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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Applicant: Oceanic Beverages Co., Ltd.	International Class: 29
Serial No.: 78/116,645	Published for Opposition: December 24, 2002
	Official Gazette: Page TM 301, Vol. 1265, No. 4
Filed: March 21, 2002	
Mark: Apple Design	Attorney Docket No.: WAAC62407
Goods: buttercream; cheese; dairy products, namely, cream; preserved fruit; fruit salad; jams; jellies for food; milk; rennet; whey; yogurt; milk protein, namely, casein for food purposes; non-alcoholic, fermented mare or camel milk, namely, koumiss; non-alcoholic milk-based beverages	

WASHINGTON APPLE COMMISSION, a Washington corporation, Opposer, v. OCEANIC BEVERAGES CO., LTD., a Taiwanese corporation, Applicant.

Opposition No. _____
NOTICE OF OPPOSITION

NOTICE OF OPPOSITION

Seattle, Washington 98101
March 10, 2003

TO THE COMMISSIONER FOR TRADEMARKS
TRADEMARK TRIAL AND APPEAL BOARD:

The Washington Apple Commission, a Washington corporation, having a place of

1 business at 2900 Euclid Avenue, Wenatchee, Washington 98801 (hereinafter "Opposer");
2 believes that it will be damaged by registration of the trademark claimed by Application Serial
3 No. 78/116,645, filed March 21, 2002, and hereby opposes the same.

4 As grounds for the opposition, Opposer alleges as follows:

5 1. On information and belief, Applicant is a corporation organized and existing
6 under the laws of Taiwan, The Republic of China, having a place of business at 10F 99 Sec. 3,
7 Chung-Yang Road, San-Chung City, Taipei Hsien, Taiwan (hereinafter "Applicant").

8 2. Continuously since long prior to any date upon which Applicant can rely, Opposer
9 has used the trademark and service mark WASHINGTON and Design shown by Registration
10 No. 1,528,514 and Registration No. 1,294,529 in association with the sale of unprocessed apples,
11 apple juice, clothing, and the provision of advertising commission services.

12 3. Opposer is the owner of U.S. Trademark/Service Mark Registration
13 No. 1,528,514 for the mark WASHINGTON and Design for unprocessed apples in International
14 Class 31; apple juice in International Class 32; and for advertising commission services, namely,
15 promoting the interests of those growing, processing, packing, and shipping apples in the State of
16 Washington in International Class 35. Registration No. 1,528,514 issued on March 7, 1989, and
17 sets forth Opposer's first use of the mark in November 1982. This registration is valid,
18 subsisting, and incontestable.

19 4. Opposer is the owner of U.S. Trademark Registration No. 1,294,529 for the mark
20 WASHINGTON and Design for clothing in International Class 25. Registration No. 1,294,259
21 issued on September 11, 1984, and sets forth Opposer's first use of the mark in association with
22 clothing in 1970. This registration is valid, subsisting, and incontestable.

23 5. Opposer will be damaged by the registration sought by Applicant insofar as the
24 registration will be *prima facie* evidence of the validity of the registration, Applicant's ownership
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1 of the mark shown by Application Serial No. 78/116,645, and Applicant's exclusive right to use
2 the mark shown by Application Serial No. 78/116,645 when, in fact, Applicant is not entitled to
3 such rights by virtue of Opposer's prior and continuous use of the mark WASHINGTON
4 and Design shown by the registrations attached hereto as Exhibits A and B for goods and services
5 sold in the same channels of trade in which the goods claimed by Application Serial
6 No. 78/116,645 would be sold.

7 6. The mark shown by Application Serial No. 78/116,645, when used in association
8 with the goods claimed by said application, so resembles Opposer's mark WASHINGTON
9 and Design shown by the registrations attached hereto as Exhibits A and B, as to be likely to
10 cause confusion, or to cause mistake, or to deceive within the meaning of Section 2(d) of the
11 Lanham Act, 15 U.S.C. § 1052(d).

