

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

Shasta Beverages, Inc.

Opposer,

OPPOSITION NO.

vs.

Application Serial No. 78/140,320

The Regents of the University of California

Applicant.

NOTICE OF OPPOSITION

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

Sir:

<p style="text-align: center;"><b>Certificate of Mailing</b></p> <p>I hereby certify that this document is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 on July 27, 2004.</p> <p style="text-align: center;">Tammy S. McCarthy <small>(Name of Person Mailing Document)</small></p> <p style="text-align: center;"><i>Tammy S. McCarthy</i> <small>(Signature)</small></p>
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This matter relates to an application for trademark registration, Serial No. 78/140,320, filed July 1, 2002 by The Regents of the University of California for SHASTA GOLD in connection with goods in Class 31, which application ("Opposed Application") was published on page TM 205 of the Official Gazette of the United States Patent and Trademark Office on February 3, 2004. An extension of time to oppose until August 1, 2004 was granted by the TTAB.

Shasta Beverages, Inc. ("Opposer"), a Delaware corporation, having its principal place of business at 26901 Industrial Blvd., Hayward, California 94545, believes that it would be damaged by the grant of registration on such application, and hereby opposes the registration of the mark of such application.

As grounds for such opposition, it is alleged that:

1. Beginning from a date long prior to any priority date by which, upon information and belief, Applicant can rely, and continuing to the present time, Opposer has used, since at least as early as 1889, a large number of trademarks incorporating the word SHASTA, by itself and/or in combination with design elements and/or other words, in connection with beverages, throughout the United States and elsewhere (hereinafter referred to as “Shasta Family of Marks”).

2. Opposer’s Shasta Family of Marks has been so extensively used and advertised by Opposer that it has come to indicate to the relevant trade and consumers, beverages having their source of origin or being connected with the Opposer.

3. Opposer is the owner of, inter alia, United States Registration Nos. 210723, 0655911 and 2018254, and such registrations are valid and subsisting. Copies of these registrations are attached hereto as Exhibits A-C.

4. Opposer’s Shasta Family of Marks has not now, nor has it ever, been abandoned.

5. One of the series of the Shasta Family of Marks, namely SHASTA SHORTZ, is currently being used for juice flavored carbonated soft drinks, for which Opposer has filed an application for registration, namely Serial No. 78/231,572 (hereinafter “Shasta Application”).

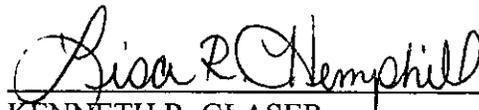
6. Upon information and belief, Applicant has not made any use of the mark sought to be registered in Opposed Application, and is not otherwise entitled to a priority date, prior to July 1, 2002, the filing date of Opposed Application.

7. The trademark sought to be registered by Applicant in the Opposed Application has been cited during the prosecution of the Shasta Application, the Trademark Examiner

alleging that there may be a likelihood of confusion between the mark of the Shasta Application and the mark of the Opposed Application, thereby to Opposer's damage.

WHEREFORE, Opposer prays that Applicant be required to answer this Notice of Opposition, that upon hearing said application Serial No. 78/140,320 be ordered withdrawn, that registration of the mark therein disclosed be refused, and that Opposer have such other and further relief as may be deemed to be just and proper.

Respectfully submitted,



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Attorneys for Opposer

Date: \_\_\_\_\_

7/27/04

Registered Mar. 23, 1926.

Trade-Mark 210,723

Renewed March 23, 1946 to The Shasta Water Company, of San Francisco, California, a corporation of Delaware, which has made a showing of ownership of the trade-mark originally registered to Mt. Shasta Mineral Spring Company, doing business as Shasta Water Company.

## UNITED STATES PATENT OFFICE.

MT. SHASTA MINERAL SPRING COMPANY, DOING BUSINESS AS SHASTA WATER COMPANY, OF SAN FRANCISCO, CALIFORNIA.

ACT OF FEBRUARY 20, 1905.

Application filed October 28, 1925. Serial No. 222,473.

The word "Shasta" is written in a large, elegant, cursive script. The letters are dark and have a slight shadow, giving it a three-dimensional appearance. The 'S' is particularly large and decorative, with a long, sweeping tail that underlines the rest of the word.

