

ESTTA Tracking number: **ESTTA1179950**

Filing date: **12/21/2021**

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	Inspire Medical Systems, Inc.
Granted to date of previous extension	01/12/2022
Address	5500 WAYZATA BOULEVARD, SUITE 1600 GOLDEN VALLEY, MN 55416 UNITED STATES
Attorney information	JOEL D. LEVITON STINSON LLP 50 SOUTH SIXTH STREET, SUITE 2600 MINNEAPOLIS, MN 55402 UNITED STATES Primary email: joel.leviton@stinson.com Secondary email(s): trademark@stinson.com 6123351562
Docket no.	2064184.0175

Applicant information

Application no.	90162559	Publication date	09/14/2021
Opposition filing date	12/21/2021	Opposition period ends	01/12/2022
Applicant	Vincent Medical (Dong Guan) Manufacturing Co., Ltd NO.45-46,QIAOLONG SHABU INDUSTRIAL ZONE TANGXIA TOWN DONGGUAN, 523000 CHINA		

Goods/services affected by opposition

Class 010. First Use: 2018/07/07 First Use In Commerce: 2018/07/07
All goods and services in the class are opposed, namely: Artificial limbs; Baby nursers; Dental examination chairs; Hot therapy wraps; Massage apparatus; Medical apparatus and instruments for use in surgery; Radiological apparatus for medical purposes; Static electric therapy apparatus; Surgical instruments and apparatus; Suture materials

Applicant information

Application no.	90162537	Publication date	08/24/2021
Opposition filing date	12/21/2021	Opposition period ends	
Applicant	Vincent Medical (Dong Guan) Manufacturing Co., Ltd		

	NO.45-46,QIAOLONG SHABU INDUSTRIAL ZONE TANGXIA TOWN DONGGUAN, 523000 CHINA
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Goods/services affected by opposition

Class 010. First Use: 2018/07/07 First Use In Commerce: 2018/07/07 All goods and services in the class are opposed, namely: Artificial limbs; Baby nursers; Dental examination chairs; Hot therapy wraps; Massage apparatus; Medical apparatus and instruments for use in surgery; Radiological apparatus for medical purposes; Static electric therapy apparatus; Surgical instruments and apparatus; Suture materials
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Applicant information

Application no.	90158714	Publication date	08/24/2021
Opposition filing date	12/21/2021	Opposition period ends	
Applicant	Vincent Medical (Dong Guan) Manufacturing Co., Ltd NO.45-46,QIAOLONG SHABU INDUSTRIAL ZONE TANGXIA TOWN DONGGUAN, 523000 CHINA		

Goods/services affected by opposition

Class 010. First Use: 2018/07/07 First Use In Commerce: 2018/07/07 All goods and services in the class are opposed, namely: Artificial limbs; Baby nursers; Dental examination chairs; Hot therapy wraps; Massage apparatus; Medical apparatus and instruments for use in surgery; Radiological apparatus for medical purposes; Static electric therapy apparatus; Surgical instruments and apparatus; Suture materials
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Applicant information

Application no.	90158685	Publication date	08/24/2021
Opposition filing date	12/21/2021	Opposition period ends	
Applicant	Vincent Medical (Dong Guan) Manufacturing Co., Ltd NO.45-46,QIAOLONG SHABU INDUSTRIAL ZONE TANGXIA TOWN DONGGUAN, 523000 CHINA		

Goods/services affected by opposition


Class 010. First Use: 2018/07/07 First Use In Commerce: 2018/07/07 All goods and services in the class are opposed, namely: Artificial limbs; Baby nursers; Dental examination chairs; Hot therapy wraps; Massage apparatus; Medical apparatus and instruments for use in surgery; Radiological apparatus for medical purposes; Static electric therapy apparatus; Surgical instruments and apparatus; Suture materials
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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	4009765	Application date	02/13/2008
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no.			
Register	Principal		
Registration date	08/09/2011	Foreign priority date	NONE
Word mark	INSPIRE		
Design mark			
Description of mark	NONE		
Goods/services	Class 010. First use: First Use: 2009/05/01 First Use In Commerce: 2009/05/01 electrical stimulation apparatus for the treatment of sleep apnea, namely, an implantable nerve or muscle stimulator for health and medical purposes; medical apparatus for the treatment of sleep apnea, namely, an upper airway stimulator		

