

ESTTA Tracking number: **ESTTA790852**

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	12/21/2016
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, aotrademark@kslaw.com Phone:512.457.2018

Applicant Information

Application No	79178455	Publication date	08/23/2016
Opposition Filing Date	12/21/2016	Opposition Period Ends	12/21/2016
International Registration No.	1278572	International Registration Date	05/11/2015
Applicant	Alevero Limited 103 Commercial Street, Rothwell UNITED KINGDOM		

Goods/Services Affected by Opposition

<p>Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Non-medicated toiletries; cosmetics; non-medicated skin care preparations; make-up; cosmetics for use in the treatment of wrinkled skin; anti-aging creams, non-medicated serums and lotions; sun creams; after sun creams; mascaras; lip plumping glosses, balms, non-medicated serums and sticks; teeth whitening preparations containing carbamide peroxide for use in teeth whitening</p>
<p>Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Dietary supplements and anti-dietetic preparations; dietetic foods and substances adapted for medical use, namely, amino acids and soy protein; dietary supplements for humans consumption; health food supplements made principally of vitamins or minerals; dietary supplements and anti-dietetic preparations that encourage weight loss; protein supplements; amino acid supplements; amino acids for medical purposes; amino acids for pharmaceutical purposes; medicated skin care preparations, namely, skin peels; pharmaceutical preparations for skin care, namely, acid peels applied to the skin for the prevention of signs of aging; botulinum toxin preparations for medical use in the treatment of skin aging; pharmaceutical preparations,</p>

namely, sclerosing drugs for the treatment of broken veins; carbamide peroxide for medical purposes

Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Retail store services featuring toiletries, cosmetics, body cleaning and body care preparations, skin care preparations, make-up, cosmetics for use in the treatment of wrinkled skin, anti-aging preparations, anti-aging creams, serums and lotions, collagen preparations for cosmetic application, sun creams, after sun creams, mascaras, lip coatings, lip plumping glosses, balms, serums and sticks, dietary supplements and dietetic preparations, medical preparations and articles to encourage weight loss and body shaping, improve skin condition, enhance lips, reduce signs of aging, remove body hair, reduce the appearance of broken veins, reduce cellulite, reduce scarring and reduce over-pigmentation of skin, dietetic food and substances adapted for medical use, dietary supplements for humans, health food supplements made principally of vitamins or minerals, dietary supplements and dietetic preparations that encourage weight loss, protein supplements, amino acid supplements, amino acids for medical purposes, acids for pharmaceutical purposes, medical skin peels, acid peels applied to the skin to reduce signs of aging, botulinum toxin preparations, sclerosing drugs, sclerosing drugs for the treatment of broken veins, carbamide peroxide and carbamide peroxide for use in teeth whitening; retail store services, mail order services and online retail store services featuring toiletries, cosmetics, body cleaning and beauty care preparations, skin care preparations, make-up, cosmetics for use in the treatment of wrinkled skin, anti-aging preparations, anti-aging creams, serums and lotions, collagen preparations for cosmetic applications, sun creams, after sun creams, mascaras, lip coatings, lip plumping glosses, balms, serums and sticks, dietary supplements and dietetic preparations, medical preparations and articles to encourage weight loss and body shaping, improve skin condition, enhance lips, reduce signs of aging, remove body hair, reduce the appearance of broken veins, reduce cellulite, reduce scarring and reduce over-pigmentation of skin, dietetic food and substances adapted for medical use, dietary supplements for humans, health food supplements made principally of vitamins or minerals, dietary supplements and dietetic preparations that encourage weight loss, protein supplements, amino acid supplements, amino acids for medical purposes, acids for pharmaceutical purposes, medical skin peels, acid peels applied to the skin to reduce signs of aging, botulinum toxin preparations, sclerosing drugs, sclerosing drugs for the treatment of broken veins, carbamide peroxide and carbamide peroxide for use in teeth whitening; advice, consultancy and information services relating to all of the aforesaid services

Class 043. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Restaurant services for providing food and drink; catering; restaurant services featuring the provision of planned meals; provision of personalized meal planning services via one to one meetings in person; providing advice concerning cooking recipes; restaurant services featuring the preparation of food and drink; provision of food and drink in restaurants in managed varieties to optimise weight loss; providing personalized meal planning services via one to one meetings in person; providing personalized meal planning services to encourage weight loss via one to one meetings in person; catering services, namely, providing food and drink for preparation by others; consultancy, advisory and information services in relation to the aforesaid services

