

ESTTA Tracking number: **ESTTA790868**

Filing date: **12/21/2016**

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	BAYER HEALTHCARE LLC
Granted to Date of previous extension	12/28/2016
Address	100 Bayer Road Pittsburg, PA 15205 UNITED STATES
Attorney information	Richard J. Groos King & Spalding LLP 401 Congress Avenue, Suite 3200 Austin, TX 78701 UNITED STATES rgroos@kslaw.com, bress@kslaw.com, emolson@kslaw.com, aotrade-mark@kslaw.com Phone:512.457.2018

Applicant Information

Application No	86388731	Publication date	08/30/2016
Opposition Filing Date	12/21/2016	Opposition Period Ends	12/28/2016
International Registration No.	NONE	International Registration Date	NONE
Applicant	Nuraleve Inc. 2280-01 Carling Avenue Ottawa Ontario, K2B7G1 CANADA		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Computer software in the field of neuromodulation and neurostimulation, namely, medical treatment management software, clinic records management software, neuromodulation machine operating system software, patient booking software, billing software, and document sharing software
Class 010. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Integrated medical electrical brain treatment systems comprising integrated medical devices and computer software sold as a unit in the field of neuromodulation and neurostimulation, namely, an electrical brain treatment system comprised primarily of neuromodulation machines and related software and also including electrodes, conductive carbon pads, sponges, pulse generator leads, saline solution, cleaning solution, eyedroppers, electrode preparation units, electrode storage bags, batteries, cable locks, rolling carts, carrying bags, dongles, rolls of labels, tablet computers, mobile telephones, and label printers
Class 044. First Use: 0 First Use In Commerce: 0


All goods and services in the class are opposed, namely: Medical therapy services, namely, neuro-modulation and neurostimulation brain therapy services

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1536042	Application Date	05/05/1988
Registration Date	04/25/1989	Foreign Priority Date	NONE
Word Mark	ALEVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1988/04/25 First Use In Commerce: 1988/04/25 ANTI-INFLAMMATORY, ANALGESIC, AND ANTIPYRETIC PHARMACEUTICAL PREPARATIONS		

U.S. Registration No.	3287780	Application Date	02/13/2007
Registration Date	09/04/2007	Foreign Priority Date	NONE
Word Mark	ALEVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2000/07/31 First Use In Commerce: 2000/07/31 Pharmaceutical antitussive-cold preparations; Preparations for treating colds		

U.S. Registration No.	4459303	Application Date	07/24/2013
Registration Date	12/31/2013	Foreign Priority Date	NONE
Word Mark	ALEVE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 044. First use: First Use: 2010/08/27 First Use In Commerce: 2010/08/27 healthcare information services on painrelief, namely providing an online resource of information on joint, muscle andback pain, headache pain and osteoarthritis, including treatment options and tips

Attachments	77105868#TMSN.png(bytes) 86018399#TMSN.png(bytes) Exhibit A.PDF(1219638 bytes) Exhibit B.PDF(1458459 bytes) NURALEVE Notice of Opposition.pdf(31525 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	/Brandon M. Ress/
Name	Brandon M. Ress
Date	12/21/2016

EXHIBIT A

Patents

Trademarks

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Status

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Mark: ALEVE

No Image exists for this case.

US Serial Number: 73726530

Application Filing Date: May 05, 1988

US Registration Number: 1536042

Registration Date: Apr. 25, 1989

Register: Principal

Mark Type: Trademark

TM5 Common Status

Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: The registration has been renewed.

Status Date: Jul. 21, 2009

Publication Date: Jan. 31, 1989

▼ Mark Information

▲ Collapse All

Mark Literal Elements: ALEVE

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

▼ Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [.] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *.* identify additional (new) wording in the goods/services.

For: ANTI-INFLAMMATORY, ANALGESIC, AND ANTIPYRETIC PHARMACEUTICAL PREPARATIONS

International Class(es): 005 - Primary Class

U.S Class(es): 018

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 25, 1988

Use in Commerce: Apr. 25, 1988

▼ Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

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