

ESTTA Tracking number: **ESTTA473450**

Filing date: **05/21/2012**

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	MSD Oss B.V.
Granted to Date of previous extension	05/27/2012
Address	Kloosterstraat 6 Oss, 5349 AB NETHERLANDS

Attorney information	Keith E. Sharkin Dickstein Shapiro LLP 1633 Broadway New York, NY 10019-6708 UNITED STATES sharkink@dicksteinshapiro.com, lackertc@dicksteinshapiro.com, goodwillj@dicksteinshapiro.com, ipdocketing-ny@dicksteinshapiro.com Phone:212-277-6500
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Applicant Information

Application No	85411801	Publication date	11/29/2011
Opposition Filing Date	05/21/2012	Opposition Period Ends	05/27/2012
Applicant	Biogen Idec MA Inc. 14 Cambridge Center Cambridge, MA 02142 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Pharmaceutical preparations for the treatment of hemophilia
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Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Geographic indication which, if used on or in connection with wine or spirits, identifies a place other than the origin of the goods	Uruguay Round Agreements Act section 2(9)
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3036028	Application Date	10/27/2004
Registration Date	12/27/2005	Foreign Priority Date	NONE
Word Mark	ELONVA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: Medicines and pharmaceutical preparations for stimulating human fertility		

Attachments	79007643#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (5 pages)(133240 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	/Keith E. Sharkin/
Name	Keith E. Sharkin
Date	05/21/2012

2. Long prior to the filing date of the intent-to-use application herein opposed, Opposer registered the trademark ELONVA for medicines and pharmaceutical preparations for stimulating human fertility.

3. Opposer is the owner of the following trademark registration at the U.S. Patent and Trademark Office:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Goods</u>
ELONVA	3,036,028	December 27, 2005	Medicines and pharmaceutical preparations for stimulating human fertility

Said registration is valid and subsisting, unrevoked and uncanceled, and in full force and effect.

4. Opposer is also the owner of application Serial No. 85/344,186 filed on June 13, 2011 for ELONVA for “medicines and pharmaceutical preparations for stimulating human fertility” in Class 5.

5. Applicant, on or about August 31, 2011, filed application Serial No. 85/411,801 on the Principal Register of the United States Patent and Trademark Office for the mark ELONIXA for “pharmaceutical preparations for the treatment of hemophilia” in Class 5.

6. Opposer has priority over the application herein opposed based on the filing dates of the application and registration for ELONVA.

7. Upon information and belief, Applicant has not used the ELONIXA mark in commerce.

8. Applicant's pharmaceutical products which are to be offered under the alleged mark ELONIXA are the same or are closely related to the goods of Opposer for the ELONVA mark.

9. The goods covered by the application for the alleged mark ELONIXA will be encountered by the same or similar class of purchasers as those who are interested in or familiar with the goods of Opposer under the ELONVA mark.

10. Applicant's designation ELONIXA is so similar to Opposer's mark ELONVA as to be likely, when applied to Applicant's goods, to cause confusion, to cause mistake, and to deceive with consequent injury to Opposer and the public.

11. Applicant's designation ELONIXA so closely resembles Opposer's mark ELONVA that potential purchasers of the goods to be offered under Applicant's alleged mark would be likely to believe that Opposer is the source of such goods, or that Opposer has authorized, sponsored, approved of, or in some other manner associated itself with the goods of Applicant, thereby creating a likelihood of confusion, deception or mistake, all to the damage of Opposer.

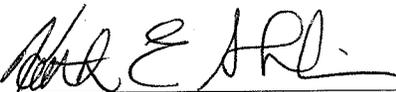
12. Opposer will be damaged by the registration sought by Applicant because such registration would support and assist Applicant in the confusing and misleading use of Applicant's mark and would give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer to the ELONVA mark.

13. By reason of the foregoing, Opposer believes that it will be damaged by the registration of Applicant's claimed trademark.

WHEREFORE, Opposer requests that the opposition to application Serial No. 85/411,801 for registration of ELONIXA be sustained and that the registration sought by Applicant be denied.

Dated: May 21, 2012

DICKSTEIN SHAPIRO LLP
Attorneys for Opposer

By: 

Keith E. Sharkin
Clark W. Lackert

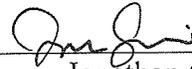
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CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing Notice of Opposition was deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Applicant's correspondent of record:

Brenda Campbell
Biogen Idec MA Inc.
14 Cambridge Center
Cambridge, MA 02142-1481

On May 21, 2012



Jonathan Goodwill