

ESTTA Tracking number: **ESTTA346279**

Filing date: **05/07/2010**

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

Proceeding	91192868
Party	Defendant Nycomed GmbH
Correspondence Address	Mitchell E. Radin, Esq. Cowan, Debaets, Abrahams, & Sheppard LLP 41 Madison Avenue -34th Floor NEW YORK, NY 10010 UNITED STATES trademarks@cdas.com
Submission	Answer
Filer's Name	Saryn Leibowitz
Filer's e-mail	trademarks@cdas.com
Signature	/saryn leibowitz/
Date	05/07/2010
Attachments	Nycomed -- Answer to Opposition.pdf (2 pages)(75190 bytes) Certificate of Service -- Answer to Opposition.pdf (1 page)(18776 bytes)

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

----- X			
JOHNSON & JOHNSON,	:	Application:	77/756,086
	:		
Opposer,	:	Opposition No.:	91192868
	:		
v.	:	Mark:	VALISTAN
	:		
NYCOMED GMBH,	:		
	:		
Applicant.	:		
----- X			

ANSWER TO OPPOSITION

NYCOMED, GMBH (hereinafter, "Applicant" or "Nycomed"), a German corporation, having a principal place of business at Byk-Gulden-Str., 2 Kinstanz, Germany D-78467, hereby answers the above captioned Notice of Opposition filed by JOHNSON & JOHNSON ("Opposer" or "J&J") to Nycomed's application to register the mark VALISTAN for "pharmaceutical preparations for the treatment of respiratory diseases; anti-inflammatory preparations" in Class 5, as follows:

1. To the extent that Paragraph 1 of the Notice of Opposition alleges statements of fact, Applicant has insufficient knowledge or information either to admit or deny such allegations and, therefore, denies them.
2. Applicant admits the allegations in Paragraph 2 of the Notice of Opposition.
3. Applicant admits the allegations in Paragraph 3 of the Notice of Opposition.
4. Applicant admits the allegations in Paragraph 4 of the Notice of Opposition.
5. Upon information and belief, Applicant denies the allegations in Paragraph 5 of the Notice of Opposition.
6. Applicant has insufficient knowledge or information either to admit or deny the allegations of Paragraph 6 of the Notice of Opposition and, therefore, denies them.

7. Applicant has insufficient knowledge or information either to admit or deny the allegations of Paragraph 7 of the Notice of Opposition and, therefore, denies them.

8. Applicant has insufficient knowledge or information either to admit or deny the allegations of Paragraph 8 of the Notice of Opposition and, therefore, denies them.

9. Upon information and belief, Applicant denies the allegations in Paragraph 9 of the Notice of Opposition.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed with prejudice and that a Notice of Allowance be issued to Applicant on its Application Serial No. 77/756,086, and/or that the Board grant to Applicant such other and/or further relief as the Board may deem just and proper.

DEFENSES

First Defense

The Notice of Opposition fails to state a claim upon which relief can be granted.


Second Defense

Opposer's claim is barred by the doctrine of estoppel.

Respectfully submitted,

Dated: May 7, 2010
New York, New York

COWAN, DEBAETS, ABRAHAMS &
SHEPPARD LLP

By: 
Mitchell E. Radin
Steven M. Weinberg
Christopher J. Marino

41 Madison Avenue, 34th Floor
New York, New York 10010
(212) 974-7474

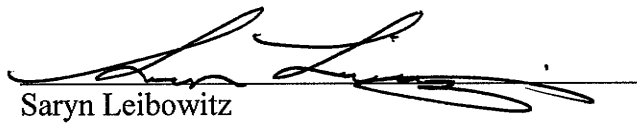
Attorneys for Applicant
Nycomed GmbH

CERTIFICATE OF SERVICE

I, Saryn Leibowitz, of full age, by way of certification, state that a copy of the Answer to Opposition was mailed to Opposer's counsel on the date set forth below, via electronic mail and first class mail, postage prepaid, addressed as follows:

Jaye S. Campbell, Esq.
Drinker Biddle & Reath, LLP
1500 K. Street, N.W.
Washington, D.C. 20005-1209
Email: jaye.campbell@dbr.com

Dated: May 7, 2010


Saryn Leibowitz