

ESTTA Tracking number: **ESTTA379984**

Filing date: **11/22/2010**

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	Novartis AG
Granted to Date of previous extension	11/21/2010
Address	CH-4002 Basel, SWITZERLAND
Attorney information	John P. Margiotta Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza New York, NY 10017 UNITED STATES jm@fzlz.com Phone:212-813-5900

### Applicant Information

Application No	77786912	Publication date	05/25/2010
Opposition Filing Date	11/22/2010	Opposition Period Ends	11/21/2010
Applicant	SHEILA MIKHAIL 870 MARTIN LUTHER KING JR BLVD CHAPEL HILL, NC 27514 UNITED STATES		


### Goods/Services Affected by Opposition


Class 005. All goods and services in the class are opposed, namely: Pharmaceutical preparations and substances for the treatment of viral, metabolic, endocrine, musculoskeletal, cardiovascular, cardiopulmonary, genitourinary, sexual dysfunction, oncological, hepatological, ophthalmic, respiratory, neurological, gastrointestinal, hormonal, dermatological, psychiatric and immune system related diseases and disorders
Class 035. All goods and services in the class are opposed, namely: Business management consultancy and advisory services

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2997235	Application Date	02/10/2004
Registration Date	09/20/2005	Foreign Priority Date	NONE
Word Mark	NOVARTIS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1997/09/30 First Use In Commerce: 1997/09/30 Adjuvants for use with veterinary vaccines and veterinary vaccines for companion animals, farmed fish and livestock; veterinary products for companion animals, farmed fish and livestock, namely, cardiovascular treatment preparations, arthritis treatment preparations, renal treatment preparations, respiratory treatment preparations, reproductive treatment preparations, allergy treatment preparations, antibiotics, insecticides, pesticides and feed additives for veterinary use in the treatment of parasites, fleas, worms, renal diseases, heart diseases, allergic diseases, parasitic and bacterial infections, lameness, respiratory diseases, scours or enteritis, viral diseases, clostridial diseases, pinkeye, liver abscesses, influenza, pneumonia, mastitis, West Nile virus and erysipelas; insecticides and rodenticides for agricultural use, disinfectants for veterinary use		

U.S. Registration No.	2336960	Application Date	07/09/1996
Registration Date	04/04/2000	Foreign Priority Date	02/15/1996
Word Mark	NOVARTIS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: [ chemicals and chemical preparations for use in industry, agriculture, horticulture and forestry, namely, chemicals for use in manufacturing optical lenses; Adjuvants for use in manufacturing agricultural preparations; Adjuvants for use in manufacturing pharmaceutical preparations; Chemical additives for		

	<p>use in manufacturing - pharmaceutical preparations, defoliants, wound pastes for trees and plants, plant growth regulators, preparations for the treatment of seeds, preparations for the protection of seeds and plants against plant pathogens, plant protection agents of a prophylactic nature; and Manures ]</p> <p>Class 005. First use:</p> <p>pharmaceutical preparations for the treatment of - dermatological, cardiovascular, hematological, bone, respiratory, central nervous system, endocrinological, circulatory, gastroenterological, hormonal and diabetic disorders, coughs, colds, influenza, headaches, stomach and digestive disorders, muscular and/or rheumatic disorders, anti-inflammatory agents, immune system disorders and related diseases, allergic reactions, metabolic disorders, anti-infectives, ocular disorders, and for use in oncology; diagnostic preparations and/or reagents for clinical or medical laboratory use; Contact lens and eyecare solutions and preparations, namely, disinfectants, cleaning solutions, saline solutions and wetting solutions; Nicotine for medicinal purposes in liquid, pill, tablet, caplet, powder or transdermal patch form; [ Hormones; ] Dietetic substances for medical purposes, namely, nutritional, vitamin, [ herbal and ] mineral supplements and preparations, nutritional drink mix for use as a meal replacement, [ nutritional supplements in snack bar form for use as a meal replacement; ] Food and beverages for [ babies, ] nfants and invalids, namely, [ baby food, infant formula, ] food for enteral administration and food for medically restricted diets; and [ Pesticides, ] fungicides, [ herbicides ] and insecticides, all for commercial, [ agricultural ] and/or domestic use</p> <p>Class 009. First use:</p> <p>[ contact lenses; Eyeglasses; Sunglasses; and Optical lenses not for medical use ]</p> <p>Class 010. First use:</p> <p>[ artificial or biological skin tissue for subsequent implantation; Intraocular lenses ]</p> <p>Class 029. First use:</p> <p>[ prepared entrees consisting primarily of meat, fish, poultry, game and/or vegetables; Meat extracts; Preserved, dried, frozen or cooked fruits and vegetables; Jams and fruit or vegetable preserves; Fruit-based snack foods; Fruit toppings; Dairy products, excluding ice cream, ice milk and frozen yogurt; Milk ]</p> <p>Class 030. First use:</p> <p>[ ready to eat snack bars made from combinations of cereal, fruit, grains and nuts; Breakfast and processed cereals; Cereal based snack foods; Bread; Biscuits; Chocolate; Candy; Cocoa; Sugar; Tapioca; Sago; Rusks; Desserts, namely, cakes and puddings; Malt for food purposes; Ice cream, frozen yogurt, ice milk and ice cream substitute; Chocolate syrup; Corn syrup; and Food additives for non-nutritional purposes for use as a flavoring, ingredient or filler ]</p> <p>Class 031. First use:</p> <p>[ bran, cereal and protein based foodstuffs for animals; Vegetable, fruit and flower seeds for agricultural and horticultural purposes; Fresh fruits and vegetables; Living plants and live flowers ]</p> <p>Class 032. First use:</p> <p>[ non-alcoholic beverages, namely, soft drinks, fruit drinks, fruit juices; Concentrates, syrups or powders used in the preparation of soft drinks; and Fruit syrups used in the preparation of soft drinks ]</p> <p>Class 042. First use:</p> <p>[ engineering services; plant, tree and seed breeding services; Horticultural services; Printing; and Material testing ]</p>
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Attachments	78365657#TMSN.jpeg ( 1 page )( bytes ) 75131409#TMSN.gif ( 1 page )( bytes ) Notice of Opposition - NOVATI AT THE HEART OF INNOVATION (F0714510).PDF ( 12 pages )(1013359 bytes )
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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	/John P. Margiotta/
Name	John P. Margiotta
Date	11/22/2010

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

In the Matter of Application Serial No. 77/786,912  
Mark: NOVATI AT THE HEART OF INNOVATION

-----X	X	
NOVARTIS AG,	:	
Opposer,	:	
	:	Opposition No. _____
against-	:	
	:	
	:	
SHEILA MIKHAIL,	:	
	:	
Applicant.	:	
-----X	X	

**NOTICE OF OPPOSITION**

Opposer, Novartis AG, a Switzerland corporation located and doing business at CH-4002, Basel, Switzerland, believes that it would be damaged by registration of the mark NOVATI AT THE HEART OF INNOVATION<sup>1</sup>, Serial No. 77/786,912, published in the Official Gazette on May 25, 2010, and hereby opposes the same.

As grounds for the opposition, Opposer alleges as follows:

1. Opposer is the owner of the trademark and trade name NOVARTIS in connection with a wide variety of pharmaceutical preparations for humans and veterinary medicines. Opposer has used the mark NOVARTIS in commerce since at least as early as 1997, and the mark is now famous.

2. Novartis is the owner of the following U.S. registrations:

- NOVARTIS, Reg. No. 2,997,235, registered September 20, 2005, for veterinary pharmaceuticals in International Class 5.

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