

ESTTA Tracking number: **ESTTA412681**

Filing date: **06/03/2011**

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		
Entity	Limited Liability Company	Citizenship	Delaware
Address	Three Lakes Drive Northfield, IL 60093 UNITED STATES		

Attorney information	Demetra Merikas Three Lakes Drive Northfield, IL 60093 UNITED STATES trademark@kraftfoods.com Phone:847-646-2000		
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**Applicant Information**

Application No	85153999	Publication date	05/10/2011
Opposition Filing Date	06/03/2011	Opposition Period Ends	06/09/2011
Applicant	SUKHWINDER PAL CHAWLA P.O.BOX-292042 LOS ANGELES, CA 90029 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 032. All goods and services in the class are opposed, namely: Beers; mineral and aerated waters; fruit drinks and fruit juices; syrups and other preparations for making beverages, namely, coconut fruit drinks
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**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	<b>KOOL POINTS</b>
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

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	NONE		

Mark	
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
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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: 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.	2321815	Application Date	04/02/1999
Registration Date	02/22/2000	Foreign Priority Date	NONE

Word Mark	KOOL-AID
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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: 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
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Attachments	76035266#TMSN.gif ( 1 page )( bytes ) 71352502#TMSN.gif ( 1 page )( bytes ) 71435727#TMSN.gif ( 1 page )( bytes ) 73189601#TMSN.gif ( 1 page )( bytes ) 75673999#TMSN.gif ( 1 page )( bytes ) Opposition COCO KOOL.pdf ( 11 pages )(589246 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	/Demetra Merikas/
Name	Demetra Merikas
Date	06/03/2011

UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No.85/153999: COCO KOOL and Design  
Published in the *Official Gazette* of May 10, 2011, in International Class 32

KRAFT FOODS GLOBAL BRANDS  
LLC,

Opposer,

v.

SUKHWINDER PAL CHAWLA,  
formerly Spicy Sense Inc.

Applicant.

Opp. No. \_\_\_\_\_

NOTICE OF OPPOSITION

Kraft Foods Global Brands LLC (“Opposer”), a Delaware limited liability company located and doing business Three Lakes Drive, Northfield, Illinois, believes it will be damaged by registration of the mark shown in Application Serial No. 85/153999 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 and soft-drink mixes under the trademark KOOL-AID (“KOOL-AID beverages”).
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, but not limited to, the following:

Mark	U.S. Reg. No.	Goods
KOOL POINTS	2461551	"Beverages, namely, soft drinks; soft drink mixes, powders, syrups or concentrates for use in making soft drinks"
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	2321815	"Beverages, namely, soft drinks, soft drink mixes; powders, syrups or concentrates for making soft drinks"

5. On October 15, 2010, Applicant filed an intent-to-use application to register COCO KOOL and Design for "beers; mineral and aerated waters; fruit drinks and fruit juices; syrups and other preparations for making beverages, namely, coconut fruit drinks", Application Serial No. 85/153999.

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

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

8. Applicant's use of the mark COCO KOOL and Design for the goods stated in Application Serial No. 85/153999 is likely to result in confusion, mistake or deception with Opposer's KOOL-AID mark, or in the belief that Applicant or its COCO KOOL and Design products are in some way connected with, or licensed or approved by, Opposer.

9. Applicant's use of the trademark COCO KOOL is likely to dilute Opposer's famous KOOL-AID mark.

WHEREFORE, registration by applicant of COCO KOOL and Design for the goods stated in Application Serial No. 85/153999 would be damaging to Opposer. Opposer respectfully asks the Board to sustain this opposition.



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#### Typed Drawing

<b>Word Mark</b>	KOOL POINTS
<b>Goods and Services</b>	IC 032. US 045 046 048. G & S: Beverages, namely, soft drinks; soft drink mixes, powders, syrups or concentrates for use in making soft drinks. FIRST USE: 20000301. FIRST USE IN COMMERCE: 20000301
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76035266
<b>Filing Date</b>	April 13, 2000
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	March 27, 2001
<b>Registration Number</b>	<b>2461551</b>
<b>Registration Date</b>	June 19, 2001
<b>Owner</b>	(REGISTRANT) Kraft Foods Holdings, Inc. CORPORATION DELAWARE Three Lakes Drive Northfield ILLINOIS 600932753  (LAST LISTED OWNER) KRAFT FOODS GLOBAL BRANDS LLC LIMITED LIABILITY COMPANY DELAWARE THREE LAKES DRIVE NF-577 NORTHFIELD ILLINOIS 60093
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Susan H. Frohling
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR).
<b>Live/Dead Indicator</b>	LIVE

