

ESTTA Tracking number: **ESTTA462186**

Filing date: **03/16/2012**

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	Endo Pharmaceuticals Inc.
Granted to Date of previous extension	03/18/2012
Address	100 Endo Blvd. Chadds Ford, PA 19317 UNITED STATES
Correspondence information	Endo Pharmaceuticals Inc. 100 Endo Blvd. Chadds Ford, PA 19317 UNITED STATES TRADEMARKS@SCHNADER.COM Phone:215-751-2622

Applicant Information

Application No	85306842	Publication date	09/20/2011
Opposition Filing Date	03/16/2012	Opposition Period Ends	03/18/2012
Applicant	Endocyte, Inc. 3000 Kent Avenue, Suite A1-100 West Lafayette, IN 47906 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. First Use: 2000/07/06 First Use In Commerce: 2000/07/06 All goods and services in the class are opposed, namely: pharmaceutical preparations for the diagnosis and treatment of cancer; pharmaceutical preparations for the diagnosis and treatment of diseases; pharmaceutical preparations for the purpose of increasing the effectiveness of other pharmaceutical products; drug delivery agents consisting of compounds that facilitate delivery of a wide range of pharmaceuticals

Applicant Information

Application No	85308111	Publication date	09/20/2011
Opposition Filing Date	03/16/2012	Opposition Period Ends	
Applicant	Endocyte, Inc. 3000 Kent Avenue, Suite A1-100 West Lafayette, IN 47906 UNITED STATES		

Goods/Services Affected by Opposition

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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Failure to use in commerce all goods of the applications

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2004648	Application Date	12/01/1993
Registration Date	10/01/1996	Foreign Priority Date	NONE
Word Mark	ENDO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1994/05/19 First Use In Commerce: 1994/05/19 house mark for a [full] line of pharmaceutical preparations *, namely, analgesics and pain management preparations, preparations for the treatment of cancers, preparations for the treatment of urological diseases and disorders, preparations for the treatment of schizophrenia; preparations for the treatment of diseases and disorders of the endocrine system, hormone replacement preparations *		

U.S. Registration No.	1993892	Application Date	04/22/1994
Registration Date	08/13/1996	Foreign Priority Date	NONE
Word Mark	ENDOCET		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1994/06/17 First Use In Commerce: 1994/06/17 pharmaceutical analgesic preparation		

U.S. Registration No.	1995948	Application Date	04/22/1994
Registration Date	08/20/1996	Foreign Priority Date	NONE
Word Mark	ENDODAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1994/06/17 First Use In Commerce: 1994/06/17 pharmaceutical analgesic preparation		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ENDO trade name		
Goods/Services	prescription pharmaceutical preparations and related goods and services		

Attachments	ENDOCYTE.pdf (5 pages)(176432 bytes) ENDOCYTE EC & Design.pdf (5 pages)(181280 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	/JAMES R MEYER/
Name	Endo Pharmaceuticals Inc.
Date	03/16/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Trademark Trial and Appeal Board**

IN RE: Application No. 85306842

Trademark: ENDOCYTE

Opposer: Endo Pharmaceuticals Inc.

Applicant: Endocyte, Inc.

Published: September 20, 2011

Attorney Docket No: 0222552-0097/01US

NOTICE OF OPPOSITION

Commissioner for Trademarks
Alexandria, VA 22313-1451

Dear Sir or Madam:

Endo Pharmaceuticals Inc., a Delaware corporation located and doing business at 100 Endo Boulevard, Chadds Ford PA 19317 (“Endo”) believes it will be damaged by the registration of the above identified mark (hereinafter “Applicant’s mark”), and having sought and obtained extensions of the time to file a Notice of Opposition, hereby opposes the same.

The grounds for the opposition are as follows:

1. Endo is a U.S.-based, specialty healthcare solutions company, focused on high-value branded pharmaceutical preparations and specialty generic pharmaceutical preparations. In addition, Endo delivers an innovative suite of complementary diagnostics, drugs, devices and clinical data to meet the needs of patients in areas such as pain, urology, oncology and endocrinology.

2. Endo's predecessor first used the ENDO® trademark for pain relief tablets almost one hundred years ago, beginning in 1916. Since that time, the ENDO® name and mark has developed invaluable good will and reputation among health care providers and patients as a designator of source for prescription pharmaceutical preparations and related goods and services. Such good will, together with the registrations symbolizing such good, will are now owned by our client.

3. Since its early use, Endo has expanded its use of the ENDO® mark to include other registered trademarks using ENDO... as a prefix, including ENDOCET® and ENDODAN®.

4. Endo uses its ENDO® name and mark as a house mark to identify its broad range of pharmaceutical and healthcare goods and services.

5. Endo is the owner of the registered ENDO® mark for pharmaceutical preparations as well as other registered marks beginning ENDO... for pharmaceutical preparations and related goods and services (the "ENDO® Marks").

6. Based on its long and substantially exclusive use of ENDO® and marks beginning ENDO... for prescription pharmaceutical preparations, the ENDO® Marks have acquired and maintain distinctiveness in identifying prescription pharmaceutical preparations and related goods and services sourced from or sponsored by Endo.

7. On April 28, 2011, Applicant filed its application to register ENDOCYTE for, *inter alia*, pharmaceutical preparations for the diagnosis and treatment of cancer; pharmaceutical preparations for the diagnosis and treatment of diseases;

pharmaceutical preparations for the purpose of increasing the effectiveness of other pharmaceutical products; drug delivery agents consisting of compounds that facilitate delivery of a wide range of pharmaceuticals in Class 5 based on use of the mark for all of these goods since July 6, 2000.

