

ESTTA Tracking number: **ESTTA643112**

Filing date: **12/08/2014**

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	Genentech, Inc.
Granted to Date of previous extension	02/11/2015
Address	1 DNA Way South San Francisco, CA 94080 UNITED STATES

Attorney information	Harold Milstein Sheppard Mullin Richter & Hampton LLP 379 Lytton Avenue Palo Alto, CA 94301 UNITED STATES svtmdocketing@sheppardmullin.com, hmilstein@sheppardmullin.com, cbush@sheppardmullin.com
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**Applicant Information**

Application No	86289558	Publication date	10/14/2014
Opposition Filing Date	12/08/2014	Opposition Period Ends	02/11/2015
Applicant	L&Z US Inc. 6 Horizon Road, Suite 2301 Fort Lee, NJ 07024 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 010. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Medical and surgical catheters
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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.	2613330	Application Date	09/25/2000
Registration Date	08/27/2002	Foreign Priority Date	NONE
Word Mark	CATHFLO		

Design Mark	<h1>CATHFLO</h1>
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 2001/09/30 First Use In Commerce: 2001/09/30 THROMBOLYTIC ENZYMES FOR CATHETER CLEARANCE

U.S. Registration No.	3584619	Application Date	01/12/2005
Registration Date	03/03/2009	Foreign Priority Date	NONE

Word Mark	CATHFLO ACTIVASE (ALTEPLASE) THE ONE 2-MG T-PA
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Design Mark	 <p>The logo features a purple triangle with a white circle at its center. The white circle is composed of white lines of varying widths that touch the bottom of the triangle. Below the triangle, the words "cathflo ACTIVASE (ALTEPLASE)" are written in purple. At the very bottom is a purple quadrilateral with the words "THE ONE 2-MG t-PA" in white.</p>
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Description of Mark	The mark consists of a purple triangle with a white circle at its center. The white circle is comprised of white lines of varying widths that touch the bottom of the triangle. Below the triangle are the words "CATHFLO ACTIVASE (ALTEPLASE)" in purple. At the very bottom is a purple quadrilateral with the words "THE ONE 2-MG T-PA" in white.
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Goods/Services	Class 016. First use: First Use: 2005/12/31 First Use In Commerce: 2005/12/31 printed materials, namely, pamphlets, magazines, newsletters, white papers, reference guides, journals, reports, bulletins, and brochures in the areas of health care, medical conditions, medicine and pharmaceuticals Class 044. First use: First Use: 2005/12/31 First Use In Commerce: 2005/12/31
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	Providing information in the field of health care, medical conditions, medicine and pharmaceuticals
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Attachments	76135809#TMSN.png( bytes ) 78546717#TMSN.png( bytes ) CATHFLOW.PDF(763412 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	/ChelseaaBush/
Name	Chelseaa Bush
Date	12/08/2014

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

GENENTECH, INC.,

Opposer,

v.

L&Z US INC.,

Applicant.

Opposition No. \_\_\_\_\_

Serial No. 86289558

Mark: CATHFLOW

Filed: May 22, 2014

Published: October 14, 2014

**NOTICE OF OPPOSITION**

Opposer, Genentech, Inc. ("Opposer"), a corporation organized and existing under the laws of the State of Delaware, having a place of business at 1 DNA Way, South San Francisco, California, 94080, believes it will be damaged by registration of the mark CATHFLOW shown in Application Serial No. 86289558 for goods in International Class 10, filed May 22, 2014, by Applicant, L&Z US Inc., d/b/a L&Z US ("Applicant"), a corporation organized and existing under the laws of the State of New Jersey, having an address listed at 6 Horizon Road, Suite 2301, Fort Lee, New Jersey 07024, and hereby opposes the same.

As grounds for opposition, Opposer alleges that:

1. Opposer has obtained the necessary extension of time in which to oppose the challenged application following its publication on October 14, 2014 in the Official Gazette.
2. Opposer is one of the world's leading biotech companies, with multiple pharmaceutical products on the market for the treatment of a number of different medical conditions, including products for use in connection with catheters.

