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**BOX TTAB - NO FEE**  
TRADEMARK  
0471-0271L

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

IN THE TRADEMARK APPLICATION OF  
ABIOGEN PHARMA S.P.A.

Application No.: 75/918,909  
Filed: February 15, 2000  
Mark: ABIOGEN PHARMA (& Design)  
Class: International Classes 1, 5 and 10



06-10-2002  
U.S. Patent & TMO/TM Mail Rpt Dt. #47

Published in the Official Gazette  
Dated March 19, 2002

\_\_\_\_\_  
BIOGEN, INC., )  
 )  
Opposer, )  
 )  
v. )  
 )  
ABIOGEN PHARMA S.P.A., )  
 )  
Applicant. )  
\_\_\_\_\_

Opposition No.: 91151466

TRADEMARK TRIAL AND  
APPEAL BOARD  
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**ATTENTION: BOX TTAB**

ANSWER

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

June 10, 2002

Sir:

Applicant, ABIOGEN PHARMA S.P.A. (hereafter "Applicant"), an Italian corporation with offices located at Via S. Antonio, 61, 56125 Pisa, Italy, hereby answers the Notice of Opposition filed by Opposer, BIOGEN, INC. (hereafter "Opposer"), a Massachusetts corporation, having a business address of 14 Cambridge Center, Cambridge, Massachusetts 02142, in connection with the above-identified Notice of Opposition as follows:

1. Applicant admits the allegation contained in paragraph 1 of the Notice of Opposition except that the identification of goods set forth before "food products" in the first paragraph on the second page of the Notice of Opposition should be in International Class 1; the phrase "pharmaceutical preparations for use in the treatment of" should be added before the word "angina" in the fourth line of this paragraph on the second page of the Notice of Opposition; and that the word "foods" should be in place of the term "diabetic substances" set forth in the fourth line of the same paragraph on the second page of the Notice of Opposition.
2. Applicant admits the allegation contained in the first sentence of paragraph 2 of the Notice of Opposition. Applicant denies the allegation in the second sentence of paragraph 2.
3. Applicant lacks the knowledge or information sufficient to form a belief as to the truth of any of the allegations in paragraphs 3 through 28 of

the Notice of Opposition and accordingly denies each and every allegation and leaves Opposer to its proofs.

**AFFIRMATIVE DEFENSES**

4. Opposer will not be damaged by registration of the Applicant's mark as there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark and the pleaded marks of the Opposer are not confusingly similar in appearance, pronunciation or trade connotation. Specifically, the Applicant's mark consists of a very well-know Pisa Tower, symbol of the Italian city of Pisa, and a design of intersected ellipses as well as the wording "ABIOGEN PHARMA." The intersected ellipses represents the different colors of the Pisa Tower, namely, the colors grey, black, green and red. The Applicant, Abiogen Pharma S.p.A., is located right in the city of Pisa. Therefore, the symbol of the Pisa Tower is not used to point out the Italian origin as alleged by the Opposer in the Notice of Opposition, but to indicate the City of Pisa. Because of the origin of Applicant's products is clearly indicated, confusion between the Applicant's mark and the Opposer's registered marks is unlikely. The word portion of the Applicant's mark originated from the Applicant's company name, namely, Abiogen Pharma S.p.A. The overlapping of the letters "O" and "G" is purely fortuitous and has been adopted by the Applicant to identify the origin of the Applicant's

company. As a matter of fact, "GEN" displayed in the color green is the abbreviation of a previous society, "Gentili," while "ABIO" is displayed in the color black. In comparison, none of the four U.S. Trademark Registrations claimed by the Opposer in the Notice of Opposition include distinctive and unique designs as shown in the Applicant's mark. The Opposer's marks are basically "BIOGEN" in block letter as shown in U.S. Registration Numbers 1,275,543 and 1,961,898, and in stylized form with the letters "O" and "G" interlocking with each other as shown in Opposer's Trademark Registration Numbers 1,314,274 and 1,343,559. When the Opposer uses the mark "BIOGEN," it is used with the color red, which is different from the appearance of the Applicant's mark. The Applicant's mark is different from the Opposer's marks in pronunciation. The Registered marks are pronounced as [baiogen] and the Applicant's mark is pronounced as [Abiogen Farma]. Based upon the above comparison, the Applicant's mark includes a different and unique design to indicate the home town of the Applicant's company, a different pronunciation, meaning as well as different trade connotation and business impression. In addition Applicant's goods set forth in the Applicant's mark are pharmaceutical preparation, chemicals for use in further manufacturing food preservatives etc. and surgical, medical and dental devices and instruments. In comparison, the goods and services set forth in the Opposer's registered marks are in the field of

