

ESTTA Tracking number: **ESTTA553118**

Filing date: **08/08/2013**

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	Clontech Laboratories, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	1290 Terra Bella Avenue Mountain View, CA 94043 UNITED STATES		

Attorney information	Ian K. Boyd Harvey Siskind LLP 4 Embarcadero Center, 39th Floor San Francisco, CA 94111 UNITED STATES lboyd@harveysiskind.com, kmcknight@harveysiskind.com, clee@harveysiskind.com Phone:415-354-0100		
----------------------	---	--	--

Applicant Information

Application No	85787100	Publication date	07/09/2013
Opposition Filing Date	08/08/2013	Opposition Period Ends	08/08/2013
Applicant	New England Biolabs, Inc. Attn: Harriet M. Strimpel 240 County Road Ipswich, MA 01938 UNITED STATES		

Goods/Services Affected by Opposition

Class 001. All goods and services in the class are opposed, namely: Molecular biology reagents, namely, enzymes or enzyme buffers for use in the biotechnology field

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4262866	Application Date	10/27/2009
Registration Date	12/25/2012	Foreign Priority Date	NONE
Word Mark	SMARTER		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 001. First use: First Use: 2009/02/18 First Use In Commerce: 2009/02/18 Reagents for use in scientific or medical research use		
----------------	---	--	--

U.S. Application No.	77855307	Application Date	10/22/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SMART		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 1996/01/12 First Use In Commerce: 1996/01/12 Reagents for use in scientific or medical research use		

Attachments	CUTSMART Notice of Opposition.130808.FINAL (00023626).pdf(104271 bytes)
-------------	--

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	/Ian K. Boyd/
Name	Ian K. Boyd
Date	08/08/2013

1 HARVEY SISKIND LLP
2 IAN K. BOYD (CA SBN 191434)
3 iboyd@harveysiskind.com
4 KATE W. MCKNIGHT (CA SBN 264197)
5 kmcknight@harveysiskind.com
6 Four Embarcadero Center, 39th Floor
7 San Francisco, CA 94111
8 Telephone: (415) 354-0100
9 Facsimile: (415) 391-7124

10 Attorneys for Opposer,
11 Clontech Laboratories, Inc.

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

14 CLONTECH LABORATORIES, INC., a
15 Delaware corporation,

16 Opposer,

17 v.

18 NEW ENGLAND BIOLABS, INC., a
19 Massachusetts corporation,

20 Applicant.

NOTICE OF OPPOSITION

Opposition No.

App. Serial No. 85/787100

Mark: CUTSMART

21 Clontech Laboratories, Inc. (“Opposer”) believes it will be damaged by registration of the mark
22 shown in Serial No. 85/787100 (“Applied-For Mark”) by New England Biolabs, Inc. (“Applicant”) and
23 hereby opposes the same. As grounds for opposition, Opposer alleges:

DESCRIPTION OF THE APPLIED-FOR MARK

24 1. Applicant filed the Applied-For Mark with the United States Patent and Trademark
25 Office (“USPTO”) on November 26, 2012 and it was published for opposition in the Official Gazette on
26 July 9, 2013.

1 **PRAYER**

2 WHEREFORE, Opposer prays that Application Serial No. 85/787100 be rejected, no registration
3 thereon be issued to Applicant, and this Opposition be sustained in favor of Opposer. Opposer hereby
4 appoints as its attorneys Harvey Siskind LLP, a law firm composed of members of the Bar of the State of
5 California, with full power to prosecute this Opposition, transact all relevant business with the USPTO
6 and the U.S. Courts, and receive all official communication in connection with this Opposition.

7 Dated: August 8, 2013

8 Respectfully submitted,

9 HARVEY SISKIND LLP
10 IAN K. BOYD
11 KATE W. MCKNIGHT

12 By /Ian K. Boyd/

13 Ian K. Boyd

14 Attorneys for Opposer,
15 Clontech Laboratories, Inc.

CERTIFICATE OF TRANSMISSION

I hereby certify that a true and correct copy of the attached NOTICE OF OPPOSITION (Serial No. 85787100) is being electronically transmitted to the Trademark Trial and Appeal Board on August 8, 2013.

/Ian K. Boyd/
Ian K. Boyd

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

