

ESTTA Tracking number: **ESTTA1080022**

Filing date: **09/06/2020**

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

Notice of Opposition

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

Opposer Information

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| Name | BWT Aktiengesellschaft |
| Granted to Date of previous extension | 09/06/2020 |
| Address | WALTER-SIMMER STRASSE MONDSEE, A-5310 AUSTRIA |
| Attorney information | JULIE B. SEYLER ABELMAN FRAYNE & SCHWAB 666 THIRD AVENUE NEW YORK, NY 10017 UNITED STATES Primary Email: jbseyler@lawabel.com Secondary Email(s): aallen@lawabel.com, docket@lawabel.com No phone number provided. |
| Docket Number | 231982 |

Applicant Information

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|------------------------|--|------------------------|------------|
| Application No. | 88645006 | Publication date | 03/10/2020 |
| Opposition Filing Date | 09/06/2020 | Opposition Period Ends | 09/06/2020 |
| Applicant | Aqua Research LLC 5601 MIDWAY PARK PLACE NE ALBUQUERQUE, NM 87109 UNITED STATES | | |

Goods/Services Affected by Opposition

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| Class 011. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Devices for disinfecting water through production of disinfectant, namely, devices that use electrolytic cells to convert brine to chlorine; water filters |
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Applicant Information

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|------------------------|--|------------------------|------------|
| Application No. | 88645031 | Publication date | 03/10/2020 |
| Opposition Filing Date | 09/06/2020 | Opposition Period Ends | |
| Applicant | Aqua Research LLC 5601 MIDWAY PARK PLACE NE | | |

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| ALBUQUERQUE, NM 87109 UNITED STATES |
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Goods/Services Affected by Opposition

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Grounds for Opposition

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| Priority and likelihood of confusion | Trademark Act Section 2(d) |
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Mark Cited by Opposer as Basis for Opposition

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 6104314 | Application Date | 04/26/2019 |
| Registration Date | 07/21/2020 | Foreign Priority Date | 11/15/2018 |
| Word Mark | B | | |
| Design Mark | | | |
| Description of Mark | The mark consists of a stylized lower case letter "B" in white outlined on a blue background in the shape of a droplet. The lowercase letter "B" is incomplete in that the top circular portion is open and does not touch the vertical line. | | |
| Goods/Services | <p>Class 001. First use: First Use: 0 First Use In Commerce: 0 Chemicals for use in industry, namely, organic and inorganic filtering and absorption agents; ion exchange resins; water treatment chemicals for treating, clarifying, softening, desalting, cleaning, disacidifying, and disinfecting water and for disinfecting swimming pool water; activated carbon also in the form of activated carbon fleeces, activated carbon blocks and activated carbon granules, the aforesaid for general industrial use and for domestic use; zeolites for industrial purposes, namely, for softening and iron removal; ion exchange substances in the nature of resin membranes; polymer membranes in the nature of chemical preparations being electrolytes for fuel cells</p> <p>Class 005. First use: First Use: 0 First Use In Commerce: 0 Nutritional supplements, not for medical purposes, based on magnesium, vitamins, calcium, trace elements and zinc; nutritional supplements, not for medical purposes, based on, but not mainly consisting of, carbon dioxide and/or carbonic acid; preparations for destroying seaweed and bacteria</p> <p>Class 006. First use: First Use: 0 First Use In Commerce: 0 Metal swimming pools and metal spa pools; metal water piping; water-pipe valves of metal; metal step ladders, in particular step stools; metal banisters in the nature of metal railings for stairs; metal steps in the nature of stairs of metal; building and construction materials and elements, namely, cladding of metal for construction and building, steel angles for use in building construction, construction elements made of metal being fabricated metal components for building foundations; metal handrails and metal center poles for staircases; jalousies of metal; metal pulls for blinds; signs, non-luminous and non-mechanical, of metal; advertising boards, non-luminous and non-mechanical, of metal; all the aforesaid goods of metal</p> <p>Class 007. First use: First Use: 0 First Use In Commerce: 0 Electromechanical apparatus for preparing and dispensing beverages, namely, electromechanical beverage preparation machines, dispensing valves being machine parts; devices for swimming pools being machines and parts of machines, namely, circulating pump installations and valves being parts of machines oper-</p> | | |

ated pneumatically and by air; swimming pool cleaning machines; counter-current swimming machines for use in swimming pools to enable swimming in place against an adjustable counter-current, featuring pumps, motor, and adjustable current director outlets; membrane filters being parts of automatic swimming pool cleaning machines

