



FISH & NEAVE IP GROUP

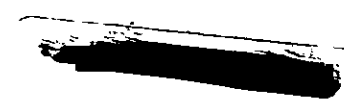
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August 22, 2006

Commissioner for Trademarks  
Attn: TTAB  
P.O. Box 1451  
Alexandria, VA 22313-1451



09-01-2006  
U.S. Patent & TMO/TM Mail Ropt Dt. #32

Re: Purdue Pharma L.P. v. Acura Pharmaceuticals, Inc.

Dear Sir:

Enclosed is a Notice of Opposition of Purdue Pharma L.P. to Acura Pharmaceuticals, Inc.'s application to register OxyADF in International Class 5, Serial No. 78/651,230, published in the Official Gazette of March 7, 2006.

Please charge the Fish & Neave IP Group of Ropes & Gray LLP deposit account No. 06-1075 (Reference No. 002927-0020) to cover the fee for this matter.

Kindly institute this opposition.

Please acknowledge receipt of the Notice of Opposition by stamping and returning the enclosed self-addressed postcard.

Sincerely yours,

Jeffrey D. Parnass

JDP:vm  
Enclosures

UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

Applicant : Acura Pharmaceuticals, Inc.  
Mark : OxyADF  
Serial No. : 78/651,230  
Filed : June 15, 2005  
Published : March 7, 2006  
Goods : Pharmaceutical preparations for deterrence of  
abuse of opioid containing orally administered  
prescription analgesic products  
Class: : 5

----- X  
PURDUE PHARMA L.P., :  
Opposer, :  
v. : Opposition No.  
ACURA PHARMACEUTICALS, INC., :  
Applicant. :  
----- X

NOTICE OF OPPOSITION

1. Opposer, Purdue Pharma L.P., is a limited partnership organized and existing under the laws of the State of Delaware having its principal place of business at 201 Tresser Boulevard, Stamford, Connecticut 06901.

2. Upon information and belief, applicant, Acura Pharmaceuticals, Inc., is a New York corporation having an office at 616 N. North Court, Suite 120, Palatine, Illinois 60047.

3. Since long prior to June 15, 2005, applicant's filing date of its application to register OxyADF, opposer has been and now is engaged in the business of manufacturing, advertising, offering for sale and selling pharmaceutical products. Among these products are pharmaceutical/analgesic preparations sold under the trademarks OxyContin and OxyIR ("the OXY Marks").

4. Upon the introduction of opposer's pharmaceutical products and pharmaceutical/analgesic preparations so marked upon the market and continuously thereafter, they became and are now well and favorably known to the public and the trade by the OXY Marks, both of which are closely and universally associated with opposer and its products as means by which opposer and its products have become known to the public and their source or origin identified.

5. Opposer is the owner of the following trademark registrations of the OXY Marks in the United States Patent and Trademark Office:

<u>Trademark</u>	<u>Registration No.</u>	<u>Issued</u>
OxyContin	2,004,586	October 1, 1996
OxyContin	2,033,914	January 28, 1997
OxyIR	2,044,362	March 11, 1997

6. The registrations identified in paragraph 5 above are presently outstanding, validly subsisting, and have become incontestable.

7. Upon information and belief, on June 15, 2005, applicant filed intent-to-use application Serial No. 78/651,230 in the United States Patent and

Trademark Office to register OxyADF as a trademark for “pharmaceutical preparations for deterrence of abuse of opioid containing orally administered prescription analgesic products.”

8. Upon information and belief, applicant made no bona fide use of OxyADF in the ordinary course of trade prior to June 15, 2005, when application Serial No. 78/651,230 was filed.

9. The mark applicant seeks to register, namely, OxyADF, so resembles opposer’s OXY Marks as to be likely, when applied to applicant’s products, to cause confusion or mistake or to deceive persons by creating the erroneous impression that applicant’s OxyADF products originate with or come from opposer or from the same source as opposer’s OxyContin or OxyIR products, or that applicant’s OxyADF products are authorized by or endorsed by or are sponsored by opposer or are connected in some way with opposer or its OxyContin or OxyIR products.

10. Applicant’s use of the trademark OxyADF is without license, authorization or permission of opposer.

11. The granting of a trademark registration of OxyADF to applicant would be contrary to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and would violate or diminish the prior and superior rights of opposer in its OXY Marks.

12. Opposer will be damaged if application Serial No. 78/651,230 should be granted because applicant will obtain statutory rights in the trademark OxyADF in violation and derogation of the established prior rights of opposer.

WHEREFORE, opposer prays that its opposition be sustained, that application Serial No. 78/651,230 be rejected, and that registration of OxyADF as a trademark to applicant be refused and denied.

FISH & NEAVE IP GROUP  
ROPES & GRAY LLP

Dated: August 22, 2006

By: Susan Progoff  
Herbert F. Schwartz  
Susan Progoff  
Jeffrey D. Parnass

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New York, New York 10020  
Tel.: (212) 596-9000

Attorneys for Opposer,  
Purdue Pharma L.P.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451 Alexandria, VA 22313-1451 on the date which appears below:

Thomas Leary  
Name

August 29, 2006  
Date of Signature and Deposit