

ESTTA Tracking number: **ESTTA771557**

Filing date: **09/19/2016**

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	Syndax Pharmaceuticals, Inc.
Granted to Date of previous extension	09/18/2016
Address	400 Totten Pond Road, Suite 110 Waltham, MA 02451 UNITED STATES
Attorney information	Janet Cullum Cooley LLP 1299 Pennsylvania Ave, NW Suite 700 Washington, DC 20004 UNITED STATES kwon@cooley.com, jcullum@cooley.com, trademarks@cooley.com Phone:2124796500

Applicant Information

Application No	86613984	Publication date	03/22/2016
Opposition Filing Date	09/19/2016	Opposition Period Ends	09/18/2016
International Registration No.	NONE	International Registration Date	NONE
Applicant	AstraZeneca AB Vastra Malarehamnen 9 SÅrdertÅrje, SE-15185 SWEDEN		

Goods/Services Affected by Opposition

Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Pharmaceutical preparations and substances for use in oncology; Pharmaceutical preparations and substances for the treatment of cardiovascular diseases and disorders, metabolic diseases and disorders, respiratory diseases and disorders, gastrointestinal diseases and disorders, nervous system diseases and disorders, infection and inflammation
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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.	86453576	Application Date	11/13/2014
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TYDELAZ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 0 First Use In Commerce: 0 Pharmaceutical preparations for the treatment of cancer Class 042. First use: First Use: 0 First Use In Commerce: 0 Research and development of pharmaceuticals for the treatment of cancer; medical and scientific research services in the field of cancer treatment		

Attachments	86453576#TMSN.png(bytes) BYDELAZ opposition.pdf(17594 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	/kkw/
Name	Karen K. Won
Date	09/19/2016

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

In the matter of application Serial No. 86/613,984
For the Trademark BYDELAZ
Published in the *Official Gazette*
on March 22, 2016

SYNDAX PHARMACEUTICALS, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
ASTRAZENECA AB,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Opposer Syndax Pharmaceuticals, Inc. (“Syndax”), a Delaware corporation having its principal place of business at 400 Totten Pond Road, Suite 110, Waltham, Massachusetts 02451, believes that it will be damaged by the issuance of a registration for the mark BYDELAZ in Application Serial No. 86/613,984 filed April 29, 2015 (the “Application”) by AstraZeneca AB, a Swedish corporation with a place of business at Vastra Malarehamnen 9, Södertälje, Sweden SE-15185 (“Applicant”). Syndax hereby opposes the Application pursuant to Section 13 of the United States Trademark Act, as amended, 15 U.S.C. §1063.

As grounds for opposition, Syndax alleges that:

1. Syndax is a biopharmaceutical company which is engaged in research and development on novel combination therapies for the treatment of multiple cancer indications.

The term “combination therapy” refers to compounds that are designed to be used with other compounds to achieve the desired therapeutic effect. The use of combination therapies has been described as the next frontier in immuno-oncology and has the potential to greatly enhance the treatment options available to patients suffering from serious disease. Syndax’s initial focus is on tumors that have shown sensitivity to immunotherapy, including lung cancer, melanoma and triple negative breast cancer. Syndax’s leading candidate compound has effects on both cancer cells and immune regulatory cells, potentially enhancing the body’s immune response to tumors. The drug is currently being evaluated in a Phase 1b/2 clinical trial for non-small cell lung cancer and melanoma and in a Phase 3 clinical trial for advanced breast cancer.

2. Syndax is the owner of the U.S. application for the TYDELAZ mark (“TYDELAZ Mark”), Application No. 86/453,576 which covers “pharmaceutical preparations for the treatment of cancer” in Class 5 and “research and development of pharmaceuticals for the treatment of cancer; medical and scientific research services in the field of cancer treatment” in Class 42. The application was filed on November 13, 2014, and a Notice of Allowance was issued on March 31, 2015.

3. The TYDELAZ mark is inherently distinctive; it is a fanciful and coined term with no meaning other than to identify Syndax’s product. Syndax has invested substantial time and resources in creating the TYDELAZ mark and seeking regulatory and trademark approval in the United States and abroad.

