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

Proceeding	91199018
Party	Defendant Amlin Health, LLC
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Date	04/23/2012
Attachments	APPLICANT FIRST SET OF RFP 4-23-2012-F.pdf (13 pages)(96398 bytes)

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

In re: Application Serial No. 85/094,790	:	
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Filed: July 28, 2010	:	
	:	
For the Mark: Dr. Amlin & Design	:	Opposition No 91199018
	:	
Published: March 8, 2011	:	
	:	
AMYLIN Pharmaceuticals, Inc.,	:	
	:	
Opposer,	:	
	:	
	:	
Amlin Health, LLC	:	
	:	
	:	
Applicant.	:	

**APPLICANT’S FIRST SET OF INTERROGATORIES/REQUESTS/REQUESTS
FOR PRODUCTION OF DOCUMENTS AND THINGS TO OPPOSER (NOS. 1-40)**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Applicant, Amlin Health, LLC, hereby requests that Opposer, AMYLIN PHARMACEUTICAL, INC., answer Applicants’ First Set of Interrogatories and Requests for Production of Documents and make the documents and things available for inspection and copying at the place where they are usually kept. The written responses and requested discovery should be served within 30 days after service of these document requests in accordance with Trademark Rules 2.119(c) and 2.120.

DEFINITIONS

Unless a specific interrogatory or request indicates otherwise, the following definitions are applicable in providing the requested information:

I. “Amlin Health, LLC” or “Applicant” shall each mean the Applicant, in Opposition No. 91199018, as defined above, and the entity to whom these interrogatories are addressed, and its predecessors, and/or entities, subsidiaries, related entities, divisions, agents, employees, directors, officers, trustees, and attorneys, or any person or entity acting in concert with Applicant, directly or indirectly.

II. “AMYLIN PHARMACEUTICAL, INC.” or “Opposer” shall each mean the Opposer, in Opposition No. 91199018, as defined above, and its predecessors, parent corporations and/or entities, subsidiaries, related entities, divisions, agents, employees, directors, officers, trustees, and attorneys, or any person or entity acting in concert with Opposer, directly or indirectly.

III. The word “person” shall mean and include without limitation, natural persons (also referred to as “individuals”), legal entities including, but not limited to, firms, associations, partnerships, joint ventures, companies and corporations.

IV. The term “document” is used as described in Rule 34 of the Federal Rules of Civil Procedure, and specifically includes, without limitation, originals and copies of all writings of every kind, including letters, telegrams, telexes, facsimile and electronic mail communications, memoranda, data compilations in any form, electronically stored data, reports, studies, photographs, brochures, speeches, calendar or diary entries, minutes, pamphlets, notes, charts, tabulations, exhibits, labels, packages, and records of meetings, conferences and telephone or other conversations or communications in the actual or constructive possession, custody or control of Opposer. The term “document” also includes reproductions or film impressions of any of the aforementioned writings, tape recordings and copies of documents which are not identical duplicates of the originals, including drafts and notated copies, and copies of documents of which the originals are not in the possession, custody or control of Opposer.

V. The terms “identify,” or to give the “identity of,” mean, in general, to give the fullest description known or ascertainable by Opposer, whether or not in the possession of Opposer and whether or not alleged to be privileged, and specifically:

- (a) In the case of a natural person, to state:
 - i. the full name;
 - ii. the present or last known address;
 - iii. the current or last known employer or business affiliation;
 - iv. occupation and business position.

- (b) in the case of a company or other business organization, to state:
 - v. incorporated or registered name;
 - vi. other names under which the organization does business;
 - vii. principal place and nature of business;
 - viii. identity of persons having knowledge of the matter;
 - ix. its relation, if any, to Opposer or Opposer's goods or services.

- (c) in the case of a document, to state:
 - x. the identity of the person(s) preparing it and of the sender;
 - xi. its title or a description of the general nature of its subject matter;
 - xii. the identity of the addressees, if any;
 - xiii. its date of preparation;
 - xiv. its dates and manner of distribution and publication, and the recipients, if any;
 - xv. location of the original and each copy and identity of present custodian;
 - xvi. identity of persons who can identify and authenticate it;
 - xvii. any other information necessary to render the document distinguishable from all others and subject to ready location;
 - xviii. if privilege is claimed, the specific basis for asserting the privilege.

