

ESTTA Tracking number: **ESTTA97137**

Filing date: **08/30/2006**

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	Raymond I. Geraldson, Jr. Pattishall McAuliffe Newbury Hilliard & Geraldson LLP 311 South Wacker Drive, Suite 5000 Chicago, IL 60606 UNITED STATES rig@pattishall.com, lrb@pattishall.com, pb@pattishall.com, docket@pattishall.com Phone:312-554-8000		
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Applicant Information

Application No	79013420	Publication date	08/01/2006
Opposition Filing Date	08/30/2006	Opposition Period Ends	08/31/2006
International Registration No.	0856851	International Registration Date	12/27/2004
Applicant	DIAGNOSTICA STAGO 9, rue des Frères Chausson F-92600 ASNIERES FRANCE		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Chemical and biological products intended for analysis, reactions and dosages and testing, namely, diagnostic testing reagents for human and veterinary medical use
Class 010. All goods and services in the class are opposed, namely: Apparatus for automated dosing of biological agent for use in the field of medical analysis

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.	653965	Application Date	12/24/1956
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Registration Date	11/05/1957	Foreign Priority Date	NONE
Word Mark	ALBUSTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1956/11/09 First Use In Commerce: 1956/11/09 PREPARATION FOR TESTING FOR ALBUMIN IN URINE, NOT FOR INTERNAL USE		

U.S. Registration No.	790907	Application Date	09/11/1964
Registration Date	06/15/1965	Foreign Priority Date	NONE
Word Mark	AZOSTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1964/08/19 First Use In Commerce: 1964/08/19 CHEMICAL REAGENTS FOR LABORATORY USE		

U.S. Registration No.	918748	Application Date	10/08/1970
Registration Date	08/24/1971	Foreign Priority Date	NONE
Word Mark	BILI-LABSTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1969/09/15 First Use In Commerce: 1969/09/15 LABORATORY REAGENT STRIPS FOR USE IN TESTING FOR PH, PROTEIN, GLUCOSE, KETONES, BILIRUBIN AND BLOOD IN URINE		

U.S. Registration No.	1115889	Application Date	08/07/1978
Registration Date	04/03/1979	Foreign Priority Date	NONE
Word Mark	CHEK-STIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 1978/06/02 First Use In Commerce: 1978/06/02 CHEMICAL REAGENT TEST FOR ANALYSIS OF BODY FLUIDS		

U.S. Registration No.	627201	Application Date	07/11/1955
Registration Date	05/22/1956	Foreign Priority	NONE

		Date	
Word Mark	CLINISTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1955/06/13 First Use In Commerce: 1955/06/13 PREPARATION FOR USE AS AN INDICATOR FOR DETERMINING THE PRESENCE OR ABSENCE OF SUGAR IN BODY FLUIDS		

U.S. Registration No.	668186	Application Date	10/18/1957
Registration Date	10/14/1958	Foreign Priority Date	NONE
Word Mark	COMBISTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1957/10/11 First Use In Commerce: 1957/10/11 REAGENT STRIPS, NOT FOR INTERNAL USE, FOR ANALYSIS OF BODY FLUIDS		

U.S. Registration No.	672032	Application Date	03/17/1958
Registration Date	01/06/1959	Foreign Priority Date	NONE
Word Mark	DIASTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1958/01/30 First Use In Commerce: 1958/01/30 REAGENT STRIPS FOR ANALYSIS OF BODY FLUIDS		

U.S. Registration No.	1161531	Application Date	11/02/1979
Registration Date	07/21/1981	Foreign Priority Date	NONE
Word Mark	GLUCOSTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 1979/10/03 First Use In Commerce: 1979/10/03 CHEMICAL REAGENT TEST FOR GLUCOSE IN BODY FLUIDS		

U.S. Registration No.	762936	Application Date	04/17/1963
Registration Date	01/14/1964	Foreign Priority Date	NONE

Word Mark	HEMA-COMBISTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1963/02/21 First Use In Commerce: 1963/02/21 Reagent Strips for the Analysis of Body Fluids		

U.S. Registration No.	656285	Application Date	12/17/1956
Registration Date	12/31/1957	Foreign Priority Date	NONE
Word Mark	HEMASTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1956/11/09 First Use In Commerce: 1956/11/09 PREPARATION, NOT FOR INTERNAL USE, FOR TESTING FOR OCCULT BLOOD		

U.S. Registration No.	930307	Application Date	11/20/1970
Registration Date	03/07/1972	Foreign Priority Date	NONE
Word Mark	KETO-DIASTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1970/10/14 First Use In Commerce: 1970/10/14 REAGANT STRIPS FOR ANALYSIS OF BODY FLUIDS		

U.S. Registration No.	656284	Application Date	12/17/1956
Registration Date	12/31/1957	Foreign Priority Date	NONE
Word Mark	KETOSTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1956/11/09 First Use In Commerce: 1956/11/09 PREPARATION, NOT FOR INTERNAL USE, FOR TESTING FOR KETONE BODIES IN URINE		

U.S. Registration No.	672033	Application Date	03/17/1958
Registration Date	01/06/1959	Foreign Priority Date	NONE

Word Mark	LABSTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1958/01/30 First Use In Commerce: 1958/01/30 REAGENT STRIPS FOR ANALYSIS OF BODY FLUIDS		

U.S. Registration No.	965355	Application Date	08/18/1972
Registration Date	08/07/1973	Foreign Priority Date	NONE
Word Mark	MICROSTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1972/06/30 First Use In Commerce: 1972/06/30 CHEMICAL REAGENT TEST FOR BACTERIURIA		

