

Attorney Ref.: 201-105

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

In re the Matter of

Registrant: Barker's Landing, Inc

TTAB

Registration No. 2,449,486

Mark: SAN PEDRO CAFE

Issued: May 8, 2001



08-19-2004

U.S. Patent & TMOc/TM Mail Rcpt Dt. #22

Vina San Pedro S.A.,	
	Petitioner,
v.	
Barker's Landing, Inc.,	
	Registrant.

Cancellation No.:

PETITION FOR CANCELLATION

Vina San Pedro S.A., a corporation of Chile, with an address at La Concepcion No. 351, Providencia, Santiago, Chile, believes that it will be damaged by registration of the mark SAN PEDRO CAFE shown in Registration No. 2,449,486 and hereby petitions to cancel same.

As grounds for this petition, it is alleged that:

1. Petitioner is now, and has for several years, been engaged in the sale of wine in the United States and abroad under the trademark SAN PEDRO.
2. Petitioner's use of SAN PEDRO in commerce on wines long precedes Registrant's actual or constructive first use date.

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3. By virtue of extensive advertising and sale and favorable reviews from Petitioner's goods in the United States under the trademark SAN PEDRO, the mark has become and is well and favorably known for wine. SAN PEDRO is a valuable symbol of Petitioner's goodwill.

4. Petitioner is the owner of Registration No. 1,571,222 for the mark VINA SAN PEDRO for wine, and the other registrations listed below. Said registration is incontestable. TARR printouts for all three are attached hereto.

Mark	Registration No.	Issued
VINA SAN PEDRO	1,571,222	December 12, 1989
GATO BLANCO VINA SAN PEDRO	1,241,376	June 7, 1983
VINA SAN PEDRO GATO NEGRO	1,280,897	June 5, 1984

Petitioner relies on said registrations in this proceeding.

5. The registration herein opposed seeks to register the mark SAN PEDRO CAFE for "restaurant and catering services."

6. Registration No. 2,449,486 which is the subject of this cancellation proceeding has been cited by the Attorney Examiner against Petitioner's pending applications to register SAN PEDRO & Design, Serial Nos. 78/140,831 and 78/140,824. Despite the prior coexistence of the marks, the Examining Attorney has adhered to her position that there is a likelihood of confusion between the marks in Petitioner's pending applications and Reg. No. 2,449,486. Petitioner will therefore be damaged by the continued registration of the SAN PEDRO CAFE mark.

7. The services in the registration sought to be cancelled are related to Petitioner's wines sold under its SAN PEDRO marks as attested by the Office Actions. Registrant's services will be likely to be thought to have emanated from the same source as Petitioner's goods or to be related thereto.

8. The trademark in the registration sought to be cancelled as applied to the services set forth in that registration is confusingly and deceptively similar to Petitioner's previously used and registered SAN PEDRO mark for wines.

9. Petitioner believes and therefore alleges that the use and registration of the alleged trademark SAN PEDRO CAFE by Registrant will damage Petitioner, for the reasons, among others:

a. That Petitioner will be unable to register its SAN PEDRO & Design marks which are the subject of its pending application Serial Nos. 78/140,831 and 78/140,824;

b. That purchasers and persons in the trade will be deceived as the source and origin of Registrant's services offered under the SAN PEDRO CAFE mark; and

c. Purchasers, persons in the trade and others will assume, contrary to fact, that Registrant's services are associated with, sponsored by or otherwise related to Petitioner.

9. Registration of the mark covered in Registration No. 2,449,486 is barred by the provisions of Section 2(d) of the Trademark Act of 1946 for the reason that it consists of or comprises a mark which so resembles Petitioner's previously used and registered trademark as to be likely, when applied to the services of Registrant, to cause confusion, mistake or deception.

WHEREFORE, Petitioner respectfully prays that the registration of Registrant be cancelled and that this Petition for Cancellation granted.

Please charge the \$300 cancellation fee to the undersigned's Deposit Account No. 19-4880.

Respectfully submitted,

VINA SAN PEDRO S.A.

By: 

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Gary D. Krugman
SUGHRUE MION, PLLC
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(202) 663-7927
Attorneys for Petitioner

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Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2004-08-16 12:58:15 ET

Serial Number: 73714417

Registration Number: 1571222

Mark

VIÑA SAN PEDRO

(words only): VINA SAN PEDRO

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2000-07-07

Filing Date: 1988-03-02

Transformed into a National Application: No

Registration Date: 1989-12-12

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

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: 2000-07-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. VINA SAN PEDRO S.A.

Address:

VINA SAN PEDRO S.A.
LA CONCEPEION 351

PROVIDENCIA, SANTIAGO

Chile

Legal Entity Type: Corporation

State or Country of Incorporation: Chile

GOODS AND/OR SERVICES

International Class: 033

WINE

First Use Date: 1860-00-00

First Use in Commerce Date: 1974-02-19

Basis: 1(a)

ADDITIONAL INFORMATION

Disclaimer: "VINA"

Translation: THE ENGLISH TRANSLATION OF THE WORD "VINA" IN THE MARK IS "VINEYARD" AND THE WORDS "SAN PEDRO" IS "SAINT PETER".

