

ESTTA Tracking number: **ESTTA187090**

Filing date: **01/16/2008**

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	GW Pharma Limited
Granted to Date of previous extension	01/16/2008
Address	Porton Down Science Park Salisbury, SP4 0JQ UNITED KINGDOM

Attorney information	Justin S. Cohen Rader, Fishman & Grauer PLLC 39533 Woodward Avenue, Suite 140 Bloomfield Hills, MI 48307 UNITED STATES interpartesparalegals@raderfishman.com Phone:248-593-3327
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### Applicant Information

Application No	77160177	Publication date	09/18/2007
Opposition Filing Date	01/16/2008	Opposition Period Ends	01/16/2008
Applicant	Banner Pharmacaps Inc. Suite 301 4100 Mendenhall Oaks Parkway High Point, NC 27265 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Pharmacological agent, namely for treating mania
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### Applicant Information

Application No	77163123	Publication date	09/18/2007
Opposition Filing Date	01/16/2008	Opposition Period Ends	
Applicant	Banner Pharmacaps Inc. Suite 301 4100 Mendenhall Oaks Parkway High Point, NC 27265 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Pharmacological agent, namely for treating
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bipolar disorder, epilepsy, and migraine prophylaxis

### Applicant Information

Application No	77160182	Publication date	09/18/2007
Opposition Filing Date	01/16/2008	Opposition Period Ends	
Applicant	Banner Pharmacaps Inc. Suite 301 4100 Mendenhall Oaks Parkway High Point, NC 27265 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005.  
All goods and services in the class are opposed, namely: Pharmacological agent, namely for treating mania

### Applicant Information

Application No	77163153	Publication date	09/18/2007
Opposition Filing Date	01/16/2008	Opposition Period Ends	
Applicant	Banner Pharmacaps Inc. Suite 301 4100 Mendenhall Oaks Parkway High Point, NC 27265 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005.  
All goods and services in the class are opposed, namely: Pharmacological agent, namely for treating bipolar disorder, epilepsy, and migraine prophylaxis

### Grounds for Opposition

Priority and likelihood of confusion      Trademark Act section 2(d)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2966195	Application Date	01/02/2003
Registration Date	07/12/2005	Foreign Priority Date	NONE
Word Mark	SATIVEX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: Pharmaceutical and veterinary preparations, namely, herbal extracts, formulas containing herbal extracts, herbs and medicinal oils, for use in the treatment of multiple sclerosis, neuropathic pain, spinal cord injury, bladder disfunction and peripheral neuropathy; pure extracts of herbs for medicinal purposes		

U.S. Application No.      78782298      Application Date      12/29/2005

Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SATIVEX		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use:  Computer programmes for processing information relating to pharmaceuticals; computer software for processing information relating to pharmaceuticals; data processing apparatus, namely, apparatus for processing information relating to pharmaceuticals; monitoring apparatus, namely, apparatus for monitoring data relating to pharmaceuticals; recording apparatus, namely, apparatus for recording information relating to pharmaceuticals; communication apparatus namely, signaling and signal receiving devices for communicating information relating to pharmaceuticals; apparatus for recording and transmission of data namely, remotely controllable drug delivery devices in the nature of programmable lockable containers; downloadable electronic publications provided on-line from computer databases or the Internet in the field of pharmaceuticals, phytochemistry and botanicals; computer software to enable the searching of data.</p> <p>Class 016. First use:  Printed matter, namely, pharmaceutical information leaflets and product usage leaflets relating to the packaging, promotion and provision of information relating to a pharmaceutical product; pharmaceutical packaging made of paper and cardboard; patient record cards and prescription pads; pharmaceutical information leaflets; books in the fields of medicine and pharmaceuticals; printed publications, namely, magazines, newsletters, pamphlets, reports, instructional and informational leaflets, posters, all in the fields of medicine and pharmaceuticals; paper packaging; stationery; printed instructional and teaching materials relating to the pharmaceutical, health care and medical fields.</p> <p>Class 041. First use:  Educational services, namely conducting classes, seminars, lectures and online instruction in the field of science, phytochemistry, botany, medicine and healthcare; provision of training in the field of science, phytochemistry, botany, medicine and healthcare ; instruction services in the field of science, phytochemistry, botany, medicine and healthcare; arranging and conducting educational conferences and educational seminars; conducting educational exhibitions in the nature of exhibitions relating to healthcare, medicine and botanicals; conducting educational workshops in the field of science, phytochemistry, botany, medicine and healthcare; provision of on-line non-downloadable electronic publications in the nature of magazines, newsletters, pamphlets, reports, and instructional and informational leaflets, in the field of science, phytochemistry, botany, medicine and healthcare; publication of texts; publication of scientific texts</p> <p>Class 044. First use:  Medical services; veterinary services; medical analysis services; medical and veterinary information provided on-line from a computer database or the Internet; horticultural services; provision of horticultural information</p>		

Attachments	78782298#TMSN.jpeg ( 1 page )( bytes ) STAVILEX.pdf ( 4 pages )(222082 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	/Justin S. Cohen/
Name	Justin S. Cohen
Date	01/16/2008



