

ESTTA Tracking number: **ESTTA735048**

Filing date: **03/22/2016**

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

Proceeding	91226265
Party	Defendant Nerium Biotechnology, Inc.
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Date	03/22/2016
Attachments	NBI Answer Opp 91226265.pdf(43223 bytes)

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

In Re:	§	
Application No.: 86/731363	§	
Filed:	§	
Mark: ORX & Design	§	
IC: 05	§	
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ORYX VERWALTUNGS GMBH,	§	Opposition No.:
a German limited liability company	§	91226265
Opposer	§	
	§	
v.	§	
	§	
NERIUM BIOTECHNOLOGY, INC.,	§	
a Canada corporation	§	
Applicant	§	
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**APPLICANT NERIUM BIOTECHNOLOGY, INC.’S ANSWER TO NOTICE OF
OPPOSITION OF ORYX VERWALTUNGS GMBH**

Applicant Nerium Biotechnology, Inc. (“NBI”) hereby files this Answer in response to the Notice of Opposition (“Opposition”) filed February 11, 2016 by Oryx Verwaltungs GmbH (“Opposer”) regarding Application Serial No. 86/731363, and responds as follows:

**I.
Answer**

The first unnumbered paragraph of the Opposition contains no allegations requiring a response from NBI. However, to the extent that a response is deemed necessary, the first unnumbered paragraph is denied.

1. For subparagraphs (i)-(vi), NBI admits that the records of the USPTO appear to show Oryx Verwaltungs GmbH is the owner of U.S. Reg. Nos. 4879024, 4883539, 3715363, 3950103, 4883515, and 4879040. As to the remainder of the allegations in Paragraph 1, NBI

lacks knowledge and information sufficient to form a belief about the truth of these allegations, and therefore denies the same.

2. NBI lacks knowledge and information sufficient to form a belief about the truth of these allegations in this paragraph of the Opposition, and therefore denies the same.

3. NBI admits that, on August 20, 2015, it filed Application Serial No. 86/731,363 under Section 1(b) of the Trademark Act, claiming an intent to use in commerce the applied-for



mark: (hereinafter “the Mark”) in connection with “Pharmaceutical preparations used in the treatment of immune system diseases, cancer, HIV/AIDS, Hepatitis C, herpes and other viral diseases; medicated skin care preparations, namely, creams, lotions, ointments, gels, toners, cleansers, and peels; medicated topical skin care preparations, namely, creams, lotions, ointments, gels, toners, cleansers, and peels” in International Class 005.

4. NBI admits that, on August 20, 2015, it filed Application Serial No. 86/731,363 under Section 1(b) of the Trademark Act, claiming an intent to use in commerce the applied-for mark. To the extent that “use of the mark” in the allegation in this paragraph means “use in commerce” as defined under 15 U.S.C. § 1127 in connection with the goods identified in the Application on or before July 19, 2007, NBI admits to the allegations in this paragraph. Otherwise NBI denies the allegations in this paragraph as NBI lacks knowledge and information sufficient to form a belief about the truth of these allegations due to their ambiguity and vagueness.

5. NBI admits that, on August 20, 2015, it filed Application Serial No. 86/731,363 under Section 1(b) of the Trademark Act, claiming an intent to use in commerce the applied-for

mark. To the extent that “use of the mark” in the allegation in this paragraph means “use in commerce” as defined under 15 U.S.C. § 1127 in connection with the goods identified in the Application on or before April 30, 2014, NBI admits to the allegations in this paragraph. Otherwise NBI denies the allegations in this paragraph as NBI lacks knowledge and information sufficient to form a belief about the truth of these allegations due to their ambiguity and vagueness.

6. NBI admits that, on August 20, 2015, it filed Application Serial No. 86/731,363 under Section 1(b) of the Trademark Act, claiming an intent to use in commerce the applied-for mark. NBI lacks knowledge and information sufficient to form a belief about the truth of these allegations due to their ambiguity and vagueness and therefore denies the allegations in this paragraph of the Opposition as NBI made use of the mark on August 20 in filing the Application.

7. NBI admits that the records of the USPTO appear to show Opposer is the owner of U.S. Reg. Nos. 4879024, 4883539, 3715363, 3950103, 4883515, and 4879040 which are referred to as Opposer’s Marks in this paragraph. NBI denies the remaining allegations in this paragraph of the Opposition.

8. NBI denies the allegations in this paragraph of the Opposition.

9. NBI denies that Opposer will be irreparably harmed or financially damaged by Application Serial No. 86/731363.

The last unnumbered paragraph of the Opposition prays for relief, and therefore requires no response by NBI.

PRAYER

Applicant Nerium Biotechnology, Inc. respectfully requests that the relief sought by Opposer Oryx Verwaltungs GmbH be denied and the Notice of Opposition be dismissed with prejudice.

Dated: March 22, 2016.

Respectfully submitted,

HAYNES AND BOONE, LLP

/s/ William B. Nash /s/

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**ATTORNEYS FOR APPLICANT
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing *Applicant Nerium Biotechnology, Inc.'s Answer To Notice Of Opposition Of Oryx Verwaltungs GmbH* and all exhibits and other attachments thereto has been served on Opposer Oryx Verwaltungs GmbH by mailing said copy on March 22, 2016 by U.S. First Class Mail to the following counsel of record for Opposer:

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/s/ William B. Nash /s/

William B. Nash