

ESTTA Tracking number: **ESTTA539693**

Filing date: **05/23/2013**

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

Proceeding	85222757
Applicant	CHERIF ESSAOUI
Applied for Mark	BLACK COLA ENERGY DRINK
Correspondence Address	CHRISTOPHER J DAY LAW OFFICE OF CHRISTOPHER J DAY 9977 ORTH 9TH ST, SUITE 155 SCOTTSDALE, AZ 85258 UNITED STATES chris@daylawfirm.com
Submission	Applicant's Motion to Suspend
Attachments	BLACK COLA ENERGY.pdf(254759 bytes)
Filer's Name	Christopher J. Day
Filer's e-mail	chris@daylawfirm.com
Signature	/Christopher J. Day/
Date	05/23/2013

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

In re:

Applicant: Cherif Essaoui
Mark: BLACK COLA ENERGY DRINK
Serial No.: 85222757
Filed: January 21, 2011

REQUEST TO SUSPEND APPEAL

Pursuant to TBMP 1213 and for good cause shown herein, Applicant hereby requests that this appeal be suspended pending confirmation that Reg. Nos. 3320591 and 3326953 will continue in existence or will, instead, be cancelled or expire.

As described in TBMP 1213(3), good cause for suspending this appeal exists because a registration cited as a reference, under Section 2(d) of the Act, 15 U.S.C. § 1052(d), against applicant's mark is due, or will soon be due, for an affidavit of continued use (or excusable nonuse) under Section 8 of the Act, 15 U.S.C. § 1058.

The sole issue in this appeal is a 2(d) refusal based on Reg. Nos. 3320591 and 3326953. Those registrations issued on October 23, 2007 and October 30, 2007 respectively, and the affidavit of continued use under Section 8 will be required to be filed on or before October 23,

2013 and October 30, 2013. As of the date hereof, the Section 8 affidavit of continued use has not been filed. See TARR Record, attached as Exhibit A. The 6 month grace period for filing a late Section 8 will expire on April 23, 2014 and April 30, 2014. If Registrant fails to file a late Section 8 by April 30, 2014, the 2(d) refusal—and therefore ultimately this appeal—will become moot.

According to TBMP 1213:

“If an applicant requests suspension based on the possibility that the cited registration may be cancelled for failure to file an affidavit of continued use, the Board will grant such request if the Board acts on the request after the 5th anniversary of the issue date of the registration.”

TBMP 1213(3) (emphasis added).

The 6th year anniversary of the issue date for the cited registrations is October 23, 2013 and October 30, 2013. The Section 8 affidavit of continued use has not yet been filed, and Registrant’s grace period for filing a late Section 8 expires on April 23, 2014 and April 30, 2014.

Accordingly, for good cause shown herein, Applicant respectfully requests this appeal be suspended.

Dated May 22, 2013.

/Christopher J. Day/

Christopher J. Day, Attorney for Applicant
Law Office of Christopher Day
9977 North 90th Street, Suite 155
Scottsdale, Arizona 85258
Telephone: (602) 258-4440
Facsimile: (602) 258-4441

Exhibit A

The USPTO is pleased to report that the TSDR problem with the display of mark images has been resolved. Please clear your individual browser cache prior to accessing TSDR. If you continue to experience technical difficulties, [please email](#).

STATUS DOCUMENTS

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Mark: COCA-COLA BLAK

COCA-COLA BLAK

US Serial Number: 78743757

Application Filing Date: Oct. 31, 2005

US Registration Number: 3320591

Registration Date: Oct. 23, 2007

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Oct. 23, 2007

Publication Date: Sep. 05, 2006

Notice of Allowance Date: Nov. 28, 2006

Mark Information

Mark Literal Elements: COCA-COLA BLAK

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US [0022406](#), [0047189](#), [0229380](#) and others
Registrations:

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [.] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Non-alcoholic beverages, namely, soft drinks; syrups and concentrates for making beverages, namely, soft drinks

International Class(es): 032 - Primary Class

U.S Class(es): 045, 046, 048

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 03, 2006

Use in Commerce: Apr. 03, 2006

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: The Coca-Cola Company
Owner Address: One Coca-Cola Plaza
 Atlanta, GEORGIA 30313
 UNITED STATES
Legal Entity Type: CORPORATION **State or Country Where Organized:** DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Dolores A. Moro **Docket Number:** 281494

