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

Proceeding	92071079
Party	Defendant Gaval Wynwood, LLC
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Date	06/19/2019
Attachments	Cafe Babbo v. Gavel Wynwood - 2019.04.pdf(3737052 bytes )

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Case No.

**Cafe Babbo, LLC.**

A Florida Limited Liability Company,

Plaintiff,

vs.

**Gaval Wynwood, LLC,**

a Florida Limited Liability Company;

**Gaval Hospitality, LLC,**

a Florida Limited Liability Company;

**Jaguar Hospitality Group, LLC,**

a Florida Limited Liability Company; and

**Oscar Gavino,** as an individual,

Defendants.

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**COMPLAINT**

Plaintiff Cafe Babbo LLC (hereinafter “Plaintiff”), sues Defendants Gaval Wynwood, LLC (hereinafter “Gaval Wynwood”), Gaval Hospitality, LLC (hereinafter “Gaval Hospitality”), Jaguar Hospitality Group, LLC (hereinafter “Jaguar”), and Oscar Gavino (collectively “Defendants”), and makes the following allegations:

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff is a Florida limited liability company, with its principal place of business at 97 N.W. 25th St # 103, Miami, FL 33127.
2. Gaval Wynwood is a Florida Limited Liability Company with its principal place of business at 2801 N.W. 2nd Avenue, Miami, FL 33131.

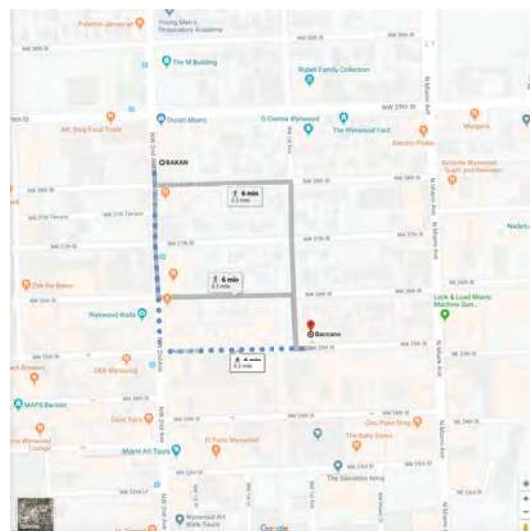
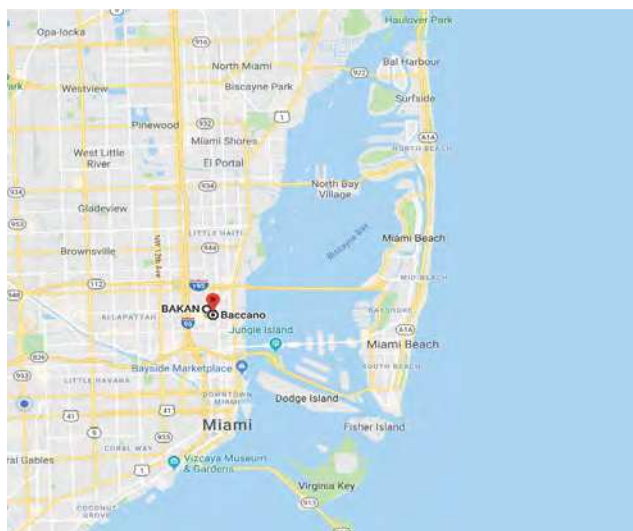
3. Gaval Hospitality is a Florida Limited Liability Company with its principal place of business at 2801 N.W. 2nd Avenue, Miami, FL 33131.
4. Jaguar Hospitality Group is a Florida Limited Liability Company with its principal place of business at 3067 Grand Ave, Miami, FL 33133.
5. Oscar Gavino is an individual residing at 2801 N.W. 2nd Avenue, Miami, FL 33131.
6. This is an action for federal mark infringement, false description and representations, false designations of origin under the Lanham Act, Title 15, United States Code, Sections 1114 and 1125(a); and the ancillary state causes of action of common law trade mark infringement and unfair competition.
7. Jurisdiction of this Court arises under 28 U.S.C. Sec. 1331, 28 U.S.C. Sec. 1338, and under the doctrine of pendent jurisdiction over state claims arising from a common nucleus of operative facts.
8. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) and (c) and §1400(b) because one or more of the defendants reside or can be found in this District, Defendant does business in this District, and/or a substantial part of the events or omissions giving rise to the claim occurred in this District.

#### **FACTUAL BACKGROUND**

9. Plaintiff is the owner of the mark BACCANO for restaurant services in International Class 043 in the United States Patent and Trademark Office with Registration No. 4, 939, 939.
10. Plaintiff has used, and continues to use, in commerce in the United States the mark BACCANO for restaurant services. See Exhibit 1, corresponding to images of Plaintiff's restaurant bearing Plaintiff's mark.

11. Plaintiff started using in commerce its trademark, BACCANO since at least as early as May 31, 2015, and has used its trademark BACCANO continuously since 2015 in promotional and advertising material thus creating valuable goodwill for the Plaintiff's mark. See Exhibit 2, corresponding to samples of articles and promotional material depicting Plaintiff's marks.
12. Plaintiff's unique mark is prominently featured on Plaintiff's website <http://www.baccanomiami.com>, as well as its business material and marketing.
13. Plaintiff advertises its services under the BACCANO mark online, through social media, at its restaurant, and physical promotional material.
14. Plaintiff's services under the BACCANO mark are well known by relevant consumers due to Plaintiff's good reputation in the restaurant services business. See Exhibit 3, corresponding to Plaintiff's services reviewed by clients.
15. Plaintiff has expended considerable money and effort promoting its mark BACCANO in Florida and throughout the United States to acquire its goodwill.
16. Upon information and belief, Defendants Gaval Wynwood, Gaval Hospitality, Jaguar Hospitality Group, and Oscar Gavino were aware of the existence of BACCANO before Defendants adopted the designation BAKAN and nonetheless proceeded to use the confusingly similar designation.
17. Gaval Wynwood's Registration No. 5716715 claims that Gaval Wynwood has used the mark BAKAN (hereinafter referred to as "Infringing Designation") for restaurants services since December 12, 2018. See Exhibit 4, corresponding to Gaval Wynwood's use of its mark, BAKAN.

18. On or about February 10, 2017, Gaval Wynwood became a Florida corporation under the name “GAVAL WYNWOOD, LLC”. See Exhibit 5, corresponding to the records of when Gaval Wynwood incorporated.
19. On October 03, 2017, Gaval Wynwood 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, which matured as U.S. Registration No. 5716715. See Exhibit 6, corresponding to Gaval Wynwood’s U.S. registration.
20. Defendants have knowingly and willfully adopted and used the Infringing Designation knowing about the prior existence of Plaintiff’s rights over the BACCANO mark.
21. Defendants’ restaurant BAKAN is strategically located in the heart of Wynwood next to Plaintiff’s restaurant; specifically, Defendant’s restaurant is located at 2801 NW 2nd Ave, Miami, FL 33127, only 0.3 miles away from Plaintiff’s Restaurant BACCANO. See Exhibit 7, corresponding to Defendants’ restaurant BAKAN and Plaintiff’s restaurant BACCANO locations.



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