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

Proceeding	92025859
Party	Defendant General Cigar Co., Inc.
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Date	09/29/2020
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

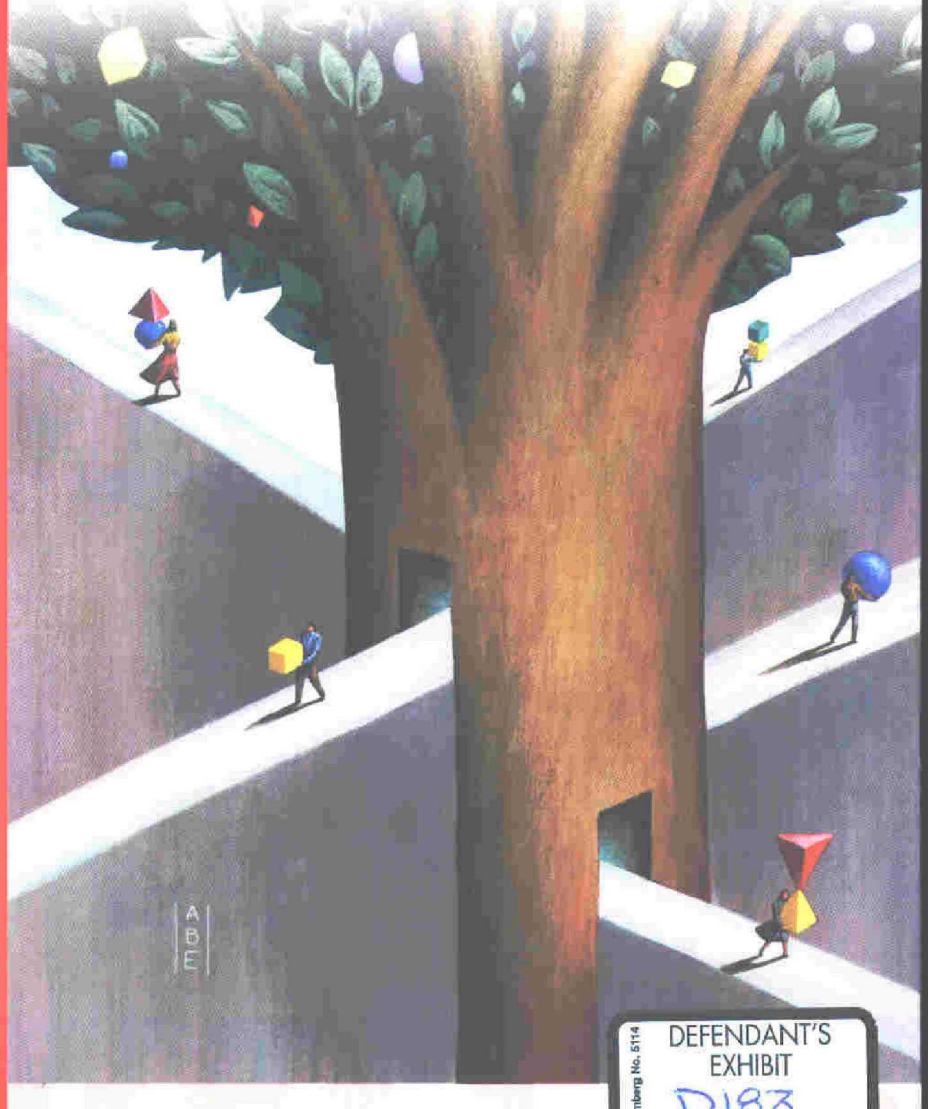
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 183 (D0183), Defs Ex 26

Strategic Brand Management

Building, Measuring, and Managing Brand Equity

Second Edition



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Kevin Lane Keller

SECOND EDITION

Strategic Brand Management

Building, Measuring, and Managing Brand Equity

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even considerably, depending on the particular groups of consumers or market segments involved.

Other brands, of course, will be characterized by a different set of associations. For example, McDonald's marketing program attempts to create brand associations in consumers' minds to "quality," "service," "cleanliness," and "value." McDonald's rich brand image probably also includes strong associations to "Ronald McDonald," "golden arches," "for kids," and "convenient," as well as perhaps potentially negative associations such as "fast food." Coca-Cola's marketing program strives to link brand associations in consumers' minds to "refreshment," "taste," "availability," "affordability," and "accessibility." Whereas Mercedes-Benz has achieved strong associations to "performance" and "status," Volvo has created a strong association to "safety." Chapter 3 reviews in detail the different types of associations that can become linked to the brand. Chapter 9 outlines research techniques to measure these associations.

SOURCES OF BRAND EQUITY

What causes brand equity to exist? How do marketers create brand equity? *Customer-based brand equity occurs when the consumer has a high level of awareness and familiarity with the brand and holds some strong, favorable, and unique brand associations in memory*. In some cases, brand awareness alone is sufficient to result in more favorable consumer response, for example, in low-involvement decision settings where consumers are willing to base their choices merely on familiar brands. In most other cases, however, the strength, favorability, and uniqueness of the brand associations play a critical role in determining the differential response making up the brand equity. If the brand is perceived by consumers to be the same as a representative version of the product or service in the category, then consumer response to marketing for the brand would not be expected to vary from when the marketing is attributed to a fictitiously named or unnamed product or service. If the brand has some salient, unique associations, then consumer response should differ.

For branding strategies to be successful and brand equity to be created, consumers must be convinced that there are meaningful differences among brands in the product or service category. The key to branding is that consumers must *not* think that all brands in the category are the same. Thus, establishing a high level of brand awareness and a positive brand image in consumer memory—in terms of strong, favorable, and unique brand associations—produces the knowledge structures that can affect consumer response and produce different types of customer-based brand equity.

Brand Awareness

Brand awareness consists of brand recognition and brand recall performance. *Brand recognition* relates to consumers' ability to confirm prior exposure to the brand when given the brand as a cue. In other words, brand recognition requires that consumers can correctly discriminate the brand as having been previously seen or heard. For example, when consumers go to the store, is it the case that they will be able to recognize the brand as one to which they have already been exposed? *Brand recall* relates to consumers' ability to retrieve the brand from memory when given the product category, the needs fulfilled by the category, or a purchase or usage situation as a cue. In other words, brand recall requires that consumers correctly generate the brand from memory when

given a relevant cue. For example, recall of Kellogg's Corn Flakes will depend on consumers' ability to retrieve the brand when they think of the cereal category or of what they should eat for breakfast or eat for a snack, either at the store (when making a purchase), at home (when making a consumption choice), or wherever.

As is the case with most information in memory, it is generally easier to recognize a brand than it is to recall it from memory. The relative importance of brand recall and recognition will depend on the extent to which consumers make product-related decisions with the brand present or not.[7] For example, if product decisions are made in the store, brand recognition may be more important because the brand will actually be physically present. Outside the store or in any situation where the brand is not present, on the other hand, it is probably more important that the consumer be able to actually recall the brand from memory. For this reason, brand recall is critical for service and online brands: Consumers must actively seek the brand and therefore be able to retrieve it from memory when appropriate.

Consequences of Brand Awareness

What are the advantages of creating a high level of brand awareness? Brand awareness plays an important role in consumer decision making for three main reasons.

Learning Advantages The first way that brand awareness affects consumer decision making is by influencing the formation and strength of the brand associations that make up the brand image. A necessary condition for the creation of a brand image is that a brand node has been established in memory. The nature of that brand node should affect how easily different kinds of information can become attached to the brand in memory as brand associations. The first step in building brand equity is to register the brand in the minds of consumers, and the choice of brand elements may make that task easier or more difficult, as described in Chapter 4.

Consideration Advantages Second, as suggested earlier, it is important that consumers think of and consider the brand whenever they are making a purchase for which the brand could potentially be acceptable, or whenever they are consuming a product whose needs the brand could potentially satisfy. In particular, raising brand awareness increases the likelihood that the brand will be a member of the *consideration set,* the handful of brands that receive serious consideration for purchase.[8] Much research has shown that consumers are rarely loyal to only one brand but instead have a set of brands that they would consider buying and another—possibly smaller—set of brands that they actually buy on a regular basis. Because consumers typically only consider a few brands for purchase, making sure that the brand is in the consideration set also means that *other* brands may be less likely to be considered or recalled. Research in psychology on "part-list cuing effects" has shown that recall of some information can inhibit recall of other information.[9] In a marketing context, that means that if a consumer thinks of going to Burger King for a quick lunch, he or she may be less likely to think of going to other types of fast food restaurants, such as Kentucky Fried Chicken or Taco Bell.[10]

Choice Advantages The third advantage of creating a high level of brand awareness is that brand awareness can affect choices among brands in the consideration set, even if there are essentially no other associations to those brands. For example, consumers

For instance, brand extensions strengthened parent brand associations, and "flagship brands" were highly resistant to dilution or other potential negative effects caused by negative experiences with an extension.[78] Research has also found evidence of an ownership effect, whereby current owners generally had more favorable responses to brand line extensions.[79] Finally, extensions of brands that have both high familiarity and positive attitudes have been shown to receive higher initial stock market reactions than other brands.[80]

Chapter 12 provides a conceptual model of how consumers evaluate brand extensions and presents a number of guidelines for marketers to maximize extension success and its effect on brand equity.

OTHER BENEFITS

Finally, brands with positive customer-based brand equity may provide other advantages to the firm not directly related to the products themselves, such as helping the firm to attract better employees, generate greater interest from investors, and garner more support from shareholders. In terms of the latter, several research studies have shown that brand equity can be directly related to corporate stock price (see the Science of Branding 10–2).[81]

Notes

1. Kevin Lane Keller, "Conceptualizing, Measuring, and Managing Customer-Based Brand Equity," *Journal of Marketing* (January 1993): 1–29.
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4. Burleigh B. Gardner and Sidney J. Levy, "The Product and the Brand," *Harvard Business Review* (March-April 1955): 33–39.
5. Dawn Dobni and George M. Zinkhan, "In Search of Brand Image: A Foundation Analysis," in *Advances in Consumer Research*, Vol. 17, eds. Marvin E. Goldberg, Gerald Gorn, and Richard W. Pollay (Provo, UT: Association for Consumer Research, 1990), 110–119.
6. H. Herzog, "Behavioral Science Concepts for Analyzing the Consumer," in *Marketing and the Behavioral Sciences*, ed. Perry Bliss (Boston: Allyn and Bacon, 1963), 76–86; Joseph W. Newman, "New Insight, New Progress for Marketing," *Harvard Business Review* (November-December, 1957): 95–102.
7. James R. Bettman, *An Information Processing Theory of Consumer Choice* (Reading, MA: Addison-Wesley, 1979); Rossiter and Percy, *Advertising and Promotion Management*.
8. William Baker, J. Wesley Hutchinson, Danny Moore, and Prakash Nedungadi, "Brand Familiarity and Advertising: Effects on the Evoked Set and Brand Preference," in *Advances in Consumer Research*, Vol. 13, ed. Richard J. Lutz (Provo, UT: Association for Consumer Research, 1986), 637–642; Prakash Nedungadi, "Recall and Consumer Consideration Sets: Influencing Choice without Altering Brand Evaluations." *Journal of Consumer Research* 17 (December 1990): 263–276.
9. For example, see Henry L. Roediger, "Inhibition in Recall from Cuing with Recall Targets," *Journal of Verbal Learning and Verbal Behavior* 12 (1973): 644–657; and Raymond S. Nickerson, "Retrieval Inhibition from Part-Set Cuing: A Persisting

Summary

Qualitative research techniques are a creative means of ascertaining consumer perceptions that may otherwise be difficult to uncover. The range of possible qualitative research techniques is limited only by the creativity of the marketing researcher.

Qualitative research also has drawbacks. The in-depth insights that emerge have to be tempered by the realization that the samples involved are often very small and may not necessarily generalize to broader populations. Moreover, given the qualitative nature of the data, there may be questions of interpretation. Different researchers examining the same results from a qualitative research study may draw different conclusions.

QUANTITATIVE RESEARCH TECHNIQUES

Although qualitative measures are useful to identify the range of possible associations to a brand and their characteristics in terms of strength, favorability, and uniqueness, a more definitive portrait of the brand often is desirable to permit more confident and defensible strategic and tactical recommendations. Whereas qualitative research typically elicits some type of verbal response from consumers, quantitative research typically employs various types of scale questions so that numerical representations and summaries can be made. Quantitative measures of brand knowledge can be employed to better assess the depth and breadth of brand awareness; the strength, favorability, and uniqueness of brand associations; the valence of brand responses and feelings; and the extent and nature of brand relationships. Quantitative measures are often the primary ingredient in tracking studies that monitor brand knowledge structures of consumers over time, as discussed in Chapter 8.

Awareness

Recall that brand awareness is related to the strength of the brand in memory, as reflected by consumers' ability to identify various brand elements (i.e., the brand name, logo, symbol, character, packaging, and slogan) under different conditions. Brand awareness relates to the likelihood that a brand will come to mind and the ease with which it does so given different types of cues.

Several measures of awareness of brand elements can be employed.[30] Choosing the appropriate measure depends on the relative importance of brand awareness for consumer behavior in the category and the resulting role it plays in the success of the marketing program for the brand, as discussed in Chapter 2. For example, if research reveals that many consumer decisions are made at the point of purchase, where the brand name, logo, packaging, and so on will be physically present and visible, then brand recognition will be important. If research reveals that consumer decisions are mostly made in settings away from the point of purchase, on the other hand, then brand recall will be more important. As a cautionary note, even though brand recall per se may be viewed as less important when consumer decisions are made at the point of purchase, consumers' brand evaluations and choices will still often depend on what *else* they recall about the brand given that they are able to recognize it there.

Recognition

In the abstract, recognition processes require that consumers be able to discriminate a stimulus—a word, object, image, or whatever—as something they have previously seen. Brand recognition relates to consumers' ability to identify the brand under a variety of circumstances and can involve identification of any of the brand elements. The most basic type of recognition procedure gives consumers a set of individual items visually or orally and asks them if they thought that they have previously seen or heard of these items. To provide a more sensitive test, it is often useful to include decoys or lures—items that consumers could not possibly have seen. In addition to "yes" or "no" responses, consumers can be asked to rate how confident they are in their recognition of an item.

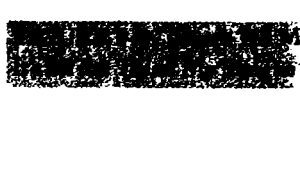
A number of additional, somewhat more subtle, recognition measures involve "perceptually degraded" versions of the brand. In some cases, the brand element may be visually masked or distorted in some way or shown for extremely brief duration. For example, brand name recognition could be tested with missing letters. Figure 9-8 tests your ability to recognize brand names with less than full information. These more subtle measures may be particularly important for brands that have a high level of recognition to provide more sensitive assessments.

Brand recognition is especially important in terms of packaging, and some marketing researchers have used creative means to assess the visibility of package design. As

A brand name with a high level of awareness will be recognized under less than ideal conditions. Consider the following list of incomplete names (i.e., word fragments). Which ones do you recognize? Compare your answers to the answer key in the footnote to see how well you did.

1. D _ _ N E _
2. K O _ _ K
3. D U _ A C _ _ _
4. H Y _ T _
5. A D _ _ L
6. M _ T _ E L
7. D _ L T _
8. N _ Q U _ L
9. G _ L L _ T _ _
10. H _ _ S H _ Y
11. H _ L L _ _ R K
12. M _ C H _ _ I N
13. T _ P P _ R W _ _ E
14. L _ G _
15. N _ K _

Answers (1) Disney; (2) Kodak; (3) Duracell; (4) Hyatt, (5) Advil, (6) Mattel; (7) Delta, (8) NyQuil, (9) Gillette, (10) Hershey; (11) Hallmark, (12) Michelin, (13) Tupperware; (14) Lego, (15) Nike



provide insight into the organization of consumers' brand knowledge structures. For example, if recall of the Porsche Boxster (a high-performance German sports car) in non-German markets was of interest, the recall probes could begin with "all cars" and move to more and more narrowly defined categories such as "sports cars," "foreign sports cars," or even "high-performance German sports cars." For example, consumers could be asked: "When you think of foreign sports cars, which brands come to mind?"

Other types of cues may be employed to measure brand recall. For example, consumers could be probed on the basis of product attributes (e.g., "When you think of chocolate, which brands come to mind?) or usage goals (e.g., "If you were thinking of having a healthy snack, which brands come to mind?"). Often, to capture the breadth of brand recall and to assess brand salience, it may be important to examine the context of the purchase decision or consumption usage situation. For example, consumers could be probed according to different purchase motivations as well as different times and places when the product could be used to see which brands came to mind (e.g., different times of the day, days of the week, or times of the year; at home, at work, or on vacation). The more that brands have strong associations to these nonproduct considerations, the more likely it is that they will be recalled when consumers are given those situational cues. Combined, measures of recall based on product attribute or category cues as well as situational or usage cues give an indication of breadth and depth of recall.

Brand recall also can provide some insight into category structure and brand positioning in consumers' minds. Past research has shown that brands tend to be recalled in categorical clusters when consumers are given a general probe. Certain brands are grouped together because they share certain associations and are thus likely to cue and remind consumers of each other if one is recalled.[32] Besides being judged as correctly recalled, brand recall can be further distinguished according to order, as well as latency or speed of recall. In many cases, people will recognize a brand when it is shown to them and will recall it if they are given a sufficient number of cues. Thus, potential recallability is high. The more important issue is the salience of the brand: Do consumers think of the brand under the right circumstances, for example, when they could be either buying or using the product? How quickly do they think of the brand? Is it automatically or easily recalled? Is it the first brand recalled?

Corrections for Guessing

Any research measure must consider the issue of consumers making up responses or guessing. That problem may be especially evident with certain types of aided awareness or recognition measures for the brand. *Spurious awareness* occurs when consumers erroneously claim that they recall something that they really don't and that maybe doesn't even exist. For example, one market research firm, Oxtoby-Smith, conducted a benchmark study of awareness of health and beauty products.[33] In the study, they asked consumers questions like this:

"The following is a list of denture adhesive brand names. Please answer yes if you've heard the name before and no if you haven't. Okay? Orafix? Fasteeth? Dentu-tight? Fixodent?"

Although 16 percent of the sample reported that they had heard of Dentu-Tight, there was one problem: It didn't really exist! Similarly high levels of reported recall were reported for plausible-sounding but fictitious brands such as Four O'Clock Tea (8

percent), Leone Pasta (16 percent), and Mrs. Smith's Cake Mix (31 percent). On the basis of this study, Oxtoby-Smith found that spurious awareness was around 8 percent for new health and beauty products and was even higher in some product categories. In one case, a proposed line extension was mistakenly thought to already exist by about 50 percent of the sample (a finding that no doubt sent a message to the company that they should go ahead and introduce the product!).

From a marketing perspective, the problem with spurious awareness is that it may send misleading signals about the proper strategic direction for a brand. For example, Oxtoby-Smith reported that one of its clients was struggling with a 5 percent market share despite the fact that 50 percent of survey respondents reported that they were aware of the brand. On the surface, it would seem that the recommended strategy would be to improve the image of the brand and attitudes toward it in some way. Upon further examination, it was determined that spurious awareness accounted for *almost half* of the survey respondents who reported brand awareness, suggesting that a more appropriate solution to the true problem would be to first build awareness to a greater degree. Marketers should be sensitive to the possibilities of misleading signals because of spurious brand awareness, especially with new brands or ones with plausible-sounding names.

Strategic Implications

The advantage of aided recall measures is that they yield insight into how brand knowledge is organized in memory and what kind of cues or reminders may be necessary for consumers to be able to retrieve the brand from memory. Understanding recall when different levels of product category specificity are used as cues is important because it has implications for how consideration sets are formed and product decisions are made by consumers.

For example, again take the case of the Porsche Boxster. Assume that consumer recall of this particular car model was fairly low when all cars were considered but very high when foreign sports cars were considered. In other words, consumers strongly categorized the Porsche Boxster as a prototypical sports car but tended to think of it in only that way. If that were the case, for more consumers to entertain the possibility of buying a Porsche Boxster, it might be necessary to broaden the meaning of Porsche so that it had a stronger association to cars in general. Of course, such a strategy would run the risk of alienating existing customers who had been initially attracted by the "purity" and strong identification of the Porsche Boxster as a sports car. Deciding on the appropriate strategy would depend on the relative costs and benefits of targeting the two different segments.

The important point to note is that the category structure that exists in consumers' minds—as reflected by brand recall performance—can have profound implications for consumer choice and marketing strategy, as demonstrated by the Science of Branding 9-2. The insights gleaned from measuring brand recall are also valuable for developing brand identity and integrated marketing communication programs, as Chapters 4 and 6 showed. For example, brand recall can be examined for each brand element to explore the extent to which any one brand element (the name, symbol, logo, etc.) suggests another brand element. In other words, is it the case that consumers are aware of all the different brand elements and understand how they relate?

In addition to obtaining a thorough understanding of brand awareness, it is important to gain a complete understanding of brand image, as covered in the following section.

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even considerably, depending on the particular groups of consumers or market segments involved.

Other brands, of course, will be characterized by a different set of associations. For example, McDonald's marketing program attempts to create brand associations in consumers' minds to "quality," "service," "cleanliness," and "value." McDonald's rich brand image probably also includes strong associations to "Ronald McDonald," "golden arches," "for kids," and "convenient," as well as perhaps potentially negative associations such as "fast food." Coca-Cola's marketing program strives to link brand associations in consumers' minds to "refreshment," "taste," "availability," "affordability," and "accessibility." Whereas Mercedes-Benz has achieved strong associations to "performance" and "status," Volvo has created a strong association to "safety." Chapter 3 reviews in detail the different types of associations that can become linked to the brand. Chapter 9 outlines research techniques to measure these associations.

SOURCES OF BRAND EQUITY

What causes brand equity to exist? How do marketers create brand equity? *Customer-based brand equity occurs when the consumer has a high level of awareness and familiarity with the brand and holds some strong, favorable, and unique brand associations in memory*. In some cases, brand awareness alone is sufficient to result in more favorable consumer response, for example, in low-involvement decision settings where consumers are willing to base their choices merely on familiar brands. In most other cases, however, the strength, favorability, and uniqueness of the brand associations play a critical role in determining the differential response making up the brand equity. If the brand is perceived by consumers to be the same as a representative version of the product or service in the category, then consumer response to marketing for the brand would not be expected to vary from when the marketing is attributed to a fictitiously named or unnamed product or service. If the brand has some salient, unique associations, then consumer response should differ.

For branding strategies to be successful and brand equity to be created, consumers must be convinced that there are meaningful differences among brands in the product or service category. The key to branding is that consumers must *not* think that all brands in the category are the same. Thus, establishing a high level of brand awareness and a positive brand image in consumer memory—in terms of strong, favorable, and unique brand associations—produces the knowledge structures that can affect consumer response and produce different types of customer-based brand equity.

Brand Awareness

Brand awareness consists of brand recognition and brand recall performance. *Brand recognition* relates to consumers' ability to confirm prior exposure to the brand when given the brand as a cue. In other words, brand recognition requires that consumers can correctly discriminate the brand as having been previously seen or heard. For example, when consumers go to the store, is it the case that they will be able to recognize the brand as one to which they have already been exposed? *Brand recall* relates to consumers' ability to retrieve the brand from memory when given the product category, the needs fulfilled by the category, or a purchase or usage situation as a cue. In other words, brand recall requires that consumers correctly generate the brand from memory when

given a relevant cue. For example, recall of Kellogg's Corn Flakes will depend on consumers' ability to retrieve the brand when they think of the cereal category or of what they should eat for breakfast or eat for a snack, either at the store (when making a purchase), at home (when making a consumption choice), or wherever.

As is the case with most information in memory, it is generally easier to recognize a brand than it is to recall it from memory. The relative importance of brand recall and recognition will depend on the extent to which consumers make product-related decisions with the brand present or not.[7] For example, if product decisions are made in the store, brand recognition may be more important because the brand will actually be physically present. Outside the store or in any situation where the brand is not present, on the other hand, it is probably more important that the consumer be able to actually recall the brand from memory. For this reason, brand recall is critical for service and online brands: Consumers must actively seek the brand and therefore be able to retrieve it from memory when appropriate.

Consequences of Brand Awareness

What are the advantages of creating a high level of brand awareness? Brand awareness plays an important role in consumer decision making for three main reasons.

Learning Advantages The first way that brand awareness affects consumer decision making is by influencing the formation and strength of the brand associations that make up the brand image. A necessary condition for the creation of a brand image is that a brand node has been established in memory. The nature of that brand node should affect how easily different kinds of information can become attached to the brand in memory as brand associations. The first step in building brand equity is to register the brand in the minds of consumers, and the choice of brand elements may make that task easier or more difficult, as described in Chapter 4.

Consideration Advantages Second, as suggested earlier, it is important that consumers think of and consider the brand whenever they are making a purchase for which the brand could potentially be acceptable, or whenever they are consuming a product whose needs the brand could potentially satisfy. In particular, raising brand awareness increases the likelihood that the brand will be a member of the *consideration set,* the handful of brands that receive serious consideration for purchase.[8] Much research has shown that consumers are rarely loyal to only one brand but instead have a set of brands that they would consider buying and another—possibly smaller—set of brands that they actually buy on a regular basis. Because consumers typically only consider a few brands for purchase, making sure that the brand is in the consideration set also means that *other* brands may be less likely to be considered or recalled. Research in psychology on "part-list cuing effects" has shown that recall of some information can inhibit recall of other information.[9] In a marketing context, that means that if a consumer thinks of going to Burger King for a quick lunch, he or she may be less likely to think of going to other types of fast food restaurants, such as Kentucky Fried Chicken or Taco Bell.[10]

Choice Advantages The third advantage of creating a high level of brand awareness is that brand awareness can affect choices among brands in the consideration set, even if there are essentially no other associations to those brands. For example, consumers

For instance, brand extensions strengthened parent brand associations, and "flagship brands" were highly resistant to dilution or other potential negative effects caused by negative experiences with an extension.[78] Research has also found evidence of an ownership effect, whereby current owners generally had more favorable responses to brand line extensions.[79] Finally, extensions of brands that have both high familiarity and positive attitudes have been shown to receive higher initial stock market reactions than other brands.[80]

Chapter 12 provides a conceptual model of how consumers evaluate brand extensions and presents a number of guidelines for marketers to maximize extension success and its effect on brand equity.

OTHER BENEFITS

Finally, brands with positive customer-based brand equity may provide other advantages to the firm not directly related to the products themselves, such as helping the firm to attract better employees, generate greater interest from investors, and garner more support from shareholders. In terms of the latter, several research studies have shown that brand equity can be directly related to corporate stock price (see the Science of Branding 10–2).[81]

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Summary

Qualitative research techniques are a creative means of ascertaining consumer perceptions that may otherwise be difficult to uncover. The range of possible qualitative research techniques is limited only by the creativity of the marketing researcher.

Qualitative research also has drawbacks. The in-depth insights that emerge have to be tempered by the realization that the samples involved are often very small and may not necessarily generalize to broader populations. Moreover, given the qualitative nature of the data, there may be questions of interpretation. Different researchers examining the same results from a qualitative research study may draw different conclusions.

QUANTITATIVE RESEARCH TECHNIQUES

Although qualitative measures are useful to identify the range of possible associations to a brand and their characteristics in terms of strength, favorability, and uniqueness, a more definitive portrait of the brand often is desirable to permit more confident and defensible strategic and tactical recommendations. Whereas qualitative research typically elicits some type of verbal response from consumers, quantitative research typically employs various types of scale questions so that numerical representations and summaries can be made. Quantitative measures of brand knowledge can be employed to better assess the depth and breadth of brand awareness; the strength, favorability, and uniqueness of brand associations; the valence of brand responses and feelings; and the extent and nature of brand relationships. Quantitative measures are often the primary ingredient in tracking studies that monitor brand knowledge structures of consumers over time, as discussed in Chapter 8.

Awareness

Recall that brand awareness is related to the strength of the brand in memory, as reflected by consumers' ability to identify various brand elements (i.e., the brand name, logo, symbol, character, packaging, and slogan) under different conditions. Brand awareness relates to the likelihood that a brand will come to mind and the ease with which it does so given different types of cues.

Several measures of awareness of brand elements can be employed.[30] Choosing the appropriate measure depends on the relative importance of brand awareness for consumer behavior in the category and the resulting role it plays in the success of the marketing program for the brand, as discussed in Chapter 2. For example, if research reveals that many consumer decisions are made at the point of purchase, where the brand name, logo, packaging, and so on will be physically present and visible, then brand recognition will be important. If research reveals that consumer decisions are mostly made in settings away from the point of purchase, on the other hand, then brand recall will be more important. As a cautionary note, even though brand recall per se may be viewed as less important when consumer decisions are made at the point of purchase, consumers' brand evaluations and choices will still often depend on what *else* they recall about the brand given that they are able to recognize it there.

Recognition

In the abstract, recognition processes require that consumers be able to discriminate a stimulus—a word, object, image, or whatever—as something they have previously seen. Brand recognition relates to consumers' ability to identify the brand under a variety of circumstances and can involve identification of any of the brand elements. The most basic type of recognition procedure gives consumers a set of individual items visually or orally and asks them if they thought that they have previously seen or heard of these items. To provide a more sensitive test, it is often useful to include decoys or lures—items that consumers could not possibly have seen. In addition to "yes" or "no" responses, consumers can be asked to rate how confident they are in their recognition of an item.

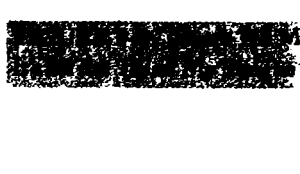
A number of additional, somewhat more subtle, recognition measures involve "perceptually degraded" versions of the brand. In some cases, the brand element may be visually masked or distorted in some way or shown for extremely brief duration. For example, brand name recognition could be tested with missing letters. Figure 9-8 tests your ability to recognize brand names with less than full information. These more subtle measures may be particularly important for brands that have a high level of recognition to provide more sensitive assessments.

Brand recognition is especially important in terms of packaging, and some marketing researchers have used creative means to assess the visibility of package design. As

A brand name with a high level of awareness will be recognized under less than ideal conditions. Consider the following list of incomplete names (i.e., word fragments). Which ones do you recognize? Compare your answers to the answer key in the footnote to see how well you did.

1. D _ _ N E _
2. K O _ _ K
3. D U _ A C _ _ _
4. H Y _ T _
5. A D _ _ L
6. M _ T _ E L
7. D _ L T _
8. N _ Q U _ L
9. G _ L L _ T _ _
10. H _ _ S H _ Y
11. H _ L L _ _ R K
12. M _ C H _ _ I N
13. T _ P P _ R W _ _ E
14. L _ G _
15. N _ K _

Answers (1) Disney; (2) Kodak; (3) Duracell; (4) Hyatt, (5) Advil, (6) Mattel; (7) Delta, (8) NyQuil, (9) Gillette, (10) Hershey; (11) Hallmark, (12) Michelin, (13) Tupperware; (14) Lego, (15) Nike



a starting point, they consider the benchmark or "best case" of the visibility of a package when a consumer (1) with 20–20 vision (2) is face-to-face with a package (3) at a distance of less than five feet (4) under ideal lighting conditions.

A key question then is whether the package design is robust enough to be still recognizable if one or more of these four conditions are not present. Because shopping is often not conducted under "ideal" conditions, such insights are important. For example, one research study indicated that one of six members of the population who wear eyeglasses do not wear them when shopping in a supermarket.[31] An important question then is whether a package is still able to effectively communicate to consumers under such conditions.

Research methods using tachistoscopes (T-scopes) and eye tracking techniques exist to test the effectiveness of alternative package designs according to a number of specific criteria:

- Degree of shelf impact
- Impact and recall of specific design elements
- Distance at which the package can first be identified
- Angle at which the package can first be identified
- Speed with which the package can be identified
- Perceived package size
- Copy visibility and legibility

These additional measures can provide more sensitive measures of recognition than simple "yes" or "no" tasks. By applying these direct and indirect measures of brand recognition, marketers can determine which brand elements exist in memory and, to some extent, the strength of their association. One advantage brand recognition measures have over recall measures is that they can be used in any modality. For example, because brand recognition is often visual in nature, visual recognition measures can be used. It may be difficult for consumers to describe a logo or symbol in a recall task either verbally or pictorially, but much easier for them to assess the same elements visually in a recognition task.

Nevertheless, brand recognition measures only provide an approximation of *potential* recallability. To determine whether the brand elements will actually be recalled under various circumstances, measures of brand recall are necessary.

Recall

Brand recall relates to consumers' ability to identify the brand under a variety of circumstances. With brand recall, consumers must retrieve the actual brand element from memory when given some related probe or cue. Thus, brand recall is a more demanding memory task than brand recognition because consumers are not just given a brand element and asked to identify or discriminate it as one they have or have not already seen.

Different measures of brand recall are possible depending on the type of cues provided to consumers. *Unaided recall* on the basis of "all brands" provided as a cue is likely to identify only the very strongest brands. *Aided recall* uses various types of cues to help consumer recall. One possible sequence of aided recall might use progressively narrower cues—such as product class, product category, and product type labels—to

provide insight into the organization of consumers' brand knowledge structures. For example, if recall of the Porsche Boxster (a high-performance German sports car) in non-German markets was of interest, the recall probes could begin with "all cars" and move to more and more narrowly defined categories such as "sports cars," "foreign sports cars," or even "high-performance German sports cars." For example, consumers could be asked: "When you think of foreign sports cars, which brands come to mind?"

Other types of cues may be employed to measure brand recall. For example, consumers could be probed on the basis of product attributes (e.g., "When you think of chocolate, which brands come to mind?) or usage goals (e.g., "If you were thinking of having a healthy snack, which brands come to mind?"). Often, to capture the breadth of brand recall and to assess brand salience, it may be important to examine the context of the purchase decision or consumption usage situation. For example, consumers could be probed according to different purchase motivations as well as different times and places when the product could be used to see which brands came to mind (e.g., different times of the day, days of the week, or times of the year; at home, at work, or on vacation). The more that brands have strong associations to these nonproduct considerations, the more likely it is that they will be recalled when consumers are given those situational cues. Combined, measures of recall based on product attribute or category cues as well as situational or usage cues give an indication of breadth and depth of recall.

Brand recall also can provide some insight into category structure and brand positioning in consumers' minds. Past research has shown that brands tend to be recalled in categorical clusters when consumers are given a general probe. Certain brands are grouped together because they share certain associations and are thus likely to cue and remind consumers of each other if one is recalled.[32] Besides being judged as correctly recalled, brand recall can be further distinguished according to order, as well as latency or speed of recall. In many cases, people will recognize a brand when it is shown to them and will recall it if they are given a sufficient number of cues. Thus, potential recallability is high. The more important issue is the salience of the brand: Do consumers think of the brand under the right circumstances, for example, when they could be either buying or using the product? How quickly do they think of the brand? Is it automatically or easily recalled? Is it the first brand recalled?

Corrections for Guessing

Any research measure must consider the issue of consumers making up responses or guessing. That problem may be especially evident with certain types of aided awareness or recognition measures for the brand. *Spurious awareness* occurs when consumers erroneously claim that they recall something that they really don't and that maybe doesn't even exist. For example, one market research firm, Oxtoby-Smith, conducted a benchmark study of awareness of health and beauty products.[33] In the study, they asked consumers questions like this:

"The following is a list of denture adhesive brand names. Please answer yes if you've heard the name before and no if you haven't. Okay? Orafix? Fasteeth? Dentu-tight? Fixodent?"

Although 16 percent of the sample reported that they had heard of Dentu-Tight, there was one problem: It didn't really exist! Similarly high levels of reported recall were reported for plausible-sounding but fictitious brands such as Four O'Clock Tea (8

percent), Leone Pasta (16 percent), and Mrs. Smith's Cake Mix (31 percent). On the basis of this study, Oxtoby-Smith found that spurious awareness was around 8 percent for new health and beauty products and was even higher in some product categories. In one case, a proposed line extension was mistakenly thought to already exist by about 50 percent of the sample (a finding that no doubt sent a message to the company that they should go ahead and introduce the product!).

From a marketing perspective, the problem with spurious awareness is that it may send misleading signals about the proper strategic direction for a brand. For example, Oxtoby-Smith reported that one of its clients was struggling with a 5 percent market share despite the fact that 50 percent of survey respondents reported that they were aware of the brand. On the surface, it would seem that the recommended strategy would be to improve the image of the brand and attitudes toward it in some way. Upon further examination, it was determined that spurious awareness accounted for *almost half* of the survey respondents who reported brand awareness, suggesting that a more appropriate solution to the true problem would be to first build awareness to a greater degree. Marketers should be sensitive to the possibilities of misleading signals because of spurious brand awareness, especially with new brands or ones with plausible-sounding names.

Strategic Implications

The advantage of aided recall measures is that they yield insight into how brand knowledge is organized in memory and what kind of cues or reminders may be necessary for consumers to be able to retrieve the brand from memory. Understanding recall when different levels of product category specificity are used as cues is important because it has implications for how consideration sets are formed and product decisions are made by consumers.

For example, again take the case of the Porsche Boxster. Assume that consumer recall of this particular car model was fairly low when all cars were considered but very high when foreign sports cars were considered. In other words, consumers strongly categorized the Porsche Boxster as a prototypical sports car but tended to think of it in only that way. If that were the case, for more consumers to entertain the possibility of buying a Porsche Boxster, it might be necessary to broaden the meaning of Porsche so that it had a stronger association to cars in general. Of course, such a strategy would run the risk of alienating existing customers who had been initially attracted by the "purity" and strong identification of the Porsche Boxster as a sports car. Deciding on the appropriate strategy would depend on the relative costs and benefits of targeting the two different segments.

The important point to note is that the category structure that exists in consumers' minds—as reflected by brand recall performance—can have profound implications for consumer choice and marketing strategy, as demonstrated by the Science of Branding 9-2. The insights gleaned from measuring brand recall are also valuable for developing brand identity and integrated marketing communication programs, as Chapters 4 and 6 showed. For example, brand recall can be examined for each brand element to explore the extent to which any one brand element (the name, symbol, logo, etc.) suggests another brand element. In other words, is it the case that consumers are aware of all the different brand elements and understand how they relate?

In addition to obtaining a thorough understanding of brand awareness, it is important to gain a complete understanding of brand image, as covered in the following section.

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

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AMERICAN MARKETING ASSOCIATION

Paul E. Green & V. Srinivasan

Conjoint Analysis in Marketing: New Developments With Implications for Research and Practice

The authors update and extend their 1978 review of conjoint analysis. In addition to discussing several new developments, they consider alternative approaches for measuring preference structures in the presence of a large number of attributes. They also discuss other topics such as reliability, validity, and choice simulators.

SINCE the early 1970s, conjoint analysis has received considerable academic and industry attention as a major set of techniques for measuring buyers' tradeoffs among multiattributed products and services (Green and Rao 1971; Johnson 1974; Srinivasan and Shocker 1973b). We presented a state-of-the-art review of conjoint analysis in 1978 (Green and Srinivasan 1978). Since that time many new developments in conjoint analysis and related methods have been reported. The purpose of this article is to review those developments (with comments on their rationale, advantages, and limitations) and propose potentially useful avenues for new research. We assume the reader is familiar with our previous review as background for a detailed study of this article.[1]

In subsequent sections we describe a variety of developments that have been achieved since the 1978 review. Topics include:

- choosing conjoint models to minimize prediction error,
- collecting conjoint data via the telephone-mail-telephone method,
- experimental designs that incorporate environmental correlations across the attributes,
- methods for improving part-worth estimation accuracy,
- new techniques for coping with large numbers of attributes and levels within attribute,
- issues in measuring conjoint reliability,
- recent findings in conjoint validation,
- coping with the problem of "unacceptable" attribute levels,
- extending conjoint to multivariate preference responses,
- trends in conjoint simulators, and
- new kinds of industry applications of conjoint analysis.

Industry Acceptance of Conjoint Techniques

Conjoint analysis continues to be popular. Wittink and Cattin (1989) estimate that about 400 commercial applications per year were carried out during the early 1980s. Some of the highlights of their study are:

- The large majority of conjoint studies pertain to consumer goods (59%) and industrial goods (18%), with financial (9%) and other services (9%) accounting for most of the rest.
- New product/concept evaluation, repositioning, com-

[1]Readers who are new to conjoint analysis may first want to read the article by Green and Wind (1975).

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petitive analysis, pricing, and market segmentation are the principal types of applications.[2]

- Personal interviewing is the most popular data-gathering procedure, though computer-interactive methods are gaining favor.
- The full-profile method, using rating scales or rank orders with part-worths estimated by least squares regression, is the most common type of application.

Part of the reason for conjoint's growing usage in the 1980s has been the introduction of microcomputer packages for performing commercial conjoint studies.[3] The availability of these packages makes conjoint analysis easier and less expensive to apply, leading us to expect its increased use (and misuse) in years to come.

Scope of the Review

As defined in our 1978 review, conjoint analysis is any decompositional method that estimates the *structure* of a consumer's preferences (i.e., estimates preference parameters such as part-worths, importance weights, ideal points), given his or her overall evaluations of a set of alternatives that are prespecified in terms of levels of different attributes. Price typically is included as an attribute; see Srinivasan (1982) for a justification. Because of the substantial amount of among-person variation in consumer preferences, conjoint analysis usually is carried out at the individual level. Significant improvements in predictive validity are obtained by estimating preference models at the individual level rather than at the aggregate or segment level (see Wittink and Montgomery 1979, Table 1, and Moore 1980, Table 2).

Consequently, in this review we deemphasize methods that are primarily useful in estimating preference functions at the aggregate or the segment level (e.g., Louviere 1988; Louviere and Woodworth 1983). We also exclude methods that are primarily used with perceptual survey data (e.g., Gensch 1987). Our review is not intended to be exhaustive; we include only what we believe to be some of the primary developments in the area. (For a more extensive bibliography, see Green and Srinivasan 1990). The burgeoning literature on the related topic of optimal product and product line design has been reviewed elsewhere (Green and Krieger 1989) and hence is not discussed here.

We begin the review by examining the new developments, using our 1978 framework describing the different steps involved in conjoint analysis. We then consider alternative approaches that have been proposed to solve the practical problem of including a large number of product attributes. Finally, we discuss additional topics such as reliability, validity, and choice simulators.

Issues in Implementing Conjoint Analysis—An Update

Table 1 is our framework of the different steps involved in conjoint analysis and the alternatives available for each step. Let us examine how the new developments relate to each of the steps.

Preference Models

In our 1978 review we considered three main preference models of increasing generality in terms of the shape of the function relating attribute values to preference: vector model (linear), ideal point model (linear plus quadratic), and part-worth function model (piecewise linear). The mixed model allows some attributes to be treated as following the part-worth function model while other attributes follow vector or ideal point models. The vector model estimates the fewest parameters by assuming the (potentially restrictive) linear functional form, whereas the part-worth model estimates the largest number of parameters because it permits the most general functional form. The ideal point model is between these two extremes.

In contexts where data are collected by the full-profile method under a fractional factorial design, and multiple regression is used as the estimation procedure, we suggested previously that the choice among the preference models could be based on a statistical models comparison test. Given that the purpose of conjoint analysis is to predict customer reactions to new products and services, a more relevant criterion is to choose the model that is likely to have the greatest predictive validity (Cattin and Punj 1984; Hagerty 1985). For each respondent, the prediction error can be compared across models by using the formula (Hagerty and Srinivasan 1991):

[2]Conjoint analysis is being used increasingly to develop marketing strategy. For instance, over the past several years the management consulting firm McKinsey and Company has sponsored more than 200 applications of conjoint analysis, the results of which are used in marketing and competitive strategy planning for its clients (Allison 1989).

[3]Adaptive Conjoint Analysis (ACA), developed by Richard M. Johnson of Sawtooth Software, incorporates data collection in a computer-interactive mode, estimation of part-worths, and choice simulation. Sawtooth Software's Conjoint Value Analysis is designed expressly for pricing studies. A second set of microcomputer packages has been developed by Steven Herman of Bretton-Clark Software. Conjoint Designer prepares full-profile stimuli (cards) using fractional factorial designs (Green 1974). Conjoint Analyzer and Conjoint LINMAP estimate part-worth functions by metric and nonmetric methods, respectively, and perform choice simulation. SIMGRAF is a sophisticated choice simulator. Bridger estimates part-worth functions when the respondent performs multiple card sorts with each card sort using a different (but overlapping) set of attributes. SPSS's Categories program module consists of a full-profile conjoint data collection and analysis system.

Reviews of some of the software have been prepared by Carmone (1986, 1987), Green (1987), Kamakura (1987), and Albaum (1989). For researchers who are interested in individual conjoint analysis computer programs, such as MONANOVA, PREFMAP, and Trade-off, a third microcomputer package is available from Scott Smith of Brigham Young University (Smith 1988).

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TABLE 1
Steps Involved in Conjoint Analysis*

Step	Alternative Methods
1. Preference model	Vector model, ideal point model, part-worth function model, mixed model
2. Data collection method	Full profile, two-attribute-at-a-time (tradeoff tables)
3. Stimulus set construction	Fractional factorial design, random sampling from a multivariate distribution, Pareto-optimal designs
4. Stimulus presentation	Verbal description (multiple-cue stimulus card), paragraph description, pictorial or three-dimensional model representation, physical products
5. Measurement scale for the dependent variable	Rating scale, rank order, paired comparisons, constant-sum paired comparisons, graded paired comparisons, category assignment
6. Estimation method	Metric methods (multiple regression); nonmetric methods (LINMAP, MONANOVA, PREFMAP, Johnson's nonmetric algorithm); choice-probability-based methods (logit, probit).

*Adapted from Green and Srinivasan (1978).

$$\hat{EMSEP}_m = (\bar{R}_g^2 - \bar{R}_m^2) + (1 - \bar{R}_g^2)\left(1 + \frac{k}{n}\right) \quad (1)$$

where:

$\hat{EMSEP}_m$ = an estimate of the expected mean squared error of prediction of model m (e.g., the vector, ideal point, part-worth, or mixed model), expressed as a fraction of the variance of the dependent variable,

$\bar{R}_g^2$ = adjusted R^2 for the most general (least restrictive) model; for example, in the context of comparing the vector, ideal point, part-worth, and mixed models, the most general model is the part-worth function model,

$\bar{R}_m^2$ = adjusted R^2 for model m under consideration,

k = number of estimated parameters in model m, and

n = number of stimuli (profiles) used in the estimation.

We note that $\bar{R}_m^2$ is likely to be the smallest (and hence the first term in equation 1 is likely to be the largest) for the vector model because it uses the most restrictive (linear) functional form. However, the number of estimated parameters k, and hence the second term, is largest for the part-worth model so that *a priori* it is not obvious which model would have the smallest prediction error. Intuitively, the first term captures the loss resulting from a restrictive functional form while the second term incorporates the loss in predictive power resulting from estimating too many parameters. The two terms correspond to the squared bias and variance, respectively, so that their sum provides the mean squared error of prediction (see Mallows 1973). For each respondent, equation 1 can be evaluated for each of the models under consideration. The model with the smallest $\hat{EMSEP}$ is likely to have the smallest prediction error (greatest predictive validity).

Wittink and Cattin (1989) report that the typical commercial conjoint study has too few degrees of freedom. The average commercial study has used 16 stimuli evaluated on eight attributes at three levels each. Taken literally, such a design leads to no degrees of freedom for the commonly used part-worth function model (Green and Srinivasan 1978, p. 106)! The use of the vector and ideal point models, when applicable, would be of help in increasing the degrees of freedom. The availability of the vector, ideal point, and mixed model options in the Bretton-Clark computer programs, Conjoint Analyzer and Conjoint LINMAP, is a welcome development. However, these computer programs currently allow only for a common model to be estimated across all respondents in the sample. Consequently, in the case of a common preference model, equation 1 can be applied with the R^2 representing the average value of adjusted R^2 for the respondents in the sample.

It has been typical in conjoint studies to estimate only the main effects and assume away interaction effects. In certain cases, interaction effects, particularly two-way interaction effects, may be important. Application areas include sensory phenomena (e.g., foods, beverages, personal care products) and styling and aesthetic features. Carmone and Green (1981) have illustrated how "compromise" designs can be used to measure selected two-way interaction effects. The issue is again whether the predictive validity of the model with interactions would be better because of its increased realism or worse because of the estimation of several additional parameters (Hagerty 1986).

Equation 1 can be used to indicate whether the model is likely to have higher predictive validity with

or without interactions. In this context, the more general model g in equation 1 corresponds to the model with interactions. Empirical evidence (Green 1984, Table 1) indicates that the model with interaction terms often leads to *lower* predictive validity—that is, the increased model realism obtained by incorporating interactions is small in comparison with the deterioration in predictive accuracy caused by including additional parameters.

Further empirical research is needed to determine the extent to which equation 1 minimizes prediction error. (Because the adjusted R^2 statistic is measured with error, there is no guarantee that the model chosen by using equation 1 will, in fact, minimize prediction error.) Equation 1 also could be compared with the well-known F-test for model comparison applied, say, at the 5% level.[4]

Data Collection Methods

In 1978 we described several advantages and limitations of the full-profile method in comparison with the tradeoff procedure (two-factor-at-a-time method). An additional advantage of the full-profile method is its ability to measure overall preference judgments directly using behaviorally oriented constructs such as intentions to buy, likelihood of trial, chances of switching to a new brand, and so on. Such measures are particularly useful in the context of introducing new products/services. The elicitation of such constructs from respondents requires that each option be described on all of the attributes, that is, the full-profile approach. Wittink and Cattin (1989) report that the use of the tradeoff method has decreased considerably in recent years.

A relatively new method for conjoint data collection is the telephone-mail-telephone (TMT) procedure; see Levy, Webster, and Kerin (1983) for one of the earlier applications of this approach. Respondents are recruited by telephone screening (either through random digit dialing or pre-established lists). The main interview materials, including questionnaires, stimulus cards, incentive gifts, and other items, then are sent by mail or by overnight air express. An appointment is scheduled for collecting all data by telephone. The conjoint exercise usually is reserved for interviewer-interviewee interaction at the time of the followup call. The easier questions can be self-administered by the respondent; the answers are simply recorded by the interviewer during the main interview.

The advantages of the TMT interview are fourfold: (1) sampled populations can be pinpointed and probability sampling methods employed, thereby reducing selection bias, (2) difficult sorting and rating tasks can be handled with visual materials and telephone backup, (3) once respondents are recruited, the interview completion rate is very high (typically about 80%), and (4) all questionnaires contain complete responses (i.e., there is no missing-data problem). A variation on the TMT theme is use of the locked box (Schwartz 1978), a metal box containing all interview materials, which serves as a respondent premium; the combination lock is "revealed" at interview time. Some users of the locked box device forgo the screening interview and include a cover letter indicating the purpose of the survey and a time when the telephone interview call is scheduled.

Stimulus Set Construction for the Full-Profile Method

Fractional factorial designs and other kinds of orthogonal plans that either exclude or markedly limit the measurement of interaction effects currently dominate the industry scene. This trend has been helped immeasurably by the diffusion of various kinds of atlases (e.g., Addelman 1962; Hahn and Shapiro 1966) and microcomputer packages (e.g., Bretton-Clark's Conjoint Designer) for preparing orthogonal main effects plans.

Steckel, DeSarbo, and Mahajan (1990) review the literature on various ways of incorporating environmental interattribute correlations in the construction of stimulus sets so as to increase the realism of the task. They provide a method for maximizing "orthogonalness" subject to meeting various user-supplied constraints on the attribute levels that are allowed to appear together in full-profile descriptions.

In industry studies, if two or more attributes are highly correlated environmentally, our 1978 suggestion of making up "superattributes" appears to be popular. If this device is not feasible, it is not unusual to depart from fully orthogonal requirements and permit some attributes to be correlated by deleting totally unrealistic profiles generated by the fractional factorial design.[5]

[4]Hagerty and Srinivasan (1991) show that comparing two models using equation 1 is equivalent to using a critical value of F equal to $2 - (k/n)$; that is, if the F-test produces a value of $F > 2 - (k/n)$, then the more general model is recommended. (Here k denotes the number of parameters for the more restrictive of the two models.)

[5]There are also situations in which two profiles in a fractional factorial design become identical, in which case it may be appropriate to delete the duplicated profile. The deletion of any profile from a fractional factorial design makes the attributes become somewhat correlated. However, the presence of interattribute correlations *per se* does not violate any assumptions of conjoint analysis. This is analogous to multiple regression models in which there is no assumption *per se* that the predictors are perfectly orthogonal. Correlation among attributes, however, increases the error in estimating preference parameters (Johnston 1984, p. 247), so interattribute correlations should be kept to a minimum (but they need not be zero).

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We argued in 1978 that the additive compensatory model assumed in conjoint analysis is likely to predict well even if the decision process is more complex and noncompensatory (also, see Huber 1987). Johnson, Meyer, and Ghose (1989) suggest that conjoint predictive validity in the noncompensatory environment (e.g., conjunctive and disjunctive models) may be poor if there are negative correlations among the attributes in a choice set. Negative interattribute correlations are likely to arise because products that are totally dominated by other products are unlikely to exist in a market, so that if product A is better than product B on one attribute, it is likely to be worse on some other attribute.

Fortunately, the average interattribute correlation cannot be more negative than $-1/(t-1)$, where t denotes the number of attributes (Gleser 1972). Thus, in a realistic six-attribute problem ($t = 6$), the average intercorrelation among attributes cannot be more negative than $-.2$, which is not too different from the orthogonal case of zero correlation. (Moreover, given Johnson, Meyer, and Ghose's admonitions about the ability of compensatory models to mimic noncompensatory processes, those authors also found that a compensatory model with selected interaction terms approximated noncompensatory processes even in negatively correlated environments.)

Krieger and Green (1988) and Wiley (1977) suggest methods for constructing stimulus sets for conjoint analysis that are Pareto optimal (i.e., no option dominates any other option on all attributes). In particular, Krieger and Green suggest some heuristic procedures involving systematic permutations of attribute-level indexes to transform "standard" (atlas-obtained) orthogonal designs into ones that are nearly (if not exactly) Pareto optimal.

Huber and Hansen (1986) and Green, Helsen, and Shandler (1988) report empirical results on the question of whether Pareto-optimally designed choice sets provide greater predictive validity than standard orthogonal designs in predicting a holdout set of realistic (Pareto-optimal) full profiles. The results are mixed. Whereas Huber and Hansen's study, utilizing paired comparison preference judgments, suggests that Pareto-optimal choice sets predict better, Green, Helsen, and Shandler's study, utilizing full profiles, indicates the opposite. More recent studies by Moore and Holbrook (1990) and Elrod, Louviere, and Davey (1989) support and extend the findings of Green, Helsen, and Shandler's study. So far, the weight of the evidence suggests that orthogonal designs are very robust even when prediction is made on Pareto-optimal choice sets.[6]

Using both rankings and ratings data, Wittink and his coworkers have shown that the relative importance of an attribute increases as the number of levels on which it is defined increases, even though the minimum and maximum values for the attribute are held fixed (Wittink, Krishnamurthi, and Nutter 1982; Wittink, Krishnamurthi, and Reibstein 1990). For instance, the relative importance of price went up by seven percentage points when two more intermediate levels were added to the three levels used for price.

This finding is a potentially serious problem for conjoint analysis. The fact that the problem occurs even with ratings data, analyzed by multiple regression, indicates that it is not merely an estimation artifact. The estimated regression coefficients (part-worths) are supposed to be unbiased under very reasonable assumptions (Johnston 1984, p. 172), no matter what the design matrix is.

One possible psychological explanation of the phenomenon is that the addition of intermediate levels to an attribute makes the respondent pay more attention to that attribute, thereby increasing its apparent importance in determining overall preferences. More research is needed to isolate the cause(s) of the observed phenomenon and develop methods for minimizing/correcting the problem.

Stimulus Presentation

Though some industry studies still employ paragraph descriptions, profile cards (with terse attribute-level descriptions) are by far the more popular stimulus presentation method. Increasing use of pictorial materials has been found. These kinds of props make the task more interesting to the respondent, provide easier and potentially less ambiguous ways of conveying information, and hence allow a greater number of attributes to be included in the full-profile method. Pictorial (or three-dimensional) materials are virtually indispensable in conjoint studies associated with appearance and aesthetics, such as package design and product styling. Moreover, conjoint methodology is increasingly being applied with physical products as stimuli (e.g., foods/beverages, fragrances, personal

[6]This empirical result is consistent with what would be expected from econometric theory. Consider the vector model of preference (which is the same as the multiple regression model.) If we denote the estimation stimuli correlation matrix to be **R** and the corresponding correlation matrix for the validation profiles to be **Q**, then by following a method of proof similar to that of Hagerty and Srinivasan (1991) we can show that the expected mean squared error of prediction is given by $\sigma^2 [1 + (1/n)\, tr(\mathbf{R}^{-1}\mathbf{Q}]$ where σ^2 is the variance of the error term, n is the number of profiles used in estimation, and tr denotes the trace of a matrix.

The case of the orthogonal design matrix corresponds to $\mathbf{R} = \mathbf{I}$. When the estimation stimuli are similar to the validation stimuli, $\mathbf{R} = \mathbf{Q}$. In either case $tr(\mathbf{R}^{-1}\mathbf{Q}) = k$, the number of estimated parameters. Thus, similar prediction errors should result in the two cases. The preceding analysis ignores the potential negative effects of unrealism of the stimulus profiles on respondent interest in the conjoint task.

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care products, etc.) to aid in product design. Thus conjoint methods are being adapted to provide a type of discrete-level analog to response surface modeling (Moskowitz, Stanley, and Chandler 1977).

In cases involving radically new product ideas (e.g., new kinds of washing machines, mobile telephone systems, electric cars), it is not unusual for the conjoint exercise to be preceded by film clips describing the basic concept. In automobile styling clinics, respondents are exposed to full-scale prototypes (constructed in fiberglass or painted clay) prior to engaging in the tradeoff task. The increasing use of pictorial materials (and actual prototypes) should expand the scope of conjoint analysis and enhance its realism in representing marketplace conditions.

Measurement Scale for the Dependent Variable

In addition to rating and ranking scales, which continue to be popular, paired comparisons are common in computer-assisted methods of data collection such as Adaptive Conjoint Analysis (Johnson 1987). To maximize the information content in a paired comparison, graded paired comparison judgments are obtained to provide the degree of preference of subprofile A versus B on a rating scale.

Estimation Methods

Because conjoint analysis utilizes regressionlike estimation procedures, it is subject to the same problems that beset any regression model, particularly the instability of estimated parameters in the face of various sources of error variance. The problem is exacerbated by increasing industry demands for studies with a large number of product attributes and, hence, reduced degrees of freedom in estimation.

Srinivasan, Jain, and Malhotra (1983) propose a constrained parameter estimation approach to improving predictive validity. They argue that frequently there are *a priori* monotonicity constraints that part-worth functions should satisfy (e.g., in choosing a bank for opening a checking account, one would prefer higher service and quality levels, lower cost levels, and better accessibility, other things remaining equal). They show that the imposition of such constraints in the LINMAP estimation procedure (Srinivasan and Shocker 1973a) significantly improves the percentage of first choices correctly predicted. Appropriate constraints also could be imposed by first obtaining from each respondent his or her rank order of preferences for the levels of each factor, holding other factors constant.

More recently, Hagerty (1985) and Kamakura (1988) have proposed innovative approaches to improving the accuracy of full-profile conjoint analysis. Hagerty has suggested that data pooling of similar respondents' conjoint full-profile responses (by the use of Q-type factor analysis) can reduce the variance of individual respondents' estimated part-worths without unduly increasing the bias of the estimates. He shows, by simulation and empirical data analysis, that his factor analytic approach can indeed improve predictive accuracy at the individual-respondent level.

Kamakura uses the same general approach by pooling respondents who are similar in terms of their conjoint full-profile responses, but employs an agglomerative clustering algorithm. The number of clusters is chosen so as to maximize predictive accuracy. He illustrates, with simulation and empirical data, the value of his method in improving predictive accuracy. A somewhat related approach in the context of the logit estimation has been proposed by Ogawa (1987).

Green and Helsen (1989) compared conventional, individual-level-based conjoint analysis with the methods proposed by Hagerty and Kamakura. Neither Hagerty's nor Kamakura's suggestions led to higher predictive validates (in a holdout sample) than traditional conjoint analysis. Green and Helsen's result runs counter to the empirical results reported by Hagerty and Kamakura. More empirical research is needed to determine whether the segmentation-based methods do improve predictive validity.

Overall, it appears that conventional, individual-level-based conjoint analysis may be difficult to improve in a major way (at least when the number of stimulus evaluations is large in relation to the number of parameters being estimated). This was also the finding in the Bayesian hybrid model proposed by Cattin, Gelfand, and Danes (1983).

Hagerty (1986) has argued that the emphasis on maximizing predictive power at the individual level may be misplaced. He correctly points out that one should be more concerned with the accuracy of predicting market shares in the choice simulator. He provides a formula for choosing among models so as to maximize the accuracy of predicting market shares. Hagerty's formula unfortunately is based on the assumption of a limited amount of heterogeneity across consumers in the market. Research is underway to determine whether his formula leads to correct conclusions in the more realistic scenario of greater heterogeneity across consumers.

Approaches for Handling a Large Number of Attributes

The full-profile method of conjoint analysis works very well when there are only a few (say, six or fewer) attributes. As indicated by Green (1984), industrial users of conjoint analysis have strained the methodology by requiring larger numbers of attributes and levels within attributes, thus placing a severe information overload on the respondents. When faced with

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such tasks, respondents resort to simplifying tactics and the resulting part-worth estimates may distort their true preference structures (Wright 1975).

The full-profile method can be extended to a larger number of attributes through the use of "bridging" designs—that is, by using two or more card decks with a more manageable number of attributes per card deck but with at least one attribute common across card decks (e.g., Bretton-Clark's Bridger program). However, to estimate part-worths at the respondent level, a multiple card sort is needed, leading to possible respondent fatigue and reduced reliability of the results. The use of tradeoff tables reduces the information overload on any single table. However, the increased number of tables leads some respondents either to forget where they are in the table or to simplify the task by adopting patternized responses, such as attending to variations in one attribute before considering the other (Johnson 1976).

Three approaches have been proposed to handle the problem of large numbers of attributes: (1) the self-explication approach, (2) hybrid conjoint analysis, and (3) Adaptive Conjoint Analysis (ACA). All three approaches involve some amount of self-explication, that is, direct elicitation of part-worth functions from the respondent; in this sense the methods are not solely decompositional as required in the strict definition of conjoint analysis. The three approaches, along with traditional conjoint analysis, may be better thought of as alternative methods for *preference structure measurement* as shown in Figure 1.

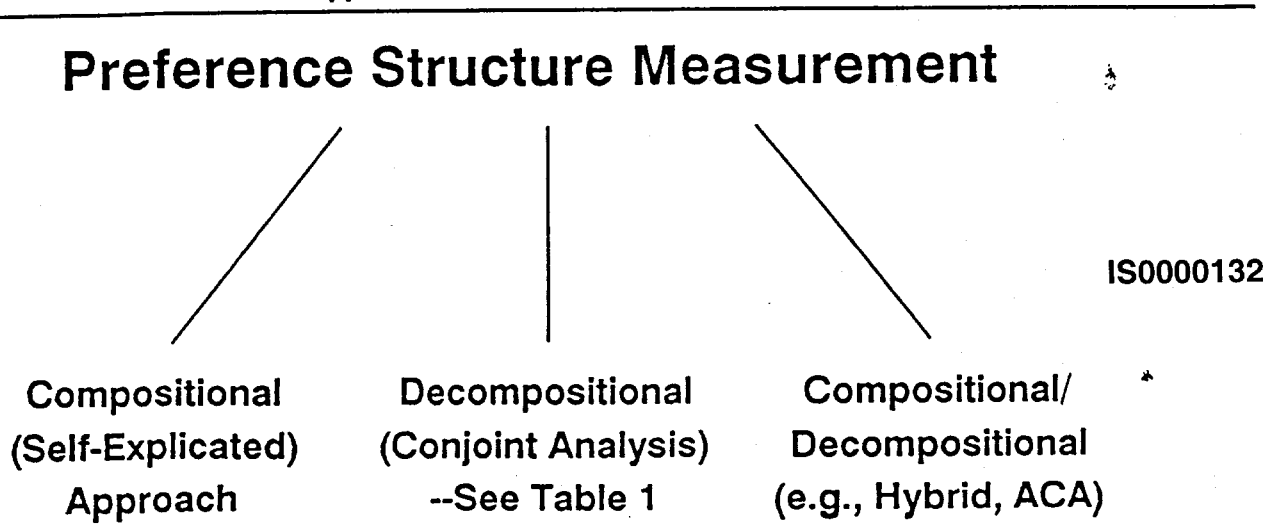
Self-Explication Approaches

In the self-explication approach, the respondent first evaluates the levels of each attribute, including price, on a 0–10 (say) desirability scale (with other attributes held constant) where the most preferred level on the attribute may be assigned the value 10 and the least preferred level assigned the value 0. The respondent then is asked to allocate (say) 100 points across the attributes so as to reflect their relative importance. Part-worths are obtained by multiplying the importance weights with the attribute-level desirability ratings. This is the basic idea of the self-explication approach, though its implementation varies somewhat across authors (Green, Goldberg, and Montemayor 1981; Huber 1974; Leigh, MacKay, and Summers 1984; Srinivasan 1988; Wright and Kriewall 1980). The self-explication approach is a compositional (or buildup) approach reminiscent of the expectancy-value models of attitude theory (Wilkie and Pessemier 1973). By contrast, conjoint analysis is decompositional.

The primary advantage of the self-explication approach is its simplicity and thus one's ability to use it even when the number of attributes is large. However, it has several possible problems. If there is substantial intercorrelation between attributes, it is difficult for the respondent to provide ratings for the levels of an attribute holding all else equal. Furthermore, increased biases may result from direct questioning of the importance of socially sensitive factors. For instance, Montgomery (1986) reports that when asked directly, MBA students ranked salary as the sixth most important factor whereas the importance weights derived from conjoint analysis indicated that salary was number one in importance.

A related issue is that the question "How important is attribute X?" is highly ambiguous because the respondent may answer on the basis of his or her own range of experience over existing products rather than

FIGURE 1
Alternative Approaches to Measuring Preference Structures



on the experimentally defined range of the attribute levels. Srinivasan (1988) argues that, given the manner in which importance enters the self-explicated part-worth calculations, it logically follows that importance should be defined as the value to the consumer of getting an improvement from the least preferred level to the most preferred level of an attribute.

A second problem is that in the self-explication approach one assumes the additive part-worth model to be the literal truth. By contrast, in the estimation of part-worths from full-profile rankings, one is only fitting to an additive model. For instance, the true process that the consumer follows could be a multiplicative model. However, the estimation of an additive model, using a *nonmetric* procedure such as LINMAP, is also consistent with the multiplicative model because the logarithmic transformation that converts the multiplicative model to the additive form is just one of many permissible monotone transformations of the dependent variable. Thus, model misspecification may not be as much of a problem when part-worths are estimated nonmetrically as when they are elicited directly.

A third problem with the self-explication approach is that any redundancy in the attributes can lead to double counting. For instance, if gas mileage and economy are two attributes, there is an obvious potential for double counting because each attribute is questioned separately in the self-explication approach. Suppose, however, that the two attributes are varied in a full-profile design after elimination of unrealistic combinations. When a respondent reacts to the full profile, he or she could recognize the redundancy between the attributes so that overall preference ratings would not be affected as much by double counting. Consequently, part-worths estimated from a decomposition of the overall ratings are likely to be less affected by the double-counting problem.

A fourth problem is that when the attribute is quantitative, the relative desirability ratings may become more linear. For instance, suppose the gas mileage of cars is varied at three levels, say, 20, 30, and 40 mpg. Given the 0–10 desirability scale with 0 for 20 mpg and 10 for 40 mpg, respondents may rate 5 for the intermediate level, making the part-worth function linear. A full-profile task has a better chance of detecting potential nonlinearity in the part-worth function.

A fifth problem occurs if the data collection is limited solely to the self-explication approach. The researcher obtains no respondent evaluation of purchase likelihood because no full profiles are seen. This limitation can be serious in new product contexts in which the researcher uses a simulator to obtain average purchase likelihoods under alternative product formulations.

Despite the limitations, the self-explication approach warrants consideration in studies with large numbers of attributes because the information overload problem considerably diminishes the value of full profile/tradeoff studies.

Empirical studies comparing the self-explication approach and traditional conjoint analysis have produced mixed results. Green (1984, Table 2) summarizes the results of three studies in which the self-explication approach produced a smaller cross-validity than full-profile conjoint analysis. However, Wright and Kriewall (1980) and Leigh, MacKay, and Summers (1984) report higher predictive validity for the self-explication approach than for full-profile conjoint analysis.

Srinivasan (1988) compared the predictive validity of the self-explication approach with the results obtained from a tradeoff analysis conducted in a previous year with the same factors and the same general subject population. The difference in predictive validates, though slightly in favor of the self-explication approach, was not statistically significant. Overall, the empirical results to date indicate that the self-explication approach is likely to yield predictive validities roughly comparable to those of traditional conjoint analysis.

The full-profile approach to conjoint analysis is extremely difficult to execute through a single telephone interview, though telephone-mail-telephone methods are feasible and growing in popularity. An advantage of the self-explication approach is that it can be executed in a single telephone interview. M/A/R/C, a national market research firm, has commercially implemented a telephone-based method called CASEMAP. Srinivasan and Wyner (1989) point out that this computer-assisted, telephone-based interview minimizes invalid responses, provides good quality control over interviewers, and is more likely to yield a geographically dispersed sample of respondents.

Hybrid Methods

Hybrid models (Green, Goldberg, and Montemayor 1981) have been designed explicitly for task simplification in conjoint analysis. Hybrid uses self-explicated data to obtain a preliminary set of individualized part-worths for each respondent. In addition, each respondent provides full-profile evaluations for a limited number of stimulus profiles (e.g., three to nine). The smaller number of profiles are drawn from a much larger master design (e.g., 64–81 combinations) in such a way that at the market-segment level, each stimulus in the larger set has been evaluated by a subset of the respondents. Market-segment-level adjustments to part-worths (and, if desired, interaction effects) are estimated by relating, through multiple regression, the

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overall preferences for the full profiles to the self-explicated utilities. Each respondent's self-explicated utilities then can be augmented by segment-level parameters estimated from the multiple regression.

The cross-validity of hybrid, traditional full-profile conjoint, and self-explication methods has been examined in three studies reported by Green (1984), three cases by Moore and Semenik (1988), and one by Akaah (1987). In six of the seven cases, hybrid was better than self-explication. However, the full-profile method was better than hybrid in five of the seven cases.

The hybrid approach tends to reduce the limitations of the self-explication approach through the use of full profiles and provides a built-in check on the internal validity of each respondent's self-explicated data. At the same time, the information overload problem is reduced by using only a few full profiles per respondent. In practical situations the full-profile method is difficult to execute with the large number of profiles required by larger numbers of attributes and/or levels within attributes. Here is where hybrid models seem to provide a practical alternative to the full-profile method.

Adaptive Conjoint Analysis (ACA)

Adaptive Conjoint Analysis (ACA) from Sawtooth Software collects preference data in a computer-interactive mode. Johnson (1987) indicates that the respondent's interaction with the computer increases respondent interest and involvement with the task. The ACA system is unique in the sense that it collects (as well as analyzes) data by microcomputers.

ACA starts with a considerably simplified self-explication task through which the particular respondent's more important attributes are identified. Part-worths for the more important attributes then are refined (in a "Bayesian" updating sense) through a series of graded paired comparisons. (An interesting aspect of ACA is that it is dynamic in that the respondent's previous answers are used at each step to select the next paired comparison question so as to provide the most information.)

In ACA, adjustments are made to self-explicated part-worths at the respondent level (and not at the total-sample or segment level, as in hybrid). However, the paired comparison data collection is considerably less efficient than rank order or rating tasks—that is, in the same amount of respondent time, many more equivalent paired comparisons can be inferred from a ranking or rating task than from direct paired comparison judgments.

Two empirical studies have compared the ACA method and full-profile conjoint analysis (Agarwal 1988; Finkbeiner and Platz 1986). Both studies found that ACA performed slightly worse than the full-profile method in terms of predicting a set of holdout profiles; the interview time was also longer in the ACA method. Green, Krieger, and Agarwal (1990) report that the self-explication approach outpredicted the ACA method in terms of cross-validated correlation and first-choice hits, besides reducing the interview time considerably. Overall, the empirical validation results to date do not seem to favor the ACA method. The ACA software package, however, has a strong intuitive appeal and is pragmatically useful as a complete data collection, analysis, and market simulation system.

On the basis of the advantages and limitations of the methods discussed before, we recommend the use of full-profile conjoint analysis if the number of attributes can be kept down to (say) six or fewer factors. If the number of attributes is somewhat larger, trade-off tables may be appropriate. (However, if the respondent is willing to do multiple card sorts, bridging designs with full profiles probably would be even better.) When the number of attributes is (say) 10 or more, the self-explication approach (including CASEMAP) or the combination methods (hybrid and ACA) are likely to be more appropriate.

The problem of preference structure measurement in the context of a large number of attributes has become very important in practical terms. So far, the key ideas for tackling the problem have involved using (1) self-explication, (2) self-explication plus segment-level estimates (as in hybrid modeling), and (3) decompositional estimation for only the more important attributes of the respondent (as in ACA). We hope that researchers will develop additional methods to address this important practical problem, either by using the preceding ideas in other ways or by adopting different approaches.

Additional Topics in Preference Structure Measurement

Reliability

A comprehensive review of conjoint reliability studies is provided by Bateson, Reibstein, and Boulding (1987). They consider four different types of reliability:

1. Reliability over time—conjoint measurements are taken and then repeated (with the same instrument) at a subsequent point in time.
2. Reliability over attribute set—the stability of part-worths for a common (core) set of attributes is examined as other attributes are varied.
3. Reliability over stimulus sets—the derived part-worths are examined for their sensitivity to subsets of profile descriptions.
4. Reliability over data collection methods—part-worths are examined for their sensitivity to type of data collected, data-gathering procedure, or type of dependent (i.e., response) variable.

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The authors examine more than 30 studies over the 1973–1984 period. They find that the authors of these studies use a variety of reliability measures, such as Pearsonian product moment correlations, rank correlations, predictive accuracy of most preferred item, prediction of the k most-preferred items, and so on. Though Bateson, Reibstein, and Boulding appropriately suggest caution in comparing findings across diverse experimental procedures, the median reliability correlation is about .75.

Reibstein, Bateson, and Boulding (1988) report the results from an ambitious empirical study involving a fully crossed comparison of (1) data collection methods—full profile, tradeoff matrices, and paired comparisons, (2) two types of attribute level manipulation, (3) five different product categories—color TVs, typewriters, yogurts, banking services, and long-distance telephone services, and (4) two types of attribute context manipulation. A main finding of their study is that the full-profile method (as well as paired comparisons procedures) leads to higher reliability than the tradeoff matrix. The authors indicate that previous studies (Jain et al. 1979; Leigh, MacKay, and Summers 1984; Segal 1982) found no such differences in reliability between full-profile and tradeoff matrices.

Reibstein, Bateson, and Boulding's different results may be due in part to the different measure of reliability they employ. They use an F-test, sometimes referred to as the Chow test, to examine whether the two sets of part-worths corresponding to the two replications are the same. They suggest using the alpha level (i.e., the probability of getting a value higher than the one obtained for F under the null hypothesis of no difference) as a measure of reliability. (This alpha measure is not to be confused with the well-known Cronbach alpha measure of reliability.) Thus, if the part-worths in the two replications are very different, the obtained F-value would be high and alpha would be low, indicating low reliability.

The major problem we have with their suggested alpha measure is that the F-value tests whether the *true* part-worths are different across replications, but the general purpose of computing reliability is to assess the degree of accuracy of the *estimated* part-worths. Stated differently, alpha measures the degree of stability in the true part-worths, not the degree of accuracy of the estimated part-worths. One would expect any measure of reliability to decrease as one increases measurement error. Unfortunately, the alpha measure tends to do the opposite. To illustrate this point, consider the case in which the number of full profiles used in the estimation is reduced. Then the measurement error in the estimated part-worths would be increased so that one should expect reliability to decrease. In contrast, the power of any statistical test such as the F-test is weaker if the number of observations (profiles) is smaller (other things remaining equal), thereby leading to higher values of alpha.

Likewise, if the error variance in the full-profile task were to increase, one should expect the estimated part-worths to be measured with greater error, which again should decrease reliability. However, the alpha value would be higher in this case because of the lower power of the F-test resulting from the higher error variance (Wittink et al. 1990).

Bateson, Reibstein, and Boulding point out two potential problems with the conventional correlation coefficient as a measure of reliability of the part-worths.[7] The first issue is that the correlation measure is affected by the variation in true part-worths across the attributes. Stated differently, with the measurement error in part-worths held constant, the correlation coefficient increases as the true variation in part-worths across attributes becomes larger. This issue is related to the psychometric definition of reliability as 1 − (measurement error variance/true variance) so that increased true variance (with error variance held constant) increases reliability. However, as the true variance of the part-worths becomes larger, any given error variance is less likely to affect the relative values of the part-worths and the predicted choice among products. Consequently, in the context of conjoint analysis, the fact that reliability goes up with true variation is conceptually meaningful. A second issue those authors raise is that the computed correlation coefficient itself becomes unreliable when it is based on only a few part-worths. Though this assertion is true, the correlation coefficient usually is averaged over respondents and hence the unreliability of the *average* correlation would be much smaller.

Overall, we believe the limitations of the alpha measure are conceptually more serious than those of the correlation coefficient. Consequently, in the absence of a better measure, we recommend the continued use of the correlation coefficient as a measure of reliability. (Alpha, however, is a useful statistic to measure the stability of true part-worths.) Not surprisingly, we urge users of conjoint analysis to continue to evaluate the reliability of the measured part-worths.

Validity

In the concluding remarks section of our 1978 review we make a plea for the continued testing of conjoint validity (and reliability). Above all, conjoint analysis is a model for predicting choice (or at least intended choice). Its value is based on its cumulative record of providing meaningful and timely forecasts of buyer choice.

[7]Prior to computing the correlation, one typically normalizes part-worths (e.g., to average zero over the levels of each attribute).

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Fortunately, a large number of studies addressing validity issues have been reported during the past several years. Most of the studies have involved tests of cross-validity—that is, the ability of the model to predict the ranking (or first choice) of a holdout set of profiles.

Several studies have demonstrated the ability of conjoint analysis to predict actual choice behavior. These validation studies have typically entailed three approaches:

1. Comparing (aggregate-level) market shares predicted by a conjoint simulator with current market shares (Clarke 1987; Davidson 1973; Page and Rosenbaum 1987) or preferably future market shares (Benbenisty 1983; Robinson 1980; Srinivasan et al. 1981).
2. Individual-level comparisons in which conjoint analysis is used to predict some surrogate of purchase intention or of actual behavior, such as what fraction of chips are allocated to the new product (Mohn 1990), which brand is redeemed in a simulated shopping experiment (Leigh, MacKay and Summers 1984), or which product's coupon is chosen (Anderson and Donthu 1988).
3. Individual-level comparisons in which conjoint analysis is used to predict actual choices at some later date (Krishnamurthi 1988; Srinivasan 1988; Swinnen 1983; Wittink and Montgomery 1979; Wright and Kriewall 1980).

A few studies have compared market shares predicted by conjoint analysis with actual results. Such studies are the most relevant tests of predictive validity in a marketing context, but are difficult to conduct because of the confounding effects of marketing mix variables such as advertising and distribution. Robinson (1980) reports a multinational conjoint study of North Atlantic air travel involving airfares, discounts, and travel restrictions. His results indicate that conjoint analysis had a substantial ability to predict market shares. Srinivasan et al. (1981) describe a conjoint study of individually computed conjoint functions that are used to predict work-trip modes (auto, public transit, and car pool). Travel mode shifts were forecasted for various policy-level gasoline tax surcharges. The authors' forecasted results were roughly consistent with the actual subsequent increase in transit ridership resulting from a serendipitous rise in the price of gasoline. Benbenisty (1983) describes a conjoint study involving AT&T's entry into the data terminal market. The simulator forecasted a share of 8% for AT&T four years after launch. The actual share was just under 8%.

In sum, the empirical evidence points to the validity of conjoint analysis as a *predictive* technique. We need more validation studies that compare actual market share (or sales) results with predicted shares (after adjustment, if necessary, for marketing variables), somewhat analogous to the simulated test markets for grocery products. Interestingly, at least one major research firm (Burke Marketing Services' BASES group) has introduced a service called Concept Designer that incorporates conjoint studies into its established new product concept testing service. A major value of this new service is that the firm's historical norms (for adjusting stated buying intentions to actual behavior) can also be applied to its conjoint-based market share and sales estimates.

"Unacceptable" Attribute Levels

Some of the current commercial conjoint procedures (e.g., CASEMAP, ACA) allow for the elimination of attribute levels that are deemed "totally unacceptable" or "completely unacceptable" by the respondent prior to the presentation of any tradeoff questions. This approach is consistent with the findings from consumer behavior research that has examined the choice processes consumers actually use in choosing among products (e.g., Lussier and Olshavsky 1979; Payne 1976). This research indicates that respondents' decision processes can be summarized crudely as a two-stage process. In the first "conjunctive" stage, the consumer eliminates options with one or more unacceptable attribute levels. In the second "compensatory" stage, the options that remain are traded-off on the multiple attributes.

Srinivasan (1988) uses the conjunctive-compensatory model in a self-explication approach to measure preference structures. The question eliciting "totally unacceptable" levels asks the respondent to indicate whether any of the levels for any of the attributes are so unattractive that he or she would reject any option having that level, *no matter how attractive* the option is on all other factors. In Srinivasan's study on MBA job choice, the preference structure data were collected several months prior to actual job choice. Not a single MBA (of 54) chose a real job offer that had a "totally unacceptable" level. Bucklin and Srinivasan (1991) report that less than 1% of the total coffee volume in their study was devoted to "totally unacceptable" brands.

Such was not the finding of Klein (1986) and Green, Krieger, and Bansal (1988). In those two studies, a significant fraction of respondents did not totally eliminate alternatives that had unacceptable levels; instead, those respondents merely treated the unacceptable level in a compensatory manner as a highly undesirable level. (However, in both studies the percentage of first choices correctly predicted was about the same whether the unacceptable level was treated as implying sure rejection or whether it was treated as having the lowest level of part-worth for that factor.)

Our recommendation is that if the unacceptable level is to be used literally to mean sure rejection, the ques-

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tionnaire wording must be modified to maximize that effect. For instance, in CASEMAP, whenever a respondent states that a level is totally unacceptable, an immediate followup question asks whether the respondent would never purchase a product with that level even though it may be most attractive *on all other factors*. (Consequently, it would be good to make the respondent aware of the range of levels for all the factors prior to elicitation of unacceptable levels.)

Mehta, Moore, and Pavia (1989) suggest in the context of ACA that if the unacceptable level is treated to some extent in a compensatory manner by the respondent but is seen by the researcher as a device to reduce the dimensionality of the problem, the part-worth for the unacceptable level should be set just low enough that options with that level are not chosen by the simulator.

Conjoint Models With Multivariate Response Variables

Mahajan, Green, and Goldberg (1982) adapt a data collection procedure by Jones (1975) to determine own-product and cross-product price/demand relationships. In contrast to the usual one-profile-at-a-time rating (or ranking) task, the respondent is asked to allocate (say) 100 points across the displayed competitive options so as to reflect the likelihood that each would be chosen; thus the response is multivariate. The authors show how orthogonal designs can be modified to accommodate such contexts. To illustrate, if there are four brands, each appearing at five price levels (which may be idiosyncratic to each brand), the full factorial in this context consists of $5^4 = 625$ combinations, not $5 \times 4 = 20$ combinations as assumed in the traditional tradeoff model.

The authors estimate the parameters of their proposed model by conditional logit (Theil 1969) applied to segment-level data. The model includes not only a specific brand's prices, but also the prices of competitive brands. The authors show how their results relate to self/cross-price elasticities.

Wyner, Benedetti, and Trapp (1984) applied a modification of the Mahajan, Green, and Goldberg procedure that substitutes units purchased of each of a set of products (instead of the constant-sum dependent variable) and multiple regression (instead of the logit-based estimation). Louviere and Woodworth (1983) have discussed a wide variety of applications pertaining to product choice and resource allocation in which multinomial logit models are applied. DeSarbo et al. (1982) also describe an approach to conjoint analysis involving multiple response variables.

In sum, the extension of conjoint analysis to the explicit consideration of all (major) options in a competitive set enables the researcher to consider both self and cross-competitor attribute-level effects. So far, the models have been commercially applied mainly to pricing problems. In principle, however, the methodology can be extended to additional types of attributes (albeit at the expense of increased data collection demands; Green and Krieger 1990).

Choice Simulators

One of the main reasons for the popularity of conjoint analysis in industry is the fact that most applications of conjoint analysis are initiated primarily to obtain a matrix of consumers' part-worths, which then is entered into a choice simulator to answer various "what if" questions. It is no accident that both the Sawtooth and Bretton-Clark computer packages include choice simulators. Ironically, relatively little academic research has been reported on choice simulators (Green and Krieger 1988). Much of what is known about them has been assembled informally.

First-generation choice simulators were very simple by today's standards. Most of them were limited to an input matrix of individuals' part-worths and a set of user-supplied product profiles. Each individual was assumed to choose the product with the highest utility (max utility choice rule). The simulator's output typically consisted of the proportion of choices received by each contender (i.e., its market share). Capability for performing sensitivity analyses or obtaining segment-based information was limited and the task was cumbersome.

Today's choice simulators are considerably more versatile. Three kinds of simulations can be provided: (1) single product, (2) multiple (firm's and competitors') products, and (3) a "bundle" of the firm's products against a backdrop of competitive products. Choice rules include the max utility, Bradley-Terry-Luce (BTL), and logit rules.[8]

A few "trends" in the design of choice simulators should be pointed out. First, there is growing interest in the simulation of a base-case scenario/profile. Inclusion of a base-case profile (in both data collection and choice simulation) provides a useful benchmark for subsequent comparative analysis. If the base-case scenario includes competitive products (with known market shares), the simulator-based shares can even be adjusted to equal known shares prior to running comparative analyses (Davidson 1973; Srinivasan 1979).

[8]Green and Srinivasan (1978, p. 113) state that the independence from irrelevant alternatives (IIA) assumption implied by the logit rule may be problematic. Empirical evidence presented by Kamakura and Srivastava (1984) suggests that the IIA assumption is reasonable at the individual level. However, the use of the BTL and logit rules usually involves arbitrary scaling assumptions—that is, the results are not invariant over linear transformations on the utilities estimated by conjoint analysis. The logit rule should not be confused with the direct estimation of part-worths by the multinomial logit model (e.g., Ogawa 1987).

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A second trend entails the compilation of various kinds of market segmentation summaries, in which shares of choices are automatically cross-tabulated against selected segments. Simulator outputs also can include sales dollar volume and gross profits, in addition to the usual share data.

A third trend is the extension of simulators to optimal product and product line search, including cannibalization of a firm's current brands and potential competitive retaliation (Green and Krieger 1989).

The simulators themselves are becoming more user-friendly with menu-driven features and opportunities for simulating a large number of different new product configurations in a single run of the simulator and for performing sensitivity analysis. Several of the major consulting firms now offer a microcomputer-based simulator to their clients, along with part-worth utility matrices and respondent background data. The client is encouraged to try out various simulations as needs arise.

Further research is needed to propose and compare different approaches for converting conjoint-analysis-based utilities to brand choice probabilities. (For a discussion of some of the resulting biases in market share predictions, see Elrod and Kumar 1989.)

Nonconventional Conjoint Applications

In addition to the use of conjoint analysis for marketing and strategic analysis, its applications are becoming increasingly diverse. One area of growing interest is litigation. Recently, conjoint studies provided primary input to the settlement of disputes in the telecommunications (foreign dumping of equipment in the U.S.), pharmaceuticals (lost profits through misleading competitive product claims), and airline (alleged brand position bias in travel agents' reservation computer screens) industries.

Applications in the context of employee benefit packages and personnel administration (Sawtooth Software 1989) are illustrative of conjoint's diffusion into new classes of problems. Experimental studies also have been carried out in the measurement of em-

TABLE 2
Future Directions in Conjoint Analysis

Research

- Statistical methodology for choosing among alternative conjoint models
- Empirical studies for determining the extent to which varying numbers of levels within attributes lead to biases in attribute importances and market share estimates
- Theoretical and empirical studies in the design of compensatory models (with selected interactions) for mimicking noncompensatory decision processes
- Studies in the robustness of orthogonal designs in predicting choices in correlated attribute environments
- Methods for data pooling that increase conjoint reliability while maintaining individual differences in part-worths
- Methods for coping with large numbers of attributes and levels within attribute
- Models for working with multivariate responses (e.g., Green and Krieger 1990; Louviere and Woodworth 1983) in explicit competitive set evaluations
- Extensions of choice simulators to encompass flexible sensitivity analyses and optimal product and product line search

Practice

- Extension of conjoint methodology to new application areas, such as litigation, employee benefit packages, conflict resolution (e.g., employer/employee negotiations), corporate strategy, and social/environmental tradeoffs
- Application of newly developed models for optimal product and product line design, including models that combine conjoint analysis with multidimensional scaling; for a review, see Green and Krieger (1989)
- Descriptive and normative studies for measuring customer satisfaction and perceived product and service quality
- Models and applications of conjoint analysis to simulated test marketing services that include ongoing prediction, validation, and the establishment of adjustment "norms" for converting survey responses to market forecasts
- Extension of conjoint models and applications to include marketing mix strategy variables, such as advertising, promotion, and distribution
- Models and applications that combine survey-based data (e.g., conjoint analysis) with single-source behavioral data obtained from scanning services and split-cable TV experiments.
- New computer packages that exploit recent developments in hybrid modeling, multivariate response analysis, and optimal product search.

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ployees' perceived managerial power (Steckel and O'Shaughnessy 1989) and salespersons' tradeoffs between income and leisure (Darmon 1979), as well as in predicting the outcomes of buyer-seller negotiations (Neslin and Greenhalgh 1983).

Concluding Comments

Though we comment on a large number of trends that have taken place since our 1978 review, space limitations preclude an exhaustive discussion. Table 2 summarizes our suggestions for future directions. In keeping with the dual audience for whom this article has been prepared, future directions are classified under the principal headings of research and practice. In many cases, however, progress will be made by the combined efforts of academicians and industry practitioners. Part of the current vigor of research in conjoint analysis reflects the close ties between theory and practice that have characterized its development since the early 1970s.

As we reflect on the activities that characterize research in conjoint analysis, two key trends appear to have been the development of (1) standardized microcomputer packages and (2) modified approaches to conjoint analysis for obtaining stable part-worth estimates at the individual level for problems involving large numbers of attributes. We are concerned that the increased availability of microcomputer packages may make the misuse of conjoint analysis more likely. Also, as noted in the subsection on preference models, many full-profile studies appear to be conducted on the basis of few or zero degrees of freedom. If the full-profile approach is used, it is important to limit the number of attributes and levels, increase the number of profiles, or use more parsimonious models (such as the vector or ideal point models) so as to increase the degrees of freedom for conjoint estimation.

In comparison with our 1978 review, our update reflects a growing interest in the *pragmatic* aspects of conjoint analysis, as academic and industry researchers continue to expand its scope and versatility in real-world business/government applications. As should be clear from our discussion, conjoint analysis is still open to continued growth and new directions.

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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

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Judgment under Uncertainty: Heuristics and Biases

Biases in judgments reveal some heuristics of thinking under uncertainty.

Amos Tversky and Daniel Kahneman

Many decisions are based on beliefs concerning the likelihood of uncertain events such as the outcome of an election, the guilt of a defendant, or the future value of the dollar. These beliefs are usually expressed in statements such as "I think that . . . ," "chances are . . . ," "it is unlikely that . . . ," and so forth. Occasionally, beliefs concerning uncertain events are expressed in numerical form as odds or subjective probabilities. What determines such beliefs? How do people assess the probability of an uncertain event or the value of an uncertain quantity? This article shows that people rely on a limited number of heuristic principles which reduce the complex tasks of assessing probabilities and predicting values to simpler judgmental operations. In general, these heuristics are quite useful, but sometimes they lead to severe and systematic errors.

The subjective assessment of probability resembles the subjective assessment of physical quantities such as distance or size. These judgments are all based on data of limited validity, which are processed according to heuristic rules. For example, the apparent distance of an object is determined in part by its clarity. The more sharply the object is seen, the closer it appears to be. This rule has some validity, because in any given scene the more distant objects are seen less sharply than nearer objects. However, the reliance on this rule leads to systematic errors in the estimation of distance. Specifically, distances are often overestimated when visibility is poor because the contours of objects are blurred. On the other hand, distances are often underestimated when visibility is good because the objects are seen sharply. Thus, the reliance on clarity as an indication of distance leads to common biases. Such biases are also found in the intuitive judgment of probability. This article describes three heuristics that are employed to assess probabilities and to predict values. Biases to which these heuristics lead are enumerated, and the applied and theoretical implications of these observations are discussed.

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Representativeness

Many of the probabilistic questions with which people are concerned belong to one of the following types: What is the probability that object A belongs to class B? What is the probability that event A originates from process B? What is the probability that process B will generate event A? In answering such questions, people typically rely on the representativeness heuristic, in which probabilities are evaluated by the degree to which A is representative of B, that is, by the degree to which A resembles B. For example, when A is highly representative of B, the probability that A originates from B is judged to be high. On the other hand, if A is not similar to B, the probability that A originates from B is judged to be low.

For an illustration of judgment by representativeness, consider an individual who has been described by a former neighbor as follows: "Steve is very shy and withdrawn, invariably helpful, but with little interest in people, or in the world of reality. A meek and tidy soul, he has a need for order and structure, and a passion for detail." How do people assess the probability that Steve is engaged in a particular occupation from a list of possibilities (for example, farmer, salesman, airline pilot, librarian, or physician)? How do people order these occupations from most to least likely? In the representativeness heuristic, the probability that Steve is a librarian, for example, is assessed by the degree to which he is representative of, or similar to, the stereotype of a librarian. Indeed, research with problems of this type has shown that people order the occupations by probability and by similarity in exactly the same way (*1*). This approach to the judgment of probability leads to serious errors, because similarity, or representativeness, is not influenced by several factors that should affect judgments of probability.

Insensitivity to prior probability of outcomes. One of the factors that have no effect on representativeness but should have a major effect on probability is the prior probability, or base-rate frequency, of the outcomes. In the case of Steve, for example, the fact that there are many more farmers than librarians in the population should enter into any reasonable estimate of the probability that Steve is a librarian rather than a farmer. Considerations of base-rate frequency, however, do not affect the similarity of Steve to the stereotypes of librarians and farmers. If people evaluate probability by representativeness, therefore, prior probabilities will be neglected. This hypothesis was tested in an experiment where prior probabilities were manipulated (*1*). Subjects were shown brief personality descriptions of several individuals, allegedly sampled at random from a group of 100 professionals—engineers and lawyers. The subjects were asked to assess, for each description, the probability that it belonged to an engineer rather than to a lawyer. In one experimental condition, subjects were told that the group from which the descriptions had been drawn consisted of 70 engineers and 30 lawyers. In another condition, subjects were told that the group consisted of 30 engineers and 70 lawyers. The odds that any particular description belongs to an engineer rather than to a lawyer should be higher in the first condition, where there is a majority of engineers, than in the second condition, where there is a majority of lawyers. Specifically, it can be shown by applying Bayes' rule that the ratio of these odds should be $(.7/.3)^2$, or 5.44, for each description. In a sharp violation of Bayes' rule, the subjects in the two conditions produced essen-

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tially the same probability judgments. Apparently, subjects evaluated the likelihood that a particular description belonged to an engineer rather than to a lawyer by the degree to which this description was representative of the two stereotypes, with little or no regard for the prior probabilities of the categories.

The subjects used prior probabilities correctly when they had no other information. In the absence of a personality sketch, they judged the probability that an unknown individual is an engineer to be .7 and .3, respectively, in the two base-rate conditions. However, prior probabilities were effectively ignored when a description was introduced, even when this description was totally uninformative. The responses to the following description illustrate this phenomenon:

Dick is a 30 year old man. He is married with no children. A man of high ability and high motivation, he promises to be quite successful in his field. He is well liked by his colleagues.

This description was intended to convey no information relevant to the question of whether Dick is an engineer or a lawyer. Consequently, the probability that Dick is an engineer should equal the proportion of engineers in the group, as if no description had been given. The subjects, however, judged the probability of Dick being an engineer to be .5 regardless of whether the stated proportion of engineers in the group was .7 or .3. Evidently, people respond differently when given no evidence and when given worthless evidence. When no specific evidence is given, prior probabilities are properly utilized; when worthless evidence is given, prior probabilities are ignored (*1*).

Insensitivity to sample size. To evaluate the probability of obtaining a particular result in a sample drawn from a specified population, people typically apply the representativeness heuristic. That is, they assess the likelihood of a sample result, for example, that the average height in a random sample of ten men will be 6 feet (180 centimeters), by the similarity of this result to the corresponding parameter (that is, to the average height in the population of men). The similarity of a sample statistic to a population parameter does not depend on the size of the sample. Consequently, if probabilities are assessed by representativeness, then the judged probability of a sample statistic will be essentially independent of sample size. Indeed, when subjects assessed the distributions of average height for samples of various sizes, they produced identical distributions. For example, the probability of obtaining an average height greater than 6 feet was assigned the same value for samples of 1000, 100, and 10 men (*2*). Moreover, subjects failed to appreciate the role of sample size even when it was emphasized in the formulation of the problem. Consider the following question:

A certain town is served by two hospitals. In the larger hospital about 45 babies are born each day, and in the smaller hospital about 15 babies are born each day. As you know, about 50 percent of all babies are boys. However, the exact percentage varies from day to day. Sometimes it may be higher than 50 percent, sometimes lower.

For a period of 1 year, each hospital recorded the days on which more than 60 percent of the babies born were boys. Which hospital do you think recorded more such days?

- ► The larger hospital (21)
- ► The smaller hospital (21)
- ► About the same (that is, within 5 percent of each other) (53)

The values in parentheses are the number of undergraduate students who chose each answer.

Most subjects judged the probability of obtaining more than 60 percent boys to be the same in the small and in the large hospital, presumably because these events are described by the same statistic and are therefore equally representative of the general population. In contrast, sampling theory entails that the expected number of days on which more than 60 percent of the babies are boys is much greater in the small hospital than in the large one, because a large sample is less likely to stray from 50 percent. This fundamental notion of statistics is evidently not part of people's repertoire of intuitions.

A similar insensitivity to sample size has been reported in judgments of posterior probability, that is, of the probability that a sample has been drawn from one population rather than from another. Consider the following example:

Imagine an urn filled with balls, of which ⅔ are of one color and ⅓ of another. One individual has drawn 5 balls from the urn, and found that 4 were red and 1 was white Another individual has drawn 20 balls and found that 12 were red and 8 were white. Which of the two individuals should feel more confident that the urn contains ⅔ red balls and ⅓ white balls, rather than the opposite? What odds should each individual give?

In this problem, the correct posterior odds are 8 to 1 for the 4 : 1 sample and 16 to 1 for the 12 : 8 sample, assuming equal prior probabilities. However, most people feel that the first sample provides much stronger evidence for the hypothesis that the urn is predominantly red, because the proportion of red balls is larger in the first than in the second sample. Here again, intuitive judgments are dominated by the sample proportion and are essentially unaffected by the size of the sample, which plays a crucial role in the determination of the actual posterior odds (*2*). In addition, intuitive estimates of posterior odds are far less extreme than the correct values. The underestimation of the impact of evidence has been observed repeatedly in problems of this type (*3, 4*). It has been labeled "conservatism."

Misconceptions of chance. People expect that a sequence of events generated by a random process will represent the essential characteristics of that process even when the sequence is short. In considering tosses of a coin for heads or tails, for example, people regard the sequence H-T-H-T-T-H to be more likely than the sequence H-H-H-T-T-T, which does not appear random, and also more likely than the sequence H-H-H-H-T-H, which does not represent the fairness of the coin (*2*). Thus, people expect that the essential characteristics of the process will be represented, not only globally in the entire sequence, but also locally in each of its parts. A locally representative sequence, however, deviates systematically from chance expectation: it contains too many alternations and too few runs. Another consequence of the belief in local representativeness is the well-known gambler's fallacy. After observing a long run of red on the roulette wheel. for example, most people erroneously believe that black is now due, presumably because the occurrence of black will result in a more representative sequence than the occurrence of an additional red. Chance is commonly viewed as a self-correcting process in which a deviation in one direction induces a deviation in the opposite direction to restore the equilibrium. In fact, deviations are not "corrected" as a chance process unfolds, they are merely diluted.

Misconceptions of chance are not limited to naive subjects. A study of the statistical intuitions of experienced research psychologists (*5*) revealed a lingering belief in what may be called the "law of small numbers," according to which even small samples are highly

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representative of the populations from which they are drawn. The responses of these investigators reflected the expectation that a valid hypothesis about a population will be represented by a statistically significant result in a sample—with little regard for its size. As a consequence, the researchers put too much faith in the results of small samples and grossly overestimated the replicability of such results. In the actual conduct of research, this bias leads to the selection of samples of inadequate size and to overinterpretation of findings.

Insensitivity to predictability. People are sometimes called upon to make such numerical predictions as the future value of a stock, the demand for a commodity, or the outcome of a football game. Such predictions are often made by representativeness. For example, suppose one is given a description of a company and is asked to predict its future profit. If the description of the company is very favorable, a very high profit will appear most representative of that description; if the description is mediocre, a mediocre performance will appear most representative. The degree to which the description is favorable is unaffected by the reliability of that description or by the degree to which it permits accurate prediction. Hence, if people predict solely in terms of the favorableness of the description, their predictions will be insensitive to the reliability of the evidence and to the expected accuracy of the prediction.

This mode of judgment violates the normative statistical theory in which the extremeness and the range of predictions are controlled by considerations of predictability. When predictability is nil, the same prediction should be made in all cases. For example, if the descriptions of companies provide no information relevant to profit, then the same value (such as average profit) should be predicted for all companies. If predictability is perfect, of course, the values predicted will match the actual values and the range of predictions will equal the range of outcomes. In general, the higher the predictability, the wider the range of predicted values.

Several studies of numerical prediction have demonstrated that intuitive predictions violate this rule, and that subjects show little or no regard for considerations of predictability (*1*). In one of these studies, subjects were presented with several paragraphs, each describing the performance of a student teacher during a particular practice lesson. Some subjects were asked to *evaluate* the quality of the lesson described in the paragraph in percentile scores, relative to a specified population. Other subjects were asked to *predict*, also in percentile scores, the standing of each student teacher 5 years after the practice lesson. The judgments made under the two conditions were identical. That is, the prediction of a remote criterion (success of a teacher after 5 years) was identical to the evaluation of the information on which the prediction was based (the quality of the practice lesson). The students who made these predictions were undoubtedly aware of the limited predictability of teaching competence on the basis of a single trial lesson 5 years earlier; nevertheless, their predictions were as extreme as their evaluations.

The illusion of validity. As we have seen, people often predict by selecting the outcome (for example, an occupation) that is most representative of the input (for example, the description of a person). The confidence they have in their prediction depends primarily on the degree of representativeness (that is, on the quality of the match between the selected outcome and the input) with little or no regard for the factors that limit predictive accuracy. Thus, people express great confidence in the prediction that a person is a librarian when given a description of his personality which matches the stereotype of librarians, even if the description is scanty, unreliable, or outdated. The unwarranted confidence which is produced by a good fit between the predicted outcome and the input information may be called the illusion of validity. This illusion persists even when the judge is aware of the factors that limit the accuracy of his predictions. It is a common observation that psychologists who conduct selection interviews often experience considerable confidence in their predictions, even when they know of the vast literature that shows selection interviews to be highly fallible. The continued reliance on the clinical interview for selection, despite repeated demonstrations of its inadequacy, amply attests to the strength of this effect.

The internal consistency of a pattern of inputs is a major determinant of one's confidence in predictions based on these inputs. For example, people express more confidence in predicting the final grade-point average of a student whose first-year record consists entirely of B's than in predicting the grade-point average of a student whose first-year record includes many A's and C's. Highly consistent patterns are most often observed when the input variables are highly redundant or correlated. Hence, people tend to have great confidence in predictions based on redundant input variables. However, an elementary result in the statistics of correlation asserts that, given input variables of stated validity, a prediction based on several such inputs can achieve higher accuracy when they are independent of each other than when they are redundant or correlated. Thus, redundancy among inputs decreases accuracy even as it increases confidence, and people are often confident in predictions that are quite likely to be off the mark (*1*).

Misconceptions of regression. Suppose a large group of children has been examined on two equivalent versions of an aptitude test. If one selects ten children from among those who did best on one of the two versions, he will usually find their performance on the second version to be somewhat disappointing. Conversely, if one selects ten children from among those who did worst on one version, they will be found, on the average, to do somewhat better on the other version. More generally, consider two variables X and Y which have the same distribution. If one selects individuals whose average X score deviates from the mean of X by k units, then the average of their Y scores will usually deviate from the mean of Y by less than k units. These observations illustrate a general phenomenon known as regression toward the mean, which was first documented by Galton more than 100 years ago.

In the normal course of life, one encounters many instances of regression toward the mean, in the comparison of the height of fathers and sons, of the intelligence of husbands and wives, or of the performance of individuals on consecutive examinations. Nevertheless, people do not develop correct intuitions about this phenomenon. First, they do not expect regression in many contexts where it is bound to occur. Second, when they recognize the occurrence of regression, they often invent spurious causal explanations for it (*1*). We suggest that the phenomenon of regression remains elusive because it is incompatible with the belief that the predicted outcome should be maximally

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representative of the input, and, hence, that the value of the outcome variable should be as extreme as the value of the input variable.

The failure to recognize the import of regression can have pernicious consequences, as illustrated by the following observation (*1*). In a discussion of flight training, experienced instructors noted that praise for an exceptionally smooth landing is typically followed by a poorer landing on the next try, while harsh criticism after a rough landing is usually followed by an improvement on the next try. The instructors concluded that verbal rewards are detrimental to learning, while verbal punishments are beneficial, contrary to accepted psychological doctrine. This conclusion is unwarranted because of the presence of regression toward the mean. As in other cases of repeated examination, an improvement will usually follow a poor performance and a deterioration will usually follow an outstanding performance, even if the instructor does not respond to the trainee's achievement on the first attempt. Because the instructors had praised their trainees after good landings and admonished them after poor ones, they reached the erroneous and potentially harmful conclusion that punishment is more effective than reward.

Thus, the failure to understand the effect of regression leads one to overestimate the effectiveness of punishment and to underestimate the effectiveness of reward. In social interaction, as well as in training, rewards are typically administered when performance is good, and punishments are typically administered when performance is poor. By regression alone, therefore, behavior is most likely to improve after punishment and most likely to deteriorate after reward. Consequently, the human condition is such that, by chance alone, one is most often rewarded for punishing others and most often punished for rewarding them. People are generally not aware of this contingency. In fact, the elusive role of regression in determining the apparent consequences of reward and punishment seems to have escaped the notice of students of this area.

Availability

There are situations in which people assess the frequency of a class or the probability of an event by the ease with which instances or occurrences can be brought to mind. For example, one may assess the risk of heart attack among middle-aged people by recalling such occurrences among one's acquaintances. Similarly, one may evaluate the probability that a given business venture will fail by imagining various difficulties it could encounter. This judgmental heuristic is called availability. Availability is a useful clue for assessing frequency or probability, because instances of large classes are usually recalled better and faster than instances of less frequent classes. However, availability is affected by factors other than frequency and probability. Consequently, the reliance on availability leads to predictable biases, some of which are illustrated below.

Biases due to the retrievability of instances. When the size of a class is judged by the availability of its instances, a class whose instances are easily retrieved will appear more numerous than a class of equal frequency whose instances are less retrievable. In an elementary demonstration of this effect, subjects heard a list of well-known personalities of both sexes and were subsequently asked to judge whether the list contained more names of men than of women. Different lists were presented to different groups of subjects. In some of the lists the men were relatively more famous than the women, and in others the women were relatively more famous than the men. In each of the lists, the subjects erroneously judged that the class (sex) that had the more famous personalities was the more numerous (*6*).

In addition to familiarity, there are other factors, such as salience, which affect the retrievability of instances. For example, the impact of seeing a house burning on the subjective probability of such accidents is probably greater than the impact of reading about a fire in the local paper. Furthermore, recent occurrences are likely to be relatively more available than earlier occurrences. It is a common experience that the subjective probability of traffic accidents rises temporarily when one sees a car overturned by the side of the road.

Biases due to the effectiveness of a search set. Suppose one samples a word (of three letters or more) at random from an English text. Is it more likely that the word starts with r or that r is the third letter? People approach this problem by recalling words that begin with r (road) and words that have r in the third position (car) and assess the relative frequency by the ease with which words of the two types come to mind. Because it is much easier to search for words by their first letter than by their third letter, most people judge words that begin with a given consonant to be more numerous than words in which the same consonant appears in the third position. They do so even for consonants, such as r or k, that are more frequent in the third position than in the first (*6*).

Different tasks elicit different search sets. For example, suppose you are asked to rate the frequency with which abstract words (thought, love) and concrete words (door, water) appear in written English. A natural way to answer this question is to search for contexts in which the word could appear. It seems easier to think of contexts in which an abstract concept is mentioned (love in love stories) than to think of contexts in which a concrete word (such as door) is mentioned. If the frequency of words is judged by the availability of the contexts in which they appear, abstract words will be judged as relatively more numerous than concrete words. This bias has been observed in a recent study (*7*) which showed that the judged frequency of occurrence of abstract words was much higher than that of concrete words, equated in objective frequency. Abstract words were also judged to appear in a much greater variety of contexts than concrete words.

Biases of imaginability. Sometimes one has to assess the frequency of a class whose instances are not stored in memory but can be generated according to a given rule. In such situations, one typically generates several instances and evaluates frequency or probability by the ease with which the relevant instances can be constructed. However, the ease of constructing instances does not always reflect their actual frequency, and this mode of evaluation is prone to biases. To illustrate, consider a group of 10 people who form committees of k members, $2 \leq k \leq 8$. How many different committees of k members can be formed? The correct answer to this problem is given by the binomial coefficient $\binom{10}{k}$ which reaches a maximum of 252 for $k = 5$. Clearly, the number of committees of k members equals the number of committees of $(10 - k)$ members, because any committee of k

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members defines a unique group of $(10 - k)$ nonmembers.

One way to answer this question without computation is to mentally construct committees of k members and to evaluate their number by the ease with which they come to mind. Committees of few members, say 2, are more available than committees of many members, say 8. The simplest scheme for the construction of committees is a partition of the group into disjoint sets. One readily sees that it is easy to construct five disjoint committees of 2 members, while it is impossible to generate even two disjoint committees of 8 members. Consequently, if frequency is assessed by imaginability, or by availability for construction, the small committees will appear more numerous than larger committees, in contrast to the correct bell-shaped function. Indeed, when naive subjects were asked to estimate the number of distinct committees of various sizes, their estimates were a decreasing monotonic function of committee size (*6*). For example, the median estimate of the number of committees of 2 members was 70, while the estimate for committees of 8 members was 20 (the correct answer is 45 in both cases).

Imaginability plays an important role in the evaluation of probabilities in real-life situations. The risk involved in an adventurous expedition, for example, is evaluated by imagining contingencies with which the expedition is not equipped to cope. If many such difficulties are vividly portrayed, the expedition can be made to appear exceedingly dangerous, although the ease with which disasters are imagined need not reflect their actual likelihood. Conversely, the risk involved in an undertaking may be grossly underestimated if some possible dangers are either difficult to conceive of, or simply do not come to mind.

Illusory correlation. Chapman and Chapman (*8*) have described an interesting bias in the judgment of the frequency with which two events co-occur. They presented naive judges with information concerning several hypothetical mental patients. The data for each patient consisted of a clinical diagnosis and a drawing of a person made by the patient. Later the judges estimated the frequency with which each diagnosis (such as paranoia or suspiciousness) had been accompanied by various features of the drawing (such as peculiar eyes). The subjects markedly overestimated the frequency of co-occurrence of natural associates, such as suspiciousness and peculiar eyes. This effect was labeled illusory correlation. In their erroneous judgments of the data to which they had been exposed, naive subjects "rediscovered" much of the common, but unfounded, clinical lore concerning the interpretation of the draw-a-person test. The illusory correlation effect was extremely resistant to contradictory data. It persisted even when the correlation between symptom and diagnosis was actually negative, and it prevented the judges from detecting relationships that were in fact present.

Availability provides a natural account for the illusory-correlation effect. The judgment of how frequently two events co-occur could be based on the strength of the associative bond between them. When the association is strong, one is likely to conclude that the events have been frequently paired. Consequently, strong associates will be judged to have occurred together frequently. According to this view, the illusory correlation between suspiciousness and peculiar drawing of the eyes, for example, is due to the fact that suspiciousness is more readily associated with the eyes than with any other part of the body.

Lifelong experience has taught us that, in general, instances of large classes are recalled better and faster than instances of less frequent classes; that likely occurrences are easier to imagine than unlikely ones; and that the associative connections between events are strengthened when the events frequently co-occur. As a result, man has at his disposal a procedure (the availability heuristic) for estimating the numerosity of a class, the likelihood of an event, or the frequency of co-occurrences, by the ease with which the relevant mental operations of retrieval, construction, or association can be performed. However, as the preceding examples have demonstrated, this valuable estimation procedure results in systematic errors.

Adjustment and Anchoring

In many situations, people make estimates by starting from an initial value that is adjusted to yield the final answer. The initial value, or starting point, may be suggested by the formulation of the problem, or it may be the result of a partial computation. In either case, adjustments are typically insufficient (*4*). That is, different starting points yield different estimates, which are biased toward the initial values. We call this phenomenon anchoring.

Insufficient adjustment. In a demonstration of the anchoring effect, subjects were asked to estimate various quantities, stated in percentages (for example, the percentage of African countries in the United Nations). For each quantity, a number between 0 and 100 was determined by spinning a wheel of fortune in the subjects' presence. The subjects were instructed to indicate first whether that number was higher or lower than the value of the quantity, and then to estimate the value of the quantity by moving upward or downward from the given number. Different groups were given different numbers for each quantity, and these arbitrary numbers had a marked effect on estimates. For example, the median estimates of the percentage of African countries in the United Nations were 25 and 45 for groups that received 10 and 65, respectively, as starting points. Payoffs for accuracy did not reduce the anchoring effect.

Anchoring occurs not only when the starting point is given to the subject, but also when the subject bases his estimate on the result of some incomplete computation. A study of intuitive numerical estimation illustrates this effect. Two groups of high school students estimated, within 5 seconds, a numerical expression that was written on the blackboard. One group estimated the product

$$8 \times 7 \times 6 \times 5 \times 4 \times 3 \times 2 \times 1$$

while another group estimated the product

$$1 \times 2 \times 3 \times 4 \times 5 \times 6 \times 7 \times 8$$

To rapidly answer such questions, people may perform a few steps of computation and estimate the product by extrapolation or adjustment. Because adjustments are typically insufficient, this procedure should lead to underestimation. Furthermore, because the result of the first few steps of multiplication (performed from left to right) is higher in the descending sequence than in the ascending sequence, the former expression should be judged larger than the latter. Both predictions were confirmed. The median estimate for the ascending sequence was 512, while the median estimate for the descending sequence was 2,250. The correct answer is 40,320.

Biases in the evaluation of conjunctive and disjunctive events. In a recent

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study by Bar-Hillel (*9*) subjects were given the opportunity to bet on one of two events. Three types of events were used: (i) simple events, such as drawing a red marble from a bag containing 50 percent red marbles and 50 percent white marbles; (ii) conjunctive events, such as drawing a red marble seven times in succession, with replacement, from a bag containing 90 percent red marbles and 10 percent white marbles; and (iii) disjunctive events, such as drawing a red marble at least once in seven successive tries, with replacement, from a bag containing 10 percent red marbles and 90 percent white marbles. In this problem, a significant majority of subjects preferred to bet on the conjunctive event (the probability of which is .48) rather than on the simple event (the probability of which is .50). Subjects also preferred to bet on the simple event rather than on the disjunctive event, which has a probability of .52. Thus, most subjects bet on the less likely event in both comparisons. This pattern of choices illustrates a general finding. Studies of choice among gambles and of judgments of probability indicate that people tend to overestimate the probability of conjunctive events (*10*) and to underestimate the probability of disjunctive events. These biases are readily explained as effects of anchoring. The stated probability of the elementary event (success at any one stage) provides a natural starting point for the estimation of the probabilities of both conjunctive and disjunctive events. Since adjustment from the starting point is typically insufficient, the final estimates remain too close to the probabilities of the elementary events in both cases. Note that the overall probability of a conjunctive event is lower than the probability of each elementary event, whereas the overall probability of a disjunctive event is higher than the probability of each elementary event. As a consequence of anchoring, the overall probability will be overestimated in conjunctive problems and underestimated in disjunctive problems.

Biases in the evaluation of compound events are particularly significant in the context of planning. The successful completion of an undertaking, such as the development of a new product, typically has a conjunctive character: for the undertaking to succeed, each of a series of events must occur. Even when each of these events is very likely, the overall probability of success can be quite low if the number of events is large. The general tendency to overestimate the probability of conjunctive events leads to unwarranted optimism in the evaluation of the likelihood that a plan will succeed or that a project will be completed on time. Conversely, disjunctive structures are typically encountered in the evaluation of risks. A complex system, such as a nuclear reactor or a human body, will malfunction if any of its essential components fails. Even when the likelihood of failure in each component is slight, the probability of an overall failure can be high if many components are involved. Because of anchoring, people will tend to underestimate the probabilities of failure in complex systems. Thus, the direction of the anchoring bias can sometimes be inferred from the structure of the event. The chain-like structure of conjunctions leads to overestimation, the funnel-like structure of disjunctions leads to underestimation.

Anchoring in the assessment of subjective probability distributions. In decision analysis, experts are often required to express their beliefs about a quantity, such as the value of the Dow-Jones average on a particular day, in the form of a probability distribution. Such a distribution is usually constructed by asking the person to select values of the quantity that correspond to specified percentiles of his subjective probability distribution. For example, the judge may be asked to select a number, X_{90}, such that his subjective probability that this number will be higher than the value of the Dow-Jones average is .90. That is, he should select the value X_{90} so that he is just willing to accept 9 to 1 odds that the Dow-Jones average will not exceed it. A subjective probability distribution for the value of the Dow-Jones average can be constructed from several such judgments corresponding to different percentiles.

By collecting subjective probability distributions for many different quantities, it is possible to test the judge for proper calibration. A judge is properly (or externally) calibrated in a set of problems if exactly Π percent of the true values of the assessed quantities falls below his stated values of X_Π. For example, the true values should fall below X_{01} for 1 percent of the quantities and above X_{99} for 1 percent of the quantities. Thus, the true values should fall in the confidence interval between X_{01} and X_{99} on 98 percent of the problems.

Several investigators (*11*) have obtained probability distributions for many quantities from a large number of judges. These distributions indicated large and systematic departures from proper calibration. In most studies, the actual values of the assessed quantities are either smaller than X_{01} or greater than X_{99} for about 30 percent of the problems. That is, the subjects state overly narrow confidence intervals which reflect more certainty than is justified by their knowledge about the assessed quantities. This bias is common to naive and to sophisticated subjects, and it is not eliminated by introducing proper scoring rules, which provide incentives for external calibration. This effect is attributable, in part at least, to anchoring.

To select X_{90} for the value of the Dow-Jones average, for example, it is natural to begin by thinking about one's best estimate of the Dow-Jones and to adjust this value upward. If this adjustment—like most others—is insufficient, then X_{90} will not be sufficiently extreme. A similar anchoring effect will occur in the selection of X_{10}, which is presumably obtained by adjusting one's best estimate downward. Consequently, the confidence interval between X_{10} and X_{90} will be too narrow, and the assessed probability distribution will be too tight. In support of this interpretation it can be shown that subjective probabilities are systematically altered by a procedure in which one's best estimate does not serve as an anchor.

Subjective probability distributions for a given quantity (the Dow-Jones average) can be obtained in two different ways: (i) by asking the subject to select values of the Dow-Jones that correspond to specified percentiles of his probability distribution and (ii) by asking the subject to assess the probabilities that the true value of the Dow-Jones will exceed some specified values. The two procedures are formally equivalent and should yield identical distributions. However, they suggest different modes of adjustment from differcent anchors. In procedure (i), the natural starting point is one's best estimate of the quantity. In procedure (ii), on the other hand, the subject may be anchored on the value stated in the question. Alternatively, he may be anchored on even odds, or 50-50 chances, which is a natural starting point in the estimation of likelihood. In either case, procedure (ii) should yield less extreme odds than procedure (i).

To contrast the two procedures, a set of 24 quantities (such as the air dis-

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tance from New Delhi to Peking) was presented to a group of subjects who assessed either X_{10} or X_{90} for each problem. Another group of subjects received the median judgment of the first group for each of the 24 quantities. They were asked to assess the odds that each of the given values exceeded the true value of the relevant quantity. In the absence of any bias, the second group should retrieve the odds specified to the first group, that is, 9 : 1. However, if even odds or the stated value serve as anchors, the odds of the second group should be less extreme, that is, closer to 1 : 1. Indeed, the median odds stated by this group, across all problems, were 3 : 1. When the judgments of the two groups were tested for external calibration, it was found that subjects in the first group were too extreme, in accord with earlier studies. The events that they defined as having a probability of .10 actually obtained in 24 percent of the cases. In contrast, subjects in the second group were too conservative. Events to which they assigned an average probability of .34 actually obtained in 26 percent of the cases. These results illustrate the manner in which the degree of calibration depends on the procedure of elicitation.

Discussion

This article has been concerned with cognitive biases that stem from the reliance on judgmental heuristics. These biases are not attributable to motivational effects such as wishful thinking or the distortion of judgments by payoffs and penalties. Indeed, several of the severe errors of judgment reported earlier occurred despite the fact that subjects were encouraged to be accurate and were rewarded for the correct answers (*2*, *6*).

The reliance on heuristics and the prevalence of biases are not restricted to laymen. Experienced researchers are also prone to the same biases—when they think intuitively. For example, the tendency to predict the outcome that best represents the data, with insufficient regard for prior probability, has been observed in the intuitive judgments of individuals who have had extensive training in statistics (*1*, *5*). Although the statistically sophisticated avoid elementary errors, such as the gambler's fallacy, their intuitive judgments are liable to similar fallacies in more intricate and less transparent problems.

It is not surprising that useful heuristics such as representativeness and availability are retained, even though they occasionally lead to errors in prediction or estimation. What is perhaps surprising is the failure of people to infer from lifelong experience such fundamental statistical rules as regression toward the mean, or the effect of sample size on sampling variability. Although everyone is exposed, in the normal course of life, to numerous examples from which these rules could have been induced, very few people discover the principles of sampling and regression on their own. Statistical principles are not learned from everyday experience because the relevant instances are not coded appropriately. For example, people do not discover that successive lines in a text differ more in average word length than do successive pages, because they simply do not attend to the average word length of individual lines or pages. Thus, people do not learn the relation between sample size and sampling variability, although the data for such learning are abundant.

The lack of an appropriate code also explains why people usually do not detect the biases in their judgments of probability. A person could conceivably learn whether his judgments are externally calibrated by keeping a tally of the proportion of events that actually occur among those to which he assigns the same probability. However, it is not natural to group events by their judged probability. In the absence of such grouping it is impossible for an individual to discover, for example, that only 50 percent of the predictions to which he has assigned a probability of .9 or higher actually came true.

The empirical analysis of cognitive biases has implications for the theoretical and applied role of judged probabilities. Modern decision theory (*12*, *13*) regards subjective probability as the quantified opinion of an idealized person. Specifically, the subjective probability of a given event is defined by the set of bets about this event that such a person is willing to accept. An internally consistent, or coherent, subjective probability measure can be derived for an individual if his choices among bets satisfy certain principles, that is, the axioms of the theory. The derived probability is subjective in the sense that different individuals are allowed to have different probabilities for the same event. The major contribution of this approach is that it provides a rigorous subjective interpretation of probability that is applicable to unique events and is embedded in a general theory of rational decision.

It should perhaps be noted that, while subjective probabilities can sometimes be inferred from preferences among bets, they are normally not formed in this fashion. A person bets on team A rather than on team B because he believes that team A is more likely to win; he does not infer this belief from his betting preferences. Thus, in reality, subjective probabilities determine preferences among bets and are not derived from them, as in the axiomatic theory of rational decision (*12*).

The inherently subjective nature of probability has led many students to the belief that coherence, or internal consistency, is the only valid criterion by which judged probabilities should be evaluated. From the standpoint of the formal theory of subjective probability, any set of internally consistent probability judgments is as good as any other. This criterion is not entirely satisfactory, because an internally consistent set of subjective probabilities can be incompatible with other beliefs held by the individual. Consider a person whose subjective probabilities for all possible outcomes of a coin-tossing game reflect the gambler's fallacy. That is, his estimate of the probability of tails on a particular toss increases with the number of consecutive heads that preceded that toss. The judgments of such a person could be internally consistent and therefore acceptable as adequate subjective probabilities according to the criterion of the formal theory. These probabilities, however, are incompatible with the generally held belief that a coin has no memory and is therefore incapable of generating sequential dependencies. For judged probabilities to be considered adequate, or rational, internal consistency is not enough. The judgments must be compatible with the entire web of beliefs held by the individual. Unfortunately, there can be no simple formal procedure for assessing the compatibility of a set of probability judgments with the judge's total system of beliefs. The rational judge will nevertheless strive for compatibility, even though internal consistency is more easily achieved and assessed. In particular, he will attempt to make his probability judgments compatible with his knowledge about the subject matter, the laws of probability, and his own judgmental heuristics and biases.

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Summary

This article described three heuristics that are employed in making judgments under uncertainty: (i) representativeness, which is usually employed when people are asked to judge the probability that an object or event A belongs to class or process B; (ii) availability of instances or scenarios, which is often employed when people are asked to assess the frequency of a class or the plausibility of a particular development; and (iii) adjustment from an anchor, which is usually employed in numerical prediction when a relevant value is available. These heuristics are highly economical and usually effective, but they lead to systematic and predictable errors. A better understanding of these heuristics and of the biases to which they lead could improve judgments and decisions in situations of uncertainty.

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Rural Health Care in Mexico?

Present educational and administrative structures must be changed in order to improve health care in rural areas.

Luis Cañedo

The present health care structure in Mexico focuses attention on the urban population, leaving the rural communities practically unattended. There are two main factors contributing to this situation. One is the lack of coordination among the different institutions responsible for the health of the community and among the educational institutions. The other is the lack of information concerning the nature of the problems in rural areas. In an attempt to provide a solution to these problems, a program has been designed that takes into consideration the environmental conditions, malnutrition, poverty, and negative cultural factors that are responsible for the high incidences of certain diseases among rural populations. It is based on the development of a national information system for the collection and dissemination of information related to general, as well as rural, health care, that will provide the basis for a national health care system, and depends on the establishment of a training program for professionals in community medicine.

The continental and insular area of Mexico, including interior waters, is 2,022,058 square kilometers (*1, 2*). In 1970 the population of Mexico was 48,377,363, of which 24,055,305 persons (49.7 percent) were under 15 years of age. The Indian population made up 7.9 percent of the total (*2, 3*). As indicated in Table 1, 42.3 percent of the total population live in communities of less than 2,500 inhabitants, and in such communities public services as well as means of communication are very scarce or nonexistent. A large percentage (39.5 percent) of the economically active population is engaged in agriculture (*4*).

The country's population growth rate is high, 3.5 percent annually, and it seems to depend on income, being higher among the 50 percent of the population earning less than 675 pesos ($50) per family per month (*5*). The majority of this population lives in the rural areas. The most frequent causes of mortality in rural areas are malnutrition, infectious and parasitic diseases (*6, 7*), pregnancy complications, and accidents (*2*). In 1970 there were 34,107 doctors in Mexico (*2*). The ratio of inhabitants to doctors, which is 1423.7, is not a representative index of the actual distribution of resources because there is a great scarcity of health professionals in rural areas and a high concentration in urban areas (Fig. 1) (*7, 8*).

In order to improve health at a national level, this situation must be changed. The errors made in previous attempts to improve health care must be avoided, and use must be made of the available manpower and resources of modern science to produce feasible answers at the community level. Although the main objective of a specialist in community medicine is to control disease, such control cannot be achieved unless action is taken against the underlying causes of disease; it has already been observed that partial solutions are inefficient (*9*). As a background to this new program that has been designed to provide health care in rural communities, I shall first give a summary of the previous attempts that have been made to provide such care, describing the various medical institutions and other organizations that are responsible for the training of medical personnel and for constructing the facilities required for health care.

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 188 (D0188), IS0000151-IS0000154

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Friday, January 8, 1988

MARKETING
By Ronald Alsop

The Slogan's Familiar,

But What's the Brand?

COMPANIES collectively spend billions of dollars a year trying to hammer home their advertising slogans. But it's the rare slogan that makes a lasting impression.

R.H. Bruskin Associates, a market-research firm in New Brunswick, N.J., finds that while people may recognize

slogans, relatively few associate them with the right brand name. When the company tested a group of slogans recently with consumers, it found that 60% recognized "Never let them see you sweat," but only 4% correctly identified it with Dry Idea deodorant.

The recognition level for "Cars that make sense," was 32%; yet just 4% knew it was the slogan for Hyundai. Similarly, "America's business address" was familiar to 17% of consumers, but only 3% linked it with Hilton hotels. One of the few slogans a majority of people matched correctly with the brand was Campbell's "Soup is good food."

Corporate ad slogans usually perform even worse. Steven Permut, a marketing consultant, finds in his research with business executives that only the most heavily advertised corporate slogans ring a bell with people. Not surprisingly, then, the top scoring slogans in his studies are American Telephone & Telegraph Co.'s "The right choice" and General Electric Co.'s "We bring good things to life."

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 188

Among the least memorable slogans are ones for Boise Cascade, W.R. Grace and Rockwell International.

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What's the problem? For one thing, Mr. Permut says, companies make the mistake of excluding their names from slogans. "Management also tends to use gut instinct more than intellect in coming up with corporate identifications," he says. "If a senior executive's spouse likes a slogan, it may win out just on that basis."

Companies Sell Products

To a Synthesizer Sound

NEW AGE MUSIC has truly arrived: Madison Avenue is using the mellow instrumental sound to pitch products.

Ford Motor Co.'s Lincoln-Mercury division incorporated New Age into commercials for its 1988 models. The BBDO ad agency recently produced two Apple Computer commercials as well as a General Electric spot featuring New Age. And the Ogilvy & Mather agency is putting New Age-like synthesizer sounds rather than a traditional orchestral score in some Hallmark and American Express ads.

"We wanted to break new ground, and we also felt our target audience of baby boomers were the ones exploring this new electronic synthesizer-driven music," says Hunter Murtaugh, music director at the Young & Rubicam ad agency, which created the Lincoln-Mercury spots. Lincoln-Mercury previously tried to reach baby boomers with nostalgic rock tunes, but '60s songs have now become an advertising cliche.

At least some listeners would classify the music as New Age in a commercial promoting a winter clothing sale at Barneys, a New York retailer. But don't mention New Age to Neil Kraft, the store's vice president of advertising. "New Age music is just background elevator music updated," he sniffs. "I describe the electronic music in our commercial as jazz-rock."

Why the Folks at Heineken

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Are Crying in Their Beer

HAS AMERICA had its fill of Heineken beer? That's what some people in the beer industry are wondering as they watch the top-selling imported brew's market share slide and its ad budget shrink.

The brand has been suffering from a series of problems: lagging popularity among younger drinkers; stiff competition from other imports, most notably Mexico's Corona Extra; and a hefty price increase prompted by the dollar's weakness against the Dutch guilder.

"Heineken has been hurt seriously since it became fashionable to drink Corona," says Frank Walters, research director for the liquor industry newsletter Impact. "But it's still uncertain whether Corona is just a fad."

Impact estimates that Heineken's share of the import market dropped last year to 24.5% from 29.5% in 1986. While

Heineken's market share had been falling for several years, Impact says the brand also showed a volume decline last year: 32.1 million cases compared with 35.7 million in 1986. Heineken's ad budget has also slumped, to under $15 million a year from earlier spending levels of nearly $30 million.

But advertising may pick up soon. Van Munching & Co., the importer of Heineken, this week switched its ad account to Warwick Advertising from the Lintas agency. "We're having an image problem," concedes spokesman Philip Van Munching. "Our new ads won't be goofy and alienate older drinkers, but they will be going after a younger crowd."

Consumers Cast Votes

For Best New Products

OF THE THOUSANDS of consumer products introduced each year, only about 20% are destined to survive. Which recent entries look like winners? Consumer Network Inc., a Philadelphia research firm, recently asked more than 600 of

its consumer panelists to rate the best products they tried for the first time in 1987. Here's a tally of some of the

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first and second-place finishers:

Food: McDonald's salads/Campbell's Special Request reduced-salt soups.

Microwave items: Pillsbury cakes/Ore-Ida hash browns.

Desserts: Jell-O Mousse/Sara Lee snack cakes.

Beverages: Cherry 7-Up/ Ocean Spray Mauna La'i.

Cosmetics: Maybelline Mousse/Clarion makeup.

Packaging: Post Raisin Bran resealable bags/individually wrapped Kotex pads.

---- INDEX REFERENCES ----

COMPANY (TICKER): MCDONALD'S CORP.; CAMPBELL SOUP CO.; PUBLIC STORAGE PROPERTIES XIX INC.; SARA LEE CORP.; MORRIS (PHILIP) COS.; SCHERING-PLOUGH CORP.; NOXELL CORP. CL B; KIMBERLY-CLARK CORP. (MCD CPB PSY SLE MO SGP NOXLB KMB)

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Choice Based on Reasons: The Case of Attraction and Compromise Effects

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 190

ITAMAR SIMONSON*

Building on previous research, this article proposes that choice behavior under preference uncertainty may be easier to explain by assuming that consumers select the alternative supported by the best reasons. This approach provides an explanation for the so-called attraction effect and leads to the prediction of a compromise effect. Consistent with the hypotheses, the results indicate that (1) brands tend to gain share when they become compromise alternatives in a choice set; (2) attraction and compromise effects tend to be stronger among subjects who expect to justify their decisions to others; and (3) selections of dominating and compromise brands are associated with more elaborate and difficult decisions.

Choice involves two types of uncertainty: uncertainty about future consequences of current actions and uncertainty about future preferences regarding those consequences (March 1978; Savage 1954). In a buying context, there is often uncertainty about the true values of alternatives on the different attributes. In addition, consumers may be uncertain about the weights of the attributes and about their preferences for different combinations of attribute values. Although much attention has focused on the first type of uncertainty (e.g., Payne, Bettman, and Johnson 1988; Simon 1957), the second type has received less consideration (but see Kahneman and Snell forthcoming; March 1978; Tversky 1988). Nevertheless, a main objective of decision and consumer research is to understand the strategies that decision makers use when making judgments and choices in the face of both types of uncertainty.

Recently, a number of decision researchers (e.g., Montgomery 1983; Slovic 1975; Slovic, Fischhoff, and Lichtenstein 1982; Tversky 1988) have advanced the idea that individual choice behavior under preference uncertainty can be better understood when seen as based on the available reasons or justifications for and against each alternative. This view proposes that decision makers having difficulty determining which alternative would provide the highest utility tend to make the choice that is supported by the best overall reasons. For example, Montgomery (1983, p. 343) suggests that decision makers determine that they are prepared to make a choice when they find "arguments strong enough for making a decision." According to Slovic (1975), decision makers faced with a need to choose between two equally valued alternatives tend to prefer the one that is superior on the more important attribute. He argues that this tie-breaking strategy is selected because it is easy to justify.

One difficulty in using the reasons supporting each alternative to explain choice behavior is that there are many potential justifications or reasons that might be used in most choice problems. Furthermore, there is currently only limited knowledge about the factors that determine how compelling an argument is in a particular situation (Reike and Sillars 1975; Stein and Miller forthcoming). Reasons supporting each alternative can be explained post hoc, but it is difficult to make a priori predictions concerning choice behavior. Still, examining the reasons for selecting alternatives, especially in relatively simple problems, might improve our understanding of choice behavior under uncertainty. In particular, this approach would prove useful if it can explain observed behavior that appears inconsistent with other approaches to choice.

The attraction (or asymmetric dominance) effect, which has received considerable interest recently (Huber, Payne, and Puto 1982; Huber and Puto 1983; Ratneshwar, Shocker, and Stewart 1987; Sattath 1989; Tversky 1988), offers a suitable test problem. It refers to the ability of an asymmetrically dominated or relatively inferior alternative, when added to a set, to increase the attractiveness and choice probability of the dominating alternative. This finding violates regularity, which is a minimum condition of most

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choice models (Luce 1977). A number of explanations have been offered for the attraction effect (Huber et al. 1982; Huber and Puto 1983; Ratneshwar et al. 1987), but considerable doubts remain regarding its underlying cause(s). Choice sets that are used to demonstrate the attraction effect are very simple, involving only two or three alternatives described on two attributes. Thus, there is only a limited number of possible reasons that could be used to support alternative choices, including one building on the dominance relationship. Specifically, it is suggested below that a possible explanation for the attraction effect is that it reflects the impact of the added dominated alternative on the ability to justify to oneself and to others a choice of the dominating alternative.

Given that the attraction effect has already been demonstrated, any hypothesis regarding its causes would be a post hoc explanation. A more powerful test of the advantages of focusing on reasons to explain choice is the ability of that approach to predict choice phenomena that are difficult to explain otherwise. One such effect, referred to here as a compromise effect, is postulated. It proposes that an alternative would tend to gain market share when it becomes a compromise or middle option in the set. Such an effect would operate in an opposite direction to the familiar substitution or similarity effect (Huber and Puto 1983) and would suggest that a brand in a two-alternative set can gain market share following the addition of an adjacent competitor that makes the brand a compromise choice within the set.

Several empirical investigations of the attraction and compromise effects and their explanations are reported. The findings suggest that by focusing on the reasons supporting each alternative and on how different choices might be evaluated by others, it is possible to account for both effects. The implications of these findings to consumer decision research are discussed.

REASONS AND JUSTIFICATIONS IN CHOICE

The idea of focusing on the reasons supporting alternatives to explain choice behavior is based on the implicit assumption that people seek reasons for their choices. This assumption derives from much research in the social psychological and decision making literatures indicating that people have a variety of motives for justifying their decisions to themselves and to others. The need to justify decisions to oneself might reflect a desire to enhance one's self-esteem (Hall and Lindzey 1978), anticipation of the possibility of regret (Bell 1982) or cognitive dissonance (Festinger 1957), as well as people's perception of themselves as rational beings with reasons for preferring one option over others (Abelson 1964).

With respect to external justification, the assumption is that decision makers choose alternatives that are perceived as most justifiable to those others who will evaluate their choices, such as superiors, spouses, or groups to which the decision makers belong. The anticipated evaluation by others may be explicit in that the decision maker is responsible to someone else, or implicit in that others will be observing the decision and the decision maker desires to appear competent (Curley, Yates, and Abrams 1986; Tetlock 1985). Motives for seeking justifications to others are discussed in a number of literatures, including those dealing with self-presentation and impression management (for reviews, see Baumeister 1982; Schlenker 1980), social exchange (e.g., Blau 1964), conformity (e.g., Deutsch and Gerard 1955), and ingratiation (e.g., Jones 1964).

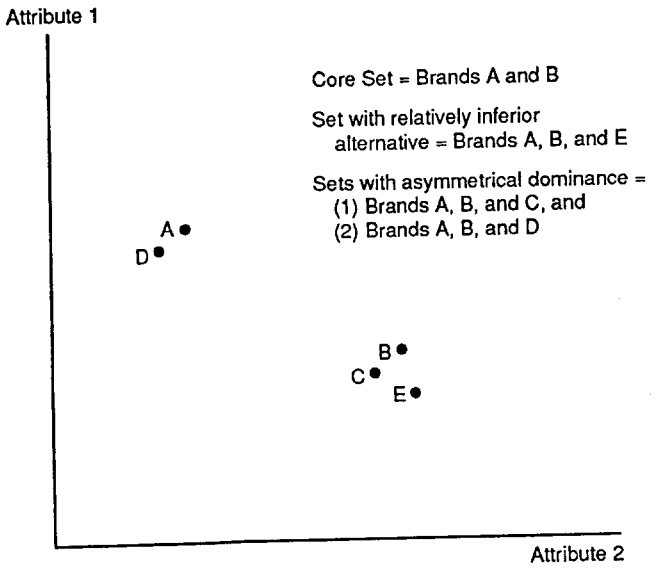
Social interactionists have argued that people tend to internalize the criteria employed by others, using those standards to justify their decisions to themselves (Schlenker 1980, p. 92). Thus, even when there is no overt need to justify to others, an expected evaluation by others is likely to influence choice behavior.

There has been little research seeking to explain choice behavior by focusing on the reasons that support alternatives (Montgomery 1983; Slovic 1975; Slovic et al. 1982; Tversky 1972). Perhaps this is because effective use of reasons to explain choice behavior appears to depend on at least two conditions. First, the choice problem should be simple enough to allow for an exhaustive analysis of all reasons that potentially can be used to support the considered alternatives. Second, the decision maker should have difficulty determining preference based on attribute weights and values alone. Further, the available reasons should not represent a simple mapping of the perceived utilities of alternatives. For example, the choice of a particular bread because it tastes good can be explained either by pointing to the higher utility associated with a good-tasting bread or by observing that selection of a tasty bread is easier to justify. In that case, the explanation of choice based on reasons is tautological and does not add any insight to the simpler utility-based explanation. In many cases, however, potential reasons do not merely mirror the perceived utilities of alternatives. In particular, relations among alternatives in a choice set are irrelevant according to most choice models, including random utility models (Luce 1977; Luce and Suppes 1965). Yet, relations among alternatives, such as asymmetric dominance, might be used as justifications for preferring one alternative over others.

As suggested previously, the attraction effect appears suitable for testing the ability of reasons to explain choice behavior because the choice sets used to test the effect are quite simple. In addition, these sets include an asymmetric dominance relationship that might provide a reason in support of the dominating

FIGURE A

THE ATTRACTION EFFECT



brand, even though the addition of a dominated alternative should not influence choice probabilities according to most choice models.

THE ATTRACTION AND COMPROMISE EFFECTS

Previous Research on the Attraction Effect

The attraction effect was introduced into the literature by Huber et al. (1982) and Huber and Puto (1983), and was further investigated by Ratneshwar et al. (1987). Huber et al. found that adding to an existing core set of two alternatives (such as Brands A and B in Figure A) a third alternative (C) that is dominated by one of the original alternatives (B) but not by the other (A) increases the attractiveness and choice probability of the now asymmetrically dominating alternative (Brand B). This finding violates the principle of regularity, which is fundamental to most choice models (Luce 1977) and which asserts that one cannot increase the probability of choosing an item by adding items to the set. Huber and Puto extended this finding to include the addition of nondominated alternatives that are relatively inferior compared to one of the two alternatives in the core set (in Figure A, in the set that includes A, B, and E, Brand E is relatively inferior compared to B).

As argued by Bettman (1986), these findings provide important new constraints that viable choice models must meet. Several possible explanations for the attraction effect have been offered, relating to potential influences of the added inferior alternative on the perception of attributes and alternatives and on the decision rules used (see review in Ratneshwar et al. 1987). However, Huber and Puto and Ratneshwar et al. conclude that such explanations do not appear to account for the attraction effect. An interpretation of the effect proposed by Ratneshwar et al. suggests that the attraction effect is a result of the lack of meaningfulness of the stimulus materials (mainly the attribute values) and subjects' lack of familiarity with the product categories used in the Huber et al. studies. They showed that the effect is moderated, though not eliminated, with elaborated explanations of attribute values.

More recent research has demonstrated the attraction effect using choice sets of gambles (Payne, Bettman, and Simonson in progress; Tversky 1988), paper towels and other products (Simonson and Tversky 1989), and job candidates (Sattath 1989). With gambles, for example, the attribute values are cash values and the attributes are probabilities, both of which are likely to be familiar and meaningful to subjects. In addition, in the Payne et al. and Tversky studies, subjects actually played one of the gambles they selected, receiving payment according to the outcome of that gamble. Thus, subjects had a clear motivation to choose the option with the highest utility. Both studies found a statistically significant attraction effect. That is, gambles were more likely to be selected when they dominated another gamble in the set than when they did not. This further supports the proposition that the attraction effect is real, rather than an artifact of any particular experimental stimuli or manipulation. An explanation of the attraction effect that focuses on the reasons supporting each alternative is proposed in this article.

Reasons for Choice in the Attraction Effect

Consider the choice set in Figure A that includes only Brands A, B, and C. Selection of either Brand A or B can be justified in two ways. First, a consumer can argue that the attribute on which the chosen alternative is best is more important. Alternatively, the consumer might reason that a trade-off analysis based on both attribute weights and values favors one of the two brands. Both of these potential arguments may or may not lead to a clear preference. Specifically, the consumer may have difficulty reaching a decision if there is uncertainty about the attribute weights or values, or if both attributes are perceived as about equally important, or if a trade-off analysis does not provide strong support for either of the brands.

Next consider the role of the asymmetrically dominated Brand C, which can provide an additional reason or justification for selecting the dominating Brand B. That is, the consumer can point to the dominated brand, noting that it is clearly inferior compared to the dominating brand. That reason associ-

ated with the dominance relationship might help the consumer break a tie in favor of the dominating brand, B.

When consumers expect their choices to be evaluated by others, such as their superiors, spouses, or friends, the situation becomes more complex. This is because, in most cases, the uncertainty about the preferences of others is greater than the uncertainty about one's own preferences. Thus, justifying a choice to others based on attribute weights or a trade-off analysis can be a risky strategy if the consumer is uncertain about the evaluators' perceptions of these weights and trade-offs (Tetlock 1985). Instead, decision makers are likely to seek reasons that are most likely to be effective in convincing those who will evaluate the decision and are robust over differences in weights and values. For example, logical statements that appear as facts tend to be effective justifications to others (Reike and Sillars 1975; Stein and Miller forthcoming). In the context of the attraction effect, an asymmetric dominance relationship might loom large among the reasons for choice if consumers are concerned about others' evaluation of their decisions. This is because the superiority of the dominating brand relative to the dominated brand is a fact that does not depend on subjective tastes or evaluators' unknown preferences.

Furthermore, people often judge decisions made by others without knowing or attending to the reasons that guided the decision. Thus, if the tastes and opinions of the evaluators are unknown, a decision maker might try to anticipate what aspects of the choice problem are likely to influence others' evaluations. Specifically, the salience (Taylor and Fiske 1978) of the dominance relationship in the set might lead a consumer to believe that this aspect will dominate the judgments of others who will evaluate that choice set.

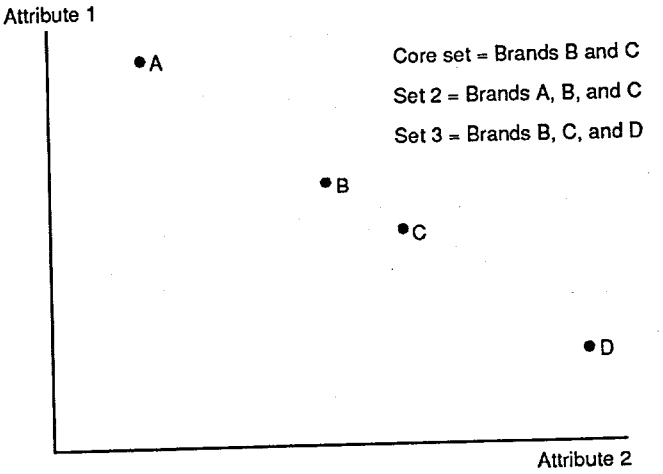
In sum, the attraction effect is expected to hold both in private and public choices. However, the magnitude of the attraction effect is predicted to be stronger among consumers concerned about the evaluations of their decisions by others whose preferences are unknown.

The Compromise Effect

The preceding explanation for the attraction effect focused on the dominance relationship. However, in the Huber and Puto and Ratneshwar et al. studies the choice sets included a relative superiority rather than a dominance relationship. Such a relationship could provide a reason for preferring the relatively superior alternative. Yet, that reason is likely to be a weaker justification because it is not clearly true that one alternative is superior to the other. Interestingly, Huber and Puto (1983, p. 38) report that in the debriefing session following their study, "Subjects expressed the feeling that Item 1 (the relatively superior) was the 'safe,' 'compromise' alternative."

FIGURE B

A COMPROMISE EFFECT BY ADDING A DISTANT COMPETITOR



This suggests that the addition of an alternative (E in Figure A) that is inferior relative to one of the core brands (B) adds two justifications for selecting the relatively superior alternative. The first is based on the relative superiority relationship, and tends to favor the superior alternative. The second reason is based on the fact that following the addition of the relatively inferior alternative (E), the superior brand (B) can be seen as a compromise choice in terms of its attribute values between the existing competitor (A) and the added inferior alternative. If a decision maker is uncertain which of the two attributes is more important, a selection of a compromise alternative that can be seen as combining both attributes might be easiest to justify (Stein and Miller forthcoming). The strength of relative superiority versus compromise as a justification is likely to depend on the particular position of the inferior alternative. The closer and more inferior the added alternative is relative to the superior alternative, the more powerful the relative superiority argument would be relative to the compromise argument, and vice versa.

If this analysis is correct, then it should be possible to show that an alternative's choice probability increases when it becomes a compromise or middle alternative, even if there is no superiority relationship. For example, in Figure B, adding to a core set that includes Brands B and C a third brand, D, which is not inferior to C in any obvious way, should tend to increase the market share of C, which can now be seen as a compromise choice.

While being a compromise is expected to increase choice probability, adding an adjacent, nondominated alternative should decrease the share of the compromise alternative per the substitution effect (Huber and Puto 1983). Thus, it is not clear whether

the overall effect of adding an adjacent, nondominated alternative would be to increase or decrease the market share of the middle alternative. However, the compromise argument does lead to the prediction that the middle alternative would gain share relative to the other existing alternative (e.g., in Figure B, the addition of Brand D to the core set will increase the share of C relative to B). This is contrary to the similarity effect, which indicates that a new competitor would draw more share from the more similar alternative.

When a consumer expects to be evaluated by others, the compromise aspect might play a somewhat different role. First, if one is uncertain about the preferences of others, then a reasonable solution is to select the middle alternative, which is likely to be the safest choice with the smallest maximum error. Second, being a compromise alternative influences the ability to justify a choice of that alternative. On the one hand, the decision maker can argue that the middle alternative combines both attributes. On the other hand, a compromise alternative is not the best on any attribute, and could thus be more difficult to justify. Overall though, given that selection of a compromise alternative is clearly the safest when the evaluators' preferences are unknown, it is predicted that decision makers who expect to be evaluated by others will be more likely to show the compromise effect (i.e., when an alternative becomes a compromise, its share will increase more among those who expect to be evaluated by others.)

HYPOTHESES

The discussion of the attraction and compromise effects and the circumstances in which these effects are likely to occur leads to the following hypotheses. Regarding the attraction effect:

H1a: The choice probability of an alternative will increase when it asymmetrically dominates another alternative in the choice set (a replication of the attraction effect).

H1b: The attraction effect will be stronger among consumers who expect to be evaluated by others.

H1c: A dominating alternative will be perceived as easier to justify and less likely to be criticized.

H1d: Decision processes leading to selection of a dominating alternative would tend to be more elaborate and associated with more difficult decisions.

Regarding the compromise effect:

H2a: An alternative's choice probability will increase when it becomes a compromise in the choice set. (If an alternative becomes a compromise following the introduction of a new adjacent brand, its share will increase relative to the other existing alternative.)

H2b: The compromise effect will be stronger among consumers who expect to be evaluated by others.

H2c: A choice of a compromise alternative will be perceived as easier to justify and less likely to be criticized.

H2d: Decision processes leading to selection of a compromise alternative would tend to be more elaborate and associated with more difficult decisions.

Four studies designed to test the hypotheses were run. In two studies, relating to Hypotheses 1a, 1b, 2a, and 2b, subjects performed a choice task, similar in many respects to previous studies dealing with the attraction effect. A third study, designed to test Hypotheses 1c and 2c, investigated the influence of dominance and compromise relationships on decision makers' perceptions of how others will evaluate particular choices. Finally, a study using think-aloud protocols was used to test Hypotheses 1d and 2d and to provide greater insights into the mechanisms underlying the attraction and compromise effects.

PILOT STUDY

The primary objective of the pilot study was to provide a preliminary test for the existence of the predicted compromise effect and of the hypothesized differences between those who expect to be evaluated by others and those who do not. A secondary objective was to check the methodology developed for this research.

The subjects were 147 college students enrolled in a marketing management class. In the main part of the study, subjects made choices from sets, most of which contained either dominance or compromise relationships. There were two conditions, high and low. In the high condition, subjects were told that their choices would be evaluated individually in class and that they might be asked to justify their decisions. In the low condition, subjects were assured of total confidentiality.

The results were consistent with all hypotheses tested. A strong compromise effect was found ($t = 4.27, p < 0.001$), reflecting the greater choice probability of alternatives when they become compromise choices in the set. As predicted, the effect was statistically significant in both conditions, but significantly stronger in the high condition ($t = 2.19, p < 0.05$). Also, as predicted, the attraction effect was statistically significantly stronger in the high condition (t

= 2.46, $p < 0.01$). The pilot study also suggested that a complete test of the hypotheses would require three different choice sets per category. These methodological changes were implemented in Study 1, which is described next.

STUDY 1

Method

Procedure. The subjects were 372 students enrolled in marketing courses at three Southeastern universities. The study, conducted during regular class meetings, consisted of a task with three parts. In the first part, subjects rated the importance of two attributes in several product categories and indicated their familiarity with the different product categories. Importance weights were measured to allow an assessment of the added explanatory power of dominance and compromise relationships after accounting for the effect of subjects' tastes. The measurement of product familiarity served primarily as a filler task between the importance weights' measurement and the choice task. The attribute importance ratings were on a 0 (not at all important) to 10 (very important) scale (Jaccard, Brinberg, and Ackerman 1986). Product class familiarity was measured using an operationalization developed by Park (1976), in which subjects enter one of three levels of familiarity with each category.

Upon completion of the first part, subjects started the second and were asked to make choices and rate the overall attractiveness (on a 0–10 scale) of the alternatives in 12 choice sets. The cover story that introduced this part related the task to a class discussion on consumer decision making. Subjects were told that this topic would be further discussed later in the course. To prepare for that discussion, the students were asked to assume they were shopping for themselves and make choices in several categories. Subjects were assigned randomly to one of two conditions with different levels of concerns about choice justification.

Following the choice task, subjects filled out two personality scales: the self-consciousness scale (Fenigstein, Scheier, and Buss 1975) and the updated version of the self-monitoring scale (Snyder and Gangested 1986). These scales were included to provide information about the personal dispositions of subjects that might influence their choice behavior. The results, however, included few significant findings regarding the effects of self-consciousness and self-monitoring on choice and, therefore, will not be discussed further. Finally, subjects responded to two items used as a manipulation check for the justification manipulation, which is described next.

Manipulation. As indicated, in the choice task there were two conditions differing in level of concerns about others' evaluations. The manipulation used was similar to that of previous research on the effect of having to justify decisions and judgments (e.g., Adelberg and Batson 1978; Rozelle and Baxter 1981; Tetlock and Kim 1987). In the low need for justification condition, the last paragraph of the instructions introducing the choice task informed subjects that their choices would remain totally confidential. They were instructed not to put their name on the questionnaire. Subjects in the high condition, conversely, were told that a booklet would be prepared that would include their choices ordered alphabetically by last name. They were informed that their decisions would be evaluated by the class and that they might be asked to justify their decisions. Finally, subjects in the high condition were asked to print their names on the questionnaire and initial each page of the choice part.

Within each of the two conditions, there were three versions of the questionnaire, as needed for testing the hypotheses (between subjects) in each condition. That is, each version of the questionnaire included one of three different choice sets in each product category. More detail follows.

Choice Sets. As seen from the example in the Exhibit, each alternative was described on two attributes. Subjects were told to assume that the alternatives were similar on all other attributes, and some of the common attributes were listed. For each attribute, the range of values across all brands on the market was given in parentheses. This is consistent with the conclusion (Assar and Chakravarti 1984, p. 66) that attribute range knowledge allows subjects "to better comprehend the evaluative implications of the given brand-attribute information." The information should help subjects comprehend the meaning of attri-

EXHIBIT

SAMPLE CHOICE PROBLEM

Calculators: Common attributes are 10-digit LCD display, battery included, vinyl wallet, price $12.

	Brand A	Brand B	Brand C
Number of functions (Range: 6–98 functions)	16	24	32
Probability of need for repair in first two years (Range: 0.5–15%)	3%	5%	7%
Please check your first choice	____	____	____

Rate the overall attractiveness of each brand using a 0 to 10 scale where 0 = very unattractive and 10 = very attractive.

Brand A ____ Brand B ____ Brand C ____

TABLE 1

CHOICE SETS USED IN STUDY 1

Product category	Set configuration	Attribute 1	Attribute 2	Choice sets 1	2	3
Beer	Figure A	Six-pack price	Quality rating			
Brand A		$1.90	65	×	×	×
Brand B		$2.80	75	×	×	×
Brand C		$3.10	75		×	
Brand D		$2.20	65			×
Car	Figure A	Ride quality	Miles per gallon			
Brand A		83	24	×	×	×
Brand B		73	33	×	×	×
Brand C		70	33			×
Brand D		80	24		×	
Color TV	Figure B	Price	Picture quality			
Brand A		$503	100		×	
Brand B		$350	85	×	×	×
Brand C		$299	80	×	×	×
Brand D		$146	65			×
Apartment	Figure B	Distance	General condition			
Brand B		11 miles	90	×	×	
Brand C		6 miles	75	×	×	
Brand D (unavailable)		1 mile	60		×	
Calculator	Figure C	No. of Functions	Probability of repair in first 2 years			
Brand A		8	1%	×		
Brand B		16	3%	×	×	
Brand C		24	5%	×	×	×
Brand D		32	7%		×	×
Brand E		40	9%			×
Mouthwash	Figure C	Fresh breath effectiveness	Germ-killing effectiveness			
Brand A		60	80	×		
Brand B		70	70	×	×	
Brand C		80	60	×	×	×
Brand D		90	50		×	×
Brand E		100	40			×
Calculator battery	Figure B	Expected life	Probability of corrosion			
Brand A (unavailable)		10 hours	0%			×
Brand B		12 hours	2%	×	×	×
Brand C		14 hours	4%	×	×	×
Brand D (unavailable)		16 hours	6%		×	

bute values without having to rely on the particular alternatives in the set, thus facilitating meaningful trade-off processes. No elaborate explanations of attribute values were used, however, so that all subjects would encode the same attribute values, with the dominance and compromise relationships easy to detect. In addition to providing attribute ranges, an effort was made to include only product categories relevant and familiar to student subjects (following Ratneshwar et al.'s recommendation).

Table 1 presents the choice sets used. Hypotheses 1a and 1b relating to the attraction effect were tested in the beer and car categories, with three different choice sets in each category (illustrated in Figure A). Each category contained a core set of two nondominated alternatives. In the other sets, a third alternative dominated by one of the two alternatives in the core set was added. The choice sets in two additional categories, supermarkets and sport shoes, contained a dominance relationship, but these sets were primarily designed to test a different effect (Simonson 1987).

Figures B and C illustrate the design of choice sets relating to the compromise effect, which was tested in two ways. In Figure B, representing the sets used in the television, calculator battery, and apartment categories, there is a core set of two alternatives. In the other two sets, an alternative lying on a straight line in terms of its attribute values relative to the core set was added. To minimize the substitution effect relative to the hypothesized com-

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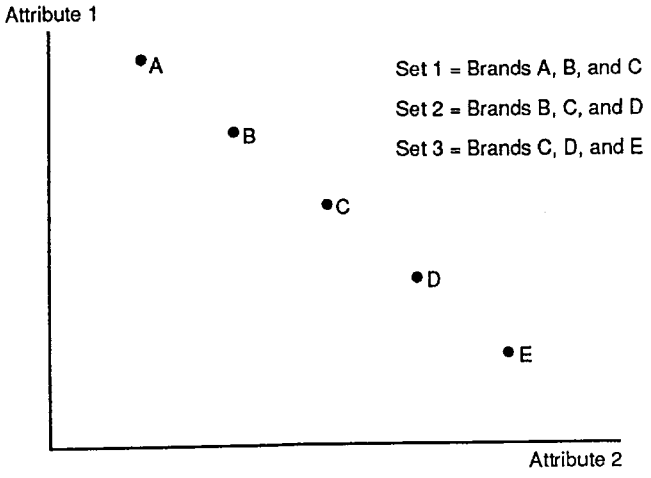
FIGURE C

A COMPROMISE EFFECT BY MOVING CHOICE SET POSITION



promise effect, the added alternative in the TV and apartment categories was positioned at some distance from the core set. Per Hypothesis 2a, the adjacent existing alternative is expected to gain share relative to the more remote existing competitor following the addition of the third alternative.

Figure C, relating to the sets in the calculator and mouthwash categories, presents a second way in which the compromise effect was tested. Each set included three alternatives—A, B, and C; B, C, and D; or C, D, and E. Alternatives B, C, and D were each a compromise alternative in only one set, and they were extreme alternatives in one or two of the other sets. Per Hypothesis 2a, it is expected that alternatives' choice probabilities will be greater when they are the compromise choice.

In the calculator battery and apartment categories, a slightly different type of choice set was used. These sets include an alternative that was described but that was not available for choice. The instructions preceding these sets related the choices to situations in which consumers evaluate alternatives in a certain category while aware of alternatives that are not available when they have to make a purchase (Farquhar and Pratkanis 1987). The advantage of this type of choice set is that it avoids any confounding with the substitution effect, since one cannot switch to or from an unavailable alternative.

Results

Manipulation Checks. At the end of their task subjects responded on a 0–10 scale to two questions used as a manipulation check. On the first item, subjects in the high condition were more likely than subjects in the low condition to anticipate being asked to justify their choices to the class (4.20 versus 2.19; $p < 0.001$). With respect to the likelihood that their choices would be evaluated individually in class, the average rating of subjects in the high condition was 3.47, compared to 2.19 in the low condition ($p < 0.001$).

As an additional manipulation check, the total time taken to complete the questionnaire was expected to be correlated positively with concerns about justification and was recorded. The average time in the high condition was 25.7 minutes, compared to 23.0 minutes in the low condition ($p < 0.001$).[1]

The Attraction Effect. As can be seen in Table 2, by comparing the shares of brands when they are dominating versus when they are not, the results in both the beer and car categories support Hypotheses 1a and 1b. Consistent with previous studies, brands in both categories tend to gain market share when they are asymmetrically dominating. For example, the market share of the $1.90 beer is 31 percent when there is no dominated brand in the set; it goes up to 43 percent when a third brand that is dominated by

TABLE 2

STUDY 1: IMPACT OF THE JUSTIFICATION CONDITION ON THE MAGNITUDE OF THE ATTRACTION EFFECT[a]

Product category	Justification condition	Share in core set	Share when dominating	Share when other brand dominating
Beer				
$1.90 brand/ quality = 65	Low	36%	42%	26%
	High	27%	44%	11%
	Combined	31%	43%[c]	19%
$2.80 brand/ quality = 75	Low	64%	67%	57%
	High	73%	87%	53%
	Combined	69%	77%[b]	55%
Car				
24 mpg/ride quality = 83	Low	33%	59%	29%
	High	44%	65%	17%
	Combined	39%	62%[c]	23%
33 mpg/ride quality = 73	Low	67%	69%	31%
	High	56%	83%	34%
	Combined	61%	76%	33%

[a] Subjects were 372 business administration students.
[b] The difference between the high and low conditions in terms of the increase in share when a brand is dominating (compared to when the other brand is dominating) is statistically significant at the 0.05 level.
[c] The difference between the high and low conditions in terms of the increase in share when a brand is dominating (compared to when the other brand is dominating) is statistically significant at the 0.10 level.

[1]A closer examination of the manipulation checks' results revealed that differences between the two conditions in terms of average ratings on the two items and the time to complete the task were marginally significantly greater in the experimenter's own university than among subjects from other universities. In those other universities, the manipulation checks were only marginally significant.

the $1.90 brand is introduced; and it is only 19 percent when a third brand that is dominated by the $2.80 brand is included. Further, for all four brands involved, the increase in market shares when they are asymmetrically dominating compared to when the other brand is dominating was, on average, 17 percent greater in the high need for justification condition. Although changes in the market shares of brands within a category are not independent, they do illustrate that regardless of which brand is considered, the direction of the results is consistent with Hypothesis 1b.

Table 2 also indicates that the differences in the market shares of dominating brands between the high and low conditions depend on the particular attribute values of these brands. For example, in the beer category, the difference in the share of the dominating brand between the high and low conditions is 20 percent when the higher quality brand is dominating, but only 2 percent when the lower quality beer is dominating. Apparently, many subjects in the high condition felt they would be evaluated more favorably if they selected the higher quality beer.

To summarize the results, multinomial logit analyses (McFadden 1973) were run, with each choice of each subject serving as one observation (see Simonson, Huber, and Payne 1988 for a description of the procedure). Different models were estimated. In one run, only three independent variables were included. The first is the utility (U) of each alternative, estimated by standardizing the attribute values of the alternatives and the importance weights of the attributes as rated by the subjects and by using a linear weighted additive model to derive U. The second independent variable was a 0–1 dummy variable, DOM, which received a value of 1 if the alternative was dominating in the set, and 0 otherwise.[2] Finally, the third variable, HDOM, represents the interaction between DOM and a 0–1 dummy condition variable, where 1 represents the high condition.

The estimated coefficients were as follows (standard errors in parentheses):

$$0.82\,U + 1.17\,DOM + 0.44\,HDOM \quad (\chi^2 = 223)$$
$$(0.18) \quad (0.13) \quad (0.19)$$

As would be expected, the coefficient of the estimated utility variable is positive and statistically significant ($t = 4.6$, $p < 0.001$). The coefficient of DOM is also positive and significant ($t = 9.0$, $p < 0.001$). This shows a strong attraction effect, indicating that alternatives' attractiveness and choice probability tend to increase when they are asymmetrically dominating. Finally, consistent with the results in Table 2, the coefficient of HDOM is positive and statistically significant ($t = 2.3$, $p < 0.05$). This supports Hypothesis 1b, that the attraction effect would be stronger in the high need for justification condition.

Another model that was run included, in addition to U, DOM, and HDOM, a dummy variable for one of the two product categories, and all possible interactions among the four variables. This latter model was also run with dummy brand variables to account for unique effects of particular brands. The results of these and other runs indicate that the coefficients of U, DOM, and HDOM are not sensitive to the particular model specification.

The Compromise Effect. As shown in Table 3, and consistent with Hypothesis 2a, the market shares of alternatives in the TV, apartment, calculator, mouthwash, and calculator battery categories were, on average, 17.5 percent larger when they were compromise brands than when they were not. In nine of 11 cases, these differences in shares are statistically significant. In the apartment category, the introduction of the un-

TABLE 3

STUDY 1: THE COMPROMISE EFFECT[a]

Product category	Share when not compromise	Share when compromise	Difference between conditions in effect magnitude[b]
Apartment			
6 miles/75	50%	66%[c]	+5%
Calculator			
32 fn/7%	29%	40%[c]	+3%
24 fn/5%	36/47%[e]	45%	+3%
16 fn/3%	26%	48%[c]	−2%
Calculator battery			
12 hrs/2%	40%	66%[c]	0%
14 hrs/4%	34%	60%[c]	0%
Mouthwash			
90/50	36%	38%	+24%
80/60	11/52%[e]	47%[c]	+15%
70/70	17%	42%[c]	−5%
Television			
$299/80	23%	48%[c]	−7%
$350/85	43%	51%[d]	−7%

[a] Subjects were 372 business administration students.
[b] The difference between the high and low conditions in terms of the magnitude of increase in market share when alternatives are compromises.
[c] The increase in share when the brand becomes a compromise is statistically significant at the 0.05 level.
[d] The increase in share when the brand becomes a compromise is statistically significant at the 0.10 level.
[e] The share figures correspond to the two choice sets in which the brand appeared but was not a compromise.

[2]The strict conditional logit model assumes that the utility of an item in its set is a function only of its characteristics, not a function of the characteristics of the set. If utility is a function of the set or the choice context, the tenants of random utility models are violated (Luce and Suppes 1965). Thus, by including in the logit model a term that reflects the set, the magnitude of the deviation from the strict conditional logit formulation is tested (McFadden 1976).

available alternative that made the adjacent apartment a compromise choice increased the share of the latter. For both brands in the TV category, the introduction of a distant competitor increased the share of the adjacent existing brand at the expense of the nonadjacent brand.

Similarly, in the mouthwash and calculator categories, the shares of the different brands were in most cases greater when they were compromise alternatives. The calculator battery choice sets illustrate that the effect still holds if an unavailable alternative is used to determine which alternative has the status of a compromise. With respect to Hypothesis 2b, the results in the last column of Table 3 do not support the prediction that the compromise effect will be stronger in the high condition. The difference between the high and low conditions in terms of the magnitude of increase in the share of alternatives when they become a compromise was, on average, only 2.6 percent.

To summarize the results, multinomial logit analyses were run. One model included only three independent variables: utility (U); COMP, which received a value of 1 if the alternative was a compromise in the set, 0 otherwise; and HCOMP, which represents the interaction between COMP and a 0–1 dummy condition variable (where 1 is the high condition). The estimated coefficients were as follows (standard errors in parentheses):

$$1.40\,U + 0.63\,COMP + 0.05\,HCOMP \quad (\chi^2 = 361)$$
$$(0.09) \quad (0.08) \quad (0.11)$$

Consistent with Hypothesis 2a, the effect of COMP is positive and statistically significant ($t = 7.9$, $p < 0.001$). Thus, alternatives' attractiveness and choice probability significantly increase when they are a compromise choice. With respect to the interaction between the compromise effect and the justification condition (HCOMP), the coefficient has the predicted sign but is not statistically significant.[3]

Other models were estimated that included product categories and brands' dummy variables as well as interaction terms among the variables. The results indicate that the coefficients of U, COMP, and HCOMP are not sensitive to the particular model specification.

STUDY 2

Both the pilot study and Study 1 support the hypothesis that the attraction effect will be stronger if subjects expect to be evaluated by others. The corresponding prediction for the compromise effect was supported in the pilot study but was not statistically significant in Study 1. In both studies, the attraction and compromise effects were investigated by examining subjects' choice behavior. The purpose of Study 2, per Hypotheses 1c and 2c, was to provide a more direct test of the effect of dominance and compromise relationships on the evaluation of decisions to choose dominating and compromise alternatives. A difficulty arises in assessing the net impact of dominance and compromise relationships because each alternative's evaluation is likely to be influenced also by the particular attribute values of that alternative. To disentangle the two effects, each alternative was evaluated both in its original set (from Study 1) and in a reduced set with the dominance or compromise relationship removed. The methodology employed in this study is similar in some respects to projective techniques often used in marketing research (Kassarjian 1974).

Method

The subjects in this study were 100 college students enrolled in a psychology course. Previous experience indicates that many of these students later take the marketing management course. Participation was part of a course requirement. In the first of a three-part task, subjects were informed that students enrolled in marketing management courses had been asked to make choices in different product categories and that their choices would be later discussed and evaluated in class. The task of subjects in Study 2 was defined as trying to predict how specific choice decisions would be evaluated in class and how difficult they would be to justify.

There were three versions of the questionnaire, such that the choice sets in each version were identical to those in the corresponding questionnaire of Study 1. Each alternative was rated on a 0–10 scale regarding (1) the perceived likelihood of criticism if that alternative is chosen, and (2) the difficulty of justifying to the class a choice of that alternative. These two items correspond to the earlier distinction between justifying and being evaluated without justifying. The two items were derived from a pilot study in which a number of additional items were tested.

The second part of the questionnaire was designed to assess the expected evaluation by others of choosing specific alternatives based on their attribute values alone, without the effect of a dominance or a compromise relationship. As argued earlier, the ratings of alternatives in terms of the likelihood of criticism and ease of justifying (collected in the first part of the task) are likely to be influenced by both the attribute values and the dominance/compromise relationship. Thus, assessment of the impact of the attribute values alone would allow a later estimate of the net effect of the dominance/compromise relationship.

[3]The inconsistency between this finding and the significant difference between conditions in the pilot study might be related to the weaker manipulation in two out of three universities, as reported previously (see Footnote 1). If the subjects in the experimenter's own university are analyzed separately, the coefficient of HCOMP is statistically significant ($p < 0.01$).

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Choice sets with two alternatives each were derived from the sets evaluated in the first part of the task by dropping one alternative from the original sets. For example, in sets with a dominance relationship, the dominated alternative was dropped, leaving a core set of two nondominated alternatives. Evaluation of alternatives in sets without a dominance or compromise relationship is likely to be based primarily on attribute values. For each set, subjects were asked to predict which of the two alternatives would most likely be chosen by a student who is very concerned about criticism from the class and about being able to justify his/her decisions. They were also asked to assess the probability that this student will choose each brand by dividing 100 points between the two alternatives. This alternative method of measuring justifiability employed in the second part of the questionnaire was designed to minimize the effect of subjects' previous ratings of these alternatives in the first part.

The last task of subjects was designed specifically to assess the perceived advantages and disadvantages of selecting a compromise alternative. Subjects were asked whether the marketing students and they themselves would be more likely to criticize a student who tends to select middle alternatives or one who tends not to choose middle alternatives. Finally, there were two open-ended questions regarding (1) the reasons for criticism of the student they indicated and (2) the advantages and disadvantages of choosing a middle alternative.

Results

Hypothesis 1c suggests that the choice of a dominating alternative will be perceived as easier to justify and less likely to be criticized by others. It was known which alternative was asymmetrically dominating in each set. Accordingly, a dummy independent variable, DOM, was defined and received a value of 1 if the alternative was dominating, 0 otherwise. A second independent variable was the evaluation of each alternative based on its attribute values alone. Specifically, the indicated likelihood (on a 0–100 scale) that a student very concerned about the evaluation of his/her choices would select each of the two brands was used as a measure of that brand's attribute based evaluation (ATE). The dependent measures were the evaluation of alternatives in the original sets (with a dominance or compromise relationship) in terms of ease of justification and likelihood of criticism.

Using multiple regression, when the likelihood of criticism is the dependent variable, the effects of both DOM and ATE were negative and statistically significant ($t = -5.03$, $p < 0.001$, and $t = -7.93$, $p < 0.001$, respectively). Similarly, if the perceived ease of justification is used as the dependent variable, the coefficients of DOM and ATE are both positive and statistically significant ($t = 3.15$, $p < 0.01$, and $t = 6.36$, $p < 0.001$, respectively). These results support Hypothesis 1c and indicate that the fact that an alternative is asymmetrically dominating decreases both the perceived likelihood of criticism and the difficulty of justifying a choice of that alternative.

A similar regression analysis was run to test the corresponding prediction for the compromise effect (Hypothesis 2c). The independent variables were ATE, as described previously, and COMP, which received a value of 1 if the brand was a compromise in the set, 0 otherwise. The results of the two regression runs suggest that being a compromise has different effects on the perceived likelihood of criticism and ease of justification. A compromise choice significantly reduces the perceived likelihood of criticism ($t = -4.0$, $p < 0.001$), but the effect of COMP on the ease of justification was not statistically significant ($p > 0.20$). That is, a choice of a compromise alternative is seen as less likely to be criticized but not easier to justify. This perhaps reflects the fact that a compromise brand does not stand out and is not the best on any attribute.

In the third part of the study, 65 out of 100 subjects indicated that they would be more likely to criticize a subject who tends not to select middle alternatives, whereas 35 were more likely to criticize the student who tends to select middle alternatives. The most often cited advantages of selecting middle brands is that it is safe, less likely to be criticized, and it shows that the decision maker has considered both attributes. On the negative side, subjects who tend to choose middle alternatives were described as "wishy washy," "too concerned about pleasing," "not choosing based on personally preferred attribute," and as "settling for mediocrity." In sum, Study 2 supported Hypothesis 1c and provided partial support for Hypothesis 2c. Further, it supports the notion that the ease of justifying to others and the expected favorableness of others' evaluations represent somewhat different components and are not simply mirror images of each other.

STUDY 3

The pilot study and Studies 1 and 2 demonstrated attraction and compromise effects, which were generally stronger among subjects who expected their decisions to be evaluated by others. These studies, however, do not allow direct observation of the decision processes leading to these effects. Thus, Study 3 was designed to examine the mechanisms underlying the attraction and compromise effects and the assumption that dominance and compromise relationships are most likely to influence choice when consumers are uncertain about their preferences. Specifically, Hypotheses 1d and 2d propose that selection of dominating and compromise alternatives would be associated with more difficult and elaborate decision processes. Think-aloud protocols (Ericsson and Simon 1980) appear suitable for testing these hypotheses.

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Method

The subjects were 23 first-year graduate students enrolled in a marketing management course. Two subjects who repeatedly failed to think aloud were dropped from the sample. The study was conducted at the behavioral laboratory of a business school, and subjects were paid $5 for their participation.

The task was similar to that in Study 1, but these subjects were asked to think aloud as they made their choices. All subjects received the same choice sets, including four sets with an asymmetric dominance relationship (categories: car, beer, supermarket, and sport shoes) and three sets with a compromise alternative (categories: calculator, mouthwash, and color TV).

Hypotheses 1d and 2d were tested by examining how elaborate and difficult the decisions were. One straightforward measure of elaborateness is the length of the protocol. Length was measured based on the number of words included in the protocol of each choice (prepositions and sounds such as "umm" were counted as words). The elaborateness and thoroughness of decisions was also measured by examining whether the subject considered explicitly both the advantages and the disadvantages of the selected alternative. The difficulty of the decision was estimated by examining whether the subject explicitly indicated that the decision was difficult and/or that both attributes were important. A second measure of decision difficulty in sets designed to test the attraction effect was based on whether the final choice was consistent with the importance weights indicated by the subject prior to the choice task (i.e., whether the subject selected the brand that was superior on the more important attribute). The assumption was that decisions consistent with the prior attribute weights would be easier to make than those inconsistent with the prior weights. Finally, though not a direct test of a hypothesis, the explanations actually provided by subjects for their choices were examined.

The protocols were analyzed by two independent judges who had only general knowledge about the purpose of the research. The overall interjudge reliability was 90 percent, and was greater than 83 percent for all coded items. Disagreements were resolved by discussion.

Results

Choice Sets with Asymmetric Dominance. As argued previously, selection of a dominating alternative is likely to be influenced by both its attribute values and the dominance relationship. Subjects who consider the attribute on which the dominating brand is superior as much more important are likely to select that alternative regardless of whether it dominates another alternative. Other subjects might be less confident about the relative weights of the attributes. As proposed earlier, this latter group is expected to be most susceptible to the attraction effect. It is thus desirable to distinguish between (1) decisions in which preference for the dominating brand was due mainly to the relative weights of attributes and (2) decisions in which the relative attribute weights did not lead to a clear preference. The think-aloud protocols can be used for an approximate classification of decisions into these two types. Specifically, 27 protocols starting with a statement that one attribute is more important than the other were classified as lexicographic (i.e., based on attribute weights), and all other choices leading to selection of the dominating brand (41 protocols) were classified as nonlexicographic. Thus, one can compare these two types of decisions, as well as contrast decisions resulting in selection of a dominating brand with decisions that led to selection of a nondominating brand. Only 14 of the 82 decisions analyzed resulted in selection of a nondominating brand, and nine of those began with a statement that one attribute is more important.

The results provided strong support for Hypothesis 1d, indicating that nonlexicographic choices of dominating alternatives tend to be more difficult and elaborate. First, the protocols of nonlexicographic choices of dominating brands tended to be significantly longer: 69 percent of these protocols took longer than the median protocol length, compared to 29 percent of the protocols involving lexicographic choices of dominating brands ($p < 0.05$) and 18 percent of protocols of nondominating selections ($p < 0.05$). Similarly, protocols of nonlexicographic selections of dominating alternatives were significantly more likely than the two other decision types to include a reference to the difficulty of the decision ($p < 0.05$) and to consider both the advantages and the disadvantages of the selected brand ($p < 0.05$). Finally, only 39 percent of the nonlexicographic choices of dominating brands were consistent with the prior importance weights, compared with 82 percent and 86 percent for the two other decision types ($p < 0.05$).

The explanations given by subjects for their decisions were divided into three categories: (1) choice based on the relative importance of the two attributes, (2) choice explicitly based on the dominance relationship, and (3) choice based on the "overall attractiveness" of the alternative, which usually indicated that the dominating alternative possessed a middle level of one attribute and was the best on the other attribute. While not explicitly pointing to the dominance relationship as the reason for the decision, an explanation based on overall attractiveness of the dominating brand tended to be based implicitly on the asymmetric dominance relationship.

The following are two examples of explanations provided for the selection of an asymmetrically domi-

nating alternative, one categorized as dominance-based and the other as an overall attractiveness explanation. The first protocol relates to choice of a supermarket, where Supermarket A is the closest but has the least variety, and C, which dominates B, is farther away but has the most variety. "Variety is somewhat important but not extremely important. Distance is very important. 2 miles—very significant; so I would choose A. Now, in terms of ratings, Supermarket A will be a 7; C is better than B—it's got more items and it's half a mile closer; so I will change my decision and choose C. I'll give C an 8, I'll drop A to 6, and B—4." (Before the choice task, this subject had rated the importance of distance and variety as 10 and 4, respectively).

The second protocol relates to the car choice set in which Brand A has the best ride quality, B and C are tied for the best gas mileage, and C has a better ride quality than B. "I like sporty cars. Brand A has the highest ride quality. Gas mileage is also important. Brands B and C are pretty similar. Between B and C I would choose C." Overall, 65 percent of nonlexicographic choices of dominating brands were explained based on overall attractiveness or the dominance relationship, compared with just 23 percent of the other decision types (most of which were explained based on the relative importance of the attributes).

Choice Sets with a Compromise Alternative. With sets that include a compromise alternative, there is no need to distinguish between lexicographic and nonlexicographic decisions because, almost by definition, decisions to select a compromise alternative are unlikely to use a lexicographic rule.

The results of the protocol analysis supported Hypothesis 2d. Choice protocols leading to selection of a compromise alternative were significantly longer than those leading to selection of a noncompromise alternative. In the former group, 71 percent of the protocols were longer than the median protocol length, compared with just 32 percent in the latter group ($p < 0.05$). Similarly, protocols resulting in the selection of a compromise were more likely to mention the difficulty of the decision ($p < 0.05$) and to consider both the advantages and disadvantages of the selected alternative ($p < 0.05$). With respect to the explanations given, the most significant finding is that most subjects who select the compromise explicitly justify their decisions based on the alternative's compromise position. They use such reasons as, "I'll take the middle alternative," "because it is a compromise," "the one that is a combination of the two," or "I'll settle for B."

DISCUSSION

When making choices, consumers often have difficulty determining the precise utilities of alternatives, and are therefore uncertain about their preferences. Building on previous research (e.g., Montgomery 1983; Slovic et al. 1982), this article has proposed that choice under preference uncertainty may be easier to explain in some situations by assuming that decision makers select the alternative that is supported by the "best" reasons. According to this approach, the effect of an aspect of an alternative on its choice probability is a function of how compelling an argument it provides for or against selecting that alternative. The emphasis on the ability of attributes to provide effective reasons may lead to different predictions than those derived by focusing exclusively on the impact of attributes on expected utility. Slovic, Fischhoff, and Lichtenstein (1976) suggested that people sometimes view decisions based on shallow but nice-sounding rationales (clichés, universal truths, adages) as better than decisions based on complex, thorough, decision-analytic techniques. Slovic (1975) argued that reliance on easily justifiable aspects to the neglect of other important factors could lead one to reject alternatives whose overall utility (assessed outside of the choice context) is superior to that of the chosen alternative. For example, a dominance relationship known with certainty may offer a "better" reason and thus override such considerations as importance weights or attribute values, which often are uncertain.

More generally, relations among alternatives in choice sets may influence choice by providing reasons for preferring certain alternatives over others. The present research has focused on two such relations: asymmetric dominance and compromise. The presented studies examined the ability of a "choice based on reasons" approach to account for the effect of these relations on preferences by (1) testing predictions regarding differences in choice behavior between those who expect to justify to others and those who do not, (2) testing a reasons-based compromise effect, and (3) utilizing think-aloud protocols to gain greater insights into decision processes leading to the attraction and compromise effects. The results of these studies are summarized in the following section.

Summary of Findings and Their Implications

The Attraction Effect. Given that the attraction effect has already been demonstrated, this research focused on the impact of an expectation to justify decisions on the magnitude of the effect. It was argued that in the choice sets used for testing the attraction effect, the asymmetric dominance relationship provides the only reason for choice that does not depend on knowledge of the evaluators' preferences. Therefore, the weight of asymmetric dominance relative to other reasons for preference, such as attribute weights or a trade-off analysis, should be greater when buyers

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expect to justify their choices to others. Consistent with this reasoning, both the pilot study and Study 1 supported the hypothesis that the attraction effect would be stronger among those who expect to be evaluated by others. Furthermore, Study 2 showed that following the addition of a dominated alternative, a choice of an asymmetrically dominating alternative is seen as easier to justify and less likely to be criticized.

This does not necessarily imply that consumers who expect to justify their choices to others will always be more likely to select dominating alternatives. In many cases, the buyer knows the preferences of those who will evaluate the choice (e.g., one's spouse), and this knowledge is likely to override the impact of a dominance relationship. Also, even if the evaluators' preferences are unknown, the stimuli might provide cues as to the likely reactions of others, which can diminish the impact of a dominance relationship on choice. For example, subjects in Study 1 who expected to be evaluated were not more likely to choose a low cost beer even when it was dominating. Apparently, they believed that selection of a high quality beer would be judged more favorably. This also illustrates the difficulty that may arise in predicting a priori all the reasons that decision makers might use to support their choices.

The findings indicate that the attraction effect still exists when subjects are assured of total confidentiality. This is consistent with the notion that when decision makers are uncertain which alternative they most prefer, the reason associated with the asymmetric dominance helps them break the tie and reach a decision in favor of the dominating alternative. In other words, when decision makers compare the dominating with the nondominated competitor, they still take into consideration the advantage of the dominating relative to the dominated alternative. In addition, consumers might select alternatives likely to be favorably evaluated by others even when those others are not expected to know about the decision (Schlenker 1980). Such a tendency is most likely when the consumer's own preferences do not lead to a clear choice. Indeed, the results of the protocol analysis indicate that the asymmetric dominance relationship has the most impact on choice when the decision maker has difficulty determining preference.

Finally, this research was not designed to resolve the controversy relating to the real world existence of the attraction effect (Ratneshwar et al. 1987). Dealing with this question effectively would involve testing the attraction effect with real and meaningful stimuli and choices. Some preliminary work in that direction was reported earlier (Payne et al. forthcoming; Simonson and Tversky 1989; Tversky 1988).

The Compromise Effect. Both the pilot study and Study 1 demonstrated a strong compromise effect; i.e., an alternative's choice probability tends to increase when it becomes a compromise choice in the set. This implies that a similarity (or substitution) effect is not the only effect of a new competitor on the shares of existing alternatives in a choice set. Similarity is also not the only reason that the assumption of "independence of irrelevant alternatives" (IIA) (McFadden 1973) is violated. However, the violation of the IIA assumption implied by the compromise effect operates in an opposite direction from that of the similarity effect. Specifically, the similarity effect causes similar alternatives to lose proportionally more share than nonsimilar ones. The effect demonstrated in this research illustrates that a new alternative (not necessarily a relatively inferior one; Huber and Puto 1983) might in fact take relatively less share from the more similar (i.e., adjacent) existing alternative. This might have significant managerial implications, suggesting that brands can sometimes benefit from being positioned between two alternatives.

Similar to the attraction effect, the compromise effect was predicted based on the proposition that a search for reasons and a need to be favorably evaluated by others increase the likelihood that decision makers will prefer middle alternatives. A compromise choice reduces the conflict associated with giving up one attribute for another, and can be justified by arguing that it combines both attributes. The think-aloud protocols showed that decision makers do use the compromise rationale to explain the selection of a middle alternative. The compromise effect is also consistent with the notion derived from prospect theory (Kahneman and Tversky 1979) that if the middle alternative is the decision maker's initial reference point, a switch to an extreme brand may be difficult to justify. This is because the negative reason associated with a loss on one attribute will tend to loom larger than the reason associated with the gain on the other attribute. Finally, when a consumer is concerned about evaluations of others whose preferences are unknown, a selection of the compromise is the safest choice, minimizing the maximum potential error.

The results of the pilot study and Studies 1 and 2 provided partial support for the hypothesis that the compromise effect would be stronger among those who expect to justify their choices to others. Specifically, the predicted difference between conditions was found in the pilot study but not in Study 1, where the justification manipulation was weak in some of the classes. The limited support might also be related to the finding that a compromise choice has some negative connotations (e.g., is wishy washy). Further, while choosing a compromise is seen as safer, it is not perceived as easier to justify. This suggests that the effect of concerns about the evaluations of others may be more complex than originally thought. Accountable decision makers (Tetlock 1985) appear to base their choices not only on aspects that they are planning to use as justifications for their decisions. Evalu-

ations of choices are often made without knowledge of or attention to the reasons that guided the decisions. Thus, decision makers might try to anticipate what aspects will influence others' judgments and the likelihood of criticism. For example, a middle alternative might be chosen because it is less likely to be evaluated negatively and not because it is easier to justify.

The finding that the attraction and compromise effects tend to be stronger in the high need for justification condition relates to the debate in the literature regarding the effect of accountability on decision processes. Adelberg and Batson (1978) illustrated a case in which concerns about others' reactions led to suboptimal decisions. Conversely, Tetlock (1985) has argued that accountability to an audience with unknown views encourages "preemptive self-criticism," leading to more integratively complex and thorough decision making. He found, for example, that accountable subjects were less likely to fall prey to primacy effects, to the fundamental attribution error, and to overconfidence in judgment. The findings of the present research suggest that even when the views of the audience are unknown, accountable decision makers are likely to use available information to anticipate how particular decisions will be evaluated. As a result, the more complex decision processes of accountable decision makers do not necessarily lead to better decisions.

Alternative Explanations. The findings of this research, particularly the differences between the high and low conditions, do not appear consistent with any of the explanations for the attraction effect discussed by Huber et al. (1982) or Ratneshwar et al. (1987). Another possible explanation for both the attraction and compromise effects is that the dominance and compromise relationships in the choice set are perceptually salient (Taylor and Fiske 1978), leading to increased likelihood of selecting the dominating/compromise alternative. One might further hypothesize that those who expect to justify their choices are more aroused and thus more susceptible to the salience effect. However, there is evidence indicating that the salience effect is greatly diminished when decision makers are highly involved with a task and are concerned about others' evaluations of their actions (e.g., Borgida and Howard-Pitney 1983). More generally, previous research regarding the effects of accountability on decision processes has shown that accountable decision makers tend to be more thorough and vigilant information processors. Thus, those who expect to justify their choices are expected to be less influenced by superficial aspects such as the salience of a dominance relationship. However, it is possible that accountable decision makers select a dominating alternative because they expect the less involved evaluators of their decisions to be influenced by the most salient aspects.

Alternatively, the findings can be interpreted using a cost/benefit framework (e.g., Beach and Mitchell 1978; Payne et al. 1988). This approach assumes that decision strategies are the result of a cost/benefit analysis or effort-accuracy trade-offs. The idea is that strategy selection can be viewed as a function of both costs, primarily the cognitive effort to use a rule, and benefits, primarily the ability of a strategy to select the best alternative. Decision makers often reduce effort by using shortcuts and simplified choice rules. This may come at the expense of decision accuracy.

In the context of the attraction and compromise effects, the effort-accuracy framework might suggest that the dominance and compromise relationships are used as indicators that the dominating and compromise alternatives are likely to be acceptable. This saves the need for a thorough processing of all brand-attribute information. This explanation, however, appears inconsistent with the finding that subjects for whom the decision was more important were more likely to select the dominating and compromise alternatives. Prior research indicates that highly involved decision makers and those who expect to explain their opinions to others are less likely to use shortcuts (Chaiken 1980; Petty, Cacioppo, and Goldman 1981). Furthermore, the think-aloud protocols in this research specifically indicate that selections of dominating and compromise alternatives tend to be associated with more elaborate decision processes. Finally, with the simple choice problems used in this research, compensatory processing is rather trivial to perform. However, compensatory processing of all available information does not guarantee a clear preference (March 1978). In fact, the think-aloud protocols in this research suggest that, compared to lexicographic strategies, compensatory processing is often associated with weaker preferences that are more susceptible to context effects. Thus, dominance and compromise relationships do not appear to be used as substitutes for thorough information processing; rather, they are used as a tie-breaking reason after a trade-off analysis fails to lead to a clear preference.

Limitations and Future Research

This research has two limitations that suggest directions for future research. First, the present research focused on only two specific effects. Much more research is needed to assess the advantages, limitations, and implications of focusing on reasons or justifications supporting each alternative in predicting choice behavior. Additional research is also needed to examine the factors influencing the types of reasons that tend to appear most compelling in particular situations.

A second limitation of this research relates to the task and choice problems used. In this study, choice

sets were limited to two or three alternatives, each defined on two dimensions. Also, verbal and numerical values were used for describing alternatives. It is expected that increasing the complexity and realism of the decision task would make the relationships in a set less transparent and would increase the error in the choices. While these restrictions helped in testing the hypotheses and interpreting the results, future research should test whether the attraction and compromise effects and their explanation still hold in more natural consumer environments.

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IS0000091

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

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ITAMAR SIMONSON and AMOS TVERSKY*

Consumer choice is often influenced by the context, defined by the set of alternatives under consideration. Two hypotheses about the effect of context on choice are proposed. The first hypothesis, tradeoff contrast, states that the tendency to prefer an alternative is enhanced or hindered depending on whether the tradeoffs within the set under consideration are favorable or unfavorable to that option. The second hypothesis, extremeness aversion, states that the attractiveness of an option is enhanced if it is an intermediate option in the choice set and is diminished if it is an extreme option. These hypotheses can explain previous findings (e.g., attraction and compromise effects) and predict some new effects, demonstrated in a series of studies with consumer products as choice alternatives. Theoretical and practical implications of the findings are discussed.

Choice in Context: Tradeoff Contrast and Extremeness Aversion

The development of effective marketing strategies requires an understanding of the manner in which consumers choose among alternatives. It is commonly assumed that each alternative has a utility or subjective value, and the consumer selects the alternative with the highest value. This assumption, called value maximization (VM), underlies the classical economic theory of the consumer, and it has been widely used in marketing for both theoretical and practical purposes. A major implication of VM is that the preference between alternatives is independent of the context, as defined by the set of alternatives under consideration.[1] Thus, if the consumer prefers brand x to brand y in one context (e.g., when only x and y are available), then y cannot be preferred to x in another context (e.g., when a third brand, z, is added to the choice set).

Recent evidence, however, indicates that consumer preferences are influenced by the context of choice, contrary to VM (e.g., Payne, Bettman, and Johnson 1992). For example, under certain conditions, the market share of a given brand increases rather than decreases when a new brand is introduced. Such findings could have significant implications for marketers' product line, positioning, communications, and competitive strategies. To incorporate context effects in the analysis of consumer choice, we need to understand how preferences are influenced by the set of alternatives under consideration. This is the main goal of the present research.

We propose two principles, tradeoff contrast and extremeness aversion, that describe the effect of context on choice. These principles can account for previous findings, such as the attraction (or asymmetric dominance) effect discovered by Huber, Payne, and Puto (1982) and the compromise effect observed by Simonson (1989). In addition, they lead to new predictions that are tested in the following experiments. We first introduce the two hypotheses and then report the empirical evidence.

Tradeoff contrast. Contrast effects are ubiquitous in perception and judgment. The same circle appears large when surrounded by small circles and small when surrounded by large ones. Similarly, the same product may appear attractive on the background of less attractive alternatives and unattractive on the background of more attractive alternatives. We propose that the effect of contrast applies not only to single attributes, such as size or

[1]The term "context" is sometimes used in the literature in a broader sense that includes, in addition to the choice set, other characteristics of the choice environment (see, e.g., Bettman, Johnson, and Payne 1991).

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attractiveness, but also to the tradeoffs between attributes.

Consider the choice between options that vary on two attributes. If neither option dominates the other, the comparison between them involves an evaluation of differences along the two attributes. Suppose x is of higher quality and y has a better price. The decision between x and y, then, depends on whether the quality difference outweighs the price difference, or equivalently on the tradeoff between price and quality implied by these options. According to the tradeoff contrast hypothesis, the choice between x and y is influenced by other implied tradeoffs in the set of options under consideration. In particular, the tendency to prefer x over y will be enhanced if the decision maker encounters other comparisons in which the exchange rate between price and quality is higher than that implied by x and y. Consider, for example, a consumer who is evaluating two personal computers; one has 960K memory and costs \$1200 (x) and the other has 640K memory and costs \$1000 (y). The choice between x and y then depends on whether the consumer is willing to pay \$200 more for an additional 320K of memory. The tradeoff contrast hypothesis predicts that the consumer is more likely to select x if the choice set includes pairs of options for which the cost of additional memory is greater than that implied by the comparison between x and y.

Extremeness aversion. One of the major findings that has emerged from the analysis of both risky and riskless choice is the presence of loss aversion: outcomes that are below the reference point (losses) are weighted more heavily than outcomes that are above the reference point (gains). Loss aversion explains a variety of phenomena, such as the status quo bias, the buying-selling discrepancy, and the endowment effect (Kahneman, Knetsch, and Thaler 1991; Tversky and Kahneman 1991). To explain the effect of context, we extend the notion of loss aversion to advantages and disadvantages that are defined in relation to the other available alternatives, rather than in relation to a neutral reference point. A consumer who considers three VCRs that differ in quality and price, for example, is likely to evaluate the advantages and disadvantages of these products in relation to each other. Suppose x has the highest quality and price, z has the lowest quality and price, and y is intermediate on both attributes. The assumption that disadvantages loom larger than the respective advantages tends to favor the intermediate option y, because it has only small disadvantages in relation to the other options. This is the extremeness aversion hypothesis.

Method. The effects of context on choice were examined in a series of 22 experiments. The number of participants in each experiment ranged from 100 to 220, with about equal numbers of men and women. The subjects were undergraduate and graduate students of business administration (about two-thirds) and psychology at three West Coast universities. Several problems were replicated with business executives. The respondents in all studies received a questionnaire titled "Survey of Consumer Preferences," which was administered in a classroom setting. Questionnaires included different numbers of choice problems (between three and 14) and required between five and 25 minutes to complete. Subjects were told that there were no right or wrong answers and that they should consider only their personal preferences. All tests are based on a between-subjects comparison.

We went to great pains to use realistic materials and to give subjects information similar to what is typically available to consumers who are making actual purchases. For example, in choice among paper towels, the stimuli consisted of samples of paper towels that the subjects could inspect to assess their quality. In other cases, subjects received color pictures of consumer products taken from the Best General Merchandise Catalog, as well as the written descriptions of the products from that catalog (see Figure 1). In several studies, subjects were informed that some of them, drawn at random, would receive the item they selected from certain choice sets.

In the following two sections we investigate two families of context effects implied by tradeoff contrast and extremeness aversion, respectively, and review the empirical evidence. (Additional data are included in Appendices A and B). Theoretical and practical implications are discussed in the final section.

TRADEOFF CONTRAST

In deciding whether or not to select a particular option, people commonly compare it with other alternatives that are currently available as well as with relevant alternatives that have been encountered in the past. Accordingly, we distinguish between two types of context effects—local effects due to the impact of the offered set of alternatives and background effects due to the influence of past options. In this section, we discuss in turn tradeoff contrasts that are induced by the background and by the local context.

Background Contrast

Figure 2 illustrates the experimental design used in the study of background contrast.[2] Respondents first made three choices between options in the background set, followed by two choices between options in the target set. The independent variable was the rate of exchange between the attributes in the background set. Half of the subjects chose between options on the upper line where the exchange rate between attributes 1 and 2 was high and the other half chose between options on the lower line where the exchange rate was low (see Figure 2). All subjects received the same target options on the middle (dotted) line.

[2]Unless specified otherwise, the alternatives used in the studies varied on two dimensions labeled so that higher values are preferable to lower values.

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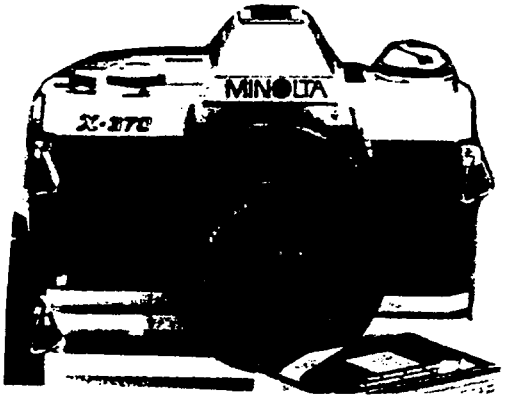
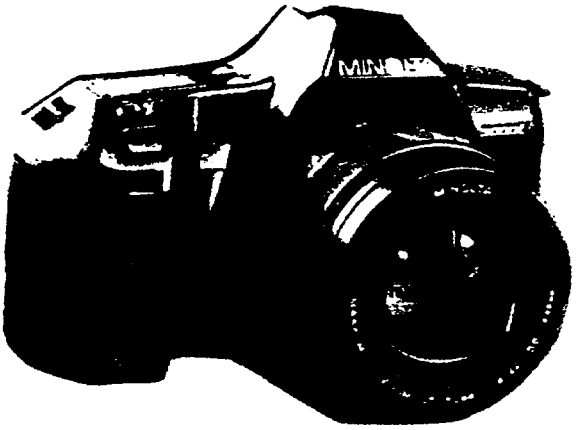
Figure 1
EXAMPLE OF CHOICE STIMULI: 35MM CAMERAS



ALT. A (MINOLTA X-370)

PRICE: $169.99

Minolta X-370 35mm SLR Camera Body. Compact quartz controlled aperture priority plus fully automatic/manual metering. LED viewfinder 1/1000 to 4 sec. shutter speed. Minolta 2-yr. ltd warranty Self-timer. Safe film-load signal. 3 lbs.
▲172405 ..... Your Price $169.99

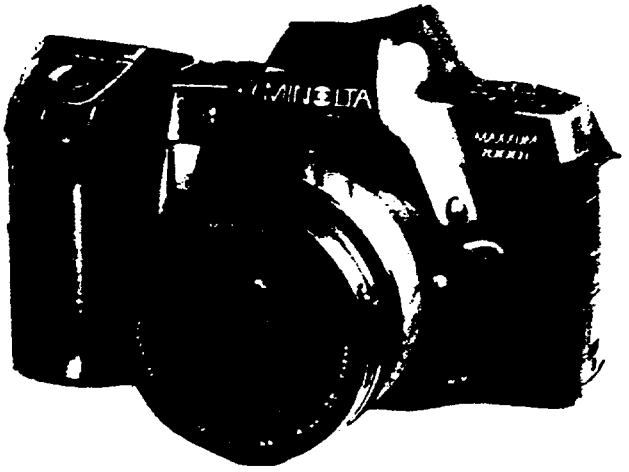


ALT. B (MINOLTA - MAXXUM 3000i)

PRICE: $239.99

Minolta Maxxum 3000i 35mm SLR Camera Body. Predictive auto-focus camera. High-speed program mode. Integrated dual area metering. Advanced auto multi program selector. Minolta 2-yr. ltd. warranty. 1 lb.
▲282073 ..... Your Price $239.99

- World's fastest auto-focus SLR!
- Spot metering capability
- Continuous program adjustment
- Built-in AF illuminator
- Shutter speed 1/4000 to 30 sec.
- Minolta USA 2-yr.ltd. warranty.

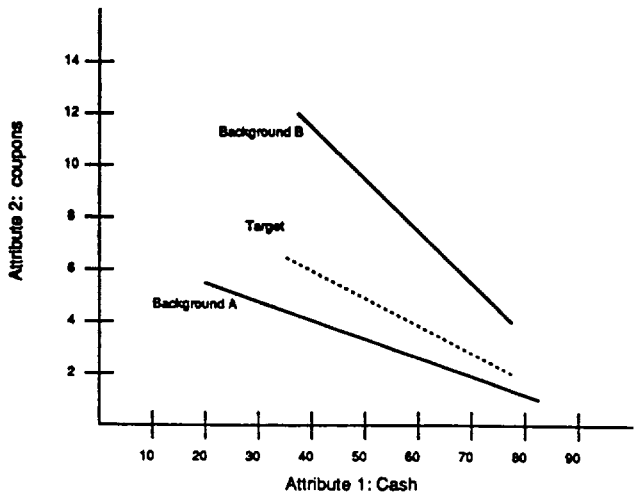


ALT. C (MINOLTA - MAXXUM 7000i)

PRICE: $469.99

Minolta Maxxum 7000i 35mm SLR Camera Body. Predictive auto focus adjusts for moving subjects up to the instant of exposure. Auto film handling and advance up to 3 frames per second with auto-focus control. 1 lb.
▲282014 ..... Your Price $469.99

Figure 2
BACKGROUND CONTRAST: CHOICE BETWEEN GIFTS



This design was employed in two domains, personal computers and gifts. The personal computers varied in memory and cost. The background exchange rate was $4 per 1K memory in one version and $0.5 per 1K memory in the other version. The exchange rate in the target sets was $2 per 1K memory. We predicted that subjects exposed to the background in which the cost of memory is high would be more likely to select from the target sets the computer with the bigger memory than those exposed to the background in which the cost of memory is low. Respondents also chose between gifts consisting of a combination of cash and coupons. Each coupon could be redeemed for a regular book or a compact disk at local stores. Subjects were informed that one of them, selected randomly, would actually receive the gift that he or she had selected. The exchange rate was $15 per coupon in one version and $5 per coupon in the other. The exchange rate in the target sets was $10 per coupon. We predicted that subjects exposed to the former background would be more likely to select from the target sets the gift with more coupons than those exposed to the latter background. The choice sets and the data for personal computers and gifts are presented in Table 1.

It is evident that the background influenced subsequent choices in the predicted direction. Of subjects who were exposed to background comparisons with a high cost of memory, 52% (averaged across the two target choices) chose the PCs with more memory from the target sets in contrast to 18% of those who encountered background comparisons in which memory was less expensive ($t = 3.8$, $p < .01$). Similar results were observed for gifts. Of subjects who were first exposed to the $5 per coupon background, 73% subsequently chose the gifts with a larger cash component in contrast to 47% in the $15 per coupon condition ($t = 2.8$, $p < .01$).

Note that for personal computers the effect of the background could be justified on normative grounds. A consumer who observed a background tradeoff of $4 per 1K of memory can reasonably conclude that $2 per 1K represents a good deal. Conversely, a consumer who encountered a tradeoff of $0.5 per 1K may reach the opposite conclusion. However, the background effect for gifts is more difficult to justify. Suppose a person is just willing to trade $10 in cash for a book coupon. Why should that person change his or her mind after observing gifts in which the corresponding tradeoff is $5 or $15? People's choices appear to be influenced by the background, whether or not it provides pertinent information about the quality of the options.

In the preceding experiment the background consisted of three pairs of options. Does the effect occur when the background is reduced to a single comparison? To answer this question, we used a similar design (see Figure 3). Half the subjects chose first between a and b, whereas the other half chose between a' and b'. After the background choice, all subjects chose between x and y. The background contrast hypothesis implies that y should be more popular among subjects who first chose between a and b than among those who first chose between a' and b'.

This hypothesis was tested in two product categories, personal computers that varied in memory and price, and tires that varied in duration of warranty and price. The results, reported in Table 2, confirmed our prediction ($t = 4.7$ and $t = 3.7$ for PCs and tires, respectively, $p < .01$ in both cases). The size of the effect was comparable to that observed in the previous experiment in which the background consisted of three comparisons instead of one. We replicated this result in other product categories (e.g., paper towels, dental insurance), using several variations of the experimental design, including a configuration in which both background pairs were on the same side of the target pair (see Appendix A).

A different interpretation of the data in Tables 1 and 2 is based on the variation in the range of the attributes. Recall that in the preceding tests, one background presents a wider range of values on one attribute and a smaller range on the other. If extending the range of values on a given dimension reduces the advantage (disadvantage) of an alternative on that attribute, the preceding results can be explained by variations in the range of the attributes without invoking the notion of tradeoffs.[3] Huber and Puto (1983) tested this hypothesis using two-dimensional alternatives and found that, whereas variations in the rate of exchange influenced choice in a manner consistent with the tradeoff contrast hypothesis, extension of the range had no significant impact (see also Wedell 1991). It appears that the large background effect reported above cannot be explained by attribute range.

[3]For a discussion of range effects, see, for example, Lynch, Chakravarti, and Mitra (1991), Mellers and Birnbaum (1982), and Parducci (1965).

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Table 1
BACKGROUND CONTRAST: MULTIPLE COMPARISONS

Category: personal computer			
Version A (slope: $4/K) (n = 49)		*Version B (slope: $.5/K) (n = 51)*	
Choice set	*Share (%)*	*Choice set*	*Share (%)*
Background pairs			
640K/$1560 or 740K/$1960		640K/$1320 or 740K/$1370	
1000K/$3000 or 1024K/$3096		1000K/$1500 or 1024/$1512	
512K/$1048 or 640K/$1560		512K/$1256 or 640K/$1320	
Target pairs (slope: $2/K)			
640K/$1380 or	47	640K/$1380 or	92
840K/$1780	53	840K/$1780	8
960K/$2020 or	49	960K/$2020 or	73
1024K/$2148	51	1024K/$2148	27

Category: gifts (cash and coupons for free books/CDs)			
Version A (slope: $15/coupon) (n = 51)		*Version B (slope: $5/coupon) (n = 49)*	
Choice set	*Share (%)*	*Choice set*	*Share (%)*
Background pairs			
$52 and 3 coupons or $22 and 5 coupons		$77 and 4 coupons or $67 and 6 coupons	
$82 and 1 coupons or $67 and 2 coupons		$42 and 11 coupons or $37 and 12 coupons	
$37 and 4 coupons or $22 and 5 coupons		$62 and 7 coupons or $57 and 8 coupons	
Target pairs (slope: $10/coupon)			
$47 and 5 coupons or	47	$47 and 5 coupons or	77
$37 and 6 coupons	53	$37 and 6 coupons	23
$77 and 2 coupons or	47	$77 and 2 coupons or	69
$67 and 3 coupons	53	$67 and 3 coupons	31

Local Contrast

Recall that background contrast refers to past experience, whereas local contrast refers to tradeoff comparisons within the offered set. Suppose y is clearly superior to z but x is not (see Figure 4). The tradeoff contrast hypothesis predicts that the addition of z to the set $\{x,y\}$ will increase the attractiveness of y relative to x.

Let $P(x;y)$ be the proportion of consumers who chose x from the offered set $\{x,y\}$ and $P(x;y,z)$ be the proportion of consumers who chose x from the set $\{x,y,z\}$. Next, let

$$P_z(x;y) = P(x;y,z)/[P(x;y,z) + P(y;x,z)].$$

Thus, $P_z(x;y)$ measures the popularity of x relative to y, inferred from the choice set $\{x,y,z\}$. If y is clearly superior to z but x is not (Figure 4), the tradeoff contrast hypothesis implies $P_z(y;x) > P(y;x)$. If the effect is very strong, the addition of z can actually increase y's market share, yielding $P(y;x,z) > P(y;x)$. This pattern of preference, called asymmetric dominance effect, violates the assumption that the popularity of an option cannot be increased by enlarging the offered set. The significance of this assumption, called "regularity," stems from the fact that if each individual satisfies value maximization, regularity holds in the aggregate data.[4] Failures of regularity therefore represent violations of value maximization. Regularity is also implied by most probabilistic choice models (see, e.g., Luce 1977; McFadden 1973; Tversky 1972).

[4]Note that VM does not imply $P(x;y) = P_z(x;y)$. Because of taste differences, the addition of z can change the (aggregate) share of x relative to y, even if each individual satisfies VM (Tversky and Simonson in press).

Figure 3
BACKGROUND CONTRAST

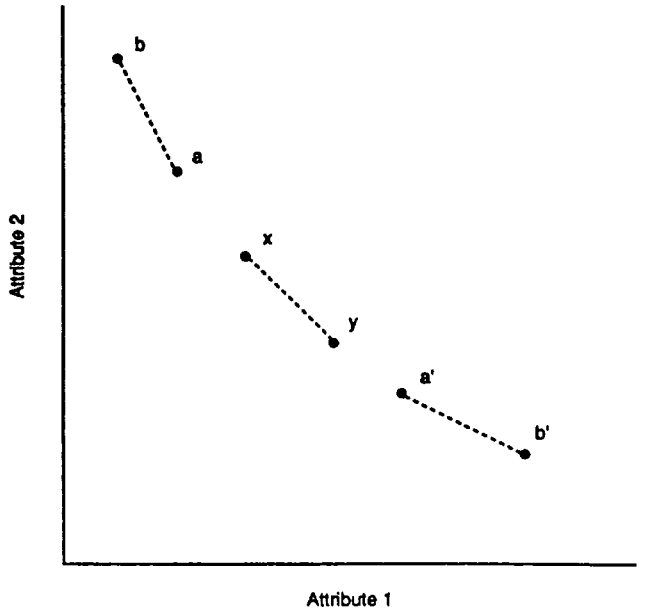

Figure 4
ASYMMETRIC ADVANTAGE

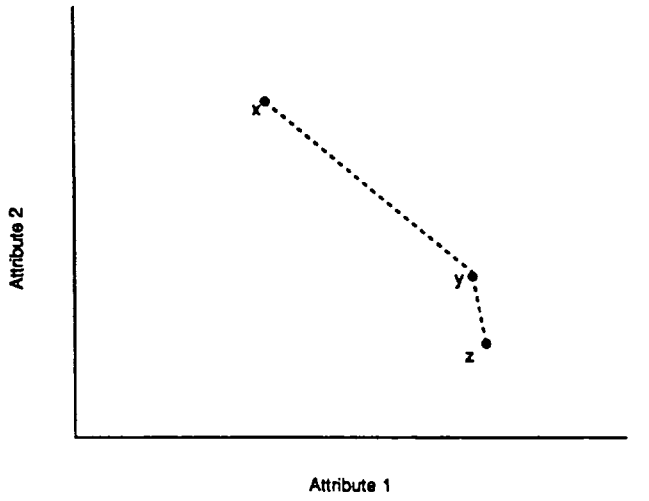

Table 2
BACKGROUND CONTRAST: SINGLE COMPARISON

Category: personal computer			
		Share (%)	
Memory	*Price ($)*	*Version A (n = 109)*	*Version B (n = 111)*
Background pairs			
a 600K	650	91	
b 620K	950	9	
a' 740K	1250		6
b' 1200K	1350		94
Target pair			
y 640K	1000	38	68
x 720K	1200	62	32

Category: tires			
		Share (%)	
Warranty	*Price ($)*	*Version A (n = 111)*	*Version B (n = 109)*
Background pairs			
a 55,000 miles	85	12	
b 75,000 miles	91	88	
a' 30,000 miles	25		84
b' 35,000 miles	49		16
Target pair			
x 40,000 miles	60	57	33
y 50,000 miles	75	43	67

Asymmetric dominance was first demonstrated by Huber, Payne, and Puto (1982; see also Huber and Puto 1983; Ratneshwar, Shocker, and Stewart 1987; Simonson 1989) and several explanations of this phenomenon have been proposed. We have already discussed an account based on range effects that has been rejected by the data of Huber and Puto. Another possible explanation is that the region with more alternatives (see Figure 4) is perceived as more desirable, leading to the selection of the best alternative in that region. However, this explanation is inconsistent with the results of the background contrast studies in which respondents were most likely to select from the target set the alternative that was the most distant from the background set they considered (see Figure 3). Finally, Ratneshwar, Shocker, and Stewart argued that the asymmetric dominance effect results from the respondents' inability to evaluate the alternatives meaningfully, and that it will be substantially reduced with more meaningful alternatives. Indeed, previous demonstrations of asymmetric dominance employed fairly schematic alternatives, such as hypothetical beers varying in price and taste rating. In the present studies, we replicate the asymmetric dominance effect using richer and more meaningful alternatives and explore two related phenomena, called enhancement and detraction.

Asymmetric Dominance

Differential discounts. Subjects were first given pictures and descriptions of five microwave ovens taken from the Best catalog. They were asked to examine the products carefully to familiarize themselves with the options available on the market. Subjects were then asked to choose among some of these products. Half of the subjects chose between *x* and *y*, whereas the other half chose among *x*, *y*, and *z* (see tabulation below). Though *y* does

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not dominate z, it seems more attractive because it is favored by the sale (35% off vs. 10% off).

Category: microwave oven	Share (%) Set 1 (n = 60)	Set 2 (n = 60)
x Emerson (.5 cu. ft.; regular $109.99; sale price 35% off)	57	27
y Panasonic I (.8 cu. ft.; regular $179.99; sale price 35% off)	43	60
z Panasonic II (1.1 cu. ft.; regular $199.99; sale price 10% off)	—	13

As predicted, the addition of the less attractive Panasonic II increased the market share of the more attractive Panasonic I (t = 1.9, one-tail, $p < .05$) at the expense of the Emerson. It is noteworthy that asymmetric dominance was observed even though the respondents reviewed all relevant options prior to the choice. That is, those who chose between x and y were also aware of z. This effect therefore cannot be explained by the information conveyed by the offered set.

Choice across categories. It could be argued that context effects in general and asymmetric dominance in particular are confined to situations in which consumers are not familiar with the products and have no direct way to evaluate their quality. To address this question, we tested the asymmetric dominance effect using paper towels and facial tissues. These product categories were selected because they are highly familiar and because subjects can readily assess the quality of the various brands by inspecting the samples. A pilot study showed a high agreement among subjects in the rankings of the quality of paper towels, which were highly correlated with those published by *Consumer Reports*. The inclusion of both paper towels and facial tissues in the same choice set also enabled us to test asymmetric dominance in choices across categories, which are commonly made by consumers (Johnson 1984).

Subjects were asked to select either a roll of paper towels or a box of facial tissues. In one version of the questionnaire, they were presented two brands of paper towels and one brand of facial tissues, whereas in the other version they were presented two brands of facial tissues and one brand of paper towels. In the category with two options, the quality of one of the samples was clearly superior to that of the other. The superior towel and the superior tissue were included in both versions of the questionnaire. The following tabulation summarizes the results.

Category: paper towels/facial tissues	Share (%) Version A (n = 115)	Version B (n = 106)
x High quality paper towel	63	52
w Low quality paper towel	10	—
y High quality facial tissue	28	42
z Low quality facial tissue	—	7

Evidently, the asymmetric dominance effect holds even for products that are highly familiar and whose quality can be readily assessed. As predicted, the market shares of both the high quality paper towel and high quality facial tissue were significantly greater (t = 1.7 and t = 2.2, respectively, both $p < .05$) when they were superior to another option in the same category. This example shows that dominance or near-dominance within a category increases the tendency to choose that category. Another example of this phenomenon, involving dinners and photo portraits, is described by Tversky and Kahneman (1991).

Cash versus goods. In this study subjects were informed that some of them, selected randomly, would receive $6. They were further told that the winners would have the option of trading the $6 for a pen. Subjects were asked to examine the available pens and indicate whether they would like to trade the $6 for a pen. Later, 10% of the participants received either $6 or the pen they had chosen.

In one version of the questionnaire, subjects were presented an elegant Cross pen. In the other version, subjects were given an additional option—a lesser known brand name that was selected specifically for its unattractiveness. The following tabulation summarizes the results.

Category: cash/pen	Share (%) Version A (n = 106)	Version B (n = 115)
x $6	64	52
y Cross pen	36	46
z Other pen	—	2

Though very few subjects selected the less attractive pen, its inclusion in the offered set increased the percentage of respondents who preferred the more attractive Cross pen from 36% to 46% (t = 1.5, $p < .10$). This observation suggests that the tendency to pay cash for a good can be increased by the introduction of an inferior alternative.

Risky choice. In an unpublished study conducted by Payne, Bettman, and Simonson, subjects chose among three-outcome bets with non-negative outcomes. Each choice set consisted of a basic pair (x,y) and a third bet (x') that was dominated by x but not by y. Subjects were presented both $\{x,y,x'\}$ and $\{x,y,y'\}$, where y' was dominated by y but not by x. They were informed that they would actually play one of the bets and receive the appropriate payoffs. The results showed that bets were, on average, 17% more popular when they dominated another bet than when they did not ($p < .01$). This finding again illustrates tradeoff contrast in a situation where the offered set provides no additional information about the worth of the options.

We also tested the asymmetric dominance effect when the added alternative was not available for choice (e.g., out of stock). The inclusion of an unavailable alternative that dominates one option but not the other did not produce a consistent pattern of results. In some cases it de-

creased the market share of the "dominated" alternative (in accord with asymmetric dominance), in some cases it increased the share of the "dominated" alternative (see Farquhar and Pratkanis 1987), and in other cases it had no effect.[5] The effect of an unavailable alternative appears to depend on the product category, the position of the unavailable alternative in the set, and the perceived cause of unavailability, which may indicate either low or high popularity. The effect of unavailable alternatives calls for further research.

Enhancement and Detraction.

The typical demonstration of asymmetric dominance employs three options x, y, z, such that z is dominated (or nearly dominated) by y but not by x. The tradeoff contrast hypothesis, however, implies that the offered set will affect choice even when no option has a decisive advantage over another. Asymmetric dominance therefore can be viewed as an extreme form of tradeoff contrast. In this section, we investigate a milder form of tradeoff contrast, which is probably more common in everyday life.

