

ESTTA Tracking number: **ESTTA536349**

Filing date: **05/06/2013**

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	Patch Media Corporation
Granted to Date of previous extension	05/05/2013
Address	584 Broadway New York, NY 10012 UNITED STATES
Attorney information	James R. Davis, II Arent Fox LLP 1717 K Street, NW Washington, DC 20036 UNITED STATES davis.jim@arentfox.com, henrye@arentfox.com, tmdocket@arentfox.com Phone:202 587 6000

**Applicant Information**

Application No	85586610	Publication date	11/06/2012
Opposition Filing Date	05/06/2013	Opposition Period Ends	05/05/2013
Applicant	UCB PHARMA, S.A. ALLEE DE LA RECHERCHE 60 BRUSSELS, B-1070 BELGIUM		

**Goods/Services Affected by Opposition**

Class 016. All goods and services in the class are opposed, namely: Printed matter, namely, newsletters, pamphlets and brochures in the field of raising public awareness, education, funding, support, studies, research, prevention and treatment of Parkinson's Disease and Restless Leg Syndrome
Class 035. All goods and services in the class are opposed, namely: Administering medication reimbursement programs and services
Class 036. All goods and services in the class are opposed, namely: Charitable services, namely, providing financial support to disadvantaged patients for the purpose of facilitating good health
Class 038. All goods and services in the class are opposed, namely: Providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of Parkinson's Disease and Restless Leg Syndrome
Class 041. All goods and services in the class are opposed, namely: Patient assistance programs in the medical

field, namely, conducting educational programs and distributing training material in connection therewith in the field of Parkinson's Disease and Restless Leg Syndrome; Educational services, namely, developing, arranging, and conducting educational conferences and programs and providing courses of instruction in the field of Parkinson's Disease and Restless Leg Syndrome; Providing on-line newsletters in the field of Parkinson's Disease and Restless Leg Syndrome

## 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)
Dilution	Trademark Act section 43(c)

## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4007928	Application Date	09/22/2008
Registration Date	08/09/2011	Foreign Priority Date	NONE
Word Mark	PATCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2009/02/04 First Use In Commerce: 2009/02/04 Advertising services, namely, providing space in an online newspaper and dissemination of advertisements and classified advertising for others online and on wireless and mobile devices; providing news, information and listings on a variety of topics of general and local interest, namely, politics and business</p> <p>Class 038. First use: First Use: 2009/02/04 First Use In Commerce: 2009/02/04 Providing streaming video and audio material on the Internet and on wireless and mobile devices</p> <p>Class 041. First use: First Use: 2009/02/04 First Use In Commerce: 2009/02/04 Providing online non-downloadable newspapers featuring news, information and listings on a variety of topics of general and local interest; providing news, information and listings on a variety of topics of general and local interest, namely, news in the nature of current events reporting, sports, entertainment, the arts, and leisure activities</p>		

U.S. Registration No.	4014291	Application Date	02/11/2009
Registration Date	08/23/2011	Foreign Priority Date	NONE
Word Mark	PATCH		
Design Mark			
Description of Mark	The mark consists of The stylized word "Patch" with blades of grass coming up from the letter "h" in "Patch".		
Goods/Services	<p>Class 035. First use: First Use: 2009/02/04 First Use In Commerce: 2009/02/04 Advertising services, namely, providing space in an online newspaper and dissemination of advertisements and classified advertising for others online and on wireless and mobile devices; providing news, information and listings on a variety of topics of general and local interest, namely, politics and business</p> <p>Class 038. First use: First Use: 2009/02/04 First Use In Commerce: 2009/02/04 Providing streaming video and audio material on the internet and on wireless</p>		

	and mobile devices Class 041. First use: First Use: 2009/02/04 First Use In Commerce: 2009/02/04 Providing online non-downloadable newspapers featuring news, information and listings on a variety of topics of general and local interest; providing news, information and listings on a variety of topics of general and local interest, namely, news in the nature of current events reporting, sports, entertainment, the arts, and leisure activities
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U.S. Registration No.	4132844	Application Date	01/28/2011
Registration Date	04/24/2012	Foreign Priority Date	NONE
Word Mark	UNPATCHED		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2011/02/10 First Use In Commerce: 2011/02/10 Entertainment in the nature of on-going programs featuring news and commentary delivered via television and the Internet		

Attachments	Patch Media.pdf ( 8 pages )(354036 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	/James R. Davis, II/
Name	James R. Davis, II
Date	05/06/2013

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

In re Application No. 85/586610 for the mark PATCH PARTNERSHIP PROGRAM, filed April 2, 2012, and published November 6, 2012

<b>PATCH MEDIA CORPORATION,</b>	)	
	)	
Opposer,	)	
	)	
v.	)	Opp. No. _____
	)	
<b>UCB Pharma SA,</b>	)	
	)	
Applicant.	)	
_____	)	

**NOTICE OF OPPOSITION**

Patch Media Corporation (“Opposer”), a corporation organized and existing under the laws of the State of Delaware and having a principal place of business at 584 Broadway, New York, NY 10012, believes that it will be damaged by the registration of the mark shown in Application Serial No. 85/586610, and hereby opposes the same under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. §1063.