12 7. As a result of Opposer's long-term, substantial, and widespread use of the mark
13 WASHINGTON and Design shown by the registrations attached hereto as Exhibits A and B, the
14 mark WASHINGTON and Design has become famous.

15 8. The mark WASHINGTON and Design previously used by Opposer and shown by
16 the registrations attached hereto as Exhibits A and B became famous prior to any date upon
17 which Applicant can show use of the mark shown by Application Serial No. 78/116,645 in
18 commerce with the United States or in the United States.

19 9. The mark shown by Application Serial No. 78/116,645 so resembles Opposer's
20 famous mark WASHINGTON and Design previously used and registered by Opposer and shown
21 by the registrations attached hereto as Exhibits A and B, as to be likely to falsely suggest a
22 connection between Opposer and Applicant in violation of Section 2(a) of the Lanham Act,
23 15 U.S.C. § 1052(a).

24 10. The mark shown by Application Serial No. 78/116,645 so resembles Opposer's
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1 famous mark WASHINGTON and Design as to cause dilution of the distinctive quality of
2 Opposer's mark WASHINGTON and Design in violation of 15 U.S.C. § 1125(c).

3 11. Based upon the foregoing, registration of the mark shown by Application Serial
4 No. 78/116,645, filed March 21, 2002, is likely to cause injury and damage to Opposer.

5 WHEREFORE, Opposer respectfully requests that the registration of the mark shown by
6 Application Serial No. 78/116,645 be denied pursuant to Section 2(d) of the Lanham Act,
7 15 U.S.C. § 1052(d), Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), and
8 15 U.S.C. § 1125(c), and that this opposition be sustained.

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NOTICE OF OPPOSITION - 4
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CHRISTENSEN OCONNOR JOHNSON KINDNESS^{LLC} | LAW OFFICES
1420 Fifth Avenue, Suite 2800
Seattle, WA 98101-2347
TELEPHONE: 206.682.8100

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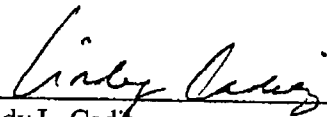
Accompanying the duplicate signed copies of this Notice of Opposition is our Check No. 146377 for the required filing fee in the amount of \$300.00 (\$300.00 per class). Please charge any excess fees to Deposit Account No. 03-1740 of Opposer's counsel noted below.

Please direct all correspondence to Cindy L. Caditz of Christensen O'Connor Johnson Kindness^{PLLC} at the following address:

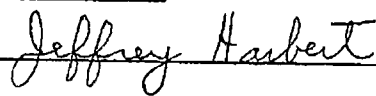
Cindy L. Caditz, Esq.
Christensen O'Connor Johnson Kindness^{PLLC}
1420 Fifth Avenue, Suite 2800
Seattle, WA 98101-2347

Please direct all telephone calls to Cindy L. Caditz at 206-682-8100.

