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November 24, 2004

VIA EXPRESS MAIL NO.: EU 270467135US

Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514



11-24-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

Re: *Notice of Opposition*
Mark: Design Mark
Serial No.: 78/314,247
Filing Date: October 15, 2003
Publication Date: July 27, 2004
Applicant: Kaveh Harounian
Potential Opposer: The Coca-Cola Company
File No.: 01638.0032.000000

Dear Madam:

Enclosed for filing are:

1. This letter (in duplicate);
2. Notice of Opposition (2 extra copies); and
3. A self-addressed stamped postcard to evidence receipt of this Notice of Opposition.

The Commissioner for Trademarks is hereby authorized to draw on the deposit account No. 08-3038, Order No. 01638.0032.000000/L. Buccino for any necessary fees.

Please return the enclosed postcard to evidence receipt of the Notice of Opposition.

Very truly yours,

Lisa S. Buccino

LSB:jlf
Enclosures

3. In his Application and supporting declaration, Applicant claims that the date of first use in commerce of the alleged design was September 1, 1994, and that such use was in interstate commerce.

4. In his Application and supporting declaration, Applicant claims use of the alleged design on, "clothing for men, women, and children, namely shirts, T-shirts, sport shirts, polo shirts, sweatshirts, sweaters, jerseys, sport coats, pants, jeans, jogging suits, hats and caps."

5. Upon information and belief, Applicant has made false statements to the Trademark Office because the alleged design was not in use as a trademark in interstate commerce on all of the goods identified in the Application.

6. Upon information and belief, Applicant made further false statements to the Trademark Office because the proposed mark was not in use in interstate commerce on September 1, 1994 as claimed in the Application and supporting declaration.

7. Upon information and belief, Applicant's use of his alleged design as a trademark in interstate commerce, if any, occurred after TCCC first adopted and began using the following design mark for its POWERADE beverage:



8. TCCC registered the above referenced design mark in International Class 32 for "non-alcoholic beverages, namely fruit drinks, sports drinks, soft drinks, syrups, concentrates, and other preparations for making beverages" as U.S. Trademark Registration No. 2,637,060. A copy of TCCC's Registration No. 2,637,060 is appended to this Notice of Opposition as Exhibit

A. Upon information and belief, Applicant copied TCCC's registered design mark in creating his alleged design and failed to disclose this to the Trademark Office.

9. Upon information and belief, Applicant knowingly made the false statements and omissions set forth above with the intent to deceive the Examiner and induce the Trademark Office to issue a trademark registration.

10. Upon information and belief, Applicant's conduct constitutes fraud on the Trademark Office.

WHEREFORE, based upon the foregoing, TCCC requests that Application Serial No. 78/314,247 be rejected, and that no registration be issued in connection with this application, and that this opposition be sustained in favor of TCCC.

Respectfully submitted,

THE COCA-COLA COMPANY

Date: November 24, 2004

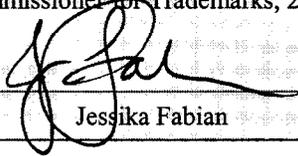
By: 
Robert N. Phillips
Lisa S. Buccino
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CERTIFICATE OF EXPRESS MAIL

NUMBER: EU 270467135US

DATE OF DEPOSIT: November 24, 2004

I hereby certify that this paper is being deposited with the United States Postal Service "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service, under 37 C.F.R. § 1.10, on the date indicated above, and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514.



Jessika Fabian

Int. Cl.: 32

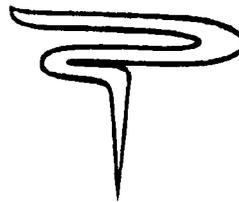
Prior U.S. Cls.: 45, 46, and 48

Reg. No. 2,637,060

United States Patent and Trademark Office

Registered Oct. 15, 2002

TRADEMARK
PRINCIPAL REGISTER



COCA-COLA COMPANY, THE (DELAWARE
CORPORATION)
ONE COCA-COLA PLAZA, N.W.
ATLANTA, GA 30313

FIRST USE 5-28-2001; IN COMMERCE 5-28-2001.

SN 76-246,863, FILED 4-26-2001.

FOR: NON-ALCOHOLIC BEVERAGES, NAMELY
FRUIT DRINKS, SPORTS DRINKS, SOFT DRINKS,
SYRUPS, CONCENTRATES AND OTHER PRE-
PARATIONS FOR MAKING BEVERAGES, IN
CLASS 32 (U.S. CLS. 45, 46 AND 48).

NORA BUCHANAN WILL, EXAMINING ATTOR-
NEY