

TTAB

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

In re Trademark Application:

Serial No.: 76/254,482



Filed: May 9, 2001

01-17-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #61

Mark: BODY BASICS

Published in the *Official Gazette* at TM/508 on December 18, 2001

HOMEDICS, INC.,)
)
Opposer,)
)
vs.)
)
SI REES & ASSOCIATES, INC.,)
)
Applicant)

Serial No. 76/254,482

Opposition No. _____

I hereby certify that this correspondence is being deposited with the United States Postal Office express mail, label number EK963646002US in an envelope addressed to: Box TTAB - FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia on

January 17, 2002
Date of Deposit

Sandra J. May
Name of Person Signing

Sandra J. May
Signature

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NOTICE OF OPPOSITION

BOX TTAB - FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Sir:

HoMedics, Inc. ("HoMedics"), a Michigan corporation, having its principal place of business at 3000 Pontiac Trail, Commerce Township, Michigan 48390, believes that it will be damaged by the registration of the mark BODY BASICS shown in Application Serial No.

76/254,482 published in the *Official Gazette* at TM/508 on December 18, 2001, and hereby opposes registration of same.

As grounds for opposition, HoMedics states as follows:

1. Applicant, Si Rees & Associates, Inc. (“Applicant”), filed an intent-to-use application on May 9, 2001, seeking to register the mark BODY BASICS for weight lifting benches, hand exercise equipment, exercise weights, and weight lifting gloves in Class 28.

2. Opposer, HoMedics, has used the mark BODY BASICS since at least as early as 1992 in connection with electrical massage equipment. HoMedics owns U.S. Registration No. 2,221,026 for the mark BODY BASICS for “hand held electrical massage apparatus.” This registration is valid and subsisting, and *prima facie* evidence of Opposer’s trademark rights.

3. Opposer has also used the mark BODY BASICS since well prior to the filing date of Applicant’s application for a wide-range of health and wellness products, including nail and foot care products, facial products, paraffin baths, and fountains and electronic sound and aromatherapy products.

4. Opposer has expended considerable effort and expense in promoting its BODY BASICS trademark and the goods associated with this mark, with the result that the purchasing public has come to know and recognize the products bearing these marks as those associated with Opposer. Opposer has an exceedingly valuable goodwill established in this mark, and its sales have been extensive as a result.

5. There is no issue as to priority. Opposer has extensively and continuously used, promoted, and advertised its BODY BASICS trademark in interstate commerce since at least 1992.

6. In light of the identical nature of Applicant and Opposer's respective marks and the closely-related nature of the parties' respective goods, Applicant's registration and use of the mark BODY BASICS would be likely to cause confusion, mistake, or deception as to the origin, source, or sponsorship of Applicant's goods, resulting in damage and injury to the Opposer.

WHEREFORE, Opposer prays that Application Serial No. 76/254,482 be refused registration.

A duplicate copy of this Notice of Opposition and the fee required under C.F.R. 2.6(a)(17) are enclosed.

Respectfully submitted,

BROOKS & KUSHMAN P.C.

By 
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Date: January 17, 2002

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