

ESTTA Tracking number: **ESTTA48228**

Filing date: **10/12/2005**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Biogen Idec MA Inc.		
Entity	Corporation	Citizenship	Massachusetts
Address	14 Cambridge Center Cambridge, MA 02142 UNITED STATES		

Attorney information	Roberta Jacobs-Meadway Ballard Spahr Andrews & Ingersoll, LLP 1735 Market Street 51st Floor Philadelphia, PA 19103-7599 UNITED STATES Jacobsmeadwayr@ballardspahr.com Phone:215-864-8201
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Applicant Information

Application No	76620977	Publication date	10/11/2005
Opposition Filing Date	10/12/2005	Opposition Period Ends	11/10/2005
Applicant	ONCONOVA THERAPEUTICS INC. 993 Lenox Drive, Suite 200 Lawrenceville, NJ 08648 UNITED STATES		

Goods/Services Affected by Opposition

Class 005.

All goods and services in the class are opposed, namely: Therapeutics drugs for cancer and proliferative diseases

Attachments

NOO - Biogen v Onconova.pdf (13 pages)

Signature

/Roberta Jacobs-Meadway/

Name

Roberta Jacobs-Meadway

Date

10/12/2005

1. Onconova Therapeutics, Inc. (Applicant) seeks to register NOVONEX as a trademark for therapeutic drugs for cancer and proliferative diseases, as evidenced by the publication of the mark in the *Official Gazette* of October 11, 2005.

2. The application herein opposed was filed November 18, 2004, on the basis of "intent to use". Applicant claims no date earlier than November 18, 2004 for the purpose of priority in the United States.

3. Biogen Idec is and has been engaged in research and consultation services in the field of biotechnology and in connection with pharmaceutical preparations for more than twenty (20) years, and has built a successful business in connection therewith.

4. Biogen Idec has used AVONEX as a mark in commerce in connection with pharmaceutical preparations for use in the treatment of neurologic disorders since May 18, 1996. Material showing Biogen Idec's use of the AVONEX mark is attached as Exhibit A.

5. Biogen Idec has secured and is the owner of U.S. Trademark Registration No. 2,046,691 directed to the AVONEX mark, issued March 18, 1997, based on an application filed February 15, 1995. This registration is valid, subsisting and incontestable. The pertinent information about this registration from the USPTO website is attached as Exhibit B.

6. Since Biogen Idec is the owner of U.S. Trademark Registration No. 2,046,691, priority is not in issue.

7. Biogen Idec's AVONEX mark is arbitrary and inherently distinctive as applied to Biogen Idec's pharmaceutical preparations.

8. By virtue of Biogen Idec's use in commerce of its AVONEX mark as shown in Exhibit A in connection with such pharmaceutical preparations, such pharmaceutical preparations have become well and favorably known to the relevant trade and public under such mark.

9. In the application herein opposed, there are no restrictions on trade channels, so it must be assumed that the goods identified in the application, including prescription pharmaceutical preparations, including those for the treatment of proliferative diseases, will travel through all trade channels appropriate for goods of that type.

10. Applicant's mark is confusingly similar to Biogen Idec's AVONEX mark in sound and appearance and commercial impression.

11. Biogen Idec's and Applicant's goods are closely related, prescription pharmaceutical preparations.

12. The identification "proliferative diseases" in the application herein opposed is broad enough to encompass conditions with neurological implications.

13. Pharmaceutical preparations of the type identified in the application herein opposed are customarily sold and marketed through the same channels of trade as Biogen Idec employs. Therefore, Applicant's goods travel through the same and overlapping channels of trade as Biogen Idec's.

14. Applicant's NOVONEX trademark as applied to the goods set forth in the application herein opposed so resembles Biogen Idec's AVONEX mark as used in connection with Biogen Idec's pharmaceutical preparations that it is likely to cause confusion, mistake, and/or deception.

15. If Applicant is permitted to register NOVONEX for the goods set forth in the application herein opposed, confusion of the relevant trade and public is likely to result, which is likely to damage and injure Biogen Idec and patients who may be subject to medication error.

16. Physicians, pharmacists and others in the relevant public are likely to misapprehend Applicant's mark as AVONEX and/or believe in error that goods offered under the NOVONEX mark are offered by or in association with or under license from Biogen.

17. Any defect, objection to or fault found with Applicant's goods sold under the mark NOVONEX would necessarily reflect on and seriously injure the reputation that Biogen has established for its pharmaceutical preparations.

18. If Applicant is granted a registration for the mark herein opposed, it would obtain thereby at least a *prima facie* exclusive right to use the mark. Such registration would be a source of damage and injury to Biogen Idec.

