

ESTTA Tracking number: **ESTTA610984**

Filing date: **06/19/2014**

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	Forest Laboratories, Inc.
Granted to Date of previous extension	06/21/2014
Address	909 Third Avenue New York, NY 10022 UNITED STATES
Attorney information	Christopher Serbagi The Serbagi Law Firm, P.C. 488 Madison Avenue, Suite 1120 New York, NY 10022 UNITED STATES ptoemails@earthlink.net Phone:212-593-2112

Applicant Information

Application No	86127398	Publication date	04/22/2014
Opposition Filing Date	06/19/2014	Opposition Period Ends	06/21/2014
Applicant	Sebela International Limited H.P. House Hamilton, HM09 BERMUDA		

Goods/Services Affected by Opposition


Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Medicated and pharmaceutical preparations, both prescription and over-the-counter, for use in dermatology; and, medicated and pharmaceutical preparations, both prescription and over-the-counter, for use in gastroenterology

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 No.	3658661	Application Date	06/21/2007
Registration Date	07/21/2009	Foreign Priority Date	NONE
Word Mark	SAVELLA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 2009/04/24 First Use In Commerce: 2009/04/24 pharmaceutical preparations for the treatment of fibromyalgia and neuropathic pain disorders

U.S. Registration No.	3761078	Application Date	08/03/2009
Registration Date	03/16/2010	Foreign Priority Date	NONE
Word Mark	SAVELLA		
Design Mark			
Description of Mark	The mark consists of "SAVELLA" followed by two curved lines on top of three curved lines.		
Goods/Services	Class 016. First use: First Use: 2009/05/17 First Use In Commerce: 2009/05/17 printed matter, namely, brochures, pamphlets, posters, newsletters, promotional materials, patient educational materials, all concerning the treatment of fibromyalgia and neuropathic pain disorders Class 044. First use: First Use: 2009/01/15 First Use In Commerce: 2009/01/15 medical informational services, namely, providing health information in the field of fibromyalgia and neuropathic pain disorders via a global computer network		

Attachments	77211766#TMSN.jpeg(bytes) 77795756#TMSN.jpeg(bytes) 2014_06_19 SEBELA Notice of Opposition.pdf(82552 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 Overnight Courier on this date.

Signature	/christopher serbagi/
Name	Christopher Serbagi
Date	06/19/2014

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

In the matter of Application Serial No. 86/127,398
Mark: SEBELA

FOREST LABORATORIES, INC.,)	
)	
Opposer,)	OPPOSITION NO.:
)	
v.)	
)	
)	
SEBELA INTERNATIONAL LIMITED,)	
)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer, Forest Laboratories, Inc., a Delaware corporation located and doing business at 909 Third Avenue, New York, New York 10022, believes that it will be damaged by registration of the mark shown in Serial No. 86,127,398, which was published in the *Official Gazette* on April 22, 2014, and hereby opposes the same.

As grounds for the opposition, Opposer alleges that:

1. Applicant filed an intent-to-use Application, Serial No. 86,127,398, on or about November 22, 2013 to register the mark SEBELA in connection with “medicated and pharmaceutical preparations, both prescription and over-the-counter, for use in dermatology; and, medicated and pharmaceutical preparations, both prescription and over-the-counter, for use in gastroenterology” in Class 5 (the “Proposed Mark”).
2. Opposer will be damaged by the registration of the Proposed Mark.

3. Opposer is the owner of the following U.S. registrations: (1) SAVELLA, for “pharmaceutical preparations for the treatment of fibromyalgia and neuropathic pain disorders” in Class 5 (Reg. No. 3,658,661), which application Forest filed on June 21, 2007 and matured into a registration on July 21, 2009; (2) SAVELLA and Design for “printed matter, namely, brochures, pamphlets, posters, newsletters, promotional materials, patient educational materials, all concerning the treatment of fibromyalgia and neuropathic pain disorders” in Class 16 and “medical informational services, namely, providing health information in the field of fibromyalgia and neuropathic pain disorders via a global computer network” in Class 44 (Reg. No. 3,761,078), which application Forest filed on August 3, 2009 and matured into a registration on March 16, 2010 (collectively the “SAVELLA Marks”). The SAVELLA Marks are in use in connection with an FDA-approved prescription pharmaceutical, and have been the subject of significant marketing efforts.

4. The SAVELLA Marks and the Proposed Mark are very similar in “sight, sound, and meaning.” The goods and services described in Applicant’s application are closely related to products and services offered by Opposer under the SAVELLA Marks such that consumer confusion is likely to result.

5. Opposer’s SAVELLA Marks have priority because Opposer filed its applications for those marks on (June 21, 2007 and August 3, 2009) before any priority date that Applicant can claim relating to the Proposed Mark

6. WHEREFORE, Opposer requests that the Board sustain this Opposition and refuse registration of SEBELA (Serial No. 86,127,398) in Class 5.

THE SERBAGI LAW FIRM, P.C.
Attorney for Forest Laboratories, Inc.

Dated: June 19, 2014
New York, New York

/Christopher Serbagi/
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CERTIFICATE OF SERVICE

I certify that on June 19, 2014, I served a copy of the attached Notice of Opposition by causing a true copy thereof to be delivered by electronic communication and Federal Express to Applicant's attorney of record in an envelope addressed as follows:

Ashish D. Patel, Esq.
THOMPSON HINE LLP
10050 Innovation Dr.
Miamisburg, OH 45342-4931

 /Christopher Serbagi/
Christopher Serbagi