts have expended considerable time, effort and money in advertising and publicizing the sale of alcoholic beverages bearing those marks in the United States.

4. During its continuous use of Opposer’s Marks, Opposer has directly and indirectly sold, and offered for sale, alcoholic beverages bearing those marks throughout the United States.

5. During its continuous use of Opposer’s Marks, Opposer has directly and indirectly sold, and offered for sale, alcoholic beverages bearing those marks to wholesalers, distributors, and individuals over the legal purchase age for alcohol throughout the United States.

6. In addition, from a date prior to any date upon which Applicant can rely in this proceeding, consumers and the public have recognized and used Opposer’s Marks to refer to Opposer’s alcoholic beverages and various other goods and services bearing those marks, and have come to identify Opposer’s Marks with Opposer and its products.

7. Opposer’s Marks are strong and famous and have been so from a date long prior to the February 7, 2013 filing date of the application herein opposed, or any other date upon which Applicant can rely in this proceeding.

8. In addition to Opposer’s common law rights in Opposer’s Marks, Opposer owns registrations including incontestable U.S. Reg. No. 319,137 for BUSHMILLS THE “OLD BUSHMILLS” DISTILLERY CO. and design for “Irish whiskey” in International Class 33, registered November 20, 1934; incontestable U.S. Reg. No. 1,545,581 for BUSHMILLS for

“Irish whiskey” in International Class 33, registered June 27, 1989; and incontestable U.S. Reg. No. 1,226,834 for BLACK BUSH for “Whiskey” in International Class 33, registered February 8, 1983. Copies of the certificates and electronic status records for these registrations, which are valid, subsisting, and in full force and effect, are attached hereto as Exhibit A.

9. Upon information and belief, Applicant Madikwe International, Inc. (“Applicant”) is an Iowa corporation with an address of 5231 Waterbury Road, Des Moines, Iowa 50312.

10. By the application herein opposed, Serial No. 85/844,081, Applicant seeks to register Applicant’s Mark for “[d]istilled spirits” in International Class 33.

11. Applicant’s Mark is confusingly similar to Opposer’s Marks.

12. The goods for which Applicant seeks registration are closely related or identical to, and likely to be perceived as closely related or identical to, the goods in connection with which Opposer uses and has used Opposer’s Marks in the United States.

13. Upon information and belief, the goods sold in connection with Opposer’s Marks and the products set forth in Applicant’s Application Serial No. 85/844,081 are intended to be directed to similar or identical classes of purchasers and to be distributed through overlapping or identical channels of trade in the United States.

14. Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of the mark sought to be registered, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

15. Opposer also will be damaged by the registration sought by Applicant because such registration will dilute the distinctive qualities of the famous Opposer’s Marks.

16. Registration should be refused pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), on the ground that Applicant's Mark so closely resembles Opposer's Marks as to be likely, when used on or in connection with the goods identified in the Application, to cause confusion, or to cause mistake, or to deceive, with the consequent injury to Opposer and to the public.

17. Registration of Applicant's Mark should be refused pursuant to Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), on the basis that Applicant's Mark will cause dilution of the distinctive qualities of Opposer's Marks.

WHEREFORE, Opposer believes it will be damaged by the registration of Applicant's SPIRIT OF THE BUSH mark for the goods identified in Application Serial Number 85/844,081 and respectfully requests that the opposition be sustained and registration of said mark be denied.

Pursuant to 37 C.F.R. §2.6(a)(17), Opposer respectfully requests that the \$300.00 statutory filing fee for filing a Notice of Opposition in one international class, and any additional amount, be charged to Deposit Account No. 083120.

All communication should be addressed to Opposer's counsel at the below stated address.

