

ESTTA Tracking number: **ESTTA611079**

Filing date: **06/20/2014**

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	Argentina Properties LLC
Granted to Date of previous extension	06/21/2014
Address	730 Fifth Avenue 29th Floor New York, NY 10019 UNITED STATES

Correspondence information	Eric Stenshoel Curtis, Mallet-Prevost, Colt & Mosle LLP 101 Park Avenue New York, NY 10178-0061 UNITED STATES trademark@curtis.com Phone:212-696-8878
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Applicant Information

Application No	86116015	Publication date	04/22/2014
Opposition Filing Date	06/20/2014	Opposition Period Ends	06/21/2014
Applicant	TOBACCO INTERNATIONAL HOLDINGS SWITZERLAND SA Place du Port 2 Geneve, 1204 SWITZERLAND		

Goods/Services Affected by Opposition

Class 034. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Cigarettes

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.	3545001	Application Date	10/08/2007
Registration Date	12/09/2008	Foreign Priority Date	NONE
Word Mark	FAENA HOTEL + UNIVERSE		

Design Mark	FAENA HOTEL + UNIVERSE		
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2004/11/30 First Use In Commerce: 2004/11/30 Bar services, caf��s, cafeterias, restaurants, snack-bars, hotels, boarding houses, motels, tourist homes		


U.S. Registration No.	4371888	Application Date	12/05/2012
Registration Date	07/23/2013	Foreign Priority Date	NONE

Word Mark	FAENA HOUSE		
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Design Mark	FAENA HOUSE		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2012/12/01 First Use In Commerce: 2012/12/01 Real estate agencies, real estate management, real estate brokers, real estate consultation, real estate appraisal, leasing of real estate, rental of offices, renting of apartments, financial management, fund investments, capital investments Class 037. First use: First Use: 2012/12/01 First Use In Commerce: 2012/12/01 Real estate development		


U.S. Application No.	85521263	Application Date	01/20/2012
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	FAENA SAXONY		
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 0 First Use In Commerce: 0 Bar services, caf�s, cafeterias, restaurants, snack-bars, hotels, boarding houses, motels, tourist homes

U.S. Application No.	86308091	Application Date	06/12/2014
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	FAENA
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 037. First use: First Use: 2004/11/30 First Use In Commerce: 2010/07/01 Real estate development Class 043. First use: First Use: 2004/11/30 First Use In Commerce: 2006/01/01 Bar services, caf�s, cafeterias, restaurants, snack-bars, hotels, boarding houses, motels, tourist homes

Attachments	77976176#TMSN.jpeg(bytes) 85795250#TMSN.jpeg(bytes) 85521263#TMSN.jpeg(bytes) 86308091#TMSN.jpeg(bytes) FAENA Opposition.PDF(156257 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	/ejs/
Name	Eric Stenshoel
Date	06/20/2014

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

In re Application Serial No. : 86116015
Mark : FAENA
International Class : 034
Applicant : Tobacco International Holdings Switzerland SA
Filed : Nov. 12, 2013
Published : April 22, 2014

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ARGENTINA PROPERTIES LLC, :

Opposers, :
: :
Against : Opposition No. _____
: :
TOBACCO INTERNATIONAL HOLDING :
SWITZERLAND SA, :

Applicant. :
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NOTICE OF OPPOSITION

Argentina Properties LLC ("Opposer") is a limited liability company organized under the laws of the State of Delaware, located and doing business at 730 Fifth Avenue, 20th Floor, New York, NY 10019. Opposer believes that it would be damaged by the registration of United States Trademark Application Serial No. 86116015 (the "Application") for the mark FAENA, filed the basis of intent to use by Tobacco International Holdings Switzerland SA (the "Applicant") on November 12, 2013, and published for opposition on April 22, 2014 in International Class 034 and United States Classes 002, 008, 009, 017 for cigarettes. Opposer hereby opposes the Application.

