

ESTTA Tracking number: **ESTTA385703**

Filing date: **12/27/2010**

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	InterDesign, Inc.
Granted to Date of previous extension	12/26/2010
Address	30725 Solon Industrial Parkway Solon, OH 44139 UNITED STATES

Attorney information	Daniel J. Smola D. Peter Hochberg Co., L.P.A. 1940 East 6th Street - 6th Floor Cleveland, OH 44114 UNITED STATES dphdocket@dpeterhochberg.com Phone:216-771-3800
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Applicant Information

Application No	77937091	Publication date	06/29/2010
Opposition Filing Date	12/27/2010	Opposition Period Ends	12/26/2010
Applicant	Resirene, S.A. DE C.V. Bosque de Ciruelos No. 180, 10th Floor Colonia Bosque de las Lomas 11700 Mexico, D.F., MEXICO		

Goods/Services Affected by Opposition

Class 001. All goods and services in the class are opposed, namely: Unprocessed thermoplastic elastomers for use in injection and extrusion
Class 017. All goods and services in the class are opposed, namely: Semi-processed thermoplastic elastomers for use in injection and extrusion

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.	2778441	Application Date	02/05/2002
Registration Date	10/28/2003	Foreign Priority Date	NONE

Word Mark	RESIPREME
Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 001. First use: First Use: 2001/11/09 First Use In Commerce: 2001/11/09</p> <p>Synthetic resins for use in the manufacture of molding compounds; synthetic resins for use in the manufacture of plastic molding compounds used to make plastic articles, namely, boxes, namely, plastic boxes, hooks, namely, non-metal clothes hooks, container closures of plastic, dividers for drawer, drawer organizers, [hampers, plastic lids, plastic knobs, knobs, CD racks,] hand held mirrors, [picture frames, plate racks,] plastic storage containers, travel containers for bathroom accessories, plastic tubs, hooks, namely, non-metal hooks having securing devices composed of [magnetics,] adhesives or suction cups, self adhesive hooks, non-metal over-the-door hooks, non-metal over-the-door racks, [drawers,] containers for drawers, baskets, namely, plastic baskets, waste baskets, suction baskets, storage totes, [travel bags for bathroom accessories,] suction corner shelves, holders for connection to walls and bathroom fixtures for holding bathroom accessories, [brushes, namely, clothes brushes, dishwashing brushes, dusting brushes, floor brushes, pot cleaning brushes, scraping brushes, scrubbing brushes and toilet brushes,] holders, namely, [napkin holders, serviette holders,] soap holders, scrubber and sponge holders, [toilet tissue holders,] towel holders, towel rings, paper holders, paper towel holders, holders for bathroom accessories, namely, toothbrushes, combs and razors, [trivets,] boxes for dispensing paper towels, bottles sold empty,] beverage ware, shower caddies, squeegees, [plastic decorative plates for switches and receptacles, accent tables,] shelves, [etegeres, carts,] plastic molding compounds for use in plastic extrusion operations; plastic molding compounds for use in the manufacture of molded plastic articles; plastic molding compounds for use in the manufacture of plastic sheets and films; polymer beads for use in manufacturing; thermosetting plastic refractory materials</p>

