

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

In the Matter of Trademark Registration No. 3,093,389
Registered on: May 16, 2006

TTAB
19008374

BRYAN CORPORATION,

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Petitioner,

v.

Cancellation No. 92046037

NOVATECH SA,

Registrant.

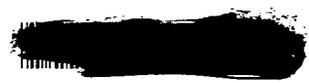
**REGISTRANT'S MOTION TO COMPEL RESPONSES TO REGISTRANT'S
FIRST AND SECOND SET OF REQUESTS FOR PRODUCTION**

Pursuant to 37 C.F.R. § 2.120(e), NOVATECH SA ("Registrant") respectfully requests that the Trademark Trial and Appeal Board issue and order to compel BRYAN CORPORATION ("Petitioner") to supplement production of documents that are responsive to Registrant's First and Second Requests for Production.

In support of this Motion, Registrant states as follows:

1. Registrant has diligently sought discovery of information and documents from Petitioner. However, in view of the imminent start of the Petitioner's testimony period on April 1, 2007, this instant Motion has become necessary.

2. On August 23, 2006, Registrant served its First Set of Requests for Production of Documents and Things. Petitioner timely responded and objected to the requests on October 11, 2006 pursuant to the September 25, 2006 stipulation allowing Registrant a two-week extension of time to complete responses. *See* [Ex. A, Petitioner's Response to Registrant's First Requests for



03-05-2007

Production]. Petitioner produced fifteen documents Bates numbered B0001 to B0015 with the response.

3. On December 5, 2006, at the request of Petitioner's attorneys and at the expense of Registrant, Registrant attached 109 pages of documents responsive to Petitioner's Second Set of Requests for Production and supplemental to Registrant's Response to Petitioner's First Set of Requests for Production. *See* [Ex. B, December 5, 2006 letter to Petitioner]. Such production was made to prevent the need for anyone to have to travel to Houston for inspection of documents. In return, Registrant requested that Petitioner make supplemental responses to its First Set of Requests for Production. *See id.*

4. On December 13, 2006, Registrant sent a reminder letter to Petitioner regarding the request for supplemental responses to Petitioner's First Set of Requests for Production. *See* [Ex. C, December 13, 2006 letter to Petitioner].

5. On December 13, 2006, Registrant also served its Second Set of Requests for Production of Documents and Things. Petitioner responded and objected to the requests on January 17, 2007. *See* [Ex. D, Petitioner's Response to Registrant's Second Requests for Production]. Petitioner produced two documents Bates numbered B0016 to B0017 with the response.

6. On January 23, 2006, and still not having received any supplemental documents, Registrant sent its final letter to Petitioner requesting the supplemental documents and further requesting a response to Registrant's Second Set of Requests for Production. *See* [Ex. E, January 23, 2007 letter to Petitioner.] Registrant responded to our letter via email on January 24, 2007. *See* [Ex. F, January 24, 2007 email from Petitioner]. At this time that Registrant learned that "Petitioner has responded fully to all requests for production." *Id.* The two documents produced in response

to Registrant's Second Set of Production were, according to Petitioner, the last to be produced. *See id.*

ARGUMENT

7. Petitioner argues throughout its Petition for Cancellation that it is the sole holder of common law trademark rights to the term STERILE TALC POWDER based on the Federal Drug Administration ("FDA") approval of a drug with such a name. Petitioner also bases its standing on such common law rights and makes the claim that Registrant's STERITALC mark should be cancelled because of such common law rights. However, as will be outlined below, Petitioner has failed to produce, among other things, all documents and things dealing with the FDA approval of its two New Drug Applications ("NDA") for sterile talc powder products.

8. Petitioner has not produced all documents responsive to Requests Nos. 3, 25, 30, 33, 35, and 37, to name a few, in Registrant's First Set of Requests for Productions. Petitioner's supplemental response should include all correspondence and memoranda between Petitioner and the FDA regarding its STERILE TALC POWDER New Drug Application (NDA 21-388). *See* [Ex. A Request No. 1]. The response should also include information regarding the use of the term STERILE TALC POWDER within its SCLEROSOL New Drug Application (NDA 20-587), including documents, correspondence and memoranda between Petitioner and the FDA regarding such use. *See* [Ex. A Request No. 35].

9. Furthermore, Petitioner has not produced supplemental documents evidencing the business relationship and the joint venture pursued by Petitioner and Registrant before Petitioner filed its first NDA with the FDA on August 15, 1995 as Registrant requested in the First Set of Requests for Production. *See* [Ex. A Request No. 37].

10. After receiving the responses to Registrant's first set of discovery, Registrant made narrower requests to Petitioner in its Second Set of Requests for Production. *See* [Ex. D]. However, despite reliance on the requested information in its Petition for Cancellation, Petitioner failed to respond at all to Request Nos. 1-4. *Id.* Registrant believes all documents regarding an FDA New Drug Application containing the term STERILE TALC POWDER within such application clearly involves a matter that is not privileged, relevant to the subject matter of the case, and "reasonably calculated to lead to the discovery of admissible evidence." *See* Fed. R. Civ. P. 26(b).

11. In addition, Registrant believes that the labels requested in Request No. 4 of Registrant's Second Requests for Production are clearly discoverable since such labels included use of the term STERILE TALC POWDER, the alleged common law trademark. *See* [Ex. D].

12. Finally, Registrant believes that documents showing the generic name of Petitioner's SCLEROSOL product, as requested in Request No. 6, are clearly discoverable since contrary to Petitioner's objection, and in accordance with common sense, all drugs allowed by the FDA have a generic drug name. *See* [Ex. D].

13. A stipulated protective order was entered and approved on December 13, 2006, so any objection based on confidential or proprietary documents is now moot.

WHEREFORE, Registrant respectfully requests that its Motion to Compel Discovery Responses be granted and that Applicant is ordered to fully respond to Registrant's First and Second Sets of Requests for Production immediately. Registrant also requests that the proceedings are suspended pending the determination of this motion and that a telephone conference between the parties and the interlocutory attorney in this proceeding be held when time permits in order to facilitate the resolution of this matter.

Respectfully submitted,

Date

3.2.07

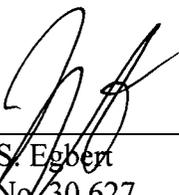


John S. Egbert
Reg. No. 30,627
Egbert Law Offices
412 Main St., 7th Floor
Houston, Texas 77002
(713)224-8080
(713)223-4873 fax
Attorney for Registrant

CERTIFICATE OF SERVICE

I hereby certify that Registrant's Motion to Compel Responses to Registrant's First and Second Requests for Production is being sent by first class mail on this 2nd day of March 2007 to the attorney of record for Petitioner at the following address:

Daniel G. Jarcho
Andrew J. Park
McKenna Long & Aldridge LLP
1900 K Street, N.W.
Washington, D.C. 20006
(202) 496-7500
(202) 496-7756 fax
ATTORNEYS FOR PETITIONER



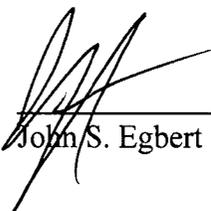
John S. Egbert
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Egbert Law Offices
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Houston, Texas 77002
(713)224-8080
(713)223-4873 (Fax)

ATTORNEY FOR REGISTRANT

CERTIFICATE OF MAILING

I hereby certify that on this 2nd day of March 2007, this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to:

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451



John S. Egbert

Our File: 1811-71

Exhibit A

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

In the Matter of Registration No.
3,093,389 Registered May 16, 2006

BRYAN CORPORATION,)	
)	
Petitioner,)	
)	Cancellation No. 92046037
v.)	
)	
NOVATECH SA,)	
)	
Registrant.)	
_____)	

**PETITIONER'S RESPONSE TO REGISTRANT'S FIRST REQUEST FOR THE
PRODUCTION OF DOCUMENTS AND THINGS TO PETITIONER**

Petitioner, Bryan Corporation (hereinafter "Petitioner"), hereby submits the following response to Registrant's First Request for the Production of Documents and Things to Petitioner ("RPD").

