

ESTTA Tracking number: **ESTTA1184085**

Filing date: **01/12/2022**

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	PepsiCo, Inc.		
Entity	Corporation	Citizenship	North Carolina
Address	700 ANDERSON HILL ROAD PURCHASE, NY 10577 UNITED STATES		

Correspondence information	PAUL A. LEE SENIOR TRADEMARK COUNSEL PEPSICO, INC. 700 ANDERSON HILL ROAD PURCHASE, NY 10577 UNITED STATES Primary email: trademarks@pepsico.com Secondary email(s): paul.lee@pepsico.com, donna.j.sanders@pepsico.com No phone number provided
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**Applicant information**

Application no.	90607986	Publication date	12/14/2021
Opposition filing date	01/12/2022	Opposition period ends	01/13/2022
Applicant	Freedman, Jessica L 272 LEONARD STREET, APT #3 BROOKLYN, NY 11211 UNITED STATES		

**Goods/services affected by opposition**

Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Non-alcoholic mixes used in the preparation of alcoholic cocktails
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**Grounds for opposition**

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

**Marks cited by opposer as basis for opposition**


U.S. registration no.	824150	Application date	09/09/1966
Register	Principal		
Registration date	02/14/1967	Foreign priority	NONE

		date	
Word mark	PEPSI		
Design mark			
Description of mark	NONE		
Goods/services	Class 032. First use: First Use: 1911/11/21 First Use In Commerce: 1911/11/21 SOFT DRINKS AND SYRUPS AND CONCENTRATES FOR THE PREPARATION THEREOF		

U.S. registration no.	1317551	Application date	09/29/1982
Register	Principal		
Registration date	02/05/1985	Foreign priority date	NONE
Word mark	PEPSI		
Design mark			
Description of mark	NONE		
Goods/services	<p>Class 004. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 [ Candles ]</p> <p>Class 006. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 Key Chains</p> <p>Class 009. First use: First Use: 1977/00/00 First Use In Commerce: 1977/00/00 [ Radios and Can Shaped Telephones]</p> <p>Class 011. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 Electric Lamps [ and Charcoal Burning Barbecue Grills ]</p> <p>Class 014. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 Clocks</p> <p>Class 016. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 [ Pencil Cases and ] Pens</p> <p>Class 018. First use: First Use: 1979/00/00 First Use In Commerce: 1979/00/00 Umbrellas</p> <p>Class 020. First use: First Use: 1970/00/00 First Use In Commerce: 1970/00/00 [ Mirrors and Bean Bag Chairs ]</p> <p>Class 021. First use: First Use: 1972/00/00 First Use In Commerce: 1972/00/00 Drinking Glasses, [ Polyurethane Beverage Can Holders, Wastebaskets for Domestic Use, ] Insulated Bags for Food, Beverages and Ice</p> <p>Class 024. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Beach Towels</p> <p>Class 025. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 T-Shirts, Sweatshirts, [ Jeans, Overalls, ] Baseball Caps [ , Knit Hats, Jackets, Aprons and Belts ]</p> <p>Class 026. First use: First Use: 1982/06/00 First Use In Commerce: 1982/06/00 [ Embroidered Patches for Clothing ]</p> <p>Class 028. First use: First Use: 1975/00/00 First Use In Commerce: 1975/00/00 [ Toy Can Banks, Toy Trucks, Toy Railroad Cars, Toy Soda Dispensers and Kaleidoscopes ]</p>		

U.S. registration	1488547	Application date	12/04/1986
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no.			
Register	Principal		
Registration date	05/17/1988	Foreign priority date	NONE
Word mark	PEPSI		
Design mark			
Description of mark	NONE		
Goods/services	Class 025. First use: First Use: 1986/10/00 First Use In Commerce: 1986/10/00 CLOTHING, NAMELY SWEATSHIRTS, SWEAT BOTTOMS, T-SHIRTS, [ SHIRTS, JEANS, SUSPENDER JEANS, JACKETS, PULLOVERS ] AND JERSEYS		

U.S. registration no.	3659286	Application date	10/06/2008
Register	Principal		
Registration date	07/21/2009	Foreign priority date	NONE
Word mark	PEPSI		
Design mark			
Description of mark	The mark consists of the word "PEPSI" in a stylized format.		
Goods/services	Class 032. First use: First Use: 2008/12/00 First Use In Commerce: 2008/12/00 Concentrates, syrups or powders used in the preparation of soft drinks; Soft drinks		

Attachments	77586010#TMSN.png( bytes ) noo pepsi v pepy pl sig.pdf(401815 bytes )
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Signature	/Paul A. Lee/
Name	Paul A. Lee
Date	01/12/2022

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

**IN THE MATTER OF APPLICATION:**

Mark : PEPY  
Applicant : Jessica L. Freedman  
Serial No. : 90/607,986  
Filed : March 28, 2021  
Published in  
the Official Gazette : December 14, 2021

	X	
	:	
PEPSICO, INC.,	:	
	:	
Opposer,	:	Opposition No.
	:	
v.	:	
	:	
JESSICA L. FREEDMAN,	:	
	:	
Applicant.	:	
	X	

**NOTICE OF OPPOSITION**

Opposer, PepsiCo, Inc. ("PepsiCo" or "Opposer"), a North Carolina corporation having a place of business at 700 Anderson Hill Road, Purchase, New York 10577, believes that it will be damaged by the registration of United States Trademark Application Serial No. 90/607,986, filed on March 28, 2021, in the name of Jessica L. Freedman (hereinafter "Applicant") for the mark PEPY based on an intent to use the mark on or in connection with "Non-alcoholic mixes used in the preparation of alcoholic cocktails" in International Class 32, and, having been previously granted an extension of time to oppose, hereby opposes the foregoing application.

The specific grounds for this opposition are as follows:

1. PepsiCo, through its predecessors-in-interest, has been engaged in the beverage business for over 100 years and has become well and favorably known to members of the public, as well as to members of the beverage industry, for quality beverage products and related services. It owns a portfolio of brands that identify carbonated soft drinks, juices and juice drinks, ready-to-drink teas and coffee drinks, isotonic sports drinks, bottled water and enhanced waters, and related products and services, as well as other consumer merchandise.

2. For over a century, PepsiCo has used the PEPSI mark in connection with various beverages and other products, as well as advertising, marketing, sales and promotional services to authorized bottlers and independent distributors and retailers of those products.

3. Since long prior to the filing date of the application-at-issue, PEPSI has been identified with Opposer and has appeared on a tremendous amount of product packaging, advertising, in-store display racks, signage and point-of purchase material.

4. Opposer's products bearing the PEPSI mark are marketed and sold in vast quantities on a nationwide basis, supported by hundreds of millions of dollars of advertising and promotion each year. Opposer's products are sold in almost every supermarket in the United States as well as in mass merchandise stores, numerous convenience stores, vending machines, and other outlets.

5. The extensive commercial acceptance and success of many of Opposer's products bearing the PEPSI mark for many decades is due in large measure to the substantial advertising and marketing efforts of PepsiCo. Such efforts have included the use of celebrities and artists to advance and promote the products. Opposer has, by virtue of such extensive usage, advertising and promotion, built up a very high level of consumer and trade recognition symbolized by its PEPSI mark. Retail sales of beverage products marketed under Opposer's PEPSI mark in the United States alone have exceeded many billions of dollars.

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