

ESTTA Tracking number: **ESTTA391381**

Filing date: **02/02/2011**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	V&S Vin & Sprit Aktiebolag
Granted to Date of previous extension	02/02/2011
Address	SE-117 97 Stockholm, SWEDEN

Attorney information	Joanne Ludovici-Lint McDermott Will & Emery LLP 600 13th Street, NW Washington, DC 20005 UNITED STATES jludovici-lint@mwe.com, emalis@mwe.com, ksandacz@mwe.com, washington_ip_docket@mwe.com
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Applicant Information

Application No	85024864	Publication date	10/05/2010
Opposition Filing Date	02/02/2011	Opposition Period Ends	02/02/2011
Applicant	ALLURA IMPORTS INC. SUITE 1127 112 WEST34TH STREET NEW YORK, NY 10120 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2010/04/01 First Use In Commerce: 2010/04/01 All goods and services in the class are opposed, namely: Clothing, namely, jeans, pants, shirts, t-shirts, shorts, skirts, dresses, tank tops, muscle tops, polo shirts, bathing suits, fleece top and bottoms, golf shorts, gym shorts

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	The mark is not used in commerce in connection with the goods identified in the application.

Marks Cited by Opposer as Basis for Opposition

U.S. Registration	1811766	Application Date	11/16/1989
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No.			
Registration Date	12/21/1993	Foreign Priority Date	06/12/1989
Word Mark	ABSOLUT		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: [COSMETICS; NAMELY, LIPSTICK, NON-MEDICATED LIP BALM, SKIN MOISTURIZING LOTION AND CREAM, SUN LOTION, SUN BLOCK, TOILET SOAP, BATH OIL, BATH BEADS, COLOGNE, PERFUME, AND DUSTING POWDER]</p> <p>Class 008. First use: [SCISSORS AND POCKET KNIVES]</p> <p>Class 009. First use: [CALCULATORS; MUSICAL SOUND RECORDINGS, AND] PRE-RECORDED VIDEO TAPES PERTAINING TO SWEDEN AND THE HISTORY OF THE MANUFACTURE OF VODKA</p> <p>Class 020. First use: [FOOTSTOOLS]</p> <p>Class 021. First use: COCKTAIL STICKS; DRINKING GLASSES; SALT AND PEPPER SHAKERS; DRINK POURERS; NAPKIN HOLDERS; [ICE BUCKETS AND BOTTLE COOLERS; GLASS BOWLS; COMBS AND BRUSHES;] COAT HANGER TAGS</p> <p>Class 024. First use: BAR TOWELS AND BATH TOWELS</p> <p>Class 025. First use: First Use: 1984/11/00 First Use In Commerce: 1984/11/00 GOLF JACKETS, GOLF SHIRTS, SWEATERS, SHIRTS, T-SHIRTS, JERSEYS, JACKETS, APRONS, [BELTS,] HEAD WEAR, SWEAT SHIRTS, [SWIM WEAR] SCARVES, [SKI SUITS] TIES [AND SHORTS]</p> <p>Class 026. First use: TIE CLIPS</p> <p>Class 028. First use: TENNIS BAGS [; SWIMMING AIDS; NAMELY, FLOATS FOR RECREATIONAL USE; ATHLETIC EQUIPMENT; NAMELY, BEACH BALLS, FOOTBALLS, BASEBALLS, BASEBALL BATS AND SOCCER BALLS]</p>		
U.S. Registration No.	3773826	Application Date	12/29/2004
Registration Date	04/13/2010	Foreign Priority Date	NONE
Word Mark	ABSOLUT		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 006. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Metal key chains and key rings</p> <p>Class 008. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Hand tools, namely, scissors, pocketknives, and garnish cutters; and kitchen cutlery, namely, knives, forks and spoons</p> <p>Class 009. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 (Based on Use in Commerce) Calculators; musical sound recordings; pre-recorded audio and video disks in the fields of Sweden, music, arts, movies, beverages and sales and marketing of beverages; neon signs; electric signs; and illuminated signs</p> <p>Class 014. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Jewelry; tie clips; cuff links; necklaces; jewelry, namely, pins; clocks and watches; and ashtrays of precious metal</p> <p>Class 016. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Publications and printed matter, namely, books, magazines and brochures in the fields of Sweden, music, arts, movies, beverages and sales and marketing of beverages; recipe brochures and booklets; writing instruments; paper napkins; posters; paper coasters; paper banners; desktop business card holders; paper gift bags and boxes; paper menu holders; stickers; decals; folders; postcards; paper coat hanger tags; and paper tablecloths</p> <p>Class 018. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Bags, namely, handbags; backpacks; purses; luggage; duffle bags; sports bags; travel bags; tote bags; umbrellas; and business card cases</p> <p>Class 020. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 204479) Furniture; point of purchase displays; display racks and shelves; footstools; bar stools; furniture, namely, chairs and bars; mirrors for use as signs; picture frames; racks for displaying barware and glassware; plastic coat hanger tags; menu display cases</p> <p>Class 021. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Household and kitchen utensils, namely, non-electric barware for mixing and serving beverages; glass beverage ware; serving ware; beverage trays; spice shakers; non-electric beverage stirrers, mixers and shakers; beverage coolers; ice buckets; drink pourers; napkin holders; bowls; combs and hair brushes; plastic and glass coasters; ice scoops; barware and glassware drying racks; tip</p>

