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Filing date: **11/15/2012**

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

Proceeding	91178927
Party	Plaintiff Royal Crown Company, Inc.
Correspondence Address	LAURA POPP-ROSENBERG FROSS ZELNICK LEHRMAN ZISSU PC 866 UNITED NATIONS PLAZA NEW YORK, NY 10017 UNITED STATES bsolomon@fzlj.com, bsolomon@frosszelnick.com, lpopp-rosenberg@frosszelnick.com
Submission	Motion to Join/Substitute Party
Filer's Name	Laura Popp-Rosenberg
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Signature	/Laura Popp-Rosenberg/
Date	11/15/2012
Attachments	Motion to Substitute (F1121193).PDF ( 9 pages )(159453 bytes )

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

-----X		
ROYAL CROWN COMPANY, INC.,	:	<b><u>Consolidated Proceedings</u></b>
	:	Opposition No. 91178927
Opposer,	:	Opposition No. 91180771
	:	Opposition No. 91180772
- against -	:	Opposition No. 91183482
	:	Opposition No. 91185755
THE COCA-COLA COMPANY,	:	Opposition No. 91186579
	:	Opposition No. 91189847
Applicant.	:	Opposition No. 91190658
-----X		

— and —

-----X		
THE COCA-COLA COMPANY,	:	
	:	
Applicant,	:	
	:	
- against -	:	Opposition No. 91184434
	:	
ROYAL CROWN COMPANY, INC.,	:	
	:	
Opposer.	:	
-----X		

**MOTION TO SUBSTITUTE**

Pursuant to Trademark Rules of Practice 3.71(d) and 3.73(b), 37 C.F.R. §§ 3.71(d), 3.73(b), and Section 512.01 of the Trademark Trial and Appeal Board Manual of Procedure (“TBMP”), Opposer/Applicant Royal Crown Company, Inc. (“Royal Crown”) and proposed Opposer/Applicant Dr Pepper/Seven Up, Inc. (“DPSU”) hereby move to substitute DPSU for Royal Crown in the above-captioned proceeding.

As grounds for this motion, Royal Crown and DPSU state as follows:

1. Royal Crown and DPSU are both wholly-owned subsidiaries Dr Pepper Snapple Group, Inc.

2. Royal Crown filed certain of the opposition proceedings consolidated herein, namely, Oppositions Nos. 91178927, 91180771, 91180772, 91183482, 91185755, 91186579, 91189847 and 91190658.

3. Royal Crown also filed the two applications (Applications Serial Nos. 78/576,257 and 78/581,917 (together, the “PURE ZERO Applications”)) at issue in the other proceeding consolidated herein, Opposition No. 91184434 filed by TCCC.

4. On April 28, 2010, Royal Crown assigned all right, title and interest to certain of its trademarks, including but not limited to the marks DIET RITE PURE ZERO and PURE ZERO marks, to DPSU. A true and correct copy of the April 28, 2010 assignment (the “Assignment”) is attached as Exhibit 1 hereto.

5. The Assignment was duly recorded with the U.S. Patent & Trademark Office on April 30, 2010.

6. Accordingly, Royal Crown and DPSU request that DPSU be substituted for Royal Crown as the party Opposer in Oppositions Nos. 91178927, 91180771, 91180772, 91183482, 91185755, 91186579, 91189847 and 91190658, and as the party Applicant in Opposition No. 91184434.

7. Royal Crown and DPSU agree that all discovery responses and document production made by Royal Crown to date will be considered to have been made by DPSU.

8. Royal Crown and DPSU requested TCCC’s consent to the requested substitution, but TCCC never provided final sign-off on this motion. Royal Crown and DPSU decided to move forward with the motion without TCCC’s consent in light of the upcoming trial deadlines.

Dated: November 15, 2012

Respectfully submitted,

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: /Laura Popp-Rosenberg/

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*Attorneys for Royal Crown Company, Inc. and Dr  
Pepper/Seven-Up, Inc.*

# **EXHIBIT 1**

## **TRADEMARK ASSIGNMENT**

**THIS TRADEMARK ASSIGNMENT (“ASSIGNMENT”)** shall be effective as of the 25<sup>th</sup> day of October 2005 by and between Royal Crown Company, Inc., a Delaware corporation with its principal place of business at Plano, Texas 75024 (hereinafter “Assignor”) and Dr Pepper/Seven Up, Inc., a Delaware corporation, with its principal place of business at Plano, Texas 75024 (hereinafter “Assignee”); and

**WHEREAS**, Assignor is the owner of certain Trademark applications and/or registrations listed on the attached Exhibit “A”, attached hereto and incorporated herein (hereinafter “Trademarks”);

**WHEREAS**, Assignor desires to assign its right, title and interest in, to and under the Trademarks, including any goodwill associated therewith, all registrations therefore, all common law rights therein and any and all rights related thereto to Assignee; and

**WHEREAS**, Assignee desires to acquire the Trademarks;

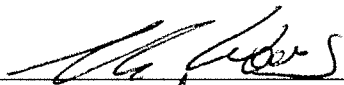
**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Assignor does hereby sell, assign and transfer to Assignee, its successors and assigns, all of its right, title, and interest in, to and under the Trademarks, including any goodwill associated therewith, all registrations therefore, all common law rights therein, and any and all trademark and/or service mark rights related thereto.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Trademark Assignment on the 28th day of April, 2010.


