

trademark, and hereby opposes the same, on the grounds set forth below.

The Parties

1. Opposer, R&S PHARMA HOLDINGS, Inc., is a corporation organized and existing under the laws of the Commonwealth of Kentucky, currently located and doing business at 701 Columbia Avenue, Glasgow, Kentucky 42141.

2. Applicant, QS PHARMA LLC, upon information and belief, is a Delaware limited liability company with a place of business at 28 Country Gates Drive, Wilmington, Delaware 19810.

The Grounds for Opposition

3. Opposer is the assignee/owner of U.S. Trademark Registration No. 2618552, for the mark R&S PHARMA in International Class 005 for “Nutritional supplements; pharmaceutical preparations for the treatment of conditions of the bones, muscles, skin, eyes and ears, cardiovascular system, respiratory system, central nervous system, reproductive system, urinary system and gastrointestinal system; pharmaceutical preparations for the treatment of tumors; for the treatment of impotence; hormones; blood substitute for humans; anti-inflammatories; cough treatment preparations; antibiotic and anti-infectives; viral, bacterial and rabies vaccines; toxoids; oral contraceptives; sedatives; analgesics; topical antiseptics, creams and antibiotic ointments for dermatological and ophthalmic use”, which was registered on the Principal Register on September 10, 2002.

4. Said registration for the mark R & S PHARMA was based on an application filed in the U.S. Patent and Trademark Office on June 30, 1999, which is a

Respectfully submitted,

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Dated: March 16, 2004

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date prior to the date of filing of applicant's intent to use application and prior to any use by Applicant of its alleged mark.

5. Said registered mark of Opposer is valid and subsisting and is conclusive evidence of Opposer's exclusive right to use said mark in commerce on the goods specified in said registration. Said use has been valid and continuous since said date of first use and the relevant class of the public has come to associate Opposer with said designation.

6. Applicant filed an intent to use application Serial No. 76/454803 for the mark QS PHARMA, in International Class 005 for "Pharmaceutical preparations for the prevention, mitigation, and treatment of cancer, cardiovascular diseases, central nervous system diseases, gastrointestinal diseases, infections, metabolic diseases, musculoskeletal diseases, obesity, respiratory diseases, thromboembolic diseases, and urogenital diseases" and in International Class 035 for "outsourcing services for pharmaceutical and other companies relating to the development of compounds and determining the viability and usefulness of compounds for medical and other applications."

7. For the Pending Application, Applicant has designated the law firm Woodcock Washburn LLP, One Liberty Place, 46th Floor, Philadelphia, PA 19103, as its designated representative upon whom notice or process in proceedings affecting the mark may be served. The attorney of record who has corresponded with the Trademark Office regarding the Pending Applications is Denise I. Mroz, of that law office.

8. Opposer's goods and services are the same as or highly related to those claimed in Applicant's Pending Application.

9. On information and belief, Applicant has not used the claimed mark QS PHARMA in commerce to identify Applicant's goods or services or to distinguish them from those offered by others.

10. The mark QS PHARMA is not registrable to Applicant under Section 1(a) of the Lanham Act.

11. The mark QS PHARMA is not registrable to Applicant under Section 2(d) of the Lanham Act.

12. Opposer is likely to be damaged by registration to Applicant of the mark QS PHARMA, in view of the similarity of the respective marks and the related nature of the goods/services of the respective parties, thus it is alleged that Applicant's mark so resembles Opposer's registered mark, as to be likely to cause confusion, or to cause mistake, or to deceive.

13. Opposer is also likely to be damaged by registration to Applicant of the mark QS PHARMA, in that the prima facie effect of such registration would cause dilution under 15 U.S.C. §1125(c).

WHEREFORE, Opposer respectfully requests that this Notice of Opposition be sustained; that Pending Application Serial No. 76/454803 be denied registration.

Opposer hereby appoints Stoll, Keenon & Park, LLP, a law firm including the following attorneys, Joanne S. Richards, William L. Montague Jr., and Mark Taylor, all members of the bar of the Commonwealth of Kentucky, to act as attorneys for opposer herein, with full power to prosecute said opposition, to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this Opposition.