

ESTTA Tracking number: **ESTTA666734**

Filing date: **04/15/2015**

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	Conceivex, Inc.
Granted to Date of previous extension	04/15/2015
Address	5 east Main Street Saranac, MI 48881 UNITED STATES

Attorney information	Jennifer M. Hetu Honigman miller Schwartz and Cohn LLP 39400 woodward ave Suite 101 Bloomfield hills, MI 48304 UNITED STATES tmdocketing@honigman.com Phone:248-566-8452
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**Applicant Information**

Application No	86335976	Publication date	12/16/2014
Opposition Filing Date	04/15/2015	Opposition Period Ends	04/15/2015
Applicant	Sweazy, Jill 38 Edens Point Road Columbia, SC 29212 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: A fertility enhancement kit comprised of ovulation predictors, pregnancy test, nutraceuticals for a man and woman, a basal thermometer and chart, and a set of instructions
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	3466195	Application Date	08/30/2007
Registration Date	07/15/2008	Foreign Priority Date	NONE
Word Mark	CONCEPTION KIT		

Design Mark	<b>CONCEPTION KIT</b>
Description of Mark	NONE
Goods/Services	Class 010. First use: First Use: 2006/04/26 First Use In Commerce: 2006/04/26 medical devices in the field of reproduction

U.S. Registration No.	3263636	Application Date	02/10/2006
Registration Date	07/10/2007	Foreign Priority Date	NONE
Word Mark	CONCEPTION KIT LE KIT DE CONCEPTION		
Design Mark	<b>CONCEPTION KIT LE KIT DE CONCEPTION</b>		
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 2006/04/26 First Use In Commerce: 2006/04/26 Medical devices in the field of reproduction		

Attachments	77268516#TMSN.png( bytes ) 78812321#TMSN.png( bytes ) Notice of Opposition.pdf(952623 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	/jmh/
Name	Jennifer M. Hetu
Date	04/15/2015

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

CONCEIVEX, INC.  
Opposer,

Opposition No.: \_\_\_\_\_

v.

Mark: UCONCEIVE – A COUPLES CONCEPTION KIT  
Application Serial No.: 86/335,976

JILL SWEAZY,  
Applicant.

\_\_\_\_\_ /

Jennifer M. Hetu  
HONIGMAN MILLER SCHWARTZ AND COHN LLP  
Attorney For Opposer  
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Bloomfield Hills, MI 48304-5151  
(248) 566-8452  
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[tmddocketing@honigman.com](mailto:tmddocketing@honigman.com)

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**NOTICE OF OPPOSITION**

Conceivex, Inc. (“Opposer”), a Michigan corporation whose business address is 5 East Main Street, Saranac, Michigan 48881, by and through its attorneys, Honigman Miller Schwartz and Cohn, LLP, believes that it will be damaged by the registration of U.S. App. No. 86/335,976 for the mark UCONCEIVE - A COUPLES CONCEPTION KIT owned by Jill Sweazy (“Applicant”), a U.S. citizen with an address of 38 Edens Point Road, Columbia, South Carolina 29212, and hereby opposes the same. As grounds for Opposition, Opposer alleges the following upon actual knowledge with respect to Opposer’s own acts, and upon information and belief as to other matters:

1. Opposer has been continuously using the CONCEPTION KIT trademark in connection with the sale of reproductive medical devices since at least as early as April 2006, and continues to use the trademark in connection with the sale of such products.

2. Opposer’s reproductive medical devices marketed under the CONCEPTION KIT

trademark are FDA cleared and CE approved, and are the only reproductive medical devices endorsed the Catholic Church. Opposer's reproductive medical devices require a valid prescription in the U.S. and are covered by many insurance policies as a pharmacy benefit or a medical benefit.

3. Opposer is the owner the following U.S. trademark registrations, as well as the associated common rights (collectively, the "CONCEPTION KIT Marks"):

Mark	Reg. No.	Reg. Date	Goods
CONCEPTION KIT	3,466,195	July 15, 2008	medical devices in the field of reproduction
CONCEPTION KIT LE KIT DE CONCEPTION	3,263,636	July 10, 2007	medical devices in the field of reproduction

Opposer's registrations are valid and subsisting, and the registration for the mark CONCEPTION KIT is incontestable. Copies of the Certificates of Registration for the CONCEPTION KIT Marks are attached as Exhibit A.

4. Opposer has invested extensive time and resources advertising, promoting, and publicizing the goods offered under its CONCEPTION KIT Marks. As a result of these efforts, the CONCEPTION KIT Marks enjoy a high degree of recognition and goodwill throughout the United States and customers recognize the marks as identifying the goods of Opposer and distinguishing them from others.

5. Applicant is the owner of pending U.S. Application No. 86/335,976 for the mark UCONCEIVE - A COUPLES CONCEPTION KIT, filed on July 14, 2014 for "a fertility enhancement kit comprised of ovulation predictors, pregnancy test, nutraceuticals for a man and woman, a basal thermometer and chart, and a set of instructions" ("Applicant's Mark"). Applicant's Mark was published in the December 16, 2014 edition of the *Official Gazette*.

6. Applicant's Mark is visually, aurally, and conceptually similar to Opposer's CONCEPTION KIT Marks. Indeed, Applicant's Mark contains the entirety of Opposer's CONCEPTION KIT mark covered by Reg. No. 3,466,195.