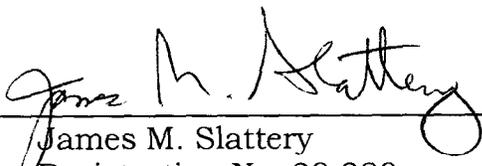
biotechnology. Therefore, the respective goods and services are not related. Furthermore, the respective customers of the Applicant's goods and the Opposer's goods and services are qualified professionals who have specific and deep knowledge in the field of medicines. Therefore, confusion between the respective marks and the Applicant's goods is unlikely.

5. Opposer will not be damaged by registration of the Applicant's mark as Applicant's mark indicates the correct source of origin for its goods and thus distinguishes those goods from those of the Opposer.
6. Opposer's marks are not famous within the meaning of 15 U.S.C. 1125(c)(1) to be entitled to protection under the doctrine of dilution.
7. Opposer lacks standing to institute this action within the meaning of § 14 of the Trademark Act.

WHEREFORE, Applicant, having fully and completely answered said Notice of Opposition, prays that the Notice of Opposition should be dismissed and that Application Serial No. 75/918,909 be registered.

Respectfully submitted,

ABIOTEN PHARMA S.P.A.

By:   
James M. Slattery  
Registration No. 28,380  
Attorney for Applicant

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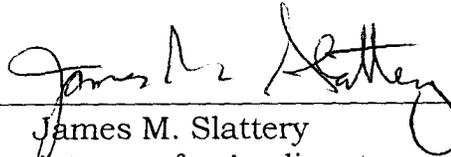
**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing Answer to the Notice of Opposition has been served upon counsel for the Opposer:

Richard E. Peirce  
BALLARD SPAHR ANDREWS & INGERSOLL, LLP  
1735 Market Street - 51<sup>st</sup> Floor  
Philadelphia, PA 19103

via first-class mail, postage prepaid, on this 10th day of June, 2002.

By



James M. Slattery  
Attorney for Applicant

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

BOSTON SCIENTIFIC CORPORATION, for and with :  
 its subsidiaries: :  
 SCIMED LIFE SYSTEMS, INC.; :  
 QUANAM MEDICAL CORPORATION; and :  
 INTERVENTIONAL TECHNOLOGIES, INC. :  
  
 Opposer, :  
  
 v. :  
  
 CORDIS CORPORATION, :  
  
Applicant. :



06-10-2002  
U.S. Patent & TMO/TM Mail Rpt Dt. #47

Opposition No. 151,438

TRADEMARK TRIAL AND  
APPEAL BOARD  
02 JUN -2 AM 8:33

ANSWER

Cordis Corporation ("Applicant"), without waiving any right due to any insufficiency in the statement of the grounds of opposition, and saving to itself all defenses in law and equity, in answer to the Notice of Opposition of Boston Scientific Corporation. ("Opposer"), states:

1. Admitted.
- 2.-7. Without knowledge.
- 8.-14. Denied.

FILED BY COURIER  
June 10, 2002

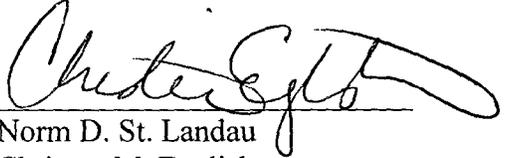
*Cynthia A. Green*

WHEREFORE, Applicant prays that this Opposition be dismissed with prejudice.

Respectfully submitted,

CORDIS CORPORATION

By:



Norm D. St. Landau

Christen M. English

Drinker Biddle & Reath LLP

1500 K Street, N.W., Suite 1100

Washington, D.C. 20036

202-842-8800

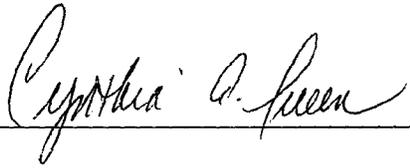
Fax: 202-842-8465

*Counsel for Applicant*

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing ANSWER has been served upon counsel for Opposer at the following address of record by first class mail, postage prepaid, this 10th day of June 2002:

Wayne A. Silvertson  
Nawrocki, Rooney & Silvertson, P.A.  
Suite 401, Broadway Place East  
3433 Broadway St., N.E.  
Minneapolis, MN 55413

  
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