

ESTTA Tracking number: **ESTTA184061**

Filing date: **01/02/2008**

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	I.R.C.A. SPA INDUSTRIA RESISTENZE CORAZZATE ED AFFINI
Granted to Date of previous extension	01/02/2008
Address	Viale Venezia, 31 San Vendemiano (Treviso), 31020 ITALY
Attorney information	Kristina M. Foudray Hamre, Schumann, Mueller & Larson, P.C. P.O. Box 2902 Minneapolis, MN 55402 UNITED STATES mail@hsml.com Phone:612.455.3800

**Applicant Information**

Application No	79024632	Publication date	09/04/2007
Opposition Filing Date	01/02/2008	Opposition Period Ends	01/02/2008
International Registration No.	0886939	International Registration Date	07/29/2005
Applicant	RITTAL RES Electronic Systems; GmbH & Co. KG Auf dem St&uuml;zelberg 35726 Herborn GERMANY		

**Goods/Services Affected by Opposition**

<p>Class 009. All goods and services in the class are opposed, namely: Air-conditioned metal and plastic switchgear cabinets for use in industry featuring racks and housings adapted to accommodate electrical installations, electronic equipment, computers, interactive terminal systems and data transfer equipment and bracket systems; semiconductor chip housings for plug-in assemblies with electronic circuits; electrical anti-intrusion alarms for monitoring and safeguarding of cabinets, namely, switchgear cabinets; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, namely, connection adapters, appliance adapters, load splitters in the nature of load circuit breakers, battery power packs; electronic devices for monitoring gas conduits, namely, pressure regulators; wiring and cabling aids formed from metal and plastics for electric cables, namely cable ducts, cable inserts in the nature of plug-in cards, bus boards, labeling strips featuring thermosensitive temperature indicators for use in switchgear cabinets; encoded magnetic cards featuring programing used to regulate and control electrical devices, bus bars, plug-in connectors; structural parts of all aforesaid goods</p>
<p>Class 011.</p>

All goods and services in the class are opposed, namely: Appliances for air-conditioning purposes, namely, evaporative air coolers, heat exchangers, air conditioning units composed of filters and fans, electric heaters, all aforesaid goods especially for use with switchgear cabinets; lights for switchgear cabinets; structural parts of all aforesaid goods

## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2100642	Application Date	03/07/1995
Registration Date	09/30/1997	Foreign Priority Date	NONE
Word Mark	RICA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: electrical resistors for industrial, commercial and household applications, namely, cartridge resistors, belt resistors, mica-supported resistors, flexible resistors, wire resistors, and plate resistors; and electrical batteries</p> <p>Class 011. First use: heating equipment, namely, heating elements for irons, ovens, mini ovens, bread makers, toast makers, grills, coffee makers, [ kettles, raclette makers, ] rice cookers, steam makers; storage heaters, convectors, fan heaters, oil radiators; heaters for industrial use; heaters for refrigerators; heating elements for boilers; heating rails for towels, and infrared short wave heaters</p>		

Attachments	<p>74643341#TMSN.gif ( 1 page )( bytes )          Notice of Opposition.tif ( 1 page )(29040 bytes )          Notice of Opposition (2).tif ( 1 page )(53414 bytes )          Notice of Opposition (3).tif ( 1 page )(52080 bytes )          Notice of Opposition (4).tif ( 1 page )(44064 bytes )          Notice of Opposition (5).tif ( 1 page )(40308 bytes )          Notice of Opposition (6).tif ( 1 page )(26904 bytes )          Notice of Opposition (7).tif ( 1 page )(14160 bytes )</p>
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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	/Kristina M. Foudray/
Name	Kristina M. Foudray
Date	01/02/2008

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

I.R.C.A. SpA Industria Resistenze Corazzate  
ed Affini,

Opposer,

v.

RITTAL RES Electronic Systems GmbH &  
Co. KG,

Applicant.

Opposition No. \_\_\_\_\_

Serial No.: 79/024632

Mark : RITCA

**NOTICE OF OPPOSITION**

To The Assistant Commissioner for Trademarks  
Attn: TTAB  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Sir:

I.R.C.A. SpA Industria Resistenze Corazzate ed Affini, a corporation duly organized and existing under the laws of Italy, with a mailing address of Viale Venezia 31, 31020 San Vendemiano (TV), Italy, believes that it will be damaged by the registration of the mark RITCA shown in application Serial No. 79/024632, in the name of RITTAL RES Electronic Systems GmbH & Co. KG with a mailing address of Auf dem Stützelberg, 35726 Herborn, Fed Rep Germany, and published in the Official Gazette of September 4, 2007, and hereby opposes registration of the mark thereof, the time for filing the Notice of Opposition having been duly extended until January 2, 2008.

