

ESTTA Tracking number: **ESTTA1089655**

Filing date: **10/19/2020**

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	Alvogen TM S.a.r.l.		
Entity	Limited Liability Company	Citizenship	Luxembourg
Address	5 RUE HEIENHAFF AIRPORT CENTER LUXEMBOURG SENNINGERBERG, L-1736 LUXEMBOURG		
Attorney information	GREGG A. PARADISE LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP 20 COMMERCE DRIVE CRANFORD, NJ 07016 UNITED STATES Primary Email: gparadise@lernerdavid.com Secondary Email(s): litigation@lernerdavid.com 9086545000		
Docket Number	ALVOGE-323		

Applicant Information

Application No.	88926872	Publication date	09/29/2020
Opposition Filing Date	10/19/2020	Opposition Period Ends	10/29/2020
Applicant	Alagen, Inc 49 WEST STREET WESTFORD, MA 01886 UNITED STATES		

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: Drug delivery agents consisting of compounds that facilitate delivery of a widerange of pharmaceuticals; Drug deliveryagents in the form of capsules that provide controlled release of the active ingredients for a wide variety of pharmaceuticals; Drug delivery agents in the form of powders that provide controlled release of the active ingredients for a wide variety of pharmaceuticals; Drug delivery agents in the form of tablets that provide controlled release of the active ingredients for a wide variety of pharmaceuticals; Drug delivery agents in the form of patch that facilitate the delivery of pharmaceutical preparations; Food supplements; Medicinal herbal extracts for medical purposes; Medicinal herbal preparations; Medicinal herbs in dried or preserved form; Chinese traditional medicinal herbs; Dietary and nutritional supplements; Dietary food supplements; Food supplements, namely, anti-oxidants; Health food supplements; Mineral food supplements; Natural dietary supplements; Natural herbal supplements; Nutraceuticals for use as a dietary supplement; Nutritional supplements; Powdered nutritional supplement concentrate

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4400395	Application Date	11/24/2009
Registration Date	09/10/2013	Foreign Priority Date	NONE
Word Mark	ALVOGEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2010/01/20 First Use In Commerce: 2010/01/20 Pharmaceutical preparations, namely, antibiotics, antihypertensives, analgesics, anti-inflammatories, and antivirals [; transdermal patches for use in the treatment of hypertension]		

Attachments	6599370_1.pdf(17254 bytes)
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Signature	/Gregg A. Paradise/
Name	Gregg A. Paradise
Date	10/19/2020

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

ALVOGEN IP CO S.A.R.L.,	:	
	:	Serial No. 88/926,872
Opposer,	:	
	:	Filed: May 21, 2020
v.	:	
	:	Published: September 29, 2020
ALAGEN, INC.	:	
	:	Opposition No. _____
Applicant.	:	
_____	X	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Alvogen TM S.a.r.l., a Luxembourg limited liability company, having an address of Airport Center Luxembourg, 5 rue Heienhaff, Senningerberg L-1736, Luxembourg, believes it will be damaged by the registration of the mark shown in application Serial No. 88/926,872 (the “Application”) and hereby opposes registration of such mark. The specific grounds for such opposition are as follows:

1. Opposer owns and uses the mark ALVOGEN in connection with goods and services offered in interstate commerce in the United States.
2. Opposer has been using the mark ALVOGEN since at least as early as 2010, long before Alagen, Inc. (“Applicant”) filed the Application for registration of the ALAGEN mark on May 21, 2020.
3. Opposer is the owner of, *inter alia*, United States Trademark Registration No. 4,400,395 for the mark ALVOGEN, for use in connection with pharmaceutical preparations.

4. As a result of extensive promotion of its goods throughout the United States, Opposer has built up highly valuable goodwill in its ALVOGEN mark. Such goodwill has become closely and uniquely identified and associated with Opposer prior to the filing of the Application by Applicant and prior to any use of the ALAGEN mark in the United States by Applicant.

5. Given the strength and renown of Opposer's mark in the United States, Applicant's ALAGEN mark so resembles Opposer's ALVOGEN mark as to result in a likelihood of confusion.

6. Applicant's ALAGEN mark will be used for related and confusingly similar goods in the United States such that the marks are likely to be confused.

7. Opposer will suffer harm as a result of the confusion likely to arise from the registration of the Application and from Opposer's prior and ongoing use of the ALVOGEN mark.

8. Accordingly, Applicant's mark should be denied registration under Section 2(d) of the Trademark Act (15 U.S.C. § 1052(d)).

9. This opposition is timely given that the publication date of the Application was September 29, 2020.

10. The fee of \$400.00 for a Notice of Opposition in one class has been charged to counsel's credit card. The undersigned is authorized to make charges to said credit card.

WHEREFORE, Opposer requests that the Board refuse registration of Application Serial No. 88/926,872, and that this Opposition be sustained.

Respectfully submitted,

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
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Dated: October 19, 2020

By /Gregg A. Paradise/
Gregg A. Paradise