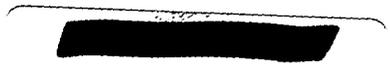


TTAB

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

Serial No. : 76/267,997
Filed : June 5, 2001
Published : August 20, 2002
Applicant : PureTech Waters of America, Inc.
Mark : VITAL H2O and Design
Goods : Bottled drinking water
International Class : 32



09-12-2002
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #70

-----X
NESTLE WATERS NORTH
AMERICA INC., :

Opposer, :

Opposition No.

v. :

PURETECH WATERS
OF AMERICA, INC., :

Applicant.

-----X

NOTICE OF OPPOSITION

1. Opposer, Nestle Waters North America Inc., is a Delaware corporation having its principal place of business at 777 West Putnam Avenue, Greenwich, Connecticut 06830.

2. Upon information and belief, applicant, PureTech Waters of America, Inc., is a Delaware corporation having a place of business at 115 Glastonbury Boulevard, Glastonbury, Connecticut 06033.

3. Since long prior to June 5, 2001, the filing date of applicant's application to register VITAL H2O and Design, opposer has been and now is the exclusive distributor in the United States of bottled drinking water which is advertised, offered for sale, sold, and distributed under the trademark VITTEL.

4. Upon the introduction of opposer's bottled drinking water so marked upon the market and continuously thereafter, it became and is now well and favorably known to the public and to the trade by the trademark VITTEL, which is closely and universally associated with opposer and its bottled drinking water as a means by which opposer and its bottled drinking water have become known to the public and their source or origin identified.

5. The trademark VITTEL is registered in the United States Patent and Trademark Office as follows:

<u>Registration No.</u>	<u>Issued</u>
955,268	March 13, 1973
2,339,773	April 11, 2000
2,436,265	March 20, 2001

These registrations are presently outstanding and validly subsisting and opposer has the exclusive right to use these marks in the United States.

6. Upon information and belief, applicant made no use and no use in commerce of the designation VITAL H2O and Design in connection with bottled drinking water prior to June 5, 2001, the filing date of its application.

7. The designation applicant seeks to register, namely VITAL H2O and Design, so resembles opposer's trademark VITTEL as to be likely, when applied to applicant's goods, to cause confusion or mistake or to deceive persons by creating the erroneous impression that applicant's goods originate with or come from opposer or from the

same source as opposer's VITTEL bottled drinking water, or that applicant's products are authorized by or are endorsed by or are sponsored by or are connected in some way with opposer or its VITTEL bottled drinking water.

8. Applicant's intended use and use of the designation VITAL H2O and Design is without license, authorization or permission of opposer.

9. The granting of trademark registration of VITAL H2O and Design to applicant would be contrary to Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), and would violate or diminish the prior and superior rights of opposer in its trademark VITTEL.

10. Opposer will be damaged if application Serial No. 76/267,997 should be granted because applicant will obtain statutory rights in the designation VITAL H2O and Design in violation and derogation of the established prior rights of opposer.

WHEREFORE, opposer prays that its opposition be sustained, that application Serial No. 76/267,997 be rejected, and that registration of VITAL H2O and Design as a trademark to applicant be refused and denied.

Respectfully submitted,

FISH & NEAVE

By: Susan Progoff
Susan Progoff
Jeffrey D. Parnass

Dated: September 10, 2002

1251 Avenue of the Americas
New York, New York 10020
Tel.: (212) 596-9000

Attorneys for Opposer,
Nestle Waters North America Inc.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner of Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 on the date which appears below:

Victoria A. Miranda
Name

9/10/02
Date of the Signature and Deposit



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September 10, 2002

09-12-2002

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

Box TTAB Fee
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Re: Nestle Waters North America Inc. v. PureTech Waters of America, Inc.

Dear Sir:

Enclosed are an original and one copy of a Notice of Opposition of Nestle Waters North America Inc. to PureTech Waters of America, Inc.'s application to register VITAL H2O and Design in International Class 32, Serial No. 76/267,997 published at page TM 568 of the Official Gazette of August 20, 2002. Also enclosed is a check in the amount of \$300.00 to cover the fee for this matter.

If the check is missing or insufficient, please charge the Fish & Neave Deposit Account No. 06-1075.

Kindly institute this opposition.

1251 AVENUE OF THE AMERICAS, NEW YORK, NY 10020 TEL 212.596.9000 FAX 212.596.9090

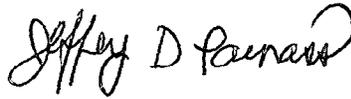
525 UNIVERSITY AVENUE, PALO ALTO, CA 94301 TEL 650.617.4000 FAX 650.617.4090

FISH & NEAVE

Assistant Commissioner for Trademarks
September 10, 2002
Page 2

Kindly acknowledge receipt of the above items by stamping and returning the enclosed self-addressed postcard.

Sincerely yours,

A handwritten signature in black ink that reads "Jeffrey D. Parnass". The signature is written in a cursive style with a large, looping initial "J".

Jeffrey D. Parnass

JDP:vm
Enclosures