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Trademarks

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

**NILES AUDIO CORPORATION, INC.**

Opposer,

Opposition No. \_\_\_\_\_

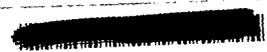
v.

**NOTICE OF OPPOSITION**  
In the Matter of Application  
Serial No. 76/363,880

**RUSSOUND/FMP, INC.**

Published in the Official Gazette  
October 29, 2002  
Mark: **INTELLINET CONTROLS**  
**IC**

Applicant.



12-17-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #E:

**NOTICE OF OPPOSITION**

Opposer, **NILES AUDIO CORPORATION, INC.**, a corporation of the State of Florida, located and doing business at 12331 SW 130<sup>th</sup> Street, Miami, Florida 33186 believes that it is or will be damaged by United States Trademark Application Serial No. 76/363,880, and hereby opposes the same.

According to the records of the United States Patent and Trademark Office, Applicant, **RUSSOUND/FMP, INC.**, is a New Hampshire corporation, located at 5 Forbes Road, Newmarket, New Hampshire 03857.

As grounds for opposition, it is alleged that:

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1. Opposer is the owner of the following trademark registrations (hereinafter referred to as "NILES Trademarks"):

<b>Mark</b>	<b>Reg. No.</b>	<b>Reg. Date</b>	<b>Class: Goods/ Services</b>
<b>INTELLICONTROL</b>	2,143,462	March 10, 1998	9: Remote controls for audio and video components.
<b>ICONTROL</b>	2,407,438	November 21, 2000	9: Remote controls that operate and automate home entertainment and home electronics.
<b>INTELLIFILE</b>	2,174,287	July 21, 1998	9: Personal computer storage and transfer system, namely, computer software permitting communications between a personal computer and computer hardware used to control audio/video and home theater components, excluding electronic storage and retrieval of data via optical imaging.
<b>INTELLIPAD</b>	2,034,463	January 28, 1997	9: Keypads for controlling audio and video components.

2. Opposer has developed a valuable reputation and tremendous goodwill in the NILES Trademarks, which in fact constitute a famous family of "Intelli" marks.

3. Applicant has filed an application, Serial No. 76/363,880 to register the mark **INTELLINET CONTROLS IC** in International Class 9 for "electronic controllers for control and monitoring of residential and commercial lighting, security, heating,

ventilating and air conditioning, energy management and audio distribution.” Applicant began using its mark July, 1999.

4. Applicant’s proposed mark is confusingly similar to the Opposer’s NILES Trademarks. Moreover, the registration of the **INTELLINET CONTROLS IC** mark would damage Opposer within the meaning of Section 1063 of Title 15, United States Code. Among other things the registration and use by the Applicant of the **INTELLINET CONTROLS IC** mark on “electronic controllers for control and monitoring of residential and commercial lighting, security, heating, ventilating and air conditioning, energy management and audio distribution” will dilute the distinctive quality of Opposer’s famous marks by lessening the capacity of Opposer’s NILES Trademarks to identify and distinguish its goods.

5. Registration by Applicant of the **INTELLINET CONTROLS IC** mark in connection with the goods in International Class 9 is likely to: (i) give rise to the mistaken belief by members of the public that Applicant’s goods originate from, or are in some way associated with, Opposer, Opposer’s mark and/or the goods and services that Opposer offers under Opposer’s mark; and/or (ii) cause members of the public to be confused and deceived as to source, origin, affiliation and sponsorship of Applicant’s goods offered under the **INTELLINET CONTROLS IC** mark. Opposer believes that Applicant’s registration of the **INTELLINET CONTROLS IC** mark for the goods set forth above will damage Opposer’s goodwill and reputation.

6. Registration of the mark sought to be registered in Application Serial No. 76/363,880 is barred by provisions of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), in that it consists of or comprises a mark which so resembles a mark previously used in the United States by Opposer on related goods, and not abandoned, as to be likely to cause confusion, or to cause mistake or deceive.

7. Registration of the mark sought to be registered in Application Serial No. 76/363,880 is barred by provisions of Section 2 of the Trademark Act, 15 U.S.C. §1052, in that it is a mark which when used would cause dilution under section 43(c) of the Trademark Act, 15 U.S.C. §1125.

8. Opposer's NILES Trademarks are famous marks under section 43(c) of the Trademark Act, 15 U.S.C. §1125(c).

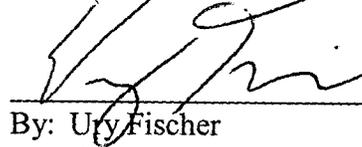
**PRAYER FOR RELIEF**

WHEREFORE, Opposer respectfully requests that the opposition be granted and the Applicant's mark, Serial No. 76/363,880 be denied registration.

Date: December 17, 2002

Respectfully submitted,

**LOTT & FRIEDLAND, P.A.**



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12-17-2002

U.S. Patent & TMOrc/TM Mail Rcpt Dt. #Et

**TRANSMITTAL**

Enclosed for filing please accept the following papers related to this proceeding:

**NOTICE OF OPPOSITION**

Also enclosed is our return postcard, which we would appreciate the mailroom stamping as to the date received and returning to our offices. The Commissioner is authorized to charge any additional fees, or credit any overpayment, to Account No. 12-2155. A duplicate copy of this sheet is enclosed.

Date: December 17, 2002

Respectfully submitted,

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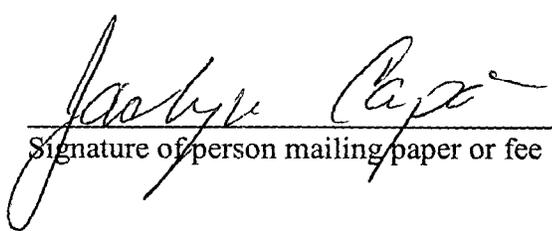
**EXPRESS MAIL CERTIFICATE OF MAILING**

Express Mail Label: **EV 202397903 US**  
Date: **December 17, 2002**

I hereby certify that this correspondence is being deposited with the United States Postal Service's "Express Mail -- Post Office to Addressee" service on the date indicated above and is addressed to: Assistant Commissioner of Trademarks, Box TTAB, 2900 Crystal Drive, Arlington, VA 22202-3513.

Jaclyn Capo

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Typed or printed name of person mailing paper or fee

  
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Signature of person mailing paper or fee