

ESTTA Tracking number: **ESTTA1041617**

Filing date: **03/11/2020**

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		
Entity	Limited Liability Company	Citizenship	Delaware
Address	100 Bayer Road Pittsburgh, PA 15205 UNITED STATES		

Attorney information	Phillip Barengolts Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP 200 South Wacker Drive, Suite 2900 Chicago, IL 60606 UNITED STATES pb@pattishall.com, jae@pattishall.com, jrp@pattishall.com, pam@pattishall.com (312) 554-8000		
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Applicant Information

Application No	88640320	Publication date	02/18/2020
Opposition Filing Date	03/11/2020	Opposition Period Ends	03/19/2020
Applicant	AbbVie AB Hemvarnsgatan 9 Solna, 17154 SWEDEN		

Goods/Services Affected by Opposition

Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: pharmaceutical preparations and substances for the treatment of viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and immune system related diseases and disorders
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	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
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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	<h1>ALEVE</h1>		
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.	3719030	Application Date	05/25/2007
Registration Date	12/01/2009	Foreign Priority Date	NONE
Word Mark	ALEVE-D		
Design Mark	<h1>ALEVE-D</h1>		
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2007/07/20 First Use In Commerce: 2007/07/20 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		

U.S. Registration No.	5279528	Application Date	08/08/2016
Registration Date	09/05/2017	Foreign Priority Date	NONE
Word Mark	ALEVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 2016/06/24 First Use In Commerce: 2016/06/24 Electrical stimulation apparatus for nerves for therapeutic purposes		

Attachments	77105868#TMSN.png(bytes) 77190305#TMSN.png(bytes) 86018399#TMSN.png(bytes) 87130338#TMSN.png(bytes) Notice of Opposition Against VYALEV.pdf(238932 bytes)
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Signature	/Jacquelyn R. Prom/
Name	Jacquelyn R. Prom

Date	03/11/2020
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**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Ser. No. 88/640,320: VYALEV

BAYER HEALTHCARE LLC,)	
)	
Opposer,)	Opposition No. _____
)	
v.)	
)	
ABBVIE AB,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Bayer HealthCare LLC, a Delaware limited liability company having offices in Whippany, New Jersey, believes it will be damaged by registration of the mark identified in App. Ser. No. 88/640,320 (the “Application”) and files this notice of opposition pursuant to 37 C.F.R. § 2.104(a). The grounds for opposition are stated below.

1. Opposer and its predecessors have for many years been engaged in the manufacture, distribution, advertising and sale of products in the medical and healthcare fields, including products for the treatment of pain, inflammation, fever, and colds.

2. Since long prior to the filing date of the Application, Opposer and its predecessors have continuously used the trademark ALEVE in commerce throughout the United States in connection with the advertising, promotion and sale of products for the treatment of pain, inflammation, fever and colds.

3. Opposer owns the trademark registrations shown below, all comprised of its ALEVE trademark:

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