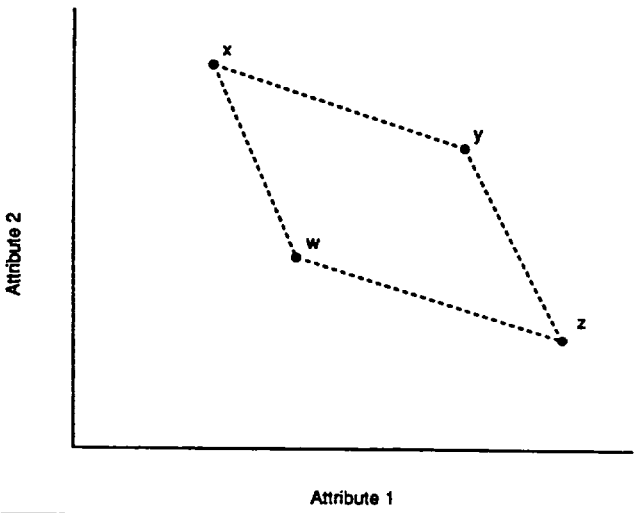
Consider the options displayed in Figure 5. Suppose the consumer does not have a strong preference between x and z and that y and w, respectively, are slightly more and less attractive than x and z. Because the contrast of the x–z tradeoff with the y–z and the y–x tradeoffs favors y, it is expected to fare better in the triple than in the pairs; that is, $P_x(y;z) > P(y;z)$ and $P_z(y;x) > P(y;x)$. This pattern is called "enhancement." Similarly, because the contrast of the x–z tradeoff with the w–z and w–x tradeoffs is unfavorable to w, it is expected to fare worse in the triple than in the pairs; that is, $P_x(w;z) < P(w;z)$ and $P_z(w;x) < P(w;x)$. This pattern is called "detraction." Note that in the binary choice there is only one tradeoff, and hence no room for tradeoff contrast. Once a third option is introduced, a decision maker can compare the three tradeoffs, which enhances the attractiveness of y and detracts from the attractiveness of w. We report two tests of enhancement and detraction, using unleaded gasoline and personal computers.

Subjects were told that oil companies were soon expected to introduce a greater variety of unleaded gasoline (between 85 and 95 octane), and that independent research had shown that higher octane gasoline improves the performance of most cars. They were then asked to choose among different types of unleaded gasoline that varied in octane and price. In a second task, subjects chose among personal computers that varied in memory and price. The choice sets, presented to different groups of subjects, and the data are reported in Tables 3 and 4, which also include the normalized shares, for example, $P_x(y;z) = P(y;x,z)/[P(y;x,z) + P(z;y,x)]$.

As implied by enhancement, y had a higher relative share in the triples than in the pairs in all four cases. Let

[5]The data can be obtained from the first author.

Figure 5
ENHANCEMENT AND DETRACTION



$D_x(y) = P_x(y;z) - P(y;z)$ and $D_z(y) = P_z(y;x) - P(y;x)$. Thus, $D_x(y)$ measures the degree to which the addition of x to the set $\{y,z\}$ changes the relative popularity of y and z. In particular, $D_x(y) > 0$ if the addition of x hurts z more than y, and $D_x(y) < 0$ if x hurts y more than z. In accord with enhancement, the average value of $D_x(y)$ and $D_z(y)$ for personal computer and unleaded gas was .15, which was statistically significant separately in two

Table 3
ENHANCEMENT AND DETRACTION: UNLEADED GASOLINE

Enhancement

	Option		Share (%)		
	Octane	Price /gallon ($)	Set 1 (n = 56)	Set 2 (n = 61)	Set 3 (n = 50)
x	87	1.01	27	39	—
y	90	1.08	64	61	68
z	93	1.21	9	—	32
$P_z(y;x)$:				71	
$P_x(y;z)$:					88

Detraction

	Option		Share (%)		
	Octane	Price /gallon ($)	Set 4 (n = 52)	Set 5 (n = 57)	Set 6 (n = 52)
x	87	1.01	48	58	—
w	90	1.14	23	42	67
z	93	1.21	29	—	33
$P_z(w;x)$				32	
$P_x(w;z)$					44

Table 4
ENHANCEMENT AND DETRACTION: PERSONAL COMPUTERS

	Option		Share (%)		
	Memory	Price ($)	Set 1 (n = 55)	Set 2 (n = 53)	Set 3 (n = 54)
Enhancement					
x	640K	1000	22	36	—
y	760K	1175	58	64	54
z	840K	1400	20	—	46
$P_z(y;x)$				72	
$P_x(y;z)$					74
Detraction					
x	640K	1000	48	59	—
w	720K	1225	17	41	43
z	840K	1400	35	—	57
$P_z(w;x)$				26	
$P_x(w;z)$					33

of the four comparisons ($p < .05$). Similarly, as implied by detraction, w had a lower relative share in the triples than in the pairs in all four cases. The average value of $D_x(w)$ and $D_z(w)$ was $-.15$, which was statistically significant in one comparison ($p < .05$) and marginally significant in another comparison ($p < .10$).

These data support the predicted patterns of enhancement and detraction. They differ from the tests of asymmetric dominance in that the tradeoffs were not extreme and the results were accordingly less dramatic. Though the predicted changes in relative popularity were confirmed, no significant violations of regularity were observed. Note that detraction (but not enhancement) is consistent with the similarity hypothesis that the addition of an extreme option hurts the similar (middle) alternative more than the less similar (extreme) alternative (see Tversky and Simonson 1992). However, enhancement (but not detraction) can be explained by extremeness aversion, discussed in the next section. Tradeoff contrast accounts for both enhancement and detraction, but the similarity hypothesis and extremeness aversion may also contribute to the observed effects.

EXTREMENESS AVERSION

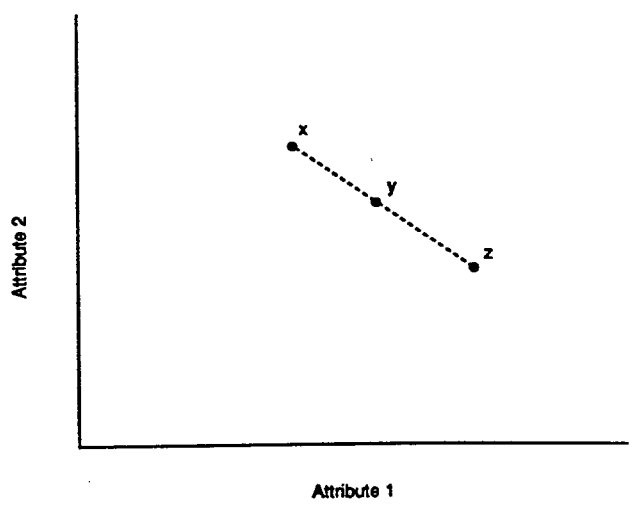
Studies of both risky and riskless choice provided evidence for the principle of loss aversion, according to which losses generally loom larger than the corresponding gains (Tversky and Kahneman 1991). Losses and gains are usually defined in relation to a neutral reference point that corresponds to the status quo. In many choice problems, however, alternatives are evaluated in terms of their advantages and disadvantages defined in relation to other options. To explain the effect of context on choice, we extend the notion of loss aversion and propose that disadvantages are weighted more heavily than the corresponding advantages.

Consider a set of three options that vary on two attributes, such that y is between x and z, denoted $x|y|z$; for example, $x_1 < y_1 < z_1$ and $x_2 > y_2 > z_2$ (see Figure 6). Here, each extreme option (x and z) has a large advantage and a large disadvantage relative to the other extreme, and it has a small advantage and a small disadvantage relative to the middle option (y). The middle option, in contrast, has small advantages and small disadvantages in relation to both extremes. If (pairwise) disadvantages loom larger than the corresponding advantages, the middle option y should fare better in the triple than in the pairs. That is, $P_x(y;z) > P(y;z)$ and $P_z(y;x) > P(y;x)$.

We distinguish two forms of extremeness aversion—compromise and polarization. Compromise occurs when both inequalities hold. That is, the addition of x to $\{y,z\}$ increases the share of y relative to z and the addition of z to $\{x,y\}$ increases the share of y relative to x. Compromise is expected if disadvantages loom larger than advantages on both attributes. Polarization occurs when only one of the inequalities holds. It is expected if disadvantages loom larger than advantages on one dimension but not on the other. We use the term "extremeness aversion" to refer to either compromise or polarization—that is, at least one of the above inequalities holds.

Compromise and polarization are generally inconsistent with value maximization, even though they need not violate regularity. We have shown (Tversky and Simonson 1992) that under very plausible conditions, which were confirmed by data, value maximization implies the

Figure 6
EXTREMENESS AVERSION



following betweenness inequality: if y is between x and z on all relevant attributes, then $P(y;z) > P_x(y;z)$ and $P(y;x) > P_z(y;x)$. That is, the middle option y (in Figure 6) is expected to lose relatively more than the extreme option x from the introduction of the other extreme z. This implication of value maximization is at variance with extremeness aversion, which implies that y will lose relatively less than x from the introduction of z. The opposing predictions were tested in the next series of studies.

Compromise

In the following tests of the compromise effect, either z or w is added to the pair x, y, such that either x or y becomes the middle alternative (i.e., $w|x|y$ and $x|y|z$; see Figure 6).

Cameras. This test involved 35mm Minolta cameras (see Figure 1). In one version there were two cameras, whereas in the other version a third camera was added. The prices and the descriptions of the cameras (including pictures) were taken from the Best catalog. The results follow.

Category: 35mm camera		*Share (%)*	
Brand	*Price ($)*	*Set 1 (n = 106)*	*Set 2 (n = 115)*
x Minolta X-370	169.99	50	22
y Minolta Maxxum 3000i	239.99	50	57
z Minolta Maxxum 7000i	469.99	—	21

The results show that x and y were equally popular in set 1, but the addition of the top-of-the-line Maxxum 7000i in set 2 increased the popularity of y relative to x from 50% to 72%, $D_z(y) = P_z(y;x) - P(y;x) = .57/(.57 + .22) - .50 = .22$, SE = .068, $t = 3.2$, $p < .01$. We replicated this result in a subsequent study in which the subjects reviewed a set of five cameras, including the preceding three cameras, before making a choice from set 1 or from set 2. The observed violation of the betweenness inequality and hence of value maximization therefore cannot be explained by different states of information about the alternatives available on the market.

Unavailable options. We also tested the compromise effect when the added (extreme) alternative was not available for choice. Table 5 summarizes the data for calculator batteries (from Simonson 1989). The results demonstrate a compromise effect even though the effective choice set was identical in all three conditions ($D_x(y) = .09$, $t = 1.5$, $p < .10$, and $D_z(y) = .26$, $t = 4.3$, $p < .01$).

An alternative design used to test the compromise effect involves three sets with the betweenness relations $v|w|x$, $w|x|y$, and $x|y|z$. In this design, w, x, and y serve as a middle alternative in one set and as an extreme alternative in one or two of the other sets. Table 6 reports the results for calculators varying in number of functions and reliability (from Simonson 1989) and portable grills varying in size and weight. As can be seen, each calculator was relatively more popular when it was in the middle than when it was extreme. To test the betweenness inequality in this design, we compare choice sets (e.g., sets 1 and 2) that have two options in common (e.g., w and x). Compromise implies $P_v(w;x) > P_y(w;x)$, etc. The share of w relative to x is .51 in set 1 (.48/(.48 + .47)) and .37 in set 2 (.26/(.26 + .45)) ($t = 2.0$, $p < .05$). The corresponding values for the comparison of x with y are .61 in set 2 and .47 in set 3 ($t = 2.0$, $p < .05$).

The same pattern of results was obtained for portable grills. The share of w relative to x is .58 in set 1 and .38 in set 2 ($t = 2.1$, $p < .05$). The corresponding values for the comparison of x to y are .62 in set 2 and .36 in set 3 ($t = 2.5$, $p < .05$).

Polarization

We have attributed the compromise effect to the notion that disadvantages loom larger than the correspond-

Table 5
A COMPROMISE EFFECT WITH UNAVAILABLE ALTERNATIVES

Category: calculator battery[a]				
Brand		*Share (%)*		
Expected life (hr.)	*Probability of corrosion (%)*	*Set 1 (n = 126)*	*Set 2 (n = 124)*	*Set 3 (n = 119)*
w 10	0	—	UA[b]	—
x 12	2	57	66	40
y 14	4	43	34	60
z 16	6	—	—	UA

[a]From Simonson (1989).
[b]UA indicates that the alternative was presented but was unavailable for choice.

Table 6
COMPROMISE EFFECT

Category: calculator[a]				
Option		*Share (%)*		
No. of functions	*Chances of defect in 2 years (%)*	*Set 1 (n = 124)*	*Set 2 (n = 126)*	*Set 3 (n = 121)*
v 8	1	5	—	—
w 16	3	48	26	—
x 24	5	47	45	36
y 32	7	—	29	40
z 40	9	—	—	24
Category: portable grill				
Option		*Share (%)*		
Cooking area (sq. in.)	*Weight (lb.)*	*Set 1 (n = 77)*	*Set 2 (n = 70)*	*Set 3 (n = 72)*
v 160	4	31	—	—
w 220	7	40	27	—
x 280	10	29	44	26
y 340	13	—	29	47
z 400	16	—	—	26

[a]From Simonson (1989).

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ing advantages. The difference in the evaluation of advantages and disadvantages, however, may depend on the attributes in question; it can be large for one attribute and negligible for another. The combination of two such attributes should yield an asymmetric pattern of extremeness aversion, called "polarization."

We have encountered this pattern in several studies in which the options varied in quality (e.g., magnifying power of binoculars, coverage of dental insurance) and price. In most cases, the low quality, low price option was relatively less popular in sets of three options than in sets of two, but this was not true for the high quality, high price option. These findings suggest extremeness aversion for quality, but little or no extremeness aversion for price. The asymmetry between price and quality was examined in several categories.

AM/FM cassette recorder. The descriptions of the alternatives (taken from the Best catalog) included brand names, features, pictures, and prices. The options and the results are summarized in Table 7.

As in previous tests, we compared the relative shares of options in binary and trinary choices. Given the triple $x|y|z$, with $x_1 < y_1 < z_1$ and $x_2 > y_2 > z_2$, we computed the following measures:

$$D_x(y) = P_x(y;z) - P(y;z)$$
$$D_z(y) = P_z(y;x) - P(y;x)$$
$$D_y(x) = P_y(x;z) - P(x;z)$$

$D_x(y)$ and $D_z(y)$ estimate the impact of adding an extreme option on the relative shares of the adjacent and nonadjacent alternatives, whereas $D_y(x)$ measures the effect of adding a middle option on the relative shares of the two extremes.

The betweenness inequality implies that the addition of x (or z) should reduce the share of the adjacent option y more than that of the nonadjacent option z (or x). Compromise, in contrast, predicts that the addition of either x or z would increase the share of y relative to the other extreme. Finally, polarization makes the same prediction for one dimension but not for the other. This discussion can be summarized in the following statements.

1. If both $D_x(y)$ and $D_z(y)$ are nonpositive, the betweenness inequality holds (i.e., no compromise, no polarization).
2. If both $D_x(y)$ and $D_z(y)$ are positive, we obtain compromise (i.e., betweenness is violated in both directions).
3. If $D_x(y)$ and $D_y(x)$ are positive and $D_z(y)$ is not, we obtain polarization that favors x; similarly, if $D_z(y)$ is positive, $D_y(x)$ is negative, and $D_x(y)$ is nonpositive, we obtain polarization that favors z.

We applied these indices to the AM/FM cassette data (Table 7), where the two dimensions are quality and price. The data yield:

$$D_x(y) = .53 - .40 = .13,\ t = 1.4,\ \text{NS},$$
$$D_z(y) = .29,\ t = 3.2,\ p < .01,\ \text{and}$$
$$D_y(x) = -.34,\ t = -3.6,\ p < .01.$$

This pattern indicates polarization that favors quality, because $D_z(y)$ is positive, $D_y(x)$ is negative, and $D_x(y)$ is not significantly different from zero. As we move from binary to trinary choice, the low quality option x is the big loser. Note that the two extreme options x and z were about equally popular in the binary comparison (set 4), but z was nearly five times more popular than x in the trinary choice.

Additional examples of polarization that favor quality (or performance) over price are presented in Table 8 (see

Table 7
POLARIZATION

Category: AM/FM cassette player					
Option		*Share (%)*			
Brand	*Price ($)*	*Set 1 (n = 51)*	*Set 2 (n = 57)*	*Set 3 (n = 58)*	*Set 4 (n = 57)*
x Emerson (mid-line)	39.99	45	—	9	51
y Sony (mid-line)	64.99	55	40	48	—
z Sony (top)	149.99	—	60	43	49

Table 8
POLARIZATION

Product category: dental insurance					
Plan		*Share (%)*			
Coverage (%)	*Annual premium ($)*	*Set 1 (n = 54)*	*Set 2 (n = 57)*	*Set 3 (n = 58)*	*Set 4 (n = 51)*
v 50	130	57	28	31	33
w 67	165	—	25	—	—
x 67	180	—	—	24	—
y 67	195	—	—	—	12
z 90	240	43	47	45	55

Category: binoculars					
Option		*Share (%)*			
Magnifiying power	*Price ($)*	*Set 1 (n = 38)*	*Set 2 (n = 40)*	*Set 3 (n = 41)*	*Set 4 (n = 40)*
v 7X	20	45	12	17	5
w 12X	28	—	53	—	—
x 12X	32	—	—	28	—
y 12X	36	—	—	—	24
z 17X	44	55	35	55	71

Category: personal computer					
Option		*Share (%)*			
Memory	*Price ($)*	*Set 1 (n = 56)*	*Set 2 (n = 57)*	*Set 3 (n = 50)*	*Set 4 (n = 55)*
w 640K	1200	57	26	86	34
x 645K	1280	—	16	14	—
y 700K	1400	—	—	—	7
x 740K	1420	43	58	—	58

also Appendix B). In all three categories, the introduction of a middle alternative substantially reduced the relative share of the low quality, low price option and increased the relative share of the high quality, high price option. This effect was statistically significant in six of seven comparisons. Moreover, in five of seven tests, regularity was violated.

We interpret these results in terms of extremeness aversion that applies to quality but not to price. Recall that there is no extremeness aversion in binary choice because no option is more extreme than another. The question remains why, given a set of three or more options, consumers find the lowest quality more aversive than the highest price. We have no definite answer to this question. We speculate that quality or performance defines the goal of a purchase, whereas price is merely a means for achieving that goal. As a consequence, quality may be perceived as more important than price, and this tendency is enhanced in the trinary choice because the lowest quality in a set of three (or more) appears less acceptable than the lower quality in a set of two. If this conjecture is valid, we would expect polarization for other pairs of attributes in which one is more prominent than the other (Tversky, Sattath, and Slovic 1988). Some evidence consistent with this hypothesis, involving CD players and bets, is reported in Appendix B. In both cases, polarization favors the dimension that respondents consider more important (sound quality for CD players and probability of winning for bets). The conditions that give rise to polarization warrant further study.

In sum, the betweenness inequality leads to the prediction that the addition of an extreme alternative will hurt the middle alternative more than the other extreme. This prediction of value maximization appears intuitively compelling. For example, the addition of a top-of-the-line camera might be expected to reduce the market share of a mid-line camera more than the share of a basic camera. However, contrary to both standard theory and naïve intuition, we found large and systematic violations of the betweenness inequality. In a wide range of choice problems, the extreme rather than the middle alternative was the big loser. Future research may help characterize the situations in which the betweenness inequality is violated or satisfied. In particular, we hypothesize that the betweenness inequality (and hence value maximization) is more likely to be satisfied when consumers evaluate each alternative separately on the basis of its absolute rather than relative characteristics.

DISCUSSION

We investigated two hypotheses about the effect of context on choice—tradeoff contrast and extremeness aversion. These hypotheses account for several phenomena reported in the literature and predict additional effects observed in the present studies. In this section we briefly summarize the main results and discuss their theoretical and practical implications.

The tradeoff contrast hypothesis extends the notion of contrast to the comparison of tradeoffs. It explains the asymmetric dominance effect (Huber, Payne, and Puto 1982) whereby the addition of an inferior option increases the market share of the superior option. We also demonstrated more common forms of tradeoff contrast, called enhancement and detraction, that do not involve extreme tradeoffs or clearly inferior options. Tradeoff contrasts are not limited to the local context defined by the offered set. Indeed, we show that preferences are systematically influenced by the tradeoffs among previously encountered options.

The extremeness aversion hypothesis derives from the notion that disadvantages loom larger than the respective advantages, which extends the notion of loss aversion. It explains the compromise effect (Simonson 1989) whereby the addition of an extreme option increases the share of the middle option relative to the other extreme. This is a symmetric form of extremeness aversion that applies to both attributes. In many cases, extremeness aversion applies to only one attribute. We observed this pattern, called polarization, in choices involving tradeoffs between quality and price. In such situations, the addition of a middle option favors the high quality, high price option relative to the low quality, low price option.

We have discussed tradeoff contrast and extremeness aversion separately. Sometimes, both hypotheses may be relevant to the interpretation of a particular pattern of choice. For example, we interpreted enhancement and detraction in terms of tradeoff contrast. However, in a test that involves nondominated two-dimensional options, extremeness aversion also comes into play. Specifically, compromise is expected to amplify enhancement and inhibit detraction.

Both tradeoff contrast and extremeness aversion are expected to have less impact in situations in which consumers have well-established preferences. If a consumer habitually purchases the same brand in a category, for example, context effects are unlikely to play a major role. In contrast, when people are uncertain about the values of options, they are more likely to use the context in determining the "best buy." Context effects can sometimes be justified normatively in terms of the information derived from the background or the local context. However, the same effects are observed even when the context provides no new information about the options. Evidently, people make context-based inferences about the worth of alternatives whether or not the context provides a valid basis for such inferences.

In some cases, people are unaware of context effects, as they are generally unaware of priming and anchoring. In other situations, people use the context explicitly to justify their choices to themselves and to others. For example, people often rationalize the choice of a middle option as a compromise between extremes, as documented in verbal protocols of choice experiments (Simonson 1989). We investigated tradeoff contrast and extremeness aversion using aggregate choices as the dependent variable. The use of process measures, such as verbal protocols or patterns of information acquisition, might improve our understanding of the conscious

and unconscious inferences that underlie the observed context effects.

Theoretical Implications

Our findings suggest that context effects are both common and robust, representing the rule rather than the exception in choice behavior. The prevalence of context effects presents a challenge to marketing researchers and more generally to decision theorists. The systematic failure of value maximization undermines the standard theory of consumer choice and calls for an analysis that explains the effects of context on choice. Though these effects can be viewed as manifestations of bounded rationality, they cannot be readily explained as attempts to reduce effort and minimize the cost of thinking. Both tradeoff contrast and extremeness aversion entail assessments that seem more complicated than those implied by value maximization. More generally, context effects imply that people take into account comparative characteristics of alternatives that tend to complicate the choice task. This process, we believe, is driven primarily by an attempt to achieve better resolution and identify the best choice, not merely by the tendency to simplify the task.

Elsewhere (Tversky and Simonson, in press), we have proposed a theoretical analysis of the effect of context on choice. As in the standard theory of the consumer, each alternative x is characterized by a vector $(x_1, \ldots, x_n)$ and preference is monotone in each attribute. Assume that an option x is selected from an offered set S if $V^S(x)$ exceeds $V^S(y)$ for all y in S. Thus, $V^S(x)$ represents the value of option x in context S. To obtain a simple representation, we impose additivity, that is, $V^S(x) = v_1^S(x_1) + \ldots + v_n^S(x_n)$. The simplest context-dependent additive model that accounts for tradeoff contrast is obtained by letting $v_i^S(x_i) = w_i^S v_i(x_i)$, $i = 1, \ldots, n$. Here, the choice set S affects only the weight associated with each attribute or, equivalently, the rate of exchange between attributes. This form is essentially the same as the contingent weighting model of Tversky, Sattath, and Slovic (1988). We assume that the tradeoff between a pair of attributes in a given set is a weighted combination of the "prior" tradeoff and the mean tradeoff in the set of options under consideration, where the weight reflects the degree of context dependence. It is easy to show that this model can explain the various manifestations of tradeoff contrast described above.

To account for extremeness aversion as well, we generalize the above form and set $v_i^S(x_i) = w_i^S f_i[v_i(x_i) - v_i(m_i^S)]$, where m_i^S is the minimal level of attribute i in S. This yields an additive difference model in which the contribution of attribute i is evaluated (by f_i) relative to the lowest level of that attribute in the relevant choice set. It follows readily that, in the two-dimensional case, compromise occurs if both f_1 and f_2 are strictly concave, and polarization occurs if one function is strictly concave and the other is linear. In this analysis, called the contingent additive model, the effect of the choice set on the value of an option is captured by two adjustments: an updating of the rate of exchange *between* attributes and a shift of the reference point *within* each attribute. Though this model is at best approximate and incomplete, it provides a parsimonious account of the patterns of choice discussed in this article.

Marketing Implications

Aside from their theoretical significance, context effects could have important practical implications for the prediction of consumer choice and the design of product positioning, communications, and competitive strategies. Tradeoff contrast and extremeness aversion might be used to critique and perhaps even revise standard methods for predicting consumer choice and market share. Because these methods (see, e.g., Green and Srinivasan 1990) assume value maximization, they do not take into account the presence of context effects. If these phenomena are as common and as orderly as suggested by the results reported here, a model that incorporates tradeoff contrast and extremeness aversion is likely to make better predictions than a model that ignores these effects. Though the contingent additive model outlined above cannot be readily estimated from aggregate data, a simplified version of this model could perhaps be used to modify standard methods of prediction that rely on value maximization. The development of such a procedure is left for future research.

The research reviewed here suggests that, when designing a new product, managers should consider not only its attribute values, but also its likely position in the relevant choice sets. For instance, polarization suggests that the introduction of a middle option between a high price, high quality brand and a low price, low quality brand will hurt the latter more than the former. Similarly, a new product that is positioned as clearly superior to another brand is likely to benefit from the asymmetric dominance effect.

Asymmetric dominance may contribute to the impact of promotions on sales and suggest an additional explanation for the finding that the elasticity associated with a deal exceeds price elasticity (Blattberg and Neslin 1990). Previous explanations of the impact of promotions have focused on their influence on purchase timing, on price discrimination, and on advertising. Asymmetric dominance provides an additional explanation. Because a brand on sale dominates the same brand when it is not on sale, the sale brand is likely to compare more favorably with other brands. In other words, the attractiveness of buying an item on sale may derive not only from the price reduction *per se*, but also from the implicit asymmetric dominance effect that is induced by the sale.

Context effects can be used to improve communications (e.g., comparative ads) and sales tactics. For example, Williams-Sonoma, a mail order and retail business located in San Francisco, used to offer one bread-baking appliance priced at $275. Later they added a second bread-baking appliance, which was similar to the first but was somewhat larger. The price of this item was $429, more than 50% higher than that of the original appliance. Not surprisingly, perhaps, Williams-Sonoma

did not sell many units of the new item. However, the sales of the less expensive appliance almost doubled, as implied by tradeoff contrast. To the best of our knowledge, Williams-Sonoma did not anticipate this effect.

In other situations, salespeople intentionally exploit context effects. A common tactic used to convince consumers to purchase a given product is to present another product and argue that the former is a bargain in comparison with the latter. Our analysis may help explain the basis for such tactics. It may also offer the consumer some insight, which could lead to more thoughtful decisions.

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APPENDIX A

BACKGROUND CONTRAST: ADDITIONAL EXAMPLES

Category: personal computer

Option		Share (%)	
Memory	*Price ($)*	*Version A (n = 62)*	*Version B (n = 65)*
Background pairs			
a 880K	1200	98	
b 480K	1000	2	
a' 720K	1500		11
b' 640K	700		89
Target pair			
x 720K	1200	40	80
y 640K	1000	60	20

Category: paper towels

Option		Share (%)	
Quality	*Price/roll ($)*	*Version A (n = 66)*	*Version B (n = 69)*
Background pairs			
a Medium	.69	66	
b High	1.13	34	
a' Very low	.85		16
b' Very high	.99		84
Target pair			
x Medium	.84	28	50
y High	.99	72	50

Category: dental insurance

Plan		Share (%)	
Coverage (%)	*Cost ($)*	*Version A (n = 109)*	*Version B (n = 111)*
Background pairs			
a 55	65	91	
b 60	150	9	
a' 80	245		6
b' 100	275		94
Target pair			
x 65	170	50	79
y 75	220	50	21

Category: dental insurance

Plan		Share (%)	
Coverage (%)	*Cost ($)*	*Version A (n = 61)*	*Version B (n = 60)*
Background pairs			
a 80	245	92	
b 85	340	8	
a' 80	245		7
b' 100	275		93
Target pair			
x 65	170	30	58
y 75	220	70	42

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APPENDIX B
POLARIZATION: ADDITIONAL EXAMPLES

Category: camera[a]

Brand	Price ($)	Share (%) Set 1 (n = 41)	Set 2 (n = 41)	Set 3 (n = 39)	Set 4 (n = 40)
w Minolta Compact	84.99	—	44	—	—
x Minolta X-370	169.99	63	32	31	52
y Minolta Maxxum 3000i	239.99	37	24	46	48
z Minolta Maxxum 7000i	469.99	—	—	23	UA[b]

Category: CD player[c]

Option: Sound quality rating (0–100)	Option: No. programmable tracks	Share (%) Set 1 (n = 46)	Set 2 (n = 46)	Set 3 (n = 45)
w 80	32	26	9	11
x 82	28	—	—	22
y 87	18	—	37	—
z 89	14	74	54	67

Category: dental insurance[d]

Plan: Coverage (%)	Plan: Annual premium ($)	Share (%) Set 1 (n = 71)	Set 2 (n = 77)	Set 3 (n = 85)	Set 4 (n = 81)
v 50	110	—	—	—	32
w 60	150	—	29	—	20
x 70	190	49	22	29	48
y 80	230	51	49	23	—
z 90	270	—	—	47	—

Category: bets[e]

Bet: Probability of winning	Bet: $ amount	Share (%) Set 1 (n = 75)	Set 2 (n = 75)	Set 3 (n = 79)	Set 4 (n = 83)
v .25	800	—	—	—	28
w .35	550	—	28	—	13
x .45	350	51	17	33	59
y .55	225	49	55	25	—
z .65	150	—	—	42	—

[a]A comparison of set 1 with sets 2, 3, and 4 indicates polarization, which favors quality.
[b]UA indicates that the alternative was presented but was unavailable for choice.
[c]A comparison of set 1 with sets 2 and 3 indicates polarization favoring sound quality, which was judged to be the more important attribute in a separate study.
[d]A comparison of set 1 with sets 2 and 3 indicates polarization, which favors coverage.
[e]A comparison of set 1 with sets 2 and 3 indicates polarization, which favors probability of winning.

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 192 (D0192)

Reference Manual on Scientific Evidence

second edition

Reference Guide on Survey Research

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I. Introduction

Surveys are used to describe or enumerate objects or the beliefs, attitudes, or behavior of persons or other social units.[1] Surveys typically are offered in legal proceedings to establish or refute claims about the characteristics of those objects, individuals, or social units. Although surveys may count or measure every member of the relevant population (e.g., all plaintiffs eligible to join in a suit, all employees currently working for a corporation, all trees in a forest), sample surveys count or measure only a portion of the objects, individuals, or social units that the survey is intended to describe.[2]

Some statistical and sampling experts apply the phrase "sample survey" only to a survey in which probability sampling techniques are used to select the sample.[3] Although probability sampling offers important advantages over nonprobability sampling,[4] experts in some fields (e.g., marketing) regularly rely on various forms of nonprobability sampling when conducting surveys. Consistent with Federal Rule of Evidence 703, courts generally have accepted such evidence.[5] Thus, in this reference guide, both the probability sample and the nonprobability sample are discussed. The strengths of probability sampling and the weaknesses of various types of nonprobability sampling are described so that the trier of fact can consider these features in deciding what weight to give to a particular sample survey.

As a method of data collection, surveys have several crucial potential advantages over less systematic approaches.[6] When properly designed, executed, and

1 Social scientists describe surveys as "conducted for the purpose of collecting data from individuals about themselves, about their households, or about other larger social units." Peter H Rossi et al., *Sample Surveys History, Current Practice, and Future Prospects*, *in* Handbook of Survey Research 1, 2 (Peter H Rossi et al eds , 1983) Used in its broader sense, however, the term *survey* applies to any description or enumeration, whether or not a person is the source of this information Thus, a report on the number of trees destroyed in a forest fire might require a survey of the trees and stumps in the damaged area

2 In *J H Miles & Co. v Brown*, 910 F Supp 1138 (E.D Va 1995), clam processors and fishing vessel owners sued the Secretary of Commerce for failing to use the unexpectedly high results from 1994 survey data on the size of the clam population to determine clam fishing quotas for 1995. The estimate of clam abundance is obtained from surveys of the amount of fishing time the research survey vessels require to collect a specified yield of clams in major fishing areas over a period of several weeks. *Id* at 1144–45

3 *E g* , Leslie Kish, Survey Sampling 26 (1965)

4. *See infra* § III C.

5 Fed R Evid 703 recognizes facts or data "of a type reasonably relied upon by experts in the particular field "

6 This does not mean that surveys can be relied on to address all types of questions For example, some respondents may not be able to predict accurately whether they would volunteer for military service if Washington, D C , were to be bombed Their inaccuracy may arise not because they are unwilling to answer the question or to say they don't know, but because they believe they can predict accurately, and they are simply wrong Thus, the availability of a "don't know" option cannot cure the inaccuracy Although such a survey is suitable for assessing their predictions, it may not provide a very accurate estimate of what their actual responses would be

described, surveys (1) economically present the characteristics of a large group of objects or respondents and (2) permit an assessment of the extent to which the measured objects or respondents are likely to adequately represent a relevant group of objects, individuals, or social units.[7] All questions asked of respondents and all other measuring devices used can be examined by the court and the opposing party for objectivity, clarity, and relevance, and all answers or other measures obtained can be analyzed for completeness and consistency. To make it possible for the court and the opposing party to closely scrutinize the survey so that its relevance, objectivity, and representativeness can be evaluated, the party proposing to offer the survey as evidence should describe in detail the design and execution of the survey.

The questions listed in this reference guide are intended to assist judges in identifying, narrowing, and addressing issues bearing on the adequacy of surveys either offered as evidence or proposed as a method for developing information.[8] These questions can be (1) raised from the bench during a pretrial proceeding to determine the admissibility of the survey evidence; (2) presented to the contending experts before trial for their joint identification of disputed and undisputed issues; (3) presented to counsel with the expectation that the issues will be addressed during the examination of the experts at trial; or (4) raised in bench trials when a motion for a preliminary injunction is made to help the judge evaluate what weight, if any, the survey should be given.[9] These questions are intended to improve the utility of cross-examination by counsel, where appropriate, not to replace it.

All sample surveys, whether they measure objects, individuals, or other social units, should address the issues concerning purpose and design (section II), population definition and sampling (section III), accuracy of data entry (section VI), and disclosure and reporting (section VII). Questionnaire and interview surveys raise methodological issues involving survey questions and structure (section IV) and confidentiality (section VII.C), and interview surveys introduce additional issues (e.g., interviewer training and qualifications) (section V). The sections of this reference guide are labeled to direct the reader to those topics that are relevant to the type of survey being considered. The scope of this reference guide is necessarily limited, and additional issues might arise in particular cases.

7. The ability to quantitatively assess the limits of the likely margin of error is unique to probability sample surveys

8 *See infra* text accompanying note 27

9 Lanham Act cases involving trademark infringement or deceptive advertising frequently require expedited hearings that request injunctive relief, so judges may need to be more familiar with survey methodology when considering the weight to accord a survey in these cases than when presiding over cases being submitted to a jury Even in a case being decided by a jury, however, the court must be prepared to evaluate the methodology of the survey evidence in order to rule on admissibility *See* Daubert v. Merrell Dow Pharms , Inc , 509 U.S. 579, 589 (1993)

A. Use of Surveys in Court

Forty years ago the question whether surveys constituted acceptable evidence still was unsettled.[10] Early doubts about the admissibility of surveys centered on their use of sampling techniques[11] and their status as hearsay evidence.[12] Federal Rule of Evidence 703 settled both matters for surveys by redirecting attention to the "validity of the techniques employed."[13] The inquiry under Rule 703 focuses on whether facts or data are "of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject."[14] For a survey, the question becomes, "Was the poll or survey conducted in accordance with generally accepted survey principles, and were the results used in a

10. Hans Zeisel, *The Uniqueness of Survey Evidence*, 45 Cornell L Q. 322, 345 (1960).

11. In an early use of sampling, Sears, Roebuck & Co claimed a tax refund based on sales made to individuals living outside city limits Sears randomly sampled 33 of the 826 working days in the relevant working period, computed the proportion of sales to out-of-city individuals during those days, and projected the sample result to the entire period. The court refused to accept the estimate based on the sample. When a complete audit was made, the result was almost identical to that obtained from the sample. *Sears, Roebuck & Co. v City of Inglewood*, tried in Los Angeles Superior Court in 1955, is described in R Clay Sprowls, *The Admissibility of Sample Data into a Court of Law A Case History*, 4 UCLA L Rev. 222, 226–29 (1956–1957)

12. Judge Wilfred Feinberg's thoughtful analysis in *Zippo Manufacturing Co v Rogers Imports, Inc*, 216 F. Supp. 670, 682–83 (S D N Y 1963), provides two alternative grounds for admitting opinion surveys: (1) surveys are not hearsay because they are not offered in evidence to prove the truth of the matter asserted, and (2) even if they are hearsay, they fall under one of the exceptions as a "present sense impression " In *Schering Corp v Pfizer Inc*, 189 F 3d 218 (2d Cir. 1999), the Second Circuit distinguished between perception surveys designed to reflect the present sense impressions of respondents and "memory" surveys designed to collect information about a past occurrence based on the recollections of the survey respondents The court in *Schering* suggested that if a survey is offered to prove the existence of a specific idea in the public mind, then the survey does constitute hearsay evidence As the court observed, Federal Rule of Evidence 803(3), creating "an exception to the hearsay rule for such statements [i.e , state of mind expressions] rather than excluding the statements from the definition of hearsay, makes sense only in this light " *Id* at 230 n 3

Two additional exceptions to the hearsay exclusion can be applied to surveys First, surveys may constitute a hearsay exception if the survey data were collected in the normal course of a regularly conducted business activity, unless "the source of information or the method or circumstances of preparation indicate lack of trustworthiness " Fed R Evid 803(6); *see also* Ortho Pharm Corp v Cosprophar, Inc , 828 F Supp 1114, 1119–20 (S D N Y 1993) (marketing surveys prepared in the course of business were properly excluded due to lack of foundation from a person who saw the original data or knew what steps were taken in preparing the report), *aff'd*, 32 F 3d 690 (2d Cir 1994) In addition, if a survey shows guarantees of trustworthiness equivalent to those in other hearsay exceptions, it can be admitted if the court determines that the statement is offered as evidence of a material fact, it is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts, and admissibility serves the interests of justice Fed R Evid 807, *e g*, Keith v Volpe, 618 F. Supp. 1132 (C D. Cal 1985); *Schering*, 189 F 3d at 232 Admissibility as an exception to the hearsay exclusion thus depends on the trustworthiness of the survey

13 Fed R. Evid. 703 advisory committee's note

14. Fed. R. Evid. 703

statistically correct way?"[15] This focus on the adequacy of the methodology used in conducting and analyzing results from a survey is also consistent with the Supreme Court's discussion of admissible scientific evidence in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*[16]

Because the survey method provides an economical and systematic way to gather information about a large number of individuals or social units, surveys are used widely in business, government, and, increasingly, administrative settings and judicial proceedings. Both federal and state courts have accepted survey evidence on a variety of issues. In a case involving allegations of discrimination in jury panel composition, the defense team surveyed prospective jurors to obtain age, race, education, ethnicity, and income distribution.[17] Surveys of employees or prospective employees are used to support or refute claims of employment discrimination.[18] In ruling on the admissibility of scientific claims, courts have examined surveys of scientific experts to assess the extent to which the theory or technique has received widespread acceptance.[19] Some courts have admitted surveys in obscenity cases to provide evidence about community standards.[20] Requests for a change of venue on grounds of jury pool bias often are backed by evidence from a survey of jury-eligible respondents in the area of the original venue.[21] The plaintiff in an antitrust suit conducted a survey to assess what characteristics, including price, affected consumers' preferences. The sur-

15 Manual for Complex Litigation § 2 712 (1982) Survey research also is addressed in the Manual for Complex Litigation, Second § 21.484 (1985) [hereinafter MCL 2d] and the Manual for Complex Litigation, Third § 21.493 (1995) [hereinafter MCL 3d]. Note, however, that experts who collect survey data, along with the professions that rely on those surveys, may differ in some of their methodological standards and principles. An assessment of the precision of sample estimates and an evaluation of the sources and magnitude of likely bias are required to distinguish methods that are acceptable from methods that are not

16 509 U S 579 (1993). *See also* General Elec Co v Joiner, 522 U.S 136, 147 (1997)

17 People v Harris, 679 P.2d 433 (Cal), *cert denied*, 469 U S. 965 (1984)

18. EEOC v. Sears, Roebuck & Co , 628 F Supp 1264, 1308 (N.D Ill. 1986), *aff'd*, 839 F 2d 302 (7th Cir 1988); Stender v. Lucky Stores, Inc., 803 F Supp 259, 326 (N D. Cal 1992), Richardson v Quik Trip Corp., 591 F. Supp. 1151, 1153 (S D Iowa 1984)

19 United States v. Scheffer, 523 U S 303, 309 (1998); Meyers v Arcudi, 947 F Supp 581, 588 (D Conn. 1996); United States v Varoudakis, No. 97-10158, 1998 WL 151238 (D Mass Mar. 27, 1998), United States v Bishop, 64 F. Supp 2d 1149 (D. Utah 1999), United States v. Orians, 9 F. Supp 2d 1168, 1174 (D Ariz. 1998) (all cases in which courts determined, based on the inconsistent reactions revealed in several surveys, that the polygraph test has failed to achieve general acceptance in the scientific community)

20. *E.g* , People v Page Books, Inc., 601 N.E 2d 273, 279–80 (Ill App Ct. 1992); People v Nelson, 410 N E 2d 476, 477–79 (Ill App Ct 1980), State v Williams, 598 N E.2d 1250, 1256–58 (Ohio Ct. App. 1991)

21. *E g.*, United States v Eagle, 586 F.2d 1193, 1195 (8th Cir 1978), United States v Tokars, 839 F. Supp 1578, 1583 (D. Ga. 1993), *aff'd*, 95 F 3d 1520 (11th Cir. 1996), Powell v. Superior Court, 283 Cal Rptr 777, 783 (Ct. App 1991).

vey was offered as one way to estimate damages.[22] A routine use of surveys in federal courts occurs in Lanham Act[23] cases, where the plaintiff alleges trademark infringement[24] or claims that false advertising[25] has confused or deceived consumers. The pivotal legal question in such cases virtually demands survey research because it centers on consumer perception and memory (i.e., is the consumer likely to be confused about the source of a product, or does the advertisement imply an inaccurate message?).[26] In addition, survey methodology has been used creatively to assist federal courts in managing mass torts litigation. Faced with the prospect of conducting discovery concerning 10,000 plaintiffs, the plaintiffs and defendants in *Wilhoite v. Olin Corp.*[27] jointly drafted a discovery survey that was administered in person by neutral third parties, thus replacing interrogatories and depositions. It resulted in substantial savings in both time and cost.

B. A Comparison of Survey Evidence and Individual Testimony

To illustrate the value of a survey, it is useful to compare the information that can be obtained from a competently done survey with the information obtained

22 Dolphin Tours, Inc v. Pacifico Creative Servs , Inc., 773 F 2d 1506, 1508 (9th Cir 1985) *See also* SMS Sys Maintenance Servs , Inc v Digital Equip Corp , 188 F.3d 11 (1st Cir 1999), Benjamin F. King, *Statistics in Antitrust Litigation*, in Statistics and the Law 49 (Morris H DeGroot et al eds , 1986) Surveys also are used in litigation to help define relevant markets In *United States v E I DuPont de Nemours & Co.*, 118 F Supp. 41, 60 (D. Del 1953), *aff'd*, 351 U S 377 (1956), a survey was used to develop the "market setting" for the sale of cellophane In *Mukand, Ltd. v. United States*, 937 F Supp 910 (Ct. Int'l Trade 1996), a survey of purchasers of stainless steel wire rods was conducted to support a determination of competition and fungibility between domestic and Indian wire rod.

23 Lanham Act § 43(a), 15 U S.C § 1125(a) (1946) (amended 1992)

24 *E g* , Union Carbide Corp v. Ever-Ready, Inc., 531 F 2d 366 (7th Cir.), *cert denied*, 429 U S 830 (1976); Qualitex Co v. Jacobson Prods. Co , No CIV-90-1183HLH, 1991 U S Dist LEXIS 21172 (C.D. Cal. Sept 3, 1991), *aff'd in part & rev'd on other grounds*, 13 F 3d 1297 (9th Cir 1994), *rev'd on other grounds*, 514 U S 159 (1995) According to Neal Miller, *Facts, Expert Facts, and Statistics Descriptive and Experimental Research Methods in Litigation*, 40 Rutgers L Rev 101, 137 (1987), trademark law has relied on the institutionalized use of statistical evidence more than any other area of the law.

25. *E g* , Southland Sod Farms v Stover Seed Co , 108 F 3d 1134, 1142–43 (9th Cir 1997), American Home Prods Corp. v Johnson & Johnson, 577 F.2d 160 (2d Cir 1978)

26. Courts have observed that "the court's reaction is at best not determinative and at worst irrelevant. The question in such cases is, what does the person to whom the advertisement is addressed find to be the message?" American Brands, Inc. v R J Reynolds Tobacco Co , 413 F. Supp 1352, 1357 (S D N Y 1976) The wide use of surveys in recent years was foreshadowed in *Triangle Publications, Inc v Rohrlich*, 167 F 2d 969, 974 (2d Cir 1948) (Frank, J , dissenting) Called on to determine whether a manufacturer of girdles labeled "Miss Seventeen" infringed the trademark of the magazine *Seventeen*, Judge Frank suggested that, in the absence of a test of the reactions of "numerous girls and women," the trial court judge's finding as to what was likely to confuse was "nothing but a surmise, a conjecture, a guess," noting that "neither the trial judge nor any member of this court is (or resembles) a teen-age girl or the mother or sister of such a girl " *Id.* at 976–77

27 No CV-83-C-5021-NE (N D Ala. filed Jan 11, 1983) The case ultimately settled before trial. *See* Francis E McGovern & E Allan Lind, *The Discovery Survey*, Law & Contemp Probs , Autumn 1988, at 41

by other means. A survey is presented by a survey expert who testifies about the responses of a substantial number of individuals who have been selected according to an explicit sampling plan and asked the same set of questions by interviewers who were not told who sponsored the survey or what answers were predicted or preferred. Although parties presumably are not obliged to present a survey conducted in anticipation of litigation by a nontestifying expert if it produced unfavorable results,[28] the court can and should scrutinize the method of respondent selection for any survey that is presented.

A party using a nonsurvey method generally identifies several witnesses who testify about their own characteristics, experiences, or impressions. While the party has no obligation to select these witnesses in any particular way or to report on how they were chosen, the party is not likely to select witnesses whose attributes conflict with the party's interests. The witnesses who testify are aware of the parties involved in the case and have discussed the case before testifying.

Although surveys are not the only means of demonstrating particular facts, presenting the results of a well-done survey through the testimony of an expert is an efficient way to inform the trier of fact about a large and representative group of potential witnesses. In some cases, courts have described surveys as the most direct form of evidence that can be offered.[29] Indeed, several courts have drawn negative inferences from the absence of a survey, taking the position that failure to undertake a survey may strongly suggest that a properly done survey would not support the plaintiff's position.[30]

II. Purpose and Design of the Survey

A. Was the Survey Designed to Address Relevant Questions?

The report describing the results of a survey should include a statement describing the purpose or purposes of the survey. One indication that a survey offers probative evidence is that it was designed to collect information relevant to the legal controversy (e.g., to estimate damages in an antitrust suit or to assess con-

28 Loctite Corp v National Starch & Chem Corp , 516 F Supp 190, 205 (S D N Y. 1981) (distinguishing between surveys conducted in anticipation of litigation and surveys conducted for nonlitigation purposes which cannot be reproduced because of the passage of time, concluding that parties should not be compelled to introduce the former at trial, but may be required to provide the latter).

29 *E g* , Charles Jacquin et Cie, Inc v. Destilería Serralles, Inc , 921 F.2d 467, 475 (3d Cir 1990) *See also* Brunswick Corp. v Spinit Reel Co., 832 F 2d 513, 522 (10th Cir 1987)

30 E S Originals, Inc. v Stride Rite Corp., 656 F Supp. 484, 490 (S D.N.Y 1987), *see also* Ortho Pharm. Corp. v Cosprophar, Inc , 32 F 3d 690, 695 (2d Cir 1994), Henri's Food Prods Co. v Kraft, Inc , 717 F 2d 352, 357 (7th Cir 1983); Information Clearing House, Inc v. Find Magazine, 492 F. Supp 147, 160 (S D N Y 1980)

sumer confusion in a trademark case). Surveys not conducted specifically in preparation for, or in response to, litigation may provide important information,[31] but they frequently ask irrelevant questions[32] or select inappropriate samples of respondents for study.[33] Nonetheless, surveys do not always achieve their stated goals. Thus, the content and execution of a survey must be scrutinized even if the survey was designed to provide relevant data on the issue before the court. Moreover, if a survey was not designed for purposes of litigation, one source of bias is less likely: The party presenting the survey is less likely to have designed and constructed the survey to prove its side of the issue in controversy.

B. *Was Participation in the Design, Administration, and Interpretation of the Survey Appropriately Controlled to Ensure the Objectivity of the Survey?*

An early handbook for judges recommended that survey interviews be "conducted independently of the attorneys in the case."[34] Some courts have interpreted this to mean that any evidence of attorney participation is objectionable.[35] A better interpretation is that the attorney should have no part in carrying out the survey.[36] However, some attorney involvement in the survey design is

31. *See, e.g.*, Wright v. Jeep Corp., 547 F Supp. 871, 874 (E D Mich 1982) Indeed, as courts increasingly have been faced with scientific issues, parties have requested in a number of recent cases that the courts compel production of research data and testimony by unretained experts. The circumstances under which an unretained expert can be compelled to testify or to disclose research data and opinions, as well as the extent of disclosure that can be required when the research conducted by the expert has a bearing on the issues in the case, are the subject of considerable current debate *See, e g*, Richard L Marcus, *Discovery Along the Litigation/Science Interface*, 57 Brook L. Rev 381, 393–428 (1991); Joe S. Cecil, *Judicially Compelled Disclosure of Research Data*, 1 Cts Health Sci & L 434 (1991), *see also* Symposium, *Court-Ordered Disclosure of Academic Research A Clash of Values of Science and Law*, Law & Contemp. Probs., Summer 1996, at 1

32. Loctite Corp. v. National Starch & Chem. Corp., 516 F Supp 190, 206 (S D N Y 1981) (marketing surveys conducted before litigation were designed to test for brand awareness, whereas the "single issue at hand . . . [was] whether consumers understood the term 'Super Glue' to designate glue from a single source").

33. In *Craig v. Boren*, 429 U S 190 (1976), the state unsuccessfully attempted to use its annual roadside survey of the blood alcohol level, drinking habits, and preferences of drivers to justify prohibiting the sale of 3.2% beer to males under the age of 21 and to females under the age of 18. The data were biased because it was likely that the male would be driving if both the male and female occupants of the car had been drinking As pointed out in 2 Joseph L. Gastwirth, Statistical Reasoning in Law and Public Policy. Tort Law, Evidence, and Health 527 (1988), the roadside survey would have provided more relevant data if all occupants of the cars had been included in the survey (and if the type and amount of alcohol most recently consumed had been requested so that the consumption of 3 2% beer could have been isolated).

34. Judicial Conference of the U S, Handbook of Recommended Procedures for the Trial of Protracted Cases 75 (1960).

35. *E g.*, Boehringer Ingelheim G m b H. v. Pharmadyne Lab, 532 F Supp 1040, 1058 (D N J 1980)

36. Upjohn Co v American Home Prods. Corp, No 1-95-CV-237, 1996 U.S Dist LEXIS 8049, at *42 (W D. Mich. Apr. 5, 1996) (objection that "counsel reviewed the design of the survey

necessary to ensure that relevant questions are directed to a relevant population.[37] The trier of fact evaluates the objectivity and relevance of the questions on the survey and the appropriateness of the definition of the population used to guide sample selection. These aspects of the survey are visible to the trier of fact and can be judged on their quality, irrespective of who suggested them. In contrast, the interviews themselves are not directly visible, and any potential bias is minimized by having interviewers and respondents blind to the purpose and sponsorship of the survey and by excluding attorneys from any part in conducting interviews and tabulating results.

C. Are the Experts Who Designed, Conducted, or Analyzed the Survey Appropriately Skilled and Experienced?

Experts prepared to design, conduct, and analyze a survey generally should have graduate training in psychology (especially social, cognitive, or consumer psychology), sociology, marketing, communication sciences, statistics, or a related discipline; that training should include courses in survey research methods, sampling, measurement, interviewing, and statistics. In some cases, professional experience in conducting and publishing survey research may provide the requisite background. In all cases, the expert must demonstrate an understanding of survey methodology, including sampling,[38] instrument design (questionnaire and interview construction), and statistical analysis.[39] Publication in peer-reviewed journals, authored books, membership in professional organizations, faculty appointments, consulting experience, research grants, and membership on scientific advisory panels for government agencies or private foundations are indications of a professional's area and level of expertise. In addition, if the survey involves highly technical subject matter (e.g., the particular preferences of electrical engineers for various pieces of electrical equipment and the bases for those preferences) or involves a special population (e.g., developmentally disabled adults with limited cognitive skills), the survey expert also should be able to demonstrate sufficient familiarity with the topic or population (or assistance from an individual on the research team with suitable expertise) to design a survey instrument that will communicate clearly with relevant respondents.

carries little force with this Court because [opposing party] has not identified any flaw in the survey that might be attributed to counsel's assistance").

37 3 J Thomas McCarthy, McCarthy on Trademarks and Unfair Competition § 32 166 (4th ed 1996)

38 The one exception is that sampling expertise is unnecessary if the survey is administered to all members of the relevant population *See, e.g* , McGovern & Lind, *supra* note 27

39 If survey expertise is being provided by several experts, a single expert may have general familiarity but not special expertise in all these areas

D. Are the Experts Who Will Testify About Surveys Conducted by Others Appropriately Skilled and Experienced?

Parties often call on an expert to testify about a survey conducted by someone else. The secondary expert's role is to offer support for a survey commissioned by the party who calls the expert, to critique a survey presented by the opposing party, or to introduce findings or conclusions from a survey not conducted in preparation for litigation or by any of the parties to the litigation. The trial court should take into account the exact issue that the expert seeks to testify about and the nature of the expert's field of expertise.[40] The secondary expert who gives an opinion about the adequacy and interpretation of a survey not only should have general skills and experience with surveys and be familiar with all of the issues addressed in this reference guide, but also should demonstrate familiarity with the following properties of the survey being discussed:

1. the purpose of the survey;
2. the survey methodology, including
   a. the target population,
   b. the sampling design used in conducting the survey,
   c. the survey instrument (questionnaire or interview schedule), and
   d. (for interview surveys) interviewer training and instruction;
3. the results, including rates and patterns of missing data; and
4. the statistical analyses used to interpret the results.

III. Population Definition and Sampling

A. Was an Appropriate Universe or Population Identified?

One of the first steps in designing a survey or in deciding whether an existing survey is relevant is to identify the target population (or universe).[41] The target population consists of all elements (i.e., objects, individuals, or other social units) whose characteristics or perceptions the survey is intended to represent. Thus, in trademark litigation, the relevant population in some disputes may include all prospective and actual purchasers of the plaintiff's goods or services and all prospective and actual purchasers of the defendant's goods or services. Similarly, the population for a discovery survey may include all potential plaintiffs or all em-

40 Margaret A Berger, The Supreme Court's Trilogy on the Admissibility of Expert Testimony § IV C, in this manual

41 Identification of the proper universe is recognized uniformly as a key element in the development of a survey *See, e g*, Judicial Conference of the U S, *supra* note 34, MCL 3d, *supra* note 15, § 21 493 *See also* 3 McCarthy, *supra* note 37, § 32 166, Council of Am Survey Res Orgs, Code of Standards and Ethics for Survey Research § III B 4 (1997)

ployees who worked for Company A between two specific dates. In a community survey designed to provide evidence for a motion for a change of venue, the relevant population consists of all jury-eligible citizens in the community in which the trial is to take place.[42] The definition of the relevant population is crucial because there may be systematic differences in the responses of members of the population and nonmembers. (For example, consumers who are prospective purchasers may know more about the product category than consumers who are not considering making a purchase.)

The universe must be defined carefully. For example, a commercial for a toy or breakfast cereal may be aimed at children, who in turn influence their parents' purchases. If a survey assessing the commercial's tendency to mislead were conducted based on the universe of prospective and actual adult purchasers, it would exclude a crucial group of eligible respondents. Thus, the appropriate population in this instance would include children as well as parents.[43]

B. Did the Sampling Frame Approximate the Population?

The target population consists of all the individuals or units that the researcher would like to study. The sampling frame is the source (or sources) from which the sample actually is drawn. The surveyor's job generally is easier if a complete list of every eligible member of the population is available (e.g., all plaintiffs in a discovery survey), so that the sampling frame lists the identity of all members of the target population. Frequently, however, the target population includes members who are inaccessible or who cannot be identified in advance. As a result, compromises are sometimes required in developing the sampling frame. The survey report should contain a description of the target population, a description of the survey population actually sampled, a discussion of the difference between the two populations, and an evaluation of the likely consequences of that difference.

42 A second relevant population may consist of jury-eligible citizens in the community where the party would like to see the trial moved By questioning citizens in both communities, the survey can test whether moving the trial is likely to reduce the level of animosity toward the party requesting the change of venue. *See* United States v Haldeman, 559 F 2d 31, 140, 151, app A at 176–79 (D C Cir 1976) (court denied change of venue over the strong objection of Judge MacKinnon, who cited survey evidence that Washington, D.C , residents were substantially more likely to conclude, before trial, that the defendants were guilty), *cert. denied*, 431 U S 933 (1977), *see also* People v. Venegas, 31 Cal Rptr 2d 114, 117 (Ct. App 1994) (change of venue denied because defendant failed to show that the defendant would face a less hostile jury in a different court)

43 Children and some other populations create special challenges for researchers For example, very young children should not be asked about sponsorship or licensing, concepts that are foreign to them Concepts, as well as wording, should be age-appropriate

A survey that provides information about a wholly irrelevant universe of respondents is itself irrelevant.[44] Courts are likely to exclude the survey or accord it little weight. Thus, when the plaintiff submitted the results of a survey to prove that the green color of its fishing rod had acquired a secondary meaning, the court gave the survey little weight in part because the survey solicited the views of fishing rod dealers rather than consumers.[45] More commonly, however, the sampling frame is either underinclusive or overinclusive relative to the target population. If it is underinclusive, the survey's value depends on the extent to which the excluded population is likely to react differently from the included population. Thus, a survey of spectators and participants at running events would be sampling a sophisticated subset of those likely to purchase running shoes. Because this subset probably would consist of the consumers most knowledgeable about the trade dress used by companies that sell running shoes, a survey based on this population would be likely to substantially overrepresent the strength of a particular design as a trademark, and the extent of that overrepresentation would be unknown and not susceptible to any reasonable estimation.[46]

Similarly, in a survey designed to project demand for cellular phones, the assumption that businesses would be the primary users of cellular service led surveyors to exclude potential nonbusiness users from the survey. The Federal Communications Commission (FCC) found the assumption unwarranted and concluded that the research was flawed, in part because of this underinclusive universe.[47]

44. A survey aimed at assessing how persons in the trade respond to an advertisement should be conducted on a sample of persons in the trade and not on a sample of consumers. Home Box Office v. Showtime/The Movie Channel, 665 F. Supp. 1079, 1083 (S.D.N Y), *aff'd in part & vacated in part*, 832 F 2d 1311 (2d Cir 1987) *But see* Lon Tai Shing Co. v Koch + Lowy, No. 90-C4464, 1990 U S. Dist LEXIS 19123, at *50 (S D N.Y Dec 14, 1990), in which the judge was willing to find likelihood of consumer confusion from a survey of lighting store salespersons questioned by a survey researcher posing as a customer The court was persuaded that the salespersons who were misstating the source of the lamp, whether consciously or not, must have believed reasonably that the consuming public would be misled by the salespersons' inaccurate statements about the name of the company that manufactured the lamp they were selling

45 R L Winston Rod Co. v Sage Mfg. Co , 838 F. Supp 1396, 1401-02 (D. Mont 1993).

46 Brooks Shoe Mfg Co v Suave Shoe Corp , 533 F. Supp. 75, 80 (S D Fla. 1981), *aff'd*, 716 F 2d 854 (11th Cir 1983) *See also* Winning Ways, Inc v Holloway Sportswear, Inc , 913 F. Supp 1454, 1467 (D Kan 1996) (survey flawed in failing to include sporting goods customers who constituted a major portion of customers) *But see* Thomas & Betts Corp v. Panduit Corp , 138 F 3d 277, 294–95 (7th Cir. 1998) (survey of store personnel admissible because relevant market included both distributors and ultimate purchasers)

47 Gencom, Inc , 56 Rad Reg 2d (P&F) 1597, 1604 (1984) This position was affirmed on appeal. *See* Gencom, Inc v FCC, 832 F 2d 171, 186 (D C Cir 1987)

In some cases, it is difficult to determine whether an underinclusive universe distorts the results of the survey and, if so, the extent and likely direction of the bias. For example, a trademark survey was designed to test the likelihood of confusing an analgesic currently on the market with a new product that was similar in appearance.[48] The plaintiff's survey included only respondents who had used the plaintiff's analgesic, and the court found that the universe should have included users of other analgesics, "so that the full range of potential customers for whom plaintiff and defendants would compete could be studied."[49] In this instance, it is unclear whether users of the plaintiff's product would be more or less likely to be confused than users of the defendant's product or users of a third analgesic.[50]

An overinclusive universe generally presents less of a problem in interpretation than does an underinclusive universe. If the survey expert can demonstrate that a sufficiently large (and representative) subset of respondents in the survey was drawn from the appropriate universe, the responses obtained from that subset can be examined, and inferences about the relevant universe can be drawn based on that subset.[51] If the relevant subset cannot be identified, however, an overbroad universe will reduce the value of the survey.[52] If the sample is drawn from an underinclusive universe, there is generally no way to know how the unrepresented members would have responded.[53]

C. *How Was the Sample Selected to Approximate the Relevant Characteristics of the Population?*

Identification of a survey population must be followed by selection of a sample that accurately represents that population.[54] The use of probability sampling techniques maximizes both the representativeness of the survey results and the ability to assess the accuracy of estimates obtained from the survey.

Probability samples range from simple random samples to complex multistage sampling designs that use stratification, clustering of population elements into various groupings, or both. In simple random sampling, the most basic type

48. American Home Prods Corp v Barr Lab , Inc , 656 F. Supp 1058 (D N.J.), *aff'd*, 834 F.2d 368 (3d Cir 1987)

49 *Id* at 1070.

50 *See also* Craig v. Boren, 429 U.S. 190 (1976)

51 This occurred in *National Football League Properties, Inc v Wichita Falls Sportswear, Inc* , 532 F Supp. 651, 657–58 (W D. Wash 1982)

52 Schieffelin & Co. v. Jack Co. of Boca, 850 F. Supp. 232, 246 (S D N.Y 1994)

53. *See, e g.*, Amstar Corp. v Domino's Pizza, Inc , 615 F.2d 252, 263–64 (5th Cir) (court found both plaintiff's and defendant's surveys substantially defective for a systematic failure to include parts of the relevant population), *cert denied*, 449 U.S. 899 (1980)

54. MCL 3d, *supra* note 15, § 21 493. *See also* David H Kaye & David A Freedman, Reference Guide on Statistics § II.B, in this manual

of probability sampling, every element in the population has a known, equal probability of being included in the sample, and all possible samples of a given size are equally likely to be selected.[55] In all forms of probability sampling, each element in the relevant population has a known, nonzero probability of being included in the sample.[56]

Probability sampling offers two important advantages over other types of sampling. First, the sample can provide an unbiased estimate of the responses of all persons in the population from which the sample was drawn; that is, the expected value of the sample estimate is the population value being estimated. Second, the researcher can calculate a confidence interval that describes explicitly how reliable the sample estimate of the population is likely to be. Thus, suppose a survey tested a sample of 400 dentists randomly selected from the population of all dentists licensed to practice in the United States and found that 80, or 20%, of them mistakenly believed that a new toothpaste, Goldgate, was manufactured by the makers of Colgate. A survey expert could properly compute a confidence interval around the 20% estimate obtained from this sample. If the survey was repeated a large number of times, and a 95% confidence interval was computed each time, 95% of the confidence intervals would include the actual percentage of dentists in the entire population who would believe that Goldgate was manufactured by the makers of Colgate.[57] In this example, the confidence interval, or margin of error, is the estimate (20%) plus or minus 4%, or the distance between 16% and 24%.

All sample surveys produce estimates of population values, not exact measures of those values. Strictly speaking, the margin of sampling error associated with the sample estimate assumes probability sampling. Assuming a probability sample, a confidence interval describes how stable the mean response in the sample is likely to be. The width of the confidence interval depends on three characteristics:

55 Systematic sampling, in which every *n*th unit in the population is sampled and the starting point is selected randomly, fulfills the first of these conditions It does not fulfill the second, because no systematic sample can include elements adjacent to one another on the list of population members from which the sample is drawn. Except in very unusual situations when periodicities occur, systematic samples and simple random samples generally produce the same results Seymour Sudman, *Applied Sampling*, *in* Handbook of Survey Research, *supra* note 1, at 145, 169

56. Other probability sampling techniques include (1) stratified random sampling, in which the researcher subdivides the population into mutually exclusive and exhaustive subpopulations, or strata, and then randomly selects samples from within these strata, and (2) cluster sampling, in which elements are sampled in groups or clusters, rather than on an individual basis Martin Frankel, *Sampling Theory*, *in* Handbook of Survey Research, *supra* note 1, at 21, 37, 47

57 Actually, since survey interviewers would be unable to locate some dentists and some dentists would be unwilling to participate in the survey, technically the population to which this sample would be projectable would be all dentists with current addresses who would be willing to participate in the survey if they were asked

1. the size of the sample (the larger the sample, the narrower the interval);
2. the variability of the response being measured; and
3. the confidence level the researcher wants to have.

Traditionally, scientists adopt the 95% level of confidence, which means that if 100 samples of the same size were drawn, the confidence interval expected for at least 95 of the samples would be expected to include the true population value.[58]

Although probability sample surveys often are conducted in organizational settings and are the recommended sampling approach in academic and government publications on surveys, probability sample surveys can be expensive when in-person interviews are required, the target population is dispersed widely, or qualified respondents are scarce. A majority of the consumer surveys conducted for Lanham Act litigation present results from nonprobability convenience samples.[59] They are admitted into evidence based on the argument that nonprobability sampling is used widely in marketing research and that "results of these studies are used by major American companies in making decisions of considerable consequence."[60] Nonetheless, when respondents are not selected randomly from the relevant population, the expert should be prepared to justify the method used to select respondents. Special precautions are required to reduce the likelihood of biased samples.[61] In addition, quantitative values computed from such samples (e.g., percentage of respondents indicating confusion) should be viewed as rough indicators rather than as precise quantitative estimates. Confidence intervals should not be computed.

58 To increase the likelihood that the confidence interval contains the actual population value (e g , from 95% to 99%), the width of the confidence interval can be expanded. An increase in the confidence interval brings an increase in the confidence level For further discussion of confidence intervals, see David H Kaye & David A Freedman, Reference Guide on Statistics § IV A, in this manual

59 Jacob Jacoby & Amy H Handlin, *Non-Probability Sampling Designs for Litigation Surveys*, 81 Trademark Rep 169, 173 (1991) For probability surveys conducted in trademark cases, see *National Football League Properties, Inc v Wichita Falls Sportswear, Inc.*, 532 F Supp. 651 (W.D. Wash 1982); James Burrough, Ltd v Sign of Beefeater, Inc , 540 F.2d 266 (7th Cir 1976).

60 National Football League Properties, Inc v. New Jersey Giants, Inc., 637 F Supp. 507, 515 (D N J 1986) A survey of members of the Council of American Survey Research Organizations, the national trade association for commercial survey research firms in the United States, revealed that 95% of the in-person independent contacts in studies done in 1985 took place in malls or shopping centers. Jacoby & Handlin, *supra* note 59, at 172–73, 176

D. Was the Level of Nonresponse Sufficient to Raise Questions About the Representativeness of the Sample? If So, What Is the Evidence That Nonresponse Did Not Bias the Results of the Survey?

Even when a sample is drawn randomly from a complete list of elements in the target population, responses or measures may be obtained on only part of the selected sample. If this lack of response were distributed randomly, valid inferences about the population could be drawn from the characteristics of the available elements in the sample. The difficulty is that nonresponse often is not random, so that, for example, persons who are single typically have three times the "not at home" rate in U.S. Census Bureau surveys as do family members.[62] Efforts to increase response rates include making several attempts to contact potential respondents and providing financial incentives for participating in the survey.

One suggested formula for quantifying a tolerable level of nonresponse in a probability sample is based on the guidelines for statistical surveys issued by the former U.S. Office of Statistical Standards.[63] According to these guidelines, response rates of 90% or more are reliable and generally can be treated as random samples of the overall population. Response rates between 75% and 90% usually yield reliable results, but the researcher should conduct some check on the representativeness of the sample. Potential bias should receive greater scrutiny when the response rate drops below 75%. If the response rate drops below 50%, the survey should be regarded with significant caution as a basis for precise quantitative statements about the population from which the sample was drawn.[64]

Determining whether the level of nonresponse in a survey is critical generally requires an analysis of the determinants of nonresponse. For example, even a survey with a high response rate may seriously underrepresent some portions of the population, such as the unemployed or the poor. If a general population sample was used to chart changes in the proportion of the population that knows someone with HIV, the survey would underestimate the population value if some groups more likely to know someone with HIV (e.g., intravenous drug users) were underrepresented in the sample. The survey expert should be prepared to provide evidence on the potential impact of nonresponse on the survey results.

61. *See infra* § III E

62 2 Gastwirth, *supra* note 33, at 501 This volume contains a useful discussion of sampling, along with a set of examples *Id* at 467

63 This standard is cited with approval by Gastwirth. *Id* at 502

64 For thoughtful examples of judges closely scrutinizing potential sample bias when response rates were below 75%, see *Vuyanich v Republic National Bank*, 505 F. Supp. 224 (N D Tex. 1980), Rosado v Wyman, 322 F. Supp 1173 (E.D N Y), *aff'd*, 437 F 2d 619 (2d Cir. 1970), *aff'd*, 402 U S 991 (1971)

In surveys that include sensitive or difficult questions, particularly surveys that are self-administered, some respondents may refuse to provide answers or may provide incomplete answers. To assess the impact of nonresponse to a particular question, the survey expert should analyze the differences between those who answered and those who did not answer. Procedures to address the problem of missing data include recontacting respondents to obtain the missing answers and using the respondent's other answers to predict the missing response.[65]

E. What Procedures Were Used to Reduce the Likelihood of a Biased Sample?

If it is impractical for a survey researcher to sample randomly from the entire target population, the researcher still can apply probability sampling to some aspects of respondent selection to reduce the likelihood of biased selection. For example, in many studies the target population consists of all consumers or purchasers of a product. Because it is impractical to randomly sample from that population, research is conducted in shopping malls where some members of the target population may not shop. Mall locations, however, can be sampled randomly from a list of possible mall sites. By administering the survey at several different malls, the expert can test for and report on any differences observed across sites. To the extent that similar results are obtained in different locations using different on-site interview operations, it is less likely that idiosyncrasies of sample selection or administration can account for the results.[66] Similarly, since the characteristics of persons visiting a shopping center vary by day of the week and time of day, bias in sampling can be reduced if the survey design calls for sampling time segments as well as mall locations.[67]

In mall intercept surveys, the organization that manages the on-site interview facility generally employs recruiters who approach potential survey respondents in the mall and ascertain if they are qualified and willing to participate in the survey. If a potential respondent agrees to answer the questions and meets the specified criteria, he or she is escorted to the facility where the survey interview takes place. If recruiters are free to approach potential respondents without controls on how an individual is to be selected for screening, shoppers who spend more time in the mall are more likely to be approached than shoppers who visit the mall only briefly. Moreover, recruiters naturally prefer to approach friendly-

65 Andy B Anderson et al, *Missing Data A Review of the Literature*, in Handbook of Survey Research, *supra* note 1, at 415

66 Note, however, that differences in results across sites may be due to genuine differences in respondents across geographic locations or to a failure to administer the survey consistently across sites

67 Seymour Sudman, *Improving the Quality of Shopping Center Sampling*, 17 J. Marketing Res 423 (1980).

looking potential respondents, so that it is more likely that certain types of individuals will be selected. These potential biases in selection can be reduced by providing appropriate selection instructions and training recruiters effectively. Training that reduces the interviewer's discretion in selecting a potential respondent is likely to reduce bias in selection, as are instructions to approach every *n*th person entering the facility through a particular door.[68]

F. What Precautions Were Taken to Ensure That Only Qualified Respondents Were Included in the Survey?

In a carefully executed survey, each potential respondent is questioned or measured on the attributes that determine his or her eligibility to participate in the survey. Thus, the initial questions screen potential respondents to determine if they are within the target population of the survey (e.g., Is she at least fourteen years old? Does she own a dog? Does she live within ten miles?). The screening questions must be drafted so that they do not convey information that will influence the respondent's answers on the main survey. For example, if respondents must be prospective and recent purchasers of Sunshine orange juice in a trademark survey designed to assess consumer confusion with Sun Time orange juice, potential respondents might be asked to name the brands of orange juice they have purchased recently or expect to purchase in the next six months. They should not be asked specifically if they recently have purchased, or expect to purchase, Sunshine orange juice, because this may affect their responses on the survey either by implying who is conducting the survey or by supplying them with a brand name that otherwise would not occur to them.

The content of a screening questionnaire (or screener) can also set the context for the questions that follow. In *Pfizer, Inc. v. Astra Pharmaceutical Products, Inc.*,[69] physicians were asked a screening question to determine whether they prescribed particular drugs. The court found that the screener conditioned the physicians to respond with the name of a drug rather than a condition.[70]

The criteria for determining whether to include a potential respondent in the survey should be objective and clearly conveyed, preferably using written instructions addressed to those who administer the screening questions. These instructions and the completed screening questionnaire should be made avail-

68 In the end, even if malls are randomly sampled and shoppers are randomly selected within malls, results from mall surveys technically can be used to generalize only to the population of mall shoppers. The ability of the mall sample to describe the likely response pattern of the broader relevant population will depend on the extent to which a substantial segment of the relevant population (1) is not found in malls and (2) would respond differently to the interview.

69 858 F Supp 1305, 1321 & n 13 (S D.N.Y. 1994)

70 *Id* at 1321

able to the court and the opposing party along with the interview form for each respondent.

IV. Survey Questions and Structure

A. Were Questions on the Survey Framed to Be Clear, Precise, and Unbiased?

Although it seems obvious that questions on a survey should be clear and precise, phrasing questions to reach that goal is often difficult. Even questions that appear clear can convey unexpected meanings and ambiguities to potential respondents. For example, the question "What is the average number of days each week you have butter?" appears to be straightforward. Yet some respondents wondered whether margarine counted as butter, and when the question was revised to include the introductory phrase "not including margarine," the reported frequency of butter use dropped dramatically.[71]

When unclear questions are included in a survey, they may threaten the validity of the survey by systematically distorting responses if respondents are misled in a particular direction, or by inflating random error if respondents guess because they do not understand the question.[72] If the crucial question is sufficiently ambiguous or unclear, it may be the basis for rejecting the survey. For example, a survey was designed to assess community sentiment that would warrant a change of venue in trying a case for damages sustained when a hotel skywalk collapsed.[73] The court found that the question "Based on what you have heard, read or seen, do you believe that in the current compensatory damage trials, the defendants, such as the contractors, designers, owners, and operators of the Hyatt Hotel, should be punished?" could neither be correctly understood nor easily answered.[74] The court noted that the phrase "compensatory damages," although well-defined for attorneys, was unlikely to be meaningful for laypersons.[75]

Texts on survey research generally recommend pretests as a way to increase the likelihood that questions are clear and unambiguous,[76] and some courts have

71 Floyd J Fowler, Jr , *How Unclear Terms Affect Survey Data*, 56 Pub Opinion Q 218, 225–26 (1992)

72 *Id* at 219

73 Firestone v Crown Ctr Redevelopment Corp , 693 S W 2d 99 (Mo 1985) (en banc)

74 *Id* at 102, 103

75 *Id* at 103. When there is any question about whether some respondent will understand a particular term or phrase, the term or phrase should be defined explicitly

76 For a thorough treatment of pretesting methods, see Jean M Converse & Stanley Presser, Survey Questions: Handcrafting the Standardized Questionnaire 51 (1986) *See also* Fred W. Morgan, *Judicial Standards for Survey Research An Update and Guidelines*, 54 J Marketing 59, 64 (1990).

recognized the value of pretests.[77] In a pretest or pilot test,[78] the proposed survey is administered to a small sample (usually between twenty-five and seventy-five)[79] of the same type of respondents who would be eligible to participate in the full-scale survey. The interviewers observe the respondents for any difficulties they may have with the questions and probe for the source of any such difficulties so that the questions can be rephrased if confusion or other difficulties arise. Attorneys who commission surveys for litigation sometimes are reluctant to approve pilot work or to reveal that pilot work has taken place because they are concerned that if a pretest leads to revised wording of the questions, the trier of fact may believe that the survey has been manipulated and is biased or unfair. A more appropriate reaction is to recognize that pilot work can improve the quality of a survey and to anticipate that it often results in word changes that increase clarity and correct misunderstandings. Thus, changes may indicate informed survey construction rather than flawed survey design.[80]

B. Were Filter Questions Provided to Reduce Guessing?

Some survey respondents may have no opinion on an issue under investigation, either because they have never thought about it before or because the question mistakenly assumes a familiarity with the issue. For example, survey respondents may not have noticed that the commercial they are being questioned about guaranteed the quality of the product being advertised and thus they may have no opinion on the kind of guarantee it indicated. Likewise, in an employee survey, respondents may not be familiar with the parental leave policy at their company and thus may have no opinion on whether they would consider taking advantage of the parental leave policy if they became parents. The following three alternative question structures will affect how those respondents answer and how their responses are counted.

First, the survey can ask all respondents to answer the question (e.g., "Did you understand the guarantee offered by Clover to be a one-year guarantee, a sixty-day guarantee, or a thirty-day guarantee?"). Faced with a direct question, particularly one that provides response alternatives, the respondent obligingly may supply an answer even if (in this example) the respondent did not notice the guarantee (or is unfamiliar with the parental leave policy). Such answers will

77 *E.g.*, Zippo Mfg. Co. v. Rogers Imports, Inc., 216 F. Supp. 670 (S.D.N.Y. 1963).

78 The terms *pretest* and *pilot test* are sometimes used interchangeably to describe pilot work done in the planning stages of research. When they are distinguished, the difference is that a pretest tests the questionnaire, whereas a pilot test generally tests proposed collection procedures as well.

79 Converse & Presser, *supra* note 76, at 69. Converse and Presser suggest that a pretest with twenty-five respondents is appropriate when the survey uses professional interviewers.

80 *See infra* § VII.B. for a discussion of obligations to disclose pilot work.

reflect only what the respondent can glean from the question, or they may reflect pure guessing. The imprecision introduced by this approach will increase with the proportion of respondents who are unfamiliar with the topic at issue.

Second, the survey can use a quasi-filter question to reduce guessing by providing "don't know" or "no opinion" options as part of the question (e.g., "Did you understand the guarantee offered by Clover to be for more than a year, a year, or less than a year, or don't you have an opinion?").[81] By signaling to the respondent that it is appropriate not to have an opinion, the question reduces the demand for an answer and, as a result, the inclination to hazard a guess just to comply. Respondents are more likely to choose a "no opinion" option if it is mentioned explicitly by the interviewer than if it is merely accepted when the respondent spontaneously offers it as a response. The consequence of this change in format is substantial. Studies indicate that, although the relative distribution of the respondents selecting the *listed* choices is unlikely to change dramatically, presentation of an explicit "don't know" or "no opinion" alternative commonly leads to a 20%–25% increase in the proportion of respondents selecting that response.[82]

Finally, the survey can include full-filter questions, that is, questions that lay the groundwork for the substantive question by first asking the respondent if he or she has an opinion about the issue or happened to notice the feature that the interviewer is preparing to ask about (e.g., "Based on the commercial you just saw, do you have an opinion about how long Clover stated or implied that its guarantee lasts?"). The interviewer then asks the substantive question only of those respondents who have indicated that they have an opinion on the issue.

Which of these three approaches is used and the way it is used can affect the rate of "no opinion" responses that the substantive question will evoke.[83] Respondents are more likely to say they do not have an opinion on an issue if a full filter is used than if a quasi-filter is used.[84] However, in maximizing respondent expressions of "no opinion," full filters may produce an underreporting of opinions. There is some evidence that full-filter questions discourage respondents who actually have opinions from offering them by conveying the implicit suggestion that respondents can avoid difficult follow-up questions by saying that they have no opinion.[85]

81 Norbert Schwarz & Hans-Jurgen Hippler, *Response Alternatives The Impact of Their Choice and Presentation Order*, in Measurement Errors in Surveys 41, 45–46 (Paul P. Biemer et al. eds , 1991).

82 Howard Schuman & Stanley Presser, Questions and Answers in Attitude Surveys· Experiments on Question Form, Wording and Context 113–46 (1981)

83 Considerable research has been conducted on the effects of filters For a review, see George F. Bishop et al , *Effects of Filter Questions in Public Opinion Surveys*, 47 Pub Opinion Q. 528 (1983).

84. Schwarz & Hippler, *supra* note 81, at 45–46

85. *Id* at 46

In general, then, a survey that uses full filters tends to provide a conservative estimate of the number of respondents holding an opinion, whereas a survey that uses neither full filters nor quasi-filters tends to overestimate the number of respondents with opinions, because some respondents offering opinions are guessing. The strategy of including a "no opinion" or "don't know" response as a quasi-filter avoids both of these extremes. Thus, rather than asking, "Based on the commercial, do you believe that the two products are made in the same way, or are they made differently?"[86] or prefacing the question with a preliminary, "Do you have an opinion, based on the commercial, concerning the way that the two products are made?" the question could be phrased, "Based on the commercial, do you believe that the two products are made in the same way, or that they are made differently, or don't you have an opinion about the way they are made?"

C. Did the Survey Use Open-Ended or Closed-Ended Questions? How Was the Choice in Each Instance Justified?

The questions that make up a survey instrument may be open-ended, closed-ended, or a combination of both. Open-ended questions require the respondent to formulate and express an answer in his or her own words (e.g., "What was the main point of the commercial?" "Where did you catch the fish you caught in these waters?"[87]). Closed-ended questions provide the respondent with an explicit set of responses from which to choose; the choices may be as simple as yes or no (e.g., "Is Colby College coeducational?"[88]) or as complex as a range of alternatives (e.g., "The two pain relievers have (1) the same likelihood of causing gastric ulcers; (2) about the same likelihood of causing gastric ulcers; (3) a somewhat different likelihood of causing gastric ulcers; (4) a very different likelihood of causing gastric ulcers; or (5) none of the above."[89]).

Open-ended and closed-ended questions may elicit very different responses.[90]

86. The question in the example without the "no opinion" alternative was based on a question rejected by the court in *Coors Brewing Co v. Anheuser-Busch Cos*, 802 F Supp 965, 972–73 (S D N Y 1992).

87. A relevant example from *Wilhoite v Olin Corp.* is described in McGovern & Lind, *supra* note 27, at 76.

88 Presidents & Trustees of Colby College v Colby College–N H, 508 F 2d 804, 809 (1st Cir 1975)

89 This question is based on one asked in *American Home Products Corp v Johnson & Johnson*, 654 F Supp 568, 581 (S D N Y 1987), that was found to be a leading question by the court, primarily because the choices suggested that the respondent had learned about aspirin's and ibuprofen's relative likelihood of causing gastric ulcers In contrast, in *McNeilab, Inc v American Home Products Corp*, 501 F Supp 517, 525 (S D N Y 1980), the court accepted as nonleading the question, "Based only on what the commercial said, would Maximum Strength Anacin contain more pain reliever, the same amount of pain reliever, or less pain reliever than the brand you, yourself, currently use most often?"

90 Howard Schuman & Stanley Presser, *Question Wording as an Independent Variable in Survey Analysis*,

Most responses are less likely to be volunteered by respondents who are asked an open-ended question than they are to be chosen by respondents who are presented with a closed-ended question. The response alternatives in a closed-ended question may remind respondents of options that they would not otherwise consider or which simply do not come to mind as easily.[91]

The advantage of open-ended questions is that they give the respondent fewer hints about the answer that is expected or preferred. Precoded responses on a closed-ended question, in addition to reminding respondents of options that they might not otherwise consider,[92] may direct the respondent away from or toward a particular response. For example, a commercial reported that in shampoo tests with more than 900 women, the sponsor's product received higher ratings than other brands.[93] According to a competitor, the commercial deceptively implied that each woman in the test rated more than one shampoo, when in fact each woman rated only one. To test consumer impressions, a survey might have shown the commercial and asked an open-ended question: "How many different brands mentioned in the commercial did each of the 900 women try?"[94] Instead, the survey asked a closed-ended question; respondents were given the choice of "one," "two," "three," "four," or "five or more." The fact that four of the five choices in the closed-ended question provided a response that was greater than one implied that the correct answer was probably more than one.[95] Note, however, that the open-ended question also may suggest that the answer is more than one. By asking "how many different brands," the question suggests (1) that the viewer should have received some message from the commercial about the number of brands each woman tried and (2) that different brands were tried. Thus, the wording of a question, open-ended or closed-ended, can be leading, and the degree of suggestiveness of each question must be considered in evaluating the objectivity of a survey.

6 Soc Methods & Res 151 (1977), Schuman & Presser, *supra* note 82, at 79–112, Converse & Presser, *supra* note 76, at 33.

91 For example, when respondents in one survey were asked, "What is the most important thing for children to learn to prepare them for life?", 62% picked "to think for themselves" from a list of five options, but only 5% spontaneously offered that answer when the question was open-ended. Schuman & Presser, *supra* note 82, at 104–07 An open-ended question presents the respondent with a free-recall task, whereas a closed-ended question is a recognition task. Recognition tasks in general reveal higher performance levels than recall tasks Mary M. Smyth et al., Cognition in Action 25 (1987) In addition, there is evidence that respondents answering open-ended questions may be less likely to report some information that they would reveal in response to a closed-ended question when that information seems self-evident or irrelevant

92 Schwarz & Hippler, *supra* note 81, at 43

93. *See* Vidal Sassoon, Inc. v. Bristol-Myers Co , 661 F.2d 272, 273 (2d Cir. 1981)

94 This was the wording of the stem of the closed-ended question in the survey discussed in *Vidal Sassoon*, 661 F.2d at 275–76.

95. Ninety-five percent of the respondents who answered the closed-ended question in the plaintiff's survey said that each woman had tried two or more brands. The open-ended question was never asked.

Closed-ended questions have some additional potential weaknesses that arise if the choices are not constructed properly. If the respondent is asked to choose one response from among several choices, the response chosen will be meaningful only if the list of choices is exhaustive, that is, if the choices cover all possible answers a respondent might give to the question. If the list of possible choices is incomplete, a respondent may be forced to choose one that does not express his or her opinion.[96] Moreover, if respondents are told explicitly that they are not limited to the choices presented, most respondents nevertheless will select an answer from among the listed ones.[97]

Although many courts prefer open-ended questions on the grounds that they tend to be less leading, the value of any open-ended or closed-ended question depends on the information it is intended to elicit. Open-ended questions are more appropriate when the survey is attempting to gauge what comes first to a respondent's mind, but closed-ended questions are more suitable for assessing choices between well-identified options or obtaining ratings on a clear set of alternatives.

D. If Probes Were Used to Clarify Ambiguous or Incomplete Answers, What Steps Were Taken to Ensure That the Probes Were Not Leading and Were Administered in a Consistent Fashion?

When questions allow respondents to express their opinions in their own words, some of the respondents may give ambiguous or incomplete answers. In such instances, interviewers may be instructed to record any answer that the respondent gives and move on to the next question, or they may be instructed to probe to obtain a more complete response or clarify the meaning of the ambiguous response. In either situation, interviewers should record verbatim both what the respondent says and what the interviewer says in the attempt to get clarification. Failure to record every part of the exchange in the order in which it occurs raises questions about the reliability of the survey, because neither the court nor the opposing party can evaluate whether the probe affected the views expressed by the respondent.

Vidal Sassoon, 661 F 2d at 276. Norbert Schwarz, *Assessing Frequency Reports of Mundane Behaviors: Contributions of Cognitive Psychology to Questionnaire Construction*, *in* Research Methods in Personality and Social Psychology 98 (Clyde Hendrick & Margaret S. Clark eds , 1990), suggests that respondents often rely on the range of response alternatives as a frame of reference when they are asked for frequency judgments. *See, e g* , Roger Tourangeau & Tom W Smith, *Asking Sensitive Questions The Impact of Data Collection Mode, Question Format, and Question Context*, 60 Pub Opinion Q 275, 292 (1996)

96 *See, e g* , American Home Prods Corp v Johnson & Johnson, 654 F Supp. 568, 581 (S D N Y 1987).

97 *See* Howard Schuman, *Ordinary Questions, Survey Questions, and Policy Questions*, 50 Pub. Opinion Q 432, 435–36 (1986)

If the survey is designed to allow for probes, interviewers must be given explicit instructions on when they should probe and what they should say in probing. Standard probes used to draw out all that the respondent has to say (e.g., "Any further thoughts?" "Anything else?" "Can you explain that a little more?") are relatively innocuous and noncontroversial in content, but persistent continued requests for further responses to the same or nearly identical questions may convey the idea to the respondent that he or she has not yet produced the "right" answer.[98] Interviewers should be trained in delivering probes to maintain a professional and neutral relationship with the respondent (as they should during the rest of the interview), which minimizes any sense of passing judgment on the content of the answers offered. Moreover, interviewers should be given explicit instructions on when to probe, so that probes are administered consistently.

A more difficult type of probe to construct and deliver reliably is one that requires a substantive question tailored to the answer given by the respondent. The survey designer must provide sufficient instruction to interviewers so that they avoid giving directive probes that suggest one answer over another. Those instructions, along with all other aspects of interviewer training, should be made available for evaluation by the court and the opposing party.

E. What Approach Was Used to Avoid or Measure Potential Order or Context Effects?

The order in which questions are asked on a survey and the order in which response alternatives are provided in a closed-ended question can influence the answers.[99] Thus, although asking a general question before a more specific question on the same topic is unlikely to affect the response to the specific question, reversing the order of the questions may influence responses to the general question. As a rule, then, surveys are less likely to be subject to order effects if

98 *See, e g* , Johnson & Johnson-Merck Consumer Pharms Co. v Rhone-Poulenc Rorer Pharms., Inc , 19 F 3d 125, 135 (3d Cir 1994), American Home Prods Corp v Procter & Gamble Co , 871 F Supp 739, 748 (D.N.J. 1994).

99. *See* Schuman & Presser, *supra* note 82, at 23, 56–74, Norman M. Bradburn, *Response Effects, in* Handbook of Survey Research, *supra* note 1, at 289, 302 In *R J Reynolds Tobacco Co v. Loew's Theatres, Inc.*, 511 F. Supp. 867, 875 (S D.N Y. 1980), the court recognized the biased structure of a survey which disclosed the tar content of the cigarettes being compared before questioning respondents about their cigarette preferences. Not surprisingly, respondents expressed a preference for the lower tar product. *See also* E & J. Gallo Winery v. Pasatiempos Gallo, S.A., 905 F. Supp 1403, 1409–10 (E D Cal 1994) (court recognized that earlier questions referring to playing cards, board or table games, or party supplies, such as confetti, increased the likelihood that respondents would include these items in answers to the questions that followed)

the questions go from the general (e.g., "What do you recall being discussed in the advertisement?") to the specific (e.g., "Based on your reading of the advertisement, what companies do you think the ad is referring to when it talks about rental trucks that average five miles per gallon?").[100]

The mode of questioning can influence the form that an order effect takes. In mail surveys, respondents are more likely to select the first choice offered (a primacy effect); in telephone surveys, respondents are more likely to choose the last choice offered (a recency effect). Although these effects are typically small, no general formula is available that can adjust values to correct for order effects, because the size and even the direction of the order effects may depend on the nature of the question being asked and the choices being offered. Moreover, it may be unclear which order is most appropriate. For example, if the respondent is asked to choose between two different products, and there is a tendency for respondents to choose the first product mentioned,[101] which order of presentation will produce the more accurate response?[102]

To control for order effects, the order of the questions and the order of the response choices in a survey should be rotated,[103] so that, for example, one-third of the respondents have Product A listed first, one-third of the respondents have Product B listed first, and one-third of the respondents have Product C listed first. If the three different orders[104] are distributed randomly among respondents, no response alternative will have an inflated chance of being selected because of its position, and the average of the three will provide a reasonable estimate of response level.[105]

100 This question was accepted by the court in *U-Haul International, Inc. v Jartran, Inc*, 522 F Supp. 1238, 1249 (D Ariz. 1981), *aff'd*, 681 F 2d 1159 (9th Cir 1982).

101. Similarly, candidates in the first position on the ballot tend to attract extra votes when the candidates are not well known Henry M. Bain & Donald S Hecock, Ballot Position and Voter's Choice: The Arrangement of Names on the Ballot and Its Effect on the Voter (1973).

102. *See* Rust Env't & Infrastructure, Inc v. Teunissen, 131 F.3d 1210, 1218 (7th Cir 1997) (survey did not pass muster in part because of failure to incorporate random rotation of corporate names that were the subject of a trademark dispute)

103. *See, e g.*, Stouffer Foods Corp., 118 F.T C. 746, No. 9250, 1994 FTC LEXIS 196, at *24–25 (Sept. 26, 1994), *cf* Winning Ways, Inc v Holloway Sportswear, Inc , 913 F Supp. 1454, 1465–67 (D Kan. 1996) (failure to rotate the order in which the jackets were shown to the consumers led to reduced weight for the survey)

104. Actually, there are six possible orders of the three alternatives. ABC, ACB, BAC, BCA, CAB, and CBA. Thus, the optimal survey design would allocate equal numbers of respondents to each of the six possible orders

105. Although rotation is desirable, many surveys are conducted with no attention to this potential bias Since it is impossible to know in the abstract whether a particular question suffers much, little, or not at all from an order bias, lack of rotation should not preclude reliance on the answer to the question, but it should reduce the weight given to that answer.

F. If the Survey Was Designed to Test a Causal Proposition, Did the Survey Include an Appropriate Control Group or Question?

Most surveys that are designed to provide evidence of trademark infringement or deceptive advertising are not conducted to describe consumer beliefs. Instead, they are intended to show how a trademark or the content of a commercial influences respondents' perceptions or understanding of a product or commercial. Thus, the question is whether the commercial misleads the consumer into thinking that Product A is a superior pain reliever, not whether consumers hold inaccurate beliefs about the product. Yet if consumers already believe, before viewing the commercial, that Product A is a superior pain reliever, a survey that records consumers' impressions after they view the commercial may reflect those preexisting beliefs rather than impressions produced by the commercial.

Surveys that record consumer impressions have a limited ability to answer questions about the origins of those impressions. The difficulty is that the consumer's response to any question on the survey may be the result of information or misinformation from sources other than the trademark the respondent is being shown or the commercial he or she has just watched. In a trademark survey attempting to show secondary meaning, for example, respondents were shown a picture of the stripes used on Mennen stick deodorant and asked, "[W]hich [brand] would you say uses these stripes on their package?"[106] The court recognized that the high percentage of respondents selecting "Mennen" from an array of brand names may have represented "merely a playback of brand share"[107]; that is, respondents asked to give a brand name may guess the one that is most familiar, generally the brand with the largest market share.[108]

Some surveys attempt to reduce the impact of preexisting impressions on respondents' answers by instructing respondents to focus solely on the stimulus as a basis for their answers. Thus, the survey includes a preface (e.g., "based on the commercial you just saw") or directs the respondent's attention to the mark at issue (e.g., "these stripes on the package"). Such efforts are likely to be only partially successful. It is often difficult for respondents to identify accurately the source of their impressions.[109] The more routine the idea being examined in the survey (e.g., that the advertised pain reliever is more effective than others on the

106 Mennen Co. v. Gillette Co , 565 F Supp 648, 652 (S.D N Y 1983), *aff'd*, 742 F 2d 1437 (2d Cir 1984). To demonstrate secondary meaning, "the [c]ourt must determine whether the mark has been so associated in the mind of consumers with the entity that it identifies that the goods sold by that entity are distinguished by the mark or symbol from goods sold by others " *Id*

107 *Id*

108 *See also* Upjohn Co. v American Home Prods Corp , No. 1-95-CV-237, 1996 U.S Dist LEXIS 8049, at *42-44 (W.D Mich. Apr 5, 1996)

109 *See* Richard E. Nisbett & Timothy D Wilson, *Telling More Than We Can Know· Verbal Reports on Mental Processes*, 84 Psychol. Rev 231 (1977)

market; that the mark belongs to the brand with the largest market share), the more likely it is that the respondent's answer is influenced by preexisting impressions, by expectations about what commercials generally say (e.g., the product being advertised is better than its competitors), or by guessing, rather than by the actual content of the commercial message or trademark being evaluated.

It is possible to adjust many survey designs so that causal inferences about the effect of a trademark or an allegedly deceptive commercial become clear and unambiguous. By adding an appropriate control group, the survey expert can test directly the influence of the stimulus.[110] In the simplest version of a survey experiment, respondents are assigned randomly to one of two conditions.[111] For example, respondents assigned to the experimental condition view an allegedly deceptive commercial, and respondents assigned to the control condition either view a commercial that does not contain the allegedly deceptive material or do not view any commercial.[112] Respondents in both the experimental and control groups answer the same set of questions. The effect of the allegedly deceptive message is evaluated by comparing the responses made by the experimental group members with those of the control group members. If 40% of the respondents in the experimental group responded with the deceptive message (e.g., the advertised product has fewer calories than its competitor), whereas only 8% of the respondents in the control group gave that response, the difference between 40% and 8% (within the limits of sampling error[113]) can be attributed only to the allegedly deceptive commercial. Without the control group, it is not possible to determine how much of the 40% is due to respondents' preexisting beliefs or other background noise (e.g., respondents who misunderstand the question or misstate their responses). Both preexisting beliefs and other background noise should have produced similar response levels in the experimental

110 *See* Shari S Diamond, *Using Psychology to Control Law: From Deceptive Advertising to Criminal Sentencing*, 13 Law & Hum. Behav 239, 244–46 (1989), Shari S Diamond & Linda Dimitropoulos, Deception and Puffery in Advertising Behavioral Science Implications for Regulation (American Bar Found Working Paper Series No 9105, 1994), Jacob Jacoby & Constance Small, *Applied Marketing The FDA Approach to Defining Misleading Advertising*, 39 J Marketing 65, 68 (1975) For a more general discussion of the role of control groups, see David H Kaye & David A Freedman, Reference Guide on Statistics, § II.A, in this manual.

111. Random assignment should not be confused with random selection When respondents are assigned randomly to different treatment groups (e g, respondents in each group watch a different commercial), the procedure ensures that within the limits of sampling error the two groups of respondents will be equivalent except for the different treatments they receive. Respondents selected for a mall intercept study, and not from a probability sample, may be assigned randomly to different treatment groups. Random selection, in contrast, describes the method of selecting a sample of respondents in a probability sample. *See supra* § III.C.

112 This alternative commercial could be a "tombstone" advertisement that includes only the name of the product or a more elaborate commercial that does not include the claim at issue

113 For a discussion of sampling error, see David H Kaye & David A Freedman, Reference Guide on Statistics, § IV, in this manual.

and control groups. In addition, if respondents who viewed the allegedly deceptive commercial respond differently than respondents who viewed the control commercial, the difference cannot be the result of a leading question, because both groups answered the same question. The ability to evaluate the effect of the wording of a particular question makes the control group design particularly useful in assessing responses to closed-ended questions,[114] which may encourage guessing or particular responses. Thus, the focus on the response level in a control group design is not on the absolute response level, but on the difference between the response level of the experimental group and that of the control group.

In designing a control group study, the expert should select a stimulus for the control group that shares as many characteristics with the experimental stimulus as possible, with the key exception of the characteristic whose influence is being assessed. A survey with an imperfect control group generally provides better information than a survey with no control group at all, but the choice of the specific control group requires some care and should influence the weight that the survey receives. For example, a control stimulus should not be less attractive than the experimental stimulus if the survey is designed to measure how familiar the experimental stimulus is to respondents, since attractiveness may affect perceived familiarity.[115] Nor should the control stimulus share with the experimental stimulus the feature whose impact is being assessed. If, for example, the control stimulus in a case of alleged trademark infringement is itself a likely source of consumer confusion, reactions to the experimental and control stimuli may not differ because both cause respondents to express the same level of confusion.[116]

Explicit attention to the value of control groups in trademark and deceptive-advertising litigation is a recent phenomenon, but it is becoming more common.[117] A LEXIS search using *Lanham Act* and *control group* revealed fourteen

114 The Federal Trade Commission has long recognized the need for some kind of control for closed-ended questions, although it has not specified the type of control that is necessary Stouffer Foods Corp , 118 F T.C 746, No. 9250, 1994 FTC LEXIS 196, at *31 (Sept 26, 1994)

115 *See, e g* , Indianapolis Colts, Inc v Metropolitan Baltimore Football Club Ltd Partnership, 34 F 3d 410, 415–16 (7th Cir. 1994) (The court recognized that the name "Baltimore Horses" was less attractive for a sports team than the name "Baltimore Colts "). *See also* Reed-Union Corp. v Turtle Wax, Inc., 77 F.3d 909, 912 (7th Cir. 1996) (court noted that one expert's choice of a control brand with a well-known corporate source was less appropriate than the opposing expert's choice of a control brand whose name did not indicate a specific corporate source).

116 *See, e g.*, Western Publ'g Co v. Publications Int'l, Ltd., No 94-C-6803, 1995 U.S. Dist LEXIS 5917, at *45 (N.D. Ill. May 2, 1995) (court noted that the control product was "arguably more infringing than" the defendant's product) (emphasis omitted)

117. *See, e g* , American Home Prods Corp v Procter & Gamble Co , 871 F. Supp 739, 749 (D.N.J 1994) (discounting survey results based on failure to control for participants' preconceived notions); ConAgra, Inc. v Geo. A. Hormel & Co , 784 F. Supp 700, 728 (D. Neb. 1992) ("Since no control was used, the study, standing alone, must be significantly discounted."), *aff'd*, 990 F.2d 368 (8th Cir 1993)

district court cases in the six years since the first edition of this manual in 1994,[118] five district court cases in the seven years from 1987 to 1993,[119] and only one case before 1987[120] in which surveys with control groups were discussed. Other cases, however, have described or considered surveys using control group designs without labeling the comparison group a control group.[121] Indeed, one reason why cases involving surveys with control groups may be underrepresented in reported cases is that a survey with a control group produces less ambiguous findings, which may lead to a resolution before a preliminary injunction hearing or trial occurs.[122]

Another more common use of control methodology is a control question. Rather than administering a control stimulus to a separate group of respondents,

118 National Football League Properties, Inc. v Prostyle, Inc , 57 F Supp. 2d 665 (E D Wis. 1999), Nabisco, Inc. v PF Brands, Inc., 50 F. Supp 2d 188 (S.D.N.Y. 1999); Proctor & Gamble Co. v. Colgate-Palmolive Co , No. 96 Civ. 9123, 1998 U S Dist. LEXIS 17773 (S.D.N Y. Nov. 5, 1998), Mattel, Inc v. MCA Records, Inc , 28 F Supp 2d 1120 (C.D. Cal. 1998); Westchester Media Co. v PRL USA Holdings, No H-97-3278, 1998 U.S Dist LEXIS 11737 (S.D. Tex July 2, 1998); Time Inc. v Petersen Publ'g Co., 976 F. Supp 263 (S.D.N Y 1997), *aff'd*, 173 F.3d 113 (2d Cir. 1999), Adjusters Int'l, Inc v Public Adjusters Int'l, Inc., No. 92-CV-1426, 1996 U.S. Dist. LEXIS 12604 (N D.N Y Aug. 27, 1996), Upjohn Co v American Home Prods Corp., No. 1-95-CV-237, 1996 U.S Dist. LEXIS 8049 (W D Mich Apr 5, 1996); Copy Cop, Inc v Task Printing, Inc., 908 F Supp 37 (D Mass 1995), Volkswagen Aktiengesellschaft v. Uptown Motors, No. 91-CIV-3447, 1995 U S. Dist. LEXIS 13869 (S D N Y July 13, 1995); Western Publ'g Co. v. Publications Int'l, Ltd., No. 94-C-6803, 1995 U S Dist LEXIS 5917 (N.D. Ill May 2, 1995); Dogloo, Inc. v. Doskocil Mfg. Co , 893 F Supp 911 (C D Cal 1995), Reed-Union Corp v Turtle Wax, Inc., 869 F. Supp. 1304 (N D Ill. 1994), *aff'd*, 77 F 3d 909 (7th Cir 1996), Pfizer, Inc v Miles, Inc., 868 F. Supp. 437 (D Conn 1994)

119 ConAgra, Inc v Geo A. Hormel & Co , 784 F Supp 700 (D. Neb. 1992), *aff'd*, 990 F 2d 368 (8th Cir 1993); Johnson & Johnson-Merck Consumer Pharms Co v Smithkline Beecham Corp , No. 91 Civ. 0960, 1991 U S Dist. LEXIS 13689 (S D.N Y Sept 30, 1991), *aff'd*, 960 F.2d 294 (2d Cir 1992), Goya Foods, Inc v Condal Distribs , Inc , 732 F Supp 453 (S D.N.Y. 1990); Sturm, Ruger & Co v Arcadia Mach & Tool, Inc , No 85-8459, 1988 U S. Dist. LEXIS 16451 (C.D Cal. Nov 7, 1988), Frisch's Restaurant, Inc v Elby's Big Boy, Inc , 661 F. Supp. 971 (S.D. Ohio 1987), *aff'd*, 849 F.2d 1012 (6th Cir 1988).

120 American Basketball Ass'n v. AMF Voit, Inc , 358 F. Supp. 981 (S.D N Y), *aff'd*, 487 F 2d 1393 (2d Cir 1973)

121 Indianapolis Colts, Inc. v Metropolitan Baltimore Football Club Ltd Partnership, No. 94-727-C, 1994 U S Dist LEXIS 19277, at *10–11 (S D Ind June 27, 1994), *aff'd*, 34 F 3d 410 (7th Cir 1994) In *Indianapolis Colts*, the district court described a survey conducted by the plaintiff's expert in which half of the interviewees were shown a shirt with the name "Baltimore CFL Colts" on it and half were shown a shirt on which the word "Horses" had been substituted for the word "Colts." *Id* The court noted that the comparison of reactions to the horse and colt versions of the shirt made it possible "to determine the impact from the use of the word 'Colts.'" *Id* at *11 *See also* Quality Inns Int'l, Inc v McDonald's Corp , 695 F Supp. 198, 218 (D Md. 1988) (survey revealed confusion between McDonald's and McSleep, but control survey revealed no confusion between McDonald's and McTavish).

122 The relatively infrequent mention of control groups in surveys discussed in federal cases is not confined to Lanham Act litigation. A LEXIS search using *survey* and *control group* revealed thirty district court cases in the six years from 1994 in which *control group* was used to refer to a methodological feature the fourteen Lanham Act cases cited *supra* note 118, nine that referred to medical, physiological, or pharmacological experiments, and seven others

the survey asks all respondents one or more control questions along with the question about the product or service. In a trademark dispute, for example, a survey indicated that 7.2% of respondents believed that "The Mart" and "K-Mart" were owned by the same individuals. The court found no likelihood of confusion based on survey evidence that 5.7% of the respondents also thought that "The Mart" and "King's Department Store" were owned by the same source.[123]

Similarly, a standard technique used to evaluate whether a brand name is generic is to present survey respondents with a series of product or service names and ask them to indicate in each instance whether they believe the name is a brand name or a common name. By showing that 68% of respondents considered Teflon a brand name (a proportion similar to the 75% of respondents who recognized the acknowledged trademark Jell-O as a brand name, and markedly different from the 13% who thought aspirin was a brand name), the makers of Teflon retained their trademark.[124]

Every measure of opinion or belief in a survey reflects some degree of error. Control groups and control questions are the most reliable means for assessing response levels against the baseline level of error associated with a particular question.

G. *What Limitations Are Associated with the Mode of Data Collection Used in the Survey?*

Three primary methods are used to collect survey data: (1) in-person interviews, (2) telephone surveys, and (3) mail surveys.[125] The choice of a data collection method for a survey should be justified by its strengths and weaknesses.

1. *In-person interviews*

Although costly, in-person interviews generally are the preferred method of data collection, especially when visual materials must be shown to the respondent under controlled conditions.[126] When the questions are complex and the interviewers are skilled, in-person interviewing provides the maximum oppor-

123 S S. Kresge Co v United Factory Outlet, Inc , 598 F 2d 694, 697 (1st Cir. 1979) Note that the aggregate percentages reported here do not reveal how many of the same respondents were confused by both names, an issue that may be relevant in some situations *See* Joseph L Gastwirth, *Reference Guide on Survey Research*, 36 Jurimetrics J 181, 187–88 (1996) (review essay).

124 E I DuPont de Nemours & Co v Yoshida Int'l, Inc., 393 F Supp 502, 526-27 & n 54 (E.D N Y. 1975)

125 Methods also may be combined, as when the telephone is used to "screen" for eligible respondents, who then are invited to participate in an in-person interview

126. A mail survey also can include limited visual materials but cannot exercise control over when and how the respondent views them

tunity to clarify or probe. Unlike a mail survey, both in-person and telephone interviews have the capability to implement complex skip sequences (in which the respondent's answer determines which question will be asked next) and the power to control the order in which the respondent answers the questions. As described in section V.A, appropriate interviewer training is necessary if these potential benefits are to be realized. Objections to the use of in-person interviews arise primarily from their high cost or, on occasion, from evidence of inept or biased interviewers.

2. *Telephone surveys*

Telephone surveys offer a comparatively fast and low-cost alternative to in-person surveys and are particularly useful when the population is large and geographically dispersed. Telephone interviews (unless supplemented with mailed materials) can be used only when it is unnecessary to show the respondent any visual materials. Thus, an attorney may present the results of a telephone survey of jury-eligible citizens in a motion for a change of venue in order to provide evidence that community prejudice raises a reasonable suspicion of potential jury bias.[127] Similarly, potential confusion between a restaurant called McBagel's and the McDonald's fast-food chain was established in a telephone survey. Over objections from defendant McBagel's that the survey did not show respondents the defendant's print advertisements, the court found likelihood of confusion based on the survey, noting that "by soliciting audio responses [, the telephone survey] was closely related to the radio advertising involved in the case."[128] In contrast, when words are not sufficient because, for example, the survey is assessing reactions to the trade dress or packaging of a product that is alleged to promote confusion, a telephone survey alone does not offer a suitable vehicle for questioning respondents.[129]

In evaluating the sampling used in a telephone survey, the trier of fact should consider

- (when prospective respondents are not business personnel) whether some form of random-digit dialing[130] was used instead of or to supplement tele-

127. United States v. Partin, 320 F Supp. 275, 279-80 (E D La 1970). For a discussion of surveys used in motions for change of venue, see Neal Miller, *Facts, Expert Facts, and Statistics. Descriptive and Experimental Research Methods in Litigation, Part II*, 40 Rutgers L Rev 467, 470–74 (1988), National Jury Project, Jurywork: Systematic Techniques (Elissa Krauss & Beth Bonora eds , 2d ed. 1983)

128. McDonald's Corp v McBagel's, Inc , 649 F Supp 1268, 1278 (S D N.Y 1986)

129 Thompson Med. Co v Pfizer Inc , 753 F.2d 208 (2d Cir 1985), Incorporated Publ'g Corp v Manhattan Magazine, Inc., 616 F. Supp 370 (S.D.N.Y. 1985), *aff'd without op.*, 788 F 2d 3 (2d Cir 1986).

130 Random digit dialing provides coverage of households with both listed and unlisted telephone numbers by generating numbers at random from the frame of all possible telephone numbers James M. Lepkowski, *Telephone Sampling Methods in the United States*, *in* Telephone Survey Methodology 81–91 (Robert M. Groves et al. eds , 1988).

phone numbers obtained from telephone directories, because up to 65% of all residential telephone numbers in some areas may be unlisted;[131]

- whether the sampling procedures required the interviewer to sample within the household or business, instead of allowing the interviewer to administer the survey to any qualified individual who answered the telephone;[132] and
- whether interviewers were required to call back at several different times of the day and on different days to increase the likelihood of contacting individuals or businesses with different schedules.

Telephone surveys that do not include these procedures may, like other nonprobability sampling approaches, be adequate for providing rough approximations. The vulnerability of the survey depends on the information being gathered. More elaborate procedures for achieving a representative sample of respondents are advisable if the survey instrument requests information that is likely to differ for individuals with listed telephone numbers and individuals with unlisted telephone numbers, or individuals rarely at home and those usually at home.

The report submitted by a survey expert who conducts a telephone survey should specify

1. the procedures that were used to identify potential respondents;
2. the number of telephone numbers for which no contact was made; and
3. the number of contacted potential respondents who refused to participate in the survey.

Computer-assisted telephone interviewing, or CATI, is increasingly used in the administration and data entry of large-scale surveys.[133] A computer protocol may be used to generate telephone numbers and dial them as well as to guide the interviewer. The interviewer conducting a computer-assisted interview (CAI), whether by telephone or in a face-to-face setting, follows the script for the interview generated by the computer program and types in the respondent's answers as the interview proceeds. A primary advantage of CATI and other CAI procedures is that skip patterns can be built into the program so that, for example, if the respondent is asked whether she has ever been the victim of a burglary and she says yes, the computer will generate further questions about

131. In 1992, the percentage of households with unlisted numbers reached 65% in Las Vegas and 62% in Los Angeles Survey Sampling, Inc., The Frame 2 (March 1993). Studies comparing listed and unlisted household characteristics show some important differences Lepkowski, *supra* note 130, at 76

132 This is a consideration only if the survey is sampling individuals If the survey is seeking information on the household, more than one individual may be able to answer questions on behalf of the household.

133 William L. Nicholls II & R M Groves, *The Status of Computer-Assisted Telephone Interviewing*, 2 J Official Stat. 93 (1986), Mary A. Spaeth, *CATI Facilities at Academic Research Organizations*, 21 Surv Res 11 (1990); William E. Sans, Computer-Assisted Interviewing (1991).

the burglary, but if she says no, the program will automatically skip the follow-up burglary questions. Interviewer errors in following the skip patterns are therefore avoided, making CAI procedures particularly valuable when the survey involves complex branching and skip patterns.[134] CAI procedures can also be used to control for order effects by having the program rotate the order in which questions or choices are presented.[135] CAI procedures, however, require additional planning to take advantage of the potential for improvements in data quality. When a CAI protocol is used in a survey presented in litigation, the party offering the survey should supply for inspection the computer program that was used to generate the interviews. Moreover, CAI procedures do not eliminate the need for close monitoring of interviews to ensure that interviewers are accurately reading the questions in the interview protocol and accurately entering the answers that the respondent is giving to those questions.

3. Mail surveys

In general, mail surveys tend to be substantially less costly than both in-person and telephone surveys.[136] Although response rates for mail surveys are often low, researchers have obtained 70% response rates in some general public surveys and response rates of over 90% with certain specialized populations.[137] Procedures that encourage high response rates include multiple mailings, highly personalized communications, prepaid return envelopes and incentives or gratuities, assurances of confidentiality, and first-class outgoing postage.[138]

A mail survey will not produce a high rate of return unless it begins with an accurate and up-to-date list of names and addresses for the target population. Even if the sampling frame is adequate, the sample may be unrepresentative if some individuals are more likely to respond than others. For example, if a survey targets a population that includes individuals with literacy problems, these individuals will tend to be underrepresented. Open-ended questions are generally of limited value on a mail survey because they depend entirely on the respondent to answer fully and do not provide the opportunity to probe or clarify

134 Saris, *supra* note 133, at 20, 27

135. *See, e g*, Intel Corp. v Advanced Micro Devices, Inc, 756 F. Supp 1292, 1296–97 (N D. Cal 1991) (survey designed to test whether the term *386* as applied to a microprocessor was generic used a CATI protocol that tested reactions to five terms presented in rotated order)

136. Don A Dillman, *Mail and Other Self-Administered Questionnaires*, in Handbook of Survey Research, *supra* note 1, at 359, 373.

137. *Id* at 360

138 *See, e.g*, Richard J Fox et al., *Mail Survey Response Rate: A Meta-Analysis of Selected Techniques for Inducing Response*, 52 Pub Opinion Q. 467, 482 (1988), Eleanor Singer et al., *Confidentiality Assurances and Response A Quantitative Review of the Experimental Literature*, 59 Pub Opinion Q 66, 71 (1995); Kenneth D Hopkins & Arlen R Gullickson, *Response Rates in Survey Research A Meta-Analysis of the Effects of Monetary Gratuities*, 61 J. Experimental Educ. 52, 54–57, 59 (1992).

unclear answers. Similarly, if eligibility to answer some questions depends on the respondent's answers to previous questions, such skip sequences may be difficult for some respondents to follow. Finally, because respondents complete mail surveys without supervision, survey personnel are unable to prevent respondents from discussing the questions and answers with others before completing the survey and to control the order in which respondents answer the questions. If it is crucial to have respondents answer questions in a particular order, a mail survey cannot be depended on to provide adequate data.[139]

4. *Internet surveys*

A more recent innovation in survey technology is the Internet survey in which potential respondents are contacted and their responses are collected over the Internet. Internet surveys can substantially reduce the cost of reaching potential respondents and offer some of the advantages of in-person interviews by allowing the computer to show the respondent pictures or lists of response choices in the course of asking the respondent questions. The key limitation is that the respondents accessible over the Internet must fairly represent the relevant population whose responses the survey was designed to measure. Thus, a litigant presenting the results of a web-based survey should be prepared to provide evidence on the potential bias in sampling that the web-based survey is likely to introduce. If the target population consists of computer users, the bias may be minimal. If the target population consists of owners of television sets, significant bias is likely.

V. Surveys Involving Interviewers

A. Were the Interviewers Appropriately Selected and Trained?

A properly defined population or universe, a representative sample, and clear and precise questions can be depended on to produce trustworthy survey results only if "sound interview procedures were followed by competent interviewers."[140] Properly trained interviewers receive detailed written instructions on everything they are to say to respondents, any stimulus materials they are to use in the survey, and how they are to complete the interview form. These instructions should be made available to the opposing party and to the trier of fact. Thus, interviewers should be told, and the interview form on which answers are recorded should indicate, which responses, if any, are to be read to the respondent. Interviewers also should be instructed to record verbatim the respondent's

139 Dillman, *supra* note 136, at 368–70

140 Toys "R" Us, Inc v Canarsie Kiddie Shop, Inc , 559 F Supp. 1189, 1205 (E D N.Y. 1983).

answers, to indicate explicitly whenever they repeat a question to the respondent, and to record any statements they make to or supplementary questions they ask the respondent.

Interviewers require training to ensure that they are able to follow directions in administering the survey questions. Some training in general interviewing techniques is required for most interviews (e.g., practice in pausing to give the respondent enough time to answer and practice in resisting invitations to express the interviewer's beliefs or opinions). Although procedures vary, one treatise recommends at least five hours of training in general interviewing skills and techniques for new interviewers.[141]

The more complicated the survey instrument is, the more training and experience the interviewers require. Thus, if the interview includes a skip pattern (where, e.g., Questions 4–6 are asked only if the respondent says yes to Question 3, and Questions 8–10 are asked only if the respondent says no to Question 3), interviewers must be trained to follow the pattern. Similarly, if the questions require specific probes to clarify ambiguous responses, interviewers must receive instruction on when to use the probes and what to say. In some surveys, the interviewer is responsible for last-stage sampling (i.e., selecting the particular respondents to be interviewed), and training is especially crucial to avoid interviewer bias in selecting respondents who are easiest to approach or easiest to find.

Training and instruction of interviewers should include directions on the circumstances under which interviews are to take place (e.g., question only one respondent at a time out of the hearing of any other respondent). The trustworthiness of a survey is questionable if there is evidence that some interviews were conducted in a setting in which respondents were likely to have been distracted or in which others were present and could overhear. Such evidence of careless administration of the survey was one ground used by a court to reject as inadmissible a survey that purported to demonstrate consumer confusion.[142]

Some compromises may be accepted when surveys must be conducted swiftly. In trademark and deceptive advertising cases, the plaintiff's usual request is for a preliminary injunction, because a delay means irreparable harm. Nonetheless, careful instruction and training of interviewers who administer the survey and complete disclosure of the methods used for instruction and training are crucial elements that, if compromised, seriously undermine the trustworthiness of any survey.

141 Eve Weinberg, *Data Collection Planning and Management*, in Handbook of Survey Research, *supra* note 1, at 329, 332.

142. *Toys "R" Us*, 559 F Supp at 1204 (some interviews apparently were conducted in a bowling alley, some interviewees waiting to be interviewed overheard the substance of the interview while they were waiting)

B. *What Did the Interviewers Know About the Survey and Its Sponsorship?*

One way to protect the objectivity of survey administration is to avoid telling interviewers who is sponsoring the survey. Interviewers who know the identity of the survey's sponsor may affect results inadvertently by communicating to respondents their expectations or what they believe are the preferred responses of the survey's sponsor. To ensure objectivity in the administration of the survey, it is standard interview practice to conduct double-blind research whenever possible: both the interviewer and the respondent are blind to the sponsor of the survey and its purpose. Thus, the survey instrument should provide no explicit clues (e.g., a sponsor's letterhead appearing on the survey) and no implicit clues (e.g., reversing the usual order of the yes and no response boxes on the interviewer's form next to a crucial question, thereby potentially increasing the likelihood that *no* will be checked[143]) about the sponsorship of the survey or the expected responses.

Nonetheless, in some surveys (e.g., some government surveys), disclosure of the survey's sponsor to respondents (and thus to interviewers) is required. Such surveys call for an evaluation of the likely biases introduced by interviewer or respondent awareness of the survey's sponsorship. In evaluating the consequences of sponsorship awareness, it is important to consider (1) whether the sponsor has views and expectations that are apparent and (2) whether awareness is confined to the interviewers or involves the respondents. For example, if a survey concerning attitudes toward gun control is sponsored by the National Rifle Association, it is clear that responses opposing gun control are likely to be preferred. In contrast, if the survey on gun control attitudes is sponsored by the Department of Justice, the identity of the sponsor may not suggest the kind of responses the sponsor expects or would find acceptable.[144] When interviewers are well trained, their awareness of sponsorship may be a less serious threat than respondents' awareness. The empirical evidence for the effects of interviewers' prior expectations on respondents' answers generally reveals modest effects when the interviewers are well trained.[145]

143 Centaur Communications, Ltd v. A/S/M Communications, Inc., 652 F Supp 1105, 1111 n 3 (S D.N Y) (pointing out that reversing the usual order of response choices, yes or no, to no or yes may confuse interviewers as well as introduce bias), *aff'd*, 830 F.2d 1217 (2d Cir. 1987)

144. *See, e g* , Stanley Presser et al , *Survey Sponsorship, Response Rates, and Response Effects*, 73 Soc Sci. Q. 699, 701 (1992) (different responses to a university-sponsored telephone survey and a newspaper-sponsored survey for questions concerning attitudes toward the mayoral primary, an issue on which the newspaper had taken a position)

145. *See, e.g* , Seymour Sudman et al., *Modest Expectations. The Effects of Interviewers' Prior Expectations on Responses*, 6 Soc. Methods & Res. 171, 181 (1977)

C. What Procedures Were Used to Ensure and Determine That the Survey Was Administered to Minimize Error and Bias?

Three methods are used to ensure that the survey instrument was implemented in an unbiased fashion and according to instructions. The first, monitoring the interviews as they occur, is done most easily when telephone surveys are used. A supervisor listens to a sample of interviews for each interviewer. Field settings make monitoring more difficult, but evidence that monitoring has occurred provides an additional indication that the survey has been reliably implemented.

Second, validation of interviews occurs when respondents in a sample are recontacted to ask whether the initial interviews took place and to determine whether the respondents were qualified to participate in the survey. The standard procedure for validation of in-person interviews is to telephone a random sample of about 10% to 15% of the respondents.[146] Some attempts to reach the respondent will be unsuccessful, and occasionally a respondent will deny that the interview took place even though it did. Because the information checked is limited to whether the interview took place and whether the respondent was qualified, this validation procedure does not determine whether the initial interview as a whole was conducted properly. Nonetheless, this standard validation technique warns interviewers that their work is being checked and can detect gross failures in the administration of the survey.

A third way to verify that the interviews were conducted properly is to compare the work done by each individual interviewer. By reviewing the interviews and individual responses recorded by each interviewer, researchers can identify any response patterns or inconsistencies for further investigation.

When a survey is conducted at the request of a party for litigation rather than in the normal course of business, a heightened standard for validation checks may be appropriate. Thus, independent validation of at least 50% of interviews by a third party rather than by the field service that conducted the interviews increases the trustworthiness of the survey results.[147]

146. *See, e g*, National Football League Properties, Inc v. New Jersey Giants, Inc., 637 F. Supp. 507, 515 (D N J. 1986); Davis v. Southern Bell Tel & Tel. Co., No. 89-2839, 1994 U.S Dist LEXIS 13257, at *16 (S D Fla. Feb 1, 1994).

147 In *Rust Environment & Infrastructure, Inc v Teunissen*, 131 F 3d 1210, 1218 (7th Cir. 1997), the court criticized a survey in part because it "did not comport with accepted practice for independent validation of the results "

VI. Data Entry and Grouping of Responses

A. What Was Done to Ensure That the Data Were Recorded Accurately?

Analyzing the results of a survey requires that the data obtained on each sampled element be recorded, edited, and often coded before the results can be tabulated and processed. Procedures for data entry should include checks for completeness, checks for reliability and accuracy, and rules for resolving inconsistencies. Accurate data entry is maximized when responses are verified by duplicate entry and comparison, and when data entry personnel are unaware of the purposes of the survey.

B. What Was Done to Ensure That the Grouped Data Were Classified Consistently and Accurately?

Coding of answers to open-ended questions requires a detailed set of instructions so that decision standards are clear and responses can be scored consistently and accurately. Two trained coders should independently score the same responses to check for the level of consistency in classifying responses. When the criteria used to categorize verbatim responses are controversial or allegedly inappropriate, those criteria should be sufficiently clear to reveal the source of disagreements. In all cases, the verbatim responses should be available so that they can be recoded using alternative criteria.[148]

148. *See, e.g.*, Coca-Cola Co. v. Tropicana Prods., Inc., 538 F. Supp. 1091, 1094–96 (S.D N.Y.) (plaintiff's expert stated that respondents' answers to the several open-ended questions revealed that 43% of respondents thought Tropicana was portrayed as fresh squeezed; the court's own tabulation found no more than 15% believed this was true), *rev'd on other grounds*, 690 F.2d 312 (2d Cir. 1982). *See also* McNeilab, Inc. v. American Home Prods. Corp., 501 F. Supp. 517 (S D.N.Y. 1980); Rock v. Zimmerman, 959 F.2d 1237, 1253 n.9 (3d Cir. 1992) (court found that responses on a change of venue survey incorrectly categorized respondents who believed the defendant was insane as believing he was guilty); Revlon Consumer Prods. Corp. v. Jennifer Leather Broadway, Inc., 858 F. Supp. 1268, 1276 (S.D.N.Y. 1994) (inconsistent scoring and subjective coding led court to find survey so unreliable that it was entitled to no weight), *aff'd*, 57 F.3d 1062 (2d Cir. 1995).

VII. Disclosure and Reporting

A. When Was Information About the Survey Methodology and Results Disclosed?

Objections to the definition of the relevant population, the method of selecting the sample, and the wording of questions generally are raised for the first time when the results of the survey are presented. By that time it is too late to correct methodological deficiencies that could have been addressed in the planning stages of the survey. The plaintiff in a trademark case[149] submitted a set of proposed survey questions to the trial judge, who ruled that the survey results would be admissible at trial while reserving the question of the weight the evidence would be given.[150] The court of appeals called this approach a commendable procedure and suggested that it would have been even more desirable if the parties had "attempt[ed] in good faith to agree upon the questions to be in such a survey."[151]

The *Manual for Complex Litigation, Second,* recommended that parties be required, "before conducting any poll, to provide other parties with an outline of the proposed form and methodology, including the particular questions that will be asked, the introductory statements or instructions that will be given, and other controls to be used in the interrogation process."[152] The parties then were encouraged to attempt to resolve any methodological disagreements before the survey was conducted.[153] Although this passage in the second edition of the manual has been cited with apparent approval,[154] the prior agreement the manual recommends has occurred rarely and the *Manual for Complex Litigation, Third,* recommends, but does not advocate requiring, prior disclosure and discussion of survey plans.[155]

Rule 26 of the Federal Rules of Civil Procedure requires extensive disclosure of the basis of opinions offered by testifying experts. However, these provisions may not produce disclosure of all survey materials, because parties are not obli-

149 Union Carbide Corp. v. Ever-Ready, Inc., 392 F Supp 280 (N D. Ill. 1975), *rev'd*, 531 F 2d 366 (7th Cir), *cert. denied*, 429 U S 830 (1976).

150. Before trial, the presiding judge was appointed to the court of appeals, so the case was tried by another district court judge.

151 *Union Carbide*, 531 F 2d at 386. More recently, the Seventh Circuit recommended the filing of a motion *in limine*, asking the district court to determine the admissibility of a survey based on an examination of the survey questions and the results of a preliminary survey before the party undertakes the expense of conducting the actual survey. Piper Aircraft Corp. v Wag-Aero, Inc., 741 F 2d 925, 929 (7th Cir 1984).

152. MCL 2d, *supra* note 15, § 21 484

153. *Id*

154 *E g*, National Football League Properties, Inc v New Jersey Giants, Inc, 637 F Supp 507, 514 n 3 (D N J. 1986).

155 MCL 3d, *supra* note 15, § 21.493

gated to disclose information about nontestifying experts. Parties considering whether to commission or use a survey for litigation are not obligated to present a survey that produces unfavorable results. Prior disclosure of a proposed survey instrument places the party that ultimately would prefer not to present the survey in the position of presenting damaging results or leaving the impression that the results are not being presented because they were unfavorable. Anticipating such a situation, parties do not decide whether an expert will testify until after the results of the survey are available.

Nonetheless, courts are in a position to encourage early disclosure and discussion even if they do not lead to agreement between the parties. In *McNeilab, Inc. v. American Home Products Corp.*,[156] Judge William C. Conner encouraged the parties to submit their survey plans for court approval to ensure their evidentiary value; the plaintiff did so and altered its research plan based on Judge Conner's recommendations. Parties can anticipate that changes consistent with a judicial suggestion are likely to increase the weight given to, or at least the prospects of admissibility of, the survey.[157]

B. Does the Survey Report Include Complete and Detailed Information on All Relevant Characteristics?

The completeness of the survey report is one indicator of the trustworthiness of the survey and the professionalism of the expert who is presenting the results of the survey. A survey report generally should provide in detail

1. the purpose of the survey;
2. a definition of the target population and a description of the population that was actually sampled;
3. a description of the sample design, including the method of selecting respondents, the method of interview, the number of callbacks, respondent eligibility or screening criteria, and other pertinent information;
4. a description of the results of sample implementation, including (a) the number of potential respondents contacted, (b) the number not reached, (c) the number of refusals, (d) the number of incomplete interviews or terminations, (e) the number of noneligibles, and (f) the number of completed interviews;
5. the exact wording of the questions used, including a copy of each version of the actual questionnaire, interviewer instructions, and visual exhibits;
6. a description of any special scoring (e.g., grouping of verbatim responses into broader categories);

156. 848 F.2d 34, 36 (2d Cir. 1988) (discussing with approval the actions of the district court).

157 Larry C Jones, *Developing and Using Survey Evidence in Trademark Litigation*, 19 Memphis St U. L. Rev. 471, 481 (1989)

7. estimates of the sampling error, where appropriate (i.e., in probability samples);
8. statistical tables clearly labeled and identified as to source of data, including the number of raw cases forming the base for each table, row, or column; and
9. copies of interviewer instructions, validation results, and code books.[158]

A description of the procedures and results of pilot testing is not included on this list. Survey professionals generally do not describe pilot testing in their reports. The Federal Rules of Civil Procedure, however, may require that a testifying expert disclose pilot work that serves as a basis for the expert's opinion. The situation is more complicated when a nontestifying expert conducts the pilot work and the testifying expert learns about the pilot testing only indirectly through the attorney's advice about the relevant issues in the case. Some commentators suggest that attorneys are obligated to disclose such pilot work.[159]

C. *In Surveys of Individuals, What Measures Were Taken to Protect the Identities of Individual Respondents?*

The respondents questioned in a survey generally do not testify in legal proceedings and are unavailable for cross-examination. Indeed, one of the advantages of a survey is that it avoids a repetitious and unrepresentative parade of witnesses. To verify that interviews occurred with qualified respondents, standard survey practice includes validation procedures,[160] the results of which should be included in the survey report.

Conflicts may arise when an opposing party asks for survey respondents' names and addresses in order to reinterview some respondents. The party introducing the survey or the survey organization that conducted the research generally resists supplying such information.[161] Professional surveyors as a rule guarantee

158. These criteria were adapted from the Council of Am. Survey Res. Orgs., *supra* note 41, § III B. Failure to supply this information substantially impairs a court's ability to evaluate a survey. *In re* Prudential Ins. Co. of Am. Sales Practices Litig., 962 F. Supp. 450, 532 (D N.J 1997) (citing the first edition of this manual). *But see Florida Bar v. Went for It, Inc.*, 515 U.S. 618, 626–28 (1995), in which a majority of the Supreme Court relied on a summary of results prepared by the Florida Bar from a consumer survey purporting to show consumer objections to attorney solicitation by mail. In a strong dissent, Justice Kennedy, joined by three of his colleagues, found the survey inadequate based on the document available to the court, pointing out that the summary included "no actual surveys, few indications of sample size or selection procedures, no explanations of methodology, and no discussion of excluded results . . . no description of the statistical universe or scientific framework that permits any productive use of the information the so-called Summary of Record contains." *Id.* at 640.

159. Yvonne C. Schroeder, *Pretesting Survey Questions*, 11 Am. J. Trial Advoc. 195, 197–201 (1987).

160. *See supra* § V.C.

161. *See, e.g.*, Alpo Petfoods, Inc. v. Ralston Purina Co., 720 F. Supp. 194 (D.D.C. 1989), *aff'd in part & vacated in part*, 913 F.2d 958 (D.C. Cir. 1990).

confidentiality in an effort to increase participation rates and to encourage candid responses. Because failure to extend confidentiality may bias both the willingness of potential respondents to participate in a survey and their responses, the professional standards for survey researchers generally prohibit disclosure of respondents' identities. "The use of survey results in a legal proceeding does not relieve the Survey Research Organization of its ethical obligation to maintain in confidence all Respondent-identifiable information or lessen the importance of Respondent anonymity."[162] Although no surveyor–respondent privilege currently is recognized, the need for surveys and the availability of other means to examine and ensure their trustworthiness argue for deference to legitimate claims for confidentiality in order to avoid seriously compromising the ability of surveys to produce accurate information.[163]

Copies of all questionnaires should be made available upon request so that the opposing party has an opportunity to evaluate the raw data. All identifying information, such as the respondent's name, address, and telephone number, should be removed to ensure respondent confidentiality.

162. Council of Am. Survey Res Orgs., *supra* note 41, § I.A 3 f. Similar provisions are contained in the By-Laws of the American Association for Public Opinion Research

163 Litton Indus , Inc , No 9123, 1979 FTC LEXIS 311, at *13 & n 12 (June 19, 1979) (Order Concerning the Identification of Individual Survey-Respondents with Their Questionnaires) (citing Frederick H. Boness & John F. Cordes, Note, *The Researcher–Subject Relationship The Need for Protection and a Model Statute*, 62 Geo. L J. 243, 253 (1973)). *See also* Lampshire v Procter & Gamble Co , 94 F R.D 58, 60 (N.D Ga. 1982) (defendant denied access to personal identifying information about women involved in studies by the Centers for Disease Control based on Fed. R Civ P 26(c) giving court the authority to enter "any order which justice requires to protect a party or persons from annoyance, embarrassment, oppression, or undue burden or expense ") (citation omitted)

Glossary of Terms

The following terms and definitions were adapted from a variety of sources, including Handbook of Survey Research (Peter H. Rossi et al. eds., 1983); 1 Environmental Protection Agency, Survey Management Handbook (1983); Measurement Errors in Surveys (Paul P. Biemer et al. eds., 1991); William E. Saris, Computer-Assisted Interviewing (1991); Seymour Sudman, Applied Sampling (1976).

branching. A questionnaire structure that uses the answers to earlier questions to determine which set of additional questions should be asked (e.g., citizens who report having served as jurors on a criminal case are asked different questions about their experiences than citizens who report having served as jurors on a civil case).

CAI (computer-assisted interviewing). A method of conducting interviews in which an interviewer asks questions and records the respondent's answer by following a computer-generated protocol.

CATI (computer-assisted telephone interviewing). A method of conducting telephone interviews in which an interviewer asks questions and records the respondent's answer by following a computer-generated protocol.

closed-ended question. A question that provides the respondent with a list of choices and asks the respondent to choose from among them.

cluster sampling. A sampling technique allowing for the selection of sample elements in groups or clusters, rather than on an individual basis; it may significantly reduce field costs and may increase sampling error if elements in the same cluster are more similar to one another than are elements in different clusters.

confidence interval. An indication of the probable range of error associated with a sample value obtained from a probability sample. Also, margin of error.

convenience sample. A sample of elements selected because they were readily available.

double-blind research. Research in which the respondent and the interviewer are not given information that will alert them to the anticipated or preferred pattern of response.

error score. The degree of measurement error in an observed score (see true score).

full-filter question. A question asked of respondents to screen out those who do not have an opinion on the issue under investigation before asking them the question proper.

mall intercept survey. A survey conducted in a mall or shopping center in which potential respondents are approached by a recruiter (intercepted) and invited to participate in the survey.

multistage sampling design. A sampling design in which sampling takes place in several stages, beginning with larger units (e.g., cities) and then proceeding with smaller units (e.g., households or individuals within these units).

nonprobability sample. Any sample that does not qualify as a probability sample.

open-ended question. A question that requires the respondent to formulate his or her own response.

order effect. A tendency of respondents to choose an item based in part on the order in which it appears in the question, questionnaire, or interview (see primacy effect and recency effect); also referred to as a context effect because the context of the question influences the way the respondent perceives and answers it.

parameter. A summary measure of a characteristic of a population (e.g., average age, proportion of households in an area owning a computer). Statistics are estimates of parameters.

pilot test. A small field test replicating the field procedures planned for the full-scale survey; although the terms *pilot test* and *pretest* are sometimes used interchangeably, a pretest tests the questionnaire, whereas a pilot test generally tests proposed collection procedures as well.

population. The totality of elements (objects, individuals, or other social units) that have some common property of interest; the target population is the collection of elements that the researcher would like to study; the survey population is the population that is actually sampled and for which data may be obtained. Also, universe.

population value, population parameter. The actual value of some characteristic in the population (e.g., the average age); the population value is estimated by taking a random sample from the population and computing the corresponding sample value.

pretest. A small preliminary test of a survey questionnaire. See pilot test.

primacy effect. A tendency of respondents to choose early items from a list of choices; the opposite of a recency effect.

probability sample. A type of sample selected so that every element in the population has a known nonzero probability of being included in the sample; a simple random sample is a probability sample.

probe. A follow-up question that an interviewer asks to obtain a more complete answer from a respondent (e.g., "Anything else?" "What kind of medical problem do you mean?").

quasi-filter question. A question that offers a "don't know" or "no opinion" option to respondents as part of a set of response alternatives; used to screen out respondents who may not have an opinion on the issue under investigation.

random sample. See simple random sample.

recency effect. A tendency of respondents to choose later items from a list of choices; the opposite of a primacy effect.

sample. A subset of a population or universe selected so as to yield information about the population as a whole.

sampling error. The estimated size of the difference between the result obtained from a sample study and the result that would be obtained by attempting a complete study of all units in the sampling frame from which the sample was selected in the same manner and with the same care.

sampling frame. The source or sources from which the objects, individuals, or other social units in a sample are drawn.

secondary meaning. A descriptive term that becomes protectable as a trademark if it signifies to the purchasing public that the product comes from a single producer or source.

simple random sample. The most basic type of probability sample; each unit in the population has an equal probability of being in the sample, and all possible samples of a given size are equally likely to be selected.

skip pattern, skip sequence. A sequence of questions in which some should not be asked (should be skipped) based on the respondent's answer to a previous question (e.g., if the respondent indicates that he does not own a car, he should not be asked what brand of car he owns).

stratified sampling. A sampling technique that permits the researcher to subdivide the population into mutually exclusive and exhaustive subpopulations, or strata; within these strata, separate samples are selected; results can be combined to form overall population estimates or used to report separate within-stratum estimates.

survey population. See population.

systematic sampling. A sampling technique that consists of a random starting point and the selection of every *n*th member of the population; it generally produces the same results as simple random sampling.

target population. See population.

trade dress. A distinctive and nonfunctional design of a package or product protected under state unfair competition law and the federal Lanham Act §43(a), 15 U.S.C. §1125(a) (1946) (amended 1992).

true score. The underlying true value, which is unobservable because there is always some error in measurement; the observed score = true score + error score.

universe. See population.

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

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Assessing Demand Artifacts in Consumer Research: An Alternative Perspective

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DEFENDANT'S EXHIBIT
D 194

In a recent insightful article on demand artifacts in consumer research, T. A. Shimp, E. M. Hyatt, and D. J. Snyder, using a 1989 article by J. J. Kellaris and A. D. Cox as backdrop, provided an appraisal of demand artifacts. In this article, we critically evaluate some of the assumptions and conclusions of Shimp et al.'s analysis of the extent to which demand artifacts might explain the 1982 results of G. J. Gorn as analyzed by Kellaris and Cox. In addition, we offer some useful suggestions for minimizing demand problems.

Recently, Shimp, Hyatt, and Snyder (1991a) evaluated the preconditions of demand artifacts in consumer research and offered a critique of the suppositions about the consequences and the appropriate control of demand artifacts in experiments. In this article, we seek to probe and extend the findings of Shimp et al. by (1) debating some of the assumptions and conclusions of their analysis of the extent to which demand bias might explain the results of Gorn (1982) as analyzed by Kellaris and Cox (1989), (2) refuting some of their assertions about the potential dangers of demand artifacts, and (3) offering some suggestions for minimizing demand problems.

There are several claims and assumptions in Shimp et al. (1991a) that, in our opinion, are untenable. They shift the focus of the issue from designing a good experiment to remedying and interpreting demand-prone experimental designs. Furthermore, they appear to shift the researcher's task of providing evidence for the lack of demand problems to the peer reviewers and to make it virtually impossible to say that subjects of any study have been demand biased. They also fail to present a justifiable treatment of how the results with and without hypothesis guessers should be interpreted, as well as fail to provide a convincing case for the inclusion of hypothesis guessers in the analysis.

To remedy the aforementioned concerns, we develop a modified demand-artifact model and present an alternative way of looking at the demand-artifacts issue, which will be discussed as follows. First, we present what we see as the problems with their assumptions. Second, we reevaluate conclusions from Kellaris and Cox's (1989) data and offer some specific suggestions for minimizing demand artifact in consumer research.

RECONSIDERATION OF SHIMP ET AL.'S ASSUMPTIONS

In brief, Shimp et al. (1991a) argue that three conditions must exist for a subject to be demand biased. First, the subject must encode a demand cue that would alert the individual to the research hypothesis. Second, the individual must discern the correct hypothesis or guess another hypothesis that is accidentally correlated with the true research hypothesis (i.e., correlated hypothesis). Third, the individual must act on the hypothesis by conforming to a certain role that leads to biased responses on dependent measures. Thus, they propose the following equation:

$$\Pr(B_i) = \Pr(E_i) \times \Pr(D_1 \mid E_i) \times \Pr(A_1 \mid D_i), \qquad (1)$$

where $\Pr(B_i)$ is the probability that the ith subject will be demand biased, $\Pr(E_i)$ is the probability of encoding a demand cue, $\Pr(D_1 \mid E_i)$ is the conditional probability of discerning the true experimental hypothesis or a correlated hypothesis, and $\Pr(A_1 \mid D_i)$ is the conditional probability of acting on the hypothesis. Their multiplicative model indicates that all of the three conditions must apply for a subject to be demand biased (Shimp et al. 1991a). They also argue that (1) the failure to replicate a previous result does not necessarily indicate demand artifacts in the original study, (2) demand artifacts do not necessarily create false-positive readings, and (3) deletion of hypothesis guessers does not control the problem.

We take issue with some of their implicit assumptions with regard to conditions 1 and 2, as well as with the

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tenability and the verifiability of condition 3. The subsequent discussion focuses on these concerns.

Issues Relating to Conditions 1 and 2

The first condition, demand-cue encoding, is the most likely of the three conditions. Shimp et al.'s model (1991a) seems to suggest that whether this condition is likely to occur or not is up to the individual respondent's ability to perceive the situation. However, their emphasis on whether individual subjects encode demand cues should not lead researchers to overlook the fact that researcher's decisions about various aspects of the study's procedure, manipulations, design, and measurements are the prime cause of when and why subjects do encode these cues. Clearly, some research decisions and environments are more likely to provide these cues than others, and thus the likelihood of their being detected and encoded by subjects will vary accordingly.

The second condition states that the individual must discern the correct hypothesis or a correlated hypothesis. For this second condition, they made two implicit assumptions. First, all subjects who discerned the true hypothesis in fact reported this in the postexperimental inquiry. Second, all subjects who discerned a correlated hypothesis also reported this in the postexperimental inquiry. The underreporting of such discernment in postexperimental inquiry is well documented (see, e.g., Golding and Lichenstein 1970; Orne 1962; Sawyer 1975). Thus, considering this underreporting due to lack of disclosure, $\Pr(D_1 | E_i)$ can further be decomposed into two components as follows:

$$\Pr(D_1 | E_i) = \Pr(D_{1.R} | E_i) + \Pr(D_{1.NR} | E_i), \quad (2)$$

where $\Pr(D_{1.R} | E_i)$ is the conditional probability of discerning and reporting the true or correlated experimental hypothesis and $\Pr(D_{1.NR} | E_i)$ is the conditional probability of discerning the true or correlated hypothesis but not reporting the discernment of the true or correlated experimental hypothesis.[1] If we substitute for $\Pr(D_1 | E_i)$ in Equation 1 (Shimp et al. 1991a) the decomposed Equation 2, the new equation becomes

$$\Pr(B_i) = \Pr(E_i) \times [\Pr(D_{1.R} | E_i) + \Pr(D_{1.NR} | E_i)] \times \Pr(A_1 | D_i). \quad (3)$$

Therefore, the existence of underreporting may hide the true nature and seriousness of demand artifacts. Many consumer researchers also may assume that demand artifacts are not a problem because the current methods of detecting demand bias cannot detect this underreporting. Of note is the fact that this underreporting is not accounted for by Shimp et al. in their evaluation of Gorn's (1982) data and Kellaris and Cox's (1989) data.

For the postexperimental inquiry, the validity of the indirect open-ended items usually used in consumer experiments (see, e.g., Kellaris and Cox 1989) has been questioned (Page 1973; Weber and Riddell 1975). Page (1973) reports that a direct/funnel questionnaire (i.e., a series of questions moving from indirect ones through open-ended specific ones to the most direct ones) identifies demand-prone subjects more accurately than an indirect questionnaire.

Tenability of Condition 3

The third condition asserts that demand bias cannot materialize unless subjects act on the hypothesis by conforming to a certain role. Although Shimp et al. did not specify the nature of the conforming or whether the conforming occurs at the conscious or unconscious level, it appears that they meant conformity at the conscious level. Owing to the fact that subjects may choose to adopt or to not adopt certain roles consciously, $\Pr(A_1 | D_i)$ can take any value between 0 and 1 in Shimp et al.'s (1991a) equation 1.

However, Orne (1962) notes that response to the demand characteristics should not only be viewed as a conscious compliance but also as occurring at an unconscious level. There is growing evidence to suggest that subjects will be affected directly or indirectly in their behaviors or responses if conditions 1 and 2 hold true, regardless of the presence or absence of condition 3. Recent research shows that nonattended material influences the processing of attended material by competing for subconscious resources (Janiszewski 1990; Marcel 1983). There is also evidence that subconscious processes are involved in preference judgments, lexical decisions, and perceptual identification (Holender 1986; Schacter 1987). Furthermore, there may be many situations in which an unplanned subconscious analysis of information influences a consumer's attitudes (Janiszewski 1988) as well as his or her behaviors or actions (Bargh 1989; Janiszewski 1990). Rosnow and Aiken (1973) also note qualitative biasing effects of the mere operation of unintentional demands on experimental outcomes.

Therefore, if one considers both conscious and subconscious compliances that are likely to occur, $\Pr(A_1 | D_i)$ approaches 1 (Rosnow and Suls 1970). Hence, the fact that $\Pr(A_1 | D_i)$ approaches 1 reduces Shimp et al.'s (1991a) equation 1 to $\Pr(B_i) = \Pr(E_i) \times \Pr(D_1 | E_i) \times 1$. This revised equation is consistent with the original psychological process model of demand artifacts (Rosnow and Aiken 1973). The foregoing discussion implies that, contrary to their third condition, demand bias is likely to materialize in varying degrees whenever the first two conditions prevail.

[1]We should note at this point that the "correlated hypothesis" could be more complex than suggested in our formulation. As stated by one reviewer, this may conceivably occur if the subjects discern an incorrect hypothesis but that hypothesis suggests a behavior consistent with the true one wherein subjects may act artificially and in the direction of the true hypothesis even though they discern an incorrect hypothesis.

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Verification Problem of Condition 3

Aside from tenability questions, the last condition is next to impossible to verify in any empirical situation. Thus, as argued by Shimp et al., any researcher can reasonably contend that their subjects were never demand biased because there is virtually no way to prove to what degree a subject actually acted on the surmised experimental hypothesis. The Shimp et al. (1991a) view (pp. 281–282) suggests that the onus of proof of demand artifacts is on the peer reviewers and not on the researcher in question, a view diametrically opposed to the Popperian view of knowledge acquisition (Popper 1959), which contends that as researchers we improve our state of knowledge by failing to disconfirm and by confidently disconfirming our hypotheses. The point we wish to make is that Shimp et al.'s recommendations may lead a researcher to act in a manner inconsistent with the Popperian view, not that they necessarily disagree with the Popperian view.

REANALYSIS OF SHIMP ET AL.'S CONCLUSIONS ABOUT KELLARIS AND COX

We remain convinced that, contrary to Shimp et al.'s (1991a) conclusions but in agreement with Kellaris and Cox (1989), Gorn's (1982) results are likely to have been biased by demand artifacts. Although our presentation will emphasize a methodological analysis parallel to that offered by Shimp et al. (1991a), we are also influenced by the small likelihood that a single exposure, such as in Gorn's experiment, could be sufficient for classical conditioning of attitudes, a point also made by Kellaris and Cox. In their review of classical conditioning, McSweeney and Bierley (1984) suggest, among other things, using more than a single conditioning trial to achieve maximal conditioning (see, e.g., Shimp, Stuart, and Engle 1991b).

In the following section, we challenge Shimp et al.'s (1991a) evaluation of Kellaris and Cox's (1989) data and their conclusions as being untenable and reanalyze Kellaris and Cox's results and Gorn's (1982) results, as well as reevaluate Shimp et al.'s (1991a) calculations. We apply our modified model along with our assumptions to Kellaris and Cox's data and Gorn's data.

The intent of this presentation is to demonstrate that reanalysis contradicts the Shimp et al. (1991a) findings. We find contradictory results that indicate that (1) the significant classical conditioning effect found in Gorn (1982) might indeed be demand biased, a view that is opposite to the arguments advanced by Gorn and Shimp et al. (1991a), and (2) Kellaris and Cox's (1989) results of a nonsignificant classical conditioning effect were less likely to be demand biased. In the next section, following the same procedures used by Shimp et al. (1991a), we reanalyze the data by building demand bias into Kellaris and Cox's data and by removing demand bias from Gorn's data.

It is our considered opinion that subjects identified as demand biased should be eliminated from the analysis because they are affected by demand cues either consciously or unconsciously. Furthermore, "the fact that some subjects may act in accord with incorrect representations of the experimental hypothesis, and others may resentfully act in direct opposition to the correctly represented experimental hypothesis, only compounds the problem" (Greenwood 1989, p. 182). Since the magnitude and direction of the biases are unknown or not easily discernable, including demand-biased subjects in the analysis only leads to false statistical conclusions. If some subjects are demand biased in the direction of the hypothesis, then by definition they influence the mean level of the response in question. Moreover, if some other subjects encode demand cues and act in an artificial manner in a direction different from that of the hypothesis, removing them will reduce statistical noise and, hence, increase statistical power, especially since levels of reactions to suspicion appear to depend on individual differences, which are rarely controlled variables in laboratory research (Greenwood 1989).

Building Demand Bias into Kellaris and Cox's Data: Reevaluation

In applying their equation 1 and reconstructing the data from Kellaris and Cox's (1989) experiment and Gorn's (1982) experiment,[2] Shimp et al. (1991a) considered $\Pr(D_1 | E_i)$ to be .29 in Kellaris and Cox's experiment 2 and to be .136 in Kellaris and Cox's experiment 3 and Gorn's experiment 1, with the assumption that $\Pr(E_i)$ and $\Pr(A_1 | D_i)$ are equal to 1. The .29 and .136 were the proportion of subjects reporting discernment of the true hypotheses in Kellaris and Cox. We used the same procedure employed by Shimp et al. (1991a) to reconstruct their tables 1, 2, and 3. First, it is worth noting that Shimp et al. used their reconstructed data in their table 1 to justify their assumptions that $\Pr(E_i) = 1$ and $\Pr(D_1 | E_i) = .29$. Second, they employed these assumptions in evaluating Kellaris and Cox's experiment 3 results (Shimp et al.'s table 2) and the Gorn experiment 1 results (Shimp et al.'s table 3, which is presented in this study as Table 1, parts A and B).

In the same fashion, we used our reconstructed data to assess whether our assumptions can be consistent with the original data of Kellaris and Cox's experiment 2. We derived 15 combinations of the three possible

[2]We should remind the reader that Kellaris and Cox's experiments 1 and 3 were actual experiments with conditions slightly altered from Gorn. These experiments found no effect of the independent variable, whereas an effect was found in Kellaris and Cox's experiment 2, which was a role-playing nonexperiment.

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TABLE 1

DATA AND ESTIMATES BASED ON GORN'S EXPERIMENT 1

Music appeal (A)	Pen choice (B): Choice of advertised pen (B1)	Pen choice (B): Choice of nonadvertised pen (B2)	Total
A. Actual data:[a]			
Liked (A1)	74	20	94
Disliked (A2)	30	71	101
Total	104	91	195
B. Shimp et al.'s estimated data:[b]			
Liked (A1)	61	33	94
Disliked (A2)	44	57	101
Total	105	90	195
C. Our estimated data:[c]			
Liked (A1)	57	37	94
Disliked (A2)	48	53	101
Total	105	90	195

[a]Data are from Gorn (1982, p. 97); $\chi^2 = 47.01, p < .001$.

[b]Reconstructed data are from Shimp et al. (1991a, p. 278); $\chi^2 = 8.90$, $p < .01$.

[c]Reconstructed data are from the same data as B, with the assumptions that $Pr(E_i) = .65$ and $Pr(D_{1.R}|E_i) = Pr(D_{1.NR}|E_i) = .136$ (when the cue is encoded, 50 percent of those who discerned the true hypothesis report it, and 50 percent of those who discerned the true hypothesis do not report it); $\chi^2 = 3.36$, $p > .05$.

ratios (50:50, 70:30, 90:10) for $Pr(D_{1.R}|E_i)$ versus $Pr(D_{1.NR}|E_i)$ and five possible $Pr(E_i)$'s (.55, .65, .75, .85, and .95) in reconstructing Shimp et al.'s table 1. Among the 15 combinations, we selected the combination that most closely replicates original data in Shimp et al.'s table 1. The best combination of assumptions happens to be $Pr(E_i) = .65$,[3] with a 50:50 ratio[4] for $Pr(D_{1.R}|E_i)$ and $Pr(D_{1.NR}|E_i)$.

The reconstructed data based on our three assumptions regarding $Pr(E_i)$, $Pr(D_{1.R}|E_i)$, and $Pr(D_{1.NR}|E_i)$ very closely match the original data (Shimp et al.'s table 1). Therefore, these assumptions were used to reconstruct Shimp et al.'s tables 2 and 3. Our reevaluation of Kellaris and Cox's (experiment 3) results were virtually the same as Shimp et al.'s table 2 and revealed a significant relationship between music appeal and pen choice ($\chi^2 = 4.35$, $p < .05$). (To save space, the details are not provided here. However, the interested reader can send for the exact details of the calculations and rationale from the authors.)

Our reanalyzed results suggest that Kellaris and Cox's (experiment 3) data showing a nonsignificant classical conditioning effect (Shimp et al.'s table 2) were less likely to be affected by demand effects. This conclusion is similar to the one made by Shimp et al. from their reconstructed table (Shimp et al.'s table 2). Thus, the fact that the Kellaris and Cox data from experiment 3 (Shimp et al.'s table 2) showed no effect, while Kellaris and Cox's nonexperimental data from experiment 2 (Kellaris and Cox 1989) did show a significant effect, leaves open the possibility that Gorn's data were affected by demand artifacts.

Removing Demand Bias from Gorn's Data: Reevaluation

Table 1 shows the results with demand bias removed from Gorn's (1982) data. Table 1, parts A and B, is from Shimp et al.'s (1991a) table 3, and table 1, part C, shows our reconstructed data. With $Pr(E_i) = .65$ and $Pr(D_{1.R}/E_i) = .136$, 35 subjects (i.e., $65 \times .136 \times 2 \times 195 = 35$) actually discerned the true or correlated hypothesis. The $.65 \times .136 \times 195$ was multiplied by 2 because in our assumptions those reporting discernment equal those not reporting discernment. Among the 35 subjects (i.e., $Pr(D_{1.R}/E_i) + Pr(D_{1.NR}/E_i)$) who correctly guessed the true or correlated hypothesis, 17 subjects (i.e., 48 percent; obtained from the row marginals in Table 1, part A, by dividing 94 by 195) would have been exposed to the liked music and 18 subjects (i.e., 52 percent; obtained from 101/195 in Table 1, part A) to the disliked music, proportionally. Removing these demand-biased subjects regardless of their acknowledgment of discernment of the true or correlated hypothesis from the demand-congruent cell (A1B1 ($74 - 17 = 57$) and A2B2 ($71 - 18 = 53$)) yields a frequency distribution that becomes nonsignificant ($\chi^2 = 3.36$, $p > .05$).

Thus, contrary to Shimp et al.'s data (see Table 1, part B), the data in Table 1, part C, show no statistically significant classical conditioning effect when demand-biased subjects are removed from Gorn's data (see Table 1, part A). It is worth noting that the differences in results reflect differences in the assumptions. They assumed that (1) there is 100 percent decoding, that is, all subjects can decode demand cue, hence a probability of 1, and (2) all individuals who discern are reporting. In our analysis, we assumed that (1) not all subjects can decode demand cue, hence the probability of .65, and (2) not all demand-biased subjects report the discernment of the true hypotheses, so we incorporated in our analysis those reporting the discernment and those not

[3]Although $Pr(E_i)$ could be relatively low in some consumer research experiments, other areas such as classical conditioning seem especially prone to demand bias, thus suggesting the higher probability employed here. Furthermore, while Shimp et al. assumed $Pr(E_i)$ to be 1, the empirical probability function of demand-cue encoding should produce mean proportions higher than .5 but less than 1. A 99 percent confidence interval around the selected level of .65 results in a range between .545 and .755. Thus, the .65 appears reasonable.

[4]It is worth noting that research by Page (1973), as well as that by Adair and Spinner (1981), has questioned the accuracy of identifying demand-prone subjects on the basis of a single indirect open-ended postexperimental questionnaire similar to Kellaris and Cox's post-experimental question. Page (1973), for example, reported that a single indirect item incorrectly classified a majority (80 percent) of the demand-prone subjects as belonging to the non-demand-prone group, making a false negative error. Therefore, the 50:50 ratio for $Pr(D_{1.R}/E_i)$ and $Pr(D_{1.NR}/E_i)$ is a reasonable conservative estimate for our decomposed model of $Pr(D_1/E_i)$.

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reporting the discernment. This latter set of assumptions, we believe, is more realistic and reflects the true nature of the demand-biasing effect.

Hence, Shimp et al.'s claims of statistically significant classical conditioning effects in Gorn's data are questionable since Gorn's statistically significant classical conditioning effects may be demand biased. The objective of reconstructing Shimp et al.'s tables 2 and 3 is to illustrate the fact that their reconstructed tables and conclusions drawn from them may be misleading and can vary depending on the particular assumptions made with respect to $\Pr(E_i)$, $\Pr(D_1/E_i)$, and $\Pr(D_{1.R}/E_i)$.

DISCUSSION AND CONCLUSION

All research areas may be subject to demand artifacts. The foregoing discussion of Gorn (1982), Kellaris and Cox (1989), and Shimp et al. (1991a) suggests that classical conditioning research is not exempt. In the following section, we extend the works of Sawyer (1975), as well as those of Perdue and Summers (1986), by presenting additional suggestions for minimizing demand problems in consumer research.

Designing the Main Experiment. We suggest that, at the pilot test stage of an experimental design, researchers need to administer a direct/funnel postexperimental questionnaire as suggested in Page (1973) as well as realism and involvement checks. Specifically, Page (1969, p. 180) suggests for postexperimental inquiry a 17-item funnel questionnaire that enlists "the honesty and cooperation of subjects while releasing them from the demand characteristics accompanying the experiment proper." This questionnaire begins with a typical open-ended general question such as "What was the purpose of this experiment and what were you supposed to do?" and progressively moves to more specific questions relating to the research hypotheses and the treatment. This questionnaire could be adapted for a specific research study to accurately assess $\Pr(D_i/E_i)$.

Aronson and Carlsmith (1968) contend that experimentation should try to create experimental realism, as opposed to mundane realism. Although we would be the first to admit that creating realism and involvement checks is a difficult endeavor, the importance of ensuring experimental realism calls for nothing less. Thus, we propose that every experiment should attempt to incorporate such checks. These checks could include items that measure the perceived meaningfulness and artificiality of the experimental task, the respondents' degree of involvement in the experimental task, and the perceived relevance of the experimental roles. These checks should be performed in the pilot study so that screened information can be used to design a more realistic main-study experiment. In addition, we recommend that these checks be included in the main study to ensure experimental realism.

Greenberg and Folger (1988) also suggest several practical measures for reducing demand artifacts that can be used for designing the main study. These measures include obscuring the connection between the experiment and the measurement as well as the use of deception to disguise the true hypotheses. It is worth noting that many researchers question the need, as well as ethics, of resorting to experimental deception in order to reduce demand artifacts (see, e.g., Baumrind 1985). However, it sometimes may be justified in the pursuit of scientific knowledge (Baron 1981) if the experimental deception is accompanied by a thorough debriefing or postexperimental interview with the subject, in which the components of the experiment are explained (Baron 1981; Christensen 1985). While it is generally assumed that deception is harmful to the subjects, research indicates that participants do not view deception as detrimental and that those who have been involved in deception studies view their research experiences as more valuable than those who do not (for a review of the studies, see Christensen [1985]). In fact, the use of experimental deception has been steadily increasing, and it is a well-established as well as popular element of contemporary social psychological research (see Adair, Dushenko, and Lindsay [1985] and Gross and Fleming [1982] for reviews).

Reporting and Evaluating Experiments. It behooves researchers to make every effort to design experiments that have experimental realism and construct validity of independent variables. When the totality of the experiment is perceived as more likely to be affected by the demand artifacts because of the obtrusive nature of the experiment at later stages of a major study, a researcher should provide evidence that demand artifacts are a less plausible alternative interpretation of the research findings than the treatment. At later stages of a major study, we suggest that both nonexperiment (see, e.g., Lim and Summers [1984] and Sawyer [1974] for an application of this method) and heteromethod replication (for details, see Sawyer's [1975] instructive article on demand artifacts) could be performed to assess the degree of demand artifacts. Direct comparisons of actual data with nonexperiment data or with the heteromethod replication data could be made.

The attendant methods suggested here, as well as in Sawyer (1975) and Perdue and Summers (1986), can be useful in providing evidence that demand artifacts are less likely to cause the experimental results. We would argue that, if converging results of multiple methods of assessment of demand artifacts provide a strong plausible alternative interpretation of the prior findings, then the onus is on the researchers to prove otherwise. To dismiss or to ignore the plausible demand-artifact interpretation does not advance our body of knowledge.

We agree with Shimp et al. (1991a) that reviewers have the responsibility not to raise the issue of potential demand artifacts in cavalier fashion but to point out the potential design and procedure flaws. There is also

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the need for reviewers to evaluate the totality of the experiment and to clearly establish why the method used in a specific study may be prone to demand artifacts. It is not necessary, for example, that a design (e.g., a within-subjects design) automatically be labeled flawed because of a presumed demand artifact and be rejected unless the totality of the experiment warrants it. However, we submit that the burden still remains with the researchers to adequately present their design, procedures, and postexperimental checks to demonstrate the soundness of their approach. Thus, it is important that consumer researchers design realistic experiments and carefully evaluate all plausible explanations, including demand artifacts, before interpreting their findings and presenting any conclusions.

While we believe that Shimp et al. (1991a) would agree with us that detecting demand artifacts in consumer research remains an important concern, their presentation leaves an impression with readers that demand artifacts are not that important. To correct any potential misconceptions about the role and importance of demand artifacts in consumer research, we would like to conclude by highlighting the following points. (1) It may be more misleading not to remove subjects who likely met the first two conditions of their model than to retain them. (2) Since it is likely that subjects will be affected by demand cues unconsciously as well as consciously, many of the techniques conventionally used to identify whether subjects detect and/or act upon demand cues may underestimate these numbers. (3) Because not all demand-biased respondents report the discernment of the true hypothesis in a single-item postexperimental inquiry, the demand bias problem may be more prevalent than Shimp et al. imply.

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 195 (D0195) IS00000162-IS00000169

ON THE SOCIAL PSYCHOLOGY OF THE PSYCHOLOGICAL EXPERIMENT:

WITH PARTICULAR REFERENCE TO DEMAND CHARACTERISTICS AND THEIR IMPLICATIONS [1]

MARTIN T. ORNE [2]

Harvard Medical School

It is to the highest degree probable that the subject[s] . . . general attitude of mind is that of ready complacency and cheerful willingness to assist the investigator in every possible way by reporting to him those very things which he is most eager to find, and that the very questions of the experimenter . . . suggest the shade of reply expected . . . . Indeed . . . it seems too often as if the subject were now regarded as a stupid automaton . . . .

A. H. PIERCE, 1908 [3]

SINCE the time of Galileo, scientists have employed the laboratory experiment as a method of understanding natural phenomena. Generically, the experimental method consists of abstracting relevant variables from complex situations in nature and reproducing in the laboratory segments of these situations, varying the parameters involved so as to determine the effect of the experimental variables. This procedure allows generalization from the information obtained in the laboratory situation back to the original situation as it occurs in nature. The physical sciences have made striking advances through the use of this method, but in the behavioral sciences it has often been difficult to meet two necessary requirements for meaningful experimentation: reproducibility and ecological validity.[4] It has long been recognized that certain differences will exist between the types of experiments conducted in the physical sciences and those in the behavioral sciences because the former investigates a universe of inanimate objects and forces, whereas the latter deals with animate organisms, often thinking, conscious subjects. However, recognition of this distinction has not always led to appropriate changes in the traditional experimental model of physics as employed in the behavioral sciences. Rather the experimental model has been so successful as employed in physics that there has been a tendency in the behavioral sciences to follow precisely a paradigm originated for the study of inanimate objects, i.e., one which proceeds by exposing the subject to various conditions and observing the differences in reaction of the subject under different conditions. However, the use of such a model with animal or human subjects leads to the problem that the subject of the experiment is assumed, at least implicitly, to be a *passive responder* to stimuli—an assumption difficult to justify. Further, in this type of model the experimental stimuli themselves are usually rigorously defined in terms of what *is done* to the subject. In contrast, the purpose of this paper will be to focus on what the human subject *does* in the laboratory: what motivation the subject is likely to have in the experimental situation, how he usually perceives behavioral research, what the nature of the cues is that the subject is likely to pick up, etc. Stated in other terms, what factors are apt to affect the subject's reaction to the well-defined stimuli in the situation? These factors comprise what will be referred to here as the "experimental setting."

Since any experimental manipulation of human subjects takes place within this larger framework or setting, we should propose that the above-mentioned factors must be further elaborated and the parameters of the experimental setting more carefully defined so that adequate controls can be de-

[1] This paper was presented at the Symposium, "On the Social Psychology of the Psychological Experiment," American Psychological Association Convention, New York, 1961.

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[2] I wish to thank my associates Ronald E. Shor, Donald N. O'Connell, Ulric Neisser, Karl E. Scheibe, and Emily F. Carota for their comments and criticisms in the preparation of this paper.

[3] See reference list (Pierce, 1908).

[4] Ecological validity, in the sense that Brunswik (1947) has used the term: appropriate generalization from the laboratory to nonexperimental situations.

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DEFENDANT'S EXHIBIT D 195

Blumberg No. 5114

signed to isolate the effects of the experimental setting from the effects of the experimental variables. Later in this paper we shall propose certain possible techniques of control which have been devised in the process of our research on the nature of hypnosis.

Our initial focus here will be on some of the qualities peculiar to psychological experiments. The experimental situation is one which takes place within the context of an explicit agreement of the subject to participate in a special form of social interaction known as "taking part in an experiment." Within the context of our culture the roles of subject and experimenter are well understood and carry with them well-defined mutual role expectations. A particularly striking aspect of the typical experimenter-subject relationship is the extent to which the subject will play his role and place himself under the control of the experimenter. Once a subject has agreed to participate in a psychological experiment, he implicitly agrees to perform a very wide range of actions on request without inquiring as to their purpose, and frequently without inquiring as to their duration.

Furthermore, the subject agrees to tolerate a considerable degree of discomfort, boredom, or actual pain, if required to do so by the experimenter. Just about any request which could conceivably be asked of the subject by a reputable investigator is legitimized by the quasi-magical phrase, "This is an experiment," and the shared assumption that a legitimate purpose will be served by the subject's behavior. A somewhat trivial example of this legitimization of requests is as follows:

A number of casual acquaintances were asked whether they would do the experimenter a favor; on their acquiescence, they were asked to perform five push-ups. Their response tended to be amazement, incredulity and the question "Why?" Another similar group of individuals were asked whether they would take part in an experiment of brief duration. When they agreed to do so, they too were asked to perform five push-ups. Their typical response was "Where?"

The striking degree of control inherent in the experimental situation can also be illustrated by a set of pilot experiments which were performed in the course of designing an experiment to test whether the degree of control inherent in the *hypnotic* relationship is greater than that in a waking relationship.[5] In order to test this question, we tried to develop a set of tasks which waking subjects would refuse to do, or would do only for a short period of time. The tasks were intended to be psychologically noxious, meaningless, or boring, rather than painful or fatiguing.

For example, one task was to perform serial additions of each adjacent two numbers on sheets filled with rows of random digits. In order to complete just one sheet, the subject would be required to perform 224 additions! A stack of some 2,000 sheets was presented to each subject—clearly an impossible task to complete. After the instructions were given, the subject was deprived of his watch and told, "Continue to work; I will return eventually." Five and one-half hours later, the *experimenter* gave up! In general, subjects tended to continue this type of task for several hours, usually with little decrement in performance. Since we were trying to find a task which would be discontinued spontaneously within a brief period, we tried to create a more frustrating situation as follows:

Subjects were asked to perform the same task described above but were also told that when finished the additions on each sheet, they should pick up a card from a large pile, which would instruct them on what to do next. However, every card in the pile read,

> You are to tear up the sheet of paper which you have just completed into a minimum of thirty-two pieces and go on to the next sheet of paper and continue working as you did before; when you have completed this piece of paper, pick up the next card which will instruct you further. Work as accurately and as rapidly as you can.

Our expectation was that subjects would discontinue the task as soon as they realized that the cards were worded identically, that each finished piece of work had to be destroyed, and that, in short, the task was completely meaningless.

Somewhat to our amazement, subjects tended to persist in the task for several hours with relatively little sign of overt hostility. Removal of the one-way screen did not tend to make much difference. The postexperimental inquiry helped to explain the subjects' behavior. When asked about the tasks, subjects would invariably attribute considerable meaning to their performance, viewing it as an endurance test or the like.

Thus far, we have been singularly unsuccessful

[5] These pilot studies were performed by Thomas Menaker.

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in finding an experimental task which would be discontinued, or, indeed, refused by subjects in an experimental setting.[6, 7] Not only do subjects continue to perform boring, unrewarding tasks, but they do so with few errors and little decrement in speed. It became apparent that it was extremely difficult to design an experiment to test the degree of social control in hypnosis, in view of the already *very high degree of control in the experimental situation itself.*

The quasi-experimental work reported here is highly informal and based on samples of three or four subjects in each group. It does, however, illustrate the remarkable compliance of the experimental subject. The only other situations where such a wide range of requests are carried out with little or no question are those of complete authority, such as some parent-child relationships or some doctor-patient relationships. This aspect of the experiment as a social situation will not become apparent unless one tests for it; it is, however, present in varying degrees in all experimental contexts. Not only are tasks carried out, but they are performed with care over considerable period of time.

Our observation that subjects tend to carry out a remarkably wide range of instructions with a surprising degree of diligence reflects only one aspect of the motivation manifested by most subjects in an experimental situation. It is relevant to consider another aspect of motivation that is common to the subjects of most psychological experiments: high regard for the aims of science and experimentation.

A volunteer who participates in a psychological experiment may do so for a wide variety of reasons ranging from the need to fulfill a course requirement, to the need for money, to the unvoiced hope of altering his personal adjustment for the better, etc. Over and above these motives, however, college students tend to share (with the experimenter) the hope and expectation that the study in which they are participating will in some material way contribute to science and perhaps ultimately to human welfare in general. We should expect that many of the characteristics of the experimental situation derive from the peculiar role relationship which exists between subject and experimenter. Both subject and experimenter share the belief that whatever the experimental task is, it is important, and that as such no matter how much effort must be exerted or how much discomfort must be endured, it is justified by the ultimate purpose.

If we assume that much of the motivation of the subject to comply with any and all experimental instructions derives from an identification with the goals of science in general and the success of the experiment in particular,[8] it follows that the subject has a stake in the outcome of the study in which he is participating. For the volunteer subject to feel that he has made a useful contribution, it is necessary for him to assume that the experimenter is competent and that he himself is a "good subject."

The significance to the subject of successfully being a "good subject" is attested to by the frequent questions at the conclusion of an experiment, to the effect of, "Did I ruin the experiment?" What is most commonly meant by this is, "Did I perform well in my role as experimental subject?" or "Did my behavior demonstrate that which the experiment is designed to show?" Admittedly, subjects are concerned about their performance in terms of reinforcing their self-image; nonetheless, they seem even more concerned with the utility of their performances. We might well expect then that as far as the subject is able, he will behave in an experimental context in a manner designed to play the role of a "good subject" or, in other words, *to validate the experimental hypothesis.* Viewed in this way, the student volunteer is *not* merely a passive responder in an experimental situation but rather he has a very real stake in the successful outcome of the experiment. This problem is implicitly recognized in the large number of psychological studies which attempt to conceal the true purpose of the experiment from the subject in the hope of thereby obtaining more reliable data. This maneuver on the part of psychologists is so widely known in the college population that even if a psy-

[6] Tasks which would involve the use of actual severe physical pain or exhaustion were not considered.

[7] This observation is consistent with Frank's (1944) failure to obtain resistance to disagreeable or nonsensical tasks. He accounts for this "primarily by *S*'s unwillingness to break the tacit agreement he had made when he volunteered to take part in the experiment, namely, to do whatever the experiment required of him" (p. 24).

[8] This hypothesis is subject to empirical test. We should predict that there would be measurable differences in motivation between subjects who perceive a particular experiment as "significant" and those who perceive the experiment as "unimportant."

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chologist is honest with the subject, more often than not he will be distrusted. As one subject pithily put it, "Psychologists always lie!" This bit of paranoia has some support in reality.

The subject's performance in an experiment might almost be conceptualized as problem-solving behavior; that is, at some level he sees it as his task to ascertain the true purpose of the experiment and respond in a manner which will support the hypotheses being tested. Viewed in this light, the totality of cues which convey an experimental hypothesis to the subject become significant determinants of subjects' behavior. We have labeled the sum total of such cues as the *"demand characteristics of the experimental situation"* (Orne, 1959a). These cues include the rumors or campus scuttlebutt about the research, the information conveyed during the original solicitation, the person of the experimenter, and the setting of the laboratory, as well as all explicit and implicit communications during the experiment proper. A frequently overlooked, but nonetheless very significant source of cues for the subject lies in the experimental procedure itself, viewed in the light of the subject's previous knowledge and experience. For example, if a test is given twice with some intervening treatment, even the dullest college student is aware that some change is expected, particularly if the test is in some obvious way related to the treatment.

The demand characteristics perceived in any particular experiment will vary with the sophistication, intelligence, and previous experience of each experimental subject. To the extent that the demand characteristics of the experiment are clear-cut, they will be perceived uniformly by most experimental subjects. It is entirely possible to have an experimental situation with clear-cut demand characteristics for psychology undergraduates which, however, does not have the same clear-cut demand characteristics for enlisted army personnel. It is, of course, those demand characteristics which are perceived by the subject that will influence his behavior.

We should like to propose the heuristic assumption that a subject's behavior in any experimental situation will be determined by two sets of variables: (*a*) those which are traditionally defined as experimental variables and (*b*) the perceived demand characteristics of the experimental situation. The extent to which the subject's behavior is related to the demand characteristics, rather than to the experimental variable, will in large measure determine both the extent to which the experiment can be replicated with minor modification (i.e., modified demand characteristics) and the extent to which generalizations can be drawn about the effect of the experimental variables in nonexperimental contexts [the problem of ecological validity (Brunswik, 1947)].

It becomes an empirical issue to study under what circumstances, in what kind of experimental contexts, and with what kind of subject populations, demand characteristics become significant in determining the behavior of subjects in experimental situations. It should be clear that demand characteristics cannot be eliminated from experiments; all experiments will have demand characteristics, and these will always have some effect. It does become possible, however, to study the effect of demand characteristics as opposed to the effect of experimental variables. However, techniques designed to study the effect of demand characteristics need to take into account that these effects result from the subject's *active* attempt to respond appropriately to the *totality* of the experimental situation.

It is perhaps best to think of the perceived demand characteristics as a contextual variable in the experimental situation. We should like to emphasize that, at this stage, little is known about this variable. In our first study which utilized the demand characteristics concept (Orne, 1959b), we found that a particular experimental effect was present only in records of those subjects who were able to verbalize the experimenter's hypothesis. Those subjects who were unable to do so did not show the predicted phenomenon. Indeed we found that whether or not a given subject perceived the experimenter's hypothesis was a more accurate predictor of the subject's actual performance than his statement about what he thought he had done on the experimental task. It became clear from extensive interviews with subjects that response to the demand characteristics is not merely conscious compliance. When we speak of "playing the role of a good experimental subject," we use the concept analogously to the way in which Sarbin (1950) describes role playing in hypnosis: namely, largely on a nonconscious level. The demand characteristics of the situation help define the role of "good experimental subject," and the responses of the subject are a function of the role that is created.

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We have a suspicion that the demand characteristics most potent in determining subjects' behavior are those which convey the purpose of the experiment effectively but not obviously. If the purpose of the experiment is not clear, or is highly ambiguous, many different hypotheses may be formed by different subjects, and the demand characteristics will not lead to clear-cut results. If, on the other hand, the demand characteristics are so obvious that the subject becomes fully conscious of the expectations of the experimenter, there is a tendency to lean over backwards to be honest. We are encountering here the effect of another facet of the college student's attitude toward science. While the student wants studies to "work," he feels he must be honest in his report; otherwise, erroneous conclusions will be drawn. Therefore, if the subject becomes acutely aware of the experimenter's expectations, there may be a tendency for biasing in the opposite direction. (This is analogous to the often observed tendency to favor individuals whom we dislike in an effort to be fair.)[9]

Delineation of the situations where demand characteristics may produce an effect ascribed to experimental variables, or where they may obscure such an effect and actually lead to systematic data in the opposite direction, as well as those experimental contexts where they do not play a major role, is an issue for further work. Recognizing the contribution to experimental results which may be made by the demand characteristics of the situation, what are some experimental techniques for the study of demand characteristics?

As we have pointed out, it is futile to imagine an experiment that could be created without demand characteristics. One of the basic characteristics of the human being is that he will ascribe purpose and meaning even in the absence of purpose and meaning. In an experiment where he knows some purpose exists, it is inconceivable for him not to form some hypothesis as to the purpose, based on some cues, no matter how meager; this will then determine the demand characteristics which will be perceived by and operate for a particular subject. Rather than eliminating this variable then, it becomes necessary to take demand characteristics into account, study their effect, and manipulate them if necessary.

One procedure to determine the demand characteristics is the systematic study of each individual subject's perception of the experimental hypothesis. If one can determine what demand characteristics are perceived by each subject, it becomes possible to determine to what extent these, rather than the experimental variables, correlate with the observed behavior. If the subject's behavior correlates better with the demand characteristics than with the experimental variables, it is probable that the demand characteristics are the major determinants of the behavior.

The most obvious technique for determining what demand characteristics are perceived is the use of postexperimental inquiry. In this regard, it is well to point out that considerable self-discipline is necessary for the experimenter to obtain a valid inquiry. A great many experimenters at least implicitly make the demand that the subject not perceive what is really going on. The temptation for the experimenter, in, say, a replication of an Asch-group pressure experiment, is to ask the subject afterwards, "You didn't realize that the other fellows were confederates, did you?" Having obtained the required, "No," the experimenter breathes a sigh of relief and neither subject nor experimenter pursues the issue further.[10] However, even if the experimenter makes an effort to elicit the subject's perception of the hypothesis of the experiment, he may have difficulty in obtaining a valid report because the subject as well as he himself has considerable interest in appearing naive.

Most subjects are cognizant that they are not supposed to know any more about an experiment than they have been told and that excessive knowledge will disqualify them from participating, or, in the case of a postexperimental inquiry, such knowledge will invalidate their performance. As we pointed out earlier, subjects have a real stake in viewing their performance as meaningful. For this reason, it is commonplace to find a pact of ignorance resulting from the intertwining motives of both experimenter and subject, neither wishing to create a situation where the particular subject's performance needs to be excluded from the study.

[9] Rosenthal (1961) in his recent work on experimenter bias, has reported a similar type of phenomenon. Biasing was maximized by ego involvement of the experimenters, but when an attempt was made to increase biasing by paying for "good results," there was a marked reduction of effect. This reversal may be ascribed to the experimenters' becoming too aware of their own wishes in the situation.

[10] Asch (1952) himself took great pains to avoid this pitfall.

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For these reasons, inquiry procedures are required to push the subject for information without, however, providing in themselves cues as to what is expected. The general question which needs to be explored is the subject's perception of the experimental purpose and the specific hypotheses of the experimenter. This can best be done by an open-ended procedure starting with the very general question of, "What do you think that the experiment is about?" and only much later asking specific questions. Responses of "I don't know" should be dealt with by encouraging the subject to guess, use his imagination, and in general, by refusing to accept this response. Under these circumstances, the overwhelming majority of students will turn out to have evolved very definite hypotheses. These hypotheses can then be judged, and a correlation between them and experimental performance can be drawn.

Two objections may be made against this type of inquiry: (*a*) that the subject's perception of the experimenter's hypotheses is based on his own experimental behavior, and therefore a correlation between these two variables may have little to do with the determinants of behavior, and (*b*) that the inquiry procedure itself is subject to demand characteristics.

A procedure which has been independently advocated by Riecken (1958) and Orne (1959a) is designed to deal with the first of these objections. This consists of an inquiry procedure which is conducted much as though the subject had actually been run in the experiment, without, however, permitting him to be given any experimental data. Instead, the precise procedure of the experiment is explained, the experimental material is shown to the subject, and he is told what he would be required to do; however, he is not permitted to make any responses. He is then given a postexperimental inquiry as though he had been a subject. Thus, one would say, "If I had asked you to do all these things, what do you think that the experiment would be about, what do you think I would be trying to prove, what would my hypothesis be?" etc. This technique, which we have termed the pre-experimental inquiry, can be extended very readily to the giving of pre-experimental tests, followed by the explanation of experimental conditions and tasks, and the administration of post-experimental tests. The subject is requested to behave on these tests as though he had been exposed to the experimental treatment that was described to him. This type of procedure is not open to the objection that the subject's own behavior has provided cues for him as to the purpose of the task. It presents him with a straight problem-solving situation and makes explicit what, for the true experimental subject, is implicit. It goes without saying that these subjects who are run on the pre-experimental inquiry conditions must be drawn from the same population as the experimental groups and may, of course, not be run subsequently in the experimental condition. This technique is one of approximation rather than of proof. However, if subjects describe behavior on the pre-inquiry conditions as similar to, or identical with, that actually given by subjects exposed to the experimental conditions, the hypothesis becomes plausible that demand characteristics may be responsible for the behavior.

It is clear that pre- and postexperimental inquiry techniques have their own demand characteristics. For these reasons, it is usually best to have the inquiry conducted by an experimenter who is not acquainted with the actual experimental behavior of the subjects. This will tend to minimize the effect of experimenter bias.

Another technique which we have utilized for approximating the effect of the demand characteristics is to attempt to hold the demand characteristics constant and eliminate the experimental variable. One way of accomplishing this purpose is through the use of simulating subjects. This is a group of subjects who are not exposed to the experimental variable to which the effect has been attributed, but who are instructed to act *as if* this were the case. In order to control for experimenter bias under these circumstances, it is advisable to utilize more than one experimenter and to have the experimenter who actually runs the subjects "blind" as to which group (simulating or real) any given individual belongs.

Our work in hypnosis (Damaser, Shor, & Orne, in press; Orne, 1959b; Shor, 1959) is a good example of the use of simulating controls. Subjects unable to enter hypnosis are instructed to simulate entering hypnosis for another experimenter. The experimenter who runs the study sees both highly trained hypnotic subjects and simulators in random order and does not know to which group each subject belongs. Because the subjects are run "blind," the experimenter is more likely to treat the

IS0000167

two groups of subjects identically. We have found that simulating subjects are able to perform with great effectiveness, deceiving even well-trained hypnotists. However, the simulating group is not exposed to the experimental condition (in this case, hypnosis) to which the given effect under investigation is often ascribed. Rather, it is a group faced with a problem-solving task: namely, to utilize whatever cues are made available by the experimental context and the experimenter's concrete behavior in order to behave as they think that hypnotized subjects might. Therefore, to the extent that simulating subjects are able to behave identically, it is possible that demand characteristics, rather than the altered state of consciousness, could account for the behavior of the experimental group.

The same type of technique can be utilized in other types of studies. For example, in contrast to the placebo control in a drug study, it is equally possible to instruct some subjects not to take the medication at all, but to act as if they had. It must be emphasized that this type of control is different from the placebo control. It represents an approximation. It maximally confronts the simulating subject with a problem-solving task and suggests how much of the total effect could be accounted for by the demand characteristics—assuming that the experimental group had taken full advantage of them, an assumption not necessarily correct.

All of the techniques proposed thus far share the quality that they depend upon the active cooperation of the control subjects, and in some way utilize his thinking process as an intrinsic factor. The subject does *not* just respond in these control situations but, rather, he is required *actively* to solve the problem.

The use of placebo experimental conditions is a way in which this problem can be dealt with in a more classic fashion. Psychopharmacology has used such techniques extensively, but here too they present problems. In the case of placebos and drugs, it is often the case that the physician is "blind" as to whether a drug is placebo or active, but the patient is not, despite precautions to the contrary; i.e., the patient is cognizant that he does not have the side effects which some of his fellow patients on the ward experience. By the same token, in psychological placebo treatments, it is equally important to ascertain whether the subject actually perceived the treatment to be experimental or control. Certainly the subject's perception of himself as a control subject may materially alter the situation.

A recent experiment[11] in our laboratory illustrates this type of investigation. We were interested in studying the demand characteristics of sensory deprivation experiments, independent of any actual sensory deprivation. We hypothesized that the overly cautious treatment of subjects, careful screening for mental or physical disorders, awesome release forms, and, above all, the presence of a "panic (release) button" might be more significant in producing the effects reported from sensory deprivation than the actual diminution of sensory input. A pilot study (Stare, Brown, & Orne, 1959), employing preinquiry techniques, supported this view. Recently, we designed an experiment to test more rigorously this hypothesis.

This experiment, which we called Meaning Deprivation, had all the *accoutrements* of sensory deprivation, including release forms and a red panic button. However, we carefully refrained from creating any sensory deprivation whatsoever. The experimental task consisted of sitting in a small experimental room which was well lighted, with two comfortable chairs, as well as ice water and a sandwich, and an optional task of adding numbers. The subject did not have a watch during this time, the room was reasonably quiet, but not soundproof, and the duration of the experiment (of which the subject was ignorant) was four hours. Before the subject was placed in the experimental room, 10 tests previously used in sensory deprivation research were administered. At the completion of the experiment, the same tasks were again administered. A microphone and a one-way screen were present in the room, and the subject was encouraged to verbalize freely.

The control group of 10 subjects was subjected to the identical treatment, except that they were told that they were control subjects for a sensory deprivation experiment. The panic button was eliminated for this group. The formal experimental treatment of these two groups of subjects was the same in terms of the objective stress—four hours of isolation. However, the demand characteristics had been purposively varied for the two groups to study the effect of demand character-

[11] This experiment is described in a paper in preparation by M. T. Orne and K. E. Scheibe: The Contribution of Nondeprivation Factors in the Production of Sensory Deprivation Effects.

IS0000168

istics as opposed to objective stress. Of the 14 measures which could be quantified, 13 were in the predicted direction, and 6 were significant at the selected 10% alpha level or better. A Mann-Whitney U test has been performed on the summation ranks of all measures as a convenient method for summarizing the overall differences. The one-tailed probability which emerges is $p = .001$, a clear demonstration of expected effects.

This study suggests that demand characteristics may in part account for some of the findings commonly attributed to sensory deprivation. We have found similar significant effects of demand characteristics in accounting for a great deal of the findings reported in hypnosis. It is highly probable that careful attention to this variable, or group of variables, may resolve some of the current controversies regarding a number of psychological phenomena in motivation, learning, and perception.

In summary, we have suggested that the subject must be recognized as an active participant in any experiment, and that it may be fruitful to view the psychological experiment as a very special form of social interaction. We have proposed that the subject's behavior in an experiment is a function of the totality of the situation, which includes the experimental variables being investigated and at least one other set of variables which we have subsumed under the heading, demand characteristics of the experimental situation. The study and control of demand characteristics are not simply matters of good experimental technique; rather, it is an empirical issue to determine under what circumstances demand characteristics significantly affect subjects' experimental behavior. Several empirical techniques have been proposed for this purpose. It has been suggested that control of these variables in particular may lead to greater reproducibility and ecological validity of psychological experiments. With an increasing understanding of these factors intrinsic to the experimental context, the experimental method in psychology may become a more effective tool in predicting behavior in nonexperimental contexts.

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IS0000169

ON THE SOCIAL PSYCHOLOGY OF THE PSYCHOLOGICAL EXPERIMENT:

WITH PARTICULAR REFERENCE TO DEMAND CHARACTERISTICS AND THEIR IMPLICATIONS [1]

MARTIN T. ORNE [2]

Harvard Medical School

It is to the highest degree probable that the subject['s] . . . general attitude of mind is that of ready complacency and cheerful willingness to assist the investigator in every possible way by reporting to him those very things which he is most eager to find, and that the very questions of the experimenter . . . suggest the shade of reply expected . . . . Indeed . . . it seems too often as if the subject were now regarded as a stupid automaton . . . .

A. H. PIERCE, 1908 [3]

SINCE the time of Galileo, scientists have employed the laboratory experiment as a method of understanding natural phenomena. Generically, the experimental method consists of abstracting relevant variables from complex situations in nature and reproducing in the laboratory segments of these situations, varying the parameters involved so as to determine the effect of the experimental variables. This procedure allows generalization from the information obtained in the laboratory situation back to the original situation as it occurs in nature. The physical sciences have made striking advances through the use of this method, but in the behavioral sciences it has often been difficult to meet two necessary requirements for meaningful experimentation: reproducibility and ecological validity.[4] It has long been recognized that certain differences will exist between the types of experiments conducted in the physical sciences and those in the behavioral sciences because the former investigates a universe of inanimate objects and forces, whereas the latter deals with animate organisms, often thinking, conscious subjects. However, recognition of this distinction has not always led to appropriate changes in the traditional experimental model of physics as employed in the behavioral sciences. Rather the experimental model has been so successful as employed in physics that there has been a tendency in the behavioral sciences to follow precisely a paradigm originated for the study of inanimate objects, i.e., one which proceeds by exposing the subject to various conditions and observing the differences in reaction of the subject under different conditions. However, the use of such a model with animal or human subjects leads to the problem that the subject of the experiment is assumed, at least implicitly, to be a *passive responder* to stimuli—an assumption difficult to justify. Further, in this type of model the experimental stimuli themselves are usually rigorously defined in terms of what *is done* to the subject. In contrast, the purpose of this paper will be to focus on what the human subject *does* in the laboratory: what motivation the subject is likely to have in the experimental situation, how he usually perceives behavioral research, what the nature of the cues is that the subject is likely to pick up, etc. Stated in other terms, what factors are apt to affect the subject's reaction to the well-defined stimuli in the situation? These factors comprise what will be referred to here as the "experimental setting."

Since any experimental manipulation of human subjects takes place within this larger framework or setting, we should propose that the above-mentioned factors must be further elaborated and the parameters of the experimental setting more carefully defined so that adequate controls can be de-

[1] This paper was presented at the Symposium, "On the Social Psychology of the Psychological Experiment," American Psychological Association Convention, New York, 1961.

The work reported here was supported in part by a Public Health Service Research Grant, M-3369, National Institute of Mental Health.

[2] I wish to thank my associates Ronald E. Shor, Donald N. O'Connell, Ulric Neisser, Karl E. Scheibe, and Emily F. Carota for their comments and criticisms in the preparation of this paper.

[3] See reference list (Pierce, 1908).

[4] Ecological validity, in the sense that Brunswik (1947) has used the term: appropriate generalization from the laboratory to nonexperimental situations.

IS0000162

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 196 (D0196), Plfs Dep Ex 414, MC 00295-MC 00303

General Cigar Co., Inc.

320 West Newberry Road
Bloomfield, CT 06002-1398
860/769-3600
800-955-5996
860/769-3670-FAX

PLAINTIFF'S DEPOSITION EXHIBIT 214 7/19/01 AA

a company of Culbro Corporation

FAX TRANSMITTAL FORM

TO: Christina

COMPANY: McCaffry & Ratner

FROM: Amy

DATE: 3/14/97

PAGES: 4 *(Including this cover sheet)*

MESSAGE:
To follow, pls. find: (RE: Chicago Research)

- General info. page w/ Times
- 2 pages w/ Location/directions

Last page is Legal size, so I don't know how it will look on your end!

CONFIDENTIAL

MC 00295

Blumberg No. 5114 DEFENDANT'S EXHIBIT D 196

March 11, 1997

Mike Radecki
DM, Chicago
x4079

Ms. Amy Lineberger
General Cigar Company
320 W. Newberry Road
Bloomfield, CT 06002

Dear Amy:

This will confirm Imagination AT WORK's involvement in conducting one-on-one interviews for the General Cigar Company. Details of the research are as follows:

STUDY TITLE: Cohiba Taste Test Research

TOTAL # INTVS/# INTVS PER CITY: 10 / 10

CITIES/DATES: March 18, 1997
Chicago, Illinois

FACILITIES: One Prudential Plaza - 40th Floor
130 E. Randolph
Michigan Avenue at Randolph
Chicago, IL 60601
(312) 565-4343

MODERATOR: Lois Hinkle-Coleman

RECRUITING SPECIFICATIONS:

Interviews: March 18, 1997 11:30 am - 8:00 pm

Panelist's will consist of males 25+ years of age who have smoked premium cigars (see brand list) in the past 12 months; at least six (6) will mention having heard of Cohiba brand of cigar. All panelists must smoke at least 2 cigars per week. Additional screening requirements are listed on the enclosed screener.

Amy, we look forward to the opportunity to work with you on this project. If you have any questions, or need further information, please feel free to contact either me (513) 729-3498 or Lois (513) 779-8605.

Sincerely,

Maribeth K. McGraw

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MC 00296

03 14 97 FRI 15 39 FAX 860 769 3670 GENERAL CIGAR CO P.03 ②001
MAR-14-97 FRI 13:17 Imagination AT WORK FAX NO 5137293498

A Distinguished Address

One Prudential Plaza
40th Floor

Entering the Building

Fortunately, the Prudential Plaza buildings downtown at Michigan Ave and Randolph St. are among the most visible and well-known in the city of Chicago.

The best way is to enter from Randolph St., just one half block east (toward the lake) of Michigan Ave. The exact address is 130 E. Randolph St. Walk through the lower lobby to the escalators off to the right and take those escalators up to the Main Lobby (also called the 2nd floor). This entrance is open 24 hours a day.

Once there ask the Receptionist/Security Agent to point out The Prudential Plaza. (One Prudential Plaza is the adjoining building through which you just walked.)

Take the elevator to the 44th floor. (Elevator banks indicate the floors to which they travel.)

Other entrances open from 7:00 a.m. to 7:00 p.m. (1) 180 North Stetson, (2) Lake and Beaubien (actually the most beautiful entrance — takes you through the large outdoor plaza opening onto Michigan Ave.), or (3) through the underground Pedway system. Each of these will put you in the lower lobby and you will need to take the escalators up to the Main Lobby.

From O'Hare Airport

By rental car: Take I-190 connecting with I-90, toward Chicago. Downtown (also known as the Kennedy Expressway). Allow 60-90 minutes for the trip. To save time, use the express lanes.

As you approach the downtown area, exit at Ohio St. Eastbound (toward the lake). Take Ohio St. to Michigan Ave. and make a right turn to head south. Follow Michigan Ave. to Randolph St. and our immediate area. There are a number of parking garages around, in addition to those at hotels.

By subway: At O'Hare follow signs to subway station in Terminal Four. Allow 30-40 minutes for trip. You will want to get off the train at State St. and Washington. Look for the Randolph St. exit. Walk 2½ blocks east (toward the lake). The underground Pedway, open from 7:00 a.m. to 7:00 p.m., is a warm option in cold weather.

From Midway Airport

By car: Go north on Cicero Ave. to U.S. 55 Northbound (also known as The Stevenson Expressway). Gradually move into the left lanes, making it easier for you to get on Route 41 North (Lake Shore Drive North) when necessary. You will then pass several museums and marinas. As you near the larger buildings ahead and pass the Chicago Yacht Club, you should be on the right to enable you to take the Wacker Drive/Randolph St. exit.

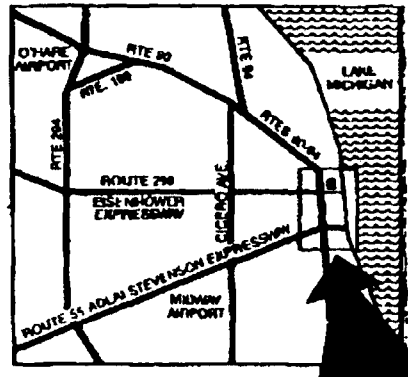
After exiting, turn left at the first stop light and proceed under the buildings and streets. As you come onto the upper roadway, the entrance to the Prudential Buildings (130 E. Randolph St.) is immediately on your right. Look for parking directly ahead on Randolph St. (Or, see special parking directions.)

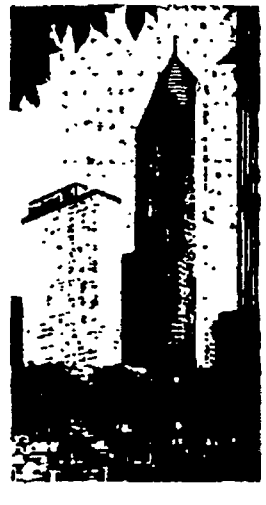
Subway service to downtown puts you at State and Washington, just 2½ blocks from our office.

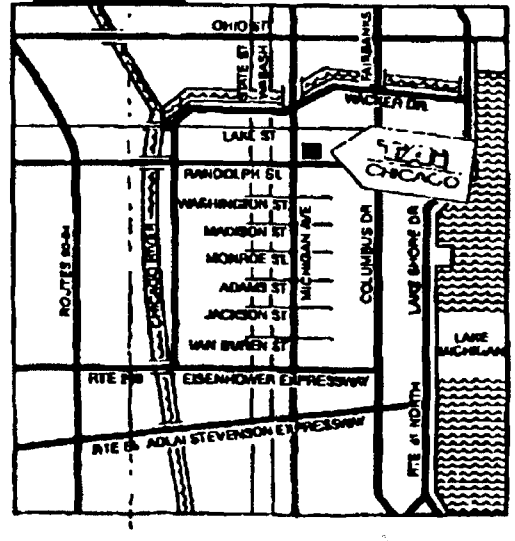
From the Westside

By car: Take I-290 (The Eisenhower Expressway) toward downtown. Turn left (northbound) on Michigan Ave. and go seven blocks to Randolph St.

By subway: The lines parallel the Eisenhower Expressway from Oak Park all the way down town to Washington and State.







Suggestions About Flying In

Midway Airport is both closest to downtown and has less congested expressways (25 minutes to downtown). O'Hare has more connections (but allow 60-90 minutes). Both have good subway service to the downtown area for the economy minded, if you are traveling light and don't mind walking a few blocks.

Cabs

Cost is approximately $22 from Midway, $35 - $40 from O'Hare. There is a limousine (bus) service too, from major hotels for $13 each. 1993 prices.

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Hotel Options

Some are listed below Ask your hostess for recommendations too

We have been able to obtain special prices for some of these hotels. Let us help you with reservations

• Within three blocks of TAI–Chicago

Hyatt Regency Chicago 151 E. Wacker Drive	(312) 337-1234
Fairmont Hotel-Chicago 200 N Columbus Drive	(312) 565-8000
Swissotel Chicago 323 E Wacker Drive	(312) 565-0565
Sheraton Chicago 301 E. North Wacker Drive	(312) 464-1000

• Within the Loop area

Stouffer Riviere 1 W. Wacker Drive	(312) 372 7200
Executive House 71 E Wacker Drive	(312) 346-7100
Palmer House 17 E. Monroe	(312) 726-7500

• North of the River

Courtyard by Marriott 30 E. Hubbard	(312) 329-2500
Hotel Nikko Chicago 320 N. Dearborn	(312) 744-1900
Westin Hotel Chicago 909 N. Michigan Ave.	(312) 943-7200
Days Inn Chicago 644 N. Lake Shore Drive	(312) 943-9200

• South on Michigan Ave.

Chicago Hilton 720 S. Michigan Ave.	(312) 922-4400
Congress Hotel 520 S. Michigan Ave.	(312) 427-3800

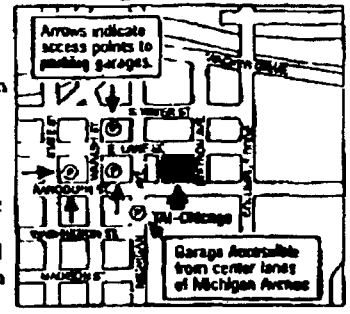
• Near O'Hare Airport

O'Hare Hilton	(708) 686-8000
Hyatt O'Hare	(708) 696-1234

CONFIDENTIAL MC 00298

Off-Site Parking

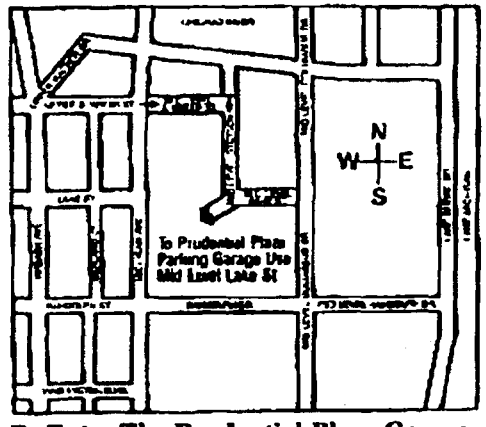
There are a number of parking garages within a few blocks and they are easy to find. We have spotted some for you on this map and marked them with a P.



On-Site Parking

The garage within the Prudential Plaza complex is lighted, clean, and well-managed. Once parked, you simply take the elevator up to the 2nd floor (Main Lobby) Just go over to the Receptionist/Security Agent and ask for our elevators

The on-site parking is very convenient once you know the way, but may be hard to find your first time. There are two other street levels below the ground, many of them one-way. So try it when you are unhurried during daylight hours Here's how you do it.



To Enter The Prudential Plaza Garage From Randolph Drive — in front of Prudential Plaza: West on Randolph to Michigan Avenue. Turn right (north) to South Water Street Turn right (east) to Stetson. Turn right (south) one block to end where you will see signs indicating the garage entrance.

MEMORANDUM

DATE: 3/21/97

TO: General Cigar Group

FROM: Christina Keaveney

RE: Cohiba

****

Following are the 3 Cohiba concept statements presented to the focus group in Chicago on March 18. Both the 1st and 3rd statements were received well, especially the idea of "mystique" presented in concept 1. However, concept 2 was neither understood nor appreciated. General Cigar will provide a complete summary of the focus group to us early next week.

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1.

The pleasure of the best.

For cigar smokers who believe that their cigar enjoyment can only come from the best, a Cohiba cigar imparts the same rare pleasure and feeling of international style that gave Havana its mystique.

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A world unto itself.

Cohiba is not an island. It is an elegant world where nothing but the best can exist. Where personal style and self-assurance demand nothing less than the finest cigar.

CONFIDENTIAL

Cohiba. Who you are. Who you will be.

For men who have discovered a defining character in the cigar they smoke, Cohiba is the symbol of rare quality and discriminating taste that sets them apart from others.

General Cigar Co., Inc.

320 West Newberry Road
Bloomfield, CT 06002-1398
860/769-3600
800-955-5996
860/769-3670-FAX

a company of
Culbro Corporation

FAX TRANSMITTAL FORM

TO: Christina

COMPANY: McCaffery & Ratner

FROM: Amy

DATE: 3/20/97

PAGES: 4 *(Including this cover sheet)*

MESSAGE:
To follow, pls. find:

- Positioning struts #1, 2, & 3

Mike Radecki's Address:
565 Leahy Circle East
Des Plaines, IL 60016

CONFIDENTIAL

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Defs Ex 197 (D0197), Plfs Dep Ex 416, MC 00292-MC 00294

PLAINTIFF'S DEPOSITION EXHIBIT 416 7/19/01 AA

General Cigar Co., Inc.
320 West Newberry Road
Bloomfield, CT 06002-1398

a company of
Culbro Corporation

MEMO

TO: John Rano
John Geoghegan
Dickson Farrington

FROM: Amy Lineberger

CC: Ruth Straley

DATE: March 12, 1997

RE: Logistics for Cohiba Qualitative Research in Chicago

Attempt #2

Post-it® Fax Note 7671	Date 3/14	# of pages ▶ 3
To Christina	From Amy	
Co./Dept McCaffrey Rainer	Co. Gen. Cigar	
Phone # 212-661-8940	Phone # 860-769-3679	
Fax #	Fax #	

Call me Monday w/your arrival time!

Ten (10) qualitative interviews for Cohiba brand research (taste testing, ad concept testing and brand image investigation) are scheduled for:

Date/Time: **March 18, 11:30am - 8:00pm**

Place: **One Prudential Plaza - 40th Floor**
130 E. Randolph
Michigan Avenue at Randolph
Chicago, IL (downtown)
ph: (312) 565-4343

How many ad concepts will we be testing, and what kind of materials will be furnished for interviews (storyboards? videotapes?)?

To follow, please find a memo and interview outline from Lois. The memo addresses the concern that John Rano has about projectability of the information we'll get to the "real world." Lois understands and agrees with him that we should not expect this research to determine whether people will or won't buy a non-Cuban Cohiba, nor should we deduce that any critical perceptions these ten respondents may have means we should not proceed with plans to market the brand. Hopefully, we will gain some understanding of brand image and country of origin issues that will help us decide whether or not quantitative research is warranted.

Blumberg No. 5114 DEFENDANT'S EXHIBIT D197

C:\OFFICE\WPWIN\WPDOCS\MCOH BA.WPD

CONFIDENTIAL

TO: Amy Lineberger
FROM: Lois Coleman
RE: Cohiba Qualitative

March 11, 1997

Per our phone conversation this morning, I think that you are right. What we can get from the qualitative is current brand perception and breadth of brand halo for the Cuban Cohiba (vs. other brands of cigars, Cuban and otherwise). We can also get reaction to the advertising. From these two pieces of information we can extrapolate the strength of the halo.

It would indeed be a mistake to think that we could get some kind of gauge as to whether or not people would buy Cohibas made somewhere besides Cuba. While they can tell us what they think of Cohibas made in the DR, that has absolutely no correlation with what they may or may not do once they get into the smoke shop.

Expectations for the qualitative should be:

- Discover what the brand image of Cohiba actually is (besides Cuban)
- Find out how broadly the Cuban Cohiba halo extends.
- Get reaction to cigar
- Get reaction to different positionings from advertising.

From this information, we can project the reaction to a non-Cuban Cohiba. We cannot get the respondents to tell us whether or not it will be a problem. We will have to figure that out from the above information.

If you have any questions, please let me know. I think that you are absolutely correct that it would be dangerous to draw any conclusions as to whether or not this cigar is going to sell based on what ten smokers say.

Regards,

Lois

Cohiba Brand IDI Outline

Introduction & Orientation

- Purpose
- Moderator role
- Tape recording
- Observation area
- Introduction of participant - name, family size, occupation, brand/s of cigars smoked, how often smoked.

Name Recognition

Moderator will go through list of brands. She will ask respondent to tell her what each brand represents to her. The object is to discover how closely the respondent identifies the Cohiba brand with Cuba. Moderator will probe for whether or not the Cohiba name is any more closely associated with Cuba than any of the other cigars, Cuban or other origin. (The key to this is to see if there is any more intensity towards the Cohiba brand than some of the others Probes will depend on what the respondent says.)

Taste Test

Moderator will have respondent smoke the cigar. As he smokes, they will continue the above conversation with moderator probing about previous smoking experience, i.e. whether they have smoked Cubans etc.
Once respondent has smoked enough to have an opinion, they will be quizzed.

- Reaction?
- How compares to other things that they've smoked? Why?
- Would they buy? Why/not?
- How would they describe the cigar? *(Looking for anything that might coincide with Cuban.)*
- What would they tell someone else about the cigar? Why?

Advertising

- *Moderator will show the respondent the various ads. She will get respondent's reaction.*
- Reaction?
- What is the message that the ad is trying to convey? How does he feel about that? *(This is where we will get a lot of the "negative baggage" if it exists.)*
- Ideas that they like? Dislike? Why?
- Would they try cigar once? Why/not?
- Does cigar deliver what ad talked about? Why/not?

Summary & Conclusion

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 197 (D0198), Plfs Dep Ex 417, MC 00304-MC 00306

FYI
SR, BM, SM, WP,
JB, MK, DR

PLAINTIFF'S DEPOSITION EXHIBIT 7/19/01

Cohiba Taste Test IDI Summary

Chicago, IL

	Findings	Implications
1	These respondents did not perceive the Cohiba that was manufactured outside Cuba as being a "fake" Cohiba. They thought that it would be a good cigar, but they did not look at it as an imitation.	There is a segment of the cigar smoking population who (although a Cuban cigar is their gold standard), want a good tasting cigar and do not really care about the country of origin.
2	All but one of the respondents thought that the Cohiba was a very good cigar. Although they tended to underestimate it's price (this could be caused by the respondent pool itself) they all claimed that they would buy the cigar. They really enjoyed smoking it. They described it as a "really good cigar". It matched the expectations created by the multiple concepts they had read.	The cigar should be well received by all segments of the smoking population. It seems to incorporate a full flavor with a mild smoke The men who smoke robust cigars may find this one a bit more tame, but they should be satisfied by the flavor intensity that the Cohiba delivers. Those men who smoke the milder cigars should find the Cohiba a bit more flavorful, but non-biting.
3	There are two kinds of cigars: Cubans and the others. The Cuban cigars are the gold standard and have mystery surrounding them. These smokers want to smoke Cuban cigars because it is forbidden. They have heard that Cubans are better (or they have smoked them and believe that they are better). However, these respondents do not believe that cigars which are not Cuban are somehow inferior.	A non-Cuban Cohiba can be perceived as a good cigar. There is enough knowledge about Cuban seeds that the smokers can believe that a non-Cuban Cohiba can be a good cigar in the tradition of the Cuban Cohibas.

CONFIDENTIAL

MC 00304

Blumberg No. 5114 DEFENDANT'S EXHIBIT D 198

4	The respondents could not identify with the "island" theme in the ad and concept. They did not necessarily associate Cohiba with Cuba. Therefore, the island reference was a little vague for them. They better identified with the "Havana" mystique. This spoke to the Cuban connection in a straightforward way.	It seems best to avoid drawing any attention to the fact that this is the "other" Cohiba. It does not seem necessary (among these respondents) to explain away the "fake Cohiba" theory. It seems better to refer to the Cuban heritage in a positive light.
5	The respondents liked the concept that referred to the more personal aspect of smoking. They felt that it inferred that they had more discriminating taste; that it somehow set them apart from other smokers. Like the Havana Mystique position, this one communicated that the brand was going to be something special.	There seems to be a position for Cohiba that does not speak of its Cuban heritage. These smokers are looking for a good cigar. A position that tells them that a cigar is for smokers with discriminating taste represents something desirable for these smokers.
6	The visuals in the ad were very well received. The respondents liked the whole tone of the ad and felt that it communicated the mystery associated with Cuba. They also felt that it communicated a wonderful smoking experience.	The visuals in the ad can be used with almost any position to enhance the Cuban connection of Cohiba.
7	The simplicity of the logo and box design is a departure from what the respondents expected. They thought that it would be more traditional and ornate. However, they did say that they would notice it in the store. They preferred the stripes to the solid, and they liked the Spanish. They felt that it added some credibility.	The packaging seems to set the cigars apart from other cigars in the store. The smokers will notice it. While they claim to associate a more ornate, traditional design, they said that this one might "stick out" because of the simplicity of the design.

CONFIDENTIAL

General Cigar Co., Inc.

320 West Newberry Road
Bloomfield, CT 06002-1398
860/769-3600
800-955-5996
860/769-3670-FAX

a company of
Culbro Corporation

FAX TRANSMITTAL FORM

TO: Christina

COMPANY: McCaffery & Ratner

FROM: Amy

DATE: 3/26/97

PAGES: 3 (Including this cover sheet)

MESSAGE:
I've been out sick the past couple of days ☺. I am working on my summary today, but in the meantime, here is Lois' summary which provides a good synopsis.

– Amy

CONFIDENTIAL

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 199 (D0199), Plfs Dep Ex 419, GC 004584-GC 004586

General Cigar Co., Inc.
320 West Newberry Road
Bloomfield, CT 06002-1398

a company of
Culbro Corporation

MEMO

TO: John Rano
John Geoghegan
Dickson Farrington

PLAINTIFF'S DEPOSITION EXHIBIT 419 7/19/01 AA

FROM: Amy Lineberger

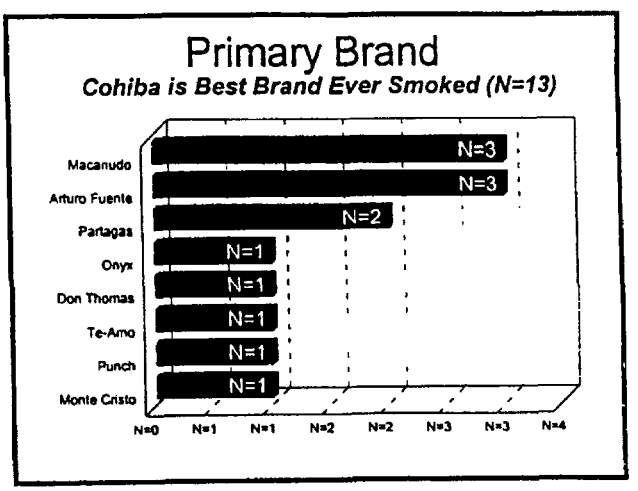
CC: Lois Coleman

DATE: March 14, 1997

RE: Information on Cohiba in Preparation for Chicago Qualitative Research

I went through our data from 1996 U & A study to see if I could extract anything about Cohiba. No respondents cited Cohiba as their primary brand, but 13 did say that Cohiba was the best brand they ever smoked. Isolating these people and looking at them in relation to the total sample reveals some dramatic distinctions (Please keep in mind that, with N=13, there is a large margin for sampling error, but I think the general direction of the skews is meaningful.

These are the brands that the "Best Cohiba" respondents smoke most often.



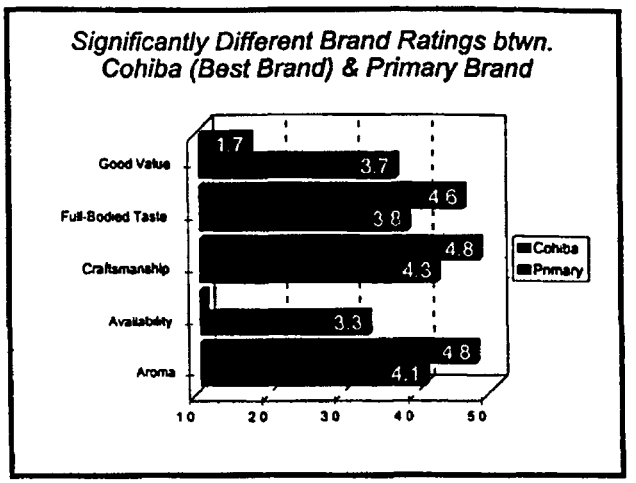
CONFIDENTIAL

GC 004584

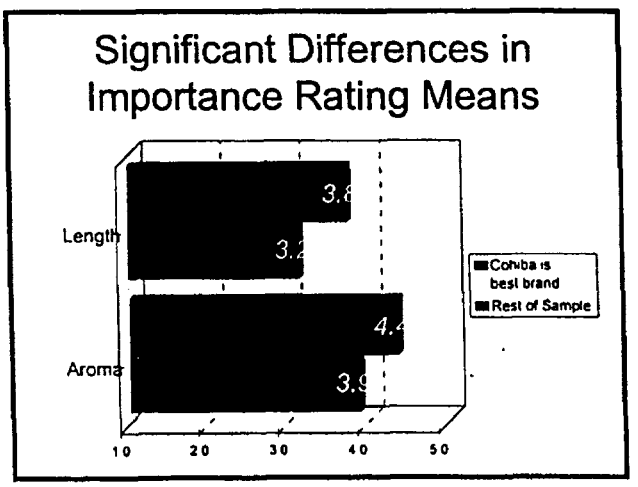
C:\OFFICE\WPWIN\WPDOCS\COHIBAME.WPD

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 199

These respondents have dramatically different perceptions of Cohiba vs. Their primary brand. **They don't consider Cohiba a good value**, and obviously, *availability* is rated low for Cohiba (I think we can safely assume that these guys are specifically referring to Cuban Cohibas). They particularly like Cohibas for their *full-bodied taste*, their *craftsmanship* and *aroma*.



They consider cigar length and aroma to be significantly more important that do the rest of the respondents in the study.

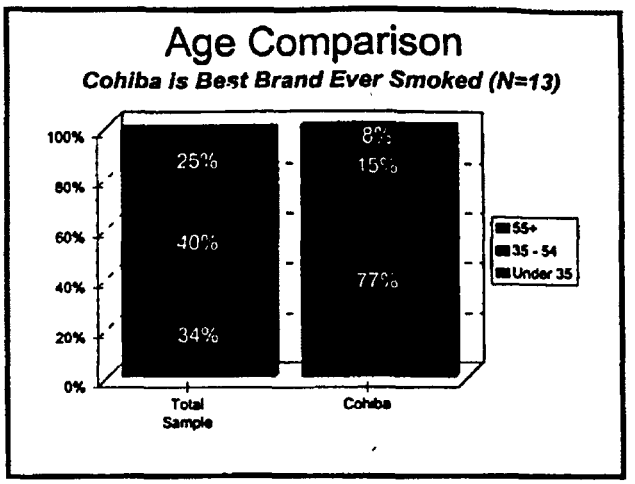


I find this kind of interesting. We'll see if the ages of the interviewees on Tuesday have an effect on their perceptions.

