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

Proceeding	91200833
Party	Defendant Theralogix, LLC
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Date	07/29/2011
Attachments	Isorel Answer.pdf (5 pages)(31950 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Akryon,)
)
 Opposer,)
)
 v.) Opposition No. 91200833
)
 Theralogix, LLC,) Serial No. 85/166,422
)
 Applicant.)

ANSWER

Theralogix, LLC (“Applicant”), by and through its attorneys, hereby answers Akryon’s (“Opposer”) Notice of Opposition. With respect to the preamble of the Notice of Opposition, Applicant denies that Opposer is being or will be damaged by the registration of United States Trademark Application Serial No. 85/166,422.

1. Applicant is without information sufficient to admit or deny the allegations in Paragraph 1 of the Notice of Opposition and, therefore, denies the same.
2. Applicant is without information sufficient to admit or deny the allegations in Paragraph 2 of the Notice of Opposition and, therefore, denies the same.
3. Applicant admits that the United States Patent and Trademark Office’s records show that Opposer owns United States Trademark Registration No. 3,995,586 and that the registration covers: “Pharmaceutical products, namely, medicinal and nutraceutical preparations, immuno-stimulants and antioxidants sold in the form of powder or of capsule, with a dietary and energizing effect; dietary and energizing products for medical use, namely, food complements in the nature of meal replacement powders and drinks; and medicinal nutritional supplements in powder or capsule form that have dietary and energizing effect, namely, vegetable based food supplements and functional foodstuffs containing fruits, vegetables, and plant extracts rich in

SOD to fight against the toxic waste of the oxygen and to improve and maintain the physical, nutritional and dermatological condition of the consumers by the prevention and the slowing down oxidizing damages caused by cutaneous and hormonal ageing, food imbalance, oxidizing stress and chronic affections, in particular asthma, diabetes, metabolic syndrome, neurodegenerative diseases; dietary and energizing products for medical in the nature of nutritional supplements containing fatty acids, amino acids, carotenoids, food fibers, fruits and vegetables, extracts of fruits and vegetables, tea, cocoa beans, vegetable seeds, vegetable roots, bark of vegetables and flowers of vegetables for antioxidant, anti-inflammatory, immunostimulants, and thinning and slimming purposes, all these products being for medical use and sold under their conventional shape or in the form of pastilles, capsules and powder” in International Class 5.

4. Applicant is without information sufficient to admit or deny the allegations in Paragraph 4 of the Notice of Opposition and, therefore, denies the same. Opposer’s registration has not been received into evidence or made part of the record in this case because the Notice of Opposition was not accompanied by an original or photocopy of the registration prepared and issued by the United States Patent and Trademark Office showing both the current status of and current title to the registration, or by a current printout of information from the electronic database records of the United States Patent and Trademark Office showing the current status and title of the registration.

5. Applicant denies the allegations in Paragraph 5 of the Notice of Opposition. Applicant filed its application on November 1, 2010; not on November 10, 2010.

6. Applicant admits the allegations in Paragraph 6 of the Notice of Opposition.

7. Applicant denies the allegations in Paragraph 7 of the Notice of Opposition.

Applicant’s application covers nutritional and dietary supplements and not “complements.”

8. Applicant is without information sufficient to admit or deny the allegations in Paragraph 8 of the Notice of Opposition and, therefore, denies the same.

9. Applicant denies the allegations in Paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations in Paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations in Paragraph 11 of the Notice of Opposition.

12. Applicant is without information sufficient to admit or deny the allegations in Paragraph 12 of the Notice of Opposition and, therefore, denies the same.

13. Applicant denies the allegations in Paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations in Paragraph 14 of the Notice of Opposition.

Applicant denies that Opposer is entitled to the relief for which it prays in the Notice of Opposition. WHEREFORE, Applicant prays that the Notice of Opposition be dismissed with prejudice and that its registration issue forthwith.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The parties' marks are not similar.

Second Affirmative Defense

The parties' goods are not related.

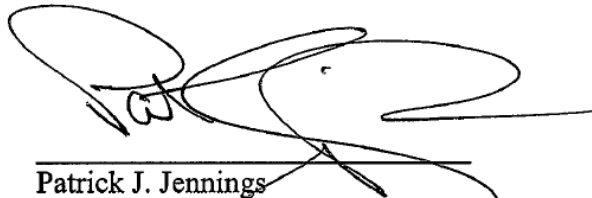
Third Affirmative Defense

Opposer does not appear to be using the ISOCELL mark in commerce in the United States on all of the goods covered by its registration.

Fourth Affirmative Defense

Opposer has not properly pleaded a priority claim in this case.

Respectfully submitted,



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