





The grounds for the opposition are as follows:

1. Opposer is the owner of incontestable U.S. Trademark Registration No. 0,656,009 for TUSSIONEX registered on December 24, 2957 (hereinafter referred to as TUSSIONEX Mark). Said registration covers anti-tussive preparation, in Class 5.
2. Opposer has been using the TUSSIONEX Mark in U.S. Commerce in connection with the goods covered under the registration of the TUSSIONEX Mark.
3. Applicant's application for TUSSX Mark was filed as an intent-to-use application.
4. The goods for which Applicant intends to use the TUSSX Mark, namely antitussive cough treatment preparation, are closely related to the goods of Opposer set forth above in paragraph 1.
5. As a result of Opposer's use of the TUSSIONEX Mark, the public has come to associate the term TUSSIONEX for goods in Class 5, as signifying the goods of Opposer.
6. Applicant's application date is long after Registration No. 0,656,009 was filed and granted.
7. Applicant's TUSSX Mark is so similar to Opposer's TUSSIONEX Mark that when Applicant's TUSSX Mark is applied to goods similar to those sold by Opposer it so nearly resembles Opposer's Mark as to be likely to be confused with such mark and mistaken therefor. Applicant's TUSSX Mark is deceptively similar to Opposer's TUSSIONEX Mark so as to cause confusion and lead to deception as to the origin of Applicant's goods bearing Applicant's TUSSX Mark. As such, Applicant's use and registration of its TUSSX Mark will inevitably lead to confusion, to mistake, or to deception of purchasers within the meaning of Section 2(d) of the Trademark Act of 1946, all to

Opposer's grave and irreparable damage.

8. If Applicant is permitted to use and register its TUSSX Mark for the goods specified in the application, confusion in the trade resulting in damage and injury to Opposer would be caused and would result by reason of the similarity between Applicant's TUSSX Mark and Opposer's TUSSIONEX Mark. Persons familiar with Opposer's TUSSIONEX Mark would be likely to confuse Applicant's goods as products made, sold, or sponsored by Opposer. Any such confusion in the trade would inevitably result in loss of sales to Opposer.

9. In addition to the harm identified in paragraph 8, any defect, objection or fault found with Applicant's products under the TUSSX mark would necessarily reflect badly upon and significantly injure the reputation which Opposer has established for its products.

10. If Applicant is permitted to register its mark, the registration would give it a prima facia exclusive right to the use of the TUSSX Mark. Such registration would damage and injure Opposer.

11. By reason of the foregoing, Applicant's registration of the TUSSX Mark herein opposed will cause injury and damage to Opposer and to Opposer's rights in its TUSSIONEX Mark, and to the use thereof as described above.

WHEREFORE, Opposer respectfully prays that the present opposition be sustained and that the registration sought by the Applicant be refused.

A duplicate copy of this Notice of Opposition and the statutory fee of \$300 is enclosed herewith. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 23-0975.

Respectfully submitted,

Celltech Manufacturing, Inc

By: 

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