Class 009. First use: First Use: 0 First Use In Commerce: 0

Physical and chemical apparatus for filtering and metering solid, pasty, liquid and gaseous materials, minerals and disinfectants, namely, filtering machines for chemical processing; control, monitoring, and analysis apparatus, not for medical purposes, namely, technical measuring, testing and checking apparatus and instruments for measuring, testing and checking the temperature, pressure, quantity and concentration of gas and liquids; electronic monitors for monitoring flowmeters; collectors, electric, namely, solar energy production data collectors; thermometers, not for medical purposes; downloadable software namely, downloadable industrial process control software, downloadable facilities management software to control building environment; downloadable software for internet and mobile devices, namely, downloadable mobile operating system software, downloadable computer game software for use on mobile and cellular phones; downloadable mobile applications for controlling water purification apparatus and water purification installations; illuminated signs; electric signs; digital signage; illuminated advertisements being luminous signs; electronic advertising display boards, luminous; beacons, luminous; fittings for all the aforesaid goods not included in other classes; ski helmets; ice hockey helmets; snowboard helmets; swim goggles; snow goggles; sunglasses; cases for the aforesaid spectacles and goggles; protective helmets; bags adapted for laptops; sleeves for laptops; blank USB flash drives; data processing apparatus; diving suits; life buoys; life belts and life jackets being life preservers; divers' masks

Class 011. First use: First Use: 0 First Use In Commerce: 0

Installations and apparatus for the treatment, clarification and purification of drinking water, namely, water purification apparatus and installations, water treatment equipment in the nature of water filtration units, and water clarification machines for use in treatment of water; water filters; water filtering apparatus; water filtering devices, namely, water purification installations for waste water and sewage consisting of curtains and textile fabrics; water filtration bottles sold empty; water filtering units for domestic, commercial, and industrial use; membranes being water filters; cartridge filtration units for water filtration jugs; water filtering apparatus for domestic and industrial use; water filtering units for domestic use; ultraviolet light installations for the disinfection of drinking water and swimming pool water; membrane filter cartridges for water treatment; dehumidifiers; Replacement cartridges and filter cartridges with ion exchangers and adsorbents for water filters and water softening apparatus; water supply apparatus, namely, tap-water purifying apparatus, and water supply taps in the nature of tap water faucets; floodlights for swimming pools; luminaires; showers, shower heads and shower fittings in the nature of water filtration units, escutcheons, shower mixers, shower sprayers, and shower accessories in the nature of water filtration units, shower doors, shower trays; heat exchangers, other than parts of machines; filter cartridges for fixed water connections being tap-water purifying apparatus; fleeces being water filters for the treatment of water; installations and apparatus for treating, clarifying, softening, desalting, cleaning, disacidifying, dechlorinating and disinfecting water, in particular apparatus for the production of chlorine oxide, namely, chlorinating units for water treatment; parts of aforesaid goods, in particular plumbing fittings in the nature of water filtration units, drains, faucet filters, aerators for faucets; refill elements, cartridges, and spare parts of the aforesaid goods, namely, replacement water filtration cartridges for refrigerators, ice makers and water filtration units

Class 014. First use: First Use: 0 First Use In Commerce: 0

Key rings and key chains, and charms therefore

Class 016. First use: First Use: 0 First Use In Commerce: 0

Packaging for chemical materials, namely, cardboard packaging, plastic film roll stock, adhesive plastic film, plastic bags; stationery; printed matter, namely, books and magazines in the field of sports, news releases in the field of water quality and water filtration products; catalogues in the field of water filtration products and water quality; disposable paper articles, namely, filter materials made of paper for coffee makers and for water filtration units; water filters of paper for coffee makers; bags and articles for packaging, wrapping and storage of paper, cardboard or plastics, namely, paper bags for packaging, packaging materials made of recycled paper, storage containers made of paper, paper for wrapping and packaging, plastic sheets for wrapping; writing instruments; office machines, namely, office perforating machines, office lettering machines, office labeling machines; printed advertising boards made of paper, cardboard and paperboard; flags and pennants of paper

Class 017. First use: First Use: 0 First Use In Commerce: 0

Flexible hoses, not of metal; sleeves of rubber for tubes for protecting machinery; hose linings for water purification units; plastics materials in the form of sheets for use in manufacturing; insulating waterproofing membranes made of polymers and rubber; sheets of plastic fabric used as an insulating infiltration barrier in building construction

