

ESTTA Tracking number: **ESTTA401096**

Filing date: **04/01/2011**

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	Emanuel Ungaro Italia S.r.l.
Granted to Date of previous extension	04/03/2011
Address	Via Vittor Pisani 12/A Milan, MI 20124 ITALY
Attorney information	Ralph H. Cathcart Ladas & Parry LLP 1040 Avenue of the Americas New York, NY 10018-3738 UNITED STATES rcathcart@ladas.com, rroa@ladas.com, mmercado@ladas.com Phone: 212-708-1920

Applicant Information

Application No	85010886	Publication date	10/05/2010
Opposition Filing Date	04/01/2011	Opposition Period Ends	04/03/2011
Applicant	Sarah Joy Giovinetti 108H Greentree Road Turnersville, NJ 08012 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: cosmetics
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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.	1457922	Application Date	01/20/1987
Registration Date	09/22/1987	Foreign Priority Date	NONE
Word Mark	DIVA		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 003. First use: First Use: 1985/06/03 First Use In Commerce: 1985/06/03 [BATH SOAP,] BATH GEL, BODY LOTION [, BODY CREME, DUSTING POWDER]

U.S. Registration No.	1372041	Application Date	04/17/1984
Registration Date	11/26/1985	Foreign Priority Date	NONE
Word Mark	DIVA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1983/08/29 First Use In Commerce: 1984/03/12 Perfume and Eau de Parfum		

U.S. Registration No.	1366196	Application Date	06/04/1984
Registration Date	10/22/1985	Foreign Priority Date	NONE
Word Mark	DIVA UNGARO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1983/08/29 First Use In Commerce: 1984/03/12 PERFUME AND EAU DE PARFUM		

Attachments	73483510#TMSN.gif (1 page)(bytes) Notice of Opposition - Giovinetti.pdf (4 pages)(131357 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	/Ralph H. Cathcart/
Name	Ralph H. Cathcart
Date	04/01/2011

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

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EMANUEL UNGARO ITALIA S.r.l.,
Opposer,
v.
SARAH JOY GIOVINETTI DBA MAKEUP ARTIST
SARAH JOY GIOVINETTI,
Applicant.
-----X

: Opposition No. _____

NOTICE OF OPPOSITION

In the matter of Application Serial No. 85/010,886, filed on April 9, 2010 by Sarah Joy Giovinetti, a U.S. individual with an address at 108H Greentree Road, Turnersville, New Jersey 08012 (“Applicant”), in International Class 3 seeking registration on the Principal Register of the trademark DIVA GIRL COSMETICS “FOR THE DIVA IN YOU” and Design in connection with “cosmetics” (“DIVA GIRL COSMETICS”), which application was published for opposition on October 5, 2010, with extensions of time to file a Notice of Opposition granted up to and including April 3, 2011;

Emanuel Ungaro Italia S.r.l., an Italian limited liability company with an office at Via Vittor Pissani, 12/a, Milan, Italy (“Opposer”), believes that it is or will be damaged by the registration of Application No. 85/010,886 for the mark DIVA GIRL COSMETICS and hereby opposes registration of the mark on the following grounds:

1. Opposer is the owner of the marks DIVA and DIVA UNGARO, including incontestable U.S. Registration Nos. 1,457,922; 1,372,041 and 1,366,196 and of the goodwill associated with such marks (hereinafter individually and collectively referred to as the “DIVA Marks”).

2. Opposer adopted and has continuously used its DIVA Marks in connection with personal care products and fragrances since long prior to the filing date of Applicant’s DIVA GIRL COSMETICS application.

3. Opposer has extensively advertised, promoted, marketed, and otherwise publicized its personal care products and fragrances such that consumers have come to know and recognize the DIVA Marks as identifying goods which originate with, are authorized by, or otherwise identify, Opposer.

4. Applicant’s use of the mark DIVA GIRL COSMETICS in connection with “cosmetics” constitutes use of a mark confusingly similar to Opposer’s DIVA Marks. Applicant’s DIVA GIRL COSMETICS mark wholly incorporates Opposer’s mark, DIVA, and is likely to be perceived by purchasers as either a variation or another of Opposer’s DIVA Marks. Moreover, Applicant’s goods are closely related to the personal care products and fragrances marketed and sold by Opposer under its DIVA Marks.

5. Applicant’s DIVA GIRL COSMETICS mark is likely to be confused with Opposer’s DIVA Marks insofar as the average purchaser is likely to be confused and deceived into believing that Applicant’s products originate with, are in some way associated with, or are connected, sponsored or authorized by, Opposer.

WHEREFORE, Opposer requests that the opposition be sustained and that Application No. 85/010,886 be refused registration.

Respectfully submitted,

LADAS & PARRY LLP
Attorneys for Opposer

Dated: April 1, 2011

By: 
Ralph H. Cathcart
1040 Avenue of the Americas
New York, New York 10018
(212) 708-1920
(Our Ref: C10627480)

CERTIFICATE OF TRANSMISSION

I, Reinaldo M. Roa, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** has been transmitted electronically to the United States Patent and Trademark Office on the date indicated:

Dated: April 1, 2011



Reinaldo M. Roa

CERTIFICATE OF SERVICE

I, Reinaldo M. Roa, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served via First Class Mail, on the date indicated below, to the following:

Ms. Sarah Joy Giovinetti
108 Greentree Road, Suite H
Turnersville, NJ 08012-1571

Dated: April 1, 2011



Reinaldo M. Roa