

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

In the Matter of Application Serial No. 77/111,678
Published in the Official Gazette on August 14, 2007

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ARES TRADING S.A. and EMD SERONO, INC.,
Opposers,

Opposition No.

v.

WESTERN HOLDINGS, LLC,

Applicant.
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12-13-2007

U.S. Patent & TMO/TM Mail Rept. Pt. #32

NOTICE OF OPPOSITION

Opposers, Ares Trading S.A. (“Ares Trading”), a societe anonyme organized and existing under the laws of Switzerland, having an address at Zone Industrielle de L’Ourietaz, CH-1170, Aubonne, Switzerland, and EMD Serono, Inc. (“EMD Serono”), a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at One Technology Place, Rockland, Massachusetts 02370, believe that they would be damaged by the issuance of a registration for the trademark SEROSLIM as applied for in Application Serial No. 77/111,678, filed February 20, 2007, for dietary supplements in Class 5, based upon an intent-to-use, and therefore oppose the same. Ares Trading and EMD Serono (collectively “Opposers”) are related parties. As grounds for their opposition, Opposers, by their attorneys Ostrolenk, Faber, Gerb & Soffen, LLP, allege as follows:

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1. Well prior to the February 20, 2007 filing date of Applicant’s intent-to-use application, Opposer EMD Serono has used the mark SEROSTIM for a human growth hormone used as a therapy for HIV-wasting to increase weight and lean body mass and improve physical endurance. EMD Serono has invested a substantial amount of time, effort and money in promoting

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the mark SEROSTIM. As a result, it has become distinctive of EMD Serono's goods and has come to represent enormous goodwill for EMD Serono.

2. Opposer Ares Trading owns U.S. trademark registration 2,012,301, issued on October 29, 1996, of the mark SEROSTIM for "pharmaceutical preparations for human use for the treatment of patients with AIDS associated catabolism/wasting" in Class 5. This registration issued from an application that was filed on April 6, 1994, claiming use in U.S. commerce since at least as early as January 31, 1994. Ares Trading's registration, application, and first use dates are all well prior to the filing date of Applicant's intent-to-use application. Ares Trading's registration is valid, subsisting, in full force and effect, and incontestable.

3. Ares Trading also owns U.S. trademark registration 2,925,322, issued February 8, 2005, of the mark SEROSTIM and Design for "pharmaceutical preparations to treat morphologic and metabolic complications of HIV/AIDS" in Class 5. This registration issued from an application that was filed on February 5, 2004. Ares Trading's registration and application dates are all well prior to the filing date of Applicant's intent-to-use application. Ares Trading's registration is valid, subsisting, and in full force and effect.

4. On February 20, 2007, Applicant, Western Holdings, LLC, filed the intent-to-use application at issue to register the mark SEROSLIM for dietary supplements in Class 5.

5. The mark that Applicant seeks to register is nearly identical to Opposers' mark SEROSTIM and may be used for goods that are closely related to the goods for which Opposers have used and have registered their prior mark. Based on the similarities of the marks and the goods, the public is likely to mistakenly associate the goods offered by Applicant under the mark SEROSLIM with Opposers or with Opposers' goods, or to believe that Applicant's goods are

sponsored, endorsed or licensed by Opposers, or that there is some relationship between Applicant and Opposers.

6. For the above reasons, any use of the mark SEROSLIM by Applicant is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that those goods emanate from or are otherwise sponsored by or endorsed by Opposers, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

By reason of the foregoing, Opposers will be damaged by the registration of the mark SEROSLIM to Applicant.

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by application S.N. 77/111,678 be denied.

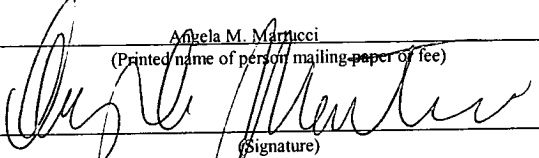
The opposition fee in the amount of \$600.00 for one class for two Opposers is filed herewith. If for any reason this amount is insufficient, it is requested that Opposers' attorneys' deposit account No. 15-0700 be charged with any deficiency.

Date: December 12, 2007
New York, New York


"Express Mail" mailing label No. EV604794611US

Date of Deposit: December 12, 2007

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451.

Angela M. Martucci
(Printed name of person mailing paper or fee)

(Signature)

Respectfully submitted,


Peter S. Sloane
Angela M. Martucci

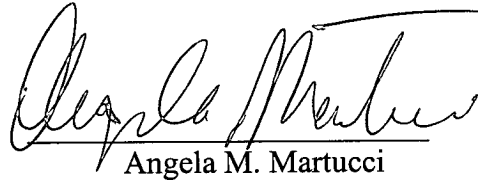
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Attorneys for Opposers

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing **NOTICE OF OPPOSITION** was served upon Applicant, this 12th day of December, 2007, by First-Class mail, postage prepaid, addressed as follows:

Western Holdings, LLC
1821 Logan Ave.
Cheyenne, WY 82001


Angela M. Martucci