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

Proceeding	91178927
Party	Defendant The Coca-Cola Company
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Submission	Motion to Amend Application
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Date	02/15/2019
Attachments	2019.02.15 TCCC Motion to Amend Applications.pdf(22628 bytes)

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

ROYAL CROWN COMPANY, INC.	)	<u>Consolidated Proceedings:</u>
and DR. PEPPER/SEVEN UP, INC.,)	
)	
Opposers,	)	OPPOSITION NOS. 91178927,
	)	91180771, 91180772, 91183482,
	)	91185755, 91186579 AND 91190658
)	
v.	)	APPLICATION SERIAL NOS. 78580598,
	)	78316078, 78664176, 77176279,
	)	77176127, 77176108, 77175127,
THE COCA-COLA COMPANY,	)	77175066, 77097644, 77176099,
	)	76674382, 76674383, 77257653,
Applicant.	)	78620677, 77309752 AND 78698990

MOTION TO AMEND APPLICATIONS

NOW COMES THE COCA-COLA COMPANY (“TCCC”), Applicant in the above-captioned proceedings, and, by and through its undersigned counsel and in accordance with Section 6 of the Lanham Act, 15 U.S.C. § 1056; Trademark Rule 2.133, 37 C.F.R. § 2.133; section 1213.08(a)(i) of the Trademark Manual of Examining Procedure, TMEP § 1213.08(a)(i); and sections 212.07 and 514 of the Trademark Board Manual of Procedure, TBMP §§ 212.07, 514, hereby requests that the Board permit TCCC to amend each of the sixteen applications at issue in these proceedings to disclaim the term “zero,” and that the Board approve such amendments and, in view thereof, terminate these proceedings. TCCC believes that entry of these disclaimers will resolve the issues in these proceedings without any further activity needed on the part of the Board.

More specifically, TCCC shows that the only relief sought by opposers Royal Crown Company, Inc. and Dr Pepper/Seven-Up, Inc. in these proceedings is the entry of a disclaimer of the term “zero” in the applications at issue. *See, e.g.*, TTABVUE 39 (Opposition No. 91178927), Amended Consolidated Notice of Opposition filed June 22, 2009, at 8-9; 182 TTABVUE (Opposition No. 91178927), Brief on Remand for Opposers, filed December 17, 2018, at 54. In view of TCCC’s willingness to agree to entry of such disclaimers in the applications that are the subject of these proceedings, the entry of those disclaimers should resolve all remaining issues in these proceedings.

For reference and to identify more specifically the applications at issue, TCCC identifies the applications more particularly as follows:

Opposition No.	Application Serial No.	Mark
91178927	78580598	COCA-COLA ZERO
91180771	78316078	SPRITE ZERO
91180772	78664176	COKE ZERO
91183482	77176279	COCA-COLA CHERRY ZERO
	77176127	CHERRY COKE ZERO
	77176108	COCA-COLA VANILLA ZERO
	77175127	CHERRY COCA-COLA ZERO
	77175066	COKE CHERRY ZERO
	77097644	PIBB ZERO
91185755	77176099	VANILLA COKE ZERO
	76674382	COKE ZERO ENERGY
	76674383	COKE ZERO BOLD
91186579	77257653	VANILLA COCA-COLA ZERO
	78620677	FANTA ZERO
	77309752	POWERADE ZERO
91190658	78698990	VAULT ZERO

WHEREFORE, Applicant The Coca-Cola Company respectfully prays that the Board approve TCCC's request to enter disclaimers, in standard form, of the term "zero" in each of the applications at issue and, upon such approval, terminate these proceedings.¹

Respectfully submitted,

KING & SPALDING LLP

/Bruce W. Baber/
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THE COCA-COLA COMPANY

¹ In view of TCCC's willingness to disclaim "zero" in each of the applications at issue, TCCC is not filing a brief in accordance with the extended schedule provided for in the Board's November 21, 2018 and December 4, 2018 orders. 179-180 TTABVUE (Opposition No. 91178927).

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing Request To Amend Applications upon Opposers Royal Crown Company, Inc. and Dr Pepper/Seven Up, Inc., by causing a true and correct copy thereof to be forwarded by electronic mail to Opposers' counsel of record as follows:

Ms. Barbara Solomon
Ms. Laura Popp-Rosenberg
Ms. Emily Weiss
Fross Zelnick Lehrman & Zissu, P.C.

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This 15th day of February, 2019.

/Bruce W. Baber/

Bruce W. Baber