



7. Applicant admits that it filed Application Serial No. 76/060,474 on May 31, 2000, seeking registration of the ASSOLUTI! (Stylized) trademark for "paper products, namely, paper plates and paper cups," in International Class 21; "cheese, canned tomatoes, tomato paste, tomato puree, olive oil, cooking oil, shortening, fresh and frozen meats, luncheon meats, frozen french fried potatoes," in International Class 29; "flour, pasta, and tomato sauce," in International Class 30; "unprocessed mushrooms," in International Class 31; and "cooking wine," in International Class 33. Applicant admits its application was published for opposition. Applicant denies the remaining allegations in Paragraph 7.

8. Applicant denies the allegations of Paragraph 8.

9. Applicant denies the allegations of Paragraph 9.

10. Applicant denies the allegations of Paragraph 10.

11. Applicant denies the allegations of Paragraph 11.

#### **AFFIRMATIVE DEFENSES**

12. Applicant repeats and realleges his Answer in Paragraphs 1 through 11 as though fully set forth herein.

13. The Notice of Opposition fails to state a claim for which relief may be granted.

14. Applicant owns U.S. Registration No. 1,849,491, for a mark identical to the mark now being opposed, ASSOLUTI! (Stylized) for "cheese" in International Class 29. In addition, Registration No. 1,849,491 for ASSOLUTI! (Stylized) has achieved incontestible status under 15 U.S.C. §§ 1065 and 1115(b). A copy of the Registration is attached hereto as Exhibit A.

15. Applicant alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's ASSOLUTI! (Stylized) mark and the pleaded ABSOLUT mark of Opposer are not confusingly similar considering that the marks differ in pronunciation, appearance and overall commercial impression, namely, the two marks sound different;

different; Applicant's mark ASSOLUTI! (Stylized) is four syllables, and is dominated by a soft "s" sound at the beginning, and ends with a long "e" sound, where as Opposer's pleaded ABSOLUT mark is dominated by a hard "b" sound at the beginning, and ends with a hard "t" sound; Applicant's ASSOLUTI! (Stylized) mark is in stylized typeface and includes a design while the Opposer's ABSOLUT mark is in plain typeface; Applicant's mark, in which there is an underline originating as the cross-piece to the letter A and ending with an exclamation point, conveys an overall commercial impression of a catchy, exclaimed Italian sounding word, while Opposer's pleaded mark, in which ABSOLUT is the only feature, gives an overall commercial impression of Nordic dependability and soundness.

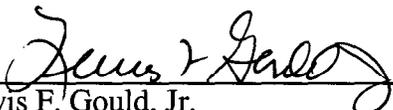
16. Applicant alleges that Opposer's mark ABSOLUT is not confusingly similar to Applicant's ASSOLUTI! (Stylized) mark because, *inter alia*, the marks are used on different types of products, namely, Opposer's marks, on information and belief, are used on vodka, clothing, educational services, jewelry, and magazines, while Applicant's mark is used on cheese, paper products, canned tomatoes, flour, pasta, and unprocessed mushrooms.

17. Opposer's claims are barred by laches, estoppel, and acquiescence.

### **PRAAYER FOR RELIEF**

WHEREFORE, Applicant prays that the Opposition be dismissed, and that a Certificate of Registration be issued to Applicant for its ASSOLUTI! (Stylized) mark.

Respectfully submitted,

  
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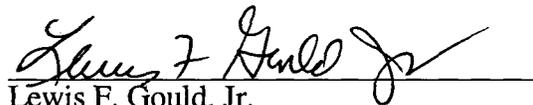
Attorney for Applicant

Attorney Docket No. D4952-00042

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES was served on this 7th day of February, 2002 via first class mail, postage prepaid and addressed to:

**Robert W. Zelnick  
MCDERMOTT, WILL & EMERY  
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

U.S. Trademark Application Serial No. 76/060,474  
For the Trademark: ASSOLUTI! (Stylized)

V&S VIN & SPRIT AKTIEBOLAG,  
Opposer,

v.

LOUIS G. PIANCONE,  
Applicant.

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:  
: **OPPOSITION NO. 124,412**  
:  
:  
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CERTIFICATE UNDER 37 CFR 1.8(a)  
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DATE: February 7, 2002

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Assistant Commissioner for Trademarks  
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**TRANSMITTAL LETTER**



Sir:

02-11-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #34

Please find enclosed for filing:

- Answer to Notice of Opposition and Affirmative Defenses
- Please charge any additional fees to Deposit Account No. 04-1679. This Transmittal Letter is submitted in duplicate.

Respectfully Submitted,

Dated: February 7, 2002

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