

ESTTA Tracking number: **ESTTA108002**

Filing date: **11/06/2006**

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	Eli Lilly and Company
Granted to Date of previous extension	11/08/2006
Address	Lilly Corporate Center Indianapolis, IN 46285 UNITED STATES

Attorney information	Peter J. Lynfield, Esq. Abelman, Frayne & Schwab 666 Third Avenue New York, NY 10017 UNITED STATES JBSeyler@lawabel.com, Rdahl@lawabel.com Phone:212-949-9022
----------------------	--

**Applicant Information**

Application No	78748648	Publication date	07/11/2006
Opposition Filing Date	11/06/2006	Opposition Period Ends	11/08/2006
Applicant	Agouron Pharmaceuticals, Inc. 10777 Science Center Drive San Diego, CA 92121 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 005. All goods and services in the class are opposed, namely: Pharmaceutical preparations for the treatment of macular degeneration, disorders of the eye, cardiovascular disease, central nervous system diseases and disorders, neurological disorders, urological disorders, urogenital disorders, gastrointestinal disorders, musculoskeletal disorders, allergies, diabetes, hypertension, erectile dysfunction, sexual dysfunction, premature ejaculation, stroke, cancer, migraines, pain, obesity, inflammation, inflammatory diseases, respiratory diseases, infectious diseases, immunological disorders, viral disorders and fungal disorders; pharmaceutical preparations namely, cholesterol preparations, smoking cessation preparations, dermatological preparations, gynecological preparations, osteoporosis preparations and ophthalmological preparations
---

Attachments	BREVEZE V BRYVEO - NOTICE OF OPPOSITION.pdf ( 3 pages )(213489 bytes )
-------------	--

Signature	/Peter J. Lynfield/
Name	Peter J. Lynfield, Esq.

Date	11/06/2006
------	------------

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

In re Application No. 78/748648  
Published July 11, 2006

<p style="text-align:center">Eli Lilly and Company</p> <p style="text-align:center">Opposer,</p> <p style="text-align:center">v.</p> <p style="text-align:center">Agouron Pharmaceuticals, Inc.</p> <p style="text-align:center">Applicant</p>
--

Opposition No.

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 1451

**NOTICE OF OPPOSITION**

Eli Lilly and Company, a corporation organized and existing under the laws of Indiana, with an office at Lilly Corporate Center, Indianapolis, Indiana 46285, believes that it will be damaged by registration of the mark shown in Application Serial No. 78/748648 and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Applicant is seeking to register the mark BRYVEO for “pharmaceutical preparations for the treatment of macular degeneration, disorders of the eye, cardiovascular disease, central nervous system diseases and disorders, neurological disorders, urological disorders, urogenital disorders, gastrointestinal disorders, musculoskeletal disorders, allergies, diabetes, hypertension, erectile dysfunction, sexual dysfunction, premature ejaculation, stroke, cancer, migraines, pain, obesity, inflammation, inflammatory diseases, respiratory diseases,

infectious diseases, immunological disorders, viral disorders and fungal disorders; pharmaceutical preparations namely, cholesterol preparations, smoking cessation preparations, dermatological preparations, gynecological preparations, osteoporosis preparations and ophthalmological preparations” in Class 5.

2. The application for BRYVEO was filed on November 7, 2005 based on intent to use.

3. Opposer owns Application No. 78/718469 for BREVEZE “pharmaceutical and medicinal preparations for the treatment and prevention of blood disorders, cancer/oncology, cardiovascular diseases, central nervous system diseases and disorders, dermatological disorders, diabetes, diabetic neuropathy, endocrine disorders, gastrointestinal disorders, hormonal diseases and disorders, immunological, bacterial, viral and fungal disorders, infectious diseases, inflammation and inflammatory diseases, musculoskeletal disorders, neurodegenerative disorders, neurological disorders, obesity, ophthalmologic conditions and diseases, pain, peripheral nervous system diseases and disorders, reproductive disorders, sexual dysfunction, sepsis, and urological disorders” in Class 5.

4. Opposer filed its application on September 22, 2005 and therefore has priority.

5. Applicant’s mark BRYVEO is substantially similar to Opposer’ mark BREVEZE.


6. Applicant’s goods are identical to or otherwise commercially related commercially related to Opposer’s goods.

7. In view of the substantial similarity between the respective marks and the commercial relationship between the goods, registration of the mark BRYVEO is likely to cause confusion, mistake or deception to purchasers as to the source of Applicant’s goods, and

therefore it is requested that registration to Applicant be refused under Section 2(d) of the Trademark Act.

WHEREFORE, Opposer believes that it will be damaged by the registration of Application Serial No. 78/748648 and respectfully requests that registration be refused and this opposition be sustained.

Respectfully submitted,

  
\_\_\_\_\_  
PETER J. LYNFIELD  
JULIE B. SEYLER

*Attorneys for Opposer*

**ABELMAN, FRAYNE & SCHWAB**  
**666 Third Avenue**  
**New York, New York 10017**  
**(212) 949-9022**