Class 018. First use: First Use: 0 First Use In Commerce: 0

Umbrellas and parasols; luggage, traveling bags, wallets and other carriers, namely, suit carriers; rucksacks; suitcases with wheels; sports bags, not included in other classes; bumbags; textile shopping bags; shoulder bags; clothing for animals; horse blankets; leads for animals

Class 019. First use: First Use: 0 First Use In Commerce: 0

Jalousies, not of metal; non-metal stairs; non-metal banisters being components of non-metal stairs; stair treads not of metal; hand rails being non-metal railings for stairs; stair components, namely, stair treads not of metal; plastic swimming pools structures; non-flexible water pipes of plastic being water-pipes not of metal; non-metal parking curbs; stones, in particular worked stones; stones used to retain embankments

Class 020. First use: First Use: 0 First Use In Commerce: 0

Easy chairs; air bed loungers, not for medical purposes; air mattresses, not for medical purposes; packaging containers of plastic not for medical use, and non-metallic closures and holders specially designed therefor; displays, stands and signage, namely, signboards of wood or plastic; advertising display boards

Class 021. First use: First Use: 0 First Use In Commerce: 0

Glass decanters; glasses being drinking vessels; cups; mugs; coffee services in the nature of tableware; cookware, namely, pots and pans; all-purpose portable household containers; statues, figures, and works of art of made of materials like porcelain, ceramics, earthenware and glass; non-electric small household and kitchen apparatus for water treatment, in particular for filtering water, namely, coffee filters not of paper being part of non-electric coffee makers; household apparatus for the production of water and beverages, namely, disposable beverage lid with an integrated press and plunger for placement on any cup for the purpose of infusing beverages, gas pressurized beverage siphon containers in the nature of soda water holders and gas cartridges sold empty; jugs and pitchers, not made of precious metals; kettles, non-electric; household or kitchen vessels, namely, water storage vessels, being drinking vessels

Class 024. First use: First Use: 0 First Use In Commerce: 0

Bunting of textile or plastic; flags and pennants of plastic and textile; towels of textile

Class 025. First use: First Use: 0 First Use In Commerce: 0

Headwear, in particular bathing caps, bobble caps, bonnets, baseball caps, peaked caps, ski caps, sports caps and thermal headwear in the nature of bon-

nets, beanies, knitted caps; clothing, in particular anoraks, swimming shorts, swim suits, swim trunks, bathrobes, fleece jackets, t-shirts, sportswear in the nature of athletic tops and bottoms for running, football shirts, leisurewear in the nature of leisure suits, neckwear, hoodies, trousers, jackets, jogging suits, polo shirts, socks, jersey clothing in the nature of sports jerseys, ski suits for competitions and ski clothing in the nature of ski wear; footwear, in particular sports footwear; hijabs; head scarves; sweatbands; headbands; gloves being clothing; neckties

Class 028. First use: First Use: 0 First Use In Commerce: 0

Sporting articles and equipment, namely, spring boards, weight lifting belts, lower body alignment apparatus; toys, namely, action figure toys, infant toys, toy scooters and accessories therefor; games, namely, electronic dart games, board games, educational card games; playthings, namely, beanbags, puppet theatres; novelties, namely, novelty toys for playing jokes, novelty noisemaker toys for parties; racquets for tennis, badminton, squash; batting gloves being accessories for games; fitted protective covers specially adapted for sports equipment, namely, golf club, tennis racket, skis; bags specially adapted for sports equipment; skis; sole coverings for skis; ski bindings; ski covers; ski sticks; snowboards; scale model cars; scale model vehicles; scale model aeroplanes; model railways being toy model train sets; inflatable thin rubber toys; play balloons; balls for games; nets for ball games; cases for play accessories; cases for toy cars, airplanes, boats; ice hockey goals; ice hockey sticks; hockey pucks; ice hockey goalie pads; nets for ice hockey goals; ice skates; slides being playthings, namely, playground slides; toy building blocks; golf irons; golf club covers; golf club bags; golf bags, with or without wheels; articles for playing golf namely, golf ball dispensers and golf clubs; swimming belts; swimming equipment, namely, flippers for swimming, swimming jackets, swimming floats, swimming boards, swimming gloves, swimming rings, inflatable swimming floats

