

ESTTA Tracking number: **ESTTA173448**

Filing date: **11/07/2007**

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	11/07/2007
Address	One Coca-Cola Plaza Atlanta, GA 30319 UNITED STATES

Attorney information	Bruce W. Baber King & Spalding LLP 1180 Peachtree Street Atlanta, GA 30309 UNITED STATES BBaber@KSLAW.com, cpearlstein@na.ko.com, lysims@na.ko.com Phone:404-572-4826
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**Applicant Information**

Application No	77099651	Publication date	07/10/2007
Opposition Filing Date	11/07/2007	Opposition Period Ends	11/07/2007
Applicant	Sunlight Saunas, Inc. 14119 Marshall Drive Lenexa, KS 66215 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 011. First Use: 2007/01/15 First Use In Commerce: 2007/01/15  
All goods and services in the class are opposed, namely: Saunas

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Falsely suggests a connection or affiliation with Opposer

**Mark 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

Attachments	76383290#TMSN.gif ( 1 page )( bytes ) Opposition to Sunlight Saunas Stylized S.pdf ( 5 pages )(144789 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	/Bruce W. Baber/
Name	Bruce W. Baber
Date	11/07/2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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THE COCA-COLA COMPANY,	)	
	)	
Opposer,	)	
	)	OPPOSITION NUMBER
v.	)	
	)	
SUNLIGHT SAUNAS, INC.,	)	_____
	)	
Applicant.	)	

OPPOSITION

THE COCA-COLA COMPANY, a Delaware corporation having its principal place of business at One Coca-Cola Plaza, N.W. , Atlanta, Georgia 30313 (“Opposer”), believes it would be damaged by registration of the mark shown below:



(“Applicant’s Alleged Mark”) for saunas in International Class 11 (“Applicant’s Goods”), which mark is the subject of application Serial No. 77-099,651 (the “Application”), filed February 5, 2007 by SUNLIGHT SAUNAS, INC. (“Applicant”), and published for opposition in the Official Gazette of July 10, 2007, and, by and through its undersigned attorneys, hereby opposes the same.

The grounds for this 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 claims a date of first use of January 15, 2007.

2. Opposer has used in interstate commerce and is and has been at all times pertinent hereto, including since long prior to the filing date of the Application or the International Registration on which the Application is based, the owner of all right, title, and interest in and to the mark shown below:



(the "Stylized S Mark"), for and in connection with beverages, namely drinking waters, bottled waters and flavored waters in International Class 32 ("Opposer's Beverage Goods"). The Stylized S Mark is the subject matter of federal trademark registration number 2,942,449, issued on April 19, 2005. Opposer has used the Stylized S Mark for and in connection with Opposer's Beverage Goods in interstate commerce in and throughout the United States continuously and extensively since at least as early as January 31, 2001.

3. As a result of the long, widespread, and extensive use by Opposer of the Stylized S Mark, the Stylized S Mark is of great value to Opposer in connection with the offering of Opposer's Beverage Goods. The Stylized S Mark has been used prominently on the bottles, cap and labels of Opposer's Beverage Goods and in advertising for the goods. The Stylized S Mark identifies and distinguishes Opposer's Beverage Goods from the goods, services, and businesses of others, symbolizes the goodwill of Opposer's business, and is well-known.

4. Opposer's Stylized S Mark is inherently distinctive and enjoys a substantial degree of acquired distinctiveness. During the past six years, Opposer and Opposer's related companies have spent many millions of dollars to advertise and promote extensively Opposer's products bearing the Stylized S Mark, and sales of such products have generated significant revenues. Opposer's Stylized S Mark has been used by Opposer and its related companies throughout the United States and in a number of foreign countries.

5. Products bearing Opposer's Stylized S Mark have been widely offered for sale and sold through numerous different channels of trade, and Opposer's products and the Stylized S Mark enjoy a high degree of recognition throughout the United States and among consumers generally.

6. In addition to use on and in connection with Opposer's Beverage Goods, Opposer and its related companies have used the Stylized S Mark on a variety of other types of goods, including caps, visors, hats, apparel items, sunglasses, lip balm, tote bags, cups, coolers, towels, robes, pens, journals, flash drives, clocks, magnets and posters, all of which uses have added to the recognition and notoriety of the Stylized S Mark and its association exclusively with Opposer, Opposer's related companies, and Opposer's products.

7. Upon information and belief, Applicant is unable to establish, with respect to Opposer's uses of the Stylized S Mark, priority of use or priority of rights in the United States in connection with Applicant's Alleged Mark.

8. Upon information and belief, Applicant's Goods and Opposer's Beverage Goods bearing the Stylized S Mark may be offered and/or utilized, at least in part, to the same, substantially the same, or related classes of purchasers.

9. Upon information and belief, Applicant's Alleged Mark, when used in connection with Applicant's Goods, so resembles the Stylized S Mark 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.

10. Opposer would be damaged by 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, established and superior rights in the Stylized S Mark.

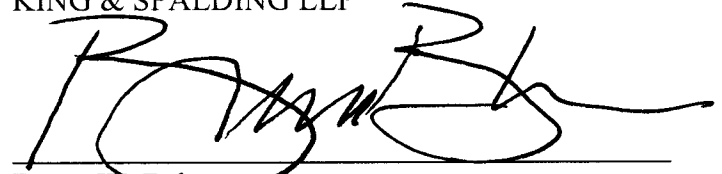
11. Applicant's Alleged Mark falsely suggests a connection or affiliation with Opposer and Applicant is therefore not entitled to registration of Applicant's Alleged Mark.

WHEREFORE, Opposer The Coca-Cola Company respectfully prays that the application of SUNLIGHT SAUNAS, INC., Serial No. 77-099,651, filed February 5, 2007, for registration of Applicant's Alleged Mark for Applicant's Goods be refused, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Any fees applicable in connection with the filing of this Opposition may be charged to the USPTO Deposit Account of Opposer's undersigned counsel, Account No. 50-3732.

Respectfully submitted,

KING & SPALDING LLP

A handwritten signature in black ink, appearing to read 'Bruce W. Baber', is written over a horizontal line. The signature is stylized and cursive.

Bruce W. Baber  
Kate Hazelrig

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Attorneys for Opposer  
THE COCA-COLA COMPANY