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Filing date: **01/04/2013**

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

Proceeding	92055279
Party	Defendant Christina Sukljian
Correspondence Address	CHRISTINA SUKLJIAN 13 MANOR STREET ALBANY, NY 12207 UNITED STATES info@zela.com
Submission	Opposition/Response to Motion
Filer's Name	Christina Sukljian
Filer's e-mail	info@zela.com
Signature	/Christina Sukljian/
Date	01/04/2013
Attachments	Defendants Response to Plaintiffs Motion Cancellation no. 92055279.pdf (33 pages)(5384888 bytes)

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

In the Matter of U.S. Registration No. 2898544
Mark: GAGA PURE PLATINUM

-----x		
Ate My Heart, Inc.	:	
	:	
Plaintiff	:	
	:	
v.	:	Cancellation No. 92055279
	:	
Christina Sukljian,	:	
	:	
Defendant	:	
-----x		

**DEFENDANT’S RESPONSE TO PLAINTIFF’S MOTION FOR SANCTIONS FOR FAILURE
TO COMPLY WITH THE BOARD’S DISCOVERY ORDER AND REQUEST FOR
JUDGEMENT**

Defendant, Christina Sukljian, hereby responds to Plaintiff’s motion for sanctions and Christina Sukljian further requests that judgment be denied against Plaintiff, Ate My Heart, Inc., in this matter and in favor of Defendant Christina Sukljian.

STATEMENT OF FACTS AND RESPONSES

I. Christina Sukljian and the GAGA PURE PLATINUM Trademark

The relevant facts are set forth in the Notice of Opposition No. 91205046 dated May 1, 2012, which as of December 12, 2012 has been consolidated with this Cancellation Proceeding No. 92055279 and by which the Board file will be maintained in Opposition No.91205046 as the “parent” case; however, for the Board’s convenience, a brief recitation of the facts is repeated here.

GAGA PURE PLATINUM® is a continuously and continually used federally registered trademark, used in commerce up to present date, U.S. Registration No. 2898544 in International Class 003, invented and created in the year 2000, filed for registration on August 22, 2001 and registered on November 2, 2004 with a date of first use in commerce of June 7, 2001, owned by the internationally recognized cosmetics and beauty industry maven and second generation cosmetics purveyor, Christina Sukljian p/k/a Cristina Samuels. Christina Sukljian p/k/a Cristina Samuels has more than 17 years of experience in the cosmetics industry with a broad background in product development, marketing and sales. Before joining Zela International formally in 1995 she honed her skills and was educated in all facets of the cosmetics industry in her family cosmetics company, Zela International. In 1996 she joined the marketing team and developed and implemented innovative product packaging and marketing programs to increase the company's sales and profits for various color cosmetics lines including Mode Couleurs and Little Gems. Under her leadership she created Mode, a natural color cosmetics line which pioneered the use of natural ingredients with fashion forward style, the first concept of its kind in the industry.

In 2000 Christina Sukljian p/k/a Cristina Samuels spearheaded the creation of GAGA PURE PLATINUM®, an avant-garde cosmetics brand. Named after her brother's childhood nickname Gaga, GAGA PURE PLATINUM® combined fashion, style and art with passion for color. Christina Sukljian p/k/a Cristina Samuels has achieved prominence and accolades in the global cosmetics industry and has gained the attention of leading beauty editors of both consumer and industry magazines, including *Allure*, *GCI*, *Drug Store News*, and *WWD*, beauty and fashion websites and bloggers, including *Bella Sugar*, and through media appearances. She has been lauded for her fresh perspective in the beauty industry and as a result of her efforts and achievements she has garnered the distinct honor and recognition of *GCI*® magazine (*Global Cosmetic Industry* magazine) as being selected as 1 of '20 To Know' in the global cosmetics industry and as a member of the magazine's advisory board. *GCI*® magazine has stated, "Cristina Samuels epitomizes the strengths of the beauty industry – continuity and tradition propelled by innovation and evolution." GAGA PURE PLATINUM®'s originality and uniqueness of the coined and

invented mark, invented by Defendant, establishes it as a commercial brand name and as a result GAGA PURE PLATINUM® is uniquely associated with Christina Sukljian p/k/a Cristina Samuels. GAGA PURE PLATINUM® has continuously used the GAGA PURE PLATINUM® mark in interstate commerce on or in connection with the goods and services covered by the respective registration, namely cosmetics in international class 3, since the date of first used alleged therein. As a result of the unique association of the GAGA mark to the GAGA PURE PLATINUM® brand, Plaintiff's effort's to register applied for marks, Lady Gaga and Lady Gaga Fame have been both denied by the USPTO due to likelihood of confusion with GAGA PURE PLATINUM®. Defendant is vigilant in policing its GAGA PURE PLATINUM® Trademark and is resolute in its pursuit of infringers who attempt to trade off and dilute the distinctiveness associated with the GAGA PURE PLATINUM® brand.

