

ESTTA Tracking number: **ESTTA716015**

Filing date: **12/21/2015**

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	Teva Pharmaceutical Industries Ltd.
Granted to Date of previous extension	01/03/2016
Address	Science Based Industries Campus Har Hotzvim, P.O. Box 1142 Jerusalem, 91010 ISRAEL

Attorney information	Brooks R. Bruneau FisherBroyles, LLP 100 Overlook Center Second Floor Princeton, NJ 08540 UNITED STATES docketing@fisherbroyles.com, brooks.bruneau@fisherbroyles.com, denise.mcculloch@fisherbroyles.com Phone:609 454-6772
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**Applicant Information**

Application No	86598318	Publication date	07/07/2015
Opposition Filing Date	12/21/2015	Opposition Period Ends	01/03/2016
Applicant	Bayer Intellectual Property GmbH Alfred-Nobel-Str. 10 Monheim am Rhein, 40789 GERMANY		

**Goods/Services Affected by Opposition**

Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: pharmaceutical preparations, namely, hormonal preparations
Class 010. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: medical devices, namely, intrauterine device for contraception

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	no bona fide intention to use under Trademark Act Section 1(b)

**Mark Cited by Opposer as Basis for Opposition**

U.S. Registration	4718723	Application Date	07/26/2011
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No.			
Registration Date	04/14/2015	Foreign Priority Date	NONE
Word Mark	CINQAIR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 0 First Use In Commerce: 0 Pharmaceutical preparations for the treatment of inflammatory disorders		

Attachments	85380623#TMSN.png( bytes ) TEVA V BAYER CINQLA Notice of Opp.pdf(23954 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	/brooks r. bruneau/
Name	Brooks R. Bruneau
Date	12/21/2015

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

_____	:	<b>Opposition No.:</b> _____
TEVA PHARMACEUTICAL INDUSTRIES, LTD.	:	<b>Application No.: 86598318</b>
Opposer,	:	<b>Mark: CINQLA</b>
v.	:	<b>Published: July 7, 2015</b>
	:	<b>Classes: 5 and 10</b>
BAYER INTELLECTUAL PROPERTY PROPERTY GMBH,	:	
Applicant.	:	
_____	:	

**NOTICE OF OPPOSITION**

Teva Pharmaceutical Industries, Ltd., a limited company of Israel, with a business address of Science Based Industries Campus, Har Hotzvim, P.O. Box 1142, Jerusalem 91010, Israel (hereinafter “Teva”), believes that it will be damaged by the registration of the mark CINQLA for “pharmaceutical preparations, namely, hormonal preparations” in Class 5, and “medical devices, namely, intrauterine device for contraception” in Class 10, as set forth in Application Serial No. 86598318, and hereby opposes said application.

As grounds for this Opposition, it is alleged as follows:

1. Teva is the owner of the United States Trademark Registration No. 4718723 for the mark CINQAIR registered in connection with “pharmaceutical preparations for the treatment of inflammatory disorders” in Class 5.

2. The application to register the CINQAIR trademark was filed on July 26, 2011, and the application matured into registration on April 14, 2015.

3. Teva's CINQAIR trademark registration has a constructive use date nearly four years prior to the filing of the CINQLA application Serial No. 86598318.

4. Accordingly, there is no doubt as to seniority in this case.

5. Upon information and belief, Bayer Intellectual Property GmbH (hereinafter "Applicant") has made no use of the CINQLA trademark in connection with the goods listed in application Serial No. 86598318.

6. In violation of Trademark Act Section 1(b), Applicant did not have a bona fide intention to use its CINQLA mark, in U.S. commerce, in connection with all the listed goods in the application at time of filing the application.

7. Pharmaceutical preparations in the United States are marketed to both medical professionals and to the general public.

8. Applicant's use of the CINQLA trademark in connection with its listed pharmaceutical preparations and medical devices at the same time Teva offers pharmaceutical preparations in connection with its CINQAIR trademark, is likely to cause confusion or to cause mistake and deception in the industry, among purchasers and potential purchasers of Teva's pharmaceutical preparations, resulting in issues of public safety, as well as damage to Teva.

9. Because of the similarity between goods to be offered by Applicant under its CINQLA trademark as compared to the pharmaceutical preparations of goods listed in Teva's CINQAIR U.S. Trademark Registration, use of CINQLA by the Applicant is likely to cause a belief by consumers that Applicant's goods are those of Teva, or are otherwise endorsed, sponsored or approved by Teva, causing damage to Teva. Moreover, any faults, disappointments, complaints or other dissatisfaction any consumer might experience when using the CINQLA branded products of Applicant will inure to the detriment of Teva.

10. Applicant's potential registration of CINQLA in connection with pharmaceutical preparations in Class 5 and medical devices in Class 10 will cause confusion and mistake, or will

deceive general consumers and consumers in the medical industry as to the source of Applicant's goods and the source of products bearing the CINQAIR trademark of Teva. Consequently, registration by Applicant will handicap and damage the legitimate present and future activities of Teva, by placing Applicant in a position to raise doubts as to the right of Teva to use its CINQAIR trademark. Additionally, if the application herein opposed is granted registration, the Applicant would have presumptive rights to use that trademark in connection with the pharmaceutical preparations and medical devices listed in the application and such use of the CINQAIR mark by Applicant will blur the identification of Teva as the source of products offered under its CINQAIR trademark, and tarnish the association which CINQAIR conveys as a trademark. As a result, Teva will eventually be deprived of all distinctiveness in its CINQAIR trademark.

**WHEREFORE**, Teva requests that registration of Application Serial No. 86598318 be denied, and its opposition sustained.

Respectfully submitted:

**TEVA PHARMACEUTICAL INDUSTRIES, LTD.**

Dated: December 21, 2015

By: /Brooks R. Bruneau/  
Brooks R. Bruneau  
Attorney for Opposer  
FISHERBROYLES, LLP  
100 Overlook Center  
Second Floor  
Princeton, NJ 08540  
Tel: 609-454-6772

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify this Notice of Opposition was electronically filed with the Trademark Trial and Appeal Board this 21st day of December, 2015.

/Brooks R. Bruneau/  
(Signature)  
December 21, 2015  
(Date of Signature)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Notice of Opposition was served upon Applicant's counsel of record, via First Class Mail, Postage Prepaid, on this 21st day of December, 2015 addressed to:

WILLIAM F. LAWRENCE, ESQ.  
Frommer Lawrence & Haug LLP  
745 5th Ave  
New York, NEW YORK 10151-0099

Dated: December 21, 2015

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