

ESTTA Tracking number: **ESTTA517536**

Filing date: **01/23/2013**

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	The Coca-Cola Company
Granted to Date of previous extension	01/23/2013
Address	One Coca-Cola Plaza, NW Atlanta, GA 30313 UNITED STATES

Correspondence information	The Coca-Cola Company One Coca-Cola Plaza, NW Atlanta, GA 30313 UNITED STATES jeslewis@coca-cola.com,vkeenana@coca-cola.com Phone:404-676-0394
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Applicant Information

Application No	85604733	Publication date	09/25/2012
Opposition Filing Date	01/23/2013	Opposition Period Ends	01/23/2013
Applicant	Daryll DeSantis 2717 Twin Oak Ln Modesto, CA 95351 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 2010/05/05 First Use In Commerce: 2010/05/05 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)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	22406	Application Date	05/14/1892
Registration Date	01/31/1893	Foreign Priority Date	NONE
Word Mark	COCA-COLA		

Design Mark	
Description of Mark	The said trade-mark of said company consists of the word or words "Coca Cola". These words have been generally written as a compound word, and in the particular form represented in the accompanying fac-simile, that is to say, with the lower portion of the "C" beginning the word "Coca" extended under the entire word, in the form of a dash, and the top of the "C" beginning the word "Cola" extended over the letters following in the form of a dash. Upon the dash of the first "C" said corporation generally has the word "Trade-Mark". While said corporation prefers to form the initial "C's" as just described, and also to form the word as a compound word, yet the word may be altogether as one word or separately as two words, and the dashes omitted, without materially altering the character of the said trade-mark, the essential feature of which is the word "Coca-Cola".
Goods/Services	Class U045 (International Class 032). First use: First Use: 1887/06/28 First Use In Commerce: 1887/06/28 [NUTRIENT OR] TONIC BEVERAGES

U.S. Registration No.	238145	Application Date	09/13/1927
Registration Date	01/31/1928	Foreign Priority Date	NONE
Word Mark	COCA-COLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U045 (International Class 032). First use: First Use: 1886/05/00 First Use In Commerce: 1886/05/00 BEVERAGES AND SYRUPS FOR THE MANUFACTURE OF SUCH BEVERAGES		

U.S. Registration No.	238146	Application Date	09/13/1927
Registration Date	01/31/1928	Foreign Priority Date	NONE
Word Mark	COCA-COLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U045 (International Class 032). First use: First Use: 1886/05/00 First Use In Commerce: 1886/05/00 BEVERAGES AND SYRUPS FOR THE MANUFACTURE OF SUCH BEVERAGES		

U.S. Registration	1432152	Application Date	05/27/1986
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No.			
Registration Date	03/10/1987	Foreign Priority Date	NONE
Word Mark	COCA-COLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1986/01/14 First Use In Commerce: 1986/01/14 SOFT DRINKS [AND SYRUPS AND CONCENTRATES FOR MAKING THE SAME]		

U.S. Registration No.	3252896	Application Date	11/01/2004
Registration Date	06/19/2007	Foreign Priority Date	NONE
Word Mark	COCA-COLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2002/12/15 First Use In Commerce: 2003/01/01 Non-alcoholic beverages, namely, soft drinks; and syrups and concentrates for making beverages, namely, soft drinks		

Attachments	70022406#TMSN.gif (1 page)(bytes) 71254695#TMSN.gif (1 page)(bytes) 73601167#TMSN.gif (1 page)(bytes) 78509545#TMSN.jpeg (1 page)(bytes) Notice of Opposition (COQUI COLA).pdf (6 pages)(321938 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	/Jessica Lewis/
Name	Jessica Lewis
Date	01/23/2013

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

IN THE MATTER OF U.S. APPLICATION SERIAL NO. 85/604733

Mark: COQUI COLA

Filed: April 22, 2012

Published: September 25, 2012

<p>THE COCA-COLA COMPANY,</p> <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">v.</p> <p>Daryll DeSantis DBA Coqui Cola</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No. _____</p>
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NOTICE OF OPPOSITION

The Coca-Cola Company (“Opposer” or “Coca-Cola”), a corporation organized and existing under the laws of the state of Delaware, having its office and principal place of business at One Coca-Cola Plaza, NW, Atlanta, GA 30313, believes that it will be damaged by the registration of the mark COQUI COLA, Application Serial No. 85/604733 (the “Application”), filed on April 22, 2012 by Daryll DeSantis DBA Coqui Cola (the “Applicant”) in International Class 032 for use in connection with “non-alcoholic beverages, namely, carbonated beverages.” Opposer requests that the registration of the COQUI COLA mark be refused.