U.S. registration no.	5400549	Application date	07/06/2017
Register	Principal		
Registration date	02/13/2018	Foreign priority date	NONE
Word mark	INSPIRE UPPER AIRWAY STIMULATION		
Design mark			
Description of mark	The mark consists of the word "INSPIRE" in navy blue having an arrow with a split shaft pointing downward between the letters "N" and "S" in green that is centered above the words "UPPER AIRWAY STIMULATION" in navy blue.		
Goods/services	Class 010. First use: First Use: 2011/10/00 First Use In Commerce: 2011/10/00 An upper airway electrical stimulation apparatus for the treatment of sleep apnea, namely, an implantable nerve or muscle stimulator for health and medical purposes		

U.S. registration no.	5805395	Application date	12/19/2018
Register	Principal		
Registration date	07/16/2019	Foreign priority	NONE

		date	
Word mark	INSPIRE		
Design mark			
Description of mark	The mark consists of the word "INSPIRE" in navy blue having an arrow with a split shaft pointing downward between the letters "N" and "S" in green.		
Goods/services	Class 010. First use: First Use: 2011/10/00 First Use In Commerce: 2011/10/00 An upper airway electrical stimulation apparatus for the treatment of sleep apnea, namely, an implantable nerve or muscle stimulator for health and medical purposes		

U.S. registration no.	5812761	Application date	01/07/2019
Register	Principal		
Registration date	07/23/2019	Foreign priority date	NONE
Word mark	INSPIRE		
Design mark			
Description of mark	The mark consists of the word "INSPIRE" having an arrow with a split shaft pointing downward between the letters "N" and "S".		
Goods/services	Class 010. First use: First Use: 2011/10/00 First Use In Commerce: 2011/10/00 An upper airway electrical stimulation apparatus for the treatment of sleep apnea, namely, an implantable nerve or muscle stimulator for health and medical purposes		

Attachments	77395989#TMSN.png(bytes) 87518487#TMSN.png(bytes) 88235703#TMSN.png(bytes) 88252359#TMSN.png(bytes) Notice of Opposition_ Inspire Medical_ Vincent Medical.pdf(67429 bytes)
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Signature	/Joel D. Leviton/
Name	JOEL D. LEVITON
Date	12/21/2021

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

INSPIRE MEDICAL SYSTEMS, INC.,

Opposer,

v.

VINCENT MEDICAL (DONG GUAN)
MANUFACTURING CO., LTD,

Applicant.

Opposition No.: _____

Application Serial Nos.: 90/162,559;
90/162,537; 90/158,714; 90/158,685

CONSOLIDATED NOTICE OF OPPOSITION

Opposer, Inspire Medical Systems, Inc. (“Inspired Medical”), a corporation organized under the laws of Delaware, with a principal place of business 5500 Wayzata Boulevard, Suite 1600, Golden Valley, Minnesota 55416 (hereinafter “Opposer”), believes it will be damaged by the registration of the marks shown in Application Serial Nos. 90/162,559; 90/162,537; 90/158,714; and 90/158,685 (the “Applications”) owned by Vincent Medical (Dong Guan) Manufacturing Co., Ltd (“Applicant”) and hereby opposes the same pursuant to the provisions of 15 U.S.C. § 1063.


The grounds for opposition are the following:

1. Inspire Medical is a medical innovation company dedicated to sleep apnea solutions. Since as early as 2009, Inspire Medical has continuously used its trademark INSPIRE in connection with its implantable medical device for the treatment of sleep apnea.


2. In addition to its longstanding common law rights in INSPIRE, Inspire Medical owns the following trademark registrations:

- a. Registration No. 4,009,765 for the mark INSPIRE in connection with “electrical stimulation apparatus for the treatment of sleep apnea, namely, an implantable nerve or muscle stimulator for health and medical purposes; medical apparatus for the treatment of sleep apnea, namely, an upper airway stimulator,” which issued August 9, 2011 and has achieved incontestable status;




- b. Registration No. 5,400,549 for the mark  in connection with “An upper airway electrical stimulation apparatus for the treatment of sleep apnea, namely, an implantable nerve or muscle stimulator for health and medical purposes,” which issued February 13, 2018;



- c. Registration No. 5,805,395 for the mark  in connection with “An upper airway electrical stimulation apparatus for the treatment of sleep apnea, namely, an implantable nerve or muscle stimulator for health and medical purposes,” which issued July 16, 2019; and



- d. Registration No. 5,812,761 for the mark  in connection with “An upper airway electrical stimulation apparatus for the treatment of sleep apnea, namely, an implantable nerve or muscle stimulator for health and medical purposes,” which issued July 23, 2019.

Inspire Medical's common law and federally registered marks set forth in paragraphs 1 and 2 of this Notice of Opposition are collectively referred to as the "INSPIRE Marks."

