

ESTTA Tracking number: **ESTTA546024**

Filing date: **07/01/2013**

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	Purapharm International (H.K.) Limited		
Entity	Limited Liability Company	Citizenship	Hong Kong
Address	1 Connaught Place Suites 4002, Jardine House Central, HONG KONG		

Attorney information	Melissa S. Rizzo, Esq. Adams and Reese LLP 424 Church Street Suite 2800 Nashville, TN 37219 UNITED STATES trademarks@arlaw.com, melissa.rizzo@arlaw.com, madeline.algarin@arlaw.com, haverly.macarthur@arlaw.com Phone:(615) 259-1450
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Applicant Information

Application No	79124353	Publication date	06/04/2013
Opposition Filing Date	07/01/2013	Opposition Period Ends	07/04/2013
International Registration No.	1145576	International Registration Date	10/30/2012
Applicant	Purepharma ApS Lergravsvej 59 3 DK-2300 KÅbenhavn S DENMARK		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Food supplements for medical purposes; food supplements not for medical purposes, made from plants and weed extracts, for human consumption, for the purpose of nutritionally supplementing a normal diet; dietetic substances not for medical purposes, made from plants and weed extracts, for physiological purposes, namely, nutritional supplements; biopathic products and dietary supplements for medical purposes, including those based on active components and extracts of marine animals, plants, marine plants, herbs, fruits and vegetables, namely, nutritional supplements; foodstuffs and health supplements not for medical purposes, mainly consisting of extracts and active components from fruits, vegetables, marine plants, marine animals, fish, shellfish and dried herbs, namely, nutritional supplements
Class 032. All goods and services in the class are opposed, namely: Sports drinks and beverages

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. Registration No.	2639990	Application Date	09/21/1998
Registration Date	10/22/2002	Foreign Priority Date	NONE
Word Mark	PURAPHARM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 005. First use: First Use: 1999/02/23 First Use In Commerce: 2001/07/26 Health food for medically restricted diets; food supplements, namely, herbal extract in the form of capsule tablet, powder and granule; food supplements, namely, vitamins, vitamin preparations, minerals, enzymes, and enzymes preparations; dietary and nutritional supplements; nutritional supplements, namely, drink mixes in powder form; dietetic food preparations, dietetic beverages, dietetic substances, and food preparations all for medically restricted diets; digestives for pharmaceutical purposes; appetite suppressants; pharmaceutical preparations and substances for appetite control and weight management; analgesics; sedatives; tranquilizers; sunburn ointments and sunburn preparations for medical use; pharmaceutical preparations for skin care; medicated mud for skin care, medicated skin care mud for baths; medicated mouth washes; medicines for dental purposes; Chinese medicines, for use with human biological systems, namely, Chinese medicines for the respiratory system, gastrointestinal system, endocrine system, cardiovascular system, nervous system, musculoskeletal system, urinary system, integumentary system and reproductive system; balms for medical purposes for the treatment of muscle pain, veterinary nutritional supplements for pets and livestock and medicated preparations for pet and livestock</p>		

Attachments	Notice of Opposition.pdf(312746 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	/Melissa S. Rizzo/
Name	Melissa S. Rizzo, Esq.
Date	07/01/2013

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

In the matter of: Trademark Application Serial No. 79/124353
Filed on: October 30, 2012

For the mark: **PURE**  **PHARMA**
Date of Publication in the Official Gazette: June 4, 2013


PURAPHARM INTERNATIONAL (H.K.) LIMITED))	
(Opposer))	
)	
v.)	Opposition No. _____
)	
PUREPHARMA APS.)	
(Applicant))	

NOTICE OF OPPOSITION


Opposer, PuraPharm International (H.K.) Limited, believes that it will be damaged by registration of the mark shown in Application Serial No. 79/124353, and hereby opposes the same under Section 13 of the Trademark Act of July 5, 1946, 15 U.S.C. § 1063. The required fee accompanies the electronic filing of this Notice of Opposition. As grounds for its opposition, Opposer alleges as follows:

1. Opposer is PuraPharm International (H.K.) Limited, a Hong Kong limited liability company, with an address of 1 Connaught Place, Suite 4002, Jardine House, Central, Hong Kong.
2. On information and belief, Applicant is PurePharma ApS, a Danish private limited company, with an address of Lergravsvej 59 3 DK-2300 København S, Denmark.

3. On October 30, 2012, Applicant filed Application Serial No. 79/124353 to

register the mark **PURE**  **PHARMA** on the Principal Register, for goods identified as “Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use; food supplements for medical purposes; food supplements (not for medical purposes) for human consumption for the purpose of supplementing a normal diet, namely made from plants and weed extracts; dietetic substances (not for medical purposes), namely made from plants and weed extracts for physiological purposes; biopathic products and dietary supplements for medical purposes including based on active components and extracts of marine animals, plants, marine plants, herbs, fruits and vegetables; foodstuffs and health supplements (not for medical purposes), mainly consisting of extracts and active components from fruits, vegetables, marine plants, marine animals, fish, shellfish and dried herbs” and “Sports drinks and beverages” on the basis of Applicant’s international registration no. 1145576, with a claim of priority to the international registration application filing date of May 1, 2012.