General Objections

Various specific objections to particular RPDs are set forth in each numbered response. In addition, Petitioner hereby asserts the following general objections to Registrant's "Definitions" and "Instructions" to the RPD.

Registrant's RPDs contain improper and overly burdensome sets of questions which violate applicable discovery rules. First, Registrant's RPDs contain a "Definitions" section that applies and incorporates the "Definitions" contained in Registrant's First Set of Interrogatories to

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Petitioner. For all of the reasons set forth in Petitioner's Response to Registrant's First Set of Interrogatories, Petitioner again objects to said "Definitions."

Further, Registrant's RPDs contain "Instructions" which, among other things, improperly requests disclosures beyond the scope of those required by the Federal Rules of Civil Procedure.

RESPONSES TO REQUEST FOR PRODUCTION

REQUEST NO. 1:

All documents and things identified in Registrant's First Set of Interrogatories to Petitioner (Nos. 1-36).

RESPONSE:

Petitioner objects to this request on the grounds that it is vague. To the extent that it seeks documents identified in response to Petitioner's interrogatories, Petitioner has not identified any such documents.

REQUEST NO. 2:

All documents and things referring or relating to the creation and selection of the term "STERILE TALC POWDER," including correspondence with and memoranda between Petitioner and any name consultant, design firm, advertising agency, advertising media, suppliers, printers and governmental agencies.

RESPONSE:

Petitioner objects to this request on the grounds that it seeks information that is proprietary and confidential.

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REQUEST NO. 3:

All documents and things referring or relating to the adoption and use (including Petitioner's first use in intrastate and interstate commerce) of the term "STERILE TALC POWDER," including correspondence with and memoranda between Petitioner and any name consultant, design firm, advertising agency, advertising media, suppliers, printers and governmental agencies.

RESPONSE:

Petitioner objects to this request on the grounds that it seeks information that is proprietary and confidential.

REQUEST NO. 4:

All search reports and investigation reports prepared by or for Petitioner which refer to, relate to, or comment upon Registrant's trade name or Registrant's Mark.

RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 5:

All federal and state trade or service mark applications filed by or on behalf of Petitioner for the term "STERILE TALC POWDER," and all documents referring or relating to any such applications.

RESPONSE:

Petitioner has no documents responsive to this request.

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REQUEST NO. 6:

All documents referring or relating to Petitioner's sale or distribution of goods or services under the designation "STERILE TALC POWDER" or any variation thereof.

RESPONSE:

Petitioner objects to this request on the grounds that it is overly broad. Notwithstanding Petitioner's objection, and although Petitioner has no obligation to respond to this request, in an effort to resolve discovery disputes in good faith without the need for TTAB intervention, Petitioner is hereby producing sample documents evidencing Petitioner's sale or distribution of goods under the designation "STERILE TALC POWDER."

REQUEST NO. 7:

All documents and things referring or relating to, or comprising any permission given by Petitioner to any third party to use a trademark, common law mark, or trade name which Petitioner considered or considers to be similar or identical to the term "STERILE TALC POWDER," including all franchise agreements, licenses, and other documents permitting such use, and all documents relating thereto.

RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 8:

All documents and things referring or relating to, or comprising any permission received by Petitioner from any third party to use a trademark, common law trademark, or trade name which Petitioner considered or considers to be similar or identical to Petitioner's "STERILE TALC POWDER" mark or Petitioner's trade name, including all franchise

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agreements, licenses, and other documents permitting such use, and all documents relating thereto.

RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 9:

All documents and things pertaining to use by third parties of a service mark, trademark, or trade name including, consisting of, or similar to the term "STERILE TALC POWDER."

RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 10:

All documents and things referring, relating to, or comprising any challenges Petitioner has ever made to any third party, and any third party has made to Petitioner, other than the present Registrant, concerning the use of any service mark, trademark, common law mark, or trade name which was considered to conflict with Petitioner's "STERILE TALC POWDER" mark or any portion thereof.

RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 11:

All documents concerning any statement or opinion of any person, other than an attorney rendering legal advice to Petitioner, that refer or relate to the similarity, dissimilarity

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or likelihood of confusion between the term "STERILE TALC POWDER" and Registrant's Mark.

RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 12:

All documents and things referring or relating to, or comprising any assignment of any trademark rights or common law mark rights for Petitioner's "STERILE TALC POWDER" mark.

RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 13:

All documents and things referring or relating to any court or Patent and Trademark Office action filed by Petitioner or filed against Petitioner, other than by the present Registrant, in connection with the term "STERILE TALC POWDER."

RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 14:

Specimens of all advertising and promotional documents bearing the term "STERILE TALC POWDER," including brochures, catalogues, circulars, leaflets, direct mail pieces, newspaper and magazine advertisements, web pages, emails, commercials, telephone book advertisements, price lists, trade association listings, annual reports, and any other material such

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as labels, tags, packages, containers, decals, stamps, clipart, and name plates used by Petitioner, its distributors, or other sellers of its products or services.

RESPONSE:

Petitioner objects to this request on the grounds that it is overly broad. Notwithstanding Petitioner's objection, and although Petitioner has no obligation to respond to this request, in an effort to resolve discovery disputes in good faith without the need for TTAB intervention, Petitioner is hereby producing sample documents evidencing Petitioner's advertising and promotional documents bearing the term "STERILE TALC POWDER."

REQUEST NO. 15:

Specimens of all types of goods bearing the term "STERILE TALC POWDER."

RESPONSE:

Petitioner is hereby producing a specimen of a product bearing the term "STERILE TALC POWDER."

REQUEST NO. 16:

All documents identifying the publications and broadcast media in which Petitioner has advertised, is advertising, or has planned to advertise any of its products or services bearing or sold under the term "STERILE TALC POWDER."

RESPONSE:

Petitioner objects to this request on the grounds that it is overly broad. Notwithstanding Petitioner's objection, and although Petitioner has no obligation to respond to this request, in an effort to resolve discovery disputes in good faith without the need for TTAB intervention,

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Petitioner is hereby producing a sample document evidencing a publication in which Petitioner has advertised its products bearing the term "STERILE TALC POWDER."

REQUEST NO. 17:

Specimens of each different counter display or other point-of-sale display prepared, printed, or disseminated by or for Petitioner in which bear the term "STERILE TALC POWDER."

RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 18:

All documents and things relating or referring to, or comprising, Petitioner's advertising expenditures for goods bearing or services sold under the term "STERILE TALC POWDER" or under Petitioner's trade name by geographic or distribution regions where the services have been offered or products have been sold.

RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is beyond the proper scope of discovery, confidential, and may include materials which are confidential to third parties.

REQUEST NO. 19:

All documents referring or relating to, or comprising Petitioner's customer lists, prospective customer lists, and mailing lists for products or services offered and sold under the term "STERILE TALC POWDER."

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RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is beyond the proper scope of discovery, confidential, and may include materials which are confidential to third parties.

REQUEST NO. 20:

All documents referring or relating to, or comprising Petitioner's first notice of Registrant's use and application and registration of Registrant's Mark.

RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 21:

All documents referring or relating to, or comprising any communication or notice to Petitioner concerning the possibility that use of the term "STERILE TALC POWDER," or any portion or variation thereof, might or might not result in confusion or mistake in any industry or among the public, with regard to the Registrant's registered Mark.

RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 22:

All documents regarding the types and classes of consumers to whom, and the markets and channels of trade in the United States through which Petitioner markets or sells goods and services identified by the term "STERILE TALC POWDER," including without limitation all documents indicating the channels of commerce through which Petitioner offers and sells its services or goods to consumers, and including without limitation all documents indicating the

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manner in which orders are solicited for Petitioner's goods and services marketed or sold under the term "STERILE TALC POWDER" or by any division, subsidiary, or related company.

RESPONSE:

Petitioner objects to this request on the grounds that it is overly burdensome and vague and seeks documentation which is beyond the proper scope of discovery, confidential, and may include materials which are confidential to third parties.

