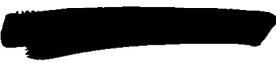


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Mark : HEALING WATERS
Serial No. : 75/804,975
Applicant : Sharon K. Christie
Class : 3
Last Office Action : February 3, 2003


08-04-2003
U.S. Patent & TMO/TM Mail Rpt Dt. #22

**EX PARTE APPEAL FROM EXAMINER OF
TRADEMARKS TO TRADEMARK TRIAL AND APPEAL BOARD**

To the Trademark Trial and Appeal Board:

Applicant Sharon K. Christie hereby appeals to the Trademark Trial and Appeal Board from the decision of the Examiner of Trademarks refusing registration, issued in the Office Action dated February 3, 2003.

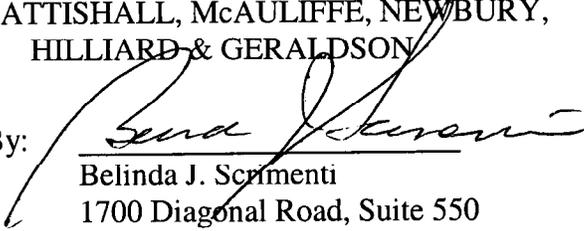
The \$100.00 filing fee is enclosed herewith.

Respectfully submitted,

PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON

August 4, 2003

By:


Belinda J. Schimenti
1700 Diagonal Road, Suite 550
Alexandria, VA 22314
(703) 684-7550 telephone
(703) 684-7888 facsimile

08/14/2003 ZCLIFT01 00000193 75804975

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Attorneys for Applicant

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

In Re Mark : HEALING WATERS
Serial No. : 75/804,975
Applicant : Sharon K. Christie
Class : 3

REQUEST FOR SUSPENSION OF APPEAL PROCEEDINGS

To the Trademark Trial and Appeal Board:

Contemporaneously herewith, Applicant has filed its *Ex Parte* Appeal from the Examiner of Trademarks to the Trademark Trial and Appeal Board. Applicant has also filed contemporaneously a Petition for Cancellation of Registration No. 2,460,222 with the Trademark Trial and Appeal Board, a copy of which is attached hereto as Exhibit 1. On this date, Applicant also filed with the Trademark Examining Operation, a Response to Office Action, a copy of which is attached hereto as Exhibit 2.

Accordingly, Applicant requests that this matter be returned to the Trademark Examining Division for official action on the Response and further requests that the Trademark Trial and Appeal Board suspend this proceeding, including the 60-day deadline for filing Applicant's appeal brief, pending a decision by the Examining Attorney and resolution of the Cancellation Proceedings.

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

In Re Registration No. 2,460,222

Mark: HEALING WATERS

Registration Date: June 12, 2001

SHARON K. CHRISTIE,)

Petitioner,)

vs.)

ENCHANTE ACCESSORIES, INC.,)

Registrant.)

Cancellation No. _____

PETITION FOR CANCELLATION

Sharon K. Christie, a United States individual located at 171 East Second Street, Huntington Station, New York 11746, believes that she is and will continue to be damaged by the maintenance of Registration No. 2,460,222 in the name of Enchante Accessories, Inc. ("Registrant") on the Principal Register and hereby petitions to cancel the same.

As grounds for cancellation, Petitioner alleges:

1. Petitioner, herself and/or through her related company, California Fragrance Company d/b/a Aromafloria, has been selling various cosmetics and bath product goods under the mark HEALING WATERS in interstate commerce in the United States since at least as early as July 1998.

2. Petitioner, herself and/or through her related company, California Fragrance Company d/b/a Aromafloria, has continuously advertised and marketed her aforementioned goods in connection with the mark HEALING WATERS since well before Registrant used or filed its

application for the identical mark.

3. Petitioner filed an application based on use for the HEALING WATERS mark, Serial No. 75/804,975, claiming a first use date now amended to "at least as early as July 1998" for the following goods, as amended pursuant to examining attorney requirements: "Skin hydrating spray mist, bath and body gel, massage oil, bath and body creams, body and facial lotions, perfumes and colognes, sachets, body scrubs, non-medicated bath salts, aromatherapy scented bath beads, skin and bath soaps, and essential oils for personal use," in International Class 3.

4. The Registration No. 2,460,222 sought to be cancelled herein has been cited as a bar against Petitioner's application to register HEALING WATERS. (Examining Attorney's Office Action with Final Refusal, dated February 3, 2003).

5. The Registration No. 2,460,222 sought to be cancelled herein, according to U.S. Patent & Trademark Office records, is currently owned by Enchante Accessories, Inc., a New York Corporation located at 4 East 34th Street, New York, New York 10016; to the best of Petitioner's knowledge, there has not been any assignment of said registration.

