

ESTTA Tracking number: **ESTTA367355**

Filing date: **09/08/2010**

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	Aventis Pharmaceuticals Inc.
Granted to Date of previous extension	09/08/2010
Address	55 Corporate Drive Bridgewater, NJ 08807 UNITED STATES
Attorney information	Susan Upton Douglass Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza New York, NY 10017 UNITED STATES sdouglass@fzlz.com Phone:212-813-5900

Applicant Information

Application No	77887776	Publication date	05/11/2010
Opposition Filing Date	09/08/2010	Opposition Period Ends	09/08/2010
Applicant	PruGen IP Holdings, Inc. Suite C-201, PMB 225 8711 East Pinnacle Peak Road Scottsdale, AZ 85255 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Face creams and cleansers containing benzoyl peroxide for medical purposes, namely, the treatment of acne
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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. Registration No.	1226427	Application Date	08/26/1981
Registration Date	02/08/1983	Foreign Priority Date	NONE
Word Mark	BENZAMYCIN		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 005. First use: First Use: 1980/05/07 First Use In Commerce: 1980/05/07 Preparation for the Treatment of Acne

U.S. Registration No.	2502310	Application Date	10/14/1997
Registration Date	10/30/2001	Foreign Priority Date	NONE
Word Mark	BENZACLIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2001/03/02 First Use In Commerce: 2001/03/02 pharmaceutical preparations for the treatment of acne		

Attachments	BENZASCREEN Notice of Opposition (F0677778).PDF (4 pages)(20759 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	/susan upton douglass/
Name	Susan Upton Douglass
Date	09/08/2010

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

Opposer's Ref: AVPI 1004167

In the Matter of Application Serial No. 77/887776
Mark: BENZASCREEN

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Aventis Pharmaceuticals Inc, :
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 Opposer, :
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 - against - : Opposition No. _____
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PruGen IP Holdings, :
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 Applicant. :
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NOTICE OF OPPOSITION

Opposer, Aventis Pharmaceuticals Inc., a Delaware corporation located and doing business at 55 Corporate Drive, Bridgewater, New Jersey 08807, believes that it would be damaged by the issuance of a registration for the trademark BENZASCREEN as applied for in Application Serial No. 77/887776 and therefore opposes the same. As grounds for its opposition, Opposer, by its attorneys Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:

1. Since at least as early as 1980, and prior to any date upon which Applicant can rely, Opposer has used in commerce the mark BENZAMYCIN for preparations for the treatment of acne, and is continuing to do so. Opposer has invested a substantial amount of time, effort and money in promoting the BENZAMYCIN and mark. As a result, the mark has become distinctive of Opposer's goods and has come to represent enormous goodwill for Opposer.

2. Since at least as early as 2001, and prior to any date upon which Applicant can rely, Opposer has used in commerce the mark BENZACLIN for preparations for the treatment of acne, and is continuing to do so. Opposer has invested a substantial amount of time, effort and money in promoting the BENZACLIN and mark. As a result, the mark has become distinctive of Opposer's goods and has come to represent enormous goodwill for Opposer.

3. Opposer owns U.S. Registration No. 1226427, filed on August 26, 1981 and issued February 8, 1983, based on use in commerce since at least as early as May 7, 1980, for the mark BENZAMYCIN for preparations for the treatment of acne; and U.S. Registration No. 2502310, filed on October 14, 1997 and issued on October 30, 2001, for the mark BENZACLIN & Design, for pharmaceutical preparations for the treatment of acne, in Class 5. Opposer's registrations are valid, subsisting, and in full force and effect. In addition, both of these registrations have become incontestable under Sec. 15 of the Trademark Act, and as such, this registration serves as conclusive evidence of Opposer's exclusive right to use the mark.

4. On December 7, 2009, Applicant, PruGen IP Holdings, filed an intent-to-use application to register the mark BENZASCREEN for face creams and cleansers containing benzoyl peroxide for medical purposes, namely, the treatment of acne, in Class 5. This application was assigned Ser. No. 77/887776.

5. On information and belief, Applicant made no use of the mark BENZASCREEN prior to its filing date December 7, 2009. Therefore, Opposer has priority.

6. The mark that Applicant seeks to register, BENZASCREEN, is highly similar in sound, meaning and commercial impression to Opposer's BENZAMYCIN and BENZACLIN marks, and will be used on the same category of goods for which Opposer uses its registered marks. Based on the similarities of the marks and goods, the public is likely to associate the

goods intended to be sold by Applicant under the mark BENZASCREEN with Opposer or with Opposer's BENZAMYCIN and BENZACLIN goods, or to believe that Applicant's goods are sponsored, endorsed or licensed by Opposer, or that there is some relationship between Applicant and Opposer.

7. For the above reasons, any use of the mark BENZASCREEN by Applicant is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that the goods sold under the BENZASCREEN mark emanate from or are otherwise sponsored by or endorsed by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

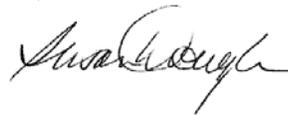
By reason of the foregoing, Opposer will be damaged by the registration of the mark BENZASCREEN to Applicant.

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by Application Serial No. 77/656531 be denied.

Dated: New York, New York
September 8, 2009

Respectfully submitted,

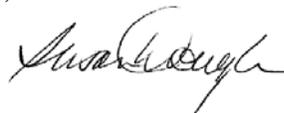
FROSS ZELNICK LEHRMAN
& ZISSU, P.C.



By: _____
Susan Upton Douglass
Attorneys for Opposer
866 United Nations Plaza
New York, New York 10017
(212) 813-5900

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by prepaid, first-class mail upon Applicant's attorney, Robert Knechtel, PruGen IP Holdings, Inc., 8711 E Pinnacle Peak Road Pmb 225, Scottsdale, Arizona 85255, this 8th day of September, 2010.



Susan Upton Douglass