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Filing date: **04/25/2008**

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

Proceeding	91150298
Party	Plaintiff BAXTER INTERNATIONAL INC.
Correspondence Address	LINDA J. NOWLIN DINEFF TRADEMARK LAW LIMITED 160 NORTH WACKER DRIVE CHICAGO, IL 60601 UNITED STATES tmlaw@dineff.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	R Peter Spies
Filer's e-mail	tmlaw@dineff.com
Signature	/R Peter Spies/
Date	04/25/2008
Attachments	Baxter's First Notice of Reliance 4-16-08.pdf (2 pages)(8793 bytes) Opposer's 1st NoR - Exhibit 1.PDF (19 pages)(619272 bytes) Opposer's 1st NoR - Exhibit 2.PDF (5 pages)(156723 bytes) Opposer's 1st NoR - Exhibit 3.PDF (9 pages)(232335 bytes) Opposer's 1st NoR - Exhibit 4.PDF (8 pages)(258686 bytes)

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

Baxter International Inc.)	
)	
Opposer,)	
)	
Vs.)	Opposition No. 91150298
)	
Inviro Medical Devices Ltd.)	
)	
Applicant,)	
)	

OPOSER'S FIRST NOTICE OF RELIANCE UNDER 37 CFR §§ 2.120(j)(3) AND 2.120 (j)(8)

Opposer, Baxter International Inc., by and through its attorney submits of record in connection with this opposition proceeding a copy of (i) Applicant's Responses to Opposer's First Set of Interrogatories (attached as Exhibit 1), (ii) Applicant's First Supplemental Responses To Opposer's First Set of Interrogatories (attached as Exhibit 2), (iii) Applicant's Responses to Opposer's Supplemental Interrogatories (attached as Exhibit 3), and (iv) Applicant's Responses To Opposer's First Set of Requests For Admission & Supplemental Request For Production Of Documents (attached as Exhibit 4).

Respectfully submitted,

/R Peter Spies/

Attorney for Opposer
R. Peter Spies
DINEFF TRADEMARK LAW LIMITED
160 N. Wicker Drive
Chicago, Illinois 60606
(312) 338 1000
Dated: April 25, 2008

Certificate of Service

The undersigned hereby certifies that a copy of the foregoing Stipulation To Extend Trial Dates was mailed via first class mail to the below identified attorney at his/her place of business this 25 day of April 2008:

Mr. Duane M. Byers
Nixon & Vanderhye
901 North Glebe Road, 11th Floor
Arlington, VA 22203

email: dmb@nixonvan.com
nixonptomail@nixonvan.com

/R Peter Spies/
R. Peter Spies
DINEFF TRADEMARK LAW LIMITED
160 N. Wacker Drive .
Chicago, Illinois 60606
(312) 338 -1000
Dated: April 25, 2008

EXHIBIT 1

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

Baxter International Inc.,)	
)	
Opposer,)	
)	Opposition No. 91150298
v.)	Application No. 76/151,380
)	
Inviro Medical Devices Ltd.,)	
)	
Applicant.)	

APPLICANT’S RESPONSE TO OPPOSER’S FIRST SET OF INTERROGATORIES

Subject to the objections herein, Applicant responds to the numbered Interrogatories as follows:

General Objections

Applicant objects to Opposer’s discovery requests insofar as those requests call for confidential business information. Such information is being provided to opposing counsel for opposing counsel’s eyes only and, therefore, must not be disclosed to the opposer or anyone other than opposing counsel – and the same will hold true for opposer’s confidential business information disclosed to applicant’s counsel.

Applicant further objects to Opposer’s discovery requests insofar as they request documents and information that are protected by the attorney/client privilege. Any such documents will not be produced.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify the facts and circumstances surrounding Applicant's selection, adoption and use of ULTRALINK, as well as Applicant's decision to apply for trademark registration of ULTRALINK, and identify all documents related thereto.

RESPONSE

Applicant (Inviro) selected the ULTRALINK trademark to use with its "medical devices, namely, cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters and injection sites" after it received favorable indication from the U.S. Patent and Trademark Office (USPTO) that there were no third party trademarks that would preclude Inviro from registering its UNILINK trademark in the United States. For example, on June 27, 2000, the USPTO issued an office action for Inviro's UNILINK trademark application serial number 75-892618 that favorably stated:

The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d).

In view of this favorable action and confirmation by the USPTO and examining attorney, Inviro proceeded with its UNILINK trademark application in the United States and elsewhere, and decided to file its ULTRALINK trademark application on October 20, 2000, for the same goods covered by the UNILINK trademark application.

It is also significant to note that when the UNILINK application was published for opposition purposes on June 12, 2001, no one opposed Inviro's registration or usage of the UNILINK trademark.