Plaintiff's Self Admitted Frivolous, Fraudulent and Vexatious Petition to Cancel Proceeding

On March 5, 2012 Plaintiff filed a Petition to Cancel a valid and active U.S. Registered Trademark, GAGA PURE PLATINUM® as a retaliatory, frivolous, fraudulent and vexatious action because Defendant exercised her rights to police and protect her U.S. Registered trademark by filing Letters of Protest against Lady Gaga, Lady Gaga Fame, and Haus of Gaga, filing an extension of time to oppose application no. 85215017, and ultimately filing a Notice Of Opposition against Plaintiff for the applied for mark, Haus of Gaga, Opposition No. 91205046 for which, by order of the Board dated February 29, 2012, Christina Sukljian, owner of the registered trademark GAGA PURE PLATINUM®, was allowed until May 2, 2012 in which to oppose the above-reference application. A true and correct copy of the Notice of Opposition is annexed hereto as Exhibit A. The GAGA PURE PLATINUM®, registered trademark is not abandoned, has never been abandoned, is in continual use and is valid and in full force and effect and has become incontestable under Section 15 of the Lanham Act and having full knowledge of these facts and undeniable evidence of use by Defendant, Plaintiff, in its attempt to manipulate, harass and vex the Defendant, has deliberately filed a Petition to Cancel with the Board in its

efforts to manipulate the Board with a frivolous petition and thereby wasting the valuable time and resources of both the Board and Defendant.

Therefore, on August 14, 2012, Plaintiff's attorneys stated and admitted to Defendant on the telephone that had she not actively monitored, policed and protected her trademark by filing an extension of time to oppose application no. 85215017 on February 1, 2012, and ultimately the Notice of Opposition No. 91205046 filed on May 2, 2012, as is Defendant's right and obligation to do so, Plaintiff would not have filed a Petition to Cancel in retaliation which was filed over a month later on March 5, 2012. Plaintiff cannot obtain a trademark registration in class 3 because Defendant already exists long prior to Plaintiff's existence and stands in its way. GAGA PURE PLATINUM® has had valid trademark use for more than 12 years, and Plaintiff filed a frivolous, fraudulent and vexatious Petition to Cancel by selecting the most common option in order activate a cancelation proceeding before the Board due of the fact that Defendant filed a Notice Of Opposition No. 91205046 to prevent the registration of a mark that infringes on the intellectual property rights of the Defendant.

Furthermore, Plaintiff's harassing demands to Defendant to relinquish all legal and intellectual rights owned by Defendant including the GAGA PURE PLATINUM Trademark® and all intellectual property associated with the trademark were directed to the Defendant in Plaintiff's attempt to further their manipulative efforts in gaining a registration with the USPTO. Defendant rejected Plaintiff's demands and annexed hereto as Exhibit B are e-mails sent by Defendant.

Furthermore, on June 26, 2012 Plaintiff's attorneys stated false and defamatory statements to the public at large, via a public statement sent to Michael Musto and published on *The Village Voice Blog* http://blogs.villagevoice.com/dailymusto/2012/06/lady_gaga_accus.php, annexed hereto as Exhibit C, and stated as follows: "*Lady Gaga and her companies respect intellectual property and would never infringe on anyone's rights. But this particular trademark hasn't been used in what appears to be years. In fact, Lady Gaga's counsel tried several times to*

speaking to the original owners about their alleged use of their mark in an effort to find a way to amicably coexist. There was never a response." Plaintiff falsely stated to the public at large in a defamatory manner to harm the reputation of Defendant and the GAGA PURE PLATINUM® brand by claiming that Plaintiff's trademark, GAGA PURE PLATINUM® is not being used and that Plaintiff has contacted the Defendant numerous times in an effort to coexist. To prevent further falsities, Defendant released the following statement to Michael Musto at The Village Voice Blog: *"The Gaga Pure Platinum trademark has been and continues to be in use. Lady Gaga's counsel never contacted Gaga Pure Platinum nor did we ever receive any communication from Lady Gaga nor it's representatives. No effort to communicate was ever made, only a court action."* Plaintiff never had any intention to negotiate with Defendant and in fact Plaintiff never negotiated with Defendant as they claimed publicly. Plaintiff falsely stating to the public that they are negotiating with Defendant when in fact they are harassing Defendant to relinquish all rights to Defendant's Trademark GAGA PURE PLATINUM® and all intellectual property.

In addition, On June 28, 2012 Plaintiff's attorneys stated and admitted to Defendant on the telephone that they 'sent someone' to Defendant's offices with no further particulars or elaboration as to the meaning of their statement, and therefore could only be implied as a form of harassment, intimidation and stalking in nature. Defendant's offices have no records of any visitors from Ate My Heart, Inc, nor any records of any appointments with Defendant's offices from Ate Heart, Inc..

