

ESTTA Tracking number: **ESTTA487955**

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

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	Noxxon Pharma AG
Granted to Date of previous extension	08/11/2012
Address	Max-Dohrn-Str. 8-10 10589 Berlin, 10589 GERMANY
Correspondence information	Ursula B. Day attorney for opposer 798 Third Avenue Suite 1501 New York, NY 10017 UNITED STATES patentlaw@ursuladay.net Phone:212-904-1815

**Applicant Information**

Application No	85381804	Publication date	06/12/2012
Opposition Filing Date	08/08/2012	Opposition Period Ends	08/11/2012
International Registration No.	NONE	International Registration Date	NONE
Applicant	Erdmann, Volker A., Prof. Dr. Argentinische Allee 2 Berlin, D-14163 GERMANY		

**Goods/Services Affected by Opposition**

Class 001. All goods and services in the class are opposed, namely: Chemicals for use in industry and science
Class 005. All goods and services in the class are opposed, namely: Pharmaceutical preparations for the treatment of allergic reactions, diseases related to the malfunction of the immune system, and cancer; veterinary preparations for mammals for the treatment of allergic reactions, diseases related to the malfunction of the immune system, and cancer; sanitary preparations for medical purposes; dietetic foods adapted for medical use; all purpose disinfectants; preparations for destroying vermin; fungicides, herbicides
Class 016. All goods and services in the class are opposed, namely: Printed matters, namely, books, journals, magazines, manuals, information leaflets, and flyers in the field of medicine and pharmacy; printed instructional and teaching materials, except apparatus, in the field of medicine and pharmacy
Class 042. All goods and services in the class are opposed, namely: Scientific and technological services,

namely, scientific research and development of therapeutically useful nucleic acids; scientific research; design relating thereto, namely, new product design services; industrial analysis and research services, namely, industrial research in the field of therapeutically useful nucleic acids; design and development of computer hardware and software

Class 044.

All goods and services in the class are opposed, namely: Medical services; veterinary services; hygienic and beauty care for human beings

## Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2669538	Application Date	07/30/1999
Registration Date	12/31/2002	Foreign Priority Date	NONE
Word Mark	SPIEGELMER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 1997/10/24 First Use In Commerce: 1997/10/24 COMPOUNDS CONSISTING IN WHOLE OR IN PART OF NUCLEIC ACIDS OR DERIVATIVES THEREOF AND L-NUCLEOTIDES FOR USE IN MANUFACTURING PHARMACEUTICALS Class 042. First use: First Use: 1997/12/01 First Use In Commerce: 1997/12/01 RESEARCH AND DEVELOPMENT OF PHARMACEUTICALS AND CHEMICAL COMPOUNDS, ALSO COMPRISING AFFINITY MEDIA, FOR OTHERS		

Attachments	NoxxonNoticeOpp.pdf ( 7 pages )(239792 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 USPS Express Mail Post Office to Addressee on this date.

Signature	/ursula b. day/
Name	Ursula B. Day
Date	08/08/2012

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

Docket No.: SPIEGELMER

In re: Application. No.: 85,381,804

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Noxxon Pharma AG	)
	)
Opposer,	)
	)
vs.	)
	)
Volker A. Erdmann	)
	)
Applicant.	)
-----	X

Opposition No.

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

S I R:

Petitioner, Noxxon Pharma AG, a joint stock company formed and operating under the laws of Germany (hereinafter referred to interchangeably as "Opposer" or "Noxxon") and located and doing business at Max-Dohrn-Str. 8-10, 10589 Berlin, Germany believes it will be damaged by the mark shown in Application Serial No.: 85,381,804 ("Application") and hereby opposes the same.

As grounds for the opposition it is alleged that:

1. On information and belief the current owner of Application Serial No.: 85,381,804 is Volker A. Erdmann, and individual of Germany with an address at.

Argentinische Allee 2, Berlin D-14163, Germany and the owner of an intent to use application Serial No.: 85,381,804 for "Spiegelzyme" for goods and services in international classes 001, 005, 016, 042, 044 as set forth in detail in Exhibit A attached hereto.

2. Opposer is the owner of the mark SPIEGELMER in the United States and elsewhere and is the owner of U.S. Trademark Registration No.: 2,669,538 for the mark SPIEGELMER.

3. Opposer has used the mark SPIEGELMER since 1997 in the United States and elsewhere on goods and in connection with services in international classes 001, 042 as set forth in more detail Exhibit B attached hereto. The mark SPIEGELMER was registered in December 2002, long before the filing of applicant's application of Serial No.: 85,381,804 and the registration is valid and subsisting and has become incontestable by virtue of its continued use since at least 1997 and is evidence of opposer's exclusive right to use the mark in commerce in connection with the goods in international classes 001 and 042. In view of the similarity of opposer's mark SPIEGELMER and applicant's mark SPEGELZYME and the related nature of the goods and services of the respective parties, it is alleged that applicant's mark so resembles opposer's registered mark, as to be likely to cause confusion, or to cause mistake or to deceive.

