

ESTTA Tracking number: **ESTTA617241**

Filing date: **07/23/2014**

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	Ares Trading S.A.
Granted to Date of previous extension	07/23/2014
Address	Zone Industrielle de l'Ouriettaz Aubonne, CH-1170 SWITZERLAND

Attorney information	William C. Wright Epstein Drangel LLP 60 East 42nd Street, Suite 2410 New York, NY 10165 UNITED STATES mail@ipcounselors.com Phone:2122925390
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Applicant Information

Application No	86052912	Publication date	03/25/2014
Opposition Filing Date	07/23/2014	Opposition Period Ends	07/23/2014
Applicant	Retractable Technologies, Inc. 511 Lobo Lane Little Elm, TX 75068 UNITED STATES		

Goods/Services Affected by Opposition


Class 010. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: medical instruments and apparatus, namely, syringes, injection devices for pharmaceuticals and other infusion therapies, injection instruments with needles, injection needles, catheters, dental syringes, infusion sets, blood tubing sets for medical purposes, blood drawing apparatus, devices for blood collection, namely, blood collection tube holders
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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 No.	3150806	Application Date	09/02/2005
Registration Date	10/03/2006	Foreign Priority Date	07/20/2005

Word Mark	EASYPOD
Design Mark	
Description of Mark	NONE
Goods/Services	Class 010. First use: First Use: 0 First Use In Commerce: 0 Medical apparatus and instruments, namely, pen injection devices for administering growth hormones

U.S. Registration No.	3518769	Application Date	03/12/2008
Registration Date	10/21/2008	Foreign Priority Date	NONE

Word Mark	EASYPOD
Design Mark	
Description of Mark	NONE
Goods/Services	Class 010. First use: First Use: 2007/00/00 First Use In Commerce: 2007/00/00 Medical apparatus and instruments, namely, injector for growth hormone

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	EASYPOD		
Goods/Services	medical apparatus and instruments in the nature of pen injection devices		

Attachments	78706220#TMSN.png(bytes) 76687637#TMSN.png(bytes) DOC072314easy1.pdf(396983 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	/William C. Wright/
Name	William C. Wright
Date	07/23/2014

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

In the Matter of the Trademark Application for EASYPOINT
Ser. No. 86/052,912, in the name of Retractable Technologies, Inc.

ARES TRADING S.A.,)	
)	
Opposer,)	Opp. No. _____
)	
v.)	
)	
RETRACTABLE TECHNOLOGIES, INC.,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

In the Matter of Application Ser. 86/052,912, Ares Trading S.A., a société anonyme, organized and existing under the laws of Switzerland, having a principal place of business at Zone Industrielle de L'Ouriettaz, CH-1170 Aubonne, Switzerland, ("Opposer"), believes that it is or will be damaged by registration of the trademark EASYPOINT, as reflected in application Ser. No. 86/052,912, and hereby opposes same.

As grounds for its opposition, Opposer, by and through its undersigned attorneys, alleges as follows:

1. Opposer and its affiliated and related companies are engaged in the development, production, advertisement, sale and distribution of a wide variety of pharmaceutical preparations

as well as medical devices.

2. Opposer coined the fanciful term EASYPOD, and for many years prior to any date upon which Applicant can rely, Opposer has used EASYPOD on or in connection with medical apparatus and instruments in the nature of pen injection devices (the "Ares Mark").

3. Over a prolonged period of time, Opposer has invested a substantial amount of time, effort and money promoting its Ares Mark and the goods bearing said mark. As a result of its promotional efforts, a tremendous volume of sales, and extensive use of the Ares Mark, Opposer's Ares Mark has attained widespread acclaim in the United States, and has come to be exclusively recognized as identifying the products of Opposer. Since long before any use of or alleged rights of Applicant in the mark hereby opposed, the Ares Mark has become distinctive of Opposer's goods and represents a tremendous amount of goodwill of Opposer's business.

4. In addition to its common law rights, Opposer owns the incontestable U.S. registration of EASYPOD, Reg. No. 3150806, for "Medical apparatus and instruments, namely, pen injection devices for administering growth hormones", dated October 3, 2006, and the U.S. registration of EASYPOD and Design, Reg. No. 3518769, for "Medical apparatus and instruments, namely, injector for growth hormone", dated October 21, 2008. Opposer's registrations are valid, subsisting, and in full force and effect and are evidence of Opposer's exclusive rights to use its registered marks on the identified goods pursuant to 15 U.S.C. §§ 1057 and 1115. Current printouts from the electronic database records of the United States Patent and Trademark Office of the aforementioned registrations, are attached hereto as **Exhibit A**.

