

ESTTA Tracking number: **ESTTA590354**

Filing date: **03/03/2014**

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	03/02/2014
Address	One Coca-Cola Plaza Atlanta, GA 30318 UNITED STATES

Correspondence information	Andrea Bates Bates& Bates, LLC 1890 Marietta Blvd Atlanta, GA 30318 UNITED STATES abates@bates-bates.com, jsteed@bates-bates.com Phone:4042287439
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**Applicant Information**

Application No	79122166	Publication date	09/03/2013
Opposition Filing Date	03/03/2014	Opposition Period Ends	03/02/2014
Applicant	Kabushiki Kaisha AOB Keioh Holdings 2961, Kobuchisawa-cho Yamanashi-ken 408-8522, JPX JPX		

**Goods/Services Affected by Opposition**

Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Skin soaps, deodorant soaps; cosmetics,namely, lipstick, blush, rouge, make-up; hair care products, namely, shampoo, conditioner, hair gel; skin care and bodycare products, namely, skin cream, skinconditioner, body masks, body oils, body powder, dentifrices; perfumeries, namely, perfume, Cologne
Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Pharmaceutical preparations for skin care; dietary supplements; nutritional supplements; vitamin supplements; mineral food supplements; dietary supplemental drink mixes; dietary supplemental drinks in the nature of vitamin and mineral beverages; dietary fiber as an additive for food products to aid digestion; enzyme dietary supplements; mineral supplements,namely, mineral preparations and substances for medical purposes; dietetic foods for invalids and infants adapted for medical purposes, namely, medical dietetic foods for nutritional purposes in the nature of pastas and crackers; dietetic foods for persons with special dietary requirements, namely, pastas and crackersadapted for medical use
Class 029. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Preserved, dried and cooked mushrooms; soya milk; protein preparations for human food, namely, textured vegetable protein added to food for

use as a meat extender
Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Tea; tea bags; tea-based beverages; teasubstitutes; processed grains; flour; confectionery, namely, candies and toffees; biscuits; wafers; breakfast cereals; cookies; puddings; grain-based snack foods
Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Bottled drinking water; fruit drinks and fruit juices; fruit-based beverages; vegetable juices; vegetable-fruit juices;soya-based beverages not being milk substitutes; isotonic beverages
Class 044. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Beauty salons; providing bath houses; massage and therapeutic shiatsu massage; medical services, namely, treatment of dislocated joints, sprains or bone fractures; medical services; providing medicalinformation; medical services, namely, physical examinations of patients; dispensing of medications; dietary and nutritional guidance; rental of medical machines and apparatus; rental of machines andapparatus for use in beauty salons

### Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2942449	Application Date	03/11/2002
Registration Date	04/19/2005	Foreign Priority Date	NONE
Word Mark	S		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2001/01/31 First Use In Commerce: 2001/01/31 Beverages, namely drinking waters, bottled waters and flavored waters		

U.S. Application No.	86209498	Application Date	
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services			

Attachments	76383290#TMSN.gif( bytes ) Opposition.pdf(94402 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	/Andrea E Bates/
Name	Andrea E Bates
Date	03/03/2014

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

THE COCA-COLA COMPANY,	]	
	]	
Opposer,	]	
	]	
vs.	]	Opposition No.
	]	
	]	_____
	]	
KABUSHIKI KAISHA AOB KEIOH	]	
HOLDINGS,	]	
	]	
Applicant.	]	

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OPPOSITION

THE COCA-COLA COMPANY, a Delaware corporation having its principal place of business at One Coca-Cola Plaza, Atlanta, Georgia 30313 (“Opposer”), believes that it would be damaged by the registration of the mark ARSOA (“Applicant’s Alleged Mark”) for: skin soaps, deodorant soaps; cosmetics, namely, lipstick, blush, rouge, make-up; hair care products, namely, shampoo, conditioner, hair gel; skin care and body care products, namely, skin cream, skin conditioner, body masks, body oils, body powder, dentifrices; perfumeries, namely, perfume, cologne in International Class 3; pharmaceutical preparations for skin care; dietary supplements; nutritional supplements; vitamin supplements; mineral food supplements; dietary supplemental drink mixes; dietary supplemental drinks in the nature of vitamin and mineral beverages; dietary fiber as an additive for food products to aid digestion; enzyme dietary supplements; mineral

