

ESTTA Tracking number: **ESTTA673535**

Filing date: **05/21/2015**

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

Proceeding	91206212
Party	Defendant entrotech, inc.
Correspondence Address	LISA M. GRIFFITH FISH & RICHARDSON P O BOX 1022 MINNEAPOLIS, MN 55440 1022 UNITED STATES tmdoctc@fr.com, hickey@fr.com, martens@fr.com, dylan-hyde@fr.com, morris@fr.com
Submission	Defendant's Notice of Reliance
Filer's Name	Erin M. Hickey
Filer's e-mail	hickey@fr.com, ly@fr.com, reardon@fr.com, brenckman@fr.com, tm-doctc@fr.com, morris@fr.com
Signature	/Erin M. Hickey/
Date	05/21/2015
Attachments	2015-05-21 Applicant's Notice of Reliance + Exhibits (Printed Materials).pdf(2294608 bytes )

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

In the matter of application Serial Nos.:

85/499,349 for the mark **CHLORADERM**  
85/499,345 for the mark **CHLORABSORB**  
85/499,337 for the mark **CHLORABOND**  
85/499,332 for the mark **CHLORADRAPE**

Filed on December 19, 2011

Published in the *Official Gazette* on May 29, 2012

CAREFUSION 2200, INC.,

*Opposer,*

v.

ENTROTECH LIFE SCIENCES, INC.,

*Applicant.*

Combined Opposition Proceeding No. 91-206,212

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**APPLICANT'S NOTICE OF RELIANCE**

Pursuant to Rule 704.08(c) of the Trademark Trial and Appeal Board's Manual of Procedure and 37 C.F.R. § 2.122(e), Applicant Entrotech Life Sciences, Inc. ("Applicant" or "Entrotech") hereby notifies Opposer CareFusion 2200, Inc. ("Opposer" or "CareFusion") of its reliance upon the following publicly available printed materials (identified as Exhibits II – II4):

Exh. No.	Document	Description	URL
I1	Annual Report of the DOH Health Care Fraud and Abuse Control Program FY 2014	Report discussing the settlement, which resolved allegations that CareFusion paid kickbacks to the physician co-chair of the Safe Practices Committee at the National Quality Forum, a nonprofit organization that reviews, endorses, and recommends standardized health care performance measures and practices; and that CareFusion knowingly promoted the sale of ChloroPrep for uses that the FDA had not approved, some of which were not medically accepted indications, and made unsubstantiated representations about the appropriate uses of ChloroPrep.	<a href="https://oig.hhs.gov/publications/docs/hcfac/FY2014-hcfac.pdf">https://oig.hhs.gov/publications/docs/hcfac/FY2014-hcfac.pdf</a>
I2	CareFusion Product Poster	Poster showing use of CHLORAPREP mark	<a href="http://www.carefusion.com/pdf/Infection_Prevention/ChloroPrep-1-mL-applicator-in-service-poster.pdf">http://www.carefusion.com/pdf/Infection_Prevention/ChloroPrep-1-mL-applicator-in-service-poster.pdf</a>
I3	ChloroPrep Safety Data Sheet	Data sheet showing use of CHLORAPREP mark	<a href="http://www.carefusion.com/pdf/Infection_Prevention/ChloroPrep_Solutions_SDS_US.pdf">http://www.carefusion.com/pdf/Infection_Prevention/ChloroPrep_Solutions_SDS_US.pdf</a>
I4	ChloroShield Brochure	Brochure showing use of CHLORASHIELD mark	<a href="http://www.carefusion.com/pdf/Infection_Prevention/ChloroShield-brochure.pdf">http://www.carefusion.com/pdf/Infection_Prevention/ChloroShield-brochure.pdf</a>
I5	ChloroPrep Label Change Fact Sheet	Fact sheet showing the ChloroPrep products (swabsticks, applicators, etc.) subject to the 2013 FDA requested label change	<a href="http://www.carefusion.com/pdf/Infection_Prevention/Labels/IP_CHP-label-change-fact-sheet_FQ_EN.pdf">http://www.carefusion.com/pdf/Infection_Prevention/Labels/IP_CHP-label-change-fact-sheet_FQ_EN.pdf</a>
I6	ChloroPrep 3mL Applicator Poster	CareFusion Product Poster – showing CHLORAPREP Products	<a href="http://www.carefusion.com/pdf/Infection_Prevention/ChloroPrep_3mL_In-Service_Poster.pdf">http://www.carefusion.com/pdf/Infection_Prevention/ChloroPrep_3mL_In-Service_Poster.pdf</a>
I7	ChloroPrep 10.5mL Applicator Poster	CareFusion Product Poster – showing CHLORAPREP Products	<a href="http://www.carefusion.com/pdf/Infection_Prevention/ChloroPrep_10I5mL_In-Service_Poster.pdf">http://www.carefusion.com/pdf/Infection_Prevention/ChloroPrep_10I5mL_In-Service_Poster.pdf</a>
I8	ChloroPrep 26mL Applicator Poster	CareFusion Product Poster – showing CHLORAPREP Products	<a href="http://www.carefusion.com/pdf/Infection_Prevention/ChloroPrep_26mL_In-Service_Poster.pdf">http://www.carefusion.com/pdf/Infection_Prevention/ChloroPrep_26mL_In-Service_Poster.pdf</a>