As grounds for opposition, Opposer alleges the following:

1. Opposer is the owner of all right, title, and interest in and to several trademarks that are comprised of or include PATCH (collectively the “PATCH Marks”), which Opposer has used and continues to use to advertise and promote its popular goods and services.
2. The United States Patent and Trademark Office has recognized Opposer’s exclusive right to use its PATCH Marks mark by issuing the following trademark registrations:

Reg. No.	Trademark	Reg. Date	Services
4,007,928	PATCH	Aug. 9, 2011	<p><b>Class 35.</b> Advertising services, namely, providing space in an online newspaper and dissemination of advertisements and classified advertising for others online and on wireless and mobile devices; providing news, information and listings on a variety of topics of general and local interest, namely, politics and business.</p> <p><b>Class 38.</b> Providing streaming video and audio material on the Internet and on wireless and mobile devices.</p> <p><b>Class 41.</b> Providing online non-downloadable newspapers featuring news, information and listings on a variety of topics of general and local interest; providing news, information and listings on a variety of topics of general and local interest, namely, news in the nature of current events reporting, sports, entertainment, the arts, and leisure activities.</p>
4014291	PATCH and Design	Aug. 23, 2011	<p><b>Class 35.</b> Advertising services, namely, providing space in an online newspaper and dissemination of advertisements and classified advertising for others online and on wireless and mobile devices; providing news, information and listings on a variety of topics of general and local interest, namely, politics and business.</p> <p><b>Class 38.</b> Providing streaming video and audio material on the internet and on wireless and mobile devices.</p> <p><b>Class 41.</b> Providing online non-downloadable newspapers featuring news, information and listings on a variety of topics of general and local interest; providing news, information and listings on a variety of topics of general and local interest, namely, news in the nature of current events reporting, sports, entertainment, the arts, and leisure activities.</p>

4132844	UNPATCHED	Apr. 24, 2012	<b>Class 41.</b> Entertainment in the nature of on-going programs featuring news and commentary delivered via television and the Internet.
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3. These registrations are valid and subsisting and they provide constructive notice of Opposer's ownership pursuant to Sections 7, 22 and 33 of the Trademark Act of 1946, 15 U.S.C. §§ 1057, 1072, and 1115.

4. The foregoing registrations constitute prima facie evidence of the validity and subsistence of the PATCH Marks, as well as Opposer's ownership of and exclusive right to use the marks in commerce, without restriction or limitation.

5. Since long prior to the filing date of the application opposed in this opposition, and prior to any first use date Applicant can claim for the trademark Patch Partnership Program, Opposer has extensively used the PATCH Marks in commerce in connection with promoting Opposer's goods and services.

6. Opposer has invested substantial sums of money in developing, advertising, and marketing the goods and services offered in connection with its PATCH Marks. These goods and services are offered to customers throughout the United States and the world.

7. Opposer's PATCH Marks have been publicized through substantial advertising in the United States.

8. Because of the widespread and extensive use, advertising and promotion of the PATCH Marks, the general public has come to associate these marks with Opposer and its high quality goods and services.

9. As a result of such extensive use, advertising, and promotion, Opposer's PATCH Marks have become well-known and famous as distinctive indicators of the origin of Opposer's goods and services, and the marks have become a valuable symbol of Opposer's goodwill.

10. Notwithstanding Opposer's prior established rights in its PATCH Marks, Applicant has filed an application with the United States Patent and Trademark Office to register the mark Patch Partnership Program (Serial No. 85/586610) ("The Disputed Mark") for "Printed matter, namely, newsletters, pamphlets and brochures in the field of raising public awareness, education, funding, support, studies, research, prevention and treatment of Parkinson's Disease and Restless Leg Syndrome," in Int. Class 16; "Administering medication reimbursement programs and services," in Int. Class 35; "Charitable services, namely, providing financial support to disadvantaged patients for the purpose of facilitating good health," in Int. Class 36; "Providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of Parkinson's Disease and Restless Leg Syndrome," in Int. Class 38; "Patient assistance programs in the medical field, namely, conducting educational programs and distributing training material in connection therewith in the field of Parkinson's Disease and Restless Leg Syndrome; Educational services, namely, developing, arranging, and conducting educational conferences and programs and providing courses of instruction in the field of Parkinson's Disease and Restless Leg Syndrome; Providing on-line newsletters in the field of Parkinson's Disease and Restless Leg Syndrome," in Int. Class 41.

11. Upon information and belief, Applicant uses or intends to use the Disputed Mark in connection with services that are similar, closely related or complementary to those Opposer has provided under its PATCH Marks.