U.S. Registration No.	947477	Application Date	11/08/1971
Registration Date	11/21/1972	Foreign Priority Date	NONE
Word Mark	MULTISTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 001). First use: First Use: 1971/09/10 First Use In Commerce: 1971/09/10 CHEMICAL REAGENT TEST FOR [BLOOD AND] URINE		

U.S. Registration No.	1048353	Application Date	02/17/1976
Registration Date	09/21/1976	Foreign Priority Date	NONE
Word Mark	N-MULTISTIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 1975/10/06 First Use In Commerce: 1975/10/06 CHEMICAL REAGENT TEST STRIP FOR PH, PROTEIN, GLUCOSE, KETONES, BILIRUBIN, BLOOD, NITRITE AND UROBILINOGEN IN URINE		

U.S. Registration No.	668184	Application Date	10/18/1957
Registration Date	10/14/1958	Foreign Priority Date	NONE
Word Mark	URISTIX		
Design Mark			

Description of Mark	NONE
Goods/Services	Class U006 (International Class 001). First use: First Use: 1957/10/11 First Use In Commerce: 1957/10/11 REAGENT STRIPS, NOT FOR INTERNAL USE, FOR ANALYSIS OF BODY FLUIDS

Attachments	71690988#TMSN.gif (1 page)(bytes) STIC EXPERT - Notice of Opposition.pdf (4 pages)(198472 bytes)
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Signature	/Phil Barengolts/
Name	/Phillip Barengolts/
Date	08/30/2006

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 79-013,420: STIC EXPERT

Published in the *Official Gazette* of August 1, 2006, Page TM 268 in International Classes 5 and 10

BAYER HEALTHCARE LLC,)
)
 Opposer,)
)
 v.) Opp. No. _____
)
 DIAGNOSTICA STAGO SOCIÉTÉ)
 PAR ACTIONS SIMPLIFIÉE,)
)
 Applicant.)

NOTICE OF OPPOSITION

Bayer HealthCare LLC ("Opposer"), a Delaware limited liability company located and doing business at 100 Bayer Road, Pittsburgh, Pennsylvania 15205, believes it will be damaged by registration of the mark shown in Application Serial No. 79-013,420, and hereby opposes the same.

The grounds for the opposition are as follows:

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.
2. Since long prior to the filing date stated in applicant's application, Opposer and its predecessors have used the suffix STIX as a salient part of a family of marks in connection with the advertising and sale of a wide variety of products in the medical and healthcare fields, including reagents and diagnostic testing equipment.

Certificate of Transmission
I hereby certify that this correspondence is being electronically transmitted to the Patent and Trademark Office on August 30, 2006.

3. Opposer and its predecessors have registered the aforesaid family of STIX trademarks in the United States Patent and Trademark Office, including:

TRADEMARK	REGISTRATION NO.	REGISTRATION DATE
ALBUSTIX	653,965	November 5, 1957
AZOSTIX	790,907	June 15, 1965
BILI-LABSTIX	918,748	August 24, 1971
CHEK-STIX	1,115,889	April 3, 1979
CLINISTIX	627,201	May 22, 1956
COMBISTIX	668,186	October 14, 1958
DIASTIX	672,032	January 6, 1959
GLUCOSTIX	1,161,531	July 21, 1981
HEMA-COMBISTIX	762,936	January 14, 1964
HEMASTIX	656,285	December 31, 1957
KETO-DIASTIX	930,307	March 7, 1972
KETOSTIX	656,284	December 31, 1957
LABSTIX	672,033	January 6, 1959
MICROSTIX	965,355	August 7, 1973
MULTISTIX	947,477	November 21, 1972
N-MULTISTIX	1,048,353	September 21, 1976
URISTIX	668,184	October 14, 1958

Said registrations are valid and subsisting, each registration is incontestable in accordance with the provisions of the Federal Trademark Act (15 U.S.C. §§ 1065, 1115(b)), and said marks and registrations are now owned by Opposer.

4. Opposer and its predecessors have sold many millions of dollars worth of goods under Opposer's aforesaid family of STIX trademarks and have spent many millions of dollars in advertising and promoting said trademarks throughout the United States.

5. By virtue of the aforesaid sales and promotion, Opposer and its predecessors have built up and Opposer now owns valuable goodwill symbolized by its aforesaid family of STIX trademarks.

6. The proposed use by applicant of the trademark STIC EXPERT for "chemical and biological products intended for analysis, reactions and dosages and testing, namely, diagnostic testing reagents for human and veterinary medical use" and "apparatus for automated dosing of biological agent for use in the field of medical analysis" is likely to result in confusion, mistake or deception with Opposer's STIX family of trademarks, or in the belief that applicant or its STIC EXPERT products are in some way legitimately connected with, licensed or approved by Opposer.

7. Upon information and belief, neither applicant nor any predecessor or related company of applicant has a claim of right in the mark STIC EXPERT prior to June 28, 2004, the priority date stated in the opposed application.

8. The use by applicant of the trademark STIC EXPERT for which registration is sought in the opposed application is without Opposer's consent or permission.

WHEREFORE, registration by applicant of the aforesaid trademark for the aforesaid goods would be damaging to Opposer.

Opposer herein submits the requisite filing fee in the amount of \$600. Please debit any deficiency or credit any overpayment to, Deposit Account No. 16-0650.

Please address all correspondence to Raymond I. Geraldson, Jr., Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP, 311 South Wacker Drive, Suite 5000, Chicago, Illinois 60606.

PATTISHALL, McAULIFFE, NEWBURY,
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By



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