

ESTTA Tracking number: **ESTTA237553**

Filing date: **09/18/2008**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Kraft Foods Global Brands LLC
Granted to Date of previous extension	09/20/2008
Address	Three Lakes DriveNF-577 Northfield, IL 60093 UNITED STATES

Correspondence information	Kraft Foods Global Brands LLC Three Lakes DriveNF-577 Northfield, IL 60093 UNITED STATES matthew.griffin@kraft.com, melissa.falk@kraft.com, cameishi.lindley@kraft.com
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Applicant Information

Application No	77355857	Publication date	07/22/2008
Opposition Filing Date	09/18/2008	Opposition Period Ends	09/20/2008
Applicant	Brown, Anthony 400 SW 25 Terrace Ft. Lauderdale, FL 33312 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. All goods and services in the class are opposed, namely: Non-alcoholic beverages, namely, carbonated beverages
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2461551	Application Date	04/13/2000
Registration Date	06/19/2001	Foreign Priority Date	NONE
Word Mark	KOOL POINTS		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 032. First use: First Use: 2000/03/01 First Use In Commerce: 2000/03/01 Beverages, namely, soft drinks; soft drink mixes, powders, syrups or concentrates for use in making soft drinks		
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U.S. Registration No.	2330153	Application Date	10/03/1997
Registration Date	03/14/2000	Foreign Priority Date	NONE
Word Mark	KOOL-POPS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1998/01/01 First Use In Commerce: 1998/01/01 ready-to-freeze flavored liquid sold in packages for making frozen pops		

U.S. Registration No.	317955	Application Date	06/09/1934
Registration Date	10/09/1934	Foreign Priority Date	NONE
Word Mark	KOOL-AID		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U045 (International Class 030). First use: First Use: 1927/08/18 First Use In Commerce: 1927/08/18 PREPARED POWDER CONTAINING FLAVOR, FRUIT ACID, AND COLOR PUT UP IN A NUMBER OF FLAVORS FOR MAKING NONALCOHOLIC BEVERAGE IN THE HOME		

U.S. Registration No.	384244	Application Date	09/06/1940
Registration Date	01/07/1941	Foreign Priority Date	NONE
Word Mark	KOOL-AID		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U045 (International Class 032). First use: First Use: 1940/04/11 First Use In Commerce: 1940/04/11 [Nonalcoholic, Noncereal, Maltless,] CARbonated Beverages[And Syrups and ExTRACTs for Making the Same]		

U.S. Registration No.	1133277	Application Date	10/16/1978
Registration Date	04/15/1980	Foreign Priority Date	NONE
Word Mark	KOOL-AID		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 032. First use: First Use: 1927/08/18 First Use In Commerce: 1927/08/18 POWDERS, SYRUPS AND CONCENTRATES USED IN THE PREPARATION OF SOFT DRINKS		
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U.S. Registration No.	1793253	Application Date	12/20/1991
Registration Date	09/14/1993	Foreign Priority Date	NONE
Word Mark	KOOL-AID BURSTS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1993/01/04 First Use In Commerce: 1993/01/04 soft drinks		

U.S. Registration No.	2097176	Application Date	07/08/1996
Registration Date	09/16/1997	Foreign Priority Date	NONE
Word Mark	KOOL-AID BURSTS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1992/09/00 First Use In Commerce: 1992/09/00 soft drinks and powders, syrups and concentrates for use in making soft drinks		

U.S. Registration No.	2321815	Application Date	04/02/1999
Registration Date	02/22/2000	Foreign Priority Date	NONE
Word Mark	KOOL-AID		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1927/08/18 First Use In Commerce: 1927/08/18 Beverages, namely, soft drinks, soft drink mixes; powders, syrups or concentrates for making soft drinks		

U.S. Registration No.	3485670	Application Date	02/23/2007
Registration Date	08/12/2008	Foreign Priority Date	NONE
Word Mark	KOOL-AID BURSTIN' WATERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2008/01/01 First Use In Commerce: 2008/01/01 Flavored waters		

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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/matthewagriffin/
Name	Kraft Foods Global Brands LLC
Date	09/18/2008

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 77355857: KOOL
Published in the *Official Gazette* of July 22, 2008, in International Class 32

KRAFT FOODS GLOBAL BRANDS LLC,

Opposer,

v.

ANTHONY BROWN,

Applicant.

Opp. No. _____

NOTICE OF OPPOSITION

Kraft Foods Global Brands LLC (“Opposer”), a Delaware limited liability company located and doing business at Three Lakes Drive, Northfield, Illinois, believes it will be damaged by registration of the mark shown in Application Serial No. 77355857, and hereby opposes the same.

The grounds for the opposition are as follows:

1. Since at least as early as August 1927, Opposer, through its predecessors and related companies, has manufactured, advertised, and sold soft drinks, soft-drink mixes, and other beverages (“KOOL-AID Beverages”) under the trademark KOOL-AID.

2. Opposer has sold many millions of dollars worth of KOOL-AID Beverages under the KOOL-AID mark throughout the United States and has spent many millions of dollars advertising and promoting its KOOL-AID trademark for KOOL-AID Beverages throughout the United States.

3. By virtue of Opposer’s long use, extensive sales, advertising, and promotional efforts, Opposer owns a valuable goodwill symbolized by its KOOL-AID trademark.

Opposer acquired that goodwill long prior to the filing date of the application opposed herein.

4. Opposer owns numerous registrations for marks that incorporate a KOOL or KOOL-AID component, including:

Mark	Reg. No.	Goods
KOOL POINTS	2461551	“Beverages, namely, soft drinks; soft drink mixes, powders, syrups or concentrates for use in making soft drinks”
KOOL-POPS	2330153	“Ready-to-freeze flavored liquid sold in packages for making frozen pops”
KOOL-AID and Design	0317955	“Prepared powder containing flavor, fruit acid, and color put up in a number of flavors for making nonalcoholic beverage in the home”
KOOL-AID and Design	0384244	“Carbonated beverages”
KOOL-AID and Design	1133277	“Powders, syrups and concentrates used in the preparation of soft drinks”
KOOL-AID BURSTS	1793253	“Soft drinks.”
KOOL-AID BURSTS and Design	2097176	“Soft drinks and powders, syrups and concentrates for use in making soft drinks”
KOOL-AID	2321815	“Beverages, namely, soft drinks, soft drink mixes; powders, syrups or concentrates for making soft drinks”
KOOL-AID BURSTIN’ WATERS	3485670	“Flavored waters”

5. On December 19, 2007, Applicant filed an intent-to-use application to register KOOL for “non-alcoholic beverages, namely carbonated beverages,” Application Serial No. 77355857.

6. Upon information and belief, Applicant has no basis for claiming rights in the KOOL mark prior to Opposer’s first use of its KOOL-AID mark.

7. Applicant’s use of and application to register the mark KOOL is without Opposer’s consent.

8. Applicant's use of the mark KOOL for carbonated beverages is likely to result in confusion, mistake or deception with Opposer's KOOL-AID mark, or in the belief that Applicant or its KOOL products are in some way connected with, or licensed or approved by, Opposer.

WHEREFORE, registration by Applicant of KOOL for the goods stated in Application Serial No. 77355857 would be damaging to Opposer. Opposer respectfully asks the Board to sustain this opposition.