

ESTTA Tracking number: **ESTTA225790**

Filing date: **07/23/2008**

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	Coria Laboratories, Ltd.		
Entity	Corporation	Citizenship	Delaware
Address	3908 Hulen Street Fort Worth, TX 76107 UNITED STATES		

Attorney information	William D. Wiese DuBois, Bryant & Campbell, LLP 700 Lavaca, Suite 1300 Austin, TX 78701 UNITED STATES bwiese@dbcllp.com Phone:5123818028		
----------------------	---	--	--

Applicant Information

Application No	77284055	Publication date	07/15/2008
Opposition Filing Date	07/23/2008	Opposition Period Ends	08/14/2008
International Registration No.	NONE	International Registration Date	NONE
Applicant	Inova Brands Inc. 38 Scott Road Chelsea, J9B1R5 CANADA		

Goods/Services Affected by Opposition

Class 010. All goods and services in the class are opposed, namely: orthotic supports and insoles
--

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3223768	Application Date	03/25/2004
Registration Date	04/03/2007	Foreign Priority Date	NONE
Word Mark	SALEX		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 005. First use: First Use: 2004/06/01 First Use In Commerce: 2004/06/01 PHARMACEUTICAL PREPARATIONS FOR THE TREATMENT OF SKIN CONDITIONS

Attachments	78390445#TMSN.jpeg (1 page)(bytes) Opposition.pdf (13 pages)(85058 bytes)
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/William D. Wiese/
Name	William D. Wiese
Date	07/23/2008

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

In the Matter of Mark Application Serial No. 77/284055
Published in the Official Gazette on July 15, 2008.

CORIA LABORATORIES, LTD.
Opposer,

vs.

INOVA BRANDS INC.
Applicant.

‘
‘
‘ **Opposition No.** _____
‘
‘
‘
‘
‘

NOTICE OF OPPOSITION

TO THE TRADEMARK TRIAL AND APPEAL BOARD:

Coria Laboratories, Ltd. (“Opposer”), having its principal place of business at 3908 Hulen Street, Fort Worth, Texas 76107, by its attorneys, believes that it will be damaged by registration of United States Trademark Application Serial No. 77/284055, filed September 19, 2007 by Inova Brands Inc. (“Applicant”), and hereby opposes the same pursuant to 15 U.S.C. § 1063 and 37 C.F.R. § 2.101(b). As grounds of opposition, it is alleged that:

A. Factual Background

1. Opposer’s SALEX Trademark. Opposer is a well established pharmaceutical company that, together with its affiliates, manufactures and distributes various pharmaceutical preparations. Opposer owns the trademark SALEX (the “Mark”) which is registered under United States Trademark Registration No. 3,223,768 for “pharmaceutical preparations for the treatment of skin conditions” in International Class 005. A copy of Registration No. 3,223,768 is

attached as Exhibit A. The Mark has been federally registered since April 3, 2007 and has been in continuous use since at least as early as June 1, 2004.

2. Opposer's Use of the Mark. Opposer has expended extensive time and money developing the Mark in connection with its products which are used in the treatment of, among other things, corns and calluses on feet. Opposer has advertised and marketed its products in interstate commerce, thereby creating valuable goodwill. Moreover, Opposer has so used the Mark in connection with its products that the relevant public has come to associate the Mark with Opposer, and as indicating that the products originate with Opposer.

3. Applicant's Application. On September 19, 2007, Applicant filed United States Trademark Application Serial Number 77/284055 to federally register the word "SOLEX," (the "Application") in typed form, under 15 U.S.C. § 1051(b) based on an intent to use the mark in interstate commerce and under 15 U.S.C. § 1126(d) based on a foreign application. A copy of the Application is attached as Exhibit B. According to the Application and information on file with the United States Trademark Office, Applicant is Inova Brands Inc., a Canadian corporation having an address at 38 Scott Road, Chelsea, Canada J9B1R5. Applicant seeks to register the mark in the Application in International Class 010 for use in connection with "orthotic supports and insoles." The Application was published for opposition in the Official Gazette on July 15, 2008.

