

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

In re Application of: )  
SOUTH BEACH BEVERAGE COMPANY )  
Serial No.: 76/975,886 )  
Filed: August 13, 2002 )  
For: SOBE )

Published in the Official Gazette  
of January 13, 2004, Volume 1278, No.2,  
at Page TM 170

**CONSENTED REQUEST UNDER 37 CFR 2.102(c)(3) FOR EXTENSION OF TIME  
TO FILE NOTICE OF OPPOSITION PER THE REQUEST OF APPLICANT  
DUE TO EXTENUATING CIRCUMSTANCES TO  
FACILITATE FINALIZATION OF ON GOING SETTLEMENT**

Petitioner, SOBY'S Restaurant, at 207 South Main Street, Greenville, South Carolina 26901, through its undersigned counsel, and at the request of Applicant's counsel hereby respectfully requests a final sixty-day (60-day) extension of time to file a Notice of Opposition regarding the above matter as provided for under 37 CFR 2.102(c)(3). If granted, the extended date would be September 10, 2004 .

This Extension is made at the request of Applicant's counsel due to extenuating circumstances on their client's part in finalizing an on going and nearly concluded final settlement regarding a separate Opposition (No. 91123,177) which directly relates to the current possible Opposition. Once settlement is completed, it is expected that there will be no further need to pursue Opposition. Potential Opposer's

counsel also notes possible suspension of time periods if preferred as allowed for in TTAB Rule 2.117(a) when settlement occurring in one Opposition directly relates to the outcome of the other pending Oppositions.

The requested for further extension of time is based on the following:

A separate Opposition (No. 91123,177) involving the same two parties is currently under suspension at the TTAB until September 1, 2004. The Opposer and Applicant have been involved in settling the matter for quite some time now and the extension for the above referenced potential Opposition has been taken in order to protect the Opposer's interests while the other Opposition is currently being concluded.

On June 29, 2004, Applicant's counsel advised the undersigned that the basic terms of the settlement agreement have been indicated by their client, South Beach as acceptable. South Beach's counsel is currently in the process of drafting a final agreement for the clients approval. Once the finalized settlement papers are ready, Applicant's counsel will forward the papers for Soby's execution.

On July 2, 2004, Soby's counsel contacted South Beach's counsel regarding the separate up coming dates to file Opposition in this matter. Applicant's counsel asked that instead of filing the Opposition(s) that we seek with the TTAB one final suspension while the settlement agreement is in the process of being finalized. Both parties wish to avoid having to file an Opposition with a finalized settlement so close at hand.

Applicant's counsel has stated that he believes settlement should be finalized by the end of August, beginning of September. We ask that although new rules regarding a limitation on extension are now in practice at the TTAB, that due to the extenuating circumstances of the nearly completed settlement and the Opposer's need to protect

their interests during the finalization of the settlement we request this further extension of time.

This request is submitted in triplicate (original plus two copies).

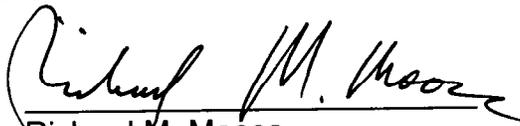
Respectfully submitted,

On Behalf of  
SOBY'S

DATE:

July 12, 2004

BY:



Richard M. Moose  
Reg. No. 31,226

DORITY & MANNING  
ATTORNEYS AT LAW, P.A.  
P. O. Box 1449  
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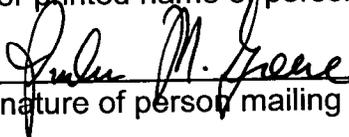
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Date of Deposit July 12, 2004

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to BOX TTAB, NO FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513

PRUDENCE M. GREENE

(Typed or printed name of person mailing paper or fee)



(Signature of person mailing paper or fee)

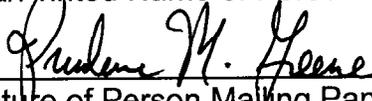
**CERTIFICATE OF SERVICE**

It is hereby certified that a copy of this CONSENTED REQUEST UNDER 37 CFR 2.102(c)(3) FOR EXTENSION OF TIME TO FILE NOTICE OF OPPOSITION PER THE REQUEST OF APPLICANT DUE TO EXTENUATING CIRCUMSTANCES TO FACILITATE FINALIZATION OF ON GOING SETTLEMENT, was served on Opposer's counsel via Federal Express mail No.: **EV154935888US** on July 12, 2004 as follows:

Jed Ferdinand, Esq.  
Grimes & Battersby, LLP.  
Attorneys at Law  
488 Main Avenue, Third Floor  
Norwalk, CT 06851-1008  
Phone:(203)849-8300

Prudence M. Greene

\_\_\_\_\_  
Typed/Printed Name of Person Mailing Paper



\_\_\_\_\_  
Signature of Person Mailing Paper

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

In re Applications of: SOUTH BEACH BEVERAGE COMPANY, INC.

TTAB

Serial No.: 76/975,886

Attorney Docket No.: SBY-2-TM

Filed: AUGUST 13, 2002

Account No: 04-1403

For: SOBE

Sir:

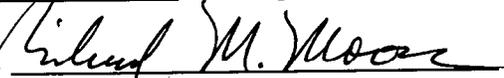
1.  **NOTICE OF APPEAL:** Applicant hereby appeals to the Trademark Trial and Appeal Board from the Final Refusal dated \_\_\_\_\_ of the Examining Attorney twice/finally refusing Applicant's request for registration, with a fee for one class.
2.  **BRIEF** on appeal in this application is transmitted herewith in triplicate to the Trademark Trial and Appeal Board.
3.  An **ORAL HEARING** is respectfully requested by separate paper within 10 days hereafter.
4.  **OTHER:** CONSENTED REQUEST UNDER 37 CFR 2.102(c)(3) FOR EXTENSION OF TIME TO FILE NOTICE OF OPPOSITION PER THE REQUEST OF APPLICANT DUE TO EXTENUATING CIRCUMSTANCES TO FACILITATE FINALIZATION OF ON GOING SETTLEMENT

The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under applicable Rules (deficiencies only) now or hereafter relative to this application and the resulting Official document or credit any overpayment, to our deposit Account/Order Nos. in the heading hereof for which purpose a duplicate copy of this sheet is attached.

**ADDRESS: DORITY & MANNING  
ATTORNEYS AT LAW, P.A.**

One Liberty Square  
55 Beattie Place, Suite 1500  
Greenville, S.C. 29601  
(864) 271-1592  
FAX (864) 233-7342

By: Richard M. Moose Reg. No.: 31,226

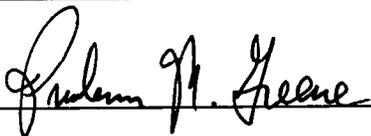
Signature:   
Date: July 12, 2004

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July 12, 2004

Prudence M. Greene



  
07-13-2004