

11-25-2002
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #70

UNITED STATES PATENT AND TRADEMARK OFFICE

LIBERTY IMPORTS USA, INC.)	
)	
Petitioner,)	
)	
vs.)	CANCELLATION No. 92-040678
)	
S. M. JALEEL & COMPANY, LTD.)	Reg. No. 2,048,392 (FRUTA)
)	
Respondent.)	

JOINT MOTION TO SUSPEND PROCEEDINGS

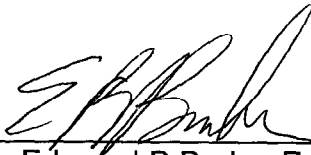
The parties to this CANCELLATION hereby jointly move the Board to suspend proceedings in this matter, through **June 30, 2003**, in furtherance of a provisional resolution of the disputes between them. In particular, the parties have entered into a Settlement Agreement stipulating that there is no confusion between the marks in issue.

Petitioner is the owner of a trademark for "dafruta" which is currently under examination as trademark application Serial No. 76-105,954. The examination of this trademark application has been suspended pending the disposition of this CANCELLATION. As a part of the provisional resolution of the parties, it has been agreed that the proceedings in this CANCELLATION should be suspended while Petitioner has the opportunity to re-open the examination of the trademark application for "dafruta " and present the Settlement Agreement containing, among other reasons for a grant of Registration, a stipulation by the parties of a lack of likelihood of confusion. The parties' intent is that the Examining Attorney's refusal to register the "dafruta" mark should be withdrawn, allowing the underlying trademark application to proceed to publication.

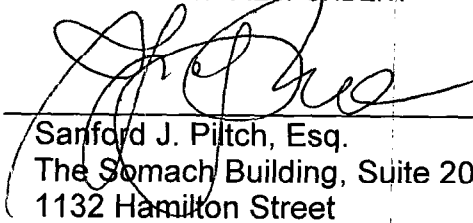
In order to effectuate these agreed stipulations, the parties request, and have agreed in the Settlement Agreement to request of the Board, a suspension of further proceedings in this matter. It is believed that the time requested for suspension herein should be sufficient to allow the Petitioner to resolve all issues with the Examining Attorney in the trademark application for "dafruta" and that, accordingly, this Petition can be dismissed at that time.

Wherefore, the parties jointly move for suspension of all proceedings in this matter, and a suspension of all deadlines, while these matters are resolved. This is a bona fide motion for effecting settlement and is not interposed for the purpose of delay, as attested by the signatures of counsel for both parties appearing below.

DATED: November 25, 2002

By: 
Edmund B. Burke, Esq.
Edmund B. Burke, LLC
Seven Piedmont Center, Suite 300
Atlanta, GA 30305
Tel.: 404-816-8155
Fax: 888-700-7631
COUNSEL FOR RESPONDENT

DATED: November 14, 2002

By: 
Sanford J. Piltch, Esq.
The Somach Building, Suite 201
1132 Hamilton Street
Allentown, PA 18101-1024
Tel.: 610-433-6266
Fax: 610-820-9566
COUNSEL FOR PETITIONER

TTAB

Edmund B. Burke, LLC
Attorneys at Law
Seven Piedmont Center, Suite 300
Atlanta, Georgia 30305
(v) 404.816.8155 (f) 888.700.7631
pburke@burkefirm.com



November 25, 2002

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VIA EXPRESS MAIL (LABEL NO. EU55 9774 517US)

U.S. Patent & TMO/c/TM Mail Ropt Dt. #70

Commissioner for Trademarks
Box: TTAB - No Fee
2900 Crystal Drive
Arlington, VA 22202-3513

Re: **Joint Motion for Suspension of Proceedings in Cancellation
Number 92040678, against Trademark FRUTA (Reg.
2.048,392)**

Dear Sirs:

Please find enclosed the Joint Motion of the parties to this case, requesting that the proceedings be suspended as set forth in the Motion. The parties have entered into a settlement agreement that is believed to sufficient to dispose of this matter, and are asking that proceedings be suspended accordingly while Petitioner's own trademark application for "dafruta" is prosecuted. Both parties have signed this motion and have consented to the suspension.

I hereby certify that (a) this Motion is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date of this letter, under the mailing label specified above, and is addressed to Commissioner for Trademarks, Box: TTAB - No Fee, 2900 Crystal Drive, Arlington, Virginia 22202-3513; and (b) a copy of this Motion is being simultaneously served by first class US Mail with sufficient postage on counsel for Petitioner, Sanford J. Pilch, Esq., 1132 Hamilton Street, Suite 201, Allentown PA 18101-1024.

Thank you for your attention in this matter. Please notify me regarding any problems with this filing.

Sincerely,

Edmund B. Burke

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Enclosure: Joint Motion for Suspension (in duplicate)

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