

ESTTA Tracking number: **ESTTA345673**

Filing date: **05/05/2010**

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	Johnson & Johnson
Granted to Date of previous extension	05/05/2010
Address	One Johnson & Johnson Plaza New Brunswick, NJ 08933-7001 UNITED STATES

Attorney information	Mary Pat Weyback Drinker Biddle & Reath LLP 1500 K St. N.W. Washington, DC 20005-1209 UNITED STATES weyback@dbr.com, andrea.engel@dbr.com Phone:202-842-8800
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Applicant Information

Application No	77647782	Publication date	01/05/2010
Opposition Filing Date	05/05/2010	Opposition Period Ends	05/05/2010
Applicant	The Sisquoc Healthcare Corporation 707 Moreno Road Santa Barbara, CA 93103 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. First Use: 2008/11/01 First Use In Commerce: 2008/12/01 All goods and services in the class are opposed, namely: Skin whitening creams
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Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	506671	Application Date	09/23/1947
Registration Date	02/15/1949	Foreign Priority Date	NONE
Word Mark	LUBRIDERM		

Design Mark	
Description of Mark	NONE
Goods/Services	Class U018 (International Class 005). First use: First Use: 1946/03/01 First Use In Commerce: 1946/03/31 MEDICINAL SKIN LOTIONS

U.S. Registration No.	1674740	Application Date	01/17/1991
Registration Date	02/11/1992	Foreign Priority Date	NONE
Word Mark	LUBRIDERM BODY BAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1990/02/05 First Use In Commerce: 1990/02/05 skin soap		

U.S. Registration No.	1951779	Application Date	12/03/1993
Registration Date	01/23/1996	Foreign Priority Date	NONE
Word Mark	LUBRIDERM SERIOUSLY SENSITIVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1994/05/10 First Use In Commerce: 1994/05/10 hand and body lotion		

Attachments	LUCEDERM Notice of Opposition.pdf (8 pages)(136790 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	/Mary Pat Weyback/
Name	Mary Pat Weyback
Date	05/05/2010

4. Opposer has continuously used the LUBRIDERM BODY BAR mark in connection with skin soap since as early as February 5, 1990.

5. Opposer has continuously used the LUBRIDERM SERIOUSLY SENSITIVE mark in connection with hand and body lotion since as early as May10, 1994.

6. Opposer is the owner of:

- a. Reg. No. 506,671 – LUBRIDERM, dated February 15, 1949, for medicinal skin lotions in U.S. Cl. 18 (I.C. 5). The registration is incontestable and has been renewed four times.
- b. Reg. No. 1,674,740 – LUBRIDERM BODY BAR, dated February 11, 199, for skin soap in class 3. The registration is incontestable and has been renewed.
- c. Reg. No. 1,951,779 – LUBRIDERM SERIOUSLY SENSITIVE, dated January 23, 1996, for hand and body lotion in class 3. The registration is incontestable and has been renewed.

Copies of the registrations are attached hereto as Exhibits A-C.

7. By virtue of its extensive and longstanding use, Opposer's LUBRIDERM mark has become well-known among relevant consumers and has acquired a high degree of distinctiveness indicating source in the Opposer.

8. Opposer first used and registered the LUBRIDERM mark long prior to Applicant's application filing date of January 12, 2009.

9. Applicant's LUCEDERM & Design mark is substantially similar to Opposer's LUBRIDERM mark in appearance, sound, connotation, and commercial impression.

10. The goods for which Applicant seeks to register the LUCEDERM & Design mark and the goods on which Opposer has used and registered the LUBRIDERM mark are overlapping, or otherwise closely related.

11. The goods for which Applicant seeks to register the LUCEDERM & Design mark and the goods on which Opposer has used and registered the LUBRIDERM mark may be marketed to and purchased by the same class of consumers.

12. The goods for which Applicant seeks to register the LUCEDERM & Design mark and the goods on which Opposer has used and registered the LUBRIDERM mark are likely to be sold or rendered through identical channels of trade.

13. The proposed use and registration by Applicant of the LUCEDERM & Design mark for the goods identified in Ser. No. 77/647,782 are likely to cause confusion, mistake or deception by having the public erroneously assume or believe that such goods and services emanate from Opposer, or are in some other way associated or connected with Opposer's prior use of the LUBRIDERM mark, all to Opposer's irreparable damage.

