

ESTTA Tracking number: **ESTTA1016776**

Filing date: **11/19/2019**

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	Alcon Inc.
Granted to Date of previous extension	11/20/2019
Address	RUE LOUIS-D'AFFRY 6 FRIBOURG, CH-1701 SWITZERLAND

Correspondence information	Mike A. McArthur Haynes and Boone, LLP 2323 Victory Ave; Suite 700 Dallas, TX 75219 UNITED STATES ipdocketing@haynesboone.com, mike.mcarthur@haynesboone.com, david.bell@haynesboone.com 214-651-5304
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Applicant Information

Application No	88080462	Publication date	07/23/2019
Opposition Filing Date	11/19/2019	Opposition Period Ends	11/20/2019
Applicant	Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 08933 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: Pharmaceutical preparations for the treatment of dehydration and gastrointestinal health; medical preparations for the treatment of dehydration and gastrointestinal health; dietetic food and beverages adapted for medical use; Electrolyte based drink to help aid in hydration and digestion for medical use

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.	87650005	Application Date	10/18/2017
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Registration Date	NONE	Foreign Priority Date	09/26/2017
Word Mark	VIVITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 0 First Use In Commerce: 0 Intraocular lenses		

Related Proceedings	No U.S. proceedings
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Attachments	87650005#TMSN.png(bytes) Notice of Opposition - VIVITY 87650005.pdf(99333 bytes) Exhibit A - Printouts of USPTO Records about Application of Opposer.pdf(550361 bytes) Exhibit B - Confirmatory Deed of Assignment for Mark of Opposer.pdf(387053 bytes)
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Signature	/Mike A. McArthur/
Name	Mike A. McArthur
Date	11/19/2019

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

ALCON INC.	§	Mark: VIVITY
	§	- Serial No. 88/080,462
Opposer	§	
	§	
v.	§	
	§	
JOHNSON & JOHNSON	§	Opposition No. _____
	§	
Applicant.	§	

NOTICE OF OPPOSITION

Alcon Inc. (“Opposer”), a Swiss corporation, having an address at Rue Louis-d’Affry 6, CH-1701, Fribourg, Switzerland believes that it will be damaged by registration of Application Serial No. 88/080,462 for the mark VIVITY (“Applicant’s Mark” or “Applicant’s Application”) filed by Johnson & Johnson (“Applicant”), a New Jersey corporation, having an address at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933, and published for purposes of opposition in the Official Gazette on July 23, 2019. Opposer filed a 90-Day Request for Extension of Time to Oppose Applicant’s Application for Good Cause on August 5, 2019, which the Trademark Trial and Appeal Board granted that day, extending the opposition deadline to November 20, 2019.

Opposer has attempted and continues to attempt to resolve its concerns directly with Applicant. To preserve its rights, however, Opposer hereby opposes Applicant’s Application.

As grounds for opposition, Opposer allege as follows:

1. Opposer is a global medical company and global leader in eye care.
2. Opposer is the owner of the pending trademark application, U.S. Ser. No.

87/650,005 for the mark VIVITY (“Opposer’s Mark” or “Opposer’s Application”) for “intraocular lenses,” filed on an intent-to-use basis, under Section 1(b) of the Trademark Act, 15 U.S.C. §1051(b), on October 18, 2017. Opposer’s Application includes a valid claim of priority to September 26, 2017 under Section 44(d) of the Trademark Act, 15 U.S.C. §1126(d). A true and correct copy of Opposer’s Application, together with current printouts of information from the electronic database records of the USPTO showing the current status and title of the application, are attached to this Notice of Opposition as Exhibit A.

3. Opposer’s Application was filed by its predecessor-in-interest, Novartis AG. On April 8, 2019, Novartis AG spun off Opposer. This transaction included a transfer to Opposer of Novartis AG’s surgical devices business to which Opposer’s Mark pertains, and all associated goodwill of such business. The surgical devices business is ongoing and existing. On August 12, 2019, Opposer recorded a confirmatory deed of assignment with an effective date of April 8, 2019 transferring ownership of Opposer’s Application from Novartis AG to Opposer. A true and correct copy of the confirmatory deed of assignment is attached to this Notice of Opposition as Exhibit B.

