

ESTTA Tracking number: **ESTTA856704**

Filing date: **11/06/2017**

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	Ipsen Biopharm Ltd.
Granted to Date of previous extension	11/05/2017
Address	Ash Road, Wrexham Industrial Estate Wrexham, LL13 9UF UNITED KINGDOM
Attorney information	Frances M. Jagla Lane Powell PC 601 S.W. Second Avenue, Suite 2100 Portland, OR 97204 UNITED STATES Email: jaglaf@lanepowell.com, trademarks@lanepowell.com Phone: 206.223.7749

**Applicant Information**

Application No	87252112	Publication date	05/09/2017
Opposition Filing Date	11/06/2017	Opposition Period Ends	11/05/2017
Applicant	Teva Women's Health, Inc. 5040 Duramed Drive Cincinnati, OH 45213 UNITED STATES		

**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: Oral, transdermal, injectable and intravaginal contraceptive preparations; intravaginal contraceptive sponge; Hormone replacement therapy preparations; Pharmaceutical preparations for the prevention of preterm birth or pregnancy Pharmaceutical preparations for the treatment of neurological diseases, respiratory diseases, cancer and pain; contraceptives
Class 010. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Contraceptive device, namely, an intrauterine device

**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. Registration	4874816	Application Date	06/26/2013
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No.			
Registration Date	12/22/2015	Foreign Priority Date	NONE
Word Mark	ONIVYDE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2015/10/30 First Use In Commerce: 2015/10/30 Pharmaceutical preparations for the diagnosis and treatment of cancer for humanuse		

Attachments	85971097#TMSN.png( bytes ) Notice of Opposition - ONIVIX.pdf(658999 bytes )
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Signature	/Makiko Coffland/
Name	Makiko Coffland
Date	11/06/2017

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

In the Matter of Trademark Application Serial No. 87/252,112  
Filed November 30, 2016  
For the Mark ONIVIX  
Published in the Official Gazette (Trademarks) on May 9, 2017

Ipsen Biopharm Ltd.,	)	
an England corporation	)	
	)	Opposition No. _____
Opposer,	)	
	)	
v.	)	<b>NOTICE OF OPPOSITION</b>
	)	
Teva Women's Health, LLC,	)	
a Delaware corporation	)	
formerly, Teva Women's Health, Inc.,	)	
an Ohio corporation,	)	
	)	
Applicant.	)	

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Ipsen Biopharm Ltd., a corporation organized under the laws of England (“Opposer”), believes that it will be damaged by the registration of the mark ONIVIX, which is the subject of Application Serial No. 87/252,112, published in the Official Gazette on May 9, 2017. Opposer hereby opposes the registration of said mark and requests that registration be refused. As grounds in support of its opposition, Opposer states as follows:

1. Opposer has used the mark ONIVYDE in connection with pharmaceutical preparations for the diagnosis and treatment of cancer for human use since as early as October 30, 2015, by and through its predecessor in interest. The ONIVYDE product was originally owned by Merrimack Pharmaceuticals, Inc. and was acquired by Opposer on April 3, 2017, said acquisition being recorded with the USPTO at Reel 006041, Frame 0612.

2. Opposer owns U.S. Trademark Registration No. 4,874,816, issued on December 22, 2015, for the mark ONIVYDE for “Pharmaceutical preparations for the diagnosis and treatment of cancer for human use” in International Class 5. The current TSDR and Assignment records for Registration No. 4,874,816 are attached hereto as Exhibit 1 and made a part hereof by this reference.

3. On November 30, 2016, Teva Women’s Health, LLC, formerly Teva Women’s Health, Inc. (“Applicant”), filed an application to register the mark ONIVIX which was assigned Serial No. 87/252,112 for use with “Oral, transdermal, injectable and intravaginal contraceptive preparations; intravaginal contraceptive sponge; Hormone replacement therapy preparations; Pharmaceutical preparations for the prevention of preterm birth or pregnancy; Pharmaceutical preparations for the treatment of neurological diseases, respiratory diseases, cancer and pain; contraceptives” in International Class 5; and “Contraceptive device, namely an intrauterine device” in International Class 10. The ONIVIX mark was filed based upon an intent-to-use. The ONIVIX mark was published in the Official Gazette on May 9, 2017.

4. Prior to Applicant’s filing date of November 30, 2016, Opposer had been using the ONIVYDE mark for pharmaceutical preparations for at least one year.