Dated: Norwalk, Connecticut
August 14, 2013

Respectfully submitted,



Evan Gourvitz
Diageo North America, Inc.
801 Main Avenue
Norwalk, Connecticut 06851

*Counsel for Opposer
The Old Bushmills Distillery Company Limited*

EXHIBIT A

Int. Cl. 33

Registered Nov. 20, 1934

REPUBLISHED

Under Sec. 12 (a) 1945 & MAY 16 1950

RENEWED

*The "Old Bushmills" Distillery Co. Ltd.
Belfast, Northern Ireland*

UNITED STATES PATENT OFFICE

The "Old Bushmills" Distillery Co., Limited,
Belfast, Ireland

Act of February 20, 1905

Application July 20, 1934, Serial No. 354,132

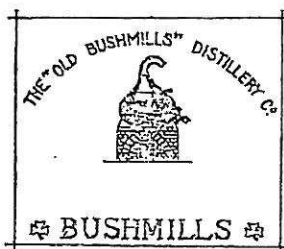
AFFIDAVIT SEC. 15
RECEIVED 2-18-56

Trade-Mark 319,137

SECOND RENEWAL

*The "Old Bushmills" Distillery Co. Ltd.
Belfast, Northern Ireland*

BEST AVAILABLE COPY



STATEMENT

The Honorable Commissioner of Patents:

The "Old Bushmills" Distillery Co., Limited, a British corporation, located and doing business at Belfast, Ireland, having adopted and used the trade-mark shown in the accompanying drawing, for IRISH WHISKY, in Class 49, Distilled alcoholic liquors, presents herewith five specimens showing the trade-mark as actually used by the applicant upon the goods, and applies for registration thereof in the Patent Office of the United States of America in accordance with the act of February 20, 1905, as amended. The trade-mark is applied and "affixed" to the goods by printing or lithographing the same on labels that are fastened to the containers and has been used in the business now owned by the applicant in connection with the goods named herein since 1860. The mark has also been in actual use as a trade-mark by the applicant for ten years next preceding February 20, 1905, and such use was exclusive. Applicant is the proprietor of registration No. 86,025 of June 4, 1912 (renewed in 1932).

Said trade-mark was on the 8th day of December, 1882, registered in England, No. 29,942, in

pursuance of an application filed on the eighth day of December, 1882 (renewed December 8, 1924).

The applicant hereby appoints Chauncey P. Carter, attorney-at-law, of 3625 Lowell Street, Washington, D. C., attorney with full powers of substitution and revocation, to file and prosecute this application for registration, to make alterations and amendments therein, to receive the certificate, to apply for renewals thereof, and to transact all business connected therewith; and the applicant further designates the said Chauncey P. Carter as the person on whom process or notice of proceedings affecting the right of ownership of the trade-mark brought under the laws of the United States may be served.

THE "OLD BUSHMILLS" DISTILLERY CO., LIMITED,
By SAMUEL WILSON BOYD,
Director,
AUSTEN TREVOR BOYD,
Director,
THOMAS ROBINSON,
Secretary.

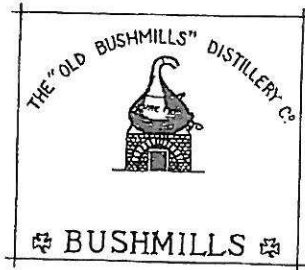
Int. Cl.: 33

Prior U.S. Cl.: 49

United States Patent and Trademark Office
10 Year Renewal

Reg. No. 319,137
Registered Nov. 20, 1934
Renewal Term Begins Nov. 20, 1994

TRADEMARK
PRINCIPAL REGISTER



"OLD BUSHMILLS" DISTILLERY CO.,
LIMITED, THE (IRELAND CORPORATION)
BUSHMILLS, COUNTY ANTRIM,
NORTHERN IRELAND

OWNER OF ENGLAND REG. NO.
29942, DATED 12-8-1882

OWNER OF U.S. REG. NO. 86,825.
FOR: IRISH WHISKEY, IN CLASS 49
(INT. CL. 33).
FIRST USE 0-0-1860, IN COMMERCE
0-0-1860.

