

ESTTA Tracking number: **ESTTA438629**

Filing date: **10/31/2011**

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	Pioneer Hi-Bred International, Inc.
Granted to Date of previous extension	10/30/2011
Address	7100 NW 62nd Avenue P.O. Box 1014 Johnston, IA 50131-1014 UNITED STATES

Attorney information	Naresh Kilaru Finnegan, Henderson 901 New York Avenue NW Washington, DC 20001 UNITED STATES docketing@finnegan.com, mark.sommers@finnegan.com, naresh.kilaru@finnegan.com, tony.momorella@finnegan.com, larry.white@finnegan.com
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Applicant Information

Application No	85211907	Publication date	05/03/2011
Opposition Filing Date	10/31/2011	Opposition Period Ends	10/30/2011
Applicant	Strategic Diagnostics Inc. 111 Pencader Drive Newark, DE 19702 UNITED STATES		

Goods/Services Affected by Opposition

Class 001. All goods and services in the class are opposed, namely: Antibodies for scientific or research use
Class 040. All goods and services in the class are opposed, namely: Antibody services, namely, custom antibody production and generation; custom manufacture of antibodies for others
Class 042. All goods and services in the class are opposed, namely: Scientific research and development, namely, development of antibodies for others

Applicant Information

Application No	85207828	Publication date	05/03/2011
Opposition Filing Date	10/31/2011	Opposition Period Ends	
Applicant	Strategic Diagnostics Inc.		

	111 Pencader Drive Newark, DE 19702 UNITED STATES
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Goods/Services Affected by Opposition

Class 001. All goods and services in the class are opposed, namely: Antibodies for scientific or research use
Class 040. All goods and services in the class are opposed, namely: Antibody services, namely, custom antibody production and generation; custom manufacture of antibodies for others
Class 042. All goods and services in the class are opposed, namely: Scientific research and development, namely, development of antibodies for others

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.	3288995	Application Date	02/08/2006
Registration Date	09/04/2007	Foreign Priority Date	NONE
Word Mark	GAT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 031. First use: First Use: 2007/05/04 First Use In Commerce: 2007/05/04 Herbicide tolerant agricultural seed		

Attachments	78809853#TMSN.jpeg (1 page)(bytes) Pioneer Hi-Bred notice of Opposition.pdf (12 pages)(126416 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	/Naresh Kilaru/
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Name	Naresh Kilaru
Date	10/31/2011

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

PIONEER HI-BRED INTERNATIONAL, INC.,)	
)	Opposition No. _____
Opposer,)	
)	Mark: GAT
v.)	Serial No. 85/211,907
)	Filed: January 6, 2011
STRATEGIC DIAGNOSTICS, INC.)	
)	Mark: XGAT
Applicant.)	Serial No. 85/207,828
)	Filed: December 30, 2010

CONSOLIDATED NOTICE OF OPPOSITION

Opposer Pioneer Hi-Bred International, Inc., an Iowa corporation with its principal place of business at 7100 NW 62nd Avenue, Johnston, Iowa 50131, believes that it will be damaged by the registration of the marks GAT and XGAT shown in Application Serial Nos. 85/211,907 and 85/207,828, respectively, and opposes the same.

As grounds for its opposition, Pioneer alleges that, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to other matters:

Opposer and its GAT Mark

1. Pioneer is the largest agricultural seed company in the world and an industry leader in agronomy, plant genetics, and related agricultural biotechnology research and development. Pioneer develops, produces, markets, and sells agricultural seed in nearly 70 countries.

2. Pioneer uses the mark GAT for herbicide tolerant agricultural seed.

3. Pioneer owns U.S. Registration No. 3,288,995 for the mark GAT for “herbicide tolerant agricultural seed” in Class 31. Pioneer’s application for this mark

was filed on February 8, 2006 pursuant to 15 U.S.C. § 1051(b), and the mark registered on September 4, 2007. A copy of the TESS/TARR record for this registration is attached as Exhibit A.

4. Pioneer's U.S. Registration No. 3,288,995 is valid and subsisting and constitutes *prima facie* evidence of the validity of the mark and registration, of Pioneer's ownership of and exclusive right to use the mark in commerce, and provides constructive notice of Pioneer's ownership.

Applicant and its GAT and XGAT Applications

5. Applicant Strategic Diagnostics, Inc. is a Delaware corporation with an address of 111 Pencader Drive, Newark DE 19702.

