

ESTTA Tracking number: **ESTTA342778**

Filing date: **04/16/2010**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Zoller IP Holdings, LLC
Granted to Date of previous extension	04/17/2010
Address	1000 East William Street Suite 204 Carson City, NV 89701 UNITED STATES

Name	Zoller Laboratories, LLC		
Entity	Limited liability company	Citizenship	Utah
Address	5742 W. Harold Gatty Drive Salt Lake City, UT 84116 UNITED STATES		

Correspondence information	Evan S. Strassberg Attorney 5742 W. Harold Gatty Drive Salt Lake City, UT 84116 UNITED STATES ip@mjstc.net
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Applicant Information

Application No	77834518	Publication date	02/16/2010
Opposition Filing Date	04/16/2010	Opposition Period Ends	04/17/2010
Applicant	Lavoris Holdings Inc. Unit One 100 Delta Park Blvd. Brampton, Ontario, L6T5E7 CANADA		

Goods/Services Affected by Opposition


Class 003. First Use: 1985/02/13 First Use In Commerce: 1985/02/13 All goods and services in the class are opposed, namely: (Based on Use in Commerce) Mouthwashes(Based on Intent to Use) Toothpastes
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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	3107977	Application Date	09/07/2004
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No.			
Registration Date	06/20/2006	Foreign Priority Date	NONE
Word Mark	ZANTREX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2002/11/26 First Use In Commerce: 2003/01/09 Dietary supplements		

U.S. Registration No.	2959351	Application Date	01/13/2003
Registration Date	06/07/2005	Foreign Priority Date	NONE
Word Mark	ZANTREX-3		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2003/01/09 First Use In Commerce: 2003/01/09 Dietary Supplement		

Attachments	78479406#TMSN.jpeg (1 page)(bytes) Zantrate Trademark Opposition.pdf (2 pages)(19009 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	/Evan S Strassberg/
Name	Evan S. Strassberg
Date	04/16/2010

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

In the Matter of Application Serial No. 77/834,518
Published in the Official Gazette on February 16, 2010

Zoller IP Holdings, LLC, and
Zoller Laboratories, LLC

v.

Lavoris Holdings Inc.

Opposition No. _____

NOTICE OF OPPOSITION

Opposers Zoller IP Holdings, LLC, a limited liability company organized and existing under the laws of the State of Nevada, with a business address at 1000 East William Street, Suite 204, Carson City, Nevada, 89701, and Zoller Laboratories, LLC, a limited liability company organized and existing under the laws of the State of Utah, with a business address at 5742 West Harold Gatty Drive, Salt Lake City, Utah, 84116 (collectively “Opposers”), believe they would be damaged by the issuance of a registration for the trademark ZANTRATE, which is the subject of Application Serial Number 77/834,518 (the “Application”). Opposers are related parties. The Application was filed on or about September 24, 2009, and the ZANTRATE mark was published in the Official Gazette on or about February 16, 2010. As grounds for their opposition, Opposers state as follows:

1. Opposer Zoller IP Holdings, LLC is the owner of two trademarks registered with the United States Patent and Trademark Office (the “ZANTREX Marks”):

a. ZANTREX, Registration No. 3,107,977, registered on June 20, 2006, in International Class 5, and first used in commerce on or before January 9, 2003.

b. ZANTREX-3, Registration No. 2,959,351, registered on June 7, 2005, in International Class 5, and first used in commerce on or before January 9, 2003.

2. The Application, which seeks registration in International Class 3, was filed on September 24, 2009—more than 6 years and 8 months after the ZANTREX mark was in use in commerce in International Class 5.

3. Both of the ZANTREX marks have been continuously used in commerce connection with Opposer Zoller Laboratories' non-prescription dietary supplement products.

4. The Application for the ZANTRATE trademark seeks registration for “mouthwashes and toothpastes.”

5. The ZANTREX registrations are valid, subsisting, and in full force and effect.

6. The mark that Applicant seeks to register is confusing similar to the ZANTREX Marks. Opposers have invested substantial time, effort and resources to promote the ZANTREX marks. Opposers' marks have become distinctive of Zoller Laboratories' goods and are the source of significant good will for Opposers.

7. For the reasons described above, any use of the mark ZANTRATE by Applicant is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that goods sold under that mark are sponsored by, endorsed by, or are produced by Opposers, all in violation of 15 U.S.C. § 1052(d). Opposers will be damaged if the mark is registered.

WHEREFORE, Opposers respectfully request that registration of the ZANTRATE mark be denied, and that this opposition be sustained.

DATED this 16th day of April, 2010

/s/ Evan S. Strassberg
Evan S. Strassberg
5742 W. Harold Gatty Drive
Salt Lake City, UT 84116
Counsel for Opposers