REQUEST NO. 23:

All documents and things referring or relating to any modification by Petitioner of the term "STERILE TALC POWDER" or Petitioner's trade name since the term "STERILE TALC POWDER" was adopted, including all documents relating to the reason such modification was made.

RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is beyond the proper scope of discovery.

REQUEST NO. 24:

All documents and things referring or relating to, or comprising statements, inquiries, comments, or other communications by or from Petitioner's customers, distributors, suppliers, or others, relating to the similarity of the term "STERILE TALC POWDER" to Registrant's Mark or evidencing any confusion, suspicion, belief, or doubt on the part of said third parties as to the relationship between either or both of the Petitioner and Registrant or their respective products or services sold under the term "STERILE TALC POWDER" or Registrant's Mark, including any misdirected complaints or inquiries.

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RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 25:

All documents referring or relating to or evidencing or comprising any instance or occurrence of actual confusion on the part of any person due to Petitioner's use of the term "STERILE TALC POWDER" and Registrant's use of its Mark.

RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 26:

All documents referring or relating to or comprising any opinion from counsel, whether or not such counsel was employed by Petitioner, concerning Petitioner's rights to the term "STERILE TALC POWDER," including without limitation all documents identifying the date of any such opinion and the attorney rendering the opinion, or discussing any action Petitioner may have taken, or considered taking, in reliance upon said opinion.

RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is beyond the proper scope of discovery, confidential, and subject to attorney-client privilege.

REQUEST NO. 27:

All documents referring or relating to, or comprising, any plan Petitioner has to expand the type of goods or services it offers for sale under term "STERILE TALC POWDER."

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RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is confidential and beyond the proper scope of discovery.

REQUEST NO. 28:

All documents referring or relating to or comprising or commenting on Petitioner's incorporation, corporate name reservations, qualifications to do business, trade name registrations and assumed name recordals for Petitioner and any of its divisions, subsidiaries, or related businesses, referring or relating to the use of the term "STERILE TALC POWDER."

RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is confidential and beyond the proper scope of discovery.

REQUEST NO. 29:

All documents referring or relating to Petitioner's use of any trademarks, service marks, or common law marks that include the terms "STERI," "TALC" or any variation thereof, including documents showing the filing date, serial number, registration date, or registration number of such marks, if any.

RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is beyond the proper scope of discovery.

REQUEST NO. 30:

All documents referring or relating to the language or word origin of the term "STERILE TALC POWDER."

RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is proprietary and confidential.

REQUEST NO. 31:

All documents referring or relating to or comprising or commenting on Petitioner's standards or mechanisms for controlling the quality of the goods sold under the term "STERILE TALC POWDER."

RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is beyond the proper scope of discovery.

REQUEST NO. 32:

All documents regarding Petitioner's policy with respect to retention of documents, including business records.

RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is beyond the proper scope of discovery.

REQUEST NO. 33:

All documents referring or relating to or evidencing or comprising any inquiry, investigation, or survey conducted by or on behalf of Petitioner regarding any issues involved in this cancellation proceeding.

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RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is beyond the proper scope of discovery.

REQUEST NO. 34:

All statements or opinions of any expert retained by Petitioner or any person acting for or on behalf of Petitioner regarding any of the issues involved in this cancellation proceeding.

RESPONSE:

Petitioner objects to this request to the extent that it requests disclosures beyond the scope of those required by the Federal Rules of Civil Procedure. Petitioner has not yet identified any testifying expert and therefore has no document to produce.

REQUEST NO. 35:

All federal governmental agency applications filed by or on behalf of Petitioner for the use of the term "STERILE TALC POWDER" or "TALC POWDER," and all documents referring or relating to any such applications.

RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is proprietary and confidential.

REQUEST NO. 36:

All documents referring or relating to Petitioner's use of any trademarks or service marks, including the term "STERITALC" or any variation thereof, including any agreements with third parties allowing Petitioner use of that Mark, any distributorship contracts or

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agreements allowing Petitioner use of that Mark, or any oral contracts allowing Petitioner use of that Mark.

RESPONSE:

Petitioner has no documents responsive to this request.

REQUEST NO. 37:

All documents and things referring or relating to Petitioner's prior business relationship with Registrant, including all documents showing the brand names and trademarks displayed on Registrant's products that were distributed by Petitioner, all agreements between Petitioner and Registrant, and all documents evidencing the dates that Petitioner and Registrant had a business relationship.

RESPONSE:

Petitioner objects to this request on the grounds that it is overly broad. Notwithstanding Petitioner's objection, and although Petitioner has no obligation to respond to this request, in an effort to resolve discovery disputes in good faith without the need for TTAB intervention, Petitioner is hereby producing sample documents evidencing Petitioner's prior business relationship with Registrant.

REQUEST NO. 38:

All documents and filings not produced with respect to Paragraphs 1 to 37 above that Petitioner will or may rely on in this cancellation proceeding.

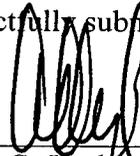
Cancellation No. 92046037
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RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is beyond the proper scope of discovery. To the extent that Request No. 38 seeks documents that Petitioner will rely on in this proceeding, no such documents have yet been identified.

Dated: October 11, 2006

Respectfully submitted,



Daniel G. Jarcho
Andrew J. Park
Attorneys for Petitioner

McKenna Long & Aldridge LLP
1900 K Street, N.W.
Washington, D.C. 20006
(202) 496-7500
(202) 496-7756 fax

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

In the Matter of Registration No.
3,093,389 Registered May 16, 2006

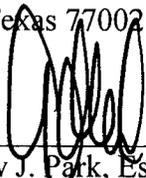
BRYAN CORPORATION,)	
)	
Petitioner,)	
)	Cancellation No. 92046037
v.)	
)	
NOVATECH SA,)	
)	
<u>Registrant.</u>)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **PETITIONER'S RESPONSE TO REGISTRANT'S
FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO
PETITIONER** was served on Registrant by mailing a true copy thereof to the attorneys of record via first class mail addressed as follows:

John S. Egbert, Esq.
Egbert Law Offices
State National Building
412 Main Street, 7th Floor
Houston, Texas 77002

this 11th day of October, 2006.



Andrew J. Park, Esq.
Attorney for Bryan Corporation, Petitioner

McKenna Long & Aldridge LLP
1900 K Street, N.W.
Washington, D.C. 20006
(202) 496-7500
(202) 496-7756 fax

Sterile Talc Powder

For treatment of malignant pleural effusions in symptomatic patients.
Contains 5 g of Asbestos-free talc. Precisely measured & uniform
particle size. Supplied sterile in a 100 ml vial.

NDC 63256-200
Canby Number 1630

For Intrapleural Administration **CONTENTS STERILE**
For dosage and preparation, refer to the package insert.

Distributed By: Bryan Corporation
Woburn, MA 01801

Lot #6K046
Expires
APR 2009

Caution: Federal law prohibits dispensing without a prescription.



63256200

B0001

Sterile Talc Powder™

NDC 63256-200-05
Catalog Number 1690

For treatment of malignant pleural effusions in symptomatic patients.
Contains 5 g of Asbestos-free talc. Precisely measured & uniform
particle size. Supplied sterile in a 100 ml vial.

For Intrapleural Administration
For dosage and preparation, refer to the package insert

CONTENTS STERILE

Distributed By: Bryan Corporation
Woburn, MA 01801

Lot #6K046
Expires
APR. 2009

Caution: Federal law prohibits dispensing without a prescription



632562005

B0002

NDC 63256-200-05
Sterile Talc Powder
For Intrapleural Administration Only
Cat. # 1690

Bryan Corporation
Four Plympton Street
Woburn, MA 01801

Sterile Talc Powder™ is the only FDA approved talc product that, when administered intrapleurally via chest tube, is indicated to decrease the recurrence of malignant pleural effusions (MPE) in symptomatic patients.