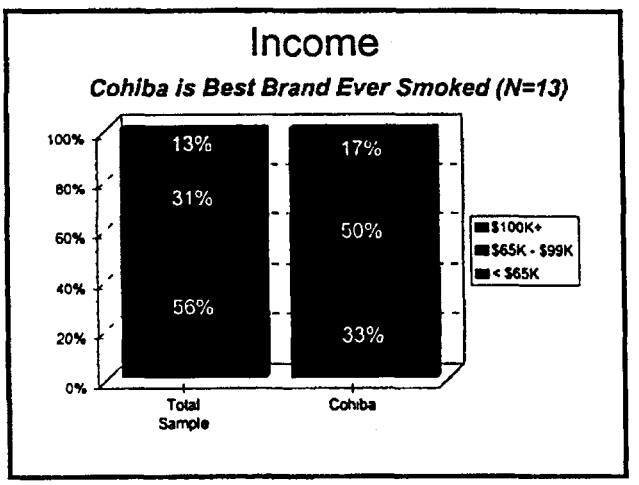
CONFIDENTIAL

GC 004585

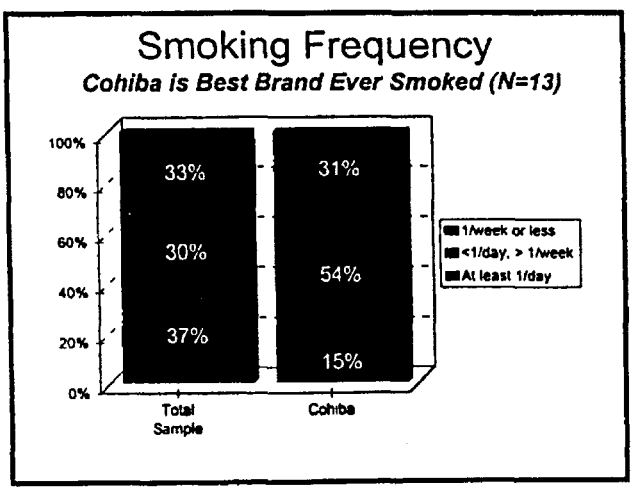
These 13 respondents are almost all under age 35. (For actual ages, see last page).



Besides being young, their incomes skew considerably higher in the mid-range than the overall sample.



Their smoking frequency skews substantially higher in the middle tier.



CONFIDENTIAL

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 215 (D0215)

REG. NO.	3. MARK	4. SER. NO.
1441404	PEHIQUE	73/523552
REG. DATE		5. REGISTER
JUN 02 1987		PRINCIPAL

6. INTERNATIONAL CLASS	7. PRIOR U.S. CLASS	8. FILING DATE	9. LAW OFFICE
34	17	02/22/85	550

10. APPLICANT AND POST OFFICE
EMPRESA CUBANA DEL TABACO, DBA
CUBATABACO
O'REILLY 104
HAVANA CITY, CUBA
CORPORATION OF CUBA

16. EXAMINING ATTORNEY
Cohn

17. TYPE OF MARK
TRADEMARK

18. FIRST USE
ICL 034 00/00/0000

11. CORRESPONDENCE ADDRESS
JAMES E. SIEGEL
LACKENBACH SIEGEL MARZULLO PRESTA, ET AL
GENTHOUSE SUITE
ONE CLASS ROAD
SCARSDALE, NEW YORK 10583

19. IN COMMERCE
ICL 034 00/00/0000

12. DOMESTIC REPRESENTATIVE Lackenbach, Siegel, Marzullo Presta, Et al

20. FOREIGN REG. AND APPL. DATA
CUX APP 115560 11/22/84
CUX REG. 221852 11/22/84
EXPIRES 11/22/94

13. APPLICANT'S ATTORNEY
JAMES E. SIEGEL

15. GOODS—SERVICES
~~034-LEAF TOBACCO, MANUFACTURED TOBACCO FOR SMOKING, CHEWING AND SNUFFING FOR PIPES AND CIGARETTES~~
034- Smoking tobacco, chewing tobacco, snuff and cigarettes.

21. OTHER DATA

DEFENDANT'S EXHIBIT D 215
Blumberg No. 5114

PTO-102L (REV. 12/82) U.S. DEPT. OF COMMERCE—PATENT AND TRADEMARK OFFICE

22. AMENDED	PRINCIPAL REGISTER	25. Supervisory Examiner	
		26. Examiner	
23. AFFADAVIT	Section 8	27. Passed for Publication	Deborah S Cohn
	Section 15	28. Passed for Registration	
	Section 12C	29. O.G. Date	
24. RENEWAL	Passed for Renewal		
	Renewed From		
	☐ Less Goods		

PUBLISHED
MAR 10 1987

PTO-102 (8-78) U.S. Dept. of Commerce - Patent and Trademark Office

523552

CLASS 34

CONTENTS:

Application.....papers.

1. APR 30 1985
2. Amitle + Trans. Nov. 1/85
3. NOV 19 1985 Suspended
4. MAR 20 1986
5. Ltr, Reg + Trans April 28, 1986
6. JUN 06 1986
7. Ltr & Sub Dwg Nov 3, 86
8. DEC 03 1986 Suspended
9. N OF P
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CAR FILMED TMSD

Int. Cl.: 34

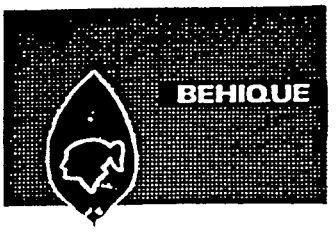
Prior U.S. Cl.: 17

Reg. No. 1,441,404

United States Patent and Trademark Office

Registered June 2, 1987

TRADEMARK
PRINCIPAL REGISTER



EMPRESA CUBANA DEL TABACO (CUBA CORPORATION), TA CUBATABACO
O'REILLY 104
HAVANA CITY, CUBA

FOR: SMOKING TOBACCO, CHEWING TOBACCO, SNUFF AND CIGARETTES, IN CLASS 34 (U.S. CL. 17).

PRIORITY CLAIMED UNDER SEC. 44(D) ON CUBA APPLICATION NO. 115560, FILED 11-22-1984, REG. NO. 221852, DATED 11-22-1984, EXPIRES 11-22-1994.

SER. NO. 523,552, FILED 2-22-1985.

DEBORAH S. COHN, EXAMINING ATTORNEY

523 552

Applicant	Empresa Cubana del Tabaco, trading as CUBATABACO
P.O. Address	O'Reilly 104, Havana City, Cuba
Goods or Services	Tobacco and tobacco products
Date of First use	

3 513

PUBLISHE
MAR 1 0 1987

1441404

REGISTERED
JUN 02 1987
PAT.&T.M.OFFICE

Attorney
Address
LACKENBACH SIEGEL MARZULLO & ARONSON
One Chase Road, Scarsdale, New York 10583
Telephone (914) 723-4300

INT. 34

PRIOR U.S. CL. 17

523552

Applicant Empresa Cubana del Tabaco, trading as CUBATABACO
P.O. Address O'Reilly 104
Havana City, Cuba
Goods or Services Tobacco and tobacco products
Date of First use
Based on Cuba appl. #221,852 dated November 22, 1984

BEHIQUE

Cancel

2

Attorney Address LACKENBACH SIEGEL MARZULLO PRESTA & ARONSON
One Chase Road, Scarsdale, New York 10583
Telephone (914) 723-4300

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

NOTICE OF PUBLICATION UNDER 12(a)

1. Serial No.:
73/523,552

2. Mark:
BEHIQUE
and design

3. Applicant:
EMPRESA CUBANA DEL TABACO

4. Publication Date:
MAR. 10, 1987

The mark of the application above identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13 of the Statute or by rules 2.101 and 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained at $7.00 each for domestic orders, or at $8.75 each for foreign orders from:

The Superintendent of Documents
U.S. Government Printing Office
Washington,D.C. 20402

By direction of the Commissioner.

5. Send correspondence to:

JAMES E. SIEGEL
LACKENBACH SIEGEL MARZULLO PRESTA, ET AL
PENTHOUSE SUITE
ONE CHASE ROAD
SCARSDALE, NEW YORK 10583

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

SERIAL NO.	APPLICANT	PAPER NO.
	EMPRESA CUBANA DEL TABACO	
MARK		ADDRESS COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231
ADDRESS	ACTION NO. 04	The address of all correspondence not containing fee payments should include the words "Box 5."
ROSENBACH SIEGEL MARZULLO PRESTA, ET AL FLATHOUSE SUITE 305 CHASE ROAD SCARSDALE, NEW YORK 10583	MAILING DATE 12/03/86	Please furnish the following in all correspondence: 1. Your telephone number and zip code. 2. Mailing date of this action. 3. Examining Attorney's name and Law Office number.

FORM PTO-1525 (2-84) U.S. DEPT. OF COMM. PAT. & TM OFFICE

☐ 1. Applicant's request for suspension of action by this Office is granted. Action is suspended for _____ months from the mailing date of this communication.

☐ 2. Action on this application is suspended pending the termination of

☐ Cancellation No(s). _____
☐ Civil Action No(s). _____
☐ Opposition No(s). _____

When the proceeding(s) is terminated, applicant, if a party thereto, should advise the Examining Attorney of the termination and the outcome of the proceeding. (Semi-annual inquiry may be made as to the status of the inter partes proceeding.)

☑ 3. Action on this application is suspended pending receipt of a certification or certified copy of the renewal registration in the country of origin of the applicant. If the registration is in a foreign language, an English translation must be submitted. The certification or certified copy of the registration should be forwarded to the Examining Attorney as soon as possible. If the foreign application is abandoned, the Examining Attorney should be advised. (Semi-annual inquiry may be made as to the status of the foreign application.)

☐ 4. Action on this application is suspended pending the disposition of application No. _____

☐ 5. Since applicant's effective filing date is subsequent to the effective filing date of the application referred to in No. 4 above, the latter, if and when it matures into a registration, will be cited against this application. See 37 CFR §2.83. A photocopy of the drawing of the pending application, as filed in the Search Library of this Office, is attached.

☐ 6. It is noted that an assignment, involving this application, is presently pending before the Office. Action is suspended on this application pending recordation of the assignment. This application will be removed from suspension upon recordation of the assignment. Notification of recordation will normally be done through Office channels. However, upon receipt of the Reel and Frame number of the assignment, applicant may advise the Examining Attorney.

Examining Attorney	Law Office	Phone
[illegible]	5	(703) 557-5380

[illegible] 12/[illegible]

PTOL-373 (Rev. 6-84)

GM #1

RECEIVED
NOV 17 '86
T.M.E.O.
LAW OFFICE 5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Empressa Cubana Del Tabaco

SERIAL NO.: 523,552

FILED: February 22, 1985

GROUP: Law Office 5

EXAMINER: Deborah S. Cohn

MARK: BEHIQUE

Certificate of Mailing
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231.
on OCT 30 1986
Date: OCT 30 1986

Commissioner of Patents and Trademarks
United States Patent Office
Washington, D.C. 20231

RESPONSE TO OFFICIAL ACTION
DATED JUNE 6, 1986

Responsive to the Official Action dated June 6, 1986, attached hereto is a new formal drawing that applicant asks be supplanted for that of record. The mark set forth in the drawing is exactly that in the corresponding foreign registration. Accordingly, further and favorable action passing the subject registration to publication is believed to be in order and is now courteously solicited.

Respectfully submitted,

LACKENBACH SIEGEL MARZULLO
& ARONSON, P. C.

BY
HOWARD N. ARONSON
Attorney for Applicant

Dated: October 30, 1986
Penthouse Suite
One Chase Road
Scarsdale, New York 10583
(914) 723-4300

U.S. DEPARTMENT OF COMMERCE - Patent and Trademark Office

IN REPLY REFER TO THE FOLLOWING AND THE FILING DATE:

SERIAL NO.	APPLICANT	Paper No.
73 523552	EMPRESA CUBANA DEL TABACO	
MARK		ADDRESS: Commissioner of Patents and Trademarks Washington, DC 20231
BEHIQUE		
ADDRESS	ACTION NO.	
JAMES E. SIEGEL [illegible]ENBACH SIEGEL MARZULLO PRESTA, ET AL PEN HOUSE SUITE ONE CHASE ROAD SCARSDALE, NEW YORK 10583	02 MAILING DATE 06/06/86	The address of all correspondence not containing fee payments should include the word "Box 5."

FORM PTO-1525 (2-84) U.S. DEPT. OF COMM. PAT. & TM OFFICE

Also furnish: (1) Serial number of application, (2) The mark, (3) Examining Attorney's name and Law Office number, (4) Mailing date of this action, and (5) Applicant's name (or applicant's attorney), telephone number and zip code.

A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID ABANDONMENT.

[illegible] 523552

This is in response to your submission of April 28, 1986.

The foreign registration and translation have been entered into the record.

The mark in typed form shown on the drawing does not agree with the mark in special form shown on the certified copy of the foreign registration upon which the present application is based. You must amend the present drawing so that it conforms to the mark as shown in the foreign registration.

Deborah S. Cohn
Trademark Attorney, Law office 5
(703) 557-5380

jec/l

#5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Empresa Cubana Del Tabaco

Serial No.: 523,552

Filed: February 22, 1985

Group: Law Office 5

Examiner: Deborah S. Cohn

Hon. Commissioner of
Patents and Trademarks
Washington, D.C. 20231

RESPONSE TO OFFICIAL ACTION
DATED MARCH 20, 1986

Sir:

Responsive to the Official Action dated March 20, 1986, applicant submits herewith an original, certified copy of the corresponding Cuban registration, with a signed English translation.

With the submission of this documentation, it is believed that early publication of this application is in order.

Respectfully submitted,

LACKENBACH SIEGEL MARZULLO
& ARONSON, P. C..

BY Howard N. Aronson
HOWARD N. ARONSON

Dated: April 25, 1986

Penthouse Suite
One Chase Road
Scarsdale, New York 10583
Telephone (914) 723-4300

Certificate of Mailing
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231.
on 4/25/86
Barbara Schiffman
~~Howard N. Aronson, Atty.~~ BARBARA SCHIFFMAN
Dated: 4/25/86

ING. MARIO FERNANDEZ FINALE , Director de la Oficina Nacional de Invenciones, Información Técnica y Marcas.

CERTIFICO

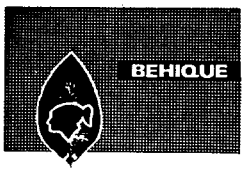
Que con fecha veintidós de noviembre de mil novecientos ochenta y cuatro y por el término de diez años, se expidió a favor de: la EMPRESA CUBANA DEL TABACO, comerciando como CUBATABACO.
domiciliada en: O'Reilly 104, Ciudad de la Habana, República de Cuba.

la INSCRIPCION del Certificado No. ciento quince mil quinientos sesenta , anotado al número doscientos veintiún mil ochocientos cincuenta y dos del Registro de Entrada,

que ampara la marca: BEHIQUE

para distinguir: Tabaco elaborado para fumar, mascar o estornudar y cigarrillos.

en la clase treinta y cuatro de la Clasificación Internacional de Productos y Servicios, encontrándose en todo su vigor y efectos y siendo el diseño que se fija a continuación exactamente igual al que aparece en el expediente.



Y a petición de Adé Acosta Martínez, Representante
se expide la presente previo el pago de los derechos correspondientes en la Ciudad de La Habana, República de Cuba, a los once días del mes de febrero de mil novecientos ochenta y seis.

Ing. Mario Fernández Finalé
DIRECTOR ONITEM

I, Eng. Mario Fernández Finalé, Director of the National Office of Inventions, Technical Information and Trade -- Marks.----------

C E R T I F Y

That on November twentytwo nineteen hundred and ~~seventy~~ eighty-four and for a term of ten years there was issued in favour of Empresa Cubana del Tabaco, trading as CUBA-TABACO, domiciled at 104 O'Reilly Street, City of Havana, Certificate 115 560 of Registration One hundred fifteen thousand five hundred and sixty, registered under number Two Hundred 221 852 and twenty one thousand eight hundred fifty two of the General Registry, covering the trade mark BEHIQUE (design) to distinguish manufactured tobacco for smoking, chewing or snuff and cigarettes, in class thirty-four of the International Classification of Goods and Services, said certificate being in full force and effects and the design affixed hereinafter being exactly the same as the one appearing on the file.

BEHIQUE (design)

And upon petition by Ada Acosta Martínez, Representative, I issue these presents, the pertinent duties having been paid in the City of Havana, Republic of Cuba, this eleventh day of the month of February nineteen hundred and eighty-six.

(Sgdo) Eng. Mario Fernández Finalé
Director.

U.S. EPARTMENT OF COMMERCE
Patent and Trademark Office

PAPER NO.

SERIAL NO. 73/523552

APPLICANT
EMPRESA CUBANA DEL TABACO

MARK
BEHIQUE

ADDRESS
JAMES E. SIEGEL
LACKENBACH SIEGEL MARZULLO PRESTA, ET A
PENTHOUSE SUITE
ONE CHASE ROAD
SCARSDALE, NEW YORK 10583

ACTION NO.
03

MAILING DATE
03/20/86

ADDRESS
Commissioner of Patents
and Trademarks
Washington, D. C. 20231

The address of all correspondence not containing fee payments should include the words "Box 5."

Please furnish the following in all correspondence:
1. Your telephone number and zip code.
2. Mailing date of this action.
3. Examining Attorney's name and Law Office number.

FORM PTO-1525 (2-84) U.S DEPT. OF COMM. PAT. & TM OFFICE

Action on this application was suspended pending receipt of a certification or certified copy of the Certificate of Registration in the country of origin of applicant and/or termination of inter partes proceedings. Inquiry is made as to the status of prosecution of the foreign application and/or inter partes proceedings.

Deborah S. Cohn — EXAMINING ATTORNEY
V — LAW OFFICE
(703) 557-5380 — PHONE

A proper response to this Office action must be received within 6 months from the date of this action in order to avoid ABANDONMENT.

FORM PTOL-372 (Rev. 1-83) USCOMM-DC

U.S. EPARTMENT OF COMMERCE
Patent and Trademark Office

PAPER NO.

ADDRESS

Commissioner of Patents
and Trademarks
Washington, D. C. 20231

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3. Examining Attorney's name and Law Office number.

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Deborah L. Cohen	V	(703) 557-5380
EXAMINING ATTORNEY	LAW OFFICE	PHONE

A proper response to this Office action must be received within 6 months from the date of this action in order to avoid ABANDONMENT.

FORM PTOL-372 (Rev. 1-83)

USCOMM-DC

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NO.	APPLICANT			
73/523552	EMPRESA CUBANA DEL TABACO			
MARK				
BEHIQUE				
ADDRESS		ACTION NO.	*Directions:*	5. PAPER NO.
JAMES E. SIEGEL LACKENBACH SIEGEL MARZULLO PRESTA, ET AL PENTHOUSE SUITE ONE CHASE ROAD SCARSDALE, NEW YORK 10583		02	Address the envelope containing your reply to the attention of *Box 5* unless it contains fee payments. Please furnish your telephone number and the examining attorney's name and law office number on all correspondence.	6. MAILING DATE
FORM PTO-1525 (2-84)	U.S. DEPT. OF COMM. PAT. & TM OFFICE	MAILING DATE 11/19/85		

☐ 1. Applicant's request for suspension of action by this Office is granted. Action is suspended for _____ months from the mailing date of this communication.

☐ 2. Action on this application is suspended pending the termination of

☐ Cancellation No(s). _____
☐ Civil Action No(s). _____
☐ Opposition No(s). _____

When the proceeding(s) is terminated, applicant, if a party thereto, should advise the Examining Attorney of the termination and the outcome of the proceeding. (Semi-annual inquiry may be made as to the status of the inter partes proceeding; failure to respond may result in removal from suspension.)

☑ 3. Action on this application is suspended pending receipt of a certification or certified copy of the registration in the country of origin of the applicant. If the registration is in a foreign language, an English translation must be submitted. The certification or certified copy of the registration should be forwarded to the Examining Attorney as soon as possible. If the foreign application is abandoned, the Examining Attorney should be advised. (Semi-annual inquiry may be made as to the status of the foreign application; failure to respond may result in removal from suspension.)

☐ 4. Action on this application is suspended pending the disposition of application No. _____

☐ 5. Since applicant's effective filing date is subsequent to the effective filing date of the application referred to in No. 4 above, the latter, if and when it matures into a registration, will be cited against this application. Trademark Rule 2.82. A photocopy of the drawing of the pending application, as filed in the Search Library of this Office, is attached.

Deborah L. Cohen
Examining Attorney

5
Law Office

(703) 557-5380
Phone

FOL.473-R(...)

MAIL ROOM
OCT 30 1985
PAT. & TRADEMARK OFF.

2/4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Empresa Cubana Del Tabaco

Serial No: 523,552

Filed: February 22, 1985

Group: Law Office 5

Examiner: Deborah S. Cohn

Hon. Commissioner of
Patents and Trademarks
Washington, D.C. 20231

RESPONSE TO OFFICIAL ACTION
DATED April 30, 1985

Sir:

Responsive to the official action dated April 30, 1985, please delete the identification of goods as filed, and supplant with the following:

--Smoking tobacco, chewing tobacco, snuff and cigarettes.--

Attached hereto is an English translation of the corresponding Cuban application.

Applicant advises that there is no direct English translation of the mark "BEHIQUE".

As a search of the Office Records has failed to locate a confusingly similar mark, favorable action on this application is earnestly solicited.

Respectfully submitted,

LACKENBACH SIEGEL MARZULLO
PRESTA & ARONSON, P.C.

BY
HOWARD N. ARONSON

Dated: October 30, 1985

Penthouse Suite
One Chase Road
Scarsdale, New York 10583
Telephone (914) 723-4300

Certificate of Mailing
I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231.
on OCT 30 1985

Howard N. Aronson, Atty.
Dated OCT 30 1985

221,852

I, ING. MARIO FERNANDEZ FINALE, Director of the National Office of Inventions, Technical Information and Trademarks,

C E R T I F Y

Under date of November twenty-second, nineteen hundred eighty-four and under number two hundred twenty-one thousand eight hundred fifty-two of the Incoming Register, there was submitted in this Office by Ada Acosta Martinez, Agent, in the name and on behalf of the Empresa Cubana del Tabaco (CUBATABACO), with place of business at O'Reilly #104, City of Havana, Republic of Cuba, an application for registration of the trademark "BEHIQUE" (design), to distinguish: raw tobacco, tobacco processed for smoking, chewing or snuffing, and cigarettes, included in Class 34 of the International Classification of Products and Services for the Trademark Register.

I further certify: That the design of the Trademark affixed below is exactly the same as it appears from the record.

(Fassimile) BEHIQUE

Also I certify: That the application of said trademark is pending.

And at the request of Ada Acosta Martinez, Agent, this transcript is issued, following the payment of the respective fees, in the City of Havana, this seventeenth day of January, nineteen hundred eighty-five.

(Seal and signature)

Ing. Mario Fernandez Finalé
Director, ONIITEM

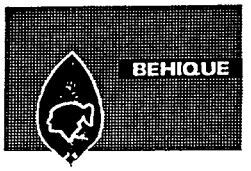
221,852
C.C.

ING. MARIO FERNANDEZ FINALE, Director de la Oficina Nacional de Invenciones, Información Técnica y Marcas:

C E R T I F I C O

Con fecha veintidós de noviembre de mil novecientos ochenta y cuatro y bajo el número doscientos veintiún mil ochocientos cincuenta y dos del Registro de Entrada, fue presentada en esta Oficina por Ada Acosta Martínez, Representante, a nombre y en representación de la Empresa Cubana del Tabaco (CUBATABACO), domiciliada en O'Reilly #104, Ciudad de La Habana, República de Cuba, solicitud de inscripción de la marca denominada "BEHIQUE" (diseño), para distinguir: tabaco bruto, tabaco elaborado para fumar, mascar o estornudar y cigarrillos, comprendidos en la clase 34 de la Clasificación Internacional de Productos y Servicios para el Registro de Marcas.

Asimismo certifico: Que el diseño de la marca que se fija a continuación es exactamente igual al que aparece del expediente.



También Certifico: Que la solicitud de la marca mencionada se encuentra en tramitación.

Y a petición de Ada Acosta Martínez, Representante, se expide la presente, previo el pago de los derechos correspondientes, en la Ciudad de La Habana, a los diez y siete días del mes de enero de mil novecientos ochenta y cinco.

Ing. Mario Hernández Finalé
DIRECTOR ONIITEM

U.S. DEPARTMENT OF COMMERCE - Patent and Trademark Office

IN REPLY REFER TO THE FOLLOWING AND THE FILING DATE:

Paper No.

SERIAL NO.	APPLICANT	
73/523552	EMPRESA CUBANA DEL TABACO	
MARK		
BEHIQUE		
ADDRESS		ACTION NO.
JAMES E. SIEGEL LACKENBACH SIEGEL MARZULLO PRESTA, ET AL COUNTHOUSE SUITE 300 CHASE ROAD SCARSDALE, NEW YORK 10583		01
		MAILING DATE
		04/30/85

FORM PTO-1525 (2-84) U.S. DEPT. OF COMM. PAT. & TM OFFICE

ADDRESS: Commissioner of Patents and Trademarks Washington, DC 20231

The address of all correspondence not containing fee payments should include the word "Box 5."

Also furnish: (1) Serial number of application, (2) The mark, (3) Examining attorney's name and Law Office number, (4) Mailing date of this action, and (5) Applicant's name (or applicant's attorney), telephone number and zip code.

A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID ABANDONMENT.

[illegible]

I have reviewed this application for trademark (and/or service mark) registration and you are advised as follows:

The identification of goods is too indefinite for registration purposes. You must amend the identification. Based on the record, the following identification is suggested and should be adopted, if accurate: "smoking tobacco, chewing tobacco, snuff, and cigarettes."

You must submit an English translation of all foreign words in the mark on the drawing. (TMEP section 906.)

You must submit an English translation of the certification or certified copy of the certificate of registration. (37 CFR Section 2.39(a); TMEP section 1006.)

As to "DEHIQUE," according to my search of the Office registration records, there is no registered mark which so resembles the applicant's mark, when applied to the goods (or services), as to be likely to cause confusion, or to cause mistake, or to deceive. (15 U.S.C. 1052(d); TMEP section 1105.01.)

Deborah S. Cohn
Trademark Attorney, Law Office 5
(703) 557-5380

DSC/wr2

+5 SP

$175-301-TM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
APPLICATION FOR TRADEMARK OR SERVICE MARK REGISTRATION

523552

Mark BEHIQUE (Label)

Class(es)

To the Commissioner of Patents and Trademarks:

Empresa Cubana del Tabaco, trading as CUBATABACO
(Name of applicant)

a Cuban corporation
(Citizenship of applicant - or - members of firm - or - jurisdiction in which corporation formed)

O'Reilly 104
(Complete business address)

Havana City, Cuba

The above identified applicant has adopted and is using the trademark (service mark) shown in the accompanying drawing for (goods or services)-

Leaf tobacco, manufactured tobacco for smoking, chewing and snuffing purposes and cigarettes

and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946.

(Fill in the paragraphs that apply.)

(A) The mark was first used on the goods (or services) on (Date) _____; was first used in Commerce with the United States on (Date) _____; and is now in use in such commerce.

(B) An application for registration of said mark has been filed in (Country) Cuba under Application No. 221,852, dated November 22,1984, and a right of priority, under the Union Convention of Paris, 1883 (as amended), based on this application is claimed.

(C) The mark has been registered in (Country) _____ under Registration No. _____, dated _____, and said registration is now in force and effect.

6 28 85 5 3552 1 301 175.00 CK

The mark is used by applying it to directly to the goods themselves

and five (5) specimens showing the mark as actually used are presented herewith.

LACKENBACH SIEGEL MARZULLO PRESTA & ARONSON

TMA-1

The undersigned

(name) JAIME MAS MANZANARES, declares that he(she)

A - (for individual) believes himself(herself)

B - (for firm) is a member of the applicant firm; that he(she) is authorized to execute this declaration on behalf of said firm; that he(she) believes said firm

C - (for corporation) is a (title of officer) Director CUBATABACO of applicant corporation and is authorized to execute this declaration on behalf of said corporation; that he(she) believes said corporation

to be the owner of the trademark (service mark) sought to be registered, that to the best of his knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as may be likely when applied to the goods of such other person to cause confusion, or to cause mistake, or to deceive; that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

DOMESTIC REPRESENTATIVE

LACKENBACH SIEGEL MARZULLO PRESTA & ARONSON, P.C.,
whose postal address is
PENTHOUSE SUITE, ONE CHASE ROAD, SCARSDALE, N.Y. 10583 U.S.A.,
is hereby designated applicant's representative upon whom notices or process in proceedings affecting the mark may be served.

POWER OF ATTORNEY

Applicant hereby appoints jointly and severally, with full power of substitution, the power of appointment of an associate attorney and the power of revocation, the following attorneys at law:

JAMES E. SIEGEL *HENRY A. MARZULLO, JR.*
FRANK P. PRESTA *HOWARD N. ARONSON*
MARVIN FELDMAN

whose address is: LACKENBACH SIEGEL MARZULLO PRESTA & ARONSON, P.C.
PENTHOUSE SUITE, ONE CHASE ROAD, SCARSDALE, NEW YORK 10583
(914) 723-4300 (212) 933-3000

to prosecute this application to register, to transact all business in the United States Patent and Trademark Office in connection therewith, and to receive the Certificate of Registration.

Jaime Mas Manzanares
Director Cubatabaco
1/28/85
(Date)

CUBATABACO O'Reilly 104 - HABANA

523552

LACKENBACH SIEGEL MARZULLO PRESTA & ARONSON

LAW OFFICES
PROFESSIONAL CORPORATION

PATENT AND
TRADEMARK CAUSES

ARMAND E. LACKENBACH
RETIRED

JAMES E. SIEGEL
HENRY A. MARZULLO, JR.
FRANK P. PRESTA *
HOWARD N. ARONSON
MARVIN FELDMAN

SUSAN FREEDMAN
MARY WHITING GOLDBERG

OF COUNSEL
DAVID M. WARREN

NEW YORK

PENTHOUSE SUITE
ONE CHASE ROAD
SCARSDALE, N.Y. 10583

41 EAST 42nd STREET
NEW YORK, N.Y. 10017

1175 MONTAUK HIGHWAY
WEST ISLIP, N.Y. 11795

(914) 723-4300
(212) 933-3000
(516) 582-8232

CABLE ADDRESS
DOWNPAT NY
TELEX
229647 DPAT UR
AUTO TELECOPIER
(914) 725-5674

VIRGINIA

7800 BACKLICK ROAD
SPRINGFIELD, VIRGINIA 22150
(703) 455-6610

UNITED KINGDOM

NEWEY SIEGEL MARZULLO
PRESTA & ARONSON
NORMAN H. NEWEY
RESIDENT TRADE MARK AGENT

McMILLAN HOUSE
54 CHEAM COMMON ROAD
WORCESTER PARK
GTR. LONDON KT4 8RD
TELEPHONE 01-330 4142
TELEX 8955023 COMMAR G

* NOT ADMITTED IN NEW YORK

PLEASE REPLY TO:
PENTHOUSE SUITE
ONE CHASE ROAD
SCARSDALE,
NEW YORK 10583

February 14, 1985

Hon. Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Re: New Trademark Application
Trademark: BEHIQUE

Sir:

Enclosed please find a complete application in the name of Empresa Cubana del Tabaco, trading as CUBATABACO, for the above-identified trademark, along with a drawing, five specimens, Cuban Registration No. 221,852, and a check in the amount of $175.00 to cover the cost of filing. An English translation of the Cuban Registration is forthcoming.

Please charge any additional fees, or credit any overpayment, to Applicant's attorneys Deposit Account No. 10-0100. A duplicate copy of this letter is also enclosed should the Deposit Account be necessary.

Acknowledgement of the above would be appreciated by date-stamping the enclosed self-addressed, postage paid postcard and returning same to us.

Respectfully submitted,

LACKENBACH SIEGEL MARZULLO
PRESTA & ARONSON, P.C.

BY
HOWARD N. ARONSON

HNA/caf
Encl.

523552

LACKENBACH SIEGEL MARZULLO PRESTA & ARONSON

LAW OFFICES
PROFESSIONAL CORPORATION

PATENT AND
TRADEMARK CAUSES

ARMAND E. LACKENBACH
RETIRED

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MARY WHITING GOLDBERG

OF COUNSEL
DAVID M. WARREN

NEW YORK

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UNITED KINGDOM

NEWEY SIEGEL MARZULLO
PRESTA & ARONSON
NORMAN H. NEWEY
RESIDENT TRADE MARK AGENT

McMILLAN HOUSE
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WORCESTER PARK
GTR. LONDON KT4 8RD
TELEPHONE: 01-330 4142
TELEX: 8955023 COMMAR G

* NOT ADMITTED IN NEW YORK

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Respectfully submitted,

LACKENBACH SIEGEL MARZULLO
PRESTA & ARONSON, P.C.

BY
HOWARD N. ARONSON

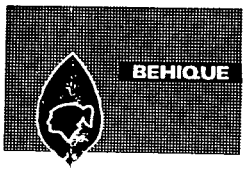
HNA/caf
Encl.

[illegible] FINALE, Director de la Oficina Nacional - [illegible], Información Técnica y Marcas:

C E R T I F I C O

[illegible] de noviembre de mil novecientos ochenta y cua- [illegible] mil doscientos veintiún mil ochocientos cincuenta- [illegible] de Entrada, fue presentada en esta Oficina por- [illegible], Representante, a nombre y en representación - [illegible] del Tabaco (CUBATABACO), domiciliada en ---- [illegible] de La Habana, República de Cuba, solicitud - [illegible] "BEHIQUE" (diseño), para -- [illegible] elaborado para fumar, mascar o es- [illegible], comprendidos en la clase 34 de la Clasifi- [illegible] de Productos y Servicios para el Registro de-

[illegible]: que el diseño de la marca que se fija a conti- [illegible] igual al que aparece del expediente.



[illegible] Certifico: Que la solicitud de la marca mencionada se en-- [illegible] en tramitación.

[illegible] Petición de Ada Acosta Martínez, Representante, se expide la -- [illegible] presente, previo al pago de los derechos correspondientes, en la -- [illegible] de La Habana, a los diez y siete días del mes de enero de -- [illegible] novecientos ochenta y cinco.

[illegible] Fernández Finalé
DIRECTOR OFICINA

FORM PTO 1725
(REV. 83)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

TRADEMARK APPLICATION FILE DATA WORKSHEET

F2

1. SERIAL NUMBER	2. FILING DATE	3. LAW OFFICE
[illegible]	02-22-85	5
	4. REGISTER TYPE: PR	5. MARK DRAWING CODE: 1

F3

1. INT. CL.	2. 1st USE DATE	3. 1st COMMERCE	4. PAID	5. PRIOR U.S. CLASS(ES)	6. GOODS/ SERVICES
[illegible]				017	SEE APPLICATION

F4 APPLICANT INFORMATION

	1. ENTITY	2. ENTRY NO	3. CITIZENSHIP	4. NAME
1st	SEE APPLICATION			
2nd				
3rd				

F5

ENTRY NO.	APPLICANT ADDRESS
01	SEE APPLICATION
02	
03	

F6,7 CORRESPONDENCE ADDRESS (F6) and ATTORNEYS (F7) - SEE APPLICATION

F8

ENTRY NO	COUNTRY CODE	FOREIGN APPLICATION NO	FOREIGN FILING DATE
01		221852	11221984
	FOREIGN REGISTRATION NO	FOREIGN REGISTRATION DATE	EXPIRATION DATE
	RENEWAL REGISTRATION NO	RENEWAL DATE	RENEWAL EXPIRATION DATE
ENTRY NO.	COUNTRY CODE	FOREIGN APPLICATION NO	FOREIGN FILING DATE
02	FOREIGN REGISTRATION NO	FOREIGN REGISTRATION DATE	EXPIRATION DATE
	RENEWAL REGISTRATION NO	RENEWAL DATE	RENEWAL EXPIRATION DATE

F9 PRIOR U.S. REGISTRATIONS - SEE APPLICATION

F10

TEXT TYPE CODE	ADDITIONAL TEXT (SEE APPLICATION OR ENTER TEXT BELOW)

EMPLOYEE NUMBER: DLD

USCOMM DC 83 3775

1. SER. NO. 73523552 | 2. MARK BEHIQUE

3. APPLICANT
EMPRESA CUBANA DEL TABACO

4. ADDRESS
JAMES E. SIEGEL
LACKENBACH SIEGEL MARZULLO PRESTA, ET AL
PENTHOUSE SUITE
ONE CHASE ROAD
SCARSDALE, NEW YORK 10583

FORM PTO-1293 (REV 6/84) U.S. DEPARTMENT OF COMM. Pat & TM Office

JAMES E. SIEGEL
LACKENBACH SIEGEL MARZULLO PRESTA, ET
PENTHOUSE SUITE
ONE CHASE ROAD
SCARSDALE, NEW YORK 10583

1. SER. NO. 73523552 | 2. MARK BEHIQUE

3. APPLICANT
EMPRESA CUBANA DEL TABACO

4. ADDRESS
JAMES E. SIEGEL
LACKENBACH SIEGEL MARZULLO PRESTA, ET AL
PENTHOUSE SUITE
ONE CHASE ROAD
SCARSDALE, NEW YORK 10583

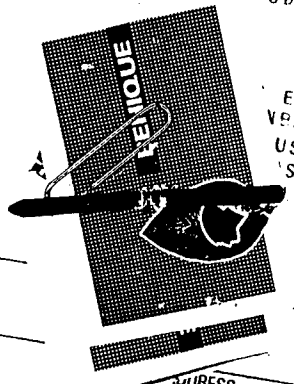
FORM PTO 1293 (REV 6/84) U.S. DEPARTMENT OF COMM. Pat & TM Office

1. SER. NO. 73523552 | 2. MARK BEHIQUE

3. APPLICANT
EMPRESA CUBANA DEL TABACO

4. ADDRESS
JAMES E. SIEGEL
LACKENBACH SIEGEL MARZULLO PRESTA, ET AL
PENTHOUSE SUITE
ONE CHASE ROAD
SCARSDALE, NEW YORK 10583

FORM PTO-1293 (REV 6/84) U.S. DEPARTMENT OF COMM. Pat & TM Office



E. SIEGEL
BACH SIEGEL MARZULLO PRESTA, ET AL
USE SUITE
SE ROAD
E, NEW YORK 10583

2. MARK
BEHIQUE

PANA DEL TABACO

ADDRESS
JAMES E. SIEGEL
LACKENBACH SIEGEL MARZULLO PRESTA, ET AL
PENTHOUSE SUITE
ONE CHASE ROAD
SCARSDALE, NEW YORK 10583

FORM PTO 1293 (REV 6/84) U.S. DEPARTMENT OF COMM. Pat & TM Office

JAMES E. SIEGEL
LACKENBACH SIEGEL MARZULLO PRESTA, ET AL
PENTHOUSE SUITE
ONE CHASE ROAD
SCARSDALE, NEW YORK 10583

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 217 (D0217), Defs Ex 28C

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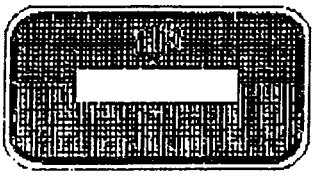

Goods and Services	IC 034. US 002 008 009 017. G & S: raw tobacco, cigars, cigarettes, cut tobacco, rappee, matches, tobacco, tobacco pipes, pipe-holders, ashtrays not of precious metal, match boxes, cigar cases not of precious metal, and humidors
Mark Drawing Code	(2) DESIGN ONLY
Design Search Code	020301 020302 020324 250301 250302 261120 261125
Serial Number	75151226
Filing Date	August 16, 1996
Published for Opposition	December 30, 1997
Registration Number	**2145804**
Registration Date	March 24, 1998
Owner	(REGISTRANT) EMPRESA CUBANA DEL TABACO DBA CUBATABACO CORPORATION CUBA O'Reilly No. 104 Ciudad La Habana CUBA
Section 44 Indicator	SECT44
Description of Mark	The mark consists of a rectangular design with rounded corners, a gold outline, the silhouette of a head of an Indian against a black and white dotted background, a white rectangle, and a gold rectangle. The mark is lined for the color gold. The boldly lined section of the drawing, however, does not indicate color, but is a feature of the mark.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Logout

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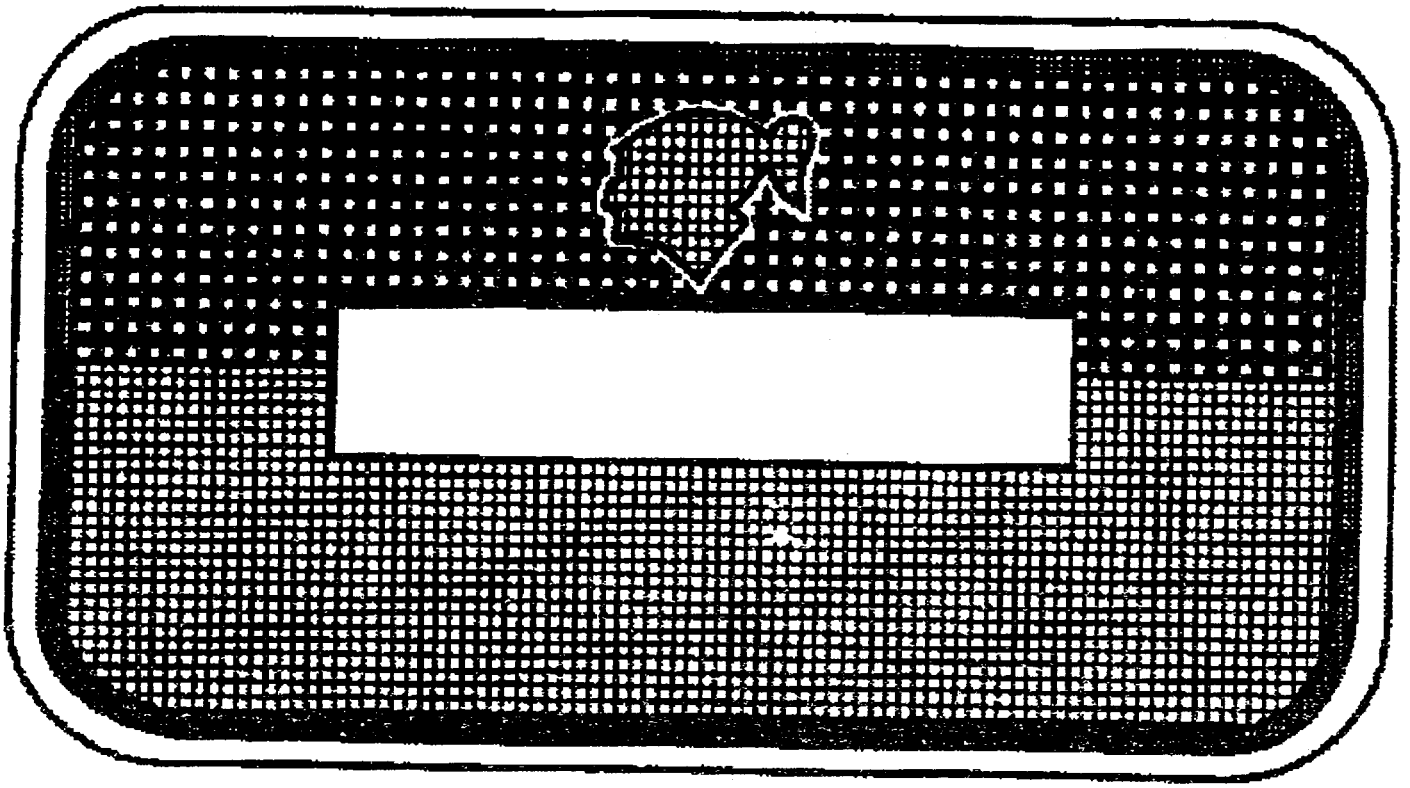
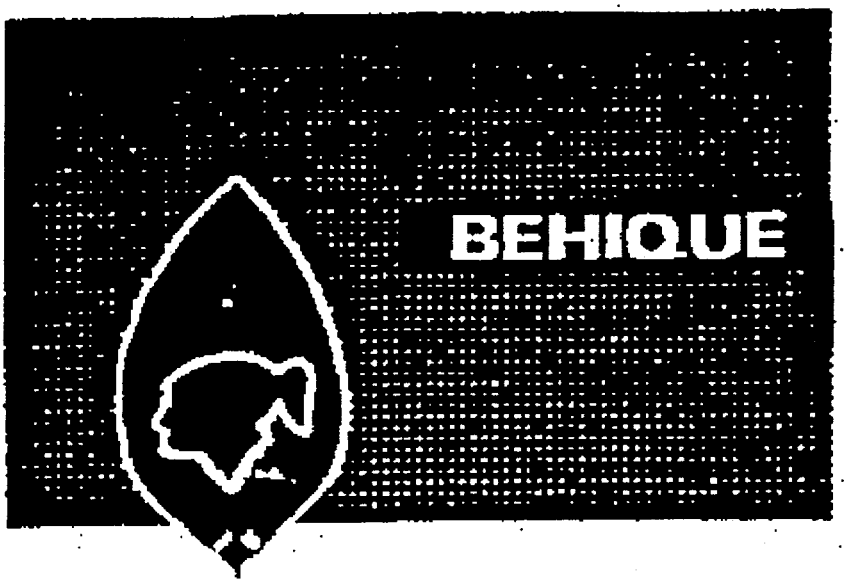
75-151226 DESIGN



73-523552 DESIGN



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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

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Defs Ex 218 (D0218), Defs Dep Ex 164, P12848-P12850

DEFENDANT'S DEPOSITION EXHIBIT 164 7/13/01 AA

HAVANA CELEBRATES

500 years of tobacco bring the world cigar industry to Cuba for symposium and hearty camaraderie.

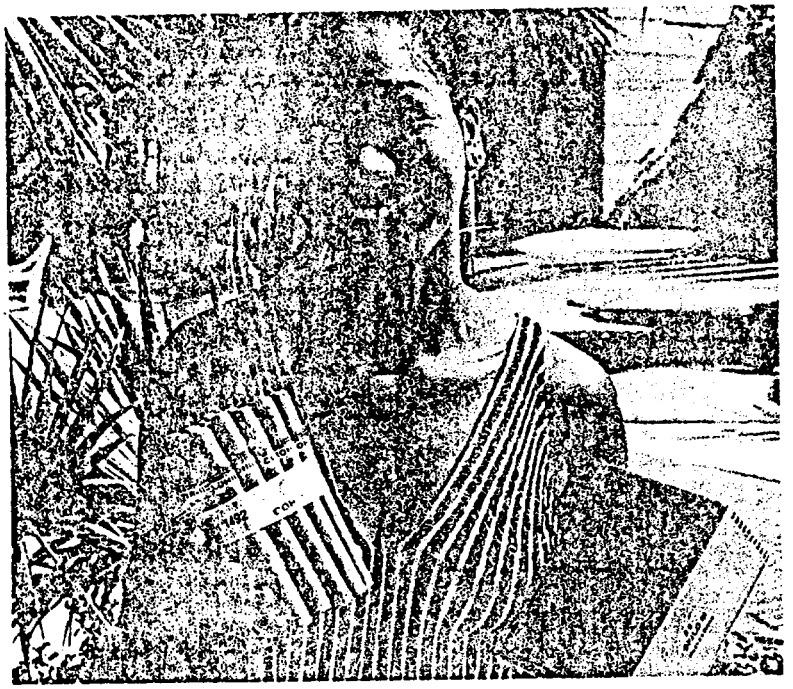
Story and photos by Dr. J. Sebastian Zimmel

Almost exactly 500 years ago, two scouts sent out by Christopher Columbus to explore the interior of the Isle of Cuba encountered cigar-smoking Taino Indians.

Celebrating the historic discovery, Cubatabaco and Tabacalera of Spain co-sponsored an international conference at Havana's Palacio de las Conventiones during November.

About 200 distinguished delegates of the international tobacco and cigar community discussed such important themes as tobacco and the arts, tobacco and health, and tobacco and economics (agriculture, manufacture and trade). Participants also enjoyed an interesting cultural and sightseeing program in Cuba's tobacco heartland.

Most of the delegates stayed in the lovely, renovated Hotel Nacional de Cuba overlooking the Bay of Havana. It was a unique thrill to savor a Havana cigar in the hotel's rooftop bar—on one side, the skyline of Havana, on the other, the blue Caribbean Sea.



Built in 1930, the Hotel Nacional de Cuba has accommodated many celebrities over the years, including Winston Churchill, who was privileged to have a Havana cigar size named after him; the Duke and the Duchess of Windsor; foreign presidents; and such film stars as Frank Sinatra, Marlon Brando, Fred Astaire and Rita Hayworth.

The influence of singers, like Nat King Cole, or writers, such as Ernest Hemingway, is omnipresent in Havana.

UNITED BY CIGARS. The Conference was well organized. On the first day, air-conditioned buses full of enthusiastic cigar aficionados drove to the conference hall, which is nestled in the green and peaceful residential area of Miramar.

After his welcome address, Francisco Padron, Cubatabaco's dynamic director, inaugurated an exhibition, "500 Years of the Discovery of Tobacco." Antonio Nunez Jimenez, the famous tobacco historian, presented his book *Colon: Cuba y el Tabaco* (*Columbus: Cuba and Tobacco*). And Jose Manuel Cortell from Spain delivered a paper on the discovery of tobacco.

In the afternoon, Eusebio Leal, historian of the city of Havana, gave a special tour of Colonial Havana. For those who could not follow his

Considered by many to be among the world's best cigars: a selection of cohibas.

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P12848

At a Cubatabaco press conference: from left, Vahé Gérard, a Geneva cigar merchant; G. van Hattem, Lippoei Leaf; Gregorio Socorro, a Canary Islands leaf merchant; and Francisco Padrón, general manager of Cubatabaco.

Spanish, it was a pleasure to listen to his brilliant rhetoric.

In a restaurant in La Habana vieja, a cigar-rolling competition took place. Cuba's best *torcedores* had 40 minutes to roll seven different *vitolas*. The winner was Emilio, of the Partagas factory.

A welcome cocktail in the Hotel Nacional gathered delegations from numerous countries, united by their interest in tobacco and cigars.

VISIT TO PARTAGAS. Surely one of the highlights for cigar aficionados was a visit to the Partagas factory. One of the five cigar factories in Havana, it is situated next to the former presidents palace (now the Academy of Sciences), an exact copy of the Capitol building in Washington, D.C.

Ernesto Lopez, the director of the Partagas factory, is responsible for a work force of 450 people. They work only with their hands and have the objective of making 5 million cigars per year. Total production in Cuba is 250 million cigars, of which 80 million are exported.

In the Partagas factory, only the best cigars are made. Their names are rich with history: Partagas, Montecristo, El Rey del Mundo, Cohiba. Before the 1959 revolution, the factory belonged to the Cifuentes family.

The visitors, mostly cigar manufacturers or traders themselves, studied every room and every place of work with great interest. They were shown how the precious Havana leaves are unpacked, moistened, stripped, sorted and then rolled by hand. Each cigar is a masterpiece created by true artists in their profession.

As we entered the big production hall, a hundred *chavetas* (the little cigar-makers' knives) gave us a warm, welcoming rustle. We saw the printing of the lovely lithographs for the cedar-wood cigar boxes. The *anilladores*, who bring on the cigar rings (which are collected by *vitolphilistas* all over the world). The ladies who classify cigars by 90 different shades of brown, from *negro* to *clarisimo*.

In the cool humidor, Ernesto Lopez showed us his treasures: bundles of Churchills, or *esplendidos*, and—most impressive of all—an assortment of pre-1959 Don Joaquin cigars from the old Cifuentes factory. They still breathe the distinct, fine aroma that is unique in the world.

In the Partagas cigar shop, such precious pieces as Montecristo A and Cohiba lanceros, once Fidel Castro's favorite, were on sale.

TOBACCO SYMPOSIUM. Back in the conference hall, Heinrich Villiger presided over papers such as "Origin and Improvement of Black-Leaf Cuban Tobacco" (Eumelio Espino of the Cuban Tobacco Research Institute) or "Tobacco Monopolies in the Free Market" (Manuel Fernandez, president of the Spanish Tobacconists Association). Next, I offered a presentation on "Tobacco and Arts" and showed slides of the lovely collection of the tobacco museum in Vienna.

Robbin Garran of Garran & Rawlins, U.K., spoke on "The Europe of 1993 and its Effects on Tobacco Marketing." Orlando Artega, president of the Cuban vitolphilistic society and owner of 11,000 cigar rings, spoke on "The Origin of Cigar Rings." Doria Gonzalez, Cuba, delivered a paper on "Tobacco and Business Management."

In a neighboring hall, a roundtable on "Tobacco and Health" with excellent, well-prepared speakers took place.

On the conference's third day, Adargelio Garrido, Cubatabaco's lawyer, gave a presentation on Cubatabaco's international fight for "The Habanos Denomination of Origin."

The question of trademarks is rather delicate, especially in the case of the relationship between Cubatabaco and Tabacalera. Tabacalera is Cubatabaco's biggest customer (28 million Havana cigars in 1991). However, it is an *opposing* party in court in the fight for such vital brands as Montecristo, Partagas and por Larañaga.

Evis Placer from UNETA, the Cuban Union of Tobacco Companies (most farmland is privately owned), gave a survey on the actual situation of Cuban tobacco.

Placer reported that the 1992 crop of cigar tobaccos will be small, but very good. Concerning the promising flue-cured Virginia, this year's crop will be very small—due to the short-

age of fertilizers in ... the United States' trade embargo. One cannot deny that the population in Cuba is having a difficult time, but they are not losing their good sense of humor.

Vahe Gerard, well-known tobacconist of Geneva and author of an excellent book on Havana cigars, pleaded for the pleasures of smoking Habanos.

The symposium ended with brilliant speeches by Eusebio Leal on "America's surprise and enchantment" and Adolfo Diaz, deputy Prime Minister of Cuba, who pointed out that tobacco now has a national priority in Cuba. Diaz is convinced that the Cubans will master their current "artificial" situation.

Delicious Cuban lobster, Caribbean drinks and excellent cigars (Cubatabaco presented a special line of Cohiba 1492 cigars to honor the 500th anniversary of the discovery of tobacco) contributed to the relaxed atmosphere at the end of this get-together of the worldwide cigar family. TR

Ernesto Lopez, director of the Partagas cigar factory, proudly presents an assortment of pre-Revolution Havana Cigars, Don Joaquin, made by Cifuentes.

REUNITED

The most touching moment of my 17 years in tobacco occurred when I had the honor to witness the meeting again of Alphons Mayer, of General Cigar, with retired Cuban tobacco expert Vincente, now aged 87, and two of his early cigar industry colleagues.

After 37 years, Mayer and Vincente embraced in Almacen Numero Uno, the warehouse where Cubatabaco stores its most precious wrappers. As they talked, all the years seemed to vanish and the old men were young again. They spoke of the old days as if they happened yesterday.

Mayer, who was recently named tobacco personality of the year by a German tobacco journal, lived in Havana from 1952 to 1955. He knows every corner of the building and can still turn the serones for fermentation and roll his own Havana out of precious capas.

Alphons could not sleep this evening, so we, along with Christian Burger and two young Dutch tabakers, sat for a long time in the Sea View Bar of the Nacional.

There under the Havana stars, just 100 miles away from Key West, with a Cuba libre in one hand and a Cohiba in the other, we developed plans for a worldwide campaign to promote the enjoyment of cigar smoking.

Some pleasures are worth waiting for. — *J.S.Z.*

Meeting after 37 years are (from left) Alphons Mayer, General Cigar; retired Cuban expert Vincente; and Alfredo Salinas of Cubatabaco.

P12850

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Defs Ex 219 (D0219)

Are Cuban Cigars Worth Smuggling?

By Frank Mankiewicz

"... All over this country, cigar smokers are sending checks to Switzerland. What comes back is the McCoy—Havana cigars ..."

Late in the afternoon of February 2, 1962, President John F. Kennedy summoned his press secretary to the Oval Office. "Pierre," he asked, "do you think you can round up 1,000 Petit Upmanns by ten o'clock tomorrow morning?" Pierre Salinger had been given tougher assignments, but few stranger ones. He could probably get the cigars, he thought, but why did the president need them?

The next morning Salinger told Kennedy the 1,000 Havanas, ordered from all over the country, were on the way. "Thanks, Pierre," said the president of the United States, who then, with a flourish, signed the proclamation embargoing all trade between Cuba and the United States.

The story has the ring of truth: Kennedy would not have hesitated to use his advance knowledge to stock up on the precious commodity. The story is also illustrative of the state of American foreign policy; Kennedy was a moderate smoker—one imagines that he thought the embargo would last only a few years. No one, least of all President Kennedy, would have doubted Pierre Salinger's ability to come up with a few thousand more if the occasion demanded it.

Yet since that day in 1962, not one Cuban cigar has been sold—legally—in the United States; moreover, not until last year was any Cuban cigar brought into the country legally, even if purchased legally abroad.

Because of the recent thaw in Cuban-American relations, an American returning from abroad—including Cuba itself—may bring up to $100 worth of goods of "Cuban origin" through U.S. Customs. At current prices in Havana, that means about 100 top-quality cigars.

Even prior to 1977, the State Department permitted travel to Cuba, for the Supreme Court has decided that the

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 219

"...'What are those?' asked the friendly Customs inspector. 'Those,' I said, 'are cigars given me this morning by Fidel Castro'..."

government can neither prohibit travel nor penalize it after the fact, although it can warn Americans against it. But the ban on Cuban goods remained in effect and was lifted only rarely. In 1974 I traveled with a film crew to Cuba and conducted a thirteen-hour interview with Fidel Castro. We returned through the Baltimore airport, where the Customs inspectors looked at every camera, light, and box of film, as well as the baggage of the whole crew. Among my own baggage were two large, rather ornate wooden boxes of Castro's own brand of cigars, given me that very morning in Havana.

They were too large to conceal, and that policy did not appeal to me anyway. So I put them under my arm and sauntered through the line. "What are those?" asked the friendly inspector. "Oh," I said, "those are cigars." "From Cuba?" "Yes," I said, "they were given me this morning by Fidel Castro, as a gift for Henry Kissinger. But if they are illegal, please take them" (this last accompanied by a glance at his name tag). Thus it was that Dr. Kissinger acquired a box (but only one) of Cohiba specials (the brand is used only for the *"máximo líder"* himself and for his guests), which I hope he shared, in moderation, with his friends.

Serious cigar smokers have never allowed an embargo to prevent them from obtaining a supply of the genuine article. Some of that supply, of course, like President Kennedy's, was laid in before the blockade. Some aficionados manage to cadge cigars from travelers returned from the Pearl of the Antilles; some buy more than the legal quota in Canada or England and bring them back concealed in socks, underwear, or Tampax wrappers; and some carefully replace the identifying band from each cigar bought overseas with bands from legal cigars.

And some receive packages marked "Unsolicited gift—value less than $10" on a regular basis from two tobacconists in Geneva who mail cigars around the world, but especially to the United States.

All over this great land, particularly in New York and Los Angeles, thousands of cigar smokers are communicating regularly with Geneva, sometimes by letters of request, sometimes by check. What comes back is the McCoy, genuine Havana cigars—Upmann and Montecristo, Partagas and Hoyo de Monterrey—in plain boxes, with the bands removed.

This trade, under the blockade, has been substantial. The Swiss are not known for fancying Cuban tobacco; yet of 125 million cigars sold for export last year in Cuba, Switzerland took approximately 12 percent of the market. Since West Germany, for example, accounted for only about 3 percent, one can well believe that Americans last year illegally imported something like 10 million Cuban cigars—and presumably did so each year of the blockade before that.

Why does all this go on? Why are cigar smokers so agreed that there is no cigar like a Cuban cigar? Why is the argument over the *best* always confined to a comparison of the merits of this or that brand of Havana? In short, why is it almost impossible to find a smoker who will not agree that there are two kinds of cigars in the world—Cuban and all the others?

First of all, it must be understood that when one speaks of a "Cuban" cigar, one is talking about a cigar manufactured in Cuba for export. Only about 25 percent of the cigars produced on the island are exported, and they are the ones that have earned—and continue to earn—the priceless reputation. The 300 million cigars turned out for Cuban domestic consumption—the White Owls of the Caribbean, as it were—do nothing to enhance the prestige of the Cuban cigar.

The figures are instructive. Cuban tobacco officials estimate an annual worldwide production of 25 *billion* cigars. Most of these are cheap and small, but they qualify as cigars. Spain, for example, manufactures 500 million cigars each year, and 450 million are made in the Canary Islands. Some of the latter—Ramón Allones, Upmann, Montecristo—have the same names as Havana brands. These are produced by the original owners of those firms, who fled the island with their expertise and some tobacco seeds when Castro expropriated the tobacco plantations.

Why is Cuban-grown tobacco the best? The answer most frequently found is a version of the one given in Zino Davidoff's *Connoisseur's Book of the Cigar*: "All great smokers discovered long ago the irreplaceable virtues of this magic island: its geology, wind, water, its miraculous soil."

Gaston Montes León, the director of one of the six cigar factories in Havana, gave six reasons for the suprem-

acy of Cuban cigars. First, he said, there is the climate. The tobacco ferments naturally in Cuba; elsewhere this process is often artificial. If another area, such as Jamaica, has the same climate, it lacks the soil. If the soil is similar somewhere, the days of sun and the temperature will be different. Second, he cited the skill of Cuban cigar makers. Third, he told me, the soil of the fabled "Vuelta Abajo," a portion of the province of Pinar del Río, is the best soil in the world for growing tobacco which will continue to grow and "work" even after it has been stored, cured, cut, wrapped, packed, and boxed.

Fourth, methods of manufacture are better because they are handed down from father to son. Fifth, there's the force of history—"centuries of excellence." His sixth reason was "*amor*—we look on a cigar as we would a woman; we do not mistreat her." (This romantic analogy is a favorite of cigar lovers. Davidoff writes: "I discovered Cuba's perfume and her sensual warmth as an immature adolescent discovers an ardent, knowledgeable woman.")

The cigar is not mistreated; that much seems to be true. In a visit last year, it seemed clear to me that at every stage of the creation of the export cigars there was enormous respect for the product.

The leaves begin as a dark green and lighten as they grow. Oddly, the greener—lighter, more *claro*—the cigar desired, the earlier the leaf will be cut. For a darker, more mature cigar, the plant must live longer. The leaves are then cut and dried, either by sunlight or by a special fire—again, to obtain the lighter-colored cigar—and then piled under cloths for the fermentation. After months of storage, experts divide the leaves into wrappers (the best leaves) and filler, and within those categories by color, size, and thickness.

Then, the first phase of the manufacture begins, in a large room where the spine of the leaf is removed. This is a job historically performed by women, but divisions of labor by sex are disappearing fast in Cuba, and nowhere more than in cigar manufacture. There are men who do this job now, and there are women who cut, trim, fill, and shape the cigar itself—once the exclusive preserve of male workers. That father-to-son tradition cited by Montes León is almost purely figurative now; it has been replaced by father-to-daughter, and one imagines that mother-to-daughter will be along in a generation or so. Nearly 60 percent of the cigar-factory employees are now women.

The cigar makers still sit side by side at benches in a large workroom, cutting, filling, rolling, sealing, selecting, and placing by size and color. The ancient tradition of the morning and afternoon "education breaks," in which educators mount the stage in front of the workers and read aloud from great drama and literature, has been continued. But now, a spokesman from the Communist party or the Committee for the Defense of the Revolution will also assign community or factory tasks, explain important articles in the party's morning newspaper, *Granma*, or perhaps read the text of a speech by one of the members of the Central Committee.

Politics is everywhere. Sections of the workroom are divided into "brigades," competing in productivity under the banner of a "Hero of the Revolution." When I was there, the Allende Brigade was in the lead, those named for Lenin and for the Puerto Rican nationalist Albizu close behind.

There are some machines. In the factory I visited, I was proudly shown an AMF sorter, cutter, and filler made in Trenton in 1951, still functioning at close to its original capacity. But in this factory, the Montecristos and the Romeo y Julietas were all made by hand. The machines turned out the local products.

From the large workroom, the cigars are hand-carried to a larger, quieter room, where they are sorted by shape and color and then boxed and packaged after the band and label have been affixed. Then they are sealed, the wrapper-guarantee of the Cuban government is attached, and they are stored, ready for shipment.

Jaime Más, director of the state cigar trust, will be in charge of the Cuban-cigar export to the United States if and when the embargo is lifted (he does not foresee this happening soon). Más thinks the embargo may even have been a kind of blessing to the cigar industry. Before 1962, 64 percent of all the cigars, and 76 percent of their dollar value, went to the United States. In 1959 that meant an American market of 45 million cigars, out of 70 million produced for export.

The embargo forced Cuba to find alternative markets, while it forced Americans to find other high-priced cigars to import. Jamaica, Honduras, and the Canary Islands have taken up the slack here, each taking about 25 percent of the high-priced-cigar market. Más thinks it is significant that no country's cigar has dominated the American scene, and it makes him believe that Cuba can retake a large share once trade resumes. "We will be back to 80 percent in a few years," he predicts, "for one good reason—quality." It is hard to argue with him.

As of now, Más isn't sure just *how* Cuba will market the cigars in America. There will be trouble, he acknowledges, with some of the trademarks. He is aware that a New York court has held that the trademark is the property of the individual, in this case the individual who fled Cuba and is now producing cigars elsewhere. He thinks the law of that case may prevail and that the government of Cuba may be restrained from marketing cigars—at least in the United States—under some of the old and honored brand names.

But, he points out, the government now manufactures, for export, 26 different trademarks embracing 900 different *tipos* of cigar, based on size. Thus an Upmann can be a Churchill (the largest size) or something smaller. A Montecristo can be No. 1 (the largest) through No. 5. Many of those marks and size designations, Más believes, will survive.

And even if they do not, the man in charge of recapturing the U.S. market is unperturbed. "We have the unassailable trademark," Más says, "the one which says 'Havana' or 'Made in Cuba,' and that is the only one we need." He has a point. After all, as he says, "did anyone, anywhere, ever say of a successful man, 'That man must be powerful and important—he smokes a cigar from the Canary Islands'?" Havanas, *puros*, Cuban cigars—whatever they are called—are the world standard, says Jaime Más, and they will remain so. No company, he says with a grin, would spend money to make a cigar that looks as if it were made of Sumatran filler with a wrapper from Connecticut.

He's got us there.

Smokers' Choice

Name the ten best Cuban cigars, we asked a panel of puffers who have been savoring them for decades. I can't, each of them said, but I can tell you what *I* like. And, it turned out, they all liked Montecristo (in Switzerland, No. 1's are $63 the box of 25). Also Romeo y Julieta (Churchills are $74.50 a box in Switzerland). Three of our four experts chose H. Upmann (Lonsdales are $53 the box of 25 in Switzerland); two favored Hoyo de Monterrey Bourbons (between $55 and $60 a box in Switzerland), and one liked Por Larranaga Lolas en Cedros ($25.50 a box in Switzerland). Pierre Salinger's favorite: Punch P's ($35 a box in Switzerland). Dunhill's in Montreal and Toronto sells some of these, at considerably higher prices.

The Begelman Spectacular: Enter Judy Garland

Frank Mankiewicz on Smuggling Cuban Cigars

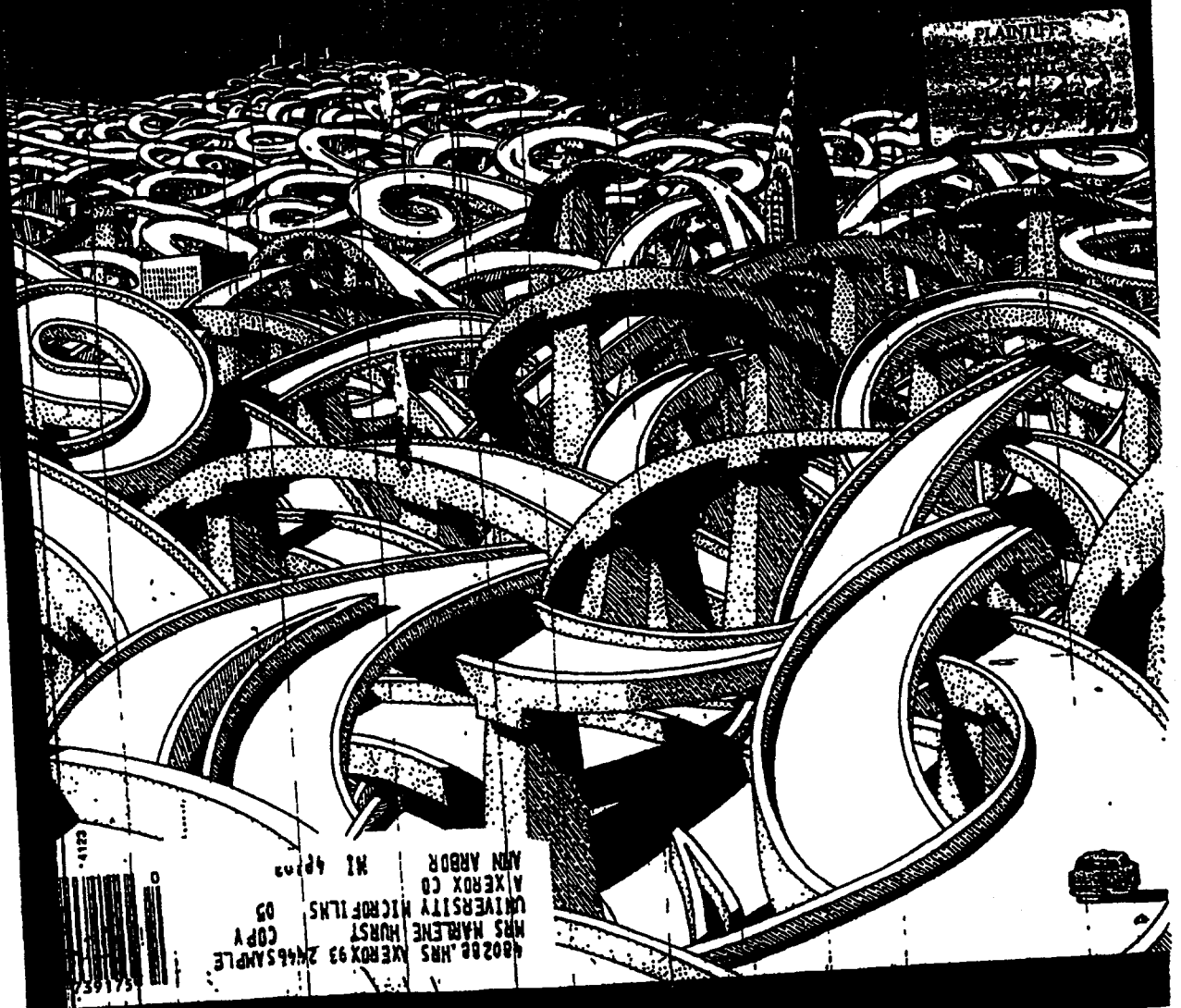
FEBRUARY 6, 1978

ONE DOLLAR

NEW YORK

How Westway Will Destroy New York

An Interview With Jane Jacobs



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A XEROX CO
ANN ARBOR MI 48103

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Defs Ex 222 (D0222), Plfs Dep Ex 43, GC 004870-GC 004863

General Cigar Co., Inc.

320 West Newberry Road
Bloomfield, CT 06002-1398
203/769-3600
Telex: 325896
Cable: CULBROCORP NYK

a company of
Culbro Corporation
Culbro

FAX # (203) 769-3670

FAX TRANSMITTAL FORM

DATE: December 10, 1993

TO: Ron Milstein

COMPANY: New York

FROM: John Rano

NUMBER OF PAGES 8 (INCLUDING COVER SHEET)

COMMENTS: Attached please find Cohiba 1982-1983 invoices.

EXHIBIT
Pltf's 43
5/23/00 (pm)

DEFENDANT'S EXHIBIT
D 222
Blumberg No. 5114

CONFIDENTIAL

12 10 93 08:57 ☎203 769 3670 GENERAL CIGAR CO --- CULBRO LEGAL 002 005
FROM GENERAL CIGAR.

GENERAL CIGAR DOMINICANA

P O Box 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Telex: 346-1036
Telephone: 582-7112
582-7113
582-7114

GENCIGAR

General Cigar & Tobacco Co.
900 Rutter Avenue
Forty Fort, PA 18704
U. S. A.

FACTURA No: GC-34
INVOICE No.
September 23rd 19 82

Page # 1

Baez & Rannik, S.A.

Marks & Nos. / Marcas Nos.	Order No. / Orden No.	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net Wt. Per M. / Peso neto Por M	Price per m / Precio per m	$ Value / $ Valor
			COHIBA BRAND			
670	Unit 0322	53,600	Cohiba No.1 1/50	23 lbs		
		53,600	Cohiba No.2 1/50	28 lbs		
		53,600	Cohiba No.3 1/50	30 lbs		
		160,800				

REDACTED

CONFIDENTIAL

GC 004863

Total net weight
Total peso neto
Total gross weight
Total peso Bruto

Int. Zone Francs
Dominican Republic

GENERAL CIGAR DOMINICANA

P. O. Box 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Telex. 346-1026
Telephone: 582-7112
582-7113
582-7114

ble: GENCIGAR

General Cigar & Tobacco Co.
900 Butter Avenue
Forty Fort, PA 18704
U. S. A.

FACTURA No: GC-39
INVOICE No.
October 15th 1982

IA: Baez & Rennik, S. A

Marks and Nos. / Marcas y Nos.	Order No. / Orden No.	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA		Net Wt. Per M. / Peso neto Por M.	Price per m / Precio por m	$ Value / $ Valor
			COHIBA BRAND				
		6,400	Cohiba No.1	1/50	23 lbs		
1/80	Unit 0322	6,400	Cohiba No.2	1/50	28 lbs		
		6,400	Cohiba No.3	1/50	30 lbs		
1/122		40,320	Cohiba No.1	1/50	23 lbs		
3/164		40,320	Cohiba No.2	1/50	28 lbs		
5/206		40,320	Cohiba No.3	1/50	30 lbs		
		140,160					

REDACTED

CONFIDENTIAL

GC 004864

Total net weight 8
Total peso neto
Total gross weight 18

Zona Franca
General Cigar Dominicana

GENERAL CIGAR DOMINICANA

P. O. Box 675
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Cable: GENCIGAR

Telex: 346-1026
Telephone: 582-7112
582-7113
582-7114

FACTURA No. GC-46
INVOICE No.

December 3rd 19 8

General Cigar & Tobacco Co.
900 Rutter Avenue
Forty Fort, PA 18704
U. S. A.

VIA: Navieras de Puerto Rico

Marks And Nos. / Marcas y Nos.	Order No. / Orden No.	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net Wt. Per. M. / Peso Neto Por M.	Price per m / Precio por m	$ Value / $ Valor

REDACTED

			COHIBA BRAND		
240/389	Unit 0322	12,000	Cohiba No.1	1/50	23 lbs
		12,000	Cohiba No.2	1/50	28 lbs
		12,000	Cohiba No.3	1/50	30 lbs
390/410		20,160	Cohiba No.1	1/50	23 lbs
411/431		20,160	Cohiba No.2	1/50	28 lbs
432/442		10,560	Cohiba No.3	1/50	30 lbs
		86,880			

Total net weight
Total pese neto
Total gross weight:

CONFIDENTIAL

GC 004865

Zona Franca
General Cigar Dominicana

GENERAL CIGAR DOMINICANA

P. O. Box 875
Industrial Free Zone
Santiago, Dominican Republic

Telex: 346-1026
Telephone: 582-7112
582-7113
582-7114

Cable: GENCIGAR

Cigar Manufacturers and Exporters

FACTURA No. GC-47
INVOICE No.

General Cigar & Tobacco Co.
900 Rutter avenue
Forty Fort, PA 18704
U. S. A.

December 17th 19

Page # 1

VIA: Navieras de Puerto Rico

Marks And Nos. / Marcas y Nos.	Order No. / Orden No.	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per. M. / Peso Neto Por M.	Price per m. / Precio por m	$ Value / $ Valor
148/157		9,600	Cohiba No.3	30 lbs		

REDACTED

Total net weight
Total peso neto

CONFIDENTIAL

GC 004866

General Cigar Dominicana

GENERAL CIGAR DOMINICANA

P. O. Box 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Telex: 346-1026
Telephone: 582-7113
582-7113
582-7114

Cable: GENCIGAR

FACTURA No. GC-
INVOICE No.

September 16th, 1:

General Cigar & Tobacco Co.
900 Rutter Ave., Forty Fort, PA 18704
c/o D. Y. Arguimbau & Co., 90 West Street
Suite 607, New York, N.Y. 10006, U.S.A.

VIA: SEA-LAND SERVICES, INC.

Marks And Nos.	Order No.	Quantity	SIZE NAME	Net. Wt. Per. M.	Price per m	$ Val
Marcas y Nos.	Orden No.	Cantidad	NOMBRE VITOLA	Peso Neto Por M.	Precio por m	$ Val

REDACTED

COHIBA BRAND

137/147	10,560	No. 1 1/50	23 "
148/158	10,560	No. 2 1/50	28 "
	21,120		

CONFIDENTIAL

GC 004867

Total net weight
Total peso neto
Total gross weight 18.
Total peso Bruto

General Cigar Dominicana
Cigar Manufacturers No. 0005
LIC. de Exportación No. 0005

GENERAL CIGAR DOMINICANA

P. O. Box 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Cable: GENCIGAR

Telex: 346-1024
Telephone: 582-7112
582-7113
582-7114

FACTURA Nº. GC-4
INVOICE No.

General Cigar Company

November 11th, 19

VIA:

No. 2

Marks And Nos. / Marcas y Nos.	Order No. / Orden No.	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net Wt. Per. M. / Peso Neto Por M.	Price per m / Precio por m	Total / Total
			COHIBA BRAND			
135/145		10,560	No. 1 1/50	23 Lbs.		
146/156		10,560	No. 2 1/50	28 "		
157/167		10,560	No. 3 1/50	30 "		
		31,680				

REDACTED

Total net weight
Total peso neto
Total gross weight
Total peso Bruto

lb.

CONFIDENTIAL

GC 004868

GENERAL CIGAR DOMINICANA

12 10/93 09:00 ☎203 769 3670 GENERAL CIGAR CO --- CULBRO LEGAL 008/005
FROM GENERAL CIGAR.

P. O. Box 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Telex: 346-1026
Telephone: 382-7112
382-7113
382-7114

ble: GENCIGAR

FACTURA No. GC-47
INVOICE No.

General Cigar Company
900 Rutter Ave., Forty Fort, PA 18704
c/o D. V. Arguimbau & Co., 590 Belleville Tpke.
Kearny, N.J. 07032, U. S. A.

December 9th, 19 83

A: NAVIERAS DE PUERTO RICO

GENERAL CIGAR DOMINICANA Zona Franca Santiago, Rep. Dom.

Marks and Nos.	Order No.	Quantity	SIZE NAME	Price per m	Value
Marcas Nos.	Orden No.	Cantidad	NOMBRE VITAL	Precio por m	Valor

REDACTED

COHIBA BRAND

2/166	4,800	No. 1 1/50	23 Lbs.	$
7/171	4,800	No. 2 1/50	28 "	
2/176	4,800	No. 3 1/50	30 "	
	14,400			

Total net weight
Total pesos netos
Total gross weight
Total pesos Brutos

CONFIDENTIAL

GC 004869

General Cigar Dominicana
Export Licence No. 0888
Lic. de exportacion No. 0888

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 223 (D0223), Plfs Dep Ex 220, GC 000127, P 0137

PX 220

GENERAL CIGAR DOMINICANA

P. O. Box 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Cable: GENCIGAR

Telex: 346-1026
Telephone: 582-7112
582-7113
582-7114

General Cigar Company

FACTURA No. GC-43
INVOICE No.

November 11th, 1993

VIA:

No. 2

Marks And Nos. / Marcas y Nos.	Order No. / Orden No.	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per. M. / Peso Neto Por M.	Price per m / Precio por m	$ Value / $ Valor
			COHIBA BRAND			
135/145		10,560	No. 1 1/50	23 Lbs.	$318.00	$ 3,358.[illegible]
146/156		10,560	No. 2 1/50	28 "	360.00	3,801.[illegible]
157/167		10,560	No. 3 1/50	30 "	403.00	4,255.[illegible]
		31,680				$11,415.[illegible]
168/168		1,000	REDACTED		$430.00	$ 430.[illegible]
169/169		1,000			$230.00	$ 230.[illegible]
170/171		1,500			285.00	427.[illegible]
172/172		5,300			40.00	212.[illegible]
		7,800				$ 869.[illegible]
173/173		1,500			$270.00	$ 405.[illegible]
174/223		30,000			$275.00	$ 8,250.[illegible]
		214,640	GRAND TOTAL			$82,020.[illegible]

CONFIDENTIAL

GC 000127

DEFENDANT'S EXHIBIT D 223

Blumberg No. 5114

Total net weight 4,957 Lbs.
Total gross weight: 11,345 Lbs.

CONFIDENTIAL

P 0137

GENERAL CIGAR DOMINICANA

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 224 (D0224), Plfs Dep Ex 221, GC 003380-GC 003381

PX658221

GENERAL CIGAR DOMINICANA

P. O. Box 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Cable: GENCIGAR

Telex. 346-1026
Telephone: 582-7112
582-7113
582-7114

FACTURA No. PR-3
INVOICE No.

Puerto Rico Supplies Co., Inc.
Calle C Esquina B, Urb. Ind.
Luchetti, Bayamon
Puerto Rico 00619

June 3rd, 19 83

VIA: DOMINICANA DE AVIACION

Marks And Nos. / Marcas y Nos.	Order No. / Orden No.	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per. M. / Peso Neto Por M.	Price por m / Precio por m	$ Value / $ Valor

REDACTED

COHIBA BRAND

23/24	1,920	Cohiba 1 1/50	23 Lbs.	
25/26	1,920	Cohiba 2 1/50	28 "	
27/28	1,920	Cohiba 3 1/50	30 "	
	5,760			

REDACTED

DEFENDANT'S EXHIBIT D 224
Blumberg No. 5114

CONFIDENTIAL

Total net wei ... s.
Total peso ne
Total gross w ... Lbs.
Total peso B.

GENERAL CIGAR DOMINICANA
Zona Franca
Santiago, R.D.
General Cigar Dominicana
Export license No. 0855
Ley de exportacion No. 0855

GC 003380

General Cigar Dominicana

Zona Franca Industrial
Apdo Postal 875
Santiago, Republica Dominicana
582-7112-13-14
Telex: 346-1026
Cable: GENCIGAR

a company of Culbro Corporation
Culbro

DATE: June 3rd, 1983

INV . NO. PR-3

PACKING LIST

CONTENTS: cartons with cigars.

CARTON NO.	QTY. OF CARTONS	QTY. OF CIGARS	SIZE
REDACTED			
23/24	2	1,920	Cohiba 1
25/26	2	1,920	Cohiba 2
27/28	2	1,920	Cohiba 3

GENERAL CIGAR DOMINICANA
Zona Franca
Santiago, Rep. Dom.

CONFIDENTIAL

GC 003383

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 225 (D0225), Plfs Dep Ex 222, GC 003661-GC 003739

PX 222

GENERAL CIGAR DOMINICANA

P. O. Box 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Cable: GENCIGAR

Telex: 346-1026
Telephone: 582-7112
582-7113
582-7114

FACTURA No. GC-5
INVOICE No.

February 10th, 1984

General Cigar Company
900 Rutter Ave., Forty Fort, PA 18704
c/o D. V. Arguimbau & Co., 590 Belleville Tpke.
Kearny, N.J. 07032, U. S. A.

VIA: NAVIERAS DE PUERTO RICO

Marks And Nos. / Marcas y Nos.	Order No. / Orden No.	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per. M. / Peso Neto Por M.	Price por m / Precio por m	$ Value / $ Valor
			COHIBA BRAND			
136/140		4,800	No. 1 1/50	23 Lbs.		
141/145		4,800	No. 2 1/50	28 "		
		9,600				

REDACTED

DEFENDANT'S EXHIBIT D 225

Blumberg No. 5114

Total net weight
Total peso neto

Total gross weight:
Total peso Bruto:

CONFIDENTIAL

GC 003661

General Cigar Dominicana
Export license No. 0855
Licencia de exportación No. 0855

GENERAL CIGAR DOMINICANA

P. O. Box 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Cable: GENCIGAR

Telex: 346-1026
Telephone: 582-7112
582-7113
582-7114

FACTURA No. GC-9
INVOICE No.

March 9th, 1984

General Cigar Company
900 Rutter Ave., Fort Fort, PA 18704
c/o D. V. Arguimbau & Co., 590 Belleville Tpke.
Kearny, N.J. 07032, U. S.A .

VIA: NAVIERAS DE PUERTO RICO

Marks And Nos.	Order No.	Quantity	SIZE NAME	Net. Wt. Per. M.	Price por m	$ Value
Marcas y Nos.	Orden No.	Cantidad	NOMBRE VITOLA	Peso Neto Por M.	Precio por m	$ Valor

REDACTED

			COHIBA BRAND	
168/173	5,760	No. 1 1/50	23 Lbs.	
174/179	5,760	No. 2 1/50	28 "	
180/185	5,760	No. 3 1/50	30 "	
	17,280			

Total net weight
Total peso neto
Total gross weight:
Total peso Bruto:

CONFIDENTIAL

GC 003679

GENERAL CIGAR DOMINICANA
Zona Franca
Santiago, Dom.

General Cigar Dominicana
Export license No. 0855
Lic. de exportacion No. 0855

GENERAL CIGAR DOMINICANA

P. O. Box 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Cable: GENCIGAR

Telex: 346-1026
Telephone: 582-7112
582-7113
582-7114

FACTURA No. GC-15
INVOICE No.

April 12th, 1984

General Cigar Company
900 Rutter Ave., Forty Fort, PA 18704
c/o D. V. Arguimbau & Co., 590 Belleville Tpke.
Kearny, N.J. 07032, U. S. A.

VIA: SEA-LAND SERVICES, INC.

Marks And Nos. / Marcas y Nos.	Order No. / Orden No.	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per. M. / Peso Neto Por M.	Price por m / Precio por m	$ Value / $ Valor
180/187		7,680	No. 2 COHIBA BRAND	28 Lbs.		

REDACTED

Total net
Total peso neto
Total gross weight:
Total peso Bruto:

CONFIDENTIAL

GC 003698

General Cigar Dominicana
Export license No. 0855
Lic. de exportación No. 0855
Santiago, R. D.

GENERAL CIGAR DOMINICANA

P. O. Box 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Cable: GENCIGAR

Telex: 346-1026
Telephone: 582-7112
582-7113
582-7114

General Cigar Company

FACTURA No. GC-19
INVOICE No.

May 18th, 19 84

VIA:

No. 2

Marks And Nos. / Marcas y Nos.	Order No. / Orden No.	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Por M. / Peso Neto Por M.	Price per m / Precio por m	$ Value / $ Valor
			COHIBA BRAND			
120/122		2,880	No. 1 1/50	23 lbs.		
123/128		5,760	No. 2 1/50	28 "		
129/133		4,800	No. 3 1/50	30 "		
		13,440				

REDACTED

Total net weight lbs.
Total peso neto

Total gross weight: lbs.
Total peso Bruto:

CONFIDENTIAL

GC 003718

GENERAL CIGAR DOMINICANA
Zona Franca

General Cigar Dominicana
Export license No. 0855
Lic. de exportacion No. 0855

GENERAL CIGAR DOMINICANA

P. O. Box 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Cable: GENCIGAR

Telex: 346-1026
Telephone: 582-7112
582-7113
582-7114

FACTURA No. GC-20
INVOICE No.

May 25th, 1984

GENERAL CIGAR COMPANY
900 Rutter Ave., Forty Fort, PA 18704
c/o D. V.Arguimbau & Co., 590 Belleville Tpke.
Kearny, N.J. 07032, U.S.A.

VIA: SEA-LAND SERVICES, INC.

Marks And Nos. / Marcas y Nos.	Order No. / Orden No.	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per. M. / Peso Neto Por M.	Price por m / Precio por m	$ Value / $ Valor
1/27 28/28 29/30 31/45			REDACTED			
			COHIBA BRAND			
73/80		7,680	No. 1 1/50	23 Lbs.		
81/86		5,760	No. 2 1/50	28 "		
87/92		5,760	No. 3 1/50	30 "		
		19,200				

Total net weight
Total peso neto

Total gross weight:
Total peso Bruto:

CONFIDENTIAL

GC 003739

GENERAL CIGAR DOMINICANA
Zona Franca
Santiago, Rep. Dom.
Export license No. 0855
Lic. de exportacion No. 0855

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 229 (D0229), GCP 0272-GCP 0273

MORGAN & FINNEGAN
ATTORNEYS AT LAW
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NEW YORK, NEW YORK 10154
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GEORGE B. FINNEGAN, JR.
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HOBART H. DURHAM
1930-1969

EUGENE MOROZ
JOHN F. SWEENEY
ARNOLD I. RADY
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JOHN W. RYAN*
SHAHAN ISLAM
BRUCE D. DERENZI
VALERIE M. FEDOWICH
HIDGE M. HYMAN
ELIAS J. LAMBIRIS
JEFFREY S. STEEN
JOHN A. BAUER*
WILMA TRIESWASSER*

* NOT ADMITTED IN NEW YORK

July 6, 1989

Ronald S. Milstein, Esq.
Assistant General Counsel
Culbro Corporation
387 Park Avenue South
New York, NY 10036-8899

Re: Proposed Use and Registration In the U.S. of Marks Used Abroad by Cubatabaco
Our Ref.: 246-Gen

Dear Ron:

As we discussed, enclosed herewith is a report of the United States trademark registrations owned by Cubatabaco. As you can see, Cubatabaco owns a U.S. registration incorporating the "indian head on tobacco leaf" design together with the word BEHIQUE on the polka dot background grid, for "smoking tobacco, chewing tobacco, snuff, and cigarettes." (Reg. No. 1,441,404).

The aforementioned registration was apparently obtained based on corresponding Cuban registrations pursuant to the Paris Convention, to which both the United States and Cuba belong. Although this registration was obtained without any use in United States commerce by Cubatabaco, it is still sufficient to give Cubatobaco priority rights in the United States as of its U.S. filing date, i.e. February 22, 1985.

Moreover, although Cubatabaco's mark has probably not been used in U.S. commerce since its registration on June 2, 1987, it is doubtful whether we could succesfully cancel said registration on the grounds of abandonment. In the absence of extenuating circumstances, such non-use for two consecutive years after registration creates a prima facie case of abandonment. However there is a good chance that Cubatabaco could overcome such an abandonment charge by arguing that its failure to use the mark within the United States is not voluntary but, rather, is the result of a U.S. policy which is subject to change.

DEFENDANT'S EXHIBIT
D 229
Blumberg No. 5114

GCP 0272

Confidential:
Under Protective Order

Please call if you have any further questions, or concerns regarding this matter.

Very truly yours,

Scott Greenberg

SDG:VW
Encl.

cc: Harry C. Marcus, Esq.

Confidential:
Under Protective Order

```
Welcome to DIALOG
Dialog level 21.01.3A

Last  logoff  29jun89 14:29:05
Logon file001 29jun89 14:30:39

File   1:ERIC - 66-89/MAY.

      Set  Items  Description
      ---  -----  -----------
? b226

       29jun89 14:32:40 User204930 Session A458.2
            $0.84    0.028 Hrs File1
     $0.84  Estimated cost File1
     $0.34  Tymnet
     $1.18  Estimated cost this search
     $1.47  Estimated total session cost   0.035 Hrs.

File 226:TRADEMARKSCAN OG:06/13/89 AP:05/24/89
         (Copr. 1989 Thomson & Thomson)

      Set  Items  Description
      ---  -----  -----------
? ss on=cubatabaco

      S1       5  ON=CUBATABACO
? t 1/19/all


 1/19/1
QUAI D'ORSAY
          US CLASS    : 011 (Inks and Inking Materials)
          INTL CLASS : 034 (Smokers Articles)
          STATUS : Pending
          GOODS/SERVICES : RAW TOBACCO, CIGARS, CIGARETTES, CUT TOBACCO,
            RAPEE, MANUFACTURED TOBACCO OF ALL KINDS, MATCHES, TOBACCO
            PIPES, PIPE HOLDERS, ASHTRAYS, MATCH-BOXES, CIGAR CASES,
            HUMIDORS AND RELATED SMOKER'S ARTICLES
          SERIES CODE : 73  SERIAL NO. : 729557
          FILED : May 20, 1988
          ORIGINAL OWNER : EMPRESA CUBANA DEL TABACO (CUBA CORPORATION)
            D.B.A.TA CUBATABACO; VEDADO, HAVANA CITY,CUBA
          NON-U.S. APP. : 370/87  DATE : December 24, 1987
          COUNTRY OF APP. : CUBA

 1/19/2
MONTECRISTO
          US CLASS    : 002 (Receptacles)
                        004 (Abrasives and Polishing Materials)
                        005 (Adhesives)
                        006 (Chemicals and Chemical Compositions)
                        011 (Inks and Inking Materials)
                        022 (Games, Toys, and Sporting Goods)
                        023 (Cutlery, Machinery, Tools, and Parts Thereof)
                        029 (Brooms, Brushes, and Dusters)
```

Confidential:
Under Protective Order

037 (Paper and Stationery)
038 (Prints and Publications)
042 (Knitted, Netted, and Textile Fabrics and Substitutes Therefor)
050 (Merchandise Not Otherwise Classified)
051 (Cosmetics and Toilet Preparations)
052 (Detergents and Soaps)

INTL CLASS : 003 (Cosmetics and Cleaning Preparations)
016 (Paper Goods and Printed Matter)
024 (Fabrics)

STATUS : Published for opposition
PUBLISHED : February 23, 1988
GOODS/SERVICES : (INT. CL. 3) AFTER SHAVE LOTION, ANTIPERSPIRANT, LAUNDRY BLEACH, HAIR BLEACHING PREPARATIONS, ALL PURPOSE CLEANING PREPARATIONS, COLD CREAM, COLOGNE, EYE CREAM, DENTURE CLEANING PREPARATIONS AND POLISH, PERSONAL DEODORANT, DEPILATORIES, LAUNDRY DETERGENTS, DRAIN OPENERS, EYE MAKE-UP REMOVER AND SHADOW, EYEBROW PENCILS, BATH GEL, HAIR CARE PREPARATIONS (NON-MEDICATED), LIP GLOSS, LIPSTICK, EYE MAKE-UP, MOUTHWASH, NAIL CARE PREPARATIONS, PAINT AND VARNISH STRIPPING OR REMOVING PREPARATIONS, PERFUMES, POLISHES FOR NAILS, FURNITURE AND FLOORS, RUST REMOVING PREPARATIONS, SHAVING CREAM, SHOE POLISH, SKIN CLEANSING CREAM, SKIN SOAP, SPOT REMOVERS, SUNTAN LOTIONS, TALCUM POWDER, TOOTHPASTE, AND AUTOMOBILE AND FLOOR WAX (INT. CL. 16) ADDRESS AND ACCOUNT BOOKS, ADDRESSING MACHINES, ADHESIVES FOR STATIONERY AND HOUSEHOLD PURPOSES, PHOTOGRAPH ALBUMS, AQUARIUMS, PAPER BAGS, PAPER BANNERS, PAPER BATHMATS, BATHROOM TISSUE, BIBLES, PAPER BLOTTERS, ADDRESS AND APPOINTMENT BOOKS, BOOK COVERS, BOOKEEPING BOOKS AND FORMS, CARDBOARD AND PAPER BOXES, ARTISTS BRUSHES, BUSINESS CARDS, PAPER CAKE DECORATIONS, DESK AND WALL CALENDARS, INDEX CARDS, CHALK, CHRISTMAS CARDS, COIN ALBUMS, COLORING BOOKS, COMPUTER PROGRAM MANUALS, COMPUTER RIBBONS, PAPER CONTAINERS, BOOK COVERS, CRAYONS, DESK SETS, PAPER DIAPERS, DISPENSERS FOR OFFICE USE, EASELS, NON-ELECTRIC ERASERS, FACIAL TISSUE, PAPER FLAGS, PRINTED BUSINESS FORMS, PAPER IDENTIFICATION TAGS, DUPLICATING INK, ADDRESS LABELS, LEAD PENCILS, LETTER OPENERS, MAPS, PAPER NAPKINS, NOTEBOOKS, DESK PADS, PAINTBRUSHES AND APPLICATOR ROLLERS, BOND PAPER, GIFT WRAPPING PAPER, NEWSPRINT PAPER, TYPEWRITER PAPER, BALL-POINT PENS, PENCILS, PAPER PLACEMATS, PLAYING CARDS, COMPUTER RIBBONS, SEALING WAX, SHEET MUSIC, RUBBER STAMPS, STANDS FOR PENCILS AND PENS, TABLE LINENS OF PAPER, TYPEWRITERS, AND WRAPPING PAPER (INT. CL. 24) BEDSPREADS, PILLOW CASES, DISHCLOTHS, COMFORTERS, CURTAINS, UPHOLSTERY FABRICS, CLOTH FLAGS, HANDKERCHIEFS, BATH LINENS, MATTRESS COVERS, TEXTILE NAPKINS, NYLON FABRICS, PILLOW CASES AND SHAMS, NON-PAPER PLACEMATS, BED SHEETS, TABLECLOTHS, TAPESTRIES OF TEXTILE, KITCHEN TOWELS AND WASHCLOTHS
SERIES CODE : 73 SERIAL NO. : 651673
FILED : March 27, 1987
ORIGINAL OWNER : EMPRESA CUBANA DEL TABACO (CUBA CORPORATION) D.B.A.TA CUBATABACO; HAVANA CITY,CUBA
NON-U.S. REG. : 116072 DATE : March 24, 1986
COUNTRY OF REG. : CUBA
NON-U.S. REG. : 116168 DATE : March 24, 1986

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 230 (D0230), GCP 0196-GCP 01967

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* NOT ADMITTED IN NEW YORK
+ ADMITTED IN WASHINGTON, D.C.

December 5, 1991

Ronald S. Milstein, Esq.
Vice President/Assistant General Counsel
Culbro Corporation
387 Park Avenue South
New York, NY 10016-8899

Re: U.S. Registration of Trademarks: COHIBA and Indian Head Logo
Our Ref.: 246-TM-130 and 246-Gen. (Indian Head)

Dear Ron:

This is to summarize our recent conversations regarding the U.S. registration status of the COHIBA trademark and Indian Head design mark, in connection with cigars.

I. COHIBA

The COHIBA trademark is registered in the United States by General Cigar Co., Inc. A copy of the registration, Reg. No. 1,147,309, is enclosed. This registration is incontestable and will be due for renewal on February 17, 2001.

II. Indian Head Logo

Cubatabaco owns a U.S. registration, Reg. No. 1,441,404, for a mark consisting of the word BEHIQUE together with the Indian Head logo. A copy of the registration abstract is enclosed. This registration has been the subject of previous discussion (see attached copy of my letter to you of July 6, 1989.)

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 230

Confidential:
Under Protective Order

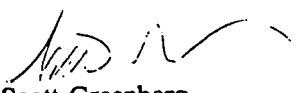
As noted in my July 6, 1989 letter, pursuant to the Paris Convention to which both the United States and Cuba belong, Cubatabaco obtained this U.S. registration based on its corresponding home registrations. It would appear that the United States is obligated to permit Cuban parties to register their marks in the U.S. based on corresponding Cuban registrations pursuant to our treaty obligations under the Convention, despite the continuing trade embargo against Cuban goods.

Cubatabaco's U.S. registration will come due for an affidavit either of use or excusable non-use between June 2, 1992 and June 2, 1993. There is a good chance, however, that the U.S. Patent and Trademark Office would accept the trade embargo as a valid excuse for non-use and thus allow this registration to remain in good standing.

We believe that the existence of this registration would bar registration in the U.S. by any other party of a mark consisting of the Indian Head design by itself in connection with tobacco products.

Please call me if you have any other questions or concerns regarding this matter.

Very truly yours,



Scott Greenberg

SG:cm
Encl.
cc: Harry C. Marcus, Esq.

Confidential:
Under Protective Order

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 235 (D0235), Plfs Dep Ex 255, GC 002087, P 0208

N255

GENERAL CIGAR DOMINICANA
P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

Phones: (809) 575-4112
575-4113
575-4114

Fax: (809) 575-4860

ALFRED DUNHILL OF LONDON
C/O GLOBE SHIPPING COMPANY
CARGO BLDG. NO. 80 (J.F.K.) AIRPORT, JAMAICA
QUEENS, N.Y. 11434, ATT: GEORGE FELLOURIS

FACTURA No.
INVOICE No. GO-0026
December 22 19 92

VIA:

Marks And Nos. / Marcas y Nos.	Packing Code. / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per. M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)
			OTHERS ALFRED DUNHILL			
		750	Cohiba Coronas Especiales	1/40 29.00	$ 2,425.20	$1,818.90
		1,125	Cohiba Robusto	1/40 28.50	2,600.00	2,925.00
		750	Cohiba Esplendido	1/40 41.75	2,750.00	2,062.50
1/3		2,625				$6,806.40
			Documentation			$ 14.56
			Export Packing $3.25/M			8.53
						$6,829.49

CONFIDENTIAL

GC 002087

CONFIDENTIAL

Total Net Weight:
Total Peso Neto: 85 Lbs.
Total Gross Weight:
Total Peso Bruto: 195 Lbs.

OTHERS

P 0208

GENERAL CIGAR DOMINICANA
Zona Franca
Santiago, Rep.

General Cigar Dominicana
Exper. License No. 0855
Lic. de exportacion No. 0855

DEFENDANT'S EXHIBIT
D 235
Blumberg No. 5114

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 236 (D0236), Plfs Dep Ex 256, GC 000191, GC 002070, GC 000196, GC 002072, GC 002074-GC 002075, GC 003784, P 0209, P 0143, P 0214, P 0145-A, P 0147-A-P 0148-A

PX 250

G[illegible]AL CIGAR DOMINICANA ([illegible])
P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Phones: (809) 575-4112
575-4113
575-4114
Fax: (809) 575-4860

ALFRED DUNHILL OF LONDON, INC.
C/O Globe Shipping Company
Cargo Bldg. No. 80 (JFK) Airport Jamaica
Queens, N. Y. 11434 ATT: George Fellouris

VIA:

FACTURA No.
INVOICE No. GO-0038
April 15th, 19 93

"CORRECTED"

Marks And Nos. / Marcas y Nos.	Packing Code. / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per. M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)
A.D.L.						
		1,125			1,457.00	1,639.13
ORDER NOS.		625			1,388.00	867.50
		125			1,292.00	161.50
		450			1,500.00	675.00
NEW YORK	01-578	430			1,600.00	688.00
B. HILLS	02-578	450	REDACTED		1,500.00	675.00
CHICAGO	03-578	1,060			1,450.00	1,537.00
SAN FCO.	04-578	675			1,575.00	1,063.13
DALLAS	05-578	700			360.00	252.00
HOUSTON	06-578					
SEATLLE	14-578	5,640				7,558.26
BOSTON	15-578					
SAN DIEGO	16-578					
		75			1,287.00	96.53
		500			1,215.00	607.50
		850			1,410.00	1,198.50
		200			1,500.00	300.00
		1,150			1,625.00	1,868.75
		3,750	CONFIDENTIAL		1,500.00	5,625.00
		2,100			360.00	756.00
ORDER NOS.		8,625				10,452.28
			COHIBA BRAND			
NEW YORK	01-579	3,650	Cohiba Robustos 1/40	29.00 "	2,600.00	9,490.00
B. HILLS	02-579	3,150	Cohiba Esplendidos 1/40	28.50 "	2,750.00	8,662.50
CHICAGO	03-579	3,275	Cohiba Coronas Especiales 1/40	41.75 "	2,445.20	7,942.53
SAN FCO.	04-579					
DALLAS	05-579	10,075				26,095.03
HOUSTON	06-579					
SEATLLE	14-579		GC 000191			
BOSTON	15-579	24,340				44,105.57
SAN DIEGO	16-579					
			Documentation			14.56
			Export Packing $3.25/M			79.11
						44,199.24

Total Net Weight:
Total Peso Neto: 706 Lbs.
Total Gross Weight:
Total Peso Bruto: 1,764 Lbs.

CONFIDENTIAL

P 0209

General Cigar Dominicana
Exper Licence No. 0855
Lic. de exportacion No. 0855

DEFENDANT'S EXHIBIT
D 236

12 10 93 05:53 ☎203 769 3670 GENERAL CIGAR CO --- CULBRO LEGAL 005 010
FROM GENERAL CIGAR.

GENERAL CIGAR DOMINICANA

P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

Phones: (809) 575-4111
575-4111
575-4111

Fax: (809) 575-4[illegible]

ALFRED DUNHILL OF LONDON, INC.
C/O GLOBE SHIPPING COMPANY
Cargo Bldg. No. 80 (JFK) Airport Jamaica
Queens, N. Y. 11434 - Att.: George Kellouris

FACTURA No.
INVOICE No. GO-0044
June 29th, 1993

VIA: EMERY

Marks And Nos. / Marcas y Nos.	Packing Code. / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net Wt. Per M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)
A.D.L.						
Order Nos.		1,375			1,475.00	2,003.38
		625			1,388.00	867.50
New York	01-303	125			1,292.00	161.50
B. Hills	02-303	300			1,500.00	450.00
Chicago	03-303	1,110			1,600.00	1,776.00
San Fco.	04-303	600			1,457.00	874.20
Dallas	05-303	1,000			1,575.00	1,575.00
Houston	06-303	270			1,500.00	405.00
Boston	15-303	800			1,450.00	1,160.00
Seattle	14-303	1,450			360.00	522.00
San Diego	16-303					
		7,655				9,794.58
		250			1,280.00	320.00
		250			1,215.00	303.75
		125			1,146.00	143.25
		600			1,410.00	846.00
		1,400			1,625.00	2,275.00
		8,000			1,500.00	12,000.00
		340			1,500.00	510.00
		2,120			360.00	763.20
		13,085				17,161.20
			COHIBAA			
		5,150	Cohiba Robustos 1/40	29.00 "	2,600.00	13,390.00
		4,650	Cohiba Esplendidos 1/40	28.00 "	2,750.00	12,787.50
		4,775	Cohiba Coronas 1/40	41.75 "	2,425.20	11,580.33
		14,575				37,757.83

CONFIDENTIAL

GC 002070

CONFIDENTIAL

Total Net Weight:
Total Peso Neto:
Total Gross Weight:

P 0143

GENERAL CIGAR DOMINICANA
Zona Franca
General Cigar Dominicana
Santiago, Dom. Rep. 6855

GENERAL CIGAR DOMINICANA
P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Phones: (809) 576-411
575-411
575-411
Fax: (809) 575-455

ALFRED DUNHILL OF LONDON, INC.
C/O Elco Freight International, Inc.
420 Merrick Road
Valley Stream, N.Y. 11580

FACTURA No.
INVOICE No. GO-0053
October 8th. 1993

VIA: A/A

Marks And Nos. / Marcas y Nos.	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net Wt. Per M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)
	Order No.					
	01-241	1,650			$ 1,457.00	2,404.05
	02-241	450			1,388.00	624.60
	03-241	200			940.00	188.00
	04-241	1,010			1,600.00	1,616.00
	05-241	280			1,457.00	407.96
	06-241	1,525			1,575.00	2,401.88
	09-241	490			1,500.00	735.00
	15-241	200			1,450.00	290.00
	14-241	3,300			360.00	1,188.00
	16-241	9,105				9,855.49
		600			1,371.00	822.60
		375			1,280.00	480.00
		250			1,215.00	303.75
		100			1,410.00	141.00
		600			1,625.00	975.00
		2,700			1,500.00	4,050.00
		250			1,500.00	375.00
		2,900			360.00	1,044.00
		7,775				8,191.35
			COHIBA			
		5,675	Cohiba Robustos 1/40	28.50 "	2,600.00	14,755.00
		5,675	" Espléndido 1/40	41.75 "	2,750.00	15,606.25
		4,150	" Coronas Espléndido 1/40	29.00 "	2,425.20	10,064.58
		15,500				40,425.83
1/52		32,380				58,472.67
			ADD:			
			Documentation			14.56
			Export Packing	3.25/m		105.24
			Customs Custodia			14.40
			Truckage			148.90
						$58,755.77

CONFIDENTIAL

CONFIDENTIAL

REDACTED

GC 000196

REDACTED

P 0214

Total Net Weight:
Total Peso Neto: 892 Lbs. OTHERS
Total Gross Weight:

MHRA 15570 40623

GENERAL CIGAR DOMINICANA
Santiago, R.D.
General Cigar Dominicana
Registro No. 0866

GENERAL CIGAR DOMINICANA
P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Phones: (809) 576-4112
576-4113
576-4114
Fax: (809) 575-4660

GENERAL CIGAR COMPANY, INC.
700 East Main Street - Dothan, Alabama 36301 USA
c/o FRITZ COMPANY, INC. 2080 Talleyrand Ave.
P.O. Box 1194, Jacksonville, Fla.

FACTURA No.
INVOICE No. GC-33/93
November 22, 1993

CORRECTED

VIA: Sea Land

Marks And Nos. / Marcas y Nos.	Packing Code. / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per. M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)
1/18	6916	18,000			460.00	8,280.00
19/21	6919	3,000			537.00	1,611.00
22/24	6910	3,000			404.00	1,212.00
25/28	6913	4,000			460.00	1,840.00
29/30	6907	2,000			365.00	730.00
31/33	6904	3,000			322.00	966.00
34/39	6901	6,000			322.00	1.932.00
40/42	6936	2,250			660.00	1,485.00
43/54	6922	6,000	REDACTED		588.00	3,528.00
55/61	6931	16,800			230.00	3,864.00
62/66	6960	5,000			460.00	2,300.00
67/72	6961	6,000			480.00	2,880.00
73/74	6951	1,000			613.00	613.00
75/76	6950	700			640.00	448.00
		76,750				31,689.00
77	6916	100			460.00	46.00
78	8128	1,000			455.00	455.00
			ATT: Alfred Dunhill			
	7953	2,825	Cohiba Robustos 1/40	28.50 "	2,200.00	6,245.00
	7952	2,825	Cohiba Esplendidos 1/40	41.75 "	2,350.00	6,638.75
79/92	7951	2,125	Cohiba Coronas Especial 1/40	29.00 "	2,000.00	4,250.00
		7,775				17,103.75
93/120	8037	16,800			815.00	13,692.00
121/123	8038	1,800			815.00	1,467.00

CONFIDENTIAL

GC 002072

CONFIDENTIAL

P 0145-A

Total Net Weight:
Total Peso Neto: _____
Total Gross Weight:
Total Peso Bruto: _____

General Cigar Dominicana
Exper Licence No. 0855
Lic. de exportacion No. 0855

GENERAL CIGAR DOMINICANA
P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Phones: (809) 575-4112
575-4113
575-4114

Fax: (809) 575-4860

GENERAL CIGAR COMPANY, INC.
700 East Main Street - Dothan, Alabamam 36301 USA
C/O FRITZ COMAPNY, INC. 2080 Talleyrand Ave.
P. O. Box 1194, Jacksonville, Fla. 32201

FACTURA No.
INVOICE No. GC-34/93
November 29th, 1993

VIA: SEA LAND

Marks And Nos. / Marcas y Nos.	Packing Code. / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA		Net Wt. Per. M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)
1/11	6916	11,000				460.00	5,060.00
12/13	6919	2,000				537.00	1,074.00
14/15	6910	2,000				404.00	808.00
16	6913	1,000				460.00	460.00
17	6907	1,000				365.00	365.00
18/19	6904	2,000				322.00	644.00
20/21	6901	2,000				322.00	644.00
22/23	6940	1,920				690.00	1,324.80
24/28	6922	2,500	REDACTED			588.00	1,470.00
29/218	6935	19,000				480.00	9,120.00
19/227	6931	21,600				230.00	4,968.00
228	6960	1,000				460.00	460.00
229/231	6961	3,000				480.00	1,440.00
232	6962	1,000				480.00	480.00
233/234	6951	880				613.00	539.44
235	6950	420				640.00	268.80
		72,320	CONFIDENTIAL				29,126.04
236		1,000	GC 002074			537.00	537.00
237/238		2,000				690.00	1,380.00
		3,000					1,917.00
			ATT: Sidney Paulk				
239	7953	400	Cohiba Robustos	1/40	32.25 "	2,200.00	880.00
240	7952	500	Cohiba Esplendidos	1/40	32.25 "	2,350.00	1,175.00
241	7951	500	Cohiba Coronas Esp.	1/40	29.00 "	2,000.00	1,000.00
		1,400					3,055.00
242/245	8171	2,000				714.00	1,428.00
246/249	8170	2,000				815.00	1,630.00
259/253	8173	2,000				460.00	920.00
		6,000					3,978.00

CONFIDENTIAL

P 0147-A

Total Net Weight:
Total Peso Neto: _____
Total Gross Weight:
Total Peso Bruto: _____

General Cigar Dominicana
Exper Lic. No. 0855
Lic. de Exportación No. 0855

GENERAL CIGAR DOMINICANA
P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Phones: (809) 575-4112
575-4113
575-4114

Fax: (809) 575-4860

GENERAL CIGAR COMPANY, INC.

FACTURA No.
INVOICE No. GC-34/93
November 29, 1993

VIA:

No. 2

Marks And Nos. / Marcas y Nos.	Packing Code. / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per. M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)
254/270	8037	10,200			815.00	8,313.00
271/273	8038	1,800			815.00	1,467.00
274/279	8022	6,000			700.00	4,200.00
280/285	8004	9,600			620.00	5,952.00
286	8003	1,600			620.00	992.00
287/289	8050	9,000			581.00	5,229.00
290/316	8101	64,800			150.00	9,720.00
317/320	8102	12,000	REDACTED		150.00	1,800.00
		115,000				37,673.00
321	7232	1,500			584.00	876.00
322	7230	1,500			655.00	982.50
323	7237	1,000			796.00	796.00
		4,000				2,654.50
324/327	7278	2,060			234.00	482.04
328/342	7277	13,380			254.00	3,398.52
343/344	7276	896			286.00	256.25
345/346	7275	1,076			301.00	323.87
347/348	7279	1,200	CONFIDENTIAL		220.00	264.00
349/351	7280	2,075			234.00	485.55
352	7281	775			254.00	196.85
353	7283	280	GC 002075		301.00	84.28
		21,742				5,491.36
		223,462				83,894.90

CONFIDENTIAL

P 0148-A

Total Net Weight:
Total Peso Neto: 4,235 Lbs.
Total Gross Weight:
Total Peso Bruto: 12,457 Lbs.

GENERAL CIGAR DOMINICANA
Zona Franca
Santiago, Dom. Rep.

General Cigar Dominicana
Exp. Licence No. 0855
Lic. de exportacion No. 0855

IERAL CIGAR DOMINICANA
P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

Phones: (809) 575-4112
575-4113
575-4114

Fax: (809) 575-4860

GENERAL CIGAR COMPANY, INC.
700 East Main Street - Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC. 2080 Talleyrand Avenue
P.O. Box 1194 - Jacksonville, Fla. 32201 USA

FACTURA No.
INVOICE No. GC-37/93
December 20, 1993

VIA: Sea Land

Marks And Nos. / Marcas y Nos.	Packing Code. / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)

REDACTED

			ATT: SIDNEY PAULK (FOR MIKE)			
150	7953	100	Cohiba Robustos	1/40	28.50	"

Total Net Weight:
Total Peso Neto:
Total Gross Weight:
Total Peso Bruto:

CONFIDENTIAL

GC 003784

Zona Franca
General Cigar Dominicana
Export License No. 0855
Lic. de exportacion No. 0855

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 237 (D0237), Plfs Dep Ex 257, GC 002097-GC 002103, P 0218-P 0224

PX257

GENERAL CIGAR

Loftus

ENERAL CIGAR DOMINICAN

P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

Phones: (809) 575-4112
575-4113
575-4114

Fax: (809) 575-4860

GENERAL CIGAR COMPANY, INC.
700 East Main Street - Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC. 2080 Talleyrand Ave.
P. O. Box 1194 Jacksonville, Fla. 32201 USA

FACTURA No.
INVOICE No. GC-2/94
January 31st, 1994

VIA: Sea Land

Marks And Nos. / Marcas y Nos.	Packing Code. / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net Wt. Per M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)
1/33	6916	33,000			460.00	15,180.00
34/41	6919	8,000			537.00	4,296.00
42/51	6910	10,000			404.00	4,040.00
52/62	6913	11,000			460.00	5,060.00
63/67	6907	5,000			365.00	1,825.00
68/73	6904	6,000			322.00	1,932.00
74/81	6901	8,000			322.00	2,576.00
82/86	6936	3,750			660.00	2,475.00
87/88	6940	1,920.			690.00	1,324.80
89/107	6922	9,500			588.00	5,586.00
108/182	6935	7,500			480.00	3,600.00
183/192	6931	24,000			230.00	5,520.00
193/196	6960	4,000			460.00	1,840.00
197/201	6961	5,000			480.00	2,400.00
202/205	6962	4,000			480.00	1,920.00
206/208	6951	1,500	REDACTED		613.00	919.50
209/212	6950	2,000			640.00	1,280.00
		144,170				61,774.30
213/214	7401	1,500			460.00	690.00
215/216	7402	1,500			404.00	606.00
[illegible]7/219	7419	2,500			537.00	1,342.50
[illegible]22/223	7410	1,000			588.00	588.00
224/237	7435	1,400			480.00	672.00
238/244	7461	7,000			480.00	3,360.00
245/251	7460	7,000			460.00	3,220.00
252/258	7486	6,850			460.00	3,151.00
259/262	7953	4,000	Cohiba Robustos 1/40	28.50 "	2,200.00	8,800.00
263/267	7951	5,000	Cohiba Coronas Especiales 1/40	26.75 "	2,000.00	10,000.00
268/272	7952	5,000	Cohiba Esplendidos 1/40	40.25 "	2,350.00	11,750.00
		42,750				44,179.50

CONFIDENTIAL
GC 002097

P 0218

CONFIDENTIAL

Total Net Weight:
Total Peso Neto:
Total Gross Weight:

GENERAL CIGAR DOMINICANA

General Cigar Dominicana
Tariff, Dominican Rep. 0855
Lic. Importation No. 0855

Blumberg No. 5114

DEFENDANT'S EXHIBIT
D 237

GENERAL CIGAR DOMINICANA
P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Phones: (809) 575-4112
575-4113
575-4114
Fax: (809) 575-4660

Loftus

GENERAL CIGAR COMPANY, INC.
700 East Main Street, Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC. 2080 Talleyrand Avenue
Jacksonville, Fla. 32201 USA

FACTURA No.
INVOICE No. GC-28/94
August 22, 1994

VIA:

Marks And Nos. / Marcas y Nos.	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per. M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)
1/12	6916	12,000			460.00	5,520.00
13/19	6910	7,000			404.00	2,828.00
20/24	6913	5,000			460.00	2,300.00
25/29	6901	5,000			322.00	1,610.00
30/32	6940	2,880			690.00	1,987.20
33/36	6922	2,000			588.00	1,176.00
37/82	6935	4,600			480.00	2,208.00
83/84	6951	640			613.00	392.32
85	6950	240			640.00	153.60
		39,360				18,175.12
86/89	8128	4,000	CONFIDENTIAL		455.00	1,820.00
90/138	8037	29,400			815.00	23,961.00
139/148	8038	6,000			815.00	4,890.00
149/152	8022	4,000			700.00	2,800.00
153/154	8023	2,000			700.00	1,400.00
155/162	8004	12,800	REDACTED		620.00	7,936.00
163	8010	2,000			632.00	1,264.00
164	8050	3,000			581.00	1,743.00
165/206	8101	100,800			150.00	15,120.00
213/220	8103	24,000			150.00	3,600.00
		184,000	GC 002098			62,714.00
221/223	7796	1,875			1,400.00	2,625.00
			COHIBA			
224/225	7953	1,500	Cohiba Robustos	32.25 "	2,200.00	3,300.00

CONFIDENTIAL

Total Net Weight:
Total Peso Neto: _____
Total Gross Weight:

P 0219

GENERAL CIGAR DOMINICANA
Zona Franca
General Cigar Dominicana
Export License No. 0855
Licencia exportación No. 0855

GENERAL CIGAR DOMINICANA
P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

Phones: (809) 575-4112
575-4113
575-4114

Fax: (809) 575-4860

GENERAL CIGAR COMPANY, INC.

FACTURA No.
INVOICE No. GC-28/94
August 22, 1994

VIA:

Marks And Nos. / Marcas y Nos.	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per. M. / Peso Neto Per M.	Price per M. / Precio per M.	Value (US$) / Valor (US$)
226	1006	600			250.00	150.00
227/288	1000	37,200			250.00	9,300.00
		37,800				9,450.00
289/296	8441	8,000			28.00	224.00
297/298	8443	2,000			28.00	56.00
299/300	8444	2,000			28.00	56.00
301		1,000			28.00	28.00
		13,000	REDACTED			364.00
302 /305	8455	4,000			28.00	112.00
306	6883	1,500			45.00	67.50
		287,035				98,627.62

TOTAL 300 CARTONS

CONFIDENTIAL

GC 002099

Total Net Weight:
Total Peso Neto: 5,929 Lbs.
Total Gross Weight:

P 0220

CONFIDENTIAL

GENERAL CIGAR DOMINICANA
Zona Franca
General Cigar Dominicana
Santiago, R.D.

GENERAL CIGAR DOMINICANA
P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Phones: (809) 575-4112
575-4113
575-4114
Fax: (809) 575-4660

GENERAL CIGAR COMPANY, INC.
700 East Main Street, Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC. 2080 Talleyrand Ave.
P.O. Box 1194, Jacksonville, Fla. 32201 USA

FACTURA No.
INVOICE No. GC-30/94
September 5, 19 94

VIA: SEA LAND

Marks And Nos. / Marcas y Nos.	Packing Code. / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net Wt. Per M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)
1/13	6916	13,000			460.00	5,980.00
14/20	6919	7,000			537.00	3,759.00
21/29	6910	9,000			404.00	3,636.00
30/36	6913	7,000			460.00	3,220.00
37/40	6904	4,000			322.00	1,288.00
41/50	6901	10,000			322.00	3,220.00
51/55	6936	3,750			660.00	2,475.00
56/61	6940	5,760			690.00	3;974.40
62/77	6922	8,000			588.00	4,704.00
78/167	6935	9,000			480.00	4,320.00
168/173	6960	6,000			460.00	2,760.00
174/177	6961	4,000			480.00	1,920.00
		86,510				41,256.40
178/243	8037	39,600			815.00	32,274.00
244/248	8038	3,000			815.00	2,445.00
249/253	8023	5,000			700.00	3,500.00
254/262	8004	14,400	REDACTED		620.00	8,928.00
263	8010	2,000			632.00	1,264.00
264/269	8050	18,000			581.00	10,458.00
270/295	8101	62,400			150.00	9,360.00
296/304	8102	27,000			150.00	4,050.00
		171,400				72,279.00
305	7772	550	CONFIDENTIAL		1,375.00	756.25
306	7779	360			1,615.00	581.40
307	7778	375			1,475.00	553.13
308	7796	425			1,400.00	595.00
309	7767	400	GC 002100		850.00	340.00
310	7766	175			800.00	140.00
311/312	7776	1,250			1,250.00	1,562.50
313/314	7769	2,125			850.00	1,806.25

CONFIDENTIAL

Total Net Weight:
Total Peso Neto: _____

P 0221

Zona Franca
General Cigar Dominicana
Exper License No. 0865

GENERAL CIGAR DOMINICANA
P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Phones: (809) 576-4112
576-4113
576-4114
Fax: (809) 575-4860

GENERAL CIGAR COMPANY, INC.

FACTURA No.
INVOICE No. GC-30/94
September 5, 19 94

VIA:

PAGE NO. 2

Marks And Nos. / Marcas y Nos.	Packing Code. / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net Wt. Per M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)
315/316	7774	340	REDACTED		1,550.00	527.00
		6,000				6,861.53
			COHIBA			
317	7953	500	Cohiba Robustos 1/40	32.25 "	2,200.00	1,100.00
318/319	7232	3,000			584.00	1,752.00
320/321	7230	3,000			655.00	1,965.00
322/323	7239	4,000			175.00	700.00
		10,000				4,417.00
324/325	8453	2,000			27.00	54.00
326	8441	1,000			28.00	28.00
327	8444	1,000			28.00	28.00
		4,000				110.00
328	6886	1,000	REDACTED		50.00	50.00
329/332	8455	4,000			28.00	112.00
333		355	CONFIDENTIAL		301.00	106.86
334		358			301.00	107.76
		713				214.62
335			GC 002101			
		284,123				126,400.55

CONFIDENTIAL

Total Net Weight:
Total Peso Neto: 6,143 Lbs.

P 0222

GENERAL CIGAR DOMINICANA
Zona Franca
General Cigar Dominicana
Export Licence No. 0855

GENERAL CIGAR DOMINICANA
P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Phones: (809) 575-4111
575-4112
575-4114

Fax: (809) 575-4861

GENERAL CIGAR COMPANY, INC.
700 East Main Street-Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC. 2080 Talleyrand Ave.
P.O. Box 1194 Jacksonville, Fla. 32201 USA

FACTURA No.
INVOICE No. GC-39/94
November 7, 1994

VIA: Sea Land

Marks And Nos. / Marcas y Nos.	Packing Code. / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Nat. Wt. Per M. / Peso Neto Per M.	Price per M. / Precio per M.	Value (US$) / Valor (US$)
1/15	6916	15,000			460.00	6,900.00
16/20	6919	5,000			537.00	2,685.00
21/22	6910	8,000			404.00	3,232.00
29/31	6913	3,000			460.00	1,380.00
32/40	6901	9,000			322.00	2,898.00
41/46	6940	5,760			690.00	3,974.40
47/67	6922	10,500			588.00	6,174.00
68/164	6935	9,700	REDACTED		480.00	4,656.00
165/166	6932	6,000			230.00	1,380.00
167/168	321	1,800			553.33	995.99
169/170	831	1,920			331.33	636.15
171/225	513	7,700			650.00	5,005.00
		83,380	CONFIDENTIAL			39,916.54
226/234	7486	9,000			460.00	4,140.00
			COHIBA			
235/238	7953	3,500	Cohiba Robustos 1/40	32.25 "	2,200.00	7,700.00
239/241	7952	2,000	Cohiba Esplendidos 1/40	40.25 "	2,350.00	4,700.00
		5,500				12,400.00
242/277	8037	21,600			815.00	17,604.00
278/291	8038	8,400			815.00	6,846.00
292/297	8060	6,000			460.00	2,760.00
298/299	8023	2,000	REDACTED		700.00	1,400.00
300/305	8065	6,000			460.00	2,760.00
306/318	8047	13,000			612.00	7,956.00
319/323	8013	5,000	GC 002102		695.00	3,475.00
324	8014	1,000			695.00	695.00
325/326	8028	2,000			[illegible].00	1,428.00

CONFIDENTIAL

Total Net Weight:
Total Peso Neto:
Total Gross Weight:

P 0223

GENERAL CIGAR DOMINICANA
Zona Franca Dominicana
Expor Licence No. 0855
Lic. de Exportacion No. 0855

GENERAL CIGAR DOMINICANA
P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Phones: (809) 575-411:
575-411:
575-411:

Fax: (809) 575-486

GENERAL CIGAR COMPANY, INC.

FACTURA No.
INVOICE No. GC-39/94
November 7, 1994

VIA:

PAGE NO. 2

Marks And Nos. / Marcas y Nos.	Packing Code. / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)
327/328	8029	2,000			714.00	1,428.00
329/330	8010	4,000			632.00	2,528.00
331/333	8050	9,000			581.00	5,229.00
334/358	8101	60,000			150.00	9,000.00
359/360	8102	6,000			150.00	900.00
		146,000				64,009.00
361	7232	1,500			584.00	876.00
362	7234	1,500			701.00	1,051.50
363/364	7237	2,000	REDACTED		796.00	1,592.00
		5,000				3,519.50
365/368	8198	11,200			100.00	1,120.00
369/371	6896	3,000			50.00	150.00
		263,080				125,255.04

CONFIDENTIAL

GC 002103

CONFIDENTIAL

P 0224

Total Net Weight:
Total Peso Neto: 5,867 Lbs.
Total Gross Weight:
- - - 17,127 Lbs.

GENERAL CIGAR DOMINICANA
Zona Franca
Santiago, R.D.

General Cigar Dominicana
Export License No. 0855
Lic. de Exportación No. 0855

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 238 (D0238), Plfs Dep Ex 64, AD 00552-AD 00555

CONFIDENTIAL

ALFRED DUNHILL

ESTABLISHED 1893

FACSIMILE

ATTENTION OF	Mike Conder	FROM	Marc Perez
COMPANY	General Cigar	DATE	January 16, 1996
FAX NUMBER	203-769-3670	FROM DIRECT FAX NO	(212) 750-8841
COPY TO	Charlotte Dyslin	PAGE 1 OF 3	

Re: 1996 Projections

Attached please find our unit projections for 1996.

We have inventory coming up so I will not place any dispersals until the week of Jan. 29. I noticed that we have no additional goods at Dothan for two consecutive weeks.

- Cifuentes -
- Bands -

p/fs
DEPOSITION
EXHIBIT # 64
FOR ID TRN
6/6/00

DEFENDANT'S EXHIBIT
D 238
Blumberg No. 5114

dunhill

ALFRED DUNHILL OF LONDON INC
EXECUTIVE OFFICE

AD 00552

GENERAL CIGAR 94 VS. 95 SALES
1996 PROJECTION IN UNITS

01/15/96

SKU #	DESCRIPTION	ITEM #	$ STORE 94 SALES	$ STORE 95 SALES	+/- %	$ STORE 96 PROJ	SAKS DALLAS	LORD J	SAKS PALM B	MAIL ORDER	UNIT TOTAL

AD 00553

CONFIDENTIAL

REDACTED

GENERAL CIGAR 94 VS. 95 SALES
1996 PROJECTION IN UNITS

01/15/96

SKU #	DESCRIPTION	ITEM #	9 STORE 94 SALES	9 STORE 95 SALES	+/- %	9 STORE 96 PROJ	SAKS DALLAS	LOND J	SAKS PALM B	MAIL ORDER	UNIT TOTAL
0106286	COH ROB	7953	12750	18450	45%	75000	2000	2000	2000	10000	91000
0106302	COH ESPL	7952	12975	24250	87%	100000	3000	3000	1000	15000	122000
0106294	COH COR ESP	7951	12000	18750	56%	75000	2000	2000	1000	10000	90000
			37725	61450	63%	250000	7000	7000	4000	35000	303000

AD 00554

****
*** ACTIVITY REPORT ***
****

TRANSMISSION OK

TX/RX NO.	2488
CONNECTION TEL	12037693670
CONNECTION ID	GENERAL CIGAR
START TIME	01/16 11:34
USAGE TIME	01'35
PAGES	3
RESULT	OK

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 239 (D0239), GC 003521-GC 003531

GEN. AL CIGAR DOMINICANA
P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

Phones: (809)575-4112
(809)575-4113
(809)575-4114

Cigar Manufacturers and Exporters

Fax: (809)575-4860

GENERAL CIGAR COMPANY INC
700 Columbia Highway Dothan Alabama 36301 USA
C/O FRITZ COMPANY INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville Fla 32206
VIA Sea Land

FACTURA No:
INVOICE No: GC-32/95
August, 14 1995

Marks And Nos	Packing Code	Quantity	SIZE NAME	Net. Wt. Per M (Lbs)	Price Per M	Value (US)
Marcas y Nos	Codigo	Cantidad	NOMBRE DE VITOLA	Peso Neto Por M (Lbs)	Precio Por M	Valor (US)

"COHIBA"

257	7952	350	Coh ba Esplendidos 1/40	40 25

REDACTED

CONFIDENTIAL

Total Net Weight
Total peso Neto Lbs CONT SEAU - 525178-5
SEAL 988-331525

Total Gross Weigh
Total Peso Bruto Lbs

Zona Franca
General Cigar Dominicana
Export License No. 0855
Lic. de Exportacion No. 0855

DEFENDANT'S EXHIBIT
D 239
Blumberg No. 5114

GC 003531

GEN. AL CIGAR DOMINICANA
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Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

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(809)575-4113
(809)575-4114

Fax: (809)575-4860

GENERAL CIGAR COMPANY, INC
700 Columbia Highway Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville Fla 32206

FACTURA No:
INVOICE No: GC-31/95
August, 7 1995

VIA: Sea Land

Marks And Nos. / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net. Wt Per M (Lbs) / Peso Neto Por M (Lbs)	Price Per M / Precio Por M	Value (US) / Valor (US)
136/138	7952	2,700	Cohiba Esplendidos 1/40 "COHIBA"	40	25	

REDACTED

CONFIDENTIAL

GC 003532

FX 258

GENERAL CIGAR DOMINICANA

P. O. BOX 875
Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

Phones: (809) 575-4112
575-4113
575-4114

Fax (809) 575-4860

GENERAL CIGAR COMPANY, INC.
700 East Main St. Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC. 2000 Talleyrand Ave.
P. O. Box 1194 - Jacksonville, Fla. 32206 USA

FACTURA No.
INVOICE No. GC-1/95
January, 13, 19 95

VIA: Sea Land

Marks And Nos. / Marcas y No.	Packing Code. / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE VITOLA	Net. Wt. Per M. / Peso Neto Por M.	Price per M. / Precio por M.	Value (US$) / Valor (US$)
			COHIBA			
214/217	7952	3,200	Cohiba Esplendido 1/40	40.25 "		
218/222	7951	4,800	Cohiba Coronas Especiales 1/40	28.50 "		
223/224	7953	2,000	Cohiba Robustos	32.25 "		
		10,000				

REDACTED

CONFIDENTIAL

Total Net Weight:
Total Peso Neto:
Total Gross Weight
Total Peso Bruto

Zona Franca Dominicana
Exper Licence No. 0855
Licencia de Exportación No. 0856

GC 003559

GENERAL CIGAR DOMINICANA
P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

Phones: (809)575-4112
(809)575-4113
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GENERAL CIGAR COMPANY, INC
700 East Main St Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville Fla 32206

CORRECTED

FACTURA No:
INVOICE No: GC-6/95
February, 20 1995

VIA Sea Land

Marks And Nos / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net. Wt. Per M.(Lbs.) / Peso Neto Por M (Lbs.)	Price Per M / Precio Por M.	Value (US) / Valor (US)
233	7953	850	COHIBA Cohiba Robustos 1/40	32 25		

REDACTED

CONFIDENTIAL

GC 003557

GENERAL CIGAR DOMINICANA
P.O. box 875
Industrial Free Zone
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Cigar Manufacturers and Exporters

Phones: (809)575-4112
(809)575-4113
(809)575-4114

Fax: (809)575-4860

GENERAL CIGAR COMPANY, INC
700 East Main St Dothan Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville Fla 32206

CORRECTED

FACTURA No:
INVOICE No: GC-7/95
February, 25 1995

VIA: Sea Land

Marks And Nos / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net. Wt. Per M.(Lbs.) / Peso Neto Por M (Lbs.)	Price Per M / Precio Por M	Value (US) / Valor (US)
126	7953	300	Cohiba Robustos COHIBA 1/40		32 25	

REDACTED

CONFIDENTIAL

GC 003555

GENERAL CIGAR DOMINICANA
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Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

Phones: (809)575-4112
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Fax: (809)575-4860

GENERAL CIGAR COMPANY INC
700 East Main St Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville, Fla 32206

FACTURA No:
INVOICE No: GC-10/95
March,20 1995

VIA: Sea Land

Marks And Nos / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net Wt. Per M.(Lbs.) / Peso Neto Por M.(Lbs.)	Price Per M. / Precio Por M.	Value (US) / Valor (US)
			COHIBA			
187/190	7952	3,600	Cohiba Esplendidos 1/40	40 25		
191/194	7951	3,475	Cohiba Carronas Especiales 1/40	28 5		
		7,075				

REDACTED

CONFIDENTIAL

Total net weight.
Total peso Neto. .bs.

Total Gross Weight
Total Peso Bruto. .bs

GC 003552

Zona Franca, R.D.
General Cigar Dominicana
Export License No. 0855
Lic. de Exportacion No. 0855
Santiago, R.D.

Don Pepe

GENEI ⌣ CIGAR DOMINICANA
P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

. nones: (809)575-4112
(809)575-4113
(809)575-4114

Cigar Manufacturers and Exporters

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GENERAL CIGAR COMPANY, INC
700 East Main St Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville, Fla 32206

FACTURA No:
INVOICE No: GC-9/95
March,13 1995

VIA: Sea Land

Marks And Nos / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net. Wt. Per M.(Lbs.) / Peso Neto Por M.(Lbs.)	Price Per M. / Precio Por M.	Value (US) / Valor (US)
1/'						

REDACTED

CONFIDENTIAL

GC 003553

			COHIBA		
163/165	7953	2 500	Cohiba Robustos 1/40	32 25	
166/169	7952	2,875	Cohiba Esplendidos 1/40	40 25	
		5,375			

Don Pepe

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GENERAL CIGAR COMPANY, INC
700 East Main St Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 11[illegible] Jacksonville, Fla 32206

FACTURA No:
INVOICE No: GC-11/95
March,27 1995

VIA: Sea Land

Marks And Nos / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net. Wt. Per M.(Lbs.) / Peso Neto Por M.(Lbs.)	Price Per M / Precio Por M.	Value (US) / Valor (US)
			COHIBA			
96/10[illegible]	7953	5,775	Cohiba Robustos 1/40		32.25	
102/105	7952	3,300	Cohiba Esplendidos 1/40		40 25	
106/113	7951	7,200	Cohiba Ce[illegible]as Especiales 1/40		28.5	
		16,275				

REDACTED

[redacted]

CONFIDENTIAL

GENERAL CIGAR DOMINICANA
P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

Phones: (809)575-4112
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GENERAL CIGAR COMPANY, INC
700 East Main St Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville, Fla 32206

FACTURA No:
INVOICE No: GC-12/95
April 3 1995

VIA: Sea Land

Marks And Nos / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net. Wt. Per M (Lbs) / Peso Neto Por M (Lbs)	Price Per M / Precio Por M.	Value (US) / Valor (US)
			COHIBA			
208/211	7952	3,600	Cohiba Esplendidos 1/40	40 25		
212/215	7953	3,275	Cohiba Robustos 1/40	32 25		
		6,875				

REDACTED

CONFIDENTIAL

GC 003547

Do 1 Pipe

GENERAL CIGAR DOMINICANA

P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

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(809)575-4114

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Cigar Manufacturers and Exporters

GENERAL CIGAR COMPANY, INC
700 East Main St Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville, Fla 32206

FACTURA No:
INVOICE No: GC-15/95
April 24 1995

VIA: Sea Land

Marks And Nos / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net. Wt. Per M (Lbs.) / Peso Neto Por M.(Lbs.)	Price Per M / Precio Por M.	Value (US) / Valor (US)

REDACTED

277/280	7951	3,325	"COHIBA" Cohiba Caronas Especiales 1/40	28 5

CONFIDENTIAL

GC 003545

GENERAL CIGAR DOMINICANA

P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

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(809)575-4113
(809)575-4114

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GENERAL CIGAR COMPANY, INC
700 East Main St Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville Fla 32206

FACTURA No:
INVOICE No: GC-19/95
May 15 1995

VIA: Sea Land

Marks And Nos. / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net. Wt. Per M.(Lbs.) / Peso Neto Por M.(Lbs.)	Price Per M. / Precio Por M.	Value (US) / Valor (US)
156/159	7952	3.275	Cohiba Esplendidos 1/40 COHIBA			40 25

REDACTED

CONFIDENTIAL

GC 003543

GENERAL CIGAR DOMINICANA
P.O. box 875
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Santiago, Dominican Republic

Cigar Manufacturers and Exporters

Phones: (809)575-4112
(809)575-4113
(809)575-4114

Fax: (809)575-4860

GENERAL CIGAR COMPANY, INC
700 East Main St Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville, Fla 32206

FACTURA No:
INVOICE No: GC-22/95
June 5, 1995

VIA: Sea Land

Marks And Nos / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net Wt Per M (Lbs) / Peso Neto Por M.(Lbs)	Price Per M / Precio Por M.	Value (US) / Valor (US)
296/299	7951	3,525	"COHIBA" Cohiba Coronas Especiales 1/40	28 5		

REDACTED

CONFIDENTIAL

GENERAL CIGAR DOMINICANA
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(809)575-4114

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GENERAL CIGAR COMPANY, INC
700 East Main St Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville, Fla 32206

FACTURA No:
INVOICE No: GC-23/95
June 12, 1995

VIA: Sea Land

Marks And Nos. / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net. Wt. Per M.(Lbs.) / Peso Neto Por M.(Lbs.)	Price Per M. / Precio Por M.	Value (US) / Valor (US)
172/175	7953	4,000	Cohiba Robustos 1/40 "COHIBA"		32 25	

REDACTED

CONFIDENTIAL

GENE .L CIGAR DOMINICANA
P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

Phones (809)575-4112
(809)575-4113
(809)575-4114

Fax (809)575-4860

GENERAL CIGAR COMPANY, INC
700 East Main St Dothan Alabama 36301 USA
C/O FRITZ COMPANY INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville Fla 32206

FACTURA No.
INVOICE No GC-25/95
June 26 1995

VIA Sea Land

Marks And Nos / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net Wt Per M (Lbs) / Peso Neto Por M (Lbs)	Price Per M / Precio Por M.	Value (US) / Valor (US)
			COHIBA			
319/320	7953	1,150	Cohiba Robustos 1/40		32 25	
321/322	7952	1 050	Cohiba Esplendidos 1/40		40 25	
		2,200				

REDACTED

CONFIDENTIAL

GC 003538

Don Pepe

GENE..AL CIGAR DOMINICANA
P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

Phones: (809)575-4112
(809)575-4113
(809)575-4114

Cigar Manufacturers and Exporters

Fax: (809)575-4860

GENERAL CIGAR COMPANY INC
700 East Main St Dothan Alabama 36301 USA
C/O FRITZ COMPANY INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville Fla 32206

"CORRECTED"

FACTURA No:
INVOICE No: GC-27/95
July 6 1995

VIA: Sea Land

Marks And Nos	Packing Code	Quantity	SIZE NAME	Net. Wt. Per M (Lbs.)	Price Per M	Value (US)
Marcas y Nos	Codigo	Cantidad	NOMBRE DE VITOLA	Peso Neto Por M (Lbs)	Precio Por M	Valor (US)

REDACTED

			COHIBA	
134/138	7953	5 000	Cohiba Robustos 1/40	32 25
139/144	7952	4,875	Cohiba Esplendidos 1/40	40 25
145/147	7951	2 925	Cohiba Coronas Especiales 1/40	28 5
		12,800		

CONFIDENTIAL

GC 003536

Don Pepe

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P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

ones: (809)575-4112
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(809)575-4114

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GENERAL CIGAR COMPANY INC
100 Columbia Highway Dothan Alabama 36301 USA
C/O FRITZ COMPANY INC 2080 Talleyrand Ave
P.O. Box 1194- Jacksonville Fla 32206

FACTURA No:
INVOICE No: GC-29/95
July 22 1995

VIA Sea Land

Marks And Nus / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net Wt Per M (Lbs.) / Peso Neto Por M (Lbs.)	Price Per M / Precio Por M.	Value (US) / Valor (US)
129/130	7953	2,000	Cohiba Robustos 1/40 COHIBA	32 25		

REDACTED

CONFIDENTIAL

GC 003534

GEN AL CIGAR DOMINICANA
P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

Phones: (809)575-4112
(809)575-4113
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Fax: (809)575-4860

GENERAL CIGAR COMPANY, INC
700 Columbia Highway Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville, Fla 32206

FACTURA No:
INVOICE No: GC-34/95
August, 21 1995

VIA: Sea Land

Marks And Nos. / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net Wt. Per M.(Lbs.) / Peso Neto Por M.(Lbs.)	Price Per M. / Precio Por M.	Value (US) / Valor (US)

REDACTED

170/173	7951	3,225	"COHIBA" Cohiba Caronas Especiales 1/40		28 5

CONFIDENTIAL

GC 003526

Don Pepe

GENI L CIGAR DOMINICANA
P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

Phones: (809)575-4112
(809)575-4113
(809)575-4114

Cigar Manufacturers and Exporters

Fax: (809)575-4860

GENERAL CIGAR COMPANY, INC
700 Columbia Highway Dothan, Alabama 36301 USA
C/O FRITZ COMPANY INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville Fla 32206

FACTURA No:
INVOICE No: GC-36/95
September 4, 1995

VIA: Sea Land

Marks And Nos / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net Wt Per M (Lbs) / Peso Neto Por M (Lbs)	Price Per M / Precio Por M	Value (US) / Valor (US)

REDACTED

				COHIBA	
206/208	7953	3,000	Cohiba Robustos 1/40		32.25
209/211	7952	2,700	Cohiba Esplendidos 1/40		40 25
		5,700			

CONFIDENTIAL

GC 003524

Don Pepe

GENE' L CIGAR DOMINICANA
P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

hones: (809)575-4112
(809)575-4113
(809)575-4114

Cigar Manufacturers and Exporters

Fax: (809)575-4860

GENERAL CIGAR COMPANY, INC.
700 Columbia Highway Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville, Fla 32206

CORRECTED

FACTURA No:
INVOICE No: GC-38/95
September 18, 1995

VIA: Sea Land

Marks And Nos. / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net Wt. Per M (Lbs.) / Peso Neto Por M (Lbs.)	Price Per M. / Precio Por M.	Value (US) / Valor (US)
			COHIBA			
270/274	7953	4,300	Cohiba Robustos 1/40	32 25		
275	7952	175	Cohiba Esplendidos 1/40	40 25		
		4,475				
		170,745				

REDACTED

Total Net Weight:
Total peso Neto: Lbs.

CONT SEAU - 529121-6
SEAL 988-336171

Total Gross Weigh
Total Peso Bruto: Lbs.

Zona Franca
General Cigar Dominicana
Export License No. 0855
Licencia de Exportacion No. 0855

CONFIDENTIAL

GC 003523

Don Pepe

GENERAL CIGAR DOMINICANA

P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

Phones: (809)575-4112
(809)575-4113
(809)575-4114

Cigar Manufacturers and Exporters

Fax: (809)575-4660

GENERAL CIGAR COMPANY, INC
700 Columbia Highway Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave.
P O Box 1194- Jacksonville, Fla 32206

CORRECTED

FACTURA No:
INVOICE No: GC-40/95
September 25. 1995

VIA: Sea Land

Marks And Nos. / Marcas y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net. Wt. Per M.(Lbs.) / Peso Neto Por M.(Lbs.)	Price Per M. / Precio Por M.	Value (US) / Valor (US)

REDACTED

198/201	7951	4,000	Cohiba Caronas Especiales "COHIBA" 1/40	28.5		

REDACTED

CONFIDENTIAL

GC 003521

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 240 (D0240), GC 003520

GENE' L CIGAR DOMINICANA
P.O. box 875
Industrial Free Zone
Santiago, Dominican Republic

Phones: (809)575-4112
(809)575-4113
(809)575-4114

Cigar Manufacturers and Exporters

Fax: (809)575-4860

GENERAL CIGAR COMPANY, INC
700 Columbia Highway Dothan, Alabama 36301 USA
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave
P O Box 1194- Jacksonville, Fla 32206

FACTURA No:
INVOICE No: GC-46/95
October 23, 1995

VIA: Sea Land

Marks And Nos. / Marcas y Nos.	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net. Wt. Per M.(Lbs.) / Peso Neto Por M.(Lbs.)	Price Per M / Precio Por M.	Value (US) / Valor (US)
306/313	7952	6,650	Cohiba Esplendidos 1/40 COHIBA	40.25		827.50

REDACTED

Total Net Weight:
Total peso Neto: Lbs.

Total Gross Weight
Total Peso Bruto: Lbs.

CONT SEAU- 528592-8
SEAL 988-336178

Zona Franca
General Cigar Dominicana
Export License No. 0855
Lic. de Exportacion No. 0855
Santiago.

CONFIDENTIAL

GC 003520

DEFENDANT'S EXHIBIT
D 240
Blumberg No. 5114

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 242 (D0242), GC 003425

:NERAL CIGAR DOMIN .ANA
P O Box 875
Industrial Free Zone
Santiago, Dominican Republic
Cigar Manufacturers and Exporters

Phones (809)575-411
(809)575-411
(809)575-411
Fax (809)575-486

General Cigar Company Inc.
700 Columbia Highway Dothan, Alacama 36301
C/O FRITZ COMPANY, INC 2080 Talleyrand Ave.
P.O Box 1194-Jacksonville, Fla 32206

Factura No:
Invoice No: GC-57/95
November 27, 1995

VIA: A/A

Marks And Nos / Marcas Y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net Wt Per M.(Lbs) / Peso Neto Por M.(Lbs)	Price Per M / Precio P M	Value (US) / Valor (US)
113/114	7953	1,150	COHIBA ROBUSTOS 1/40	32.25		
115/118	7952	3,050	COHIBA ESPLENDIDO 1/40	40.25		
		4,200				

REDACTED

Total Net Weight
Total Peso Neto: Lbs. CONT:
SEAL:
Total Gross Weight
Total Peso Bruto: Lbs.

GENERAL CIGAR DOMINICANA
Zona Franca
General Cigar Dominicana
Export License No. 0855
Licencia de Exportacion No. 0855

CONFIDENTIAL

GC 003425

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 242

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 243 (D0243), GC 3423

GENERAL CIGAR DOMINICANA

P O Box 875
Industrial Free Zone
Santiago, Dominican Republic

Cigar Manufacturers and Exporters

Phones (809)575-411
(809)575-411
(809)575-411-

Fax (809)575-486

General Cigar Company, Inc.
700 Columbia Highway Dothan, Alabama 36301
C/O FRITZ COMPANY, INC. 2080 Talleyrand Ave
P.O. Box 1194- Jacksonville, Fla 32206

Factura No:
Invoice No: GC-64/95
December 19, 1995

VIA: A/A

Marks And Nos / Marcas Y Nos	Packing Code / Codigo	Quantity / Cantidad	SIZE NAME / NOMBRE DE VITOLA	Net Wt Per M (Lbs) / Peso Neto Por M (Lbs)	Price Per M / Precio P M	Value (US) / Valor (US)
			COHIBA			
264/276	7951	12,875	COHIBA CORONA ESPECIAL 1/40	28 50		
277/277	7953	875	COHIBA ROBUSTOS 1/40	32.25		
		13,750				

REDACTED

CONFIDENTIAL

Total Net Weight:
Total Peso Neto: Lbs CONT:
SEAL:
Total Gross Weight Lbs
Total Peso Bruto:

Zona Franca
General Cigar Dominicana
Export License No. 0855
Lic. de Exportacion No 0855

GC 003423

DEFENDANT'S EXHIBIT
D 243

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 246 (D0246), GCP 00333-GCP 00334

Culbro Corporation

387 Park Avenue South
New York, NY 10016-8899
212/561-8700
Telex: 325896
Cable: CULBROCORP NYK

Culbro

March 20, 1987

Dickerson M. Downing, Esq.
Morgan & Finnegan
345 Park Avenue
New York, N. Y. 10154

Re: 246-TM- (See Below)
Registration Nos. (As Indicated)

Dear Dick:

Confirming our telephone conversation of March 19th, concerning the United States trademark registrations which were not re-assigned to General Cigar Co., Inc., the Delaware corporation by Culbro Corporation, we intend to allow the following registrations in the United States Patent & Trademark Office to run to expiration in the Culbro name. If Section 8 Declarations become due, or an action by a third party arises, please inform us so we may consider early abandonment as we do not wish to incur extra expense with these registrations.

The marks not re-assigned are:

Registration No.	Trademark	Reg./Exp/ Date	Docket No.
303,038	Girard	05091933/93	GC-TM-217
509,912	Roymont	06071949/89	220
510,646	Lord Montan	06071949/89	221
673,753	Cinco	02101959/99	226
679,136	Alma Rica	05261959/99	227
680,319	La Mia	06161959/99	228
700,054	Cigarine	06281960/00	016
747,808	Carola	04091963/03	256
747,809	La Mega	04091963/03	229
826,006	Brigadoon	03311967/87	072
826,007	Dealer's Choice	03311967/87	073
846,106	Hourglass	03191968/88	240
851,766	Viva	07021968/88	074
855,306	Pipe Dreams	02311970/90	246
887,020	Grand Award	03031970/90	247
892,726	Stiletto	06161970/90	088
897,237	Highwayman	08251970/90	248
906,486	Ole	01261971/91	063
938,512	New Breed	07251972/92	098
938,516	Centurion	07251972/92	251

Confidential:
Under Protective Order

GCP 00333

DEFENDANT'S EXHIBIT
D 246
Blumberg No. 5114

	938,517	Legionnaire	07251972/92	252
	947,820	Talisman	01281972/92	100
	1,005,910	Spartacus	03041975/95	110
	1,006,454	Iota	03111975/95	107
	1,009,239	Big Sky	04211975/95	112
	1,013,682	Windwmill	06171977/97	113
	1,062,889	Dansk Luxus	04051977/97	253
	1,132,834	Curtain Call	04081980/00	134
*	1,152,801	Cienfuegos	04281981/01	131

* Finish present minor action previously initiated on Section 8 Declaration.

Very truly yours,

Charles H. Sparkes

cc: D. Burgh
R. Milstein

Confidential:
Under Protective Order

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 247 (D0247), GCP 00361

OFFICE MEMORANDUM
MORGAN & FINNEGAN

From: D.M. Downing

To: File 246-TM-Gen

Date: March 20, 1987

Subject: Culbro Trademark Registrations

Charles Sparkes has informed me that the following registrations were deliberately not assigned to General Cigar in 1987 at the time most of the other marks were assigned from Culbro to General Cigar. It is expected that Culbro will allow these marks to expire as they come up for renewal. However, we have been instructed to contact the client at the appropriate times for confirmation.

REG. NO.	MARK	OUR REF.
303,038	GIRARD	246-TM-217
509,912	ROYMONT	246-TM-220
510,646	LORD MONTAN	246-TM-221
673,753	CINCO	246-TM-226
679,136	ALMA RICA	246-TM-227
680,319	LA MIA	246-TM-228
700,054	CIGARINE	246-TM-016
747,808	CARLOA	246-TM-256
747,809	LA MEGA	246-TM-229
826,006	BRIGADOON	246-TM-072
826,007	DEALERS CHOICE	246-TM-073
846,106	HOURGLASS	246-TM-240
851,766	VIVA	246-TM-074
885,306	PIPE DREAMS	246-TM-246
887,020	GRAND AWARD	245-TM-247
892,726	STILETTO	245-TM-088
897,327	HIGHWAYMAN	246-TM-248
906,486	OLE	246-TM-063
938,512	NEW BREED	246-TM-098
938,516	CENTURIAN	246-TM-251
938,517	LEGIONNAIRE	246-TM-252
947,820	TALISMAN	246-TM-100
1,005,910	SPARTACUS	246-TM-110
1,006,454	IOTA	246-TM-107
1,009,239	BIG SKY	246-TM-112
1,013,682	WIND MILL	246-TM-113
1,062,889	DANSK LUXUS	246-TM-253
1,132,834	CURTAIN CALL	246-TM-134
1,152,801	CIENFUEGOS	246-TM-131

DMD:dc

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 247

DMD

Confidential And Privileged

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 248 (D0248), GC 001852-GC 001854

1/SPLC

#8

246-TM-136 TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK EXAMINING OPERATIONS

MAIL ROOM
19 JUL 16 1986
PAT. & TRADE MARK OFF.

Registrant	:	CULBRO CORPORATION a New York corporation
Address	:	387 Park Avenue South New York, New York 10016
Mark	:	COHIBA
Registration No.	:	1,147,309
Registration Date	:	February 17, 1981
Class	:	International 34

DECLARATION UNDER SECTIONS 8 AND 15
OF THE TRADEMARK ACT OF 1946

To The Hon Commissioner of Patents
and Trademarks
U.S. Patent and Trademark Office
Washington, D.C. 20231

S I R:

Henry D. Whitehill, Sr. Vice President/Secr., of Registrant, hereby declares that Registrant owns the above-identified Registration as shown by the records of the Patent & Trademark Office; that the mark shown therein is still in use, as evidenced by the attached specimen showing the mark as currently used; that the mark shown therein has been in continuous use in interstate commerce for five consecutive years from February 17, 1981 to the present, on the items recited in the registration, namely: CIGARS; that there has been no final decision adverse to registrant's claim of ownership of said mark

120

240 07/24/86 1147309 2 311 200.00 CK

GC 001852

DEFENDANT'S EXHIBIT
D 248
Blumberg No. 5114

or to its right to register the same, or to maintain it on the register, and that there is no proceeding involving any of said rights pending and not disposed of either in the Patent and Trademark Office or in the courts.

Registrant hereby appoints George B. Finnegan, Jr.; Granville M. Pine; John D. Foley, P.C.; Jerome G. Lee, P.C.; Thomas P. Dowling, P.C.; John A. Diaz, P.C.; Warren H. Rotert; John C. Vassil, P.C.; Alfred P. Ewert; David H. Pfeffer; Harry C. Marcus; Robert E. Paulson; Stephen R. Smith; Kurt E. Richter; J. Robert Dailey; Eugene Moroz; John F. Sweeney; Arnold I. Rady; Christopher A. Hughes; William S. Feiler; Janet Dore; Joseph A. Calvaruso; James W. Gould and Richard C. Komson, and each of them as its attorneys to prosecute this application to register, to transact all business in the Patent & Trademark Office in connection therewith, and to receive the certificate. Please address all correspondence to:

MORGAN & FINNEGAN
345 Park Avenue
New York, New York 10154

Henry D. Whitehill further declares that the facts set forth herein are true; that all statements made herein of his own knowledge are true, that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

GC 001853

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this declaration and the registration in connection with which it is filed.

CULBRO CORPORATION

By _____

Dated June 23, 1986

GC 001854

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT

DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Defs Ex 249 (D0249), GC 007921

G(.ral Cigar & Tobacco Co. a division of Culbro Corporation (bro

ACCOUNTING/ORDER

INQUIRIES TO → U. S Route 130 at Georges Road
P.O. Box 2000
Dayton, N J. 08810

123

DATE MO. DAY YR	ALWAYS REFER TO. INVOICE NO	PAGE
02/13/78	1-G-140158	1 OF 1

SOLD TO

MIKES CIGAR MIAMI BEACH
P O BOX 3065
MIAMI BEACH FLA 33140

CUSTOMER CODES	
O E.	A/R
146300	3287

TERMS NET 30

SHIP TO

MIKES CIGAR
14 465 ARTHUR GODFREY RD
MIAMI BEACH FLA 33140

FACTORY	DOC #	ACTIVITY
13	7693	45

SHIPPED FROM PHILIPSBURG

CUST. REF. NO	SHIPPED VIA
000131	

*	ITEM DESCRIPTION	PACKING	CODE	QUANTITY	U/M	PRICE	PER	AMOUNT
	CONFIRMATION							
	COHIBA	50	6676	100	EA	34.50	M	3.45
	CIENFUEGOS	50	6677	100	EA	34.50	M	3.45

6.90

REMIT TO ▶ P. O. BOX 4301
CHURCH STREET STATION
NEW YORK, N Y 10007

TOTAL DUE
PAY THIS AMOUNT

ALL ORDERS ACCEPTED SUBJECT TO PRICE PREVAILING ON THE DATE OF SHIPMENT

ALL SHIPMENTS F O B OUR FACTORIES AT CONSIGNEES RISK FREIGHT ALLOWED

NO GOODS WILL BE ACCEPTED FOR RETURN WITHOUT OUR PRIOR APPROVAL

* DENOTES PARTIAL SHIPMENT

Blumberg No. 5114

DEFENDANT'S EXHIBIT
D 249

Confidential:
Under Protective Order

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 254

U.S. Trademark Electronic Search System (TESS)

DEFENDANT'S EXHIBIT D 254

TESS was last updated on Wed Nov 28 04:49:35 EST 2001

PTO HOME | TRADEMARK | TESS HOME | NEW USER | STRUCTURED | FREE FORM | BROWSE DICT | PREV LIST | NEXT LIST | BOTTOM | HELP

Logout *Please logout when you are done to release system resources allocated for you.*

Start List At: OR Jump to record: **19 Records(s) found (This page: 1 ~ 19)**

("Empresa cubana del tabaco")[OW] Refine Search

Current Search: S2: ("Empresa cubana del tabaco")[OW] docs: 19 occ: 19

	Serial Number	Reg. Number	Word Mark	Live/Dead Indicator
1	75226002		COHIBA	LIVE
2	75151529	2212119	LA CASA DEL HABANO	LIVE
3	75151226	2145804		LIVE
4	75011206	2128050	LA PERLA	LIVE
5	74576942	1948393	EDMUNDO DANTES LA HABANA CUBA	LIVE
6	74576941	1957322	EDMUNDO DANTES	LIVE
7	74576944	1965125	TTT TRINIDAD LA HABANA, CUBA	DEAD
8	74576950	1970911	LA CASA DEL HABANO	LIVE
9	74576949		LA CASA DEL HABANO	DEAD
10	74576948		CUBATABACO SELECTION LA HABANA CUBA	DEAD
11	74576947		CUBATABACO SELECTION	DEAD
12	74576943		TRINIDAD	DEAD
13	74060200		LOS STATOS DELUXE CIGARROS EXQUISITOS FINOS	DEAD
14	73729557	1653845	QUAI D'ORSAY	LIVE
15	73742915	1557163	BEHIKE	LIVE
16	73651673		MONTECRISTO	DEAD
17	73649521	1482648	QUALITY GUARANTEED CUBATABACO HAVANA	DEAD
18	73537928	1408861	MARIA GUERRERO	DEAD
19	73523552	1441404	BEHIQUE	DEAD

U.S. Trademark Electronic Search System (TESS)

TESS was last updated on Wed Nov 28 04:49:35 EST 2001

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 1 out of 19**

Check Status *(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

Typed Drawing

Word Mark	COHIBA
Translations	The English translation of the word "cohiba" is properly translated as "tobacco" or "to restrain".
Goods and Services	IC 034. US 002 008 009 017. G & S: raw tobacco; cigars; chewing tobacco; cigarettes; cut tobacco; matches; tobacco pipes not of precious metals; tobacco pipe holders not of precious metals; ashtrays not of precious metals; match boxes not of precious metals; cigar cases not of precious metals; and humidors not of precious metals
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75226002
Filing Date	January 15, 1997
Owner	(APPLICANT) **EMPRESA CUBANA DEL TABACO** CORPORATION CUBA Calle O'Reilly No. 104 Ciudad Habana CUBA
Attorney of Record	MICHAEL KRINSKY
Section 44 Indicator	SECT44
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 75226002

Registration Number: (NOT AVAILABLE)

Mark (words only): COHIBA

Current Status: Further action on the application has been suspended.

Date of Status: 2000-07-28

Filing Date: 1997-01-15

Registration Date: (DATE NOT AVAILABLE)

Law Office Assigned: TMEG Law Office 108

CURRENT APPLICANT(S)/OWNER(S)

---

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

---

raw tobacco; cigars; chewing tobacco; cigarettes; cut tobacco; matches; tobacco pipes not of precious metals; tobacco pipe holders not of precious metals; ashtrays not of precious metals; match boxes not of precious metals; cigar cases not of precious metals; and humidors not of precious metals

---

PROSECUTION HISTORY

2000-01-12 - LETTER OF SUSPENSION MAILED

1999-12-01 - COMMUNICATION RECEIVED FROM APPLICANT

1999-11-16 - LETTER OF SUSPENSION MAILED

1999-10-25 - COMMUNICATION RECEIVED FROM APPLICANT

1999-05-17 - NON-FINAL ACTION MAILED

1999-04-01 - COMMUNICATION RECEIVED FROM APPLICANT

1999-04-01 - COMMUNICATION RECEIVED FROM APPLICANT

1998-10-06 - NON-FINAL ACTION MAILED

1998-07-24 - COMMUNICATION RECEIVED FROM APPLICANT

1998-01-26 - NON-FINAL ACTION MAILED

1997-12-04 - COMMUNICATION RECEIVED FROM APPLICANT

1997-08-14 - NON-FINAL ACTION MAILED

1997-08-06 - ASSIGNED TO EXAMINER

1997-07-31 - ASSIGNED TO EXAMINER

U.S. Trademark Electronic Search System (TESS)

TESS was last updated on Sat Feb 3 04:10:41 EST 2001

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 2 out of 19**

Check Status *(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

LA CASA DEL HABANO

Word Mark	LA CASA DEL HABANO
Translations	The English translation of "LA CASA DEL HABANO" is "the house of the Cuban cigar".
Goods and Services	IC 042. US 100 101. G & S: social club services, bar services, and restaurant services IC 035. US 100 101 102. G & S: retail store services featuring tobacco and smokers' accessories
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	260307 261127 261712
Serial Number	75151529
Filing Date	August 16, 1996
Published for Opposition	April 14, 1998
Registration Number	2212119
Registration Date	December 22, 1998
Owner	(REGISTRANT) **EMPRESA CUBANA DEL TABACO** DBA CUBATABACO CORPORATION CUBA O'Reilly No. 104 Ciudad La Habana CUBA
Attorney of Record	MICHAEL KRINSKY
Section 44 Indicator	SECT44
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "LA CASA DEL HABANO" APART FROM THE MARK AS SHOWN
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 75151529

Registration Number: 2212119

Mark

(words only): LA CASA DEL HABANO

Current Status: Registered.

Date of Status: 1998-12-22

Filing Date: 1996-08-16

Registration Date: 1998-12-22

Law Office Assigned: TMEG Law Office 107

CURRENT APPLICANT(S)/OWNER(S)

---

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

---

retail store services featuring tobacco and smokers' accessories

social club services, bar services, and restaurant services

PROSECUTION HISTORY

1998-12-22 - REGISTERED-PRINCIPAL REGISTER

1998-05-01 - EXTENSION OF TIME TO OPPOSE FILED

1998-04-14 - PUBLISHED FOR OPPOSITION

1998-03-13 - NOTICE OF PUBLICATION

1998-01-17 - APPROVED FOR PUB - PRINCIPAL REGISTER

1997-12-13 - COMMUNICATION RECEIVED FROM APPLICANT

1997-10-02 - NON-FINAL ACTION MAILED

1997-08-06 - COMMUNICATION RECEIVED FROM APPLICANT

1997-02-07 - NON-FINAL ACTION MAILED

1997-01-27 - ASSIGNED TO EXAMINER

CONTACT INFORMATION

U.S. Trademark Electronic Search System (TESS)

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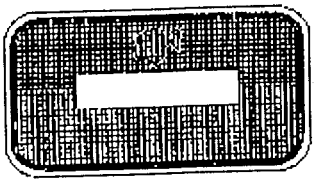


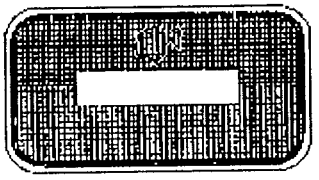
Goods and Services	IC 034. US 002 008 009 017. G & S: raw tobacco, cigars, cigarettes, cut tobacco, rappee, matches, tobacco, tobacco pipes, pipe-holders, ashtrays not of precious metal, match boxes, cigar cases not of precious metal, and humidors
Mark Drawing Code	(2) DESIGN ONLY
Design Search Code	020301 020302 020324 250301 250302 261120 261125
Serial Number	75151226
Filing Date	August 16, 1996
Published for Opposition	December 30, 1997
Registration Number	2145804
Registration Date	March 24, 1998
Owner	(REGISTRANT) **EMPRESA CUBANA DEL TABACO** DBA CUBATABACO CORPORATION CUBA O'Reilly No. 104 Ciudad La Habana CUBA
Attorney of Record	MICHAEL KRINSKY
Section 44 Indicator	SECT44
Description of Mark	The mark consists of a rectangular design with rounded corners, a gold outline, the silhouette of a head of an Indian against a black and white dotted background, a white rectangle, and a gold rectangle. The mark is lined for the color gold. The boldly lined section of the drawing, however, does not indicate color, but is a feature of the mark.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 75151226

Registration Number: 2145804

Mark



Current Status: Registered.

Date of Status: 1998-03-24

Filing Date: 1996-08-16

Registration Date: 1998-03-24

Law Office Assigned: TMEG Law Office 107

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

raw tobacco, cigars, cigarettes, cut tobacco, rappee, matches, tobacco, tobacco pipes, pipe-holders, ashtrays not of precious metal, match boxes, cigar cases not of precious metal, and humidors

PROSECUTION HISTORY

1998-03-24 - REGISTERED-PRINCIPAL REGISTER

1997-12-30 - PUBLISHED FOR OPPOSITION

1997-11-28 - NOTICE OF PUBLICATION

1997-10-22 - APPROVED FOR PUB - PRINCIPAL REGISTER

1997-08-07 - COMMUNICATION RECEIVED FROM APPLICANT

1997-02-18 - NON-FINAL ACTION MAILED

1997-02-13 - ASSIGNED TO EXAMINER

1997-02-11 - ASSIGNED TO EXAMINER

1997-02-11 - ASSIGNED TO EXAMINER

CONTACT INFORMATION

Attorney of Record: MICHAEL KRINSKY

Address:
MICHAEL KRINSKY

U.S. Trademark Electronic Search System (TESS)

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Typed Drawing

Word Mark	LA PERLA
Translations	The English translation of the words "LA PERLA" in the mark is "the pearl".
Goods and Services	IC 034. US 002 008 009 017. G & S: cured and uncured tobacco for smoking, chewing, snuff or cigarettes
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75011206
Filing Date	October 27, 1995
Published for Opposition	October 21, 1997
Registration Number	2128050
Registration Date	January 13, 1998
Owner	(REGISTRANT) **EMPRESA CUBANA DEL TABACO** DBA CUBATABACO CORPORATION CUBA Calle O'Reilly No. 104 La Habana CUBA
Attorney of Record	Caroline Rule
Section 44 Indicator	SECT44
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 75011206

Registration Number: 2128050

Mark (words only): LA PERLA

Current Status: Registered.

Date of Status: 1998-01-13

Filing Date: 1995-10-27

Registration Date: 1998-01-13

Law Office Assigned: TMEG Law Office 105

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

cured and uncured tobacco for smoking, chewing, snuff or cigarettes

PROSECUTION HISTORY

1998-01-13 - REGISTERED-PRINCIPAL REGISTER

1997-10-21 - PUBLISHED FOR OPPOSITION

1997-09-19 - NOTICE OF PUBLICATION

1997-08-14 - APPROVED FOR PUB - PRINCIPAL REGISTER

1997-07-24 - COMMUNICATION RECEIVED FROM APPLICANT

1997-01-30 - NON-FINAL ACTION MAILED

1997-01-29 - PREVIOUS ALLOWANCE COUNT WITHDRAWN

1996-11-22 - APPROVED FOR PUB - PRINCIPAL REGISTER

1996-10-24 - COMMUNICATION RECEIVED FROM APPLICANT

1996-04-24 - NON-FINAL ACTION MAILED

1996-04-16 - ASSIGNED TO EXAMINER

CONTACT INFORMATION

Attorney of Record: Caroline Rule

Address:
Caroline Rule
Rabinowitz, Boudin, Standard, et al.
740 Broadway at Astor Place
New York, NY 10003-9518
US

U.S. Trademark Electronic Search System (TESS)

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Check Status *(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

Word Mark	EDMUNDO DANTES LA HABANA CUBA
Goods and Services	IC 034. US 002 008 009 017. G & S: cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays not made of precious metal, match boxes, cigar cases and humidors
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	070302 241325
Serial Number	74576942
Filing Date	September 22, 1994
Published for Opposition	October 24, 1995
Registration Number	1948393
Registration Date	January 16, 1996
Owner	(REGISTRANT) **EMPRESA CUBANA DEL TABACO** CORPORATION CUBA Calle O'Reilly No. 104 Ciudad Habana CUBA
Section 44 Indicator	SECT44
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "LA HABANA"

	and "CUBA" APART FROM THE MARK AS SHOWN
Description of Mark	The stippling in the drawing is a feature of the mark and not intended to indicate color.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 8 (6-YR).
Other Data	The name in the mark "EDMUNDO DANTES" is a fictional character and does not identify a living individual.
Live/Dead Indicator	LIVE

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 74576942

Registration Number: 1948393

Mark

(words only): EDMUNDO DANTES LA HABANA CUBA

Current Status: Registered.

Date of Status: 1996-01-16

Filing Date: 1994-09-22

Registration Date: 1996-01-16

Law Office Assigned: TMEG Law Office 108

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays not made of precious metal, match boxes, cigar cases and humidors

PROSECUTION HISTORY

1996-01-16 - REGISTERED-PRINCIPAL REGISTER

1995-10-24 - PUBLISHED FOR OPPOSITION

1995-10-24 - PUBLISHED FOR OPPOSITION

1995-09-22 - NOTICE OF PUBLICATION

1995-05-18 - APPROVED FOR PUB - PRINCIPAL REGISTER

1995-05-11 - EXAMINERS AMENDMENT MAILED

1995-03-20 - NON-FINAL ACTION MAILED

1995-03-17 - ASSIGNED TO EXAMINER

CONTACT INFORMATION

Attorney of Record: Michael Krinsky

Address:
Michael Krinsky

U.S. Trademark Electronic Search System (TESS)

TESS was last updated on Wed Nov 28 04:49:35 EST 2001

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Typed Drawing

Word Mark	EDMUNDO DANTES
Goods and Services	IC 034. US 002 008 009 017. G & S: cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays not made of precious metal, match boxes, cigar cases and humidors
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	74576941
Filing Date	September 22, 1994
Published for Opposition	November 28, 1995
Registration Number	1957322
Registration Date	February 20, 1996
Owner	(REGISTRANT) **EMPRESA CUBANA DEL TABACO** CORPORATION CUBA Calle O'Reilly No. 104 Ciudad Habana CUBA
Section 44 Indicator	SECT44
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 8 (6-YR).
Live/Dead Indicator	LIVE

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 74576941

Registration Number: 1957322

Mark (words only): EDMUNDO DANTES

Current Status: Registered.

Date of Status: 1996-02-20

Filing Date: 1994-09-22

Registration Date: 1996-02-20

Law Office Assigned: TMEG Law Office 108

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

U.S. Trademark Electronic Search System (TESS)

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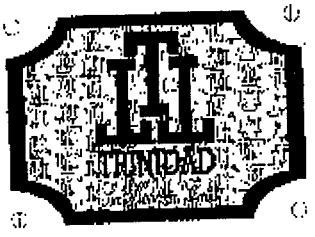

Word Mark	TTT TRINIDAD LA HABANA, CUBA
Goods and Services	(CANCELLED) IC 034. US 002 008 009 017. G & S: raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, smoking pipes, pipe holders-not of precious metal, ashtrays-not of precious metal, match boxes-not of precious metal, cigar cases-not of precious metal, humidors-not of precious metal
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	261502
Serial Number	74576944
Filing Date	September 22, 1994
Published for Opposition	January 9, 1996
Registration Number	1965125
Registration Date	April 2, 1996
Owner	(REGISTRANT) **EMPRESA CUBANA DEL TABACO** CORPORATION CUBA Calle O'Reilly No. 104 Ciudad Habana CUBA
Attorney of	Michael Krinsky

Record	
Section 44 Indicator	SECT44
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TRINIDAD" and "LA HABANA, CUBA" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Cancellation Date	July 16, 2001

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 74576944

Registration Number: 1965125

Mark

(words only): TTT TRINIDAD LA HABANA, CUBA

Current Status: A cancellation proceeding has been filed at the Trademark Trial and Appeal Board and is now pending.

Date of Status: 1998-04-17

Filing Date: 1994-09-22

Registration Date: 1996-04-02

Law Office Assigned: TMEG Law Office 101

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, smoking pipes, pipe holders-not of precious metal, ashtrays-not of precious metal, match boxes-not of precious metal, cigar cases-not of precious metal, humidors-not of precious metal

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PROSECUTION HISTORY

1998-04-17 - CANCELLATION INSTITUTED NO. 999999

1996-04-02 - REGISTERED-PRINCIPAL REGISTER

1996-01-09 - PUBLISHED FOR OPPOSITION

1995-12-08 - NOTICE OF PUBLICATION

1995-09-26 - APPROVED FOR PUB - PRINCIPAL REGISTER

1995-09-20 - EXAMINERS AMENDMENT MAILED

1995-04-21 - NON-FINAL ACTION MAILED

1995-04-04 - ASSIGNED TO EXAMINER

1995-03-17 - ASSIGNED TO EXAMINER

U.S. Trademark Electronic Search System (TESS)

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LA CASA DEL HABANO

Word Mark	LA CASA DEL HABANO
Translations	The English translation of "LA CASA DEL HABANO" is "the house of the Cuban cigar".
Goods and Services	IC 034. US 002 008 009 017. G & S: raw tobacco; cigars; cigarettes; cut tobacco; rappee; manufactured tobacco of all kinds; matches; tobacco; smoking pipes; pipe-holders, not of precious metal; ashtrays, not of precious metal; match boxes, cigar cases and humidors, not of precious metal
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	261127 261712
Serial Number	74576950
Filing Date	September 22, 1994
Published for Opposition	September 5, 1995
Registration Number	1970911
Registration Date	April 30, 1996
Owner	(REGISTRANT) **Empresa Cubana Del Tabaco** DBA Cubatabaco CORPORATION CUBA Calle O'Reilly No. 104 Ciudad Habana CUBA

Attorney of Record	Michael Krinsky
Section 44 Indicator	SECT44
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CUBAN CIGAR" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 74576950

Registration Number: 1970911

Mark

(words only): LA CASA DEL HABANO

Current Status: Registered.

Date of Status: 1997-06-26

Filing Date: 1994-09-22

Registration Date: 1996-04-30

Law Office Assigned: TMEG Law Office 104

CURRENT APPLICANT(S)/OWNER(S)

1. Empresa Cubana Del Tabaco

GOODS AND/OR SERVICES

raw tobacco; cigars; cigarettes; cut tobacco; rappee; manufactured tobacco of all kinds; matches; tobacco; smoking pipes; pipe-holders, not of precious metal; ashtrays, not of precious metal; match boxes, cigar cases and humidors, not of precious metal

PROSECUTION HISTORY

1998-11-16 - CANCELLATION TERMINATED NO. 999999

1998-11-13 - CANCELLATION DISMISSED NO. 999999

1997-06-26 - CANCELLATION INSTITUTED NO. 999999

1998-11-13 - CANCELLATION TERMINATED NO. 999999

1998-11-13 - CANCELLATION GRANTED NO. 999999

1998-01-06 - COUNTERCLAIM OPP. NO. 999999

1997-06-26 - CANCELLATION INSTITUTED NO. 999999

1996-04-30 - REGISTERED-PRINCIPAL REGISTER

1995-10-02 - EXTENSION OF TIME TO OPPOSE FILED

1995-09-05 - PUBLISHED FOR OPPOSITION

1995-08-04 - NOTICE OF PUBLICATION

1995-05-11 - APPROVED FOR PUB - PRINCIPAL REGISTER

1995-05-05 - EXAMINERS AMENDMENT MAILED

1995-03-27 - NON-FINAL ACTION MAILED

1995-03-18 - ASSIGNED TO EXAMINER

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Typed Drawing

Word Mark	LA CASA DEL HABANO
Translations	The English translation of "LA CASE DEL HABANO" is "The house of the Cuban cigar".
Goods and Services	(ABANDONED) IC 034. US 002 008 009 017. G & S: raw tobacco; cigars; cigarettes; cut tobacco; rappee; manufactured tobacco of all kinds; matches; tobacco; smoking pipes; pipe-holders, not of precious metal; ashtrays, not of precious metal; match boxes, cigar cases and humidors, not of precious metal
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	74576949
Filing Date	September 22, 1994
Filed ITU	FILED AS ITU
Owner	(APPLICANT) **EMPRESA CUBANA DEL TABACO** DBA Cubatabaco CORPORATION CUBA Calle O'Reilly No. 104 Ciudad Habana CUBA
Attorney of Record	Michael Krinsky
Section 44 Indicator	SECT44
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CUBAN CIGAR" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment	November 14, 1995

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 74576949

Registration Number: (NOT AVAILABLE)

Mark (words only): LA CASA DEL HABANO

Current Status: Abandoned: Applicant failed to respond to an Office action.

Date of Status: 1996-01-03

Filing Date: 1994-09-22

Registration Date: (DATE NOT AVAILABLE)

Law Office Assigned: TMEG Law Office 104

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

raw tobacco; cigars; cigarettes; cut tobacco; rappee; manufactured tobacco of all kinds; matches; tobacco; smoking pipes; pipe-holders, not of precious metal; ashtrays, not of precious metal; match boxes, cigar cases and humidors, not of precious metal

PROSECUTION HISTORY

1996-01-03 - ABANDONMENT - FAILURE TO RESPOND

1995-05-12 - NON-FINAL ACTION MAILED

1995-05-05 - Sec. 1(B) CLAIM DELETED

1995-05-05 - EXAMINERS AMENDMENT MAILED

1995-03-27 - NON-FINAL ACTION MAILED

1995-03-18 - ASSIGNED TO EXAMINER

CONTACT INFORMATION

Attorney of Record: Michael Krinsky

Address:
Michael Krinsky
Rabinowitz, Boudin, Standard, et al.
740 Broadway at Astor Place
New York, NY 10003-9518
US

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Cubatabaco Selection
LA HABANA CUBA

Word Mark	CUBATABACO SELECTION LA HABANA CUBA
Goods and Services	(ABANDONED) IC 034. US 008 009 017. G & S: raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays, match box, cigar cases and humidors
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	260902 261713
Serial Number	74576948
Filing Date	September 22, 1994
Filed ITU	FILED AS ITU
Owner	(APPLICANT) **EMPRESA CUBANA DEL TABACO** CORPORATION CUBA Calle O'Reilly No. 104 Ciudad Habana CUBA
Attorney of Record	Michael Krinsky, Esq.
Section 44 Indicator	SECT44
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SELECTION" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL

Live/Dead Indicator	DEAD
Abandonment Date	April 22, 1997

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 74576948

Registration Number: (NOT AVAILABLE)

Mark

(words only): CUBATABACO SELECTION LA HABANA CUBA

Current Status: Abandoned: Applicant failed to respond to an Office action.

Date of Status: 1997-06-12

Filing Date: 1994-09-22

Registration Date: (DATE NOT AVAILABLE)

Law Office Assigned: TMEG Law Office 107

CURRENT APPLICANT(S)/OWNER(S)

---

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

---

raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays, match box, cigar cases and humidors

---

PROSECUTION HISTORY

1997-06-12 - ABANDONMENT - FAILURE TO RESPOND

1996-10-21 - NON-FINAL ACTION MAILED

1996-10-03 - PETITION TO REVIVE-GRANTED

1996-07-22 - PETITION TO REVIVE-RECEIVED

1996-06-14 - PETITION TO REVIVE DISMISSED

1996-04-16 - INCOMPLETE PETITION NOTICE MAILED

1996-01-02 - PETITION TO REVIVE-RECEIVED

1995-12-12 - ABANDONMENT - FAILURE TO RESPOND

1995-03-29 - NON-FINAL ACTION MAILED

1995-03-21 - ASSIGNED TO EXAMINER

1995-03-18 - ASSIGNED TO EXAMINER

CONTACT INFORMATION

Attorney of Record: Michael Krinsky, Esq.

Address:
Michael Krinsky, Esq.
Rabinowitz, Boudin, Standard, et al.
740 Broadway at Astor Place
New York, NY 10003-9518
US

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Typed Drawing

Word Mark	CUBATABACO SELECTION
Goods and Services	(ABANDONED) IC 034. US 008 009 017. G & S: raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	74576947
Filing Date	September 22, 1994
Filed ITU	FILED AS ITU
Owner	(APPLICANT) **EMPRESA CUBANA DEL TABACO** CORPORATION CUBA Calle O'Reilly No. 104 Ciudad Habana CUBA
Attorney of Record	Michael Krinsky
Section 44 Indicator	SECT44
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment Date	September 30, 1995

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 74576947

Registration Number: (NOT AVAILABLE)

Mark (words only): CUBATABACO SELECTION

Current Status: Abandoned: Applicant failed to respond to an Office action.

Date of Status: 1995-12-12

Filing Date: 1994-09-22

Registration Date: (DATE NOT AVAILABLE)

Law Office Assigned: TMEG Law Office 107

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors

PROSECUTION HISTORY

1995-12-12 - ABANDONMENT - FAILURE TO RESPOND

1995-03-29 - NON-FINAL ACTION MAILED

1995-03-21 - ASSIGNED TO EXAMINER

1995-03-18 - ASSIGNED TO EXAMINER

CONTACT INFORMATION

Attorney of Record: Michael Krinsky

Address:
Michael Krinsky
Rabinowitz, Boudin, Standard, et al.
740 Broadway at Astor Place
New York, NY 10003-9518
US

U.S. Trademark Electronic Search System (TESS)

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Start List At: OR Jump to record: **Record 12 out of 19**

Check Status *(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

Typed Drawing

Word Mark	TRINIDAD
Goods and Services	(ABANDONED) IC 034. US 008 009 017. G & S: raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	74576943
Filing Date	September 22, 1994
Filed ITU	FILED AS ITU
Owner	(APPLICANT) **EMPRESA CUBANA DEL TABACO** CORPORATION CUBA Calle O'Reilly No. 104 Ciudad Habana CUBA
Attorney of Record	Michael Krinsky, Esq.
Section 44 Indicator	SECT44
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment Date	September 21, 1995

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 74576943

Registration Number: (NOT AVAILABLE)

Mark (words only): TRINIDAD

Current Status: Abandoned: Applicant failed to respond to an Office action.

Date of Status: 1995-11-27

Filing Date: 1994-09-22

Registration Date: (DATE NOT AVAILABLE)

Law Office Assigned: TMEG Law Office 101

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors

PROSECUTION HISTORY

1995-11-27 - ABANDONMENT - FAILURE TO RESPOND

1995-03-20 - NON-FINAL ACTION MAILED

1995-03-10 - ASSIGNED TO EXAMINER

CONTACT INFORMATION

Attorney of Record: Michael Krinsky, Esq.

Address:
Michael Krinsky, Esq.
Rabinowitz, Boudin, Standard, et al.
740 Broadway at Astor Place
New York, NY 10003-9518
US

U.S. Trademark Electronic Search System (TESS)

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Check Status *(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

LOS STATOS DE LUXE

Word Mark	LOS STATOS DELUXE CIGARROS EXQUISITOS FINOS
Goods and Services	(ABANDONED) IC 034. US 002 008 017. G & S: raw tobacco; cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, pipe tobacco, pipe holders, ashtrays, match boxes, cigar cases humidors and any other smoker's articles
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	031501 031519 031524 031525 130102 240907 261321 261328
Serial Number	74060200
Filing Date	May 18, 1990
Owner	(APPLICANT) **Empresa Cubana del tabaco** TA Cubatabaco CORPORATION CUBA 104 O'Reilly Street Havana City CUBA
Attorney of Record	Howard N. Aronson
Section 44 Indicator	SECT44
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment	

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 74060200

Registration Number: (NOT AVAILABLE)

Mark

LOS STATOS DE LUXE

(words only): LOS STATOS DELUXE CIGARROS EXQUISITOS FINOS

Current Status: Abandoned: Applicant failed to respond to an Office action.

Date of Status: 1991-07-29

Filing Date: 1990-05-18

Registration Date: (DATE NOT AVAILABLE)

Law Office Assigned: TMEO Law Office #14

U.S. Trademark Electronic Search System (TESS)

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Check Status *(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

Typed Drawing

Word Mark	QUAI D'ORSAY
Goods and Services	IC 034. US 008 009 017. G & S: RAW TOBACCO; CIGARS; CIGARETTES; CUT TOBACCO; RAPEE; MATCHES; TOBACCO PIPES; PIPE RACKS; ASHTRAYS; MATCH-BOXES NOT OF PRECIOUS METAL; CIGAR CASES NOT OF PRECIOUS METAL; HUMIDORS NOT OF PRECIOUS METAL
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	73729557
Filing Date	May 20, 1988
Published for Opposition	May 21, 1991
Registration Number	1653845
Registration Date	August 13, 1991
Owner	(REGISTRANT) **EMPRESA CUBANA DEL TABACO** TA CUBATABACO TA CUBATABACO CORPORATION CUBA 104 O'REILLY STREET VEDADO, HAVANA CITY CUBA
Attorney of Record	CHRISTINE HAIGHT FARLEY
Section 44 Indicator	SECT44
Priority Date	December 24, 1987
Type of Mark	TRADEMARK
Register	PRINCIPAL

Affidavit Text	SECT 8 (6-YR). SECTION 8(10-YR) 20010819.
Renewal	1ST RENEWAL 20010819
Live/Dead Indicator	LIVE

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 73729557

Registration Number: 1653845

Mark (words only): QUAI D'ORSAY

Current Status: A Section 8 affidavit has been accepted.

Date of Status: 1997-09-04

Filing Date: 1988-05-20

Registration Date: 1991-08-13

Law Office Assigned: TMEO Law Office #14

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

RAW TOBACCO; CIGARS; CIGARETTES; CUT TOBACCO; RAPEE; MATCHES; TOBACCO PIPES; PIPE RACKS; ASHTRAYS; MATCH-BOXES NOT OF PRECIOUS METAL; CIGAR CASES NOT OF PRECIOUS METAL; HUMIDORS NOT OF PRECIOUS METAL

PROSECUTION HISTORY

1997-09-04 - REGISTERED - SEC. 8 (6-YR) ACCEPTED

1997-08-13 - REGISTERED - SEC. 8 (6-YR) FILED

1991-08-13 - REGISTERED-PRINCIPAL REGISTER

1991-05-21 - PUBLISHED FOR OPPOSITION

1991-04-19 - NOTICE OF PUBLICATION

1991-01-28 - APPROVED FOR PUB - PRINCIPAL REGISTER

1990-09-26 - EXAMINERS AMENDMENT MAILED

1990-09-26 - ALLOWANCE/COUNT WITHDRAWN

1990-09-14 - ASSIGNED TO EXAMINER

1990-09-14 - ASSIGNED TO EXAMINER

1990-08-09 - COMMUNICATION RECEIVED FROM APPLICANT

1990-04-17 - ASSIGNED TO EXAMINER

1990-02-07 - INQUIRY AS TO SUSPENSION MAILED

1989-06-16 - LETTER OF SUSPENSION MAILED

1989-05-05 - COMMUNICATION RECEIVED FROM APPLICANT

1988-11-04 - NON-FINAL ACTION MAILED

1988-08-17 - ASSIGNED TO EXAMINER

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Check Status *(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

Word Mark	BEHIKE
Translations	THE ENGLISH TRANSLATION OF THE WORD "BEHIKE" IN THE MARK IS "INDO-CUBAN WITCH DOCTOR".
Goods and Services	IC 034. US 008 009 017. G & S: RAW TOBACCO; CIGARS, CIGARETTES, CUT TOBACCO, RAPPEE, MANUFACTURED TOBACCO OF ALL KINDS, MATCHES, TOBACCO-PIPES, PIPE HOLDERS, ASHTRAYS, MATCH BOXES, CIGAR CASES, HUMIDORS
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	020301 020302 020317 020324 250302 261110 261120 261121
Serial Number	73742915
Filing Date	July 29, 1988
Published for Opposition	June 27, 1989
Registration Number	1557163
Registration Date	September 19, 1989
Owner	(REGISTRANT) **EMPRESA CUBANA DEL TABACO** CORPORATION CUBA O'REILLY 104 STREET HAVANA CITY CUBA

Attorney of Record	HOWARD N. ARONSON
Section 44 Indicator	SECT44
Prior Registrations	1441404
Description of Mark	THE DRAWING OF THE MARK IS LINED FOR THE COLORS YELLOW AND GOLD.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 8 (6-YR).
Live/Dead Indicator	LIVE

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 73742915

Registration Number: 1557163

Mark

(words only): BEHIKE

Current Status: A Section 8 affidavit has been accepted.

Date of Status: 1996-01-26

Filing Date: 1988-07-29

Registration Date: 1989-09-19

Law Office Assigned: TMEO Law Office # 4

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

RAW TOBACCO; CIGARS, CIGARETTES, CUT TOBACCO, RAPPEE, MANUFACTURED TOBACCO OF ALL KINDS, MATCHES, TOBACCO-PIPES, PIPE HOLDERS, ASHTRAYS, MATCH BOXES, CIGAR CASES, HUMIDORS

PROSECUTION HISTORY

1996-01-26 - REGISTERED - SEC. 8 (6-YR) ACCEPTED

1995-08-18 - REGISTERED - SEC. 8 (6-YR) FILED

1995-02-09 - POST REGISTRATION ACTION MAILED - SEC. 8

1994-08-18 - REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED

1989-09-19 - REGISTERED-PRINCIPAL REGISTER

1989-06-27 - PUBLISHED FOR OPPOSITION

1989-05-29 - NOTICE OF PUBLICATION

1989-05-27 - NOTICE OF PUBLICATION

1989-05-09 - APPROVED FOR PUB - PRINCIPAL REGISTER

1989-04-24 - ALLOWANCE/COUNT WITHDRAWN

1989-03-23 - COMMUNICATION RECEIVED FROM APPLICANT

1988-09-21 - NON-FINAL ACTION MAILED

1988-09-09 - ASSIGNED TO EXAMINER

CONTACT INFORMATION

Attorney of Record: HOWARD N. ARONSON

Address:
HOWARD N. ARONSON
RABINOWITZ, BOUDIN, STANDARD, ET AL.
740 BROADWAY
FIFTH FLOOR
NEW YORK, NY 10003-9518
US

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Typed Drawing

Word Mark	MONTECRISTO
Translations	THE ENGLISH TRANSLATION OF THE WORD "MONTECRISTO" IN THE MARK IS "MOUNTAIN OF CHRIST".
Goods and Services	(ABANDONED) IC 003. US 004 006 051 052. G & S: AFTER SHAVE LOTION, ANTIPERSPIRANT, LAUNDRY BLEACH, HAIR BLEACHING PREPARATIONS, ALL PURPOSE CLEANING PREPARATIONS, COLD CREAM, COLOGNE, EYE CREAM, DENTURE CLEANING PREPARATIONS AND POLISH, PERSONAL DEODORANT, DEPILATORIES, LAUNDRY DETERGENTS, DRAIN OPENERS, EYE MAKE-UP REMOVER AND SHADOW, EYEBROW PENCILS, BATH GEL, HAIR CARE PREPARATIONS (NON-MEDICATED), LIP GLOSS, LIPSTICK, EYE MAKE-UP, MOUTHWASH, NAIL CARE PREPARATIONS, PAINT AND VARNISH STRIPPING OR REMOVING PREPARATIONS, PERFUMES, POLISHES FOR NAILS, FURNITURE AND FLOORS, RUST REMOVING PREPARATIONS, SHAVING CREAM, SHOE POLISH, SKIN CLEANSING CREAM, SKIN SOAP, SPOT REMOVERS, SUNTAN LOTIONS, TALCUM POWDER, TOOTHPASTE, AND AUTOMOBILE AND FLOOR WAX (ABANDONED) IC 016. US 002 005 011 022 023 029 037 038 050. G & S: ADDRESS AND ACCOUNT BOOKS, ADDRESSING MACHINES, ADHESIVES FOR STATIONERY AND HOUSEHOLD PURPOSES, PHOTOGRAPH ALBUMS, AQUARIUMS, PAPER BAGS, PAPER BANNERS, PAPER BATHMATS, BATHROOM TISSUE, BIBLES, PAPER BLOTTERS, ADDRESS AND APPOINTMENT BOOKS, BOOK COVERS, BOOKEEPING BOOKS AND FORMS, CARDBOARD AND PAPER BOXES, ARTISTS BRUSHES, BUSINESS CARDS, PAPER CAKE DECORATIONS, DESK AND WALL CALENDARS, INDEX CARDS, CHALK, CHRISTMAS CARDS, COIN ALBUMS, COLORING BOOKS, COMPUTER PROGRAM MANUALS, COMPUTER RIBBONS, PAPER CONTAINERS, BOOK COVERS, CRAYONS, DESK SETS, PAPER DIAPERS,

DISPENSERS FOR OFFICE USE, EASELS, NON-ELECTRIC ERASERS, FACIAL TISSUE, PAPER FLAGS, PRINTED BUSINESS FORMS, PAPER IDENTIFICATION TAGS, DUPLICATING INK, ADDRESS LABELS, LEAD PENCILS, LETTER OPENERS, MAPS, PAPER NAPKINS, NOTEBOOKS, DESK PADS, PAINTBRUSHES AND APPLICATOR ROLLERS, BOND PAPER, GIFT WRAPPING PAPER, NEWSPRINT PAPER, TYPEWRITER PAPER, BALL-POINT PENS, PENCILS, PAPER PLACEMATS, PLAYING CARDS, COMPUTER RIBBONS, SEALING WAX, SHEET MUSIC, RUBBER STAMPS, STANDS FOR PENCILS AND PENS, TABLE LINENS OF PAPER, TYPEWRITERS, AND WRAPPING PAPER

(ABANDONED) IC 024. US 042. G & S: BEDSPREADS, PILLOW CASES, DISHCLOTHS, COMFORTERS, CURTAINS, UPHOLSTERY FABRICS, CLOTH FLAGS, HANDKERCHIEFS, BATH LINENS, MATTRESS COVERS, TEXTILE NAPKINS, NYLON FABRICS, PILLOW CASES AND SHAMS, NON-PAPER PLACEMATS, BED SHEETS, TABLECLOTHS, TAPESTRIES OF TEXTILE, KITCHEN TOWELS AND WASHCLOTHS

Mark Drawing Code	(1) TYPED DRAWING
Serial Number	73651673
Filing Date	March 27, 1987
Published for Opposition	February 23, 1988
Owner	(APPLICANT) **EMPRESA CUBANA DEL TABACO** TA CUBATABACO CORPORATION CUBA O'REILLY 104 STREET HAVANA CITY CUBA
Attorney of Record	ELIZABETH ST. CLAIR
Section 44 Indicator	SECT44
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment Date	April 23, 1992

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 73651673

Registration Number: (NOT AVAILABLE)

Mark (words only): MONTECRISTO

Current Status: Abandoned: Applicant's express request.

Date of Status: 1988-08-11

Filing Date: 1987-03-27

Registration Date: (DATE NOT AVAILABLE)

Law Office Assigned: TMEO Law Office 11

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

AFTER SHAVE LOTION, ANTIPERSPIRANT, LAUNDRY BLEACH, HAIR BLEACHING PREPARATIONS, ALL PURPOSE CLEANING PREPARATIONS, COLD CREAM, COLOGNE, EYE CREAM, DENTURE CLEANING PREPARATIONS AND PERSONAL DEODORANT, DEPILATORIES, LAUNDRY DETERGENTS, DRAIN OPENERS, EYE MAKE-UP REMOVER AND SHADOW, EYEBROW PENCILS, BATH GEL, HAIR CARE PREPARATIONS (NON-MEDICATED), LIP GLOSS, LIPSTICK, EYE MAKE-UP, MOUTHWASH, NAIL CARE PREPARATIONS, PAINT AND VARNISH STRIPPING OR REMOVING PREPARATIONS, PERFUMES, POLISHES FOR NAILS, FURNITURE AND FLOORS, RUST REMOVING PREPARATIONS, SHAVING CREAM, SHOE POLISH, SKIN CLEANSING CREAM, SKIN SOAP, SPOT REMOVERS, SUNTAN LOTIONS, TALCUM POWDER, TOOTHPASTE, AND AUTOMOBILE AND FLOOR WAX

ADDRESS AND ACCOUNT BOOKS, ADDRESSING MACHINES, ADHESIVES FOR STATIONERY AND HOUSEHOLD PURPOSES, PHOTOGRAPH ALBUMS, AQUARIUMS, PAPER BAGS, PAPER BANNERS, PAPER BATHMATS, BATHROOM TISSUE, BIBLES, PAPER BLOTTERS, ADDRESS AND APPOINTMENT BOOKS, BOOK COVERS, BOOKEEPING BOOKS AND FORMS, CARDBOARD AND PAPER BOXES, ARTISTS BRUSHES, BUSINESS CARDS, PAPER CAKE DECORATIONS, DESK AND WALL CALENDARS, INDEX CARDS, CHALK, CHRISTMAS CARDS, COIN ALBUMS, COLORING BOOKS, COMPUTER PROGRAM MANUALS, COMPUTER RIBBONS, PAPER CONTAINERS, BOOK COVERS, CRAYONS, DESK SETS, PAPER DIAPERS, DISPENSERS FOR OFFICE USE, EASELS, NON-ELECTRIC ERASERS, FACIAL TISSUE, PAPER FLAGS, PRINTED BUSINESS FORMS, PAPER IDENTIFICATION TAGS, DUPLICATING INK, ADDRESS LABELS, LEAD PENCILS, LETTER OPENERS, MAPS, PAPER NAPKINS, NOTEBOOKS, DESK PADS, PAINTBRUSHES AND APPLICATOR ROLLERS, BOND PAPER, GIFT WRAPPING PAPER, NEWSPRINT PAPER, TYPEWRITER PAPER, BALL-POINT PENS, PENCILS, PAPER PLACEMATS, PLAYING CARDS, COMPUTER RIBBONS, SEALING WAX, SHEET MUSIC, RUBBER STAMPS, STANDS FOR PENCILS AND PENS, TABLE LINENS OF PAPER, TYPEWRITERS, AND WRAPPING PAPER

BEDSPREADS, PILLOW CASES, DISHCLOTHS, COMFORTERS, CURTAINS, UPHOLSTERY FABRICS, CLOTH FLAGS, HANDKERCHIEFS, BATH LINENS, MATTRESS COVERS, TEXTILE NAPKINS, NYLON FABRICS, PILLOW CASES AND SHAMS, NON-PAPER PLACEMATS, BED SHEETS, TABLECLOTHS, TAPESTRIES OF TEXTILE, KITCHEN TOWELS AND WASHCLOTHS

PROSECUTION HISTORY

1992-07-29 - OPPOSITION TERMINATED NO. 999999

1992-05-20 - OPPOSITION DISMISSED NO. 999999

1988-08-11 - OPPOSITION INSTITUTED NO. 999999

1988-02-23 - PUBLISHED FOR OPPOSITION

1988-01-22 - NOTICE OF PUBLICATION

1987-12-02 - APPROVED FOR PUB - PRINCIPAL REGISTER

Latest Status Info

1987-11-13 - COMMUNICATION RECEIVED FROM APPLICANT

1987-07-16 - NON-FINAL ACTION MAILED

1987-06-15 - ASSIGNED TO EXAMINER

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Word Mark	QUALITY GUARANTEED CUBATABACO HAVANA
Goods and Services	(CANCELLED) IC 034. US 008 009 017. G & S: RAW TOBACCO, CUT TOBACCO, SMOKING TOBACCO, CHEWING TOBACCO, SNUFFING TOBACCO, CIGARS, CIGARETTES, RAPPEE SNUFF, MATCHES, TOBACCO PIPES, PIPE HOLDERS, ASHTRAYS, MATCHBOOKS, CIGAR CASES AND HUMIDORS
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	050301 240501
Serial Number	73649521
Filing Date	March 16, 1987
Published for Opposition	January 5, 1988
Registration Number	1482648
Registration Date	March 29, 1988
Owner	(REGISTRANT) **EMPRESA CUBANA DEL TABACO** TA CUBATABACO CORPORATION CUBA O'REILLY 104 HAVANA CITY CUBA
Attorney of	HOWARD N. ARONSON

Record	
Section 44 Indicator	SECT44
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "QUALITY GUARANTEED", "CUBATABACO" AND "HAVANA" APART FROM THE MARK AS SHOWN
Description of Mark	THE DESIGN PORTION OF THE MARK CONTAINS A STYLIZED REPRESENTION OF A LEAF.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Cancellation Date	October 3, 1994

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 73649521

Registration Number: 1482648

Mark

(words only): QUALITY GUARANTEED CUBATABACO HAVANA

Current Status: Registration canceled under Section 8.

Date of Status: 1994-10-03

Filing Date: 1987-03-16

Registration Date: 1988-03-29

Law Office Assigned: TMEO Law Office # 2

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

RAW TOBACCO, CUT TOBACCO, SMOKING TOBACCO, CHEWING TOBACCO, SNUFFING TOBACCO, CIGARS, CIGARETTES, RAPPEE SNUFF, MATCHES, TOBACCO PIPES, PIPE HOLDERS, ASHTRAYS, MATCHBOOKS, CIGAR CASES AND HUMIDORS

PROSECUTION HISTORY

1994-10-03 - CANCELLED SEC. 8 (6-YR)

1988-03-29 - REGISTERED-PRINCIPAL REGISTER

1988-01-05 - PUBLISHED FOR OPPOSITION

1987-12-04 - NOTICE OF PUBLICATION

1987-11-02 - APPROVED FOR PUB - PRINCIPAL REGISTER

1987-11-02 - ALLOWANCE/COUNT WITHDRAWN

1987-10-22 - EXAMINERS AMENDMENT MAILED

1987-10-08 - ASSIGNED TO EXAMINER

1987-10-08 - ASSIGNED TO EXAMINER

1987-05-27 - NON-FINAL ACTION MAILED

1987-05-08 - ASSIGNED TO EXAMINER

CONTACT INFORMATION

Attorney of Record: HOWARD N. ARONSON

Address:
HOWARD N. ARONSON
LACKENBACH SIEGEL MARZULLO & ARONSON
PENTHOUSE SUITE
ONE CHASE ROAD
SCARSDALE, NEW YORK 10503
US

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Start **List At:** OR Jump **to record:** **Record 18 out of 19**

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Typed Drawing

Word Mark	MARIA GUERRERO
Goods and Services	(CANCELLED) IC 034. US 017. G & S: LEAF TOBACCO SOLD TO THE TRADE, SMOKING TOBACCO, CHEWING TOBACCO AND SNUFF
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	73537928
Filing Date	May 16, 1985
Published for Opposition	June 17, 1986
Registration Number	1408861
Registration Date	September 9, 1986
Owner	(REGISTRANT) **EMPRESA CUBANA DEL TABACO** DBA CUBATABACO CORPORATION CUBA O'REILLY 104 HAVANA CITY CUBA
Attorney of Record	JAMES E. SIEGEL
Section 44 Indicator	SECT44
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Cancellation Date	March 15, 1993

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 73537928

Registration Number: 1408861

Mark (words only): MARIA GUERRERO

Current Status: Registration canceled under Section 8.

Date of Status: 1993-03-15

Filing Date: 1985-05-16

Registration Date: 1986-09-09

Law Office Assigned: TMEO Law Office # 5

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

LEAF TOBACCO SOLD TO THE TRADE. SMOKING TOBACCO. CHEWING TOBACCO AND SNUFF

PROSECUTION HISTORY

1993-03-15 - CANCELLED SEC. 8 (6-YR)

1986-09-09 - REGISTERED-PRINCIPAL REGISTER

1986-06-17 - PUBLISHED FOR OPPOSITION

1986-05-18 - NOTICE OF PUBLICATION

1986-03-20 - APPROVED FOR PUB - PRINCIPAL REGISTER

1986-03-19 - EXAMINERS AMENDMENT MAILED

1986-01-27 - COMMUNICATION RECEIVED FROM APPLICANT

1985-07-25 - NON-FINAL ACTION MAILED

U.S. Trademark Electronic Search System (TESS)

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Start List At: OR Jump to record: **Record 19 out of 19**

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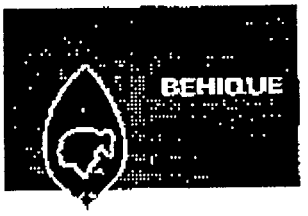


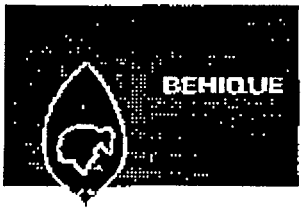
Word Mark	BEHIQUE
Goods and Services	(CANCELLED) IC 034. US 017. G & S: SMOKING TOBACCO, CHEWING TOBACCO, SNUFF AND CIGARETTES
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	020301 020302 020317 050301 261121
Serial Number	73523552
Filing Date	February 22, 1985
Published for Opposition	March 10, 1987
Registration Number	1441404
Registration Date	June 2, 1987
Owner	(REGISTRANT) **EMPRESA CUBANA DEL TABACO** TA CUBATABACO CORPORATION CUBA O'REILLY 104 HAVANA CITY CUBA
Attorney of Record	JAMES E. SIEGEL
Section 44 Indicator	SECT44
Priority Date	November 22, 1984
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Cancellation Date	December 6, 1993

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 73523552

Registration Number: 1441404

Mark



(words only): BEHIQUE

Current Status: Registration canceled under Section 8.

Date of Status: 1993-12-06

Filing Date: 1985-02-22

Registration Date: 1987-06-02

Law Office Assigned: TMEO Law Office # 5

CURRENT APPLICANT(S)/OWNER(S)

1. EMPRESA CUBANA DEL TABACO

GOODS AND/OR SERVICES

SMOKING TOBACCO, CHEWING TOBACCO, SNUFF AND CIGARETTES

PROSECUTION HISTORY

1993-12-06 - CANCELLED SEC. 8 (6-YR)

1987-06-02 - REGISTERED-PRINCIPAL REGISTER

1987-03-10 - PUBLISHED FOR OPPOSITION

1987-02-09 - NOTICE OF PUBLICATION

1986-12-22 - APPROVED FOR PUB - PRINCIPAL REGISTER

1986-12-03 - LETTER OF SUSPENSION MAILED

1986-11-03 - COMMUNICATION RECEIVED FROM APPLICANT

1986-06-06 - NON-FINAL ACTION MAILED

1986-03-20 - INQUIRY AS TO SUSPENSION MAILED

1985-11-19 - LETTER OF SUSPENSION MAILED

1985-11-01 - COMMUNICATION RECEIVED FROM APPLICANT

1985-04-30 - NON-FINAL ACTION MAILED

CONTACT INFORMATION

Attorney of Record: JAMES E. SIEGEL

Address:
JAMES E. SIEGEL
LACKENBACH SIEGEL MARZULLO PRESTA, ET AL
PENTHOUSE SUITE
ONE CHASE ROAD
SCARSDALE, NEW YORK 10583
US

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 255

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #34
07-24-1998

Right Corner**
ONLY **

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Response to Office Action

Mark: COHIBA

Serial No.: 75/226002

Applicant: Empresa Cubana del Tabaco

Int'l Class: 34

Examining Attorney: Andrew Lawrence

Law Office: 108

Applicant responds as follows to the points raised in the Examining Attorney's non-final Office Action mailed on January 26, 1998:

Certified Copy of Cuban Registration

Applicant has submitted a valid certificate of foreign registration in satisfaction of Trademark Rule 2.33(a) (1) (viii), 37 C.F.R. § 2.33(a) (1) (viii).

Trademark Rule 2.33(a) (1) (viii) provides that a § 44 applicant must submit "a certificate of the trademark office of the applicant's country of origin showing that the mark has been registered in such country and also showing the mark, the goods or services for which the mark is registered, the date of filing of the application on the basis of which registration was granted and that said registration is in full force and effect . . . ." According to TMEP § 1004.02, "a country may issue another type of document [other than a certified copy of a foreign registration] as evidence of the registration of a mark. When an applicant wishes to submit another document in place of a certified copy of a foreign registration, that document must include an equivalent certification from the foreign government agency which issued the foreign registration to establish that the mark is registered."

Applicant has submitted a certificate issued by the Director of the National Office of Inventions, Technical Information and Trademarks of the Republic of Cuba which shows that the mark applied for has been registered and renewed in Cuba. Said certificate shows the mark and indicates the goods for which the mark is registered. Hence, it is an equivalent certification that can be submitted in place of a certified copy of a foreign registration.

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 255

Translation

Applicant reiterates that there is no English translation of the word "cohiba" because the word "cohiba" is not in modern usage. As applicant indicated in its Response to the August 14, 1997 Office Action, and as was affirmed by the Chief of the Translations Branch, "Cohiba" was the word used by the first inhabitants of Cuba for "tobacco." But, as the Chief of the Translations Branch notes, "use of the word 'cohiba' as meaning 'tobacco' is not at all common in the Spanish-speaking world and, for this reason, it is not even listed in most Spanish dictionaries." Since the English translation of foreign words from dead or obscure languages is not relevant for registration purposes, *In re Northern Paper Mills*, 64 F.2d 998 (C.C.P.A. 1933), applicants submits that an English translation is not required for "cohiba." However, if the Examining Attorney insists that applicant accept one of the translations offered by the Chief of the Translation Branch in order to obtain approval of its application, than applicant accepts the first translation, that of "tobacco," as the least inappropriate choice.

Dated: New York, New York
July 23, 1998

Respectfully submitted,

RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

By: _____
Michael Krinsky
Attorneys for Applicant,
Empresa Cubana del Tabaco
740 Broadway - Fifth Floor
New York, New York 10003
(212) 254-1111

Certificate of Express Mail and Service

I hereby certify that the attached "Response to Office Action" for the mark COHIBA, Serial No. 75/226002, is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on: July 24, 1998, addressed to:

Express Mail label number: EH377411765US

Box TTAB NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Marie A. Papp 7/24/98

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 257

LO/108

... on Upper Right Corner**
... Response to Office Action ONLY **

TRADEMARK MAILROOM
REC'D
DEC 04 1997
61
US PATENT & TRADEMARK OFFICE

2A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Response to Office Action

T.M.E.O.
LAW OFFICE 108
1997 DEC -9 P 3:18
RECEIVED

Mark:	COHIBA	Examining Attorney:	Andrew Lawrence
Serial No.:	75/226002	Law Office:	108
Applicant:	Empresa Cubana del Tabaco		
Int'l Class:	34		

Applicant responds as follows to the points raised in the examining attorney's non-final Office Action mailed on August 14, 1997:

I. Refusal Based on Expired Foreign Registration

The foreign registration on which this application is based was renewed on July 1, 1996. The foreign registration has therefore not expired and will be in force at the time of issuance of the United States registration. The certified copy of the certificate of registration indicates that the foreign registration was renewed. Apparently, the certificate was incorrectly translated so that the renewal was not clear. Applicant hereby submits a substitute translation of the certificate of registration.

Refusal Based on Likelihood of Confusion

Registration of the mark COHIBA has also been initially refused under § 2(d) of the Trademark Act on the ground that applicant's mark, when used in connection with the identified goods, is likely to be confused with Registration Nos. 1,147,309 and 1,898,273. Applicant is seeking to cancel the aforesaid registrations in a civil action filed in federal district court in New York on November 12, 1997 captioned, *Empresa Cubana del Tabaco d.b.a. Cubatabaco v. General Cigar Co., Inc. and Culbro Corp.*, 97 Civ. 8399 (RWS). Applicant had previously initiated a cancellation proceeding in the Trademark and Trial Appeal Board, Cancellation No. 25,859, but that proceeding was suspended pending the outcome of aforesaid civil action. Accordingly, applicant respectfully requests that its application Serial No. 75/226,002 be suspended immediately until after a decision has been rendered in the pertinent cancellation proceeding relating to Registration Nos. 1,147,309 and 1,898,273.

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 257

Applicant further submits that the instant request for a suspension be without prejudice and that upon the resolution of the aforesaid cancellation proceeding and the reinstatement of this application, applicant be permitted to submit arguments and evidence in response to any and all bases that have been or are to be raised by the examining attorney as precluding registration of the instant application, Serial No. 75/226,002.

II. **Informalities**

Translation

There is no English translation of the word "cohiba" because the word "cohiba" is not in modern usage. "Cohiba" was the word used by the aboriginal Taino Indians of Cuba for "tobacco" or "cigar." This Indian tribe is, however, long extinct and its language is dead. The English translation of foreign words from dead or obscure languages is not relevant for registration purposes. *In re Northern Paper Mills*, 64 F.2d 998 (C.C.P.A. 1933).

There is no evidence that "cohiba" is a conjugative form of the Spanish word "cohibir," which means "to restrain or cohibit," as is asserted in the applications for Registration Nos. 1,147,309 and 1,898,273.

Stale Declaration

Applicant hereby submits a substitute declaration under 37 C.F.R. § 2.20 verifying its statement of a bona fide intent to use the mark in commerce.

Amended Identification of Goods

Applicant adopts the following amendment of the identification of goods: raw tobacco; cigars; chewing tobacco; cigarettes; cut tobacco; matches; tobacco pipes not of precious metals; tobacco pipe holders not of precious metals; ashtrays not of precious metals; match boxes not of precious metals; cigar cases not of precious metals; and humidors not of precious metals in International Class 34.

Drawing

Applicant requests that the non-stylized drawing be accepted as the mark for registration and that the stylized version be ignored.

Claim of Priority

Applicant hereby amends its application to delete all reference to its assertion of priority under § 44(d) of the Trademark Act.

Inconsistent Translation

The foreign registration certificate was incorrectly translated. The foreign registration certificate in fact indicates that the Cuban registration issued on July 1, 1980 and was renewed on July 1, 1996. Applicant hereby submits a substitute translation. Thus, with the new translation, there is no contradiction.

Cuban Filing Date

The foreign registration on which this application is based was filed on July 1, 1980. In Cuba, the filing date is also the registration date because once a registration matures, the date of issuance becomes retroactive to the date of application. Therefore, the foreign registration on which this application is based was filed on July 1, 1980, registration issued on July 1, 1980, and a renewal was made on July 1, 1996.

Dated: New York, New York
December 3, 1997

Respectfully submitted,

RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

By: _____
Michael Krinsky
Attorneys for Applicant,
Empresa Cubana del Tabaco
740 Broadway - Fifth Floor
New York, New York 10003
(212) 254-1111

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Application for Trademark Registration

Mark: COHIBA

Int'l Class: 34

To: The Assistant Secretary and
Commissioner of Patents and Trademarks
Washington, D.C. 20231

The Applicant, EMPRESA CUBANA DEL TABACO ("CUBATABACO"), with its business address at Calle O'Reilly No. 104, Ciudad Habana, Cuba, is a corporation, incorporated under the laws of the Republic of Cuba.

Applicant requests registration of the above-identified trademark shown in the accompanying drawing in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. §§ 1501 et seq., as amended) for the following goods:

> Raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors in International Class 34.

Applicant has a bona fide intention to use the mark in commerce between the United States and a foreign country on or in connection with the above identified goods, and asserts a claim of priority based upon the foreign registration identified below in accordance with 15 U.S.C. § 1126(e), as amended:

Country of foreign filing:	Cuba
Registration Number:	111 059

Applicant intends to use the mark by applying to labels attached to the goods, in packaging of the goods and in advertisements.

The undersigned hereby appoints as its attorney Eric M. Lieberman, Esq., and Michael Krinsky, Esq., Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway, Fifth Floor, New York, New York, 10003-9518, jointly and severally, with full powers of substitution, association and revocation, including the appointment of associate counsel, to prosecute this application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the Certificate of Registration.

Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway, Fifth Floor, New York, New York, 10003-9518, is hereby designated applicant's representative upon whom notice of process in proceedings affecting the mark may be served.

DECLARATION

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he is properly authorized to execute this application on behalf of the applicant; he believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. 1051(b), he believes applicant to be entitled to use such mark in commerce; to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use the above identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

EMPRESA CUBANA DEL TABACO

By:_____(Signature)
Juan Diaz Tenorio
Director

Date: November 11, 1997

AMERICA N. SANTOS RIVERAS, Esq., Director of the National Office of Inventions, Technical Information and Trademarks,

CERTIFIES

That dated the first of July in the year one thousand nine hundred ninety-six, and for the period of 10 years, there was issued on behalf of : **EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO** situated at : O'Reilly No. 104, between Tacón and Mercaderes, Old Havana, Republic of Cuba, the renovation of the **Certificate No. 111059**, recorded as No. 628 of the year 1995 in the Principal Registry, which reserves the trademark:**COHIBA** for use in distinguishing: raw tobacco, smoking tobacco, chewing tobacco, snuff, cigarettes, cigars, cut and pipe tobacco, smoking paraphernalia, and matches included in class 34 of the International Classification of Goods and Services. Said registration is in full force and effect, and the design affixed below is exactly equal to that which is on file.

[DESIGN]

That at the request of **Ada Acosta Martinez**, this certification is issued upon payment of the corresponding fees in Havana City, Republic of Cuba, the fourth day of July of the year one thousand nine hundred ninety-six.

[BUREAU SEAL]

America N. Santos Riveras, Esq.
Director

I, Jessica A. Heyman, certify that the foregoing translation, which I personally rendered from Spanish to English, is, to the best of my knowledge, a true, full, and accurate translation from the original document.

Dated: December 4, 1997

Jessica Heyman

Certificate of Express Mail and Service

I hereby certify that the attached "Response to Office Action" for the mark COHIBA, Serial No. 75/226002, is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on: December 4, 1997, addressed to:

Express Mail label number: EH377412261US

Box TTAB NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Marie A. Papp 12/4/97

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

SERIAL NO.	APPLICANT	PAPER NO.
75/226002	EMPRESA CUBANA DEL TABACO	
MARK		ADDRESS: Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513
JARIBA	ACTION NO. 01	If no fees are enclosed, the address should include the words "Box Responses - No Fee."
ADDRESS MICHAEL KRINSKY WARNOWITZ BOUDIN STANDARD KRINSKY ET AL 1 BROADWAY FIFTH FL NEW YORK NY 10003-9518	MAILING DATE 08/14/97	Please provide in all correspondence: 1. Filing Date, serial number, mark and Applicant's name. 2. Mailing date of this Office action. 3. Examining Attorney's name and Law Office number. 4. Your telephone number and ZIP code.
	REF. NO.	
FORM PTO-1525 (5-90)	U.S. DEPT. OF COMM. PAT. & TM OFFICE	

A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID ABANDONMENT. *For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.*

RE: Serial Number: 75/226002

The assigned trademark attorney has reviewed the referenced application and determined the following.

