

ESTTA Tracking number: **ESTTA47749**

Filing date: **10/07/2005**

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	AngioDynamics, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	603 Queensbury Avenue Queensbury, NY 12804 UNITED STATES		

Attorney information	Meredith D. Pikser Reed Smith LLP 599 Lexington Ave.29th Floor New York, NY 10022 UNITED STATES mpikser@reedsmith.com Phone:212-521-5400
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Applicant Information

Application No	76611424	Publication date	09/13/2005
Opposition Filing Date	10/07/2005	Opposition Period Ends	10/13/2005
Applicant	Datascope Trademark Corp. 300 Delaware Avenue Wilmington, DE 19801 UNITED STATES		

Goods/Services Affected by Opposition

Class 010.

All goods and services in the class are opposed, namely: Medical apparatus, namely, balloon membrane sold as a component of a catheter

Attachments	durathane opposition.tif (3 pages)
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Signature	/Meredith D. Pikser/
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Name	Meredith D. Pikser
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Date	10/07/2005
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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AngioDynamics, Inc, :
Opposer, : Opposition No. _____
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v. :
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 :
Datascope Trademark Corp., :
Applicant. :
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BOX TTAB - FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-14513

NOTICE OF OPPOSITION

This is in the matter of Application Serial No. 76/611,424 filed on September 9, 2004 by Datascope Trademark Corp., an Delaware corporation with an office at 300 Delaware Avenue, Wilmington, Delaware 19801 (hereinafter "Applicant"), seeking registration on the Principal Register of the trademark DURATHANE (hereinafter "the subject mark") in connection with "Medical apparatus, namely, balloon membrane sold as a component of a catheter" in International Class 10. Said application was published for opposition on September 13, 2005.

AngioDynamics, Inc., a Delaware corporation with an office at 603 Queensbury Avenue, Queensbury, New York 12804 (hereinafter referred to as "Opposer"), believes that it is or will be damaged by registration of the subject mark by Applicant and hereby opposes registration of same.

The grounds for opposing said application are as follows:

1. Opposer is the owner of the common law rights to the trademark DURATHANE in the United States used on "polymer materials used in catheters,"

2. Opposer has filed U.S. Application Serial No. 78/723,671 on September 29, 2005 to register said ownership.

3. Opposer has continuously used the subject mark in interstate commerce in connection with the goods covered by its pending U.S. application since April 2004.

4. Through Opposer's efforts and extensive expenditures in developing the brand and goodwill associated with the subject mark, the subject mark has attained a significant reputation in the U.S. in the medical industry, and is a property of considerable value to Opposer.

5. Applicant's mark proposed for registration is identical to Opposer's mark and the subject application covers goods closely related to and overlapping those of Opposer. As such, Applicant's use of the subject mark is likely to cause confusion and lead to deception as to the origin of Applicant's goods bearing the subject mark.

6. Applicant has yet to use the subject mark in commerce, as indicated in its intent-to-use application herein opposed. Any use after Applicant's filing date of September 9, 2004 will be subsequent to the April 2004 first use of the subject mark in commerce by Opposer.

7. If Applicant is permitted to use and register the subject mark for the goods specified in the application herein opposed, confusion in trade resulting in damage and injury to Opposer would result. Persons familiar with Opposer's mark would be likely to confuse Applicant's goods as products provided by Opposer, produced with Opposer's goods, licensed under Opposer's control or have some other commercial connection to Opposer.

8. Any such confusion in trade would inevitably result in loss of sales to Opposer.

9. Furthermore, any defect, objection or fault found with Applicant's goods marketed under the subject mark would necessarily reflect upon and seriously injure the reputation which Opposer has established for the goods under the subject mark.

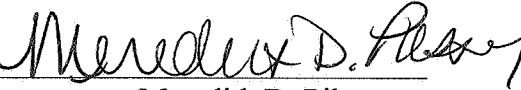
10. If Applicant were granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of the subject mark. Such registration would be a source of damage and injury to Opposer.

11. WHEREFORE, Opposer prays that the Opposition be sustained and Application Serial No. 76/611,424 be refused registration.

Respectfully submitted,

REED SMITH LLP
Attorneys for Opposer

Date: October 7, 2005

By: 

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