8. Applicant's ENDOCYTE mark was published for opposition on September 20, 2011. Endo has sought and obtained extensions of the opposition period.

9. There is no issue as to priority. Endo's rights in its ENDO® Marks long predate any rights of Applicant.

10. Endo's rights in its ENDO® Marks are incontestable.

11. Applicant's ENDOCYTE mark is similar to the ENDO® Marks in sound, meaning and appearance.

12. Applicant's goods in Class 5 are substantially identical to the pharmaceutical preparations and other goods and services on which Endo uses its ENDO® Marks.

13. Applicant's use and registration of ENDOCYTE for the goods of the application herein opposed will likely lead to confusion, to mistake, or to deception of the public within the meaning of Section 2(d) of the Trademark Act of 1946.

14. On July 11, 2011 Applicant submitted an Amendment to Allege Use declaring that Applicant's ENDOCYTE mark was in use on all of the goods of the application. On information and belief, Applicant had not used in commerce the ENDOCYTE mark on all of the goods in Class 5 covered by the Amendment.

15. Applicant's ENDOCYTE mark is not entitled to registration based on Section 1(3)(C) of the Trademark Act of 1946.

16. By reason of the foregoing, Applicant's registration of ENDOCYTE for the goods of the application herein opposed would cause injury and damage to Endo.

WHEREFORE, Opposer prays that its opposition to Application Serial No. 85306842 for goods in Class 5 be sustained and that the application for goods in Class 5 be refused.

Please address all correspondence to James R. Meyer, Esq. at the address below.

Respectfully submitted,

SCHNADER HARRISON SEGAL & LEWIS LLP



Dated: March 16, 2012

By:

James R. Meyer
1600 Market Street, Suite 3600
Philadelphia, PA 19103
(215) 751-2622 (voice)
trademarks@schnader.com (e-mail authorized)

ATTORNEYS FOR OPPOSER

Certification Under 37 CFR 1.8

I hereby certify that this paper or fee is being deposited with the United States Postal Service with sufficient postage as first-class mail under 37 CFR 1.8 on the date indicated below and is addressed to:

Frances M. Jagla, Esq.
Leydig, Voit & Mayer
1420 Fifth Avenue, Suite 3670
Seattle, WA 98101-4011

and sent by e-mail on this date to Ms. Jagla at: Frances M. Jagla (fjagla@leydig.com)



Dated: March 16, 2012

JAMES R. MEYER

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Trademark Trial and Appeal Board**

IN RE: Application No. 85308111
Trademark: ENDOCYTE EC & Design



Opposer: Endo Pharmaceuticals Inc.
Applicant: Endocyte, Inc.
Published: September 20, 2011
Attorney Docket No: 0222552-0097/02US

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1. Endo is a U.S.-based, specialty healthcare solutions company, focused on high-value branded pharmaceutical preparations and specialty generic

pharmaceutical preparations. In addition, Endo delivers an innovative suite of complementary diagnostics, drugs, devices and clinical data to meet the needs of patients in areas such as pain, urology, oncology and endocrinology.

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6. Based on its long and substantially exclusive use of ENDO® and marks beginning ENDO... for prescription pharmaceutical preparations, the ENDO® Marks have acquired and maintain distinctiveness in identifying prescription pharmaceutical preparations and related goods and services sourced from or sponsored by Endo.

7. On April 29, 2011, Applicant filed its application to register ENDOCYTE EC & Design for, *inter alia*, pharmaceutical preparations for the diagnosis and treatment of cancer; pharmaceutical preparations for the diagnosis and treatment of diseases; pharmaceutical preparations for the purpose of increasing the effectiveness of other pharmaceutical products; drug delivery agents consisting of compounds that facilitate delivery of a wide range of pharmaceuticals in Class 5 based on use of the mark for all of these goods since July 6, 2000.

8. Applicant's ENDOCYTE EC & Design mark was published for opposition on September 20, 2011. Endo has sought and obtained extensions of the opposition period.

9. There is no issue as to priority. Endo's rights in its ENDO® Marks long predate any rights of Applicant.

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13. Applicant's use and registration of ENDOCYTE EC & Design for the goods of the application herein opposed will likely lead to confusion, to mistake, or to deception of the public within the meaning of Section 2(d) of the Trademark Act of 1946.

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goods of the application. On information and belief, Applicant had not used in commerce the ENDOCYTE EC & Design mark on all of the goods in Class 5 covered by the Amendment.

15. Applicant's ENDOCYTE EC & Design mark is not entitled to registration based on Section 1(3)(C) of the Trademark Act of 1946.

16. By reason of the foregoing, Applicant's registration of ENDOCYTE EC & Design for the goods of the application herein opposed would cause injury and damage to Endo.

WHEREFORE, Opposer prays that its opposition to Application Serial No. 85308111 for goods in Class 5 be sustained and that the application for goods in Class 5 be refused.

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Respectfully submitted,

SCHNADER HARRISON SEGAL & LEWIS LLP



Dated: March 16, 2012

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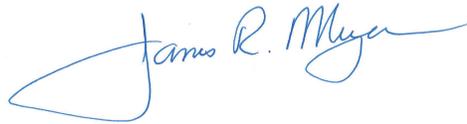
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Dated: March 16, 2012

JAMES R. MEYER