12. Upon information and belief, Applicant knew or had reason to know of Opposer's prior rights in its PATCH Marks when Applicant filed its application to register the Disputed Mark.

**Likelihood of Confusion - §2(d)**

13. The Disputed Mark so closely resembles Opposer's PATCH Marks that the use and registration thereof is likely to cause confusion, mistake, and deception as to the source or origin of Applicant's goods and services and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's PATCH Marks. Opposer hereby incorporates by reference the allegations contained in paragraphs 1 through 12 above.

14. Applicant's goods and services are so closely related to Opposer's services that the public is likely to be confused, to be deceived, and to assume erroneously that Applicant's goods and services are related to those of Opposer, or that Applicant is in some way connected or affiliated with, or approved or endorsed by, Opposer.

**Deception/False Suggestion of Connection - §2(a)**

15. The Disputed Mark so closely resembles Opposer's PATCH Marks that it is likely to cause deception in violation of Section 2(a) of the Trademark Act, in that the Disputed Mark misdescribes the nature or origin of Applicant's goods and services, purchasers are likely to believe that the misdescription actually describes the nature or origin of Applicant's goods and services, and this is likely to materially alter purchasers' decisions to acquire Applicant's goods and services. Opposer hereby incorporates by reference the allegations contained in paragraphs 1 through 14 above.

16. The Disputed Mark so closely resembles Opposer's PATCH Marks that it falsely suggests a connection with Opposer in violation of Section 2(a) of the Trademark Act, because the Disputed Mark points uniquely to Opposer, and purchasers will assume that goods and services offered under the Disputed Mark are connected with Opposer.

17. The Disputed Mark is deceptive in that it falsely suggests a connection with or approval by the Opposer.

#### **Dilution - §43(c)**

18. Use or registration of the Disputed Mark constitutes trademark dilution by blurring in violation of the Trademark Dilution Revision Act of 2006, 15 U.S.C. §1125(c). Opposer hereby incorporates by reference the allegations contained in paragraphs 1 through 17 above.

19. Opposer's PATCH Marks are famous and widely recognized by the general consuming public of the United States as a designation of the source of Opposer's goods and services.

20. Opposer's PATCH Marks have been widely used and extensively advertised in the United States.

21. Opposer's PATCH Marks became well-known and famous before Applicant filed its application for or made any use of the Disputed Mark.

22. Applicant's conduct is likely to cause an association arising from the similarity between the Disputed Mark and Opposer's PATCH Marks that impairs the distinctiveness of Opposer's PATCH Marks.

23. Applicant's use or registration of the Disputed Mark will tarnish the goodwill

symbolized by Opposer's PATCH Marks.

24. Likelihood of tarnishment and damage to Opposer's goodwill is enhanced here by the fact that prospective customers who encounter defects in the quality of Applicant's goods and services will attribute those defects to Opposer, which will tarnish Opposer's reputation and goodwill.

25. Likelihood of confusion, dilution, and deception are further enhanced here by the fact that the parties' goods and services will be advertised and provided through some of the same trade channels and to some of the same classes of prospective purchasers.

26. Likelihood of confusion, dilution and deception is further enhanced here by the fact that the goods and services covered under Applicant's application are closely related to those provided by Opposer under its PATCH Marks.

WHEREFORE, Opposer prays that the Board sustain this opposition and deny registration of the mark identified in applicant's application.

Dated: May 6, 2013

By:

Patch Media Corporation

  
James R. Davis, II  
Arent Fox LLP  
1717 K Street, NW  
Washington, D.C. 20036  
(202) 857-6000

*Attorneys for Opposer*

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing Notice of Opposition re application

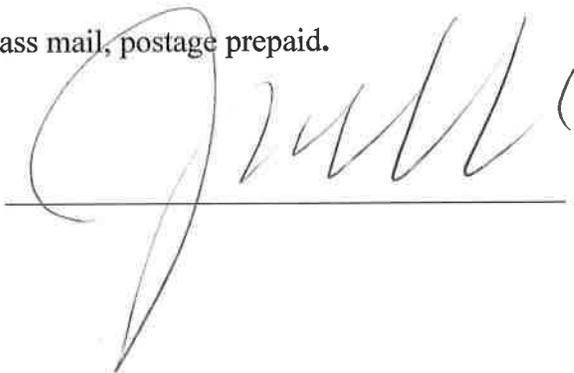
Ser. No. 85/586610 upon applicant and applicant's attorney at

UCB PHARMA, S.A.  
ALLEE DE LA RECHERCHE 60  
BRUSSELS B-1070  
BELGIUM

and

CHRISTOPHER S. ADKINS  
WENDEROTH, LIND & PONACK, L.L.P.  
1030 15TH ST NW STE 400  
WASHINGTON, DC 20005-1503

this sixth day of May 2013 by first class mail, postage prepaid.

A handwritten signature in black ink, appearing to read "C. Adkins", is written over a horizontal line. The signature is cursive and somewhat stylized.