

9-251

September 1, 1942

Spalding, Sibley, Troutman  
& Brock  
434 Trust Company of Georgia Building  
Atlanta, Georgia

Attention of Mr. Daphne Robert

Gentlemen:

In reply to yours of August 12 wish to say that we have filed the order, In the United States District Court, Southern District of Illinois, Southern Division, dated May 16, 1921, The Coca-Cola Company, a Delaware Corporation, Plaintiff, versus Louis L. Emerson, Secretary of State, et al., Defendants, and have noted the record relating to the registration of the trade mark, "Trico, Purest Drink in the World, Genuine Coca and Cola Flavor" by National Carbonating Syrup Company, 121 Upper First Street, Evansville, Indiana.

Yours very truly,

Secretary of State

AG:ho

9394

SPALDING, SIBLEY, TROUTMAN & BROCK

HUGHES SPALDING  
JOHN A. SIBLEY  
ROBT. B. TROUTMAN  
POPE F. BROCK

FRANK TROUTMAN  
ROY S. JONES  
J. M. COLLINS

434 TRUST COMPANY OF GEORGIA BUILDING

ATLANTA, GA.

ALEX. C. KING  
1885-1926  
JACK J. SPALDING  
1885-1938

August 12, 1942.

REGISTERED  
RETURN RECEIPT REQUESTED

The Honorable Secretary of State  
of Minnesota,  
State Capitol,  
St. Paul, Minnesota.

Dear Sir:

RE: NATIONAL CARBONATING SYRUP COMPANY,  
EVANSVILLE, INDIANA  
TRADE-MARK "TRICO GENUINE COCA AND COLA FLAVOR"

We are informed that on September 16, 1916, the above corporation filed for record in your office under the Minnesota trade-mark statute the alleged trade-mark "Trico Genuine Coca and Cola Flavor" for a non-alcoholic beverage, recorded in Book 9 of Trade-Marks, Page 251. On behalf of our client, The Coca-Cola Company, a Delaware corporation, having its principal office at Wilmington, Delaware, we hereby protest the said filing and request you to cancel the alleged trade-mark of record.

The Coca-Cola Company is the owner of the trade-mark "Coca-Cola" and its abbreviation "Coke" and its said trade-mark was recorded in your office on March 14, 1916 for "beverages, syrups, foods, and confectionery and merchandise connected with their manufacture and sale."

National Carbonating Syrup Company never was and is not now entitled to use the name "Trico Genuine Coca and Cola Flavor" and was not entitled to file that name in Minnesota in view of Section 10348 of the Minnesota trade-mark statute.

In The Coca-Cola Company vs. Louis L. Emmerson, Secretary of State, John D. Fletcher, et al., 276 Fed. 1010 (in Equity No. 47), the United States District Court for the Southern District of Illinois, Southern Division, on May 16, 1921, held that The Coca-Cola Company was entitled to a perpetual injunction restraining the said John D. Fletcher and others from using the words or phrase "Coca-Cola," "Coca and Cola," Coca and Cola Carbonating Syrup" and "A Genuine Coca and Cola Flavor," or any like word or phrase, and that the registrations theretofore issued by Louis L. Emmerson (Lewis G. Stevenson, substituted), Secretary of State of Illinois be surrendered and canceled forthwith. A certified photostat copy of the said Decree is attached hereto.

We request you to make the necessary entries in your records canceling the said trade-mark "Trico Genuine Coca and Cola Flavor" of record and to inform us of your action in this respect.

Very truly yours,

SPALDING, SIBLEY, TROUTMAN & BROCK,  
COUNSEL FOR THE COCA-COLA COMPANY.

By *Daphne Robert*

Daphne Robert  
DR:AM  
Enclosures.



In the United States District Court,  
Southern District of Illinois,  
Southern Division.

Louis L. Emerson, Secretary of State,  
John D. Fletcher and  
The National Carbonating Syrup Company,  
a Corporation,  
Defendants.

In 1904  
No. 27.

This cause coming on for final hearing upon pleadings and proofs, and being argued by counsel, and the court having found the facts as shown by the findings of fact filed in said cause, and upon motion of the plaintiff for a decree, it is ORDERED, ADJUDGED and DECREED as follows:

(1) That the defendants, John D. Fletcher and The National Carbonating Syrup Company, do forthwith execute and deliver to defendant Louis L. Emerson, Secretary of State of the State of Illinois, proper cancellations of the alleged registrations of trade marks and labels, four in number, made in the Office of The Secretary of State of the State of Illinois by defendant, John D. Fletcher, and now claimed by defendant, The National Carbonating Syrup Company, and specified and set forth in the pleadings, evidence and findings of the court, and in this decree, and that said defendant, Louis L. Emerson, Secretary of State, do forthwith in due and proper form



annul and cancel and enter cancellations and annulments of said registrations, and each thereof.

