

ESTTA Tracking number: **ESTTA242728**

Filing date: **10/15/2008**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Unilever Supply Chain, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	1 John Street Clinton, CT 06413 UNITED STATES		

Name	Conopco, Inc. d/b/a Unilever		
Entity	Corporation	Citizenship	New York
Address	800 Sylvan Avenue Englewood Cliffs, NJ 07632 UNITED STATES		

Attorney information	Gregory P. Gulia Duane Morris LLP 1540 Broadway New York, NY 10036-4086 UNITED STATES gpgulia@duanemorris.com, cjrooney@duanemorris.com		
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Applicant Information

Application No	76652169	Publication date	09/16/2008
Opposition Filing Date	10/15/2008	Opposition Period Ends	10/16/2008
Applicant	WELLNX LIFE SCIENCES INC. 5800 EXPLORER DRIVE SUITE 320 MISSISSAUGA, ONTARIO, L4W 5K9 CANADA		

Goods/Services Affected by Opposition

Class 005. First Use: 2005/01/25 First Use In Commerce: 2005/01/25 All goods and services in the class are opposed, namely: dietary supplements
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1102508	Application Date	03/17/1978
Registration Date	09/19/1978	Foreign Priority	NONE

		Date	
Word Mark	SLIM-FAST		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1977/05/17 First Use In Commerce: 1977/05/17 PROTEIN FOOD SUPPLEMENT		

U.S. Registration No.	1288616	Application Date	07/20/1983
Registration Date	08/07/1984	Foreign Priority Date	NONE
Word Mark	SLIM-FAST		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1977/07/00 First Use In Commerce: 1977/07/00 Beverage Powder Meal Replacement Mix		

U.S. Registration No.	1358816	Application Date	02/21/1985
Registration Date	09/10/1985	Foreign Priority Date	NONE
Word Mark	SLIM-FAST		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1983/10/01 First Use In Commerce: 1983/10/01 DIETARY MEAL REPLACEMENT NUTRITIONAL BARS, AND INSTANT PUDDING MEAL REPLACEMENT MIX		

Related Proceedings	Unilever Supply Chain, Inc. and Conopco, Inc. d/b/a Unilever, filed a Notice of Opposition to Wellnx Life Sciences Inc.'s application Serial No. 76/652,168 to register SLIMQUICK LABORATORIES. The Opposition No. for that proceeding is 91186898.
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Attachments	73162581#TMSN.gif (1 page)(bytes) WELLNX-SLIMQUICK.pdf (6 pages)(418824 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Gregory P. Gulia/
Name	Gregory P. Gulia
Date	10/15/2008

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

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In the Matter of Application :
Serial No. 76/652,169 :
Published: September 16, 2008 :
UNILEVER SUPPLY CHAIN, INC. and :
CONOPCO, INC. d/b/a UNILEVER, :
Opposers, :
v. :
WELLNX LIFE SCIENCES INC., :
Applicant. :
-----X

Opposition No. _____

NOTICE OF OPPOSITION

Opposers, Unilever Supply Chain, Inc., a Delaware corporation with offices located at 1 John Street, Clinton, Connecticut 06413 (“Unilever Supply Chain”), and Conopco, Inc. d/b/a Unilever, a New York corporation with offices located at 800 Sylvan Avenue, Englewood Cliffs, New Jersey 07632 (“Conopco”) (collectively, “Opposers”), believe that they will be damaged by registration of SLIMQUICK as a trademark for “dietary supplements” in International Class 5, as shown in Application Serial No. 76/652,169, and hereby oppose the same.

As grounds for opposition, Opposers, through their counsel, allege as follows:

1. Opposer Unilever Supply Chain is the owner of the famous trademark SLIM-FAST® for weight management and meal replacement products.
2. Unilever Supply Chain owns, among other registrations, the following valid, subsisting and incontestable federal registrations for the SLIM-FAST® mark:

Registration No. 1,102,508 for “protein food supplement” in International Class 5; Registration No. 1,288,616 for “beverage powder meal replacement mix” in International Class 5; and Registration No. 1,358,816 for “dietary meal replacement nutritional bars, and instant pudding meal replacement mix” in International Class 5.

