

TRADEMARK ASSIGNMENT

Electronic Version v1.1
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SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	This submission is to correct an error made in a previously recorded document that erroneously affects the identified application(s) or registration(s).		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Barrington Jamaica Imports Ltd.		06/22/2006	CORPORATION:
RECEIVING PARTY DATA			
Name:	Barrington Jamaica Imports Ltd.		
Street Address:	70A Greenwich Avenue		
Internal Address:	Suite 200		
City:	New York		
State/Country:	NEW YORK		
Postal Code:	10011		
Entity Type:	CORPORATION:		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	1309276	FUNDADORES	
CORRESPONDENCE DATA			
Fax Number:	(212)697-3004		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	212-697-2800		
Email:	joesofer@soferharoun.com		
Correspondent Name:	Joseph Sofer, Esq.		
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ATTORNEY DOCKET NUMBER:	1069-003L		
NAME OF SUBMITTER:	Joseph Sofer, Esq.		
Signature:	/Joseph Sofer/		

CH \$40.00 1309276

Date:

06/23/2006

Total Attachments: 5

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark : FUNDADORES
Registration No. : 1,309,276
Registration Date : December 11, 1984
International Class : 34

**DECLARATION TO CORRECT IMPROPER RECORDAL
OF ASSIGNMENT BY A THIRD PARTY OTHER THAN THE
OWNER OF THE MARK PURSUANT TO TMEP § 503.06(c)**

I, Barrington Adams, hereby declare:

1. I am the Chief Executive Officer of Barrington Jamaican Imports Ltd. (“Barrington”), located at 70A Greenwich Avenue, New York, New York 10011.
2. Barrington is the owner of the mark FUNDADORES, with a U.S. registration number 1,309,276, registered on December 11, 1984.
3. Throughout the years the mark FUNDADORES has become extremely famous for Cigars imported from Jamaica.
4. On May 12, 2005, as CEO of Barrington, I filed a Combined Declaration of Use & Application for Renewal of Registration of Mark under § 8 and §9 of the Trademark Act.
5. Under § 8 of the Trademark Act, the owner of the mark, Barrington submitted an affidavit of continued use of its mark FUNDADORES to the Director of the United States Trademark Office.

6. In response to the affidavit submitted by Barrington, the Director notified its acceptance of the affidavit on August 16, 2005.
7. Under § 9 of the Trademark Act, Barrington made an application to renew its FUNDADORES mark.
8. In response to the application submitted by Barrington to renew the FUNDADORES mark, the Director of the Trademark Office accepted the application and renewed the trademark on behalf of its rightful owner.
9. It has come to my attention that on May 18, 2006, a company by the name of Cigars by Santa Clara, Inc. improperly recorded an assignment claiming that it is the assignee of the same FUNDADORES mark with U.S. Reg. number 1,309,276. **The reel and frame number of this improper assignment is 3311/0981.**
10. It has also come to my attention that on June 12, 2006, Cigars by Santa Clara, Inc. improperly recorded an assignment of the trademark FUNDADORES to Santa Clara, Inc., which appears to be a related company. **The reel and frame number of this improper assignment is 3325/0336.**
11. Cigars by Santa Clara, Inc. has improperly recorded the purported assignment, against Barrington.
12. A copy of the assignment recorded by Cigars by Santa Clara, Inc. states that a mark FUNDADORES, among other marks, is assigned by Combined Tobacco, Co., JA, 1979 Ltd.
13. The assignment document is dated March 2, 1989, more than seventeen years ago.

14. The assignment document does not properly identify the rights that are being transferred under the FUNDADORES mark. More specifically, it is not clear whether the United States trademark rights are being transferred, or whether trademark rights in any other country wherein FUNDADORES is being used for cigars, are being transferred.
15. In 1989, Combined Tobacco Company was the owner of the FUNDADORES mark in the United States.
16. Combined Tobacco Company continued to use the mark FUNDADORES in the United States eve after the alleged assignment date of March 2, 1989.
17. In fact, on October 12, 1990, more than a year and half after the alleged assignment date of the mark, Combined Tobacco Company filed a Combined Declaration under §§ 8 and 15 of the trademark Act, as the owner of the trademark registration number 1,309,276.
18. The Declaration filed by Combined Tobacco's president Mr. James E. Chang stated that the mark FUNDADORES has been in continuous use by Combined Tobacco, and is still in use in commerce.
19. The Declaration filed by Combined Tobacco included a specimen showing the mark as was currently used at the time of its filing. The Declaration further stated that there were no final decision adverse to registrant's claim of ownership, or to registrant's right to register or keep the mark registered.
20. The alleged assignee Cigars by Santa Clara, Inc. never objected to Combined Tobacco's filing of its §§ 8 and 15 Declarations.
21. The alleged assignee Cigars by Santa Clara, Inc. never filed its own Combined Declaration under §§8 and 15 of the Trademark Act when it was due in 1990.

22. The alleged assignee Cigars by Santa Clara, Inc. never filed its own Declaration for renewal under §§ 8 and 9 of the Trademark Act, when it was due in 2005.
23. The alleged assigned Cigars by Santa Clara, Inc. never recorded its purported March 2, 1989 assignment of the mark FUNDADORES in the United States Patent and Trademark Office to provide notice to bona-fide purchasers of the trademark.
24. Sometime in 1996, Barrington acquired Combined Tobacco operations in Jamaica and began importing the Cigars bearing the FUNDADORES trademark from Jamaica and selling them in the United States.
25. Under §10 of the Trademark Act an assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office within 3 months after the date of the assignment or prior to the subsequent purchase.
26. As such, even if the alleged assignment of the trademark FUNDADORES from Combined Tobacco to Cigars by Santa Clara, Inc. is authentic, an assumption, which at this time is highly doubtful, the failure by Cigars by Santa Clara to record the assignment prior to the acquisition by Barrington Jamaican Imports renders the assignment void.
27. Since sometime in 1995, Barrington has been and continues to be the owner of Registration no. 1, 309, 276 for FUNDADORES, as evidenced by the mark's continued use and renewal applications filed in the United States Patent and Trademark Office.
28. The assignment recorded by Cigars by Santa Clara, Inc. cannot and should not alter the true chain of title to the FUNDADORES mark.

DECLARATION

The undersigned, being hereby warned that willful false statement 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 and the like may jeopardize the validity of this document, declares that he is properly authorized to execute this document on behalf of the registrant; he believes the registrant to be the owner of the above identified registration; the trademark is in use in commerce; and all statements made of his knowledge are true and all statements made on information and belief are believed to be true.

Please address all communications in connection with this declaration to:

Joseph Sofer, Esq.
Sofer & Haroun, LLP
317 Madison Avenue
Suite 910
New York, New York 10017
Telephone :212-697-2800

BARRINGTON JAMAICAN IMPORTS LTD.

Dated: 6-22-, 2006

BY: 

Name: Barrington Adams

Title: CEO