Class 044. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Human healthcare services; hygienic and beauty care for humans; beauty treatments services for skin tightening; cosmetic skin care services, namely, skin care treatments; medical clinic services; dentistry services; nursing care services; outpatient health care services; provision of health and medical information services; cosmetic surgery services; medical health assessment services for treatment, diagnostic, testing purposes; massage therapy services; nutrition and diet counseling services; providing healthy living and lifestyle information services via one to one meetings in person; dietary guidance; weight reduction diet planning and supervision; cosmetic body care services; non-surgical cosmetic and medical treatments of obesity and weight loss; permanent hair removal and reduction services; weight management services, namely, providing weight loss programs; teeth whitening services; non-surgical cosmetic and/or medical services in relation to weight loss, body shaping, skin treatment, lip enhancement, anti-aging, removal of body hair, reducing the appearance of broken veins, reducing the appearance of cellulite, reducing the appearance of scarring and reducing the over-pigmentation of skin, including sun-spots; providing weight loss program services; medical services for treatment of the skin, namely, treatment of skin laxity as a result of weight loss; medical and cosmetic treatment services to improve skin condition; medical and cosmetic treatment service to reduce skin aging; medical and cosmetic treatment services to improve skin elasticity, firmness and/or tightness; medical and cosmetic treatment services to

encourage collagen production;ultrasound therapy service for the treatment of weight loss, namely, skin laxity as a result of weight loss; ultrasoundtherapy services to enable weight loss and/or improve the appearance of skin; ultrasound therapy services to break downthe fat in skin cells; ultrasound therapy services to lift, tone and/or tightenloose or sagging skin; medical services, namely, removal of body cellulite; massages; massages to reduce cellulite; massages to encourage lymph drainage; laserhair removal services; skin care services, namely, microsclerotherapy, being aninjection based technique to treat broken veins; long term weight loss programsthat include cosmetic and/or medical treatments for treating obesity; facial treatment services, namely, cosmetic treatments in the form of chemical peels, non-surgical face lifts and botulinum toxininjections; teeth whitening services using laser teeth whitening technology; medical services, namely, aftercare services following medical and/or cosmetic treatments and programs; consultancy, advisory and information services relating tothe aforesaid services

Applicant Information

Application No	79181452	Publication date	09/20/2016
Opposition Filing Date	12/21/2016	Opposition Period Ends	
International Registration No.	1285353	International Registration Date	09/10/2015
Applicant	Alever Limited 103 Commercial Street, Rothwell UNITED KINGDOM		

Goods/Services Affected by Opposition

Class 003. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Non-medicated toiletries; cosmetics; non-medicated skin care preparations; make-up; cosmetics for use in the treatment of wrinkled skin; anti-aging creams, non-medicated serums and lotions; sun creams; after sun creams; mascaras; lip plumping glosses, balms, non-medicated serumsand sticks; teeth whitening preparations containing carbamide peroxide for use in teeth whitening

Class 005. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Dietary supplements and anti-dietetic preparations; dietetic foods and substances adapted for medical use, namely, amino acids and soy protein; dietary supplements for humans consumption; health foodsupplements made principally of vitamins or minerals; dietary supplements and anti-dietetic preparations that encourageweight loss; protein supplements; aminoacid supplements; amino acids for medical purposes; amino acids for pharmaceutical purposes; medicated skin care preparations, namely, skin peels; pharmaceutical preparations for skin care, namely, acid peels applied to the skin for the prevention of signs of aging; botulinum toxin preparations for medical use in the treatment of skin aging; pharmaceutical preparations, namely, sclerosing drugs for the treatment of broken veins; carbamide peroxide for medical purposes

Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Retail store services featuring toiletries, cosmetics, body cleaning and body care preparations, skin care preparations, make-up, cosmetics for use in the treatment of wrinkled skin, anti-aging preparations, anti-aging creams, serums and lotions, collagen preparations for cosmetic application, sun creams, after sun creams, mascaras, lip coatings, lip plumping glosses, balms, serums and sticks, dietary supplements and dietetic preparations, medical preparations and articles to encourage weight loss and body shaping, improve skin condition, enhance lips, reduce signs of aging, remove body hair,reduce the appearance of broken veins, reduce cellulite, reduce scarring and reduce over-pigmentation of skin, dieteticfood and substances adapted for medicaluse, dietary supplements for humans, health food supplements made principally of vitamins or minerals, dietary supplements and dietetic preparations that encourage weight loss, protein supplements, amino acid supplements, amino acids for medical purposes, acids for pharmaceutical purposes, medical skin peels, acid peels applied to the skin to reduce signs of aging, botulinum toxin preparations, sclerosing drugs, sclerosing drugs for the treatment of broken veins, carbamide peroxide and carbamide peroxide for use in teeth whitening; retail store services,