supplements, namely, mineral preparations and substances for medical purposes; dietetic foods for invalids and infants adapted for medical purposes, namely, medical dietetic foods for nutritional purposes in the nature of pastas and crackers; dietetic foods for persons with special dietary requirements, namely, pastas and crackers adapted for medical use in International Class 5; preserved, dried and cooked mushrooms; soya milk; protein preparations for human food, namely, textured vegetable protein added to food for use as a meat extender in International Class 29; tea; tea bags; tea-based beverages; tea substitutes; processed grains; flour; confectionery, namely, candies and toffees; biscuits; wafers; breakfast cereals; cookies; puddings; grain-based snack foods in International Class 30; bottled drinking water; fruit drinks and fruit juices; fruit-based beverages; vegetable juices; vegetable-fruit juices; soya-based beverages not being milk substitutes; isotonic beverages in International Class 32; and beauty salons; providing bath houses; massage and therapeutic shiatsu massage; medical services, namely, treatment of dislocated joints, sprains or bone fractures; medical services; providing medical information; medical services, namely, physical examinations of patients; dispensing of medications; dietary and nutritional guidance; rental of medical machines and apparatus; rental of machines and apparatus for use in beauty salons in International Class 44 (“Applicant’s Goods”), which mark is subject of application Serial Number 79/122,166, filed on June 6, 2012, by Kabushiki Kaisha AOB Keioh Holdings, a Japanese Corporation, (“Applicant”), and published on September 3, 2013, and, by and through its undersigned attorney and in accordance with Rules 2.101 through 2.104 of the Trademark Rules of Practice, Opposer hereby opposes the same.

The grounds for the Opposition are as follows:

1. By the application, Applicant seeks to register Applicant's Alleged Mark as a mark for Applicant's Goods. The Application is based on the Madrid Protocol with a priority date of June 6, 2012.
2. Opposer is a Delaware corporation engaged in the business of, among other things, manufacturing bottled waters. Opposer has used in interstate commerce and is and has been at all times pertinent hereto (including since prior to the filing date of the Application), the owner of all right, title and interest in and to S (and Design) (U.S. Reg. No. 2,942,449) and DASANI (and Design) (U.S. App. No. 86/209,498) ("Opposer's Marks") used with beverages, namely drinking waters, bottled waters and flavored waters in International Class 32 ("Opposer's Goods"). Opposer has used the Opposer's Marks for and in connection with Opposer's Goods in interstate commerce in and throughout the United States continuously and extensively since at least as early as 1999 (DASANI) and 2001 [S (and Design)]. Opposer's S (and Design) mark is incontestable.
3. As a result of the widespread and extensive use, advertising and promotion by Opposer of Opposer's Marks, Opposer's Marks serve to identify and distinguish Opposer's products from the goods, services and businesses of others. Furthermore, Opposer's Marks symbolize the goodwill of Opposer's business, are well-known, and are of great value to Opposer in connection with the offering of Opposer's Goods.
4. As Opposer has used the Opposer's Marks exclusively since 1999 (DASANI) and 2001 [S (and Design)] and Applicant, upon information and belief, has not begun to use

Applicant's Alleged Mark in US commerce, Opposer has priority of use or priority of rights in the United States over Applicant's Alleged Mark.

5. Upon information and belief, Applicant's Goods and Opposer's Goods are similar in types, are offered or may be offered through the same, substantially the same, and/or related channels of trade, to the same, substantially the same, and/or related classes of purchasers, and are or may be advertised, marketed and promoted through the same media channels.

6. Upon information and belief, Applicant's Alleged Mark, when used in connection with Applicant's Goods, so resembles Opposer's Marks as to be likely to cause confusion, or to cause mistake, or to deceive with respect to the source or origin of Applicant's Goods, with respect to Opposer's sponsorship thereof or connection or affiliation therewith, and/or in other ways.

7. Opposer would be damaged by the registration of Applicant's Alleged Mark because such registration would constitute prima facie evidence of Applicant's exclusive right to use Applicant's Alleged Mark for and in connection with Applicant's Goods, which would be inconsistent with and detrimental to Opposer's prior and superior rights in and to Opposer's Marks

8. Applicant's Alleged Mark falsely suggests a connection or affiliation with Opposer, and Applicant is therefore not entitled to registration of Applicant's Alleged Mark.

WHEREFORE, Opposer The Coca-Cola Company respectfully prays that the application of Kabushiki Kaisha AOB Keioh Holdings, serial number 79/122,166, filed

on June 6, 2012, for the registration of the mark ARSOA (and Design) in International Classes 3, 5, 29, 30, 32, and 44 for the goods listed be *refused*, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully submitted, this 3rd day of March 2014.

Bates & Bates, LLC

/s/ Andrea E Bates

Andrea E. Bates, Esq.

1890 Marietta Boulevard

Atlanta, GA 30318

Attorneys for Opposer The Coca-Cola Company

**CERTIFICATE OF SERVICE**

This is to certify that, in accordance with Rule 2.101(b) of the Trademark Rules of Practice, I have this day served the foregoing Opposition on the Applicant by causing a true and correct copy thereof to be deposited in the United States Mail, postage prepaid, addresses to the attorney of record for the Applicant as follows:

Lawrence E. Abelman

Erica R. Halstead

Abelman Frayne & Schwab

666 Third Avenue

10th Floor

New York, New York 10017

(212) 949-9022

This 3rd day of March, 2014.

/s/ Andrea E Bates  
Andrea E. Bates, Esq.