

3. Opposer is the owner of U.S. Trademark Registration No. 3,550,404 issued December 23, 2008 with a priority date of April 3, 2007, for the mark EVIVA covering the following goods:

International Class: 001

Industrial chemicals; unprocessed artificial resins, unprocessed plastics for industrial purposes; unprocessed mixed plastic for the production of molded, laminated or extruded articles

International Class: 010

Medical implants made of plastic

International Class: 017

Semi-worked synthetic plastics and synthetic resins as semi-finished products in the form of pellets, rods, foils, foams, fibers, films and sheets

4. The applicant has not used the trademark Re-Vive in the United States on or in connection with all of the goods listed in its application.
5. The applicant has not used the trademark Re-Vive in the United States on or in connection with any of the goods listed in its application.
6. Applicant did not use the trademark Re-Vive in the United States for the goods described in its application prior to April 3, 2007.
7. Applicant did not use the trademark Re-Vive in the United States for the goods described in its application prior to October 2, 2010.
8. Opposer has used the term EVIVA in the U.S. as a trademark since prior to any use of the mark Re-Vive that may be alleged or relied upon by applicant.
9. The goods for which applicant seeks to register the mark Re-Vive encompass, among other things, "dental implants; artificial teeth; dentures; dental implant structural components; dental crowns; dental bridges."

10. The goods for which applicant seeks to register the mark Re-Vive are related to goods offered by Opposer under its mark EVIVA.
11. The goods for which applicant seeks to register the mark Re-Vive are related to goods listed in Opposer's Registration No. 3,550,404.
12. Various of applicant's goods may be made of biocompatible resins.
13. The trademark Re-Vive sought to be registered by the applicant is substantially similar to opposer's trademark EVIVA.
14. Consumers are likely to be confused and to mistakenly believe that applicant's products offered under its Re-Vive mark either emanate from or are licensed by, sponsored by, or associated with opposer, or that they incorporate opposer's EVIVA products.
15. If the applicant were permitted to use and register its mark for its goods as specified in its application, confusion among consumers resulting in damage and injury to opposer would be caused by virtue of the similarity between applicant's trademark and opposer's trademark, and the related nature of the goods covered by those marks. Any defect, objection or fault found with applicant's goods would reflect upon, seriously injure, and dilute the reputation and value that opposer has established under its trademark.

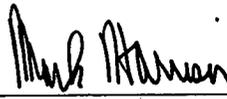
WHEREFORE, Opposer prays that Application Serial No. 85/143,738 be rejected, that no registration be issued thereon to applicant, and that this opposition be sustained in favor of the Opposer.

This Notice of Opposition is submitted together with the statutory filing fee of \$300.00 (Class 10). Should any additional fee be required, please charge the same to our Account No. 22-0261 and notify the undersigned accordingly.

Opposer appoints Mark B. Harrison, Rebecca Liebowitz, Michael Hall and Jeremy Klass, along with the law firm of Venable LLP, P.O. Box 34385, Washington, D.C. 20043-9998 to transact all business on its behalf in connection with this Opposition.

Respectfully submitted,

Date: October 5, 2011

By: 

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served by U.S. Mail, first class, postage prepaid, on this 5th day of October, 2011 on the Applicant's counsel at the address listed in the current U.S. Trademark Office Records as follows:

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Mark Harrison