



1. Applicant applied for registration of the trademark ACQUA BRA on September 18, 2000, for lingerie in International Class 25. Applicant's mark was published for Opposition in the Official Gazette of 18 December 2001.

2. Opposer has registered its service marks and trademarks upon the principal register of the United States Patent and Trademark Office, namely: AQUABRA, Registration No. 2,060,404 for swimwear and exercise wear, namely dancewear, aerobic wear, bodysuits, crop-tops, bra tops, leotards, and tights ("Opposer's Goods"), in International Class 25, issued on 18 May 1997. Opposer's registered trademark has not been canceled, is valid and subsisting, is now in full force and effect, and is owned by Opposer, as the result of a name change, recorded with the United States Patent and Trademark Office, on or about June 24, 1999.

3. By virtue of Opposer's extensive use of the AQUABRA mark, the same has become so well known to the trading and purchasing public that merchandise and goods bearing Opposer's AQUABRA mark are recognized as emanating from, or being distinctly associated with Opposer.

4. Since long prior to the acts of Applicant alleged herein, Opposer has widely and continuously advertising and promoted Opposer's Goods in connection with its aforesaid registered trademark throughout the United States. Opposer's Goods sold and advertised under said registered trademark have acquired and now possess a wide and favorable reputation.

5. Since long prior to the acts of Applicant alleged herein, Opposer's aforesaid registered trademark has been used by Opposer for the purpose of identifying and distinguishing its Goods from similar products of others and the trade and public have come to know and recognize said trademark as identifying Opposer as the source of Opposer's Goods exclusively.

6. Since long prior to the acts of Applicant alleged herein, as a result of the care and skill exercising by Opposer in the manufacture and sale of Opposer's Goods under the said registered trademark, the supervision and control exercised by Opposer over the nature and quality of Opposer's Goods sold under Opposer's said registered trademark, and the sale and public acceptance thereof, said Goods have acquired a fine reputation and said registered trademark has acquired an outstanding celebrity symbolizing the goodwill which Opposer has created throughout the United States by the sale of Opposer's Goods of dependable quality and by fair and honorable dealing with the trade and public in the sales of such products.

7. Upon information and belief, Applicant's trademark for ACQUA BRA is confusingly similar to Opposer's aforesaid registered trademark as used by Opposer.

8. Upon information and belief, the clothing products in International Class 25 with which Applicant's claim mark will be used are either identical or closely related to Opposer's Goods which Opposer has used and uses its aforesaid registered trademark.

9. Upon information and belief, the goods in International Class 25, specifically "lingerie," to which Applicant's claim mark allegedly will be/is applied and the goods on and in connection with which Opposer uses and has used its aforesaid registered trademark are goods which will be and are offered for sale and sold in the same channels of trade, and will be and are offered for sale and sold to the same classes of purchasers, and Applicant's claimed mark applies to such goods is likely to cause confusion, deception, or mistake, all to the damage of Opposer.

10. Applicant's mark so resembles Opposer's aforesaid registered trademark as to be likely, when applied to Applicant's related goods, to cause confusion, or to cause mistake, or to deceive purchasers, all to the damage of Opposer.

11. Registration of the mark shown in Application Serial No. 76/023,491 will result in damage in Opposer under the provisions of Section 2(d) of the U.S. Trademark Act, 15 U.S.C. §1052(b), pursuant to the allegations stated above.

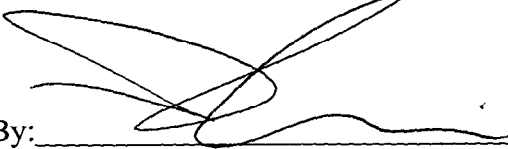
12. Pursuant to 37 C.F.R. 2.6(a)(17), the statutory fee of \$300 is enclosed to cover the single international class in which the Applicant seeks to register its mark. If, for any reason, the enclosed is insufficient (or excessive) in covering the required costs hereto, please debit (or credit) our Deposit Account No. 11-0160 accordingly. A duplicate copy is enclosed.

13. Applicant hereby appoints Michael R. Annis, Alan S. Nemes, B. Michelle Alvey, Eric G. Enlow, Wendy L. Boldt, and Sherry Hanlon, all members of the Bar of the State of Missouri, with offices at Blackwell Sanders Peper Martin LLP, 720 Olive Street, 24<sup>th</sup> Floor, St. Louis, Missouri 63101, as its attorneys in the above-entitled Opposition, to prosecute the same and to transact all business before the Trademark Trial and Appeal Board and in the United States Patent and Trademark Office in connection with said Opposition, with all communications to be sent to Michael R. Annis.

WHEREFORE, Opposer Christina America, Inc. prays that the registration sought by Applicant with respect to goods in International Class 25 indicated as "lingerie" be refused and that this Notice of Opposition be sustained.

Date: 2/22/02

CHRISTINA AMERICA, INC.

  
By: \_\_\_\_\_

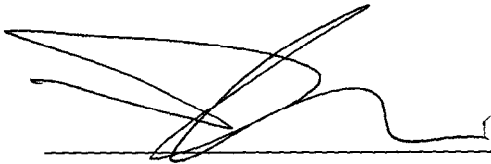
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Attorneys for Opposer

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing was sent via First Class, U.S. Mail, postage prepaid, this the 22<sup>nd</sup> day of February, 2002, to:

Bruce A. Adams  
Adams & Wilks  
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New York, NY 10004-1694  
Attorneys for Applicant

  
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