Defendant Provided Discovery To Plaintiff and Fully Complied with the Board's Discovery Order

On November 26, 2012 Defendant respectfully and fully complied with the Board's order to answer discovery. All of the Plaintiff's twenty-one interrogatories and all of the Plaintiff's seventy document requests were answered by Defendant. The general objections raised and stated by Defendant in the discovery answers were applied to Plaintiff's discovery interrogatories and document requests. Defendant objected to Plaintiff's discovery and interrogatory requests because, as applied to specific discovery requests, they cause the requests to be overly broad and global, vague and ambiguous, unduly

burdensome, and to seek information protected from disclosure by the attorney-client, work product, party communications, investigative and consulting expert privileges. Plaintiff was provided the url to WWW.GAGAPUREPLATINUM.COM, in order for Plaintiff to purchase Defendant's goods to examine, annexed hereto as Exhibit D. Plaintiff is fully aware of the fact that GAGA PURE PLATINUM® has continuously been used in commerce and promoted in the media. Plaintiff is continuously harassing Defendant with this frivolous, fraudulent and vexatious Petition to Cancel Proceeding in a blatantly arrogant attempt to manipulate and waste the Board's and Defendant's resources, time and energy.

WHEREFORE, Defendant requests that Plaintiff's motion for sanctions be denied in its entirety and judgment entered against Plaintiff and in favor of Christina Sukljian, Defendant.¹

Dated: Albany, New York
January 4, 2013

Respectfully Submitted,

By: /Christina Sukljian/
Christina Sukljian
Defendant
Owner
GAGA PURE PLATINUM
13 Manor Street
Albany, New York 12207

¹ As of December 12, 2012, this proceeding was consolidated with Defendant's Opposition Proceeding, No. 91205046. As such, Defendant, Christina Sukljian, requests that Plaintiff's motion for sanctions be denied in its entirety and judgment entered against Plaintiff, Ate My Heart, Inc. and in favor of Christina Sukljian, be effected as to both this Cancellation Proceeding as well as Christina Sukljian's Opposition Proceeding No. 91205046.

CERTIFICATE OF PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing **DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH THE BOARD'S DISCOVERY ORDER AND REQUEST FOR JUDGEMENT** has been served on Ate My Heart, Inc. by mailing said copy on January 4, 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 Sukljian/

Christina Sukljian

13 Manor Street

Albany, NY 12207

Date of Deposit: January 4, 2013
USPS Priority Mail

CERTIFICATE OF MAILING THROUGH ESTTA

I, Christina Sukljan, hereby certify that this **DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH THE BOARD'S DISCOVERY ORDER AND REQUEST FOR JUDGEMENT** 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: January 4, 2013

Signed: /Christina Sukljan/

EXHIBIT A

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

In the Matter of Application Serial No. 85215017
Mark: HAUS OF GAGA
Published in the Official Gazette on January 3, 2011

-----X	
Christina Sukljian,	:
	:
Opposer,	:
	:
v.	:
	:
Ate My Heart Inc.,	:
	:
Applicant.	:
-----X	

NOTICE OF OPPOSITION

By order of the Board dated February 29, 2012, Christina Sukljian, Opposer and Owner of the federally registered trademark GAGA PURE PLATINUM®, was allowed until May 2, 2012 in which to oppose the above-reference application. Christina Sukljian, an individual at 13 Manor Street, Albany, NY 12207, believes that she would be damaged by the issuance of a registration for the mark, shown in Application Serial No. 85215017, HAUS OF GAGA in International Class 003, covering identical and related cosmetics goods and therefore opposes the same. As grounds for its opposition, Opposer, alleges as follows:

I: Background on Christina Sukljian

- 1) GAGA PURE PLATINUM® is a federally registered trademark, U.S. Registration No. 2898544 in International Class 003, invented and created in the year 2000, filed for registration on August 22, 2001 and registered on November 2, 2004 with a date of first use in commerce of June 7, 2001, owned by the Opposer, internationally recognized cosmetics and beauty industry maven and second generation cosmetics purveyor, Christina Sukljian p/k/a Cristina Samuels.
- 2) Christina Sukljian p/k/a Cristina Samuels has more than 17 years of experience in the cosmetics industry with a broad background in product development, marketing and sales. Before joining Zela International formally in 1995 she honed her skills and was educated in all facets of the cosmetics industry in her family cosmetics company, Zela International. In 1996 she joined the marketing team and developed and implemented innovative product packaging and marketing programs to increase the company's sales and profits for various color cosmetics lines including Mode Couleurs and Little Gems. Under her leadership she created Mode, a natural color cosmetics line which pioneered the use of natural ingredients with fashion forward style, the first concept of its kind in the industry.
- 3) In 2000 Christina Sukljian p/k/a Cristina Samuels spearheaded the creation of GAGA PURE PLATINUM, an avant-garde cosmetics brand. Named after her brother's childhood nickname Gaga, GAGA PURE PLATINUM combined fashion, style and art with passion for color.
- 4) Christina Sukljian p/k/a Cristina Samuels has achieved prominence and accolades in the global cosmetics industry and has gained the attention of leading beauty editors of both consumer and industry magazines, including *Allure*, *GCI*, *Drug Store News*, and *WWD*, beauty and fashion websites and bloggers, including *Bella Sugar*, and through media appearances including Wnyt, Wten, Wrgb. She has been lauded for her fresh perspective in the beauty industry and as a result

of her efforts and achievements she has garnered the distinct honor and recognition of *GCI*® magazine (*Global Cosmetic Industry* magazine) as being selected as 1 of '20 To Know' in the global cosmetics industry. *GCI*® magazine has stated, "Cristina Samuels epitomizes the strengths of the beauty industry – continuity and tradition propelled by innovation and evolution."