- (d) in the case of a trademark application or registration, to state:

- xix. whether it is federal or state, the trademark, any registration and application number;
- xx. the date of first Use of the mark in the United States or the state and the goods or services on or for which it is Used;
- xxi. the identity of the trademark owner;
- xxii. the identity of any U.S. counterpart application or registration;
- xxiii. the date of first use in interstate commerce, if any, and the goods or services on or for which it is used in interstate commerce.

- (e) in the case of a product, device, or goods, to state the catalog, stock or like number, the trademark, name, type, grade, and any other designation customarily used by the party concerned and the trade to designate such product, device, or goods and to distinguish it from others made or sold by the same or a different producer or vendor.
- (f) in the case of oral communications or acts, state the date and location of each communication or act, the communicator or actor, the recipients of the communication, and the nature and substance of the communication or act.

VI. "Applicant's Mark" and/or the "Dr. Amlin Mark" refers to the Applicant's use of the Dr. Amlin mark to designate Dr. Amlin as the source of goods/services including but not limited to: the Dr. Amlin mark in U.S. Application Serial No. 85/094,790.

VII "Applicant's Goods" refer to the goods identified in U.S. application Serial No. 85/094,790.

VIII. "Applicant's Mark" and/or the "Dr. Amlin Mark" refer to the Dr. Amlin mark that is the subject of application Serial No. 85/094,790.

IX "You," "Your" or "Yours" means Opposer, as defined above.

X. Whenever used herein, the term "&" shall be deemed to include the term "and;" the singular

shall be deemed to include the plural, the plural shall be deemed to include the singular; the masculine shall be deemed to include the feminine and the feminine shall be deemed to include the masculine; the disjunctive (“or”) shall be deemed to include the conjunctive (“and”) , and the conjunctive (“and”) shall be deemed to include the disjunctive (“or”); and each of the functional words “each,” “every,” “any,” and “all” shall be deemed to include each of the other functional words. The term “concerning” means relating to, referring to, describing, evidencing, or constituting.

XI. If any interrogatory, request, definition or instruction is objected to in whole or in part, specify all grounds on which objection rests. Respond to all portions of each such interrogatory or request to which no objection is asserted. In addition, state whether any responsive information has been omitted from an interrogatory response or whether and in what way the search for responsive information has been delimited or circumscribed on the basis of any such objection.

XII. If Opposer contends that an answer to any interrogatory herein is privileged in whole or in part, or otherwise objects to any part of any interrogatory, identify:

- (a) The reason(s) for each objection, claim of privilege or immunity, or ground for exclusion;
- (b) Each person having knowledge of the factual basis, if any, on which the claim or privilege or immunity or other ground is based; and
- (c) In the case of a document or communication, identify the document or communication as defined in paragraph IV of the instructions to these interrogatories; and state whether Opposer is willing to produce such document voluntarily to Applicant for inspection and copying.

XIII. If any Document or copy thereof was, but is no longer, in Your possession or subject to Your control state what disposition was made of it. If any document, thing, or source of information identified in answer to one of these Interrogatories, or responsive to a document request, has been destroyed, state, with regard to such destruction, (i) the date of such destruction, (ii) the reason for such destruction, (iii) the identity of the person or persons who destroyed the document, thing, or source of information, and (iv) the identity of the person or persons who authorized such destruction.

- XIV. If, in answering these requests, You claim any ambiguity in interpreting either the request or a definition or instruction applicable thereto, such claim shall not be utilized by You as a basis for refusing to respond, but there shall be set forth as part of the response the language deemed to be ambiguous, the interpretation chosen or used in responding to the request, and the interpretation not chosen or used in responding to the request.
- XV. "Use" will mean use in commerce as defined in 15 U.S.C. § 1127.
- XVI. All references in these discovery requests to "commerce" signify commerce that may lawfully be regulated by the Congress of the United States.