4. Opposer has a bona fide intent to use Opposer’s Mark in connection with intraocular lenses.

5. Notwithstanding Opposer’s Application, Applicant’s Application was subsequently filed on August 16, 2018, for “pharmaceutical preparations for the treatment of dehydration and gastrointestinal health; medical preparations for the treatment of dehydration and gastrointestinal health; dietetic food and beverages adapted for medical use; electrolyte based drink to help aid in hydration and digestion for medical use,” on an intent-to-use basis, under Section 1(b) of the Trademark Act, 15 U.S.C. §1051(b).

6. Upon information and belief, Applicant has not commenced use of Applicant's Mark in connection with any goods sold or transported in the ordinary course of trade in the United States.

7. Upon information and belief, Applicant had not used Applicant's Mark in connection with any goods sold or transported in the ordinary course of trade in the United States prior to October 18, 2017.

8. Upon information and belief, Applicant had not used Applicant's Mark in connection with any goods sold or transported in the ordinary course of trade in the United States prior to September 26, 2017.

9. Upon information and belief, the earliest priority date on which Applicant can rely in connection with the goods covered by Applicant's Mark is August 16, 2018. Thus, Opposer has priority over Applicant in connection with the marks at issue.

10. Applicant's Mark is identical to Opposer's Mark.

11. The goods for which Opposer has applied to register Opposer's Mark and the goods for which Applicant has applied to register Applicant's Mark are all medical or pharmaceutical goods intended to benefit the health of consumers.

12. The goods for which Opposer has applied to register Opposer's Mark and the goods for which Applicant has applied to register Applicant's Mark are related.

13. Applicant manufactures, markets, and sells intraocular lenses.

14. Applicant and Opposer are competitors in the medical industry.

15. If Applicant is allowed to register Applicant's Mark, consumers will incorrectly assume that Opposer or its affiliates are the origin of Applicant's goods, or that Applicant's use

and registration of the VIVITY mark is somehow licensed or otherwise endorsed by Opposer, when it is not.

16. Applicant's use and registration of Applicant's Mark in connection with the goods identified in Applicant's Application likely would cause consumers to become confused, mistaken, or deceived and would falsely suggest a connection with Opposer or Opposer's Mark within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

17. By reason of the foregoing, Opposer will be irreparably damaged by the registration of Applicant's Mark, and, in view of Opposer's prior application for the identical mark VIVITY for related goods, Applicant is not entitled to the registration of Applicant's Mark pursuant to the Trademark Act.

WHEREFORE, Opposer requests that the Trademark Trial and Appeal Board grants this Opposition and denies registration of the subject application, namely, U.S. Trademark Serial No. 88/080,462.

Respectfully submitted,
ALCON INC.

Date: November 19, 2019

By: /s/Mike A. McArthur/
David M. Bell
Mike A. McArthur
Attorneys for Opposer
HAYNES AND BOONE, LLP
2323 Victory Avenue, Suite 700
Dallas, Texas 75219
Telephone: 214/651-5304
Facsimile: 214/200-0853

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

ALCON INC.

Opposer

v.

JOHNSON & JOHNSON

Applicant.

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§

Mark: **VIVITY**

- Serial No. 88/080,462

Opposition No. _____

Exhibit A
[Printouts of USPTO Records about Opposer's
Application – U.S. Ser. No. 87/650,005]



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VIVITY

Word Mark	VIVITY
Goods and Services	IC 010. US 026 039 044. G & S: Intraocular lenses
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	87650005
Filing Date	October 18, 2017
Current Basis	1B
Original Filing Basis	1B;44D
Published for Opposition	December 19, 2017
Owner	(APPLICANT) ALCON INC. CORPORATION SWITZERLAND RUE LOUIS-D'AFFRY 6 FRIBOURG SWITZERLAND 1701
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	John F. Ward
Priority Date	September 26, 2017
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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BULK DATA: Since May 7 at 12 a.m., the TSDR Application Programming Interface (API) has not included all information. Images of trademark registration certificates issued since July 2016 and some office actions are absent in the API. Customers who need to retrieve a copy of a registration certificate or an office action should download it directly from the TSDR documents tab.

INTERMITTENT SYSTEM ISSUES: Due to high-volume usage, you may experience intermittent issues on the Trademark Status and Document Retrieval (TSDR) system between 6 – 8 a.m. ET. Refreshing your web browser should resolve the issue. If you still need assistance accessing a document, email teas@uspto.gov and include your serial number, the document you are looking for, and a screenshot of any error messages you have received.

