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April 2, 2009

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
Madison East, Concourse Level  
Room C55  
600 Dulany Street  
Alexandria, VA 22314

*Via UPS Overnight Express Delivery*

**Re: Notice of Opposition**

Application Serial No. 77179925

Mark: *The Waterford Crystal Pavilion*

Applicant: Waterford Wedgwood, PLC

Published in the Official Gazette on March 10, 2009

To Whom It May Concern:

On behalf of our client, Keith C. Clark, applicant for registration on the Principal Register for the mark *Waterford*, Serial No. 77331438, Class 43, transmitted herewith is an original and one copy of a Notice of Opposition, together with exhibits, in connection with the above-captioned mark *The Waterford Crystal Pavilion*.

Also transmitted herewith is the requisite \$300.00 filing fee in connection with the Notice of Opposition as to Class 43 only.

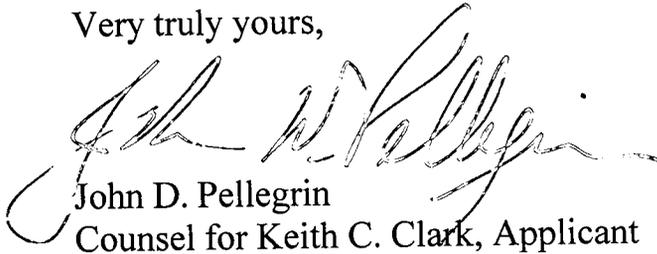


**04-03-2009**

A post card receipt confirmation is also submitted herewith.

Should you have any questions concerning this submission, please communicate directly with undersigned counsel.

Very truly yours,



John D. Pellegrin  
Counsel for Keith C. Clark, Applicant

cc w/encls.:

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Examining Attorneys:

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Alexandria, VA 22314  
Counsel for Waterford Wedgwood, PLC

*Of Counsel to Moran Monfort, P.L.C.*

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

**NOTICE OF OPPOSITION**

|                                       |   |                                             |
|---------------------------------------|---|---------------------------------------------|
| Keith Clark,<br>Opposer               | ) | Opposition No. _____                        |
|                                       | ) |                                             |
| vs.                                   | ) | Application Serial No. 77179925             |
|                                       | ) |                                             |
| Waterford Wedgwood, PLC,<br>Applicant | ) | Mark: <i>The Waterford Crystal Pavilion</i> |
|                                       | ) | Published in the Official Gazette on        |
|                                       | ) | March 10, 2009                              |

Opposer, Keith C. Clark ("Clark"), a resident of the Commonwealth of Virginia, currently doing business at Waterford at Springfield, 6715 Commerce Street, Springfield, Virginia 22150 and Waterford at Fair Oaks, 12025 Lee Jackson Memorial Highway, Fairfax, Virginia 22033, believes Opposer will be damaged by registration of the above-captioned mark *The Waterford Crystal Palace* and hereby opposes same.<sup>1</sup> WW's mark has been published for opposition in the Trademark Official Gazette of the United States Patent and Trademark Office on March 10, 2009. The opposition period expires April 9, 2009. Waterford Wedgwood, PLC ("WW") applied for the above-captioned mark on May 14, 2007, solely on a 1(b) Intent to Use Basis. In support of this Opposition,

04/07/2009 SWILSON1 00000003 77179925  
the following is submitted:  
01 FC:6402 300.00 IP

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<sup>1</sup> The required filing fee of \$300.00 is submitted herewith, covering Opposer's Opposition to WW's registration in International Class 43 only.

1. *Opposer's Application History.* Opposer Clark, initially through Waterford Receptions, LLC (in which Clark has an equity interest and is Managing Member), filed for registration on the Principal Register for the mark *Waterford* on November 11, 2007 (Serial No. 77331438) on a 1(a) Use in Commerce Basis. Opposer's mark covers "Providing of conference facilities; providing social functions facilities for special occasions, in Class 43." An amendment/assignment of the trademark to Clark was duly noted on the USPTO's records. The mark *Waterford* in connection with these conference/social functions facilities and related catering services has been in use consecutively for some nine (9) years now (since mid-2000).

2. *History of These Two Applications.* WW filed for registration of its mark *The Waterford Crystal Pavilion* in multiple Classes with a smorgasbord of services to be covered by one mark (some five Classes in all, including Class 35 – advertising and marketing services; business management services; real estate sales management of mixed-use real estate complexes, containing various combinations of retail, office, hotel, entertainment, food ...facilities; general merchandise, souvenirs, novelty, gift, clothing; web sites, et al.; Class 39 – transportation and storage of goods; travel tour arrangements; rental of strollers and wheel chairs, cars, et al.; Class 41 – entertainment and amusement services in nature of planning movies, concerts, night clubs, et al.; Class 45 – personal concierge services for others; security guard services for shopping centers, et al.).

3. WW's filing for Class 43, to which Opposer specifically objects, is set forth as "Services for providing food and drink; restaurant services, cafes; snack bars; food bars; temporary accommodation, temporary accommodation reservations; hotel services, hotel reservations; advisory and information services relating to the aforesaid.". WW is only proposing to use this mark; i.e., WW filed for registration solely on an Intent to Use basis, while Clark has been continuously using this mark in commerce for some nine years. WW filed its application well after Clark placed the mark *Waterford* into commerce for conference/social functions facilities. As such, Clark has the exclusive right to use such mark in Class 43 for the described purposes.

4. The Examining Attorney with respect to WW's application has had great difficulty with processing it – witness the numerous Office Actions and rejections of WW's arguments in furtherance of its application, and WW's own request that processing/review of its application be suspended.

5. By contrast to lengthy review and initial rejection of WW's mark by the USPTO's Examining Attorney (reasons for rejection remain salient), as to Opposer's mark only routine Examining Attorney questions were asked of the applicant (now answered and resolved), including an amicable resolution with an allegedly confusingly similar mark pending registration – i.e., *Waterford of the Carolinas*. The agreed-to written resolution was duly filed with the USPTO on behalf of both applicants. The only impediment to registration of Clark's mark then is the Examining Attorney stating it could not be further processed until

outstanding issues were resolved with WW's pending application. This gives Opposer standing to object to WW's application for registration, for without filing this Objection, the USPTO would proceed towards registration of WW's competing application in Class 43.

6. *Bankruptcy of WW.* It is a matter of public record that WW has since submitting its trademark application filed for bankruptcy protection under the respective laws of the Republic of Ireland and England – this occurring in late 2008/early January, 2009. (see attached Exhibit/Press Release) No notice to the USPTO nor amendment by WW appears to have been filed, despite 15 U.S.C. Sect. 1060(a)(1) and Sect. 1051(b), (c) and (d) [501.01(a)] and requirements/restrictions vis-à-vis Intent to Use applications. The general rule would seem to require that an applicant maintain all relevant information in connection with a pending application current. How this bankruptcy and/or any purported sale to a newly formed company (apparently WWRD Holdings Ltd. – see attached Exhibit), impacts on the continued prosecution of WW's application for registration is an open question/concern. Assignments of mere Intent to Use applications are not generally contemplated by the USPTO. WW's bankruptcy and purported sale/transfer of assets does call into question whether WW still has a bona fide intent to use its proposed mark. In any event, Opposer is concerned such bankruptcy and the negative impact/stigma attached thereto may redound to Opposer's detriment if registration of WW's mark is allowed. Suggesting a connection between WW or any successor in interest with Opposer in the minds of

the consuming public may well result. This is of particular concern since Opposer plans to expand use of the mark for similar conference/social functions/catering facilities in other geographical areas and locations both within and outside Virginia. Thus, Opposer believes registration of WW's mark may also be refused under Lanham Act Sec. 2(a), 15 U.S.C.A. Sec. 1052(a), in addition to the other above-cited provisions.

7. *Further Potential Damages to Opposer if WW's Mark is Registered.*

Opposer will further demonstrate below how it would likely be damaged by such registration, including possible confusion as to the source of the services/goods being currently supplied by Opposer and those proposed by WW, dilution of the brand which Opposer has built up over the approximate nine years of continued use of its mark *Waterford* in connection with conference/social functions and catering facilities. Thus, the likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C.A. Sec. 1052(d), is present.

8. *Prior Continued Use by Opposer Warrants Rejection of & Refusal to Register WW's Mark.* As noted above, Opposer has been actively/continuously using (without abandonment), the mark *Waterford*, both as a mark and in connection with its trade name, trade dress and advertising, without objection, for some nine (9) years – well before WW even applied for *The Waterford Crystal Pavilion* mark on a mere Intent to Use basis. Opposer's extensive and continuous use in connection with the conference/reception/catering facilities in these contexts is analogous to trademark use, sufficient to prevent registration of WW's

mark in any competitive setting. The mark and trade name/dress of Opposer is symbolic of extensive good will and consumer recognition built upon over these many years by Opposer. Substantial time and effort in advertising and promotion continues to be expended by Opposer to further brand identification and value to the business. As such, WW's mark should be refused registration in Class 43, based on Opposer's continued use for almost a decade and Opposer's priority of use/claim to the mark in this Class. (See *Fossil, Inv. v. Fossil Group*, 49 U.S.P.Q.2d 1451 (T.T.A.B. 1998)).

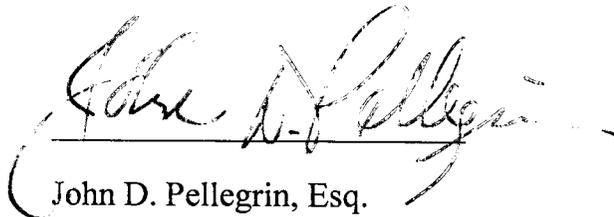
9. *WW's Mark Merely Descriptive.* WW's mark also appears to suffer under Sec. 2(e) of the Lanham Act, 15 U.S.C.A. Sec. 1052(e), in that WW's mark is merely descriptive or deceptively misdescriptive. Opposer is concerned that WW's mark, if registered and actually placed into commerce, will interfere with Opposer's right to use its own mark.

10. *Possible Dilution of Opposer's Mark.* An additional ground for opposition includes possible dilution of Opposer's mark in violation of Lanham Act Sec. 43(c), 15 U.S.C.A. Sec. 1043(c). Again, Opposer has continuously used the mark *Waterford* for some nine years, while WW only intends to use its mark some time in the indeterminate future, if ever.

WHEREFORE, Opposer respectfully requests that said Application Serial No. 77179925 be rejected by the USPTO, that no registration be issued thereon to

applicant, and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,



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Dated: April 2, 2009

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JANUARY 5, 2009, 10:38 P.M. ET

# Waterford Wedgwood Succumbs

*Crystal and China Maker Files for Insolvency as Lenders Lose Patience*

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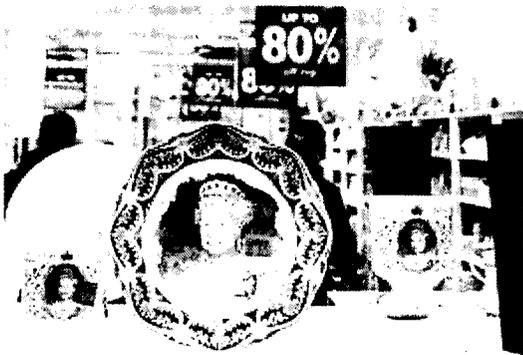
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By JEANNE WHALEN

LONDON -- One of the world's best-known makers of fine crystal and ceramics, Waterford Wedgwood PLC, has succumbed to the credit crunch.

Having struggled for years to revive its brands amid growing competition from more modern, less-expensive tableware, the heavily indebted company filed for insolvency administration Monday after failing to win a reprieve from lenders. The company's owners, led by prominent Irish investor Sir Anthony O'Reilly, had been racing to find a private-equity buyer but weren't able to close a deal in time to satisfy the banks.



Reuters

Crockery showing portraits of Britain's Queen Elizabeth II is seen on sale at the Wedgwood factory shop in Stoke on Trent, England on Monday. Ireland's Waterford Wedgwood, whose luxury tableware was once a mainstay of wedding gift lists worldwide, said on Monday it had called in receivers after failing to buy more time from creditors

Chief Executive David Sculley said he still hoped the administrators would find a new owner who would keep making the company's iconic products, which include Waterford crystal and the Wedgwood and Royal Doulton china patterns. But the company's 7,700 employees in the United Kingdom, Ireland, Indonesia and elsewhere face an uncertain future.

"We are consoled only by the fact that everything that could have been done ... was done," Sir Anthony, who has invested tens of millions of euros in the company over the past two decades, said in a prepared statement.

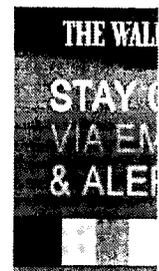
Waterford Wedgwood's fate illustrates the difficulties facing many heavily indebted companies as consumers retrench and embattled banks seek to dial back risk by cutting off credit lines. A number of U.K. retailers, including Woolworths PLC, have been forced into the British form of bankruptcy in recent weeks. Meanwhile, European companies have a mountain of debt coming due. Some \$800 billion in European corporate bonds will mature in 2009, according to a recent report from ratings service Standard & Poor's. Even those companies that are able to get new financing will face much higher borrowing costs than they would have months ago.

Dublin-based Waterford Wedgwood was formed through the 1986 merger of Ireland's Waterford Glass Group and Britain's Wedgwood. Both companies trace their roots to the 18th century. Josiah Wedgwood, an entrepreneur born to a family of potters, founded the ceramics maker in 1759 in central England, while Waterford was founded in 1783 in the eponymous Irish port.

The company has long struggled to stay profitable, burdened by the high cost of producing its unique tableware as consumer tastes were shifting to simpler, contemporary plates and glasses from low-cost retailers such as Target in the U.S. and Habitat in the U.K.