4. As a result of the examination process for Application Serial No. 79/124353, Applicant has disclaimed the exclusive right to use PHARMA apart from the mark as shown in paragraph 3 above.

5. Further as a result of the examination process, Applicant now seeks to register the mark **PURE**  **PHARMA** on the Principal Register, for goods identified as “Food supplements for medical purposes; food supplements not for medical purposes, made from plants and weed extracts, for human consumption, for the purpose of nutritionally supplementing a normal diet; dietetic substances not for medical purposes, made from plants and weed extracts, for

physiological purposes, namely, nutritional supplements; biopathic products and dietary supplements for medical purposes, including those based on active components and extracts of marine animals, plants, marine plants, herbs, fruits and vegetables, namely, nutritional supplements; foodstuffs and health supplements not for medical purposes, mainly consisting of extracts and active components from fruits, vegetables, marine plants, marine animals, fish, shellfish and dried herbs, namely, nutritional supplements” and “Sports drinks and beverages.”

6. Opposer has been engaged in the business of providing the products in commerce described below under the trademark PURAPHARM since at least as early as 2001.

7. Opposer is the owner of the following trademark registration issued by the United States Patent and Trademark Office:

Mark: PURAPHARM

Registration Number: 2,639,990

Filing Date: September 21, 1998

Registration Date: October 22, 2002

Register: Principal

Products covered: “Health food for medically restricted diets; food supplements, namely, herbal extract in the form of capsule tablet, powder and granule; food supplements, namely, vitamins, vitamin preparations, minerals, enzymes, and enzymes preparations; dietary and nutritional supplements; nutritional supplements, namely, drink mixes in powder form; dietetic food preparations, dietetic beverages, dietetic substances, and food preparations all for medically restricted diets; digestives for pharmaceutical purposes; appetite suppressants;

pharmaceutical preparations and substances for appetite control and weight management; analgesics; sedatives; tranquilizers; sunburn ointments and sunburn preparations for medical use; pharmaceutical preparations for skin care; medicated mud for skin care, medicated skin care mud for baths; medicated mouth washes; medicines for dental purposes; Chinese medicines, for use with human biological systems, namely, Chinese medicines for the respiratory system, gastrointestinal system, endocrine system, cardiovascular system, nervous system, musculoskeletal system, urinary system, integumentary system and reproductive system; balms for medical purposes for the treatment of muscle pain, veterinary nutritional supplements for pets and livestock and medicated preparations for pet and livestock”

Registration No. 2,639,990 is valid and subsisting and has become incontestable. A copy of the record of this registration taken from the TSDR electronic database of the Patent and Trademark Office and showing the current status and title of the registration is attached hereto as **Exhibit 1**.

FIRST CLAIM FOR RELIEF
(Likelihood of Confusion With Registered Trademark)

8. Opposer repeats and realleges the allegations in preceding paragraphs 1–7 as if fully set forth herein.

9. Applicant’s filing date of October 30, 2012, and claimed priority date of May 1, 2012, both postdate the priority date of Opposer’s Registration No. 2,639,990, which is September 21, 1998. At the time Applicant filed Application Serial No. 79/124353, Applicant had actual or constructive knowledge of Opposer’s rights in its registered mark listed in paragraph 7 above.

10. The mark shown in Application Serial No. 79/124353 so resembles Opposer's registered PURAPHARM mark as to be likely, when used on or in connection with the products identified in Application Serial No. 79/124353, to cause confusion, to cause mistake, or to deceive, and Applicant's mark is thus unregistrable under §§ 2(d) and 13 of the United States Trademark Act, 15 U.S.C. §§ 1052(d) and 1063.

11. Opposer will be damaged by registration of the mark shown in Application Serial No. 79/124353, because registration will give Applicant *prima facie* evidence of its ownership of, and its exclusive right to use in commerce, a mark which is confusingly similar to Opposer's mark, which is and will be in derogation of Opposer's right to continue to use its mark.

SECOND CLAIM FOR RELIEF
(Likelihood of Confusion With Previously Used Trademark)

12. Opposer repeats and realleges the allegations in preceding paragraphs 1–7 as if fully set forth herein.

13. Applicant's filing date of October 30, 2012, and claimed priority date of May 1, 2012, both postdate the date of first use in commerce of Opposer, which is at least as early as July 26, 2001.

14. The mark shown in Application Serial No. 79/124353 so resembles the PURAPHARM mark previously used by Opposer, and not abandoned, as to be likely, when used on or in connection with the services identified in Application Serial No. 79/124353, to cause confusion, to cause mistake, or to deceive, and Applicant's mark is thus unregistrable under §§ 2(d) and 13 of the United States Trademark Act, 15 U.S.C. §§ 1052(d) and 1063.