5. Opposer alleges that Applicant knew of the use and registration of Opposer’s mark.

6. Applicant’s application for the mark ONIVIX is filed based on Applicant’s intent-to-use the mark under Section 1(b) of the Trademark Act. Accordingly, Applicant has not made any use of its mark in commerce, and Opposer’s use and registrations have priority.

7. The goods with which Applicant uses or intends to use the mark ONIVIX as evidenced by Applicant’s application, are identical and/or highly related to the goods with which Opposer uses its ONIVYDE mark.

8. The mark ONIVIX, as evidenced by Applicant’s application, so resembles the Opposer’s use and registration of the ONIVYDE mark as to be likely to cause confusion, mistake,

or deception, when used in connection with identical or highly related goods, within the meaning of Section 2(d) of the Lanham Act.

9. The mark ONIVIX so resembles Opposer's ONIVYDE mark and as such, misleads consumers into believing the goods with which Applicant uses or intends to use the ONIVIX mark are a portion, extension, expansion, or collaboration with Opposer's ONIVYDE or are otherwise associated with Opposer, when they are not.

Accordingly, Opposer will be damaged by the registration Applicant seeks because the registration will assist and support Applicant in the confusing and misleading use of the mark ONIVIX and will give color of exclusive statutory rights to Applicant in violation and derogation of Opposer's prior rights.

WHEREFORE, Opposer prays that the opposition be sustained and that registration to Applicant be refused.

DATED: November 6, 2017

Respectfully Submitted,

LANE POWELL PC

By 

Makiko Coffland, WSB No. 44256

Frances M. Jagla, WSB No. 38543

Attorneys for Opposer Ipsen Biopharm Ltd.

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Mark: ONIVYDE

ONIVYDE

US Serial Number: 85971097

Application Filing Date: Jun. 26, 2013

US Registration Number: 4874816

Registration Date: Dec. 22, 2015

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Dec. 22, 2015

Publication Date: May 27, 2014

Notice of Allowance Date: Jul. 22, 2014

## Mark Information

Mark Literal Elements: ONIVYDE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

## Related Properties Information

International Registration Number: 1190643

International Application(s) /Registration(s) Based on this Property: A0039919/1190643

## Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (..) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*.\* identify additional (new) wording in the goods/services.

For: Pharmaceutical preparations for the diagnosis and treatment of cancer for human use

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 30, 2015

Use in Commerce: Oct. 30, 2015

## Basis Information (Case Level)

Filed Use: No  
Filed ITU: Yes  
Filed 44D: No  
Filed 44E: No  
Filed 66A: No

Currently Use: Yes  
Currently ITU: No  
Currently 44D: No  
Currently 44E: No  
Currently 66A: No

Amended Use: No  
Amended ITU: No  
Amended 44D: No  
Amended 44E: No

Filed No Basis: No

Currently No Basis: No

## Current Owner(s) Information

**Owner Name:** IPSEN BIOPHARM LTD.

**Owner Address:** Ash Road, Wrexham Industrial Estate  
Wrexham LL139UF  
UNITED KINGDOM

**Legal Entity Type:** CORPORATION

**State or Country** ENGLAND  
**Where Organized:**

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Frances M. Jagla

**Docket Number:** 127476.5

**Attorney Primary Email Address:** [trademarks@lanepowell.com](mailto:trademarks@lanepowell.com)

**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** FRANCES M. JAGLA  
LANE POWELL PC  
601 SW 2ND AVE STE 2100  
PORTLAND, OREGON 97204-3158  
UNITED STATES

**Phone:** 5037782100

**Fax:** 5037782200

**Correspondent e-mail:** [trademarks@lanepowell.com](mailto:trademarks@lanepowell.com) [jaglaf@lanepowell.com](mailto:jaglaf@lanepowell.com)  
**mail:** [om](#)

**Correspondent e-mail Authorized:** Yes

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Jun. 06, 2017	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Jun. 06, 2017	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
May 03, 2017	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Dec. 22, 2015	REGISTERED-PRINCIPAL REGISTER	
Nov. 20, 2015	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Nov. 19, 2015	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Nov. 18, 2015	STATEMENT OF USE PROCESSING COMPLETE	66154
Nov. 04, 2015	USE AMENDMENT FILED	66154
Nov. 04, 2015	TEAS STATEMENT OF USE RECEIVED	
Jul. 21, 2015	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Jul. 20, 2015	EXTENSION 2 GRANTED	66154
Jun. 24, 2015	EXTENSION 2 FILED	66154
Jul. 20, 2015	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66154
Jun. 24, 2015	TEAS EXTENSION RECEIVED	
Jan. 14, 2015	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Jan. 12, 2015	EXTENSION 1 GRANTED	98765
Jan. 12, 2015	EXTENSION 1 FILED	98765
Jan. 12, 2015	TEAS EXTENSION RECEIVED	
Jul. 22, 2014	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
May 27, 2014	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
May 27, 2014	PUBLISHED FOR OPPOSITION	
May 07, 2014	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Apr. 21, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	68171
Apr. 21, 2014	ASSIGNED TO LIE	68171
Mar. 31, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 29, 2014	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Mar. 28, 2014	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889

