

ESTTA Tracking number: **ESTTA1314452**
Filing date: **10/06/2023**

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	Welly Health PBC
Granted to date of previous extension	10/07/2023
Address	8733 LIVINGSTON LANE EDEN PRAIRIE, MN 55347 UNITED STATES
Attorney information	JOSHUA S. WOLKOFF BAKER & MCKENZIE LLP 452 FIFTH AVENUE NEW YORK, NY 10018 UNITED STATES Primary email: NYCTrademarks@bakermckenzie.com Secondary email(s): NYCTrademarks@bakermckenzie.com, Joshua.Wolkoff@bakermckenzie.com, Amanda.Kusnierz@bakermckenzie.com 2126264557
Docket no.	

Applicant information

Application no.	97598498	Publication date	08/08/2023
Opposition filing date	10/06/2023	Opposition period ends	10/07/2023
Applicant	Parmtrade FZCO DUBAI SILICON OASIS, DDP, BUILDING A1 DUBAI UNITED ARAB EMIRATES		

Goods/services affected by opposition

Class 005. First Use: Mar 9, 2022 First Use In Commerce: Mar 30, 2022
All goods and services in the class are opposed, namely: Transdermal patches featuring wormwood herbal compounds for pain relief

Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks cited by opposer as basis for opposition

U.S. registration no.	5891235	Application date	04/22/2019
Register	Principal		

Registration date	10/22/2019	Foreign priority date	NONE
Word mark	WELLY		
Design mark			
Description of mark	NONE		
Goods/services	Class 005. First use: First Use: Apr 7, 2019 First Use In Commerce: Apr 7, 2019 Adhesive bandages; bandages for dressing; gauze pads; antibiotic ointments; anti-itch ointments; first aid tools, namely, dressing bandages, gauze, and pain relieving ointment; preparations for treatment of burn; blister treatments; gauze; medical adhesive tape; first aid kits		

U.S. registration no.	6247110	Application date	12/18/2019
Register	Principal		
Registration date	01/12/2021	Foreign priority date	NONE
Word mark	WELLY		
Design mark			
Description of mark	NONE		
Goods/services	Class 005. First use: First Use: Apr 5, 2020 First Use In Commerce: Apr 5, 2020 Pain relief medication; Analgesic Preparation, anti-pyretic and anti-inflammatory preparations; Allergy and sinus medication; Analgesic sleeping aid; Sleep-aid preparations; All preparations containing acetaminophen; Pharmaceutical preparations, namely, allergy preparations, antihistamines; Pharmaceutical preparations, namely, antihistaminic and decongestant agents; Antiflatulent; Preparations for prevention and treatment of motion sickness, nausea and vomiting; Pharmaceutical anti-diarrheal preparations; Pharmaceutical preparations for the treatment of gastro-intestinal disorders; Pharmaceutical preparations to support gastro-intestinal health		

U.S. registration no.	7093920	Application date	12/18/2019
Register	Principal		
Registration date	06/27/2023	Foreign priority date	NONE
Word mark	WELLY		
Design mark			
Description of mark	NONE		
Goods/services	Class 005. First use: First Use: 2019 First Use In Commerce: 2019 Pain treatment creams; Pharmaceuticals, namely, menstrual pain relief medication, analgesics and pain; Cold and sinus relief medicines; Pharmaceutical preparations, namely, flu, cold and cough medication		

U.S. registration no.	5789505	Application date	07/03/2018
Register	Principal		
Registration date	06/25/2019	Foreign priority date	NONE

Word mark	WELLY
Design mark	
Description of mark	The mark consists of the stylized word "WELLY".
Goods/services	Class 005. First use: First Use: Apr 7, 2019 First Use In Commerce: Apr 7, 2019 Adhesive bandages; bandages for dressing; gauze pads; antibiotic ointments; anti-itch ointments; first aid tools, namely, dressing bandages, gauze, and pain relieving ointment; preparations for treatment of burn; blister treatments; gauze; medical adhesive tape; first aid kits

Attachments	Notice of Opposition - US App. No. 97598498 for WELLNEE.pdf(248085 bytes) Exhibit A.pdf(136554 bytes) Exhibit B.pdf(28670 bytes)
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Signature	/Amanda Kusnierz/
Name	Amanda R. Kusnierz
Date	10/06/2023

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

In re Application Serial No. 97/598,498
For the Mark: WELLNEE
Filed on September 20, 2022
Published in the *Official Gazette* on August 8, 2023

WELLY HEALTH PBC,

Opposer,

v.

PARMTRADE FZCO

Applicant.

Opposition No.:

NOTICE OF OPPOSITION

Welly Health PBC, a corporation organized and existing under the laws of Delaware, having a place of business at 8733 Livingston Lane, Eden Prairie, Minnesota 55347 (“Opposer”), believes it will be damaged by the issuance of a registration to Parmtrade FZCO (“Applicant”) for the mark WELLNEE (the “WELLNEE Mark”) shown in Application Serial No. 97/598,498 (the “Application”), and hereby opposes registration on the basis of a likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d). In support of this Opposition, Opposer alleges as follows:

Opposer’s WELLY Mark

1. Opposer is a leading health and wellness company and the owner of the premium first aid brand WELLY, which has been in continuous use in U.S. commerce since at least 2019. Opposer’s WELLY products include first aid products, such as a variety of bandages and first aid kits, skin care products, such as ointments, body lotions and creams, and patches for the skin.

2. Products sold under the WELLY mark are widely available for purchase throughout the United States in thousands of retail locations, including Walgreens, CVS, Target, Rite Aid Walmart and on Opposer’s website, accessible at <http://www.getwelly.com>.

3. Opposer has made, and continues to make, substantial investments in the promotion of its first aid and personal care goods under its WELLY mark.

4. As a result of the widespread use, continuous sales, and extensive advertising and promotion of the goods under the WELLY mark for almost 5 years, consumers have come to know and trust Opposer’s WELLY brand as the source of high-quality, safe, and effective first aid and personal care products. The WELLY mark has come to identify Opposer’s goods exclusively and uniquely, and enjoys enormous goodwill. Opposer has thus established strong common law rights in the WELLY mark that entitles it to exclusive use of and exclusive rights in the WELLY mark for first aid and personal products and related goods.

5. In addition to its strong common law rights in the WELLY mark, Opposer owns the following U.S. trademark registrations, which are legally and validly registered on the Principal Register of the United States Patent and Trademark Office (“USPTO”):

Mark	Goods	Status
WELLY (Reg. No. 5891235)	5: Adhesive bandages; bandages for dressing; gauze pads; antibiotic ointments; anti-itch ointments; first aid tools, namely, dressing bandages, gauze, and pain relieving ointment; preparations for treatment of burn; blister treatments; gauze; medical adhesive tape; first aid kits	Registered
WELLY (Reg. No. 6247110)	5: Pain relief medication; Analgesic Preparation, anti-pyretic and anti-inflammatory preparations; Allergy and sinus medication; Analgesic sleeping aid; Sleep-aid preparations; All preparations containing acetaminophen; Pharmaceutical preparations, namely, allergy preparations, antihistamines; Pharmaceutical preparations, namely, antihistaminic and decongestant agents; Antiflatulent; Preparations for prevention and treatment of motion sickness,	Registered

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