

ESTTA Tracking number: **ESTTA529091**

Filing date: **03/27/2013**

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	JPI Commercial, LLC
Granted to Date of previous extension	03/27/2013
Address	3180 Porter Drive Palo Alto, CA 94304 UNITED STATES

Attorney information	Stephen R. Baird Winthrop & Weinstine PA 225 South Sixth Street Suite 3500 Minneapolis, MN 55402 UNITED STATES trademark@winthrop.com, cdahl@winthrop.com, sbaird@winthrop.com Phone:612.604.6525
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**Applicant Information**

Application No	85519065	Publication date	11/27/2012
Opposition Filing Date	03/27/2013	Opposition Period Ends	03/27/2013
Applicant	Xylem IP Holdings LLC 1209 Orange Street Wilmington, DE 19801 UNITED STATES		

**Goods/Services Affected by Opposition**

<p>Class 009. All goods and services in the class are opposed, namely: Electronic apparatus for testing the sterility of medical equipment; platinizing instruments in the nature of electrolysis apparatus for electroplating purposes for use in replating platinum on an electrode; industrial liquid analyzers; radiometers for detecting and measuring small amounts of electromagnetic radiant energy; dew point hygrometers; clinical laboratory analyzers for measuring, testing and analyzing blood for blood glucose and blood lactate, computer software for controlling environmental water quality monitoring systems; computer software for displaying, calibrating and uploading data collected by environmental monitoring instruments and transferring it to computers; analytical instruments, namely, carbon dioxide monitors for non-medical use in the bioprocessing and fermentation industries; sensor-based bioanalytical instruments for non-medical use in the nature of electronic biochemistry analyzers, monitors and probes for measuring carbohydrates, vitamins, amino acids and dissolved gases; bioanalytical systems for non-medical use comprised of optical, electrochemical, potentiometric and photometric sensors for measuring carbohydrates, vitamins, amino acids and dissolved gases</p>
<p>Class 010. All goods and services in the class are opposed, namely: Blood glucose oxidase meters; heat stress instruments in the nature of medical devices for measuring heat stress in human beings that utilize</p>

ultrasonic oscillations to measure body temperature and respiration
Class 017. All goods and services in the class are opposed, namely: Non-metal o-ring gaskets for use as replacement parts in blood glucose oxidase meters

## Applicant Information

Application No	85519067	Publication date	11/27/2012
Opposition Filing Date	03/27/2013	Opposition Period Ends	
Applicant	Xylem IP Holdings LLC 1209 Orange Street Wilmington, DE 19801 UNITED STATES		

## Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Electronic apparatus for testing the sterility of medical equipment; platinizing instruments in the nature of electrolysis apparatus for electroplating purposes for use in replating platinum on an electrode; industrial liquid analyzers; radiometers for detecting and measuring small amounts of electromagnetic radiant energy; dew point hygrometers; clinical laboratory analyzers for measuring, testing and analyzing blood for blood glucose and blood lactate, computer software for controlling environmental water quality monitoring systems; computer software for displaying, calibrating and uploading data collected by environmental monitoring instruments and transferring it to computers; analytical instruments, namely, carbon dioxide monitors for non-medical use in the bioprocessing and fermentation industries; sensor-based bioanalytical instruments for non-medical use in the nature of electronic biochemistry analyzers, monitors and probes for measuring carbohydrates, vitamins, amino acids and dissolved gases; bioanalytical systems for non-medical use comprised of optical, electrochemical, potentiometric and photometric sensors for measuring carbohydrates, vitamins, amino acids and dissolved gases
Class 010. All goods and services in the class are opposed, namely: Blood glucose oxidase meters; heat stress instruments in the nature of medical devices for measuring heat stress in human beings that utilize ultrasonic oscillations to measure body temperature and respiration
Class 017. All goods and services in the class are opposed, namely: Non-metal o-ring gaskets for use as replacement parts in blood glucose oxidase meters

## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2249959	Application Date	06/21/1996
Registration Date	06/01/1999	Foreign Priority Date	NONE
Word Mark	XYREM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1999/02/24 First Use In Commerce: 1999/02/24 pharmaceutical preparation for the treatment of narcolepsy		

U.S. Registration No.	2423880	Application Date	10/27/1998
Registration Date	01/23/2001	Foreign Priority Date	NONE
Word Mark	XYREM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1999/02/23 First Use In Commerce: 1999/02/23 Pharmaceutical Preparation For The Treatment Of Narcolepsy		