Mar. 28, 2014	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Oct. 05, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Oct. 05, 2013	NON-FINAL ACTION E-MAILED	6325
Oct. 05, 2013	NON-FINAL ACTION WRITTEN	83698
Oct. 04, 2013	ASSIGNED TO EXAMINER	83698
Jul. 09, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jun. 29, 2013	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

**Current Location:** PUBLICATION AND ISSUE SECTION      **Date in Location:** Nov. 19, 2015

## Assignment Abstract Of Title Information

### Summary

**Total Assignments:** 3      **Registrant:** Merrimack Pharmaceuticals, Inc.

### Assignment 1 of 3

**Conveyance:** SECURITY INTEREST

**Reel/Frame:** [5696/0916](#)

**Pages:** 13

**Date Recorded:** Dec. 28, 2015

**Supporting Documents:** [assignment-tm-5696-0916.pdf](#)

#### Assignor

**Name:** [MERRIMACK PHARMACEUTICALS, INC.](#)

**Execution Date:** Dec. 22, 2015

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** DELAWARE

#### Assignee

**Name:** [U.S. BANK NATIONAL ASSOCIATION](#)

**State or Country Where Organized:** UNITED STATES

**Legal Entity Type:** NATIONAL ASSOCIATION

**Address:** CORPORATION TRUST SERVICES  
ONE FEDERAL STREET, 3RD FLOOR  
BOSTON, MASSACHUSETTS 02110

#### Correspondent

**Correspondent Name:** MICHELLE L. MEHOK

**Correspondent Address:** 12255 EL CAMINO REAL, SUITE 300  
SAN DIEGO, CA 92130

### Domestic Representative - Not Found

### Assignment 2 of 3

**Conveyance:** ASSIGNS THE ENTIRE INTEREST

**Reel/Frame:** [6041/0612](#)

**Pages:** 10

**Date Recorded:** Apr. 25, 2017

**Supporting Documents:** [assignment-tm-6041-0612.pdf](#)

#### Assignor

**Name:** [MERRIMACK PHARMACEUTICALS, INC.](#)

**Execution Date:** Apr. 03, 2017

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** DELAWARE

#### Assignee

**Name:** [IPSEN BIOPHARM LTD.](#)

**State or Country Where Organized:** ENGLAND

**Legal Entity Type:** CORPORATION

**Address:** 190 BATH ROAD  
SLOUGH BERKSHIRE, UNITED KINGDOM SL1 3XE

**Correspondent**

**Correspondent Name:** FRANCES JAGLA

**Correspondent Address:** 601 S.W. SECOND AVENUE, SUITE 2100  
PORTLAND, OR 97204

**Domestic Representative**

**Domestic Representative Name:** FRANCES M JAGLA

**Domestic Representative Address:** 601 S.W. SECOND AVENUE, SUITE 2100  
PORTLAND, OR 97204

**Assignment 3 of 3**

**Conveyance:** RELEASE BY SECURED PARTY

**Reel/Frame:** [6033/0645](#)

**Pages:** 12

**Date Recorded:** Apr. 14, 2017

**Supporting Documents:** [assignment-tm-6033-0645.pdf](#)

**Assignor**

**Name:** [U.S. BANK NATIONAL ASSOCIATION](#)

**Execution Date:** Apr. 13, 2017

**Legal Entity Type:** NATIONAL BANKING ASSOCIATION

**State or Country Where Organized:** UNITED STATES

**Assignee**

**Name:** [MERRIMACK PHARMACEUTICALS, INC.](#)

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** DELAWARE

**Address:** ONE KENDALL SQUARE  
SUITE B7201  
CAMBRIDGE, MASSACHUSETTS 02139

**Correspondent**

**Correspondent Name:** SKADDEN, ARPS, MEAGHER & FLOM LLP

**Correspondent Address:** FOUR TIMES SQUARE  
FRANCINE WALDBAUM  
NEW YORK, NY 10036

**Domestic Representative - Not Found**