Moreover, when the USPTO examined Inviro's ULTRALINK trademark application, it never cited any third party trademark application or registration against the ULTRALINK trademark. In other words, the examining attorney searched the USPTO records and did not find

any third party mark that would preclude Inviro from registering the ULTRALINK trademark in the United States. This was confirmed by the USPTO's favorable issuance of a Notice of Publication on July 25, 2001. This USPTO notice states:

The [ULTRALINK] mark of the application identified appears to be entitled to registration.

INTERROGATORY NO. 2:

Identify Applicant's dates of first use, if applicable, or intended dates of first use of ULTRALINK in commerce and otherwise.

RESPONSE

Applicant has not yet used its ULTRALINK trademark, but intends to do so sometime in the future.

INTERROGATORY NO. 3:

Identify the person(s) most knowledgeable about Applicant's selection, adoption, use, and application for ULTRALINK.

RESPONSE

Dr. F. Ross Sharp and Duane M. Byers.

INTERROGATORY NO. 4:

Identify the process and reasoning used by the person(s) identified in number three above to select and develop ULTRALINK, including but not limited to, any surveys, search reports, investigations or opinions sought, and identify all documents relating thereto.

RESPONSE

Applicant (Inviro) selected the ULTRALINK trademark to use with its "medical devices, namely, cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters and injection sites" after it received favorable indication from the U.S. Patent and Trademark Office (USPTO) that there were no third party trademarks that would preclude Inviro from registering its UNILINK trademark in the United States. For example, on June 27, 2000, the USPTO issued an office action for Inviro's UNILINK trademark application serial number 75-892618 that favorably stated:

The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d).

In view of this favorable action and confirmation by the USPTO and examining attorney, Inviro proceeded with its UNILINK trademark application in the United States and elsewhere, and decided to file its ULTRALINK trademark application on October 20, 2000, for the same goods covered by the UNILINK trademark application.

It is also significant to note that when the UNILINK application was published for opposition purposes on June 12, 2001, no one opposed Inviro's registration or usage of the UNILINK trademark.

Moreover, when the USPTO examined Inviro's ULTRALINK trademark application, it never cited any third party trademark application or registration against the ULTRALINK

trademark. In other words, the examining attorney searched the USPTO records and did not find any third party mark that would preclude Inviro from registering the ULTRALINK trademark in the United States. This was confirmed by the USPTO's favorable issuance of a Notice of Publication on July 25, 2001. This USPTO notice states:

The [ULTRALINK] mark of the application identified appears to be entitled to registration.

INTERROGATORY NO. 5:

Identify any additional marks which Applicant previously used or considered for use which contained the word LINK, and if there are any such marks, identify whether any trademark registrations were sought, and identify all documents pertaining to such marks.

RESPONSE

See the attached documents for information on the UNILINK, ULTRALINK, MEDILINK and SNAPLINK trademarks. Foreign applications/registrations correspond to these marks, with the exception of MEDILINK.

INTERROGATORY NO. 6:

Identify whether any third parties are licensed, assigned, or otherwise authorized to use ULTRALINK.

RESPONSE

None.

INTERROGATORY NO. 7:

Identify all products and/or services sold or intended to be sold by Applicant in the United States in connection with ULTRALINK, and identify all documents related thereto.

RESPONSE

See the attached documents. Applicant (Inviro) selected the ULTRALINK trademark to use with its "medical devices, namely, cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters and injection sites" after it received favorable indication from the U.S. Patent and Trademark Office (USPTO) that there were no third party trademarks that would preclude Inviro from registering its UNILINK trademark in the United States. For example, on June 27, 2000, the USPTO issued an office action for Inviro's UNILINK trademark application serial number 75-892618 that favorably stated:

The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d).

In view of this favorable action and confirmation by the USPTO and examining attorney, Inviro proceeded with its UNILINK trademark application in the United States and elsewhere, and decided to file its ULTRALINK trademark application on October 20, 2000, for the same goods covered by the UNILINK trademark application.

It is also significant to note that when the UNILINK application was published for opposition purposes on June 12, 2001, no one opposed Inviro's registration or usage of the UNILINK trademark.

Moreover, when the USPTO examined Inviro's ULTRALINK trademark application, it never cited any third party trademark application or registration against the ULTRALINK trademark. In other words, the examining attorney searched the USPTO records and did not find

any third party mark that would preclude Inviro from registering the ULTRALINK trademark in the United States. This was confirmed by the USPTO's favorable issuance of a Notice of Publication on July 25, 2001. This USPTO notice states:

The [ULTRALINK] mark of the application identified appears to be entitled to registration.

INTERROGATORY NO. 8:

Identify all channels of trade through which Applicant's goods and/or services bearing the ULTRALINK mark are currently sold, offered, or distributed and/or intended to be sold, offered, or distributed, and identify all documents related thereto.

