

ESTTA Tracking number: **ESTTA523918**

Filing date: **02/27/2013**

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

Proceeding	91205046
Party	Plaintiff Christina Sukljian
Correspondence Address	CHRISTINA SUKLJIAN 13 MANOR STREET ALBANY, NY 12207 UNITED STATES info@zela.com
Submission	Reply in Support of Motion
Filer's Name	Christina Sukljian
Filer's e-mail	info@zela.com
Signature	/Christina Sukljian/
Date	02/27/2013
Attachments	Respondents Reply To Petitioners Opposition To Respondents Motion To Compel in Cancelation.pdf ( 96 pages )(6065876 bytes )



## PRELIMINARY STATEMENT

Petitioner's untimely reply brief dated February 12, 2013 is bewildering. Petitioner Ate My Heart, Inc. claims that (1) Respondent never served its Discovery to Petitioner and (2) Respondent's Certificate of Proof of Service and signature confirmation of delivery from The United States Postal Service is not to be believed. This is patently false. Respondent Christina Sukljian served its Discovery Requests (*Defendant's First Set Of Interrogatories And Defendant's First Request For The Production Of Documents*) to Petitioner Ate My Heart, Inc. on December 5, 2012 via The United States Postal Service Priority Mail with Signature Confirmation Proof of Delivery tracking number [9410803699300037838425](#) in a postage prepaid envelope addressed to Petitioner:

Ate My Heart, Inc.  
c/o Pryor Cashman LLP  
7 Times Square  
New York, NY 10036

Petitioner Ate My Heart, Inc. received and signed for Respondent's Discovery Requests on December 10, 2012 at 3:45pm. Copies of Respondent's Certificate of Proof of Mailing and USPS Signature Proof of Delivery Receipt are annexed here to as Exhibit A.

Ate My Heart, Inc. is *now* claiming in its opposition responses that Respondent did not address its Discovery to the attention of '*the counsel she has been dealing with for the past year.*' This statement is false. Respondent has not been dealing with only a single counsel from Ate My Heart, Inc. for the past year. In fact, Respondent Christina Sukljian has been dealing with many counsels from Ate My Heart, Inc. during the course of the year. Respondent has dealt with and

received correspondence from many different counsels from Ate My Heart, Inc. including the following listed below:

Brad D. Rose

Lisa M. Buckley

Philippe Zylberg

Nicole E. Kaplan

Moira B. Shine

Janice Romeo Keller

Stephanie R. Kline

Copies of Petitioner's correspondences from its many counsels sent to Respondent are annexed here to as Exhibit B.

Furthermore, during the course of almost 1 year from April 16, 2012 to date, February 28, 2013, Respondent Christina Sukljian has mailed over 14 correspondences to Ate My Heart, Inc. in both of the consolidated proceedings and Ate My Heart, Inc. has received each and every one of Christina Sukljian's correspondences without issue. Since April 16, 2012 to present date Christina Sukljian has addressed each correspondence to Ate My Heart, Inc. in both of the consolidated proceedings as follows:

Ate My Heart, Inc.

c/o Pryor Cashman LLP

7 Times Square

New York, NY 10036

Christina Sukljian's correspondences have been mailed via The United States Postal Service Priority Mail with Signature Confirmation Proof of Delivery as well as United States Postal Service First Class Mail. Each and every one of Sukljian's mailings were delivered and received by Ate My Heart, Inc. properly and without issue. Copies of Christina Sukljian's USPS Proof of Mailings and USPS Signature Proof

of Delivery Receipts are annexed here to as Exhibit C. Ate My Heart, Inc. ignored and failed to respond to Respondent's Discovery Requests and when Respondent filed a Motion To Compel Petitioner, Ate My Heart, Inc. falsely stated that Respondent's Discovery Requests were not served and therefore not received by Petitioner. When statement of facts arise that are not in Petitioner's favor, Petitioner's claims of non-receipt after almost 1 year of correspondence with no issue, at this point, is ludicrous.

The only issue present in the consolidated proceedings is the likelihood of confusion that exists in the name, sound, appearance and goods between the continuously used in commerce trademark GAGA PURE PLATINUM® and the applied-for mark HAUS of GAGA. This is a claim of trademark priority and confusing similarities between the GAGA PURE PLATINUM® trademark and the applied-for-mark HAUS of GAGA. Petitioner Ate My Heart's Petition to Cancel is moot and Petitioner Ate My Heart, Inc. does not deny or dispute the fact that GAGA PURE PLATINUM® is not abandoned, and admits to the fact that GAGA PURE PLATINUM® was in use in commerce and not abandoned prior to its Petition to Cancel in responses dated January 23, 2013 and February 12, 2013 over and over again Annexed hereto is Exhibit D. The only issue present is the confusing similarities and likelihood of confusion that exists with the Registered Trademark GAGA PURE PLATINUM® and the broad list of similar goods in the same class 3 for the applied-for-mark by a newcomer, HAUS OF GAGA.

In its untimely response dated February 12, 2013, Petitioner has not provided any meaningful responses or documents in response to Respondent's Discovery requests served on December 5, 2012. Respondent's Discovery requests are essential to determine how Ate My Heart, Inc. intends on using or in fact ever intends on using its applied for intent-to-use mark HAUS OF GAGA. The items responsive to Respondent's Discovery requests include but are not limited to information and documents relating to logos, packaging designs, product designs, intended customers and retailers, intended manufacturers and distributors, product development, product samples, name selection, color schemes, contracts or licenses relating to the intended use of the applied mark. None of these items were provided and in fact Ate My Heart, Inc. did not provide any evidence relating to any intention of using the applied for mark, HAUS

OF GAGA, as filed under oath under applicant's application No. 85215017. Respondent's Motion to Compel is necessary.

## ARGUMENT

### **Respondent's Motion To Compel Is Necessary And Should Be Granted**

The consolidated proceedings, Opposition No. 91205046 and Cancellation No. 92055279 are about the likelihood of confusion that exists between the Registered Trademark in class 3 GAGA PURE PLATINUM® and Ate My Heart, Inc's attempt to infringe on Respondent's intellectual property and rights by attempting to register the confusingly similar mark HAUS OF GAGA in the same class 3 for the same goods. This is a claim of trademark priority and confusing similarity and any discoverable information from Ate My Heart, Inc. is relevant to this proceeding. Petitioner Ate My Heart has not produced any meaningful responses or documents in response to Respondent's Discovery requests. Respondent's Discovery requests are essential to determine how Petitioner intends on using or in fact ever intends on using its applied for intent-to-use mark HAUS OF GAGA for its broad list of similar goods. Petitioner's mark is highly similar in name, sound, goods and appearance that are confusingly similar to Respondent's Trademark and lists a broad list of goods in class 3 for *Soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices; color cosmetics; facial cosmetics; decorative transfers for cosmetic purposes; non-mediated skin care preparations; body and foot care products, namely, beauty milks, skin moisturizers and skin moisturizer masks, skin conditioners, hand creams, massage oils, essential oils for personal use, talcum powder, perfumed powders, face wash, skin cleansers, skin highlighting cream, body scrubs, body fragrances, fragrances for personal use, body and hand lotions, body gels, body oils, body powders, body exfoliants, body masks, body mask creams and lotions, shaving preparations, after shave lotions, shaving balm, shaving cream, shaving gel, skin abrasive preparations, non-medicated skin creams and skin lotions for relieving razor burns, non-medicated lip care preparations, lip cream, non-medicated sunscreen preparations, suntanning preparations and after-sun lotions; fragrances; bath salts; cosmetic preparations for baths; body and shower products, namely, bath beads, bath crystals, bath*

*foam, bath gels, bath oils, bath powders, shower gels, cosmetic soaps, perfumed soaps, liquid soaps, hand, facial and bath soaps, deodorant soaps, shaving soaps, soap powder, toilet soaps, soaps for body care, soaps for personal use, shampoos, conditioners, hair mousse, hair frosts, hair rinses, hair sprays, hair color, hair waving lotion, permanent wave preparations, hair lighteners, hair dyes, hair emollients, hair mascara, hair pomades, hair color removers, hair relaxing preparations, hair styling preparations, hair removing cream, and hair care preparations; body, face, skin and foot lotions and creams; non-medicated toiletries; colognes; eau de toilettes; body firming gels and lotions; nail varnishes; lipsticks; makeup; sun block. deodorants for personal use; perfumed paper in the nature of pot pourri and pomanders containing perfumed preparations and mixtures; eau de parfum; toilet water; talcum powder; hair care preparations; non-medicated preparations for the care and conditioning of the body, skin, and scalp; bubble bath, bath gel, bath oil and shower gel.* The items responsive to Respondent's Discovery requests include but are not limited to very simple information and documents relating to logos, packaging designs, product designs, intended customers and retailers, intended manufacturers and distributors, product development, product samples, name selection, color schemes, contracts or licenses relating to the intended use of the applied mark. None of these items were provided and in fact Petitioner did not provide any evidence relating to any intention of using the applied for mark, Haus of Gaga, as filed under oath under applicant's application no. 85215017 because they do not exist. Respondent cannot inspect and copy documents relating to logos, packaging designs, product designs, intended customers and retailers, intended manufacturers and distributors, product development, product samples, name selection, color schemes, contracts or licenses if Petitioner is not cooperating and not providing any meaningful responses. Respondent's Motion to Compel Petitioner is necessary and should be granted.

### **Petitioner Ate My Heart, Inc.'s Ill Intentions**

Petitioner's attempts to infringe on Respondent's trademark were twice denied registration for the applied for marks, LADY GAGA Serial No. 85115004 filed under 1A on August 24, 2010, and LADY GAGA FAME Serial No. 85282752 filed under 1B on March 21, 2011. Both applications were refused

and denied registration by the USPTO under Section 2(d) of the Trademark Act due to likelihood of confusion with GAGA PURE PLATINUM®. GAGA PURE PLATINUM® was cited by the USPTO in its refusal to grant trademark registration to Ate My Heart, Inc. for LADY GAGA on December 7, 2010 and for LADY GAGA FAME on September 6, 2011. Annexed hereto is Exhibit E. Christina Sukljian's Opposition No. 91205046 is now Ate My Heart Inc.'s third attempt and Petitioner filed its ill intended Petition to Cancel on March 5, 2012 after Christina Sukljian filed an extension of time to file its Notice of Opposition just 5 days prior on February 29, 2012. Annexed hereto is Exhibit F.

During discovery conferences Petitioner did in fact state to Respondent on the telephone that they had prior knowledge to the material facts and that Respondent's trademark was continuously used in commerce. Petitioner stated to Respondent that Ate My Heart would withdraw its Petition To Cancel only if Respondent assigned its Trademark and all its rights, including websites associated with GAGA PURE PLATINUM® over to Ate My Heart, Inc. Furthermore, Petitioner's attorneys went on to state to Respondent on the telephone that they 'sent someone' to Respondent's office. When Respondent inquired as to the meaning of its statement, Petitioner's would not elaborate with any further particulars. Respondent believed that their silence on this matter was an attempt to further intimidate Respondent to hand over all its rights and intellectual property to Ate My Heart, Inc. Petitioner admitted to Respondent on the telephone that its Petition to Cancel, filed on March 5, 2012, was in fact ill intended due to Respondent's filing an extension of time to oppose Petitioner's application just 5 days prior, on February 29, 2012, and further threatened Respondent with the enormous undue burden, financial burden, harassment and vexation of a costly and lengthy trial if Respondent would not immediately assign its trademark and all rights over to the Ate My Heart, Inc. at once. Respondent did not give in to Petitioner's harassing threats and intimidations and Applicant Ate My Heart, Inc. proceeded with its actions.

