

ESTTA Tracking number: **ESTTA738080**

Filing date: **04/05/2016**

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	Gilead Sciences Ireland UC
Granted to Date of previous extension	05/25/2016
Address	IDA Business and Technology Park Carrigtohill, CO. Cork, 000000 IRELAND
Attorney information	LORI F MAYALL GILEAD SCIENCES INC 333 LAKESIDE DR FOSTER CITY, CA 94404 UNITED STATES trademarks@gilead.com, lori.mayall@gilead.com

Applicant Information

Application No	86737225	Publication date	01/26/2016
Opposition Filing Date	04/05/2016	Opposition Period Ends	05/25/2016
Applicant	TaiRx, Inc. San-Chung Rd., Nankang Business Park Taipei, 11560 TAIWAN		

Goods/Services Affected by Opposition


<p>Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Agricultural biopesticides; Biological preparations for the treatment of chronics, tumors, cancers, human diseases; Chemical preparations for pharmaceutical or medical purposes, namely, for chronics, tumors, cancers, human diseases; Chemical preparations for sanitary use; Clinical medical reagents; Diagnostic preparations for medical purposes; Diagnostic preparations for medical purposes for detecting the presence of malignant, inflammatory and autoimmune disorders and conditions and tissue trauma in humans; Dietary and nutritional supplements; Dietary food supplements; Dietary supplements; Dietetic foods, namely, pasta, crackers, etc. adapted for medical use; Food supplements; Food supplements for humans, teenagers, dogs, or treating nausea, treating fatigue; Health food supplements; Herbal supplements; Medicinal herbal preparations; Medicinal herbs; Natural herbal supplements; Nutritional supplements; Pharmaceutical preparations for animal skincare; Vitamin supplements</p>
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Registration barred by claim or issue preclusion	Mayer/Berkshire Corp. v. Berkshire Fashions Inc. 424 F.3d 1229,76 USPQ2d 1310 (Fed. Cir.

	2005)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4371363	Application Date	11/07/2012
Registration Date	07/23/2013	Foreign Priority Date	08/30/2012
Word Mark	SELNISA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 0 First Use In Commerce: 0 Pharmaceuticals, namely antivirals; anti-inflammatories; pharmaceutical preparations for the treatment of cardiovascular diseases and disorders; pharmaceutical preparations for the treatment of oncological diseases and disorders; pharmaceutical preparations for the treatment of respiratory diseases and disorders; pharmaceutical preparations for the treatment of liver diseases and disorders; pharmaceutical preparations for the prevention and treatment of hepatitis and HIV/AIDS; anti-infectives		

Attachments	85773855#TMSN.png(bytes) NOO re SELNITE Round 2- New.pdf(250178 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	/lfm/
Name	LORI F MAYALL
Date	04/05/2016

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

In the matter of application Serial No. 86/737,225
For the Trademark SELNITE
Published in the Official Gazette on January 26, 2016

GILEAD SCIENCES IRELAND UC,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
TAIRX, INC.,)	
)	
Applicant.)	
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NOTICE OF OPPOSITION

Opposer Gilead Sciences Ireland UC (“Gilead” or “Opposer”), an Irish unlimited company, with a mailing address of IDA Business and Technology Park, Carrigtohill, CO. Cork, Ireland, believes that it will be damaged by the issuance of a registration for the mark SELNITE (the “SELNITE Mark” or “Applicant’s Mark”), as applied for in Application Serial No. 86/737,225, filed on August 26, 2015 by TaiRx, Inc., (“Applicant”). Applicant is, upon information and belief, a Taiwan corporation with a mailing address of San-Chung Rd., Nankang Business Park, Taipei 11560, Taiwan.

As grounds for opposition, Gilead alleges that:

1. Gilead is one of the world’s largest biopharmaceutical companies, dedicated to discovering, developing and marketing medications to treat a variety of human diseases, ranging from HIV to liver disease to cardiovascular disease and other infectious diseases.
2. Gilead owns the U.S. registration for the mark SELNISA in connection with “pharmaceuticals, namely antivirals; anti-inflammatories; pharmaceutical preparations for the

treatment of cardiovascular diseases and disorders; pharmaceutical preparations for the treatment of oncological diseases and disorders; pharmaceutical preparations for the treatment of respiratory diseases and disorders; pharmaceutical preparations for the treatment of liver diseases and disorders; pharmaceutical preparations for the prevention and treatment of hepatitis and HIV/AIDS; anti-infectives” at Registration No. 4,371,363 and in class 5, with a priority date of August 30, 2012 (“Opposer’s Mark” or the “SELNISA Mark”). A true and correct copy of its registration certificate is attached hereto as Exhibit A and is incorporated by reference as though fully set forth herein.

3. On January 2, 2014, Applicant filed an intent-to-use application for the mark SELNITE for: “Agricultural biopesticides; Biological preparations for the treatment of tumors and cancers; Chemical preparations for pharmaceutical or medical purposes, namely, for treatment of tumors and cancers; Chemical preparations for sanitary use; Clinical medical reagents; Diagnostic preparations for medical purposes; Diagnostic preparations for medical purposes for detecting the presence of malignant, inflammatory and autoimmune disorders and conditions and tissue trauma in humans; Dietary and nutritional supplements; Dietary food supplements; Dietary supplements; Dietetic foods, namely, pasta, crackers, rice and bread adapted for medical use; Food supplements; Food supplements for humans, teenagers, and dogs, and food supplements for treating nausea and treating fatigue; Health food supplements; Herbal supplements; Medicinal herbal preparations; Medicinal herbs; Natural herbal supplements; Nutritional supplements; Pharmaceutical preparations for animal skincare; Vitamin supplements” in class 5 (Ser. No. 86/155,845) (“Applicant’s Jan 2014 Application for the SELNITE Mark”).

4. Applicant’s Jan 2014 Application for the SELNITE Mark published in the *Official Gazette* on November 18, 2014.

5. On December 19, 2014, Opposer filed a Notice of Opposition against Applicant's Jan 2014 Application for the SELNITE Mark ("Notice of Opposition").

6. On February 25, 2015, the Board issued a notice of default to Applicant because no answer had been filed in response to Opposer's Notice of Opposition.

7. On April 7, 2015, the Board entered judgment by default against the Applicant, sustaining Opposer's opposition, and refusing to register the SELNITE mark because no response to the notice of default was filed (the "Board's Apr 2015 Order"). A true and correct copy of the judgment is attached hereto as Exhibit B.

8. On August 26, 2015, Applicant filed another intent-to-use application for the mark SELNITE for "Agricultural biopesticides; Biological preparations for the treatment of chronics, tumors, cancers, human diseases; Chemical preparations for pharmaceutical or medical purposes, namely, for chronics, tumors, cancers, human diseases; Chemical preparations for sanitary use; Clinical medical reagents; Diagnostic preparations for medical purposes; Diagnostic preparations for medical purposes for detecting the presence of malignant, inflammatory and autoimmune disorders and conditions and tissue trauma in humans; Dietary and nutritional supplements; Dietary food supplements; Dietary supplements; Dietetic foods, namely, pasta, crackers, etc. adapted for medical use; Food supplements; Food supplements for humans, teenagers, dogs, or treating nausea, treating fatigue; Health food supplements; Herbal supplements; Medicinal herbal preparations; Medicinal herbs; Natural herbal supplements; Nutritional supplements; Pharmaceutical preparations for animal skincare; Vitamin supplements" in class 5 ("Applicant's Aug 2015 Application for the SELNITE Mark").

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