

ESTTA Tracking number: **ESTTA423195**

Filing date: **08/03/2011**

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	ManukaMed Limited
Granted to Date of previous extension	08/03/2011
Address	13 Edwin Feist Place Masterton, 5810 NEW ZEALAND

Attorney information	E. Russell Tarleton Seed IP Law Group PLLC 701 Fifth Avenue, Suite 5400 Seattle, WA 98104 UNITED STATES russt@seedip.com, litcal@seedip.com Phone:206-622-4900
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Applicant Information

Application No	85027425	Publication date	04/05/2011
Opposition Filing Date	08/03/2011	Opposition Period Ends	08/03/2011
Applicant	Links Medical Products Inc. 9247 Research Drive Irvine, CA 92618 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Super absorbent adherent burn dressings, wound dressings and medical dressings impregnated with medical grade honey of the Manuka variety
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3847286	Application Date	09/30/2009
Registration Date	09/14/2010	Foreign Priority Date	NONE
Word Mark	MANUKAMED		

Design Mark	
Description of Mark	The mark consists of the wording "MANUKAMED" below a six-sided design.
Goods/Services	<p>Class 003. First use: Cleaning preparations; soaps; cosmetics; perfumery; dentifrices; non-medicated skin care products and scalp care products; non-medicated lip balm; moisturizers, namely, skin moisturizers and facial moisturizers; hair lotions; shampoos; conditioners, namely, hair conditioners and baby hair conditioners</p> <p>Class 005. First use: Pharmaceutical preparations that are used as anti-infectives, anti-inflammatory, antioxidants and/or to promote wound healing; ophthalmic ointments, creams, lotions and gels; eye drops; medicated lip balm; medicated throat sprays; gels, creams, ointments, sprays and powders, all for topical application to the human body, skin and wounds for treatment thereof; nebulizer solutions that have anti-infective, anti-inflammatory, antioxidant and/or wound healing properties; substances adapted for use with inhalers for medical purposes; dietetic substances adapted for medical purposes, health purposes, and sports and performance enhancement; dietary supplements; food additives that have anti-infective, anti-inflammatory, antioxidant and/or wound healing properties; vitamins; food for babies; nutraceuticals that have anti-infective, anti-inflammatory, antioxidant and/or wound healing properties; plasters for medical purposes; materials for dressings, bandages and wound dressings; tablets and capsules containing an active ingredient or ingredients that have anti-infective, anti-inflammatory, antioxidant and/or wound healing properties; medicated lozenges; lozenges for pharmaceutical purposes; throat lozenges; cough lozenges; propolis for medical purposes; royal jelly for medical purposes; disinfectants for household, commercial and medical uses</p> <p>Class 010. First use: Suture materials; bandages for compression, slings and support; inhalers for medical and therapeutic use</p> <p>Class 030. First use: Preparations made from cereals, namely, cereal based snack foods, processed cereals and ready to eat cereals; breakfast cereals; bread, pastry and confectionery, namely, non-medicated lozenges, pastilles and candy; ices, namely, edible ices, flavored ices, ice, ice blocks and ice candies; honey, treacle; yeast, mustard; vinegar, salad dressings, mayonnaise; sauces in the nature of condiments; spices; propolis for human consumption; royal jelly for human consumption not for medical purposes</p>

Attachments	77838412#TMSN.jpeg (1 page)(bytes) NOO (MANUKAHD BORDER.pdf (4 pages)(79566 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	/E. Russell Tarleton/
Name	E. Russell Tarleton
Date	08/03/2011

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

MANUKAMED LIMITED COMPANY,)	Opposition No. _____
)	
Opposer,)	Serial No. 85/027425
)	
v.)	
)	
LINKS MEDICAL PRODUCTS INC.,)	Docket No. 630212.810
)	
Applicant.)	
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NOTICE OF OPPOSITION

Opposer ManukaMed Limited (“Opposer”), which has a principal place of business in Masterton, New Zealand, believes it will be damaged by the registration of the mark MANUKAHD BORDER shown in United States Trademark Application Serial No. 85/027425 filed by Links Medical Products Inc. (“Applicant”), and published for opposition on April 5, 2011. Therefore, Opposer opposes the application.

