

ESTTA Tracking number: **ESTTA565389**

Filing date: **10/16/2013**

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	Forest Laboratories, Inc.
Granted to Date of previous extension	10/16/2013
Address	909 Third Avenue New York, NY 10022 UNITED STATES

Attorney information	Christopher Serbagi 488 Madison Avenue New York, NY 10022 UNITED STATES ptoemails@earthlink.net Phone:212-593-2112
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Applicant Information

Application No	85878254	Publication date	06/18/2013
Opposition Filing Date	10/16/2013	Opposition Period Ends	10/16/2013
Applicant	CENTURY SCIENCES, LLC 18034 Ventura Blvd. #145 Encino, CA 91316 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. First Use: 2012/00/00 First Use In Commerce: 2012/00/00 All goods and services in the class are opposed, namely: Nutritional and dietary supplements; Dietary and nutritional supplements used for weight loss; Meal replacement powders for weight loss
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Grounds for Opposition

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

U.S. Registration No.	3609793	Application Date	01/03/2008
Registration Date	04/21/2009	Foreign Priority Date	NONE
Word Mark	BYSTOLIC		
Design Mark			
Description of Mark	The mark consists of the word "BYSTOLIC" in the color blue with two arrows forming a circle, one of the arrows is in the color blue and the other arrow is in		

	the color orange.
Goods/Services	Class 005. First use: First Use: 2008/01/07 First Use In Commerce: 2008/01/07 Pharmaceutical preparations for the treatment of Hypertension [, Isolated Systolic Hypertension, Essential Hypertension, Hypertension with Renal Disease, Primary Pulmonary Hypertension, Hypertension Encephalopathy, Congestive Heart Failure, Diastolic Heart Failure, Peripheral Vascular Disease, Ventricular Dysfunction following Myocardial Infarction, Definite or Suspected Acute Myocardial Infarction, Angina Pectoris, Chest Pain, Neuropathy in Type II Diabetics, Treatment of Endothelial Dysfunction, Coronary Artery Disease, Chronic Ischaemic Disease, Atrial Fibrillation and Flutter, Coronary Atherosclerosis, Atherosclerosis Renal Arteries, Diabetes with Renal Manifestations, Mitral Valve Disorders, Aortic Valve Disorders, Tachycardia, Cardiac Dysrhythmias, Primary Cardiomyopathy, Metabolic Syndrome, Pulmonary Valve Disorder, Migraine, and Prevention of Migraine]

U.S. Registration No.	3412780	Application Date	03/30/2005
Registration Date	04/15/2008	Foreign Priority Date	NONE
Word Mark	BYSTOLIC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2008/01/07 First Use In Commerce: 2008/01/07 Pharmaceutical preparations for the treatment of [pain,] hypertension [, cardiovascular, respiratory, central nervous system and gastrointestinal diseases and disorders]		

Attachments	BYSTRICIN Notice of Opposition.pdf(80933 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 Overnight Courier on this date.

Signature	/christopher serbagi/
Name	Christopher Serbagi
Date	10/16/2013

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

In the matter of Application Serial No. 85,878,254
Mark: BYSTRICIN

FOREST LABORATORIES, INC.,)	
)	
Opposer,)	OPPOSITION NO.:
)	
v.)	
)	
)	
CENTURY SCIENCES, LLC)	
)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer, Forest Laboratories, Inc., a Delaware corporation located and doing business at 909 Third Avenue, New York, New York 10022, believes that it will be damaged by registration of the mark shown in Serial No. 85,878,254, which was published in the *Official Gazette* on June 18, 2013, and hereby opposed the same.

As grounds for the opposition, Opposer alleges that:

1. Applicant filed a use-based Application Serial No. 85,878,254 on or about March 17, 2013 to register the mark BYSTRICIN in connection with “Nutritional and dietary supplements; Dietary and nutritional supplements used for weight loss; Meal replacement powders for weight loss.” in Class 5 (the “Proposed Mark”).
2. Opposer will be damaged by the registration of the Proposed Mark.
3. Opposer is the owner of the following U.S. registrations: (1) BYSTOLIC, for “pharmaceutical preparations for the treatment of hypertension” in Class 5 (Reg. No.

CERTIFICATE OF SERVICE

I certify that on October 16, 2013, I served a copy of the attached Notice of Opposition by causing a true copy thereof to be delivered by electronic communication and Federal Express to Applicant's attorney of record in an envelope addressed as follows:

Tal Grinblat
Lewitt, Hackman, Shapiro, Marshall & Harlan
16633 Ventura Blvd., Suite 1100
Encino, CALIFORNIA 91436

/Christopher Serbagi/
Christopher Serbagi