6. The application for Registration No. 2,460,222 for the mark HEALING WATERS was filed on March 25, 1999 based on an intent to use the mark.

7. Registrant later claimed a first use date of September 1, 1999 of the mark HEALING WATERS in connection with "cosmetics, namely, body lotion, bath gel, bath wash" in International Class 3.

8. Petitioner is the owner of prior rights to the HEALING WATERS mark based on her use of the mark dating back to "at least as early as July 1998," well before the filing date of Registrant's intent to use application and Registrant's subsequent commencement of use.

9. Registrant's mark has been used and registered without Petitioner's consent or permission.

10. The two marks at issue are identical and cover similar and identical goods. The goods are sold and marketed in similar channels of trade. The Registration No. 2,460,222 for the mark HEALING WATERS is likely to cause confusion, mistake or deception in that consumers are likely to believe that Registrant's goods are Petitioner's goods, or that its goods are in some way connected with, licensed or approved by Petitioner.

11. Petitioner is being damaged by the registration of HEALING WATERS, Registration No. 2,460,222, both by virtue of the bar to Petitioner's own registration of the identical mark and by the likelihood of confusion in the marketplace.

12. Absent cancellation of Registrant No. 2,460,222, Petitioner will continue to be damaged by the aforesaid Registration.

Petitioner herein submits the requisite filing fee in the amount of \$300.00. Please debit any deficiency or credit any overpayment to Account No. 16-0650.

Please address all correspondence to Belinda J. Scrimenti at Pattishall, McAuliffe,
Newbury, Hilliard & Geraldson, 1700 Diagonal Road, Suite 550, Alexandria, Virginia 22314;
telephone number (703) 684-7550, facsimile number (703) 684-7888.

PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON

Date: August 4, 2003

By: 

Belinda J. Scrimenti
1700 Diagonal Road
Suite 550
Alexandria, Virginia 22314
(703) 684-7550 telephone
(703) 684-7888 facsimile

Attorneys for Petitioner

PATTISHALL, MCAULIFFE, NEWBURY, HILLIARD & GERALDSON

ATTORNEYS AT LAW

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BELINDA J. SCRIMENTI
(703)684-7550
bscrimentl@pattishall.com

August 4, 2003

VIA HAND DELIVERY

Commissioner for Trademarks
U.S. Patent & Trademark Office
2900 Crystal Drive
Arlington, Virginia 22202-3513
BOX RESPONSES NO FEE

Re: U.S. Trademark Application Serial No. 75/804,975
for HEALING WATERS
Class: 3
Applicant: Sharon K. Christie
Our Ref No.: 01019 - 00013

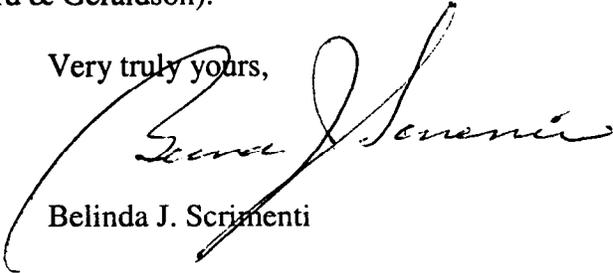
Dear Commissioner:

On behalf of the Applicant, Sharon K. Christie, enclosed in connection with the captioned application are:

1. A Response to Office Action; and
2. Declaration Re Amendment of Dates of First Use.

Please charge any deficiencies in fees submitted to our deposit account, number 16-0650 (Pattishall, McAuliffe, Newbury, Hilliard & Geraldson).

Very truly yours,



Belinda J. Scrimenti

BJS/kep
Enclosures

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK EXAMINING OPERATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Sharon K. Christie
Mark : HEALING WATERS
Class : 3
Serial No. : 75/804,975
Filed : September 23, 1999
Examiner : Linda A. Powell
Law Office : 106
Last Action : February 3, 2003

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513
BOX RESPONSES NO FEE

**RESPONSE TO OFFICE ACTION
AND REQUEST FOR RECONSIDERATION**

Applicant respectfully submits the following response to the Examining Attorney's Office Action dated February 3, 2003 in connection with the application for the above-referenced mark ("Applicant's Mark").

AMENDMENT

Applicant amends its dates of first use in accordance with Rule 2.71(c), and supported by the attached Declaration under Rule 2.20. The amended dates of use shall read as follows:

The trademark was first used on or in connection with the goods at least as early as July 1998; was first used on or in connection with the goods in interstate commerce at least as early as July 1998; and is now in use in such commerce.