Key Features:

- Chest Tube Administration
- Controlled Particle Size
- Gamma Irradiated
- Packaged Sterile in a 100ml Glass Vial
- Single Use, 5 gram Dosage

Bryan Corporation
Four Plympton Street, Woburn, MA 01801
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Fax: 781.935.7602
Email: sales@bryancorp.com
www.bryancorp.com

To place an order,

call

1-800-343-7711

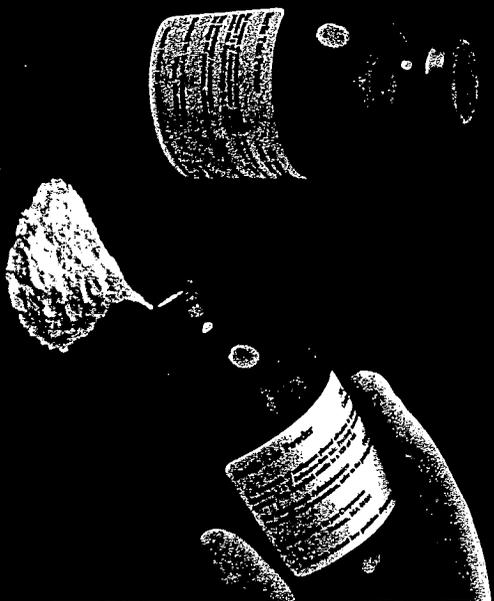
Visit

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B0003



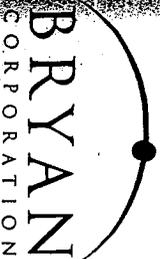
STERILE TALC P O W D E RTM

Treatment for Malignant Pleural Effusion (MPE)

Cat. #1690

NDC #63256-200-05

NOW
FDA APPROVED!

BRYAN
CORPORATION

B0004

CLOCKWORK DESIGN GROUP, INC

42 PLEASANT STREET : WOBURN : MA : 01801

TEL 781:938:0006 : FAX 781:938:0030



CLOCKWORK
DESIGN GROUP, INC

BILL TO

Bryan Corporation
Kristine Sanborn
Four Plympton Street
Woburn, MA 01801

DATE	INVOICE NO.	P.O. NO.	TERMS	JOB
10/16/'03	2709		Net 30	077-005 Sterile Talc Powder DS

ITEM	DESCRIPTION	AMOUNT
	Sterile Talc Powder Datasheet and Coordinating Postcard - Invoice for Work to Date ONLY 2-page Product Sheet: 8.5" x 11" (two-sided) Postcard: 6" x 9", 12pt CIS Postcard Stock Large print run is not included on this Invoice.	
Design	Design/layout of a 2-page product sheet.	1,000.00 ✓
Design	Design/layout of 2-sided postcard.	600.00 ✓
Production	Final edits on both components (3 rounds), Photoshop retouching, file preparation.	500.00 ✓
Printing	Printing of 35 datasheets; 2-sided on 80# cover stock. Printing of 35 postcards on CIS, 12pt postcard stock.	204.50 ✓
Project Manag	Job trafficking, vendor coordination and complete management of project.	200.00 ✓
Shipping	Delivery of files to printer, plus finished materials to Clockwork.	45.00 ✓
	Out-of-state sale, exempt from sales tax	0.00
<i>ok plum</i>		
		B0005

Client is responsible for proofing text & graphics. Invoices past 30 days subject to finance charge.	Total	\$2,549.50
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Purchase Order

DATE	P.O. NO.
12/1/2003	20032785

Vendor
THE GRAPHICS SHOP INC 252 REAR ASH STREET READING MA 01867

SHIP TO
Bryan Corporation 4 Plympton Street Woburn, MA 01801

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
PRODUCT S...	1690 STERILE TALC POWDER PACKAGE INSERT	100,000	0.03223	3,223.00
	PLEASE FAX OR EMAIL PROOF FOR CORRECTIONS LEAD TIME - 7 WORKING DAYS FROM SIGN OFF			
	THANK YOU DANNY!!!!			
			Total	\$3,223.00

B0006

CLOCKWORK DESIGN GROUP, INC

42 PLEASANT STREET : WOBURN : MA : 01801

TEL 781:938:0006 : FAX 781:938:0030



CLOCKWORK
DESIGN GROUP, INC

BILL TO
Bryan Corporation Paivi Mikkola Four Plympton Street Woburn, MA 01801

DATE	INVOICE NO.	P.O. NO.	TERMS	JOB
05/11/04	2893		Net 30	077-011 Trade Show Signage (x3)

ITEM	DESCRIPTION	AMOUNT
Design	Trade Show Booth Signage Design and Printing 3 panel signs at 32" x 36" Materials: Poster Output, stop-light backing, and floorguard lamination. All product and stock photography will be used from existing marketing materials. Design/Layout of 3 signs, based on existing design standard of Biotrace Booth. 1 - Sclerosing Aerosol 2 - Sterile Talc Powder 3 - Endoscopy Equipment with Bronchoscope photo	1,000.00 ✓
Production	Final edits, Photoshop retouching, and file preparation.	400.00 ✓
Printing	Printing of 3 vertical booth signs, final size 32" x 36". Prices include velcro application.	870.00 ✓
Project Manag	Job trafficking, vendor coordination and complete management of project.	150.00 ✓
Shipping	Delivery charges.	35.00 ✓
	Exempt-Resale	0.00 ✓

OK BFA acct 6260.

B0008

*printing & reproduction
plum 05-17-2004
ok. everything as quoted.*

Client is responsible for proofing text & graphics. Invoices past 30 days subject to finance charge.

Total

\$2,455.00

DESCRIPTION

Sterile Talc Powder is a sclerosing agent intended for intrapleural administration supplied in a single use 100 ml brown glass bottle, sealed with a gray, 20 mm stopper and covered with a flip-off seal. Each bottle contains a minimum of 5.0 g of Talc USP (Ultra 2000 Talc), either white or off-white to light gray, asbestos-free and brucite-free grade of talc of controlled particle size. The composition of the talc is $\geq 95\%$ talc as hydrated magnesium silicate. The empirical formula of talc is $Mg_3 Si_4 O_{10} (OH)_2$ with a molecular weight of 379.3. Associated naturally occurring minerals include chlorite (hydrated aluminum and magnesium silicate), dolomite (calcium and magnesium carbonate), calcite (calcium carbonate) and quartz. Talc is practically insoluble in water and in dilute solutions of acids and alkali hydroxides. The finished product has been sterilized by gamma irradiation.

CLINICAL PHARMACOLOGY

Mechanism of Action

The therapeutic action of talc instilled into the pleural cavity is believed to result from induction of an inflammatory reaction. This reaction promotes adherence of the visceral and parietal pleura, obliterating the pleural space and preventing reaccumulation of pleural fluid.

The extent of systemic absorption of talc after intrapleural administration has not been adequately studied. Systemic exposure could be affected by the integrity of the pleural surface, and therefore could be increased if talc is administered immediately following lung resection or biopsy.

CLINICAL STUDIES

The data demonstrating safety and efficacy of talc slurry administered via chest tube for the treatment of patients with malignant pleural effusions are from the published medical literature. The following prospective, randomized studies were designed to evaluate the risk of recurrence of malignant pleural effusions in patients with a variety of solid tumors. The studies compared talc slurry, instilled into the pleural cavity via chest tube, versus a concurrent control. In all studies, after maximal drainage of the pleural effusion, the investigator administered talc slurry via chest tube. Chest films documented response (defined as lack of recurrence of fluid for a period of time). Studies differed on the timing of the efficacy assessment. Zimmer *et al.* did not specify the time required evaluations. Ong *et al.* specified the assessment at one month. Sorensen *et al.* specified the assessment at 3-4 months. The remaining studies assessed response at the completion of the follow-up period.

