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

Proceeding	91221750
Party	Defendant Kent A. Murphy
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Date	08/12/2015
Attachments	6119-18 response to notice of 8-12-15.pdf(78706 bytes)

**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.)	

RESPONSE TO AUGUST 12, 2015 NOTICE

In view of the August 12, 2015 notice issued by the interlocutory attorney, the undersigned attorney for the applicant believes that it may be helpful to make the following statements and beliefs of record.

The August 12, 2015 notice issued by the interlocutory attorney is helpful, but it makes the following statement that causes some concern: “the Board saw fit to strike ¶ 17 from the answer as Applicant conceded that the priority and likelihood of confusion claim was well-pleaded.”

Respectfully stated, the undersigned does not recall conceding or stating that “the priority and likelihood of confusion claim was well-pleaded.” The undersigned believes that he stated during the conference that the phrase “Upon information and belief” should have been used at the beginning of ¶ 17 in the Answer. The opposition was recently filed by two Opposers who may or may not have rights or claims to assert and for which investigations and discovery are in the early stages. Although the interlocutory attorney *sua sponte* saw fit to strike ¶ 17 from the Answer, it is believed

that the interlocutory attorney's *sua sponte* strike is without prejudice, for example, if facts support the subject matter of ¶ 17. If the undersigned's belief is incorrect, then, for due process, it may be best to continue the discovery conference with the interlocutory attorney and the Opposers' attorney.

Date: August 12, 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 Opposers' counsel on this date, at the address of record, trademarks@lanepowell.com and mehrbanip@lanepowell.com.

/Duane M. Byers/