

ESTTA Tracking number: **ESTTA406094**Filing date: **04/28/2011**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	Paris Presents Incorporated		
Entity	Corporation	Citizenship	Illinois
Address	3800 Swanson Court Gurnee, IL 60031 UNITED STATES		

Attorney information	Kathleen S. Ryan The Ollila Law Group LLC 2569 Park Lane, Suite 202 Lafayette, CO 80026 UNITED STATES kryan@olgip.com, jjung@olgip.com Phone:303-938-9999
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**Applicant Information**

Application No	77357375	Publication date	03/29/2011
Opposition Filing Date	04/28/2011	Opposition Period Ends	04/28/2011
Applicant	BARBAR ARTIST INC. 270 N. CANON DRIVE SUITE 1544 BEVERLY HILLS, CA 90210 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 009. First Use: 2007/10/01 First Use In Commerce: 2007/10/01 All goods and services in the class are opposed, namely: Electric hair styling appliances, namely, hair wands, hair curlers, curling irons, flat irons
Class 011. First Use: 2007/10/01 First Use In Commerce: 2007/10/01 All goods and services in the class are opposed, namely: Hair dryers for domestic and commercial use

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

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

U.S. Registration No.	3528526	Application Date	07/12/2007
Registration Date	11/04/2008	Foreign Priority Date	NONE
Word Mark	ECOTOOLS		

Design Mark	<b>ECOTOOLS</b>
Description of Mark	NONE
Goods/Services	Class 021. First use: First Use: 2007/12/00 First Use In Commerce: 2007/12/00 Cosmetic brushes

U.S. Registration No.	3778557	Application Date	10/16/2007
Registration Date	04/20/2010	Foreign Priority Date	NONE
Word Mark	ECOTOOLS		
Design Mark	<b>ECOTOOLS</b>		
Description of Mark	NONE		
Goods/Services	Class 008. First use: First Use: 2008/12/00 First Use In Commerce: 2008/12/00 Pedicure implements, namely, nail files, nail clippers, cuticle pushers, tweezers, nail and cuticle scissors; Pedicure sets Class 021. First use: First Use: 2008/01/00 First Use In Commerce: 2008/01/00 Bath brushes; Bath products, namely, loofah sponges; Body scrubbing puffs; Washing brushes; Nail brushes; Facial sponges for applying make-up; Powder puffs; Bottles, sold empty; Bath sponges Class 024. First use: First Use: 2008/01/00 First Use In Commerce: 2008/01/00 Bath mitts Class 025. First use: First Use: 2008/10/00 First Use In Commerce: 2008/10/00 Sleep masks; Gloves for personal hand conditioning use		

Attachments	77227931#TMSN.jpeg ( 1 page )( bytes ) 77305203#TMSN.gif ( 1 page )( bytes ) 63210.159OP Notice of Opposition.PDF ( 5 pages )(2100397 bytes )
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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	/kathleen s. ryan/
Name	Kathleen S. Ryan
Date	04/28/2011

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

**In the Matter of Application Serial No. 77/357,375: ECO TOOLS**

PARIS PRESENTS INCORPORATED	)	
	)	
Opposer,	)	
	)	
v.	)	
	)	
	)	
	)	
BARBAR ARTISTS INC.	)	
	)	
Applicant.	)	
	)	

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

**NOTICE OF OPPOSITION**

Paris Presents Incorporated (“Opposer”), an Illinois Corporation with its principal place of business located at 3800 Swanson Court, Gurnee, IL 60031, believes it will be damaged by the registration of the mark ECO TOOLS in Classes 09 and 011, Application Serial No. 77/357,375, filed by Barbar Artist Inc. (“Applicant”), and opposes the same.

As grounds for opposition, Opposer alleges:

1. Opposer is a leading provider of branded and private label personal care products, including cosmetic accessories, specialty bath and body products, travel accessories, nail care, and other health and beauty products. Opposer’s products are available at retailers globally, including leading mass merchants, drug stores, department stores, and specialty retailers.
2. Applicant has, through the filing of Application Serial No. 77/357,375, sought to register the mark ECO TOOLS for “Electric hair styling appliances, namely, hair wands, hair



curlers, curling irons, flat irons” in Class 09 and “Hair dryers for domestic and commercial use” in Class 011 (“Applicant’s Goods”).

3. On July 12, 2007, before the Applicant’s December 20, 2007 filing date for Application Serial No. 77/357,375, Opposer filed an application for ECOTOOLS with the United States Patent and Trademark Office (“PTO”) in class 021 for “cosmetic brushes” on an Intent-to-Use basis and said application has since registered with the PTO (Reg. No. 3,528,526), with a constructive date of first use of July 12, 2007. Opposer is the current owner of this registration, which is valid and subsisting.

4. On October 16, 2007, before the Applicant’s December 20, 2007 filing date for Application Serial No. 77/357,375, Opposer filed an application for ECOTOOLS with the United States Patent and Trademark Office (“PTO”) in classes 08, 021, 024 and 025 for a number of cosmetic and personal care products on an Intent-to-Use basis and said application has since registered with the PTO (Reg. No. 3,778,557) with a constructive date of first use of October 16, 2007. Opposer is the current owner of this registration, which is valid and subsisting.

5. Since before Applicant’s December 20, 2007 filing date for Application Serial No. 77/357,375, Opposer has extensively marketed its products in interstate commerce under or in connection with its ECOTOOLS trademark.

6. Opposer has spent significant sums advertising and promoting Opposer’s ECOTOOLS mark through the United States.

7. By virtue of the success of the ECOTOOLS branded products in the United States and in other countries, and the advertising and promotion of its ECOTOOLS mark, Opposer has built up and now owns an extremely valuable goodwill in its ECOTOOLS mark.



8. Applicant's alleged use of the mark ECO TOOLS in connection with Applicant's Goods is without Opposer's consent or authorization.

9. Opposer will be damaged by registration of Application Serial No. 77/357,375 because such registration will grant to Applicant *prima facie* evidence of its exclusive rights to use the mark in conjunction with Applicant's Goods, and such use would be likely to cause confusion or mistake or deceive as to the affiliation, connection or associate of Applicant with Opposer and as to the origin, sponsorship and approval of Applicant's Goods, services and other activities by Opposer.

10. On information and belief, Applicant is not using, and has never used, the ECO TOOLS trademark on or in connection with goods specified in Application Serial No. 77/357,375. Therefore, on information and belief, when Applicant submitted its Application to the PTO indicating that it has used the mark in commerce, such information was false, and Applicant knew the information was false and Applicant intended to deceive the PTO.

WHEREFORE, registration by the Applicant of the applied for mark would be damaging to Opposer and Opposer respectfully prays that the PTO sustains this opposition and denies for registration Application Serial No. 77/357,375.

Opposer submits with this Notice of Opposition the requisite filing fee of \$600.00 for an opposition against both classes contained in Application Serial No. 77/357,375. Any other necessary fees may be deducted from The Ollila Law Group, LLC's deposit account no. 502622.

Respectfully submitted,

Dated: April 28, 2011

**THE OLLILA LAW GROUP, LLC**  
Attorneys for Paris Presents Incorporated

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**CERTIFICATE OF SERVICE**

I, Jocelyn Olson, certify that a copy of the **NOTICE OF OPPOSITION** has been served  
upon:

Barbar Artist Inc.  
270 N. Canon Drive Suite 1544  
Beverly Hills, California 90210

Via first class mail, postage prepaid, this 28<sup>th</sup> day of April, 2011

/s/ Jocelyn Olson