

ESTTA Tracking number: **ESTTA216954**

Filing date: **06/11/2008**

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

Name	Sunbeam Products, Inc.
Granted to Date of previous extension	06/11/2008
Address	2381 Executive Center Drive Boca Raton, FL 33431 UNITED STATES
Attorney information	Michael R. Annis Husch Blackwell Sanders LLP 720 Olive Street, Suite 2400 St. Louis, MO 63101 UNITED STATES mike.annis@huschblackwell.com, tim.mcfarlin@huschblackwell.com Phone:314-345-6000

Applicant Information

Application No	79013880	Publication date	02/12/2008
Opposition Filing Date	06/11/2008	Opposition Period Ends	06/11/2008
International Registration No.	0857987	International Registration Date	01/14/2005
Applicant	RIVA ACCIAIO Avenue Certosa, 249 I-20151 MILANO ITALY		

Goods/Services Affected by Opposition

Class 011. All goods and services in the class are opposed, namely: Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes, namely, lighting fixtures, electric space heaters, gas water heaters, steam generators, industrial cooking ovens, refrigerators, clothes dryers, ventilating exhaust fans excluding for whirlpool baths and spas; ozone sanitizers for air and water

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1093188	Application Date	10/17/1977
Registration Date	06/13/1978	Foreign Priority Date	NONE
Word Mark	RIVAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 1939/01/00 First Use In Commerce: 1939/01/00 DOMESTIC ELECTRIC COOKERS, WAFFLE-IRONS, AND GRILLS, AND PARTS THEREOF		

U.S. Registration No.	2751031	Application Date	07/09/2001
Registration Date	08/12/2003	Foreign Priority Date	NONE
Word Mark	RIVAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 007. First use: First Use: 2001/03/00 First Use In Commerce: 2001/03/00 Electric can openers, electric bottle openers, electric egg beaters, electric knife sharpeners, electric jar openers, electric food slicers, electric food choppers; electric food graters; electric food shredders and slicers; electric ice shavers; electric coffee mills; electric hand-mixers, electric food grinders for domestic use, electric blenders for domestic use, electric stand mixers, electric food processors, electric juicers, electric coffee grinders for domestic use and electric ice-crushers; electric knife sharpeners</p> <p>Class 011. First use: First Use: 2001/03/00 First Use In Commerce: 2001/03/00 Household appliances, namely electric toasters, electric slow cookers, electric casseroles, steamer/rice cookers, water filters for domestic use, electric indoor grills, electric skillets, ice crushers, ice cream freezers, deep-fat fryers, electric coffee makers for domestic use, electric kettles, domestic electric cookers, waffle-irons and grills, and parts thereof</p>		

U.S. Registration No.	3181595	Application Date	07/15/2004
Registration Date	12/05/2006	Foreign Priority Date	NONE
Word Mark	RIVAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 2004/10/31 First Use In Commerce: 2004/10/31 Cookware and bakeware, namely, baking sheets, pans, cake pans, loaf pans, muffin pans and cookie sheets		

Attachments	76282063#TMSN.gif (1 page)(bytes) 78451114#TMSN.jpeg (1 page)(bytes) Notice_of_Opposition.pdf (5 pages)(311439 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Michael R. Annis/
Name	Michael R. Annis
Date	06/11/2008

CERTIFICATE OF MAILING VIA ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals on June 11, 2008.

/s/ Michael R. Annis

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

Mark: RIVA
U.S. Application Serial No. 79/013,880

SUNBEAM PRODUCTS, INC.,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
RIVA ACCIAIO CORPORATION)	U.S. App. No. 79/013,880
ITALY)	
)	
Applicant.)	

**NOTICE OF OPPOSITION TO
APPLICATION SERIAL NO. 79/013,880**

Sunbeam Products, Inc. ("Sunbeam" or "Opposer"), a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 2381 Executive Center Drive, Boca Raton, Florida, is being and will be damaged by the potential registration of the mark shown in U.S. Application Serial No. 79/013,880 ("the '880 Application"), and hereby opposes the same, at least as to the goods and/or services identified in International Class 11.

As grounds for its opposition, Opposer alleges as follows:

1. On January 14, 2005, Applicant, Riva Acciaio Corporation Italy ("Applicant"), in the '880 Application, applied for registration of the trademark RIVA, under Section 66(a), 15 U.S.C. § 66(a), for numerous goods and/or services in International Classes 1, 6, 9, 11 and 33.

The '880 Application was published for opposition in the Official Gazette on or about February 12, 2008. At issue in the present opposition is the '880 Application as it relates to the goods and/or services noted in International Class 11.