REGISTRATION REFUSED -- CUBAN REGISTRATION HAS EXPIRED

The foreign registration on which this application is based expired on July 1, 1990 or earlier. The applicant must submit evidence that the foreign registration will be in force at the time of issuance of the United States registration. The evidence may consist of an official certification or a certified copy of the certificate of registration showing that the foreign registration has been renewed. TMEP section 1004.03.

Although registration has been refused, the applicant may respond to the refusal by submitting evidence and arguments in support of registration.

The applicant should also note the following additional ground for refusal.

REGISTRATION REFUSED -- LIKELIHOOD OF CONFUSION

The trademark attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the applicant's mark, when used on or in connection with the identified goods, so resembles the marks in U.S. Registration Nos. 1147309 and 1898273 as to be likely to

cause confusion, or to cause mistake, or to deceive. TMEP section 1207. See the enclosed registrations.

The trademark attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the trademark attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Second, the trademark attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG,* 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978).

Applying the above analysis to this application, the trademark attorney must first conclude that the marks are similar. In fact they are identical. As to the second part of the test, to the extent that the applicant's goods include cigars, the goods are identical as well. Thus since the marks are similar and the goods are related, there is a likelihood of confusion and registration must be refused.

Although registration has been refused, the applicant may respond to the refusal by submitting evidence and arguments in support of registration.

INFORMALITIES

If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following informal issues.

I. *Translation.*

The applicant must submit an English translation of the mark. 37 C.F.R. Section 2.61(b); TMEP section 809.

II. *Stale Declaration.*

The applicant did not file this application within a reasonable time after the application was signed. The Office considers six months between execution and filing as reasonable for all applicants and all papers. The applicant's declaration was signed on July 3, 1996. For this reason, the applicant must submit a substitute verification or declaration under 37 C.F.R. Section 2.20 verifying its statement of a bona fide intent to use the mark in commerce. TMEP section 803.04.

III. *Identification of Goods -- Too Broad.*

The identification of goods is unacceptable because it exceeds the scope of the goods identified in the foreign certificate of registration. Therefore, the applicant must limit the identification by deleting the following: "manufactured tobacco of all kinds" and "tobacco." The Cuban registration covers "raw tobacco, smoking tobacco chewing tobacco, snuff, cigarettes, cigars, cut and pipe tobacco" the wording "manufactured tobacco of all kinds" implies that there

may be other types of tobacco not in the Cuban application which the applicant intends to be covered by this U.S. application. It is recommended that the applicant merely adopt the relevant English translation of the Cuban registration. *In re Lowenbrau Munchen*, 175 USPQ 178 (TTAB 1972); 37 C.F.R. Section 2.33(a)(1)(v); TMEP section 1009.04.

IIII. *Identification of Goods.*

The wording "pipes" in the identification of goods is too broad because it could include items classified in other classes. The applicant may amend the identification to substitute the following wording, if accurate: smoking pipes. TMEP sections 804 and 804.03.

The wording "pipe holders" in the identification of goods is unacceptable as indefinite. The applicant may amend this wording to "smoking pipe holders," if accurate. TMEP section 804.

The wording "ashtrays" in the identification of goods is too broad because it could include items classified in other classes. The applicant may amend the identification to substitute the following wording, if accurate: ashtrays not of precious metal. TMEP sections 804 and 804.03.

The wording "match boxes" in the identification of goods is too broad because it could include items classified in other classes. The applicant may amend the identification to substitute the following wording, if accurate: match boxes not of precious metal. TMEP sections 804 and 804.03.

The wording "cigar cases" in the identification of goods is too broad because it could include items classified in other classes. The applicant may amend the identification to substitute the following wording, if accurate: cigar cases not of precious metal. TMEP sections 804 and 804.03.

In the identification, the applicant must use the common commercial names for the goods, be as complete and specific as possible and avoid the use of indefinite words and phrases. If the applicant chooses to use indefinite terms, such as "accessories," "components," "devices," "equipment," "materials," "parts," "systems" and "products," then those words must be followed by the word "namely" and the goods listed by their common commercial names. TMEP sections 804 and 804.08(c).

Please note that, while an application may be amended to clarify or limit the identification, additions to the identification are not permitted. 37 C.F.R. Section 2.71(b); TMEP section 804.09. Therefore, the applicant may not amend to include any goods that are not within the scope of goods set forth in the present identification.

V. *Drawing.*

The applicant has submitted two drawings. Either is acceptable, but the applicant should specify which one it prefers. If the applicant does nothing, the stylized one, currently of record, will remain in the database. A copy of each is attached.

VI. *Claim of Priority Denied.*

The applicant may not claim priority under Trademark Act Section 44(d), 15 U.S.C. Section 1126(d), because the applicant filed the United States application more than six months after the foreign application. The actual application date in Cuba is not provided, but since it registered on July 1, 1980 (according to the application signed by the declarant) and the U.S. application was not filed until January 15, 1997 The applicant must delete all reference to it assertion of priority from the application. Since the applicant asserted Trademark Act Section 44(e) as a basis for filing, the application is not void, and the actual date on which the United States application was filed will be considered the filing date.

VII. *Inconsistency Between U.S. Application and Translation of Cuban Registration.*

The U.S. application states that it is based on a Cuban registration that issued on July 1, 1980. However, the translation of the Cuban registration states that the registration issued on July 1, 1996. The applicant must explain this contradiction. If the translation is wrong, a new translation must be provided. If the application is wrong, it must be amended.

VIII. *Application Filing Date in Cuba Needed.*

Cuban registrations expire ten years after the date of application. TMEP Appendix B. Thus the applicant must provide the date the Cuban application was filed so that the date of expiration can be clearly determined.

EARLIER FILED APPLICATIONS

The trademark attorney encloses information regarding pending Application Serial Nos. 75/051706 and 75/125107. The filing dates of the referenced applications precede the applicant's filing date. There may be a likelihood of confusion between the applicant's mark and the referenced marks under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). If one or more of the referenced applications matures into a registration, the trademark attorney may refuse registration in this case under Section 2(d). 37 C.F.R. Section 2.83; TMEP section 1208.01.

Andrew D. Lawrence

Andrew D. Lawrence
Trademark Attorney
U.S. Pat. & Trademark Office
Law Office 108
Voice: 703-308-9108 ext. 161
Fax: 703-308-7195

*** User: EX589506 *** Serial Number: 73161879 ***

Word Mark
COHIBA

Goods/Services
IC 034; US 017; G & S: CIGARS; FIRST USE: 1978.02.13; FIRST USE IN COMMERC 1978.02.13

Mark Drawing Code
(1) TYPED DRAWING

Serial Number
73-161879

Filing Date
1978.03.13

Registration Number
1147309

Registration Date
1981.02.17

Owner Name/Address
(REGISTRANT) CULBRO CORPORATION CORPORATION NEW YORK 387 PARK AVE., S. NEW YORK NEW YORK 10016

Type of Mark
TRADEMARK

Register
PRINCIPAL

Affidavit
SECT 8.; SECT 15.; COMBINED SECT 8 AND SECT 15.

*** Search: 6 *** Document Number: 12 ***

COHIBA

ord Mark
COHIBA

ranslation
Upon information and belief, "COHIBA" is a conjugative form of the Spanish word "cohibir", which means "to restrain" or "cohibit".

oods/Services
IC 034; US 017; G & S: cigars; FIRST USE DATE: 1992.12.00; FIRST USE IN COMMERCE: 1992.12.00; USED IN ANOTHER FORM: First used in commerce in another form in February 1978

ark Drawing Code
(4) WORDS, LETTERS, AND/OR NUMBERS IN BLOCK FORM

erial Number
74-344349

iling Date
1992.12.30

egistration Number
1898273

egistration Date
1995.06.06

wner Name/Address
(REGISTRANT) General Cigar Co., Inc. CORPORATION DELAWARE 320 West Newberr Road Bloomfield CONNECTICUT 06002

ype of Mark
TRADEMARK

egister
PRINCIPAL

** User: EX589506 *** Serial Number: 75051706 ***

Word Mark
COHIBA

Translation
"COHIBA" is a conjugative form of the Spanish word "COHIBIR" which means " restrain or cohibit".

Goods/Services
IC 003; US 001 004 006 050 051 052; G & S: men's fragrances, namely, cologne, and aftershave lotions

Goods/Services
IC 009; US 021 023 026 036 038; G & S: eyeglasses and sunglasses

Goods/Services
IC 014; US 002 027 028 050; G & S: jewelry and watches

Goods/Services
IC 016; US 002 005 022 023 029 037 038 050; G & S: writing instruments

Goods/Services
IC 018; US 001 002 003 022 041; G & S: leather goods, namely, valises, briefcases, toiletry cases sold empty, hand bags, wallets, billfolds, business and credit card cases and holders, key cases, and attache cases; luggage; umbrellas; bags, namely, all purpose carrying bags, beach bags, g bags, book bags, duffel bags and all purpose athletic bags

Goods/Services
IC 025; US 022 039; G & S: clothing, namely, men's knitwear, active wear, golf apparel, namely, shirts, pants, jackets, shorts, hats and caps; ties; suspenders, scarves; boxer shorts; shirts; sweatshirts; jackets; T-shirts; polo shirts; hats; and caps

Goods/Services
IC 033; US 047 049; G & S: alcoholic beverages, namely, liquors and distil spirits, brandy, rum and whiskey

Goods/Services
IC 034; US 002 008 009 017; G & S: smokers' accessories, namely, humidors, ash trays not of precious metal, cigar cutters, cigar/cigarette lighters n for land vehicles, and matches

Mark Drawing Code
(1) TYPED DRAWING

Serial Number
75-051706

Filing Date
1996.02.01

Owner Name/Address
(APPLICANT) General Cigar Co., Inc. CORPORATION DELAWARE 320 West Newberry Road Bloomfield CONNECTICUT 06002

Prior US Registration
1147309; 1898273

(cont)

*** Search: 6 *** Document Number: 7 ***

*** User: EX589506 *** Serial Number: 75051706 ***

Type of Mark
TRADEMARK

Register
PRINCIPAL

*** Search: 6 *** Document Number: 7 ***

*** User: EX589506 *** Serial Number: 75152107 ***

Word Mark
COHOBA

Goods/Services
IC 034; US 002 008 009 017; G & S: tobacco products, namely, cigars

Mark Drawing Code
(1) TYPED DRAWING

Serial Number
75-152107

Filing Date
1996.08.19

Owner Name/Address
(APPLICANT) PUROS DE VILLA GONZALEZ S.A. CORPORATION DOMINICAN REP Av. Jos Mi Pena Hijo #56 Villa Gonzalez Santiago DOMINICAN REP

Type of Mark
TRADEMARK

Register
PRINCIPAL

* Search: 6 *** Document Number: 5 ***

75226002

TRADEMARK MAILROOM
REC'D
JAN 15 19..
US PATENT & TRADEMARK OFFICE
37

APPLICANT'S NAME: EMPRESA CUBANA DEL TABACO d.b.a. CUBATABACO

APPLICANT'S ADDRESS: CALLE O'REILLY NO.104, HAVANA, CUBA

~~XXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXX~~:

INTENT: Intent to Use; Reliance on Cuban Reg. No. 111,059 Dated July 1, 1980

GOODS: RAW TOBACCO, CIGARS, CIGARETTES, CUT TOBACCO, RAPPEE, MANUFACTURED TOBACCO OF ALL KINDS, MATCHES, TOBACCO, PIPES, PIPE-HOLDERS, ASHTRAYS, MATCH BOXES, CIGAR CASES AND HUMIDORS IN INTERNATIONAL CLASS 34

INIT CL 34
PRIOR US CL 28,9,17

COHIBA

TRADEMARK
75226002

APPLICANT: Empresa Cubana Del Tabaco

P.O. ADDRESS: Calle O'Reilly, No. 104
Ciudad Habana
Cuba

INTERNATIONAL CLASS 34

GOODS: RAW TOBACCO, CIGARS, CIGARETTES, CUT TOBACCO, RAPPE, MANUFACTURED TOBACCO OF ALL KINDS, MATCHES, TOBACCO, PIPES, PIPE-HOLDERS, ASHTRAYS, MATCH BOXES, CIGAR CASES AND HUMIDORS

DATE OF FOREIGN REGISTRATION: JULY 1, 1980

COHIBA

75226002

TRADEMARK MAILROOM
REC'D
JAN 15 1997
US PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Application for Trademark Registration

Mark: COHIBA

Int'l Class: 34

To: The Assistant Secretary and
Commissioner of Patents and Trademarks
Washington, D.C. 20231

The Applicant, EMPRESA CUBANA DEL TABACO ("CUBATABACO"), with its business address at Calle O'Reilly No. 104, Ciudad Habana, Cuba, is a corporation incorporated under the laws of the Republic of Cuba.

Applicant requests registration of the above-identified trademark shown in the accompanying drawing in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. §§ 1501 et seq., as amended) for the following goods:

> Raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors in International Class 34.

Applicant has a bona fide intention to use the mark in commerce between the United States and a foreign country on or in connection with the above identified goods, and asserts a claim of priority based upon the foreign registration identified below in accordance with 15 U.S.C. § 1126(e), as amended:

Country of foreign filing:	Cuba
Registration Number:	111 059
Registration Issue Date:	July 1, 1980

Applicant intends to use the mark by applying to labels attached to the goods, in packaging of the goods and in advertisements.

The undersigned hereby appoints as its attorney Eric M. Lieberman, Esq., and Michael Krinsky, Esq., Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway, Fifth Floor, New York, New York, 10003-9518, jointly and severally, with full powers of substitution, association and revocation, including the appointment of associate counsel, to prosecute this application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the Certificate of Registration.

DR

Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway, Fifth Floor, New York, New York, 10003-9518, is hereby designated applicant's representative upon whom notice of process in proceedings affecting the mark may be served.

DECLARATION

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he is properly authorized to execute this application on behalf of the applicant; he believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. 1051(b), he believes applicant to be entitled to use such mark in commerce; to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use the above identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

EMPRESA CUBANA DEL TABACO

By: _____ (Signature)
Juan Diaz Tenorio
Director

Date: JULY 3, 1996

TRADEMARK MAILROOM
REC'D
JAN 15 1997
37
U.S. PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Application for Trademark Registration

Mark: COHIBA

Int'l Class: 34

To: The Assistant Secretary and
Commissioner of Patents and Trademarks
Washington, D.C. 20231

The Applicant, EMPRESA CUBANA DEL TABACO ("CUBATABACO"), with its business address at Calle O'Reilly No. 104, Ciudad Habana, Cuba, is a corporation, incorporated under the laws of the Republic of Cuba.

Applicant requests registration of the above-identified trademark shown in the accompanying drawing in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. §§ 1501 et seq., as amended) for the following goods:

> Raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors in International Class 34.

Applicant has a bona fide intention to use the mark in commerce between the United States and a foreign country on or in connection with the above identified goods, and asserts a claim of priority based upon the foreign registration identified below in accordance with 15 U.S.C. § 1126(e), as amended:

Country of foreign filing:	Cuba
Registration Number:	111 059
Registration Issue Date:	July 1, 1980

Applicant intends to use the mark by applying to labels attached to the goods, in packaging of the goods and in advertisements.

The undersigned hereby appoints as its attorney Eric M. Lieberman, Esq., and Michael Krinsky, Esq., Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway, Fifth Floor, New York, New York, 10003-9518, jointly and severally, with full powers of substitution, association and revocation, including the appointment of associate counsel, to prosecute this application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the Certificate of Registration.

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DECLARATION

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EMPRESA CUBANA DEL TABACO

By:_____(Signature)
Juan Diaz Tenorio
Director

Date: _____

LIC. AMERICA N. SANTOS RIVERAS, Directora de la Oficina Nacional de Invenciones, Información Técnica y Marcas.

CERTIFICO

[illegible] en fecha primero de julio de mil novecientos noventa y [illegible] y por el término de diez años, se expidió a favor de: EMPRESA CUBANA DEL TABACO, comercializando también como CUBATABACO domiciliada en: O'Reilly número ciento cuatro entre [illegible] y Mercaderes, La Habana Vieja, República de Cuba, la [illegible] del Certificado No. ciento once mil cincuenta y [illegible] anotado al número seiscientos veintiocho del año mil [illegible] noventa y cinco del Registro de Entrada, que [illegible] COHIBA para distinguir: Tabaco bruto, tabaco [illegible] para fumar, [illegible], estornudar, cigarrillos, [illegible] artículos para fumadores, cerillas, en la [illegible] y cuatro de la Clasificación Internacional de [illegible], encontrándose en todo vigor y efectos y [illegible] que se fija a continuación exactamente igual [illegible] en el expediente.

COHIBA

[illegible] de Ada Acosta Martínez se expide la presente [illegible] el pago de los derechos correspondientes en la Ciudad de La Habana, República de Cuba, a los cuatro días del mes de julio de mil novecientos noventa y seis.

Lic. América N. Santos Riveras
Directora

OFIC. NAC. DE INVENCIONES INF. TECNICA Y MARCAS
DIRECCION

AMERICA N. SANTOS RIVERAS, Esq., Director of the National Office of Inventions, Technical Information and Trademarks,

7-1-1996

CERTIFIES

That dated the first of July in the year one thousand nine hundred ninety-six and for the term of 10 years, there was issued on behalf of: **EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO** situated at O'Reilly No. 104, between Tacón and Mercaderes, Old Havana, Republic of Cuba, the inscription of **Certificate No. 111059**, recorded as number 628 of the year 1995 in the Principal Registry, which reserves the trademark: **COHIBA** for use in distinguishing: raw tobacco, smoking tobacco, chewing tobacco, snuff, cigarettes, cigars, cut and pipe tobacco, smoking paraphernalia, and matches included in class 34 of the International Classification of Goods and Services. Said registration is in full force and effect, and the design affixed below is exactly equal to that which is on file.

[DESIGN]

That at the request of **Ada Acosta Martínez** this certification is issued upon payment of the corresponding fees in Havana City, Republic of Cuba, the fourth day of July of the year one thousand nine hundred and ninety-six.

[BUREAU SEAL]

América N. Santos Riveras, Esq.
Director

I, JESSICA A. HEYMAN, certify that the foregoing translation, which I personally rendered from Spanish into English, is, to the best of my knowledge, a true, full, and accurate translation from the original document.

Dated: January 14, 1997

Jessica A. Heyman

Jessica A. Heyman

TRADEMARK MAILROOM
REC'D
JAN 15 1997
U.S. PATENT & TRADEMARK OFFICE

APPLICANT: Empresa Cubana Del Tabaco

P.O. ADDRESS: Calle O'Reilly, No. 104
Ciudad Habana
Cuba

INTERNATIONAL CLASS 34

GOODS: RAW TOBACCO, CIGARS, CIGARETTES, CUT TOBACCO, RAPPE, MANUFACTURED TOBACCO OF ALL KINDS, MATCHES, TOBACCO, PIPES, PIPE-HOLDERS, ASHTRAYS, MATCH BOXES, CIGAR CASES AND HUMIDORS

DATE OF FOREIGN REGISTRATION: JULY 1, 1980

COHIBA

75220 02

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CAROLINE RULE
MICHAEL LUDWIG
LAURENCE HELFER*

*ADMITTED IN PENNSYLVANIA AND NEW JERSEY ONLY

COUNSEL
VICTOR RABINOWITZ
MICHAEL B. STANDARD
LEONARD I. WEINGLASS
ELLEN J. WINNER
DEBRA EVENSON
TERRY GROSS

JAN 15 1997
PATENT & TRADEMARK OFFICE
97

January 15, 1997

VIA EXPRESS MAIL

Assistant Commissioner for Trademarks
2900 Crystal Drive
APPLICATIONS - 3d Floor
Arlington, VA 22202-3513

Re: Mark: COHIBA
International Class: 34
Applicant: EMPRESA CUBANA DEL TABACO d.b.a. CUBATABACO

Dear Sir/Madam:

Enclosed for filing on behalf of Empresa Cubana del Tabaco, d.b.a. Cubatabaco, is an application for registration of the above trademark based on the Applicant's bona fide intention to use the mark under 15 U.S.C. 1051(b), as amended. In addition, Applicant relies upon its Cuban Registration No. 111,059, dated July 1, 1980, pursuant to 15 U.S.C. 1126(e), as a basis for registration in the United States. Accordingly, a certified copy (and English translation) of this registration are also enclosed. Finally, a check for $245.00 to cover the filing fee is enclosed as well.

Please direct all correspondence and/or inquiries regarding this filing to me at the above address.

Thank you.

Very truly yours,

M. Krinsky

Michael Krinsky

Enclosures

75226002

TRADEMARK APPLICATION SERIAL NO._____

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

620 DR 01/22/97 75226002
0 361 245.00 CK

PTO-1555
(5/87)

CODING SHEET FOR PSEUDO MARKS AND DESIGN SEARCH CODES

SERIES CODE AND SERIAL NUMBER 75/226002

MARK DRAWING CODE (please circle appropriate MDC) 1 2 3 5 6

PSEUDO MARK (PM) _____

_____

WIPO/DESIGN SEARCH CODES

NAME: Valencia Shirley

P-1 S-2

SERIAL # 75/224202

ITU: Y or N

TRADEMARK APPLICATION FILE DATA WORKSHEET

CLASS DATA

1. INTERNATONAL CLASS	34									
2. COLLECTIVE TM or SM	T	S	T	S	T	S	T	S	T	S
3. FEE PAID	Y	N	Y	N	Y	N	Y	N	Y	N
4. PRIOR U.S. CLASS(ES)										
5. 1ST USE DATE										
6. 1ST USE IN COMM DATE										
7. IN ANOTHER FORM CODE	1	2	1	2						
8. IN ANOTHER FORM STATEMENT	AF CODE IN MARGIN		TEXT IN [ ]							
9. GOODS/SERVICE	G9 INTERNATIONAL		CLASS IN MARGIN,		TEXT [ ]					
10. CERTIFICATION STATEMENT	CS IN MARGIN, TEXT		IN [ ]							

FOREIGN DATA

1. PRIORITY CLAIMED	Y	N	Y	N	Y	N	Y	N	Y	N
2. COUNTRY CODE	CUX									
3. FOREIGN APPLICAITON										
4. FOREIGN FILING DATE										
5. FOREIGN REGISTRATION #	111059									
6. FOREIGN REGISTRATION DATE	07-01-1980									
7. FOREIGN EXPIRATION DATE										
8. RENEWAL #										
9. RENEWAL REGISTRATION DATE										
10. RENEWAL EXPIRATION DATE										

NOTES TO DATA ENTRY PERSONNEL:

Overall Size Preference

Percent of Respondents

* Range of specific size overlaps more than one category

Length: <=5" Ring: <42 **11.4%** Short Panatella Small Panatella Cigarillo *Petit Corona	**25.3%** **Length: <=5" Ring: >=42** *Petit Corona Robusto *Corona Extra
7.6% Panatela *Corona Long Panatela *Lonsdale *Long Corona **Length: >5" Ring: <42**	**55.4%** Giant Double Corona Churchill Toro Grand Corona *Corona Extra Giant Corona *Lonsdale *Long Corona *Corona **Length: >5" Ring: >=42**

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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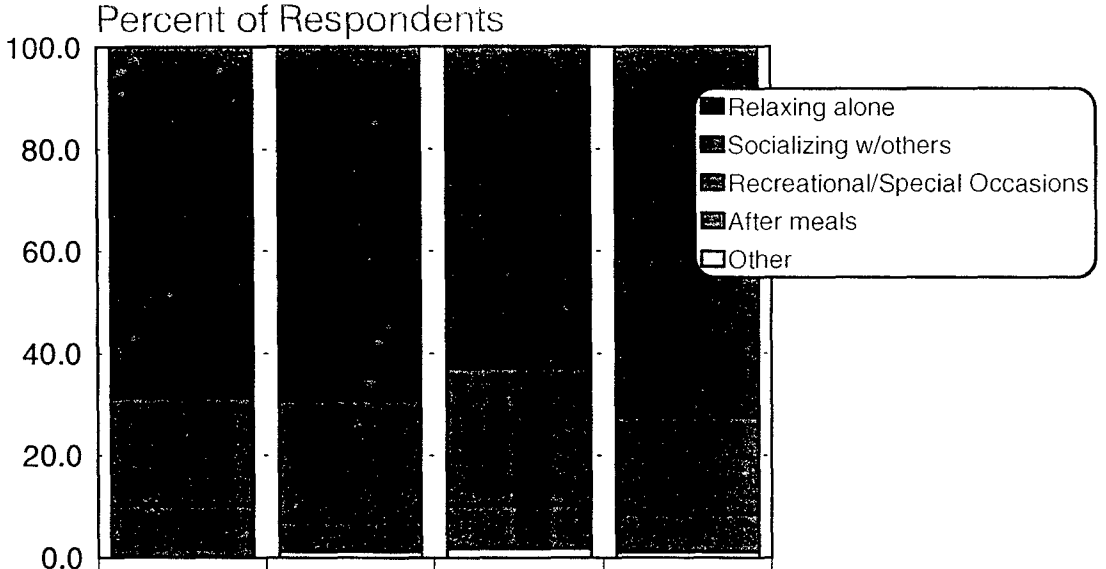
GC 020779

Premium

Smoking Activities Tracking

Activity Done Most Often While Smoking



	July '97	March '98	**October '98**	March '99
Relaxing alone	32.6	41.1	**32.6**	41.6
Socializing w/others	36.0	28.1	**30.4**	30.9
Recreational/Special Occasions	21.1	23.7	**26.8**	18.9
After meals	10.2	5.9	**8.5**	7.5
Other	0.1	1.2	**1.8**	1.1

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020780

Consumer Definition

- Sources of Cigar Information
  - The primary sources of information for premium smokers continues to be peers and tobacconists with about 2/3 of all consumers.
  - The number of consumers that utilize tobacconists as a source of cigar information increased significantly.
  - Books/Guides have also increased as a source for cigar information among premium consumers.

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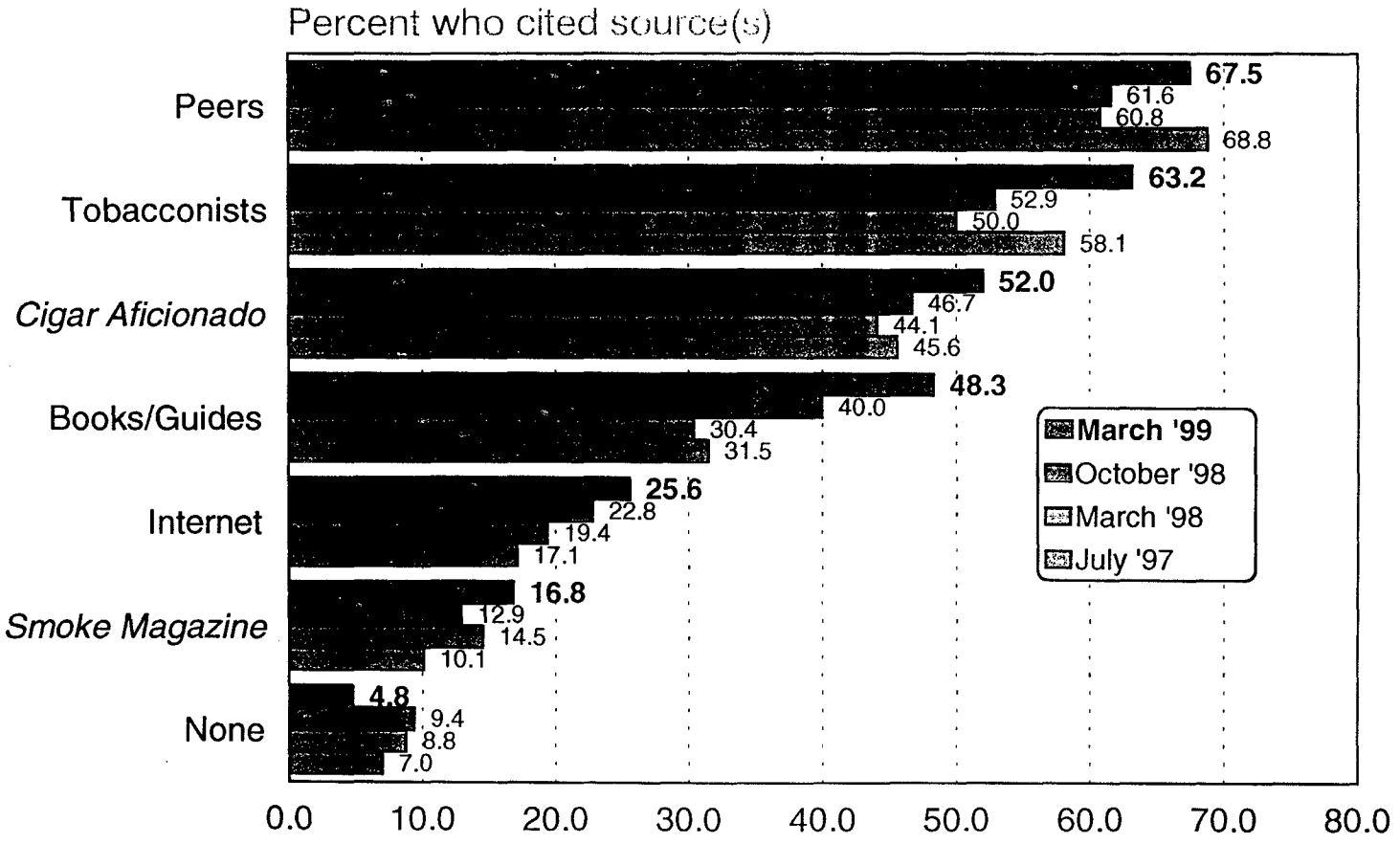
UNDER PROTECTIVE ORDER
GC 020781

Premium

Sources of Cigar Information



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

CONFIDENTIAL: UNDER PROTECTIVE ORDER
GC 020782

Consumer Definition

- Smoker Attitudes
  - Several attitudinal statements were included in the A&U Study to track the consumer segments identified by *The Cambridge Group*.
- Attitudes Regarding Tobacconists
  - The majority of premium consumers continue to indicate the tobacconist is their favorite place to purchase cigars, a primary place to receive cigar information or recommendations, and a passionate part of their cigar smoking.

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GC 020783

Premium

Attitudes Regarding Tobacconists

1=Disagree Completely, 2=Agree Completely

	Disagree - Bottom 2-Box	Agree - Top 2-Box	Mean
Tobacconists are the best place to buy cigars	18%	**63%**	4.44
When I go to the tobacconist, I feel like a kid in a candy store	26%	**57%**	4.02
I prefer to buy cigars through a catalog like JR Tobacco or Thompsons	**46%**	**33%**	3.17
Even though I know a lot about cigars, I often ask my tobacconist for recommendations on cigars for special occasions	27%	**53%**	4.01

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020784

Consumer Definition

- Attitudes Regarding Tobacconists
  - Most premium smokers indicate they smoke cigars on an occasional and social basis, but it is not limited or dependent on that subsequent activity, as the vast majority of premium consumers indicate changes in their peers' behavior would not effect their own.
- Attitudes Regarding Cigar Involvement
  - The majority of premium consumers agree that they "wish (they) knew more about cigars"
  - Almost 1/4 of all premium consumers agree that they "don't know much about cigars".

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GC 020785

Premium

Attitudes Regarding Smoking Cigars

1=Disagree Completely, 2=Agree Completely

	Disagree - Bottom 2-Box	Agree - Top 2-Box	Mean
I generally smoke cigars with friends/other people	22%	57%	4.24
I only smoke cigars when someone gives me one	**83%**	7%	1.64
I like cigars but only on an occasional basis	24%	58%	4.22
If my friends stopped smoking cigars, I probably would too	**80%**	5%	1.68
I smoke cigars throughout the day	74%	14%	2.02
I smoke cigars on an everyday basis	72%	18%	2.2
I'm extremely interested in going to cigar bars	49%	26%	2.89

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020786

Attitudes Regarding Cigar Involvement

1=Disagree Completely, 2=Agree Completely

	Disagree - Bottom 2-Box	Agree - Top 2-Box	Mean
I really don't know much about cigars	48%	**22%**	2.91
Cigars make the moment last longer	26%	45%	3.87
I'm still relatively new to cigars	**47%**	**30%**	3.02
Cigars are prestigious	29%	41%	3.61
I wish I knew more about cigars	18%	**54%**	4.19
Cigar smoking isn't that important to me	27%	36%	3.62
I really enjoy owning a humidor	22%	**63%**	4.45

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020787

Consumer Definition

- Attitudes Regarding Price
  - The majority of premium consumers agree that their "preferences have evolved towards more expensive cigars" over time.
- Cigar Knowledge Rating
  - Approximately 60% of premium consumers place themselves in the middle of the scale of a cigar knowledgeability rating.

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GC 020788

Attitudes Regarding Price

1=Disagree Completely, 2=Agree Completely

	Disagree - Bottom 2-Box	Agree - Top 2-Box	Mean
My preferences have evolved over time to more expensive cigars	17%	**59%**	4.39
My preferences have evolved over time towards less expensive cigars	**65%**	16%	2.31

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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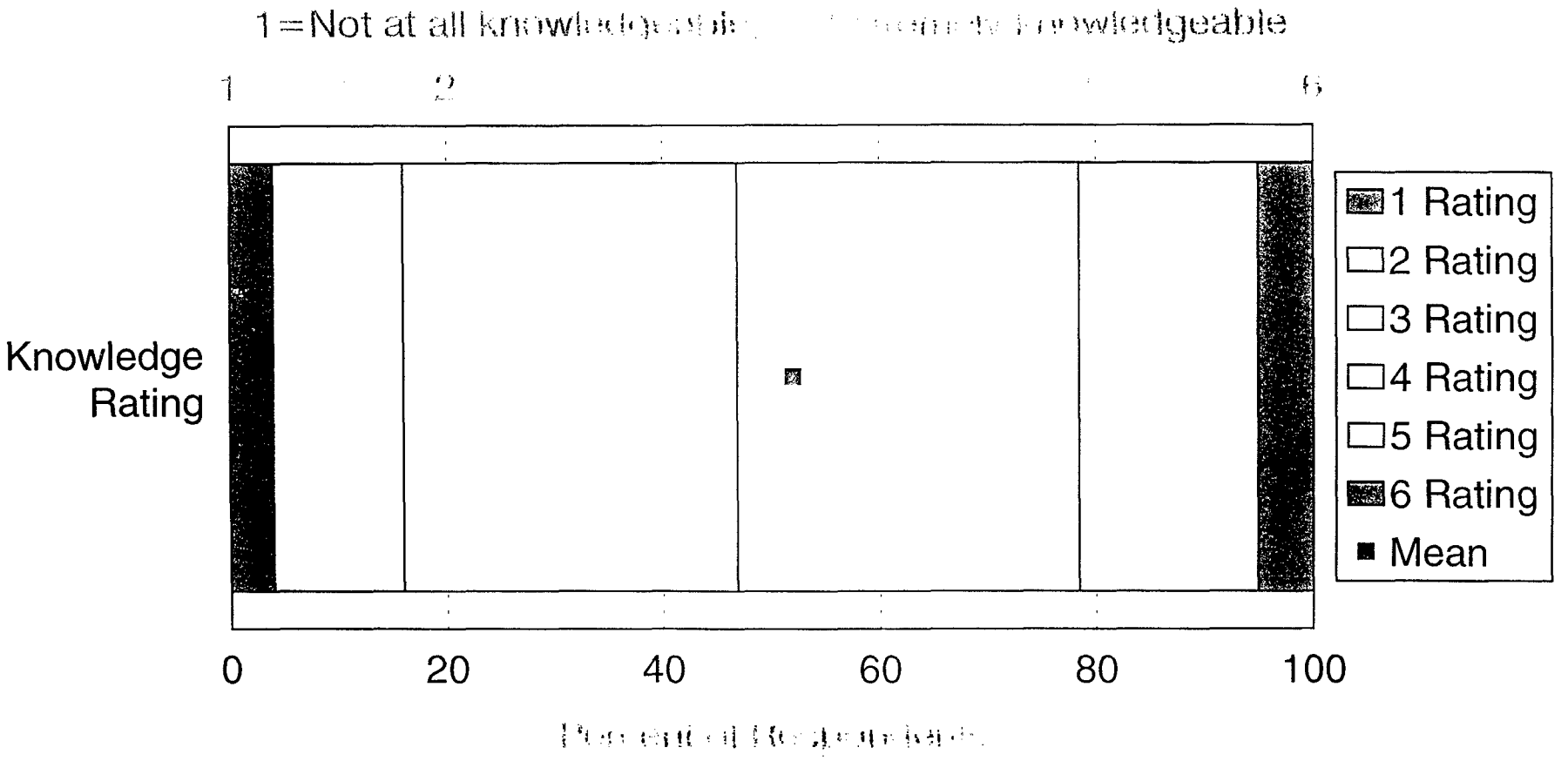
GC 020789

Cigar Knowledge Rating

Consumers' Ratings of their Cigar Knowledge



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020790

Consumer Awareness

- Top-of-Mind Awareness
  - Top-of-mind awareness is consistent across the premium category.
  - Macanudo has the highest top-of-mind awareness. Arturo Fuente is second.
  - The proliferation of brands in the premium category declined for the first time since 1996, when benchmarked.
- Unaided Awareness
  - Unaided Awareness levels are consistent from October '98.
  - Macanudo continues to have significantly higher unaided awareness than all other premium brands.
  - Macanudo, Partagas, Cohiba, Punch, and Hoyo de Monterrey are all among the top 10 brands among premium consumers.

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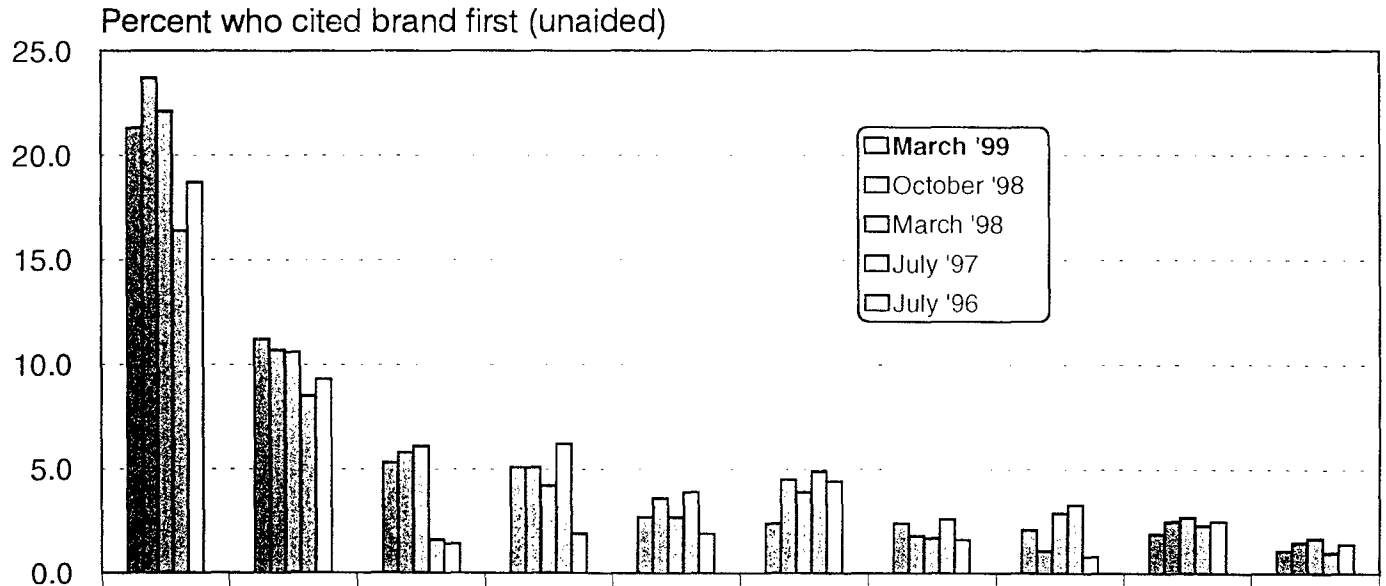
GC 020791

Top-of-Mind Awareness



	Macanudo	A. Fuente	Cohiba	H. Upmann	Thompson	Partagas	Montecristo	Don Diego	Punch	Hoyo/Mont.
March '99	**21.3**	**11.2**	**5.3**	**5.1**	**2.7**	**2.4**	**2.4**	**2.1**	**1.9**	**1.1**
October '98	23.7	10.7	5.8	5.1	3.6	4.5	1.8	1.1	2.5	1.5
March '98	22.1	10.6	6.1	4.2	2.7	3.9	1.7	2.9	2.7	1.7
July '97	16.4	8.5	1.6	6.2	3.9	4.9	2.6	3.3	2.3	1.0
July '96	18.7	9.3	1.4	1.9	1.9	4.4	1.6	0.8	2.5	1.4

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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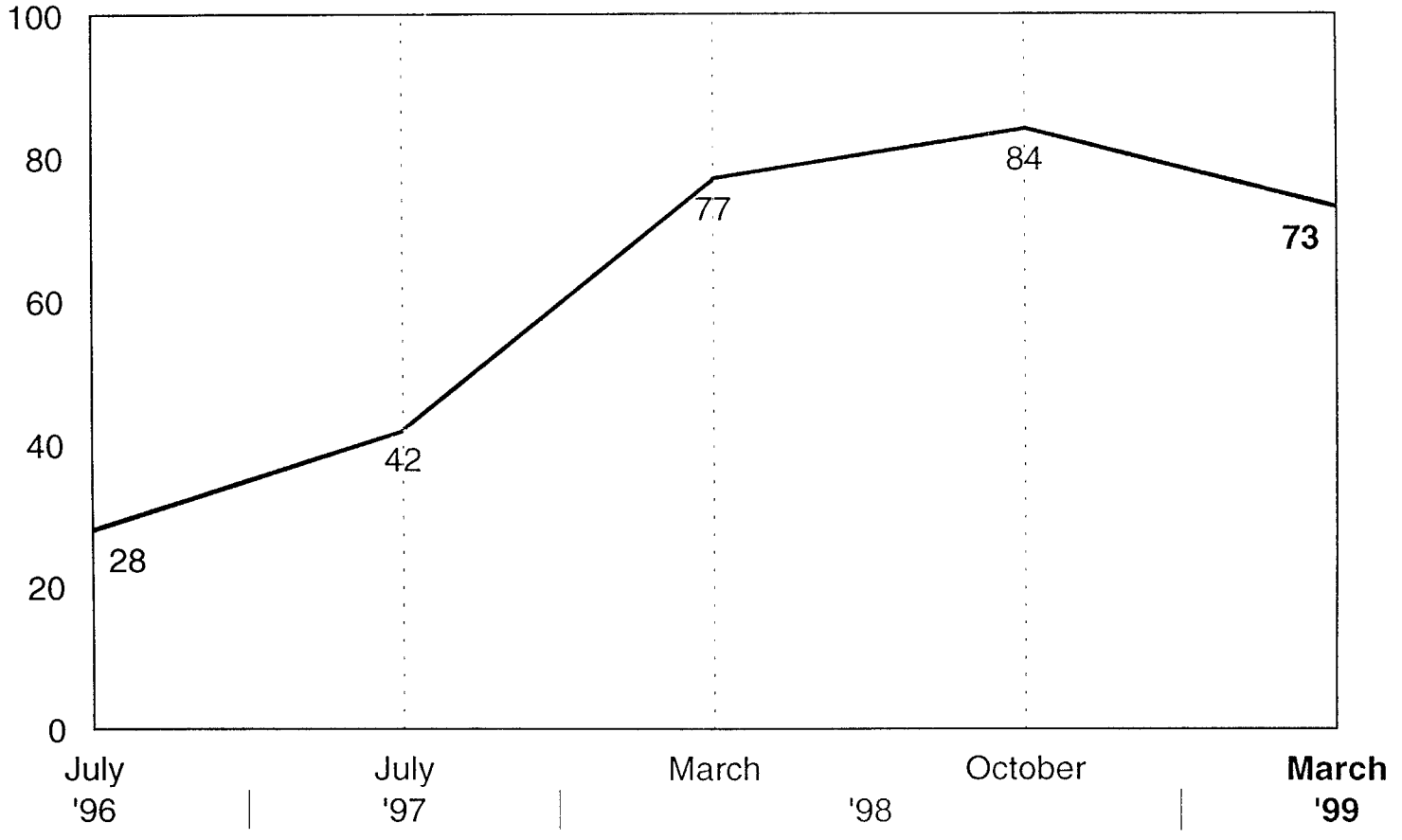
GC 020792

Premium

Brand Proliferation Tracking

Number of Different Top-of-Mind Brands



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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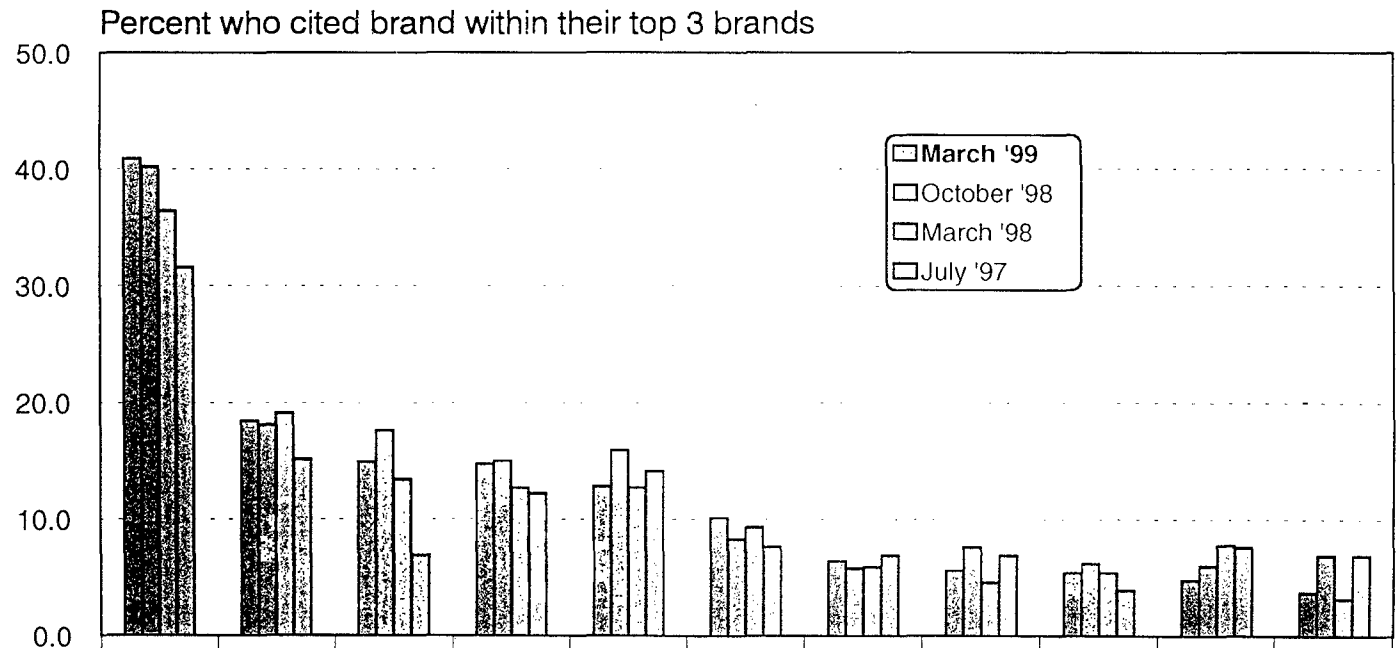
GC 020793

Premium

Unaided Awareness



	Macanudo	A. Fuente	Cohiba	Partagas	H.Upmann	Punch	Montecristo	Garcia y Vega	Hoyo/Mont.	Dunhill	Thompson
March '99	**40.9**	**18.4**	**14.9**	**14.7**	**12.8**	**10.1**	**6.4**	**5.6**	**5.4**	**4.8**	**3.7**
October '98	40.2	18.1	17.6	15.0	15.9	8.3	5.8	7.6	6.2	6.0	6.9
March '98	36.4	19.1	13.4	12.7	12.7	9.3	5.9	4.6	5.4	7.8	3.2
July '97	31.6	15.1	6.9	12.2	14.1	7.6	6.9	6.9	3.9	7.6	6.9

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020794

Consumer Awareness

- Awareness and Trial of Shaped Cigars
  - Approximately 80% of all premium consumers indicate they are aware of shaped cigars.
  - Subsequently, approximately 65% of these consumers indicate they have tried a shaped cigar, with approximately 14% indicating they smoke shaped cigars regularly.
- Promotional Awareness
  - Special shelf displays have the highest awareness ratings of any predominant promotion among premium consumers.
  - Approximately 17% of promotion-aware consumers indicate they responded to the promotion with a subsequent purchase of the promoted brand. And of those, almost half indicated it was the brand they originally intended to purchase.

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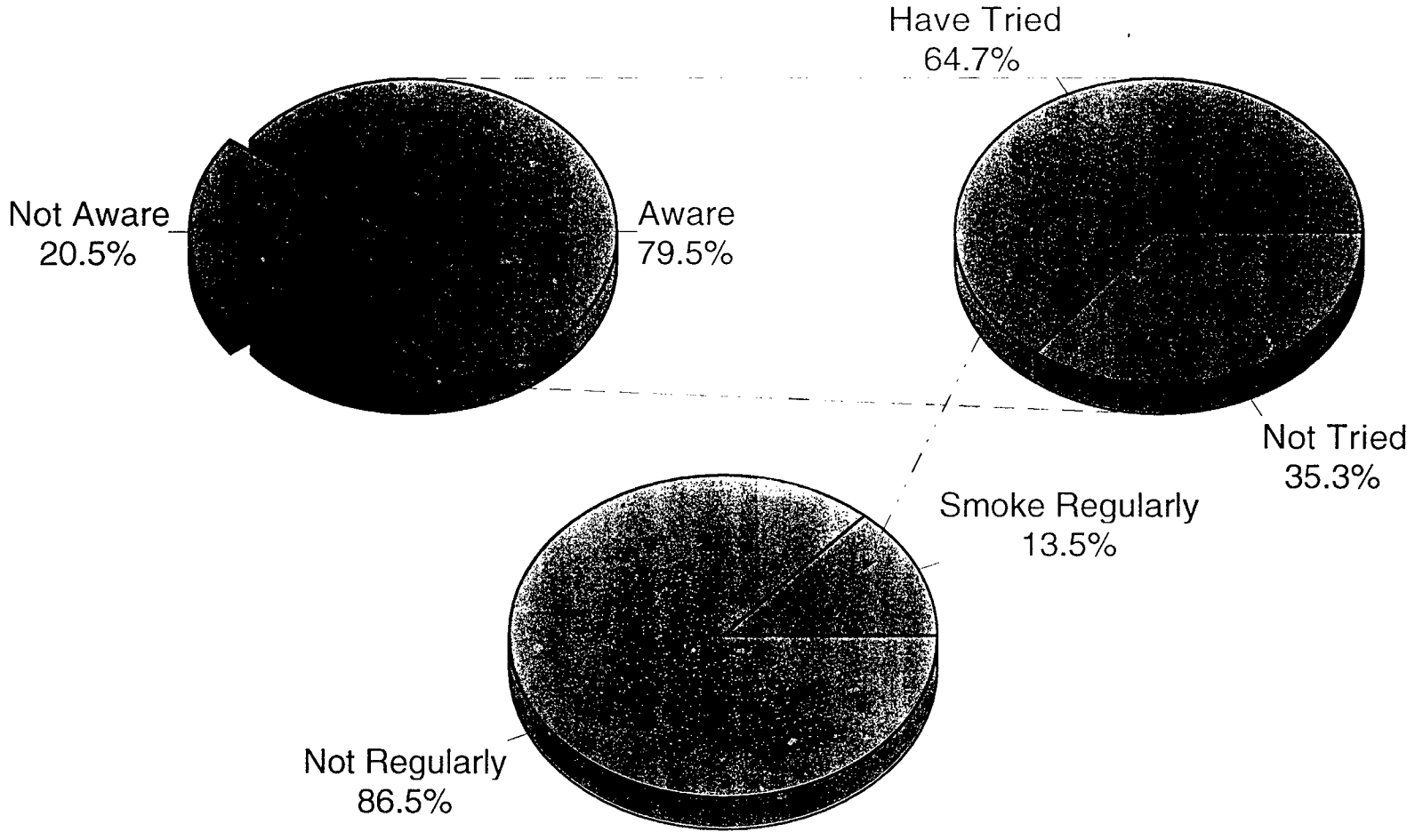
GC 020795

Awareness and Trial of Shaped Cigars



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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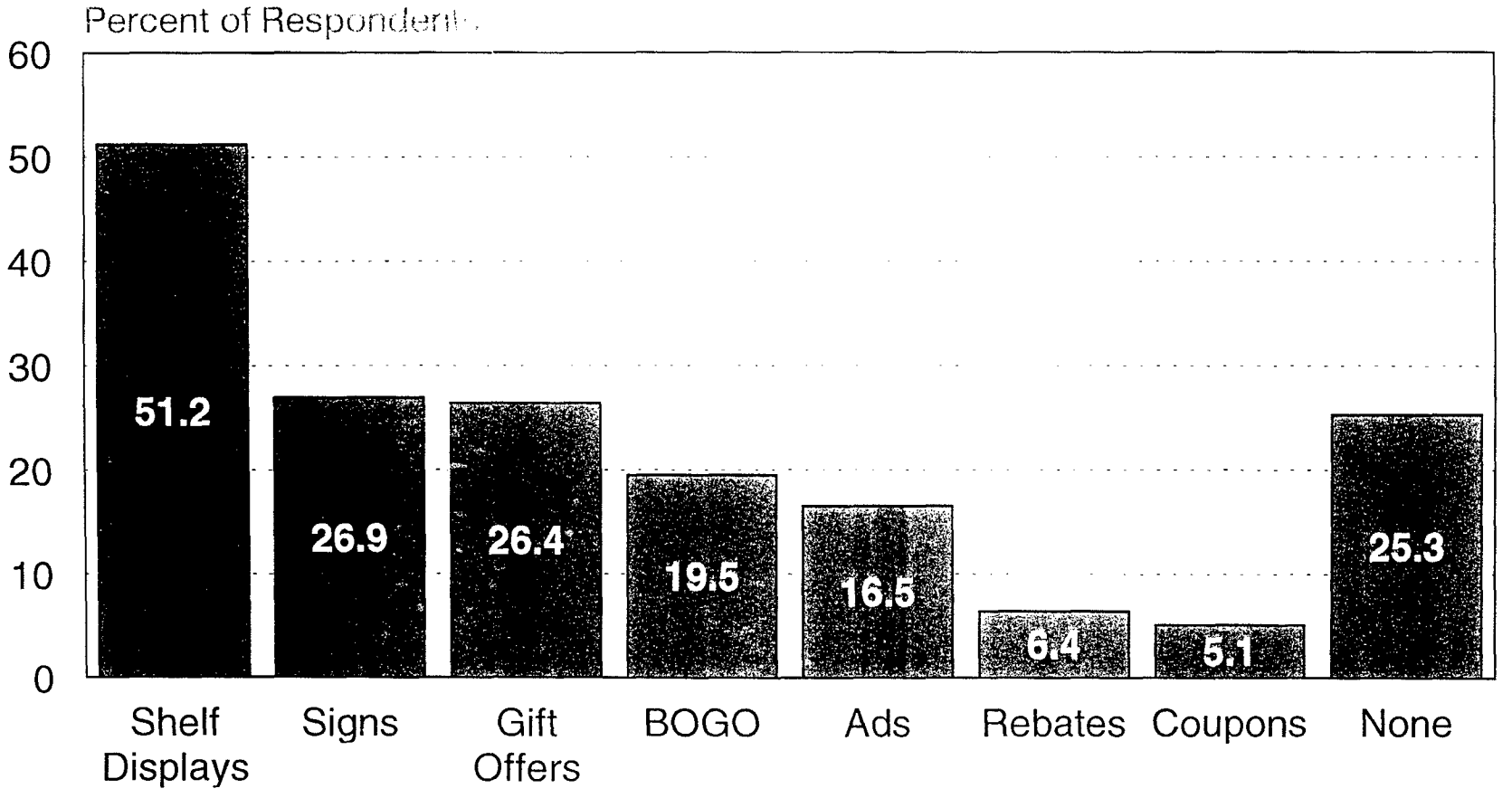
UNDER PROTECTIVE ORDER
GC 020796

Promotional Awareness

Types of Promotions Seen at Last Purchase



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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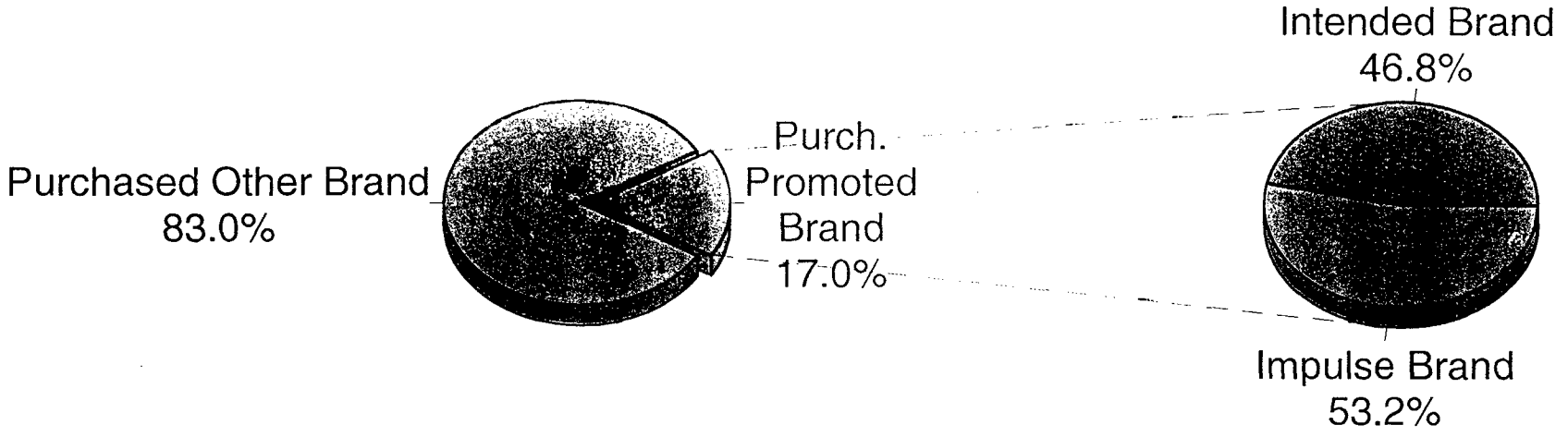
GC 020797

Response to Promotion

Consumers that Purchase Brand because of a Promotion



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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UNDER PROTECTIVE ORDER
GC 020798

Consumer Usage Trends

- Number of Brands Smoked Regularly
  - On average, premium smokers have four different brands that comprise their brand set. They smoke all of these brands on a regular basis. This remains consistent from its benchmark in 1997.
- Cross-Over Behavior
  - Approximately 29% of premium consumers indicate that another brand (in their brand set) is a mass-market brand.
  - Swisher Sweets and Garcia Y Vega are the most used mass-market brands among premium consumers.
  - Antonio Y Cleopatra and Black and Mild are also used by a significant group of premium consumers.

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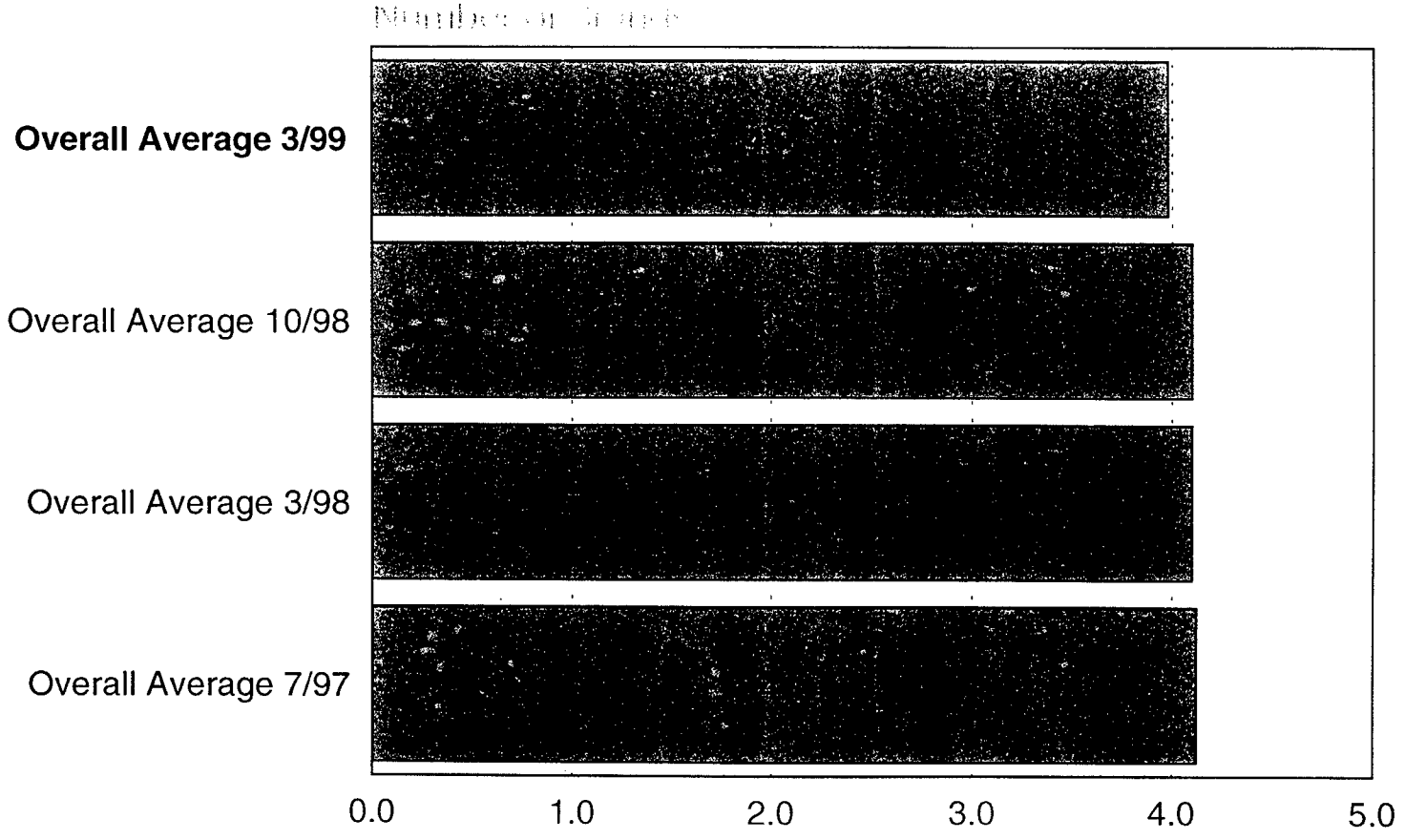
GC 020799

Premium

Different Brands Smoked Regularly



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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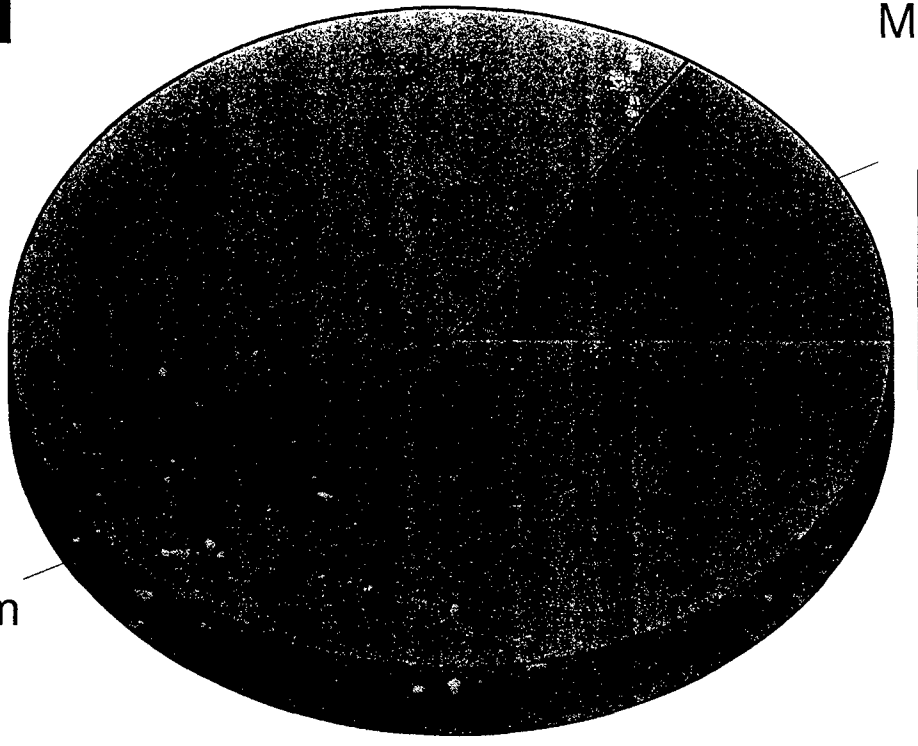
GC 020800

Cross-Over Behavior

Among Respondents whose Primary Brand is Premium

- ***Swisher Sweet***
- ***Garcia Y Vega***
- *AyC*
- *Black and Mild*



Percent of respondents in which at least 1 of other 3 brands smoked regularly is a mass-market brand

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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UNDER PROTECTIVE ORDER
GC 020801

Consumer Usage Trends

- Progression of Brand Usage
  - The perception that Macanudo is a starter cigar is not apparent in this data.
    - Over 50% of Macanudo's primary brand share came from consumers who smoked a different brand as their first ever smoke.
    - About 40% of Macanudo's primary brand share came from consumers who smoked a different brand as their first primary brand.
- Brand Usage
  - Overall, primary brand share remains consistent since July '96.
  - Macanudo's primary brand share and overall usage remains dominant.
  - Partagas, Fuente, and H. Upmann follow Macanudo as the top brands, in terms of share of consumer in the premium market.

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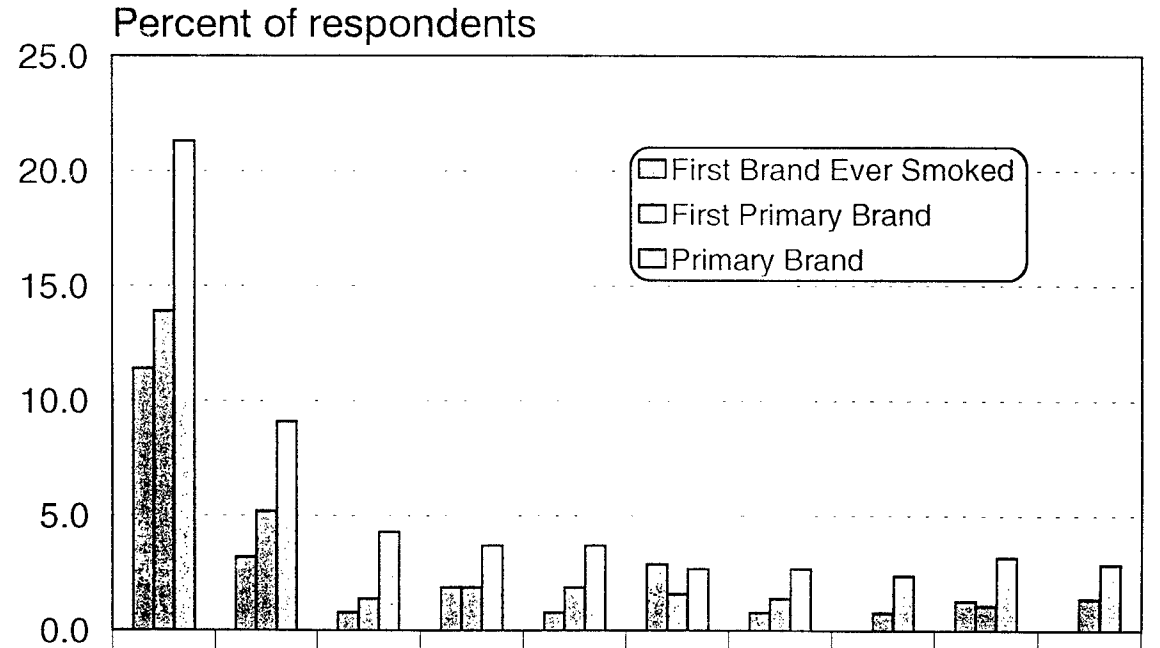
GC 020802

Progression of Brand Usage



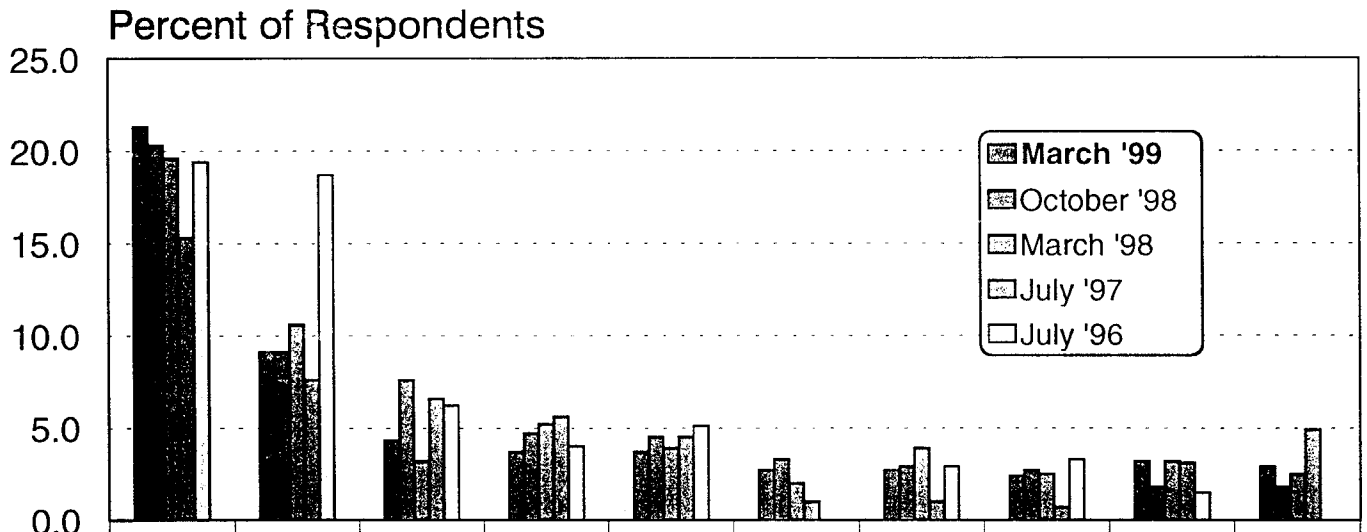
	Macanudo	A. Fuente	Thompson	H.Upmann	Partagas	Cohiba	Punch	Hoyo/Mont.	Don Diego	Te-Amo
First Brand Ever Smoked	11.4	3.2	0.8	1.9	0.8	2.9	0.8	0.0	1.3	0.0
First Primary Brand	13.9	5.2	1.4	1.9	1.9	1.6	1.4	0.8	1.1	1.4
Primary Brand	21.3	9.1	4.3	3.7	3.7	2.7	2.7	2.4	3.2	2.9

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

CONFIDENTIAL: UNDER PROTECTIVE ORDER
GC 020803

Primary Brand Share

Brand Smoked Most Often



	Macanudo	A. Fuente	Thompson	H.Upmann	Partagas	Cohiba	Punch	Hoyo/Mont.	Don Diego	Te-Amo
March '99	**21.3**	**9.1**	**4.3**	**3.7**	**3.7**	**2.7**	**2.7**	**2.4**	**3.2**	**2.9**
October '98	20.3	9.1	7.6	4.7	4.5	3.3	2.9	2.7	1.8	1.8
March '98	19.6	10.6	3.2	5.2	3.9	2.0	3.9	2.5	3.2	2.5
July '97	15.3	7.6	6.6	5.6	4.5	1.0	1.0	0.7	3.1	4.9
July '96	19.4	18.7	6.2	4.0	5.1		2.9	3.3	1.5	

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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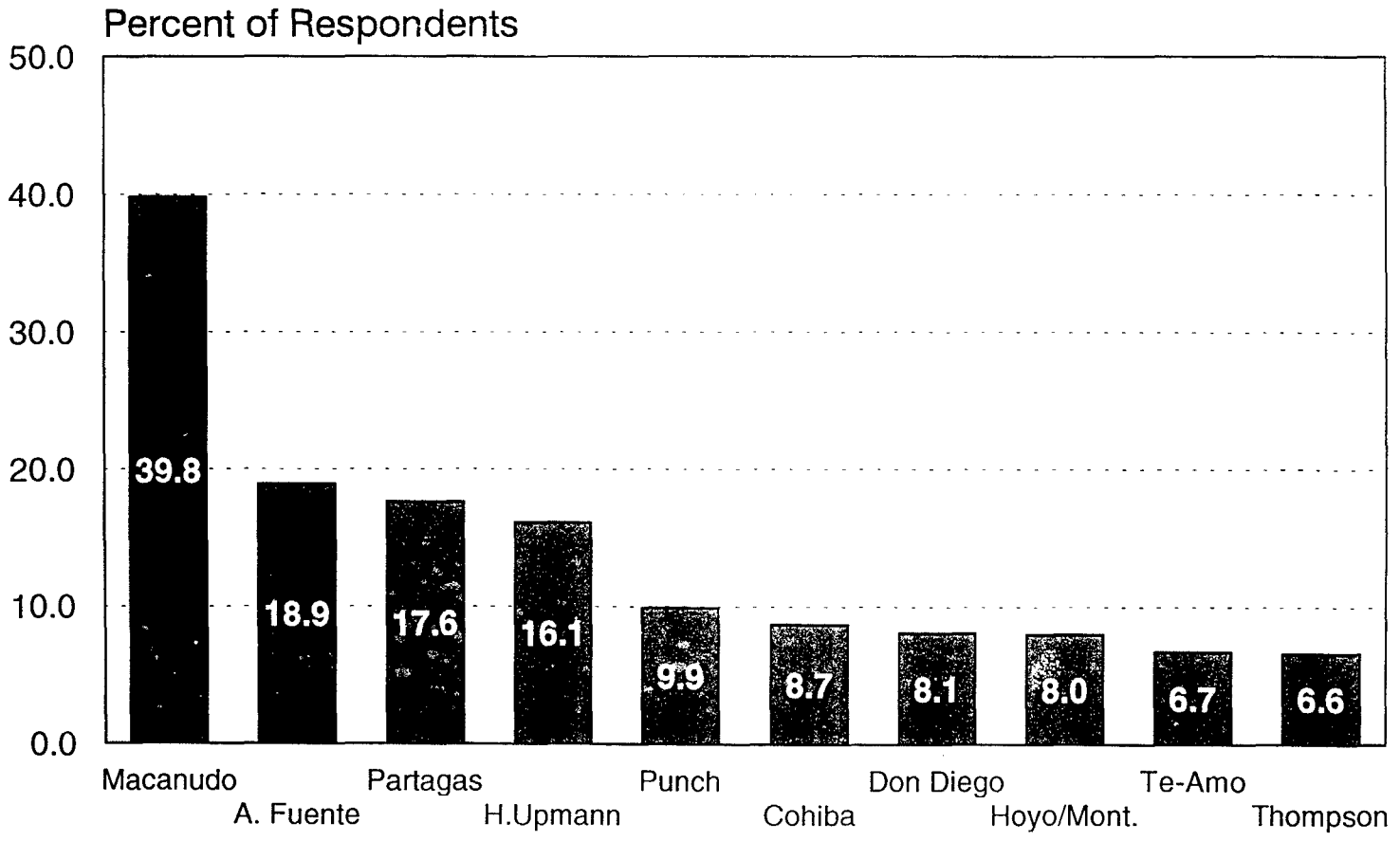
GC 020804

Overall Brand Usage

Primary Brand or Smoked Regularly



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

CONFIDENTIAL: UNDER PROTECTIVE ORDER
GC 020805

Consumer Usage Trends

- Primary Brand Loyalty

  - Consumers' loyalty to their primary brand stabilizes in 1999 after the recent change in 1998.
  - A genuine preference for the brand they switched to are the primary reasons why consumers changed their primary brand.
  - Consumers' substitute behavior is unchanged since the benchmark measurement in July '97.

    - About half of premium consumers will attempt to stay with their primary brand if their cigar (brand and size) is not available.
    - Approximately 40% of all premium consumers will turn to another brand if their primary cigar is not available in their primary size.

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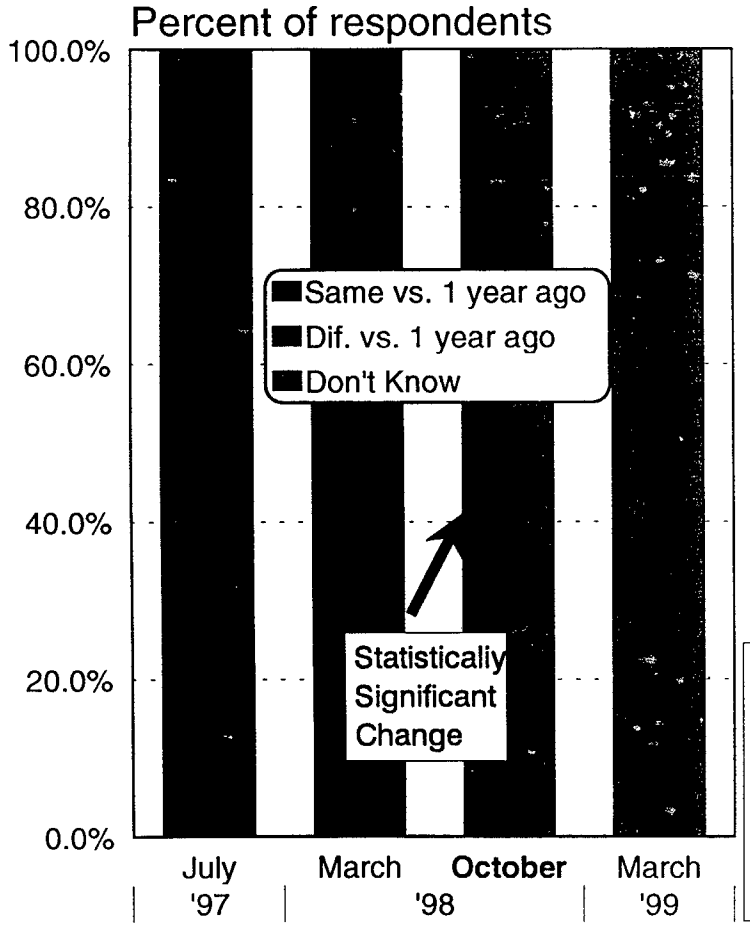
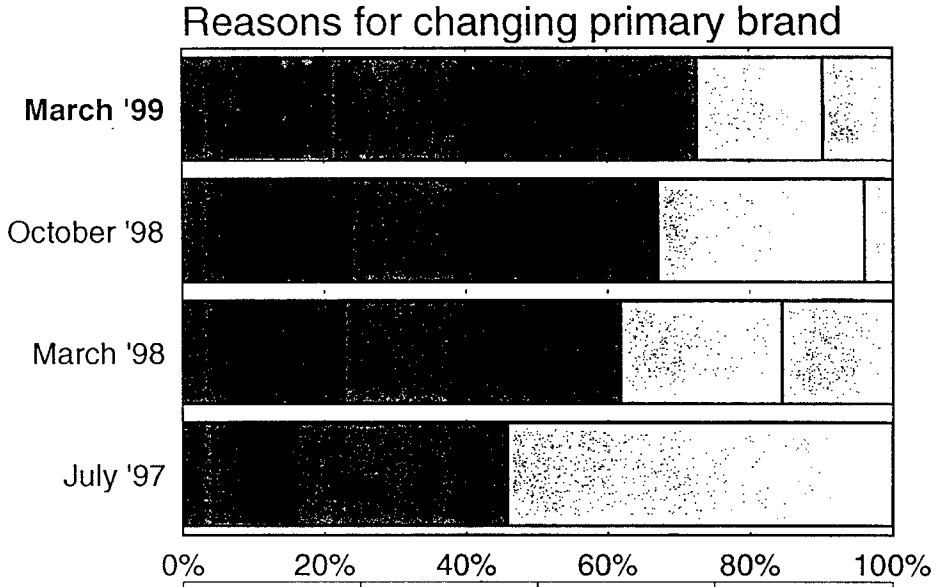
GC 020806

Primary Brand vs. One Year Ago





	March '99	October '98	March '98	July '97
High Price	**6.5**	14.5	12.4	4.3
Availability	**14.5**	9.2	10.3	11.7
Prefer Current Brand	**37.4**	43.4	39.2	29.8
Variety	**14.5**			
Other	**17.7**	28.9	22.7	54.2
Don't Know	9.7	3.9	15.5	0

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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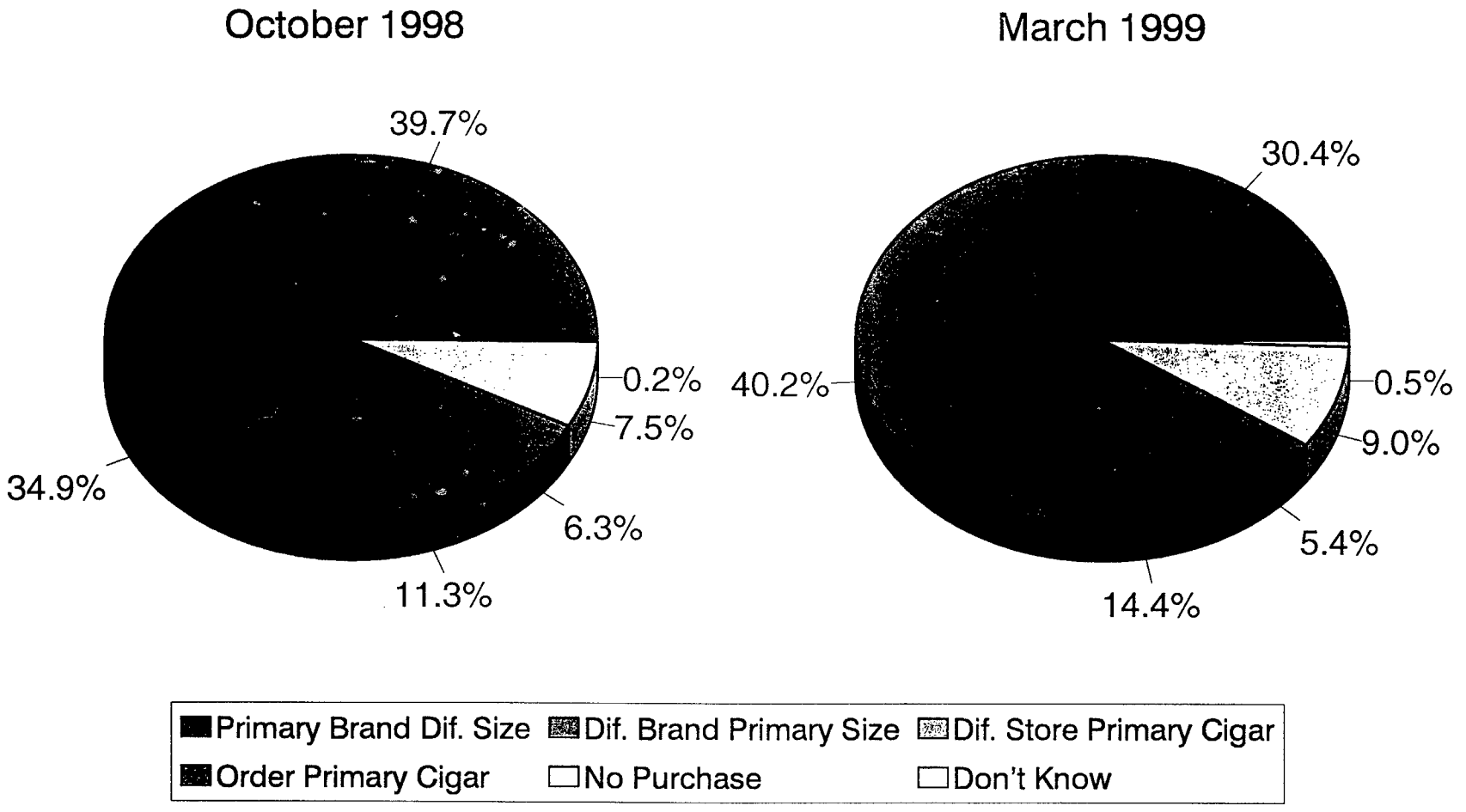
GC 020807

Substitute Behavior



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020808

Consumer Usage Trends

- Best Brand Ever Smoked
  - Cohiba (Brand - Cuban or Dominican) and Macanudo are the top two brands in terms of best perceived smoke among premium consumers.
  - The percent of consumers that claim they smoke their best cigar most-often has increased versus 1998.
    - High prices and the lack of availability of their best brand are the two prominent reasons premium consumers do not smoke their perceived best brand most-often.

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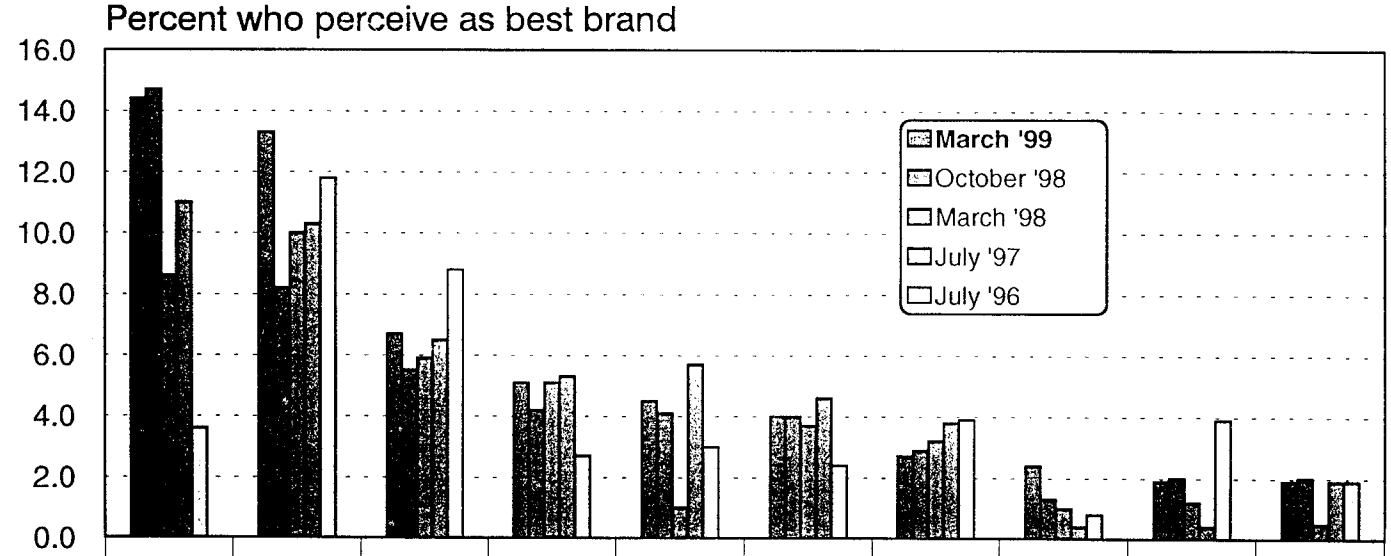
GC 020809

Best Brand Ever Smoked



	Cohiba	Macanudo	A. Fuente	Monte Cristo	H. Upmann	Romeo y Julieta	Partagas	Don Diego	Dunhill	Thompson
March '99	**14.4**	**13.3**	**6.7**	**5.1**	**4.5**	**4.0**	**2.7**	**2.4**	**1.9**	**1.9**
October '98	14.7	8.2	5.5	4.2	4.1	4.0	2.9	1.3	2.0	2.0
March '98	8.6	10.0	5.9	5.1	1.0	3.7	3.2	1.0	1.2	0.5
July '97	11.0	10.3	6.5	5.3	5.7	4.6	3.8	0.4	0.4	1.9
July '96	3.6	11.8	8.8	2.7	3.0	2.4	3.9	0.8	3.9	1.9

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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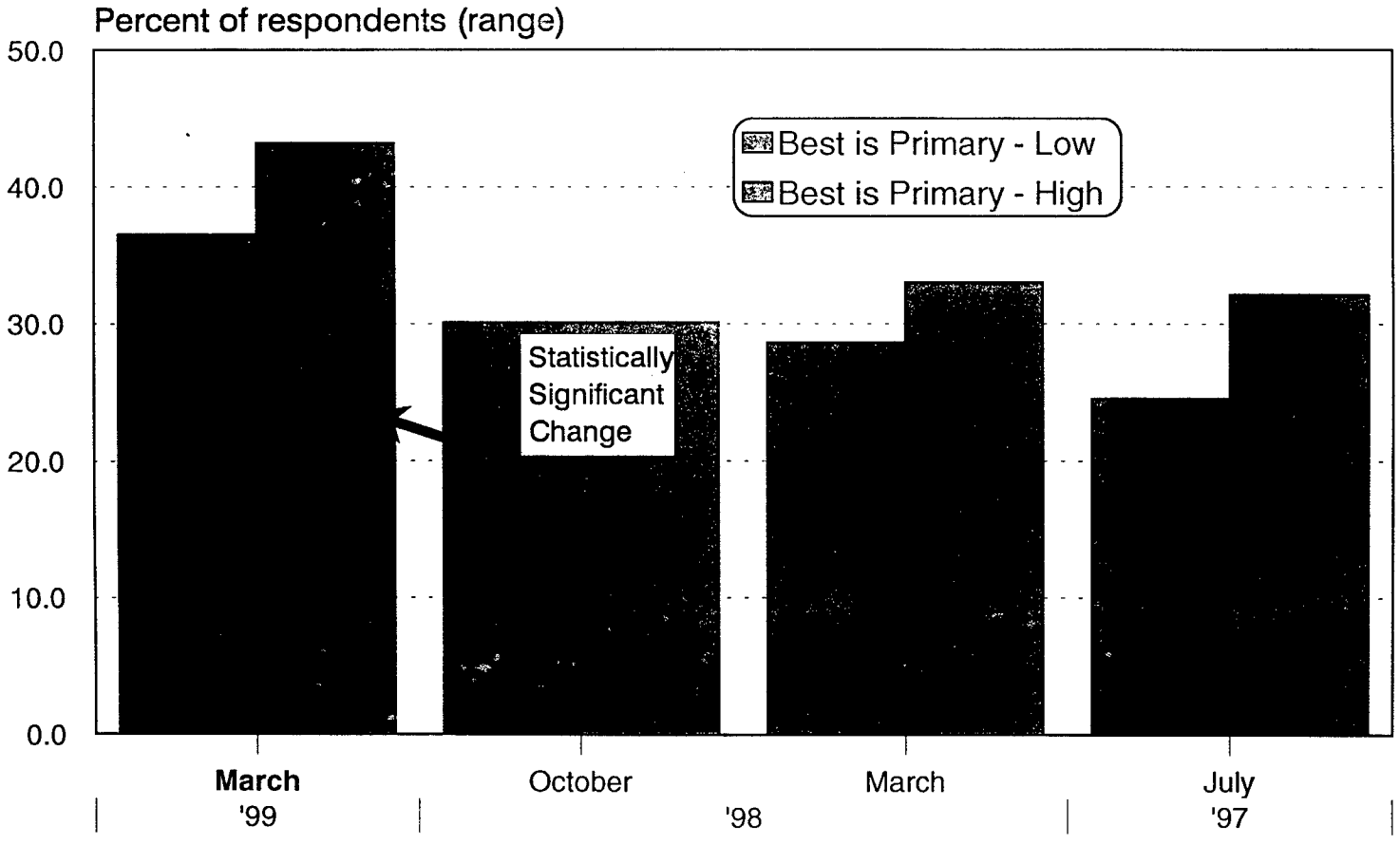
GC 020810

Premium

Best Brand is Primary Brand



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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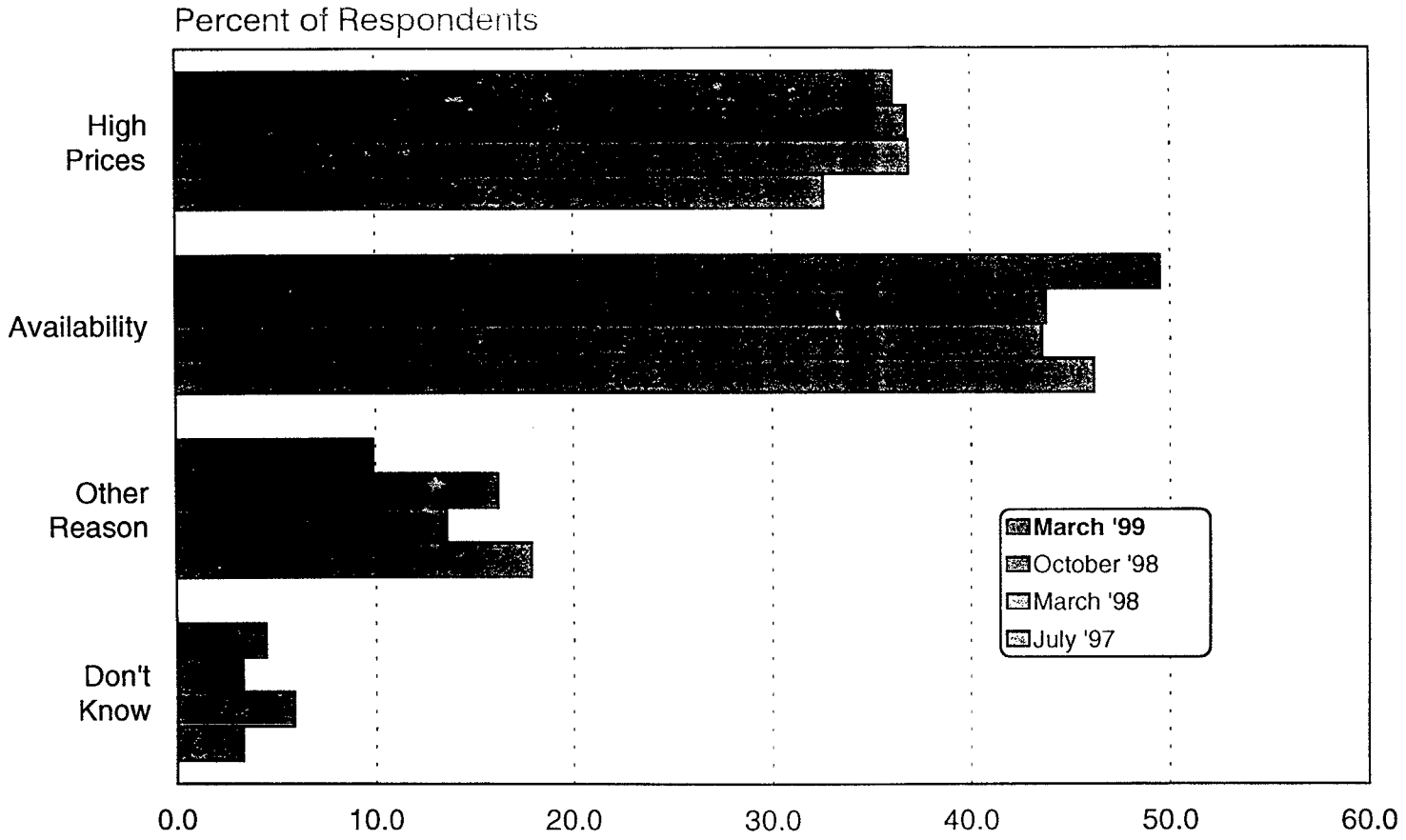
GC 020811

Premium

Reason for not Smoking Best Brand Regularly



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020812

Consumer Purchase Behavior

- How Cigars are Purchased
  - About 50% of premium consumers by their cigars individually.
  - Following the recent change in 1998, the apparent number of box purchasers stabilizes in 1999 at about 1/3 of all premium consumers.
  - Premium consumers that purchase their cigars by the box continue to smoke about three times the number of cigars per month on average than individual purchasers.

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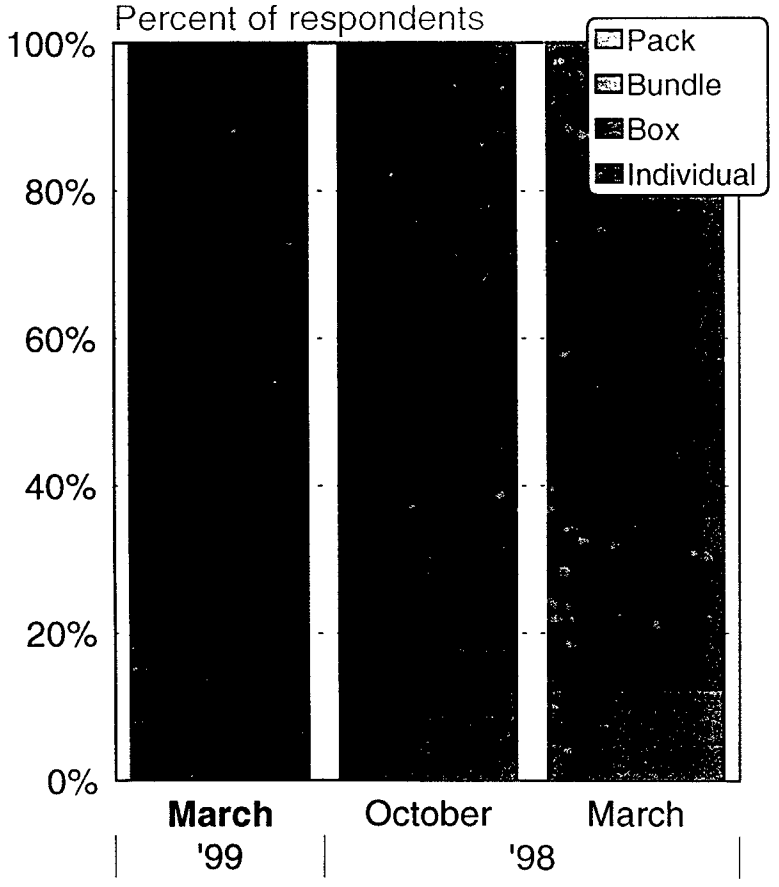
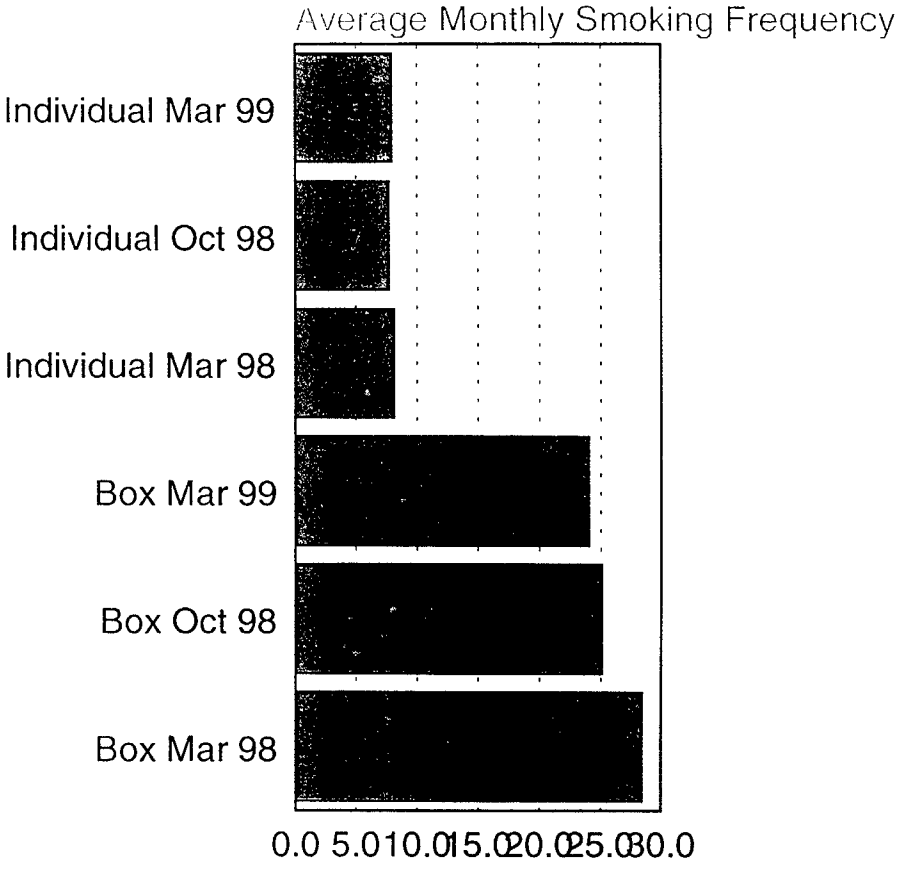
GC 020813

Premium

Individual, Pack, Box, & Bundle Purchases





** Small sub-sample sizes; interpret with caution*

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020814

Consumer Purchase Behavior

- Price Paid for Cigars and Price Sensitivity
  - The average price paid per cigar, when purchased individually, is about $6.12.
  - Individual purchasers of cigars continue to be less price sensitive than in early 1998 after a significant change.
  - The average price paid per box of cigar is $76.64.
    - The purchase tolerance-range for box purchasers has expanded to its prior levels in early 1998, while the low end of the range maintains its late 1998 level.
    - Almost half of box purchasers indicate they are spending below the range defined in the price sensitivity analysis, while only one-quarter of box purchasers indicate they purchase within the defined price range.

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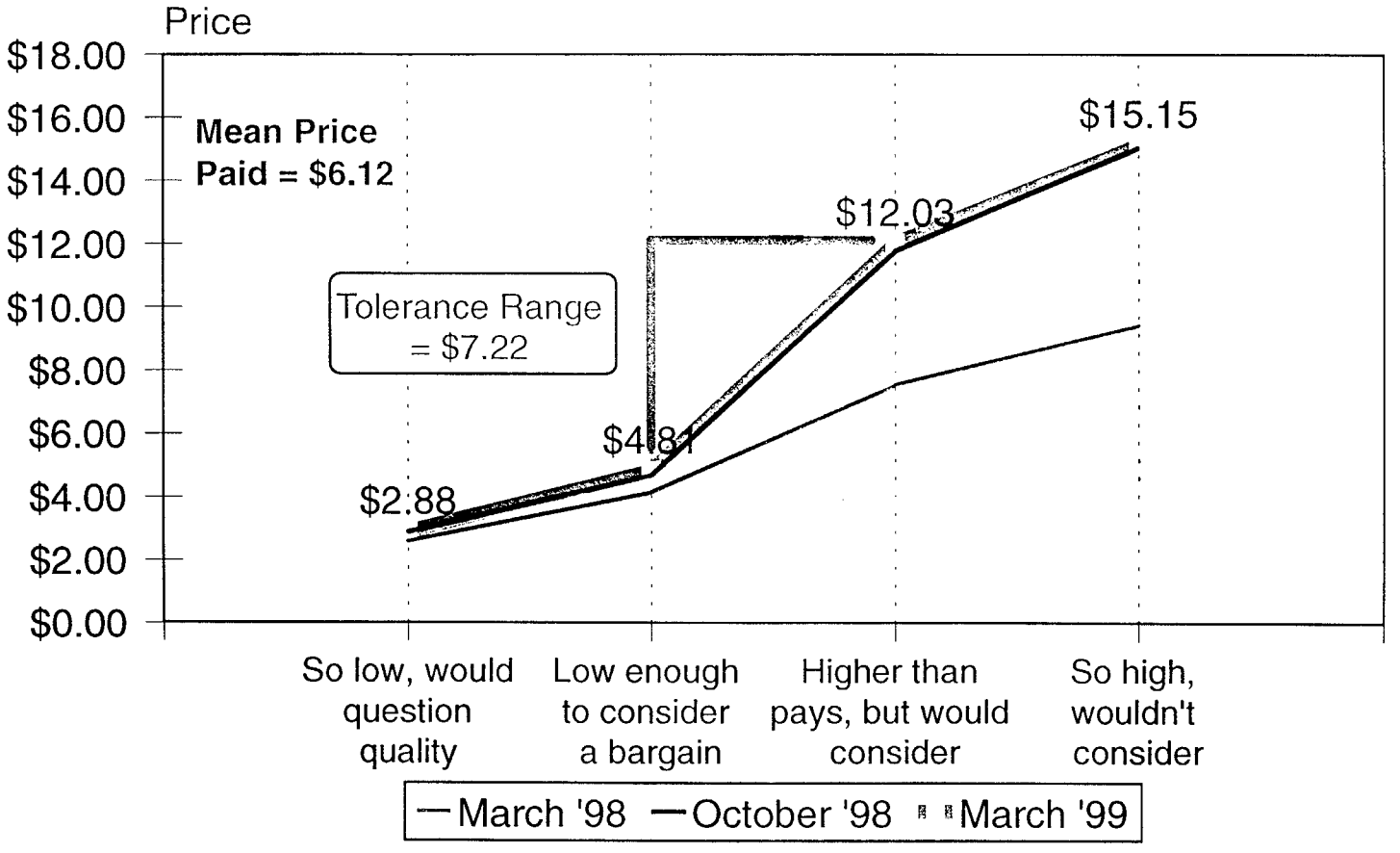
GC 020815

Individual Purchase Price Sensitivity



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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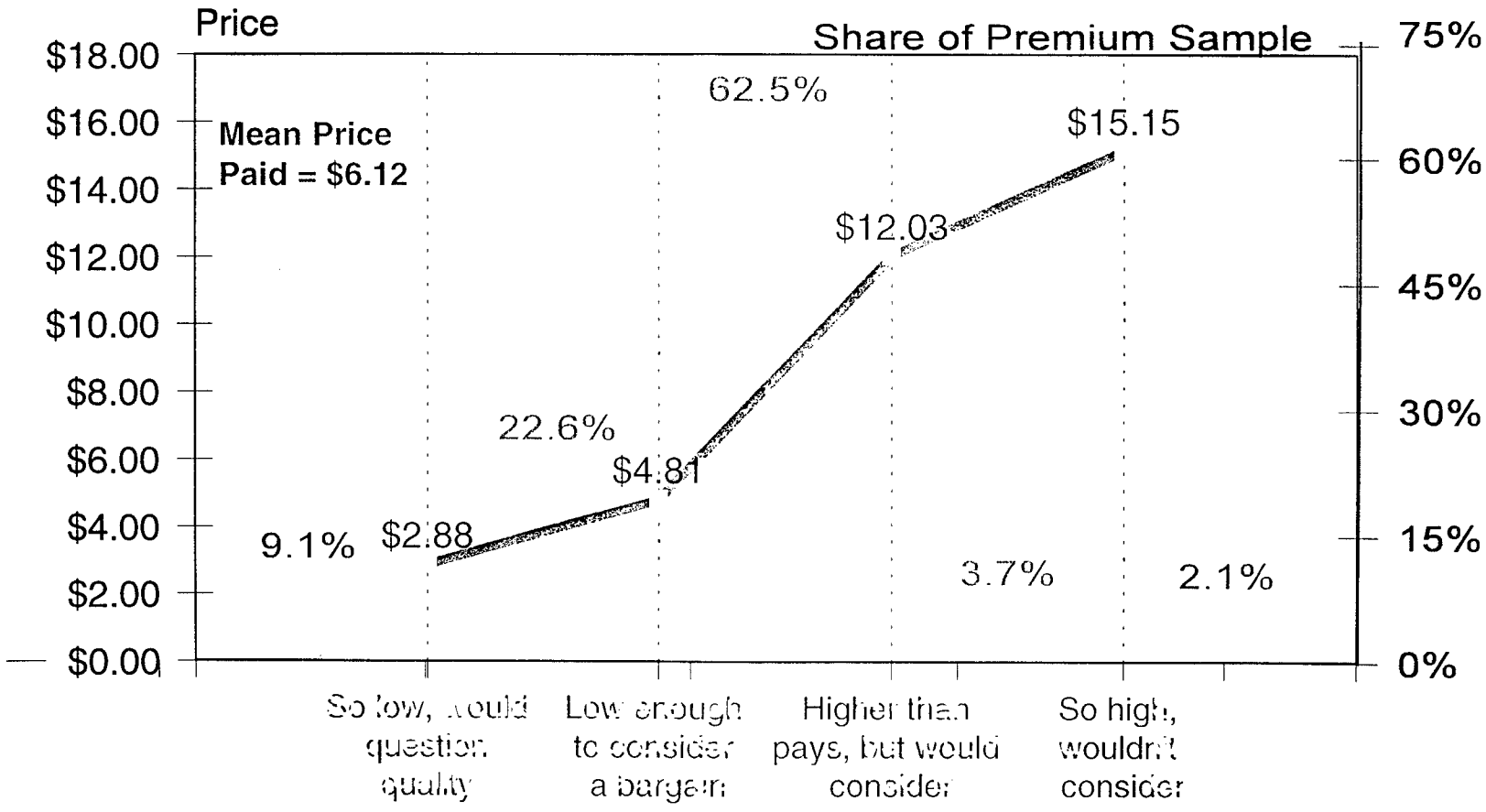
GC 020816

Individual Purchase Price Sensitivity



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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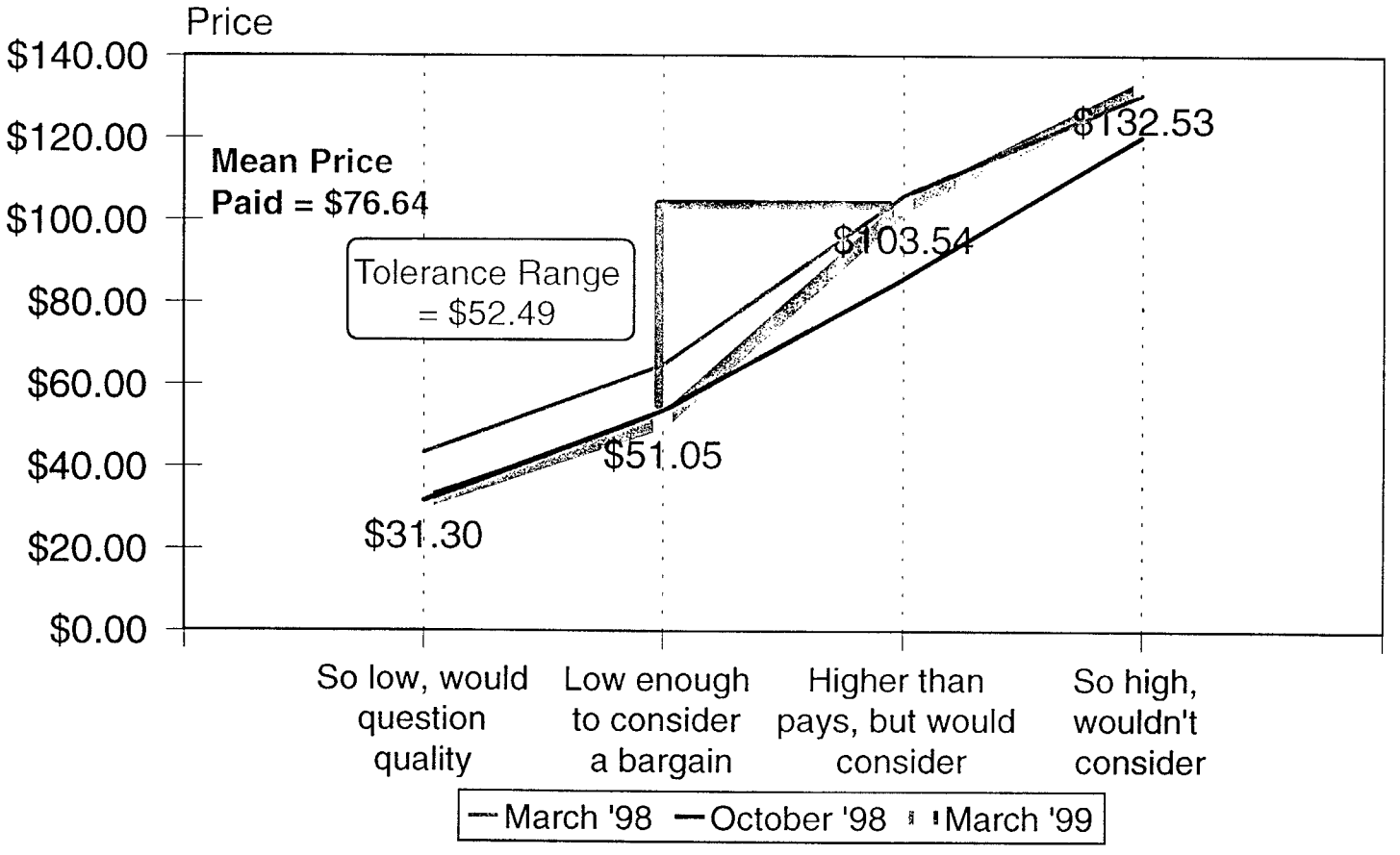
GC 020817

Box Purchase Price Sensitivity



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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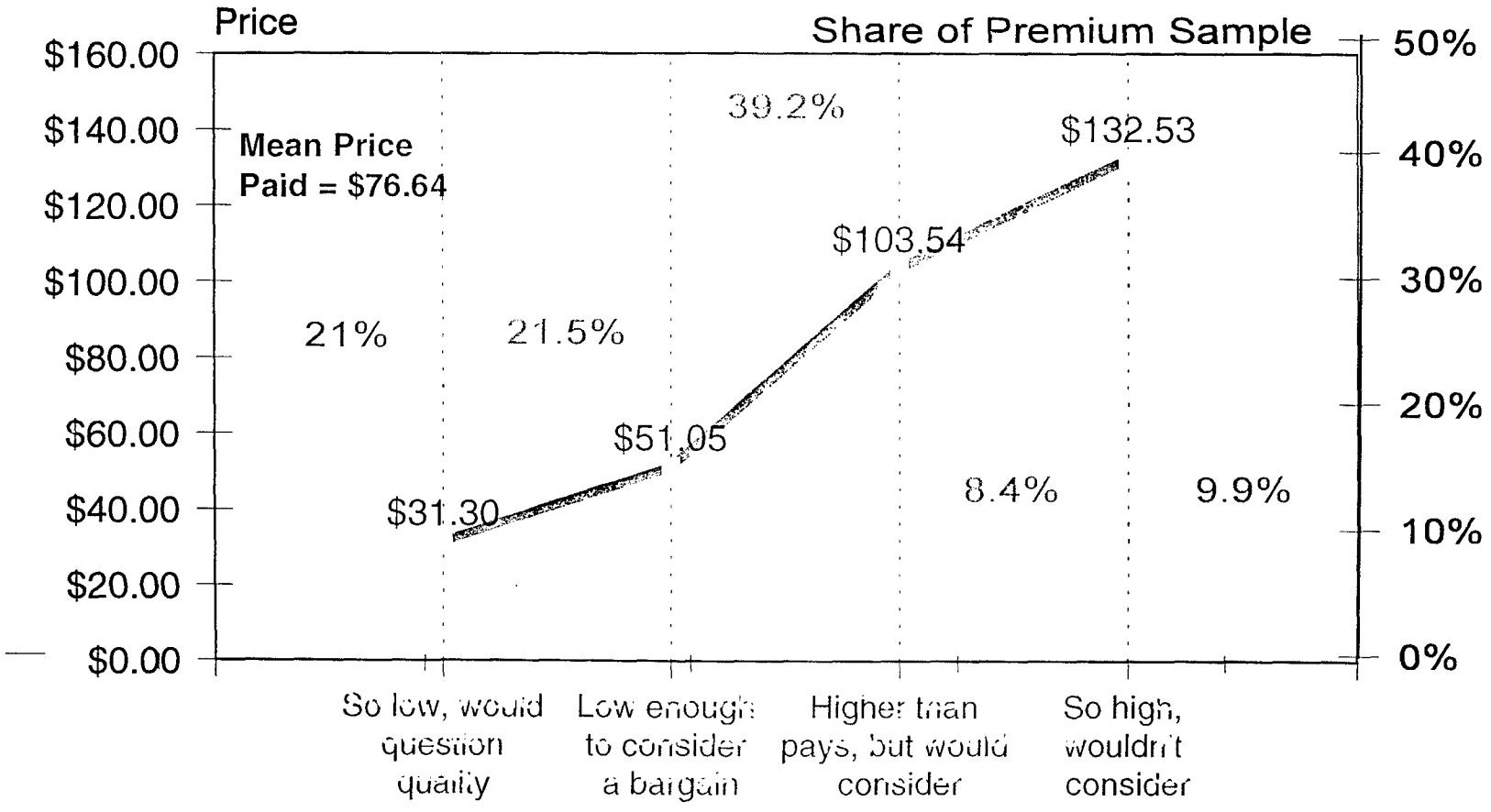
GC 020818

Box Purchase Price Sensitivity



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020819

Consumer Purchase Behavior

- Purchase Channels
  - The tobacconist continues to be the dominant channel among premium consumers.
    - About 70% of premium consumers indicate they shop at the tobacconist most-often. This remains consistent from data in 1997.
      - Approximately 80% of tobacconist most-often consumers indicate the shop that they use is a "traditional tobacconist", as defined in the survey instrument.
  - Mail order/catalog maintains a 15 - 20% share of consumer.

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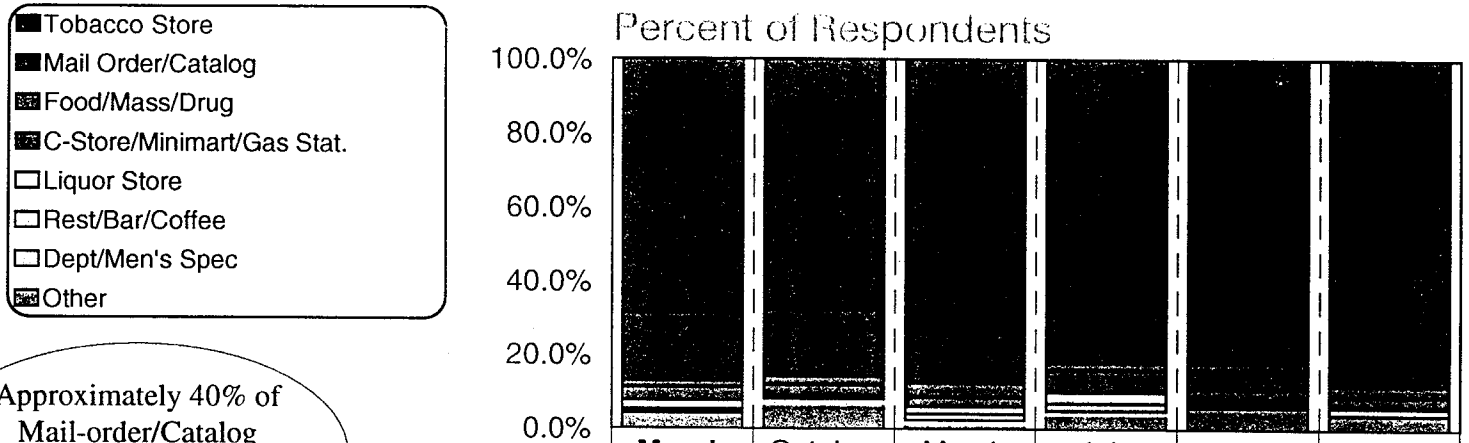
GC 020820

Premium

Primary Store Tracking



Approximately 40% of Mail-order/Catalog purchasers have smoked cigars for 11+ years.

	March '99	October '98	March '98	July '97	July '96	July '95
Tobacco Store	**68.5**	67.6	74.2	69.0	65.0	58.0
Mail Order/Catalog	**18.4**	17.9	13.3	13.0	17.0	30.0
Food/Mass/Drug	**1.7**	2.3	3.9	2.0	7.0	3.0
C-Store/Minimart/Gas Stat.	**3.7**	2.9	2.5	6.0	3.0	3.0
Liquor Store	2.4		2.0	3.0	1.0	2.0
Rest/Bar/Coffee	**1.0**	0.9	1.7	2.0	1.0	
Dept/Men's Spec		1.6	1.2	1.0		
Other	**4.2**	6.5	1.2	4.0	6.0	4.0

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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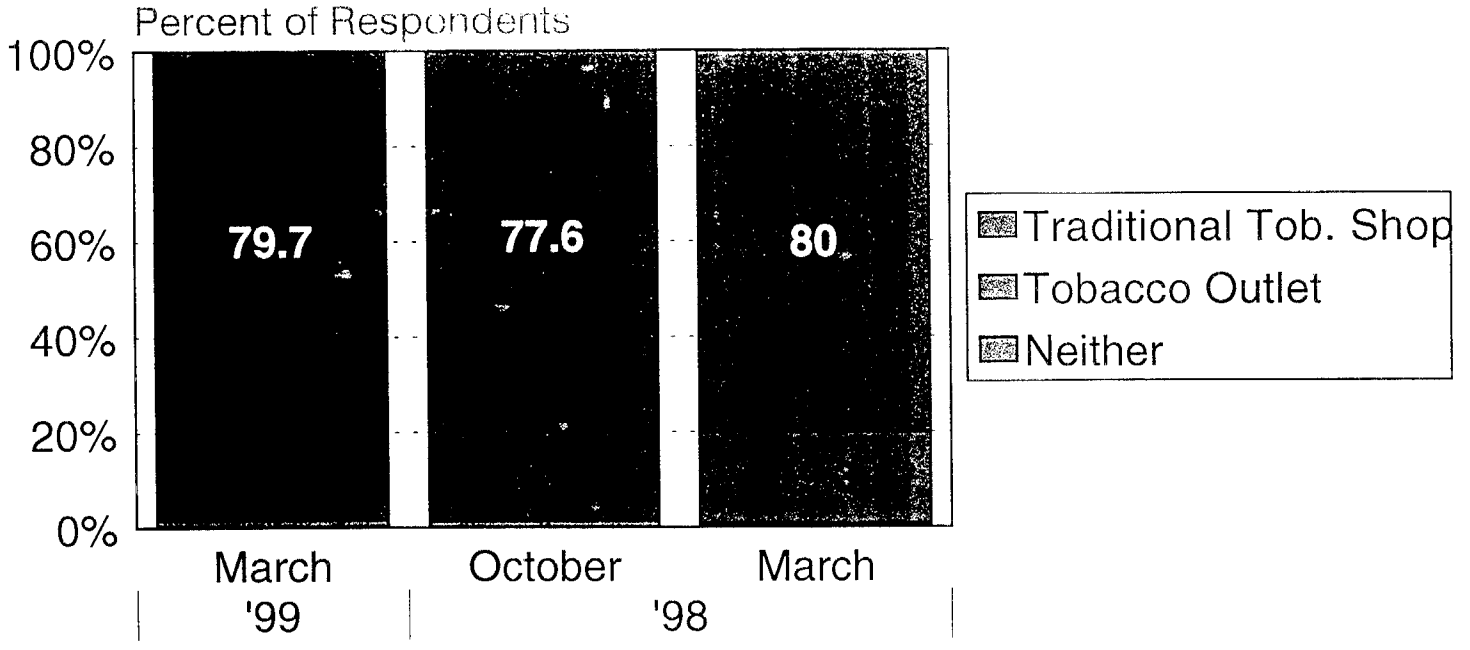
GC 020821

Type of Tobacco Shop



Traditional Tobacconist = A store that is smaller, traditional-style tobacconist which specializes in cigar and pipe products and other premium tobacco products.

Tobacco Outlet = A store that sells all types of tobacco products, including cigarettes, at discounted prices.

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

CONFIDENTIAL: UNDER PROTECTIVE ORDER
GC 020822

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

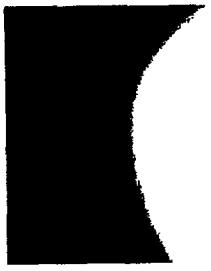
AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 260, Def. Dep. Ex. Ossip 6



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DEFENDANT'S DEPOSITION EXHIBIT
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8/27/01 AA

Join and Win

Just for joining you will be entered into our New Member monthly drawing to win 1 of 8 $250.00 cash prizes. Then each time you participate in one of our projects you will have additional chances to win. For more information about participation, visit our Frequently Asked Questions, and Sweepstakes Rules. To get started, please review our Privacy Policy and answer the following questions:

Please provide the following information so we may contact you...

Email Address:

Re-enter Email:

Location Where You Access Email Most Often:

Connection Speed Used Most Often When Accessing Email:

Password:

Providing a password ensures that only you can change your registration information. Passwords must be 4-10 characters long and cannot contain spaces.

Re-enter Password:

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D260

2 Account Information

Upon joining, you will automatically be set up with a free iGain account. IGain is a great way to accumulate incentive money. All incentives received from participation in projects are automatically deposited into your iGain account where you can request payment at any time. The following information is required to establish a free personal iGain account for you. This account is strictly confidential, your information will not be shared with any outside party.

First Name:

Last Name:

Street Address:

City:

State/Province:

ZIP/Postal Code:

Street Address Entered Above Is:

3 Please tell us about yourself

The answers to the following questions will help us better determine which surveys are most appropriate for your participation. Some questions may not apply to you. We ask that for such questions that you select the 'does not apply' answer.

Gender:

Birth Date:

Highest Level of Education Completed:

Current Educational Status:

Current Employment Status:

Marital Status:

Ethnicity:

Including you, how many people live in

your household?

Indicate the age and gender of the other people, if any, living in your home. For anyone under 1 indicate by placing a decimal point in front of the number of months.

Gender: Age: Years

Gender: Age: Years

Gender: Age: Years

Gender: Age: Years

Gender: Age: Years

Gender: Age: Years

Gender: Age: Years

Gender: Age: Years

Gender: Age: Years

Gender: Age: Years

Industry in Which You Currently Work:

If you selected 'other' for the industry in which you work, please specify which type of industry in the text box located below the question. If you selected an industry from the list of answers, please make sure the open text box below the question is blank.

Primary Role in Company:

Area of the Company in Which You Work:

How did you find out about this site?

Annual Household Income (Before Taxes):

Submit

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 262

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David Goldstein, Esq. (DG 8291)
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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a. CUBATABACO, Plaintiff, - against - CULBRO CORPORATION, and GENERAL CIGAR CO., INC. Defendants.	97 Civ. 8399 (RWS)

DECLARATION OF ADARGELIO GARRIDO DE LA GRANA

Adargelio Garrido de la Grana declares under penalty of perjury that the following is true and correct:

1. From 1987 until November 1993, I worked as a lawyer in the legal department of Cubatabaco. In November 1993, I assumed the position of head of the legal department of Cubatabaco. In 1994, I became the head of the legal department of Habanos, S.A. but, under the contract between Cubatabaco and Habanos, S.A., I continued to be the attorney responsible for Cubatabaco's trademark matters.

2. By virtue of my work in the above capacities, I am familiar with the international

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 262

registrations of Cohiba. I make this declaration on the basis of my personal knowledge and on the basis of my examination of the files and records maintained under my supervision.

3. During the 1970's, Cubatabaco filed applications to register Cohiba in 17 foreign countries as follows: in November and December 1971, in Great Britain and Ireland (P 17535), the Benelux countries (Belgium, Netherlands and Luxembourg) (P 17593-96), and Spain (P 17524-30); in 1972, in France (GCP 0581, GC 5982-83), Denmark (P 17668-70), Portugal (P 17588-90), Australia (P 17578), Egypt (P 17564-66, 17609-12), and South Africa (P 17630-31); and, between 1974 and 1978, in six more countries: Argentina in 1974 (P17636-40), Mexico in 1976 (P 17539-42), Switzerland in 1977 (P 17591), Venezuela in 1977 (P 17776), Colombia in January 1978 (P 17661-62), and Italy in August in 1978 (P 17704-07).

4. After Cohiba's 1982 international commercial launch, Cubatabaco undertook a second wave of international registrations. From 1982 to 1984, it made application in 35 additional countries.

5. Cubatabaco applied to register Cohiba in the following countries during the 1980's: 1982: Canada (June) (P 17656-58); Lebanon (P 17712-13). 1983: Austria (June) (P 17643-44); Liechtenstein (June) (P 17716-17); Germany (June) (P 17634-35); Finland (June) (P 17681-83); Bulgaria (June); Hungary (June) (P 17692); Sweden (July) (P 17759); Monaco (July) (P 17724-28); Czechoslovakia (July) (P 17663-65); Poland (July) (P 17747-50); Tunisia (July) (17770-1); Iceland (August) (P 17699-701); Nigeria (August) (P 17729); Norway (August) (P 17731-33); New Zealand (August) (P 17735); Panama (September) (P 17740-41); Jamaica (September) (P17708-09); India (P17693-94); Israel (P 17703). 1984: OAPI (January) (P 17737); Cyprus (February) (P 17666-67); Greece (February) (P 17553-56); Iran (February) (P 17562-63); Tanzania (February) (P 17763-65); Trinidad & Tobago (May) (P 17766-67); Ghana (May) (P 17688-89); Malawi (May) (P 17718-19); Suriname (May) (P 17762); Zambia (May) (P 17778); Zaire (July) (P 17777); Zimbabwe (September) (17780); Mexico (November) (P17722-23); Bahamas (P 17645-46). 1985: Bahrain (March) (P 17557); Morocco (January) (P 17720); Ecuador (P 17546); Honduras (P17547); Nicaragua (P 17552). 1986:United Kingdom (January)

(P 17551); Liberia (April) (P 17715). 1988: Uganda (June) (P 17772-75, 17628); Uruguay (October) (P 17769).

6. Cubatabaco has previously produced documents to defendants in discovery manifesting the above applications. I have inserted "P" numbers above to refer to the production number of the document which, I am informed, was assigned to the document manifesting the particular referenced application.

7. After 1988, applications for registration of COHIBA were filed in 54 additional countries.

8. As a result of the foregoing applications, Cohiba was registered by Cubatabaco in 145 countries.

9. I am sending an executed copy of this Declaration by fax to counsel in New York due to the exigencies of time, and will send the original of same by DHL.

Executed this 31st day of January 2002 in Havana, Cuba

ADARGELIO GARRIDO DE LA GRANA

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

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For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

GC 000108, Def. Ex. 263

General Cigar & Tobacco Co.

a division of
Culbro Corporation

Culbro

Memorandum

To D. W. Burgh Location NYO Date 10/4/1982

From M. J. Kowalsky Location NYO

RE: Cohiba

Today Norman Buck advised me that in a recent conversation he had with Nicholas Freeman he learned that Freeman has attempted to sell Cohiba cigars to Pan American Cigar Company (Mitch Jacobs).

Attached correspondence indicates that earlier this year an attempt by Quackenbush Trading Co. was made to register Cohiba cigars. On May 13, Tom Westle wrote Rafael Jacobs of Quackenbush to advise him that we owned the U.S. trademark registration for Cohiba.

In a telephone conversation with Mitch Jacobs today I learned that Pan American initially did some minor selling of Cohiba at the end of 1981 to establish interstate commerce. He received the letter from Tom Westle this past May. Nothing further has been done. Mitch indicated that he did not want to fight us on this registration; however, he did not give a definitive commitment not to distribute his own Cohiba brand.

While no further correspondence to Pan American is necessary, I suggest that our sales force keep a close eye on the trade to see if any other Cohiba become available.

MJK:ml

encs.

cc E. M. Cullman, Jr.
T. Brockman
R. Lilienfield
F. Fina, Jr.
N. Buck
T. Westle
C. Sparkes

mjk

CONFIDENTIAL

GC 000108

CONFIDENTIAL

P 0112

Blumberg No. 5114 DEFENDANT'S EXHIBIT D 263

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 264, GC 011230-11237

*** User: PUB88556 *** Serial Number: 75051706 ***

Word Mark
COHIBA

Translation
"COHIBA" is a conjugative form of the Spanish word "COHIBIR" which means "to restrain or cohibit".

Goods/Services
IC 003; US 001 004 006 050 051 052; G & S: men's fragrances, namely, cologne, and aftershave lotions

Goods/Services
IC 009; US 021 023 026 036 038; G & S: eyeglasses and sunglasses

Goods/Services
IC 014; US 002 027 028 050; G & S: jewelry and watches

Goods/Services
IC 016; US 002 005 022 023 029 037 038 050; G & S: writing instruments

Goods/Services
IC 018; US 001 002 003 022 041; G & S: leather goods, namely, valises, briefcases, toiletry cases sold empty, hand bags, wallets, billfolds, business and credit card cases and holders, key cases, and attache cases; luggage; umbrellas; bags, namely, all purpose carrying bags, beach bags, gym bags, book bags, duffel bags and all purpose athletic bags

Goods/Services
IC 025; US 022 039; G & S: clothing, namely, men's knitwear, active wear, and golf apparel, namely, shirts, pants, jackets, shorts, hats and caps; ties; suspenders, scarves; boxer shorts; shirts; sweatshirts; jackets; T-shirts; polo shirts; hats; and caps

Goods/Services
IC 033; US 047 049; G & S: alcoholic beverages, namely, liquors and distilled spirits, brandy, rum and whiskey

Goods/Services
IC 034; US 002 008 009 017; G & S: smokers' accessories, namely, humidors, ash trays not of precious metal, cigar cutters, cigar/cigarette lighters not for land vehicles, and matches

Mark Drawing Code
(1) TYPED DRAWING

Serial Number
75-051706

Filing Date
1996.02.01

Owner Name/Address
(APPLICANT) General Cigar Co., Inc. CORPORATION DELAWARE 320 West Newberry Road Bloomfield CONNECTICUT 06002

Prior US Registration
1147309; 1898273

Confidential:
Under Protective Order
GC 011230

*** Search: 1 *** Document Number: 1 *** (cont)

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 264

*** User: PUB88556 *** Serial Number: 75051706 ***

Type of Mark
TRADEMARK

Register
PRINCIPAL

Confidential:
Under Protective Order
GC 011231

FILING RECEIPT FOR TRADEMARK APPLICATION

03/16/96

Receipt on the DATE OF FILING of the application for registration and filing fees is acknowledged for the mark identified below. The DATE OF FILING is contingent upon the collection of any payment made by check or draft. Your application will be considered in the order in which it was received and you will be notified as to the examination thereof. Correspondence should be expected from the Patent and Trademark Office in approximately months. When inquiring about this application, include the SERIAL NUMBER, DATE OF FILING, OWNER NAME, and MARK.

06

RECEIVED
MAIL DEPT.
MAR 27 1996
MORGAN & FINNEGAN

TMPRE

Scott Greenberg
MORGAN & FINNEGAN
345 Park Avenue
New York, NY 10154

ATTORNEY REFERENCE NUMBER
0246.0130US3

PLEASE REVIEW THE ACCURACY OF THE FILING RECEIPT DATA.

A request for correction to the notice of allowance should be submitted within 30 days to the following address: ASSISTANT COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VIRGINIA 22202-3513. The correspondence should be marked to the attention of the Office of Trademark Program Control. The Patent and Trademark Office will review the request and make corrections when appropriate.

SERIAL NUMBER: 75/051706 **DATE OF FILING:** 02/01/1996
MARK: COHIBA
MARK TYPE(S): TRADEMARK
DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM
SECTION 1(A): NO **SECTION 1(B):** YES **SECTION 44:** NO

ATTORNEY: Scott Greenberg
OWNER NAME: General Cigar Co., Inc.
OWNER ADDRESS: 320 West Newberry Road
Bloomfield
CONNECTICUT 06002
ENTITY: CORPORATION
CITIZENSHIP/DOMICILE: DELAWARE

CASE 246-0130US3 SDGI JWCi
May 1, 1996
CONVENTION DATE Aug 1, 1996

INTERNATIONAL CLASS	DATE OF FIRST USE	DATE OF FIRST USE IN COMMERCE

ONLY THOSE DATES OF USE AND CLASSES FILED UNDER SECTION 1(A) ARE LISTED

GOODS/SERVICES BY INTERNATIONAL CLASS

003—men's fragrances, cologne, and aftershave
009—eyeglasses and sunglasses
014—jewelry and watches
016—writing instruments
018—leather goods; luggage, umbrellas, bags
025—clothing, namely sweatshirts; jackets; T-shirts; polo shirts; hats and caps; men's knitwear; men's active wear; golf apparel
033—alcoholic beverages
034—smokers' accessories

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

Confidential:
Under Protective Order
GC 011232

ADDITIONAL INFORMATION MAY BE PRESENT IN THE PTO RECORDS

Express Mail No. EH058269618US

TRADEMARK
0246-0130US3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK EXAMINING OPERATION

Mark	:	COHIBA
Classes	:	International Classes 3, 9, 14, 16, 18, 25, 33, 34
Applicant	:	General Cigar Co., Inc., a corporation organized under the laws of the state of Delaware
Business Address	:	320 West Newberry Road Bloomfield, CT 06002

TRADEMARK APPLICATION, PRINCIPAL REGISTER, WITH DECLARATION

Assistant Commissioner for Trademarks
BOX NEW APP/FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

SIR:

Applicant requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 as amended, on or in connection with the following goods:

Class 3: Men's fragrances, cologne, and aftershave

Class 9: Eyeglasses and sunglasses

Class 14: Jewelry and watches

Class 16: Writing instruments

Class 18: Leather goods; luggage, umbrellas, bags

Confidential:
Under Protective Order
GC 011233

Class 25: Clothing, namely, sweatshirts; jackets; t-shirts; polo shirts; hats and caps; men's knitwear; men's active wear; golf apparel

Class 33: Alcoholic beverages

Class 34: Smokers' accessories

Applicant has a bona fide intention to use the mark in commerce on or in connection with the above-identified goods. (15 U.S.C. §1051(b), as amended).

The mark is intended to be used by affixing it to tags and labels for the goods, and packaging for the goods, and in other ways usual in the trade.

Applicant is the owner of U.S. Registration Nos. 1,147,309 and 1,898,273, and U.S. Application Serial No. 74/686,067.

POWER OF ATTORNEY

Applicant hereby appoints John D. Foley; John A. Diaz; Thomas P. Dowling; John C. Vassil; Warren H. Rotert; Alfred P. Ewert; David H. Pfeffer; Harry C. Marcus; Robert E. Paulson; Stephen R. Smith; Kurt E. Richter; J. Robert Dailey; Eugene Moroz; John F. Sweeney; Arnold I. Rady; Christopher A. Hughes; William S. Feiler; Janet Dore; Joseph A. Calvaruso; James W. Gould; Richard C. Komson; Israel Blum; Christopher K. Hu; Bartholomew Verdirame; Dickerson M. Downing; Maria C.H. Lin; Joseph A. DeGirolamo, Christopher

Confidential:
Under Protective Order
GC 011234

E. Chalsen, Michael A. Nicodema, Michael P. Dougherty, Andrew M. Riddles, and Seth J. Atlas, and each of them as its attorneys to prosecute this application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the certificate of registration. Please address all correspondence to:

Scott Greenberg, Esq.
MORGAN & FINNEGAN
345 Park Avenue
New York, New York 10154

DECLARATION

The undersigned declares that I am authorized to execute this application on behalf of applicant; I believe applicant to be entitled to use the mark in commerce; to the best of my knowledge and belief, no other person, firm, corporation, or association has the right to use said mark in commerce, either in identical form or in such near resemblance thereto as may be likely, when applied to the goods or services of such other person, to cause confusion or to cause mistake, or to deceive; that the facts set forth in this application are true; that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of

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Under Protective Order
GC 011235

the United States Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

GENERAL CIGAR CO., INC.

Dated: 1/3/96 By: John M. Rano
Sr VP Marketing

Name: John M. Rano
Title: Sr. Vice President, Marketing

Confidential:
Under Protective Order
GC 011236

TRADEMARK
0246-0130US3

APPLICANT: General Cigar Co., Inc., A Delaware Corporation

ADDRESS: 320 West Newberry Road
Bloomfield, CT 06002

BASIS FOR APPLICATION: INTENT TO USE

GOODS:

Class 3: Men's fragrances....
Class 9: Eyeglasses and sun glasses
Class 14: Jewelry and watches
Class 16: Writing instruments
Class 25: Clothing, namely sweatshirts...
Class 33: Alcoholic beverages
Class 34: Smokers' accessories

COHIBA

ATTORNEYS: MORGAN & FINNEGAN

ADDRESS: 345 Park Avenue, New York, New York 10154

REF.: 0246-0130US3

197778_1

Confidential:
Under Protective Order
GC 011237

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 265, GC 011239-11246

*** User: PUB88556 *** Serial Number: 74686067 ***

Word Mark
COHIBA

Translation
The English translation of the mark is "restrain".

Goods/Services
IC 024; US 042 050; G & S: handkerchiefs

Goods/Services
IC 025; US 022 039; G & S: ties; suspenders; scarves and boxer shorts

Mark Drawing Code
(1) TYPED DRAWING

Serial Number
74-686067

Filing Date
1995.06.08

Owner Name/Address
(APPLICANT) General Cigar Co., Inc. CORPORATION DELAWARE 320 West Newberry Road Bloomfield CONNECTICUT 06002

Prior US Registration
1147309; 1898273

Type of Mark
TRADEMARK

Register
PRINCIPAL

Confidential:
Under Protective Order
GC 011239

*** Search: 2 *** Document Number: 1 ***

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 265

FILING RECEIPT FOR TRADEMARK APPLICATION

08.02.95

Receipt on the DATE OF FILING of the application for registration and filing fees is acknowledged for the mark identified below. The DATE OF FILING is contingent upon the collection of any payment made by check or draft. Your application will be considered in the order in which it was received and you will be notified as to the examination thereof. Correspondence should be expected from the Patent and Trademark Office in approximately 06 months. When inquiring about this application, include the SERIAL NUMBER, DATE OF FILING, OWNER NAME and MARK.

RECEIVED
DOCKET DEPT.

TMPRE

Scott Greenberg
MORGAN & FINNEGAN
345 Park Avenue
New York, NY 10154

AUG 1 0 1995

MORGAN & FINNEGAN

ATTORNEY
REFERENCE NUMBER

PLEASE REVIEW THE ACCURACY OF THE FILING RECEIPT DATA.

A request for correction of any information on this filing receipt should be submitted within 20 days to the following address: ASSISTANT COMMISSIONER FOR TRADEMARKS, 2900 Crystal Drive, Arlington, Va. 22202-3513. The correspondence should be marked to the attention of the Office of Program Control. The Patent and Trademark Office will review the request and make corrections when appropriate.

SERIAL NUMBER: 74/686067
DATE OF FILING: 06/08/1995
MARK: COHIBA
MARK TYPE(S): TRADEMARK
DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM
SECTION 1(A): NO
SECTION 1(B): YES
SECTION 44: NO

ATTORNEY: Scott Greenberg
OWNER NAME: General Cigar Co.
OWNER ADDRESS: 320 West Newberry Road
Bloomfield
CONNECTICUT 06002

ENTITY: CORPORATION
CITIZENSHIP/DOMICILE: CONNECTICUT

INTERNATIONAL CLASS	DATE OF FIRST USE	DATE OF FIRST USE IN COMMERCE

ONLY THOSE DATES OF USE AND CLASSES FILED UNDER SECTION 1(A) ARE LISTED

GOODS/SERVICES BY INTERNATIONAL CLASS

024-hankerchiefs
025-ties, suspenders, scarves, boxer shorts, and shirts

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

CASE 246-0130452 ATTY. S.D. Greenberg
INFORMATION DISCLOSURE STATEMENT
FOREIGN FILING September 8, 1995
CONVENTION DATE EXPIRES December 8, 1995

Confidential:
Under Protective Order
GC 011240

TMFRF3 (REV. 1/95)

ADDITIONAL INFORMATION MAY BE PRESENT IN THE PTO RECORDS

TRADEMARK
0246-0130 US2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK EXAMINING OPERATION

Mark	:	COHIBA
Class	:	International Classes 24 and 25
Applicant	:	General Cigar Co., a corporation organized under the laws of the state of Delaware
Business Address	:	320 West Newberry Road Bloomfield, CT 06002

TRADEMARK APPLICATION, PRINCIPAL REGISTER, WITH DECLARATION

Assistant Commissioner for Trademarks
BOX: NEW APP/FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

SIR:

Applicant requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 as amended, for the following goods:

Class 24: Handkerchiefs

Class 25: Ties, suspenders, scarves, boxer shorts, and shirts

Confidential:
Under Protective Order
GC 011241

Applicant has a bona fide intention to use the mark in commerce on or in connection with the above-identified goods. (15 U.S.C. §1051(b), as amended).

The mark is intended to be used on the goods by affixing it tags and labels attached to the goods, packaging for the goods, and in other ways usual in the trade.

Applicant is the owner of U.S. Registration No. 1,147,309 and U.S. Application Serial No. 74/344,349.

POWER OF ATTORNEY

Applicant hereby appoints John D. Foley; John A. Diaz; Thomas P. Dowling; John C. Vassil; Warren H. Rotert; Alfred P. Ewert; David H. Pfeffer; Harry C. Marcus; Robert E. Paulson; Stephen R. Smith; Kurt E. Richter; J. Robert Dailey; Eugene Moroz; John F. Sweeney; Arnold I. Rady; Christopher A. Hughes; William S. Feiler; Janet Dore; Joseph A. Calvaruso; James W. Gould; Richard C. Komson; Israel Blum; Christopher K. Hu; Bartholomew Verdirame; Dickerson M. Downing; Maria C.H. Lin; Joseph A. DeGirolamo, Christopher E. Chalsen, Michael A. Nicodema, and Michael P. Dougherty, and each of them as its attorneys to prosecute this application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to

Confidential:
Under Protective Order
GC 011242

receive the certificate of registration. Please address all correspondence to:

Scott Greenberg, Esq.
MORGAN & FINNEGAN
345 Park Avenue
New York, New York 10154

DECLARATION

The undersigned declares that I am authorized to execute this application on behalf of applicant; I believe applicant to be entitled to use the mark in commerce; to the best of my knowledge and belief, no other person, firm, corporation, or association has the right to use said mark in commerce, either in identical form or in such near resemblance thereto as may be likely, when applied to the goods or services of such other person, to cause confusion or to cause mistake, or to deceive; that the facts set forth in this application are true; that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false

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GC 011243

TRADEMARK
0246-0130 US2

statements may jeopardize the validity of the application or document or any registration resulting therefrom.

GENERAL CIGAR CO., INC.

Dated: June 6, 1995 By: A Ross Wollen

Name: A. Ross Wollen
Title: Secretary

155100_1

Confidential:
Under Protective Order
GC 011244

TRADEMARK
0246-0130 US2

APPLICANT: General Cigar Co., Inc., A Delaware Corporation

ADDRESS: 320 West Newberry Road
Bloomfield, CT 06002

BASIS FOR APPLICATION: INTENT TO USE

GOODS: Class 24: Handkerchiefs

Class 25: Ties, suspenders, scarves, boxer shorts, and shirts

COHIBA

ATTORNEYS: MORGAN & FINNEGAN

ADRESS: 345 Park Avenue, New York, New York 10154

REF.: 246-0130 US2

155100_1

Confidential:
Under Protective Order
GC 011245

TRADEMARK
0246-0130 US2

APPLICANT: General Cigar Co., Inc., A Delaware Corporation

ADDRESS: 320 West Newberry Road
Bloomfield, CT 06002

BASIS FOR APPLICATION: INTENT TO USE

GOODS: Class 24: Handkerchiefs

Class 25: Ties, suspenders, scarves, boxer shorts, and shirts

COHIBA

ATTORNEYS: MORGAN & FINNEGAN

ADRESS: 345 Park Avenue, New York, New York 10154

REF.: 246-0130 US2

155100_1

Confidential:
Under Protective Order
GC 011246

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 266, GC 004882-4884

General Cigar Co., Inc.

320 West Newberry Road
Bloomfield, CT 06002-1398
203/769-3600
Telex: 325896
Cable: CULBROCORP NYK

a company of
Culbro Corporation

Culbro

Austin T. McNamara
President
Chief Executive Officer
(TEL) 203/769-3601
(FAX) 203/769-3675

FAX TRANSMITTAL FORM

TO: Ross Wallace

FROM: Austin McNamara

DATE: 5/20/96

MESSAGE:

Number of Pages (including cover sheet) 3

CONFIDENTIAL

GC 004882

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 266

MAY 17 '96

FAX

Date: 05/17/96

Number of pages including cover sheet 2

TO: AUSTIN MACNAMARA

Phone

Fax Phone 860-769-3675

FROM: BRAD WEINFELD
MAX ROHR IMPORTERS

Phone (818) 885-0850

Fax Phone (818) 885-7473

CC:

REMARKS: ☐ Urgent ☒ For your review ☐ Reply ASAP ☐ Please Comment

Dear Austin,

It was nice talking to you today. As promised here is the business card of the person claiming he has the right to sell Dominican Cohibas. Go get him! The card even has an address, which many of these people are smart enough to omit.

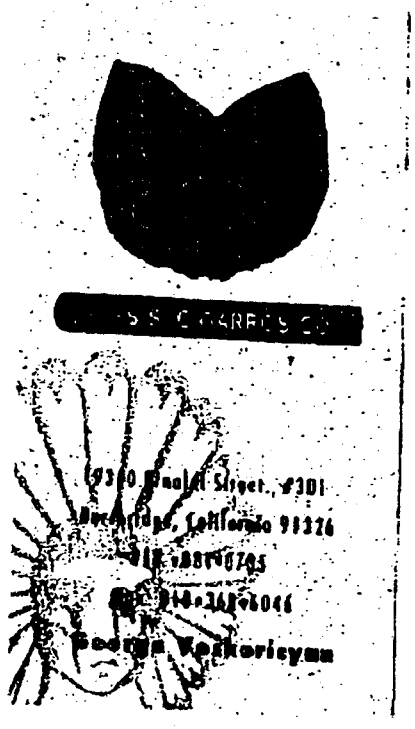
Sincerely,

Brad Weinfeld

REDACTED

CONFIDENTIAL

GC 004883



CONFIDENTIAL
GC 004884

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 267, GC 000288-000291

AGREEMENT

This Agreement made as of the date of the last signature hereto by and between General Cigar Co., Inc., a Delaware corporation having offices at 320 West Newberry Road, Bloomfield, Connecticut 06002 ("General Cigar") and R&H Designs, Inc., a California corporation having a place of business at 20721 Superior Street, Chatsworth, California 91311 ("R&H").

WHEREAS, General Cigar owns in the United States and is there using in connection with its cigars the trademark COHIBA and is the owner of United States Trademark Registrations Nos. 1,147,309 and 1,898,273 therefor, issued February 17, 1981 and June 6, 1995, respectively; and is also the owner of United States Trademark Application Ser. No. 74-686,067 for the mark COHIBA in connection with various clothing, apparel and related products, filed June 8, 1995 based on an intention to use in United States commerce.

WHEREAS, R&H is the owner of United States Trademark Applications Ser. Nos. 74-717,493 for the mark COHIBA and 74-725,868 for the mark COHIBA and Design, filed August 18, 1995 and September 6, 1995, respectively, in connection with t-shirts and claiming a date of first use in United States commerce since August 16, 1995; and is also the owner of United States Trademark Applications Ser. Nos. 74-717,496 for COHIBA and 74-725,856 for COHIBA and Design, filed August 18, 1995 and September 6, 1995, respectively, in connection with various clothing products and smoker's accessories, based on an intention to use in United States commerce.

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D 267

WHEREAS, R&H has no other application to register the mark COHIBA or any other mark incorporating the term COHIBA or any other word confusingly similar thereto in the United States or any state, territory or locality of the United States.

WHEREAS, the parties wish to resolve all issues and disputes between them relating to the mark COHIBA;

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Upon execution of this Agreement, R&H will forthwith discontinue and not thereafter resume any and all use of the mark COHIBA or any other mark incorporating the term COHIBA or any other word confusingly similar thereto on or in connection with any business, product, or service, or in any manner whatsoever.

2. Notwithstanding the provisions of paragraph 1, R&H will have three months from the date of this Agreement to deplete its inventory of any existing products or other materials bearing the designation COHIBA.

3. Upon execution of this Agreement, R&H will forthwith withdraw its United States Trademark Applications Ser. Nos. 74-717,493; 74-717,496; 74-725,856; and 74-725,868, and provide proof of these withdrawals to General Cigar's attorneys.

4. Upon R&H's cessation of use of the trademark COHIBA and its withdrawal of said trademark applications, General Cigar shall, and hereby does, fully and forever, unconditionally and irrevocably release R&H, its officers, directors, employees, agents, attorneys, successors, and assignees from any and all claims, demands, charges,

obligations, debts, actions, causes of action, known or unknown, arising from the use of COHIBA as a trademark prior to the execution hereof by the parties.

5. R&H will neither register nor attempt to register the mark COHIBA or any other mark incorporating the term COHIBA or any other word confusingly similar thereto in the United States or any state, territory or locality of the United States.

6. R&H will not contest or challenge in any way the right of General Cigar or its related companies to use or register any mark incorporating the term COHIBA in connection with their activities.

7. Nothing in this Agreement is either an express or implied admission of infringement of General Cigar's rights in its COHIBA mark by R&H.

8. Upon execution of this Agreement and receipt by General Cigar's attorneys of proof of the withdrawal of the trademark applications of R&H referred to in paragraph 3 above, General Cigar will pay R&H an amount in the sum of $500.

9. This Agreement sets forth the entire agreement between the parties. All matters concerning this Agreement and its validity, performance, or breach, shall be governed by the laws of New York. No agreement changing, amending, extending, superseding, rescinding, terminating, or discharging this Agreement, or any provisions thereof, shall be valid unless in writing and signed by the party to be charged. No waiver of any breach hereof shall be construed to be a continuing waiver or consent to any subsequent breach hereof. If any provision of this Agreement is invalid or unenforceable, it shall not affect the validity or enforceability of the other provisions.

10. This Agreement shall be binding upon and inure to the benefit of the undersigned parties, their officers, directors, shareholders, agents, servants, employees, licensees, attorneys, subsidiaries, related and affiliated companies, heirs, successors and assigns, and all entities operated and or controlled by any of them or in active concert or participation with any of them.

Dated: Bloomfield, Connecticut
June 15, 1996

GENERAL CIGAR CO., INC.

By: A Ross Wollen
Name: A Ross Wollen
Title: Secretary

Dated: Chatsworth, California
June 10th 1996

R&H DESIGNS, INC.

By: Russell Berens
Name: Russell Berens
Title: President

GC 000291

210641_1

P 0310

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 269, GC 000512

New Telephone Number
(212) 448-3820
Fax: 561-8791

July 16, 1996

COPY

Mr. Willis Krebs
Sutton Associates
One Jericho Plaza
Jericho, NY 11753

Dear Bill:

Here is some additional information about Cohiba sales. I believe I have seen all of this before and sent it to you but perhaps there is a clue or two here not in the previous materials. In particular we would like any status report on Richmond Avenue Cigar.

I was contacted by Gary Leshko of Consolidated Cigar about their use of customs (see his letter to me which I've enclosed). I do plan to follow up with the attorney in Washington and will let you know what we are doing so you can coordinate this with your own discussions with customs.

Sincerely yours,

ah/7406
enclosures as indicated

CONFIDENTIAL

GC 000512

CONFIDENTIAL

P 0523

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D269

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
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Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 271, GC 000295

DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

MIAMI, FLORIDA

DEC 18 1996

ENF-4:PD:A:FPF:lgr
CN: 97-5271-00024

Ms. Terrie A. Gleason
Baker & McKenzie
Attorneys at Law
815 Connecticut Ave., N.W.
Washington, D.C. 20006-4078

Dear Ms. Gleason:

This is to notify you that on November 6, 1996, the United States Customs Service seized at Miami, Florida, the merchandise described below because the articles bear counterfeit **"Cohiba"** and **"Montecristo"** trademark in violation of the provisions of title 19, United States Code, section 1526.

Cigars	: 1,000 Cohiba 250 Montecristo
Country of origin	: Dominican Republic
Mode of conveyance	: Commercial Aircraft

DEFENDANT'S EXHIBIT D 271

Pursuant to title 19, Code of Federal Regulations, section 133.23 (a), the owner of the trademark may provide written consent for importation of the articles, exportation, entry after obliteration of the trademark, or other disposition deemed appropriate. If you do not provide written consent to any such disposition within 30 days from the date of this letter, the articles will be forfeited and disposed of in accordance with the importer's right to petition for mitigation or remission from forfeiture.

Please address any documents or comments regarding your position in this matter, identified by the above seizure case number, to the Fines, Penalties & Forfeitures Officer, at the address shown below.

If you have any questions, please contact Lillian G. Rodriguez of the Fines, Penalties & Forfeitures Office (305) 869-2807.

GC 000295

Sincerely,

Lillian G. Rodriguez

P 0314

CONFIDENTIAL

for Mark F. Edwards
Fines, Penalties & Forfeitures Officer

REPLY TO: FINES, PENALTIES, AND FORFEITURE OFFICE, P.O. BOX 52-2207, MIAMI, FL 33152-2207

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

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For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 272, GC 007602-7605

William Ashley, Inc.

13333 North Central Expressway
Suite 111
Dallas, Texas

Telephone 972-497-1711
Fax 972-231-5889

January 9, 1997

Mr. John Weber
General Cigar Company
Bloomfield, CT

via fax

Dear Mr. Weber:

Thank you again for talking to me today regarding shipments of the Cohiba Dominicana cigars. Following this note, please find copies of C.A. Enterprises order forms for these cigars. C. A. Enterprises was developed, according to Chet Atkins, the principal owner, for the sole purpose of distributing these cigars. He wanted to be sure that "one day General won't be able to knock on my door and take everything I have".

He ships them from AKA, Inc., of Plainfied, NJ, another of his corporations structured to muddy the waters during the shipment of these copyright-infringed goods. If you call the telephone number in New Jersey for AKA, Inc. at 1324 New Market Avenue, you will also find that he owns a screen printing business, as well as Mike's Cigar Sanctuary.

Another corporation that he uses to ship out questionable merchandise is Chet's Cigars.

When we received the Cohibas that we shipped back to him, the boxes were marked with the names of other cigars, such as Blue Parrot, Penguin, and It's a Boy!. Mr. Atkins is a private labeler and told us that he will camouflage Cohibas and other goods in boxes labeled as something else.

He is also the person who has distributed more than 1500 boxes of these Cohibas to the Price/Cosco chain on the west coast. As he said himself, "that took a lot of balls".

Mr. Atkins has made the statement that "it is time that these copyrights begin to fall". I suppose that he feels that he is just the man to do it.

After we returned the goods to him, we have received numerous threats from him and his agents, including a representative in Houston who owns Richmond Avenue Cigars. This gentleman sells these Cohibas for Mr. Atkins, although he says he buys directly from

Blumberg No. 5114 DEFENDANT'S EXHIBIT D 272

General Cigar. But, then again, he also told us that he was "Sgt. Tim Smith of the Federal Trade Commission".

We have lodged complaints with the FTC and the FBI ourselves, but we thought that you should be aware of the guerrilla tactics used in marketing these cigars.

Other credits to Mr. Atkins: bundles of "Opus X" cigars, and 10,000 boxes of Monte Cristos from Monte Christy.

We have also included copies of Macanudo and Partagas order forms from this gentleman, and the UPS delivery sheet from where we shipped the goods back to him.

Thank you for your kind advice on the status of the goods last month. It is our pleasure to help you in any way possible.

Sincerely,

Debbie Young

Debbie Young

C. A. Enterprises, Inc.
1903 Walnut Street
Suite 105
Philadelphia, PA 19103
(215) 790-9014

SALES ORDER FORM
Cohiba Dominicana

Tier Four – 100 Boxes or more

To:	Ship To (If Different):
Company Name:	Company Name:
Contact Name:	Contact Name:
Address:	Address:
City:	City:
State: Zip Code:	State: Zip Code:
Telephone Number:	Telephone Number:
Fax Number:	Fax Number:
Salesperson:	Date of Order
Ordered by:	Date:

P.O. DATE	ORDERED BY	SHIP VIA	TERMS	ADDITIONAL INFO.

ITEM NO.	DESCRIPTION			QTY. ORDER	PRICE	TOTAL
Cohiba1	7 1/2x38	#1	Bundle of 25		$135.00	
Cohiba2	6 3/4x38	#2	Box of 10		$50.00	
Cohiba3	6x38	#3	Bundle of 25		$135.00	
CRobusto	5x48	Robusto	Box of 25		$130.00	
CBocado	4x48	Bocado Selectos	Box of 25		$125.00	
CJibarito	5 1/4x44	Jibarito	Box of 25		$130.00	
CEsplendito	7x47	Esplendito	Box of 25		$135.00	
	TOTAL					

Revised 11/11/97

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 273, GC 000449-469

CAOBA

Culbro Corporation

35 Griffin Road South
Bloomfield, CT 06002
Phone: 860/243-4360
Fax: 860/243-4367
Internet: johnwebber@counsel.com

Culbro

John E. Webber
Assistant General Counsel

Express Mail

January 13, 1997

Daniel Gordon
MG Supply Inc.
1654 N.E. 205th Terrace
North Miami Beach, FL 33179

Dear Mr. Gordon:

I want to thank you for your recent commitment that you will immediately cease the unauthorized use of the Cohiba trademark. However, as I indicated in the attached letter sent to you on October 5, 1996 we do require, among other things, a written confirmation that you have stopped using the trademark and have no intention of making any additional unauthorized use of the trademark. Once we have the information we requested and barring any additional violations, we will close our file. Your prompt attention to this matter will be greatly appreciated.

Very truly yours,

John E. Webber
Assistant General Counsel

Attachements

JEB/lw

Waiting for your Reply
Thank You
Danny Gordon

GC 000449 P 0467

DEFENDANT'S EXHIBIT D 273
Blumberg No. 5114

COHIBA

You can be assured that we will not only give you the best cigars in the market place, but we will do it at a price that is both affordable and attractive. All goods are stored in cedar boxes, except the Lancero which comes in a 1x5x5 pack. Twenty five cigars per box.

The following is the price list:

1.	Robusto	$130.00	5 X 50
2.	Esplendido	~~$140.00~~ 145.00 $7.25 each >150	7 X 50
3.	Jasarito	$135.00 $6.75 each >150	6 X 50
4.	Lancero	$162.50 $7.00 each >150	7 X 36

7x48

$15.00

CONFIDENTIAL

GC 000469

CONFIDENTIAL P 0487

COHIBA DE DOMINICANA
1048 IRVINE AVE. · SUITE 448 · NEWPORT BEACH, CA 92660 · 714-810-800

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 274, GC 000430-432

Culbro Corporation

35 Griffin Road South
Bloomfield, CT 06002
Phone: 860/243-4360
Fax: 860/243-4367
Internet: johnwebber@counsel.com

John E. Webber
Assistant General Counsel

Express Mail

January 13, 1997

Frank Douglas
Cohiba Cigar Emporium
102 F. Metaire Heights
Metaire Rd 2400 BLK
Metaire, LA 70001

Dear Mr. Douglas:

I want to thank you for your recent commitment that you will immediately cease the unauthorized use of the Cohiba trademark. However, as I indicated in the attached letter sent to you on October 5, 1996 we do require, among other things, a written confirmation that you have stopped using the trademark and have no intention of making any additional unauthorized use of the trademark. Once we have the information we requested and barring any additional violations, we will close our file. Your prompt attention to this matter will be greatly appreciated.

Very truly yours,

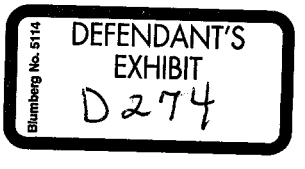
John E. Webber
Assistant General Counsel

Attachements

JEB/lw

GC 000430

P 0448



FedEx USA Airbill Tracking Number 161409446

Sender's Copy

2126 00424/00500

From (please print) 7-13-97 Sender's FedEx Account Number 1231-6856-5

Lynn Wood Phone (860) 769-3600

Dept./Floor/Suite/Room

GENERAL CIGAR COMPANY

320 W NEWBERRY RD

BLOOMFIELD State CT Zip 06002

Internal Billing Reference Information (First 24 characters will appear on invoice) 811

(please print)

Frank Doug (A) Phone ( )

Dept./Floor/Suite/Room

Cohiba Cigar Emporium

2 F. Metairie Heights, Metaire Rd 2400 BLK

FedEx location, print FedEx address here (We Cannot Deliver to PO Boxes or PO Zip Codes)

Metaire, LA State Zip 70001

For HOLD at FedEx Location check here

☐ Hold Weekday (Not available with FedEx First Overnight)

☐ Hold Saturday (Not available at all locations) (Not available with FedEx First Overnight or FedEx Standard Overnight)

For Saturday Delivery check here

☐ (Extra Charge. Not available to all locations) (Not available with FedEx First Overnight or FedEx Standard Overnight)

...ditions, Declared Value, and Limit of Liability – By using this Airbill, ...o the service conditions in our current Service Guide or U.S. ... Service Guide. Both are available on request. SEE BACK OF ...PY OF THIS AIRBILL FOR INFORMATION AND ADDITIONAL TERMS. ...e responsible for any claim in excess of $100 per package whether ...oss, damage, or delay, non-delivery, misdelivery, or misinformation, ...eclare a higher value, pay an additional charge, and document your actual loss in a timely manner. Your right to recover from us for any loss includes intrinsic value of the package, loss of sales, interest, profit, attorney's fees, costs, and other forms of damage, whether direct, incidental, consequential, or special, and is limited to the greater of $100 or the declared value but cannot exceed actual documented loss. The maximum declared value for any FedEx Letter and FedEx Pak is $500. Federal Express may, upon your request, and with some limitations, refund all transportation charges paid. See the FedEx Service Guide for further details.

4a Express Package Service *Packages under 150 lbs.* Delivery commitment may be later in some areas

☒ FedEx Priority Overnight (Next business morning) ☐ FedEx Standard Overnight (Next business afternoon) ☐ FedEx 2Day* (Second business day)

☐ NEW FedEx First Overnight (Earliest next business morning delivery to select locations) Higher rates apply

*FedEx Letter Rate not available. Minimum charge. One pound FedEx 2Day rate

4b Express Freight Service *Packages over 150 lbs.* Delivery commitment may be later in some areas

☐ FedEx Overnight Freight (Next business day service for any distance) ☐ FedEx 2Day Freight (Second business day service for any distance) ☐ FedEx Express Saver Freight (Up to 3 business day service based upon distance)

(Call for delivery schedule. See back for detailed descriptions of freight products.)

5 Packaging ☒ FedEx Letter ☐ FedEx Pak ☐ FedEx Box ☐ FedEx Tube ☐ Other Pkg.

☒ Declared value limit $500

6 Special Handling

Does this shipment contain dangerous goods? ☐ Yes (As per attached Shipper's Declaration) ☐ Yes (Shipper's Declaration not required)

☐ Dry Ice Dry Ice: 9, UN 1845 lift _____ x _____ kg. 904 (Dangerous Goods Shipper's Declaration not required)

CA ☐ Cargo Aircraft Only

7 Payment

Bill to: ☒ Sender (Account no. in section 1 will be billed) ☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check

(Enter FedEx account no. or Credit Card no. below)

FedEx Account No. _____

Credit Card No. _____ Exp. Date _____

Total Packages	Total Weight	Total Declared Value*	Total Charges
		$ .00	$ 25.00

*When declaring a value higher than $100 per shipment, you pay an additional charge. See SERVICE CONDITIONS, DECLARED VALUE AND LIMIT OF LIABILITY section for further information.

8 Release Signature *Sign to authorize delivery without obtaining signature.*

Your signature authorizes Federal Express to deliver this shipment without obtaining a signature and agrees to indemnify and hold harmless Federal Express from any resulting claims.

272

...ons?
...800·Go·FedEx (1-800-463-3339)

The World On Time

Rev. Date 6/95 PART #147936 ©1994-95 FedEx PRINTED IN U.S.A.

P 0449

GC 000431

FedEx USA Airbill 2628424956

Sender's Copy

382 500 11082725 6270N

1 From (please print)

Date 10/5/96 Sender's FedEx Account Number 1231-6856-5

Sender's Name John Webber Phone 1800-765-3600

Dept./Floor/Suite/Room

Company GENERAL CIGAR COMPANY

Address 320 W NEWBERRY RD

City BLOOMFIELD State CT Zip 06002

2 Your Internal Billing Reference Information

3 To (please print)

Recipient's Name Frank Douglas Phone 504) 837-0380

Dept./Floor/Suite/Room

Company Cohiba Cigar Emporium

Address 102 F Metairie Heights @ Metairie Rd 2400 BLK

City Metairie State LA Zip 70001

For HOLD at FedEx Location check here — Hold Weekday — Hold Saturday

For Saturday Delivery check here

4a Express Package Service Packages under 150 lbs.

- [X] FedEx Priority Overnight (Next business morning)
- [ ] FedEx Standard Overnight (Next business afternoon)
- [ ] FedEx 2Day (Second business day)
- [ ] NEW FedEx First Overnight (Earliest next business morning delivery to select locations)

4b Express Freight Service Packages over 150 lbs.

- [ ] FedEx Overnight Freight (Next business day service for any distances)
- [ ] FedEx 2Day Freight (Second business day service for any distances)
- [ ] FedEx Express Saver Freight (Up to 3 business day service based upon distance)

(Call for delivery schedule. See back for detailed descriptions of freight products.)

5 Packaging — [X] FedEx Letter — [ ] FedEx Pak — [ ] FedEx Box — [ ] FedEx Tube — [ ] Other Pkg

6 Special Handling

Does this shipment contain dangerous goods? [ ] Yes [ ] Yes

[ ] Dry Ice — [ ] CA [ ] Cargo Aircraft Only

7 Payment

Bill to: [X] Sender — [ ] Recipient — [ ] Third Party — [ ] Credit Card — [ ] Cash/Check

FedEx Account No.

Credit Card No. Exp. Date

Total Packages	Total Weight	Total Declared Value*	Total Charges
		$ .00	$

*When declaring a value higher than $100 per shipment, you pay an additional charge. See SERVICE CONDITIONS, DECLARED VALUE AND LIMIT OF LIABILITY section for further information.

8 Release Signature Sign to authorize delivery without obtaining signature.

Your signature authorizes Federal Express to deliver this shipment without obtaining a signature and agrees to indemnify and hold harmless Federal Express from any resulting claims.

272

Service Conditions, Declared Value, and Limit of Liability – By using this Airbill you agree to the service conditions in our current Service Guide or U.S. Government Service Guide. Both are available on request. SEE BACK OF SENDER'S COPY OF THIS AIRBILL FOR IMPORTANT DETAILS AND ADDITIONAL TERMS. We will not be responsible for any claim in excess of $100 per package whether as a result of loss, damage, or delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, and document your actual loss in a timely manner. Your right to recover from us for any loss includes intrinsic value of the package, loss of sales, interest, profit, attorney's fees, costs, and other forms of damage, whether direct, incidental, consequential, or special, and is limited to the greater of $100 or the declared value but cannot exceed actual documented loss. The maximum declared value for any FedEx Letter and FedEx Pak is $500. Federal Express may, upon your request, and with some limitations, refund all transportation charges paid. See the FedEx Service Guide for further details.

Questions?
Call 1·800·Go·FedEx (1-800-463-3339)

The World On Time.

102 F Metairie Heights, LA 70001

@ Metairie Road 240[illegible]

COHIBA CIGAR EMPORIUM

Frank Douglass DVM, III, IV

(504) 837-0380

GC 000432

P 0450

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 275, GC 000458-481

Culbro Corporation

35 Griffin Road South
Bloomfield, CT 06002
Phone: 860/243-4360
Fax: 860/243-4367
Internet: johnwebber@counsel.com

John E. Webber
Assistant General Counsel

June 9, 1997

S & P Exporting/Importing Inc.
P.O. Box 622
Mt. Siani, New York 11766

Re: Cohiba Cigars

Dear Sir:

I write today on behalf of Culbro Corporation, General Cigar Holdings, Inc. and its General Cigar subsidiary.

For many years, General Cigar Co., Inc. ("General Cigar") and its predessors-in-interest have used the registered mark COHIBA on cigars sold in the United States. This trademark is widely and favorably known to consumers in this country as designating cigars originating exclusively from General Cigar Co., Inc. Enclosed for your reference are copies of General Cigar's United States Registrations for the mark COHIBA in connection with cigars, Reg. Nos. 1,147,309 and 1,898,273. General Cigar also has plans in progress to sell a wide array of additional products in the United States under the mark COHIBA promoting and related to its COHIBA cigars, including various types of clothing and apparel, including t-shirts, shorts, ties, sweatshirts, polo shirts and sports apparel such as golf apparel and beachwear, smoker's accessories, as well as other products. Accordingly, General Cigar also owns United States Trademark Application Serial No. 74-686,067 for the mark COHIBA in connection with various clothing and apparel products and accessories, including a variety of shirts such as t-shirts, golf shirts and beach shirts, filed June 8, 1995 based on an intention to use the mark for those goods.

It has come to our attention that you are using the identical mark COHIBA in connection with the sale of cigars which were not produced by General Cigar.

Any use of the mark COHIBA in the United States by you or your company or on your or your company's behalf, in connection with the sale of cigars or other of the goods identified, does and will constitute infringement of General Cigar's exclusive trademark rights in the mark COHIBA. Such use is likely to cause confusion, mistake or deception, in that purchasers of your or your company's goods will be led, by reason of the identity of the marks and the related nature of the goods, to believe that your COHIBA products emanate from or are otherwise sponsored or

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D275

licensed by or affiliated with General Cigar. In addition, your use of the COHIBA mark in the United States does and will dilute the distinctive quality of our mark, thus injuring our trademark rights and goodwill in the COHIBA mark. Please be assured that General Cigar will take prompt legal action to protect its valuable rights.

For the foregoing reasons, we must insist that you, your company and any affiliated entities immediately cease and desist any and all use or planned use of the COHIBA trademark in the United States.

Please immediately provide us, via express mail, with your written confirmation that your use of and/or sale of goods bearing the mark COHIBA have ceased, along with the following information:

1. A complete listing of any and all sources of cigars bearing the COHIBA mark which have been purchased by you or your company.

2. A complete listing of any and all cigars bearing the COHIBA mark currently in inventory.

3. Copies of any and all shipping documentation relating to your purchase of the cigars bearing the COHIBA mark.

We look forward to your prompt assurance that you will abide by our request.

Very truly yours,

John E. Webber

JEB/lw
Enclosures

cc: J. Rano

C&C Tobacco Outlet of Ithaca
109 North Meadow St
Ithaca, NY 14850
(607) 272-4341

IMPORTED CIGARS – R.Y.O. SUPPLIES – LIGHTERS – ACCESSORIES – TOBACCOS – PIPES

RTDA

6/9/97

MR. John Webber,

I'm Sending the Price list From S&P Exporting Along with the only paper work that came with the Cohiba's Montecristos. I have no idea About the El Coronel - let me Know if you know Anything. I know it's not your department but how About passing the word on to Sales that I am still looking to open a direct Account with General Cigar.

Thanks Chris Osborn

GC 000462

C&C Tobacco Outlet
109 N. Meadow St. • Ithaca, NY 14850

P 0480

CONFIDENTIAL

IMPORTED CIGARS
Walk-in Humidor

CONFIDENTIAL

(607) 272-4341

Chris Osborn

S & P Exporting/Importing Inc.
P.O. Box 622 · Mt. Sinai, New York 11766 · 516-331 5470

March 8, 1997

Dear Retailer:

The price list below is current until further notice. Please note that the El Coronel line affords you a greater markup and still provides the most exciting value for your most discrimination customer. Don't laugh until you have tried one of our El Coronels and matched it against your favorite Cohiba or Montecristo. Try it, you'll like it!

BRAND	SIZE	PRICE/EA.	PRICE/BOX
El Coronel	50 x 4	$3.13	$ 78.25
El Coronel	50 x 4 1/2	$3.35	$ 83.75
El Coronel	50 x 7	$3.52	$ 89.00
El Coronel	47 x 7	$3.46	$ 86.50
El Coronel	42 x 6 1/2	$3.28	$ 82.00
El Coronel	38 x 5	$3.24	$ 81.00
El Coronel Pyramid	52 x 6	$4.69	$ 93.80
Cohiba #1	38 x 7 1/2	$8.00	$200.00
Cohiba #2	38 x 6 3/4	$7.68	$192.00
Cohiba #3	38 x 6	$7.36	$184.00
Cohiba Robusto	46 x 5	$7.80	$195.00
Cohiba Lanceros	39 x 7 1/2	$9.92	$248.00
Cohiba Bacado Selectos	46 x 4	$7.16	$179.00
Cohiba Jibarito	44 x 6 1/4	$8.04	$201.00
Cohiba Esplendido	47 x 7	$8.48	$212.00
Cohiba Petit	46 x 6 1/4	$5.57	$ 55.70
Montecristo #1	46 x 7	$7.64	$191.00
Montecristo #2	44 x 6 1/4	$7.56	$189.00
Montecristo #3	42 x 5 1/2	$7.20	$180.00
Montecristo #4	42 x 5	$7.12	$178.00
Montecristo #5	42 x 4	$7.00	$175.00
Montecristo Extra #1	38 x 7 1/2	$8.40	$210.00
Montecristo Especial #2	38 x 5	$7.84	$196.00
Montecristo Petit	26 x 4 1/4	$	$
Montecristo #50	50 x 7	$9.04	$226.00

The above prices include the Tobacco Product Tax. Invoices will read "Tobacco Product Tax was assumed by Distributor" In addition, please note that with the El Coronel line of cigars, you can order any length with any of the four ring sizes.

GC 000463 P 0481

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

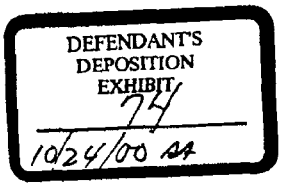
EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 276, Def. Dep. Ex. 74

05/16 00 TUE 08:08 FAX 1212 674 4014 002

DEFENDANT'S DEPOSITION EXHIBIT 74 10/24/00 AA



Michael Krinsky, Esq. (MK 2428)
RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.
740 Broadway, 5th Floor
New York, New York 10003
(212) 254-1111
Attorneys for Plaintiff

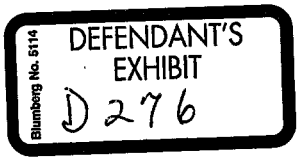
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a. CUBATABACO, Plaintiff, - against - CULBRO CORPORATION and GENERAL CIGAR CO., INC. Defendants,	97 Civ. 8399 (RWS)

PLAINTIFF'S SUPPLEMENTAL PRIVILEGE LOG OF DOCUMENTS WITHHELD FROM PRODUCTION IN RESPONSE TO DEFENDANTS' MODIFIED FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Plaintiff, Empresa Cubana del Tabaco d.b.a. Cubatabaco ("Cubatabaco"), by and through counsel, hereby serves its attached Supplemental Privilege Log of Documents Withheld from Production in Response to Defendants' Modified First Request for Production of Documents. Cubatabaco reserves the right to supplement this log upon review of any additional responsive documents.

Dated: New York, New York
May 15, 2000



RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

By: _____

DEFENDANT'S EXHIBIT D276 Blumberg No. 5114

MICHAEL KRINSKY (MK 2428)
DAVID B. GOLDSTEIN (DG 8291)
740 Broadway, 5th Floor
New York, New York 10003
(212) 254-1111

Attorneys for Plaintiff,
Empresa Cubana del Tabaco
d.b.a. Cubatabaco

To: Janet Dore, Esq.
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154
Attorneys for Defendants Culbro Corporation and General Cigar Co., Inc.

PLAINTIFF'S SUPPLEMENTAL LOG OF DOCUMENTS WITHHELD FROM PRODUCTION IN RESPONSE TO DEFENDANTS' MODIFIED FIRST AMENDED REQUEST FOR PRODUCTION OF DOCUMENTS ON CLAIMS OF ATTORNEY CLIENT OR ATTORNEY WORK PRODUCT PRIVILEGE

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
To Notebook from A. Garrido	Notes of meeting with Debra Evenson concerning GC/Culbro U.S. COHIBA registration(s)	July 1994	Attorney-client and attorney work product	One page
To Notebook from A. Garrido	Notes of meeting with Michael Krinsky concerning COHIBA	September 1996	Attorney-client and attorney work product	one line
To Notebook from A. Garrido	Notes on COHIBA registration in Dominican Republic	1994	Attorney work product	one page
To Notebook from A. Garrido	Notes on meeting with Debra Evenson concerning GC/Culbro U.S. COHIBA registration(s)	September 26, 1996	Attorney client and attorney work product	one page
To Notebook from A. Garrido	Notes of meeting with Milchior, French lawyer, concerning COHIBA registration in European Union	May 1994	Attorney client and attorney work product	one page

Notes:

"Re GC/Culbro U.S. COHIBA registration(s)" refers to one or both of the registrations of COHIBA for cigars in the United States issued either to Culbro Corporation or General Cigar Corporation.

The privilege log does not include post-filing documents concerning the TTAB cancellation proceeding brought by plaintiff to cancel General Cigar's registrations of COHIBA.

The privilege log does not include post-filing documents concerning the instant action.

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of May 2000, a true and correct copy of the foregoing Plaintiff's Supplemental Privilege Log of Documents Withheld from Production in Response to Defendants' Modified First Request for Production of Documents was served by U.S. mail on the following:

Janet Dore, Esq.
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154

David B. Goldstein (DG 8291)

RABINOWITZ, BOUDIN, STANDARD, KRINSKY & LIEBERMAN, P.C.
ATTORNEYS AT LAW
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NEW YORK, NY 10003-9518

TELEPHONE (212) 254-1111
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LEONARD B. BOUDIN (1912-1989)
MICHAEL KRINSKY
ERIC M. LIEBERMAN
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CHRISTINE S. KIM
RAPHAEL GOLB

COUNSEL
VICTOR RABINOWITZ
MICHAEL B. STANDARD
LEONARD I. WEINGLASS
ELLEN J. WINNER
DEBRA EVENSON
TERRY GROSS

June 5, 2000

VIA FAX: 751-6849

Janet Dore, Esq.
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154

Re: *Empresa Cubana del Tabaco v. Culbro Corporation, et al*

Dear Janet:

Enclosed please find Plaintiff's Supplemental Log of Documents Withheld From Production in Response to Defendants' Modified First Amended Request For Production of Documents on Claims of Attorney Client or Attorney Work Product Privilege.

Sincerely,

Michael Krinsky

DEFENDANT'S
DEPOSITION
EXHIBIT
72
10/24/00 AA

Empresa Cubana del Tabaco d.b.a. Cubatabaco v. Culbro Corp., et. al., U.S.D.C., S.D.N.Y., 97 Civ. 8399 (RSW)

PLAINTIFF'S SUPPLEMENTAL LOG OF DOCUMENTS WITHHELD FROM PRODUCTION IN RESPONSE TO DEFENDANTS' MODIFIED FIRST AMENDED REQUEST FOR PRODUCTION OF DOCUMENTS ON CLAIMS OF ATTORNEY CLIENT OR ATTORNEY WORK PRODUCT PRIVILEGE

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Minutes of weekly meeting of a group of directors of Habanos, S.A.	COHIBA litigation	Post-Nov. 1997	Attorney-client; attorney work-product	1 sentence
To Francisco Linares from A. Garrido	Memo regarding Cohiba litigation	September 12, 1997	Attorney-client	7 pages
To Ricardo Cabrisas from Francisco Linares	Memo regarding Cohiba litigation, incorporating Garrido memo to Linares of Sept. 12, 1997	September 12, 1997	Attorney-client	3 pages
To Ricardo Cabrisas from Francisco Linares	Memo regarding negotiations with General Cigar over COHIBA; summarizing meeting involving attorneys and their opinions	December 4, 1997	Attorney-client; attorney work-product	3 pages
To Juan Diaz Tenorio from A. Garrido	Memo regarding possible Cohiba litigation	August 20, 1996	Attorney-client	1 page

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[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
From Juan Diaz Tenorio	Minutes of special meeting of Board of Directors of Cubatabaco authorizing cancelation proceedings and discussing legal opinions and analysis	September 12, 1996	Attorney work-product; attorney-client	2 pages
To Co. Orlando Hernandez Guillen, V.P of MINCEX from Juan Diaz Tenorio	Report prepared by A. Garrido on legal proceedings in U.S. concerning COHIBA registration and legal situation elsewhere	May 27, 1997	Attorney-client; attorney work-product	3 pages

G:\COHIBA\Privilege\Raphael\more priv doc June 5 2000.wpd

INDEX OF NAMES

Ricardo Cabrisas.....Minister, Ministry of Foreign Commerce
Garrido, A.....Attorney for Cubatabaco and Habanos, S.A.
Co. Orlando Hernandez Guillen .....Vice President of MINCEX
Francisco Linares.....President, Habanos, S.A.
Juan Diaz Tenorio.....Director, Cubatabaco

DEFENDANT'S
DEPOSITION
EXHIBIT
21
10/24/00 AM

Michael Krinsky, Esq. (MK 2428)
RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.
740 Broadway, 5th Floor
New York, New York 10003
(212) 254-1111
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a. CUBATABACO, Plaintiff, - against - CULBRO CORPORATION and GENERAL CIGAR CO., INC. Defendants,	97 Civ. 8399 (RWS)

EMPRESA CUBANA DEL TABACO D.B.A. CUBATABACO'S SUPPLEMENTAL DOCUMENT PRODUCTION AND PRIVILEGE LOG IN RESPONSE TO DEFENDANTS CULBRO CORPORATION AND GENERAL CIGAR CO., INC.'S MODIFIED FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS

Plaintiff, Empresa Cubana del Tabaco d.b.a. Cubatabaco ("Cubatabaco"), by and through counsel, hereby serves its Supplemental Document Production and Supplemental Privilege Log in response to Defendants Culbro Corporation and General Cigar Co., Inc.'s Modified First Request For Production Of Documents And Things, served on February 25, 2000, as follows:

1. Plaintiffs herewith produce documents P3397 - P3929.

2. Plaintiff intends to supplement this production as responsive documents and things become available for production.

3. Plaintiff herewith serves its attached Supplemental Privilege Log of Documents Withheld from Production in Response to Defendants' Modified First Request for Production of Documents. Cubatabaco reserves the right to supplement this log upon review of any additional responsive documents.

Dated: New York, New York
August 1, 2000

RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

By: _____

MICHAEL KRINSKY (MK 2428)
DAVID B. GOLDSTEIN (DG 8291)
740 Broadway, 5th Floor
New York, New York 10003
(212) 254-1111

Attorneys for Plaintiff,
Empresa Cubana del Tabaco
d.b.a. Cubatabaco

To: Janet Dore, Esq.
Dick Downing, Esq.
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154
Attorneys for Defendants Culbro Corporation and General Cigar Co., Inc.

2. Plaintiff intends to supplement this production as responsive documents and things become available for production.

3. Plaintiff herewith serves its attached Supplemental Privilege Log of Documents Withheld from Production in Response to Defendants' Modified First Request for Production of Documents. Cubatabaco reserves the right to supplement this log upon review of any additional responsive documents.

Dated: New York, New York
August 1, 2000

RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

By: _____

MICHAEL KRINSKY (MK 2428)
DAVID B. GOLDSTEIN (DG 8291)
740 Broadway, 5th Floor
New York, New York 10003
(212) 254-1111

Attorneys for Plaintiff,
Empresa Cubana del Tabaco
d.b.a. Cubatabaco

To: Janet Dore, Esq.
Dick Downing, Esq.
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154
Attorneys for Defendants Culbro Corporation and General Cigar Co., Inc.

PLAINTIFF'S SUPPLEMENTAL LOG OF DOCUMENTS WITHHELD FROM PRODUCTION IN RESPONSE TO DEFENDANTS' MODIFIED FIRST AMENDED REQUEST FOR PRODUCTION OF DOCUMENTS ON CLAIMS OF ATTORNEY CLIENT OR ATTORNEY WORK PRODUCT PRIVILEGE

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
To A. Garrido from Nachman Cohen-Zedek, Adv.	Correspondence Re: litigation against stock of counterfeit Cohiba in Israel	July 5, 2000	Attorney-client	One page
To Nachman Cohen-Zedek from A. Garrido	Correspondence re: litigation against stock of counterfeit Cohiba in Israel	June 29, 2000	Attorney-client	One page
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: opposition to use of COHIBA	March 3, 2000	Attorney client	3 pages
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: opposition to use of COHIBA	November 12, 1999	Attorney client	2 pages
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: opposition to use of COHIBA	December 28, 1999	Attorney client	1 page
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: opposition to use of COHIBA	May 11, 2000	Attorney client	2 pages
To A. Garrido from Dr. Meyer, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	December 30, 1999	Attorney client	One page
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	October 20, 1999	Attorney client	One page

To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	October 28, 1999	Attorney client	One Page
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	February 2, 2000	Attorney client	2 pages
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	September 14, 1999	Attorney client	3 pages
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	December 12, 1999	Attorney client	One page
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	October 26, 1999	Attorney client	2 pages
To A. Garrido from Dr. Meyer, Weser & Kollegen	Correspondence re: opposition to registration application	January 11, 2000	Attorney client	2 pages
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: opposition to ESPLENDIDOS	May 30, 2000	Attorney client	2 pages
To A. Gonzalez from Hauser Belgrano & Fernandez	Correspondence re: oppositions to applications for COHIBA	February 16, 2000	Attorney client	One page
To Habanos S.A. from R. van Laaren, Nederlandsch Octroibureau	Correspondence re: opposition to application for COHIBA in Benelux	April 25, 2000	Attorney client	One page
To Habanos S.A. from R. van Laaren, Nederlandsch Octrooibureau	Correspondence re: opposition to application for COHIBA in Benelux	December 7, 1999	Attorney client	One page

To A Garrido from Ninochca Arteaga Reyes	Correspondence re: opposition to registrations of COHIBA in Kyrgyz, Poland, Hungary and Bulgaria	November 26, 1999	Attorney client	One page
To A. Gonzalez from Alexsandra A. Cavalcante de Almeida, Araripe & Associados	Correspondence re: opposition to registration of COHIBA in Brazil	April 20, 2000	Attorney client	2 pages
To Richard Whissell from Alejandra Gonzalez de la Vega	Correspondence re: opposition to registration of Lazaro COHIBA in Canada	February 23, 2000	Attorney client	One page
To Alejandra Gonzalez from Richard Whissell; cc: Abel G. Ortego	Correspondence re: opposition to Lazaro Cohiba in Canada	February 23, 2000	Attorney client	One page
To Corporacion Habanos, S.A. from Susi Frey, Soc. Estudio Harneker	Correspondence re: opposition to COHIBA in Chile	March 31, 2000	Attorney client	One page
To Corporacion Habanos, S.A. from Ximena Castellanos, Albaro Castellanos M. & Cia.	Correspondence re: opposition to application to register COHIBA in Colombia	May 12, 2000	Attorney client	One page
To A Garrido from Chang Yuchun	Correspondence re: opposition to registration of COHIBA in China	November 5, 1999	Attorney client	One page

To A Garrido from Antonia Ruiz, Gil-Vega	Correspondence re: opposition to registration of COHIBA in Spain	April 7, 2000	Attorney client	One page
To Jorge Yanez from Alejandra Gonzalez	Correspondence re: opposition to registration of COHIBA in Spain	April 18, 2000	Attorney client	One page
To A. Garrido from Antonia Ruiz	Correspondence re: opposition to registration of COHIBA in Spain	April 7, 2000	Attorney client	One page
To A. Garrido from Antonia Sanchez	Correspondence re: opposition to registration of COHIBA in Spain	December 17, 1999	Attorney client	One page
To A. Garrido from J. Ortiz	Correspondence re: oppositions to registrations of COHIBA and other marks in Spain	November 5, 1999	Attorney client	2 pages
To A. Garrido from Antonia Sanchez	Correspondence re: oppositions to mark similar to COHIBA and other marks in Spain	December 17, 1999	Attorney client	One page
To Corporacion Habanos, S.A. from Catherine Mallet, Cabinet Harle & Phelp	Correspondence re: opposition to registration of COHIBA in France	February 3, 2000	Attorney client	One page
To Corporacion Habanos, S.A. from Catherina Mallet	Correspondence re: opposition to registration of mark KOHIBA in France	April 4, 2000	Attorney client	One page

To Alejandra Gonzalez from Sandra Gibbons, Marks & Clerk	Correspondence re: opposition to registration of mark COHIBA in Hong Kong	April 25, 2000	Attorney client	One page
To Adargelio Garrido from Ninochca Arteaga Reyes, Lex S.A.	Correspondence re: oppositions to registrations of COHIBA in Kyrgyz, Poland, Hungary and Bulgaria	November 26, 1999	Attorney client	One page
To Alejandra Gonzalez from James Fish	Correspondence re: opposition to registration of COJIMAR in UK	November 2, 1999	Attorney client	One page
To Juan Carlos Quiroz from Alejandra Gonzalez	Correspondence re: opposition to registration of COHIBA	June 27, 2000	Attorney client	One page
To A Garrido from Juan Carlos Quiroz Zolezzi	Correspondence re: opposition to registrations of COHIBA and COIBA in Mexico	June 26, 2000	Attorney client	2 pages
To Juan Carlos Quiroz from Alejandra Gonzalez	Correspondence re: opposition to registrations of COHIBA and COIBA in Mexico	June 27, 2000	Attorney client	One page
To Adargelio Garrido from Juan Carlos Quiroz	Correspondence re: opposition to registrations of COHIBA in Mexico	December 3, 1999	Attorney client	2 pages
To Adargelio Garrido from Juan Carlos Quiroz	Correspondence re: opposition to registration of COHIBA	November 4, 1999	Attorney client	One page

To Adargelio Garrido from Ninochca Arteaga Reyes, Lex S.A.	Correspondence re: opposition to registrations of COHIBA in Kyrgyz, Poland, Hungary and Bulgaria	November 26, 1999	Attorney client	One page
To Adargelio Garrido from Lose Luis Arnaut	Correspondence re: opposition to registration COHIBA in Portugal	May 12, 2000	Attorney client	One page
To Garrido from Bryns Patenkontor	Correspondence re: opposition to registration of COHIBA in Norway	March 8, 2000	Attorney client	One page
To Adargelio Garrido from Ninochca Arteaga Reyes, Lex S.A.	Correspondence re: opposition to registrations of COHIBA in Kyrgyz, Poland, Hungary and Bulgaria	November 26, 1999	Attorney client	One page
Ro Irina Korzun, Gorodissky & Partners from Alejandra Gonzalez	Correspondence re: opposition to registration of COHIBA	April 14, 2000	Attorney client	One page
To Adargelio Garrido from Birgitta Husfeldt Lindholm	Correspondence re: opposition to registration of COHIBA in Sweden	November 9, 1999	Attorney client	2 pages

To Manuel Rio Pombo from Bentala Hoet & Associados	Correspondence re: opposition to registration of TABACOS COHIBA in Venezuela	May 26, 1999	Attorney client	One page
To Manuel Rio Pombo from Bentala Hoet & Associados	Correspondence re: opposition to registration of COHINA in Venezuela	May, 1999	Attorney client	One page
To J. Duran from G.E. Danneman	Correspondence re: litigation against COHIBA Industria e Exportacao Ltda	May 4, 1989	Attorney client	2 pages
To A Garrido from Antonia Ruiz, Gil-Vega	Correspondence re: litigation related to mark COHIBA in Spain	March 2, 2000	Attorney client	One page
To A Garrido from Antonia Ruiz, Gil-Vega	Correspondence re: litigation related to mark COHIBA in Spain	June 1, 2000	Attorney client	One page
To A Garrido from Antonia Ruiz, Gil-Vega	Correspondence re: litigation related to mark COHIBA in Spain	November 4, 1998	Attorney client	One page
To A Garrido from Antonia Ruiz, Gil-Vega	Correspondence re: litigation related to mark COHIBA in Spain	April 14, 1998	Attorney client	One page
To A Garrido from Richard Milchior	Correspondence re: litigation in France	November 26, 1998	Attorney client	One page
To A Garrido from Richard Milchior	Correspondence re: litigation in France	November 4, 1998	Attorney client	One page
To A Garrido from Richard Milchior	Correspondence re: litigation in France	October 2, 1998	Attorney client	One page

To A Garrido from Richard Milchior	Correspondence re: litigation in France	July 1, 1998	Attorney client	One page
To A Garrido from Richard Milchior	Correspondence re: litigation in France	May 31, 26, 1998	Attorney client	One page
To A Garrido from Richard Milchior	Correspondence re: litigation in France	April 29, 1998	Attorney client	One page
To A Garrido from Richard Milchior	Correspondence re: litigation in France	February 23, 2000	Attorney client	One page
To Garrido from C. Mallet, Cabinet Harle & Phelp	Correspondence re: litigation related to mark COHIBA in France	April 5, 2000	Attorney client	2 pages
To Garrido from C. Mallet, Cabinet Harle & Phelp	Correspondence re: litigation related to mark COHIBA in France	December 28, 1999	Attorney client	2 pages
To Garrido from C. Mallet, Cabinet Harle & Phelp	Correspondence re: litigation related to mark COHIBA in France	November 18, 1999	Attorney client	One page
To J. Duran from Jose Manuel Hinojosa A., Uhthoff, Gomez Vega & Uhthoff, S.C.	Correspondence re: litigation related to the mark COHIBA in Mexico	September 17, 1989	Attorney client	2 pages
To Tomas Lopez Garcia from Ada Acosta Martinez	Correspondence re: registration of mark COHIBA in Dominican Republic	January 5, 1995	Attorney client	One page

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LEONARD B BOUDIN (1912-1989)
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CHRISTINE S KIM
RAPHAEL GOLB
ROGER BEARDEN

COUNSEL
VICTOR RABINOWITZ
MICHAEL B STANDARD
LEONARD I WEINGLASS
ELLEN J WINNER
DEBRA EVENSON
TERRY GROSS

October 23, 2000

DEFENDANT'S DEPOSITION EXHIBIT 96

BY FAX AND FIRST CLASS MAIL
Dickerson Downing, Esq.
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154

Re: *Empresa Cubana del Tabaco d.b.a. Cubatabaco* v. *Culbro Corp., and General Cigar Co., Inc.*, 97 Civ. 8399 (RWS)

Dear Dick:

Enclosed please find a Supplemental Privilege Log in the above-referenced matter. In the course of my review today of privileged correspondence regarding Cohiba in the 1980's, I discovered that the privilege log inadvertently omitted the correspondence referenced on the attached Log. I apologize for any inconvenience.

Sincerely,

David Goldstein

G:\COHIBA\Correspondence\Downing 10.10.wpd

Empresa Cubana del Tabaco d.b.a. Cubatabaco v. Culbro Corp., et. al., U.S.D.C., S.D.N.Y., 97 Civ. 8399 (RSW)

PLAINTIFF'S SUPPLEMENTAL LOG OF DOCUMENTS WITHHELD FROM PRODUCTION IN RESPONSE TO DEFENDANTS' MODIFIED FIRST AMENDED REQUEST FOR PRODUCTION OF DOCUMENTS ON CLAIMS OF ATTORNEY CLIENT OR ATTORNEY WORK PRODUCT PRIVILEGE

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Dra. Maria A. Carrillo de Albornoz to Lachenbach, Siegel	Corresp. re potential application by Cubatabaco to register COHIBA in U.S.	July 5, 1983	Attorney - Client	One page
Howard Aronson to Camara de Comercio	Corresp re potential application byCubatabaco to register COHIBA in U.S.	Unknown but sometime prior to August 29, 1983	Attorney - Client	One page telex
Lackenbach Siegal to Camara de Comercio	Corresp. re potential application by Cubatabaco to register COHIBA in U.S.	Unknown but sometime prior to August 28, 1984	Atttorney - client	One page telex
Dr. Jesus Duran to Dra. Maria A Carrillo de Abonoz, Camara de Cuba	Corresp. re potential application by Cubatabaco to register COHIBA in U.S.	August 1, 1984	Attorney-client, attorney work product	One page telex

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Dr. Jesus Duran to Howard Aronson	Corresp. re Culbro U.S. COHIBA registration and Culbro affidavit concerning usage	December 24, 1987	Attorney-client	One page telex

INDEX OF NAMES

Albornoz, Maria A. Carrillo de..... Attorney at Camara de Comercio, Calle 21, No. 661, Havana

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Duran, J.....Attorney at Cubatabaco

DEFENDANT'S
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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a. CUBATABACO, Plaintiff, - against - CULBRO CORPORATION and GENERAL CIGAR CO., INC. Defendants,	97 Civ. 8399 (RWS)

PLAINTIFF'S PRIVILEGE LOG OF DOCUMENTS WITHHELD FROM PRODUCTION IN RESPONSE TO DEFENDANTS' MODIFIED FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Plaintiff, Empresa Cubana del Tabaco d b a. Cubatabaco ("Cubatabaco"), by and through counsel, hereby serves its attached Privilege Log of Documents Withheld from Production in Response to Defendants' Modified First Request for Production of Documents. Cubatabaco reserves the right to supplement this log upon review of any additional responsive documents.

Dated: New York, New York
April 24, 2000

RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

By: _____
MICHAEL KRINSKY (MK 2428)
DAVID B. GOLDSTEIN (DG 8291)

Blumberg No. 5114
DEFENDANT'S
EXHIBIT
D276

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Attorneys for Plaintiff,
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To: Janet Dore, Esq.
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Attorneys for Defendants Culbro Corporation
and General Cigar Co., Inc.

Empresa Cubana del Tabaco d.b.a. Cubatabaco v. Culbro Corp., et. al., U.S.D.C., S.D.N.Y., 97 Civ. 8399 (RSW)

PLAINTIFF'S LOG OF DOCUMENTS WITHHELD FROM PRODUCTION IN RESPONSE TO DEFENDANTS' MODIFIED FIRST AMENDED REQUEST FOR PRODUCTION OF DOCUMENTS ON CLAIMS OF ATTORNEY CLIENT OR ATTORNEY WORK PRODUCT PRIVILEGE

To Michael Krinsky from Debra Evenson	Corresp. re GC/Culbro U.S. COHIBA registration(s)	June 1, 1994	Attorney-client; attorney work-product	2 pages
To Debra Evenson from Caroline Rule	Memo re GC/Culbro U.S. COHIBA registration(s)	July 11, 1994	Attorney work-product	5 pages
To Debra Evenson from Caroline Rule	Memo re GC/Culbro U.S. COHIBA registration(s)	July 13, 1994	Attorney work-product	1 page
To Michael Krinsky and Debra Evenson from Caroline Rule	Memo re GC/Culbro U.S. COHIBA registration(s); re U.S. COHIBA trademark registrations and applications by third-parties; re cigar trademark registrations and applications in U.S.	July 18, 1996	Attorney work-product	
To Michael Krinsky from Debra Evenson	Corresp. re GC/Culbro U.S. COHIBA registration(s)	July 1, 1994	Attorney-client; attorney work-product	

To Debra Evenson from Caroline Rule	Memo re GC/Culbro U.S. COHIBA registration(s)	July 22, 1994	Attorney work-product	1 page
To Debra Evenson from Michael Krinsky	Corresp. re GC/Culbro U.S. COHIBA registration(s)	June 29, 1994	Attorney work-product	2 pages
To A. Garrido from Michael Krinsky	Corresp. re GC/Culbro U.S. COHIBA registration(s)	October 8, 1996	Attorney-client	5 pages
To Michael Krinsky from Debra Evenson	Corresp. re GC/Culbro U.S. COHIBA registration(s)	July 6, 1994	Attorney work-product	
To Michael Krinsky from Debra Evenson	Corresp. re GC/Culbro U.S. COHIBA registration(s)	July 5, 1994	Attorney-client; attorney work-product	
To Caroline Rule from Debra Evenson	Corresp. re GC/Culbro U.S. COHIBA registration(s); re GC application to register COHIBA in U.S.	July 7, 1994	Attorney work-product	3 pages
To Michael Krinsky from Debra Evenson	Corresp. re planned meeting with Garrido re COHIBA	June 18, 1996	Attorney-client; attorney work-product	one sentence

To Michael Krinsky from Debra Evenson	Corresp. re GC/Culbro U.S. COHIBA registration(s)	June 19, 1996	Attorney-client; attorney work-product	One page
To Michael Krinsky from Debra Evenson	Corresp. re GC/Culbro U.S. COHIBA registration(s); re potential application by Cubatabaco to register COHIBA trademark in U.S.	June 27, 1996	Attorney-client, attorney work-product	
To Michael Krinsky from Debra Evenson	Corresp. re GC/Culbro U.S. COHIBA registration(s); re potential application by Cubatabaco to register COHIBA trademark in U.S.	July 2, 1996	Attorney-client; attorney work-product	
To Michael Krinsky from Debra Evenson	Corresp. re GC/Culbro U.S. COHIBA registration(s); re potential application by Cubatabaco to register COHIBA trademark in U.S.	July 3, 1996	Attorney-client; attorney work-product	

To Michael Krinsky from Debra Evenson	Corresp. re potential application by Cubatabaco to register COHIBA design in U.S.	July 15, 1996	Attorney-client; attorney work-product	
To Michael Krinsky and Caroline Rule from Debra Evenson	Memo re potential application by Cubatabaco to register COHIBA design in U.S.	July 30, 1996	Attorney work-product	
To Michael Krinsky from Debra Evenson	Corresp. re GC/Culbro U.S. COHIBA registration(s)	July 31, 1996	Attorney-client; attorney work-product	
To Maria de Albornoz from Howard Aronson	Corresp. re potential application by Cubatabaco to register COHIBA in U.S. and forwarding documents produced as P1294 - 1298	August 20, 1984	Attorney-client; attorney work-product	One page

To James Siegel from J. Duran	Corresp. re GC/Culbro U.S. COHIBA registration(s); re Cubatabaco's COHIBA registrations in Cuba and el: where; re application to register COHIBA in Germany by GC; re litigation in Brazil against third-party over COHIBA registration	November 27, 1987	Attorney-client; attorney work-product	One page
To J. Duran from Howard Aronson	Corresp. re GC/Culbro U.S. COHIBA registration(s)	December 4, 1987	Attorney-client; attorney work-product	Two pages
Unidentified	Memo re: attached corresp. re registration of COHIBA mark in Ukraine by General Cigar	After March 28, 1997	Summary of attorney-client communication	One page
From Manuel Rio Pombo to Carlos Ferran	Corresp. re registration of COHIBA mark in Ukraine by General Cigar	January 3, 1997	Attorney work-product; Attorney-Client	One page

From Manuel Rio Pombo to Nina Perez	Corresp. re registration of COHIBA mark in Ukraine by General Cigar	January 13, 1997	Attorney-client; attorney work-product	One page
From Servicio Juridico Lex, S.A. to Tatiana Camacho	Corresp. re registration of COHIBA mark in Ukr :ne by General Cigar.	January 2, 1997	Attorney-client; attorney work-product	One page
From Debra Evenson to Michael Krinsky	Corresp. re GC/Culbro U.S. COHIBA registration(s)	June 2, 1994	Attorney -client; attorney work product	Two pages
To Michael Krinsky from Debra Evenson	Corresp. re potential federal court action against Culbro/General Cigar	September 23, 1997	Attorney-client;attorney work product	1 page
To Michael Krinsky from Debra Evenson	Corresp. re potential federal court action against Culbro/General Cigar	September 23, 1997	Attorney-client; attorney work product	1 page
To Michael Krinsky from Debra Evenson	Corresp. re potential federal court action against Culbro/General Cigar	September 17, 1997	Attoney work product	2 pages
To Michael Krinsky from A. Garrido	Corresp. re potential federal court action against Cubro/General Cigar	October 6, 1997	Attorney client	1 page

Between A. Garrido and Rabinowitz, Boudin, Standard, Krinsky and Lieberman; Among attorneys at Rabinowitz, Boudin; Between Rabinowitz, Boudin and Paul Hastings	Multiple memos, correspondence, concerning potential federal court action against Culbro/General Cigar	Post October 6, 1997 to date of filing federal court action	Attorney client; attorney work product	Multiple
To Tatiana Camacho from Michael Krinsky	Corresp. re GC/Culbro U.S. COHIBA registration(s)	December 9, 1996	Attorney client	1 page
To Michael Krinsky from Debra Evenson	Corresp. re GC/Culbro U.S. COHIBA registration(s)	July 1, 1994	Attorney work product	
To Michael Krinsky and attorneys at Paul Hastings from Laraine Pacheco, Paul, Hastings, Janofsky and Walker LLP	Memo re GC and Dunhill sale of cigar in U.S. under COHIBA trademark	September 25, 1997	Attorney work product	4 pages
To Michael Krinsky and Debra Evenson from Caroline Rule	Memo re GC application to register COHIBA in U.S.	June 20, 1994	Attorney work product	6 pages
To Debra Evenson from Michael Krinsky	Corresp. enclosing Rule memo of June 20, 1994	June 29, 1994	Attorney work product	

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To Michael Krinsky from Debra Evenson	Memo re GC/Culbro U.S. COHIBA registration(s)	Undated - June or July 1994	Attorney work product	2 pages
To A. Garrido from Debra Evenson	Corresp. regarding potential copyright of COHIBA design	August 3, 1996	Attorney-client	1 page
To A. Garrido from Debra Evenson	Corresp. re GC/Culbro U.S. COHIBA registration(s)	June 26, 1996	Attorney-client	1 page
To A. Garrido from Debra Evenson	Corresp. re General Cigar's applications to register COHIBA in U.S. for range of goods other than cigars	July 30, 1996	Attoney-client	1 page
To A. Garrido from Debra Evenson	Corresp. re GC/Culbro U.S. COHIBA registration(s)	July 12, 1996	Attoney-client	2 pages
To Debra Evenson and Michael Krinsky from Caroline Rule	Memo re GC/Culbro U.S. COHIBA registration(s); re pending applications by third-parties to register COHIBA in U.S.	August 31, 1996	Attorney- client	2 pages

To File from Rabinowiz, Boudin attorney, not identified	Memo re Cubatabaco's U.S. application for COHIBA design; re GC/Culbro U.S. COHIBA registration(s)	November 14, 1996	Attorney-work product	2 pages
To Maria del Pilar de Riley from A. Garrido	Corresp. re: third-party COHIBA registration in D.R.	June 6, 1996	Attorney-client and attorney work product	
To Maria del Pilar de Riley from A. Garrido	Coresp. re: third-party COHIBA registration in D.R	June 4, 1996	Attorney-client and attorney work product	
To A. Garrido from Maria del Pilar Troncoso de Riley	Corresp. re third-party COHIBA registration in Dom. Rep.	June 11, 1996	Attorney client and attorney work product	
To A. Garrido from Maria del Pilar Troncoso de Riley	Corresp. re third - party registration of COHIBA in Dom. Rep.	October 23, 1997	Attorney client and attorney work product	
To A. Garrido from Maria del Pilar Troncoso de Riley	Corresp. re third-party registration of COHIBA in Dom. Rep.	Aug. 12, 1996	Attorney client and attorney work product	
To Maria del Pilar Troncoso de Riley from Manuel Rio Pombo	Corresp. re third-party registration of COHIBA in Dom. Rep.	Aug. 6, 1996	Attorney client and attorney work product	
To Maria del Pilar Troncoso de Riley from A. Garrido	Corresp. re third-party registration of COHIBA in Dom. Rep.	Sept. 26, 1997	Attorney client and attorney work product	

To A. Garrido from Maria del Pilar Troncoso de Riley	Corresp. re third-party registration of COHIBA in Dom. Rep.	May 28, 1996	Attorney client and attorney work product	two pages
To A. Garrido from Maria del Pilar Troncoso de Riley	Corresp. re third-party registration of COHIBA in Dom. Rep.	Oct. 23, 1997	Attorney client and attorney work product	
To A. Garrido from Maria del Pilar Troncoso de Riley	Corresp. re third-party registration of COHIBA in Dom. Rep.	Oct. 13, 1997	Attorney client and attorney work product	
To A. Garrido from Maria del Pilar Troncoso de Riley	Corresp. re third-party registration of COHIBA in Dom. Rep	Nov. 20, 1997	Attorney client and attorney work product	
To A. Garrido from Maria del Pilar Troncoso de Riley	Corresp. re third-party registration of COHIBA in Dom. Rep.	Feb. 9, 1998	Attorney client and attorney work product	

INDEX OF NAMES

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Notes:

"Re GC/Culbro U.S. COHIBA registration(s)" refers to one or both of the registrations of COHIBA for cigars in the United States issued either to Culbro Corporation or General Cigar Corporation.

The privilege log does not include post-filing documents concerning the TTAB cancellation proceeding brought by plaintiff to cancel General Cigar's registrations of COHIBA.

The privilege log does not include post-filing documents concerning the instant action.

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of April, 2000, a true and correct copy of the foregoing Plaintiff's Privilege Log Of Documents Withheld From Production In Response To Defendants' Modified First Request For Production Of Documents was served by facsimile and U.S. mail on the following:

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December 11, 2000

Dickerson M. Downing
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Re: *Empresa Cubana del Tabaco* v. *Culbro Corporation, et al.*

Dear Dick:

Enclosed please find documents P9113 - P9929 produced in response to Defendants' Second Request for Production of Documents and Things, and an accompanying privilege log. Please note that the documents are marked "Confidential Under Protective Order" and are to be kept confidential under the Court's Protective Order.

Very truly yours,

Michael Krinsky

enc.

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DEFENDANT'S EXHIBIT
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PLAINTIFF'S SUPPLEMENTAL LOG OF DOCUMENTS WITHHELD FROM PRODUCTION IN RESPONSE TO DEFENDANTS' MODIFIED FIRST AMENDED REQUEST FOR PRODUCTION OF DOCUMENTS ON CLAIMS OF ATTORNEY CLIENT OR ATTORNEY WORK PRODUCT PRIVILEGE

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
To A. Garrido from Nachman Cohen-Zedek, Adv.	Correspondence Re: litigation against stock of counterfeit Cohiba in Israel	July 5, 2000	Attorney-client	1
To Nachman Cohen-Zedek from A. Garrido	Correspondence re: litigation against stock of counterfeit Cohiba in Israel	June 23, 2000	Attorney-client	1
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: opposition to use of COHIBA	March 29, 2000	Attorney-client	7
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: opposition to use of COHIBA	November 12, 1999	Attorney-client	2
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: opposition to use of COHIBA	December 28, 1999	Attorney-client	1
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: opposition to use of COHIBA	May 11, 2000	Attorney-client	2
To A. Garrido from Dr. Meyer, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	December 30, 1999	Attorney-client	1
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	October 20, 1999	Attorney-client	1

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Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: opposition to use of COHIBA	August 8, 1999	Attorney-client	1
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	October 28, 1999	Attorney-client	1
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	February 25, 2000	Attorney-client	2
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	September 14, 1999	Attorney-client	3
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	December 13, 1999	Attorney-client	1
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: infringement of COHIBA mark	October 26, 1999	Attorney-client	2
To A. Garrido from Dr. Meyer, Weser & Kollegen	Correspondence re: opposition to registration application	January 11, 2000	Attorney-client	2
To A. Garrido from Dr. Weser, Weser & Kollegen	Correspondence re: opposition to ESPLENDIDOS	May 30, 2000	Attorney-client	2
To A. Gonzalez from Hauser Belgrano & Fernandez	Correspondence re: oppositions to applications for COHIBA	February 16, 2000	Attorney-client	1

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
To Habanos S.A. from R. van Laaren, Nederlandsch Octrooibureau	Correspondence re: opposition to application for COHIBA in Benelux	April 25, 2000	Attorney-client	1
To Habanos S.A. from R. van Laaren, Nederlandsch Octrooibureau	Correspondence re: opposition to application for COHIBA in Benelux	December 7, 1999	Attorney-client	1
To A Garrido from Ninochca Arteaga Reyes	Correspondence re: opposition to registrations of COHIBA in Kyrgyz Republic, Poland, Hungary and Bulgaria	November 26, 1999	Attorney-client	1
To A. Gonzalez from Alexsandra A. Cavalcante de Almeida, Araripe & Associados	Correspondence re: opposition to registration of COHIBA in Brazil	April 20, 2000	Attorney-client	2
To Abel Ortego from Richard Whissell; MacRae & Co.	Correspondence re: opposition to Lazaro COHIBA in Canada	January 24, 2000	Attorney-client	1
To Richard Whissell from Alejandra Gonzalez de la Vega	Correspondence re: opposition to Lazaro COHIBA in Canada	February 7, 2000	Attorney-client	1
To Alejandra Gonzalez from Richard Whissell; cc: Abel G. Ortego	Correspondence re: opposition to Lazaro Cohiba in Canada	February 23, 2000	Attorney-client	1

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
To Corporacion Habanos, S.A. from Susi Frey, Soc. Estudio Hameker	Correspondence re: opposition to COHIBA in Chile	March 31, 2000	Attorney-client	1
To Corporacion Habanos, S.A. from Ximena Castellanos, Albaro Castellanos M. & Cia.	Correspondence re: opposition to application to register COHIBA in Colombia	May 12, 2000	Attorney-client	26
To A Garrido from Chang Yuchun	Correspondence re: opposition to registration of COHIBA in China	November 5, 1999	Attorney-client	1
To A Garrido from Antonia Ruiz, Gil-Vega	Correspondence re: opposition to registration of COHIBA in Spain	April 7, 2000	Attorney-client	1
To A. Garrido from Antonia Ruiz	Correspondence re: opposition to registration of COHIBA in Spain	April 7, 2000	Attorney-client	1
To A. Garrido from Antonia Sanchez	Correspondence re: opposition to registration of COHIBA in Spain	December 17, 1999	Attorney-client	1
To A. Garrido from J. Ortiz	Correspondence re: oppositions to registrations of COHIBA and other marks in Spain	November 5, 1999	Attorney-client	2

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
To A. Garrido from Antonia Sanchez	Correspondence re: oppositions to mark similar to COHIBA and other marks in Spain	December 17, 1999	Attorney-client	1
To Alejandra Gonzalez from Sandra Gibbons, Marks & Clerk	Correspondence re: opposition to registration of mark COHIBA in Hong Kong	April 25, 2000	Attorney-client	1
To Adargelio Garrido from Ninochca Arteaga Reyes, Lex S.A.	Correspondence re: oppositions to registrations of COHIBA in Kyrgyz, Poland, Hungary and Bulgaria	November 26, 1999	Attorney-client	1
To Cubatabaco from Dr. Jan Matejka, Cermak, Horejs, Urba	Correspondence re: oppositions to registrations of COHIBA in Czech Republic	February 10, 2000	Attorney-client	1
To Alejandra Gonzalez from James Fish	Correspondence re: opposition to registration of COJIMAR in UK	November 2, 1999	Attorney-client	1
To Juan Carlos Quiroz from Alejandra Gonzalez	Correspondence re: opposition to registration of COHIBA	June 27, 2000	Attorney-client	1
To A Garrido from Juan Carlos Quiroz Zolezzi	Correspondence re: opposition to registrations of COHIBA and COIBA in Mexico	June 26, 2000	Attorney-client	2

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
To Juan Carlos Quiroz from Alejandra Gonzalez	Correspondence re: opposition to registrations of COHIBA and COIBA in Mexico	June 27, 2000	Attorney-client	1
To Adargelio Garrido from Juan Carlos Quiroz	Correspondence re: opposition to registrations of COHIBA in Mexico	December 3, 1999	Attorney-client	2
To Adargelio Garrido from Juan Carlos Quiroz	Correspondence re: opposition to registration of COHIBA	November 4, 1999	Attorney-client	1
To Adargelio Garrido from Ninochca Arteaga Reyes, Lex S.A.	Correspondence re: opposition to registrations of COHIBA in Kyrgyz, Poland, Hungary and Bulgaria	November 26, 1999	Attorney-client	1
To Adargelio Garrido from Lose Luis Arnaut	Correspondence re: opposition to registration COHIBA in Portugal	May 12, 2000	Attorney-client	1
To Garrido from Bryns Patenkontor	Correspondence re: opposition to registration of COHIBA in Norway	March 8, 2000	Attorney-client	1
To Adargelio Garrido from Ninochca Arteaga Reyes, Lex S.A.	Correspondence re: opposition to registrations of COHIBA in Kyrgyz, Poland, Hungary and Bulgaria	November 26, 1999	Attorney-client	1

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
To Irina Korzun, Gorodissky & Partners from Alejandra Gonzalez	Correspondence re: opposition to registration of COHIBA	April 14, 2000	Attorney-client	1
To Adargelio Garrido from Birgitta Husfeldt Lindholm	Correspondence re: opposition to registration of COHIBA in Sweden	November 9, 1999	Attorney-client	2
To Manuel Rio Pombo from Bentala Hoet & Associados	Correspondence re: opposition to registration of TABACOS COHIBA in Venezuela	May 26, 1999	Attorney-client	1
To Manuel Rio Pombo from Bentala Hoet & Associados	Correspondence re: opposition to registration of COHIBA in Venezuela	May, 1999	Attorney-client	1
To J. Duran from G.E. Dannemann	Correspondence re: litigation against COHIBA Industria e Exportacao Ltda	May 4, 1989	Attorney-client	2
To A Garrido from Antonia Ruiz, Gil-Vega	Correspondence re: litigation related to mark COHIBA in Spain	March 2, 2000	Attorney-client	1
To A Garrido from Antonia Ruiz, Gil-Vega	Correspondence re: litigation related to mark COHIBA in Spain	June 1, 2000	Attorney-client	1

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
To A Garrido from Antonia Ruiz, Gil-Vega	Correspondence re: litigation related to mark COHIBA in Spain	November 4, 1998	Attorney-client	1
To A Garrido from Antonia Ruiz, Gil-Vega	Correspondence re: litigation related to mark COHIBA in Spain	April 14, 1998	Attorney-client	1
To J. Duran from Jose Manuel Hinojosa A., Uhthoff, Gomez Vega & Uhthoff, S.C.	Correspondence re: litigation related to the mark COHIBA in Mexico	September 27, 1989	Attorney-client	2
Krinsky to Evenson	Corresp. re DR 95(e) GC/Culbro U.S. COHIBA registration(s)	July 8, 1994	Attorney work-product Attorney-Client	1
Evenson to Rule	Corresp. re DR 95(e) GC/Culbro U.S. COHIBA registration(s)	July 7, 1994	Attorney work-product Attorney-Client	2
Rule to Evenson	Memo re DR 95(e) GC/Culbro U.S. COHIBA registration(s)	July 7, 1994	Attorney work-product Attorney-Client	4
Evenson to Krinsky	Corresp re DR 95(e) GC/Culbro U.S. COHIBA registration(s)	July 4, 1994	Attorney work-product Attorney-Client	2

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
Evenson to Krinsky	Corresp re GC/Culbro U.S. COHIBA registration(s)	July 5, 1994	Attorney work-product Attorney-Client	2
Evenson to Rule	Corresp re DR 95(d) and (e)	October 25, 1995	Attorney work-product Attorney-Client	1
Evenson to Krinsky	Corresp re DR 95(d)	October 20, 1995	Attorney work-product Attorney-Client	2
Evenson to Krinsky	Corresp re DR 95(d)	February 1, 1996	Attorney work-product Attorney-Client	1
Evenson to Rule	Corresp re DR 95(d), COHIBA design	August 2, 1996	Attorney work-Product Attorney-client	2
Evenson to Krinsky and Rule	Corresp. re 95(d), COHIBA design	July 30, 1996	Attorney work-product Attorney-client	1
Evenson to Krinsky	Corresp re GC/Culbro U.S. COHIBA registration(s); DR 95(d) re Vegueros, La Perla and Cuaba registrations; DR 95(e) Mi Habano opposition.	June 27, 1996	Attorney work-product Attorney-client	3 pages

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
Evenson to Krinsky	Corresp re DR 95(d) Behike registration; DR 95(e) Mi Habano opposition	June 23, 1996	Attorney work-product Attorney-client	2 pages
Evenson to Rule	Corresp re DR 95(e), Mi Habano opposition	June 22, 1996	Attorney work-product Attorney-client	1 page
Evenson to Krinsky	Corresp re GC/Culbro U.S. COHIBA registration(s)	June 18, 1996	Attorney work-product Attorney-client	2 page
Evenson to Rule	Corresp re DR 95(d), Trinidad and Edmundo Dantes registrations	April 4, 1995	Attorney work-product Attorney-client	1 page
Evenson to Rule and Krinsky	Corresp re DR 95(d)	April 20, 1995	Attorney work-product Attorney-client	1 page
Evenson to Krinsky	Corresp re DR 95(d)	April 24, 1995	Attorney work-product Attorney-client	2 pages
Evenson to Rule	Corresp re DR 95(d), Edmundo Dantes, La Casa del Habano, Trinidad registrations	April 25, 1995	Attorney work-product Attorney-client	2 pages

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
Evenson to Krinsky	Corresp re GC/Culbro U.S. COHIBA registration(s) and DR 95(d)	January 23, 1995	Attorney work-product Attorney-Client	2 pages
Evenson to Rule and Krinsky	Corresp re DR 95(d)	January 24, 1995	Attorney work-product Attorney-client	2 pages
Krinsky to Garrido	Corresp re GC/Culbro U.S. COHIBA registration(s); GC v. G.D.M.	November 10, 1997	Attorney-client	1 page
Garrido to Juan Diaz Tenorio	Corresp re GC/Culbro U.S. COHIBA registration(s)	August 20, 1996	Attorney-client	1 page

LEGEND

"DR 95(d)": Document contains material arguably responsive to defendants' Request No. 95(d) of their Second Request for Production of Documents ("rights of Cuban nationals to own, use and register trademarks in the United States")

"DR 95(e)": Document contains material arguably responsive to defendants' Request No. 95(e) of their Second Request for Production of Documents ("rights of Cuban nationals to commence legal actions in the United States Courts and the United States Patent and Trademark Office")

Alexsandra A. Cavalcante de Almeida ..... Attorney at Araripe & Associados, Brazilian Trademark Attorneys
Lose Luis Arnaut ..... Attorney at Raul Cesar Ferreira, Portuguese Trademark Attorneys
Ximena Castellanos ..... Attorney at Albaro Castellanos M. & Cia., Colombian Trademark Attorneys
Nachman Cohen-Zedek. ..... Attorney at Eitan, Pearl, Latzer & Cohen-Zedek, Israeli Trademark Attorneys
G.E. Dannemann ..... Attorney at Dannemann Siemsen Bigler & Ipanema Moreira, Brazilian Trademark Attorneys
James Fish ..... Attorney at Clifford Chance, English Trademark Attorneys
Susi Frey ..... Attorney at Soc. Estudio Harneker, Chilean Trademark Attorneys
Sandra Gibbons ..... Attorney at Marks & Clerk, Hong Kong Trademark Attorneys
Hauser Belgrano & Fernandez ..... Argentinian Trademark Attorneys
Jose Manuel Hinojosa ..... Attorney at Uhthoff, Gomez Vega & Uhthoff, S.C., Mexican Trademark Attorneys
Bentala Hoet & Associados ..... Venezuelan Trademark Attorneys
Irina Korzun ..... Attorney at Gorodissky & Partners, Russian Trademark Attorneys
R. van Laaren ..... Attorney at Nederlandsch Octrooibureau, Dutch Trademark Attorneys
Birgitta Husfeldt Lindholm ..... Attorney at Goteborgs Patentbyra Dahls, Swedish Trademark Attorneys
Dr. Jan Matejka ..... Attorney at Cermak, Horejs, Urba, Czech Trademark Attorneys
Abel Ortego ..... Director of Havana House Cigar & Tobacco Merchants Ltd., distributor for Habanos in Canada
J. Ortiz ..... Attorney at Gil-Vega, Spanish Trademark Attorneys
Bryns Patenkontor ..... Norwegian Trademark Attorneys
Manuel Rio Pombo ..... Attorney at Habanos, S.A.
Juan Carlos Quiroz ..... Attorney at Becerril, Coca & Becerril, S.C., Mexican Trademark Attorneys
Ninochca Arteaga Reyes ..... Attorney at Lex S.A., Cuban Trademark Attorneys
Antonia Ruiz ..... Attorney at Gil-Vega, Spanish Trademark Attorneys
Antonia Sanchez ..... Attorney at Gil-Vega, Spanish Trademark Attorneys

Dr. Weser ..... Attorney at Weser & Kollegen, German Trademark Attorneys
Richard Whissell ..... Attorney at MacRae & Co., Canadian Trademark Attorneys
Chang Yuchun ..... Attorney at CCPIT Patent and Trademark Law Office, Chinese Trademark Attorneys

Please refer to prior privilege logs for other names an descriptions.

