

ESTTA Tracking number: **ESTTA509243**

Filing date: **12/05/2012**

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	SWISS CAPS AG
Granted to Date of previous extension	12/05/2012
Address	HUSENSTRASSE 35 KIRCHBERG 9533, 9533 SWITZERLAND
Party who filed Extension of time to oppose	SWISS CAPS DR. DUNNER AG
Relationship to party who filed Extension of time to oppose	Swiss Caps Dr. Dunner AG is a related predecessor company to Swiss Caps AG. Therefore, it is noted that the correct entity has now been identified as opposer, namely Swiss Caps AG.

Attorney information	Jody H. Drake Sughrue Mion, PLLC 2100 Pennsylvania Avenue NWSuite 800 Washington, DC 20037 UNITED STATES jdrake@sughrue.com, vmullineaux@sughrue.com, mwhite@sughrue.com, sherrera-gill@sughrue.com, rbergendahl@sughrue.com Phone:202-293-7060
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Applicant Information

Application No	85550506	Publication date	08/07/2012
Opposition Filing Date	12/05/2012	Opposition Period Ends	12/05/2012
Applicant	Sofgen Pharmaceuticals, LLC 1301 Sawgrass Corporate parkway Sunrise, FL 33027 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Pharmaceutical products in the form of vegetable-base capsules that enclose a dose of medicine
Class 040. All goods and services in the class are opposed, namely: Manufacturing services for others in the field of vegetable-base capsules enclosing a dose of medicine

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.	2766092	Application Date	11/08/2000
Registration Date	09/23/2003	Foreign Priority Date	05/25/2000
Word Mark	VEGAGELS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: [CAPSULES MADE OF VEGETABLE MATERIAL CONTAINING BLEACHING PREPARATIONS AND OTHER SUBSTANCES FOR LAUNDRY USE; SOAPS, NAMELY, SKIN SOAPS, BATH AND SHOWER SOAPS; PERFUMERY, ESSENTIAL OILS FOR PERSONAL USE; SKIN CARE PREPARATIONS, NAMELY, BEAUTY CREAMS AND LIQUIDS; HAIR LOTIONS; CAPSULES MADE OF VEGETABLE MATERIAL SOLD EMPTY FOR ALL THE AFOREMENTIONED ITEMS]</p> <p>Class 005. First use: [CAPSULES MADE OF VEGETABLE MATERIAL SOLD EMPTY FOR PHARMACEUTICAL PURPOSES AND] CAPSULES MADE OF VEGETABLE MATERIAL SOLD AS A UNIT DOSE FOR [PHARMACEUTICAL PREPARATIONS AND] DIETETIC SUBSTANCES, ALL FOR THE MEDICAL TREATMENT OF, NAMELY, INFECTIOUS DISEASES, GASTROINTESTINAL PROBLEMS AND INDIGESTION, DIURETIC PROBLEMS, RHEUMATIC COMPLAINTS AND CHRONIC JOINT AND MUSCLE PAIN, ANXIETY AND VARIABILITY OF MOODS, VITAMIN DEFICIENCY SYMPTOMS, OVERWEIGHT, HEART DISEASES AND CIRCULATION PROBLEMS, WOMEN'S DISEASES; AS WELL AS FOR NUTRITIONAL SUPPLEMENTS, NAMELY, PLANT EXTRACTS AND PLANT OILS, FISH OILS AND COD LIVER OIL [, ELDER BLOSSOM SYRUP, ELDER JUICE AND OTHER SUPPLEMENTS CONTAINING ELDER]</p> <p>Class 029. First use: CAPSULES MADE OF VEGETABLE MATERIAL, NAMELY, OF STARCH USED FOR FOOD PREPARATIONS AND FOR NUTRITIONAL ADDITIVES NOT FOR MEDICAL PURPOSES</p>		

Attachments	76161352#TMSN.gif (1 page)(bytes) S4822 Notice of Opposition VEGGIEGELS.PDF (12 pages)(346514 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	/Jody H. Drake/
Name	Jody H. Drake
Date	12/05/2012

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

In Re Application Serial No. 85/550,506
Mark: VEGGIEGELS

SWISS CAPS AG,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No. _____
	:	
SOFGEN PHARMACUETICALS, LLC,	:	
	:	
Applicant.	:	

BOX TTAB FEE
Commissioner for Trademarks
P. O. Box 1451
Alexandria, Virginia 22313-1451

NOTICE OF OPPOSITION

Opposer, Swiss Caps AG, believes it will be damaged by registration of the mark VEGGIEGELS, the subject of Application Serial No. 85/550,506 filed February 23, 2012 and published August 7, 2012, and hereby opposes same pursuant to Section 13(a) of the Trademark Act of 1946, as amended (the "Lanham Act"), 15 U.S.C. § 1063(a).¹