Trademark Status & Document Retrieval (TSDR)

SEARCH	MULTI-SEARCH		
US Serial, Registration, or Reference No. ▼	87650005	Status	Documents

Status results found

STATUS	DOCUMENTS	Download ▲	Print Preview
Generated on: This page was generated by TSDR on 2019-11-18 13:55:48 EST			
Mark: VIVITY			
US Serial Number:	87650005	Application Filing Date:	Oct. 18, 2017
Filed as TEAS Plus:	Yes	Currently TEAS Plus:	Yes
Register:	Principal		
Mark Type:	Trademark		
TM5 Common Status Descriptor:	LIVE/APPLICATION/Under Examination		
Status:	Application revived and is awaiting further action.		
Status Date:	Nov. 11, 2019		
Publication Date:	Dec. 19, 2017	Notice of Allowance Date:	Feb. 13, 2018
▼ Mark Information			
Mark Literal Elements:	VIVITY		
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		
▼ Foreign Information			
Priority Claimed:	Yes		
Foreign Application Number:	61937/2017	Foreign Application Filing Date:	Sep. 26, 2017
Foreign Application/Registration	SWITZERLAND		

Country:

▼ 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: Intraocular lenses

International Class(es): 010 - Primary Class

U.S Class(es): 026, 039, 044

Class Status: ACTIVE

Basis: 1(b)

▼ Basis Information (Case Level)

Filed Use: No

Currently Use: No

Filed ITU: Yes

Currently ITU: Yes

Filed 44D: Yes

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

▼ Current Owner(s) Information

Owner Name: ALCON INC.

Owner Address: RUE LOUIS-D'AFFRY 6
FRIBOURG SWITZERLAND 1701

Legal Entity Type: CORPORATION

State or Country Where
Organized: SWITZERLAND

▼ Attorney/Correspondence Information

Attorney of Record

Attorney Name: John F. Ward

Attorney Primary Email
Address: tm.services@alcon.com

Attorney Email Authorized: Yes

Correspondent

Correspondent
Name/Address: John F. Ward
6201 South Freeway
Fort Worth, TEXAS UNITED STATES 76134-2099

Phone: 817-615-5088

Fax: 817-551-4373

Correspondent e-mail: tm.services@alcon.com

Correspondent e-mail
Authorized: Yes

Domestic Representative - Not Found

▼ Prosecution History

Date	Description	Proceeding Number
Nov. 11, 2019	NOTICE OF REVIVAL - E-MAILED	
Nov. 11, 2019	PETITION GRANTED - EXTENSION REQUEST FILED	83176
Nov. 06, 2019	TEAS RESPONSE TO PETITION DEFICIENCY RECEIVED	
Nov. 06, 2019	INCOMPLETE PETITION NOTICE MAILED	83176
Nov. 01, 2019	ASSIGNED TO PETITION STAFF	83176
Aug. 15, 2019	PETITION TO REVIVE-RECEIVED	
Oct. 23, 2019	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Oct. 23, 2019	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Oct. 11, 2019	ASSIGNED TO PETITION STAFF	83176
Aug. 14, 2019	ASSIGNMENT OF OWNERSHIP NOT UPDATED	

	AUTOMATICALLY	
Aug. 13, 2019	TEAS PETITION TO DIRECTOR RECEIVED	1111
Jun. 21, 2019	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Jun. 19, 2019	EXTENSION 3 GRANTED	98765
Jun. 19, 2019	EXTENSION 3 FILED	98765
Jun. 19, 2019	TEAS EXTENSION RECEIVED	
Apr. 12, 2019	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Apr. 12, 2019	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Dec. 01, 2018	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Nov. 29, 2018	EXTENSION 2 GRANTED	98765
Nov. 29, 2018	EXTENSION 2 FILED	98765
Nov. 29, 2018	TEAS EXTENSION RECEIVED	
Jul. 31, 2018	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Jul. 27, 2018	EXTENSION 1 GRANTED	98765
Jul. 27, 2018	EXTENSION 1 FILED	98765
Jul. 27, 2018	TEAS EXTENSION RECEIVED	
Jun. 25, 2018	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jun. 25, 2018	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Feb. 13, 2018	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Dec. 19, 2017	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Dec. 19, 2017	PUBLISHED FOR OPPOSITION	
Nov. 29, 2017	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Nov. 09, 2017	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 02, 2017	ASSIGNED TO EXAMINER	91244
Oct. 31, 2017	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Oct. 31, 2017	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Oct. 27, 2017	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Oct. 21, 2017	NEW APPLICATION ENTERED IN TRAM	
▼ TM Staff and Location Information		
TM Staff Information		
TM Attorney:	RIEPEL, CHRISTINA MAXI	Law Office Assigned: LAW OFFICE 124
File Location		
Current Location:	TMO LAW OFFICE 100 - EXAMINING ATTORNEY ASSIGNED	Date in Location: Nov. 11, 2019
▼ Assignment Abstract Of Title Information		
Summary		▼ Conveyance Filter
Total Assignments:	1	Applicant: Novartis AG
▲ Assignment 1 of 1		▼ Expand All
▼ Proceedings - None recorded		

