

# UNITED STATES PATENT AND TRADEMARK OFFICE

**SERIAL NO:** 76/536795

**APPLICANT:** CERVEZA GALLO INC.

**CORRESPONDENT ADDRESS:**  
CERVEZA GALLO INC.  
5700 FLORIDA BLVD.  
STE. 1210  
BATON ROUGE LA 70806

**RETURN ADDRESS:**  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514  
**ecom105@uspto.gov**

**MARK:** CERVEZA GALLO

**CORRESPONDENT'S REFERENCE/DOCKET NO :** N/A

**CORRESPONDENT EMAIL ADDRESS:**

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

## OFFICE ACTION

**TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.**

Serial Number 76/536795

The assigned examining attorney has reviewed the referenced application and determined the following.  
**POTENTIAL REFUSAL**

Information is enclosed concerning pending Application Serial Nos. 76/468106; 76/468133; and 76/468134. Although the Office records have been searched and no similar *registered* mark has been found that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d), there may be a likelihood of confusion under Section 2(d) of the Act between applicant's mark and the marks in the above noted applications. The filing dates of the referenced applications precede applicant's filing date. If one or more of these earlier-filed applications registers, registration may be refused under Section 2(d). 37 C.F.R. §2.83. Therefore, upon entry of a response to the Office action, action on this case may be suspended pending final disposition of the earlier-filed applications.

If applicant believes that there is no potential conflict between this application and the earlier-filed applications, then applicant may present arguments relevant to the issue in a request to remove the application from suspension. The election to file or not to file such a request at this time in no way limits applicant's right to address this issue at a later point.

**DRAWING DOES NOT MATCH SPECIMEN**

The mark as depicted on the drawing does not agree with the mark as it appears on the specimens, and clarification is required. Specifically, the drawing displays the mark as CERVEZA GALLO, and the specimen depicts the mark as GALLO CERVEZA.

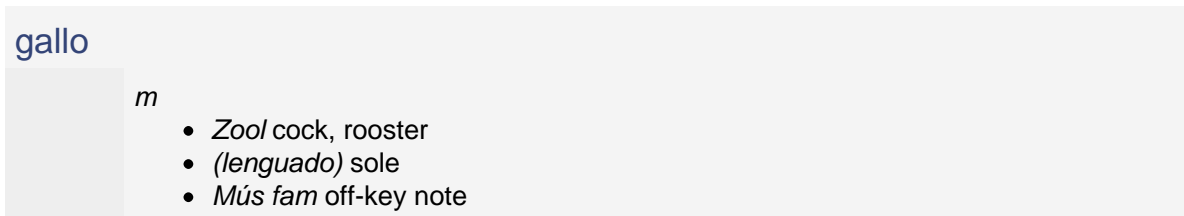
Applicant must either:

- (1) submit a new drawing of the mark that agrees with the mark as it appears on the specimen and that is not a material alteration of the original mark; 37 C.F.R. §2.72(a); TMEP §807.14(a);
- (2) submit a substitute specimen that shows use of the mark as it presently appears on the drawing and is accompanied by a statement that “the substitute specimen was in use in commerce at least as early as the filing date of the application,” verified with a notarized affidavit or a signed declaration under 37 C.F.R. §2.20; 37 C.F.R. §§2.59(a) and 2.72(a); TMEP §904.09; or
- (3) amend the application basis to intent-to-use under Section 1(b), and satisfy all the requirements for this new basis. (See below section entitled “AMENDING BASIS”.)

37 C.F.R. §2.51; TMEP §§807.14 and 807.14(a)(i).

#### TRANSLATION

Applicant must submit an English translation of the mark. 37 C.F.R. §2.61(b); TMEP §809. The following translation statement is suggested: “The English translation of GALLO CERVEZA is cock beer.”



#### DISCLAIMER

The applicant must insert a disclaimer of CERVEZA in the application, for the term is generic for the goods identified. (See attached.) Trademark Act Section 6, 15 U.S.C. Section 1056; TMEP sections 1203.

