

TTAB

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

ALLERGAN, INC.,

Opposer,

v.

BIOCENTRIC LABORATORIES, INC.,

Applicant.

78320 975
Opposition No. 91161603

CERTIFICATE OF MAILING

I hereby verify that on June 2, 2006, this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Eleanor Elko
Eleanor Elko

OPPOSER'S NOTICE OF FILING TESTIMONY

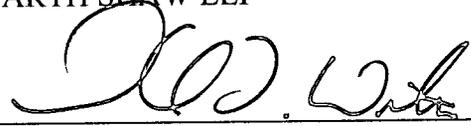
Opposer Allergan, Inc. hereby files the following testimony taken during Opposer's testimony period, pursuant to Trademark Rule 2.123:

Duplicate original of deposition testimony of Tom Albright, including Opposer's exhibit nos. 1 -15.

Respectfully submitted,

Dated: June 2, 2006

SEYFARTH SHAW LLP

By: 

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06-05-2006
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #72

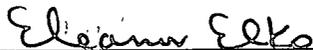
CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2006, I served the foregoing Opposer's Notice of Filing Testimony on the Applicant by depositing a true copy thereof in a sealed envelope with the United States Postal Service "Priority Mail Service" addressed to applicant as follows:

Ms. Rebecca Spaar
Chief Executive Officer
BioCentric Laboratories, Inc.
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AND

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Chief Executive Officer
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P.O. Box 1018
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Eleanor Elko

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

In the Matter of Application Serial No. 78/320, 975
Published in the Official Gazette of August 3, 2004

ALLERGAN, INC.,)	
)	
Opposer,)	
)	
vs.)	No. 91161603
)	
BIOCENTRIC LABORATORIES,)	
INC.,)	
)	
Applicant.)	
)	

DEPOSITION OF TOM ALBRIGHT

January 16, 2006

214108



Los Angeles	Orange County	San Francisco	San Diego	Inland Empire	Palm Springs	San Fernando Valley	San Jose
(310)	(949)	(415)	(858)	(909)	(760)	(818)	(408)
207.8000	955.0400	433.5777	455.5444	686.0606	322.2240	702.0202	885.0550

TOM ALBRIGHT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Published in the Official Gazette of August 3, 2004

7	ALLERGAN, INC.,)	
)	
8	Opposer,)	
)	
9	vs.)	No. 91161603
)	
10	BIOCENTRIC LABORATORIES, INC.,)	
)	
11	Applicant.)	
)	

Deposition of TOM ALBRIGHT, taken on
behalf of the Opposer, Allergan, Inc., at
2525 Dupont Drive, Irvine, California,
commencing at 11:11 a.m., on Monday,
January 16, 2006, before Erika Kotteakos,
Certified Shorthand Reporter No. 9698.

TOM ALBRIGHT

1 APPEARANCES:

2

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4

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7

8 For Applicant, BIOCENTRIC LABORATORIES, INC.:

9

NO APPEARANCE

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TOM ALBRIGHT

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3 - U.S. Department of Commerce, Patent and Trademark Office, Notice of Acceptance and Notice or Renewal for Registration No. 1692384, mailing date 4/5/02 (1 page)	9
4 - U.S. Patent and Trademark Office Reg. No. 1,709,160 dated 8/18/92, for BOTOX (1 page)	10
5 - U.S. Department of Commerce, Patent and Trademark Office, Notice of Acceptance and Notice or Renewal for Registration No. 1709160, mailing date 4/5/02 (1 page)	11
6 - U.S. Patent and Trademark Office Reg. No. 2,510,675 dated 11/20/01, for BOTOX (1 page)	13
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TOM ALBRIGHT

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TOM ALBRIGHT

1 IRVINE, CALIFORNIA; MONDAY, JANUARY 16, 2006;

2 11:11 A.M

3
4 TOM ALBRIGHT,
5 deponent, was sworn and examined
6 and testified as follows:
7

8 THE REPORTER: Do you solemnly swear that the
9 testimony you are about to give in the cause now pending
10 shall be the truth, the whole truth, and nothing but the
11 truth?

12 THE WITNESS: I do.
13

14 EXAMINATION

15 BY MR. WILTON:

16 Q Could you please state your name for the
17 record.

18 A Tom Albright.

19 Q And before we get started, Mr. Albright, let
20 me mark for the record as Exhibit 1 the First Amended
21 Notice of Testimony Deposition of Allergan, Inc.,
22 noticing your deposition to commence at 11 o'clock this
23 morning on January 16th, which was served -- it has a
24 proof of service that it was e-mailed and sent priority
25 mail to the Applicant on January 10th. And the

TOM ALBRIGHT

1 Applicant is not present, or her counsel -- or its
2 counsel.

3 (Whereupon Allergan, Inc.'s Exhibit 1 was
4 marked for identification.)

5 BY MR. WILTON:

6 Q You work at Allergan, Inc., correct?

7 A Yes, I do.

8 Q What is your position there?

9 A I'm Vice President of Global Strategic
10 Marketing for BOTOX.

11 Q And how long have you been in that position?

12 A Since November 2003.

13 Q And prior to being in that position, were you
14 working at Allergan?

15 A Yes. I came here in late 2000, and until that
16 time period, I ran U.S. BOTOX Cosmetic marketing.

17 Q So from late 2000 until November of 2003, you
18 were in charge of --

19 A All the advertising, all the promotion around
20 BOTOX Cosmetic in the U.S.

21 Q And what is your -- what are your
22 responsibilities now as Vice President of Global
23 Strategic Marketing for BOTOX?

24 A My role now is a little more long-term and I'm
25 not as directly involved in U.S. marketing issues as I

TOM ALBRIGHT

1 was before.

2 I tend to be more heavily focused on long-term
3 strategy for the brand, including managing our portfolio
4 plan of new indications and development, and building
5 global synergy around the advertising, promotion, and
6 educational efforts of the product worldwide.

7 Q Let me mark as Exhibit 2 a -- I'll ask you,
8 have you ever seen this document before?

9 A Yes, I have.

10 (Whereupon Allergan, Inc.'s Exhibit 2 was
11 marked for identification.)

12 BY MR. WILTON:

13 Q And what is this document?

14 A It's a trademark document for BOTOX, the
15 original -- it's a copy of the original.

16 Q A copy of the original certificate of
17 registration?

18 A Trademark -- yes, certificate of registration
19 for BOTOX.

20 Q And are the original certificates of
21 registration maintained in the files of Allergan?

22 A They are maintained somewhere. I'm not sure
23 where they are maintained at Allergan. But this is a
24 copy provided by the trademark office of Allergan.

25 Q And I will mark as Exhibit 3 a document and

TOM ALBRIGHT

1 ask you if you've seen this one before.

2 A It appears to be a renewal of our trademark
3 registration, which occurred in 2002.

4 (Whereupon Allergan, Inc.'s Exhibit 3 was
5 marked for identification.)

6 BY MR. WILTON:

7 Q And that would be Registration Number 1692384?

8 A For BOTOX, yes.

9 Q And that was the registration that you -- we
10 talked about as Exhibit 2, right?

11 A The earlier registration renewal, correct.

12 Q I'd like to mark as Exhibit 4 another
13 registration certificate and ask you if you've seen that
14 document before.

15 A It looks like, you know, another registration
16 number for the BOTOX trademark registration.

17 (Whereupon Allergan, Inc.'s Exhibit 4 was
18 marked for identification.)

19 BY MR. WILTON:

20 Q And that would be Registration
21 Number 1,709,160?

22 A Correct.

23 Q And do you know if the original copy of this
24 certificate of registration is kept in the files of
25 Allergan?

TOM ALBRIGHT

1 A I think it is.

2 Q And that would be in the trademark department?

3 A Yes.

4 Q I'd like to show you what we'll mark as
5 Exhibit 5, another document from the Patent and
6 Trademark Office.

7 (Whereupon Allergan, Inc.'s Exhibit 5 was
8 marked for identification.)

9 BY MR. WILTON:

10 Q Have you seen this document before?

11 A I have seen it. It is a renewal of 1709160.

12 Q Which is the registration that we saw as
13 Exhibit 4?

14 A The other registration for BOTOX.

15 Q And before we go a little further, you've been
16 deposed before; is that correct?

17 A Yes.

18 Q And one thing that I'll mention -- I know you
19 know the procedure and you've gone through it -- allow
20 me to finish my questions before you start your
21 answers --

22 A Oh, yes.

23 Q -- because it will be easier for our court
24 reporter, okay?

25 Finally, I have another registration

TOM ALBRIGHT

1 certificate which we'll mark as Exhibit 6.

2 (Whereupon Allergan, Inc.'s Exhibit 6 was
3 marked for identification.)

4 BY MR. WILTON:

5 Q Have you seen this document before?

6 A Not specifically, but it appears to be another
7 registration number for the BOTOX registration.

8 Q And that would be -- the original of this
9 document would be kept in the trademark files of
10 Allergan; is that right?

