

ESTTA Tracking number: **ESTTA1402050**
Filing date: **12/14/2024**

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	NUOVA OMPI S.R.L.
Granted to date of previous extension	12/15/2024
Address	VIA MOLINELLA, 17 PIOMBINO DESE (PD), I-35017 ITALY

Attorney information	JASON L DEFRANCESCO DEFRANCESCO LAW 110 DUNGANNON BLVD., STE 101 WILMINGTON, NC 28403 UNITED STATES Primary email: jasond@defrancesco.law Secondary email(s): ipoffice@defrancesco.law No phone number provided
Docket no.	

Applicant information

Application no.	79368445	Publication date	06/18/2024
Opposition filing date	12/14/2024	Opposition period ends	12/15/2024
International registration no.	1726780	International registration date	12/23/2022
Applicant	Cochlear Limited 1 UNIVERSITY AVE, MACQUARIE UNIVERSITY NSW 2109 AUSTRALIA		

Goods/services affected by opposition

Class 005. First Use: None First Use In Commerce: None

All goods and services in the class are opposed, namely: Pharmaceutical preparations for the diagnosis, treatment, management or amelioration of inner ear or auditory system deficiencies; medical preparations for the diagnosis, treatment, management or amelioration of inner ear or auditory system deficiencies; pharmaceutical drugs, namely, pharmaceutical preparations for the diagnosis, treatment, management or amelioration of inner ear or auditory system deficiencies; corticosteroids; steroids, namely, dexamethasone; anti-inflammatory drugs; chemical reagents for medical purposes; chemical preparations for medical purposes, for the diagnosis, treatment, management or amelioration of inner ear or auditory system deficiencies; all the foregoing for or in relation to the inner ear or auditory system of a human

Class 009. First Use: None First Use In Commerce: None

All goods and services in the class are opposed, namely: Downloadable and recorded software for

managing clinical data; computer software, recorded for data analysis, databases management, and managing data for use in the diagnosis, treatment, management or amelioration of inner ear or auditory system deficiencies; downloadable computer programs for data analysis, databases management, and managing data for use in the diagnosis, treatment, management or amelioration of inner ear or auditory system deficiencies; computer software applications, downloadable for data analysis, databases management, and managing data for use in the diagnosis, treatment, management or amelioration of inner ear or auditory system deficiencies; all the foregoing for use in the diagnosis, treatment, management or amelioration of inner ear or auditory system deficiencies; none of the foregoing in the field of digital imaging or digital image processing, analysis, measurement, display comparison or simulation of effects of surgical or product treatment outcomes

Class 010. First Use: None First Use In Commerce: None

All goods and services in the class are opposed, namely: Medical devices, namely, hearing aids, cochlear implants made from artificial materials and in-ear monitors for medical purposes, components of medical devices, namely, sound processors and cochlear implants made from artificial materials adapted for use with prosthetic hearing devices; prosthetic hearing devices and components of prosthetic hearing devices, namely, hearing aids, sound processors and cochlear implants made from artificial materials adapted for use with prosthetic hearing devices; accessories for use with prosthetic hearing devices, namely, wireless transmitters and receivers for use with hearing aids; medical implants, namely, an implanted hearing device in the nature of a cochlear implant made from artificial materials, for delivering pharmaceutical preparations, medical preparations, pharmaceutical drugs, corticosteroids, dexamethasone, anti-inflammatory drugs, chemical reagents, or chemical preparations to the inner ear or auditory system of a human

Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
No bona fide intent to use mark in commerce for identified goods or services	Trademark Act Section 1(b), 44(e) or 66(a)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols	Trademark Act Section 2(a)
Fraud on the USPTO	In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)
Other	Bad Faith

Marks cited by opposer as basis for opposition

U.S. registration no.	4797494	Application date	11/20/2014
Register	Principal		
Registration date	08/25/2015	Foreign priority date	05/23/2014
Word mark	NEXA		
Design mark	NEXA		
Description of mark	NONE		
Goods/services	Class 010. First use: First Use: None First Use In Commerce: None Dental syringes; hypodermic syringes; medical syringes; disposable syringes; injection syringes in the nature of syringe barrels; syringes for medical purposes and for injections [; medical fluid injectors; droppers for administering medication, sold empty; dropper bottles for administering medication, sold empty; medical diagnostic saliva vials; flasks for parenteral nutrition for medical use] Class 020. First use: First Use: None First Use In Commerce: None		

