

ESTTA Tracking number: **ESTTA296779**

Filing date: **07/22/2009**

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	Barr Laboratories, Inc.
Granted to Date of previous extension	07/22/2009
Address	225 Summit Avenue Montvale, NJ 07645 UNITED STATES

Attorney information	Tracy-Gene G. Durkin Sterne, Kessler, Goldstein & Fox PLLC 1100 New York Avenue, NW Washington, DC 20005 UNITED STATES tdurkin@skgf.com, jshirk@skgf.com, tm@skgf.com Phone:(202) 371-2600
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**Applicant Information**

Application No	77629620	Publication date	03/24/2009
Opposition Filing Date	07/22/2009	Opposition Period Ends	07/22/2009
Applicant	JCA DEVELOPMENT OF MIAMI, INC. 12379 SW 130TH STREET MIAMI, FL 331866208 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 005. All goods and services in the class are opposed, namely: Dermatological pharmaceutical products; Dermatologicals; Gels, creams and solutions for dermatological use; Medical cleansers for skin and wounds; Medicated skin care preparations; Medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels; Medicated skin preparation for use in treating and topical control of acne vulgaris, acne rosacea and seborrheic dermatitis.; Pharmaceutical preparations for skin care; Pharmaceutical preparations for use in dermatology
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**Grounds for Opposition**

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

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Word Mark	CLARAVIS
Goods/Services	pharmaceuticals for the treatment of acne

Attachments	1710969OPT0 Notice of Opposition.pdf ( 10 pages )(651975 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	/Tracy Durkin/
Name	Tracy-Gene G. Durkin
Date	07/22/2009

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

In re Trademark Application No.: 77/629,620

Filed: December 9, 2008

Mark: CLARIS (stylized)

Published in the Official Gazette:  
March 24, 2009

Barr Laboratories, Inc.,  
*Opposer,*

v.

JCA Development of Miami, Inc.,  
*Applicant.*

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

Atty Docket: 1710.969OPT0/TGD/JDS

NOTICE OF OPPOSITION

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Madam:

Opposer, Barr Laboratories, Inc. (hereinafter "Opposer"), a Delaware Corporation, having its principal place of business at 225 Summit Avenue, Montvale, New Jersey, 07645, believes it will be damaged by registration of U.S. Application Serial No. 77/629,620 for the mark CLARIS (stylized) to JCA Development of Miami, Inc. (hereinafter "Applicant"), and hereby opposes the same.

The grounds for opposition are:

1. Opposer is a Delaware corporation having its principal place of business at 225 Summit Avenue, Montvale, New Jersey 07645.
2. Opposer is a pharmaceutical company engaged in researching, developing, manufacturing, marketing and selling pharmaceuticals.
3. On information and belief, Applicant is a Florida corporation having a principal place of business at 12379 SW 130<sup>th</sup> Street, Miami, Florida 33186-6208.
4. Applicant filed U.S. Application Serial No. 77/629,620 (the '620 application) on December 9, 2008, seeking to register the mark CLARIS (stylized) for "dermatological pharmaceutical products; dermatologicals; gels, creams and solutions for dermatological use; medical cleansers for skin and wounds; medicated skin care preparations; medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels; medicated skin preparation for use in treating and topical control of acne vulgaris, acne rosacea and seborrheic dermatitis; pharmaceutical preparations for skin care; pharmaceutical preparations for use in dermatology," in International Class 5.
5. The '620 application was filed under Section 1(b) of the Trademark Act, alleging an intent to use the mark in commerce. To the best of Opposer's knowledge, Applicant has not used the CLARIS (stylized) mark, in commerce, with any of the goods identified in the '620 application or with any other goods and/or services.
6. Opposer is the owner of the mark CLARAVIS, and Opposer has manufactured and sold by-prescription pharmaceuticals for the treatment of acne under the CLARAVIS mark, in interstate commerce, since at least as early as May 2003. Opposer's use of the CLARAVIS

mark for such goods is ongoing, and has been continuous and uninterrupted since the date of first use of the mark in interstate commerce. Thus, Opposer has rights in and to the CLARAVIS mark under both federal and state common law. A photocopy of packaging showing Opposer's use of the CLARAVIS mark with pharmaceuticals for the treatment of acne and a patient insert is attached hereto as Exhibit A.

7. By virtue of its use, promotional efforts, and sales, Opposer has developed appreciable goodwill in its CLARAVIS mark, and the pharmaceutical sold under Opposer's CLARAVIS mark enjoys a favorable reputation among consumers.

8. Opposer's use of its CLARAVIS mark is long prior to the filing date of Applicant's '620 application for the CLARIS (stylized) mark, and Opposer's use of the CLARAVIS mark has priority over Applicant's '620 application.

9. Applicant's CLARIS (stylized) mark and Opposer's CLARAVIS mark are highly similar in sound and appearance.

10. Applicant's CLARIS (stylized) mark and Opposer's CLARAVIS mark are highly similar in connotation and overall commercial impression.