11 A It's my understanding that all of these would
12 be there.

13 Q When did Allergan begin marketing the BOTOX
14 product originally?

15 A Allergan began marketing BOTOX around 1991.

16 Q Has Allergan used the BOTOX mark continuously
17 since 1991?

18 A Yes.

19 Q When did Allergan start marketing the BOTOX
20 product for a cosmetic indication?

21 A Well, there were cosmetic indications around
22 the world in smaller countries, and then the BOTOX
23 Cosmetic indication was approved in 2002, April the
24 15th, 2002, in the U.S. And that became the first
25 really big country, major country, to have an approval

TOM ALBRIGHT

1 of BOTOX Cosmetic.

2 Q Do you recall what the other countries were
3 that were -- Allergan had received approval for the
4 cosmetic indication prior to the United States?

5 A Yes.

6 Q What were those?

7 A They were Canada, Brazil, several smaller
8 Latin American countries, and maybe a few countries in
9 other smaller markets, but no major European countries.

10 Q After Allergan received FDA approval to
11 market -- well, actually -- yeah, to market the BOTOX
12 product for cosmetic indication, did it continue to call
13 it just BOTOX, or did it call it something other than
14 that?

15 A By recommendation of the FDA, the trademark --
16 well, the tradename, basically, that we marketed for
17 BOTOX Cosmetic became BOTOX Cosmetic. BOTOX is the
18 trademarked portion of that.

19 Q And who suggested adding the "Cosmetic"
20 portion to the BOTOX trademark?

21 A The FDA made that recommendation in order to
22 make the product label more succinct for physician users
23 and consumers.

24 Q So the BOTOX Cosmetic tradename was used in
25 order to separate out the label from the other uses of

TOM ALBRIGHT

1 the BOTOX product?

2 A Correct.

3 Q Why don't we mark as Exhibit 7 a copy of the
4 Notice of Opposition filed in this matter.

5 (Whereupon Allergan, Inc.'s Exhibit 7 was
6 marked for identification.)

7 BY MR. WILTON:

8 Q And I'd like to direct your attention to
9 page 3 of that document.

10 Did you see a list of years and numbers toward
11 the top of that page?

12 A Yes, I do.

13 Q And what are those?

14 A Those appear to be worldwide sales figures for
15 BOTOX, BOTOX Cosmetic, and related tradenames that we
16 have on the product.

17 Q What other related tradenames are there under
18 which the product is sold?

19 A Well, in early 2004, BOTOX was launched as
20 Vistabel as a trademark -- or registered trademark in
21 France, and has continued to be launched in a couple of
22 other European countries under that trademark. And it's
23 also marked as Vistabex in Italy. So we have four
24 different trademarks.

25 Q They would be BOTOX, BOTOX Cosmetic, Vistabel,

TOM ALBRIGHT

1 and Vistabex?

2 A Correct.

3 Q And Vistabel and Vistabex were adopted in
4 2004, correct?

5 A Early 2004.

6 Q So the numbers that are on page 3 of this
7 document would reflect sales under the BOTOX mark --
8 since they end in 2003, they would be sales under the
9 BOTOX and BOTOX Cosmetic marks --

10 A Correct.

11 Q -- as opposed to all four of them?

12 A Vistabel and others, correct.

13 Q And about what percentage of Allergan's sales
14 of product under the BOTOX mark would you attribute to
15 the United States?

16 A Approximately 70 percent is in the U.S.

17 Q Let me mark as Exhibit 8 another multipage
18 document, and I'll ask you if you've seen this before.

19 A It's the Allergan annual report from 2004.

20 (Whereupon Allergan, Inc.'s Exhibit 8 was
21 marked for identification.)

22 BY MR. WILTON:

23 Q And I'd like to direct your attention to
24 the -- I guess it's the fourth page of the document.

25 Do you see a page that is entitled "Financial

TOM ALBRIGHT

1 Overview"?

2 A Yes.

3 Q Have you seen this before?

4 A Yes.

5 Q And toward the bottom of that page there
6 are -- there's a section called "Net Sales by Product
7 Line."

8 Do you see that?

9 A Yes.

10 Q And there's a section that says "BOTOX," slash
11 "Neuromodulators."

12 Do you see that?

13 A Yes.

14 Q Does that refer to sales of product under the
15 BOTOX mark?

16 A It's BOTOX, Vistabel, and Vistabex.

17 Q So with regard to the --

18 A BOTOX Cosmetic.

19 Q Right. Sorry about that.

20 So with regard to the 2004 number, which
21 appears to be \$705.1 million, that refers to sales under
22 the four marks that you talked about?

23 A Yes.

24 Q And with regard to the other four numbers
25 on that row, \$563.9 million, \$439.7 million,

TOM ALBRIGHT

1 \$309.5 million, and \$239.5 million, that refers to
2 sales under BOTOX or BOTOX Cosmetic?

3 A Correct.

4 Q Is there --

5 A Even in 2004, though, it may be important to
6 note that the vast majority of sales are still BOTOX or
7 BOTOX Cosmetic.

8 Q Is that because approximately 70 percent of
9 the sales are in the U.S. market?

10 A Yes. And also the fact that the
11 Vistabel/Vistabex trademarks were only launched in three
12 countries, and they were launched in that year period,
13 so they hadn't really grown to very much at that point.

14 Q Okay. We'll put this one away.

15 After Allergan received FDA approval to market
16 the BOTOX product for cosmetic indication, did Allergan
17 undertake any kind of advertising of the mark -- or of
18 the product?

19 A Yes, we did.

20 Q What was the first type of advertising that
21 Allergan launched?

22 A Well, we launched Web, print, and television
23 advertising almost simultaneously. The first thing to
24 hit the marketplace was our print advertisement, which
25 actually occurred on April the 25th, 2002, as an

TOM ALBRIGHT

1 insertion in People's 50 Most Beautiful People magazine,
2 and then it followed with about 20 different
3 publications throughout the year.

4 Q Do you know approximately what Allergan spent
5 on print advertisements in 2002?

6 A The gross rate of advertising spent on print
7 advertising was about 9 or 10 million.

8 Q What do you mean by "gross rate"?

9 A Without the discounts. With the discounts, I
10 think it was about 6.2 million.

11 Q So in other words, Allergan receives discounts
12 off of the retail value of the print advertisement?

13 A You get special buying and things like that
14 when you're negotiating deals with magazines, you know,
15 as long as you're running two or three or six
16 insertions, you know, things of that nature.

17 So there's a stated rate if you ran one ad,
18 which would be the gross rate. But, you know, the fact
19 that you've got, you know, multiple insertions and
20 things like that, you get additional discounts.

21 Q I'd like to mark this as Exhibit 9.

22 (Whereupon Allergan, Inc.'s Exhibit 9 was
23 marked for identification.)

24 BY MR. WILTON:

25 Q Have you seen this document before?

TOM ALBRIGHT

1 A Yes.

2 Q And what does this document reflect?

3 A It's only a list of all the publications where
4 we ran BOTOX Cosmetic print ads.

5 Q During 2002?

6 A In 2002.

7 Q And so the 9- to \$10 million gross value that
8 you discussed, that was to pay for the ads that appeared
9 in these magazines?

10 A Correct.

11 Q Do you know how much Allergan spent on its
12 television advertising of the BOTOX product in 2002?

13 A That was also about 6 or 7 million.

14 Q And how do you know that?

15 A Because I ran U.S. marketing at the time.

16 Q In 2003 do you know approximately how much
17 print -- Allergan spent on print advertisements for
18 product sold under the BOTOX mark?

19 A I think it was about 12 or 14 million,
20 somewhere in that range, in 2003.

21 Q Now, is that the gross value that you're
22 talking about, or the net?

23 A I'm pretty sure that was the net.

24 Q So the gross value of the --

25 A It would be even higher.

TOM ALBRIGHT

1 Q It would be higher?

2 A By usually 30 percent.

3 Q It sounds about right. It was about 9 million
4 in 2002, and you paid about 6.2 or 6.5?

5 A Uh-huh.

6 Q "Yes"?

7 A Yes.

8 Q I'd like to show you what we'll mark as
9 Exhibit 10.

10 (Whereupon Allergan, Inc.'s Exhibit 10
11 was marked for identification.)

12 BY MR. WILTON:

13 Q Have you seen this document before?

14 A Yes, I have.

15 Q And what is this document?

16 A This is a list of all the different magazines
17 that we advertised our print ad campaign in in 2003. We
18 also had insertions in major newspapers, but I don't see
19 those listed.

20 Q What are insertions?

21 A You know, an ad page that we bought in major
22 newspapers out there.

23 Q And those are not reflected on Exhibit 10?

24 A No.

25 Q Did you have insertions in major newspapers in

TOM ALBRIGHT

1 2002?

2 A No.

3 Q Do you know approximately how much Allergan
4 has spent on print advertising in 2004 for products sold
5 under the BOTOX mark?

6 A I don't know the exact numbers. I know that
7 overall advertising in 2004 and beyond have typically
8 ranged around 25 to 35 million per year in the U.S.