If you are the applicant or the applicant's attorney and have questions about this file, please contact the [Trademark Assistance Center](#)



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Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87650005

Filing Date: 10/18/2017

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	VIVITY
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	VIVITY
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Novartis AG
*STREET	CH-4002
*CITY	Basel
*COUNTRY	Switzerland
PHONE	817-551-6803
FAX	817-551-4373
EMAIL ADDRESS	tm.services@alcon.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
LEGAL ENTITY INFORMATION	
*TYPE	CORPORATION
* STATE/COUNTRY OF INCORPORATION	Switzerland
GOODS AND/OR SERVICES AND BASIS INFORMATION	
* INTERNATIONAL CLASS	010
*IDENTIFICATION	Intraocular lenses
*FILING BASIS	SECTION 1(b)
*FILING BASIS	SECTION 44(d)

*FOREIGN APPLICATION NUMBER	61937/2017
*FOREIGN APPLICATION COUNTRY	Switzerland
*FOREIGN FILING DATE	09/26/2017
INTENT TO PERFECT 44(d)	At this time, the applicant does NOT intend to rely on §44(e) as a basis for registration, but wishes only to assert a valid claim of priority. The application should not be suspended to await the submission of the foreign registration.
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
*NAME	Denise Vivar
DOCKET/REFERENCE NUMBER	TMA038592-US
FIRM NAME	Alcon Research, Ltd.
*STREET	6201 South Freeway
*CITY	Fort Worth
*STATE (Required for U.S. addresses)	Texas
*COUNTRY	United States
*ZIP/POSTAL CODE	76134
PHONE	817-551-6803
FAX	817-551-4373
*EMAIL ADDRESS	tm.services@alcon.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
*TOTAL FEE PAID	225
SIGNATURE INFORMATION	
* SIGNATURE	/D. Vivar/
* SIGNATORY'S NAME	Denise Vivar
* SIGNATORY'S POSITION	Trademark manager, authorized signatory
SIGNATORY'S PHONE NUMBER	817-551-6803

* DATE SIGNED	10/18/2017
---------------	------------

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87650005

Filing Date: 10/18/2017

To the Commissioner for Trademarks:

MARK: VIVITY (Standard Characters, see [mark](#))

The mark in your application is VIVITY.

The applicant, Novartis AG, a corporation of Switzerland, having an address of

CH-4002

Basel

Switzerland

817-551-6803(phone)

817-551-4373(fax)

tm.services@alcon.com

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 010: Intraocular lenses

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services. (15 U.S.C. Section 1051(b)).

Priority based on foreign filing: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services and asserts a claim of priority based on Switzerland application number 61937/2017, filed 09/26/2017.

INTENT TO PERFECT 44(d) : At this time, the applicant does NOT intend to rely on §44(e) as a basis for registration, but wishes only to assert a valid claim of priority. The application should not be suspended to await the submission of the foreign registration.

The applicant's current Correspondence Information:

Denise Vivar

Alcon Research, Ltd.

6201 South Freeway

Fort Worth, Texas 76134

817-551-6803(phone)

817-551-4373(fax)

tm.services@alcon.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or the applicant's attorney, or the applicant's domestic representative at the e-mail address provided in this application. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in the loss of TEAS Plus status and a requirement to submit an additional processing fee of \$125 per international class of goods/services.

The docket/reference number is TMA038592-US.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

☒ **Basis:**

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

AND/OR

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
 - The applicant has a bona fide intention to use the mark in commerce on or in connection with the goods/services in the application; and
 - To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.
- ☒ To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.
- ☒ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- ☒ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /D. Vivar/ Date: 10/18/2017
Signatory's Name: Denise Vivar
Signatory's Position: Trademark manager, authorized signatory
Signatory's Phone Number: 817-551-6803
Payment Sale Number: 87650005
Payment Accounting Date: 10/18/2017

Serial Number: 87650005
Internet Transmission Date: Wed Oct 18 12:31:50 EDT 2017
TEAS Stamp: USPTO/FTK-XXX.XXX.XXX.XX-201710181231505
22931-87650005-510fcf96c542e906bc25fa298
31bd5c4a8420dd464cc32b4ba3561b421c9f63ed
-DA-10525-20171018102319059888

VIVITY



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RUE LOUIS-D'AFFRY 6

FRIBOURG, SWITZERLAND 1701

Correspondent: JOHN P. MURTAUGH/PEARNE & GORDON LLP

1801 EAST 9TH STREET, SUITE 1200

CLEVELAND, OH 44114-3108

Search Results as of: 11/18/2019 01:59 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.6
Web interface last modified: August 25, 2017 v.2.6

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

ALCON INC.

