



World Intellectual Property
Organisation (WIPO)
International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Your Reference:
International Registration No:
WO0000001475821
Examiner: Annmarie Canniff
Direct Telephone: +44(0)1633811036
Date: 06 January 2020

Intl Reg No: WO0000001475821
Mark: REVIVRE LABS
Holder: HOUN Bruno
Class(es): 5, 44

**Notification Of A Provisional Total Refusal Of Protection Based On An
Opposition By The United Kingdom Intellectual Property Office In
Accordance With Article 5 Of The Madrid Protocol**

I am writing to inform you that following receipt of an opposition to the above trade mark, it is necessary to issue this formal provisional refusal letter. This provisional refusal covers all of the goods and services of the International Registration.

Please find attached a copy of the TM7 'Notice of Opposition', which includes details of any marks referred to in the statement of case, which was received by the United Kingdom Trade Mark Registry. Copies of these documents have been sent to the holder informing them of this provisional refusal.

If the holder of the International Registration wishes to file a counterstatement, they must complete the form TM8 'Notice of defence and counterstatement', which is available at ipo.gov.uk/tmforms and **return it to this office** within **two months** of the date of this letter, that is on or before 6 March 2020. This period cannot be extended, except in the circumstances described below. The holder should note that failure to file a TM8 will result in the provisional refusal being upheld.

If both parties to this dispute wish to negotiate and want to enter a 'cooling off period' then the time for filing the TM8 can be extended for a further seven months by the filing the form TM9c 'Request for a cooling off period, which is available at ipo.gov.uk/tmforms

The TM8 should be received on or before the date requested above unless a cooling off period is entered into by the parties.

The holder of the International Registration must provide us with an address for correspondence in the United Kingdom, another EEA state or the Channel Islands on a form TM33 'Appointment or change of agent or contact address', which is available at ipo.gov.uk/tmforms within this two month period.

If one is not provided within this time the refusal will be made final.

Yours faithfully

Annmarie Canniff
Trade Marks Registry

[Skip to main content](#)

Intellectual Property Office

Trade mark number

EU013925052

StatusRegistered

Overview

Trade mark



Dates

Filing date

09 April 2015

Date of entry in register

06 August 2015

Renewal date09 April 2025

Goods and services

Classes and terms

Class 3

Soaps; Soaps for use on the skin; Deodorant for personal use; Essential oils; Essential oils for personal use; Perfumery; Cosmetics; Creams for the face and eyes; Body creams and lotions; Eyebrow pencils; Eyelid shadow; Make up foundations; Hand creams; Cleansing lotions and emulsions for the face and eyes; Nail polish; Nail varnish remover; Lipstick; Mascara; Massage gels; Sun tan lotion; bronzing preparations for the skin; Hair preparations and treatments; Hair lotions; Hair dyes; Shampoo.

Names and addresses

Holder's name

Revivre Italia S.p.A.

Via Corridoni Filippo, 11, Milano, 20122, Italy

Representative

BUGNION S.P.A.

Viale Lancetti, 17, Milano, 20158, Italy

Publications

First advert

Journal

2015/079

Date of publication

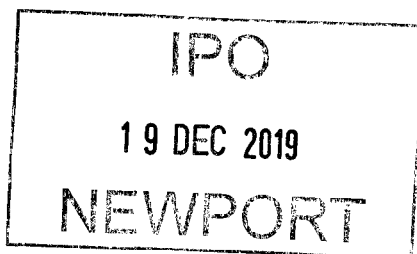
29 April 2015

The information displayed is our version of the details supplied by EUIPO. For the official register of the case please refer to the [EUIPO website](#).

Intellectual Property Office is an operating name of the Patent Office



Intellectual
Property
Office



J860870/ 0001 D00192 TM07.....
.20DEC19 100.00 ACCOUNT OP000418845

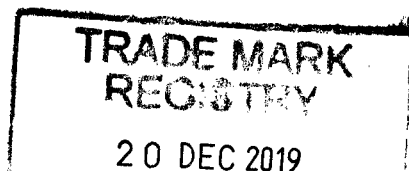
Form TM7

Notice of opposition and statement of grounds

Fee ☒ £100 Opposition based on Section 5(1) and/or 5(2) ONLY

☐ £200 Opposition based on, or including, any other grounds

Note: If you wish to oppose under Section 5(1) and/or 5(2) and one or more other grounds, the fee will be £200



Use this form to notify of an opposition to a trade mark application or international registration and to set out the grounds on which you are basing this opposition.

