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04-29-2002

U.S. Patent & TMOfo/TM Mail Ropt Dt. #26

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

-----X	:	
AVECIA LIMITED,	:	
	:	
Opposer,	:	Opposition No.
	:	
v.	:	
	:	
MINNESOTA MINING and	:	
MANUFACTURING COMPANY,	:	
	:	
Applicant.	:	
-----X	:	

AMENDED NOTICE OF OPPOSITION

To: The Honorable Assistant Commissioner for Trademarks

S I R:

In the matter of Application Serial No. 78/085,060, filed on September 22, 2001, and published in the *Official Gazette* on February 26, 2002, Page TM 121, **AVECIA LIMITED**, a limited liability company, organized under the laws of the United Kingdom, having a business address of Hexagon House, Blackley, Manchester M9 8PS, United Kingdom, believes it will be damaged by registration of the mark shown in said application and hereby opposes the same. As grounds for opposition, it is alleged that:

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1. Opposer is the owner of the trademark and service mark **AVECIA**, a coined mark having no meaning other than as a source indicator for goods and services emanating from opposer.
2. Opposer's mark **AVECIA** serves as a house mark for a wide range of goods and services, including, but not limited to, goods in Class 5 and is also an integral part of its trade name.

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3. Opposer owns a registration of **AVECIA** as a trademark and service mark on the Principal Register, No. 2,471,153, dated July 24, 2001, and such registration is valid and subsisting in the name of opposer.
4. Subsequent to the date of such registration, applicant applied to register the term **AVEXIA** as a trademark for goods in Class 5, namely, immune response modifiers for use in treating or preventing infections, viruses, tumors, diseases, surgical incisions, cuts, wounds, warts and damaged skin, based on Intent to Use, Ser. No. 78/085,060, filed September 22, 2001.
5. The respective marks of opposer and applicant, **AVECIA** and **AVEXIA**, differ by only one letter of the alphabet.
6. Upon information and belief, **AVECIA** and **AVEXIA** are the only marks in Class 5 having the prefix letters "AVE" and the suffix letters "IA".
7. The respective marks **AVECIA** and **AVEXIA** are confusingly similar.
8. The respective goods for which such marks are used or intended to be used are the same and/or related.
9. Applicant's use and registration of **AVEXIA** is likely to cause mistake or deception or confusion of the medical profession and the public as to the marks, the goods and the source of origin of the respective goods.
10. Such confusion will damage opposer and injure the public.

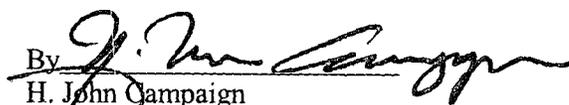
WHEREFORE, Opposer prays that its Notice of Opposition may be sustained and that registration to applicant be denied.

A duplicate copy of this Amended Notice of Opposition is annexed hereto.

Respectfully submitted,

GRAHAM, CAMPAIGN P.C.
Attorneys for Opposer

Dated: April 24, 2002
New York, New York

By 
H. John Campaign
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CERTIFICATE OF MAILING

I hereby certify that the foregoing AMENDED NOTICE OF OPPOSITION to Serial No. 78/085,060, is being deposited with the U.S. Postal Service as first-class mail, with sufficient postage prepaid, in an envelope addressed to: BOX TTAB FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, this 24th day of April, 2002.

Dated: April 24, 2002

By 