In 1990, investors led by Sir Anthony, who was then chairman of H.J. Heinz Co., bought a large stake in Waterford Wedgwood and attempted to turn it around. The company shifted about 1,500

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manufacturing jobs to Indonesia to cut costs. It also linked up with designers such as Marc Jacobs and Vera Wang to roll out sleeker, more modern styles of tableware and enlisted Sarah Ferguson, the Duchess of York, as a spokeswoman. But in recent years a weakening dollar reduced the value of the company's sales in the U.S., which is Waterford Wedgwood's most important market. The company hasn't turned a profit in several years.

Waterford Wedgwood's most recent troubles began in early December, when the company missed a payment on some of the €400 million, or about \$550 million, in debt it has accumulated over the years. The default, together with other violations of the company's debt agreements, allowed other creditors to demand their money back immediately. A group of lenders led by Bank of America Corp. granted the company four separate grace periods in December on a €200 million credit line as it sought to find a buyer. But the last grace period expired Friday, and the lenders refused to wait any longer, triggering Monday's filing for administration.

A Bank of America spokeswoman said Waterford Wedgwood was "in breach of multiple covenants." Sir Anthony and his partners own about 70% of the company, with Lazard Alternative Investments LLC owning about 18%. The rest traded on the Irish Stock Exchange until it was delisted Monday.

Stuart Slavid, director of fine ceramics at the Boston auctioneer Skinner Inc., said the potential closing of Wedgwood factories wouldn't have much effect on collectors of the ceramics because collectors generally look for older, limited-edition pieces.

Waterford Wedgwood said Monday that officials from Deloitte Touche Tohmatsu have been appointed administrators of the company's units in the U.K., and receivers of the parent company and some subsidiaries in Ireland. Deloitte administrator Angus Martin said in a prepared statement that the Deloitte team would "ensure operations continue whilst a sale of the business is sought."

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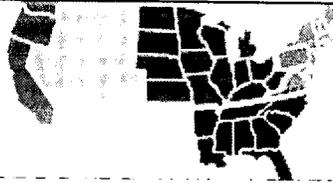
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## Waterford Wedgwood files for bankruptcy

**The British glassmaker filed for bankruptcy protection after it was unable to pay off its debt.**

By Jim Boulden  
January 5, 2009: 8:23 AM ET

LONDON, England (CNN) -- Fine china and glasswork maker Waterford Wedgwood PLC has called in a receiver - the British equivalent of bankruptcy.

The company said its receiver will be the international accounting firm Deloitte, and added it will announce later Monday which of its Irish and U.K. subsidiaries will be put into administration.

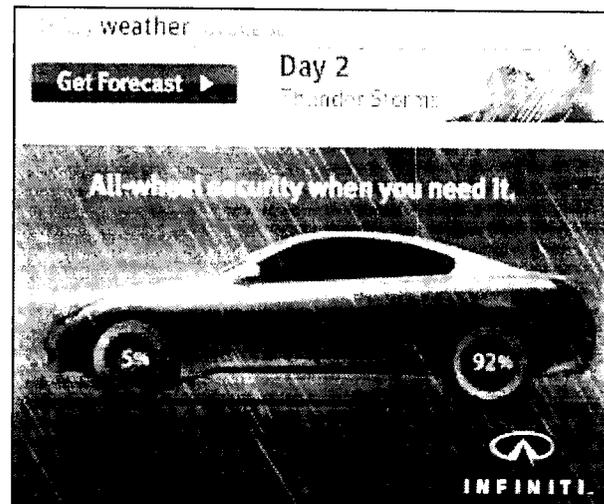
The announcement was made in a statement Monday morning to the London Stock Exchange.

Receivership and administration are forms of bankruptcy protection. The administrator can choose to try and keep parts of the company operating or sell off the brands, shutting down the company. The aim is to find the most profitable way to pay creditors.

Waterford Wedgwood can trace its roots back to the 18th century, when glass blown in the Irish port of Waterford became a popular export and Josiah Wedgwood began to make affordable fine china in the British midlands.

The two well-known brands merged in 1986, but had suffered losses in each of the past three years. Waterford has been laying off employees in southeast Ireland since 2007, having moved much of its production to Slovenia. The company also has a ceramics plant in Jakarta, Indonesia. The group also includes the brands' Royal Doulton and Rosenthal porcelain.

In December the company announced it could no longer pay its debt obligations to a consortium of lenders, headed by Bank of America. (BAC, [Fortune 500](#)) Waterford Wedgwood was given two periods of 'forbearance' in December by the banks, giving it more time to find a buyer or a cash injection. That



grace period ended on Monday.

Waterford Wedgwood is controlled by well-known Irish aristocrat Tony O'Reilly. In the company's announcement to the London Stock Exchange, O'Reilly said "We are consoled only by the fact that everything that could have been done, by management, and by the board, to preserve the Group, was done."

The company says its main markets are the United States, Britain and Germany, with a growing exposure in Asia and Eastern Europe. ■

**Find this article at:**

[http://money.cnn.com/2009/01/05/news/companies/wedgwood\\_bankruptcy](http://money.cnn.com/2009/01/05/news/companies/wedgwood_bankruptcy)

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Thursday, March 26, 2009

## KPS Capital Partners Acquires Certain Assets of Waterford Wedgwood

Comtex

NEW YORK, March 26, 2009 /PRNewswire via COMTEX/ ----KPS Capital Partners, LP ("KPS") announced today the acquisition of certain assets of Waterford Wedgwood Plc (together with all subsidiaries, "Waterford Wedgwood"), through a newly formed company, WWRD Holdings Limited ("WWRD Holdings or the "Company"). Financial terms of the transaction were not disclosed.

The transaction is global in scale, involving the purchase of certain Waterford, Wedgwood and Royal Doulton assets in the United Kingdom, the United States and Canada; the purchase of intellectual property in Ireland; and the purchase of the shares of certain Waterford Wedgwood subsidiaries, including in Japan, Indonesia, Hong Kong, Taiwan, Singapore and Australia.

KPS also announced that Pierre de Villemejeane has been named Chief Executive Officer of WWRD Holdings. Mr. de Villemejeane was previously Chief Executive Officer of Speedline Technologies, Inc., a KPS portfolio company, prior to its succe... Speedline, Mr. de Villemejeane held a number of management positions in the United Kingdom and France, including at L'Ore products management. The senior management team of WWRD Holdings will consist of executives from Waterford Wedgwood and Kuhn.

Michael Psaros, a Managing Partner of KPS, said, "This is a new day for Waterford Wedgwood, the leading enterprise in the new company created and owned by KPS, with an accomplished new CEO, and a new capital structure, the Company is positioned to launch with legendary brands, global scale and a rock-solid balance sheet unencumbered by Waterford Wedgwood's appreciable legacy liabilities. Further, WWRD Holdings will have a leaner management structure, a materially improved cost structure and capital from KPS and its bank group to fund its growth.

"The Waterford Wedgwood transaction is the result of a highly complex, multi-constituency restructuring transaction, involving multiple jurisdictions worldwide. Going forward, we and our management team will work to materially improve the Company's core operating performance and significant revenue growth. We thank Bank of America for its leadership through the restructuring process and for its support.

Mr. de Villemejeane said, "This is the beginning of an exciting new era for Waterford Wedgwood. We look forward to building on our incomparable heritage, premier designers and strong customer relationships. No other company in this dynamic sector has a more contemporary, and we intend to grow the business aggressively. Our exclusive focus will be on providing our customers with the best products in the world.

"We intend to grow the company organically and through acquisition, leveraging our capital strength and the pre-committed debt. We believe that our primary competitors are generally undercapitalized and regionally focused, presenting a significant opportunity for de Villemejeane concluded.

Financing for the acquisition was provided by a bank syndicate, agented by Bank of America Business Capital through a credit Management LLC, through a term loan. Kirkland & Ellis LLP acted as legal counsel to KPS and WWRD Holdings.

About KPS Capital Partners, LP

KPS Capital Partners, LP is the manager of the KPS Special Situations Funds, a family of private equity funds with over \$1.8 billion in constructive investing in restructurings, turnarounds and other special situations. KPS has created new companies to purchase stand-alone entities to operate divested assets; and recapitalized highly leveraged public and private companies. The KPS in franchises that are experiencing operating and financial problems. KPS invests its capital concurrently with a turnaround plan and capital availability. Typically, the KPS turnaround plan is accompanied by a financial restructuring of the company's liabilities.

companies are described in detail at the firm's website: [www.kpsfund.com](http://www.kpsfund.com).

#### About WWRD Holdings Limited

WWRD Holdings Limited is the leading provider of luxury home and lifestyle products worldwide, sold under a number of well known brands including Wedgwood, Royal Doulton, Royal Albert, Minton and Johnson Brothers. WWRD Holdings maintains unique licensing arrangements with leading innovators in the home and lifestyle market, including Vera Wang, Jasper Conran, John Rocha, Monique Lhuillier, Barbara Barrie and Michael Aram. The Company's products are distributed through premium department stores and independent retailers and are available in the United States, United Kingdom, Japan, Canada, Australia and Ireland. WWRD Holdings employs more than 3,700 people worldwide.

SOURCE KPS Capital Partners, LP

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# Waterford Crystal plant left out of US buyout deal

Wedgwood sale announced but future of production facility still unclear

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By Conor Kane  
Saturday February 28 2009

Crystal manufacturing at the world-famous Waterford plant is not included in a buy-out of the Waterford Wedgwood company, the Irish Independent has learned.

The sale of the company's Irish and UK businesses, along with some overseas assets, was announced yesterday by the receiver appointed last month.

It is understood that new owners KPS Capital Partners are not acquiring the production facility in Waterford city or its equipment as part of the deal, while keeping the popular visitors' centre open will be dependent on government aid.

The last hope to continue the long tradition of crystal-making will be if the government, local business leaders and workers get together and form a new company to restart crystal manufacturing at the Kilbarry plant. KPS may then purchase crystal products from that business.

Workers at Waterford Crystal are to continue their sit-in, until their concerns regarding jobs, pensions and redundancy payments are addressed. The sit-in started four weeks ago after the receiver ceased production on the site.

Union representatives now want to begin discussions with the new purchasers to clarify future plans for the Waterford city plant.

## Discussions

### Articles Topics

#### Articles

- 'Dumped' Crystal staff bring fight to receiver's doorstep
- 500 workers to face axe in cutbacks at two firms
- Waterford Crystal to lay off 500 as weak dollar bites
- Hope for Crystal jobs as possible buyer emerges
- Firms seeking funds venture into the valley
- how to find your perfect partner
- Waterford placed into receivership as no buyer found

#### Topics

- Waterford
- Waterford Wedgwood plc
- Irish Independent
- Business
- Startups
- David Carson
- Walter Cullen

It is understood that the discussions between KPS, the Unite union and the government will get under way in the next fortnight.

Three main issues worrying the 800 staff at the factory are the future of manufacturing in Waterford; payouts for workers made redundant; and the pension scheme, which is reported to be over €100m in deficit.

Talks are continuing with the Department of Finance about a pension-guarantee plan, but according to Unite regional organiser Walter Cullen, progress is slow.

"I'd expect that the government will honour their obligations in relation to the pension protection issue," he said last night. "There's people in Anglo Irish Bank who have left and whose pensions are protected."

A deal leaked two weeks ago indicated that 60 production jobs were to be kept in Waterford, with another 60 to be retained on a six-month trial basis and then reviewed. The visitors' centre and gallery were to be kept open, along with administrative functions.

**Positive**

"We're looking forward to engaging with KPS in terms of maximising the amount of jobs in the manufacturing facility in Waterford," said Mr Cullen. "Hopefully, it will be a positive engagement."

However, the Irish Independent understands that KPS will have no role in crystal-making in Waterford, other than becoming a client of any new company set up by the government to retain the long-standing craft.

Unite are also seeking clarification on a reported €10m ex-gratia payment initially offered by KPS to staff losing their jobs.

"Now that a deal is being concluded," said Unite Irish Regional Secretary Jimmy Kelly, "we will look to swiftly conclude the best possible deal for our members. Until such time as that happens, the sit-in at the Waterford Crystal visitor centre ... will continue."

A new company, WWRD Holdings Ltd, has been formed by KPS to acquire some of Waterford Wedgwood's assets, according to receiver David Carson of Deloitte.

Mr Carson said he was "pleased to announce" the signing of the contract with KPS.

The receiver and joint administrators are working with KPS to "expeditiously" close the transactions, he said, with completion expected in March.

- *Conor Kane*

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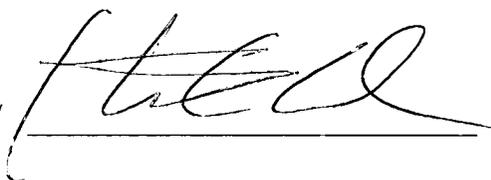
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### Appointment of Counsel by Opposer

Opposer hereby appoints John D. Pellegrin, Esq., Law Offices of John D. Pellegrin, P.C., and any attorneys affiliated therewith who are members of the bars of the State of Virginia and/or District of Columbia, to act as attorneys for Opposer herein, with full power to prosecute said Opposition to Waterford Wedgwood, PLC's application for registration of the trademark *The Waterford Crystal Pavilion* (Serial No. 771799215), to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this Opposition.

Opposer: Keith C. Clark, Individual

s/ 

Keith C. Clark

Date: 3/30/09, 2009

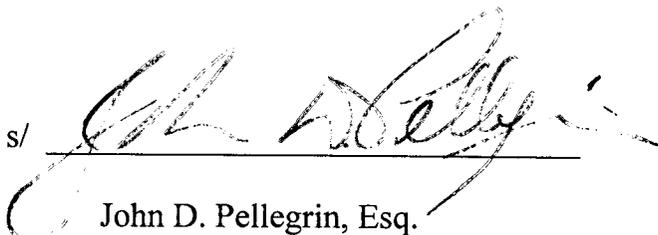
### Certificate of Service

I, John D. Pellegrin, Esq., counsel for Opposer, Keith C. Clark in the above-captioned matter, hereby certify that a true and complete copy of the foregoing Notice of Opposition with respect to Application Serial No. 77179925, Mark: *The Waterford Crystal Pavilion*; Applicant: Waterford Wedgwood, PLC, has been served this date by causing to be placed in the mail on the date below said copy and sent by U.S. First Class Mail, postage prepaid, to counsel of record for the Applicant, namely:

Bassam N. Ibrahim, Esq.  
Buchanon Ingersoll & Rooney, P.C.  
P.O. Box 1404  
Alexandria, VA 22313

Dated: April 2, 2009

s/



John D. Pellegrin, Esq.

