

ESTTA Tracking number: **ESTTA967623**

Filing date: **04/17/2019**

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

**Petition for Cancellation**

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

**Petitioner Information**

Name	Cafe Babbo, LLC		
Entity	Limited Liability Company	Citizenship	Florida
Address	97 NW 25 Street #103 Miami, FL 33127 UNITED STATES		

Attorney information	Christian Sanchelima, Esq. Sanchelima & Associates, P.A. 235 S.W. Le Jeune Road Miami, FL 33134 UNITED STATES paralegal@sanchelima.com 3054471617		
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**Registration Subject to Cancellation**

Registration No.	5716715	Registration date	04/02/2019
Registrant	Gaval Wynwood, LLC 2889 McFarlane Road Coconut Grove, FL 33133 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 043. First Use: 2018/12/12 First Use In Commerce: 2018/12/12 All goods and services in the class are subject to cancellation, namely: Restaurant and bar services
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
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**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	4939939	Application Date	07/13/2015
Registration Date	04/19/2016	Foreign Priority Date	NONE
Word Mark	BACCANO		

Design Mark	<b>BACCANO</b>
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 2015/05/31 First Use In Commerce: 2015/05/31 restaurant services

Attachments	86690835#TMSN.png( bytes ) 190417dq.Petition of Cancellation.CafeBabbo.390367.pdf(551816 bytes )
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Signature	/Christian Sanchelima/
Name	Christian Sanchelima Esq.
Date	04/17/2019

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

In Re:

Registration No. 5,716,715

Registration date: April 2, 2019

Filing date: October 3, 2017

Mark: BAKAN

For: restaurant and bar services in international class 043.

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

**Cafe Babbo, LLC**

Petitioner,

v.

Cancellation No.

**Gaval Wynwood, LLC**

Respondent,

\_\_\_\_\_)

**PETITION FOR CANCELLATION**

Petitioner, Cafe Babbo, LLC, is a limited liability company of Florida, with its principal place of business at 97 N.W. 25th St # 103, Miami, FL 33127, believes that it is, and will be damaged by the above-identified registration of the mark **BAKAN** for the goods identified above and hereby petitions to cancel the same.

As grounds for cancellation, Petitioner alleges that:

**I. FACTS**

1. Petitioner has used, and continues to use, in commerce in the United States the mark **BACCANO** for *restaurant services* since at least as early as May 31<sup>st</sup>, 2015. These goods are referred to as “Petitioner’s Services”. See Exhibit 1, corresponding to images of Petitioner’s restaurant bearing Petitioner’s mark.

2. Petitioner has developed a valuable goodwill associated with its mark **BACCANO**.

3. Petitioner registered its mark **BACCANO** for *restaurant services* in the United States Patent and Trademark Office on July 13, 2015. Petitioner’s application matured in Registration No. 4,939,939 dated April 19, 2016 for the mark **BACCANO** in Int. class 043. See Exhibit 2, showing Petitioner’s Certificate of Registration No. 4,939,939.

4. Petitioner has used in commerce with the United States the mark **BACCANO** with “Petitioner’s Services” prior to Respondent’s application’s filing date.

5. On October 3<sup>rd</sup>, 2017, Gaval Wynwood, LLC. (hereinafter Respondent) filed an application to register the mark **BAKAN** for: *restaurant and bar services* in international class 043 in the United States Patent and Trademark Office. Respondent’s application matured in registration No. 5,716,715 with the United States Patent and Trademark Office dated April 2, 2019. See Exhibit 3, corresponding to Respondent’s U.S. registration.

## **II. PRIORITY**

6. Petitioner has used in commerce the mark **BACCANO** with and in the United States for “Petitioner’s Services” from a date prior to the filing of the application for Respondent’s registration and prior to Respondent’s adoption of the mark.

7. Respondent’s mark **BAKAN**, when used for restaurant and bar services, is likely to cause confusion or mistake in the market and with relevant purchasers with Petitioner’s identical mark for Petitioner’s Services.

## **II. DAMAGES**

8. Petitioner is damaged by Respondent’s registrations since Petitioner cannot avail itself to the benefits of the Lanham Act.

**WHEREFORE**, Petitioner prays that Respondent’s Registration identified with Reg. No. 5,716,715 be cancelled.

Respectfully submitted,  
Attorneys for Petitioner:

/s/ Christian Sanchelima  
Christian Sanchelima, Esq.  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed on this  
17th day of April 2019 to:

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chris@sanchelima.com  
Attorneys for Petitioner

By: /s/ Christian Sanchelima  
Christian Sanchelima

# Exhibit 1











# Exhibit 2

**United States of America**  
United States Patent and Trademark Office

# BACCANO

**Reg. No. 4,939,939**

**Registered Apr. 19, 2016**

**Int. Cl.: 43**

**SERVICE MARK**

**PRINCIPAL REGISTER**

CAFE BABBO LLC (FLORIDA LIMITED LIABILITY COMPANY)  
97 NW 25TH STREET, #103  
MIAMI, FL 33127

FOR: RESTAURANT SERVICES, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 5-31-2015; IN COMMERCE 5-31-2015.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE ENGLISH TRANSLATION OF THE WORD "BACCANO" IN THE MARK IS "RACKET".

SER. NO. 86-690,835, FILED 7-13-2015.

JENNIFER O'BRIEN, EXAMINING ATTORNEY



*Michelle K. Lee*

Director of the United States  
Patent and Trademark Office

# Exhibit 3

**United States of America**  
United States Patent and Trademark Office

**BAKAN**

**Reg. No. 5,716,715**

**Registered Apr. 02, 2019**

**Int. Cl.: 43**

**Service Mark**

**Principal Register**

Gaval Wynwood, LLC (FLORIDA LIMITED LIABILITY COMPANY)  
2889 McFarlane Road  
Coconut Grove, FLORIDA 33133

CLASS 43: Restaurant and bar services

FIRST USE 12-12-2018; IN COMMERCE 12-12-2018

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 87-632,335, FILED 10-03-2017



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office