

ESTTA Tracking number: **ESTTA159312**

Filing date: **08/28/2007**

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	Novartis AG
Granted to Date of previous extension	10/31/2007
Address	4002 Basel, SWITZERLAND

Attorney information	Maury M. Tepper, III Womble Carlyle Sandridge & Rice, PLLC PO Box 831 Raleigh, NC 27602 UNITED STATES mtepper@wcsr.com
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### Applicant Information

Application No	78953538	Publication date	07/03/2007
Opposition Filing Date	08/28/2007	Opposition Period Ends	10/31/2007
Applicant	BioDelivery Sciences International, Inc. Suite 205 2501 Aerial Center Parkway Morrisville, NC 27560 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: pharmaceutical preparations for the relief of pain
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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. Application No.	78883525	Application Date	05/15/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ONBREZ		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 005. First use: Pharmaceutical preparations for the treatment of and prevention of disorders of the nervous system, the immune system, the cardio-vascular system including diabetes and metabolic diseases, the respiratory system, the musculo-skeletal system, the genitourinary system, for the treatment of inflammatory disorders, for use in dermatology, in oncology, in hematology, in transplantation, in ophthalmology, for use in the gastroenterological area and in the prevention and treatment of ocular disorders and diseases; pharmaceutical preparations for treating bacteria-based diseases, anti-infectives, anti-bacterials, antivirals, anti-biotics, anti-fungals, vaccines; diagnostic preparations for medical use

U.S. Application No.	78883528	Application Date	05/15/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ONCIRE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: Pharmaceutical preparations for the treatment of and prevention of disorders of the nervous system, the immune system, the cardio-vascular system including diabetes and metabolic diseases, the respiratory system, the musculo-skeletal system, the genitourinary system, for the treatment of inflammatory disorders, for use in dermatology, in hematology, in transplantation, in ophthalmology, for use in the gastroenterological area and in the prevention and treatment of ocular disorders and diseases; pharmaceutical preparations for treating bacteria-based diseases, anti-infectives, anti-bacterials, antivirals, anti-biotics, anti-fungals, vaccines; diagnostic preparations for medical use		

Attachments	78883525#TMSN.jpeg ( 1 page )( bytes ) 78883528#TMSN.jpeg ( 1 page )( bytes ) ONBRIO Opposition .pdf ( 3 pages )(67696 bytes )
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Signature	/Maury M. Tepper, III/
Name	Maury M. Tepper, III
Date	08/28/2007

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

In the matter of Trademark Application Serial No. 78/953,538  
Filed August 16, 2006  
For the Mark **ONBRIO**

Novartis AG,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No.
	)	
BioDelivery Sciences International, Inc.,	)	
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Opposer Novartis AG, 4002 Basel, Switzerland believes that it will be damaged by registration of the mark shown in Serial No. 78/953,538, and hereby opposes the same.

The grounds for opposition are as follows:

1. Applicant filed Application Serial No. 78/953,538 on or about August 16, 2006 to register the mark ONBRIO in connection with “pharmaceutical preparations for the relief of pain” on an intent-to-use basis (“Applicant's Mark”).
2. Opposer will be damaged by the registration of Applicant's Mark.
3. Opposer is the owner of the following: United States Trademark Serial No. 78/883,525 for the mark ONBREZ; and of United States Trademark Serial No. 78/883,528 for the mark ONCIRE, both filed May 15, 2006 in connection with pharmaceutical preparations (collectively, “Opposer’s Marks”).

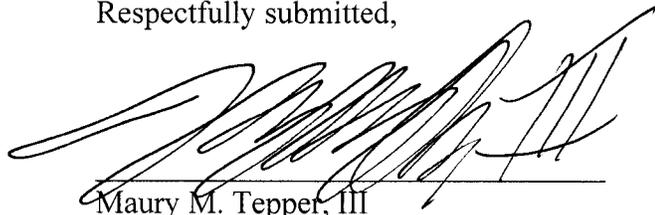
4. The application date for Opposer's Marks, May 15, 2006, is prior to any priority date that Applicant can claim relating to Applicant's Mark.

5. Applicant's Mark so resembles Opposer's Marks as to be likely to cause confusion or to cause mistake or to deceive.

WHEREFORE, Opposer prays that said application Serial No. 78/953,538 be rejected, that no registration be issued, and that this Opposition be sustained in favor of Opposer.

This the 28th day of August, 2007.

Respectfully submitted,



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**CERTIFICATE OF FILING**

I do hereby certify that on August 28, 2007, I filed via electronic means (ESTTA)  
this NOTICE OF OPPOSITION with the:

U. S. Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

With a copy to:

Daniel S. Porper, Esq.  
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Amy L. Thompson, Senior Paralegal