Law Offices of

# JOHN D. PELLEGRIN, P.C.

10515 Dominion Valley Drive  
Fairfax Station, Virginia 22039

703.250.1595  
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E-mail: [jp@lawpell.com](mailto:jp@lawpell.com)  
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April 2, 2009

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
Madison East, Concourse Level  
Room C55  
600 Dulany Street  
Alexandria, VA 22314

*Via UPS Overnight Express Delivery*

**Re: Notice of Opposition**

Application Serial No. 77179925

Mark: *The Waterford Crystal Pavilion*

Applicant: Waterford Wedgwood, PLC

Published in the Official Gazette on March 10, 2009

To Whom It May Concern:

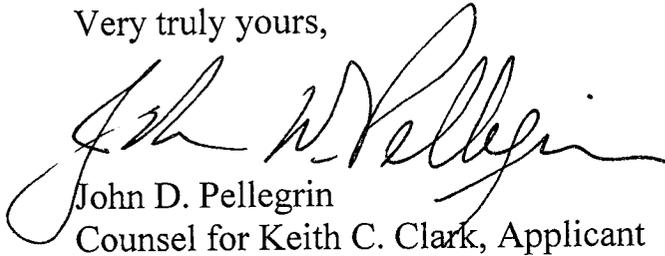
On behalf of our client, Keith C. Clark, applicant for registration on the Principal Register for the mark *Waterford*, Serial No. 77331438, Class 43, transmitted herewith is an original and one copy of a Notice of Opposition, together with exhibits, in connection with the above-captioned mark *The Waterford Crystal Pavilion*.

Also transmitted herewith is the requisite \$300.00 filing fee in connection with the Notice of Opposition as to Class 43 only.

A post card receipt confirmation is also submitted herewith.

Should you have any questions concerning this submission, please communicate directly with undersigned counsel.

Very truly yours,



John D. Pellegrin  
Counsel for Keith C. Clark, Applicant

cc w/encls.:

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Examining Attorneys:

F. Blandu (Law Office 117)  
Amy E. Hella (Law Office 110)

Bassam N. Ibrahim, Esq.  
Buchanon Ingersoll & Rooney, P.C.  
P.O. Box 1404  
Alexandria, VA 22314  
Counsel for Waterford Wedgwood, PLC

*Of Counsel to Moran Monfort, P.L.C.*

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

**NOTICE OF OPPOSITION**

|                                       |   |                                             |
|---------------------------------------|---|---------------------------------------------|
| Keith Clark,<br>Opposer               | ) | Opposition No. _____                        |
|                                       | ) |                                             |
| vs.                                   | ) | Application Serial No. 77179925             |
|                                       | ) |                                             |
| Waterford Wedgwood, PLC,<br>Applicant | ) | Mark: <i>The Waterford Crystal Pavilion</i> |
|                                       | ) | Published in the Official Gazette on        |
|                                       | ) | March 10, 2009                              |

Opposer, Keith C. Clark ("Clark"), a resident of the Commonwealth of Virginia, currently doing business at Waterford at Springfield, 6715 Commerce Street, Springfield, Virginia 22150 and Waterford at Fair Oaks, 12025 Lee Jackson Memorial Highway, Fairfax, Virginia 22033, believes Opposer will be damaged by registration of the above-captioned mark *The Waterford Crystal Palace* and hereby opposes same.<sup>1</sup> WW's mark has been published for opposition in the Trademark Official Gazette of the United States Patent and Trademark Office on March 10, 2009. The opposition period expires April 9, 2009. Waterford Wedgwood, PLC ("WW") applied for the above-captioned mark on May 14, 2007, solely on a 1(b) Intent to Use Basis. In support of this Opposition, the following is submitted:

---

<sup>1</sup> The required filing fee of \$300.00 is submitted herewith, covering Opposer's Opposition to WW's registration in International Class 43 only.

1. *Opposer's Application History.* Opposer Clark, initially through Waterford Receptions, LLC (in which Clark has an equity interest and is Managing Member), filed for registration on the Principal Register for the mark *Waterford* on November 11, 2007 (Serial No. 77331438) on a 1(a) Use in Commerce Basis. Opposer's mark covers "Providing of conference facilities; providing social functions facilities for special occasions, in Class 43." An amendment/assignment of the trademark to Clark was duly noted on the USPTO's records. The mark *Waterford* in connection with these conference/social functions facilities and related catering services has been in use consecutively for some nine (9) years now (since mid-2000).

2. *History of These Two Applications.* WW filed for registration of its mark *The Waterford Crystal Pavilion* in multiple Classes with a smorgasbord of services to be covered by one mark (some five Classes in all, including Class 35 – advertising and marketing services; business management services; real estate sales management of mixed-use real estate complexes, containing various combinations of retail, office, hotel, entertainment, food ...facilities; general merchandise, souvenirs, novelty, gift, clothing; web sites, et al.; Class 39 – transportation and storage of goods; travel tour arrangements; rental of strollers and wheel chairs, cars, et al.; Class 41 – entertainment and amusement services in nature of planning movies, concerts, night clubs, et al.; Class 45 – personal concierge services for others; security guard services for shopping centers, et al.).

3. WW's filing for Class 43, to which Opposer specifically objects, is set forth as "Services for providing food and drink; restaurant services, cafes; snack bars; food bars; temporary accommodation, temporary accommodation reservations; hotel services, hotel reservations; advisory and information services relating to the aforesaid." WW is only proposing to use this mark; i.e., WW filed for registration solely on an Intent to Use basis, while Clark has been continuously using this mark in commerce for some nine years. WW filed its application well after Clark placed the mark *Waterford* into commerce for conference/social functions facilities. As such, Clark has the exclusive right to use such mark in Class 43 for the described purposes.

4. The Examining Attorney with respect to WW's application has had great difficulty with processing it – witness the numerous Office Actions and rejections of WW's arguments in furtherance of its application, and WW's own request that processing/review of its application be suspended.

5. By contrast to lengthy review and initial rejection of WW's mark by the USPTO's Examining Attorney (reasons for rejection remain salient), as to Opposer's mark only routine Examining Attorney questions were asked of the applicant (now answered and resolved), including an amicable resolution with an allegedly confusingly similar mark pending registration – i.e., *Waterford of the Carolinas*. The agreed-to written resolution was duly filed with the USPTO on behalf of both applicants. The only impediment to registration of Clark's mark then is the Examining Attorney stating it could not be further processed until

outstanding issues were resolved with WW's pending application. This gives Opposer standing to object to WW's application for registration, for without filing this Objection, the USPTO would proceed towards registration of WW's competing application in Class 43.

6. *Bankruptcy of WW.* It is a matter of public record that WW has since submitting its trademark application filed for bankruptcy protection under the respective laws of the Republic of Ireland and England – this occurring in late 2008/early January, 2009. (see attached Exhibit/Press Release) No notice to the USPTO nor amendment by WW appears to have been filed, despite 15 U.S.C. Sect. 1060(a)(1) and Sect. 1051(b), (c) and (d) [501.01(a)] and requirements/restrictions vis-à-vis Intent to Use applications. The general rule would seem to require that an applicant maintain all relevant information in connection with a pending application current. How this bankruptcy and/or any purported sale to a newly formed company (apparently WWRD Holdings Ltd. – see attached Exhibit), impacts on the continued prosecution of WW's application for registration is an open question/concern. Assignments of mere Intent to Use applications are not generally contemplated by the USPTO. WW's bankruptcy and purported sale/transfer of assets does call into question whether WW still has a bona fide intent to use its proposed mark. In any event, Opposer is concerned such bankruptcy and the negative impact/stigma attached thereto may redound to Opposer's detriment if registration of WW's mark is allowed. Suggesting a connection between WW or any successor in interest with Opposer in the minds of

the consuming public may well result. This is of particular concern since Opposer plans to expand use of the mark for similar conference/social functions/catering facilities in other geographical areas and locations both within and outside Virginia. Thus, Opposer believes registration of WW's mark may also be refused under Lanham Act Sec. 2(a), 15 U.S.C.A. Sec. 1052(a), in addition to the other above-cited provisions.

7. *Further Potential Damages to Opposer if WW's Mark is Registered.*

Opposer will further demonstrate below how it would likely be damaged by such registration, including possible confusion as to the source of the services/goods being currently supplied by Opposer and those proposed by WW, dilution of the brand which Opposer has built up over the approximate nine years of continued use of its mark *Waterford* in connection with conference/social functions and catering facilities. Thus, the likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C.A. Sec. 1052(d), is present.

8. *Prior Continued Use by Opposer Warrants Rejection of & Refusal to Register WW's Mark.* As noted above, Opposer has been actively/continuously using (without abandonment), the mark *Waterford*, both as a mark and in connection with its trade name, trade dress and advertising, without objection, for some nine (9) years – well before WW even applied for *The Waterford Crystal Pavilion* mark on a mere Intent to Use basis. Opposer's extensive and continuous use in connection with the conference/reception/catering facilities in these contexts is analogous to trademark use, sufficient to prevent registration of WW's

mark in any competitive setting. The mark and trade name/dress of Opposer is symbolic of extensive good will and consumer recognition built upon over these many years by Opposer. Substantial time and effort in advertising and promotion continues to be expended by Opposer to further brand identification and value to the business. As such, WW's mark should be refused registration in Class 43, based on Opposer's continued use for almost a decade and Opposer's priority of use/claim to the mark in this Class. (See *Fossil, Inv. v. Fossil Group*, 49 U.S.P.Q.2d 1451 (T.T.A.B. 1998)).

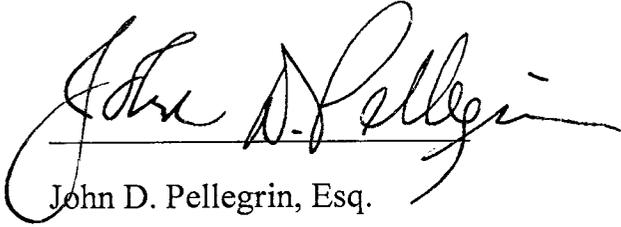
9. *WW's Mark Merely Descriptive.* WW's mark also appears to suffer under Sec. 2(e) of the Lanham Act, 15 U.S.C.A. Sec. 1052(e), in that WW's mark is merely descriptive or deceptively misdescriptive. Opposer is concerned that WW's mark, if registered and actually placed into commerce, will interfere with Opposer's right to use its own mark.

10. *Possible Dilution of Opposer's Mark.* An additional ground for opposition includes possible dilution of Opposer's mark in violation of Lanham Act Sec. 43(c), 15 U.S.C.A. Sec. 1043(c). Again, Opposer has continuously used the mark *Waterford* for some nine years, while WW only intends to use its mark some time in the indeterminate future, if ever.

WHEREFORE, Opposer respectfully requests that said Application Serial No. 77179925 be rejected by the USPTO, that no registration be issued thereon to

applicant, and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,



John D. Pellegrin, Esq.

Law Offices of John D. Pellegrin, P.C.

10515 Dominion Valley Drive

Fairfax Station, Virginia 22039

703.250.1595; 703.150.1597 (fax)

[jp@lawpell.com](mailto:jp@lawpell.com)

Dated: April 2, 2009

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JANUARY 5, 2009, 10:38 P.M. ET

# Waterford Wedgwood Succumbs

*Crystal and China Maker Files for Insolvency as Lenders Lose Patience*

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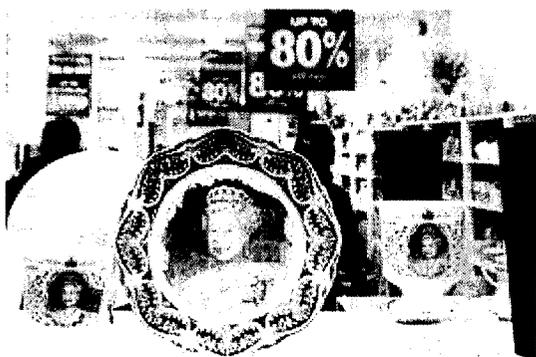
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By JEANNE WHALEN

LONDON -- One of the world's best-known makers of fine crystal and ceramics, Waterford Wedgwood PLC, has succumbed to the credit crunch.

Having struggled for years to revive its brands amid growing competition from more modern, less-expensive tableware, the heavily indebted company filed for insolvency administration Monday after failing to win a reprieve from lenders. The company's owners, led by prominent Irish investor Sir Anthony O'Reilly, had been racing to find a private-equity buyer but weren't able to close a deal in time to satisfy the banks.



Reuters

Crockery showing portraits of Britain's Queen Elizabeth II is seen on sale at the Wedgwood factory shop in Stoke on Trent, England on Monday. Ireland's Waterford Wedgwood, whose luxury tableware was once a mainstay of wedding gift lists worldwide, said on Monday it had called in receivers after failing to buy more time from creditors

Chief Executive David Sculley said he still hoped the administrators would find a new owner who would keep making the company's iconic products, which include Waterford crystal and the Wedgwood and Royal Doulton china patterns. But the company's 7,700 employees in the United Kingdom, Ireland, Indonesia and elsewhere face an uncertain future.

"We are consoled only by the fact that everything that could have been done ... was done," Sir Anthony, who has invested tens of millions of euros in the company over the past two decades, said in a prepared statement.

