

ESTTA Tracking number: **ESTTA487777**

Filing date: **08/07/2012**

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	Virbac S.A.		
Entity	societe anonyme	Citizenship	France
Address	1 Åre Avenue, 2065 m-L.I.D Carros, 06516 FRANCE		

Attorney information	Valerie Verret Baker Botts L.L.P. 2001 Ross Avenue Suite 600 Dallas, TX 75201-2980 UNITED STATES valerie.verret@bakerbotts.com, elizabeth.stanley@bakerbotts.com, cecily.porterfield@bakerbotts.com, daltmdept@bakerbotts.com Phone:214.953.6818
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Applicant Information

Application No	85505740	Publication date	07/10/2012
Opposition Filing Date	08/07/2012	Opposition Period Ends	08/09/2012
Applicant	Alpharma, LLC 5 Giralda Farms Madison, NJ 07940 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Veterinary preparations for the prevention and treatment of parasitic infections, inflammation and inflammatory diseases, respiratory and infectious diseases, immunological, bacterial, viral and fungal diseases, osteoporosis, cardiovascular disease, central nervous system diseases and disorders, urological, urogenital and urinary disorders, gastrointestinal disorders, musculoskeletal disorders, allergies, diabetes, hypertension, stroke, cancer, blood, pain, obesity, digestive disorders, ophthalmological disorders, behavioral disorders, reproductive disorders, dermatological disorders, tooth decay, tooth sensitivity, gingivitis, halitosis and periodontal disease and for skin and tissue repair and to lower cholesterol; veterinary vaccines; diagnostic kits for veterinary use consisting of reagents for use in disease testing for veterinary diagnostic purposes, diagnostic preparations for veterinary use, all of the foregoing for treating felines, canines, bovines, porcines, equines, llamas, rabbits, rodents, birds, ferrets, poultry, goats, sheep and aquatic animals

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4163263	Application Date	04/04/2011
Registration Date	06/26/2012	Foreign Priority Date	NONE
Word Mark	ZOLETIL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: Veterinary products, namely, an anesthetic in the nature of a general anesthetic		

Attachments	85285117#TMSN.jpeg (1 page)(bytes) ZOETIS - Ntc of Opp.pdf (4 pages)(93331 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	/Valerie Verret/
Name	Valerie Verret
Date	08/07/2012

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

VIRBAC S.A.,

Opposer,

vs.

ALPHARMA, LLC,

Applicant.

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Opposition No. _____

Mark: **ZOETIS**
(Serial No: 85/505,740)

Publication Date: July 10, 2012

NOTICE OF OPPOSITION

Opposer, Virbac S.A., a société anonyme, organized and existing under the laws of France, having an address of 1 ère Avenue, 2065 m-L.I.D. 06516 Carros, France (“**Opposer**”), believes that it will be damaged by registration of the mark ZOETIS (the “**Opposed Mark**”), as shown in U.S. Application Serial No. 85/505740, and thus, hereby opposes such application.

As grounds for its opposition, Opposer alleges as follows:

1. Applicant, Alpharma, LLC, a limited liability company organized under the laws of the Delaware, having an address of 5 Giralda Farms Madison, New Jersey, 07940 (“**Applicant**”), seeks registration of the Opposed Mark, ZOETIS, for use on and in connection with “*Veterinary preparations for the prevention and treatment of parasitic infections, inflammation and inflammatory diseases, respiratory and infectious diseases, immunological, bacterial, viral and fungal diseases, osteoporosis, cardiovascular disease, central nervous system diseases and disorders, urological, urogenital and urinary disorders, gastrointestinal disorders, musculoskeletal disorders, allergies, diabetes, hypertension, stroke, cancer, blood, pain, obesity, digestive disorders, ophthalmological disorders, behavioral disorders, reproductive disorders, dermatological disorders, tooth decay, tooth sensitivity, gingivitis, halitosis and periodontal disease and for skin and tissue repair and to lower cholesterol; veterinary vaccines; diagnostic kits for veterinary use consisting of reagents for use in disease*”

testing for veterinary diagnostic purposes, diagnostic preparations for veterinary use, all of the foregoing for treating felines, canines, bovines, porcines, equines, llamas, rabbits, rodents, birds, ferrets, poultry, goats, sheep and aquatic animals” in International Class 005. Applicant filed this application on December 29, 2011, and alleged that it had a bona fide intention to use the Opposed Mark in commerce.