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2000-07-07 - First renewal 10 year

2000-07-07 - Section 8 (10-year) accepted/ Section 9 granted

1999-12-08 - Combined Section 8 (10-year)/Section 9 filed

1996-04-04 - Section 8 (6-year) accepted & Section 15 acknowledged

1995-05-24 - Section 8 (6-year) and Section 15 Filed

1989-12-12 - Registered - Principal Register

1989-09-19 - Published for opposition

1989-08-19 - Notice of publication

1989-06-27 - Approved for Pub - Principal Register (Initial exam)

1989-05-19 - Correspondence Received In Law Office

1989-05-08 - Letter of suspension mailed

1988-10-26 - Correspondence Received In Law Office

1988-10-12 - Letter of suspension mailed

1988-10-04 - Case file assigned to examining attorney

1988-08-11 - Correspondence Received In Law Office

1988-05-31 - Non-final action mailed

1988-05-06 - Case file assigned to examining attorney

CONTACT INFORMATION

Correspondent

CYNTHIA CLARKE WEBER (Attorney of record)

CYNTHIS CLARKE WEBER
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WASHINGTON DC 20037-3213

Domestic Representative

SUGHRUE, MION, ZINN, MACPEAK & SEAS

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2004-08-18 18:49:32 ET

Serial Number: 73295434 Assignment Information

Registration Number: 1241376 Assignment Information

Mark



(words only): GATO BLANCO VINA SAN PEDRO

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2004-03-03

Filing Date: 1981-02-02

Transformed into a National Application: No

Registration Date: 1983-06-07

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

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Current Location: 900 -Warehouse (Newington)

Date In Location: 2004-06-14

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. VINA SAN PEDRO S.A.

Address:

VINA SAN PEDRO S.A.

VITACURA NO: 4380, PISOS 6 & 7

VITACURA, SANTIAGO

Chile

Legal Entity Type: Corporation

State or Country of Incorporation: Chile

GOODS AND/OR SERVICES

International Class: 033

White Wine

First Use Date: 1970-00-00

First Use in Commerce Date: 1980-03-00

Basis: 1(a)

ADDITIONAL INFORMATION

Disclaimer: No claim is made to the exclusive right to use the word "Blanco", apart from the mark as shown.

Lining and Stippling: THE DRAWING IS LINED FOR THE COLORS GOLD AND GREEN.

Translation: "GATO BLANCO" IS SPANISH FOR "WHITE CAT". THE ENGLISH TRANSLATION OF THE WORD "VINA" IS "VINEYARD".

Prior Registration Number(s):

1056240

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-03-03 - First renewal 10 year

2004-03-03 - Section 8 (10-year) accepted/ Section 9 granted

2003-08-06 - Response received to Post Registration action - Sections 8 & 9

2003-08-06 - PAPER RECEIVED

2003-06-20 - Post Registration action mailed Sections 8 & 9

2003-04-04 - Combined Section 8 (10-year)/Section 9 filed

2003-04-04 - PAPER RECEIVED

1989-06-13 - Section 8 (6-year) accepted & Section 15 acknowledged

1989-01-23 - Section 8 (6-year) and Section 15 Filed
1983-06-07 - Registered - Principal Register
1983-03-15 - Published for opposition
1983-06-07 - Registered - Principal Register
1983-02-01 - Notice of publication
1983-01-27 - Approved for Pub - Principal Register (Initial exam)
1982-01-29 - Non-final action mailed
1981-12-11 - Case file assigned to examining attorney
1981-05-12 - Case file assigned to examining attorney

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WASHINGTON, DC 20037

Domestic Representative

SUGHRUE MION PLLC

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This page was generated by the TARR system on 2004-08-18 18:49:55 ET

Serial Number: 73295433

Registration Number: 1280897

Mark



(words only): VINA SAN PEDRO GATO NEGRO

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 1990-08-17

Filing Date: 1981-02-02

Transformed into a National Application: No

Registration Date: 1984-06-05

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

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Current Location: 831 -Post Registration

Date In Location: 2004-07-01

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. VINA SAN PEDRO S.A.

Address:

VINA SAN PEDRO S.A.

Legal Entity Type: Corporation

State or Country of Incorporation:(NOT AVAILABLE)

GOODS AND/OR SERVICES

International Class: 033

Wines

First Use Date: 1970-00-00

First Use in Commerce Date: 1980-03-00

Basis: 1(a)

ADDITIONAL INFORMATION

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Prior Registration Number(s):

1241376

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-06-17 - Combined Section 8 (10-year)/Section 9 filed

1990-08-17 - Section 8 (6-year) accepted & Section 15 acknowledged

1990-08-10 - Response received for Post Registration action

1990-07-31 - Post Registration action mailed Section 8 & 15

1990-07-24 - Response received for Post Registration action

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Priority Registration Number(s):

5240

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(IF AVAILABLE)

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06-06 - Response received to Post Registration action - Sections 8 & 9

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SUGHRUE MION PLLC

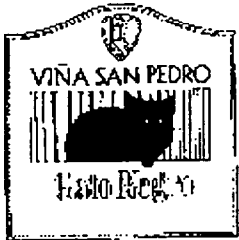
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Prior Registration Number(s):

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