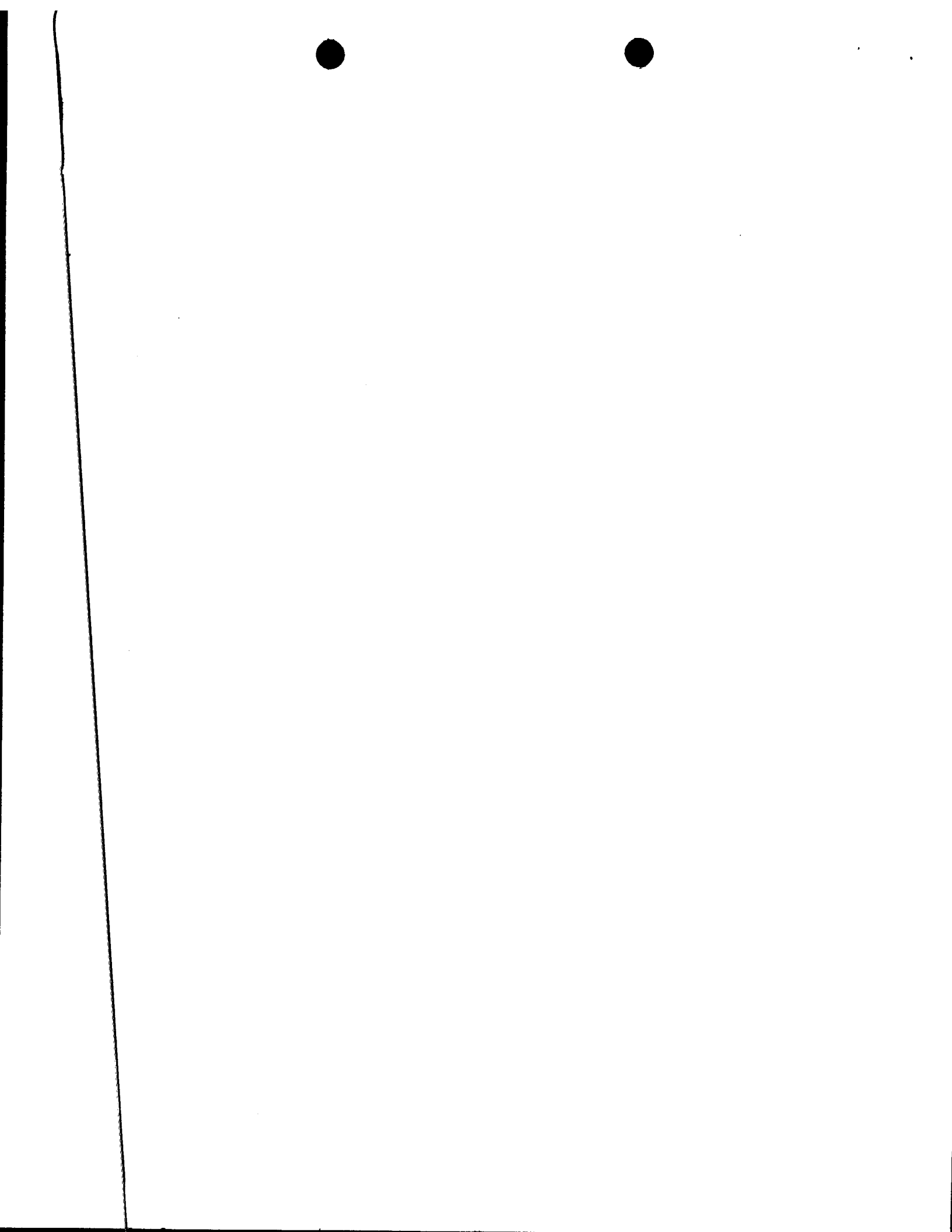
Respectfully submitted,
CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}


Cindy L. Caditz
Attorneys for Opposer

I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application Serial No. 78/116,645 for Apple Design is being deposited in duplicate with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to: BOX TTAB FEE, Commissioner for Trademarks, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3513, on 3-10-03.

Date: March 10, 2003 

CLC:jh



Int. Cls.: 31, 32 and 35

Prior U.S. Cls.: 46 and 101

United States Patent and Trademark Office

Reg. No. 1,528,514
Registered Mar. 7, 1989

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**



WASHINGTON STATE APPLE ADVERTISING
COMMISSION (WASHINGTON CORPORA-
TION), AKA WASHINGTON APPLE COM-
MISSION
P.O. BOX 18
WENATCHEE, WA 98801

FOR: UNPROCESSED APPLES, IN CLASS 31
(U.S. CL. 46).

FIRST USE 11-0-1982; IN COMMERCE
11-0-1982.

FOR: APPLE JUICE, IN CLASS 32 (U.S. CL.
46).

FIRST USE 11-0-1982; IN COMMERCE
11-0-1982.

FOR: ADVERTISING COMMISSION SERV-
ICES, NAMELY, PROMOTING THE INTER-
ESTS OF THOSE GROWING, PROCESSING,
PACKING AND SHIPPING APPLES IN THE
STATE OF WASHINGTON, IN CLASS 35 (U.S.
CL. 101).

FIRST USE 11-0-1982; IN COMMERCE
11-0-1982.

OWNER OF U.S. REG. NOS. 730,583 AND
730,584.

