

ESTTA Tracking number: **ESTTA618016**

Filing date: **07/28/2014**

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

Proceeding	91216969
Party	Defendant Sebela International Limited
Correspondence Address	ASHISH D. PATEL THOMPSON HINE LLP 10050 INNOVATION DR MIAMISBURG, OH 45342-4931  ipdocket@thompsonhine.com
Submission	Answer
Filer's Name	Carrie A. Shufflebarger
Filer's e-mail	carrie.shufflebarger@thompsonhine.com, ash.patel@thompsonhine.com, docket@thompsonhine.com, sharon.bella@thompsonhine.com
Signature	/Carrie A. Shufflebarger/
Date	07/28/2014
Attachments	CINCINNATI-#943871-v1-Answer_to_SEBELA_opposition.pdf(14848 bytes )

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

FOREST LABORATORIES, INC.	:	
	:	
Opposer,	:	Opposition No. 91216969
	:	
v.	:	Application No. 86/127,398
	:	
SEBELA INTERNATIONAL LIMITED,	:	Mark: SEBELA
	:	
Applicant.	:	

**ANSWER AND AFFIRMATIVE DEFENSES**

Applicant Sebela International Limited hereby sets forth its Answer and Affirmative Defenses to the Notice of Opposition filed by Forest Laboratories, Inc., as follows:

Preamble: Applicant admits that it is the owner of Application Serial No. 86/127,398, which speaks for itself. Applicant denies that Opposer will be damaged by registration of Application Serial No. 86/127,398. Applicant lacks sufficient information to either admit or deny the remaining allegations contained in the preamble, and therefore denies same.

1. Admitted.
2. Denied.
3. Applicant lacks sufficient information to either admit or deny the allegations contained in Paragraph 3, and therefore denies same.
4. Denied.
5. Applicant lacks sufficient information to either admit or deny the allegations contained in Paragraph 5, and therefore denies same.

6. Applicant denies that Opposer is entitled to the relief requested in Paragraph 6, and therefore denies same.

### **AFFIRMATIVE DEFENSES**

#### **First Affirmative Defense**

Applicant incorporates by reference its responses to Paragraphs 1-6 of the Notice of Opposition as if fully set forth herein.

#### **Second Affirmative Defense**

The Opposition fails to state a claim upon which relief can be granted.

#### **Third Affirmative Defense**

Applicant's Mark is dissimilar to Opposer's Mark in overall appearance, sound, meaning, and commercial impression.

#### **Fourth Affirmative Defense**

Applicant's goods are dissimilar from Opposer's goods.

#### **Fifth Affirmative Defense**

No likelihood of confusion, mistake and/or deception as to source, origin, sponsorship or affiliation or false suggestion of a connection exists between Opposer's Mark and Applicant's Mark, as those marks are used with their respective goods.

#### **Sixth Affirmative Defense**

Opposer's registrations may be invalid, unenforceable, or subject to cancellation, in whole or in part, and Applicant reserves the right to seek the same as further facts are developed through discovery in this proceeding.

### **Seventh Affirmative Defense**

Applicant reserves the right to amend its answer, raise additional claims and affirmative defenses, and file pleadings as may be revealed during the course of discovery.

Wherefore, Applicant respectfully requests that this Opposition be refused and dismissed with prejudice, and Applicant's application be allowed to issue to registration.

Date: July 28, 2014

Respectfully submitted,

/s/ Carrie A. Shufflebarger

Carrie A. Shufflebarger, Esq.  
Thompson Hine LLP  
312 Walnut Street, Fourteenth Floor  
Cincinnati, Ohio 45202  
(513) 352-6678  
[carrie.shufflebarger@thompsonhine.com](mailto:carrie.shufflebarger@thompsonhine.com)

Ashish D. Patel, Esq.  
Thomson Hine LLP  
Two Alliance Center  
3560 Lenox Road NE, Suite 1600  
Atlanta, Georgia 30326-4266  
(404) 407.3607  
[ash.patel@thompsonhine.com](mailto:ash.patel@thompsonhine.com)

Attorneys for Opposer

**CERTIFICATE OF FILING**

I certify that a copy of the foregoing is being filed electronically through the United States Patent and Trademark Office's ESTTA electronic filing system, on this 28th day of July, 2014.

/s/ Carrie A. Shufflebarger

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing is being served via U.S. Mail on the following, on this 28th day of July, 2014.

Christopher Serbagi  
The Serbagi Law Firm , P.C.  
488 Madison Avenue, Suite 1120  
New York, New York 10022

/s/ Carrie A. Shufflebarger