**UNITED STATES PATENT AND TRADEMARK OFFICE**
**Trademark Trial and Appeal Board**
**P.O. Box 1451**
**Alexandria, VA 22313-1451**
General Contact Number: 571-272-8500

CME

Mailed: May 2, 2015

Opposition No. 91210103

The Coca-Cola Company

v.

Alberto Soler d/b/a Coki Loco and Miriam Soler

**Before Cataldo, Taylor, and Greenbaum,**
**Administrative Trademark Judges.**

**By the Board:**

On July 19, 2014, the Board issued an order allowing Applicants thirty days to show cause why judgment should not be entered against them on the ground that the involved application is void *ab initio* because it is not Applicants, but a business association, that owns the involved mark. 33 TTABVUE 8. Applicants filed a timely response to the show cause order on August 18, 2014. Upon review of Applicants' response, the Board issued an order on December 10, 2014 ("Final Decision"): (1) finding the involved application void *ab initio* because it "was not filed by the correct party or parties"; (2) refusing registration of the involved mark to Applicants; and (3) dismissing the opposition as moot. 36 TTABVUE 5.

This case now comes up on Applicants' "motion for clarification" of the Final Decision, filed January 12, 2015,[1] in which Applicants: (1) request "clarification to which parties [sic] interest did the Board ruled [sic] when entering final judgment against [Applicants] for void ab initio…."; 40 TTABVUE 2; (2) assert that "all the Board's members [are] a bunch of liars full of disgrace" and "on the take for a party's interest here," *id.* at pp. 3-4; and (3) argue that the Board "violated the laws of due process, [the] Fifth Amendment, the Federal Rules of Evidence and its own rule of process, TBMP 700.704 by entering judgment against [Applicants] by considering pleaded statements not yet introduce[d] into evidence…." *Id.* at pp. 2-3.[2]

A request for reconsideration, modification or clarification under Trademark Rule 2.127(b) requires that the Board consider whether "based on the facts before it and the prevailing authorities, the Board erred in reaching the order or decision it issued." Trademark Trial and Appeal Board Manual of Procedure ("TBMP") § 518 (2014). A request for reconsideration "may not properly be used to introduce additional evidence, nor should it be devoted simply to a reargument of the points presented in a brief on the original motion." *Id.*

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[1] Because the deadline for Applicants to file a request for reconsideration or clarification of the Final Decision fell on a Saturday, Applicants' request filed on the following Monday, January 12, 2015, is timely. *See* Trademark Rule 2.196.

[2] The Board notes Opposer's change of correspondence address, filed April 29, 2015, and has updated its records accordingly.

The Board also acknowledges Applicants' petition to the Director, filed January 13, 2015, which is pending. The Board has the discretion to proceed with determining a request for reconsideration or clarification notwithstanding a pending petition to the Director, and we exercise that discretion here. TBMP § 510.03(a).

Applicants have not supported their conclusory allegations that the Final Decision violates "the laws of due process, [the] Fifth Amendment, the Federal Rules of Evidence and [the Board's] own rule[s] of process" with any legal authority nor have they otherwise demonstrated that the Board erred in reaching the Final Decision. Indeed, as noted in the Final Decision, Applicants do not dispute that it is a business entity that owns the involved mark. *See* Final Decision, p. 2.

With respect to Applicants' allegations of bias, the Board advises that it is an impartial administrative tribunal that applies the Trademark Act and Rules and all other applicable rules and procedures impartially in ***all*** proceedings, including this one. Applicants may be dissatisfied with the result here, but the Board's Final Decision was not in error based on the facts before it and the prevailing authorities.

In view of the foregoing, Applicants' "motion for clarification" is **DENIED**. Applicants are advised that the Board will not consider any further requests for reconsideration, modification or clarification, or any other filings that assert arguments substantially similar to any arguments that Applicants have previously asserted in this proceeding. *See Giant Food, Inc. v. Standard Terry Mills, Inc.*, 231 USPQ 626, 631 n.11 (TTAB 1986); *see also* TBMP § 518.

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