U.S. Registration No.	3762530	Application Date	05/22/2009
Registration Date	03/23/2010	Foreign Priority Date	NONE
Word Mark	RESIPREME		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 001. First use: First Use: 2004/01/05 First Use In Commerce: 2004/01/05 synthetic resins for use in the manufacture of plastic molding compounds used to make plastic articles, namely, towel bars, tumblers, bowl brushes, namely, toilet bowl brushes and toilet bowl brush holders, shower hooks, soap dispensers and soap dispensers with pumps, dispensers and dispensers with pumps for dispensing liquid soap and other liquids, coasters, spice racks, turntables in the nature of countertop valets having turnable tops for kitchen and household use, jewelry boxes, hooks, namely, hooks mountable over cabinets and cabinet doors, sink drainers, namely, dish drying racks for kitchen sink use, soap dishes, boutique boxes, namely, decorative boxes for covering tissue boxes and tissue dispensers, canisters and canister sets, storage trays and organizers for storing and organizing bath and kitchen accessories, suction-mountable mirrors, soap and brush caddies in the nature of holders for soap and brushes, flatware organizers, dishwasher spinners for indicating whether items are clean or dirty in the nature of spinnable indicators attachable to a dishwasher for indicating whether items inside a dishwasher are clean or dirty, drain stoppers for sinks and drains, plastic storage containers for domestic use, lazy susans, spice trays and spice organizers, sugar bowls, containers for household or kitchen use not of precious metal, namely, containers for organizing, storing and holding sugar packets, substitute sugar packets, cream packets, tea bags, condiment packets, salt packets, pepper packets, seasoning packets, coffee packets and spice packets, cutlery trays, valets in the nature of dresser organizers</p>

Attachments	76367072#TMSN.gif (1 page)(bytes) 77742959#TMSN.jpeg (1 page)(bytes) IN-28 - Notice of Opposition.pdf (8 pages)(272516 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	/Daniel J. Smola/
Name	Daniel J. Smola
Date	12/27/2010

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

In the Matter of:

Application Serial No. 77/937,091
Mark: RESIPRENE (& design) – International Classes 1 and 17
Applicant: Resirene, S.A. DE C.V.
Published in the Official Gazette at Page TM 193 on June 29, 2010

InterDesign, Inc.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Resirene, S.A. DE C.V.)	
)	
Applicant)	

Commissioner for Trademarks
Trademark Trial and Appeal Board
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Dear Sir:

Opposer, InterDesign, Inc., a corporation organized and existing under the laws of Ohio, located and doing business at 30725 Solon Industrial Parkway, Solon, Ohio 44139 (hereinafter referred to as “InterDesign” or “Opposer”) believes that it will be damaged by the registration of the mark “RESIPRENE (& design)” shown in the above-identified application in International Classes 1 and 17, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer, InterDesign, Inc., is now and has for over twenty-seven years been involved in the business of marketing and manufacturing various types of household goods. Opposer produces synthetic resins for use in the manufacture of plastic molding compounds that are used to make such household goods.

2. Opposer has become widely known nationally as a manufacturer of synthetic resins for use in the manufacture of molding compounds; synthetic resins for use in the manufacture of plastic molding compounds used to make plastic articles, namely, boxes, namely, plastic boxes, hooks, namely, non-metal clothes hooks, container closures of plastic, dividers for drawer, drawer organizers, hand held mirrors, plastic storage containers, travel containers for bathroom accessories, plastic tubs, hooks, namely, non-metal hooks having securing devices composed of adhesives or suction cups, self adhesive hooks, non-metal over-the-door hooks, non-metal over-the-door racks, containers for drawers, baskets, namely, plastic baskets, waste baskets, suction baskets, storage totes, suction corner shelves, holders for connection to walls and bathroom fixtures for holding bathroom accessories, holders, namely, soap holders, scrubber and sponge holders, towel holders, towel rings, paper holders, paper towel holders, holders for bathroom accessories, namely, toothbrushes, combs and razors, boxes for dispensing paper towels, bottles sold empty, cans, namely, non-metal cans, trash cans, beverage ware, shower caddies, squeegees, shelves, plastic molding compounds for use in plastic extrusion operations. plastic molding compounds for use in the manufacture of molded plastic articles; plastic molding compounds for use in the manufacture of plastic sheets and films; polymer beads for use in manufacturing; thermosetting plastic refractory materials. Opposer has also become known nationally as

