

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

Baxley

Mailed: January 26, 2005

Cancellation No. 92042440

Southeast-Atlantic Beverage
Corporation

v.

Sig Combibloc, Inc.

Andrew P. Baxley, Interlocutory Attorney:

It is noted by the Board that petitioner's time for filing a brief on the case has expired, and no brief is of record herein.

Trademark Rule 2.128(a)(3) provides that when a party in the position of plaintiff fails to file a main brief, an order may be issued allowing plaintiff until a set time, not less than 15 days, in which to show cause why the Board should not treat such failure as a concession of the case. The rule further provides that if plaintiff fails to file a response to the order, or files a response indicating that it has lost interest in the case, judgment may be entered against plaintiff.

In view of the above, petitioner is allowed until thirty days from the mailing date of this order to show cause why the Board should not treat its failure to file a brief as a

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concession of the case, failing which a judgment dismissing the petition for cancellation with prejudice will be entered against petitioner.¹

¹ Even if petitioner is able to overcome the order to show cause, dismissal may be appropriate under Trademark Rule 2.132(a) based on petitioner's failure to prosecute.