Opposer

v.

JOHNSON & JOHNSON

Applicant.

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Mark: **VIVITY**

- Serial No. 88/080,462

Opposition No. _____

Exhibit B
[Confirmatory Deed of Assignment – U.S. Ser. No.
87/650,005]

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
 Stylesheet Version v1.2

ETAS ID: TM536150

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Confirmatory Deed of Assignment Effective on Apr. 8, 2019		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
NOVARTIS AG		08/09/2019	Corporation: SWITZERLAND
RECEIVING PARTY DATA			
Name:	ALCON INC.		
Street Address:	RUE LOUIS-D'AFFRY 6		
City:	FRIBOURG		
State/Country:	SWITZERLAND		
Postal Code:	1701		
Entity Type:	Corporation: SWITZERLAND		
PROPERTY NUMBERS Total: 29			
Property Type	Number	Word Mark	
Registration Number:	4517208		
Registration Number:	4517209		
Registration Number:	4517210		
Registration Number:	4115158		
Registration Number:	4242440	EOBO-41	
Registration Number:	3680403	ENGAUGE	
Registration Number:	3774818	OPTI-FREE PUREMOIST	
Registration Number:	3457632	SYSTANE ULTRA	
Registration Number:	4021562	ULTRAVIT	
Registration Number:	3938090	MAXGRIP	
Registration Number:	4175572	CENTURION	
Registration Number:	4121895	MIVS	
Registration Number:	4276257	RECLAIM YOUR VISION	
Registration Number:	3971748	HYDRAGLYDE	
Registration Number:	3943265	HYDRAGLYDE	
Registration Number:	4916338		
Registration Number:	5148677	BEYOND VISION DEFINE	
Registration Number:	4405677	A WORLD OF MORE POSSIBILITIES	
Registration Number:	4621634	PERFORMANCE DRIVEN BY SCIENCE	

CH \$740.00 4517208

Property Type	Number	Word Mark
Registration Number:	2776801	RENAISSANCE
Registration Number:	2772538	RESTOR
Registration Number:	3810812	TRISORB
Registration Number:	3099444	ICAPS
Registration Number:	4407084	LIBERO-XY
Registration Number:	4591133	LUXOR
Registration Number:	4517206	
Serial Number:	87650005	VIVITY
Serial Number:	88169519	PRECISION 30
Serial Number:	87591195	DAILIES COLORS

CORRESPONDENCE DATA

Fax Number: 2165796073

Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.

Phone: 216-579-1700

Email: lhawkins@pearne.com

Correspondent Name: JOHN P. MURTAUGH/PEARNE & GORDON LLP

Address Line 1: 1801 EAST 9TH STREET, SUITE 1200

Address Line 4: CLEVELAND, OHIO 44114-3108

ATTORNEY DOCKET NUMBER:	BRAQ-J5886
NAME OF SUBMITTER:	JOHN P. MURTAUGH
SIGNATURE:	/johnpmurtaugh/
DATE SIGNED:	08/12/2019

Total Attachments: 8

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source=CONFIRMATORY-ASSIGNMENT-02#page8.tif

**Confirmatory Deed of Assignment
UNITED STATES**

This DEED is made between:

Novartis AG, a company duly organized and existing under the Laws of Switzerland, of 4002 Basel, Switzerland
("the Assignor");

and

Alcon Inc., a company duly organized and existing under the Laws of Switzerland, of Rue Louis-d'Affry 6, 1701 Fribourg, Switzerland
("the Assignee");

WHEREAS:

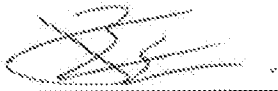
- (a) The Assignor was the proprietor of the trademarks in the United States as set out in the attached schedules marked "Annex A" and
- (b) Pursuant to the Intellectual Property Assignment Agreement dated April 8, 2019, Assignor has assigned Assignor's entire right, title and interest in and to the trademarks to Assignee;
- (c) The Assignment of the trademarks became effective on April 8, 2019.