- 5) In addition to her fresh perspective, as described by *GCI*® magazine (*Global Cosmetic Industry* magazine), and as a result of her achievements in the cosmetics industry, in 2008 Cristina Samuels was welcomed as the youngest member to join the magazine's editorial advisory board proudly contributing to one of the most respected and influential business magazines for the global beauty industry.

II: Applicant's Mark is *Confusingly Similar* to Registered Mark GAGA PURE PLATINUM

- 6) Since a date long prior to any date which Applicant can rely and before the existence of the Applicant, Opposer has been using the trademark 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 for well over 11 years.
- 7) Opposer owns U.S. Registration No. 2898544 for the mark GAGA PURE PLATINUM, registered on November 2, 2004 in International Class 003 for Cosmetics; namely nail polish, lipstick, lip gloss, eye liner, lip liner, eye shadow, face powder, blush, mascara in International Class 003 with a date of first use in commerce of June 7, 2001. This registration is valid and in full force and effect and has become incontestable under Section 15 of the Lanham Act.
- 8) As a result of Opposer's use and registration of the GAGA PURE PLATINUM mark when used in connection with cosmetics and related goods in International Class 003 GAGA PURE PLATINUM has become uniquely associated with Opposer.

9) Applicant has applied for registration for the mark HAUS OF GAGA, U.S. Application Serial No. 85215017, as Intent to Use under 1B filing basis, in International Class 003 on January 11, 2011, a date long subsequent, in fact 10 years subsequent, to Opposer's date of first use of the GAGA PURE PLATINUM mark and thus, Opposer has priority over Applicant, for the following identical and related goods as identified by Applicant, 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.

- 10) Opposer will be damaged by trademark infringement and confusion and the presumptions flowing from the registration of the mark HAUS OF GAGA for identical and related goods, appearance, sound, connotation, and overall commercial impression as such registration diminishes the distinctiveness of the GAGA PURE PLATINUM trademark, an invented mark, invented by the Opposer long before Applicant was in existence, for which Opposer has exclusive rights for cosmetics and related products in International Class 3.
- 11) Applicant seeks to register an identical name, for identical and related goods, in an identical class as Opposer's registered mark and the similarities between the marks and the goods are so great that they create a likelihood of confusion. The GAGA PURE PLATINUM mark, Registration No. 2898544, will be adversely impacted, impeded, and gravely harmed because consumers will be confused and deceived by Applicant's identical pending mark HAUS OF GAGA, a newcomer, and will falsely believe with deception that Applicant's HAUS OF GAGA is of the same name and is connected and part of the brand GAGA PURE PLATINUM.
- 12) In addition, Applicant's pending mark, HAUS OF GAGA, is confusingly similar to Opposer's registered GAGA PURE PLATINUM mark and intended use of Applicant's mark, in International Class 003, for the goods identified in Applicant's registration is likely to cause confusion to the Opposer's registered mark GAGA PURE PLATINUM, as it deceives the purchasing public by creating the mistaken belief that Applicant's goods are connected, approved, endorsed, or sponsored by Opposer's GAGA PURE PLATINUM mark and that the registered GAGA PURE PLATINUM is the source of pending HAUS OF GAGA's goods and that the goods of pending HAUS OF GAGA are, in some other way, associated with GAGA PURE PLATINUM and is an extension or in some other way part of the GAGA PURE PLATINUM

brand all to grave injury and harm to business and adverse commercial impact to GAGA PURE PLATINUM due to use of an identical and similar mark by a newcomer. Applicant's English translation of HAUS OF GAGA is HOUSE OF GAGA and further implicates that HAUS OF GAGA is wholly part of, under the house or umbrella of GAGA PURE PLATINUM and or in some way connected and or affiliated with the federally registered mark GAGA PURE PLATINUM.

- 13) The uniqueness of the invented mark GAGA PURE PLATINUM, Registration No. 2898544, created by Christina Sukljian p/k/a Cristina Samuels in the year 2000 and registered in November 2, 2004, long before Applicant was in existence, and the uniqueness and originality of the invented GAGA PURE PLATINUM mark, in International Class 003, creates the overall commercial impression. GAGA PURE PLATINUM's originality and uniqueness of the coined and invented mark establishes it as a commercial brand name in International Class 003 which is impressed upon the minds of purchasers and remembered and referred to when making purchasing decisions. GAGA PURE PLATINUM is the trademark which is impressed upon the minds of purchasers and remembered and referred to when making purchasing decisions.
- 14) GAGA PURE PLATINUM's originality and uniqueness of the coined and invented mark, invented by the Opposer more than 10 years prior to Applicant, establishes it as a commercial brand name in International Class 3. GAGA is the first part of the mark GAGA PURE PLATINUM which is impressed upon the minds of purchasers and remembered and referred to when making purchasing decisions. Consumers associate and refer to the GAGA PURE PLATINUM brand as GAGA and GAGA Cosmetics. GAGA PURE PLATINUM is an invented mark, invented by Opposer in 2000, and GAGA PURE PLATINUM is the first and only brand name in International Class 3 that uses the invented GAGA mark in commerce for cosmetics.
- 15) Applicant has unsuccessfully attempted to register two (2) prior applied-for-marks in International Class 003 for cosmetics and related goods, LADY GAGA Serial No. 85115004 on

