

ESTTA Tracking number: **ESTTA603027**

Filing date: **05/07/2014**

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	JPI Commerical, LLC
Granted to Date of previous extension	05/07/2014
Address	3180 Porter Drive Palo Alto, CA 94304 UNITED STATES

Correspondence information	Tiffany A. Blofield Attorney Winthrop & Weinstine, P.A. 225 South Sixth Street, Suite 3500 Minneapolis, MN 55402 UNITED STATES sbaird@winthrop.com, tblofield@winthrop.com, sbell@winthrop.com, trademark@winthrop.com, greyes@winthrop.com Phone:6126046684
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**Applicant Information**

Application No	86036708	Publication date	01/07/2014
Opposition Filing Date	05/07/2014	Opposition Period Ends	05/07/2014
Applicant	Novartis AG CH-4002 Basel, SWITZERLAND		

**Goods/Services Affected by Opposition**

<p>Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Anti-infectives; Anti-inflammatories; Anti-bacterial pharmaceuticals; Antibiotics; Antifungal preparations; Antivirals; Cardiovascular pharmaceuticals; Dermatological pharmaceutical products; Inhaled pharmaceutical preparations for the treatment of respiratory diseases and disorders; Pharmaceutical preparations acting on the central nervous system; Pharmaceutical preparations and substances for the treatment of gastro-intestinal diseases; Pharmaceutical preparations for the treatment and prevention of diseases and disorders of the autoimmune system, the metabolic system, the musculo-skeletal system and the genitourinary system; pharmaceutical preparations for use in hematology and in tissue and organ transplantation; Pharmaceutical preparations for the treatment of eye diseases and conditions; Pharmaceutical preparations for the treatment of heart rhythm disorders; Pharmaceutical preparations for the treatment of immune system related diseases and disorders; Pharmaceutical preparations for the treatment of kidney diseases; Pharmaceutical preparations for treating diabetes; Pharmaceutical preparations for treating hypertension; Pharmaceutical preparations for treating skin disorders; Pharmaceutical preparations for use in dermatology; Pharmaceutical preparations for use in urology; Pharmaceutical products for ophthalmological use; Pharmaceutical products for the prevention and treatment of can-</p>
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cer; Pharmaceutical products for the treatment of bone diseases; Pharmaceutical products for treating respiratory diseases; Pharmaceutical products for treating respiratory diseases and asthma


## 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.	2249959	Application Date	06/21/1996
Registration Date	06/01/1999	Foreign Priority Date	NONE
Word Mark	XYREM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1999/02/24 First Use In Commerce: 1999/02/24 pharmaceutical preparation for the treatment of narcolepsy		

U.S. Registration No.	2423880	Application Date	10/27/1998
Registration Date	01/23/2001	Foreign Priority Date	NONE
Word Mark	XYREM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1999/02/23 First Use In Commerce: 1999/02/23 Pharmaceutical Preparation For The Treatment Of Narcolepsy		

U.S. Registration No.	2472156	Application Date	10/27/1998
Registration Date	07/24/2001	Foreign Priority Date	NONE
Word Mark	XYREM		
Design Mark			


Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1999/02/23 First Use In Commerce: 1999/02/23 Pharmaceutical Preparation For The Treatment Of Narcolepsy

U.S. Registration No.	2860730	Application Date	10/17/2001
Registration Date	07/06/2004	Foreign Priority Date	NONE

Word Mark	XYREM
Design Mark	


Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1999/02/24 First Use In Commerce: 1999/02/24 Pharmaceutical preparations for the treatment of diseases of the central nervous system and a variety of conditions, symptoms, and diseases, namely, narcolepsy, fibromyalgia, insomnia and [ myositis ]


U.S. Registration No.	3112732	Application Date	04/13/2004
Registration Date	07/04/2006	Foreign Priority Date	NONE

Word Mark	XYREM
Design Mark	

Description of Mark	NONE
Goods/Services	Class 010. First use: First Use: 2003/04/01 First Use In Commerce: 2004/06/21 Drug delivery devices

U.S. Registration No.	3309255	Application Date	12/08/2005
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Registration Date	10/09/2007	Foreign Priority Date	NONE
Word Mark	XYREM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 005. First use: First Use: 1999/02/24 First Use In Commerce: 1999/02/24 Pain relief medication; preparation for the relief of pain; pharmaceutical preparations acting on the central nervous system; pharmaceutical preparations for use in the treatment and/or management of sleep disorders, [ chronic fatigue syndrome, drug and alcohol abuse, anxiety, cerebrovascular diseases,] neurological disorders, parkinson's disease [, alzheimer's disease, multiple sclerosis, autism, depression, inflammatory disorders, irritable bowel disorder, regional ileitis, ulcerative colitis, autoimmune inflammatory disorders, endocrine disturbances, and diabetes; and pharmaceutical preparations for the purpose of tissue protection including protection following hypoxia/anoxia such as in stroke, organ transplantation, organ preservation, myocardial infarction or ischemia, reperfusion injury, and protection following radiation, progeria, or an increased level of intracranial pressure, e.g., due to head trauma. ]</p>		

U.S. Registration No.	2867332	Application Date	04/18/2002
Registration Date	07/27/2004	Foreign Priority Date	NONE
Word Mark	XYREM SUCCESS PROGRAM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 044. First use: First Use: 2002/09/23 First Use In Commerce: 2002/09/23 Providing telephone support services to physicians regarding the safe and appropriate use and distribution of medications used to treat sleep disorders; providing medical information via telephone and in the form of written educational materials to physicians in connection with the safe and appropriate use and distribution of medication for the treatment of sleep disorders</p>		

U.S. Registration No.	2848521	Application Date	05/28/2002
Registration Date	06/01/2004	Foreign Priority Date	NONE

Word Mark	XYREM PATIENT SUCCESS PROGRAM
Design Mark	<b>XYREM PATIENT SUCCESS PROGRAM</b>
Description of Mark	NONE
Goods/Services	Class 044. First use: First Use: 2002/09/23 First Use In Commerce: 2002/09/23 Providing telephone support services topatients regarding the safe and appropriate use and distribution of medicationsused to treat sleep disorders; providing medical information via telephone and in the form of written educational materials to patients in connection with the safe and appropriate use and distribution of medication for the treatment of sleep disorders

U.S. Registration No.	2860906	Application Date	05/28/2002
Registration Date	07/06/2004	Foreign Priority Date	NONE
Word Mark	XYREM SUCCESS PROGRAM FOR PHYSICIANS		
Design Mark	<b>XYREM SUCCESS PROGRAM FOR PHYSICIANS</b>		
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 2002/09/23 First Use In Commerce: 2002/09/23 Providing telephone support services tophysicians regarding the safe and appropriate use and distribution of medications used to treat sleep disorders; providing medical information via telephone and in the form of written educational materials to physicians in connection with the safe and appropriate use and distribution of medication for the treatment ofsleep disorders		

U.S. Registration No.	2952351	Application Date	07/02/2002
Registration Date	05/17/2005	Foreign Priority Date	NONE
Word Mark	XYREM (SODIUM OXYBATE) ORAL SOLUTION CIII		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2002/10/07 First Use In Commerce: 2002/10/07 Pharmaceutical preparations for use in the treatment of sleep disorders		

U.S. Registration No.	3162632	Application Date	12/08/2005
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