

ESTTA Tracking number: **ESTTA250314**

Filing date: **11/20/2008**

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	American Institute of Toxicology, Inc.
Granted to Date of previous extension	12/06/2008
Address	2265 Executive Drive, Suite A Indianapolis, IN 46241 UNITED STATES
Correspondence information	David A. W. Wong Attorney of Record Barnes & Thornburg LLP 11 S. Meridian St Indianapolis, IN 46204-3535 UNITED STATES dwong@btlaw.com Phone:317-231-1313

Applicant Information

Application No	78882928	Publication date	10/07/2008
Opposition Filing Date	11/20/2008	Opposition Period Ends	12/06/2008
International Registration No.	NONE	International Registration Date	NONE
Applicant	ALTAREX US CORP. Suite 350 1601 Trapelo Road Waltham, MA 02154 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: biological immunogens for use in animals and humans
Class 042. All goods and services in the class are opposed, namely: pharmaceutical research related to biological immunogens for use in animals and humans

Grounds for Opposition

Other	Per TBMP 309309(c), the trademark examining attorney in the USPTO has cited pending Application Serial No. 78/882928 as a potential bar to the registration of Opposer#s later-filed trademark application to which Opposer has
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	priority of use.
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Attachments	noticeofopposition.pdf (7 pages)(240797 bytes)
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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	/dwong/
Name	David A. W. Wong
Date	11/20/2008

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

American Institute of Toxicology, Inc.

Opposer,

v.

Altarex US Corp.

Applicant.

In the matter of trademark application Serial
No. 78/882928; Published in the Official
Gazette October 7, 2008

NOTICE OF OPPOSITION

The American Institute of Toxicology, Inc., an Indiana corporation with a place of business at 2265 Executive Drive, Suite A, Indianapolis, Indiana, believes that it will be damaged by the registration of the mark AIT shown in Serial No. 78/882928 and hereby opposes registration of that mark.

The grounds for the opposition are as follows:

1. Opposer is well-known provider of pain management, forensic, clinical, and pharmaceutical analytical testing and research services.
2. Opposer is the owner of U.S. Application Serial No. 77/344755 for certain pain management, forensic, clinical, and pharmaceutical analytical testing and research services. This application was filed December 5, 2007, and claims a date of first use in commerce at least as early as of May 17, 1993. A printout from TARR, evidencing the current status and ownership of this application, is attached as Exhibit A.

3. Opposer has used the AIT LABORATORIES as a trademark in connection with services identified Application Serial No. 77/344755 since at least as early as May 17, 1993, and has spent significant amounts of time and money promoting and advertising its AIT LABORATORIES as a trademark in connection with these services. As a result of this long and substantially exclusive use, relevant consumers have come to associate the AIT LABORATORIES trademark exclusively with Opposer.

4. As a result of the significant sales, promotion, and widespread use of the AIT LABORATORIES trademark in connection with these services, the AIT LABORATORIES trademark has become widely recognized by the general consuming public of the United States as a designation of source of the services of Opposer.

5. Applicant seeks to register the mark AIT in connection with biological immunogens for use in animals and humans; pharmaceutical research related to biological immunogens for use in animals and humans by its application filed May 12, 2006, and published in the Official Gazette on October 7, 2008.

6. Applicant's application is based on 1(b) and 44(e) and does not claim any date of first use.

7. Upon information and belief, Opposer has prior rights to its AIT LABORATORIES trademark.

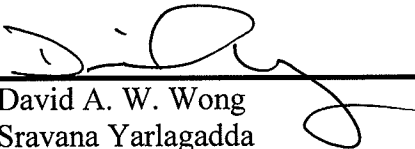
8. The trademark examining attorney in the USPTO has cited pending Application Serial No. 78/882928 as a potential bar to the registration of Opposer's later-filed trademark application.

9. If, as the trademark examining attorney contends, Opposer's mark so resembles Applicant's mark as to be likely, when applied to the services of Opposer, to cause confusion, then the registration sought by Applicant should be refused because Opposer has priority of use.

WHEREFORE, Opposer believes that it will be damaged by the registration of AIT to Applicant and prays that the registration be denied.

Respectfully submitted,

Date: November 20, 2008



David A. W. Wong
Sravana Yarlagadda
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11 South Meridian Street
Indianapolis, Indiana 46204
Telephone: (317) 236-1313

Attorneys for Opposer,
American Institute Toxicology, Inc.