August 24, 2010 and LADY GAGA FAME Serial No. 85282752 on March 21, 2011, both of which were refused registration under Section 2(d) of the Trademark Act due to Likelihood Of Confusion with GAGA PURE PLATINUM because of the significant fact that the marks are highly similar because they both include the identical word, GAGA, in the same International Class 003 for identical and similar goods and refusal is maintained and continued under Section 2(d) based upon Registration No. 2898544 GAGA PURE PLATINUM.

- 16) Furthermore, this is Applicant's 3rd (third) attempt to register a mark that includes the significant identical word GAGA in International Class 003 for cosmetics and related goods and Applicant's applied mark HAUS OF GAGA will damage and cause severe Likelihood of Confusion, cause dilution, and cause deception with federally registered mark GAGA PURE PLATINUM.

WHEREFORE, Opposer requests that its Notice of Opposition be granted and that Application Serial No. 85215017 be denied and refused and that the Mark therein sought for the goods therein specified in International Class 3 be denied and refused.

The \$300 filing fee to file this Notice of Opposition has been paid electronically through ESTTA

Dated: Albany, New York
May 1, 2012

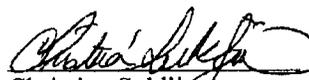
Respectfully submitted,

/Christina Sukljan/
Christina Sukljan
Owner
GAGA PURE PLATINUM
13 Manor Street
Albany, New York 12207
(518) 436-1833

CERTIFICATE OF PROOF OF SERVICE

CERTIFICATE OF PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on Ate My Heart, Inc. by mailing said copy on May 1, 2012 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.


Christina Sukljan

/Christina Sukljan/

13 Manor Street

Albany, NY 12207

Date of Deposit: May 1, 2012
USPS Priority Mail

CERTIFICATE OF MAILING THROUGH ESTTA

I, Christina Sukljan, hereby certify that this NOTICE OF OPPOSITION 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: May 1, 2012

Signed: /Christina Sukljan/

EXHIBIT B

Re: GAGA PURE PLATINUM Cancellation Action

Subject: Re: GAGA PURE PLATINUM Cancellation Action
From: Zela <zclaintl.co@verizon.net>
Date: Thu, 23 Aug 2012 14:58:47 -0400
To: "Kaplan, Nicole E." <NKAPLAN@PRYORCASHMAN.com>

Nicole:

Today is August 23, 2012 and to date I have not received any settlement proposals, as you stated below in your email, and that you confirmed you would be sending in 10 minutes during our Haus of Gaga discovery conference on August 14, 2012. As you stated, you would email me a proposal in 10 minutes as well as mail a copy. Up to date I have not received any settlement proposals via email nor mail.

Thank you and awaiting your reply.

Christina Sukljian

Re: Settlement proposal

Subject: Re: Settlement proposal
From: Zela <zela@verizon.net>
Date: Wed, 05 Sep 2012 16:59:07 -0400
To: "Kaplan, Nicole E." <NKAPLAN@PRYORCASHMAN.com>

Nicole,

A response to your settlement proposal has been mailed today 9/5/12 via USPS regular mail.

-Christina Sukljian

EXHIBIT C

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Lady Gaga
Lady Gaga Accused Of Bullying! She Defends Herself! Exclusive Story

By Michael Musto Tue, Jun 26 11:27 AM '12
Category: Lady Gaga



In came the email:

"Lady Gaga (Ate My Heart, Inc / Stefani Germanotta) is a bully and suing the family business that owns the 12-year-old registered trademark brand Gaga Pure Platinum cosmetics because she can't get a federal trademark registration, after being blocked registration twice.

"Gaga Pure Platinum was created and has existed since 2000 and to try to get what she wants, with no regard to who she hurts, she is trying to steal the Gaga registered trademark from Gaga Pure Platinum with a lawsuit. Lady Gaga doesn't own any trademark rights to Gaga in cosmetics because Gaga Pure Platinum cosmetics owns it and trademarked it when Stefani Germanotta was 14 years old, long before Lady Gaga came into existence.

"So much for her anti bullying campaigns because she is bullying a family business and her tactic is to lie by using fraudulent, baseless and groundless claims in federal trademark court so she can bully them with her fame...Looks like she's living up to her self proclaimed title of 'mother monster' and has proven to be a total hypocrite. Once again she has copied yet another artist that came before her, Gaga Pure Platinum.

All the public information is available at [this link](#)."

I reached out to Gaga's people for a response, and I didn't have to bully them for it.

Here it is:

"Lady Gaga and her companies respect intellectual property and would never infringe on anyone's rights. But this particular trademark hasn't been used in what appears to be years.