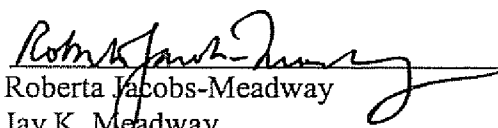
WHEREFORE, Biogen Idec MA Inc. prays that registration of the mark of Application Serial No. 76/620977 for the goods identified therein be refused and that this Opposition be sustained.

A duplicate copy of this Notice of Opposition is enclosed herewith.

The \$300.00 filing fee for this Opposition may be charged to Deposit Account No. 02-0755. Any additional fees in connection with this opposition may also be charged to this account and any overpayment may be credited to this account.

Respectfully submitted,

Dated: 10/12/05

By: 
Roberta Jacobs-Meadway
Jay K. Meadway
Patricia G. Cramer
Robert H. Lefevre
BALLARD SPAHR ANDREWS & INGERSOLL, LLP
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Philadelphia, PA 19103
(215) 864-8201

ATTORNEYS FOR OPPOSER

EXHIBIT A



AVONEX® (Interferon beta-1 a)

AVONEX is the leading treatment for relapsing forms of multiple sclerosis (MS) worldwide, with more than 120,000 patients on therapy. It was launched in the U.S. in 1996 and later in Europe for the treatment of relapsing forms of MS to slow the progression of disability and reduce relapses. AVONEX is marketed internationally in more than 65 countries. AVONEX was the first treatment approved for MS patients who have their first clinical MS attack and have a brain MRI scan that suggests MS; this use was approved in Europe in 2002 and in the U.S. in 2003.

Important Safety Information

The most common side effects associated with AVONEX treatment are flu-like symptoms including myalgia, fever, fatigue, headache, chills, nausea, vomiting, pain and asthenia.

AVONEX should be used in caution with patients with depression or other mood disorders and in patients with seizure disorders. AVONEX should not be used by pregnant women. Patients with cardiac disease should be closely monitored. Patients should also be monitored for signs of hepatic injury. Routine periodic blood chemistry and hematology tests are recommended during treatment with AVONEX. Rare cases of anaphylaxis have been reported. Please see complete prescribing information available at <http://www.avonex.com>.



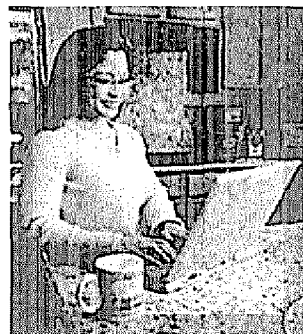
Trusted once-weekly convenience

Member Login > Become a Member >

IMPORTANT SAFETY INFORMATION ABOUT AVONEX >

AVONEX Services

Avonex Services: Multiple Sclerosis and treatment information



We are here to help you with your MS

Over 100,000 people are currently taking advantage of one or more Avonex services available through Biogen Idec. Avonex services - a network consisting of professional MS support specialists, MS experts and people living with MS- are here to offer you and your loved ones

customized therapy support.

Biogen Idec is committed to providing you with the highest level of support to help you manage your MS effectively and make your experience with AVONEX as convenient and successful as possible. Our MS specialists are ready to answer your MS and AVONEX questions, provide support and encouragement, and offer useful information.

You decide which individual AVONEX services you need . . . every step of the way.

Avonex Services Include:

- [AVONEX Reimbursement Assistance](#)
- [Pharmacy Selection](#)
- [AVONEX Therapy Support](#)
- [Personal Nurse](#)
- [AVONEX and multiple sclerosis Educational Materials](#)

Avonex.com is always available, offering you comprehensive information about MS and AVONEX treatment in just a few clicks.

AVONEX Services at your fingertips:

- Find and register for a live [multiple sclerosis event](#) near you

Considering MS Treatment

Starting on AVONEX

Currently on AVONEX

AVONEX Services

AVONEX Injection Training

AVONEX Reimbursement Assistance

AVONEX Delivery Options

AVONEX Therapy Support

AVONEX Newsletters

AVONEX Newsletter Archives

Web-Based Support

Peer Support

Live MS Programs

AVONEX Educational Materials

Additional MS Resources

MS Caregiver Corner

Other Helpful Links

MS - Living with Multiple Sclerosis

MS and Your Rights

Community & Events

MS News & Research

Expert Q and A

FAQs

Currently on AVONEX?

Take advantage of AVONEX Therapy Support.

Learn More >

AVONEX Therapy Support

Sign up for your free e-newsletter!

Join Now >

Free e-newsletter


Choose a State

"If I have questions, I can call an MS support specialist or visit Avonex.com to find out what's new. It helps me remain proactive in my MS care."

