

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

TTAB

APOC RESTAURANT INC.,)
)
Petitioner,)
)
v.)
)
TROPICAL TOBACCO, INC.)
)
Respondent.)

Cancellation No. _____

Registration No.: 2,818,204

Registration Date: February 24, 2004

TRADEMARK PROCESS
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U.S. PATENT &
TRADEMARK OFFICE

PETITION FOR CANCELLATION

Petitioner, APOC Restaurant, Inc. is a New York corporation with a business address of P.O. Box 237118, New York, New York 10023. APOC petitions for the cancellation of the registration of the word mark COPACABANA for cigars, Registration No. 2,818,204, issued to Registrant Tropical Tobacco, Inc., with a place of business located at 3010 NW 79th Avenue, Miami, Florida 33122. Petitioner believes that it is or will be damaged by Registrant's COPACABANA mark.

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As grounds for this petition, Petitioner alleges as follows:

1. Petitioner is the successor in interest to the owner of the famous 1940's New York nightclub, the Copacabana. Petitioner through its licensee runs the famous COPACABANA nightclub and related operations in New York City, also known as the COPA. Petitioner and its predecessor-in-interest, for many years and since long prior to any date of first use upon which Registrant can rely, have adopted and used without abandonment the terms "COPA" and



09-19-2007

"COPACABANA" as trademarks for disco services, and catering, restaurant and cabaret services. Petitioner has developed substantial good will in these marks.

2. Petitioner is the owner of the following federal registrations for the marks COPA and COPACABANA, each of which is valid, subsisting, unrevoked, and uncanceled.

MARK: COPA
REGISTRATION: 1,280,161, May 29, 1984; Incontestable status attained: April 11, 1990
SERVICES: Int'l Class 41: Disco services
Int'l Class 42: Catering, restaurant and cabaret services

MARK: COPACABANA
REGISTRATION: 1,210,093, September 21, 1982; Incontestable status attained: April 13, 1988
SERVICES: Int'l Class 42: Restaurant and cabaret services

3. Certified copies of registrations prepared and issued by the U.S. Patent and Trademark Office and showing both the current status of and current title to the registrations are attached hereto as Exhibits 1-2. In accordance with T.M.R.P. 2.122(d), Petitioner requests that these registrations be received into evidence.

4. Registrant is the owner of Registration No. 2,818,204, issued on February 24, 2004, for the mark COPACABANA in International Class 34 for cigars.

5. Registrant claims a date of first use and a date of first use in commerce of November 30, 2003.

6. Petitioner has used the COPACABANA AND COPA marks on pillows, clothing, mugs and other promotional items. Also, before smoking in

bars and restaurants was banned in New York City, many patrons of the COPACABANA night club smoked cigars. Further, Petitioner's well known "COPA GIRLS" sold tobacco products in the COPACABANA club for many years. Famous "COPA GIRLS" have included Raquel Welch and Joan Collins among others.

7. Registrant's mark is identical to Applicant's previously used and registered mark COPACABANA and substantially resembles Applicant's previously used and registered mark COPA. Registrant's mark, when applied to cigars, is likely to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act.

8. Petitioner's COPA and COPACABANA marks are famous marks.

9. Registrant's use of its COPACABANA mark constitutes dilution of Petitioner's famous marks.

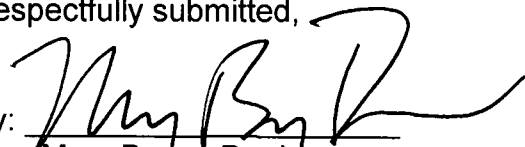
WHEREFORE, Petitioner respectfully requests that Registration No. 2,818,204, be cancelled and this Petition for Cancellation be sustained.

A check in the amount of \$300 is enclosed to cover the petition fee in one class. Any additional fees may be charged to Deposit Account 500687.