9 Q And that would be for both print and
10 television ads?

11 A Print, television, and it could include
12 limited radio advertising, too. I know we did some
13 radio advertising in late 2002 -- or 2003, excuse me.

14 Q Is Allergan doing print advertising now?

15 A Yes.

16 Q I'm sorry, is Allergan -- okay. Is Allergan
17 doing any radio advertisements now?

18 A For BOTOX for hyperhidrosis, but I don't think
19 for cosmetics currently.

20 Q I'd like to show you something that we will
21 mark as Exhibit 11.

22 (Whereupon Allergan, Inc.'s Exhibit 11
23 was marked for identification.)

24 BY MR. WILTON:

25 Q I'll ask if you have seen this before.

TOM ALBRIGHT

1 A Yes.

2 Q What is it?

3 A We referred to it as our single-page launch
4 ad.

5 Q What does that mean?

6 A Well, the original ad was a two-page spread,
7 and it cost more, so we had a large number of those to
8 begin with. And then after we ran a couple of
9 insertions of the large two-page spread, we cut it down
10 to the one-page ad.

11 Because the idea is that people have been
12 exposed to it. At this point now when they look at it,
13 they read through the one-page ad.

14 Q So this is an ad that was published in the
15 2002 time frame?

16 A 2002 until I think about April of 2003.

17 Q So when we spoke about the print
18 advertisements for 2002, these were the types of ads --
19 "these" being Exhibit -- what did I say? -- 11 were the
20 types of ads that were running?

21 A Yes.

22 Q Let me show you -- I've got a couple of pages
23 here. I will mark this as Exhibit 12, and I'll ask you
24 if you've seen this before.

25 A Yes. This is a page on the BOTOX.com Web

TOM ALBRIGHT

1 site.

2 (Whereupon Allergan, Inc.'s Exhibit 12
3 was marked for identification.)

4 BY MR. WILTON:

5 Q And is that a Web site this is run by
6 Allergan?

7 A It is.

8 Q And what is the purpose of that Web site?

9 A This Web site primarily links consumers and
10 physicians into the therapeutic indications of BOTOX.

11 Q As opposed to -- when you say "therapeutic
12 indications," does that distinguish those indications
13 from some other indications?

14 A The standard medical indications as opposed to
15 BOTOX Cosmetic. The purple button here, when you touch
16 that, it leads you directly over to BOTOXCosmetic.com.

17 Q Let me show you Exhibit 13, which may better
18 explain what you just told me.

19 (Whereupon Allergan, Inc.'s Exhibit 13
20 was marked for identification.)

21 BY MR. WILTON:

22 Q Do you know what this page is?

23 A I think what it is is when you move your
24 cursor over the "BOTOX Cosmetic" button, I think you get
25 this little indicator here of the indication of that

TOM ALBRIGHT

1 treatment.

2 Q And you said if you click on that button, then
3 you go to the BOTOX Cosmetic Web site?

4 A You either go directly to an explanation about
5 BOTOX Cosmetic, which can lead you to BOTOXCosmetic.com,
6 or you go directly to BOTOXCosmetic.com, and I'm not
7 certain today which way it goes.

8 Q Let me show you what we'll mark as Exhibit 14
9 and ask you if you've seen this before.

10 A Yes.

11 (Whereupon Allergan, Inc.'s Exhibit 14
12 was marked for identification.)

13 BY MR. WILTON:

14 Q And what is this?

15 A This is, I believe, the home page of
16 BOTOXCosmetic.com.

17 Q And do you know when Allergan launched the Web
18 site located at URL www.BOTOXCosmetic.com?

19 A It was pretty early. I think we actually got
20 it launched in April of 2002. If not then, it was very
21 early May 2002. I can tell you the exact date if we
22 need it.

23 Q How would you find that out?

24 A I have it on my computer.

25 Q Can you check?

TOM ALBRIGHT

1 A Because I tracked everything that we did.

2 (Pause in the proceedings.)

3 THE WITNESS: I just happened to see it one day
4 recently and was looking at it.

5 (Pause in the proceedings.)

6 THE WITNESS: Okay. Here it is. Okay. BOTOX
7 Cosmetic. These are all the things that we launched
8 right at launch. Okay. We called it BOTOXCosmetic.net
9 because we had an issue with the name. The doctor was
10 holding us hostage on it. We got it launched 11 days
11 after the approval, so that would make it --

12 BY MR. WILTON:

13 Q April --

14 A -- the 26th of April.

15 Q 2002?

16 A 2002.

17 Q And what are you looking at there?

18 A I'm looking at a spreadsheet. It was a Gantt
19 chart that my team and I put together to track all of
20 the key deliverables related to the imminent BOTOX
21 Cosmetic approval, and we put together a plan and then
22 we actually designated when we achieved all of the
23 deliverables.

24 Q What is a Gantt chart?

25 A It's an Excel spreadsheet that shows, over

TOM ALBRIGHT

1 time, what your plan is. And then you can designate
2 when you've fulfilled your destiny on that plan as well.
3 And we call this file "My First 30 Days Post-Approval
4 Chart."

5 Q So that chart was created at or about the time
6 you received approval?

7 A I think we created it in February. No. We
8 were planning ahead. So we created it in February of
9 2002, with the hopes that any week, we could get word
10 from the FDA that we had approval. And it guided us in
11 the first 30 days post-approval every day with what we
12 needed to achieve to meet our time lines.

13 Q And with regard to the entries on that chart,
14 those were put into the chart at or about the time that
15 the event occurred --

16 A Yes.

17 Q -- correct?

18 A Yes.

19 Q And so Allergan launched the Web site at
20 www.BOTOXCosmetic.com --

21 A Dot net.

22 Q Dot net.

23 A It switched over to dot com about two months
24 later, after we straightened out the registration issue
25 with the doctor in Canada, I think.

TOM ALBRIGHT

1 Q But you launched the Web site located at
2 www.BOTOXCosmetic.net on April 26th, 2002, correct?

3 A Correct.

4 Q And then switched over to BOTOXCosmetic.com a
5 month or two later?

6 A Yeah, I think it was within 60 days. I don't
7 think it was within 30. It was pretty quick.

8 Q And since that time, Allergan has continuously
9 had a Web site located at www.BOTOXCosmetic.com,
10 correct?

11 A Correct.

12 Q And Exhibit 14 is a copy of the current home
13 page for that Web site, as far as you know?

14 A I can't argue that it's current, but it's
15 dated, you know, January 13th, 2006. I would assume
16 it's current.

17 Q And if you look at the bottom of the first
18 page of Exhibit 14, the line that starts with "BOTOX
19 Cosmetic is indicated," do you see that?

20 A Yes.

21 Q Is that an accurate reflection of the range of
22 consumers who use -- or the age of the consumers that
23 use the BOTOX Cosmetic product?

24 A There are others that use the BOTOX Cosmetic
25 product, but the majority would fit this description

TOM ALBRIGHT

1 because that is the group that we promote to.

2 Q And that would be people ages 18 to 65 --

3 A Correct.

4 Q -- correct?

5 Is there a subset -- back up a second. And
6 "people" would include both men and women, correct?

7 A Correct.

8 Q Is there a subset of that group that Allergan
9 focuses its marketing efforts on with regard to the
10 BOTOX Cosmetic product?

11 A Uh-huh.

12 Q And what would that be?

13 A Yes. Well, first of all, women represent a
14 vast majority of the market. Then women in their 40's
15 represent kind of the central element of the market, and
16 then you can back up ten years previous to the age of 40
17 and go ten years past the decade of the 40's, and you
18 typically get pretty much all the patients.

19 Q So that would be a range from 30 to 60 (sic)?

20 A Mostly women -- well, mostly -- I would say
21 mostly women 30 to 55 years of age represent the vast
22 majority of users.

23 Q How do you know that?

24 A Lots of market research data.

25 Q And that's market research that Allergan

TOM ALBRIGHT

1 commissions?

2 A Correct. And some beyond that, too.

3 Q What do you mean by that?

4 A Well, the ASAPS survey, which is sent out to
5 about 14,000 aesthetic physicians in the U.S. every
6 year, also pulls data in on the typical user of any of
7 the major aesthetic products, including BOTOX.

8 Q And what is ASAPS?

9 A American Society of Aesthetic Plastic Surgery.
10 It's a large physician organization, third-party
11 organization.

12 Q So ASAPS sends out a survey annually to all of
13 its members, or all plastic surgeons?

14 A To its members, and also dermatologists and
15 otolaryng- -- well, ENT physicians, and
16 ophthalmologists.

17 Q Is that -- are the studies that ASAPS sends
18 out, or the surveys, are they paid for by Allergan?

19 A No.

20 Q And those surveys show that the majority of
21 users of the BOTOX Cosmetic product are women ages 30 to
22 55; is that right?

23 A Correct.

24 Q You said "vast majority." How --

25 A Oh, I haven't looked at it in a while. First

TOM ALBRIGHT

1 of all, if you pare it down, 85 percent of the market
2 are women, 15 percent are men, and 30- to 55-year-old
3 women would probably represent about 75 or 80 percent of
4 all women that use BOTOX Cosmetic.

