

ESTTA Tracking number: **ESTTA363935**

Filing date: **08/18/2010**

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	EcoWater Systems LLC
Granted to Date of previous extension	08/18/2010
Address	1890 Woodlane Drive Woodbury, MN 55125 UNITED STATES

Attorney information	Nicole A. Chaudhari DLA Piper LLP (US) P.O. Box 64807 Chicago, IL 60664-0807 UNITED STATES ch.tm@dlapiper.com, nicole.chaudhari@dlapiper.com, amy.ziegler@dlapiper.com Phone:312-368-4000
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Applicant Information

Application No	77867238	Publication date	04/20/2010
Opposition Filing Date	08/18/2010	Opposition Period Ends	08/18/2010
Applicant	Absopure Water Company 41605 Ann Arbor Road Plymouth, MI 48170 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. All goods and services in the class are opposed, namely: Drinking water; flavored beverages, namely, fruit flavored beverages and tea flavored 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.	2145816	Application Date	08/22/1996
Registration Date	03/24/1998	Foreign Priority Date	NONE
Word Mark	ECOWATER		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 1996/03/01 First Use In Commerce: 1996/03/01 bottled drinking water Class 035. First use: First Use: 1996/03/01 First Use In Commerce: 1996/03/01 distributorships in the field of bottled drinking water

U.S. Registration No.	2279118	Application Date	05/28/1998
Registration Date	09/21/1999	Foreign Priority Date	NONE

Word Mark	ECOWATER DRINKING WATER
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 032. First use: First Use: 1996/03/01 First Use In Commerce: 1996/03/01 BOTTLED DRINKING WATER Class 035. First use: First Use: 1996/03/01 First Use In Commerce: 1996/03/01 RETAIL DISTRIBUTORSHIPS FEATURING DOMESTIC AND COMMERCIAL WATER CONDITIONERS AND PURIFIERS, AND BOTTLED DRINKING WATER
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U.S. Registration No.	1555661	Application Date	05/23/1988
Registration Date	09/12/1989	Foreign Priority Date	NONE

Word Mark	ECOWATER
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 011. First use: First Use: 1988/02/25 First Use In Commerce: 1988/02/25 WATER TREATMENT EQUIPMENT AND PARTS THEREOF, NAMELY - RESIDENTIAL WATER CONDITIONERS, DOMESTIC REVERSE OSMOSIS WATER PURIFIERS, AND FILTERS, ION EXCHANGERS AND DEGASIFIERS FOR TREATING LIQUIDS
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U.S. Registration No.	1771108	Application Date	05/20/1992
Registration Date	05/18/1993	Foreign Priority Date	NONE

Word Mark	ECOWATER SYSTEMS
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 007. First use: First Use: 1990/06/00 First Use In Commerce: 1990/06/00 water pumps, as machine parts, for use in domestic and commercial water treatment applications

U.S. Registration No.	1771860	Application Date	02/28/1992
Registration Date	05/18/1993	Foreign Priority Date	NONE
Word Mark	ECOWATER SYSTEMS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 037. First use: First Use: 1988/02/25 First Use In Commerce: 1988/02/25 repair and maintenance services in the field of domestic and commercial water treatment equipment; namely, water conditioners, softeners, deionizers, distillers, filters, and related water treatment units		

U.S. Registration No.	1613312	Application Date	09/26/1988
Registration Date	09/11/1990	Foreign Priority Date	NONE
Word Mark	ECOWATER SYSTEMS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1988/02/25 First Use In Commerce: 1988/02/25 RETAIL OUTLET SERVICES AND RENTAL SERVICES IN THE FIELD OF DOMESTIC AND COMMERCIAL WATER CONDITIONERS AND PURIFIERS		