4. Opposer's Senior Rights in the Mark. Applicant has filed its application based on its "intent-to-use" the mark SOLEX under Section 1(b) of the Trademark Act, 15 U.S.C. Section 1051(b) and its foreign application for the mark SOLEX under Section 44(d) of the Trademark Act, 15 U.S.C. 1126(d). Applicant's "constructive use" priority only goes back to the date of filing of the foreign application, namely, April 25, 2007. Opposer's priority dates back to at least

as early as June 1, 2004. Moreover, the Opposer's Mark has been continuously developed, offered and advertised in interstate commerce with the goods described in its registration since at least as early as June 1, 2004. Therefore, Opposer has superior rights and priority in the use of the Mark and marks confusingly similar thereto, including the mark in the Application.

5. Likelihood of Confusion. Opposer would show that the mark in the Application so resembles the Mark that, when used on or in connection with Applicant's goods it is likely to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark Act. Applicant's specified goods in International Class 010 are very closely related to the goods offered by Opposer under the Mark. Customers of Opposer's products and Applicant's products could and would likely be confused as to source or origin of Opposer's and Applicant's respective products and likely believe Applicant's products either originate with Opposer or were affiliated with, sponsored by, or endorsed by Opposer.

6. Opposer's Injury. If Applicant is granted registration for the Application, Applicant would obtain thereby at least a *prima facie* exclusive right to use the mark in the Application. Such registration would be a source of damage and injury to Opposer and its customers. Based upon the foregoing, registration of the mark in the Application will cause injury and damage to Opposer.

7. Conclusion. In view of the above, the Application is not entitled to federal registration and should be denied.

WHEREFORE, Opposer requests that registration of Serial No. 77/284055 be denied.

Please charge the required fees to deposit account no. 503468. Please credit any overpayment to the deposit account.

Respectfully submitted,

Date: July 23, 2008

/William D. Wiese/
William D. Wiese
DUBOIS, BRYANT & CAMPBELL, LLP
700 Lavaca Street, Suite 1300
Austin, Texas 78701
(512) 457-8000
(512) 457-8008 (fax)
ATTORNEYS FOR OPPOSER

EXHIBIT A
REGISTRATION FOR SALEX

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-07-08 12:39:09 ET

Serial Number: 78390445 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3223768

Mark

SALEX

(words only): SALEX

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2007-04-03

Filing Date: 2004-03-25

Transformed into a National Application: No

Registration Date: 2007-04-03

Register: Principal

Law Office Assigned: LAW OFFICE 105

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-04-03

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CORIA LABORATORIES, INC.

Address:

CORIA LABORATORIES, INC.
3908 HULEN STREET

FORT WORTH, TX 76107

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 005

Class Status: Active

PHARMACEUTICAL PREPARATIONS FOR THE TREATMENT OF SKIN CONDITIONS

Basis: 1(a)

First Use Date: 2004-06-01

First Use in Commerce Date: 2004-06-01

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-03-26 - Assignment Of Ownership Not Updated Automatically

2007-09-19 - Automatic Update Of Assignment Of Ownership

2007-07-10 - Attorney Revoked And/Or Appointed

2007-07-10 - TEAS Revoke/Appoint Attorney Received

2007-04-03 - Registered - Principal Register

2007-01-16 - Published for opposition

2006-12-27 - Notice of publication

2006-12-01 - Law Office Publication Review Completed

2006-11-28 - Approved for Pub - Principal Register (Initial exam)