Correspondent

Correspondent Name/Address: DOLORES A MORO
 THE COCA-COLA COMPANY
 1 COCA COLA PLZ NW
 ATLANTA, GEORGIA 30313-2499
 UNITED STATES

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Oct. 23, 2007	REGISTERED-PRINCIPAL REGISTER	
Sep. 16, 2007	LAW OFFICE REGISTRATION REVIEW COMPLETED	67215
Sep. 14, 2007	ASSIGNED TO LIE	67215
Aug. 07, 2007	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Aug. 07, 2007	STATEMENT OF USE PROCESSING COMPLETE	74215
May 24, 2007	USE AMENDMENT FILED	74215
May 24, 2007	TEAS STATEMENT OF USE RECEIVED	
Nov. 28, 2006	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Oct. 12, 2006	ASSIGNED TO EXAMINER	76582
Sep. 05, 2006	PUBLISHED FOR OPPOSITION	
Aug. 16, 2006	NOTICE OF PUBLICATION	
Jul. 17, 2006	LAW OFFICE PUBLICATION REVIEW COMPLETED	71466
Jul. 14, 2006	ASSIGNED TO LIE	71466
Jul. 12, 2006	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 11, 2006	TEAS/EMAIL CORRESPONDENCE ENTERED	65287
Jun. 05, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	65287
Jun. 05, 2006	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Dec. 12, 2005	NON-FINAL ACTION MAILED	
Dec. 10, 2005	NON-FINAL ACTION WRITTEN	75590
Dec. 04, 2005	ASSIGNED TO EXAMINER	75590
Nov. 03, 2005	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Sep. 16, 2007

Assignment Abstract Of Title Information - None recorded

Proceedings - None recorded

The USPTO is pleased to report that the TSDR problem with the display of mark images has been resolved. Please clear your individual browser cache prior to accessing TSDR. If you continue to experience technical difficulties, [please email](#).

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Mark: BLAK

BLAK

US Serial Number: 78771559

Application Filing Date: Dec. 12, 2005

US Registration Number: 3326953

Registration Date: Oct. 30, 2007

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Oct. 30, 2007

Publication Date: Sep. 26, 2006

Notice of Allowance Date: Dec. 19, 2006

Mark Information

Mark Literal Elements: BLAK

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [..] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of
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U.S Class(es): 045, 046, 048

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 03, 2006

Use in Commerce: Apr. 03, 2006

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: The Coca-Cola Company

Owner Address: One Coca-Cola Plaza
 Atlanta, GEORGIA 30313
 UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Dolores A. Moro

Docket Number: LRC 274937

Correspondent

Correspondent Name/Address: DOLORES A MORO
 THE COCA-COLA COMPANY
 1 COCA COLA PLZ NW
 ATLANTA, GEORGIA 30313-2499
 UNITED STATES

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Oct. 30, 2007	REGISTERED-PRINCIPAL REGISTER	
Sep. 24, 2007	LAW OFFICE REGISTRATION REVIEW COMPLETED	66230
Sep. 24, 2007	ASSIGNED TO LIE	66230
Aug. 21, 2007	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Aug. 13, 2007	STATEMENT OF USE PROCESSING COMPLETE	72629
Jun. 19, 2007	USE AMENDMENT FILED	72629
Jun. 19, 2007	TEAS STATEMENT OF USE RECEIVED	
Dec. 19, 2006	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Oct. 12, 2006	ASSIGNED TO EXAMINER	76582
Sep. 26, 2006	PUBLISHED FOR OPPOSITION	
Sep. 06, 2006	NOTICE OF PUBLICATION	
Aug. 01, 2006	LAW OFFICE PUBLICATION REVIEW COMPLETED	68123
Jul. 21, 2006	ASSIGNED TO LIE	68123
Jul. 20, 2006	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 20, 2006	TEAS/EMAIL CORRESPONDENCE ENTERED	71466
Jun. 22, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	71466
Jun. 22, 2006	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Dec. 22, 2005	NON-FINAL ACTION MAILED	
Dec. 22, 2005	NON-FINAL ACTION WRITTEN	75590
Dec. 21, 2005	ASSIGNED TO EXAMINER	75590
Dec. 16, 2005	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Sep. 24, 2007

Assignment Abstract Of Title Information - None recorded

Proceedings - None recorded
