

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

The Matter of Application for registration of the mark **JAZTIV**, Serial No. 77/002,095 (the "Application") filed on September 19, 2006 by Amylin Pharmaceuticals, Inc., ("Applicant") which was published in the Official Gazette on May 1, 2007.

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 Bayer Schering Pharma AG, formerly :
 known as Schering Aktiengesellschaft, :
 :
 Opposer, :
 v. : Opposition No.:
 :
 :
 Amylin Pharmaceuticals, Inc. :
 Applicant. :
 -----X

FIRST CLASS MAIL

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 August 20, 2007.

Marilyn Matthes Brogan, Reg. No. 31,223

Name of Applicant, Assignee or Registered Representative

Marilyn Matthes Brogan

Signature

August 20, 2007

Date of Signature

NOTICE OF OPPOSITION

Bayer Schering Pharma AG, formerly known as Schering Aktiengesellschaft ("Opposer" or "Bayer Schering"), a corporation of Germany, located and doing business at Mullerstrasse 178, D-13353 Berlin, Germany, believes it would be damaged by registration of the trademark **JAZTIV** shown in application Serial No. 77/002,095 and hereby opposes the **JAZTIV** application.

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U.S. Patent & TMO/TM Mail Rcpt Dt. 1 34

As grounds for opposition, it is alleged as follows:

1. Opposer is a leader in the health care industry and the pharmaceutical field and discovers, develops and markets pharmaceutical products which are sold under Opposer's trademarks in the United States and throughout the world. Opposer has invested enormous sums of money to market a wide variety of innovative pharmaceutical products.

2. Opposer is the owner of, inter alia, a family of marks containing the prefix "Yaz" or "Yas" or the like, ("Opposer's Marks") including the marks in the following U.S. Trademark Registrations:

Trademark	Registration No.	Date	Goods
YASMIN	2,177,963	August 4, 1999	pharmaceutical preparations, namely oral contraceptives
YASMIN LITE	3,010,507	November 1, 2005	pharmaceutical preparations, namely hormonal contraceptives
YASMINELLE	3,012,885	November 8, 2005	pharmaceutical preparations, namely hormonal contraceptives
YASMINIQ	3,089,393	May 9, 2006	pharmaceutical preparations, namely hormonal contraceptives
YAZ	2,980,771	August 2, 2005	pharmaceutical preparations, namely hormonal contraceptives

Attached and made a part of this Opposition and marked as Exhibit 1-5 are copies of the registration certificates which correspond to the above-mentioned marks.

3. Opposer is also the owner of a number of pending U.S. Trademark applications which contain the formative "YAZ-" or "YAS", or the like, for various pharmaceutical preparations, including the following:

Trademark	Serial No.
YAZTEND	78/725,103
YAZ FOL	77/152,778
YASMIN FOL	77/152,774
YAZFREYA	77/060,182
YAZPLIE	77/060,156
YAZTANIA	77/060,154
YAZ BEYOND BIRTH CONTROL	77/204,817

4. Opposer has spent and continues to spend substantial sums of money to advertise, promote and supply its various goods of high quality to its customers. Opposer has achieved an excellent reputation in the industry.

5. Opposer has selected and developed the above identified family of Opposer's Marks to serve as distinctive trademarks of Opposer, to represent the good will of Opposer's business, and to identify the exclusive origin of certain goods from Opposer and to distinguish Opposer's goods from those of others.

6. Opposer's Marks are arbitrary or fanciful terms coined by Opposer, which have no known generic or descriptive meaning, no known meaning in a foreign language and no particular significance in the trade or industry.

7. Applicant seeks to register **JAZTIV** as a trademark in International Class 5 for "pharmaceutical preparations for the treatment of metabolic disorders" and filed U.S. trademark application Serial No. 77/002,095 on September 19, 2006 claiming an intent to use. Applicant's mark was published in the Official Gazette on May 1, 2007.

8. Applicant's alleged mark **JAZTIV** closely resembles Opposer's Marks in both appearance and pronunciation.

9. Applicant's alleged trademark **JAZTIV** is so similar to Opposer's Marks when used in connection with pharmaceutical preparations for the treatment of metabolic disorders, that it is likely to cause confusion, mistake, or deception with consequent injury to Opposer and the public.

10. Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of Applicant's mark sought to be registered, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

11. Applicant's alleged trademark **JAZTIV**, when used in conjunction with pharmaceutical preparations for the treatment of metabolic disorders, is likely to cause confusion or mistake or deception with consequent injury to Opposer and the public. Use of **JAZTIV** would likely lead to the mistaken belief that Applicant's products originate with, are affiliated with, or are somehow sponsored and approved by Opposer and will dilute the distinctiveness of and tarnish Opposer's Marks.

12. Due to the similarity between the parties' respective marks, goods, trade channels and customers of consumers are likely to associate one product with the incorrect manufacturer or source of the product. It is likely that Applicant will benefit from trading on the good will and reputation established over many years by Opposer.

13. Specifically for the foregoing reasons, Applicant is not entitled to registration of the mark **JAZTIV** and registration should be refused pursuant to Section 2(d) of the Trademark Act on the grounds that Applicant's alleged **JAZTIV** mark so resembles Opposer's Marks as to cause confusion, mistake, and/or deception.