"In fact, Lady Gaga's counsel tried several times to speak to the original owners about their alleged use of their mark in an effort to find a way to amicably coexist. There was never a response."

And now, here's the response to *that* from the trademark owners:

"The Gaga Pure Platinum trademark has been and continues to be in use. Lady Gaga's counsel never contacted Gaga Pure Platinum nor did we ever receive any communication from Lady Gaga nor it's representatives. No effort to communicate was ever made, only a court action."

Judges?

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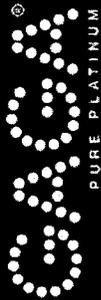
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THE LOOK

OFFERS

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FACE > NEO-POP™ CREAM BLUSH

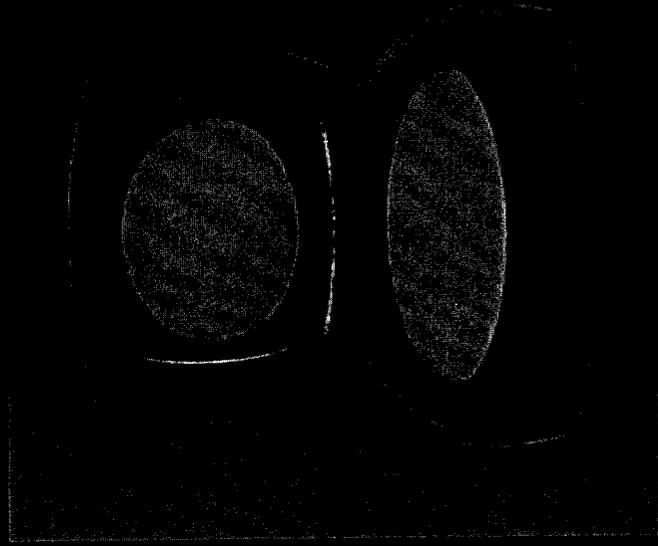
Face

POP OFF NEO-POP™ CREAM BLUSH CREAM CHEEK COLOUR

\$20.00

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over \$50



Candy pink

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 give 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

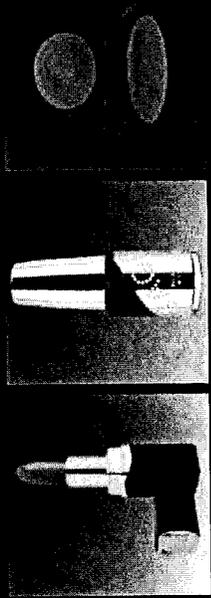
INGREDIENTS

INGREDIENT SPOTLIGHT



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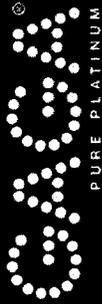
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Nails

MEEP MEEP MOXIE NAIL COSMETIC

\$14.00

ADD TO MY BAG

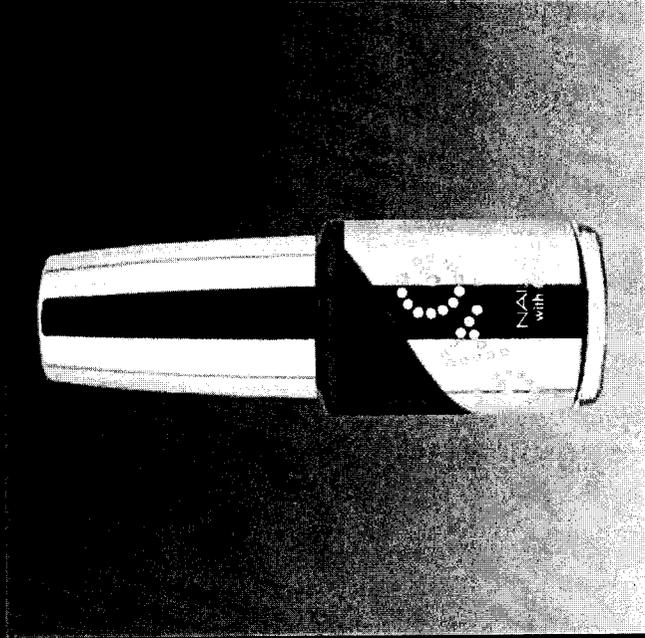
GAGA Pure Platinum Nail Cosmetic is liquid jewelry for the nails with finely crushed, silky smooth GEMLUST™ powder in every bottle. Nails are lacquered in concentrated fashion-forward color for superior wear and gloss with every beautiful coat. This advanced formula provides chip resistant wear while 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

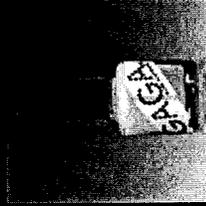
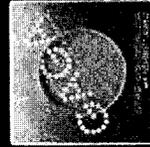
WHERE IT SPOTLIGHT



Click to view product details



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JONUS



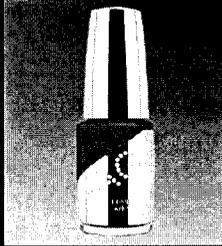
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Nails

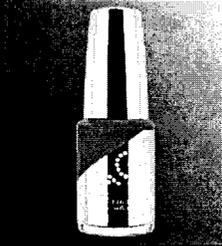
100% VEGAN | 100% CRUELTY FREE

Nails are lacquered in this advanced formula with concentrated color for superior, pure and glossy with every beautiful coat.