Class 032. First use: First Use: 0 First Use In Commerce: 0

Preparations for making beverages, namely, concentrates used in the preparation of soft drinks, powders used in the preparation of fruit-based beverages, concentrates, syrups or powders used in the preparation of sports drinks

Class 035. First use: First Use: 0 First Use In Commerce: 0

Product merchandising for others; advertising services, in particular for athletes; sales promotion; order placement services, namely, on-line ordering services featuring water purification and water treatment; bookkeeping and invoicing services in the field of e-commerce businesses; presentation of goods and services on the internet, namely, operating an on-line shopping site in the field of water purification and water treatment; digital marketing services; organizing and conducting trade shows and exhibitions for commercial or advertising purposes; preparing promotional and merchandising material for others; marketing services, namely, developing marketing campaigns; design of the advertising content of brochures for others; preparation of publicity publication, namely, writing of publicity texts, publication of publicity texts; television advertising; advertising services provided via the internet; publicity columns preparation, namely, writing of publicity texts, publication of publicity texts; online advertising services; presentation of companies on the internet and other media, namely, online advertising and publicity services; product launch services, namely, organizing events for advertising purposes; retail and wholesale store services in connection with organic and inorganic filtering and absorption agents being chemical products for use in industry, ion exchange resins, chemical products for treating, clarifying, softening, desalting, cleaning, disacidifying, and disinfecting water and for disinfecting swimming pool water, activated carbon also in the form of activated carbon fleeces, activated carbon blocks and activated carbon granules, zeolites for softening and iron removal, ion exchange substances, and membranes for fuel cells being chemical preparations; retail and wholesale store services in connection with nutritional supplements not for medical purposes based on magnesium, vitamins, calcium, trace elements and zinc, nutritional

supplements not for medical purposes based on but not mainly consisting of carbon dioxide and/or carbonic acid, preparations for destroying seaweeds and bacteria; retail and wholesale store services in connection with swimming pools and spa pools, water piping, water-pipe valves, step ladders, step stools, banisters, steps, building and construction materials and elements, handrails and centre poles for staircases, slatted blinds, blind pulls, signs, advertising boards, all the aforesaid goods of metal; retail and wholesale store services in connection with electromechanical apparatus for preparing and dispensing beverages, devices for swimming pools, namely, circulating pump installations being machines and part of machines, pneumatic valves, swimming pool cleaning machines, pumps being machines, in particular pumps for counter-current swimming, parts of all aforementioned goods not included in other classes; retail and wholesale store services in connection with physical and chemical apparatus for filtering and metering solid, pasty, liquid and gaseous materials, minerals and disinfectants, control, checking, supervision, and analysis apparatus not for medical purposes, electric collectors, thermometers, software for controllers and app applications, software for internet and mobile devices, mobile apps, illuminated signs, electric signs, digital signs, illuminated advertisements, luminous advertising display boards, luminous beacons, and fittings for all the aforesaid goods not included in other classes; retail and wholesale store services in connection with installations and apparatus for the treatment, clarification and purification of water, in particular drinking water, UV installations for the disinfection of drinking water and swimming pool water, membranes for water treatment, membranes for the filtration of water as part of machines, dehumidifiers, refill packs and filter cartridges with ion exchangers and/or adsorbents for water filters and water softening apparatus, water supply apparatus and water supply taps, floodlights for swimming pools, luminaires, showers, shower heads and shower fittings, shower accessories, heat exchangers, other than parts of machines, installations and apparatus for clarifying, softening, desalting, disacidifying, dechlorinating and disinfecting water, in particular apparatus for the production of chlorine oxide, parts of aforementioned goods, filter cartridges for fixed water connections, fleeces for the treatment of water; retail and wholesale store services in connection with packaging for chemical materials made of cardboard and plastic; retail and wholesale store services in connection with flexible hoses, rubber casings for tubes, hose linings, plastics materials in the form of sheets, waterproof membranes made of polymers and/or rubber, sheets of plastic; retail and wholesale store services in connection with jalousies, stairs, banisters, stair treads, handrails for stair cases, stair components, all the aforesaid goods not of metal; retail and wholesale store services in connection with non-electric small household and kitchen apparatus for water treatment, in particular for filtering water, household apparatus for the production of water and beverages, jugs and pitchers not made of precious metals, non-electric kettles, household or kitchen vessels, namely, water storage vessels, also with replacement water filter cartridges; retail and wholesale store services in connection with preparations for making beverages

