

ESTTA Tracking number: **ESTTA278111**

Filing date: **04/15/2009**

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	Wyeth
Granted to Date of previous extension	04/15/2009
Address	Five Giralda Farms Madison, NJ 07940 UNITED STATES

Attorney information	Mary M. Cheli Wyeth Five Giralda Farms Madison, NJ 07940 UNITED STATES chelim@wyeth.com, pasapam@wyeth.com Phone:9736607698
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Applicant Information

Application No	77557550	Publication date	12/16/2008
Opposition Filing Date	04/15/2009	Opposition Period Ends	04/15/2009
Applicant	Avidas Pharmaceuticals, LLC 196 West Ashland Street Doylestown, PA 18901 UNITED STATES		


Goods/Services Affected by Opposition

<p>Class 005. All goods and services in the class are opposed, namely: Antimicrobials for dermatologic use; Dermatological pharmaceutical products; Dermatologicals; Gels, creams and solutions for dermatological use; Pharmaceutical preparations and substances for the treatment of viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and immune system related diseases and disorders; Pharmaceutical preparations for the prevention and treatment of disorders of the nervous system, the immune system, the cardio-vascular system, the metabolic system, the respiratory system, the musculo-skeletal system, the genitourinary system; for the treatment of inflammatory disorders; for use in dermatology, oncology, hematology and in tissue and organ transplantation, in ophthalmology and for gastroenterological disorders; Pharmaceutical preparations for use in dermatology</p>

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77180159	Application Date	05/14/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ONSAGE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: pharmaceutical preparations for the treatment of diseases and disorders of the central nervous system		

Attachments	77180159#TMSN.jpeg (1 page)(bytes) onsage v rosage itu.pdf (3 pages)(101783 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	/mary m cheli/
Name	Mary M. Cheli
Date	04/15/2009

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

In the Matter of Application Serial No.: 77/557550
Published on December 16, 2008

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WYETH,	:	
	:	<u>NOTICE OF OPPOSITION</u>
Opposer,	:	
-against-	:	
AVIDAS PHARMACEUTICALS, LLC	:	
Applicant.	:	
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Opposer Wyeth, a Delaware corporation having its principal place of business at Five Giralda Farms, Madison, New Jersey, believes it will be damaged by registration of the mark ROSAGE sought to be registered in Application Serial No. 77/557550, published in the Official Gazette on December 16, 2008 in International Class 5 for "Antimicrobials for dermatologic use; Dermatological pharmaceutical products; Dermatologicals; Gels, creams and solutions for dermatological use; Pharmaceutical preparations and substances for the treatment of viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and immune system related diseases and disorders; Pharmaceutical preparations for the prevention and treatment of disorders of the nervous system, the immune system, the cardio-vascular system, the metabolic system, the respiratory system, the musculo-skeletal system, the genitourinary system; for the treatment of inflammatory disorders; for use in dermatology, oncology, hematology and

in tissue and organ transplantation, in ophthalmology and for gastroenterological disorders; Pharmaceutical preparations for use in dermatology” and having been granted an extension of time to oppose this application until April 15, 2009, hereby opposes same.

As grounds of opposition, it is alleged that:

1. Opposer, Wyeth, its predecessors-in-interest and related companies (“Wyeth”) are now, and for many years past have been engaged in the manufacture, distribution and sale of a wide variety of pharmaceutical products.
2. On May 14, 2007, prior to the filing of the application herein opposed, Wyeth filed an application in the United States Patent and Trademark Office, Serial No. 77/180159, to register the mark ONSAGE in International Class 5 for “pharmaceutical preparations for the treatment of diseases and disorders of the central nervous system,” based on an intent to use the mark in commerce. The foregoing application was issued a Notice of Allowance on February 26, 2008.
3. By the application herein opposed, applicant seeks to register the mark ROSAGE in International Class 5 for “Antimicrobials for dermatologic use; Dermatological pharmaceutical products; Dermatologicals; Gels, creams and solutions for dermatological use; Pharmaceutical preparations and substances for the treatment of viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and immune system related diseases and disorders; Pharmaceutical preparations for the prevention and treatment of disorders of the nervous system, the immune system, the cardio-vascular system, the metabolic system, the respiratory system, the musculo-skeletal system, the

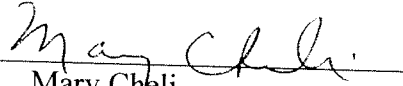
genitourinary system; for the treatment of inflammatory disorders; for use in dermatology, oncology, hematology and in tissue and organ transplantation, in ophthalmology and for gastroenterological disorders; Pharmaceutical preparations for use in dermatology". Said mark is likely, when applied to applicant's goods, which are related to Wyeth's products as identified in its aforesaid application to register the mark ONSAGE, to cause confusion, and mistake and to deceive, with consequent injury to Wyeth, medical professionals, the consuming public and the trade.

4. Wyeth 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 Wyeth.

WHEREFORE Wyeth believes that it will be damaged by registration of application's mark and prays that this opposition be sustained, and that Application Serial No. 77/557550 be denied.

Dated: April 15, 2009
Madison, New Jersey

WYETH

BY: 
Mary Cheli
Attorney for Opposer
Five Giralda Farms
Madison, New Jersey 07940
(973) 660-7698