

ESTTA Tracking number: **ESTTA242715**

Filing date: **10/15/2008**

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	GALDERMA S.A.		
Entity	soci&eacute;t&eacute; anonyme	Citizenship	Switzerland
Address	Zugerstrasse 8 Cham, CH-6330 SWITZERLAND		

Attorney information	G. Mathew Lombard Law Offices of G. Mathew Lombard, P.C. 255 West 36th Street Suite 8506 New York, NY 10018 UNITED STATES mlombard@gml-law.com Phone:917.779.9967		
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**Applicant Information**

Application No	77074304	Publication date	09/16/2008
Opposition Filing Date	10/15/2008	Opposition Period Ends	10/16/2008
Applicant	SPECCHIASOL S.R.L. Via Bruno Rizzi 1/3 Bussolengo (Verona), 37012 ITALY		

**Goods/Services Affected by Opposition**

Class 005. All goods and services in the class are opposed, namely: NUTRITIONAL SUPPLEMENTS, NUTRITIONAL SUPPLEMENTS CONTAINING HERBAL EXTRACTS, NUTRITIONAL SUPPLEMENTS CONTAINING PROPOLIS; MEDICINAL HERBAL EXTRACTS IN THE NATURE OF BALSAMIC SYRUPS FOR MEDICAL PURPOSES; SYRUPS FOR MEDICAL PURPOSES CONTAINING PROPOLIS
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)

**Mark Cited by Opposer as Basis for Opposition**

U.S. Application No.	77027704	Application Date	10/24/2006
Registration Date	NONE	Foreign Priority Date	08/04/2006

Word Mark	EPIDUO
Design Mark	
Description of Mark	NONE
Goods/Services	Class 005. First use: Pharmaceutical products, namely, dermatological anti-acne preparations

Attachments	77027704#TMSN.jpeg ( 1 page )( bytes ) 1399.pdf ( 5 pages )(39265 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/g mathew lombard/
Name	G. Mathew Lombard
Date	10/15/2008

IN THE U.S. PATENT & TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD

In the matter of Application Serial No. 77/074,304  
Published in the *Official Gazette* of September 16, 2008

Atty Ref.: 102.0917

\_\_\_\_\_  
GALDERMA S.A.,

Opposer,

v.

SPECCHIASOL S.R.L.,

Applicant.  
\_\_\_\_\_

Opposition No. \_\_\_\_\_

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Attn: BOX TTAB FEE

NOTICE OF OPPOSITION

GALDERMA S.A., a Swiss société anonyme, with a business address of Zugerstrasse 8, CH-6330, Cham, Switzerland (hereinafter “Opposer”), believes that it will be damaged by registration of the mark shown in U.S. Trademark Application Serial No. 77/074,304, filed January 2, 2007, by SPECCHIASOL S.R.L. (hereinafter “Applicant”), and hereby opposes same.

As grounds for opposition, Opposer alleges that:

1. Opposer is a leading global pharmaceutical company and is in the business of researching, manufacturing and selling high-quality pharmaceutical products at the interstate and international levels.

2. On information and belief, Applicant is an Italian (private) limited liability company or *società a responsabilità limitata*, with a principal place of business at Via Bruno Rizzi 1/3, Bussolengo (Verona) 37012, Italy.

3. Opposer is the owner of Application Serial No. 77/027,704 covering the mark EPIDUO for *pharmaceutical products, namely, dermatological anti-acne preparations* in Class 5, filed October 24, 2006 and claiming priority to August 4, 2006, and Opposer had and continues to have a *bona fide* intent to use the EPIDUO mark in the United States.

4. On January 2, 2007, Applicant filed a §1(b) intent-to-use application in the United States Patent and Trademark Office, Serial No. 77/074,304, for registration on the Principal Register of the trademark EPID for *nutritional supplements, nutritional supplements containing herbal extracts, nutritional supplements containing propolis; medicinal herbal extracts in the nature of balsamic syrups for medical purposes; syrups for medical purposes containing propolis* in International Class 5.

5. There is no issue of priority since the filing date of Applicant's aforementioned trademark application is subsequent to both the actual filing date of Opposer's aforementioned application (October 24, 2006) and the priority date of Opposer's aforementioned application (August 4, 2006).

6. On information and belief, Applicant did not use its alleged trademark EPID anywhere in the United States, or in commerce, prior to the above-mentioned filing date.

7. Applicant's alleged trademark is so similar to Opposer's registered trademark(s) in sound, appearance and/or commercial impression so as to be likely to cause confusion.

8. The respective goods of the Opposer in Class 5 and the Applicant's goods in International Class 5 are closely related and would likely target the same class of purchasers. Indeed, Applicant's appropriation of Opposer's mark for Class 5 goods would undoubtedly cause confusion, mistake or deception among the relevant consumers.

9. The respective goods of the Opposer and the Applicant are closely related and could be sold and/or promoted through the same channels of trade to the same general classes of purchasers and users.

10. Applicant's alleged trademark is likely to cause confusion, mistake or deception of purchasers as to the respective marks, and also as to the source of origin or sponsorship of the goods for which such marks are used.

11. Applicant's alleged trademark is calculated or likely to cause irreparable loss, injury and damage to Opposer's business and to the goodwill appertaining thereto as evidenced by the fact that Applicant's mark is completely subsumed in Opposer's mark (*i.e.*, EPID vs. EPIDUO).

12. Applicant's alleged trademark is a colorable imitation or misappropriation of Opposer's pleaded trademark and the concurrent use of both marks would be likely to cause confusion, mistake or deception.

13. Opposer's EPIDUO mark is distinctive and represents an extremely valuable asset of its business.

14. The use by Applicant of its mark for any prescription or non-prescription pharmaceutical product is likely to create the erroneous impression that Applicant's goods originate

with, are sponsored or promoted by, come from, or are otherwise associated with Opposer or Opposer's goods provided under the EPIDUO mark or that Applicant's goods are endorsed, sponsored, or in some way connected with Opposer. Any use of Applicant's EPID mark by the Applicant is, therefore, likely to cause confusion, cause mistake or to deceive the public into the belief that the products offered under Applicant's EPIDUO mark come from or are otherwise authorized or sponsored by Opposer in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

15. Applicant selected, adopted and applied to register the alleged trademark EPID without the consent of the Opposer.

16. Applicant's mark is merely descriptive as applied to the goods for which registration is sought. Trademark Act § 2(e)(1).

17. Accordingly, any registration of the mark EPID would cause harm to Opposer.

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by Application Serial No. 77/074,304 be DENIED.

Respectfully submitted,

GALDERMA S.A.

Dated: October 15, 2008

By: \_\_\_\_\_

G. Mathew Lombard

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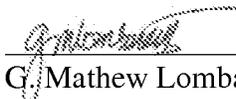
917.779.9967

*Attorney for Opposer*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Opposition was served on counsel for Applicant at the following address of record, by first class mail, postage prepaid, this 15<sup>th</sup> day of October 2008:

JONATHAN MYERS ESQ  
KARL F ROSS PC  
SUITE 310  
5676 RIVERDALE AVE  
BRONX (RIVERDALE) NY 10471-0900

  
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G. Mathew Lombard