**Ate My Heart's Claim Of Abandonment And Petition To Cancel Is Moot**

Petitioner Ate My Heart's Petition to Cancel is moot and Ate My Heart, Inc. does not deny or dispute the fact that GAGA PURE PLATINUM® is not abandoned, and admits to the fact that GAGA

PURE PLATINUM® was in use in commerce and not abandoned prior to its Petition to Cancel in its responses dated January 23, 2013 and February 12, 2013 over and over again. Please refer to Exhibit D. Ate My Heart, Inc. states in its responses, *“Sukljian registered a trademark, which she never used and never had any intention to use. Once Lady Gaga rose to international fame and began receiving virtually unparalleled publicity, Ms. Sukljian decided to capitalize on Lady Gaga’s fame and goodwill by commencing use of the mark in commerce.”* Ate My Heart’s first statement ‘never used and never had any intention to use’ is egregiously false. Ate My Heart goes on to admit, as the Board can clearly see in its next statement, that Respondent’s mark was in use and not abandoned. Ate My Heart has concocted a preposterous story that Respondent is a clairvoyant and invented GAGA PURE PLATINUM® with the sole intent to one day capitalize on ‘Lady Gaga.’ Ate My Heart admits the fact that Respondent’s mark was in use in commerce and not abandoned. Ate My Heart’s statements illustrate that Ate My Heart knew all along that Respondent’s mark was in use in commerce and not abandoned and in fact cannot deny these facts and as such admitted these facts in its statement. Ate My Heart conjured ludicrous claims in its attempt to gain unnecessary, unbridled access to Respondent’s confidential and proprietary information, trade secrets, etc. Ate My Heart’s claims are so fantastical it is clearly grasping at straws, nevertheless Ate My Heart cannot deny the fact that the mark was in use in commerce and not abandoned prior to its petition to cancel and further proves its Petition To Cancel is unwarranted, harassing and unnecessary.

Petitioner’s harassing demands for claimed presumption of abandonment are ill intended and moot. Ate My Heart, Inc. decided to deliberately ignore the material facts and pursue an unwarranted and meritless Petition to Cancel action solely to inflict harm, intimidation, harassment and overwhelming undue burden on Christina Sukljian. Ate My Heart, Inc. continues to ignore the clear fact that GAGA PURE PLATINUM® has always been readily and easily available to the public on the parent website [www.Zela.com](http://www.Zela.com), registered December 9, 1999 and [www.GagaPurePlatinum.com](http://www.GagaPurePlatinum.com), registered February 11, 2011 all with a simple search that any reasonable fact finder, the public at large and Applicant itself indeed had and has access to. Prior to Petitioner’s bad faith cancelation action, Petitioner did in fact have

vast knowledge to the use of Respondent's Trademark in commerce and Petitioner did visit both [www.Zela.com](http://www.Zela.com) and [www.GagaPurePlatinum.com](http://www.GagaPurePlatinum.com) yet deliberately decided to ignore the clear facts and chose to proceed with its ill intended cancelation action. Annexed hereto is Exhibit G.

These consolidated proceedings are solely about the likelihood of confusion between GAGA PURE PLATINUM® and HAUS OF GAGA. This is a claim of trademark priority and confusing similarities between Christina Sukljian's GAGA PURE PLATINUM® trademark and the applied-for-mark for HAUS OF GAGA by newcomer Ate My Heart, Inc. Ate My Heart filed an ill intended Petition to Cancel in retaliation solely to inflict harm, intimidation, and undue burden on Christina Sukljian. The only issue present in these consolidated proceeding is the likelihood of confusion between the marks. Respondent's Motion To Compel Petitioner is necessary and relevant and should be granted in its entirety and judgment entered in favor of Respondent Christina Sukljian.

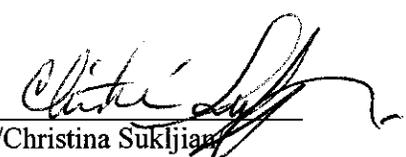
WHEREFORE, for the reasons set forth herein, Respondent Christina Sukljian respectfully requests that Respondent's Motion To Compel Petitioner Ate My Heart be granted and Petitioner's Petition to Cancel be denied in its entirety and judgment entered against Ate My Heart, Inc. and entirely in favor of Christina Sukljian in the cancelation proceeding and opposition proceeding,

Dated: Albany, New York

February 27, 2013

Respectfully Submitted,

By:

  
/Christina Sukljian  
Christina Sukljian  
GAGA PURE PLATINUM  
13 Manor Street  
Albany, New York 12207

**CERTIFICATE OF PROOF OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **RESPONDENT'S REPLY TO PETITIONER'S OPPOSITION TO RESPONDENT'S MOTION TO COMPEL**

has been served on Ate My Heart, Inc. by mailing said copy on February 27, 2013 via The United States Postal Service Priority Mail with Signature Confirmation in a USPS Priority Mail Envelope postage prepaid to: Ate My Heart, Inc. c/o Pryor Cashman LLP, 7 Times Square, New York, NY 10036.

By: 

/Christina Sukljan/

Christina Sukljan

13 Manor Street

Albany, NY 12207

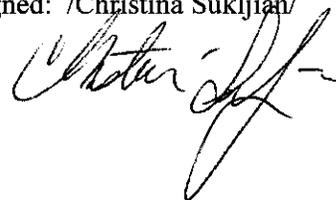
Date of Deposit: February 27, 2013  
USPS Priority Mail

**CERTIFICATE OF MAILING THROUGH ESTTA**

I, Christina Sukljian, hereby certify that this **RESPONDENT'S REPLY TO PETITIONER'S OPPOSITION TO RESPONDENT'S MOTION TO COMPEL** is being filed electronically through ESTTA with The Trademark Trial And Appeal Board, United States Patent And Trademark Office, Alexandria, VA 22313-1451 on the date indicated below.

Date of Deposit: February 27, 2013

Signed: /Christina Sukljian/

A handwritten signature in black ink, appearing to read 'Christina Sukljian', with a stylized flourish at the end.

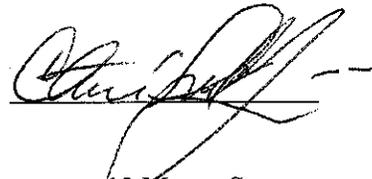
# EXHIBIT A

**CERTIFICATE OF PROOF OF SERVICE**

I hereby certify that a true and correct copy of the foregoing DEFENDANT'S FIRST SET OF INTERROGATORIES has been served on Ate My Heart, Inc. by mailing said copy on December 5, 2012 via The United States Postal Service priority mail with signature confirmation in a postage prepaid envelope to Plaintiff at the following address: Ate My Heart, Inc. c/o Pryor Cashman LLP, 7 Times Square, New York, NY 10036.

Date of Deposit: December 5, 2012  
USPS Priority Mail

Christina Sukljan



13 Manor Street  
Albany, NY 12207

**CERTIFICATE OF PROOF OF SERVICE**

I hereby certify that a true and correct copy of the foregoing DEFENDANT'S FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS has been served on Ate My Heart, Inc. by mailing said copy on December 5, 2012 via The United States Postal Service priority mail with signature confirmation in a postage prepaid envelope to Defendant at the following address: Ate My Heart, Inc. c/o Pryor Cashman LLP, 7 Times Square, New York, NY 10036.

  
Christina Sukljan  
13 Manor Street  
Albany, NY 12207

Date of Deposit: December 5, 2012  
USPS Priority Mail

## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, **DO NOT TAPE OVER BARCODE.** Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

## Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:

**9410 8036 9930 0037 8384 25**

Paid Online

Transaction #:	248865544	Priority Mail® Postage:	<b>\$4.90</b>
Print Date:	12/05/2012	Signature Confirmation:	<b>\$2.10</b>
Ship Date:	12/05/2012	(Electronic Rate)	
		Total:	<b>\$7.00</b>

From: CHRISTINA SUKLJIAN  
13 MANOR ST  
ALBANY NY 12207-3008

To: ATE MY HEART, INC.  
C/O PRYOR CASHMAN, LLP  
7 TIMES SQ  
NEW YORK NY 10036-8524

\* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



*Thank you for shipping with the United States Postal Service!*  
*Check the status of your shipment on the Track & Confirm page at [usps.com](http://usps.com)*



Date: 02/18/2013

CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0037 8384 25. The delivery record shows that this item was delivered on 12/10/2012 at 03:45 PM in NEW YORK, NY 10036 to L ZAYAS. The scanned image of the recipient information is provided below.

Signature of Recipient:

A scanned image of a signature strip. On the left, there are vertical labels: "Signature" and "Date". The signature "L. ZAYAS" is written in cursive in the top line, and "L. ZAYAS" is printed in a sans-serif font in the bottom line.

Address of Recipient:

A scanned image of an address strip. On the left, there are vertical labels: "Address" and "City". The address "7 Times Sq. (3) Pryor..." is written in cursive in the top line.

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

# EXHIBIT B

## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, **DO NOT TAPE OVER BARCODE.** Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

## Online Label Record (Label 1 of 1)

**Signature Confirmation™ Number:  
9410 8036 9930 0030 4090 80**

Paid Online

Transaction #:	229801912	Priority Mail® Postage:	<b>\$4.90</b>
Print Date:	04/13/2012	Signature Confirmation:	<b>\$2.10</b>
Ship Date:	04/13/2012	(Electronic Rate)	
Weight:	0 lb 6 oz	Total:	<b>\$7.00</b>

**From:** CHRISTINA SUKLJIAN  
13 MANOR ST  
ALBANY NY 12207-3008

**To:** ATE MY HEART, INC. C/O PRYOR CASHMAN LLP.  
7 TIMES SQ  
NEW YORK NY 10036-6524

\* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 10 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



*Thank you for shipping with the United States Postal Service!  
Check the status of your shipment on the Track & Confirm page at [usps.com](http://usps.com)*



Date: 02/18/2013

CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0030 4090 80. The delivery record shows that this item was delivered on 04/16/2012 at 02:32 PM in NEW YORK, NY 10036 to A RIVERA. The scanned image of the recipient information is provided below.

Signature of Recipient:

Delivery Section	
Signature	
Delivered to	A. Rivera

Address of Recipient:

Delivery address	7 Times Square. (3)
------------------	---------------------

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, **DO NOT TAPE OVER BARCODE.** Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

## Online Label Record (Label 1 of 1)

Adult Signature Number:

**9468 1036 9930 0000 2146 29**

Paid Online

Transaction #:	231195561	Priority Mail® Postage:	<b>\$4.90</b>
Print Date:	05/01/2012	Adult Signature:	<b><u>\$4.75</u></b>
Ship Date:	05/01/2012	Total:	<b>\$9.65</b>
Weight:	1 lb 1 oz		

From: CHRISTINA SUKLJIAN  
13 MANOR ST  
ALBANY NY 12207-3008

To: ATE MY HEART, INC.  
C/O PRYOR CASHMAN, LLP.  
7 TIMES SQ  
NEW YORK NY 10036-6524

\* Commercial Base Pricing Priority Mail rates apply. There is no fee for Delivery Confirmation service on Priority Mail service with use of this electronic rate shipping label. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 10 days from the print date.



Date: 02/18/2013

CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Adult Sig(TM) item number 9468 1036 9930 0000 2146 29. The delivery record shows that this item was delivered on 05/04/2012 at 02:20 PM in NEW YORK, NY 10036 to C JACKSON. The scanned image of the recipient information is provided below.

Signature of Recipient:

Delivery Section	
Signature	
Name	C. JACKSON 3 <sup>rd</sup>

Address of Recipient:

Address	7 TIMES SQUARE EAST PASADENA
---------	------------------------------

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, **DO NOT TAPE OVER BARCODE.** Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

## Online Label Record (Label 1 of 1)

Adult Signature Number:

**9468 1036 9930 0000 2248 02**

Paid Online

Transaction #: 232252628

Print Date: 05/14/2012

Ship Date: 05/14/2012

Weight: 1 lb 1 oz

Priority Mail® Postage: **\$4.90**

Adult Signature: **\$4.75**

Total: **\$9.65**

From: CHRISTINA SUKLJIAN  
13 MANOR ST  
ALBANY NY 12207-3008

To: ATE MY HEART INC.  
C/O PRYOR CASHMAN LLP  
7 TIMES SQ  
NEW YORK NY 10036-6524

\* Commercial Base Pricing Priority Mail rates apply. There is no fee for Delivery Confirmation service on Priority Mail service with use of this electronic rate shipping label. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date.



