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UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

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PAT. & T.M. OFFICE

Opposition No. 90,158

Coors Brewing Company

v.

Anheuser-Busch
Incorporated

Rogers, Administrative Trademark Judge:

This is a case involving opposer's opposition to a single application and applicant's counterclaim to cancel six registrations of opposer's. The parties apparently settled their differences long ago, though the Board has never seen a copy of any settlement agreement.

It appears the settlement was effected in piecemeal fashion, i.e., an abandonment of the opposed application was filed; applicant withdrew its counterclaim in regard to two of the six registrations; opposer apparently agreed to surrender two registrations subject to the counterclaim (and presumably actually did so, though the Board was never informed of the surrenders¹); and the parties apparently

¹ The Board long ago became aware of the *apparent* surrenders by noting an entry in the prosecution history of each of the two

either agreed that opposer would not take necessary post registration actions to maintain the last two registrations that are subject to the counterclaim *or* opposer, of its own volition, decided not to take the necessary actions to maintain these two registrations and that was just fine by the parties, who thus may have considered the counterclaim moot in regard to those two registrations.

By an order issued October 22, 2001, the Board attempted to move these proceedings toward ultimate resolution. That order entered judgment against opposer in regard to one of the registrations targeted by applicant's counterclaim (Reg. No. 1,626,199) and ordered opposer to show cause why judgment should not also be entered in regard to Reg. No. 654,931. (These are the two registrations either opposer chose not to maintain, whether with or without knowledge that such action could result in entry of a claim preclusive judgment in applicant's favor on the counterclaim, or the parties agreed opposer would not maintain.)

That order also acknowledged applicant's abandonment of the opposed application and applicant's withdrawal of the

relevant registrations, which entry states that a surrender was filed October 7, 1998. Thus, even though the parties never informed the Board of the surrenders, the Board concluded that they had been filed directly with the Office's Post Registration Section as part of the apparent settlement. Despite numerous efforts, the Board was unable to obtain the originals or copies of the surrender documents from the Post Registration Section.

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counterclaim in regard to two of opposer's registrations (Reg. Nos. 1,285,493 and 1,671,293).

Finally, the October 22, 2001 order required opposer to submit copies of the surrender documents apparently submitted directly to (and perhaps lost by) the Post Registration Section in regard to Reg. Nos. 1,202,255 and 1,282,740.

Unfortunately, both opposer's and applicant's copies of the October 22, 2001 order were returned as undeliverable. It appears that opposer's counsel moved (though the Board has not been provided with a change of address) and it appears that applicant may now be represented by new counsel (though the Board has neither a withdrawal or entry of appearance).

Copies of this order are being sent to opposer's counsel at a new address the Board has culled from its records regarding another proceeding in which opposer is involved, and to the law firm of Pattishall, McAuliffe et al, which, based on reference to Board records for other proceedings, appears now to be applicant's counsel. A courtesy copy is also being sent to the firm of Fross Zelnick (at its current address), which appears no longer to be representing applicant. The October 22, 2001 order stands as issued and a copy is included with each copy of this order.

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The critical assistance the Board requires from counsel, to be able to finally resolve these protracted, but apparently uncontested, proceedings **is a response from opposer** (1) as to why judgment should not be entered against it, on the counterclaim, in regard to Reg. No. 654,931, and (2) providing the Board with copies of the surrender documents (including any consent to surrender by applicant) in regard to Reg. Nos. 1,202,255 and 1,282,740. **Opposer's response is due within 60 days of the date of this order.**

Non-response will result in entry of judgment in regard to Reg. No. 654,931 and dismissal of the counterclaim without prejudice in regard to Reg. Nos. 1,202,255 and 1,282,740.

Copies of this order have been forwarded to the following addressees:

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