

ESTTA Tracking number: **ESTTA1166812**

Filing date: **10/19/2021**

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	CAPSUGEL BELGIUM NV
Granted to Date of previous extension	10/23/2021
Address	RIJKSWEG 11 BORNEM, 2880 BELGIUM
Attorney information	LAWRENCE J. CRAIN GREER, BURNS & CRAIN, LTD. 300 SOUTH WACKER DRIVE SUITE 2500 CHICAGO, IL 60606 UNITED STATES Primary Email: <a href="mailto:tmocket@gbc.law">tmocket@gbc.law</a> Secondary Email(s): <a href="mailto:lcraingbc.law">lcraingbc.law</a> , <a href="mailto:smelbygbc.law">smelbygbc.law</a> , <a href="mailto:amartin@gbc.law">amartin@gbc.law</a> 312-360-0080
Docket Number	6668.146954

**Applicant Information**

Application No.	90309282	Publication date	08/24/2021
Opposition Filing Date	10/19/2021	Opposition Period Ends	10/23/2021
Applicant	SUHEUNG CO., LTD. 683, YEONJE-RI, OSONG-EUP CHEONGJU-SI, CHUNGBUK, 28161 REPUBLIC OF KOREA		

**Goods/Services Affected by Opposition**

Class 005. First Use: 2019/09/01 First Use In Commerce: 2020/03/01  
All goods and services in the class are opposed, namely: Capsules made from hypromellose sold empty for pharmaceuticals

**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.	2707336	Application Date	05/27/1998
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Registration Date	04/15/2003	Foreign Priority Date	NONE
Word Mark	VCAPS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1997/08/06 First Use In Commerce: 1997/08/06 Empty capsules for medicinal and pharmaceutical products		

Attachments	146954.EVIDENCE.Notice.of.Opposition.and.Exhibit.1.pdf(104128 bytes )
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Signature	/Lawrence J. Crain/
Name	LAWRENCE J. CRAIN
Date	10/19/2021

6668.146954

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

In the Matter of Application Serial No.: )  
90/309,282 )  
For the mark – VG AP )  
)  
)  
CAPSUGEL BELGIUM NV )  
)  
Opposer, )  
v. )  
)  
SUHEUNG CO., LTD. )  
)  
Applicant. )

**NOTICE OF OPPOSITION**

Box TTAB  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Sir:

The above-identified Opposer believes that it will be damaged by the registration of the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer, CAPSUGEL BELGIUM NV, is a company existing under the laws of Belgium and having a principal place of business at RIJKSWEG 11, BORNEM BELGIUM 2880.

2. On information and belief, Applicant, SUHEUNG CO., LTD., is a company existing under the laws of the Republic of Korea and having a principal place of business at 683, Yeonje-ri, Osong-eup, Cheongju-si, Chungbuk KOREA, REPUBLIC OF 28161.

3. Opposer is the owner of the below U.S. Trademark Registration. True and correct copies of Opposer’s registration details are attached as **Exhibit 1**.

<b>Reg. No.</b>	<b>Reg. Date</b>	<b>Mark</b>	<b>Goods and Services</b>
2707336	April 15, 2003	VCAPS	Class 005: Empty capsules for medicinal and pharmaceutical products

Opposer’s registration is valid and subsisting, owned by Opposer, and is incontestable pursuant to 15 U.S.C. § 1065 (hereinafter, the registration listed in the above chart is referred to as the “VCAPS Mark”).

4. On information and belief, on November 10, 2020, Applicant filed the subject application to register the mark VG AP in Class 5 for “*Capsules made from hypromellose sold empty for pharmaceuticals*” based on use, claiming a date of first use of September 1, 2019 (hereinafter, the subject application is referred to as the “Applicant’s Mark”).

5. Opposer’s rights in its VCAPS Mark are superior to any rights Applicant may have in the opposed Applicant’s Mark.

6. On information and belief, Applicant has applied to register its Applicant’s Mark on goods that are identical or at least similar to the goods covered by VCAPS Mark.

COUNT I – Section 2(d)

7. Opposer re-alleges paragraphs 1-6 of this Notice of Opposition as set forth herein in full.

8. Simultaneous use of the VCAPS Mark and Applicant’s Mark for their respective goods is likely to cause public confusion, mistake and/or deception in violation of Section 2(d) of

the Trademark Act. 15 U.S.C. §1052(d). Applicant's Mark is confusingly similar to Opposer's previously used and registered VCAPS Mark. Applicant's goods covered by the opposed Applicant's Mark are identical, overlapping or at least similar to the goods covered by Opposer's previously used and registered VCAPS Mark, and the conditions surrounding their marketing are such that they could be encountered by the same purchasers under circumstances that use of similar marks would give rise to the mistaken belief that the parties' respective goods come from a common source.

WHEREFORE, Opposer prays that registration of Applicant's Application No. 90/309,282 for the mark VG AP be refused registration.

The required fee of \$600.00 is enclosed.

Dated: October 19, 2021

By /Lawrence J. Crain/  
Lawrence J. Crain  
Allyson M. Martin  
Attorneys for OPPOSER

Greer, Burns & Crain, Ltd.  
300 South Wacker Drive  
Suite 2500  
Chicago, Illinois 60606  
Telephone: (312) 360-0080  
Facsimile: (312) 360-9315

**Int. Cl.: 5**

**Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52**

**Reg. No. 2,707,336**

**United States Patent and Trademark Office**

**Registered Apr. 15, 2003**

**TRADEMARK  
PRINCIPAL REGISTER**

**VCAPS**

WARNER-LAMBERT COMPANY (DELAWARE  
CORPORATION)  
201 TABOR ROAD  
MORRIS PLAINS, NJ 07950

FIRST USE 8-6-1997; IN COMMERCE 8-6-1997.

SN 75-491,367, FILED 5-27-1998.

FOR: EMPTY CAPSULES FOR MEDICINAL AND  
PHARMACEUTICAL PRODUCTS, IN CLASS 5 (U.S.  
CLS. 6, 18, 44, 46, 51 AND 52).

AISHA CLARKE, EXAMINING ATTORNEY