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

Proceeding	91221750
Party	Defendant Murphy, Kent A.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Incyte Corporation and)	
Incyte Holdings Corp.)	
Opposers,)	
)	Opposition No. 91221750
v.)	
)	Application No. 86141367
Kent A. Murphy)	
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

Applicant responds to the Notice of Opposition as follows. The following paragraph numbers refer to the paragraph numbers in the Notice of Opposition.

1. Applicant does not have sufficient information to either admit or deny this allegation and, therefore, denies same and leaves Opposer to its proof.
2. Applicant does not have sufficient information to either admit or deny this allegation and, therefore, denies same and leaves Opposer to its proof.
3. Applicant does not have sufficient information to either admit or deny this allegation and, therefore, denies same and leaves Opposer to its proof.
4. Applicant admits that Exhibit 1 attached to the Notice of Opposition appears to include TSDR and Assignment records, but Applicant does not have sufficient information to either admit or deny the other allegations and, therefore, denies same and leaves Opposer to its proof.
5. Applicant admits that Exhibit 2 attached to the Notice of Opposition appears to include TSDR and Assignment records, but Applicant does not have sufficient

information to either admit or deny the other allegations and, therefore, denies same and leaves Opposer to its proof.

6. Admitted.

7. Admitted.

8. Applicant does not have sufficient information to either admit or deny this allegation and, therefore, denies same and leaves Opposer to its proof.

9. Applicant does not have sufficient information to either admit or deny this allegation and, therefore, denies same and leaves Opposer to its proof.

10. Admitted that Applicant filed its application with an intent-to-use basis under Section 1(b) of the Trademark Act, denied that Applicant has not made any use of its mark in commerce, and Applicant does not have sufficient information to either admit or deny the other allegations and, therefore, denies same and leaves Opposer to its proof.

11. Denied.

12. Denied.

13. Applicant does not have sufficient information to either admit or deny this allegation and, therefore, denies same and leaves Opposer to its proof.

14. Denied.

15. Denied.

16. Denied.

AFFIRMATIVE DEFENSES

17. Opposer's Notice of Opposition is defective and fails to state a claim against Applicant upon which relief can be granted.
18. Upon information and belief, Opposer's alleged trademarks are limited in scope in view of the Opposer's filings and assertions during prosecution of its applications, and in view of the plethora of third party trademark applications, registrations, and activities (for example, over 800 US applications and registrations for INSIGHT, INSITE, INSYTE, INCYTE, NSIGHT, NSITE, NCYTE, and ENSITE trademarks in the five identified classes in the Notice of Opposition).
19. Upon information and belief, Opposer's alleged trademark rights are limited in scope because Opposer has not used or is not using its alleged trademarks in the US with all of the goods/services identified in the registrations cited in the Notice of Opposition.
20. Opposer's alleged trademarks have a different commercial impression than applicant's trademark. As a result, there is no likelihood of confusion.
21. Upon information and belief, there is no likelihood of confusion with respect to Applicant's trademark for the goods identified in Applicant's U.S. Trademark Application in view of, *inter alia*, the limited scope of Opposer's alleged trademarks, the plethora of third party trademarks (for example, over 800 US applications and registrations for INSIGHT, INSITE, INSYTE, INCYTE, NSIGHT, NSITE, NCYTE, and ENSITE trademarks in the five identified classes in the Notice of Opposition), the differences in the parties' trademarks, the different goods/services of the parties, the different manner of use of the parties'

trademarks, the different targeted customers of the parties, and the sophistication of the different targeted customers of the parties.

22. Applicant's targeted customers are sophisticated people who would not be easily confused, and, upon information and belief, Opposer's targeted customers are sophisticated people who would not be easily confused.
23. Applicant's goods identified in the subject application are not impulsively purchased by customers, but, instead, are purchased by knowledgeable people after a reasoned study. As a result, a likelihood of confusion with Opposer's alleged trademarks is precluded.
24. Upon information and belief, Opposer has failed to police its alleged rights (e.g., there are over 800 US applications and registrations for INSIGHT, INSITE, INSYTE, INCYTE, NSIGHT, NSITE, NCYTE, and ENSITE trademarks in the five identified classes in the Notice of Opposition) and, therefore, Opposer's alleged rights are limited in scope and are not harmed or likely to be harmed by the registration of Applicant's trademark.

WHEREFORE, Applicant prays that the Opposition be dismissed and that registration be granted.

Date: July 8, 2015

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Duane M. Byers/

Duane M. Byers

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing is being served by email (by agreement) on Opposer's counsel on this date, at the address of record.

/Duane M. Byers/