*Thank you for shipping with the United States Postal Service!  
Check the status of your shipment on the Track & Confirm page at [usps.com](http://usps.com)*

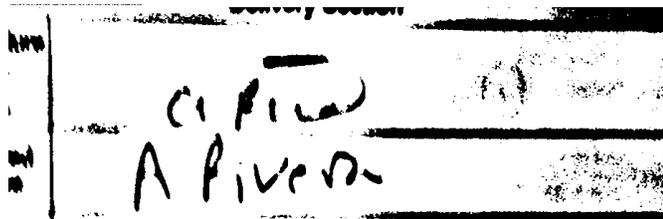


Date: 02/18/2013

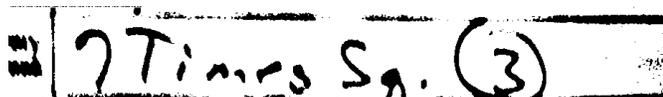
CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Adult Sig(TM) item number 9468 1036 9930 0000 2248 02. The delivery record shows that this item was delivered on 05/16/2012 at 02:15 PM in NEW YORK, NY 10036 to A RIVERA. The scanned image of the recipient information is provided below.

Signature of Recipient:



Address of Recipient:



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

**CERTIFICATE OF PROOF OF SERVICE**

I hereby certify that a true and correct copy of the foregoing CHANGE OF CORRESPONDENCE ADDRESS has been served on Ate My Heart, Inc. by mailing said copy on November 13, 2012 via The United States Postal Service First Class Mail in a postage prepaid envelope to Defendant at the following address: Ate My Heart, Inc. c/o Pryor Cashman LLP, 7 Times Square, New York, NY 10036.

  
Christina Sukhian  
13 Manor Street  
Albany, NY 12207

Date of Deposit: November 13, 2012  
USPS First Class Mail

## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, **DO NOT TAPE OVER BARCODE.** Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

## Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:

**9410 8036 9930 0037 4069 21**

Paid Online

Transaction #: 247683731

Print Date: 11/23/2012

Ship Date: 11/23/2012

Priority Mail® Postage: **\$4.90**

Signature Confirmation: **\$2.10**

(Electronic Rate)

Total: **\$7.00**

From: CHRISTINA SUKLJIAN  
13 MANOR ST  
ALBANY NY 12207-3008

To: ATE MY HEART, INC.  
C/O PRYOR CASHMAN, LLP.  
7 TIMES SQ  
NEW YORK NY 10036-6524

\* Commercial Base Pricing Priority Mail rate apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



*Thank you for shipping with the United States Postal Service!*  
*Check the status of your shipment on the Track & Confirm page at [usps.com](http://usps.com)*

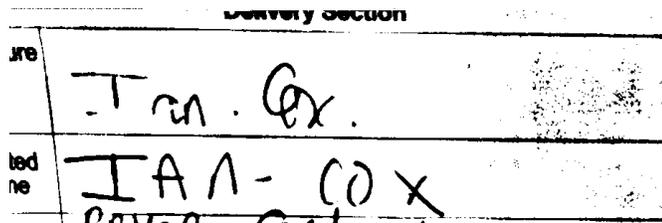


Date: 02/19/2013

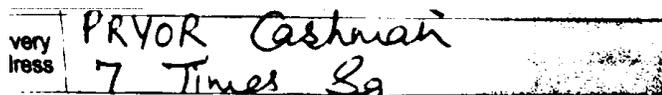
CHRISTINA S:

The following is in response to your 02/19/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0037 4069 21. The delivery record shows that this item was delivered on 11/26/2012 at 03:26 PM in NEW YORK, NY 10036 to I COX. The scanned image of the recipient information is provided below.

Signature of Recipient:



Address of Recipient:



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. DO NOT PHOTO COPY OR ALTER LABEL.
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, DO NOT TAPE OVER BARCODE. Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

## Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:

**9410 8036 9930 0037 4070 27**

Paid Online

Transaction #: 247683903

Print Date: 11/23/2012

Ship Date: 11/24/2012

Priority Mail® Postage: **\$4.90**

Signature Confirmation: **\$2.10**  
(Electronic Rate)

Total: **\$7.00**

From: CHRISTINA SUKLJIAN  
13 MANOR ST  
ALBANY NY 12207-3008

To: ATE MY HEART, INC.  
C/O PRYOR CASHMAN, LLP.  
7 TIMES SQ  
NEW YORK NY 10036-6524

\* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



*Thank you for shipping with the United States Postal Service!*  
*Check the status of your shipment on the Track & Confirm page at [usps.com](http://usps.com)*

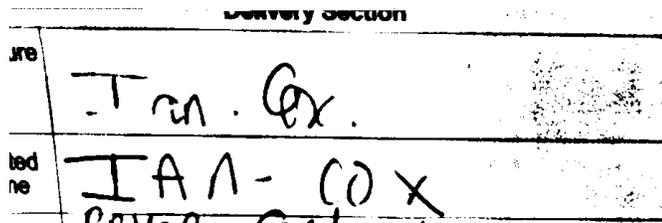


Date: 02/18/2013

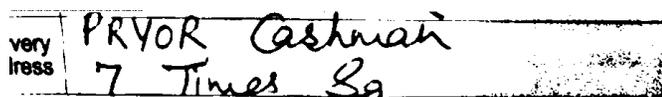
CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0037 4070 27. The delivery record shows that this item was delivered on 11/26/2012 at 03:26 PM in NEW YORK, NY 10036 to I COX. The scanned image of the recipient information is provided below.

Signature of Recipient:



Address of Recipient:



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. DO NOT PHOTO COPY OR ALTER LABEL.
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, DO NOT TAPE OVER BARCODE. Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

## Online Label Record (Label 1 of 2)

Delivery Confirmation™ Number:  
**9405 5036 9930 0213 1420 60**

Paid Online

Transaction #: 247856108  
Print Date: 11/26/2012  
Ship Date: 11/26/2012

Priority Mail® Postage: **\$4.90**  
Total: **\$4.90**

From: CHRISTINA SUKLJIAN  
13 MANOR ST  
ALBANY NY 12207-3008

To: ATE MY HEART INC.  
C/O PRYOR CASHMAN LLP  
7 TIMES SQ  
NEW YORK NY 10036-6524

\* Commercial Base Pricing Priority Mail rates apply. There is no fee for Delivery Confirmation service on Priority Mail service with use of this electronic rate shipping label. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date.



*Thank you for shipping with the United States Postal Service!  
Check the status of your shipment on the Track & Confirm page at [usps.com](http://usps.com)*

[English](#)

[Customer Service](#)

[USPS Mobile](#)

[Register / Sign In](#)



[Search USPS.com or Track Packages](#)

[Quick Tools](#)

[Ship a Package](#)

[Send Mail](#)

[Manage Your Mail](#)

[Shop](#)

[Business Solutions](#)

## Track & Confirm

[GET EMAIL UPDATES](#)

[PRINT DETAILS](#)

YOUR LABEL NUMBER

9405503699300213142060

SERVICE

Priority Mail®

STATUS OF YOUR ITEM

Delivered

DATE & TIME

November 28, 2012, 9:50 am

LOCATION

NEW YORK, NY 10036

FEATURES

Expected Delivery By:  
November 28, 2012  
USPS Tracking / Delivery  
Confirmation™

Arrival at Post Office

November 28, 2012, 6:21 am

NEW YORK, NY 10036

Depart USPS Sort Facility

November 27, 2012

SPRINGFIELD, MA 01152

Processed at USPS Origin Sort Facility

November 26, 2012, 11:30 pm

SPRINGFIELD, MA 01152

Accepted at USPS Origin Sort Facility

November 26, 2012, 10:15 pm

ALBANY, NY 12207

Shipment Accepted

November 26, 2012, 4:58 pm

ALBANY, NY 12207

Electronic Shipping Info Received

November 26, 2012

### Check on Another Item

What's your label (or receipt) number?

[Find](#)

[LEGAL](#)

[ON USPS.COM](#)

[ON ABOUT.USPS.COM](#)

[OTHER USPS SITES](#)

## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, **DO NOT TAPE OVER BARCODE.** Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

## Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:

**9410 8036 9930 0037 8384 25**

Paid Online

Transaction #: 248865544

Print Date: 12/05/2012

Ship Date: 12/05/2012

Priority Mail® Postage: **\$4.90**

Signature Confirmation: **\$2.10**  
(Electronic Rate)

Total: **\$7.00**

From: CHRISTINA SUKLJIAN  
13 MANOR ST  
ALBANY NY 12207-3008

To: ATE MY HEART, INC.  
C/O PRYOR CASHMAN, LLP  
7 TIMES SQ  
NEW YORK NY 10036-8524

\* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



*Thank you for shipping with the United States Postal Service!*  
*Check the status of your shipment on the Track & Confirm page at [usps.com](http://usps.com)*



Date: 02/18/2013

CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0037 8384 25. The delivery record shows that this item was delivered on 12/10/2012 at 03:45 PM in NEW YORK, NY 10036 to L ZAYAS. The scanned image of the recipient information is provided below.

Signature of Recipient:

A scanned image of a signature strip. On the left, there are vertical labels: "Signature" and "Date". The signature "L. ZAYAS" is written in black ink. Below the signature, the printed name "L. ZAYAS" is visible in a smaller font.

Address of Recipient:

A scanned image of an address strip. On the left, there are vertical labels: "Address" and "City". The address "7 Times Sq. (3) Pryor..." is written in black ink.

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, **DO NOT TAPE OVER BARCODE.** Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

## Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:

**9410 8036 9930 0037 8609 52**

Paid Online

Transaction #: 248930897

Print Date: 12/06/2012

Ship Date: 12/06/2012

Priority Mail® Postage: **\$4.90**

Signature Confirmation: **\$2.10**

(Electronic Rate)

Total: **\$7.00**

From: CHRISTINA SUKLJIAN  
13 MANOR ST  
ALBANY NY 12207-3008

To: ATE MY HEART INC  
C/O PRYOR CASHMAN LLP  
7 TIMES SQ  
NEW YORK NY 10036-6524

\* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



*Thank you for shipping with the United States Postal Service!*  
*Check the status of your shipment on the Track & Confirm page at [usps.com](http://usps.com)*



Date: 02/27/2013

CHRISTINA S:

The following is in response to your 02/27/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0037 8609 52. The delivery record shows that this item was delivered on 12/10/2012 at 03:45 PM in NEW YORK, NY 10036 to L ZAYAS. The scanned image of the recipient information is provided below.

Signature of Recipient:

A scanned image of a signature strip. On the left, there are vertical labels: "Signature" and "Date". The signature "L. ZAYAS" is written in black ink. Below the signature, the printed name "L. ZAYAS" is visible.

Address of Recipient:

A scanned image of an address strip. On the left, there are vertical labels: "Address" and "City". The address "7 Times Sq. (3) Pryor..." is written in black ink.

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. DO NOT PHOTO COPY OR ALTER LABEL.
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, DO NOT TAPE OVER BARCODE. Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

## Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:

**9410 8036 9930 0038 8371 20**

Paid Online

Transaction #: 252142739

Print Date: 01/04/2013

Ship Date: 01/04/2013

Priority Mail® Postage: **\$4.90**

Signature Confirmation: **\$2.10**

(Electronic Rate)

Total: **\$7.00**

**From:** CHRISTINA SUKLJIAN  
13 MANOR ST  
ALBANY NY 12207-3008

**To:** ATE MY HEART INC  
C/O PRYOR CASHMAN LLP  
7 TIMES SQ  
NEW YORK NY 10036-6524

\* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



*Thank you for shipping with the United States Postal Service!  
Check the status of your shipment on the Track & Confirm page at [usps.com](http://usps.com)*

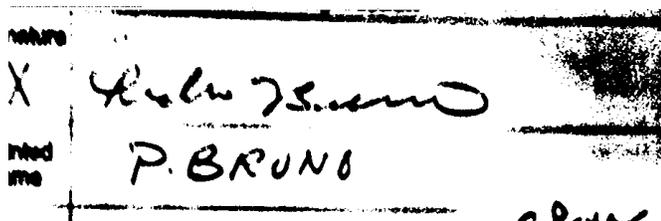


Date: 02/19/2013

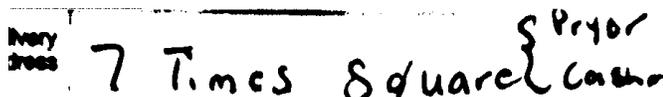
CHRISTINA S:

The following is in response to your 02/19/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0038 8371 20. The delivery record shows that this item was delivered on 01/07/2013 at 02:37 PM in NEW YORK, NY 10036 to P BRUNO. The scanned image of the recipient information is provided below.