U.S. Registration No.	2366092	Application Date	03/25/1999
Registration Date	07/11/2000	Foreign Priority Date	NONE
Word Mark	ECOWATER SQUAD		
Design Mark	ECOWATER SQUAD		
Description of Mark	NONE		
Goods/Services	Class 037. First use: First Use: 1997/03/01 First Use In Commerce: 1997/03/01 Installation, cleaning, maintance and repair of water treatment and conditioning equipment Class 039. First use: First Use: 1997/03/01 First Use In Commerce: 1997/03/01 Delivery services in the field of water treatment and conditioning equipment and bottled water by land		

	Class 042. First use: First Use: 1997/03/01 First Use In Commerce: 1997/03/01 Rental of water treatment and conditioning equipment; testing, analysis, and evaluation of water quality; and consultation and rendering advice in the field of water treatment and conditioning equipment for home and commercial applications
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U.S. Registration No.	1585509	Application Date	07/31/1989
Registration Date	03/06/1990	Foreign Priority Date	NONE
Word Mark	ECO PURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 1989/05/24 First Use In Commerce: 1989/05/24 WATER PURIFICATION AND FILTRATION UNITS FOR DOMESTIC AND COMMERCIAL USE		

Attachments	75492829#TMSN.gif (1 page)(bytes) 75668082#TMSN.gif (1 page)(bytes) Notice of Opposition - ECO2O.pdf (6 pages)(972695 bytes)
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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	/Nicole Ann Chaudhari/
Name	Nicole A. Chaudhari
Date	08/18/2010

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

In re: Serial No. 77/867,238
Mark: ECO2O
Published: April 20, 2010

ECOWATER SYSTEMS LLC,)	
)	
Opposer,)	
)	Opposition No.:
v.)	
)	Mark: ECO2O
ABSOPURE WATER COMPANY,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

ECOWATER SYSTEMS LLC, a Delaware limited liability company located at 1890 Woodlane Drive, Woodbury, Minnesota 55125 (hereinafter, the “Opposer”), believes that it would be damaged by registration of the mark shown in Application Serial No. 77/867,238 (“the ‘238 Application”), filed November 6, 2009, by Absopure Water Company (hereinafter “Applicant”), published in the Official Gazette of the United States Patent and Trademark Office on April 20, 2010, and hereby opposes the registration of such mark. The time to oppose was extended by timely requests for extension of time to file this opposition.

The grounds for the opposition are as follows:

1. Opposer is a provider of bottled drinking water, domestic and commercial water treatment and conditioning equipment, and rental, repair and maintenance services of said equipment.

2. Since well before the filing date of the '238 Application, Opposer has continuously used the marks ECOWATER, ECOWATER DRINKING WATER & Design, ECOWATER SYSTEMS, ECOWATER SQUAD and ECO PURE in interstate commerce in connection with its goods and services.

3. When used in connection with Opposer's goods and services, the ECOWATER, ECOWATER DRINKING WATER & Design, ECOWATER SYSTEMS, ECOWATER SQUAD and ECO PURE marks are inherently distinctive.

4. Moreover, Opposer is the owner of numerous United States Trademark Registrations for the ECOWATER, ECOWATER DRINKING WATER & Design, ECOWATER SYSTEMS, ECOWATER SQUAD and ECO PURE marks and variations thereof, including but not limited to the following:

Mark	Reg. No.	Goods	Appl. Date	Reg. Date
ECOWATER	2145816	Bottled drinking water; distributorships in the field of bottled drinking water	8/22/1996	3/24/1998
ECOWATER DRINKING WATER & Design	2279118	Bottled drinking water; retail distributorships featuring domestic and commercial water conditioners and purifiers, and bottled drinking water	5/28/1998	9/21/1999
ECOWATER	1555661	Water treatment equipment and parts thereof, namely - residential water conditioners, domestic reverse osmosis water purifiers, and filters, ion exchangers and degasifiers for treating liquids	5/23/1988	9/12/1989
ECOWATER SYSTEMS	1771108	Water pumps, as machine parts, for use in domestic and commercial water treatment applications	5/20/1992	5/18/1993

