

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: December 10, 2012

Cancellation No. 92051197

BALORU S.A.,

v.

ECUABEVERAGE CORPORATION

Cancellation No. 92051242

Cancellation No. 92055519

Cancellation No. 92055569

Cancellation No. 92056294

ECUABEVERAGE CORPORATION

v.

BALORU S.A.

Cancellation No. 92051263

ECUABEVERAGE CORPORATION

v.

BROOKLYN BOTTLING OF
MILTON N.Y., INC.

Cheryl S. Goodman, Interlocutory Attorney:

Motion to Suspend Consolidated Proceedings: Cancellation
Nos. 92055519, 92055569 and 92056294.

On November 21, 2012, respondent in Cancellation Nos.
92055519, 92055569 and 92056294 moved to suspend proceedings
pending the disposition of the civil action Brooklyn

Cancellation No. 92055519

Bottling of Milton, New York, Inc. v. Ecuabverage Corporation, presently on appeal to the United States Court of Appeals for the Second Circuit, Docket No. 12-1140, from the United States District Court for the Southern District of New York, Case No. 07-cv-8483, arguing that the civil action presents common issues and common parties with the present consolidated proceedings. Respondent submits that the issue of descriptiveness of TROPICAL alleged by petitioner in each of the cancellations (92055519, 29055569 and 92056294) is an issue on appeal.

In response to the motion to suspend, petitioner indicates it is in agreement with respondent.

Accordingly, the Board finds good cause to suspend proceedings for the parties' civil action.

The motion to suspend is granted.

Consolidation with Cancellation No. 92051197 (parent)

Inasmuch as the parties are in agreement regarding suspending for the civil action involving Ecuabverage Corporation and Brooklyn Bottling of Milton, New York, Inc., the Board also finds it appropriate to consolidate these proceedings with the earlier consolidated proceedings in which Cancellation No. 92051197 is the parent case.

Accordingly, Cancellation Nos. 92055519, 92055569 and 92056294 are hereby consolidated with the earlier consolidated proceedings: Cancellation No. 92051197,

Cancellation No. 92055519

92051242 and 9251263.¹ The record will be maintained in Cancellation No. 92051197 as the parent case, and all papers should be filed in the parent proceeding, with all papers filed including all proceeding numbers in ascending order.

Substitution of Counsel, Cancellation No. 92051197

Pangiota Betty Tufariello has been substituted for the law firm of Thomas M. Wilentz in the Board's records as counsel and correspondent for petitioner in Cancellation No. 92051197.

Consolidated proceedings are suspended/and or remain suspended pending the final disposition of the civil action.

Within twenty days after the final determination of the civil action, the interested party should notify the Board so that this case may be called up for appropriate action.

During the suspension period the Board should be notified of any address changes for the parties or their attorneys.

¹ The parties have jointly sought to sever Cancellation No. 92051263 from the consolidated proceedings, which motion has been deferred.