Signature of Recipient:



Address of Recipient:



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, **DO NOT TAPE OVER BARCODE.** Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

## Online Label Record (Label 1 of 1)

**Signature Confirmation™ Number:**

**9410 8036 9930 0039 4698 70**

Paid Online

Transaction #:	253810614	Priority Mail® Postage:	<b>\$4.90</b>
Print Date:	01/23/2013	Signature Confirmation:	<b>\$2.10</b>
Ship Date:	01/23/2013	(Electronic Rate)	
		Total:	<b>\$7.00</b>

**From:** CHRISTINA SUKLJIAN  
13 MANOR ST  
ALBANY NY 12207-3008

**To:** ATE MY HEART INC  
C/O PRYOR CASHMAN LLP  
7 TIMES SQ  
NEW YORK NY 10036-6524

\* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



*Thank you for shipping with the United States Postal Service!*  
*Check the status of your shipment on the Track & Confirm page at [usps.com](http://usps.com)*

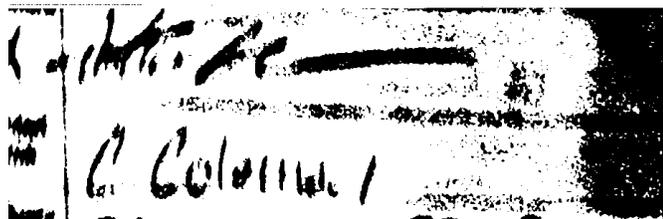


Date: 02/19/2013

CHRISTINA S:

The following is in response to your 02/19/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0039 4698 70. The delivery record shows that this item was delivered on 01/25/2013 at 03:40 PM in NEW YORK, NY 10036 to C COLEMAN. The scanned image of the recipient information is provided below.

Signature of Recipient:



Address of Recipient:



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, **DO NOT TAPE OVER BARCODE.** Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

## Online Label Record (Label 1 of 1)

**Signature Confirmation™ Number:  
9410 8036 9930 0039 5578 98**

**Paid Online**

Transaction #:	254023805	Priority Mail® Postage:	<b>\$4.90</b>
Print Date:	01/25/2013	Signature Confirmation:	<b>\$2.10</b>
Ship Date:	01/25/2013	(Electronic Rate)	
		Total:	<b>\$7.00</b>

**From:** CHRISTINA SUKLJIAN  
13 MANOR ST  
ALBANY NY 12207-3008

**To:** ATE MY HEART INC  
C/O PRYOR CASHMAN LLP  
7 TIMES SQ  
NEW YORK NY 10036-6524

\* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



*Thank you for shipping with the United States Postal Service!  
Check the status of your shipment on the Track & Confirm page at [usps.com](http://usps.com)*

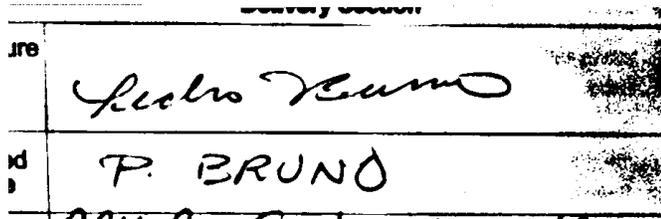


Date: 02/18/2013

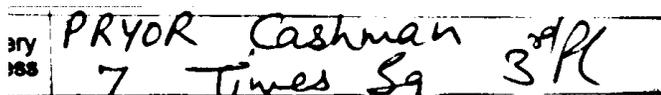
CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0039 5578 98. The delivery record shows that this item was delivered on 01/28/2013 at 02:52 PM in NEW YORK, NY 10036 to P BRUNO. The scanned image of the recipient information is provided below.

Signature of Recipient:



Address of Recipient:



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

## Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, **DO NOT TAPE OVER BARCODE.** Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Package Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

## Online Label Record (Label 1 of 2)

Signature Confirmation™ Number:

**9410 8036 9930 0040 0238 70**

Paid Online

Transaction #: 255228695

Print Date: 02/07/2013

Ship Date: 02/07/2013

Priority Mail® Postage: **\$5.05**

Signature Confirmation: **\$2.20**

(Electronic Rate)

Total: **\$7.25**

From: CHRISTINA SUKLJIAN  
13 MANOR ST  
ALBANY NY 12207-3008

To: ATE MY HEART INC  
C/O PRYOR CASHMAN LLP  
7 TIMES SQ  
NEW YORK NY 10036-6524

\* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



*Thank you for shipping with the United States Postal Service!  
Check the status of your shipment on the Track & Confirm page at [usps.com](http://usps.com)*

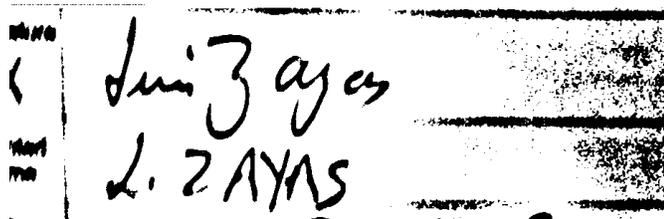


Date: 02/18/2013

CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0040 0238 70. The delivery record shows that this item was delivered on 02/11/2013 at 03:36 PM in NEW YORK, NY 10036 to L ZAYAS. The scanned image of the recipient information is provided below.

Signature of Recipient:



Address of Recipient:



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

# EXHIBIT C

**POWER OF ATTORNEY**

AMH hereby appoints Brad D. Rose, Teresa Lee, Nicole E. Kaplan, Philippe Zylberg and Muzamil A. Huq, members of the Bar of the State of New York, whose address is Pryor Cashman LLP, 7 Times Square, New York, New York 10036, (212) 421-4100, as its duly authorized agents and attorneys in this matter to prosecute this Cancellation Proceeding, to transact all business in the Patent and Trademark Office and in the United States Courts in connection with the Cancellation Proceeding, to sign their names to all papers which may be hereinafter filed in connection therewith and to receive all communications relating to same.

Dated: March 5, 2012

Respectfully submitted,

By:           /Brad D. Rose/            
Brad D. Rose, Esq.  
Teresa Lee, Esq.  
Nicole Kaplan, Esq.

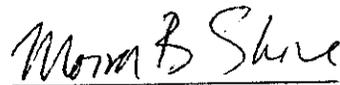
Pryor Cashman LLP  
7 Times Square  
New York, New York 10036  
(212) 421-4100

Attorneys for Petitioner, Ate My Heart Inc.

**CERTIFICATE OF SERVICE BY FEDEX**

I hereby certify that a true and correct copy of PETITION FOR CANCELLATION is being sent by Fedex and addressed to registrant, on March 5, 2012 at the following address:

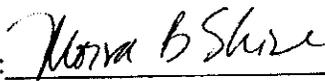
Sukljan, Christina  
13 Manor Street  
Albany, NY 12207

  
Moira B Shine

**CERTIFICATE OF MAILING THROUGH ESTTA**

I, Moira B Shine, hereby certify that this PETITION FOR CANCELLATION is being filed electronically through ESTTA with The Trademark Trial And Appeal Board, United States Patent And Trademark Office, Alexandria, VA 22313-1451 on the date indicated below.

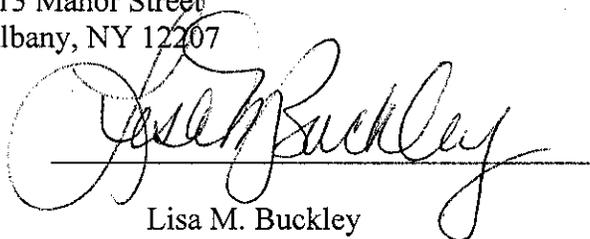
Date of deposit: March 5, 2012

Signed:   
Moira B Shine

CERTIFICATE OF SERVICE

I certify that on June 28, 2012, a true and correct copy of the foregoing PETITIONER'S FIRST SET OF INTERROGATORIES is being mailed by first class mail, postage prepaid to Respondent at the following address:

Christina Sukljan  
13 Manor Street  
Albany, NY 12207

A handwritten signature in black ink, appearing to read "Lisa M. Buckley", is written over a horizontal line. The signature is cursive and somewhat stylized.

Lisa M. Buckley

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

In the Matter of U.S. Registration No. 2,898,544 for  
GAGA PURE PLATINUM

-----X		
Ate My Heart Inc.	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92055279
-against-	:	
	:	
Christina Sukljian,	:	
	:	
Respondent	:	
-----X		

**PETITIONER'S INITIAL DISCLOSURES**

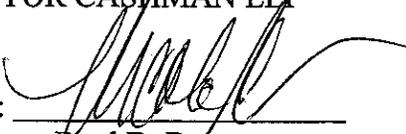
Petitioner Ate My Heart Inc. (hereinafter "Petitioner" or "AMH") by its attorneys, Pryor Cashman LLP, and in accordance with 37 C.F.R. 2.120 and Rule 26(a)(1) of the Federal Rules of Civil Procedure, provide the following initial disclosures to Christina Sukljian (hereinafter "Respondent"), subject to the following general qualifications:

1. Petitioner's initial disclosures are based on information available to Petitioner at this point in time and are made without waiver of any statutory, common law or other privilege or protection against disclosure and/or any objection as to admissibility or relevance of such evidence in this proceeding or in any other proceeding.
2. Petitioner's identification of individuals herein is made without waiver of the right to object, on any grounds, to the particular testimony of any individual.
3. Petitioner's identification of documents herein is based on information available to Petitioner at this point in time and is made without waiver of the right to object to the relevance or appropriateness of any document and/or the right to object to any document

8. Documents concerning the fame and notoriety of LADY GAGA.

Dated: New York, New York  
August 8, 2012

PRYOR CASHMAN LLP

By: 

Brad D. Rose  
Nicole E. Kaplan

Pryor Cashman LLP  
7 Times Square  
New York, New York 10036  
(212) 421-4100

Attorneys for Petitioner  
Ate My Heart, Inc.

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing:

MOTION TO COMPEL RESPONDENT TO: (A) PROVIDE ANSWERS  
TO PETITIONER'S FIRST SET OF INTERROGATORIES;  
(B) PRODUCE DOCUMENTS IN RESPONSE TO  
PETITIONER'S FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS AND  
(C) TO SERVE PETITIONER WITH RESPONDENT'S INITIAL DISCLOSURES

is being mailed by first class mail, postage prepaid to Respondent at the following address:

Christina Sukljan  
13 Manor Street  
Albany, NY 12207

Dated: New York, New York  
September 20, 2012

  
Janice Romeo Keller

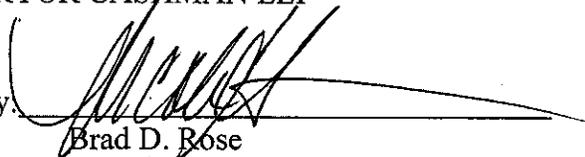
party continually avoids discovery, the Board will enter a default judgment against the disobedient party. See, e.g., Unicut Corporation v. Unicut, Inc., 220 USPQ 1013 (TTAB 1983); Wahl v. Fusco, 39 U.S.P.Q.2d 1223 (TTAB 1996) (judgment of cancellation granted for registrant's failure to respond to discovery; registrant was non-responsive and ignored the Board's instructions). Judgment against Respondent is appropriate and necessary as a result of Respondent's willful evasion of its obligations under the Federal Rules and TBMP as well as its blatant disregard of the Board's Order.<sup>1</sup>

WHEREFORE, for the reasons set forth herein, AMH's motion for sanctions should be granted in its entirety and judgment entered against Respondent and in favor of AMH.

Dated: New York, New York  
December 19, 2012

Respectfully submitted,

PRYOR CASHMAN LLP

By: 

Brad D. Rose

Nicole E. Kaplan

Stephanie R. Kline

Attorneys for Petitioner, Ate My Heart, Inc.  
7 Times Square  
New York, New York 10036  
(212) 421-4100

---

<sup>1</sup> As of December 12, 2012, this proceeding was consolidated with Respondent's Opposition Proceeding, No. 91205046. As such, AMH respectfully requests that judgment against Respondent be effected as to both this Cancellation Proceeding as well as Respondent's Opposition Proceeding.

good declared as intent-to-use in commerce under Application Serial No. 85215017.