a manufacturer of synthetic resins for use in the manufacture of plastic molding compounds used to make plastic articles, namely, towel bars, tumblers, bowl brushes, namely, toilet bowl brushes and toilet bowl brush holders, shower hooks, soap dispensers and soap dispensers with pumps, dispensers and dispensers with pumps for dispensing liquid soap and other liquids, coasters, spice racks, turntables in the nature of countertop valets having turnable tops for kitchen and household use, jewelry boxes, hooks, namely, hooks mountable over cabinets and cabinet doors, sink drainers, namely, dish drying racks for kitchen sink use, soap dishes, boutique boxes, namely, decorative boxes for covering tissue boxes and tissue dispensers, canisters and canister sets, storage trays and organizers for storing and organizing bath and kitchen accessories, suction-mountable mirrors, soap and brush caddies in the nature of holders for soap and brushes, flatware organizers, dishwasher spinners for indicating whether items are clean or dirty in the nature of spinnable indicators attachable to a dishwasher for indicating whether items inside a dishwasher are clean or dirty, drain stoppers for sinks and drains, plastic storage containers for domestic use, lazy susans, spice trays and spice organizers, sugar bowls, containers for household or kitchen use not of precious metal, namely, containers for organizing, storing and holding sugar packets, substitute sugar packets, cream packets, tea bags, condiment packets, salt packets, pepper packets, seasoning packets, coffee packets and spice packets, cutlery trays, valets in the nature of dresser organizers..

Opposer has acquired a favorable reputation throughout large segments of the retail industry for its above-described goods sold and provided under, and in association with, the mark "RESIPREME."

3. Opposer is the owner of U.S. Trademark Registration No. 2,778,441 granted October 28, 2003 for the mark "RESIPREME" in International Class 1 for the following goods: "synthetic resins for use in the manufacture of molding compounds; synthetic resins for use in the manufacture of plastic molding compounds used to make plastic articles, namely, boxes, namely, plastic boxes, hooks, namely, non-metal clothes hooks, container closures of plastic, dividers for drawer, drawer organizers, hand held mirrors, plastic storage containers, travel containers for bathroom accessories, plastic tubs, hooks, namely, non-metal hooks having securing devices composed of adhesives or suction cups, self adhesive hooks, non-metal over-the-door hooks, non-metal over-the-door racks, containers for drawers, baskets, namely, plastic baskets, waste baskets, suction baskets, storage totes, suction corner shelves, holders for connection to walls and bathroom fixtures for holding bathroom accessories, holders, namely, soap holders, scrubber and sponge holders, towel holders, towel rings, paper holders, paper towel holders, holders for bathroom accessories, namely, toothbrushes, combs and razors, boxes for dispensing paper towels, bottles sold empty, cans, namely, non-metal cans, trash cans, beverage ware, shower caddies, squeegees, shelves, plastic molding compounds for use in plastic extrusion operations. plastic molding compounds for use in the manufacture of molded plastic articles; plastic molding compounds for use in the manufacture of plastic sheets and films; polymer beads for use in manufacturing; thermosetting plastic refractory materials." This mark has been in use and in use in commerce for the goods set forth in the registration since at least as early as November 9, 2001, and such registration has become incontestable. A copy of the registration is attached hereto.

4. Opposer is also the owner of U.S. Trademark Registration No. 3,762,530 granted March 23, 2010 for the mark "RESIPREME" in International Class 1 for the following goods: "synthetic resins for use in the manufacture of plastic molding compounds used to make plastic articles, namely, towel bars, tumblers, bowl brushes, namely, toilet bowl brushes and toilet bowl brush holders, shower hooks, soap dispensers and soap dispensers with pumps, dispensers and dispensers with pumps for dispensing liquid soap and other liquids, coasters, spice racks, turntables in the nature of countertop valets having turnable tops for kitchen and household use, jewelry boxes, hooks, namely, hooks mountable over cabinets and cabinet doors, sink drainers, namely, dish drying racks for kitchen sink use, soap dishes, boutique boxes, namely, decorative boxes for covering tissue boxes and tissue dispensers, canisters and canister sets, storage trays and organizers for storing and organizing bath and kitchen accessories, suction-mountable mirrors, soap and brush caddies in the nature of holders for soap and brushes, flatware organizers, dishwasher spinners for indicating whether items are clean or dirty in the nature of spinnable indicators attachable to a dishwasher for indicating whether items inside a dishwasher are clean or dirty, drain stoppers for sinks and drains, plastic storage containers for domestic use, lazy susans, spice trays and spice organizers, sugar bowls, containers for household or kitchen use not of precious metal, namely, containers for organizing, storing and holding sugar packets, substitute sugar packets, cream packets, tea bags, condiment packets, salt packets, pepper packets, seasoning packets, coffee packets and spice packets, cutlery trays, valets in the nature of dresser organizers." This mark has been in use and in use in commerce for the goods set forth in the registration since at least as early as January 5, 2004. A copy of the registration is attached hereto.

