

ESTTA Tracking number: **ESTTA747758**

Filing date: **05/20/2016**

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	Howmedica Osteonics Corp.
Granted to Date of previous extension	05/25/2016
Address	325 Corporate Drive Mahwah, NJ 07430 UNITED STATES
Attorney information	Thomas M. Palisi Lerner, David, Littenberg, Krumholz & Mentlik 600 South Avenue West Westfield, NJ 07090 UNITED STATES tpalisi@ldlkm.com, litigation@ldlkm.com

**Applicant Information**

Application No	79170947	Publication date	01/26/2016
Opposition Filing Date	05/20/2016	Opposition Period Ends	05/25/2016
International Registration No.	1261272	International Registration Date	05/13/2015
Applicant	Waldemar Link GmbH & Co. KG Barkhausenweg 10 GERMANY		

**Goods/Services Affected by Opposition**

Class 010. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Orthopaedic hip implants; prosthetic implants for bone surgery; artificial surgical implants; artificial orthopaedic implants
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act Section 2(d)
Other	International registration on which application is based has been cancelled.

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	3759440	Application Date	06/29/2006
Registration Date	03/09/2010	Foreign Priority	NONE

		Date	
Word Mark	OMEGA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 1983/01/31 First Use In Commerce: 1983/01/31 ORTHOPEDIC JOINT IMPLANTS; ORTHOPEDIC INSTRUMENTS, NAMELY, SCREWS, TAPS, DEPTH GAUGES, DRILL GUIDES, SCREWDRIVERS, STORAGE AND STERILIZATION CASES, RATCHET HANDLES, PLATES, PLATE INSERTERS, REAMERS, INSTRUMENT KEYS, LOCKING INSERTS, WASHERS, HOOKS, TEMPLATES, ANGLE GUIDES, HANDLES, GUIDE WIRES, ADAPTERS, MEASURING DEVICES, INSERTION DEVICES, IMPACTORS, STYLETS, EXTRACTORS, LIMITERS, SLEEVES, TRAYS, CAD-DIES, SCREW RACKS, FORCEPS, INTRODUCERS, SCREW HOLDERS, TRIAL PLATES, COMPRESSION INSTRUMENTS, COUPLINGS AND SPREADERS		

U.S. Registration No.	3245231	Application Date	10/23/2000
Registration Date	05/22/2007	Foreign Priority Date	NONE
Word Mark	OMEGA PLUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 1997/12/31 First Use In Commerce: 1997/12/31 Orthopedic joint implants; orthopedic instruments, namely, screws, taps, depth gauges, drill guides, wrenches, bolts, screwdrivers, storage and sterilization case, ratchet handles, side plates, side plate inserters, combination reamers, and instrument trays		

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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	/Thomas M. Palisi/
Name	Thomas M. Palisi
Date	05/20/2016

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

HOWMEDICA OSTEONICS CORP.,	:	Serial No. 79/170,947
	:	
	:	
Opposer,	:	Filed: May 13, 2015
	:	Published: January 26, 2016
v.	:	For: OMEGA SUPERGLIDE
	:	
	:	
WALDEMAR LINK GmbH & Co. KG	:	
	:	
	:	
Applicant.	:	
	:	
	:	
	X	Opposition No. _____

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

Opposer, Howmedica Osteonics Corp., a corporation, having its principal place of business at 325 Corporate Drive, Mahwah, NJ 07430, believes that it will be damaged by registration of U.S. Ser. No. 79/170,948 for the mark OMEGA SUPERGLIDE ("the Application"), owned by Waldemar Link GmbH & Co. KG ("Applicant"). Accordingly, Opposer hereby opposes registration of the Application as well as alleges the following:

1. On May 13, 2015, Applicant filed for registration of the mark OMEGA SUPERGLIDE, which published on January 26, 2016 in connection with the following goods in International Class 010, “orthopedic hip implants; prosthetic implants for bone surgery; artificial surgical implants and artificial orthopedic implants.”

2. Applicant's Application was filed on the basis of its International Registration No. 1,261,272, registered May 13, 2015, pursuant to § 66(a). The ‘272 Registration was cancelled for all identified goods on April 6, 2016.

3. Opposer is the owner of Registration No. 3,759,440 for the mark OMEGA, which mark has been registered for the following goods in International Class 010, “Orthopedic joint implants; orthopedic instruments, namely, screws, taps, depth gauges, drill guides, screwdrivers, storage and sterilization cases, ratchet handles, plates, plate inserters, reamers, instrument keys, locking inserts, washers, hooks, templates, angle guides, handles, guide wires, adapters, measuring devices, insertion devices, impactors, stylets, extractors, limiters, sleeves, trays, caddies, screw racks, forceps, introducers, screw holders, trial plates, compression instruments, couplings and spreaders.” The ‘440 Registration was granted incontestable status by the United States Patent and Trademark Office (hereinafter “USPTO”) on September 15, 2015.

4. Opposer is the owner of Registration No. 3,245,231 for the mark OMEGA PLUS, which mark has been registered for the following goods in International Class 010, “orthopedic joint implants; orthopedic instruments, namely, screws, taps, depth gauges, drill guides, wrenches, bolts, screwdrivers, storage and sterilization case, ratchet handles, side plates, side plate inserters, combination reamers, and instrument trays.” The ‘231 Registration was granted incontestable status by the USPTO on June 30, 2012.

5. Opposer, or its predecessor(s) in interest, has been using the marks referenced in paragraphs 3-4 long before Applicant's constructive first use date of its priority application, (November 17, 2014), as well as long before Applicant adopted or began using the OMEGA SUPERGLIDE mark.

6. As a result of extensive promotion of its goods, Opposer has built up highly valuable goodwill in the above-identified marks. Such goodwill has become closely and uniquely identified and associated with Opposer prior to the filing of the Application by Applicant and prior to any use of the OMEGA SUPERGLIDE mark.

7. The goods listed in the Opposed Application are similar to or closely related to the goods offered by Opposer in connection with Opposer's marks, as identified above. Indeed, the marks are both used for orthopedic implants.

8. Opposer's "OMEGA" family of marks is substantially similar to Applicant's OMEGA SUPERGLIDE mark, in that the formative "OMEGA" is used in Applicant's mark. At least Opposer's individual marks OMEGA and OMEGA PLUS are also substantially similar to Applicant's OMEGA SUPERGLIDE mark. As such, Opposer will suffer harm as a result of the confusion likely to arise from registration of the Application, and from Opposer's ongoing use of its marks for the same or similar goods.

9. Accordingly, Applicant's mark should be denied registration under Section 2(d) of the Trademark Act (15 U.S.C. § 1052(d)).

10. Applicant's '947 Application was filed on the basis of its International Registration No. 1,261,272, pursuant to § 66(a). The '272 Registration was cancelled for all identified goods on April 6, 2016.



**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Notice of Opposition was served on May 20, 2016,  
by first class mail, postage prepaid, addressed as follows:

Joseph W. Berenato, III  
Berenato & White, LLC  
6550 Rock Spring Drive, Suite 240  
Bethesda, Maryland 20817

/Thomas M. Palisi/  
THOMAS M. PALISI