U.S. Registration No.	2472156	Application Date	10/27/1998
Registration Date	07/24/2001	Foreign Priority Date	NONE
Word Mark	XYREM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1999/02/23 First Use In Commerce: 1999/02/23 Pharmaceutical Preparation For The Treatment Of Narcolepsy		

U.S. Registration No.	2860730	Application Date	10/17/2001
Registration Date	07/06/2004	Foreign Priority Date	NONE
Word Mark	XYREM		

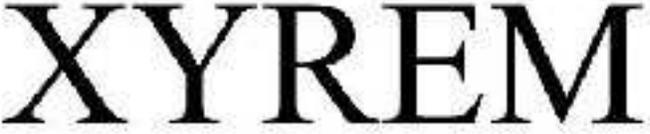
Design Mark	<b>XYREM</b>		
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1999/02/24 First Use In Commerce: 1999/02/24 Pharmaceutical preparations for the treatment of diseases of the central nervous system and a variety of conditions, symptoms, and diseases, namely, narcolepsy, fibromyalgia, insomnia and [ myositis ]		

U.S. Registration No.	3112732	Application Date	04/13/2004
Registration Date	07/04/2006	Foreign Priority Date	NONE
Word Mark	XYREM		
Design Mark	<b>XYREM</b>		
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 2003/04/01 First Use In Commerce: 2004/06/21 Drug delivery devices		

U.S. Registration No.	3162636	Application Date	12/08/2005
Registration Date	10/24/2006	Foreign Priority Date	NONE
Word Mark	XYREM		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 2002/09/23 First Use In Commerce: 2002/09/23 Medical information; providing medical information; and providing health care information by telephone and the internet		

U.S. Registration No.	3162632	Application Date	12/08/2005
Registration Date	10/24/2006	Foreign Priority Date	NONE

Word Mark	XYREM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2002/09/23 First Use In Commerce: 2002/09/23 Pre-recorded videotapes and DVDs featuring medical information [ ; decorative magnets; and graduated rulers ]		

Attachments	75577530#TMSN.gif ( 1 page )( bytes ) 75701032#TMSN.gif ( 1 page )( bytes ) 76327130#TMSN.gif ( 1 page )( bytes ) 78400994#TMSN.jpeg ( 1 page )( bytes ) 78769631#TMSN.jpeg ( 1 page )( bytes ) 78769619#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition -- XYLEM Applications.pdf ( 9 pages )(396148 bytes ) Exhibit A - XYLEM Opposition.pdf ( 7 pages )(138208 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	/Stephen R. Baird cfd/
Name	Stephen R. Baird
Date	03/27/2013

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

In the matter of Application Ser. Nos.: 85/519,065 and 85/519,067  
Filed: January 18, 2012  
For the marks: XYLEM and XYLEM (Stylized)  
Published in the Trademark Official Gazette on November 27, 2012

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JPI Commercial, LLC,

Opposer,

v.

Opposition No. \_\_\_\_\_

Xylem IP Holdings LLC,

Applicant.

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**NOTICE OF OPPOSITION**

JPI Commercial, LLC (“Opposer”), believes that it will be damaged by registration of the marks shown in Application Serial Nos. 85/519,065 and 85/519,067 (the “Applications”) in International Classes 9, 10 and 17, and hereby opposes the same.

The grounds for opposition are as follows:

1. Xylem IP Holdings LLC (“Applicant”) seeks to register XYLEM and XYLEM (Stylized) as trademarks for “Electronic apparatus for testing the sterility of medical equipment; platinizing instruments in the nature of electrolysis apparatus for electroplating purposes for use in replating platinum on an electrode; industrial liquid analyzers; radiometers for detecting and measuring small amounts of electromagnetic radiant energy; dew point hygrometers; clinical laboratory analyzers for measuring, testing and analyzing blood for blood glucose and blood lactate, computer software for controlling environmental water quality monitoring systems; computer software for displaying, calibrating and uploading data collected by environmental

monitoring instruments and transferring it to computers; analytical instruments, namely carbon dioxide monitors for non-medical use in the bioprocessing and fermentation industries; sensor-based bioanalytical instruments for non-medical use in the nature of electronic biochemistry analyzers, monitors and probes for measuring carbohydrates, vitamins, amino acids and dissolved gases; bioanalytical systems for non-medical use comprised of optical, electrochemical, potentiometric and photometric sensors for measuring carbohydrates, vitamins, amino acids and dissolved gases” in International Class 9, “blood glucose oxidase meters; heat stress instruments in the nature of medical devices for measuring heat stress in human beings that utilize ultrasonic oscillations to measure body temperature and respiration,” in Class 10, and “non-metal o-ring gaskets for use as replacement parts in blood glucose oxidase meters,” in Class 17 (“Applicant’s Marks” or “Applicant’s XYLEM Marks”).