### STATEMENT.

*To the Commissioner of Patents:*

Mt. Shasta Mineral Spring Company, a corporation organized and existing under the laws of the State of California, and doing business under the firm name and style of Shasta Water Company, at 699 Brannon Street, San Francisco, California, has adopted and used the trade-mark shown in the accompanying drawing, for NONALCOHOLIC, MALTLESS BEVERAGES SOLD AS SOFT DRINKS, AND WATER, in Class 45, Beverages, nonalcoholic, and presents herewith five specimens showing the trade-mark as actually used by applicant upon the goods and requests that the same be registered in the United States Patent Office in accordance with the act of February 20th, 1905, as amended.

The trade-mark has been continuously used and applied to said goods in applicant's business since 1889. The trade-mark is ap-

plied or affixed to the goods, or to the packages containing the same, by placing thereon a printed label on which the trade-mark is shown.

The applicant hereunder is also the owner of trade-mark "Shasta" applied to natural mineral water, and registered under date of July 20, 1909, No. 74,564.

The undersigned hereby appoints A. W. Boyken (register No. 11011) of 723 Crocker Building, San Francisco, California, its attorney with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the certificate and to transact all business in the Patent Office connected therewith.

[L. S.] MT. SHASTA MINERAL SPRING COMPANY,  
By ADAM ANDREW,  
*President.*

Exhibit

A

Int. Cl.: 32

Prior U.S. Cl.: 45

Reg. No. 655,911

United States Patent and Trademark Office

Registered Dec. 17, 1957

10 Year Renewal

Renewal Term Begins Dec. 17, 1997

TRADEMARK  
PRINCIPAL REGISTER

# SHASTA

SHASTA BEVERAGES, INC. (DELA-  
WARE CORPORATION)

26901 INDUSTRIAL BOULEVARD  
HAYWARD, CA 94545, BY ASSIGN-  
MENT, ASSIGNMENT, ASSIGNMENT  
AND CHANGE OF NAME FROM  
SHASTA WATER COMPANY, THE  
(DELAWARE CORPORATION) SAN  
FRANCISCO, CA

OWNER OF U.S. REG. NOS. 74,564,  
584,883 AND OTHERS.

FOR: FLAVORED CARBONATING  
CRYSTALS IN POWDERED FORM FOR  
MAKING SOFT DRINKS, IN CLASS 43  
(INT. CL. 32).

FIRST USE 12-0-1956; IN COMMERCE  
12-0-1956.

SER. NO. 72-028,291, FILED 4-16-1957.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Mar. 17, 1998.*

COMMISSIONER OF PATENTS AND TRADEMARKS

**Exhibit  
B**

Int. Cl.: 32

Prior U.S. Cls.: 45, 46, and 48

Reg. No. 2,018,254

**United States Patent and Trademark Office** Registered Nov. 19, 1996

**TRADEMARK  
PRINCIPAL REGISTER**

**SHASTA BIG BLASTA**

SHASTA BEVERAGES, INC. (DELAWARE  
CORPORATION)  
26901 INDUSTRIAL BOULEVARD  
HAYWARD, CA 94545

FOR: BEVERAGES, NAMELY NON-ALCO-  
HOLIC SOFT DRINKS, IN CLASS 32 (U.S. CLS.  
45, 46 AND 48).

FIRST USE 7-1-1995; IN COMMERCE  
7-1-1995.

OWNER OF U.S. REG. NOS. 210,723, 733,856,  
AND 1,760,761.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "BIG", APART FROM THE  
MARK AS SHOWN.

SN 74-619,835, FILED 1-6-1995.

ANGELA BISHOP WILSON, EXAMINING AT-  
TORNEY

**Exhibit  
C**

**GARDERE**

attorneys and counselors ■ [www.gardere.com](http://www.gardere.com)

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**VIA FIRST CLASS MAIL**

July 27, 2004

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

RE: Mark: SHASTA GOLD  
Serial No. 78/140320  
Filing Date: July 1, 2002  
Published: February 2, 2004, p. TM 205  
Opposer: Shasta Beverages, Inc.  
Our File No.: 125457-9003

**Certificate of Mailing**

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Tammy S. McCarthy

(Name of Person Mailing Document)

(Signature)

Dear Commissioner:

Enclosed herewith for filing are the following documents:

1. Notice of Opposition with Exhibits A – C;
2. Check in the amount of \$300; and
3. Return postcard.

It is believed that no additional fee is due. However, if this is incorrect, please charge any additional fee to Deposit Account No. 07-0153. Should you have any questions, please call me.

Very truly yours,

GARDERE WYNNE SEWELL LLP

  
Lisa R. Hemphill

LRH:tsmc  
Enclosures



07-30-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #72

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