5 Q About how many people does that represent?

6 A Well, the overall users are about 1 million
7 unique users.

8 Q Does Allergan focus its marketing on that --
9 not the users, but on the subsection of society that
10 consists of women ages 30 to 55?

11 A Correct.

12 Q About how many people are in that subset of
13 the U.S. population?

14 A The overall number, I think, of women in that
15 age range, I believe, are about 30 million, of those 30
16 to 55 years of age.

17 Q Are they the -- are those 30 million the
18 target population for Allergan's marketing of the BOTOX
19 Cosmetic product, or something smaller than that?

20 A Our print advertising and television
21 advertising budget is committed to that group of women.
22 We further cut that group a little bit to those in
23 households -- typically guided by those that are in
24 households of 50,000 or greater household income.

25 Although, you know, people in lesser earnings

TOM ALBRIGHT

1 also do receive, you know, communication of our
2 advertising message, as you're not perfect.

3 Q So the focus of the print and television
4 advertisements are -- strike that.

5 The intended focus of Allergan's print and
6 television advertisements for the BOTOX Cosmetic product
7 are women ages 30 to 55 and households of \$50,000 or
8 more income?

9 A Correct.

10 Q Has that always been the case since 2002?

11 A Pretty much.

12 Q About how many -- oh, I'm sorry.

13 A The actual numbers -- the way you buy media
14 targets is you have to buy it by a decade, and the
15 decade begins with a -5 and ends with a -4, so it's
16 actually 35 to 54, when you're buying media space.

17 But you really pick up a lot of, you know,
18 women that are 30 and above and women who are 55 and
19 below with that.

20 Q About how many women fall into the -- in the
21 United States, about how many women fall into the
22 category of being ages 30 to 55 with a household income
23 of \$50,000 or more?

24 A About 33 million.

25 Q And how do you know that?

TOM ALBRIGHT

1 A It's available online at USCensusBureau.gov.
2 You can find those kinds of data anywhere in any kind of
3 marketing databases.

4 Q And you've looked at this data?

5 A Yes, I have.

6 Q We'll mark this as Exhibit 15.

7 (Whereupon Allergan, Inc.'s Exhibit 15
8 was marked for identification.)

9 BY MR. WILTON:

10 Q Have you seen this document before?

11 A I have.

12 Q And what is this document?

13 A This is another page on the BOTOXCosmetic.com
14 Web site.

15 Q And what -- what is on this page?

16 A It's actually part of a patient testimonial, I
17 believe, about how patients decide on getting BOTOX
18 Cosmetic treatment.

19 Q And the first part of the testimonial says,
20 quote, "There are over-the-counter creams and lotions,"
21 closed quote.

22 Do you see that?

23 A Yes.

24 Q Does Allergan consider over-the-counter creams
25 and lotions to compete with the BOTOX Cosmetic product?

TOM ALBRIGHT

1 A We do.

2 Q In what manner?

3 A Well, over-the-counter creams and lotions are
4 the first mechanisms of treatment that patients use when
5 they're looking in the mirror and they see unnecessary
6 frown lines between their eyes.

7 And so they'll try putting creams and lotions
8 on there to try to either make the lines go away or
9 prevent formation of new lines. And so they'll try that
10 for many years before they'll finally resort to BOTOX
11 Cosmetic.

12 Q How do you know that?

13 A Because we do market research and we see how
14 people behave.

15 Q So going back to your 23 (sic) million figure
16 or number of women who are 30 to 55 with a household
17 income of \$50,000, do you know how many of those women
18 have looked at the BOTOX product, or looked into whether
19 the BOTOX product would be right for them?

20 A Well, out of that group, our market research
21 tells us that about 97 percent are aware of BOTOX
22 Cosmetic, so they know about the product out there and
23 they're thinking about it.

24 Furthermore, 20 percent of the overall group
25 are actually -- well, 20 percent of the 97 percent are

TOM ALBRIGHT

1 actually considering using the BOTOX Cosmetic treatment.

2 Q Is there any conclusion you can draw from that
3 data regarding the other 80 percent of the 97 percent?

4 A As to why they aren't considering using BOTOX
5 Cosmetic?

6 Q Yes.

7 A Most of that group, when you ask them why
8 they're not considering using BOTOX Cosmetic, they give
9 you a number of answers, including "I don't have those
10 kind of wrinkles" or "My wrinkles aren't that bad yet,"
11 "I don't care about my wrinkles between my frown lines,"
12 or -- let's see, what was the other one? "I may be
13 thinking about other treatments."

14 Q Has Allergan done any research into Item 3
15 there, the other treatments, in terms of what consumers
16 are thinking about or considering or using?

17 A Yes, we have.

18 Q And what conclusions have you drawn from that
19 research?

20 A Most of those people use creams and lotions, a
21 variety of home remedies, and other odds and ends that
22 are very unusual sounding.

23 Q And I believe you mentioned that the market
24 research that Allergan has conducted shows that
25 97 percent of the population we discussed, women 30 to

TOM ALBRIGHT

1 55 with a household income over \$50,000 -- that
2 90 percent are aware of the BOTOX product -- 97 percent
3 are aware of the BOTOX product?

4 A Yes.

5 Q Have you seen any other -- besides the brand
6 research that Allergan has conducted, have you seen any
7 other indications that show how well known or not well
8 known the BOTOX brand is in the United States?

9 A Well, there have been a number of things that
10 could tell you how well known the BOTOX brand is in the
11 United States, including right after the launch of BOTOX
12 Cosmetic, the front-page cover of Newsweek Magazine that
13 BOTOX had, with a huge article inside.

14 We had two front-page --

15 Q Let me stop you there for a moment.

16 A Yes.

17 Q When was that?

18 A That was in May of 200- -- May -- March --
19 wait. It was April 2002.

20 Q I'm sorry, go on. Besides the Newsweek front
21 page, what else have you had?

22 A We've had two front-cover articles in New York
23 Times. We've also had numerous mentions and coverage in
24 major newspapers like the L.A. Times, Wall Street
25 Journal, USA Today, and pretty much every major

TOM ALBRIGHT

1 newspaper in the U.S., even every small paper in the
2 U.S., basically.

3 We get more news coverage now than any other
4 pharmaceutical product in the world.

5 Q How do you know that?

6 A Because we measure the metrics and we compare.

7 Q Do you know when the BOTOX product was on the
8 front page of the New York Times?

9 A It was on the front page of the New York Times
10 in early February 2002 and early March 2003.

11 Q Does Allergan have any information regarding
12 mentions of the BOTOX product in television or movies?

13 A Yes, we do. There's a publication that came
14 out in Brand Week in November 2005 which actually is
15 discussing product placements on television and in
16 movies.

17 And they rated BOTOX brand to be number one in
18 product placements in television and movie coverage, and
19 actually made the statement that all of those were free
20 because we've actually not even, you know, made the
21 effort to try to pay for these placements.

22 It's so famous that people keep placing the
23 name in their television shows and movies, probably to
24 benefit the movie or the television show.

25 Q And what is Brand Week?

TOM ALBRIGHT

1 A Brand Week is a major trade weekly for
2 advertising executives.

3 Q And you said this article was in the November
4 2005 issue of that?

5 A I think it was November 15th, 2005.

6 Q Have you looked at the Web site advertising
7 the Applicant's product in this case, which is the
8 SEATOX product?

9 A Yes, I have.

10 Q And have you read the copy on that page?

11 A Yes.

12 Q Was there anything in that copy that, in your
13 position at Allergan, you find either incorrect or
14 improper?

15 A I think that the other side is seriously
16 violating FDA regulations because they're advertising
17 their product as a pharmaceutical. The fact that
18 they're stating that the product inhibits catecholamine
19 release, thereby relaxing muscles which cause wrinkles
20 to form, puts them into a drug category, so they could
21 be facing FDA fines if they keep that up.

22 Q Let's break that down a little bit.

23 A Okay.

24 Q What is a catecholamine?

25 A A catecholamine is a physiologic -- meaning

TOM ALBRIGHT

1 it's in the body -- neurotransmitter. So it works
2 between brain signals and muscles and organs to make
3 things happen in the body.

4 Q Is it a naturally occurring hormone?

5 A It's a naturally occurring hormone and
6 neurotransmitter in the body.

7 Q I'll ask my favorite question: How do you
8 know that?

9 A Because I studied premed, and I deal with
10 these kinds of issues on a regular basis, you know.

11 Q Do you deal with Allergan's FDA -- at least --
12 strike that.

13 Do you have involvement in Allergan's FDA
14 relationship with regard to the BOTOX product?

15 A I am involved.

16 Q Why don't I start over again.

17 Do you have any involvement in Allergan's
18 relationship with the FDA with regard to the BOTOX
19 product?

20 A I am involved in communication strategies for
21 BOTOX and our regulatory submissions and filings. And
22 I'm also regularly advised as to the result of FDA
23 communications. I'm rarely involved in direct
24 discussions with the FDA; however, I have been a couple
25 of times.