2. Applicant’s XYLEM Marks were published for opposition in the Trademark Official Gazette on November 27, 2012. On November 29, 2012, the Board granted Opposer’s request to extend the time to oppose the registration of Applicant’s Marks until January 26, 2013. On January 25, 2013, the Board granted Opposer’s further request to extend the time to oppose the registration of Applicant’s Marks until March 27, 2013.

3. Opposer is focused on improving the lives of medical patients through the development and commercialization of pharmaceutical products and services, including, among others, products and services for the treatment of neurological, psychiatric, and pain diseases, conditions and disorders. Through its predecessors in interest, Opposer adopted, has used, and continues to use the mark XYREM® in connection with pharmaceutical preparations and drug delivery devices, among other products and services. These goods are identical to or overlap with Applicant’s goods set forth in Paragraph 1.

4. In privity with its predecessors in interest, Opposer has adopted and has continuously used the XYREM® mark in connection with pharmaceutical preparations since at least as early as February, 1999.

5. In addition to owning extensive and strong common law rights in the well-known and famous XYREM® mark, Opposer is the owner of numerous federal trademark registrations for or containing the XYREM® mark in connection with goods and services falling within a variety of International Classes.

6. Opposer is the owner of United States Trademark Registration No. 2,249,959 for the mark XYREM® in connection with “Pharmaceutical preparation for the treatment of narcolepsy,” in International Class 5, claiming a first use date at least as early as February 24, 1999. The Registration was issued on the Principal Register on June 1, 1999 and is incontestable. The filing date and nationwide constructive first use date for this Registration is June 21, 1996.

7. Opposer is the owner of United States Trademark Registration No. 2,423,880 for the XYREM® (and Design) mark in connection with “Pharmaceutical preparation for the treatment of narcolepsy,” in International Class 5, claiming a first use date at least as early as February 23, 1999. The Registration was issued on the Principal Register on January 23, 2001 and is incontestable. The filing date and nationwide constructive first use date for this Registration is October 27, 1998.

8. Opposer is the owner of United States Trademark Registration No. 2,472,156 for the mark XYREM® (and Design) in connection with “Pharmaceutical preparation for the treatment of narcolepsy,” in International Class 5, claiming a first use date at least as early as February 23, 1999. The Registration was issued on the Principal Register on July 24, 2001 and

is incontestable. The filing date and nationwide constructive first use date for this Registration is October 27, 1998.

9. Opposer is the owner of United States Trademark Registration No. 2,860,730 for the mark XYREM® in connection with “Pharmaceutical preparations for the treatment of diseases of the central nervous system and a variety of conditions, symptoms, and diseases, namely, narcolepsy, fibromyalgia, and insomnia,” in International Class 5, claiming a first use date at least as early as February 24, 1999. The Registration was issued on the Principal Register on July 6, 2004 and is incontestable. The filing date and nationwide constructive first use date for this Registration is October 17, 2001.

10. Opposer is the owner of United States Trademark Registration No. 3,112,732 for the mark XYREM® in connection with “Drug delivery devices,” in International Class 10, claiming a first use date at least as early as June 21, 2004. The Registration was issued on the Principal Register on July 4, 2006 and is incontestable. The filing date and nationwide constructive first use date for this Registration is April 13, 2004.

11. Opposer is the owner of United States Trademark Registration No. 3,162,636 for the mark XYREM® in connection with “Medical information; providing medical information; and providing health care information by telephone and the internet,” in International Class 44, claiming a first use date at least as early as September 23, 2002. The Registration was issued on the Principal Register on October 24, 2006 and is incontestable. The filing date for this Registration is December 8, 2005.

12. Opposer is the owner of United States Trademark Registration No. 3,162,619 for the mark XYREM® in connection with “pre-recorded videotapes and DVDs featuring medical information,” in International Class 9, claiming a first use date at least as early as September 23,

2002. The Registration was issued on the Principal Register on October 24, 2006 and is incontestable. The filing date for this Registration is December 8, 2005.

