

ESTTA Tracking number: **ESTTA451653**

Filing date: **01/17/2012**

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

Proceeding	77486429
Applicant	Omega Alpha Pharmaceuticals Inc.
Applied for Mark	OMEGA ALPHA
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Submission	Appeal Brief
Attachments	FinalBriefwith Signature.pdf ( 23 pages )(344685 bytes ) TAB A Cover.pdf ( 1 page )(19977 bytes ) Bayer Case for Tab A.pdf ( 7 pages )(243555 bytes )
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Applicant:** Omega Alpha Pharmaceuticals Inc )  
**Trademark:** OMEGA ALPHA (and design) ) BEFORE THE  
**Serial No.:** 77486429 ) TRADEMARK TRIAL  
**Filing Date:** May 29, 2008 ) AND  
**Examining Attorney:** Darryl M. Spruill ) APPEAL BOARD  
**Address:** Law Office 112 ) ON APPEAL

**APPELLANT'S APPEAL BRIEF**

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## INTRODUCTION

Appellant has appealed the trademark Examining Attorney's final refusal dated May 22, 2011. The final refusal of Appellant's application to register the trademark OMEGA ALPHA (and design) under 15 U.S.C. §1052(a) is based on the grounds that the mark consisted of or included deceptive matter in relation to the identified goods.

## FACTS

Applicant/Appellant (hereinafter "Appellant") filed an application to register the mark OMEGA ALPHA (and design), in connection with goods classified in International Class 005 (IC 005) on May 8, 2008. After review by the United States Patent and Trademark Office ("USPTO") Examining Attorney, the only grounds for rejection were directed to the manner of identification of the goods, the claim of ownership to U.S. Registration 3,111,385, OMEGA ALPHA PHARMACEUTICALS, and to clarification of the filing basis. See *Official Action of 10/15/2008*. From April 15, 2009 through July 7, 2010, these three issues were the only issues raised.

On July 7, 2010, another official action was mailed, stating that after further consideration and review, an additional rejection based on 15 U.S.C. § 1052(a) had been added. See *Official Action of 7/7/2010*. The Examining Attorney included 58 attachments which pertained to searches conducted on the term "omega" and variations thereof. The full office action contains 87 pages.<sup>1</sup> Appellant responded to this Official Action on January 6, 2011. With this response, Appellant submitted Exhibit 1 (Article supporting the meaning of OMEGA ALPHA per the Greek letters) pp. 6-10; Exhibit 2

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<sup>1</sup> Each page referenced herein will use the page number of the 87 pages.

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