7. The goods covered by Applicant's Mark are nearly identical to the goods offered by Opposer and covered by the registrations for its CONCEPTION KIT Marks, and travel in the same or similar channels of trade as Opposer's goods.

8. Opposer's rights in its CONCEPTION KIT Marks pre-date any rights that may be asserted or relied upon by Applicant. Opposer's registrations have priority over Applicant's UCONCEIVE - A COUPLES CONCEPTION KIT mark in terms of both prior filing dates and prior use.

9. Applicant is not licensed nor otherwise authorized to use a variation of the CONCEPTION KIT Marks or to hold itself out as affiliated with Opposer.

10. Applicant's UCONCEIVE - A COUPLES CONCEPTION KIT mark so resembles Opposer's CONCEPTION KIT Marks as to be likely, when used in connection with Applicant's goods, to cause confusion, mistake, or deception under Section 2(d) of the Lanham Act, as amended, 15 U.S.C. § 1052(d).

11. Opposer reasonably believes that purchasers encountering Applicant's goods that are marketed and sold under the UCONCEIVE - A COUPLES CONCEPTION KIT mark are likely to believe that such products emanate from, are authorized, sponsored, or endorsed by, are made in accordance with instructions or specifications of, or are in some other way affiliated with or connected to Opposer.

12. Opposer believes that it will be damaged by the registration of Applicant's Mark, in particular due to the fact that any defect, objection, or fault found with Applicant's goods that are marketed and sold under Applicant's Mark would reflect upon and seriously injure the reputation that Opposer has established in its CONCEPTION KIT Marks.

**WHEREFORE**, Opposer requests that the Notice of Opposition be sustained and that registration of the mark UCONCEIVE - A COUPLES CONCEPTION KIT shown in Application No. 86/335,976 be refused. A filing fee has been submitted electronically. *If the*

filing fee is found to be insufficient for any reason, please charge such deficiency to our Deposit Account No. 503145.

Dated: April 15, 2015

Respectfully Submitted,



Jennifer M. Hetu

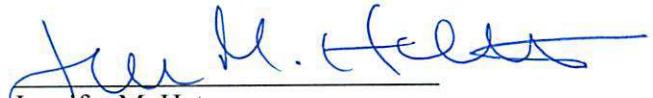
HONIGMAN MILLER SCHWARTZ AND COHN LLP  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served on Applicant via U.S. First Class Mail, postage prepaid, and email upon the following:

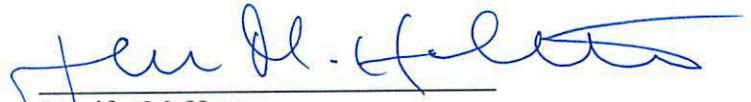
Ms. Jill Sweazy  
38 Edens Point Road  
Columbia, South Carolina 29212  
jillsweazy@yahoo.com

Dated: April 15, 2015

  
\_\_\_\_\_  
Jennifer M. Hetu  
Attorney for Opposer

**CERTIFICATE OF FILING**

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION was filed with the Trademark Trial and Appeal Board via the ESTTA electronic filing system on April 15, 2015.

  
\_\_\_\_\_  
Jennifer M. Hetu  
Attorney for Opposer

**Exhibit A**

**Int. Cl.: 10**

**Prior U.S. Cls.: 26, 39 and 44**

**United States Patent and Trademark Office**

**Reg. No. 3,466,195**

**Registered July 15, 2008**

**TRADEMARK  
PRINCIPAL REGISTER**

**CONCEPTION KIT**

MELROCK, LTD. (JERSEY CORPORATION)  
BERESFORD HOUSE, BELLOZANE ROAD  
ST. HELIER, UNITED KINGDOM JE23JW

FOR: MEDICAL DEVICES IN THE FIELD OF  
REPRODUCTION, IN CLASS 10 (U.S. CLS. 26, 39  
AND 44).

FIRST USE 4-26-2006; IN COMMERCE 4-26-2006.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "KIT", APART FROM THE MARK  
AS SHOWN.

SER. NO. 77-268,516, FILED 8-30-2007.

GIANCARLO CASTRO, EXAMINING ATTORNEY

Int. Cl.: 10

Prior U.S. Cls.: 26, 39, and 44

**United States Patent and Trademark Office**

Reg. No. 3,263,636

Registered July 10, 2007

**TRADEMARK  
SUPPLEMENTAL REGISTER**

**CONCEPTION KIT LE KIT DE  
CONCEPTION**

MELROCK, LTD. (JERSEY CORPORATION)  
PO BOX 31  
5 EAST MAIN ST  
SARANAC, MI 48881

FOR: MEDICAL DEVICES IN THE FIELD OF  
REPRODUCTION, IN CLASS 10 (U.S. CLS. 26, 39  
AND 44).

FIRST USE 4-26-2006; IN COMMERCE 4-26-2006.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

THE ENGLISH TRANSLATION OF THE FOR-  
EIGN WORDING IN THE MARK IS CONCEPTION  
KIT.

SER. NO. 78-812,321, FILED P.R. 2-10-2006; AM. S.R.  
3-13-2007.

KAREN K. BUSH, EXAMINING ATTORNEY