*extracts, herbs and medicinal oils, for use in the treatment of multiple sclerosis, neuropathic pain, spinal cord injury, bladder dysfunction and peripheral neuropathy; pure extracts of herbs for medicinal purposes” in International Class 5, on the Principal Register.*

3. Application Serial No. 78/199,470 currently specifies “*computer programmes for processing information relating to pharmaceuticals; computer software for processing information relating to pharmaceuticals; data processing apparatus, namely, apparatus for processing information relating to pharmaceuticals; monitoring apparatus, namely, apparatus for monitoring data relating to pharmaceuticals; recording apparatus, namely, apparatus for recording information relating to pharmaceuticals; communication apparatus namely, signaling and signal receiving devices for communicating information relating to pharmaceuticals; apparatus for recording and transmission of data namely, remotely controllable drug delivery devices in the nature of programmable lockable containers; downloadable electronic publications provided on-line from computer databases or the Internet in the field of pharmaceuticals, phytochemistry and botanicals; computer software to enable the searching of data” in International Class 9, “printed matter, namely, pharmaceutical information leaflets and product usage leaflets relating to the packaging, promotion and provision of information relating to a pharmaceutical product; pharmaceutical packaging made of paper and cardboard; patient record cards and prescription pads; pharmaceutical information leaflets; books in the fields of medicine and pharmaceuticals; printed publications, namely, magazines, newsletters, pamphlets, reports, instructional and informational leaflets, posters, all in the fields of medicine and pharmaceuticals; paper packaging; stationery; printed instructional and teaching materials relating to the pharmaceutical, health care and medical fields” in International Class 16, “educational services, namely conducting classes, seminars, lectures and online instruction in the field of science, phytochemistry, botany, medicine and healthcare; provision of training in the field of science, phytochemistry, botany, medicine and healthcare ; instruction services in the field of science, phytochemistry, botany, medicine and healthcare; arranging and conducting educational conferences and educational seminars; conducting educational exhibitions*

*in the nature of exhibitions relating to healthcare, medicine and botanicals; conducting educational workshops in the field of science, phytochemistry, botany, medicine and healthcare; provision of on-line non-downloadable electronic publications in the nature of magazines, newsletters, pamphlets, reports, and instructional and informational leaflets, in the field of science, phytochemistry, botany, medicine and healthcare; publication of texts; publication of scientific texts” in International Class 41 and “medical services; veterinary services; medical analysis services; medical and veterinary information provided on-line from a computer database or the Internet; horticultural services; provision of horticultural information” in International Class 43.*

4. Notwithstanding Opposer’s SATIVEX Mark, Applicant filed the Opposed Applications. On April 18, 2007, Applicant filed Application Serial No. 77/160,177 for the mark STAVLEX for “*pharmacological agent, namely for treating mania*” in International Class 5. On April 18, 2007, Applicant filed Application Serial No. 77/160,182 for the mark STAVILEX for “*pharmacological agent, namely for treating mania*” in International Class 5. On April 23, 2007, Applicant filed Application Serial No. 77/163,123 for the mark STAVLEX, for “*pharmacological agent, namely for treating bipolar disorder, epilepsy, and migraine prophylaxis*” in International Class 5. On April 23, 2007, Applicant filed Application Serial No. 77/163,153 for the mark STAVILEX, for “*pharmacological agent, namely for treating bipolar disorder, epilepsy, and migraine prophylaxis*” in International Class 5.

5. Opposer has priority of trademark rights relative to the Opposed Applications.

6. The mark STAVLEX in Application Serial Nos. 77/160,177 and 77/163,123, and the mark STAVILEX in Application Serial Nos. 77/160,182 and 77/163,153, are highly similar to Opposer’s SATIVEX Mark. Further, the goods in the Opposed Applications and the goods and services in Registration No. 2,966,195 and Application Serial No. 78/782,298 are similar and related, would be marketed to and purchased by the same class of purchasers, and would be sold through the same channels of trade.


7. In view thereof, purchasers are likely to mistakenly assume that the goods in the Opposed Applications originate from, are sponsored by, or are in some way associated with Opposer. The marks STAVLEX and STAVILEX in the Opposed Applications so resemble Opposer's SATIVEX Mark as to be likely to cause confusion, or to cause mistake or to deceive. Accordingly, Opposer is likely to be damaged by registration of the marks in Application Serial Nos. 77/160,177, 77/163,123, 77/160,182, and 77/163,153.

WHEREFORE, Opposer prays that Application Serial Nos. 77/160,177, 77/163,123, 77/160,182, and 77/163,153 be refused registration, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

A filing fee for the Notice of Opposition in the amount of \$1200 should be charged to Deposit Account No. 18-0013. Any additional fees required should be charged to the same account.

Respectfully submitted,

Dated: January 16, 2008

By:   
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Applicant by mailing said copy on January 16, 2008, via First Class Mail, postage prepaid to:

D. Reeves Carter  
Guzov Ofsink, LLC  
600 Madison Avenue  
14<sup>th</sup> Floor  
New York, NY 10022-1657

  
Justin S. Cohen

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