

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

Mailed: February 20, 2003

Opposition No. 91115494

TWELVE ISLANDS SHIPPING
COMPANY LIMITED and ALLIED
DOMECQ SPIRT & WINES USA, INC.

v.

TROPICAL CHEESE INDUSTRIES,
INC.

Cheryl Goodman, Interlocutory Attorney:

This case now comes up on opposer's response to the Board's show cause order, filed November 8, 2002, and opposer's motion to substitute or join, filed January 23, 2003.

The Board will first consider opposer's motion to substitute.

In support of its motion, opposer asserts that Allied Domecq Spirit & Wines USA, Inc. (hereinafter "Allied Domecq") is the successor in interest to Twelve Islands Shipping Company Limited and that the papers for recording the assignment have been filed with the Assignment Branch of

the Office.¹ Opposer requests that Allied Domecq be either joined or substituted as party opposer in this proceeding.

Inasmuch as the assignment occurred after the commencement of the proceeding and testimony is still open, Allied Domecq will be joined as party opposer to facilitate the introduction of evidence. See TBMP Section 512.01.

In view thereof, Allied Domecq Spirit & Wines USA, Inc. is joined as party plaintiff in this proceeding and the caption of this proceeding is so amended.

On October 9, 2002, the Board issued an order allowing opposer time to show cause why the Board should not treat its failure to file a brief as a concession of the case.

On November 8, 2002, opposer responded, indicating that it had not lost interest in the case; that the parties had been discussing settlement in 2001 and had submitted a request to suspend "on or about" May 2001 but never received a "scheduling order" from the Board suspending the case; that in 2002 Allied Domecq Spirit & Wines USA, Inc. became successor in interest to this proceeding, assigned new counsel, and that new counsel now needs to familiarize himself with this matter; and that for these reasons the proceeding should not be dismissed.

Opposer's response to the show cause order did not include a copy of opposer's May 24, 2001 consented request

¹ According to Office records, the assignment has not yet been

to suspend proceedings for settlement. Opposer has since provided the Board with a copy of the motion at the request of Board personnel.² The opposer's consented request to suspend, filed May 24, 2001, was never associated with the file. However, in view of the outstanding motion to suspend and opposer's indication that it has not lost interest in this case, the show cause order is discharged.

Opposer's May 24, 2001 motion to suspend proceedings is granted to the extent that proceedings have been considered suspended as of the filing date of that motion.

Inasmuch as the sixth month suspension period has long since expired, and the parties are not currently in settlement negotiations, (as indicated by opposer's response to the show cause order that opposer's interest in this proceeding was assigned in May 2002, and that the case has been transferred to new counsel who needs time to "familiarize itself with this matter"), proceedings are resumed.

Opposer's consented request to reopen testimony, as contained in its motion to suspend, is granted.³

recorded for Reg. No. 1,780,492.

² Opposer has provided proof of receipt by the Office in the form of a docketing sheet that shows that the motion was date stamped as received by the Office on May 24, 2001.

³ At the time of filing the May 24, 2001 motion to suspend, both opposer's and applicant's main testimony periods had closed. The motion to suspend includes a statement that in the event that parties have not settled the matter, the parties "stipulate that trial dates should be reset."

Trial dates are reset as follows:

DISCOVERY PERIOD TO CLOSE:	CLOSED
30-day testimony period for party in position of plaintiff to close:	May 10, 2003
30-day testimony period for party in position of defendant to close:	July 9, 2003
15-day rebuttal testimony period for party in position of plaintiff to close:	August 23, 2003

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.