RESPONSE

Applicant has not yet used its trademark, but believes that the channel of trade would be one that supplies "medical devices, namely, cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters and injection sites." This quoted language is the identification used in Applicant's ULTRALINK application that was favorably examined by the USPTO examining attorney and for which the examining attorney did not find any third party trademark that would preclude Applicant's registration of the ULTRALINK trademark for "medical devices, namely, cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters and injection sites" sold in the corresponding channel of trade.

INTERROGATORY NO. 9:

Describe all methods in which Applicant's goods and/or services bearing ULTRALINK are, or are intended to be, advertised, promoted, marketed or otherwise brought to the attention of customers and potential customers, and identify all documents related thereto.

RESPONSE

Applicant has not yet used its trademark, but believes that its trademarked goods will be marketed in manners typical of the channel of trade that supplies "medical devices, namely, cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters and injection sites." This quoted language is the identification used in Applicant's ULTRALINK application that was favorably examined by the USPTO examining attorney and for which the examining attorney did not find any third party trademark that would preclude Applicant's registration of the ULTRALINK trademark for "medical devices, namely, cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters and injection sites" advertised, promoted, marketed or otherwise brought to the attention of customers and potential customers in the corresponding channel of trade.

INTERROGATORY NO. 10:

In reference to number nine above, for each method of promotion or advertisement, identify: (i) the form of promotion or advertising (i.e., brochure, T.V ad, trade show, etc.); (ii) the dates and geographic areas of said promotion or advertising; (iii) the names, addresses and contact names of all advertising or other agencies used by the Applicant to promote and/or advertise any good and/or services under ULTRALINK, (iv) the identity of all persons most

knowledgeable about Applicant's advertising and promotions, and (v) identify all documents related thereto.

RESPONSE

Because Applicant has not yet used its trademark, it cannot answer this interrogatory at this time. In addition, because Applicant has not yet used its trademark, it cannot identify the persons most knowledgeable about Applicant's advertising and promotions, or the documents related thereto.

INTERROGATORY NO. 11:

State Applicant's annual budget and expenditures [in the United States], or if not yet in use, its projected annual budget and expenditures to advertise or promote the goods and/or services offered under ULTRALINK, and identify all documents relating thereto.

RESPONSE

Because Applicant has not yet used its trademark, it cannot answer this interrogatory at this time, e.g., it does not have a projected annual budget and expenditures to advertise or promote the goods and/or services offered under the ULTRALINK trademark.

INTERROGATORY NO. 12:

State Applicant's annual revenue generated for each of the goods and/or services offered under ULTRALINK, or if not yet in use, Applicant's projected annual revenue generated for each of the goods and/or services offered under ULTRALINK, and identify all documents relating thereto.

RESPONSE

Because Applicant has not yet used its trademark, it cannot answer this interrogatory at this time, e.g., it does not have a projected annual revenue generated for each of the goods and/or services offered under the ULTRALINK trademark.

INTERROGATORY NO. 13:

Identify the market and target market of each of Applicant's goods and/or services offered under ULTRALINK.

RESPONSE

The market for "medical devices, namely, cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters and injection sites." This quoted language is the identification used in Applicant's ULTRALINK application that was favorably examined by the USPTO examining attorney and for which the examining attorney did not find any third party trademark that would preclude Applicant's registration of the ULTRALINK trademark for "medical devices, namely, cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters and injection sites" advertised, promoted, marketed or otherwise brought to the attention of customers and potential customers in the corresponding market.

INTERROGATORY NO. 14:

Identify the competitors of Applicant for goods and/or services offered under, or intended to be offered under ULTRALINK, and identify the documents referring or relating thereto.

RESPONSE

Companies that sell "cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters and injection sites." This quoted language is from the identification used in Applicant's ULTRALINK application that was favorably examined by the USPTO examining attorney and for which the examining attorney did not find any third party trademark that would preclude Applicant's registration of the ULTRALINK trademark for "medical devices, namely, cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters and injection sites."

INTERROGATORY NO. 15:

Identify all facts and circumstances regarding Applicant's first awareness of Opposer's use of any of Opposer's Marks.

RESPONSE

Applicant became aware of all of Opposer's Marks at least as early as when Applicant received a copy of Opposer's opposition that identified INTERLINK, RENAL LINK, PLASMALINK, ALTRA LINK, LUERLINK and PD LINK.

INTERROGATORY NO. 16:

Identify all facts and circumstances regarding Applicant's awareness and knowledge of Opposer's business conducted in connection with Opposer's Marks.

RESPONSE

Applicant became aware of all of Opposer's Marks at least as early as when Applicant received a copy of Opposer's opposition that identified INTERLINK, RENAL LINK,

PLASMALINK, ALTRA LINK, LUERLINK and PD LINK. Applicant will supplement this response as information becomes available.