SEC. 2(F).

SER. NO. 575,663, FILED 12-30-1985.

MARY E. HANNON, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cl.: 39

United States Patent and Trademark Office

Reg. No. 1,294,529
Registered Sep. 11, 1984

TRADEMARK
Principal Register



Washington State Apple Advertising Commission
(Washington association)
P.O. Box 18
Wenatchee, Wash. 98801

For: CLOTHING—NAMELY, JACKETS,
SWEATERS, T-SHIRTS, DRESS SHIRTS, SPORT
SHIRTS, NECKTIES AND CAPS, in CLASS 25

(U.S. Cl. 39).

First use 1970; in commerce 1970.
Owner of U.S. Reg. Nos. 730,583, 730,584 and
767,733.

Ser. No. 428,325, filed Jun. 1, 1983.

CRAIG R. GILBERT, Examining Attorney

File No.: WAAC-6-2407

Date: 3/10/03

Atty/Secy: CLC:jh

Serial No.: 78/116,645

Parties: Washington Apple Commission v. Oceanic Beverages Co., Ltd.

Mark: Apple Design

Int'l Class(es): 29

The following documents have been received in the U.S. Patent and Trademark Office, ATTN: TTAB, on the date stamped hereon via first-class mail, with a signed Certificate of Mailing:

Notice of Opposition (5 pages, in duplicate)

Exhibits A-B

Check for \$300 for filing fee # 146377



03-14-2003

U.S. Patent & TMO/TM Mail Rpt Dt #01

CHRIS FEB. 13. 2004N 1:02PM NSON CHRISTENSEN OCONNOR

1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WASHINGTON 98101
(206) 682-8100

Bank of America
600 OLIVE WAY, CASB
SEATTLE, WA 98111

NO. 5814 P. 1346377

146377

DATE

AMOUNT

03/10/2003

\$300.00

PAY TO THE ORDER OF Three Hundred and 00/100 Dollars

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TO THE ORDER OF DIRECTOR - U.S. PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231

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PATENT AND TRADEMARK OFFICE
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CHRISTENSEN O'CONNOR
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1420 Fifth Avenue, Suite 2800
Seattle, WA 98101-2347
206.682.8100
Facsimile No. 206.224.0779

FACSIMILE COVER SHEET

DATE: February 13, 2004

TO: Ms. Monique Tyson, Trademark Trial and Appeal Board
FACSIMILE NO: 1-703-746-7109
RE: *Washington Apple Commission v. Oceanic Beverages Co., Ltd.*
Mark: Apple Design
U.S. Trademark Application Serial No. 78/116,645
OUR REFERENCE: WAAC-6-2407
FROM: Margaret P. Au, Paralegal
Direct Dial: (206) 695-1785

(Facsimile No. 206.224.0779)

Further to our telephone conversation earlier today, we submitted a Request for First Extension of Time to File a Notice of Opposition against Application Serial No. 78/116,645 on January 15, 2003, requesting a 60-day extension (*i.e.*, until March 24, 2003). Said extension request was received by the Patent and Trademark Office (PTO) on January 22, 2003. Opposer then submitted a Notice of Opposition on March 10, 2003, together with the required fee. The Notice of Opposition was received by the PTO on March 14, 2003, and the required fee has cleared our bank. However, the opposition proceeding was never instituted.

As requested, I attach the following documents for your review and further action:

1. a Request for First Extension of Time to File a Notice of Opposition submitted on January 15, 2003;
2. a copy of the return postcard showing PTO's receipt of the extension request;
3. a Notice of Opposition submitted on March 10, 2003;
4. a copy of the return postcard showing PTO's receipt of the Notice of Opposition; and,
5. a copy of a canceled check showing that our Check No. 146377 has been received by the PTO.

Thank you for your assistance. We look forward to hearing from you.

*** The information contained in this facsimile message is privileged and confidential information intended only for the use of the recipient named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, any distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address by mail.***

We have 13 pages to send, including this sheet. If any pages need to be retransmitted, please call 206.682.8100, Ext. 1771, within 15 minutes.

MPA

