

ESTTA Tracking number: **ESTTA947968**

Filing date: **01/16/2019**

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	CELATOR PHARMACEUTICALS, INC.
Granted to Date of previous extension	01/16/2019
Address	200 Princeton South Corporate Center Ewing, NJ 08628 UNITED STATES

Attorney information	Tiffany A. Blofield Winthrop & Weinstine, P.A. 225 South Sixth Street Suite 3500 Minneapolis, MN 55402 UNITED STATES Tblofield@winthrop.com, Sbaird@winthrop.com, Greyes@winthrop.com, Trademark@winthrop.com, Cclassen@winthrop.com, Ayoung@winthrop.com 6126046684
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Applicant Information

Application No	87719755	Publication date	09/18/2018
Opposition Filing Date	01/16/2019	Opposition Period Ends	01/16/2019
Applicant	Vytalyx Inc 815A Brazos Street Ste 265 Austin, TX 78701 UNITED STATES		

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: Compounded pharmaceuticals, namely, sterile injectables, non-sterile solutions, suspensions, ointments, creams, powders, capsules, tablets and troches for use in the areas of, Weight management, Erectile dysfunction treatment, Male hormone replacement treatment, Female hormone replacement treatment, Bio-identical hormone replacement, Adrenal dysfunction treatment, Thyroid dysfunction treatment, Pain management, Palliative care, Sports medicine, Amino acid replacement therapy, Mineral replacement therapy, Vitamin replacement therapy, Anti-aging therapy, Dermatology, Fertility, Growth Hormone therapy; and Anticonvulsant agents, Antihypertensive agents, Antidiabetic agents, Non-steroidal anti-inflammatory agents, Anesthetic agents, Vasoactive agents, Lipotropic agents, Chelating agents, Psychoactive agents; Compounded personalized pharmaceuticals, namely, sterile injectables, non-sterile solutions, suspensions, ointments, creams, powders, capsules, tablets and for use in the areas of, Weight management, Erectile dysfunction treatment, Male hormone replacement treatment, Female hormone replacement treatment, Bio-identical hormone replacement, Adrenal dysfunction treatment, Thyroid</p>
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dysfunction treatment, Pain management, Palliative care, Sports medicine, Amino acid replacement therapy, Mineral replacement therapy, Vitamin replacement therapy, Anti-aging therapy, Dermatology, Fertility, Growth Hormone therapy; and Anticonvulsant agents, Antihypertensive agents, Antidiabetic agents, Non-steroidal anti-inflammatory agents, Anesthetic agents, Vasoactive agents, Lipotropic agents, Chelating agents, Psychoactive agents; Compounded personalized pharmaceuticals, namely, sterile injectables, non-sterile solutions, suspensions, ointments, creams, powders, capsules, tablets and troches based on medical, genetic, genomic, nutrigenomic, pharmacogenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, health, dietary, nutrition, exercise, physical fitness, lifestyle and personal information for use in the areas of, Weight management, Erectile dysfunction treatment, Male hormone replacement treatment, Female hormone replacement treatment, Bio-identical hormone replacement, Adrenal dysfunction treatment, Thyroid dysfunction treatment, Pain management, Palliative care, Sports medicine, Amino acid replacement therapy, Mineral replacement therapy, Vitamin replacement therapy, Anti-aging therapy, Dermatology, Fertility, Growth Hormone therapy; and Anticonvulsant agents, Antihypertensive agents, Antidiabetic agents, Non-steroidal anti-inflammatory agents, Anesthetic agents, Vasoactive agents, Lipotropic agents, Chelating agents, Psychoactive agents; Genetic marker tests comprised of reagents for medical purposes; Medical diagnostic reagents and assays for testing of body fluids in the nature of genomic, microbiomic, metabolomic, and biochemical tests; Medical diagnostic test kits comprised of medical diagnostic reagents and assays used to collect test samples for analyzing DNA, blood, hair, saliva and stool information for use in DNA, blood, hair, saliva and stool testing of humans; Kits comprised of medical diagnostic reagents and assays for use in genetic, genomic, microbiomic, metabolomic, and biochemical testing; Kits comprised of medical diagnostic reagents and assays for use in DNA, blood, hair, saliva and stool testing of humans; Medical diagnostic test media in the form of strips, threads, swabs, cartridges, and collection tubes for collecting and analyzing genetic, genomic, microbiomic, metabolomic, and biochemical data