REFERENCE	TREATMENT	RESPONSE RATE EVALUABLE PTS* p value*	RESPONSE RATE ALL PTS* p value*
Sorensen <i>et al.</i> Eur J Respir Dis. 1984; 65(2):131-5	Talc Slurry 10g /250ml NS vs. Chest tube drainage alone	100% (9/9) vs. 58% (7/12) p=0.04	64% (9/14) vs. 41% (7/17) p=0.29
Noppen <i>et al.</i> Acta Clin Belg 1997; 52(4):258-62	Talc Slurry 5g/50 ml NS vs. Bleomycin 1mg/kg/50ml NS	79% (11/14) vs. 75% (9/12) p=1.00	79% (11/14) vs. 75% (9/12) p=1.00
Zimmer PW <i>et al.</i> Chest 1997; 112(2):430-434	Talc Slurry 5g/50 ml NS ^c vs. Bleomycin 60U/50 ml NS ^c	90% (17/19) vs. 79% (11/14) ^d p=0.63	Not Given
Ong KC <i>et al.</i> Respirology 2000; 5:99-103	Talc Slurry 5g/150ml NS ^d vs. Bleomycin 1U/kg/150 ml NS ^d	89% (16/18) vs. 70% (14/20) p=0.24	64% (16/25) vs. 56% (14/25) p=0.77
Yim AP <i>et al.</i> Ann Thorax Surg 1996; 62:1655-8	Talc Slurry 5g/50ml NS lidocaine 2% 10 ml vs. Talc insufflation 5g powder	90%(26/29) vs. 96% (27/28) p=0.61	90% (26/29) vs. 96% (27/28) p=0.61

Randomized Controlled Trials Using Talc Slurry as a Sclerosing Agent

- * Two-sided p-value based on Fisher's exact test
- a Patients were evaluable if chest x-rays were done to assess response per protocol.
- The Sorensen study excluded patients if incomplete lung re-expansion was noted post drainage.
- b Data per procedure (33 procedures in 29 evaluable patients, 3 patients with bilateral effusions).
- c Plus lidocaine 1%, 20 ml.
- d Plus lidocaine 1%, 10 ml.
- In single-arm studies of malignant pleural effusions from the published literature, variously defined "success" rates using talc slurry pleurodesis ranged from 75% to 100%.

INDICATIONS AND USAGE

Sterile Talc Powder, administered intrapleurally via chest tube, is indicated as a sclerosing agent to decrease the recurrence of malignant pleural effusions in symptomatic patients.

CONTRAINDICATIONS

None known

WARNINGS

None

PRECAUTIONS

1. **Future procedures:** The possibility of the future diagnostic and therapeutic procedures involving the hemithorax to be treated must be considered prior to administering Sterile Talc Powder. Sclerosis of the pleural space may preclude subsequent diagnostic procedures of the pleura on the treated side. Talc sclerosis may complicate or preclude future ipsilateral lung resective surgery, including pneumonectomy for transplantation purposes.
2. **Use in potentially curable disease:** Talc has no known antineoplastic activity and should not be used alone for potentially curable malignancies where systemic therapy would be more appropriate, e.g., a malignant effusion secondary to a potentially curable lymphoma.
3. **Pulmonary complications:** Acute Pneumonitis and Acute Respiratory Distress Syndrome (ARDS) have been reported in association with intrapleural talc administration. Three of the case reports of ARDS have occurred after treatment with a relatively large talc dose (10 g) administered via intrapleural chest tube instillation. One patient died one month post treatment and two patients recovered without further sequelae.

DRUG INTERACTIONS

It is not known whether the effectiveness of a second sclerosing agent after prior talc pleurodesis would be diminished by the absorptive properties of talc.

Carcinogenesis, Mutagenesis, Impairment of Fertility: Studies on the carcinogenicity of talc have been performed using non-standard designs which prevent firm conclusions on its carcinogenicity. With single intraperitoneal administration to mice at 20 mg and observation for at least 6 months or 4 weekly doses administered intraperitoneally at 25 mg/dose to rats with observation for at least 84 weeks, tumor incidence was not increased. In these studies the talc and its asbestos content were not characterized.

Genotoxicity was tested in cultures of rat pleural mesothelial cells (RPMC) as unscheduled DNA synthesis (UDS) and sister chromatid exchanges (SCEs). None of the talc samples (which were asbestos-free) induced enhancement of UDS or SCEs in treated cultures. No information is available on impairment of fertility in animals by talc.

Pregnancy: Pregnancy Category B. An oral administration study has been performed in the rabbit at 900 mg/kg. Approximately 5 fold higher than a human dose on mg/m² basis, and has revealed no evidence of teratogenicity due to talc. There are, however, no adequate and well-controlled studies in pregnant women. Because animal reproduction studies are not always predictive of human response, this drug should not be used during pregnancy unless the benefit outweighs the risk.

Pediatric Use: The safety and efficacy of Sterile Talc Powder in pediatric patients have not been established.

Geriatric use: The estimated mean and median ages of patients treated with talc slurry from clinical studies (single-arm or randomized) were 60 and 62 years, respectively. No analyses to specifically evaluate the safety and efficacy in the geriatric population have been reported.

ADVERSE REACTIONS

Intrathoracic administration of talc slurry has been described in medical literature reports involving more than 2000 patients. Patients with malignant pleural effusions were treated with talc via poudrage or slurry. In general, with respect to reported adverse experiences, it is difficult to distinguish the effects of talc from the effects of the procedure(s) associated with its administration. The most often reported adverse experiences to intrapleurally-administered talc were fever and pain.

Infection: Complications reported include empyema.

Respiratory: Complications reported include hypoxemia, dyspnea, unilateral pulmonary edema, pneumonia, ARDS, brochopleural fistula, hemoptysis and pulmonary emboli.

Cardiovascular: Complications reported included tachycardia, myocardial infarction, hypotension, hypovolemia and asystolic arrest.

Delivery Procedure: Adverse reactions due to the delivery procedure and the chest tube may include: pain, infection at the site of thoracostomy or thoracoscopy, localized bleeding, and subcutaneous emphysema.

Chronic Toxicity: Since patients in clinical studies had a limited life expectancy, data on chronic toxicity are limited.

OVERDOSAGE

No definite relationship between dose and toxicity has been established. Excessive talc may be partially removed with saline lavage.

DOSAGE AND ADMINISTRATION

Sterile Talc Powder should be administered after adequate drainage of the effusion. The success of the pleurodesis appears to be related to the completeness of the drainage of the pleural fluid, as well as the full re-expansion of the lung, both of which will promote symphysis of the pleural surfaces.

The recommended dose is 5 g, dispersed in 50 - 100 ml Sodium Chloride Injection, USP. Although the optimal dose for effective pleurodesis is unknown, 5 g was the dose most frequently reported in the published literature.

Talc Preparation

Prepare the talc slurry using aseptic technique in an appropriate laminar flow hood. Remove talc container from packaging. Remove protective flip-off seal.

Each brown bottle contains 5 g of Sterilized Talc Powder. To dispense the contents:

1. Using a 16 gauge needle attached to a 60-ml LuerLok syringe, measure and draw up 50 ml of Sodium Chloride Injection, USP. Vent the talc bottle using a needle. Slowly inject the 50 ml of Sodium Chloride Injection, USP into the bottle. For doses more than 5 g, repeat this procedure with a second bottle.
2. Swirl the bottle(s) to disperse the talc powder and continue swirling to avoid settling of the talc in the slurry. Each bottle will contain 5 g Sterile Talc Powder dispersed in 50 ml of Sodium Chloride Injection, USP.
3. Divide the content of each bottle into two 60 ml irrigation syringes by withdrawing 25 ml of the slurry into each syringe with continuous swirling. QS each syringe with Sodium Chloride Injection, USP to a total volume of 50 ml in each syringe. Draw air into each syringe to the 60 ml mark to serve as a headspace for mixing prior to administration.
4. When appropriately labeled, each syringe contains 2.5 g of Sterile Talc in 50 ml of Sodium Chloride Injection, USP with an air headspace of 10 ml. Once the slurry has been made, use within 12 hours or discard and prepare fresh slurry. Label the syringes appropriately noting the expiration date and time, with the statement "For Pleurodesis Only - NOT FOR IV ADMINISTRATION," the identity of the patient intended to receive this material and a cautionary statement to SHAKE WELL before use.
5. Prior to administration, completely and continuously agitate the syringes to evenly redisperse the talc and avoid settlement. Immediately prior to administration, vent the 10 ml air headspace from each syringe.
6. Attach the adapter and place a syringe tip on the adapter. Maintain continuous agitation of the syringes.