15. Opposer will be damaged by registration of the mark shown in Application Serial No. 79/124353, because registration will give Applicant *prima facie* evidence of its ownership of, and its exclusive right to use in commerce, a mark which is confusingly similar to Opposer's mark, which is and will be in derogation of Opposer's right to continue to use its mark.

WHEREFORE, Opposer prays that Application Serial No. 79/124353 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully submitted,

ADAMS AND REESE LLP

Date: July 1, 2013

/Melissa S. Rizzo/

Melissa S. Rizzo

Haverly MacArthur

ADAMS AND REESE LLP

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I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on the Applicant, by mailing said copy on July 1, 2013, via certified First Class Mail, postage prepaid, and via electronic mail, to its Attorney of Record:

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/Melissa S. Rizzo/

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Mark: PURAPHARM

US Serial Number: 75555761 Application Filing Date: Sep. 21, 1998
US Registration Number: 2639990 Registration Date: Oct. 22, 2002
Register: Principal
Mark Type: Trademark
Status: The registration has been renewed.
Status Date: Aug. 10, 2012
Publication Date: Apr. 10, 2001 Notice of Allowance Date: Jul. 03, 2001

Mark Information

Mark Literal Elements: PURAPHARM
Standard Character Claim: No
Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [] indicate deleted goods/services.
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks "*" identify additional (new) wording in the goods/services.

For: Health food for medically restricted diets; food supplements, namely, herbal extract in the form of capsule tablet, powder and granule; food supplements, namely, vitamins, vitamin preparations, minerals, enzymes, and enzymes preparations; dietary and nutritional supplements; nutritional supplements, namely, drink mixes in powder form; dietetic food preparations, dietetic beverages, dietetic substances, and food preparations all for medically restricted diets; digestives for pharmaceutical purposes; appetite suppressants; pharmaceutical preparations and substances for appetite control and weight management; analgesics; sedatives; tranquilizers; sunburn ointments and sunburn preparations for medical use; pharmaceutical preparations for skin care; medicated mud for skin care, medicated skin care mud for baths; medicated mouth washes; medicines for dental purposes; Chinese medicines, for use with human biological systems, namely, Chinese medicines for the respiratory system, gastrointestinal system, endocrine system, cardiovascular system, nervous system, musculoskeletal system, urinary system, integumentary system and reproductive system; balms for medical purposes for the treatment of muscle pain, veterinary nutritional supplements for pets and livestock and medicated preparations for pet and livestock

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 23, 1999

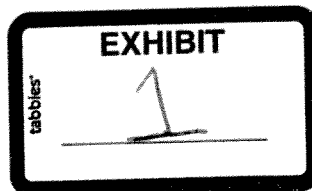
Use in Commerce: Jul. 26, 2001

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Purapharm International (H.K.) Limited
Owner Address: 1 Connaught Place
Suites 4002, Jardine House
Central



HONG KONG

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: HONG KONG

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Haverly MacArthur
Attorney Primary Email Address: trademarks@arlaw.com

Docket Number: 016197-1
Attorney Email Authorized: Yes

Correspondent

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Domestic Representative e-mail: trademarks@arlaw.com

Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Aug. 10, 2012	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Aug. 10, 2012	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	64591
Aug. 10, 2012	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	64591
Aug. 10, 2012	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	64591
Jul. 27, 2012	TEAS SECTION 8 & 9 RECEIVED	
Jan. 30, 2012	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Jan. 30, 2012	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Oct. 24, 2008	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	69934
Oct. 20, 2008	ASSIGNED TO PARALEGAL	69934
Oct. 17, 2008	TEAS SECTION 8 & 15 RECEIVED	
Jan. 31, 2008	CASE FILE IN TICRS	
Oct. 22, 2002	REGISTERED-PRINCIPAL REGISTER	
Jul. 10, 2002	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jul. 01, 2002	ASSIGNED TO EXAMINER	60740
Jun. 28, 2002	STATEMENT OF USE PROCESSING COMPLETE	
Jun. 14, 2002	USE AMENDMENT FILED	
Jan. 18, 2002	EXTENSION 1 GRANTED	
Jan. 02, 2002	EXTENSION 1 FILED	
Jul. 03, 2001	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Apr. 10, 2001	PUBLISHED FOR OPPOSITION	
Mar. 28, 2001	NOTICE OF PUBLICATION	
Oct. 11, 2000	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 08, 2000	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Dec. 13, 1999	FINAL REFUSAL MAILED	
Nov. 05, 1999	CORRESPONDENCE RECEIVED IN LAW OFFICE	
May 06, 1999	NON-FINAL ACTION MAILED	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Oct. 22, 2012

TM Staff and Location Information

TM Staff Information - None
File Location

Current Location: Not Found

Date in Location: Aug. 10, 2012