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Attorney Docket No.: 237328US-35

BOX TTAB NO FEE

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

03 JUN -7 AM 9:50

Neose Technologies, Inc.)

Opposer,)

v.)

AAIPharma, Inc.)

Applicant.)

Appln. Serial No. 78/165,700

Mark: NEOSAN



05-09-2003

U.S. Patent & TMOfr/TM Mail Rcpt Dt. #1

NOTICE OF OPPOSITION

Honorable Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Dear Commissioner:

In the matter of the application for registration of an alleged mark NEOSAN for "pharmaceutical preparations for the treatment of cancer, CNS disorders, pain and immunosuppression disorders" in Class 5; and "product research and development, namely, the development of pharmaceuticals" in Class 42, Application Serial No. 78/165,700, filed September 19, 2002, which was published on page TM 169 of Volume 1269 of the Official Gazette of the United States Patent and Trademark Office on April 15, 2003.

Neose Technologies, Inc. is a corporation organized and existing under the laws of the State of Delaware and is located and doing business at 102 Witmer Road, Horsham, Pennsylvania 19044

06/03/2003 SEDWARDS 00000028 78165700

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300.00 DP

06/03/2003 SEDWARDS 00000058 78165700

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Void date: 06/03/2003 SEDWARDS

06/03/2003 SEDWARDS 00000028 78165700

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and believes that it would be damaged by registration of the term NEOSAN and hereby opposes same.

As grounds for the opposition, it is alleged that:

1. Neose Technologies, Inc. ("Opposer") is a biopharmaceutical company engaged in the research and development of nutritional, therapeutic and pharmaceutical products and Opposer also sponsors and conducts research with other organizations (hereinafter "Opposer's services").

2. Opposer has used the name NEOSE as a trade name since at least as early as 1989.

3. Opposer continues to use NEOSE as a trade name in connection with Opposer's services.

4. The mark and trade name NEOSE is used on Opposer's website at www.neose.com.

5. The mark and trade name NEOSE has been used on Opposer's website since prior to the filing date of application Serial No. 78/165,700, namely September 19, 2002.

6. Opposer owns Registration No. 2,574,010 dated March 20, 2002, for NEOSE for antibiotics; namely, anti-pneumonia compounds, anti-ulcer compounds, compounds for the treatment of pneumonia and ulcers; nutritional supplements used for nutrition; nutritional or dietary additives for infant formulas; and nutritional supplements for adult use.

7. Opposer owns Registration No. 2,625,449 dated April 27, 2002, for NEOSE and Design for antibiotics namely anti-pneumonia compounds, anti-ulcer compounds, compounds for the treatment of pneumonia and ulcers; nutritional supplements used for nutrition; nutritional or dietary additives for infant formulas; and nutritional supplements for adult use.

8. Applicant seeks to register the alleged mark NEOSAN for "pharmaceutical preparations for the treatment of cancer, CNS disorders, pain and immunosuppression disorders" in Class 5; and

"product research and development, namely, the development of pharmaceuticals" in Class 42, collectively referred to as "Applicant's goods and services".

9. On information and belief, Applicant did not make use of the mark NEOSAN in commerce in connection with Applicant's goods and services prior to September 19, 2002.

10. On information and belief, Applicant is not currently using the mark NEOSAN in commerce in connection with Applicant's goods and services.

11. On information and belief, Applicant's goods and services under the mark NEOSAN will be promoted and/or distributed through the same channels of trade and to the same class of purchasers as Opposer's goods and services under the mark NEOSE.

12. Applicant's mark NEOSAN is confusingly similar in sound, appearance and meaning to Opposer's mark and trade name NEOSE.

13. Applicant's use and registration of the mark NEOSAN will enable Applicant to trade upon and utilize the goodwill established by Opposer in its mark and trade under NEOSCI.

14. Opposer believes and alleges that Applicant's trademark when applied to the goods and services identified in Application Serial No. 78/165,700 is likely to cause confusion or mistake or to deceive and will deceive and mislead the purchasing public into believing that Applicant is licensed or controlled by Opposer or that Applicant is a subsidiary of or in some way related to Opposer.

By reason of the foregoing, Opposer believes and submits that it will be irreparably damaged by the registration of Applicant's confusingly similar mark.

WHEREFORE, Opposer prays that this Opposition be sustained and the application for registration of NEOSAN be denied.

POWER OF ATTORNEY

The undersigned hereby appoints Roberta S. Bren, and the following attorneys of the law firm of OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C., as its attorneys with full powers of substitution and revocation, to file and prosecute this opposition.

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Please address all correspondence to Roberta S. Bren at OBLON, SPIVAK, McCLELLAND,

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Our check in the amount of \$600.00 is enclosed covering any required fees. In the event any variance exists between the amount enclosed and the Patent and Trademark Office charges, please charge or credit the difference to our Deposit Account No. 15-0030.

Respectfully submitted

NEOSE TECHNOLOGIES, INC.

Date: May 9, 2003

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By: Roberta S. Bren

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