As grounds for opposition, Opposer asserts that:

1. Opposer own a trade name FAENA (“Trade Name”) and a family of famous common law and federal FAENA service marks for real estate management, development and hotel services (the “FAENA Marks”).
2. Opposer has continuously made commercial use of the Trade Name and family of FAENA Marks in the United States since at least November 30, 2004.
3. Opposer’s hotel services include spas and hammams designed as spaces for spiritual and physical mediation and learning.
4. By virtue of Opposer’s continuous use of the Trade Name and family of FAENA Marks in interstate commerce, Opposer has acquired common law rights in them prior to the filing date of the Application. Opposer has expended significant amounts of time, money and effort in promoting and advertising the Trade Name and family of FAENA Marks as well as the services marketed and sold thereunder. Opposer’s Trade Name and family of FAENA Marks are famous and consumers have come to recognize them as identifiers of Opposer’s services and as a single source of origin.
5. Opposer owns several federal trademark registrations and applications for its family of FAENA Marks.
6. Opposer’s mark FAENA HOTEL + UNIVERSE was registered with the USPTO under the U.S. Trademark Registration No. 3545001 on December 9, 2008 for “Bar services, cafés, cafeterias, restaurants, snack-bars, hotels, boarding houses, motels, tourist homes” in International Classes 43 and recites a date of first use in commerce of November 30, 2004.
7. Opposer’s mark FAENA HOUSE mark was registered with the USPTO under the U.S. Trademark Registration No. 4371888 on July 23, 2013 for “Real estate agencies, real estate management, real estate brokers, real estate consultation, real estate appraisal, leasing of real

estate, rental of offices, renting of apartments, financial management, fund investments, capital investments” in International Classes 35 and for “Real estate development” in International Class 37 and recites a date of first use in commerce of December 1, 2012.

8. Opposer filed an intent-to-use application under the serial number 85521263 for the mark FAENA SAXONY on January 20, 2012 for Bar services, cafés, cafeterias, restaurants, snack-bars, hotels, boarding houses, motels, tourist homes.

9. Opposer filed an application under the serial number 86308091 for the mark FAENA on June 12, 2014 for “Real estate development” in Class 37 and for “Bar services, cafés, cafeterias, restaurants, snack-bars, hotels, boarding houses, motels, tourist homes” in Class 43, reciting dates of first use in commerce of July 1, 2010 for services in Class 37 and January 1, 2006 for services in Class 43.

10. Upon information and belief, Applicant Tobacco International Holdings Switzerland SA is a corporation organized under the laws of Switzerland and is located and doing business at Place du Port 2, Geneve 1204, Switzerland.

11. Opposer’s commercial use of the Trade Name and family of FAENA Marks predates Applicant’s filing date.

12. In view of Opposer’s use of the Trade Name and family of FAENA Marks that had acquired distinctiveness before the filing date of the Application, Opposer’s rights in the names and marks MSC are superior and have priority to Applicant’s rights in the MSC mark.

13. On information and belief, Applicant intends to use the mark FAENA in connection with the sale of cigarettes.

14. By reason of all of the foregoing, the public is likely to be confused or deceived with respect to the source, origin, connection, affiliation, sponsorship or approval of Applicant's goods and/or Opposer's affiliation, sponsorship or connection with Applicant

15. By reason of all of the foregoing, the reputation for the Trade Name established by Opposer will be tarnished by association with the cigarette products that Applicant intends to sell under the Trade Name.


16. By reason of all of the foregoing, issuance of a registration to Applicant with respect to the Application would seriously damage Opposer.

WHEREFORE, Opposer requests that this opposition be sustained, that Application Serial No. 86/116,015 for the FAENA mark be refused registration and that Opposer be granted all such further relief as the Trademark Trial and Appeal Board may deem necessary and just.

Respectfully submitted,

Argentina Properties LLC

Dated: New York, New York
June 20, 2014

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