	<p>jars; candle holders not of precious metal; cocktail strainers; garnish picks; bottles sold empty; household containers; serving trays not of precious metal; racks for storing barware and glassware; household drip stoppers for the necks of bottles and jars; and corkscrews</p> <p>Class 024. First use: (Based on 44(e) pursuant to European Community Foreign Registration Number 1521681) Towels; textile tablecloths; textile wall hangings; bed blankets; and blanket throws</p> <p>Class 025. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Clothing, namely, t-shirts, shirts, scarves, ties, slacks, shorts, jeans, coats, footwear, socks, sport jackets, jackets, sweaters, belts, dresses, skirts, aprons, hosiery, beachwear, swimwear, ski suits, ski wear and underwear; headgear, namely, hats and caps; bandanas; and scarves</p> <p>Class 026. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Hair clips</p> <p>Class 027. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Floor mats; rubber bar mats; and area rugs</p> <p>Class 028. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Playing cards; sporting goods bags, namely, specially adapted bowling bags and tennis bags; swimming aids, namely, floats for recreational use; sporting goods, games and toys, namely, beach balls, footballs, baseballs, soccer balls, baseball bats and golf bags; and novelty items, namely, snow globes</p> <p>Class 030. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Frozen confections; candies; pastries; and spices</p> <p>Class 033. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Alcoholic beverages, namely, liqueurs, cordials, distilled spirits, distilled liquor, flavored brewed malt beverages, prepared alcoholic and wine cocktails, and alcoholic malt coolers</p> <p>Class 034. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Smoker's articles, namely, cigars, cigarette lighters, ashtrays not of precious metal, and matches</p> <p>Class 043. First use: (Based on 44(e) pursuant to Swedish Foreign Registration Number 248376) Services for providing food and drink, namely, restaurant, bar, cocktail lounge, catering and cafe services</p>
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U.S. Registration No.	3456058	Application Date	11/25/2003
Registration Date	07/01/2008	Foreign Priority Date	NONE
Word Mark	ABSOLUT BAR		

Design Mark	ABSOLUT BAR
Description of Mark	NONE
Goods/Services	Class 025. First use: Clothing, namely, t-shirts, shirts, scarves, ties, slacks, shorts, jeans, pants, coats, socks, sport jackets, jackets, sweaters, sweatshirts, sweat suits, belts, dresses, skirts, aprons, hosiery, beachwear, swimwear, ski suits, ski wear and underwear; footwear; and headgear, namely, hats and caps

U.S. Registration No.	3268740	Application Date	11/12/2003
Registration Date	07/24/2007	Foreign Priority Date	NONE

Word Mark	ABSOLUT
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Design Mark	ABSOLUT
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Description of Mark	NONE
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Goods/Services	Class 035. First use: First Use: 1988/00/00 First Use In Commerce: 1988/00/00 Charitable services, namely organizing and conducting volunteer programs and community service projects; promoting the goods and services of others by preparing and placing advertisements on websites on global computer networks and distributing printed material; promoting the goods and services of others by arranging for sponsors to affiliate their goods and services with art exhibitions, musical concerts, and multimedia Internet programming; business consultation in the field of beverage sales and marketing; offering technical assistance in the operation of beverage distribution and retail sales businesses; developing promotional campaigns and contests for businesses; and product marketing, namely, sales volume and inventory tracking for others in the field of beverage sales
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U.S. Registration No.	1302003	Application Date	01/06/1983
Registration Date	10/23/1984	Foreign Priority Date	NONE