13. Copies of Opposer's foregoing registrations are attached hereto as Exhibit A.

14. Opposer and its predecessors in interest have expended considerable time, effort and expense in promoting, advertising and popularizing the distinctive and famous XYREM® brand name and the goods and services offered under the XYREM® mark. Physicians, health care providers, patients, and the general public have come to know, rely upon and recognize the XYREM® mark as a strong indicator of the source of Opposer's goods and services.

15. Through its predecessors in interest, Opposer commenced use of its XYREM® mark in commerce over ten (10) years prior to the January 18, 2012 filing date of the Applications and has constructive use of the XYREM® mark dating to June 21, 1996. Opposer has continuously used in commerce, from the dates set forth in the corresponding registrations, its XYREM® mark.

16. The goods upon which Applicant seeks to apply its proposed XYLEM and XYLEM (Stylized) marks are identical and/or closely related to Opposer's goods and services offered under its XYREM® mark, and would travel and be promoted through the same or overlapping medical and pharmaceutical channels of trade as the goods and services offered under Opposer's XYREM® mark.

17. Applicant's proposed XYLEM and XYLEM (Stylized) marks so resembles Opposer's XYREM® mark as to be likely, when used on or in connection with the goods described in Paragraph 1, to cause confusion, mistake, or to deceive.

18. Applicant's proposed XYLEM and XYLEM (Stylized) marks are highly similar to Opposer's XYREM® mark. Both marks contain two syllables. Applicant's proposed

XYLEM marks begins with the syllable “XY-,” and ends with an “-EM” which sounds and is visually identical to the first syllable in Opposer’s XYREM® mark, “XY-” and nearly identical, excepting one letter, to the last syllable in Opposer’s XYREM® mark. The net effect of these similarities is to stimulate recall of and likely confusion with Opposer’s well-known XYREM® mark. These significant similarities cause Opposer’s XYREM® mark and Applicant’s XYLEM Mark to appear and sound confusingly similar, especially when encountered in the marketplace.

19. The likelihood of confusion that would result if Applicant’s Marks achieved registration would be particularly damaging to Opposer, and the public as a whole, because the consequence of any likelihood of confusion is potentially quite serious in the field of pharmaceuticals and medical compositions and medical devices. Given the possibly dire results of any resulting confusion between the XYREM® and the proposed XYLEM marks, an extra measure of care should be taken to prevent any possible confusion.

20. Relying on its rights in the XYREM® mark, Opposer has successfully objected to and has prevented registration of several other phonetically and visually similar proposed trademarks, including the following marks having a phonetically identical first syllable to the first syllable of Opposer’s well-known and famous XYREM® mark: (1) ZYRAB (Aventis-Pasteur), (2) XILEP (Novartis AG), (3) XYNAM (Pharmacia), (4) XYVEL (Bristol-Myers Squibb), (5) ZYDEX (Matsu North America), (6) ZIDEX (Matsu North America), (7) ZYMERYYS (Eli Lilly & Co.), (8) ZYMERIZ (Eli Lilly & Co.), (9) XYFID (VioQuest Pharmaceuticals, Inc.), (10) ZYTAN (Kiel Laboratories, Inc.), (11) XINAN (Zhejiang Xinan Chemical Industrial Group Co., Ltd.), (12) XYBREX (Orthocon, Inc.), and (13) XIREZ (Hawthorn Pharmaceuticals, Inc.).

21. Given the clear visual and phonetic similarities between the marks in question and the close similarity between the goods and services offered under the respective marks, those in the relevant public are likely to mistakenly believe that the goods Applicant offers in the United States under the proposed XYLEM marks are sponsored, endorsed or approved by Opposer, or are in some way affiliated, connected or associated with Opposer, all to the detriment of Opposer. Registration of the Applications should therefore be refused under 15 U.S.C. §1052(d) and 1063.

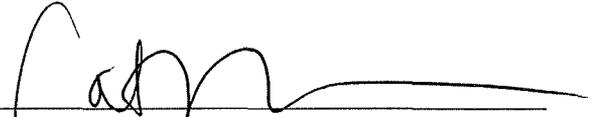
22. Opposer's XYREM® mark is famous and was so at least as early as the claimed filing date of Applicant's XYLEM Marks in the United States, namely, by January 18, 2012. In addition to being confusingly similar, Applicant's proposed XYLEM marks are likely to dilute the distinctive quality of Opposer's well-known and famous XYREM® mark. Registration of Applicant's XYLEM Marks should, therefore, be refused not only under 15 U.S.C. §1052(d), but also under 15 U.S.C. § 1125(c).