DIS

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CHRISTINE S. KIM
RAPHAEL GOLB
ROGER BEARDEN †

† NOT ADMITTED IN NEW YORK

COUNSEL
VICTOR RABINOWITZ
MICHAEL B. STANDARD
LEONARD I. WEINGLASS
ELLEN J. WINNER
DEBRA EVENSON
TERRY GROSS

November 7, 2000

Janet Dore, Esq.
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154

Re: *Empresa Cubana del Tabaco v. Culbro Corporation, et al.*

Dear Janet:

Please find enclosed plaintiff's Privilege Log in Response to Defendants Second Request for Documents, which also supplements plaintiffs' Privilege Logs previously submitted.

We reserve the right to supplement this production.

Sincerely yours,

Michael Krinsky

encls.

DEFENDANT'S EXHIBIT
D276

DIS B 55

Michael Krinsky, Esq. (MK 4503)
David Goldstein, Esq. (DG 8291)
RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.
740 Broadway, 5th Floor
New York, New York 10003
(212) 254-1111

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a. CUBATABACO, Plaintiff, - against - CULBRO CORPORATION, and GENERAL CIGAR CO., INC. Defendants.	97 Civ. 8399 (RWS)

PLAINTIFF'S LOG OF DOCUMENTS WITHHELD FROM PRODUCTION IN RESPONSE TO DEFENDANTS' SECOND REQUEST FOR PRODUCTION OF DOCUMENTS AND SUPPLEMENTAL LOG OF DOCUMENTS WITHHELD FROM PRODUCTION IN RESPONSE TO DEFENDANTS' FIRST AMENDED REQUEST FOR PRODUCTION OF DOCUMENTS ON CLAIMS OF ATTORNEY CLIENT OR ATTORNEY WORK PRODUCT PRIVILEGE

Plaintiff Empresa Cubana del Tabaco d.b.a. Cubatabaco ("Cubatabaco"), by and through their counsel, hereby serves its attached log of documents withheld from production in response to defendants' Second Request for Production of Documents on claims of attorney-client or attorney work product privilege. Plaintiff has not included on this privilege log responsive documents which it had identified on previous privilege logs.

Dis B.55

The attached privilege log also supplements plaintiff's previous logs of documents withheld from production in response to defendants' First Amended Document Request on claims of attorney client or attorney work product privilege.

Dated: New York, New York
November 7, 2000

Rabinowitz, Boudin, Standard, Krinsky and Lieberman, P.C.

By: _____
Michael Krinsky (MK 2428)

G:\COHIBA\Privilege\Privelege Log 11.7.00 - Cover.wpd

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
Evenson to Krinsky	Memo re DR95(d); re Cubatabaco TM application	April 5, 1994	Attorney-client; attorney work product	2 pages
Evenson to Krinsky	Corresp re DR95(d)	June 23, 1994	Attorney-client; attorney work product	1 page
Evenson to Krinsky	Corresp. re DR95(d); re GC/Culbro COHIBA U.S. registrations	July 16, 1994	Attorney-client; attorney work product	4 pages
Evenson to Krinsky	Memo re DR 95(d); re GC/Culbro COHIBA U.S. registrations	July 17, 1994	Attorney-client; attorney work product	2 pages
Evenson to Krinsky	Corresp re DR 95(d); re GC/Culbro U.S. COHIBA registrations	July 12, 1994	Attorney-client; attorney work product	2 pages
Rabinowitz, Boudin (Krinsky, St. Clair, Louise Melling) to Duran	Memo re DR 95(d)	May 3, 1991	Attorney-client	13 pages
Louise Melling to Krinsky and St. Clair	Internal Rabinowitz, Boudin memo re DR 95(d); re Cubatabaco TM applications	March 19, 1991	Attorney work product	11 pages

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
Rabinowitz Boudin internal memo (author, recepients unknown)	Memo re DR 95(d)	April 19, 1991	Attorney work product	5 pages
Duran to Krinsky	Corresp re DR 95(d)	Oct. 21, 1991	Attorney client	2 ¶'s
Evenson to Krinsky	Corresp re DR 95(e)	July 1994	Attorney client; attorney work product	1 page
Krinsky to Duran	Corresp re DR 95(d)	August 13, 1991	Attorney-client	2 pages
Rabinowitz, Boudin internal memo (author and recepients unknown)	Internal Rabinowitz, Boudin memo re DR 95(d)	Feb. 14, 1991	Attorney work product	8 pages
Gil-Vega to Rabinowitz Boudin	Corresp re DR 95(d)	May 6, 1992	Attorney-client; attorney work product	1 page
Gil-Vega to Rabinowitz Boudin	Corresp re DR 95(d)	April 27, 1992	Attorney-client; attorney work product	1 page
Gross to Gil-Vega	Corresp re DR 95(d)	May 6, 1992	Attorney-client; attorney work product	1 page
Gross to Gil-Vega	Corresp re DR 95(d)	April 23, 1992	Attorney-client; attorney work product	2 pages
Gross to Gil-Vega	Corresp re DR 95(d)	April 27, 1992	Attorney-client; attorney work product	2 pages

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
Gross to Acosta Martinez	Corresp re DR 95(d)	July 8, 1992	Attorney client; attorney work product	1 ¶
Letter from Gil-Veta to Rabinowitz Boudin	New trademark application	February 29, 1992	Attorney-client	2 pages
Siegel to Duran	Corresp re DR 95 (d)	July 29, 1988	Attorney-client	1 page
Aronson to Duran	Corresp re DR 95(d)	Nov. 22, 1988	Attorney-client	1 page
Rabinowitz to Gomez	Corresp re DR 95(d)	March 23, 1976	Attorney-client	2 pages
Duran to Krinsky	Corresp re DR 95(d)	October 21, 1991	Attorney-client	2 page
Rabinowitz Boudin to Gomez, Miranda and Cortes	Memo re DR 95(d) and (e)	December 11, 1975	Attorney-client	5 pages
Juridica-Minrex to Rabinowitz Boudin	Corresp re DR 95 (d)	November 20, 1975	Attorney-client	1 page
Krinsky to Gomez	Corresp re DR 95(d) and (e)	May 10, 1976	Attorney-client	1 page
Author, recipient unknown	Draft TM applications; DR 95(d)	Ca. February 1992	Attorney-client Attorney work-product	46 pages
Gomez to Rabinowitz Boudin	Corresp re DR 95(d)	March 8, 1976	Attorney-client	1 page

Lackenbach Siegel to Duran; Duran to Lackenback Siegel; Rabinowitz, Boudin to Duran; Duran to Rabinowitz Boudin	Corresp. re Cuban Cigar Brands v. Cubatabaco, Opp. No. 78568	August 18,1988 -1990	Attorney-client, attorney work product	Multiple corresp.
Krinsky to Linares	Corresp re Cuaba registration	July 19, 1996 and subsequent correspond.	Attorney-client	2 page
Krinsky to Evenson and Rule	Memo re Cuaba opposition	October 22, 1996 and subsequent correspond.	Attorney work-product, Attorney client	1 page
Krinsky to Garrido	Corresp re Habanos and COHIBA cancellation	November 25, 1996 and subsequent correspond.	Attorney-client	1 page
Krinsky to Garrido	Corresp re Habanos opposition	November 8, 1996 and subsequent correspond.	Attorney-client	1 page
Garrido to Krinsky	Corresp re Habanos opposition	November 8, 1996 and subsequent correspond.	Attorney-client	1 page
Garrido to Padron	Corresp re Behike registration	September 13, 1993	Attorney-client	1 page
Acosta to Rabinowitz Boudin	Corresp re DR 95(d)	January 11, 1993	Attorney-client	1 page
Rule to Evenson	Memo re Behike registration	February 2, 1996 and subsequent correspond.	Attorney work-product, Attorney-client	1 page

LEGEND:

Duran: Jesus Duran (previously identified)

Gil Vega: Victor Gil Vega, lawyer, patent and trademark attorney, 28020 Madrid, Estebanez Calderon, 3 - 5 B

Gomez: Elena Gomez, formerly lawyer for Cubatabaco

Gross: Terry Gross, formerly attorney with Rabinowitz, Boudin, Standard, Krinsky and Lieberman, P.C.; currently counsel to Rabinowitz, Boudin
Juridica Minrex: Legal Department of the Ministry of Foreign Relations of the Republic of Cuba

Acosta Martinez: Ada Acosta Martinez (previously identified)

Miranda: Olga Miranda, formerly attorney with Ministry of Foreign Affairs of the Republic of Cuba

St. Clair: Elizabeth St. Clair, formerly attorney with Rabinowitz, Boudin, Standard, Krinsky and Lieberman, P.C.

Melling: Louise Melling, formerly attorney with Rabinowitz, Boudin, Standard, Krinsky and Lieberman, P.C.

"DR 95(d)": Document contains material arguably responsive to defendants' Request No. 95(d) of their Second Request for Production of Documents ("rights of Cuban nationals to own, use and register trademarks in the United States")

"DR 95(e)": Document contains material arguably responsive to defendants' Request No. 95(e) of their Second Request for Production of Documents (" rights of Cuban nationals to commence legal actions in the United States Courts and the United States Patent and Trademark Office")

Cuaba Opposition: Opposition No. 105,102

Habanos Opposition: Opposition No. 104, 731

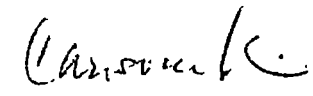
Behike Registration: Registration No. 1,557,163

Please refer to prior privilege logs for other names and descriptions.

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November 2000, a true and correct copy of the foregoing Plaintiff's Log of Documents Withheld from Production in Response to Defendants' Second Request for Production of Documents and Supplemental Log of Documents Withheld from Production in Response to Defendants' First Amended Request for Production of Documents on Claims of Attorney Client or Attorney Work Product Privilege was served by fax and first class mail on the following:

Janet Dore, Esq.
Morgan & Finnegan, LLP
345 Park Avenue
New York, NY 10154
Fax 212-751-6849



Christine Kim (CK 7721)

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 276A, Def. Dep. Ex. 76

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CHRISTINE S KIM
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COUNSEL
VICTOR RABINOWITZ
MICHAEL B STANDARD
LEONARD I WEINGLASS
ELLEN J WINNER
DEBRA EVENSON
TERRY GROSS

October 23, 2000

DEFENDANT'S DEPOSITION EXHIBIT 26

BY FAX AND FIRST CLASS MAIL
Dickerson Downing, Esq.
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154

Re: *Empresa Cubana del Tabaco d.b.a. Cubatabaco* v. *Culbro Corp., and General Cigar Co., Inc.*, 97 Civ. 8399 (RWS)

Dear Dick:

Enclosed please find a Supplemental Privilege Log in the above-referenced matter. In the course of my review today of privileged correspondence regarding Cohiba in the 1980's, I discovered that the privilege log inadvertently omitted the correspondence referenced on the attached Log. I apologize for any inconvenience.

Sincerely,

David Goldstein

G:\COHIBA\Correspondence\Downing 10.10.wpd

DEFENDANT'S EXHIBIT D276A

Empresa Cubana del Tabaco d.b.a. Cubatabaco v. Culbro Corp., et. al., U.S.D.C., S.D.N.Y., 97 Civ. 8399 (RSW)

PLAINTIFF'S SUPPLEMENTAL LOG OF DOCUMENTS WITHHELD FROM PRODUCTION IN RESPONSE TO DEFENDANTS' MODIFIED FIRST AMENDED REQUEST FOR PRODUCTION OF DOCUMENTS ON CLAIMS OF ATTORNEY CLIENT OR ATTORNEY WORK PRODUCT PRIVILEGE

Dra. Maria A. Carrillo de Albornoz to Lachenbach, Siegel	Corresp. re potential application by Cubatabaco to register COHIBA in U.S.	July 5, 1983	Attorney - Client	One page
Howard Aronson to Camara de Comercio	Corresp re potential application byCubatabaco to register COHIBA in U.S.	Unknown but sometime prior to August 29, 1983	Attorney - Client	One page telex
Lackenbach Siegal to Camara de Comercio	Corresp. re potential application by Cubatabaco to register COHIBA in U.S.	Unknown but sometime prior to August 28, 1984	Atttorney - client	One page telex
Dr. Jesus Duran to Dra. Maria A Carrillo de Abonoz, Camara de Cuba	Corresp. re potential application by Cubatabaco to register COHIBA in U.S.	August 1, 1984	Attorney-client, attorney work product	One page telex

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Dr. Jesus Duran to Howard Aronson	Corresp. re Culbro U.S. COHIBA registration and Culbro affidavit concerning usage	December 24, 1987	Attorney-client	One page telex

INDEX OF NAMES

Albornoz, Maria A. Carrillo de..... Attorney at Camara de Comercio, Calle 21, No. 661, Havana

Aronson, Howard..... Attorney at Lackenbach Siegel Marzullo & Aronson, One Chase Rd., Scarsdale, NY

Duran, J.....Attorney at Cubatabaco

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

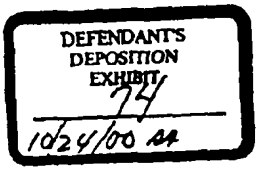
In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 276C, Def. Dep. Ex. 74

DEFENDANT'S DEPOSITION EXHIBIT 74 10/24/00



Michael Krinsky, Esq. (MK 2428)
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KRINSKY & LIEBERMAN, P.C.
740 Broadway, 5th Floor
New York, New York 10003
(212) 254-1111
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

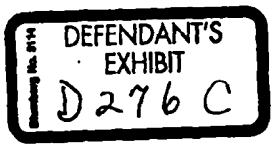
EMPRESA CUBANA DEL TABACO d.b.a. CUBATABACO, Plaintiff, - against - CULBRO CORPORATION and GENERAL CIGAR CO., INC. Defendants,	97 Civ. 8399 (RWS)

PLAINTIFF'S SUPPLEMENTAL PRIVILEGE LOG OF DOCUMENTS WITHHELD FROM PRODUCTION IN RESPONSE TO DEFENDANTS' MODIFIED FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Plaintiff, Empresa Cubana del Tabaco d.b.a. Cubatabaco ("Cubatabaco"), by and through counsel, hereby serves its attached Supplemental Privilege Log of Documents Withheld from Production in Response to Defendants' Modified First Request for Production of Documents. Cubatabaco reserves the right to supplement this log upon review of any additional responsive documents.

Dated: New York, New York
May 15, 2000

DEFENDANT'S EXHIBIT D276C



RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

By: _____

MICHAEL KRINSKY (MK 2428)
DAVID B. GOLDSTEIN (DG 8291)
740 Broadway, 5th Floor
New York, New York 10003
(212) 254-1111

Attorneys for Plaintiff,
Empresa Cubana del Tabaco
d.b.a. Cubatabaco

To: Janet Dore, Esq.
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154
Attorneys for Defendants Culbro Corporation and General Cigar Co., Inc.

PLAINTIFF'S SUPPLEMENTAL LOG OF DOCUMENTS WITHHELD FROM PRODUCTION IN RESPONSE TO DEFENDANTS' MODIFIED FIRST AMENDED REQUEST FOR PRODUCTION OF DOCUMENTS ON CLAIMS OF ATTORNEY CLIENT OR ATTORNEY WORK PRODUCT PRIVILEGE

Author and Recipient	Description	Date	Privilege or Objection	Bates # or Number of Pages
To Notebook from A. Garrido	Notes of meeting with Debra Evenson concerning GC/Culbro U.S. COHIBA registration(s)	July 1994	Attorney-client and attorney work product	One page
To Notebook from A. Garrido	Notes of meeting with Michael Krinsky concerning COHIBA	September 1996	Attorney-client and attorney work product	one line
To Notebook from A. Garrido	Notes on COHIBA registration in Dominican Republic	1994	Attorney work product	one page
To Notebook from A. Garrido	Notes on meeting with Debra Evenson concerning GC/Culbro U.S. COHIBA registration(s)	September 26, 1996	Attorney client and attorney work product	one page
To Notebook from A. Garrido	Notes of meeting with Milchior, French lawyer, concerning COHIBA registration in European Union	May 1994	Attorney client and attorney work product	one page

Notes:

"Re GC/Culbro U.S. COHIBA registration(s)" refers to one or both of the registrations of COHIBA for cigars in the United States issued either to Culbro Corporation or General Cigar Corporation.

The privilege log does not include post-filing documents concerning the TTAB cancellation proceeding brought by plaintiff to cancel General Cigar's registrations of COHIBA.

The privilege log does not include post-filing documents concerning the instant action.

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of May 2000, a true and correct copy of the foregoing Plaintiff's Supplemental Privilege Log of Documents Withheld from Production in Response to Defendants' Modified First Request for Production of Documents was served by U.S. mail on the following:

Janet Dore, Esq.
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154

David B. Goldstein (DG 8291)

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 258

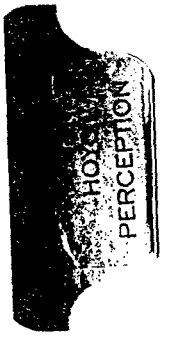
GENERAL CIGAR CO., INC.

SECOND QUARTER

MARKETING RESEARCH SUMMARY

CONFIDENTIAL:
UNDER PROTECTIVE ORDER
GC 020645

Blumberg No. 5114
DEFENDANT'S
EXHIBIT
D 258



CONFIDENTIAL:
UNDER PROTECTIVE ORDER
GC 020646

Hoyo de Monterrey

Perceptual Research of Hoyo de Monterrey Consumers

April 1999

CONFIDENTIAL:
UNDER PROTECTIVE ORDER
GC 020647

Overview

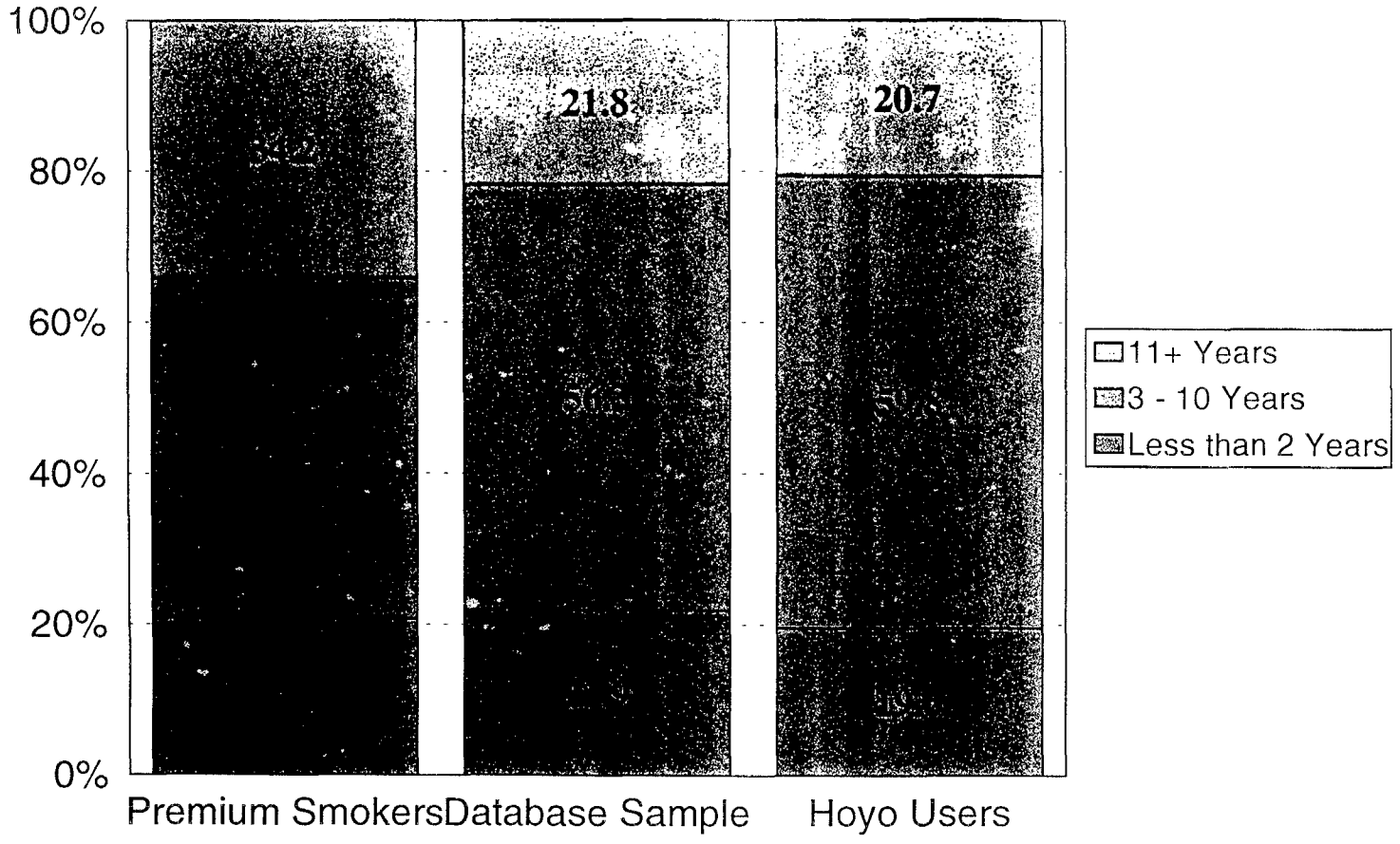
- Objective
  - To understand perception of various attributes of Hoyo de Monterrey, from the consumer perspective, to gain an understanding of the recent decline in sales.

- Methodology
  - Consumer
    - Internet Survey of cigar consumers that smoke Hoyo de Monterrey regularly
  - Retailer
    - Qualitative phone survey using a pre-determined questionnaire

CONFIDENTIAL:
UNDER PROTECTIVE ORDER
GC 020648

Smoking Tenure

Premium Smokers vs. Database Sample vs. Hoyo Users

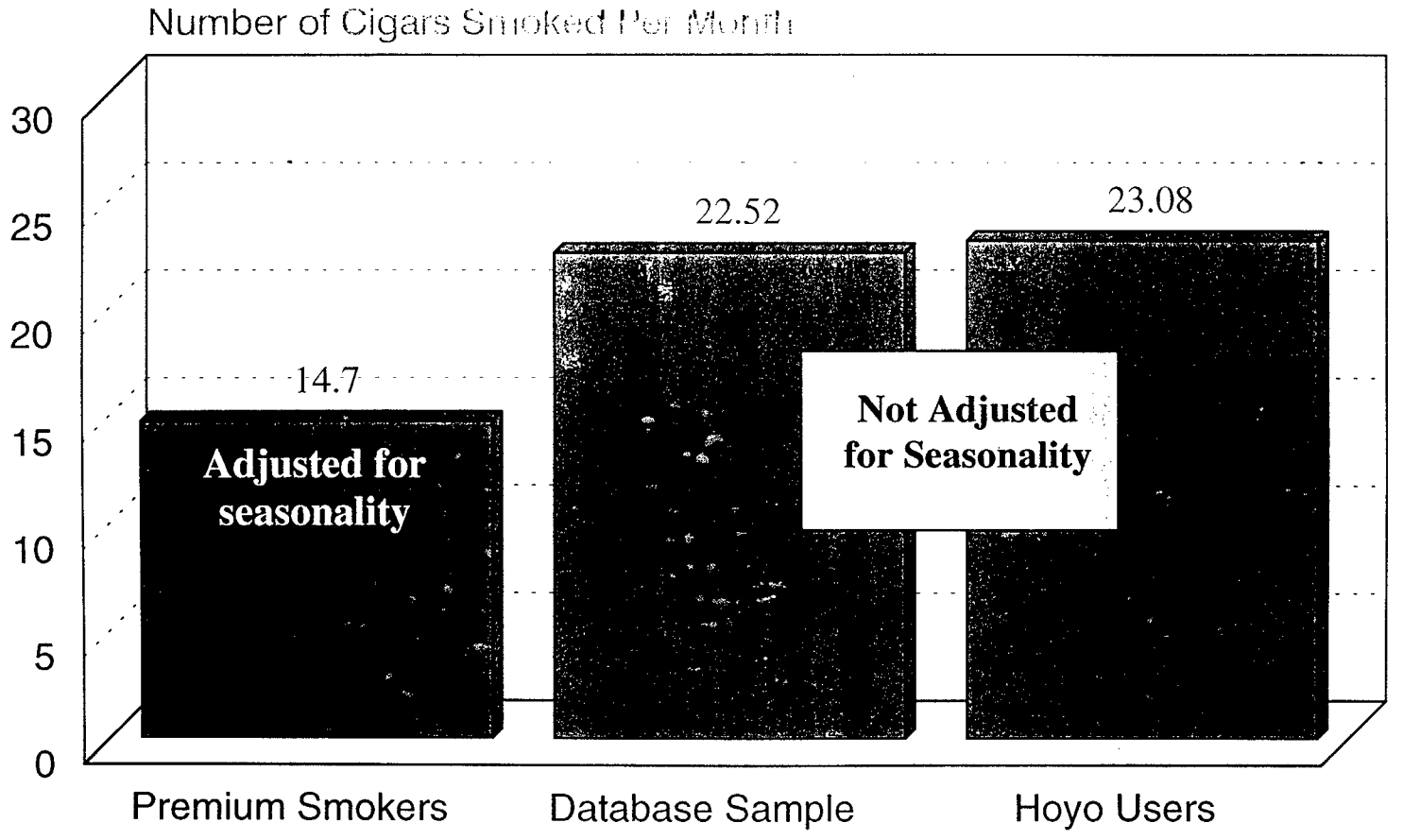


Sources: The NPD Group-A&U Study 10/98; GCC Internet Research 4/99

CONFIDENTIAL: UNDER PROTECTIVE ORDER
GC 020649

Average Monthly Smoking Frequency

Premium Smokers vs. Database Sample vs. Hoyo Users



Sources: The NPD Group-A&U Study 10/98; GCC Internet Research 4/99

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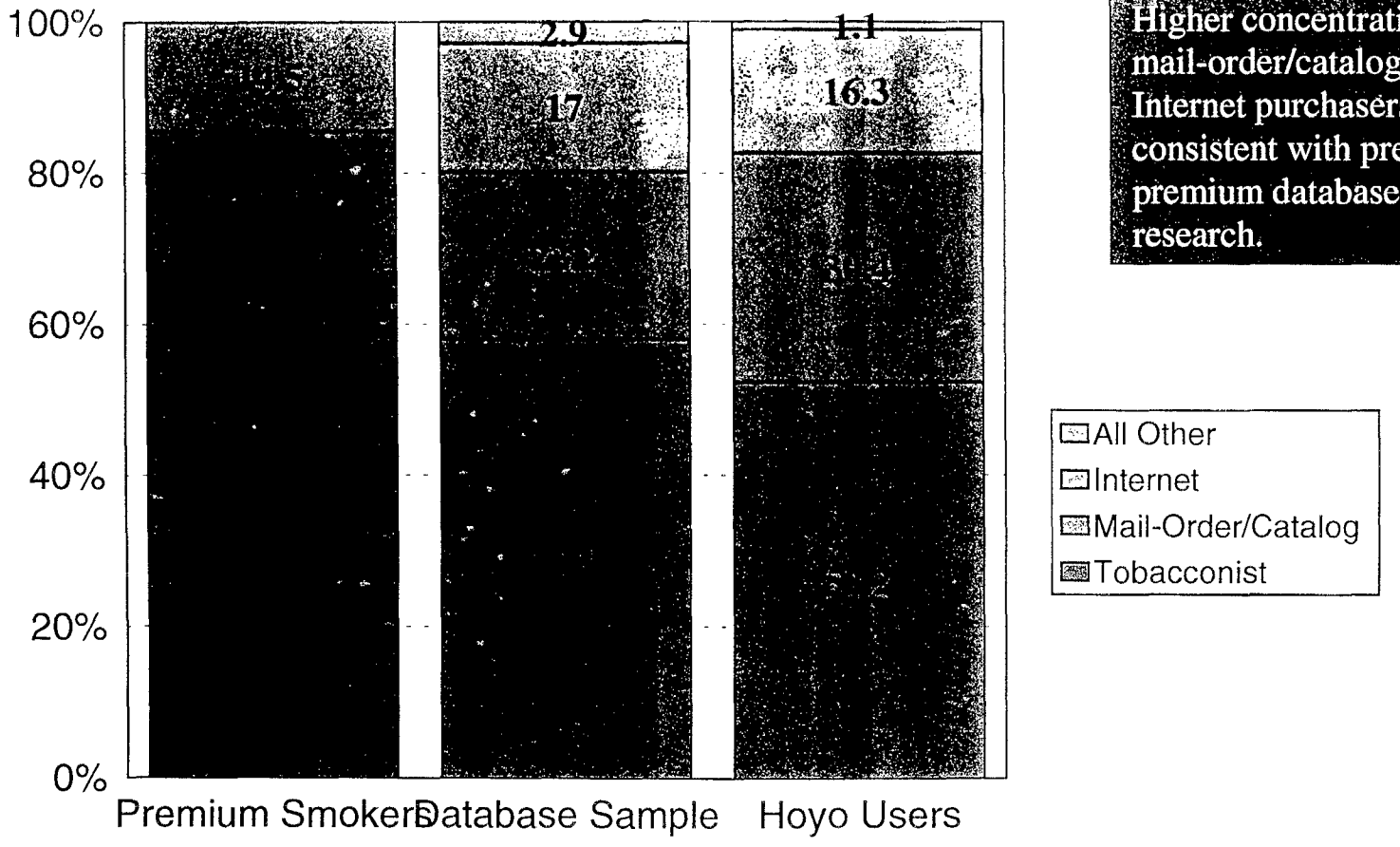
GC 020650

Primary Purchase Channel

Premium Smokers vs. Database Sample vs. Hoyo Users



Higher concentration of mail-order/catalog and Internet purchasers is consistent with previous premium database research.

Sources: The NPD Group-A&U Study 10/98; GCC Internet Research 4/99

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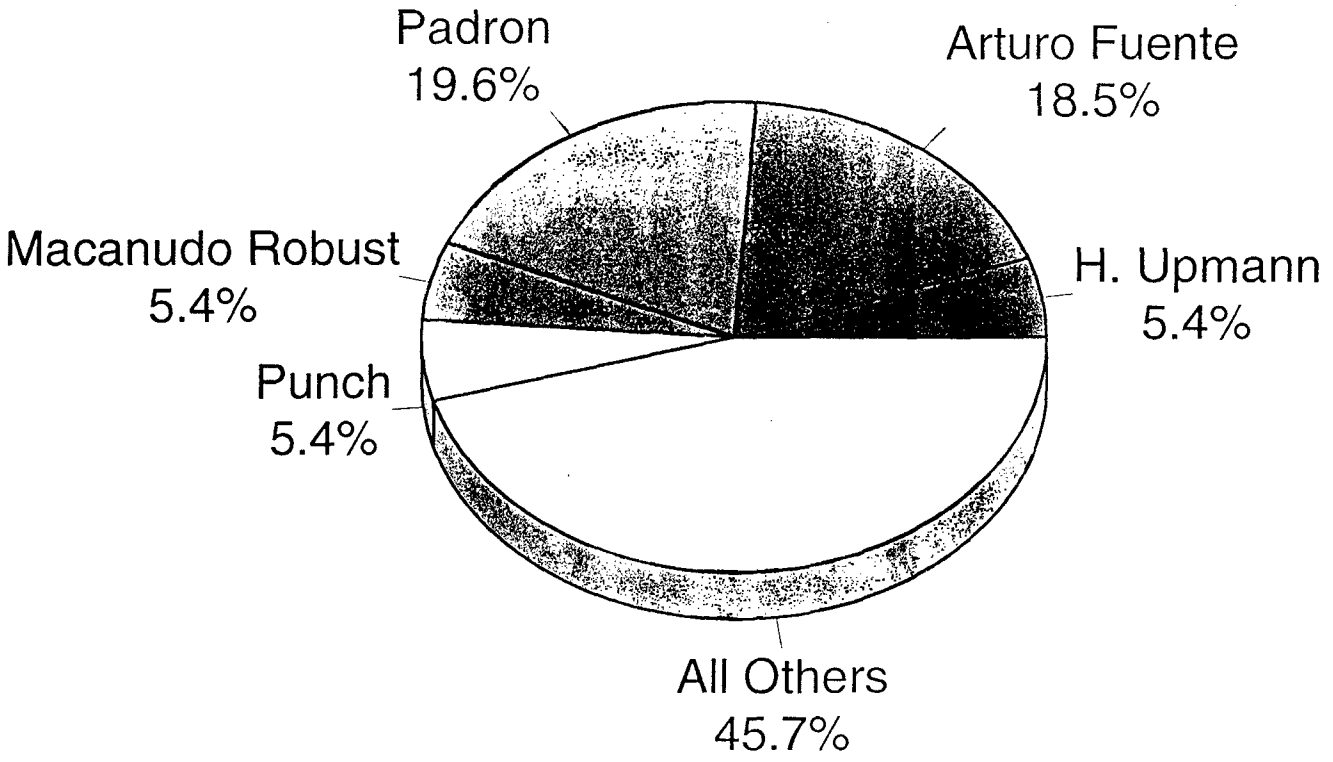
GC 020651

Primary Brand

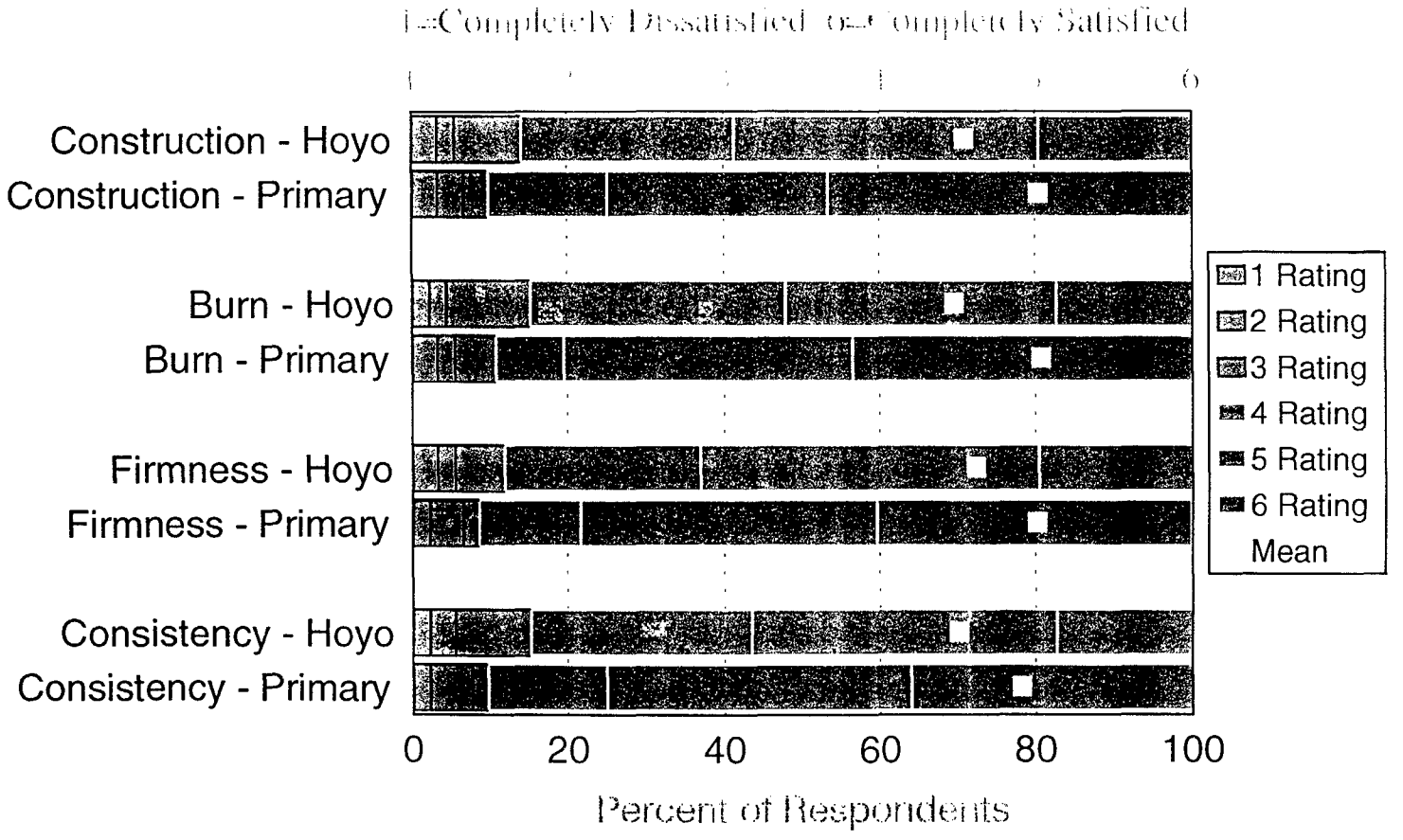
Primary Brand among Hoyo Smokers



CONFIDENTIAL:
UNDER PROTECTIVE ORDER
GC 020652

Satisfaction Ratings of Construction Issues

Hoyo de Monterrey vs. Primary Brand



Source: GCC Internet Research, N=92

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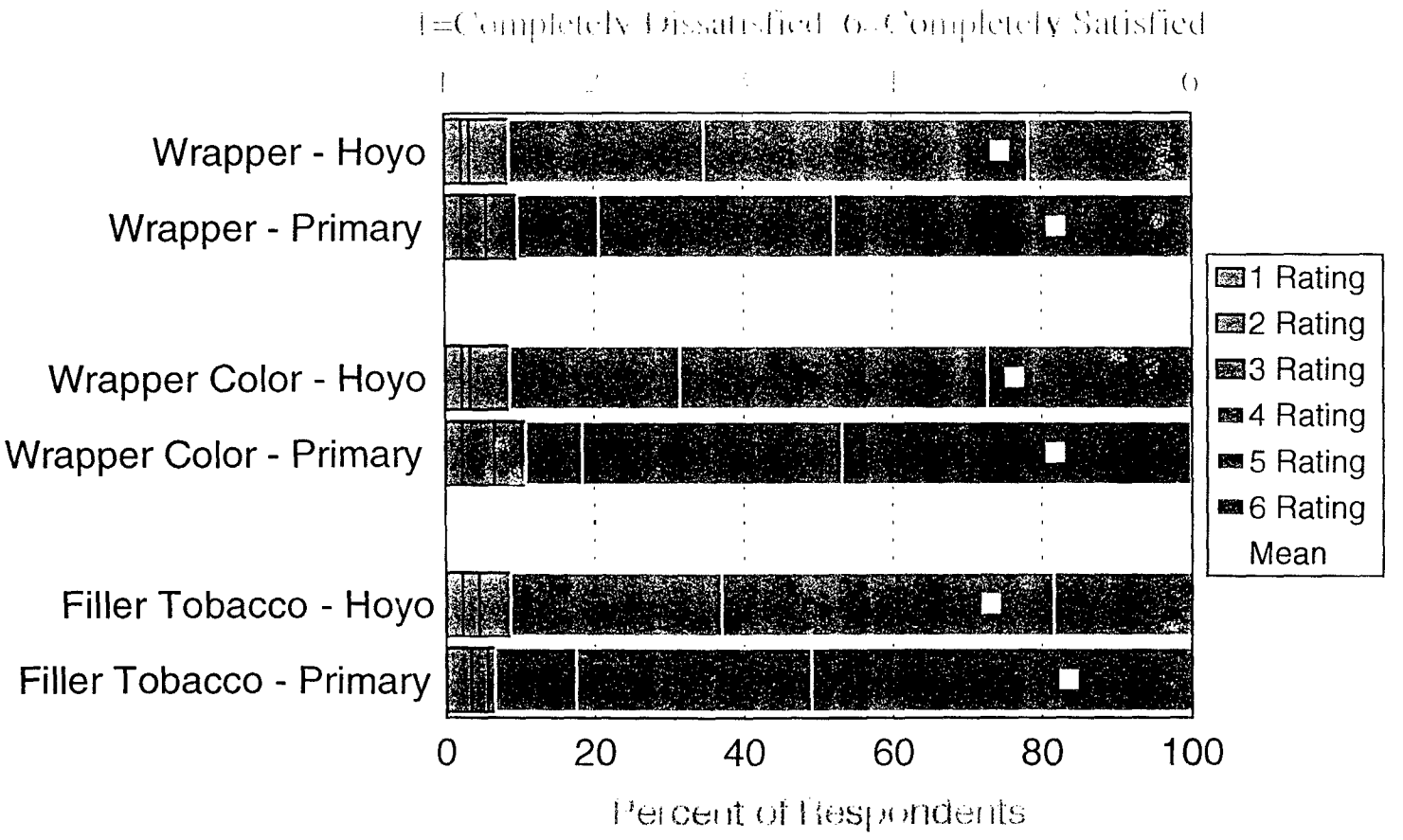
GC 020653

Satisfaction Ratings of Ingredients

Hoyo de Monterrey vs. Primary Brand



Source: GCC Internet Research, N=92

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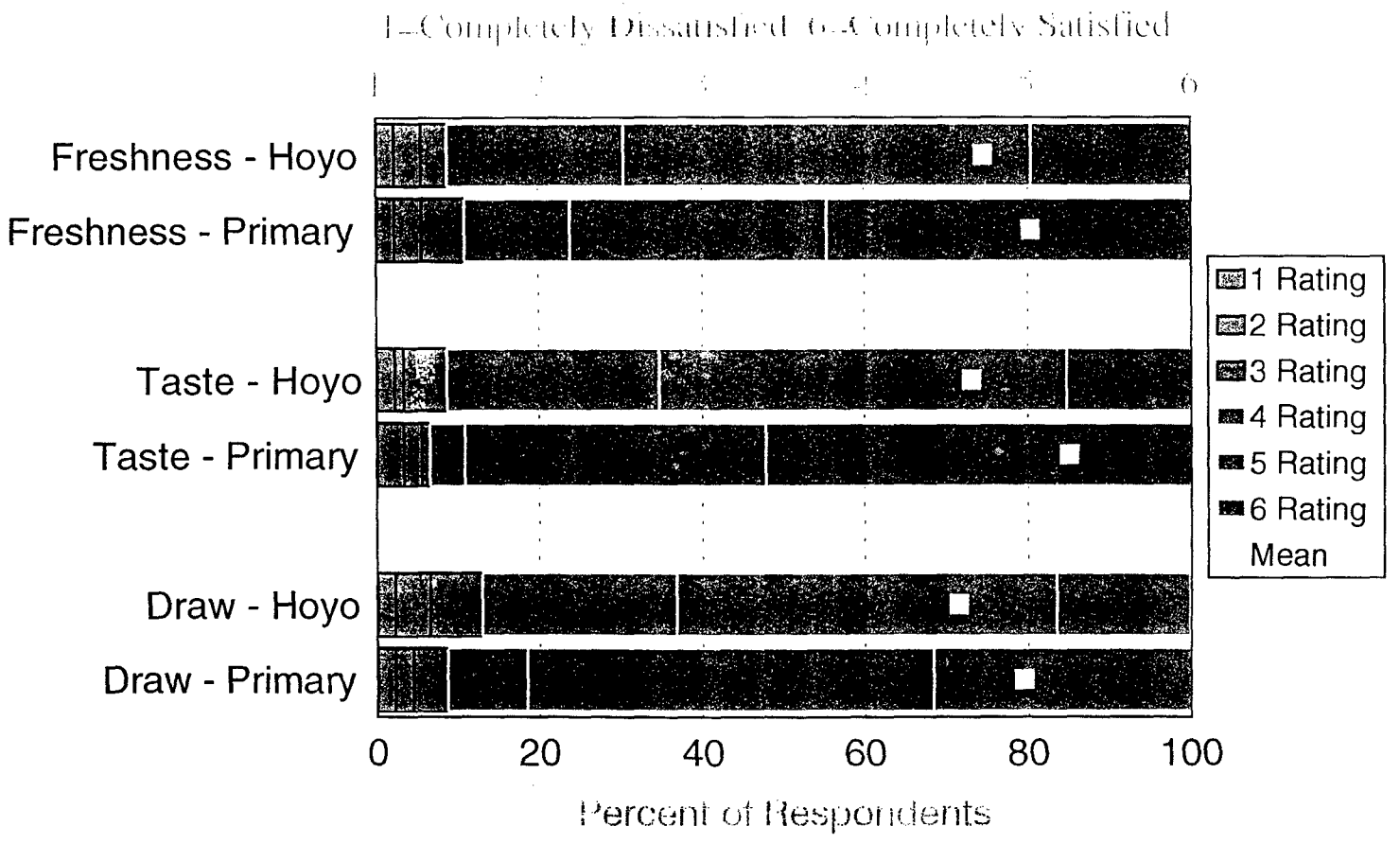
GC 020654

Satisfaction Ratings of Cigar Attributes

Hoyo de Monterrey vs. Primary Brand



Source: GCC Internet Research, N=92

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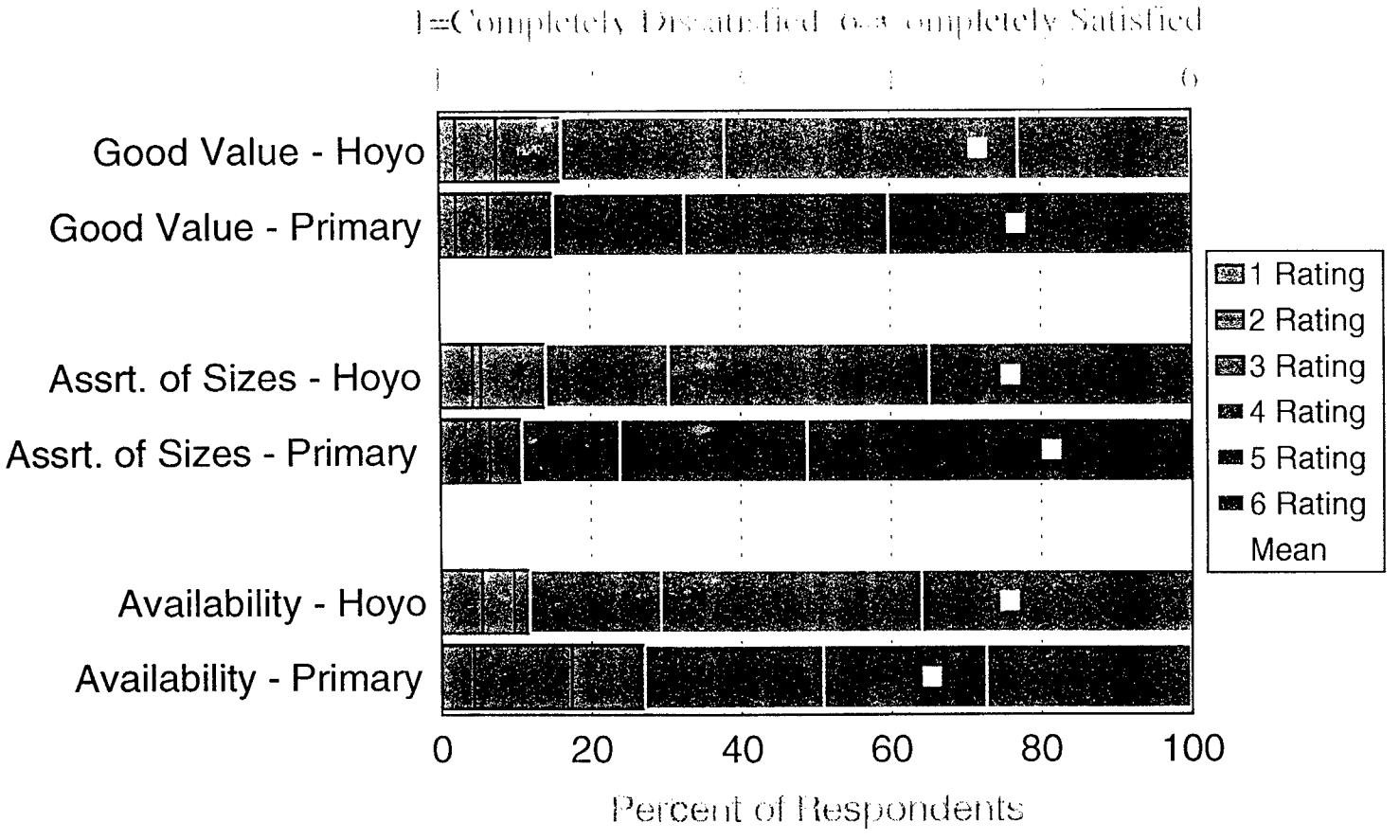
GC 020655

Satisfaction Ratings of Purchase Factors

Hoyo de Monterrey vs. Primary Brand



Source: GCC Internet Research, N=92

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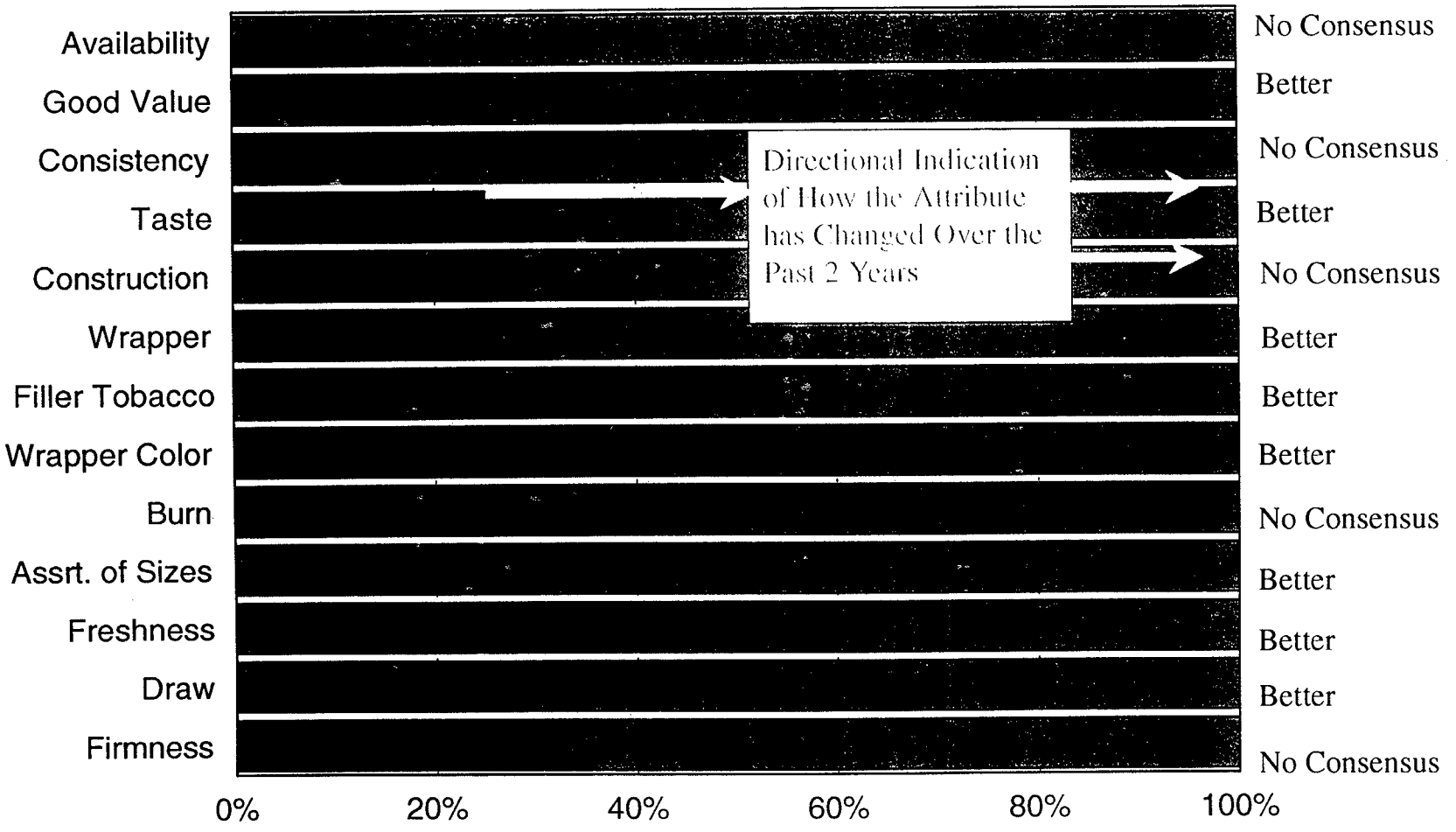
GC 020656

Change in Satisfaction

Perceived Change in Past 2 Years



Source: GCC Internet Research, N=92

Yes No

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GC 020657

Retailer Perception

Hoyo de Monterrey

- Questionnaire
  - Requested satisfaction with noted attributes, as well as observed changes in the past 2 years
    - Quality of Wrapper
    - Quality of Construction
    - Quality of Burn
    - Consistency
    - Taste
    - Draw
    - Good Value
    - Current Sales Performance
  - Brands
    - Hoyo de Monterrey, Montecristo, Padron, Partagas, Punch, and H. Upmann

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GC 020658

Retailer Perception

Summary

Brand	Ratings*	Changes	If Changes, how?	Sales Performance
Hoyo de Monterrey	Mainly 4 - 6	Polarizing	Worsening	Mainly 5 or higher
Punch	Mainly 4 - 6, skewing higher	Polarizing, skews "No"	Worsening	4 or higher
Partagas	Mainly 4 - 6	Mainly "No"	Worsening	Mainly 3 - 5
Montecristo	Mainly 4 - 6	No (New Brand)	N/A	Mainly 2 - 4
Padron	Mainly 6	No	N/A	Mainly 6
H. Upmann	Mainly 4 - 5	Mainly "No"	Worsening	Mainly 3 - 5

*1=Completely Dissatisfied, 6=Completely Satisfied

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GC 020659

Conclusions

- These Hoyo de Monterrey smokers and retailers indicate some degree of satisfaction with all of the attributes defined in the research.

- These Hoyo smokers rate their primary brand (brand smoked most-often) somewhat higher for all the attributes defined in the research, with the exception of availability.

- The majority of these Hoyo de Monterrey smokers do not claim to perceive a change in any of the attributes defined in the research in the past two years.
  - Subsequently, most of those that claim to perceive a change appear to believe those attributes have improved over the last two years.

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GC 020660

Conclusions

- There does not appear to be any significant concerns with Hoyo de Monterrey among retailers.

- While some retailers clearly recognize that there have been some quality issues with Hoyo, it appears that consumer sales are strong and have not changed.

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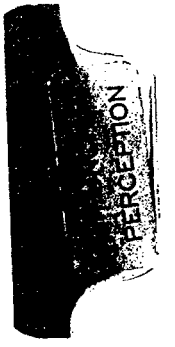
GC 020661



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GC 020662

Punch

Perceptual Research of Punch Consumers

April 1999

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GC 020663

Overview

- Objective
  - To understand perception of various attributes of Punch, from the consumer perspective, to gain an understanding of the recent decline in sales.

- Methodology
  - Consumer
    - Internet Survey of cigar consumers that smoke Punch regularly
  - Retailer
    - Qualitative phone survey using a pre-determined questionnaire

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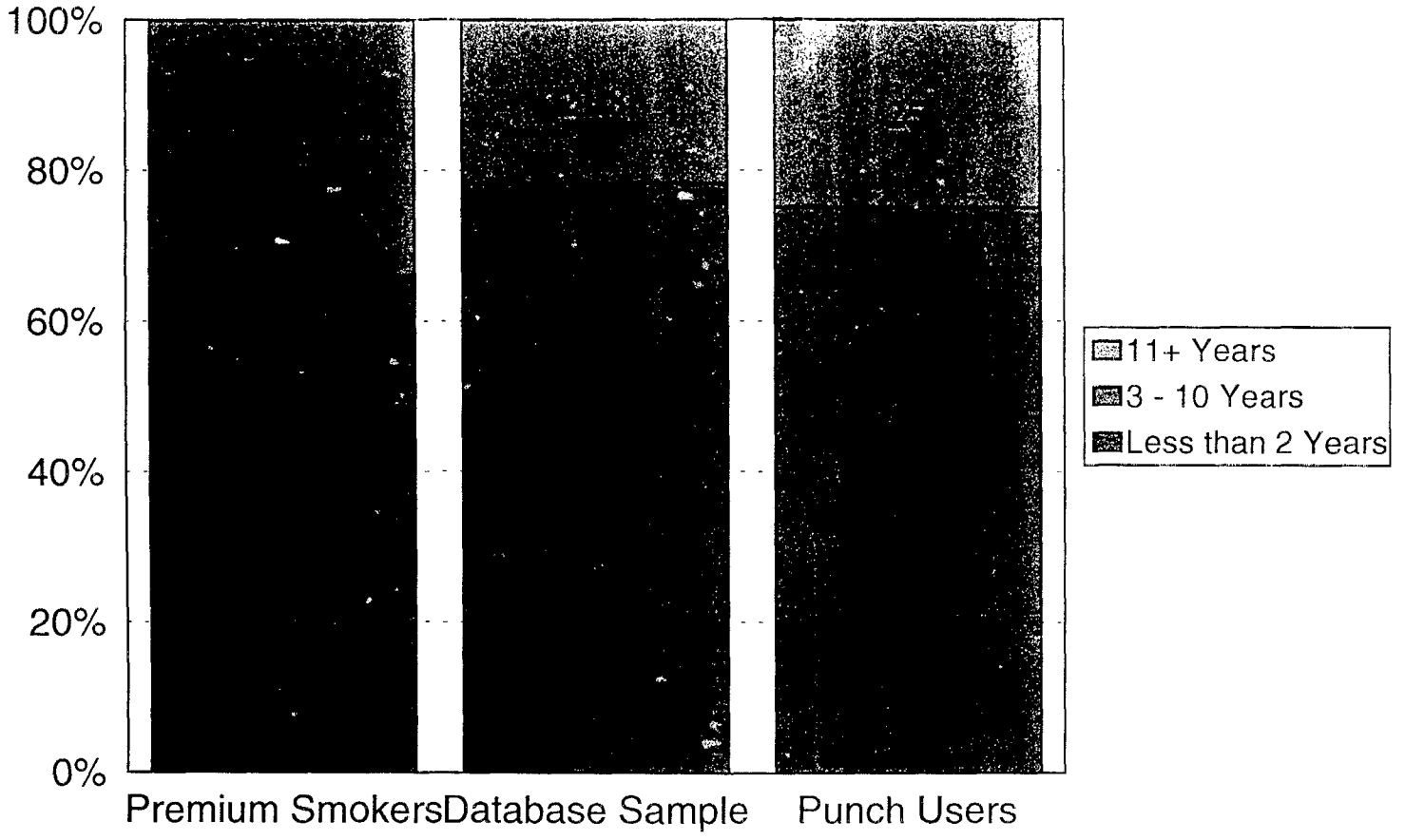
GC 020664

Smoking Tenure

Premium Smokers vs. Database Sample vs. Punch Users



Sources: The NPD Group-A&U Study 10/98; GCC Internet Research 4/99

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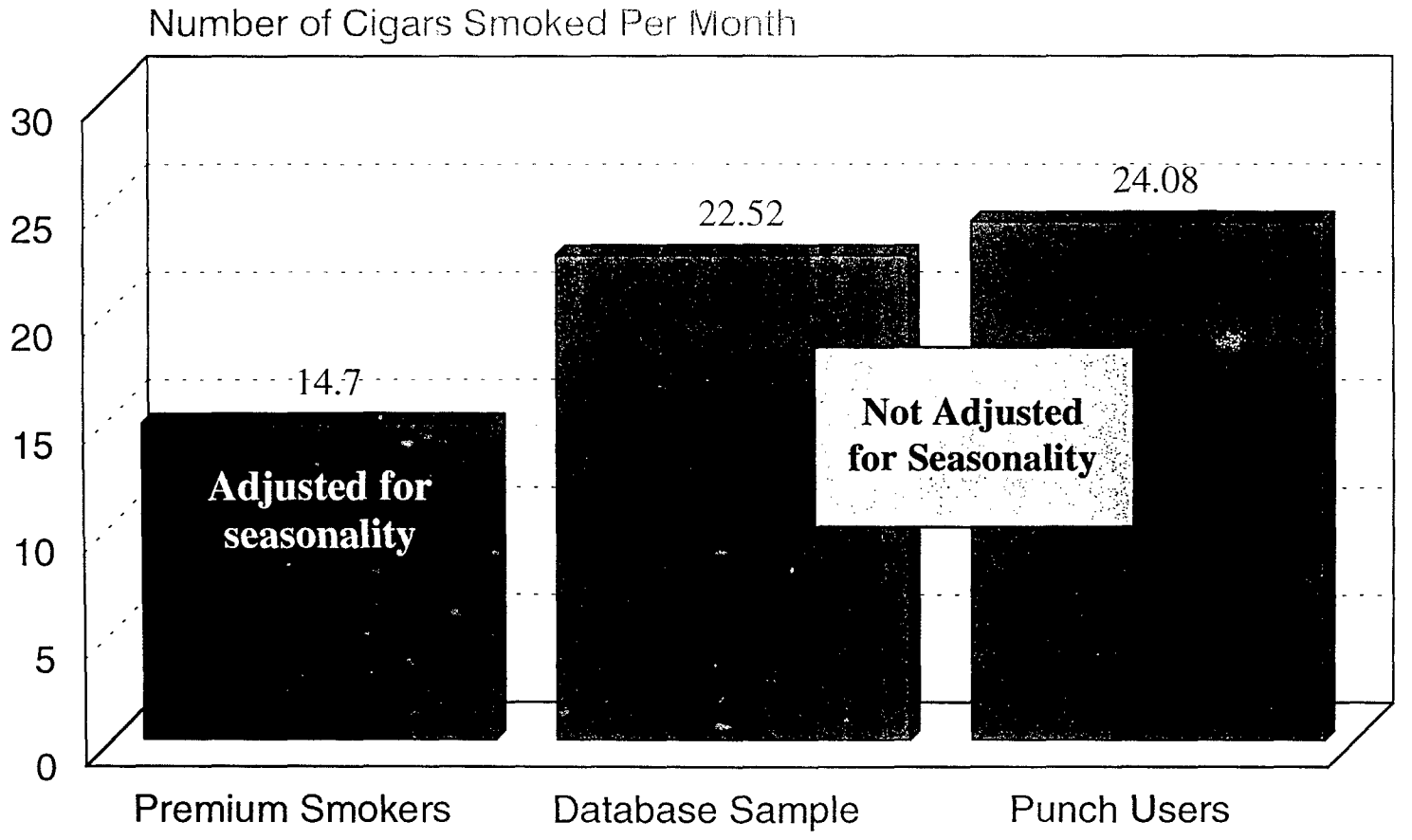
GC 020665

Average Monthly Smoking Frequency

Premium Smokers vs. Database Sample vs. Punch Users



Sources: The NPD Group-A&U Study 10/98; GCC Internet Research 4/99

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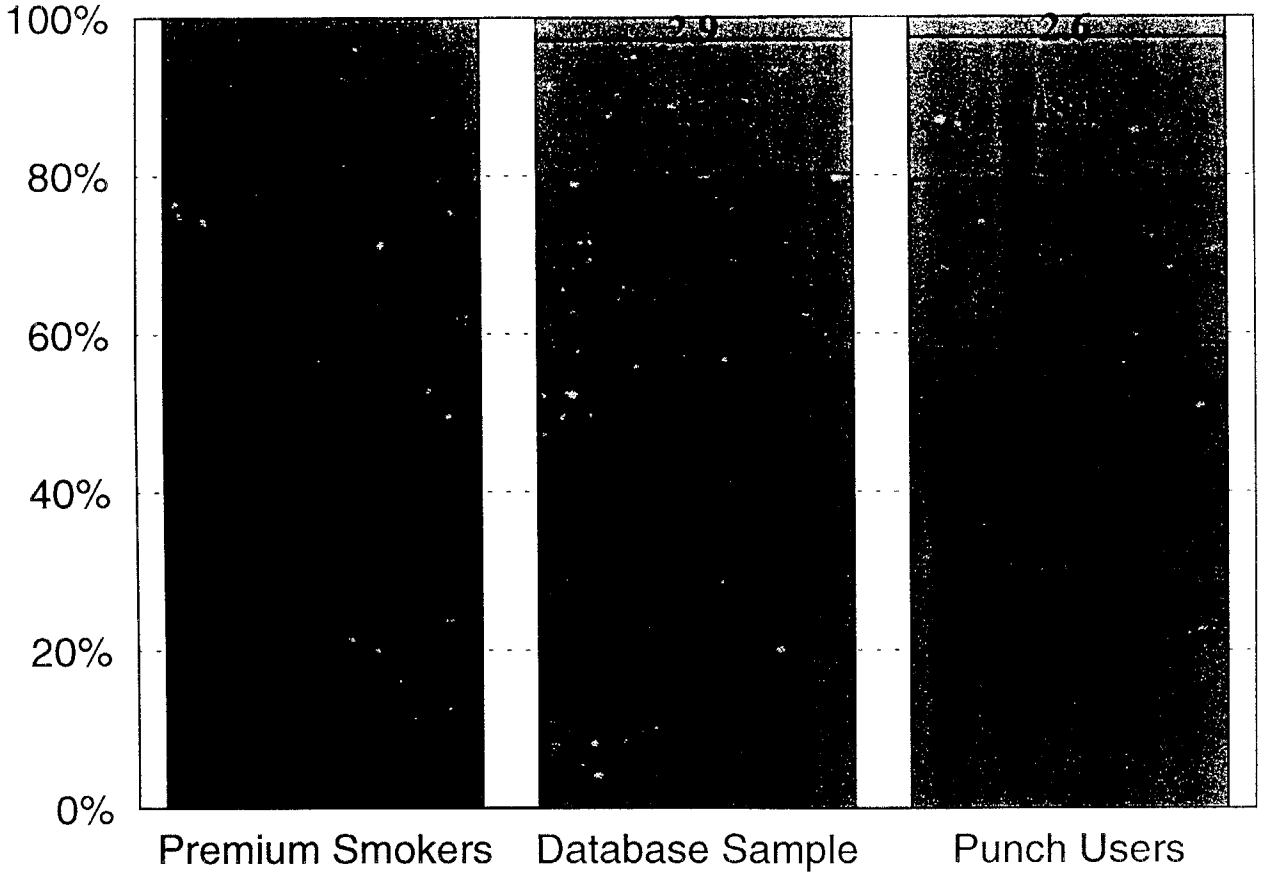
GC 020666

Primary Purchase Channel

Premium Smokers vs. Database Sample vs. Punch Users



Higher concentration of mail-order/catalog and Internet purchasers is consistent with previous premium database research.

- All Other
- Internet
- Mail-Order/Catalog
- Tobacconist

Sources: The NPD Group-A&U Study 10/98; GCC Internet Research 4/99

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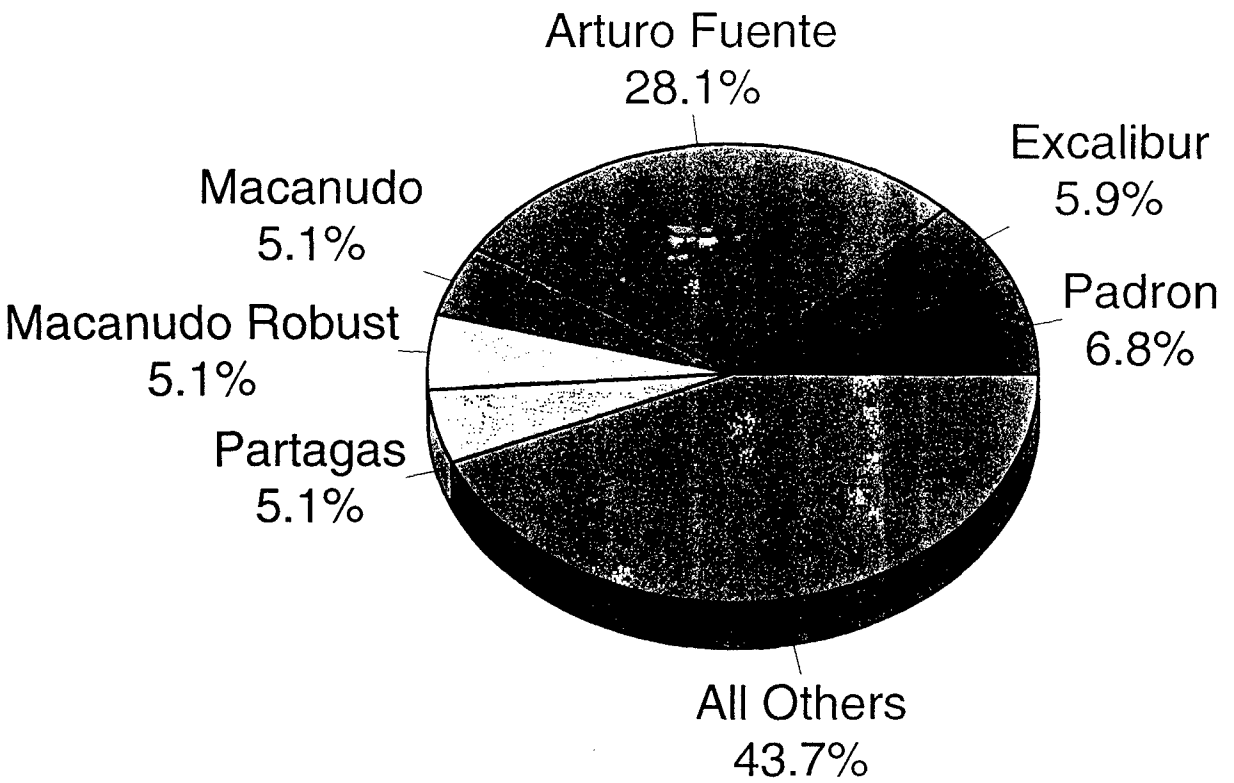
GC 020667

Primary Brand

Primary Brand among Punch Smokers



Source: GCC Internet Research, N=111

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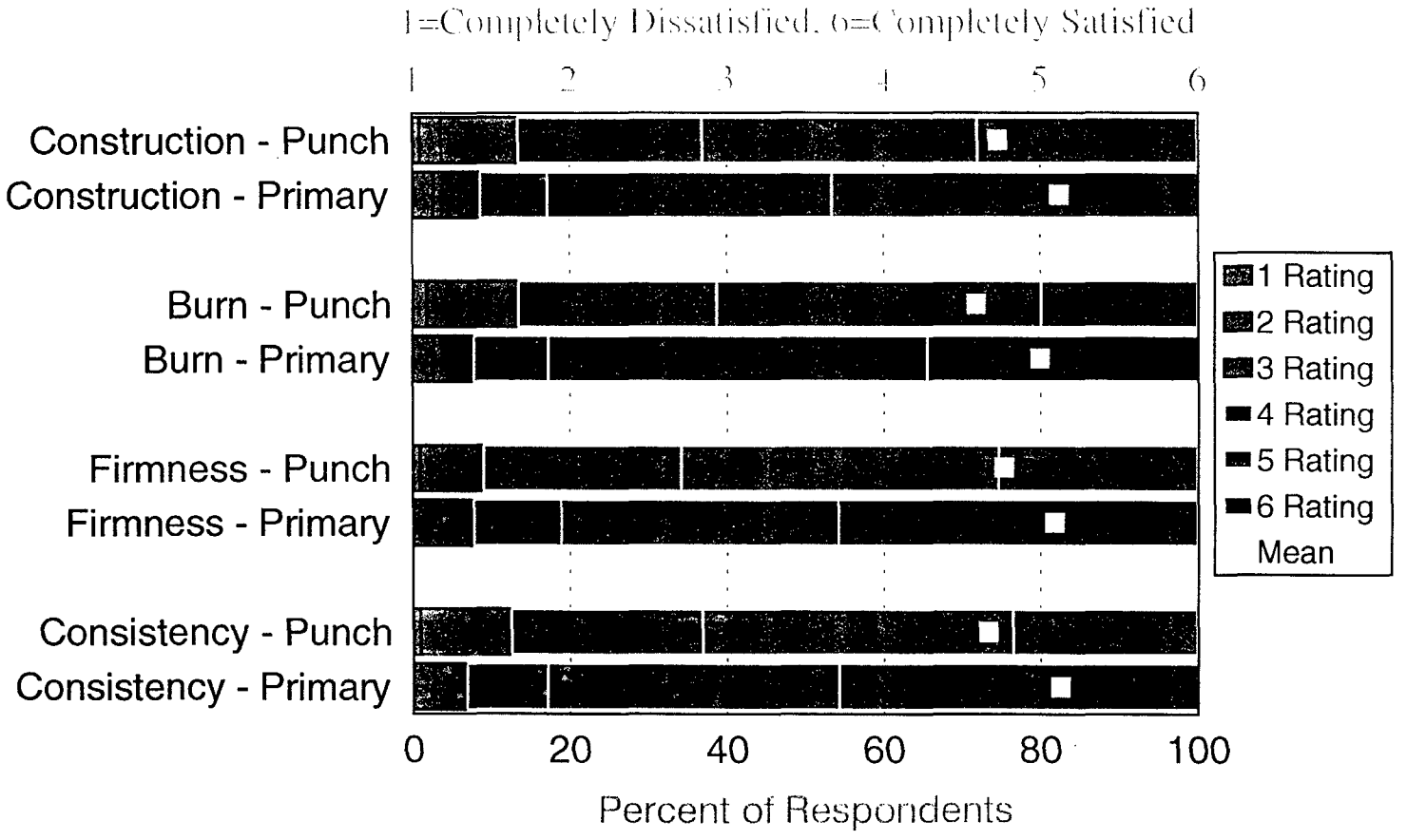
GC 020668

Satisfaction Ratings of Construction Issues

Punch vs. Primary Brand



Source: GCC Internet Research, N=111

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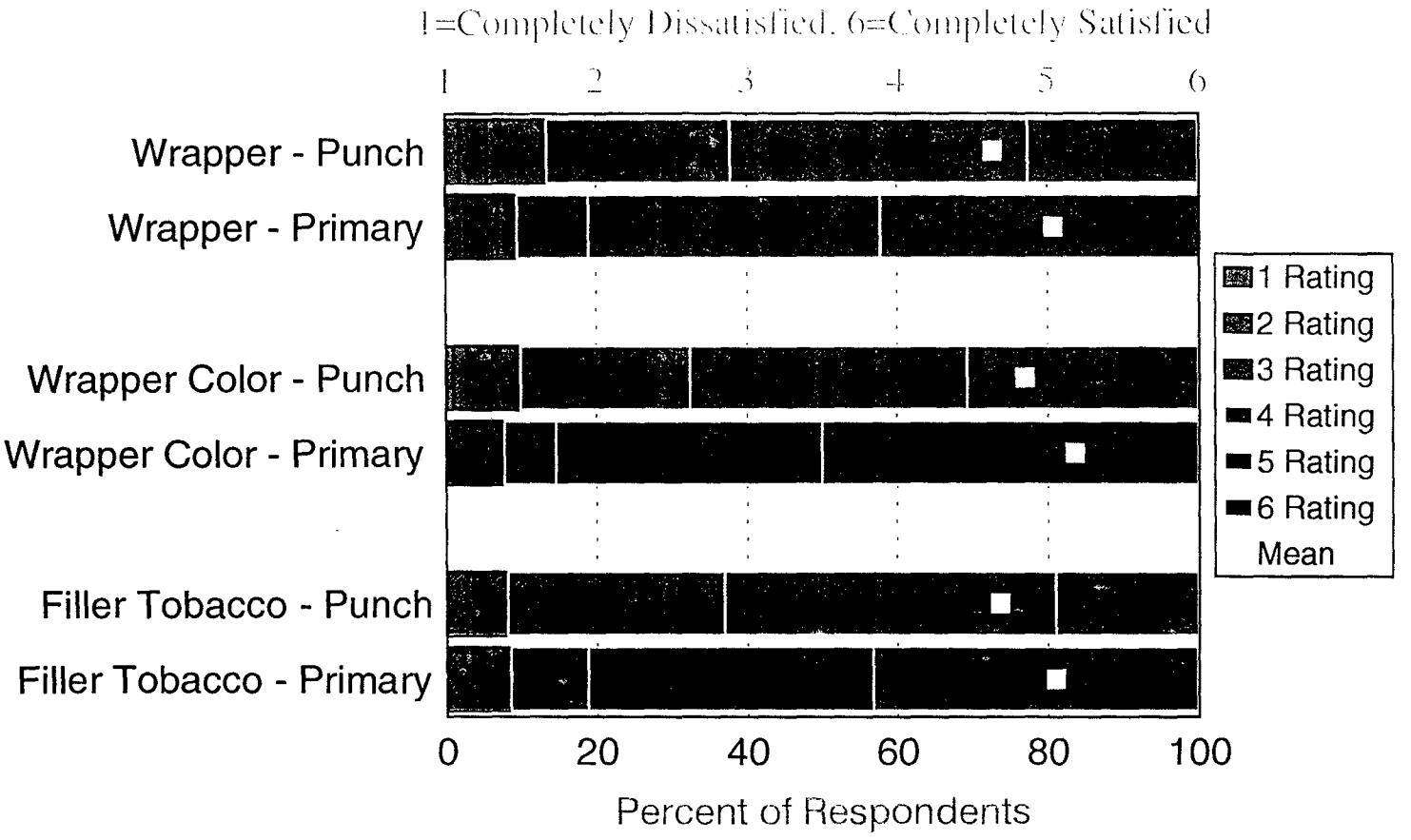
GC 020669

Satisfaction Ratings of Ingredients

Punch vs. Primary Brand



Source: GCC Internet Research, N=111

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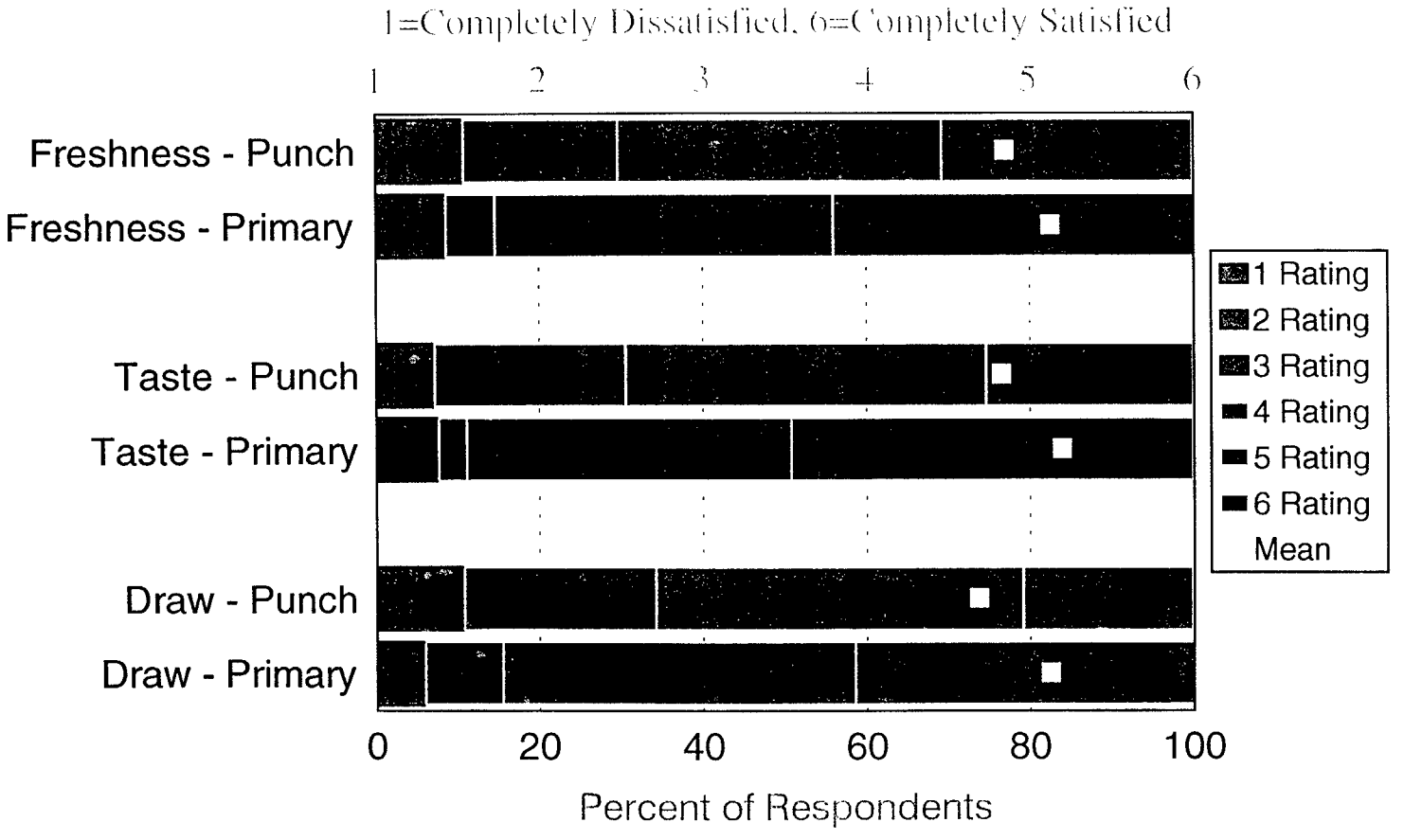
GC 020670

Satisfaction Ratings of Cigar Attributes

Punch vs. Primary Brand



Source: GCC Internet Research, N=111

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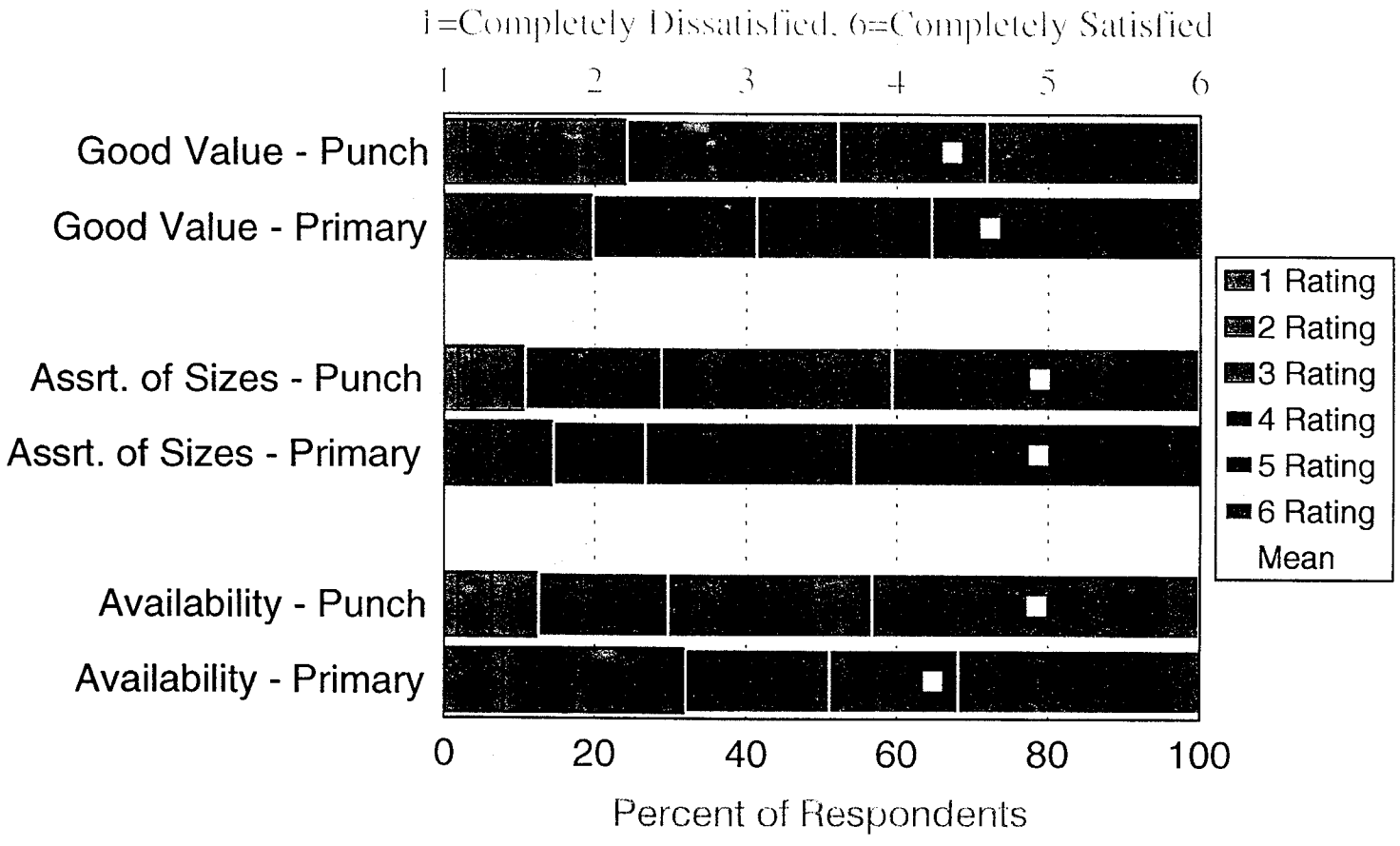
GC 020671

Satisfaction Ratings of Purchase Factors

Punch vs. Primary Brand



Source: GCC Internet Research, N=111

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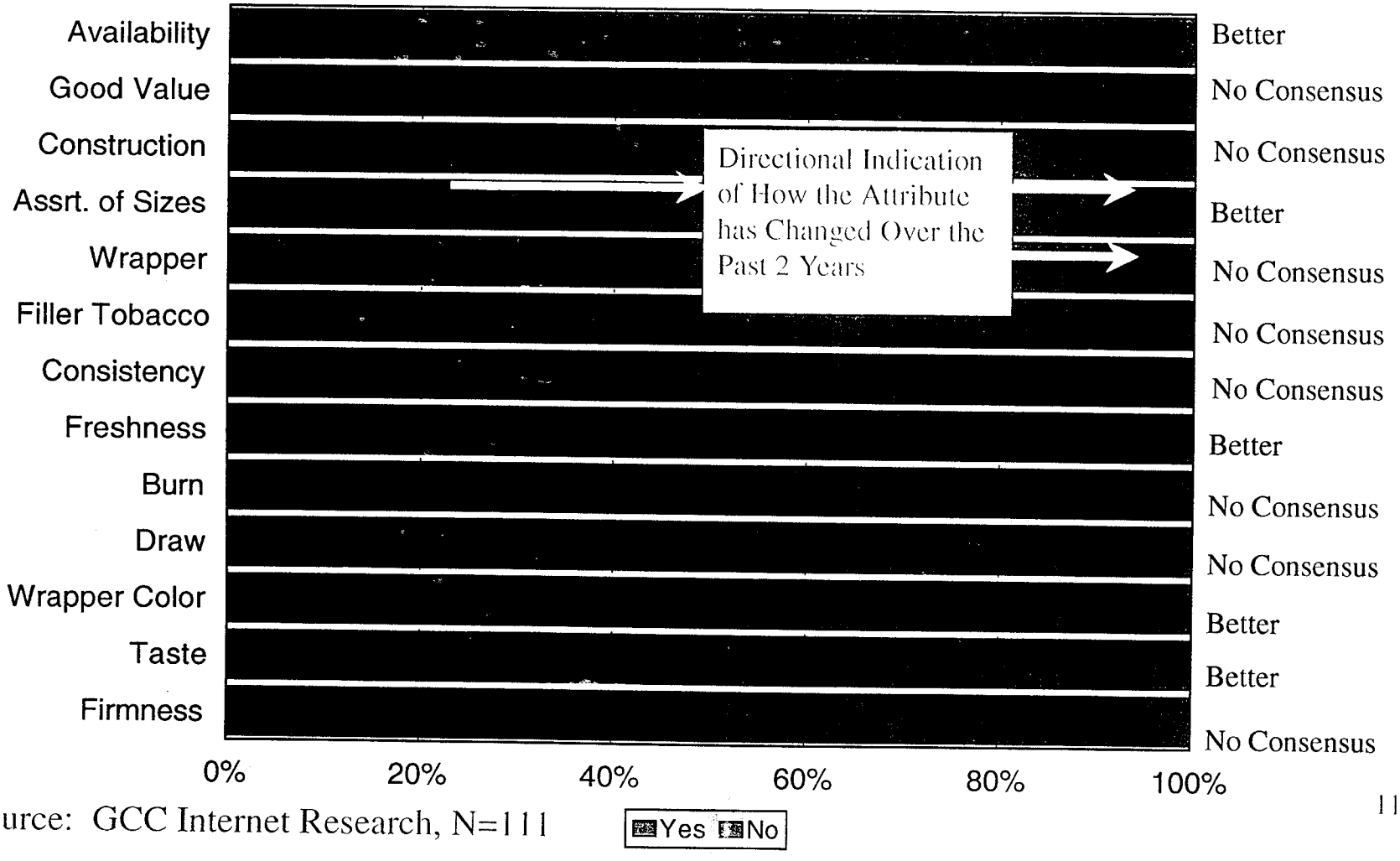
GC 020672

Change in Satisfaction of Punch Attributes

Perceived Change in Past 2 Years



Source: GCC Internet Research, N=111

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GC 020673

Retailer Perception

Punch

- Questionnaire
  - Requested satisfaction with noted attributes, as well as observed changes in the past 2 years
    - Quality of Wrapper
    - Quality of Construction
    - Quality of Burn
    - Consistency
    - Taste
    - Draw
    - Good Value
    - Current Sales Performance
  - Brands
    - Hoyo de Monterrey, Montecristo, Padron, Partagas, Punch, and H. Upmann

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GC 020674

Retailer Perception

Summary

Brand	Ratings*	Changes	If Changes, how?	Sales Performance
Hoyo de Monterrey	Mainly 4 - 6	Polarizing	Worsening	Mainly 5 or higher
Punch	Mainly 4 - 6, skewing higher	Polarizing, skews "No"	Worsening	4 or higher
Partagas	Mainly 4 - 6	Mainly "No"	Worsening	Mainly 3 - 5
Montecristo	Mainly 4 - 6	No (New Brand)	N/A	Mainly 2 - 4
Padron	Mainly 6	No	N/A	Mainly 6
H. Upmann	Mainly 4 - 5	Mainly "No"	Worsening	Mainly 3 - 5

*1=Completely Dissatisfied, 6=Completely Satisfied

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GC 020675

Conclusions

- These Punch smokers and retailers indicate some degree of satisfaction with all of the attributes defined in the research.

- These Punch smokers rate their primary brand (brand smoked most-often) somewhat higher for all the attributes defined in the research, with the exception of availability and assortment of sizes.

- The majority of these Punch smokers do not claim to perceive a change in any of the attributes defined in the research in the past two years.

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GC 020676

Conclusions

- There does not appear to be any significant concerns with Punch among retailers.

- While some retailers clearly recognize that there have been some quality issues with Punch, it appears that consumer sales are strong and have not changed.

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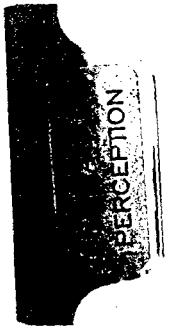
GC 020677



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GC 020678

Partagas

Perceptual Research of Partagas Consumers

April 1999

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GC 020679

Overview

- Objective
  - To understand perception of various attributes of Partagas, from the consumer perspective, to gain an understanding of the recent decline in sales.

- Methodology
  - Consumer
    - Internet Survey of cigar consumers that smoke Partagas regularly
  - Retailer
    - Qualitative phone survey using a pre-determined questionnaire

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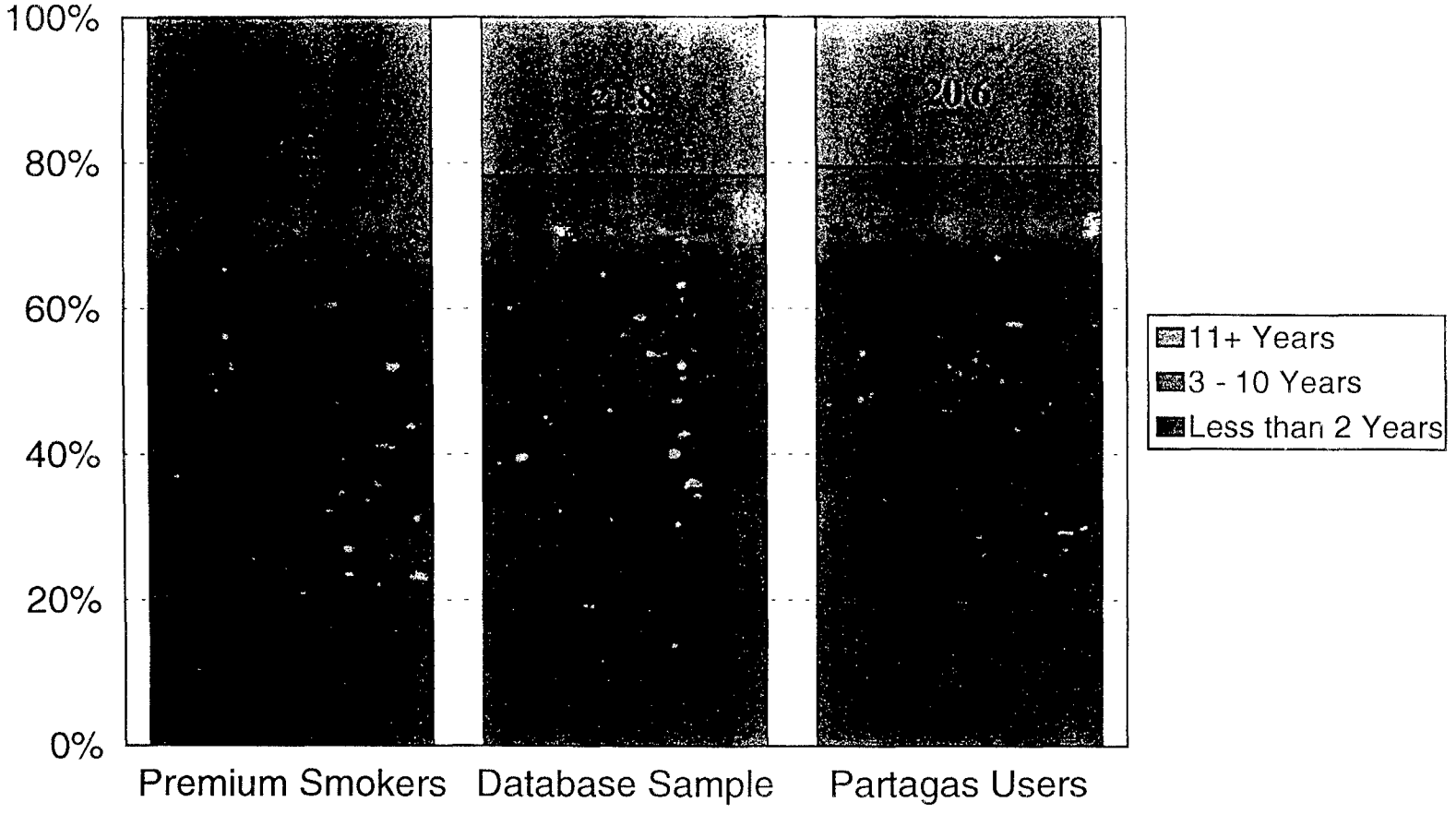
GC 020680

Smoking Tenure

Premium Smokers vs. Database Sample vs. Partagas Users



Sources: The NPD Group-A&U Study 10/98; GCC Internet Research 4/99

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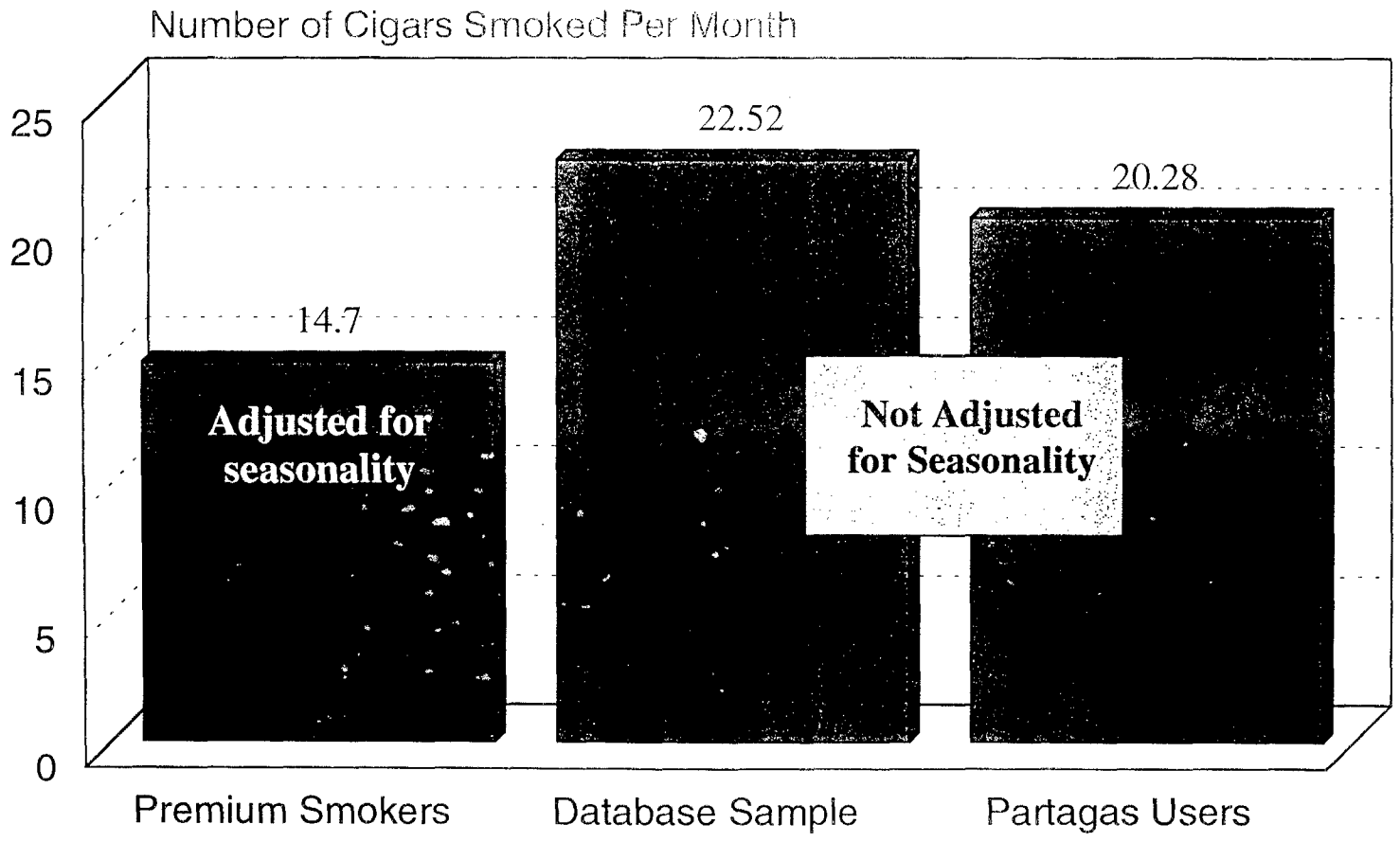
GC 020681

Average Monthly Smoking Frequency

Premium Smokers vs. Database Sample vs. Partagas Users



Sources: The NPD Group-A&U Study 10/98; GCC Internet Research 4/99

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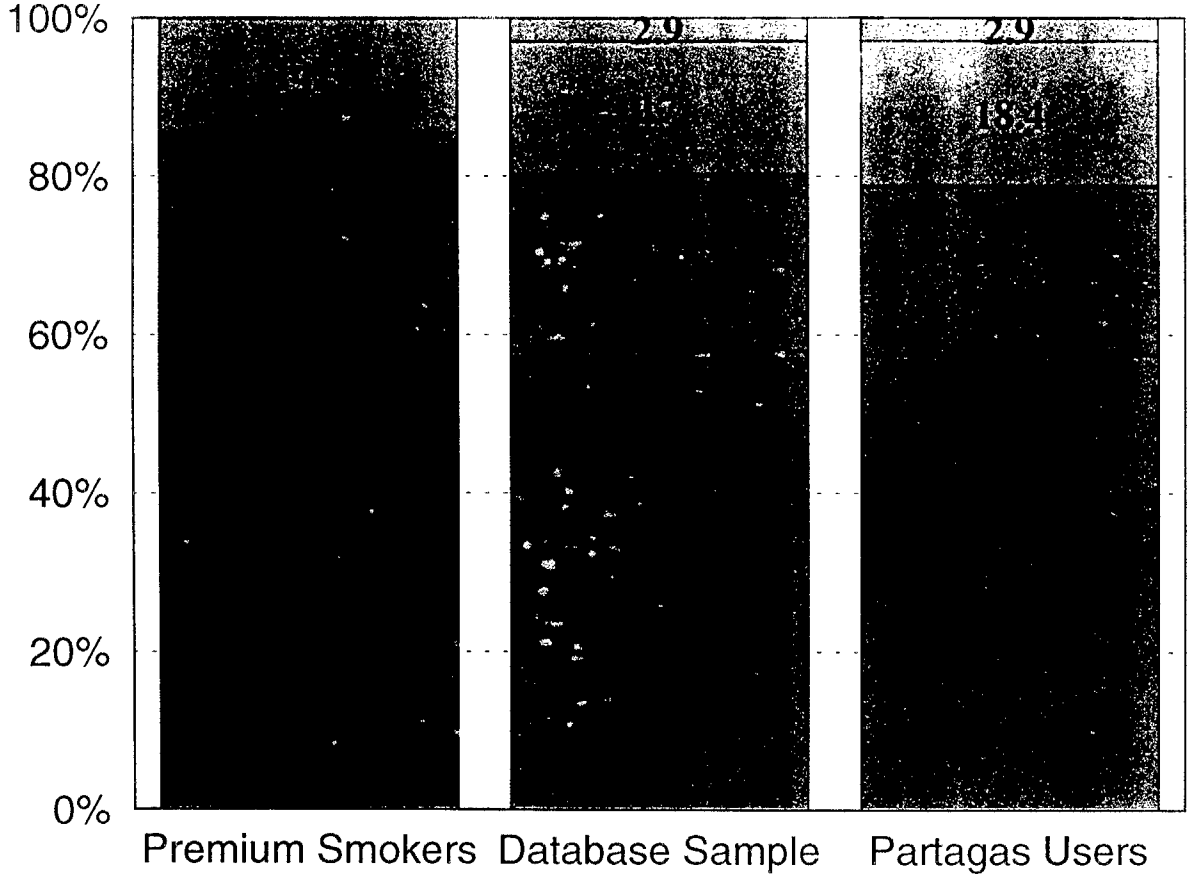
GC 020682

Primary Purchase Channel

Premium Smokers vs. Database Sample vs. Partagas Users



Higher concentration of mail-order/catalog and Internet purchasers is consistent with previous premium database research.

Sources: The NPD Group-A&U Study 10/98; GCC Internet Research 4/99

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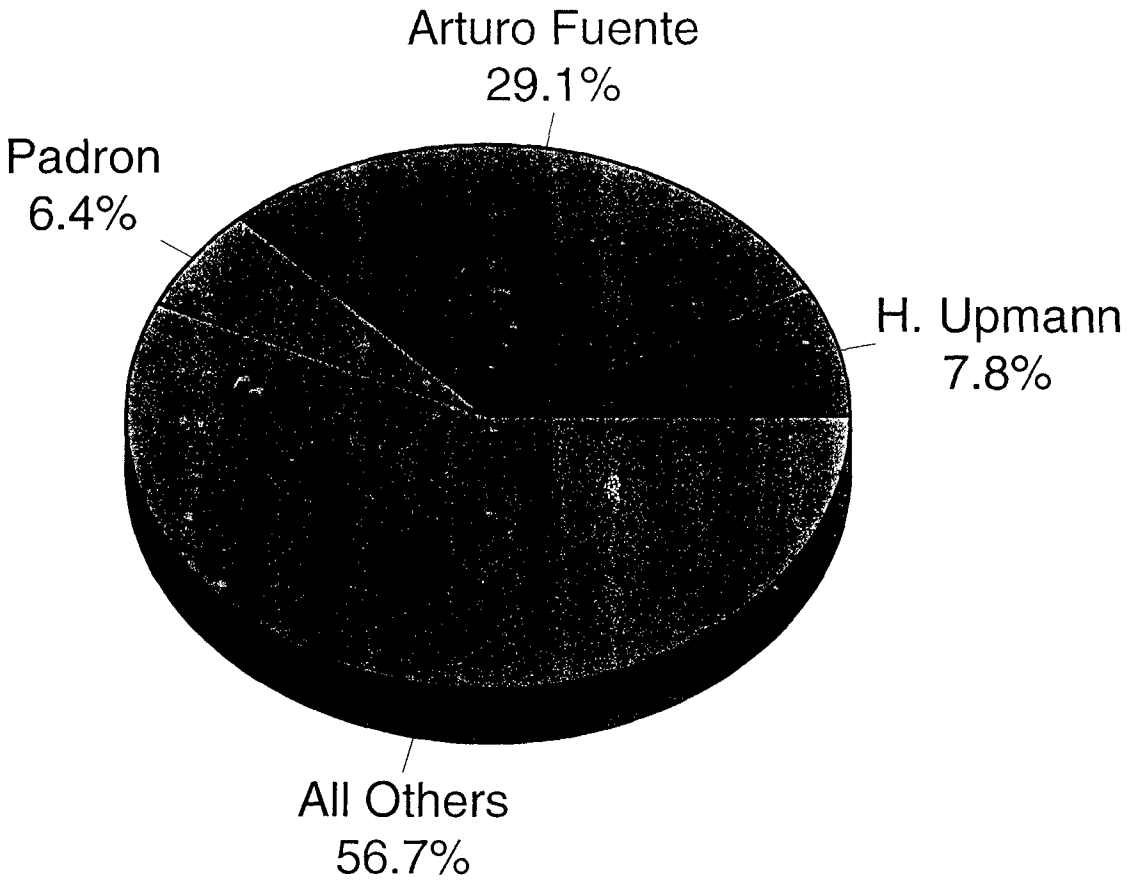
GC 020683

Primary Brand

Primary Brand among Partagas Smokers



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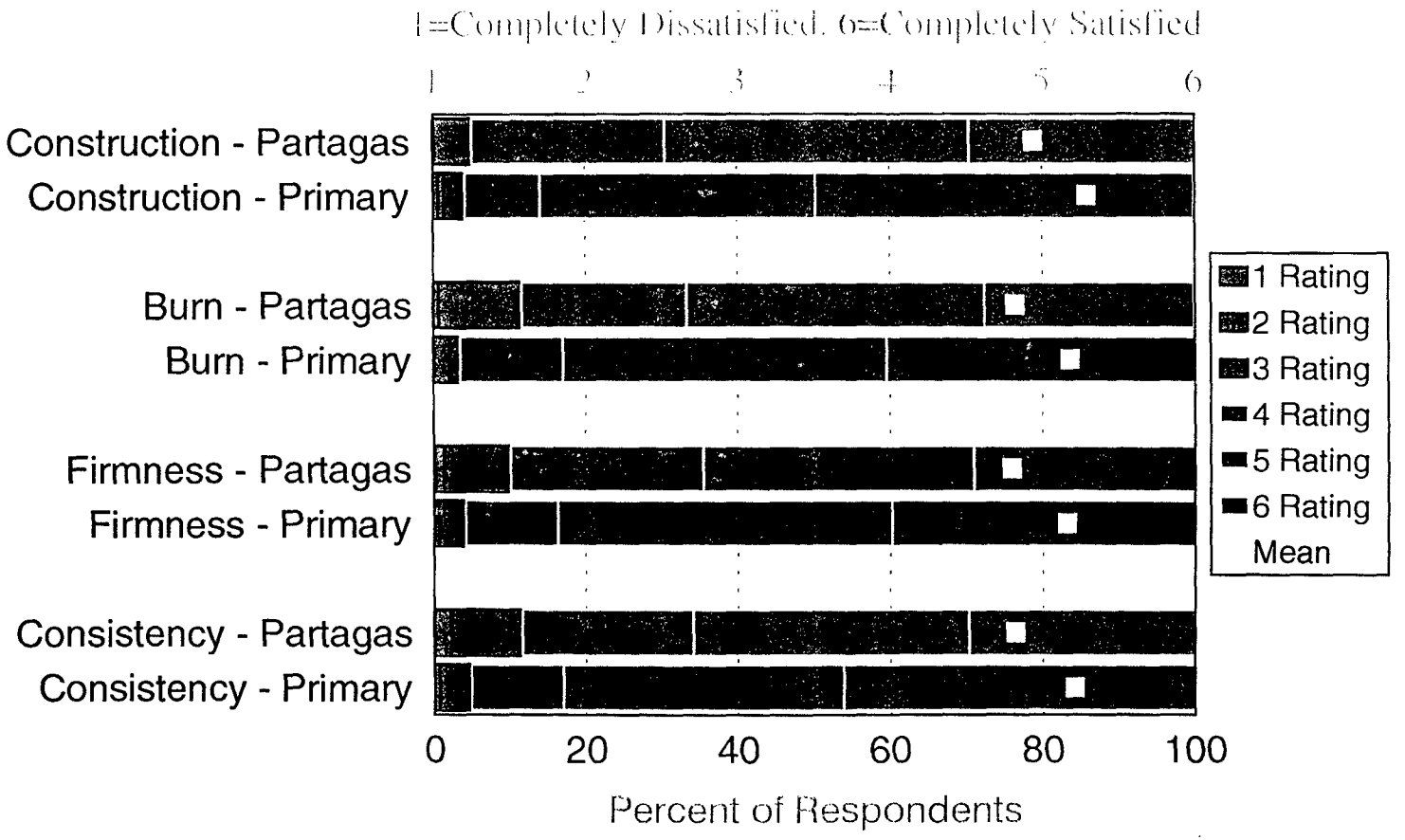
GC 020684

Satisfaction Ratings of Construction Issues

Partagas vs. Primary Brand



Source: GCC Internet Research

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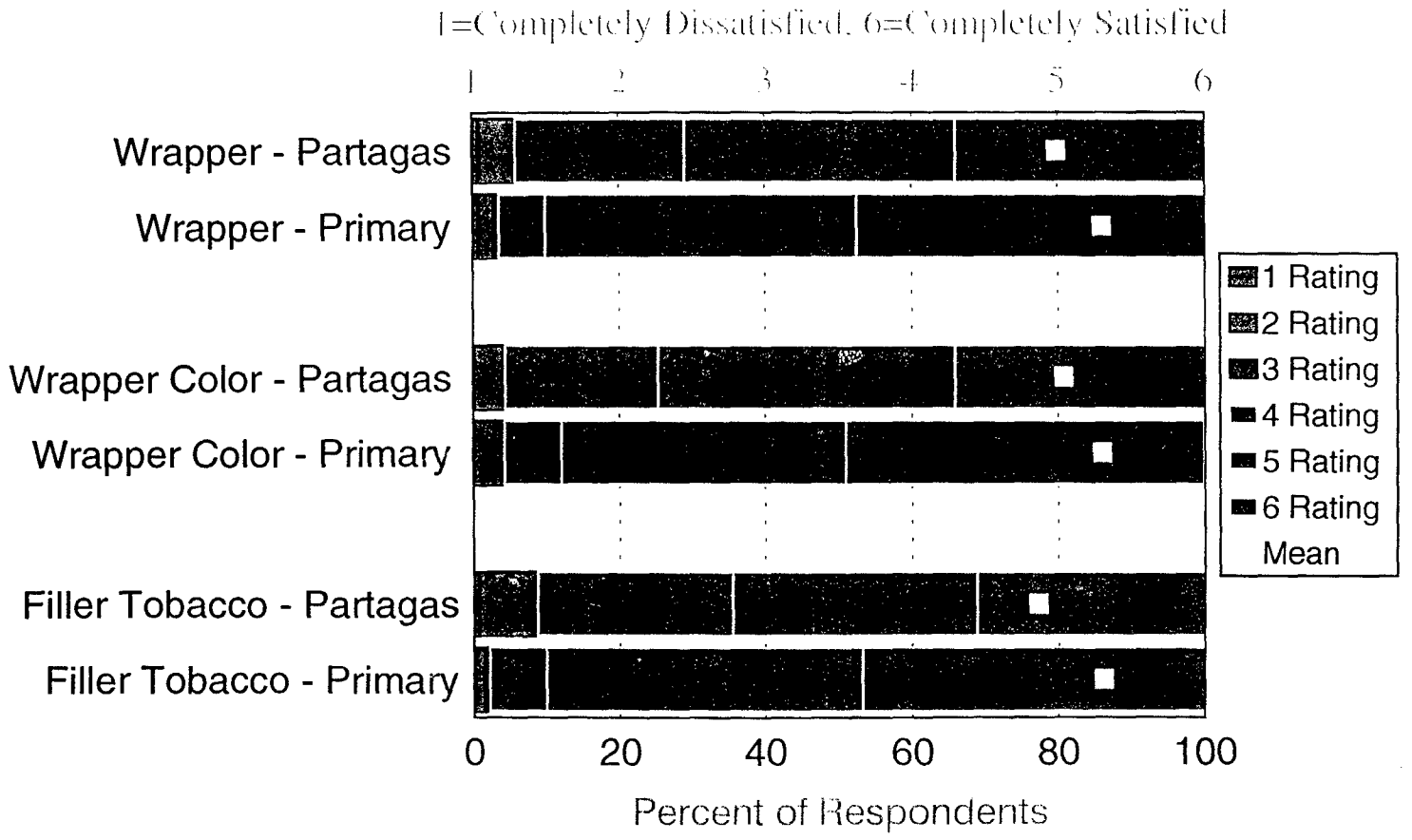
GC 020685

Satisfaction Ratings of Ingredients

Partagas vs. Primary Brand



Source: GCC Internet Research

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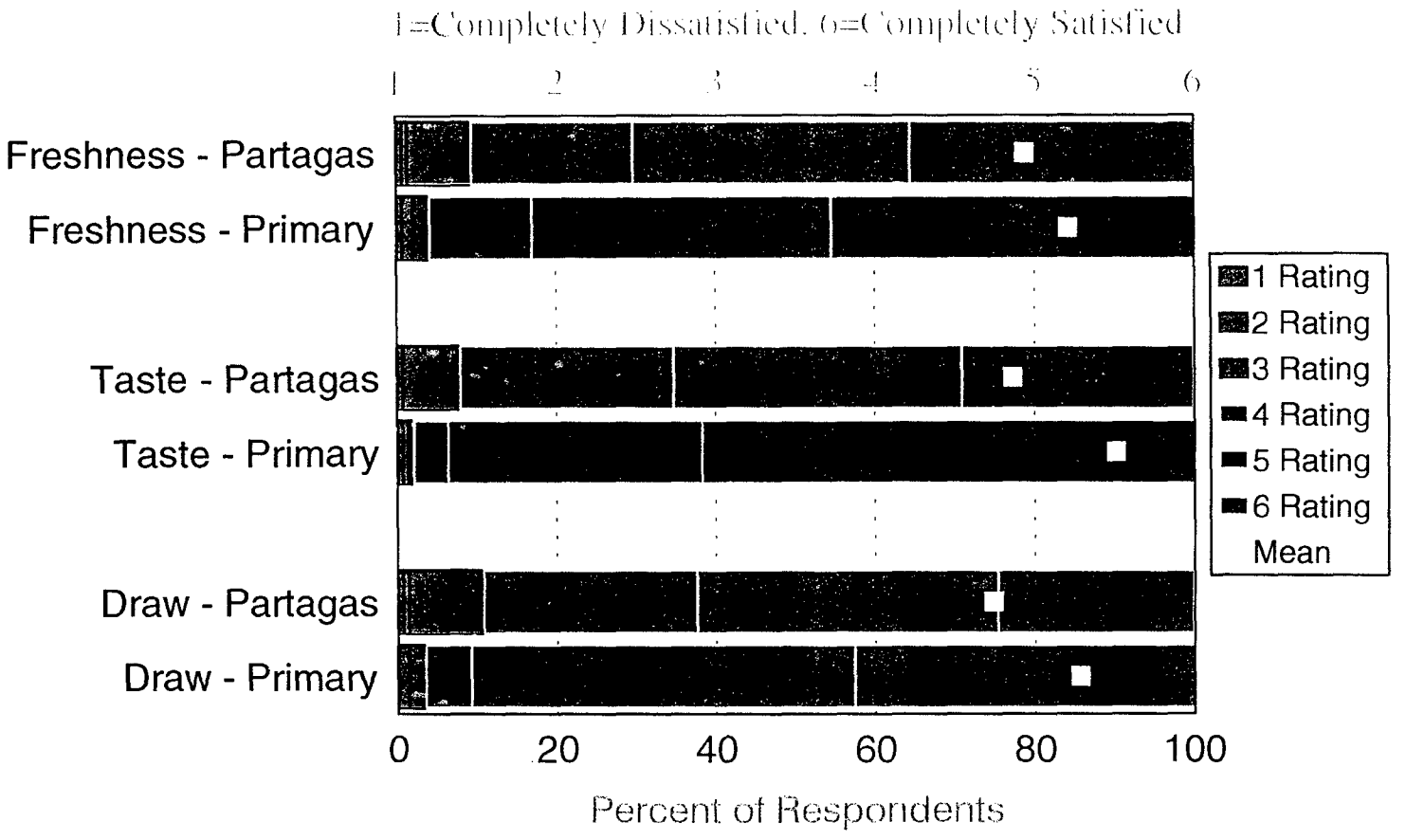
GC 020686

Satisfaction Ratings of Cigar Attributes

Partagas vs. Primary Brand



Source: GCC Internet Research

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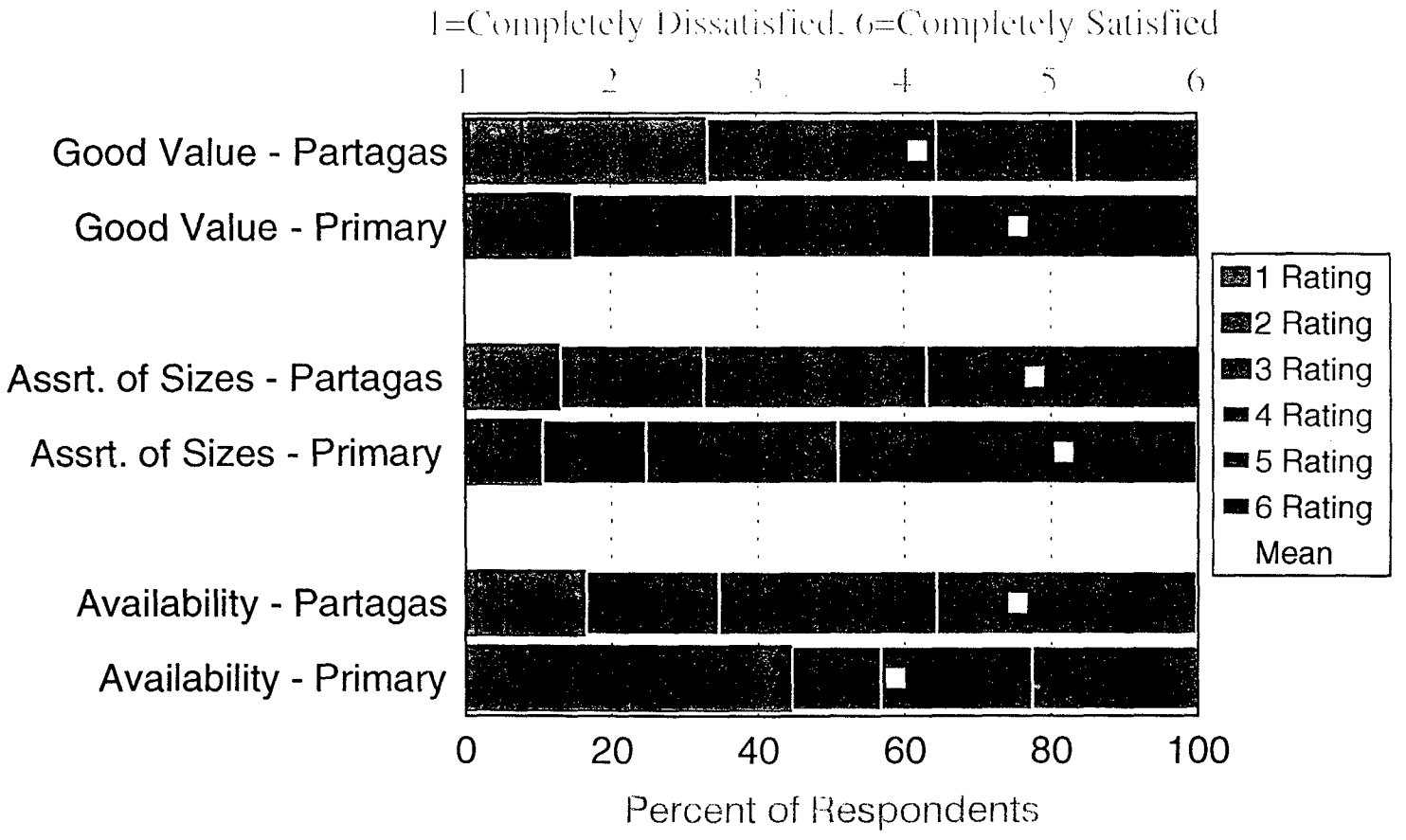
GC 020687

Satisfaction Ratings of Purchase Factors

Partagas vs. Primary Brand



Source: GCC Internet Research

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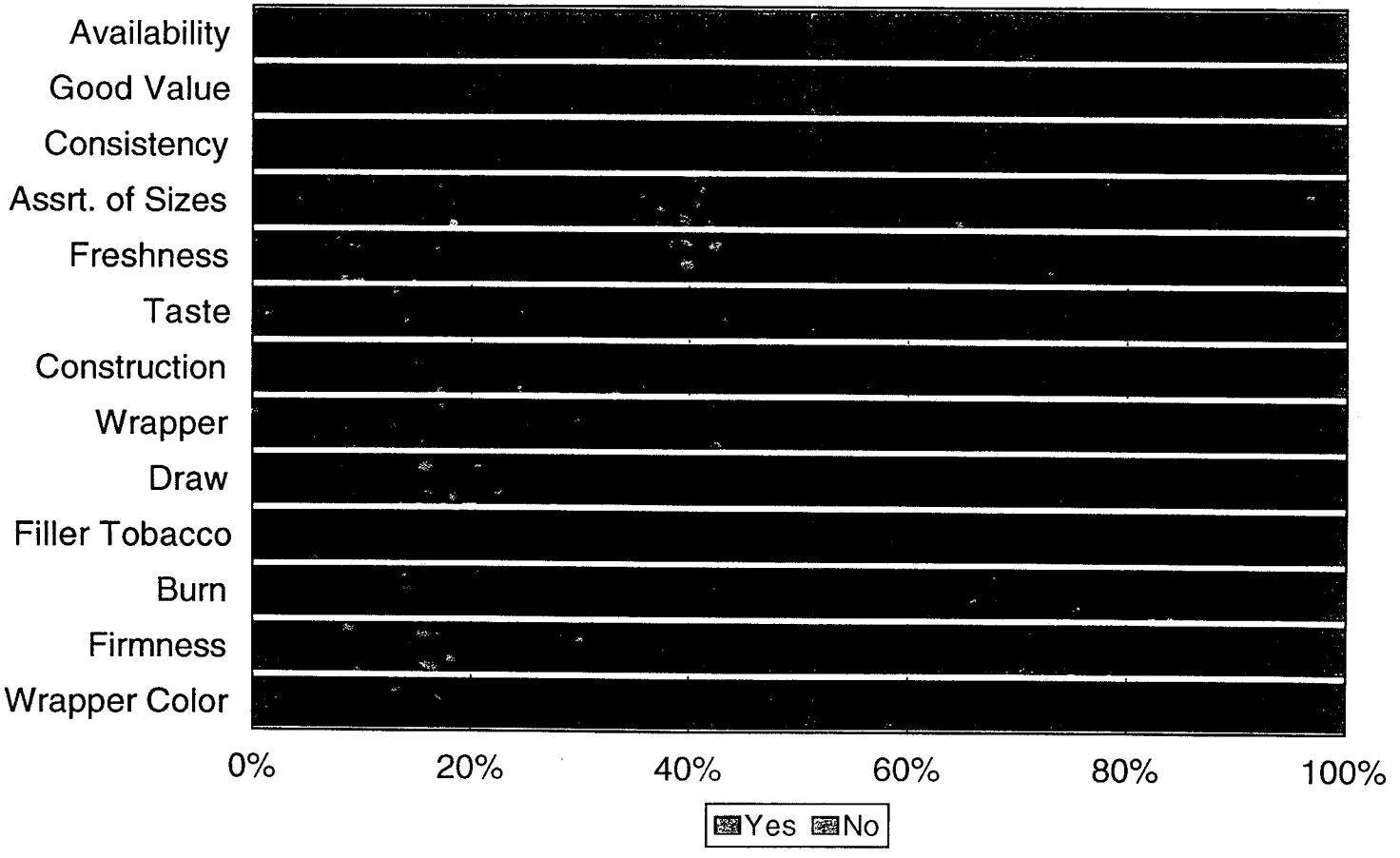
GC 020688

Change in Satisfaction

Perceived Change in Past 2 Years



Source: GCC Internet Research

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GC 020689

Retailer Perception

Partagas

- Questionnaire
  - Requested satisfaction with noted attributes, as well as observed changes in the past 2 years
    - Quality of Wrapper
    - Quality of Construction
    - Quality of Burn
    - Consistency
    - Taste
    - Draw
    - Good Value
    - Current Sales Performance
  - Brands
    - Hoyo de Monterrey, Montecristo, Padron, Partagas, Punch, and H. Upmann

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GC 020690

Retailer Perception

Summary

Brand	Ratings*	Changes	If Changes, how?	Sales Performance
Hoyo de Monterrey	Mainly 4 - 6	Polarizing	Worsening	Mainly 5 or higher
Punch	Mainly 4 - 6, skewing higher	Polarizing, skews "No"	Worsening	4 or higher
Partagas	Mainly 4 - 6	Mainly "No"	Worsening	Mainly 3 - 5
Montecristo	Mainly 4 - 6	No (New Brand)	N/A	Mainly 2 - 4
Padron	Mainly 6	No	N/A	Mainly 6
H. Upmann	Mainly 4 - 5	Mainly "No"	Worsening	Mainly 3 - 5

*1=Completely Dissatisfied, 6=Completely Satisfied

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GC 020691

Conclusions

- These Partagas smokers and retailers indicate some degree of satisfaction with all of the attributes defined in the research.

- These Partagas smokers rate their primary brand (brand smoked most-often) somewhat higher for all the attributes defined in the research, with the exception of availability and assortment of sizes.

- The majority of these Partagas smokers do not claim to perceive a change in any of the attributes defined in the research in the past two years.

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GC 020692

Conclusions

- There does not appear to be any significant concerns with Partagas among retailers.

- It appears that some retailers and consumers perceive some value issues with Partagas.

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GC 020693

MARCH '99

MASS MKT A&U

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GC 020694

MASS MARKET CIGARS

Attitudes & Usage Study Summary

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GC 020695

Table of Contents

I. Attitudes & Usage Survey Overview

II. Consumer Definition

III. Consumer Awareness

IV. Consumer Usage Trends

V. Consumer Purchase Behavior

VI. Attribute Ratings

VII. Standard Demographics

VIII. Summary of Key Findings

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GC 020696

Attitudes and Usage Survey

- Methodology
  - Conducted by *The NPD Group, Inc.*, and independent research supplier.
  - Means of survey is a phone interview conducted from an established survey instrument. Approximate interview time of the October 98 survey was 19 - 21 minutes.
- Sample Size
  - March 99 - 1200 respondents (826 mass-market)
  - October 98 - 1200 respondents (749 mass-market)
  - March 98 - 1199 respondents (790 mass-market)
  - July 97 - 957 respondents (616 mass-market)
  - July 96 - 402 respondents (all mass, studies done separately)

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GC 020697

Consumer Definition

- Smoking Tenure
  - Smoking tenure of mass-market consumers remains unchanged since 1997
- Smoking Frequency
  - Mass-market smokers are consuming a significantly higher number of cigars versus March 1998.
  - Mid-tenured mass-market smokers are driving this increased consumption, as they have gone from consuming 27 cigars per month on average in March 1998 to 40 cigars per month on average in 1999.

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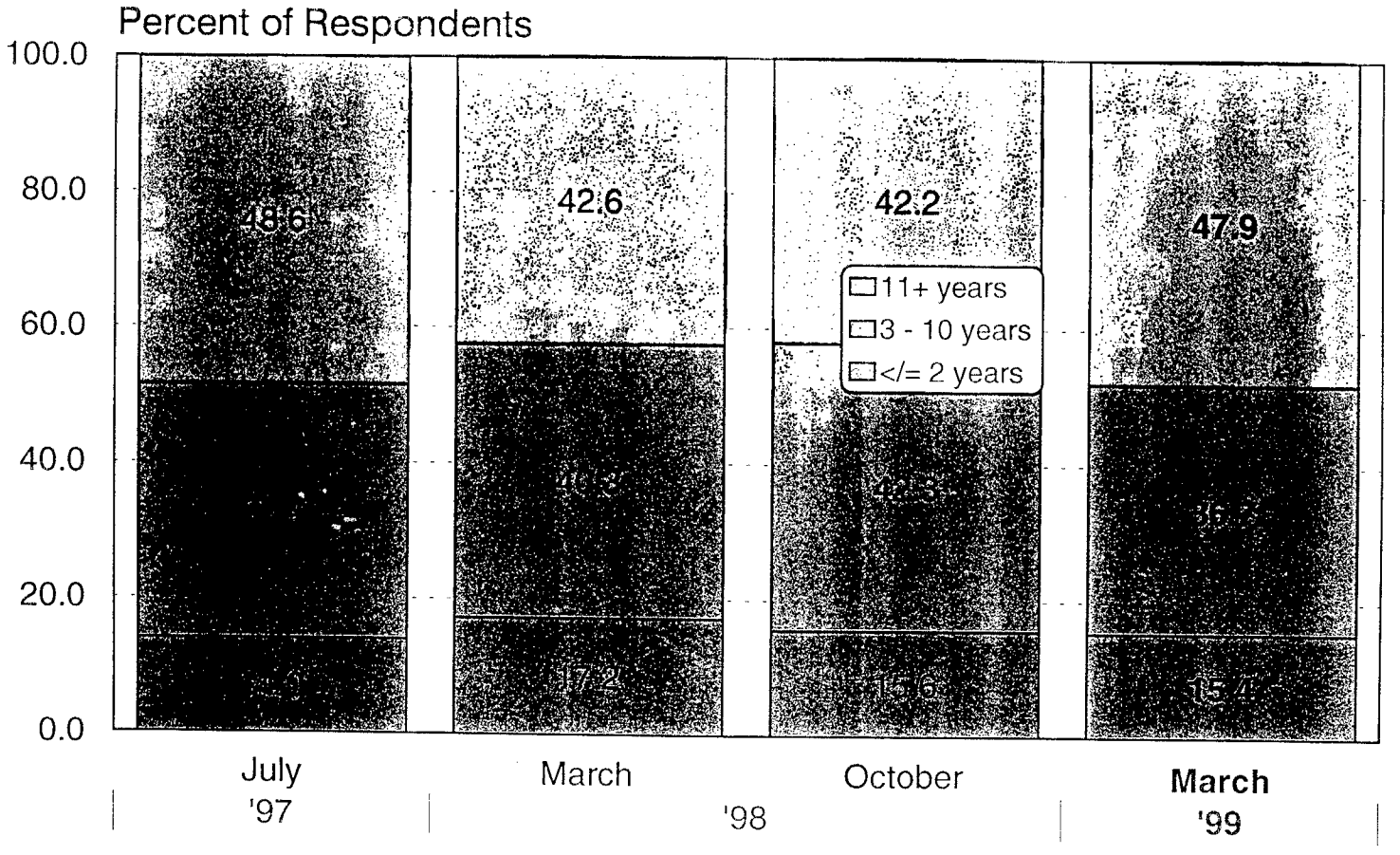
GC 020698

Smoking Tenure Tracking



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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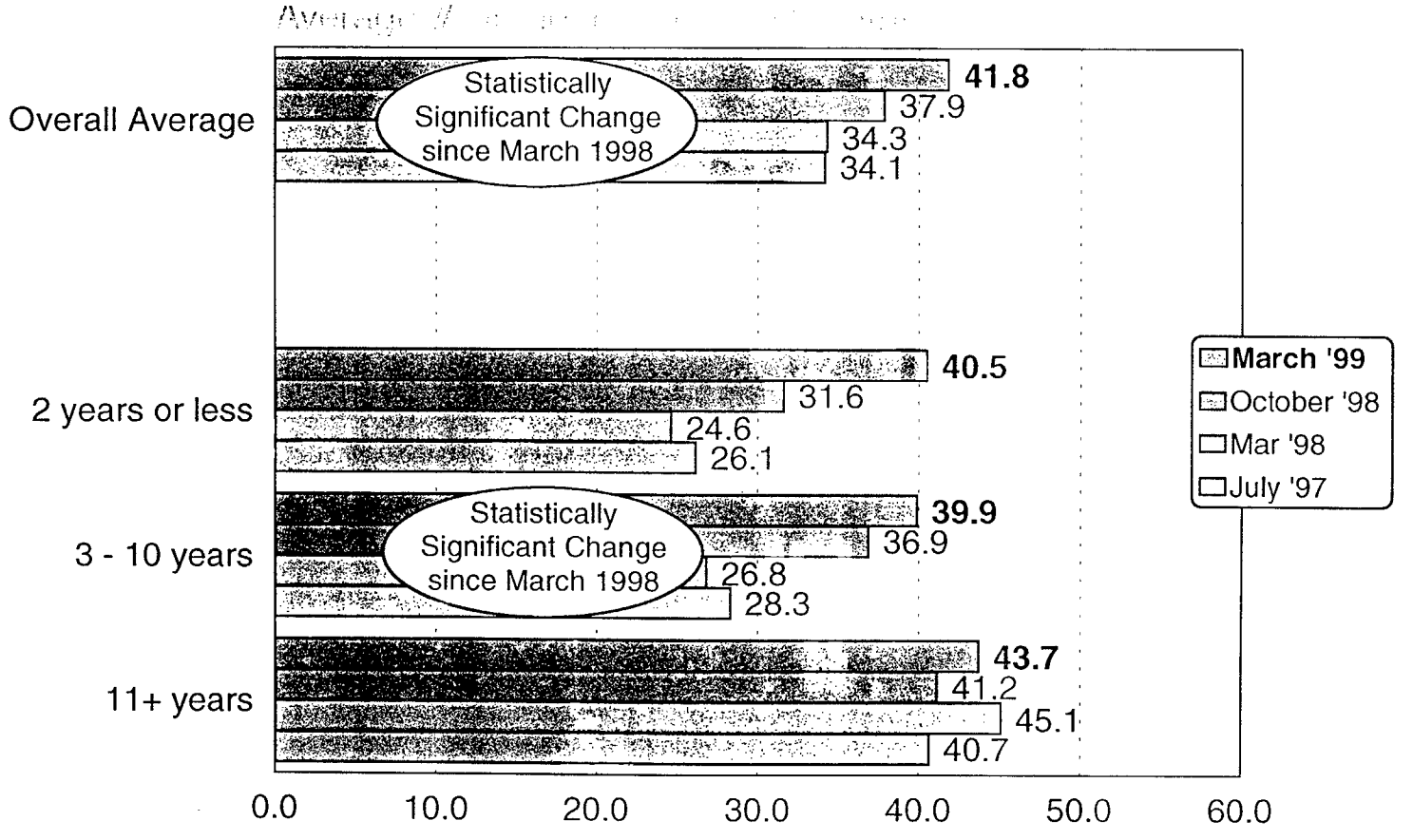
GC 020699

Average Monthly Smoking Frequency Tracking



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

* Adjusted for seasonality

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GC 020700

Consumer Definition

- Motivational Consumer Segments
  - The Consumer Segmentation Study performed by *The Cambridge Group* identified 8 motivational segments among all cigar consumers.
  - We cannot directly compare the relative size of these segments from the initial study to the subsequent results in this A&U Study due to a different means of data collection.
  - The A&U benchmark, in this study, will be directly comparable to all subsequent A&U Studies, providing there are not changes to the methodology.
  - The confidence levels* for identifying each segment varies, but all are between 61 and 83 percent.

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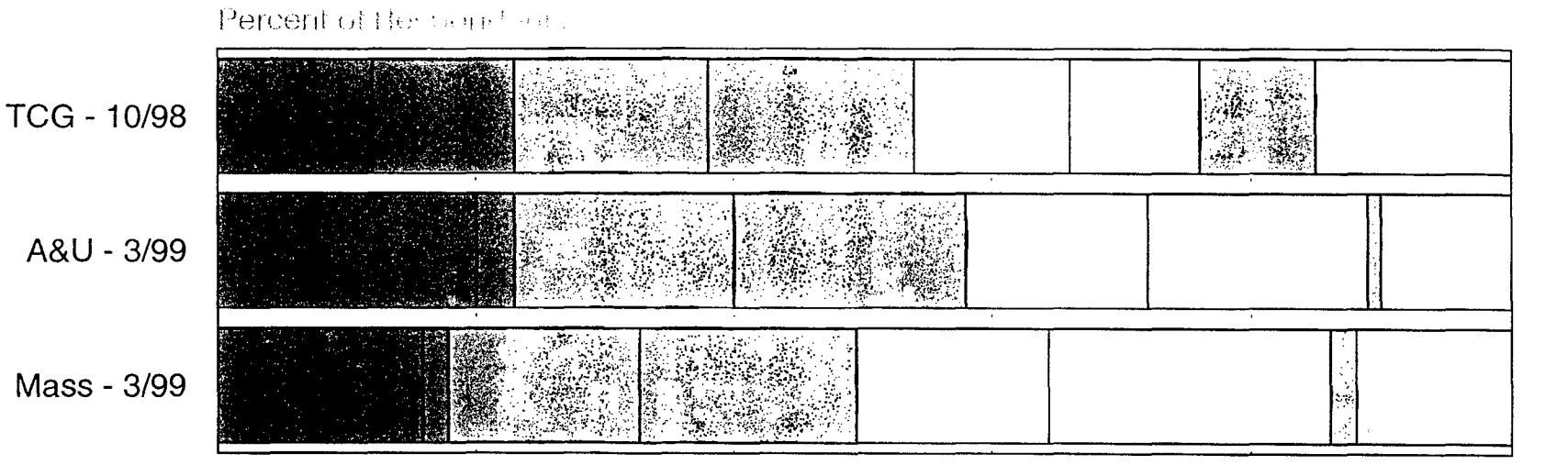
The Eight Motivational Segments

As Identified by The Cambridge Group



	TCG - 10/98	A&U - 3/99	Mass - 3/99
Relationship Driven	12	20	16
Savvy Self-Reliants	11	3	2
Emerging Enthusiasts	15	17	15
Casual Enjoyers	16	18	17
Special Occasion	12	14	15
Established Loyalists	10	17	22
Constrained Seekers	9	1	2
Functionalists	15	10	12

Different Methods of Data Collection Prohibit Direct Comparison between TCG and A&U data

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99; The Cambridge Group, Consumer Segmentation Study, 9/98

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Consumer Definition

- Purchase Frequency
  - Mass-Market consumers make approximately 4 purchases per month on average.
- Number of Cigars Per Purchase
  - Mass-Market consumers purchase approximately 15 cigars per transaction.

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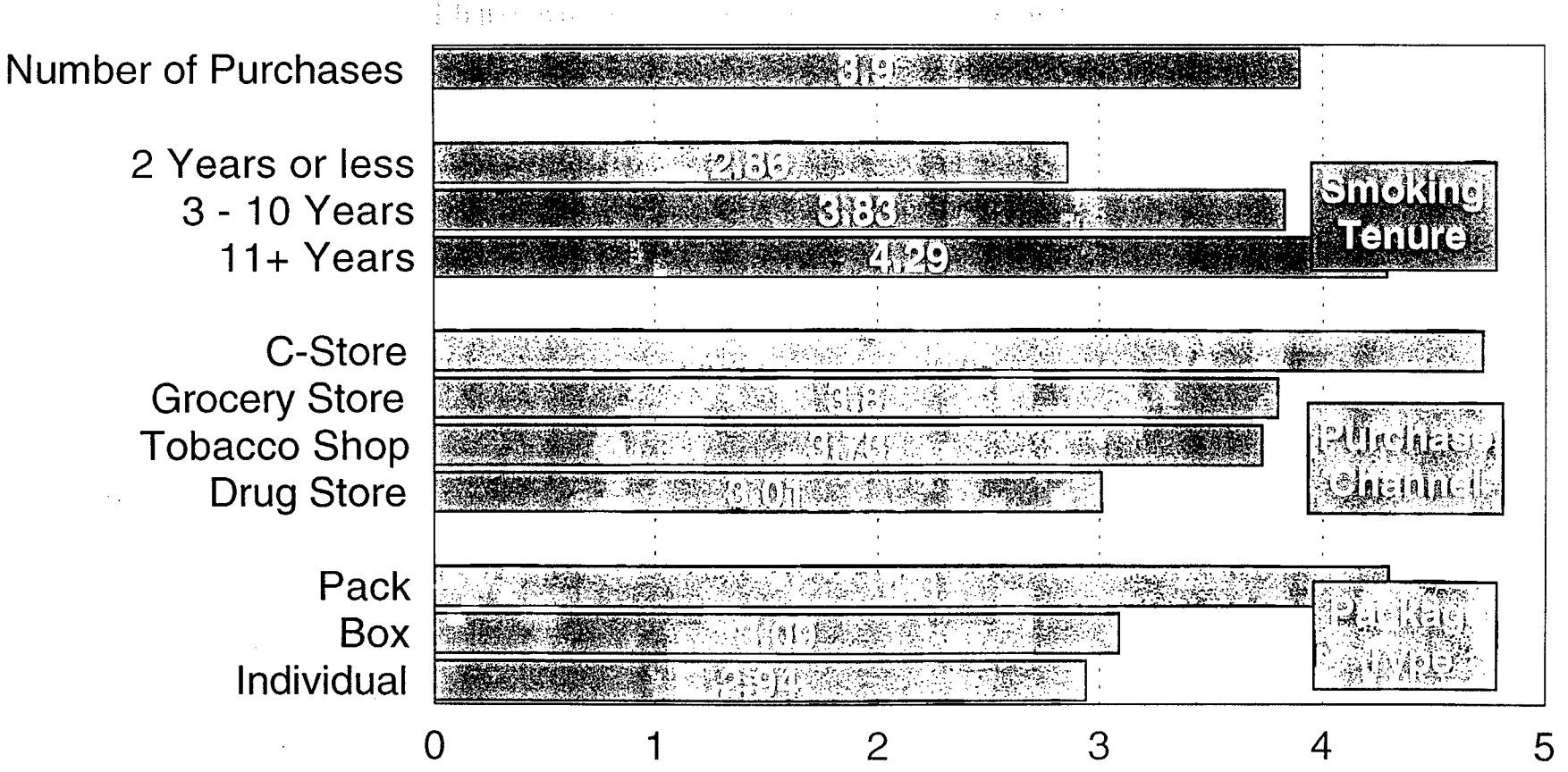
Purchase Frequency



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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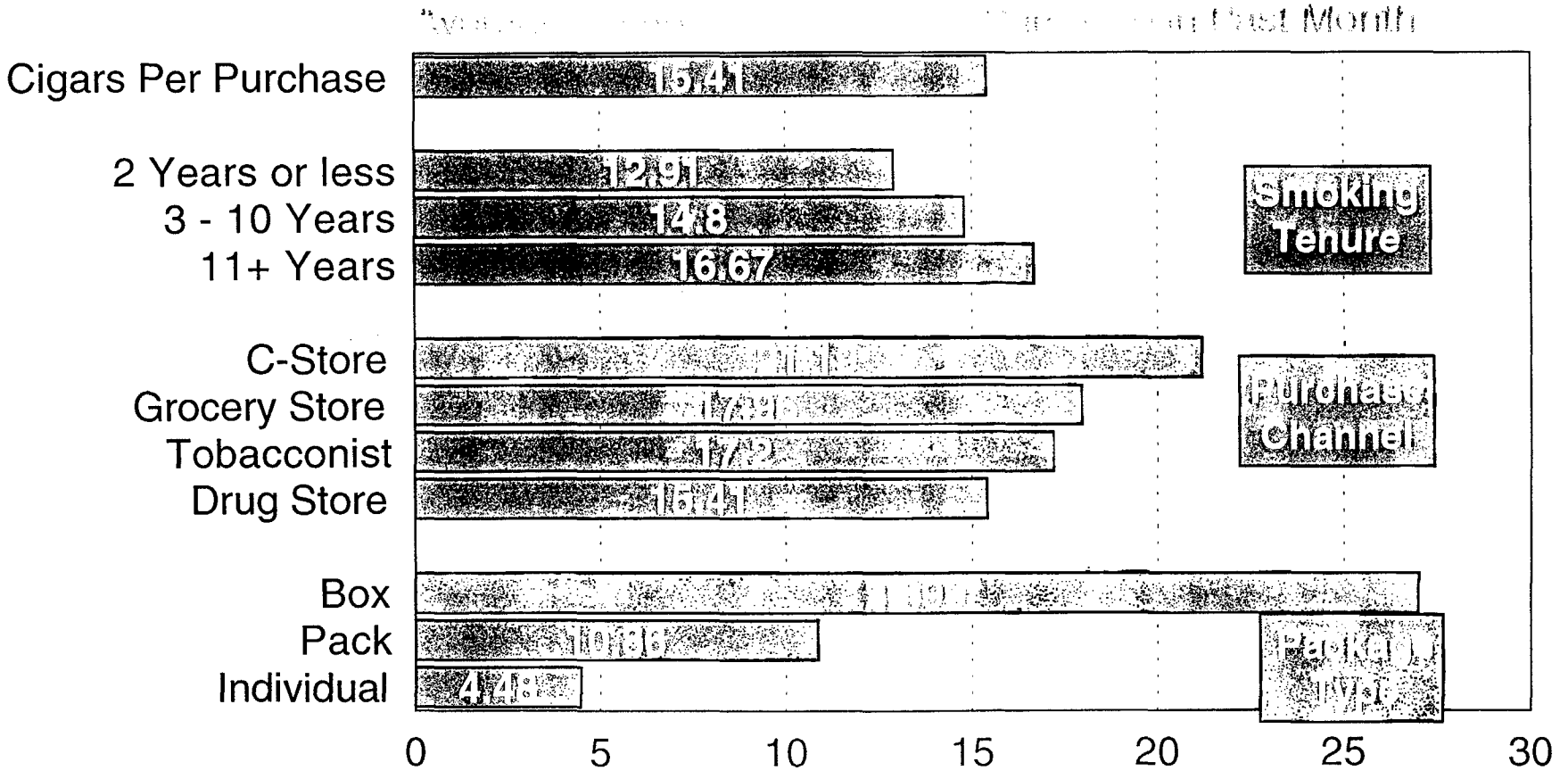
Number of Cigars Per Purchase



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Consumer Definition

- Smoking Activities/Need States
  - The most common activity for mass-market smokers while smoking cigars is relaxing alone, as about 1/3 of mass-market consumers indicate this is their primary activity while smoking cigars.
  - There have been no statistically significant changes in smoking activities since July '97.
- Size Preference
  - Approximately 42% of mass-market consumers prefer a cigar that is less than or equal to 5" with a ring gauge smaller than 42.

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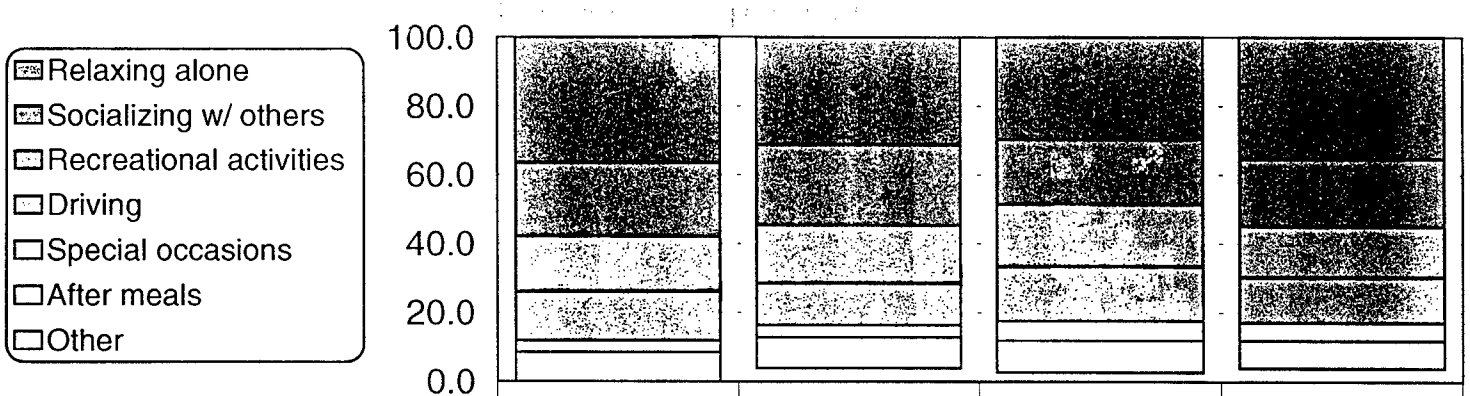
Smoking Activities Tracking

Activity Done Most Often While Smoking



	July '97	March '98	October '98	**March '99**
Relaxing alone	36.5	31.3	29.8	**35.4**
Socializing w/ others	21.4	23.4	18.9	**19.7**
Recreational activities	16.1	16.8	18.0	**14.8**
Driving	14.2	12.2	15.8	**13.1**
Special occasions	3.3	3.5	5.7	**5.3**
After meals	8.5	8.9	9.2	**7.9**
Other		3.9	2.7	**3.9**

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Overall Size Preference

Percent of Respondents

* Range of specific size overlaps more than one category

Length: <=5" Ring: <42 41.8% Short Panatella Small Panatella Cigarillo *Petit Corona	23.7% **Length: <=5" Ring: >=42** *Petit Corona Robusto *Corona Extra
9.9% Panatela *Corona Long Panatela *Lonsdale *Long Corona **Length: >5" Ring: <42**	23.7% Giant Double Corona Churchill Toro Grand Corona *Corona Extra Giant Corona *Lonsdale *Long Corona *Corona **Length: >5" Ring: >=42**

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020708

Consumer Definition

- Sources of Cigar Information
  - About half of mass-market consumers indicate they receive their information about cigars from their peers.
  - Approximately one-fourth of all mass-market smokers indicate they do not seek any cigar information. This is much higher than the premium consumer.

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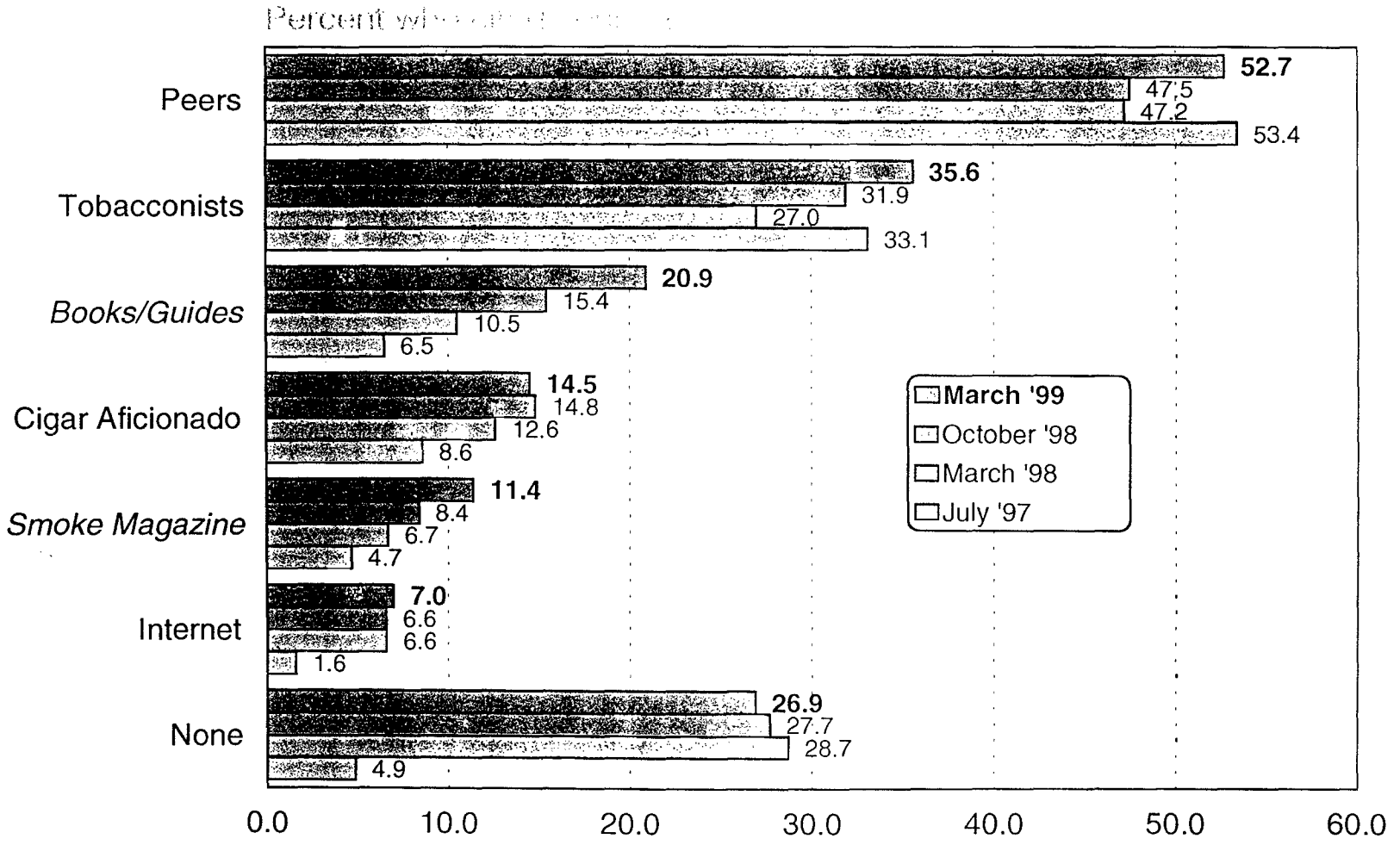
Sources of Cigar Information



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Consumer Definition

- Smoker Attitudes
  - Several attitudinal statements were included in the A&U Study to track the consumer segments identified by *The Cambridge Group*.
- Attitudes Regarding Smoking Cigars
  - Most mass-market smokers indicate they smoke cigars on an occasional and social basis, but it is not limited or dependent on that subsequent activity, as the vast majority of mass-market consumers indicate changes in their peers' behavior would not effect their own.

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Attitudes Regarding Smoking Cigars

1=Disagree Completely, 2=Agree Completely

	Disagree - Bottom 2-Box	Agree - Top 2-Box	Mean
I generally smoke cigars with friends/other people	39%	42%	3.5
I only smoke cigars when someone gives me one	**80%**	7%	1.72
I like cigars but only on an occasional basis	29%	55%	4.08
If my friends stopped smoking cigars, I probably would too	**81%**	9%	1.75
I smoke cigars throughout the day	56%	30%	2.84
I smoke cigars on an everyday basis	53%	33%	3.03
I'm extremely interested in going to cigar bars	**68%**	14%	2.17

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Consumer Definition

- Attitudes Regarding Cigar Involvement
  - Almost half of all mass-market consumers agree that they "don't know much about cigars".
  - Subsequently, approximately half of all mass-market consumers "wish they knew more about cigars"
- Attitudes Regarding Price
  - Approximately half of all mass-market consumers feel they gravitate towards more expensive cigars, while the other half have evolved to less expensive cigars.
- Cigar Knowledge Rating
  - Approximately 60% of mass-market consumers place themselves in the middle of the scale of a cigar knowledgeability rating.

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Attitudes Regarding Cigar Involvement

1=Disagree Completely, 2=Agree Completely

	Disagree - Bottom 2-Box	Agree - Top 2-Box	Mean
I really don't know much about cigars	27%	**46%**	3.88
Cigars make the moment last longer	30%	46%	3.78
I'm still relatively new to cigars	**48%**	**33%**	3.09
Cigars are prestigious	41%	32%	3.24
I wish I knew more about cigars	26%	**49%**	3.97
Cigar smoking isn't that important to me	29%	44%	3.78
I really enjoy owning a humidor	**52%**	26%	2.82

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Attitudes Regarding Price

1=Disagree Completely, 2=Agree Completely

	Disagree - Bottom 2-Box	Agree - Top 2-Box	Mean
My preferences have evolved over time to more expensive cigars	**55%**	24%	2.72
My preferences have evolved over time towards less expensive cigars	38%	**46%**	3.39

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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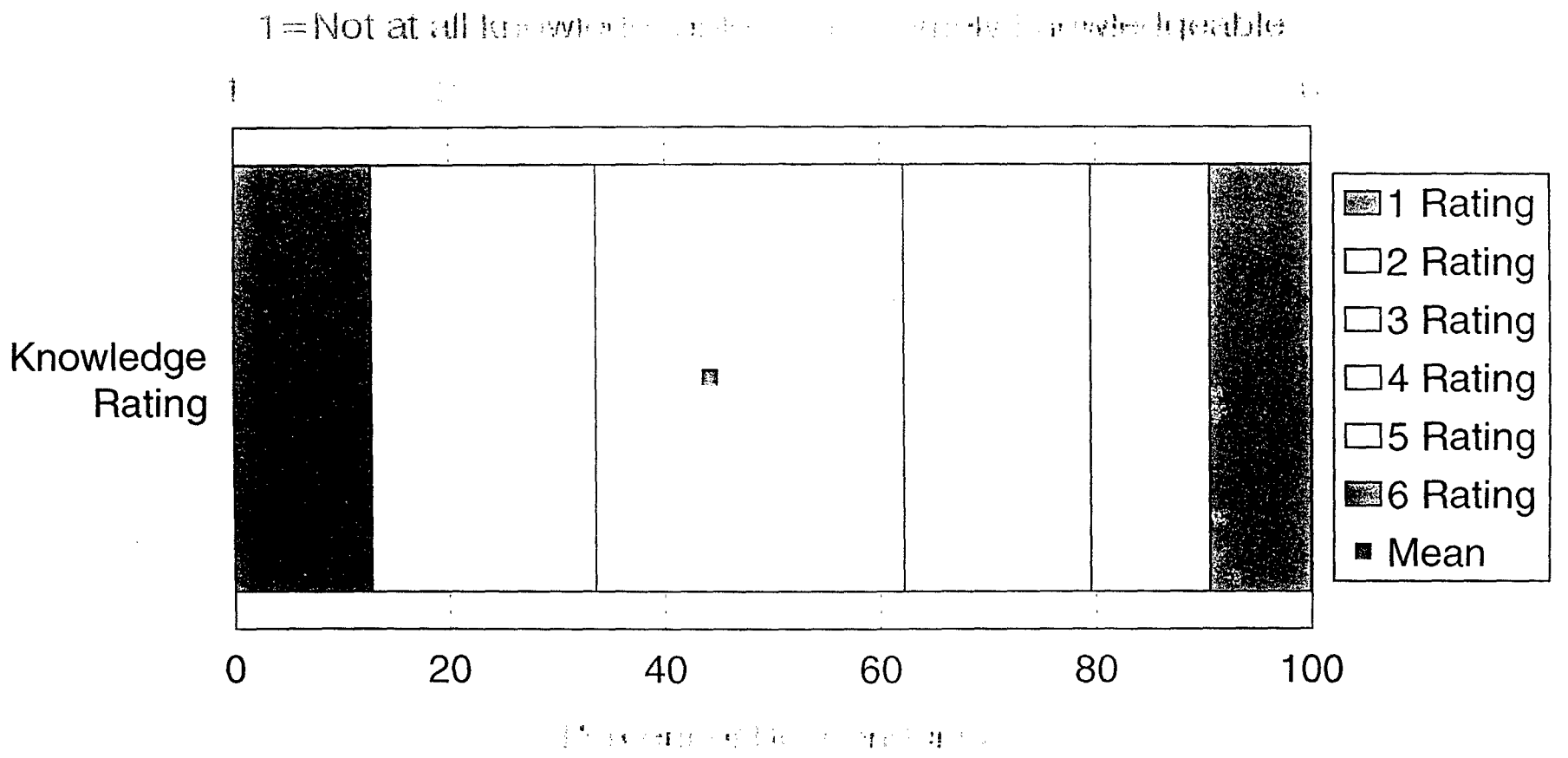
Cigar Knowledge Rating

Consumers' Ratings of their Cigar Knowledge



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Consumer Awareness

- Top-of-Mind Awareness
  - There have been no statistically significant changes in top-of-mind awareness since the benchmark in 1996.
  - Swisher Sweets dominates top-of-mind awareness among mass-market consumers.
  - From July '96 to March '98, the number of brands mentioned first by mass-market smokers tripled.
- Unaided Awareness
  - Unaided awareness levels remain consistent from March '98 data.
  - White Owl and Garcia Y Vega have about the same unaided awareness level among mass-market consumers.

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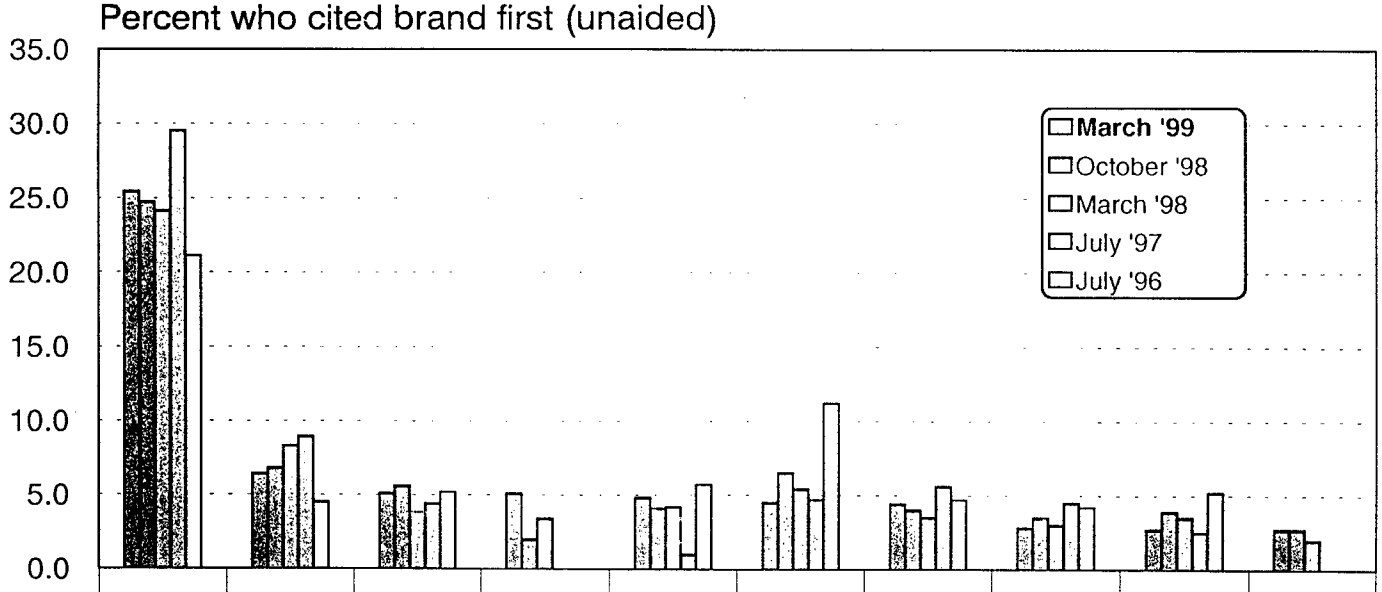
Top-of-Mind Awareness



	Swish Sweet	Garcia y Vega	King Edward	Black & Mild	Phillies	Dutch Master	White Owl	Hav-a-Tampa	AyC	El Producto
March '99	**25.4**	**6.4**	**5.1**	**5.1**	**4.8**	**4.5**	**4.4**	**2.8**	**2.7**	**2.7**
October '98	24.7	6.8	5.6	2.0	4.1	6.5	4.0	3.5	3.9	2.7
March '98	24.1	8.3	3.8	3.4	4.2	5.4	3.5	3.0	3.5	2.0
July '97	29.5	8.9	4.4		1.0	4.7	5.6	4.5	2.5	
July '96	21.1	4.5	5.2		5.7	11.2	4.7	4.2	5.2	

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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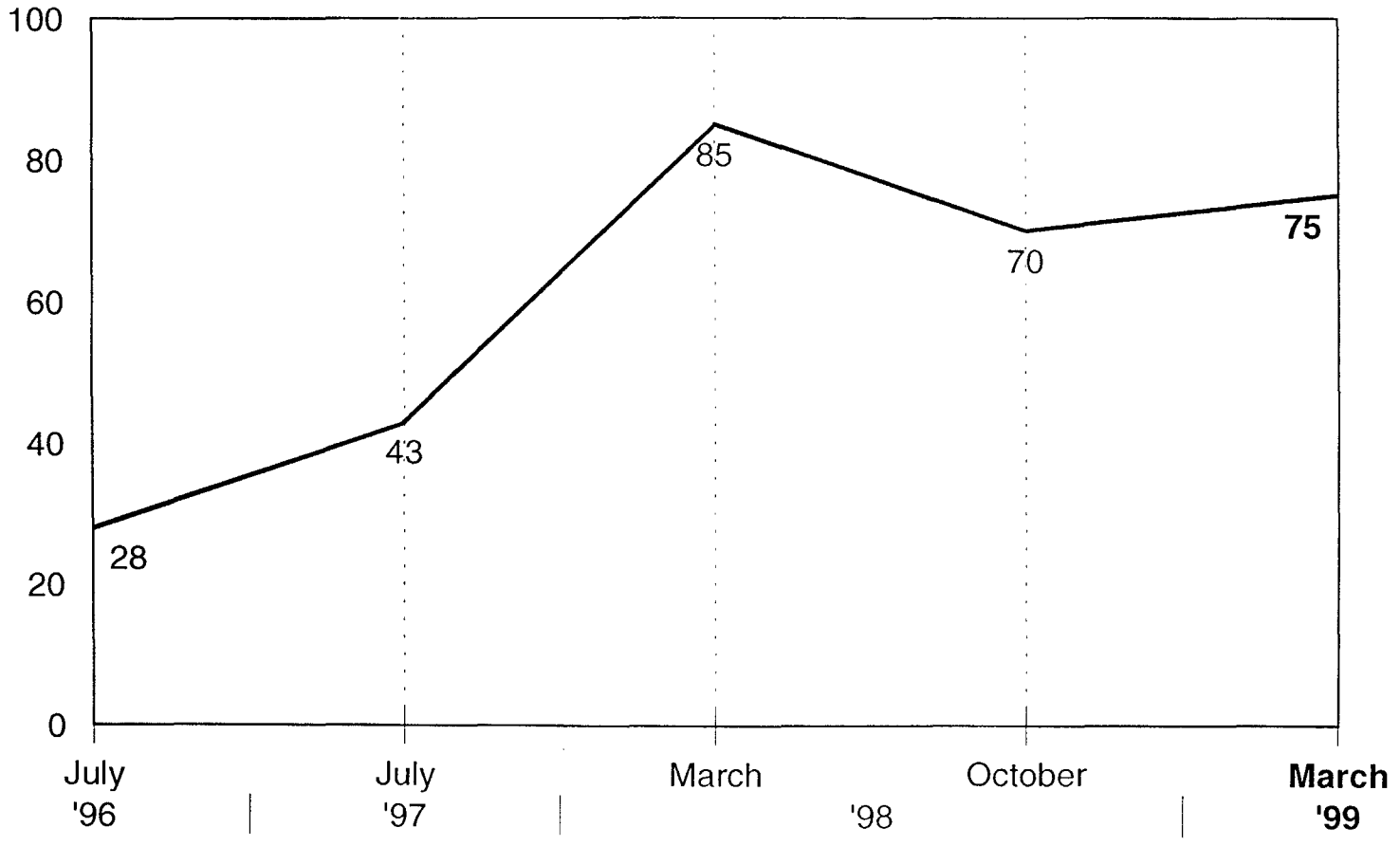
Brand Proliferation Tracking

Number of Different Top-of-Mind Brands



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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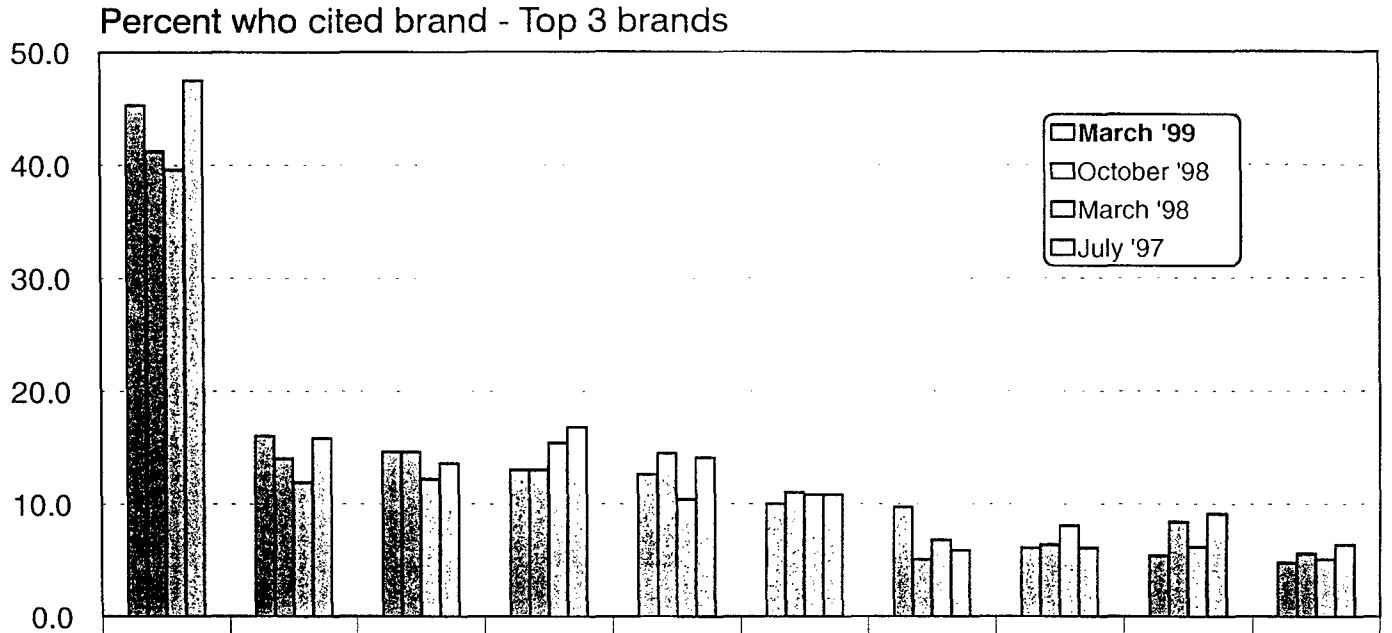
Unaided Awareness



	Swish Sweet	White Owl	King Edward	Garcia y Vega	Dutch Master	Phillies	Black & Mild	AyC	Hav-a-Tampa	Backwoods
March '99	**45.3**	**16.0**	**14.6**	**13.0**	**12.6**	**10.0**	**9.7**	**6.1**	**5.4**	**4.8**
October '98	41.2	14.0	14.6	13.0	14.5	11.0	5.1	6.4	8.4	5.6
March '98	39.6	11.9	12.2	15.4	10.4	10.8	6.8	8.1	6.2	5.1
July '97	47.5	15.8	13.6	16.8	14.1	10.8	5.9	6.1	9.1	6.4

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Consumer Awareness

- Awareness and Trial of Shaped Cigars
  - Just over half of mass-market consumers indicate they are aware of shaped cigars.
  - Subsequently, about half of these consumers indicate they have tried a shaped cigar, with approximately 14% indicating they smoke shaped cigars regularly.
- Promotional Awareness
  - Special shelf displays have the highest awareness ratings of any predominant promotion among mass-market consumers.
  - Almost 30% of promotion-aware consumers indicate they responded to the promotion with a subsequent purchase of the promoted brand. And of those, almost 75% indicated it was the brand they originally intended to purchase.

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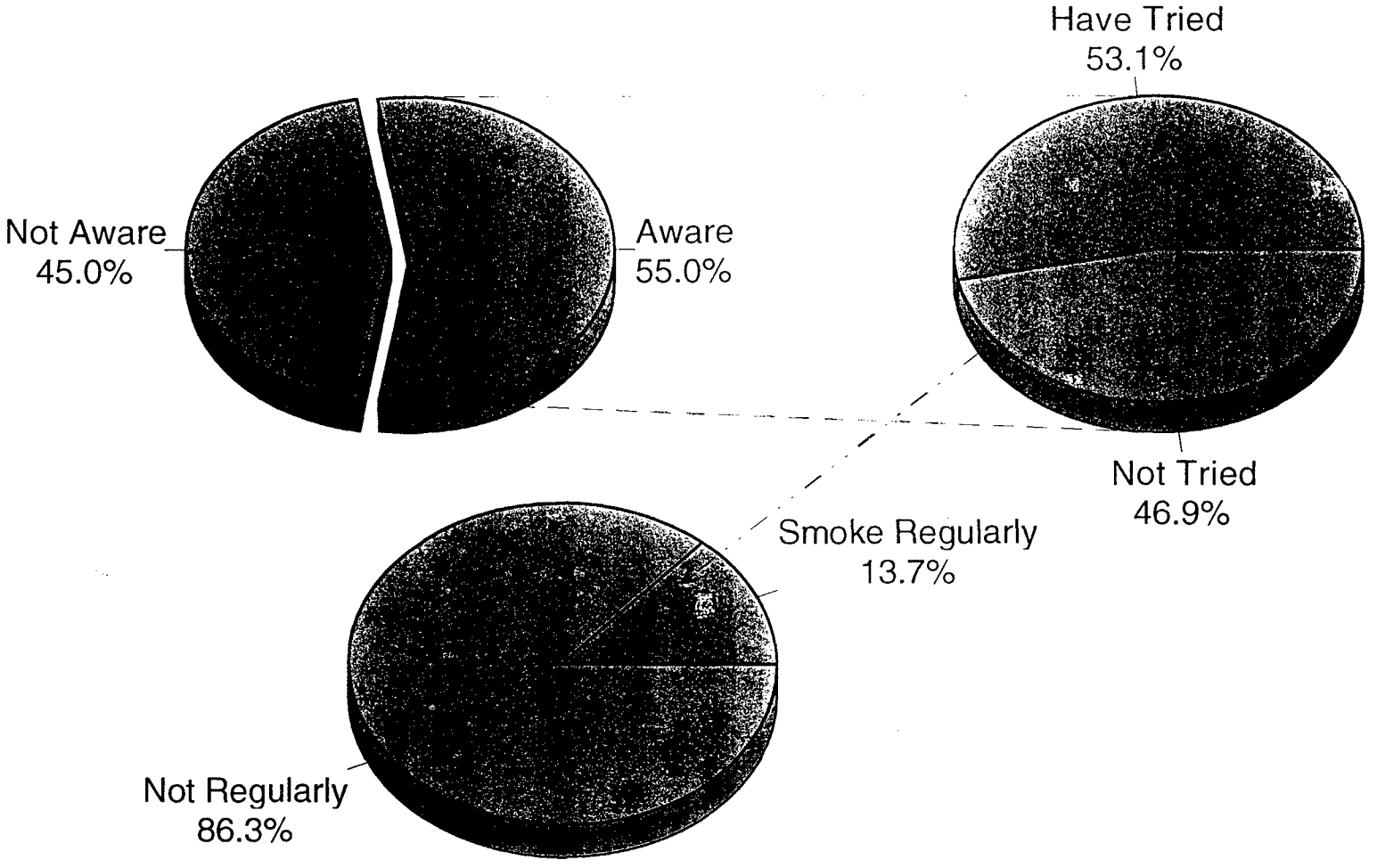
Awareness and Trial of Shaped Cigars



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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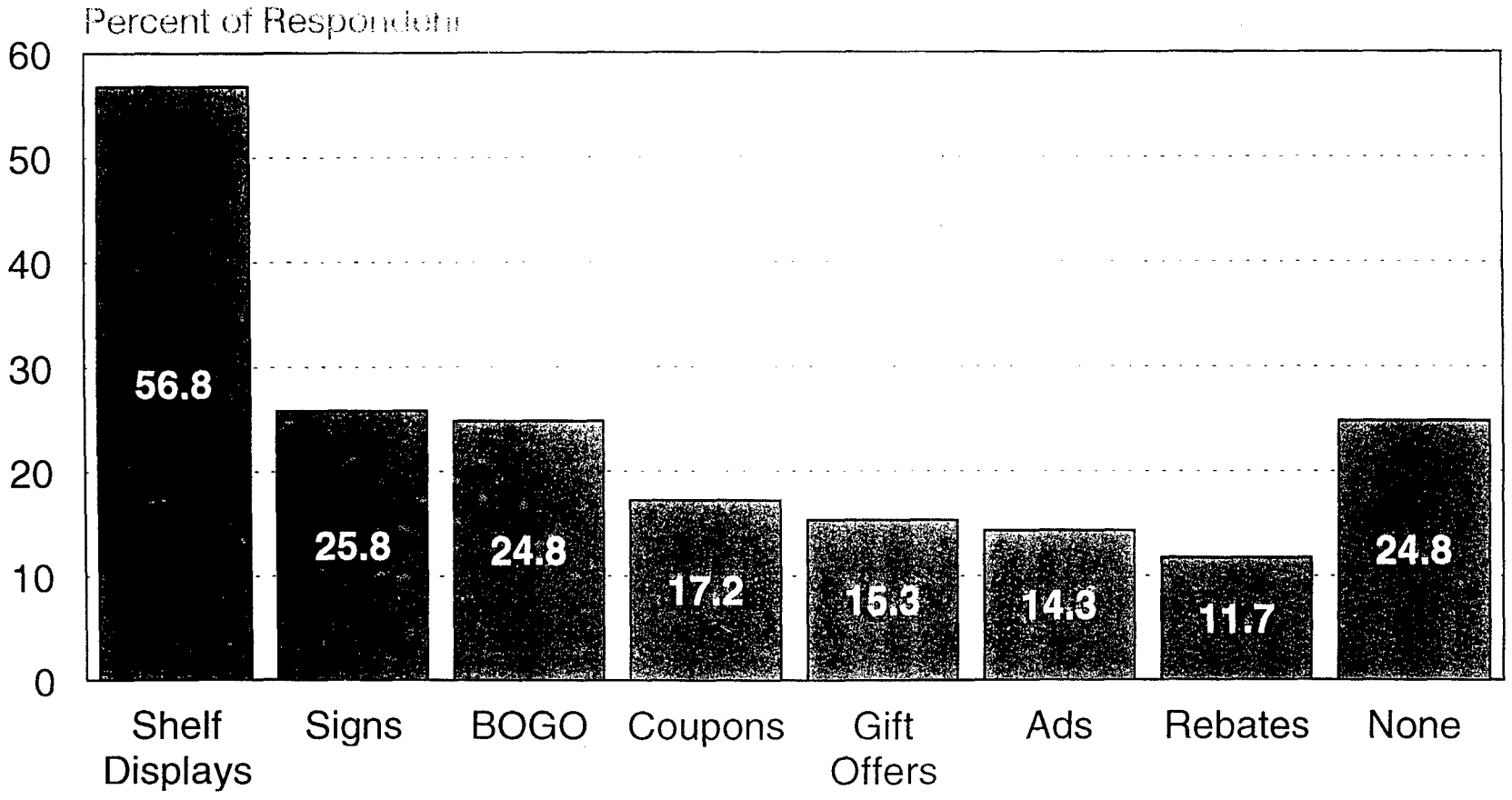
Promotional Awareness

Types of Promotions Seen at Last Purchase



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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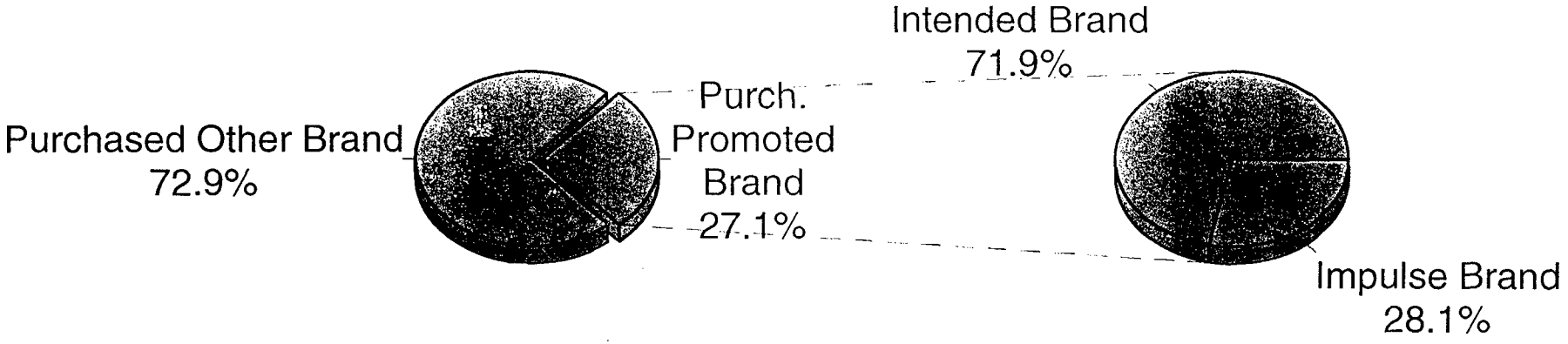
Response to Promotion

Consumers that Purchase Brand because of a Promotion



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Consumer Usage Trends

- Mass-Market Segments
  - The mass-market is divided into 3 product segments. They are Natural Leaf, HTL, and Mass Handmade.
  - The HTL segment continues to be, by far, the largest segment, in terms of number of consumers, in the mass-market. The HTL segment consists of almost 80% of all mass-market consumers.*
- Number of Brands Smoked Regularly
  - The number of different brands smoked regularly by mass-market smokers remains consistent between 2 and 3 brands.
  - Brand sets among those that smoke HTL brands are smaller than those that smoke Natural Leaf and Mass Handmade brands.

*Consumers who indicate an HTL brand is their primary brand

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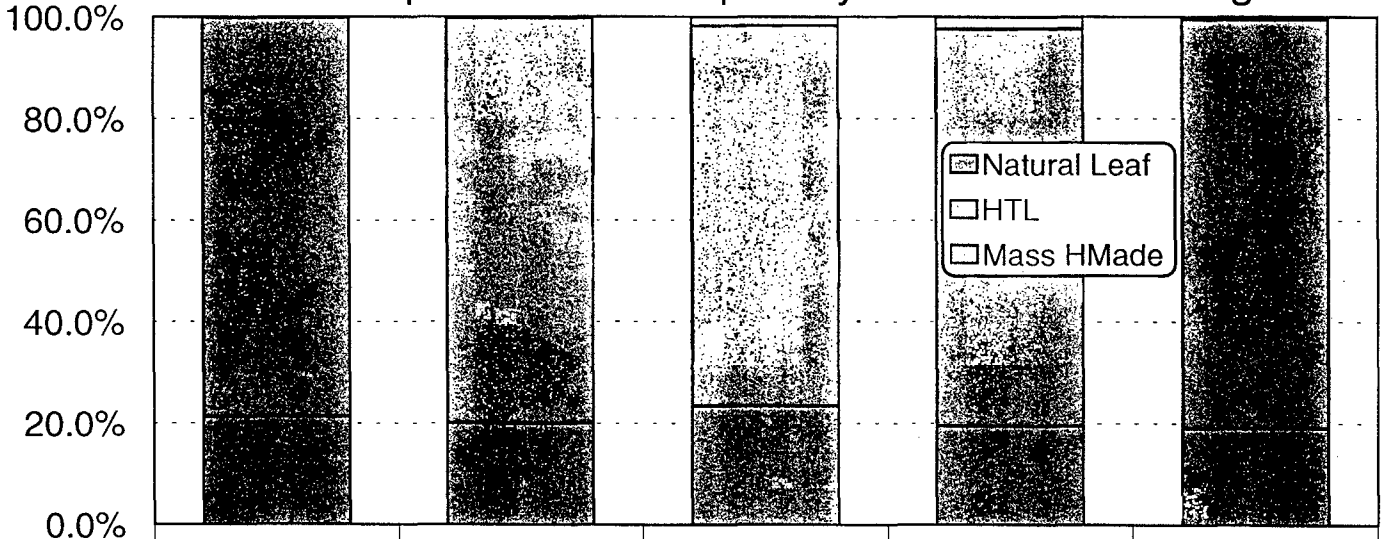
Mass-Market Segments

Percent of respondents whose primary brand falls within segment



	July '96	July '97	March '98	October '98	**March '99**
Mass HMade	0.0	0.2	1.8	2.4	**0.5**
HTL	78.7	79.8	74.8	78.1	**80.4**
Natural Leaf	21.3	20.0	23.4	19.5	**19.1**

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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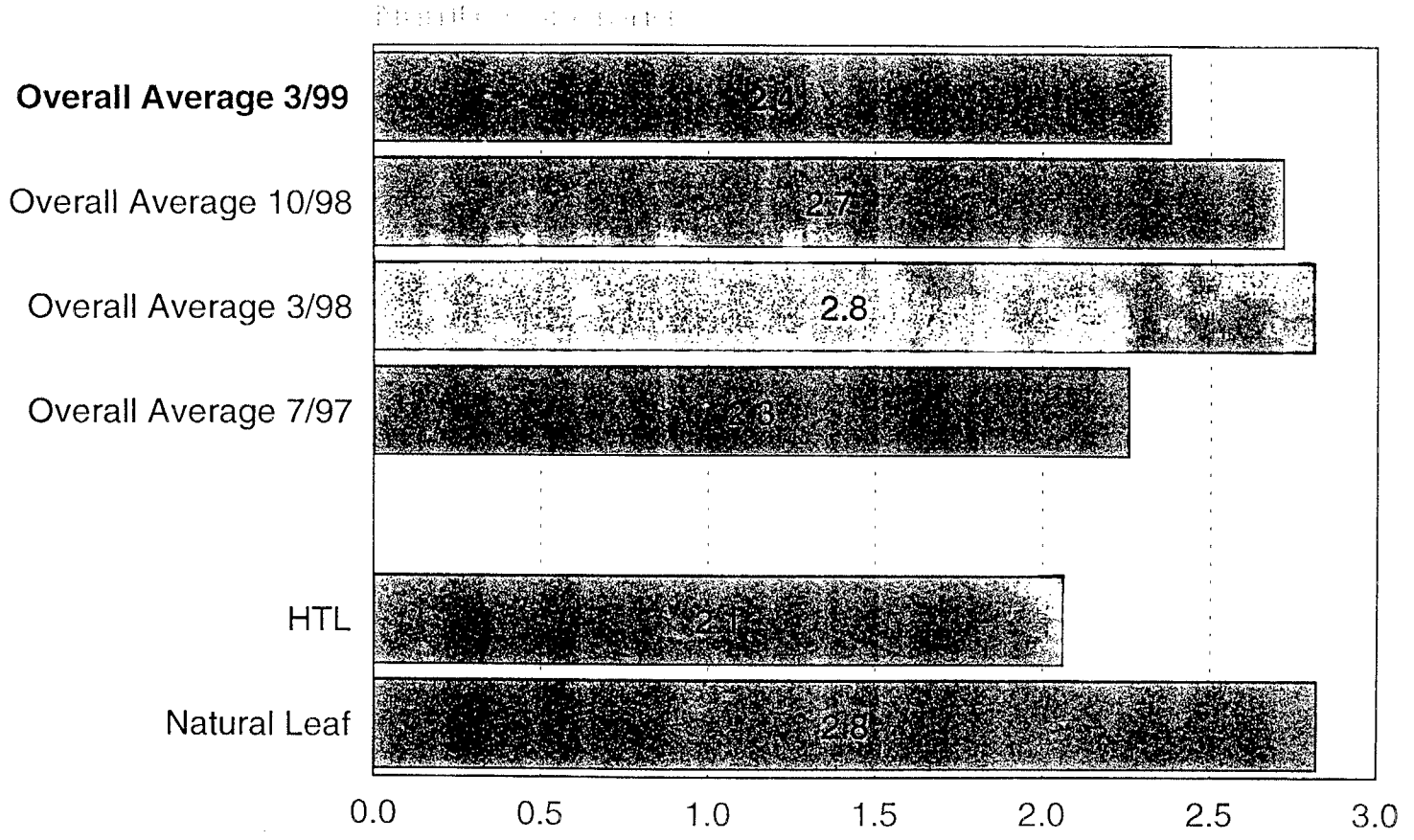
Different Brands Smoked Regularly



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Consumer Usage Trends

- Cross-Over Behavior
  - Approximately 6% of mass-market smokers are also consuming premium cigars on a regular basis.
- Progression of Brand Usage
  - Most mass-market consumers enter the category through the HTL segment as their current usage levels are similar to their first cigar share. Natural Leaf consumers appear to graduate to that level after entering the category.

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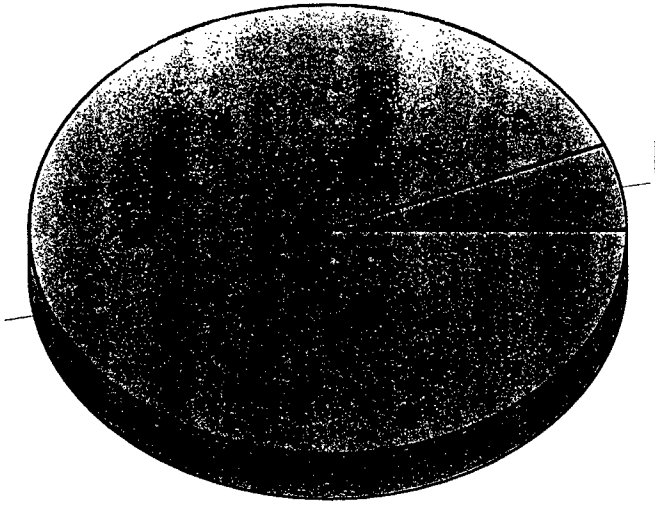
Cross-Over Behavior

Macanudo
Thompson



Percent of respondents in which at least 1 of other 3 brands smoked regularly is a premium brand

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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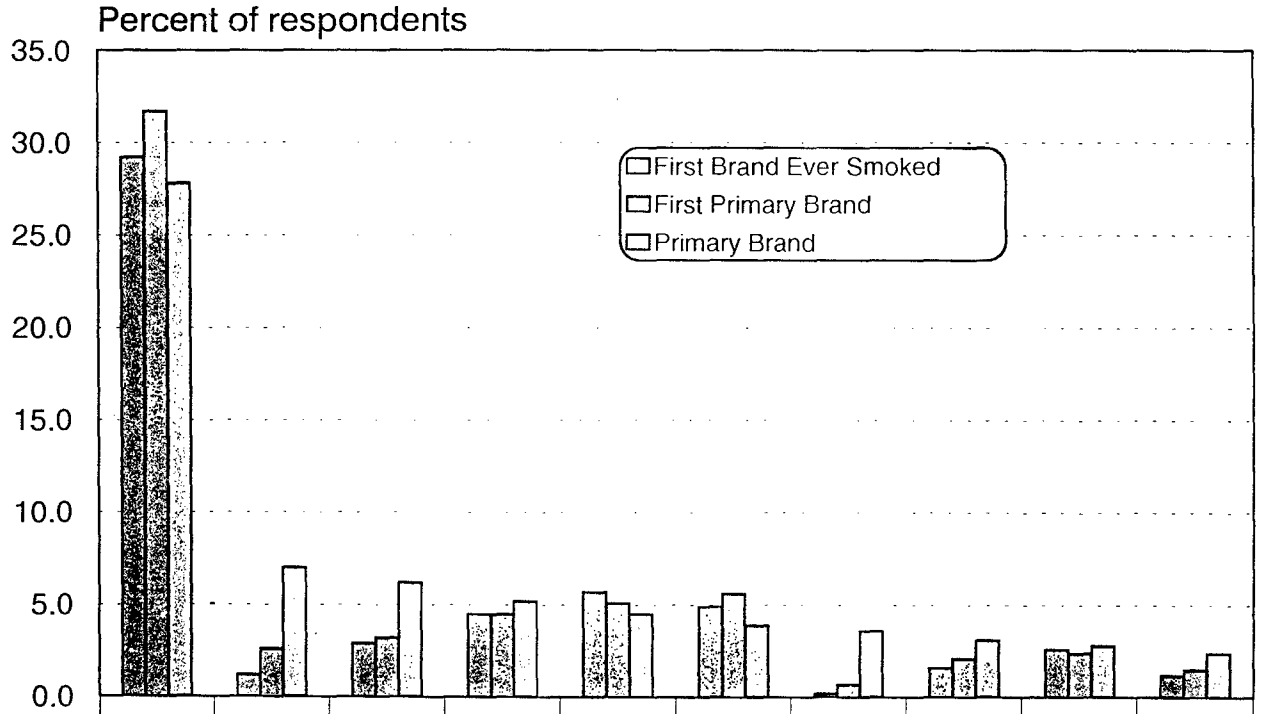
Progression of Brand Usage



	Swish Sweet	Garcia y Vega	Black & Mild	Phillies	White Owl	Dutch Master	Backwoods	A&C	Hav-a-Tampa	Muriel
First Brand Ever Smoked	29.2	1.2	2.9	4.5	5.7	4.9	0.2	1.6	2.6	1.2
First Primary Brand	31.7	2.6	3.2	4.5	5.1	5.6	0.7	2.1	2.4	1.5
Primary Brand	27.8	7.0	6.2	5.2	4.5	3.9	3.6	3.1	2.8	2.4

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Consumer Usage Trends

- Primary Brand Share
  - Overall, primary brand share has remained consistent since July '97.
  - Swisher Sweets' primary brand share dominates the mass-market with more than a 25% share of consumer, almost 4 times higher than 2nd place Garcia Y Vega.
- Primary Brand Loyalty
  - Consumers' loyalty to their primary brand has stabilized after a significant decrease in 1998.
  - It is unclear why mass-market consumers have changed their primary brand as almost 1/3 indicate they do so for a reason other than high prices, lack of availability, desire for variety, and a genuine preference for their new brand.
  - Consumers' substitute behavior is unchanged since the benchmark measurement in July '97.

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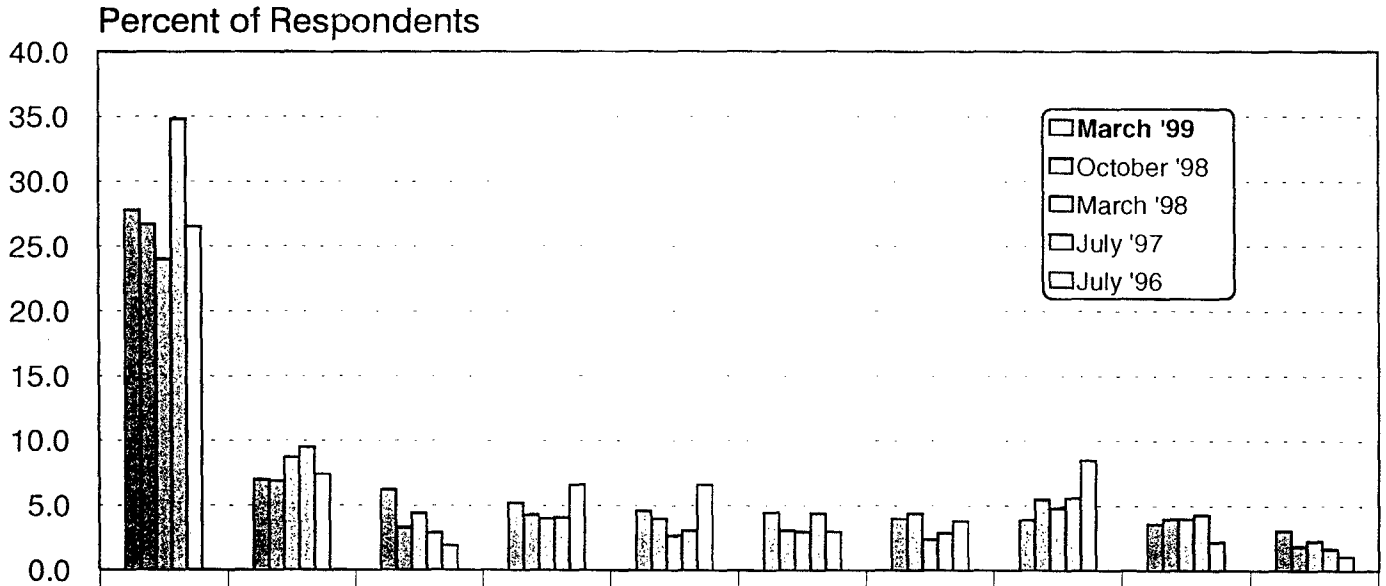
Primary Brand Share

Brand Smoked Most Often



	Swish Sweet	Garcia y Vega	Black & Mild	Phillies	A&C	White Owl	King Edward	Dutch Master	Backwoods	Middleton
March '99	**27.8**	**7.0**	**6.2**	**5.2**	**4.6**	**4.5**	**4.0**	**3.9**	**3.6**	**3.1**
October '98	26.7	6.9	3.3	4.3	4.0	3.1	4.4	5.5	4.0	1.9
March '98	24.0	8.7	4.4	4.0	2.7	3.0	2.4	4.8	4.0	2.3
July '97	34.8	9.5	2.9	4.1	3.1	4.4	2.9	5.6	4.3	1.7
July '96	26.5	7.4	1.9	6.6	6.6	3.0	3.8	8.5	2.2	1.1

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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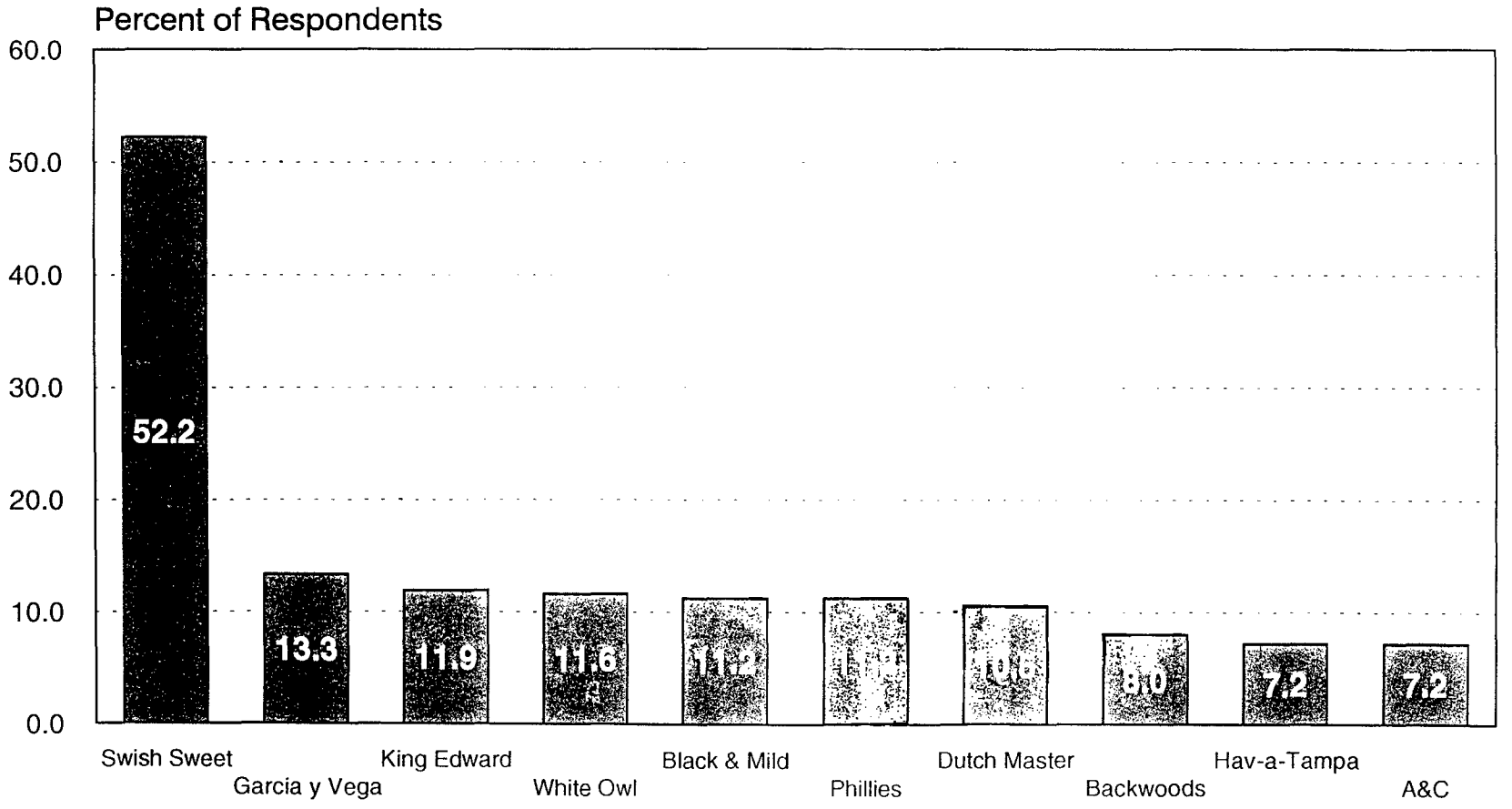
Overall Brand Usage

Primary Brand or Smoked Regularly



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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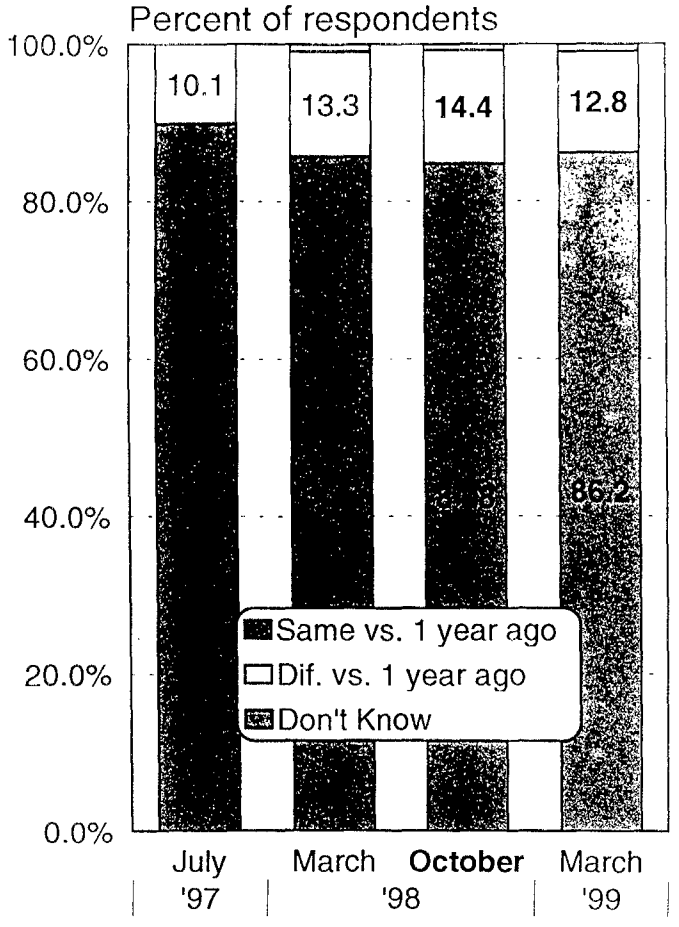
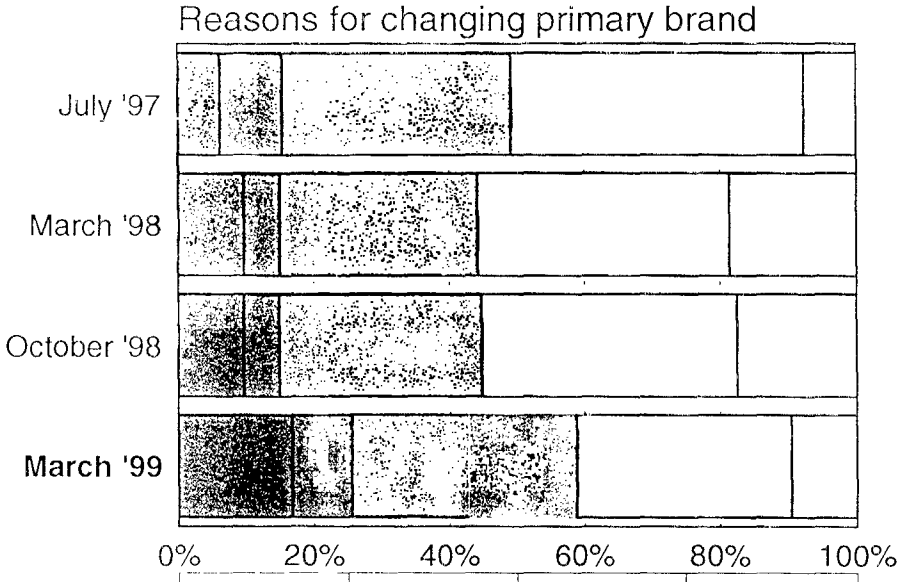
Primary Brand vs. One Year Ago





	July '97	March '98	October '98	**March '99**
High Price	6.2	9.7	9.6	**16.7**
Availability	9.2	5.3	5.3	**8.8**
Prefer Current Brand	33.8	29.2	29.8	**17.5**
Variety				**15.8**
Other	43.1	37.2	37.7	**31.6**
Don't Know	7.7	18.6	17.5	**9.6**

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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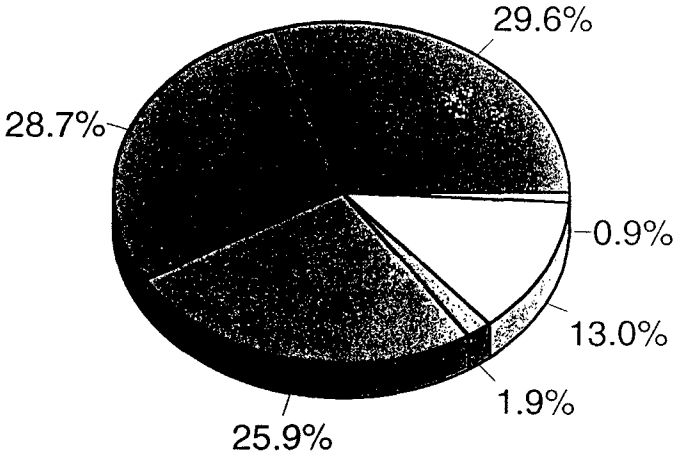
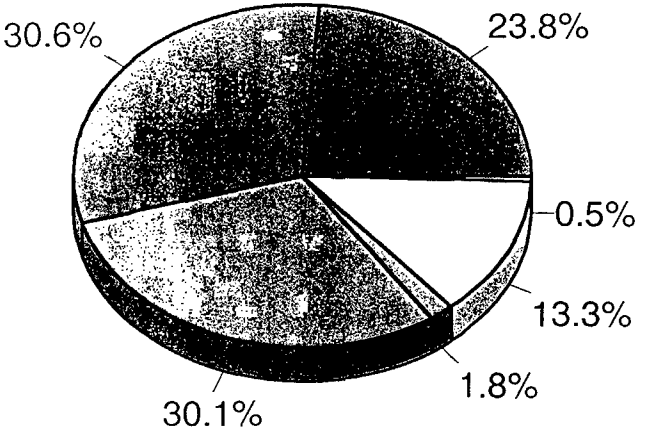
Substitute Behavior

October 1998



March 1999



Primary Brand | Dif. Brand | Dif. Store | Order
Dif. Size | Primary Size | Primary Cigar | Primary Cigar
No Purchase | Don't Know

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Consumer Usage Trends

- Best Brand Ever Smoked
  - While enduring a significant reduction since July '97, Swisher Sweets maintains the most dominant best brand perception in the mass-market.
  - High prices and lack of availability are the primary reasons mass-market consumers are not smoking their best brand most-often.

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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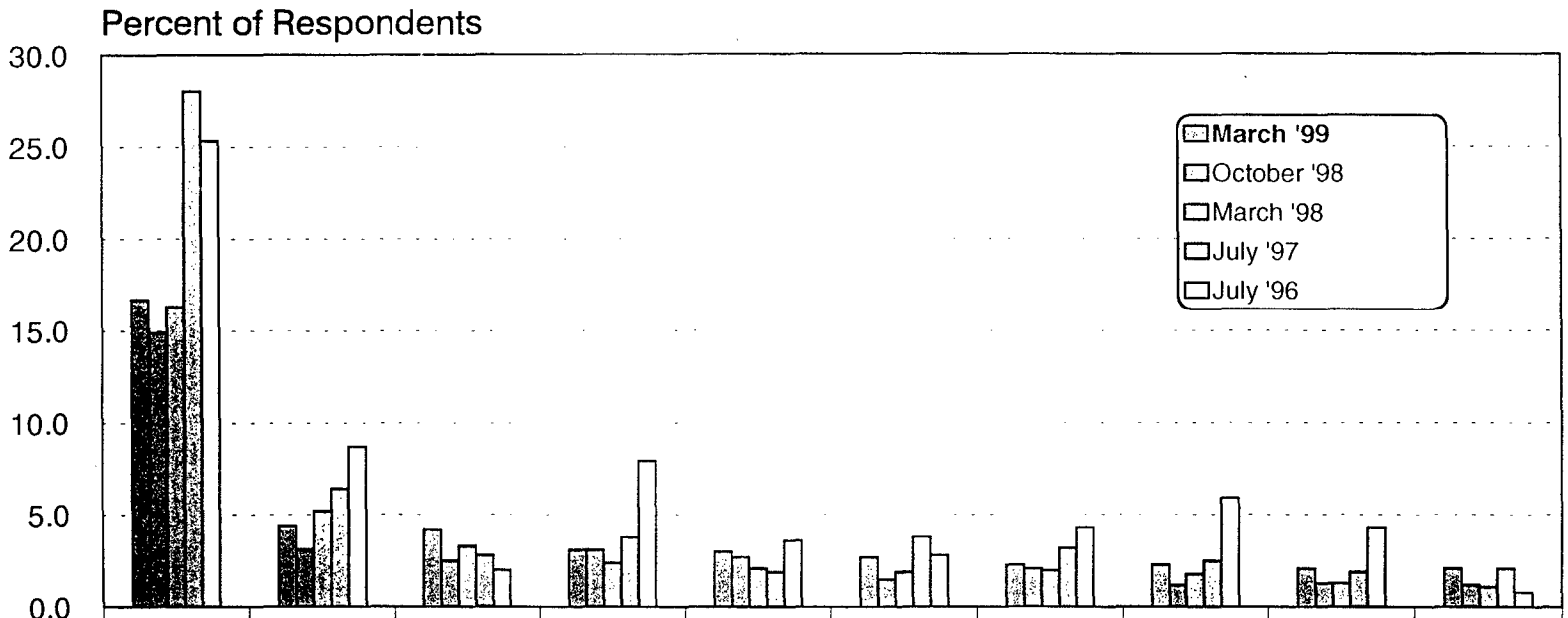
Best Brand Ever Smoked



	Swish Sweet	Garcia y Vega	Black & Mild	Dutch Master	King Edward	White Owl	Hav-a-Tampa	Phillies	El Producto	Middleton
March '99	**16.7**	**4.4**	**4.2**	**3.1**	**3.0**	**2.7**	**2.3**	**2.3**	**2.1**	**2.1**
October '98	14.9	3.1	2.5	3.1	2.7	1.5	2.1	1.2	1.3	1.2
March '98	16.3	5.2	3.3	2.4	2.1	1.9	2.0	1.8	1.3	1.1
July '97	28.0	6.4	2.8	3.8	1.9	3.8	3.2	2.5	1.9	2.1
July '96	25.3	8.7	2.0	7.9	3.6	2.8	4.3	5.9	4.3	0.8

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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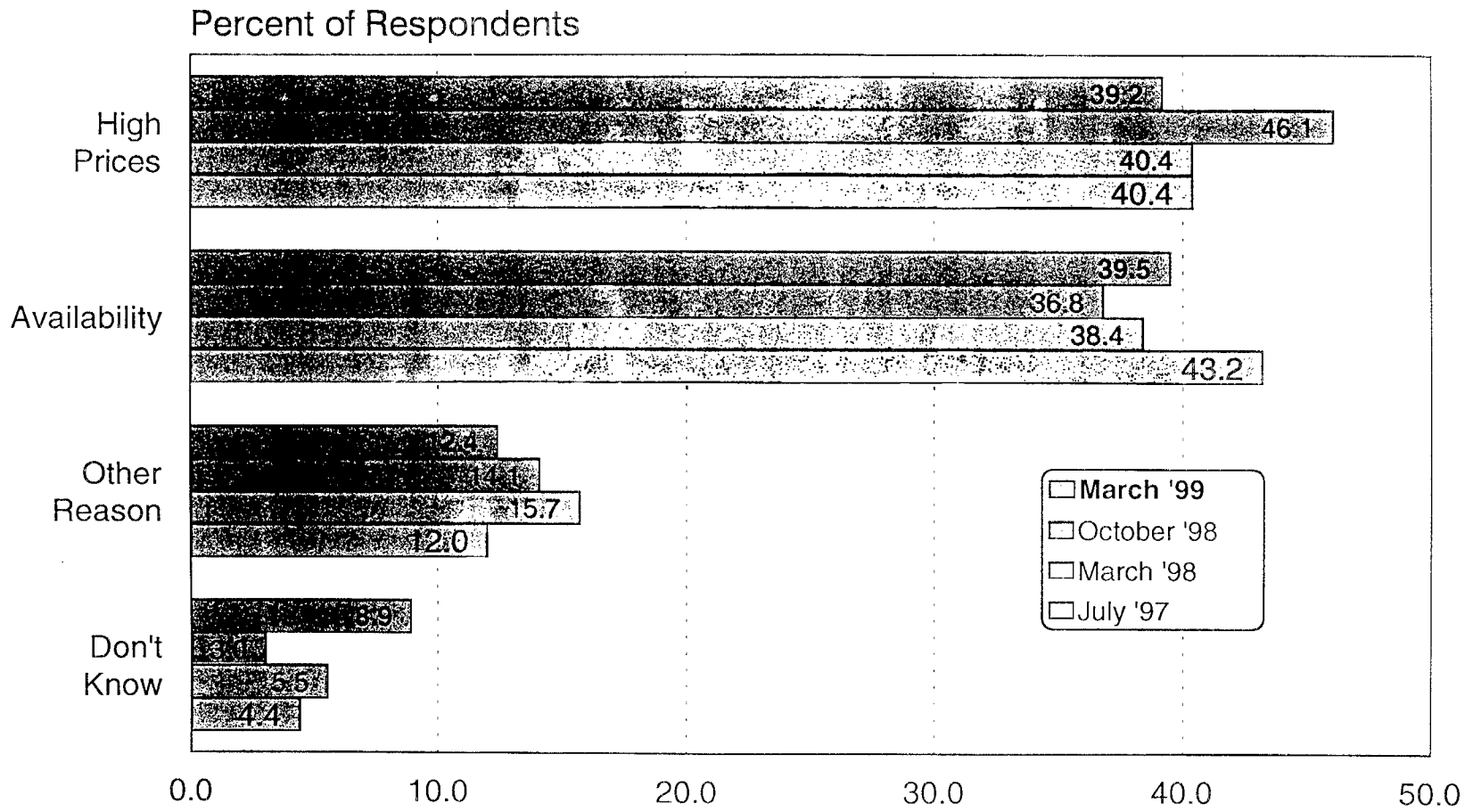
GC 020737

Reason for not Smoking Best Brand Regularly



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020738

Consumer Purchase Behavior

- How Cigars are Purchased
  - Approximately 60% of mass-market consumers buy their cigars by the pack.
  - The number of box purchasers has leveled off after a significant increase in 1998 at approximately 27% of mass-market consumers.
  - Mass-Market consumers that purchase their cigars by the box smoke significantly more cigars than both pack and individual purchasers.