Exh. No.	Document	Description	URL
			<a href="#">on/ChloroPrep_26mL_In-Service_Poster.pdf</a>
I9	ChloroPrep 26mL Applicator for Cesarean Section Poster	CareFusion Product Poster – showing CHLORAPREP Products	<a href="http://www.carefusion.com/pdf/Infection_Prevention/26mL_Cesarean_In-Service_Poster.pdf">http://www.carefusion.com/pdf/Infection_Prevention/26mL_Cesarean_In-Service_Poster.pdf</a>
I10	ChloroPrep brand Frepp 1.5 mL Applicator Poster	CareFusion Product Poster – showing CHLORAPREP Products	<a href="http://www.carefusion.com/pdf/Infection_Prevention/IP_CP_FREPP_InService.pdf">http://www.carefusion.com/pdf/Infection_Prevention/IP_CP_FREPP_InService.pdf</a>
I11	ChloroPrep Sepp 0.67mL Applicator Poster	CareFusion Product Poster – showing CHLORAPREP Products	<a href="http://www.carefusion.com/pdf/Infection_Prevention/IP_CP_SEPP_InService.pdf">http://www.carefusion.com/pdf/Infection_Prevention/IP_CP_SEPP_InService.pdf</a>
I12	ChloroPrep swabstick 1.75/5.25 mL Applicator Poster	CareFusion Product Poster – showing CHLORAPREP Products	<a href="http://www.carefusion.com/pdf/Infection_Prevention/IP_CP_Swabstick_InService.pdf">http://www.carefusion.com/pdf/Infection_Prevention/IP_CP_Swabstick_InService.pdf</a>
I13	Trichlor-O-Cide® XP-160 Packaging Insert	Packaging insert showing that Trichlor-O-Cide® XP-160 is a powdered, chlorinated, multi-purpose sanitizer.	<a href="http://chemstarworks.com/wp-content/uploads/2009/07/TrichlorOCideXP160.pdf">http://chemstarworks.com/wp-content/uploads/2009/07/TrichlorOCideXP160.pdf</a>
I14	ChlorCid® Packaging Insert	Packaging insert showing that ChlorCid® is an aqueous solution not exceeding 3.0% sodium hypochlorite with surfactants.	<a href="http://www.ahrendental.com/files/30304.5_chlorcid.pdf">http://www.ahrendental.com/files/30304.5_chlorcid.pdf</a>

Applicant will rely upon these publicly available printed materials to establish:

- (1) that confusion between Applicant’s CHLORADERM, CHLORABSORB, CHLORABOND, and CHLORADRAPE marks at issue in this Opposition, on the one hand, and Opposer’s CHLORAPREP and CHLORASHIELD marks at issue in this Opposition, on the other hand, is not likely; (2) the dissimilarity of the marks at issue in this Opposition; (3) the dissimilarity of the goods at issue in this Opposition; (4) the dissimilarity of the channels of trade and marketing/advertising at issue in this Opposition; (5) the purchasing conditions and the sophistication of the purchasers of the goods at issue in this Opposition; (6) the weakness of Opposer’s CHLORAPREP and CHLORASHIELD

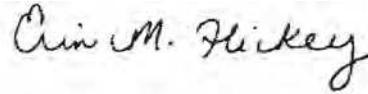
marks; (7) the scope of Opposer's use of its CHLORAPREP and CHLORASHIELD marks; (8) the co-existence in the marketplace of Opposer's CHLORAPREP and CHLORASHIELD marks with other marks containing the letters "C-H-L-O-R" for goods relevant to this Opposition and relevant to the goods at issue in this Opposition; and (9) the reputation of Opposer in the industry.

\*\*\*\*\*

Dated: May 21, 2015

Respectfully submitted,

**FISH & RICHARDSON P.C.**



By: \_\_\_\_\_

Lisa M. Martens  
Erin M. Hickey  
P.O. Box 1022  
Minneapolis, MN 55440-1022  
Telephone: (858) 678-5070  
Facsimile: (858) 678-5099  
E-mail: martens@fr.com  
E-mail: hickey@fr.com

*Attorneys for Applicant,*  
ENTROTECH LIFE SCIENCES, INC.

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.