

ESTTA Tracking number: **ESTTA494312**

Filing date: **09/13/2012**

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	Pfizer Inc.
Granted to Date of previous extension	09/19/2012
Address	235 East 42nd Street New York, NY 10017 UNITED STATES

Correspondence information	Paul C. Llewellyn Kaye Scholer LLP 425 Park Avenue New York, NY 10022 UNITED STATES paul.llewellyn@kayescholer.com, john.rynkiewicz@kayescholer.com, john.eischeid@kayescholer.com, darya.pollak@kayescholer.com Phone: (212) 836-8000
----------------------------	---

Applicant Information

Application No	85509688	Publication date	05/22/2012
Opposition Filing Date	09/13/2012	Opposition Period Ends	09/19/2012
Applicant	Forest Laboratories, Inc. 909 Third Avenue New York, NY 10022 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Pharmaceutical preparations for the treatment of bacterial infections, diabetes, pain, neuropathic pain, diabetic neuropathy, cardiovascular system diseases and disorders, respiratory system diseases and disorders, neurological diseases and disorders, neurodegenerative diseases and disorders, central nervous system diseases and disorders, gastrointestinal diseases and disorders; antidepressants; antipsychotics; coronary vasodilating agents; inhalers filled with pharmaceutical preparations for the treatment and alleviation of respiratory system diseases and disorders

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
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.	2162548	Application Date	04/12/1996
Registration Date	06/02/1998	Foreign Priority Date	NONE
Word Mark	VIAGRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1998/04/06 First Use In Commerce: 1998/04/06 compound for treating erectile dysfunction		

Attachments	Lintagra notice of opposition 9-13-12.pdf (7 pages)(93339 bytes)
-------------	---

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	/Paul C. Llewellyn/
Name	Paul C. Llewellyn
Date	09/13/2012

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

-----X		X
PFIZER INC.,		:
	Opposer,	:
		:
v.		:
FOREST LABORATORIES, INC.		:
	Applicant.	:
		:
-----X		X

NOTICE OF OPPOSITION

Applicant Serial No:	85/509,688
Filed:	January 5, 2012
Published for Opposition:	May 22, 2012
Mark:	LINTAGRA

Commissioner for Trademarks
 Trademark Trial and Appeal Board
 P.O. Box 1451
 Alexandria, VA 22313-1451

Opposer Pfizer Inc. (“Opposer” or “Pfizer”), a Delaware corporation with a place of business at 235 East 42nd Street, New York, New York, believes it will be damaged by the registration of the mark LINTAGRA shown in Application Serial No. 85/509,688, and hereby opposes the same.

As grounds for opposition, Opposer, by and through its undersigned counsel, alleges that:

1. Pfizer is a research-based biomedical and pharmaceutical company in the business of discovering, developing, manufacturing and delivering medicines for people and animals. Pfizer also sells a variety of consumer products, including over-the-counter medications.

2. Pfizer has used the VIAGRA® trademark on pharmaceutical preparations continuously since at least April 1998.

3. Pfizer is the owner of U.S. Trademark Registration No. 2,162,548 on the Principal Register for the trademark VIAGRA covering a “compound for treating erectile dysfunction” in International Class 5.

4. Said registration is valid and subsisting and Pfizer hereby gives notice in accordance with Trademark Rule of Practice 2.122(d)(2) that it will rely thereon as evidence in this proceeding, and a status copy thereof showing present title will be introduced into evidence on its behalf during Pfizer’s testimony period.

5. The VIAGRA® trademark is inherently distinctive; it is a fanciful and coined term with no meaning other than to identify Pfizer’s product.

6. Since introducing its VIAGRA® product in 1998, Pfizer has spent substantial time, effort and money to promote the sale of the product in the United States under the VIAGRA® mark. Within a very short time of its launch, the VIAGRA® product became exceptionally well-known throughout the United States and abroad.

7. Pfizer has sold and continues to sell substantial quantities of VIAGRA® (sildenafil citrate) in the United States and has spent substantial time, effort and money promoting the sale of such product under the mark. In addition, since at least April 1998 and earlier, Pfizer and its VIAGRA® product have received and continue to receive widespread media attention.

8. By virtue of Pfizer's substantial use, sales, advertising, and promotion of the VIAGRA® mark throughout the United States and abroad, the enormous publicity and media attention accorded the mark, and the inherently distinctive nature of the mark, the VIAGRA® mark has become a well-known mark, has become distinctive of Pfizer's product, and has become famous within the meaning of Section 43(c) of the Lanham Act, as amended, 15 U.S.C. § 1125(c).