IT IS AGREED THAT:

For consideration of the sum of one dollar (USD 1.00), receipt of which is hereby acknowledged by the Assignor, the Assignor hereby confirms that it has assigned, transferred and set over unto the Assignee, its successors and assigns, effective on April 8, 2019, all right, title and interests in the United States in the trademarks together with the goodwill of the business represented and symbolised by the trademarks and the Assignee accepts the said assignment.

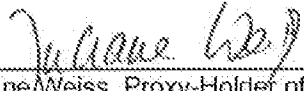
IN WITNESS WHEREOF, the Assignor and Assignee have caused this Confirmatory Assignment to be executed by their authorized representatives.

Signed as a Deed in Munich on behalf of the
Assignor this 9th day of August 2019 by



Faustine Waternaux, Proxy-Holder of
Novartis AG

Signed as a Deed in Munich on behalf of the
Assignee this 9th day of August 2019 by



Juliane Weiss, Proxy-Holder of
Alcon Inc.

Annex A

IP Right Name	Application No.	Registration No.	Class(-es)
VISITINT	73555642	1396567	09
ZADITOR	75680062	2767030	05
CLEAR CARE	78054206	2738908	05
LIGHTSTREAM (DEVICE)	78026000	2856655	09
CORPORATE OPTOMETRY REPORTS	73826616	1618199	16
FRESHLOOK COLORS	78225245	2888959	09
FRESHLOOK DIMENSIONS	78203103	3149370	09
LENS (DEVICE)	78442180	3447244	05
PRECISION CURVE	85909612	4509429	09
AUTOPRO	86956543	5409933	10
AUTOTEC	86956446	5045667	10
EYE2EYE	85875978	4621869	09, 42
NEW IN-PRACTICE & Design	85919731	4975773	41, 44
WATER GRADIENT (Logo)	85936491	4694072	09
STABLEFORCE	78004462	2641020	10
CLEARFIT	88091166		09
DEEP (device)			41
AIR OPTIX COLORS	86609004	4894622	41
EYETOPIA	88096685		09, 44
PRECISION (1) LOGO	88012984	5661520	09
LENSX SOFTFIT	85769391	4468751	10
NGENUITY	86615241	5172117	10
RINSE & GO	86220339	4946769	05
AIR OPTIX COLORS Package Design	86620034	4866888	09
THE EYESOLUTION	86977704	4883386	05
PATIENT & PRACTICE EXPERIENCE Logo (New)	87936105		35
DAILIES PRECISION	87530689	5422314	09
BUBBLE UPGRADE	87011083	5168292	05
ENLIGHTEN	86710796	5039123	10
SEE LOOK FEEL Icon	87046805	5152865	44
CYPASS	77193792	3493538	10
SMARTEARS	87133744	5129181	09
FRESHTECH	87900641		09
CYPASS MICRO-STENT	85210413	4122752	10
WANDA	88183781		09, 35
CENTURION	85020694	3972937	10

HYPERVIT	87158466	5161171	10
INNOVEYES	88365865		10, 42
POWER OF ONE	85270815	4822293	35, 41, 44
AIR OPTIX COLORS		VA 2-005-970	
SMARTSHIELD	86545517	5057143	09
CYGLASS	87342514	5246532	10
AUTONOME	87095485		10
LUMIERE	88040427		09
REPLENISH	77779235	3805825	09
REPLENISH	78574576	3099421	05
CLEAR CARE	86478595	4878550	09
ACRYSOF	87222195	5209388	42
ULTRACHOPPER	77945370	3884549	10
SURGICAL INTEGRATED SOLUTIONS Logo	87274296		16, 41, 44
ACRYSERT	78119034	2740397	10
INFINITI	78134076	2829817	10
GRIESHABER REVOLUTION & Design	78185204	2838516	10
SYSTANE	78144304	2799326	05
LUMEO	85923795	5144096	10
TEARGLYDE	78642219	3259307	05
OPTI-FREE EXPRESS GREEN PKG Design w/Text	78894575	3359677	05
OPTI-FREE REPLENISH GREEN PKG Design	78892997	3312246	05
CONSTELLATION ULTRAVIT	78959280	3684605	10
OPTI-FREE REPLENISH GREEN PKG Design w/Text	78886237	3302206	05
OPTI-FREE EXPRESS GREEN PKG Design	78896524	3359679	05
SYSTANE	85909669	4432556	35
OPTI-FREE REPLENISH	78574231	3108171	05
INTREPID Design	85939442	4574508	10
HYDRAPRO	86042377	4542473	05
EYEGLYDE	86042798	4542474	05
SYSTANE	85314277	4365194	03, 05
PUREPOINT	77/036405	3462990	10
VERION	85974075	4504542	09, 10
PUREPOINT Design	77214815	3459179	10
SYNCROS LINK	85915078	4608087	10
INTREPID	78693348	3184928	10
OZIL	78710191	3184951	10