CERTIFICATE OF SERVICE

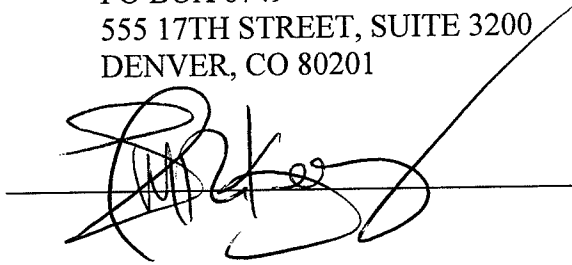
The undersigned hereby certifies that a copy of this Notice of Opposition has been served November , 2008, by depositing a copy of the same in the United States mail, first class postage prepaid and properly addressed to the Applicant's attorney of record:

Attorney or Record

Kristine M. Miller
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Believed to be present counsel
for Applicant

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

This page was generated by the TARR system on 2008-11-20 16:31:13 ET

Serial Number: 77344755 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

(words only): AIT LABORATORIES

Standard Character claim: Yes

Current Status: An office action suspending further action on the application has been mailed.

Date of Status: 2008-10-20

Filing Date: 2007-12-05

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 117

Attorney Assigned:
YOUNG CARRIE SKYE

Current Location: M8X -Law Office 117 - Examining Attorney Assigned

Date In Location: 2008-10-20

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

1. American Institute of Toxicology, Inc.

Address:

American Institute of Toxicology, Inc.
2265 Executive Drive, Suite A
Indianapolis, IN 46241
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Indiana

GOODS AND/OR SERVICES

International Class: 042

Class Status: Active

Materials testing and evaluation, namely, providing evaluation testing for pharmaceutical, biopharmaceutical and chemical concentrations and compositions; materials testing and evaluation, namely, pre-clinical and non-clinical evaluation testing of pharmaceutical, biopharmaceutical and chemical products; pharmaceutical, biopharmaceutical, and chemical research and development for others;

Providing reagent sample testing and diagnostic services for others in the fields of science and research related thereto; Performing scientific research or providing scientific research services to identify the most informative, effective and efficient panels of biomarkers to aid in the new drug development and clinical trial process; Scientific research and development, namely, providing biomarker-related technical consulting, scientific research, assay development, and testing services to support new drug development and clinical trials; Conducting scientific research related to the discovery and identification of novel biomarkers of interest; Providing scientific research services to pharmaceutical companies, Contract Research Organizations (CROs), and diagnostic testing companies to support the integration of biomarker assays into clinical trials and new drug/product codevelopment efforts; Custom design and development of biochemical assays, including multiplexed assays, to assist with pre-clinical drug development and pharmacokinetic and pharmacodynamic scientific studies; and to assist with clinical trials to evaluate clinical trial safety, efficacy, toxicology, and dosing; Consulting services in the field of collection of evidence for forensic purposes; Forensic toxicology, namely, consulting services in the field of collection of evidence for forensic purposes, namely, identification, assays and origin elucidations of controlled substances and the physical and chemical comparisons, individualizations and identifications of trace evidence; Performance of chemical analyses, namely, chemical hazard detection in food, drink and consumer products; Environmental testing and inspection services, namely, environmental and community toxicology; clinical toxicology; bioanalytical pharmacology; development, modification, applications and validation of analytical method advances for emerging medicinal and environmental foreign compound analytes and biomarkers

Basis: 1(a)

First Use Date: 1993-05-17

First Use in Commerce Date: 1993-05-17

International Class: 044

Class Status: Active

Consulting services in the field of forensic examination of victims of crime; drug testing for substance abuse, namely, forensic substance abuse testing

Basis: 1(a)

First Use Date: 1993-05-17

First Use in Commerce Date: 1993-05-17

International Class: 045

Class Status: Active

examination of fingerprints for the purpose of forensic scientific intelligence; expert witness services in legal matters in the field of in criminal and civil proceedings involving forensic toxicology and controlled substances, trace evidence and chemical hazard detection in food, drink and consumer products

Basis: 1(a)

First Use Date: 1993-05-17

First Use in Commerce Date: 1993-05-17

ADDITIONAL INFORMATION

Disclaimer: LABORATORIES

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.

2008-10-20 - Notification Of Letter Of Suspension E-Mailed

2008-10-20 - LETTER OF SUSPENSION E-MAILED

2008-10-20 - Suspension Letter Written

2008-09-29 - Teas/Email Correspondence Entered

2008-09-28 - Communication received from applicant

2008-09-28 - TEAS Response to Office Action Received

2008-09-28 - Petition To Revive-Granted

2008-09-28 - TEAS Petition To Revive Received
2008-03-19 - Notification Of Non-Final Action E-Mailed
2008-03-19 - NON-FINAL ACTION E-MAILED
2008-03-19 - Non-Final Action Written
2008-03-19 - Notification Of Non-Final Action E-Mailed
2008-03-19 - Non-final action e-mailed
2008-03-19 - Non-Final Action Written
2008-03-14 - Assigned To Examiner
2007-12-11 - Notice Of Pseudo Mark Mailed
2007-12-10 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

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Correspondent

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