INTERROGATORY NO. 17:

Identify the person(s) most knowledgeable about Applicant's awareness and knowledge of Opposer's use of Opposer's Marks and its business conducted in connection with Opposer's Marks.

RESPONSE

Dr. F. Ross Sharp

INTERROGATORY NO. 18:

Identify all persons who participated in any way in the preparation of the answers or responses to these interrogatories and state specifically, with reference to interrogatory numbers, the area of participation of each person.

RESPONSE

Dr. F. Ross Sharp and Duane M. Byers participated in the response to each interrogatory (1-20).

INTERROGATORY NO. 19:

Identify all persons, which Applicant expects to provide for deposition in this matter pursuant to Federal Rule of Civil Procedure 30(b)(6) or whose testimony in any form Applicant may intend to offer as evidence in this proceeding.

RESPONSE

Dr. F. Ross Sharp, various executives and employees of Opposer Baxter, and possibly third parties with knowledge or information relevant to this opposition.

INTERROGATORY NO. 20:

Pursuant to Federal Rule of Civil Procedure 26 (a)(2)(B), identify all experts expected to testify on behalf of Applicant and the topic in which each expert will testify, and provide a statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

RESPONSE

At this time, none.

Signed as to objections:

Date: _____

Duane M. Byers
Nixon & Vanderhye P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone 703-816-4009
Attorneys for Applicant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of APPLICANT'S
RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES was sent on this 19
day of July, 2002, via first class mail, postage prepaid, to:

Lynn A. Sullivan
Elizabeth C. Diskin
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza - Suite 4900
Chicago, Illinois 60601



ULTRALINK

Status: PUBLISHED - OPPOSED Date: 12/12/2001
OPPOSITION PENDING

Gds/Svcs: Int'l. Cl.: 10 (U.S. Cl.: 26, 39, 44)
MEDICAL DEVICES, NAMELY, CANNULAE, MEDICAL, HYPODERMIC, ASPIRATION AND
INJECTION NEEDLES, MEDICAL, HYPODERMIC, ASPIRATION AND INJECTION SYRINGES,
CONNECTORS, PORTS, CATHETERS AND INJECTION SITES

Serial No.: 76-151380 Filed: 10/20/2000 Published: 08/07/2001

Add. Info.: FILED AS INTENT TO USE.

TTAB Proceedings:

Claimed in Opposition 150,298 Filed: 10/29/2001

Plaintiff: BAXTER INTERNATIONAL INC.

Status: PENDING 12/12/2001

Corresp.: DUANE M BYERS
NIXON & VANDERHYE PC
1100 NORTH GLEBE ROAD, 8TH FLOOR
ARLINGTON, VA 22201-4714

Owner: INVIRO MEDICAL DEVICES LTD. (BARBADOS COMPANY)
CHANCERY CHAMBERS
HIGH STREET
BRIDGETOWN, BBX

Applicant: INVIRO MEDICAL DEVICES LTD. (BARBADOS COMPANY)
CHANCERY CHAMBERS
HIGH STREET
BRIDGETOWN, BBX

Doc F-1 of Set #1

UNILINK

Status: ALLOWED - INTENT TO USE Date: 02/19/2002
1ST EXTENSION GRANTED

Gds/Svcs: Int'l. Cl.: 10 (U.S. Cl.: 26, 39, 44)
MEDICAL DEVICES, NAMELY, CANNULAE, MEDICAL, HYPODERMIC, ASPIRATION AND
INJECTION NEEDLES, MEDICAL, HYPODERMIC, ASPIRATION AND INJECTION SYRINGES,
CONNECTORS, PORTS, CATHETERS AND INJECTION SITES

Serial No.: 75-892618 Filed: 01/07/2000 Published: 06/12/2001

Add. Info.: FILED AS INTENT TO USE.

Corresp.: DUANE M. BYERS
NIXON & VANDERHYE P.C.
1100 NORTH GLEBE ROAD, SUITE 800
ARLINGTON, VIRGINIA 22201-4714

Applicant: INVIRO MEDICAL DEVICES LTD. (BARBADOS COMPANY)
CHANCERY CHAMBERS
HIGH STREET
BRIDGETOWN, BBX

SNAPLINK

Status: PUBLISHED Date: 04/19/2002
REQUEST FOR EXTENSION OF TIME TO TTAB

Gds/Svcs: Int'l. Cl.: 10 (U.S. Cl.: 26, 39, 44)
MEDICAL DEVICES, NAMELY, CANNULAE, MEDICAL, HYPODERMIC, ASPIRATION AND
INJECTION NEEDLES, MEDICAL, HYPODERMIC, ASPIRATION AND INJECTION SYRINGES,
CONNECTORS, PORTS, CATHETERS AND INJECTION SITES

Serial No.: 76-311018 Filed: 09/10/2001 Published: 03/19/2002

Add. Info.: FILED AS INTENT TO USE.

