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Filing date: **04/14/2014**

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

Proceeding	91206212
Party	Plaintiff Carefusion 2200, Inc.
Correspondence Address	JOSEPH R DREITLER DREITLER TRUE LLC 137 E STATE STREET COLUMBUS, OH 43215 UNITED STATES mtrue@ustrademarklawyer.com, jdreitler@ustrademarklawyer.com, ttrofino@ustrademarklawyer.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Joseph R. Dreitler
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Signature	/Joseph R. Dreitler/
Date	04/14/2014
Attachments	Consent Motion to Amend Combined Notice of Opposition.pdf(33959 bytes) CF2200 v Entrotech - Amended Notice of Opposition with Exhibit.pdf(88603 bytes)

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

**IN THE MATTER OF Trademark Application Serial Nos. 85/499349; 85/499345;
85/499337 and 85/499332**

DATE OF PUBLICATION: May 29, 2012

CareFusion 2200, Inc.,

Opposer,

v.

entrotech, inc.,

Applicant.

Combined Opposition No. 91206212

CONSENT MOTION TO AMEND COMBINED NOTICE OF OPPOSITION

Pursuant to Federal Rules of Civil Procedure 15(a)(2), Opposer CareFusion 2200, Inc. (“Opposer”), by and through counsel, hereby moves to amend and file its Combined Notice of Opposition. Attached hereto is Opposer’s Amended Combined Notice of Opposition, which Opposer moves to be deemed filed upon the granting of this motion. This motion is made with the consent of counsel for Applicant entrotech, inc.

Dated: April 14, 2014

Respectfully submitted,

/Joseph R. Dreitler/

Joseph R. Dreitler

Mary R. True

Dreitler True LLC

137 E. State St.

Columbus, OH 43215

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Attachments -1

Attorneys for Opposer

CERTIFICATE OF SERVICE

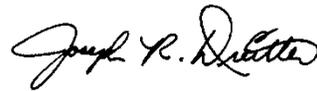
I hereby certify that on April 14, 2014, a copy of the foregoing Consent Motion to Amend Combined Notice of Opposition was served both via email at hickey@fr.com and martens@fr.com and via First Class U.S. Mail upon the following listed counsel of record:

Lisa M. Griffith, Esq.

Fish & Richardson

PO Box 1022

Minneapolis, MN 55440



Joseph R. Dreitler

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

**IN THE MATTER OF Trademark Application Serial Nos. 85/499349; 85/499345;
85/499337 and 85/499332**

DATE OF PUBLICATION: May 29, 2012

CareFusion 2200, Inc.,

Opposer,

Combined Opposition No.: 91206212

v.

entrotech, inc.

Applicant.

AMENDED COMBINED NOTICE OF OPPOSITION

CareFusion 2200, Inc., (hereinafter referred to as “CareFusion”), a Delaware corporation having a principal place of business at 3750 Torrey View Court, San Diego, California 92130 believes that they will be damaged by registration of each of the four (4) below identified trademark applications:

- 1) Chloraderm – Ser. No. 85/499349 for Medical and surgical dressings, filed December 19, 2011 and published on May 29, 2012;
- 2) Chlorabsorb - Ser. No. 85/499345 for Medical and surgical dressings filed December 19, 2011 and published on May 29, 2012;
- 3) Chlorabond – Ser. No. 85/499337 for Topical antimicrobial solutions for dermatologic use filed December 19, 2011 and published on May 29, 2012; and

4) Chloradrape – Ser. No. 85/499332 for Surgical drapes filed December 19, 2011 and published on May 29, 2012,

(hereinafter collectively referred to as “Applications”), in the name of entrotech, Inc. (hereinafter referred to as “Applicant”) and hereby opposes registration of the same under the provisions of *Section 13 of the Trademark Act of July 5, 1946, 15 U.S.C. § 1063*.

As grounds therefor, it is alleged that:

1. CareFusion and its affiliates and related companies and predecessors in business, (all hereinafter collectively referred to as “Opposer”), has been using the term Chloraprep in the U.S. since 1994 in connection with the promotion, sale, and use of medical products, including topical microbial solutions, and the term Chlorashield in the U.S. since 2013 in connection with the promotion, sale, and use of medical products, including antimicrobial catheter patch dressings and surgical incise drapes.