23. Registration of the proposed XYLEM marks would additionally be a source of damage to Opposer as it would confer upon the Applicant various statutory presumptions to which it is not entitled in view of Opposer's prior use and registration of the XYREM® mark.

**WHEREFORE**, Opposer respectfully requests that the Trademark Trial and Appeal Board sustain its opposition, refuse registration of Application Serial Nos. 85/519,065 and 85/519,067, and grant any other relief that may be just and equitable.

Dated: March 27, 2013

WINTHROP & WEINSTINE, P.A.



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Stephen R. Baird  
Cathleen F. Dahl

225 South Sixth Street, Suite 3500  
Minneapolis, MN 55402  
(612) 604-6400 (Telephone)  
(612) 604-6800 (Facsimile)  
Attorneys for Opposer  
JPI Commercial, LLC

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

In the matter of Application Ser. Nos.: 85/519,065 and 85/519,067  
Filed: January 18, 2012  
For the marks: XYLEM and XYLEM (Stylized)  
Published in the Trademark Official Gazette on November 27, 2012

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JPI Commercial, LLC,

Opposer,

vi.

Opposition No. \_\_\_\_\_

Xylem IP Holdings LLC,

Applicant.

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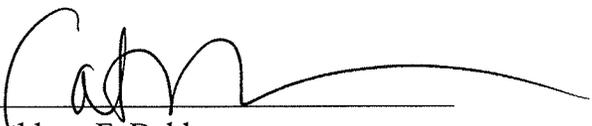
**CERTIFICATE OF SERVICE BY FIRST CLASS MAIL**

Cathleen F. Dahl declares that on the 27th day of March, 2013, she mailed by United States mail, first class postage thereon prepaid, a true and correct copy of:

1. Notice of Opposition

in the above-captioned action to the last known Attorney/Correspondent listed in the United States Patent and Trademark Office TARR database, to-wit:

Jason K. Schmitz  
Baker & McKenzie LLP  
300 East Randolph Street, Suite 5000  
Chicago, IL 60601

  
\_\_\_\_\_  
Cathleen F. Dahl

# Exhibit A

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

Reg. No. 2,249,959

**United States Patent and Trademark Office**

Registered June 1, 1999

## TRADEMARK PRINCIPAL REGISTER

**XYREM**

ORPHAN MEDICAL, INC. (MINNESOTA CORPORATION)  
13911 RIDGEDALE DRIVE  
MINNETONKA, MN 55305

FIRST USE 2-24-1999; IN COMMERCE  
2-24-1999.

SN 75-123,252, FILED 6-21-1996.

FOR: PHARMACEUTICAL PREPARATION  
FOR THE TREATMENT OF NARCOLEPSY, IN  
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

LEIGH CAROLINE CASE, EXAMINING ATTORNEY

# Exhibit A

**Int. Cl.: 5**

**Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52**

**Reg. No. 2,423,880**

**United States Patent and Trademark Office**

**Registered Jan. 23, 2001**

**TRADEMARK  
PRINCIPAL REGISTER**



ORPHAN MEDICAL, INC. (MINNESOTA CORPORATION)  
13911 RIDGEDALE DRIVE  
MINNETONKA, MN 55305

FOR: PHARMACEUTICAL PREPARATION FOR THE TREATMENT OF NARCOLEPSY, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 2-23-1999; IN COMMERCE 2-23-1999.

THE MARK IN THE DRAWING IS LINED FOR THE COLORS BLUE, YELLOW, AND GRAY. THE AREA TO THE LEFT OF AND SURROUNDING THE LETTER "X" CONSISTS OF GRADIENTS OF THE

COLOR YELLOW, REPRESENTED BY THE COARSER AND FINER CROSS-HATCH LINING. THE WORD MARK "XYREM" IS LINED FOR THE COLOR BLUE. THE AREAS BEHIND THE WORK MARK "XYREM" ARE LINED FOR THE COLOR GRAY TO INDICATE A "DROP SHADOW." THE LINE AT THE BOTTOM OF THE MARK IS YELLOW, BUT CANNOT BE LINED AS SUCH BECAUSE OF ITS SLIGHT DIMENSION.

SN 75-577,530, FILED 10-27-1998.