Corresp.: DUANE M. BYERS
NIXON & VANDERHYE PC
1100 N GLEBE RD STE 800
ARLINGTON VA 22201-4714

Applicant: INVIRO MEDICAL DEVICES LTD. (BARBADOS COMPANY)
CHANCERY CHAMBERS
HIGH STREET
BRIDGETOWN, BBX

MEDILINK

Status: ABANDONED - VOLUNTARY Date: 01/18/2001
ABANDONED - EXPRESS

Gds/Svcs: Int'l. Cl.: 10 (U.S. Cl.: 26, 39, 44)
CANNULAE; NEEDLES; SYRINGES; CONNECTORS; PORTS; CATHETERS; INJECTION SITES

Serial No.: 75-892620 Filed: 01/07/2000

Add. Info.: FILED AS INTENT TO USE.

Corresp.: DUANE M. BYERS
NIXON & VANDERHYE P.C.
1100 NORTH GLEBE ROAD, SUITE 800
ARLINGTON, VIRGINIA 22201-4714

Applicant: INVIRO MEDICAL DEVICES LTD. (BARBADOS COMPANY)
CHANCERY CHAMBERS
HIGH STREET
BRIDGETOWN, BARBADOS

EXHIBIT 2

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

Baxter International Inc.,)	
)	
Opposer,)	
v.)	Opposition No. 91150298
)	Application No. 76/151,380
Inviro Medical Devices Ltd.,)	
)	
Applicant.)	

**APPLICANT'S FIRST SUPPLEMENTAL RESPONSES TO OPPOSER'S FIRST SET
OF INTERROGATORIES**

Subject to the objections and responses previously stated, Applicant further responds to the numbered Interrogatories as follows:

INTERROGATORIES

INTERROGATORY NO. 8:

Identify all channels of trade through which Applicant's goods and/or services bearing the ULTRALINK mark are currently sold, offered, or distributed and/or intended to be sold, offered, or distributed, and identify all documents related thereto.

SUPPLEMENTAL RESPONSE

Applicant intends to use specialty distributors. Applicant is a startup company that has no ULTRALINK production date in place; thus, for documents, please see applicant's website, www.inviromedical.com, and the limited non-confidential documents that are currently in existence and which applicant has produced to date or is producing.

INTERROGATORY NO. 9:

Describe all methods in which Applicant's goods and/or services bearing ULTRALINK are, or are intended to be, advertised, promoted, marketed or otherwise brought to the attention of customers and potential customers, and identify all documents related thereto.

SUPPLEMENTAL RESPONSE

Applicant intends to use its website, trade shows, sell sheets, specialty distributors' discussions with potential customers and advertising in medical journals (not yet determined). Applicant is a startup company that has no ULTRALINK production date in place; thus, for documents, please see applicant's website, www.inviromedical.com, and the limited non-confidential documents that are currently in existence and which applicant has produced to date or is producing.

INTERROGATORY NO. 13:

Identify the market and target market of each of Applicant's goods and/or services offered under ULTRALINK.

SUPPLEMENTAL RESPONSE

Applicant intends to offer its ULTRALINK products to acute care hospitals, hospices, some long term care facilities and chronic care facilities.

INTERROGATORY NO. 14:

Identify the competitors of Applicant for goods and/or services offered under, or intended to be offered under ULTRALINK, and identify the documents referring or relating thereto.

SUPPLEMENTAL RESPONSE

B. Braun. For documents referring to this potential competitor, applicant would refer to a website for B. Braun.

INTERROGATORY NO. 15:

Identify all facts and circumstances regarding Applicant's first awareness of Opposer's use of any of Opposer's Marks.

SUPPLEMENTAL RESPONSE

Applicant believes it may have become aware of opposer's INTERLINK mark/product approximately six or seven years ago and cannot recall more details. Applicant has become aware of numerous third party LINK marks/products over the years and cannot recall with specificity when exactly certain companies (and there are many) first began using LINK marks with their products. Applicant knows, however, that opposer was not the first party to use a LINK trademark in the medical field, and that opposer has not stopped other companies from using LINK trademarks in the medical field. See, for example, the plethora of third party LINK trademarks that applicant has provided to opposer.

INTERROGATORY NO. 16:

Identify all facts and circumstances regarding Applicant's awareness and knowledge of Opposer's business conducted in connection with Opposer's Marks.

SUPPLEMENTAL RESPONSE

Applicant believes it may have become aware of opposer's INTERLINK mark/product (business) approximately six or seven years ago and cannot recall more details. Applicant has become aware of numerous third party LINK marks/products (businesses) over the years and

cannot recall with specificity when exactly certain companies (and there are many) first began using LINK marks with their products (businesses). Applicant knows, however, that opposer was not the first party to use a LINK trademark in the medical field, and that opposer has not stopped other companies from using LINK trademarks in the medical field. See, for example, the plethora of third party LINK trademarks that applicant has provided to opposer.