SER. NO. 71-354,132, FILED 7-20-1934.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on May 23, 1995.*

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 33

Prior U.S. Cl.: 49

United States Patent and Trademark Office Reg. No. 1,545,581
Registered June 27, 1989

TRADEMARK
PRINCIPAL REGISTER

BUSHMILLS

"OLD BUSHMILLS" DISTILLERY CO. LIMITED,
THE (UNITED KINGDOM LIMITED LIABILITY COMPANY)
BUSHMILLS, COUNTY ANTRIM, IRELAND

FIRST USE 7-1-1987; IN COMMERCE
2-1-1988.
OWNER OF U.S. REG. NOS. 86,825 AND
319,137.

FOR: IRISH WHISKEY, IN CLASS 33 (U.S. CL.
49).

SER. NO. 737,489, FILED 6-30-1988.

MARY E. HANNON, EXAMINING ATTORNEY

Int. Cl.: 33

Prior U.S. Cl.: 49

United States Patent and Trademark Office

Reg. No. 1,226,834

Registered Feb. 8, 1983

TRADEMARK

Principal Register

BLACK BUSH

The "Old Bushmills" Distillery Company Limited
(United Kingdom limited liability company)
Bushmills, Co. Antrim, Northern Ireland BT57 8XH

For: WHISKEY, in CLASS 33 (U.S. Cl. 49).
Owner of United Kingdom Reg. No. B1,043,802,
dated Mar. 18, 1975, expires Mar. 18, 1996.
Owner of U.S. Reg. Nos. 86,825 and 319,137.

Ser. No. 265,690, filed Aug. 28, 1980.

JULIE B. SEYLER, Examining Attorney

Generated on: This page was generated by TSDR on 2013-04-03 06:59 36 EDT

Mark: BUSHMILLS THE "OLD BUSHMILLS"
DISTILLERYCO



US Serial Number: 71354132

Application Filing Date: Jul 20, 1934

US Registration Number: 319137

Registration Date: Nov 20, 1934

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Jun 30, 2005

Mark Information

Mark Literal Elements: BUSHMILLS THE "OLD BUSHMILLS" DISTILLERYCO

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Design Search Code(s): 05 03 06 - Clubs, trefoil on playing card; Shamrocks (trefoil); Clover, three-leaf
13 03 01 - Barbeque grills, Hibachi; Grills, barbeque
20 03 10 - Labels, alcohol bottles; Bottles, labels for alcohol bottles, Alcohol bottle labels

Related Properties Information

Claimed Ownership of US 0085825
Registrations:

Publish Previously Yes
Registered Mark:

Previously Registered May 16, 1950
Mark Publication Date:

Foreign Information

Foreign Application
Number:

Foreign Application Filing Dec 08, 1882
Date:

Foreign Registration
Number: 29942

Foreign Registration Date: Dec 08, 1882

Foreign ENGLAND
Application/Registration
Country:

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services

- Brackets [] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks * * identify additional (new) wording in the goods/services

For: IRISH WHISKEY

International Class: 033

U.S Class: 049 - Primary Class

Class Status: ACTIVE

Basis: 1(a) 44(e)

First Use: 1860

Use in Commerce: 1860

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: Yes	Currently 44E: Yes	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: "OLD BUSHMILLS" DISTILLERY CO., LIMITED, THE
Owner Address: BUSHMILLS, COUNTY ANTRIM
NORTHERN IRELAND
Legal Entity Type: CORPORATION State or Country Where Organized: IRELAND

Attorney/Correspondence Information

Attorney Name: CHRISTINE M BAKER Attorney of Record
Docket Number: 26556-411 [C]
Correspondent
Correspondent Name/Address: CHRISTINE M BAKER
MINTZ LEVIN COHN FERRIS ET AL
666 3RD AVE
NEW YORK, NEW YORK 10017
UNITED STATES
Domestic Representative
Domestic Representative Name: CHRISTINE M BAKER

