

ESTTA Tracking number: **ESTTA138943**

Filing date: **05/04/2007**

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	05/06/2007
Address	Via Vittor Pisani12/A Milan, ITALY

Correspondence information	Robert Alpert LADAS & PARRY LLP 26 West 61st Street New York, NY 10023 UNITED STATES ralpert@ladas.com, rroa@ladas.com Phone:212-708-1860
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Applicant Information

Application No	78668500	Publication date	11/07/2006
Opposition Filing Date	05/04/2007	Opposition Period Ends	05/06/2007
Applicant	Cahill, Deanna Suite 103 3025 Monroe Avenue Rochester, NY 14618 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. First Use: 2002/07/13 First Use In Commerce: 2002/07/13 All goods and sevicees in the class are opposed, namely: cosmetics; face and body cleansers and moisturizers
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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.	1372041	Application Date	04/17/1984
Registration Date	11/26/1985	Foreign Priority Date	NONE
Word Mark	DIVA		
Design Mark			
Description of	NONE		

Mark	
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.	1457922	Application Date	01/20/1987
Registration Date	09/22/1987	Foreign Priority Date	NONE
Word Mark	DIVA		
Design Mark			
Description of Mark	NONE		
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.	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) Deanna Cahil - NOP.pdf (4 pages)(89351 bytes)
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Signature	/RA/
Name	Robert Alpert
Date	05/04/2007

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.
DEANNA CAHILL,
Applicant.
-----X

Opposition No. _____

NOTICE OF OPPOSITION

In the matter of Application No. 78/668,500 filed on July 12, 2005, by Deanna Cahill, an individual located at 3025 Monroe Avenue, Suite 103, Rochester, New York (“Applicant”), in International Classes 3 and 44 seeking registration on the Principal Register of the trademark BROW DIVA (Stylized) in connection with “beauty salons; cosmetics; face and body cleansers and moisturizers,” which application was published for opposition on November 7, 2006, and for which extensions of time to oppose were obtained up to and including May 6, 2007;

Opposer, Emanuel Ungaro Italia S.r.l., an Italian limited liability company with an office at Via Vittor Pisani, 12/a, Milan, Italy, believes that it is or will be damaged by registration of Application No. 78/668,500 and hereby opposes registration of said application with respect to all goods in Class 3, on the following grounds:

1. Opposer is the title owner of the marks DIVA and DIVA UNGARO, including U.S. Registration Nos. 1,372,041; 1,457,922; and 1,366,196; and of the good will associated with such marks (individually and collectively, the “DIVA Mark”).

2. Opposer adopted and has continuously used the DIVA Mark in connection with fragrances and personal care products, since long prior to the filing of applicant's BROW DIVA (Stylized) application.

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

4. Applicant's use of the mark BROW DIVA (Stylized) for cosmetics, face and body cleansers and moisturizers constitutes use of a mark confusingly similar to Opposer's DIVA Mark. Applicant's BROW DIVA (Stylized) mark is likely to be perceived by purchasers as a variation, or another, of Opposer's DIVA Marks. Moreover, the Class 3 goods covered by Applicant's BROW DIVA (Stylized) application are either identical, or closely related, to the fragrances and personal care products marketed and sold by Opposer under its DIVA Mark.

5. Applicant's BROW DIVA (Stylized) mark is likely to be confused with Opposer's DIVA Mark, such that the average purchaser is likely to be confused and deceived into believing that Applicant's products also originate or are in some way associated with, or are connected, sponsored or authorized by Opposer.

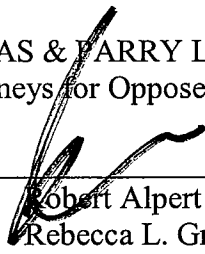
6. On information and belief, Applicant has not made *bona fide* commercial use of the BROW DIVA (Stylized) mark on all of the goods and services for which use is claimed and hence Applicant's application is void.

WHEREFORE, Opposer requests that the opposition be sustained and Application No. 78/668,500 be refused registration as to the Class 3 goods.

Respectfully submitted,

LADAS & FARRY LLP
Attorneys for Opposer

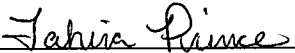
Dated: May 4, 2007

By: 
Robert Alpert
Rebecca L. Griffith
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New York, NY 10023
(212) 708-1860
(Our Ref: 060500)

CERTIFICATE OF TRANSMISSION

I, Tahira A. Prince, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** is being electronically transmitted to the United States Patent and Trademark Office on the date indicated:

Dated: May 4, 2007



Tahira A. Prince