RESPONSE TO LIKELIHOOD OF CONFUSION REFUSAL

The February 3, 2003, Office Action set forth a final refusal on the one remaining issue – a Section 2(d) refusal, citing Registration No. 2,460,222 for HEALING WATERS against this application as being likely to cause confusion. Contemporaneously herewith, Applicant has filed the following:

- 1) Petition for Cancellation of registration No 2,460,222 for the HEALING WATERS registration;
- 2) *Ex Parte* Appeal; and
- 3) Request for Suspension of Appeal Proceedings pending resolution of the cancellation action.

CONCLUSION

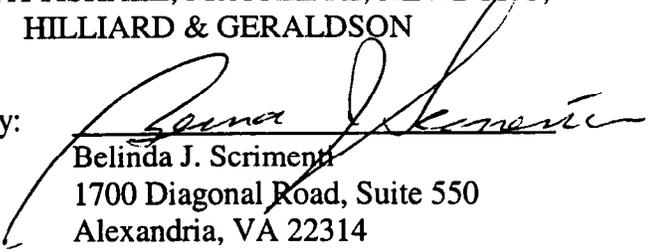
For these reasons, Applicant respectfully requests that the Examining Attorney suspend this application until the Petition for Cancellation has been concluded, and at that time, reconsider this application.

Respectfully submitted,

PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON

August 4, 2003

By:


Belinda J. Scrimanti
1700 Diagonal Road, Suite 550
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(703) 684-7550 telephone
(703) 684-7888 facsimile

Attorneys for Applicant

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK EXAMINING OPERATION

Mark : HEALING WATERS
Serial No. : 75/804,975
Applicant : Sharon K. Christie
Class : 4
Office Action Date : February 3, 2003

TO THE ASSISTANT COMMISSIONER FOR TRADEMARKS:

DECLARATION RE AMENDMENT OF DATE OF FIRST USE

Applicant amends its dates of first use and first use in commerce to read as follows:

The trademark was first used on the goods at least as early as July 1998;
was first used on the goods in interstate commerce at least as early as July
1998; and is now in use in such commerce.

Applicant bases such amendment upon additional research into the earliest use of the
mark on the goods, supported by documentation reviewed by the undersigned.

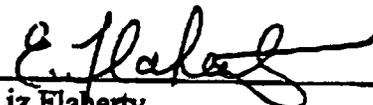
DECLARATION

The undersigned being hereby warned that willful false statements and the like so made
are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful
false statements may jeopardize the validity of the application or any resulting registration,
declares that she is a person with firsthand knowledge of the facts set forth herein, and has actual

or implied authority to act on behalf of the applicant in the referenced matter; she believes the applicant to be the owner of the trademark sought to be registered; to the best of her knowledge and belief no other person, firm, or corporation or association has the right to use the above identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods or services of such other person, to cause confusion, or to cause mistake or to deceive; and all statements made of her own knowledge are true and all statements made on information and belief are believed to be true.

SHARON K. CHRISTIE

DATE: August 4, 2003

By: 
Liz Flaherty

TYAB

PATTISHALL, MCAULIFFE, NEWBURY, HILLIARD & GERALDSON

ATTORNEYS AT LAW

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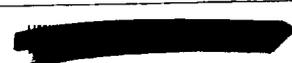
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bscrimenti@pattishall.com



August 4, 2003



BY HAND DELIVERY

Commissioner for Trademarks
U.S. Patent and Trademark Office
2900 Crystal Drive
Arlington, VA 22201-3513
BOX TTAB FEE

08-04-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

Re: Mark: HEALING WATERS
Serial No. 75/804,975
Applicant: Sharon K. Christie
In International Class 3

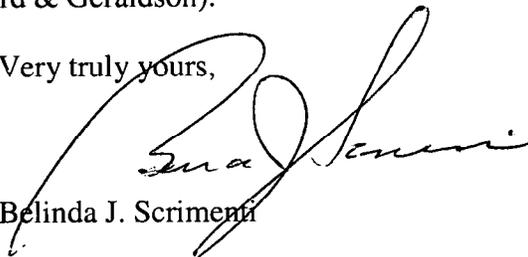
Dear Commissioner:

On behalf of our client, Sharon K. Christie, enclosed are:

1. An *Ex Parte* Appeal From Examiner of Trademarks to Trademark Trial and Appeal Board;
2. Request for Suspension of Appeal Proceedings; and
3. Our check in the amount of \$100.00 for the filing fee of the suspension of appeal.

Please charge any deficiencies in fees submitted to our deposit account, No. 16-0650 (Pattishall, McAuliffe, Newbury, Hilliard & Geraldson).

Very truly yours,


Belinda J. Scrimenti

BJS/dng
Enclosures

cc: Sharon K. Christie