Waterford Wedgwood's fate illustrates the difficulties facing many heavily indebted companies as consumers retrench and embattled banks seek to dial back risk by cutting off credit lines. A number of U.K. retailers, including Woolworths PLC, have been forced into the British form of bankruptcy in recent weeks. Meanwhile, European companies have a mountain of debt coming due. Some \$800 billion in European corporate bonds will mature in 2009, according to a recent report from ratings service Standard & Poor's. Even those companies that are able to get new financing will face much higher borrowing costs than they would have months ago.

Dublin-based Waterford Wedgwood was formed through the 1986 merger of Ireland's Waterford Glass Group and Britain's Wedgwood. Both companies trace their roots to the 18th century. Josiah Wedgwood, an entrepreneur born to a family of potters, founded the ceramics maker in 1759 in central England, while Waterford was founded in 1783 in the eponymous Irish port.

The company has long struggled to stay profitable, burdened by the high cost of producing its unique tableware as consumer tastes were shifting to simpler, contemporary plates and glasses from low-cost retailers such as Target in the U.S. and Habitat in the U.K.

In 1990, investors led by Sir Anthony, who was then chairman of H.J. Heinz Co., bought a large stake in Waterford Wedgwood and attempted to turn it around. The company shifted about 1,500

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Waterford Wedgwood (WTFU.DB)

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manufacturing jobs to Indonesia to cut costs. It also linked up with designers such as Marc Jacobs and Vera Wang to roll out sleeker, more modern styles of tableware and enlisted Sarah Ferguson, the Duchess of York, as a spokeswoman. But in recent years a weakening dollar reduced the value of the company's sales in the U.S., which is Waterford Wedgwood's most important market. The company hasn't turned a profit in several years.

Waterford Wedgwood's most recent troubles began in early December, when the company missed a payment on some of the €400 million, or about \$550 million, in debt it has accumulated over the years. The default, together with other violations of the company's debt agreements, allowed other creditors to demand their money back immediately. A group of lenders led by Bank of America Corp. granted the company four separate grace periods in December on a €200 million credit line as it sought to find a buyer. But the last grace period expired Friday, and the lenders refused to wait any longer, triggering Monday's filing for administration.

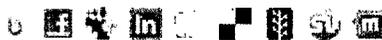
A Bank of America spokeswoman said Waterford Wedgwood was "in breach of multiple covenants." Sir Anthony and his partners own about 70% of the company, with Lazard Alternative Investments LLC owning about 18%. The rest traded on the Irish Stock Exchange until it was delisted Monday.

Stuart Slavid, director of fine ceramics at the Boston auctioneer Skinner Inc., said the potential closing of Wedgwood factories wouldn't have much effect on collectors of the ceramics because collectors generally look for older, limited-edition pieces.

Waterford Wedgwood said Monday that officials from Deloitte Touche Tohmatsu have been appointed administrators of the company's units in the U.K., and receivers of the parent company and some subsidiaries in Ireland. Deloitte administrator Angus Martin said in a prepared statement that the Deloitte team would "ensure operations continue whilst a sale of the business is sought."

Write to Jeanne Whalen at [jeanne.whalen@wsj.com](mailto:jeanne.whalen@wsj.com)

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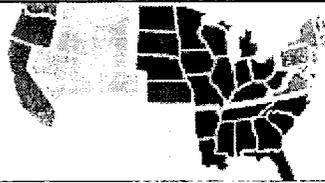
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## Waterford Wedgwood files for bankruptcy

**The British glassmaker filed for bankruptcy protection after it was unable to pay off its debt.**

By Jim Boulden  
January 5, 2009: 8:23 AM ET

LONDON, England (CNN) -- Fine china and glasswork maker Waterford Wedgwood PLC has called in a receiver - the British equivalent of bankruptcy.

The company said its receiver will be the international accounting firm Deloitte, and added it will announce later Monday which of its Irish and U.K. subsidiaries will be put into administration.

The announcement was made in a statement Monday morning to the London Stock Exchange.

Receivership and administration are forms of bankruptcy protection. The administrator can choose to try and keep parts of the company operating or sell off the brands, shutting down the company. The aim is to find the most profitable way to pay creditors.

Waterford Wedgwood can trace its roots back to the 18th century, when glass blown in the Irish port of Waterford became a popular export and Josiah Wedgwood began to make affordable fine china in the British midlands.

The two well-known brands merged in 1986, but had suffered losses in each of the past three years. Waterford has been laying off employees in southeast Ireland since 2007, having moved much of its production to Slovenia. The company also has a ceramics plant in Jakarta, Indonesia. The group also includes the brands' Royal Doulton and Rosenthal porcelain.

In December the company announced it could no longer pay its debt obligations to a consortium of lenders, headed by Bank of America. (BAC, Fortune 500) Waterford Wedgwood was given two periods of 'forbearance' in December by the banks, giving it more time to find a buyer or a cash injection. That

grace period ended on Monday.

Waterford Wedgwood is controlled by well-known Irish aristocrat Tony O'Reilly. In the company's announcement to the London Stock Exchange, O'Reilly said "We are consoled only by the fact that everything that could have been done, by management, and by the board, to preserve the Group, was done."

The company says its main markets are the United States, Britain and Germany, with a growing exposure in Asia and Eastern Europe. ■

**Find this article at:**

[http://money.cnn.com/2009/01/05/news/companies/wedgwood\\_bankruptcy](http://money.cnn.com/2009/01/05/news/companies/wedgwood_bankruptcy)

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Thursday, March 26, 2009

## KPS Capital Partners Acquires Certain Assets of Waterford Wedgwood

Comtex

NEW YORK, March 26, 2009 /PRNewswire via COMTEX/ ----KPS Capital Partners, LP ("KPS") announced today the acquisition of certain assets of Waterford Wedgwood Plc (together with all subsidiaries, "Waterford Wedgwood"), through a newly formed company, WWRD Holdings Limited ("WWRD Holdings or the "Company"). Financial terms of the transaction were not disclosed.

The transaction is global in scale, involving the purchase of certain Waterford, Wedgwood and Royal Doulton assets in the United Kingdom, the United States and Canada; the purchase of intellectual property in Ireland; and the purchase of the shares of certain Waterford Wedgwood subsidiaries, including in Japan, Indonesia, Hong Kong, Taiwan, Singapore and Australia.

KPS also announced that Pierre de Villemejeane has been named Chief Executive Officer of WWRD Holdings. Mr. de Villemejeane was previously Chief Executive Officer of Speedline Technologies, Inc., a KPS portfolio company, prior to its success. Speedline, Mr. de Villemejeane held a number of management positions in the United Kingdom and France, including at L'Oréal products management. The senior management team of WWRD Holdings will consist of executives from Waterford Wedgwood and Kuhn.

Michael Psaros, a Managing Partner of KPS, said, "This is a new day for Waterford Wedgwood, the leading enterprise in the new company created and owned by KPS, with an accomplished new CEO, and a new capital structure, the Company is poised to launch with legendary brands, global scale and a rock-solid balance sheet unencumbered by Waterford Wedgwood's approach to legacy liabilities. Further, WWRD Holdings will have a leaner management structure, a materially improved cost structure and capital from KPS and its bank group to fund its growth.

"The Waterford Wedgwood transaction is the result of a highly complex, multi-constituency restructuring transaction, involving jurisdictions worldwide. Going forward, we and our management team will work to materially improve the Company's core operating performance and drive significant revenue growth. We thank Bank of America for its leadership through the restructuring process and for its support.

Mr. de Villemejeane said, "This is the beginning of an exciting new era for Waterford Wedgwood. We look forward to building on our incomparable heritage, premier designers and strong customer relationships. No other company in this dynamic sector has a more contemporary, and we intend to grow the business aggressively. Our exclusive focus will be on providing our customers with the best products in the world.

"We intend to grow the company organically and through acquisition, leveraging our capital strength and the pre-committed assets. We believe that our primary competitors are generally undercapitalized and regionally focused, presenting a significant opportunity. Pierre de Villemejeane concluded.

Financing for the acquisition was provided by a bank syndicate, agented by Bank of America Business Capital through a credit facility. Management LLC, through a term loan. Kirkland & Ellis LLP acted as legal counsel to KPS and WWRD Holdings.

About KPS Capital Partners, LP

KPS Capital Partners, LP is the manager of the KPS Special Situations Funds, a family of private equity funds with over \$1.8 billion in assets under management. KPS has created new companies to purchase and operate stand-alone entities to operate divested assets; and recapitalized highly leveraged public and private companies. The KPS in-stand-alone entities that are experiencing operating and financial problems. KPS invests its capital concurrently with a turnaround plan and capital availability. Typically, the KPS turnaround plan is accompanied by a financial restructuring of the company's liabilities.

companies are described in detail at the firm's website: [www.kpsfund.com](http://www.kpsfund.com).

#### About WWRD Holdings Limited

WWRD Holdings Limited is the leading provider of luxury home and lifestyle products worldwide, sold under a number of well known brands including Wedgwood, Royal Doulton, Royal Albert, Minton and Johnson Brothers. WWRD Holdings maintains unique licensing arrangements with leading innovators in the home and lifestyle market, including Vera Wang, Jasper Conran, John Rocha, Monique Lhuillier, Barbara B. Baruch, Michael Aram. The Company's products are distributed through premium department stores and independent retailers and are available in the United States, United Kingdom, Japan, Canada, Australia and Ireland. WWRD Holdings employs more than 3,700 people worldwide.

SOURCE KPS Capital Partners, LP

<http://www.kpsfund.com>

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# Waterford Crystal plant left out of US buyout deal

Wedgwood sale announced but future of production facility still unclear

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By Conor Kane

Saturday February 28 2009

Crystal manufacturing at the world-famous [Waterford](#) plant is not included in a buy-out of the [Waterford Wedgwood](#) company, the [Irish Independent](#) has learned.

The sale of the company's Irish and [UK](#) businesses, along with some overseas assets, was announced yesterday by the receiver appointed last month.

It is understood that new owners [KPS Capital Partners](#) are not acquiring the production facility in Waterford city or its equipment as part of the deal, while keeping the popular visitors' centre open will be dependent on government aid.

The last hope to continue the long tradition of crystal-making will be if the government, local business leaders and workers get together and form a new company to restart crystal manufacturing at the Kilbarry plant. KPS may then purchase crystal products from that business.

Workers at Waterford Crystal are to continue their sit-in, until their concerns regarding jobs, pensions and redundancy payments are addressed. The sit-in started four weeks ago after the receiver ceased production on the site.

Union representatives now want to begin discussions with the new purchasers to clarify future plans for the Waterford city plant.

## Discussions

### Articles Topics

#### Articles

- 'Dumped' Crystal staff bring fight to receiver's doorstep
- 500 workers to face axe in cutbacks at two firms
- Waterford Crystal to lay off 500 as weak dollar bites
- Hope for Crystal jobs as possible buyer emerges
- Firms seeking funds venture into the valley
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- Waterford placed into receivership as no buyer found

#### Topics

- Waterford
- Waterford Wedgwood plc
- Irish Independent
- Business
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- David Carson
- Walter Cullen

It is understood that the discussions between KPS, the Unite union and the government will get under way in the next fortnight.

Three main issues worrying the 800 staff at the factory are the future of manufacturing in Waterford; payouts for workers made redundant; and the pension scheme, which is reported to be over €100m in deficit.

Talks are continuing with the [Department of Finance](#) about a pension-guarantee plan, but according to Unite regional organiser [Walter Cullen](#), progress is slow.

"I'd expect that the government will honour their obligations in relation to the pension protection issue," he said last night. "There's people in [Anglo Irish Bank](#) who have left and whose pensions are protected."

A deal leaked two weeks ago indicated that 60 production jobs were to be kept in Waterford, with another 60 to be retained on a six-month trial basis and then reviewed. The visitors' centre and gallery were to be kept open, along with administrative functions.

### Positive

"We're looking forward to engaging with KPS in terms of maximising the amount of jobs in the manufacturing facility in Waterford," said Mr Cullen. "Hopefully, it will be a positive engagement."

However, the Irish Independent understands that KPS will have no role in crystal-making in Waterford, other than becoming a client of any new company set up by the government to retain the long-standing craft.

Unite are also seeking clarification on a reported €10m ex-gratia payment initially offered by KPS to staff losing their jobs.

"Now that a deal is being concluded," said [Unite Irish Regional Secretary Jimmy Kelly](#), "we will look to swiftly conclude the best possible deal for our members. Until such time as that happens, the sit-in at the Waterford Crystal visitor centre ... will continue."

A new company, [WWRD Holdings Ltd](#), has been formed by KPS to acquire some of Waterford Wedgwood's assets, according to receiver [David Carson](#) of Deloitte.

Mr Carson said he was "pleased to announce" the signing of the contract with KPS.

The receiver and joint administrators are working with KPS to "expeditiously" close the transactions, he said, with completion expected in March.

- *Conor Kane*

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### Appointment of Counsel by Opposer

Opposer hereby appoints John D. Pellegrin, Esq., Law Offices of John D. Pellegrin, P.C., and any attorneys affiliated therewith who are members of the bars of the State of Virginia and/or District of Columbia, to act as attorneys for Opposer herein, with full power to prosecute said Opposition to Waterford Wedgwood, PLC's application for registration of the trademark *The Waterford Crystal Pavilion* (Serial No. 771799215), to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this Opposition.