Word Mark	ABSOLUT
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1883/12/31 First Use In Commerce: 1978/05/03 Vodka

U.S. Registration No.	2529817	Application Date	05/09/2001
Registration Date	01/15/2002	Foreign Priority Date	NONE

Word Mark	ABSOLUT
Design Mark	

Description of Mark	The mark consists of the stylized term ABSOLUT shown in the color red. The color red encompasses the entire mark and is not limited to any particular portion of the mark. Applicant claims the color red as a feature of the mark.
Goods/Services	Class 033. First use: First Use: 1979/04/17 First Use In Commerce: 1979/06/17 Vodka

U.S. Registration No.	2540331	Application Date	05/09/2001
Registration Date	02/19/2002	Foreign Priority Date	NONE

Word Mark	ABSOLUT
Design Mark	

Description of Mark	The mark consists of the stylized term "ABSOLUT" shown in the color blue. The color blue encompasses the entire mark and is not limited to any particular portion of the mark. The color blue is claimed as a feature of the mark.
Goods/Services	Class 033. First use: First Use: 1979/04/17 First Use In Commerce: 1979/06/17 Vodka

U.S. Registration No.	2399045	Application Date	09/17/1998
Registration Date	10/31/2000	Foreign Priority	NONE

		Date	
Word Mark	ABSOLUT MANDRIN		
Design Mark	ABSOLUT MANDRIN		
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1999/07/01 First Use In Commerce: 1999/07/01 Alcoholic beverages, namely vodka		

U.S. Registration No.	2688447	Application Date	04/15/2002
Registration Date	02/18/2003	Foreign Priority Date	NONE

Word Mark	ABSOLUT KURANT		
Design Mark	ABSOLUT KURANT		
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1992/09/27 First Use In Commerce: 1992/09/27 Alcoholic beverages, namely, vodka		

U.S. Registration No.	2785564	Application Date	04/15/2002
Registration Date	11/25/2003	Foreign Priority Date	NONE

Word Mark	ABSOLUT PEPPAR		
Design Mark	ABSOLUT PEPPAR		
Description of Mark	NONE		

Goods/Services	Class 033. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00 Alcoholic beverages, namely, vodka
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U.S. Registration No.	2785565	Application Date	04/15/2002
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Registration Date	11/25/2003	Foreign Priority Date	NONE
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Word Mark	ABSOLUT CITRON
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 033. First use: First Use: 1988/07/05 First Use In Commerce: 1988/07/05 Alcoholic beverages, namely, vodka
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U.S. Registration No.	1893279	Application Date	02/28/1994
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Registration Date	05/09/1995	Foreign Priority Date	NONE
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Word Mark	ABSOLUT COUNTRY OF SWEDEN VODKA
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 033. First use: First Use: 1978/05/03 First Use In Commerce: 1978/05/03 vodka
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Joanne Ludovici-Lint/
Name	Joanne Ludovici-Lint
Date	02/02/2011

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

V&S VIN & SPRIT AKTIEBOLAG,

Opposer,

v.

ALLURA IMPORTS INC.,

Applicant.

Opposition No. _____

Serial No: 85/024864

Mark: ABSOLUTE POWER

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Application No.: 85/024864
Mark: ABSOLUTE POWER
Applicant: Allura Imports Inc.
Filed: April 28, 2010
Published: October 5, 2010
International Class: 25
For: See description of goods/services in body of Notice of Opposition.

NOTICE OF OPPOSITION

V&S VIN & SPRIT AKTIEBOLAG, a corporation organized and existing under the laws of Sweden, having its principal place of business at SE-117 97 Stockholm, Sweden (“Opposer”), by and through its attorneys, hereby states that it will be damaged by registration of the mark “ABSOLUTE POWER” covered by U.S. Application Ser. No. 85/024864, filed by Allura Imports Inc., a corporation organized and existing under the laws of New York, having its principal place of business at 112 West 34th Street, Suite 1127, New York, NY 10120 (“Applicant”), and hereby opposes registration of same.

