

ESTTA Tracking number: **ESTTA236805**

Filing date: **09/15/2008**

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

**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Eva Denmark A/S		
Entity	public limited company	Citizenship	Denmark
Address	Malov Teknikerby 18-20 Malov, DK-2760 DENMARK		

Attorney information	Marsha G. Gentner Jacobson Holman PLLC 400 Seventh St, NW Washington, DC 20004 UNITED STATES trademark@jhip.com, mgentner@jhip.com Phone: 2026386666		
----------------------	---	--	--

**Registration Subject to Cancellation**

Registration No	2764547	Registration date	09/16/2003
Registrant	Ballarini, Paolo & Figli SpA Via Risorgimento 3 46017 Rivarolo Mantovano (MN), ITALY		

**Goods/Services Subject to Cancellation**

Class 021. First Use: 1999/07/00 First Use In Commerce: 1999/07/00 All goods and services in the class are cancelled, namely: Casserole dishes; colanders for household use; Dutch ovens; metal pans; broiling pans; frying pans; coated frying pans; non-stick frying pans; roasting pans; non-electric griddles; cooking utensils, namely grills; soup kettles; pots; stew pots; lids for pots; non-electric pressure cookers; saucepans; and woks
---

**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Application No.	79049070	Application Date	10/09/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	EVA TRIO		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	<p>Class 006. First use: Credit card holders of metal, notice-boards of metal</p> <p>Class 008. First use: Cutlery; nut crackers and nut hammers not of precious metals, non-electric fruit peelers, fruit knives, apple corers, can openers not electrically powered, parsley graters, pizza slicers not electrically powered, cheese slicers not electrically powered, knife stands, knife magnets, namely, magnets for hanging kitchen knives on the wall</p> <p>Class 009. First use: Holders for recorded sound, game, video and data media, namely, blank compact discs and DVDs for sound, video, computer game or data recording; rain gauges, timers, magnetic boards</p> <p>Class 011. First use: Gridirons, namely, electric griddles; cooking appliances, namely, electric kettles, electric coffee percolators, barbecue grills, grill spit</p> <p>Class 014. First use: Battery powered watches</p> <p>Class 020. First use: Wine racks</p> <p>Class 021. First use: Pots, saucepans, casseroles, saute pans, frying pans, and lids hereto; steamer grilles for pots; salt and pepper mills not electrically powered, tableware with the exception of knives, forks, and spoons, not of precious metals, namely, creamers, salt and pepper shakers, salt cellars, covered butter dishes, flan dishes, ovenproof serving dishes; plates, dishes, jars for holding flour and sugar, jugs, bowls, cups, mugs, and drinking glasses, not of precious metals; spice sets comprised of glassware and jars for holding spices; coffee percolators not electrically powered; coffee and tea pots, not electrically powered and not of precious metals; kettles, not electrically powered; vacuum bottles for keeping food and/or drink cold or warm; sieves and strainers for household use; whisks, not electrically powered; cake and tart servers, flatware, kitchen spatulas; basting spoons, ladles, dippers for use in the kitchen, namely, cuplike container with a long handle, used for dipping liquids; containers for kitchen use for making thickener; fruit and garlic presses, not electrically powered, for household use; graters for household use; tools for grills in the form of forks, tongs, and turners; chopping, bread or carving boards; bread boxes, ice cube moulds, watering cans; potholders of silicone; feeding troughs, feeding boards for animals</p> <p>Class 024. First use: Tablecloths not of paper; place mats not of paper; textile potholders and oven mitts</p> <p>Class 028. First use: holders for playing cards</p> <p>Class 034. First use: Ashtrays, not of precious metals</p>
Attachments	<p>79049070#TMSN.jpeg ( 1 page )( bytes )</p> <p>Trio pet cancel.pdf ( 4 pages )(278384 bytes )</p>

## 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	/Marsha G. Gentner/
Name	Marsha G. Gentner
Date	09/15/2008

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

EVA DENMARK A/S )  
 )  
 )  
 ) Petitioner, )  
 )  
 v. ) Cancellation No.  
 )  
 BALLARINI, PAOLO & FIGLI SPA )  
 )  
 )  
 Respondent. )

**PETITION FOR CANCELLATION**

In the matter of U.S. trademark registration no. 2,764,547, issued September 16, 2003, for the mark TRIO & Design, in the name of Ballarini, Paolo & Figli SpA, the Petitioner, Eva Denmark A/S, believes it will be damaged by the continued registration of said alleged trademark, and hereby petitions to cancel same. The grounds for cancellation are as follows:

1. The Petitioner, Eva Denmark A/S, is a public limited company of Denmark, with an address of Måløv Teknikerby 18-20 DK-2760 Måløv, Denmark. Petitioner develops, manufactures and sells kitchen utensils.

