

ESTTA Tracking number: **ESTTA403508**

Filing date: **04/13/2011**

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	SHIRE LLC
Granted to Date of previous extension	04/20/2011
Address	9200 Brookfield Court Florence, KY 41042 UNITED STATES

Attorney information	Helen Hill Minsker Banner & Witcoff, Ltd. Ten South Wacker Drive Suite 3000 Chicago, IL 60606 UNITED STATES bwlitdocket@bannerwitcoff.com, sward@bannerwitcoff.com, hminsker@bannerwitcoff.com Phone: 312-463-5000
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**Applicant Information**

Application No	85082938	Publication date	12/21/2010
Opposition Filing Date	04/13/2011	Opposition Period Ends	04/20/2011
Applicant	Adderllin LLC 273 Walt Whitman Road 221 Huntington Station, NY 11746 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 005. All goods and services in the class are opposed, namely: Dietary supplement for energy boosting, fat loss, and mental focus
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Mark Cited by Opposer as Basis for Opposition**

U.S. Registration No.	1908092	Application Date	05/23/1994
Registration Date	08/01/1995	Foreign Priority Date	NONE
Word Mark	ADDERALL		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1994/06/14 First Use In Commerce: 1994/06/14 pharmaceutical preparations, namely amphetamines

Attachments	ADDERLLIN Notice of Opposition.pdf ( 11 pages )(334537 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	/helen hill minsker/
Name	Helen Hill Minsker
Date	04/13/2011

Attorney Docket:  
05157.00144

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

In the Matter of Trademark Applicant )  
Adderllin LLC )  
Mark: ADDERLLIN LLC )  
Serial No.: 85/082938 )  
Filed: July 12, 2010 )  
Published in the Official Gazette dated December 21, 2010 )

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SHIRE LLC, )  
  Opposer, )  
vs. )  
ADDERLLIN LLC, )  
  Applicant. )

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

**NOTICE OF OPPOSITION**

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Sir:

Opposer, SHIRE LLC, whose address is 9200 Brookfield Court, Florence, Kentucky 41042, believes it will be damaged by registration of the above-identified mark and hereby opposes the same.

The grounds for the opposition are as follows:

1. Opposer is the owner of U.S. Trademark Registration No. 1,908,092, issued on August 1, 1995, for the mark ADDERALL (referred to hereinafter as “Opposer’s Mark”), for “pharmaceutical preparations, namely, amphetamines” in International Class 5, which registration is now incontestable. A copy of the USPTO TESS and TARR Record for Registration No. 1,980,092, showing current status and title, is attached as Exhibit 1 to this Notice of Opposition. Priority is not an issue.

2. Opposer’s application to register the mark ADDERALL was filed on May 23, 1994, so that Opposer’s constructive use date for the mark ADDERALL is May 23, 1994.

3. Opposer, its predecessors-in-interest, and/or its licensees have continuously used the mark ADDERALL in interstate commerce in connection with the goods identified in the registration from the date of first use in interstate commerce recited in the ADDERALL registration to the present. Additionally, Opposer has used the mark ADDERALL XR for an extended release form of the ADDERALL product for many years, and continues to use the mark for said products.

4. Applicant seeks to register the mark ADDERLLIN LLC in the USPTO, under Serial No. 85/082938, for “dietary supplement for energy boosting, fat loss, and mental focus” in International Class 5 (referred to hereinafter as “Applicant’s Mark”). The application was filed on July 12, 2010 pursuant to Section 1(b) of the Trademark Act.

5. Applicant’s application for ADDERLLIN LLC, SN 85/082938, was filed long after Opposer’s constructive use date for its mark ADDERALL, namely, May 23, 1994.

6. As a result of Opposer’s, and its predecessors’, long use and registration of the mark ADDERALL, Opposer has developed substantial goodwill in said mark, and the public has come

to associate the mark ADDERALL with the products of Opposer.

7. On information and belief, in advertisements for its product, and on its website, Applicant seeks to create an association between Applicant's Mark and Opposer's Mark by referring to it as "Adderllin the Adderall alternative" and "Your over the Counter Adderall® Alternative," and making numerous references to ADDERALL without authorization from Opposer.

8. Applicant's Mark ADDERLLIN LLC so nearly resembles Opposer's Mark, ADDERALL, that when the mark ADDERLLIN LLC is applied to the goods asserted in Applicant's application in International Class 5, it so nearly resembles Opposer's Mark as to be likely to be confused with Opposer's Mark. Applicant's Mark is deceptively similar to Opposer's Mark so as to cause confusion and to lead to deception as to the origin of Applicant's goods bearing Applicant's Mark. As such, Applicant's use and registration of its mark, ADDERLLIN LLC, will inevitably lead to confusion, to mistake, or to deception of the public within the meaning of Section 2(d) of the Trademark Act of 1946, as amended, all to Opposer's grave and irreparable damage.

9. Further, as a result of the confusion of the public likely to occur due to the similarity of Applicant's Mark, ADDERLLIN LLC, and Opposer's Mark, any objection or fault found with Applicant's goods marketed under Applicant's Mark would necessarily reflect badly upon and significantly injure the reputation which Opposer has established in the United States for its ADDERALL products.

10. As a further ground for opposition, Opposer's ADDERALL Mark is famous within the meaning of Lanham Act Section 43(c), 15 USC 1125(c). Opposer's Mark became famous prior to the date when Applicant commenced any use of Applicant's Mark, and prior to the filing

date of the application for Applicant's Mark. Applicant's conduct with respect to Applicant's Mark causes dilution by lessening the capacity of Opposer's Mark to identify and distinguish Opposer's goods, in violation of Section 43(c), 15 USC 1125(c) of the Lanham Act.

