

**Receipt No.:** 2826072  
**Date:** 26/03/2021  
**Amount:** Rs.2700/-  
**Ref No:** A-4719936 **Form**  
**No:** 1099897

**FORM TM-O**  
**THE TRADE MARKS ACT, 1999**

**Notice of Opposition / Application for Rectification of the Register by cancelling or varying registration of a trade mark / Counter statement / Request to refuse or invalidate a trade mark under Section 25(a),(b) of Geographical Indication of Goods (Regulation and Protection) under the Trade Marks Act**

<b>REQUEST</b>	NOTICE OF OPPOSITION
<b>FEE</b>	2700
<b>APPLICANT OR REGISTERED PROPRIETOR/OPPONENT/THIRD PARTY MAKING THE APPLICATNION/REQUEST</b>	
<b>Opponent Name</b>	AQUA PLUMBINGS PRIVATE LIMITED
<b>Trading As</b>	
<b>Address</b>	DELHI MATHURA BY PASS, P. O. CHATTIKARA, MATHURA U.P.-280002
<b>Service Address</b>	B-41, NIZAMUDDIN EAST, NEW DELHI- 110013
<b>Mobile No</b>	
<b>Email address</b>	info@theacmeco.com
<b>AGENT OF THE APPLICANT OR REGISTERED PROPRIETOR/OPPONMENT/THIRD PARTY AS THE CASE MAY BE(if any)</b>	
<b>Agent Name</b>	THE ACME COMPANY
<b>Address</b>	B-41, JAIPUR ESTATE, NIZAMUDDIN EAST, NEW DELHI - 110 013.
<b>Mobile No</b>	
<b>Nature of the Agent</b>	Registered Trade Marks Agent
<b>Registration No</b>	
<b>REQUEST OPPOSITION/APPLICATION IN THE MATTER OF</b>	
<b>DETAILS OF APPLICATION NUMBER</b>	4719936
<b>CLASS</b>	17
<b>REQUEST</b>	NOTICE OF OPPOSITION
<b>GROUND OF OPPOSITION</b>	Grounds of opposition are attached separately
<b>Date</b>	26-03-2021 05:14 PM

Digitally Signed By

VIDHI ANAND

for THE ACME COMPANY  
[Agent]



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585619

**THE TRADE MARKS ACT, 1999**  
**Form of authorization of agents in the matter**  
**Of proceedings under the Act**  
**Section 145 and Rule 21**

We, AQUA PLUMBINGS (P) LTD. Delhi Mathura By Pan, P.O. Chatterjee Mathura, through our Director Shri. ASHOK KUMAR CHAUDHARY.

do hereby authorise Mr. N.K. Anand, Pravin Anand, Safir Anand, Shanti Kumar, Ms. Binny Kalra, Ms. Archana Shanker, Ms. Ritu Singh, Ms. Vaishali Mittal and Mr. Arun Kumar of **THE ACME COMPANY**, Patent & Trade Marks Attorneys, B-41, Nizamuddin East, New Delhi-110013, India, to act jointly or severally as our agents for the registrations, objections, assignments, rectification and in all such matters where we are parties or interested in the prosecution. The communications relating thereto may be sent to such agents at the above address.

We also authorize our said agents to appoint any person or persons on our behalf to attend and conduct the cases and/or proceedings.

We hereby ratify and agree to ratify all acts and deeds done by our said agents.

We hereby revoke all previous authorizations, if any, in respect of the proceedings.

Dated this 30th day of August, 2005

For Aqua Plumbings Pvt. Ltd.