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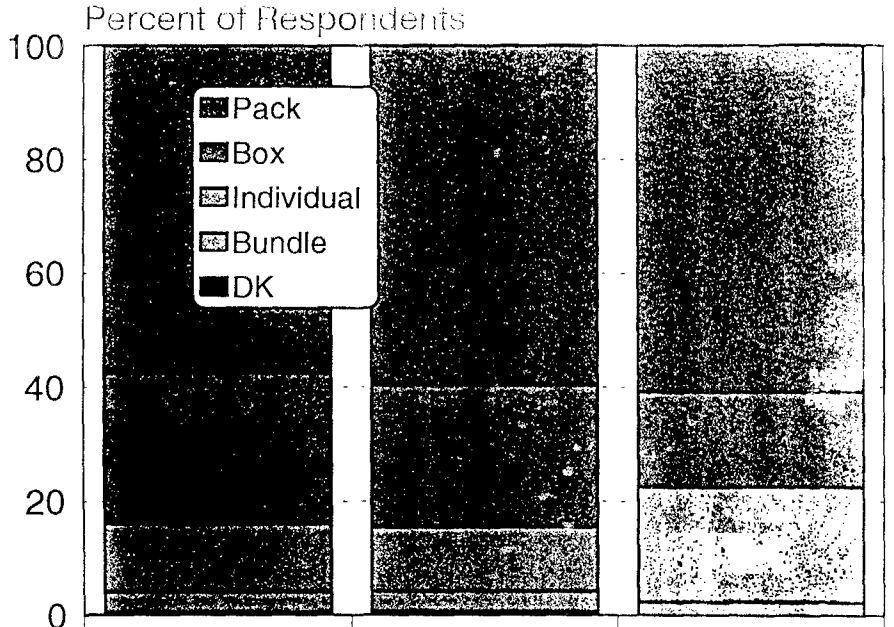
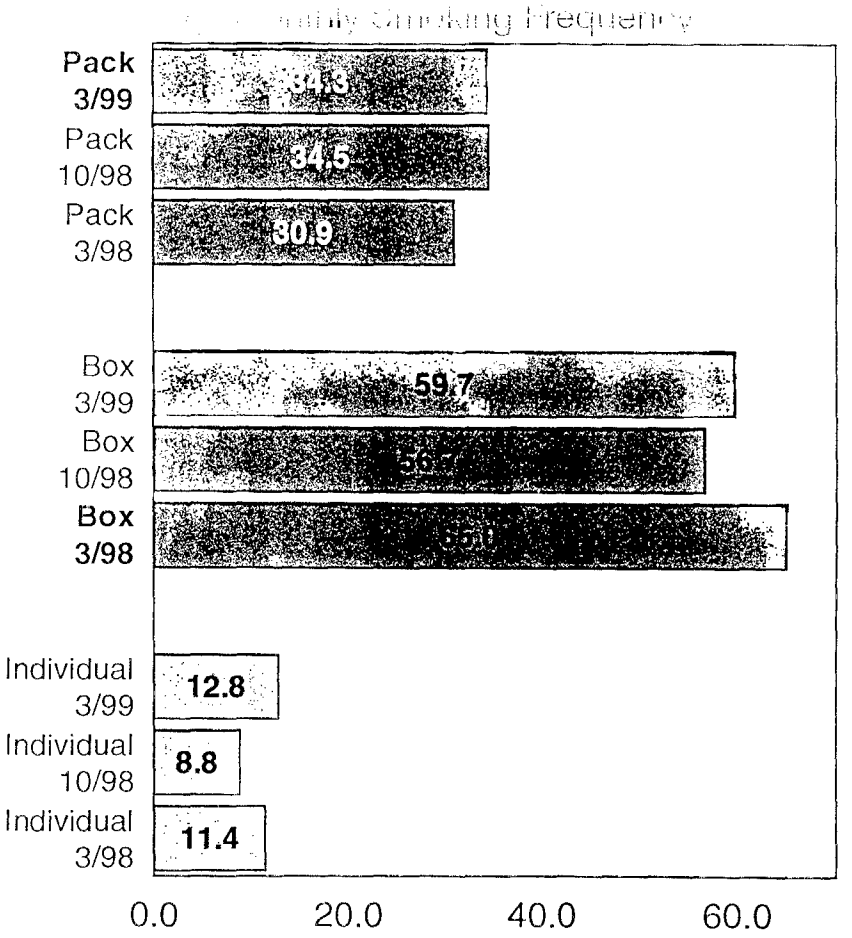
GC 020739

Individual, Pack, Box, & Bundle Purchases



	March '99	October '98	March '98
Pack	**57.5**	59.7	60.8
Box	**26.5**	24.9	16.7
Individual	**11.9**	11.3	20.2
Bundle	**3.6**	3.5	2.3
DK	**0.5**	0.7	0



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020740

Consumer Purchase Behavior

- Price Paid for Cigars and Price Sensitivity
  - The average price paid per pack of cigars among mass-market consumers remains consistent at about $2.60.
    - Price sensitivity among these consumers has leveled off after a significant change in 1998.
    - Almost 60% of pack purchasers indicate they are spending below the range defined in the price sensitivity analysis, presumeably driven my HTL consumers.
  - The average price paid per box of cigars among mass-market consumers is $13.42.

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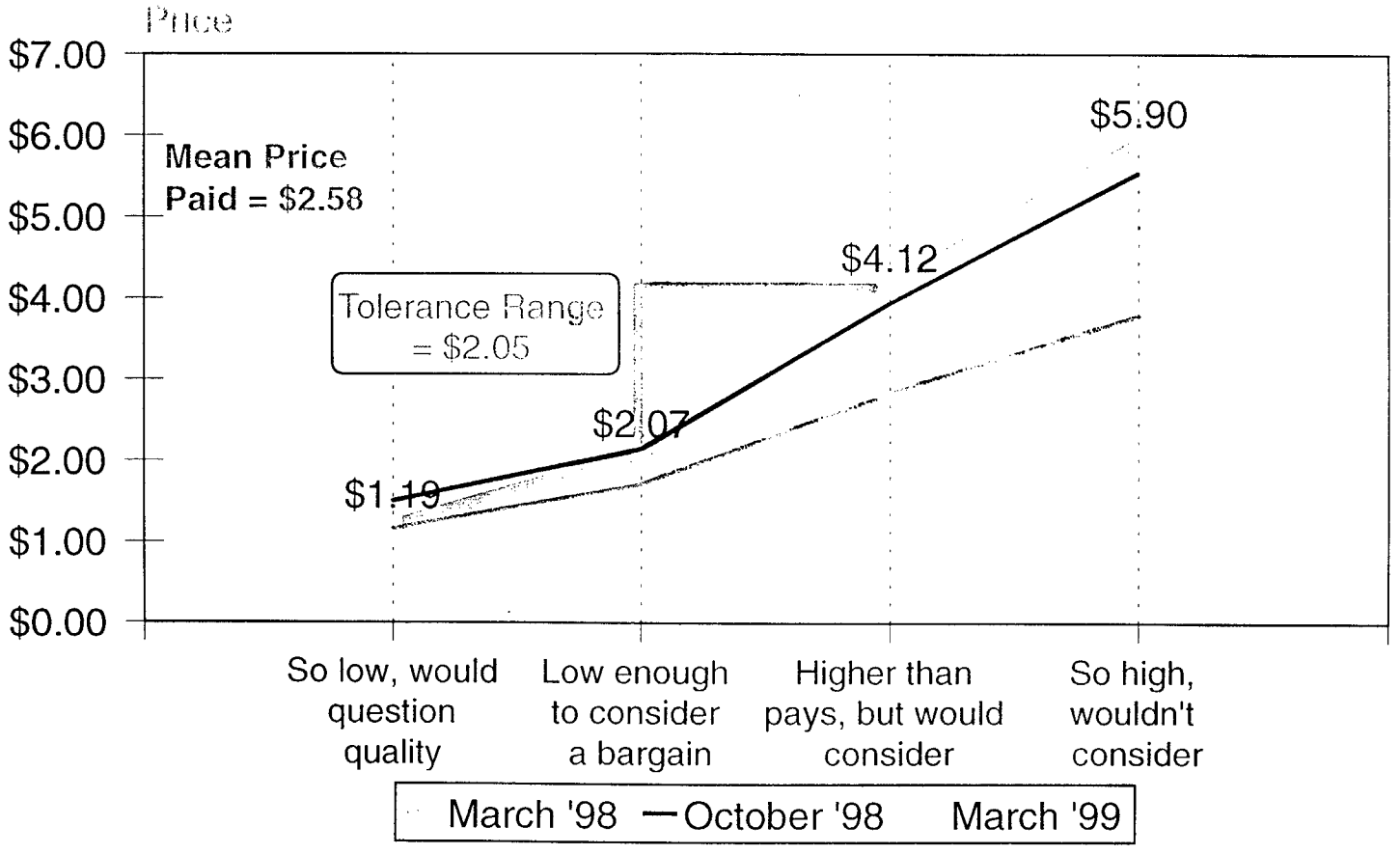
GC 020741

Pack Purchase Price Sensitivity



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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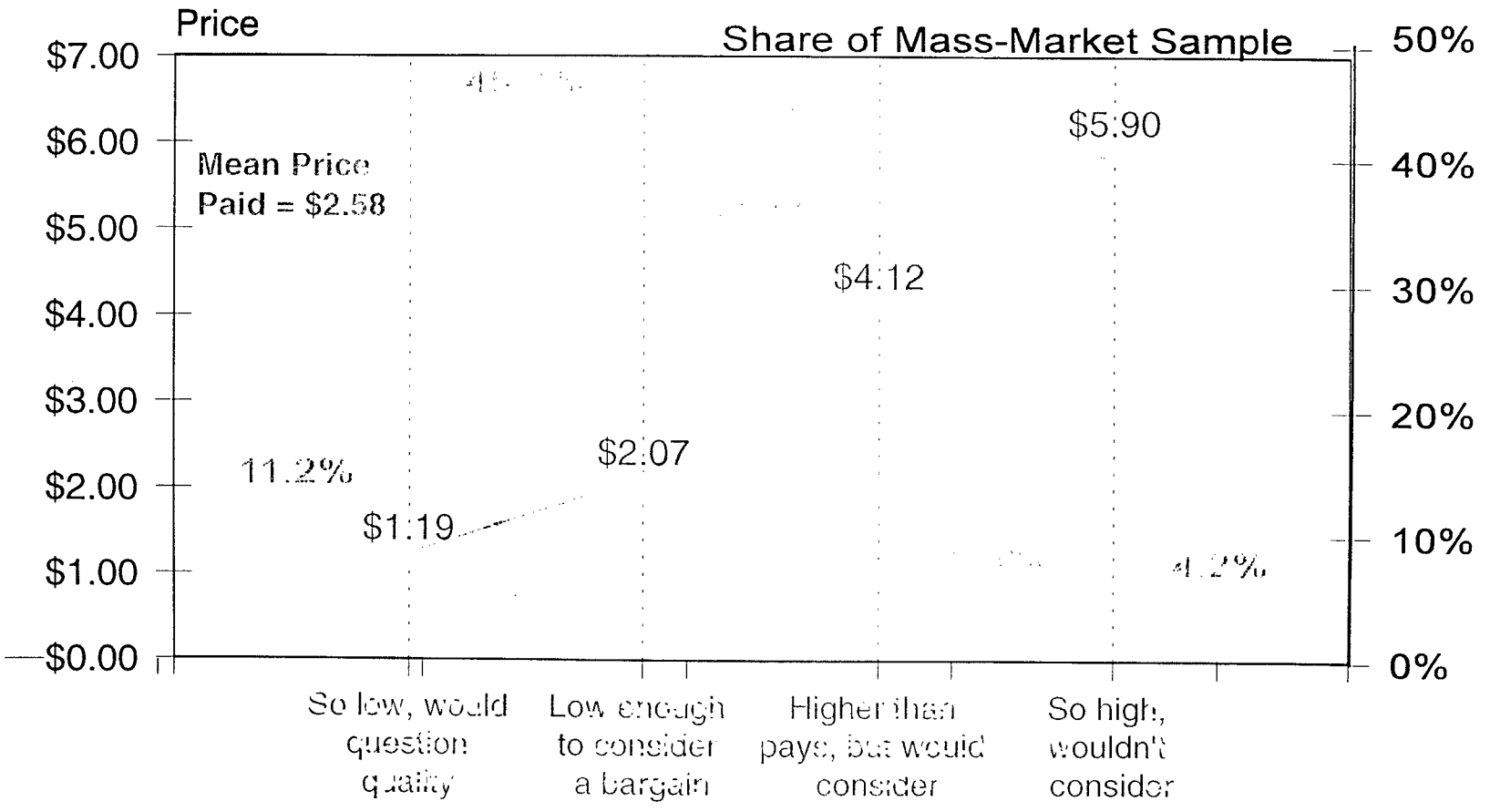
GC Q20742

Pack Purchase Price Sensitivity



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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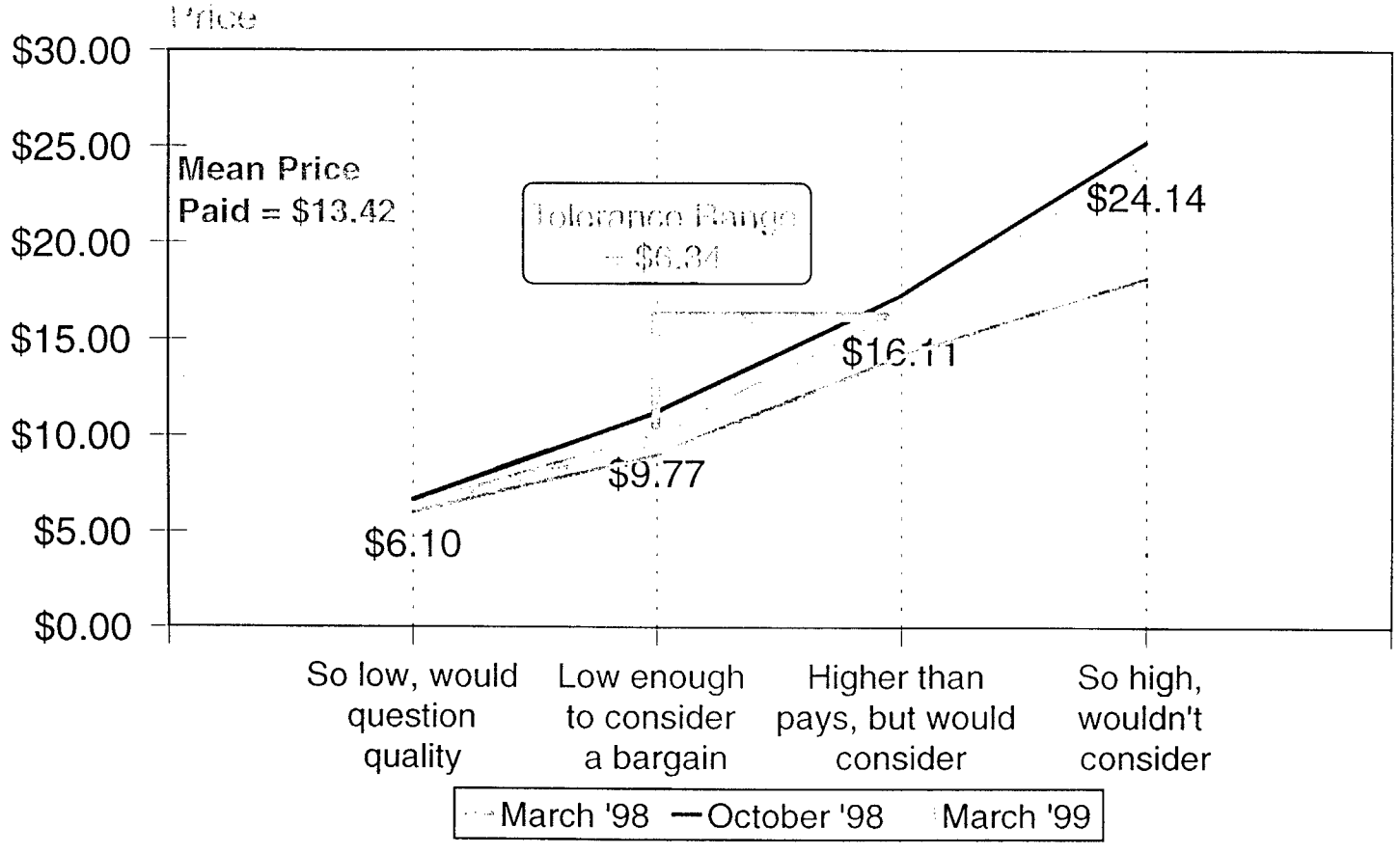
GC 020743

Box Purchase Price Sensitivity



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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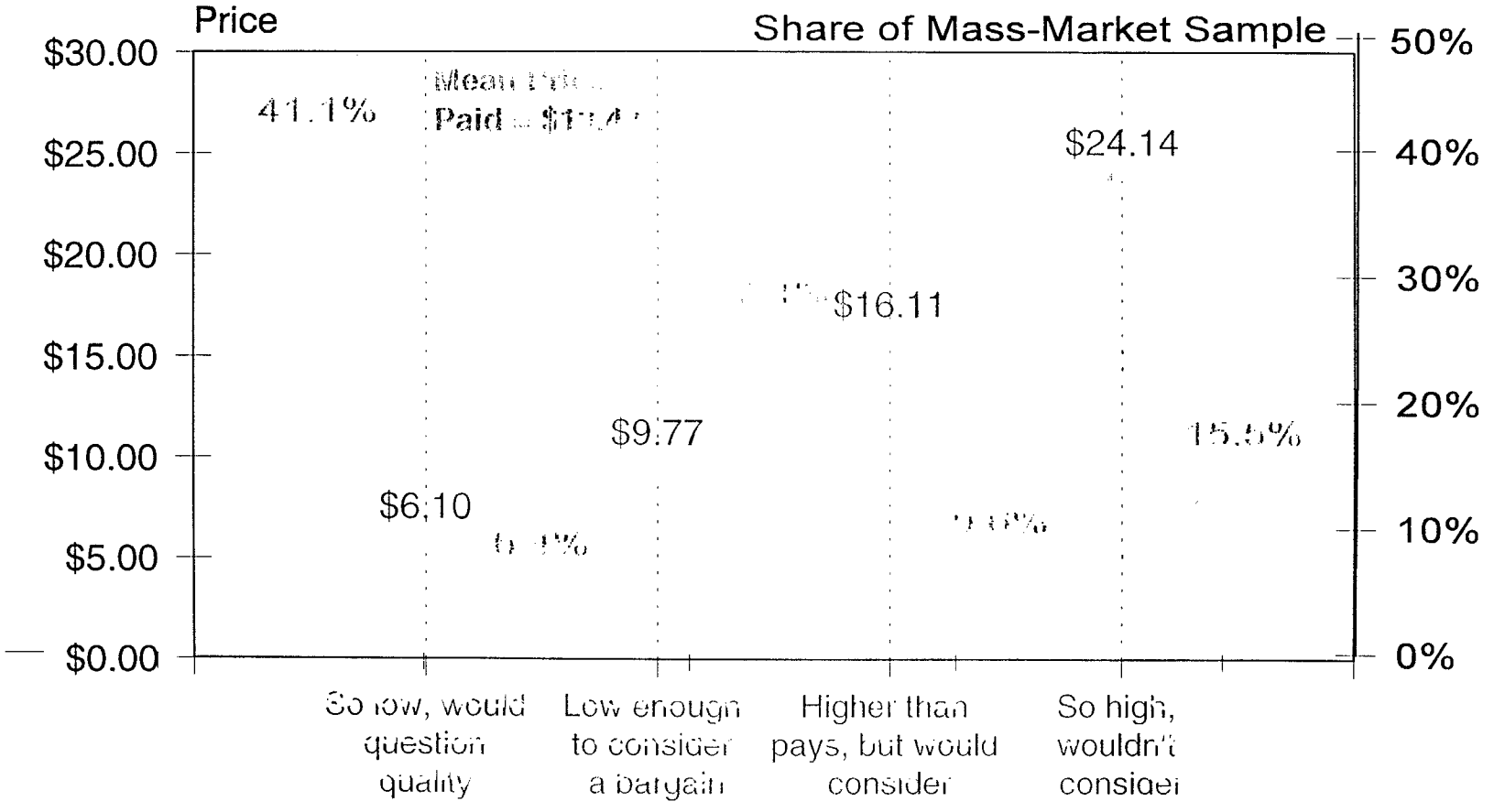
GC 020744

Box Purchase Price Sensitivity



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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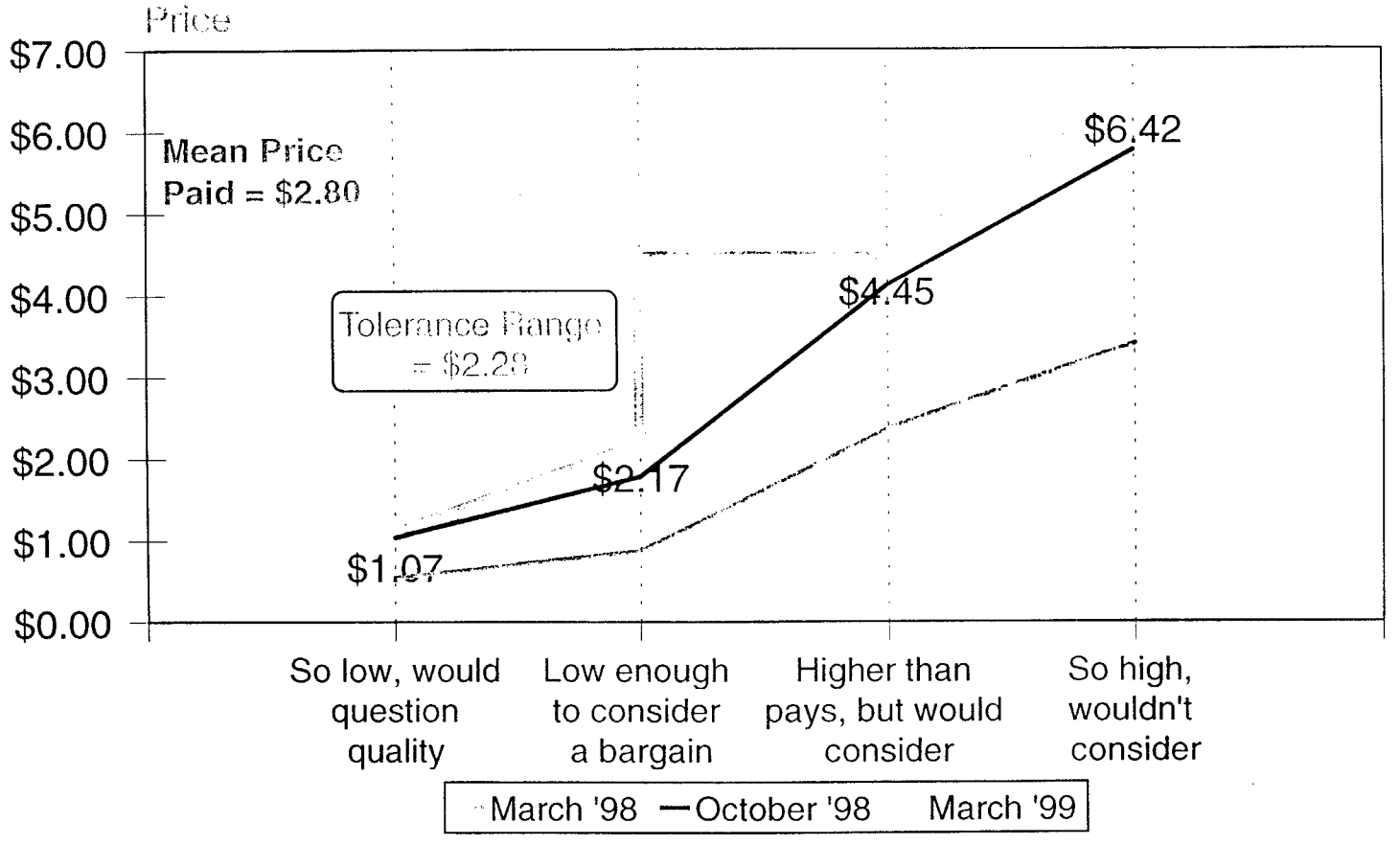
GC 020745

Individual Purchase Price Sensitivity



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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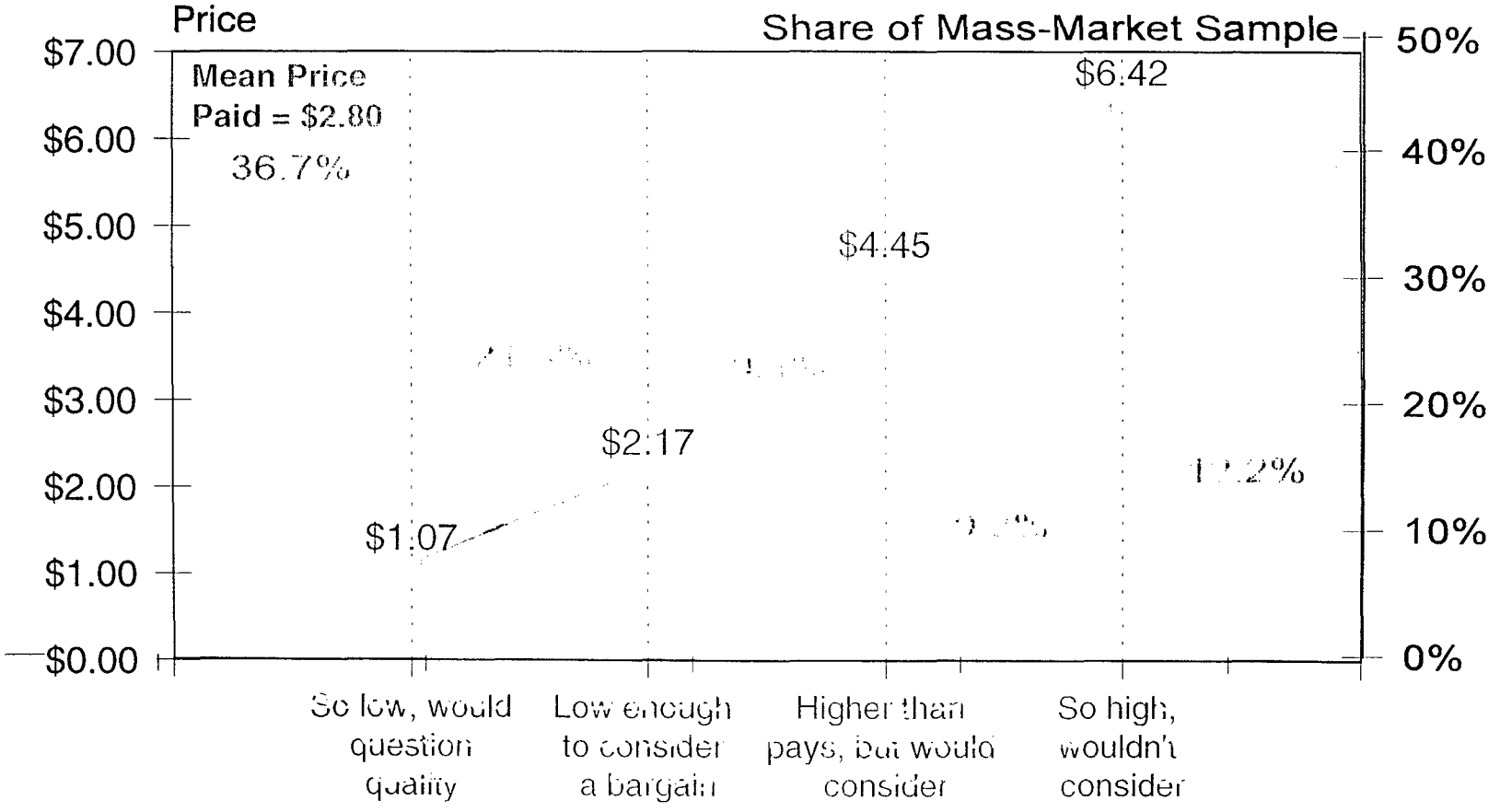
GC 020746

Individual Purchase Price Sensitivity



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020747

Consumer Purchase Behavior

- Purchase Channels
  - Convenience stores and tobacco stores are the two top most-often shopped purchase channels among mass-market consumers. This is consistent from July '97 data.
    - About 30% of mass-market consumers indicate they purchase from the convenience store most-often.
    - About 25% of mass-market consumers indicate they purchase from the tobacco store most-often.
      - Of mass-market tobacco store consumers, just over 60% indicate their tobacconist is an outlet-type store as defined in the survey instrument.

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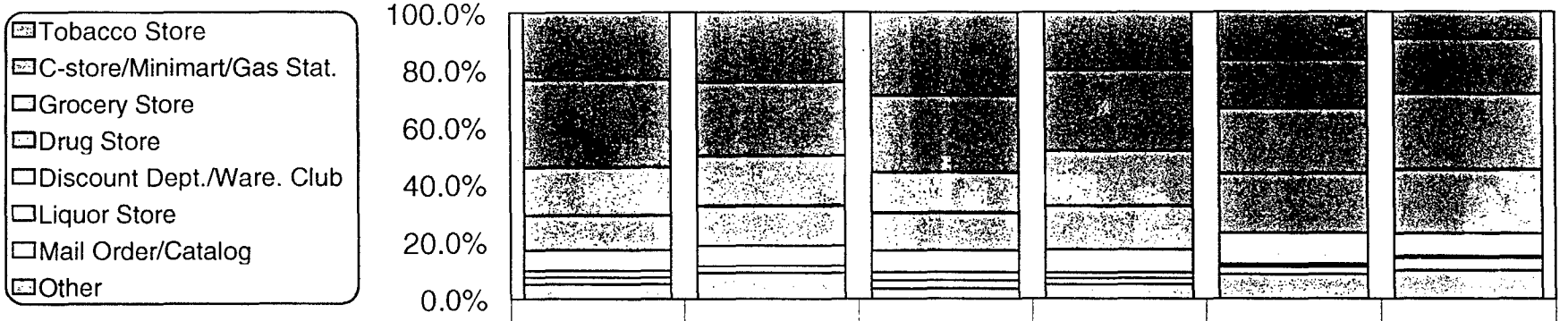
GC 020748

Primary Store Tracking



	March 99	October 98	March 98	July 97	July 96	July 95
Tobacco Store	**23.1**	24.1	29.1	20.0	16.7	9.4
C-store/Minimart/Gas Stat.	**30.4**	25.4	26.9	28.0	16.9	19.3
Grocery Store	**16.5**	17.3	14.1	19.0	22.9	26.4
Drug Store	**12.0**	13.7	13.0	15.0	20.6	22.2
Discount Dept./Ware. Club	**7.1**	6.9	7.6	8.0	10.9	7.9
Liquor Store	**2.2**	0.0	2.9	2.0	1.0	0.7
Mail Order/Catalog	**2.4**	2.4	2.8	2.0	2.5	4.2
Other	**5.1**	9.0	3.6	5.0	8.5	9.9

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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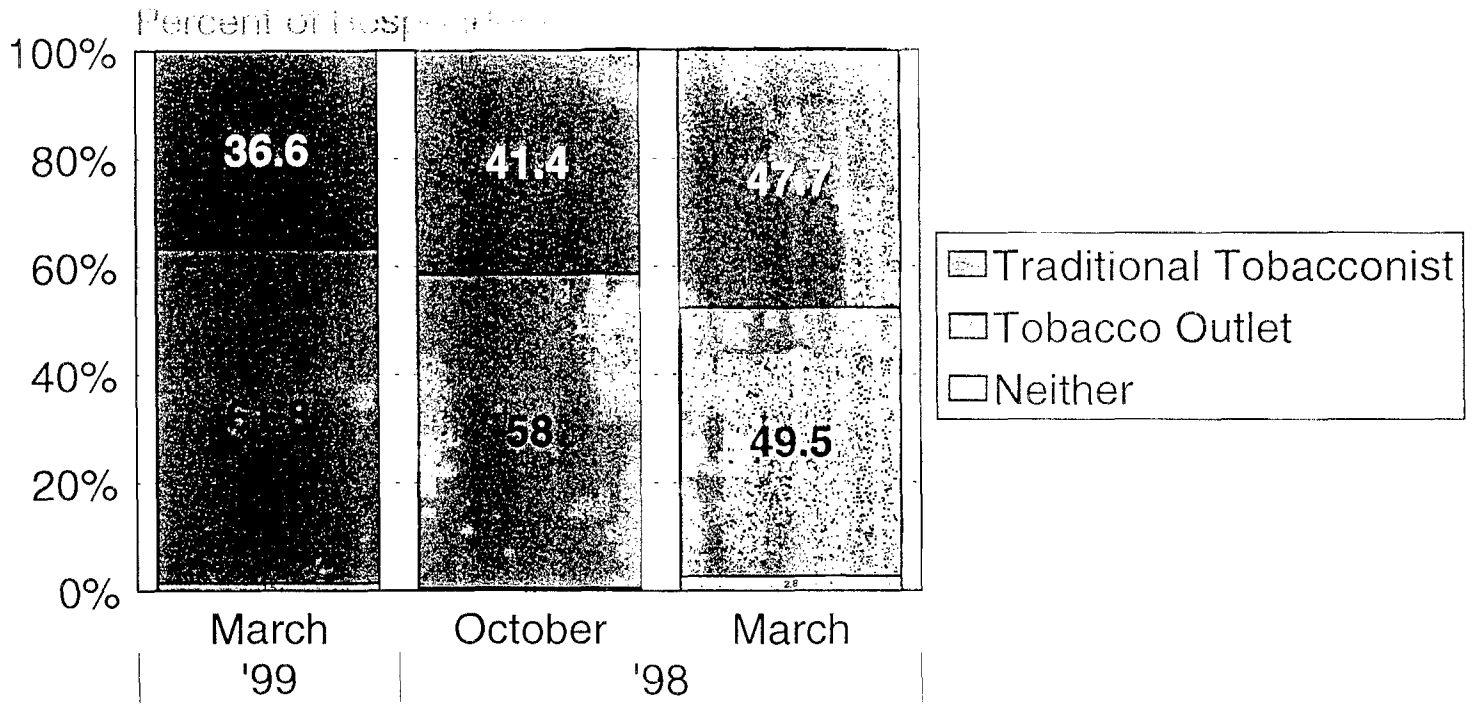
Type of Tobacco Shop



Traditional Tobacconist = A store that is smaller, traditional-style tobacconist which specializes in cigar and pipe products and other premium tobacco products.

Tobacco Outlet = A store that sells all types of tobacco products, including cigarettes, at discounted prices.

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020750

Consumer Purchase Behavior

- Cigars as Gifts
  - No (particular) occasion, birth of a child, Christmas, and birthdays are the most common occasions in which mass-market smokers receive cigars as gifts.
  - Friends are the primary purchasers of cigars as gifts for mass-market consumers, as almost 65% of mass-market consumers claim to have received cigars as gifts from friends.
  - Approximately 4 out of 5 mass-market consumers indicate they received individual cigars as gifts.

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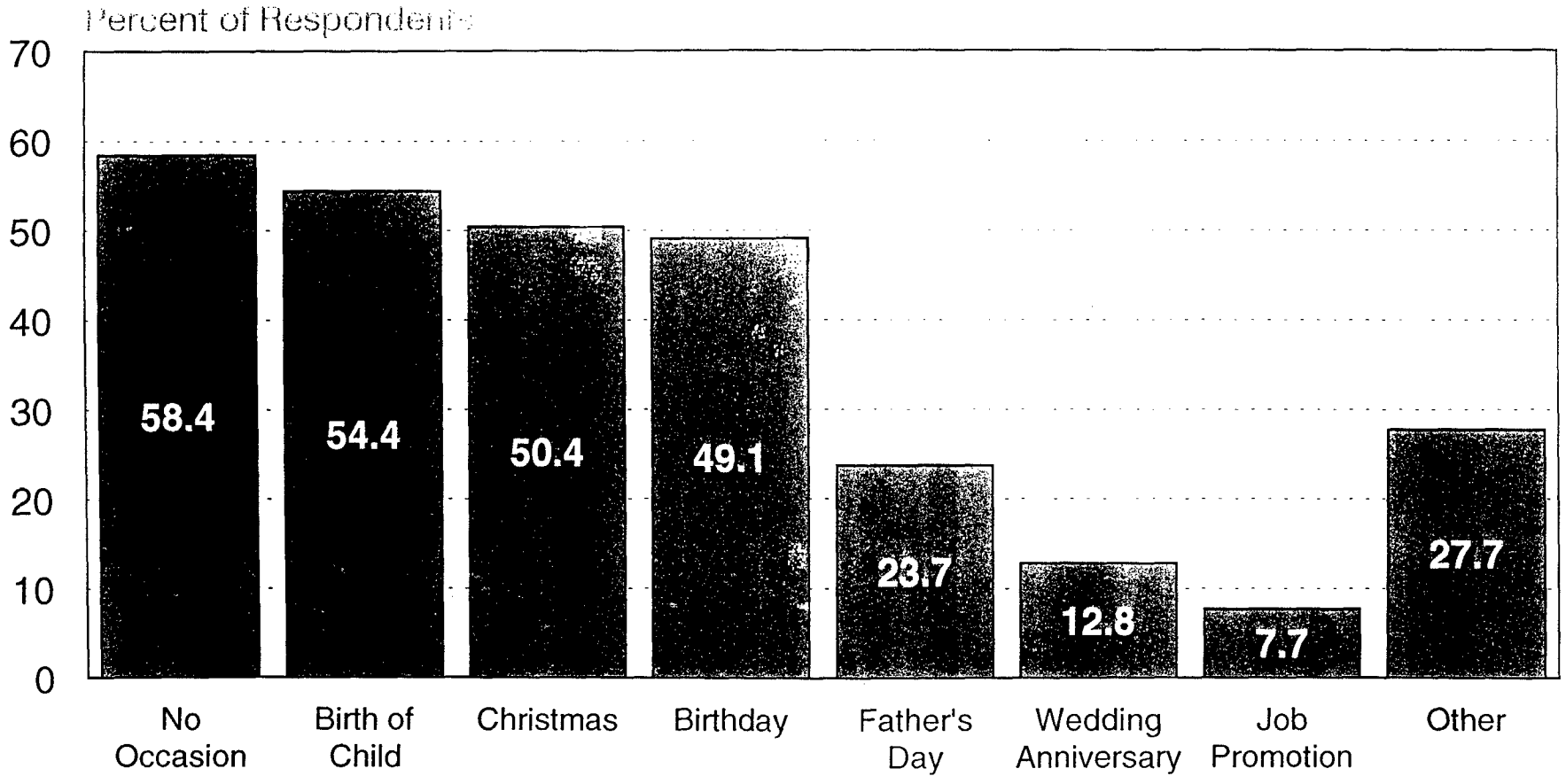
Occasions in Which Cigars are Gifts



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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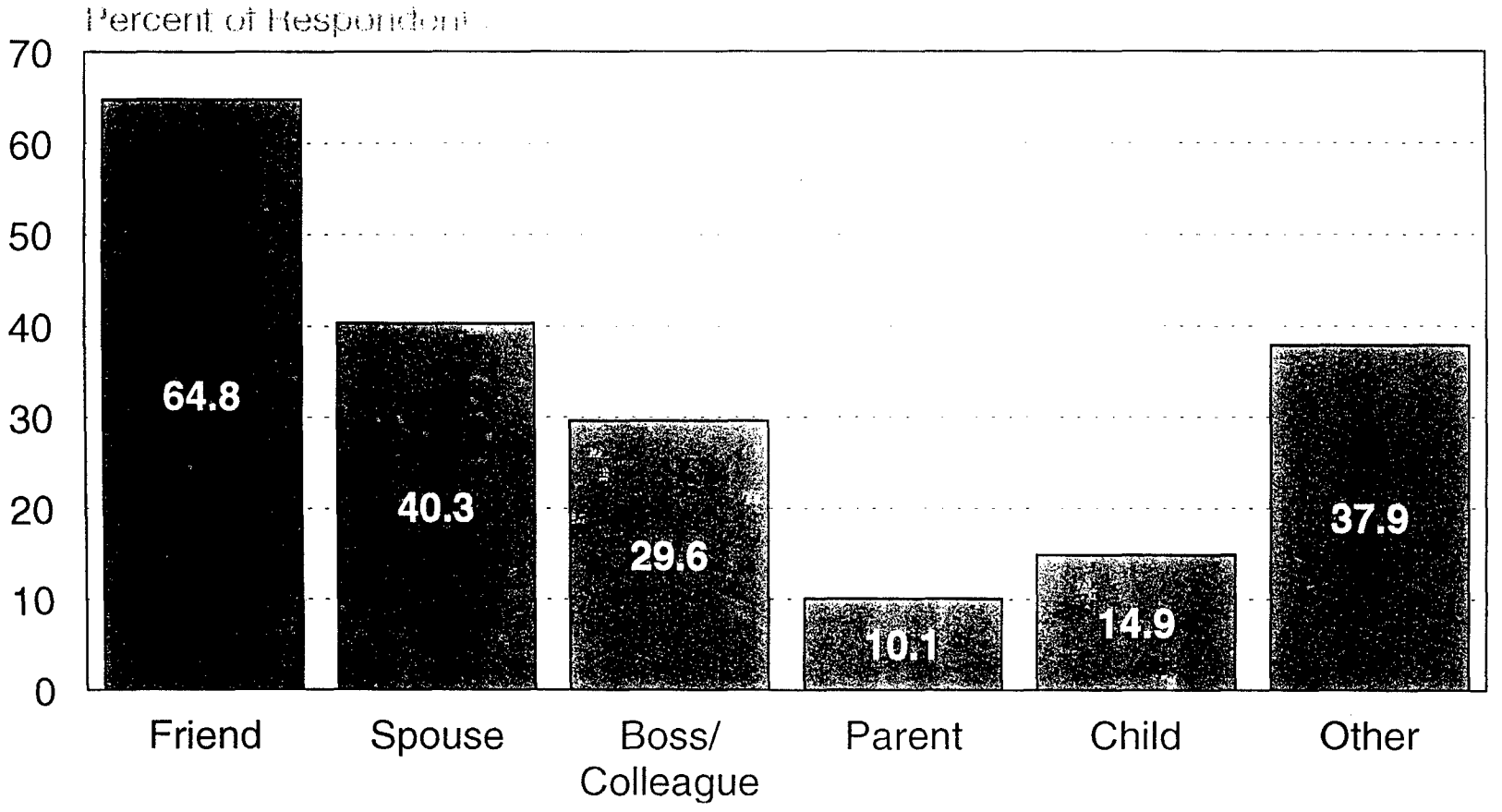
GC 020752

Person who Buys Cigars as Gifts



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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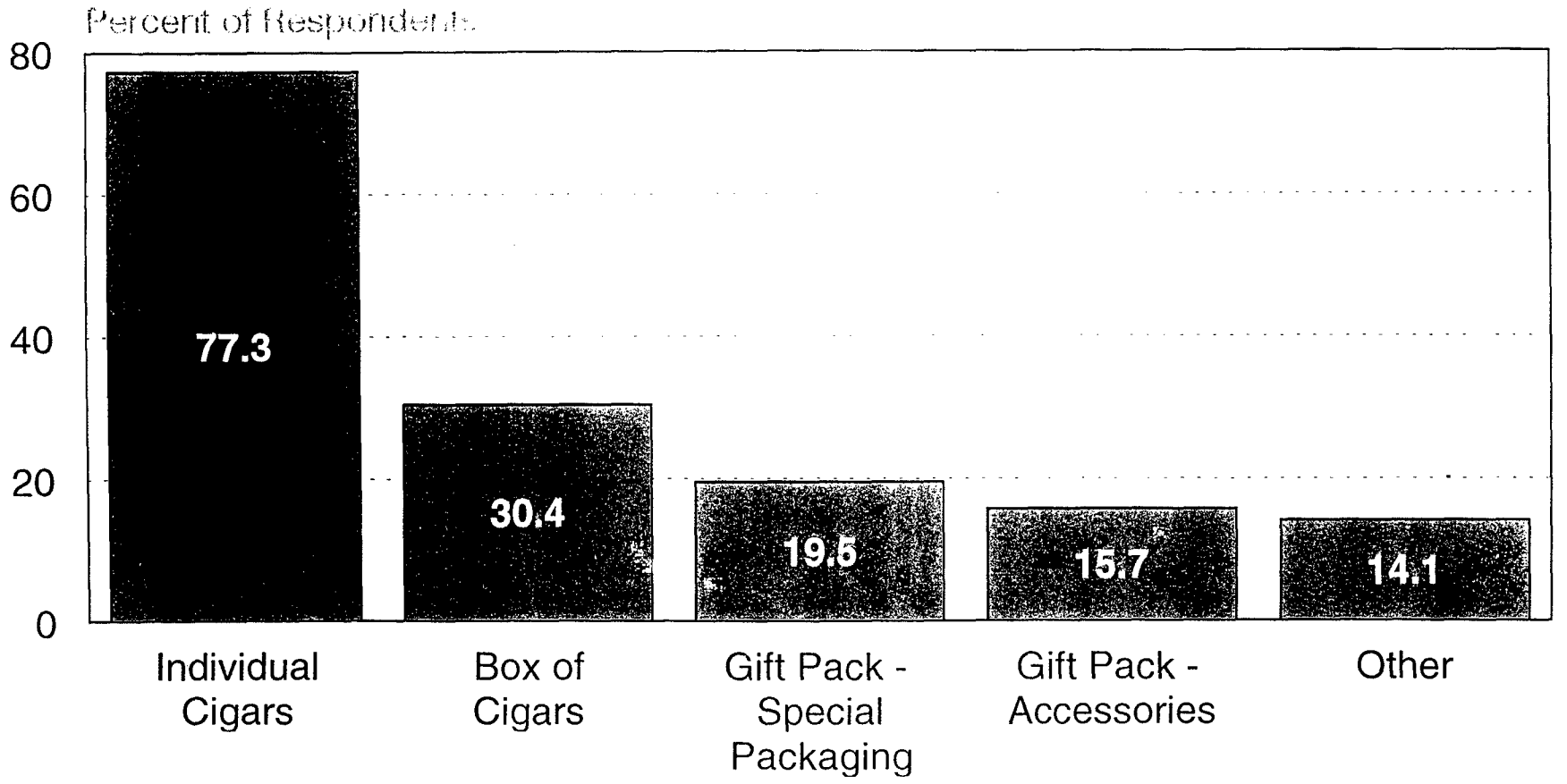
Types of Cigar Gifts



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Attribute Ratings

Relative Importance and Satisfaction

- Relative Importance of Quality, Price, and Size
  - Quality continues to be the most important ante for mass-market smokers
- Satisfaction with Quality of Ingredients, Quality of Construction, Price, and Taste
  - Satisfaction with the quality of ingredients, quality of construction, price, and taste of their primary brand among mass-market consumers all remain consistent from March '98 measurements.

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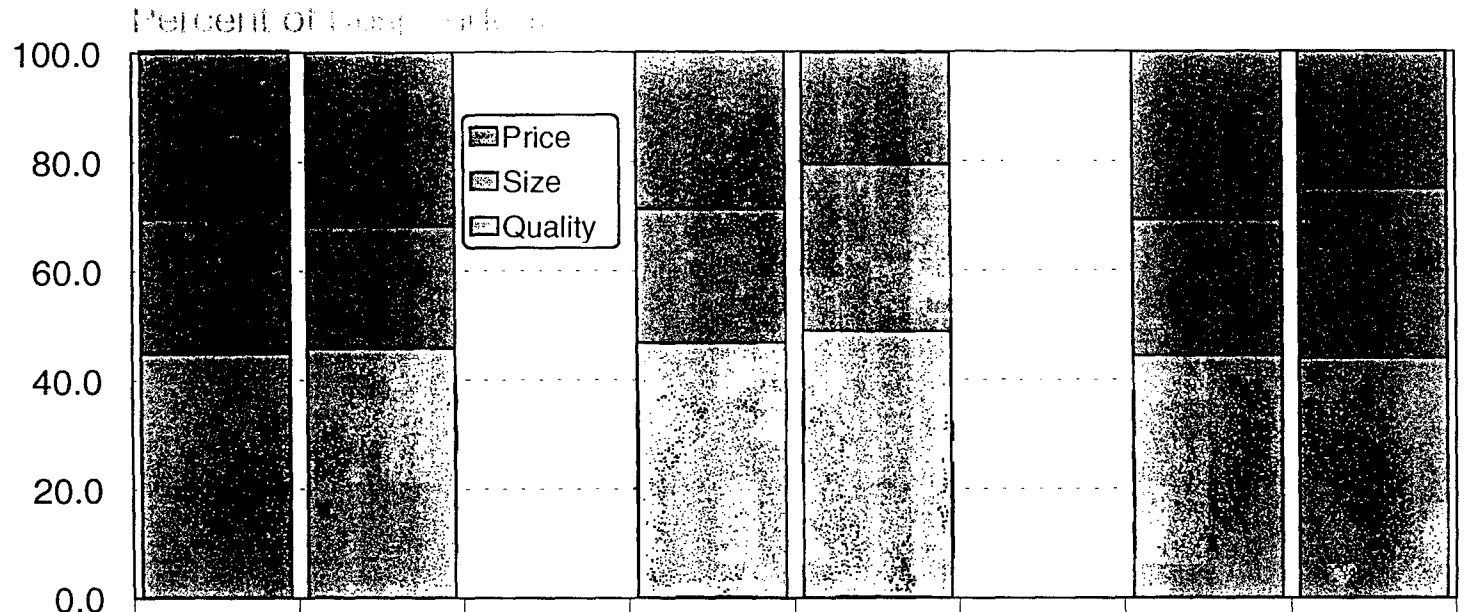
Relative Importance of Quality, Price, and Size



	Total 3/99	Total 10/98		Natural Leaf 3/99	Natural Leaf 10/98		HTL 3/99	HTL 10/98
Price	30.7	31.8		28.8	20.5		30.7	25.0
Size	24.7	22.4		24.5	30.5		24.9	31.0
Quality	45.0	45.8		46.8	48.9		44.4	44.0

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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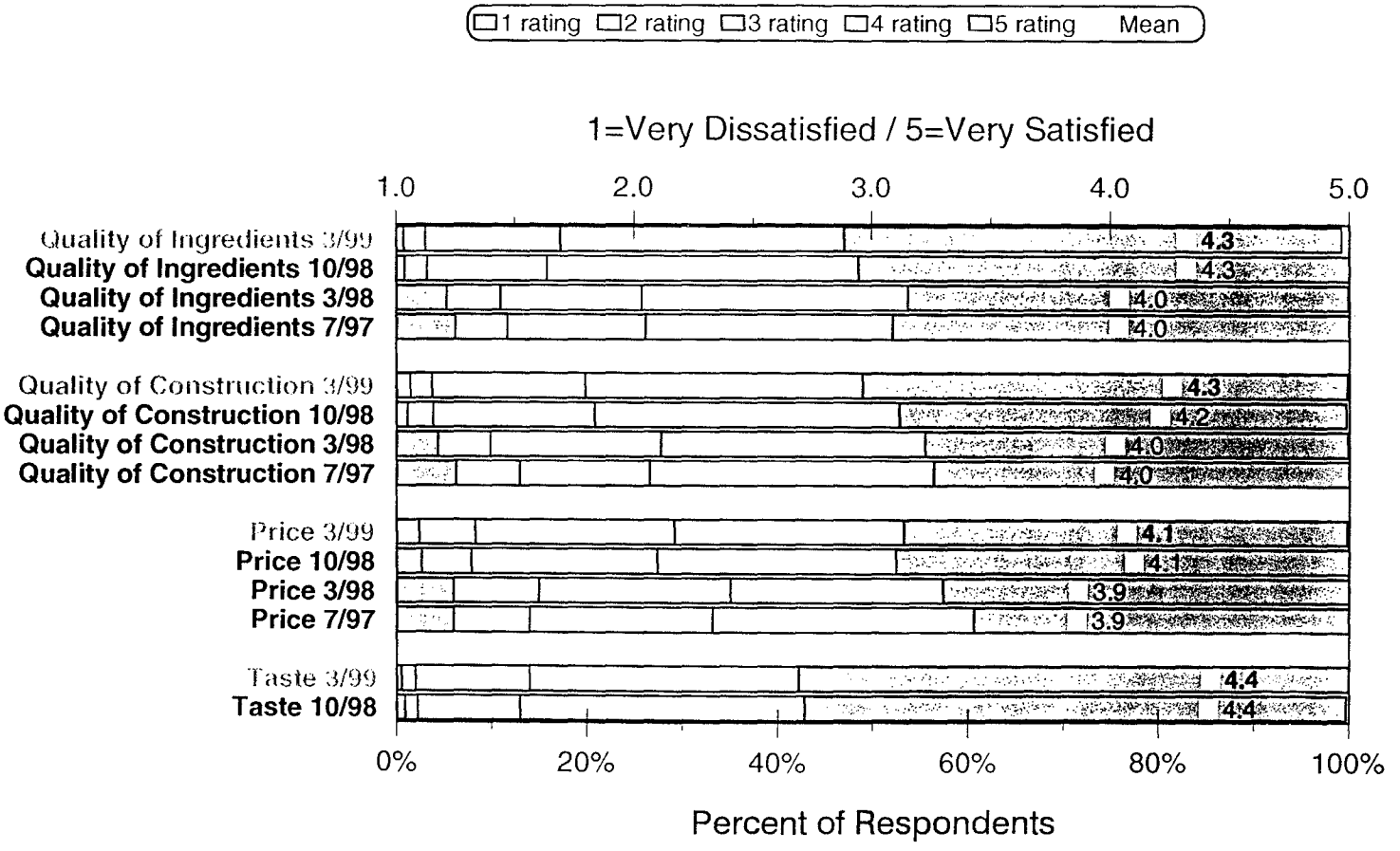
Satisfaction with Quality, Price, Taste



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Consumer Demographics

- Standard Demographics
  - The age of mass-market consumers remains relatively consistent from July '97.
  - The weighted average age of mass-market consumers is about 44 years.
  - Total household income for mass-market consumers is consistent from July '97.
  - Approximately 40% of mass-market consumers' highest education level is high school graduate.
  - About 1 in every 4 mass-market consumers is retired/unemployed.

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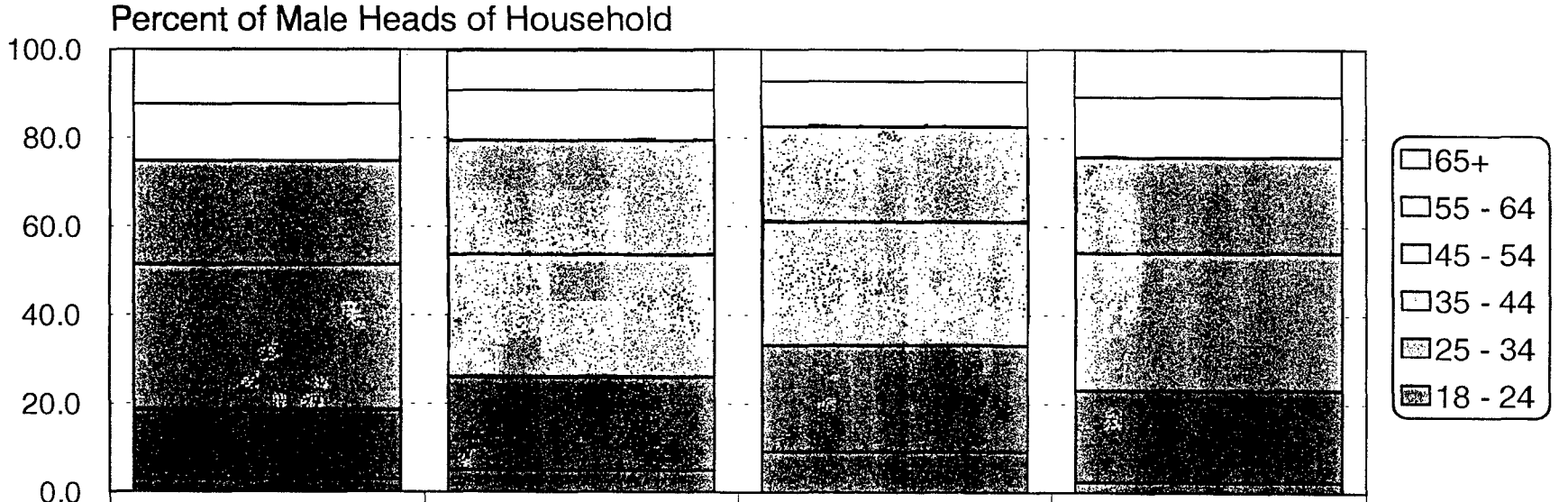
Age of Mass-Market Smokers



	March '99	October '98	March '98	July '97
65+	**12.4**	9.0	7.2	10.7
55 - 64	**12.8**	11.3	10.2	13.6
45 - 54	**23.5**	25.9	21.5	21.6
35 - 44	**32.8**	27.5	27.9	31.0
25 - 34	**15.6**	21.1	24.0	20.7
18 - 24	**2.9**	4.9	9.2	2.4

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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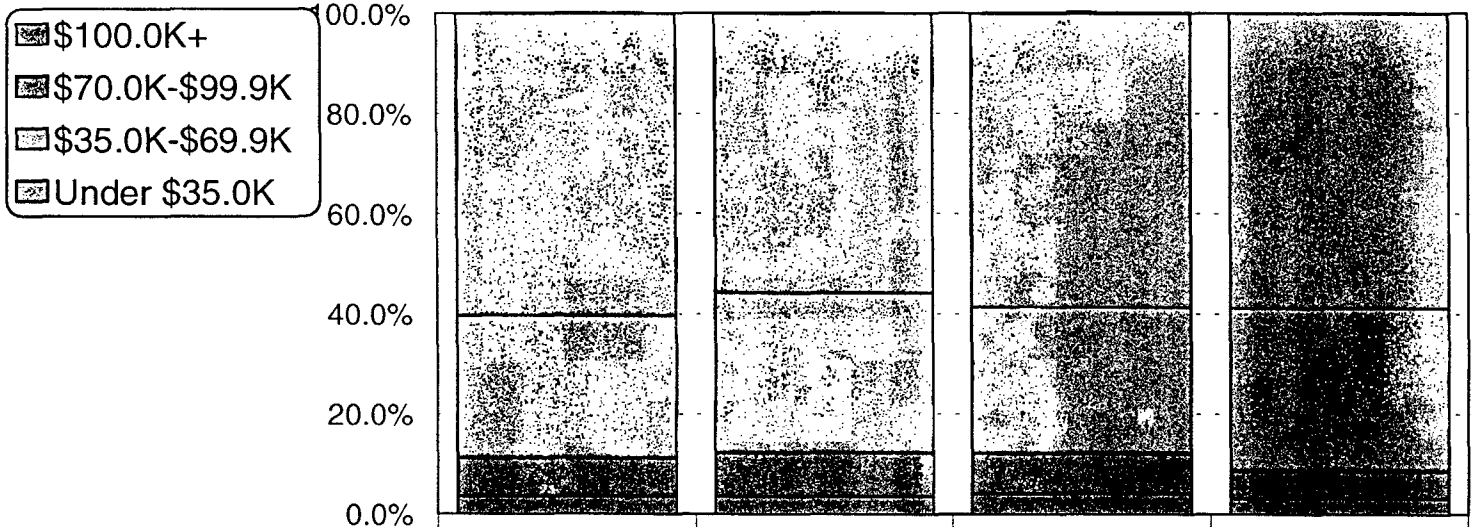
HH Income of Mass-Market Smokers



	March '99	October '98	March '98	July '97
Under $35.0K	**60.3**	55.9	58.6	58.8
$35.0K-$69.9K	**28.5**	32.0	29.3	32.5
$70.0K-$99.9K	**7.6**	8.7	7.9	5.5
$100.0K+	**3.6**	3.6	4.2	3.2

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Demographic Summary

Education and Occupation

Demographic	Percent of Male Heads of Household
Education	
High School Grad	39
Some College	23.5
Post-College Grad	14.6
Graduated College	13.8
Occupation	
Retired/Unemployed	26.7
Skilled Worker	17.4
Proprietors/Managers	13.9
Semi-skilled Worker	12.5
Professional	11.1
Service Workers	5
Sales	3.9

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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GC 020761

Summary of Key Findings

Consumer Definition and Awareness

- Smoking frequency among mass-market consumers has increased significantly since March 1998 driven by mid-tenured smokers.
- Mass-market consumers purchase cigars about 4 times per month and claim to purchase approximately 15 cigars per purchase.
- Mass-market consumers prefer various sizes of cigars, with the exception of those larger than 5 inches with a ring gauge smaller than 42.
- Swisher Sweets dominates all facets of consumer awareness in the mass-market.
- About half of all mass-market consumers are aware of shaped cigars. Subsequently, about half of these consumers have tried a shaped cigar.

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Summary of Key Findings

Consumer Definition and Awareness

- Mass-market consumers claim to be aware of various promotions.
- Approximately 27% of mass-market consumers indicate they have responded to promotions they have seen. Of those, about 70% indicate the promotion was for the brand the originally intended to purchase.

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Summary of Key Findings

Consumer Usage Trends and Purchase Behavior

- The HTL segment continues to be, by far, the largest segment, in terms of number of consumers, accounting for approximately 80% of all mass-market smokers.
- Approximately 6% of mass-market consumers indicate they smoke a premium brand on regular basis.
- Swisher Sweets continues to dominate, in terms of primary brand share among mass-market smokers.
- About 60% of mass-market consumers indicate they primarily purchase their cigars by the pack, while 27% claim to purchase by the box most-often.
- Convenience stores and tobacco stores are the primary purchase channels for mass-market consumers.

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Summary of Key Findings

Consumer Usage Trends and Purchase Behavior

- There are several indications of increased cross-over behavior among mass-market smokers.
- While the majority of mass-market smokers continue to purchase their cigars by the pack, an increasing number claim to be purchasing by the box. Box purchasers also smoke a significantly higher number of cigars.
- About 25% of mass-market smokers indicate they purchase from a tobacco store most-often. Almost 60% of these consumers indicate the tobacco store is defined as an outlet vs. a traditional tobacconist.
- No (particular) occasion, birth of a child, Christmas, and birthdays are the most-common occasions in which cigar smokers receive cigars as gifts and these gifts are most-often purchased by friends and are individual cigars.

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PREMIUM CIGAR MARKET

Attitudes & Usage Study Summary

May 1999

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GC 020767

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I. Attitudes & Usage Survey Overview

II. Consumer Definition

III. Consumer Awareness

IV. Consumer Usage Trends

V. Consumer Purchase Behavior

VI. Attribute Ratings

VII. Standard Demographics

VIII. Summary of Key Findings

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Attitudes and Usage Survey

- Methodology
  - Conducted by *The NPD Group, Inc.*, and independent research supplier.
  - Means of survey is a phone interview conducted from an established survey instrument. Approximate interview time of the March 99 survey was 21 - 23 minutes.

- Sample Size
  - March 99 - 1200 respondents (375 premium)
  - October 98 - 1200 respondents (451 premium)
  - March 98 - 1199 respondents (409 premium)
  - July 97 - 957 respondents (341 premium)
  - July 96 - 364 respondents (all premium, studies done separately)

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Consumer Definition

- Smoking Tenure
  - The percentage of new smokers in the premium category continues to be high, representing about a fifth of the market.
  - It appears we will continue to see the "boom" consumer mature and move through the tenure groupings through the year 2000.
- Smoking Frequency
  - Average monthly smoking frequency is steady at approximately 15 cigars per month and shows no statistically significant shifts going back to 1997.

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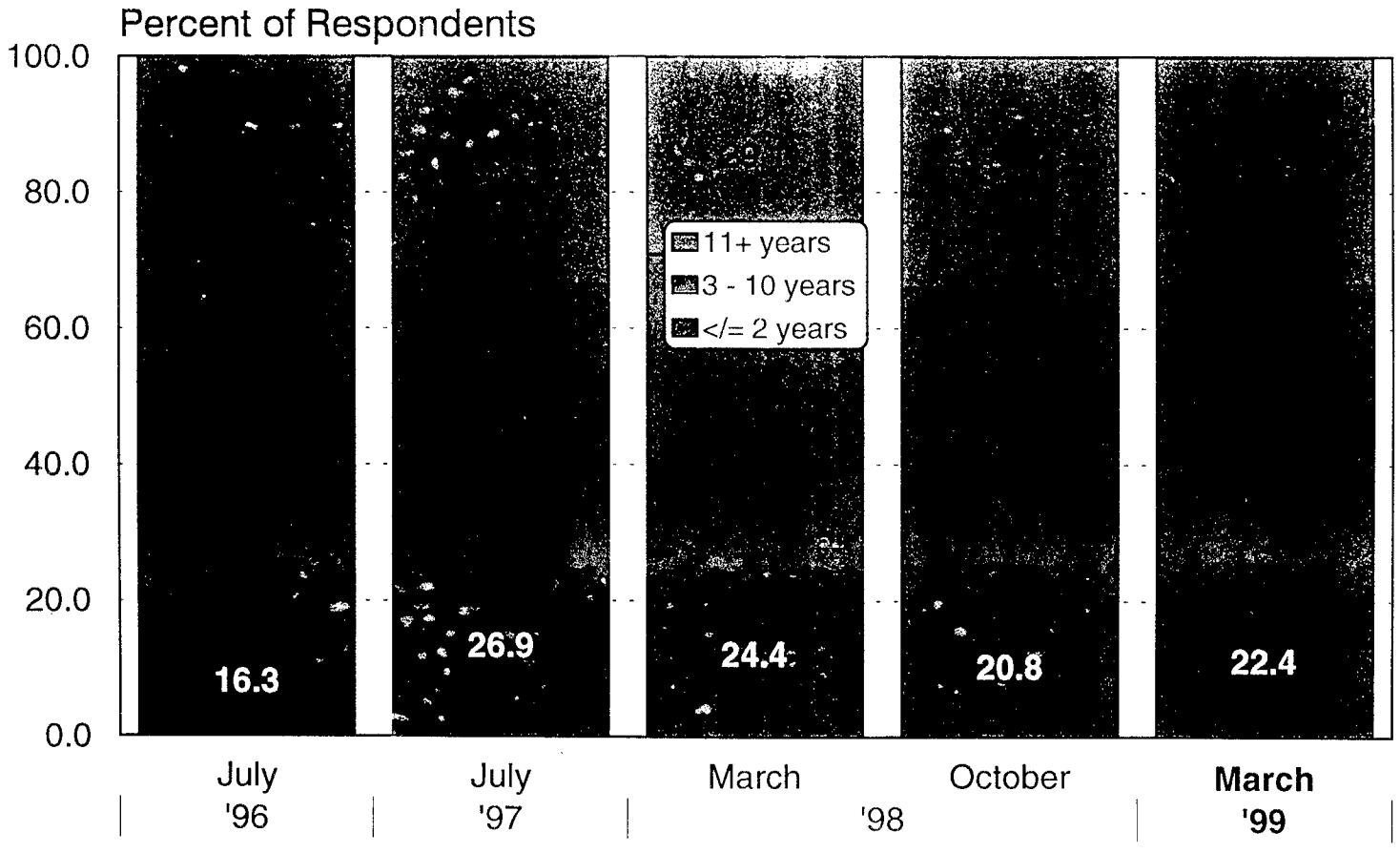
Premium

Smoking Tenure Tracking



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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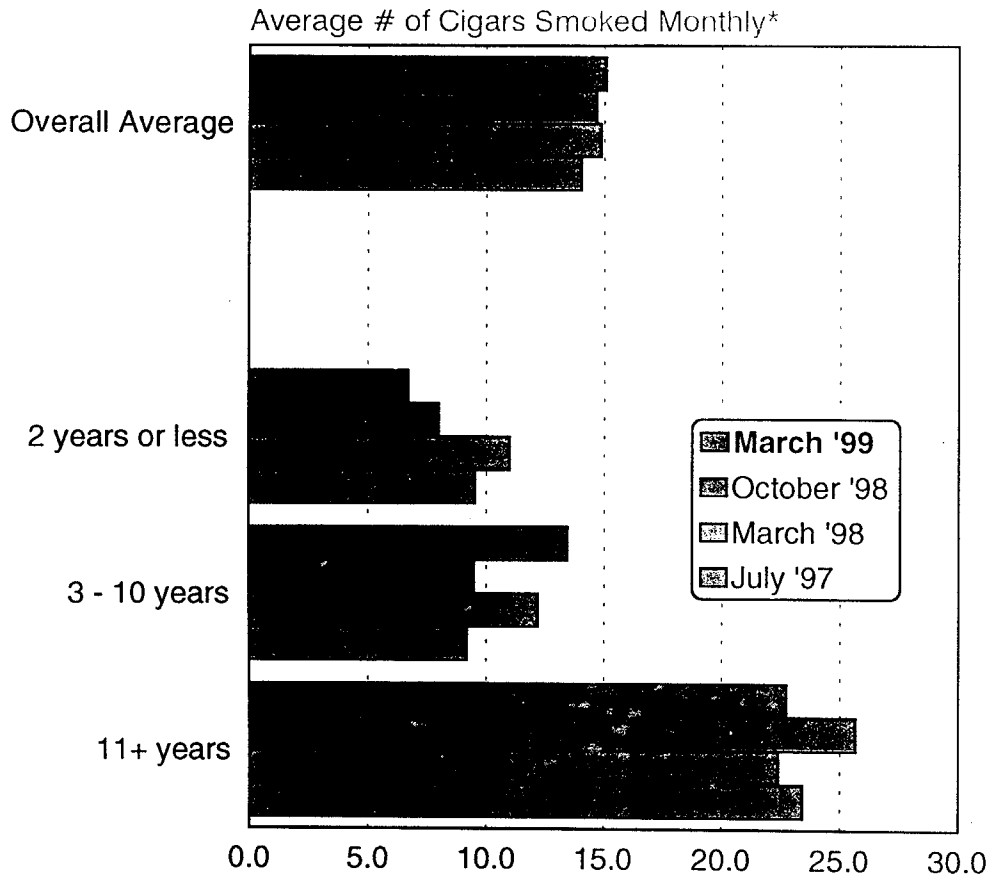
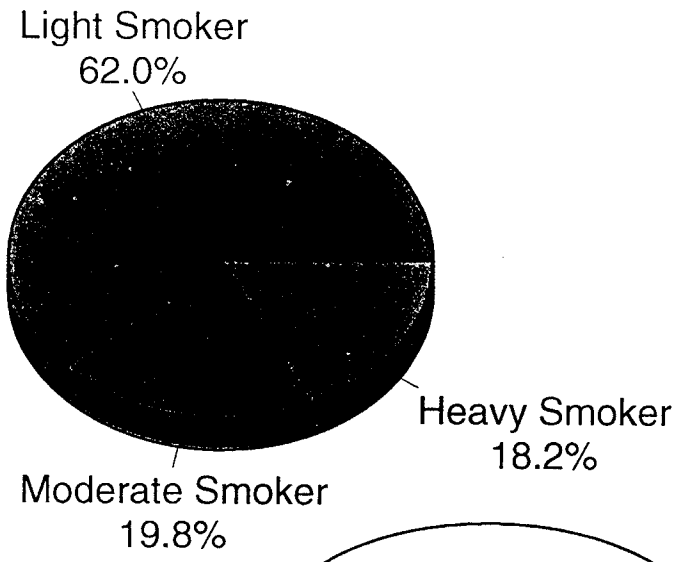
Average Monthly Smoking Frequency Tracking





Approximately 20% of premium consumers are heavy smokers (20+ cigars per month)

* Adjusted for seasonality

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Consumer Definition

- Motivational Consumer Segments
  - The Consumer Segmentation Study performed by *The Cambridge Group* identified 8 motivational segments among all cigar consumers.
  - We cannot directly compare the relative size of these segments from the initial study to the subsequent results in this A&U Study due to a different means of data collection.
  - The A&U benchmark, in this study, will be directly comparable to all subsequent A&U Studies, providing there are not changes to the methodology.
  - The confidence levels* for identifying each segment varies, but all are between 61 and 83 percent.

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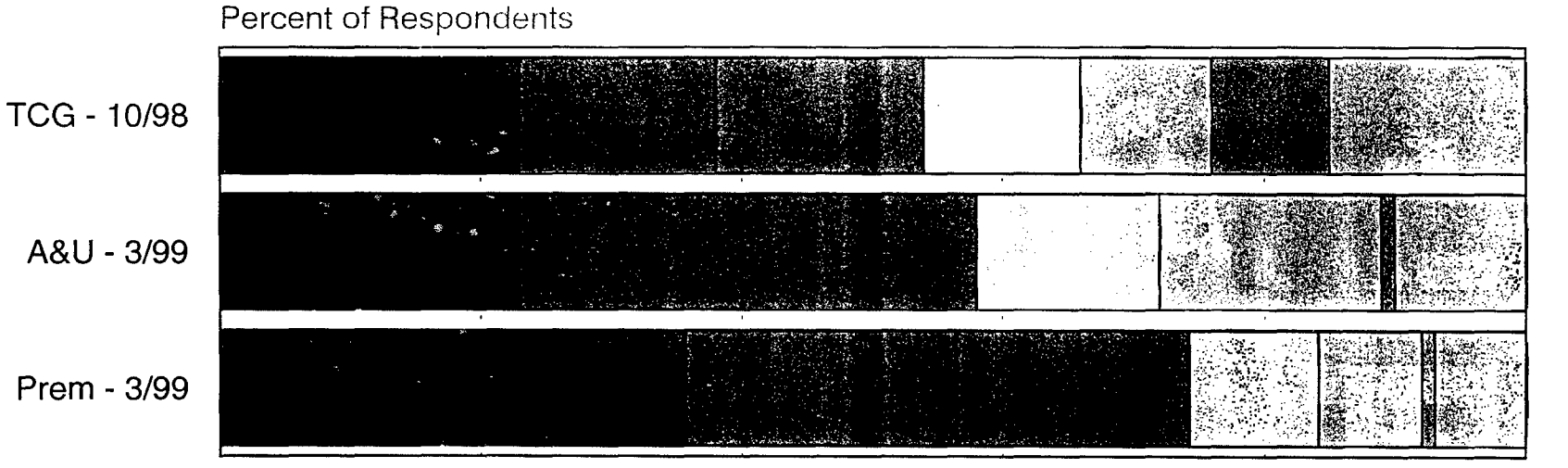
The Eight Motivational Segments

As Identified by The Cambridge Group



	TCG - 10/98	A&U - 3/99	Prem - 3/99
Relationship Driven	12	20	30
Savvy Self-Reliants	11	3	6
Emerging Enthusiasts	15	17	21
Casual Enjoyers	16	18	18
Special Occasion	12	14	10
Established Loyalists	10	17	8
Constrained Seekers	9	1	1
Functionalists	15	10	7

Different Methods of Data Collection Prohibit Direct Comparison between TCG and A&U data

Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99; The Cambridge Group, Consumer Segmentation Study, 9/98

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Consumer Definition

- Purchase Frequency
  - Premium consumers make approximately 2 purchases per month on average.
  - There is a direct relationship between purchase frequency and tenure, purchase channel, and type of purchase. More tenured, mail-order/catalog, and box purchasers all make significantly higher number of purchases than their counterparts.
- Number of Cigars per Purchase
  - Premium consumers indicate they purchase approximately 9 cigars per transaction
  - Based on incidence data and a basic understanding of approximate market size, it appears that these consumers significantly overstate their cigars per purchase.

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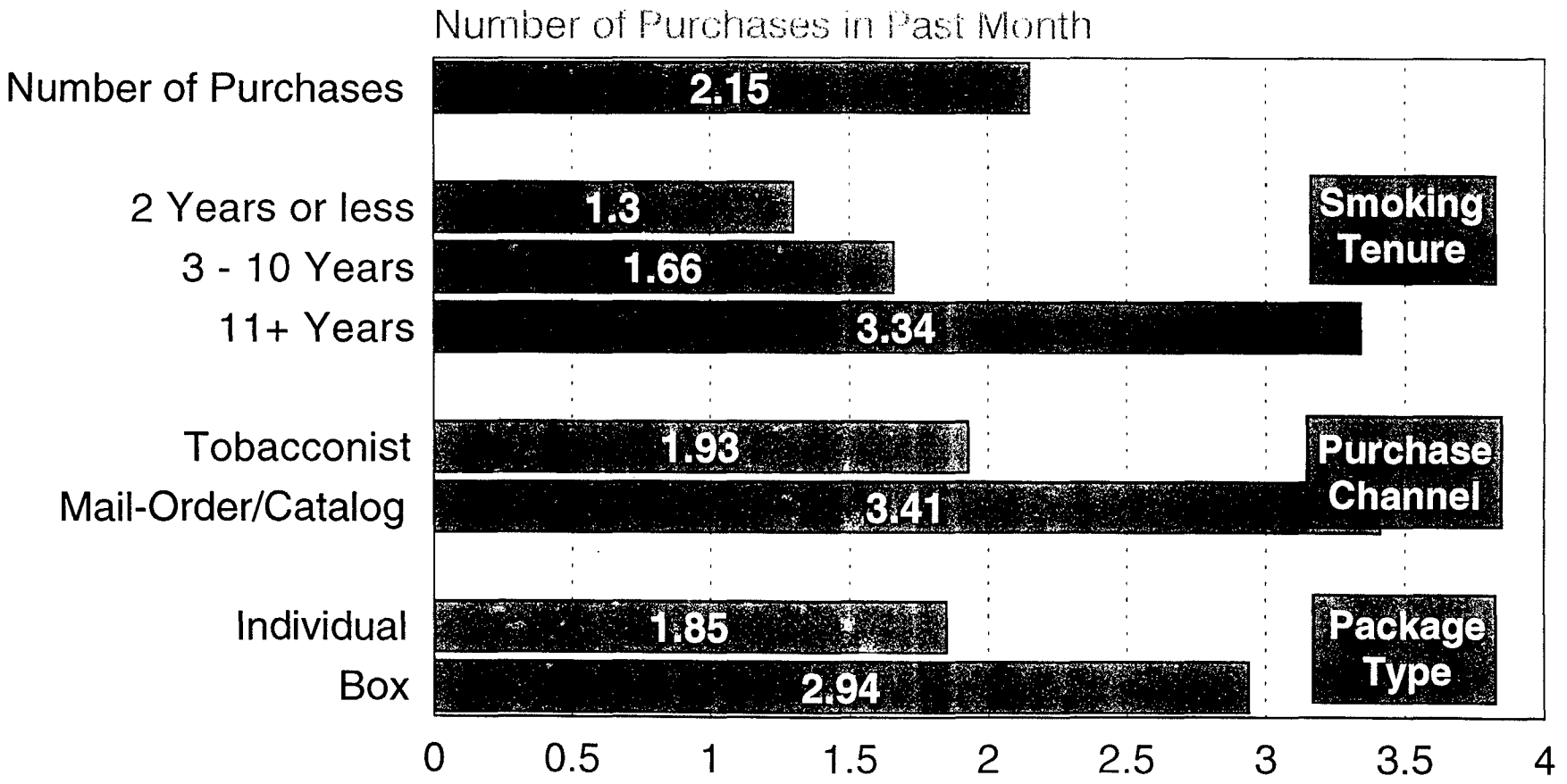
Purchase Frequency

Premium Only Smokers



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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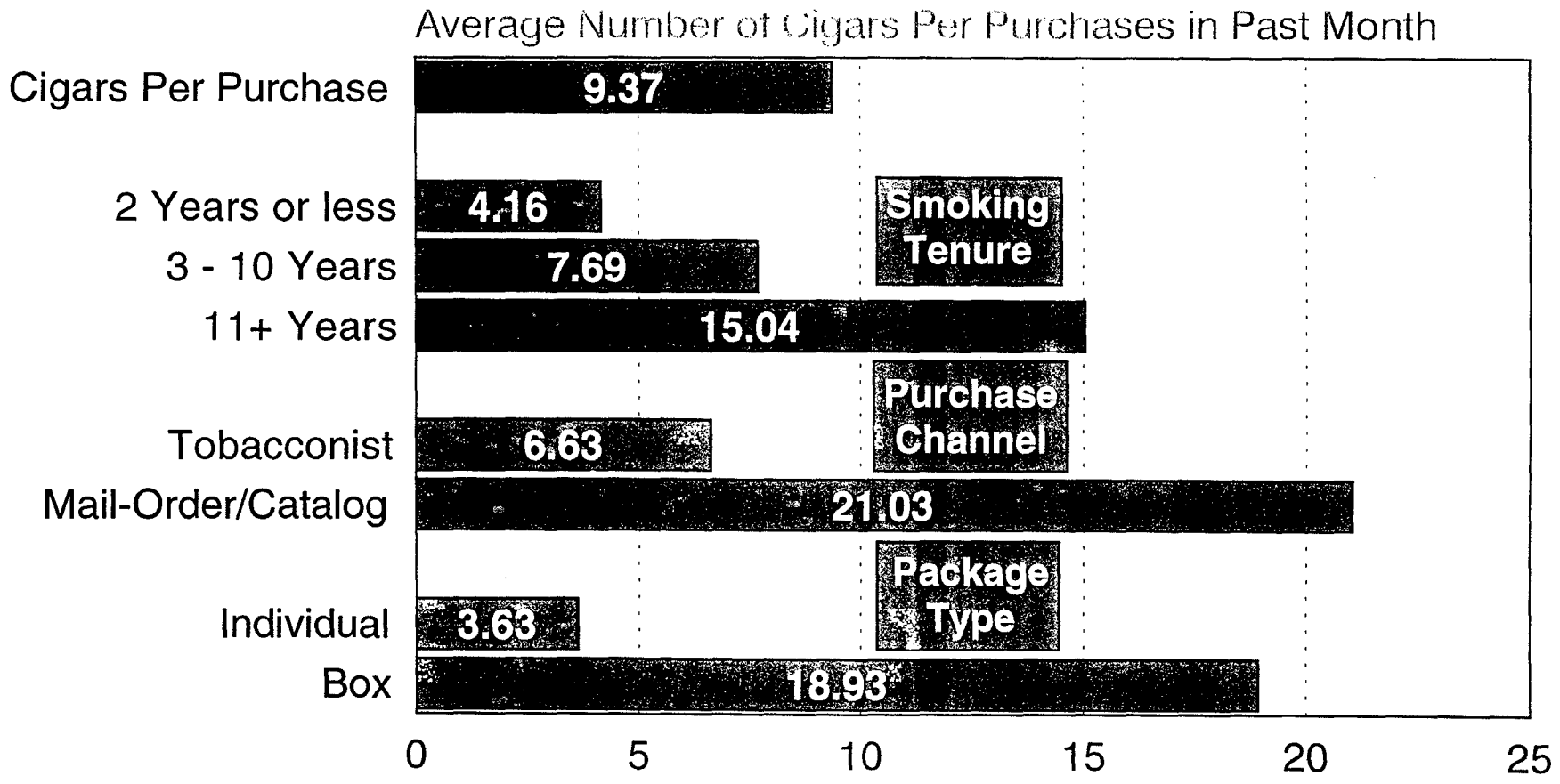
Number of Cigars Per Purchase

Premium Only Smokers



Source: The NPD Group, Inc., Attitudes and Usage Survey, 3/99

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Consumer Definition

- Size Preference
  - More than half of all premium consumers prefer a cigar that is longer than 5" and has a ring gauge larger than 42.
- Smoking Activities/Need States
  - Premium smokers' activities appear to be affected by seasonality, similar to smoking frequency. More consumers claim to smoke during recreational activities after the summer months than after the winter. These recreational activities likely involve outdoor activities that are more widely practiced in the summer.
  - Almost 1/3 of premium consumers are socializing with others while smoking cigars

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GC 020778

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 277

Baker & McKenzie's Schedule of Privileged Documents

BAKER & McKENZIE DOCUMENTS

EMPRESA CUBANA DEL TOBACO D.B.A. CUBATABACO v. CULBRO CORP. AND GENERAL CIGAR CO., INC., Civil Action No. 97-8399

CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00001–BMP 00004	7/6/98	4	Terrie A. Gleason	A. Ross Wollen, Esq. John Webber, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP*
BMP 00005–BMP 00006	7/2/98	2	Terrie A. Gleason	John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00007–BMP 00008	7/2/98	2	Terrie A. Gleason	A. Ross Wollen		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

* Attorney-Client Privilege ("AC")/Work Product Privilege and Immunity ("WP").

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Blumberg No. 6114 DEFENDANT'S EXHIBIT D277

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00009–BMP 00010	7/2/98	2	Terrie A. Gleason	Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00011–BMP 00013	6/19/98	3	Terrie A. Gleason	A.Ross Wollen Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00014–BMP 00016	6/19/98	3	Terrie A. Gleason	A.Ross Wollen Scott Greenberg, Esq. John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00017–BMP 00019	6/19/98	3	Terrie A. Gleason	Scott Greenberg, Esq. John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00020–BMP 00024	5/14/98	5	Terrie A. Gleason	John Webber Scott Greenberg, Esq. A.Ross Wollen		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance in connection with media reporting of COHIBA legal issues.	AC
BMP 00025–BMP 00027 Numbers not assigned							
BMP 00028	4/23/98	1	Terrie A. Gleason	A.Ross Wollen John Webber	Scott Greenberg, Esq.	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00029–BMP 00030	4/21/98	2	Scott Greenberg, Esq.	Terrie A. Gleason A.Ross Wollen		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00031	4/20/98	1	Terrie A. Gleason	A.Ross Wollen John Webber	Scott Greenberg, Esq.	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00032	3/28/98	1	Alfons Mayer	A.Ross Wollen John Webber Austin McNamara		Memo; Confidential communication to an attorney or attorneys, providing information and seeking legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00033	4/1/98	1	John Webber	Terrie A. Gleason		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00034– BMP 00040	3/23/98	7	Terrie A. Gleason Michael E. Murphy	A.Ross Wollen John Webber Scott Greenberg		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00041	3/23/98	1	Michael E. Murphy			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00042–BMP 00048	3/23/98	7	Terrie A. Gleason Michael E. Murphy	A.Ross Wollen John Webber Scott Greenberg		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00049–BMP 00050	3/10/98	2	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00051	3/16/98	1	Terrie A. Gleason Michael E. Murphy	John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00052	1/30/98	1	Terrie A. Gleason Michael E. Murphy	A.Ross Wollen John Webber Scott Greenberg		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00053– BMP 00059	2/9/98	7	Terrie A. Gleason Michael E. Murphy	A.Ross Wollen John Webber Scott Greenberg		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00060	2/27/98	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00061	6/3/97	1	Terrie A. Gleason	Scott Greenberg, Esq. A.Ross Wollen		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00062	5/29/97	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00063–BMP 00064	3/24/97	2	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00065	3/20/97	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00066–BMP 00068	3/19/97	3	Terrie A.Gleason	John Webber Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00069–BMP 00072	3/19/97	4	Terrie A.Gleason	A. Ross Wollen		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00073–BMP 00081	3/13/97	9	Terrie A.Gleason	A. Ross Wollen Scott Greenberg, Esq. John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00082–BMP 00084	3/12/97	3	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00085–BMP 00091	3/12/97	7	Terrie A.Gleason	A. Ross Wollen Scott Greenberg, Esq. John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00092	3/1//97	1	Terrie A.Gleason	A. Ross Wollen Scott Greenberg, Esq. John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00093– BMP 00096	3/10/97	4	Terrie A.Gleason	A. Ross Wollen Scott Greenberg, Esq. John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00097– BMP 00099	3/5/97	3	Terrie A.Gleason	John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00100	3/4/97	1	Michael E. Murphy	Terrie A.Gleason		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00101–BMP 00102	2/27/97	2	Michael E. Murphy	Michael E. Murphy		Memo and handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00103–BMP 00105	2/26/97	3	Terrie A.Gleason	A. Ross Wollen Scott Greenberg, Esq. John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00106–BMP 00108	2/21/97	3	Terrie A.Gleason	A. Ross Wollen Scott Greenberg, Esq. John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00109	8/25/97	1	Terrie A. Gleason	A. Ross Wollen John Webber	Scott Greenberg, Esq.	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00110	7/22/97	1	Terrie A. Gleason	A. Ross Wollen John Webber	Scott Greenberg, Esq.	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00111	7/16/97	1	Terrie A. Gleason	Michael E. Murphy		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00112– BMP 00118	7/16/97	7	Terrie A. Gleason	A. Ross Wollen Scott Greenberg, Esq. John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00119	7/16/97	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00120	6/25/97	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00121–BMP 00127	6/24/97	7	Terrie A. Gleason	A. Ross Wollen John Webber	Scott Greenberg, Esq.	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00128	6/11/97	1	Terrie A. Gleason	A. Ross Wollen, Esq. John Webber, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00129	6/11/97	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00130	5/28/97	1	Terrie A. Gleason Michael E. Murphy	John Webber, Esq.	A. Ross Wollen, Esq. Scott Greenberg, Esq.	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00131	5/21/97	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00132	5/21/97	1	Terrie A. Gleason	John Webber, Esq. A. Ross Wollen, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00133– BMP 00139	5/21/97	7	Terrie A. Gleason	A. Ross Wollen, Esq.	John Webber, Esq. Scott Greenberg, Esq.	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00140	5/12/97	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00141	5/8/97	1	Terrie A. Gleason	John Webber, Esq. A. Ross Wollen, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00142– BMP 00143	5/5/97	2	Terrie A. Gleason	John Webber, Esq. A. Ross Wollen, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00144– BMP 00150	5/7/97	7	Terrie A. Gleason	John Webber, Esq. A. Ross Wollen, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00151–BMP 00159	5/5/97	9	Terrie A. Gleason	John Webber, Esq. A. Ross Wollen, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00160–BMP 00164	5/5/97	5	Terrie A. Gleason	John Webber, Esq. A. Ross Wollen, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00165–BMP 00167	5/5/97	3	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00168–BMP 00171	3/26/97	6	Terrie A. Gleason	John Webber, Esq. A. Ross Wollen, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00172–BMP 00179	3/26/97	8	Terrie A. Gleason	John Webber, Esq. A. Ross Wollen, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00180	1/6/98	1	Terrie A. Gleason Michael E. Murphy	John Webber, Esq. A. Ross Wollen, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00181	12/15/97	1	Terrie A. Gleason Michael E. Murphy	John Webber, Esq. A. Ross Wollen, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00182	1/5/99	1	Terrie A. Gleason	John Webber, Esq. A. Ross Wollen, Esq.	Scott Greenberg	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00183–BMP 00184	12/3	2	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00185–BMP 00187	10/28/98	3	Terrie A. Gleason	A. Ross Wollen, Esq. John Webber, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00188–BMP 00190	9/15/98	2	Scott Greenberg, Esq.	A. Ross Wollen, Esq.	Terrie A. Gleason John Webber, Esq. Harry C. Marcus, Esq.	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00191	9/9/98	1	Terrie A. Gleason Michael E. Murphy	John Webber, Esq. A. Ross Wollen, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00192–BMP 00198	9/9/98	7	Terrie A. Gleason	John Webber, Esq. A. Ross Wollen, Esq.	Scott Greenberg, Esq.	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00199–BMP 00205	1/15/97	7	Terrie A. Gleason Michael E. Murphy	A. Ross Wollen, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00206–BMP 00208	1/8/98	3	Terrie A. Gleason Michael E. Murphy	John Webber, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00209–BMP 00212	12/17/97	4	Terrie A. Gleason Michael E. Murphy	A. Ross Wollen, Esq. Scott Greenberg, Esq. John Webber, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00213	12/12/97	1	Michael E. Murphy	Terrie A. Gleason		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00214– BMP 00215	12/10/97	2	Terrie A. Gleason Michael E. Murphy	A. Ross Wollen, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00216	12/4/97	1	Michael E. Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00217	12/2/97	1	Michael E. Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00218–BMP 00219	12/1/97	2	Michael E. Murphy	Terrie A. Gleason		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00220	12/1/97	1	Michael E. Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00221–BMP 00223	11/17/97	3	Michael E. Murphy	A. Ross Wollen, Esq. Scott Greenberg, Esq. John Webber, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00224	10/24/97	1	Michael E. Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00225–BMP 00226	10/17/97	2	Michael E. Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00227	10/22/97	1	Michael E. Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00228–BMP 00229	10/17/97	2	Michael E. Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00230–BMP 00231	10/16/97	2	Ted Murphy	John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00232	10/16/97	1	Ted Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00233	10/15/97	1	Ted Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00234–BMP 00240	10/20/97	7	Terrie A. Gleason	A. Ross Wollen, Esq. Scott Greenberg, Esq. John Webber, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00241	10/8/97	1	John E. Webber	Terrie A. Gleason, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00242	10/3/97	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00243	10/3/97	1	Terrie A. Gleason	A. Ross Wollen, Esq. Scott Greenberg, Esq. John Webber, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00244	9/8/97	1	Terrie A. Gleason	A. Ross Wollen, Esq. John Webber, Esq.	Scott Greenberg, Esq.	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00245– BMP 00252	8/26/97	8	Terrie A. Gleason	A. Ross Wollen, Esq. John Webber, Esq.	Scott Greenberg, Esq.	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00253	8/18/98	1	Scott Greenberg	A. Ross Wollen, Esq.	Terrie A. Gleason, Esq. John E. Webber, Esq. Harry C. Marcus, Esq.	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00254– BMP 00255	8/20/98	2	Scott Greenberg	Terrie A. Gleason, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00256	8/4	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00257	7/28/98	1	Terrie A. Gleason Michael E. Murphy	A. Ross Wollen, Esq. John Webber, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00258	7/28/98	1	Terrie A. Gleason Michael E. Murphy	A. Ross Wollen, Esq. John Webber, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00259– BMP 00260	7/27/98	2	Michael E. Murphy	A. Ross Wollen, Esq. John Webber, Esq. Scott Greenberg, Esq.	Terrie A. Gleason	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00261– BMP 00262	11/10/99	2	Michael E. Murphy	A.Ross Wollen John Webber	Terrie A. Gleason	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00263– BMP 00271	6/18/97	9	Terrie A. Gleason	A. Ross Wollen, Esq. John Webber, Esq.	Scott Greenberg, Esq.	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00272–BMP 00274	12/19/96	3	Terrie A. Gleason	A. Ross Wollen, Esq. John Webber, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00275–BMP 00280	12/19/96	6	Terrie A. Gleason	A. Ross Wollen, Esq. John Webber, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00281	12/18/96	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00282	12/18/96	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00283	12/16/96	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00284–BMP 00286		3	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00287–BMP 00290	12/12/96	4	Terrie A. Gleason	A. Ross Wollen, Esq. John Webber, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00291	12/12	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00292	12/11/96	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00293– BMP 00296	12/6/96	4	Terrie A. Gleason	A. Ross Wollen John Webber Scott Greenberg		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00297	12/5/96	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00298	12/5/96	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00299	12/2/96	1	Michael E. Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00300–BMP 00301	12/2/96	2	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00302–BMP 00307	11/22/96	6	John Webber	Terrie A. Gleason		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00308–BMP 00318	11/21/96	11	Terrie A. Gleason	A. Ross Wollen John Webber, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00319–BMP 00323	11/21/96	5	Terrie A. Gleason	A. Ross Wollen John Webber, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00324–BMP 00325	11/20/96	2	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00326–BMP 00330	11/4/96	5	Terrie A. Gleason	Garyl Leshko, Esq. A. Ross Wollen Leora Herrmann, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00331–BMP 00332	11/1/96	2	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00333	10/30/96	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00334–BMP 00335	10/25/96	2	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00336–BMP 00337	10/24	2	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00338	10/21	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00339	10/8	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00340	8/23	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00341–BMP 00342	8/2/96	2	Terrie A. Gleason	A. Ross Wollen		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00343	7/22/96	1	A. Ross Wollen	Terrie A. Gleason		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00344–BMP 00347	2/19/97	4	Terrie A. Gleason	A. Ross Wollen John Webber, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00348–BMP 00352	2/13/97	5	Michael E. Murphy	Michael E. Murphy		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00353	2/6/97	1	Leora Herrman	Terrie A. Gleason		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00354–BMP 00358	1/30/97	5	Terrie A. Gleason Michael E. Murphy	A. Ross Wollen John Webber, Esq. Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
BMP 00359	1/30/97	1	Michael E Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00360	1/29/97	1	Michael E Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00361	1/24/97	1	Michael E Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00362	1/23/97	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00363	1/23/97	1	Terrie A. Gleason	A. Ross Wollen John Webber Scott Greenberg, Esq.	Michael E. Murphy	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00364– BMP 00367	1/23/97	4	Terrie A. Gleason	A. Ross Wollen John Webber Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00368	1/22/97	1				Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00369– BMP 00372	1/22/97	4	Terrie A. Gleason	A. Ross Wollen John Webber Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00373	1/22/97	1	Michael E. Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00374	1/22/97	1	Michael E. Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00375	1/21/97	1	Michael E. Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00376–BMP 00379	1/21/97	4	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00380	1/20/97	1	John E. Webber	Terrie A. Gleason		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00381	1/17/97	1	Michael E. Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00382	1/16/97	1	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00383–BMP 00385	1/15/97	3	Terrie A. Gleason	A. Ross Wollen John Webber Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00386	1/14/97	1	Michael E. Murphy	Terrie A. Gleason		Internal email; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00387–BMP 00389	1/13/97	3	Terrie A. Gleason	A. Ross Wollen John Webber Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00390–BMP 00393	1/10/97	4	Terrie A. Gleason	A. Ross Wollen John Webber Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00394–BMP 00395	1/9/97	2	Terrie A. Gleason			Handwritten notes; Confidential document containing mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP

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BMP 00396–BMP 00399	1/3/97	4	Terrie A. Gleason	A. Ross Wollen John Webber Scott Greenberg, Esq.	Michael E. Murphy	Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00400–BMP 00402	1/2/97	3	Terrie A. Gleason	A. Ross Wollen John Webber Scott Greenberg, Esq.		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00403–BMP 00404	1/2/97	2	Terrie A. Gleason	John Webber		Letter; Confidential communication from an attorney to an attorney or attorneys, providing information and/or opinions in connection with attorneys' efforts to render legal advice and/or assistance re: COHIBA infringement and enforcement.	AC/WP
BMP 00405–BMP 00406		2	Terrie A. Gleason			Handwritten notes; Confidential notations reflecting mental impressions of an attorney pertaining to rendering legal advice and/or assistance re: COHIBA infringement and enforcement; redacted version of document was produced as BM 00192-00193.	AC/WP

I. THOMAS F. FREEMAN'S SCHEDULE OF PRIVILEGED DOCUMENTS

THOMAS F. FREEMAN DOCUMENTS

EMPRESA CUBANA DEL TABACO D.B.A. CUBATABACO v. CULBRO CORP. AND GENERAL CIGAR CO., INC., Civil Action No. 97-8399

CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
TFP 0001	8/20/98	1	Scott Greenberg, Esq.	Thomas F. Freeman		**A. Letter; Confidential communication from an attorney, or a person working with an attorney, to an investigator seeking information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP**
TFP 0002 – TFP 0005	10/28/98	4	Thomas F. Freeman	Scott Greenberg, Esq.		**B. Report; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0006		1	Thomas F. Freeman	Steven Birnstill		**C. Handwritten note; Confidential communication from an investigator working with an attorney to another investigator seeking information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP

**Attorney-Client Privilege ("AC")/Work Product Privilege and Immunity ("WP")

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Blumberg No. 6114
DEFENDANT'S EXHIBIT
D277

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
TFP 0007 – TFP 0008	11/13/98	2	Scott Greenberg, Esq.	Thomas F. Freeman		**D. Letter; Confidential communication from an attorney, or a person acting with an attorney, to an investigator seeking assistance in connection with attorney's efforts to render legal assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0009 – TFP 0010	3/27/98	2	John D. Nelson	Thomas F. Freeman		Letter; Confidential communication from an investigator to another investigator, working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.	AC/WP
TFP 0011 – TFP 0012	3/29/98	2	John D. Nelson	Thomas F. Freeman		**E. Letter; Confidential communication from an investigator to another investigator, working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0013 – TFP 0015	7/4/98	3	John D. Nelson	Thomas F. Freeman		**F. Letter; Confidential communication from an investigator to another investigator, working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
TFP 0016 – TFP 0017	4/13/98	2	Thomas F. Freeman	John D. Nelson		**G. Letter; Confidential communication from an investigator to another investigator, working with an attorney, seeking information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0018	4/21/98	1	Thomas F. Freeman	Scott Greenberg, Esq.		Letter; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.	AC/WP
TFP 0019 – TFP 0020	6/30/98	2	Thomas F. Freeman	John D. Nelson		**H. Letter; Confidential communication from an investigator to another investigator, working with an attorney, seeking information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0021	6/30/98	1	John D. Nelson	Thomas F. Freeman		**I. E-mail; Confidential communication from an investigator to another investigator, working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP

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TFP 0022	7/29/98	1	Thomas F. Freeman	Scott Greenberg, Esq.		**J. Letter; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0023	8/11/98	1	Thomas F. Freeman	Scott Greenberg, Esq.		**K. Letter; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0024	9/20/98	1	John D. Nelson	Thomas F. Freeman		**L. Letter; Confidential communication from an investigator to another investigator, working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0025 – TFP 0034		10	Thomas F. Freeman		Scott Greenberg, Esq.	**M. Report; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP

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TFP 0035 – TFP 0038	8/5/98	4	Thomas F. Freeman	Scott Greenberg, Esq.		**N. Letter; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0039 – TFP 0041	8/12/98	3	Thomas F. Freeman	Scott Greenberg, Esq.		**O. Letter; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0042	9/17/98	1	Thomas F. Freeman	Scott Greenberg, Esq.		**P. Letter; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0043	9/25/98	1	Thomas F. Freeman	John D. Nelson		**Q. Memorandum; Confidential communication from an investigator to another investigator, working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
TFP 0044	10/13/98	1	John D. Nelson	Thomas F. Freeman		**R. E-mail; Confidential communication from an investigator to another investigator, working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0045	10/21/98	1	Thomas F. Freeman	Scott Greenberg, Esq.		**S. Letter; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0046 – TFP 0047	10/26/98	2	Thomas F. Freeman	John D. Nelson		**T. Letter; Confidential communication from an investigator to another investigator, working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0048 – TFP 0049		2	Thomas F. Freeman		Scott Greenberg, Esq.	**U. Report; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
TFP 0050 – TFP 0051	7/6/98	2	Richard F. Gallo	Thomas F. Freeman		**V. Letter; Confidential communication from an investigator to another investigator, working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0052	8/5/98	1	Thomas F. Freeman	Scott Greenberg, Esq.		**W. Letter; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0053	8/6/98	1	Thomas F. Freeman	Scott Greenberg, Esq.		**X. Letter; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0054	12/2/98	1	Thomas F. Freeman	Scott Greenberg, Esq.		**Y. Letter; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
TFP 0055 – TFP 0064	12/16/98	10	Det. Gene Arreola, L.A.P.D.	Thomas F. Freeman		**Z. Letter and Reports; Confidential communication from a police investigator to a private investigator, working with prosecuting and private attorneys, providing information in connection with attorneys' efforts to render legal assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0065	12/28/98	1	Thomas F. Freeman	A. Ross Wollen, Esq.		**AA. Letter; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0066 – TFP 0067	7/28/98	2	John D. Nelson		Thomas F. Freeman	**BB. Notes; Confidential communication from an investigator to another investigator, working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0068	2/9/99	1	Thomas F. Freeman	Scott Greenberg, Esq.		**CC. Letter; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP

Document Range	Date	No. of Pages	Author(s)	Addressee(s)	Copy Recipient(s)	Description of General Subject Matter	Reason(s) Withheld
TFP 0069	6/8/99	1	Thomas F. Freeman	Scott Greenberg, Esq.		**DD. Letter; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0070 – TFP 0072	7/28/2000	3	Thomas F. Freeman	Scott Greenberg, Esq.		**EE. Letter and Report; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement.**	AC/WP
TFP 0073 – TFP 0076	1/11/99	4	Thomas F. Freeman	Scott Greenberg, Esq.		**FF. Invoice excerpt; Confidential communication from an investigator to an attorney, or person working with an attorney, providing information and/or opinions in connection with attorney's efforts to render legal advice and/or assistance re COHIBA infringement and enforcement; non-privileged portion of invoice produced as TF 00473-00476.**	AC/WP

Alfred Dunhill (North America) Ltd.
Privilege Log for 97 Civ. 8399 (RWS)

Author	Recipient(s)	Document Type	Subject of Document	Date	Basis for Privilege
Kathryn Jennison Shultz	Larry Apolzon	Letter	Cancellation Petition No. 25,859	10.29.97	W/P
Larry Apolzon	Fred Mostert	Letter	Cancellation Petition No. 25,859	10/30/97	A/C, W/P
Fred Mostert	Larry Apolzon	Letter	Case strategy	10.28.97	A/C, W/P
Jenny Hatton	Larry Apolzon	Facsimile	Research request	11.19.97	A/C, W/P
Larry Apolzon	Jenny Hatton	Letter	Research results	11.19.97	A/C, W/P
Larry Apolzon		Telephone Conversation Record	Conversation with David Salz regarding COHIBA	11.24.97	W/P
Jenny Hatton	Allan Zelnick, Fred Mostert	Facsimile	Response to Summons	11.25.97	A/C, W/P
Jenny Hatton	David Salz, Charlotte Dyslin, Allan Zelnick, Larry Apolozon and Fred Mostert	Facsimile	Summons issued by Empresa Cubana del Tabaco	11.25.97	A/C, W/P

DEFENDANT'S EXHIBIT D277

Author	Recipient(s)	Document Type	Subject of Document	Date	Basis for Privilege
Jenny Hatton	Richard Lehv, Fred Mostert, Marc Frisanco, and Callum Barton	Facsimile	Case strategy	11.25.97	A/C, W/P
Lawrence Apolzon	Fred Mostert, Jenny Hatton, Allen Zelnick, and Richard Lehv	Letter	Case strategy	11.25.97	A/C, W/P
Edward J. Walsh, Jr.	Richard Lehv	Letter	Motion papers	11.26.97	A/C, W/P
Richard Z. Lehv		Telephone Conversation Record	Conversation with E. Walsh regarding strategy	11.26.97	W/P
Richard Z. Lehv	Jenny Hatton, Fred Mostert, Lawrence Apolzon and Allan Zelnick	Letter	Case Strategy	11.26.97	A/C, W/P
Richard Z. Lehv		Telephone Conversation Record	Conversation with Jenny Hatton re: discovery issues and case strategy	11.28.97	W/P

Author	Recipient(s)	Document Type	Subject of Document	Date	Basis for Privilege
Richard Z. Lehv		Telephone Conversation Record	Conversation with Mark Perez regarding discovery issues and case strategy	11.28.97	W/P
Richard Z. Lehv		Telephone Conversation Record	Conversation with Michael Krinsky regarding FZLZ's responses to 1980's events	12.1.97	W/P
Richard Z. Lehv		Telephone Conversation Record	Conversation with Jenny Hatton regarding strategy	12.1.97	W/P
Richard Z. Lehv	Jenny Hatton, Fred Mostert	Letter	Conversation with opposing counsel	12.2.97	A/C, W/P
Richard Z. Lehv		Telephone Conversation Record	Conversation with Jenny Hatton regarding strategy	12.3.97	W/P
Richard Z. Lehv	Jenny Hatton, Fred Mostert	Letter	Settlement and answer	12.3.97	A/C, W/P

Author	Recipient(s)	Document Type	Subject of Document	Date	Basis for Privilege
Greg Gulia	Marc Perez, Richard Lehv	Letter	Document production and case strategy	12.4.97	A/C, W/P
Richard Z. Lehv	Jenny Hatton, Fred Mostert	Letter	Hearing transcript and discovery	12.4.97	A/C, W/P
Richard Z. Lehv		Telephone Conversation Record	Settlement	12.4.97	W/P
Jenny Hatton	Richard Z. Lehv, Fred Mostert, and Marc Frisanco	Facsimile	Answer to Complaint	12.4.97	A/C, W/P
Jenny Hatton	Richard Z. Lehv, Fred Mostert, and Marc Frisanco	Facsimile	Answer to Complaint	12.4.97	A/C, W/P
Richard Z. Lehv	Fred Mostert	Facsimile	Answer and Counterclaim filed by General Cigar	12.5.97	A/C, W/P
Jenny Hatton	Richard Z. Lehv	Facsimile	Document production	12.5.97	A/C, W/P
Greg Gulia	Fred Mostert	Facsimile	Draft Settlement Agreement	12.10.97	A/C, W/P
Greg Gulia	Callum Barton	Facsimile	Settlement Agreement	12.10.97	A/C, W/P

Author	Recipient(s)	Document Type	Subject of Document	Date	Basis for Privilege
Greg Gulia	David Salz	Facsimile	Settlement Agreement	12.10.97	A/C, W/P
Greg Gulia	Marc Frisanco	Facsimile	Draft Settlement Agreement	12.10.97	A/C, W/P
Marc Frisanco	Richard Lehv	Letter	Draft Settlement Agreement	12.11.97	A/C, W/P
Greg Gulia	Marc Frisanco	Facsimile	Draft Settlement Agreement	12.18.97	A/C, W/P
Greg Gulia	Marc Perez	Letter	Discovery	1.7.98	A/C
Greg Gulia		Telephone Conversation Record	Document production	5.8.00	W/P
Greg Gulia	Sylvia Ferdinand, Richard Lehv	E-mail	Subpoenas	5.8.00	W/P
Greg Gulia	Richard Lehv	E-mail	Response to Subpoenas	5.9.00	W/P
Greg Gulia	Richard Lehv	E-mail	Response to Subpoenas	5.10.00	W/P
Richard Lehv	Greg Gulia	E-mail	Discovery	5.11.00	W/P

Author	Recipient(s)	Document Type	Subject of Document	Date	Basis for Privilege
Greg Gulia		Telephone Conversation Record	Conversation with Jenny Hatton regarding response to subpoenas	5.11.00	W/P
Greg Gulia	Jenny Hatton	E-mail	Discovery	5.22.00	A/C, W/P
Greg Gulia	Jenny Hatton	E-mail	Discovery	5.22.00	A/C, W/P
Greg Gulia	Marc Frisanco	Facsimile	Discovery	6.01.00	A/C, W/P

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 278

Culbro Corporation

307 Park Avenue South
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A. Ross Wollen
Senior Vice President
General Counsel
212/561-8714
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September 1, 1994

Havana House Cigar & Tobacco Merchants, Ltd.
Hazelton Lanes
87 Avenue Road
Toronto, Canada

Dear Sir:

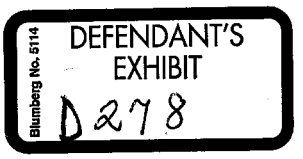
Despite our previous warnings, you continue to advertise COHIBA brand cigars manufactured by Cubatabacco and bearing the trademark COHIBA registered by Empresa Cubana del Tobaco in Canada in Cigar Aficionado Magazine. As you must know, Cigar Aficionado is distributed principally in the United States.

This will serve as our second formal notice to you that General Cigar Co., Inc., a subsidiary of Culbro Corporation, as the owner of the trademark registration for COHIBA in the United States (the "Mark"), objects to your unauthorized use of our valuable mark. Continued unauthorized use of the Mark may result in damage to our rights in this Mark and will not be tolerated. Please be assured that unless you refrain from using the Mark in any manner in the United States or in any magazine, journal, or any other media which may appear in the United States, we will take whatever action may be necessary to protect our registration, including the imposition of an injunction against publication pursuant to 15 U.S.C. §1114.

Very truly yours,

A Ross Wollen

Confidential:
Under Protective Order
GC 019739



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GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 282, GC 024745-24747

General Cigar Co., Inc.
a company of
Culbro Corporation

Memorandum

To File Location _____ Date 08/26/96

From Austin McNamara Location CT Office

This summarizes key observations and next steps resulting from the RTDA Convention in Cincinnati, Ohio, August 19-25, 1996.

Mike's Cigar - We agreed to provide Oscar with a detailed schedule of 8-9-8 shipments for the remainder of the year. Also, Oscar asked me to look into the percentage of Partagas units of our total Partagas business over the last several years. We should construct a business profile for the past four to five years. A. McNamara/M. Conder follow up.

Cohiba - We must become much more aggressive in pursuing Cohiba trademark issues. Retailers all over the country are receiving solicitations for Cohiba cigars, Cohiba material, Cohiba humidors, cutters, and leather goods. J. Geoghegan/ R. Wollen follow up.

Marvin - Follow up with Marvin to explain the "successful insight" idea (e.g. categories devoid of advertising and small fragmented businesses). A. McNamara follow up.

Accessories - We must conduct a thorough, competitive assessment of the accessories business prior to our February/March introduction. There were several significant product technology break throughs at the show, particularly humidification systems, cutters, and humidor designs. Of particular note, were the Nat Sherman new cutter, the Colibre cutter and lighter combination, the fancy European humidor maker (pyramid shape) and some distinctive portable cigar cases. J. Rano/J. Geoghegan/R. Gold follow up.

RTDA Learnings - This requests that we quickly formalize all of the key learnings resulting from the show. We should have broad-based learnings collected from premium sales specialists, regional managers, Bob Lilienfield, David Burgh, etc. Of note, there were several minor things we missed from last years learnings that were not incorporated into this year's show (i.e. display case lighting, lid holders, work stations, etc.). B. Currier/M. Conder follow up.

Dunhill - There are several specific agreements following the meeting with Dunhill: (a) 1997 planning session; (b) Edgar, Jr.'s speech impact; (c) Cohiba cigars this year; (d) Niemann Marcus impact; (e) accessories impact, etc. M. Conder follow up.

Blumberg No. 6114 DEFENDANT'S EXHIBIT D 282

Smoking Jacket - Edgar needs jackets for Club Macanudo for customers that come without a jacket. He looked at some smoking jackets and I got Fred involved with the manufacturer. We need to follow up with a design and recommended timing. J. Rano to follow up.

Perfume - Meerapfel introduced us to a French perfume company who are interested in developing a men's cologne product. I told them that we were already in preliminary discussions with other people, but I am also open to any suggestions. A. McNamara to follow up.

Thomas Klaphake - We need to determine if we have any interest in distributing the Olifant cigars, and they are getting no where with DB International concerning point of purchase materials and the "Art of the Cigar" tape. F. Fina follow up directly with Thomas.

Jazz Tape - I received excellent feedback on the jazz CD. Is there an opportunity to distribute this product through record shops? J. Geoghegan follow up.

Wall Poster - John has an excellent idea of summarizing the technical information concerning the different leaves on a tobacco plant for education in smoke shops. J. Geoghegan follow up.

Shermans - Bill mentioned that we were working on some special cigar boxes for him. Can someone let me know what these are? M. Conder follow up.

Jackets - We should send leather jackets to Marvin and Gordon Mott at Cigar Aficionado. Let's start out with large Partagas jackets. M. Schneider follow up with Austin.

Multi-year Vintage - Marvin has requested a complete set of multi-year Vintage cigars. M. Conder follow up with Austin.

Jamaican Growers - We have heard that Consolidated has come to an agreement with twelve Jamaican tobacco growers to supply them with a Jamaican leaf. This could represent a significant competitive disadvantage to us, if Consolidated reintroduces Royal Jamaican as the only cigar with Jamaican tobacco. A. Mayer follow up.

Djeep/Philip Morris - We must rapidly assess business implications of the new cigarette regulations announced by Clinton. D. Heins follow up.

Celebrity List - I would like to develop a list of cigar smoking celebrities so that we can send out new products to them on a regular basis. D. Farrington follow up.

Radio Ads - We agreed to looking into "Smoke This" advertising. J. Rano follow up.

cc: M. Conder
B. Currier
D. Farrington
F. Fina
J. Geoghegan
R. Gold
D. Heins
A. Mayer
J. Rano
M. Schneider
R. Wollen

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 283, GCP 0555-557

Culbro Corporation

Culbro

Memorandum

To Edgar M. Cullman
Edgar M. Cullman, Jr.
David W. Burgh

From Ron Milstein

Date 1/14/92

ATTORNEY-CLIENT PRIVILEGED
and ATTORNEY WORK PRODUCT

Proposed Negotiations with Cuba Re: Cohiba

Object: To secure a license to use the tradedress currently used by Cubatabacco on the packaging and the cigar bands of its Cohiba cigars.

Rationale: To aid GC in successfully repositioning and relaunching its Cohiba brand cigar, it would be useful to exploit the popularity, familiarity, brand recognition and overall success of the Cuban Cohiba. A key factor in that cigar's success is its distinctive tradedress, including the black and orange checkerboard design, the Indian head logo and the other distinctive design elements of the packaging and cigar bands in conjunction with the Cohiba name.

At the present time GC has the exclusive right to use the Cohiba name in the United States by virtue of its ownership of the U.S. trademark registration. The name by itself, however, is not as valuable as it could be were it to be used with the familiar tradedress of the Cuban Cohiba. Together the name and tradedress has a value which far exceeds the value of either without the other.

I. Present Benefits to Cuba:

Negotiation Posture: In order to convince Cuba that allowing GC to use its tradedress will be beneficial to it, the following must be clearly communicated to Cuba:

1. GC intends to invest substantial money and effort in the relaunch, including substantial marketing and advertising support for the brand.

2. GC intends to position its Cohiba at the highest end of the premium market - as a superpremium - and limit distribution to the highest end of the retail market (i.e.: Dunhill).

3. GC intends to bolster the image of the cigar by maintaining it in the highest price category and promoting it as the highest in quality that money can buy.

Confidential And
Privileged

Confidential:
Under Protective Order

DEFENDANT'S
EXHIBIT
D283

GCP 0555

Cuba must be assured that GC's Cohiba will reinforce the attributes and image of its own brand, and thereby expand the Cuban Cohiba's potential market. Americans traveling abroad will be sensitized to the unique quality and expensive image by their exposure to GC's Cohiba, and the Cuban Cohiba's sales to Americans traveling overseas will benefit.

II. Future Benefits to Cuba:

Once we can legally sell Cuban cigars in the U.S., Cubatabacco will need to strike some deal with GC in order to sell its Cohiba brand in the U.S. GC's ownership of the U.S. rights to the name Cohiba will prevent the use of the name by Cubatabacco without our permission.

In order to further convince Cuba to allow GC the right to use its tradedress now and once we are able to sell Cuban cigars in the U.S., GC can (a) either agree to enter into a joint venture with Cubatabacco for the manufacture and sale of Cuban Cohibas in the U.S. or (b) offer a license on our name to Cuba whereby GC would be the exclusive marketer and distributor of Cuban Cohibas in the U.S.

If a joint venture is sought, GC can bring the name to the joint venture, its marketing and sales expertise, its existing distribution network, its clout in the U.S. cigar industry, and its unique position in the premium markets. Cuba will supply the finished product. It may also be useful to offer GC's network of raw material suppliers to the joint venture should Cuba find itself in short supply of critical tobacco components. Of course the joint venture's product should be primarily a Cuban tobacco product. The exact terms of the joint venture can be left for later negotiations, however some equitable sharing of costs, expenses and profits should be discussed. We should be free, however, to allow negotiations on those specifics to await a change in political conditions; the situation in Cuba may be of a nature as to make any meaningful production of Cuban Cohiba's impossible.

If a simple license arrangement is entered into with Cuba on the U.S. trademark, then we would structure the license so that in lieu of royalties (or in addition to them) we would have the exclusive right to market and distribute Cuban Cohibas in the U.S.

Benefits to GC and the Joint Venture:

The obvious immediate benefit for GC of such an arrangement is to promote its relaunch of Cohiba and exploit the brand recognition and image of its Cuban cousin. However, long range, the benefit to GC will be shared by the joint venture and our Cuban partner. By positioning the U.S. Cohiba in the way proposed, we would be prepositioning the joint venture product as well. The conversion from a U.S. product to a Cuban product would be almost natural - the quality would be continued from one product to the other, the image continued, the marketing, sales and distribution continued. The only change would be a positive one which would only serve to improve an already renowned, respected and successful product.

Some consideration must be given to the future of the Cuban Cohiba in markets outside of the U.S. GC can position the joint venture to extend beyond a U.S. Cohiba product, if Cuba deems it desirable, perhaps lending support to the Cuban product in Europe. This approach to the joint venture may be more attractive to Cuba if it believes it will need a cash infusion for its cigar making industry after the embargo is lifted.

Legal Considerations:

I have confirmed that the U.S. Office of Foreign Assets Control, a unit of the Treasury Department who regulates compliance with the Cuban embargo, will not consider our negotiations with Cuba to be a violation of the embargo. The safest way to posture the negotiations with OFAC is to emphasize that GC's rights to its trademark registration will be strengthened if this deal is consummated. We can use the opinion of trademark counsel that we have obtained for the purpose of showing how Cuba's sale of cigars with the Cohiba name can be used to challenge GC's U.S. rights in the name. The opinion of counsel also urges that we get Cuba to formally acknowledge our ownership of the name in the U.S. to prevent any claim that we have abandoned the mark through disuse. Although OFAC "bends over backwards" to approve deals which protect a U.S. intellectual property right, I was told that it would be safer to make it clear that no legally binding agreement can be entered into with Cuba now. Our agreement with respect to the joint venture may have a present benefit to Castro's regime even though it is expressly conditioned on the termination of the embargo, since the present government could use the future agreement to comfort its present trading partners. Thus anything we do now must be something less than a legally binding agreement. We can (and I was told that we should) let OFAC see what we propose to do once we reach the agreement stage. They will be helpful in assuring that we do not violate the embargo.

Method of Negotiation:

It seems that the best way to initially reach out to Cuba would be to use Nick Freeman. David and I will be meeting with Nick on January 27 to prepare him for this role. Nick should be told how we want the deal presented and why and we will expect to hear comments from him which will help us in formulating our final negotiating posture. Once we and Nick are in full agreement as to the particulars of GC's positions, we should dispatch Nick to speak directly to Francisco Padron, President of Cubatabacco and a good friend and business partner of Nick and H&F. Nick can report directly back to David and Edgar Cullman, Jr. and if the Cubans have a genuine interest in pursuing the deal direct contact between GC and Cubatabacco should be encouraged. Once the agreement in principle is struck, the lawyers can prepare the documents and secure the necessary approvals.

ah/5282

cf: A. Ross Wollen
John Rano

Confidential:
Under Protective Order

Confidential And
Privileged

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

In the matter of Trademark Registration No. 1147309
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PARTY: RESPONDENT
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Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 284, GCP 0561-563

now on AH

DRAFT

David Burgh
Edgar M. Cullman
Edgar M. Cullman, Jr.

Ron Milstein

2/3/93

ATTORNEY - CLIENT PRIVILEGED
CONFIDENTIAL

On January 27, 1993 David Burgh and I met with Nick Freeman at his offices in London to discuss our thinking with respect to Cohiba. We told Nick of the purpose of our visit and explained to him our ultimate objective and the reasons why we thought Cubatabacco should respond favorably to our proposal regarding the use of their tradedress. Nick listened attentively and seemed pleased we had chosen him as our intermediator. He fully understood what we were trying to do and willingly gave us his impressions of our plan:

- He felt that we were on to something important. He told us that he had been thinking of a similar type of proposal and was rather pleased that we were thinking alike.
- He pointed out that just as we were prohibited from doing business with Cubatabacco, the Cubans could not do business with us under their own laws. Thus, it was apparent that some intermediary must be used if the parties were to come to any understanding.
- He told us of a scheme, which was never implemented, whereby the Cubans were to have Nick set up a company to register certain trademarks in the U.S.. An agreement would be in place to allow Cubatabacco to use or purchase the registered trademark once the embargo was lifted. He told us that he had had a company set up which actually owned a mark for Cuba in the U.S. but that the project had been abandoned some time ago. He seemed surprised that Cubatabacco was able to get their own registration for a mark in the U.S. and could enforce it through the Geneva Convention.

DEFENDANT'S EXHIBIT
D284

Confidential:
Under Protective Order

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Privileged

- He suggested that we may use a company that he can set up to act for us with respect to our mark Cohiba in the U.S.. Shares in the company would be owned by Nick and Cubatabacco and/or General Cigar. We can sell the U.S. mark to that company, take a license back to use it now, and that company can license it to Cuba in the future once the embargo fails. Alternatively, the new company can buy Cubatabacco's tradedress for Cohiba and license it to us for use. Both situations would allow us to become the sole importer and marketer and distributor of the Cuban Cohiba one the embargo fails. Royalties may be paid through the new company on either alternative. This would allow both us and Cubatabacco to enter into an enforceable contract with the new company and allow both entities to by-pass their respective laws forbidding direct business transactions. He also assured us that any Cuban participation in the new company could be hidden and would be untraceable.

- He told us of his belief that we should not in any case adopt the exact tradedress of Cohiba being used by Cubatabacco. Instead, he suggested that we slightly vary the colors of the tradedress to show that our Cohiba is a variety or "flavor" of Cohiba (ie: without Cuban tobacco). When the embargo fails then we could continue to sell our "flavor" and market and sell the Cuban Cohiba at the same time.

Redacted

- Nick's general impression was that Cubatabacco was happy to see Alfons and me in Cuba for the conference and would probably like to do some sort of deal, but that the key consideration would be their ability to get hard currency now on any deal. His proposal for establishment of an intermediary company may be able to accomplish that objective. With respect to the notion that Cubatabacco would benefit in the future by allowing us use of their tradedress, he pointed out that there are two possibilities with respect to the future. First, the embargo may be lifted by the U.S. as part of an easing of tensions with the Castro regime. If this happens or seems likely, the present management of Cubatabacco would see some future benefit to themselves in doing business with us along the lines that we suggested. In the second scenario the embargo would be lifted as a result of the overthrow of the Castro regime, and consequently of Cubatabacco as we know it. In that case Cubatabacco would have nothing to gain in the future from our deal since the present management would not be there to see any benefit. Thus a deal like we suggested would not work to their advantage. Nick personally thinks that the first scenario is more likely; he sees Castro as staying around for some years and hopes the Clinton Administration will lessen the embargo.

- Nick said he will think more about the whole situation and discuss it with us again when he comes to New York in February. He did not rule out a trip to Cuba on our behalf after our next meeting.

David and I were generally encouraged but I must say that I have reservations about Nick's proposals with respect to the use of an intermediary company. I think we need to consult with our Miami counsel about what effect such a scheme would have on our compliance with the embargo. Please advise as to how you would like me to proceed.

cc: A. Ross Wellen

/RBM354/

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Under Protective Order

Confidential And
Privileged

GCP 0563

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 285, GC 006799-6800

General Cigar Co., Inc.
a company of
Culbro Corporation

Memorandum

To Distribution Location _____ Date 10/20/95

From Austin McNamara Location CT Office

Subject: New Blends

The need for new blends, and new cigar brands, has never been more important. At the same time, meeting the support of our existing brands – Macanudo and Partagas – remains a top priority.

We have been unsuccessful, to date, in generating truly superior new tastes. Of course, some of the recent blends are encouraging, but our past track record over the last twenty-four months has not been good. Needless to say, we have two gigantic ideas waiting in the wings – Robust and Cohiba.

While travelling with Benji, he mentioned that there was not total agreement on what was acceptable experimentation. So, I want to make the "ground rules" perfectly clear.

There are no rules. I am encouraging every one of you to think outside the box, and challenge yourself to question all assumptions. Each of you should feel totally free to exercise your individual judgment and also your judgment as a team members. Ultimately, you all need to agree on the final recommendations, but you can individually disagree on anything. For example, Benji has expressed an interest in experimenting with tobacco that has not been fully aged, but Alfons, you have refused to release the tobacco to Benji. Alfons, this is not good teamwork. I want you to immediately release experimental quantities of tobacco to Benji. Second, I have requested that Benji experiment with the Havana seed tobacco as a binder, or filler, or wrapper. Daniel, you have told Benji that it is not ready. This is not good teamwork. I am asking you to release that tobacco immediately to Benji.

Furthermore, we must all be open to ideas regardless of where they come from. A high performing team is supportive of one another's experimental ideas. Team members do not pre-judge or criticize or ridicule new ideas.

PLAINTIFF'S EXHIBIT 129 7/7/00 14

GC 006799

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Under Protective Order

DEFENDANT'S EXHIBIT D285

In the spirit of this approach, I am requesting that you develop 25 cigars of the following makeup:

Havana Seed - I would like three different cigars made up using the Havana seed: (1) Ct Shade wrapper, Mexican binder, and a high percentage of the Cuban seed as filler; (2) Ct Shade wrapper, Cuban seed binder, Partagas blend filler; (3) Havana seed wrapper, Havana seed binder and Partagas filler blend. Of course, I encourage each of you, and all of you as a team, to formulate whatever other blends you think make sense.

Double Binder - I would like to revisit the original double Cameroon binder product. I realize that you have cautioned me that a double binder might cause booking to occur. I have a recommendation. I would like a cigar to have Ct Shade wrapper, two Cameroon binders, and the Partagas filler blend. I recommend that after the first binder has been put on the cigar that we use the perforating needles we recently purchased for the Macanudo Miniatures product to create air holes in the first binder. The second binder would be put on as normal.

Wrapper Shading - I would like to experiment with the same process we use for the Maduro cigars for use in Robust. Specifically, instead of boiling the Mexican leaves until they are black, I would do the process so they turn only a dark brown. Also, I would like to experiment with the Maduro process using Ct Shade wrapper, and also Ct broad leaf. I would like the following cigars developed. First, a brown Mexican wrapper leaf with a Cameroon binder and Partagas filler blend. Second, a Maduro brown Ct Shade wrapper, broad leaf binder and Partagas filler. Third, a broad leaf Maduro type wrapper, Mexican binder and Partagas filler.

I know some of these ideas will strike you as crazy. Please indulge me.

This project is the most important thing we can accomplish in the next six months.

Distribution: A. Cockeram
A. Mayer
B. Menendez
D. Nunez
J. Rano

P.S. Daniel, I know you have been working on some DR wrapper leaves. I am very interested in an update on that crop.

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Under Protective Order

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 287

D287

Wood General Cigar Cohiba box sold between 1992 and 1997

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 287-1

COHIBA

Blumberg No. 6114
DEFENDANT'S
EXHIBIT
D287

25 Esplendido

Hecho a Mano

25 CIGARS
DISTRIBUTED BY
ALFRED DUNHILL OF LONDON, INC.

HANDMADE IN SANTIAGO
REPUBLICA DOMINICANA

F4S

NEW YORK, N. Y.

25 Esplendido
Hecho a Mano

WARNING: This Product Contains Produces Chemicals Known To The State Of California To Cause Cancer And Birth Defects Or Other Reproductive Harm

25 Esplendido
Hecho a Mano

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 288, GC 007316A-7329A

General Cigar Co., Inc. a company of Culbro Corporation (Culbro)

ORGANIZATION

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NATIONAL REPORT

PAGE 1

ISSUE DATE 12/ [illegible]

* UNITS AND DOLLARS IN THOUSANDS

MONTH of [illegible] 1996 VERSUS 1995

YEAR TO DATE NOVEMBER

UNITS THIS MONTH	%	DOLLARS THIS MONTH THIS YR / LAST YR	%	DESCRIPTION	UNITS YEAR TO DATE THIS YEAR	UNITS YEAR TO DATE LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	DOLLARS YEAR TO DATE LAST YEAR	%
				[illegible]						
				[illegible]						
				CRYSTAL [illegible]						
				*** TOTAL ***	[illegible]	[illegible]		17,174	12,341	
				[illegible]						
				*** TOTAL ***	[illegible]	[illegible]		2,167	1,611	
				[illegible]						
				*** TOTAL ***	[illegible]	[illegible]		1,455	[illegible]	
				[illegible]						

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GC 007316A
Confidential:
Under Protective Order

DEFENDANT'S EXHIBIT D288

Blumberg No. 5114

General Cigar Co., Inc. a company of Culbro Corporation

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MONTH of NOVEMBER 1994 VERSUS 1993

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DESCRIPTION	YEAR TO DATE NOVEMBER UNITS YEAR TO DATE THIS YEAR	LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	LAST YEAR	%
JAN PR PET SCRUB						
JR ALT 6X49 CAFE						
JR ALT [illegible]						
JR ALT [illegible] CAFE						
*** TOTAL ***						
PARTAGAS #1						
PARTAGAS #2						
PARTAGAS #3						
PARTAGAS #4						
PARTAGAS #5						
PARTAGAS #6						
PARTAGAS SAMPLING						
PARTAGAS MUNITION						
PARTAGAS [illegible]						
PARTAGAS #10						
PARTAGAS #[illegible]						
PARTAGAS TUBOS						
PARTAGAS MAJORS						
PARTAGAS #5						
PART NATURALES						
PART ROBUSTICOS						
PART ALMIRANTE						
*** TOTAL ***	3,22[illegible]	2,31[illegible]		6,0[illegible]	[illegible]	
PARTAGAS REGALE						
PARTAGAS ROYALE						
*** TOTAL ***	[illegible]	50		1[illegible]	230	
PARTAGAS PURITO						
*** TOTAL ***	[illegible]54	701		47[illegible]	348	
[illegible]						
[illegible]						
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GC 007317A
Confidential:
Under Protective Order

General Cigar Co., Inc.

a company of Culbro Corporation

ORGANIZATION

* UNITS AND DOLLARS IN THOUSANDS

NATIONAL REPORT

PAGE

ISSUE DATE 12/01/94

MONTH of NOVEMBER 1994 VERSUS 1993

YEAR TO DATE NOVEMBER

UNITS THIS MONTH		%	DOLLARS THIS MONTH		%	DESCRIPTION	UNITS YEAR TO DATE		%	DOLLARS YEAR TO DATE		%
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						[illegible]						
						[illegible]						
						*** TOTAL ***						
						SHK [illegible]						
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						SHK CHURCHILL						
						SHK [illegible]						
						SHK [illegible]						
						SHK [illegible]						
						SHK PARTELLA						
						*** TOTAL ***						
						SULIVAN PARTELLA						
						SULIVAN [illegible]						
						SULIVAN [illegible]						
						SULIVAN [illegible]						
						*** TOTAL ***						
						TEMPLE HALL [illegible]						
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General Cigar Co., Inc. a company of Culbro Corporation Culbro

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ISSUE DATE 12/ 01/ 94

MONTH of NOVEMBER 1994 VERSUS 1993

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						TEMPLE HALL #579						
						TEMPLE HALL #550						
						TEMPLE HALL #623						
						TEMPLE HALL #633						
						TEMPLE HALL #[illegible]						
						TEMPLE HALL 450[illegible]						
						*** TOTAL ***						
						COMIDA CORONA ES	16			39		
2			5			COMIDA ESPLENDID	17			47		
3			6			COMIDA ROBUSTOS	17			43		
5			13			*** TOTAL ***	4[illegible]			128		
						GV BRAVURA						
						GV PAN DELUXE						
						GV SENATORS						
						GV ELEGANTE						
						GV GALLANTE						
						GV [illegible]						
						GV ENO CORONA						
						GV [illegible]						
						GV BOUQUETS						
						GV [illegible]						
						GV CLUNTS						
						GV GRAN CORONA						
						GV GRAN [illegible]						
						GV PRESIDENTE						
						GV DELGADO [illegible]						
						GV CRYSTALS [illegible]						
						GV CRYSTALS [illegible]						
						GV [illegible]						
						GV PR CHURCHILL						
						GV PR [illegible]						
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						GV [illegible]						

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ISSUE DATE

MONTH of NOVEMBER 1994 VERSUS 1993

UNITS THIS MONTH		%	DOLLARS THIS MONTH		%	DESCRIPTION	YEAR TO DATE NOVEMBER UNITS YEAR TO DATE		%	DOLLARS YEAR TO DATE		%
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						TIPARILLOS *						
						*** TOTAL ***						
						TJ SMALLS A						
						TJ SMALLS						
						TJ [illegible]						
						*** TOTAL ***						
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						*** TOTAL ***						
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						[illegible]	15,457	11,090		26,402	18,520	
						[illegible]	[illegible]	4,160		[illegible]	1,990	
						[illegible]						
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Under Protective Order

General Cigar Co., Inc.

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ORGANIZATION

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UNITS THIS MONTH		%	DOLLARS THIS MONTH		%
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	THIS YEAR	LAST YEAR		THIS YEAR	LAST YEAR	
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DEPOSITION
EXHIBIT # 245
FOR ID TRN
11-7-00

GC 007329A
Confidential:
Under Protective Order

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 289, GC 007308A-7315A

General Cigar Co., Inc. a company of Culbro Corporation (Culbro)

ORGANIZATION

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* UNITS AND DOLLARS IN

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UNITS THIS MONTH	%	DOLLARS THIS MONTH	%		UNITS YEAR TO DATE		%	DOLLARS YEAR TO DATE	
				*** TOTAL ***	[illegible]	9,626		[illegible]	17,174
				*** TOTAL ***	[illegible]	4,326		[illegible]	2,157
				[illegible]	[illegible]	441		[illegible]	[illegible]

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GC 007308A
Confidential:
Under Protective Order

DEFENDANT'S EXHIBIT D289
Blumberg No. 5114

General Cigar Co., Inc. a company of Culbro Corporation (Culbro)

* UNITS AND DOLLARS IN THOUSANDS

ORGANIZATION

NATIONAL [illegible] REPT

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ISSUE DATE [illegible]

MONTH of [illegible] 197[illegible] VERSUS [illegible]

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UNITS THIS MONTH		%	DOLLARS THIS MONTH		%	DESCRIPTION	UNITS YEAR TO DATE		%	DOLLARS YEAR TO DATE		%
THIS YEAR	LAST YEAR		THIS YR	LAST YR			THIS YEAR	LAST YEAR		THIS YEAR	LAST YEAR	
						JAM FR [illegible]						
						JAM FR CORONA						
						JAM JLA LONDS[illegible]						
						JAM LEGACY [illegible]						
						JAM [illegible] PLT CORONA						
						J. ALT [illegible]						
						J. ALT [illegible]						
						J. ALT [illegible]						
						*** TOTAL ***						
						PART 150 [illegible]						
						PART 150 [illegible]						
						PART 150 "NAP"						
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						PART 150 [illegible]						
						PART 1. [illegible]						
						[illegible] FIGURADO						
						PART 150 [illegible]						
						*** TOTAL ***						
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						[illegible] TAGAS [illegible]						
						[illegible] TAGAS A						
						[illegible] TAGAS [illegible]						
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73[illegible] | [illegible]4

GC 007309A
Confidential:
Under Protective Order

General Cigar Co., Inc.

a company of Culbro Corporation **Culbro**

ORGANIZATION

* UNITS AND DOLLARS IN [illegible]

PAGE ____

ISSUE DATE / /

MONTH of				DESCRIPTION	YEAR TO DATE					
UNITS THIS MONTH	%	DOLLARS THIS MONTH	%		UNITS YEAR TO DATE		%	DOLLARS YEAR TO DATE		%
					THIS YEAR	LAST YEAR		THIS YEAR	LAST YEAR	
				*** TOTAL ***	[illegible]	3,829		[illegible]	4,058	
				[illegible]						
				[illegible] YAL						
				*** TOTAL ***						
				[illegible]						
				*** TOTAL ***	[illegible]	336		[illegible]	472	
				[illegible]						
				[illegible]						
				[illegible]						
				[illegible]						
				[illegible] VISTA						
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Under Protective Order

General Cigar Co., Inc. a company of Culbro Corporation

* UNITS AND DOLLARS IN THOUSANDS

ORGANIZATION

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NATIONAL [illegible]

PAGE [illegible]

ISSUE DATE [illegible]

MONTH of NOVEMBER 1995 VERSUS 1994

UNITS THIS MONTH THIS YEAR	UNITS THIS MONTH LAST YEAR	%	DOLLARS THIS MONTH THIS YR	DOLLARS THIS MONTH LAST YR	%	DESCRIPTION	YEAR TO DATE NOVEMBER UNITS YEAR TO DATE THIS YEAR	UNITS YEAR TO DATE LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	DOLLARS YEAR TO DATE LAST YEAR	%
						SMK CORONA						
						SMK PANATELA						
						*** TOTAL ***						
						BOLIVAR PNATLITA						
						BOLIVAR CORONA [illegible]						
						BOLIVAR CORONA [illegible]						
						BOLIVAR BOLIVAR [illegible]						
						*** TOTAL ***						
						TEMPLE HALL #[illegible]						
						TEMPLE HALL #31						
						TEMPLE HALL #[illegible]						
						TEMPLE HALL #[illegible]						
						TEMPLE HALL #700						
						TEMPLE HALL #[illegible]						
						TEMPLE HALL #[illegible]						
						TEMPLE HALL #[illegible]						
						TEMPLE HALL #[illegible]						
						TEMPLE HALL #[illegible]						
						TEMPLE HALL #[illegible]						
						T. H. DELICIOSOS						
						*** TOTAL ***						
1			1			COHIBA CORONA [illegible]	32	16	+10[illegible]	81	38	+100+
	2	[illegible]	[illegible]	2	[illegible]	COHIBA ESPLENDID	34	17	+1[illegible]	[illegible]	47	+1[illegible]
1	3	[illegible]	3	6	[illegible]	COHIBA REGUSTOS	[illegible]	17	+[illegible]	[illegible]	48	+1[illegible]
[illegible]	5	[illegible]	[illegible]	13		*** TOTAL ***	[illegible]	49	+10[illegible]	27[illegible]	128	+1[illegible]
						[illegible]						
						[illegible]						
						[illegible]						
						[illegible]						
						[illegible]						
						[illegible]						
						[illegible]						
						[illegible]						
						[illegible]						

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GC 007311A
Confidential:
Under Protective Order

General Cigar Co., Inc.

a company of Culbro Corporation

ORGANIZATION

PAGE

ISSUE DATE

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						*** TOTAL ***						
						*** TOTAL ***						
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						*** TOTAL ***						
						*** TOTAL ***						
						*** TOTAL ***						
						NO SEL IN THE						

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[illegible]	LAST YEAR		THIS YR	LAST YR			THIS YEAR	LAST YEAR		THIS YEAR	LAST YEAR	
						[illegible] REGULAR						
						*** TOTAL ***						
						[illegible]						
						[illegible]						
						[illegible]						
						[illegible]						
						*** TOTAL ***						
						[illegible] PERFECTO						
						[illegible] PANATELA						
						*** TOTAL ***						
						[illegible]						
						[illegible] TIP						
						[illegible]						
						*** TOTAL ***						
						[illegible]						
						*** TOTAL ***						
						[illegible]						
						*** TOTAL ***						
						TIP [illegible]						
						TIP [illegible]						
						TIP [illegible]						
						[illegible]						
						*** TOTAL ***						
						[illegible]						
						[illegible]						
						[illegible]						
						*** TOTAL ***						
						[illegible]						
						[illegible]						

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PAGE 1

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MONTH of [illegible] 1995 [illegible]

UNITS THIS MONTH	%	DOLLARS THIS MONTH	%
[illegible]		THIS YR [illegible]	

DESCRIPTION	YEAR TO DATE [illegible] UNITS YEAR TO DATE THIS YEAR	LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	LAST YEAR	%
D'JEEP LIGHTER						
D'JEEP JR [illegible]						
D'JEEP MARCELINO						
[illegible]						
D'JEEP IMPRINTED						
D'JEEP JR IMP						
*** TOTAL ***						
[illegible]						
[illegible]						
[illegible]						
[illegible]						
[illegible]						
[illegible]						
[illegible] JACKETS						
[illegible] JACK						
*** TOTAL ***						
[illegible]						
*** TOTAL ***						
[illegible]						
*** TOTAL ***						
TOTAL [illegible]	[illegible]	15,457		[illegible],199	26,402	
TOTAL [illegible]	[illegible]	5,306		[illegible]	2,663	
TOTAL [illegible]						
TOTAL [illegible]						
TOTAL [illegible]						
TOTAL [illegible]						
ACTIVE C[illegible]						

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PAGE

ISSUE DATE

MONTH of

UNITS THIS MONTH	%	DOLLARS THIS MONTH	%	DESCRIPTION	YEAR TO DATE UNITS YEAR TO DATE	%	DOLLARS YEAR TO DATE	%

P/A
DEPOSITION
EXHIBIT # 246
FOR ID TRN
11-7-00

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GC 007315A
Confidential:
Under Protective Order

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 290, GC 007226A-7233A

General Cigar Co., Inc.

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* UNITS AND DOLLARS IN THOUSANDS

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PAGE 1

ISSUE DATE

MONTH of NOVEMBER 1996 VERSUS 1995

UNITS THIS MONTH THIS YEAR	LAST YEAR	%	DOLLARS THIS MONTH THIS YR	LAST YR	%	DESCRIPTION	YEAR TO DATE NOVEMBER UNITS YEAR TO DATE THIS YEAR	LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	LAST YEAR	%
						MAC CAVIAR						
						MAC QUILL						
						MAC CLAYBOURNE						
						MAC SOMERSET						
						MAC LD CLARIDGE						
						MAC DUK DEVON						
						MAC PETIT CORONA						
						MAC E LONSDALE						
						MAC PORTOFINO						
						MAC HAMP COURT						
						MAC ROTHSCHILD						
						MAC SOVERIGN						
						MAC AMATISTA						
						MAC PR PHILIP						
						MAC DUK WELL						
						MAC HYDE PARK						
						MAC TRUMP						
						MAC CRYSTAL 6						
						MAC PRINCE WALES						
						MAC DUKE OF WIND						
						MAC ASHTRAY						
						*** TOTAL ***	13,115	12,952		30,648	26,458	
						MAC ASCOT						
						MAC MINIATURE						
						*** TOTAL ***	10,358	6,070		5,173	3,380	
						MAC VINT CAB I						
						MAC VINT CAB II						
						MAC VINT CAB III						
						MAC VINT CAB IV						
						MAC VINT CAB V						
						MAC VINT CAB VII						
						MAC VT CAB VIII						
						MAC VT CAB XX						
						MAC VT CAB VI						
						*** TOTAL ***	870	661		3,968	2,681	

REDACTED

DEFENDANT'S EXHIBIT D240

Blumberg No. 6114

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1-03-0001-4

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ISSUE DATE 12/ 0[illegible]/ [illegible]

MONTH of NOVEMBER 1996 VERSUS 1995

UNITS THIS MONTH THIS YEAR	LAST YEAR	%	DOLLARS THIS MONTH THIS YR	LAST YR	%	DESCRIPTION	YEAR TO DATE NOVEMBER UNITS YEAR TO DATE THIS YEAR	LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	LAST YEAR	%
						JAM PR CHURCHILL						
						JAM PR DJ CORONA						
						JAM PR IMPERIALS						
						JAM PR LONDSDALE						
						JAM PR CORONA						
						JAM DLX LONDSDAL						
						JAM LEGACY #74[illegible]						
						JAM PR PET CORLN						
						JR ALT 6X49 CAFE						
						JR ALT 5.88X38 [illegible]						
						JR ALT 6X32 CAFE						
						*** TOTAL ***						
						PART 150 "A"						
						PART 150 "D"						
						PART 150 "AA"						
						PART 150 "C"						
						PART 150 ROBUSTO						
						PART 150 "B"						
						PART150 FIGURADO						
						PART 150 D.R.						
						*** TOTAL ***	540	739		1,441	3,054	
						PARTAGAS #1						
						PARTAGAS #2						
						PARTAGAS #3						
						PARTAGAS #4						
						PARTAGAS #6						
						PARTAGAS #8						
						PARTAGAS SABROSO						
						PARTAGAS HUMITUD						
						PARTAGAS 8-9-3						
						PARTAGAS #10						
						PARTAGAS #9						
						PARTAGAS TUBOS						
						PARTAGAS MADURO						
						[illegible]						
						PART NATURALE						

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General Cigar Co., Inc.

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* UNITS AND DOLLARS IN THOUSANDS

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UNITS THIS MONTH THIS YEAR	LAST YEAR	%	DOLLARS THIS MONTH THIS YR	LAST YR	%	DESCRIPTION	YEAR TO DATE NOVEMBER UNITS YEAR TO DATE THIS YEAR	LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	LAST YEAR	%
						PART ROBUSTO 25						
						PART ALMIRANTE						
						PART ARISTOCRAT						
						PART ANNIVERSARI						
						PART ASHTRAY						
						*** TOTAL ***	5,766	3,823		14,626	7,943	
						PARTAGAS REGALE						
						PARTAGAS ROYALE						
						PART LR ROBUSTO						
						PART LR EPICURE						
						*** TOTAL ***	123	49		799	276	
						PARTAGAS PURITO						
						*** TOTAL ***	1,574	1,307		935	747	
						C D'ORO CORONAS						
						C D'ORO FINOS						
						C D'ORO INMENSOS						
						C D'ORO LONSDALE						
						C D'ORO VISTA						
						C D'ORO SUPREMOS						
						C D'ORO ROTH						
						*** TOTAL ***						
						C D'ORO BABIES						
						*** TOTAL ***						
						R ALLONES REDNDO						
						R ALLONES A						
						R ALLONES B						
						R ALLONES PRIV						
						R ALLONES D						
						R ALLONES TRUMP						
						R ALLONES CRYSTL						
						R ALL NATURALES						
						RA RAMONITOS						
						*** TOTAL ***						

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MONTH of NOVEMBER 1996 VERSUS 1995

UNITS THIS MONTH THIS YEAR	UNITS THIS MONTH LAST YEAR	%	DOLLARS THIS MONTH THIS YR	DOLLARS THIS MONTH LAST YR	%	DESCRIPTION	NOVEMBER UNITS YEAR TO DATE THIS YEAR	NOVEMBER UNITS YEAR TO DATE LAST YEAR	%	YEAR TO DATE DOLLARS YEAR TO DATE THIS YEAR	YEAR TO DATE DOLLARS YEAR TO DATE LAST YEAR	%
						SHK DREVA						
						SHK DIPLOMAT						
						SHK AMBASSADOR						
						SHK CHURCHILL						
						SHK IMPERIAL						
						SHK LONSDALE						
						SHK CORONA						
						SHK PANATELA						
						*** TOTAL ***						
						BOLIVAR PNATLITA						
						BOLIVAR BEL FINO						
						BOLIVAR CORONA E						
						BOLIVAR CORONA G						
						BOLIVAR BOLIVARE						
						BOL PANATELAS						
						BOL CORONA GORDA						
						BOLIVAR LONSDALE						
						*** TOTAL ***						
						TEMPLE HALL #30						
						TEMPLE HALL #31						
						TEMPLE HALL #35						
						TEMPLE HALL #700						
						TEMPLE HALL #575						
						TEMPLE HALL #550						
						TEMPLE HALL #625						
						TEMPLE HALL #635						
						TEMPLE HALL #500						
						TEMPLE HALL 450M						
						T. H. BELICOSUS						
						*** TOTAL ***						
						CUNIBA CORONA ES	24	32	25.0-	66	81	1[illegible]
						CUNIBA ESPLENDID	42	34	23.5	132	98	34.7
						CUNIBA ROBUSTOS	30	35	14.3-	91	80	[illegible]
		7.0-			7.0-	*** TOTAL ***	[illegible]	[illegible]	5.0-	[illegible]	[illegible]	[illegible]

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1-03-0001-4

General Cigar Co., Inc.

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* UNITS AND DOLLARS IN THOUSANDS

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NATIONAL REPORT

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MONTH of NOVEMBER 1996 VERSUS 1995

UNITS THIS MONTH THIS YEAR	UNITS THIS MONTH LAST YEAR	%	DOLLARS THIS MONTH THIS YR	DOLLARS THIS MONTH LAST YR	%	DESCRIPTION	YEAR TO DATE NOVEMBER UNITS YEAR TO DATE THIS YEAR	UNITS YEAR TO DATE LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	DOLLARS YEAR TO DATE LAST YEAR	%
						GV BRAVURA						
						GV PAN DELUXE						
						GV SENATORS						
						GV ELEGANTE						
						GV GALLANTE						
						GV NAPOLEONS						
						GV ENG CORONA						
						GV GRANADA						
						GV BOUQUETS						
						GV ROMEROS						
						GV BARONS						
						GV GRAN CORONA						
						GV GRAN PREMIO						
						GV PRESIDENTE						
						GV DELGADO PAN						
						GV CRYSTALS #100						
						GV CRYSTALS #200						
						GV MADURO						
						*** TOTAL ***						
						GYV PR CHURCHILL						
						GYV PR LONDSDALE						
						GYV PR CORONA						
						*** TOTAL ***						
						GV CIGARILLOS						
						GV CHICOS						
						GV TIPS						
						GV WHIFF CONDISH						
						GV WHIFFS						
						GV MINI						
						*** TOTAL ***						
						WO INVINCIBLE						
						WO RANGER						
						WO PAN DELUXE						
						WO NEW YORKER						
						WO SPORTS						

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UNITS THIS MONTH THIS YR	LAST YEAR	%	DOLLARS THIS MONTH THIS YR	LAST YR	%	DESCRIPTION	YEAR TO DATE NOVEMBER UNITS YEAR TO DATE THIS YEAR	LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	LAST YEAR	%
						*** TOTAL ***						
						WO MINIATURE SAT						
						WO MINIATURE						
						WO CORONETTA						
						WO DEMI-TIP						
						*** TOTAL ***						
						WO SEL IMPERIAL						
						WO SEL REGENT						
						*** TOTAL ***						
						WO SEL SQUIRE						
						WO MINIATURE						
						WO SEL DARTS						
						WO WINKS						
						*** TOTAL ***						
						WP PERFECTO						
						WP PANATELA						
						*** TOTAL ***						
						WP WILLOW TIP						
						WP WILLOW TIP S						
						WP BRAVES						
						*** TOTAL ***						
						RB BLK WATCH						
						*** TOTAL ***						
						RB CIGARILLO						
						*** TOTAL ***						
						TIPARILLO R						
						TIPARILLO M						
						TIPARILLO SPECIALS						
						TIPARILLO [illegible]						
						*** TOTAL ***						

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MONTH of NOVEMBER 1996 VERSUS 1995

UNITS THIS MONTH THIS YEAR	LAST YEAR	%	DOLLARS THIS MONTH THIS YR	LAST YR	%	DESCRIPTION	YEAR TO DATE NOVEMBER UNITS YEAR TO DATE THIS YEAR	LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	LAST YEAR	%
						TJ SMALLS A	REDACTED					
						TJ SMALLS B						
						TJ SML C						
						*** TOTAL ***						
						SECONDS						
						*** TOTAL ***						
						D'JEEP LIGHTER						
						D'JEEP JR INTRO						
						D'JEEP MARLBORO						
						MARLBORO 3 PKS						
						D'JEEP IMPRINTED						
						D'JEEP JR IMP						
						*** TOTAL ***						
						MAC NECKTIES						
						PART NECKTIES						
						TEL SHIRTS						
						PIQUE POLO SHIRT						
						PIQUE FLEECE SWE						
						DYED SWEATSHIRTS						
						CREW FLEECE SWEA						
						HATS						
						L & W JACKETS						
						WINDBREAKER JACK						
						DENIM SHIRT BC						
						DENIM JACKETS						
						ART OF CIG VIDEO						
						ZIP PULLOV SHIRT						
						*** TOTAL ***						
						MAC CLUB CHAIR						
						MAC PARIS CHAIR						
						*** TOTAL ***						
						DISCONTINUED						
						*** TOTAL ***						

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NATIONAL REPORT

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MONTH of NOVEMBER 1996 VERSUS 1995

UNITS THIS MONTH THIS YEAR	LAST YEAR	%	DOLLARS THIS MONTH THIS YR	LAST YR	%	DESCRIPTION	NOVEMBER UNITS YEAR TO DATE THIS YEAR	LAST YEAR	%	YEAR TO DATE DOLLARS YEAR TO DATE THIS YEAR	LAST YEAR	%
						NON RETURN $						
						*** TOTAL ***						
						TOTAL PREM LARGE	23,863	21,686		55,672	43,199	
						TOTAL PREM SMALL	12,133	7,527		6,204	4,160	
						TOTAL G V LARGE						
						TOTAL G V SMALL						
						TOTAL A D LARGE						
						TOTAL A D SMALL						
						ACTIVE CIGARS						
						SECONDS						
						DISCONTINUED						
						TOTAL CIGARS						
						TOTAL LIGHTERS						
						TOTAL APPAREL						
						TOTAL APPAREL						
						PROD DOLLARS						
						NON RETURN $						
						GRAND TOT DOL						

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 294, MC 000656-660

CONFIDENTIAL

MC 00656

Key Assumptions:

1. The prestige of the Cohiba brand name will transcend Cuban country of origin in determining authenticity and value.

2. Non-Cuban Cohiba cigars can be priced in the $10+ "super-premium" segment. Consumers will still pay a premium for "Scarce and Rare" over the next several years.

3. Cohiba name is transferrable to non-tobacco categories. Logoed items (clothing, etc.) and Cohiba cigar accessories can be built into viable businesses which General cigar can operate and manage.

4. Strength of GCC introduction will be sufficient to defend and protect our rights against current illegal Cohiba branded items.

5. S. T. Dupont (Cohiba lighter/cutter licensee in Europe) can sell these Cohiba items in joint venture with GCC in U. S. without violating Helms-Burton or other embargo laws.

6. GCC can execute both cigar and logo accessories for RTDA launch and fall consumer introduction.

7. We can distribute 2.5 mm - 3.0 mm Cohiba brand cigars into TPP and other limited distribution without exacerbating shortage/backlash. Also that we can manage future limited production in current customer environment.

X

1797

Blumberg No. 6114
DEFENDANT'S EXHIBIT
D294

CONFIDENTIAL

MC 00657

II. Objectives

1. Launch the Cohiba brand in the U. S.
   - Establish and manage image, positioning and demand.
   - Achieve $14MM FSP and 2.5MM cigar units shipped in 1997.
   - Achieve $500M FSP accessories and clothing sales in 1997.

2. Transcend the cigar category.
   - Leverage mystique of Cohiba name with comprehensive product line.
   - Cigars, accessories, logo clothing, cutters, leather and licensed lighters.
   - A Defined and consistent Cohiba "look" across all categories.

3. Establish ownable and defendable brand presence in cigar related and men's accessories categories.
   - Establish initial exclusivity and presence with TPP accounts.
   - The right products and positioning for brand mobility to mainstream distribution, i.e. Neiman's, Bergdorfs, Orvis, etc.
   - Support with brand advertising, launch publicity program, beyond cigar publications.

X

Execution:

1. Timetable of key activities:

Activity	Responsibility	Due Date
Develop blend and product	Rano/Mayer	March 15, 1997
Develop and gain approval for sizes.	Rano	March 15, 1997
Approve Cohiba "look"	Rano/McNamara	March 15, 1997
Materials on hand for 2.5MM cigars	Mayer/Bossert/Nunez	April 15, 1997
Samples for approval: clothing and selected accessories	Rano/Farrington	April 1, 1997
Approve consumer launch plan and ad strategy.	McNamara	March 1, 1997
Approve cigar package designs for production.	Rano/EMC - EMCjr	March 31, 1997
Manufacturing concurrence for packaging, volumes, first-ship date.	Hansen/Krol/Morris	March 31, 1997
Approve advertising for production/insertion dates.	Rano/Geoghegan/Farrington	May 15, 1997
Advertising and merchandising support for all products complete	Geoghegan/Farrington	TBD
Spec sheets and fact sheets	Farrington	May 1, 1997
Selling materials complete for all items	Farrington	July 15, 1997
Begin manufacturing clothing and accessories	Rano	April 15, 1997
Begin manufacturing cigars	Hansen/Krol	June 1, 1997
Place media	McCaffrey & Ratner	TBD
Introduce at RTDA.	Rano/Currier/All	July 28, 1997
Consumer introduction.	Currier/sales/TPP accounts	September-October

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MC 00658

Strategy Selection Outline:

Brand Strategies:
- **Establish taste expectation through mood and imagery, not necessarily Cuban.**
- **Leverage the mystique and scarcity of Cohiba brand cigars into related categories.**
- **Portray the brand as more than cigars, as an attitude.**

Strategic Elements	Strategy I Self Reward	Strategy II Your Own Man	Strategy III Scarce and Rare	Strategy IV Style and Mystique	Strategy V Larger than Life
Competition	All premium cigars.	All premium cigars in the $8+ price segment.	All "limited edition" or scarce premium cigars, primarily full-flavored.	Cuban cigars, including Cohiba.	Other upscale men's niche brand names. More than cigars.
Target Audience	All premium cigar smokers.	Premium cigar smokers who want more flavorful and interesting cigars.	Premium smokers 25-44 for whom one-ups-man-ship is part of the experience.	Premium smokers whoare enamored of or respond to Cuban mystique and legend.	All men with a sense of style and adventuresome spirit, including premium cigar smokers.
Message Elements	Cohiba is the pinnacle of self reward, the best there is.	Cohiba says you are your own man.	You can only get it if you've got the connections. They are scarce and rare.	Cohiba gives you the sense of relaxed elegance and mystery that gave Havana it's mystique.	Cohiba helps you capture the essence of living large. What enjoyment is all about.
Rationale	Leverages brand image. Based on cigars only, primary appeal of other items is to cigar smokers.	Cohiba should stand for the bold, adventuresome side of a man's character.	Cohiba leverages the key driver of upscale pricing and cache in cigars. Rareness.	Captures the feeling of what has been missing over the past 40 years.	Extends the brand image beyond cigars. Can address a unique sense of style and passion.

CONFIDENTIAL MC 00659

CONFIDENTIAL

MC 00660

Cohiba Advertising Strategy:

Objective:
Advertising will convince cigar smokers and other like-minded men 25-54 years old that COHIBA, more than any other brand name delivers the sense of relaxed elegance and mystery that sets them apart and above.

Benefit:
Cohiba means you have something other men don't. An adventuresome sense of style, quality, and self assurance that makes you unique.

Reason Why:
Whether it's your cigar, your choice of small leather, belt, or other clothing and accessories, the tropical cachet and prestige of Cohiba means you can have whatever you want, because you know how to get it and don't care what it costs.

Supporting Points:
For cigars: Bold taste, interesting, pungent flavors, and a brand that says you alone have found that rare complete cigar pleasure.
For other items: Cohiba is relaxed, tropical, stylish. It 50s Havana updated. Lizard wallet and cigar holder, alligator and sterling silver humidor, etc. Black is the primary color of the Cohiba mystique, with silver and grey accents, a slash of yellow to relate it to it's Cuban heritage.

X

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 298, GC 0024545-24558

General Cigar Co., Inc.

a company of Culbro Corporation

ORGANIZATION

ZONE	REGION	DIV	TERR	CUST

----------H-45 REPORT----------
NATIONAL REPORT

ISSUE DATE 03/02/97

UNITS AND DOLLARS IN THOUSANDS

NTH of FEBRUARY 1997 VERSUS 1996

UNITS THIS MONTH		%	DOLLARS THIS MONTH		%	DESCRIPTION	YEAR TO DATE FEBRUARY UNITS YEAR TO DATE		%	DOLLARS YEAR TO DATE		%
THIS YEAR	LAST YEAR		THIS YR	LAST YR			THIS YEAR	LAST YEAR		THIS YEAR	LAST YEAR	
	[redacted]			[redacted]		SHK CHURCHILL		[redacted]			[redacted]	
	[redacted]			[redacted]		SHK IMPERIAL		[redacted]			[redacted]	
	[redacted]			[redacted]		SHK LONSDALE		[redacted]			[redacted]	
	[redacted]			[redacted]		SHK CORONA		[redacted]			[redacted]	
	[redacted]			[redacted]		*** TOTAL ***		[redacted]			[redacted]	
	[redacted]			[redacted]				[redacted]			[redacted]	
	[redacted]			[redacted]		BOLIVAR PNATLITA		[redacted]			[redacted]	
	[redacted]			[redacted]		BOLIVAR CORONA E		[redacted]			[redacted]	
	[redacted]			[redacted]		BOLIVAR CORONA G		[redacted]			[redacted]	
	[redacted]			[redacted]		BOLIVAR BOLIVARE		[redacted] 1			[redacted]	
	[redacted]			[redacted]		BOL PANATELAS		[redacted]			[redacted]	
	[redacted]			[redacted]		BOL CORONA GORDA		[redacted]			[redacted]	
	[redacted]			[redacted]		BOLIVAR LONSDALE		[redacted]			[redacted]	
	[redacted]		1	[redacted]		*** TOTAL ***		[redacted] 2		1	[redacted]	
	[redacted]			[redacted]				[redacted]			[redacted]	
10	[redacted]		26	[redacted]		TEMPLE HALL #700	48	[redacted] 6	+100+	115	[redacted]	+100+
4	[redacted]	+100+	8	[redacted]	33.3	TEMPLE HALL #675	33	[redacted] 5	+100+	71	[redacted]	+100+
23	[redacted]	+100+	48	[redacted]	+100+	TEMPLE HALL #550	67	6	+100+	135	[redacted]	+100+
25	[redacted]		45	[redacted]		TEMPLE HALL #625	45	5	+100+	61	[redacted]	+100+
	[redacted]			[redacted]		TEMPLE HALL #685		1			[redacted]	
	[redacted]			[redacted]		TEMPLE HALL #500		[redacted]			[redacted]	
2	[redacted]		6	[redacted]		TEMPLE HALL 450M	2	6	66.7-	5	[redacted]	60.0-
4	[redacted]	33.3	15	[redacted]	87.5	T. H. DELICOSOS	4	12	66.7-	15	[redacted]	55.9-
68	[redacted]	+100+	149	[redacted]	+100+	*** TOTAL ***	199	32	+100+	423	[redacted]	+100+
	[redacted]			[redacted]				[redacted]			[redacted]	
3	[redacted]		10	[redacted]		COHIBA CORONA ES	21	13	61.5	66	[redacted]	83.3
18	[redacted]	+100+	61	[redacted]	+100+	COHIBA ESPLENDID	25	10	+100+	87	[redacted]	+100+
6	[redacted]		19	[redacted]		COHIBA ROBUSTOS	15	3	+100+	49	[redacted]	+100+
26	[redacted]	+100+	91	[redacted]	+100+	*** TOTAL ***	60	27	+100+	202	[redacted]	+100+
	[redacted]			[redacted]				[redacted]			[redacted]	
287	[redacted]	2.9	75	[redacted]	7.1	GV BRAVURA	840	862	2.6-	217	[redacted]	4.8
436	[redacted]	20.9-	114	[redacted]	17.4-	GV PAN DELUXE	1,652	[redacted]	14.1-	430	[redacted]	7.5-
854	[redacted]	+100+	274	[redacted]	+100+	GV SENATORS	2,050	[redacted]	+100+	649	[redacted]	+100+
925	[redacted]	88.0	255	[redacted]	94.7	GV ELEGANTE	2,959	[redacted]	47.6	309	[redacted]	57.4
556	[redacted]	11.5-	153	167	8.4-	GV GALLANTE	1,604	1,988	19.3-	436	509	14.3-
48	[redacted]	+100+	21	[redacted]	+100+	GV NAPOLEONS	162	[redacted]	12.7	27	[redacted]	50.0
1,249	[redacted]	11.4	565	[redacted]	15.6	GV ENG CORONA	4,299	3,026	42.1	1,964	[redacted]	50.5
32	[redacted]	20.0-	17	[redacted]	21.4	GV GRANADA	115	137	16.1-	51	62	1.5-

DEFENDANT'S EXHIBIT D298

Blumberg No. 6114

CONFIDENTIAL:
UNDER PROTECTIVE ORDER

GC 024545

ral Cigar Co., Inc.

a company of Culbro Corporation

ORGANIZATION

ZONE REGION DIV TERR CUST

----------H-45 REPORT----------
NATIONAL REPORT

ISSUE DATE 04/07/97

S AND DOLLARS IN THOUSANDS

NTH of MARCH 1997 VERSUS 1996							YEAR TO DATE					
UNITS THIS MONTH			DOLLARS THIS MONTH			DESCRIPTION	UNITS YEAR TO DATE			DOLLARS YEAR TO DATE		
S YEAR	LAST YEAR	%	THIS YR	LAST YR	%		THIS YEAR	LAST YEAR	%	THIS YEAR	LAST YEAR	%
						SHK DIPLOMAT						
						SHK AMBASSADOR						
						SHK CHURCHILL						
						SHK IMPERIAL		1				
						SHK LONSDALE		1				
						SHK CORONA						
						SHK PANATELA						
						*** TOTAL ***		1				
						BOLIVAR PNATLITA						
						BOLIVAR CORONA E						
						BOLIVAR CORONA G						
	1					BOLIVAR BOLIVARE						
						BOL PANATELAS						
						BOL CORONA GORDA						
						BOLIVAR LONSDALE						
	1					*** TOTAL ***				1		
29	10	+100+	67	22	+100+	TEMPLE HALL #700	77	13	+100+	182		+100
18	7	+100+	44	17	+100+	TEMPLE HALL #675	51	12	+100+	115		+100
20	12	66.7	40	27	48.1	TEMPLE HALL #550	87	18	+100+	179		+100
7	10	30.0-	13	22	40.9-	TEMPLE HALL #625	52	16	+100+	94		+100
						TEMPLE HALL #685						
9			24			TEMPLE HALL #500	9			24		
	4			9		TEMPLE HALL 450M	2	10	80.0-	6		75.
8	4	+100+	29	13	+100+	T. H. BELICOSOS	12	16	25.0-	44		6.
90	47	91.5	216	110	96.4	*** TOTAL ***	289	86	+100+	644		+10
			1			COHIBA CORONA ES	21	13	61.5	67		86.
8	6	33.3	27	18	50.0	COHIBA ESPLENDID	33	16	+100+	114		+10
				1		COHIBA ROBUSTOS	15	4	+100+	49		+10
8	6	33.3	28	19	47.4	*** TOTAL ***	68	33	+100+	230		+10
622	310	+100+	163	77	+100+	GV BRAVURA	1,462	1,171	24.9	380		33.
1,140	755	51.0	301	188	60.1	GV PAN DELUXE	2,792	2,679	4.2	731		11.
730	335	+100+	234	102	+100+	GV SENATORS	2,781	666	+100+	883		+10
845	1,059	20.2-	233	280	16.8-	GV ELEGANTE	3,804	5,066	24.2	1,042		31.
629	616	2.1	171	162	5.6	GV GALLANTE	2,232	2,604	14.3-	607		9.

CONFIDENTIAL:
UNDER PROTECTIVE ORDER
GC 024546

General Cigar Co., Inc.

a company of Culbro Corporation

ORGANIZATION

ZONE	REGION	DIV	TERR	CUST

---------- [illegible] REPORT ----------
NATIONAL REPORT

ISSUE DATE 05/03/97

* UNITS AND DOLLARS IN THOUSANDS

MONTH of APRIL 1997 VERSUS 1996 — YEAR TO DATE APRIL

UNITS THIS MONTH THIS YEAR	UNITS THIS MONTH LAST YEAR	%	DOLLARS THIS MONTH THIS YR	DOLLARS THIS MONTH LAST YR	%	DESCRIPTION	UNITS YEAR TO DATE THIS YEAR	UNITS YEAR TO DATE LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	DOLLARS YEAR TO DATE LAST YEAR	%
						SHK DELVA						
						SHK DIPLOMAT						
						SHK AMBASSADOR						
						SHK CHURCHILL						
						SHK IMPERIAL		1				
	1			1		SHK LONSDALE		2			1	
						SHK CORONA						
						SHK PANATELLA						
	1					*** TOTAL ***		2			1	
						BOLIVAR PNATLITA						
						BOLIVAR CORONA E		1				
						BOLIVAR CORONA G						
	1			1		BOLIVAR BOLIVARE		3			2	
						BOL PANATELAS						
						BOL CORONA GORDA						
						BOLIVAR LONSDALE						
	2			1		*** TOTAL ***		5		1	2	50.0
18	3	+100+	54	9	+100+	TEMPLE HALL #700	95	16	+100+	230	41	+100
13	8	62.5	39	18	+100+	TEMPLE HALL #675	84	20	+100+	154	48	+100
17	8	+100+	40	18	+100+	TEMPLE HALL #550	104	26	+100+	219	61	+100
9	3	+100+	21	8	+100+	TEMPLE HALL #625	61	19	+100+	110	43	+100
						TEMPLE HALL #685		1			2	
11			29			TEMPLE HALL #500	20			52		
1	23	95.7-	3	32	90.6-	TEMPLE HALL 450M	3	33	90.9-	9	56	83.9-
1	8	87.5-	2	23	91.3-	T. H. DELICIOSOS	12	24	50.0-	45	70	34.3-
70	53	32.1	183	108	74.1	*** TOTAL ***	309	138	+100+	832	321	+100
11			40			COHIBA CORONA ES	32	13	+100+	107	36	+100
4	4		16	14	14.3	COHIBA ESPLENDID	37	20	85.0	131	62	+100
10	4	+100+	38	13	+100+	COHIBA ROBUSTOS	24	8	+100+	87	23	+100
25	8	+100+	95	27	+100+	*** TOTAL ***	94	41	+100+	325	121	+100
229	253	9.5-	60	62	3.2-	GV BRAVURA	1,691	1,425	18.7	441	346	27.5
843	669	26.8	225	166	35.5	GV PAN DELUXE	3,[illegible]	3,347	8.[illegible]	955	820	16.6
357	195	83.1	114	60	90.0	GV SENATORS	3,[illegible]	861	+100+	993	260	+100
1,495	937	59.6	415	246	68.7	GV ELEGANTE	[illegible]	4,000	52.[illegible]	1,4[illegible]	1,040	40.2

CONFIDENTIAL:
UNDER PROTECTIVE ORDER
GC 024547

General Cigar Co., Inc.

a company of Culbro Corporation

ORGANIZATION

ZONE REGION DIV TERR CUST

----------H-45 REPORT----------
NATIONAL REPORT

ISSUE DATE 08/ 04/ 97

* UNITS AND DOLLARS IN THOUSANDS

MONTH of JULY 1997 VERSUS 1996						DESCRIPTION	YEAR TO DATE JULY					
UNITS THIS MONTH			DOLLARS THIS MONTH				UNITS YEAR TO DATE			DOLLARS YEAR TO DATE		
THIS YEAR	LAST YEAR	%	THIS YR	LAST YR	%		THIS YEAR	LAST YEAR	%	THIS YEAR	LAST YEAR	%
2	4	50.0-	3	4	25.0-	NS GRAMERCY PW	13	12	8.3	18	13	38.5
92	9	+100+	162	11	+100+	*** TOTAL ***	1,379	531	+100+	2,258	687	+100
10	20	50.0-	6	9	33.3-	C D'ORO BABIES	159	154	3.2	89	70	27.1
10	20	50.0-	6	9	33.3-	*** TOTAL ***	159	154	3.2	89	70	27.1
						SHK CHURCHILL		1			1	
						SHK IMPERIAL		1			1	
						SHK LONSDALE		2			2	
						SHK CORONA						
						SHK PANATELA						
						SHK BREVA						
						SHK DIPLOMAT						
						SHK AMBASSADOR						
						*** TOTAL ***		3			3	
						BOLIVAR PNATLITA		1				
						BOLIVAR BEL FINO						
						BOLIVAR CORONA E		1				
						BOLIVAR CORONA G						
						BOLIVAR BOLIVARE		4			2	
						BOL PANATELAS				1		
						BOL CORONA GORDA				1		
						BOLIVAR LONSDALE				1		
						*** TOTAL ***	1	7	85.7-	2	3	33.3
6	9	33.3-	20	26	23.1-	COHIBA CORONA ES	46	22	+100+	157	62	+100
	10			33		COHIBA ESPLENDID	37	30	23.3	130	95	36.8
12	3	+100+	47	8	+100+	COHIBA ROBUSTOS	38	10	+100+	139	31	+100
18	22	18.2-	68	67	1.5	*** TOTAL ***	121	63	92.1	426	188	+100
20	3	+100+	73	9	+100+	TEMPLE HALL #700	58	12	+100+	209	35	+100
19			65			TEMPLE HALL #675	40	14	+100+	137	37	+100
11			36			TEMPLE HALL #550	45	15	+100+	152	41	+100
9			28			TEMPLE HALL #625	23	14	64.3	75	38	+100
						TEMPLE HALL #685		1			2	
6	2	+100+	16	4	+100+	TEMPLE HALL #500	32	8	+100+	82	18	+100
2			8			TEMPLE HALL 450M	11	13	15.4-	35	31	12.9

CONFIDENTIAL:
UNDER PROTECTIVE ORDER
GC 024548

General Cigar Co., Inc.

a company of Culbro Corporation

ORGANIZATION

ZONE	REGION	DIV	TERR	CUST

----------H-45 REPORT----------
NATIONAL REPORT

ISSUE DATE 09/01/97

* UNITS AND DOLLARS IN THOUSANDS

MONTH of AUGUST 1997 VERSUS 1996 — YEAR TO DATE AUGUST

UNITS THIS MONTH			DOLLARS THIS MONTH			DESCRIPTION	UNITS YEAR TO DATE			DOLLARS YEAR TO DATE		
THIS YEAR	LAST YEAR	%	THIS YR	LAST YR	%		THIS YEAR	LAST YEAR	%	THIS YEAR	LAST YEAR	%
57	14	+100+	91	19	+100+	C D'ORO ROTH	243	166	46.4	378	203	86.2
3	3		4	2	+100+	NS CHELSEA PW	16	9	77.8	22	8	+100+
	1			1		NS TRIBECA NB	20	12	66.7	22	11	+100+
3	3		5	3	66.7	NS SUTTON PW	18	16	12.5	27	19	42.1
1			2			NS GRAMERCY PW	14	12	16.7	20	13	53.8
358	43	+100+	630	60	+100+	*** TOTAL ***	1,737	574	+100+	2,888	747	+100+
37			21			C D'ORO BABIES	195	154	26.6	110	70	57.1
37			21			*** TOTAL ***	195	154	26.6	110	70	57.1
						SHR CHURCHILL		1			1	
						SHR IMPERIAL		1			1	
	1			1		SHR LONSDALE		3			2	
						SHR CORONA						
						SHR PANATELA						
						SHR BREVA						
						SHR DIPLOMAT						
						SHR AMBASSADOR						
	1			1		*** TOTAL ***		4			3	
						BOLIVAR PNATLITA		1				
						BOLIVAR BEL FINO						
						BOLIVAR CORONA E		1				
						BOLIVAR CORONA G						
						BOLIVAR BOLIVARE		5			2	
						BOL PANATELAS				1		
						BOL CORONA GORDA				1		
						BOLIVAR LONSDALE				1		
						*** TOTAL ***	1	8	87.5-	2	3	33.3-
4	1	+100+	15	1	+100+	COHIBA CORONA GS	50	23	+100+	172	64	+100+
				1		COHIBA ESPLENDID	37	31	19.4	130	95	36.8
5	7	28.6-	19	21	9.5-	COHIBA ROBUSTOS	43	17	+100+	157	53	+100+
9	8	12.5	33	24	37.5	*** TOTAL ***	127	71	81.7	459	211	+100+
2	2		7	5	40.0	TEMPLE HALL #70C	59	14	+100+	212	40	+100+
1	8	87.5-	2	23	91.3-	TEMPLE HALL #673	41	21	95.2	140	60	+100+
1			2			TEMPLE HALL #550	46	15	+100+	154	41	+100+

CONFIDENTIAL:
UNDER PROTECTIVE ORDER
GC 024549

General Cigar Co., Inc.

a company of Culbro Corporation

ORGANIZATION

ZONE	REGION	DIV	TERR	CUST

----------H-45 REPORT----------
NATIONAL REPORT

ISSUE DATE 11/ 01/ 97

* UNITS AND DOLLARS IN THOUSANDS

ONTH of OCTOBER 1997 VERSUS 1996

UNITS THIS MONTH		%	DOLLARS THIS MONTH		%	DESCRIPTION	YEAR TO DATE OCTOBER UNITS YEAR TO DATE		%	DOLLARS YEAR TO DATE		%
IS YEAR	LAST YEAR		THIS YR	LAST YR			THIS YEAR	LAST YEAR		THIS YEAR	LAST YEAR	
	[redacted]			[redacted]		TEMPLE HALL #685		[redacted]			[redacted]	
19	[redacted]	68.3-	69	[redacted]	1.4-	*** TOTAL ***	753	[redacted]	72.7	2,018	[redacted]	+100
	[redacted]			[redacted]				[redacted]			[redacted]	
35	[redacted]		266	[redacted]		COH CHURCHILL	51	[redacted]		384	[redacted]	
31	[redacted]		180	[redacted]		COH ROBUSTO	51	[redacted]		294	[redacted]	
26	[redacted]		163	[redacted]		COH LONSDALE GRA	42	[redacted]		264	[redacted]	
25	[redacted]		152	[redacted]		COH ESPECIALS	41	[redacted]		244	[redacted]	
22	[redacted]		106	[redacted]		COH ROBUSTO FINO	38	[redacted]		183	[redacted]	
25	[redacted]		115	[redacted]		COH CORONA	40	[redacted]		181	[redacted]	
19	[redacted]		67	[redacted]		COH CORONA MINOR	34	[redacted]		119	[redacted]	
185	[redacted]		1,048	[redacted]		*** TOTAL ***	298	[redacted]		1,669	[redacted]	
	[redacted]			[redacted]				[redacted]			[redacted]	
	[redacted]			[redacted]		COHIBA CORONA ES	50	[redacted]	+100+	172	[redacted]	+100
	[redacted]			[redacted]		COHIBA ROBUSTOS	45	[redacted]	55.2	166	[redacted]	88.6
	[redacted]			[redacted]		COHIBA ESPLENDID	39	[redacted]	7.1-	139	[redacted]	5.3
	[redacted]			[redacted]		*** TOTAL ***	134	[redacted]	41.1	477	[redacted]	66.2
	[redacted]			[redacted]				[redacted]			[redacted]	
10	[redacted]		33	[redacted]		CIF FANCY TAIL	92	[redacted]		299	[redacted]	
8	[redacted]		25	[redacted]		CIF TORO	76	[redacted]		246	[redacted]	
9	[redacted]		32	[redacted]		CIF CHURCHILL	64	[redacted]		223	[redacted]	
3	[redacted]		10	[redacted]		CIF BELICOSO	32	[redacted]		109	[redacted]	
6	[redacted]		17	[redacted]		CIF ROTHSCHILD	35	[redacted]		97	[redacted]	
5	[redacted]		13	[redacted]		CIF MADURO	19	[redacted]		53	[redacted]	
41	[redacted]		130	[redacted]		*** TOTAL ***	319	[redacted]		1,028	[redacted]	
	[redacted]			[redacted]				[redacted]			[redacted]	
2,212	[redacted]	18.7	1,126	[redacted]	33.7	GV ENG CORONA	20,803	[redacted]	43.1	9,989	[redacted]	53.8
1,068	[redacted]	13.1-	314	[redacted]	3.7-	GV ELEGANTE	11,110	[redacted]	.3	3,111	[redacted]	6.8
532	[redacted]	53.5-	164	[redacted]	48.4-	GV BARONS	9,540	[redacted]	29.3	2,817	[redacted]	38.5
901	[redacted]	16.0-	265	[redacted]	6.7-	GV GALLANTE	8,939	[redacted]	5.4	2,515	[redacted]	13.1
474	[redacted]	58.5	291	[redacted]	75.3	GV GRAN PREMIO	4,215	[redacted]	42.7	2,495	[redacted]	53.3
677	[redacted]	13.8	190	[redacted]	29.3	GV PAN DELUXE	9,232	[redacted]	15.3	2,469	[redacted]	25.1
515	[redacted]	+100+	315	[redacted]	+100+	GV CRYSTALS #100	3,751	[redacted]	+100+	2,143	[redacted]	+100
294	[redacted]	+100+	184	[redacted]	+100+	GV CRYSTALS #200	3,182	[redacted]	+100+	1,886	[redacted]	+100
424	[redacted]	7.8-	148	[redacted]	5.0	GV SENATORS	5,252	[redacted]	19.0	1,703	[redacted]	26.2
434	[redacted]	5.6	151	[redacted]	19.8	GV PRESIDENTE	4,321	[redacted]	2.8	1,435	[redacted]	9.9
186	[redacted]	9.7-	116	[redacted]	.9	GV GRAN CORONA	2,114	[redacted]	32.0	1,257	[redacted]	42.8
120	[redacted]	55.4-	41	[redacted]	69.6-	GV MADURO	2,183	[redacted]	+100+	1,122	[redacted]	+100
287	[redacted]	13.6-	80	[redacted]	2.4-	GV BRAVURA	3,595	[redacted]	3.3	958	[redacted]	12.2

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General Cigar Co., Inc.

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UNITS THIS MONTH THIS YEAR	UNITS THIS MONTH LAST YEAR	%	DOLLARS THIS MONTH THIS YR	DOLLARS THIS MONTH LAST YR	%	DESCRIPTION	YEAR TO DATE NOVEMBER UNITS YEAR TO DATE THIS YEAR	UNITS YEAR TO DATE LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	DOLLARS YEAR TO DATE LAST YEAR	%
69	[illegible]	+100+	138	[illegible]	+100+	C D'ORO INMENSOS	557	96	+100+	1,040	142	+1
95	[illegible]	+100+	176	[illegible]	+100+	C D'ORO LONSDALE	653	138	+100+	1,175	196	+1
						C D'ORO VISTA						
6	[illegible]	33.3-	13	[illegible]	13.3-	C D'ORO SUPREMOS	100	70	42.9	195	112	74.
96	[illegible]	+100+	162	[illegible]	+100+	C D'ORO ROTH	513	323	58.8	830	415	+1
14	[illegible]		20	[illegible]		NS CHELSEA PW	45	14	+100+	65	14	+1
3	[illegible]	+100+	4	[illegible]	+100+	NS TRIBECA WB	29	17	70.6	34	16	+1
27	[illegible]	+100+	47	[illegible]	+100+	NS SUTTON PW	63	25	+100+	104	30	+1
25	[illegible]	+100+	40	[illegible]	+100+	NS GRAMERCY PW	49	18	+100+	73	20	+1
439	[illegible]	+100+	780	[illegible]	+100+	*** TOTAL ***	2,852	909	+100+	4,868	1,218	+1
21	[illegible]	46.2-	14	[illegible]	26.3-	C D'ORO BABIES	304	206	47.6	179	96	86.
21	[illegible]	46.2-	14	[illegible]	26.3-	*** TOTAL ***	304	206	47.6	179	96	86.
	[illegible]			[illegible]		SHK CHURCHILL		23			20	
	[illegible]			[illegible]		SHK IMPERIAL		1			1	
	[illegible]			[illegible]		SHK LONSDALE		26			17	
	[illegible]			[illegible]		SHK CORONA						
	[illegible]			[illegible]		SHK PANATELA						
	[illegible]			[illegible]		SHK BREVA		3			2	
	[illegible]			[illegible]		SHK DIPLOMAT						
	[illegible]			[illegible]		SHK AMBASSADOR						
	[illegible]			[illegible]		*** TOTAL ***		51			39	
	[illegible]			[illegible]		BOLIVAR PNATLITA		1				
	[illegible]			[illegible]		BOLIVAR BEL FINO		1				
	[illegible]			[illegible]		BOLIVAR CORONA E		1				
	[illegible]			[illegible]		BOLIVAR CORONA G						
	[illegible]			[illegible]		BOLIVAR BOLIVARE		5			2	
	[illegible]			[illegible]		BOL PANATELAS	1			1		
	[illegible]			[illegible]		BOL CORONA GORDA		1		1		
	[illegible]			[illegible]		BOLIVAR LONSDALE				1		
	[illegible]		1	[illegible]		*** TOTAL ***	1	8	87.5-	4	4	
	[illegible]			[illegible]		COHIBA CORONA ES	50	24	+100+	172	66	+10
	[illegible]			[illegible]		COHIBA ESPLENDID	39	42	7.1-	139	132	5.
	[illegible]			[illegible]		COHIBA ROBUSTOS	45	30	50.0	166	91	82.
	[illegible]			[illegible]		*** TOTAL ***	134	95	41.1	477	290	64.

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General Cigar Co., Inc.

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UNITS THIS MONTH THIS YEAR	UNITS THIS MONTH LAST YEAR	%	DOLLARS THIS MONTH THIS YR	DOLLARS THIS MONTH LAST YR	%	DESCRIPTION	YEAR TO DATE NOVEMBER UNITS YEAR TO DATE THIS YEAR	UNITS YEAR TO DATE LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	DOLLARS YEAR TO DATE LAST YEAR	%
						TEMPLE HALL #32						
17			68			TEMPLE HALL #700	95	20	+100+	353	60	+10
10			37			TEMPLE HALL #675	70	21	+100+	248	60	+10
15			55			TEMPLE HALL #550	61	19	+100+	212	53	+10
						TEMPLE HALL #625	27	18	50.0	87	46	89.
						TEMPLE HALL #685		1			3	
12			33			TEMPLE HALL #500	49	29	69.0	128	62	+10
			1			TEMPLE HALL 450M	19	16	18.8	59	42	40.
1			5			T. H. BELICOSOS	69	39	76.9	259	117	+10
2			6			NS A2 21/BOX	6			18		
1			6			NS A4 21/BOX	14			51		
1			6			NS A6 21/BOX	16			61		
18		28.6	41	28	46.4	8-9-8 CHURCHILL	122	52	+100+	287	109	+10
				30+		8-9-8 SEL MONARC	76	51	49.0	144	97	48.
5		66.7-	9	25	64.0-	8-9-8 SEL CORONA	87	45	93.3	145	75	93.
4		73.3-	7	27	74.1-	8-9-8 LONSDALE	78	52	50.0	140	93	50.
17		6.3	31	130	3.3	TEMPLE HALL #550	67	57	17.5	128	108	18.
				3		MAC V PYR C.D.J.		53			26	
						MAC V PYR 8-9-8		43			36	
102		27.5	303	144	+100+	*** TOTAL ***	855	516	65.7	2,321	986	+10
41			235			COH ROBUSTO	92			529		
41			235			*** TOTAL ***	92			529		
12			42			CIF CHURCHILL	76			265		
13			42			CIF TORO	89			288		
25			84			*** TOTAL ***	164			553		
37			281			COH CHURCHILL	89			665		
34			203			COH ESPECIALS	75			447		
71			483			*** TOTAL ***	163			1,112		
10			32			CIF FANCY TAIL	102			331		
17			58			CIF BELICOSO	49			166		
27			89			*** TOTAL ***	151			497		
35			220			COH LONSDALE GRA	78			464		
19			90			COH ROBUSTO FINO	57			273		

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54	[illegible]		310	[illegible]		*** TOTAL ***	135	[illegible]		757	[illegible]	
6	[illegible]		17	[illegible]		CIF MADURO	26	[illegible]		71	[illegible]	
13	[illegible]		35	[illegible]		CIF ROTHSCHILD	48	[illegible]		132	[illegible]	
19	[illegible]		52	[illegible]		*** TOTAL ***	74	[illegible]		203	[illegible]	
22	[illegible]		97	[illegible]		COH CORONA	62	[illegible]		276	[illegible]	
34	[illegible]		194	[illegible]		COH CRYSTAL CORO	34	[illegible]		194	[illegible]	
22	[illegible]		76	[illegible]		COH CORONA MINOR	56	[illegible]		195	[illegible]	
77	[illegible]		367	[illegible]		*** TOTAL ***	151	[illegible]		667	[illegible]	
306	[illegible]	37.2	85	[illegible]	54.5	GV BRAVURA	3,901	[illegible]	5.3	1,044	[illegible]	14.
927	[illegible]	38.2	258	[illegible]	54.5	GV PAN DELUXE	10,159	[illegible]	17.1	2,727	[illegible]	27.
305	[illegible]	7.8	105	[illegible]	29.6	GV SENATORS	5,557	[illegible]	18.3	1,808	[illegible]	26.
768	[illegible]	31.3-	221	[illegible]	25.6-	GV ELEGANTE	11,877	[illegible]	2.6-	3,333	[illegible]	3.
1,421	[illegible]	9.8	411	[illegible]	19.8	GV GALLANTE	10,360	[illegible]	6.0	2,926	[illegible]	14.
80	[illegible]	+100+	37	[illegible]	+100+	GV NAPOLEONS	298	[illegible]	26.3	129	[illegible]	44.
2,145	[illegible]	7.1	1,078	[illegible]	20.0	GV ENG CORONA	22,948	[illegible]	38.8	11,067	[illegible]	49.
105	[illegible]	+100+	59	[illegible]	+100+	GV GRANADA	642	[illegible]	21.6	351	[illegible]	44.
187	[illegible]	+100+	57	[illegible]	+100+	GV BOUQUETS	1,474	[illegible]	43.4	436	[illegible]	53.
	[illegible]			[illegible]		GV ROMEROS	46	[illegible]	73.4-	23	[illegible]	70.
1,673	[illegible]	+100+	515	[illegible]	+100+	GV BARONS	11,213	[illegible]	40.2	3,332	[illegible]	51.
165	[illegible]	31.0	103	[illegible]	60.9	GV GRAN CORONA	2,279	[illegible]	31.9	1,360	[illegible]	43.
490	[illegible]	61.7	296	[illegible]	81.6	GV GRAN PREMIO	4,705	[illegible]	44.5	2,791	[illegible]	55.
772	[illegible]	90.1	265	[illegible]	+100+	GV PRESIDENTE	5,093	[illegible]	10.5	1,700	[illegible]	18.
230	[illegible]	+100+	61	[illegible]	+100+	GV DELGADO PAN	1,930	[illegible]	21.1	513	[illegible]	30.
453	[illegible]	49.5	275	[illegible]	71.9	GV CRYSTALS #100	4,204	[illegible]	95.1	2,418	[illegible]	+1
428	[illegible]	55.6	262	[illegible]	66.9	GV CRYSTALS #200	3,610	[illegible]	99.1	[illegible]	[illegible]	+1
287	[illegible]		180			GV CRYSTAL MADUR	385			242		
46	[illegible]	69.1-	16	[illegible]	77.1-	GV MADURO	2,229	[illegible]	79.9	1,139	[illegible]	+1
10,788	[illegible]	35.1	4,284	[illegible]	52.4	*** TOTAL ***	102,909	[illegible]	25.6	39,488	[illegible]	42.
20	[illegible]	25.0	13	[illegible]	30.0	GYV PR CHURCHILL	224	[illegible]	83.0	136	[illegible]	66.
16	[illegible]	46.7-	10	[illegible]	41.2-	GYV PR LONDSDALE	199	[illegible]	63.1	114	[illegible]	67.
3	[illegible]		2	[illegible]		GYV PR CORONA	149	[illegible]	48.9	75	[illegible]	50.
38	[illegible]	22.4-	25	[illegible]	10.7-	*** TOTAL ***	563	[illegible]	66.6	325	[illegible]	70.
1,483	[illegible]	+100+	279	[illegible]	+100+	GV CIGARILLOS	17,443	[illegible]	25.6	3,167	[illegible]	31.

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General Cigar Co., Inc.

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UNITS THIS MONTH THIS YEAR	UNITS THIS MONTH LAST YEAR	%	DOLLARS THIS MONTH THIS YR	DOLLARS THIS MONTH LAST YR	%	DESCRIPTION	UNITS YEAR TO DATE THIS YEAR	UNITS YEAR TO DATE LAST YEAR	%	DOLLARS YEAR TO DATE THIS YEAR	DOLLARS YEAR TO DATE LAST YEAR	%
	5			14		R ALLONES CRYSTL		5			14	
	4			8		DH R ALL RODONDO		4			8	
	2			4		DH R ALLONES A		2			4	
	6			13		DH R ALLONES B		6			13	
	2			5		DH R ALLONES C		2			5	
						DH R.A. CRYSTALS						
						R ALL LA PALMA						
						R AL PALMA TUBOS						
15	68	60.5-	53	98	45.9-	*** TOTAL ***	15	38	60.5-	53	98	45.
15	84	82.1-	26	119	78.2-	C D'ORO CORONAS	15	84	82.1-	26	119	78.
1	4	75.0-		6		C D'ORO FINOS	1	4	75.0-		6	
9-	24	+100-	19-	37	+100-	C D'ORO INNENSOS	9-	24	+100-	19-	37	+10
1-	17	+100-	1-	26	+100-	C D'ORO LONSDALE	1-	17	+100-	1-	26	+10
						C D'ORO VISTA						
2	5	50.0-	4	8	50.0-	C D'ORO SUPREMOS	2	5	50.0-	4	8	50.
25	39	35.9-	43	83	18.9-	C D'ORO ROTH	25	39	35.9-	43	83	18.
	3			3		NS CHELSEA PW		3			3	
	7			8		NS TRIBECA WD		7			8	
	4			6		NS SUTTON PW		4			6	
	3			4		NS GRAMERCY PW		3			4	
33	191	82.7-	54	270	80.0-	*** TOTAL ***	33	191	82.7-	54	270	80.
3	21	85.7-	3	10	70.0-	C D'ORO JABILO	3	21	85.7-	3	10	70.
3	21	85.7-	3	10	70.0-	*** TOTAL ***	3	21	85.7-	3	10	70.
						SHK CHURCHILL						
						SHK DRION						
						SHK DIPLOMAT						
						*** TOTAL ***						
	12			37		CONIDA CORONA CS		12			37	
	1			1		CONIDA ESPLENDID					1	
	6			20		CONIDA ROBUSTOS		6			20	
	18			59		*** TOTAL ***		18			59	
3-			1-			TOTAL MALL 27.5	3-					
1-			3-			TOTAL MALL 40.5	1-			3-		

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GC 024554

General Cigar Co., Inc. a company of Culbro Corporation

★ UNITS AND DOLLARS IN THOUSANDS

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UNITS THIS MONTH		%	DOLLARS THIS MONTH		%		UNITS YEAR TO DATE		%	DOLLARS YEAR TO DATE		%
THIS YEAR	LAST YEAR		THIS YR	LAST YR			THIS YEAR	LAST YEAR		THIS YEAR	LAST YEAR	
2	[illegible]		7	[illegible]		TEMPLE HALL #55[illegible]	[illegible]			7		
1	[illegible]		4	[illegible]		TEMPLE HALL #6[illegible]	[illegible]			4		
	[illegible]			[illegible]		TEMPLE HALL #6[illegible]						
4	[illegible]		10			TEMPLE HALL #50[illegible]	4			10		
	[illegible]			[illegible]		TEMPLE HALL #50[illegible]						
2	[illegible]		6	[illegible]		T. H. DELICIOSOS	[illegible]			6		
	[illegible]5			[illegible]1		NS A4 21/BOX		5			1	
	[illegible]5			[illegible]1		NS A6 21/BOX		5			1	
2	[illegible]27	92.[illegible]	5	[illegible]47	89.4	8-9-8 CHURCHILL	[illegible]	27	92.[illegible]	[illegible]	47	[illegible]
	[illegible]11			[illegible]21		8-9-8 SEL MONARC		11			21	
7	[illegible]10	30.[illegible]	12	[illegible]17	[illegible].4	8-9-8 SEL CORONA	7	10	[illegible]	1[illegible]	17	29.
7	[illegible]15	53.3	13	[illegible]27	51.9	8-9-8 LONSDALE	7	15	[illegible]	1[illegible]	27	51.
2	[illegible]10	80.0	4	[illegible]18	77.6	TEMPLE HALL #55[illegible]	2	10	[illegible]	4	18	77.
	[illegible]			[illegible]		MAC V PYR C.O.J.					[illegible]	
10	[illegible]84	86.1	7	[illegible]133	94.7	*** TOTAL ***	[illegible]	84	[illegible].1	7	133	94.
	[illegible]			[illegible]								
5	[illegible]		17	[illegible]		CIF CHURCHILL	[illegible]			17		
5	[illegible]		17	[illegible]		*** TOTAL ***	[illegible]			17		
	[illegible]			[illegible]								
12	[illegible]		67	[illegible]		COH ROBUSTO	12			67		
11	[illegible]		86	[illegible]		COH CHURCHILL	1[illegible]			86		
23	[illegible]		153	[illegible]		*** TOTAL ***	23			153		
	[illegible]			[illegible]								
4	[illegible]		12	[illegible]		CIF TORO	4			12		
1	[illegible]		3	[illegible]		CIF FANCY TAIL	1			3		
5	[illegible]		15	[illegible]		*** TOTAL ***	5			15		
	[illegible]			[illegible]								
8	[illegible]		49	[illegible]		COH ESPECIALS	[illegible]			49		
10	[illegible]		63	[illegible]		COH LONSDALE GRA	10			63		
18	[illegible]		112	[illegible]		*** TOTAL ***	18			112		
	[illegible]			[illegible]								
6	[illegible]		22	[illegible]		CIF DELICIOSO	[illegible]			22		
6	[illegible]		16	[illegible]		CIF MADURO	[illegible]			16		
12	[illegible]		38	[illegible]		*** TOTAL ***	12			38		
	[illegible]			[illegible]								
	[illegible]		1			COH ROBUSTO [illegible]				1		
	[illegible]			[illegible]		COH CORONA						
	[illegible]		1	[illegible]		*** TOTAL ***				1		

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UNITS THIS MONTH			DOLLARS THIS MONTH			DESCRIPTION	YEAR TO DATE — DECEMBER — UNITS YEAR TO DATE			DOLLARS YEAR TO DATE		
THIS YEAR	LAST YEAR	%	THIS YR	LAST YR	%		THIS YEAR	LAST YEAR	%	THIS YEAR	LAST YEAR	%
5	[illegible]		15	[illegible]		CIR ROTHSCHILD	5			15		
5			15			*** TOTAL ***	5			15		
5			26			COH CRYSTAL CORO	5			26		
						COH CORONA MINOR						
5			26			*** TOTAL ***	5			26		
140	298	53.0-	39	75	48.0-	GV BRAVURA	140	298	53.0-	39	75	48.
529	302	75.2	148	75	97.3	GV PAN DELUXE	529	302	75.2	148	75	97.
304	571	46.5-	107	175	38.9-	GV SENATORS	304	571	46.5-	107	175	38.
1,413	589	+100+	413	157	+10.+	GV ELEGANTE	1,413	589	+100+	413	157	+10
524	601	4.6	153	133	15.0	GV GALLANTE	524	601	4.6	153	133	15.
	9			4		GV NAPOLEONS		9			4	
1,000	1,487	32.6-	509	671	24.1-	GV LNG CORONA	1,000	1,487	32.6-	509	671	24.
23	34	32.4-	13	18	27.8-	GV GRANADA	23	34	32.4-	13	18	27.
39	115	22.6-	27	32	15.6-	GV BOUQUETS	39	115	22.6-	27	32	15.
1-	20	+100-	1-	11	+100-	GV NUMEROS	1-	20	+100-	1-	11	+10
888	733	21.1	273	204	33.8	GV BARONS	888	733	21.1	273	204	33.
76	177	57.1-	47	99	52.5-	GV GRAN CORONA	76	177	57.1-	47	99	52.
365	320	14.1	224	179	25.1	GV GRAN PREMIO	365	320	14.1	224	179	25.
559	480	16.5	194	150	29.3	GV PRESIDENTE	559	480	16.5	194	150	29.
74	203	63.5-	20	51	60.8-	GV DELGADO PAN	74	203	63.5-	20	51	60.
144	200	28.0-	94	107	12.1-	GV CRYSTALS 4103	144	200	28.0-	94	107	12.
161	82	96.3	104	48	+100+	GV CRYSTALS 4203	161	82	96.3	104	48	+10
58			36			GV CRYSTAL MADUR	58			36		
39	108	63.9-	13	47	72.3-	GV MADURO	39	108	63.9-	13	47	72.
6,334	6,232	2.4	2,415	2,232	8.2	*** TOTAL ***	6,334	6,232	2.4	2,415	2,232	8.
22	16	37.5	15	9	66.7	GYV PR CHURCHILL	22	16	37.5	15	9	66.
13	9	44.4	8	5	60.0	GYV PR LONDSDALE	13	9	44.4	8	5	60.
6	14	57.1-	4	8	50.0-	GYV P. CORONA	6	14	57.1-	4	8	50.
41	39	5.1	27	22	22.7	*** TOTAL ***	41	39	5.1	27	22	22.
826	1,086	23.9-	156	190	17.9-	GV CIGARILLOS	826	1,086	23.9-	156	190	17.
108	116	6.9-	20	20		GV CHICOS	108	116	6.9-	20	20	
						GV TIPS						
26	55	[illegible]	5	9	44.4-	GV [illegible] CONAIS	26	55	[illegible]	5	9	44.
526	828	[illegible]	101	129	21.7-	GV WHIF. S	526	828	[illegible]	[illegible]	129	21.

CONFIDENTIAL:
UNDER PROTECTIVE ORDER
GC 024556

General Cigar Co., Inc.

UNITS AND DOLLARS IN THOUSANDS

ORGANIZATION

ZONE	REGION	DIV	TERR	CUST

NATIONAL REPORT

ISSUE DATE 10/31/98

NTH of OCTOBER 1998 VERSUS 1997

UNITS THIS MONTH			DOLLARS THIS MONTH			DESCRIPTION	YEAR TO DATE OCTOBER UNITS YEAR TO DATE			DOLLARS YEAR TO DATE		
S YEAR	LAST YEAR	%	THIS YR	LAST YR	%		THIS YEAR	LAST YEAR	%	THIS YEAR	LAST YEAR	%
7	21	+100+	25	4	+100+	TEMPLE HALL 450M	17	19	10.5-	56	59	5.1-
2			8	2	+100+	T. H. JELICOSOS	23	68	66.2-	92	254	63.8-
						NS A2 21/BOX		4			12	
						NS A4 21/BOX		13			45	
						NS A6 21/BOX		15			55	
						8-9-8 CHURCHILL	50	104	51.9-	104	246	57.7-
						8-9-8 SEL MONARC	32	76	57.9-	61	144	57.6
						8-9-8 SEL CORONA	50	82	39.0-	84	136	38.2
						8-9-8 LONSDALE	53	74	28.4-	96	134	28.4-
						TEMPLE HALL #550	51	51		97	97	
						MAC V PYR C.D.J.						
12	[illegible]	36.8-	44	[illegible]	36.2-	*** TOTAL ***	333	753	55.8-	808	2,018	60.0-
3	[illegible]	66.7-	8	[illegible]	75.0-	CIF CHURCHILL	51	64	20.3-	176	223	21.1-
3	[illegible]	66.7-	8	[illegible]	75.0-	*** TOTAL ***	51	64	20.3-	176	223	21.1-
9	[illegible]	71.0-	54	[illegible]	70.0-	COH ROBUSTO	124	51	+100+	710	294	+100
9	[illegible]	74.3-	69	[illegible]	74.1-	COH CHURCHILL	110	51	+100+	826	384	+100
19	[illegible]	71.6-	123	[illegible]	72.4-	*** TOTAL ***	234	102	+100+	1,536	678	+100
4	[illegible]	50.0-	11	[illegible]	56.0-	CIF TORO	59	76	22.4-	190	247	23.1
2	[illegible]	80.0-	4	[illegible]	87.9-	CIF FANCY TAIL	18	92	80.4-	57	299	80.9
5	[illegible]	72.2-	15	[illegible]	74.1-	*** TOTAL ***	77	168	54.2-	248	546	54.6
6	[illegible]	76.0-	36	[illegible]	76.3-	COH ESPECIALS	75	41	82.9	450	244	84.4
6	[illegible]	76.0-	36	[illegible]	76.3-	*** TOTAL ***	75	41	82.9	450	244	84.4
4	3	33.3	14	10	40.0	CIF BELICOSO	73	32	+100+	244	109	+100
4	3	33.3	14	10	40.0	*** TOTAL ***	73	32	+100+	244	109	+100
9	[illegible]	65.4-	53	[illegible]	67.5-	COH LONSDALE GRA	104	42	+100+	652	264	+100
4	[illegible]	81.8-	17	[illegible]	84.0-	COH ROBUSTO FINO	73	38	92.1	346	183	89.1
12	[illegible]	75.0-	70	[illegible]	74.0-	*** TOTAL ***	177	81	+100+	997	447	+100
13	5	+100+	35	[illegible]	+100+	CIF MADURO	39	19	+100+	108	53	+100
2	6	66.7-	6	[illegible]	64.7-	CIF ROTHSCHILD	57	35	62.9	155	97	59.8
15	11	36.4	40	30	33.3	*** TOTAL ***	96	55	74.5	263	151	74.2

CONFIDENTIAL: UNDER PROTECTIVE ORDER
GC 024557

General Cigar Co., Inc.

* UNITS AND DOLLARS IN THOUSANDS

ORGANIZATION

ZONE	REGION	DIV	TERR	CUST

----------A-45 REPORT----------
NATIONAL REPORT

ISSUE DATE 10/31/98

ONTH of OCTOBER 1998 VERSUS 1997

UNITS THIS MONTH			DOLLARS THIS MONTH			DESCRIPTION	YEAR TO DATE — UNITS YEAR TO DATE			DOLLARS YEAR TO DATE		
15 YEAR	LAST YEAR	%	THIS YR	LAST YR	%		THIS YEAR	LAST YEAR	%	THIS YEAR	LAST YEAR	%
9	[illegible]	64.0-	41	[illegible]	64.3-	COH CORONA	92	40	+100+	413	181	+100
3	[illegible]		34	[illegible]		COH TRIANGULO	63			627		
8	[illegible]		47	[illegible]		COH CRYSTAL CORO	86			493		
6	[illegible]	68.4-	20	[illegible]	70.1-	COH CORONA MINOR	68	34	+100+	239	119	+100
26	[illegible]	42.2-	142	[illegible]	22.0-	*** TOTAL ***	308	74	+100+	1,771	300	+100
180	[illegible]		236	[illegible]		DON SEBAS CHURCH	840			1,045		
181	[illegible]		200	[illegible]		DON SEBAST TORO	427			469		
314	[illegible]		392	[illegible]		DON SEBAST CORON	605			756		
126	[illegible]		131	[illegible]		DON SEBAST LONSD	370			384		
801	[illegible]		958	[illegible]		*** TOTAL ***	2,241			2,665		
184	[illegible]	35.9-	54	[illegible]	32.5-	GV BRAVURA	2,504	[illegible]	30.3-	719	[illegible]	25.0
682	[illegible]	.7	199	[illegible]	4.7	GV PAN DELUXE	8,560	9,232	7.3-	2,459	2,470	.4
1,630	[illegible]	+100+	593	[illegible]	+100+	GV SENATORS	7,920	[illegible]	50.8	2,815	1,703	65.3
746	[illegible]	30.1-	227	[illegible]	27.7-	GV ELEGANTE	13,300	11,110	19.7	3,950	3,111	27.0
671	[illegible]	25.5-	203	[illegible]	23.4-	GV GALLANTE	8,052	8,939	9.9-	2,403	2,515	4.5
1-						GV NAPOLEONS	489	218	+100+	227	93	+100
1,286	[illegible]	41.9-	691	1,128	38.6-	GV ENG CORONA	19,791	20,803	4.9-	10,436	9,989	4.5
1						GV GRANADA	315	537	41.3-	185	292	36.6
56	[illegible]	53.6-	18	[illegible]	53.8-	GV BOUQUETS	1,267	1,287	1.6-	399	379	5.3
						GV ROMEROS	3-	45	+100-	2-	23	+100
412	[illegible]	22.6-	132	[illegible]	19.5-	GV BARONS	11,001	9,640	15.3	3,482	2,817	23.6
101	[illegible]	45.7-	68	[illegible]	41.4-	GV GRAN CORONA	2,763	2,114	30.7	1,814	1,257	44.3
201	[illegible]	57.6-	136	[illegible]	53.3-	GV GRAN PREMIO	3,865	4,215	8.3-	2,515	2,495	.8
287	[illegible]	33.9-	105	[illegible]	30.5-	GV PRESIDENTE	4,725	4,321	9.3	1,685	1,434	17.4
100	[illegible]	27.5-	29	[illegible]	25.6-	GV DELGADO PAN	1,263	1,700	25.7-	359	453	20.8
273	[illegible]	47.0-	167	[illegible]	47.0-	GV CRYSTALS #100	2,760	3,751	26.4-	1,791	2,143	16.4
236	[illegible]	19.7-	159	[illegible]	13.6-	GV CRYSTALS #200	2,877	3,182	9.6-	1,892	1,888	.3
163	[illegible]	66.3	110	[illegible]	80.3	GV CRYSTAL MADUR	1,413	98	+100+	931	61	+100
69	[illegible]	42.5-	25	[illegible]	39.0-	GV MADURO	1,064	2,183	51.3-	382	1,123	66.0
7,097	[illegible]	16.3-	2,916	[illegible]	17.2-	*** TOTAL ***	93,925	92,121	2.0	36,443	35,204	9.2
3	[illegible]	25.0-	2	[illegible]	33.3-	GYV PR CHURCHILL	191	204	6.4-	134	123	8.9
2-			1-			GYV PR LONDSDALE	179	183	2.2-	121	144	16.3
7			5			GYV PR CORONA	165	137	20.4	105	73	43.8
8	[illegible]	+10.[illegible]	[illegible]	[illegible]	66.7	*** TOTAL ***	535	524	2.1	36[illegible]	300	20.0

CONFIDENTIAL:
UNDER PROTECTIVE ORDER
CC 024558

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 301, Pl. Ex. 418, GCP 0255-268

Pl Ex 418
7/23/01

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PATRICK J KILGANNON*
EMILY S LAU*

* NOT ADMITTED IN NEW YORK
+ ADMITTED IN WASHINGTON D C

February 7, 1992

BY HAND

Ronald S. Milstein, Esq.
Vice President and Assistant General Counsel
Culbro Corporation
387 Park Avenue South
New York, NY 10016-8899

Re: Cigar Trademark Searches In Europe
and the United States
General Cigar Co., Inc.
Our Ref.: 246-4056

Dear Ron:

We have now received the remaining status and ownership updates regarding the above-referenced trademarks. Enclosed are revised versions of Table I (summary of registration ownership in EEC countries in cigar and tobacco classes for
Table III (summary of same information for marks COHIBA and
and Table V (more detailed information, by owner, for all marks and countries). All of the status and/or ownership updates in these three revised tables are italicized.

With regard to particular countries and marks where apparently conflicting registrations are owned by several different parties, it should be kept in mind that most of these countries, e.g. Benelux, France, Germany and Italy, do not examine applications for possible conflict with prior registrations or applications. In these countries, the parties are left to their own remedies of opposition, cancellation and/or infringement action for the resolution of conflicts. However, in any given case, it is possible that the parties have entered into private agreements allowing them to maintain their apparently conflicting registrations.

Confidential:
Under Protective Order

REDACTED

GCP 0255

DEFENDANT'S EXHIBIT
D 301

REDACTED

Please let me know if you have any other questions or concerns regarding the foregoing.

Very truly yours,

Scott Greenberg

SG:cm
Encl.

cc: Harry C. Marcus, Esq.

246-4056

REVISED TABLE V - SUMMARY OF REGISTRANT/APPLICANT LOCATION AND YEAR OF REGISTRATION/FILING IN TOBACCO CLASSES

REDACTED

REDACTED

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Under Protective Order

6. ECDT (Cubatabaco)
Havana, Cuba

REDACTED

Confidential:
Under Protective Order

GCP 0259

REDACTED

COHIBA -	Benelux:	® 1971
	Denmark:	® 1972; *®1990*
	France:	® 1972; ®1988
	Germany:	*®1984 (ass'd. from Reemstma Cigarenfabr.);* add'l. appl. filed 1988
	Greece:	® 1984
	Ireland:	*® 1983 (last renewed 1990)*; ® 1988
	Italy:	*® 1972 (renewal due 4/29/92);* ® 1978; ® 1983; ® 1988
	Portugal:	*® (last renewed 1988); add'l. appl. filed 1988*
	Spain:	® 1971; ® 1988
	U.K.:	® 1971; ® 1988

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GCP 0260

REDACTED

Confidential:
Under Protective Order

REDACTED

Confidential:
Under Protective Order

REDACTED

Confidential:
Under Protective Order

REDACTED

Confidential:
Under Protective Order

20. Reemstma Cigarenfabr.
Hamburg, Germany

COHIBA - *Germany: • 1984 (assigned to ECDT)*

REDACTED

24. Juan Jose Vila Coro Barrachina
Madrid, Spain

COHIBA - Spain: Filed 1983 (abandoned 1984)

Confidential:
Under Protective Order

GCP 0265

REDACTED

Confidential:
Under Protective Order

REDACTED

Confidential:
Under Protective Order

246-4056

TABLE III - SUMMARY OF REGISTRATION OWNERSHIP IN EEC FOR AND COHIBA
(Guide to International Classes Is Attached)

COHIBA	Benelux	Denmark	France	Germany	Greece	Ireland
1. Tobacco Class	ECDT (2)	ECDT (2)	ECDT (2)	(a) Reemstma Cigarenfab-GmbH (regd.) *(ass'd. to ECDT)* (b) ECDT (pending)	ECDT	ECDT (2) *(pending)*
2. Other Classes	No Registration	No Registration	(a) Robert Camps (Int. Cls. 3,18,30,32,33) (b) Papaya S.A. (Int. Cls. 35 and 42)	No Registration	No Registration	ECDT (Int. Cls. 14,18,20,25,28,30,33)

COHIBA	Italy	Portugal	Spain	U.K.	Int'l (Madrid Arrangement)
1. Tobacco Class	ECDT (4)	ECDT *(1 reg'd., 1 pending)*	*(a) ECDT (2)* *(b) Juan C. Barrachina (appl. abandoned)*	ECDT	No Registration
2. Other Classes	ECDT (Int. Cl. 14)	No Registration	No Registration	ECDT (Int. Cls. 14,18,20,25,28,30,33)	No Registration

REDACTED

Confidential.
Under Protective Order

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 302, Pl. Ex. 413, GCP 0695

ITT GA 851299791+421792 MFDP

04 18 1313
299791-TELPAT G
GA

Pl. Ex 413
7/23/01

(212) 415-8721
April 18, 1991

VIA TELEX

Michael A. Lynd, Esq.
Edward Evans & Co.
Chancery House
53-64 Chancery Lane
London, WC2A 1SD
ENGLAND

Re: Trade Mark Searches in EEC
General Cigar Co., Inc.
Your Ref.: MAL/LC/A5160
Our Ref.: 246-4056

Dear Mr. Lynd:

REDACTED

In addition, please conduct identical searches for the marks and COHIBA in the relevant trademark Registers and classes.

We look forward to your response.

Very truly yours,

Midge H. Hyman

MMH:cm
cc: Harry C. Marcus, Esq.
Scott Greenberg, Esq.

299791 TELPAT G.....
1317EST 003.70

Confidential And Privileged

Confidential:
Under Protective Order

GCP 0695

DEFENDANT'S EXHIBIT
D302

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

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Def. Ex. 303, Pl. Ex. 414, GCP 0697

EDWARD EVANS & CO.
(INCORPORATING CLEVELAND & JOHNSON and HOUGHTON & JOHNSON)

Chartered Patent Agents
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Pl Ex 414
7/23/2001

Ms. M. H. Hyman,
Morgan & Finnegan,
345 Park Avenue,
NEW YORK,
NEW YORK 10154,

VIA FACSIMILE

COPY

Your reference

Our reference MAL/PPC/A5160

Date 19 April 1991

RECEIVED
DOCKET DEPT
MAY 22 1991
MORGAN & FINNEGAN

Dear Ms. Hyman,

Re: Trade Mark Searches in EEC - General Cigar Co. Inc.

REDACTED

As regards the new 'identical' searches for and COHIBA I have at once instituted the EEC searches. Are these searches to be extended to the same Eastern European countries as the earlier marks ?

For the time being I remain,

Yours sincerely,

Michael A. Lynd

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GCP 0697

DEFENDANT'S EXHIBIT
D303

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
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PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 304, GCP 0677-0686

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HOWARD J. SUSSER
GABRIEL P. KRALIK
TONY V. PEZZANO
BRUCE D. RADIN
ELAINE J. KAHAN
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MARY J. MORRY
GEORGE N. PROIOS
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RAYMOND VAN DYKE
ROBERT K. GOETHALS
KENNETH H. SONNENFELD*
PATRICK J. KILGANNON*
EMILY S. LAU*

*NOT ADMITTED IN NEW YORK
+ADMITTED IN WASHINGTON, D.C.

November 18, 1991

VIA FAX

Ronald S. Milstein, Esq.
Vice President/Assistant General Counsel
Culbro Corp.
387 Park Avenue South
New York, NY 10016-8899

Re: Cigar Trademark Searches in Europe
and the United States
General Cigar Co., Inc.
Our Ref.: 246-4056

REDACTED

Dear Ron:

We have now received most of the status and ownership updates regarding the above-referenced trademarks. I have enclosed revised versions of Table I ("Summary of Registration Ownership in EEC in Cigar and Tobacco Classes") and Table V ("Summary of Registrant/Applicant Location and Year of Registration/Filing In Tobacco Classes"). The italicized entries in these revised tables contain the updated information.

Please be advised that we still await updated reports for France, Spain and the International Registrations, as well as all updates for the marks COHIBA and
We will provide this additional updated information to you as soon as possible.

In the meantime, please call me if you have any questions or concerns regarding the foregoing.

Confidential And Privileged

Very truly yours,

Scott Greenberg

Confidential: Under Protective Order

SG:cm
Encl.
cc: Harry C. Marcus, Esq.

Blumberg No. 8114
DEFENDANT'S EXHIBIT
D304

246-4056

REVISED TABLE V - SUMMARY OF REGISTRANT/APPLICANT LOCATION AND YEAR OF REGISTRATION/FILING IN TOBACCO CLASSES

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6. **ECDT (Cubatabaco)**
Havana, Cuba

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REDACTED

COHIBA -	Benelux:	● 1971
	Denmark:	● 1972
	France:	● 1972; ●1988
	Germany:	Filed 1988
	Greece:	● 1984
	Ireland:	● 1983; ● 1988
	Italy:	● 1974; ● 1983; ● 1985; ● 1988
	Portugal:	● 1988
	Spain:	● 1971; add'l. appl. filed 1988
	U.K.:	● 1971; ● 1988

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REDACTED

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REDACTED

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REDACTED

20. Reemstma Cigarenfabr.
Hamburg, Germany

COHIBA - Germany: ® 1984

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GCP 0685

REDACTED

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 305, Pl. Ex. 423, GCP 0768

PL EX 423
7/23/01

Culbro Corporation

387 Park Avenue South
New York, NY 10016-8899
212/561-8700
Telex: 325896
Cable: CULBROCORP NYK

RECEIVED
MAR - 9 1993
MORGAN & FINNEGAN

Culbro

Ronald S Milstein
Vice President
Assistant General Counsel
212/561-8731
FAX 212/561-8791

March 5, 1993

Scott Greenberg, Esq.
Morgan & Finnegan
345 Park Avenue
New York, New York 10154

Re: Protection for General Trademarks
In Former Soviet Union, Czech and Slovak Republics
Hungary and Poland
Your Ref.: 0246-Gen.