CONSTELLATION	78662502	3191605	10
DISCOVISC	78404964	3038411	05
EDGEPLUS	77675625	3717882	10
AUTOSERT	85009294	3879567	10
LIPITECH	85065508	4574157	05
ICAPS	73670865	1497377	05
V-LOCITY & Design	78212708	2825147	10
NIGHTTIME MOON & STARS Design	77447711	3577787	05
MYEYES.COM	85919953	4528204	09
MYEYES.COM	85919973	4513565	35
MYEYES.COM	85919983	4513566	44
27+	85319553	4067265	10
ACRYSOF Design (New)	85068866	3908096	10
CENTURION Icon	85252054	4028754	10
VESEO	78111315	3112517	10
CENTURION Vision System & Design	85257059	4062615	10
GRIESHABER REVOLUTION	77804120	3749814	10
V-LOCITY	77395995	3696543	10
THE EYESOLUTION Allergy Relief Icon Color	85885356	4558382	05, 44
THE EYESOLUTION Contact Care Icon B&W	85885362	4517207	05, 44
THE EYESOLUTION Contact Care Icon Color	85885366	4517208	05, 44
THE EYESOLUTION Dry Eye Icon Color	85885371	4517209	05, 44
THE EYESOLUTION Dry Eye Icon B&W	85885378	4517210	05, 44
THE EYESOLUTION Eye Vitamins Icon Color	85885386	4615889	05, 44
THE EYESOLUTION Eye Vitamins Icon B&W	85885382	4608063	05, 44
THE EYESOLUTION Lid Care Icon B&W	85885389	4517211	03, 44
THE EYESOLUTION Lid Care Icon Color	85885400	4517212	03, 44
LENSX	77365935	3670196	10
LENSX	77365929	3857264	37
LENSX	77365932	3870850	41
LENSX Design	77400472	3693439	10
LENSX Design	77400475	4053347	37
LENSX Design	77400477	4115158	41
EOBO-41	85075041	4242440	05
ENGAGE	77271213	3680403	10

OPTI-FREE PUREMOIST	77847422	3774818	05
SYSTANE ULTRA	77319393	3457632	05
ULTRAVIT & Design	85091960	4021562	10
MAXGRIP	85122081	3938090	10
CENTURION (& Design (left))	85481896	4175572	10
MIVS & Design	85412603	4121895	10
RECLAIM YOUR VISION	85179177	4276257	44
HYDRAGLYDE	85014927	3971748	05
HYDRAGLYDE	85014943	3943265	05
25+	85155252	3970658	10
THE EYESOLUTION	85780392	5032123	09, 35, 44
Q-VUE	85797011	4402794	10
EDGEPLUS & Design	77933726	3835049	10
Eye Design	85713312	4409831	09, 41, 42, 44
GRIESHABER MAXGRIP	77665169	3672484	10
GRIESHABER ULTRAVIT	75/472215	2398950	10
ENGAGE & Design (New)	77271202	3680402	10
TRISORB	78042708	2735581	05
THE EYESOLUTION Icon Design	85806544	4916338	05, 09, 35, 44
BEYOND VISION DEFINE	85820800	5148677	09, 16, 44
A WORLD OF MORE POSSIBILITIES	85685152	4405677	10
PERFORMANCE DRIVEN BY SCIENCE	85687433	4621634	35, 44
RENAISSANCE	78068712	2776801	10
RESTOR	78005941	2772538	10
TRISORB	77881061	3810812	05
ICAPS Design	78600194	3099444	05
LIBERO-XY	85857579	4407084	10
LUXOR	85875053	4591133	10
THE EYESOLUTION Allergy Relief Icon B&W	85885311	4517206	05, 44
THE RELIEF IS REAL	87266400		44
IQ RESTOR	85780938	4513350	10
EX-PRESS	76236913	2673032	10
ILLUMIN-I	85319537	4076754	10
MONARCH	75213731	2285905	10
MULTIFLEX	73402162	1269058	10
CLEARCUT	77671432	3727578	10
VISCOPASS	87342455	5389739	10
PUREMOIST	77829410	3809750	05
NEOSONIX	78007269	2492739	10