11. The goods of Applicant's '620 application are identical to and overlap with the goods with which Opposer uses its CLARAVIS mark.

12. Applicant's goods are likely to be marketed and/or sold to the same group of consumers as Opposer's goods, and are likely to travel through the same channels of trade.

13. Given the above-noted similarities between Applicant's CLARIS (stylized) mark and Opposer's CLARAVIS mark, confusion as to the source of the goods listed in the '620 application for the CLARIS (stylized) mark is likely, as consumers are likely to mistakenly

Appl. No. 77/629,620  
Applicant: JCA Development of Miami, Inc.  
Opposer: Barr Laboratories, Inc.

believe that Applicant's goods are somehow associated with, or sponsored, endorsed or approved by, Opposer in violation of Section 2(d) of the Trademark Act.

14. Use and registration of Applicant's CLARIS (stylized) mark would cause serious and irreparable harm to Opposer and to the goodwill of the business symbolized by Opposer's CLARAVIS mark.

WHEREFORE, Opposer respectfully requests that the Board find that Opposer's CLARAVIS mark has priority over the CLARIS (stylized) mark of the '620 application, that there is a likelihood of confusion as to source under Section 2(d) of the Trademark Act between Opposer's CLARAVIS mark and Applicant's CLARIS mark, and that the Board sustain this Opposition and refuse registration of the CLARIS (stylized) mark of the '620 application.

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Applicant: JCA Development of Miami, Inc.  
Opposer: Barr Laboratories, Inc.

Opposer submits herewith the statutory fee of \$300.00 for one (1) class of goods at \$300.00 per class, as set forth under 37 C.F.R. § 2.6(a)(17).

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Tracy-Gen G. Durkin  
Attorney for Opposer  
Barr Laboratories, Inc.

Date: July 22, 2009

1100 New York Avenue, NW  
Washington, DC 20005  
Telephone: (202) 371-2600  
Facsimile: (202) 371-2540

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Appl. No. 77/629,620  
Applicant: JCA Development of Miami, Inc.  
Opposer: Barr Laboratories, Inc.

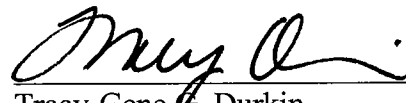
## CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of Opposer's NOTICE OF OPPOSITION and accompanying papers was served upon Applicant on July 22, 2009, by forwarding the same, via first-class mail, postage pre-paid, to:

JCA Development of Miami, Inc.  
12379 SW 130<sup>th</sup> Street  
Miami, Florida 33186-6208

with a courtesy copy to:

Xavier L. Suarez, Esq.  
Attorney At Law  
221 Aragon Avenue  
Suite 204  
Coral Gables, Florida 33134

  
\_\_\_\_\_  
Tracy-Gene G. Durkin  
Attorney for Opposer  
Barr Laboratories, Inc.





- Special Instructions to Pharmacists:**
- Only fill Claravis after authorization from the iPLEDGE program by calling 1-866-495-0654 or visiting [www.iledgeprogram.com](http://www.iledgeprogram.com)
  - Dispense no more than a 30-day supply.
  - A Claravis Medication Guide is included in each prescription blister pack.
  - Dispense Prescription Packs intact.
  - Do not remove Prescription Packs from carton until dispensed.

**Protect From Light**

**SAMPLE**



NDC 0555-1054-56



NDC 0555-1054-56

**Claravis™**  
(isotretinoin capsules, USP)

Each capsule contains 10 mg isotretinoin

**Rx only**

**Claravis™**  
(isotretinoin capsules, USP)

Each capsule contains 10 mg isotretinoin

**Rx only**

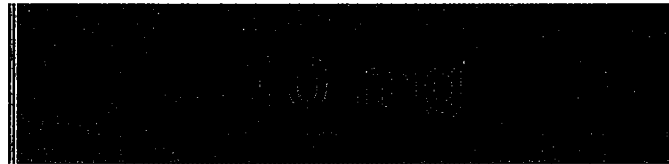


**Protect From Light**



**10 Prescription Blister Packs  
of 10 Capsules Each (100 Capsules)**

- Special Instructions to Pharmacists:**
- Only fill Claravis after authorization from the iPLEDGE program by calling 1-866-495-0654 or visiting [www.iledgeprogram.com](http://www.iledgeprogram.com)
  - Dispense no more than a 30-day supply.
  - A Claravis Medication Guide is included in each prescription blister pack.
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  - Do not remove Prescription Packs from carton until dispensed.



**10 Prescription Blister Packs  
of 10 Capsules Each (100 Capsules)**

- Reminders for Pharmacists:**
- Dispense isotretinoin only for registered patients after obtaining authorization from the iPLEDGE program by calling 1-866-495-0654 or visiting [www.iledgeprogram.com](http://www.iledgeprogram.com)
  - Write Risk Management Authorization number on the prescription.
  - Dispense no more than a 30-day supply. No refills.
  - Dispense Prescription Packs intact.
  - Do not dispense after the "Do not dispense to Patient After" date.
  - A Medication Guide is included in each Prescription Pack.