Opposer: Keith C. Clark, Individual

s/ 

Keith C. Clark

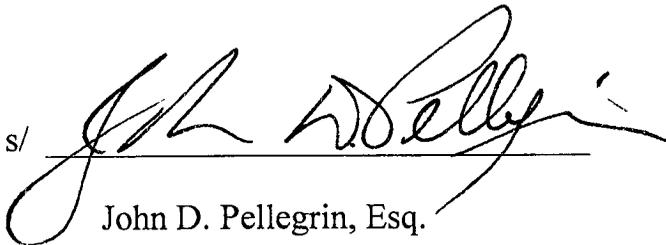
Date: 3/30/09, 2009

## Certificate of Service

I, John D. Pellegrin, Esq., counsel for Opposer, Keith C. Clark in the above-captioned matter, hereby certify that a true and complete copy of the foregoing Notice of Opposition with respect to Application Serial No. 77179925, Mark: *The Waterford Crystal Pavilion*; Applicant: Waterford Wedgwood, PLC, has been served this date by causing to be placed in the mail on the date below said copy and sent by U.S. First Class Mail, postage prepaid, to counsel of record for the Applicant, namely:

Bassam N. Ibrahim, Esq.  
Buchanon Ingersoll & Rooney, P.C.  
P.O. Box 1404  
Alexandria, VA 22313

Dated: April 2, 2009

s/   
John D. Pellegrin, Esq.

JOHN D. PELLEGRIN, P.C.  
10515 Dominion Valley Drive  
Fairfax Station, VA 22039  
(703) 250-1595

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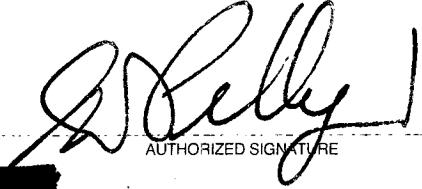
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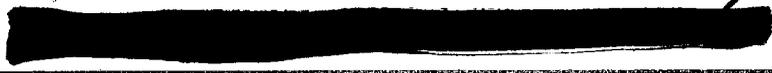
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Law Offices of

# JOHN D. PELLEGRIN, P.C.

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[www.lawpell.com](http://www.lawpell.com)

April 2, 2009

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
Madison East, Concourse Level  
Room C55  
600 Dulany Street  
Alexandria, VA 22314

*Via UPS Overnight Express Delivery*

**Re: Notice of Opposition**

Application Serial No. 77179925

Mark: *The Waterford Crystal Pavilion*

Applicant: Waterford Wedgwood, PLC

Published in the Official Gazette on March 10, 2009

To Whom It May Concern:

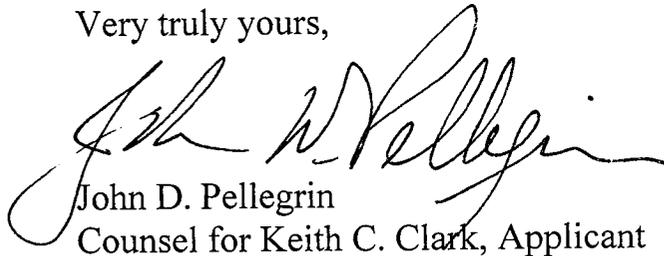
On behalf of our client, Keith C. Clark, applicant for registration on the Principal Register for the mark *Waterford*, Serial No. 77331438, Class 43, transmitted herewith is an original and one copy of a Notice of Opposition, together with exhibits, in connection with the above-captioned mark *The Waterford Crystal Pavilion*.

Also transmitted herewith is the requisite \$300.00 filing fee in connection with the Notice of Opposition as to Class 43 only.

A post card receipt confirmation is also submitted herewith.

Should you have any questions concerning this submission, please communicate directly with undersigned counsel.

Very truly yours,



John D. Pellegrin  
Counsel for Keith C. Clark, Applicant

cc w/encls.:

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Examining Attorneys:

F. Blandu (Law Office 117)  
Amy E. Hella (Law Office 110)

Bassam N. Ibrahim, Esq.  
Buchanon Ingersoll & Rooney, P.C.  
P.O. Box 1404  
Alexandria, VA 22314  
Counsel for Waterford Wedgwood, PLC

*Of Counsel to Moran Monfort, P.L.C.*

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

**NOTICE OF OPPOSITION**

|                                       |   |                                             |
|---------------------------------------|---|---------------------------------------------|
| Keith Clark,<br>Opposer               | ) | Opposition No. _____                        |
|                                       | ) |                                             |
| vs.                                   | ) | Application Serial No. 77179925             |
|                                       | ) |                                             |
| Waterford Wedgwood, PLC,<br>Applicant | ) | Mark: <i>The Waterford Crystal Pavilion</i> |
|                                       | ) |                                             |
|                                       | ) | Published in the Official Gazette on        |
|                                       | ) | March 10, 2009                              |

Opposer, Keith C. Clark (“Clark”), a resident of the Commonwealth of Virginia, currently doing business at Waterford at Springfield, 6715 Commerce Street, Springfield, Virginia 22150 and Waterford at Fair Oaks, 12025 Lee Jackson Memorial Highway, Fairfax, Virginia 22033, believes Opposer will be damaged by registration of the above-captioned mark *The Waterford Crystal Palace* and hereby opposes same.<sup>1</sup> WW’s mark has been published for opposition in the Trademark Official Gazette of the United States Patent and Trademark Office on March 10, 2009. The opposition period expires April 9, 2009. Waterford Wedgwood, PLC (“WW”) applied for the above-captioned mark on May 14, 2007, solely on a 1(b) Intent to Use Basis. In support of this Opposition, the following is submitted:

---

<sup>1</sup> The required filing fee of \$300.00 is submitted herewith, covering Opposer’s Opposition to WW’s registration in International Class 43 only.

1. *Opposer's Application History.* Opposer Clark, initially through Waterford Receptions, LLC (in which Clark has an equity interest and is Managing Member), filed for registration on the Principal Register for the mark *Waterford* on November 11, 2007 (Serial No. 77331438) on a 1(a) Use in Commerce Basis. Opposer's mark covers "Providing of conference facilities; providing social functions facilities for special occasions, in Class 43." An amendment/assignment of the trademark to Clark was duly noted on the USPTO's records. The mark *Waterford* in connection with these conference/social functions facilities and related catering services has been in use consecutively for some nine (9) years now (since mid-2000).

2. *History of These Two Applications.* WW filed for registration of its mark *The Waterford Crystal Pavilion* in multiple Classes with a smorgasbord of services to be covered by one mark (some five Classes in all, including Class 35 – advertising and marketing services; business management services; real estate sales management of mixed-use real estate complexes, containing various combinations of retail, office, hotel, entertainment, food ...facilities; general merchandise, souvenirs, novelty, gift, clothing; web sites, et al.; Class 39 – transportation and storage of goods; travel tour arrangements; rental of strollers and wheel chairs, cars, et al.; Class 41 – entertainment and amusement services in nature of planning movies, concerts, night clubs, et al.; Class 45 – personal concierge services for others; security guard services for shopping centers, et al.).

3. WW's filing for Class 43, to which Opposer specifically objects, is set forth as "Services for providing food and drink; restaurant services, cafes; snack bars; food bars; temporary accommodation, temporary accommodation reservations; hotel services, hotel reservations; advisory and information services relating to the aforesaid.". WW is only proposing to use this mark; i.e., WW filed for registration solely on an Intent to Use basis, while Clark has been continuously using this mark in commerce for some nine years. WW filed its application well after Clark placed the mark *Waterford* into commerce for conference/social functions facilities. As such, Clark has the exclusive right to use such mark in Class 43 for the described purposes.

4. The Examining Attorney with respect to WW's application has had great difficulty with processing it – witness the numerous Office Actions and rejections of WW's arguments in furtherance of its application, and WW's own request that processing/review of its application be suspended.

5. By contrast to lengthy review and initial rejection of WW's mark by the USPTO's Examining Attorney (reasons for rejection remain salient), as to Opposer's mark only routine Examining Attorney questions were asked of the applicant (now answered and resolved), including an amicable resolution with an allegedly confusingly similar mark pending registration – i.e., *Waterford of the Carolinas*. The agreed-to written resolution was duly filed with the USPTO on behalf of both applicants. The only impediment to registration of Clark's mark then is the Examining Attorney stating it could not be further processed until

outstanding issues were resolved with WW's pending application. This gives Opposer standing to object to WW's application for registration, for without filing this Objection, the USPTO would proceed towards registration of WW's competing application in Class 43.

6. *Bankruptcy of WW.* It is a matter of public record that WW has since submitting its trademark application filed for bankruptcy protection under the respective laws of the Republic of Ireland and England – this occurring in late 2008/early January, 2009. (see attached Exhibit/Press Release) No notice to the USPTO nor amendment by WW appears to have been filed, despite 15 U.S.C. Sect. 1060(a)(1) and Sect. 1051(b), (c) and (d) [501.01(a)] and requirements/restrictions vis-à-vis Intent to Use applications. The general rule would seem to require that an applicant maintain all relevant information in connection with a pending application current. How this bankruptcy and/or any purported sale to a newly formed company (apparently WWRD Holdings Ltd. – see attached Exhibit), impacts on the continued prosecution of WW's application for registration is an open question/concern. Assignments of mere Intent to Use applications are not generally contemplated by the USPTO. WW's bankruptcy and purported sale/transfer of assets does call into question whether WW still has a bona fide intent to use its proposed mark. In any event, Opposer is concerned such bankruptcy and the negative impact/stigma attached thereto may redound to Opposer's detriment if registration of WW's mark is allowed. Suggesting a connection between WW or any successor in interest with Opposer in the minds of

the consuming public may well result. This is of particular concern since Opposer plans to expand use of the mark for similar conference/social functions/catering facilities in other geographical areas and locations both within and outside Virginia. Thus, Opposer believes registration of WW's mark may also be refused under Lanham Act Sec. 2(a), 15 U.S.C.A. Sec. 1052(a), in addition to the other above-cited provisions.

7. *Further Potential Damages to Opposer if WW's Mark is Registered.*

Opposer will further demonstrate below how it would likely be damaged by such registration, including possible confusion as to the source of the services/goods being currently supplied by Opposer and those proposed by WW, dilution of the brand which Opposer has built up over the approximate nine years of continued use of its mark *Waterford* in connection with conference/social functions and catering facilities. Thus, the likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C.A. Sec. 1052(d), is present.

8. *Prior Continued Use by Opposer Warrants Rejection of & Refusal to Register WW's Mark.* As noted above, Opposer has been actively/continuously using (without abandonment), the mark *Waterford*, both as a mark and in connection with its trade name, trade dress and advertising, without objection, for some nine (9) years – well before WW even applied for *The Waterford Crystal Pavilion* mark on a mere Intent to Use basis. Opposer's extensive and continuous use in connection with the conference/reception/catering facilities in these contexts is analogous to trademark use, sufficient to prevent registration of WW's

mark in any competitive setting. The mark and trade name/dress of Opposer is symbolic of extensive good will and consumer recognition built upon over these many years by Opposer. Substantial time and effort in advertising and promotion continues to be expended by Opposer to further brand identification and value to the business. As such, WW's mark should be refused registration in Class 43, based on Opposer's continued use for almost a decade and Opposer's priority of use/claim to the mark in this Class. (See *Fossil, Inv. v. Fossil Group*, 49 U.S.P.Q.2d 1451 (T.T.A.B. 1998)).

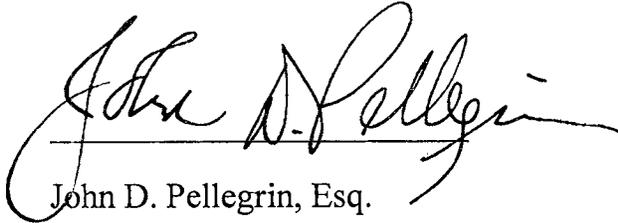
9. *WW's Mark Merely Descriptive.* WW's mark also appears to suffer under Sec. 2(e) of the Lanham Act, 15 U.S.C.A. Sec. 1052(e), in that WW's mark is merely descriptive or deceptively misdescriptive. Opposer is concerned that WW's mark, if registered and actually placed into commerce, will interfere with Opposer's right to use its own mark.

10. *Possible Dilution of Opposer's Mark.* An additional ground for opposition includes possible dilution of Opposer's mark in violation of Lanham Act Sec. 43(c), 15 U.S.C.A. Sec. 1043(c). Again, Opposer has continuously used the mark *Waterford* for some nine years, while WW only intends to use its mark some time in the indeterminate future, if ever.

WHEREFORE, Opposer respectfully requests that said Application Serial No. 77179925 be rejected by the USPTO, that no registration be issued thereon to

applicant, and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,



John D. Pellegrin, Esq.

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[jp@lawpell.com](mailto:jp@lawpell.com)

Dated: April 2, 2009

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JANUARY 5, 2009, 10:38 P.M. ET

# Waterford Wedgwood Succumbs

*Crystal and China Maker Files for Insolvency as Lenders Lose Patience*

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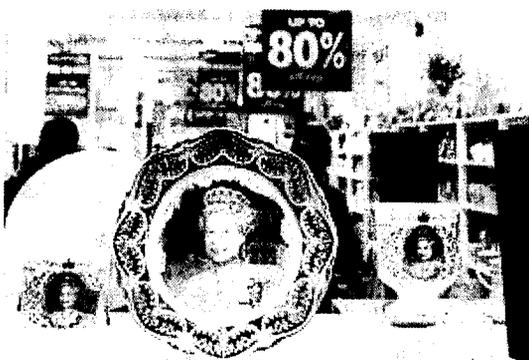
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By JEANNE WHALEN

LONDON -- One of the world's best-known makers of fine crystal and ceramics, Waterford Wedgwood PLC, has succumbed to the credit crunch.

Having struggled for years to revive its brands amid growing competition from more modern, less-expensive tableware, the heavily indebted company filed for insolvency administration Monday after failing to win a reprieve from lenders. The company's owners, led by prominent Irish investor Sir Anthony O'Reilly, had been racing to find a private-equity buyer but weren't able to close a deal in time to satisfy the banks.



Reuters

Crockery showing portraits of Britain's Queen Elizabeth II is seen on sale at the Wedgwood factory shop in Stoke on Trent, England on Monday. Ireland's Waterford Wedgwood, whose luxury tableware was once a mainstay of wedding gift lists worldwide, said on Monday it had called in receivers after failing to buy more time from creditors

Chief Executive David Sculley said he still hoped the administrators would find a new owner who would keep making the company's iconic products, which include Waterford crystal and the Wedgwood and Royal Doulton china patterns. But the company's 7,700 employees in the United Kingdom, Ireland, Indonesia and elsewhere face an uncertain future.