The grounds for opposition are as follows:

1. Opposer manufactures the world-famous vodka sold under the brand name ABSOLUT, which is sold throughout the United States. In addition, Opposer is and for many years has been engaged in the development, manufacture, promotion, distribution, offering for sale, and sale of a wide variety of other products and services under its ABSOLUT marks, including the goods and services identified in the registrations cited in Paragraph 3, below.

2. Since long prior to Applicant’s filing of its application to register the mark “ABSOLUTE POWER” and prior to any use thereof by Applicant, Opposer has used, advertised and promoted in commerce, and continues to use, advertise and promote in commerce, Opposer’s ABSOLUT marks in connection with Opposer’s broad range of products and services, including the goods and services identified in the registrations cited in Paragraph 3, below.

3. Opposer owns extensive common law rights to its ABSOLUT marks. In addition, Opposer owns numerous U.S. trademark and service mark registrations for ABSOLUT alone and in combination with other terms and designs for a wide variety of products and services, including, but not limited to, the goods and services identified in the registrations below.

(Hereafter these registered and common law marks are collectively referred to as the “ABSOLUT Marks.”). Among Opposer’s federally registered marks are the following, which are currently registered on the Principal Register and have not been cancelled:

Trademark	Reg. No.	Reg. Date	Selected Goods and Services
ABSOLUT	1,811,766	12/21/93	Including, but not limited to, golf jackets, golf shirts, sweaters, shirts, T-shirts, jerseys, jackets, aprons, head wear, sweat shirts, scarves, and ties in Class 25.
ABSOLUT	3,773,826	4/13/10	Including, but not limited to, clothing, namely, t-shirts, shirts, scarves, ties, slacks, shorts, jeans, coats, footwear, socks, sport jackets, jackets, sweaters, belts, dresses, skirts, aprons, hosiery, beachwear, swimwear, ski suits, ski wear and underwear; headgear, namely, hats and caps; bandanas; and scarves in Class 25.

Trademark	Reg. No.	Reg. Date	Selected Goods and Services
ABSOLUT BAR	3,456,058	07/1/08	Clothing, namely, t-shirts, shirts, scarves, ties, slacks, shorts, jeans, pants, coats, socks, sport jackets, jackets, sweaters, sweatshirts, sweat suits, belts, dresses, skirts, aprons, hosiery, beachwear, swimwear, ski suits, ski wear and underwear; footwear; and headgear, namely, hats and caps in Class 25.
ABSOLUT	3,268,740	07/24/07	Charitable services, namely organizing and conducting volunteer programs and community service projects; promoting the goods and services of others by preparing and placing advertisements on websites on global computer networks and distributing printed material; promoting the goods and services of others by arranging for sponsors to affiliate their goods and services with art exhibitions, musical concerts, and multimedia internet programming; business consultation in the field of beverage sales and marketing; offering technical assistance in the operation of beverage distribution and retail sales businesses; developing promotional campaigns and contests for businesses; and product marketing, namely, sales volume and inventory tracking for others in the field of beverage sales in Class 35.
ABSOLUT	1,302,003	10/23/84	Vodka, in Class 33.
ABSOLUT	2,529,817	01/15/02	Vodka, in Class 33.
ABSOLUT	2,540,331	02/19/02	Vodka, in Class 33.
ABSOLUT MANDRIN	2,399,045	10/31/00	Alcoholic beverages, namely vodka, in Class 33.
ABSOLUT KURANT	2,688,447	02/18/03	Alcoholic beverages, namely vodka, in Class 33.
ABSOLUT PEPPAR	2,785,564	11/25/03	Alcoholic beverages, namely vodka, in Class 33.
ABSOLUT CITRON	2,785,565	11/25/03	Alcoholic beverages, namely vodka, in Class 33.
ABSOLUT COUNTRY OF SWEDEN	1,893,279	05/09/95	Vodka, in Class 33.

4. The registrations set forth in Paragraph 3 are valid and subsisting and in full force and effect. In addition, Opposer's Registration Nos. 1,302,003; 1,811,766; 1,893,279;

2,399,045; 2,529,817; 2,540,331; 2,688,447; 2,785,564; and 2,785,565 have achieved incontestable status under 15 U.S.C. §§ 1065 and 1115(b).

5. Opposer has expended substantial resources to advertise and promote the above-described products and services, and other products and services, all under its ABSOLUT Marks.

