

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

Mailed: January 17, 2008

Opposition No. 91168224

Unfiltered Napa LLC

v.

Twenty Rows LLC

George C. Pologeorgis, Interlocutory Attorney:

On June 5, 2007, the Board suspended these proceedings pending the final disposition of a civil action between the parties in this matter.¹

On December 17, 2007, applicant filed a status report concerning the civil action wherein applicant indicated that the district court issued a final decision finding that opposer's TWENTY BENCH mark for wine is not confusingly similar with applicant's TWENTY ROWS mark also for wine. Additionally, applicant noted that opposer's time for appealing the district court's decision has expired and, to date, opposer has not filed a notice of appeal.

¹The civil action is styled *Unfiltered Napa LLC v. Twenty Rows LLC*, Case No. 06-7605, in the U.S. District Court for the Northern District of California.

The Board notes that to the extent that a civil action in a Federal district court involves issues in common with those in a Board proceeding, as is the case here, the district court decision would be binding on the Board, whereas the Board decision is merely advisory to the district court. See *American Bakeries Co. v. Pan-O-Gold Baking Co.*, 650 F.Supp 563, 2 USPQ2d 1208 (D.Minn. 1986).

In view thereof, opposer is allowed **thirty days** from the mailing date of this order in which to show cause why the Board should not enter judgment consistent with the district court decision, failing which judgment will be entered against opposer and the opposition will be dismissed with prejudice.

Proceedings otherwise remain suspended.

NEWS FROM THE TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:
<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the

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Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:
<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>