JEFF DEFORD, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 2,472,156

United States Patent and Trademark Office

Registered July 24, 2001

Corrected

OG Date Mar. 19, 2002

TRADEMARK  
PRINCIPAL REGISTER

The logo for OXYREM features the word "OXYREM" in a bold, stylized, sans-serif font. The letter "O" is enclosed within a square border. The entire logo is set against a dark, rectangular background.

ORPHAN MEDICAL, INC. (MINNESOTA  
CORPORATION)  
13911 RIDGEDALE DRIVE  
MINNETONKA, MN 55305

FOR: PHARMACEUTICAL PREPARA-  
TION FOR THE TREATMENT OF NAR-  
COLEPSY, IN CLASS 5 (U.S. CLS. 6, 18,  
44, 46, 51 AND 52).  
FIRST USE 2-23-1999; IN COMMERCE  
2-23-1999.  
SER. NO. 75-701,032, FILED 10-27-1998.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Mar. 19, 2002.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 2,860,730

United States Patent and Trademark Office

Registered July 6, 2004

Corrected

OG Date May 2, 2006

**TRADEMARK  
PRINCIPAL REGISTER**

**XYREM**

ORPHAN MEDICAL, INC. (DELAWARE  
CORPORATION)  
13911 RIDGEDALE DRIVE, STE. 250  
MINNETONKA, MN 55305  
OWNER OF U.S. REG. NOS. 2,249,959,  
2,423,880 AND 2,472,156.

SYSTEM AND A VARIETY OF CONDI-  
TIONS, SYMPTOMS, AND DISEASES,  
NAMELY, NARCOLEPSY, FIBROMYAL-  
GIA, INSOMNIA AND MYOSITIS, IN  
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51  
AND 52).

FOR: PHARMACEUTICAL PREPARA-  
TIONS FOR THE TREATMENT OF DIS-  
EASES OF THE CENTRAL NERVOUS

FIRST USE 2-24-1999; IN COMMERCE  
2-24-1999.

SER. NO. 76-327,130, FILED 10-17-2001.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on May 2, 2006.*

**DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE**

Int. Cl.: 10

Prior U.S. Cls.: 26, 39, and 44

Reg. No. 3,112,732

United States Patent and Trademark Office

Registered July 4, 2006

TRADEMARK  
PRINCIPAL REGISTER

XYREM

ORPHAN MEDICAL, INC. (DELAWARE COR-  
PORATION)

SUITE 250

13911 RIDGEDALE DRIVE

MINNETONKA, MN 55305

FOR: DRUG DELIVERY DEVICES, IN CLASS 10  
(U.S. CLS. 26, 39 AND 44).

FIRST USE 4-1-2003; IN COMMERCE 6-21-2004.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,249,959, 2,423,880,  
AND 2,472,156.

SN 78-400,994, FILED 4-13-2004.

EVELYN BRADLEY, EXAMINING ATTORNEY

Int. Cl.: 44

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,162,636

Registered Oct. 24, 2006

SERVICE MARK  
PRINCIPAL REGISTER

XYREM

ORPHAN MEDICAL, INC. (DELAWARE CORPORATION)  
3180 PORTER DRIVE  
PALO ALTO, CA 94304

FOR: MEDICAL INFORMATION; PROVIDING MEDICAL INFORMATION; AND PROVIDING HEALTH CARE INFORMATION BY TELEPHONE AND THE INTERNET, IN CLASS 44 (U.S. CLS. 100 AND 101).

FIRST USE 9-23-2002; IN COMMERCE 9-23-2002.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,249,959, 2,867,332 AND OTHERS.

SER. NO. 78-769,631, FILED 12-8-2005.

KYLE PEETE, EXAMINING ATTORNEY

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 3,162,632

United States Patent and Trademark Office

Registered Oct. 24, 2006

TRADEMARK  
PRINCIPAL REGISTER

XYREM

ORPHAN MEDICAL, INC. (DELAWARE CORPORATION)  
3180 PORTER DRIVE  
PALO ALTO, CA 94304

FOR: PRE-RECORDED VIDEOTAPES AND DVDS  
FEATURING MEDICAL INFORMATION; DECORATIVE  
MAGNETS; AND GRADUATED RULERS. IN CLASS 9  
(U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 9-23-2002; IN COMMERCE 9-23-2002.

THE MARK CONSISTS OF STANDARD CHARACTERS  
WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE,  
SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,249,959, 2,867,332  
AND OTHERS.

SER. NO. 78-769,619, FILED 12-8-2005.

KYLE PEETE, EXAMINING ATTORNEY