3. Opposer is the owner of a U.S. Trademark Registration for the trademark CATHFLO at Registration No. 2613330, registered August 27, 2002, in Class 5 for “thrombolytic enzymes for catheter clearance” and a U.S. Trademark Registration for the trademark CATHFLO ACTIVASE (ALTEPLASE) THE ONE 2-MG T-PA & Design at Registration No. 3584619, registered March 3, 2009, in Class 16 for “printed materials, namely, pamphlets, magazines, newsletters, white papers, reference guides, journals, reports, bulletins, and brochures in the areas of health care, medical conditions, medicine and pharmaceuticals” (collectively, the “CATHFLO Marks”).

4. Opposer's registrations listed above are valid, subsisting, and in full force and effect. In addition, Opposer's registration for CATHFLO at Registration No. 2613330 is incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and thus serves as conclusive evidence of the validity of Opposer's CATHFLO mark pursuant to 15 U.S.C. § 1115(b).

5. Opposer has continuously used CATHFLO in interstate commerce throughout the United States since at least as early as 2001 in connection with enzymes to clear catheters that have become occluded, and plans to continue so using CATHFLO in the future.

6. On May 22, 2014, Applicant filed an application at Serial No. 86289558 with the U.S. Patent and Trademark Office to register CATHFLOW in connection with “medical and surgical catheters” in Class 10.

7. There is no issue as to priority. Upon information and belief, Applicant has not used the mark CATHFLOW on its goods prior to May 22, 2014, as is evidenced by Applicant's filing its application based on intent-to-use on that date. The date of first registration and first use of the CATHFLO Marks is thus well before the first use of Applicant's CATHFLOW mark,

if any, and Opposer's CATHFLO Marks therefore have priority over Applicant's CATHFLOW application.

8. Opposer has offered and sold its goods under the CATHFLO Marks throughout the United States and has built up valuable goodwill in connection with its CATHFLO Marks.

9. By virtue of the excellence of its goods and by virtue of its efforts and expenditure of considerable sums for promotional and advertising activities, Opposer has gained for its CATHFLO Marks a valuable reputation and has created, in the minds of the public, an exclusive association between the CATHFLO Marks and its goods.


10. Opposer's CATHFLO Marks are inherently distinctive and strong marks, serving to distinguish the source of Opposer's goods.

11. Applicant's proposed CATHFLOW mark is virtually identical phonetically and in commercial impression to Opposer's CATHFLO Marks.

12. Applicant seeks to register CATHFLOW in connection with goods that are related to the goods of Opposer offered under its CATHFLO Marks. Applicant's registration and use of CATHFLOW in connection with the goods set forth in application Serial No. 86289558 are likely to cause confusion, to cause mistake, and to deceive customers, potential customers, and others as to the source of its goods. Such confusion will cause harm to Opposer and the consuming public and jeopardize the valuable goodwill and reputation Opposer has built up in connection with its CATHFLO Marks. Person's familiar with Opposer's CATHFLO Marks would be likely to buy Applicant's goods offered under CATHFLOW as goods offered by Opposer. Furthermore, any defect, objection or fault found with Applicant's goods marketed under CATHFLOW would be likely to reflect upon and injure the reputation that Opposer has established for its goods offered under its CATHFLO Marks.

13. Accordingly, for each and every reason stated above, Opposer believes that it will be damaged by the registration of Applicant's CATHFLOW mark and opposes application Serial No. 86289558.

WHEREFORE, Opposer prays that this opposition be sustained and that the registration of Applicant's CATHFLOW mark in application Serial No. 86289558 be refused.

December 8, 2014	
	Respectfully submitted, SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  By:  Harold J. Milstein Chelseaa Bush  Attorneys for Opposer Genentech, Inc.

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Palo Alto, CA 94301  
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**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing NOTICE OF OPPOSITION was served by first class mail, postage prepaid, on December 8, 2014 upon Applicant at the following address:

L&Z US INC.  
6 Horizon Rd, Apt 2301  
Fort Lee, New Jersey 07024-6620



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Chelsea Bush