3. Registration Nos. 1,102,508, 1,288,616 and 1,358,816 are incontestable registrations pursuant to § 15 of the Lanham Act, 15 U.S.C. § 1065, meaning that, pursuant to § 33(b) of the Lanham Act, 15 U.S.C. § 1115(b), the registrations are conclusive evidence of the validity of the registered marks and of the registrations of the mark, of Unilever Supply Chain’s ownership of the marks, and of Unilever Supply Chain’s exclusive right to use the registered marks in commerce in connection with the goods specified in the registrations.
4. Opposer Conopco is Unilever Supply Chain’s exclusive licensee of the SLIM-FAST® mark, which it uses in connection with meal replacement and weight management products.
5. Unilever Supply Chain and its predecessors and their licensees have manufactured, distributed and sold meal replacement and weight management products under the trademark SLIM-FAST® continuously in interstate commerce in the United States since at least as early as 1977, long prior to any date on which Applicant can rely for purposes of priority.
6. Applicant filed its United States trademark application Serial No. 76/652,169 to register SLIMQUICK on December 12, 2005 under § 1(a) of the Lanham Act, 15 U.S.C. § 1051(a).

7. SLIM-FAST® brand meal replacement and weight management products are available and sold to consumers throughout the United States and in various other countries.
8. Over the years, the volume of sales of goods in the United States sold under Opposers' SLIM-FAST® trademark has been enormous.
9. The SLIM-FAST® brand of meal replacement and weight management products is among the largest selling brands for such products in the United States.
10. The extraordinary success of Opposers' SLIM-FAST® brand products over many years has engendered wide renown with the trade and the public and the products sold under the mark have a reputation for being of the highest quality.
11. The SLIM-FAST® trademark and products are continuously and extensively advertised and promoted throughout the United States.
12. Since 1977, Opposers and their predecessors have spent well over one billion dollars advertising and promoting the SLIM-FAST® mark and products throughout the United States.
13. The SLIM-FAST® brand has been promoted and advertised in a wide variety of national media, including national television, nationally circulated newspapers and over the Internet.
14. Because of Opposers' extensive advertising, promotion and use of the SLIM-FAST® mark, the mark has acquired enormous value and has become extremely well known to the consuming public as identifying and distinguishing SLIM-FAST® products from those of competitors.

15. SLIM-FAST® is a distinctive and famous trademark and represents and symbolizes a valuable business, which belongs exclusively to Opposers.
16. As a result of Opposers' extensive use of the SLIM-FAST® trademark, the mark has come to be recognized by the public as identifying Opposers as the source of goods bearing the mark, and represents enormous goodwill belonging exclusively to Opposers.
17. The SLIM-FAST® trademark is famous and became famous long prior to any date on which Applicant can rely for purposes of priority.
18. Opposers believe they will be damaged by registration of SLIMQUICK as a mark under § 13 of the Lanham Act, 15 U.S.C. § 1063, because consumers, familiar with Opposers' famous SLIM-FAST® mark are likely to believe, mistakenly, that Applicant or its products emanate from, are sponsored or authorized by, or are otherwise associated or affiliated with Opposers, in violation of § 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).
19. Opposers believe they will be damaged by registration of SLIMQUICK as a mark under § 13 of the Lanham Act, 15 U.S.C. § 1063, because Applicant's use of SLIMQUICK is likely to dilute the distinctive quality of Opposers' famous SLIM-FAST® trademark by lessening the capacity for the trademark to identify and distinguish Opposers exclusively as the source of goods provided under the SLIM-FAST® trademark, in violation of § 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

20. By reason of the foregoing, Opposers will be damaged by registration of SLIMQUICK as shown in Application Serial No. 76/652,169 and Applicant is therefore not entitled to a registration for SLIMQUICK.

WHEREFORE, Opposers respectfully request that this Opposition be sustained and that registration to Applicant be in all respects refused and denied.

Dated: New York, New York
October 15, 2008

DUANE MORRIS LLP

By: 
Gregory P. Gulia
Christopher J. Rooney
1540 Broadway
New York, New York 10036-4086
(212) 692-1000

Attorneys for Opposers

Unilever Supply Chain, Inc. and
Conopco, Inc. d/b/a Unilever

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on the Attorney of Record for Applicant Wellnx Life Sciences Inc. by mailing said copy on October 15, 2008 via first-class mail, postage prepaid to:

Mark B. Harrison, Esq.
Venable LLP
575 7th Street, NW
Washington, DC 20004


Signature

Christopher J. Rooney
Name of Person Signing

October 15, 2008
Date of Signature