"We are consoled only by the fact that everything that could have been done ... was done," Sir Anthony, who has invested tens of millions of euros in the company over the past two decades, said in a prepared statement.

Waterford Wedgwood's fate illustrates the difficulties facing many heavily indebted companies as consumers retrench and embattled banks seek to dial back risk by cutting off credit lines. A number of U.K. retailers, including Woolworths PLC, have been forced into the British form of bankruptcy in recent weeks. Meanwhile, European companies have a mountain of debt coming due. Some \$800 billion in European corporate bonds will mature in 2009, according to a recent report from ratings service Standard & Poor's. Even those companies that are able to get new financing will face much higher borrowing costs than they would have months ago.

Dublin-based Waterford Wedgwood was formed through the 1986 merger of Ireland's Waterford Glass Group and Britain's Wedgwood. Both companies trace their roots to the 18th century. Josiah Wedgwood, an entrepreneur born to a family of potters, founded the ceramics maker in 1759 in central England, while Waterford was founded in 1783 in the eponymous Irish port.

The company has long struggled to stay profitable, burdened by the high cost of producing its unique tableware as consumer tastes were shifting to simpler, contemporary plates and glasses from low-cost retailers such as Target in the U.S. and Habitat in the U.K.

In 1990, investors led by Sir Anthony, who was then chairman of H.J. Heinz Co., bought a large stake in Waterford Wedgwood and attempted to turn it around. The company shifted about 1,500

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manufacturing jobs to Indonesia to cut costs. It also linked up with designers such as Marc Jacobs and Vera Wang to roll out sleeker, more modern styles of tableware and enlisted Sarah Ferguson, the Duchess of York, as a spokeswoman. But in recent years a weakening dollar reduced the value of the company's sales in the U.S., which is Waterford Wedgwood's most important market. The company hasn't turned a profit in several years.

Waterford Wedgwood's most recent troubles began in early December, when the company missed a payment on some of the €400 million, or about \$550 million, in debt it has accumulated over the years. The default, together with other violations of the company's debt agreements, allowed other creditors to demand their money back immediately. A group of lenders led by Bank of America Corp. granted the company four separate grace periods in December on a €200 million credit line as it sought to find a buyer. But the last grace period expired Friday, and the lenders refused to wait any longer, triggering Monday's filing for administration.

A Bank of America spokeswoman said Waterford Wedgwood was "in breach of multiple covenants." Sir Anthony and his partners own about 70% of the company, with Lazard Alternative Investments LLC owning about 18%. The rest traded on the Irish Stock Exchange until it was delisted Monday.

Stuart Slavid, director of fine ceramics at the Boston auctioneer Skinner Inc., said the potential closing of Wedgwood factories wouldn't have much effect on collectors of the ceramics because collectors generally look for older, limited-edition pieces.

Waterford Wedgwood said Monday that officials from Deloitte Touche Tohmatsu have been appointed administrators of the company's units in the U.K., and receivers of the parent company and some subsidiaries in Ireland. Deloitte administrator Angus Martin said in a prepared statement that the Deloitte team would "ensure operations continue whilst a sale of the business is sought."

**Write to** Jeanne Whalen at [jeanne.whalen@wsj.com](mailto:jeanne.whalen@wsj.com)

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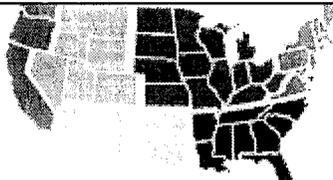
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## Waterford Wedgwood files for bankruptcy

**The British glassmaker filed for bankruptcy protection after it was unable to pay off its debt.**

By Jim Boulden  
January 5, 2009: 8:23 AM ET

LONDON, England (CNN) -- Fine china and glasswork maker Waterford Wedgwood PLC has called in a receiver - the British equivalent of bankruptcy.

The company said its receiver will be the international accounting firm Deloitte, and added it will announce later Monday which of its Irish and U.K. subsidiaries will be put into administration.

The announcement was made in a statement Monday morning to the London Stock Exchange.

Receivership and administration are forms of bankruptcy protection. The administrator can choose to try and keep parts of the company operating or sell off the brands, shutting down the company. The aim is to find the most profitable way to pay creditors.

Waterford Wedgwood can trace its roots back to the 18th century, when glass blown in the Irish port of Waterford became a popular export and Josiah Wedgwood began to make affordable fine china in the British midlands.

The two well-known brands merged in 1986, but had suffered losses in each of the past three years. Waterford has been laying off employees in southeast Ireland since 2007, having moved much of its production to Slovenia. The company also has a ceramics plant in Jakarta, Indonesia. The group also includes the brands' Royal Doulton and Rosenthal porcelain.

In December the company announced it could no longer pay its debt obligations to a consortium of lenders, headed by Bank of America. (BAC, Fortune 500) Waterford Wedgwood was given two periods of 'forbearance' in December by the banks, giving it more time to find a buyer or a cash injection. That

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grace period ended on Monday.

Waterford Wedgwood is controlled by well-known Irish aristocrat Tony O'Reilly. In the company's announcement to the London Stock Exchange, O'Reilly said "We are consoled only by the fact that everything that could have been done, by management, and by the board, to preserve the Group, was done."

The company says its main markets are the United States, Britain and Germany, with a growing exposure in Asia and Eastern Europe. ■

**Find this article at:**

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Thursday, March 26, 2009

## KPS Capital Partners Acquires Certain Assets of Waterford Wedgwood

Comtex

NEW YORK, March 26, 2009 /PRNewswire via COMTEX/ ----KPS Capital Partners, LP ("KPS") announced today the acquisition of certain assets of Waterford Wedgwood Plc (together with all subsidiaries, "Waterford Wedgwood"), through a newly formed company, WWRD Holdings Limited ("WWRD Holdings" or the "Company"). Financial terms of the transaction were not disclosed.

The transaction is global in scale, involving the purchase of certain Waterford, Wedgwood and Royal Doulton assets in the United Kingdom, the United States and Canada; the purchase of intellectual property in Ireland; and the purchase of the shares of certain Waterford Wedgwood subsidiaries, including in Japan, Indonesia, Hong Kong, Taiwan, Singapore and Australia.

KPS also announced that Pierre de Villemejeane has been named Chief Executive Officer of WWRD Holdings. Mr. de Villemejeane was previously Chief Executive Officer of Speedline Technologies, Inc., a KPS portfolio company, prior to its success. Speedline, Mr. de Villemejeane held a number of management positions in the United Kingdom and France, including at L'Oréal products management. The senior management team of WWRD Holdings will consist of executives from Waterford Wedgwood and Kuhn.

Michael Psaros, a Managing Partner of KPS, said, "This is a new day for Waterford Wedgwood, the leading enterprise in the new company created and owned by KPS, with an accomplished new CEO, and a new capital structure, the Company is poised to launch with legendary brands, global scale and a rock-solid balance sheet unencumbered by Waterford Wedgwood's approach to legacy liabilities. Further, WWRD Holdings will have a leaner management structure, a materially improved cost structure and capital from KPS and its bank group to fund its growth.

"The Waterford Wedgwood transaction is the result of a highly complex, multi-constituency restructuring transaction, involving multiple jurisdictions worldwide. Going forward, we and our management team will work to materially improve the Company's core operating performance and drive significant revenue growth. We thank Bank of America for its leadership through the restructuring process and for its support.

Mr. de Villemejeane said, "This is the beginning of an exciting new era for Waterford Wedgwood. We look forward to building on our incomparable heritage, premier designers and strong customer relationships. No other company in this dynamic sector has a more contemporary, and we intend to grow the business aggressively. Our exclusive focus will be on providing our customers with the best products in the world.

"We intend to grow the company organically and through acquisition, leveraging our capital strength and the pre-committed assets. We believe that our primary competitors are generally undercapitalized and regionally focused, presenting a significant opportunity. Pierre de Villemejeane concluded.

Financing for the acquisition was provided by a bank syndicate, agented by Bank of America Business Capital through a credit facility. Management LLC, through a term loan. Kirkland & Ellis LLP acted as legal counsel to KPS and WWRD Holdings.

### About KPS Capital Partners, LP

KPS Capital Partners, LP is the manager of the KPS Special Situations Funds, a family of private equity funds with over \$1.8 billion in assets under management. KPS has created new companies to purchase and operate stand-alone entities to operate divested assets; and recapitalized highly leveraged public and private companies. The KPS funds invest in companies that are experiencing operating and financial problems. KPS invests its capital concurrently with a turnaround plan and capital availability. Typically, the KPS turnaround plan is accompanied by a financial restructuring of the company's liabilities.

companies are described in detail at the firm's website: [www.kpsfund.com](http://www.kpsfund.com).

#### About WWRD Holdings Limited

WWRD Holdings Limited is the leading provider of luxury home and lifestyle products worldwide, sold under a number of well-known brands including Wedgwood, Royal Doulton, Royal Albert, Minton and Johnson Brothers. WWRD Holdings maintains unique licensing arrangements with leading innovators in the home and lifestyle market, including Vera Wang, Jasper Conran, John Rocha, Monique Lhuillier, Barbara B. Michael, and Michael Aram. The Company's products are distributed through premium department stores and independent retailers and are available in the United States, United Kingdom, Japan, Canada, Australia and Ireland. WWRD Holdings employs more than 3,700 people worldwide.

SOURCE KPS Capital Partners, LP

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# Waterford Crystal plant left out of US buyout deal

Wedgwood sale announced but future of production facility still unclear

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By Conor Kane  
Saturday February 28 2009

Crystal manufacturing at the world-famous [Waterford](#) plant is not included in a buy-out of the [Waterford Wedgwood](#) company, the [Irish Independent](#) has learned.

The sale of the company's Irish and [UK](#) businesses, along with some overseas assets, was announced yesterday by the receiver appointed last month.

It is understood that new owners [KPS Capital Partners](#) are not acquiring the production facility in Waterford city or its equipment as part of the deal, while keeping the popular visitors' centre open will be dependent on government aid.

The last hope to continue the long tradition of crystal-making will be if the government, local business leaders and workers get together and form a new company to restart crystal manufacturing at the Kilbarry plant. KPS may then purchase crystal products from that business.

Workers at Waterford Crystal are to continue their sit-in, until their concerns regarding jobs, pensions and redundancy payments are addressed. The sit-in started four weeks ago after the receiver ceased production on the site.

Union representatives now want to begin discussions with the new purchasers to clarify future plans for the Waterford city plant.

## Discussions

### Articles Topics

#### Articles

- 'Dumped' Crystal staff bring fight to receiver's doorstep
- 500 workers to face axe in cutbacks at two firms
- Waterford Crystal to lay off 500 as weak dollar bites
- Hope for Crystal jobs as possible buyer emerges
- Firms seeking funds venture into the valley
- how to find your perfect partner
- Waterford placed into receivership as no buyer found

#### Topics

- Waterford
- Waterford Wedgwood plc
- Irish Independent
- Business
- Startups
- David Carson
- Walter Cullen

It is understood that the discussions between KPS, the Unite union and the government will get under way in the next fortnight.

Three main issues worrying the 800 staff at the factory are the future of manufacturing in Waterford; payouts for workers made redundant; and the pension scheme, which is reported to be over €100m in deficit.

Talks are continuing with the Department of Finance about a pension-guarantee plan, but according to Unite regional organiser [Walter Cullen](#), progress is slow.

"I'd expect that the government will honour their obligations in relation to the pension protection issue," he said last night. "There's people in [Anglo Irish Bank](#) who have left and whose pensions are protected."

A deal leaked two weeks ago indicated that 60 production jobs were to be kept in Waterford, with another 60 to be retained on a six-month trial basis and then reviewed. The visitors' centre and gallery were to be kept open, along with administrative functions.

**Positive**

"We're looking forward to engaging with KPS in terms of maximising the amount of jobs in the manufacturing facility in Waterford," said Mr Cullen. "Hopefully, it will be a positive engagement."

However, the Irish Independent understands that KPS will have no role in crystal-making in Waterford, other than becoming a client of any new company set up by the government to retain the long-standing craft.

Unite are also seeking clarification on a reported €10m ex-gratia payment initially offered by KPS to staff losing their jobs.

"Now that a deal is being concluded," said Unite [Irish Regional Secretary Jimmy Kelly](#), "we will look to swiftly conclude the best possible deal for our members. Until such time as that happens, the sit-in at the Waterford Crystal visitor centre ... will continue."

A new company, [WWRD Holdings Ltd](#), has been formed by KPS to acquire some of Waterford Wedgwood's assets, according to receiver [David Carson](#) of Deloitte.

Mr Carson said he was "pleased to announce" the signing of the contract with KPS.

The receiver and joint administrators are working with KPS to "expeditiously" close the transactions, he said, with completion expected in March.

- *Conor Kane*

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### Appointment of Counsel by Opposer

Opposer hereby appoints John D. Pellegrin, Esq., Law Offices of John D. Pellegrin, P.C., and any attorneys affiliated therewith who are members of the bars of the State of Virginia and/or District of Columbia, to act as attorneys for Opposer herein, with full power to prosecute said Opposition to Waterford Wedgwood, PLC's application for registration of the trademark *The Waterford Crystal Pavilion* (Serial No. 771799215), to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this Opposition.