Prosecution History

Date	Description	Proceeding Number
Jun. 30, 2005	REGISTERED AND RENEWED (FOURTH RENEWAL - 10 YRS)	
Jun. 30, 2005	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Jun. 23, 2005	ASSIGNED TO PARALEGAL	68335
May 16, 2005	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
May 16, 2005	PAPER RECEIVED	
Apr. 11, 1995	REGISTERED AND RENEWED (THIRD RENEWAL - 10 YRS)	
Feb. 17, 1995	REGISTERED - SEC. 9 FILED/CHECK RECORD FOR SEC. 8	
Nov. 20, 1974	REGISTERED AND RENEWED (SECOND RENEWAL - 20 YRS)	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted
Affidavit of Incontestability: Section 15 - Accepted
Renewal Date: Nov. 20, 2004

TM Staff and Location Information

TM Staff Information - None
File Location
Current Location: POST REGISTRATION Date in Location: Jun 30, 2005

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: 91196630 Filing Date: Sep 27, 2010
Status: Terminated Status Date: Jan 14, 2011
Interlocutory Attorney: ROBERT COGGINS
Defendant
Name: Osez Vous? International Spirits, LLC
Correspondent Address: MR ROBERT COOPER
2633 TRENTON AVE
PHILADELPHIA PA, 19125-1837
UNITED STATES

Correspondent e-mail: rcoper@coopersintl.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
THE BUSH WICK	Abandoned - After Inter-Partes Decision Plaintiff(s)	<u>77865971</u>	

Name: The Old Bushmills Distillery Company Limited

Correspondent Address: EVAN GOURVITZ
DIAGEO NORTH AMERICA INC
801 MAIN AVE
NORWALK CT , 06851
UNITED STATES

Correspondent e-mail: trademarks@diageo.com , stuart.kauffman@diageo.com , evan.gourvitz@diageo.com , gina.venditelli@diageo.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
BUSHMILLS THE "OLD BUSHMILLS" DISTILLERY CO	Renewed	<u>71354132</u>	<u>319137</u>
BLACK BUSH	Renewed	<u>73265690</u>	<u>1226834</u>
BUSHMILLS	Renewed	<u>73737489</u>	<u>1545581</u>
BUSHMILLS IRISH CREAM LIQUEUR PRODUCT OF IRELAND	Cancelled - Section 8	<u>76588053</u>	<u>3097080</u>
BUSHMILLS AUTHENTIC IRISH CREAM LIQUEUR 750 MLE MADE FROM NATURAL INGREDIENTS 17% ALC BY VOL			
BUSHMILLS 1603	Registered	<u>77142465</u>	<u>3563029</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Sep 27, 2010	
2	NOTICE AND TRIAL DATES SENT ANSWER DUE	Sep 27, 2010	Nov 06, 2010
3	PENDING, INSTITUTED	Sep 27, 2010	
4	NOTICE OF DEFAULT	Nov 26, 2010	
5	BOARD'S DECISION SUSTAINED	Jan 14, 2011	
6	TERMINATED	Jan 14, 2011	

Generated on: This page was generated by TSDR on 2013-04-03 07:01:03 EDT

Mark: BUSHMILLS

US Serial Number: 73737489
US Registration Number: 1545581
Register: Principal
Mark Type: Trademark
Status: The registration has been renewed
Status Date: Jul 22, 2009
Publication Date: Apr 04, 1989

Application Filing Date: Jun 30, 1988
Registration Date: Jun 27, 1989

Mark Information

Mark Literal Elements: BUSHMILLS
Standard Character Claim: No
Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Related Properties Information

Claimed Ownership of US 0086825, 0319137
Registrations:

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services.