Said registrations are as follows:

A. "John D. Fletcher's Coca and Cola Carbonating Syrup, Chicago, Illinois" enclosed in a red circle and registered in the office of the then Secretary of State of the State of Illinois by said John D. Fletcher on or about July 24, 1914, and a like registration filed by said Fletcher, October 9, 1914, and also shown as Exhibit "A" to the answers of John D. Fletcher and The National Carbonating Syrup Company filed herein on or about May 28, 1917.

B. "John D. Fletcher's Carbonating Syrup. A Genuine Coca and Cola Flavor," same being enclosed in a broad corrugated wheel or band of blue and registered by said John D. Fletcher on or about October 6, 1914, in the office of the then Secretary of State of the State of Illinois, and shown as Exhibit "B" to the answers of said John D. Fletcher and The National Carbonating Syrup Company, filed herein on or about the 23rd day of May, 1917.

C. "Tri-Pure. A Genuine Coca and Cola Flavor, 7 Fl. Oz. Purest Drink in the World" enclosed in a red corrugated wheel or circular band and registered in the office of the then Secretary of State of the State of Illinois on or about March 10, 1916, by said John D. Fletcher and shown as Exhibit "C" to the answers of said John D. Fletcher and The National Carbonating Syrup Company filed herein on or about May 28, 1917.

D. "Trico. Genuine Coca and Cola Flavor. 6 1/2 Fl. Oz. Purest Drink in the World" enclosed in a red corrugated wheel or circular band and registered on or about September 25, 1916, in the office of the then Secretary of State of the State of Illinois by said John D. Fletcher and shown as Exhibit "D" to the answers of said John D. Fletcher and The National Carbonating Syrup Company, filed herein on or about May 28, 1917.

That the said defendant Louis L. Emmerson, Secretary of State of the State of Illinois, do forthwith, upon tender to him of the application made by the original plaintiff herein on or about March 16, 1916, or of a new application in due form made by the present plaintiff herein, in each case



with proper fee for registration, allow registration and issue certificate of registration therefor of the mark "Coca-Cola" and deliver the said certificate of registration to said present plaintiff.

(2) That said John D. Fletcher, his agents, servants, attorneys, associates and assigns, and the said defendant The National Carbonating Syrup Company, its officers, directors, agents, attorneys, servants and employees, successors and assigns, and each and every thereof,

he and the same, and each thereof hereby are perpetually enjoined and restrained from using and employing upon or in connection with syrups or beverages made therefrom the words or phrases "Coca-Cola", "Coca and Cola",

"Coca and Cola Carbonating Syrup" and "A Genuine Coca and Cola Flavor", or any thereof, or any like word or phrase, and from using as labels, crowns, capsules or trade marks, or in advertising, the designs, marks or labels specified as A, B, C and D, in Paragraph

(1) hereof, or any form of label, crown or capsule, or any word or words, phrase or phrases calculated to

deceive consumers or buyers of plaintiff's product, or to pass off the product of said defendants as and for the product of plaintiff, or to induce the belief that the product of either of said defendants is the product of the plaintiff and that a writ of injunction issue accordingly.



(3) Plaintiff having in open court waived an assessment of damages and accounting of profits to this date and recovery thereof to date from and by said defendants, John D. Fletcher and The National Carbonating Syrup Company, and each thereof, this decree is made final.

(4) That the plaintiff do have and recover from said defendants, John D. Fletcher and The National Carbonating Syrup Company, the costs of this proceeding to be taxed, and have execution therefor.

May 16<sup>th</sup> 1921.

*Wm. J. Henry*  
Judge

Off.

*Frederick F. Reed*  
*Att'y at Law for*  
*Plaintiff*

*Emmeline*  
*acc. for exp. 10/10*  
*exp. Emerson.*

Filed May 16th, 1921.  
R. C. Brown, Clerk.



United States of America

ss:

Southern DISTRICT OF Illinois

I, G. W. Schwaner, Clerk of the United States District Court in and for the Southern District of Illinois, do hereby certify that the annexed and foregoing is a true and full copy of the original Final Decree filed May 16, 1921, in the cause entitled The Coca-Cola Company, a Delaware Corporation, vs. Louis L. Emmerson, Secretary of State, John D. Fletcher and The National Carbonating Syrup Company, a Corporation, In Equity No. 47, as fully as the same appears from the original thereof, \_\_\_\_\_

now remaining among the records of the said Court in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Springfield, Ill., this 4th day of August, A. D. 1942.

9394

G. W. Schwaner

Clerk.

By

Josephine C. Snyder

Deputy Clerk.

STATE OF MINNESOTA  
DEPARTMENT OF STATE

FILED

SEP 2 - 1942

Michael J. Bolin  
Secretary of State.