

ESTTA Tracking number: **ESTTA688972**

Filing date: **08/11/2015**

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	Genoptix, Inc.
Granted to Date of previous extension	08/12/2015
Address	1811 Aston Avenue Carlsbad, CA 92008 UNITED STATES

Correspondence information	Patricia L. Cotton Pillsbury Winthrop Shaw Pittman LLP 2550 Hanover St Palo Alto, CA 94304 UNITED STATES dock- et_ip@pillsburylaw.com,patricia.cotton@pillsburylaw.com,lisa.wohlgemuth@pillsburylaw.com Phone:650-233-4758
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Applicant Information

Application No	79150004	Publication date	04/14/2015
Opposition Filing Date	08/11/2015	Opposition Period Ends	08/12/2015
International Registration No.	1211141	International Registration Date	04/04/2014
Applicant	KPS Diagnosztika Zrt. 52 Kzpfasor HUNGARY		

Goods/Services Affected by Opposition

Class 001. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Active chemical ingredients for use in the manufacture of anti-cancer drugs, chemical materials and chemical preparations for analysis in laboratories, and natural elements used in the manufacture of pharmaceuticals
Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Science and technology services, namely, scientific research in the field of cancer treatment and diagnostics
Class 044. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Human health care services, namely, decision support and medical diagnostics, in the field of cancer

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.	4482928	Application Date	10/11/2004
Registration Date	02/18/2014	Foreign Priority Date	NONE
Word Mark	COMPASS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 2004/11/01 First Use In Commerce: 2004/11/01 Medical testing services that identify the nature, origin or characteristics of malignancies in patient tissue, blood, bone marrow or fluid		

U.S. Registration No.	3211899	Application Date	05/16/2005
Registration Date	02/20/2007	Foreign Priority Date	NONE
Word Mark	ECOMPASS		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 042. First use: First Use: 2005/05/12 First Use In Commerce: 2005/05/12 Providing online, nondownloadable software for the transmission of information regarding medical tests, namely for ordering medical tests, for tracking medical test specimens, for reporting medical test results, and for interfacing with the medical records systems of health care providers

Attachments	78497869#TMSN.png(bytes) 78631026#TMSN.png(bytes) Notice of Opp ONCOMPASS.pdf(167986 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	/Patricia L. Cotton/
Name	Patricia L. Cotton
Date	08/11/2015

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

In the matter of: KPS Diagnosztika Zrt.
Serial Number: 79/150,004
Filed: April 4, 2014
Mark: ONCOMPASS CANCER TREATMENT STRATEGIES & Design
Published: April 14, 2015

_____)	
Genoptix, Inc.,)	
Opposer,)	
vs.)	
KPS Diagnosztika Zrt.)	
Applicant.)	

NOTICE OF OPPOSITION

To the Commissioner for Trademarks:

Genoptix, Inc., a Delaware corporation having an address at 1811 Aston Avenue, Carlsbad, California 92008 (“Opposer”), believes it will be damaged by registration of the mark shown in the application identified above and filed by KPS Diagnosztika Zrt. (“Applicant”), and hereby opposes registration of such mark.

The grounds for the opposition are as follows:

1. Applicant has filed the above-identified trademark application (the “Application”) to register the mark ONCOMPASS CANCER TREATMENT STRATEGIES & Design (the “ONCOMPASS Mark”) for “*human health care services, namely, decision support and medical diagnostics, in the field of cancer*” in International Class 44, “*science and technology services,*

namely, scientific research in the field of cancer treatment and diagnostics” in International Class 42, and “*active chemical ingredients for use in the manufacture of anti-cancer drugs, chemical materials and chemical preparations for analysis in laboratories, and natural elements used in the manufacture of pharmaceuticals*” in International Class 1.

2. The Application was filed on April 4, 2014, under Section 66(a) of the Lanham Act, and is an initial designation to the U.S. under International Registration No. 1211141. The Application was published for opposition in the *Official Gazette* on April 14, 2015.