Frank H. Shury

Inviro Medical Devices Ltd.

Inviro Medical Devices Ltd.

DMB

Date: 10-27-03

Signed as to objections:

Duane M. Byers

Date: 10-27-03

Duane M. Byers
Nixon & Vanderhye P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone 703-816-4009
Attorneys for Applicant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of APPLICANT'S FIRST SUPPLEMENTAL RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES was sent on this 27 day of Oct, 2003, via first class mail, postage prepaid, to:

Lynn A. Sullivan
Elizabeth C. Diskin
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza - Suite 4900
Chicago, Illinois 60601

A Byers

EXHIBIT 3

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

Baxter International Inc.,

Opposer,

v.

Inviro Medical Devices Ltd.,

Applicant.

Opposition No. 91150298
Application No. 76/151.380

**APPLICANT'S RESPONSES TO
OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION &
SUPPLEMENTAL REQUEST FOR PRODUCTION OF DOCUMENTS**

General Objections

Further to applicant's objections set forth in its responses to opposer's first set of interrogatories, which are hereby incorporated in their entirety, applicant objects to opposer's discovery requests insofar as those requests call for confidential business information. Such information is being provided to opposing counsel for opposing counsel's eyes only and, therefore, must not be disclosed to the opposer or anyone other than opposing counsel. Applicant further objects to opposer's discovery requests insofar as they request documents and information that are protected by the attorney/client privilege. Any such documents will not be produced. Applicant also objects to opposer's discovery requests insofar as they request documents and information that go beyond what is permitted by the Federal Rules of Civil Procedure.

REQUESTS FOR ADMISSIONS

1. Applicant's intent to use application for ULTRALINK is for the same goods covered in its intent to use application for UNILINK.

ANSWER: Applicant objects on the grounds of relevance and immateriality.

2. Applicant's intent to use application for ULTRALINK is for the same goods covered in its intent to use application for SNAPLINK.

ANSWER: Applicant objects on the grounds of relevance and immateriality.

3. Applicant has no marketing plan for the products it allegedly intends to sell under ULTRALINK.

ANSWER: Denied.

4. Applicant has no written marketing plan for the products it allegedly intends to sell under ULTRALINK.

ANSWER: Admitted.

5. Applicant has no documents regarding its intended marketing of ULTRALINK products.

ANSWER: Denied.

6. Applicant has incurred no expenditures in marketing the alleged ULTRALINK products.

ANSWER: Denied.

7. Applicant has no advertising or promotional budget planned for the products it allegedly intends to sell under ULTRALINK.

ANSWER: Admitted.

8. Applicant has no written advertising or promotional budget planned for the products it allegedly intends to sell under ULTRALINK.

ANSWER: Admitted.

9. Applicant has no documents regarding its projected budget or expenditures associated with marketing the alleged ULTRALINK products.

ANSWER: Admitted.

10. Applicant has no documents regarding its projected sales of alleged ULTRALINK products.

ANSWER: Admitted.

11. Applicant has no documents regarding its analysis of competitive products of the alleged ULTRALINK products.

ANSWER: Admitted.

12. Applicant has not conducted any market research in connection with any goods for which it listed in its ULTRALINK application recitation.

ANSWER: Admitted.

13. Applicant has not conducted any market research in connection with determining the channels through which it will market ULTRALINK products.

ANSWER: Admitted.

14. Applicant has not taken steps to acquire distributors in the U.S. of the products it allegedly intends to sell under ULTRALINK.

ANSWER: Denied.

15. Applicant has no specific intentions with regard to using ULTRALINK in the United States.

ANSWER: Denied.

16. Applicant cannot specify its proposed use of the products it will allegedly sell under ULTRALINK.

ANSWER: Denied.

17. Applicant has not developed any product it alleges it will market under ULTRALINK.

ANSWER: Denied.

18. Applicant has not produced any documents regarding the development of any product it alleges it will market under ULTRALINK.

ANSWER: Denied.

19. Applicant has not conducted any product testing for the goods it alleges it will sell under ULTRALINK.

ANSWER: Denied.

20. Applicant has no documents regarding its decision to apply for ULTRALINK.

ANSWER: Admitted, but it did run searches for other LINK marks that showed a plethora of third party LINK trademarks in the medical field, and which confirms that all LINK marks are limited in scope, and which confirms that Baxter was not the first company to use a LINK mark in the medical field, and which confirms that Baxter has not prevented numerous other parties from using LINK marks in the medical field.

21. Applicant's alleged ULTRALINK products are intended for use in hospitals.

ANSWER: Denied as to all hospitals, but admitted as to acute care hospitals.

22. Applicant's alleged ULTRALINK products can be used by nurses in hospitals.

ANSWER: Denied as to all hospitals, but admitted as to acute care hospitals.

