

ESTTA Tracking number: **ESTTA308234**

Filing date: **09/25/2009**

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	RCN Television, S.A.
Granted to Date of previous extension	11/04/2009
Address	Av. Las Americas No. 65-82 AA 35800 Bogota, COLOMBIA
Party who filed Extension of time to oppose	RCN Televisi3n, S.A.
Relationship to party who filed Extension of time to oppose	The Opposer's name is RCN Televisi3n, S.A., however, this site only recognizes US-ASCII characters. Therefore, the Opposers name is listed herein as RCN Television, S.A. without the accent mark over the letter "o" in the word "Television."

Attorney information	Gary H. Fechter, Esq. McCarter & English, LLP 245 Park Avenue New York, NY 10167 UNITED STATES gfechter@mccarter.com, kgarrone@mccarter.com, dpopovic@mccarter.com Phone:212-609-6800
----------------------	---

**Applicant Information**

Application No	77686221	Publication date	07/07/2009
Opposition Filing Date	09/25/2009	Opposition Period Ends	11/04/2009
Applicant	RCN Telecom Services, Inc. 196 Van Buren Street Suite 300 Herndon, VA 20170 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 038. All goods and services in the class are opposed, namely: Telecommunication services, namely, international telephone services
---

**Grounds for Opposition**

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

**Mark Cited by Opposer as Basis for Opposition**

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	RCN		
Goods/Services	Provision of radio programs, provision of radio broadcasting services, provision of television programs and provision of television broadcasting services		

Related Proceedings	RCN Telecom Services, Inc. v. RCN Television, S.A. Mark: RCN NUESTRA TELE & Design US Application No. 77/098,807 Opposition No. 91182377
---------------------	--

Attachments	RCN GLOBAL SAVER.pdf ( 4 pages )(150176 bytes )
-------------	---

### **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	/Gary H. Fechter/
Name	Gary H. Fechter, Esq.
Date	09/25/2009

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

RCN TELEVISIÓN, S.A.	)	Mark: RCN GLOBAL SAVER
Opposer,	)	
	)	Serial No. 77/686,221
v.	)	
	)	OPPOSITION NO.
RCN TELECOM SERVICES, INC.	)	
Applicant.	)	
	)	<b><u>NOTICE OF OPPOSITION</u></b>

-----

In the matter of the application of RCN Telecom Services, Inc. (hereinafter "Applicant"), for the registration of RCN GLOBAL SAVER, Application No. 77/686,221, published in the Official Gazette of July 7, 2009, RCN Televisión, S.A., an entity incorporated under the laws of Colombia located and doing business at Av. Las Americas No. 65-82 AA 35800, Bogota, Colombia ("Opposer"), believes that it would be damaged by the registration of the mark shown in the application and hereby opposes same. The grounds for the opposition are:

1. Opposer, in part through its predecessors in interest and its affiliated companies (collectively hereinafter, "RCN"), has been engaged in providing radio programming and radio broadcasting services in the United States for over twenty years, television programming services in the United States for over fifteen years, and television broadcasting services in the United States for over fourteen years.
2. Since at least as early as May of 1989, RCN has continuously used the mark RCN in connection with the provision of radio programs and radio broadcasting services in the U.S., and since at least as early as June of 1994, RCN has continuously used the mark RCN in connection with the provision of television programs in the U.S., and since at least as early as

January of 1995, RCN has continuously used the mark RCN in connection with television broadcasting services in the U.S. (collectively, "Opposer's Mark").

3. By reason of RCN's extensive promotion, advertising, and provision of high-quality services in conjunction with Opposer's Mark, the public and the trade have come to recognize services offered in conjunction with these marks as signifying RCN and its programming and broadcasting services.

4. Notwithstanding RCN's long prior rights in the Opposer's Mark, Applicant filed application Serial No. 77/686,221, for the registration of the mark RCN GLOBAL SAVER, in connection with "telecommunication services, namely, international telephone services," in Class 38 ("Applicant's Mark").

5. There is no issue as to priority. Applicant filed its application for the RCN GLOBAL SAVER mark under Section 1(b) on March 9, 2009. This date is long after the date when RCN first used Opposer's Mark.

6. The trademark proposed for registration by the Applicant, RCN GLOBAL SAVER, is extremely similar to Opposer's Mark, and is applied to services closely related to services offered by RCN which are promoted and sold or offered for sale in the same or similar channels of trade as those in which RCN's services bearing the Opposer's Mark are promoted and sold. The Applicant's mark so closely resembles the Opposer's Mark as to be likely to be confused therewith and mistaken therefor. The RCN GLOBAL SAVER mark is deceptively similar to Opposer's Mark so as to cause confusion and lead to deception as to the origin of Applicant's goods bearing the Applicant's mark.

7. If Applicant is permitted to use and register its RCN GLOBAL SAVER mark for its services, as specified in the application herein opposed, confusion in the trade resulting in damage and injury to RCN would be caused and would result by reason of the similarity between the RCN GLOBAL SAVER mark and Opposer's Mark. Persons familiar with Opposer's Mark would be likely to buy Applicant's services as and for a service provided and sold by, or sponsored or approved by, RCN.

8. If Applicant were granted the registration herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of its mark. Such registration would be a source of damage and injury to RCN.

WHEREFORE, Opposer, RCN Televisión, S.A., prays that this Opposition be sustained and that the application Serial No. 77/686,221, for the mark RCN GLOBAL SAVER, for the services therein specified in International Class 38, be refused registration, and for such other relief as may be deemed just and proper.

Respectfully submitted,

RCN TELEVISIÓN, S.A.

By:



Gary H. Fechter

Kelly J. Garrone

Lori J. Shyavitz

McCarter & English, LLP

245 Park Ave., 27<sup>th</sup> Floor

New York, NY 10167

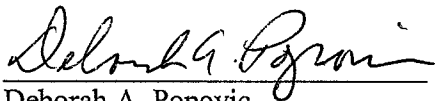
Phone (212)609-6800

Attorneys for Opposer

CERTIFICATE OF SERVICE UNDER 37 CFR §§ 2.111

I hereby certify that the foregoing Notice of Opposition to Application Serial No. 77/686,221 has been served via regular mail upon the Applicant's attorney of record at the correspondence address listed on the USPTO TARR record for Serial No. 77/686,221, on September 25, 2009, as follows:

PAUL J. KENNEDY  
PEPPER HAMILTON LLP  
3000 EIGHTEENTH AND ARCH STS  
3000 TWO LOGAN SQ  
PHILADELPHIA, PA 19103

  
Deborah A. Popovic

Date: September 25, 2009.