

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

Mailed: September 23, 2005

Opposition No. 94002055

Rocky Mountain Soda Brew
Company, Inc., The

v.

Pinnacle Rawhide, L.L.C. and
Wild Horse Pass Development
Authority (joined as named
excepted registrant)

Cheryl Butler, Attorney, Trademark Trial and Appeal Board

It is noted by the Board that the time for the concurrent use applicant (The Rocky Mountain Soda Brew Company, Inc.) for filing a brief on the case has expired, and no brief has been filed. Trademark Rule 2.128(a)(3) provides that when a party in the position of plaintiff (here the concurrent use applicant) fails to file a main brief, an order may be issued allowing plaintiff until a set time, not less than fifteen 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, the concurrent use applicant (The Rocky Mountain Soda Brew Company, Inc.) 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 concession of the case, failing which this concurrent use proceeding will be dissolved, and registration to the concurrent use applicant (The Rocky Mountain Soda Brew Company, Inc.) will be refused.

The Board notes in passing that, since the institution of this proceeding, the registrant's named registrations have been assigned several times. The most recent assignee appears to be Wild Horse Pass Development Authority. Accordingly, Wild Horse Pass Development Authority is joined to this concurrent use proceeding, and the captioning of this proceeding is so updated. See TBMP §512.01 (2d ed. rev. 2004).

A copy of this order is to be mailed to all persons named below:

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