23. Applicant's alleged ULTRALINK products are intended for use in nursing homes.

ANSWER: Denied as to all nursing homes, but admitted as to acute care nursing homes.

24. Applicant's alleged ULTRALINK products are intended for use in long-term care facilities.

ANSWER: Denied as to all long-term care facilities, but admitted as to some long-term care facilities.

25. Applicant's alleged ULTRALINK products are intended for use in connection with intravenous applications.

ANSWER: Admitted to the extent that applicant's ULTRALINK products are intended to access split septum IV access ports, medication vials and other penetrable membrane closed containers, but denied as to all other inferences.

26. Applicant's alleged ULTRALINK products will compete with Baxter's INTERLINK products.

ANSWER: Denied.

27. The recitation of goods in Applicant's ULTRALINK application covers a broad range of goods, all of which could be used in an IV access system.

ANSWER: Denied.

SUPPLEMENTAL REQUEST FOR PRODUCTION OF DOCUMENTS

41. Pursuant to Rule 34 of the Federal Rules of Civil Procedure, and Rules 2.116 and 2.120 of the Trademark Rules of Practice, Opposer requests Applicant to produce to Opposer's counsel, per the signature page below, within thirty (30) days hereof, all documents in support of all answers in which Applicant denies the truth of the admission requested.

RESPONSE: ~~Subject matter~~ to the foregoing general and specific objections, applicant has produced or will produce responsive, non-privileged documents properly covered by this document request.

Date: 30 Oct 2003



Inviro Medical Devices Ltd.

Signed as to objections:

Date: 10-27-03

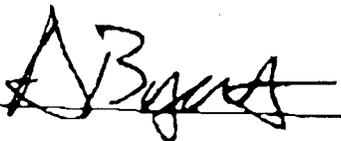


Duane M. Byers
Nixon & Vanderhye P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone 703-816-4009
Attorneys for Applicant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of APPLICANT'S RESPONSES TO OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION & SUPPLEMENTAL REQUEST FOR PRODUCTION OF DOCUMENTS was sent on this 27 day of Oct., 2003, via first class mail, postage prepaid, to:

Lynn A. Sullivan
Elizabeth C. Diskin
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza - Suite 4900
Chicago, Illinois 60601



CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of OPPOSER'S
RESPONSE TO APPLICANT'S FIRST SET OF INTERROGATORIES was sent on
August 5, 2002, via Federal Express, postage prepaid:

Duane M. Byers
Nixon & Vanderhye P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714



EXHIBIT 4

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

Baxter International Inc.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91150298
)	Application No. 76/151,380
Inviro Medical Devices Ltd.,)	
)	
Applicant.)	

**APPLICANT'S RESPONSES TO
OPPOSER'S SUPPLEMENTAL INTERROGATORIES**

General Objections

Further to applicant's objections set forth in its responses to opposer's first set of interrogatories, which are hereby incorporated in their entirety, applicant objects to opposer's discovery requests insofar as those requests call for confidential business information. Such information is being provided to opposing counsel for opposing counsel's eyes only and, therefore, must not be disclosed to the opposer or anyone other than opposing counsel. Applicant further objects to opposer's discovery requests insofar as they request documents and information that are protected by the attorney/client privilege. Any such documents will not be produced. Applicant also objects to opposer's discovery requests insofar as they request documents and information that go beyond what is permitted by the Federal Rules of Civil Procedure. Finally, applicant objects to opposer's discovery requests insofar as they go beyond the number of interrogatories, including subparts, permitted by the rules of U.S. Trademark Practice.

INTERROGATORIES

21. Applicant's initial response to Opposer's interrogatory No. 7 stated that it seeks to use ULTRALINK in connection with "medical devices, namely, cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters, and injection sites." Please specify:

- a. the specific medical procedures in which the alleged ULTRALINK cannulae would be used;
- b. the specific target users of such products, whether they be nurses, doctors, certain other medical professionals; and
- c. the specific departments within a hospital or medical treatment facility in which the products would be used--for example, in surgery applications, emergency medicine, neo-natal, intensive care, etc.

ANSWER:

- a. To access split septum IV access ports, medication vials and other penetrable membrane closed containers.
 - b. Nurses, doctors and other health care professionals.
 - c. Various departments in acute and long term care hospitals.
22. With regard to Applicant's response to Interrogatory No. 7, please specify:
- a. the specific medical procedures in which the alleged ULTRALINK hypodermic, aspiration and injection needles would be used;
 - b. the specific target users of such products, whether they be nurses, doctors, certain other medical professionals; and

- c. the specific departments within a hospital or other medical treatment facility in which the products would be used--for example, in surgery applications, emergency medicine, neo-natal, intensive care, etc.

