

ESTTA Tracking number: **ESTTA1467**

Filing date: **06/12/2013**

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

Proceeding	91178927
Party	Plaintiff Royal Crown Company, Inc. and Dr. Pepper/Seven Up, Inc.
Correspondence Address	LAURA POPP ROSENBERG FROSS ZELNICK LEHRMAN & ZISSU PC 866 UNITED NATIONS PLAZA NEW YORK, NY 10017 UNITED STATES bsolomon@fzlj.com, bsolomon@frosszelnick.com, lpopp-rosenberg@frosszelnick.com, rosenberg@frosszelnick.com
Submission	Other Motions/Papers
Filer's Name	Laura Popp-Rosenberg
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Signature	/Laura Popp-Rosenberg/
Date	06/12/2013
Attachments	Testimony Stipulation (F1244071).PDF(15265 bytes)

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

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ROYAL CROWN COMPANY, INC.	:	
and DR PEPPER/SEVEN UP, INC.,	:	<u>Consolidated Proceedings</u>
	:	Opposition No. 91178927
Opposers,	:	Opposition No. 91180771
	:	Opposition No. 91180772
- against -	:	Opposition No. 91183482
	:	Opposition No. 91185755
THE COCA-COLA COMPANY,	:	Opposition No. 91186579
	:	Opposition No. 91189847
Applicant.	:	Opposition No. 91190658
-----X		

— and —

-----X		
THE COCA-COLA COMPANY,	:	
	:	
Opposer,	:	
	:	
- against -	:	Opposition No. 91184434
	:	
ROYAL CROWN COMPANY, INC.	:	
and DR PEPPER/SEVEN UP, INC.,	:	
	:	
Applicants.	:	
-----X		

**STIPULATION REGARDING INTRODUCTION OF PARTY
AND COUNSEL EMPLOYEE DIRECT TESTIMONY AT TRIAL**

Pursuant to Trademark Rule of Practice 2.123(b), the parties, through their undersigned counsel, stipulate as follows:

1. The direct testimony of a party or its counsel’s employees may be offered into evidence by that party by means of a sworn affidavit or a declaration under penalty of perjury (each, a “Trial Declaration,” and any witness proffering a Trial Declaration, a

“Declaring Witness”), with exhibits attached thereto, in lieu of a deposition upon oral examination.

2. No later than ten (10) days after the opening date of a party’s testimony or five (5) days after the opening date of a party’s rebuttal period, the party shall identify to counsel for the opposing party, by name, title and employer, all witnesses from whom the party intends to tender a Trial Declaration during its testimony or rebuttal period.

3. All Trial Declarations shall be served by email (without exhibits) and by overnight courier or by hand (with exhibits) on opposing counsel no later than fifteen (15) days after the opening date of a party’s testimony period, and no later than seven (7) days after the opening date of a party’s rebuttal period, as applicable.

4. A party receiving a Trial Declaration may, within the remainder of the relevant trial or rebuttal period, cross-examine the Declaring Witness by oral examination at the office of the Declaring Witness or his or her counsel, or as otherwise agreed between the parties. No later than the day on which a party serves a Trial Declaration, that party shall notify opposing counsel of the date(s) on which and places at which the Declaring Witness will be available for oral cross-examination, which date(s) shall be no earlier than seven (7) business days after such notice is made and no earlier than five (5) business days after such Trial Declaration is served. The party desiring to conduct oral cross-examination shall notify the Declaring Witness’s counsel within three (3) business days of receiving the Trial Declaration whether oral cross-examination is sought

5. Any objection to the Trial Declaration that would be waived if not raised at a deposition upon oral examination must either be stated at the beginning of oral cross-examination or, if oral cross-examination is not to be undertaken, in a writing served by

hand or email no later than seven (7) days after service of a Trial Declaration during any testimony period or no later than (4) days after service of a Trial Declaration during any rebuttal period. In the event that a party relying on a Trial Declaration receives a written statement of objection(s) to the Trial Declaration, the party may attempt to correct the defect(s) within the remaining testimony or rebuttal period either through service of a supplemental Trial Declaration (if agreed to by the opposing party or parties) or through deposition upon oral examination, either of which must be strictly limited to attempting to cure defects.

6. If a party conducts oral cross-examination of a Declaring Witness, the party that served the Trial Declaration of the Declaring Witness shall be responsible for engaging and scheduling a court reporter, shall be responsible for ensuring that the resulting deposition transcript complies with all applicable form requirements of the Trademark Rules of Practice and is filed in accordance with those Rules, and shall bear the costs associated with the engagement of the court reporter, preparation of the party's own transcript copy, and compliance with all rules and procedures relating to filing of the transcript, except that the party conducting the cross-examination shall bear the cost of obtaining a copy of the transcript from the court reporter.

7. Any Trial Declaration to be offered as evidence shall be filed with the Board as part of a single filing consisting of the Trial Declaration, any exhibits thereto, the transcript of any oral cross-examination, and any exhibits thereto.

8. The parties may hereafter agree to alter any timing specified in this Stipulation.

9. Nothing in this Stipulation is intended to or shall be deemed to limit the means by which a party may offer or introduce trial testimony of any witness.

SO STIPULATED AND AGREED, this 12th day of June, 2013:

FROSS ZELNICK LEHRMAN & ZISSU, P.C. KING & SPALDING LLP

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*Attorneys for Royal Crown Company, Inc.
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Attorneys for The Coca-Cola Company

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing STIPULATION REGARDING INTRODUCTION OF PARTY AND COUNSEL EMPLOYEE DIRECT TESTIMONY AT TRIAL to be deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to counsel for The Coca-Cola Company, Bruce W. Baber, Esq., King & Spalding LLP, 1185 Avenue of the Americas, New York, New York 10036-4003, this 12th day of June, 2013.

/Laura Popp-Rosenberg/

Laura Popp-Rosenberg