As grounds for this opposition, Opposer alleges that:

1. Swiss Caps AG, a company organized and existing under the laws of Switzerland, with its principal place of business located at Husenstrasse 35, Kirchberg, Switzerland, 9533 believes that it will be damaged by the registration of the mark VEGGIEGELS, which is the subject of Application Serial No. 85/550,506, and hereby opposes same.
2. Opposer is the owner of U.S. Trademark Registration No. 2,766,092 for the mark

¹ An Extension of Time to Oppose Application Serial No. 85/550,506 was filed September 4, 2012 in the name of potential opposer Swiss Caps Dr. Dunner AG, a related predecessor company to Swiss Caps AG. Therefore, it is noted that the correct entity has now been identified as opposer, namely Swiss Caps AG.

VEGAGELS for "Capsules made of vegetable material sold as a unit does for dietetic substances, all for the medical treatment of, namely, infectious diseases, gastrointestinal problems and indigestion, diuretic problems, rheumatic complaints and chronic joint and muscle pain, anxiety and variability of moods, vitamin deficiency systems, overweight, heart diseases and circulation problems, women's diseases; as well as for nutritional supplements, namely, plant extracts and plant oils, fish oils and cod liver oil" in International Class 5 and "Capsules made of vegetable material, namely, of starch used for food preparations and for nutritional additives not for medical purposes," in International Class 29. This registration is valid, subsisting, unrevoked and uncanceled. Opposer will rely on its aforementioned registration in this opposition proceeding. The TARR printout associated with Opposer's registration upon which it will rely is submitted herewith as Exhibit A.

3. Applicant, on February 23, 2012, filed an application to register VEGGIEGELS for goods and services described as "Pharmaceutical products in the form of vegetable-base capsules that enclose a dose of medicine" in International Class 5 and "Manufacturing services for others in the field of vegetable-base capsules enclosing a dose of medicine," in International Class 40. The application was filed based on Applicant's alleged bona fide intent to use the mark in commerce.

4. Applicant's goods and services, as described in its Application Serial No. 85/550,506, would be marketed through the same channels of trade and sold to the same classes of customers as Opposer's goods described in its Registration No. 2,766,092.

5. Registration should be refused pursuant to Section 2(d) of the Lanham Act, 15 U.S.C Section 1052(d), on the grounds that Applicant's alleged VEGGIEGELS mark so closely resembles Opposer's VEGAGELS previously used trademark, as to be likely, when used on or in connection with the goods and services identified in the application, to cause confusion, or to cause mistake, or to deceive with subsequent injury to Opposer and to the public.

WHEREFORE, Opposer respectfully requests that registration to Applicant be refused and that this Opposition be sustained.

CORRESPONDENCE ADDRESS

Please recognize the firm of SUGHRUE MION, PLLC, at 2100 Pennsylvania Avenue, N.W., Washington, D.C. 20037-3213, Telephone No. (202) 293-7060, and Jody H. Drake and Gary D. Krugman of that firm, as attorneys for opposer in all matters related to the above proceeding. All correspondence should be directed to the attention of the undersigned at the above address.

PAYMENT OF FILING FEE

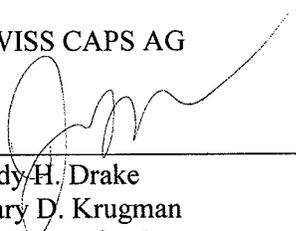
Submitted with this e-filing is authorization to debit a credit card or the Deposit Account of the undersigned in the amount of the government filing fee for this Notice of Opposition, believed to be \$ 600.00.

Dated: December 5, 2012

Respectfully submitted,

SWISS CAPS AG

By:



Jody H. Drake
Gary D. Krugman
Attorneys for Opposer
SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W., Suite 800
Washington, D.C. 20037-3213
Telephone: (202) 293-7060
Facsimile : (202) 293-7860

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **NOTICE OF OPPOSITION** has been served on Applicant this 5th day of December 2012, via first class mail and email, postage prepaid to:

Mr. Alvaro Franco
Sofgen Pharmaceuticals, LLC
1301 Sawgrass Corporate Parkway
Sunrise, FL 33323
alvarof@originates.com


Rachel Bergendahl

EXHIBIT A

STATUS DOCUMENTS

Generated on: This page was generated by TSDR on 2012-12-05 13:43:03 EST

Mark: VEGAGELS

US Serial Number: 76161352

Application Filing Date: Nov. 08

US Registration Number: 2766092

Registration Date: Sep. 20

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Oct. 05, 2009

Publication Date: Jul. 01, 2003

Mark Information

Mark Literal Elements: VEGAGELS

Standard Character Claim: No

Mark Drawing Type: 5 - AN ILLUSTRATION DRAWING WITH WORD(S) /LETTER(S)/ NUMBER(S) INSTYLIZE

Foreign Information

Priority Claimed: Yes

Foreign Application Number: 06312/2000

Foreign Application Filing Date: May 25

Foreign Registration Number: 479633

Foreign Registration Date: May 25

Foreign Country: SWITZERLAND

Foreign Expiration Date: May 25

Application/Registration Country:

Goods and Services**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *.* identify additional (new) wording in the goods/services.