**RESPONSE TO DOCUMENT REQUEST NO. 63:**

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

**DOCUMENT REQUEST NO. 64:**

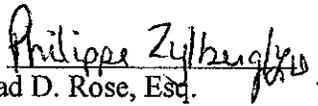
All documents and things that Defendant intends to rely on during the testimony and trial periods in the Action.

**RESPONSE TO DOCUMENT REQUEST NO. 64:**

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome and to the extent it violates the work-product immunity doctrine and/or attorney client privilege. Defendant also objects to this Request on the ground that it is premature at this stage of the proceeding. Subject to and without waiving the foregoing objections, Defendant responds that it will produce responsive, non-privileged documents in its possession, custody or control, if any.

Dated: December 28, 2012

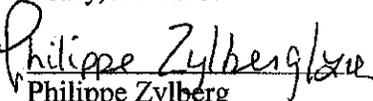
Respectfully submitted,

By   
Brad D. Rose, Esq.  
Nicole E. Kaplan, Esq.  
Philippe Zylberg, Esq.  
Pryor Cashman LLP  
7 Times Square  
New York, NY 10036  
Attorneys for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing RESPONSE TO PLAINTIFF'S  
FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS upon Defendant by  
mailing a copy thereof via overnight mail, FedEx on December 28, 2012 to:

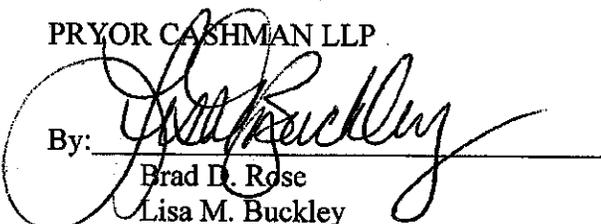
Christina Sukjian  
13 Manor Street  
Albany, NY 12207

  
Philippe Zylberg

Dated: New York, New York  
February 12, 2013

Respectfully submitted,

PRYOR CASHMAN LLP

By: 

Brad D. Rose

Lisa M. Buckley

Nicole E. Kaplan

Attorneys for Ate My Heart, Inc.

7 Times Square

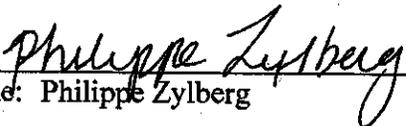
New York, New York 10036

(212) 421-4100

**CERTIFICATE OF SERVICE**

I certify that on February 12, 2013, a true and correct copy of the foregoing **REPLY TO SUKLJIAN'S OPPOSITION TO AMH'S MOTION TO COMPEL AND OPPOSITION TO SUKLJIAN'S MOTION TO COMPEL** was mailed via overnight mail, FedEx to:

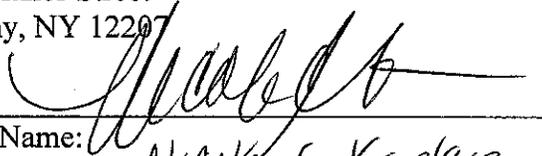
Christina Sukljian  
13 Manor Street  
Albany, NY 12207

  
Name: Philippe Zylberg

**CERTIFICATE OF SERVICE**

I certify that on Jan. 23, 2013, a true and correct copy of the foregoing **REPLY TO RESPONDENT'S OPPOSITION TO PETITIONER'S MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH THE BOARD'S DISCOVERY ORDER AND REQUEST FOR JUDGMENT** was mailed by Express Mail, postage prepaid to:

Christina Sukljian  
13 Manor Street  
Albany, NY 12207

Name: 

Nicole E. Kaplan

# EXHIBIT D

### Preliminary Statement

Parsing through Ms. Sukljian's irrelevant ramblings, one thing is clear: Ms. Sukljian agrees that the only information produced to AMH in response to its comprehensive discovery requests and *after* the Board issued its Order to Compel, was a link to her website. Nothing else. For all of her boasting about her publicity (none of which she alleges is actually related to her supposed mark) as well as her naked claims of continuous use since 2001, Ms. Sukljian did not produce one invoice, one shipping document, any customer lists or any advertising examples proving that the mark was ever in use in commerce. These items were properly and reasonably requested by AMH and are not subject to any privilege, as she claimed in her tardy responses. In fact, during multiple calls between the parties, counsel for AMH repeatedly implored Ms. Sukljian to provide AMH with evidence of her use – even informally – but Ms. Sukljian refused.

Here is what is really going on: Ms. Sukljian registered a trademark, which she never used and never had any intention to use. Once Lady Gaga rose to international fame and began receiving virtually unparalleled publicity, Ms. Sukljian decided to capitalize on Lady Gaga's fame and good will by commencing use of the mark in commerce. Indeed, her domain name for the gagapureplatinum.com website was registered in 2011 – three years after Lady Gaga achieved worldwide renown. More specifically, the actual website associated with the domain did not go “live” until *after* AMH filed the cancellation action against Ms. Sukljian's registration – something she admitted on the phone during discussions with counsel. Put simply, Ms. Sukljian will not produce responsive documents illustrating that she has been actively using her mark in commerce since 2001 because, in fact, there are none.

Ms. Sukljian cannot use her registration as both a shield and a sword. She cannot continue to rely on the registration to oppose AMH's trademark without proving that the

### Preliminary Statement

Notwithstanding Sukljian's ranting about things that are demonstrably false or her blatant fabrication of so-called facts, the issue on this Motion is very simple and what makes it even more simple is that Sukljian admits that the only information she produced to AMH in response to its comprehensive discovery requests was a link to her website. Nothing else. For all of her purported publicity (none of which she alleges is actually related to her supposed mark) as well as her naked claims of continuous use since 2001, Sukljian did not produce one invoice, one shipping document, any customer lists, advertisement examples or anything else proving that the mark was ever used in commerce. These items were properly and reasonably requested by AMH and are not subject to any privilege, as she claimed in her responses. Her failure to produce them - months after AMH served its requests - means one of two things: (1) she does not have any documents reflecting any sales of goods bearing her trademark; or (2) that she simply refuses to abide by the rules for discovery in this action, which require her to respond to the discovery requests and produce documents, or subject herself to sanctions.

The evidence adduced to date shows that Sukljian registered a trademark that she never used and never had any intention to use. Once Lady Gaga rose to international fame and began receiving virtually unparalleled publicity, Sukljian decided to capitalize on Lady Gaga's fame and good will by commencing use of the mark in commerce. Indeed, her domain name for the gagapureplatinum.com website was registered in 2011 - three years after Lady Gaga achieved worldwide renown. More specifically, the actual website associated with the domain did not go "live" until *after* AMH filed the cancellation action against Sukljian's registration - something she admitted on the phone during discussions with counsel. Put simply, Sukljian will not produce responsive documents illustrating that she has been actively using her mark in

# EXHIBIT E

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**APPLICATION SERIAL NO.** 85115004

**MARK:** LADY GAGA

**\*85115004\***

**CORRESPONDENT ADDRESS:**

Brad D. Rose  
Pryor Cashman LLP  
7 Times Square  
New York NY 10036

**CLICK HERE TO RESPOND TO THIS LETTER:**  
<http://www.uspto.gov/teas/eTEASpageD.htm>

**APPLICANT:** Ate My Heart Inc.

**CORRESPONDENT'S REFERENCE/DOCKET  
NO:**

N/A

**CORRESPONDENT E-MAIL ADDRESS:**

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE:**

In addition to the issues raised in the Office action dated November 29, 2010, which are incorporated by reference herein, applicant must also address the issue(s) below. Applicant must respond to all issues raised in this Office action, as well as in the previous Office action of November 29, 2010, within six (6) months of the date of issuance of this Office action. 37 C.F.R. §2.62(a). If applicant does not respond within this time limit, the application will be abandoned. The examining attorney apologizes for any confusion this may cause the applicant.

**SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION**

THIS PARTIAL REFUSAL APPLIES TO CLASS(ES) 3 and 35 ONLY

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 2898544. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely that a potential consumer would be confused or mistaken or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). The court in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) listed the principal factors to be considered when determining whether there is a likelihood of confusion under Section 2(d). *See* TMEP §1207.01. However, not all of the factors are necessarily relevant or of equal weight, and any one factor may be dominant in a given case, depending upon the evidence of record. *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity of the goods and/or services, and similarity of trade channels of the goods and/or services. *See In re Opus One, Inc.*, 60 USPQ2d 1812 (TTAB 2001); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593 (TTAB 1999); *In re Azteca Rest. Enters., Inc.*, 50 USPQ2d 1209 (TTAB 1999); TMEP §§1207.01 *et seq.*

In a likelihood of confusion determination, the marks are compared for similarities in their appearance, sound, meaning or connotation and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b). Similarity in any one of these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); *see* TMEP §1207.01(b).

The applicant's proposed mark is **LADY GAGA** for "**Fragrances and perfumery; personal care products; fragrance products; perfumes; colognes; eau de toilette; body wash; body spray; body scrubs; body powder; fragrance and body oils and mists; body moisturizers; body creams; soaps; body butter; bath gels; skin care products; body and foot care products; body and shower products; preparations for the care and conditioning of the body, skin, scalp, and hair; toilet soap; body lotions; deodorants; hair preparations; shampoo; bubble bath, bath oil and shower gel; nail polish, nail polish remover; false eyelashes; decorative transfers for cosmetic purposes; Cosmetics, cosmetic preparations; make-up; Lipsticks; Candles, prayer candles; Metal key chains; Cellular phone accessory charms; Protective covers for portable media players; pre-recorded flash drives featuring audio and audiovisual recordings, a digital booklet, photographs and links to the websites of others; Sunglasses; Lighted party-themed decorations, electric light decorative strings; Light wands; Charm bracelets; Necklaces, rings, plastic rings, bracelets; rubber or silicone wristbands in the nature of a bracelet; Jewelry; Gift wrapping paper; Christmas cards, holiday cards; writing instruments, pen sets; Greeting cards; decalcomanias; stickers; folders; notebooks; Temporary tattoos; posters; lenticular posters; Calendars; souvenir programs concerning musical events; Cosmetic cases sold empty; cosmetic carrying cases sold empty; Wallets; cosmetic bags sold empty; textile shopping bags; umbrellas; Tote bags; Cosmetic accessories including cosmetic brushes; Lanyards for holding badges; Sports towels; Santa hats; masquerade costumes; masquerade costumes and masks sold therewith; Halloween costumes; Halloween costumes and masks sold therewith; clothing including undergarments, board shorts, hot pants, crop shirts, wrap around hoods; gloves; Shirts, t-shirts, tank tops, hooded jackets, hooded sweatshirts; headwear, hats, raglans; Wigs; hair accessories; headbands; Novelty buttons; Christmas tree ornaments and decorations; bubbles, namely, bubble making wand and solution sets; Costume masks; **Online retail store services featuring merchandise, fragrances and perfumery, personal care products, fragrance products, perfumes, colognes, eau de toilette, body wash, body spray, body scrubs, body powder, fragrance and body oils and mists, body moisturizers, body creams, soaps, body butter, bath gels, skin care products, body and foot care products, body and shower products, preparations for the care and conditioning of the body, skin, scalp, and hair, cosmetics, cosmetic preparations, make-up, toilet soap, body lotions, deodorants, hair preparations, shampoo, bubble bath, bath oil and shower gel,****

nail polish, nail polish remover, false eyelashes, decorative transfers for cosmetic purposes, cellular phone accessory charms, lighted party-themed decorations, electric light decorative strings, charm bracelets, gift wrapping paper, Christmas cards, holiday cards, greeting cards, decalcomanias, stickers, folders, notebooks, writing instruments, pen sets, wallets, cosmetic cases sold empty, cosmetic carrying cases sold empty, cosmetic bags sold empty, textile shopping bags, umbrellas, Santa hats, masquerade costumes, masquerade costumes and masks sold therewith, Halloween costumes, Halloween costumes and masks sold therewith, clothing including undergarments, board shorts, hot pants, crop shirts, wrap around hoods, gloves, wigs, hair accessories, headbands, Christmas tree ornaments and decorations, bubbles, namely, bubble making wand and solution sets. Online retail store services featuring candles, prayer candles, calendars, key chains, clothing, headphones, musical sound recordings, downloadable musical sound recordings, posters, sunglasses, jewelry, sports towels, costume masks, temporary tattoos, tote bags, light wands, ornamental buttons, songbooks, headwear, souvenir programs concerning musical events, pre-recorded flash drives featuring audio and audiovisual recordings, a digital booklet, photographs and links to the websites of others, and music merchandise.” Relevant class in bold.

