

ESTTA Tracking number: **ESTTA252729**

Filing date: **12/03/2008**

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	Wilson-Cook Medical Inc.
Granted to Date of previous extension	12/03/2008
Address	4900 Bethania Station Road Winston-Salem, NC 27105 UNITED STATES

Attorney information	Vincent O. Wagner Woodard, Emhardt, Moriarty McNett & Henry LLP 111 Monument Circle Suite 3700 Indianapolis, IN 46204 UNITED STATES docketdept@uspatent.com Phone:317-634-3456
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**Applicant Information**

Application No	77434028	Publication date	08/05/2008
Opposition Filing Date	12/03/2008	Opposition Period Ends	12/03/2008
Applicant	Arthrex, Inc. 1370 Creekside Blvd. Naples, FL 34108 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 010. All goods and services in the class are opposed, namely: Medical devices, namely, a drill adapter
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2624062	Application Date	04/20/2001
Registration Date	09/24/2002	Foreign Priority Date	NONE
Word Mark	HOWELL D.A.S.H. DIRECT ACCESS SYSTEM		

Design Mark	<b>HOWELL D.A.S.H. DIRECT ACCESS SYSTEM</b>
Description of Mark	NONE
Goods/Services	Class 010. First use: First Use: 2000/06/05 First Use In Commerce: 2000/06/05 Medical device, namely, an integrated ERCP catheter/sphincterotome

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	D.A.S.H.		
Goods/Services	medical devices, namely integrated ERCP catheters/sphincterotomes, catheters, sphincterotomes, extraction balloons, extraction baskets, and associated goods		

Attachments	76244253#TMSN.gif ( 1 page )( bytes ) Notice of Opposition.pdf ( 5 pages )(132112 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	/Vincent O Wagner/
Name	Vincent O. Wagner
Date	12/03/2008

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

In the matter of trademark application Serial No. 77/434,028  
For the mark D.A.S.H.  
Published in the Official Gazette on August 5, 2008

Wilson-Cook Medical Inc.

Opposition No. \_\_\_\_\_

v.

Arthrex, Inc.

**NOTICE OF OPPOSITION**

Opposer, Wilson-Cook Medical Inc. ("Opposer"), a North Carolina Corporation, having an address of 4900 Bethania Station Road, Winston-Salem, NC 27105, believes it will be damaged by the registration of D.A.S.H., U.S. Trademark Application, Serial No. 77/434,028, and hereby opposes the registration thereof.

The grounds for the Opposition are as follows:

1. Opposer is the owner of Registration No. 2,624,062 on the mark, HOWELL D.A.S.H. DIRECT ACCESS SYSTEM for a medical device, namely, an integrated ERCP catheter/sphincterotome in International Class 10, issued on September 24, 2002. Registration No. 2,624,062, which issued from Application Serial No. 76/244,253, filed on April 20, 2001 is in full force and effect and has not been cancelled or abandoned. A copy of this registration is attached and made a part hereof.

2. Since at least as early as June 5, 2000, Opposer has been continuously using the mark HOWELL D.A.S.H. DIRECT ACCESS SYSTEM in connection with an integrated ERCP catheter/sphincterotome and subsequently in conjunction with an expanding line of associated goods, including catheters, sphincterotomes, extraction balloons, and extraction baskets, and has developed substantial goodwill in connection with this mark.

3. Since at least as early as June 5, 2000, Opposer has been continuously using the mark D.A.S.H. in connection with an integrated ERCP catheter/sphincterotome and subsequently in conjunction with an expanding line of associated goods, including catheters, sphincterotomes, extraction balloons, and extraction baskets, and has developed substantial goodwill in connection with this mark.

4. Applicant seeks registration of the mark, D.A.S.H. for medical devices, namely, a drill adapter in International Class 10.

5. The mark for which Applicant seeks registration is confusingly similar to Opposer's marks, and in fact, identical to Opposer's D.A.S.H. mark and subsumed by Opposer's prior registered HOWELL D.A.S.H. DIRECT ACCESS SYSTEM mark, and registration is being sought on goods which are closely related to the goods sold in connection with Opposer's marks.

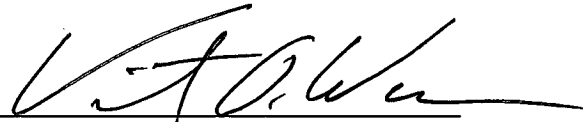
6. The registration by Applicant of the mark sought to be registered should be denied. If Applicant succeeds in registering its mark, there will be statutory rights created thereby in violation of the earlier established rights of Opposer, all to the harm of Opposer's goodwill and with the resultant diminution of Opposer's rights, all to the damage and injury of Opposer and of the public.

7. The use of the mark sought to be registered by Applicant is likely to cause confusion, mistake and deception in the minds of the public and to lead the public to believe that Applicant's goods identified thereby have their source in Opposer or that in some way Opposer is endorsing or sponsoring such goods, or that Opposer is in some way associated with Applicant in providing the goods so identified.

WHEREFORE, Opposer files this Notice of Opposition and prays that the Application herein opposed be denied; that registration of the subject mark be refused; and for such other and further relief in the premises as may be deemed to be just and proper.

The opposition filing fee of \$300.00 for one opposer on one class of goods is presented herewith. No additional fees are believed due; however if any fees or extensions of time are deemed necessary, please charge said fees to Deposit Account No. 23-3030.

Respectfully submitted,



Vincent O. Wagner  
Woodard, Emhardt, Moriarty,  
McNett & Henry LLP  
111 Monument Circle, Suite 3700  
Indianapolis, Indiana 46204-5137  
(317) 634-3456  
Attorney for Wilson-Cook Medical Inc.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the Notice of Opposition is being sent via First Class Mail on December 3, 2008 in an envelope addressed to:

Karin H. Butchko  
Carlson, Gaskey & Olds, P.C.  
400 W. Maple Road  
Suite 350  
Birmingham, MI 48009



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Attorney for Wilson-Cook Medical Inc.

Int. Cl.: 10

Prior U.S. Cls.: 26, 39 and 44

**United States Patent and Trademark Office**

Reg. No. 2,624,062

Registered Sep. 24, 2002

**TRADEMARK  
PRINCIPAL REGISTER**

**HOWELL D.A.S.H. DIRECT ACCESS SYSTEM**

WILSON-COOK MEDICAL INC. (NORTH CAROLINA CORPORATION)  
4900 BETHANIA STATION ROAD  
WINSTON-SALEM, NC 27105

FOR: MEDICAL DEVICE, NAMELY, AN INTEGRATED ERCP CATHETER/SPHINCTEROTOME, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 6-5-2000; IN COMMERCE 6-5-2000.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DIRECT ACCESS SYSTEM", APART FROM THE MARK AS SHOWN.

SER. NO. 76-244,253, FILED 4-20-2001.

CHARLES L. JENKINS, EXAMINING ATTORNEY