- Brackets [] indicate deleted goods/services
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks * * identify additional (new) wording in the goods/services

For: IRISH WHISKEY

International Class: 033 - Primary Class

U.S Class: 049

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul 01, 1987

Use in Commerce: Feb. 01 1988

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: "OLD BUSHMILLS" DISTILLERY CO. LIMITED, THE
Owner Address: Bushmills
COUNTY ANTRIM
IRELAND
Legal Entity Type: LIMITED LIABILITY COMPANY
State or Country Where Organized: UNITED KINGDOM

Attorney/Correspondence Information

Attorney Name: Lauren Mandell
Attorney Primary Email: trademarks@diageo.com
Address:

Attorney of Record

Docket Number: BUSH-4001-US
Attorney Email Yes
Authorized:

Correspondent

Correspondent Name/Address: Lauren Mandell
801 Main Avenue
Norwalk, CONNECTICUT 06851
UNITED STATES
Phone: (203) 229-4750
Correspondent e-mail: trademarks@diageo.com

Fax: (203) 229-8925

Correspondent e-mail Yes
Authorized:

Domestic Representative

Domestic Representative Name: JAMES L. KURTZ

Prosecution History

Date	Description	Proceeding Number
Jul. 22, 2009	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	71378
Jul. 22, 2009	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Jul. 22, 2009	ASSIGNED TO PARALEGAL	71378
Jun. 25, 2009	TEAS SECTION 8 & 9 RECEIVED	
Aug. 29, 2008	CASE FILE IN TIGRS	
May 21, 1996	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Dec. 18, 1995	POST REGISTRATION ACTION MAILED - SEC. 8 & 15	
May 21, 1996	POST REGISTRATION ACTION CORRECTION	
May 01, 1996	RESPONSE RECEIVED TO POST REG. ACTION	
Dec. 18, 1995	POST REGISTRATION ACTION MAILED - SEC. 8 & 15	
Apr. 21, 1995	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Jun. 27, 1989	REGISTERED-PRINCIPAL REGISTER	
Apr. 04, 1989	PUBLISHED FOR OPPOSITION	
Mar. 04, 1989	NOTICE OF PUBLICATION	
Dec. 20, 1988	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 02, 1988	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Oct. 19, 1988	NON-FINAL ACTION MAILED	
Sep. 15, 1988	ASSIGNED TO EXAMINER	62343

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Jun 27, 2009

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: POST REGISTRATION

Date in Location: Jul. 22 2009

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91198630

Filing Date: Sep 27, 2010

Status: Terminated

Status Date: Jan 14, 2011

Interlocutory Attorney: ROBERT COGGINS

Defendant

Name: Osez Vous? International Spirits, LLC

Correspondent Address: MR ROBERT COOPER
2833 TRENTON AVE
PHILADELPHIA PA . 19125-1837
UNITED STATES

Correspondent e-mail: rooper@cooperspirits.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
THE BUSH WICK	Abandoned - After Inter-Partes Decision	<u>77865971</u>	

Plaintiff(s)

Name: The Old Bushmills Distillery Company Limited

Correspondent Address: EVAN GOURVITZ
DIAGEO NORTH AMERICA INC
801 MAIN AVE
NORWALK CT . 06851
UNITED STATES

Correspondent e-mail: trademarks@diageo.com , stuart.kauffman@diageo.com , evan.gourvitz@diageo.com , gina.venditelli@diageo.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
BUSHMILLS THE "OLD BUSHMILLS" DISTILLERY CO	Renewed	<u>71354132</u>	<u>319137</u>
BLACK BUSH	Renewed	<u>73265690</u>	<u>1226834</u>
BUSHMILLS	Renewed	<u>73737489</u>	<u>1545581</u>
BUSHMILLS IRISH CREAM LIQUEUR PRODUCT OF IRELAND BUSHMILLS AUTHENTIC IRISH CREAM LIQUEUR 750 MLE MADE FROM NATURAL INGREDIENTS 17% ALC BY VOL	Cancelled - Section 8	<u>76588053</u>	<u>3097080</u>
BUSHMILLS 1608	Registered	<u>77142465</u>	<u>3563029</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Sep 27, 2010	
2	NOTICE AND TRIAL DATES SENT: ANSWER DUE.	Sep 27, 2010	Nov 06, 2010
3	PENDING, INSTITUTED	Sep 27, 2010	
4	NOTICE OF DEFAULT	Nov 26, 2010	
5	BOARD'S DECISION SUSTAINED	Jan 14, 2011	
6	TERMINATED	Jan 14, 2011	