Dear Scott:

Following up on our conversation of today's date and your letter of February 19, 1993 in the above referenced matter, please proceed with applications for registrations in Russia, Ukraine, Georgia, Czech Republic, Slovak Republic, Poland and Hungary for the following marks:

Cohiba REDACTED

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Thank you.

GCP 0768

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Privileged

Very truly yours,

DEFENDANT'S
EXHIBIT
D305

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 306, Pl. Ex. 415, GCP 0687-0694

Pl Ex 415
July 23, 2001

MORGAN & FINNEGAN

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PATRICK J. KILGANNON*
EMILY S. LAU*

* NOT ADMITTED IN NEW YORK
+ ADMITTED IN WASHINGTON, D.C.

June 3, 1991

VIA FAX
CONFIRMATION VIA FIRST CLASS MAIL

Ronald S. Milstein, Esq.
Vice President and Assistant General Counsel
Culbro Corporation
387 Park Avenue South
New York, NY 10016-8899

Re: Cigar Trademark Searches In Europe
and the United States
General Cigar Co., Inc.
Our Ref.: 246-4056

REDACTED

Dear Ron:

I have enclosed the following additional materials and summaries regarding registration in Europe and the U.S. of the cigar trademarks which you have specified:

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Bloomberg No. 5114
DEFENDANT'S
EXHIBIT
D306

3. Table III - This is a summary of registration ownership in the EEC for COHIBA and connection with all goods and services.

4. Table IV - This is a summary of registration ownership of all of the aforementioned marks, in all product and service classes, in the United States Patent and Trademark Office.

5. Also enclosed is a set of the original search materials upon which Tables I-IV are based, with relevant portions highlighted.

Please note that all of the reported registrations and applications in 1-5 above are still being checked for current status and ownership. We will provide you with any resulting updates to these reports as soon as we receive them. We believe that this status and ownership check will help explain the several situations where multiple, unaffiliated companies appear to own registrations for the same or highly similar marks in the same country.

As noted, I will keep you apprised of updates and revisions to the enclosed materials as we receive them. In the meantime, please call if you have any questions or concerns regarding the foregoing.

Very truly yours,

REDACTED

Scott Greenberg

SG:cm
Encl.

cc: Harry C. Marcus, Esq.

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246-4056

TABLE III - SUMMARY OF REGISTRATION OWNERSHIP IN EEC FOR _____ AND COHIBA
(Guide to International Classes Is Attached)

	Benelux	Denmark	France	Germany	Greece	Ireland
COHIBA						
1. Tobacco Class	ECDT (2)	ECDT (2)	ECDT (2)	(a) Reemstma Cigarenfab-GmbH (regd.) (b) ECDT (pending)	ECDT	ECDT (2)
2. Other Classes	No Registration	No Registration	(a) Robert Camps (Int. Cls. 3,18,30,32,33) (b) Papaya S.A. (Int. Cls. 35 and 42)	No Registration	No Registration	ECDT (Int. Cls. 14,18,20,25,28,30,33)

REDACTED

	Italy	Portugal	Spain	U.K.	Int'l (Madrid Arrangement)
COHIBA					
1. Tobacco Class	ECDT (4)	ECDT (2)	ECDT (1 regd., 1 pending)	ECDT	No Registration
2. Other Classes	ECDT (Int. Cl. 14)	No Registration	No Registration	ECDT (Int. Cls. 14,18,20,25,28,30,33)	No Registration

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GCP 0689

May 31, 1991 14:00

International Classification of Goods and Services

Editor's Note The material below is reprinted from the Fifth Edition of *International Classification of Goods and Services for the Purpose of the Registration of Marks Under the Nice Agreement*, published by the World Intellectual Property Organization in 1987. The groupings of goods and services are only the major categories; detailed lists of goods and services for classification purposes are available from WIPO, 34, chemin des Colombettes, 1211 Geneva 20, Switzerland. The price in 1987 was 100 Swiss francs

The classifications below are effective as of Jan. 1, 1987. Countries which utilize these classifications, as well as notations as to whether goods only are classified, or both goods and services, are listed in Table of Appendix B.

Several countries which adopted this classification have made amendments thereto See "Classification" under the text of each country for details of such changes

Parts of an article or apparatus are generally classified with the actual article or apparatus, except where such parts constitute articles included in other classes. Explanatory Notes immediately following the list of classifications give further details on this aspect.

Goods

Class 1. Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances, adhesives used in industry.

Class 2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colourants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

Class 3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations, soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

Class 4. Industrial oils and greases; lubricants, dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles, wicks

Class 5. Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies, plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin, fungicides, herbicides

Class 6. Common metals and their alloys, metal building materials,

transportable buildings of metal, materials of metal for railway tracks, non-electric cables and wires of common metal, ironmongery, small items of metal hardware; pipes and tubes of metal, safes, goods of common metal not included in other classes, ores.

Class 7. Machines and machine tools, motors (except for land vehicles); machine coupling and belting (except for land vehicles), agricultural implements; incubators for eggs.

Class 8. Hand tools and implements (hand operated); cutlery, side arms; razors.

Class 9. Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images, magnetic data carriers, recording discs, automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus.

Class 10. Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth, orthopedic articles; suture materials.

Class 11. Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

Class 12. Vehicles; apparatus for locomotion by land, air or water

Class 13. Firearms; ammunition and projectiles, explosives; fireworks.

Class 14. Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewelry, precious stones; horological and chronometric instruments.

Class 15. Musical instruments.

Class 16. Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material, photographs; stationery; adhesives for stationery or household purposes, artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks.

Class 17. Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

Class 18. Leather and imitations of leather, and goods made of these materials and not included in other classes, animal skins, hides, trunks and travelling bags, umbrellas, parasols and walking sticks; whips, harness and saddlery.

Class 19. Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

Class 20. Furniture, mirrors, picture frames, goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

Class 21. Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes), brush-making materials; articles for cleaning purposes; steelwool, unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

Class 22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

Class 23. Yarns and threads, for textile use.

Class 24. Textiles and textile goods, not included in other classes; bed and table covers.

Class 25. Clothing, footwear, headgear.

Class 26. Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

Class 27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

Class 28. Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

Class 29. Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams; eggs, milk and milk products; edible oils and fats; salad dressings; preserves.

Class 30. Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (except salad dressings); spices, ice.

Class 31. Agricultural, horticultural and forestry products and grains not included in other classes; living animals; fresh fruits and vegetables; seeds, natural plants and flowers, foodstuffs for animals, malt.

Class 32. Beers; mineral and aerated waters and other non-alcoholic drinks, and fruit juices; syrups and other preparations for making beverages.

Class 33. Alcoholic beverages (except beers).

Class 34. Tobacco; smokers' articles, matches.

Services*

Class 35. Advertising and business.

Class 36. Insurance and financial.

Class 37. Construction and repair.

Class 38. Communication.

Class 39. Transportation and storage.

Class 40. Material treatment.

Class 41. Educational and entertainment.

Class 42. Miscellaneous.

* Note: Not all countries which have adopted the International Classification of Goods have adopted the above classification of Services. See Table 3 in Appendix B for countries that do not use service mark classifications

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GCP 0690

246-4056

TABLE IV - SUMMARY OF REGISTRATION OWNERSHIP IN THE UNITED STATES FOR ALL MARKS

	COHIBA
A. Int. Class 34 (tobacco products)	General Cigar Co., Inc.
B. Other Classes	E.R. Squibb & Sons, Inc. (COHIB, for cardiovascular pharmaceuticals)

REDACTED

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GCP 0691

International Classification of Goods and Services

Editor's Note: The material below is reprinted from the Fifth Edition of *International Classification of Goods and Services for the Purpose of the Registration of Marks Under the Nice Agreement*, published by the World Intellectual Property Organization in 1987. The groupings of goods and services are only the major categories, detailed lists of goods and services for classification purposes are available from WIPO, 34, chemin des Colombettes, 1211 Geneva 20, Switzerland. The price in 1987 was 100 Swiss francs.

The classifications below are effective as of Jan. 1, 1987. Countries which utilize these classifications, as well as notations as to whether goods only are classified, or both goods and services, are listed in Table 5 of Appendix B.

Several countries which adopted this classification have made amendments thereto. See "Classification" under the text of each country for details of such changes.

Parts of an article or apparatus are generally classified with the actual article or apparatus, except where such parts constitute articles included in other classes. Explanatory Notes immediately following the list of classifications give further details on this aspect.

Goods

Class 1. Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

Class 2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colourants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

Class 3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

Class 4. Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles, wicks.

Class 5. Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use; food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

Class 6. Common metals and their alloys; metal building materials, transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.

Class 7. Machines and machine tools; motors (except for land vehicles); machine coupling and belting (except for land vehicles); agricultural implements; incubators for eggs.

Class 8. Hand tools and implements (hand operated); cutlery; side arms; razors.

Class 9. Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus.

Class 10. Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth, orthopedic articles; suture materials.

Class 11. Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

Class 12. Vehicles; apparatus for locomotion by land, air or water.

Class 13. Firearms; ammunition and projectiles; explosives; fireworks.

Class 14. Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewelry, precious stones; horological and chronometric instruments.

Class 15. Musical instruments.

Class 16. Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material, photographs, stationery; adhesives for stationery or household purposes, artists' materials, paint brushes, typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes), playing cards, printers' type; printing blocks.

Class 17. Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes, plastics in extruded form for use in manufacture; packing, stopping and insulating materials, flexible pipes, not of metal.

Class 18. Leather and imitations of leather, and goods made of these materials and not included in other classes, animal skins, hides, trunks and travelling bags, umbrellas, parasols and walking sticks, whips, harness and saddlery.

Class 19. Building materials (non-metallic); non-metallic rigid pipes for building, asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

Class 20. Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

Class 21. Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes), brush-making materials, articles for cleaning purposes; steelwool, unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

Class 22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes), padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

Class 23. Yarns and threads, for textile use.

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Class 26. Lace and embroidery, ribbons and braid, buttons, hooks and eyes, pins and needles; artificial flowers.

Class 27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

Class 28. Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

Class 29. Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, eggs, milk and milk products; edible oils and fats; salad dressings, preserves.

Class 30. Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard, vinegar, sauces (except salad dressings); spices; ice.

Class 31. Agricultural, horticultural and forestry products and grains not included in other classes, living animals; fresh fruits and vegetables, seeds, natural plants and flowers, foodstuffs for animals, malt.

Class 32. Beers, mineral and aerated waters and other non-alcoholic drinks, and fruit juices, syrups and other preparations for making beverages.

Class 33. Alcoholic beverages (except beers).

Class 34. Tobacco, smokers' articles; matches.

Services*

Class 35. Advertising and business.

Class 36. Insurance and financial.

Class 37. Construction and repair.

Class 38. Communication.

Class 39. Transportation and storage.

Class 40. Material treatment.

Class 41. Educational and entertainment.

Class 42. Miscellaneous.

* Note: Not all countries which have adopted the International Classification of Goods have adopted the above classification of Services. See Table 5 in Appendix B for countries that do not use service mark classifications.

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Under Protective Order

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 307, Pl. Ex. 417, GCP 0649-0674

PL EX 417
7/23/2001

EDWARD EVANS & CO.

(INCORPORATING CLEVELAND & JOHNSON and HOUGHTON & JOHNSON)

Chartered Patent Agents
European Patent Attorneys

Patents, Designs, Copyright, Licensing and Trade Marks

T. L. JOHNSON, B.Sc., M.I.M., M.I.T.M.A., C.P.A., P.A.
R. L. CLINE, M.A., LL.B., C.P.A., P.A.
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Consultant
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FACSIMILE: 071 831 0343 GROUPS 2 & 3
INTERNATIONAL: +4471 831 0343
CABLES. EETELPAT LONDON WC2

Your reference 246-4056

Our reference MAL/LC/A5160

Date 27th January, 1992

S. Greenberg, Esq.,
Messrs. Morgan & Finnegan,
345 Park Avenue,
New York,
New York 10154,
U.S.A.

REDACTED

RECEIVED
DOCKET DEPT
FEB 03 1992
MORGAN & FINNEGAN

Dear Scott,

re: European Trade Mark Searches
General Cigar Co. Inc.

With reference to your letter to us of the 18th November, 1991 and our subsequent telephone conversation, I now provide you with the additional information that you requested.

Secondly, as regards COHIBA and the results for the various countries are set out in the accompanying schedules as follows.

COHIBA	Ireland	Schedule 2
COHIBA	Denmark	Schedule 3
COHIBA	Italy	Schedule 4
COHIBA	France	Information not yet available
COHIBA	Germany	The German Trade Mark COHIBA LA HABANA CUBA (E 27 7115/34 Wz) is still pending with no change of ownership. The German Trade Mark Registration No. 1 060 789 of COHIBA has been assigned to Empressa Cubana del Tabaco.
COHIBA	Benelux	Registration No. 305960 is still in force as is

DEFENDANT'S EXHIBIT
D307
Blumberg No. 6114

Confidential: Under Protective Order

Confidential And Privileged

GCP 0649

		still to stand in the name of Empressa Cubana del Tabaco ("Cubatabaco")
COHIBA	Portugal	Registration No. 175427 was renewed in March 1988. Application No. 249052 remains pending.
COHIBA	Spain	Spanish Trade Mark Application No. 1054651 was rejected on the 5th July, 1984. Spanish Registrations Nos. 662423 and 1271173 are both registered. There appear to have been no changes of name or assignments.
COHIBA	International	No relevant marks exist.

REDACTED

S. Greenberg, Esq.
Messrs. Morgan & Finnegan 27th January, 1992

REDACTED

Yours sincerely,

Michael A. Lynd

Confidential And
Privileged

Confidential:
Under Protective Order

REDACTED

Confidential And
Privileged

Confidential:
Under Protective Order

REDACTED

Confidential And
Privileged

Confidential:
Under Protective Order

SCHEDULE 2

IRISH TRADE MARKS

Confidential And
Privileged

Confidential:
Under Protective Order

EIRE

REGISTER OF TRADE MARKS

Class 34

No. 109252

Name, Address and Description	EMPRESA CUBANA DEL TABACO trading as CUBATABACO, a State enterprise organised and existing under the laws of the Republic of Cuba, of O'Reilly 104, Havana City, Cuba, Manufacturers and Merchants.
Description of Mark	COHIBA
Date of Registration	24th June, 1983.
Description of Goods	Leaf tobacco, manufactured tobacco for smoking, chewing and snuffing purposes and cigarettes.
Address for Service	Tomkins & Co., at their address as recorded for the time being in the Register of Trade Mark Agents.
19th January, 1990	Address for service altered to: MacLachlan & Donaldson, at their address as recorded for the time being in the Register of Trade Mark Agents.
3 MAY 1990	Registration Renewed

Associated Marks: 131241,

NEXT RENEWAL DUE 23.6.2004

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Confidential: Under Protective Order

GCP 0655

REGISTER OF TRADE MARKS

-4 AUG 1987 Class 14 No. 119112

Name, Address and Description	EMPRESA CUBANA DEL TABACO., a company organised and existing under the laws of the Republic of Cuba, of O'Reilly 104, Havana City, Cuba, Manufacturers and Merchants, trading as CUBATABACO. [redacted]
Description of Mark	COHIBA
Date of Registration	15th January, 1986.
Description of Goods	Jewellery, precious stones, horological and chronometric instruments.
Associated Mark	119114.
Address for Service	Tomkins & Co., at their address as recorded for the time being in the Register of Trade Mark Agents.
19th January, 1990	Address for service altered to: MacLachlan & Donaldson, at their address as recorded for the time being in the Register of Trade Mark Agents.
Associated Marks	132241,

NEXT RENEWAL DUE BEFORE: 14.1.1993

Confidential And Privileged

Confidential: Under Protective Order

GCP 0656

REGISTER OF TRADE MARKS

-4 AUG 19

Class 18

No. 119113

Name, Address and Description	EMPRESA CUBANA DEL TABACO., a company organised and existing under the laws of the Republic of Cuba, of O'Reilly 104, Havana City, Cuba, Manufacturers and Merchants, trading as CUBATABACO. [redacted]
Description of Mark	COHIBA
Date of Registration	15th January, 1986.
Description of Goods	Articles made from leather or imitation of leather included in Class 18, trunks and travelling bags, umbrellas, parasols.
Associated Mark	119115.
Address for Service	Tomkins & Co., at their address as recorded for the time being in the Register of Trade Mark Agents.
19th January, 1990	Address for service altered to: MacLachlan & Donaldson, at their address as recorded for the time being in the Register of Trade Mark Agents.

NEXT RENEWAL DUE BEFORE 14.1.93

Confidential And Privileged

Confidential: Under Protective Order

GCP 0657

REGISTER OF TRADE MARKS

- 4 AUG 1987 Class 20 No. 119114

Name, Address and Description	EMPRESA CUBANA DEL TABACO., a company organised and existing under the laws of the Republic of Cuba, of O'Reilly 104, Havana City, Cuba, Manufacturers and Merchants, trading as CUBATABACO.
Description of Mark	COHIBA
Date of Registration	15th January, 1986.
Description of Goods	Furniture, articles included in Class 20 of wood, cork, reeds, cane, wicker, horn, bone, shell, amber, mother-of-pearl, meerschaum, celluloid or plastic.
Associated Mark	119112.
Address for Service	Tomkins & Co., at their address as recorded for the time being in the Register of Trade Mark Agents.
19th January, 1990	Address for service altered to: MacLachlan & Donaldson, at their address as recorded for the time being in the Register of Trade Mark Agents.

NEXT RENEWAL DUE BEFORE: 14.1.93

Confidential And Privileged

Confidential: Under Protective Order

GCP 0658

REGISTER OF TRADE MARKS

-4 AUG 1987 Class 25 No. 119115

Name, Address and Description	EMPRESA CUBANA DEL TABACO., a company organised and existing under the laws of the Republic of Cuba, of O'Reilly 104, Havana City, Cuba, Manufacturers and Merchants, trading as CUBATABACO.
Description of Mark	COHIBA
Date of Registration	15th January, 1986.
Description of Goods	Articles of clothing included in Class 25; boots, shoes and slippers.
Associated Marks	119113.
Address for Service	Tomkins & Co., at their address as recorded for the time being in the Register of Trade Mark Agents.
19th January, 1990	Address for service altered to: MacLachlan & Donaldson, at their address as recorded for the time being in the Registe of Trade Mark Agents.

NEXT RENEWAL DUE BEFORE: 4.1.93

Confidential And Privileged

Confidential: Under Protective Order

GCP 0659

REGISTER OF TRADE MARKS

-4 AUG 1987 Class 28 No. 119116

Name, Address and Description	EMPRESA CUBANA DEL TABACO., a company organised and existing under the laws of the Republic of Cuba, of O'Reilly 104, Havana City, Cuba, Manufacturers and Merchants, trading as CUBATABACO.
Description of Mark	COHIBA
Date of Registration	15th January, 1986.
Description of Goods	Games (other than playing cards) and playthings, gymnastic and sporting articles included in Class 28.
Address for Service	Tomkins & Co., at their address as recorded for the time being in the Register of Trade Mark Agents.
19th January, 1990	Address for service altered to: MacLachlan & Donaldson, at their address as recorded for the time being in the Register of Trade Mark Agents.

NEXT RENEWAL DUE BEFORE: 14.1.93

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GCP 0660

REGISTER OF TRADE MARKS

Class 30 No. 119117

4 AUG 1987

Name, Address and Description	EMPRESA CUBANA DEL TABACO., a company organised and existing under the laws of the Republic of Cuba, of O'Reilly 104, Havana City, Cuba, Manufacturers and Merchants, trading as CUBATABACO.
Description of Mark	COHIBA
Date of Registration	15th January, 1986.
Description of Goods	Coffee, tea, cocoa, biscuits (other than biscuits for animals), pastry and non-medicated confectionery, honey.
Address for Service	Tomkins & Co., at their address as recorded for the time being in the Register of Trade Mark Agents.
19th January, 1990	Address for service altered to: MacLachlan & Donaldson, at their address as recorded for the time being in the Register of Trade Mark Agents.

NEXT RENEWAL DUE BEFORE: 14.1.93

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Confidential: Under Protective Order

GCP 0661

REGISTER OF TRADE MARKS

-4 AUG 1987 Class 33 No. 119118

Name, Address and Description	EMPRESA CUBANA DEL TABACO., a company organised and existing under the laws of the Republic of Cuba, of O'Reilly 104, Havana City, Cuba, Manufacturers and Merchants, trading as CUBATABACO.
Description of Mark	COHIBA
Date of Registration	15th January, 1986.
Description of Goods	Wines, spirits (beverages) and liqueurs.
Address for Service	Tomkins & Co., at their address as recorded for the time being in the Register of Trade Mark Agents.
19th January, 1990	Address for service altered to: MacLachlan & Donaldson, at their address as recorded for the time being in the Register of Trade Mark Agents.

NEXT RENEWAL DUE BEFORE: 14.1.93

Confidential And Privileged

Confidential: Under Protective Order

GCP 0662

REGISTER OF TRADE MARKS

24 JAN 1991 | Class 34 | No. 131241

Name, Address and Description	EMPRESA CUBANA DEL TABACO., a Corporation organised and existing under the laws of Cuba of 104 O'Reilly Street, Havana City, Cuba, Manufacturers and Merchants, trading as also CUBATABACO..
Description of Mark	Device (see representation below).
Date of Registration	5th July, 1988.
Description of Goods	Raw tobacco; cigars, cigarettes, cut tobacco, rappee, manufactured tobacco, matches; tobacco pipes, pipe holders, ashtrays, match boxes, cigar cases and humidors, none being of precious metal; smokers' articles included in Class 34.
Associations	109252, 119112, 123878.
Address for Service	MACLACHLAN & DONALDSON at their address as recorded for the time being in the Register of Trade Mark Agents.
Notings	It is a condition of registration that the trade mark will be used only in relation to goods emanating from Cuba.
Disclaimer	Registration of this Trade Mark gives no right to the exclusive use of the word "CUBA".
Representation of Trade Mark	

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GCP 0663

SCHEDULE 3

DANISH TRADE MARKS

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Confidential:
Under Protective Order

DENMARK

COHIBA	No changes have been recorded at the Danish Patent Office regarding Registrations Nos. 3784 1972 and 1783 1990.

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Privileged

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Under Protective Order

SCHEDULE 4

Trade Mark COHIBA - ITALY

Confidential And
Privileged

Confidential:
Under Protective Order

Roma , 17/12/91

STATO VITA UFFICIOSO

BREVETTO PER MARCHIO	No. -83-34601 / 456600
DATA DI DEPOSITO	21/07/1983
DATA DI RILASCIO	17/11/1986
TITOLARE	EMPRESA CUBANA DEL TABACO esercente il commercio come CUBATABACO O'Reilly 104 - HAVANA CITY / CU
MARCHIO	COHIBA
CLASSI	34
PRODOTTI	TABACCO IN FOGLIA, TABACCO LAVORATO PER FUMO, DA MASTICARE E DA FIUTO, E SIGARETTE
N.PRIORITA'- DATA - NAZ.	- / / -
TRASCRIZIONI	N/N
MARCHIO DI 1° DEPOSITO	- / /
TASSE	20 ANNI
AGENTE	BARZANO'ZANARDO SPA ROMA

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GCP 0667

Roma , 17/12/91

STATO VITA UFFICIOSO

BREVETTO PER MARCHIO	No. -78-34447 / 358090
DATA DI DEPOSITO	04/08/1978
DATA DI RILASCIO	26/06/1985
TITOLARE	EMPRESA CUBANA DEL TABACO esercente il commercio come CUBATABACO 104 O'Reilly Street - HAVANA CITY / CU
MARCHIO	COHIBA
CLASSI	34
PRODOTTI	TABACCO IN FOGLIA, TABACCO LAVORATO DA FUMARE, DA MASTICARE E DA FIUTARE, E SIGARETTE
N.PRIORITA'- DATA - NAZ.	- / / -
TRASCRIZIONI	N/N
MARCHIO DI 1° DEPOSITO	- / /
TASSE	20 ANNI
AGENTE	BARZANO'ZANARDO SPA ROMA

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GCP 0668

Roma , 17/12/91

STATO VITA UFFICIOSO

BREVETTO PER MARCHIO No. -88-36006 / 046767

DATA DI DEPOSITO 05/08/1988

DATA DI RILASCIO 14/06/1991

TITOLARE EMPRESA CUBANA DEL TABACO esercente come CUBATABACO
104 O'Reilly Street - HAVANA CITY / CU

MARCHIO COHIBA - LA HABANA CUBA - CUBATABACO

TESTA DI DONNA VISTA DI PROFILO

CLASSI 34

PRODOTTI TABACCO GREZZO, SIGARI, SIGARETTE, TABACCO TRINCIATO, TABACCO RAPPEE, TABACCO LAVORATO DI OGNI GENERE, FIAMMIFERI, TABACCO DA PIPA, PORTAPIPE, POSACENERE, SCATOLE PER FIAMMIFERI, SCATOLE PER SIGARI, UMIDIFICATORI PER SIGARI E QUALSIASI ALTRO ARTICOLO PER FUMATORI

N.PRIORITA'- DATA - NAZ. - / / -

TRASCRIZIONI N/N

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MARCHIO DI 1° DEPOSITO - / /

Confidential: Under Protective Order

TASSE 20 ANNI

AGENTE BARZANO'ZANARDO SPA ROMA

GCP 0669

Roma , 17/12/91

STATO VITA UFFICIOSO

BREVETTO PER MARCHIO	No. -86-33257 / 474017
DATA DI DEPOSITO	21/02/1986
DATA DI RILASCIO	26/03/1987
TITOLARE	EMPRESA CUBANA DEL TABACO esercente il commercio come CUBATABACO O'Reilly 104 - HAVANA CITY / CU
MARCHIO	COHIBA
CLASSI	14 18 20 25 28 30 33
PRODOTTI	VEDI SUPPORTO CARTACEO
N.PRIORITA'- DATA - NAZ.	- / / -
TRASCRIZIONI	N/N
MARCHIO DI 1° DEPOSITO	- / /
TASSE	20 ANNI
AGENTE	BARZANO'ZANARDO SPA ROMA

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GCP 0670

"Metalli preziosi e loro leghe ed oggetti fabbricati con tali materie o placcati (eccetto coltelleria, forchette e cucchiai); gioielleria, pietre preziose; orologeria ed altri strumenti cronometrici; cuoio ed imitazioni del cuoio, articoli fabbricati con tali materie e non compresi in altre classi; pelli; bauli e valigie; ombrelli da pioggia, ombrelli da sole e bastoni; fruste, finimenti e selleria; mobili, specchi, cornici; articoli (non compresi in altre classi) in legno, sughero, canna, giunco, vimini, corno, osso, avorio, osso di balena, tartaruga, ambra, madreperla, schiuma di mare, celluloide e surrogati di tali materie, o di materie plastiche; articoli di vestiario, compresi gli stivali, le scarpe e le pantofole; giuochi, giocattoli; articoli per la ginnastica e lo sport; ornamenti e decorazioni per alberi di Natale; caffè, tè, cacao, zucchero, riso, tapioca, sago, surrogati del caffè; farine e preparati fatti di cereali, pane, biscotti, focacce, pasticceria, confetteria, gelati commestibili; miele, sciroppo di melassa; lievito, polvere per lievitare; sale, mostarda; pepe, aceto, salse, spezie; ghiaccio; vini, spiriti e liquori" (classi 14, 18, 20, 25, 28, 30 e 33)

Roma , 17/12/91

STATO VITA UFFICIOSO

BREVETTO PER MARCHIO	No. -72-33701 / 282563
DATA DI DEPOSITO	29/04/1972
DATA DI RILASCIO	27/05/1974
TITOLARE	EMPRESA CUBANA DEL TABACO esercente il commercio come CUBATABACO 360 Aguiar Street - HAVANA / CU
MARCHIO	COHIBA
CLASSI	34
PRODOTTI	TABACCO IN FOGLIA, TABACCO LAVORATO PER FUMARE E MASTICARE, TABACCO DA FIUTO E SIGARETTE
N.PRIORITA'- DATA - NAZ.	- / / -
TRASCRIZIONI	N/N
MARCHIO DI 1° DEPOSITO	- / /
TASSE	20 ANNI
AGENTE	BARZANO'ZANARDO SPA ROMA

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Confidential: Under Protective Order

GCP 0672

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Confidential:
Under Protective Order

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Under Protective Order

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 308

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Electronic Search System (TESS)

TESS was last updated on Tue Apr 29 04:16:11 EDT 2003

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Start **List At:** [ ] **OR** Jump **to record:** [ ] **Record 1 out of 2**

Check Status *(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

CUABA

Word Mark	CUABA
Goods and Services	IC 034. US 002 008 009 017. G & S: raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, tobacco pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors, all of the foregoing not of precious metals
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	75132819
Filing Date	July 11, 1996
Filed ITU	FILED AS ITU
Published for Opposition	November 17, 1998
Registration Number	2237940
Registration Date	April 13, 1999
Owner	(REGISTRANT) HABANOS, S.A. CORPORATION CUBA Calle Mercaderes, No. 21 Ciudad Habana CUBA

DEFENDANT'S EXHIBIT D308

Attorney of Record	CAROLINE RULE
Section 44 Indicator	SECT44
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2003-04-29 11:15:43 ET

Serial Number: 75132819

Registration Number: 2237940

Mark

CUABA

(words only): CUABA

Current Status: Registered.

Date of Status: 1999-04-13

Filing Date: 1996-07-11

Registration Date: 1999-04-13

Law Office Assigned: TMEG Law Office 105

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -Warehouse (Newington)

Date In Location: 1999-04-16

CURRENT APPLICANT(S)/OWNER(S)

---

1. HABANOS, S.A.

Address:
HABANOS, S.A.
Calle Mercaderes, No. 21
Ciudad Habana,
Cuba
State or Country of Incorporation: Cuba
Legal Entity Type: Corporation

GOODS AND/OR SERVICES

raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, tobacco pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors, all of the foregoing not of precious metals
International Class: 034
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

Basis: 44(e)

ADDITIONAL INFORMATION

Foreign Registration Number: 123366
Foreign Registration Date: 1995-12-29
Country: Cuba
Foreign Expiration Date: 2005-12-29

PROSECUTION HISTORY

1999-04-13 - Registered - Principal Register

1998-11-17 - Published for opposition

1998-10-16 - Notice of publication

1998-08-26 - Approved for Pub - Principal Register (Initial exam)

1998-08-11 - ITU claim deleted

1998-08-11 - Examiner's amendment mailed

1997-07-01 - Letter of suspension mailed

1997-05-23 - Communication received from applicant

1996-12-19 - Non-final action mailed

1996-12-10 - Case file assigned to examining attorney

CONTACT INFORMATION

Correspondent (Owner)
CAROLINE RULE (Attorney of record)

CAROLINE RULE
RABINOWITZ BOUDIN STANDARD ET AL
740 BROADWAY 5TH FL
NEW YORK NY 10003-9518

Latest Status Info

United States

Domestic Representative
RABINOWITZ BOUDIN STANDARD ET AL

CUABA

Image

TRADEMARKSCAN®--U.S. Federal

Serial Number: 75132819
Registration Number: 2237940

Status: REGISTERED

USPTO Status: (700) REGISTERED
USPTO Status Date: April 13, 1999

Filed: July 11, 1996
Published: November 17, 1998
Registered: April 13, 1999

Goods/Services: RAW TOBACCO, CIGARS, CIGARETTES, CUT TOBACCO, RAPPEE, MANUFACTURED TOBACCO OF ALL KINDS, MATCHES, TOBACCO, TOBACCO PIPES, PIPE-HOLDERS, ASHTRAYS, MATCH BOXES, CIGAR CASES AND HUMIDORS, ALL OF THE FOREGOING NOT OF PRECIOUS METALS

International Class(es)
34 (Smokers' Articles)

Owner At Publication:
HABANOS, S.A.
CUBA CORPORATION
CALLE MERCADERES, NO. 21
CIUDAD HABANA , CUBA

Applicant:
HABANOS, S.A.
CUBA CORPORATION
CALLE MERCADERES, NO. 21
CIUDAD HABANA , CUBA

Foreign Registration Claimed: 123366
Foreign Registration Date: December 29, 1995
Foreign Registration Expires: December 29, 2005
Foreign Registration Country: CUBA

Filing Attorney: CAROLINE RULE

Filing Correspondent:
CAROLINE RULE
RABINOWITZ BOUDIN STANDARD ET AL
740 BROADWAY 5TH FL
NEW YORK NY 10003-9518

Design Codes:
999999 NO CODES

CUABA

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Viewed: Tue Apr 29 2003, 15:25 GMT

Print Page

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

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v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 309

TESS was last updated on Tue Apr 29 04:16:11 EDT 2003

Logout Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

Check Status *(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

Typed Drawing

Word Mark	SAN CRISTOBAL DE LA HABANA
Translations	The English translation of the words "**SAN CRISTOBAL DE LA HABANA**" in the mark is "Saint Christopher of Havana".
Goods and Services	(ABANDONED) IC 034. US 002 008 009 017. G & S: raw tobacco, cigars, cigarettes, cut tobacco, rappee, matches, tobacco, pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75151575
Filing Date	August 16, 1996
Owner	(APPLICANT) CORPORACION HABANOS, S.A. CORPORATION CUBA Mercaderes No. 21 Entre O'Reilly y Empedrado Havana CUBA
Attorney of Record	MICHAEL KRINSKY
Section 44 Indicator	SECT44
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment Date	April 2, 1998

DEFENDANT'S EXHIBIT D309

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2003-04-29 11:16:00 ET

Serial Number: 75151575

Registration Number: (NOT AVAILABLE)

Mark (words only): SAN CRISTOBAL DE LA HABANA

Current Status: Abandoned: Applicant failed to respond to an Office action.

Date of Status: 1998-06-02

Filing Date: 1996-08-16

Registration Date: (DATE NOT AVAILABLE)

Law Office Assigned: TMEG Law Office 107

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -Warehouse (Newington)

Date In Location: 1999-03-16

CURRENT APPLICANT(S)/OWNER(S)

1. CORPORACION HABANOS, S.A.

Address:
CORPORACION HABANOS, S.A.
Mercaderes No. 21 Entre O'Reilly y Empedrado
Havana,
Cuba
State or Country of Incorporation: Cuba
Legal Entity Type: Corporation

GOODS AND/OR SERVICES

raw tobacco, cigars, cigarettes, cut tobacco, rappee, matches, tobacco, pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors
International Class: 034
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

Basis: 44(e)

ADDITIONAL INFORMATION

Translation: The English translation of the words "SAN CRISTOBAL DE LA HABANA" in the mark is "Saint Christopher of Havana".

Foreign Registration Number: 122942
Country: Cuba

PROSECUTION HISTORY

1998-06-02 - Abandonment - Failure to respond

1997-10-01 - Non-final action mailed

1997-08-20 - Communication received from applicant

1997-02-20 - Non-final action mailed

1997-02-20 - Case file assigned to examining attorney

1997-02-19 - Case file assigned to examining attorney

1997-02-18 - Case file assigned to examining attorney

1997-02-11 - Case file assigned to examining attorney

CONTACT INFORMATION

Correspondent (Owner)
MICHAEL KRINSKY (Attorney of record)

MICHAEL KRINSKY
RABINOWITZ BOUDIN STANDARD KRINSKY ET AL
740 BROADWAY FIFTH FLOOR
NEW YORK NY 10003-9518
United States

Domestic Representative
RABINOWITZ BOUDIN STANDARD KRINSKY ET AL

SAN CRISTOBAL DE LA HABANA

Full Text Translation:THE ENGLISH TRANSLATION OF THE WORDS "SAN CRISTOBAL DE LA HABANA" IN THE MARK IS "SAINT CHRISTOPHER OF HAVANA".

Translation: SAINT CHRISTOPHER OF HAVANA

TRADEMARKSCAN®--U.S. Federal

Serial Number: 75151575

Status: ABANDONED

USPTO Status: (602) ABANDONED-FAILURE TO RESPOND
USPTO Status Date: June 2, 1998

Filed: August 16, 1996
Abandoned: June 2, 1998

Goods/Services: RAW TOBACCO, CIGARS, CIGARETTES, CUT TOBACCO, RAPPEE, MATCHES, TOBACCO, PIPES, PIPE-HOLDERS, ASHTRAYS, MATCH BOXES, CIGAR CASES AND HUMIDORS

International Class(es)
34 (Smokers' Articles)

Applicant:
CORPORACION HABANOS, S.A.
CUBA CORPORATION
MERCADERES NO. 21
ENTRE O'REILLY Y EMPEDRADO
HAVANA , CUBA

Foreign Registration Claimed: 122942
Foreign Registration Country: CUBA

Filing Attorney: MICHAEL KRINSKY

Filing Correspondent:
MICHAEL KRINSKY
RABINOWITZ BOUDIN STANDARD KRINSKY ET AL
740 BROADWAY FIFTH FLOOR
NEW YORK NY 10003-9518

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Viewed: Tue Apr 29 2003, 15:26 GMT

Print Page

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 310

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Fax (800) 543-1983 (617) 786-8273
www.thomson-thomson.com

DEFENDANT'S EXHIBIT
D 310

THOMSON & THOMSON

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Washington Document Services

Service: Certified Copy

Mark: 75/011205 VEGUEROS (+2)

Reported: May 15, 2003

Your reference:

email to: WS@t-t.com

Acceptance and reliance upon this report by the client constitutes an acceptance of its terms, conditions and limitations. Any liability arising out of the preparation of this report is limited to a refund of the fee paid. All reasonable steps have been taken to ensure the completeness and accuracy of this report or document copy. Information herein is from the records of US government agencies; we cannot control the accuracy of their recording and maintenance procedures. If the property which was the subject of this search or document copy is changed, even slightly, a new search should be conducted. Please note that this report in no way constitutes a legal opinion.

1006518

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

May 08, 2003

THIS IS TO CERTIFY THAT ANNEXED IS A TRUE COPY FROM THE RECORDS OF THIS OFFICE OF THE APPLICATION AS FILED FOR:

TRADEMARK APPLICATION: *75/151,575*
FILING DATE: *August 16, 1996*

By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS

E. Bornett

E. BORNETT
Certifying Officer

75151575

TRADEMARK APPLICATION SERIAL NO. _____

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

620 SL 08/22/96 75151575
0 361 245.00 CK

PTO-1555
(5/87)

7515157

2/0 245 361

MAILROOM
JUN 1 6 1998
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Application, Principal Register, with Declaration

Mark: SAN CRISTOBAL DE LA HABANA
Int'l Class: 34

To: The Assistant Secretary and
Commissioner of Patents and Trademarks
Washington, D.C. 20231

AA

Applicant Name: CORPORACION HABANOS, S.A.

Applicant Business Address: Mercaderes No. 21
Entre O'Reilly y Empedrado
Havana
Cuba
CUX

Applicant Entity: The Applicant is a corporation, incorporated under the laws of the Republic of Cuba.
CUX

GOODS AND/OR SERVICES

Applicant requests registration of the above-identified trademark shown in the accompanying drawing in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. §§ 1501 et seq., as amended) for the following goods:

Raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors in International Class 34.

BASIS FOR APPLICATION

Applicant has a bona fide intention to use the mark in commerce or in connection with the above identified goods, and accompanying this applications, submits a certification or certified copy of a foreign registration in accordance with 15 U.S.C. § 1126(e), as amended:

Country of foreign filing: Cuba
Registration Number: 122 942

Applicant intends to use the mark by applying to labels attached to the goods, in packaging of the goods and in advertisements.

AT
CA

The undersigned hereby appoints as its attorney Eric M. Lieberman, Esq., and Michael Krinsky, Esq., Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway, Fifth Floor, New York, New York, 10003-9518, jointly and severally, with full powers of substitution, association and revocation, including the appointment of associate counsel, to prosecute this

application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the Certificate of Registration.

DR

Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway, Fifth Floor, New York, New York, 10003-9518, is hereby designated applicant's representative upon whom notice of process in proceedings affecting the mark may be served.

DECLARATION

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he is properly authorized to execute this application on behalf of the applicant; he believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. 1051(b), he believes applicant to be entitled to use such mark in commerce; to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use the above identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

CORPORACION HABANOS, S.A.

By: _____
Francisco Linares Calvo
President

Date: 8/8/96

TRADEMARK MAILROOM
REC'D
AUG 1 6 1996
U.S. PATENT & TRADEMARK OFFICE

INT. C
34
2,8,9,17

APPLICANT'S NAME : CORPORACION HABANOS, S.A.

APPLICANT'S ADDRESS : Mercaderes No. 21
Entre O'Reilly y Empedrado
Habana, Cuba

DATE OF FIRST USE : Intent to Use

DATE OF FIRST USE IN COMMERCE : Reliance on Cuban Reg. No. 122,942, Dated June 28, 1995

GOODS or SERVICES : RAW TOBACCO, CIGARS, CIGARETTES, CUT TOBACCO, RAPPEE, MANUFACTURED TOBACCO OF ALL KINDS, MATCHES, TOBACCO, PIPES, PIPE-HOLDERS, ASHTRAYS, MATCH BOXES, CIGAR CASES AND HUMIDORS in International Class 34

TRADEMARK

75151575

SAN CRISTOBAL DE LA HABANA

May 09, 2003

This is to inform you that the document requested in your order dated 05-05-2003 is a true reproduction of the official office record copy of that document:

75132819 CERTIFIED TRADEMARK FILE WRAPPER-PSF 1

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1006671

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

May 09, 2003

THIS IS TO CERTIFY THAT ANNEXED IS A TRUE COPY FROM THE RECORDS OF THIS OFFICE OF THE TRADEMARK FILE WRAPPER AND CONTENTS OF:

TRADEMARK APPLICATION: *75/132,819*
FILING DATE: *July 11, 1996*
REGISTRATION NUMBER: *2,237,940*
REGISTRATION DATE: *April 13, 1999*

By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS

N. WOODSON
Certifying Officer

JAN

REG NUM: 2237940
REG DT: 04/13/1999

S/N 75/132819

3. MARK CUABA (STYLIZED)			4. SER. NO. 75/132819
			5. REGISTER PRINCIPAL
6. INTERNATIONAL CLASS 34	7. PRIOR U.S. CLASS 2-8-9-17	8. FILING DATE 07/11/96	9. LAW OFFICE 105

10. APPLICANT AND POST OFFICE
HABANOS, S.A.
Calle Mercaderes, No. 21
Ciudad Habana, CUBA
CORPORATION OF CUBA

16. EXAMINING ATTORNEY
MICHOS

17. TYPE OF MARK ~~SECTION 1(b)~~
TRADEMARK

18. FIRST USE
ICL 034 00/00/0000

19. IN COMMERCE
ICL 034 00/00/0000

20. FOREIGN REG. AND APPL. DATA
CUX APP 123366 12/29/95

11. CORRESPONDENCE ADDRESS
Caroline Rule
Rabinowitz, Boudin, Standard, et al.
740 Broadway
Fifth Floor
New York, NY 10003-9518

12. DOMESTIC REPRESENTATIVE

13. APPLICANT'S ATTORNEY
Caroline Rule

15. GOODS — SERVICES
034-raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors

21. OTHER DATA
For dep Exp 12/29/05

PTO-102L. (REV. 12/82) U.S. DEPT. OF COMMERCE — PATENT AND TRADEMARK OFFICE

PUBLISHED
11/17/98

Examining Attorney — (Please Print Name)

Approved for Publication (Principal Register) — (Signature)

Approved for Registration (Section 1(d)) — (Signature)

Approved for Registration (Supplemental Register) — (Signature)

Section 8 Accepted — (Signature)

Section 9 Renewal Accepted — (Signature)

75132319

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TRADEMARK ADMINISTRATION
REC'D
JUL 11 1996
PATENT & TRADEMARK OFFICE

CERTIFIED MAIL, [illegible]R

July 8, 1996

Assistant Commissioner for Trademarks
Box NEW APP/FEE
2900 Crystal Drive
Arlington, VA 22202-3513

Re: Mark: CUABA
International Class: 34
Applicant: HABANOS, S.A.

Dear Sir/Madam:

Enclosed for filing on behalf of HABANOS, S.A. is an application for registration of the above trademark. Applicant relies upon its Cuban Registration No. 123,366, dated December 29, 1995, pursuant to 15 U.S.C. 1126(e) as a basis for registration in the United States. Accordingly, a certified copy (and English translation) of this registration are also enclosed. Finally, a check for $245.00 to cover the filing fee is enclosed as well.

Please direct all correspondence and/or inquiries regarding this filing to Applicant's attorney:

Caroline Rule, Esq.
Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C.
740 Broadway at Astor Place
New York, NY 10003-9518
Telephone: (212) 254-1111

Thank you.

Very truly yours,

Lori Potts
Trademark Paralegal-Consultant

Enclosures
cc: Caroline Rule, Esq. w/encs.

75132819

TRADEMARK APPLICATION SERIAL NO. _____

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

170 BO 07/24/96 75132819 0 361 245.00 CK

PTO-1555
(5/87)

1/1 245-361 75132319

TRADEMARK MAILROOM
RECD
JUL 11 1996
US PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Application for Trademark Registration

Mark: CUABA
Int'l Class: 34

To: The Assistant Secretary and
Commissioner of Patents and Trademarks
Washington, D.C. 20231

03 CUX

The Applicant, HABANOS, S.A., with its business address at Calle Mercaderes, No. 21, Ciudad Habana, Cuba, is a corporation, incorporated under the laws of the Republic of Cuba.

Applicant requests registration of the above-identified trademark shown in the accompanying drawing in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. §§ 1501 et seq., as amended) for the following goods:

Raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors in International Class 34.

Applicant has a bona fide intention to use the mark in commerce between the United States and a foreign country on or in connection with the above identified goods, and asserts a claim of priority based upon the foreign registration identified below in accordance with 15 U.S.C. § 1126(e), as amended:

Country of foreign filing:	Cuba
Registration Number:	123 366
Registration Issue Date:	December 29, 1995

Applicant intends to use the mark by applying to labels attached to the goods, in packaging of the goods and in advertisements.

The undersigned hereby appoints as its attorney Eric M. Lieberman, Esq., Michael Krinsky, Esq. and Caroline Rule Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway, Fifth Floor, New York, New York, 10003-9518 jointly and severally, with full powers of substitution, association and revocation, including the appointment of associate counsel, to prosecute this application to register, to transact all business in the Patent and

Trademark Office in connection therewith, and to receive the Certificate of Registration.

DR Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway, Fifth Floor, New York, New York, 10003-9518, is hereby designated applicant's representative upon whom notice of process in proceedings affecting the mark may be served.

DECLARATION

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he is properly authorized to execute this application on behalf of the applicant; he believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. 1051(b), he believes applicant to be entitled to use such mark in commerce; to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use the above identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

HABANOS, S.A.

PRESIDENTE

By: _____
Francisco Linares Calvo
President

DIRECTOR GENERAL

Date: March 18, 1996

AMERICA N. SANTOS RIVERAS, Esq., Director of the National Office of Inventions, Technical Information and Trademarks,

CERTIFIES

That dated the twenty-ninth of December in the year one thousand nine hundred ninety-five, and for the period of 10 years, there was issued on behalf of : **CORPORACION HABANOS, S.A., (HABANOS, S.A.)** situated at : Mercaderes No. 21, between O'Reilly and Empedrado, Old Havana, Havana City, Cuba, the inscription of the **Certicate No. 123366**, recorded as No. 2382 of the year 1995 in the Principal Registry, which reserves the trademark: **CUABA** for use in distinguishing: raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, smoking paraphernalia, and matches included in class 34 of the International Classification of Goods and Services. Said registration is in full force and effect, and the design affixed below is exactly equal to that which is on file.

[DESIGN]

That at the request of **Adargelio Garrido de la Grana**, this certification is issued prior to the payment of the corresponding fees in Havana City, Republic of Cuba, the eleventh day of the month of March of the year one thousand nine hundred ninety-six.

[BUREAU SEAL]

America N. Santos Riveras, Esq.
Director

I, JESSICA A. HEYMAN, certify that the foregoing translation, which I personally rendered from Spanish into English, is, to the best of my knowledge, a true, full, and accurate translation from the original document.

Dated: July 3, 1996

Jessica A. Heyman

LIC. **AMERICA N. SANTOS RIVERAS**, Directora de la Oficina Nacional de Invenciones, Información Técnica y Marcas.

CERTIFICO

Que con fecha veintinueve de diciembre de mil novecientos noventa y cinco y por el término de diez años, se expidió a favor de: **CORPORACION HABANOS, S.A, (HABANOS, S.A.)** domiciliada en: Mercaderes número veintiuno entre O'Reilly y Empedrado, La Habana Vieja, Ciudad de la Habana, República de Cuba, la inscripción del **Certificado No. ciento veintitrés mil trescientos sesenta y seis**, anotado al número dos mil trescientos ochenta y dos del año noventa y cinco del Registro de Entrada, que ampara la marca: **CUABA** para distinguir: tabaco torcido, cigarrillos, cigaritos, picadura, tabaco para mascar, artículos para fumadores y cerillas, en la clase **treinta y cuatro** de la Clasificación Internacional de Productos y Servicios, encontrándose en todo vigor y efectos y siendo el diseño que se fija a continuación exactamente igual al que aparece en el expediente.

CUABA

Y a petición de **Adargelio Garrido de la Grana** se expide la presente previo el pago de los derechos correspondientes en la Ciudad de La Habana, República de Cuba, a los once dias del mes de marzo de mil novecientos noventa y seis.

Lic. América N. Santos Riveras
Directora

REPUBLICA DE CUBA

El Director de la Oficina Nacional
de Invenciones , Información Técnica y Marcas
en uso de sus facultades y de acuerdo con lo establecido
en las disposiciones legales vigentes, concede el presente

CERTIFICADO

DE

REGISTRO DE MARCA

a favor de: CORPORACION HABANOS, S.A. (HABANOS, S.A.), domiciliada en Mercaderes No.21 e/ O´Reilly y Empedrado, La Habana Vieja, Ciudad de la Habana, República de Cuba.

CERTIFICADO Nro. 123 366 válido hasta el 29 de diciembre del 2005.

CUABA

Dado en la Ciudad de La Habana, a 7 de marzo de 1996.

Lic.América N.Santos Riveras
Directora

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

SERIAL NO. 75/132819 **APPLICANT** HABANOS, S.A.		PAPER NO.
MARK CUABA (STYLIZED)		ADDRESS: **Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513**
ADDRESS Caroline Rule Rabinowitz, Boudin, Standard, et al. 740 Broadway Fifth Floor New York, NY 10003-9518	**ACTION NO.** 01	If no fees are enclosed, the address should include the words "Box Responses - No Fee"
	MAILING DATE 12/19/96	Please provide in all correspondence
	REF. NO.	1. Filing Date, serial number, mark and Applicant's name. 2. Mailing date of this Office action 3. Examining Attorney's name and Law Office number. 4. Your telephone number and ZIP code
FORM PTO-1525 (5-90)	U.S. DEPT. OF COMM. PAT. & TM OFFICE	

A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID *ABANDONMENT.* *For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.*

RE: Serial Number: 75/132819

The assigned examining attorney has reviewed the referenced application and determined the following.

The examining attorney encloses information regarding pending Application Serial No. 75-094,239. The filing date of the referenced application precedes the applicant's filing date. There may be a likelihood of confusion between the two marks under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). If the referenced application matures into a registration, the examining attorney may refuse registration in this case under Section 2(d). 37 C.F.R. Section 2.83; TMEP section 1208.01.

The examining attorney has searched the Office records and has found no similar registered mark which bars registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01. Please note that the examining attorney has found a potentially conflicting pending application.

The applicant must indicate whether CUABA has any significance in the relevant trade, any geographical significance or any meaning in a foreign language. 37 C.F.R. Section 2.61(b).

The identification of goods is unacceptable as indefinite. The applicant must amend the identification to specify the common commercial name of the goods. If there is no common commercial name, the applicant must describe the product and its intended uses. TMEP section 804.

The applicant may adopt the following identification of goods, if accurate: Raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, tobacco pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors, all of the foregoing not of precious metals.

Please note that, while an application may be amended to clarify or limit the identification, additions to the identification are not permitted. 37 C.F.R. Section 2.71(b); TMEP section 804.09. Therefore, the applicant may not amend to include any goods that are not within the scope of goods set forth in the present identification.

In all correspondence to the Patent and Trademark Office, the applicant should list the name and law office of the examining attorney, the serial number of this application, the mailing date of this Office action, and the applicant's telephone number.

John E. Michos
Trademark Attorney
Law Office 105
(703) 308-9105 ext. 152

TRADEMARK MAILROOM
REC'D
MAY 23 1997
41
US PATENT & TRADEMARK OFFICE

TRADEMARK LAW OFFICE 105
Serial Number: 75/132819
Mark: CUABA (STYLIZED)
Please Place on Upper Right Corner
**of Response to Office Action ONLY **

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Response to Office Action Mailed 12/19/96

Mark: CUABA

Serial No.: 75/132819

Applicant: Habanos, S.A.

Int'l Class: 34

In response to the nonfinal office action dated 12/19/96, applicant makes the following amendments in its application:

Amendments to Application:

1. CUABA has no significance in the relevant trade, no geographical significance, and no meaning in a foreign language.

2. Applicant adopts the following identification of goods: Raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, tobacco pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors, all of the foregoing not of precious metals.

Change in attorney's name:

Please note that further correspondence should be addressed to Michael Krinsky, Esq. at the address listed below, (212) 254-1111.

Michael Krinsky
RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.
740 Broadway -- Fifth Floor
New York, New York 10003
(212) 663-4150
Attorneys for Applicant,
Exportadora del Caribe

Certificate of Mailing By "Express Mail"

I hereby certify that the attached "Response to Office Action" is being deposited with the United States Postal Service, today, May 23, 1997, utilizing the "Express Mail Post Office to Addressee" service in an envelope, mailing label No. HB 309361833 addressed to:

Assistant Commissioner for Trademarks
Attn: John E. Michos, Law Office 105
2900 Crystal Drive
Arlington, VA 22201-3513

Susan Bailey 5/23/97

UNITED 'ATES DEPARTMENT OF C('MERCE
Patent and Trademark Office

SERIAL NO.	APPLICANT	PAPER NO.
75/132819	HABANOS, S.A.	
MARK		Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513
CUABA (STYLIZED)		
ADDRESS	ACTION NO. 02	If no fees are enclosed, the address should include the words "Box Responses - No Fee."
Caroline Rule Rabinowitz, Boudin, Standard, et al. 740 Broadway Fifth Floor New York, NY 10003-9518	MAILING DATE 07/01/97	Please provide in all correspondence: 1. Filing Date, serial number, mark and Applicant's name. 2. Mailing date of this action. 3. Examining Attorney's name and Law Office number. 4. Your telephone number and ZIP code
FORM PTO-1525 (5-90) U.S. DEPT. OF COMM. PAT. & TM OFFICE	REF. NO.	

RE: Serial Number: 75/132819

[] The examining attorney has searched the Office records and has found no similar registered mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01.

[x] 1. Action on this application is suspended pending the disposition of:

[] Cancellation No(s). _____

[] Opposition No(s). _____

[] Civil Action No(s). _____

[] Concurrent Use No(s). _____

If the applicant is a party to the above proceeding, the applicant should advise the Examining Attorney of the outcome of the proceeding when it is terminated.

[x] Application Serial No(s). 75-094,239

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. See 37 C.F.R. §2.83. A copy of information relevant to this pending application(s) is attached was sent previously.

The applicant may request that the application be removed from suspension by presenting arguments related to the potential conflict between the relevant applications or other arguments related the ground for suspension. The applicant's election to present or not to present arguments at this time will not affect the applicant's right to present arguments later.

[] 2. Action on this application is suspended pending receipt of a certification or certified copy of the registration in the country of foreign of applicant. If the registration is in a foreign language, an English translation must be submitted. The certification or certified copy of the registration should be forwarded to the Examining Attorney as soon as possible. If the foreign application is abandoned, the Examining Attorney should be advised.

[] 3. It is noted that an assignment involving this application is presently pending before the Office. Action is suspended on this application pending recordation of the assignment. This application will be removed from suspended status upon recordation of the assignment. Notification of recordation is normally done through Office channels. However, upon receipt of the reel and frame number of the assignment, applicant should advise the Examining Attorney. See 37 C.F.R. Part 3.

[] 4. Action on this application is suspended for months until the Examining Attorney can determine whether the cited registration will be canceled under §8 or expire under §9. 37 C.F.R 2.67.

[] 5. The following refusals/requirements are continued: _____

John E. Michos
EXAMINING ATTORNEY NAME

EXAMINING ATTORNEY SIGNATURE

105
LAW OFFICE

(703) 308-9105 ext.152
PHONE

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

SERIAL NO. 75/132819	**APPLICANT** HABANOS, S.A.
MARK CUABA (STYLIZED)	
ADDRESS Caroline Rule Rabinowitz, Boudin, Standard, et al. 740 Broadway Fifth Floor New York, NY 10003-9518	**ACTION NO.** 02 **MAILING DATE** 08/11/98 **REF. NO.**

FORM PTO-1525 (5-90) U.S. DEPT. OF COMM. PAT. & TM OFFICE

PAPER NO. 4B

ADDRESS:
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

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

Please provide in all correspondence:

1. Filing Date, serial number, mark and Applicant's name.
2. Mailing date of this action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and ZIP code.

EXAMINER'S AMENDMENT

EXAMINING ATTORNEY		PERSON CALLED/INTERVIEWED	TELEPHONE NUMBER	
John E. Michos		Christine Farley		
X	TELEPHONE CALL	INTERVIEW DATE	X	ATTORNEY
	PERSONAL INTERVIEW	August 11, 1998		APPLICANT

CALL RECORD/NOTES

OFFICE SEARCH: The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01.
RE: Serial Number 75/132819

In accordance with the authorization granted by the above Applicant or attorney, the application has been AMENDED as indicated below. No response is necessary unless there is an objection to the amendment.

Section 1(b) has been deleted as a basis for registration.

John E. Michos
Trademark Attorney
Law Office 105
(703) 308-9105 ext. 152

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

1999 Caroline Rule 74 Broadway 5th FL New York, NY 10003-9518	PAPER NO. 6 ADDRESS: Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513 If no fees are enclosed, the address should include the words "Box Responses - No Fee" Please provide in all correspondence: 1. Filing Date, serial number, mark and Applicant's name. 2. Mailing date of this action. 3. Examining Attorney's name and Law Office number. 4. Your telephone number and ZIP code.

EXAMINER'S AMENDMENT

EXAMINING ATTORNEY		PERSON CALLED/INTERVIEWED	TELEPHONE NUMBER	
John E. Michos		Christine Farley		
X	TELEPHONE CALL	INTERVIEW DATE	X	ATTORNEY
	PERSONAL INTERVIEW	February 3, 1999		APPLICANT

CALL RECORD/NOTES

OFFICE SEARCH: The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01.
RE: Serial Number 75/132819

In accordance with the authorization granted by the above Applicant or attorney, the application has been AMENDED as indicated below. No response is necessary unless there is an objection to the amendment.

The Section 44(d) claim of priority has been deleted from the application.

John E. Michos
Trademark Attorney
Law Office 105
(703) 308-9105 ext. 152

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT COMMISSIONER FOR TRADEMARKS
2900 Crystal Drive
Arlington, Virginia 22202-3513

Oct 16, 1998

NOTICE OF PUBLICATION UNDER 12(a)

1. Serial No.:
75/132,819

2. Mark:
CUABA
(Stylized)

3. International Class(es):
34

4. Publication Date:
Nov 17, 1998

5. Applicant:
HABANOS, S.A.

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained at $38.00 each for domestic orders, or at $47.50 each for foreign orders from:

The Superintendent of Documents
U.S. Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954
Phone: (202)512-1800

By direction of the Commissioner.

CAROLINE RULE
RABINOWITZ BOUDIN STANDARD ET AL
740 BROADWAY 5TH FL
NEW YORK NY 10003-9518

TMP&I

TRADEMARK MAIL RC
RECD
JUL 11 1996
US PATENT & TRADEMARK OFFICE
37

75132819

TRADEMARK

75132819

APPLICANT: HABANOS, S.A.

P.O. ADDRESS: Calle Mercaderes, No. 21
Ciudad Habana, Cuba

BASIS: Reliance upon Cuban Reg. No. 123,366
Dated December 29, 1995

GOODS: RAW TOBACCO, CIGARS, CIGARETTES, CUT TOBACCO, RAPPEE, MANUFACTURED TOBACCO OF ALL KINDS, MATCHES, TOBACCO, PIPES, PIPE-HOLDERS, ASHTRAYS, MATCH BOXES, CIGAR CASES and HUMIDORS in International Class 34

34
PROCESSED
2,8,9,17

CUABA

PUBLISHED
11/17/98

Int. Cl.: 34

Prior U.S. Cls.: 2, 8, 9 and 17

Reg. No. 2,237,940

United States Patent and Trademark Office

Registered Apr. 13, 1999

TRADEMARK
PRINCIPAL REGISTER

CUABA

HABANOS, S.A. (CUBA CORPORATION)
CALLE MERCADERES, NO. 21
CIUDAD HABANA, CUBA

FOR: RAW TOBACCO, CIGARS, CIGARETTES, CUT TOBACCO, RAPPEE, MANUFACTURED TOBACCO OF ALL KINDS, MATCHES, TOBACCO, TOBACCO PIPES, PIPE-HOLDERS, ASHTRAYS, MATCH BOXES, CIGAR CASES AND HUMIDORS, ALL OF THE FOREGOING NOT OF PRECIOUS METALS, IN CLASS 34 (U.S. CLS. 2, 8, 9 AND 17).

OWNER OF CUBA REG. NO. 123366, DATED 12-29-1995, EXPIRES 12-29-2005.

SER. NO. 75-132,819, FILED 7-11-1996.

JOHN E. MICHOS, EXAMINING ATTORNEY

Name: Lawana Durant D.: 05 Date: 6/16/97 Seri lo.: 75 132819

INSTRUCTIONS: To certify amendments the R&A C... should check the "AMENDED" column. The Text Editor should check "ENTERED" after the amendment has been entered.

RETAIN IN FILE.

SCREEN	AMENDED	ENTERED		AMENDED TO:
AM			AM	Mark Type:
			AM	Register:
			AM	Mark: ☐ MDC:
PY			PY	Owner: ☐ Name:
			PY	☐ Citizenship:
			PY	☐ Entity Type:
			EN	☐ Entity Statement:
			DB	DBA/AKA/TA Statement:
			PY	Address: ☐ Inter ☐ City ☐ State/Country ☐ Zip
			NC	Assignment or Name Change:
CL			CO	Composed of:
			CL	International Class: U.S. Class:
			CL	First Use: First Use in Commerce:
			GS	Goods and Services:
			GS	
			GS	
			GS	
AM			AM	Amended Register: P.R.: S.R.:
			AM	Amended Reg Date:
			DI	Disclaimer:
OTHER DATA			DM	Description of Mark:
			LS	Lining and Stippling Statement:
			TR	Translation of Words in Mark:
			NO	Name/Portrait Description/Consent:
			TF	Section 2(f): ☐ Entire Mark ☐ In Part ☐ Limitation Statement:
			AF	Use in Another Form:
			CS	Certification Statement:
			CU	Concurrent Use Statement:
			PR	Prior U.S. Registrations:
FN			DR	Domestic Representative:
			FN	Foreign Country of Origin:
			FN	Foreign Application No.: Frgn. Appl. Filing Date:
			FN	Section 44(d) Claimed: Y/N
			FN	Foreign Registration No.: Frgn. Reg. Date:
			FN	Foreign Registration Expiration Date:
			FN	Foreign Renewal Reg. No.: Frgn. Reg. Renewed:
			FN	Foreign Registration Renewed Expiration Date:
CD			AT	Attorney Name:
			CD	Correspondence: ☐ Name ☐ Inter St. Address ☐ City/State/Zip
			DN	Attorney Docket Number:

Other:

I certify that all corrections have been entered in accordance with the above instructions and text editing guidelines.

Initial Box if No Amendments are required.

RO 6-17-97

Text Editor Date

*** User: EX788339 *** Se ıl Number: 75094239 ***

Word Mark
CUABA

Goods/Services
IC 034; US 002 008 009 017; G & S: cigars

Mark Drawing Code
(1) TYPED DRAWING

Serial Number
75-094239

Filing Date
1996.04.25

Owner Name/Address
(APPLICANT) Mahroukian, Seissil DBA JM Tobacco Company INDIVIDUAL UNITED STATES 718 S. Hill Street, Suite 501 Los Angeles CALIFORNIA 90014

Type of Mark
TRADEMARK

Register
PRINCIPAL

*** Search: 2 *** Document Number: 2 ***

er: EX788339 *** Serial Number: 75094239 ***

Word Mark
CUABA

Goods/Services
IC 034; US 002 008 009 017; G & S: cigars

Mark Drawing Code
(1) TYPED DRAWING

Serial Number
75-094239

Filing Date
1996.04.25

Owner Name/Address
(APPLICANT) Mahroukian, Seissil DBA JM Tobacco Company INDIVIDUAL UNITED STATES 718 S. Hill Street, Suite 501 Los Angeles CALIFORNIA 90014

Type of Mark
TRADEMARK

Register
PRINCIPAL

*** Search: 2 *** Document Number: 2 ***

*** User: EX788339 ***

STMT NUMBER	TOTAL MARKS	LIVE VIEWED	DEAD VIEWED	SEARCH
01	9	9	0	PHRASCH /OW habanos
02	7	6	1	PHRASCH :cuab:^:kuab:
03	11	8	3	PHONSCH cuaba

TERMINAL SESSION STARTED 12/14/96 8:36 A.M. (EASTERN TIME)
TERMINAL SESSION FINISHED 12/14/96 8:54 A.M. (EASTERN TIME)
ELAPSED TIME THIS SESSION 0 HRS AND 18 MIN

AMENDMENT EXAMINATION WORK SHEET

Name: Gwendolyn Austin LO: 105 Date: 8/11/98 Serial No: 75/132819

INSTRUCTIONS: To certify amendments the R&A Clerk should check the "AMENDED" column. The Text Editor should check "ENTERED" after the amendment has been entered. RETAIN IN FILE.

SCREEN	AMENDED	ENTERED		AMENDED TO:
AM			AM	Mark Type:
			AM	Register:
			AM	Mark: ☐ MDC:
			AM	Amended Register: PR: SR:
			AM	Amended Reg Date:
PY			PY	Owner: ☐ Name:
			PY	☐ Citizenship:
			PY	☐ Entity Type:
			EN	☐ Entity Statement:
			DB	DBA/AKA/TA Statement:
			PY	Address: ☐ Inter ☐ City ☐ State/Country ☐ Zip
			NC	Assignment or Name Change:
			CO	Composed of:
CL			CL	International Class: US Class:
			CL	First Use: First Use in Commerce:
			GS	Goods and Services:
			GS	
			GS	
			GS	
OTHER DATA			1B	1(b) Claimed: Added ☐ Deleted ☑
			D1	Disclaimer:
			DM	Description of Mark:
			US	Lining and Stippling Statement:
			TR	Translation of Words in Mark:
			ND	Name/Portrait Description/Consent:
			TF	Section 2(f): ☐ Entire Mark ☐ In Part ☐ Limitation Statement:
			AF	Use in Another Form:
			CS	Certification Statement:
			CU	Concurrent Use Statement:
			PR	Prior US Registrations:
FN			DR	Domestic Representative:
			FN	Foreign Country of Origin:
			FN	Foreign Application No: Frgn. Appl. Filing Date:
			FN	Section 44(d) Claimed: Y/N
			FN	Foreign Registration No: Frgn. Reg. Date:
			FN	Foreign Registration Expiration Date:
			FN	Foreign Renewal Reg. No: Frgn. Reg. Renewed:
			FN	Foreign Registration Renewed Expiration Date:
CD			AT	Attorney Name:
			CD	Correspondence: ☐ Name ☐ Inter St. Address ☐ City/State/Zip
			DN	Attorney Docket Number:

Other: _____

I certify that all corrections have been entered in accordance with the above instructions and text editing guidelines.

Initial box if no amendments are required. ☑

Text Editor _____ Date _____

AME. MENT EXAMINATION WORK SHE

Name: Gwendolyn Austin LO: 105 Date: 8/28/98 Serial No: 75/132819

INSTRUCTIONS: To certify amendments the R&A Clerk should check the "AMENDED" column. The Text Editor should check "ENTERED" after the amendment has been entered. RETAIN IN FILE.

SCREEN	AMENDED	ENTERED		AMENDED TO:
AM			AM	Mark Type:
			AM	Register:
			AM	Mark: ☐ MDC:
			AM	Amended Register: PR: SR:
			AM	Amended Reg Date:
PY			PY	Owner: ☐ Name:
			PY	☐ Citizenship:
			PY	☐ Entity Type:
			EN	☐ Entity Statement:
			DB	DBA/AKA/TA Statement:
			PY	Address: ☐ Inter ☐ City ☐ State/Country ☐ Zip
			NC	Assignment or Name Change:
			CO	Composed of:
CL			CL	International Class: US Class:
			CL	First Use: First Use in Commerce:
			GS	Goods and Services:
			GS	
			GS	
			GS	
OTHER DATA			1B	1(b) Claimed: Added ☐ Deleted ☐
			D1	Disclaimer:
			DM	Description of Mark:
			LS	Lining and Stippling Statement:
			TR	Translation of Words in Mark:
			NO	Name/Portrait Description/Consent:
			TF	Section 2(f): ☐ Entire Mark ☐ In Part ☐ Limitation Statement:
			AF	Use in Another Form:
			CS	Certification Statement:
			CU	Concurrent Use Statement:
			PR	Prior US Registrations:
FN			DR	Domestic Representative:
			FN	Foreign Country of Origin:
			FN	Foreign Application No: Frgn. Appl. Filing Date:
			FN	Section 44(d) Claimed: Y/N
			FN	Foreign Registration No: 123366 Frgn. Reg. Date: 12/29/1995
			FN	Foreign Registration Expiration Date: 12/29/2005
			FN	Foreign Renewal Reg. No: Frgn. Reg. Renewed:
			FN	Foreign Registration Renewed Expiration Date:
CD			AT	Attorney Name:
			CD	Correspondence: ☐ Name ☐ Inter St. Address ☐ City/State/Zip
			DN	Attorney Docket Number:

Other: Per the Original Application.

I certify that all corrections have been entered in accordance with the above instructions and text editing guidelines.

Initial box if no amendments are required.

Text Editor PB Date 1.27.99

PUBLICATION/REGISTRATION EXAMINATION WORK SHEET

Reviewer: Lawana Durant LO: 105 Date: 9-8-98 Serial No: 75-132819

I certify all information in the database matched the information in the file and no corrections were required.

INSTRUCTIONS: If the information in the database does not match the information in the file the reviewer should check the ERROR column. After correction (text editing), the EDITED column should be checked. RETAIN IN FILE WRAP.

SCREEN	ERROR	EDITED		ERROR FOUND DURING REVIEW REQUIRING AMENDMENT OF:
AM			AM	Mark Type:
			AM	Register:
			AM	Mark: ☐ MDC: 5509
			AM	Amended Register: PR: SR:
			AM	Amended Reg. Date:
PY			PY	Owner: ☐ Name:
			PY	☐ Citizenship:
			PY	☐ Entity Type:
			EN	☐ Entity Statement:
			DB	DBA/AKA/TA Statement:
			PY	Address: ☐ Inter ☐ City ☐ State/Country ☐ Zip
			NC	Assignment or Name Change:
			CO	Composed of:
CL			CL	International Class: U.S. Class:
			CL	First Use: First Use in Commerce:
			GS	Goods and Services:
			GS	
			GS	
			GS	
OTHER DATA			1B	1(b) Claimed: Added ☐ Deleted ☐
			D1	Disclaimer:
			DM	Description of Mark:
			LS	Lining and Stippling Statement:
			TR	Translation of Words in Mark:
			NO	Name/Portrait Description/Consent:
			TF	Section 2(f): ☐ Entire Mark ☐ In Part ☐ Limitation Statement:
			AF	Use in Another Form:
			CS	Certification Statement:
			CU	Concurrent Use Statement:
			PR	Prior U.S. Registrations:
FN			DR	Domestic Representative:
			FN	Foreign Country of Origin:
			FN	Foreign Application No: Frgn. Appl. Filing Date:
			FN	Section 44(d): Y/N
			FN	Foreign Registration No: Frgn. Reg. Date:
			FN	Foreign Registration Expiration Date:
			FN	Foreign Renewal Reg. No: Frgn. Reg. Renewed:
			FN	Foreign Registration Renewed Expiration Date:
CD			AT	Attorney Name:
			CD	Correspondence: ☐ Name ☐ Inter St. Address ☐ City/State/Zip
			DN	Attorney Docket Number:

Other:

I certify that all corrections have been entered in accordance with the above instructions and text editing guidelines.

Text Editor RO Date 9/14-98

Janet Briscoe

SERIES CODE & SERIAL NUMBER 75/132819

CODING SHEET FOR PSEUDO MARKS AND DESIGN SEARCH CODES

MARK DRAWING CODE
(please circle appropriate MDC) 1 2 3 5 6

PSEUDO MARK (PM) _____

_____

WIPO/DESIGN SEARCH CODES

_____ _____ _____

_____ _____ _____

_____ _____ _____

J. Briscoe

(P1) S-2

ITU: (Y) or N

SERIAL NO. 75-132819

TRADEMARK APPLICATION FILE DATA WORKSHEET

ASS DATA

INTERNATIONAL CLASS	034											
COLLECTIVE TM or SM	T	S	T	S	T	S	T	S	T	S	T	S
FEE PAID	(Y)	N	Y	N	Y	N	Y	N	Y	N	Y	N
PRIOR US CLASS(ES)												
1ST USE DATE												
1ST USE IN COMM DATE												
IN ANOTHER FORM CODE	1	2	1	2	1	2	1	2	1	2	1	2
IN ANOTHER FORM STATEMENT	AF CODE IN MARGIN TEXT IN [ ]											
GOODS/SERVICES	(GS) INTERNATIONAL CLASS IN MARGIN, TEXT [ ]											
CERTIFICATION STATEMENT	CS IN MARGIN, TEXT IN [ ]											

REIGN DATA

PRIORITY CLAIMED	(Y)	N	Y	N	Y	N	Y	N	Y	N		
COUNTRY CODE	CUX											
FOREIGN APPLICATION	123366											
FOREIGN FILING DATE	12-29-1995											
FOREIGN REG #												
FOREIGN REG DATE												
FOREIGN EXPIRATION DATE												
RENEWAL # DATE												
RENEWAL REG DATE #												
RENEWAL EXPIRATION DATE												

TES TO DATA ENTRY PERSONNEL:

10/4/98 KS

75132819

TRADEMARK

75132819

NEW CASE DELIVERED
DEC 11 1996
LAW OFFICE 105

CONTENTS

	Entry		Date	Initials
1.			DEC 19 1996	
2.	Amdt A	JUN 26 1997	5/23/97	
3.		AUG 28 1998	JUL 1 1997	
4.		AUG 18 1998	AUG 11 1998	
5.				
6.	Amdt B	NOP 11/17/98	MAR 1 1999	
7.				
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30.				

☐ See inside of file for additional entries

1006672

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

May 14, 2003

THIS IS TO CERTIFY THAT ANNEXED IS A TRUE COPY FROM THE RECORDS OF THIS OFFICE OF THE TRADEMARK FILE WRAPPER AND CONTENTS OF:

TRADEMARK APPLICATION: *75/011,205*
FILING DATE: *October 27, 1995*
REGISTRATION NUMBER: *2,254,638*
REGISTRATION DATE: *June 22, 1999*

By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS

H. Phillips
H. PHILLIPS
Certifying Officer

FORM PTO-102L
Rev. (9-85)

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

REG NUM: 2254638
REG DT: 06/22/1999

S/N 75/011205

3. MARK	VEGUEROS
4. SER. NO.	75/011205
5. REGISTER	PRINCIPAL
6. INTERNATIONAL CLASS	34
7. PRIOR U.S. CLASS	2-8-9-17
8. FILING DATE	10/27/95
9. LAW OFFICE	105
10. APPLICANT AND POST OFFICE	HABANOS, S.A. Mercaderes No. 21 La Habana, CUBA CORPORATION OF CUBA
11. CORRESPONDENCE ADDRESS	Caroline Rule Rabinowitz, Boudin, Standard, et al. 740 Broadway at Astor Place New York, NY 10003-9518
12. DOMESTIC REPRESENTATIVE	Rabinowitz, Boudin, Standard, Krinsky + Lieberman, P.C.
13. APPLICANT'S ATTORNEY	Caroline Rule
16. EXAMINING ATTORNEY	Leigh Case
17. TYPE OF MARK	~~SECTION 1(b)~~ TRADEMARK
18. FIRST USE	ICL 034 00/00/0000
19. IN COMMERCE	ICL 034 00/00/0000
20. FOREIGN REG. AND APPL. DATA	CLX REG 121967 01/18/95 EXP / / RENEWED / /
15. GOODS — SERVICES	034-raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, smoking pipes, pipe holders-not of precious metal, ashtrays-not of precious metal, match boxes-not of precious metal, cigar cases-not of precious metal, humidors-not of precious metal
21. OTHER DATA	

PUBLISHED
3/30/99

PTO-102L. (REV. 12/82) U.S. DEPT. OF COMMERCE — PATENT AND TRADEMARK OFFICE

Examining Attorney—(Please Print Name)	Date Published in Trademark O.G.
Approved for Publication (Principal Register)—(Signature)	Section 8 Accepted—(Signature)
Approved for Registration (Section 1(d))—(Signature)	Section 15—(Signature)
Approved for Registration (Supplemental Register)—(Signature)	Section 9 Renewal Accepted—(Signature)

Int. Cl.: 34

Prior U.S. Cls.: 2, 8, 9 and 17

Reg. No. 2,254,638

United States Patent and Trademark Office

Registered June 22, 1999

TRADEMARK
PRINCIPAL REGISTER

VEGUEROS

HABANOS, S.A. (CUBA CORPORATION)
MERCADERES NO. 21
LA HABANA, CUBA

FOR: RAW TOBACCO, CIGARS, CIGARETTES, CUT TOBACCO, RAPPEE, MANUFACTURED TOBACCO OF ALL KINDS, MATCHES, TOBACCO, SMOKING PIPES, PIPE HOLDERS-NOT OF PRECIOUS METAL, ASH-TRAYS-NOT OF PRECIOUS METAL, MATCH BOXES-NOT OF PRECIOUS METAL, CIGAR CASES-NOT OF PRECIOUS METAL, HUMIDORS-NOT OF PRECIOUS METAL, IN CLASS 34 (U.S. CLS. 2, 8, 9 AND 17).

OWNER OF CUBA REG. NO. 121967, DATED 1-18-1995, EXPIRES 1-18-2005.

THE ENGLISH TRANSLATION OF THE WORD "VEGUEROS" IN THE MARK IS "A FARMER OF A FERTILE LOWLAND" OR "A TOBACCO FARMER OR PLANTER".

SER. NO. 75-011,205, FILED 10-27-1995.

LEIGH CAROLINE CASE, EXAMINING ATTORNEY

75011205

TRADEMARK APPLICATION SERIAL NO._____

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

050 WT 11/21/95 75011205 0 361 245.00 CK

PTO-1555
(5/87)

75011205

Lee Trademark Services®

OCT 2 7 1995

CERTIFIED MAIL, RRR

181 South Riverside Avenue, #132
Croton-on-Hudson, NY 10520
Telephone: (914) 271-2960
(800) 373-2148

Fax: (914) 271-2778

October 25, 1995

Assistant Commissioner for Trademarks
2900 Crystal Drive
Box NEW APP/FEE
Arlington, VA 22202-3513

Re: Mark: VEGUEROS and Design
International Class: 34
Applicant: HABANOS, S.A.

Dear Sir/Madam:

Enclosed for filing on behalf of HABANOS, S.A. is an application for registration of the above trademark. Applicant relies upon Cuban Registration No. 121,967 dated January 18, 1995, pursuant to 15 U.S.C. 1126(e) as a basis for its application in the United States. Accordingly, a certified copy (and English translation) of this registration are also enclosed. Finally, a check for $245.00 to cover the filing fee is enclosed as well.

Please direct all correspondence and/or inquiries regarding this filing to Applicant's attorney:

AT
CA

Caroline Rule, Esq.
Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C.
740 Broadway at Astor Place
New York, NY 10003-9518
Telephone: (212) 254-1111

Thank you.

Very truly yours,

Lori Potts

Lori Potts
Trademark Paralegal-Consultant

Enclosures
cc: Caroline Rule, Esq. w/encs.

245.00 -61-

75011205

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Application, Principal Register, with Declaration

Mark: VEGUEROS and Design
Int'l Class: 34

To: The Assistant Secretary and
Commissioner of Patents and Trademarks
Washington, D.C. 20231

Applicant Name: HABANOS, S.A.

AA Applicant Business Address: Mercaderes No. 21, La Habana, Cuba CUX

Applicant Entity: The Applicant is a corporation 03 incorporated under the laws of the Republic of Cuba. CUX

GOODS AND/OR SERVICES

Applicant requests registration of the above-identified trademark shown in the accompanying drawing in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. §§ 1501 et seq., as amended) for the following goods:

25
034

Raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, smoking pipes, pipe holders-not of precious metal, ashtrays-not of precious metal, match boxes-not of precious metal, cigar cases-not of precious metal, humidors-not of precious metal in International Class 34

INS A1

BASIS FOR APPLICATION

Applicant has a bona fide intention to use the mark in commerce or in connection with the above identified goods, and accompanying this applications, submits a certification or certified copy of a foreign registration in accordance with 15 U.S.C. § 1126(e), as amended: 44(e) only

Country of foreign filing: Cuba
Registration Number: 121967

The undersigned hereby appoints as its attorney Eric M. Lieberman, Esq., Michael Krinsky, Esq. and Caroline Rule, Esq., Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway, Fifth Floor, New York, New York, 10003-9518, jointly and severally, with full powers of substitution, association and revocation, including the appointment of associate counsel, to prosecute this application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the Certificate of Registration.

DR

Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway, Fifth Floor, New York, New York, 10003-9518, is hereby designated applicant's representative upon whom notice of process in proceedings affecting the mark may be served.

DECLARATION

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he is properly authorized to execute this application on behalf of the applicant; he believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. 1051(b), he believes applicant to be entitled to use such mark in commerce; to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use the above identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

HABANOS, S.A.

By: _____
Francisco Linares Calvo
Director

Date: JULY 19, 1995

LIC. AMERICA N. SANTOS RIVERAS, Director de la Oficina Nacional [illegible]

[illegible]

Que con fecha dieciocho de enero del año mil novecientos noventa y cinco y por el término de DIEZ AÑOS, se expidió a favor de: CORPORACION HABANOS, S.A. (HABANOS, S.A. domiciliada en: Mercaderes No. 21, entre O'Reilly y Empedrado, Habana Vieja, Ciudad de La Habana, República de Cuba, la INSCRIPCION del certificado No. CIENTO VEINTIUN MIL NOVECIENTOS SESENTA Y SIETE, [illegible] ciento cuatro del año mil novecientos noventa y cinco del Registro de Entrada, que ampara la marca VEGUEROS [illegible] cigarrillos, [illegible] artículos para [illegible] clase 34 de la Clasificación [illegible] encontrándose en [illegible] siendo el diseño que se fija a continuación [illegible] igual al que aparece en el expediente.

VEGUEROS

[illegible] Adargelio Garrido de la Grana se expide la presente previo el pago de los derechos correspondientes en la Ciudad de La Habana, República de Cuba a los once días del mes de septiembre del año mil novecientos noventa y cinco.

Lic. América N. Santos Riveras
Director

I, America N. Santos, Esq., Director of the National Office of Inventions, Technical Information, and Trademarks,

Certify

That dated the eighteenth day of January of the year one thousand nine hundred ninety-five, and for the term of TEN years, there was issued on behalf of CORPORACION HABANOS, S.A. (HABANOS, S.A.), its principal place of business at Mercaderes No. 21, between O'Reilly and Empedrado, Habana Vieja, Ciudad de la Habana, Republic of Cuba, the registration of Certificate No. One Hundred Twenty-one Thousand, Nine Hundred Sixty-seven, recorded as number One Hundred and Four in the year one thousand nine hundred and ninety-five in the Principal Register, which registration reserves the mark VEGUEROS for use in distinguishing [from goods manufactured or sold by others]: tobacco in leaf, rolled tobacco, cigarettes, cigars, cut tobacco, tobacco for chewing, accessory items for smokers and cigarette lighters, all in class 34 of the International Classification of Products and Services. Said registration is in full force and effect, and the design affixed below is exactly identical to that which is on file.

[DESIGN]

THAT, at the request of Adargelio Garrido de la Grana, this certification is issued preceding the payment of the requisite fees, in Ciudad de la Habana, República de Cuba on the eleventh day of the month of September of the year one thousand nine hundred and ninety-five.

America N. Santos Rivera, Esq. [BUREAU SEAL]
Director

I, CARLOS A. ARÉVALO, certify that the foregoing translation, which I personally rendered from Spanish into English, is, to the best of my knowledge, a true, full, and accurate translation form the original document.

Dated: October 18, 1995

Carlos A. Arévalo

TRADEMARK

75011205

TRADEMARK MAIL ROOM
REC'D
1995

APPLICANT: HABANOS, S.A.

APPLICANT'S ADDRESS: Mercaderes No. 21
La Habana
Cuba

BASIS FOR APPLICATION: Reliance upon Cuban Reg. No. 121,967
Dated January 18, 1995

GOODS: RAW TOBACCO, CIGARS, CIGARETTES, CUT TOBACCO, RAPPEE, MANUFACTURED TOBACCO OF ALL KINDS, MATCHES, TOBACCO, SMOKING PIPES, PIPE HOLDERS-NOT OF PRECIOUS METAL, ASHTRAYS-NOT OF PRECIOUS METAL, MATCH BOXES-NOT OF PRECIOUS METAL, CIGAR CASES-NOT OF PRECIOUS METAL, HUMIDORS-NOT OF PRECIOUS METAL in International Class 34

VEGUEROS

PUBLISHED
3/30/99

*** User: EX119403 ***

STMT NUMBER	TOTAL MARKS	LIVE VIEWED	DEAD VIEWED	SEARCH
01	84	53	31	PHRASCH :veg:r:
02	331	0	0	PHRASCH :cigar:
03	337	0	0	PHRASCH :plain:
04	107	0	0	PHRASCH :planter:
05	258804	0	0	PHRASCH 034/cc
06	336	0	0	PHRASCH (2^3^4)&5
07	10740	0	0	PHRASCH 034/ic
08	6288	0	0	PHRASCH a/ic^b/ic^200/ic
09	232	133	99	PHRASCH 6&(7^8)
10	562	0	0	PHONSCH veguero^vegueros
11	3	1	2	PHRASCH (10&(7^8))~9

TERMINAL SESSION STARTED 04/17/96 3:27 P.M. (EASTERN TIME)
TERMINAL SESSION FINISHED 04/17/96 3:43 P.M. (EASTERN TIME)
ELAPSED TIME THIS SESSION 0 HRS AND 16 MIN

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

SERIAL NO.	APPLICANT	PAPER NO.
75/011205	HABANOS, S.A.	
MARK		ADDRESS: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513. If no fees are enclosed, the address should include the words "BOX 5."
VEGUEROS		
ADDRESS	ACTION NO.	
Caroline Rule, Rabinowitz, Boudin, Standard, et al., 40 Broadway at Astor Place, New York, NY 10003-9518	01	Please provide in all correspondence:
	MAILING DATE 04/24/96	1. Filing date, serial number, mark, and applicant's name. 2. Mailing date of this Office action. 3. Your telephone number and ZIP code. 4. Examining attorney's name and law office number.
	REF. NO.	

FORM PTO-1525 (5-90) U.S. DEPT. OF COMM. PAT. & TM OFFICE

Serial Number: 75/011205 **Mark: VEGUEROS**

A proper response to this Office Action must be received within six months of the mailing date of the Office Action in order to avoid *ABANDONMENT.* *For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.*

OFFICE ACTION

The assigned examining attorney has reviewed the referenced application and determined the following.

Refusal Based on Section 2(e)(1) - Mark is Merely Descriptive of the Goods
The examining attorney refuses registration on the Principal Register because the proposed mark merely describes the goods. Trademark Act Section 2(e)(1), 15 U.S.C. Section 1052(e)(1); TMEP section 1209 *et seq.*

A mark is merely descriptive under Trademark Act Section 2(e)(1), 15 U.S.C. 1052(e)(1), if it describes an ingredient, quality, characteristic, function, feature, purpose or use of the relevant goods. *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); *In re Bed & Breakfast Registry*, 791 F.2d 157, 229 USPQ 818 (Fed. Cir. 1986); *In re MetPath Inc.*, 223 USPQ 88 (TTAB 1984); *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979); TMEP section 1209.01(b).

The examining attorney must consider whether a mark is merely descriptive in relation to the identified goods, not in the abstract. *In re Omaha National Corp.*, 819 F.2d 1117, 2 USPQ2d 1859 (Fed. Cir. 1987); *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215 (CCPA 1978); *In re Venture Lending Associates*, 226 USPQ 285 (TTAB 1985).

The foreign equivalent of a merely descriptive English word is not registrable. It too is merely descriptive. *In re Geo. A. Hormel & Co.*, 227 USPQ 813 (TTAB 1985); *In re Optica International*, 196 USPQ 775 (TTAB 1977).

Under the standards set forth above, the examining attorney concludes that the mark VEGUEROS is a generic term for the applicant's goods, "raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, smoking pipes, pipe holders not of precious metal, ashtrays not of precious metal, match boxes not of precious metal, cigar cases not of precious metal, and humidors not of precious metal." As the attached entry taken from *Cassell's Spanish-English Dictionary* indicates, the word "veguero" means "cigar." "Vegueros" appears to be the Spanish word for "cigars."

For the reasons stated above, the examining attorney finds that because the proposed mark merely describes the applicant's goods, registration of the applicant's mark is barred under Section 2(e)(1) of the Trademark Act.

If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following informality.

Informality

Translation
The applicant must submit an English translation of the foreign wording in the mark. 37 C.F.R. Section 2.61(b); TMEP section 809. The translation may be in the following form:

> The English translation of the word VEGUEROS in the mark is "cigars."

Search of Office Records
The examining attorney has searched the Office records and has found no similar registered or pending mark that would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01.

Leigh Caroline Case

Leigh Case
Trademark Attorney
Law Office 105
(703) 308-9105 x 148

For your convenience, the Trademark Status Line (703) 305-8747 is available for immediate case status inquiry, Monday through Friday from 6:30 a.m. until midnight, Eastern time.

TRADEMARK LAW OFFICE 105
Serial Number: 75/011205
Mark: VEGUEROS
Please Place on Upper Right Corner
of Response to Office Action ONLY

TRADEMARK MAILROOM
REC'D
OCT 24 1996
39
US PATENT & TRADEMARK OFFICE

#2A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Response to Office Action

Mark: Vegueros

Serial No.: 75/011205

Applicant: Habanos, S.A.

Int'l Class: 34

Applicant responds as follows to the points raised in the examining attorney's office action issued on March 18, 1996:

1. Refusal based on Section 2(e)(1) - Mark is Merely Descriptive of the Goods

The examining attorney refused registration of the mark under Section 2(e)(1) on the ground that the proposed mark merely describes the goods. The examining attorney was of the view that the English translation of the word "vegueros" is "cigar". This is not accurate. The principle translation of the noun "vegueros" and the way it is commonly understood by most Spanish-speaking persons is "one who farms a lowland" or, as used specifically in Cuba, "a tobacco planter or farmer." See, Simon and Schuster's International Dictionary (1973) (a copy of the relevant page is attached hereto as Exhibit A). Thus, the word "vegueros" is not the descriptive term for the goods in international class 34.

Applicant's translation of the word "vegueros" is supported by Professor Juana Quiñones Goergen, a Professor of Modern Languages at DePaul University, who is an expert in the Spanish language. Attached hereto is a declaration by Professor Quiñones Goergen stating her expert opinion that the principle and common meaning of the word "vegueros" in Spanish-speaking countries is "one who farms a lowland" or, in Cuba, "tobacco planter or farmer." In the opinion of Professor Quinones

Guergen, the definition of the word "vegueros" as "cigar" is unique to Cuba and even in Cuba it is most commonly used to mean the person who farms tobacco, not the product itself. The declaration of Professor Quiñones Goergen is attached hereto as Exhibit B.

Applicant's definition of "vegueros" is further supported by the Diccionario de uso del español (Editorial Gredos, 1987), which is a dictionary which traces the usage and origins of Spanish words. This dictionary demonstrates that the origin of the word "veguero" is the word "vega" which means low, flat lands cultivated with gardens. This dictionary also states that in Cuba the word "vega" has the specific connotation of land planted with tobacco. In addition, the principle usages of the word "vegueros", according to this dictionary of usage, is as an adjective pertaining to a "vega" (cultivated lowland or a tobacco farm) or as a noun denoting "a worker of the vega" or a "peasant of the vega." A tertiary meaning is also listed which is specific to Cuba: a coarse cigar rolled from a single tobacco leaf. A copy of the relevant page from the Diccionario de uso del español is attached hereto as exhibit B.

Even as a tertiary meaning limited to Cuba, however, this usage would be extremely rare and unrelated to commercially sold cigars which are universally made of a blend of different tobacco leaves which serve as the filler and a distinct type of leaf often grown in a different place which is used as the wrapper. Thus, the commercially sold cigars would never be made from a single leaf of tobacco.

Further, one of Cuba's most prominent authors on the Cuban economy and culture has written a book on the history of tobacco in Cuba and uses the word "vegueros" to mean tobacco planters. See, Fernando Ortiz, Contrapunteo Cubano del tabaco y del azucar (Biblioteca Ayachucho, 1978). Thus, even in Cuba where the word "veguero" is related to a tobacco plantation or a tobacco farmer, the word is not used in common parlance or in the literature to mean a cigar. Rather, it refers to tobacco farmers and does not describe applicants goods.

On the basis of the above sources and the expert opinion of Professor Quiñones Guergen, applicant respectfully submits that the word "vegueros" is not descriptive of applicants goods and requests that its aplication to register the mark VEGUEROS be approved.

Informality

Translation

TR	The English translation of the word VEGUEROS in the mark is "a farmer of a fertile lowland" or "a tobacco farmer or planter."

Dated: October 24, 1996

Michael Krinsky

Michael Krinsky
RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN
740 Broadway - Fifth floor
New York, New York 10003
(212) 254-1111
Attorneys for Applicant,
Habanos, S.A.

Certificate of Mailing by "Express Mail"

I hereby certify that the attached "Response to Office Action" is being deposited with the United States Postal Service, today, October 24, 1996, utilizing the "Express Mail Post Office to Addressee" service in the an envelope, mailing label No. HB 30936267X addressed to:

Assistant Commissioner for Trademarks
Attn: Leigh Case, Esq., Law Office 105
2900 Crystal Drive
APPLICATIONS - 3rd Floor
Arlington, VA 22202-3513

Debra Evenson

ALL-STATE® LEGAL 800-222-0510 ED11 RECYCLED

Exhibit A

SIMON AND SCHUSTER'S INTERNATIONAL DICTIONARY

ENGLISH/SPANISH
SPANISH/ENGLISH

DICCIONARIO INTERNACIONAL SIMON AND SCHUSTER

INGLÉS/ESPAÑOL
ESPAÑOL/INGLÉS

varita, *f.* 1. *dim. of* **vara,** small stick or rod. 2. (bot.) spray, spike. — **v. de virtudes, v. mágica,** magic wand.
variz, (*pl.* **varices**), *m.* (med.) varix, varicose vein
varón, *a.* male (person), e.g. *hijo v.,* male child. —*m.* 1. man; male; adult male. 2. boy, male child, e.g. *tuvo un varón,* she had a little boy. 3. (mar.) rudder tackle, rudder chain, emergency steering chain. — **v. de Dios,** Godfearing man, virtuous man; **buen v.,** wise, experienced and sensible man; **santo v.,** (coll.) plain simple man; **v. del timón,** (naut.) rudder pendant.
varona, *f.* (rare) woman, female; mannish woman.
varoncico, illo, ito, *m. dim. of* **varón,** boy, lad, male child.
varonesa, *f.* (obs.) woman, female.
varonía, *f.* male issue, male descent.
varonil, *a.* manly, virile; courageous.
varonilmente, *adv.* in a virile manner; courageously, bravely.
varraco, *m., var. of* **verraco.**
varraquear, *i.v., var. of* **verraquear.**
varraquera, *f., var. of* **verraquera.**
Varsovia, *f.* Warsaw, capital of Poland.
varsoviano, na, *a.* of Warsaw. —*m., f.* native or inhabitant of Warsaw. —*f.* varsovienne (dance).
vasallaje, *m.* 1. vassalage; subjection, servitude, dependence. 2. liege monev.
vasallo, lla, *a.* vassal; subject; feudatory; dependent. —*m., f.* vassal; subject.
vasar, *m.* kitchen shelf (for glasses, plates, etc.), shelving.
vasco, ca, *a., m., f.* Basque (of France or Spain). —*m.* Basque (language).
vascófilo, *m.* expert in the Basque language, lore or culture; Basque scholar.
vascón, na, *m., f.* (hist.) member of an ancient Spanish tribe which in 778 stopped Charlemagne in the Pyrenees.
vascongado, *a., m., f.* Basque (of Spain). —*m.* Basque (language).
vascónico, ca, *a., ref.* **vascón, na.**
vascuence, *m.* 1. Basque (language). 2. (coll.) riddle; gibberish.
vascular, vasculoso, sa, *a.* (bot., anat.) vascular, vasculous.
vascularidad, *f.* (anat.) vascularity.
vasectomía, *f.* (med.) vasectomy.
vaselina, *f.* vaseline.
vasera, *f.* 1. shelf for glasses, dishes, etc. 2. rack or tray for drinking glasses.
vasija, *f.* 1. vessel, receptacle, container; bowl, basin. 2. collection of casks and jars in a wine cellar.
vasillo, *m.* cell (of a honeycomb).
vaso, *m.* 1. glass, tumbler; vase, amphora; container, receptacle; (chem.) flask, beaker. 2. glass, glassful. 3. vessel, ship's hull. 4. (rare) chamber pot. 5. hoof (of horse). 6. (astron.) Crater. 7. (bot., anat.) vessel. — **v. de elección,** chosen vessel; **v. lacrimatorio,** lachrymal vase; **v. sanguíneo,** blood vessel.
vasoconstricción, *f.* (physiol.) vasoconstriction.
vasoconstrictor, *a.* (physiol.) vasoconstricting. —*m.* (physiol.) vasoconstrictor.
vasodilatación, *f.* (physiol.) vasodilatation, vasodilation.
vasodilatador, *a.* (physiol.) vasodilating. —*m.* (physiol.) vasodilator.
vasomotor, ra, *a.* (physiol.) vasomotor.
vástago, *m.* 1. (bot.) scion, shoot. 2. (fig.) offspring, scion. 3. rod, stem (of a piston, valve, plunger). 4. (C. Rica, Ven.) banana stalk. — **v. del émbolo,** (mec.) piston rod; **v. de válvula** or **distribución,** valve rod or stem.
vastedad, *f.* vastness, immensity.
vástiga, *f.* (bot.) shoot, scion.
vasto, ta, *a.* vast, huge.
vataje, *m.* (elec.) wattage.
vate, *m.* 1. bard, poet. 2. prophet, seer.
vatiaje, *m.* (elec.) wattage.
vaticano, na, *a.* Vatican. —*m.* **V.,** Vatican.
vaticinador, ra, *a. vaticinating, prophesying, predicting.* —*m., f.* vaticinator, prophet, seer.
vaticinante, *a.* vaticinating, prophesying, predicting.
vaticinar, *tr.v.* to vaticinate, prophesy, predict, foretell; to forecast.
vaticinio, *m.* vaticination, prophecy, prediction.
vatídico, ca, *a.* prophetic, vaticinal.
vatímetro, *m.* (elec.) wattmeter.
vatio, *m.* (elec.) watt; **v. efectivo,** true watt; **v.-hora,** watt-hour.
vaya, *f.* mocking, jest, banter, scoff; **dar v. a,** to make fun of, jeer at, mock.
vaya, *ref.* **ir; v. con Dios,** God be with you; farewell. —*interj.* well! there! indeed! go!; **v.** + *noun,* what a, e.g. *¡v. enredo!* what a mess! *¡v. chica linda!* what a pretty girl!
V.B. *abbrev. of* **visto bueno,** approved; O.K., approval.
Vd. (obs.) *abbrev. of* **usted,** you; (*pl.*) **Vds.**
Vda. *abbrev. of* **viuda,** widow.
ve, *f.* vee (name of the letter "v"); **v. doble, doble v.,** double-u, the letter "w". —*2nd person sing. imper. of* **ir,** to go, *and* **ver,** to see, e.g. *ve pronto,* go soon; *ve que se haga,* see that it's done.
V.E. *abbrev. of* **Vuestra Excelencia,** Your Excellency.
véase, *imper. of* **verse,** see, vide (in references), e.g. *v. la página siguiente,* see next page.
vecera, vecería, *f. herd of livestock owned* collectively by a community.
vecero, ra, *a.* 1. alternating, taking turns. 2. said of a tree which bears fruit in alternate years. —*m., f.* 1. store customer. 2. one who awaits his or her turn.
vecinal, *a.* 1. vicinal, pertaining to a community or neighborhood. 2. vicinal, neighboring, adjacent. — **unidad v.,** community housing project.
vecinamente, *adv.* nearby, close at hand; contiguously.
vecindad, *f.,* **vecindario,** *m.* 1. vicinity, neighborhood, environs, e.g. *un amigo mío vive en la v.,* a friend of mine lives in the vicinity or neighborhood. 2. nearness, proximity. 3. community, neighborhood, townsfolk, tenants (of a house).
vecino, na, *a.* 1. *neighboring, nearby.* 2. (fig.) similar, like; bordering upon, resembling. — **v. a** or **de,** near, close to. —*m., f.* 1. neighbor. 2. resident, inhabitant, tenant.
vectación, *f.* riding (in a vehicle).
vectógrafo, *m.* (elec.) vectograph.
vector, *a.* (math.) vector, vectorial; **radio v.,** (geom.) radius vector. —*m.* (math., biol.) vector.
vectorial, *a.* (math.) vector, vectorial; **álgebra v.,** vector algebra; **análisis v.,** *vector analysis;* **campo v.,** *vector field;* **potencial v.,** vector potential; **producto v.,** vector product.
veda, *f.* 1. prohibition, interdiction by law. 2. closed season (for hunting or fishing). 3. **V.,** Veda (Hindu holy book).
vedado, *past part. of* **vedar.** —*a.* forbidden, prohibited, interdicted. —*m.* game preserve, warren; enclosure, private park.
vedamiento, *m.* prohibition.
vedar, *tr.v.* 1. to prohibit, forbid. 2. to hinder, obstruct.
vedegambre, *m.* (*bot.*) *white hellebore* (Veratum album).
vedeja, *f., var. of* **guedeja.**
védico, ca, *a.* (rel., philos.) Vedic (relating to the Vedas).
vedija, *f.* 1. tuft of wool; matted or tangled hair, matted tuft of hair. 2. (fig.) spiral of smoke. 3. (anat.) groin.
vedijero, ra, *m., f.* person who gathers shorn wool.
vedijoso, sa, vedijudo, da, *a.* having tangled or matted hair or wool.
vedijuela, *f. dim. of* **vedija,** small tuft of wool or lock of tangled hair.
veduño, *m., var. of* **viduño.**
veedor, ra, *a.* prying, curious. —*m., f.* prier, busybody. —*m.* inspector, supervisor.
veeduría, *f.* inspectorship; inspector's office.
vega, *f.* 1. fertile lowland. 2. (Cuba) tobacco plantation. 3. (Chile) damp or swampy terrain.
vegetabilidad, *f.* condition of being vegetable.
vegetación, *f.* 1. vegetation, vegetating. 2. (bot., med.) vegetation.
vegetal, *a.* vegetal, vegetable. —*m.* vegetable, plant.
vegetalismo, *m., var. of* **vegetarianismo.**
vegetalista, *a., var. of* **vegetariano.**
vegetante, *a.* vegetating.
vegetar, *i.v.* 1. to grow (plants). 2. (fig.) to vegetate, lead a passive life.
vegetarianismo, *m.* vegetarianism.
vegetariano, na, *a., m., f.* vegetarian.
vegetativo, va, *a.* vegetative.
vegoso, sa, *a.* (Chile) damp, humid, swampy (soil).
veguer, *m.* (hist.) formerly district magistrate, corregidor (of Aragon, Catalonia and Majorca).
veguerío, ía, *m., f.* jurisdiction of a **veguer.**
veguero, ra, *a.* 1. pertaining to a fertile lowland. 2. (Cuba) pertaining to a tobacco plantation. —*m., f.* 1. one who farms a lowland. 2. (Cuba) tobacco planter or farmer. —*m.* fine type of cigar made from a single rolled leaf.
vehemencia, *f.* vehemence.
vehemente, *a.* vehement; impassioned (speaker).
vehementemente, *adv.* vehemently.
vehículo, *m.* 1. vehicle (conveyance). 2. (fig.) carrier; medium, means.
veintavo, va, *a., m.* twentieth.
veinte, *a.* twenty; **a las v.,** (coll.) very late, inopportunely; **los años v.,** the twenties. —*m.* twenty; twentieth (in dates).
veintén, *m.* Spanish gold coin worth 20 reales.
veintena, *f.,* **veintenar,** *m.* score, twenty.
veintenario, ria, *a.* twenty years old, twenty-year-old.
veinteno, na, *a., f.* twentieth.
veinteñal, *a.* twenty-year, lasting twenty years.
veintésimo, ma, *a., m.* twentieth.
veinticinco, *a.* twenty-five. —*m.* twenty-five; twenty-fifth (in dates).
veinticuatreno, na, *a.* twenty-fourth. —*m.* cloth with a 2400-thread warp.
veinticuatro, *a.* twenty-four. —*m.* twenty-four; twenty-fourth (in dates).
veintidós, *a.* twenty-two. —*m.* twenty-two; twenty-second (in dates).
veintidoseno, na, *a.* twenty-second.
veintinueve, *a.* twenty-nine. —*m.* twenty-nine; twenty-ninth (in dates).
veintiocheno, na, *a.* twenty-eighth.
veintiocho, *a.* twenty-eight. —*m.* twenty-eight; twenty-eighth (in dates).
veintiséis, *a.* twenty-six. —*m.* twenty-six; twenty-sixth (in dates).
veintiseiseno, na, *a.* twenty-sixth.
veintisiete, *a.* twenty-seven. —*m.* twenty-seven; twenty-seventh (in dates).
veintitrés, *a.* twenty-three. —*m.* twenty-three; twenty-third (in dates).

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Exhibit B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION OF JUANA QUINONES GOERGEN

JUANA QUINONES GOERGEN, residing at 716 North Taylor St., Oak Park, Illinois, being duly sworn, deposes and says:

1. I am an Assistant Professor of Modern Languages at DePaul University, Chicago, Illinois, where I teach courses in the Spanish Language and in Latin American literature. I am also co-chairperson of the Latin American studies program at DePaul University. I have been a member of the DePaul University faculty since 1992. I received my Doctorate degree in modern languages and Latin American literature in 1990 from the State University of New York at Stoneybrook. My doctoral dissertation was on Cuban literature. I am expert in the Spanish language and am familiar with its usage in many Spanish speaking countries, including Cuba.

2. I am familiar with the Spanish word "vegueros" which is the plural of the word "veguero". The principle definition of "veguero" in the Spanish language is as an adjective meaning "pertaining to a fertile lowland"; in Cuba it means "pertaining to a tobacco plantation." Its principle meaning when used as a noun, is "one who farms a lowland"; in Cuba, the principle meaning is a "tobacco planter or farmer." Some Spanish-English dictionaries indicate a secondary definition which is specific only to Cuba of the noun "veguero" as a "cigar"; this is not,

however, the way in which the word is commonly understood or used either in Cuba or in other Spanish-speaking countries. The word "vegueros" would not likely be understood to describe the tobacco product itself but rather would be understood to refer to a farmer in general or to the person who engages in the cultivation of tobacco.

Signed this 24th day of October, Chicago, Illinois

, PhD.

Juana Quiñones Goergen

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Exhibit C

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2 veda. Acción de vedar. En lenguaje corriente se aplica sólo a la prohibición de *cazar o *pescar en determinado sitio o determinada época. ⊙ Circunstancia de estar prohibida la caza o la pesca en un sitio o en una época. ⊙ Época que dura la prohibición. (V.: «*Concia*, COTO. ⊳ *Deviedo*. ⊳ *Descotar* —ant.—, levantar la VEDA».)

LEVANTAR LA VEDA. Suspender o dar por terminada su aplicación.

vedado, -a. ① Participio adjetivo. ② (adj. y, en masc., t. n.). Se aplica al lugar acotado o en que no se permite entrar.

VEDADO DE CAZA. Sitio de propiedad particular donde no se permite cazar.

vedamiento. *Acción de vedar.*

vedegambre. (A través de un sup. «medegambre», del lat. «medicamen», deriv. de «medicare», y éste de «médicus»; v. «MÉDICO». «Verátrum álbum».) Planta liliácea de flores blancas o verdosas y rizoma medicinal. (T., «ELÉBORO blanco, VERATRO». ⊳ V.: «*Cebadilla*. ⊳ *Veratrina*».)

vedeja. (Del lat. «viticula», zarcillo de vid; v. «guedeja, VID».) *Guedeja (conjunto del pelo. Melena del león).*

1 vedija. (Del m. or. que «vedeja» y de formación paralela.) ① *Mechón de *lana. (V. «*cerrevedijón*».) ② *Pelo enredado, de la cabeza o del cuerpo de un animal.*

vedijero, -a. *Persona que recoge la lana de caídas cuando se *esquila.*

vedijoso, -a o **vedijudo, -a** (adj.). *Se aplica al *animal que tiene la lana o el pelo enredado.*

veduño. (Variante de «viduño», deriv. de «vid» —v.—.) «Viduño». *Viá, refiriéndose a las distintas variedades.*

vedette. Palabra francesa con que se designa a la artista principal de espectáculos de revista o variedades. (V. «*TEATRO».) ⊙ En francés, y también, a veces, en español, se aplica a la intérprete principal de una película. (V. «*CINE».)

védico, -a. V. bajo «1 VEDA».

1 vedija. V. bajo «*vedeja*».

2 vedija. «*Verija*». *Parte externa del cuerpo situada alrededor de los órganos *sexuales.*

vedijero, -a; vedijoso, -a; vedijudo, -a. V. bajo «*vedeja*».

vedismo. V. bajo «1 VEDA».

veduño. V. bajo «*vedeja*».

veedor, -a; veeduría. V. bajo «*veer*».

veer (ant.). *Ver.

veedor, -a. ① (adj. y n.). *Aplicado al que *mira con curiosidad lo que hacen otros.* (2 y sigtes., n. en masc.) ② *Nombre dado antiguamente a distintos cargos de inspección, por ejemplo de las obras de los distintos gremios o de los aprovisionamientos, para el cumplimiento de las ordenanzas. (V. «*sobreveedor*».)* ③ *Jefe militar antiguo con funciones de inspector.* ④ *Servidor de *palacio que estaba encargado de la adquisición de las provisiones y el cuidado de los coches y caballerías.* ⑤ *Servidor de confianza de las casas principales, que estaba encargado de vigilar al despensero.*

Veedor de vianda. *Servidor de palacio encargado de vigilar que se sirviese a la mesa todo lo dispuesto y de que no se sirviese nada sin avisar al mayordomo mayor o al de semana.* (T., «escuyer de cocina». ⊳ V. «*REY».)

veeduría. Cargo de veedor. ⊙ Oficina del veedor.

1 vega. ① «Huerta. Ribera». *Terreno bajo, llano y con cultivos de huerta, generalmente atravesado por un río del que toma nombre: 'La vega del Guadalquivir'. (V. «envegarse».) ② (Cuba). *Terreno sembrado de *tabaco.* ③ (Chile). *Terreno muy *húmedo.*

vegoso, -a (Chile; aplicado a terrenos). *Convenientemente *húmedo, de manera natural.*

veguero, -a. ① (adj. y n.). *De [De la] vega.* ② (n.). *Labrador o *campesino de vega.* ③ (n., en masc.). *Cigarro puro hecho toscamente, con sólo una hoja que hace de tripa y capa.*

2 Vega. *Estrella de primera magnitud de la constelación de la Lira.

vegada (ant. y u. aún en Salamanca y Zamora). *Vez.

vegetabilidad; vegetable; vegetación. V. bajo «VEGETAL».

vegetal. (Del lat. «vegetus», vigoroso, o «vegetare», hacer crecer, derivs. de «vegere», excitar; v. «VIGENTE».) ① (adj. y n.). Se aplica al organismo que carece de sistema nervioso y, por tanto, no tiene funciones de relación, generalmente no cambia de lugar, y se alimenta de substancias inorgánicas. (V. «*PLANTA».) ② (adj.). De [De los] vegetales: 'Fisiología vegetal'.

V. «CARBÓN vegetal, CRIN vegetal, PATOLOGÍA vegetal, TIERRA vegetal».

vegetabilidad (fem.). *D. R. A. E.: «Calidad de vegetable».*

vegetable. *D. R. A. E.: «adj. p[oco] u[sado]. Vegetal. U[sase] t[ambién] c[omo] s[ubstantivo] m[asculino]».*

vegetación (fem.). ① Acción de vegetar. ② Conjunto de plantas: 'Un terreno con mucha vegetación'. (Adjs. frecs., «exuberante, lujuriante, viciosa».) ⊙ Especies vegetales propias de un lugar, clima, etc.: 'La vegetación mediterránea'. ③ (en pl.). «Vegetaciones adenoideas». ④ «Brote». Acción de *brotar: 'Las plantas necesitan riego abundante durante la vegetación'.

VEGETACIONES ADENOIDEAS. Hipertrofia de las amígdalas de la faringe, con caracteres de tumor blando. (V. «*ENFERMEDAD».)

vegetalista (masc. y fem.). *Vegetariano.*

vegetante (adj.). *Aplicable al que o lo que vegeta.*

vegetar. ① Realizar las *plantas su nutrición y crecimiento. ② *Brotar las plantas en la época del año oportuna. ③ (fig.; lamentoso o reprobatorio). Limitarse una persona a realizar las funciones *fisiológicas o el trabajo necesario para vivir, sin otros deleites o intereses.

vegetarianismo. ① Cualidad de vegetariano. ② Doctrina y práctica de los vegetarianos.

vegetariano, -a (adj. y, aplicado a personas, t. n.). ① Se aplica al animal que se *alimenta de vegetales y a la persona que, por doctrina, se alimenta sólo de substancias vegetales. ② Del vegetarianismo.

vegetativo, -a. De la vegetación o nutrición, o relacionado con ellas: 'Tejidos [Órganos, Aparatos] vegetativos'. ⊙ Se aplica a «vida» para designar las funciones animales puramente orgánicas.

vegoso, -a. V. bajo «1 VEGA».

veguer. (Del cat. «veguer», del lat. «vicarius», deriv. de «vicis»; v. «VEZ».) ① *Magistrado antiguo de Aragón, Cataluña y Mallorca, equivalente al corregidor de Castilla.* (V. «*JUEZ».) ② En *Andorra, cada uno de los dos delegados de los países protectores.

veguería [**veguerío**]. *Territorio de la jurisdicción de un veguer.*

veguero, -a. V. bajo «1 VEGA».

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varal, *n.m.* long pole; (*theat.*) side-lights; tall, gangling fellow.
varapalo, *n.m.* long pole; blow with a pole; (*fig.*) grief, trouble, damage.
varar, *v.t.* (*naut.*) to beach. — *v.i.* to run aground.
varaseto, *n.m.* espalier.
varazo, *n.m.* swipe *or* blow with a pole *or* stick.
varbasco, *n.m.* (*bot.*) verbascum, mullein.
vardasca, *n.f.* thin twig.
vareador, *n.m.* beater (*fruit-picking*).
vareaje, *n.m.* retail-trade; selling *or* measuring by the yard; beating down (*the fruit of trees*).
varear, *v.t.* to beat down (*fruit*); to cudgel; to measure *or* sell by the yard; to wound with the goad. — **varearse,** *v.r.* to grow thin *or* lean.
varejón, *n.m.* thick pole *or* staff.
varenga, *n.f.* (*naut.*) floor-timber.
vareo [VAREAJE].
vareta, *n.f.* small rod; lime-twig; stripe; dig, nasty crack *or* hint.
varetazo, *n.m.* blow from a horn.
varetear, *v.t.* to variegate.
varga, *n.f.* steepest part (*of a hill*).
varganal, *n.m.* enclosure, stockade.
várgano, *n.m.* railing *or* stake (*of a fence*).
vari, *n.m.* (*Chi., Per., orn.*) harrier.
variabilidad, *n.f.* variableness.
variable, *a.* variable, changeable; fickle.
variación, *n.f.* variation.
variado, -da, *a.* varied; variegated.
variante, *a., n.f.* variant.
variar [L], *v.t., v.i.* to vary, change; ***variar de idea,*** to change one's mind.
várice, varice, *n.f.* (*surg.*) varix; varicose vein.
varicela, *n.f.* (*med.*) chicken-pox.
varicocele, *n.f.* varicocele.
varicoso, -sa, *a.* varicose.
variedad, *n.f.* variety; (*pl.* **variedades**) miscellany; ***teatro de variedades,*** variety theatre, vaudeville.
varilarguero, *n.m.* picador.
varilla, *n.f.* (small) rod; spindle, pivot; switch; rib *or* stick (*of a fan* or *umbrella*); whalebone (*of corset*); dipstick, (*Am.*) bayonet; (*coll.*) jawbone; (*pl.*) frame (*of a sieve*); whisk.
varillaje, *n.m.* rib-work, ribbing (*umbrellas, corsets, fans etc.*).
varillar, *n.m.* (*Chi.*) shrubbery.
vario, -ria, *a.* various, different, diverse; changeable, unsteady; variegated; (*pl.*) several, various.
varioloso, -sa, *a.* variolous, variolar.
varita, *n.f.* switch; wand; (*Hond., bot.*) ***varita de San José,*** hollyhock.
varón, *n.m.* man, male; man of worth; male child; (*naut.*) pendant (*of rudder*); (*coll.*) ***santo varón,*** extremely worthy man; ***hijo varón,*** son.
varona, varonesa, *n.f.* woman; mannish woman.
varonía, male issue.
varonil, *a.* manly.
Varsovia, *n.f.* Warsaw.
varraco, *n.m.* boar.
varraquear, *v.i.* (*coll.*) to grunt; to squall (*of children*).
varraquera, *n.f.* (*coll.*) tantrum.
vasallaje, *n.m.* vassalage, servitude, subjection; dependence; liege-money.
vasallo, -lla, *a.* subject, dependant, feudatory. — *n.m.f.* vassal, subject.
vasar, *n.m.* kitchen-shelf.
vasco, -ca, vascongado, -da, *a., n.m.f.* Basque.
vascuence, *n.m.* Basque language; (*coll.*) jargon, gibberish.
vascular, vasculoso, -sa, *a.* vascular, vasculose.
vase, *n.m.* (*theat.*) exit. — *3rd pers. sing. pres. indic. of* IRSE.
vaselina, *n.f.* Vaseline (*reg. trade name*), petroleum jelly.
vasera, *n.f.* glass-rack.
vasico, *n.m.* small glass.
vasija, *n.f.* vessel; butt, cask; bowl, dish.
vasillo, *n.m.* honeycomb cell.
vaso, *n.m.* vessel; glass, tumbler; tumblerful; (*naut.*) hull; (*arch.*) vase; duct; hoof (*of a horse*); Crater (*constellation*).
vástago, *n.m.* stem; shoot, sapling; scion, offspring; (*mech.*) ***vástago del émbolo,*** piston rod; ***vástago de válvula,*** valve stem.
vastedad, *n.f.* vastness; huge expanse.
vasto, -ta, *a.* vast, immense, huge.
vate, *n.m.* (*poet.*) bard, poet; diviner, seer.
Vaticano, *n.m.* Vatican.
vaticano, -na, *a.* (of the) Vatican.
vaticinador, -ra, *a.* prophesying, vaticinating. — *n.m.f.* prophet, vaticinator.
vaticinar, *v.t.* to prophesy, vaticinate.
vaticinio, *n.m.* prophesy, vaticination.
vatídico, -ca, *a.* (*poet.*) prophetical.
vatio, *n.m.* watt; ***vatio-hora,*** watt-hour.
vaya, *n.f.* jest, scoff. — *interj.* well, well! you don't say! good Lord!; ***¡vaya por Dios!*** good Heavens!; ***¡vaya una ocurrencia!*** what a notion!
ve, *n.f.* name of the letter V.
véase, see, vide.
vecero, -ra, *a.* alternate; fruit-bearing in alternate years. — *n.m.f.* one waiting his turn; regular customer. — *n.f.* herd, drove.
vecinal, *a.* belonging to the neighbourhood, local.
vecindad, *n.f.* vicinity, neighbourhood; neighbours; tenants, inhabitants.
vecindario, *n.m.* neighbours; tenants, inhabitants; vicinity, neighbourhood.
vecino, -na, *a.* neighbouring; nearby; next. — *n.m.f.* neighbour; tenant, inhabitant, resident.
vectación, *n.f.* riding.
vector, *n.m.* vector.
Veda, *n.m.* Veda.
veda, *n.f.* prohibition; close season (*game*).
vedado, *n.m.* enclosure, park, game preserve.
vedamiento, *n.m.* prohibition.
vedar, *v.t.* to prohibit, forbid; to impede, hinder, obstruct; to veto.
vedegambre, *n.m.* (*bot.*) hellebore.
vedeja, *n.f.* long lock of hair; forelock; (*lion's*) mane.
vedija, *n.f.* tangled lock of wool; tuft of tangled hair.
vedijero, -ra, *n.m.f.* collector of loose locks (*at shearing*).
vedijoso, -sa, vedijudo, -da, *a.* shaggy.
veduño, *n.m.* quality (*of vines*).
veedor, -ra, *n.m.f.* spy, prier; inspector, overseer.
veeduría, *n.f.* office of inspector *or* overseer.
vega, *n.f.* fertile lowland *or* plain; (*Cub.*) tobacco-plantation; (*Chi.*) low and swampy ground.
vegetabilidad, *n.f.* vegetability.
vegetación, *n.f.* vegetation; (*pl.*) ***vegetaciones (adenoideas),*** adenoids.
vegetal, *a., n.m.* vegetable.
vegetante, *a.* vegetating.
vegetar, *v.i.* to vegetate.
vegetarianismo, *n.m.* vegetarianism.
vegetariano, -na, *a., n.m.f.* vegetarian.
vegetativo, -va, *a.* vegetative.
vegoso, -sa, *a.* (*Chi.*) damp (*ground*).
veguer, *n.m.* magistrate.
vegueria, *n.f.*, **veguerío,** *n.m.* jurisdiction and office of magistrate.
veguero, -ra, *a.* of a fertile plain. — *n.m.* cigar; (*Hisp. Am.*) tobacco-planter.
vehemencia, *n.f.* vehemence.

vehemente, *a.* vehement.
vehículo, *n.m.* vehicle.
veintavo, *n.m.* twentieth part.
veinte, *a., n.m.* twenty, twentieth; unseasonably.
veintén, *n.m.* gold dollar.
veintena, *n.f.*, **veintenar,** *n.m.* scor
veintenario, -ria, *a.* twenty years o
veinteñal, *a.* lasting twenty years.
veinteocheno, -na, veintiocheno, - eighth. — *n.m.* cloth with 2,800 t
veinteseiseno, -na, *a.* twenty-sixth.
veintésimo, -ma, *a.* twentieth.
veinticinco, *a.* twenty-five.
veinticuatreno, -na, *a.* twenty-f cloth with 2,400 threads of warp.
veinticuatro, *a.* twenty-four, twe *n.m.* twenty-four, twenty-fourth some Andalusian cities.
veintidós, *a., n.m.* twenty-two.
veintidoseno, -na, *a.* twenty-second
veintinueve, *a., n.m.* twenty-nine, t
veintiocho, *a., n.m.* twenty-eight, tw
veintiséis, *a., n.m. inv.* twenty-six, t
veintiseiseno, -na, *a.* twenty-sixth.
veintisiete, *a., n.m.* twenty-seven, t
veintitrés, *a., n.m.* twenty-three, tw
veintiún, *a.m.* twenty-one (*apocope*
veintiuno, -na, *a., n.m.* twenty-one *n.m.* pontoon (*card game*).
vejación, *n.f.* molestation, humiliatio
vejador, -ra, *a.* molesting, ill-trea molester, ill-treater.
vejamen, *n.m.* taunt; lampoon; ill-t
vejaminista, *n.m.f.* lampooner.
vejancón, -cona, *a., n.m.f.* old, dec
vejar, *v.t.* to vex, molest, tease, an coll at; to censure.
vejarrón, -rrona, *a., n.m.f.* very ol
vejatorio, -ria, *a.* vexatious.
vejazo, -za, *a., n.m.f.* very old (pers
vejestorio, *n.m.* ancient object *or* ch
vejeta, *n.f.* (*orn.*) crested lark.
vejete, *n.m.* (sprightly) old codger.
vejez, *n.f.* oldness; old age; old thi *viruelas,* there's no fool like an o
vejezuelo, -la, *a.* oldish. — *n.m.f.* li man.
vejiga, *n.f.* bladder, gall-bladder; b *vejiga de perro,* common v
vejigatorio, -ria, *a.* blistering, rais *n.m.* blistering plaster, vesicatory.
vejigón, *n.m.* large bladder, large bli
vejiguela, vejiguica, vejigulilla, small bladder.
vela (1), *n.f.* watch; vigil; wakefulne candle; ***una noche en vela,*** a s *vela* runny *or* running nose; (co ***ha dado vela en este entierro?*** out in?
vela (2), *n.f.* sail; awning; nuptial m ***vela mayor,*** mainsail; ***vela*** sail, ***vela de mesana,*** mizzer ***a la vela,*** to set sail; ***hacer fuer*** sail on sail; ***alzar velas,*** to h ***recoger velas,*** to (start to) soft sail in one's horns.
velación (1), *n.f.* watch, watching, v
velación (2), *n.f.* nuptial mass and
velacho, *n.m.* (*naut.*) fore-topsail.
velado, -da (1), *a.* veiled, hidden. — wife.
velada (2), *n.f.* watch; social evenin
velador, -ra, *a.* watching. — *n.m.* wa wooden candlestick; small

AMENDMENT EXAMINATION WORK SHEET

Name: Gwendolyn Austin L.O.: 105 Date: 12/10/96 Serial No.: 75/041205

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			NC	Assignment or Name Change:
CL			CO	Composed of:
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			CL	First Use: First Use in Commerce:
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VEGUEROS		
ADDRESS	ACTION NO.	ADDRESS: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513. If no fees are enclosed, the address should include the words "BOX 5."
Caroline Rule Rabinowitz, Boudin, Standard, et al. 740 Broadway at Astor Place New York, NY 10003-9518	02	
	MAILING DATE 12/26/96	Please provide in all correspondence:
	REF. NO.	1. Filing date, serial number, mark, and applicant's name. 2. Mailing date of this Office action. 3. Your telephone number and ZIP code. 4. Examining attorney's name and law office number.
FORM PTO-1525 (5-90)	U.S. DEPT. OF COMM. PAT. & TM OFFICE	

Serial Number: 75/011205 **Mark: VEGUEROS**

A proper response to this Office Action must be received within six months of the mailing date of the Office Action in order to avoid *ABANDONMENT*. *For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.*

FINAL ACTION

This letter responds to the applicant's communication filed on October 24, 1996.

Refusal Based on Section 2(e)(1) - Mark is Merely Descriptive of the Goods

The examining attorney continues and makes **final** the refusal of registration on the Principal Register because the proposed mark merely describes the goods. Trademark Act Section 2(e)(1), 15 U.S.C. Section 1052(e)(1); TMEP section 1209 *et seq*. The copy of the entry taken from *Cassell's Spanish-English Dictionary* attached to the earlier Office action indicates that the word "veguero" means "cigar." This term is descriptive of the applicant's goods, which include raw tobacco, cigars, cigarettes, cut tobacco, rappee, and manufactured tobacco of all kinds. The foreign equivalent of a merely descriptive English word is not registrable because the foreign word as well is merely descriptive. *In re Geo. A. Hormel & Co.*, 227 USPQ 813 (TTAB 1985); *In re Optica International*, 196 USPQ 775 (TTAB 1977).

The applicant argues in its response that the primary meaning of the term "vegueros" is "a farmer of a fertile lowland," or "a tobacco farmer or planter." However, even if a term has different meanings in other contexts, the existence of these different meanings is not controlling on the question of descriptiveness. Descriptiveness must be determined in relation to the goods for which the registration is sought. *In re Bright-Crest, Ltd.*, 204 USPQ 591

(TTAB 1979). In this case, even the applicant's dictionary definition shows that the term "veguero" means "fine type of cigar made from a single rolled leaf."

For the reasons stated above, the examining attorney finds that because the proposed mark merely describes the applicant's goods, registration of the applicant's mark is barred under Section 2(e)(1) of the Trademark Act.

The refusal based on the descriptiveness of the mark is made FINAL.

The applicant should note the additional ground for refusal.

Translation

The translation submitted by the applicant does not acknowledge that the word "veguero" means "cigar." The applicant must submit an acceptable English translation of the mark. 37 C.F.R. Section 2.61(b); TMEP section 809. The translation may be in the following form:

> The English translation of the word VEGUEROS in the mark is "cigars," "a farmer of a fertile lowland," and "a tobacco farmer or planter."

The requirement for an acceptable translation is made FINAL.

Applicant's Response

Please note that the only appropriate response to a **final action refusal** is either: (1) complying with the outstanding requirements, if feasible, or (2) filing an appeal with the Trademark Trial and Appeal Board. 37 C.F.R. Section 2.64(a). If the applicant fails to respond within six months of the mailing date of this refusal, this Office will declare the application abandoned. 37 C.F.R. Section 2.65(a).

Leigh Caroline Case

Leigh Case
Trademark Attorney
Law Office 105
(703) 308-9105 x 148

For your convenience, the Trademark Status Line (703) 305-8747 is available for immediate case status inquiry, Monday through Friday from 6:30 a.m. until midnight, Eastern time.

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TRADEMARK

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

TRADEMARK MAILROOM
REC'D
JUN 26 1997
65
US PATENT & TRADEMARK OFFICE

Serial No.:	75/011205)	Trademark Law Office:	105
Filing Date:	10/27/1995)	Trademark Examining Attorney:	Leigh Case
Mark:	Vegueros)		
Applicant:	Habanos, S.A.)		

TRADEMARK TRIAL AND APPEAL BOARD
97 JUL -9 AM 1:05

Box TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Notice of Appeal

Applicant hereby appeals to the Trademark Trial and Appeal Board from the final decision of the United States Patent and Trademark Office Examining Attorney refusing registration of the above-referenced mark, which decision was mailed on December 26, 1996.

Pursuant to Trademark Rule 2.6, 37 C.F.R. § 2.6, a check in the amount of $100.00 is enclosed, the filing fee for an Appeal.

Respectfully submitted,

07/1997 KRABELO 00000090 75011205
FC:378 100.00 OP

Eric M. Lieberman
RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN
740 Broadway - Fifth Floor
New York NY 10003
(212) 254-1111
Attorneys for Applicant,
Habanos, S.A.

Dated: June 26, 1997

Serial No. 75/011205

Certificate of Express Mailing and Service

I hearby certify that this Notice of Appeal is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on: June 26, 1997, addressed to:

Express Mail label number : EI487611313US

Box TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Date of Mailing: 6/26/97

Printed Name of Depositor: Marie Papp

Signature of Depositor: Marie Papp

Date of Signing: 6/26/97

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

PAPER NO.

IN REPLY TO SERIAL NUMBER, DATE OF FILING, AND NAME OF APPLICANT
MAILED: JUL 30 1997
IN RE APPLICATION OF: Habanos, S.A.
SERIAL NO. 75/011,205
APPEAL RECEIVED June 26, 1997
BRIEF DUE August 25, 1997

Caroline Rule
Rabinowitz, Boudin,
Standard,
Krinsky & Lieberman
740 Broadway, 5th Floor
New York, NY 10003

The appeal and appeal fee in the above-entitled application were received on the date indicated above.

The Trademark Rules of Practice provide that the brief of the applicant must be filed within sixty days after the date of the appeal. Applicant must also indicate, not later than ten days after the due date for applicant's reply brief, if an oral hearing is desired.

S. Hassan
Paralegal Specialist,
Trademark Trial and
Appeal Board
(703) 308-9330 Ext. 133

MAILROOM
RECD
JUL 31 1997
PATENT & TRADEMARK OFFICE

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

Serial No.:	75/011205	)
Filing Date:	10/27/1995	)
Mark:	VEGUEROS	)
Applicant:	Habanos, S.A.	)

AFFIDAVIT OF MICHAEL KRINSKY, ESQ.

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

MICHAEL KRINSKY, ESQ., being duly sworn, deposes and says:

1. I am a member of the bar of the State of New York, and I am a partner in the law firm of Rabinowitz. Boudin, Standard, Krinsky & Lieberman, P.C., attorneys for applicant, Habanos, S.A.

2. I make this affidavit in support of applicant's motion to extend the time to file an appeal brief filed herein from August 25, 1997 to September 24, 1997. No previous extension of time has been sought. I make this affidavit upon personal knowledge.

3. This extension of time is necessary as applicant's attorneys, Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., are unable to properly prepare an appeal brief by August 25, 1997 on account of summer vacation schedules and therefore respectfully request that this Board grant applicant's motion for an extension of time from August 25, 1997 to September 24, 1997 in which to file its brief.

Michael Krinsky, Esq.

Sworn to me this
30th day of July 1997.

Notary Public

MARRIA E. BANKS
Notary Public, State of New York
No. 31-4821564
Qualified in New York County
Commission Expires June 30, 1998

Certificate of Express Mail and Service

I hereby certify that the attached "Motion for Extension of Time" for the mark VEGUEROS, Serial No. 75/011205, is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on: July 30, 1997, addressed to:

Express Mail label number: EH377412624US

Box TTAB NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Marie A. Papp 7/30/97

MAIL ROOM
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JUL 31 1997
PATENT & TRADEMARK OFFICE

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

Serial No.:	75/011205	)
Filing Date:	10/27/1995	)
Mark:	VEGUEROS	)
Applicant:	Habanos, S A.	)

Box TTAB NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

NOTICE OF MOTION FOR EXTENSION OF TIME TO FILE APPEAL BRIEF

PLEASE TAKE NOTICE that, upon the annexed affidavit of Michael Krinsky, Esq., applicant Habanos, S.A. moves this Board for a thirty (30) day extension of time in which to file an appeal brief from August 25, 1997 to September 24, 1997. This extension of time is necessary on account of respondent's attorneys, Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., having scheduled vacations that conflict with the current deadline.

Dated: New York, New York
July 30, 1997

Respectfully submitted,

RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

By: _____
Michael Krinsky, Esq.
Attorneys for Applicant

Habanos, S.A.
740 Broadway - Fifth Floor
New York, New York 10003
(212) 254-1111

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

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AUG 7 1997
PAT. & T.M. OFFICE

In re Habanos, S.A.

Serial No. 75/011,205

Filed: October 27, 1995

Caroline Rule
Rabinowitz, Boudin, Standard,
Krinsky & Lieberman, P.C.
740 Broadway at Astor Place, 5th Floor
New York, NY 10003-9518

The request for an extension of time with an affidavit filed July 30, 1997 is noted. Due to the circumstances related therein the request is approved and applicant is allowed until **September 24, 1997** in which to file its brief herein.

R. L. Simms
Administrative Trademark Judge,
Trademark Trial and Appeal Board

TRADEMARK ROOM
RECD
SEP 22 1997
U.S. PATENT & TRADEMARK OFFICE

HAB

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

Serial No.:	75/011205	)
Filing Date:	10/27/1995	)
Mark:	VEGUEROS	)
Applicant:	Habanos, S.A.	)

Box TTAB NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

NOTICE OF MOTION FOR EXTENSION OF TIME TO FILE APPEAL BRIEF

PLEASE TAKE NOTICE that, upon the annexed affidavit of Laurie Edelstein, Esq., applicant Habanos, S.A. moves this Board for a forty-seven (47) day extension of time in which to file an appeal brief from September 24, 1997 to November 10, 1997. This extension of time is necessary because of a serious medical emergency that may require immediate emergency surgery, which will prevent applicant's attorneys, Rabinowitz, Boudin, Standard, Krinsky, & Lieberman, P.C., from meeting the current deadline.

Dated: New York, New York
September 22, 1997

Respectfully submitted,

RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

By: Laurie Edelstein

Laurie Edelstein, Esq.
Attorneys for Applicant Habanos, S.A.
740 Broadway - Fifth Floor
New York, New York 10003
(212) 254-1111

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

Serial No.:	75/011205	)
Filing Date:	10/27/1995	)
Mark:	VEGUEROS	)
Applicant:	Habanos, S.A.	)

AFFIDAVIT OF LAURIE EDELSTEIN, ESQ.

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

LAURIE EDELSTEIN, ESQ., being duly sworn, deposes and says:

1. I am a member of the bar of the State of New York, and I am an associate in the law firm of Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., attorneys for applicant Habanos, S.A.

2. I make this affidavit in support of applicant's motion to extend the time to file an appeal brief filed herein from September 24, 1997 to November 10, 1997. I make this affidavit upon personal knowledge.

3. This extension of time is necessary as the attorney from Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C. who has been working on this case and preparing the brief is experiencing a serious medical emergency that may require immediate emergency surgery. As a result of this medical emergency, we are unable to complete the appeal brief by September 24, 1997 and therefore respectfully request that this Board grant applicant's motion for an extension of time from September 24, 1997 to November 10, 1997 in which to file its brief.

4. I spoke this morning with the trademark attorney in this case, Leigh Case, and she informed me that she consents to an extension of time.

Laurie Edelstein, Esq.

Sworn to before me this
22nd day of September, 1997.

Notary Public

MARRIA E. BANKS
Notary Public, State of New York
No. 31-4821564
Qualified in New York County
Commission Expires July 30, 1998

Certificate of Express Mail and Service

I hereby certify that the attached "Motion for Extension of Time" for the mark VEGUEROS, Serial No. 75/011205, is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on: September 22, 1997, addressed to:

Express Mail label number: EH 377412425 US

Box TTAB NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Laurie Edelstein

Laurie Edelstein, Esq. 9/22/97

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

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MAILED

SEP 26 1997

PAT. & T.M. OFFICE

In re Habanos, S.A.

Serial No. 75/011,205

Filed: October 27, 1995

Caroline Rule
Rabinowitz, Boudin, Standard,
& Lieberman, P.C.
740 Broadway - Fifth Floor
New York, NY 10003

The request for an extension of time with affidavit filed September 22, 1997 is approved and applicant is allowed until **November 10, 1997** in which to file its brief herein.

R. L. Simms
Administrative Trademark Judge,
Trademark Trial and Appeal Board

RABINOWITZ, BOUDIN, STANDARD, KRINSKY & LIEBERMAN, P.C.
ATTORNEYS AT LAW
740 BROADWAY AT ASTOR PLACE
NEW YORK, N.Y. 10003-9518

TELEPHONE (212) 254-1111
CABLE "RABOUDIN, N.Y." TELEX 225028
FACSIMILE (212) 674-4614

LEONARD B. BOUDIN (1912-1989)
MICHAEL KRINSKY
ERIC M. LIEBERMAN
HILLARY RICHARD

LAURIE EDELSTEIN
ANDREW J. FIELDS
CHRISTINE HAIGHT FARLEY

COUNSEL
VICTOR RABINOWITZ
MICHAEL B. STANDARD
LEONARD I. WEINGLASS
ELLEN J. WINNER
DEBRA EVENSON
TERRY GROSS

November 10, 1997

MAILROOM
NOV 10 1997
TRADEMARK OFFICE

VIA EXPRESS MAIL LABEL NUMBER EI487611857US

BOX TTAB NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Re: Appeal in Application Serial No. 75-011,205 for VEGUEROS

Dear Trademark and Trial Appeal Board Staff:

Enclosed please find a Appeal Brief in Application Serial No. 75-011,205 to register the mark VEGUEROS in International Class 34. The Trademark Trial and Appeal Board granted Applicant Habanos, S.A. its request for an extension of time in which to file this Notice of Opposition, until November 10, 1997. This request for an extension of time was filed on September 22, 1997.

Please acknowledge receipt of this Appeal Brief on the enclosed stamped and addressed postcard. Thank you for your attention.

Very truly yours,

Christine Haight Farley

CHF
Enclosures

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

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PAT. & T.M. OFFICE

In re Habanos, S.A.

Serial No. 75/011,205

Filed: October 27, 1995

Caroline Rule
Rabinowitz, Boudin, Standard,
Krinsky & Lieberman, P.C.
740 Broadway at Astor Place
New York, NY 10003-9518

Applicant's brief filed November 10, 1997 is forwarded herewith to the Trademark Examining Attorney for her brief in accordance with Trademark Rule 2.142(b).

S. Hassan
Paralegal Specialist,
Trademark Trial and
Appeal Board
(703) 308-9330 Ext. 133
Appeal Board

TRADEMARK MAILROOM
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U.S. PATENT & TRADEMARK OFFICE

TTAB

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

Serial No.:	75/011205	}		
		}		
Filing Date:	10/27/1995	}	Law Office:	105
		}		
Mark:	VEGUEROS	}	Examining Attorney:	Leigh Case
		}		
Applicant:	Habanos, S.A.	}		

Box TTAB NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

APPLICANT'S APPEAL BRIEF

I. INTRODUCTION

Applicant has appealed to the Trademark Trial and Appeal Board from the final decision of the United States Patent and Trademark Office Examining Attorney refusing registration of the above-referenced mark.

The Applicant filed its application to register the mark VEGUEROS on October 27, 1995. The Examining Attorney mailed her Final refusal on December 26, 1996. The Applicant noticed its appeal from that final rejection on June 26, 1997.

The Examining Attorney has refused registration on the ground that the Applicant's mark merely describes the goods. Citing *Cassell's Spanish-English Dictionary,* which indicates that the word "veguero" means, *inter alia,* "cigar," the Examining Attorney concluded that the term is

therefore descriptive of the Applicant's goods, which consist of tobacco products including cigars. In addition, the Examining Attorney concluded that the Applicant has not submitted an acceptable translation because the translation submitted by the Applicant does not acknowledge that the word "veguero" means "cigar."

As set forth in the following sections of this appeal brief, Applicant believes the Examining Attorney's contentions to be in error and asks that this Board reverse her refusal and pass this mark to publication.

II. RELEVANT FACTS

Habanos. S.A., the Applicant, filed an application to register its mark VEGUEROS on the Principal Register as a trademark on October 27, 1995 for tobacco products in International Class 34. Specifically, registration was sought for the following goods: "Raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, smoking pipes, pic holders-not of precious metal. ashtrays-not of precious metal, match boxes-not of precious metal, cigar cases-not of precious metal, [and] humidors-not of precious metal." Application was based on a bona fide intention to use the mark in commerce in connection with the above-identified goods and ownership of a foreign registration under 15 U.S.C. § 1126(e). Application was based on a registration filed in Cuba, Registration No. 121967.

The Examining Attorney initially refused registration in an Office Action mailed April 24, 1996, contending that the mark merely describes the goods. The Examining Attorney argued that under the doctrine of foreign equivalents, applicant's mark is a generic term for applicant's goods. The Examining Attorney attached an entry from *Cassell's Spanish-English*

Di *ry* indica that the word "veguero" means, *inter alia*, "cigar." The Examining Attorney cor d that r ration of applicant's mark was therefore barred under § 2(e)(1) of the Tra rk Act.

Th amining Attorney also noted that applicant must submit an English translation of reign wo of the mark.

In icant's response to the Examining Attorney's Office Action, applicant sub d eviden t there are several translations of the word "veguero," and that the principal tra n of the is "pertaining to a fertile lowland" or "one who farms a lowland." First, ap submit entry from *Simon and Schuster's International Dictionary* indicating that the wo guero" i eral translations, none of which is "cigar" and that the principal translation is ning to le lowland" or "one who farms a lowland."

Se applicant also submitted a declaration by an expert in the Spanish language wh d that i expert opinion the principal and common meaning of the word "veguero" is "p ng to a l lowland" or "one who farms a lowland."

Th applicant further submitted an entry from *Diccionario de usodel espanol*, a dic y that tr he usage of Spanish words, indicating that the origin of the word "veguero" is " meanin flat lands cultivated with gardens. This entry also indicates that the principal me of the w veguero" is "a worker in the vega."

Fi applicant noted that the word "veguero" is used in a book about the history of o in Cub nando Ortiz' *Contrapunto Cubano del tabaco y de azucar*, to mean tobacco pla

Based on the foregoing, applicant submitted the following translation: "The English translation of the word VEGUEROS in the mark is 'a farmer of a fertile lowland' or 'a tobacco farmer or planter.'"

The Examining Attorney made final her refusal to register the mark in an Office Action mailed December 26, 1996.

III. ARGUMENT

Applicant's mark is not merely descriptive of its goods, but instead has suggestive connotations. The common meaning of "veguero" is "pertaining to a fertile lowland" or "one who farms the lowland." Thus, the mark is connotative of bucolic serenity, pure ingredients, and age-old traditions. Were the principal meaning "cigar" as the Examining Attorney contends, the mark would unsuitable in Cuba where it was developed and is used today. Moreover, even if one meaning of the word "veguero" is "cigar," because there are other meanings that are suggestive, the mark cannot be said to be "merely descriptive."

Applicant recognizes that a mark that is merely descriptive must be refused registration under § 2(e)(1), and that under the doctrine of foreign equivalents, if the English translation of a foreign worded mark is merely descriptive, registration must similarly be refused. *In re Geo. A. Hormel & Co.*, 227 U.S.P.Q. 813 (T.T.A.B. 1985). Applicant's mark, however, is not accurately translated as "cigar." When the mark contains foreign words, the test is whether, to those American-buyers familiar with the foreign language, the word would have a descriptive meaning. 1 J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition* § 11:3[illegible] (3d ed. 1997). Through evidence submitted to the Examining Attorney, applicant has shown that the way the word

"veguero" is commonly understood by most Spanish-speaking American consumers to mean "pertaining to a fertile lowland" or "one who farms a lowland."

Applicant's submitted dictionary entry from *Simon and Schuster's International Dictionary* for the word "veguero" contains first, the principal meaning as an adjective; "pertaining to a fertile lowland," and second, the principal meaning as a noun; "one who farms a lowland." Dictionary definitions are relevant evidence of the ordinary significance of words. McCarthy at § 11:20. Applicant also submitted a declaration by an expert on the Spanish language, Professor Juana Quinones Goergen, who stated in her expert opinion that the principal definition of "veguero" in the Spanish language is as an adjective meaning "pertaining to a fertile lowland," and its principal meaning when used as a noun is "one who farms a lowland." She further stated in her expert opinion that the word would not be understood by Spanish speaking persons to mean "cigar." Testimony of language experts is relevant evidence of the meaning of words. McCarthy at § 11:20. Thus, applicant has established that the principal meaning of "veguero" is not "cigar," but is "pertaining to a fertile lowland" or "one who farms a lowland."

Moreover, while a mark that is "merely descriptive" will be refused registration, a mark that may have a meaning in addition to that descriptive meaning must be published for opposition. *Application of Colonial Stores Inc.*, 394 F.2d 549, 552, 55 U.S.P.Q. 382 (C.C.P.A. 1968); *Blisscraft of Hollywood* v. *United Plastics Co.*, 294 F.2d 694, 131 U.S.P.Q. 55 (2d Cir. 1961) (the mark POLY PITCHER for a pitcher made of polyethylene not merely descriptive because mark may evoke "Molly Pitcher" of Revolutionary times). Thus "merely descriptive" means only descriptive. McCarthy at § 11:19 ("A mark that connotes two meanings–one possibly descriptive

and the other suggestive of some other association–can be called suggestive, as the mark is not 'merely' descriptive."); 1 Jerome Gilson, *Trademark Protection and Practice* § 2.03 (1996).

Likewise, where a foreign word has more than one English translation, one being descriptive and another being suggestive, the mark cannot be said to be "merely descriptive." *In re Ron Matusalem, Inc.*, 196 U.S.P.Q. 458 (T.T.A.B. 1977). Thus, in *In re Atavio Inc.*, 25 U.S.P.Q.2d 1361 (T.T.A.B. 1992), the Board reversed refusal by the Examining Attorney for the mark ATAVIO for jewelry. There the Examining Attorney submitted dictionary entries indicating that "atavio" was Spanish for "ornament, finery, dress, decoration and adornment" and jewelry was defined as "ornamental pieces ... for personal adornment." Applicant submitted other dictionary entries that indicated that "atavio" had additional meanings including "attire," "trappings," "accoutrement," and "gear." Significantly, each of applicant's entries also mentioned one of the Examining Attorney's proposed meanings, usually as the principal meaning. The Board nevertheless concluded, on the basis of those definitions, that it cannot be said that the mark "does nothing more than *merely* describe the applicant's goods." (emphasis supplied). But in *In re Hag Aktiengesellschaft*, 155 U.S.P.Q. 598 (T.T.A.B. 1967), the Board, considering the mark KABA for coffee, held that since the word "kaba" means "coffee" in Slavic languages, and since it "will have no other meaning", the mark is merely descriptive.

Here, applicant has shown through dictionary entries and expert opinion that the word "veguero" will have other meanings beside "cigar" and that those meanings are suggestive. Indeed, even the Examining Attorney's dictionary entry lists three meanings, only one of which is descriptive. According to that entry "veguero" can mean, listed in order: 1) "of a fertile plain;" 2) "cigar;" or 3) "tobacco-planter." Since "of a fertile plain" and "tobacco-planter" (or, alternatively,

"pertaining to a fertile lowland" and "one who farms a lowland") does not immediately inform one of the characteristics, ingredients, quality, or attribute of the goods, but instead requires some imagination, thought or perception to determine its meaning in relation to the goods, applicant's mark is not "merely descriptive" as it carries additional connotations.

The Board has recognized on numerous occasions that the line between merely descriptive and suggestive is often a matter of subjectivity and has therefore held that any doubt must resolved in applicant's favor. *In re Bel Paese Sales Co., Inc.*, 1 U.S.P.Q.2d 1233 (T.T.A.B. 1986); *In re Bed-Check Corp.*, 226 U.S.P.Q. 946 (T.T.A.B. 1985); *In re Application of aid Laboratories*, Inc., 221 U.S.P.Q. 1215 (T.T.A.B. 1983) ("doubt should be resolved in applicant's behalf and the mark should be published ... for opposition"); *In re Conductive Systems, Inc.*, 220 U.S.P.Q. 84 (T.T.A.B. 1983) (conceding that the determination of whether a mark is descriptive or suggestive is highly subjective and resolving all doubts in favor of applicant); *In re Pennwalt Corp.*, 173 U.S.P.Q. 317 (T.T.A.B. 1972) (publishing "DRI-FOOT" for anti-perspirant for the foot because of doubt raised by applicant as to its being merely descriptive); McCarthy at § 11:51. This policy is supported by the fact that once a mark is published, it can be challenged as being merely descriptive. In such a proceeding, the parties may be able to present evidence that is usually not present in an *ex parte* examination. At the minimum, applicant has raised the specter of doubt that "VEGUEROS" has an additional meaning that is suggestive.

IV. CONCLUSION

For all the foregoing reasons, Applicant submits that the Examining Attorney's refusal should be reversed and the Application to register this mark should be passed to publication.

Respectfully submitted,

By: _____

Michael Krinsky, Esq.
Christine Haight Farley, Esq.
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Attorneys for Applicant, Habanos, S.A.

Dated: November 10, 1997
New York, New York

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Patent and Trademark Office

SERIAL NO.	APPLICANT
[illegible]	
MARK	
VEGUEROS	
ADDRESS	ACTION NO.
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	REF. NO.

FORM PTO 1525 (5-90) U.S. DEPT OF COMM PAT & TM OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Habanos, S.A.	:	BEFORE THE
Trademark:	VEGUEROS	:	TRADEMARK TRIAL
Serial No.:	75/011205	:	AND
Attorneys:	Michael Krinsky Christine Haight Farley	:	APPEAL BOARD
		:	ON APPEAL
Address:	Rabinowitz, Boudin, Standard, Krinsky & Lieberman 740 Broadway - Fifth Floor New York, NY 10003		

EXAMINING ATTORNEY'S APPEAL BRIEF

The applicant has appealed the examining attorney's final refusal to register the trademark VEGUEROS on the ground that it is merely descriptive under Section 2(e)(1) of the Trademark Act, 15 U.S.C. Section 1052(e)

FACTS

The applicant applied to register the mark VEGUEROS for use with "raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, smoking pipes, pipe holders-not of precious metal, ashtrays-not of precious metal, match boxes-not of precious metal, cigar cases-not of precious metal, and humidors-not of precious metal." The examining attorney refused registration under Section 2(e)(1) of the Trademark Act in the Office action dated April 24, 1996, on the ground that the mark is the foreign equivalent of a merely descriptive English word. The examining attorney also required a translation of the term VEGUEROS, which means "cigars." The examining attorney made the refusal to register final in the action dated December 26, 1996.

The applicant filed its Notice of Appeal on June 26, 1996, and the case was forwarded to the examining attorney on November 9, 1997, for submission of her brief.

ARGUMENT

THE PROPOSED MARK IS THE FOREIGN EQUIVALENT OF AN ENGLISH WORD THAT MERELY DESCRIBES THE APPLICANT'S GOODS

A mark is merely descriptive under Trademark Act Section 2(e)(1), 15 U.S.C. 1052(e)(1), if it describes an ingredient, quality, characteristic, function, feature, purpose or use of the relevant goods. *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); *In re Bed & Breakfast Registry*, 791 F.2d 157, 229 USPQ 818 (Fed. Cir. 1986); *In re MetPath Inc.*, 223 USPQ 88 (TTAB 1984); *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979); TMEP section 1209.01(b).

The examining attorney must consider whether a mark is merely descriptive in relation to the identified goods, not in the abstract. *In re Omaha National Corp.*, 819 F.2d 1117, 2 USPQ2d 1859 (Fed. Cir. 1987); *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215 (CCPA

1978); *In re Venture Lending Associates*, 226 USPQ 285 (TTAB 1985). The foreign equivalent of a merely descriptive English word is not registrable. It too is merely descriptive. *In re Geo. A. Hormel & Co.*, 227 USPQ 813 (TTAB 1985); *In re Optica International*, 196 USPQ 775 (TTAB 1977).

The applicant's mark VEGUEROS merely describes its goods, which include cigars, cigarettes, and tobacco. As shown on the copy of the entry taken from *Cassell's Spanish-English Dictionary* attached to the Office action dated April 24, 1996, the word "vegueros" means "cigars."

The applicant argues in its brief that its mark is not descriptive because the term "vegueros" has additional meanings. However, the existence of other meanings is not controlling on the question of descriptiveness. *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979). The applicant urges the Trademark Trial and Appeal Board to ignore the ordinary definition "cigars" in favor of the other claimed meanings "of fertile plain" "and "tobacco-planter."[1] These definitions are taken from the applicant's Spanish-English dictionary and from the affidavit of the applicant's expert.[2] However, one of the definitions of "vegueros" from the applicant's own dictionary is in fact "a fine type of cigars made from a single rolled leaf."

The Court of Customs and Patent Appeals, in affirming a decision of the Trademark Trial and Appeal Board, gave little notice to additional meanings of a generic term in *Weiss Noodle Company v. Golden Cracknel and Specialty Company*, 129 USPQ 411, 413 (CCPA 1961). Although the mark "HA-LUSH-KA" could be translated not only as the generic term for this applicant's goods, egg noodles, but also as "a kind of paste" and "an edible paste," the court found the mark descriptive and incapable under Section 2(e)(1) of the Trademark Act, despite evidence of acquired distinctiveness. The court then directed cancellation of the registration. Judge Rich observed in this case:

---

[1]Applicant's Appeal Brief, p. 5.

[2]Applicant's Response to Office Action, October 24, 1996, p. 1.

> On review of the record, we are compelled to regard the subject matter of the registration as the name, in Hungarian, of at least some of the noodle products enumerated in the registration. As such, it falls within the statutory prohibition of Section 2(e), which proscribes the registration of merely descriptive words. The name of a thing is the ultimate in descriptiveness....
>
> In the instant case, registration of the Hungarian name for noodles, "haluska" or its phonetic equivalent in English, whether or not hyphenated, would be contrary to law, for no one can be granted the exclusive use of the name of an article, either in our native tongue or its equivalent in any foreign language.

Id. at 413. Likewise, the applicant's mark VEGUEROS is the generic name of its goods and is therefore unregistrable under Section 2(e)(1) of the Trademark Act.

The applicant also argues that its mark is registrable under *In re Ron Matusalem, Inc.*, 196 USPQ 458 (TTAB 1977), claiming that "where a foreign word has more than one English translation, one being descriptive and another being suggestive, the mark cannot be said to be 'merely descriptive.'"[3] However, the Trademark Trial and Appeal Board made no such finding in this case; instead the Board found the mark in *Ron Matusalem* registrable not because the translated words had more than one meaning, but because the *combination* of words presented a unitary mark that would not be translated by the average purchaser, whether familiar with the Spanish language or not. *Id.* at 460. However, the applicant's mark VEGUEROS contains no such combination of words that create a mark with a separate and distinct meaning apart from the meanings of the individual terms. The applicant's mark contains only one term, which translates to "cigars," the name of the goods.

For these reasons, the examining attorney finds that the proposed mark merely describes the applicant's goods and is unregistrable under Section 2(e)(1) of the Trademark Act.

---

[3]Applicant's Appeal Brief, p. 6.

CONCLUSION

For the reasons given above, the refusal to register the mark under Section 2(e)(1) of the Trademark Act should be affirmed.

Respectfully Submitted,

Leigh Caroline Case

Leigh Case
Trademark Attorney
Law Office 105
(703) 308-9105 x 148

Thomas G. Howell
Managing Attorney
Law Office 105

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

Serial No.:	75/011205	}		
Filing Date:	10/27/1995	}	Law Office:	105
Mark:	VEGUEROS	}	Examining Attorney:	Leigh Case
Applicant:	Habanos, S.A.	}		

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NOTICE OF MOTION FOR EXTENSION OF TIME
TO FILE APPLICANT'S REPLY BRIEF

PLEASE TAKE NOTICE that, upon the annexed affidavit of Michael Krinsky, Esq., Applicant Habanos, S.A. moves this Board, pursuant to section 2.142(b)(1) of the Trademark Rules of Practice of the Patent and Trademark Office and section 1203.02(c) of the Trademark Trial and Appeal Board Manual of Procedure (1st Ed. 1995), for an extension of time in which to reply to the Examining Attorney's brief from January 26, 1998 to February 24, 1998. This appeal derives from the final decision of the United States Patent and Trademark Office Examining Attorney refusing registration of the above-referenced mark. This extension of time is necessary on account of the attorney at Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., Applicant's attorneys, with primary responsibility for this appeal being on maternity leave and the consequent need for another attorney at said firm to familiarize him or herself with this appeal and prepare a reply brief.

Dated: New York, New York
January 26, 1998

Respectfully submitted,

By: _____
Michael Krinsky, Esq.
Rabinowitz, Boudin, Standard,
Krinsky & Lieberman, P.C.
740 Broadway - Fifth Floor
New York, New York 10003
(212) 254-1111
Attorneys for Applicant, Habanos, S.A.

To: Leigh Case, Esq.
Examining Attorney
Assistant Commissioner for Trademarks
Law Office 105
2900 Crystal Drive
Arlington, VA 22202-3513

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

Serial No.:	75/011205	}		
Filing Date:	10/27/1995	}	Law Office:	105
Mark:	VEGUEROS	}	Examining Attorney:	Leigh Case
Applicant:	Habanos, S.A.	}		

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AFFIDAVIT OF MICHAEL KRINSKY, ESQ.

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

MICHAEL KRINSKY, ESQ., being duly sworn, deposes and says:

1. I am a member of the bar of the State of New York, and I am a member in the law firm of Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., attorneys for Applicant, Habanos, S.A. in the appeal of Examining Attorney, Leigh Case's final refusal to register the above-referenced mark.

2. I make this affidavit in support of Applicant's motion to extend the time in which to reply to reply to the Examining Attorney's brief from January 26, 1998 to February 24, 1998. No previous extension of time to file this reply brief has been sought. I make this affidavit upon personal knowledge.

3. This extension of time is necessary as Applicant's attorneys, Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C. are unable, within the normal time period, to

prepare a reply brief to the Examining Attorney's brief on Applicant's appeal of the final decision refusing registration of the above-referenced mark. This is due to the fact that the attorney with primary responsibility for this application is currently on maternity leave, and there is a consequent need for another attorney at said firm to familiarize him or herself with this appeal.

4. Applicant fully intends to file a reply brief and therefore respectfully requests that this Board grant Applicant's motion for an extension of time from January 26, 1998 to February 24, 1998 in which to do so.

Michael Krinsky, Esq.

Sworn to me this
26th day of January 1998.

Notary Public

MARRIA E SANKS
Notary Public, State of New York
No 31-4821584
Qualified in New York County
Commission Expires June 30, 1998

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The undersigned hereby certifies that a copy of the foregoing NOTICE OF MOTION FOR EXTENSION OF TIME TO FILE APPLICANT'S REPLY BRIEF and AFFIDAVIT have been served upon Examining Attorney, Leigh Case, at the Assistant Commissioner for Trademarks, Law Office 105, 2900 Crystal Drive, Arlington, VA 22202-3513, the address designated by the Examining Attorney for that purpose by depositing a true copy thereof with the United States Postal Service as Express Mail Post Office to Addressee on January 26, 1998.

Dated: January 26, 1998

Marie A. Papp

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In re Habanos, S.A.

Serial No. 75/011,205

Filed: October 27, 1995

Caroline Rule
Rabinowitz, Boudin, Standard,
Krinsky & Lieberman, P.C.
740 Broadway - Fifth Floor
New York, NY 10003

The request for an extension of time filed January 26, 1998 is approved for good cause shown and applicant is allowed until February 24, 1998 in which to file its reply brief herein.

R. L. Simms
Administrative Trademark Judge,
Trademark Trial and Appeal Board

TTAB

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

Serial No.:	75/011205	}		
Filing Date:	10/27/1995	}	Law Office:	105
Mark:	VEGUEROS	}	Examining Attorney:	Leigh Case
Applicant:	Habanos, S.A	}		

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APPLICANT'S REPLY BRIEF

Applicant respectfully submits this reply brief to address a fundamental principle ignored by the Examining Attorney in her brief before the Board. that the doctrine of foreign equivalents should not be applied in a rigid fashion. The appropriate test to be applied under that doctrine is "whether, to those American buyers familiar with the foreign language, the word would have a descriptive connotation." *McCarthy on Trademarks and Unfair Competition*, Sec. 11:34 (3d ed. 1997), citing, *In re Hag Aktiengesellschaft*, 155 U.S.P.Q. 598 (T.T.A.B. 1967); *In re Zazzara*, 156 U.S.P.Q. 348 (T.T.A.B. 1967); *McKesson & Robbins, Inc.* v. *Charles H. Phillips Chemical Co.*, 53 F.2d 1011 (2d Cir. 1931)

While this Board has noted that a dictionary definition serves as some evidence of the public understanding of the foreign word, *In re Armour and Company*, 220 U.S.P.Q. 76 (T.T.A.B. 1983), it is not conclusive, particularly in cases such as here where there are multiple

definitions supplied by the dictionary, only one of which may be considered a descriptive word for the product. *See, In re Atavio, Inc.*, 25 U.S.P.Q.2d 1361 (T.T.A.B. 1992). The dictionary entry cited by the Examining Attorney to support her argument that the word "vegueros" means "cigars" itself includes multiple definitions for the word "vegueros," all but one of which are not descriptive of the products to be sold under Applicant's mark. Yet, the Examining Attorney, relying solely on this inconclusive dictionary entry, would apply the doctrine of foreign equivalents as an absolute bar without determining whether this one definition is that which would be most likely understood by Spanish speaking consumers.

Moreover, Applicant has amply demonstrated that other dictionaries not only include various definitions of the word "vegueros" but make clear that the principal understanding of the word "vegueros" is as an adjective meaning of a fertile plain or lowland or as a noun referring to "one who farms a lowland" or "a worker in a vega." *See, Simon and Schuster's International Dictionary* and *Diccionario de uso del español* (a specialized dictionary tracing the uses of Spanish words). If not conclusive, these dictionary entries at least raise substantial doubt as to how the word "vegueros" would be understood by consumers.

Further, Applicant has provided significant additional evidence, which has not been rebutted by the Examining Attorney, that the word "vegueros" is not commonly understood by Spanish speaking persons to mean "cigar." An expert in the Spanish language has stated that in her expert opinion the "word 'vegueros' would not likely be understood to describe the tobacco product itself but rather would be understood to refer to a farmer in general or to the person who engages in the cultivation of tobacco." Declaration of Professor Juana Quiñones Goergen. Applicant also provided a citation to a book written in the Spanish language on the history of

tobacco in Cuba by Fernando Ortiz, *Contrapunto Cubano del tabaco y de azucar*, in which the author uses the word "vegueros" to mean tobacco planters.

Since the evidence presented demonstrates that consumers familiar with the Spanish language would translate the word "vegueros" to mean "of a fertile plain" or "a tobacco planter," the word "vegueros" is suggestive of Applicant's tobacco products and is not "merely descriptive" of them. Based on the foregoing and the arguments in Applicant's Appeal Brief, Applicant submits that the mark "vegueros" should be approved for publication.

CONCLUSION

For all the foregoing reasons, Applicant submits that the Examining Attorney's refusal should be reversed and the Application to register this mark should be passed to publication.

Respectfully submitted,

By: _____

Michael Krinsky, Esq.
Christine Haight Farley
Rabinowitz, Boudin, Standard, Krinsky
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Attorneys for Applicant, Habanos, S.A.

Dated: February 23, 1998
New York, New York

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Kezia Gleckman Hayman

Kezia Gleckman Hayman

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Re: Appeal in Application Serial No. 75-011,205 for VEGUEROS

Dear Trademark and Trial Appeal Board Staff:

Enclosed please find Applicant's Reply Brief in Application Serial No. 75-011,205 to register the mark VEGUEROS in International Class 34. The Trademark Trial and Appeal Board granted Applicant Habanos, S.A.'s request for an extension of time in which to file this Reply Brief until February 24, 1998. This request for an extension of time was filed on January 26, 1998.

Please acknowledge receipt of this Reply Brief on the enclosed stamped and addressed postcard. Thank you for your attention.

Very truly yours,

Michael Krinsky

MK:kgh
enc.

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Assistant Commissioner for Trademarks
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Sincerely,

Michael Krinsky

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Re: Appeal in Application Serial No. 75-011,205 for VEGUEROS

Dear Trademark and Trial Appeal Board Staff:

Enclosed please find Applicant's Reply Brief in Application Serial No. 75-011,205 to register the mark VEGUEROS in International Class 34. The Trademark Trial and Appeal Board granted Applicant Habanos, S.A.'s request for an extension of time in which to file this Reply Brief until February 24, 1998. This request for an extension of time was filed on January 26, 1998.

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Very truly yours,

Michael Krinsky

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for:

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No. 75-011,205
Published 10/27/95
Applicant: Habanos, S.A.

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Rabinowitz, Boudin, Standard,
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740 Broadway, 5th floor
New York, NY 10003

TO: (PLEASE PRINT) PHONE

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Examining Attorney, Law Office 105
Assistant Commissioner for Trademarks
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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Date: March 5, 1998

To: Leigh Case
Examining Attorney
Law Office 105

From: S. L. Hassan SLH
Paralegal Specialist
Trademark Trial and Appeal Board

Subject: Transmittal of Reply Brief for Application
Serial No. 75/011,205

Attached, solely for the information of the Examining Attorney, is a copy of the reply brief filed by applicant in the above-identified appeal.

If the Examining Attorney is persuaded by the arguments contained in the reply brief that applicant's mark is registrable, and decides to allow the application, the Administrator of the Board should be notified of the Examining Attorney's decision within 3 working days from the date hereof. In the absence of such notification, the Board will go forward with the appeal.

Ex. parte TAB

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

Serial No.:	75/011205	}		
Filing Date:	10/27/1995	}	Law Office:	105
Mark:	VEGUEROS	}	Examining Attorney:	Leigh Case
Applicant:	Habanos, S.A	}		

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MAR 5 1998
70
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2900 Crystal Drive
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APPLICANT'S REPLY BRIEF

Applicant respectfully submits this reply brief to address a fundamental principle ignored by the Examining Attorney in her brief before the Board that the doctrine of foreign equivalents should not be applied in a rigid fashion. The appropriate test to be applied under that doctrine is "whether, to those American buyers familiar with the foreign language, the word would have a descriptive connotation." *McCarthy on Trademarks and Unfair Competition*, Sec. 11:34 (3d ed 1997), citing, *In re Hag Aktiengesellschaft*, 155 U.S.P.Q. 598 (T.T.A.B. 1967); *In re Zazzara*, 156 U.S.P.Q. 348 (T.T.A.B. 1967), *McKesson & Robbins, Inc.* v. *Charles H. Phillips Chemical Co.*, 53 F.2d 1011 (2d Cir. 1931)

While this Board has noted that a dictionary definition serves as some evidence of the public understanding of the foreign word, *In re Armour and Company*, 220 U.S.P.Q. 76 (T.T.A.B. 1983), it is not conclusive, particularly in cases such as here where there are multiple

definitions supplied by the dictionary, only one of which may be considered a descriptive word for the product. *See, In re Atavio, Inc.*, 25 U.S.P.Q.2d 1361 (T.T.A.B. 1992). The dictionary entry cited by the Examining Attorney to support her argument that the word "vegueros" means "cigars" itself includes multiple definitions for the word "vegueros," all but one of which are not descriptive of the products to be sold under Applicant's mark. Yet, the Examining Attorney, relying solely on this inconclusive dictionary entry, would apply the doctrine of foreign equivalents as an absolute bar without determining whether this one definition is that which would be most likely understood by Spanish speaking consumers.

Moreover, Applicant has amply demonstrated that other dictionaries not only include various definitions of the word "vegueros" but make clear that the principal understanding of the word "vegueros" is as an adjective meaning of a fertile plain or lowland or as a noun referring to "one who farms a lowland" or "a worker in a vega." *See, Simon and Schuster's International Dictionary* and *Diccionario de uso del español* (a specialized dictionary tracing the uses of Spanish words). If not conclusive, these dictionary entries at least raise substantial doubt as to how the word "vegueros" would be understood by consumers.

Further, Applicant has provided significant additional evidence, which has not been rebutted by the Examining Attorney, that the word "vegueros" is not commonly understood by Spanish speaking persons to mean "cigar." An expert in the Spanish language has stated that in her expert opinion the "word 'vegueros' would not likely be understood to describe the tobacco product itself but rather would be understood to refer to a farmer in general or to the person who engages in the cultivation of tobacco." Declaration of Professor Juana Quiñones Goergen. Applicant also provided a citation to a book written in the Spanish language on the history of

tobacco in Cuba by Fernando Ortiz, *Contrapunto Cubano del tabaco y de azucar*, in which the author uses the word "vegueros" to mean tobacco planters.

Since the evidence presented demonstrates that consumers familiar with the Spanish language would translate the word "vegueros" to mean "of a fertile plain" or "a tobacco planter," the word "vegueros" is suggestive of Applicant's tobacco products and is not "merely descriptive" of them. Based on the foregoing and the arguments in Applicant's Appeal Brief, Applicant submits that the mark "vegueros" should be approved for publication.

CONCLUSION

For all the foregoing reasons, Applicant submits that the Examining Attorney's refusal should be reversed and the Application to register this mark should be passed to publication.

Respectfully submitted,

By: _____

Michael Krinsky, Esq.
Christine Haight Farley
Rabinowitz, Boudin, Standard, Krinsky
& Lieberman, P.C.
740 Broadway, Fifth Floor
New York, NY 10003
(212) 254-1111
Attorneys for Applicant, Habanos, S.A.

Dated: February 23, 1998
New York, New York

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Date of Signing 2/23/98

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing APPLICANT'S REPLY BRIEF has been served upon Examining Attorney, Leigh Case, at the Assistant Commissioner for Trademarks, Law Office 105, 2900 Crystal Drive, Arlington, VA 22202-3513, the address designated by the Examining Attorney for that purpose, by depositing a true copy thereof with the United States Postal Service as Express Mail Post Office to Addressee on February 23, 1998.

Dated: February 23, 1998

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Kezia Gleckman Hayman

Kezia Gleckman Hayman

23 NOV 1998

23 NOV 1998

Paper No. 16
HRW

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Habanos, S.A.

Serial No. 75/011,205

Michael Krinsky of Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C. for applicant.

Leigh Case, Trademark Examining Attorney, Law Office 105 (Thomas G. Howell, Managing Attorney).

Before Cissel, Hanak and Wendel, Administrative Trademark Judges.

Opinion by Wendel, Administrative Trademark Judge:

Habanos, S.A. has filed an application to register the mark VEGUEROS for "raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, smoking pipes, pipe holders-not of precious metal, ashtrays-not of precious metal, match

boxes-not of precious metal, cigar cases-not of precious metal, humidors-not of precious metal."[1]

Registration has been finally refused on the ground that the mark is merely descriptive under Section 2(e)(1) of the Trademark Act.[2] Applicant and the Examining Attorney have filed briefs, but no oral hearing was requested.

The Examining Attorney maintains that applicant's mark VEGUEROS is the foreign equivalent of the word "cigars" and thus merely describes, or is the generic name for, applicant's goods, which include cigars, cigarettes, and various forms of tobacco. To support her position, the Examining Attorney has introduced a copy of the following definition from Cassell's Spanish-English English-Spanish Dictionary (1982)

> veguero, -ra, *a.*, of fertile plain. - *n.m.*, cigar; (Hisp. Am.) tobacco-planter.

Applicant, on the other hand, argues that the principal meaning to most Spanish-speaking persons of the

---

[1] The application was filed under Section 44(e) of the Trademark Act, based on applicant's Cuban Registration No. 121,967, issued Jan. 18, 1995.

[2] The Examining Attorney also made final the requirement for the submission of a translation of the word "vegueros" as "cigars." Applicant had previously submitted the translation "a farmer of a fertile lowland" or "a tobacco farmer or planter." The Examining Attorney has not separately argued this basis for refusal in her brief, and in view of our disposition of the case, we reverse the requirement for a further translation. The present translation is accepted.

word "veguero," when used as a noun, is "one who farms a lowland", or, specifically in Cuba, "a tobacco planter or farmer." In support thereof, applicant has submitted the following translation from Simon and Schuster's International Dictionary (1973)

> veguero, ra, *a.*, 1. pertaining to a fertile lowland. 2.(Cuba) pertaining to a tobacco plantation. -*m.*,*f.* 1. one who farms a lowland. 2. (Cuba) tobacco planter or farmer. -*m.* fine type of cigar made from a single rolled leaf.

Applicant has also made of record the declaration of Juana Quinones Goergen, an Assistant Professor of Modern Languages at DePaul University. Professor Goergen states that the principal definition of "veguero" in Spanish, when used as a noun, is "one who farms a lowland", while in Cuba its principal meaning is "tobacco planter or farmer." She further states that

> [s]ome Spanish-English dictionaries indicate a secondary definition which is specific only to Cuba of the noun "veguero" as a "cigar"; this is not, however, the way in which the word is commonly understood or used either in Cuba or in other Spanish-speaking countries. The word "vegueros" would not likely be understood to describe the tobacco product itself but rather would be understood to refer to a farmer in general or to the person who engages in the cultivation of tobacco.

Applicant argues that since the word has other meanings besides "cigar", and the remaining are at best suggestive, VEGUEROS cannot be held merely descriptive of

applicant's goods, citing In re Atavio Inc., 25 USPQ2d 1361 (TTAB 1992). The Examining Attorney, in response, contends that the fact that other meanings exist for the word "vegueros" should not detract from its descriptive, or even generic, significance in connection with the present goods.

It is well established that a foreign equivalent from a non-obscure language of a merely descriptive English term is no more registrable than the English term itself, despite the fact that the foreign term may not be commonly known to the general public in the United States. In re Atavio Inc., supra at 1362; In re Geo. A. Hormel & Co., 227 USPQ 813 (TTAB 1985). But at the same time, as we stated in Atavio, the standard of equivalency to be applied to a foreign term versus an English term under Section 2(e)(1) is identical to that which was applied by the Court to a foreign term versus an English term under Section 2(d) in In re Sarkli, 721 F.2d 353, 220 USPQ 111, 113 (Fed. Cir. 1983). The required equivalency of the terms is no less stringent than that applicable to two English terms.

In the present case, the Spanish word "vegueros" must be shown to be the equivalent of the English word "cigars" to be merely descriptive of any of applicant's goods. On the basis of the dictionary definitions before us, however, we find it difficult to conclude that, in the United

States, "vegueros" would be so interpreted. It is readily apparent that there is more than one recognized translation for the term. Even if we limit ourselves to the meanings the dictionaries indicate the term has in Cuba, because the goods come from Cuba, we still are confronted with two different meanings, "tobacco farmer or planter" as well as "cigar."

We find the determinative factor to be the declaration of Professor Goergen with respect to the meanings which would be most commonly attributed to the term by most Spanish-speaking persons in this country. The most recognized English equivalents would accordingly be either "a farmer in general" or "a tobacco planter." Even with the most applicable translation, the general connotation would be that of a person involved with tobacco, not the tobacco product itself.

Accordingly, on the record before us, we are led to the conclusion that VEGUEROS is not merely descriptive of applicant's goods. While we admit that this determination is not without some doubt, as was the case in Atavio, we find it appropriate to resolve this doubt in favor of applicant and to allow the application to go forward to publication.

Ser No. 75/011,205

Decision: The refusal to register under Section 2(e)(1) is reversed.

R. F. Cissel

E. W. Hanak

H. R. Wendel
Trademark Administrative Judges,
Trademark Trial and Appeal Board

22 NOV 1998

TO: TRAM

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Reviewer: Christine Taylor L.O.: 105 Date: 12/12/18 Serial No.:

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			AM	Mark: ☐ MDC:
PY			PY	Owner: ☐ Name:
			PY	☐ Citizenship:
			PY	☐ Entity Type:
			DB	DBA/AKA/TA Statement:
			PY	Address: ☐ Inter ☐ City ☐ State/Country ☐ Zip
			NC	Assignment or Name Change:
			CO	Composed of:
CL			CL	International Class: U.S. Class:
			CL	
			CL	First Use: First Use in Commerce:
			GS	
			GS	Goods and Services:
			GS	
			GS	
			GS	
AM			AM	Amended Register: P.R.: S.R.:
			AM	Amended Reg. Date:
OTHER DATA			DI	Disclaimer:
			DM	Description of Mark:
			LS	Lining and Stippling Statement:
			TR	Translation of Words in Mark:
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			CS	Certification Statement:
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FN			DR	Domestic Representative:
			FN	Foreign Country of Origin:
			FN	Foreign Application No.: Frgn. Appl. Filing Date:
			FN	Section 44(d): Y/N Section 44(e): Y/N
			FN	Foreign Registration No.: Frgn. Reg. Date:
			FN	Foreign Registration Expiration Date: 1/18/2000
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			FN	Foreign Registration Renewed Expiration Date:
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UNITED STAT DEPARTMENT OF COMMERCE
Patent and Tr. .emark Office
ASSISTANT COMMISSIONER FOR TRADEMARKS
2900 Crystal Drive
Arlington, Virginia 22202-3513

Feb 26, 1999

NOTICE OF PUBLICATION UNDER 12(a)

1. Serial No.:
75/011,205

2. Mark:
VEGUEROS

3. International Class(es):
34

4. Publication Date:
Mar 30, 1999

5. Applicant:
HABANOS, S.A.

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained at $38.00 each for domestic orders, or at $47.50 each for foreign orders from:

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Pittsburgh, PA 15250-7954
Phone: (202)512-1800

By direction of the Commissioner.

Caroline Rule
Rabinowitz, Boudin, Standard, et al.
740 Broadway at Astor Place
New York, NY 10003-9518

TMP&I

2/5/99

NOTES TO THE FILE AND APPROVALS

DATE	(All Entries Should Be Dated and Initialed)	INITIALS
4/17/96	Same ID accepted in 74/576950.	LCC
	☐ Specimens Acceptable for Class(es) [ ]	
	☐ Bulky Specimens with Examining Attorney	
	☐ Drawing Acceptable for Printing	
	☐ Clerical Instructions Inside	

75011205

TRADEMARK

75011205

NEW CASE DELIVERED

APR 17 1996

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CONTENTS

	Entry	Date	Initials
1.		APR 24 1996	[illegible]
2.	[illegible] DEC 16 1996	10/24/96	
3.		DEC 26 1996	[illegible]
4.	Appeal to Board	6·26·97	
5.	Appeal ack'd; Brief due 8·25·97	7·30·97	
6.	Req to ext w/affidavit	7·30·97	
7.	Brief due 9·24·97	8·7·97	
8.	Req to ext	9·22·97	
9.	Brief due 11·10·97	9·26·97	
10.	Appeal Brief	11·10·97	
11.	To Examiner for Stmt 1·17·98	11·18·97	
12.	Examiner's Brief	1·5·98	
13.	Req to ext	1·26·98	
14.	Reply brief due 2·24·98	2·3·98	
15.	Reply Brief (2 copies)	2·24·98	
16.	BOS Dec. Reversed	11/23/98	NGR
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

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Mark: 75/240789 VEGAS ROBAINA

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United States Patent and Trademark Office

May 14, 2003

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TRADEMARK APPLICATION: *75/240,789*
FILING DATE: *February 12, 1997*
REGISTRATION NUMBER: *2,197,155*
REGISTRATION DATE: *October 20, 1998*

By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS

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U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

76240789

REG NUM. 2197155
REG DT 10/20/1998
S/N 75/240789

	3. MARK [illegible]		4. SER. NO. 75/240789
			5. REGISTER PRINCIPAL
6. INTERNATIONAL CLASS 34	7. PRIOR U.S. CLASS [illegible]	8. FILING DATE [illegible]	9. LAW OFFICE 105

10. APPLICANT AND POST OFFICE
[illegible]

16. EXAMINING ATTORNEY

17. TYPE OF MARK SECTION 1(d)
TRADEMARK

18. FIRST USE
ICL 34 [illegible]

11. CORRESPONDENCE ADDRESS
[illegible]

19. IN COMMERCE
ICL 34 [illegible]

12. DOMESTIC REPRESENTATIVE
[illegible]

20. FOREIGN REG. AND APPL. DATA

13. APPLICANT'S ATTORNEY
[illegible]

15. GOODS — SERVICES
[illegible] tobacco, [illegible], cigarettes, cut tobacco, [illegible], manufactured tobacco of all [illegible], [illegible], tobacco, pipes, pip-holders, ashtrays, match boxes, [illegible]

21. OTHER DATA
[illegible] is the name of a living person who has consented to [illegible] in the mark. *18-The English translation of "VEGAS ROBAINA" is the "[illegible] parts belonging to Robaina".

PTO-102L. (REV. 12/82) U.S. DEPT. OF COMMERCE — PATENT AND TRADEMARK OFFICE

Examining Attorney—(Please Print Name) [illegible]	Date
Approved for Publication (Principal Register)—(Signature)	
Approved for Registration (Section 1(d))—(Signature)	Section 15—(Signature)
Approved for Registration (Supplemental Register)—(Signature)	Section 9 Renewal Accepted—(Signature)

Published
7/28/98

TRADEMARK APPLICATION SERIAL NO. 75240789

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

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0 361 245.00 CK

PTO-1555
(5/87)

75240789

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COUNSEL
VICTOR RABINOWITZ
MICHAEL B. STANDARD
LEONARD I. WEINGLASS
ELLEN J. WINNER
DEBRA EVENSON
TERRY GROSS

TRADEMARK MAILROOM
REC'D
FEB 12 1997
43
US PATENT & TRADEMARK OFFICE

CA

February 12, 1997

VIA EXPRESS MAIL

Assistant Commissioner for Trademarks
2900 Crystal Drive
APPLICATIONS - 3d Floor
Arlington, VA 22202-3513

Re: Mark: VEGAS ROBAINA
International Class: 34
Applicant: CORPORACION HABANOS, S.A.

Dear Sir/Madam:

Enclosed for filing on behalf of Corporacion Habanos, S.A. is an application for registration of the above trademark based on the Applicant's bona fide intention to use the mark under 15 U.S.C. 1051(b), as amended. In addition, Applicant relies upon its Cuban Registration No. 121,981, dated October 22, 1996, pursuant to 15 U.S.C. 1126(e), as a basis for registration in the United States; and as a basis for section 1126(d) priority. Accordingly, a certified copy (and English translation) of this Cuban registration are also enclosed. Finally, a check for $245.00 to cover the filing fee is enclosed as well.

Please direct all correspondence and/or inquiries regarding this filing to me at the above address.

Thank you.

Very truly yours,

Michael Krinsky

Michael Krinsky

AT

Enclosures

1/0/245/361

75240789

TRADEMARK MAIL RECD
FEB 12 1997
PATENT & TRADEMARK OFFICE
43

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Application, Principal Register, with Declaration

Mark: VEGAS ROBAINA
Int'l Class: 34

To: The Assistant Secretary and
Commissioner of Patents and Trademarks
Washington, D.C. 20231

Applicant Name: CORPORACION HABANOS, S.A.

Applicant Business Address: Mercaderes No. 21
Entre O'Reilly y Empedrado
Havana
Cuba
CUX

AA

Applicant Entity: The Applicant is a corporation, incorporated under the laws of the Republic of Cuba.
03
CUX

GOODS AND/OR SERVICES

Applicant requests registration of the above-identified trademark shown in the accompanying drawing in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. §§ 1501 et seq., as amended) for the following goods:

CS
034

Raw tobacco, cigars, cigarettes, cut tobacco, rappee, manufactured tobacco of all kinds, matches, tobacco, pipes, pipe-holders, ashtrays, match boxes, cigar cases and humidors in International Class 34.

BASIS FOR APPLICATION

Applicant has a bona fide intention to use the mark in commerce between the United States and a foreign country on or in connection with the above identified goods, and asserts a claim of priority based upon the foreign registration identified below in accordance with 15 U.S.C. § 1126(e), as amended:

Country of foreign filing: Cuba Application NO 1685
Registration Number: 121 981
Registration Issue date: October 22, 1996
(Applicant claims § 1126(d) priority)

Applicant intends to use the mark by applying to labels attached to the goods, in packaging of the goods and in advertisements.

TR
NO
DI

The English translation of "Vegas Robaina" is the "tobacco farms belonging to Robaina". Robaina is the name of a living person who has consented to the use of his name in the mark. ~~No claim is made to the exclusive right to use "Vegas" apart from the mark as shown.~~

The undersigned hereby appoints as its attorney Eric M. Lieberman, Esq., and Michael Krinsky, Esq., Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway, Fifth Floor, New York, New York, 10003-9518, jointly and severally, with full powers of substitution, association and revocation, including the appointment of associate counsel, to prosecute this application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the Certificate of Registration.

CA

DR

Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway, Fifth Floor, New York, New York, 10003-9518, is hereby designated applicant's representative upon whom notice of process in proceedings affecting the mark may be served.

DECLARATION

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he is properly authorized to execute this application on behalf of the applicant; he believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. 1051(b), he believes applicant to be entitled to use such mark in commerce; to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use the above identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

CORPORACION HABANOS, S.A.

By: _____
Francisco Linares Calvo
President

Date: January 22th, 1997.

AMERICA N. SANTOS RIVERAS, Esq., Director of the National Office of Inventions, Technical Information and Trademarks,

CERTIFIES

That dated the twenty-second of October in the year one thousand nine hundred ninety-six, and for the period of 10 years, there was issued on behalf of : **CORPORACION HABANOS, S.A.,** situated at : Mercaderes No. 21, between O'Reilly and Empedrado, Old Havana, Havana City, Cuba, the inscription of the **Certificate No. 125131**, recorded as No. 1685 of the year 1996 in the Principal Registry, which reserves the trademark: **VEGAS ROBAINA** for use in distinguishing: twisted tobacco, cigarettes, cigars, cut tobacco, chewing tobacco, smoking paraphernalia and matches in class 34 of the International Classification of Goods and Services. Said registration is in full force and effect, and the design affixed below is exactly equal to that which is on file.

[DESIGN]

That at the request of **Manuel Rio Pombo,** this certification is issued upon payment of the corresponding fees in Havana City, Republic of Cuba, the second day of the month of August of the year one thousand nine hundred ninety-six.

[BUREAU SEAL]

America N. Santos Riveras, Esq.
Director

I, JESSICA A. HEYMAN, certify that the foregoing translation, which I personally rendered from Spanish into English, is, to the best of my knowledge, a true, full, and accurate translation from the original document.

Dated: February 11, 1997

Jessica A. Heyman

OFFICE

LIC. AMERICA N. SANTOS RIVERAS [illegible]

CERTIFICO

[illegible] CORPORACION HABANOS, S.A. [illegible] Certificado No. ciento veinticinco mil ciento treinta y uno [illegible] VEGAS ROBAINA [illegible] treinta y [illegible]

VEGAS ROBAINA

[illegible] Pombo [illegible]

Lic. [illegible] N. Santos Rivera
[illegible]

NOTARY OF

Special "Minjus"

Deed No. 1989

LICENSE FOR THE USE OF A NAME

NOTARY Dr. Felicitas Regla López Sotolongo

DATE October 30 of 1996

GRANTOR Alejandro Maruto Robainas Pereda

I, JESSICA A. HEYMAN, certify that the foregoing translation, which I personally rendered from Spanish into English, is, to the best of my knowledge, a true, full, and accurate translation from the original document.

Dated: February 11, 1997

Jessica A. Heyman

[REPUBLIC OF CUBA - 5 PESOS]
[SEAL OF SPECIAL NOTARY - MINISTRY OF JUSTICE]

NUMBER 1989

LICENSE FOR THE USE OF A NAME

Havana City, October 30, 1996

BEFORE ME

DOCTOR FELICITAS REGLA LOPEZ SOTOLONGO, Notary of the Special Notary of the Ministry of Justice of the Republic of Cuba

APPEARS BEFORE ME

ALEJANDRO MARUTO ROBAINAS PEREDA, born in San Luis, Pinar del Rio, Cuban citizen, of legal age, married, farmer, resident of Finca El Pinar, San Luis, Pinar del Rio, with Permanent Identity number 19032003546

CONCURS in the use of his own rights

AFFIRMS THAT HE IS in full enjoyment and exercise of his civil rights and has in my judgment the necessary legal ability to make this deed such that nothing be recorded to the contrary and SAYS:

FIRST: To authorize and concede a license for the use of the name ROBAINA, on behalf of Corporacion Habanos, S.A., for the registration of the trademark of Havana cigars called VEGAS ROBAINA in international class 34 of the International Classification of Goods and Services as much in name as in any other graphic design, in every country of the world with no exceptions.

SECOND: The aforementioned cession or authorization is conferred freely and perpetually, and is done so with irrevocable force.

THIRD: Also affirms that the grantor has submitted, to Tatiana Camacho Rodriguez, Esquire in her capacity as attorney for Corporacion Habanos, S.A., the recipes for the mixture or combination of diverse Cuban tobacco and of the specific techniques required for the manufacture of the Havana cigar VEGA ROBAINA, which is recognized by its well-known and characteristic tobacco tradition

THIS WAS SAID by the appearing party in my presence.

READ IN FULL and all at one time by me, the Notary, to the authorized, the contents of this deed are agreed and ratified and signed.

ALL OF WHICH and the identity of the appearing party, and all other personal data having been

been made evident to me by his statements. I, the Notary, SWEAR.

SIGNED ALEJANDRO MARUTO ROBAINAS PEREDA AND DOCTOR FELICITAS REGLA LOPEZ SOTOLONGO.

I execute this copy, which conforms to its original, for the appearing party on the 30th of the month of October of 1996, within my duties as Special Notary, and note that although it is stamped it is unnecessary to use national currency seals in the value of five pesos.
I SWEAR.

[Seal of the Special Notary of the Ministry of Justice]
[Signature]

I, JESSICA A. HEYMAN, certify that the foregoing translation, which I personally rendered from Spanish into English, is, to the best of my knowledge, a true, full, and accurate translation from the original document.

Dated: February 11, 1997

Jessica A. Heyman

TRADEMARK MAILROOM
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43
U.S. PATENT AND TRADEMARK OFFICE

NOTARIA DE

Especial.-MINJUS.-

ESCRITURA No. 1989

LICENCIA PARA USO DE NOMBRE.-

NOTARIO Dra. Felicitas Regla López Sotolongo.-

FECHA 30-octubre- DE 19 96.-

OTORGANTES Alejandro Maruto Robainas Pereda.-

NUMERO

LICENCIA PARA USO DE NOMBRE

Ciudad de la Habana [illegible] de octubre de 1994.

ANTE MI

DOCTORA FELICITAS PEULA LOPEZ SOTOLONGO. Notaria de la Notaria Especial del Ministerio de Justicia de la República de Cuba.

COMPARECE

ALEJANDRO MARUTO ROBAINAS PEREDA. natural de San Luis, Pinar del Rio, ciudadano cubano, mayor de edad, casado, agricultor, vecino de [illegible] Pinar, San Luis, Pinar del Rio, con identidad [illegible]

CONCURRE [illegible]

ASEGURA HALLARSE en el pleno goce y ejercicio de sus derechos civiles y tiene a mi juicio la capacidad legal necesaria para este otorgamiento [illegible]

PRIMERO: [illegible] del nombre ROBAINA, a favor de la [illegible] Habanos, Sociedad Anónima, para que esta registre la marca de Habanos denominada VEGAS ROBAINA en la clase internacional número treinta y cuatro y otras del Clasificador Internacional de Productos y Servicios, tanto en su denominacion como en cualquier diseño gráfico, en todos los países del mundo sin excepción.

SEGUNDO: Que la cesión o autorización referida la confiere gratuita y perpetuamente, siendo con [illegible]

TERCERO: [illegible] igualmente declara el otorgante haber entregado en este caso a la Licenciada Tatiana Camacho Rodríguez, en su carácter de apoderada de la Corporación Habanos, S.A., [illegible] recetas, para la mezcla o liga de los diversos tabacos cubanos y de las especificaciones técnicas requeridas para la fabricación de los habanos **VEGA ROBAINA**, lo que conoce por [illegible] información [illegible] su persona y familia.

ASI LO DICE [illegible]

LEIDA INTEGRAMENTE y en un solo acto [illegible] la Notaria, [illegible]

DE TODO LO CUAL y de la identidad [illegible] comparecientes, [illegible] la Notaria, [illegible]

[illegible] MARCO ROBAINAS PEREDA Y [illegible]

CONCLUYO [illegible] SU MATRIZ, que bajo el número [illegible] en el [illegible] en el cual fijo e inutilizo [illegible] timbres por valor de cinco pesos moneda [illegible] y para el compareciente expido esta [illegible] 30 [illegible] octubre [illegible] 96 [illegible]

MINISTERIO DE JUSTICIA
NOTARIA
TERCERA

FEB 1 2 1997
PATENT & TRADEMARK OFFICE

INT. CL.
34
PRIOR U.S. CL.
2, 8, 9, 17

APPLICANT: HABANOS, S.A.

APPLICANT'S ADDRESS: Mercaderes No. 21
Entre O'Reilly y Empedrado
La Habana
Cuba

BASIS FOR APPLICATION: Reliance upon Cuban Reg. No. 121,981
Dated October 22, 1996

GOODS: RAW TOBACCO, CIGARS, CIGARETTES, CUT TOBACCO, RAPPEE, MANUFACTURED TOBACCO OF ALL KINDS, MATCHES, TOBACCO, PIPES, PIPE-HOLDERS, ASHTRAYS, MATCH BOXES, CIGAR CASES AND HUMIDORS in International Class 34

VEGAS ROBAINA

Published
7/28/98

TRADEMARK
75240789

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

SERIAL NO.	APPLICANT	PAPER NO.
75/240789	CORPORACION HABANOS, S.A.	
MARK		ADDRESS:
VEGAS ROBAINA		Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513
ADDRESS	ACTION NO.	
MICHAEL KRINSKY RABINOWITZ BOUDIN STANDARD KRINSKY ET AL 740 BROADWAY 5TH FL NEW YORK NY 10003-9512	01	If no fees are enclosed, the address should include the word "Box Responses - No Fee"
	MAILING DATE 09/04/97	Please provide in all correspondence:
	REF. NO.	1. Filing Date, serial number, mark and Applicant's name. 2. Mailing date of this Office action 3. Examining Attorney's name and Law Office number. 4. Your telephone number and ZIP code
FORM PTO-1525 (5-90)	U.S. DEPT. OF COMM. PAT. & TM OFFICE	

A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID *ABANDONMENT.* *For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.*

RE: Serial Number: 75/240789

The recitation of goods contains goods which are in two classes. If the ashtrays and match boxes are made of precious metals they are in Class 14, if the goods are not made of precious metals, they are in Class 34. The composition of these goods must be indicated and if they are in Class 14, either they must be deleted or a combined application for these goods must be filed.

The identification of goods is unacceptable because it exceeds the scope of the goods identified in the foreign certificate of registration. Therefore, the applicant must limit the identification by deleting the following: raw tobacco and manufactured tobacco of all kinds. *In re Lowenbrau Munchen*, 175 USPQ 178 (TTAB 1972); 37 C.F.R. Section 2.33(a)(1)(v); TMEP section 1009.04.

If the applicant prosecutes this application as a combined, or multiple-class, application, the applicant must comply with each of the following.

(1) The applicant must list the goods by international class with the classes listed in ascending numerical order. TMEP section 1113.01.

(2) The applicant must submit a filing fee for each international class of goods not covered by the fee already paid. Effective December 3, 1993, the filing fee is $245.00 per class. 37 C.F.R. Sections 2.6(a)(1) and 2.86(b); TMEP sections 810.01 and 1113.01.

Applicant claims priority of filing in accordance with Trademark Act Section 44(d). It must be noted, however, that neither the Cuban trademark registration submitted with the application nor the claim of priority in the application indicate the date when the Cuban trademark application which matured into the registration upon which this application is based was filed for registration in Cuba. Applicant must indicate the filing date of the Cuban registration upon which this application is based and substantiate the information

Applicant submitted a disclaimer of the word "Vegas". Because the word "Vegas", meaning farm in Spanish, is not defective, the disclaimer of the word must be deleted.

Applicant indicates that the word "Robaina" is the name of a living individual. The letter of consent submitted with the application does not appear to be signed by the individual who allegedly gave consent to the use of his name, i.e., Alejandro Maruto Robainas Pereda Applicant is required to submit a signed letter of consent by that individual permitting applicant to register his name as a mark.

The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d) TMEP section 1105.01.

David C. Reihner, Examining Attorney
Law Office 107
(703) 308-9107 ext. 169

107

TRADEMARK MAILROOM
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MAR 04 1998
10
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Response to Office Action

Mark: VEGAS ROBAINA

Examining Attorney: David C. Reihner

Serial No.: 75/240789

Law Office: 107

Applicant: Corporacion Habanos, S.A.

Int'l Class: 34

Applicant responds as follows to the points raised in the examining attorney's non-final Office Action mailed on September 4, 1997:

Amended Identification of Goods

Applicant adopts the following amendment of the identification of goods: cigars; cigarettes; cut tobacco; rappee; matches; tobacco pipes not of precious metals; tobacco pipe holders not of precious metals; ashtrays not of precious metals; match boxes not of precious metals; cigar cases not of precious metals; and humidors not of precious metals in International Class 34.

GS
A1

Cuban Filing Date

The foreign registration on which this application is based was filed on October 22, 1996. In Cuba, the filing date is also the registration date because once a registration matures, the date of issuance becomes retroactive to the date of application.

Disclaimer

Applicant hereby amends its application to delete the disclaimer of the word "Vegas."

Consent to Use of Name

Applicant hereby submits a copy of the original consent signed by Alejandro Maruto Robainas Pereda.

Dated: New York, New York
March 4, 1998

Respectfully submitted,

RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

By: _____
Michael Krinsky
Attorneys for Applicant,
Corporacion Habanos, S.A.
740 Broadway - Fifth Floor
New York, New York 10003
(212) 254-1111

DECLARACION.

Yo, ALEJANDRO MARUTO ROBAINAS PEREDA, natural de San Luis, Pinar del Rio, ciudadano cubano, mayor de edad, casado, agricultor, vecino de la Finca El Pinar, San Luis, Pinar del Rio, con Cédula de Idéntidad número 19032003546.

Por medio de la presente realizo esta declaración consciente de su contenido; y a continuación expreso:

PRIMERO: Que en fecha 30 de Octubre de 1996 compareci ante la Dra. Felicita Regla López Sotolongo, quién es Notario Público de la Notaría Especial del Ministerio de Justicia, y en ese acto concedí y otorgué mi total e irrenunciable consentimiento para que la Corporación Habanos S.A. utilice mi apellido para crear y registrar en Cuba y en el Mundo entero la marca VEGAS ROBAINA en la clase 34, y otras del Clasificador Internacional de Productos y Servicios.

SEGUNDO: Que la Cesión o Consentimiento expresado en el referido acto fue realizada de forma gratuita y perpetua.

Y PARA QUE ASÍ CONSTE, firmo la presente, en dos originales, en la Ciudad de Pinar del Rio, a los 10 dias del mes de enero de 1998.

Alejandro Robaina

ALEJANDRO MARUTO ROBAINAS PEREDA.

TRANSLATION OF DECLARATION

I, ALEJANDRO MARUTO ROBAINAS PEREDA, resident of San Luis, Pinar de Rio, and Citizen of Cuba, of legal age, married, farmer and resident of the El Pinar Farm, San Luis, Pinar del Rio, with personal identity card number 19032003546.

By means of the present document execute this declaration with full awareness of its content; and state:

FIRST: On October 30, 1996 I appeared before Doctor Felicita Regla Lopez Sotolongo, who is a Notary Public of the Special Notary of the Ministry of Justice, and in that act I consented and gave my full and irrevokable consent to the Corporación Habanos, S.A. to use my surname in order to create and register in Cuba, and in the entire world, the trademark VEGAS ROBAINA in class 34 and others of the International Classification of Goods and Services.

SECOND: That the concession or consent expressed in the referred to act was made without charge and perpetual.

AND AS WITNESS OF THE ABOVE, sign the present document, in two originals, in the City of Pinar del Rio, on the 10th day of January of 1998.

ALEJANDRO MARUTO ROBAINAS PEREDA.

I, Jessica A. Heyman, certify that the foregoing translation, which I personally rendered from Spanish to English, is, to the best of my knowledge, a true, full, and accurate translation from the original document.

Dated: March 3, 1998

Jessica Heyman

Certificate of Express Mail and Service

I hereby certify that the attached "Response to Office Action" for the mark "VEGAS ROBAINA, Serial No. 75/240789, is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on: March 4, 1998, addressed to:

Express Mail label number: EH377411734US

Box TTAB NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Marie A. Papp 3/4/98

PUBLICAT /REGISTRATION EXAMINATION WO SHEET

Reviewer: Tiffany Weaver L.O.: 7 Date: Serial No.:

I certify all information in the database matched the information in the file and no corrections were required.

INSTRUCTIONS: If the information in the database does not match the information in the file the reviewer should check the ERROR column. After correction (text editing), the EDITED column should be checked. RETAIN IN FILE WRAP

SCREEN	ERROR	EDITED		ERROR FOUND DURING REVIEW REQUIRING AMENDMENT OF:
AM				Mark Type:
				Register:
				Mark: ☐ MDC:
PY				Owner: ☐ Name:
				☐ Citizenship:
				☐ Entity Type:
				DBA/AKA/TA Statement:
				Address: ☐ Inter ☐ City ☐ State/Country ☐ Zip
				Assignment or Name Change:
				Composed of:
CL				International Class: U.S. Class:
				First Use: First Use in Commerce:
				Goods and Services:
AM				Amended Register: P.R.: S.R.:
				Amended Reg. Date:
OTHER DATA				Disclaimer:
				Description of Mark:
				Lining and Stippling Statement:
				Translation of Words in Mark:
				Name/Portrait Description/Consent:
				Section 2(f): ☐ In Part ☐ Limitation Statement ☐ Entire Mark
				Use in Another Form:
				Certification Statement:
				Concurrent Use Statement:
				Prior U.S. Registrations:
FN				Domestic Representative:
				Foreign Country of Origin:
				Foreign Application No.: Frgn. Appl. Filing Date:
				Section 44(d): Y/N Section 44(e): Y/N
				Foreign Registration No.: Frgn. Reg. Date:
				Foreign Registration Expiration Date:
				Foreign Renewal Reg. No.: Frgn. Reg. Renewed:
				Foreign Registration Renewed Expiration Date:
CD				Attorney Name:
				Correspondence: ☐ Name ☐ Inter St. Address ☐ City/State/Zip
				Attorney Docket Number:

Other:

I certify that all corrections have been entered in accordance with the above instructions and text editing guidelines.

Text Editor Date

AMENDMENT EXAMINATION WORK SHEET

Name: J. Weaver L.O.: 107 Date: _____ Serial No.: _____

INSTRUCTIONS: To certify amendments the R&A Clerk should check the "AMENDED" column. The Text Editor should check "ENTERED" after the amendment has been entered. RETAIN IN FILE.

SCREEN	AMENDED	ENTERED		AMENDED TO:
AM			AM	Mark Type:
			AM	Register:
			AM	Mark: ☐ MDC:
PY			PY	Owner: ☐ Name:
			PY	☐ Citizenship:
			PY	☐ Entity Type:
			EN	☐ Entity Statement:
			DB	DBA/AKA/TA Statement:
			PY	Address: ☐ Inter ☐ City ☐ State/Country ☐ Zip
			NC	Assignment or Name Change:
CL			CO	Composed of:
			CL	International Class: U.S. Class:
			CL	First Use: First Use in Commerce:
			GS	Goods and Services:
			GS	
			GS	
			GS	
AM			AM	Amended Register: P.R.: S.R.:
			AM	Amended Reg Date:
			DI	Disclaimer:
OTHER DATA			DM	Description of Mark:
			LS	Lining and Stippling Statement:
			TR	Translation of Words in Mark:
			NO	Name/Portrait Description/Consent:
			TF	Section 2(f): ☐ Entire Mark ☐ In Part ☐ Limitation Statement:
			AF	Use in Another Form:
			CS	Certification Statement:
			CU	Concurrent Use Statement:
			PR	Prior U.S. Registrations:
FN			DR	Domestic Representative:
			FN	Foreign Country of Origin:
			FN	Foreign Application No.: Frgn. Appl. Filing Date:
			FN	Section 44(d) Claimed: Y/N
			FN	Foreign Registration No.: Frgn. Reg. Date:
			FN	Foreign Registration Expiration Date:
			FN	Foreign Renewal Reg. No.: Frgn. Reg. Renewed:
			FN	Foreign Registration Renewed Expiration Date:
CD			AT	Attorney Name:
			CD	Correspondence: ☐ Name ☐ Inter St. Address ☐ City/State/Zip
			DN	Attorney Docket Number:

Other: _____

I certify that all corrections have been entered in accordance with the above instructions and text editing guidelines.

Text Editor _____ Date 2-4-16-97

Initial Box if No Amendments are required ☐

AMENDMENT WORK SHEET

Name: IRVIN C. ANGLE Ofc: 7 Date: 3/30/98 Serial No.:

INSTRUCTIONS: To certify amendments the R&A Clerk should check the "AMENDED" column. The Text Editor should check "ENTERED" after the amendment has been entered.

RETAIN

SCREEN	AMENDED	ENTERED		AMENDED TO:
MK			AM	Mark: Word ☐ Drawing Code ☐ New Drawing: Yes ☐
			AM	Mark Type:
			AM	Register:
			AM	Amended To-Register: Date Reg. Amended:
PY			NC	Assignment or Name Change:
			PY	Applicant: ☐ Name
			PY	☐ Address
			PY	☐ Entity Type
			PY	☐ Citizenship/State of Inc.
			CO	Composed of Statement:
			EN	Entity Statement:
			DB	Doing Business As (DBA) or (AKA) or (TA) Statement:
CD			AT	Attorney Name:
			CD	Correspondence: Name ☐ Address ☐
			DE	Docket No.: ☐
			DR	Domestic Representative:
CL			CS	Certification Statement:
			CL	Date of First Use:
			CL	Date of First Use in Commerce:
			GS	Goods and Services:
			CL	International Class:
			CL	U.S. Class:
			AF	Use in Another Form:
AC			CR	Concurrent Use Statement:
MM			DM	Description of Mark Statement:
			DT	Disclaimer: Delete
			LS	Lining and Stippling Statement:
			NS	Name/Portrait Description Statement:
TR			TR	Translation of Words in Mark Statement:
TF			TF	Section 2(f): ☐ Entire Mark ☐ In Part ☐ Limitation Sta
PR			PR	Prior U.S. Registrations: Registration Nos.:
FN			FN	Foreign Entry Number:
			FN	Country of Orgin:
			FN	Foreign Application Number: Filing Date:
			FN	Foreign Registration Number: Registration Date:
			FN	Foreign Reg. Exp. Date:
			FN	Renewed: Foreign Reg. No.: Renewal Date:
			FN	Renewed: Foreign Reg. Exp. Date:
			FN	Priority Claimed: Section 44(d):

Other:

I certify that all corrections have been entered in accordance with the above instructions and text editing guidelines.

Text Editor

3/31/98

Date

Initial Box if No Amendments a

All previous versions obs

UNITED S_ATES DEPARTMENT OF CO_MERCE
Patent and Trademark Office

SERIAL NO.	APPLICANT		PAPER NO. 3/B
MARK			ADDRESS: Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513
ADDRESS		ACTION NO.	If no fees are enclosed, the address should include the words "Box Responses - No Fee"
		MAILING DATE	
		REF. NO.	Please provide in all correspondence: 1. Filing Date, serial number, mark and Applicant's name. 2. Mailing date of this action. 3. Examining Attorney's name and Law Office number. 4. Your telephone number and ZIP code.
FORM PTO-1525 (5-90)	U S. DEPT. OF COMM. PAT. & TM OFFICE		

EXAMINER'S AMENDMENT

EXAMINING ATTORNEY		PERSON CALLED/INTERVIEWED	TELEPHONE NUMBER	
David C. Reihner, Examining Attorney		Christine Farley	212-254-1111	
X	TELEPHONE CALL	INTERVIEW DATE	X	ATTORNEY
	PERSONAL INTERVIEW	April 14, 1998		APPLICANT

CALL RECORD/NOTES

OFFICE SEARCH: The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01.
RE: Serial Number 75/240789

In accordance with the authorization granted by the above Applicant or attorney, the application has been AMENDED as indicated below. No response is necessary unless there is an objection to the amendment.

The body of the application has been amended by indicating that the serial number of the Cuban trademark registration is 1685 and the registration number of the Cuban trademark registration is 121,931.

Applicant indicates that the mark for which registration is sought is a typed mark.

Applicant indicates that the individual Alejandro Maruto Robainas Pereda is known as Robaina.

David C. Reihner, Examining Attorney
Law Office 107, 703-308-9107 ext. 169

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT COMMISSIONER FOR TRADEMARKS
2900 Crystal Drive
Arlington, Virginia 22202-3513

Jun 26, 1998

NOTICE OF PUBLICATION UNDER 12(a)

1. Serial No.:
75/240,789

2. Mark:
VEGAS ROBAINA

3. International Class(es):
34

4. Publication Date:
Jul 28, 1998

5. Applicant:
CORPORACION HABANOS, S.A.

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained at $38.00 each for domestic orders, or at $47.50 each for foreign orders from:

The Superintendent of Documents
U.S. Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954
Phone: (202)512-1800

By direction of the Commissioner.

MICHAEL KRINSKY TMP&I
RABINOWITZ BOUDIN STANDARD KRINSKY ET AL
740 BROADWAY 5TH FL
NEW YORK NY 10003-9518

Int. Cl.: 34

Prior U.S. Cls.: 2, 8, 9 and 17

Reg. No. 2,197,155

United States Patent and Trademark Office

Registered Oct. 20, 1998

TRADEMARK
PRINCIPAL REGISTER

VEGAS ROBAINA

CORPORACION HABANOS, S.A. (CUBA CORPORATION)
MERCADERES NO. 21
ENTRE O'REILLY Y EMPEDRADO
HAVANA, CUBA

FOR: CIGARS; CIGARETTES; CUT TOBACCO; RAPPEE; MATCHES; TOBACCO PIPES NOT OF PRECIOUS METALS; TOBACCO PIPE HOLDERS NOT OF PRECIOUS METALS; ASHTRAYS NOT OF PRECIOUS METALS; MATCH BOXES NOT OF PRECIOUS METALS; CIGAR CASES NOT OF PRECIOUS METALS; AND HUMIDORS NOT OF PRECIOUS METALS, IN CLASS 34 (U.S CLS. 2, 8, 9 AND 17).

PRIORITY CLAIMED UNDER SEC. 44(D) ON CUBA APPLICATION NO. 1685, FILED 10-22-1996, REG. NO. 121,931, DATED 10-22-1996, EXPIRES 10-22-2006.

OWNER OF U.S. REG. NO. 121,931.

"ROBAINA" IS THE NAME OF A LIVING PERSON WHO HAS CONSENTED TO THE USE OF HIS NAME IN THE MARK.

THE ENGLISH TRANSLATION OF "VEGAS ROBAINA" IS THE "TOBACCO FARMS BELONGING TO ROBAINA".

SER. NO. 75-240,789, FILED 2-12-1997.

DAVID C. REHNER, EXAMINING ATTORNEY

CODIN(PSEUDO MARKS AND DESIGN SEARCH CODES

SERIES CO AL NUMBER 75240789

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WIPO/DES CODES

NAME: Trina Wigfall

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SERIAL # 75/ 240789

ITU: Y or N

TRADEMARK APPLICATION FILE DATA WORKSHEET

CLASS DATA

1. INTERNATONAL CLASS	34									
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3. FEE PAID	Y	N	Y	N	Y	N	Y	N	Y	N
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5. 1ST USE DATE										
6. 1ST USE IN COMM DATE										
7. IN ANOTHER FORM CODE	1	2	1	2						
8. IN ANOTHER FORM STATEMENT	AF CODE IN MARGIN		TEXT IN [ ]							
9. GOODS/SERVICE	GS INTERNATIONAL		CLASS IN MARGIN,		TEXT [ ]					
10. CERTIFICATION STATEMENT	CS IN MARGIN, TEXT		IN [ ]							

FOREIGN DATA

1. PRIORITY CLAIMED	Y	N	Y	N	Y	N	Y	N	Y	N
2. COUNTRY CODE										
3. FOREIGN APPLICAITON										
4. FOREIGN FILING DATE										
5. FOREIGN REGISTRATION #										
6. FOREIGN REGISTRATION DATE										
7. FOREIGN EXPIRATION DATE										
8. RENEWAL #										
9. RENEWAL REGISTRATION DATE										
10. RENEWAL EXPIRATION DATE										

NOTES TO DATA ENTRY PERSONNEL:

TO: TRAM

DATE: 6-1-98

FROM: Kathy K, ANSTEC

CASE SERIAL NO. 75-240789

Please provide/change to:

____ MDC

____ WIPO CODE(S)

____ ITU

✓ NON-ITU

____ FILED ITU Yes/No

____ CURRENT ITU Yes/No

____ FILING DATE CORRECTION

TRAM STAFF: ✓ DATE: _____

*** User: EX188284 ***

STMT NUMBER	TOTAL MARKS	LIVE VIEWED	DEAD VIEWED	SEARCH
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02	10	10	0	PHRASCH /OW habanos
03	310	0	0	PHRASCH :VEGAS:
04	2	2	0	PHRASCH :ROBAINA:
05	4	2	2	PHRASCH 3&034/ic~/ow applicant
06	5719	0	0	PHRASCH /gs cigar: &034/ic ~/ow applicant
07	1	1	0	PHRASCH 6&farm

TERMINAL SESSION STARTED 09/03/97 5:05 P.M. (EASTERN TIME)
TERMINAL SESSION FINISHED 09/03/97 5:17 P.M. (EASTERN TIME)
ELAPSED TIME THIS SESSION 0 HRS AND 12 MIN

[redacted]

NOTES TO THE FILE AND APPROVALS

DATE	(All Entries Should Be Dated and Initialed)	INITIALS
	☐ Specimens Acceptable for Class(es)	
	☐ Bulky Specimen with Examining Attorney	
	☐ Drawing Acceptable for Printing	
	☐ Clerical Instructions [illegible]	

TRADEMARK

75240789

NEW CASE DELIVERED

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7/28/98

See inside of file for additional entries

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THOMSON & THOMSON

Antwerp

Montreal

Los Angeles

Milan

Montreal

New York

Paris

Philadelphia

San Francisco

Stockholm

Tokyo

Toronto

Washington, DC

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 312, GC 000026-000029, P 0026-0029

TOBACCO:

ITS

HISTORY, VARIETIES, CULTURE,

MANUFACTURE AND COMMERCE,

WITH

AN ACCOUNT OF ITS VARIOUS MODES OF USE, FROM ITS FIRST DISCOVERY UNTIL NOW.

BY

E. R. BILLINGS.

WITH ILLUSTRATIONS BY POPULAR ARTISTS.

"My Lord, this sacred herbe which never offendit,
Is forced to crave your favor to defend it."
BARCLAY.

"But oh, what witchcraft of a stronger kind,
Or cause too deep for human search to find,
Makes earth-born weeds imperial man enslave,—
Not little souls, but e'en the wise and brave!"
ARBUCKLE.

HARTFORD, CONN.:
AMERICAN PUBLISHING COMPANY,
1875.

GC 000026

DEFENDANT'S EXHIBIT
D312

P 0026

GC 000027

P 0027

CHAPTER II.

TOBACCO. ITS DISCOVERY.

NEARLY four hundred years have passed away since the tobacco plant and its use was introduced to the civilized world. It was in the month of November, 1492, that the sailors of Columbus in exploring the island of Cuba first noted the mode of using tobacco. They found the Indians carrying lighted firebrands (as they at first supposed) and puffed the smoke inhaled from their mouths and nostrils.

The Spaniards concluded that this was a method common with them of perfuming themselves; but its frequent use soon taught them that it was the dried leaves of a plant which they burned inhaling and exhaling the smoke. It attracted the attention of the Spaniards no less from its novelty than from the effect produced by the indulgence.

The use of tobacco by the Indians was entirely new to the Spanish discoverers and when in 1503 they landed in various parts of South America they found that both chewing and smoking the herb was a common custom with the natives. But while the Indians and their habits attracted the attention of the Spanish sailors Columbus was more deeply interested in the great continent and the luxuriant tropical growth to be seen on every hand. Columbus himself says of it:—

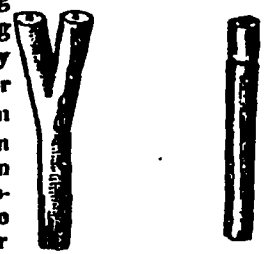
"Everything invited me to settle here. The beauty of the streams, the clearness of the water, through which I could see the sandy bottom; the multitude of palm-trees of different kinds, the tallest and finest I had ever seen; and an infinite number of other large and flourishing trees; the

birds, and the verdure of the plains, are so amazingly beautiful, that this country excelles all others as far as the day surpasses the night in splendor."

Lowe, gives the following account of the discovery of tobacco and its uses:—

"The discovery of this plant is supposed to have been made by Fernando Cortez in Yucatan in the Gulf of Mexico, where he found it used universally, and held in a species of veneration by the simple natives. He made himself acquainted with the uses and supposed virtues of the plant and the manner of cultivating it, and sent plants to Spain, as part of the spoils and treasures of his new-found World."

Oviedo* is the first author who gives a clear account of smoking among the Indians of Hispaniola†. He alludes to it as one of their evil customs and used by them to produce insensibility. Their mode of using it was by inhalation and expelling the smoke through the nostrils by means of a hollow forked cane or hollow reed. Oviedo describes them as "about a span long; and when used the forked ends are inserted in the nostrils, the other end being applied to the burning leaves of the herb, using the herb in this manner stupefied them producing a kind of intoxication."



PRIMITIVE PIPE.

Of the early accounts of the plant and its use, Beckman a German writer says:—

"In 1496, Romanus Pane, a Spanish monk, whom Columbus, on his second departure from America, had left in that country, published the first account of tobacco with which he became acquainted in St. Domingo. He gave it the name of Cohoba Cohobba, Gioia. In 1535, the negroes had already habituated themselves to the use of tobacco, and cultivated it in the plantations of their masters. Europeans likewise already smoked it."

An early writer thus alludes to the use of tobacco among the East Indians:—

* Historia General de los Indios 1526.
† St. Domingo.

by the English Colonial tobacco. In the conquest of the New World, Spanish energy and enterprise seem to have exhausted themselves; and as Spain was declining, its colonies could not be expected rapidly to advance. The history of the Spanish conquest in America is a record of cruelty and of blood, while that of English colonization is marked by English rigor and enterprise, and is one of successful daring and ultimate triumph.

The West India plantations, however, were still worked, and for more than a century St. Domingo yielded a vast amount of tobacco, until the soil of Cuba was found to be better adapted for its production than any other of the West India islands, not excepting even the island of Trinidad.