TOM ALBRIGHT

1 Q And during the course of your involvement with
2 the FDA and in your position at Allergan, have you
3 become familiar with what can and cannot be said with
4 regard to over-the-counter products and catecholamines?

5 A Well, I am aware that the FDA has actually
6 registered complaints against over-the-counter companies
7 by virtue of their making pharmaceutical-like claims.
8 And I do a lot of reading and I do keep up, so I know
9 that that's happening.

10 Q And the pharmaceutical-like claim that you saw
11 on the Web site advertising Applicant's product had to
12 do with its claim regarding the effect of its product on
13 catecholamines?

14 A Yes. The fact that they state that their
15 product has a direct inhibitory effect on
16 catecholamines, and that those catecholamines have a
17 physiologic effect on the muscles -- I mean, you can't
18 have an over-the-counter product which is actually
19 influencing muscle activity. That would be a
20 pharmaceutical product.

21 Q In reviewing the Web site, did you come to any
22 conclusions as to where the claim regarding
23 catecholamines came from?

24 A Yes. They referred to the component of their
25 product called Argirelene, and Argirelene has been

TOM ALBRIGHT

1 reported in scientific press to have some -- what we
2 call in vitro activity as a neurotransmitter inhibitor.

3 And it's never been demonstrated to have real
4 value in live patients, which is what we call in vivo
5 studies. But certainly, you know, from a laboratory
6 point of view, it seems to have some activity.

7 Q And if, in fact, the product, the Argirelene,
8 had that kind of activity in the Applicant's product,
9 then that would require FDA approval?

10 A It would. If Argirelene were proven to have
11 specific neurotransmitter inhibition effects in human
12 subjects, it would then fall under the review of the
13 FDA.

14 MR. WILTON: Can we go off the record for a minute?

15 (Recess was taken from 12:05 p.m. to
16 12:07 p.m.)

17 (Deposition session concluded at
18 12:07 p.m.)

19 -oOo-

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TOM ALBRIGHT

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I have read the foregoing deposition
transcript and by signing hereafter, approve same.

Executed at _____ on _____.
(Place) (Date)

(Signature of Deponent)

TOM ALBRIGHT

1 STATE OF _____)
2 COUNTY OF _____) ss.

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On this _____ day of _____, 2006,
before me, the undersigned officer authorized to
administer oaths, there personally appeared
_____, personally known to me
(or proved to me on the basis of satisfactory evidence)
to be the person whose name is subscribed to the
foregoing deposition transcript, and I acknowledge that
he (or she) executed it.

(Signature of Officer)

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DEPOSITION OFFICER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I, Erika Kotteakos, hereby certify:

I am a duly qualified Certified Shorthand Reporter in the State of California, holder of Certificate Number 9698 issued by the Court Reporters Board of California and which is in full force and effect.

I am authorized to administer oaths or affirmations pursuant to California Code of Civil Procedure, Section 2093(b), and prior to being examined, the witness was first duly administered an oath by me.

I am the deposition officer who stenographically recorded the testimony in the foregoing deposition, and the foregoing transcript is a true record of the testimony given by the witness.

The persons who appeared at the deposition are set forth on page 3 of the foregoing transcript, and there was no appearance by or on behalf of the Applicant.

The deposition was taken at 2525 Dupont Drive, Irvine, California, commencing at 11:11 a.m., on Monday,

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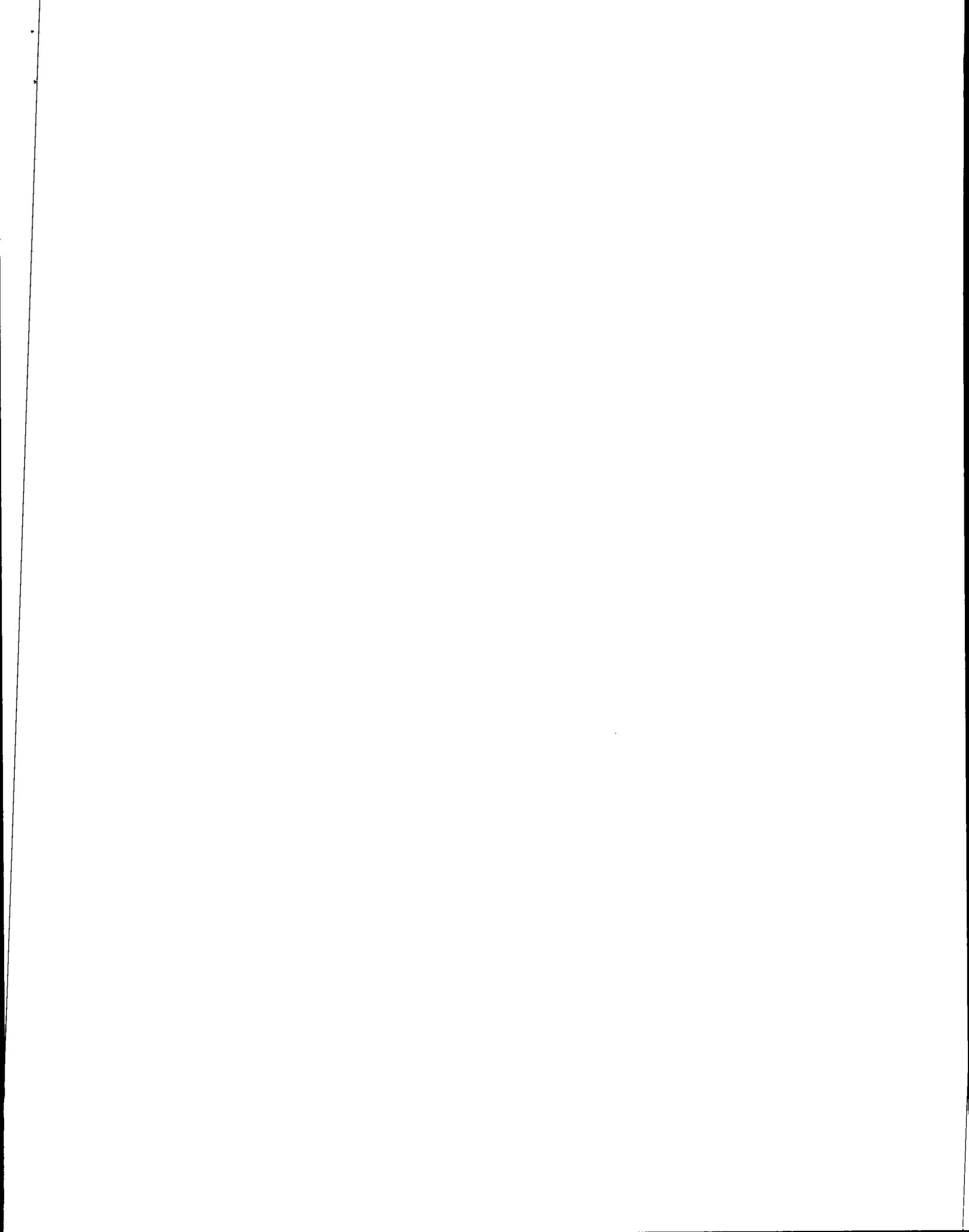
January 16, 2006.

I am not a relative or employee or attorney or
counsel of any of the parties, nor am I a relative or
employee of such attorney or counsel, nor am I
financially interested in the outcome of this action,
and was not disqualified as specified in Rule 28 of the
Federal Rules of Civil Procedure.

Dated January 24, 2005.

Erika Kotteakos

Erika Kotteakos



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

In the Matter of Application Serial No. 78/320,975
Published in the Official Gazette of August 3, 2004

ALLERGAN, INC.,

Opposer,

v.

BIOCENTRIC LABORATORIES, INC.,

Applicant.

Opposition No. 91161603

FIRST AMENDED NOTICE OF TESTIMONY DEPOSITION OF ALLERGAN, INC.

TO APPLICANT:

PLEASE TAKE NOTICE that pursuant to Rule 30 of the Federal Rules of Civil Procedure and 37 C.F.R. 2.123, Opposer Allergan, Inc. ("Opposer") will take the testimony deposition of Tom Albright, Vice President of BOTOX® Global Marketing at Allergan, Inc., whose address is 2525 Dupont Drive, Irvine, CA 92612, upon oral examination before a notary public or other officer authorized to administer oaths, at the offices of Opposer, 2525 Dupont Drive, Irvine, CA 92612, commencing at 11:00 a.m. on January 16, 2006, and continuing from



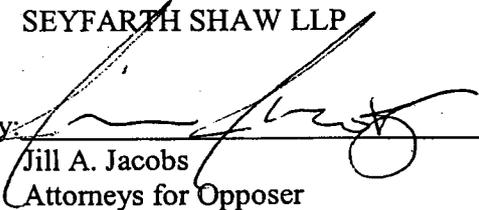
day to day thereafter until the examination is completed.

You are invited to attend and cross-examine.

Dated: January 10, 2006

Respectfully submitted,

SEYFARTH SHAW LLP

By: 

Jill A. Jacobs
Attorneys for Opposer
ALLERGAN, INC.

