

ESTTA Tracking number: **ESTTA223172**

Filing date: **07/09/2008**

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	Stream Gas and Electric, Ltd.
Granted to Date of previous extension	07/09/2008
Address	1950 Stemmons Freeway Suite 3061 Dallas, TX 75207 UNITED STATES

Attorney information	Michele P. Schwartz Andrews Kurth LLP 1717 Main Street Suite 3700 Dallas, TX 75201 UNITED STATES nealk@akllp.com, MicheleSchwartz@akllp.com Phone:214-659-4578
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Applicant Information

Application No	79036767	Publication date	03/11/2008
Opposition Filing Date	07/09/2008	Opposition Period Ends	07/09/2008
International Registration No.	0919708	International Registration Date	02/16/2007
Applicant	REPSOL-GAS NATURAL LNG, S.L. Avda. de América, 38 E-28080 MADRID SPAIN		

Goods/Services Affected by Opposition

Class 004. All goods and services in the class are opposed, namely: Fuels, namely, natural gas and liquefied gas
Class 039. All goods and services in the class are opposed, namely: Distribution, transport and storage of energy, fuel compounds, gas and liquefied gas

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3442457	Application Date	10/07/2005
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Registration Date	06/03/2008	Foreign Priority Date	NONE
Word Mark	STREAM ENERGY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2005/01/01 First Use In Commerce: 2005/01/01 Electricity and natural gas services, namely, the transmission and distribution of electricity and gas		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	STREAM ENERGY		
Goods/Services	the distribution of natural gas		

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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	/Michele P. Schwartz/
Name	Michele P. Schwartz
Date	07/09/2008

1. Stream Gas and Electric is the owner of the mark STREAM ENERGY, used for energy related services, namely the transmission and distribution of electricity and natural gas. Stream Gas and Electric has been using the mark STREAM ENERGY for electricity service since 2005 and expanded use of the mark for closely related natural gas services in 2008. Thus, Stream Gas and Electric has developed common law rights in the mark STREAM ENERGY. In addition, Stream Gas and Electric owns U.S. Registration No. 3,442,457 for the mark STREAM ENERGY.

2. Since its initial use of the STREAM ENERGY mark, Opposer has advertised, promoted and offered its energy services. As a result, Stream Gas and Electric's customers, potential customers, and the public in general have come to know and recognize the STREAM ENERGY mark as identifying the energy services offered by Stream Gas and Electric, and associate the STREAM ENERGY mark with Stream Gas and Electric. Thus, Stream Gas and Electric has built invaluable goodwill in connection with its services offered under the STREAM ENERGY mark.

3. Notwithstanding Stream Gas and Electric's prior rights in and to its STREAM ENERGY mark, Applicant filed an application for registration of the trademark STREAM REPSOL-GAS NATURAL LNG & Design for the goods and services listed above on February 16, 2007, with a priority date of October 25, 2006 ("Applicant's STREAM mark"). In view of Applicant's filing date and priority date, Stream Gas and Electric has prior rights to the STREAM ENERGY mark for energy services. Therefore, there is no issue as to Stream Gas and Electric's prior rights in the STREAM ENERGY mark.

4. Applicant's STREAM mark, as shown in the Application, is confusingly similar to and/or a colorable imitation of Opposer's STREAM ENERGY mark. In particular, Applicant's mark that is the subject of the opposed application presents the word STREAM in the large letters, with the name of Applicant company beneath it in smaller letters and a depiction of a flame at the top of the mark. The word "STREAM" dominates Applicant's mark. The word STREAM is also the most distinctive portion of Stream Gas and Electric's mark STREAM ENERGY. Thus, the most distinctive portions of the respective marks are identical.

5. The respective goods and services of the parties are similar and/or related and would normally be marketed within the same or similar channels of trade, and to the same class of customers.

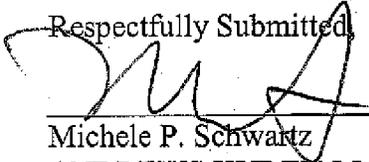
6. In view of the similarity of the respective marks, goods and services, Stream Gas and Electric's customers, potential customers, the trade and the public in general are likely to be confused, mistaken or deceived as to the origin and/or sponsorship of Applicant's goods and services under Applicant's STREAM mark, and misled into believing that Applicant's goods and services are marketed by, or are in some way directly or indirectly associated with Stream Gas and Electric, thus resulting in damage and detriment to Stream Gas and Electric and its goodwill in the STREAM ENERGY mark.

7. If Applicant's mark is registered, Applicant will obtain a prima facie exclusive right to use the mark and Stream Gas and Electric would thereby be subjected to great and irreparable damage, and Applicant will enjoy unlawful gain, and advantage to which it is not entitled under the Trademark Act. Furthermore, registration of Applicant's mark would substantially damage Stream Gas and Electric's goodwill embodied in the STREAM ENERGY mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Application Serial No. 79/036,767 and prays that this Opposition be sustained and that Application Serial No. 79/036,767 be rejected.

Respectfully Submitted,

By:


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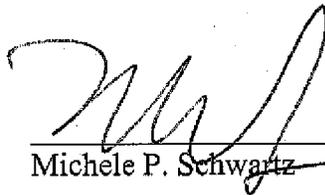
Dated: July 9, 2008

**ATTORNEYS FOR OPPOSER
STREAM GAS AND ELECTRIC, LTD.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 9th day of July 2008, a true copy of the foregoing NOTICE OF OPPOSITION was served by first-class mail, postage pre-paid on:

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