Class 036. First use: First Use: 0 First Use In Commerce: 0

Charitable fundraising, Memorial fundraising, Political fundraising; organization of collections, namely, debt collection; financial sponsorship and patronage of cultural and sporting events

Class 037. First use: First Use: 0 First Use In Commerce: 0

Installation, maintenance and repair of swimming pools, apparatus and installations for the processing, treatment and purification of water, in particular drinking water; construction of swimming-pool complexes

Class 040. First use: First Use: 0 First Use In Commerce: 0

Custom manufacturing of installations and apparatus for pool water treatment

Class 042. First use: First Use: 0 First Use In Commerce: 0

Industrial analysis and research services in the field of swimming pools, water-

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| | quality and water purification; technological planning, construction drafting and engineering services in the field of processing, treating and purifying water, in particular drinking water and wastewater; Scientific and technological services, namely, scientific research, analysis, testing in the field of water quality and water purification; technological and scientific research in the field of renewable energy resources and water purification |
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| Attachments | BWT V. AQUA RESEARCH Notice of Opposition.pdf(130100 bytes) |
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|-----------|---------------|
| Signature | /aimeemallen/ |
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| | |
|------|----------------|
| Name | AIMEE M. ALLEN |
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| Date | 09/06/2020 |
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application No. 88645006
In re Application No. 88645031
Published March 10, 2020

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| BWT Aktiengesellschaft <i>Opposer,</i> v. Aqua Research LLC <i>Applicant</i> |
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Opposition No.

NOTICE OF OPPOSITION

BWT Aktiengesellschaft, a company organized and existing under the laws of Austria having an address at Walter-Simmer Strasse, Mondsee, Austria, A5310 believes that it will be damaged by registration of the marks shown in Application Serial Nos. 88645006 and 88645031 and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. On October 7, 2017 Applicant filed Application No. 88645006 seeking to register



the mark (hereinafter “Applicant’s Logo Mark”) for “Devices for disinfecting water through production of disinfectant, namely, devices that use

electrolytic cells to convert brine to chlorine; water filters” (hereinafter Applicant’s Goods”).

2. Also on October 7, 2017, Applicant filed Application No. 88645031 seeking to



register the mark AQUA RESEARCH (hereinafter “Applicant’s AQUA RESEARCH Mark”) for Applicant’s Goods.

3. Applicant filed both Application No. 88645006 for Applicant’s Logo Mark and Application No. 88645031 for Applicant’s AQUA RESEARCH Mark, (hereinafter collectively referred to as “Applicant’s Marks”) on an intent-to-use basis.

4. Opposer is the owner of all right, title and interest in and to the trademark



(“Opposer’s Mark”).

5. Opposer is the owner of Registration No. 6104314 for Opposer’s Mark for a range of goods including, *inter alia*, “water treatment chemicals for treating, clarifying, softening, desalting, cleaning, disacidifying, and disinfecting water and for disinfecting swimming pool water; metal swimming pools and metal spa pools; metal water piping; water-pipe valves of metal; devices for swimming pools being machines and parts of machines, namely, circulating pump installations and valves being parts of machines operated pneumatically and by air, swimming pool cleaning machines; counter-current swimming machines for use in swimming

pools to enable swimming in place against an adjustable counter-current, featuring pumps, motor, and adjustable current director outlets; membrane filters being parts of automatic swimming pool cleaning machines; downloadable mobile applications for controlling water purification apparatus and water purification installations; Installations and apparatus for the treatment, clarification and purification of drinking water, namely, water purification apparatus and installations, water treatment equipment in the nature of water filtration units, and water clarification machines for use in treatment of water; water filters; water filtering apparatus; water filtering devices, namely, water purification installations for waste water and sewage consisting of curtains and textile fabrics; water filtration bottles sold empty; water filtering units for domestic, commercial, and industrial use; membranes being water filters; cartridge filtration units for water filtration jugs; water filtering apparatus for domestic and industrial use; water filtering units for domestic use; ultraviolet light installations for the disinfection of drinking water and swimming pool water; membrane filter cartridges for water treatment; dehumidifiers; Replacement cartridges and filter cartridges with ion exchangers and adsorbents for water filters and water softening apparatus; water supply apparatus, namely, tap-water purifying apparatus, and water supply taps in the nature of tap water faucets; floodlights for swimming pools; luminaires; showers, shower heads and shower fittings in the nature of water filtration units, escutcheons, shower mixers, shower sprayers, and shower accessories in the nature of water filtration units, shower doors, shower trays; heat exchangers, other than parts of machines; filter