2. Opposer is the owner of the mark ZOLETIL, and the pending United States trademark application for the mark ZOLETIL, App. Serial No. 85/285,117, which covers “*Veterinary products, namely, an anesthetic in the nature of a general anesthetic*” in International Class 010. Opposer filed this application on April 4, 2011, and asserted that it had a bona fide intention to use this mark in commerce. This application is based on Opposer’s prior registration for the mark ZOLETIL, in France, Foreign Reg. No. 95563857, which registered on March 15, 1995.

3. Opposer filed its U.S. application for the mark ZOLETIL prior to the date that Applicant filed its trademark application for the Opposed Mark. Additionally, based on information and belief, Opposer filed its U.S. application for the mark ZOLETIL prior to any date of first use of the Opposed Mark by Applicant on which Applicant can rely. Accordingly, Opposer has priority over Applicant based on Opposer’s prior trademark application filing date.

4. The Opposed Mark, ZOETIS, is confusingly similar to Opposer’s mark, ZOLETIL, in regards to appearance, sound and/or commercial impression.

5. The goods which are intended to be offered by Applicant under the Opposed Mark, are identical, closely related and/or complementary to the goods intended to be offered by Opposer under the ZOLETIL mark.

6. On information and belief, the goods intended to be offered by Applicant under the Opposed Mark will be advertised to and sold to the same or similar class of customers as those who are interested in or familiar with the goods intended to be offered by Opposer under its ZOLETIL mark. Consequently, Applicant’s use of the Opposed Mark in connection with the goods listed in Serial No. 85/505740 is likely to cause consumers to be confused, deceived or

misled into the mistaken belief that Applicant's goods emanate from, are affiliated with, or are otherwise related to Opposer, when in fact they are not.

7. Opposer has not given Applicant permission or approval to use or register the Opposed Mark.

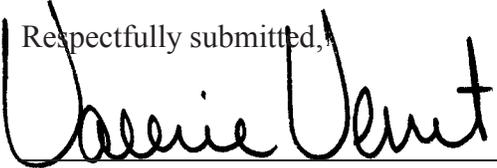
8. For the foregoing reasons, the Opposed Mark is likely to cause confusion, or to cause mistake, or to deceive. Accordingly, registration should be refused under Trademark Act § 2(d), 15 U.S.C. § 1052(d).

9. In view of the foregoing, issuance of a registration to Applicant for the Opposed Mark would be damaging to Opposer within the meaning of 15 U.S.C. §1063.

WHEREFORE, Opposer prays that Application Serial No. 85/505740, be refused, that no registration be issued to Applicant, and that this opposition be sustained in favor of Opposer.

This Notice of Opposition is being submitted through the Electronic System for Trademark Trials and Appeals (ESTTA), along with the required filing fee. Please charge the requisite \$300 fee and any additional fees required to Deposit Account No. 50-2147 of Baker Botts if there is any problem with the processing of the electronically submitted fee.

Dated: August 7, 2012.

Respectfully submitted,
By: 
Valerie Verret
Elizabeth K. Stanley
BAKER BOTTS L.L.P.
2001 Ross Avenue, Suite 600
Dallas, Texas 75201-2980
Telephone: (214) 953-6818
E-mail: daltmdept@bakerbotts.com

**ATTORNEYS FOR OPPOSER
VIRBAC S.A.**

CERTIFICATE OF SERVICE

I hereby certify that on this the 7th day of August, 2012, a true and correct copy of the foregoing *Notice of Opposition* was served, via First Class Mail and email to:

Jane Ungaro
Pfizer Inc.
150 E. 42nd Street
New York, NY 10017-5612
deadlinesipnyo@pfizer.com

A handwritten signature in black ink, appearing to read "Elley", is written over a horizontal line. The signature is stylized and cursive.

Elizabeth K. Stanley