6. Applicant owns intent-to-use Application Serial No. 85/211,907 filed on January 6, 2011 for the mark GAT and intent-to-use Application Serial No. 85/207,828 for the mark XGAT filed on December 30, 2010, both of which cover the following goods and services:

Antibodies for scientific or research use (Class 1)

Antibody services, namely, custom antibody production and generation; custom manufacture of antibodies for others (Class 40)

Scientific research and development, namely, development of antibodies for others (Class 42)

7. Upon information and belief, Applicant's GAT and XGAT marks are used, or are intended to be used, with antibodies. Upon further information and belief, Applicant's GAT and/or XGAT antibodies are used, or intended to be used, with agricultural products. Upon additional information and belief, Applicant's GAT and/or XGAT antibodies can be used with agricultural products.

Count One
Likelihood of Confusion, 15 U.S.C. § 1052(d)

8. Pioneer repeats and realleges each and every allegation set forth in paragraphs 1 through 7.

9. Pioneer's registration for its GAT mark issued prior to the filing date of Application Serial Nos. 85/211,907 and 85/207,828, and any date of first use that Applicant can allege.

10. Pioneer's rights in its GAT mark precede the filing date of Application Serial Nos. 85/211,907 and 85/207,828, and any date of first use that Applicant can allege.

11. Applicant's GAT mark is identical to Pioneer's GAT mark, and Applicant's XGAT mark is nearly identical to Pioneer's GAT mark, in sound, appearance, and overall commercial impression.

12. Applicant seeks to register the marks GAT and XGAT for goods and/or services that are used, and/or that are intended to be used, and/or that can be used, with agricultural goods.

13. Applicant's GAT and XGAT marks so resemble Pioneer's GAT mark as to be likely, when used in connection with Applicant's goods and services, to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, as amended, 15 U.S.C. § 1052(d).

WHEREFORE, Pioneer believes that it will be damaged by the registration of the marks shown in Application Serial Nos. 85/211,907 and 85/207,828, and requests that the opposition be sustained, and that registration to Applicant be refused.

The opposition filing fee has been submitted electronically. Any deficiency in the fee should be charged to Deposit Account No. 06-0916.

Respectfully Submitted,

Date: October 31, 2011

By: Naresh Kilaru

Mark Sommers
Naresh Kilaru
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GARRETT & DUNNER, L.L.P.
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Facsimile: (202) 408-4400

Attorneys for Opposer
Pioneer Hi-Bred International, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consolidated Notice of Opposition was served by first class mail, postage pre-paid, on this 31st day of October 2011, on the following counsel:

Joseph E. Washington
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington, DC 20004-2541



**Pioneer Hi-Bred International, Inc
v.
Strategic Diagonistics, Inc.**

Consolidated Notice of Opposition

Exhibit A



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GAT

Word Mark	GAT
Goods and Services	IC 031. US 001 046. G & S: Herbicide tolerant agricultural seed. FIRST USE: 20070504. FIRST USE IN COMMERCE: 20070504
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78809853
Filing Date	February 8, 2006
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	February 13, 2007
Registration Number	3288995
Registration Date	September 4, 2007
Owner	(REGISTRANT) Pioneer Hi-Bred International, Inc. CORPORATION IOWA 7100 NW 62nd Avenue PO Box 1014 Johnston IOWA 501311014
Attorney of Record	MARK SOMMERS
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Serial Number: 78809853 Assignment Information Trademark Document Retrieval

Registration Number: 3288995

Mark

GAT

(words only): GAT

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2007-09-04

Filing Date: 2006-02-08

Transformed into a National Application: No

Registration Date: 2007-09-04

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-07-30

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Pioneer Hi-Bred International, Inc.

Address:

Pioneer Hi-Bred International, Inc.
7100 NW 62nd Avenue PO Box 1014
Johnston, IA 501311014
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Iowa

GOODS AND/OR SERVICES

International Class: 031

Class Status: Active

Herbicide tolerant agricultural seed

Basis: 1(a)

First Use Date: 2007-05-04

First Use in Commerce Date: 2007-05-04

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-09-04 - Registered - Principal Register

2007-07-30 - Law Office Registration Review Completed

2007-07-27 - Allowed for Registration - Principal Register (SOU accepted)

2007-07-27 - Statement Of Use Processing Complete

2007-05-14 - Use Amendment Filed

2007-05-14 - TEAS Statement of Use Received

2007-05-08 - NOA Mailed - SOU Required From Applicant

2007-02-13 - Published for opposition
2007-01-24 - Notice of publication
2006-12-26 - Law Office Publication Review Completed
2006-12-22 - Approved For Pub - Principal Register
2006-12-02 - Amendment From Applicant Entered
2006-11-08 - Communication received from applicant
2006-12-02 - Assigned To LIE
2006-11-08 - PAPER RECEIVED
2006-06-09 - Non-final action e-mailed
2006-06-09 - Non-Final Action Written
2006-06-08 - Assigned To Examiner
2006-02-14 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

MARK SOMMERS

Correspondent

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No assignment has been recorded at the USPTO

For Serial Number: 78809853

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.2
Web interface last modified: July 25, 2011 v.2.2

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