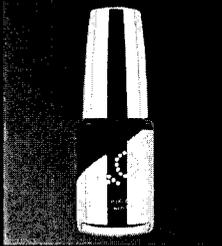
Meep Meep Moxie
NAIL COSMETIC

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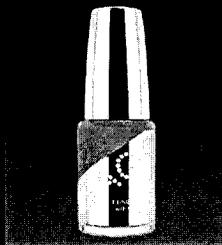
Hullabaloo
NAIL COSMETIC

SHOP NOW



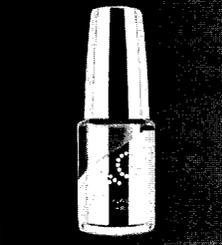
Prim & Awkward
NAIL COSMETIC

SHOP NOW



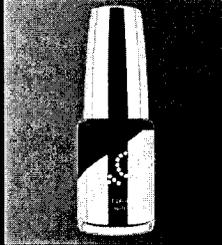
Old Flame
NAIL COSMETIC

SHOP NOW



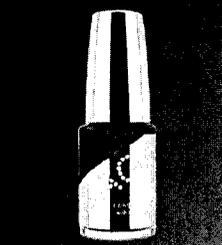
Zenith
NAIL COSMETIC

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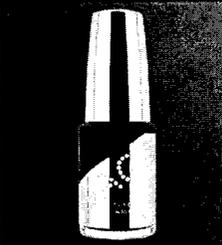
Beam Me Up
NAIL COSMETIC

SHOP NOW



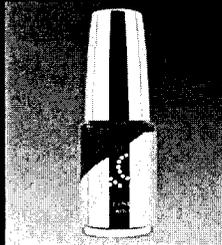
Spendthrift Jungle
NAIL COSMETIC

SHOP NOW



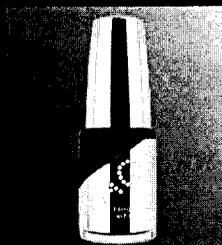
Lock Me Up
NAIL COSMETIC

SHOP NOW



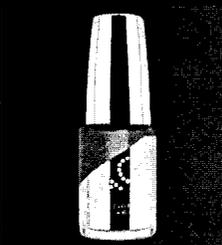
Love Addict
NAIL COSMETIC

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Big Bang Boom
NAIL COSMETIC

SHOP NOW



Yowza
NAIL COSMETIC

SHOP NOW



White Hot Shock
NAIL COSMETIC

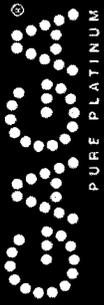
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The uniquely flattering creamed peach nude coats nails in piggy luxury in our advanced long wear, chip resistant formula.



Avec Moi Nail Cosmetic
PART OF THE MESSIAH COSMETIC SET

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HOME > SHOP > CONCEALERS > 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 - .3g*

VIEW INGREDIENTS

INGREDIENT SPOTLIGHT

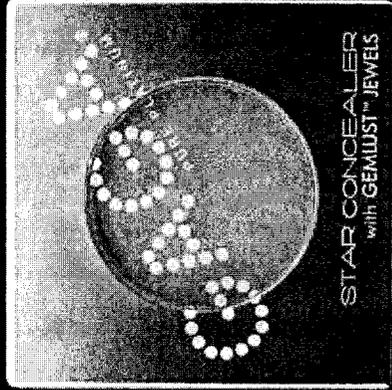
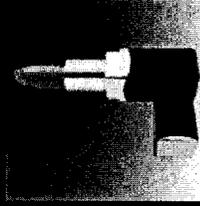
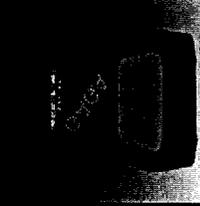


Photo: The View, Photo: Sarah



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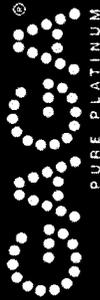
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HOME > SHOP > FACE > LUNAR FLASH PRISM PAVE LUMINIZER

Face

LUNAR FLASH PRISM PAVE™ LUMINIZER

\$22.00

ADD TO MY BAG

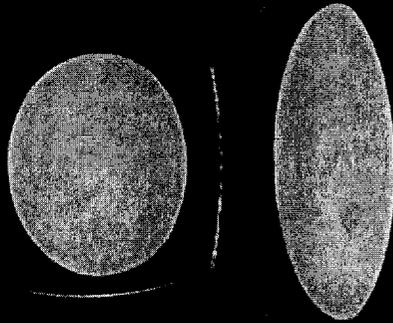
This weightless cream luminizer provides luxurious satin luminosity and superb radiance to your complexion. Prism Pave™ instantly brightens and enhances skin's appearance with natural optical reflectors that bend with the light to provide beautiful radiance to cheeks, brow-bones and face.