mail order services and online retail store services featuring toiletries, cosmetics, body cleaning and beauty care preparations, skin care preparations, make-up, cosmetics for use in the treatment of wrinkled skin, anti-aging preparations, anti-aging creams, serums and lotions, collagen preparations for cosmetic applications, sun creams, after sun creams, mascaras, lip coatings, lip plumping glosses, balms, serums and sticks, dietary supplements and dietetic preparations, medical preparations and articles to encourage weight loss and body shaping, improve skin condition, enhance lips, reduce signs of aging, remove body hair, reduce the appearance of broken veins, reduce cellulite, reduce scarring and reduce over-pigmentation of skin, dietetic food and substances adapted for medical use, dietary supplements for humans, health food supplements made principally of vitamins or minerals, dietary supplements and dietetic preparations that encourage weight loss, protein supplements, amino acid supplements, amino acids for medical purposes, acids for pharmaceutical purposes, medical skin peels, acid peels applied to the skin to reduce signs of aging, botulinum toxin preparations, sclerosing drugs, sclerosing drugs for the treatment of broken veins, carbamide peroxide and carbamide peroxide for use in teeth whitening; advice, consultancy and information services relating to all of the aforesaid services

Class 043. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Restaurant services for providing food and drink; catering; restaurant services featuring the provision of planned meals; provision of personalized meal planning services via one to one meetings in person; providing advice concerning cooking recipes; restaurant services featuring the preparation of food and drink; provision of food and drink in restaurants in managed varieties to optimize weight loss; providing personalized meal planning services via one to one meetings in person; providing personalized meal planning services to encourage weight loss via one to one meetings in person; catering services, namely, providing food and drink for preparation by others; consultancy, advisory and information services in relation to the aforesaid services

Class 044. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Human healthcare services; hygienic and beauty care for humans; beauty treatments services for skin tightening; cosmetic skin care services, namely, skin care treatments; medical clinic services; dentistry services; nursing care services; outpatient health care services; provision of health and medical information services; cosmetic surgery services; medical health assessment services for treatment, diagnostic, testing purposes; massage therapy services; nutrition and diet counseling services; providing healthy living and lifestyle information services via one to one meetings in person; dietary guidance; weight reduction diet planning and supervision; cosmetic body care services; non-surgical cosmetic and medical treatments of obesity and weight loss; permanent hair removal and reduction services; weight management services, namely, providing weight loss programs; teeth whitening services; non-surgical cosmetic and/or medical services in relation to weight loss, body shaping, skin treatment, lip enhancement, anti-aging, removal of body hair, reducing the appearance of broken veins, reducing the appearance of cellulite, reducing the appearance of scarring and reducing the over-pigmentation of skin, including sun-spots; providing weight loss program services; medical services for treatment of the skin, namely, treatment of skin laxity as a result of weight loss; medical and cosmetic treatment services to improve skin condition; medical and cosmetic treatment service to reduce skin aging; medical and cosmetic treatment services to improve skin elasticity, firmness and/or tightness; medical and cosmetic treatment services to encourage collagen production; ultrasound therapy service for the treatment of weight loss, namely, skin laxity as a result of weight loss; ultrasound therapy services to enable weight loss and/or improve the appearance of skin; ultrasound therapy services to break down the fat in skin cells; ultrasound therapy services to lift, tone and/or tighten loose or sagging skin; medical services, namely, removal of body cellulite; massages; massages to reduce cellulite; massages to encourage lymph drainage; laser hair removal services; skin care services, namely, microsclerotherapy, being an injection based technique to treat broken veins; long term weight loss program that include cosmetic and/or medical treatments for treating obesity; facial treatment services, namely, cosmetic treatments in the form of chemical peels, non-surgical face lifts and botulinum toxin injections; teeth whitening services using laser teeth whitening technology; medical services, namely, aftercare services following medical and/or cosmetic treatments and programs; consultancy, advisory and information services relating to the aforesaid 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		

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