

ESTTA Tracking number: **ESTTA1003638**

Filing date: **09/20/2019**

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

Proceeding	91250143
Party	Defendant Theragen, Inc.
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Date	09/20/2019
Attachments	THERAGEN Answer to Opposition.pdf(141278 bytes)

8. Denied.

AFFIRMATIVE DEFENSES

Applicant asserts that the following affirmative defenses bar Opposer's requested relief in the Notice of Opposition.

FIRST AFFIRMATIVE DEFENSE

There is no likelihood of confusion, mistake, or deception because, *inter alia*, Applicant's mark and the alleged marks of Opposer are not confusingly similar.

SECOND AFFIRMATIVE DEFENSE

There is no likelihood of confusion, mistake, or deception because, *inter alia*, the respective goods with which Opposer's marks and Applicant's mark are used are divergent and distinct and are used through unrelated channels of trade to different purchasers and users.

THIRD AFFIRMATIVE DEFENSE

There is no likelihood of confusion, mistake, or deception because, *inter alia*, Opposer's alleged marks do not convey to the relevant purchasing public a commercial impression that is similar to the commercial impression created by Applicant's mark.

FOURTH AFFIRMATIVE DEFENSE

Applicant hereby gives notice that it may rely on any other defenses that may become available or appear proper during discovery, and hereby reserves its right to amend this Answer to assert any such defenses.

PRAYER FOR RELIEF

WHEREFORE, Applicant requests that the opposition be dismissed and that Applicant's mark proceed to registration.

Respectfully submitted,

Dated: September 20, 2019

/Lynn E. Rzonca/

Lynn E. Rzonca

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on Applicant's Attorney of Record by e-mail on the date below:

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Dated: September 20, 2019

By: /Kristel Tupja/
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