2. Commencing prior to the filing date of the application which matured into the registration sought to be cancelled herein, Petitioner has, and is now, used in commerce the trademark **EVA TRIO**, alone and in combination with other words, designs and/or symbols, to identify and designate Petitioner's products, and to distinguish those goods from the goods of others. Since Petitioner's initial use of its **EVA TRIO** mark, Petitioner continuously has used, advertised, promoted and offered its goods under the **EVA TRIO** mark to the public through various channels of trade in commerce, with the result that customers have come to know and recognize Petitioner's

**EVA TRIO** mark, and to associate same with Petitioner and/or the goods manufactured, advertised, marketed, distributed, and/or sold by or on behalf of Petitioner.

3. Petitioner is the owner of U.S. trademark application serial no. 79/049,070, filed October 9, 2007, for the mark **EVA TRIO**. On February 26, 2008, the U.S. Patent and Trademark Office (“PTO”) issued an Office Action in Petitioner’s Application refusing to register said Application under §2(d) of the Lanham Trademark Act, 15 U.S.C. §1052(d), *inter alia*, on the basis of the registration no. 2,764,547, sought to be cancelled herein.

4. According to the PTO, the **TRIO & Design** mark set forth in registration no. 2,764,547 is confusingly similar to Petitioner’s aforesaid **EVA TRIO** mark.

5. On information and belief, the goods set forth in registration no. 2,764,547 are the same, similar and/or related to, Petitioner’s goods, and are and/or will be advertised, promoted and/or sold through the same and/or similar channels of trade and to the same general class of purchasers as Petitioner’s goods, offered and sold under Petitioner’s **EVA TRIO** mark.

6. According to the PTO, customers of Petitioner, as well as the public in general, are likely to be confused, mistaken or deceived as to the origin or sponsorship of Respondent’s goods which are marketed, promoted, and/or sold under, or in connection with, the **TRIO & Design** mark set forth in registration no. 2,764,547, and further, said persons are likely to be misled into believing that Respondent and/or Respondent’s goods emanate from, or in some way are, directly or indirectly, associated with or connected to Petitioner, its **EVA TRIO** mark and/or products, to the damage and detriment of Petitioner.

7. By virtue of the foregoing, Petitioner believes it will be damaged by the continued registration by Respondent of the **TRIO & Design** mark, as set forth in registration no. 2,764,547.

8. If registration no. 2,764,547 is not cancelled, and Respondent continues to enjoy such rights as conferred under the Principal Register of the Trademark Act of 1946, Respondent will obtain unlawful gain and advantage to which it is not entitled under the Trademark Act of 1946, to the detriment and harm of Petitioner.

**WHEREFORE**, this Petitioner believes and alleges that it will be damaged by continued registration of the TRIO & Design mark of registration no. 2,764,547, as aforesaid, and prays that:

1. judgment in the present cancellation be entered in favor of Petitioner;
2. the Petition for Cancellation action be granted; and
3. registration no. 2,764,547 be cancelled.

EVA DENMARK A/S

Date: September 15, 2008

By:

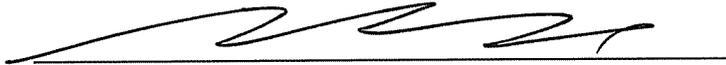


Marsha G. Gentner  
JACOBSON HOLMAN PLLC  
400 Seventh Street, N.W.  
Washington, D.C. 20004  
(202) 638-6666  
[mgentner@jhip.com](mailto:mgentner@jhip.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of September, 2008, the foregoing Petition for Cancellation was served, by mailing same first class and postage prepaid, on the following designated domestic representative and correspondent, as set forth in the records of the U.S. Patent and Trademark Office:

Lawrence G. Fridman  
Silber & Fridman  
66 Mount Prospect Ave.  
Clifton, NJ 07013-1987

A handwritten signature in black ink, appearing to read 'L. G. Fridman', is written over a solid horizontal line.