*Ashok Kumar*  
 Director

Signature

The Trade Marks Registry  
 Delhi / Mumbai / Kolkata / Chennai / Ahmedabad

FORM TMO

(In Triplicate)

THE TRADE MARKS ACT, 1999  
BEFORE THE REGISTRAR OF TRADE MARKS,  
DELHI

**Notice of Opposition**

To Application for registration of a trade mark

(Section 21(1); Rule 42, 43)

IN THE MATTER OF APPLICATION NO. 4719936 IN CLASS 17  
FOR THE REGISTRATION OF TRADE MARK 'PLUMBER FT' IN  
THE NAME OF AMIT KUMAR JAIN PROPRIETOR OF  
RAJASTHAN TRADING COMPANY, 80-85, LATOUCHE ROAD,  
KANPUR-208001, UP

AND

IN THE MATTER OF OPPOSITION ENTERED THERETO AQUA  
PLUMBINGS PRIVATE LIMITED, DELHI MATHURA BY PASS,  
P. O. CHATTIKARA, MATHURA-280 002 U.P.

We, Aqua Plumbings Private Limited, Delhi Mathura By Pass, P. O. Chattikara, Mathura-280 002 U.P. (hereinafter referred to as "the opponent" which expression shall include its predecessors), do hereby give notice of our intention to oppose the registration of the trade mark PLUMBER FT (*hereinafter referred as impugned mark*) under application no. 4719936 in class 17, advertised in Trade Marks Journal No. 1976 dated 30<sup>th</sup> November, 2020 at page 2189.

The grounds of opposition are as follows:




1. That the Opponent Aqua Plumbings Private Limited, (Haryana) is a private limited company under the Indian Companies Act, 1956, incorporated in the year 1995 with the authorized capital of Rs. 100000000/-. The Opponent is engaged in the business of manufacturing and trading of sanitaryware items and fittings in India and abroad for the past years.
2. That in the year 2003 the Opponent company had taken over the business of M/s Aarkey Plumbings Fixtures (Partnership firm) and M/s Faucet Industries. The mark PLUMBER had been adopted by the Opponent's predecessors in the year 1989 and used continuously and extensively since then earlier by

the predecessor of the Opponent and subsequently by the Opponent. By virtue of such long and extensive use the mark is exclusively associated to Opponent source of business by the Trade Channel as well as by purchasing public.

3. That mark PLUMBER (logo) was adopted by the predecessor partnership firm M/s Aarkey Plumbings Fixtuers in the year 1989 in respect to apparatus and appliances for water supply and sanitary purposes. An application under no. 668421 in class 11 for the registration of the mark was filed by our said predecessor on dated 7<sup>th</sup> June, 1995 which subsequently been registered. Since adoption the present trademark have been in use initially by the predecessor and subsequently by the Opponent Company for the aforementioned goods and it has become the brand of the Opponent and consumers as well as traders of this field exclusively associate the mark PLUMBER (Logo) to Opponent.

4. That in order to have statutory right over the mark PLUMBER used in variants by the Opponent, application for the registration of the marks has been filed time to time by the Opponent some of which are registered while others are

pending registrations. A list of the marks of belonging to the Opponent is produced hereunder:

Trade Mark	Trade Mark No.	Date of Regn/Appln
	668421/11	7.06.1995
ATHENA From PLUMBER (Label)	1043936/11	11.09.2001
LONGLIFE FROM PLUMBER (Label)	1043938/11	11.09.2001
	1862321/11	14.09.2009
	2143357/11	12.05.2011
<b>PLUMBER</b> FAUCETS	3239978/11	21.04.2016
SPENGLER FROM  PLUMBER	3649097	04.10.2017

5. The opponent is original adopter of the mark PLUMBER and before adopting the same, had conducted thorough market search and also conducted a trademark search in the Trademarks Registry where no mark identical and/or similar

traced to the opponent's mark PLUMBER in relation to their goods. The use of the said trademark or any similar mark on the part of the others is therefore liable to cause confusion and deception and is to bound to hurt the goodwill and the reputation acquired by the opponent and further put the opponent in financial loss due to unfair trade.

6. That By virtue of long, extensive and continuous use the mark PLUMBER is exclusively associated to the Opponent by the Trade Channel as well as by purchasing public so much so if the same is adopted by any third party in relation to items of the Opponents and/or the cognate items confusion and deception is bound to occur, therefore adoption and use by the third party is thus liable to be refrain under the provision of Trade Marks Laws.