9. Despite Pfizer's long prior common law and statutory rights in the VIAGRA® mark, Applicant Forest Laboratories, Inc. ("Applicant"), with both constructive and actual notice of Pfizer's federal registration, and long after Pfizer established rights in and to the VIAGRA® mark, adopted and filed an intent-to-use application for registration of the mark LINTAGRA for "Pharmaceutical preparations for the treatment of bacterial infections, diabetes, pain, neuropathic pain, diabetic neuropathy, cardiovascular system diseases and disorders, respiratory system diseases and disorders, neurological diseases and disorders, neurodegenerative diseases and disorders, central nervous system diseases and disorders, gastrointestinal diseases and disorders; antidepressants; antipsychotics; coronary vasodilating agents; inhalers filled with pharmaceutical preparations for the treatment and alleviation of respiratory system diseases and disorders" in International Class 5.

10. Applicant's mark was published for opposition on May 22, 2012. Pfizer filed for an Extension of Time to Oppose on June 5, 2012, and the Trademark Trial and Appeal Board granted an extension until September 19, 2012.

11. Pfizer's VIAGRA® mark has priority over Applicant's mark because the filing date of Pfizer's trademark application is April 12, 1996, and Pfizer's date of first use is April 6, 1998,

prior to the January 5, 2012 filing date of Applicant's intent-to-use trademark application for the mark LINTAGRA.

12. Pfizer's VIAGRA® trademark became famous long before the January 5, 2012 filing date of Applicant's intent-to-use trademark application.

13. Applicant's LINTAGRA mark is substantially or highly similar to the mark VIAGRA® in sound, appearance and commercial impression.

14. The goods set forth in the subject application are related to the pharmaceutical compound for which Pfizer's VIAGRA® trademark is registered and used, in that many consumers who encounter Applicant's mark are likely to think that the same company that offers Applicant's product might be authorized by, sponsored by, licensed by, affiliated with or related to the company that offers Pfizer's VIAGRA® product.

15. As a result, Applicant's applied-for mark LINTAGRA, if used in conjunction with the goods set forth in the subject application, is likely to cause confusion, mistake, or to deceive as to the origin, source, sponsorship or affiliation of Applicant's goods.

16. Applicant's applied-for mark LINTAGRA so resembles Opposer's previously used and registered mark VIAGRA®, as to be likely, when applied to the goods set forth in Applicant's application, to cause confusion, mistake or deception within the meaning of 15 U.S.C. § 1052(d).

17. Applicant's applied-for mark LINTAGRA so resembles Opposer's previously used and registered mark VIAGRA®, as to be likely, when applied to the goods set forth in Applicant's application, to falsely suggest a connection with the Opposer within the meaning of 15 U.S.C. § 1052(a).

18. Applicant's applied-for mark LINTAGRA is substantially similar in sound and appearance to Pfizer's distinctive and famous VIAGRA® trademark. As such, Applicant's LINTAGRA mark impairs and is likely to impair the distinctiveness of the VIAGRA® trademark and causes and is likely to cause dilution by blurring of that mark.

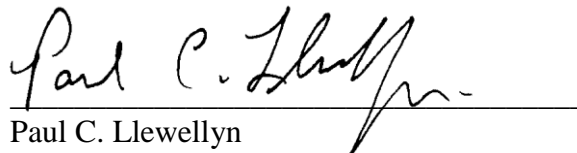
19. Pfizer will be damaged by registration of Applicant's LINTAGRA trademark because such registration will support Applicant's dilution of Pfizer's VIAGRA® trademark, and will give color of exclusive statutory right to Applicant in violation and derogation of the prior and superior rights of Pfizer.

20. Applicant's applied-for mark LINTAGRA is likely to cause dilution by blurring of Opposer's famous, distinctive and federally-registered mark VIAGRA® within the meaning of 15 U.S.C. § 1125(c) and 15 U.S.C. § 1063(a), as amended by the Trademark Dilution Revision Act of 2006.

WHEREFORE, Opposer respectfully prays that this Opposition be sustained and that registration to Applicant be refused.

The Patent & Trademark Office and Trademark Trial and Appeal Board are hereby authorized to collect any fees necessitated by this Notice of Opposition from the deposit account of Opposer's attorneys, Kaye Scholer LLP, Deposit Account No. 11-0228.

Date: September 13, 2012



Paul C. Llewellyn
KAYE SCHOLER LLP
425 Park Avenue
New York, N.Y. 10022
Telephone: (212) 836-8000

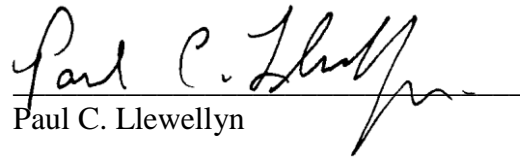
John P. Rynkiewicz
KAYE SCHOLER LLP
901 Fifteenth Street, N.W.
Washington, D.C. 20005
Telephone: (202) 682-3671

Attorneys for Opposer Pfizer Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of September, 2012, I caused a true and correct copy of the foregoing Notice of Opposition to be served by United States first class mail, postage prepaid, upon the following attorney of record:

Christopher Serbagi
The Serbagi Law Firm, P.C.
488 Madison Ave., Suite 1120
New York, New York 10022-5719


Paul C. Llewellyn