ANSWER:

- a. To access split septum IV access ports, medication vials and other penetrable membrane closed containers.
 - b. Nurses, doctors and other health care professionals.
 - c. Various departments in acute and long term care hospitals.
23. With regard to Applicant's response to Interrogatory No. 7, please specify:
- a. the specific medical procedures in which the alleged ULTRALINK hypodermic, aspiration and injection syringes would be used;
 - b. the specific target users of such products—whether they be nurses, doctors, certain other medical professionals;
 - c. the specific departments within a hospital or other medical treatment facility in which such products will be used--for example, in surgery applications, emergency medicine, neo-natal, intensive care, etc.

ANSWER:

- a. To access split septum IV access ports, medication vials and other penetrable membrane closed containers.
- b. Nurses, doctors and other health care professionals.
- c. Various departments in acute and long term care hospitals.

24. With regard to Applicant's response to Interrogatory No. 7, please specify:
- a. the specific medical procedures in which the alleged ULTRALINK connectors, ports, catheters, and injection sites would be used;
 - b. the specific target users of such products, whether they be nurses, doctors, certain other medical professionals;
 - c. the specific departments within a hospital or other medical treatment facility in which such products will be used--for example, in surgery applications, emergency medicine, neo-natal, intensive care, etc.

ANSWER:

- a. To assist with ULTRALINK cannulae used to access split septum IV access ports, medication vials and other penetrable membrane closed containers.
- b. Nurses, doctors and other health care professionals.
- c. Various departments in acute and long term care hospitals.

25. In Inviro's response to Opposer's interrogatory No. 8, it stated that it intended to sell products under the ULTRALINK mark through "the channel of trade that would be one that supplies [the goods listed in its recitation]." Please specify whether Applicant intends to sell its goods through Internet sales, direct mail, sales force, any specific distributors, or through any wholesale or retailers.

ANSWER:

Please see applicant's supplemental response to interrogatory no. 8.

26. For each of the specific channels outlined in Inviro's answer to Interrogatory #25 above, please specify what steps, if any, have been taken with regard to:

- a. investigating the costs associated with such channels,
- b. hiring a sales force or marketing agency, or
- c. contacting potential distributors, retailers, or wholesalers.

ANSWER:

Please see applicant's supplemental response to interrogatory no. 8. Applicant is a startup company that has not yet faced these issues.

27. If Applicant intends to sell ULTRALINK through channels other than those outlined in interrogatory #25 above, please specify which channels Applicant is considering and specify what steps have been taken with regard to selling goods through those channels.

ANSWER:

Applicant has no such intent at this time. Please see applicant's supplemental response to interrogatory no. 8. Applicant is a startup company that has not yet faced many issues, including the issues raised in interrogatory no. 27.

28. In Inviro's response to Opposer's interrogatory No. 9, it stated that it intended to advertise, promote, and market its goods "in manners typical of the channel of trade that supplies [the goods listed in its recitation.]" Please specify whether Applicant intends to:

- a. utilize print advertising, and if so, please state which publications it is considering;
- b. utilize media advertising or publicity—TV, radio and/or newspapers, and if so,

- please state which radio, TV stations and/or newspapers it is considering;
- c. utilize trade show opportunities, and if so, please state which trade shows it is considering;
 - d. utilize the distribution of promotional gifts—and if so, please state what kind of promotional gifts are being considered and to whom would they be distributed.

ANSWER:

Please see applicant's supplemental response to interrogatory no. 9. Applicant is a startup company that has not yet faced these issues.

29. In Inviro's response to Opposer's interrogatory No. 14, it stated that its competition were "companies that sell [the goods listed in its recitation]." Please specify which companies Inviro is aware of that sell competitive goods.

ANSWER:

Please see applicant's supplemental response to interrogatory no. 14.

30. Please specify when, exactly, Inviro first became aware of Baxter's use of the INTERLINK mark and state its understanding of the products which Baxter sells under that mark.

ANSWER:

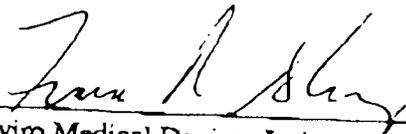
Please see applicant's supplemental responses to interrogatory nos. 15 and 16.

31. Please state what steps have been taken by Applicant toward bringing products to market under ULTRALINK since filing the application for ULTRALINK on October 20, 2000.

ANSWER:

Design of possible product, and contemplating marketing and production, with no dates for either at this time.

Date: 30 Oct 2003


Inviro Medical Devices Ltd.

Signed as to objections:

Date: 10-27-03


Duane M. Byers
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of APPLICANT'S RESPONSES TO OPPOSER'S SUPPLEMENTAL INTERROGATORIES was sent on this 27 day of Oct., 2003, via first class mail, postage prepaid, to:

Lynn A. Sullivan
Elizabeth C. Diskin
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza - Suite 4900
Chicago, Illinois 60601

