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

Proceeding	91166028
Party	Defendant Gilead Sciences, Inc. Gilead Sciences, Inc. 333 Lakeside Drive Foster City, CA 94404
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Date	09/06/2005
Attachments	AMVITRA response.pdf (5 pages)

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

BIOGEN IDEC MA, INC.,	)	
	)	
Opposer,	)	
	)	Opposition No. 91166028
v.	)	Serial No. 76/577065
	)	
GILEAD SCIENCES, INC.	)	
Applicant.	)	
	)	

APPLICANT GILEAD SCIENCES, INC.'S
ANSWER TO NOTICE OF OPPOSITION

Gilead Sciences, Inc.("Applicant"), for its answer to the Notice of Opposition filed by Biogen Idec MA Inc. ("Opposer") against the application for registration of the mark AMVITRA, Serial No. 76/577,065 (the "Mark") filed February 24, 2004, and published in the Official Gazette on April 12, 2005 (the "Application"), pleads and avers as follows:

1. Answering the preamble to the Notice of Opposition on page 1 of the Notice of Opposition, Applicant is without information or belief sufficient to admit or deny the allegations concerning Opposer's incorporation and principal place of business. Based on information and believe, Applicant denies that Opposer will be damaged by Applicant's registration of the Mark. Applicant admits that Opposer has opposed the registration of the Application.

2. Applicant admits the allegations of Paragraph 1 of the Notice of Opposition.

3. Applicant admits the allegations of Paragraph 2 of the Notice of Opposition.

4. Answering Paragraph 3 of the Notice of Opposition, Applicant is without information or belief sufficient to admit or deny those allegations and, on that basis, denies each and every allegation therein.

5. Answering Paragraph 4 of the Notice of Opposition, Applicant is without information or belief sufficient to admit or deny those allegations and, on that basis, denies each and every allegation therein.

6. Answering Paragraph 5 of the Notice of Opposition, Applicant is without information or belief sufficient to admit or deny those allegations and, on that basis, denies each and every allegation therein.

7. Answering Paragraph 6 of the Notice of Opposition, Applicant is without information or belief sufficient to admit or deny those allegations and, on that basis, denies each and every allegation therein.

8. Answering Paragraph 7 of the Notice of Opposition, Applicant is without information or belief sufficient to admit or deny those allegations and, on that basis, denies each and every allegation therein.

9. Answering Paragraph 8 of the Notice of Opposition, Applicant is without information or belief sufficient to admit or deny those allegations and, on that basis, denies each and every allegation therein.

10. Answering Paragraph 9 of the Notice of Opposition, Applicant is without information or belief sufficient to admit or deny those allegations and, on that basis, denies each and every allegation therein.

11. Answering Paragraph 10 of the Notice of Opposition, Applicant denies each and every allegation therein.

12. Answering Paragraph 11 of the Notice of Opposition, Applicant denies each and every allegation therein.

13. Answering Paragraph 12 of the Notice of Opposition, Applicant is without information or belief sufficient to admit or deny those allegations and, on that basis, denies each and every allegation therein.

14. Answering Paragraph 13 of the Notice of Opposition, Applicant is without information or belief sufficient to admit or deny those allegations and, on that basis, denies each and every allegation therein.

15. Answering Paragraph 14 of the Notice of Opposition, Applicant denies each and every allegation therein.

16. Answering Paragraph 15 of the Notice of Opposition, Applicant denies each and every allegation therein.

17. Answering Paragraph 16 of the Notice of Opposition, Applicant denies each and every allegation therein.

18. Answering Paragraph 17 of the Notice of Opposition, Applicant denies each and every allegation therein.

19. Answering Paragraph 18 of the Notice of Opposition, Applicant denies each and every allegation therein.

AFFIRMATIVE DEFENSES

In further answer to the Notice of Opposition, Applicant asserts as separate and affirmative defenses that:

1. The Notice of Opposition, and each paragraph thereof, taken individually or collectively, fails to state a basis for the relief sought.

2. Opposer lacks standing to oppose the Application in that, on information and belief, Opposer does not have rights, superior or otherwise, sufficient to support an opposition to Applicant's Mark.

3. Opposer lacks standing to oppose the Application in that Opposer is not likely to be damaged or injured by Applicant's use and registration of Applicant's Mark.

4. Applicant seeks to register Applicant's Mark for goods different than the goods with which Opposer's marks are registered.

5. No likelihood of confusion, mistake or deception exists between the terms AMEVIVE and AMVITRA, because they are different in sight, sound, spelling and meaning.

6. No likelihood of confusion, mistake or deception exists between the parties' respective marks because the marks, as used or intended to be used by the parties, are not confusingly similar.

7. No likelihood of confusion, mistake or deception exists between the parties' respective uses of their marks because the goods intended to be sold by Applicant are distinctive from those products in connection with which Opposer designates its mark.

8. No likelihood of confusion, mistake or deception exists between the parties' respective uses of the marks because the class of prospective purchasers of Applicant's and Opposer's products are sophisticated and careful with respect to purchasing decisions and specifically with respect to the source of such products.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed in its entirety and that a Notice of Allowance issue to Applicant for the mark AMVITRA.

Respectfully submitted,

COOLEY GODWARD LLP

Date: September 6, 2005

By: Gretchen R. Stroud

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