

ESTTA Tracking number: **ESTTA66523**

Filing date: **02/15/2006**

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	Sanofi Pasteur Limited/Sanofi Pasteur Limitee (by Change of Name)
Granted to Date of previous extension	02/15/2006
Address	1755 Steeles Avenue West Toronto, Ontario, M2R 3T4 CANADA

Attorney information	Cynthia C. Weber SUGHRUE MION, PLLC. 2100 Pennsylvania Avenue, N.W., STE 800 Washington, DC 20037-3213 UNITED STATES tm@sughrue.com Phone:202-663-7927
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Applicant Information

Application No	78423228	Publication date	10/18/2005
Opposition Filing Date	02/15/2006	Opposition Period Ends	02/15/2006
Applicant	MacroPore Biosurgery, Inc. 6740 Top Gun Street San Diego, CA 92121 UNITED STATES		

Goods/Services Affected by Opposition

Class 001. All goods and services in the class are opposed, namely: therapeutic cell and stem cell compositions for scientific or medical or laboratory research
Class 005. All goods and services in the class are opposed, namely: therapeutic cellular and stem cell compositions for clinical or medical use; cells and stem cells compositions for the treatment of humans diseases
Class 010. All goods and services in the class are opposed, namely: regenerative medical products, namely, cell, cellular component, and stem cell extraction, processing and application medical devices for medical applications; medical apparatuses for implementing treatment methods using cells, cellular components and stem cells; cell purification devices for medical applications, namely, medical devices used for the isolation of cells and cellular components within adipose tissue; tissue processing medical devices, namely, medical devices used for the collection and processing of adipose tissue
Class 039. All goods and services in the class are opposed, namely: storage of human cells and cellular

components; storage of human cells and cellular components for use in cell and cellular component transplantations and treatments

Attachments	400020 Notice of Opposition.pdf.PDF (3 pages)
Signature	/Cynthia C. Weber/
Name	Cynthia C. Weber
Date	02/15/2006

2. Opposer's earliest U.S. filing date for ADACEL is Applicant's intent to use application, which is May 21, 2004.

3. Opposer is the owner of Registration No. 3,000,000 issued December 27, 2005. The registration covers vaccines for which Opposer is the owner of U.S. Applicant Serial No. 76/473,861 for ADACEL. Opposer will register soon, and upon which Opposer relies in this proceeding.

4. The application herein opposed seeks to register for the same products and related goods and services set forth in the opposed application.

5. The goods and services in the opposed application are identical to ADACEL vaccines. Applicant's goods and services would be likely to emanate from the same source as Opposer's goods, or to have the appearance of Opposer.

6. The trademark in the opposed application as applied to the goods set forth in that application is confusingly and deceptively similar to Opposer's trademark.

7. Opposer believes and therefore alleges that the use of the trademark ADVACEL by Applicant will damage Opposer, for the following reasons:

a. That purchasers and persons in the trade are likely to be misled as to the source and origin of Applicant's goods and services sold under the mark ADVACEL.

b. Purchasers, persons in the trade and other persons are likely to be misled that Applicant's goods and services are associated with, sponsored by, or endorsed by Opposer.

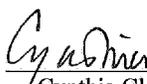
8. Registration of the mark sought by Applicant hereinafter identified is barred by Section 2(d) of the Trademark Act of 1946 for the reason that it is a mark which so resembles Opposer's trademark as to be likely, when used by Applicant, to cause confusion, mistake or deception.

WHEREFORE, Opposer respectfully prays that the registration be refused and that this Opposition be sustained.

Please charge the \$1,200 opposition fee to the undersigned's credit card No. 4880. Please charge any deficit or credit any overpayment to the undersigned's credit card No. 19-4880.

Respectfully submitted,

SANOPI PASTEUR
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(BY CHANGE OF NAME)

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