The registrant’s mark is **GAGA PURE PLATINUM** for “Cosmetics; namely nail polish, lipstick, lip-gloss, eye-liner, lip-liner, eye shadow, face powder, blush, mascara..”

The marks are highly similar because they both include the word, GAGA.

Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases appearing in both applicant’s and registrant’s mark. *See Crocker Nat’l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff’d sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat’l Ass’n*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMCASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and “21” CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §1207.01(b)(ii)-(iii).

The applicant’s goods and retail services and the registrant’s goods include cosmetics and/or personal care products and thus, likely to be encountered by the same purchasers and found in the same channels of trade. The average consumer who encounters the marks LADY GAGA and GAGA PURE PLATINUM for highly related goods/services is likely to believe that such goods/services come from a common source. *In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993), and cases cited therein.

The goods and/or services of the parties need not be identical or directly competitive to find a likelihood of confusion. *See Safety-Kleen Corp. v. Dresser Indus., Inc.*, 518 F.2d 1399, 1404, 186 USPQ 476, 480 (C.C.P.A. 1975); TMEP §1207.01(a)(i). Rather, it is sufficient that the goods and/or services are related in some manner and/or the conditions surrounding their marketing are such that they would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods and/or services come from a common source. *In re Total Quality Group, Inc.*, 51 USPQ2d 1474, 1476 (TTAB 1999); TMEP §1207.01(a)(i); *see, e.g., On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086-87, 56 USPQ2d 1471, 1475-76 (Fed. Cir. 2000); *In re Martin’s Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

Attached are copies of printouts from the USPTO X-Search database, which show third-party registrations of marks used in connection with the same or similar goods and/or services as those of applicant and registrant in this case. These printouts have probative value to the extent that they serve to suggest that the goods and/or services listed therein, namely nail polish, lipstick, eye liner, eye shadow, blush, mascara, fragrances, perfumes, bath gels, soaps, body lotions, shampoo, and cosmetics, are of a kind that may emanate from a single source. *In re Infinity Broad. Corp. of Dallas*, 60 USPQ2d 1214, 1217-18 (TTAB 2001); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988); TMEP §1207.01(d)(iii).

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1025 (Fed. Cir. 1988).

Accordingly, applicant's proposed mark for LADY GAGA is refused registration under Section 2(d) of the Trademark Act. Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

If the applicant has any questions regarding this Office action, please telephone the assigned examining attorney

Lana H. Pham /lhp/  
Trademark Attorney  
Law Office 115  
United States Patent and Trademark Office  
(571) 272-9478  
Lana.Pham@uspto.gov (informal)

**TO RESPOND TO THIS LETTER:** Use the Trademark Electronic Application System (TEAS) response form at <http://teasroa.uspto.gov/roa/>. Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov).

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-

9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.

**DESIGN MARK**

**Serial Number**

76305015

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

GAGA PURE PLATINUM

**Standard Character Mark**

No

**Registration Number**

2898544

**Date Registered**

2004/11/02

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Sukljian, Christina INDIVIDUAL UNITED STATES 13 Manor Street Albany  
NEW YORK 12207

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:  
Cosmetics; namely nail polish, lipstick, lip-gloss, eye-liner,  
lip-liner, eye shadow, face powder, blush, mascara. First Use:  
2000/07/23. First Use In Commerce: 2001/06/07.

**Filing Date**

2001/08/27

**Examining Attorney**

GARDNER, BERYL

GAGA PURE PLATINUM



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

## LETTER OF PROTEST MEMORANDUM

DATE: August 29, 2011

TO: Theodore M. McBride  
Examining Attorney  
Law Office 103

FROM: Jennifer D. Chicoski  
Office of the Deputy Commissioner for  
Trademark Examination Policy

SUBJECT: Letter of protest concerning Application Serial No. 85-282752 for the mark "LADY GAGA FAME" for a wide variety of cosmetics, bath and body products, hair care preparations, perfumery and fragrances, including "nail polishes, nail polish base coat, nail polish top coat, nail strengtheners, nail hardeners, nail varnishes, nail polish removers, nail creams, cuticle removing preparations, nail tips, and nail buffing preparations," and "lipstick; lip gloss; lip pomades; lipstick holders, non-medicated lip care preparations; [and] lip cream."

A letter of protest filed before publication has been accepted because the evidence submitted by the protester is relevant and may support a reasonable ground for refusal appropriate in *ex parte* examination. Therefore, you must consider the following and make an independent determination whether to issue a requirement or refusal based on the objections raised in the letter of protest.

Possible likelihood of confusion with the following:

Registration No. 2,898,544 for the mark "GAGA PURE PLATINUM" for "Cosmetics; namely nail polish, lipstick, lip-gloss, eye-liner, lip-liner, eye shadow, face powder, blush, mascara" in International Class 3.

*NOTE: The acceptance of a letter of protest filed before publication is not a legal determination by the USPTO of registrability, nor is it meant to compromise the integrity of the ex parte examination process. It merely serves to bring the submitted evidence to the attention of the examining attorney, who determines whether a refusal or requirement should be raised or ultimately made final.*

**To:** Ate My Heart Inc. ([tlee@pryorcashman.com](mailto:tlee@pryorcashman.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85282752 - LADY GAGA FAME  
- 16419.08  
**Sent:** 9/6/2011 5:02:29 PM  
**Sent As:** ECOM103@USPTO.GOV  
**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**APPLICATION SERIAL NO.** 85282752

**MARK:** LADY GAGA FAME

**\*85282752\***

**CORRESPONDENT ADDRESS:**

BRAD D. ROSE  
PRYOR CASHMAN LLP  
7 TIMES SQ FL 3  
NEW YORK, NY 10036-6569

**CLICK HERE TO RESPOND TO THIS LETTER:**  
[http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp)

**APPLICANT:** Ate My Heart Inc.

**CORRESPONDENT'S REFERENCE/DOCKET**

**NO:**

16419.08

**CORRESPONDENT E-MAIL ADDRESS:**

[tlee@pryorcashman.com](mailto:tlee@pryorcashman.com)

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE: 9/6/2011**

Upon further review, the examining attorney has determined the following (please note that the issues/requirements raised in the previous office action are maintained and must be addressed within 6 months of the mailing date of this office action):

### **Registration Refused: Likelihood of Confusion**

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 2898544. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely that a potential consumer would be confused or mistaken or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). The court in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) listed the principal factors to be considered when determining whether there is a likelihood of confusion under Section 2(d). *See* TMEP §1207.01. However, not all of the factors are necessarily relevant or of equal weight, and any one factor may be dominant in a given case, depending upon the evidence of record. *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity of the goods and/or services, and similarity of trade channels of the goods and/or services. *See In re Opus One, Inc.*, 60 USPQ2d 1812 (TTAB 2001); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593 (TTAB 1999); *In re Azteca Rest. Enters., Inc.*, 50 USPQ2d 1209 (TTAB 1999); TMEP §§1207.01 *et seq.*

Regarding the issue of likelihood of confusion, all circumstances surrounding the sale of the goods and/or services are considered. These circumstances include the marketing channels, the identity of the prospective purchasers, and the degree of similarity between the marks and between the goods and/or services. *See Indus. Nucleonics Corp. v. Hinde*, 475 F.2d 1197, 177 USPQ 386 (C.C.P.A. 1973); TMEP §1207.01. In comparing the marks, similarity in any one of the elements of sound, appearance or meaning may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); *see* TMEP §1207.01(b). In comparing the goods and/or services, it is necessary to show that they are related in some manner. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); TMEP §1207.01(a)(vi).

The test under Trademark Act Section 2(d) is whether there is a likelihood of confusion. It is unnecessary to show actual confusion in establishing likelihood of confusion. TMEP §1207.01(d)(ii); *e.g.*, *Weiss Assocs. Inc. v. HRL Assocs. Inc.*, 902 F.2d 1546, 1549, 14 USPQ2d 1840, 1842-43 (Fed. Cir. 1990). The Trademark Trial and Appeal Board stated as follows:

[A]pplicant's assertion that it is unaware of any actual confusion occurring as a result of the contemporaneous use of the marks of applicant and registrant is of little probative value in an ex parte proceeding such as this where we have no evidence pertaining to the nature and extent of the use by applicant and registrant (and thus cannot ascertain whether there has been ample opportunity for confusion to arise, if it were going to); and the registrant has no chance to be heard from (at least in the absence of a consent agreement, which applicant has not submitted in this case).

*In re Kangaroos U.S.A.*, 223 USPQ 1025, 1026-27 (TTAB 1984).

### **COMPARISON OF THE MARKS**

In a likelihood of confusion determination, the marks are compared for similarities in their appearance, sound, meaning or connotation and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b). Similarity in any one of

these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); see TMEP §1207.01(b). The question is not whether people will confuse the marks, but whether the marks will confuse people into believing that the goods and/or services they identify come from the same source. *In re West Point-Pepperell, Inc.*, 468 F.2d 200, 201, 175 USPQ 558, 558-59 (C.C.P.A. 1972); TMEP §1207.01(b). For that reason, the test of likelihood of confusion is not whether the marks can be distinguished when subjected to a side-by-side comparison. The question is whether the marks create the same overall impression. See *Recot, Inc. v. M.C. Becton*, 214 F.3d 1322, 1329-30, 54 USPQ2d 1894, 1899 (Fed. Cir. 2000); *Visual Info. Inst., Inc. v. Vicon Indus. Inc.*, 209 USPQ 179, 189 (TTAB 1980). The focus is on the recollection of the average purchaser who normally retains a general rather than specific impression of trademarks. *Chemetron Corp. v. Morris Coupling & Clamp Co.*, 203 USPQ 537, 540-41 (TTAB 1979); *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106, 108 (TTAB 1975); TMEP §1207.01(b).

Applicant applied to register the mark: LADY GAGA FAME

Registrant's mark is: GAGA PURE PLATINUM

In this instance, the overall commercial impression of Applicant's mark is very similar to the commercial impression created by Registrant's mark.

#### COMPARISON OF THE GOODS/SERVICES

The goods and/or services of the parties need not be identical or directly competitive to find a likelihood of confusion. See *Safety-Kleen Corp. v. Dresser Indus., Inc.*, 518 F.2d 1399, 1404, 186 USPQ 476, 480 (C.C.P.A. 1975); TMEP §1207.01(a)(i). Rather, they need only be related in some manner, or the conditions surrounding their marketing are such that they would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods and/or services come from a common source. *In re Total Quality Group, Inc.*, 51 USPQ2d 1474, 1476 (TTAB 1999); TMEP §1207.01(a)(i); see, e.g., *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086-87, 56 USPQ2d 1471, 1475-76 (Fed. Cir. 2000); *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

Applicant's goods/services are: Cosmetics; cosmetic preparations; make-up and make-up removers; lipstick; lip gloss; lip pomades; lipstick holders; non-medicated lip care preparations; lip cream; fragrances; perfumes; perfume oils; perfumery, colognes; eau de toilette; eau de parfum; eau de perfume; eau de cologne; face and body glitter; facial lotions, creams, moisturizers, cleansers, washes, scrubs, exfoliants, and toners; beauty milks; non-medicated facial treatments in the nature of facial emulsions and facial masks; skin lotions, skin creams, skin conditioners, skin moisturizers, skin moisturizer masks, and skin highlighters; hand moisturizers, creams and lotions; non-medicated foot lotions and creams; wrinkle removing skin care preparations; false eyelashes; non-medicated toiletries; body wash; body gels; body butter; body spray; body oils and mists; body scrubs; body powder; body moisturizers; body lotions; body creams; body scrubs; body exfoliants; body fragrances; body butter; body firming gels and lotions; body masks; bath gels; bath oils; bath powders; bath crystals; bath foam, bath beads; bath salts; shower gels; cosmetic preparations for baths; perfumed powders; soaps; perfumed soaps; liquid soaps; soap powder; toilet soap; toilet water; shaving preparations, shaving balm, shaving cream, shaving gel, after shave lotions, skin abrasive preparations, non-medicated skin creams, and skin lotions for relieving razor burns; sunscreen preparations, suntanning preparations, sun tan oils, after-sun lotions, self-tanning preparations, and cosmetic sun-protecting preparations; sun block; non-medicated ointments for the treatment of sunburns; aromatherapy creams, aromatherapy creams, lotions and aromatherapy oils; decorative transfers for cosmetic purposes; preparations for the care and conditioning of the body, skin, scalp, and hair.