A properly worded disclaimer should read as follows:

No claim is made to the exclusive right to use CERVEZA apart from the mark as shown.

#### AMENDING BASIS

If the applicant elects to amend the basis to overcome the DRAWING DOES NOT MATCH THE SPECIMEN issue discussed above, the applicant must submit the following statement:

Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods or services listed in the application since the filing date of the application.

This statement must be verified with a notarized affidavit or a signed declaration under 37 C.F.R. §§2.20 and 2.33. Trademark Act Section 1(b), 15 U.S.C. §1051(b); 37 C.F.R. §2.34(a)(2); TMEP §806.01(b). The following is a properly worded declaration under 37 C.F.R. §2.20. At the end of the response, the applicant should insert the declaration signed by a person authorized to sign under 37 C.F.R. §2.33(a).

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 the facts set forth in this application are true; all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or Type Name and Position)

\_\_\_\_\_  
(Date)

#### GENERAL INFORMATION

No set form is required for response to this Office action. The applicant must respond to each point raised. The applicant should simply set forth the required changes or statements and request that the Office enter them. The applicant must sign the response. If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

/Karen K. Bush/  
Trademark Examining Attorney  
Law Office 105  
703-308-9105 ext. 182  
ecom105@uspto.gov

#### **How to respond to this Office Action:**

To respond formally using the Office's Trademark Electronic Application System (TEAS), visit <http://www.uspto.gov/teas/index.html> and follow the instructions.

To respond formally via E-mail, visit <http://www.uspto.gov/web/trademarks/tmelecresp.htm> and follow the instructions.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

To check the status of your application at any time, visit the Office's Trademark Applications and

Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.**

**Print: Feb 8, 2004**

**76468106**

**DESIGN MARK**

**Serial Number**

76468106

**Status**

NON-FINAL ACTION - MAILED

**Word Mark**

BIG BLACK COCK BEER

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Sacchetti, James B., Jr. PARTNERSHIP MASSACHUSETTS 40 Eutaw Avenue  
Braintree MASSACHUSETTS 02184

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: BEER.

**Description of Mark**

The following is a representation of the mark to be used. It will be placed on the label of a bottle of beer and will be accompanied by the picture of a large black rooster.

**Filing Date**

2002/11/18

**Examining Attorney**

KRISP, JENNIFER

# BIG BLACK COCK BEER

Print: Feb 8, 2004

76468133

**DESIGN MARK**

**Serial Number**

76468133

**Status**

NON-FINAL ACTION - MAILED

**Word Mark**

BIG RED COCK BEER

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

James B. Sacchetti Jr. PARTNERSHIP MASSACHUSETTS 40 Eutaw Avenue  
Braintree MASSACHUSETTS 02184

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: BEER.

**Description of Mark**

The following is a representation of the mark to be used. It will be placed on the label of a bottle of beer and will be accompanied by the picture of a large Red rooster. The actual picture is not solidified yet and the mark is not actually in use yet, so only the typed mark will be shown as follows:

**Filing Date**

2002/11/18

**Examining Attorney**

KRISP, JENNIFER

# BIG RED COCK BEER



Print: Feb 8, 2004

76468134

**DESIGN MARK**

**Serial Number**

76468134

**Status**

NON-FINAL ACTION - MAILED

**Word Mark**

BIG COCK BEER

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

James B. Sacchetti Jr. PARTNERSHIP MASSACHUSETTS 40 Eutaw Avenue  
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**Filing Date**

2002/11/18

**Examining Attorney**

KRISP, JENNIFER

# BIG COCK BEER

# CHOMSKY.INFO

[Please visit The Noam Chomsky Website](#)

## [ES Home](#)

Words:

Input up to 5 words separated by spaces; wildcards OK (e.g., excel\*, he\*p or \*value).  
Reverse translation is provided.

### **Word cerveza:**

**cerveza** - n. [beer](#)





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