

ESTTA Tracking number: **ESTTA128626**

Filing date: **03/07/2007**

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	Synbiotics Corporation
Granted to Date of previous extension	04/11/2007
Address	600 Broadway, Suite 490 Kansas City, MO 64105 UNITED STATES
Attorney information	AnneMarie Kaiser KNOBBE, MARTENS, OLSON & BEAR, LLP 2040 Main Street, 14th Floor Irvine, CA 92614 UNITED STATES efiling@kmob.com Phone:619.235.8550

Applicant Information

Application No	78881000	Publication date	12/12/2006
Opposition Filing Date	03/07/2007	Opposition Period Ends	04/11/2007
Applicant	Altman, Jay A. 3021 W. County Road #64 Fort Collins, CO 80524 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. First Use: 2006/04/06 First Use In Commerce: 2006/04/06 All goods and services in the class are opposed, namely: A feed supplement for horses designed to improve gastro intestinal function	
Related Proceedings	Notice of Opposition re SN 78/881821
Attachments	NOTC OPP FOR SN 78881000.pdf (3 pages)(71765 bytes)
Signature	/AnneMarie Kaiser/
Name	AnneMarie Kaiser
Date	03/07/2007

SYNBIO.260M

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

In the matter of Trademark Application Serial No. 78/881,000
Filed May 10, 2006
For the Mark **ASSURE**

SYNBIOTICS CORPORATION,

Opposer,

v.

JAY A. ALTMAN,

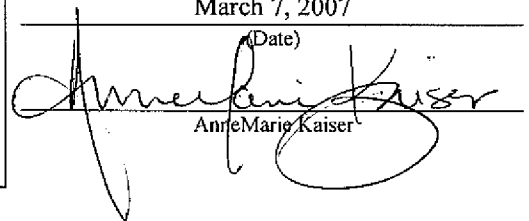
Applicant.

Opposition No. _____

I hereby certify that this correspondence and all marked attachments are being electronically filed with the Trademark Trial and Appeal Board through their web site located at <http://esta.uspto.gov> on

March 7, 2007

(Date)


AnneMarie Kaiser

NOTICE OF OPPOSITION

Opposer, Synbiotics Corporation, a California corporation, located and doing business at 600 Broadway, Suite 490, Kansas City, Missouri 64105, believes that it will be damaged by registration of the mark shown in Serial No. 78/881,000 and hereby opposes same.

The grounds for opposition are as follows:

1. Applicant filed Application Serial No. 78/881,000 on or about May 11, 2006 to register the mark ASSURE in International Class 5 in connection with "feed supplement for horses designed to improve gastro intestinal function" ("Applicant's Mark"). The mark was published for opposition on December 12, 2006.

2. Opposer will be damaged by the registration of Applicant's Mark.

3. Opposer is the owner of U. S. Trademark Registration No. 1,566,720 for the mark ASSURE, which application was filed January 23, 1989 and registered November 21, 1989, for "veterinary diagnostic test kits comprising diagnostic reagents for diagnosing veterinary diseases and conditions" in International Class 5. Opposer is also the owner of U. S. Trademark Registration No. 1,570,521 for the mark ASSURE/CH, which application was filed April 3, 1989

and registered December 12, 1989, and U. S. Registration No. 1,560,440 for the mark ASSURE/FELV, which application was filed January 23, 1989 and registered on October 17, 1989, both of which are registered in International Class 5 for veterinary diagnostic test kits (“Opposer’s Marks”).

4. The registration dates for Opposer’s Marks are all prior to the filing date and dates of first use claimed by Applicant in relation to Applicant’s Mark.

5. The registered marks of Opposer are valid and subsisting and are *prima facie* evidence of Opposer’s exclusive right to use the marks in commerce on the goods specified in the registrations. In view of the similarity of the respective marks and the related nature of the goods of the respective parties, it is alleged that Applicant’s mark so resembles Opposer’s registered marks as to be likely to cause confusion or to cause mistake or to deceive.

6. Opposer’s use of Opposer’s Marks has been valid and continuous since at least as early as 1989 in connection with the sale of its products, and has not been abandoned. Opposer’s Marks are symbolic of extensive good will and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. In view of the similarity of the respective marks and the related nature of the goods of the respective parties, it is alleged that Applicant’s mark so resembles Opposer’s Marks as to be likely to cause confusion or to cause mistake or to deceive.

8. Purchasers and users, and prospective purchasers and users, familiar with Opposer’s goods and business identified by Opposer’s Marks are likely to be misled into believing, contrary to fact, that Applicant’s goods and business conducted in conjunction with Applicant’s Mark emanate from, or are in some way sponsored or endorsed by, or affiliated with, Opposer, to Opposer’s irreparable damage through loss or dilution of its goodwill as symbolized by Opposer’s Marks.

WHEREFORE, Opposer prays that said Application Serial No. 78/881,000 be rejected, that no registration be issued, and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated:

March 7, 2007

By:

Anne Marie Kaiser

Anne Marie Kaiser
2040 Main Street
Fourteenth Floor
Irvine, CA 92614
Telephone: (949) 760-0404
Facsimile: (949) 760-9502
Email: efiling@kmob.com
Attorneys for Opposer,
Synbiotics Corporation

3505879
030707