The grounds for this opposition are alleged as follows:

1. Opposer ManukaMed Limited is a corporation organized under the laws of New Zealand with an address at 13 Edwin Feist Place, Masterton, New Zealand.
2. Opposer is the owner of U.S. Trademark Registration No. 3,847,286 for the word mark MANUKAMED in International Classes 3, 5, 10, and 30 for cleaning preparations, pharmaceutical preparations, suture materials, cereals, foods non-medicated lozenges, and the like. The registration is valid and subsisting.
3. Opposer is engaged in the sale and marketing of a variety of goods and services in interstate commerce in the United States, including the goods and services

listed in its U.S. Trademark Reg. No. 3,847,286, for the mark MANUKAMED, such as, without limitation, cleaning preparations, pharmaceutical preparations, suture materials, cereals, foods, non-medicated lozenges, and the like, as well as other goods including, without limitation, clothing and other products under the marks MANUKAHD, MANUKAHD ROPE, MANUKAPLI, and MANUKA (referred to collectively herein as the MANUKA Marks).

4. Since as early as September 30, 2009, prior to the April 30, 2010 filing date of Applicant's intent-to-use application, Opposer, its predecessor and licensees, collectively, continuously engaged in the sale in interstate commerce in the U.S. of a variety of products, including clothing and related accessories, under one or more of the MANUKA Marks. Opposer has also begun selling and continues to sell clothing products under one or more of the MANUKA marks.

5. As a result of such use and advertising by Opposer of its family of MANUKA Marks, the marks are recognized as identifying the high-quality goods sold by Opposer. The marks and the associated goodwill are valuable assets of Opposer.

6. The mark MANUKAHD BORDER shown in Applicant's application includes as a prefix the word "MANUKA" followed by "HD BORDER." MANUKA is visually and verbally the dominant portion of Applicant's mark. Thus, Applicant's mark incorporates Opposer's MANUKAHD BORDER as well as the MANUKA word mark in its entirety.

7. Applicant has applied to register the MANUKAHD BORDER mark in International Class 05 for "Super absorbent adherent burn dressings, wound dressings and medical dressings impregnated with medical grade honey of the Manuka variety." The goods described in Applicant's application are closely related to and include goods identical to the goods on which Opposer's MANUKA Marks are used.

8. The goods described in Applicant's application to register MANUKAHD BORDER are so closely related to the goods described in Opposer's registrations for its MANUKA Marks that if the parties' respective products are sold under the same or confusingly similar marks, a likelihood of confusion will result.

9. Applicant's MANUKAHD BORDER mark for the goods described in the application is confusingly and deceptively similar to Opposer's MANUKA Marks for the goods described in Opposer's registrations, such that the trade and purchasing public will be confused and deceived by believing that Applicant's goods originate with or are otherwise authorized, sponsored, licensed or associated with Opposer.

10. On information and belief, Applicant has had no use of Applicant's Mark in commerce prior to the April 30, 2010, filing date of Applicant's intent-to-use application.

11. By reason of all of the foregoing, Opposer would be greatly damaged by the grant to Applicant of a registration for MANUKAHD BORDER for the goods described in the application.

WHEREFORE, Opposer prays that this Opposition be sustained and the mark refused registration for the above-described goods.

DATED this 3rd day of August, 2011.

Respectfully submitted,
SEED IP Law Group PLLC

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Attorneys for Opposer
ManukaMed Limited

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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of August, 2011, the foregoing **NOTICE OF OPPOSITION** was served upon Applicant's counsel by United States first-class mail, postage-prepaid, addressed as follows:

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COSTA MESA, CA 92626-1931

/Kelly Brennan/

Kelly Brennan