

ESTTA Tracking number: **ESTTA146271**

Filing date: **06/18/2007**

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

Proceeding	91177185
Party	Defendant RENOVO LIMITED RENOVO LIMITED The Incubator Building 48 Grafton Street GBX Manchester, M13 9XX,
Correspondence Address	WILLIAM C. WRIGHT EPSTEIN DRANGEL BAZERMAN & JAMES, LLP 60 E 42ND ST RM 820 NEW YORK, NY 10165-0820 mail@ipcounselors.com
Submission	Other Motions/Papers
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Signature	/William C. Wright/
Date	06/18/2007
Attachments	renovo.pdf (6 pages)(101221 bytes)

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in numbered paragraph 4 of the Notice of Opposition and therefore denies same.
5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in numbered paragraph 5 of the Notice of Opposition and therefore denies same.
6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in numbered paragraph 6 of the Notice of Opposition and therefore denies same.
7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in numbered paragraph 7 of the Notice of Opposition and therefore denies same.
8. Applicant denies the allegations of numbered paragraph 8 of the Notice of Opposition.
9. Applicant denies the allegations of numbered paragraph 9 of the Notice of Opposition.
10. Applicant admits the averments in paragraph 10 of the Notice of Opposition.
11. Applicant denies the allegations of numbered paragraph 11 of the Notice of Opposition.
12. Applicant admits that it filed its application to register the trademark JUVIDEX with the United States Patent and Trademark Office on February 11, 2005, but is without knowledge or information sufficient to form a belief as to when Opposer began using its VIDEX Marks, and denies the remaining averments in paragraph 12 of the Notice of Opposition.
13. Applicant denies the allegations of numbered paragraph 13 of the Notice of Opposition.
14. Applicant denies the allegations of numbered paragraph 14 of the Notice of Opposition.
15. Applicant denies the allegations of numbered paragraph 15 of the Notice of Opposition.
16. Applicant denies the allegations of numbered paragraph 16 of the Notice of Opposition.
17. Applicant denies the allegations of numbered paragraph 17 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Notice of Opposition fails to state a claim upon which relief can be granted to Opposer.

Second Affirmative Defense

Applicant's use of its applied for mark is not likely to cause confusion with Opposer's alleged pleaded trademarks.

Third Affirmative Defense

The marks at issue differ in sound, appearance, meaning, and commercial impression.

Fourth Affirmative Defense

The respective goods, channels of trade, marketing and distribution of the goods at issue differ.

COUNTERCLAIM UNDER SECTION 18

1. BMS alleges in its Notice of Opposition that it is the owner of the U.S. trademark registrations of VIDEX, Reg. No.1,597,127, for "anti-viral preparations" and VIDEX EC, Reg. No. 2,904,718, for an "antiviral pharmaceutical preparation".
2. BMS's aforementioned U.S. registrations are overly broad and not specific to BMS's current use in commerce, if any, of the marks VIDEX and VIDEX EC. Specifically, upon information and belief, BMS's uses in commerce its trademarks VIDEX and VIDEX EC, if at all, only on or on in

connection with antiviral pharmaceutical preparations for use in the treatment of the Human Immunodeficiency Virus.

3. Upon information and belief, BMS does not use in commerce its trademarks VIDEX and VIDEX EC in connection with any antiviral preparation other than an antiviral pharmaceutical preparation for the treatment of the Human Immunodeficiency Virus.

4. While Applicant does not believe there is a likelihood of confusion between the applied for mark and BMS's trademarks VIDEX and VIDEX EC, should the Board find a likelihood of confusion between said marks, the entry of a limitation of BMS's registrations of VIDEX, Reg. No.1,597,127, and VIDEX EC, Reg. No. 2,904,718, reflecting how BMS is actually using in commerce its pleaded marks, if at all, will avoid a finding of likelihood of confusion. Specifically, the Board should restrict BMS's registrations of VIDEX, Reg. No.1,597,127, and VIDEX EC, Reg. No. 2,904,718, to read, "antiviral pharmaceutical preparation for use in the treatment of the Human Immunodeficiency Virus."

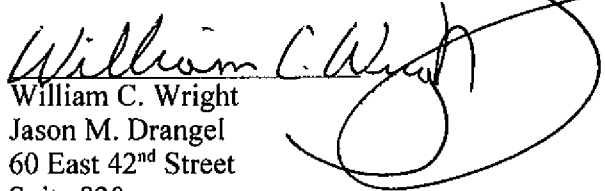
WHEREFORE, Applicant believes that should the Board find a likelihood of confusion between the applied for mark and BMS's trademarks VIDEX and VIDEX EC, the failure of the Board to enter a limitation of BMS's registrations of VIDEX, Reg. No.1,597,127, and VIDEX EC, Reg. No. 2,904,718, reflecting how BMS is actually using in commerce its pleaded marks, if at all, will result in damage to Applicant.

Respectfully, submitted,

**EPSTEIN DRANGEL BAZERMAN &
JAMES, LLP**
Attorneys for Applicant

Dated: JUNE 18, 2007

By:


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CERTIFICATE OF SERVICE

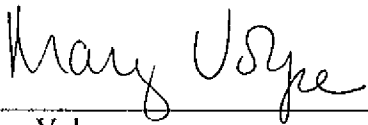
I hereby certify that a true and complete copy of the foregoing ANSWER TO NOTICE OF OPPOSITION AND COUNTERCLAIM UNDER SECTION 18 was served by First Class Mail, with sufficient postage prepaid, on this 18th day of June, 2007, upon Opposer's attorney:

Ms. Ulana Holubec, Esq.

Quinn Emanuel Urquhart Oliver & Hedges, LLP

51 Madison Ave., 22nd Floor

New York, NY 10010



Mary Volpe