

ESTTA Tracking number: **ESTTA336732**

Filing date: **03/11/2010**

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	Actelion Pharmaceuticals, Ltd.		
Entity	Corporation	Citizenship	Switzerland
Address	Gewerbstrasse 16 Allschwill, 4123 SWITZERLAND		

Attorney information	Scott D. Woldow Smith, Gambrell & Russell, LLP 1130 Connecticut Avenue, NW Suite 1130 Washington, DC 20036 UNITED STATES sdwoldow@sgrlaw.com Phone:202-263-4300
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Applicant Information

Application No	77732991	Publication date	02/09/2010
Opposition Filing Date	03/11/2010	Opposition Period Ends	03/11/2010
Applicant	Acetylon Pharmaceuticals, Inc. C/O Marc Cohen (OPNET) 7255 Woodmont Avenue Bethesda, MD 20814 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Pharmaceutical products for the prevention and treatment of cancer
Class 042. All goods and services in the class are opposed, namely: Pharmaceutical drug development services

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 No.	3148269	Application Date	09/12/2005
Registration Date	09/26/2006	Foreign Priority Date	NONE
Word Mark	ACTELION		

Design Mark	<h1>ACTELION</h1>
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 2001/01/15 First Use In Commerce: 2001/01/15 PHARMACEUTICAL PREPARATIONS FOR HUMAN AND VETERINARIAN USE, NAMELY, MEDICINES ACTING ON THE CARDIOVASCULAR SYSTEM, CHEMOTHERAPEUTICS, MEDICINES ACTING ON THE CENTRAL NERVOUS AND PERIPHERAL SYSTEM, MEDICINES ACTING ON THE RESPIRATORY SYSTEM, MEDICINES ACTING ON THE DIGESTIVE SYSTEM AND RELATED GLANDS, MEDICINES ACTING ON THE URINARY SYSTEM, IMMUNISUPPRESANTS, ANTI INFLAMMATORY, ANTI-ALLERGIC, HYPOSENSITIZING AND ANTI-TOXINS MEDICINES ACTING ON BLOOD AND HEMATOPOEITIC ORGANS

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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/SW/
Name	Scott D. Woldow
Date	03/11/2010

TRADEMARK

Actelion Pharmaceuticals, Ltd. (hereinafter "Opposer"), a Corporation of Switzerland, having offices located at Gewerbestrasse 16, Allschwill, Switzerland, 4123, believes that it will be damaged by registration of the mark ACETYLON, Application Serial No. 77/732,991 and hereby opposes the same.

The grounds for opposition are as follows.

1. Opposer is now and has been engaged in the pharmaceutical business.
2. Opposer manufactures pharmaceuticals and is in the business of pharmaceutical research and development, clinical trials, and provision of pharmaceutical information.
3. Opposer is the owner of United States Registration No. 3,148,269 for the mark ACTELION which registered on September 26, 2006, in association with "PHARMACEUTICAL PREPARATIONS FOR HUMAN AND VETERINARIAN USE, NAMELY, MEDICINES ACTING ON THE CARDIOVASCULAR SYSTEM, CHEMOTHERAPEUTICS, MEDICINES ACTING ON THE CENTRAL NERVOUS AND PERIPHERAL SYSTEM, MEDICINES ACTING ON THE RESPIRATORY SYSTEM, MEDICINES ACTING ON THE DIGESTIVE SYSTEM AND RELATED GLANDS, MEDICINES ACTING ON THE URINARY SYSTEM, IMMUNISUPPRESANTS, ANTI INFLAMMATORY, ANTI-ALLERGIC, HYPOSENSITIZING AND ANTI-TOXINS MEDICINES ACTING ON BLOOD AND HEMATOPOEITIC ORGANS."
4. Opposer is now and has been using the ACTELION mark in United States commerce in association with pharmaceutical preparations.
5. Opposer's ownership of United States Trademark Reg. No. 3,148,269 has been valid and continuous and has not been abandoned.

6. Opposer's mark is symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising, promotion and sales of products thereunder.

7. Notwithstanding Opposer's rights in and to its trademark, Applicant on May 8, 2009, filed an application for registration of the mark ACETYLON.

8. The ACETYLON mark was approved for publication in association with "pharmaceutical products developed for the prevention and treatment of cancer," in Class 5 and "pharmaceutical drug development services," in Class 42.

9. The application was assigned Serial No. 77/732,991 and was published for opposition in the Official Gazette on February 9, 2010.

10. Applicant's mark, ACETYLON, when used in connection with the goods and services set forth in its application, is confusingly similar to Opposer's ACTELION mark, as set forth and protected by Opposer's above-identified trademark registration.

11. Purchasers of Applicant's goods and/or services and Opposer's goods are likely to be confused, mistaken or deceived as to the source of the goods or services. Applicant's mark, in association with the products and services identified in its trademark application, is likely to cause confusion, mistake or deception when compared to Opposer's mark.

12. Applicant's mark and Opposer's mark are similar in sound and appearance such that when used on highly similar goods and/or services there would be a likelihood of confusion, mistake or deception.

13. Applicant's mark and Opposer's mark have a similar connotation and commercial impression due to the nearly identical appearance and sound of the marks. The similarity of the marks in connotation and commercial impression is compounded when the nearly identical

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