Do not use this form if you wish to file a Fast Track opposition under Section 5(1) and/or 5(2); use Form TM7F.

1. Trade mark number Number of the trade mark you are opposing. If the opposition concerns an International Registration, help us identify the correct trade mark by adding "IR"	IR 0000001475821	
2. Full name of applicant/holder Whose trade mark you are opposing	HOUN Bruno	
3. Full name of opponent	Revivre Italia S.p.A.	
Address If the address is not within the United Kingdom, European Economic Area (EEA – which includes the European Union) or the Channel Islands you must have a representative in one of these regions and complete section 4 below	Via Corridoni Filippo, 11	
	Milano	
	Italy	
NOTE: It will no longer be possible for two (or more) parties to jointly oppose a trade mark based on earlier marks/rights that they each own, unless the parties jointly own the relevant earlier marks/rights. Separate oppositions will now be required. See section 38(2A) of the Act.	Postcode	I-20122
Email address Complete if you have no representative and would like us to correspond with you by email		
4. Representative name If you have no representative, go to section 5.	J A KEMP LLP	
Address The address provided in this section must be in the UK, European Economic Area (EEA) or the Channel Islands.	14 South Square	
	Gray's Inn	
	London	
NOTE: We will communicate with the representative if this section has been completed.	Postcode	WC1R 5JJ
Email address Complete if you would like us to correspond with you by email	mail@jakemp.com	

5. Related proceedings

If applicable, select location of any related proceedings and enter the case number allocated to the proceedings.

IPO Registry

UK Courts

EUIPO

Number

6. Opposition notification date

If you have informed the applicant/holder of an intention to oppose the trade mark application, designation – enter the date you notified them.
[**See Note]

18/11/2019

****Note:** An opposition launched without giving the applicant or holder a reasonable opportunity to withdraw the application, international designation or amendment may result in the opponent being ineligible for an award of costs.

7. Declaration

I believe that the facts stated in this form and the attached statement of grounds are true.

Signature

J A Kemp LLP

Name

(BLOCK CAPITALS)

J A KEMP LLP

Date

19/12/2019

8. Your reference

Complete if you would like us to quote this in communications with you, otherwise leave blank.

Y41027GB

Contact details

Name, daytime telephone number of the person to contact in case of query.

Ben Mooneapillay
020 3077 8600

Number of sheets attached to this form

Checklist

Please make sure you have remembered to:

Sign and date the form

Complete fee sheet (Form FS2)

Enclose the fee and fee sheet. Make
cheques payable to Intellectual Property Office

Where to send

Intellectual Property Office
Trade Marks Registry
Concept House
Cardiff Road
Newport
South Wales
NP10 8QQ

Please tick on what grounds you are opposing the trade mark and continue to the relevant section(s)

☐

Opposition is based on Sections 5(1) or 5(2): The trade mark is either identical or similar to an earlier trade mark and is to be registered for identical and/or similar goods and services.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark.

> COMPLETE SECTION A

☐

Opposition is based on Section 5(3): The trade mark is either identical or similar to an earlier trade mark which has a reputation. Using the later mark would take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier mark.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark. Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION B

☐

Opposition is based on Section 5(4)(a): Where the use of the applicant's trade mark would be contrary to law, in particular, the law of passing off.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier right. Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION C

☐

Opposition is based on Section 3: The trade mark is excluded from registration because it describes the goods/services, or is not distinctive, or consists of signs that are customary within the trade, or the application was made in bad faith.

Note: Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION D

☐

Opposition is based on other grounds.

Note: Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION E

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input checked="" type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number Your trade mark	013925052
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Type of mark Please tick	<input type="checkbox"/> UK	<input checked="" type="checkbox"/> EUTM	<input type="checkbox"/> International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

See continuation sheet

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="checked" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the application date (or priority date, if applicable) of the application or international registration you wish to oppose?

☐

Yes

☒

No > GO TO Q4

Q3. Has the trade mark been used in the 5-year period ending on the date of application (or priority date, if applicable) of the opposed mark?

☐

Yes

☐

No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1?

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>
<div></div>	

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

See attached Statement of Grounds.


