

ESTTA Tracking number: **ESTTA474521**

Filing date: **05/24/2012**

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	Inno-Health Technology, Inc.
Granted to Date of previous extension	05/26/2012
Address	8F-2, No. 61, Sec. 2, Gung-I Rd. Taichung, TAIWAN

Correspondence information	Alfred H. Chan Shen & Chan, APLC 805 W. Duarte Road, Suite 106 Arcadia, CA 91007 UNITED STATES achan@shenlawyers.com Phone:626-821-9094
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Applicant Information

Application No	85463035	Publication date	03/27/2012
Opposition Filing Date	05/24/2012	Opposition Period Ends	05/26/2012
Applicant	LifeWave, Inc. 9444 Balboa Ave., Ste. 150 San Diego, CA 92123 UNITED STATES		

Goods/Services Affected by Opposition

Class 010. All goods and services in the class are opposed, namely: Apparatus for acupressure therapy
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Grounds for Opposition

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

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2616562	Application Date	06/22/2000
Registration Date	09/10/2002	Foreign Priority Date	NONE
Word Mark	AACULIFE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 010. First use: First Use: 1999/06/01 First Use In Commerce: 2000/05/23 Magnetic wave therapeutic apparatus in the nature of electromagnetic wave generators to stimulate the acupuncture points on a human body and short wave therapeutic apparatus in the nature of short wave generators for stimulating the acupuncture points on a human body

Attachments	76075405#TMSN.gif (1 page)(bytes) Notice of Opposition.pdf (4 pages)(65931 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	/Alfred H. Chan/
Name	Alfred H. Chan
Date	05/24/2012

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

INNO-HEALTH TECHNOLOGY, INC.

Opposer,

v.

LIFEWAVE, INC.

Applicant

ESTTA Tracking No.: ESTTA469227

Application Serial No.: 85463035

NOTICE OF OPPOSITION

Opposer INNO-HEALTH TECHNOLOGY, INC. (hereinafter “Opposer” or “INNO-HEALTH”) believes that it would be damaged by registration of the mark ACULIFE shown in U.S. Trademark Application Serial No. 85463035, filed by LIFEWAVE, INC. (hereinafter “Applicant” or “LIFEWAVE”), and therefore opposes that registration. The application is summarized as follows:

Serial No.:	85463035
Applicant:	LifeWave, Inc.
Mark:	ACULIFE
Class:	10
Goods/Services:	Apparatus for acupressure therapy
Filing Status:	1B
Filed:	11/02/2011
Date of Publication:	03/27/2012

The grounds for this opposition are as follows:

1. Opposer is in the business of, inter alia, developing and marketing therapeutic apparatus. Many of Opposer's products are designed to stimulate the acupuncture points on a human body.

2. Opposer is the owner of the following Federal Registered Trademark:

Registration No.: 2616562

Mark:



Class: 10

Goods/Services: Magnetic wave therapeutic apparatus in the nature of electromagnetic wave generators to stimulate the acupuncture points on a human body and short wave therapeutic apparatus in the nature of short wave generators for stimulating the acupuncture points on a human body.

Registration Date: 09/10/2002

First Use Date: 06/01/1999

First Use in Commerce: 05/23/2000

3. Opposer's registered mark is a design mark which consists of a stylized letter "A", follows with the word "ACULIFE". The literal element of Opposer's registration is ACULIFE and Opposer often describes and advertises its products as ACULIFE. For distinction purposes, Opposer's ACULIFE mark is hereinafter referred to as "AACULIFE".

4. On November 2, 2011, Applicant filed an intent-to-use application for the mark ACULIFE. The application was published in the Official Gazette on March 27, 2012, and covers the following goods: “Apparatus for acupressure therapy,” in Class 10.

5. Opposer’s AACULIFE design mark and Applicant’s ACULIFE mark so resemble each other that they contain the same word, which have the same spelling, phonetic sound, and meaning.

6. In addition, Applicant’s goods (i.e. apparatus for acupressure therapy) and Opposer’s goods (i.e. therapeutic apparatus) are so closely related that it is likely the goods will be marketed through the same stores or channels of distribution and to the same type of consumers.

7. Given the close resemblance of the two marks and the relatedness of their respective goods, if Applicant’s mark matures into registration, it is likely to cause consumer confusion as to the source of those goods, to cause mistake, and to deceive.

8. Opposer has established extremely valuable goodwill in its AACULIFE mark by virtue of the widespread use of AACULIFE mark in connection with the products described above, the promotional and marketing efforts devoted to AACULIFE branded products, and the extensive sales of the products under the AACULIFE mark.

9. In view of the strength, the duration and extent of use and advertising, and the degree of recognition of Opposer’s AACULIFE mark, the AACULIFE mark has become famous within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c).

10. Opposer’s AACULIFE mark was famous prior to the filing date of Applicant’s application.

11. Given the fame of Opposer's AACULIFE mark, and the close similarities of Applicant's ACULIFE mark to Opposer's AACULIFE mark, Applicant's mark is likely to dilute the distinctiveness of Opposer's famous mark AACULIFE.

12. For these reasons, Opposer would be damaged by the registration of Applicant's ACULIFE mark.

WHEREFORE, Opposer respectfully requests that registration of the mark ACULIFE, Serial No. 85463035, be refused and that this opposition be sustained.

Respectfully submitted,

/s/

Kimmy Chan, Esq.
Alfred Chan, Esq.
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INNO-HEALTH TECHNOLOGY, INC.

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