Type of Proceeding: Cancellation

Proceeding Number: 92019520

Filing Date: Mar 26, 1991

Status: Terminated

Status Date: Oct 14, 1992

Interlocutory Attorney:

Defendant

Name: CROWN CAPITAL U.S.A. INC

Associated marks

Mark	Application Status	Serial Number	Registration Number
BUSHMAN'S	Cancelled - Section 8	<u>73830846</u>	<u>1595646</u>

Plaintiff(s)

Name: THE "OLD BUSHMILLS" DISTILLERY CO

Correspondent Address: JAMES N PALIK
PENNIE & EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

Associated marks

Mark	Application Status	Serial Number	Registration Number
BUSHMILLS	Renewed	<u>73737489</u>	<u>1545581</u>

Entry Number	History Text	Prosecution History	
		Date	Due Date
1	FILED & FEE	Mar 26, 1991	
2	NOTICE SENT. ANSWER DUE (DUE DATE)	Jul 25, 1991	Sep 03, 1991
3	PENDING, INSTITUTED	Jul 25, 1991	
4	ANSWER	Sep 12, 1991	
5	TRIAL DATES SET	Oct 04, 1991	
6	PL'S MOT TO SUSPEND W/CONSENT	Feb 28, 1992	
7	SUSPENDED	Apr 27, 1992	
8	PL'S WITHDRAWAL OF PET FOR CANCELLATION	May 27, 1992	
9	DISMISSED W/PREJ	Jun 22, 1992	
10	TERMINATED	Oct 14, 1992	

Generated on: This page was generated by TSDR on 2013-04-03 07:02:07 EDT

Mark: BLACK BUSH

US Serial Number: 73265690 Application Filing Date: Aug 28, 1980
US Registration Number: 1226834 Registration Date: Feb 08, 1983
Register: Principal
Mark Type: Trademark
Status: The registration has been renewed
Status Date: Feb 23, 2013
Publication Date: Nov 16, 1982

Mark Information

Mark Literal Elements: BLACK BUSH
Standard Character Claim: No
Mark Drawing Type: 1 - TYPESET WORD(S) / LETTER(S) / NUMBER(S)

Related Properties Information

Claimed Ownership of US 00888250, 03191370
Registrations:

Foreign Information

Foreign Registration Number: B1,043 802 Foreign Registration Date: Mar 18, 1975
Foreign Application/Registration Country: UNITED KINGDOM Foreign Expiration Date: Mar 18, 1996

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services

- Brackets [] indicate deleted goods/services.
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks * * identify additional (new) wording in the goods/services

For: Whiskey
International Class: 033 - Primary Class U.S Class: 049
Class Status: ACTIVE
Basis: 44(e)

Basis Information (Case Level)

Filed Use: No	Currently Use: No	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: Yes	Currently 44E: Yes	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: "Old Bushmills" Distillery Company Limited, The
Owner Address: BUSHMILLS COUNTY ANTRIM BT57 8XH

NORTHERN IRELAND
Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: UNITED KINGDOM

Attorney/Correspondence Information

Attorney Name: Stuart Kauffman
Attorney Primary Email Address: trademarks@diageo.com
Correspondent Name/Address: Stuart Kauffman
DIAGEO NORTH AMERICA, INC.
801 Main Avenue
Norwalk, CONNECTICUT 06851
UNITED STATES
Phone: (203) 229-2100
Correspondent e-mail: trademarks@diageo.com

