

ESTTA Tracking number: **ESTTA369493**

Filing date: **09/22/2010**

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	ConvaTec Inc.
Granted to Date of previous extension	09/22/2010
Address	200 Headquarters Park Drive Skillman, NJ 08558 UNITED STATES

Attorney information	Thomas L. Holt Steptoe & Johnson LLP 115 South LaSalle Chicago, IL 60603 UNITED STATES tholt@steptoe.com, ipdocket@steptoe.com Phone:312-577-1300
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**Applicant Information**

Application No	77439318	Publication date	05/25/2010
Opposition Filing Date	09/22/2010	Opposition Period Ends	09/22/2010
International Registration No.	NONE	International Registration Date	NONE
Applicant	Advanced Medical Solutions Limited Road Three, Winsford Industrial Estate Winsford, CW73PD UNITED KINGDOM		

**Goods/Services Affected by Opposition**

Class 005. All goods and services in the class are opposed, namely: Dressings for wounds; self-adhesive dressings; medical and surgical dressings; materials for wound dressings in the nature of gauze; surgical bandages, tissues and waddings; adhesive tapes for medical purposes; liquid medical adhesives for binding skin wounds; skin coatings, namely, liquid medical adhesives for binding and protecting skin wounds; pharmaceutical preparations for wound closure; medical adhesive for binding wounds, absorbent dressing for wounds; anti-inflammatory clear gels for wound healing, sold exclusively to hospitals, medical and surgical offices and clinics
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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	2048097	Application Date	07/15/1994
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No.			
Registration Date	03/25/1997	Foreign Priority Date	NONE
Word Mark	AQUACEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1996/02/00 First Use In Commerce: 1996/02/00 wound dressings and wound fillers taking the form of powder, granules, sheets or packing material		

U.S. Registration No.	2837287	Application Date	07/12/2002
Registration Date	04/27/2004	Foreign Priority Date	NONE
Word Mark	AQUACEL AG		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2002/06/01 First Use In Commerce: 2002/08/01 Wound care products, namely, wound, burn and surgical dressings; surgical bandages; bandages for skin wounds; impregnated bandages for skin wounds; impregnated surgical bandages; impregnated wound dressings; wound fillers		

U.S. Registration No.	2034182	Application Date	09/15/1994
Registration Date	01/28/1997	Foreign Priority Date	NONE
Word Mark	HYDROFIBER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1996/02/29 First Use In Commerce: 1996/02/29 wound dressings and fillers		

U.S. Registration No.	3665200	Application Date	08/28/2006
Registration Date	08/04/2009	Foreign Priority Date	NONE
Word Mark	HYDROFIBER CONVATEC TECHNOLOGY		

Design Mark	 <p><b>Hydrofiber</b> ConvaTec Technology</p>
Description of Mark	The mark consists of Miscellaneous triangular designs with one or more curved sides and the words "Hydrofiber ConvaTec Technology".
Goods/Services	Class 005. First use: First Use: 2009/03/31 First Use In Commerce: 2009/03/31 Wound dressings and fillers

Attachments	78143324#TMSN.gif ( 1 page )( bytes ) 78961802#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition - AQUAFIBER FINAL.pdf ( 5 pages )(30523 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	/Thomas L. Holt/
Name	Thomas L. Holt
Date	09/22/2010

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

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CONVATEC INC.,	)	
	)	
Opposer,	)	Opposition No. _____
	)	
v.	)	Serial No. 77/439,318
	)	
ADVANCED MEDICAL SOLUTIONS LTD.,	)	Mark: AQUAFIBER
	)	
	)	Filing Date: April 3, 2008
	)	
Applicant.	)	<b>NOTICE OF OPPOSITION</b>
	)	

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ConvaTec Inc., a Delaware corporation with its place of business at 200 Headquarters Park Drive, Skillman, New Jersey 08558 (“ConvaTec”), believes that it will be damaged by registration of the mark AQUAFIBER, Serial No. 77/439,318, filed on April 3, 2008 by Advanced Medical Solutions Limited, a United Kingdom corporation with a place of business at Road Three, Winsford Industrial Estate, Winsford, United Kingdom, CW73PD (“AMS”). ConvaTec hereby opposes registration of the AQUAFIBER mark on the following grounds:


1. ConvaTec is a world leader in the development and marketing of medical technologies for community and hospital care, specializing in innovative wound therapeutics, ostomy care, continence and critical care, and infusion devices, all of which are marketed and sold in interstate commerce.

2. Since as early as February 1996, ConvaTec, through its predecessors in interest E.R. Squibb & Sons, Inc. and E.R. Squibb & Sons, L.L.C. (collectively “ConvaTec”), has used in interstate commerce the AQUACEL and HYDROFIBER trademarks in connection with wound dressings and fillers.

3. ConvaTec has invested significant resources in developing, advertising, promoting, and marketing wound dressings and fillers under the AQUACEL and HYDROFIBER trademarks and in establishing the AQUACEL and HYDROFIBER products in the minds of consumers as high quality products offered by ConvaTec. The AQUACEL and HYDROFIBER marks have been printed on a variety of materials, such as product packaging, brochures, pamphlets and the like.

4. The AQUACEL and HYDROFIBER marks are inherently distinctive. By reason of extensive use and promotion, ConvaTec's AQUACEL and HYDROFIBER trademarks have become favorably known among consumers as used in connection with ConvaTec's wound dressings and fillers and have become valuable assets as symbols of ConvaTec, its quality products and its goodwill.

5. ConvaTec has taken steps to protect the AQUACEL and HYDROFIBER trademarks in connection with its products and owns the federal registrations set forth below.

Trademark	Reg. No.	Reg. Date	Goods
AQUACEL	2,048,097	March 25, 1997	Wound dressings and wound fillers taking the form of powder, granules, sheets or packing material in International Class 005
	2,837,287	April 27, 2004	Wound care products, namely, wound, burn and surgical dressings; surgical bandages; bandages for skin wounds; impregnated bandages for skin wounds; impregnated surgical bandages; impregnated wound dressings; wound fillers in International Class 005
HYDROFIBER	2,034,182	January 28, 1997	Wound dressings and fillers in International Class 005

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