

ESTTA Tracking number: **ESTTA1283932**Filing date: **05/09/2023**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	Biological E. Ltd
Granted to date of previous extension	05/10/2023
Address	LAKSHMI BUILDING, 3RD FLOOR 18/1 & 3, AZAMABAD HYDERABAD - 50 0020 STATE OF TELANGANA, 0 INDIA
Attorney information	RICHARD B. BIAGI NEAL & MCDEVITT, LLC 1776 ASH STREET NORTHFIELD, IL 60093 UNITED STATES Primary email: litigation@nealmcdevitt.com Secondary email(s): pto@nealmcdevitt.com, rbiagi@nealmcdevitt.com, akemp@nealmcdevitt.com, abrumfiel@nealmcdevitt.com 847.881.2455
Docket no.	63073.00019

Applicant information

Application no.	97269865	Publication date	01/10/2023
Opposition filing date	05/09/2023	Opposition period ends	05/10/2023
Applicant	SPC LLC 5445 LA SIERRA DRIVE, SUITE 415 DALLAS, TX 75231 UNITED STATES		

Goods/services affected by opposition

Class 005. First Use: None First Use In Commerce: None
All goods and services in the class are opposed, namely: Vaccine adjuvants; Vaccines against viral infection

Grounds for opposition

No bona fide intent to use mark in commerce for identified goods or services	Trademark Act Section 1(b), 44(e) or 66(a)
Applicant not rightful owner of mark for identified goods or services	Trademark Act Section 1
Fraud on the USPTO	In re Bose Corp., 580 F.3d 1240, 91 USPQ2d

	1938 (Fed. Cir. 2009)
--	-----------------------

Attachments	Notice of Opposition CORBEVAX Final 20230509.pdf(184287 bytes) EXHIBIT 1 - CORBEVAX.pdf(4270428 bytes) EXHIBIT 2 - CORBEVAX.pdf(2689317 bytes) EXHIBIT 3 - CORBEVAX.pdf(443392 bytes) EXHIBIT 4 - CORBEVAX.pdf(2259146 bytes) EXHIBIT 5 - CORBEVAX.pdf(3401945 bytes)
-------------	--

Signature	/Richard B. Biagi/
Name	RICHARD B. BIAGI
Date	05/09/2023

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

BIOLOGICAL E. LTD.,

Opposition No. _____

Opposer,

Trademark Application Serial No.
97/269,865

v.

Mark: CORBEVAX

SPC LLC,

Applicant.

NOTICE OF OPPOSITION

Opposer BIOLOGICAL E. LTD. (“Biological E.” or “Opposer”), a Body Incorporate, existing under the laws of India, having its registered office address at 18/1 & 3, Azamabad, Hyderabad - 50 0020, State Of Telangana, India, and also having office at Lakshmi Building, 3rd Floor, 46, Sir P M Road, Fort, Mumbai-400001 believes it and consumers will be damaged by the registration of the mark CORBEVAX that is the subject of U.S. Trademark Application Serial No. 97/269,865 (the “Opposed Mark” and/or “Applicant’s ‘865 Application”), owned by SPC LLC, upon information and belief, a limited liability company duly organized under the laws of the State of Texas located at 5445 La Sierra Drive, Suite 415, Dallas, Texas 75231 (hereinafter “Applicant”). For the reasons stated herein, Biological E. hereby opposes registration of the subject mark pursuant to Section 13 of the Lanham Act, 15 U.S.C. § 1063.

In support of its opposition, Opposer asserts as follows:

OPPOSER’S CORBEVAX MARK

1. Biological E. Limited, a Hyderabad-based Pharmaceuticals & Biologics Company founded in 1953, is the first private sector biological products company in India and the first pharmaceutical company in Southern India. Biological E. develops, manufactures and supplies

vaccines and therapeutics. Biological E. supplies its vaccines to more than 130 countries and its therapeutic products are sold in India, the United States and throughout Europe. Biological E. currently has eight WHO-prequalified vaccines and nine United States Food and Drug Administration-approved generic Injectables (ANDAs) in its portfolio.

2. In recent years, Biological E. has embarked on new initiatives for organizational expansion such as developing specialty injectable products for global markets, exploring synthetic biology and metabolic engineering as a means to manufacture APIs sustainably and developing novel vaccines for the global market.

3. In 2020, Biological E. co-developed and manufactured a patent-free vaccine for COVID-19 under the brand name CORBEVAX (“Opposer’s CORBEVAX Mark”) to combat the COVID-19 pandemic and bring vaccine equity to impoverished communities and lower income countries around the globe. See, Exhibit 1, *From obscurity to a Nobel Prize nomination: Houston scientists acclaimed for their patent-free COVID-19 vaccine*, The Texas Tribune, February 10, 2022.

4. In November of 2020, Biological E. commenced Phase I and Phase II trials of its CORBEVAX vaccine in India.

5. On December 24, 2020, Opposer filed a trademark application in India for the mark CORBEVAX for use in connection with vaccine preparations; human vaccine preparations; oral vaccine preparation (“Opposer’s Goods”), the application having been assigned number 4793901 which is valid and subsisting and stands registered in the name of the Opposer.

6. On December 28, 2021, Texas Children’s Hospital and Baylor College of Medicine announced that CORBEVAX™, a protein sub-unit COVID-19 Vaccine, whose

technology was created and engineered at its Center for Vaccine Development (CVD), has received Emergency Use Authorization (EUA) approval from the Drugs Controller General of India (DCGI) to launch in India with other underserved countries to follow. See, Exhibit 2, *Texas Children's Hospital and Baylor College of Medicine COVID-19 Vaccine Technology Secures Emergency Use Authorization in India* - <https://www.texaschildrens.org/>. See, also, Exhibit 3 *CORBEVAX™ Gets DCGI Approval*, <https://www.biologicale.com/news.html>.

7. In a December 2021 press release, Texas Children's Hospital and Baylor College of Medicine noted that "[t]he initial construct and process of the vaccine antigen... [was] in-licensed from BCM Ventures, Baylor College of Medicine's integrated commercialization team, to Hyderabad-based vaccine and pharmaceutical company Biological E. Limited." See, Exhibit 2.

8. In a February 2022 article from *The Texas Tribune*, it was noted that "[t]he vaccine formula... CORBEVAX, as it was dubbed by its Indian maker, was co-developed and manufactured by the biopharmaceutical company Biological E. Limited, headquartered in Hyderabad, India." See, Exhibit 1.

9. In May of 2022, Opposer filed trademark applications in Chile, Bangladesh and Nepal for the mark CORBEVAX for use in connection with Opposer's Goods, which were assigned numbers 1502669, 276234 and 101124 respectively.

10. On May 26, 2022, Opposer filed an international trademark application with WIPO for the mark CORBEVAX for use in connection with Opposer's Goods, the application having been assigned number 1675961. In said international trademark application, Opposer designated the following countries pursuant to the Madrid Protocol: Brazil, Colombia, Egypt, Indonesia, Morocco, Mexico, Malaysia, Philippines, Pakistan, Turkey, United States, and

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.