Opposer: Keith C. Clark, Individual

s/ 

Keith C. Clark

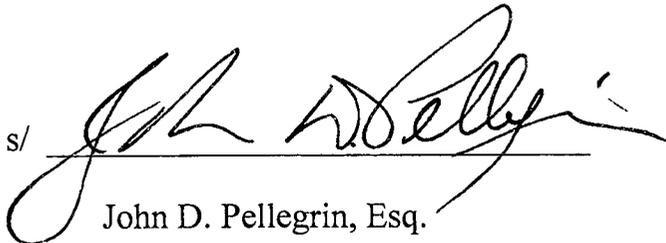
Date: 3/30/09, 2009

## Certificate of Service

I, John D. Pellegrin, Esq., counsel for Opposer, Keith C. Clark in the above-captioned matter, hereby certify that a true and complete copy of the foregoing Notice of Opposition with respect to Application Serial No. 77179925, Mark: *The Waterford Crystal Pavilion*; Applicant: Waterford Wedgwood, PLC, has been served this date by causing to be placed in the mail on the date below said copy and sent by U.S. First Class Mail, postage prepaid, to counsel of record for the Applicant, namely:

Bassam N. Ibrahim, Esq.  
Buchanon Ingersoll & Rooney, P.C.  
P.O. Box 1404  
Alexandria, VA 22313

Dated: April 2, 2009

s/   
John D. Pellegrin, Esq.

**JOHN D. PELLEGRIN, P.C.**  
10515 Dominion Valley Drive  
Fairfax Station, VA 22039  
(703) 250-1595

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A handwritten signature in black ink, appearing to read "J. Pellegrin".

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Law Offices of

# JOHN D. PELLEGRIN, P.C.

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April 2, 2009

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*Via UPS Overnight Express Delivery*

**Re: Notice of Opposition**

Application Serial No. 77179925

Mark: *The Waterford Crystal Pavilion*

Applicant: Waterford Wedgwood, PLC

Published in the Official Gazette on March 10, 2009

To Whom It May Concern:

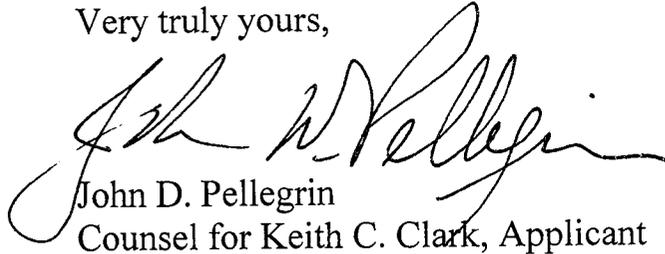
On behalf of our client, Keith C. Clark, applicant for registration on the Principal Register for the mark *Waterford*, Serial No. 77331438, Class 43, transmitted herewith is an original and one copy of a Notice of Opposition, together with exhibits, in connection with the above-captioned mark *The Waterford Crystal Pavilion*.

Also transmitted herewith is the requisite \$300.00 filing fee in connection with the Notice of Opposition as to Class 43 only.

A post card receipt confirmation is also submitted herewith.

Should you have any questions concerning this submission, please communicate directly with undersigned counsel.

Very truly yours,



John D. Pellegrin  
Counsel for Keith C. Clark, Applicant

cc w/encls.:

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Examining Attorneys:

F. Blandu (Law Office 117)  
Amy E. Hella (Law Office 110)

Bassam N. Ibrahim, Esq.  
Buchanon Ingersoll & Rooney, P.C.  
P.O. Box 1404  
Alexandria, VA 22314  
Counsel for Waterford Wedgwood, PLC

*Of Counsel to Moran Monfort, P.L.C.*

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

**NOTICE OF OPPOSITION**

|                          |   |                                             |
|--------------------------|---|---------------------------------------------|
| Keith Clark,             | ) | Opposition No. _____                        |
| Opposer                  | ) |                                             |
|                          | ) |                                             |
| vs.                      | ) | Application Serial No. 77179925             |
|                          | ) |                                             |
| Waterford Wedgwood, PLC, | ) | Mark: <i>The Waterford Crystal Pavilion</i> |
| Applicant                | ) |                                             |
|                          | ) | Published in the Official Gazette on        |
|                          | ) | March 10, 2009                              |

Opposer, Keith C. Clark (“Clark”), a resident of the Commonwealth of Virginia, currently doing business at Waterford at Springfield, 6715 Commerce Street, Springfield, Virginia 22150 and Waterford at Fair Oaks, 12025 Lee Jackson Memorial Highway, Fairfax, Virginia 22033, believes Opposer will be damaged by registration of the above-captioned mark *The Waterford Crystal Palace* and hereby opposes same.<sup>1</sup> WW’s mark has been published for opposition in the Trademark Official Gazette of the United States Patent and Trademark Office on March 10, 2009. The opposition period expires April 9, 2009. Waterford Wedgwood, PLC (“WW”) applied for the above-captioned mark on May 14, 2007, solely on a 1(b) Intent to Use Basis. In support of this Opposition, the following is submitted:

---

<sup>1</sup> The required filing fee of \$300.00 is submitted herewith, covering Opposer’s Opposition to WW’s registration in International Class 43 only.

1. *Opposer's Application History.* Opposer Clark, initially through Waterford Receptions, LLC (in which Clark has an equity interest and is Managing Member), filed for registration on the Principal Register for the mark *Waterford* on November 11, 2007 (Serial No. 77331438) on a 1(a) Use in Commerce Basis. Opposer's mark covers "Providing of conference facilities; providing social functions facilities for special occasions, in Class 43." An amendment/assignment of the trademark to Clark was duly noted on the USPTO's records. The mark *Waterford* in connection with these conference/social functions facilities and related catering services has been in use consecutively for some nine (9) years now (since mid-2000).

2. *History of These Two Applications.* WW filed for registration of its mark *The Waterford Crystal Pavilion* in multiple Classes with a smorgasbord of services to be covered by one mark (some five Classes in all, including Class 35 – advertising and marketing services; business management services; real estate sales management of mixed-use real estate complexes, containing various combinations of retail, office, hotel, entertainment, food ...facilities; general merchandise, souvenirs, novelty, gift, clothing; web sites, et al.; Class 39 – transportation and storage of goods; travel tour arrangements; rental of strollers and wheel chairs, cars, et al.; Class 41 – entertainment and amusement services in nature of planning movies, concerts, night clubs, et al.; Class 45 – personal concierge services for others; security guard services for shopping centers, et al.).

3. WW's filing for Class 43, to which Opposer specifically objects, is set forth as "Services for providing food and drink; restaurant services, cafes; snack bars; food bars; temporary accommodation, temporary accommodation reservations; hotel services, hotel reservations; advisory and information services relating to the aforesaid.". WW is only proposing to use this mark; i.e., WW filed for registration solely on an Intent to Use basis, while Clark has been continuously using this mark in commerce for some nine years. WW filed its application well after Clark placed the mark *Waterford* into commerce for conference/social functions facilities. As such, Clark has the exclusive right to use such mark in Class 43 for the described purposes.

4. The Examining Attorney with respect to WW's application has had great difficulty with processing it – witness the numerous Office Actions and rejections of WW's arguments in furtherance of its application, and WW's own request that processing/review of its application be suspended.

5. By contrast to lengthy review and initial rejection of WW's mark by the USPTO's Examining Attorney (reasons for rejection remain salient), as to Opposer's mark only routine Examining Attorney questions were asked of the applicant (now answered and resolved), including an amicable resolution with an allegedly confusingly similar mark pending registration – i.e., *Waterford of the Carolinas*. The agreed-to written resolution was duly filed with the USPTO on behalf of both applicants. The only impediment to registration of Clark's mark then is the Examining Attorney stating it could not be further processed until

outstanding issues were resolved with WW's pending application. This gives Opposer standing to object to WW's application for registration, for without filing this Objection, the USPTO would proceed towards registration of WW's competing application in Class 43.

6. *Bankruptcy of WW.* It is a matter of public record that WW has since submitting its trademark application filed for bankruptcy protection under the respective laws of the Republic of Ireland and England – this occurring in late 2008/early January, 2009. (see attached Exhibit/Press Release) No notice to the USPTO nor amendment by WW appears to have been filed, despite 15 U.S.C. Sect. 1060(a)(1) and Sect. 1051(b), (c) and (d) [501.01(a)] and requirements/restrictions vis-à-vis Intent to Use applications. The general rule would seem to require that an applicant maintain all relevant information in connection with a pending application current. How this bankruptcy and/or any purported sale to a newly formed company (apparently WWRD Holdings Ltd. – see attached Exhibit), impacts on the continued prosecution of WW's application for registration is an open question/concern. Assignments of mere Intent to Use applications are not generally contemplated by the USPTO. WW's bankruptcy and purported sale/transfer of assets does call into question whether WW still has a bona fide intent to use its proposed mark. In any event, Opposer is concerned such bankruptcy and the negative impact/stigma attached thereto may redound to Opposer's detriment if registration of WW's mark is allowed. Suggesting a connection between WW or any successor in interest with Opposer in the minds of

the consuming public may well result. This is of particular concern since Opposer plans to expand use of the mark for similar conference/social functions/catering facilities in other geographical areas and locations both within and outside Virginia. Thus, Opposer believes registration of WW's mark may also be refused under Lanham Act Sec. 2(a), 15 U.S.C.A. Sec. 1052(a), in addition to the other above-cited provisions.

7. *Further Potential Damages to Opposer if WW's Mark is Registered.*

Opposer will further demonstrate below how it would likely be damaged by such registration, including possible confusion as to the source of the services/goods being currently supplied by Opposer and those proposed by WW, dilution of the brand which Opposer has built up over the approximate nine years of continued use of its mark *Waterford* in connection with conference/social functions and catering facilities. Thus, the likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C.A. Sec. 1052(d), is present.

8. *Prior Continued Use by Opposer Warrants Rejection of & Refusal to Register WW's Mark.* As noted above, Opposer has been actively/continuously using (without abandonment), the mark *Waterford*, both as a mark and in connection with its trade name, trade dress and advertising, without objection, for some nine (9) years – well before WW even applied for *The Waterford Crystal Pavilion* mark on a mere Intent to Use basis. Opposer's extensive and continuous use in connection with the conference/reception/catering facilities in these contexts is analogous to trademark use, sufficient to prevent registration of WW's

mark in any competitive setting. The mark and trade name/dress of Opposer is symbolic of extensive good will and consumer recognition built upon over these many years by Opposer. Substantial time and effort in advertising and promotion continues to be expended by Opposer to further brand identification and value to the business. As such, WW's mark should be refused registration in Class 43, based on Opposer's continued use for almost a decade and Opposer's priority of use/claim to the mark in this Class. (See *Fossil, Inv. v. Fossil Group*, 49 U.S.P.Q.2d 1451 (T.T.A.B. 1998)).

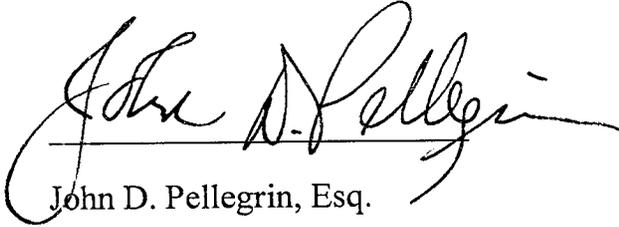
9. *WW's Mark Merely Descriptive.* WW's mark also appears to suffer under Sec. 2(e) of the Lanham Act, 15 U.S.C.A. Sec. 1052(e), in that WW's mark is merely descriptive or deceptively misdescriptive. Opposer is concerned that WW's mark, if registered and actually placed into commerce, will interfere with Opposer's right to use its own mark.

10. *Possible Dilution of Opposer's Mark.* An additional ground for opposition includes possible dilution of Opposer's mark in violation of Lanham Act Sec. 43(c), 15 U.S.C.A. Sec. 1043(c). Again, Opposer has continuously used the mark *Waterford* for some nine years, while WW only intends to use its mark some time in the indeterminate future, if ever.

WHEREFORE, Opposer respectfully requests that said Application Serial No. 77179925 be rejected by the USPTO, that no registration be issued thereon to

applicant, and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,



John D. Pellegrin, Esq.

Law Offices of John D. Pellegrin, P.C.

10515 Dominion Valley Drive

Fairfax Station, Virginia 22039

703.250.1595; 703.150.1597 (fax)

[jp@lawpell.com](mailto:jp@lawpell.com)

Dated: April 2, 2009

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JANUARY 5, 2009, 10:38 P.M. ET

# Waterford Wedgwood Succumbs

*Crystal and China Maker Files for Insolvency as Lenders Lose Patience*

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By JEANNE WHALEN

LONDON -- One of the world's best-known makers of fine crystal and ceramics, Waterford Wedgwood PLC, has succumbed to the credit crunch.

Having struggled for years to revive its brands amid growing competition from more modern, less-expensive tableware, the heavily indebted company filed for insolvency administration Monday after failing to win a reprieve from lenders. The company's owners, led by prominent Irish investor Sir Anthony O'Reilly, had been racing to find a private-equity buyer but weren't able to close a deal in time to satisfy the banks.



Reuters

Crockery showing portraits of Britain's Queen Elizabeth II is seen on sale at the Wedgwood factory shop in Stoke on Trent, England on Monday. Ireland's Waterford Wedgwood, whose luxury tableware was once a mainstay of wedding gift lists worldwide, said on Monday it had called in receivers after failing to buy more time from creditors

Chief Executive David Sculley said he still hoped the administrators would find a new owner who would keep making the company's iconic products, which include Waterford crystal and the Wedgwood and Royal Doulton china patterns. But the company's 7,700 employees in the United Kingdom, Ireland, Indonesia and elsewhere face an uncertain future.

"We are consoled only by the fact that everything that could have been done ... was done," Sir Anthony, who has invested tens of millions of euros in the company over the past two decades, said in a prepared statement.

Waterford Wedgwood's fate illustrates the difficulties facing many heavily indebted companies as consumers retrench and embattled banks seek to dial back risk by cutting off credit lines. A number of U.K. retailers, including Woolworths PLC, have been forced into the British form of bankruptcy in recent weeks. Meanwhile, European companies have a mountain of debt coming due. Some \$800 billion in European corporate bonds will mature in 2009, according to a recent report from ratings service Standard & Poor's. Even those companies that are able to get new financing will face much higher borrowing costs than they would have months ago.