5. Notwithstanding Opposer's prior rights in and to said mark, Applicant, on February 16, 2010, filed an application for registration of the trademark "RESIPRENE (& design)" in International Class 1 for "unprocessed thermoplastic elastomers for use in injection and extrusion," and in International Class 17 for "semi-processed thermoplastic elastomers for use in injection and extrusion." Said application was given Serial No. 77/937,091 and the mark was published for Opposition in the *Official Gazette* on June 29, 2010 at page TM 193, International Classes 1 and 17 and is merely based on intent to use in commerce.

6. Furthermore, the goods for which Applicant seeks to register its "RESIPRENE (& design)" mark are related to, substantially similar to or of the same general type of goods as the goods of Opposer under its mark "RESIPREME."

7. Since long prior to February 16, 2010, Opposer has become extensively associated with the manufacturing of synthetic resins for use in the manufacture of plastic molding compounds that are used to make various household goods. Opposer's customers include purchasers of such household goods, and are likely to include the same people before whom Applicant is using or intending to use the "RESIPRENE (& design)" trademark. Applicant's customers or prospective customers are very possibly customers of Opposer, and would unwittingly believe that Opposer was directly or indirectly involved with the goods provided by Applicant. Users of Opposer's products are likely to believe, to be confused or deceived into thinking that Applicant's goods originate with, or in some way are associated with, connected with, sponsored, endorsed or authorized by Opposer. By reason of the substantial similarity and sound of Applicant's alleged mark "RESIPRENE (& design)" and Opposer's mark "RESIPREME" and the likely

overlapping of the class of customers and channels of trade, Applicant's alleged mark, when applied to its goods is likely to cause confusion or mistake, or to deceive, all to the injury or threatened injury of Opposer.

8. Opposer has developed an exceedingly valuable amount of goodwill with respect to its mark "RESIPREME." By virtue of its efforts, and the expenditure of considerable sums of promotional activities and by virtue of the excellence of its products, Opposer has gained for its mark "RESIPREME" a most valuable reputation.

9. If Applicant is permitted to register "RESIPRENE (& design)" as specified in the application herein opposed, confusion in the trade resulting in damage and injury to Opposer would be caused and would result by reason of the perception of a relationship between goods bearing the mark and name "RESIPRENE (& design)" of Applicant and Opposer's goods bearing its "RESIPREME" mark and name. In this respect, consumers may have the impression that goods of Opposer bearing the "RESIPREME" mark and name, and the goods of the Applicant having the "RESIPRENE (& design)" mark are being marketed, endorsed, approved or sponsored by Opposer. Persons familiar with the mark and name "RESIPREME" of Opposer would likely buy Applicant's goods as goods marketed, endorsed, approved or sponsored by Opposer. Any such confusion in the trade inevitably would result in dilution of the goodwill created by Opposer. Furthermore, any defect, objection or fault found with Applicant's goods marketed under the "RESIPRENE (& design)" mark would unnecessarily reflect upon and seriously injure the reputation which Opposer has established with respect to its goods associated with its "RESIPREME" mark and name.

10. Based upon the foregoing, the registration of the mark depicted in Application Serial No. 77/937,091 filed February 17, 2010 on the Principal Register of the United States Patent and Trademark Office would cause injury and damage to Opposer.

WHEREFORE, Opposer requests that registration of Applicant's mark "RESIPRENE (& design)", Application Serial No. 77/937,091, in International Class 19, be denied and this opposition be sustained.