APPLICANT AND ITS PENDING APPLICATION

4. Applicant seeks to register the mark BYDELAZ (“Applicant’s Mark”) in connection with “pharmaceutical preparations and substances for use in oncology;

pharmaceutical preparations and substances for the treatment of cardiovascular diseases and disorders, metabolic diseases and disorders, respiratory diseases and disorders, gastrointestinal diseases and disorders, nervous system diseases and disorders, infection and inflammation” in Class 5. The application was filed on April 29, 2015, long after Syndax filed its TYDELAZ application and after Syndax received its Notice of Allowance for that mark. Therefore, Syndax has priority over Applicant’s mark and Applicant had at least constructive notice of Syndax’s prior filing.

5. The Application was published in the *Official Gazette* of the PTO on March 22, 2016. Syndax obtained an extension of time to oppose to July 20, 2016 and Applicant consented to a further extension of the time to oppose, which set September 18, 2016 as the deadline to file an opposition. This Opposition is therefore timely filed.

6. Applicant’s BYDELAZ Mark is substantially similar to the TYDELAZ Mark in sight, sound, and overall commercial impression. The marks differ in both sight and sound by only one letter and the dominant formative of the mark is YDELAZ.

7. In addition, Applicant’s Mark is proposed for use in connection with goods that overlap with the goods covered by Syndax’s filing. Syndax’s TYDELAZ mark has been allowed for use with “pharmaceutical preparations for the treatment of cancer” in Class 5 and “research and development of pharmaceuticals for the treatment of cancer; medical and scientific research services in the field of cancer treatment” in Class 42. In comparison, the Application for BYDELAZ covers, inter alia, “pharmaceutical preparations and substances for use in oncology.” The goods in the parties’ respective applications are therefore directly overlapping.

8. Due to the close similarity of Applicant's Mark with the TYDELAZ Mark in overall commercial impression and the direct overlap in offerings, Applicant's Mark is likely to cause confusion, mistake or deception within the meaning of 15 U.S.C. Section 2015(d).

9. Syndax is not affiliated or connected with Applicant or its goods; nor has Syndax endorsed or sponsored Applicant or its services.

10. There is no issue as to priority of use. Syndax's filing predates the filing date for BYDELAZ.

**FIRST GROUND FOR OPPOSITION
LIKELIHOOD OF CONFUSION**

11. Syndax incorporates by reference paragraphs 1 through 10, inclusive, as if fully set forth here.

12. Applicant's Mark is highly similar to the TYDELAZ Mark in appearance, sound, and commercial impression because it features the dominant formative "YDELAZ" and differs by only one letter from Syndax's mark.

13. The goods proposed to be offered by each party are related to each other and overlapping.

14. Syndax is not affiliated or connected with Applicant or its goods; nor has Syndax endorsed or sponsored Applicant or its goods.

15. Registration of Applicant's Mark will injure Syndax by causing the public to be confused or mistaken into believing that Applicant's offering is endorsed or sponsored by Syndax. Syndax has no control over the nature and quality of that offering by Applicant under Applicant's Mark, and Syndax's reputation and goodwill will be damaged and the value of the TYDELAZ Mark jeopardized, all to Syndax's detriment.

16. Accordingly, registration of Applicant's Mark herein opposed will damage Syndax because Applicant's Mark is likely, when used on or in connection with the goods described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus, Applicant's Mark is unregistrable under Sections 2(d) and 3 of the United States Trademark Act, as amended, 15 U.S.C. §§1052 and 1053, and should be refused registration.

Please recognize the following as attorneys for Syndax in this proceeding: Janet L. Cullum, Anne H. Peck, Peter J. Willsey, Karen K. Won and Judd D. Lauter (members of the Bar of the States of New York, California or Virginia), and the firm of Cooley LLP, 1114 Avenue of the Americas, New York, New York 10036-7798.

Please address all communications to Janet L. Cullum at the address below.

In accordance with 37 C.F.R. §§ 2.101 and 2.6(a)(17), the fees for one International Class for the opposed application are submitted herewith.

Respectfully submitted,
COOLEY LLP
Janet L. Cullum

Date: September 18, 2016

By: /Janet L. Cullum /
Janet L. Cullum
Attorneys for Opposer
1299 Pennsylvania Avenue, NW
Suite 700
Washington, DC 20004
(212) 479-6500

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2016, a true and correct copy of the foregoing **NOTICE OF OPPOSITION** was served by mailing said copy via First Class Mail, postage prepaid to Applicant's attorney at the following address:

Wm. Charles Saunders
AstraZeneca Pharmaceuticals LP
FOP3-318
1800 Concord Pike
Wilmington, Delaware 19850-5437

Date: September 18, 2016

/Judd D. Lauter /
Judd D. Lauter