6. By reason of Opposer's advertisement, sale, offering for sale, promotion and use, and the world-wide distribution of Opposer's products and services, Opposer's ABSOLUT Marks have come to be recognized as signifying Opposer and its products and services. Opposer has built up extensive goodwill in its ABSOLUT Marks.

7. Long prior to Applicant's filing of its application to register the mark "ABSOLUTE POWER" and prior to any use thereof by Applicant, purchasers have come to recognize Opposer's ABSOLUT Marks as identifying goods and services emanating exclusively from Opposer.

8. Opposer's ABSOLUT Marks are famous and have been famous since long prior to Applicant's filing of its application to register the mark "ABSOLUTE POWER" and prior to any use thereof by Applicant.

9. Notwithstanding Opposer's prior rights in and to Opposer's ABSOLUT Marks, on April 28, 2010, Applicant filed an application for the mark "ABSOLUTE POWER" for:

Clothing, namely, jeans, pants, shirts, t-shirts, shorts, skirts, dresses, tank tops, muscle tops, polo shirts, bathing suits, fleece top and bottoms, golf shorts, gym shorts, in International Class 25 (Application Serial No. 85/024864).

10. Applicant's application to register the mark "ABSOLUTE POWER" is based on § 1(a) of the Trademark Act and Applicant represents that the applied-for goods were first used in commerce on April 1, 2010.

11. Applicant's herein-opposed application was published for opposition on October 5, 2010 in the Official Gazette (Trademarks) of the United States Patent and Trademark Office.

Opposer was granted an extension of time until February 2, 2011 to file a notice of opposition.

Therefore, this Notice of Opposition is being timely filed.

12. Applicant's applied-for goods are similar to, related to and overlap with the products with which Opposer uses its ABSOLUT Marks.

13. Applicant's mark "ABSOLUTE POWER" is identical and/or confusingly similar to Opposer's ABSOLUT Marks, and Applicant's use and registration of "ABSOLUTE POWER" with the goods set forth in Applicant's application are likely to cause confusion, deception, and/or mistake among the relevant public.

14. Applicant's use and registration of the mark "ABSOLUTE POWER" are likely to dilute the distinctiveness of Opposer's famous ABSOLUT Marks.

15. Applicant's use and registration of the mark "ABSOLUTE POWER" are likely to falsely suggest a connection with Opposer and Opposer's ABSOLUT Marks.

16. Applicant's use and registration of the mark "ABSOLUTE POWER" are likely to tarnish and harm the reputation of Opposer's famous ABSOLUT Marks.

17. Applicant's use and registration of the mark "ABSOLUTE POWER" interfere with Opposer's ABSOLUT Marks and will damage Opposer, its business and its goodwill.

18. On information and belief, Applicant has not used the mark "ABSOLUTE POWER" in commerce in connection with the goods identified in Applicant's application.

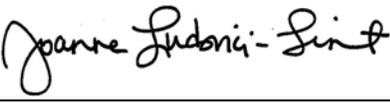
WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's mark and prays that it be denied.

The requisite filing fee prescribed by 37 C.F.R. § 2.6(a)(17), in the amount of \$300.00, should be charged to Deposit Account No. 500417. If there are any additional fees due in connection with this Notice of Opposition, they should also be charged to Deposit Account No. 500417, and any excess fees should be credited to same. All correspondence relating to this matter should be directed to the undersigned attorneys for Opposer.

Respectfully submitted,

V&S VIN & SPRIT AKTIEBOLAG

Dated: February 2, 2011

By: 

Joanne Ludovici-Lint
McDERMOTT WILL & EMERY LLP
600 13th Street, N.W.
Washington, D.C. 20005
Telephone: (202) 756-8000
Facsimile: (202) 756-8087

Attorney for Opposer

CERTIFICATE OF SERVICE

Opposer V&S VIN & SPRIT AKTIEBOLAG hereby certifies that a copy of this NOTICE OF OPPOSITION has been served upon Applicant Allura Imports Inc. on this 2nd day of February, 2011, by First Class U.S. Mail, postage prepaid, at the following address:

Allura Imports Inc.
112 West 34th Street
Suite 1127
New York, NY 10120-1127



Joanne Ludovici-Lint
McDERMOTT WILL & EMERY LLP
Attorney for Opposer

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