INTERROGATORIES/REQUESTS FOR PRODUCTION OF
DOCUMENTS AND THINGS

REQUEST FOR PRODUCTION NO. 1

Please provide all correspondence to or from Opposer that addresses in any manner the Opposition No 91199018.

REQUEST FOR PRODUCTION NO. 2

Please provide copies of all documents containing any communications between Opposer and any other party to this proceeding regarding the subject matter of the Proceeding, with the exception of documents that are already in the public record.

REQUEST FOR PRODUCTION NO. 3

Please provide all internal Opposer documents that address in any manner what position Opposer should or would take with respect to Applicant's Mark (Application Serial No. 85/094,790).

REQUEST FOR PRODUCTION NO. 4

Please provide all analyses or studies performed by or on behalf of Opposer that analyze or assess the impact of Applicant's Mark upon Opposer's Motion.

REQUEST FOR PRODUCTION NO. 5

Please provide all analyses or studies performed by or on behalf of Opposer that analyze or assess the impact of Applicant's Mark in any way other than upon Opposer's Motion.

Request for Production No. 6

Please provide all minutes, recordings, notes or other documents memorializing or evidencing any meetings of Opposer's officers or board members in which the Opposition was discussed.

REQUEST FOR PRODUCTION NO. 7

Please provide all minutes, recordings, notes or other documents memorializing or evidencing any meetings relating to the Opposition between Opposer's officers or other Opposer representatives.

Request for Production No. 8

Please provide copies of all communications to or from representatives/individuals of, Opposer relating to:

- a) the Proceeding;
- b) Applicant (since March 8, 2011) and/or
- c) Applicant's Mark: Dr. Amlin (since March 8, 2011).

Request for Production No. 9

Please describe all oral communications received by Opposer directly or indirectly relating to the Proceeding.

Request for Production No. 10

Please state the date that Opposer determined that it opposed Applicant. Please provide all documents relating to this determination.

REQUEST FOR PRODUCTION NO. 11

Please provide all documents that refer or relate to Opposer's decision against Applicant's Mark.

REQUEST FOR PRODUCTION NO. 12

Please provide all documents that refer or relate to Opposer's decision and Opposer believes evidences that caused any confusion to Opposer's Mark: AMYLIN.

Request for Production No. 13

Please provide all information or documents regarding any aspect of Applicant's business operations in Maryland and U.S. to date that Opposer believes evidences an impact Opposer's business in the current Opposer's territory in California and/or U.S. following Applicant's Mark application.

REQUEST FOR PRODUCTION NO. 14

Please provide all documents of any research conducted by or on Opposer's behalf concerning the confusion of Applicant's Mark for use and/or variations thereof, including search reports and search results that Applicant's Mark is confused Opposer's products.

REQUEST FOR PRODUCTION NO. 15

Please provide all documents that refer or relate to Opposer's decision against Applicant's Mark and/or variations thereof, in the United States Patent and Trademark Office.

REQUEST FOR PRODUCTION NO. 16

Please provide all documents relating to the issue of what position the Opposer would take in the Proceeding.

REQUEST FOR PRODUCTION NO. 17

Documents sufficient to identify each of Opposer's competitors, including, but not limited to, competitive activity reports and sales tracking data, for the goods and/or services confused with Applicant's Mark.

REQUEST FOR PRODUCTION NO. 18

Please provide a copy of any complaint, objection, opposition raised against any third party referring and/or relating to Applicant's Mark.

REQUEST FOR PRODUCTION NO. 19

Please explain how the Opposer's business is similar to Applicant and how the application is relevant to the Opposition. Please produce all documents you contend support your answer.

REQUEST FOR PRODUCTION NO. 20

Please provide all documents supporting the opposition that Applicant's Mark is confused
Opposer's products.

REQUEST FOR PRODUCTION NO. 21

Documents sufficient to identify any companies or individuals related to Applicant using
Opposer's Mark.

REQUEST FOR PRODUCTION NO. 22

Please provide all reports, studies, articles, or other documents in Opposer's possession or control
regarding Applicant's Mark.

Request for Production No. 23

All documents relied upon by Opposer in preparing Opposer's responses to Applicant's First
Set of Interrogatories to Opposer.

