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July 18, 2005

TTAB

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Zimmer Technology, Inc. v. Varian Medical Systems Technologies, Inc.
Mark: TRILOGY
Serial No. 78/316,019
Our Reference: ZTI-02587 (972025.5)

Dear Sir:

Enclosed for filing is an original and two copies of a Notice of Opposition, together with a check in the amount of \$300.00 representing the requisite filing fee. Please confirm receipt by date-stamping the enclosed filing receipt card and returning same to our offices. If there are any fees due, please charge them to Baker & Daniels' Deposit Account No. 02-0387 (972025.5).

Very truly yours,

BAKER & DANIELS


Gerard T. Gallagher

GTG:rac
Enclosure



07-20-2005

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #72

BDDB01 4124553v1

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

ZIMMER TECHNOLOGY, INC.) U.S. Trademark Application Serial No. 78/316,019
)
Opposer,) Mark: TRILOGY
)
v.) Opposition No.: _____
)
VARIAN MEDICAL SYSTEMS)
TECHNOLOGIES, INC.)
Applicant,

07/22/2005 SWILSON1 00000036 78316019

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NOTICE OF OPPOSITION

Zimmer Technology, Inc., a Delaware corporation, having a principal place of business at 150 South Wacker Drive, Suite 1200, Chicago, IL 60606 ("Opposer"), believes it would be damaged by the registration of the mark TRILOGY that is the subject of U.S. Trademark Application Serial No. 78/316,019 ("the '019 Application") and hereby opposes registration of same. In support of its opposition, Opposer states as follows:

1. Opposer is the owner of all right, title and interest in and to the trademark TRILOGY for use in conjunction with orthopedic devices; namely, acetabular cup implant and instruments therefore.

2. Opposer is the owner of all right, title and interest in and to U.S. Trademark Registration No. 1,846,174 for the mark TRILOGY. Opposer has used its TRILOGY mark in conjunction with orthopedic devices since at least as early as May, 1993.

4. Through its long-standing use of the TRILOGY mark in conjunction with orthopedic devices, the purchasing public has come to associate the term TRILOGY with Opposer.

5. Through its long-standing use of the TRILOGY mark in conjunction with the orthopedic devices, Opposer has developed exceedingly valuable goodwill in the TRILOGY mark.

6. Varian Medical Systems Technologies, Inc. ("Applicant") has, through the '019 Application, sought to register the mark TRILOGY for "medical device for radiotherapy and

radio surgery comprising hardware and computer software sold together as a unit for use in patient immobilization, treatment planning, image guided targeting, treatment delivery, verification and quality assurance" ("Applicant's Goods").

7. There is no issue as to priority, as Opposer has used its TRILOGY mark prior to the filing date of the '019 Application.

8. There is no issue as to priority, as Opposer has used its TRILOGY mark prior to any use by Applicant of the TRILOGY mark.

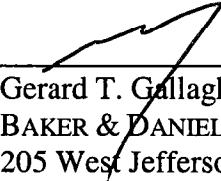
9. There is no issue as to priority, as Opposer filed the application for the '174 Registration and obtained registration prior to any use of the TRILOGY mark by Applicant and prior to the filing date of the '019 Application.

10. Opposer will be damaged by registration of the TRILOGY 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 and such use would be likely to cause confusion or mistake or to deceive as to the affiliation, connection or association of Applicant with Opposer and as to the origin, sponsorship and approval of Applicant's goods, services and other commercial activities by Opposer.

11. Such confusion would cause irreparable harm to Opposer in that any defects or fault found with Applicant's goods, services or other commercial activities would erroneously be attributed to Opposer, thereby harming Opposer's reputation and damaging its substantial goodwill in the TRILOGY mark.

WHEREFORE, Opposer respectfully requests that the Board deny registration of Applicant's TRILOGY mark sought through the '019 Application and award Opposer all other relief to which it is entitled.

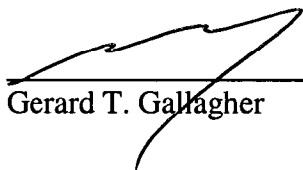
Respectfully submitted,


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Attorney for Opposer

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being served upon the Trademark Trial and Appeal Board, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, by depositing the same in the United States mail, postage prepaid, this 18th day of July 2005.



Gerard T. Gallagher