cartridges for fixed water connections being tap-water purifying apparatus; fleeces being water filters for the treatment of water; installations and apparatus for treating, clarifying, softening, desalting, cleaning, disacidifying, dechlorinating and disinfecting water, in particular apparatus for the production of chlorine oxide, namely, chlorinating units for water treatment; parts of aforementioned goods, in particular plumbing fittings in the nature of water filtration units, drains, faucet filters, aerators for faucets; refill elements, cartridges, and spare parts of the aforementioned goods, namely, replacement water filtration cartridges for refrigerators, ice makers and water filtration units; news releases in the field of water quality and water filtration products; catalogues in the field of water filtration products and water quality; disposable paper articles, namely, filter materials made of paper for coffee makers and for water filtration units; hose linings for water purification units; plastic swimming pools structures; non-flexible water pipes of plastic being water-pipes not of metal; order placement services, namely, on-line ordering services featuring water purification and water treatment; presentation of goods and services on the internet, namely, operating an on-line shopping site in the field of water purification and water treatment; chemical products for treating, clarifying, softening, desalting, cleaning, disacidifying, and disinfecting water and for disinfecting swimming pool water; retail and wholesale store services in connection with swimming pools and spa pools, water piping, water-pipe valves ; retail and wholesale store services in connection with, devices for swimming pools, namely, circulating pump installations being machines and part of

machines, pneumatic valves, swimming pool cleaning machines, pumps being machines, in particular pumps for counter-current swimming, parts of all aforementioned goods not included in other classes; retail and wholesale store services in connection with installations and apparatus for the treatment, clarification and purification of water, in particular drinking water, UV installations for the disinfection of drinking water and swimming pool water, membranes for water treatment, membranes for the filtration of water as part of machines, dehumidifiers, refill packs and filter cartridges with ion exchangers and/or adsorbents for water filters and water softening apparatus, water supply apparatus and water supply taps, installations and apparatus for clarifying, softening, desalting, disacidifying, dechlorinating and disinfecting water, in particular apparatus for the production of chlorine oxide, parts of aforementioned goods, filter cartridges for fixed water connections, fleeces for the treatment of water; retail and wholesale store services in connection with non-electric small household and kitchen apparatus for water treatment, in particular for filtering water; Installation, maintenance and repair of swimming pools, apparatus and installations for the processing, treatment and purification of water, in particular drinking water; construction of swimming-pool complexes; Custom manufacturing of installations and apparatus for pool water treatment; Industrial analysis and research services in the field of swimming pools, water quality and water purification; technological planning, construction drafting and engineering services in the field of processing, treating and purifying water, in particular drinking water and waste water; Scientific and technological services, namely,

scientific research, analysis, testing in the field of water quality and water purification; technological and scientific research in the field of renewable energy resources and water purification” (“Opposer’s Goods”).

6. Applicant’s Goods are identical to and otherwise commercially related to Opposer’s Goods.
7. Applicant’s Marks evoke substantially the same overall commercial impression as Opposer’s Mark.
8. Applicant’s Goods are likely to travel in the same channels of trade, or be sold in the same type of retail outlets as Opposer’s Goods
9. Applicant’s Goods are likely to be purchased by the same class of consumers as Opposer’s Goods
10. Applicant’s Goods and Opposer’s Goods are likely to be found in the overlapping marketing environments.
11. Opposer has priority of use and registration over any rights Applicant may claim under Application Nos. 88645006 and 88645031.
12. In view of the substantial similarity between the parties’ respective marks and the identical nature of and commercial relationship between the goods, registration of Applicant’s Marks is likely to cause confusion, mistake or deception to purchasers as to the source of Applicant’s Goods, and therefore it is requested that registration to Applicant be refused under Section 2(d) of the Trademark Act.

WHEREFORE, Opposer believes that it will be damaged by the registration of Applications Serial Nos. 88645006 and 88645031 and respectfully requests that registration be refused and this opposition be sustained.

Respectfully submitted,

/AimeeMAllen/

Aimee M. Allen

Julie B. Seyler

Attorneys for Opposer

ABELMAN, FRAYNE & SCHWAB

666 Third Avenue

New York, New York 10017

(212) 949-9022