2006-11-28 - Amendment to Use approved

2006-11-28 - Teas/Email Correspondence Entered

2006-11-28 - Communication received from applicant
2006-11-28 - Amendment to use processing complete
2006-11-01 - Amendment to Use filed
2006-11-28 - Assigned To LIE
2006-11-01 - TEAS Amendment of Use Received
2006-11-01 - TEAS Response to Office Action Received
2006-10-16 - Attorney Revoked And/Or Appointed
2006-10-16 - TEAS Revoke/Appoint Attorney Received
2006-08-25 - Letter of suspension mailed
2006-08-25 - Suspension Letter Written
2006-08-25 - Amendment From Applicant Entered
2006-07-31 - Communication received from applicant
2006-07-31 - TEAS Response to Office Action Received
2006-01-31 - Non-final action mailed
2006-01-30 - Non-Final Action Written
2005-09-09 - Amendment From Applicant Entered
2005-02-09 - Communication received from applicant
2005-09-08 - Letter of suspension mailed
2005-09-07 - Suspension Letter Written
2005-09-07 - Amendment From Applicant Entered
2005-08-25 - Communication received from applicant
2005-09-02 - FAX RECEIVED
2005-08-25 - PAPER RECEIVED
2005-08-25 - FAX RECEIVED
2005-08-24 - FAX RECEIVED

2005-03-10 - Final refusal mailed

2005-03-10 - Final Refusal Written

2005-02-24 - Amendment From Applicant Entered

2005-02-15 - Communication received from applicant

2005-02-15 - TEAS Response to Office Action Received

2004-08-16 - Non-final action mailed

2004-08-14 - Assigned To Examiner

2004-04-06 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

William D. Wiese

Correspondent

William D. Wiese

DuBois, Bryant & Campbell LLP

700 Lavaca, Suite 1300

Austin TX 78701

Phone Number: 512.381.8028

Fax Number: 512.457.8008

EXHIBIT B

APPLICATION FOR SOLEX

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-07-08 13:35:53 ET

Serial Number: 77284055 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

SOLEX

(words only): SOLEX

Standard Character claim: Yes

Current Status: Final review prior to publication has been completed, application will be published for opposition.

Date of Status: 2008-06-10

Filing Date: 2007-09-19

The Information will be/was published in the Official Gazette on 2008-07-15

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 115

Attorney Assigned:
GEARIN AMY L

Current Location: 650 -Publication And Issue Section

Date In Location: 2008-06-10

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Inova Brands Inc.

Address:

Inova Brands Inc.
38 Scott Road
Chelsea J9B1R5
Canada

Legal Entity Type: Corporation**State or Country of Incorporation:** Canada

GOODS AND/OR SERVICES

International Class: 010**Class Status:** Active

orthotic supports and insoles

Basis: 1(b), 44(e)**First Use Date:** (DATE NOT AVAILABLE)**First Use in Commerce Date:** (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Foreign Application Number: 1344813**Foreign Registration Number:** 712,745**Foreign Registration Date:** 2008-04-24**Country:** Canada**Foreign Filing Date:** 2007-04-25**Foreign Expiration Date:** 2023-04-24

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-06-25 - Notice of publication

2008-06-10 - Law Office Publication Review Completed

2008-06-10 - Assigned To LIE

2008-06-10 - Approved for Pub - Principal Register (Initial exam)

2008-06-10 - Examiner's Amendment Entered

2008-06-10 - Notification Of Examiners Amendment E-Mailed

2008-06-10 - EXAMINERS AMENDMENT E-MAILED

2008-06-10 - Examiners Amendment -Written
2008-06-07 - Teas/Email Correspondence Entered
2008-06-06 - Communication received from applicant
2008-06-06 - TEAS Response To Suspension Inquiry Received
2008-01-01 - Notification Of Letter Of Suspension E-Mailed
2008-01-01 - Letter of suspension e-mailed
2008-01-01 - Suspension Letter Written
2007-12-21 - Assigned To Examiner
2007-09-25 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Fay O'Brien

Correspondent

FAY O'BRIEN; O'BRIEN TM SERVICES INC.
688 TWEEDSMUIR AVENUE
OTTAWA; ONTARIO
K1Z5P6
CANADA
Phone Number: (613) 324-3299
Fax Number: 1-866-723-1168