For the reasons set forth herein, Opposer believes that it will be damaged by the registration of application Ser. No. 77/647,782. Accordingly, Opposer prays that this Opposition be sustained, and that Applicant be refused registration of the LUCEDERM & Design mark for the goods set forth in application Ser. No. 77/647,782.

The filing fee of \$300.00 is submitted herewith electronically. Should additional fees be required, please charge the deposit account of Drinker Biddle & Reath, No. 50-0573.

Respectfully submitted,

JOHNSON & JOHNSON

By: /Mary Pat Weyback/
Norm D. St. Landau
Mary Pat A. Weyback
DRINKER BIDDLE & REATH, LLP
1500 K Street, N.W.. Suite 1100
Washington, D.C. 20005
Fax: (202) 842-8465
dctrademarks@dbr.com
Counsel for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Opposition was served on Applicant at the following address of record by First-Class Mail, postage prepaid, this 5th day of May 2010:

Mr. Jason Edwards
The Sisquoc Healthcare Corporation
707 Moreno Road
Santa Barbara, California 93103-1801

/Mary Pat Weyback/

Registered Feb. 15, 1949

Registration No. 506,671

PRINCIPAL REGISTER
Trade-Mark

UNITED STATES PATENT OFFICE

Texas Pharmacal Company, San Antonio, Tex.

Act of 1946

Application September 23, 1947, Serial No. 535,436

LUBRIDERM

(Statement)

Texas Pharmacal Company, a corporation duly organized under the laws of Texas, located at San Antonio, Texas, and doing business at Post-office Box 1659, San Antonio, Texas, has adopted and used the trade-mark shown in the accompanying drawing, for MEDICINAL SKIN LOTION, in Class 6, Chemicals, medicines, and pharmaceutical preparations, and presents herewith five specimens showing the trade-mark as actually used in connection with such goods, the trade-mark being applied to the containers for the goods, and requests that the same be registered in the United States Patent Office on the Principal Register in accordance with the act of July 5, 1946.

The trade-mark was first used on March 1, 1946 and first used in commerce among the several States which may lawfully be regulated by Congress on March 31, 1946.

(Declaration)

A. R. Clark, being duly sworn, deposes and says that he is the president of Texas Pharmacal Company, the applicant named in the foregoing statement, that he believes that said corporation is the owner of the trade-mark which is in use in commerce among the several States and that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use such trade-mark in commerce which may lawfully be regulated by Congress either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing and description truly represent the trade-mark sought to be registered, that the specimens show the trade-mark as actually used in connection with the goods, and that the facts set forth in the statement are true.

TEXAS PHARMACAL COMPANY,
By A. R. CLARK,
President.

Int. Cl.: 3

Prior U.S. Cl.: 52

United States Patent and Trademark Office

Reg. No. 1,674,740
Registered Feb. 11, 1992

**TRADEMARK
PRINCIPAL REGISTER**

LUBRIDERM BODY BAR

WARNER-LAMBERT COMPANY (DELAWARE
CORPORATION)
201 TAVOR ROAD
MORRIS PLAINS, NJ 07950

FOR: SKIN SOAP, IN CLASS 3 (U.S. CL. 52).
FIRST USE 2-5-1990; IN COMMERCE
2-5-1990.

OWNER OF U.S. REG. NO. 506,671.
NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "BODY BAR", APART FROM
THE MARK AS SHOWN.

SER. NO. 74-131,171, FILED 1-17-1991.

W. A. CONN, EXAMINING ATTORNEY

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51, and 52

United States Patent and Trademark Office

Reg. No. 1,951,779

Registered Jan. 23, 1996

**TRADEMARK
PRINCIPAL REGISTER**

LUBRIDERM SERIOUSLY SENSITIVE

WARNER-LAMBERT COMPANY (DELAWARE
CORPORATION)
201 TABOR ROAD
MORRIS PLAINS, NJ 07950

FIRST USE 5-10-1994; IN COMMERCE
5-10-1994.
OWNER OF U.S. REG. NO. 506,671 AND
OTHERS.

SN 74-466,938, FILED 12-3-1993.

FOR: HAND AND BODY LOTION, IN CLASS
3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FRED MANDIR, EXAMINING ATTORNEY