IN THE MATTER OF
UK Designation of IR No. 01475821
REVIVRE LABS
In the name of HOUN Bruno
(the Opposed application)

-and-

Opposition thereto by
Revivre Italia S.p.A.

STATEMENT OF GROUNDS

1. The Opponent is the proprietor of EU trade mark registration number 013925052 REVIVRE plus device, which being registered since 6 August 2015 is an earlier trade mark as defined by section 6 of the Trade Marks Act 1994 (the Earlier Mark).
2. This opposition is based on Section 5 (2) (b) of the Trade Marks Act 1994. What follows is the Opponent's case in basic terms. It will expand upon the arguments and principles set out herein during the course of the proceedings.
3. The marks to be compared are as follows:

Earlier Mark	Subject Mark
	REVIVRE LABS

4. It is trite law that when assessing similarity of trade marks they are to be compared visually, aurally and conceptually.
5. Visually, the marks clearly share the element REVIVRE. The Earlier Mark does not contain the descriptive element "LABS" and the later mark does not include the stylised element contained in the Earlier Mark. Visually, the respective marks are similar to a high degree.

6. Aurally, the marks are identical in so far as the "REVIVRE" elements are concerned. The word "LABS" does not appear in the Earlier Mark. The stylised element would not be referred to aurally in normal commercial transactions. Therefore, aurally, the marks are similar to a high degree.

7. The word "REVIVRE" has no meaning in the English language. It is distinctive. It is similar to the word "Revive" and to the extent that similarity is called to mind by the average UK consumer the marks are conceptually very similar.

8. The dominant and distinctive element shared by the Earlier Trade Mark and the subject mark is the word "REVIVRE". The "LABS" element is descriptive and non-distinctive in so far as the goods are concerned and carry little, if any, trade mark significance. The stylisation of the Earlier Mark is slight and not dominant.

9. Overall, the marks are similar to a high degree.

10. It is clear that many of the respective goods are highly similar. For example, medicated creams for the moisturisation of the skin being similar to their purely cosmetic counterparts (i.e. non-medicated creams for the moisturisation of the skin). Similarly, food supplements which improve the appearance of the skin or hair (for example) are similar to cosmetics, creams and hair preparations and treatments. They have the same nature and purpose and are often sold through the same trade channels (e.g. chemists) to the same consumers.

11. In our submission, bearing in mind the principle of imperfect recollection, it is highly likely that consumers will (a) directly confuse the respective marks, or (b) assume an economic connection in trade between the owners of the respective marks.

12. Bearing in mind, inter alia, (a) the close similarity of the marks, (b) the identity or otherwise close similarity of the respective goods and services (c) the interdependence principle¹, with which the tribunal is familiar, it follows that, despite the circumspect nature of the average consumer, there is an inevitable likelihood of confusion.

13. In light of the foregoing, the Opponent requests that the application be refused for all of the opposed goods and services and that an award of costs be made in its favour.

J A KEMP LLP
For the Opponent
19 December 2019

¹ See *Canon*

Megan Rawson

From: Ben Mooneapillay <BMooneapillay@jakemp.com>
Sent: 19 December 2019 14:40
To: Tribunalsection
Subject: Opposition to International Trade Mark (UK) No. 1475821 REVIVRE LABS Our Ref: Y41027GB BRM/la [JAK-DMS.FID468849]
Attachments: TM7 (Final uneditable) Y41027GB BRM.PDF; Statement of Grounds Y41027GB BRM.PDF; fs2 Fee sheet_ Y41027GB BRM.PDF
Categories: Form with fee sheet to be printed

Dear Sirs

International Trade Mark (UK) Registration No. 1475821
REVIVRE LABS in Classes 5 and 44
in the name of Bruno Houn
and Opposition thereto by Revivre Italia S.p.A
Our Ref: Y41027GB BRM/la



We file herewith the following:

- A TM7 Notice of Opposition
- A Statement of Grounds
- A Fee Sheet.

Yours faithfully

Ben Mooneapillay
Partner, European Trade Mark Attorney
For J A Kemp LLP

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bmooneapillay@jakemp.com
www.jakemp.com



"Recommended" in The Legal 500 and World Trade Mark Review 1000

J A • K E M P

The firm is ranked in the top tier by Chambers & Partners, The Legal 500, IAM Patent 1000 and MIP IP Stars

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