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

Proceeding	91183580
Party	Plaintiff The Coca-Cola Company
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Submission	Motion for Sanctions
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Date	08/24/2009
Attachments	Motion for Sanctions and Entry of Judgment (LTZ).pdf ( 37 pages )(1067446 bytes )

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

THE COCA-COLA COMPANY,	)	
	)	
Opposer,	)	OPPOSITION
	)	
v.	)	NO. 91183580
	)	
	)	
LTZ, LLC,	)	
	)	
Applicant.	)	

OPPOSER’S MOTION FOR  
SANCTIONS AND ENTRY OF JUDGMENT

NOW COMES THE COCA-COLA COMPANY (“TCCC” or “Opposer”), the opposer in the above-captioned matter, and, by and through its undersigned counsel and in accordance with Rule 37 of the Federal Rules of Civil Procedure and Rule 2.120(g)(2) of the Trademark Rules of Practice, hereby moves before the Trademark Trial and Appeal Board (the “Board”) for entry of an order imposing sanctions on applicant LTZ, LLC (“LTZ” or “Applicant”) for failure to provide any responses to Opposer’s discovery requests that were served on Applicant on March 23, 2009. Opposer requests, in accordance with Rule 2.120(g)(2), that the Board strike the Answer filed by Applicant and enter judgment in favor of TCCC and against Applicant, sustaining the Opposition and refusing registration to the mark LESS THAN ZERO as shown in Application Serial No. 77-223,034.

In support of this motion, TCCC respectfully shows that TCCC served on Applicant’s counsel on March 23, 2009 Opposer’s First Set of Interrogatories

(hereinafter "Interrogatories") and Opposer's First Set of Requests for Production of Documents and Things (hereinafter "Document Requests"). Applicant's responses to Opposer's Interrogatories and Document Requests were due on April 27, 2009. True and correct copies of Opposer's Interrogatories and Document Requests are attached hereto as Exhibits A and B.

In further support hereof, Opposer shows that counsel for Applicant informed counsel for Opposer in an e-mail message dated March 27, 2009, that Applicant's responses to the Interrogatories and Document Requests would not be forthcoming. A copy of the March 27, 2009 e-mail to Bruce W. Baber, counsel for Opposer, from Christopher M. Law, counsel for Applicant, is attached hereto as Exhibit C.

Applicant's failure to provide any response to Opposer's Interrogatories and Document Requests and counsel's March 27, 2009 email stating that Applicant would not be providing responses to the Interrogatories and Document Requests are sufficient to warrant sanctions against Applicant. 37 C.F.R. § 2.120(g)(2). Applicant's counsel withdrew its representation of Applicant on May 13, 2009 and Applicant began representing itself on June 17, 2009. To date, Applicant still has not responded to Opposer's Interrogatories or Document Requests.

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), Opposer The Coca-Cola Company respectfully requests that the Board enter sanctions against Applicant, namely, that the Board strike the Answer of Applicant filed on August 25, 2008 and enter judgment in favor of TCCC and against

Applicant, sustaining Opposer's Opposition and refusing registration to the mark LESS THAN ZERO, as shown in Applicant's Application Serial No. 77-223,034.

This 24th day of August, 2009.

Respectfully submitted,

KING & SPALDING LLP

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

Bruce W. Baber  
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Attorneys for Opposer  
THE COCA-COLA COMPANY

# EXHIBIT A

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