ECOWATER SYSTEMS	1771860	Repair and maintenance services in the field of domestic and commercial water treatment equipment; namely, water conditioners, softeners, deionizers, distillers, filters, and related water treatment units	2/28/1992	5/18/1993
ECOWATER SYSTEMS	1613312	Retail outlet services and rental services in the field of domestic and commercial water conditioners and purifiers	9/26/1988	9/11/1990
ECOWATER SQUAD	2366092	Installation, cleaning, maintenance and repair of water treatment and conditioning equipment; delivery services in the field of water treatment and conditioning equipment and bottled water by land; rental of water treatment and conditioning equipment; testing, analysis, and evaluation of water quality; and consultation and rendering advice in the field of water treatment and conditioning equipment for home and commercial applications	3/25/1999	7/11/2000
ECO PURE	1585509	Water purification and filtration units for domestic and commercial use	7/31/1989	3/6/1990

5. All of Opposer's foregoing registrations for the marks ECOWATER, ECOWATER DRINKING WATER & Design, ECOWATER SYSTEMS, ECOWATER SQUAD and ECO PURE are valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065.

6. Opposer has used and is using the ECOWATER, ECOWATER DRINKING WATER & Design, ECOWATER SYSTEMS, ECOWATER SQUAD and ECO PURE marks in interstate commerce in connection with the goods and services described in Opposer's Registrations.

7. On November 6, 2009, Applicant filed the '238 Application based on an intent to use the mark ECO2O in the United States for the following goods:

---Drinking water; flavored beverages, namely, fruit flavored beverages and tea flavored beverages in International Class 32---

8. Opposer's use and registration of the ECOWATER, ECOWATER DRINKING WATER & Design, ECOWATER SYSTEMS, ECOWATER SQUAD and ECO PURE marks long pre-date the filing date of the '238 Application.

9. The grant of a registration to Applicant for the ECO2O mark as sought in the '238 Application should be denied on the grounds of Opposer's prior use of the ECOWATER, ECOWATER DRINKING WATER & Design, ECOWATER SYSTEMS, ECOWATER SQUAD and ECO PURE marks. The mark sought to be registered by Applicant is confusingly similar to Opposer's ECOWATER, ECOWATER DRINKING WATER & Design, ECOWATER SYSTEMS, ECOWATER SQUAD and ECO PURE marks, and the use of the ECO2O mark by Applicant is likely to cause confusion or mistake in the minds of the public and to lead the public and prospective purchasers to believe that Applicant's goods are those of Opposer or are endorsed, sponsored or otherwise affiliated or connected with Opposer, or that Opposer's goods and services are associated with Applicant, all to the damage and injury of the purchasing public and to the damage and injury of Opposer.

10. The grant of a registration to Applicant for the ECO2O mark as sought in the '238 Application should be denied based on likelihood of confusion with Opposer's prior ECOWATER, ECOWATER DRINKING WATER & Design, ECOWATER SYSTEMS, ECOWATER SQUAD and ECO PURE marks.

WHEREFORE, Opposer files this Notice of Opposition and prays that the aforesaid application of Absopure Water Company herein opposed be rejected, that no registration be issued thereon to Applicant, and for such other and further relief as may be deemed just and proper.

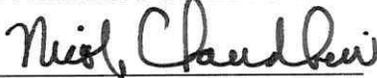
The Deposit Account No. 18-2284 will be charged the amount of \$300.00 to cover the filing fees of this notice of opposition against the Application in one class. Please charge any additional fees to Deposit Account No. 18-2284, and address all correspondence regarding this opposition to:

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Dated: August 18, 2010

Respectfully submitted,

ECOWATER SYSTEMS LLC

By: 

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Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a copy of this correspondence is being deposited with the United States Postal Service as First-Class Mail in an envelope addressed to the correspondent of record Elizabeth F. Janda, Brooks Kushman P.C., 1000 Town CTR FL 22, Southfield, MI 48075-1183 on August 18, 2010.



Signature

Nicole A. Chaudhari

Name

August 18, 2010

Date of Signature