Dublin-based Waterford Wedgwood was formed through the 1986 merger of Ireland's Waterford Glass Group and Britain's Wedgwood. Both companies trace their roots to the 18th century. Josiah Wedgwood, an entrepreneur born to a family of potters, founded the ceramics maker in 1759 in central England, while Waterford was founded in 1783 in the eponymous Irish port.

The company has long struggled to stay profitable, burdened by the high cost of producing its unique tableware as consumer tastes were shifting to simpler, contemporary plates and glasses from low-cost retailers such as Target in the U.S. and Habitat in the U.K.

In 1990, investors led by Sir Anthony, who was then chairman of H.J. Heinz Co., bought a large stake in Waterford Wedgwood and attempted to turn it around. The company shifted about 1,500

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manufacturing jobs to Indonesia to cut costs. It also linked up with designers such as Marc Jacobs and Vera Wang to roll out sleeker, more modern styles of tableware and enlisted Sarah Ferguson, the Duchess of York, as a spokeswoman. But in recent years a weakening dollar reduced the value of the company's sales in the U.S., which is Waterford Wedgwood's most important market. The company hasn't turned a profit in several years.

Waterford Wedgwood's most recent troubles began in early December, when the company missed a payment on some of the €400 million, or about \$550 million, in debt it has accumulated over the years. The default, together with other violations of the company's debt agreements, allowed other creditors to demand their money back immediately. A group of lenders led by Bank of America Corp. granted the company four separate grace periods in December on a €200 million credit line as it sought to find a buyer. But the last grace period expired Friday, and the lenders refused to wait any longer, triggering Monday's filing for administration.

A Bank of America spokeswoman said Waterford Wedgwood was "in breach of multiple covenants." Sir Anthony and his partners own about 70% of the company, with Lazard Alternative Investments LLC owning about 18%. The rest traded on the Irish Stock Exchange until it was delisted Monday.

Stuart Slavid, director of fine ceramics at the Boston auctioneer Skinner Inc., said the potential closing of Wedgwood factories wouldn't have much effect on collectors of the ceramics because collectors generally look for older, limited-edition pieces.

Waterford Wedgwood said Monday that officials from Deloitte Touche Tohmatsu have been appointed administrators of the company's units in the U.K., and receivers of the parent company and some subsidiaries in Ireland. Deloitte administrator Angus Martin said in a prepared statement that the Deloitte team would "ensure operations continue whilst a sale of the business is sought."

Write to Jeanne Whalen at [jeanne.whalen@wsj.com](mailto:jeanne.whalen@wsj.com)

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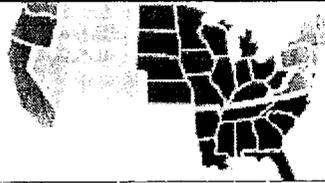
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## Waterford Wedgwood files for bankruptcy

**The British glassmaker filed for bankruptcy protection after it was unable to pay off its debt.**

By Jim Boulden  
January 5, 2009: 8:23 AM ET

LONDON, England (CNN) -- Fine china and glasswork maker Waterford Wedgwood PLC has called in a receiver - the British equivalent of bankruptcy.



The company said its receiver will be the international accounting firm Deloitte, and added it will announce later Monday which of its Irish and U.K. subsidiaries will be put into administration.

The announcement was made in a statement Monday morning to the London Stock Exchange.

Receivership and administration are forms of bankruptcy protection. The administrator can choose to try and keep parts of the company operating or sell off the brands, shutting down the company. The aim is to find the most profitable way to pay creditors.

Waterford Wedgwood can trace its roots back to the 18th century, when glass blown in the Irish port of Waterford became a popular export and Josiah Wedgwood began to make affordable fine china in the British midlands.

The two well-known brands merged in 1986, but had suffered losses in each of the past three years. Waterford has been laying off employees in southeast Ireland since 2007, having moved much of its production to Slovenia. The company also has a ceramics plant in Jakarta, Indonesia. The group also includes the brands' Royal Doulton and Rosenthal porcelain.

In December the company announced it could no longer pay its debt obligations to a consortium of lenders, headed by Bank of America. (BAC, Fortune 500) Waterford Wedgwood was given two periods of 'forbearance' in December by the banks, giving it more time to find a buyer or a cash injection. That

grace period ended on Monday.

Waterford Wedgwood is controlled by well-known Irish aristocrat Tony O'Reilly. In the company's announcement to the London Stock Exchange, O'Reilly said "We are consoled only by the fact that everything that could have been done, by management, and by the board, to preserve the Group, was done."

The company says its main markets are the United States, Britain and Germany, with a growing exposure in Asia and Eastern Europe. ■

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Thursday, March 26, 2009

## KPS Capital Partners Acquires Certain Assets of Waterford Wedgwood

Comtex

NEW YORK, March 26, 2009 /PRNewswire via COMTEX/ ----KPS Capital Partners, LP ("KPS") announced today the acquisition of certain assets of Waterford Wedgwood Plc (together with all subsidiaries, "Waterford Wedgwood"), through a newly formed company, WWRD Holdings Limited ("WWRD Holdings or the "Company"). Financial terms of the transaction were not disclosed.

The transaction is global in scale, involving the purchase of certain Waterford, Wedgwood and Royal Doulton assets in the United Kingdom, the United States and Canada; the purchase of intellectual property in Ireland; and the purchase of the shares of certain Waterford Wedgwood subsidiaries, including in Japan, Indonesia, Hong Kong, Taiwan, Singapore and Australia.

KPS also announced that Pierre de Villemejeane has been named Chief Executive Officer of WWRD Holdings. Mr. de Villemejeane was previously Chief Executive Officer of Speedline Technologies, Inc., a KPS portfolio company, prior to its success. Speedline, Mr. de Villemejeane held a number of management positions in the United Kingdom and France, including at L'Oreal products management. The senior management team of WWRD Holdings will consist of executives from Waterford Wedgwood and Kuhn.

Michael Psaros, a Managing Partner of KPS, said, "This is a new day for Waterford Wedgwood, the leading enterprise in the new company created and owned by KPS, with an accomplished new CEO, and a new capital structure, the Company is poised to launch with legendary brands, global scale and a rock-solid balance sheet unencumbered by Waterford Wedgwood's approval legacy liabilities. Further, WWRD Holdings will have a leaner management structure, a materially improved cost structure and capital from KPS and its bank group to fund its growth.

"The Waterford Wedgwood transaction is the result of a highly complex, multi-constituency restructuring transaction, involving jurisdictions worldwide. Going forward, we and our management team will work to materially improve the Company's core operations and significant revenue growth. We thank Bank of America for its leadership through the restructuring process and for its support.

Mr. de Villemejeane said, "This is the beginning of an exciting new era for Waterford Wedgwood. We look forward to building an incomparable heritage, premier designers and strong customer relationships. No other company in this dynamic sector has a contemporary, and we intend to grow the business aggressively. Our exclusive focus will be on providing our customers with products in the world.

"We intend to grow the company organically and through acquisition, leveraging our capital strength and the pre-committed assets. We believe that our primary competitors are generally undercapitalized and regionally focused, presenting a significant opportunity. Pierre de Villemejeane concluded.

Financing for the acquisition was provided by a bank syndicate, agented by Bank of America Business Capital through a credit Management LLC, through a term loan. Kirkland & Ellis LLP acted as legal counsel to KPS and WWRD Holdings.

### About KPS Capital Partners, LP

KPS Capital Partners, LP is the manager of the KPS Special Situations Funds, a family of private equity funds with over \$1.8 billion in assets under management. KPS has created new companies to purchase stand-alone entities to operate divested assets; and recapitalized highly leveraged public and private companies. The KPS in franchises that are experiencing operating and financial problems. KPS invests its capital concurrently with a turnaround plan and capital availability. Typically, the KPS turnaround plan is accompanied by a financial restructuring of the company's liabilities.

companies are described in detail at the firm's website: [www.kpsfund.com](http://www.kpsfund.com).

#### About WWRD Holdings Limited

WWRD Holdings Limited is the leading provider of luxury home and lifestyle products worldwide, sold under a number of well-known brands including Wedgwood, Royal Doulton, Royal Albert, Minton and Johnson Brothers. WWRD Holdings maintains unique licensing arrangements with leading innovators in the home and lifestyle market, including Vera Wang, Jasper Conran, John Rocha, Monique Lhuillier, Barbara B. Baruch, Michael Aram. The Company's products are distributed through premium department stores and independent retailers and are available in the United States, United Kingdom, Japan, Canada, Australia and Ireland. WWRD Holdings employs more than 3,700 people worldwide.

SOURCE KPS Capital Partners, LP

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Tuesday, March 24 2009

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# Waterford Crystal plant left out of US buyout deal

Wedgwood sale announced but future of production facility still unclear

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By [Conor Kane](#)  
Saturday February 28 2009

Crystal manufacturing at the world-famous [Waterford](#) plant is not included in a buy-out of the [Waterford Wedgwood](#) company, the [Irish Independent](#) has learned.

The sale of the company's Irish and [UK](#) businesses, along with some overseas assets, was announced yesterday by the receiver appointed last month.

It is understood that new owners [KPS Capital Partners](#) are not acquiring the production facility in Waterford city or its equipment as part of the deal, while keeping the popular visitors' centre open will be dependent on government aid.

The last hope to continue the long tradition of crystal-making will be if the government, local business leaders and workers get together and form a new company to restart crystal manufacturing at the [Kilbarry](#) plant. KPS may then purchase crystal products from that business.

Workers at Waterford Crystal are to continue their sit-in, until their concerns regarding jobs, pensions and redundancy payments are addressed. The sit-in started four weeks ago after the receiver ceased production on the site.

Union representatives now want to begin discussions with the new purchasers to clarify future plans for the Waterford city plant.

## Discussions

### Articles   Topics

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- 'Dumped' Crystal staff bring fight to receiver's doorstep
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- Waterford Crystal to lay off 500 as weak dollar bites
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It is understood that the discussions between KPS, the Unite union and the government will get under way in the next fortnight.

Three main issues worrying the 800 staff at the factory are the future of manufacturing in Waterford; payouts for workers made redundant; and the pension scheme, which is reported to be over €100m in deficit.

Talks are continuing with the [Department of Finance](#) about a pension-guarantee plan, but according to Unite regional organiser [Walter Cullen](#), progress is slow.

"I'd expect that the government will honour their obligations in relation to the pension protection issue," he said last night. "There's people in [Anglo Irish Bank](#) who have left and whose pensions are protected."

A deal leaked two weeks ago indicated that 60 production jobs were to be kept in Waterford, with another 60 to be retained on a six-month trial basis and then reviewed. The visitors' centre and gallery were to be kept open, along with administrative functions.

### Positive

"We're looking forward to engaging with KPS in terms of maximising the amount of jobs in the manufacturing facility in Waterford," said Mr Cullen. "Hopefully, it will be a positive engagement."

However, the Irish Independent understands that KPS will have no role in crystal-making in Waterford, other than becoming a client of any new company set up by the government to retain the long-standing craft.

Unite are also seeking clarification on a reported €10m ex-gratia payment initially offered by KPS to staff losing their jobs.

"Now that a deal is being concluded," said Unite [Irish Regional Secretary Jimmy Kelly](#), "we will look to swiftly conclude the best possible deal for our members. Until such time as that happens, the sit-in at the Waterford Crystal visitor centre ... will continue."

A new company, [WWRD Holdings Ltd](#), has been formed by KPS to acquire some of Waterford Wedgwood's assets, according to receiver [David Carson](#) of Deloitte.

Mr Carson said he was "pleased to announce" the signing of the contract with KPS.

The receiver and joint administrators are working with KPS to "expeditiously" close the transactions, he said, with completion expected in March.

- *Conor Kane*

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### Appointment of Counsel by Opposer

Opposer hereby appoints John D. Pellegrin, Esq., Law Offices of John D. Pellegrin, P.C., and any attorneys affiliated therewith who are members of the bars of the State of Virginia and/or District of Columbia, to act as attorneys for Opposer herein, with full power to prosecute said Opposition to Waterford Wedgwood, PLC's application for registration of the trademark *The Waterford Crystal Pavilion* (Serial No. 771799215), to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this Opposition.

Opposer: Keith C. Clark, Individual

s/ 

Keith C. Clark

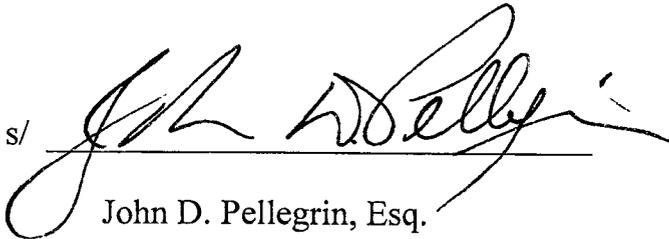
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### Certificate of Service

I, John D. Pellegrin, Esq., counsel for Opposer, Keith C. Clark in the above-captioned matter, hereby certify that a true and complete copy of the foregoing Notice of Opposition with respect to Application Serial No. 77179925, Mark: *The Waterford Crystal Pavilion*; Applicant: Waterford Wedgwood, PLC, has been served this date by causing to be placed in the mail on the date below said copy and sent by U.S. First Class Mail, postage prepaid, to counsel of record for the Applicant, namely:

Bassam N. Ibrahim, Esq.  
Buchanon Ingersoll & Rooney, P.C.  
P.O. Box 1404  
Alexandria, VA 22313

Dated: April 2, 2009

s/   
John D. Pellegrin, Esq.

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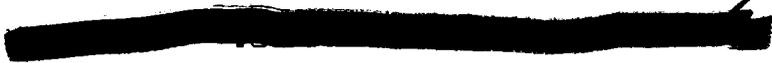
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