2029 Century Park East, Suite 3300
Los Angeles, California 90067-3063
Telephone: (310) 277-7200
Facsimile: (310) 201-5219

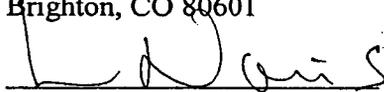
CERTIFICATE OF SERVICE

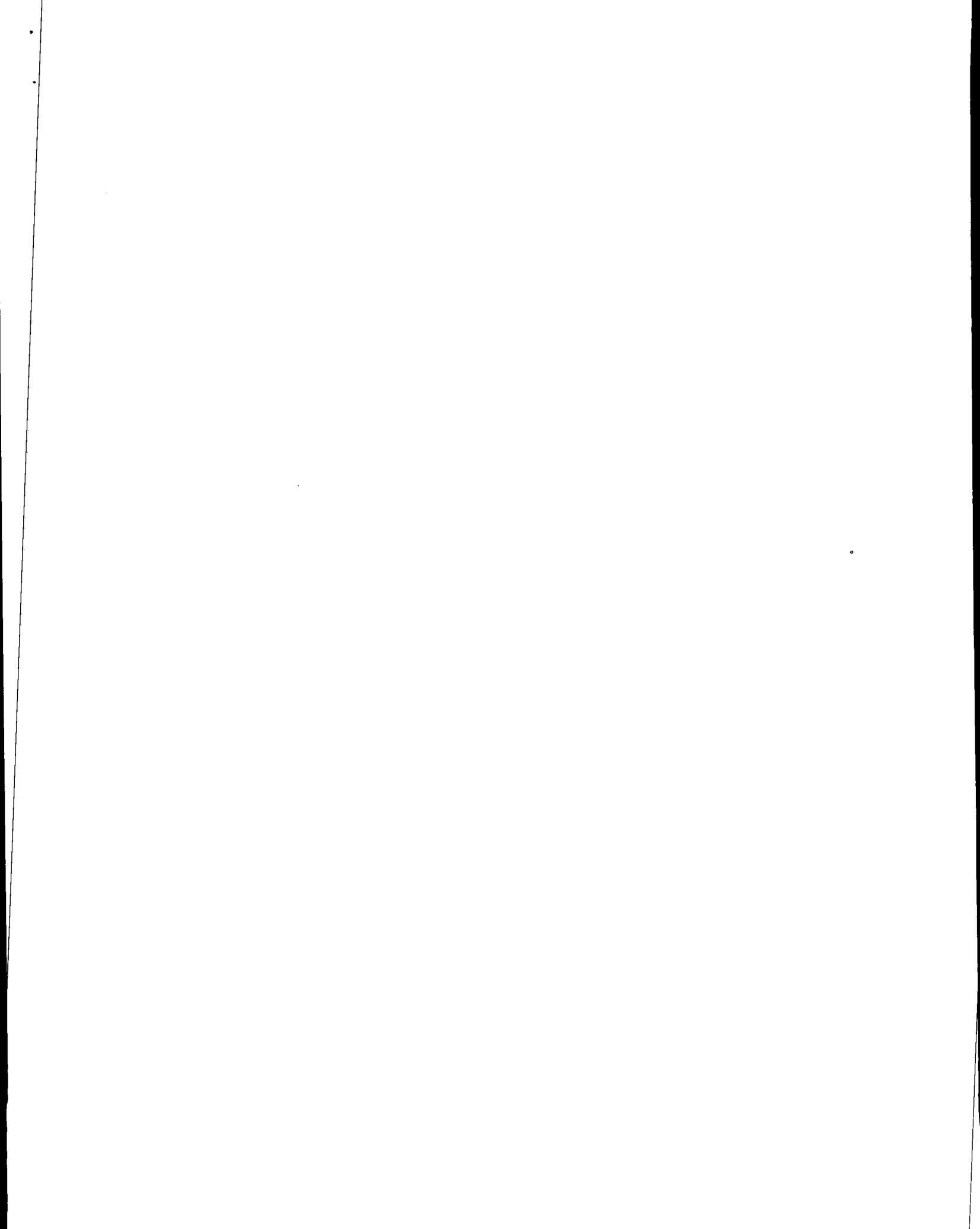
I hereby certify that on January 10, 2006, I served the foregoing First Amended Notice of Testimony Deposition of Allergan, Inc. on the applicant by e-mailing a copy to applicant and by depositing a true copy thereof in a sealed envelope with the United States Postal Service "Priority Mail Service" addressed to applicant as follows:

Ms. Rebecca Spaar
Chief Executive Officer
BioCentric Laboratories, Inc.
854 Baseline Place
Suite B
Brighton, CO 80603

AND

Ms. Rebecca Spaar
Chief Executive Officer
BioCentric Laboratories, Inc.
P.O. Box 1018
Brighton, CO 80601





Int. Cl.: 5

Prior U.S. Cl.: 18

United States Patent and Trademark Office

Reg. No. 1,692,384

Registered June 9, 1992

TRADEMARK
PRINCIPAL REGISTER

BOTOX

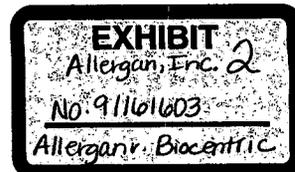
ALLERGAN, INC. (DELAWARE CORPORATION)
2525 DUPONT DRIVE
IRVINE, CA 92715

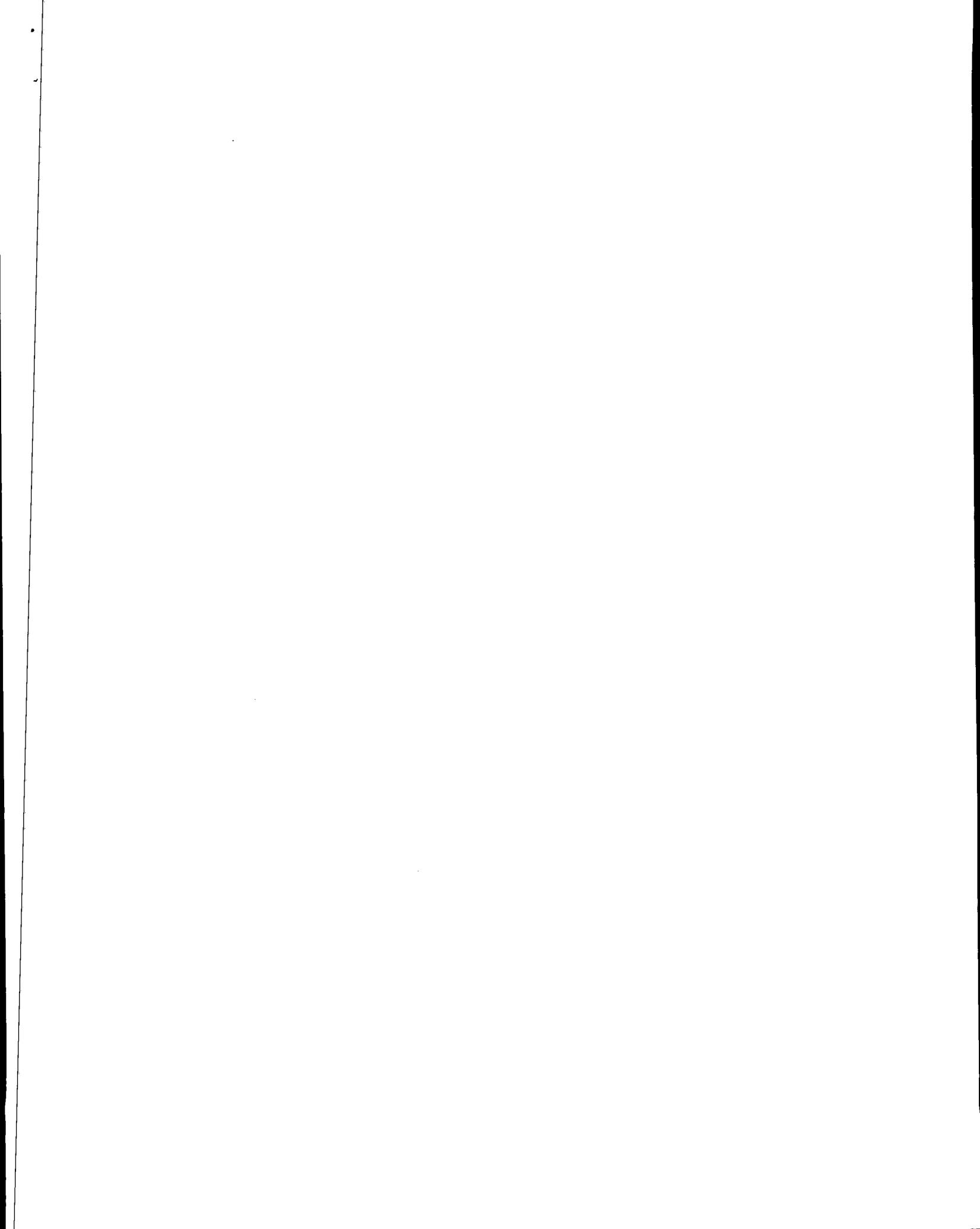
FIRST USE 9-0-1990; IN COMMERCE
1-22-1992.