3. Inspire Medical has made a considerable investment in promoting the INSPIRE Marks and the products offered under the INSPIRE Marks. By virtue of extensive promotion and widespread public recognition, the INSPIRE Marks are strong and well-known trademarks of Inspire Medical.

4. On September 6, 2020, Applicant filed an application seeking to register **inspired Vent-X** in connection with "Artificial limbs; Baby nursers; Dental examination chairs; Hot therapy wraps; Massage apparatus; Medical apparatus and instruments for use in surgery; Radiological apparatus for medical purposes; Static electric therapy apparatus; Surgical instruments and apparatus; Suture materials," which was designated Serial No. 90/162,559 ("Application '559").

5. On September 6, 2020, Applicant filed an application seeking to register **inspired //C** in connection with "Artificial limbs; Baby nursers; Dental examination chairs; Hot therapy wraps; Massage apparatus; Medical apparatus and instruments for use in surgery; Radiological apparatus for medical purposes; Static electric therapy apparatus; Surgical instruments and apparatus; Suture materials," which was designated Serial No. 90/162,537 ("Application '537").

6. On September 4, 2020, Applicant filed an application seeking to register **inspired O2FLO** in connection with "Artificial limbs; Baby nursers; Dental examination chairs; Hot therapy wraps; Massage apparatus; Medical apparatus and instruments for use in surgery; Radiological apparatus for medical purposes; Static electric therapy apparatus; Surgical instruments and apparatus; Suture materials," which was designated Serial No. 90/158,714 ("Application '714").

7. On September 4, 2020 Applicant filed an application seeking to register in connection with “Artificial limbs; Baby nursers; Dental examination chairs; Hot therapy wraps; Massage apparatus; Medical apparatus and instruments for use in surgery; Radiological apparatus for medical purposes; Static electric therapy apparatus; Surgical instruments and apparatus; Suture materials,” which was designated Serial No. 90/158,865 (“Application '865”). The marks subject to the Applications are collectively referred to as the “Applicant’s Marks.”

8. Application '559 was published for opposition on September 14, 2021. On October 7, 2021, Inspire Medical obtained an extension of time, to January 12, 2022, to oppose the Application '559. As such, this Consolidated Notice of Opposition is timely filed against Application '559.

9. Application '537, Application '714, and Application '865 were published for opposition on August 24, 2021. On September 8, 2021 Inspire Medical obtained extensions of time, to December 22, 2021, to oppose Application '537, Application '714, and Application '865. As such, this Consolidated Notice of Opposition is timely filed against Application '537, Application '714, and Application '865.

10. Inspire Medical began using its INSPIRE Marks before the filing dates of the Applications and before the claimed first use dates in the Applications. Inspire Medical owns common law and statutory trademark rights and corresponding priority dates that precede the filing dates for the Applications and, on information and belief, any priority date on which Applicant can rely.

11. Inspire Medical has priority over Applicant.

12. The goods identified in the Applications are similar and closely related to the goods and services Inspire Medical offers under the INSPIRE Marks.

13. Applicant's Marks each incorporate the distinctive term INSPIRE, which is the predominant and consistent term in each of the INSPIRE Marks.

14. Applicant's Marks that are the subject of the Applications so resemble Inspire Medical's previously registered and used INSPIRE Marks that Applicant's Marks, when used in connection with the goods identified in the Applications, is likely to cause confusion, to cause mistake, or to deceive. Consumers are likely to mistakenly believe that the goods Applicant offers under Applicant's Marks are produced, provided, sponsored, endorsed, or approved by Inspire Medical, or are in some way affiliated, connected, or associated with Inspire Medical or the INSPIRE Marks, all to the detriment of Inspire Medical. Therefore, the Applications should be refused under 15 U.S.C. §§ 1052(d) and 1063.

15. Registration of the Applicant's Marks would be a further source of damage to Inspire Medical as it would confer upon Applicant various statutory presumptions to which it is not entitled in view of the prior rights in the INSPIRE Marks.

WHEREFORE, pursuant to Section 13 of the Lanham Act, 15 U.S.C. § 1063, Inspire Medical respectfully requests that its opposition be sustained and that registration of the marks shown in Application Serial Nos. 90/162,559; 90/162,537; 90/158,714; and 90/158,685 be refused.

Please charge the Consolidated Notice of Opposition fee to the Deposit Account of Stinson
LLP Account No. 19-4409.

Respectfully submitted,

Date: December 21, 2021

/Joel D. Leviton/
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