essential oils for personal use; astringents for cosmetic purposes; massage oils; talcum powder, bubble bath; deodorants for personal use and body care; dentifrices; toothpaste; perfumed paper; makeup applicators in the nature of cotton swabs for cosmetic purposes; all purpose cotton swabs for personal use and cosmetic purposes; cosmetic pads; pre-moistened cosmetic wipes, pre-moistened cosmetic tissues and towelettes; baby wipes; nail care preparations; nail polishes, nail polish base coat, nail polish top coat, nail strengtheners, nail hardeners, nail varnishes, nail polish removers, nail creams, cuticle removing preparations, nail tips, and nail buffing preparations; hair care preparations; hair care products in the nature of shampoos, conditioners, rinses, mousse, gels, creams, lotions and sprays; hair color, hair waving lotion, permanent wave preparations, hair lighteners, hair dyes, hair emollients, hair mascara, hair pomades, hair color removers, hair relaxing preparations, and hair styling preparations; potpourri; aromatherapy pillows comprising potpourri in fabric containers; pomanders containing perfumed preparations, and mixtures; sachets; sachet-like eye pillows containing fragrances; scented ceramic stones; scented linen sprays and scented room sprays; scented oils used to produce aromas when heated; scented pine cones; incense; room fragrances; fragrance emitting wicks for room fragrances

Registrant's goods/services are:     Cosmetics; namely nail polish, lipstick, lip-gloss, eye-liner, lip-liner, eye shadow, face powder, blush, mascara

In this instance, Applicant's goods are closely related to Registrant's goods in that they are found in the same channels of trade, and are used by the same consumer group.

#### *CONCLUSION*

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1025 (Fed. Cir. 1988).

In this instance, because Applicant's mark creates the same commercial impression as Registrant's mark, and the goods/services are in the same channels of trade, a likelihood of confusion exists and registration is denied. Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

If the applicant has any questions or needs assistance in responding to this Office action, please email the assigned examining attorney or call the trademark helpline at 571-272-9250.

/tmm/  
Theodore McBride Law Office 103  
HELP LINE: 571-272-9250  
theodore.mcbride1@uspto.gov  
phone: 571-272-9281

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions

about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

**All informal e-mail communications relevant to this application will be placed in the official application record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.

**DESIGN MARK**

**Serial Number**

76305015

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

GAGA PURE PLATINUM

**Standard Character Mark**

No

**Registration Number**

2898544

**Date Registered**

2004/11/02

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Sukljian, Christina INDIVIDUAL UNITED STATES 13 Manor Street Albany  
NEW YORK 12207

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:  
Cosmetics; namely nail polish, lipstick, lip-gloss, eye-liner,  
lip-liner, eye shadow, face powder, blush, mascara. First Use:  
2000/07/23. First Use In Commerce: 2001/06/07.

**Filing Date**

2001/08/27

**Examining Attorney**

GARDNER, BERYL

GAGA PURE PLATINUM

**To:** Ate My Heart Inc. ([tle@pryorcashman.com](mailto:tle@pryorcashman.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85282752 - LADY GAGA FAME  
- 16419.08  
**Sent:** 9/6/2011 5:02:30 PM  
**Sent As:** ECOM103@USPTO.GOV  
**Attachments:**

## IMPORTANT NOTICE REGARDING YOUR U.S. TRADEMARK APPLICATION

### USPTO OFFICE ACTION HAS ISSUED ON **9/6/2011** FOR SERIAL NO. 85282752

Please follow the instructions below to continue the prosecution of your application:

**TO READ OFFICE ACTION:** Click on this [link](#) or go to <http://portal.uspto.gov/external/portal/tow> and enter the application serial number to [access](#) the Office action.

**PLEASE NOTE:** The Office action may not be immediately available but will be viewable within 24 hours of this e-mail notification.

**RESPONSE IS REQUIRED:** You should carefully review the Office action to determine (1) how to respond; and (2) the applicable [response time period](#). Your response deadline will be calculated from **9/6/2011** (or sooner if specified in the office action).

**Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System [Response Form](#).**

**HELP:** For *technical* assistance in accessing the Office action, please e-mail [TDR@uspto.gov](mailto:TDR@uspto.gov). Please contact the assigned examining attorney with questions about the Office action.

## WARNING

**Failure to file the required response by the applicable deadline will result in the [ABANDONMENT](#) of your application.**



Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451  
[www.uspto.gov](http://www.uspto.gov)

March 31, 2011

Ms. Christina Sukljian  
GAGA PURE PLATINUM  
13 Manor Street  
Albany, NY 12207

Re: Letter of protest filed against Trademark Application Serial No. 85215017 for the mark HAUS OF GAGA

Dear Ms. Sukljian:

Your letter of protest was received in the U.S. Patent and Trademark Office on February 18, 2011 and was referred to me for review.

Decision: The letter of protest is hereby ACCEPTED.

Your letter of protest is granted because the evidence submitted is of the type which may be given to an examining attorney for consideration during *ex parte* examination. *Trademark Manual of Examining Procedure* (TMEP) §1715.02(a). The examining attorney will be forwarded information regarding the registration cited in your letter.

The forwarding of the evidence attached to your letter of protest does not entitle you to communicate directly with the examining attorney, either orally or in writing, with regard to this application. Further, the acceptance of a letter of protest filed before publication is not a legal determination by the USPTO of registrability, nor is it meant to compromise the integrity of the *ex parte* examination process. It merely serves to bring the submitted evidence to the attention of the examining attorney, who determines whether a refusal or requirement should be raised or ultimately made final. TMEP §1715.02(b).

Please note that if the application is ultimately approved for publication, the acceptance of your letter of protest does not stay the time for filing an opposition with the Trademark Trial and Appeal Board (TTAB) after it has published in the *Official Gazette*. 37 C.F.R. §§2.101-2.107. You must file a notice of opposition, or a request for an extension of time to file an opposition, within thirty days of the date of publication if you wish to oppose registration of the mark. You may obtain further information regarding proceedings before the TTAB by calling (571) 272-8500 or at <http://www.uspto.gov/trademarks/process/appeal/index.jsp>.

**Int. Cl.: 3**

**Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52**

**Reg. No. 2,898,544**

**United States Patent and Trademark Office**

**Registered Nov. 2, 2004**

**TRADEMARK  
PRINCIPAL REGISTER**

**GAGA PURE PLATINUM**

SUKLJIAN, CHRISTINA (UNITED STATES INDIVIDUAL)  
13 MANOR STREET  
ALBANY, NY 12207

FIRST USE 7-23-2000; IN COMMERCE 6-7-2001.

SER. NO. 76-305,015, FILED 8-27-2001.

FOR: COSMETICS; NAMELY NAIL POLISH, LIP-STICK, LIP-GLOSS, EYE-LINER, LIP-LINER, EYE SHADOW, FACE POWDER, BLUSH, MASCARA, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

BERYL GARDNER, EXAMINING ATTORNEY

Side - 1

**NOTICE OF ACCEPTANCE AND  
ACKNOWLEDGEMENT OF §§8 & 15  
DECLARATION  
MAILING DATE: Jun 5, 2010**

The combined declaration of use and incontestability filed in connection with the registration identified below meets the requirements of Sections 8 and 15 of the Trademark Act, 15 U.S.C. §1058 and 1065. The combined declaration is accepted and acknowledged. The registration remains in force.

For further information about this notice, visit our website at: <http://www.uspto.gov>. To review information regarding the referenced registration, go to <http://tarr.uspto.gov>.

**REG NUMBER: 2898544**  
**MARK: GAGA PURE PLATINUM**  
**OWNER: Sukljan, Christina**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE  
COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

FIRST-CLASS  
MAIL  
U.S POSTAGE  
PAID

CHRISTINA SUKLJIAN  
13 MNR ST  
ALBANY, NY 12207

# EXHIBIT F

ESTTA Tracking number: **ESTTA459134**

Filing date: **02/29/2012**

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

Applicant:	<b>Ate My Heart Inc.</b>
Application Serial Number:	<b>85215017</b>
Application Filing Date:	<b>01/11/2011</b>
Mark:	<b>HAUS OF GAGA</b>
Date of Publication	<b>01/03/2012</b>

**60 Day Request for Extension of Time to Oppose for Good Cause**

Pursuant to 37 C.F.R. Section 2.102, ChristinaSukljian, 13 Manor Street, Albany, NY 12207, UNITED STATES respectfully requests that he/she/it be granted an additional 60-day extension of time to file a notice of opposition against the above-identified mark for cause shown .

Potential opposer believes that good cause is established for this request by:

- The potential opposer needs additional time to investigate the claim

The time within which to file a notice of opposition is set to expire on 03/03/2012. ChristinaSukljian respectfully requests that the time period within which to file an opposition be extended until 05/02/2012.

Respectfully submitted,  
/Christina Sukljian/  
02/29/2012

**Christina Sukljian**  
**13 Manor Street**  
**Albany, NY 12207**  
**UNITED STATES**  
**info@zela.com**

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

Christina Sukljian

13 Manor Street  
Albany, NY 12207

**Mailed: February 29, 2012**

**Serial No.: 85215017**  
**ESTTA TRACKING NO: ESTTA459134**

The request to extend time to oppose is granted until  
5/2/2012 on behalf of potential opposer **ChristinaSukljian**

Please do not hesitate to contact the Trademark Trial and  
Appeal Board at (571)272-8500 if you have any questions  
relating to this extension.

**Note from the Trademark Trial and Appeal Board**

TTAB forms for electronic filing of extensions of time to  
oppose, notices of opposition, petition for cancellation, notice  
of ex parte appeal, and inter partes filings are now available  
at <http://estta.uspto.gov>. Images of TTAB proceeding files can  
be viewed using TTABVue at <http://ttabvue.uspto.gov>.

# EXHIBIT G



ZELA INTERNATIONAL CO.  
QUALITY. PERFORMANCE. INTEGRITY.

EXPERTISE SINCE 1968

[our brands](#)

[mission and values](#)

[history](#)

[creation](#)

[contact us](#)

## our brands



*Mode  
Couleurs*

*Christina*

Little  
Gems

GAGA  
PURE PLATINUM®

MODE  
NEW YORK



ZELA INTERNATIONAL CO.

QUALITY. PERFORMANCE. INTEGRITY.

EXPERTISE SINCE 1968

[our brands](#)

[mission and values](#)

[history](#)

[creation](#)

[contact us](#)

g a g a

GAGA  
PURE PLATINUM®

A unisex line of edgy sophistication, GAGA Pure Platinum offers a wide selection of unconventional products and color palettes. Designed and infused with precious gems in sharp urban packaging. The color selection is more avant-garde than conventional standards, eternally fashion forward.

For a unique sense of individualistic style, GAGA is it.



[click here to visit the official website: www.gagapureplatinum.com](http://www.gagapureplatinum.com)



**ZELA INTERNATIONAL CO.**  
QUALITY. PERFORMANCE. INTEGRITY.

EXPERTISE SINCE 1968

[our brands](#)

[mission and values](#)

[history](#)

[creation](#)

[contact us](#)

## contact us

For all inquiries:

email: [info@zela.com](mailto:info@zela.com)

phone: 518.436.1833



# register.com

Don't just make a website. Make an impact.

## Whois Server Version 2.0

Domain names in the .com and .net domains can now be registered with many different competing registrars.

Go to <http://www.internic.net> for detailed information.

