

ESTTA Tracking number: **ESTTA974070**

Filing date: **05/15/2019**

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	Anova Applied Electronics, Inc.
Granted to Date of previous extension	05/15/2019
Address	667 Howard Street San Francisco, CA 94105 UNITED STATES

Correspondence information	Martin Schwimmer Leason Ellis LLP One Barker Avenue White Plains, NY 10601 UNITED STATES frisbee@leasonellis.com, schwimmer@leasonellis.com, lelitdocketing@leasonellis.com 9148218011
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Applicant Information

Application No	87857820	Publication date	01/15/2019
Opposition Filing Date	05/15/2019	Opposition Period Ends	05/15/2019
Applicant	Precision Appliance Technology, Inc. Suite 405 2611 Eastlake Ave. E. Seattle, WA 98102 UNITED STATES		


Goods/Services Affected by Opposition

Class 007. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Vacuum packaging machines; Vacuum pumps
Class 011. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Sous-vide cookers, electric; Sous-vide machines; Sous-vide machines for household use; Sous-vide machines for commercial use
Class 016. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Plastic oven cooking bags

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.	4989116	Application Date	04/16/2014
Registration Date	06/28/2016	Foreign Priority Date	NONE
Word Mark	PRECISION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2015/09/11 First Use In Commerce: 2015/09/11 Temperature controllers for use in cooking, namely, constant temperature immersion circulators		

Attachments	86253374#TMSN.png(bytes) 02217640.PDF(18985 bytes)
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Signature	/chelsearussell/
Name	Chelsea A Russell
Date	05/15/2019

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

In the Matter of Application Serial No. 87857820
Published in the Official Gazette on Jan. 15, 2019

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ANOVA APPLIED ELECTRONICS, INC.	:	
Opposer,	:	Opposition No. _____
	:	
v.	:	
	:	
PRECISION APPLIANCE TECHNOLOGY, INC.	:	
Applicant.	:	
	:	
-----X	:	

NOTICE OF OPPOSITION

Opposer, Anova Applied Electronics, Inc., a corporation organized and existing under the laws of Delaware, having an address at 667 Howard Street, San Francisco, California 94105, believes that it would be damaged by the issuance of a registration for the trademark V VESTA PRECISION and Design as applied for by Precision Appliance Technology, Inc. (“Applicant”) in Application Serial No. 87857820, filed March 30 2018, for “Vacuum packaging machines; Vacuum pumps” in Class 7, “Sous-vide cookers, electric; Sous-vide machines; Sous-vide machines for household use; Sous-vide machines for commercial use” in Class 11 and “Plastic oven cooking bags” in Class 16 (“Applicant’s Application”) and therefore opposes the same.

As grounds for its opposition, Opposer, by its attorneys Leason Ellis LLP, alleges as follows:

1. Opposer is a market leader in the field of sous-vide cooking equipment and

appliances.

2. Opposer has used the marks PRECISION and PRECISION COOKER in U.S. commerce in connection with constant temperature immersion circulators, namely, sous-vide cookers, since at least as early as September 11, 2015.

3. Opposer, through its predecessor in interest, applied to register the mark PRECISION on April 16, 2014 for “Temperature controllers for use in cooking, namely, constant temperature immersion circulators,” and the U.S. Patent and Trademark Office (“USPTO”) granted registration of Opposer’s PRECISION mark on June 28, 2016, assigning it Reg. No. 4989116 (“Opposer’s Registration”).

4. Opposer has priority over the application at issue because Opposer’s earlier registration and prior use in commerce, both of which precede the Applicant’s filing date for Applicant’s Application and/or any alleged date of first use in commerce of Applicant’s purported mark V VESTA PRECISION and Design.

5. Applicant’s V VESTA PRECISION and Design mark is similar to Opposer’s PRECISION and PRECISION COOKER marks because Applicant’s V VESTA PRECISION and Design mark fully subsumes Opposer’s PRECISION mark and incorporates the dominant element of Opposer’s PRECISION COOKER mark.

6. On information and belief, the goods recited in Applicant’s Application are related to or the same as those products offered by Opposer in connection with its PRECISION and PRECISION COOKER marks.

7. For the above reasons, the registration of Applicant’s alleged mark V VESTA PRECISION and Design is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that those goods and services emanate from or are otherwise sponsored,

endorsed or approved by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

8. Opposer will be damaged by the issuance of the registration sought by Applicant within the meaning of 15 USC § 1063 because such registration would support and assist Applicant in the confusing, misleading or deceptive use of Applicant's alleged V VESTA PRECISION and Design Mark, and would give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

WHEREFORE, it is respectfully requested that this opposition be sustained, and that the registration sought by Application Serial No. 87857820 be denied.

Dated: May 15, 2019

Respectfully submitted,

/Matthew L. Frisbee/
Martin Schwimmer
Matthew L. Frisbee

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