For: [CAPSULES MADE OF VEGETABLE MATERIAL CONTAINING BLEACHING PREPARATIONS AND OTI SOAPS, NAMELY, SKIN SOAPS, BATH AND SHOWER SOAPS; PERFUMERY, ESSENTIAL OILS FOR I PREPARATIONS, NAMELY, BEAUTY CREAMS AND LIQUIDS; HAIR LOTIONS; CAPSULES MADE OF \ FOR ALL THE AFOREMENTIONED ITEMS]

International 003 - Primary Class**U.S Class:** 001, 004, 0**Class:****Class Status:** ACTIVE**Basis:** 44(e)

For: [CAPSULES MADE OF VEGETABLE MATERIAL SOLD EMPTY FOR PHARMACEUTICAL PURPOSES , MATERIAL SOLD AS A UNIT DOSE FOR [PHARMACEUTICAL PREPARATIONS AND] DIETETIC SUB: TREATMENT OF, NAMELY, INFECTIOUS DISEASES, GASTROINTESTINAL PROBLEMS AND INDIGES RHEUMATIC COMPLAINTS AND CHRONIC JOINT AND MUSCLE PAIN, ANXIETY AND VARIABILITY C SYMPTOMS, OVERWEIGHT, HEART DISEASES AND CIRCULATION PROBLEMS, WOMEN'S DISEASE SUPPLEMENTS, NAMELY, PLANT EXTRACTS AND PLANT OILS, FISH OILS AND COD LIVER OIL [, E AND OTHER SUPPLEMENTS CONTAINING ELDER]

International 005 - Primary Class**U.S Class:** 006, 018, 0**Class:****Class Status:** ACTIVE**Basis:** 44(e)

For: CAPSULES MADE OF VEGETABLE MATERIAL, NAMELY, OF STARCH USED FOR FOOD PREPARATI ADDITIVES NOT FOR MEDICAL PURPOSES

International 029 - Primary Class**U.S Class:** 046**Class:****Class Status:** ACTIVE**Basis:** 44(e)

Basis Information (Case Level)

Filed Use: No	Currently Use: No
Filed ITU: Yes	Currently ITU: No
Filed 44D: Yes	Currently 44D: No
Filed 44E: No	Currently 44E: Yes
Filed 66A: No	Currently 66A: No
Filed No Basis: No	Currently No Basis: No

Current Owner(s) Information

Owner Name: SWISS CAPS DR. DUNNER AG

Owner Address: HUSENSTRASSE 35
KIRCHBERG 9533
SWITZERLAND

Legal Entity Type: COMPANY

State or Country Where Organized: SWITZ

Attorney/Correspondence Information**Attorney of Record**

Attorney Name: JODY H DRAKE

Docket Number: S-4822

Correspondent

Correspondent JODY H DRAKE

Name/Address: SUGHRUE MION ZINN MACPEAK & SEAS PLLC
 2100 PENNSYLVANIA AVENUE NW
 WASHINGTON, DISTRICT OF COLUMBIA 20037
 UNITED STATES

Phone: 202-293-7060

Fax: 202-29

Correspondent e-mail: tm@sughrue.com

Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Jody H. Drake

Phone: 202-29

Name:

Fax: 202-293-7860

Domestic Representative e-mail: tm@sughrue.com

Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description
Nov. 25, 2009	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY
Nov. 18, 2009	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY
Nov. 11, 2009	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP
Oct. 05, 2009	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.
Oct. 05, 2009	CASE ASSIGNED TO POST REGISTRATION PARALEGAL
Sep. 22, 2009	TEAS SECTION 8 & 15 RECEIVED
Feb. 11, 2008	CASE FILE IN TICRS
Sep. 23, 2003	REGISTERED-PRINCIPAL REGISTER
Jul. 01, 2003	PUBLISHED FOR OPPOSITION
Jun. 11, 2003	NOTICE OF PUBLICATION
Apr. 15, 2003	APPROVED FOR PUB - PRINCIPAL REGISTER
Apr. 15, 2003	EXAMINERS AMENDMENT E-MAILED
Mar. 11, 2003	PREVIOUS ALLOWANCE COUNT WITHDRAWN
Dec. 18, 2002	APPROVED FOR PUB - PRINCIPAL REGISTER
Nov. 08, 2002	CORRESPONDENCE RECEIVED IN LAW OFFICE