Attorney of Record
Docket Number: BLBU-4001-US
Attorney Email Yes
Authorized:
Correspondent
Fax: (203) 845-5925
Correspondent e-mail Yes
Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 23, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Feb. 23, 2013	REGISTERED AND RENEWED (SECOND RENEWAL - 10 YRS)	68973
Feb. 23, 2013	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	68973
Feb. 23, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	68973
Feb. 07, 2013	TEAS SECTION 8 & 9 RECEIVED	
Apr. 25, 2008	CASE FILE IN TIGRS	
Apr. 17, 2003	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	
Apr. 17, 2003	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Feb. 06, 2003	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
Feb. 06, 2003	PAPER RECEIVED	
Dec. 01, 1988	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Oct. 06, 1988	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Oct. 06, 1988	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Feb. 08, 1983	REGISTERED-PRINCIPAL REGISTER	
Nov. 16, 1982	PUBLISHED FOR OPPOSITION	
Oct. 05, 1982	NOTICE OF PUBLICATION	
Sep. 23, 1982	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 27, 1981	NON-FINAL ACTION MAILED	
Jun. 01, 1981	ASSIGNED TO EXAMINER	
Nov. 21, 1980	ASSIGNED TO EXAMINER	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Feb 08, 2013

TM Staff and Location Information

TM Staff Information - None
File Location

Current Location: Not Found

Date in Location: Feb 23, 2013

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: 91196630

Filing Date: Sep 27, 2010

Status: Terminated

Status Date: Jan 14, 2011

Interlocutory Attorney: ROBERT COGGINS

Defendant

Name: Osez Vous? International Spirits, LLC

Correspondent Address: MR. ROBERT COOPER
2633 TRENTON AVE
PHILADELPHIA PA , 19125-1837
UNITED STATES

Correspondent e-mail: rcopper@cooperspirits.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
THE BUSH WICK	Abandoned - After Inter-Partes Decision	<u>77865971</u>	

Plaintiff(s)

Name: The Old Bushmills Distillery Company Limited

Correspondent Address: EVAN GOURVITZ
DIAGEO NORTH AMERICA INC
801 MAIN AVE
NORWALK CT , 06851
UNITED STATES

Correspondent e-mail: trademarks@diageo.com , stuart.kauffman@diageo.com , evan.gourvitz@diageo.com , gina.venditelli@diageo.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
BUSHMILLS THE "OLD BUSHMILLS" DISTILLERY CO	Renewed	<u>71354132</u>	<u>319137</u>
BLACK BUSH	Renewed	<u>73265690</u>	<u>1226834</u>
BUSHMILLS	Renewed	<u>73737489</u>	<u>1545581</u>
BUSHMILLS IRISH CREAM LIQUEUR PRODUCT OF IRELAND BUSHMILLS AUTHENTIC IRISH CREAM LIQUEUR 750 MLE MADE FROM NATURAL INGREDIENTS 17% ALC BY VOL	Cancelled - Section 8	<u>76588053</u>	<u>3097080</u>
BUSHMILLS 1608	Registered	<u>77142465</u>	<u>3563029</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Sep 27, 2010	
2	NOTICE AND TRIAL DATES SENT ANSWER DUE	Sep 27, 2010	Nov 06, 2010
3	PENDING INSTITUTED	Sep 27, 2010	
4	NOTICE OF DEFAULT	Nov 26, 2010	
5	BOARD'S DECISION SUSTAINED	Jan 14, 2011	
6	TERMINATED	Jan 14, 2011	

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing NOTICE OF OPPOSITION to be served, via first class mail, postage prepaid, on this 14th day of August 2013, to Applicant's counsel at the address identified on the Patent and Trademark Office's TARR database as follows:

Jeffrey D. Harty, Esq.
Mckee, Voorhees & Sease, PLC
801 Grand Avenue, Suite 3200
Des Moines, Iowa 50309-8009


Gina Vendittelli