NO RUB	78026018	2619173	05
ACRYSERT Design	78863940	3350116	10
PAIR-PAK II	73825858	1626893	10
OCUSCAN	74208688	1766639	10
EXPAND	74611105	2157102	10
CELLUGEL	75089379	2039077	05
SILIKON & Design	75/330872	2476037	05
SLANT	74071606	1683438	10
SLIMPLANT	74287680	1832077	10
SOFGUARD	74530049	1943250	10
SEEN	77-922568	3912260	09, 16
REFORM	75529119	2494667	10
LENS GLIDE	73229442	1141242	10
IMPACT	74362567	1848863	35, 41
ACRYPAK	78229053	2830073	10
GRIESHABER	73682934	1486047	10
GRIESHABER ULTRASHARP	73255628	1160807	10
VGFI	74462185	2051086	10
THE EYESOLUTION Logo	86119201	4915402	03, 05
AIR OPTIX HYDRA	86257658	4652208	09
ULTRASERT	86478588	4768743	10
EOBO-21	86205892	4846789	05
SOFTWEAR	85525988	4865153	05
FINESSE	86292096	4730444	10
PRECISION BALANCE 8/4	87321996	5294915	09
UNIPEXY	87411537	5276533	10
SPHEREPOINT	88214118		10
O2OPTIX	78855314	3327615	09
FRESHLOOK COLOR STUDIO	77282725	3822317	35, 45
PANOPTIX	86478594	4768744	10
AIR OPTIX COLORS Package Design w/Text	86620029	4921986	09
SERENE	86292994	4632522	09
CLEAR CARE FEEL THE DIFFERENCE GUARANTEE (& Device)	86417666	4995780	05
SIMPLE CLEAN	86592084	4917915	05
SOFTFIT	85766691	4874724	10
NOT ALL DROPS FOR DRY EYE ARE CREATED EQUAL	86651678	4922062	05
DAILIES COLORS	87591195		09
MIOSTAT	73020483	1021861	05

EASYPACK	88259046		10
UNIPURE	87720946	5459213	10
SMARTSHIELD & Design	86637433	4930984	09
UNIFEYE	86789982		10
PRO & Design	86608974		05
DAILIES FIRST	86689473	4936090	09
360Support (& Design)	86696358	5052480	37
APOLLO	86789995	86789995	10
NUANCE	86789999		10
AIR OPTIX COLORS Package Design with all Text	86710135	4949709	09
NEXEON	86660349	4918129	10
PRISTALUX	86660347	4912747	10
DAILIES ACTIVE	86689471	4926485	09
TORIC PRO (& Design)	86637747	4976448	09, 41, 42
UNITY	86790005		10
CONTOURA	86638109	4967610	10, 41, 44
PRECISION PROFILE	86806496	5071483	09
ACTIVE SENTRY	86756784	5011324	10
OPTI-FREE	86545535	4903984	03, 05
VIVITY	87650005		10
THE EYESOLUTION Logo	86977706	4951465	05, 09, 44
FINESSE REFLEX	87721049		10
DIGIVISION	87707312		09
ACTIVATE & Design	87684050		41
AQUACOMFORT PLATINUM	87747134	5508642	09
SYSTANE BALANCE	87673557	5438390	05
PATIENT & PRACTICE EXPERIENCE	87774762		35
STREAMLIGHT	87744777	5513775	41
SMARTSURFACE	87617444	5423511	09
SHARKSKIN	87855196		10
TOTAL30	88199186		09
ERGOBOT	88209037		10
PRECISION UV	75460694	2275741	09
FRESH LOOK	74153055	1745096	09
PATIENT & PRACTICE EXPERIENCE Logo	87824368		44
TOTAL2			09
MARLO	88186840		09, 35
TOTAL14	88199104		09
TOTAL100	88199304		09

PATIENT & PRACTICE EXPERIENCE	87808186		35
ASCEND	88198713		10
TOTAL1	88199029		09
LUXOR REVALIA	88195422		10
TOTAL7	88199066		09
PRECISION 7 Logo	88169471		09
PRECISION 30 Logo	88169519		09
PRECISION (1) Logo (new)	88168685		09
FIT FINDER	88329839		09
MARLÖ			09, 35