The grounds for this Opposition are as follows:

1. By application herein opposed, Applicant is seeking to obtain under the provisions of the Trademark Act of 1946 as amended, registration on the principal register of the Trademark RITCA, Application Serial No. 79/024632, filed July 13, 2006, for: "Non-electric door knobs of metal; shelf brackets of metal; fittings of metal for building, namely, pivoting metal door frames and compartment base panels and frames; fittings of metal for furniture, namely, cabinet stops and metal shelf brackets; door fittings of metal namely, door trims, door latches; coverings of metal, for building namely, roofing panels, fencing panels; door panels of metal; doors of metal; wall linings of metal for building; operating and moving devices of metal, namely door rollers and roll shutters" in International Class 6; "Air-conditioned metal and plastic switchgear cabinets for use in industry featuring racks and housings adapted to accommodate electrical installations, electronic equipment, computers, interactive terminal systems and data transfer equipment and bracket systems; semiconductor chip housings for plug-in assemblies with electronic circuits; electrical anti-intrusion alarms for monitoring and safeguarding of cabinets, namely, switchgear cabinets; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, namely, connection adapters, appliance adapters, load splitters in the nature of load circuit breakers, battery power packs; electronic devices for monitoring gas conduits, namely, pressure regulators; wiring and cabling aids formed from metal and plastics for electric cables, namely cable ducts, cable inserts in the nature of plug-in cards, bus boards, labeling strips featuring thermosensitive temperature indicators for use in switchgear cabinets; encoded magnetic cards featuring programing used to regulate and control electrical devices, bus bars, plug-in connectors; structural parts of all aforesaid goods: in International Class 9; "Appliances for air-conditioning purposes, namely, evaporative air coolers, heat

exchangers, air conditioning units composed of filters and fans, electric heaters, all aforesaid goods especially for use with switchgear cabinets; lights for switchgear cabinets; structural parts of all aforesaid goods” in International Class 11; “Rubber clamps” in International Class 17; “Construction material made from glass and plastics, namely, doors not of metal; wall linings, wall claddings and wall tiles, not of metal, for building” in International Class 19; and “Shelves; desks adapted to accommodate electrical installations” in International Class 20. (“Applicant’s Goods”). The application is based on Section 66(a) of the Trademark Act.

2. Upon information and belief, the mark shown in Application Serial No. 79/024632 was not used in the United States by Applicant for Applicant’s Goods before July 13, 2006.

3. Upon information and belief, the mark shown in Application Serial No. 79/024632 was not used in the United States by Applicant for Applicant’s Goods after July 13, 2006.

4. Opposer is the owner of U.S. Trademark RICA, registered September 30, 1997, as Registration No. 2,100,642 for “electrical resistors for industrial, commercial and household applications, namely, cartridge resistors, belt resistors, mica-supported resistors, flexible resistors, wire resistors, and plate resistors; and electrical batteries” in International Class 9, and “heating equipment, namely, heating elements for irons, ovens, mini ovens, bread makers, toast makers, grills, coffee makers, rice cookers, steam makers; storage heaters, convectors, fan heaters, oil radiators; heaters for industrial use; heaters for refrigerators; heating elements for boilers; heating rails for towels, and infrared short wave heaters” in International Class 11. Said trademark has not been abandoned, is valid, and is now in full force and effect.

5. Opposer’s RICA Mark has been in use in U.S. commerce, has been advertised and promoted by Opposer or its affiliates, and has developed and represents valuable good will in the benefit of Opposer. Opposer’s mark has trademark significance to purchasers and potential

purchasers. Furthermore, Opposer has sold its goods listed in its registration in commerce in the United States since at least as early as the 1980's under the RICA trademark.

6. Based on the prior use and registration of Opposer's above-identified mark long prior to the filing date of Applicant's application as well as its claimed use of the mark in question, there is no issue as to priority.

7. Opposer's and Applicant's marks are nearly identical in sight, sound, and meaning with the only difference being a single letter, namely the letter "T", in the middle of Applicant's mark. Applicant's mark is confusingly similar to Opposer's mark as to be likely to cause confusion, mistake, or to deceive as to the source of origin of Applicant's goods by creating the erroneous impression that Applicant's goods originate with, are sponsored by, approved or endorsed by, licensed by, affiliated or associated with, or in some other way legitimately connected to Opposer.

