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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 Consolidate
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Date	10/31/2007
Attachments	TCCC Motion to Consolidate.pdf (5 pages)(133706 bytes)

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

MATT EHRLICH and SHLOMO)
FRIED, and/or MAYIM TOVIM,)
)
Opposers,) OPPOSITION
)
v.) NO. 91177358
)
THE COCA-COLA COMPANY,)
)
Applicant.)

ROYAL CROWN COMPANY, INC.,)
)
Opposer,) OPPOSITION
)
v.) NO. 91178927
)
THE COCA-COLA COMPANY,)
)
Applicant.)

COMPANHIA DE BEBIDAS DAS)
AMÉRICAS - AMBEV,)
)
Opposer,) OPPOSITION
)
v.) NO. 91178953
)
THE COCA-COLA COMPANY,)
)
Applicant.)

MOTION OF THE COCA-COLA COMPANY
TO CONSOLIDATE PROCEEDINGS

NOW COMES THE COCA-COLA COMPANY (“TCCC” or “Applicant”), the applicant in each of the above-captioned matters, and, by and through its undersigned counsel and in accordance with Rule 42 of the Federal Rules of Civil Procedure, hereby files this motion to consolidate Opposition Numbers 91177358, 91178927 and 91178953 (the “Oppositions”), all of which are presently pending before the Board.

In support of this motion, TCCC respectfully shows that all three opposition proceedings relate to the same application filed by TCCC, that the three oppositions involve common questions of law and fact, and that consolidation of the proceedings would avoid duplication of effort, loss of time and added expense, all of which Rule 42(a) seeks to prevent.

In further support hereof, TCCC shows that TCCC’s application for registration of the mark COCA-COLA ZERO (Serial No. 78/580,598) (the “Application”) is the subject of all three of the above-captioned Oppositions. The opposers in all three Oppositions are competitors in the beverage industry and object to TCCC’s registration of COCA-COLA ZERO for beverage products in Class 32, and the opposers in two of the three proceedings (Opposition 91178927 and Opposition 91178953) claim that ZERO is merely descriptive of beverage products. Additionally, Applicant’s Answers to the Oppositions raise similar

issues and defenses, including the acquired distinctiveness of ZERO as used for its family of ZERO products and the validity of Applicant's application for COCA-COLA ZERO. Further, the Opposer in Opposition 91178927, Royal Crown Company, Inc., has acknowledged in a Motion to Suspend Proceedings in that Opposition, filed on October 11, 2007, that Opposition 91178927 and Opposition 91177358 "seek the same result."

TCCC further shows that consolidation of these three oppositions will "avoid unnecessary costs or delay." Fed. R. Civ. P. 42(a). On March 10, 2005, TCCC filed its application to register COCA-COLA ZERO and vigilantly prosecuted the application for almost two years before it was published for opposition. There are currently three separate pending oppositions against the Application, which are delaying the issuance of the registration to which TCCC is entitled. By consolidating the three oppositions that will require similar evidence, witnesses and arguments, the Board will promote efficient and timely resolution of these proceedings, reduce paperwork and other administrative burdens, and avoid unnecessary costs and delay.

WHEREFORE, for the foregoing reasons, and those stated more fully in the accompanying memorandum of law filed concurrently herewith in accordance with 37 C.F.R. § 2.127(a), Applicant The Coca-Cola Company respectfully prays for

entry of an order consolidating the proceedings in Opposition Numbers 91177358,
91178927 and 91178953.

This 31st day of October, 2007.

Respectfully submitted,

KING & SPALDING LLP

A handwritten signature in black ink, appearing to read 'Bruce W. Baber', written over a horizontal line.

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THE COCA-COLA COMPANY

CERTIFICATE OF SERVICE

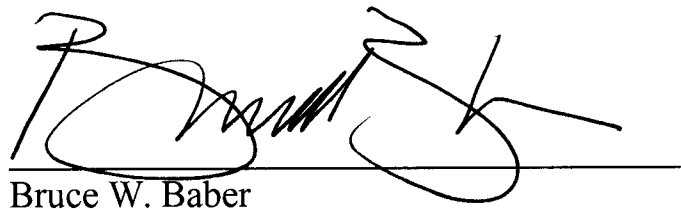
This is to certify that I have this day served the foregoing Motion Of The Coca-Cola Company To Consolidate Proceedings upon the Opposers in each of the above-captioned matters, by causing true and correct copies thereof to be deposited in the United States mail, postage prepaid, addressed to Opposers' counsel of record as follows:

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This 31st day of October, 2007.


Bruce W. Baber