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

Proceeding	91228334
Party	Defendant Axcentria Pharmaceuticals, LLC
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Date	07/13/2016
Attachments	Response to Notice of Opposition.pdf(178559 bytes)

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

Decommodification, LLC

Opposer,

v.

Axcentria Pharmaceuticals, LLC,

Applicant.

OPPOSITION NO. 91228334

SERIAL NO. 86845215

MARK: BURNING MAN

RESPONSE TO NOTICE OF OPPOSITION

Axcentria Pharmaceuticals, LLC (“Applicant”), hereby responds to the Notice of Opposition (“Opposition”), filed by Decommodification, LLC (“Opposer”), and which opposes Applicant’s application, Serial No. 86845215 for the mark BURNING MAN as follows:

1. Answering Paragraph 1 of the Opposition, Applicant admits Opposer is listed on the USPTO website as the current owner of US Reg. Nos. 2813051 and 4231201. With regard to the remaining allegations contained in Paragraph 1, Applicant is without knowledge or information sufficient to admit or deny the allegations in the Paragraph and therefore denies the same.

2. Answering Paragraph 2 of the Opposition, Applicant contends that this Paragraph states a conclusion of law and no response is required. To the extent a response is required, Applicant is without knowledge or information sufficient to admit or deny the allegations in the Paragraph and therefore denies the same.

3. Answering Paragraph 3 of the Opposition, Applicant is without knowledge or information sufficient to admit or deny the allegations in the Paragraph and therefore denies the same.

4. Answering Paragraph 4 of the Opposition, Applicant is without knowledge or information sufficient to admit or deny the allegations in the Paragraph and therefore denies the same.

5. Answering Paragraph 5 of the Opposition, Applicant denies the allegations contained therein.

6. Answering Paragraph 6 of the Opposition, Applicant admits the allegations contained therein.

7. Answering Paragraph 7 of the Opposition, Applicant denies the allegations contained therein.

8. Answering Paragraph 8 of the Opposition, Applicant denies the allegations contained therein.

9. Answering Paragraph 9 of the Opposition, Applicant denies the allegations contained therein.

10. Answering Paragraph 10 of the Opposition, Applicant contends that this Paragraph states a conclusion of law and no response is required. To the extent a response is required, Applicant is without knowledge or information sufficient to admit or deny the allegations in the Paragraph and therefore denies the same.

COUNT I

LIKELIHOOD OF CONFUSION

11. Answering Paragraph 11 of the Opposition, Applicant repeats, realleges and incorporates herein each and every allegation of the preceding paragraphs as if fully set forth herein.

12. Answering Paragraph 12 of the Opposition, Applicant is without knowledge or information sufficient to admit or deny the allegations in the Paragraph and therefore denies the same.

13. Answering Paragraph 13 of the Opposition, Applicant denies the allegations contained therein.

14. Answering Paragraph 14 of the Opposition, Applicant denies the allegations contained therein.

15. Answering Paragraph 15 of the Opposition, Applicant denies the allegations contained therein.

16. Answering Paragraph 16 of the Opposition, Applicant denies the allegations contained therein.

17. Answering Paragraph 17 of the Opposition, Applicant denies the allegations contained therein.

18. Answering Paragraph 18 of the Opposition, Applicant denies the allegations contained therein.

19. Answering Paragraph 19 of the Opposition, Applicant denies the allegations contained therein.

COUNT II

DILUTION

20. Answering Paragraph 20 of the Opposition, Applicant repeats, realleges and incorporates herein each and every allegation of the preceding paragraphs as if fully set forth herein.

21. Answering Paragraph 21 of the Opposition, Applicant denies the allegations contained therein.

22. Answering Paragraph 22 of the Opposition, Applicant denies the allegations contained therein.

23. Answering Paragraph 23 of the Opposition, Applicant denies the allegations contained therein.

24. Answering Paragraph 24 of the Opposition, Applicant denies the allegations contained therein.

CLAIM FOR RELIEF/DAMAGE

25. Answering Paragraph 25 of the Opposition, Applicant denies the allegations contained therein.

AFFIRMATIVE DEFENSES

1. Applicant repeats, realleges and incorporates herein each and every allegation of the preceding paragraphs as if fully set forth herein.
2. The scope of Opposer's trademark rights, if any, is not broad enough to preclude Applicant's use of the trademark at issue.
3. Opposer's Opposition is barred by the doctrine of estoppel.
4. Opposer's Opposition is barred by the doctrine of waiver.
5. Opposer's Opposition is barred because it has failed to state a claim against Applicant upon which relief can be granted.
6. Opposer's Opposition is barred because it has not pleaded any law or facts that justify the Opposition of Applicant's mark.
7. Opposer's trademarks are not famous.
8. Opposer's Opposition is barred by the doctrine of unclean hands.

WHEREFORE, Applicant respectfully requests:

- (a) That the Opposition be denied in its entirety;
- (b) That judgment be entered in favor of Applicant; and
- (c) That Applicant be granted such other and further relief as the Board deems just and proper.

DATED: July 13, 2016.

Respectfully Submitted,

GREENBERG TRAURIG LLP

/s/ Shauna L. Norton

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CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies that a true copy of the foregoing **RESPONSE TO NOTICE OF OPPOSITION** is being filed electronically with the United States Patent and Trademark Office Trademark Trial and Appeals Board and being served by first class mail, postage prepaid, on July 13, 2016, on the following:

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Counsel for Opposer

/s/ Cynthia L. Ney
An employee of Greenberg Traurig, LLP