Class 009. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Computer software and mobile device software for use in collecting, storing, managing, aggregating, analyzing, diagnosing, parsing, learning, sharing, distributing, referencing, monitoring and integrating medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Computer software and mobile device software for use in collecting, storing, managing, aggregating, analyzing, diagnosing, parsing, learning, sharing, distributing, referencing, monitoring and integrating medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, and for providing health and wellness evaluations and recommendations based on medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Computer software and mobile device software incorporating artificial intelligence and machine learning models for collecting, analyzing, assessing, interpreting and predicting medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks; Computer software and mobile device software incorporating artificial intelligence and machine learning models for collecting, analyzing, assessing, interpreting and predicting medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks, and for providing health and wellness evaluations and recommendations based on medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Downloadable computer databases for collecting, storing and accessing medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks; Downloadable computer databases for collecting, storing and accessing medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks, and for providing health and wellness evaluations and recommendations based on medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fit-

ness, lifestyle and personal information; Providing online downloadable software services featuring software for medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information ; Providing online downloadable software for use in collecting, storing, managing, analyzing, referencing, monitoring and tracking medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Providing online downloadable software for use in collecting, storing, managing, analyzing, referencing, monitoring and tracking medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, and for providing health and wellness evaluations and recommendations based on medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Providing online downloadable software accessing computer databases that collects and stores medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks; Providing online downloadable software services accessing computer databases that collects and stores medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks, and for providing health and wellness evaluations and recommendations based on medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Providing online downloadable software incorporating artificial intelligence and machine learning models for collecting, analyzing, assessing, interpreting and predicting medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks; Providing online downloadable software incorporating artificial intelligence and machine learning models for collecting, analyzing, assessing, interpreting and predicting medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks, and for providing health and wellness evaluations and recommendations based on medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information

Class 010. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Genetic, genomic, microbiomic, metabolomic and biochemical tests comprised of blood, hair, saliva and stool testing apparatus; Medical diagnostic test kits used to collect test samples for analyzing DNA, blood, hair, saliva and stool information for use in DNA, blood, hair, saliva and stool testing of humans comprised of testing strips, threads, swabs, cartridges and collection tubes; Kits for use in genetic, genomic, microbiomic, metabolomic, and biochemical testing comprised of testing strips, threads, swabs, cartridges and collection tubes; Kits for use in DNA, blood, hair, saliva and stool testing of humans comprised of testing strips, threads, swabs, cartridges and collection tubes

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

All goods and services in the class are opposed, namely: Retail store services featuring kits for use in genetic, genomic, microbiomic, metabolomic, and biochemical testing comprised of strips, threads, swabs, cartridges and collection tubes; Online retail store services and mail order services featuring kits for use in genetic, genomic, microbiomic, metabolomic, and biochemical testing comprised of strips, threads, swabs, cartridges and collection tubes; On-line retail store services featuring dietary and nutritional supplements; Retail store services featuring dietary and nutritional supplements

Class 040. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Manufacturing of dietary and nutritional supplements; Custom manufacturing, contract manufacturing and private label manufacturing of dietary and nutritional supplements; Manufacturing of personalized dietary and nutritional supplements; Manufacturing of personalized dietary and nutritional supplements based on medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Manufacturing of dietary and nutritional supplements incorporating artificial intelligence and machine learning mod-

els for personalizing dietary and nutritional supplements based on medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information

Class 041. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Educational services, namely, providing training in the fields of exercise and physical fitness; Exercise and physical fitness training services and consultancy; Providing information in the fields of exercise and physical fitness; Providing counseling services in the fields of exercise and physical fitness; Providing personalized exercise and physical fitness information in the nature of biomarker analysis, blood analysis, protein analysis, gut microbiome analysis, DNA analysis, gene expression analysis and metabolite analysis; Providing counseling services in the fields of exercise and physical fitness directed to the collection, analysis, assessment, interpretation and prediction of medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks; Providing counseling services in the fields of exercise and physical fitness incorporating artificial intelligence and machine learning models for collecting, analyzing, assessing, interpreting and predicting medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks

Class 042. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: scientific research services; Scientific research in the fields of genetics, genomics, microbiomics, metabolomics, proteomics, biochemistry, individual lifestyle, health, and wellness; Scientific and technological services, namely, scientific research, analysis, testing in the fields of genetics, genomics, microbiomics, metabolomics, proteomics, biochemistry, individual lifestyle, health, and wellness; DNA analysis services for scientific research purposes; Genetic research services for scientific purposes; Genetic analysis services, namely, providing DNA sequencing and DNA information services for scientific purposes; DNA testing, genetic testing, genetic screening, genotyping, phenotyping, molecular analytics, pharmacogenomics, nutrigenomics and analyzing, assessing, interpreting and predicting associations, conditions, outcomes, effects and risks for scientific purposes; Scientific counseling services directed to the interpretation, analysis and annotation of genetic variation and DNA sequences; Reporting services based upon the results of laboratory testing in the field of genetics, genomics, DNA testing, genetic testing, genetic screening, genotyping, phenotyping, molecular analytics, pharmacogenomics, nutrigenomics, microbiomics, metabolomics, proteomics and biochemistry; Reporting services based upon the results of laboratory testing in the fields of genetics, genomics, DNA testing, genetic testing, genetic screening, genotyping, phenotyping, molecular analytics, pharmacogenomics, nutrigenomics, microbiomics, metabolomics, proteomics and biochemistry; Providing scientific analysis and informational reports based upon results of laboratory testing in the field of genetics, genomics, DNA testing, genetic testing, genetic screening, genotyping, phenotyping, molecular analytics, pharmacogenomics and nutrigenomics, microbiomics, metabolomics, proteomics and biochemistry; Product research and development in the fields of artificial intelligence, machine learning and deep learning; Providing software as a service (SAAS) featuring software for use in collecting, storing, managing, analyzing, referencing, monitoring and tracking medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Providing platform as a service (PAAS) featuring software for use in collecting, storing, managing, analyzing, referencing, monitoring and tracking medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Providing online non-downloadable software services featuring software for use in collecting, storing, managing, analyzing, referencing, monitoring and tracking medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Providing hosted software services featuring software for use in collecting, storing, managing, analyzing, referencing, monitoring and tracking medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Providing software as a service (SAAS), platform as a service (PAAS), online non-downloadable software services, and hosted software services for use in collecting, storing, managing, analyzing, referencing, monitoring and tracking medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, ex-

ercise, physical fitness, lifestyle and personal information; Providing software as a service (SAAS), platform as a service (PAAS), online non-downloadable software services, and hosted software services for use in collecting, storing, managing, analyzing, referencing, monitoring and tracking medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, and for providing clinical and non-clinical evaluations and recommendations based on medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Providing software as a service (SAAS), platform as a service (PAAS), online non-downloadable software services, and hosted software services accessing computer databases that collects and stores medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks; Providing software as a service (SAAS), platform as a service (PAAS), online non-downloadable software services, and hosted software services accessing computer databases that collects and stores medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks, and for providing clinical and non-clinical evaluations and recommendations based on medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Providing software as a service (SAAS), platform as a service (PAAS), online non-downloadable software services, and hosted software services incorporating artificial intelligence and machine learning models for collecting, analyzing, assessing, interpreting and predicting medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks; Providing software as a service (SAAS), platform as a service (PAAS), online non-downloadable software services, and hosted software services incorporating artificial intelligence and machine learning models for collecting, analyzing, assessing, interpreting and predicting medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information, associations, conditions, outcomes, effects and risks, and for providing clinical and non-clinical evaluations and recommendations based on medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information

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

All goods and services in the class are opposed, namely: Pharmaceutical compounding services; Personalized pharmaceutical compounding services; Personalized pharmaceutical compounding services based on medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Pharmaceutical compounding services incorporating artificial intelligence and machine learning models for personalizing pharmaceuticals based on medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Healthcare management service organization (MSO) services, namely, providing practice organization, management and administrative support services to individual physicians or small group practices; Personalized medicine services; Telemedicine services; Medical diagnostic testing, monitoring and reporting services; Wellness and health-related consulting services; Health assessment services; Health care services, namely, wellness programs; Health care services, namely, disease management programs; Performing diagnosis of diseases; Performing diagnosis of diseases and medical conditions using an individual's medical, health, genetic, genomic, pharmacogenomic, nutrigenomic, microbiomic, metabolomic, proteomic, biochemistry, biomarker, dietary, nutrition, exercise, physical fitness, lifestyle and personal information; Providing health information; Providing information in the fields of health and wellness; Providing medical information; Providing medical information, consultancy and advisory services; Providing personalized healthcare and medical information in the nature of biomarker analysis, blood analysis, protein analysis, microbiome analysis, DNA analysis, gene expression analysis and metabolite analysis; Genetic testing for medical purposes; Genetic testing for medical purposes, namely, providing DNA sequencing, DNA information and pharmacogenomics services for medical, health, genetic, dietary, nutrition; Medical testing services for diagnostic

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