Nov. 08, 2002	PAPER RECEIVED
Nov. 06, 2002	ASSIGNED TO EXAMINER
Sep. 19, 2002	CONTINUATION OF FINAL REFUSAL MAILED
Aug. 28, 2002	CORRESPONDENCE RECEIVED IN LAW OFFICE
Aug. 28, 2002	PAPER RECEIVED
Mar. 14, 2002	FINAL REFUSAL MAILED
Mar. 14, 2002	ASSIGNED TO EXAMINER
Nov. 08, 2001	CORRESPONDENCE RECEIVED IN LAW OFFICE
Nov. 08, 2001	Sec. 1(B) CLAIM DELETED
Sep. 28, 2001	CORRESPONDENCE RECEIVED IN LAW OFFICE
Mar. 27, 2001	NON-FINAL ACTION MAILED
Mar. 24, 2001	ASSIGNED TO EXAMINER

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMEG LAW OFFICE 106

Date in Location: Oct. 05

Assignment Abstract of Title Information

Summary

Total Assignments: 4

Registrant: SWISS

Assignment 1 of 4

Conveyance: CHANGE OF NAME

Reel/Frame: 4093/0788

Pages: 3

Date Recorded: Nov. 10, 2009

Supporting Documents: assignment-tm-4093-0788.pdf

Assignor

Name: SWISS CAPS AG

Execution Date: Dec. 14

Legal Entity Type: COMPANY

State or Country Where SWITZ

Organized:

Assignee

Name: SWISS CAPS DR. DUNNER AG

Legal Entity Type: COMPANY

State or Country Where Organized: SWITZ

Address: HUSENSTRASSE 35
KIRCHBERG, SWITZERLAND 9533

Correspondent

Correspondent Name: JODY H. DRAKE

Correspondent Address: SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

Domestic Representative

Domestic Representative Name: SUGHRUE MION, PLLC

Domestic Representative Address: 2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

Assignment 2 of 4

Conveyance: CHANGE OF NAME

Reel/Frame: 4094/0495

Pages: 3

Date Recorded: Nov. 11, 2009

Supporting Documents: assignment-tm-4094-0495.pdf

Assignor

Name: SWISS CAPS DR. DUNNER AG

Execution Date: Dec. 14

Legal Entity Type: COMPANY

State or Country Where Organized: SWITZ

Assignee

Name: SWISS CAPS HOLDING AG

Legal Entity Type: COMPANY

State or Country Where Organized: SWITZ

Address: HUSENSTRASSE 35
KIRCHBERG, SWITZERLAND 9533

Correspondent

Correspondent Name: JODY H. DRAKE, ESQ.

Correspondent Address: SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

Domestic Representative

Domestic Representative Name: SUGHRUE MION, PLLC

Domestic Representative Address: 2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

Assignment 3 of 4

Conveyance: NUNC PRO TUNC ASSIGNMENT EFFECTIVE 12182001

Reel/Frame: 4095/0950

Pages: 3

Date Recorded: Nov. 13, 2009

Supporting Documents: assignment-tm-4095-0950.pdf

Assignor

Name: SWISS CAPS HOLDING AG

Execution Date: Oct. 22

Legal Entity Type: COMPANY

State or Country Where Organized: SWITZ

Assignee

Name: SWISS CAPS EUROPE (HOLDING) AG

State or Country Where Organized: SWITZ

Legal Entity Type: COMPANY

Address: HUSENSTRASSE 35
KIRCHBERG, SWITZERLAND 9533

Correspondent

Correspondent Name: JODY H. DRAKE, ESQ.

Correspondent Address: SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

Domestic Representative

Domestic Representative SUGHRUE MION, PLLC

Name:

Domestic Representative 2100 PENNSYLVANIA AVENUE, NW

Address: WASHINGTON, DC 20037-3213

Assignment 4 of 4

Conveyance: NUNC PRO TUNC ASSIGNMENT EFFECTIVE DATE: 02022002.

Reel/Frame: 4097/0334

Pages: 3

Date Recorded: Nov. 17, 2009

Supporting Documents: assignment-tm-4097-0334.pdf

Assignor

Name: SWISS CAPS EUROPE (HOLDING) AG

Execution Date: Oct. 22

Legal Entity Type: COMPANY

State or Country Where Organized: SWITZ

Assignee

Name: SWISS CAPS AG

State or Country Where Organized: SWITZ

Legal Entity Type: COMPANY

Address: HUSENSTRASSE 35
KIRCHBERG, SWITZERLAND 9533

Correspondent

Correspondent Name: JODY H. DRAKE, ESQ.

Correspondent Address: SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

Domestic Representative

Domestic Representative SUGHRUE MION, PLLC
Name:

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Address: WASHINGTON, DC 20037-3213