

ESTTA Tracking number: **ESTTA283336**

Filing date: **05/12/2009**

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

Proceeding	91168156
Party	Defendant Breckenridge Pharmaceutical, Inc.
Correspondence Address	Dickerson M. Downing Crowell & Moring, LLP 590 Madison Avenue, 20th Floor New York, NY 10022 UNITED STATES edocket@crowell.com, ddowning@crowell.com, jksmith@crowell.com, ckornett@crowell.com
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Date	05/12/2009
Attachments	Nycomed v. Breckenridge - Answer to Amended NOOP.PDF (4 pages)(121795 bytes)

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Nycomed US Inc.
(successor in interest to
Bradley Pharmaceuticals, Inc.

Opposer,

v.

Breckenridge Pharmaceutical, Inc.,

Applicant.

Opposition No. 91-168,156

Mark: SULFATOL

Serial No.: 76-578,797

ANSWER TO AMENDED NOTICE OF OPPOSITION

Applicant, Breckenridge Pharmaceutical, Inc. (“Breckenridge” or “Applicant”), responds, as follows, to the Amended Notice of Opposition of Opposer Nycomed US, Inc. (formerly Bradley Pharmaceuticals, Inc.) (“Nycomed” or “Opposer”):

1. Admits the allegations set forth in Paragraph 1.
2. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2 and therefore denies same.
3. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3 and therefore denies same.

4. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 4 and therefore denies same.

5. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 5 and therefore denies same.

6. Denies the allegations set forth in Paragraph 6.

7. Denies the allegations set forth in Paragraph 7.

8. Admits that registration would give Applicant the *prima facie* exclusive right to use the mark shown in the opposed application but otherwise denies the allegations set forth in Paragraph 8.

9. Denies the allegations set forth in paragraph 9.

Affirmative Defenses

10. The Amended Notice of Opposition fails to state a claim upon which relief may be granted.

11. Opposer has previously consented to the use and registration by Applicant of the mark sought to be registered in the opposed application.

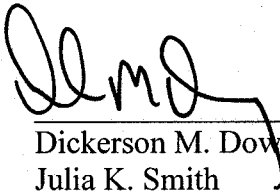
12. This Opposition is barred by the doctrines of estoppel, waiver and acquiescence.

13. The continuance of this Opposition by Opposer is in violation of the terms of a prior written agreement between Applicant and Opposer.

WHEREFORE, it is respectfully requested that judgment be entered in Applicant's favor dismissing the Amended Notice of Opposition and that a Notice of Allowance be issued with respect to the application that is the subject of this Opposition.

Dated: New York, New York
May 12, 2009

Respectfully submitted,

By: 

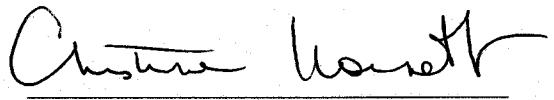
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(212) 223-4000

Counsel for Applicant
Breckenridge Pharmaceutical, Inc

CERTIFICATE OF SERVICE

This is to certify that on the 12th day of May, 2009, a true and correct copy of the foregoing ANSWER TO AMENDED NOTICE OF OPPOSITION has been sent by first-class mail to Opposer's attorney of record, as indicated below:

Linda M. Byrne, Esq.
Crawford Maunu, PLLC
1150 Northland Drive
Suite 100
St. Paul, MN 55120

By: 
Christine Kornett