



Illinois 60609, believes it will be damaged by the registration of the mark shown in the application and hereby opposes same against only the Class 3 goods covered by the application.

The grounds for the opposition are:

1. Continuously since long prior to June 8, 2004, the Applicant's filing date for its application, the Opposer has marketed, advertised and sold and continues to sell throughout the United States under the names and marks **PINK** and **PINK PROTECTION** for an extensive range of hair care and personal care products.

2. Opposer's products sold under the above names and trademarks **PINK** and **PINK PROTECTION** have been extensively promoted throughout the United States to the relevant trade and to the consuming public.

3. By reason of Opposer's aforesaid extensive promotion and sale of its products, Opposer's names and trademarks **PINK** and **PINK PROTECTION** have acquired great recognition and renown, and the relevant trade and public have come to recognize the names and trademarks **PINK** and **PINK PROTECTION** as signifying Opposer exclusively.

4. Opposer has duly registered in the United States Patent and Trademark Office and owns the following registrations:

<u>REGISTRATION NUMBER</u>	<u>TRADEMARK</u>
1,503,517	<b>PINK PROTECTION</b>
1,511,336	<b>PINK</b>
1,649,218	<b>PINK</b>
1,864,492	<b>PINK</b>

5. Each of the registrations referenced in paragraph No. 4 for the above marks are valid subsisting registrations in full force and effect. Furthermore, Registration No. 1,649,218 has achieved "**incontestable**" registration status thereby constituting conclusive prima facie evidence of Opposer's exclusive right to use said mark in commerce.

6. Applicant's claimed trademark **VICTORIA'S SECRET PINK and Design**, with the greatest emphasis for the wording in the application on the word mark **PINK**, as proposed for use in connection with the identified extensive range of hair care, skin care and personal care products set forth in the application, is so similar to Opposer's names and trademarks **PINK** and **PINK PROTECTION** used for a wide range of hair care and personal care

products, as to be likely to create confusion, mistake or deception, all to the damage of Opposer, and to the damage of Opposer's rights in its names and trademarks, which names and marks have been in use long prior to the filing of the Applicant's trademark application.

7. The hair care products sold by Opposer would be identically described to hair care products identified in the Applicant's application. Furthermore, products identified in Opposer's identified hair care registration(s) would include within the description items identified in the Applicant's application.

8. Based upon information and belief the goods identified in the Applicant's application for the trademark **VICTORIA'S SECRET PINK and Design** and those products sold under the Opposer's names and marks could be sold to the same potential consumers or end-users as the Opposer's products.

9. Based upon information and belief the goods identified in the Applicant's application for the trademark **VICTORIA'S SECRET PINK and Design** and those products sold under the Opposer's names and marks could move through the same channels of

distribution and be sold in the same stores or in stores selling competing items.

10. Opposer holds rights in a family of trademarks which include the name and mark **PINK** as a name and mark, or as part of an overall name and mark with said marks often promoted together. The Applicant's mark **VICTORIA'S SECRET PINK and Design** is thereby confusingly similar to the Opposer's rights in its family of marks.

11. The Applicant filed the underlying application, on information and belief, with actual knowledge of the Opposer's name and mark **PINK** and after receiving written cautionary communications from representatives of the Opposer.

12. Use by the Applicant of the trademark **VICTORIA'S SECRET PINK and Design**, for which registration is sought in the application opposed herein, is without Opposer's consent or permission.

13. The greatest emphasis in terms of size and appearance for the wording in the application is on the word mark **PINK**, which fact further heightens the likelihood of confusing similarity between marks at issue.

14. Applicant's registration of the trademark **VICTORIA'S SECRET PINK and Design** will result in damage and in the diminishment in sales and the loss of the value of the Opposer's names and marks.

15. Applicant, based upon information and belief, has not used the mark **VICTORIA'S SECRET PINK and Design**. Applicant's earliest available possible priority date for the mark **VICTORIA'S SECRET PINK and Design** is the filing date for its application, specifically June 8, 2004.

16. Applicant's registration of the trademark **VICTORIA'S SECRET PINK and Design** will result in damage, dilution, and in the diminishment in sales and the loss of the value of the Opposer's famous names and marks.

WHEREFORE, Opposer believes it will be damaged by the registration of the claimed trademark in Application Serial No. 76/596,083 as against International Class 3 only and prays that this Opposition be sustained and that the Applicant's registration be denied.

This Notice of Opposition is being filed in duplicate and the required fee is enclosed as against and limited to Class 3

only. Please charge any additional costs to our Ladas & Parry  
Deposit Account No. 12-0400.

Please address all correspondence to Burton S. Ehrlich,  
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60604, telephone (312) 427-1300.

Respectfully submitted,

By:

  
One of Opposer's attorneys

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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited  
(in duplicate) with the United States Postal Service as First  
Class Mail addressed to ATTN: TTAB-FEE, Commissioner for  
Trademarks, U.S. Trademark Office, P.O. Box 1451, Alexandria, VA  
22313-1451 on February 8, 2006.

  
Burton S. Ehrlich