5. Upon information and belief, Retractable Technologies, Inc. ("Applicant") filed with the United States Patent and Trademark Office an intent to use based application to register the trademark EASYPOINT, Ser. No. 86/052,912, in respect of "medical instruments and apparatus, namely, syringes, injection devices for pharmaceuticals and other infusion therapies, injection

instruments with needles, injection needles, catheters, dental syringes, infusion sets, blood tubing sets for medical purposes, blood drawing apparatus, devices for blood collection, namely, blood collection tube holders”, dated August 30, 2013 (the "EASYPOINT Application").

6. Applicant is not connected to Opposer in any way, and has not been authorized by Opposer to use the alleged mark EASYPOINT, as reflected in the EASYPOINT Application.

Priority and Likelihood of Confusion

7. Opposer repeats and re-alleges each and every allegation contained in paragraphs 1 through 6 as if fully set forth herein.

8. Opposer acquired rights in the Ares Mark prior to any date on which Applicant can rely in connection with its applied for mark EASYPOINT.

9. The applied for mark EASYPOINT as reflected in the EASYPOINT Application is confusingly similar to the Ares Mark in appearance, sound, connotation and commercial impression.

10. Upon information and belief, Opposer’s products are, are intended, or can be used to administer the same, similar, closely related and/or complementary pharmaceutical preparations.

11. The respective products of the Opposer and the Applicant are the same, similar, closely related and/or complementary.

12. The respective products of the Opposer and the Applicant are likely to travel through the same channels of trade for sale to or use by the same general class of purchasers, and are likely to be sold and/or administered by the same types of individuals.

13. Under the "doctrine of greater care", Applicant had a duty to adopt a trademark for its aforementioned product which is clearly distinguishable from the medical products bearing the

Ares Mark.

14. Under the "doctrine of greater care", Applicant's alleged trademark is likely to cause pre-purchase and/or post-purchase confusion, mistake and/or deception with respect to the Ares Mark.

15. Applicant's alleged trademark EASYPOINT is calculated and/or likely to cause pre-purchase and/or post-purchase confusion, mistake or deception of purchasers or members of the public as to the respective marks of the Opposer and the Applicant, and also as to the source of origin or sponsorship of the goods for which such marks are used, or are intended to be used.

16. As a result, the applied for mark EASYPOINT, when used in connection with the goods identified in the EASYPOINT Application, is likely to cause confusion or mistake or to deceive and mislead the trade and the purchasing public into believing that Applicant's goods are the goods of Opposer, or that Applicant or its goods are authorized, licensed or controlled by Opposer, or that Applicant is affiliated with or in some way related to Opposer. Accordingly, any such use or registration of the applied for mark EASYPOINT would violate Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

17. By reason of the foregoing, Opposer will be damaged by the registration of the applied for mark EASYPOINT, as reflected in the EASYPOINT Application.

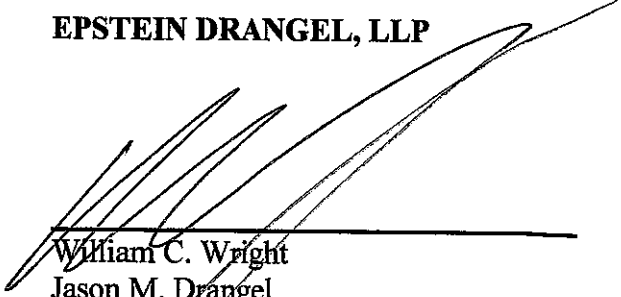
WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration of the applied for mark EASYPOINT sought by Application Serial No. 86/052,912, be denied.

Respectfully submitted,

EPSTEIN DRANGEL, LLP

Dated: July 23, 2014

By:



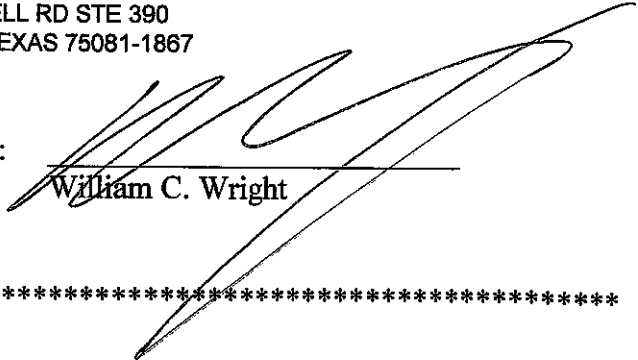
William C. Wright
Jason M. Drangel
Robert L. Epstein
60 East 42nd Street, Suite 2410
New York, New York 10165
Tel.: (212) 292-5390
Fax: (212) 292-5391

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition was served by First Class Mail, with sufficient postage prepaid, on this 23rd day of July, upon Applicant's counsel:

