

ESTTA Tracking number: **ESTTA182300**

Filing date: **12/20/2007**

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	Warner Chilcott Company, Inc.
Granted to Date of previous extension	12/23/2007
Address	Union Street KM 1.1 Fajardo, PR 00738 UNITED STATES

Attorney information	Heather L. Jensen Donovan & Yee LLP 110 Greene Street, Suite 700 New York, NY 10012 UNITED STATES hjensen@yeellp.com Phone:212-226-7700
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### Applicant Information

Application No	77053313	Publication date	06/26/2007
Opposition Filing Date	12/20/2007	Opposition Period Ends	12/23/2007
Applicant	BioSante Pharmaceuticals, Inc. 111 Barclay Blvd., Suite 280 Lincolnshire, IL 60069 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Pharmaceutical preparations for the administration of hormones
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### Grounds for Opposition

Other	Please see attached pleading.
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Attachments	Notice of Opposition.pdf ( 5 pages )(128093 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Heather L. Jensen/
Name	Heather L. Jensen
Date	12/20/2007

# DONOVAN & YEE ▲ LLP

The Soho Building ▲ 110 Greene Street, Suite 700 ▲ New York, NY 10012

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Writer's Direct Dial:

(212) 226-7262

December 20, 2007

Commissioner for Trademarks  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Re: Client No.: 1406

## NOTICE OF OPPOSITION

Applicant : BIOSANTE PHARMACEUTICALS, INC.  
Serial No. : 77/053,313  
Mark : ELESTRIN

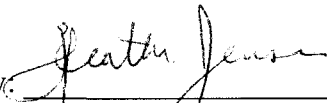
Madam:

Please find enclosed the Notice of Opposition to the above-referenced application for registration of ELESTRIN.

Kindly file the enclosed papers and charge the fee, estimated to be \$300.00, and any deficiency or overpayment of the fee as estimated below to the undersigned attorney's Deposit Account No. 50-0357.

Respectfully submitted,

DONOVAN & YEE LLP

By:  \_\_\_\_\_

Mary A. Donovan  
Heather L. Jensen

Attorneys for Opposer

Estimated Fee: \$ 300.00

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

**IN THE MATTER OF TRADEMARK APPLICATION  
SERIAL NO. 77/053,313 PUBLISHED IN THE  
OFFICIAL GAZETTE ON JUNE 26, 2007  
MARK: ELESTRIN**

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WARNER CHILCOTT COMPANY, INC., :  
  **Opposer,** :     **OPPOSITION NO.**  
  **v.** :  
BIOSANTE PHARMACEUTICALS, INC., :  
  **Applicant.** :  
-----x

Commissioner for Trademarks  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Warner Chilcott Company, Inc. ("Opposer") is a corporation organized under the laws of Puerto Rico with an office at Union Street Km 1.1, Fajardo, Puerto Rico 00738. Opposer believes it will be damaged by the registration of the mark ELESTRIN as shown in the above-identified application ("Application") and hereby opposes the same in its entirety. Said Application was published in the June 26, 2007 issue of the Official Gazette and Opposer has been granted extensions of time to oppose the Application until December 23, 2007.

The grounds for opposition are as follows:

1. Opposer is a pharmaceutical company focusing on products, such as contraceptives and hormone replacement therapy, related to women's healthcare.
2. Opposer, through its predecessors, has used its LOESTRIN mark since at least as early as 1972 in connection with contraceptive preparations ("Opposer's Mark").
3. Opposer's Mark is the subject of incontestable Registration Nos. 1,156,945 in International Class 5. This registration is valid and subsisting and the mark shown therein is currently in use.
4. As a result of extensive sales, advertising and promotion of products bearing Opposer's Mark, the mark has come to identify Opposer as the exclusive source of these goods in the minds of the relevant consumers, and the goods sold in connection with the Mark have come to be known to the relevant purchasing public throughout the United States as goods of the highest quality. Opposer's Mark and the goodwill associated therewith is therefore of inestimable value to Opposer.
5. Applicant seeks to register the mark ELESTRIN in connection with "pharmaceutical preparations for the administration of hormones" in International Class 5.
6. The description of Applicant's goods is so broad as to encompass the goods sold in connection with Opposer's Mark.
7. Applicant's mark is visually and phonetically confusingly similar and creates a similar commercial impression with Opposer's Mark. Consumers are therefore likely to mistakenly believe that the goods originate from the same source or that Opposer has authorized, sponsored or is otherwise connected with Applicant and its goods. Consumer confusion is further likely to occur as the marks will be used on closely related products and, upon information and belief, will be marketed to the same class of consumers.

8. Applicant's registration and use of the ELESTRIN mark is likely to cause confusion, or to cause mistake, or to deceive purchasers into believing that Applicant's goods originate with or are in some way sponsored, endorsed, licensed, associated or otherwise authorized or connected with Opposer. Such confusion would irreparably harm and damage Opposer since Opposer has no control over the nature or quality of the goods provided or produced by Applicant under the ELESTRIN mark.

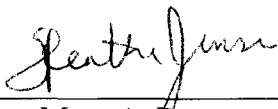
9. By reason of the foregoing, Opposer will be damaged by Applicant's registration of the mark ELESTRIN.

WHEREFORE, Opposer respectfully requests that this Opposition be sustained and that the registration by Applicant of the mark ELESTRIN be refused.

Dated: December 20, 2007

Respectfully submitted,


DONOVAN & YEE, LLP  
Attorneys for Opposer

By:   
\_\_\_\_\_  
Mary A. Donovan  
Heather L. Jensen

110 Greene Street, Suite 700  
New York, NY 10012  
(212) 226-7700

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Notice of Opposition was sent via first class, postage paid mail to Applicant's counsel Dana R. Kaplan, Esq., Kenyon & Kenyon LLP, 1 Broadway, New York, NY 10004 on December 20, 2007.



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Heather L. Jensen