

ESTTA Tracking number: **ESTTA505384**

Filing date: **11/14/2012**

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	11/18/2012
Address	Via Vittor Pisani 12/A Milan, MI 20124 ITALY

Attorney information	Ralph H. Cathcart Ladas & Parry LLP 1040 Avenue of the Americas New York, NY 10018-3738 UNITED STATES rcathcart@ladas.com,rroa@ladas.com,mmercado@ladas.com Phone:212-708-1920
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**Applicant Information**

Application No	85500670	Publication date	05/22/2012
Opposition Filing Date	11/14/2012	Opposition Period Ends	11/18/2012
Applicant	Added Extras LLC 1400 broadway 27th floor new york, NY 10018 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 003. First Use: 2005/01/01 First Use In Commerce: 2007/02/01 All goods and services in the class are opposed, namely: Adhesives for artificial nails; Adhesives for false eyelashes, hair and nails; Aromatic body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream; Cosmetics and make-up; False nails; Nail art stickers; Nail buffing preparations; Nail care kits comprising nail polish; Nail care preparations; Nail care preparations, namely, nail softeners; Nail cream; Nail enamel; Nail enamel removers
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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.	1457922	Application Date	01/20/1987
Registration Date	09/22/1987	Foreign Priority	NONE

		Date	
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.	1372041	Application Date	04/17/1984
Registration Date	11/26/1985	Foreign Priority Date	NONE
Word Mark	DIVA		
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		

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 ) Notice of Opposition - Added Extras LLC.pdf ( 4 pages )(183169 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	/Ralph H. Cathcart/
Name	Ralph H. Cathcart
Date	11/14/2012

**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,	:	Opposition No. _____
v.	:	Serial No. 85/500,670
	:	
ADDED EXTRAS LLC,	:	
Applicant.	:	
	-----X	

**NOTICE OF OPPOSITION**

In the matter of Application Serial No. 85/500,670, filed on December 21, 2011 by Added Extras LLC, a New York limited liability company with an address at 1400 Broadway, 27<sup>th</sup> Floor, New York, NY 10018 (“Applicant”), in International Class 3 seeking registration on the Principal Register of the trademark DIVA COUTURE in connection with

“[a]dhesives for artificial nails; Adhesives for false eyelashes, hair and nails; Aromatic body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream; Cosmetics and make-up; False nails; Nail art stickers; Nail buffing preparations; Nail care kits comprising nail polish; Nail care preparations; Nail care preparations, namely, nail softeners; Nail cream; Nail enamel; Nail enamel removers”

(“DIVA COUTURE”), which application was published for opposition on May 22, 2012, with extensions of time to file a Notice of Opposition granted up to and including November 21, 2012;

Emanuel Ungaro Italia S.r.l., an Italian limited liability company with an office at Via Vittor Pissani, 12/a, Milan, Italy (“Opposer”), believes that it is or will be damaged

by the registration of Application No. 85/500,670 for the mark DIVA COUTURE and hereby opposes registration of the mark on the following grounds:

1. Opposer is the owner of the marks DIVA and DIVA UNGARO, including incontestable U.S. Registration Nos. 1,457,922; 1,372,041 and 1,366,196, respectively, and the goodwill associated with such marks (hereinafter individually and collectively referred to as the “DIVA Marks”).

2. Opposer adopted and has continuously used its DIVA Marks in connection with personal care products, including, *inter alia*, bath gel, body lotion and fragrances since long prior to the filing date of Applicant’s DIVA COUTURE application.

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

4. Applicant’s use of the mark DIVA COUTURE in connection with personal care products, namely, “

“[a]dhesives for artificial nails; Adhesives for false eyelashes, hair and nails; Aromatic body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream; Cosmetics and make-up; False nails; Nail art stickers; Nail buffing preparations; Nail care kits comprising nail polish; Nail care preparations; Nail care preparations, namely, nail softeners; Nail cream; Nail enamel; Nail enamel removers”

constitutes use of a mark confusingly similar to Opposer’s DIVA Marks. Applicant’s DIVA COUTURE mark wholly incorporates Opposer’s mark, DIVA, and is likely to be perceived by purchasers as either a variation or another of Opposer’s DIVA Marks. Moreover, Applicant’s goods are closely related to the personal care products marketed

and sold by Opposer under its DIVA Marks and COUTURE implies fashion design, while Opposer's goods are affiliated with the famous designer Emanuel Ungaro.

5. Applicant's DIVA COUTURE mark is likely to be confused with Opposer's DIVA Marks insofar as the average purchaser is likely to be confused and deceived into believing that Applicant's products originate with, are in some way associated with, or are connected, sponsored or authorized by, Opposer.

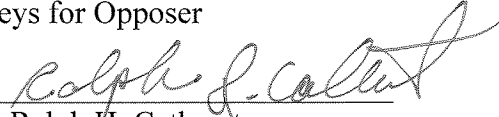
WHEREFORE, Opposer requests that the opposition be sustained and that Application No. 85/500,670 be refused registration.

Respectfully submitted,

**LADAS & PARRY LLP**  
Attorneys for Opposer

Dated: November 14, 2012

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

  
Ralph H. Cathcart  
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**CERTIFICATE OF TRANSMISSION**

I, Reinaldo M. Roa, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** has been transmitted electronically to the United States Patent and Trademark Office on the date indicated:

Dated: November 14, 2012

  
Reinaldo M. Roa

**CERTIFICATE OF SERVICE**

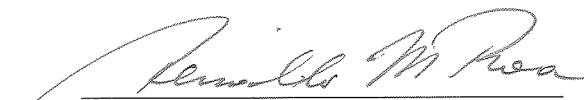
I, Reinaldo M. Roa, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served via First Class Mail, on the date indicated below, to the following:

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Dated: November 14, 2012

  
Reinaldo M. Roa