As grounds for its opposition, Coca-Cola alleges as follows:

1. Since as early as 1887, Coca-Cola and its related companies have continuously used the COCA-COLA mark, and variations thereof, in connection with beverages, syrups, and concentrates for making beverages (collectively the “COCA-COLA Marks”).
2. Coca-Cola is the owner of numerous U.S. Trademark registrations for the COCA-COLA Marks, the details of some of these registrations are set forth below:

Mark	Registration Number	Registration Date	International Class	Goods
	22406	1/31/1893	32	Nutrient or tonic beverages
COCA-COLA	0238145	9/13/1927	32	Beverages and syrups for the manufacture of such beverages.
	0238146	9/13/1927	32	Beverages and syrups for the manufacture of such beverages
	1432152	5/27/1986	32	Soft drinks and syrup and concentrate for making the same
	3252896	6/19/2007	32	Non-alcoholic beverages, namely, soft drinks; and syrups and concentrates for making beverages, namely, soft drinks

3. Coca-Cola's registrations for its COCA-COLA Marks are valid and subsisting in law, were duly and legally issued, are *prima facie* evidence of the validity of the marks registered and constitute constructive notice of ownership of these marks by Coca-Cola in accordance with Sections 7(b) and 22 of the Trademark Act of 1946, 15 U.S.C. §§ 1057(b) and 1072.

4. Coca-Cola and its predecessors have invested a substantial amount of time, effort and money in advertising and promoting products offered in connection with the COCA-COLA Marks and have continuously and extensively used the COCA-COLA Marks in the United States and all over the

world in connection with beverage-related products. Consequently, Coca-Cola's goods bearing the COCA-COLA Marks have become widely associated with COCA-COLA.

5. Through years of advertising, promotion and use, the COCA-COLA Marks are famous and are an asset of substantial value to Coca-Cola.

6. On or about April 22, 2012, Applicant filed the referenced application seeking registration of the trademark COQUI COLA for "non-alcoholic beverages, namely, carbonated beverages."

7. The Application was filed in the name of Daryll DeSantis DBA Coqui Cola with an address of 2717 Twin Oak Ln, Modesto, CA 95351.

8. The Application was assigned serial number 85/604733. The Application was filed long after Coca-Cola's acquisition of its rights in the COCA-COLA Marks and long after the registration of the COCA-COLA Marks.

9. The Application was published for opposition on September 25, 2012. Coca-Cola sought and received a ninety-day extension of time to oppose the registration of Applicant's mark.

10. Between the parties, Coca-Cola is the senior user.

11. The applied for COQUI COLA mark is phonetically similar to Coca-Cola's COCA-COLA Marks.

12. The applied for goods in the COQUI COLA application are identical to those offered by Coca-Cola under its COCA-COLA Marks.

13. Coca-Cola will be damaged by the sale and offering of Applicant's goods bearing the mark COQUI COLA, which are identical to the goods covered by the COCA-COLA Marks. Consumers are likely to be confused, mistaken, or deceived into believing that there is some connection, affiliation or association between the Applicant and Coca-Cola, especially in view of the similar nature of goods listed in Applicant's application.

14. Registration of Applicant's mark will damage Coca-Cola because the COQUI COLA mark is likely to cause confusion within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

15. Registration of Applicant's mark will further damage Coca-Cola because it dilutes the distinctive quality of Coca-Cola's famous COCA-COLA Marks, as governed by Section 43(c) of the Trademark Act, 15 U.S.C. § 1125(c).

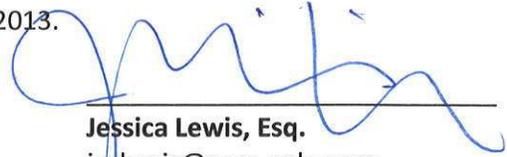
16. Applicant is not now, and was not at the time it filed its Application, entitled to registration of the mark identified in the Application for the services listed therein, and Applicant's efforts to register COQUI COLA is an attempt to trade unlawfully on the fame and notoriety of the COCA-COLA Marks.

17. By reason of all of the foregoing, Coca-Cola will be damaged by the registration of Applicant's confusingly similar mark.

18. The Patent and Trademark Office is authorized to deduct the filing fees of three hundred dollars (\$300.00), and any other necessary fees in connection with the filing of this opposition from the deposit account of The Coca-Cola Company.

WHEREFORE, Coca-Cola prays that the registration for the COQUI COLA application, Serial No. 85/604733, for "non-alcoholic beverages, namely, carbonated beverages" be rejected, that this opposition be sustained, and that Coca-Cola be granted such other different and additional relief as this Board deems just and proper.

Respectfully submitted, this 23rd day of January, 2013.



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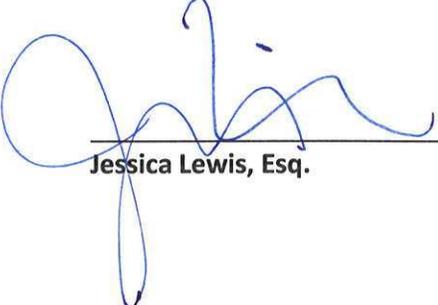
Fax: 404-598-0394

*Attorney for Opposer, The Coca-Cola
Company*

CERTIFICATE OF SERVICE

The undersigned counsel of record hereby certifies that on this 23rd day of January, 2013, a copy of the foregoing *Notice of Opposition* was served by placing a copy in U.S. Mail, postage prepaid, and address to the following attorney of record:

David Mech
1 Crescent Hill
Springfield, MA 01105



Jessica Lewis, Esq.