**ASSIGNOR**

**Royal Crown Company, Inc.**

By:   
Printed Name: Michael Woods  
Its: ASSISTANT SECRETARY

**ASSIGNEE**

**Dr Pepper/Seven Up, Inc.**

By:   
Printed Name: Michael Woods  
Its: ASSISTANT SECRETARY

## Exhibit A

### TRADEMARK APPLICATIONS/REGISTRATIONS

STATUS	COUNTRY	APPNO	FILE	REGNO	REG	TMARK
REGISTERED	CANADA	766774	21-Oct-94	458950	07-Jun-96	DIET RC COLA & DESIGN
REGISTERED	CANADA	266861	04-Jan-62	133753	13-Dec-63	DIET-RITE
REGISTERED	CANADA	0992880	07-Apr-47	NFLD002880	07-Apr-47	NEHI
REGISTERED	CANADA	186300	05-Mar-45	UCA024679	05-Mar-45	RC
REGISTERED	CANADA	0992896	10-Apr-47	NFLD002896	10-Apr-47	RC
REGISTERED	CANADA	1249176	02-Mar-05	745509	17-Aug-09	RITE DIETE
REGISTERED	CANADA	172880	08-Mar-38	UCA011519	08-Mar-38	ROYAL CROWN
REGISTERED	CANADA	766777	21-Oct-94	459717	21-Jun-96	ROYAL CROWN COLA (STYLIZED)
REGISTERED	CANADA	195473	17-May-47	UCA026012	17-May-47	UPPER 10
REGISTERED	MEXICO	205895	20-Jul-94	476375	07-Oct-94	DIET RC
REGISTERED	MEXICO	627572	31-Oct-03	822339	26-Feb-04	LIGHT RC COLA
REGISTERED	MEXICO	16618	13-Aug-01	26867	30-Apr-03	MAXIMUM POWER COLA
REGISTERED	MEXICO	50484	13-Oct-88	366679	06-Sep-89	RC
REGISTERED	MEXICO	367984	18-Mar-99	610261	21-May-99	RC EDGE
REGISTERED	MEXICO	54537	22-Dec-88	516738	12-Feb-96	ROYAL CROWN
REGISTERED	MEXICO	70845	06-Sep-89	439192	10-Aug-93	ROYAL CROWN COLA
REGISTERED	MEXICO	243717	22-Sep-95	513404	15-Dec-95	ROYAL CROWN DRAFT
REGISTERED	MEXICO	232033	17-May-95	495175	19-Jun-95	UPPER 10
REGISTERED	PUERTO RICO	12881	23-Oct-63	12881	23-Jun-67	DIET-RITE
REGISTERED	PUERTO RICO	5019	26-May-42	5019	14-Apr-43	NEHI
REGISTERED	PUERTO RICO	17488	04-Nov-71	17488	02-Feb-72	RC
REGISTERED	PUERTO RICO	4991	03-Dec-42	4991	03-Dec-42	ROYAL CROWN
REGISTERED	UNITED STATES	73/805,510	09-Jun-89	1,589,240	27-Mar-90	DIET RC



REGISTERED	UNITED STATES	73/389,667	27-Sep-82	1,302,990	30-Oct-84	DIET RITE
PENDING	UNITED STATES	78/576,257	28-Feb-05			DIET RITE PURE ZERO
REGISTERED	UNITED STATES	71/659,080	06-Jan-54	600,085	28-Dec-54	DIET-RITE
REGISTERED	UNITED STATES	72/212,248	17-Feb-65	0837,994	31-Oct-67	KICK
REGISTERED	UNITED STATES	78/429,847	04-Jun-04	3,086,439	25-Apr-06	LIVE RITE MISCELLANEOUS DESIGN (DIAMOND BOTTLE)
REGISTERED	UNITED STATES	75/606,143	11-Dec-98	2,608,409	20-Aug-02	
REGISTERED	UNITED STATES	71/205,512	19-Nov-24	207,317	29-Dec-25	NEHI
REGISTERED	UNITED STATES	77/032,530	30-Oct-06	3,281,739	21-Aug-07	NEHI
REGISTERED	UNITED STATES	75/148,583	09-Aug-96	2,089,186	19-Aug-97	NEHI (STYLIZED)
PENDING	UNITED STATES	78/581,917	07-Mar-05			PURE ZERO
REGISTERED	UNITED STATES	71/533,044	02-Sep-47	515,876	04-Oct-49	RC
REGISTERED	UNITED STATES	75/083,584	04-Apr-96	2,069,147	10-Jun-97	RC
REGISTERED	UNITED STATES	77/032,507	30-Oct-06	3,281,737	21-Aug-07	RC (STYLIZED)
REGISTERED	UNITED STATES	72/192,964	08-May-64	777,936	29-Sep-64	ROYAL CROWN COLA
REGISTERED	UNITED STATES	75/260,584	20-Mar-97	2,134,516	03-Feb-98	UPPER 10

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a true and correct copy of the foregoing **MOTION TO SUBSTITUTE** to be deposited with the United States Postal Service as First Class mail, postage prepaid, in an envelope addressed to counsel for The Coca-Cola Company, Bruce Baber, Esq., King & Spalding LLP, 1185 Avenue of the Americas, New York, NY 10036-4003, this 15<sup>th</sup> day of November, 2012.

/Laura Popp-Rosenberg/  
Laura Popp-Rosenberg