NOTICE: Shake well before installation. Each 25 ml of prepared slurry in the syringe contains 1.25 g of talc. NOT FOR IV ADMINISTRATION.

ADMINISTRATION

Administer the talc slurry through the chest tube by gently applying pressure to syringe plunger and empty the contents of the syringe into the chest cavity. After application, discard the empty syringe according to general hospital procedures. After the talc slurry has been administered through the chest tube into the pleural cavity, the chest tube may be flushed with 10-25 ml sodium chloride solution to ensure that the complete dose of talc is delivered.

Following introduction of the talc slurry, the chest drainage tube is clamped, and the patient is asked to move, at 20 to 30 minute intervals, from supine to alternating decubitus positions, so that over a period of about 2 hours the talc is distributed within the chest cavity. Recent evidence suggests that this step may not be necessary.

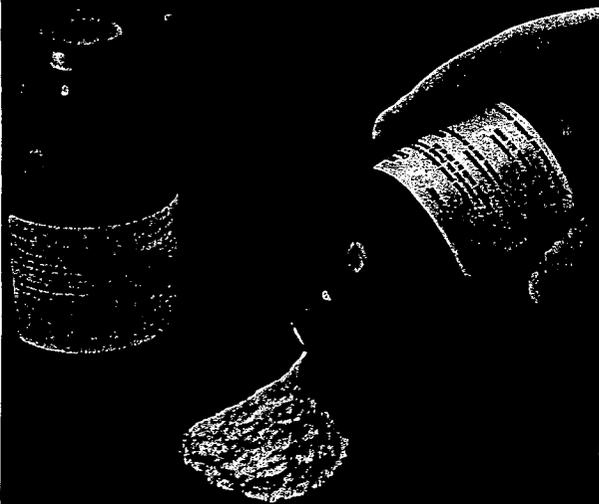
At the end of this period, the chest drainage tube is unclamped routine continual external suction on the tube.

B0009

HOW SUPPLIED

NDC 63256-200-05 Sterile Talc Powder is supplied in a 100 ml brown glass bottle containing 5 g of talc. The sterile bottle is closed with a gray stopper and covered with a flip-off seal.

Storage: Store at Room Temperature (18-25°C). Protect against sunlight.



STERILE TALC POWDER

Treatment for Malignant Pleural Effusion (MPE)

Key Features:

- Chest Tube Administration
- Controlled Particle Size
- Gamma Irradiated
- Packaged Sterile in a 100ml Glass Vial
- Single Use, 5 gram Dosage

Sterile Talc Powder™ is indicated for use as a sclerosing agent to decrease the recurrence of MPE in symptomatic patients. A cost-effective treatment for MPE, Sterile Talc Powder™ provides uniform, consistent and clean administration via chest tube.

Studies¹⁻⁵ demonstrate that talc, administered intrapleurally via chest tube, has a high success rate in treating MPE, relieving symptoms and decreasing the recurrence of pleural effusion.

Please see full prescribing information on the adjacent page.

To place an order for Product #1690, Sterile Talc Powder,™ please contact Bryan Corporation at:

Toll Free: 800.343.7711

Fax: 781.935.7602

Email: sales@bryancorp.com

www.bryancorp.com

B0010

DECREASE
THE
RECURRENCE
OF
MPE



¹ Sorensen et al. Eur J Respir Dis. 1984; 65(2): 131-5

² Noppen et al. Acta Clin Belg 1997; 52(4):258-62

³ Zimmer PW et al. Chest 1997; 112(2):430-434

⁴ Ong KC et al. Respirology 2000; 5:99-103


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			000000				
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Bon de livraison n° 000000 Commande livrée le		Référence ORDER 10009					
0368.1 BR	1	ENDOXANE TD 16 L 60			850,00	850,00 0	
FRENCH ORIGIN GOODS SALES TERMS : EXW PAYMENT TERMS : BEFORE SHIPMENT SHIPMENT : FEDEX PACKING LIST : 1 PARCEL 200 G							
		Taux TVA	Base TVA	Mont. TVA	Tot. Frais		
		0	850,00		TOTAL HT		850,00
Règlement le					TVA		
par paiement avant expédition					TOTAL TTC		850,00

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veuillez payer la somme indiquée
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s'il y a lieu

B0011

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DATE DE CRÉATION

ÉCHÉANCE

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RÉF. TIRÉ

R.I.B. du TIRÉ

DOMICILIATION

code établi

code guichet

N° de compte

Clé R.I.B.

Valeur en :

NOM
et ADRESSE

Droit de Timbre et Signature

CONDITIONS GENERALES DE VENTE

Les clauses ci-dessous sont portées à la connaissance de la clientèle et font la loi des parties.

1. OFFRES :

Nos offres, en ce qui concerne les possibilités d'exécution et de délais, ne sont valables que pour une acceptation par retour du courrier. Quant aux prix indiqués, ce sont ceux ayant cours au moment de l'offre. La facturation aura lieu au prix en vigueur à la date d'expédition. Toute modification des cours des changes du franc français ou des matières premières peuvent avoir une incidence immédiate sur ce tarif et sur les offres de marchés qui en découlent.

2. EXPEDITIONS :

- a) Sauf stipulation contraire, nos prix s'entendent départ usine. Franco de port à partir de toute commande de 1500,00 FF HT.
- b) En cas d'expédition franco, celle-ci s'entend par la voie la plus économique. Les frais supplémentaires pour tout autre mode de transport sont à la charge du client.
- c) Nos marchandises, même expédiées franco, voyagent toujours aux risques et périls du destinataire conformément aux articles 105 et 106 du Code du Commerce.

3. FACTURATION :

- a) Toute facture inférieure à 700,00 FF HT sera automatiquement majorée de 50,00 FF HT pour participation aux frais de facturation.
- b) Toute commande inférieure au boîitage sera automatiquement majorée de 25% de la valeur de la boîte.

4. PAIEMENT :

- a) Nos factures sont payables à 30 jours nets.
- b) Chaque facture peut faire l'objet d'un moyen de recouvrement (traite, avis de prélèvement confirmé...) sans pour cela qu'il y ait dérogation du lieu de paiement.
- c) En cas de retard de paiement, à l'échéance de 30 jours de facturation, des intérêts de retard seront facturés à raison de 1,5% par mois de retard majorés automatiquement de 10% pour frais de relance (Articles 1226 à 1229 du Code Civil). Les commandes en cours pourront être suspendues ou livrées contre-remboursement.
- d) En cas de paiement anticipé, un escompte de 1% sera décompté par mois entier sur la somme totale H.T.
- e) En cas de non paiement à l'échéance, une clause pénale fixée à 15% sera exigible suivant les articles 1152 et 1226 du Code Civil.

5. RESERVES DE PROPRIETE :

Les marchandises restent notre entière propriété jusqu'au complet paiement de celles-ci, conformément à la loi N° 80-335 du 12.05.80. En cas de défaut de paiement d'une fraction ou de la totalité du prix, nous nous réservons le droit de reprendre les marchandises à notre titre de propriétaire sans abandon d'une action éventuelle en dommages et intérêts.

6. CONTESTATION :

Les contestations de toute nature ne sont admises que dans les 15 jours suivant la réception de la marchandise, la responsabilité de la société est, en tout état de cause, limitée au remplacement de la marchandise à propos de laquelle sa responsabilité serait éventuellement engagée.

7. JURIDICTION :

En cas de contestation, il est fait attribution de juridiction aux Tribunaux de Grasse qui seuls sont compétents.



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SHIRLEY DOUCETTE CCA
BRYAN CORPORATION
8 JOHNSON ST
WOBURN, MA 01801

P.O. NO.

