

ESTTA Tracking number: **ESTTA733555**

Filing date: **03/15/2016**

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	Intrexon Corporation
Granted to Date of previous extension	03/23/2016
Address	1872 Pratt Drive, Suite 1400 Blacksburg, VA 24060 UNITED STATES

Correspondence information	David L. May, Esquire Nixon Peabody LLP 799 Ninth Street NW, Suite 500 Washington, DC 20001 UNITED STATES nptm@nixonpeabody.com, was.managing.clerk@nixonpeabody.com, dmay@nixonpeabody.com, larnold@nixonpeabody.com, jmolino@nixonpeabody.com Phone:202.585.8000
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**Applicant Information**

Application No	86320970	Publication date	11/24/2015
Opposition Filing Date	03/15/2016	Opposition Period Ends	03/23/2016
Applicant	Friedman, Adam 4 Tremont St. Charlestown, MA 02129 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 044. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Medical services, namely, providing data/information to healthcare professionals in the field of cancer treatment, including oncologists, for purposes of recommending therapeutic treatment regimens
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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.	4407212	Application Date	02/21/2012
Registration Date	09/24/2013	Foreign Priority Date	NONE

Word Mark	LEAP
Design Mark	<h1>LEAP</h1>
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2001/00/00 First Use In Commerce: 2001/00/00 Laboratory apparatus for chemical and biochemical research and analysis, namely, in situ biological cell purification and processing workstation and software; laboratory apparatus, namely, in situ biological cell purification and processing workstation

U.S. Registration No.	4637542	Application Date	02/21/2012
Registration Date	11/11/2014	Foreign Priority Date	NONE
Word Mark	LEAP		
Design Mark	<h1>LEAP</h1>		
Description of Mark	NONE		
Goods/Services	<p>Class 040. First use: First Use: 2013/11/20 First Use In Commerce: 2013/11/20 Custom manufacturing and custom synthesis of genetically engineered DNA, biological organisms, cells, viruses, pathogens and special purpose cells for scientific, research, medical and laboratory use</p> <p>Class 042. First use: First Use: 2013/11/20 First Use In Commerce: 2013/11/20 Chemical and biochemical research and analysis; development of new technology in the field of genetics, therapeutics and biotechnology; development of products being genetic therapies and effectors to regulate, modulate, and characterize disease states; development of tools in the nature of software and biotechnological processes regulating, modulating, and characterizing disease states; research and development services for others in the fields of biotechnology and genetics, namely, recombinantly engineering DNA, biological organisms, cells, viruses, pathogens, and special purpose cells for scientific, research, medical and laboratory use in scientific research and product development services for others in the pharmaceutical, biotechnology, biosensors, bioelectronics, medical, and agriculture fields; gene therapy services for others for product de-</p>		

	velopment and scientific research purposes, namely, genetically engineering DNA, biological organisms, cells, viruses, pathogens, and special purpose cells for scientific, research, medical and laboratory use
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U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	LEAP		
Goods/Services	Laboratory apparatus for chemical and biochemical research and analysis, namely, in situ biological cell purification and processing workstation and software; laboratory apparatus, namely, in situ biological cell purification and processing workstation; Custom manufacturing and custom synthesis of genetically engineered DNA, biological organisms, cells, viruses, pathogens and special purpose cells for scientific, research, medical and laboratory use; Chemical and biochemical research and analysis; development of new technology in the field of genetics, therapeutics and biotechnology; development of products being genetic therapies and effectors to regulate, modulate, and characterize disease states; development of tools in the nature of software and biotechnological processes regulating, modulating, and characterizing disease states; research and development services for others in the fields of biotechnology and genetics, namely, recombinantly engineering DNA, biological organisms, cells, viruses, pathogens, and special purpose cells for scientific, research, medical and laboratory use in scientific research and product development services for others in the pharmaceutical, biotechnology, biosensors, bioelectronics, medical, and agriculture fields; gene therapy services for others for product development and scientific research purposes, namely, genetically engineering DNA, biological organisms, cells, viruses, pathogens, and special purpose cells for scientific, research, medical and laboratory use		

Attachments	85979885#TMSN.png( bytes ) 85548760#TMSN.png( bytes ) LeapOncologyNoticeofOpposition.pdf(298380 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	/JSM/
Name	Jeffrey S. Molinoff
Date	03/15/2016



various goods and services relating to biotechnology, genetics, science, medicine, research and development for the benefit of others in a vast array of industries.