Product Details

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

VIEW MORE DETAILS

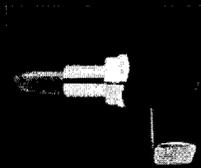
BENEFICIAL INGREDIENTS



Satin Champagne



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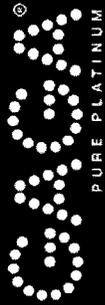
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HOW TO WEAR GEMJUST™ LIP LUST LUXE COLOR GLOSS

Lips

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 - 3g*

NEW ARRIVALS

INGREDIENT SPOTLIGHT



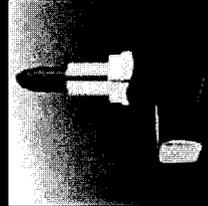
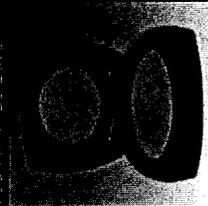
Shimmering golden fuchsia

Put it

Tweet +1

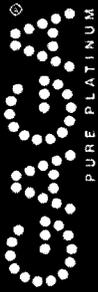
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HOME > SHOP > LIPS > RIVE GAUCHE ART DÉCORATIF HYDRATING LIPSTICK

Lips

RIVE GAUCHE ART DÉCORATIF HYDRATING LIPSTICK

\$16.00

[ADD TO MY BAG](#)

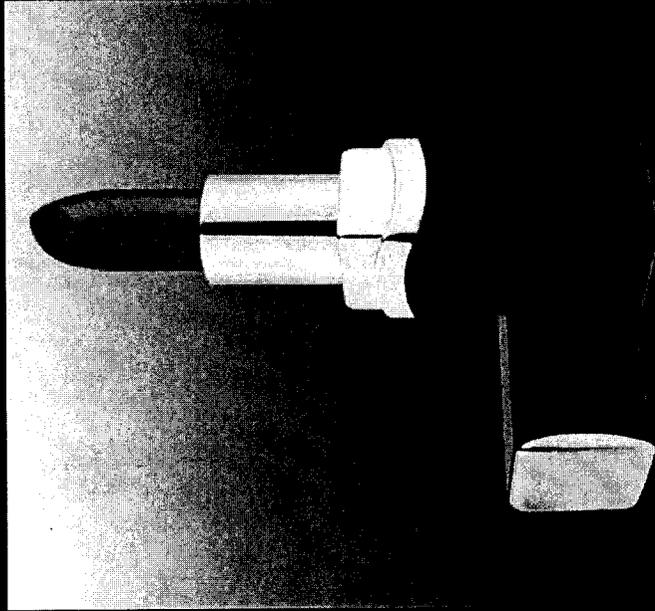
Exceptionally creamy and long-lasting, Art Décoratif Hydrating Lipstick instantly delivers high impact powerful color in just one effortless stroke. Lock in natural moisture with conditioning essential fruit oils for supple, kiss me now lips.

Product Details

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

[VIEW INGREDIENTS](#)

INGREDIENT SPOTLIGHT



Real subtle red



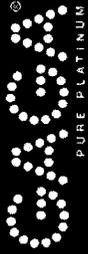
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Sets

ETERNALLY CHIC SET 3 PIECE TRAVEL COMPANION

\$20.00

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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 A VECMOI

- creamed peach nude, the go to color for any occasion
- advanced 9 free formula
- made with love in USA
- .34 fl oz - 10 ml

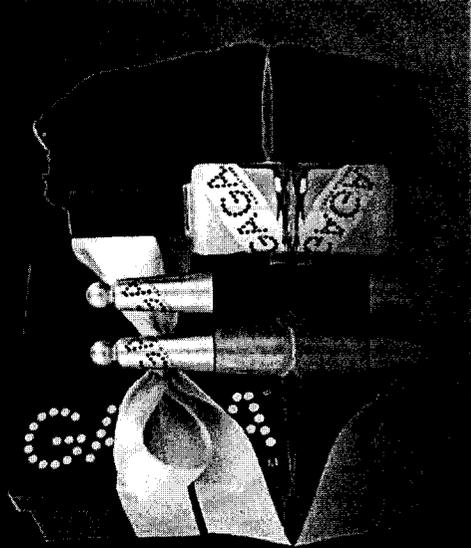
ETHEREAL FINISH MASCARA

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

58 FACTS BRILLIANT LIP GLOSS

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

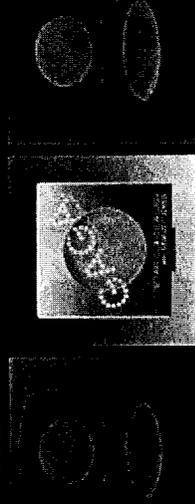
• THE INSPIRATION



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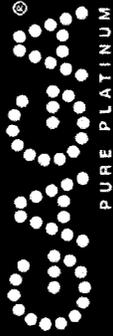
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SHOPPING BAG

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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, jads, 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 maven's 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



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1st Anniversary

THURSDAY APRIL 19TH, 2012

FROM 6:30-9:30PM (Doors open at 6pm)

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Union Ave., Saratoga Springs, NY

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