Dated: September 19, 2007

Respectfully submitted,

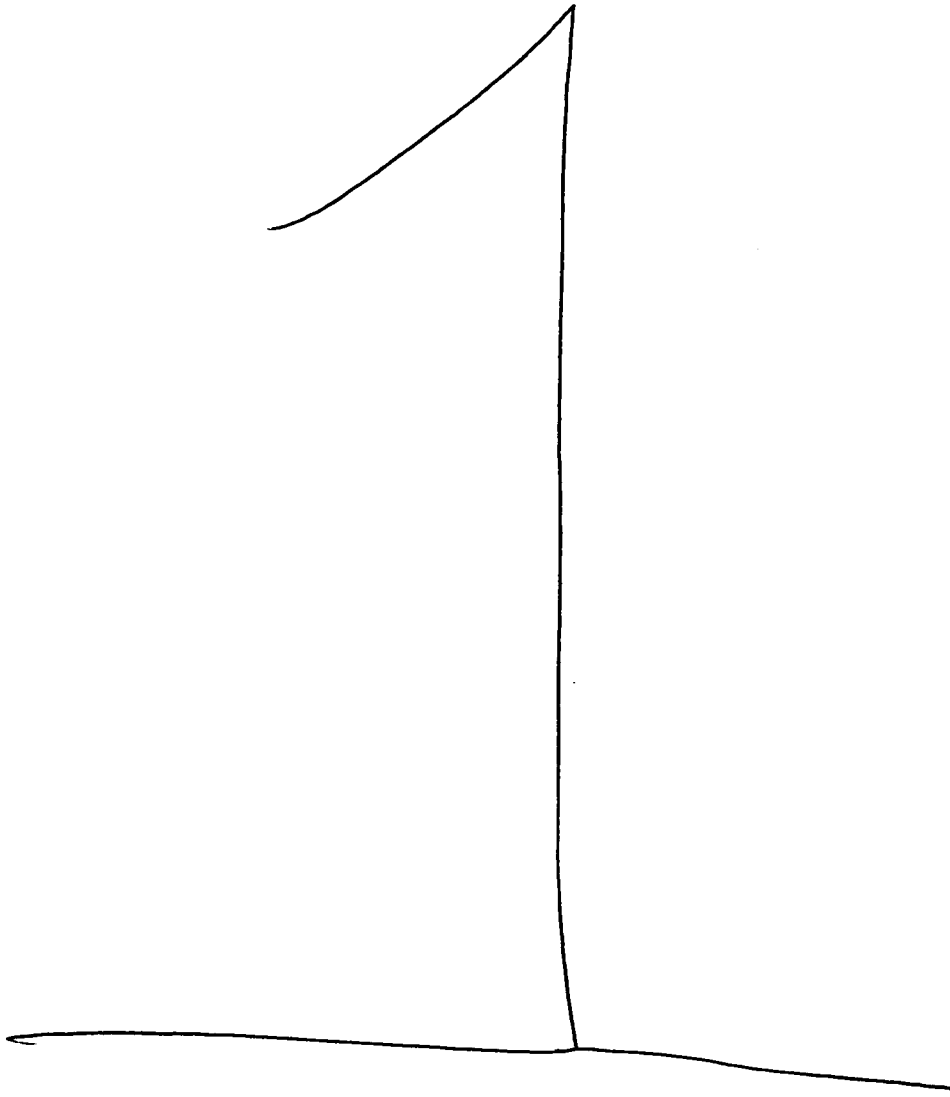
By:



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**THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE
ANY DEFICIENCY OR CREDIT ANY OVERPAYMENT TO
DEPOSIT ACCOUNT NO. 50-0687**

Attorneys for Petitioner
APOC Restaurant, Inc.



1658391



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

September 14, 2007

THE ATTACHED U.S. TRADEMARK REGISTRATION 1,280,161 IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 20 YEARS FROM *May 29, 1984*
1st RENEWAL FOR A TERM OF 10 YEARS FROM *May 29, 2004*
SECTION 8 & 15

SAID RECORDS SHOW TITLE TO BE IN:

APOC RESTAURANT, INC.

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

P. SWAIN
Certifying Officer



Int. Cls.: 41 and 42

Prior U.S. Cls.: 100 and 107

United States Patent and Trademark Office

Reg. No. 1,280,161

Registered May 29, 1984

SERVICE MARK

Principal Register

COPA

Copacabana Nightclub, Inc. (New York corporation)
10 E. 60th St.
New York, N.Y. 10022, by change of name from
Dolron Restaurant, Inc. (New York corporation)
New York, N.Y.

107).

First use Sep. 26, 1976; in commerce Sep. 26, 1976.

Owner of U.S. Reg. No. 1,210,093.