3. Opposer, since September at least as of 1997 has been and is now, using the mark SPIEGELMER in connection with the goods and services in Exhibit B Said use has been valid and continuous since that date of first use and has not been abandoned. Said SPIEGELMER mark of opposer is symbolic of extensive goods will and consumer recognition built up by opposer through substantial amount of time and effort in advertising and promotion the mark and in addition has gained unsolicited editorial recognition in the field. In view of the similarity of

the respective marks and the related nature of the goods and services of the respective parties, it is alleged that applicant's mark so resembles opposer's mark previously used in the United States, and not abandoned, as to be likely to cause confusion, to cause mistake or to deceive.

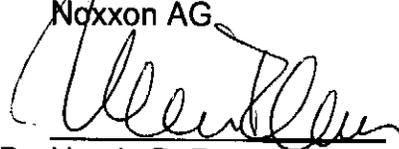
WHEREFORE, Petitioner prays that said application Serial No.: 85,381,804 be rejected, that no registration be issued thereon to applicant, and that this opposition will be sustained in favor of opposer.

Oppose hereby appoints Ursula B. Day an attorney and member of the bar of the State of New York with an office at 708 Third Avenue Suite 1501, New York, NY 10118 to act as attorney and designated domestic representative for petitioner herein, with full power to prosecute said opposition, to transact all business with the Patent and Trademark Office and before the Board on behalf of oppose.

The necessary fee for the Notice of Opposition for four classes in the amount of \$ 1,200.00 is paid concurrently herewith.

The Commissioner is hereby also authorized to charge any additional fees, which may be required, or credit any overpayment to Deposit Account No.: 50-1747.

Respectfully submitted,  
Noxxon AG



By: Ursula B. Day  
Attorney for Opposer  
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Dated: August 8, 2012  
New York, NY  
UBD:sh

**EXHIBIT A**

**INTERNATIONAL CLASS 001**

**CHEMICALS FOR USE IN INDUSTRY AND SCIENCE.**

**INTERNATIONAL CLASS 005**

**PHARMACEUTICAL PREPARATIONS FOR THE TREATMENT OF ALLERGIC REACTIONS, DISEASES RELATED TO THE MALFUNCTION OF THE IMMUNE SYSTEM, AND CANCER; VETERINARY PREPARATIONS FOR MAMMALS FOR THE TREATMENT OF ALLERGIC REACTIONS, DISEASES RELATED TO THE MALFUNCTION OF THE IMMUNE SYSTEM, AND CANCER; SANITARY PREPARATIONS FOR MEDICAL PURPOSES; DIETETIC FOODS ADAPTED FOR MEDICAL USE; ALL PURPOSE DISINFECTANTS; PREPARATIONS FOR DESTROYING VERMIN; FUNGICIDES, HERBICIDES.**

**INTERNATIONAL CLASS 016**

**PRINTED MATTERS, NAMELY, BOOKS, JOURNALS, MAGAZINES, MANUALS, INFORMATION LEAFLETS, AND FLYERS IN THE FIELD OF MEDICINE AND PHARMACY; PRINTED INSTRUCTIONAL AND TEACHING MATERIALS, EXCEPT APPARATUS, IN THE FIELD OF MEDICINE AND PHARMACY.**

**INTERNATIONAL CLASS 042**

**SCIENTIFIC AND TECHNOLOGICAL SERVICES, NAMELY, SCIENTIFIC RESEARCH AND DEVELOPMENT OF THERAPEUTICALLY USEFUL NUCLEIC ACIDS; SCIENTIFIC RESEARCH; DESIGN RELATING THERETO, NAMELY, NEW PRODUCT DESIGN SERVICES; INDUSTRIAL ANALYSIS AND RESEARCH SERVICES, NAMELY, INDUSTRIAL RESEARCH IN THE FIELD OF THERAPEUTICALLY USEFUL NUCLEIC ACIDS; DESIGN AND DEVELOPMENT OF COMPUTER HARDWARE AND SOFTWARE.**

**INTERNATIONAL CLASS 044**

**MEDICAL SERVICES; VETERINARY SERVICES; HYGIENIC AND BEAUTY CARE FOR HUMAN BEINGS**

**EXHIBIT B**

**INTERNATIONAL CLASS 001**

**COMPOUNDS CONSISTING IN WHOLE OR IN PART OF NUCLEIC ACIDS OR DERIVATIVES THEREOF AND L-NUCLEOTIDES FOR USE IN MANUFACTURING PHARMACEUTICALS;**

**INTERNATIONAL CLASS 041**

**RESEARCH AND DEVELOPMENT OF PHARMACEUTICALS AND CHEMICAL COMPOUNDS, ALSO COMPRISING AFFINITY MEDIA, FOR OTHERS.**