INVOICE NUMBER: 401282287
DATE: 12/16/2003
ACCOUNT NUMBER: 916114
AMOUNT DUE: \$610.00

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ACCOUNT NAME	ACCOUNT NO.	LOG NO.	DATE	INVOICE
	916114	NETU030	12/16/03	401282287

SERVICE DESCRIPTION	PRICE
US1 NEWSLINE - BASE PRICE	\$610.00
INVESTORS RESEARCH WIRE @ NO CHARGE	\$0.00
TODAY'S NEWS ON THE WEB @ NO CHARGE	\$0.00
RELEASE WATCH BASIC @ NO CHARGE	\$0.00

Bryan Corporation Announces FDA Approval of Sterile Talc Powder for the Treatment of Malignant Pleural Effusion Pleurodesis

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B0013

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STORY DATE: 12/16/2003

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B0014



PRESS RELEASE

FOR IMMEDIATE RELEASE

Bryan Corporation announces FDA approval of Sterile Talc Powder for the Treatment of Malignant Pleural Effusion *Pleurodesis via chest tube administration*

Woburn, MA- December 16, 2003- Bryan Corporation, an initiate for chemical pleurodesis solutions, today announced that the U.S. Food and Drug Administration approved its product, Sterile Talc Powder (5 g, 100 ml vial), NDC 63256-200-04, administered intrapleurally via chest tube, as sclerosing agent to decrease the recurrence of malignant pleural effusions in symptomatic patients.

Sterile Talc Powder (Product #1690), is a natural, asbestos- free product, supplied sterile in a single use 100 ml amber glass vial. The recommended dose is 5 g, dissolved in 50-100 ml sodium chloride administered slowly through the chest tube. Each 5 g dosage is sterilized via gamma irradiation and is of a controlled particle size.

This product, which will be available immediately, joins the only other licensed form of talc, Sclerosol Intrapleural Aerosol, also manufactured and marketed by Bryan Corporation. Sclerosol Intrapleural Aerosol is packaged with a chlorofluorocarbon (CFC) propellant for direct insufflation into the pleural cavity intraoperatively or during thoracoscopy.

Both of these talc products are made exclusively by Bryan Corporation, and are covered by an Orphan Drug designation held by Bryan Corporation.

ABOUT BRYAN CORPORATION

Bryan Corporation is a Woburn, MA, based company, devoted, since its founding in 1979, to providing health care professionals with unique, high quality medical devices and innovative pharmaceuticals. For more information on Bryan Corporation, please visit our Web site at www.bryancorp.com.

CONTACT:

Bryan Corporation
4 Plympton Street
Woburn, MA 01801
Tel. 1-781-935-0004
Toll-free: 1-800-343-7711
info@bryancorp.com

B0015

Exhibit B

EGBERT LAW OFFICES

STATE NATIONAL BUILDING
412 MAIN ST., 7TH FLOOR
HOUSTON, TEXAS 77002
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mail@egbertlawoffices.com

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December 5, 2006

Mr. Andrew J. Park
McKenna Long & Aldridge LLP
1900 K Street, NW
Washington, D.C. 20006

Re: Our File: 1811-71
For: Trademark "STERITALC"
U.S. Registration No.: 3,093,389
Cancellation No.: 92046037

Dear Mr. Park:

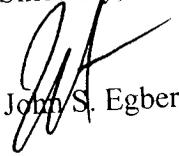
Please find the attached:

- Response to Petitioner's Second Set of Request For Production of Documents
- Responsive documents to Petitioner's First Set of Request for Production and Petitioner's Second Set of Request for Production (these documents are to be considered a Supplemental Response to Petitioner's First Request for Production).

Due to the copy expense incurred by our firm in sending the attached, voluminous documents, we expect to receive all other responsive documents to Registrant's First Request for Production. Petitioner's supplemental response should include all documents responsive to Request Nos. 3, 25, 30, 33, 35, and 37, including but not limited to all documents and correspondence regarding Petitioner's New Drug Applications made to the Federal Drug Administration allegedly giving Petitioner common law trademark rights in the term STERILE TALC POWDER.

If you have any questions or concerns, feel free to contact us at any time.

Sincerely,


John S. Egbert

JSE:ksw
Enclosures

Exhibit C

EGBERT LAW OFFICES

STATE NATIONAL BUILDING
412 MAIN ST., 7TH FLOOR
HOUSTON, TEXAS 77002
TELEPHONE (713) 224-8080
FACSIMILE (713) 223-4873
mail@egbertlawoffices.com

PATENT, TRADEMARK,
COPYRIGHT &
TECHNOLOGY-RELATED MATTERS

December 13, 2006

Mr. Andrew J. Park
McKenna Long & Aldridge LLP
1900 K Street, NW
Washington, D.C. 20006

Re: Our File: 1811-71
For: Trademark "STERITALC"
U.S. Registration No.: 3,093,389
Cancellation No.: 92046037

Dear Mr. Park:

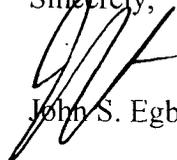
Please find the attached:

- Registrant's Response to Petitioner's Second Set of Interrogatories.
- Registrant's Second Set of Requests for Production of Documents and Things.

Also, we ask you to refer to our December 5, 2006 letter. We have yet to receive any documents supplementing your response to Registrant's First Requests for Production. We expect that you will send us a copy of all supplemental documents within the next week in light of our recent supplemental responses to your client's Requests for Production. If we do not receive such supplemental documents we will be required to file a motion to compel discovery.

If you have any questions or concerns, feel free to contact us at any time.

Sincerely,



John S. Egbert

JSE:ksw
Enclosures

Exhibit D

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

In the Matter of Registration No.
3,093,389 Registered May 16, 2006

BRYAN CORPORATION,)
)
 Petitioner,)
) Cancellation No. 92046037
 v.)
)
 NOVATECH SA,)
)
 _____)
 Registrant.)

**PETITIONER'S RESPONSE TO REGISTRANT'S SECOND REQUEST FOR THE
PRODUCTION OF DOCUMENTS AND THINGS TO PETITIONER**

Petitioner, Bryan Corporation (hereinafter "Petitioner"), hereby submits the following response to Registrant's Second Request for the Production of Documents and Things to Petitioner ("RPD").

General Objections

Various specific objections to particular RPDs are set forth in each numbered response. In addition, Petitioner hereby asserts the following general objections to Registrant's "Definitions" and "Instructions" to the RPD.

Petitioner objects to the RPDs on the ground that they seek information that is confidential or proprietary.

Further, Registrant's RPDs contain improper and overly burdensome sets of questions which violate applicable discovery rules. First, Registrant's RPDs contain a "Definitions" and "Instructions" section that applies and incorporates the "Definitions" and "Instructions"

Cancellation No. 92046037
Trademark Reg. No. 3,093,389

contained in Registrant's First Set of Interrogatories to Petitioner. For all of the reasons set forth in Petitioner's Response to Registrant's First Set of Interrogatories, Petitioner again objects to said "Definitions" and "Instructions."

Also, Registrant's RPDs contain additional "Definitions" and "Instructions" which, among other things, improperly requests Petitioner to answer a long series of questions for each of the Registrant's document requests.

Number 3 of the Instructions requests that the Petitioner answer a set of not less than nine questions for each document identified in response to the request, including (1) the place of the document; (2) the approximate date of the document; (3) the manner of recordation or preparation of the document; (4) the name and title of the sender; (5) the name and title of each recipient; (6) the name of each person who participated in the preparation of the document; (7) the name and company position of each person to whom the contents of the document have heretofore been disclosed; (8) the identity and company position of the person supplying the attorney with the information requested; and (9) a description of the subject matter of the contents of the document.

In sum, Registrant's instructions to its Requests for Production are improper and violate applicable discovery rules in that, among other reasons, they:

1. go well beyond the permitted scope of Interrogatories under TBMP Section 405;
2. are unduly burdensome, cumulative, and duplicative;
3. seek disclosure of information which is not likely to lead to admissible information;
4. improperly contain an excessive number of interrogatories; and

Cancellation No. 92046037
Trademark Reg. No. 3,093,389

5. in part seek information which is confidential and proprietary.

RESPONSES TO REQUEST FOR PRODUCTION

REQUEST NO. 1:

All documents and things identified in Registrant's Second Set of Interrogatories to Petitioner (Nos. 1-7).

RESPONSE:

See Petitioner's responses to Request for Production Nos. 2-6 hereinbelow.