MONTY L. ROSS, ESQ.
ROSS BARNES LLP
801 E CAMPBELL RD STE 390
RICHARDSON, TEXAS 75081-1867

BY:



William C. Wright

EXHIBIT A



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EASYPOD

Word Mark EASYPOD

Goods and Services IC 010. US 026 039 044. G & S: Medical apparatus and instruments, namely, pen injection devices for administering growth hormones

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 78706220

Filing Date September 2, 2005

Current Basis 44E

Original Filing Basis 44D;44E

Published for Opposition July 11, 2006

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 3150806

Registration Date October 3, 2006

Owner (REGISTRANT) Ares Trading S.A. société anonyme SWITZERLAND Zone Industrielle de L'Ouriettaz Aubonne SWITZERLAND CH-1170

Attorney of Record Robert B.G. Horowitz, Esq.

Priority Date July 20, 2005

Type of Mark TRADEMARK

Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR).
Live/Dead Indicator LIVE

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Mark: EASYPOD

EASYPOD

US Serial Number: 78706220

Application Filing Date: Sep. 02, 2005

US Registration Number: 3150806

Registration Date: Oct. 03, 2006

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Oct. 25, 2011

Publication Date: Jul. 11, 2006

Mark Information

Mark Literal Elements: EASYPOD

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Foreign Information

Priority Claimed: Yes

Foreign Application Number: 55988/2005

Foreign Application Filing Date: Jul. 20, 2005

Foreign Registration Number: 535956

Foreign Registration Date: Jul. 22, 2005

Number:

Foreign Country: SWITZERLAND

Foreign Expiration Date: Jul. 20, 2025

Application/Registration

Country:

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 incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Medical apparatus and instruments, namely, pen injection devices for administering growth hormone

International Class(es): 010 - Primary Class

U.S Class(es): 026, 039, 041

Class Status: ACTIVE**Basis:** 44(e)**Basis Information (Case Level)**

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

Current Owner(s) Information

Owner Name: Ares Trading S.A.

Owner Address: Zone Industrielle de L'Ouriettaz
Aubonne CH-1170
SWITZERLAND

Legal Entity Type: société anonyme

State or Country Where Organized: SWITZERLAND

Attorney/Correspondence Information**Attorney of Record**

Attorney Name: Robert B.G. Horowitz, Esq.

Attorney Primary Email Address: rhorowitz@bakerlaw.com

Docket Number: 96307.196

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Robert B.G. Horowitz, Esq.
BAKER & HOSTETLER LLP
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NEW YORK, NEW YORK 10111
UNITED STATES

Phone: 212 589-4240

Fax: 212 589-420

Correspondent e-mail: rhorowitz@bakerlaw.com

Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Robert B.G. Horowitz, Esq.

Fax: 212 589-4201

Phone: 212 589-420

Domestic Representative e-mail: rhorowitz@bakerlaw.com**Domestic Representative e-mail Authorized:** Yes

mail:

mail Authorized:

Prosecution History

Date	Description	Proceeding Number
Apr. 29, 2014	CERTIFICATE OF CORRECTION ISSUED	76293
Apr. 24, 2014	SEC 7 REQUEST FILED	76293
Apr. 29, 2014	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76293
Apr. 24, 2014	TEAS SECTION 7 REQUEST RECEIVED	
Oct. 25, 2011	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Oct. 25, 2011	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	64591
Oct. 24, 2011	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	64591
Oct. 03, 2011	TEAS SECTION 8 & 15 RECEIVED	
Apr. 29, 2009	ATTORNEY REVOKED AND/OR APPOINTED	
Apr. 29, 2009	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Oct. 03, 2006	REGISTERED-PRINCIPAL REGISTER	
Jul. 11, 2006	PUBLISHED FOR OPPOSITION	
Jun. 21, 2006	NOTICE OF PUBLICATION	
May 23, 2006	LAW OFFICE PUBLICATION REVIEW COMPLETED	69712
Mar. 24, 2006	ASSIGNED TO LIE	69712
Mar. 20, 2006	EXAMINER'S AMENDMENT MAILED	
Mar. 17, 2006	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 17, 2006	EXAMINER'S AMENDMENT ENTERED	88888
Mar. 17, 2006	EXAMINERS AMENDMENT -WRITTEN	73276
Mar. 17, 2006	ASSIGNED TO EXAMINER	73276
Jan. 27, 2006	APPLICANT AMENDMENT PRIOR TO EXAMINATION - ENTERED	68549
Jan. 27, 2006	PAPER RECEIVED	
Sep. 09, 2005	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Change in Registration: Yes

Correction made to Registration: In the statement, Column 1, line 1 and 2, "sociedad anonima" should be deleted, and "société a

