

BEFORE THE TTAB
IN THE US TRADEMARK OFFICE

I hereby certify that the correspondence upon which
this notice is placed is being deposited with the US
Postal Service as first class mail in an envelope
addressed to the Commissioner for Trademarks,
P.O. Box 1451, Alexandria, VA 22313, on this date
set forth below. MOONRAY KOJIMA, ATTORNEY
Date 7/31/06 (signed) [Signature]

CADBURY BEVERAGES, BV

OPPOSER

V

EZAKI GLICO CO, LTD,

OPPOSITION NO. 91/171567

APPLICANT

SN - 76/636,421

MARK - CRUSH

TTAB

Sirs:

REPLY TO OPPOSER'S OPPOSITION TO MOTION TO DISMISS

Opposer's only defense is that because CADBURY had priorly assigned the marks CRUSH to Dr. Pepper, there is the required "Privity" which allowed Dr. Pepper to be the opposer.

Applicant strongly disagrees. The mere assignment of a mark does not (negative) confer the rights of "privity", to enable the assignee to obtain the rights of Cadbury to file the opposition. If the merely filing of an assignment to confer the status of "privity", Orange-Crush Company, Inc or Crush International, Inc (see Regs. 683,361 and 187,791) would confer similar rights.

Please note, that no claim is being made that Cadbury is the parent or subsidiary of Dr. Pepper, which would it seem to us to confer "privity".

Thus, there being no basis for "privity", the opposition should be dismissed pursuant to applicant's motion to dismiss.

Respectfully

[Signature]
M. KOJIMA

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31 July 06

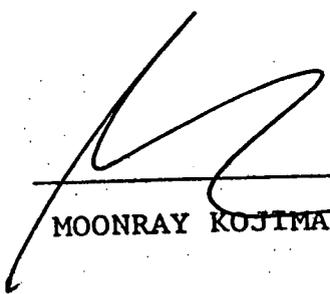

08-03-2006

CERTIFICATE OF SERVICE

Below attorney of record, hereby affirms that he placed the attached papers in an envelope addressed to the below attorney and mailed same by first class mail at an authorized postal collection box, on the date set forth below.

ADDRESSED TO: Barbara A. Solomon, Esq
FROSS ZELNICK LEHRMAN & ZISSU PC
866 UN Plaza
NY, NY 10017

DATE OF MAILING: 31 July 06



MOONRAY KOJIMA, ATTORNEY