14. Opposer therefore believes it will be damaged by the registration of **JAZTIV** by Applicant.

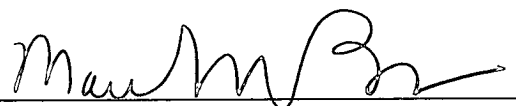
WHEREFORE, Opposer respectfully requests that this Opposition be sustained and that Application Serial No. 77/002,095 filed September 19, 2006 be rejected and disallowed, and that registration of **JAZTIV** to Applicant be refused.

A check in the amount of \$300.00 is enclosed to cover the fee for filing this Notice of Opposition. If any additional fees are determined to be due, the Commissioner is hereby authorized to charge any additional fees to our deposit account number 50-0320.

This Notice of Opposition is filed in triplicate and the Patent and Trademark Office is requested to serve a copy of this Notice on the Applicant or its attorneys.

Respectfully submitted,

Dated: August 20, 2007

By: 
William F. Lawrence
Marilyn Matthes Brogan
Deena Levy Weinhouse
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New York, New York 10151
(212) 588-0800

<In Triplicate>

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 2,177,963

United States Patent and Trademark Office

Registered Aug. 4, 1998

**TRADEMARK
PRINCIPAL REGISTER**

YASMIN

**SCHERING AKTIENGESELLSCHAFT (FED
REP GERMANY CORPORATION)
D-13342 BERLIN, FED REP GERMANY**

**OWNER OF FED REP GERMANY REG. NO.
2000119, DATED 12-13-1990, EXPIRES
11-30-2000.**

**FOR: PHARMACEUTICAL PREPARATIONS,
NAMELY, ORAL CONTRACEPTIVES, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).**

**SER. NO. 75-223,407, FILED 1-9-1997.
KELLEY WELLS, EXAMINING ATTORNEY**

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

United States Patent and Trademark Office

Reg. No. 3,010,507

Registered Nov. 1, 2005

**TRADEMARK
PRINCIPAL REGISTER**

YASMIN LITE

SCHERING AKTIENGESELLSCHAFT (FED REP
GERMANY CORPORATION)
CORPORATE TRADEMARK CENTER
BERLIN, FED REP GERMANY 13342

FOR: PHARMACEUTICAL PREPARATIONS,
NAMELY, HORMONAL CONTRACEPTIVES, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

OWNER OF FED REP GERMANY REG. NO.
30340242, DATED 11-25-2003, EXPIRES 7-31-2013.

OWNER OF U.S. REG. NO. 2,177,963.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE LITE, APART FROM THE MARK
AS SHOWN.

SER. NO. 78-273,208, FILED 7-11-2003.

ZHALEH DELANEY, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

United States Patent and Trademark Office

Reg. No. 3,012,885

Registered Nov. 8, 2005

**TRADEMARK
PRINCIPAL REGISTER**

YASMINELLE

SCHERING AKTIENGESELLSCHAFT (FED REP
GERMANY CORPORATION)
CORPORATE TRADEMARK CENTER
BERLIN, FED REP GERMANY 13342

OWNER OF FED REP GERMANY REG. NO.
30340243, DATED 11-25-2003, EXPIRES 7-31-2013.

SER. NO. 78-273,204, FILED 7-11-2003.

FOR: PHARMACEUTICAL PREPARATIONS,
NAMELY, HORMONAL CONTRACEPTIVES, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

ZHALEH DELANEY, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

United States Patent and Trademark Office

Reg. No. 3,089,393

Registered May 9, 2006

**TRADEMARK
PRINCIPAL REGISTER**

YASMINIQ

SCHERING AKTIENGESELLSCHAFT (FED REP
GERMANY CORPORATION)

CORPORATE TRADEMARK CENTER

BERLIN, FED REP GERMANY 13342

FOR: PHARMACEUTICAL PREPARATIONS,
NAMELY, HORMONAL CONTRACEPTIVES, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

OWNER OF FED REP GERMANY REG. NO.
30340246, DATED 11-25-2003, EXPIRES 7-31-2013.

OWNER OF U.S. REG. NO. 2,177,963.

SER. NO. 78-273,202, FILED 7-11-2003.

KAREN BRACEY, EXAMINING ATTORNEY

1/1/20

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

United States Patent and Trademark Office

Reg. No. 2,980,771

Registered Aug. 2, 2005

**TRADEMARK
PRINCIPAL REGISTER**

YAZ

SCHERING AKTIENGESELLSCHAFT (FED REP
GERMANY CORPORATION)
CORPORATE TRADEMARK CENTER
BERLIN, FED REP GERMANY 13342

FOR: PHARMACEUTICAL PREPARATIONS,
NAMELY, HORMONAL CONTRACEPTIVES, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

OWNER OF FED REP GERMANY REG. NO.
30340245, DATED 11-26-2003, EXPIRES 7-17-2013.

SER. NO. 78-273,189, FILED 7-11-2003.

KAREN BRACEY, EXAMINING ATTORNEY