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May 17, 2005

TTAB

VIA HAND DELIVERY

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Re: A.V. Imports, Inc. v. Spirits International, N.V.
Cancellation No. 92043340

Dear Clerk:

Enclosed herewith is a corrected copy of the declaration of Justin Pierce, Esq. filed on May 11, 2005 in support of Petitioner A.V. Imports, Inc.'s Motion for Summary Judgment against Respondent Spirits International, N.V. Pursuant to the Stipulated Protective Order signed by the parties in the above captioned matter, the declaration of Justin Pierce, Esq. should have been filed under seal because Exhibit C to this declaration contained documents labeled "CONFIDENTIAL."

Please destroy the original declaration of Justin Pierce, Esq. filed on May 11, 2005 and replace it with the attached version that is marked CONFIDENTIAL. We also respectfully request that you file the attached declaration under seal.

Sincerely,

Justin E. Pierce

cc: Lisa Pearson, Esq.

05-17-2005

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #72

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In the Matter of Trademark Registration: 1,487,042
For the mark "RUSSKAYA"
Date registered: May 3, 1988

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

A.V. Imports, Inc.	*	
	*	
Petitioner,		
	*	
v.		Cancellation No.: 92043340
	*	(Registration No.: 1,487,042)
Spirits International, N.V.,		
	*	**CONFIDENTIAL**
Respondent and Registrant.		**FILED UNDER SEAL**

* * * * * * * * * * * * *

DECLARATION OF JUSTIN PIERCE, ESQ.

JUSTIN PIERCE, declares as follows:

1. I am an attorney in the Washington, D.C. office of VENABLE LLP, and counsel for the Petitioner in this cancellation proceeding. I submit this declaration in support of Petitioner A.V. Import Inc.'s Motion for Summary Judgment.

2. Attached hereto as Exhibit A is a true and correct copy of the application, VOA Sojuzplodoimport filed on September 2, 1986 with the United States Patent and Trademark Office (the "PTO") to register the RUSSKAYA mark for use in the U.S.

3. Attached hereto as Exhibit B is a true and correct copy of the trademark registration for RUSSKAYA which the PTO issued to VOA Sojuzplodoimport on May 3, 1988.

4. Attached hereto as Exhibit C is a true and correct copy of VOA Sojuzplodoimport's recorded assignment of the RUSSKAYA mark to Pepsico dated March 18, 1993.

5. Attached hereto as Exhibit D is a true and correct copy of the Section 8 affidavit filed by Pepsico Vice President and Intellectual Property counsel, William Finkelstein, on or around May 3, 1994 with the PTO, stating that Pepsico owned the RUSSKAYA mark and that the mark was in use in interstate commerce.

6. Attached hereto as Exhibit E is a true and correct copy of the parties March 6, 2002 recordation of the assignment of the RUSSKAYA mark from Pepsico to Spirits International.

7. Attached hereto as Exhibit F is a true and correct copy of the search results for the word "RUSSKAYA" from the ATF COLA registry, and true and correct copies of COLAs for RUSSKAYA provided by Spirits International numbered SPIG 00001-00019.

8. Attached hereto as Exhibit G is a true and correct copy of Respondent's Responses to Petitioner's First Set of Requests for Admission, served on February 9, 2005.

9. Attached hereto as Exhibit H is a true and correct copy of Respondent's Responses to Petitioner's First Set of Interrogatories, served on February 9, 2005.

10. Attached hereto as Exhibit I are true and correct copies of purchase orders and invoices dating from March to November 1994 produced as documents numbered SPIG 00218-00227.

11. Attached hereto as Exhibit J is a true and correct copy of a print-out of a search of COLA Online dated April 8, 2005 reflecting a search for RUSSKAYA label approvals from 2001 to present.

12. On April 20, 2005, Spirits International produced documents numbered SPIG 00001 to SPIG 00267 to in response to Respondent's requests for documents. I reviewed these documents and attest as follows:

13. Spirits International produced no documents, in response to Petitioner's discovery requests, that corroborate the sale of any RUSSKAYA vodka within the U.S. after November 1994. Spirits International produced documents showing that RUSSKAYA vodka had been marketed and sold in Russia and in Eastern Europe, but not in the U.S., since November 1994.

14. Spirits International did not produce any documents indicating a concrete marketing plan to "relaunch" RUSSKAYA brand vodka in the U.S. Spirits International produced no correspondence, in response to Petitioner's discovery requests, from third parties concerning the development marketing materials or development of a marketing

campaign to "relaunch" RUSSKAYA. Further, Spirits International produced no agreements or correspondence with third parties or distributors, such as Allied Domecq, reflecting a plan to launch RUSSKAYA in the United States.

5/17/2005
Date

Justin Pierce, Esq.