7. The applicant has filed application for registration of the trademark PLUMBER FT under No. 4719936 in class 17 in relation to the goods of the same nature and description in respect of which the opponent hold prior rights. The applicant's use of the mark PLUMBER in relation to cognate

goods would cause deception and/or confusion in view of the facts that the trade channels are same.

8. That the user as alleged to be claimed by the applicant is false and an exaggerated claim as the opponent is the proprietor of the mark, being the prior adopters and user of the trademarks in respect of same nature of goods.

9. That the adoption and use of identical and similar trademark in respect of similar and/or cognate goods by the applicant would cause the purchasing as well as potential customers to believe that such products bearing the impugned mark originate from the opponent's trade and business activities and adoption of impugned mark PLUMBER is strongly suggestive of association with the Opponent. Thus it would cause irreparable damage to the goodwill and reputation earned by the opponent in relation to the goods under trademark PLUMBER.

10. The impugned mark PLUMBER FT is phonetically, structurally and visually identical to the opponent's prior trademark PLUMBER. Thus the chances of confusion and



deception are inevitable and therefore cannot be avoided in the normal course of trade and business activities.

11. It is further submitted that applicant is knowingly trying to take undue advantage of the wide reputation and goodwill of the opponents mark and thereby mislead the public that the goods bearing the impugned mark are originally from the opponents.

12. That the impugned mark is neither prima-facie distinctive nor capable of distinguishing its goods from those of the opponent and/or its associates and, therefore, the registration of application no. 3055955 is barred registration as per the provisions of *Section 9(1)(a) of the Act*.

13. That the grant of registration of the impugned mark would render an instrument of fraud in the hands of the applicant, adversely affecting the public interest as well as the opponent's business interest in respect of opponents well known trademark PLUMBER. The use and the registration of the impugned mark if granted to the applicant would to cause confusion and deception and would render an instrument in

the hands of dealers to commit fraud and indulge in fraudulent trade activities. It is therefore liable to be refused under absolute ground for refusal under *Section 9 (2) (a) of the Act.*

14. That the impugned mark is identical with or similar to the opponent's prior trademark PLUMBER and is sought to be registered in relation to the same nature of goods and there exist a likelihood of confusion on the part of the public, which includes the likelihood of association with the opponent's prior trademark and likely to mislead the purchasing public into thinking that it is a product of the Opponent. The confusion and deception are inevitable and thus it is therefore liable to be refused under relative ground for refusal under *Sections 11 (1) (a) and 11 (2) (a) of the Act.*

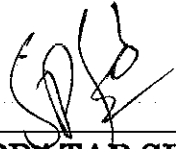
15. That the Opponent is entitled to protect the goodwill in its trademark being prior user. Goodwill is the attractive force, which brings in custom and if one steals goodwill one steals custom. Thus it is a fit case for the Registrar to exercise his discretion as per the provision of *Section 18 (4) of the Act* in favour of the opponents and against the applicant considering

the goodwill and reputation attached to the opponent's prior trademark.

16. It is therefore, prayed that while taking into consideration the facts and surrounding circumstances the learned Registrar may be pleased to allow the present opposition by refusing registration to trademark application No. 4719936 in class 17 with full cost.

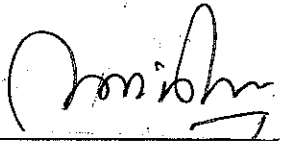
All communications in relation to these proceedings may kindly be sent to the following address for service in India:

THE ACME COMPANY  
B-41, NIZAMUDDIN EAST  
NEW DELHI- 110013  
AGENT CODE-337

  
SHIVENDRA PRATAP SINGH  
Enrl. No. D/1951-D/2004  
(Advocate for opponent.)

**VERIFICATION:**

Solemnly affirmed, declared and verified at New Delhi on this 26<sup>th</sup> March, 2021 that the contents of paragraphs 1 to 3 are true, contents of paragraphs 4 to 15 are based upon the information received and believed to be true. The contents of paragraph 16 are a humble prayer to this Hon'ble Tribunal.

  
Sunil Mishra  
(Advocate for the Opponent)  
(Enrl. No. D/3291/2009)