REQUEST FOR PRODUCTION NO. 24

Documents sufficient to identify each printed publication and non-print medium in which
Opposer considers to cause any confusion for advertised goods and/or services under Opposer's Mark.

REQUEST FOR PRODUCTION NO. 25

Please provide a copy of each market report or other research document directed to:

- a. Applicant's product and/or service
- b. Applicant's Mark as confused by consumers and
- c. any association or confusion between Applicant's Mark and the trademark and/or name of any
other entity, including Opposer.

REQUEST FOR PRODUCTION NO. 26

Please provide all documents relied upon by Opposer in preparing Opposer's responses to Applicant's First Set of Interrogatories to Opposer.

REQUEST FOR PRODUCTION NO. 27

Please provide all documents in Opposer's possession referring and/or relating to Applicant or Applicant's Mark.

REQUEST FOR PRODUCTION NO. 28

Please provide all documents in Opposer's possession referring and/or relating to any product of Applicant.

REQUEST FOR PRODUCTION NO. 29

Please provide all documents upon which Opposer will rely to support its claims and/or defenses.

REQUEST FOR PRODUCTION NO. 30

Please identify all witnesses that Opposer expects to offer testimony in its support at any hearing in this Proceeding. For each person identified, state the person's full name and address and the subject matter about which the person is expected to testify.

REQUEST FOR PRODUCTION NO. 31

Please provide all unsolicited communications or inquiries to Opposer, that refer to Applicant or Applicant's Mark.

REQUEST FOR PRODUCTION NO. 32

Please provide all documents that Opposer may introduce or use at any hearing in this Proceeding, including without limitation any demonstrative exhibits.

REQUEST FOR PRODUCTION NO. 33

Please provide all documents constituting or relating to any communications between Opposer and

any witness that Opposer expects to offer testimony at any hearing in this Proceeding.

REQUEST FOR PRODUCTION NO. 34

Please provide all documents identified in Opposer's Responses to Applicant's First Set of Interrogatories.

REQUEST FOR PRODUCTION NO. 35

Please provide all documents that evidence the amount of money Opposer has expended to date in its motion and campaign against the Opposition.

REQUEST FOR PRODUCTION NO. 36

Please provide all formal or informal budgets for Opposer's motion and campaign against Applicant.

REQUEST FOR PRODUCTION NO. 37

Did Opposer's governing board undertake any consideration or analysis of whether or not the Opposition is in the best interests of them? If yes, please elaborate. If not, please explain why not.

REQUEST FOR PRODUCTION NO. 38

DOES OPPOSE ASSERT THAT DENIAL OF APPROVAL OF APPLICANT'S APPLICATION IS IN THE PUBLIC INTEREST? IF YOUR ANSWER IS ANYTHING OTHER THAN AN UNQUALIFIED "NO," EXPLAIN OPPOSER'S POSITION.

REQUEST FOR PRODUCTION NO. 39

Is it the position of Opposer in this Proceeding that the Opposition will result in Applicant being a less financially secure company? If yes, please describe the basis for that position, and provide all documents relied on or used by Opposer to form the basis of that position.

REQUEST FOR PRODUCTION NO. 40

Is it the position of Opposer in this Proceeding that the Opposition will result in Applicant being burdened with too much or unreasonable levels of debt? If yes, please describe the basis for that position, and provide all documents relied on or used by Opposer to form the basis of that position.

Respectfully submitted this 23rd day of April, 2012.
Amlin Health, LLC
(A Woman and Minority Owned Small Disadvantaged Business)



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Applicant

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April, 2012 a true and correct copy of the foregoing **APPLICANT'S FIRST SET OF INTERROGATORIES/REQUESTS/REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO OPPOSER (NOS. 1-40)** was served on Attorneys for Opposer, Jennifer Fraser, Christina M. Hillson, Connolly Bove Lodge & Hutz LLP, The Nemours Building, 1007 N. Orange Street, P.O. Box 2207, Wilmington, DE 19899, with a courtesy copy served via e-mail to Jennifer Fraser <JFraser@cblh.com> and trademarks@cblh.com

/s/ Linus Zhang
Linus Zhang
Applicant