SN 74-126,661, FILED 12-21-1990.

FOR: PHARMACEUTICAL PREPARATIONS;
NAMELY, OPHTHALMIC MUSCLE RELAXANTS,
IN CLASS 5 (U.S. CL. 18).

RACHEL BLUE, EXAMINING ATTORNEY







UNITED STATES DEPARTMENT OF COMMERCE
 Patent and Trademark Office
 OFFICE OF ASSISTANT COMMISSIONER FOR TRADEMARKS
 2900 Crystal Drive
 Arlington, Virginia 22202-3513

REGISTRATION NO: 1692384 SERIAL NO: 74126661
 REGISTRATION DATE: 06/09/1992
 MARK: BOTOX
 REGISTRATION OWNER: ALLERGAN, INC.
 CORRESPONDENCE ADDRESS:

MAILING DATE: 04/05/2002



ALLERGAN, INC.
 2525 DUPONT DRIVE
 IRVINE, CA 92612

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(3)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.



NOTICE OF RENEWAL

15 U.S.C. Sec. 1059(a)

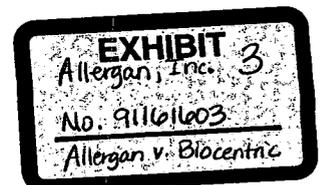
THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 9 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

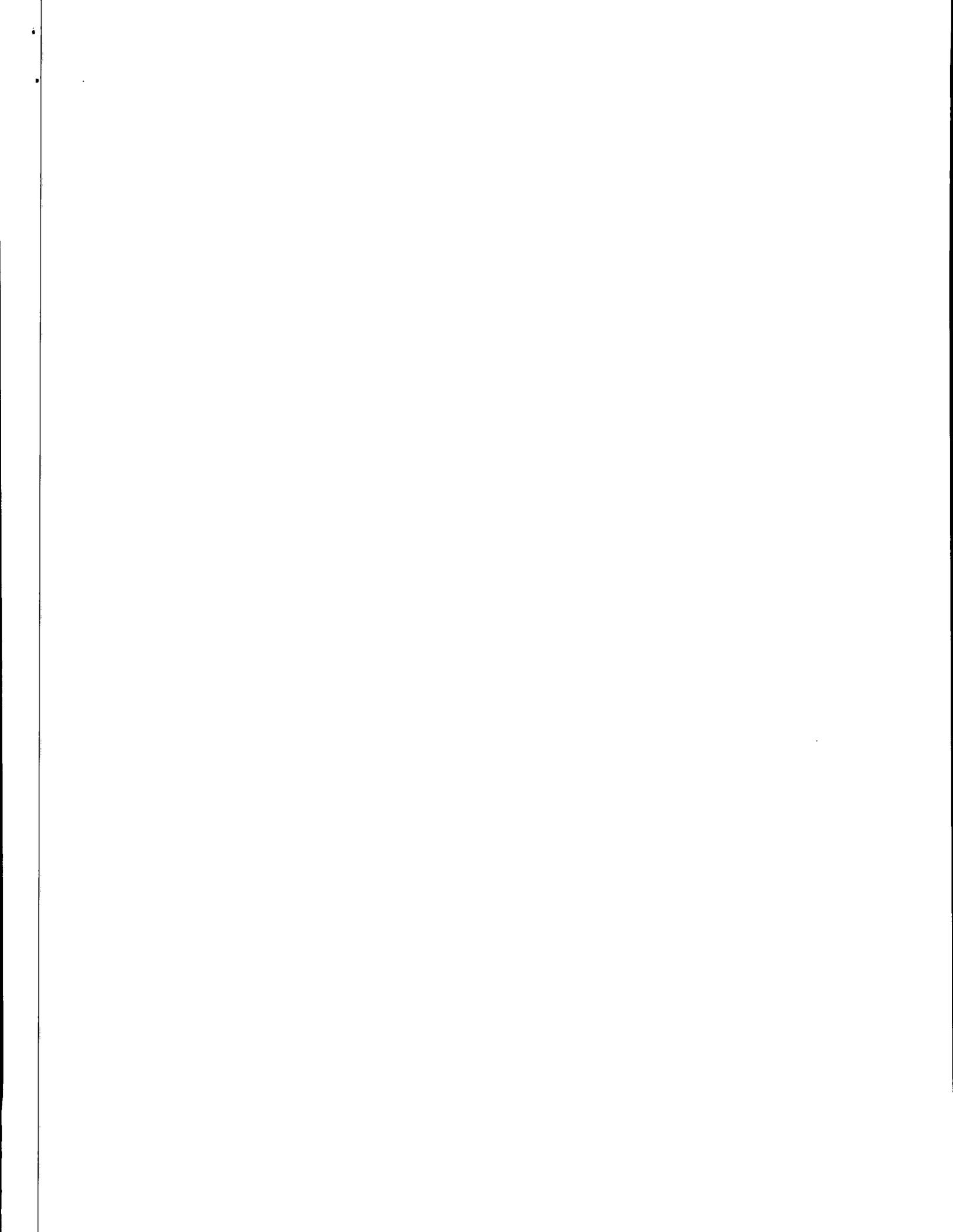
ACCORDINGLY, THE REGISTRATION IS RENEWED.

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):
 005.

WILSON, JAMES D
 PARALEGAL SPECIALIST
 POST-REGISTRATION DIVISION
 (703)308-9500

PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION





Int. Cl.: 5

Prior U.S. Cl.: 18

United States Patent and Trademark Office

Reg. No. 1,709,160

Registered Aug. 18, 1992

**TRADEMARK
PRINCIPAL REGISTER**

BOTOX

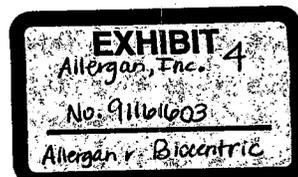
ALLERGAN, INC. (DELAWARE CORPORATION)
2525 DUPONT DRIVE
IRVINE, CA 92715

FIRST USE 9-0-1990; IN COMMERCE
1-22-1992.

SN 74-136,930, FILED 2-6-1991.

FOR: PHARMACEUTICAL PREPARATIONS
FOR THE TREATMENT OF NEUROLOGIC
DISORDERS, IN CLASS 5 (U.S. CL. 18).

HOWARD B. LEVINE, EXAMINING ATTORNEY





UNITED STATES DEPARTMENT OF COMMERCE
 Patent and Trademark Office
 OFFICE OF ASSISTANT COMMISSIONER FOR TRADEMARKS
 2900 Crystal Drive
 Arlington, Virginia 22202-3513

REGISTRATION NO: 1709160 SERIAL NO: 74136930 MAILING DATE: 04/05/2002
 REGISTRATION DATE: 08/18/1992
 MARK: BOTOX
 REGISTRATION OWNER: ALLERGAN, INC.
 CORRESPONDENCE ADDRESS:

ALLERGAN, INC.
 2525 DUPONT DRIVE
 IRVINE, CA 92612

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(3)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.



NOTICE OF RENEWAL

15 U.S.C. Sec. 1059(a)

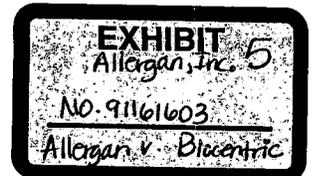
THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 9 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