2. Intrexon is the owner of U.S. Trademark Registration Nos. 4,407,212 and 4,637,542 for the LEAP Mark for use with goods and services related to medicine, science, biotechnology, genetics, and scientific and medical research and development (the “LEAP Registrations”). Certificates of Registration are attached as Exhibit A.

3. Intrexon has established valuable rights and goodwill in the LEAP Mark through extensive use and several registrations for the mark throughout the world.

4. Upon information and belief, on June 26, 2014, Applicant filed, under Trademark Act § 1(b) claiming intent-to-use the mark in U.S. Commerce, U.S. Trademark Application No. 86/320,970 for the mark LEAP ONCOLOGY (“the Opposed Mark”) for use with *Medical services, namely, providing data/information to healthcare professionals in the field of cancer treatment, including oncologists, for purposes of recommending therapeutic treatment regimens*, in Class 44 (“the Opposed Application”).

5. Prior to Applicant’s filing date and, upon information and belief, prior to any date of first use Applicant could claim, Opposer engaged in and is now engaged in the sale, advertising, and promotion in U.S. Commerce of the goods and services set forth within the LEAP Registrations as listed in paragraph 2 above, in connection with the LEAP Mark. As such, Opposer holds prior common law rights in the LEAP Mark.

6. Opposer has expended significant revenue and resources in connection with marketing and sale of the goods and services and, through these efforts, has established valuable consumer recognition and goodwill therein. Opposer will therefore be damaged by registration of the Opposed Mark.

7. Applicant's use and registration of the Opposed Mark will create a likelihood of confusion, mistake and/or deception among consumers, within the meaning of Trademark Act § 2(d), all to the detriment of Opposer.

8. Upon information and belief, Opposer avers that members of the relevant consuming public are likely to be confused, mistaken, or deceived as to the origin, sponsorship, or approval of Applicant's services to be marketed and offered under the Opposed Mark and misled into believing that such services emanate from or are in some way associated with Opposer, in light of Opposer's prior use and registration of the LEAP Mark, to the damage and detriment of Opposer and its reputation.

9. Upon information and belief, Opposer avers that it will be damaged by Applicant's registration of the Opposed Mark, as set forth in Applicant's Trademark Application Serial No. 86/320,970, in the face of Opposer's LEAP Registrations.

WHEREFORE, Opposer believes and avers that it is being and will continue to be damaged by registration of the Opposed LEAP ONCOLOGY Mark as aforesaid, and requests that said Application Serial No. 86/320,970 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

Opposer has appointed David L. May and Lauren J. Arnold, members of the District of Columbia Bar, of the law firm of Nixon Peabody LLP, to prosecute this opposition proceeding and to transact all business in and before the United States Patent and Trademark Office in connection herewith. Please address all correspondence to:

David L. May  
NIXON PEABODY LLP  
799 9th Street NW  
Suite 500  
Washington, DC 20001

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 50-2686.

Respectfully submitted,

By /Lauren J. Arnold/

David L. May

Lauren J. Arnold

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Counsel for Opposer

Dated: March 15, 2016

**EXHIBIT A**

United States of America  
United States Patent and Trademark Office

LEAP

**Reg. No. 4,637,542**

INTREXON CORPORATION (VIRGINIA CORPORATION)  
1872 PRATT DRIVE, SUITE 1400  
BLACKSBURG, VA 24060

**Registered Nov. 11, 2014**

**Int. Cls.: 40 and 42**

FOR: CUSTOM MANUFACTURING AND CUSTOM SYNTHESIS OF GENETICALLY ENGINEERED DNA, BIOLOGICAL ORGANISMS, CELLS, VIRUSES, PATHOGENS AND SPECIAL PURPOSE CELLS FOR SCIENTIFIC, RESEARCH, MEDICAL AND LABORATORY USE, IN CLASS 40 (U.S. CLS. 100, 103 AND 106).