2. Sunbeam is the owner of the below-noted United States Trademark Registrations with the identified dates of first use in commerce:

TRADEMARK	U.S. REG. NO.	INTERNATIONAL CLASS – GOODS DESCRIPTION	DATES OF FIRST USE IN COMMERCE
RIVAL	1,093,188	IC 21 – Domestic electric cookers, waffle-irons, and grills, and parts thereof	01/00/1939
RIVAL and design	2,751,031	IC 7 – Electric can openers, electric bottle openers, electric egg beaters, electric knife sharpeners, electric jar openers, electric food slicers, electric food choppers; electric food graters; electric food shredders and slicers; electric ice shavers; electric coffee mills; electric hand-mixers, electric food grinders for domestic use, electric blenders for domestic use, electric stand mixers, electric food processors, electric juicers, electric coffee grinders for domestic use and electric ice-crushers; electric knife sharpeners IC 11 – Household appliances	03/00/2001
RIVAL	3,181,595	IC 21 – Cookware and bakeware	10/31/2004

3. Sunbeam is also the owner of common law rights associated with its use and/or licensing of the term RIVAL (hereinafter referred to together with the trademark registrations noted in paragraph 2, above, as the “RIVAL Marks”).

4. Sunbeam's RIVAL Marks are inherently distinctive and are uniquely associated with Sunbeam in connection with Sunbeam's goods offered under the RIVAL Marks and by reason of the continuous use and promotion of the RIVAL Marks by Sunbeam and/or its licensees and/or its predecessors-in-interest long prior to Applicant's filing of the '880 Application. Sunbeam and/or its licensees and/or its predecessors-in-interest have used the RIVAL Marks since as early as 1939 in connection with the noted goods and have promoted, caused to be promoted and is now promoting and causing to be promoted the RIVAL Marks in interstate commerce within the United States for identifying those goods.

5. Due to the high quality of these goods, and the promotion and sales efforts of Sunbeam and/or its licensees and/or its predecessors-in-interest, the RIVAL Marks have achieved wide consumer acceptance and have obtained a reputation of the highest quality and prestige with the purchasing public. As such, the RIVAL Marks have become famous long prior to Applicant's filing of the '880 Application.

6. The Application for RIVA herein opposed so resembles Sunbeam's RIVAL Marks as to be likely, when used in conjunction with Applicant's goods in International Class 11, to cause confusion, mistake, or deceive customers; and Applicant's mark under the '880 Application is confusingly and deceptive similar to Sunbeam's RIVAL Marks when used in connection with Applicant's goods as stated in those International Classes.

7. Applicant's goods in International Class 11 are directed to the same or related classes of customers as those for Sunbeam's goods, and Sunbeam's goods are so commercially related, at least in International Class 11, that Applicant's RIVA mark under the '880 Application and Sunbeam's RIVAL Marks when used in connection with their respective goods, are confusingly similar.

8. Applicant's proposed use of its RIVA mark under the '880 Application, at least in International Class 11, which so resembles and is colorably imitative of Sunbeam's RIVAL Marks is likely to cause confusion, mistake or deception of purchasers as to the source of Applicant's goods in those International Classes and will inevitably falsely suggest a trade connection between Applicant and Sunbeam.

9. The '880 Application for RIVA, if permitted to be registered, will cause dilution of the distinctiveness of Sunbeam's RIVAL Marks and will otherwise injury Sunbeam's reputation and unique identity in the minds of consumers.

WHEREFORE, Opposer Sunbeam Products, Inc. prays that the registration sought by Applicant with respect to the goods and/or services in International Class 11 be refused and that this Notice of Opposition be sustained.

DATED: June 11, 2008.

SUNBEAM PRODUCTS, INC.

By: /s/ Michael R. Annis
Michael R. Annis
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Attorneys for Sunbeam Products, Inc.

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the foregoing NOTICE OF OPPOSITION TO APPLICATION SERIAL NO. 79/013,880 was served by first class mail, postage prepaid, and certified mail, return receipt requested, on this 11th day of June, 2008 upon:

RIVA ACCIAIO CORPORATION ITALY
Avenue Certosa, 249
I-20151 MILANO ITALY

and, pursuant to 37 C.F.R. § 2.24, by first class mail, postage prepaid, and certified mail on this 11th day of June, 2008 upon:

Director of the U.S.
Patent and Trademark Office
(via the General Counsel
U.S. Patent and Trademark Office)
P.O. Box 15667
Arlington, VA 22215

/s/ Michael R. Annis