% The data in the WHOIS database of 1&1 Internet AG is provided by  
% 1&1 for information purposes, and to assist persons in obtaining  
% information about or related to a domain name registration record.  
% 1&1 does not guarantee its accuracy. By submitting a WHOIS query,  
% you agree that you will use this data only for lawful purposes and that,  
% under no circumstances, you will use this data to  
% (1) allow, enable, or otherwise support the transmission by e-mail,  
% telephone, or facsimile of mass, unsolicited, commercial advertising or  
% solicitations to entities other than the data recipient's own existing  
% customers; or  
% (2) enable high volume, automated, electronic processes that send queries or  
% data to the systems of any Registry Operator or ICANN-Accredited registrar,  
% except as reasonably necessary to register domain names or modify existing  
% registrations.  
% 1&1 reserves the right to modify these terms at any time.  
% By submitting this query, you agree to abide by this policy.

domain: zela.com  
created: 09-Dec-1999  
last-changed: 08-Sep-2012  
registration-expiration: 09-Dec-2013

ns27.1and1.com 217.160.82.147  
ns28.1and1.com 217.160.83.147

status: CLIENT-TRANSFER-PROHIBITED

registrant-firstname: John  
registrant-lastname: Sukljian  
registrant-street1: 13 Manor ST  
registrant-pcode: 12207  
registrant-state: NY  
registrant-city: Albany  
registrant-ccode: US  
registrant-phone: +1.5184361833  
registrant-email: support@zela.com

HOME > SHOP > FACE > POP OFF NEO-POP BLUSH™ CREAM CHEEK COLOUR

## Face

FREE SHIPPING over \$50

### POP OFF NEO-POP™ CREAM BLUSH CREAM CHEEK COLOUR

\$20.00

ADD TO MY BAG

This superbly smooth cream blush provides a gorgeous pop of healthy color to cheeks that naturally moisturizes delicate skin with a blend of antioxidant rich barbery fig and pomegranate superfruits at the same time. Neo-Pop blends easily to gives cheeks that fresh and long lasting 'pinch me I'm dreaming' flush.

#### Product Details

- cream dewy finish
- nutrient and vitamin rich superfruits
- skin nourishing barbery fig
- made with love in USA
- .38 oz - 11 g

• [VIEW INGREDIENTS](#)

#### INGREDIENT SPOTLIGHT



Candy pink

[Pin it](#) [Tweet](#) [+1](#) [+](#) [Like](#) [2](#)

#### You Will Also Love...



HOME > SHOP > NAILS > MEEP MEEP MOXIE NAIL COSMETIC

## Nails

FREE SHIPPING over \$50

### MEEP MEEP MOXIE NAIL COSMETIC

\$14.00

**ADD TO MY BAG**

GAGA Pure Platinum Nail Cosmetic is liquid jewelry for the nails with finely crushed, silky smooth GEMLUST™ powder in every bottle. Nails are lacquered in concentrated fashion-forward color for superior wear and gloss with every beautiful coat. This advanced formula provides chip resistant wear while the 600+hair luxe brush delivers strengthening and streak free results for days on end.

#### Product Details

- *prismatic satin finish*
- *advanced 3 free formula*
- *luxe 600+ hair brush*
- *made with love in USA*
- *1/2 fl oz - 15 ml*

• [VIEW INGREDIENTS](#)

#### INGREDIENT SPOTLIGHT



Rollover To View Product Detail



#### You Will Also Love...



HOME > SHOP > NAILS

## Nails

FREE SHIPPING over \$50

*Nails are lacquered in this advanced formula with concentrated color for superior wear and gloss with every beautiful coat.*



**Meep Meep Moxie**  
NAIL COSMETIC

SHOP NOW



**Hullabaloo**  
NAIL COSMETIC

SHOP NOW



**Prim & Awkward**  
NAIL COSMETIC

SHOP NOW



**Old Flame**  
NAIL COSMETIC

SHOP NOW



**Zenith**  
NAIL COSMETIC

SHOP NOW



**Beam Me Up**  
NAIL COSMETIC

SHOP NOW



**Spendthrift Jungle**  
NAIL COSMETIC

SHOP NOW



**Lock Me Up**  
NAIL COSMETIC

SHOP NOW



**Love Addict**  
NAIL COSMETIC

SHOP NOW



**Big Bang Boom**  
NAIL COSMETIC

SHOP NOW



**Yowza**  
NAIL COSMETIC

SHOP NOW



**White Hot Shock**  
NAIL COSMETIC

SHOP NOW

*This universally flattering creamed peach nude coats nails in fortified luxury in our advanced long wear, chip resistant formula.*



**Avec Moi Nail Cosmetic**  
PART OF THE ETERNALLY CHIC SET

SHOP NOW

HOME > SHOP > COMPLEXION > STAR CONCEALER FAIR

## Face

### FAIR STAR CONCEALER

\$18.00

**ADD TO MY BAG**

This full coverage exceptionally pigment rich concealer is a star performer. With the lasting skin benefits of Moroccan argan and avocado, this creamy lightweight formula brightens while blending to perfection. Conceals dark spots, under eye circles, discolorations, blemishes, and any other flaw you would rather not see.

#### Product Details

- *super concentrated pigment*
- *skin nourishing superfruit oils*
- *skin protecting vitamin E*
- *made with love in USA*
- *.11 oz - 3 g*

• [VIEW INGREDIENTS](#)

#### INGREDIENT SPOTLIGHT



FREE SHIPPING over \$50



Rollover To View Product Detail



#### You Will Also Love...



HOME > SHOP > FACE > LUNAR FLASH PRISM PAVE™ LUMINIZER

## Face

FREE SHIPPING over \$50

### LUNAR FLASH PRISM PAVE™ LUMINIZER

\$22.00

ADD TO MY BAG

This weightless cream luminizer provides luxurious satin luminosity and superb radiance to your complexion. Prism Pave™ instantly brightens and enhances skin's appearance with natural optical reflectors that bend with the light to provide beautiful radiance to cheeks, brow-bones and face.

#### Product Details

- *super silky satin luminosity*
- *antioxidant rich pomegranate*
- *skin restoring Moroccan argan*
- *made with love in USA*
- *.38 oz - 11 g*

• [VIEW INGREDIENTS](#)

#### BENEFICIAL INGREDIENTS



Satin champagne



#### You Will Also Love...



HOME > SHOP > LIPS > PINK PARIS LIP LUST LUXE COLOR GLOSS

## Lips

FREE SHIPPING over \$50

### PINK PARIS LIP LUST LUXE COLOR GLOSS

\$12.50

ADD TO MY BAG

The performance of glamorous color and uber shine of a gloss fused with the benefits of a conditioning, protective balm - that's Lip Lust. Nourishing botanicals hydrate lips in a divine buttery-rich formula.

#### Product Details

- *lasting high gloss finish*
- *moisture and condition with rich shea butter*
- *sooth lips with nourishing sweet almond*
- *made with love in USA*
- *.11 oz - 3 g*

• [VIEW INGREDIENTS](#)

#### INGREDIENT SPOTLIGHT



Shimmering golden fuchsia



#### You Will Also Love



HOME > SHOP > LIPS > RIVE GAUCHE ART DÉCORATIF HYDRATING LIPSTICK

## Lips

### RIVE GAUCHE ART DÉCORATIF HYDRATING LIPSTICK

\$16.00

ADD TO MY BAG

Exceptionally creamy and long-lasting, Art Decoratif Hydrating Lipstick instantly delivers high impact powerful color in just one effortless stroke. Lock in natural moisture with conditioning essential fruit oils for supple, kiss me now lips.

#### Product Details

- *hydrating long wearing color in one stroke*
- *condition with essential açai fruit oil*
- *enhanced with orchid flower extract*
- *made with love in USA*
- *.13 oz - 3.7 g*

• [VIEW INGREDIENTS](#)

#### INGREDIENT SPOTLIGHT



FREE SHIPPING over \$50



Real sultry red



#### You Will Also Love...



HOME > SHOP > SETS > ETERNALLY CHIC SET

## Sets

FREE SHIPPING over \$50

### ETERNALLY CHIC SET 3 PIECE TRAVEL COMPANION

\$20.00

ADD TO MY BAG

The perfect three-piece set that has everything you need for instant sophistication. Infused with our signature GEMLUST™ Jewels, this set is the ultimate companion for any destination. Polish lips, tips, and lashes in this universally flattering color palette.

#### Product Details

##### NAIL COSMETIC IN AVEC MOI

- *creamed peach nude, the go to color for any occasion*
- *advanced 3 free formula*
- *made with love in USA*
- *.34 fl oz - 10 ml*

##### ETHEREAL FINISH MASCARA

- *provides perfectly groomed and polished lashes*
- *pampers lashes with nourishing Moroccan argan*
- *made with love in USA*
- *.1 fl oz - 3 ml*

##### 58 FACETS BRILLIANT LIP GLOSS

- *highlight lips with sparkling dimension*
- *moisturize with sweet almond*
- *refreshing essential grapefruit aroma*
- *made with love in USA*
- *.1 fl oz - 3 ml*

• [VIEW INGREDIENTS](#)

#### INGREDIENT SPOTLIGHT



Rollover To View Product Detail



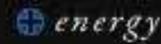
#### You Will Also Love...





[SHOP](#)

[DISCOVER GEMLUST™ JEWELS](#)



[THE LOOK](#)

[OFFERS](#)

[GO INSIDE GAGA PURE PLATINUM](#)

[SHOPPING BAG](#)

[HOME](#) > [GO INSIDE GAGA PURE PLATINUM](#)

# Inside Gaga Pure Platinum

## The Story

GAGA Pure Platinum Cosmetics defines avant-garde beauty that is eternally fashion-forward. We believe in positive energy and through the power of color, we believe in drawing out the inner beauty that resides in all of us. Our natural formulations deliver intense color that is infused with GEMLUST™—crushed to a fine silky smooth powder—for the ultimate in luxurious beneficial beauty. The natural beauty, power, and allure of these fine and precious stones treasured for centuries include: ruby, coral, jade, pearl, amethyst, amber, and tourmaline. Each beauty product is presented with our signature velvet pouch, an experience that one can only expect from GAGA Pure Platinum.

## The Heritage

Created in 2000 by second generation cosmetics purveyors and sisters, Cristina Samuels and Jennifer Isaac combined their decades of expertise and insight to create Gaga Pure Platinum. Drawing inspiration from art and beauty, coupled with the finest natural ingredients, the sisters fused these elements in their creations to convey the experience of platinum beauty. Today, these beauty mavens continue the family's nearly half-a-century legacy and tradition in creating and innovating American beauty. Designed, created and made with love in NY USA.

The sisters have the distinct recognition of GCI (Global Cosmetic Industry Magazine) as being 2 of '20 To Know' in the global cosmetic industry. "Cristina Samuels and Jennifer Isaac epitomize the strengths of the beauty industry—continuity and tradition propelled by innovation and evolution." – GCI



[CUSTOMER SERVICE](#)

[CONTACT US](#)

[EVENTS](#)

[MADE WITH ❤️ IN NY](#)



[JOIN US](#)



# register.com

Don't just make a website. **Make an impact.**

## Whois Server Version 2.0

Domain names in the .com and .net domains can now be registered with many different competing registrars.

Go to <http://www.internic.net> for detailed information.

% The data in the WHOIS database of 1&1 Internet AG is provided by  
% 1&1 for information purposes, and to assist persons in obtaining  
% information about or related to a domain name registration record.  
% 1&1 does not guarantee its accuracy. By submitting a WHOIS query,  
% you agree that you will use this data only for lawful purposes and that,  
% under no circumstances, you will use this data to  
% (1) allow, enable, or otherwise support the transmission by e-mail,  
% telephone, or facsimile of mass, unsolicited, commercial advertising or  
% solicitations to entities other than the data recipient's own existing  
% customers; or  
% (2) enable high volume, automated, electronic processes that send queries or  
% data to the systems of any Registry Operator or ICANN-Accredited registrar,  
% except as reasonably necessary to register domain names or modify existing  
% registrations.  
% 1&1 reserves the right to modify these terms at any time.  
% By submitting this query, you agree to abide by this policy.

domain: gagapureplatinum.com  
created: 11-Feb-2011  
last-changed: 31-Aug-2012  
registration-expiration: 11-Feb-2013  
  
nserver: ns51.1and1.com 217.160.80.164  
nserver: ns52.1and1.com 217.160.81.164

status: CLIENT-TRANSFER-PROHIBITED

registrant-firstname: John  
registrant-lastname: Sukljian  
registrant-street1: 13 Manor ST  
registrant-pcode: 12207  
registrant-state: NY  
registrant-city: Albany  
registrant-ccode: US  
registrant-phone: +1.5184361833  
registrant-email: support@zela.com