**SERVICE MARK**

**PRINCIPAL REGISTER**

FIRST USE 11-20-2013; IN COMMERCE 11-20-2013.

FOR: CHEMICAL AND BIOCHEMICAL RESEARCH AND ANALYSIS; DEVELOPMENT OF NEW TECHNOLOGY IN THE FIELD OF GENETICS, THERAPEUTICS AND BIOTECHNOLOGY; DEVELOPMENT OF PRODUCTS BEING GENETIC THERAPIES AND EFFECTORS TO REGULATE, MODULATE, AND CHARACTERIZE DISEASE STATES; DEVELOPMENT OF TOOLS IN THE NATURE OF SOFTWARE AND BIOTECHNOLOGICAL PROCESSES REGULATING, MODULATING, AND CHARACTERIZING DISEASE STATES; RESEARCH AND DEVELOPMENT SERVICES FOR OTHERS IN THE FIELDS OF BIOTECHNOLOGY AND GENETICS, NAMELY, RECOMBINANTLY ENGINEERING DNA, BIOLOGICAL ORGANISMS, CELLS, VIRUSES, PATHOGENS, AND SPECIAL PURPOSE CELLS FOR SCIENTIFIC, RESEARCH, MEDICAL AND LABORATORY USE IN SCIENTIFIC RESEARCH AND PRODUCT DEVELOPMENT SERVICES FOR OTHERS IN THE PHARMACEUTICAL, BIOTECHNOLOGY, BIOSENSORS, BIOELECTRONICS, MEDICAL, AND AGRICULTURE FIELDS; GENE THERAPY SERVICES FOR OTHERS FOR PRODUCT DEVELOPMENT AND SCIENTIFIC RESEARCH PURPOSES, NAMELY, GENETICALLY ENGINEERING DNA, BIOLOGICAL ORGANISMS, CELLS, VIRUSES, PATHOGENS, AND SPECIAL PURPOSE CELLS FOR SCIENTIFIC, RESEARCH, MEDICAL AND LABORATORY USE, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 11-20-2013; IN COMMERCE 11-20-2013.

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

SN 85-548,760, FILED 2-21-2012.

PATRICIA EVANKO, EXAMINING ATTORNEY



*Michelle K. Lee*

Deputy Director of the United States  
Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

# LEAP

**Reg. No. 4,407,212**  
**Registered Sep. 24, 2013**  
**Int. Cl.: 9**

INTREXON CORPORATION (VIRGINIA CORPORATION)  
SUITE 1400  
1872 PRATT DRIVE  
BLACKSBURG, VA 24060

**TRADEMARK**  
**PRINCIPAL REGISTER**

FOR: LABORATORY APPARATUS FOR CHEMICAL AND BIOCHEMICAL RESEARCH AND ANALYSIS, NAMELY, IN SITU BIOLOGICAL CELL PURIFICATION AND PROCESSING WORKSTATION AND SOFTWARE; LABORATORY APPARATUS, NAMELY, IN SITU BIOLOGICAL CELL PURIFICATION AND PROCESSING WORKSTATION, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 0-0-2001; IN COMMERCE 0-0-2001.

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

SER. NO. 85-979,885, FILED 2-21-2012.

PATRICIA EVANKO, EXAMINING ATTORNEY



*Leva Stewart Liu*  
Deputy Director of the United States Patent and Trademark Office

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing **NOTICE OF OPPOSITION** was served on Applicant's attorney of record at his address of record as listed in the records of the U.S. Patent and Trademark Office this 15th day of March, 2016, by sending same, via first class mail, postage prepaid, to:

LAWRENCE R. ROBINS  
SULLIVAN & WORCESTER LLP  
ONE POST OFFICE SQUARE  
BOSTON, MASSACHUSETTS 02109

/Lauren J. Arnold/

Lauren J. Arnold