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

In the matter of application Serial No. 78/071,517 published in the Official
Gazette on November 20, 2001.



03-18-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #66

Merck & Co., Inc.

Opposer,

Opposition No. _____

v.

Sicor, Inc.,

Applicant.

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BOX TTAB FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

NOTICE OF OPPOSITION

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

MERCK & CO., INC., a corporation duly organized and existing under the laws of the State of New Jersey, with its principal place of business located at One Merck Drive, Whitehouse Station, New Jersey 08889-0100, believes it will be damaged by the registration of Application Serial No. 78/071,517 for the designation SICOR as a trademark for "pharmaceutical preparations and substances for the diagnosis and treatment of cardiovascular diseases, cerebrovascular diseases, seizure disorders, neurological diseases and disorders, diabetes and other metabolic disorders,

inflammatory diseases, autoimmune diseases, viral diseases, cancer, shock and central

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nervous system trauma and peripheral vascular diseases" (hereinafter "Applicant's Goods") and "custom manufacture of pharmaceuticals for others" (hereinafter "Applicant's Services") filed June 28, 2001 by Sicor, Inc., and published in The Official Gazette of November 20, 2001, page TM 83, and having previously been granted an extension of time to oppose, hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is a leading research driven pharmaceutical products and services company which discovers, develops, manufactures and markets a broad range of innovative medical and pharmaceutical products and services designed to improve and preserve human health.
2. Since long prior to the filing date of the application herein opposed, Opposer has been a world business leader which distributes and sells medical and pharmaceutical preparations throughout the United States and the world.
3. Since long prior to the filing date of the application herein opposed, the Opposer has used and continues to use the trademarks ZOCOR and ZOCOR and Design for a pharmaceutical preparation for use as an antihypercholesterolemic agent. Opposer is the owner on the Principal Register of the registered trademarks ZOCOR, registered September 22, 1987 under Reg. No. 1, 457,984 and ZOCOR and Design, registered

January 26, 1993 under Reg. No. 1,749,211 both for pharmaceutical preparations for use as an antihypercholesterolemic agent. The registrations are valid and subsisting and have become incontestable as a matter of law.

4. Since long prior to the filing date of the application herein opposed, Opposer has distributed and offered for sale and sold pharmaceutical preparations bearing the trademarks ZOCOR and ZOCOR and Design which identify and distinguish its pharmaceutical preparations from those of others.
5. Since long prior to the filing date of the Applicant, Opposer has made use of the trademarks ZOCOR and ZOCOR and Design by applying them to labeling, packaging, promotional materials, product literature and by featuring the marks in national print and television advertising and by using the marks on other materials promoting the pharmaceutical product distributed by Opposer in interstate commerce. Opposer's marks are famous.
6. As a result of the quality of Opposer's products and their widespread use in the healthcare industry, the trademarks ZOCOR and ZOCOR and Design have become famous marks and have come to have great value to

Opposer and the health care industry has come to use the marks to identify and distinguish Opposer's goods from those of others.

7. Upon information and belief, Applicant filed its application to register the designation SICOR as a trademark and service mark on June 28, 2001 under Section 1(b) of the Trademark Law on the basis of the intent to use in interstate commerce (Serial No. 78/071,517) for Applicant's Goods and Applicant's Services.
8. Upon information and belief, Applicant has made no use of the designation SICOR on or in connection with Applicant's Goods and Applicant's Services identified in the application.
9. Upon information and belief, Applicant's Goods to be offered for sale under the mark SICOR are the same class of goods on and in connection with which Opposer uses its registered marks ZOCOR and ZOCOR and Design.
10. Applicant's Goods and Applicant's Services, identified to be offered for sale and for distribution under the designation SICOR, are intended for the same or similar class of purchasers and users as those already familiar with Opposer's famous registered marks ZOCOR and ZOCOR and Design and would pass through the same channels of trade.

11. Applicant's designation SICOR so resembles Opposer's previously used, famous registered trademarks ZOCOR and ZOCOR and Design as to be likely, when applied to Applicant's Goods and Applicant's Services, to cause confusion, to cause mistake and to deceive with consequent injury to Opposer and the public.
12. The trademark SICOR of Applicant, as applied to Applicant's Goods and Applicant's Services, so resembles the trademarks ZOCOR and ZOCOR and Design of Opposer, previously used and registered by Opposer as to cause dilution of the distinctive quality of the famous trademarks ZOCOR and ZOCOR and Design.
13. Opposer will be damaged by the registration sought by Applicant because such registration would support and assist Applicant in the confusing and misleading use of Applicant's mark; would be likely to cause confusion, or to cause mistake or to deceive or to cause confusion as to connection, association or sponsorship of the Opposer; would cause dilution of the distinctive quality of Opposer's famous marks; and would give color of exclusive statutory rights to Applicant.

