

ESTTA Tracking number: **ESTTA26635**

Filing date: **02/23/2005**

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	Zimmer Technology, Inc.
Granted to Date of previous extension	02/23/2005
Address	150 S. Wacker Drive Suite 150 Chicago, IL 60606 UNITED STATES

Attorney information	Gerard T. Gallagher Baker & Daniels 111 E. Wayne Street Suite 800 Fort Wayne, IN 46802 UNITED STATES sbteas@bakerd.com Phone: 574-234-4149
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Applicant Information

Application No	78177980	Publication date	10/26/2004
Opposition Filing Date	02/23/2005	Opposition Period Ends	02/23/2005
Applicant	MIS Implant Technologies Ltd. P.O. Box 110 Shlomi, 22832		

ISRAEL

Goods/Services Affected by Opposition

Class 010.

All goods and services in the class are opposed, namely: Surgical, medical, dental and orthodontic apparatus and instruments, namely, surgical screw drivers, torque wrenches, drills, ratchets and hammers, tissue punches, dental burs, scalpels, scissors for surgery, saws for surgical purposes, trephines, orthodontic appliances, prosthetic holders, abutment holders, suction tubes, kidney trays, gloves for medical purposes, masks for use by medical personnel, surgeon's caps, surgical sterile sheets, surgical thread, cases fitted for medical instruments; implants for surgery and medicine, namely, dental implants, surgical implants comprising artificial material; superstructures for prosthetic reconstruction, namely, for prosthetic reconstruction of teeth; crowns, bridges and prostheses, which are mountable upon implants, for dental medicine; artificial teeth, dentures, artificial jaws; pins for artificial teeth; brackets, wires and screws for orthodontics.

Attachments	Opposition.pdf (2 pages)
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Signature	/Gerard T. Gallagher/
Name	Gerard T. Gallagher
Date	02/23/2005

Zimmer Technology, Inc., a Delaware corporation, having a principal place of business at 150 North Wacker Drive, Suite 1200, Chicago, IL 60609 ("Opposer"), believes it would be damaged by the registration of the mark MIS that is the subject of U.S. Trademark Application Serial No. 78/177,980 ("the '980 Application") and hereby opposes registration of same. In support of its opposition, Opposer states as follows:

1. Opposer is a leading manufacturer of various orthopedic and dental implants, surgical tools and equipment.

2. MIS Implant Technologies, Ltd. ("Applicant") has, through the '980 Application, sought to register the mark MIS for "Surgical, medical, dental and orthodontic apparatus and instruments, namely, surgical screw drivers, torque wrenches, drills, ratchets and hammers, tissue punches, dental burs, scalpels, scissors for surgery, saws for surgical purposes, trephines, orthodontic appliances, prosthetic holders, abutment holders, suction tubes, kidney trays, gloves for medical purposes, masks for use by medical personnel, surgeon's caps, surgical sterile sheets, surgical thread, cases fitted for medical instruments; implants for surgery and medicine, namely, dental implants, surgical implants comprising artificial material; superstructures for prosthetic reconstruction, namely, for prosthetic reconstruction of teeth; crowns, bridges and prostheses, which are mountable upon implants, for dental medicine; artificial teeth, dentures, artificial jaws; pins for artificial teeth; brackets, wires and screws for orthodontics" ("Applicant's goods").

3. The term "MIS" is a commonly and widely used acronym and abbreviation for "minimally invasive surgery," a term that describes a commonly and widely used surgical technique in various fields of medical treatment, including the dental field.

4. The mark MIS, when used on or in connection with Applicant's goods, is merely descriptive of them and, therefore, is not entitled to registration pursuant to 15 U.S.C. §1052(e).

5. Opposer will be damaged by registration of the MIS mark by Applicant because such registration will grant to Applicant *prima facie* evidence of the exclusive right to use the mark in conjunction with Applicant's goods, thereby denying Opposer the right to use a common, merely descriptive term in connection with the same or similar goods.

WHEREFORE, Opposer respectfully requests that the Board deny registration of Applicant's MIS mark sought through the '980 Application and award Opposer all other relief to which it is entitled.