3. Opposer owns and pleads U.S. Trademark Registration No. 4,482,928 for the mark COMPASS in International Class 44 for “*medical testing services that identify the nature, origin or characteristics of malignancies in patient tissue, blood, bone marrow or fluid*” (the “COMPASS Registration”). The COMPASS Registration was filed on October 11, 2004, issued on February 18, 2014, and is valid and subsisting.

4. Opposer further owns and pleads U.S. Trademark Registration No. 3,211,899 for the mark eCOMPASS in International Class 42 for “*providing online, non-downloadable software for the transmission of information regarding medical tests, namely for ordering medical tests, for tracking medical test specimens, for reporting medical test results, and for interfacing with the medical records systems of health care providers*” (the “eCOMPASS Registration”). The eCOMPASS Registration was filed on May 16, 2005, issued on February 20, 2007, and is valid, subsisting and incontestable.

5. Opposer has used the COMPASS mark, for the services listed in the COMPASS Registration, since at least as early as November 2004. Opposer has used the eCOMPASS mark, for the services listed in the eCOMPASS Registration, since at least as early as May 2005. Opposer continues to use the COMPASS and eCOMPASS marks in commerce for the services listed in the COMPASS Registration and eCOMPASS Registration, respectively.

6. Opposer’s rights in the COMPASS and eCOMPASS marks predate any U.S. rights established by Applicant in the ONCOMPASS Mark.

7. As a result of the high quality of Opposer's services offered under the marks COMPASS and eCOMPASS, and the promotion and public acceptance thereof, Opposer's services have acquired an outstanding reputation. The public uses the marks COMPASS and eCOMPASS to identify Opposer as the unique source of services offered under the marks and to distinguish those services from the services and goods of others.

8. Applicant's ONCOMPASS Mark is confusingly similar in sound, appearance and meaning to Opposer's marks COMPASS and eCOMPASS. The services and goods for which Applicant seeks to register the ONCOMPASS Mark are identical to or highly related to the services offered by Opposer under the marks COMPASS and eCOMPASS. In addition, such services and goods will be, and are, marketed to the same customers, in the same channels of trade, as are the services offered by Opposer under the COMPASS and eCOMPASS marks.

9. Accordingly, Applicant's ONCOMPASS Mark is likely, when used on or in connection with the services and goods listed in the Application, to cause confusion, or to cause mistake or to deceive, in violation of §2(d) of the Lanham Act, and therefore is unregistrable.

10. Applicant's registration of the ONCOMPASS Mark for the services and goods listed in the Application will impair Opposer's free use of its marks COMPASS and eCOMPASS, is likely to cause confusion or mistake or to deceive consumers as to the origin of the respective services and goods of the parties, and will result in injury to the goodwill Opposer has acquired with respect to its marks COMPASS and eCOMPASS, all to Opposer's damage.

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For the foregoing reasons, Opposer requests that the Application be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer. The required filing fee in the amount of \$900 is being submitted concurrently with this Notice of Opposition, however the Commissioner for Trademarks is hereby authorized to draw on the deposit account No. 03-3975 for any additional necessary fees.

Date: August 11, 2015

Genoptix, Inc.

By its attorneys,



PATRICIA L. COTTON

DAVID H. JAFFER

PILLSBURY WINTHROP SHAW PITTMAN LLP

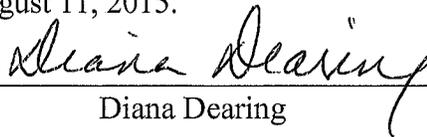
P.O. Box 10500

McLean, VA 22102-8500

Telephone: (650) 233-4758

CERTIFICATE OF SERVICE BY MAIL

I, Diana Dearing, hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION was served on Applicant's counsel of record, addressed to Roberto Ledesma, Law Office of Roberto Ledesma, P.O. Box 230692, New York, NY 10023, via United States mail, first-class postage fully prepaid, on August 11, 2015.



Diana Dearing