	Packaging containers of plastic; [non-metallic closures for containers; plastic stoppers for industrial packaging containers; plastic medication containers for commercial use;] containers for transport, not of metal; containers, not of metal for commercial use; [non-metal and non-paper closures for containers; containers for medications sold empty for commercial use;] nonmetal and non-paper containers for storage or transport; non-metallic containers, namely, capsules sold empty for beauty care and cosmetic products [; plastic caps; non-metallic and non-paper closures and caps for cartons, containers, and bottles; non-metallic plastic bottle frames for containers; non-metallic corner fittings for containers]
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U.S. application no.	79369340	Application date	02/08/2023
Registration date	NONE	Foreign priority date	02/01/2023
Word mark	NEXA FLEX		
Design mark	NEXA FLEX		
Description of mark	NONE		
Goods/services	<p>Class 009. First use: First Use: None First Use In Commerce: None Laboratory equipment and supplies, namely, test tubes and vials for laboratory use; scientific laboratory equipment and supplies, namely, vials for scientific purposes</p> <p>Class 010. First use: First Use: None First Use In Commerce: None Syringes for injections; injectors for medical purposes, namely, medical syringes, syringes for injections, namely autoinjectors and disposable dispenser syringes for laboratory use; dental syringes; disposable syringes; injectors for medical purposes, namely, medical fluid injectors being insulin pumps and infusion pumps</p> <p>Class 020. First use: First Use: None First Use In Commerce: None Containers, not of metal or paper, for storage and transport; Capsules being non-metallic containers, namely plastic medication containers for commercial use and packaging containers of plastic</p>		

U.S. application/ registration no.	NONE	Application date	NONE
Register	NONE		
Registration date	NONE		
Mark	NEXA		
Goods/services	<p>manufacture and distribution of laboratory and pharmaceutical devices, wares and packaging; vials, test tubes, syringes, medical injectors, delivery systems, pumps, medical containers, dentistry, hormone therapy, laboratory equipment, supplies, and transport; Dental syringes; hypodermic syringes; medical syringes; disposable syringes; injection syringes in the nature of syringe barrels; syringes for medical purposes and for injections; Packaging containers of plastic; containers for transport, not of metal; containers, not of metal for commercial use; nonmetal and non-paper containers for storage or transport; non-metallic containers, namely, capsules sold empty for beauty care and cosmetic products; Laboratory equipment and supplies, namely, test tubes and vials for laboratory use; scientific laboratory equipment and supplies, namely, vials for scientific purposes; Syringes for injections; injectors for medical purposes, namely, medical syringes, syringes for injections, namely autoinjectors and disposable</p>		

	dispenser syringes for laboratory use; dental syringes; disposable syringes; injectors for medical purposes, namely, medical fluid injectors being insulin pumps and infusion pumps; Containers, not of metal or paper, for storage and transport; Capsules being non-metallic containers, namely plastic medication containers for commercial use and packaging containers of plastic
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Attachments	79162371#TMSN.png(bytes) 79369340#TMSN.png(bytes) NOOP Dec 14 2024 NEXA.pdf(90718 bytes)
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Signature	/jd/
Name	JASON L DEFRANCESCO
Date	12/14/2024

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

In re application no. 79368445
Mark: NEXA
Published in Official Gazette June 18, 2024

NUOVA OMPI S.R.L.,
Opposer,

v.

Cochlear Limited,

Applicant.

Opposition No.: _____

**NOTICE OF OPPOSITION
PURSUANT TO 15 U.S.C. § 1063**

In the matter of trademark application Serial No. 79368445 filed by Cochlear Limited for registration of the word NEXA as published in the Official Gazette of June 18, 2024, NUOVA OMPI S.R.L. as exclusive owner of the mark NEXA believes it will be damaged by use and registration of its mark to Applicant, and hereby opposes same as further explained.

1. NUOVA OMPI S.R.L. (the “Opposer”) is an entity according to the laws of Italy with an address at Via Molinella, 17 PIOMBINO DESE (PD) ITALY I-35017. Opposer operates in the pharmaceutical industry which includes the manufacture and distribution of laboratory and pharmaceutical devices, wares and packaging.

2. Opposer is the exclusive owner of the word NEXA (“Opposer’s Mark”) as a trademark in the United States for goods and services that relate to and include, manufacture and distribution of laboratory and pharmaceutical devices, wares and packaging. This includes, but is not limited to vials, test tubes, syringes, medical injectors, delivery systems,

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