2. Opposer is the owner of the trademarks Chloraprep and Chlorashield, the United States Trademark Registrations thereof, and the goodwill symbolized by the trademarks and the registrations thereof, as follows:

- a) Chloraprep - Registration No. 1930248, registered October 24, 1995, for topical antimicrobial solutions; and
- b) Chloraprep - Registration No. 4052849, registered November 8, 2011 for broad-spectrum antiseptic.
- c) Chlorashield – Registration No. 4488745, registered February 25, 2014 for antimicrobial catheter patch dressing
- d) Chlorashield – Registration No. 4495083, registered March 11, 2014 for surgical incise drape

The registrations and common law use of the marks identified above shall hereafter be referred to as “Opposer’s Chlora Marks”. A copy of each of the above registration numbers for the Chloraprep marks, with TESS and Assignment print-outs, showing record title in Opposer, was attached as Exhibit 1 to the Combined Notice of Opposition. A copy of each of the above registration numbers for the Chlorashield marks, with TESS and Assignment print-outs, showing record title in Opposer, is attached hereto as Exhibit 2.

3. The certificates of registration identified in paragraph 2 are valid and subsisting; the certificates of registration are *prima facie* evidence of the validity of the registrations, the Opposer’s ownership of the marks, and of the Opposer’s exclusive right to use the marks in commerce in connection with the goods specified in the certificates of registration under the provisions of 15 U.S.C. § 1057(b), and constructive notice of the Opposer’s claim of ownership under 15 U.S.C. § 1072. Registration No. 1930248 is incontestable, which provides conclusive evidence of its validity, Opposer's ownership of the mark and Opposer's exclusive right to use the mark in commerce under 15 U.S.C. § 1115(b).

4. Opposer and Applicant are competitors in the marketplace for the sale of medical and health care related products, including topical antimicrobial and antiseptic products and surgical drapes.

5. Opposer’s Chloraprep and Chlorashield marks and Applicant’s four (4) applications for Chloraderm, Chlorabsorb, Chlorabond and Chloradrape (“Applicant’s Chlora Marks”) are virtually identical in sound and appearance.

6. Opposer’s Chlora Marks have been extensively marketed and publicized and have become famous throughout the United States in the medical and health care fields.

7. Upon information and belief, there are no restrictions in the goods descriptions of Applicant's Applications, so that it must be presumed that Applicant's Chlora Marks goods are offered to and used by the same medical and health care customers who would also be in the market for and use Opposer's Chloraprep and Chlorashield products.

8. Upon information and belief, Applicant's Chlora Marks goods are or would be advertised, marketed, promoted and provided through the same channels of trade, are or would be advertised in the same types of publications as Opposer's Chlora Marks goods, and are or would be sold to the same classes of the purchasing public for use by or on the same consumers as Opposer's Chloraprep and Chlorashield products.

9. The designations Chloraderm, Chlorabsorb, Chlorabond and Chloradrape which the Applicant seeks to register are highly similar to Opposer's Chlora Marks, in sound and appearance, and users and potential customers will believe that Chloraderm, Chlorabsorb, Chlorabond and Chloradrape goods are connected with, affiliated with or endorsed by the owner of the Chloraprep and Chlorashield trademarks, or that the Chloraderm, Chlorabsorb, Chlorabond and Chloradrape goods are new lines of goods of Opposer.

10. Opposer, since long prior to Applicant's constructive first use date of December 19, 2011 set out in Applicant's applications of Chloraderm, Chlorabsorb, Chlorabond and Chloradrape, has spent, and continues to spend, large sums of money in the advertisement, marketing, promotion and sale of its goods identified and distinguished by Opposer's Chlora Marks, and by reason of such advertising, promotion, marketing and the high quality of its products and services carrying Opposer's Chlora Marks, Opposer now enjoys a valuable goodwill and an enviable reputation with respect to Opposer's Chlora Marks.

11. Opposer's Chlora Marks have attained widespread public recognition and have acquired great value in their identification as trademarks and of the source of goods in or by Opposer and its distributors, and Opposer's Chlora Marks distinguish Opposer and its goods from the goods of others.