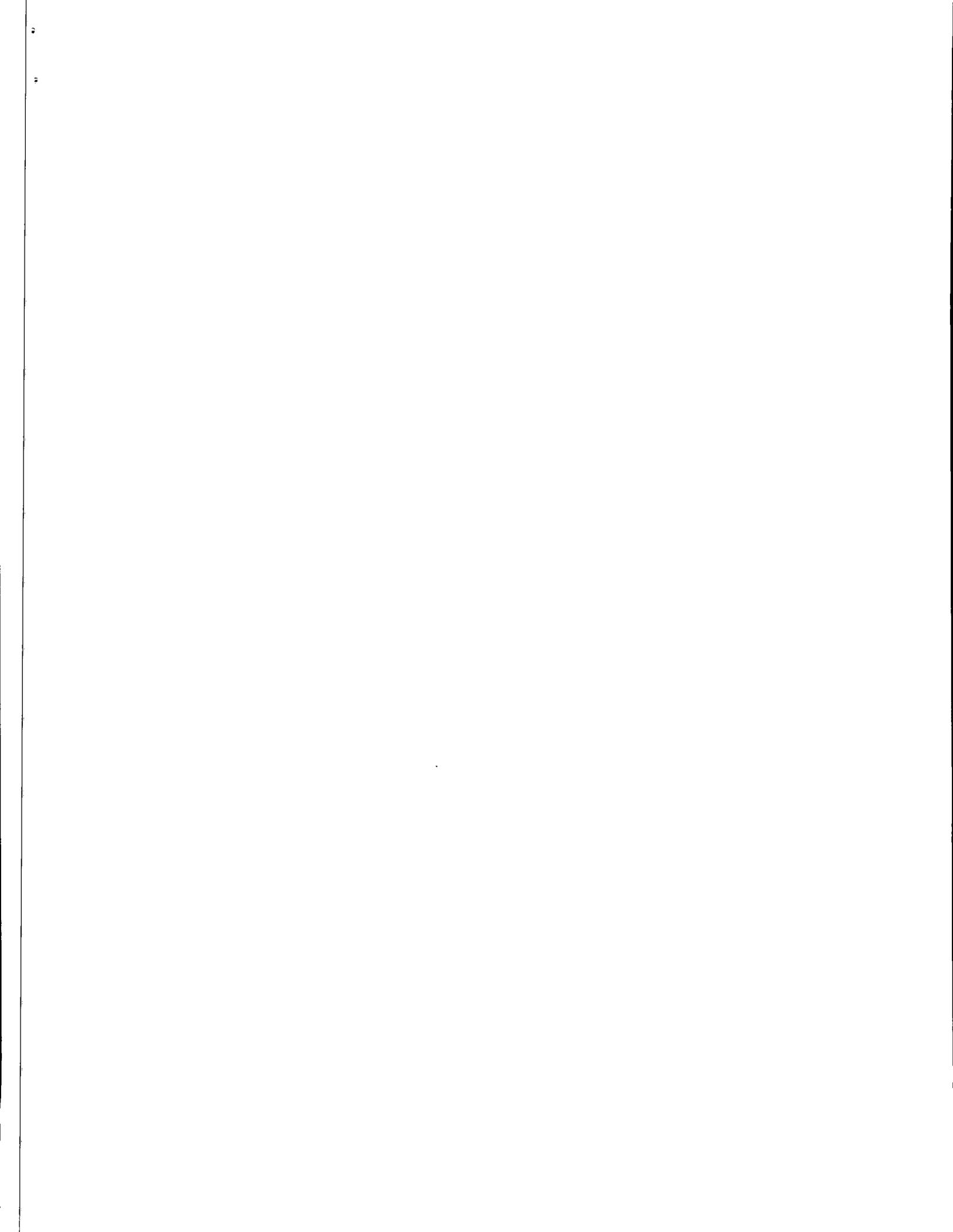
ACCORDINGLY, THE REGISTRATION IS RENEWED.

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):
 005.

WILSON, JAMES D
 PARALEGAL SPECIALIST
 POST-REGISTRATION DIVISION
 (703)308-9500

PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION





Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 2,510,675

United States Patent and Trademark Office

Registered Nov. 20, 2001

**TRADEMARK
PRINCIPAL REGISTER**

BOTOX

ALLERGAN, INC. (DELAWARE CORPORATION)
2525 DUPONT DRIVE
IRVINE, CA 92612

TREMORS AND PAIN, IN CLASS 5 (U.S. CLS. 6, 18,
44, 46, 51 AND 52).

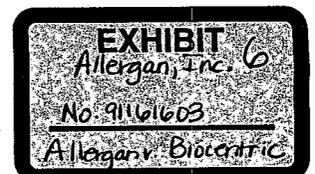
FIRST USE 9-30-1990; IN COMMERCE 1-22-1992.

FOR: PHARMACEUTICAL PREPARATIONS FOR
THE TREATMENT OF NEUROLOGICAL DISOR-
DERS, MUSCLE DYSTONIAS, SMOOTH MUSCLE
DISORDERS, AUTONOMIC NERVE DISORDERS,
HEADACHES, WRINKLES, HYPERHYDROSIS,
SPORTS INJURIES, CEREBRAL PALSY, SPASMS,

OWNER OF U.S. REG. NOS. 1,692,384, 1,709,160
AND OTHERS.

SER. NO. 78-041,618, FILED 1-3-2001.

JENNIFER KRISP, EXAMINING ATTORNEY



TRADEMARK
"SEATOX"

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

In the matter of Trademark Application Serial No.: 78320975
Published in the Official Gazette (Trademarks) on August 3, 2004

ALLERGAN, INC.,

Opposer,

v.

BIOCENTRIC LABORATORIES, INC.,

Applicant.

Opposition No.

NOTICE OF OPPOSITION

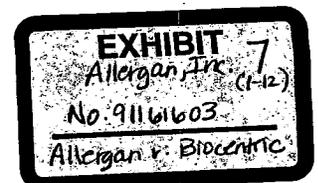
Box TTAB Fee
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Allergan, Inc., a corporation organized and existing under the laws of Delaware, located and doing business at 2525 Dupont Drive, Irvine, California 92612 ("Opposer"), believes it will be damaged by registration of the mark shown above in the above-identified application (the "Opposed Application") and hereby opposes the same.

As grounds of opposition, it is alleged that:

1. Opposer is, and has been, for many years engaged in the manufacture, development, sale and advertising of an extensive array of pharmaceutical, ophthalmic and

LA1 6472708.1



dermatological products. Since 1990, Opposer has marketed its pharmaceutical for the therapeutic treatment of neurological disorders and muscle dystonias under the trademark BOTOX[®] in the United States and globally. In 2002, Opposer started marketing its product under the BOTOX[®] mark for certain cosmetic indications.

2. Opposer owns all right, title and interest in and to the BOTOX[®] mark, as well as the following U.S. registrations of its BOTOX[®] mark on the Principal Register:

- A) Registration No. 1,692,384 granted June 9, 1992 for the mark BOTOX in International Class 5 for "pharmaceutical preparations; namely, ophthalmic muscle relaxants";
- b) Registration No. 1,709,160 granted August 18, 1992 for the mark BOTOX in International Class 5 for "pharmaceutical preparations for the treatment of neurologic disorders";
- C) Registration No. 2,510,675 granted November 20, 2001 for the mark BOTOX in International Class 5 for "pharmaceutical preparations for the treatment of neurological disorders, muscle dystonias, smooth muscle disorders, autonomic nerve disorders, headaches, wrinkles, hyperhidrosis, sports injuries, cerebral palsy, spasms, tremors and pain".

All of these registrations are valid and subsisting, and Registration Nos. 1,692,384 and 1,709,160 have become incontestable. Copies of the certificates of registration for these registrations are attached.

3. From a time long prior to the filing of the Opposed Application, or any earlier date of actual use of the mark shown in the Opposed Application upon which Applicant can rely, Opposer has used the BOTOX[®] mark in commerce in the United States on and in connection

with the foregoing goods. Moreover, by virtue of the excellence of the products sold under the BOTOX® mark, the mark has developed a valuable reputation and has become famous in the United States. The valuable reputation and extensive goodwill associated with the BOTOX® mark is exemplified by the amount of sales of products under the mark for the years 1999 to 2003:

1999	\$ 175,800,000
2000	\$ 239,500,000
2001	\$ 309,500,000
2002	\$ 439,700,000
2003	<u>\$ 563,900,000</u>
Total:	\$1,728,400,000

4. Notwithstanding Opposer's long prior rights in and to the BOTOX® trademark, Applicant, on information and belief, on October 30, 2003, filed the Opposed Application for registration of the trademark SEATOX for "Cosmetic" in International Class 3.

5. Upon information and belief, when Applicant adopted the mark shown in the Opposed Application, it was aware of Opposer's well-known mark and adopted the mark shown in the Opposed Application for the purpose of suggesting an affiliation between it and Opposer through a license or otherwise.

6. The Opposed Application was given Serial No. 78320975 and the mark was published for opposition in the Trademark Official Gazette of August 3, 2004.

7. The SEATOX mark shown in the Opposed Application so resembles Opposer's registered BOTOX® mark as to be likely, when used on or in connection with the goods identified in the Opposed Application, to cause confusion, to cause mistake, or to deceive, and

Please direct all correspondence to:

Susan J. Hinchey
Corporate Trademark Manager
ALLERGAN, INC.
2525 Dupont Drive
Irvine, California 92612
Phone: (714) 246-5507
E-mail: hinchey_susan@allergan.com



UNITED STATES DEPARTMENT OF COMMERCE
 Patent and Trademark Office
 OFFICE OF ASSISTANT COMMISSIONER FOR TRADEMARKS
 2900 Crystal Drive
 Arlington, Virginia 22202-3513

REGISTRATION NO: 1692384 SERIAL NO: 74126661
 REGISTRATION DATE: 06/09/1992
 MARK: BOTOX
 REGISTRATION OWNER: ALLERGAN, INC.
 CORRESPONDENCE ADDRESS:

MAILING DATE: 04/05/2002



ALLERGAN, INC.
 2525 DUPONT DRIVE
 IRVINE, CA 92612

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(3)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.



NOTICE OF RENEWAL

15 U.S.C. Sec. 1059(a)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 9 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE REGISTRATION IS RENEWED.

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):
 005.

WILSON, JAMES D
 PARALEGAL SPECIALIST
 POST-REGISTRATION DIVISION
 (703)308-9500

PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION

Int. