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

Proceeding	91210103
Party	Defendant Alberto Soler DBA Coki Loco and Miriam Soler
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Date	09/30/2013
Attachments	CokiCola.pdf(91265 bytes)

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

In re: 85/672,347
Mark: COKI COLA HAPPY MOTION
Filed: July 10, 2012
Published: December 18, 2012

THE RED LUNA COMPANY

COKI LOCO:

Alberto Soler/Miriam Soler

Applicant(s)

vs.

Opposition: **91210103**

The Coca-Cola Company,

Opposer.

_____ /

I

[RECONSIDERATION]

**THE BOARD SHOULD RECONSIDER DENIAL OF APPLICANT'S MOTION
TO DISMISS OPPOSER'S SECTION 43(c) GROUND FOR FAILURE TO PLEAD
ACQUIRED DISTINCTIVENESS WHEN CLAIMING DISTINCTIVE FAME**

II

OBJECTION

**THE BOARD FAILED TO ENTERTAIN APPLICANT'S OBJECTIONS TO
OPPOSER'S COUNSEL KNOWINGLY FALSE STATEMENT IN A EFFORT TO
OVERCOME A MISTAKEN LATE FILING RESPONSE**

THE RED LUNA, by and through the assigned applicant(s) Coki Loco -Alberto Soler/Miriam Soler, (hereinafter TRL), hereby moves the Board to reconsider denial of TRL'S motion to dismiss Opposer's (hereinafter TCCC) ground of dilution for failure to plead acquired distinctiveness while at the same time claiming distinctive fame.

For true support- TRL declares there will be a red moon to declare a new beginning:

I

[RECONSIDERATION]

1. The Board denied TRL motion to dismiss determining that TCCC does need to plead acquired distinctiveness apart from just pleading "distinctive" to a famous mark to overcome the pleading requirement of dilution under 43 (c).

TCCC'S claim alleging dilution to its distinctive fame does plead if it was by birth right or by right to claim such fame. There is two-types of distinctive fame. One which is the strongest of all called inherently distinctiveness and the other, the weaker storm called acquired distinctiveness.

TRL obviously sees the storm that's coming but does not see or is told the type that it is.

This is-its stormy history:

TCCC does not want us to know that once upon time they claimed "secondary meaning" protection for being descriptive when registering 471189 on Halloween Oct 31, 1905 (ironic now indeed) to survive later no birth right and unclean hands, (swipe clean-figure that and Dope quite clean-how can that), as stated by the highest court and still law of this land. Coca-Cola v. Koke, 254 US 143 (1920), but wait, what about who spoke first

“no secondary meaning and if not-unlawful use.” US v. Coca-Cola, 245 US 265 (1916)

Forget about that phony history, there will be a new history because TCCC here did not pleaded their first mark born generic, 22406 (Jan 31, 1893) nor the second mark that claimed secondary meaning to stay alive for they have intentionally left to die in the heels of the Trademark Dilution/Revision Act of 2006, thinking that they will now never ever be un-topple no matter if it was always tricking treating in all the land known to the world.

Clever with some help from those so-called trusted up above but not quite planned right for now by those in charge back in 2006 for immorality for they have never ever re-register or re- published there birth right known as 0022406 under the Lanham Act that is leaving them now open to attack at any time under the Trademark Act of 1881. Unstoppable.

That will be another journey but now we have here TCCC pleading the following marks in support for distinctive fame; 238145/46 –Jan. 28, 1928; 415755-August 14, 1945(another scary story); 1260160-Dec.06, 1993; 1257789-Nov. 15, 1983; 1432152-March 10, 1987; 1824556-March 01, 1994; 2757341-Aug 26, 2003; 3347889-Dec. 04, 2007; 3434466-May 27, 2008; 3490468-August 19, 2008; 3820750-July 20, 2010.

TCCC MUST PLEAD ACQUIRED DISTINCTIVENESS TO ITS DISTINCTIVE
CLAIM TO FAME OR FACE DISMISSAL FOR NOT RAISING ITS COLORS FOR
CLEAR WARNING TO DEFEND

2. We all know here which trade mark laws to follow for proving and sustaining dilution to fame. TCCC must not only prove that its famous mark is distinctive but also to what

degree, inherently or acquired distinctiveness. Coach Servs., Inc v. Triumph, 668 F.3d 1356, 1372 (Fed. Cir. 2012)

TRL does not see any degree to fairly agree or disagree on how it should answer to avoid defeat w/o TCCC allowed to be a cheat.

TCCC can not now be thinking so clever and say; “This has never been a matter so it does not now matter” This is a new matter. Hasbro, Inc v. Branstrust Games, Inc, Opposition-91169603 (TTAB August, 14, 2009)

In fact, TCCC sought it did matter by not pleading confusion through distinctive fame but just plain fame. TCCC should now have this matter by also told which mark pleaded was the one that acquired distinctiveness to support dilution for top fame.

If top fame of its trade named Nike, did it-TCCC must then now do it for our land to stay free in the pursuit of happiness. Nike, Inc v. Maher, Opposition 91188789, August 05, 2011{precedent}

Since is quite clear that TCCC’S purposely omitted their true colors in their pleading-TRL does not have adequate notice of the storm that’s coming. “Is it a hurricane, or is it just tropical storm” TRL needs to know if should flee and find protected cover in hope of survival or plan to stay and face just a breeze for TRL knows all about this weather.

This Board should now direct TCCC to raise and not hide its colors so TRL rightfully knows how to plan the defense of its inherent right given by this land to walk and talk in trade being free from those wanting more greed.

RELIEF

Wherefore, TRL respectfully requests the Board to make this a matter and grant this

motion for reconsideration and sustain TRL'S motion to dismiss ordering TCCC to either plead this new matter or no longer be a matter.

II

OBJECTION

3. TRL strongly objects to this Board completely disregarding TRL cries of foul play by TCCC'S attorney of record pleading intentionally false statements to overcome a mistaken late filing response.

Although the Board determine that the issue surrounding the dispute is moot for that TRL provided the certificate of service requirement; the issue is not moot to TCCC'S counsel unethical behavior that could bring a petition to disqualify by TRL pursuant to 115.03/TBMP 513.02 for rules of conduct and responsibility violations and unfairness to TRL'S right to speak and object to the distrust in the administration of justice in these proceedings. 37 CFR 2.193/10.18(b)US CONST. (V))

Either this Board takes the appropriate action in determining if TCCC'S counsel of record acted in bad faith to a degree requiring a reprimand, a suspension or even exclusion, and if no so, TRL will have no choice but to file a petition to disqualify or submit a compliant to the respective bar.

REQUEST

Wherefore, TRL respectfully request the Board to view and review if TCCC'S counsel pleaded false statements requiring if appropriate action should be taken in a effort to sustain TRL voices of fouts by who is known as the biggest bully of them all-even when this land is call free.

Filed this 30th day of Sept. 2013 via ESSTA electronic filing submission

Respectfully submitted,

/Alberto Soler/

ALBERTO SOLER

/Miriam Soler/

MIRIAM SOLER

THE RED LUNA

CERTIFICATE OF SERVICES

We here certify that a true and correct copy of the foregoing motion was forward to TCCC'S attorney of record email address of record, this 30th day of Sept. 2013.

THE RED LUNA