12. The use and registration of the Chloraderm, Chlorabsorb, Chlorabond and Chloradrape trademarks by the Applicant will cause the purchasing public and those who use or are familiar with Opposer's goods to assume, erroneously, and to be confused, misled and/or deceived, that the Applicant's Chloraderm, Chlorabsorb, Chlorabond and Chloradrape marks and goods are made by or originate with, are licensed by, endorsed or sponsored by, or are in some other way associated or connected with Opposer, all to Opposer's great injury and irreparable damage.

13. Upon information and belief, Applicant's filing of four (4) variations of the same mark - Chloraderm, Chlorabsorb, Chlorabond and Chloradrap – for virtually identical goods, evidences a lack of bona fide intent to use the various marks filed in the applications, rendering all four (4) applications void ab initio for lack of bona fide intent to use the marks Chloraderm, Chlorabsorb, Chlorabond and Chloradrap in interstate commerce.

14. For the reasons set forth in paragraphs 1 through 13, Opposer believes, and in so believing asserts, that the goodwill in its distinctive Chloraprep and Chlorashield trademarks will be damaged under *Section 2(d)* and that the Applicant's application for the marks Chloraderm, Chlorabsorb, Chlorabond and Chloradrape should be denied.

15. By reason of the foregoing, Applicant's applications of Chloraderm, Chlorabsorb, Chlorabond and Chloradrape is likely to cause confusion with the Opposer's

trademarks for the identical medical products, and are thus not registrable under *Section 13 of the Trademark Act of 1946 (15 U.S.C. § 1063)*.

WHEREFORE, Opposer prays that this Opposition be sustained and that Application Serial Nos. 85/499349, 85/499345, 85/499337 and 85/499332 for Applicant's trademarks Chloraderm, Chlorabsorb, Chlorabond and Chloradrape be refused registration.

Please recognize Joseph R. Dreitler and Mary R. True, both members of the Bar of the State of Ohio, as its attorneys to prosecute this Combined Notice of Opposition and to transact all business in the Patent and Trademark Office in connection herewith. Please address all communications to: Joseph R. Dreitler, c/o Dreitler True, LLC, 137 E. State St., Columbus, OH 43215 (614) 545-6354.

Dated: April 14, 2014

Respectfully submitted,

/Joseph R. Dreitler/

Joseph R. Dreitler

Mary R. True

DREITLER TRUE, LLC

137 E. State St

Columbus, OH 43215

Telephone: (614) 545-6354

Counsel for Opposer

CAREFUSION 2200, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served both via email at hickey@fr.com and martens@fr.com and via First Class U.S. Mail this 14th day of April, 2014 upon the following listed counsel of record:

Lisa M. Griffith, Esq.
Fish & Richardson
PO Box 1022
Minneapolis, MN 55440

Signed: /Joseph R. Dreitler/
Joseph R. Dreitler

Exhibit 2

**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Mon Apr 14 03:10:38 EDT 2014

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CHLORASHIELD

Word Mark CHLORASHIELD

Goods and Services IC 005. US 006 018 044 046 051 052. G & S: antimicrobial catheter patch dressing. FIRST USE: 20131024. FIRST USE IN COMMERCE: 20131024

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85051474

Filing Date June 1, 2010

Current Basis 1A

Original Filing Basis 1B

Published for Opposition October 26, 2010

Registration Number **4488745**

Registration Date February 25, 2014

Owner (REGISTRANT) CareFusion 2200, Inc. CORPORATION DELAWARE 3750 Torrey View Court San Diego CALIFORNIA 92130

Attorney of Record Joseph R. Dreitler

Prior Registrations 1930248

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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For Serial Number: 85051474

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Web interface last modified: Jul 8, 2013 v.2.3.4

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CHLORASHIELD

Word Mark	CHLORASHIELD
Goods and Services	IC 010. US 026 039 044. G & S: surgical incise drape. FIRST USE: 20131024. FIRST USE IN COMMERCE: 20131024
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85051477
Filing Date	June 1, 2010
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	October 26, 2010
Registration Number	4495083
Registration Date	March 11, 2014
Owner	(REGISTRANT) CareFusion 2200, Inc. CORPORATION DELAWARE 3750 Torrey View Court San Diego CALIFORNIA 92130
Attorney of Record	Joseph R. Dreitler
Prior Registrations	1930248
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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