8. Opposer's products include electrical resistors and heating equipment. Applicant's products also include electrical equipment and heating equipment. Consumers are likely to view Applicant's product as Opposer's product or a line extension of Opposer's product marketed under a confusingly similar mark.

9. Upon information and belief, Applicant's goods are offered to the same class of purchasers as those that purchase Opposer's goods, are sold through the same channels of trade, and are essentially the same as those sold by Opposer.

10. If applicant is granted a registration, it would obtain at least prima facie exclusive right to use the mark "RITCA" on said goods, such registration would be a source of damage and injury to Opposer and a source of confusion to Opposer's many customers who rely upon the

reputation of the Opposer, and the high quality of Opposer's services as reflected by Opposer's valuable trademark "RICA".

11. Due to the similarity between Opposer's previously used and registered RICA trademark and Applicant's RITCA trademark application and the closely related nature of the goods of the respective parties, customers and potential customers are likely to believe that Applicant's products originate from Opposer, resulting in a likelihood of confusion in the marketplace and damage to Opposer.

12. The use or registration by Applicant of the mark RITCA is likely to cause confusion or to cause mistake or deception in the wholesale and the retail trade, and among purchasers and potential purchasers, with Opposer's previously used mark RICA, again resulting in damage to Opposer.

13. Because of the related nature of the goods and the nearly identical appearance and sound of the marks, use and registration of the mark RITCA by Applicant is likely to cause confusion, mistake, or deception that Applicant's goods are those of Opposer or otherwise endorsed, sponsored, or approved by Opposer causing further damage to Opposer.

14. Registration of the mark shown in Application Serial No. 79/024632 will result in damage to Opposer under provisions of Section 2(d) of the U.S. Trademark Act, 15 U.S.C. Section 1052, pursuant to the allegations stated above.

WHEREFORE, Opposer asks that its opposition to registration of this application in International Classes 9 and 11 be sustained and that the registration of the term RITCA set forth therein be refused in Classes 9 and 11.

Please direct all correspondence to the attention of:

Kristina M. Foudray  
Hamre, Schumann, Mueller & Larson P.C.  
P.O. Box 2902-0902  
Minneapolis, MN 55402  
612.455.3800

Opposer hereby appoints Kristina M. Foudray, Curtis B. Hamre, Reg. No. 29,165; Michael D. Schumann, Reg. No. 30,422; Douglas P. Mueller, Reg. No. 30,300; James A. Larson, Reg. No. 40,443, and Allison J. Gonzalez as attorneys with the full power to represent the applicant in connection with this application.

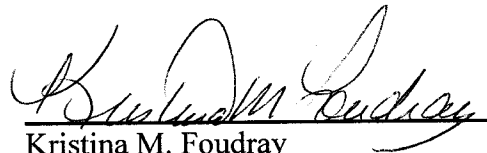
Please charge Deposit Account No. 50-3478 in the amount of \$600.00 for the required Notice of Opposition fee. Please charge any excess fees or credit any overpayment to Deposit Account No. 50-3478 of Opposer's counsel noted above.

Respectfully submitted,

I.R.C.A. SpA Industria Resistenze Corazzate  
ed Affini

By its attorneys,

Date: 2 January 2008



Kristina M. Foudray  
Allison J. Gonzalez  
Hamre, Schumann, Mueller & Larson P.C.  
P.O. Box 2902  
Minneapolis, MN 55402  
612.455.3800

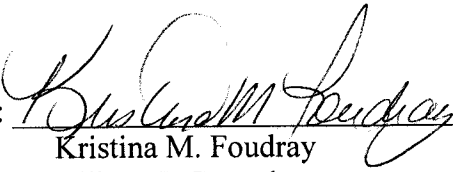


**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION has been served  
via U.S. First Class Mail, this 2<sup>nd</sup> day of January, 2008 as follows:

John Alunit  
Patel & Alunit, PC  
16830 Ventura Blvd., Suite 360  
Encine, CA 91436-1711

Date: 2 January 2008

By:   
Kristina M. Foudray  
Allison J. Gonzales  
Hamre, Schumann, Mueller & Larson P.C.  
P.O. Box 2902  
Minneapolis, MN 55402  
612.455.3800