Hazard, in his work on Cuba, describes the celebrated *vegas* or tobacco plantations, of the island as follows:

"The best properties known as *vegas*, or tobacco farms, are comprised in a narrow area in the south-west part of the island, about twenty-seven leagues broad. Near the western extremity of the Island of Cuba, on the southern coast, is found one of the finest tobaccos in the world. Within a space of seventy-three miles long and eighteen miles wide, grows the plant that stands as eminent among tobacco plants

A CUBAN *vega*.

as the lordly Johannisberger among the wines of the Rhine. Shut in on the north by mountains, and south-west by

the ocean, Pinar del Rio being the principal point in the district. These *vegas* are found generally on the margins of rivers, or in low, moist localities, their ordinary size being not more than a *caballeria*, which amounts to about thirty-three acres of our measurement. The half of this is also most frequently devoted to the raising of the vegetable known as the *platano* (banana), which may be said to be the bread of the lower classes. A few other small vegetables are raised. The usual buildings upon such places are a dwelling house, a drying-house, a few sheds for cattle, and perhaps a small *bohio* (hut), or two, made in the rudest manner, for the shelter of the hands, who, upon some of the very largest places number twenty or thirty, though not always negroes—for this portion of the labor of the island seems to be performed by the lower classes of whites. Some of the places that are large have a mayoral, as he is called, a man whose business it is to look after the negroes, and direct the agricultural labors; but, as a general thing, the planter, who is not always the owner of the property, but simply the lessee, lives upon, directs, and governs the place.

"Guided by the results of a long experience transmitted from his ancestors (says a Spanish author), the farmer knows, without being able to explain himself, the means of augmenting or diminishing the strength or the mildness of the tobacco. His right hand, as if guided by an instinct, foresees what buds it is necessary to take off in order to put a limit to the increase or height, and what amount of trimming is necessary to give a chance to the proper quantity of leaves. But the principal care, and that which occupies him in his waking hours, is the extermination of the voracious insects that persecute the plant. One called *cachaga* domesticates itself at the foot of the leaves; the *verde*, on the under side of the leaves; the *rosquilla*, in the heart of the plant; all of them doing more or less damage. The planter passes entire nights, provided with lights, clearing the buds just opening, of these destructive insects. He has even to carry on a war with still worse enemies,—the *vivijagnas*, a species of large, native ants, that are to the tobacco what the locust is to the wheat. This plague is so great, at times, that prayers and special adoration are offered up to San Marcial to intercede against the plague of ants.

"The plant, whose original name was *cohiba*, seems to have been cultivated first by Europeans on the island in the vicinity of Havana. The island of Cuba is without doubt

GC 000028
P 0028

well adapted for the cultivation of tobacco—the soil, climate, and improved methods of culture all tend to the production of a leaf tobacco as celebrated as it is valuable.

"Between the 'Lower Valley,' in the Nicotian, not the

KILLING BUGS BY NIGHT.

geographical, sense of these words, lie the so-called *Partidos* which produce the tobacco that is sent to Europe as *Partido* or *Cabañas*. The leaf often surpasses that of the 'Lower Valley' in size and fineness, as well as in the beauty of the color; but it is inferior in quality. The tobacco farmers though stalwart fellows are not fond of work, and too often waste their time at the tavern. Many of them from thriftlessness are plunged into debt; and scarcely is the harvest ended when they borrow money from the tobacco merchant on the following harvest, who thereby obtains the right to interfere, it may be despotically, with the management of the crop. Continual embarrassments tempt the tobacco planters to be dishonest. To cheat their creditors, they often sell the best part of the crop in underhand fashion. Such of the tobacco farmers as wish to produce a great deal of tobacco, without regard to the excellence of the article, leave the plant to its natural growth, which is both scientifically and otherwise objectionable, for it is on a process of thinning and pruning a due diffusion of sap in the leaves depends, and consequently the quality of the tobacco."

GC 000029

P 0029

The tobacco, after being being baled, is sent to the Havana market. The bales of tobacco are carried on the backs of mules or horses to the city or to the nearest railway station.

"In the long line or train of mules or horses, the head of one mule or horse is tied to the tail of the one before it.

GOING TO MARKET.

On the back of the foremost sits the driver. The hindmost carries a bell, which enables the driver to know whether any of the animals have broken loose."

From the description given by Hazard of Cuba, its soil, climate, and other resources, it will readily be seen by all acquainted with the tobacco plant that this famous island is well adapted for the production of a tobacco that for fineness and delicacy of flavor is hardly rivaled. With the peculiar composition of the soil, and with a climate well adapted for the perfection of all kinds of tropical plants and fruits, it can hardly be imagined that any finer variety of tobacco can be grown than that produced in Cuba and the adjoining islands. Doubtless the climate of Cuba is nearly the same as when

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 315, Pl. Ex. 110

Bachner + Company Inc
Communication Design
130 West 25 Street
New York NY 10001
Phone 212 243 5287
Fax 212 989 2845

5 October 1992

Invoice No.92150

General Cigar Co
320 West Newberry Road
Bloomfield CT 06002
Att: John Rano

10/22/92

b +Co

Box construction and color comprehensives for COHIBA brand cigars.

1 Wooden cigar box (exterior & interior) including inside label	$475.00
5 5-packs (4 blank, 1 complete) and one self containing carton (complete)	750.00
5 Individually boxed cigars (4 blank, 1 complete), inside one 5-pack (complete)	700.00
14 Cohiba cigar bands	- 0 -
	1,925.00
Color Transfers	701.88
Typography	55.00
Photostats/Color Prints	65.00
Supplies	50.00
Federal Express	55.50
	2,852.38
NY Sales Tax (8¼%)	67.80
	$2,920.18

terms: net 15

DEFENDANT'S EXHIBIT D315

PLAINTIFF'S EXHIBIT 110 6/30/00 AA

Confidential:
Under Protective Order

Bachner & Company Inc
Communication Design
130 West 25 Street
New York NY 10001
Phone 212 243 5287
Fax 212 989 2845

16 November 1992

Invoice No.92159

General Cigar Co
320 West Newberry Road
Bloomfield CT 06002
Att: John Rano

Paid
12/10/92

b +Co

Design & Production for Cohiba wooden box screen art for:
Esplendido, Robusto and Coronas Especial.

Design & Production	$1,455.00
Comprehensive	375.00
Typography	270.00
Handlettering	120.00
Color Transfers	115.00
Photostats	57.12
Supplies	25.00
	2,417.12
NY Sales Tax 8¼%	36.47
	$2,453.59

terms: net 15

Confidential:
Under Protective Order

Bachner + Company Inc
Communication Design
130 West 25 Street
New York NY 10001
Phone 212 243 5387
Fax 212 989 2845

17 May 1993

Invoice No.93121

General Cigar Co
320 West Newberry Road
Bloomfield CT 06002
Att: John Rano

PAID
6/28/93

b|+Co

Cohiba label design and comprehensives. Full color comprehensives (17) exploring typographic, graphic and color solutions. Presented on 3/22/93.

Design	$4,500.00
Comprehensives (17 @$150)	2,550.00
Color Transfers	237.60
Federal Express	29.10
	7,316.70
NY Sales Tax (8¼%)	22.00
	$7,338.70

terms: net 15

Confidential:
Under Protective Order

Bachner + Company Inc
Communication Design
130 West 25 Street
New York NY 10001
Phone 212 243 5287
Fax 212 689 2545

17 May 1993

Invoice No.93126

General Cigar Co
320 West Newberry Road
Bloomfield CT 06002
Att: John Rano

PAID
6/28/93

b +Co

Cohiba label design and comprehensives (overnight)

Design & Comprehensives	$2,500.00
Transfers	211.20
Color Prints	36.00
	2,747.20
NY Sales Tax (8¼%)	40.79
	$2,787.99

terms: net 15

Confidential:
Under Protective Order

B 0004

Pan 8/21/98

Invoice: 00097118
Purchase Order
3/25/97

Bill To:
John Geoghegan
General Cigar
320 West Newberry Road
Bloomfield, CT 06002

Description	Amount
Cohiba Label and Cigar Band Design & Comprehensives	$7,500.00

Sales Tax:	$618.75
Total Amount:	$8,118.75
Amount Applied:	$0.00
Balance Due:	$8,118.75
Terms:	Upon Receipt

Confidential:
Under Protective Order

B 0005

Invoice: 00097143
Purchase Order
6/27/97

Bill To:
John Geoghegan
General Cigar
320 West Newberry Road
Bloomfield, CT 06002

Pgm 1/23/98

Description	Amount
Phase II - Cohiba Label, Cigar Band and Hinge Strip Redesign Exploratory	$6,500 00

Sales Tax:	$536.25
Total Amount:	$7,036 25
Amount Applied:	$0 00
Balance Due:	$7,036 25
Terms:	Upon Receipt

Confidential:
Under Protective Order

B 0006

Invoice: 00097188
Purchase Order.
12/29/97

Bill To:
John Geughegan
General Cigar
320 West Newberry Road
Bloomfield, CT 06002

Pd 1/23/98

Description	Amount
Cohiba Slip-Box Design and 3-D Comprehensive	$950.00

Sales Tax:	$78.38
Total Amount:	$1,028.38
Amount Applied:	$0.00
Balance Due:	$1,028.38

Terms: Upon Receipt

Confidential:
Under Protective Order

B 0007

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

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PARTY: RESPONDENT
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Def. Ex. 318, Pl. Dep. Ex. 405

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CHRISTOPHER A. KLEIN
RAYMOND VAN DYKE
ROBERT S. SOETHALS
KENNETH M. SCHNEIFELD*
PATRICK J. KILGANNON*
EMILY S. LAU*

* NOT ADMITTED IN NEW YORK
+ ADMITTED IN WASHINGTON, D.C.

May 21, 1991

PLAINTIFF'S DEPOSITION EXHIBIT
405
7/10/01 AA

Ronald S. Milstein, Esq.
Vice President/Ass't. General Counsel
Culbro Corporation
387 Park Avenue South
New York, NY 10016-8899

Re: Maintenance of U.S. Trademark Registrations
Our Ref.: 246-GEN.

Dear Ron:

We would like to bring your attention to an issue which has been arising frequently in connection with General Cigar's United States trademark registrations.

As you know, in order to obtain a federal registration of a trademark, or maintain such a registration in good standing, it is necessary that the mark be used on the goods. Recent legislation has redefined the "use" requirement so as to require use, i.e. sales or shipments, in the regular course of business as opposed to "token use," i.e. a single or small number of shipments of goods bearing a mark, made for the purpose of securing or perpetuating rights in that mark. Such "token use" sufficed in the past to support the filing of a new application or an affidavit of use or renewal application in connection with an existing registration.

Moreover, a mark will now be deemed to have been abandoned if (a) it has not been "used" as defined above (i.e. shipments in the regular course of business) for any period of time greater than two years and (b) it cannot be proven that an intention to resume such "use" existed during that time period. Case decisions have also held that even where legitimate use of a mark has resumed, an intervening period of abandonment constitutes

Blumberg No. 6114
DEFENDANT'S EXHIBIT
D318

CONFIDENTIAL
UNDER PROTECTIVE ORDER
GCP 0089.247

grounds for the cancellation of a registration by interested third parties. See, e.g., AmBrit, Inc. v. Kraft, Inc., 805 F.2d 974 (11th Cir. 1986).

In view of the foregoing, we recommend that General Cigar review its inventory of trademarks and try to determine if there are any important marks that are not being used in the regular course of business. For marks where the period of non-use has not yet reached two years, any plans to resume use should be expedited. If any such mark has not been used for any period of two or more years, it would be advisable to file a new application for its registration. The new application can be based on use in commerce if shipments in the regular course of business are presently being made, or intent to use, if shipments in the regular course of business are planned to resume in the near future. In either case, the newly obtained registration would stand on firmer ground than the previous registration.

It is especially important in view of the new laws that no mark of ongoing interest to the company be allowed to go unused in the regular course of business for any substantial period of time. Monitoring of the usage of important trademarks is therefore advisable in order to assure the continued viability of existing registrations as well as General Cigar's underlying rights in connection with those marks.

Please call me if you have any questions regarding the foregoing or if you wish to file fresh applications for any General Cigar trademarks.

Very truly yours,

Scott Greenberg

SG:cm

cc: Mr. Dan Waters
Harry C. Marcus, Esq.

CONFIDENTIAL
UNDER PROTECTIVE ORDER
GCP 0089.248

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 320

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VIA FEDERAL EXPRESS

United States Customs Service
Intellectual Property Rights Branch (OR&R)
Franklin Court
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Re: Recordation of Trademark No. 1,898,273
For The Mark COHIBA
Our Ref.: 0246-0130US1

Dear Sirs:

Enclosed for recordation, pursuant to 19 C.F.R. §133, are one certified status copy and five photocopies thereof of United States Trademark Registration No. 1,898,273 for the mark COHIBA, as registered in International Class 34 on June 6, 1995, along with a check for $190.00 to cover the recordation fee.

On behalf of the trademark owner, General Cigar Co., Inc., we make the following representations as required by 19 C.F.R. §133:

(1) All right, title and interest in the mark COHIBA, Registration No. 1,898,273, is in General Cigar Co., Inc., a corporation organized and

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Under Protective Order
BM 00744

DEFENDANT'S EXHIBIT
D320

MORGAN & FINNEGAN, L.L.P.

existing under the laws of the State of Delaware with a place of business at 320 West Newberry Road, Bloomfield, Connecticut 06002;

(2) The goods which bear the mark COHIBA are manufactured in the Dominican Republic by General Cigar Dominicana, of Santiago, Dominican Republic and in Jamaica by Cifuentes y Cia, Ltd., of Kingston, Jamaica. Both General Cigar Dominicana and Cifuentes y Cia, Ltd. are under common ownership with General Cigar Co., Inc. and are authorized to use the trademark abroad. Merchandise manufactured and/or sold by either of these related companies bearing the trademark "COHIBA" may be imported by anyone.

(3) Other than General Cigar Dominicana, of Santiago, Dominican Republic and Cifuentes y Cia, Ltd., of Kingston, Jamaica, there are no foreign persons or business entities authorized or licensed by General Cigar Co., Inc. to use the mark COHIBA, Registration No. 1,898,273.

Please advise if you need any further information or assistance.

Thank you for your attention.

Very truly yours,

Scott Greenberg

SG:cm

195473_1

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

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Habanos s.a.

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

In the matter of Trademark Registration No. 1147309
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GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 502

WW

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 602

3-31-00

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a. CUBATABACO, Plaintiff, - against - CULBRO CORPORATION and GENERAL CIGAR CO., INC. Defendants,	97 Civ. 8399 (RWS)

RESPONSE OF EMPRESA CUBANA DEL TABACO D.B.A CUBATABACO TO DEFENDANTS CULBRO CORPORATION AND GENERAL CIGAR CO., INC.'S MODIFIED FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS

Plaintiff, Empresa Cubana del Tabaco d.b.a. Cubatabaco ("Cubatabaco"), by and through counsel, hereby submits the following Responses and Objections of Cubatabaco To Defendants Culbro Corporation and General Cigar Co., Inc.'s Modified First Request For Production Of Documents And Things, served on February 25, 2000.

GENERAL OBJECTIONS AND RESPONSES

1. Cubatabaco objects to the document requests, definitions and instructions to the extent that they impose obligations different from or in addition to the requirements of

Blumberg No. 5114 DEFENDANT'S EXHIBIT D602

Fed.R.Civ.P. 26, 34.

2. Cubatabaco objects to the document requests to the extent they require disclosure of information that is protected by the attorney-client privilege, attorney work product privilege, or any other applicable privilege or is otherwise protected from disclosure under applicable privileges, laws, or rules of the Republic of Cuba or the United States of America. Cubatabaco further objects to providing any information concerning privileged documents that would, in effect, reveal privileged information.

3. Cubatabaco objects to the document requests to the extent they may be construed to request disclosure of information not relevant to this proceeding or not reasonably calculated to lead to the discovery of admissible evidence.

4. Cubatabaco objects to the document requests to the extent that they are vague, ambiguous, overbroad, oppressive, or unduly burdensome.

5. Cubatabaco objects to the document requests to the extent they are not related to the time period and subject matter at issue in this action. Cubatabaco objects to the document requests demand for "all" documents or "each and every" document in the specified category as unduly burdensome and overbroad.

6. Cubatabaco objects to the document requests to the extent they seek information already in the possession of Defendants, including documents previously produced by Defendants, submitted by Cubatabaco in affidavits and exhibits, that is publicly available, including in S.E.C. filings, books, magazines, newspapers, and other published media, or concerning litigation in which Defendants have been involved, including *General Cigar Co, Inc.* v. *G.D.M. Inc.*, 97 Civ. 7783 (RWS) (S.D.N.Y.) ("GDM Litigation").

7. Cubatabaco reserves the right to supplement or amend any and all parts of the responses provided herein, and to object to the admissibility in evidence of any of the information contained in the responses, any portion of the documents that may be produced in response to Defendants' requests, and any information contained in the documents.

8. Cubatabaco submits these responses without conceding the relevancy or materiality of the subject matter of any document requested.

9. Cubatabaco objects to the document requests to the extent they call for the production of confidential business information without the entry of a Protective Order.

10. Cubatabaco objects to the document requests to the extent they call for the production of information concerning settlement discussions or negotiations with Defendants after the filing of this lawsuit in November 1997, which is contrary to the understanding and agreement of the parties.

11. Defendants' document requests are frequently repetitive, overlapping, and cumulative; therefore, the identification of documents as responsive to one or more document requests should not be construed to mean documents are not responsive to other requests.

12. Cubatabaco's general objections shall be deemed to continue throughout the responses to the specific document requests that follow, even where not further referred to in such responses.

Without waiver of the foregoing objections, Cubatabaco specifically responds and objects to plaintiffs' document requests as follows:

SPECIFIC RESPONSES AND OBJECTIONS TO DEFENDANTS' REQUESTS TO PRODUCE DOCUMENTS

Document Request No. 1

All documents and things concerning:

a) the corporate status of Cubatabaco, including but not limited to any of its current, predecessor or successor subsidiaries or divisions;

b) the identity and location of the officers and directors and shareholders of Cubatabaco;

c) the place(s) of Cubatabaco's business;

d) other companies affiliated with Cubatabaco; and

e) the identification and nature and financial resources of the business(es) carried on by Cubatabaco.

Why needed?

Response to Document Request No. 1

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents to (a) - (d), and objects to, and will not produce documents responsive to (e) on the grounds of General Objections 2-4.

Document Request No. 2

All documents and things concerning and/or supporting Cubatabaco's allegation that Plaintiff's COHIBA Mark has been used by Cubatabaco as a trademark since at least as early 1969.

Response to Document Request No. 2

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents.

Document Request No. 3

All documents and things which are the basis of, evidence of, or tend to support each and every allegation of the complaint.

Response to Document Request No. 3

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents.

Document Request No. 4

All documents and things concerning, discussing, reflecting or relating to any actual or potential filing of an application to register the mark COHIBA in the United States on behalf of Cubatabaco or any other Cuban entity.

Response to Document Request No. 4

Subject to and as limited by the General Objections and Responses of Cubatabaco, including objection on grounds of privilege, Cubatabaco will produce responsive documents, up to the date of any such filing.

Document Request No. 5

All documents and things concerning, discussing, reflecting or relating to any actual or potential filing by Cubatabaco of any notice of opposition, petition for cancellation, or civil action against any of General Cigar's United States applications or registrations for the mark COHIBA or General Cigar's use thereof.

Response to Document Request No. 5

Subject to and as limited by the General Objections and Responses of Cubatabaco, including objection on grounds of privilege, Cubatabaco will produce responsive documents, up to the date

of any such filing.

Document Request No. 6

All documents and things concerning, discussing, reflecting or relating to any actual or potential filing by Cubatabaco of any notice of opposition, petition for cancellation, or civil action against any of General Cigar's United States applications or registrations for the mark COHIBA as filed, obtained or made by any party other than the parties to this action, up to the date of any such filing.

Response to Document Request No. 6

Subject to and as limited by the General Objections and Responses of Cubatabaco, including objection on grounds of privilege, Cubatabaco will produce responsive documents, up to the date of any such filing.

Document Request No. 7

All documents which discuss or relate to or reflect Cubatabaco's knowledge of General Cigar's use of the mark COHIBA or any General Cigar's trademark applications or registrations therefor.

Response to Document Request No. 7

Subject to and as limited by the General Objections and Responses of Cubatabaco, including objection on grounds of privilege, Cubatabaco will produce responsive documents prior to January 15, 1997 (the date upon which Cubatabaco filed a cancellation petition), with respect to registration, and prior to the commencement of this action otherwise .

Document Request No. 8

All documents relating to or reflecting any actual or potential or contemplated manufacture,

production, marketing, distribution, or advertising of products for sale in the United States under the mark COHIBA by Cubatabaco during (a) period of 1978-1990; and (b) period of 1990 to the present.

Response to Document Request No. 8

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are publicly available, Cubatabaco will produce responsive documents as regards sales in the United States when such is lawfully permitted.

Document Request No. 9

All documents and things constituting communications or discussions about or containing reference to General Cigar's use, ownership, registration, attempted registration or other claim of right in the mark COHIBA with respect to United States, including both published and unpublished documents.

Response to Document Request No. 9

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that the Request may call for documents concerning settlement discussions or negotiations with Defendants after the commencement of this lawsuit, Cubatabaco will produce responsive documents for the period prior to January 15, 1997 with respect to registrations and prior to the commencement of this action otherwise, including documents concerning settlement discussions with Defendants, if any.

Document Request No. 10

All documents and things concerning, relating to or reflecting the sale of Cubatabaco's COHIBA cigars to United States citizens.

Response to Document Request No. 10

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents reflecting sales of cigars in Cuba.

Document Request No. 11

All documents and things concerning, reflecting or relating to any investment or ownership interest in whole or in part which Cubatabaco has in Hunters & Frankau, Havana House, or any other wholesaler or retailer of Cubatabaco's COHIBA cigars.

? what or for?

Response to Document Request No. 11

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco states it has no documents concerning any investment or ownership interest in Hunters & Frankau or Havana House. Cubatabaco objects to and will not produce responsive documents, if any, on the grounds of General Objections 2-4.

Document Request No. 12

All documents and things reflecting, concerning, recording, or constituting communications between (a) representatives of either Cubatabaco, Habanos S.A., or the Cuban government and (b) representatives of General Cigar.

Response to Document Request No. 12

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that the Request calls for documents concerning settlement discussion or negotiations with Defendants after the commencement of this lawsuit, plaintiff will produce responsive documents for the period prior to the commencement of this lawsuit.

Document Request No. 13

All documents and things reflecting, concerning, recording, or constituting communications between (a) representatives of either Cubatabaco, Habanos S.A., or the Cuban government and (b) representatives of G.D.M. Inc. d/b/a Global Direct Marketing, Raymond Parker, or Glen Miller.

Response to Document Request No. 13

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents, if any.

Document Request No. 14

All documents and things reflecting, concerning, recording, or constituting communications between (a) representatives of either Cubatabaco, Habanos S.A., or the Cuban government and (b) representatives of Monte Cristi de Tabaco, CXA.

Response to Document Request No. 14

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents, if any.

Document Request No. 15

All documents concerning or relating to the use of the mark COHIBA in the United States in connection with the importation, distribution, sale or advertising of cigars by any parties other than the parties to this action, and any action taken by Cubatabaco with regard thereto.

Response to Document Request No. 15

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents, if any. Cubatabaco does not intend to produce documents concerning the GDM Litigation that have previously been produced by Defendants or

that are publicly available, other than as stated in Response to Request No. 13.

Document Request No. 16

All documents and things concerning, reflecting or relating to knowledge by Cubatabaco of any actions taken by General Cigar against the use of COHIBA in the United States in connection with the importation, distribution, sale or advertising of cigars in the United States by parties other than the parties to this action.

Response to Document Request No. 16

Subject to and as limited by the General Objections and Responses of Cubatabaco, including as it concerns the GDM Litigation, Cubatabaco will produce responsive documents, if any.

Document Request No. 17

All documents concerning or relating to any continuous use or lack thereof of the mark COHIBA by Cubatabaco, including, but not limited to all documents showing all sales of Cubatabaco's COHIBA cigars.

Response to Document Request No. 17

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents.

Document Request No. 18

All documents and things or relating to Cubatabaco's intent to discontinue, suspend or resume use of the COHIBA mark at any time.

Response to Document Request No. 18

Plaintiff is not aware of any such documents, as Cubatabaco's use of the Cohiba mark has been continuous since prior to its initial registration.

Document Request No. 19

All documents and things concerning or relating to the lapsing of or the decision to let lapse Cuban registration number 110 044 dated March 31, 1972, as referred to in the declaration of Adargelio Garrido de la Grana.

Response to Document Request No. 19

Subject to and as limited by the General Objections and Responses of Cubatabaco, and Cubatabaco's objection to Defendant's characterizations in this Request, Cubatabaco will produce responsive documents.

Document Request No. 20

All documents and things concerning and/or supporting Cubatabaco's allegation that Plaintiff's COHIBA brand cigars have been available for purchase in stores in Cuba since the early 1970's.

Response to Document Request No. 20

Subject to and as limited by the General Objections and Responses of Cubatabaco, including the availability of responsive documents in published materials, including materials previously submitted by plaintiff, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 21

All documents and things concerning and/or supporting Cubatabaco's allegation that Plaintiff's COHIBA brand cigars were well-known, well recognized or famous in the United States prior to February 13, 1978.

Response to Document Request No. 21

Subject to and as limited by the General Objections and Responses of Cubatabaco, including

the availability of responsive documents in published materials, including materials previously submitted by plaintiff, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 22

All documents and things concerning and/or supporting Cubatabaco's allegation that Plaintiff's COHIBA brand cigars were well-known, well recognized or famous in the United States prior to December 30, 1992.

Response to Document Request No. 22

Subject to and as limited by the General Objections and Responses of Cubatabaco, including the availability of responsive documents in published materials, including materials previously submitted by plaintiff, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 23

All documents and things concerning and/or supporting Cubatabaco's allegation that Plaintiff's COHIBA Mark is presented in a type face which is unique and distinctive in the United States.

Response to Document Request No. 23

Subject to and as limited by the General Objections and Responses of Cubatabaco, including the availability of responsive documents in published materials, including but not limited to: "Cigar Aficionado" magazine; "Smoke"magazine; Zino Davidoff, THE CONNOISSEUR'S BOOK OF THE CIGAR (1969); Antonio Nuñez Jiménez, EL VIAJE DEL HABANO (1988); Bernard LeRoy & Maurice Szafran, LA GRANDE HISTOIRE DU CIGARE (1989); Paul B. K. Garmirian, THE GOURMET GUIDE TO CIGARS (1990); Antonio Nuñez Jiménez, MARQUILLAS CIGARRERAS CUBANAS (1992); Anwer Bari & Simon Chase, THE CIGAR COMPANION: A CONNOISSEUR'S GUIDE (1995) Cigar Aficionando, CIGAR

AFICIONADO'S WORLD OF CIGARS (1996); Cigar Aficionado, CIGAR AFICIONADO'S BUYING GUIDE TO PREMIUM CIGARS (1996); John-Manuel Androite, Andrew E. Falk, and B. Henry Pérez, THE ART OF FINE CIGARS (1996); Barnaby Conrad, III, THE CIGAR (1996); H. Paul Jeffers and Kevin Gordon, THE GOOD CIGAR: A CELEBRATION OF THE ART OF CIGAR SMOKING (1996); Eumelio Espino Marrero, CUBAN CIGAR TOBACCO: WHY CUBAN CIGARS ARE THE WORLD'S BEST (1996); Jane Resnick, INTERNATIONAL CONNOISSEUR'S GUIDE TO CIGARS (1996); Joel Sherman, NAT SHERMAN'S A PASSION FOR CIGARS: SELECTING, PRESERVING, SMOKING AND SAVORING ONE OF LIFE'S GREATEST PLEASURES (1996); Charles del Todesco, HAVANE CIGARE DE LÉGENDE (1996); Triumph Books, RUDMAN'S COMPLETE GUIDE TO CIGARS: HOW TOO FIND, SELECT & SMOKE THEM (1996); Guillermo Cabrera Infante, HOLY SMOKE (1997); Gerard Pere et Fils, HAVANA CIGARS (1997); Sonia Weiss, THE CIGAR ENTHUSIAST: THE DEFINITIVE GUIDE TO SELECTING, STORING AND SMOKING CIGARS (1997); CATALOGUE BARCLAY-REX (1997/98); Cigar Aficionado, CIGAR AFICIONADO'S ART OF CIGARS (1998), and materials previously submitted by plaintiff, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 24

All documents and things which tend to show that the typeface of Plaintiff's COHIBA Mark was distinctive to United States consumers prior to February 13, 1978.

Response to Document Request No. 24

Subject to and as limited by the General Objections and Responses of Cubatabaco, including the availability of responsive documents in published materials, including but not limited to the list set forth in the Response to Request No. 23, and materials previously submitted by plaintiff, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 25

All documents and things which tend to show that the typeface of Plaintiff's COHIBA Mark was distinctive to United States consumers prior to December 30, 1992.

Response to Document Request No. 25

Subject to and as limited by the General Objections and Responses of Cubatabaco, including the availability of responsive documents in published materials, including but not limited to the list set forth in the Response to Request No. 23, and materials previously submitted by plaintiff, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 26

All documents and things relating to or tending to show visitors to Cuba from the U.S. imported Plaintiff's COHIBA cigars back into the United States prior to February 13, 1978.

Response to Document Request No. 26

Subject to and as limited by the General Objections and Responses of Cubatabaco, including the availability of responsive documents in published materials, and materials previously submitted by plaintiff, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 27

All documents and things relating to or tending to show visitors to Cuba from the U.S. imported Plaintiff's COHIBA cigars back into the United States prior to December 30, 1992.

Response to Document Request No. 27

Subject to and as limited by the General Objections and Responses of Cubatabaco, including the availability of responsive documents in published materials, and materials previously submitted by plaintiff, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 28

All documents and things concerning and/or supporting Cubatabaco's allegation that when a United States consumer saw or heard the word "COHIBA", he or she would associate it with plaintiff's COHIBA cigar prior to February 13, 1978.

Response to Document Request No. 28

Subject to and as limited by the General Objections and Responses of Cubatabaco, including the availability of responsive information in published materials and in documents already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 29

All documents and things concerning and/or supporting Cubatabaco's allegation that when a United States consumer saw or heard the word "COHIBA", he or she would associate it with plaintiff's COHIBA cigar prior to December 30, 1992.

Response to Document Request No. 29

Subject to and as limited by the General Objections and Responses of Cubatabaco, including the availability of responsive information in published materials and in documents already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 30

All documents and things concerning and/or supporting plaintiff's allegation that defendants have engaged in bad faith conduct at any time from 1978 to present.

Response to Document Request No. 30

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession,

Cubatabaco will produce additional responsive documents, if any.

Document Request No. 31

All documents and things concerning and/or supporting Cubatabaco's allegation that Culbro Corporation had knowledge of Cubatabaco's prior use, registration or employment of its COHIBA mark in Cuba when it applied to register the COHIBA mark in the United States.

Response to Document Request No. 31

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 32

All documents and things concerning and/or supporting defendant's allegation that any statement in the application filed in the United States by Culbro for the COHIBA mark on March 13, 1978 was materially false and/or made with an intent to deceive the Trademark Office.

Response to Document Request No. 32

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 33

All documents and things concerning and/or supporting Cubatabaco's allegation that Culbro applied to register the COHIBA mark in the United States on March 13, 1978 in bad faith.

Response to Document Request No. 33

Subject to and as limited by the General Objections and Responses of Cubatabaco, including

that responsive documents are in published materials or already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 34

All documents and things concerning and/or supporting Cubatabaco's allegation that General Cigar did not make or intend to make any bona fide commercial use of the COHIBA mark as of March 13, 1978.

Response to Document Request No. 34

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 35

All documents and things concerning and/or supporting Cubatabaco's allegation that General Cigar did not make or intend to make any bona fide commercial use of the COHIBA mark between March 13, 1978 and September 15, 1997.

Response to Document Request No. 35

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 36

All documents and things concerning and/or supporting Plaintiff's allegation that the Sections 8 and 15 Declaration filed by Culbro with the Trademark Office on July 16, 1986 was in any way false.

Response to Document Request No. 36

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 37

All documents and things concerning and/or supporting Plaintiff's allegation that the January 15, 1987 assignment of the COHIBA mark from Culbro Corporation to General Cigar Co., was in any way invalid.

Response to Document Request No. 37

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 38

All documents and things concerning and/or supporting Plaintiff's allegation that when General Cigar filed to register the mark COHIBA on December 30, 1992 it did so with full knowledge of Cubatabaco's prior registration, use and or employment of its COHIBA mark in Cuba.

Response to Document Request No. 38

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 39

All documents and things concerning and/or supporting defendant's allegation that any

statement in the application filed in the United States by Culbro of the COHIBA mark on December 30, 1992 was materially false and/or made with an intent to deceive the Trademark Office.

Response to Document Request No. 39

Assuming that by "defendant's," Defendants mean "plaintiff's," subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 40

All documents and things concerning and/or supporting Cubatabaco's allegation that Culbro applied to register the COHIBA mark in the United States on December 30, 1992 in bad faith.

Response to Document Request No. 40

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 41

All documents and things concerning and/or supporting Cubatabaco's allegation that defendants' marketing and/or advertising of defendants' COHIBA mark is designed to trade on the fame and /or goodwill of Cubatabaco's COHIBA cigars, or to deceive the public into believing that defendants' COHIBA cigars are the same as plaintiff's COHIBA cigars, or are sponsored, endorsed, approved by or associated with plaintiff, or share a common origin, common source, common history or heritage with plaintiff's COHIBA cigars, or are of the same quality and character as plaintiff's COHIBA cigars.

Response to Document Request No. 41

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 42

All documents and things concerning and/or supporting Cubatabaco's allegation that use of the term "Cuban seeds" in defendants' advertising is in any way false or misleading.

Response to Document Request No. 42

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 43

All documents and things concerning and/or supporting Cubatabaco's allegation that any of defendants have falsely stated or implied that defendants' COHIBA cigar and Plaintiff's COHIBA cigar have a common Cuban history and/or heritage.

Response to Document Request No. 43

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 44

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive documents are in published materials or already in defendants' possession,

Cubatabaco will produce additional responsive documents, if any.

Response to Document Request No. 44

Subject to and as limited by the General Objections and Responses of Cubatabaco, documents are already in published materials, in defendants' possession, Cubatabaco will produce additional responsive documents.

Document Request No. 45

All documents and things concerning and/or supporting Cubatabaco's allegation in its Memorandum of Law In Support Of The Setting Of A Date For A Hearing On A Preliminary Injunction And For An Order Of Expedited Discovery that it will be irreparably harmed absent preliminary injunctive relief.

Response to Document Request No. 45

Pursuant to the general objections of Cubatabaco, including that the requested documents are irrelevant as plaintiff is not seeking preliminary injunctive relief, and that the Request is vague and overbroad in that Plaintiff's proof will be based on the entire record in this case, Cubatabaco will produce responsive documents.

Document Request No. 46

All documents and things concerning any survey, poll, questionnaire, name evaluation, focus group, investigation or other form of measurement of opinion or perception (including pilot, preliminary and informal surveys and drafts and discussions of the same) concerning issues of:

a) whether there is a likelihood of confusion between Plaintiff's COHIBA Mark and Defendants' COHIBA Mark; and

c) the existence or extent of public or trade recognition, fame, or secondary

meaning of Plaintiff's COHIBA Mark or Defendants' COHIBA mark.

Response to Document Request No. 46

Subject to and as limited by the General Objections and Responses of Cubatabaco, no such documents exist.

Document Request No. 47

All documents and things concerning the products offered or transported by Plaintiff or any distributor of Plaintiff's bearing Plaintiff's COHIBA Mark and the locations where those products are offered.

Response to Document Request No. 47

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that the request is overly burdensome, Cubatabaco will produce responsive documents, and will produce responsive things subject to appropriate licensing by OFAC and as limited by agreement between the parties, if such agreement is concluded.

Document Request No. 48

a) All Plaintiff's advertisements, selling letters, and promotional material bearing plaintiff's COHIBA Mark or referring to products using Plaintiff's COHIBA Mark or any mark containing the term COHIBA, including catalogues, price lists, sales, sheets, brochures, print, television and radio advertisements;

b) Documents sufficient to identify where and when said advertisements, selling letters and promotional material were used;

c) Documents sufficient to identify to whom said advertising, selling letters and promotional material was sent; and,

Response to Document Request No. 48

Subject to and as limited by the General Objections and Responses of Cubatabaco, including the availability of responsive information in published materials, Cubatabaco will produce responsive documents.

Document Request No. 49

All documents and things which relate to or concern plaintiff's methods and/or channel of marketing and distribution of Plaintiff's COHIBA cigar products.

Response to Document Request No. 49

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents.

Document Request No. 50

All documents concerning Cubatabaco's intended market, customers and users for COHIBA cigars.

Response to Document Request No. 50

Subject to and as limited by the General Objections and Responses of Cubatabaco, including the availability of responsive information in published materials, Cubatabaco will produce responsive documents.

Document Request No. 51

All documents concerning confusion or potential confusion between cigars bearing Plaintiff's COHIBA Mark and cigars bearing Defendants' COHIBA Mark.

Response to Document Request No. 51

Subject to and as limited by the General Objections and Responses of Cubatabaco, including

the availability of responsive information in published materials and in documents already in defendants' possession, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 52

All documents concerning the channels of trade in which Defendants' COHIBA cigars are or have ever been sold.

Response to Document Request No. 52

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that the subject documents are uniquely in the possession of Defendants, or are in published materials, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 53

Examples or copies of each and every advertisement, display and item of promotional material and any and all drafts of same, whether used or not, in connection with any of Cubatabaco's COHIBA cigars.

Response to Document Request No. 53

Subject to and as limited by the General Objections and Responses of Cubatabaco, including the availability of responsive information in published materials, Cubatabaco will produce responsive documents.

Document Request No. 54

Documents sufficient to disclose all advertising expenditures incurred by Cubatabaco in connection with any and all of its cigars that now bear or have ever borne the name COHIBA.

Response to Document Request No. 54

Subject to and as limited by the General Objections and Responses of Cubatabaco,

Cubatabaco will produce responsive documents, if any.

Document Request No. 55

All documents concerning communications between Cubatabaco and any third party, including advertising agencies, publishers, sellers and vendors, relating to any advertising, promotion or marketing of any of Cubatabaco's COHIBA cigars.

Response to Document Request No. 55

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents, if any.

Document Request No. 56

All reports reflecting sales of cigars manufactured, distributed or marketed by Cubatabaco that bear the name COHIBA, including sales of said cigars by Cubatabaco in each calender year in which such sales have been made up until the present.

Response to Document Request No. 56

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents.

Document Request No. 57

Documents sufficient to indicate sales figures, wholesale and retail, for all of Cubatabaco's COHIBA cigars.

Response to Document Request No. 57

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents.

Document Request No. 58

All documents concerning sales solicitation by Cubatabaco for all of its cigars that bear the name COHIBA.

Response to Document Request No. 58

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents, if any.

Document Request No. 59

All documents concerning the retail stores or entities to which any of Cubatabaco's COHIBA cigars are distributed or in which such products are sold, including the names of said stores or entities where Cubatabaco COHIBA cigars were offered for sale in each calendar year beginning in 1978 to the present.

Response to Document Request No. 59

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents, if any.

Document Request No. 60

All documents concerning the quality of Cubatabaco's COHIBA cigars.

Response to Document Request No. 60

Subject to and as limited by the General Objections and Responses of Cubatabaco, including published materials and information that Cubatabaco previously submitted to Defendants, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 61

All documents concerning the quality of Defendants' COHIBA cigars.

Response to Document Request No. 61

Subject to and as limited by the General Objections and Responses of Cubatabaco, including published materials and information that Cubatabaco previously submitted to Defendants, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 62

Documents sufficient to indicate the identify of the manufacturers and the manufacturing locations for any Cubatabaco's COHIBA cigars.

Response to Document Request No. 62

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents.

Document Request No. 63

Documents sufficient to disclose all licenses granted by Cubatabaco in connection with the manufacture, production, marketing or distribution of any of their COHIBA cigars.

Response to Document Request No. 63

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents, if any.

Document Request No. 64

All documents that constitute organizational charts reflecting the organization of Cubatabaco and Habanos, S.A.

Response to Document Request No. 64

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents.

Document Request No. 65

All documents concerning actual or planned surveys, consumer perception studies or other investigations or studies made by or on behalf of Cubatabaco concerning COHIBA cigars.

Response to Document Request No. 65

No such responsive documents exist.

Document Request No. 66

All reports or analyses by Cubatabaco or third parties concerning the purchasing patterns, responses, attitudes, preferences or habits of consumers of either Cubatabaco's or Defendants' COHIBA cigars.

Response to Document Request No. 66

Cubatabaco has no such documents except for published materials, which materials either have been produced to Defendants or are equally available to Defendants.

Document Request No. 67

All documents concerning any studies of demographics of purchasers or likely purchasers either Cubatabaco's or Defendants' COHIBA cigars, including the age, ethnicity or income of customers or potential customers thereof.

Response to Document Request No. 67

Cubatabaco has no such documents except for published materials, which materials either have been produced to Defendants or are equally available to Defendants.

Document Request No. 68

All documents concerning any product testing of either Cubatabaco's or General Cigars, COHIBA cigars, with respect to quality, taste, consumer preference, or any other characteristic.

Response to Document Request No. 68

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that responsive information is available in published documents including, but not limited to, *Cigar Aficianado* and *Smoke* magazines, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 69

One sample of each of Cubatabaco's products that is packaged or have ever been packaged using the name COHIBA.

Response to Document Request No. 69

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that the request is overly burdensome, Cubatabaco will produce responsive documents, and will produce responsive things subject to appropriate licensing by OFAC and as limited by agreement between the parties, if such agreement is concluded.

Document Request No. 70

Samples of each of the packaging or shipping materials used in connection with any of Cubatabaco's products that bear the name COHIBA.

Response to Document Request No. 70

Subject to and as limited by the General Objections and Responses of Cubatabaco, Cubatabaco will produce responsive documents, subject to appropriate licensing by OFAC, as necessary.

Document Request No. 71

All reviews, reports and mentions in any publication or by any third party of Cubatabaco's COHIBA cigars..

Response to Document Request No. 71

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that Cubatabaco has previously submitted responsive documents and that such materials are publicly available, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 72

All reviews, reports and mentions in any publication of by any third party of Defendants' COHIBA cigars.

Response to Document Request No. 72

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that Cubatabaco has previously submitted responsive documents and that such materials are publicly available, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 73

All documents concerning any comparison between any of Cubatabaco's COHIBA cigars and Defendants' COHIBA cigars.

Response to Document Request No. 73

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that Cubatabaco has previously submitted responsive documents and that such materials are publicly available, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 74

All documents concerning the meaning of word COHIBA.

Response to Document Request No. 74

Subject to and as limited by the General Objections and Responses of Cubatabaco, including

that Cubatabaco has previously submitted responsive documents and that such materials are publicly available, Cubatabaco will produce additional responsive documents, if any.

Document Request No. 75

All documents and things other than those already filed by plaintiff in this case relating to plaintiff's knowledge of defendant's COHIBA mark, defendant's COHIBA cigars and defendant's rights to use the mark in the United States.

Response to Document Request No. 75

Subject to and as limited by the General Objections and Responses of Cubatabaco, including that the Request may call for documents concerning settlement discussions or negotiations with Defendants after the commencement of this lawsuit, Cubatabaco will produce responsive documents for the period prior to January 15, 1997 with respect to registrations and prior to the commencement of this action otherwise.

Dated: New York, New York
March 31, 2000

RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.

By: _____
MICHAEL KRINSKY (MK 2428)
DAVID B. GOLDSTEIN (DG 8291)
740 Broadway, 5th Floor
New York, New York 10003
(212) 254-1111
Attorneys for Plaintiff,
Empresa Cubana del Tabaco
d.b.a. Cubatabaco

To: Janet Dore, Esq.
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154
Attorneys for Defendants Culbro Corporation and General Cigar Co., Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of March, 2000, a true and correct copy of the foregoing Response of Empresa Cubana Del Tabaco d/b/a/ Cubatabaco to Defendants Culbro Corporation and General Cigar Co., Inc.'s Modified First Request for Production of Documents and Things was served by hand on the following:

Janet Dore, Esq.
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154

David B. Goldstein (DG 8291)

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 603

Michael Krinsky, Esq. (MK 4503)
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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a. CUBATABACO, Plaintiff, - against - CULBRO CORPORATION, and GENERAL CIGAR CO., INC. Defendants.	97 Civ. 8399 (RWS)

DECLARATION OF ANA LOPEZ

Ana Lopez Garcia, hereby declares under penalty of perjury under the laws of the United States:

1. I am a citizen of Cuba, and I reside in the City of Havana, Cuba.

2. I recently found a document while reviewing old files which were in storage which shows that Tom Hinds planned to come to Cuba in late January 1994. (Attached to this declaration is a true and correct copy of that document).

3. I also found a document refreshing my recollection that the 1993 meeting of Cubatabaco's international distributors that Tom Hinds attended was held in Cannes, France. (Attached to this declaration is a true and correct copy of that document).

4. On the basis of this information I now recall and believe that Tom Hinds came to Cuba in late January 1994 and that he gave the box of cigars with the name COHIBA imprinted on it and which was produced by General Cigar to Sr. Padron in late January 1994 and that Sr. Padron gave the box to me shortly thereafter in early February 1994. My present recollection and belief, based on these documents, differs from my testimony at my deposition on May 23, 2000 when I did not have this document or information in mind.

Signed this 14th day of January, 2002

ANA LOPEZ GARCIA

Havana, September 2nd 1993

Havana House

Cigar & Tobacco Merchants Ltd.

Cubatabaco
Havana Cuba
Attention: Francisco Padron

August 13, 1993

Dear Mr. Padron,

I have received all the information from Luc Vercammen with regards to the Canne meeting and the launch of the Cohiba Lines 1492.

I was also talking to Marvin Shanken about attending the launch and he as you know is in very high demand as as speaker for many Cigar Dinners that are now happening around the world and did express an interest in doing so at Canne for the launch.

I feel that we should invite him as a speaker in Canne and I know that he would except this invitation from you.

So if you agree, could you possibly have an invitation sent to him as a guest speaker. There is no doubt in my mind that he will cover this in his next issue (December) of Cigar Aficionado. He will cover the launch one way or the other, but I think he is an obvious choice to have as a speaker for this very special launch.

Thank you for your consideration, and look forward to your reply.

Regards

Tom Hinds

P.S. I will phone you next week (Monday) to further discuss this with you.

Thank You

9 Davies Avenue, Toronto, Ontario M4M 2A6 • Phone (416) 406-5644 • WATTS (800) 465-1941 • Fax (416) 406-3340
Cubatabaco Distributors for Canada

013 12.58

HAVANA TOR

#

1 511760 CTBCO CU
HAVANA TOR
CUBATABACO - LA HABANA
ATT. BERNARDO GONZALEZ

REF. 1ST. GROUP PROMOTIONAL TOBACCO TRIP.

30 1 94 08:30 HRS DEPARTURE FROM TORONTO. AIR TRANSAT FLIHGT
15:30 HRS ARRIVAL AT VARADERO. TRAVEL TO CHATEAU MI-
RAMAR HOTEL AT HAVANA CITY.

31 1 94 09:30 HRS. DEPARTURE FOR PINAR DEL RIO. CHECK IN AT
THE LA ERMITA HOTEL.

1.2.94 09:00 HRS. VISIT TOBACCO FIELDS AND WAREHOUSES. LATE
AFTERNOON RETURN TO HAVANA, CHATEAU MIRAMAR
HOTEL.

2.2 94 09:30 HRS. VISIT PARTAGAS FACTORY AND LA CASA DEL HA-
BANO.

3 2 94 09:30 HRS. AS PROGRAMED. AFTER LUNCH DEPARTURE TO VA-
RADERO, PARADISO HOTEL.

5.2 94 16:30 HRS. DEPARTURE TO TORONTO. TRANSAT FLIHGT 879.

PLEASE CONSIDER ALSO OTHER ACTIVITIES (LUNCHS,COCKTAILS,ETC)
AS PER YOUR SUGGESTED PROGRAM.

WE NEED THAT YOU RENT FOR OUR ACCOUNT A MINI TOYOTA COACH WITH
DRIVER FROM 31 1.94 TILL 3.2 94 PICKING US UP AT VARADERO AIR-
PORT AND LEAVING US AT THE PARADISO HOTEL AT VARADERO.
ALSO TO BOOK 14 ROOMS AT CHATEAU MIRAMAR HOTEL FOR ONE NIGHT ,
(30 1.94). 16 ROOMS AT LA ERMITA HOTEL FOR ONE NIGHT (31.1.94)
14 ROOMS AT CHATEAU MIRAMAR HOTEL FOR TWO NIGHTS (1,2.2.94):
14 ROOMS AT PARADISO HOTEL FOR 3 NIGHTS (3,4,5.2.94).

PAYMENTS OF MINI BUS AND HOTEL ACCOMODATIONS BY FOLLOWING VISA
CARDS: THOMAS HINDS NO. 4500 620 112 989 EXPIRING 11.95 AND
THOMAS HINDS NO. 4502 283 281 369 EXPIRING 9.95. ALSO WITH CASH.
ALL MEALS WILL BE PAID BY THE INDIVIDUALS AND WILL BE ORDERED
AT LA CARTE. OF COURSE ALL YOUR EXPENSES AND THE DRIVER'S WILL
BE COVERED BY US.
FOLLOWING: LIST OF PERSONALITIES INCLUDED IN THIS TRIP.
THOMAS HINDS, PETER DOBBS, P.SCROPOLIS, MICHAEL NOURI, TED
TANNENBAUM, S. CASSEL, F. ARGILAOOS, MEL HINDS, O. HUTCHINS,
L GOLDSMITH, MICHAEL PEAK (JOURNALIST - TORONTO SUN,
J. PANTOCIANO, V. COLBY AND JOHN PICTON (JOURNALIST - TORONTO
STAR).

REGARDS

TOM HINDS/ M. OLMEDO

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 604, Def. Ex. 5

PENGAD-Bayonne, N.J.
DEFENDANT'S EXHIBIT
5
5/23/00 AA

METRA /SEIS

EL MERCADO DE LOS PUROS HABANOS EN SUIZA. ESTUDIO CUALITATIVO A CONSUMIDORES Y CANALES DE DISTRIBUCION

INSTITUTO DE COYUNTURA DEL MINISTERIO DE COMERCIO EXTERIOR DE CUBA

Enero, 1989

P0307

Blumberg No. 5114
DEFENDANT'S EXHIBIT
D604

- MONTECRISTO

  Una marca de gran notoriedad, prestigiosa, de buena calidad, pero sin perfil particular (no se le conoce ninguna publicidad).

  Se critica mucho la presentación, que, al faltarle clase, desvaloriza el producto (" oro falso " o "madera recubierta de mal papel"...)

Las marcas de prestigio

- COHIBA (ligada a la figura de Fidel Castro): estética (fina, de bonito color) de gusto distinguido.
- HOYO, procedente de "la mejor región de Cuba".
- GLORIA: "Muy bueno, muy caro".
- ROMEO Y JULIETA.

Se citan cantidad de otras marcas y se valoran de diferente manera según los adictos a cada una (Partagás, Punch, Quintero, Sancho Panza...)

METRA
/SEIS

TABLAS DE RESULTADOS ESTUDIO
SOBRE CIGARROS HABANOS

CUBATABACO/CREACTUAL, S.A.

Marzo, 1988

P0309

METRA/6 E/7715 CIGARROS HABANOS % VERTICALES

		CIUDAD							F CONSUMO		PIDE
	TOTAL	Madrid	Barcelona	Valencia	Sevilla	Bilbao	San Sebastian	San tander	Heavy Consume	Light Consume	Marca
TOTAL	600	160	140	60	60	60	60	60	344	256	450
P.16.-MOMENTOS U OCASIONES DE CONSUMO DE CIGARROS HABANOS FUERA DE CASA											
B:CONSUME FUERA	459	126	84	41	50	52	50	56	256	203	338
Por la manana	7.4	7.9	3 6	22.0	4.0	5.8	6.0	7 1	11 3	2 5	8.9
Despues comer	56.6	33.3	63 1	70.7	42.0	82.7	72.0	64 3	60.9	51 2	58.0
Por la tarde	15.3	17 5	7 1	22.0	14.0	9 6	14 0	25 0	22.3	6 4	15 7
Despues cenar	14 8	3.2	8 3	12 2	10.0	21.2	40.0	28.6	17.6	11 3	18 0
Comidas profesio	12 4	15.9	16.7	9.8	14.0	1.9	18.0	3.6	12.1	12 8	13.3
En el trabajo	8.3	11.1	7.1	4.9	8.0	5.8	8.0	8 9	12 9	2 5	9 5
Reuniones/tertul	16 3	24.6	7.1	22.0	26.0	7.7	18.0	5 -	14.1	19.2	15 7
Espectac.deporti	19 8	23.0	17.9	22 0	32.0	15.4	22.0	5.4	18.4	21 7	21.9
Espectac taurino	7.4	11.1	2.4	4.9	12.0	5.8	6.0	7 1	7.4	7 4	7.7
Celebraciones	20.7	39.7	20 2	7.3	8.0	3.8	34.0	3 6	16.0	26 6	20.7
Cualq. .momento	2 4	2.4	3.6	4.9	2.0	3.8	0.0	0.0	3.5	1.0	2.1
Otros momentos	1 1	0.8	0.0	4 9	2.0	0.0	0 0	1 8	1.6	0 5	1.5
P.17.-MARCA MAS FRECUENTE DE CIGARROS HABANOS											
BASE:TOTAL	600	160	140	60	60	60	60	60	344	256	450
Cohiba	6 5	12.5	4.3	5.0	10.0	1.7	5.0	0.0	4 1	9.8	3 6
Davidoff	6.8	4.4	11 4	3.3	6.7	6.7	10 0	3 3	6.1	7.8	8.0
Dunhill	0 3	0 6	0 0	0 0	1 7	0 0	0 0	0 0	0 3	0 4	0.2
Flor de Cano	1.7	1.9	2.1	5 0	0.0	1.7	0.0	0.0	1 5	2.0	2.0
Fonseca	1.8	1.9	3.6	0.0	1.7	0.0	3.3	0.0	2.6	0.8	1.8
H Upmann	1 0	2.5	0 0	0 0	1.7	0.0	0.0	1 7	1.5	0.4	1.1
Montecristo	61.5	51.3	55.0	65 0	48.3	78.3	70.0	68 3	63.7	58.6	64.4
Partagas	10.0	14.4	10 0	5.0	18.3	5.0	6.7	3.3	9.6	10.5	9.6
Quintero	0 8	1.3	0 0	0.0	3.3	1.7	0.0	0.0	0.9	0.8	1.1
Romeo y Julieta	5 2	5.6	10 7	6 7	1.7	1.7	0 0	1 7	5 2	5.1	4.0
Sancho Panza	0.5	0.6	0.7	1 7	0.0	0 0	0 0	0.0	0.9	0 0	0.7
Los Statos	0.5	0.0	0 7	1 7	1.7	0.0	0.0	0.0	0.9	0 0	0 4
Troya	0.8	0.6	0 7	1.7	1.7	0.0	0.0	1 7	0.3	1 6	0.9
Churchill	0.3	0.0	0 7	0 0	0.0	0 0	1.7	0 0	0.3	0.4	0.4
Don Julian	0.7	2.5	0.0	0 0	0.0	0.0	0.0	0 0	0.9	0 4	0 7
Otras marcas	1.0	0.0	0 0	1.7	1.7	3.3	3.3	0.0	1.2	0 8	1.1
N.recuerda marca	0 5	0 0	0 0	3 3	1.7	0 0	0 0	0.0	0.3	0 8	0.0

METRA/6 E/7715 CIGARROS HABANOS % HORIZONTALES

		CIUDAD							F.CONSUMO		PIDE
	TOTAL	Madrid	Barcelona	Valencia	Sevilla	Bilbao	San Sebastian	San tander	Heavy Consume	Ligh Consume	Marca
TOTAL	600	26.7	23.3	10.0	10.0	10.0	10.0	10.0	57.3	42.7	75 0
P.16.-MOMENTOS U OCASIONES DE CONSUMO DE CIGARROS HABANOS FUERA DE CASA											
B:CONSUME FUERA	459	27.5	18.3	8.9	10 9	11.3	10.9	12.2	55 8	44.2	73 6
Por la manana	34	29 4	8.8	26.5	5.9	8.8	8.8	11.8	85.3	14 7	88 2
Despues comer	260	16.2	20.4	11.2	8.1	16.5	13 8	13.8	60 0	40 0	75 4
Por la tarde	70	31.4	8 6	12 9	10.0	7.1	10.0	20.0	81 4	18 6	75 7
Despues cenar	68	5 9	10.3	7.4	7.4	16.2	29.4	23.5	66.2	33.8	89.7
Comidas profesio	57	35.1	24.6	7.0	12.3	1.8	15.8	3.5	54 4	45.6	78.9
En el trabajo	38	36.8	15.8	5.3	10.5	7.9	10.5	13.2	86.8	13.2	84 2
Reuniones/tertul	75	41.3	8.0	12.0	17.3	5.3	12.0	4.0	48 0	52.0	70.7
Espectac.deporti	91	31.9	16.5	9.9	17.6	8.8	12.1	3 3	51 6	48.4	81.3
Espectac.taurino	34	41.2	5.9	5.9	17.6	8.8	8.8	11.8	55 9	44.1	76.5
Celebraciones	95	52.6	17.9	3.2	4.2	2.1	17.9	2.1	43.2	56.8	73 7
Cualq. momento	11	27.3	27.3	18.2	9.1	18.2	0.0	0.0	81 8	18.2	63 6
Otros momentos	5	20.0	0.0	40 0	20.0	0.0	0.0	20 0	80 0	20 0	100 0
P.17.-MARCA MAS FRECUENTE DE CIGARROS HABANOS											
BASE:TOTAL	600	26.7	23.3	10.0	10.0	10.0	10.0	10.0	57 3	42.7	75 0
Cohiba	39	51 3	15.4	7.7	15.4	2.6	7.7	0.0	35 9	64.1	41 0
Davidoff	41	17.1	39.0	4 9	9.8	9.8	14.6	4.9	51 2	48.8	87 8
Dunhill	2	50.0	0.0	0.0	50.0	0.0	0.0	0.0	50.0	50.0	50 0
Flor de Cano	10	30.0	30.0	30.0	0.0	10.0	0.0	0.0	50 0	50.0	90 0
Fonseca	11	27.3	45.5	0.0	9.1	0.0	18.2	0.0	81.8	18.2	72 7
H. Upmann	6	66.7	0.0	0 0	16.7	0.0	0.0	16.7	83.3	16.7	83.3
Montecristo	369	22.2	20.9	10.6	7.9	12.7	11.4	14 4	59.3	40.7	78.6
Partagas	60	38.3	23.3	5.0	18 3	5.0	6.7	3.3	55 0	45 0	71 7
Quintero	5	40.0	0.0	0.0	40 0	20.0	0.0	0.0	60 0	40 0	100 0
Romeo y Julieta	31	29 0	48.4	12.9	3 2	3.2	0.0	3.2	58.1	41 9	58 1
Sancho Pánza	3	33.3	33.3	33.3	0.0	0.0	0.0	0 0	100.0	0.0	100.0
Los Statos	3	0.0	33.3	33.3	33.3	0.0	0.0	0.0	100.0	0.0	66.7
Troya	5	20.0	20.0	20.0	20.0	0.0	0.0	20.0	20.0	80.0	80.0
Churchill	2	0.0	50.0	0.0	0.0	0.0	50 0	0 0	50 0	50.0	100.0
Don Julian	4	100.0	0 0	0.0	0 0	0.0	0.0	0.0	75.0	25 0	75.0
Otras marcas	6	0.0	0.0	16 7	16.7	33.3	33.3	0.0	66 7	33 3	83 3
N.recuerda marca	3	0 0	0 0	66.7	33.3	0.0	0 0	0.0	33 3	66 7	0 0

METRA/6 E/7715 CIGARROS HABANOS % VERTICALES

P.19.-MARCAS HABANOS HA DEJADO DE FUMAR

	TOTAL	Cohiba	Davidoff	Fonseca	H. Upmann	Montecristo	Partagas	Romeo y Julieta	Los Statos	Trovya	Otra marcas
TOTAL	600	6	4	6	10	9	26	9	4	11	14
P.20.-RAZONES PARA HABER DEJADO DE FUMAR UNA MARCA DE CIGARROS HABANOS											
B:HA DEJADO FUMAR	87	5	4	6	9	8	25	9	4	11	14
N/gustaba sabor	14.8	20.0	25.0	16.7	11.1	0.0	8.0	22.2	25.0	27.3	21.4
Demasiado fuerte	19.5	0.0	0.0	0.0	22.2	37.5	28.0	11.1	25 0	9.1	21.4
Secos/muy secos	9.2	0.0	0.0	16.7	22.2	0.0	12.0	33.3	0.0	9 1	0.0
Perdieron calida	26.4	0.0	25.0	33.3	22.2	37.5	48.0	55.6	25 0	27.3	0.0
Demasiado grande	1.1	0 0	0.0	0.0	0.0	0.0	0.0	0.0	0 0	0.0	7.1
Es caro	16.1	60.0	25 0	50.0	0.0	25.0	24.0	22.2	0 0	9.1	21.4
Gusta +otra marc	16.1	0.0	0.0	0.0	22.2	12 5	12.0	11.1	25.0	18 2	14.3
Otros motivos	6.9	0.0	50.0	0.0	22.2	0 0	4.0	0 0	0 0	9.1	14.3
N.s/N.c	9.2	0 0	0 0	16 7	0.0	0 0	0.0	0.0	25 0	0 0	7 1

METRA/6 E/7715 CIGARROS HABANOS % HORIZONTALES

P 19.-MARCAS HABANOS HA DEJADO DE FUMAR

	TOTAL	Cohiba	Davidoff	Fonseca	H. Upmann	Montecristo	Partagas	Romeo y Julieta	Los Statos	Trovaya	Otras marcas
TOTAL	600	1 0	0.7	1.0	1.7	1.5	4.3	1.5	0 7	1.8	2.3
P.20.-RAZONES PARA HABER DEJADO DE FUMAR UNA MARCA DE CIGARROS HABANOS											
B:HA DEJADO FUMAR	87	5.7	4.6	6.9	10.3	9.2	28.7	10.3	4.6	12.6	16.1
N/gustaba sabor	13	7 7	7.7	7.7	7.7	0.0	15.4	15.4	7.7	23 1	23.1
Demasiado fuerte	17	0.0	0.0	0.0	11.8	17.6	41.2	5.9	5.9	5.9	17.6
Secos/muy secos	8	0.0	0.0	12.5	25.0	0.0	37.5	37.5	0.0	12.5	0.0
Perdieron calida	23	0.0	4.3	8.7	8.7	13.0	52.2	21 7	4 3	13.0	0.0
Demasiado grande	1	0.0	0.0	0.0	0.0	0.0	0 0	0 0	0 0	0 0	100 0
Es caro	14	21.4	7.1	21.4	0.0	14.3	42.9	14.3	0.0	7.1	21 4
Gusta +otra marc	14	0.0	0.0	0.0	14.3	7.1	21.4	7.1	7.1	14 3	14 3
Otros motivos	6	0 0	33.3	0.0	33 3	0.0	16.7	0.0	0 0	16.7	33.3
N.s/N.c	8	0.0	0.0	12.5	0.0	0.0	0 0	0 0	12.5	0.0	12.5

Estudio Mercado

22

EL TABACO HABANO en MERCADOS SELECCIONADOS del CARIBE

(Barbados - Martinica - Guadalupe y San Martín)

CUBATABACO
Diciembre 1987

P0314

LISTA DE PRECIO. CLIENTE ROGER ALBERT

Date: 26-10-87

SIZES	TAXES
Upmann Belvederes 25	338,00/ 8200 Frs
Cohiba Coronas Especiales 25	1530,00/38000 Frs
Romeo No. 1 en 10	698,00/17200 Frs
Romeo y Julieta Mille Fleurs 25	338,00/ 8200 Frs
Romeo y Julieta Regalías 25	426,00/10400 Frs
Montecristo No.4 en 10	762,00/18800 Frs
Montecristo Especial 25	1290,00/32000 Frs
Montecristo No.5 en 25	570,00/14000 Frs
Montecristo No.5 en 10	650,00/16000 Frs
Montecristo No.3 en 5	874,00/21600 Frs

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 605, Def. Ex. 5A

LW309
P0307

METRA
/SEIS

THE HABANOS CIGAR MARKET IN SWITZERLAND
QUALITATIVE STUDY OF
CONSUMERS AND DISTRIBUTION CHANNELS

JOINT INSTITUTE OF THE
FOREIGN TRADE MINISTRY
OF CUBA

January 1989

PENGAD-Bayonne, N.J.
DEFENDANT'S
EXHIBIT
5A
5/23/00 AA

Bluebeng No. 6114
DEFENDANT'S
EXHIBIT
D 605

METRA/SEIS – MARKETING

* MONTECRISTO

  A famous, prestigious, good-quality brand, although it has no particular profile (no known advertising)

  Often criticized for its presentation which, because it is lacking in class, devalues the product ("fool's gold" or "wood covered with bad paper")

Brands of Prestige

* COHIBA (associated with Fidel Castro), aesthetic (fine, nice color) with a distinguished taste.

* HOYO, from "the best region of Cuba "

* GLORIA. "Very good, very expensive "

* ROMEO Y JULIETA.

A number of other brands are cited and each is assessed differently by addicts[2] (Partagás, Punch, Quintero, Sancho Panza...)

---

[2] The "adictos" in Spanish is usually translated into English as "addicts" but may also refer to "loyal supporter"—Trans.

METRA
/SEIS

TABLE SHOWING RESULTS FROM
HABANOS CIGAR STUDY

CUBATABACO/CREACTUAL, S A.

March 1988

0041METRA/6 STUDY/7715 HABANOS CIGARS VERTICAL %

[Please refer to original for numbers]

		CITY							FREQ OF USE		REQUEST S
	TOTAL	Madrid	Barcelona	Valencia	Seville	Bilbao	San Sebastian	Santander	Heavy Use	Light Use	Brand
TOTAL											

Q 16 TIMES OR OCCASIONS WHEN YOU SMOKE CIGARS OUTSIDE HOME
B· OUTSIDE CONSUMPTION

In morning
After eating lunch
In afternoon
After eating dinner
Business meals
At work
Meetings/discussions
Sports events
Bullfights
Celebrations
Any time
Other times

Q 17 USUAL BRAND OF HABANOS CIGARS

BASE TOTAL

Cohiba
Davidoff
Dunhill
Flor de Cano
Fonseca
H Upmann
Montecristo
Partagás
Quintero
Romeo y Julieta
Sancho Panza
Los Statos
Troya
Churchill
Don Julian
Other Brands
Don't remember brand

METRA/6 STUDY/7715 HABANOS CIGARS HORIZONTAL %

[Please refer to original for numbers]

		CITY							FREQ OF USE		REQUESTS
	TOTAL	Madrid	Barcelona	Valencia	Sevilla	Bilbao	San Sebastian	Santander	Heavy Use	Light Use	Brand
TOTAL											

Q 16 TIMES OR OCCASIONS WHEN YOU SMOKE CIGARS OUTSIDE HOME

B. OUTSIDE CONSUMPTION

- In morning
- After eating lunch
- In afternoon
- After eating dinner
- Business meals
- At work
- Meetings/discussions
- Sports events
- Bullfights
- Celebrations
- Any time
- Other times

Q 17 USUAL BRAND OF HABANOS CIGARS

BASE. TOTAL

- Cohiba
- Davidoff
- Dunhill
- Flor de Cano
- Fonseca
- H Upmann
- Montecristo
- Partagás
- Quintero
- Romeo y Julieta
- Sancho Panza
- Los Statos
- Troya
- Churchill
- Don Julian
- Other Brands
- Don't remember brand

METRA/6 STUDY/7715 HABANOS CIGARS VERTICAL %

[Please refer to original for numbers]

	Q 19 BRANDS YOU HAVE STOPPED SMOKING										
	TOTAL	Cohiba	Davidoff	Fonseca	H Upmann	Montecriste	Partagas	Romeo y Julieta	Los Statos	Troya	Other Brands
TOTAL											

Q 20 REASONS YOU STOPPED SMOKING A HABANOS CIGAR BRAND

B STOPPED SMOKING

Didn't like taste
Too strong
Dry/very dry
Lost quality[3]
Too big
Expensive
Prefer other brand
Other reasons
Don't know/no comment

[3] Suspected typographical error: Should probably be "calidad" [quality] instead of "calida" [warm]—Trans.

METRA/6 STUDY/7715 HABANOS CIGARS HORIZONTAL %

[Please refer to original for numbers]

	Q 19 BRANDS YOU HAVE STOPPED SMOKING										
	TOTAL	Cohiba	Davidoff	Fonseca	H Upmann	Montecriste	Partagas	Romeo y Julieta	Los Statos	Troya	Other Brands
TOTAL											

Q 20 REASONS YOU STOPPED SMOKING A HABANOS CIGAR BRAND

B STOPPED SMOKING

Didn't like taste
Too strong
Dry/very dry
Lost quality[4]
Too big
Expensive
Prefer other brand
Other reasons
Don't know/no comment

[4] Suspected typographical error: Should probably be "calidad" [quality] instead of "calida" [warm]—Trans.

[Handwritten Market Study, 22, {Illegible}]

HAVANA TOBACCO
in
SELECTED MARKETS
of the
CARIBBEAN
(Barbados – Martinique – Guadalupe – San Martín)

[Logo: CUBATABACO, December 1987]

ATTACHMENT #2

PRICE LIST CLIENT ROGER ALBERT

Date October 26. 1987

SIZES

TAXES

[Please refer to original for table]

["En" in this context means "# {cigars }"]
["Frs" means "French francs"]

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 606

The Strategy of Success

COHIBA

It would be impossible to round off the tour of 30 years of history of the COHIBA brandname without covering some of the elements shaping the brand strategy. This obliges us to rummage around in the work-intensive work carried out by marketing experts who, at some stage or another, have been responsible for the communication work regarding COHIBA.

In order to find the information required, we knocked on the door of Mrs. Ana López García, M.Sc (Econ) Foreign Trade and present marketing director of Habanos S.A., the company which exports Habanos all over the world, with the exception of France.

The fact that she has been involved for some years with the marketing strategy of Habanos in general and the COHIBA brandname in particular, is a great source of pride to Ana, as well as entailing great responsibility.

Before the obligatory question to open the conversation, Ana said that 1990 was especially significant, as it was then that Cubatabaco strengthened its marketing image worldwide.

DEFENDANT'S EXHIBIT D606

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Def. Ex. 607

"One of the most important elements was the positioning of the Cuban cigar brands, outlined by means of the so-called Habano pyramid, enabling the positioning of each in the market to be determined and based on studies of motivational factors, market research and price and product analysis."

"COHIBA deservedly occupies pole position at the top of the brand pyramid because of its exclusiveness and its distinguished quality, far exceeding other brands present in the marketplace for over 100 years."

In reply to the following question regarding what elements have contributed to such a strong brand image in such a short time-period, Ana pointed out that:

"According to the results of market research carried out in Spain, our principal market, in the late 1980s, renown and pride were some of the characteristics common to COHIBA consumers. An infrequently used product, generally outside the home, exclusive, a symbol of luxury reserved for years as a diplomatic gift, were some of the elements recalled by some 89 per cent of those surveyed".

DEFENDANT'S EXHIBIT D607

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Def. Ex. 608

A launch was also made in France, on October 10 of that same year in Castel-Princesse, at no. 15, rue Princesse, in Paris. This was a total success and also coincided with the introduction of the brand into the French market. The French consumers had the pleasure of obtaining the very much sought after COHIBA in their own country as of October 20 1989, the brand only being available, until that moment, in Spain and in Duty-Free outlets.

Launch Paris.

P16749
DEFENDANT'S EXHIBIT
D608

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Def. Ex. 609

Second Extension Vitola Range

(Línea 1492)

At the end of 1991, when it was agreed to discontinue the Habano Davidoff brand, the expectation began to be raised in the market as regards the solution provided by Cubatabaco to that brand's regular consumers. The search for the said solution was referred to the marketing department which, after carrying out a detailed study on consumer needs, in terms of taste, cigar sizes and pricing, as well as production possibilities, proposed the introduction of a new COHIBA range. In addition, this would fulfill another requirement, extending what was offered by the brand so as to satisfy the most demanding of smokers.

One of the aspects most discussed by Cubatabaco's marketing specialists was which vitola range to include in the new series. As regards this subject, the present marketing director of Habanos S.A. informed us that the choice was a result of market trends, with respect to the various cigar sizes, thus allowing COHIBA to gain access to a larger market segment. In this manner the factory names chosen, Dalia, Corona Grande, Corona Gorda, Mareva and Perla, filled a gap in the high-price market segment.

DEFENDANT'S EXHIBIT
D609

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Def. Ex. 610

Brand Image

As part of its communication strategy to strengthen the brand image, Cubatabaco entrusted the COHIBA advertising design to the Spanish advertizing agency Creactual S.A. which, in turn, submitted their proposal to this entity. The decision was taken at the first meeting of directors of the Habano distributors, held in Havana in 1990.

Before adopting the strategy of one single international brand image, others had been used, either by Cubatabaco or its distributors, none of which met the need to convey an aesthetically exclusive and elitist image.

les of advertising used in different mar-
efore the present and only one.

The idea chosen was that of the Spanish designer Benjamín Echevarra. This comprises a total similarity of style, transmitting elegance, luxury and quality, with the black background predominating as a point of contact with the established Habano product coloring. The image may be interpreted in many different ways, but there can be no doubt that it underlies the concept behind the slogan Tobacco's first name.

The gradually widening draft outline set upon the black background may well signify COHIBA's journey through these five long centuries, from its original existence as a legend to its present, overpowering reality. Others, on the other hand, may look upon it as the penumbral outline of the Cuban coast, where Admiral Christopher Columbus disembarked on October 28, 1492. According to the cigar

DEFENDANT'S EXHIBIT D610

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Def. Ex. 612

National Conference on Cuba
November 2-4, 1979
Riverside Church, New York City

CENTER FOR CUBAN STUDIES

Sandra Levinson, Executive Director

The Center for Cuban Studies was opened in New York City in 1972. It maintains an up-to-date library of Cuban books and periodicals; offers a wide-ranging educational and cultural program, including several publications; organizes professional study tours to Cuba, and serves as a general information center.

The Center is a non-profit, tax-exempt membership organization. Information on membership and activities may be obtained by writing the Center, 220 East 23rd Street, New York, New York, 10010.

COMMITTEES FOR THE FIRST NATIONAL CONFERENCE ON CUBA

Program Committee

SANDRA LEVINSON, Center for Cuban Studies, Coordinator

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BARBARA WEBB, Queens College

THE REV. DR. WILLIAM WIPFLER, National Council of Churches

JOSE YGLESIAS, writer

Arrangements Committee

ANNICK PIANT, Center for Cuban Studies, Coordinator

PAULA DI PERNA, author, *Complete Travel Guide to Cuba*

FRANCES KISSLING, Board of Directors, Center for Cuban Studies

DEFENDANT'S EXHIBIT D612

GENERAL INFORMATION

Registration

The Conference Registration Desk is located in the Cloister Lounge of **Riverside Church**, which is reached by entering Riverside at the Claremont Avenue entrance.

All Conference registrants are asked to wear their badges at all times. Entrance to the panels is with your badge and the ticket for that particular panel. If you wish to attend a panel for which you have no ticket, you can obtain one at the Registration Desk, space permitting. [Only panel participants and Conference workers may enter the various panels without tickets.]

BIOGRAPHICAL DATA

CUBAN DELEGATION

José Arañaburo García, Secretary of the National Assembly of Popular Power.

Raúl Roa Kouri, Cuba's Permanent Representative to the United Nations since 1978, was born in Havana in 1936. He studied social science and public law at the University of Havana, and social psychology at Columbia University. At the beginning of the revolution, he served as minister-councillor at the Cuban Embassy in Santiago de Chile and was then named alternative representative to the United Nations, 1959-60. He was Cuban Ambassador to Czechoslovakia from 1961 to 1963 and Ambassador to Brazil, 1963-64. From 1964 to 1967 he was director of foreign trade policy at the Ministry of Foreign Trade, and from 1967 to 1970 was director-general at the Ministry for Food Industry. He became Permanent Secretary of CMEA (Council for Mutual Economic Assistance) in 1970, a post he held for five years. In 1975 he was named Senior Political Adviser to Vice-President Carlos Rafael Rodriguez, and worked with Carlos Rafael until becoming U.N. Ambassador.

Ramón Sánchez-Parodi Montoto, head of the Cuban Interests Section in Washington, D.C., was born in 1938. Although trained as an industrial engineer, Sánchez-Parodi began to work with the Ministry of Foreign Relations (MINREX) in the Latin America area at the beginning of the revolution and worked there until 1961.

He worked as a journalist for *Combate* and Hoy 1961-62, and then worked for six years in the department of international relations of the Central Committee of the Cuban Communist Party. From 1968 to 1977 he worked in MINREX in the area of international organizations and with the division of U.S. Affairs. He was named head of the Interests Section when the U.S. and Cuba opened this first level of diplomatic exchange in September, 1977. This is Sánchez-Parodi's first permanent assignment abroad, although he has traveled frequently to Latin America, Europe and Africa and as part of the Cuban delegation to the United Nations.

Pedro Serviat Rodriguez, was born in Havana in 1914. He is currently associated with the Institute of the History of the Communist Party and the Socialist Revolution in Cuba, and is publishing a multi-volume definitive history of the Black experience in Cuba. Serviat fought against both the Machado and the Batista dictatorships and has a long history of activity as a trade union educator. Known as revolutionary and historian, he is the author of numerous articles on the Cuban labor movement and Cuban Black history. He is currently on a lecture tour of the United States sponsored by *The Black Scholar.*

Tomas Gutiérrez Alea, distinguished film director, Cuban Institute of Cinema Art and Industry (ICAIC), was born in Cuba in 1928, received his law degree from the University of Havana and subsequently studied filmmaking at the Centro Sperimentale in Rome in 1951-53. During the struggle against Batista he worked with Cine-Revista, a "guerrilla" newsreel organization. With the triumph of the revolution, he was one of two Cubans with advanced prior training in the art of filmmaking. His best known films include *The Last Supper* (1976), *A Cuban Fight Against the Demons* (1971), *Memories of Underdevelopment* (1976), *Death of a Bureaucrat* (1966), and *The Twelve Chairs* (1962). His latest film, *The Survivors* (1979), will be shown at the conference.

Alfredo García Almeida, Cuban Mission to the United States.

Félix Beltrán, President of the Plastic Arts Section of the National Union of Writers and Artists of Cuba (UNEAC) and president of the Cuban National Committee of the International Art Association (UNESCO) was born in Cuba in 1938. He received degrees from the School of Visual Arts and the American Art School in New York City, where he also attended the New School for Social Research, Pratt Institute and the Art Students League. In 1965-1966, he attended the Circulo de Bellas Artes in Madrid, He has received nearly 100 national and international awards, has had 50 one-man exhibitions around the world, and has participated in more than 300 collective exhibitions. His works are in the permanent collections of 46 museums. He is an active participant in numerous international associations devoted to art and design, and has written a great deal on design. In 1975, he was awarded Cuba's National Fine Arts Order for his achievements in this field.

Juan A. Blanco Gil, Ministry of Foreign Relations, Havana.

Edmundo Desnoes, novelist, essayist, short story writer, art and photographic critic, filmmaker, best known in the U.S. as author of *Memorias del Subdesarrollo.* Born in Havana in 1930, Desnoes published his first book of stories and poems when he was 22, *Todo está en el fuego.* He lived for several years in New York City before the revolution, where he worked as editor of a Latin American magazine. Shortly after the revolution, he returned to Cuba and began working as editor and art critic. His first novel, No *hay problema,* was published in 1961 and two others, *Memorias* and *El cataclismo* appeared in 1965. A number of his essays were published in 1967 under the title *Punto de vista.* He worked with the magazine *Casa de las Américas, Cuba,* and for several years with the Comisión de Orientación Revolucionaria. Currently he works in the educational films department of the Ministry of Education, and this fall is a visiting professor at Dartmouth College in New Hampshire.

Miguel Dotres León, has served as the adviser to Humberto Pérez, director of JUCEPLAN (junta Central de Planificación) since 1978. For two years before that he was the central director of planning

for JUCEPLAN, and from 1973 to 1976 worked with the Central Committee of the Cuban Communist Party as economics adviser. Author of numerous monographs on national economic planning in Cuba, and on the theoretical and practical problems of the Cuban economy, he is also the author of El *balancia intersectorial estático* (1975), published by the Instituto del Libro in Havana.

Born in 1934, Dotres is a graduate in economics from the University of Havana and worked with the I nstituto de Economia of the University of Havana, from 1962 to 1973, in a variety of capacities, including that of director of postgraduate studies, and head of the department of planning.

Dr. Celestino Alvarez Lajonchére, born in Cuba in 1916, is an obstetrician-gynecologist and works with the Institute for Health Development, Cuban Ministry of Public Health. He has practiced medicine since 1944 and before the revolution had his own clinic. Lajonchére has published many articles and given numerous lectures in the fields of obstetrics-gynecology, public health, and, recently, sex education. He has participated in numerous international conferences in these areas around the globe, and was president of the Organizing Commission of the Eighth Latin American Congress of Obstetrics and Gynecology in Havana in 1976. In June of this year he served as visiting technical advisor on sex education to the Ministry of Public Health of the Republic of Panama.

Sergio Martínez Barroso, Cuban Interest Section, Washington D.C.

Nancy Morejón, distinguished Cuban poet and writer, was born in Havana in 1944, and graduated from the University of Havana in French literature. She has published several volumes of verses, including *Richard Trajó su Flauta y Otros Argumentos* (1967), *Amor, Ciudad Atribuida* (1964) and *Mutismos* (1962). Her scholarly works include *Recopilacíon de Textos sobre Nicolás Guillén* (1974), a collection of documents related to Cuba's national poet, and *Lengua de Pájaro, Comentarios Reales* (1971), an ethno-historical monograph about the mining region of Nicaro. She works with Nicolás Guillén at the Unión de Escritores y Artistas de Cuba (UNEAC).

René J. Mujica Cantelar, Cuban Interest Section, Washington D.C.

Manuel Moreno Fraginals, economist, historian and author, is best known for his book *The Sugarmill,* which presents a concise history of the sugar industry in Cuba. He has also authored numerous articles on sugar for the technical and lay press. Prior to his work in sugar economics, he had spent ten years in Venezuela and the Caribbean working in sales promotion, advertising and, at one point, in the establishment of a chain of radio stations. Recently, he served as invited lecturer in sugar economics at Columbia University.

U.S. PARTICIPANTS

The Hon. Ronald V. Dellums (D-Calif.)

Dellums has served as representative from California's 8th Congressional District since 1971. As vice-chairman of the Congressional Black Caucus, he has been particularly active in trying to build

community power. The 44-year-old Dellums has led the congressional fight against the huge U.S. military budget; chairs the armed services committee panel dealing with the problem of Vieques in Puerto Rico; has introduced a comprehensive health care bill, as well as legislation dealing with women's rights, youth and unemployment.

Dellums has traveled to Cuba and met with President Fidel Castro and recently met with him again in October when President Castro came to New York City to address the United Nations. Dellums is a leading proponent of normalization of relations with Cuba.

Gordon Adams, Dept. of Political Science, Rutgers University/Council on Economic Priorities, New York City,

Eqbal Ahmad, fellow, Institute for Policy Studies; editor, *Afrique-Asie* (Paris) and Race *and Class* (London); author, *National Liberation* (1972).

José A. Alvarez, Puerto Rican Socialist Party.

Electa Arenal, College of Staten Island (CUNY)/Bunting Institute of Radcliffe College..

Max Azicri, Dept. of Political Science, Edinboro State College, Edinboro, Pa., has written widely on the role of Cuban women and on Cuban legal matters.

Carollee Bengelsdorf, Hampshire College, Amherst, Mass.

Noel Blackman, President, Shore Lobster and Shrimp Co., New York City.

Cole Blasier, Dept of Political Science, University of Pittsburgh; co-editor (with Carmelo Mesa-Lago), *Cuba in the World* (1979).

Edward Boorstein, economist, New York City; author of *The Economic Transformation of Cuba* (1968), worked with the Cuban government in the early 1960's.

Robert Borosage, Director, Institute for Policy Studies, Washington, D.C.; co-author of *The Lawless State,* co-editor of *The CIA File.*

Philip Brenner, Dept. of Political Science, University of Maryland, Baltimore County; Institute for Policy Studies. Co-editor, *Exploring Contradictions: Political Economy in the Corporate State (1974);* author, *Class Collaboration: The Real World of Congress* (forthcoming).

Rodolfo Broullón, President, Unifilm, distributor of Cuban films in the United States.

Robert Browne

The Honorable Margaret Burnham, judge, Boston, Mass.

Julianne Burton, University of California, Santa Cruz, is the author of numerous articles on Cuban and Latin American cinema and is an editor of *jump Cut.*

Terry Cannon, *The Daily World,* New York; co-author (with Johnnetta Cole) of *Free and Equal: The End of Racial Discrimination in Cuba (1978)* and author of *Revolutionary Cuba* to be published in the spring, 1980.

James W. Carty, Dept. of Communications, Bethany College, Bethany, West Virginia, author of *Cuban Communications: Comunlcación y Relaciones Publicas.*

Lourdes Casal, Dept. of Psychology, Rutgers University, Newark and an editor of *Areito* magazine; author of El *Caso Padilla: Literatura y Revolución en Cuba (1972), Los Fundadores: Alfonso (1973),* co-author, *The Cuban Minority in the U.S.* and *Contra Viento y Marea (1978);* member of the "Committee of 75."

Robert Chrisman. editor, *The Black Scholar* magazine.

Rev. William Sloane Coffin, Jr., Senior Minister, Riverside Church.

Robert Cohen, poet and essayist, author of *Rebelión en Estados Unidos (1969)* and *There is a Country (1978);* coordinator of the Puerto Rico Legal Project in New York City, active with the New York Committee on Nicaragua.

Johnnetta B. Cole, Dept. of Anthropology, University of Massachusetts, Amherst; contributor to *The Black Scholar;* co-author (with Terry Cannon) of *Free and Equal: The End of Racial Discrimination in Cuba* (1978).

Margaret Crahan, Dept. of History, CUNY; co-editor, Africa and the Caribbean: the Legacies of a Link.

Ross Danielson.

Paula Di Perna.

Jorge Dominguez, Dept. of Government, Harvard University; author of *Cuba: Order and Revolution (1978)* and *Enhancing Global Human Rights.*

Michael Erisman, Chairman, Dept. of Political Science, Mercyhurst College, Eric, Pa., is the author of numerous articles on Latin America and on the non-aligned nations movement.

Patricia Weiss Fagen, Dept. of History, San Jose State University, San Jose, California/Institute for Policy Studies, Washington, D.C.

Richard Fagen, Dept. of Political Science, Stanford University; author of *Cubans in Exile* (with Richard Brody); *The Transformation of Political Culture in Cuba (1969),* and numerous other books and articles, including many on Cuba.

Philip S. Foner, Dept. of History, Lincoln University, Pa., author of *Antonio Maceo* (1977), *A History of Cuba and its Relations with the United States* (1962), *The Spanish-Cuban-American War* (1972).

Geoffrey Fox, U.N. Representation, World Federation of Trade Unions; author of Workinq Class Emigres from Cuba (1979).

Constance Garcia-Barrio, teaches literature at the University of Connecticut and has written several articles on the black presence in Cuban literature.

Mariana R. Gastón works with the Brigada Antonio Maceo and the Committee of *75* in New York City.

Margaret Gilpin, A.C.S.W., Dept. of Community Health, Albert Einstein College of Medicine; coordinator of Psychosocial Education, Residency Program in Social Medicine, Montifiore Hospital and Medical Center, has worked with health workers' exchange program between Cuba and the U.S.

Manuel Gomez, Hunter College, CUNY; Cuban-American Committee for the Normalization of Relations with Cuba; author of *At Work in Copper* (1979),

Janice Gordils, teaches literature in the Dept. of Puerto Rican Studies of Fordham University, New York City.

John A. Graham U.S. Mission to the United Nations; advisor in African and Non-Aligned Affairs

Dept.

Bertram Gross, Dept. of Political Science, Hunter College, is the author of numerous books and articles on U.S, politics.

Jill Hamberg, State University of New York, Old Westbury, lived and worked in Chile and is doing research on Cuban planning.

C. Richard Hatch, teaches at the New Jersey School of Architecture.

Maria Christina Herrera, teaches at Miami-Dade Community College in Coral Gables and is the director of the Instituto de Estudios Cubanos.

Jim Higgins, teaches in the School of journalism, Boston University and for many years was the editor of the York (Pa.) Gazette.

Lennox Hinds is a New York attorney, former director of the National Conference of Black Lawyers, and recently prepared a report to the United Nations on the infringement of human rights in the United States.

Eric Holtzman teaches biology at Columbia University; author of Cells and Organelles.

John R. Howard, Dept. of Sociology, State University of New York, Purchase; author of *The Cutting Edge: Social Movements and Social Change in America, The Awakening Minorities,* and co-author of Life Styles in the Black Ghetto.

Lemuel Johnson, Dept. of English, University of Michigan, Ann Arbor; author of *Blacks in Hispanic Literature (1975), Hand on the Novel (1978), Highlife for Caliban (1973),* and *The Devil, the Gargoyle and the Buffoon: the Negro as Metaphor in Western Literature (19 71).*

Kirby Jones, head of Alamar Associates, a Washington-based consulting firm which has arranged for hundreds of U.S. businessmen to visit Cuba; co-author (with Frank Mankiewicz) of *With Fidel,* based on lengthy interviews with Fidel Castro.

Lou Jones

Peter Juviler teaches political science at Columbia University and has studied extensively Soviet law.

Frances Kissling served as coordinator of the recent Abortion Rights Action Week and works in the field of reproductive health.

Franklin W. Knight, Dept. of History, Johns Hopkins University, author of *Slave Society In Cuba during the 19th Century (1970), African Dimensions of Latin American Societies,* and *The Caribbean: The Genesis of a Fragmented Nationalism.*

Saul Landau, writer and documentary filmmaker, including a film on Fidel Castro; director of the Transnational Institute, Institute for Policy Studies, Washington, D.C.; coauthor (with John Dinges) of a forthcoming book on the Orlando Letelier murder case.

Marvin Leiner, professor of Education, Queens College; author of Children are the Revolution: Day Care in Cuba (19 74).

William LeoGrande teaches political science at American University, Washington, D.C., and has written many articles on political developments in Cuba.

Sandra Levinson is the Executive Director of the Center for Cuban Studies and formerly taught political sociology; co-editor (with Carol Brightman) of *Venceremos Brigade* (1971).

Michael Locker works with the Cuba Resource Center in New York City.

Alex López.

Margot Lovejoy is a graphic artist and teaches at the Pratt Institute's Graphic Center and at S.U.N.Y. College at Purchase; author of various articles on printmaking, including one on Cuba.

Arthur MacEwan, Dept. of Economics, University of Massachusetts, Boston; an editor of *Dollars and Sense* magazine; author of *Revolution and Economic Development in Cuba* (forthcoming, Macmillan, London) and other economic works.

Harry Magdoff is an editor of *Monthly Review* magazine, author of *The Age of Imperialism* and many other works on economics.

Nita Rous Manitzas is a consultant to the Ford Foundation, Latin America Division; coeditor (with David Barkin) of *Cuba: The Logic of the Revolution* (1973)

Robert Marquez teaches Hispanic-American literature at Hampshire College, edits the magazine,

Caliban and has written about and translated the poetry of Nicolas Guillén and many other Caribbean and Latin American poets.

Hal Mayerson is a New York attorney who works with the National Lawyers Guild Cuba Committee.

Paul F. McCleary, Executive Director of Church World Service and Associate Secretary of the Divison of Overseas Ministries of the National Council of Churches; author of *Global justice and World Hunger,* co-author (with Phillip Wogaman) of *Quality of Life in a Global Society.*

Carmelo Mesa-Lago, Director of the Center for Latin America Studies, University of Pittsburgh and professor of economics; author of *Cuba in the 1970's (1978),* editor of *Revolutionary Change in Cuba* and co-editor (with Cole Blasier) of *Cuba in the World (1979).*

Herman J. Milligan, Jr. teaches in the Dept. of Sociology at the University of Minnesota.

Elizabeth Moos is an educator in New York City who has traveled widely in China, the Soviet Union, and Cuba and written on their educational systems.

Victor Navasky is the editor of the *Nation* magazine and writes on American politics.

Julie Nichamin, assistant steward, Local *417* of United Electrical Workers.

John S. Nichols, School of Journalism, Pennsylvania State University, co-author (with Robert Pierce) of *Keeping the Flame: Media and Government in Latin America (1979).*

Marifeli Pérez-Stable, teaches at State University of New York, Old Westbury and is an editor of *Areito* magazine.

Alfred Padula teaches history at the University of Maine and has written on energy and development in Cuba.

James Petras, Dept. of Sociology, State University of New York, Binghamton, co-editor (with Martin Kenner) of *Fidel Castro Speaks (1969)* and author/editor of many books on Latin America, particularly on the role of the working class.

Annick Piant

Adamantia Pollis, Graduate Faculty, New School for Social Research; co-author (with Peter Schwab) of *Human Rights: Cultural and Ideological Perspectives (1979).*

José Prince is an economist who teaches at the City University of New York.

Michael J. Rivas teaches at Emory University in Georgia and is a member of the Committee of 75.

Octavio Roca

Sergio Roca, Dept. of Economics, Adelphi University; author of *Cuban Economic Policy and Ideology: the Ten Million Ton Sugar Harvest (1976)* and numerous other articles on the Cuban economy.

Helen Rodriguez-Trias, M.D. works with the Committee to End Sterilization Abuse in New York City.

Albor Ruiz is the Executive Director of the Committee of 75.

Helen I. Safa, Dept. of Anthropology, Livingston College, Rutgers University; author of *The Urban Poor in Puerto* Rico (1974); co-editor (with June Nash) of *Sex and Class in Latin America* and (with B. du Toit) of *Migration and Development.*

Andrew Salkey teaches in the School of Humanities and Arts in Hampshire College, Amherst, Mass. and is the author of many books, including *Havana journal* (197 1) and editor of *Writing In Cuba since the Revolution* (1978). He was awarded the 1979 Casa de las Américas (Havana) poetry prize for his book, *In the Hills Where Her Dreams Live,* dedicated to Chile.

Tony Schuman is an architect who teaches at the New Jersey School of Architecture.

Bertram Silverman teaches economics at Hofstra University and works in a special educational program with District 65 in New York City; author of *Man and Socialism in Cuba* (1971).

Archie Singham teaches political science at Brooklyn College, works at the United Nations and has written extensively on the non-aligned nations movement.

Alfred Stepan, is chairman of the Dept. of Political Science at Yale University.

Ruth Ann Stewart, Assistant Chief, Schomburg Center for Research in Black Culture, New York

Public Library; author, *Portia: The Life of Portia Washington Pittman, the Daughter of Booker T. Washington.*

Michael Tigar, Esq, Tigar and Buffone, Washington, D.C.; author of *Law and the Rise of Capitalism.*

Nelson P. Valdés, Dept, of Sociology, University of New Mexico; author of *The Cuban Revolution: A Research-Study Guide,* 7959-7969 (1971); co-editor (with Rolando Bonachea), *Cuba in Revolution* (1972) and *Fidel Castro Ruz: Selected Works* (1972).

Barbara J. Webb teaches at Queens College.

Cora Weiss is the director of the Disarmament Program at Riverside Church, New York City.

Rosemary Werrett, editor of *Business Latin America, is* the author of *Cuba at the Turning Point* (1977), *A Corporate Guide to Solving Operating Problems in Brazil,* and *Operating in the Central American Common Market.*

Lynn Wheeler is a graduate student at the University of Indiana.

The Hon. Elliot Wilk is a civil court judge in New York City.

William Wipfler is the director of the Human Rights Office, Division of Overseas Ministries, National Council of Churches.

José Yglesias is the author of numerous books and articles on the Spanish-speaking world, including a book on Cuba, *In the Fist of the Revolution* (1968).

Andrew S. Zimbalist, Dept. of Economics, Smith College/Labor Center, University of Massachusetts, Amherst; author of *Economic Democracy (1978)* and *Case Studies on the Labor Process (1979),* and has written on Chile and Cuba.

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

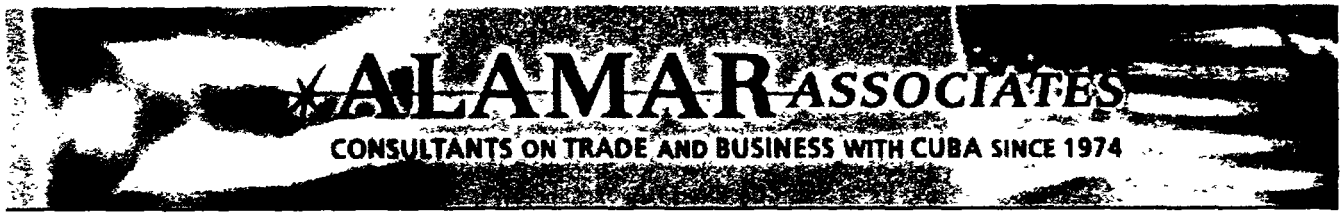
AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 613



About Kirby Jones

Alamar President Kirby Jones with Fidel Castro

Kirby Jones has traveled regularly to Cuba for 28 years, has consulted with dozens of U.S. firms and organizations, has conducted several television and print interviews with Cuban President Fidel Castro, and has written extensively about Cuba.

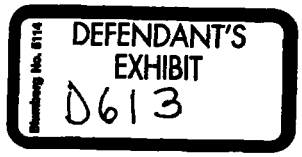
Kirby Jones is President of the U.S.-Cuba Trade Association, co-founder and member of the Board of Directors of the Americans for Humanitarian Trade with Cuba (AHTC), and serves on the Board of the Center for Cuban Studies in New York.

Mr. Jones, described by *Newsweek* as having "better contacts in Cuba than any other American," and by *The New York Times* as "the man to see about business in Cuba," first traveled to Cuba in 1974 as a special correspondent for CBS. He participated in an interview with Fidel Castro, which was broadcast in October 1974, as "CBS Reports: Castro, Cuba and the USA." For his work on this project, Mr. Jones was awarded the "Citation of Excellence for Best Interpretation of Foreign Affairs" by the Overseas Press Club.

Mr. Jones subsequently co-authored the book, "With Fidel: A Portrait of Castro and Cuba", published by Playboy Press in 1975 and Ballantine Books in 1976; he also co-authored: "Havana, 1974: Around Town with Fidel" published in 1997 in "The Readers Companion to Cuba", Harcourt Brace and Co.

Kirby Jones (right) chats with Cuban chief negotiator with the U.S., Ricardo Alarcon.

Again in 1986, Mr. Jones interviewed Castro as a PBS special correspondent for the documentary narrated by Raul Julia titled "In the Shadow of Doubt," which aired nationally later that same year. Part of that interview was also published in Playboy Magazine



in 1986.

Mr. Jones is a contributing author to the book titled "Subject to Solution: Problems in Cuban-U.S. Relations", published by Lynne Rienner Publishers in September 1988, and he wrote the benchmark 1988 study on the "Opportunities for U.S.-Cuban Trade," which was commissioned by the School of Advanced International Studies of Johns Hopkins University.

Mr. Jones is a frequent speaker on Cuba at business groups and organizations including the National Summit on Cuba, held in Washington, D.C. in September, 2002; the U.S.-Cuba Agricultural Products Conference, held in Cancun in January, 2002; the LASA meeting in Chicago; the Dallas Morning News conference, "Cuba in Evolution;" the International Business Symposium, "Cuba: The New Realities" sponsored by the Florida Coastal School of Law in Jacksonville, Florida; Acosta Latin American Forum in Puerto Rico; and "Doing Business in Cuba", sponsored by Stetson College of Law in Tampa, Florida.

Mr. Jones was invited to present testimony on Cuba trade before the hearings conducted by the International Trade Commission; has testified before the U.S. Congress and has appeared on the "TODAY Show," "ABC Close-up," CNN, PBS, "CBS Nightwatch", "ABC World News Tonight"; and was of one of eight participants in the "Firing Line" debate on Cuba broadcast nationally on PBS in August, 1998.

From 1998-2001, Mr. Jones chaired the U.S.-Cuba Business Summits which brought over 250 U.S. executives face to face with Cuban officials and potential business partners. He was also chairman of the Euromoney '92-'93 International Conference series on Cuba held in London, Cancun, and Havana.

Mr. Jones worked from 1982-93 as Chief of Corporate Communications for the World Bank's International Finance Corporation and then, from 1993-1997, he was Managing Director and Chairman of the Government and Emerging Markets Practice of Burson-Marsteller.

Mr. Jones is the former press secretary to Senator George McGovern in the 1972 Democratic presidential campaign, was a member of the presidential campaign staff of U.S. Sen. Robert Kennedy, served in the United States Peace Corps, and is an avid baseball player.

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Def. Ex. 614

NATIONAL SUMMIT ON CUBA

SUMMIT HOST COMMITTEE ORGANIZATIONS AND INDIVIDUALS

AMERICAN FARM BUREAU FEDERATION
America's largest grassroots farm organization with over 5 million members in all 50 states and Puerto Rico.

USA*ENGAGE
A broad-based coalition composed primarily of America's most recognizable corporations.

THE WORLD POLICY INSTITUTE
A New York research and education policy center.

AMERICANS FOR HUMANITARIAN TRADE WITH CUBA (AHTC)
A national organization of leaders who advocate lifting restrictions on food and medical trade with Cuba and the free travel necessary for such trade to occur. Advisory Council members follow:

Carla Anderson Hills
Hills & Company
Former U.S. Trade Rep

Dwayne Andreas
Archer Daniels Midland Company

Phil Baum
American Jewish Congress

Lloyd M. Bentsen, Jr.
Former Treasury Secretary

Reginald K. Brack, Jr.
Chairman Emeritus, Time Inc.

Melinda Bush
Hospitality Resources Worldwide

Dr. Joan Brown Campbell
Chautauqua Institution

Frank C. Carlucci
The Carlyle Group
Former NSC Chief

A.W. Clausen
Former President World Bank

Alberto Coll
Pell Center for International
and Public Policy, Rhode Island

Francis Ford Coppola

Peter H. Coors
Coors Brewing Company

The Honorable Michael C. Dow
Mayor, Mobile, Alabama

Dr. Robert Edgar
National Council of Churches

Richard E. Feinberg
Former NSC Chief Latin America

Milton Friedman PhD
Hoover Institution

Craig L. Fuller [AHTC Co-Chair]
Former Chief of Staff, VP Bush

Sam M. Gibbons [AHTC Co-Chair]
Former 34-year Florida Congressman

Larry Gold, PhD
SomaLogic, Inc., Colorado

Mark O. Hatfield
Former U.S. Senator, Oregon

Grazell Howard
Coalition of 100 Black Women

David G. Kay
American Rice, Inc., Houston

Rev. Clifton Kirkpatrick
Presbyterian Church (U.S.A.)

Bob Odom
Louisiana Commissioner of Agriculture

George Sturgis Pillsbury
Sargent Management Company

A.J. Pete Reixach
Port of Freeport, Texas

Julius B. Richmond, M.D
Former U.S. Surgeon General
Harvard University

Dennis Rivera
1199 National Health & Human Service
Employees Union

David Rockefeller
Rockefeller Center Properties, Inc.

James Rodney Schlesinger
Former CIA Director,
Defense Secretary

Kurt L. Schmoke
Former Mayor, Baltimore

General John J. Sheehan (retired),
Former Supreme Allied Commander,
Atlantic (NATO)

Mark Sanford
Former U S. Rep. South Carolina

Oliver Stone

Paul A. Volcker
Former Chair U.S. Federal Reserve Board

Malcolm Wallop
Former U.S. Senator, Wyoming

John Whitehead
Former Deputy Secretary of State

Jim Winkler
United Methodist Church

DEFENDANT'S EXHIBIT
D614

NATIONAL SUMMIT ON CUBA

SUMMIT HOST COMMITTEE ORGANIZATIONS AND INDIVIDUALS, CONTINUED

James L. Abernathy, Abernathy MacGregor, Inc.

Alfredo G. Duran, Cuban Committee for Democracy

Delvis Fernandez, Cuban American Alliance and Education Fund

Dan O'Flaherty, National Foreign Trade Council

Joan Goldsmith, Management Consultant

Alan Sagner, The Sagner Companies

Stephen Schlesinger, World Policy Institute

Silvia Wilhelm, Puentes Cubanos

Robert J. Wilmers, Manufacturers and Traders Trust Company

HOSTS FOR SUMMIT 'FREEDOM TO FLY' RECEPTION

Daniel Aruca, Marazul Charters, Inc. (New Jersey)

Joe Perez, Cuba Travel Services, Inc. (California)

Tessie Aral, ABC Charters (Miami)

SUPPORTING ORGANIZATIONS FOR OVERALL SUMMIT EVENTS

Latin America Working Group - Washington Office on Latin America - Center for International Policy - Cambio Cubano - Cuban American Alliance Education Fund - Cuban Committee for Democracy - Puentes Cubanos - The U.S./Cuba Legal Forum - The Dante Fascell Center for Peace and Conflict Resolution - Fundación Amistad - Cuban American Democratic Council - Pan American Coalition - Alliance for Responsible Cuba Policy

SUMMIT STAFF

Lissa Weinmann, Summit Coordinator
John Loggia, Assistant Summit and Communications Coordinator
Michelle Wojcik, Assistant Summit Coordinator
Brown Lloyd James, Public Relations
Radiah Dove & Harpreet Anand, Interns

SPECIAL THANKS TO

Kirby Jones, Alamar Associates - Katie Donahue - Jordan Press and Mavis Anderson - H.P. Goldfield - Cliff Stammerman, Rep. Delahunt - Brent Gibadlo, formerly with Rep. Flake - Dana McGilton, formerly with Rep. Emerson - Mary Kay Thatcher, Farm Bureau - The Christopher Reynolds Foundation - Brian Moran, Senator Dorgan - The Arca Foundation - Bobbie Salazar - Pablo Narvaez - singer Candi Sosa - Yasuo San for invite/button design - John Loggia for logo design and video - Winnie Lerner - Cecil Eversley - K Video

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Def. Ex. 615

Delegates of the U.S.-Cuba Business Summit in a question/answer session with Cuban officials

Some Feedback

Participants in the Summits have expressed, in writing, their opinion of their experiences as follows:

"we were quite successful in our visit which gave us entrance to places we would not otherwise have been able to so quickly visit...

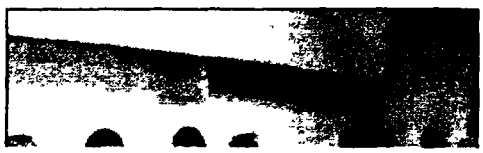
congratulations on a terrific event...

The Summit was professionally organized and all the right Cuban officials were at our disposal during the trip...

an overwhelming success...

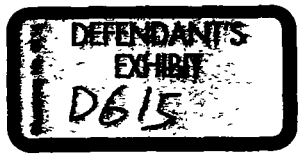
Thanks again for creating such great opportunities for U.S. ...

You made a very difficult business trip look easy..."



U.S. - Cuba Business Summits

Hundreds of U.S. Business Executives Meet Cuban Officials at Five U.S. - Cuba Business Summits



In five U.S.-Cuba Business Summits, more than 180 executives from U.S. firms have met Cuban economic policy makers and products specialists as a first step in their learning about this new market.

Companies and organizations from the United States, U.K., Canada, Israel, Italy, and Cuba have joined Alamar Associates to cosponsor this unique series of meetings, including: **Hellmann Worldwide Logistics, Miramar Trade Center, Cuban-American Alliance, World Development Services, USA*Engage, National Foreign Trade Council, Financial Times, Cristobal, desoft s.a., Shandwick International, Cuban American Alliance, Patton Boggs LLP, North American Partners Group, U.S.-Cuba Trade Association, Cuba Trade and Investment News, Genoil, Inc., Grupo B.M., MacDonald Mines, Cubacan, and Medical Device Manufacturers Association.**

These Summits have offered the business executives the opportunity to learn about the realities of the Cuban economy, foreign investment and trade procedures, bank and finance regulations, and the impact of reforms from the Cuban officials who are responsible for the management of the development of Cuban business. Cuban officials who have participated in the five U.S.-Cuba Business Summits include:

- **Fidel Castro**, President, Council of State and Ministers
- **Carlos Lage**, Vice President, Council of State
- **Ricardo Alarcon**, President, National Assembly
- **Marta Lomas**, Minister of Foreign Investment
- **Jose Luis Rodriguez**, Minister of Economy and Planning
- **Ibrahim Ferradaz**, Minister of Tourism
- **Raul de la Nuez**, Minister of Foreign Trade
- **Francisco Soberon**, President, Cuban Central Bank
- **Ernesto Senti**, first Vice-Minister, Ministry of Foreign Investment
- **Mirta Villanueva**, First Deputy Minister of Economy
- **Jose Gonzalez Frances**, Vice-Minister, Ministry of Economy and Planning
- **Yliana Rey Vichol**, Vice Minister of Economy

Plenary Session at Cuban Convention Center: (from L) Francisco Soberon, President of the Central Bank; Ricardo Cabrisas, Minister of Government; Ibrahim Ferradaz, Minister of Tourism; Ricardo Alarcon, President of National Assembly; Kirby Jones; Jose Luis Rodriguez, Minister of Economy; Miguel Figueras, Special Advisor to Minister of Tourism.

Alamar president Kirby Jones greets Cuba President Fidel Castro at a post-conference reception

- **Ramon Diaz Vallina**, Vice Minister of Public Health
- **Maria de la Luz B'Hamel**, Director of North America, Ministry of Foreign Trade
- **Ruben Ramos**, Director of North America Ministry of Foreign Investment
- **Jose Manual Sanchez Cruz**, Director Central Bank
- **Pedro Alvarez**, Chairman, Alimport
- **Juan Jose Vega**, President, Cubanacan
- **Ana Maria Lopez Garcia**, Vice-President, Unecamoto
- **Rafael Hernandez**, Vice-President, Cubalse
- **Elvira Castro**, President, Conas
- **Jorge Nunez**, Chief of Negotiations, Ministry of Tourism
- **Alfredo Reyes**, President, Inmobliaria Lares and Vice-President Cubalse
- **Jose Julio Rodriguez**, President, Nueva Banca Group
- **Pedro Cruza**, GEOMINERA, Ministry of Basic Industry
- **Abdias Peon Garcia**, President, Cuban Port Association, Ministry of Transportation
- **Juan Fleitas Melo**, Director, CUPET
- **Miguel Alvarez**, Advisor to the President, National Assembly
- **Miguel Figueras**, Senior Advisor, Ministry of Tourism
- **Ariel Ricardo**, Dept. of U.S. Ministry of Foreign Relations
- **Gustavo Machin**, Deputy Director, Dept. of North America, Ministry of Foreign Relations
- **Ramon Martinez**, Chairman, Esicuba
- **Alexander Perez**, Alimport
- **Yaili Escobar**, Alimport

Executives have also heard from representatives of firms already doing business in Cuba from other countries.

- **Nicola Cecchi**, President, Cristobal
- **Hans Pittinger**, Vice President, Hellmann Worldwide Logistics
- **Sergio Meisler**, Managing Director, Grupo B.M.
- **David McMillan**, President,Cuban Club Resorts
- **Peter Scott**, President, Genoil
- **Frank Smeenk**, President, MacDonald Mines

And at each Summit, every executive was able to meet privately with the specialist in Cuba with whom they have to deal to eventually conduct any business. The Summit delegates have come mostly from the United States, but have also included representatives from companies in England, Canada, Mexico, Spain, Colombia, Dominican Republic, and Cayman Islands. Delegates have represented such diverse sectors as food and agribusiness, shipping and transportation, pharmaceuticals and medical equipment, energy and mining, real estate development, computers, construction, financial services, and tourism.

To compliment the Cuban speakers, prominent Americans have also participated.

- **Sam Gibbons**, former Chairman, House Ways and Means Committee; Chairman, Americans for Humanitarian Trade with Cuba
- **William Lane**, former Chairman, USA*Engage
- **Dan Waltz**, Partner, Patton Boggs— expert on U.S. laws regarding Cuba
- **Delvis Fernandez**, President, Cuban American Alliance
- **Daniel O'Flaherty**, National Foreign Trade Council
- **Craig Fuller**, former Chief of Staff for VP Bush
- **Lissa Weinmann**, Executive Director, Americans for Humanitarian Trade with Cuba
- **Bob Schwartz**, Director, Cuba Medical Project of Disarm Education Fund
- **Wayne Smith,** former Head, U.S. Interests Section, Havana

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Def. Ex. 616

Return

Fact Sheet: The Fight for the Right to Travel to Cuba Chronology

The U.S. has had restrictions on travel to Cuba for most of the past 40 years. While the Constitutional right to travel was technically won in a **1958** Supreme Court decision, the U.S. government and its ideological allies have tried to prevent us from traveling through a variety of legal, extra legal, and illegal means. Since the beginning, people have fought back vigorously and continuously for our right to travel to Cuba.

In the **1950's** the US government attempted to curtail our right to travel through passport controls (either by not issuing a passport to certain persons – Paul Robeson and Rockwell Kent were the most famous) or – when that method failed to survive court challenges – by listing countries in the passport which were 'invalid' for travel. When this method also failed in court, the government switched from 'travel controls' to 'currency controls'. The current restrictions on travel to Cuba come under the Treasury Department - and not the State Department- because they have to do with the spending of money by US citizens, residents, and corporations. Of course, these 'currency controls' are just a back door method to restrict our right to travel.

1958 Kent v Dulles - Freedom to Travel established as a Fifth Amendment guarantee.
Jan 1, 1959 Victory of the Cuban Revolution
October, 1959 American Society of Travel Agents Convention takes place at Hotel Nacional in Havana. Plane piloted by CIA agents and originating in Florida strafes Havana killing 2 and wounding 45.

1961 US restricts travel to Cuba via passport controls. African American journalist William Worthy challenges the passport controls and wins in **1964**.

1963 US restricts travel to Cuba via currency controls under the general US economic blockade.

Student groups travel to Cuba **1962, 1963** and **1964.** Leaders indicted and case goes to Supreme Court in **1967**.

Supreme Court Justice William.O.Douglas: "Freedom of movement is the very essence of our free society...Once the right to travel is curtailed, all other rights suffer. From **1965**: "The right to know, to converse with others, to consult with them, to observe social, physical, political, and other phenomena abroad as well as at home gives meaning and substance to freedom of expression and freedom of the press."

Student and civil rights activists initiate an educational solidarity project to defy the restrictions and cut sugar cane side by side with Cuban workers. More than 5,000 people since then have traveled with the Venceremos Brigade in yearly contingents without ever requesting a license from the government.

DEFENDANT'S EXHIBIT D616

1972 Center for Cuban Studies organized to bring academic and cultural groups to and from Cuba. Center is bombed in **1973**. 1199 Hospital Workers union hall also bombed for exhibition called ExpoCuba.

Miami Airport bombed in response to US policy change allowing third country subsidiaries of US companies to do business with Cuba

October 6, 1976 Bomb explodes on Cubana civilian flight taking off from Barbados killing all 73 passengers. CIA-trained bomber Orlando Bosch is now an honored member of the Miami community openly supported by the first President Bush and his sons. CIA-trained bomber Luis Posada escapes from prison in Venezuela and later helps CIA efforts to supply Nicaraguan Contras in the **1980's**. In the 1990's he receives funds from the Cuban American National Foundation to coordinate the bombing of hotels in Cuba. He is currently in jail in Panama for 'arms violations' related to an assassination plot against the Cuban President.

1976 Cubana Airline offices are bombed throughout Latin America

1977 President Jimmy Carter lifts the restrictions on travel.

Composed of young Cuban Americans, the Brigada Antonio Maceo travels to Cuba as an act of friendship and reconciliation.

1978 600 young people from the US attend the World Youth Festival in Havana

Meeting in Havana, representatives of Cubans living abroad in the United States, Spain, Puerto Rico, and Mexico establish a Dialogue with the Cuban Government. Cuban American leaders establish the Committee of 75 and travel agencies are initiated to coordinate the travel of Cuban Americans to visit their relatives. 125,000 do so in the next year and regular charter service is established between Miami and Havana.

Carlos Muniz, president of Viajes Varadero travel agency in Puerto Rico, and member of the Committee of 75, is assassinated in San Juan.

Eulalio Negrin, another member of the Committee of 75, is assassinated in Union City, New Jersey.

1982 President Ronald Reagan re-imposes the travel restrictions.

Law firm of Rabinowitz, Boudin, Standard, Krinsky and Lieberman – which had originally litigated the Kent v Dulles suit in **1958** - brings suit on behalf of Professor Ruth Wald, the Center for Cuban Studies, and other plaintiffs to end the restrictions, a case which was finally lost by a 5-4 Supreme Court decision in 1984. The majority rule that foreign policy concerns of the executive branch could override our Fifth Amendment right to travel.

Subpoenas demanding the names of all Marazul Tours clients who had traveled to Cuba is fought and won by the Center for Constitutional Rights, the National Lawyers Guild, and the National Conference of Black Lawyers.

Marazul is bombed and would be bombed again in **1989**. Mackey International, Airline Brokers Company and other travel agencies in Miami are also bombed over these years.

Cuba Democracy Bill (Torricelli Bill) passed by Congress to further restrict travel and increase the effects of the economic blockade as Cuba's economy bottoms out in the

wake of the collapse of her trading partners in the socialist world.

Pastors for Peace initiates the first of annual US-Cuba Friendshipment Caravans demanding the right to travel to Cuba to deliver humanitarian supplies and refusing, on principal, to apply for 'permission' from the US government to do so. In **1993**, Pastors for Peace mounts a 23 day hunger strike and world wide campaign which wins the release of a school bus and supplies. Each caravan has been harassed and in some cases terrorized at the border and numbers of 'caravanistas' have received letters from OFAC. In **1996** participants risked their lives in a 94-day Fast for Life successfully demanding the release of 400 computers. IFCO has risked jail by refusing to appear before a grand jury and, in 1998, successfully sued the Treasury Department to prevent US government access to their bank records.

1992-98 In a series of attacks coordinated by Luis Posada (see above) and funded by the Cuban American National Foundation leaders, bombs explode at a number of Cuban hotels resulting in the death of an Italian tourist.

1993 Global Exchange and many other organizations launch the Freedom to Travel challenge sending eight delegations without licenses for the next three years. The government responds by freezing Global Exchange's account.

The former head of the US Interests Section in Havana, Wayne Smith, initiates a similar campaign bringing unlicensed academics to Cuba beginning in **1994**.

Freedom to Travel Campaign v. Newcomb: 9th Circuit Court rules they will not intervene in foreign policy decision and maintains travel restrictions.

1996 Helms Burton Bill tightens and codifies travel restrictions giving only Congress the power to eliminate them.

900 unlicensed young people defy the restrictions in the largest single challenge organized by our movement.
Pope John Paul II visits Cuba and calls for an end to the restrictions and US economic blockade.
President Clinton modifies restrictions allowing some increased travel – but only under licenses.

1982-2003 During these years, hundreds of universities and colleges and high schools, professional and cultural organizations, religious institutions and groups, and thousands upon thousands of individuals flood the Treasury Department with applications for travel, by enlisting the aid of their congressional representatives and writing of their experiences. Virtually 100% of the people and organizations and institutions that have engaged in this process have emerged in total opposition to the restrictions.

The House of Representatives vote to withhold funds for the enforcement of the travel restrictions. However, the House leadership manages to remove this provision in the joint House-Senate conference committee (the President vows to veto any bill with this provision included)

*OFAC (Office of Foreign Assets Control) fines more than 100 travelers $1000 each. OFAC fines 74-year grandmother $8500 for bicycling in Cuba. Hundreds of others have cases pending before OFAC.

*350 Cuban Americans meet in Florida to demand a new Cuba policy and an end to the restrictions.

*Over 150 citizens and elected officials representing 37 cities and 17 states met with their counterparts in Cuba as part of the US-Cuba Sister Cities Association Conference. In response, OFAC sends Requirements to Furnish Information (subpoenas) to members of the US-Cuba Sister Cities Association alleging they organized an "illegal" conference in Cuba. OFAC also threatens to fine the secretary of the Seattle-Cuba Friendship Committee for merely posting a notice on a web site about the meeting in Havana.

*Nobel Peace Prize recipient and former President Carter travels to Havana for discussions with the aim of a new Cuba policy and calls for ending the travel restrictions as a first step.

*People who have made past trips to Cuba – no matter if the trips were 'licensed' or not – report harassment by US customs officials whenever they travel internationally.

*US imposes new procedures further restricting the ability of Cubans to visit the US

*National Summit on Cuba – sponsored by the American Farm Bureau, Americans for Humanitarian trade with Cuba, the World Policy Institute, USA*Engage, and other conservative, centrist and liberal organizations – meets in Washington and calls for ending the restrictions.

*Hundreds of U.S. businessmen organize and attend Agricultural Exhibition in Havana.

*The 13th US-Cuba Friendshipment Caravan and the 33rd Contingent of the Venceremos Brigade return from successful challenges to the restrictions.

It is estimated that 200,000 people from the US traveled to Cuba last year, 140,000-150,000 'legally' under licenses issued by the Office of Foreign Assets Control of the Treasury Department and around 50,000-60,000 without permission (i.e. licenses) from the government.

** For further information on the history of U.S.-Cuba relations and the fight for the right to travel, please see the indispensable **Cuba and the United States, A Chronological History** by Jane Franklin, Ocean Press, 1997.

Venceremos Brigade

PO Box 5202, Englewood, NJ 07631 / 212-560-4360 vbrigade@yahoo.com

Up

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

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CUBA Update Tours
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History and Purpose

The Center for Cuban Studies opened in New York City in 1972, organized by a group of scholars, writers, artists and other professionals who hoped to counter the effects of U.S. policy toward Cuba. The 1961 U.S. ban on trade with and travel to Cuba, followed by the break in diplomatic relations, had created a de facto embargo on information about Cuba. The Center has served as a vital communication link between the U.S. and Cuba through its publications, organized tours, library services, exchange programs and art projects.

Our membership program and activities have helped close the information gap that existed and have brought the Cuban experience closer to us. A major goal of the Center's work remains unrealized — the normalization of relations between the United States and Cuba. It is hoped that through an ever-expanding program of news, information and exchanges, the Center can contribute to the realization of that goal.

Membership

The Center relies on membership to continue its work. All members receive the CUBA Update and regular mailings about Center-sponsored events, trips, and developments in U.S.-Cuba relations. Membership entitles you to a 20% discount on most items for sale and to participate in members-only functions. Supporting and sustaining members, in addition, receive notices about visiting Cuban artists and experts, are invited to events for supporters and sustainers only and can call upon Center staff for special requests.

Annual memberships are $60 (regular), $100

DEFENDANT'S EXHIBIT D617

(supporting) and $150 / $250 (sustaining). Institutional and foreign membership is $70. Students and senior citizens from the U.S. can join at the special rate of $40.

For further information, write: CCS Membership, Center for Cuban Studies, 124 West 23rd Street, New York, NY 10011; fax: (212) 242-1937; phone: (212) 242-0559; e-mail: cubanctr@igc.org.

CUBA Update

CUBA Update is a quarterly magazine published by the Center which covers mainly politics, economics and the arts, with an emphasis on U.S.-Cuba relations. With our own correspondents in Havana and the input of experts in both Cuba and the U.S., CUBA Update provides accurate, accessible news coverage and discussion of important issues almost impossible to find elsewhere. Recent issues have focused discussion on immigration, sexual politics, sustainable development, women, travel the U.S. embargo, and a special number devoted to director Tomás Gutiérrez Alea.

CUBA Update is sent free with membership in the Center for Cuban Studies, or can be subscribed to separately for $40 a year (individual) /$50 (institutional). Back issues can be obtained for $8 each, including postage. *For information on submissions, contact Sandra Levinson, Editor.*

Information Services

An important goal of the Center from its inception has been to provide accurate and up-to-date information about Cuba. The Lourdes Casal Library, which contains thousands of post-1959 books, magazines, and newspapers, as well as special collections of study materials and an extensive clippings file, is open to the public Friday afternoon and by appointment.

CUBA Update Tours

In keeping with our commitment to provide U.S. citizens with information about Cuba, the Center organizes trips to Cuba for both groups and individuals that fall within the legal exemptions to the U.S. ban on travel to Cuba, i.e., professional research, news-gathering, educational study, and religious study. The Center has developed dozens of seminars, including ones on the African roots of Cuban culture, Cuba's economic crisis, architecture and urban planning, health care, film, the performing and visual arts, religion, law and justice, education, day care and the environment.

The Center offers its expertise and experience to both groups and individuals by arranging custom-planned research trips. *For further information, contact Sandra Levinson.*

Lifeline Fund

In response to the severe shortages in Cuba, the Center set up the Lifeline Fund, which enables contributors to donate much-needed materials to Cuban institutions. These materials include medicines and medical supplies, religious artifacts, artists' supplies, educational materials, etc. *For further information, or to send a donation, write the Lifeline Fund, c/o Center for Cuban Studies.*

Center Sponsors

Among the many prestigious Center sponsors (partial list) are: Harry Belafonte, Julie Belafonte, Jean Carey Bond, Noam Chomsky, Eva S. Cockcroft, Johnnetta B. Cole, Francis Coppola, Jules Feiffer, Jack Gelber, Timothy Harding, Arthur Kinoy, Max Kozloff, Beth Lamont, Saul Landau, William LeoGrande, Lee Lockwood, Grace Paley, Sydney Pollack, Gregory Rabassa, Karen Ranucci, Michael Ratner, Toshi and Pete Seeger, Stanley Sheinbaum, Michael Tigar, Rip Torn, Nelson Valdés, Paula Weinstein, and John Womack, Jr.

The Center for Cuban Studies is a non-profit

corporation with tax-exempt status. All contributions to the Center are tax-deductible.

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Beginning in March,* CUBA Update *will once again be published on a monthly schedule*. CUBA Update *Online, which is being launched now for the first time on this website, **will serve as an adjunct to the monthly paper edition** by bringing you news, commentary, announcements of events, citations to current articles and books, links to other websites . . . – in short, any information about Cuba and Cuba/U.S. relations that requires timely dissemination. **In this first issue of CUBA Update *Online* we publish some of the articles that were intended for publication during the last two years**. These are excellent articles that should be as interesting today as when they were written, because their topics haven't 'dated.' Although they treat events that occurred some time ago, they aid in understanding contemporary Cuba from different perspectives. The articles will remain posted until they are replaced by others. They will then be 'archived' but remain accessible to the visitor at all times. **Many people worked with great dedication on the 'unborn' issues and *we want to thank especially: Josh Bardfield, Lindsey Frank, Marianna Leavy-Sperounis, Kate Louis*.** For **further information or comments** please contact ***editor Sandra Levinson*** or ***assistant editor Marcos Meconi*** at **212.242.0559**.

Click on title or MORE for full article

Urgent Action on Cuba Travel! A Message from Sandra Levinson, Editor and Director of the Center for Cuban Studies.

Dear Center for Cuban Studies Supporter,
This note is to urge that you take immediate action regarding travel to Cuba by expressing your personal disagreement with OFAC's new regulations banning people-to-people educational travel to Cuba. — **MORE**

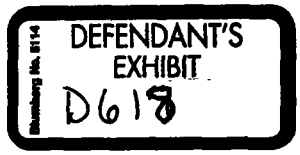
Changes in Regulations Governing Travel to Cuba

Geoff Thale and Rachel Farley
WOLA [Washington Office on Latin America]
March 26, 2003
On **Monday, March 24th**, the **Office of Foreign Assets Control (OFAC)**, the Treasury Department agency charged with enforcing restrictions on travel to Cuba, **issued new regulations**. The regulations include some modifications in the rules governing travel to visit family in Cuba, the sending of remittances to Cuba, as well as some other changes. Most significantly, **the regulations restrict "educational travel" to Cuba**, impacting many U.S. organizations that sponsor Cuba educational travel, and reducing the number of U.S. citizens who visit the island. -- **MORE**

Columns

Please click on links

OUTLOOK ON CUBA POLICY
Mavis Anderson, Latin America Working Group
May 6, 2003



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Alberto Korda
Alberto Korda: Unos Recuerdos
An Appreciation of Korda

Brief re-cap of recent events . . . .
* Senate forms Cuba Working Group-On March 21, ten members of the Senate announc formation of a bipartisan "Cuba Working Group" to examine U.S. policies toward Cuba, including current trade and travel restrictions. Current membership includes: Max Baucu MT), Michael Enzi (R-WY), Byron Dorgan (D-ND), Chuck Hagel (R-NE), Maria Cantwell (I Norm Coleman (R-MN), Blanche Lincoln (D-AR), Jim Talent (R-MO), Jeff Bingaman (D-N Roberts (R-KS), Christopher Dodd (D-CT), and Lincoln Chafee (R-RI). — **MORE**

*** Recommended BACKGROUND Reading ***
Cuba and the United States: A Chronological History
by Jane Franklin.
Widely recognized as the standard history of U.S.-Cuba relations, this book delivers an almost day-by-day, of the developments involving the two neighboring countries since t Cuban revolution. — MORE

Letter from Miami
August 22, 2001
On August 7, [2001] more than 20 of the late Jorge Mas Canosa's long-term associates resigned from the board of the Cuban American National Foundation (CANF)--not with a whimper, but with a bang. A bang big enough to merit a front-page story in The New Yo Times. — **MORE**

U.S. - Cuba Relations

On the Recent Arrests and Conviction in Cuba of Regime Oppon [The Cuban view]
From: Carlos Fernandez de Cossio [Cuban Ambassador to Canada] Date: Thu, 10 Apr 2003 18:25:48 -0400
To the Editor of the Globe and Mail:
The individuals arrested, prosecuted and sentenced in Cuba in recent days were not acc nor were they detained, tried and sentenced for being economists, journalist, human rig activists or for expressing their opinion and dissent. They have violated laws clearly kno them that are aimed to legitimately protect Cuba from the attempt by the US Governme destabilize the country, undermine and destroy Cuba's Constitutional order, its Governm independence and its Socialist society. — **MORE**

Press conference by Foreign Minister of the Repúblic of Cub Felipe Pérez Roque on the regime opponents who stood tria April 3, 4, 5 and 7, 2003. Havana City, April 9, 2003 — MORI

Who Exactly are "The Cuban Five"?
Simon Wollers
In June of 2001 five Cubans were found guilty of a number of offences by a United Stat federal court in Miami, Florida. These offences were:
- Conspiracy to commit espionage
- Conspiracy to commit murder
- Conspiracy to act as an unregistered foreign agent
- Possession of false ID

Nobody pretends that these five men were not working for Cuban interests. However, th were certainly not "foreign agents" in the "spy" context understood by US law - as the espionage charge would have you believe - nor were they, by any stretch of the imagina murderers. — **MORE**

Miami Radio Talk Show Host Says Conditions Under Which Five Have Been Placed Amounts to Torture
Francisco Aruca, Radio Progreso Miami
March 26th, 2003
On March 25th one of Miami, Florida's most well-known talk show hosts, **Francisco Aruca** of Radio Progreso, interviewed US attorney **Leonard Weinglass** who represents Antonio Guererro, one of the Cuban Five. - **MORE**

The Cuban Five are out of the 'Hole'
STATEMENT BY THE CUBAN NATIONAL ASSEMBLY
April 1st, 2003

As a result of public denunciation and numerous messages of protest, the Government of Washington has decided to put an end to the arbitrary solitary confinement that it had imposed on **Gerardo Hernández, René González, Ramón Labañino, Antonio Guerrero** and **Fernando González**. - **MORE**

Interview with Ricardo Alarcón [A Cuban Viewpoint]

Saul Landau

On **January 25, 2003**, Cuban President of the National Assembly Ricardo Alarcón granted me an interview. I share his remarks with my **Progreso Weekly** readers.
SAUL LANDAU: You've observed the Bush war on terrorism. Is it working? — **MORE**

The Elián Saga: Everyone Is Equal, But Cuban Americans Are More Equal Than Others

Michael Ratner

New York, July 2001

The return of Elián and his father to Cuba is wonderful not only for Elián and his family; it was also a great triumph for the people of Cuba. It was a defeat for the fossilized politics of what Fidel Castro referred to as the Miami mafia—those Cuban Americans who were willing to sacrifice the well-being and best interests of a young child to further their retrograde and narrow political agenda. In the eyes of many Americans the efforts by those Cuban Americans to kidnap Elián demonstrated the utter bankruptcy of the cold war politics that drives that community. Indeed, it is unlikely that Congress's passage of legislation loosening the embargo on food and medicine would have occurred but for the Elián case. — **MORE**

A Visit with Elián

Kirby Jones

Washington, D.C., July 2001

The marshals arrived about two hours before everyone else on this Sunday, June 4. They looked around the house, surveyed the street, and asked about all access points to our home. I thought it a bit unusual since we lived on a dead end street, but they were obviously concerned--four of them stood in our backyard for the entire gathering.
Elián, Juan Miguel, his wife Nercy and her son Yianny soon arrived in an SUV with other vehicles carrying his playmates and their guardians; teacher; the families of Fernando Remirez, Gustavo Machin and others from the Cuban Interests Section here. — **MORE**

Elián: one year since his return to the island

Marta Rojas

Havana, September, 2001

The entire world knows this name: Elián
If a survey of the news media had been conducted last year, there is no doubt that Elián González would have been declared 2000's most famous international child. One year has passed since Elián, the little shipwrecked Cuban, returned home. His departure followed a major political and judicial dispute between Cuba and the United States, in which the Immigration and Naturalization Service (INS) had no choice but to intervene. — **MORE**

Images from an Extraordinary Encounter

Kirby Jones

November 2001

After traveling to Cuba now for more than 27 years, I thought I had seen about everything. But I was wrong. In April, Peter Kornbluh and The National Security Archive organized an extraordinary event in Cuba.
Imagine this: picture in your mind a square hollow conference table. On one side sits Fidel Castro surrounded by aides, ministers, and military officers; to his left are Mario Cabello, Alfredo Durán,

and four others from Brigade 2506, which invaded Cuba in 1961; across from Fidel sits Sam Halperin, the CIA official whose job it was to create and implement Operation Mongoose to kill Fidel Castro; flanking Sam is Arthur Schlesinger and Richard Goodwin, representing the Kennedy White House which undertook the invasion, and behind them sat President Kennedy's sister, Jean — **MORE**

Fact Sheet: The Fight for the Right to Travel to Cuba Chronology

The U.S. has had restrictions on travel to Cuba for most of the past 40 years. While the Constitutional right to travel was technically won in a **1958** Supreme Court decision, the U.S. government and its ideological allies have tried to prevent us from traveling through a variety of legal, extra legal, and illegal means. Since the beginning, people have fought back vigorously and continuously for our right to travel to Cuba. — **MORE**

Cuba / Cultural

Hip Hop in Havana

Sam Krinsky

May 2001

Hip hop began inauspiciously in the early '80s in the parks and schoolyards of the South Bronx. What started as a local musical innovation soon spread throughout the country and came to represent what hip hop scholar Nelson George has called the first "post Soul generation" of black youth in the U.S. As it expanded beyond the inner city communities and gained prominence in the national mainstream media, hip hop, as both a music and a movement, spread overseas. Twenty years after its birth, hip hop has truly become an international phenomenon. And despite the United States' now forty-year old embargo on trade and travel, hip hop has found a home in Havana. — **MORE**

"Documenta 11"

Kate Louis

August 2002

The eleventh Documenta, a contemporary art show that takes place in Kassel, Germany every five years, runs from June 8 through September 15 of this year [2002]. The Documenta was conceived in 1955 with the intention of bringing European art to post-war Germany and making international contacts within the art world. Now, forty seven years later, these connections continue to be asserted even in the midst of our current "global culture." With artists from seven continents contributing their visions of ways in which the local and the international mesh or come into conflict, the Documenta has truly become an exhibition space shared by the whole world. — **MORE**

Book Reviews

SELECTED WRITINGS

José Martí

Reviewed by Tom Miller

Edited and translated from the Spanish by Esther Allen
Penguin: 462 pp., $15 paper

José Martí is the most remarkable figure in the history of Cuba, though he spent almost all of his adult life outside his homeland. His importance can't be overestimated. — **MORE**

Mi Moto Fidel

Christopher Baker

Reviewed by Conner Gorry

Recently I tried slaking that most insatiable of cravings by heading to a slide show called "Solo Travel through Cuba" or some such. After what seemed like hours of washed out, pedestrian images narrated by a monotone drone, the screen went back to black and I sat there wondering how people can make Cuba feel boring. — **MORE**

Obituary — Korda

Alberto Korda

Lee Lockwood

September 2001

When he died, I'd known him for more than 40 years. He was my oldest and best Cuban friend. We'd first met in Havana at the bottom of a ladder, at the very first celebration of the *26 de julio*, held in Havana's Plaza de la Revolución. There were no tall buildings nearby or other vantage points from which photographers could shoot. So they'd erected tall steel scaffolding, a sort of jack in the beanstalk ladder, and lashed some 2 x 4's together at the top to make a shooting platform. I was standing at the bottom, trying to figure out how I was going to make it to the top with all my photo equipment swinging from my neck and shoulders, when an exotic, diminutive Cuban photographer materialized alongside me. He had a thick, carefully coiffed beard, a sombrero rakishly tilted on his head, and a cowboy bandanna knotted around his neck, and looked like no photographer I'd ever seen. — **MORE**

Alberto Korda: Unos Recuerdos (A Few Memories)

Darrel Couturier

July 2001

The phone rang Friday morning, May 25th, as I was in the midst of preparing for an opening here at the gallery for that same night. Hector Sandoval, the director-producer of a feature length documentary about Korda, was at the other end, sounding very strange. He could barely get out the words to tell me that Alberto Korda had just dropped dead of a heart attack in Paris. — **MORE**

An Appreciation of Korda

Richard Fagen

October 2001

I first met Korda in the late 1960s when he was working with the Institute of Oceanography of the Cuban Academy of Sciences. The Dean of Revolutionary Photographers had gone underwater, and the lobby of the Institute was full of his photos of fish, corals, and all sorts of other creatures from the vast deep. — **MORE**

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The Center for International Policy's
Cuba Project

National Summit on Cuba

September 17-18 2002
National Press Club,
Washington DC

Brochure | ***Summit Agenda*** | ***Other Events***

Highlights

National Summit on Cuba Summary Report (pdf. format)

CIP at the National Summit on

The National Summit on Cuba was sponsored by the American Farm Bureau Federation, USA Engage, the World Policy Institue and Americans for Humanitarian Trade with Cuba in coordination with more than a dozen groups from all over the United States including the Center for International Policy's Cuba Project. CIP participated in the September 18th lobby day on Capitol Hill and CIP's **Anya Landau** chaired the panel, "Our National Interest, Our National Security"at the September 17th Summit Conference.

On September 17, 2002, hundreds of Cuban Americans converged on Washington for the **Cuban American lobby day** demanding freedom of travel to Cuba. Cuban Americans met with Senators and Representatives and participated in seminars all leading up to the unveiling of the "Yo sí voy" campaign. The campaign was launched by younger generation Cuban-Americans in cooperation with other Cuban-American advocacy groups.

Summit

September 17-18 2002

THE NATIONAL SUMMIT ON CUBA will demonstrate, for the first time, the remarkable breadth of support that exists throughout the United States for creating a more sensible policy toward Cuba.The Summit will come at a critical time in the embargo debate, as U.S. elected officials will vote to lift restrictions on Americans' freedom to travel to Cuba, to make food and medical sales to the island more practical, to dismantle aspects of the highly problematic Helms-Burton legislation and other Cuba-related issues as part of the overall Autumn Appropriations debate. At the National Summit on Cuba, the audience will be an important part of the event. As in a convention, **the Summit will showcase delegations from each state comprised of reputable corporate, government, religious, medical, labor, port, agricultural, Cuban American and other community leaders**. The audience will carry important local perspectives that will educate members of the Administration and Congress on how different policy approaches might better serve our national interest at large.

Summit Agenda

8:00 am - Convene at National Press Club, Washington DC (529 14 St. NW) registration and coffee

8:30 am - Greetings: Summit Co-Chairs Sam Gibbons, former 34-year U.S. Representative from Tampa and
Bob Stallman, President, American Farm Bureau

Federation, from Texas.

9:00 am - U.S. Representative Jeff Flake (R-AZ), member of the House Cuba Working Group.

9:15 am - The Flag Follows Trade: David Frey, Kansas Wheat Commission, Gary La Grange, Director, Port of New Orleans, President of the Gulf Coast Ports Association of the Americas and Kirby Jones, Cuba business consultant, Alamar Associate, on the impact of recent food sales to Cuba on heartland farmers, communities. William C. Lane, Caterpillar and Mark Entwistle, former Canadian Ambassador to Cuba on international implications of Helms Burton and the embargo and current investment practices in Cuba. Bill Reinsch, Chairman, USA Engage Coalition, former U.S. Commerce Dept. official, moderates.

10:00 am - Democratic and Economic Impetus for Free Travel. Ian Vasquez, Cato Institute. Burton Rubin, American Society of Travel Agents. Daniel Aruca, Marazul Travel, New Jersey. Dorothy Robyn PhD, Brattle Group, on domestic economic impact of lifting travel restrictions to Cuba. U.S. Rep. William Delahunt (D-MA) moderates.

*CIP senior fellow **Wayne Smith** and Eloy Guitierrez Menoyo, former political prisoner in Cuba and head of the Miami-based advocacy group "Cambio Cubano"*

10:30 am - Our National Interest, Our National Security: (Ret) General Charles Wilhelm, former Chief Commander U.S. Southern Command. Larry Johnson, Berg Associates, former Clinton State Dept. terrorism expert. Phil Peters, Lexington Institute. **Anya Landau, Center for International Policy, moderates.**

11:15 am - Changed Political Equation: Cuban Americans Seek New Approach. Former Bay of Pigs veteran Alfredo Duran, President, Cuban Committee for Democracy. University of Miami Sociologist Max Castro on new support for change. Silvia Wilhelm Puentes Cubanos, moderates.

11:45 - am Embargo's Impact on Human Rights, Medicine and Culture Here and In Cuba: Jose Miguel Vivanco, Human Rights Watch, joined by prominent Cuban dissident Elizardo Sanchez. Whitney Addington, MD, American College of Physicians. Mike Smith, Conservation International. Meryl Marshall Daniels, immediate past Chairman and CEO, Academy of Television Arts and Science.

12:15 am - Lunchtime Speaker U.S. Senator Chuck Hagel (R-Nebraska) introduced by H.P. Goldfield, Co-chair, Stonebridge International, Former Assistant Secretary of Commerce.

12:30 am - Lunch Service Begins: Video Presentation (10 minutes) Voices on Cuba (featuring Paul Volcker and others clips of ordinary Cuban people) Introduced by former U.S. Rep. Bob Edgar, who heads the National Council of Churches and Cuban guest Reinero Arce, President, Cuban Council of Churches

1:00 am - The Bush Administration's Point of View: Dan Fisk, U.S. Department of State. Introduced by Rep. JoAnn Emerson (R-MO), who will moderate audience Q & A.

1:30 am - Changed Political Equation, Local Leaders Speak Out. Susan Parker, Alabama State Auditor and candidate for U.S. Senate. Georgia Commissioner of Agriculture Tommy Irvin. Delia Perez, Illinois State Office of Intl. Trade Development. Barry Clark, Oklahoma State Dept. of

Commerce. TX State Rep Bob Hunter*, to discuss 2001 Texas State Resolution. CA State Senator Kevin Murray discusses 2002 resolution. Commissioner Joe McLash, Manatee County, FL.

2:15 am - Policy Prescriptions for Change: Audience discussion on current avenues for change. U.S. Rep. George Nethercutt (R-WA). Janice O'Connell, Professional Staff Member, Senate Foreign Relations Committee. Richard H. Stanley, the Stanley Foundation and HON Industries, Iowa. Julia Sweig, Council on Foreign Relations moderates discussion with audience.

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3:00 am - Closing Remarks: Senator Christopher Dodd (D-CT)
*indicates unconfirmed.

Other Events

Summit Day, Tuesday, September 17:

Public Opinion Polling on American attitudes toward the embargo released

A full-page ad in a major U.S. daily newspaper quantifying American support for free travel and humanitarian trade as a matter of U.S. national interest, coordinated by Americans For Humanitarian Trade With Cuba

Reception Summit Night for Summit Attendees and Speakers

Next Day, Wednesday, September 18:

Leading pro-engagement Cuban American groups host a Lobby Day and a Capitol Hill Panel on the changed dynamics of this important community with delegations from Miami, New Jersey and other states blanketing the Capitol

Bipartisan Congressional Breakfast hosted by the American Farm Bureau with U.S. Senators and members of the House Cuba Working Group

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Cigar Aficionado Online
http://www.cigaraficionado.com/Cigar/CA_Archives/CA_Show_Article/0,2322,646,00.html

Published Spring 1996

The Cuba Stalemate

A Former State Department Expert on Cuba Calls the Embargo an Idea Whose Time Has Passed

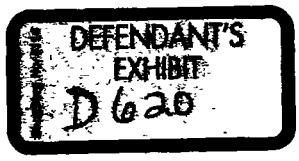
by Wayne S. Smith

Change is not only afoot in Cuba, it is well along the road. In "The Future of Cuba" (Winter 1993/94 Cigar Aficionado) I noted that the economic reform process had begun, was irreversible and would take on a momentum of its own. So it has been. Dollarization and a tentative self-employment law have been followed by the opening of farmers' and artisan markets, and by a significant broadening of the foreign investment law. These measures, plus the need to reduce the state sector of the economy, are putting mounting pressure on the government to expand the private sector. Hence, a small business law is now being discussed and will probably be adopted sometime this year.

Cuba, in short, is on the way to a thoroughly mixed economy. The results are encouraging. From the free fall of a few years ago, when the Cuban economy was retracting by 10 to 12 percent a year, it has begun to recuperate. Last year brought a growth rate of 0.7 percent and economists estimate the economy will grow 2.3 percent in 1996. Not much, to be sure; Cuba has a long way to go to full recovery. Other reforms must follow. Still, the corner has been turned.

There have also been profound changes in Cuba's foreign policy over the past few years. It is no longer assisting revolutionary movements, no longer has troops in Africa or anywhere else and is no longer the military ally of the former Soviet Union.

Yet, none of this has resulted in any relaxation of U.S. policy toward Cuba. The principal instrument of that policy, our 35-year-old trade embargo, not only remains firmly in place but has actually been tightened. Why is this? If we can



lift the embargo against Vietnam, extend most favored nation treatment to China and negotiate with North Korea, why can we not show some flexibility toward Cuba? Was there something in the genesis of the trade embargo against Cuba that produced such rigidity?

A quick examination of how and why the embargo was imposed would suggest that that was not the case. On the contrary, the embargo was established for perfectly logical reasons. The process began in the summer of 1960 when the Cuban government ordered two U.S. oil companies, Standard and Texaco, to refine Soviet crude oil at their Cuban refineries, rather than the oil they had been bringing in from their own sources. Not surprisingly, they refused. Also to no one's surprise, the Cuban response, on July 1 of that year, was to nationalize both companies' holdings in Cuba. A few days later, the United States retaliated by cutting the Cuban sugar quota, and that led, in August, to Cuba's nationalization of virtually all U.S. property on the island.

By the end of 1960, this tit-for-tat process had produced an embargo on trade between the countries--one that was expanded to include, by 1962, even food and medicine, and trade between Cuba and U.S. subsidiaries overseas. The latter was a particularly sticky point, for while the United States may consider, say, Ford of Argentina to be a branch of the American company, Argentina considered--and considers--it a company incorporated in Argentina, to be fully subject to local law and trading practices. Efforts by the United States to impose its law and practices on such companies are inevitably resented and seen by the host governments as a violation of their sovereignty. At first, however, given that most of those governments sympathized with the United States against Cuba and even cooperated with the trade embargo, the question was moot. But only for a time.

I should note at this point that I was, in a sense, present at the creation. As a young foreign service officer in the U.S. Embassy in Havana (until we broke relations in January 1961) and then during much of 1961 as an officer in the Department of State, I not only helped write some of the language that went into the embargo, but saw all the documents outlining our justification for imposing it. Essentially, these reflected three objectives:

* First, to punish Cuba for having nationalized our properties without compensation, and perhaps even to force it into a compensation

agreement.

* Second, to raise the costs to the Soviets, and to the Cubans, of maintaining their alliance and pursuing policies detrimental to U.S. interests.

* Third, to reduce the resources Cuba could pour into assistance to revolutionary movements, especially in Latin America.

None of these objectives was irrational or idle. They were, after all, formulated against the backdrop of the Cold War and Fidel Castro's vows to turn the Andes into the Sierra Maestra of Latin America; i.e., to spark revolution throughout the southern hemisphere. To defend themselves, the Latin American governments--the targets of this outward thrusting on Castro's part--stood with us and entered into a multilateral trade embargo against the island. Our policy toward Cuba in those years, then, was not an isolated one; rather, it was endorsed by the Organization of American States (OAS) as a whole.

But times changed. At the end of the 1960s, Castro began to pull back from his efforts to overthrow other Latin American governments, and, rather, reached out to establish diplomatic and trade ties with them. They responded in kind. Country after country broke ranks with the OAS. Nor was U.S. prohibition of subsidiary trade any longer a moot question. Trading partners protested, and in 1973 Argentina threatened strong actions against U.S. subsidiaries that did not participate in its new trade agreement with Cuba.

With conditions thus changing, in 1975 the OAS voted to lift its multilateral embargo. For its part, the United States not only voted with the majority to end the ban, but also, having concluded that our efforts to prohibit subsidiary trade were causing us more problems than they were Castro, gave them up. From that point until 1992, U.S. subsidiaries abroad were free to trade with Cuba.

The United States did not, however, lift its own unilateral trade embargo against the island. Over the next 15 years, America argued that Cuban meddling in Central America and support for Soviet incursions in Afghanistan and elsewhere were reason enough to keep the embargo in place. But over those same years, the United States assured the Cubans that if they would remove their troops from Africa, halt support for revolutionaries in Central America and reduce their military ties to the Soviet Union, the United

States would move ahead toward normalization of relations. I know; I delivered that message myself on a number of occasions.

By 1992, all those conditions had been met. All that and more: The Soviet-Cuban alliance was finished. So was the Cuban support for revolutionary groups that had once so concerned us. Cuba, moreover, had reached compensation agreements with every other country that had property claims against it and was offering to negotiate one with us. In short, the original objectives that had brought forth the embargo were achieved or were now realizable through other means. The embargo had no more raison d'etre.

So, did we move toward normalization, as we'd promised? No; instead we went in the opposite direction. With the Cuban Democracy Act of 1992, signed by then-president George Bush and fully supported by presidential candidate Bill Clinton, we tightened the embargo and restored the ban on subsidiary trade, to the outraged cries of other governments. Rep. Robert Torricelli (D-New Jersey), the principal proponent of the Cuban Democracy Act, assured one and all that it would "wreak havoc in Cuba," and that as a result, Castro would fall "within weeks."

More than three years later, Castro is not only still there, but the Cuban economy is beginning to recover. Meanwhile, U.S. policy toward Cuba is now virtually isolated. The vote in the United Nations this past November was 117 to 3 against our embargo. Only Israel and the former Soviet republic of Uzbekistan voted with us, and both trade with Cuba! No other government cooperates with our embargo. As do we, many of those governments want to see Cuba move toward a more open society, to free the remaining 600 to 900 political prisoners (down from the tens of thousands held in the 1960s), to permit freedom of expression and a free press. They disagree entirely, however, that the embargo is the best way to achieve all that, and they note also that Cuba is no less democratic and has a better human rights record than several countries with which the United States has rather warm rela tions--countries such as China and Saudi Arabia.

So what is to be our next step? More of the same, with the Helms-Burton bill now before Congress. Pushed by Sen. Jesse Helms (R-North Carolina) and Rep. Don Burton (R-Indiana), the legislation aims to tighten the embargo still further, so as, in the words of Senator Helms, "to carry Castro out feet first."

Helms-Burton, however, isn't likely to have any more effect than the Cuban Democracy Act. The bill would only deepen our own isolation on the Cuban question. It nonetheless enjoys broad partisan support in Congress. How to explain this intellectual sclerosis? It has nothing to do with the original rationale behind the embargo. That made sense. But over the years we seem to have become so caught up in an emotional crusade to oust Castro that we have lost sight of any sensible, practical goals. Nor are there signs of amelioration. Whether or not Helms-Burton prospers, and despite the growing pressures from American businessmen, who are tired of being shut out of the Cuban market, it seems unlikely that this or any successive administration will lift--or even tamper with--the embargo for at least another few years. That is regrettable, but not surprising. When it comes to Cuba, we have a penchant for shooting ourselves in the foot.

Wayne S. Smith is visiting professor at The Johns Hopkins University and senior fellow at the Center for International Policy in Washington, D.C. He was chief of the State Department's U.S. Interests Section from 1979 to 82, and before he left the Foreign Service in 1982, was regarded as the department's leading expert on Cuba.

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AND

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The Future of Cuba

A Leading Cuba Expert Renews His Optimism at Widespread Change

by Wayne S. Smith

I returned to the United States from Cuba in late September, and, for the first time in more than two years, I felt a sense of optimism. In Cuba, shortages had still been apparent at every turn; people continued to wait in long lines for almost everything, including buses that never seemed to come; even medicine was hard to come by. But while life remained grim, I sensed the anticipation that things will soon change for the better.

What fuels this hope? Well, for one thing, with new shipments of petroleum to run the electric power plants, the awful 18-hour-a-day blackouts of August had been trimmed to four. Imagine: in the middle of Cuba's hottest month, there had been no air-conditioning, fans, refrigerators or even lights. People could not sleep at night. As a Cuban friend says, "We were all so hot and irritable that we were ready to explode."

No wonder people felt a sharp sense of relief with the electricity on again most of the day. If nothing else, they could at least sleep at night. Most Cubans with whom I spoke seem to believe it was more than a temporary respite. They knew that Total, the French petroleum company, was to begin drilling its first well off the north coast of Cuba in the fall and that there is a very high chance of a major oil find. It may result in the same kind of heavy, high-sulfur oil produced ashore, but even that will make a major difference. It can be burned in electric power plants and thus mark the possible end of blackouts.

But far more important than oil in stimulating optimism were the economic reforms announced by the Cuban government. Castro had already legalized the dollar during

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the summer. But then he opened up the service sector and agriculture to private enterprise on an individual basis. Those who wish to open tailor shops, television repair shops, garages and bakeries can do so. State farms will be converted into private cooperatives run on the basis of profitability. Individual citizens will be leased land that they can cultivate on their own. The law does not say they can sell directly to consumers, but few doubt that they will do so.

Of course there are observers in the United States who say these measures are inadequate, that of themselves they will not solve Cuba's economic crisis. The critics are right. Cuba's problems stem principally from the collapse of the Soviet Union and the international socialist system. There is no more economic umbilical cord to Moscow and no more sister socialist republics with whom Cuba can trade on a preferential basis. Clearly, then, Cuba must adjust its economic system so that it is more compatible with the market economies with which it must now trade and upon which it now depends for investments and credits. The old, centralized planning system of state-to-state trade deals must be tossed out.

Unless the measures announced so far are only the tip of the lance, to be followed by a revamping of the system, they will not solve anything. Cuban citizens understand that, yet are not discouraged. The vast majority with whom I spoke see this as indeed simply the beginning of a process of change, a process that is already irreversible and which will transform Cuba, over time, to a social democracy with a far more open economic and political system.

As one Cuban put it: "Now the door is open, and we are on the way. One step will lead to another and pretty soon, whether the government intends it or not, we'll have a real mixed economy."

It is this belief--that the process is irreversible--that has, more than anything else, excited the growing sense of optimism. Observers in the United States narrowly focus on the limitations of the current reforms: that individuals can open private enterprises, but they can only employ members of their own families; that individuals can cultivate private plots, but are not authorized to sell to consumers. Yet the great majority of Cubans see these "limitations" as fiction. They note that private enterprises were operating even before the most recent changes were proposed and in most of these, one or more individuals were already working for another. That practice will continue and grow, they say.

Further, whatever the law says, those who cultivate plots will, without question, sell directly to consumers, as will the new cooperatives. The government may delude itself and say there will be no "farmers' markets," but in fact these markets already exist.

"In a sense," says one Cuban who owns a newly licensed restaurant (though he has been operating without a license for the past year), "the government is simply going along with what the people are doing. And they'll have little choice but to continue to accept our lead from here on out. One step will lead inexorably to another, no matter how the government might have wished it to be otherwise. They have legalized the dollar. That step must be followed by the establishment of an official exchange rate. There is no alternative. They have authorized individual private enterprise. That must be followed by group enterprises. They may call them cooperatives rather than companies, but the results will be the same. And economic reform will lead to political reforms as well. No, my friend, this process will take momentum of its own; there's no stopping it now."

One can only hope that he is right, for unless the system is reformed and unless there is some concrete improvement in the situation soon, such as increased food supply, there could be bloodshed in Cuba, which would serve no one's interests. What everyone should be hoping for and working toward is a peaceful transitional process, one that transforms Cuba, over time, into the social democracy prayed for by dissidents such as Elizardo Sanchez and secretly by many within the Cuban government. It may take longer than anticipated to get there. Fidel Castro himself may preside over the process during the first few years. But if the objective can be reached without bloodshed and greater human suffering, then evolutionary change is preferable to violent upheaval. Speaking as one who loves the island and its people with an abiding passion, I can only hope that Cuba has now set foot on that transitional path.

Wayne S. Smith is a former U.S. diplomat who served in Havana from 1958-61 and as chief of the U.S. Interests section from 1979-82. He is now director of the Cuban program at Johns Hopkins University in Baltimore and a senior fellow at the Center for International Policy in Washington, D.C.

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STATUS OF TRADEMARK APPLICATIONS FILED BY CUBATABACO AND HABANOS, S.A. BEFORE JANUARY 1997

Trademark Application/Registration	Filing Date	Company	Current Status
Behique	2/22/85	Cubatabaco	Cancelled (1994)
Maria Guerrero	5/16/85	Cubatabaco	Cancelled (1993)
Quality Guaranteed Cubatabaco Havana	3/16/87	Cubatabaco	Cancelled (1994)
Quai D' Orsay	5/20/88	Cubatabaco	Renewed (2001)
Montecristo (non-tobacco products)	6/27/88	Cubatabaco	Abandoned (1988)
Behike	7/29/88	Cubatabaco	Registered
Los Statos Deluxe Cigarros Exquisitos Finos	5/18/90	Cubatabaco	Abandoned (1991)
Edmundo Dantes	9/22/94	Cubatabaco	Registered
Edmundo Dantes La Habana Cuba	9/22/94	Cubatabaco	Registered
Trinidad	9/22/94	Cubatabaco	Abandoned (1995)
TTT Trinidad La Habana, Cuba	9/22/94	Cubatabaco	Cancelled (2001)
Cubatabaco Selection	9/22/94	Cubatabaco	Abandoned (1995)
Cubatabaco Selection La Habana Cuba	9/22/94	Cubatabaco	Abandoned (1997)
La Casa del Habano	9/22/94	Cubatabaco	Abandoned (1996)
La Casa del Habano	9/22/94	Cubatabaco	Registered
Vegueros	10/27/95	Habanos, S.A.	Registered
La Perla	10/27/95	Cubatabaco	Registered
Cuaba	7/11/96	Habanos, S.A.	Registered
La Vigia	7/18/96	Habanos, S.A.	Registered
Connaisseur Collection (non-tobacco products)	8/16/96	Habanos, S.A.	Abandoned (1997)
Indian Head TRADE DRESS DESIGN ONLY	8/16/96	Cubatabaco	Registered
Connaissuer Collection and Design (non-tobacco products)	8/16/96	Habanos, S.A.	Abandoned (1997)
Habanos Unicos Desde 1492	8/16/96	Habanos, S.A.	Registered
Connaisseur Collection (non-tobacco products)	8/16/96	Habanos, S.A.	Abandoned (1997)
La Casa Del Habano (non-tobacco products)	8/16/96	Cubatabaco	Registered
San Cristobal De La Habana	8/16/96	Habanos, S.A.	Abandoned (1998)
Habana Habana Cuba	10/28/96	Habanos, S.A.	Registered

DEFENDANT'S EXHIBIT D634

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner, v. GENERAL CIGAR CO., INC., Respondent.	Cancellation No. 92025859

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana*
Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc. (97 Civ. 8399 (RSW))

Def. Ex. 635

LIST OF HABANOS, S.A. CUBAN BRANDS AND CURRENT U.S. OWNERS

CUBAN TRADEMARK	CURRENT U.S. OWNER
Cohiba	General Cigar
Montecristo	Cuban Cigar Brands, N.V.
Partagas	General Cigar
Hoyo de Monterrey	General Cigar
Quintero	Max Rohr, Inc.
Romeo y Julieta	Max Rohr, Inc.
Punch	General Cigar
Bolivar	General Cigar
Cuaba	Habanos, S.A.
H. Upmann	Cuban Cigar Brands, N.V.
Fonseca	Manufactura de Tabacos, S.A.
Jose L. Piedra	Jose L. Piedra, Inc.
Quay D' Orsay	Cubatabaco
Vegueros	Habanos, S.A.
La Flor de Cano	General Cigar
Por Larranaga	Cuban Cigar Brands, N.V.
Belinda	General Cigar
Cabanas	Max Rohr, Inc.
Ramon Allones	General Cigar
Vegas Robaina	Habanos, S.A.
Juan Lopez	Max Rohr, Inc.
Rafael Gonzalez	General Cigar
Rey del Mundo	General Cigar
Sancho Panza	General Cigar
La Gloria Cubana	Intermatch Sweden AB ("Swedish Match"—parent company of General Cigar)
Diplomaticos	Fuente Cigar, Ltd.
Saint Luis Rey	Max Rohr, Inc.
Los Statos de Luxe	Intermatch Sweden AB ("Swedish Match"—parent company of General Cigar) under the name Los Statos Deluxe
Gispert	Max Rohr, Inc.
Troya	Lignum-2, Inc.
Trinidad	Abandoned/Cancelled (earlier registrant was Cubatabaco)
San Cristobal de la Habana	"San Cristobal"—Holt's Company of Delaware
Flor del Caney	Mike's Cigars
Caney	Isabel Ramirez
Siboney	Abandoned
Cifuentes	General Cigar

DEFENDANT'S EXHIBIT D635

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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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For the mark COHIBA
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EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 636

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a. CUBATABACO, Plaintiff, v. CULBRO CORPORATION and GENERAL CIGAR CO., INC., Defendants.	Civil Action No. 97 Civ. 8399 (RWS)

BENCH MEMORANDUM

This memorandum is submitted on behalf of Defendants in support of the admissibility of exhibit D61 pursuant to Federal Rule of Evidence 801(d)(2)(D). Exhibit D61 is a memorandum summarizing the substance a July 6, 1992, marketing meeting of several of Cubatabaco's exclusive distributors. On its face, the memorandum fulfills the requirements of Rule 801(d)(2)(D).[1] It was prepared by one of Cubatabaco's exclusive distributors, concerns topics related to the distribution and marketing of Cubatabaco's products, and was recovered from the files of Cubatabaco. As such, Exhibit D61 should be admitted into evidence as non-hearsay. See Fed. R. Evid. 801(d)(2)(D).

Pursuant to Federal Rule of Evidence 104(a), the Court "is not bound by the rules of evidence, and may consider the proffered statements themselves" in determining the existence of the agency relationship and its scope. See Hill v. F.R. Trippler & Co., Inc., 868 F. Supp. 593, 597 (S.D.N.Y. 1994) (citing In re Coordinated Pretrial Proceedings, 906 F.2d 432, 458 (9th Cir. 1990)). Indeed, admissibility of evidence under Rule 801(d)(2)(D) should be granted freely. See Pappas v. Middle Earth Condo. Assoc., 963 F.2d 534, 537 (2d Cir. 1992). Statements by an agent should be admitted into

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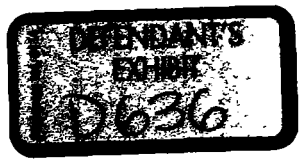
[1] "A statement is not hearsay if...[t]he statement is offered against a party and is...a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship..."



evidence where, as here, Defendants show (1) the existence of the agency relationship, (2) that the statement was made during the course of that relationship, and (3) that it relates to a matter within the scope of the agency. Id.

That the authors of exhibit D61 were agents of Cubatabaco is indisputable. Starting in the late-1980s Cubatabaco began to distribute its Cuban cigars through a network of distributors that were granted the exclusive right to sell Cubatabaco's products in their territory ("Exclusive Distributors"). (See Direct Test. of Ana Lopez Garcia ("Lopez Direct"), ¶ 10.) Cubatabaco imposed upon the Exclusive Distributors a uniform advertising and promotional policy for its cigars. (See id. ¶ 11.) In 1990 Cubatabaco met with its Exclusive Distributors and presented the specific promotional image that each Exclusive Distributor was directed to use "uniformly" in promoting Cubatabaco's COHIBA cigars throughout the world. (See id. ¶ 14, 15.) Cubatabaco launched the Siglo line of Cohiba cigars "in collaboration with Cubatabaco's distributors." (Id. ¶ 22.) Cubatabaco employed a promotional strategy "in conjunction with its distributors" to train managers and sales personnel from certain tobacco retailers which the Exclusive Distributors supplied with Cubatabaco cigars. (See id. ¶ 41.) Cubatabaco directed one of its Exclusive Distributors to place advertising for Cubatabaco's products in Cigar Aficionado, and subsequently reimbursed that agent for the expense. (See id. ¶ 58.) Further, Cubatabaco highlighted the agency relationship it holds with its Exclusive Distributors in its March 26, 2003 motion for leave to offer additional witnesses. In its memorandum of law supporting that motion, Cubatabaco noted that Simon Chase of Hunters & Frankau, the Exclusive Distributor for the United Kingdom, was a crucial witness who would testify that "Cubatabaco and Habanos, S.A. worked in tandem with Mr. Chase" in promoting Cubatabaco's products. (See Pl's Mem. in Supp. of its Mot. for Leave to Offer the Testimony of Bernardo Gonzalez and Simon Chase at Trial, at 6.)

As shown above, Cubatabaco allowed (and in fact required) its Exclusive Distributors, to market and advertise Cubatabaco's products on its behalf. See Restatement, Second, Agency § 1 (Agency "results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other to so act"). Agency is even established where, as

here, the agents were providing advice on a decision at issue. See Equal Employment Opportunity Comm'n v. Watergate at Landmark Condo., 24 F.3d 635, 639 (4th Cir. 1994) ("it is not necessary that the declarant be the final decisionmaker"). Further, the testimony of Lopez establishes that the Exclusive Distributors created D61 during the course of their agency relationship with Cubatabaco. (See, e.g., Lopez Direct ¶ 22.)

Similarly, the statements of Cubatabaco's agents in exhibit D61 concern matters within the scope of their agency. "Scope of authority" is interpreted broadly, and an admission of an agent is non-hearsay if the agent had authority to act in the subject areas of which the statement concerns. See Pappas, 963 F.2d at 537. Exhibit D61 concerns (1) suggestions to expand the market for Cohiba and attract new customers through the launch of the Cohiba Siglo line, (2) advertising of Cubatabaco's products, and (3) the opportunity for the Exclusive Distributors to bring personnel from their key retail clients to the upcoming 500th Anniversary conference in Havana. The direct testimony of Ms. Lopez establishes that the Executive Distributors were its agent for purposes of advertising, promotion, marketing, launching new lines of cigars, and training of personnel from key retailers in their territories. (See, e.g., Lopez Direct ¶¶ 11 (advertising and promotion), 14 (promotion), 15 (promotion), 22 (marketing and launch of the Cohiba Siglo line), 41 (training in Cuba of personnel from key retailers in each territory), and 58 (advertising).) Further, D61 itself indicates that many of the topics were discussed by the Exclusive Distributors for the benefit of Cubatabaco, e.g. "Mr. Padron [the director of Cubatabaco] had agreed [that the Exclusive Distributors should provide comments on plans for a Cohiba range extension] and requested a prompt report." (D61 at Bates P12852). Further, exhibit D61 was found in the files of Cubatabaco and Ms. Lopez testified at deposition that she recalled reviewing at least part of the document in performing her duties as a marketing specialist for Cubatabaco. (See July 13, 2001 deposition of Ana Lopez at 126-28). As such the statements contained in exhibit D61 are within the scope of the agency relationship and should be admitted into evidence.

CONCLUSION

For the reasons stated above, exhibit D61 should be admitted into evidence pursuant to Rule 801(d)(2)(D).

Dated: New York, New York
May 26, 2003

LATHAM & WATKINS LLP

By: _____

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

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

EMPRESA CUBANA DEL TABACO, d.b.a. CUBATABACO, Petitioner,	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC., Respondent.	:	

PARTY: RESPONDENT
DESIGNATION: in United States District Court for the Southern District of New York, *Empresa Cubana Del Tabaco d.b.a. Cubatabaco v. Culboro Corp. and General Cigar Co., Inc.* (97 Civ. 8399 (RSW))

Def. Ex. 638

Table 2 – Awareness and Trial Levels for Selected Brands

	9/94 Sample = 200			2/95 Sample = 304			5/95 Sample = 363		
	Unaided %	Aided %	Trial %*	Unaided %	Aided %	Trial %*	Unaided %	Aided %	Trial %*
Macanudo	63.0	82	65	59.2	82	65	59.5	82	65
Partagas	39.0	61	54	38.8	64	57	42.7	67	58
Fuente	26.5	66	41	31.6	71	48	34.4	73	52
Upmann	33.5	80	49	27.6	83	48	28.1	85	47
Dunhill	23.5	92	30	20.4	93	31	20.2	94	33
Davidoff	18.0	73	27	16.8	77	28	18.4	80	31
Hoyo de Monterey	11.5	76	26	16.4	80	32	17.1	83	32
Avo	13.0	52	26	15.0	58	31	14.6	61	32
Ashton	8.5	60	22	7.2	58	22	7.7	57	23
Cohiba	14.5		18.5	17.1		21.4	16.7		23.4

* Trial Percentage = percent who volunteered had ever smoked brand.

Source: PX 175, 1264, 140

DEFENDANT'S EXHIBIT D 638

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Def. Ex. 640, Def. Dep Ex. Ossip 4

DEFENDANT'S
DEPOSITION
EXHIBIT
Ossip - 4
8/27/01

A STUDY TO MEASURE CONSUMER PERCEPTION

OF THE GEOGRAPHIC ORIGIN

OF GALLEON S.A.'s "HAVANA CLUB" RUM

PREPARED FOR:
RABINOWITZ, BOUDIN, STANDARD, KRINSKY & LIEBERMAN
AND
PROSKAUER ROSE
NEW YORK, NY

PREPARED BY:
ALVIN OSSIP
MARKETING RESEARCH CONSULTANT

IN CONCERT WITH:
THE RESEARCH FIRM
RYE, NY

DECEMBER 1998

DEFENDANT'S
EXHIBIT
D 640

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B. Questionnaire
C. Interviewer and Supervisor Instructions
D. Validation Questionnaire
E. Resume and Other Information Concerning Mr. Ossip

I. BACKGROUND AND PURPOSE

I am informed that "Havana Club" is a rum produced in The Bahamas by Galleon S.A. for importation into the United States by Bacardi – Martini USA, Inc. I am further informed that this product has apparently been sold to distributors in limited areas and quantities commencing in 1995 through April 1997.

Rabinowitz, Boudin, Standard, Krinsky & Lieberman and Proskauer Rose, co-counsels for Havana Club Holding, S.A. and Havana Club International, S.A., are interested in determining the extent to which, if any, purchasers of rum would think that the geographic origin of the "Havana Club" product was Cuba if they saw the product for sale in the United States.

Toward that end, a study to measure such source confusion was conducted in various markets in November 1997 by RL Associates of Princeton, New Jersey. That study employed a technique whereby relevant respondents were shown five different brands of rum in a display, one of which was "Havana Club". Respondents were asked to examine the display as if they were deciding which one to purchase. They were then asked for each bottle, in turn, where they thought the rum was made. This "shelf display" approach attempted to simulate the in-store purchase situation but used a reduced display of products. Some variation of this approach is often used to research product source perception.

The study reported here was also commissioned by RBSK &L and Proskauer Rose to measure the extent of geographic source confusion of the "Havana Club" product. In designing this study I was requested by counsel to incorporate certain design features in light of the critique of the RL Associates Study made by Mr. Norman Passman. The research approach I used involved only exposure of a "Havana Club" bottle. This procedure is extremely likely to cause the average respondent to pay considerably more attention to what appears on the "Havana Club" bottle than would normally occur in the marketplace where the product would be part of a multi brand display. This must be considered when reviewing the results of this study.

II. STUDY AUTHORSHIP AND RESPONSIBILITY

This study was planned and supervised by Alvin Ossip, an independent marketing research consultant of 11 Homewood Road, Hartsdale, New York. Mr. Ossip is a very experienced survey researcher who has been involved in many studies concerned with issues of trademark, trade dress and advertising perception. He has conducted many studies that have been used in legal proceedings. Attached, as Appendix E is Mr. Ossip's resume and a list of cases in which he has testified as an expert at trial or by deposition within the past four years.

The study was implemented by The Research Firm of Rye, New York. The Research Firm is a full service research firm that is very experienced in the conduct of consumer surveys.

III. STUDY DESIGN OVERVIEW

The study reported here was conducted with a sample of 140 men and women 21 to 49 years of age, the prime purchasing group for rum. They were interviewed in shopping malls located in six geographically dispersed areas. Five of the malls were believed to be within the areas in which the "Havana Club" product had previously been distributed.

To appropriately represent the 21-49 year population, screening interviews were allocated by age groups (21-34, 35-49) within sex according to U.S. Census population estimates.

Qualified respondents were those who indicated they drank alcoholic beverages and had purchased rum in a store within the past twelve months or were likely to do so within the next twelve months. (About 84% of respondents indicated having both purchased rum and being likely to do so again within the specified time frames.)

Each qualified respondent who agreed to cooperate was escorted into an interviewing room and seated at a table with a bottle of "Havana Club" placed about 18 inches in front of them. The respondent was told it was a bottle of rum available in a local liquor store and asked to examine it as if he or she was shopping for rum and saw it on the shelf. The respondent was permitted to pick up and examine the bottle in any way desired. A copy of the labels on the "Havana Club" bottles appears in the next section of this report.

After the respondent indicated being ready, the bottle was removed from sight and the respondent asked:

> "Where do you think the rum I just showed you is made, or don't you know?"
>
> "Why do you say that?"

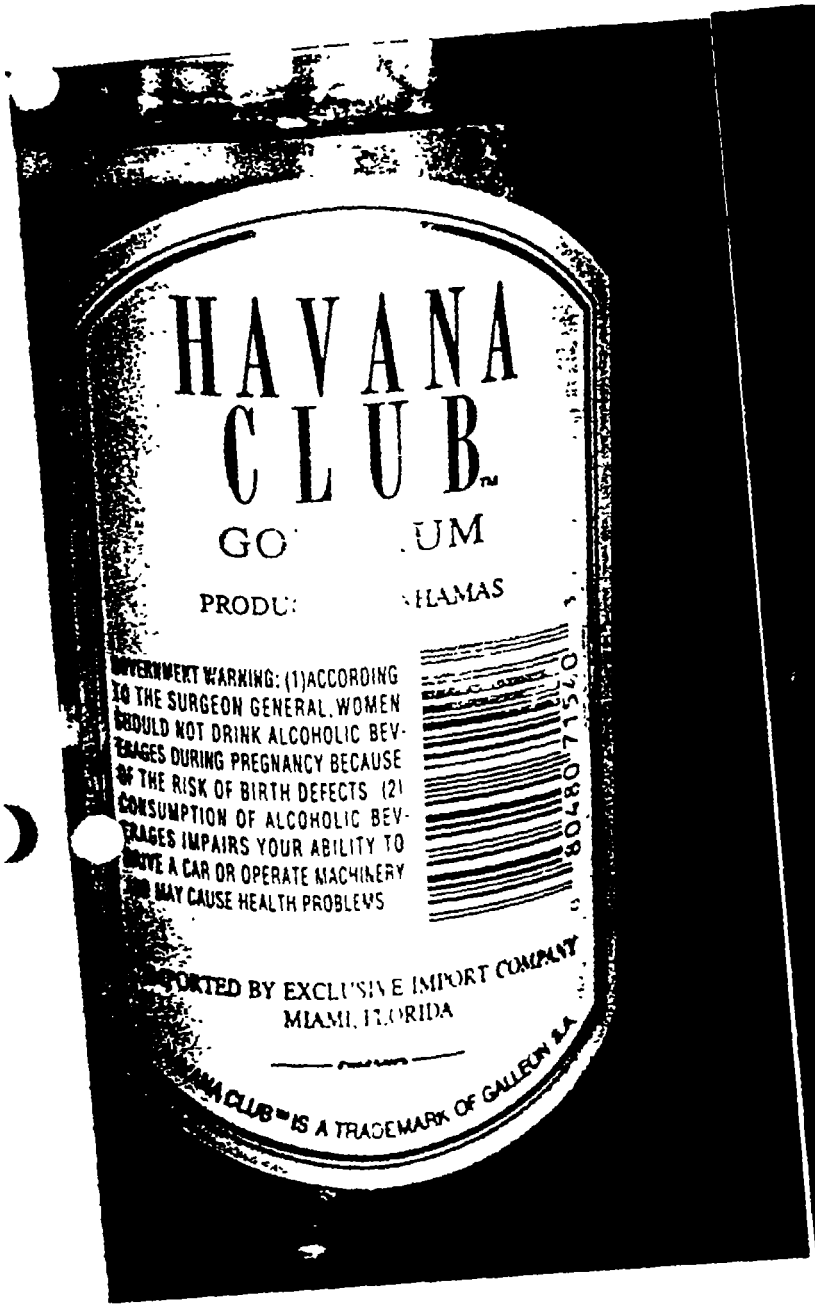
Those respondents who mentioned "Havana" in response to these questions were then asked the following additional question:

> "Even though you may have mentioned it, where is Havana?"

Only those respondents who specifically mentioned Cuba in answer to the above questions were tallied as indicating that the geographic origin of the "Havana Club" product was Cuba.

IV. "HAVANA CLUB BOTTLE LABELS

HAVANA
CLUB
Rum
IGHT
40% Alc. by Vol.
HAVANA
CLUB
LIGHT RUM
PRODUCT OF BAHAMAS
SURGEON GENERAL WOMEN
NOT DRINK ALCOHOLIC BEV
DURING PREGNANCY BECAUSE
RISK OF BIRTH DEFECTS
PTION OF ALCOHOLIC BEV
IMPAIRS YOUR ABILITY TO
CAR OR OPERATE MACHINERY
CAUSE HEALTH PROBLEMS
BY EXCLUSIVE IMPORT COMPANY
MIAMI, FLORIDA
IS A TRADEMARK OF GALLEON S.A.


HAVANA
CLUB™
GO UM
PRODU HAMAS
GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY AND MAY CAUSE HEALTH PROBLEMS
IMPORTED BY EXCLUSIVE IMPORT COMPANY
MIAMI, FLORIDA
HAVANA CLUB™ IS A TRADEMARK OF GALLEON S.A.

HAVANA
CLUB.

V. RESEARCH SUMMARY

When shown only a bottle of "Havana Club" rum and asked to examine it as they would if they saw it on a local liquor store shelf when shopping for rum, a substantial proportion of respondents (29%), indicated they thought the product was made in Cuba.

It is very likely that this test situation, which focused attention on only one bottle, encouraged a closer reading of the labels on the "Havana Club" bottle than might occur in a normal display situation. Consequently, the estimate of those who would think the source of the product was Cuba may be underestimated.

VI. DETAILED FINDINGS

When exposed only to a "Havana Club" bottle, which they were encouraged to examine as if they were shopping for rum, 29% of respondents thought the product was made in Cuba.

> This was somewhat greater than the proportion that correctly identified The Bahamas as where this rum was made (24%). ("Product of Bahamas" was printed on the back label of the bottle.)
>
> The "Caribbean", which was mentioned three times on the neck label and once on the front label, was cited by 15% of respondents as where the rum was made. Miami, Florida also appeared on the back label ("Imported by Exclusive Import Co., Miami, Florida") and 7% mentioned either that city or state as where the rum was made.

An additional 4% of respondents cited Havana as where the rum was made but they did not locate that city as being in Cuba.

Only a few additional respondents (2%) cited Cuba as the place of origin but indicated that they thought that the product was not permitted to be imported from there.

SUMMARY TABLE

WHERE "HAVANA CLUB" RUM IS MADE*

	All Respondents
Base = Total Respondents	(140) 100% %
Cuba	29
Bahamas	24
Caribbean	15
Florida or Miami	7
Havana (but not linked to Cuba)	4
Cuba, but can't import from there	2
Other places	11
Don't know	8

---

* Based on the following questions:

Q.2. Where do you think the rum I just showed you is made, or don't you know?

Q.3. Why do you say that?

Q.4. (IF "HAVANA" MENTIONED) Even though you may have mentioned it, where is Havana?

VII. METHODOLOGY DETAIL

Respondent Qualification

This study was conducted with men and women 21-49 years of age, a group accounting for the great bulk of rum purchasers (estimated at 80%).

To provide for appropriate representation of respondents by sex and age, data from the U.S. Census was used to allocate screening quotas across two age groups (21-34, 35-49) within male and female groups.

To qualify for the study, a screened respondent had to indicate that they drink alcoholic beverages and that they had purchased rum in a store within the past twelve months or were likely to do so within the next twelve months. (About 84% of respondents indicated both having bought rum in the past twelve months and being likely to do so within the next twelve months.) In total, about 17% of screened respondents met the qualification standards.

As is common in research projects of this nature, the screening interview attempted to exclude respondents, or those who had a household member, who worked in an advertising agency, for a market research firm or department or for a manufacturer, distributor or retailer of liquor products, occupations which might give them special knowledge about the subject under study. Also excluded were respondents who said they had participated in a non-political research study within the past three months or who did not have with them the glasses or contacts they normally wore when shopping.

A total of 140 respondents were included in the study results reported here.

A copy of the Screening Questionnaire appears in Appendix B

Interviewing Locations and Dates

The study reported here was conducted in six geographically dispersed markets. In each of these markets, interviews were conducted in an enclosed shopping mall where there is convenient access to consumers who may qualify for the study and where the physical stimuli used in the study can be easily viewed. This mall intercept method is an appropriate and commonly accepted means for interviewing a fairly representative sample of relevant consumers and is appropriate for the purposes of this investigation.

Five of the malls in this study were in areas in which it is believed "Havana Club" had previously been distributed in recent years. The additional market, in the Washington DC area, was added to increase sample size in the Southern Region, an area that accounts for more than a third of rum buyers.

Following are the locations in which the study was conducted and the number of interviews in each location which are included in this report.

MARKET AREA		# OF INTERVIEWS IN REPORT
Northeast		
Long Island, NY*	South Shore Mall (Bay Shore)	28
Midwest		
Minneapolis, MN *	Brookdale Mall (Brooklyn Center)	24
Chicago, IL	Lincolnwood Town Center	24
South		
Atlanta, GA	Perimeter Mall	23
Washington, DC	Potomac Mills Mall (Woodbridge, VA)	24
West		
Orange County, CA	Huntington Center Mall	17

The interviews were conducted in two waves. The first wave took place between November 13-19 in the two markets indicated above by *. The interviews in the remaining four markets were conducted between November 24 and December 1.

Interviewing Procedures

Screenings for eligibility were conducted in the common areas in each mall. Once qualified, respondents were escorted into the interviewing facility, seated at a table and a bottle of "Havana Club" was placed about 18 inches in front of them with the front label facing them. The respondent was then told: "Here is a bottle of rum that is available in a local liquor store. Please examine it as you would if you were shopping for rum and saw it on the shelf. Please let me know when you are ready." The respondent was permitted to pick up and examine the bottle in any way desired.

After the respondent indicated being ready, the bottle was removed from sight and the respondent asked:

"Where do you think the rum I just showed you is made, or don't you know?"

"Why do you say that?"

Those respondents who mentioned "Havana" in response to these questions were then asked the following additional question:

"Even though you may have mentioned it, where is Havana?"

A copy of the Main Questionnaire appears in Appendix B.

Study Execution Quality Control

Customized detailed interviewer and supervisor instructions were prepared by The Research Firm (Copies of these instructions are found in Appendix C).

Before beginning work on this study, each interviewer was required to:

- Read the interviewer instructions;
- Attend a personal briefing, at which time the supervisor reviewed and discussed interviewing procedures in detail;
- Complete a practice interview.

The study was administered under "double blind" conditions. That is, neither the respondents nor the interviewers were informed about the specific purpose or sponsor of the study.

The interviewer was asked to be sure that the respondent was wearing glasses or contacts if it was usually worn when shopping.

The gold version of "Havana Club" bottle was used in three markets, the silver version in three.

During the course of the study, the on-site supervisor periodically monitored the conduct of the interviews. In addition, at the end of each interview both respondent and interviewer signed forms to certify that the interview was appropriately conducted. Attempt was also made to reach all respondents by telephone after their interview to verify that the interview took place and that the respondent met the qualification standards. (A copy of the Validation Questionnaire appears in Appendix D)

In addition, a duplicate telephone number search was conducted in which the telephone numbers of all respondents were matched against those provided by respondents in other studies conducted in the same area by various research firms. This was done to insure against the use of "professional" respondents or those who very frequently participate in studies.

As a result of these validation procedures 37 of the originally completed 177 interviews were deleted from the study and these interviews are not included in this report. The following summarizes the information about the questionnaires deleted from the study.

- In addition to the malls previously listed, the study was also conducted in a mall in the Denver, Colorado area. However, due to a wide pattern of inconsistencies uncovered by the validation procedures and failure to follow certain study standards all 29 questionnaires from that mall were deleted from the study and are not included in this report.
- Seven questionnaires were deleted from the California interviews because the respondents had participated in many studies in the past and may have been recruited to participate in this study rather than being screened on the mall.
- One questionnaire was deleted from the Georgia interviews because the respondent's rum usage information was not indicated on the screening questionnaire and the respondent could not be reached to check this.

Among respondents deleted from the study 32% indicated Cuba as the source of "Havana Club". If these respondents had been included in the tabulations the estimated proportion indicating Cuba as the source would have remained at 29%.

Tabulation of Responses

All questionnaires were reviewed and tabulated by Mr. Ossip.

The foregoing constitutes my findings and opinions in this matter.

The fee to be received by the undersigned is at the rate of $325 per hour for time spent on this project, regardless of the specific activity.

_____

Alvin Ossip

APPENDIX

DETAILED TABLE 1

WHERE "HAVANA CLUB" RUM IS MADE*

	Total	NY	MN	IL	GA	DC	CA
Base = Total Respondents	140	28	24	24	23	24	17
Cuba (Based on Q.2/3)	17	4	3	1	-	6	3
(Based on Q.4)	23	1	7	2	8	2	3
Total Cuba	40	5	10	3	8	8	6
Bahamas	34	8	3	4	6	8	5
Caribbean	21	6	2	7	1	1	4
Florida or Miami	10	2	1	2	5	-	-
Havana (but not linked to Cuba)	6	3	-	1	2	-	-
Cuba, (but can't import from there)	3	2	1	-	-	-	-
Other place	15	-	6	5	1	3	-
Don't know	11	2	1	2	-	4	2

---

* Based on the following questions:

Q.2. Where do you think the rum I just showed you is made, or don't you know?

Q.3. Why do you say that?

Q.4. (IF "HAVANA" MENTIONED) Even though you may have mentioned it, where is Havana?

DETAILED TABLE 2

PURCHASING OF RUM IN A STORE*

	Total	NY	MN	IL	GA	DC	CA
Base = Total Respondents	140	28	24	24	23	24	17
Purchased rum past 12 months And likely to in next 12 months	117	22	19	19	19	23	15
Purchased rum past 12 months And not likely to in next 12 months	8	2	3	1	2	-	-
Not purchased rum in past 12 months but likely to in next 12 months	15	4	2	4	2	1	2

* Based on the following questions:

Which, if any, of the products listed on this card have you purchased in a store within the past 12 months?

Which, if any, of the products listed on this card are you likely to purchase in a store within the next 12 months?

Wine
Vodka
Gin
Rum

DETAILED TABLE 3

RESPONDENT EDUCATION* AND SEX

	Total	NY	MN	IL	GA	DC	CA
Base = Total Respondents	140	28	24	24	23	24	17
Less than high school grad	4	1	1	-	-	1	1
High school grad	44	9	5	5	9	9	7
Some college or tech school	49	8	13	9	8	4	7
College grad or beyond	43	10	5	10	6	10	2
Males	83	16	18	12	14	14	9
Females	57	12	6	12	9	10	8

* Based on the following question:

What was the last grade of school you had an opportunity to complete?

the Research firm
32 Elm Place, Rye, NY 10580
(914) 967-6600

Time Interview Begins: _____
Time Interview Ends: _____
#3664 November, 1998

For office use only: _____ *(1-4)*

ID #: _____ *(5-8)*

BOTTLE TEST SCREENER

- FEMALES -

Circle Market: (9)
Denver.....1
Minneapolis 2
New York.....3

Record Age (Q.A):
21-34 1
35-49 2

10-2

Please Print – Record at End of Interview	
NAME:	TELEPHONE #: ( )
ADDRESS:	CITY/STATE:
INTERVIEWER:	DATE: ZIP:

-- Sight Screen For Females 21 to 49 years of age, as needed for screening quota --

Hello, I'm _____ of _____, a nationwide market research company. We're conducting a survey and I'd like to ask you a few questions.

NOTE: DO NOT CONTINUE INTERVIEW IF RESPONDENT HAS A HEARING, LANGUAGE OR OBVIOUS VISUAL PROBLEM.

C. Do you ever drink alcoholic beverages?

	(16)	
Yes.....	1	→*[Continue.]*
No.....	2	→*[Terminate in appropriate box below.]*

TERMINATE Q.C -- Do not drink alcoholic beverages. Erase and re-use screener.										
21-34										
1	2	3	4	5	6	7	8	9	0	(17)
35-49										
1	2	3	4	5	6	7	8	9	0	(18)

(TERMINATES IN Q.C DO COUNT TOWARD SCREENING QUOTA.)

D. Do you or does anyone living in your household work for: *(Read list and circle as many as apply.)*

	(19)	
An advertising agency.....	1	
A marketing research firm or department	2	→*(Terminate in box below.)*
A manufacturer, distributor or retailer of liquor products	3	

If "yes" to any of the above terminate. Circle next number below. Erase and re-use screener.										
1	2	3	4	5	6	7	8	9	0	(20)

(TERMINATES IN Q.D DO NOT COUNT TOWARD SCREENING QUOTA.)

I. I've asked you these questions to see if you are eligible for a very brief interview. Since I have something to show you, I'd like you to come with me into the interviewing facility. It will only take a few minutes of your time and you may enjoy it. Would you be willing to participate?

Yes..... 1 →*(Record Age on Front of Screener, then, continue on to Main Questionnaire.)*

No ..... 2 →*(Terminate. Circle next number below.)*

TERMINATE Q.I -- Not willing to participate. Erase and re-use screener.										
1	2	3	4	5	6	7	8	9	0	(26)

(TERMINATES IN Q.I DO NOT COUNT TOWARD SCREENING QUOTA.)

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#3664
November, 1998

BOTTLE TEST
MAIN QUESTIONNAIRE

RESPONDENT'S
NAME:_____ I.D.#:_____

Interviewer:
- *Escort respondent into interviewing room.*
- *If respondent wears glasses or contacts to shop, be sure he/she is wearing them before you begin.*

- *When respondent is comfortably seated and paying attention, take out bottle, and place in front of respondent - about 18 inches away and with the front label facing the respondent.*

(READ SLOWLY)

1. Here is a bottle of rum that is available in a local liquor store. Please examine it as you would if you were shopping for rum and saw it on the shelf. Please let me know when you are ready.

(RESPONDENT MAY PICK UP AND HANDLE THE BOTTLE IN ANY WAY DESIRED.)

When respondent indicates being ready, REMOVE BOTTLE FROM SIGHT before continuing.

2. Where do you think the rum I just showed you is made, or don't you know? *(Record verbatim.)*

_____ (27)___
_____ (28)___

(ASK EVERYONE)

3. Why do you say that? *(Record verbatim.)*

_____ (29)___
_____ (30)___
_____ (31)___
_____ (32)___
_____ (33)___
(34)___

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#3664

BOTTLE TEST
CONFIRMATION PAGE

OBTAIN RESPONDENT INFORMATION

RESPONDENT'S NAME:_____

ADDRESS:_____

CITY/STATE:_____

PHONE #:_____

INTERVIEWER, WRITE YOUR NAME:_____

(Interviewer Read To Respondent:)

Thank you very much for your help. I'd like you to complete some information and sign that you were interviewed. ***(Hand respondent this page with a pen, and ask him/her to read and sign below. After respondent signs name, take back page and pen.)***

I acknowledge that I was interviewed on this date. During this interview I was shown a bottle and asked some questions about it.

RESPONDENT'S SIGNATURE:_____ DATE:_____

Interviewer: Please read and sign.

I certify that I conducted this interview in accordance with the written instructions which I received as well as my supervisor's briefing.

INTERVIEWER'S SIGNATURE:_____ DATE:_____

Thank respondent for his/her cooperation.

RECORD RESPONDENT INFORMATION ON FRONT OF SCREENER.

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(914) 967-6600

#3664
November, 1998

BOTTLE TEST
FIELD AND INTERVIEWING INSTRUCTIONS

PLEASE NOTE: A 100% TELEPHONE VALIDATION AND TELEPHONE NUMBER DUPLICATION SEARCH WILL BE CONDUCTED ON THIS STUDY. PLEASE CHECK THAT ALL RESPONDENTS HAVE A PHONE NUMBER THAT IS IN WORKING ORDER. DO NOT INTERVIEW ANY RESPONDENTS WHO DO NOT HAVE A TELEPHONE. ANY MAJOR DISCREPANCIES FOUND IN EITHER THE VALIDATION OR TELEPHONE NUMBER DUPLICATION SEARCH WILL NOT BE PAID FOR.

STUDY DESIGN: This is a MALL INTERCEPT study to be conducted among males and females aged 21-49 who have bought rum in a store in the past 12 months, or are likely to do so in the next 12 months. An eligible respondent will be shown a bottle of rum and then asked some questions about it.

DO NOT INTERVIEW ANYONE WHO APPEARS TO HAVE A HEARING OR SIGHT DISABILITY, A PROBLEM WITH ENGLISH OR READING.

DO NOT INTERVIEW ANY FRIENDS, RELATIVES OR ACQUAINTANCES. YOU MAY INTERVIEW ONLY 1 PERSON PER HOUSEHOLD OR ONLY 1 PERSON PER SHOPPING GROUP!!!

ELIGIBILITY: A respondent eligible to be interviewed is a male or female who:

- Is 21 to 49 years of age and is needed to fill an age quota (Q.A)
- Has not participated in any market research survey other than a political study in the past 3 months that took more than 3 minutes (Q.B)
- Drinks alcoholic beverages (Q.C)
- Does not (or have any household member) working in an ineligible industry (Q.D)
- Has bought rum in a store in the past 12 months, or is likely to do so within next 12 months (Qs.E&F)
- Has glasses/is wearing lenses if applicable (Qs.G&H)
- Is willing to be interviewed (Q.I)

SECURITY: Absolute security is to be maintained for this project. All test materials must be inaccessible and unidentifiable to anyone not directly involved in the study. All observers must show identification before being allowed to see any materials connected with this study. If an observer was not expected, he/she cannot be shown materials for this study until The Research Firm, Inc. has given approval.

A respondent should not be exposed to any materials other than those that apply to her interview.

SCREENING QUOTA:

The Quota Control Sheet lists your **"Screening"** quotas. In order to count toward your Screening quota, a respondent must be asked Q.C and, if "Yes" in Q.C, answer Q.F or complete an entire interview (screener and main questionnaire).

Here is further clarification:

Occurrence	What To Do On Quota Control Sheet?
Terminate at Q.A.	Nothing: Does not count
Terminate at Q.B. →	Nothing: Does not count
Terminate at Q.C. →	**COUNTS TOWARD SCREENINGS** Tally on Quota Control Sheet under appropriate age quota
Terminate at Q.D.	Nothing: Does not count
Terminate at Qs.E/F. →	**COUNTS TOWARD SCREENINGS** Tally on Quota Control Sheet under appropriate age quota
Terminate at Q.H.	Nothing: Does not count
Terminate at Q.I.	Nothing: Does not count
Completed Interview (Screener and Main Questionnaire)	**COUNTS TOWARD SCREENINGS** Tally on Quota Control Sheet under appropriate sex and age quota

VALIDATION FORMS:

You are being supplied with a set of Validation Forms. Each interviewer is to fill out a separate Validation Sheet listing each of her interviews as soon as she has completed an interview.

INTERVIEWERS MUST WRITE OUT THEIR FULL NAMES (FIRST AND LAST) ON THE VALIDATION SHEETS. NO INITIALS MAY BE USED!!

1. Record the study name, number, area code, city, your name, your supervisor's name and the total number of completed interviews.

2. Record the respondent's name, address, telephone #, and the date the interview took place for all of the interviews you completed.

3. Record the I.D. # (found on the front page of the screener questionnaire). PLEASE LIST NUMBERS IN NUMERICAL ORDER.

4. You must record the exact time the interview began and ended in the appropriate column.

5. Record the following information in the "Quota Group" Column:

   AGE GROUP
   21-34
   35-49

6. Validation forms must be returned to your supervisor with your completed work.

SPECIFIC FIELD INSTRUCTIONS

Detailed instructions appear on the questionnaire itself so we have covered here only those questions where further explanation was thought necessary.

INCIDENCE: We use the following procedure on our studies to establish incidence rates. You record your ineligible respondents on the screening questionnaire in the appropriate boxes provided for that purpose.

If, when you administer a screening questionnaire, the respondent is ineligible, you will record this on the screening questionnaire, itself, by circling the first available number in the appropriate box. You will then erase and re-use the screener.

It is very important that you record all contacts in these boxes. Please see the example below:

Example:

Q.B. In the past 3 months, have you participated in any market research survey or study, that took more than 3 minutes, and was not a political survey?

Yes ..... ( ) → **TERMINATE IN BOX BELOW.**

No ..... ( ) → **CONTINUE.**

TERMINATE Q.B -- PAST PARTICIPATION IN RESEARCH SURVEY. ERASE AND RE-USE SCREENER.										
1	2	3	4	5	6	7	8	9	0	(16)

If, when you ask this question, the respondent answers "Yes," he/she has been interviewed in the past 3 months, this respondent is NOT eligible for the study and you must terminate the interview at this point. To do this, you must circle the number "1" in the termination box below the question and erase the respondent's "Yes" response. You must also erase all other answers that precede this question.

Since all responses have now been erased, you will re-use the screener and follow the same procedure until you find an eligible respondent who does not terminate at any of the questions.

THERE SHOULD BE NO SIMULTANEOUS SCREENING FOR OTHER PROJECTS WHILE SCREENING THIS ONE -- THIS STUDY MUST BE SCREENED ALONE.

SCREENER: There are separate screeners for Males (Blue) and Females (Pink). Be sure to circle the appropriate market and age group in the boxes provided on the front page of the screener.

QS.A-I: These questions determine the respondent's eligibility. If a respondent terminates at any of these questions, circle the next available number in the box below the question, erase the response, and RE-USE the screener.

Q.C: In order to qualify for the study, the respondent must personally drink alcohol beverages. If respondent does not drink alcoholic beverages, terminate the interview. This termination, **does count** toward your screening quota. Be sure to circle in correct age term box.

QS.E&F: In order to qualify, respondent must have bought rum in a store in the past 12 months and/or must be likely to do so within the next 12 months. If not, terminate. This **counts** toward your screening quota. Be sure to circle correct age term box.

MAIN QUESTIONNAIRE:

IMPORTANT: 1. ***Read all questions SLOWLY and EXACTLY as they are written in the questionnaire.***
2. ***Do not explain any questions to the respondent. If necessary just slowly re-read any question the respondent may have a problem with.***

Allow respondent time to get comfortable and be sure he/she is paying attention before taking out bottle.

If respondent wears glasses or contacts to shop (check Screener questions G and H). Be sure he/she is wearing them before you begin.

Q.1: **When the respondent is comfortably seated, take out bottle. Place bottle about 18 inches from respondent with the front of the label facing the respondent.**

Read question slowly and verbatim. Respondent may pick up and handle the bottle if he/she wishes. When respondent indicates being ready, place the **bottle out of sight**.

ALL OPEN ENDS:

1. **DO NOT PROBE ANY OF THE OPEN-END QUESTIONS, BUT RECORD RESPONDENT'S COMPLETE RESPONSE.**
2. **RECORD RESPONDENT'S ANSWERS EXACTLY AS HE/SHE HAS STATED THEM.**
3. **ASK RESPONDENT TO REPEAT OR GO SLOWER IF NOT ABLE TO RECORD ENTIRE RESPONSE.**
4. **RECORD EXACT WORDS. DO NOT SUMMARIZE OR PARAPHRASE.**
5. **WRITE LEGIBLY, AND DARK ENOUGH TO READ.**

Q.3: *Ask everyone.*

Q.4: Refer to respondent's answer in Q.2, being careful not to refer to Q.3. Ask Q.4 only if "Havana" mentioned in Q.2.

BE SURE RESPONDENT COMPLETES AND SIGNS THE CONFIRMATION PAGE.

PLEASE STAPLE MATERIALS IN THE FOLLOWING ORDER:

- SCREENER
- MAIN QUESTIONNAIRE (WITH CONFIRMATION PAGE ATTACHED)

THANK RESPONDENT AND END INTERVIEW.

the Research firm
32 Elm Place, Rye, NY 10580
(914) 967-6600

#3664
November, 1998

Bottle Test
Supervisor Instructions

PLEASE NOTE: A 100% TELEPHONE VALIDATION AND TELEPHONE NUMBER DUPLICATION SEARCH WILL BE CONDUCTED ON THIS STUDY. PLEASE CHECK THAT ALL RESPONDENTS HAVE A PHONE NUMBER THAT IS IN WORKING ORDER. DO NOT INTERVIEW ANY RESPONDENTS WHO DO NOT HAVE A TELEPHONE. ANY MAJOR DISCREPANCIES FOUND IN EITHER THE VALIDATION OR TELEPHONE NUMBER DUPLICATION SEARCH WILL NOT BE PAID FOR.

STUDY DESIGN: This is a MALL INTERCEPT study to be conducted among males and females aged 21-49 who have bought rum in a store in the past 12 months, or are likely to do so in the next 12 months. An eligible respondent will be shown a bottle of rum and then asked some questions about it.

DO NOT INTERVIEW ANYONE WHO APPEARS TO HAVE A HEARING OR SIGHT DISABILITY, A PROBLEM WITH ENGLISH OR READING.

SCHEDULE:

Interviewing begins ..... Friday, Nov. 13
Interviewing ends ..... Wednesday, Nov. 18
Ship all completed work Federal Express
P-1 on the evening of ..... Wednesday, Nov. 18
To ARRIVE on the morning of ..... Thursday, Nov. 19

QUOTA: You have been given a total quota of 28 interviews. In order to yield 28 completes we have assigned you a "SCREENING" quota. In order to count as a "Screening" a respondent must reach and answer Q.C and if "yes" to Q.C, answer Q.F or complete an interview. We estimate that you will have to conduct about 200 Screenings to complete 28 interviews. ** Please see your Quota Control Sheet for your Screening quotas.

PLEASE NOTE: If you complete 28 interviews before finishing the 200 screenings, **STOP** interviewing – you are complete. On the other hand, if you do all 200 screenings and still have not completed the 28 interviews you must refer to your "Additional Screenings" (on the bottom half of the Quota Control Sheet) and complete the extra 50 Screenings assigned (by sex and age group) ,or as many as necessary to reach your quota of 28 completed interviews. *Please call our office if the additional 50 screenings do not yield the rest of the interviews needed.

NO ONE INTERVIEWER SHOULD COMPLETE MORE THAN 12 INTERVIEWS OR LESS THAN 4 INTERVIEWS.

SITE SET-UP: Once screened, eligible respondents must be brought back to a closed interviewing room. The door must be shut when the respondent enters the room. Do not allow anyone else in the room with the respondent, other than small children.

The respondent is to be seated in front of a table. The liquor bottle is to be placed on the table, with the front label facing the respondent, approximately 18 inches from where the respondent is seated.

MATERIALS: The following is a list of materials you will need for this study. Check your package immediately upon arrival. If anything is missing, call TRF immediately.

1. Screeners - Pink (Females), Blue (Males) (pre-numbered)
2. Main Questionnaires - White (with Certification Page attached)
3. Card 1
4. Liquor bottle
5. Quota Control Sheets
6. Tally Sheets
7. Validation Forms
8. Return Airbills
9. Practice Interviews
10. Audio cassette tapes - for tape recording your briefing

BRIEFING: All interviewers involved in this study should be briefed thoroughly. After the initial briefing, any subsequent briefings must either be conducted by, or in the presence of the Supervisor who did the first briefing.

A personal briefing is required. ***You must record the briefing on audio tape and return it to us with your completed work. Be sure to record the Study #3664 and your market name on the audio cassette tape.*** All interviewers must do at least one Practice Interview. All Practice interviews must be looked over by you, the supervisor – any problem areas cleared up – before any actual interviewing begins.

This is largely an open ended question interview. Its success depends upon the interviewer recording comments verbatim and following the specific interviewing procedures noted below and in the questionnaire.

Each interviewer is to read his/her Interviewer Instructions and sign them. Each Interviewer's signed Instructions are to be stapled to a practice interview and returned at the end of the study.

If possible, one briefing should be conducted, even if several interviewing shifts are involved.

During the briefing the following issues must be emphasized:

Screening

- This study must be screened by itself -- NOT along with other projects.
- Screen respondents out in the designated areas of the mall. If qualified, you must escort the respondent to the interviewing facility for the interview portion of the study.
- Do not interview anyone who appears to have a hearing, sight, reading or language problem.
- NO incentives are to be given to the respondent!!!
- Be sure to follow the incidence instructions in the "INCIDENCE" section of the Field and Interviewing Instructions.

Interview

- When questioning the respondent and recording his/her answers, be sure to:
  - Read questions slowly and exactly as written.
  - Ask respondent to repeat or go slower if not able to record entire response.
  - Record respondent's exact words -- **DO NOT PROBE.**
  - Do not summarize or paraphrase.
- At Q.4, refer back to respondent's answer in Q.2. Be careful not to refer back to Q.3.
- Please note -- the certification page must be signed by both the interviewer and the respondent.

PRACTICE INTERVIEWS:

Be sure to review the question by question interviewing instructions for the questions specifically cited in the interviewing instructions.

It is very important that each interviewer complete a practice interview before interviewing his/her first respondent. Each person briefed must play the part of the interviewer for, and record the answers, for an entire questionnaire. **It is especially important to practice setting up the bottle as instructed and removing from sight at the appropriate time.**

You should observe these practice interviews in progress and check them over after completion. BE CERTAIN THE INTERVIEWER'S NAME AND CITY IS INDICATED ON THE PRACTICE SCREENER.

QUESTIONNAIRE EDITING:

Supervisors should edit each questionnaire shortly after completion so that any errors can be found and corrected.

Editing should check for:

- Completeness
- Verbatim capture of comments
- Legible handwriting, dark enough to read
- All work is to be 100% edited for 100% accuracy. Use Blue pencil, please. The editor's initials MUST appear on the screener.
- Work is to be returned to us as specified in the "Validation Forms" and "Questionnaire Shipping" section of the Field Instructions. If you have any questions about the specifications, call us before you send back the work.
- The last page of the questionnaire is the CONFIRMATION PAGE. Every respondent is to read the page and sign it on the lines provided. The interviewer is then to sign her/his full name. Any work which does not have the Confirmation Page filled out as required, will not be accepted. (NOTE: If the respondent refuses to sign his/her name, he/she may initial the line).

VALIDATION:

You are not to phone validate, since we will be independently validating **100%** of every interviewer's work.

You must, however, monitor or do on-site validation for at least 10% of each interviewer's work and note validated work on Validation Listing Form. Remember: You are not to validate by telephone.

PLEASE NOTE: A TELEPHONE VALIDATION WILL BE CONDUCTED ON THIS STUDY. ANY MAJOR DISCREPANCIES FOUND WILL NOT BE PAID FOR.

INTERVIEWERS MAY NOT INTERVIEW FRIENDS, RELATIVES OR ACQUAINTANCES. ONLY 1 PERSON PER HOUSEHOLD OR SHOPPING GROUP MAY BE INTERVIEWED!!!

SECURITY:

As with all studies, absolute security is to be maintained for this project. All observers must show identification before being allowed to see any materials connected with this study.

REPORTS: All reports must be called in DAILY by 10:00 am (your time) using our toll-free number as follows:

1-800-888-8974 (Extension 327)

Or you can fax us your report at : **914-925-3383.**

QUESTIONNAIRE SHIPPING: Please indicate our Job #3664 on the outside of the package. Questionnaires are to be in interviewer packs with that interviewer's validation sheets on top.

ALL QUESTIONNAIRES MUST BE IN NUMERICAL ORDER IN INTERVIEWER PACKS WHEN SHIPPED AND MUST BE LISTED IN NUMERICAL ORDER ON EACH VALIDATION SHEET.

BE SURE TO RETURN THE BOTTLE AND PROTECT IT WELL.

We have enclosed return labels to be used with your Federal Express shipments to us. They have been marked with our account number and the fact that we are billed (recipient). If you have to use any additional labels in returning work to us, please:

Indicate our account #1011-38828 and check off
"Bill Recipient's F.E.C. Account"

** *Do not use drop-off boxes. Have packages picked up and signed for by driver!!*

INSURANCE: Boxes containing questionnaires are to be insured as follows:

Calculate the approximate field bill and add $200.00.

Example: Field Bill for job is $400 + 200 = $600.00
Insure package for $600.00

If you have any problems or questions, please call our office immediately!

the Research firm
32 Elm Place, Rye, NY 10580
(914) 967-6600

#3664
November, 1998

BOTTLE TEST
VALIDATION QUESTIONNAIRE

100 % VALIDATION

INTERVIEWERS: PLEASE PROBE FULLY IF THERE IS A DISCREPANCY AT ANY OF THE FOLLOWING QUESTIONS THAT NEED CLARIFICATION.

Hello, _____. I'm _____ from a market research company in New York.

1. In the past week or so, were you interviewed in a shopping mall and shown a bottle of rum? ***(MUST BE YES)***

2. Do you yourself, drink alcoholic beverages? ***(MUST BE YES)***

3a. Have you purchased rum in a store within the 12 months before the survey?

3b. Are you likely to purchase rum in a store in the next 12 months?

(RESPONDENT MUST ANSWER "YES" TO EITHER Q.3a OR Q.3b)

4. Into which one of the following age groups do you belong? ***(Read list.)***

Under 21
21-34, or
35-49
50 or over

MUST MATCH AGE GROUP LISTED

Thank you very much for your time and cooperation!

PRESENTING THE PRODUCT IN A CENTRAL LOCATION TASTE TEST

Presented by
Al Ossip
Consultant
Marketing Research Consulting

NAD WORKSHOP: Substantiating A Taste Claim
May 10-11, 1990 - Chicago, Ill.

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In both central location (CLT) and home use (HUT) tests for food and beverages the researcher can decide on the specific products to include, the source of these products and the quantities to provide each respondent. In the HUT usage/eating/preparation instructions are also usually provided but the respondent can generally change the eating situation to suit herself or himself.

In the CLT however, the researcher has fairly tight control of the eating experience and the specific aspects of how the product is presented. With this control comes the need to make many decisions which could influence study results.

This paper focuses on some decisions and issues relating to a number of aspects of presenting the product to the respondent.

Three key aims should be kept in mind in making these decisions. The presentation aspect should be:

- Appropriate for the specific stated or implied claim that the test is seeking to substantiate.
- Reasonably representative of the product in use.
- Fair from the viewpoint of the consumer who is exposed to the claim.

(Would it be considered a fair test if the viewer of the advertising was made aware of your procedures?)

Within the broad area of product presentation there are several decision areas I will address. Given the limited time available, the treatment of each area will be cursory but sufficient to identify some of the issues that need to be addressed.

1. Part of the product to serve
2. Quantity of product to serve
3. Specific uses of the product
4. Product preparation
5. Physical condition of served product
6. Respondent adjustment of product
7. Specific tasting sequence

Of course, not all food and beverage tests will be involved with all of these decision areas. What is germane is whether test results would change meaningfully if you opted for one protocol versus another and which protocol would better meet the three standards cited above.

Even if the judgment is made that the effect or results would be insignificant, and the more economical or easier to execute mode chosen, the researcher should be alert to the fact that a challenger will focus on how the study varies in regard to appropriateness, representativeness and fairness. The appearance of varying widely from any of these standards, without proof that another option would not change results, can cause you problems. You should have relevant rationales for your procedures.

Some advertisers have made decisions in the past which have since become conventional wisdom within their company. They are often not alert to the need to alter procedure to make it more appropriate for a specific claim under consideration. They fear varying from what they have done in the past. They also do not periodically review procedures that may have been chosen by prior regimes because of economic or ease of execution reasons or even because it was felt to favor their product at a given point in time.

Products change, claims change and competitors seem more apt to challenge ads than in the past. Hence, for many companies a review of their research protocols would be useful.

1. Part of the product to serve

If a product comes in a single serve container (e.g., single serve ready to eat desserts) or if the product is uniform throughout its container (e.g., bottled still water) there is no issue as to which part of the product in the container to serve.

However, for products that are not uniform (e.g., whole prepared poultry), that may crumble or settle in their package (e.g., potato chips) or may be affected by exposure to air via opening and closing of the container (e.g., carbonated soft drinks) a decision must be made as to how much of the product in a container to use in the test.

Usually the first serving out of the package is of the highest quality. Should that be the only serving used or should more of the product be utilized to provide a more average evaluation of the eating experience of the typical product buyer?

Potential variance within a package may be more likely if in-market product is used since there may be denigration as the item travels through distribution channels.

If your brand and its competitor are not similar in regard to product uniformity at time of purchase or during use, then how much of the product to utilize in the test becomes an issue.

2. Quantity of product to serve

At minimum, you need to provide enough to encourage a respondent to consume enough to form an opinion but not so much that they have a feeling of fullness before the second product is served in a paired test.

A key question is how likely reactions or discrimination ability would differ between the first bite or sip and subsequent eating of the product? (How would sweeter products fare at varying levels of consumption?)

The amount actually consumed is more important than how much is served. Are you aware of how much is consumed in your tests? Have you ever checked respondents about how they feel in regard to the quantity they consumed?

In two of the categories in which I have done research, evidence seems to point to the amount consumed having a meaningful effect on preferences and/or sensitivity.

3. Specific uses of the product

If you are testing a product that has a range of uses and you wish to make a more general preference claim do you select a modal use, do you select a few important uses or cover many uses? Do you have in-market use data to help you decide? Barbecue sauces, mayonaisse, sweeteners and various forms of toppings are some of the products that face this issue.

If you opt to represent various uses you then need to decide if the respondent chooses the use or is assigned to it.

For those products that require another product on which they can be applied or spread the researcher should be concerned with the uniformity of the carrier product. If dressing is tested on salad the differences between plates of salad should not so great as to influence the respondent's dressing preference.

4. Product preparation

If in normal use people adjust the product to taste should you prepare it only one way in the test or several ways? Some people like their beverage strong while some like it weak. Some like their meat well done while others like it rare. Should you test at the average or offer some popular options? If there are regional variations should you vary your preparation by part of the country?

Very often the test utilizes the directions appearing on a package. What if the package also advises adjustment to taste? What if brands have different instructions in terms of cooking time or ingredients to add (i.e., add butter vs. margarine, add milk or water, add salt or do not)?

If the product in normal use requires the addition of water should you use local water or bottled water? If local water, have you adequately represented the types of water available throughout the country?

If the product can be and is prepared in different ways, such as on the stove, in the oven, in the microwave or on the grill which way or ways will you prepare it for the taste test?

In some product categories different formulations or brands vary in regard to their tolerance of preparation variations and the issues cited above are of significant consequence. These potential issues should be discussed in detail with your Technical Research people.

5. Physical condition of served product

If a product can be served hot or cold should it be offered only the most popular way or both ways? As an example, some people like pecan pie at room temperature while others like it warmed. Should you serve only warmed pie?

If the decision is to serve at room temperature and the pie is frozen, how long should it be thawed before eating? Will this time be the same in all your testing facilities, where the freezers may be at different temperatures or should you also use temperature gauges to check the product before serving? (The more general issue is how to maintain desired hot or cold temperatures in a uniform way across all interviewing sites.)

If you are testing a liquid that has ingredients with a tendency to settle (e.g., pineapple juice), how do you instruct the field in regard to shaking the container?

If some of the product is often consumed after an overnight stay in a refrigerator (e.g., frozen orange juice) do you test it the day it is made, do you test it the day after or both ways?

6. Respondent adjustment of product

If items are commonly added to your product category before it is consumed, do you allow the respondent to add ice, lemon, or milk to beverages or butter, salt, mustard to foods?

This can obviously impact reactions to a bland vs. strong flavored product.

Are there special issues in testing a new product with a respondent not knowing on first taste what amount of additive to use?

7. Specific tasting sequence

In a paired test should you bring both products to the respondent at one time or should the first product be tasted and removed before the second is brought? Will seeing both together influence reactions? Will the waiting time for the second product, if it sits there while the first evaluation is completed, affect temperature or another important aspect?

Is retasting permitted? Does the respondent have to rinse her mouth or drink water or take a cracker as she goes from product to product? Should both be retasted if one is? If the products are hot or cold will the first product be helped or hurt by a retasting? The more it impacts the first product differentially the less sensitive the test becomes.

Now that I have, hopefully, gotten you to think about issues of product presentation I'm sure you'll come up with others, that pertain to your categories of interest, which you may not have thought about recently. It is well worth reviewing these issues. Your competitors probably will the next time you make a competitive claim.

The Art of Asking Questions-
The Role of the Researcher vs.the Interviewer

Al Ossip

The year I started in marketing research a book entitled " The Art of Asking Questions" was published. About 25 years later, when it was in its tenth printing, I was given my second copy.

When you are dealing with designing a study to measure the perception of an ad, you are dealing with "the art of asking questions". That art involves not only the wording of the questions but also the administering of those words, even down to how much space you allow in the questionnaire for the recording of answers.

I would like to quickly review a few thoughts I have about advertising perception tests which may illustrate some points regarding the art of asking questions. I will wind up focusing on two of the many aspects relating to this art and on the role of the researcher in relation to the interviewer.

- There is no off-the-shelf fits-all questionnaire that is appropriate for all ad perception studies.

- Although there are certain well accepted conventions, a questionnaire needs to be very case specific-- specific to the ad being studied and specific to the issues the test is supposed to explore.

- Respondents do not fully reveal all they take away from an ad.

- It usually takes more than one open ended question to get a relevant level of response. If you are involved with an ad that has several selling points, or you are involved with an issue relating to a secondary or tertiarty claim in an ad, you will likely need several questions to get at the area of interest.

  These may include several open ended questions and sometimes directed questions.

- You can generally spot a leading question which may bias responses. However, in a sense, all the questions you ask are leading to some extent because the mere asking may cause a respondent to think of something he or she might not otherwise be thinking of.

- In answering open ended questions respondents may use words that are vague or ambiguous. It may be unclear as to what they mean.

- Respondents often merely repeat the words in an ad without indicating how they interpret these words. Since you are usually dealing with implied claims, it is very important to try to understand what specific meaning they took away from the ad or a specific part of the ad.

In an effort to solicit more information and more playback from the ad, the interviewer in a survey does what is called "probing". This is typified by the continual "What else?" questions.

Interviewers are typically trained to "probe until uproductive" since most studies are really for exploration, not for legal purposes. Left to their own devices, a good interviewer will probe a lot while a poor interviewer will not.

However, if there is too much probing there is the fear of getting: fabrications, rationalizations or just a playback of industry buzzwords or general respondent beliefs.

In order to avoid excessive probing and undesirable variation in probing styles, I think it is advisable for the researcher to control the process by allowing only a specific pre determined level of probing, employing specific neutrally worded probes. In this way it is the researcher and not 15 different interviewers who control the process.

In order to try to understand vague or ambiguous answers you undertake what is called "clarification" follow up questions. In clarifying a prior response you seek more specificity, if the respondent has relevant thoughts not previously mentioned. You are, in essence, seeking viewer comprehension of the message.

In the typical study the interviewer is instructed to clarify all unclear statements. Some obvious issues are: what is unclear?, do all interviewers agree?, do they all attempt to clarify in the same way? Usually there is considerable variation among interviewers.

Again, I think the researcher has to take control by:

- anticipating what is likely to be unclear or ambiguous
- by telling the interviewer how to spot that
- by telling the interviewer what to ask when a specific vague or ambiguous term is encountered

For example, if an ad says a product is "stronger' or "better", there are good odds the following will happen:

- one company will think the specific word is communicating one thing and the other company will think it is communicating something else

- many respondents will merely repeat the term without indicating any specific meaning they took away from it.

You can generally anticipate this respondent reaction and thus you can build in specific clarification procedures into the questionnaire so that the researcher is controlling when clarification questions are asked and how they are asked.

While the researcher cannot completely remove the differential effect of interviewers or ask totally non-intrusive questions, there are steps that can be taken to improve the odds of getting ad viewer reactions that reflect what the ad is actually communicating and which are relevant to the issues which prompted the undertaking of the study.