REQUEST NO. 2:

All documents and things Petitioner sent to the FDA, filed with the FDA, or received from the FDA concerning Petitioner's New Drug Application (NDA 20-587) filed on August 15, 1995 and approved on December 24, 1997.

RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is beyond the proper scope of discovery, unduly burdensome, and proprietary and confidential.

REQUEST NO. 3:

All documents and things Petitioner sent to the FDA, filed with the FDA, or received from the FDA concerning Petitioner's New Drug Application (NDA 21-388) filed on September 20, 2002 and approved on December 15, 2003.

RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is beyond the proper scope of discovery, unduly burdensome, and proprietary and confidential.

Cancellation No. 92046037
Trademark Reg. No. 3,093,389

REQUEST NO. 4:

All documents and things referring to label detail requirements by the FDA to be included in the products sold by Petitioner under NDA 20-587.

RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is beyond the proper scope of discovery, unduly burdensome, and proprietary and confidential.

REQUEST NO. 5:

All documents and things referring to label detail requirements by the FDA to be included in the products sold by Petitioner under NDA 21-388.

RESPONSE:

Petitioner is hereby producing material referring to label requirements by the FDA to be included in the products sold by Petitioner under NDA 21-388.

REQUEST NO. 6:

All documents and things referring to the generic name of the products sold by Petitioner under NDA 20-587 and that have the SCLEROSOL brand name.

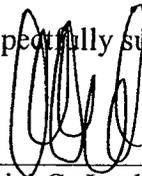
Cancellation No. 92046037
Trademark Reg. No. 3,093,389

RESPONSE:

Petitioner objects to this request on the grounds that it seeks documentation which is beyond the proper scope of discovery. Notwithstanding Petitioner's objection, and although Petitioner has no obligation to respond to this request, in an effort to resolve discovery disputes in good faith without the need for TTAB intervention, Petitioner notes that because SCLEROSOL is a brand name drug and not a generic drug, there are no responsive documents.

Dated: January 17, 2007

Respectfully submitted,



Daniel G. Jarcho
Andrew J. Park
Attorneys for Petitioner

McKenna Long & Aldridge LLP
1900 K Street, N.W.
Washington, D.C. 20006
(202) 496-7500
(202) 496-7756 fax



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Rockville, MD 20857

NDA 21-388

Bryan Corporation
C/O
Waldman Biomedical Consultancy, Inc.
P.O. Box 575
Oceanside, NY 11572

Attention: Alan Waldman, Ph.D.
President
Waldman Biomedical Consultancy, Inc.

Dear Dr. Waldman:

Please refer to your new drug application (NDA) dated September 20, 2002, received September 23, 2002, submitted pursuant to 505(b)(2) of the Federal Food, Drug, and Cosmetic Act for Sterile Talc Powder®.

We acknowledge receipt of your submissions dated April 2 and 7; July 3 and 31; August 12; September 30 (2); October 8, 15, and 20, 2003.

The July 3 and August 12, 2003 submissions constituted a complete response to our March 21, 2003 action letter.

This new drug application provides for the use of Sterile Talc Powder® for administering intrapleurally via chest-tube as a sclerosing agent to decrease the recurrence of malignant pleural effusions in symptomatic patients.

We completed our review of this application, as amended. It is approved, effective on the date of this letter, for use as recommended in the agreed-upon labeling text and with the minor editorial revision below.

In the DOSAGE AND ADMINISTRATION section:

The recommended dose is 5 g, dissolved in 50 - 100 ml ~~sodium chloride~~ Sodium Chloride Injection, USP. Although the optimal dose for effective pleurodesis is unknown, 5 g was the dose most frequently reported in the published literature.

The final printed labeling (FPL) must be identical to the enclosed labeling submitted labeling. These revisions are terms of the NDA approval. Marketing the product(s) before making the

revisions, exactly as stated, in the product's labeling may render the product misbranded and an unapproved new drug.

Please submit an electronic version of the FPL according to the guidance for industry titled *Providing Regulatory Submissions in Electronic Format - NDA*. Alternatively, you may submit 20 paper copies of the FPL as soon as it is available but no more than 30 days after it is printed. Individually mount 15 of the copies on heavy-weight paper or similar material. For administrative purposes, designate this submission "FPL for approved NDA 21-388." Approval of this submission by FDA is not required before the labeling is used.

If you choose to use a proprietary name for this product, the name and its use in the labels must conform to the specifications under 21 CFR 201.10 and 201.15. We recommend that you submit any proprietary name to the Agency for our review prior to its implementation.

In addition, submit three copies of the introductory promotional materials that you propose to use for this product. Submit all proposed materials in draft or mock-up form, not final print. Send one copy to this division and two copies of both the promotional materials and the package insert directly to:

Division of Drug Marketing, Advertising,
and Communications, HFD-42
Food and Drug Administration
5600 Fishers Lane
Rockville, MD 20857

We remind you that you must comply with reporting requirements for an approved NDA (21 CFR 314.80 and 314.81).

If you have any questions, call Sean Bradley, R.Ph., Regulatory Project Manager, at (301) 594-5770.

Sincerely,

{See appended electronic signature page}

Richard Pazdur, M.D.
Director
Division of Oncology Drug Products
Office of Drug Evaluation and Research 1
Center for Drug Evaluation and Research

Enclosure

Exhibit E

EGBERT LAW OFFICES

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January 23, 2006

Mr. Andrew J. Park
McKenna Long & Aldridge LLP
1900 K Street, NW
Washington, D.C. 20006

VIA FACSIMILE
AND REGULAR MAIL

Re: Our File: 1811-71
For: Trademark "STERITALC"
U.S. Registration No.: 3,093,389
Cancellation No.: 92046037

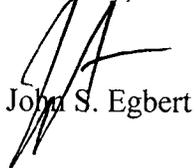
Dear Mr. Park:

It has come to our attention that your client, Bryan Corporation, has not timely responded to Registrant's Second Set of Requests for Production of Documents and Things served on December 13, 2006. In addition, we have not received any supplemental documents to Registrant's First Set of Requests for Production of Documents and Things as requested in our letters to your office dated December 5, 2006 and December 13, 2006.

As you are aware, discovery closes on January 31, 2007 in this proceeding, and we have only received 15 responsive documents from Bryan Corporation. Therefore, we ask that you send all supplemental documents to the 1st Set of Requests for Production and all responsive documents to the 2nd Set of Requests for Production either electronically or via overnight mail by the end of this week to allow us the opportunity to timely prepare and serve further discovery requests, if deemed necessary. If we do not receive such supplemental documents we will be required to file a motion to compel discovery.

If you have any questions or concerns, feel free to contact us at any time.

Sincerely,



John S. Egbert

JSE:ksw
Enclosures

Exhibit F



Print - Close Window

Subject: BRYAN CORPORATION v. NOVATECH SA
Date: Wed, 24 Jan 2007 21:36:32 -0500
From: "Park, Andrew" <apark@mckennalong.com>
To: jegbert@egbertlawoffices.com

<<BRYAN CORPORATION.PDF>>

Re: In the Matter of Registration No. 3,093,389
BRYAN CORPORATION v. NOVATECH SA
Cancellation No. 92046037
Your File: 1811-71
Our Ref.: 25114.0008

Dear Mr. Egbert:

In response to your letter dated January 23, 2007, a copy of which I received by fax today, January 24, please be advised that Petitioner timely responded to Registrant's Second Set of Requests for Production of Documents and Things. Petitioner's Response was mailed to you on January 17, 2007. A copy of Petitioner's Response is attached.

As for your request for Petitioner's supplemental documents to Registrant's First Set of Requests for Production of Documents and Things, please be advised that Petitioner has responded fully to all requests for production. Other than the responsive documents already served, no other supplemental documents have been available. Should any supplemental documents become available, they will be served.

Sincerely,

Andrew J. Park, Esq.
1900 K Street, N.W.
Washington, D.C. 20006
202-496-7442 (O)
202-496-7756 (Fax)

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Attachments

Files:



BRYAN_CORPORATION.PDF (196k)