

ESTTA Tracking number: **ESTTA659274**

Filing date: **03/04/2015**

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	03/04/2015
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 jmargiotta@fzlz.com, lkittay@fzlz.com Phone:212-813-5900
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**Applicant Information**

Application No	86271259	Publication date	11/04/2014
Opposition Filing Date	03/04/2015	Opposition Period Ends	03/04/2015
Applicant	Novaerus US, Inc Suite 250 Tampa, FL 33607 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 010. First Use: 2012/08/06 First Use In Commerce: 2012/08/06 All goods and services in the class are opposed, namely: Plasma field technology units comprising of an air sterilization apparatus used to eradicate airborne pathogens for medical purposes
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Application No	86271268	Publication date	11/04/2014
Opposition Filing Date	03/04/2015	Opposition Period Ends	
Applicant	Novaerus US, Inc Suite 250 Tampa, FL 33607 UNITED STATES		

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## Grounds for Opposition

Priority and likelihood of confusion

Trademark Act section 2(d)

## Marks Cited by Opposer as Basis for Opposition

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	<p>Class 001. First use: First Use: 0 First Use In Commerce: 0 [ 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 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: First Use: 0 First Use In Commerce: 0 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, ] infants 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: First Use: 0 First Use In Commerce: 0 [ contact lenses; Eyeglasses; Sunglasses; and Optical lenses not for medical use ]</p> <p>Class 010. First use: First Use: 0 First Use In Commerce: 0</p>		

[ artificial or biological skin tissue for subsequent implantation; Intraocular lenses ]

Class 029. First use: First Use: 0 First Use In Commerce: 0

[ 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 ]

Class 030. First use: First Use: 0 First Use In Commerce: 0

[ 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 ]

Class 031. First use: First Use: 0 First Use In Commerce: 0


[ 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 ]

Class 032. First use: First Use: 0 First Use In Commerce: 0

[ 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 ]

Class 042. First use: First Use: 0 First Use In Commerce: 0

[ engineering services; plant, tree and seed breeding services; Horticultural services; Printing; and Material testing ]

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	NONE		

Mark	
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

Attachments	75131409#TMSN.png( bytes ) 78365657#TMSN.png( bytes ) F1640637.PDF(286253 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	03/04/2015

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

NOVARTIS AG,

Opposer,

v.

NOVAERUS US, INC,

Applicant.

**NOTICE OF OPPOSITION**

Novartis AG (“Opposer”), a corporation organized and existing according to the laws of Switzerland, located and doing business at CH-4002, Basel, Switzerland, believes that it will be damaged by the issuance of a registration for the mark NOVAERUS, applied for in Application Serial No. 86/271,259, and by the issuance of a registration for the mark NOVAERUS & Design, applied for in Application Serial No. 86/271,268, both for “Plasma field technology units comprising of an air sterilization apparatus used to eradicate airborne pathogens for medical purposes” in International Class 10 (together, the “Applications”), and therefore opposes the same. As grounds for the opposition, Opposer, by its attorneys Fross Zelnick Lehrman & Zissu, P.C., 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 human 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. trademark registrations:

- NOVARTIS, Reg. No. 2,336,960, registered April 4, 2000, for pharmaceuticals in International Class 5.

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