-Marie



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 Printer Friendly

- Connect with a someone just like you and find a [mentor](#)
- Sign up for the monthly AVONEX [newsletter](#)
- Keep up with the latest [multiple sclerosis news](#)
- Gain knowledge and helpful tips for [living well with MS](#)

The AVONEX Start-up Form

We are happy to help you take advantage of AVONEX treatment and its services. A signed Start-up Form will allow us to start you on AVONEX treatment and coordinate many services on your behalf. To complete the form, it has to be signed by your doctor. [Click here](#) to download, read, complete and sign the Start-up Form. After completion, please fax your signed Start-up Form to 1-800-840-1278. Within a few business days an MS support specialist will follow up with you.

AVONEX Services Consent

If you are currently taking AVONEX and are working with an **Avonex case manager** who directed you to this page, please [click here](#) to download the Patient Consent Form.

Both forms can be faxed or mailed to:

Biogen Idec

Customer Service

14 Cambridge Center

Cambridge, MA 02142

Fax: 1-800-840-1278

Remember, you can speak to and get help from an MS support specialist by calling 1-800-456-2255 Monday - Friday, 8:30 AM - 8:00 PM (ET).



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Please see full [PRESCRIBING INFORMATION](#) and patient [MEDICATION GUIDE](#) for AVONEX® (Interferon beta-1a).
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[My Privacy](#) | [MSActiveSource.com](#) | [Contact Us](#) | [Site Legal Disclaimer](#) | [Sitemap](#) | [En Español](#)
 AVONEX is a registered trademark of [Biogen Idec](#). MS ActiveSource (SM) is a service mark of Biogen Idec
 Avonex.com is a [VeriSign Secure Site](#).



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IMPORTANT SAFETY INFORMATION ABOUT AVONEX

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AVONEX Services

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AVONEX Therapy Support

For people taking AVONEX

Other Helpful Links

MS - Living with Multiple Sclerosis

MS and Your Rights

Community & Events

MS News & Research

Expert Q and A

FAQs

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Learn about AVONEX® (Interferon beta-1a), a multiple sclerosis (MS) treatment from Biogen Idec. Read about [multiple sclerosis symptoms](#), [exacerbations](#), and [lifestyle issues](#) such as diet and fitness. Find [MS news and research](#), [AVONEX therapy support](#), online [communities](#), and more.

Choose, trust and rely on AVONEX, the MS treatment that gives you the freedom you want.

Resources

> [AVONEX eNewsletter](#)

> [What's New?- AVONEX Prefilled Syringe Marks the Spot](#)

> [Educational Events:](#)

Choose a State



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Please see full [PRESCRIBING INFORMATION](#) and patient [MEDICATION GUIDE](#) for AVONEX® (Interferon beta-1a). © 2005 Biogen Idec. This site is intended for residents of the United States, Puerto Rico, and US territories. [My Privacy](#) | [MSActiveSource.com](#) | [Contact Us](#) | [Site Legal Disclaimer](#) | [Sitemap](#) | [En Español](#)
AVONEX is a registered trademark of [Biogen Idec](#). MS ActiveSource (SM) is a service mark of Biogen Idec. [Avonex.com](#) is a [VeriSign Secure Site](#).

EXHIBIT B

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2005-10-03 12:56:27 ET

Serial Number: 75975646 Assignment Information

Registration Number: 2046691 Assignment Information

Mark (words only): AVONEX

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2002-05-22

Filing Date: 1995-02-15

Transformed into a National Application: No

Registration Date: 1997-03-18

Register: Principal

Law Office Assigned: LAW OFFICE 105

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2002-05-24

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. BIOGEN IDEC MA INC.

Address:
BIOGEN IDEC MA INC.
14 CAMBRIDGE CENTER
CAMBRIDGE, MA 02142
United States

Legal Entity Type: Corporation
State or Country of Incorporation: Massachusetts

GOODS AND/OR SERVICES

International Class: 005
pharmaceutical preparations for use in the treatment of neurologic disorders
First Use Date: 1996-05-18
First Use in Commerce Date: 1996-05-18

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-03-25 - PAPER RECEIVED

2002-05-22 - Section 8 (6-year) accepted & Section 15 acknowledged

2002-03-28 - Section 8 (6-year) and Section 15 Filed

2002-03-28 - PAPER RECEIVED

1997-03-18 - Registered - Principal Register

1997-01-16 - Allowed for Registration - Principal Register (SOU accepted)

1996-11-25 - Statement of use processing complete

1996-07-15 - Amendment to Use filed

1996-11-29 - Divisional processing completed

1996-09-06 - Case file assigned to examining attorney

1996-05-07 - Notice of allowance - mailed

1996-02-13 - Published for opposition

1996-01-16 - Notice of publication

1995-11-21 - Approved for Pub - Principal Register (Initial exam)

1995-11-20 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

ROBERTA JACOBS-MEADWAY (Attorney of record)

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