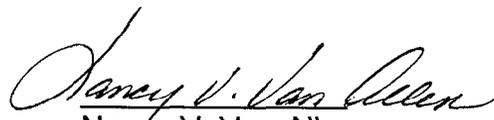
WHEREFORE, Opposer respectfully requests that the opposition to the application for registration of the mark SICOR be sustained and that the registration

sought by Applicant be refused. Opposer submits herewith a Deposit Account Order Form wherein request is made to deduct the requisite filing fee in the amount of \$300 from Account No. 13-2752 in the name of Merck & Co., Inc.

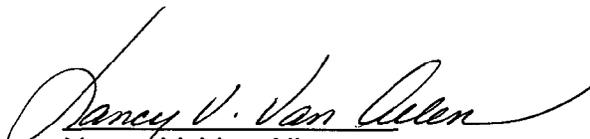
Opposer hereby appoints Kevin M. Dugan, Lucien G. Farron, Susan C. Mattson, Robert Peverada, Debra A. Shelinsky Greene each members of the Bar of the State of New York, and a member of the Bar District of Columbia, or any of them, the addresses of each being c/o Merck & Co., Inc., One Merck Drive, P.O. Box 100, Whitehouse Station, New Jersey 08889-0100, to file the foregoing Notice of Opposition, to prosecute this opposition, with full powers of substitution and revocation, to make all alterations and amendments therein, and to transact all business and acts in the United States Patent and Trademark Office in connection therewith.

Dated: Whitehouse Station, New Jersey
March 14, 2002

Merck & Co., Inc.


Nancy V. Van Allen
Senior Assistant Secretary

Nancy V. Van Allen, being duly sworn, states that she is Senior Assistant Secretary of Merck & Co., Inc., the Opposer named in the foregoing Notice of Opposition; that she has read and signed the Notice and knows the contents thereof; and that the allegations are true, except as to any matters therein stated to be alleged upon information and belief, and as to those matters, she believes them to be true.


Nancy V. Van Allen

State of New Jersey
County of Hunterdon

Subscribed and sworn to before me this 14th day of March, 2002

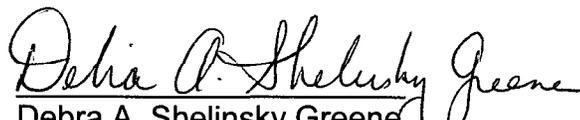

Notary Public

FLORENCE M. NIEL HENITS
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires October 29, 2006

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: BOX TTAB-FEE Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 on March 14, 2002.

MERCK & CO., INC.


Debra A. Shelinsky Greene

Date: March 14, 2002

Form PTO-140
(3-75)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

BEFORE USING THIS ORDER FORM
read the important information on the
reverse side

DEPOSIT ACCOUNT ORDER FORM

MAIL TO: **Commissioner of Patents and Trademarks** Date: **3/14/02**
Washington, D.C. 20231

Account No. **13-2752** Order No. **2246**

Name and Address of Depositor:
MERCK & CO., Inc.
P.O. Box 100
WHITEHOUSE STATION, NEW JERSEY 08889-0100

DESCRIPTION OF ARTICLES OR SERVICES TO BE FURNISHED

FOR OFFICE USE ONLY

ITEM OR SERVICE	VALUE FURNISHED ACTION OFF. USE

Opposition filed in the name of Merck & Co., Inc., v. Sicor, Inc. Serial No. 78/071,517 trademark SICOR. \$300.00



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If additional space is needed attach separate sheet.

Kevin M. Dugan
(Signature)

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RETURN AFTER FIVE DAYS

YOUR ORDER NO. **2246**

Name

KEVIN M. DUGAN, ESQ.
COUNSEL, TRADEMARKS AND COPYRIGHTS

Street Address

P.O. Box 100

City, State, Zip Code

WHITEHOUSE STATION, NEW JERSEY 08889-0100