TM Staff and Location Information

TM Staff Information - None

File Location

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Date in Location: Apr. 29, 2014

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For Serial Number: 78706220

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Word Mark	EASYPOD
Goods and Services	IC 010. US 026 039 044. G & S: Medical apparatus and instruments, namely, injector for growth hormone. FIRST USE: 20070000. FIRST USE IN COMMERCE: 20070000
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	24.15.01 - Arrows forming a circle or an arc of a circle 26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved
Trademark Search Facility Classification Code	ART-24.15 Arrows SHAPES-BAR-BANDS Designs with bar, bands or lines SHAPES-CIRCLE Circle figures or designs including semi-circles and incomplete circles
Serial Number	76687637
Filing Date	March 12, 2008
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	August 5, 2008
Registration Number	3518769
Registration	October 21, 2008

Date

Owner (REGISTRANT) Ares Trading S.A. SOCIETE ANONYME SWITZERLAND Zone Industrielle de L'Ouriettaz CH-1170 Aubonne SWITZERLAND

Attorney of Record Robert B.G. Horowitz, Esq.

Prior Registrations 3150806

Description of Mark Color is not claimed as a feature of the mark. Any gray in the mark is intended to show shading or contrast only.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Mark: EASYPOD



US Serial Number: 76687637

Application Filing Date: Mar. 12, 2008

US Registration Number: 3518769

Registration Date: Oct. 21, 2008

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance doc

Status Date: Oct. 21, 2008

Publication Date: Aug. 05, 2008

Mark Information

Mark Literal Elements: EASYPOD

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Color(s) Claimed: Color is not claimed as a feature of the mark.

Lining and Stippling Any gray in the mark is intended to show shading or contrast only.

Statement:

Design Search Code(s): 24.15.01 - Arrows forming a circle or an arc of a circle

26.17.09 - Lines, curved; Curved line(s), band(s) or bar(s); Bands, curved; Bars, curved

Related Properties Information

Claimed Ownership of US [3150806](#)

Registrations:

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 incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Medical apparatus and instruments, namely, injector for growth hormone

International Class(es): 010 - Primary Class**U.S Class(es):** 026, 039, 04**Class Status:** ACTIVE**Basis:** 1(a)**First Use:** 2007**Use in Commerce:** 2007**Basis Information (Case Level)****Filed Use:** Yes**Currently Use:** Yes**Filed ITU:** No**Currently ITU:** No**Filed 44D:** No**Currently 44D:** No**Filed 44E:** No**Currently 44E:** No**Filed 66A:** No**Currently 66A:** No**Filed No Basis:** No**Currently No Basis:** No**Current Owner(s) Information****Owner Name:** Ares Trading S.A.**Owner Address:** Zone Industrielle de L'Ouriettaz
CH-1170 Aubonne
SWITZERLAND**Legal Entity Type:** SOCIETE ANONYME**State or Country Where
Organized:** SWITZERLAND**Attorney/Correspondence Information****Attorney of Record****Attorney Name:** Robert B.G. Horowitz, Esq.**Attorney Primary Email
Address:** rhorowitz@bakerlaw.com**Attorney Email Authorized:** Yes**Correspondent****Correspondent
Name/Address:** Robert B.G. Horowitz, Esq.
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45 Rockefeller Plaza
New York, NEW YORK 10111
UNITED STATES**Phone:** 212 589-4240**Fax:** 212 589-420**Correspondent e-mail:** rhorowitz@bakerlaw.com**Correspondent e-mail
Authorized:** Yes**Domestic Representative****Domestic Representative
Name:** Robert B.G. Horowitz, Esq.**Phone:** 212 589-420

Fax: 212 589-4201

Domestic Representative e-mail: rhowitz@bakerlaw.com

Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Apr. 29, 2009	ATTORNEY REVOKED AND/OR APPOINTED	
Apr. 29, 2009	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Oct. 21, 2008	REGISTERED-PRINCIPAL REGISTER	
Aug. 05, 2008	PUBLISHED FOR OPPOSITION	
Jul. 16, 2008	NOTICE OF PUBLICATION	
Jun. 27, 2008	LAW OFFICE PUBLICATION REVIEW COMPLETED	77976
Jun. 25, 2008	ASSIGNED TO LIE	77976
Jun. 25, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 19, 2008	ASSIGNED TO EXAMINER	83694
Mar. 25, 2008	APPLICATION FILING RECEIPT MAILED	
Mar. 19, 2008	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information**TM Staff Information - None****File Location****Current Location:** PUBLICATION AND ISSUE SECTION**Date in Location:** Oct. 21, 2008**Assignment Abstract Of Title Information - Click to Load****Proceedings - Click to Load**



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Web interface last modified: Mar 15, 2014 v.2.4

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