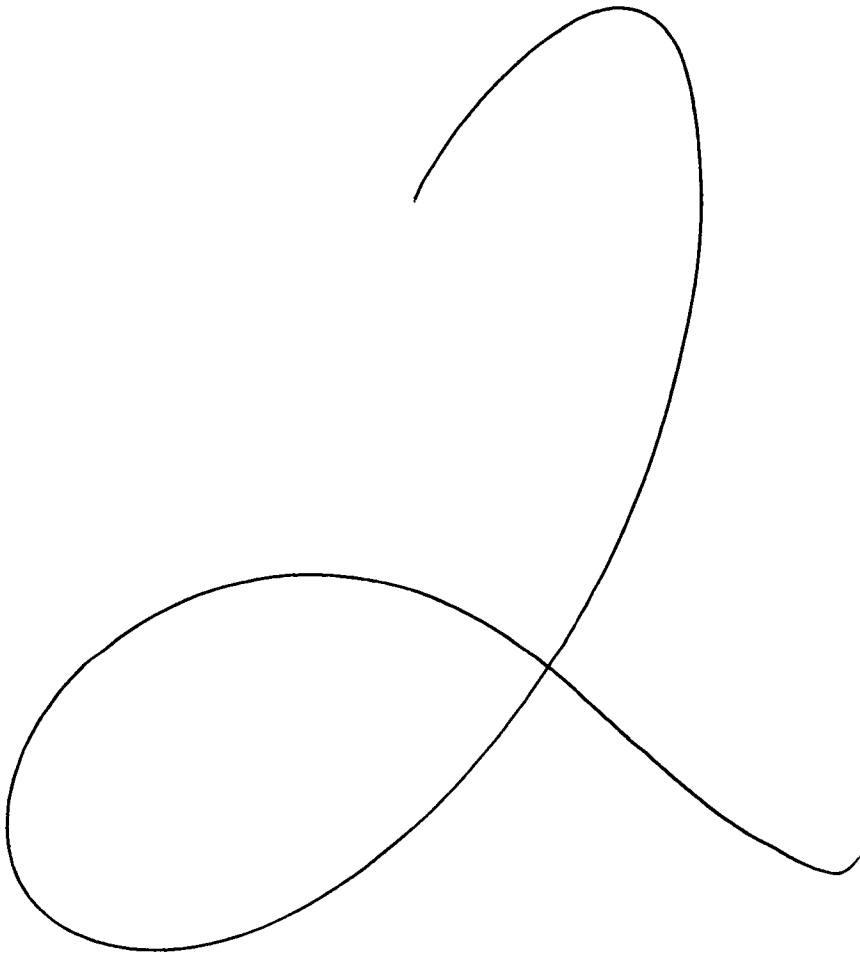
For: DISCO SERVICES, in CLASS 41 (U.S. Cl.
107).

First use Sep. 26, 1976; in commerce Sep. 26, 1976.

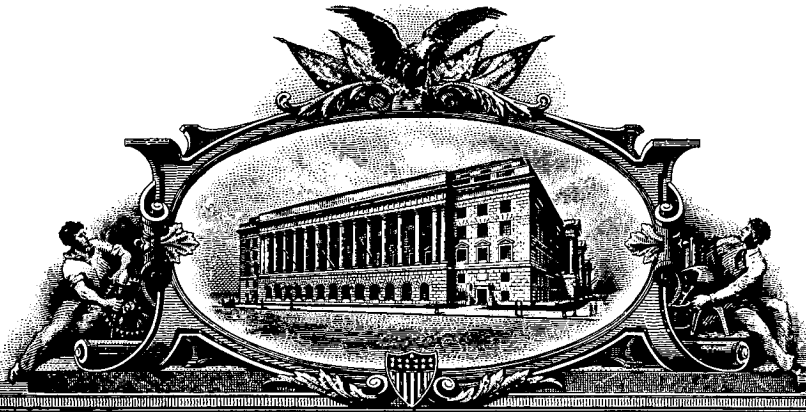
For: CATERING, RESTAURANT AND CAB-
ARET SERVICES, in CLASS 42 (U.S. Cls. 100 and

Ser. No. 377,550, filed Aug. 2, 1982.

G. MAYERSCHOFF, Examining Attorney



1658391



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

September 14, 2007

THE ATTACHED U.S. TRADEMARK REGISTRATION 1,210,093 IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 20 YEARS FROM *September 21, 1982*
1st RENEWAL FOR A TERM OF 10 YEARS FROM *September 21, 2002*
SECTION 8 & 15

SAID RECORDS SHOW TITLE TO BE IN:

APOC RESTAURANT, INC.

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

P. SWAIN

Certifying Officer



Int. Cl.: 42

Prior U.S. Cls.: 100 and 107

United States Patent and Trademark Office

Reg. No. 1,210,093

Registered Sep. 21, 1982

SERVICE MARK
Principal Register

COPACABANA

Dolron Restaurant, Inc. (New York corporation)
10 E. 60th St.
New York, N.Y. 10022

For: RESTAURANT AND CABARET SER-
VICES, in CLASS 42 (U.S. Cls. 100 and 107).
First use Sep. 26, 1976; in commerce Nov. 1, 1976.

Ser. No. 279,074, filed Sep. 23, 1980.

DAVID SOROKA, Primary Examiner

STEVEN R. FOSTER, Examiner