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Word Mark KOOL-AID  
 Goods and Services IC 030. US 045. G & S: PREPARED POWDER CONTAINING FLAVOR, FRUIT ACID, AND COLOR PUT UP IN A NUMBER OF FLAVORS FOR MAKING NONALCOHOLIC BEVERAGE IN THE HOME. FIRST USE: 19270818. FIRST USE IN COMMERCE: 19270818  
 Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM  
 Serial Number 71352502  
 Filing Date June 9, 1934  
 Current Filing Basis 1A  
 Original Filing Basis 1A  
 Change In Registration CHANGE IN REGISTRATION HAS OCCURRED  
 Registration Number 0317955  
 Registration Date October 9, 1934  
 Owner (REGISTRANT) PERKINS PRODUCTS COMPANY CORPORATION ILLINOIS NO 5535 WEST 65TH STREET CHICAGO ILLINOIS  
 (LAST LISTED OWNER) KRAFT FOODS GLOBAL BRANDS LLC LIMITED LIABILITY COMPANY DELAWARE THREE LAKES DRIVE NF-577 NORTHFIELD ILLINOIS 60093  
 Assignment Recorded ASSIGNMENT RECORDED  
 Attorney of Record BARTON M. ZEDD  
 Prior Registrations 0238448

Type of Mark TRADEMARK  
Register PRINCIPAL  
Affidavit Text SECT 12C. SECT 15. SECTION 8(10-YR) 20040109.  
Renewal 4TH RENEWAL 20040109  
Live/Dead Indicator LIVE

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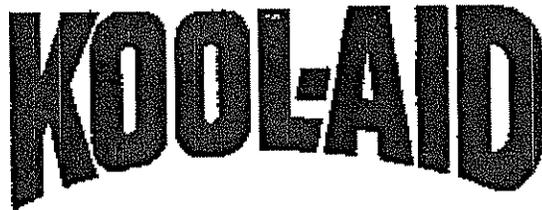
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**Word Mark** KOOL-AID  
**Goods and Services** IC 032. US 045. G & S: [Nonalcoholic, Noncereal, Maltless,] CARbonated Beverages[And Syrups and EXTRACTs for Making the Same]. FIRST USE: 19400411. FIRST USE IN COMMERCE: 19400411  
**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM  
**Serial Number** 71435727  
**Filing Date** September 6, 1940  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Registration Number** 0384244  
**Registration Date** January 7, 1941  
**Owner** (REGISTRANT) Perkins Products Company CORPORATION ILLINOIS No. 5555 West 65th St. Chicago ILLINOIS  
 (LAST LISTED OWNER) KRAFT FOODS GLOBAL BRANDS LLC LIMITED LIABILITY COMPANY DELAWARE THREE LAKES DRIVE NF-577 NORTHFIELD ILLINOIS 60093  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** SUSAN H. FROHLING  
**Prior Registrations** 0238448;0317955  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECTION 8(10-YR) 20010516.  
**Renewal** 3RD RENEWAL 20010516

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<b>Word Mark</b>	KOOL-AID
<b>Goods and Services</b>	IC 032. US 045. G & S: POWDERS, SYRUPS AND CONCENTRATES USED IN THE PREPARATION OF SOFT DRINKS. FIRST USE: 19270818. FIRST USE IN COMMERCE: 19270818
<b>Mark Drawing Code</b>	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
<b>Serial Number</b>	73189601
<b>Filing Date</b>	October 16, 1978
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Registration Number</b>	1133277
<b>Registration Date</b>	April 15, 1980
<b>Owner</b>	(REGISTRANT) GENERAL FOODS CORPORATION CORPORATION DELAWARE 250 NORTH ST. WHITE PLAINS NEW YORK 10625  (LAST LISTED OWNER) KRAFT FOODS GLOBAL BRANDS LLC LIMITED LIABILITY COMPANY DELAWARE THREE LAKES DRIVE NF-577 NORTHFIELD ILLINOIS 60093
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Demetra Merikas
<b>Prior Registrations</b>	0238448;0991458;AND OTHERS
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20100424.
<b>Renewal</b>	2ND RENEWAL 20100424

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#### Typed Drawing

<b>Word Mark</b>	KOOL-AID
<b>Goods and Services</b>	IC 032. US 045 046 048. G & S: Beverages, namely, soft drinks, soft drink mixes; powders, syrups or concentrates for making soft drinks. FIRST USE: 19270818. FIRST USE IN COMMERCE: 19270818
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75673999
<b>Filing Date</b>	April 2, 1999
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	November 30, 1999
<b>Registration Number</b>	2321815
<b>Registration Date</b>	February 22, 2000
<b>Owner</b>	(REGISTRANT) Kraft Foods, Inc. CORPORATION DELAWARE Three Lakes Drive Northfield ILLINOIS 600932753  (LAST LISTED OWNER) KRAFT FOODS GLOBAL BRANDS LLC LIMITED LIABILITY COMPANY DELAWARE THREE LAKES DRIVE NF-577 NORTHFIELD ILLINOIS 60093
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Demetra Merikas
<b>Prior Registrations</b>	0317955;0384244;0384365;1133277;AND OTHERS
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20100224.
<b>Renewal</b>	1ST RENEWAL 20100224
<b>Live/Dead Indicator</b>	LIVE