

ESTTA Tracking number: **ESTTA110936**

Filing date: **11/21/2006**

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	Eniva Corporation
Granted to Date of previous extension	11/22/2006
Address	9702 Ulysses Street NE Minneapolis,, MN 55449 UNITED STATES
Correspondence information	David J. Zubke Attorney for Opposer Best & Flanagan LLP 225 S. 6th Street Suite 4000 Minneapolis,, MN 55402-4690 UNITED STATES dzubke@bestlaw.com Phone:612-339-7121

**Applicant Information**

Application No	78562400	Publication date	07/25/2006
Opposition Filing Date	11/21/2006	Opposition Period Ends	11/22/2006
Applicant	Ramm, Rebeca po box 792009 paia, HI 96779 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 032. First Use: 1998/02/01 First Use In Commerce: 2004/04/05  
All goods and seVICES in the class are opposed, namely: drinking water infused with vibrational and phytocutecal essences

Attachments	document.pdf ( 3 pages )(485975 bytes )
Signature	/David J. Zubke/
Name	David J. Zubke
Date	11/21/2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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Eniva Corporation, )  
 )  
 ) Opposer, )  
 )  
 v. ) Opposition No. \_\_\_\_\_  
 ) Application Serial No. 78/562400  
 ) Mark: Vibe<sub>2</sub>0  
Rebecca Ramm )  
 )  
 ) Applicant. )

NOTICE OF OPPOSITION

Eniva Corporation, 9702 Ulysses Street NE, Minneapolis, Minnesota 55449, a Minnesota corporation ("Opposer").

The above-identified Opposer believes that it will be damaged by registration of the mark shown in the above-identified pending service mark registration application (the "Application"), and hereby opposes the same for all goods and services identified in the Application.

The grounds for opposition are as follows:

1. By the Application herein opposed, the Rebecca Ramm ("Applicant") is seeking to obtain under the provisions of the Trademark Act of 1946 as amended, registration on the Principal Register of the trademark and service mark "Vibe<sub>2</sub>0" for drinking water infused with vibrational and phytochemical essences.

2. Opposer has adopted, used and is using a Vibe® trademark to market and sell its water based nutritional supplement, which has been in prominent and continuous use in interstate commerce since at least August 1, 2003. Opposer has registered its Vibe® trademark with the U.S. Patent and Trademark Office, and has been assigned USPTO Registration No. 3,014,557.

3. Applicant's proposed "Vibe<sub>2</sub>0" word mark is confusingly similar to Opposer's senior Vibe® trademark. Opposer believes that the goods offered by Applicant are highly related and confusingly similar to those offered by Opposer.

4. Due to the confusing similarity between Applicant's proposed mark, and Opposer's senior Vibe® trademark, as well as the closely related nature of the goods of the respective parties, Opposer believes that relevant customers and potential customers are likely to believe that Applicant's goods are being offered by Opposer, resulting in a likelihood of confusion in the marketplace, and damage to Opposer.

5. Because of the closely related nature of the goods, and the confusing similarity of the marks, use and registration by Applicant of the proposed term "Vibe<sub>2</sub>0" is likely to cause confusion, mistake, or deception that Applicant's services are those of Opposer, or are otherwise endorsed, sponsored, or approved by Opposer, causing further damage to Opposer.

6. Registration of the mark shown in Application Serial No. 78/562,400 will result in damage to Opposer under the provisions of §2(a) and §2(d) of the U.S. Trademark Act, 15 U.S.C. § 1052, pursuant to the allegations stated above.

WHEREFORE, Opposer asks that its opposition to the Application be sustained and that the pending registration of the term "Vibe<sub>2</sub>0" be refused.

Please direct all correspondence to the attention of Opposer's counsel:

David J. Zubke  
Best & Flanagan LLP  
225 South Sixth Street  
Suite 4000  
Minneapolis, MN 55402-4690  
612-339-7121  
Fax: 612-339-5897

Opposer has confirmed its appointment of David J. Zubke as its attorney with the full power to represent the Opposer in connection with this proceeding.

Dated this 21<sup>st</sup> day of November, 2006.

By: \_\_\_\_\_

  
David J. Zubke, Esq.  
Attorney for Silva Corporation  
Best & Flanagan LLP  
225 South Sixth Street  
Suite 4000  
Minneapolis, MN 55402-4690  
(612) 339-7121  
[dzubke@bestlaw.com](mailto:dzubke@bestlaw.com)