



Madrid Provincial Court confirms rejection of Bacardi's claims to the "Havana Club" trade mark in Spain

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The Madrid Provincial Court has entered another ruling rejecting the claim by the multinational Bacardi to the Spanish trade mark "Havana Club" for Cuban rum.

The dispute began in 1999 when Bacardi brought a complaint before the Madrid courts petitioning for recognition as owner of the trade mark and cancellation of the registrations of the trade mark held by its competitor Havana Club Holding. The Madrid Court of First Instance rejected that complaint in June 2005. Bacardi appealed against that ruling but now the Madrid Provincial Court of Appeal has confirmed the Court of First Instance's judgment. Bacardi has announced that it intends to appeal again this new ruling.

The Appeal Court decided that Havana Club Holding properly acquired the Havana Club trade mark rights for several reasons including:

- Claims of Bacardi about recovery of its alleged property are unfounded. The people who sold Bacardi their purported rights to the Spanish Havana Club trade mark (the Arechabala family, the former shareholders of the Cuban company JASA), had registered the trademark in 1935 but had failed to renew and use it and had never marketed Cuban rum in Spain. The Court of Appeal clearly stated that "the trademark was never used in Spain by JASA before 1959, because it had never exported rum to Spain."
- The Court recognised that the prestige of the Havana Club trade mark was the direct and sole result of the long-standing commercial efforts and investments by Havana Club Holding. Bacardi's action was therefore considered unfair and abusive, with the sole aim of damaging a competitor.
- The Court also held that pursuant to international treaties between Spain and Cuba, rum produced anywhere other than in Cuba cannot be marketed in Spain under the name "Havana" or similar names. Such a ruling was considered as necessary to prevent consumers from being misled as to the rum's origin.



Havana Club is amongst the fastest growing spirit brands worldwide, having experienced double digit growth every year since Havana Club International's creation. This joint venture was set up in November 1993 by the Cuban company Corporation Cuba Ron S.A. and the Pernod Ricard Group, with the goal of developing the Havana Club brand internationally through Pernod Ricard's strong international distribution network. The company's ambition is to grow the brand to five million cases by 2013 and become the leading international brand of dark aged rums. The company is based in Havana and exports to 124 countries throughout the world, with the exception of the USA, where Cuban products are banned due to the trade embargo.

Marc Beuve Mery CEO of Havana Club International S.A said : *"this new ruling confirms the indisputable rights of Havana Club Holding to the Havana Club brand"*.

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