11. If Applicant is permitted to register its mark, ADDERLLIN LLC, the registration would give Applicant a prima facie exclusive right to the use of the mark ADDERLLIN LLC for the goods set forth in the application. Such registration would damage and injure Opposer.

12. By reason of the foregoing, Applicant's registration of the mark ADDERLLIN LLC herein opposed will cause injury and damage to Opposer's rights to the mark, ADDERALL, and to its use thereof described above.

WHEREFORE, Opposer respectfully prays that the present opposition be sustained and that the registration sought by the Applicant be refused.

A duplicate copy of this Notice of Opposition is enclosed.

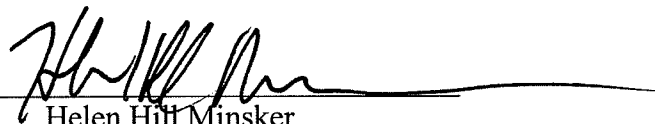
Please charge the statutory fee of \$300 to our firm's deposit account, No. 19-0733. Please also charge any additional fees, or credit any overpayments, to our firm's deposit account, No. 19-0733.

Respectfully submitted,

BANNER & WITCOFF, LTD.  
Attorneys for Opposer

Date: April 13, 2011

By:



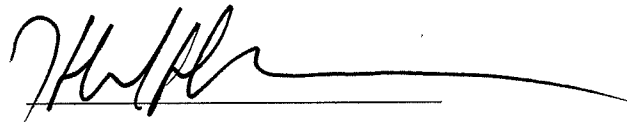
Helen Hill Minsker  
Ten South Wacker Drive  
Suite 3000  
Chicago, Illinois 60606  
Telephone: 312-463-5000

ENCLOSURES:  
EXHIBIT 1 – ADDERALL Reg. 1908092  
14399465

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of April, 2011, a copy of the foregoing Notice of Opposition was served on Applicant, by first class mail, postage prepaid, addressed as follows:

ADDERLLIN LLC  
273 Walt Whitman Road #221  
Huntington Station, New York 11746

A handwritten signature in black ink, appearing to be 'J. H. P.', written over a horizontal line.

**EXHIBIT 1**

**USPTO TESS & TARR RECORD FOR**

**ADDERALL – Reg. No. 1908092**





**United States Patent and Trademark Office**

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**Typed Drawing**

<b>Word Mark</b>	<b>ADDERALL</b>
<b>Goods and Services</b>	IC 005. US 018. G & S: pharmaceutical preparations, namely amphetamines. FIRST USE: 19940614. FIRST USE IN COMMERCE: 19940614
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	74527272
<b>Filing Date</b>	May 23, 1994
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	May 9, 1995
<b>Registration Number</b>	1908092
<b>Registration Date</b>	August 1, 1995
<b>Owner</b>	(REGISTRANT) Richwood Pharmaceutical Company, Inc. CORPORATION KENTUCKY 7902 Tanner's Gate Drive Florence KENTUCKY 41042  (LAST LISTED OWNER) SHIRE LLC LTD LIAB CO KENTUCKY 725 CHESTERBROOK BOULEVARD WAYNE PENNSYLVANIA 19087
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20050701.
<b>Renewal</b>	1ST RENEWAL 20050701
<b>Live/Dead Indicator</b>	LIVE

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**Serial Number:** 74527272 [Assignment Information](#) [Trademark Document Retrieval](#)

**Registration Number:** 1908092

**Mark (words only):** ADDERALL

**Standard Character claim:** No

**Current Status:** The registration has been renewed.

**Date of Status:** 2005-07-01

**Filing Date:** 1994-05-23

**Transformed into a National Application:** No

**Registration Date:** 1995-08-01

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 11

**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](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 830 -Post Registration

**Date In Location:** 2005-07-01

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

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1. SHIRE LLC

**Address:**

SHIRE LLC  
725 CHESTERBROOK BOULEVARD  
WAYNE, PA 19087  
United States

**Legal Entity Type:** Limited Liability Company

**State or Country Where Organized:** Kentucky

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**GOODS AND/OR SERVICES**

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**International Class:** 005

**Class Status:** Active

pharmaceutical preparations, namely amphetamines

**Basis:** 1(a)

**First Use Date:** 1994-06-14

**First Use in Commerce Date:** 1994-06-14

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#### ADDITIONAL INFORMATION

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(NOT AVAILABLE)

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#### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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#### PROSECUTION HISTORY

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

2005-07-01 - First renewal 10 year

2005-07-01 - Section 8 (10-year) accepted/ Section 9 granted

2005-07-01 - Assigned To Paralegal

2005-05-05 - Combined Section 8 (10-year)/Section 9 filed

2005-05-05 - TEAS Section 8 & 9 Received

2005-04-21 - TEAS Change Of Owner Address Received

2005-04-21 - TEAS Change Of Correspondence Received

2001-05-19 - Section 8 (6-year) accepted & Section 15 acknowledged

2001-02-27 - Section 8 (6-year) and Section 15 Filed

1995-08-01 - Registered - Principal Register

1995-05-09 - Published for opposition

1995-04-07 - Notice of publication

1995-01-19 - Approved for Pub - Principal Register (Initial exam)

1995-01-19 - Amendment to Use approved

1994-07-11 - Communication received from applicant

1995-01-05 - Amendment To Use Processing Complete

1994-07-11 - Use Amendment Filed

1995-01-10 - Previous Allowance Count Withdrawn

1994-12-15 - Approved For Pub - Principal Register

1994-12-13 - Examiner's amendment mailed

1994-09-30 - Non-final action mailed

1994-09-25 - Assigned To Examiner

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Correspondent**

AARON P. BUDA

SHIRE US INC.

725 CHESTERBROOK BLVD.

WAYNE, PA 19087

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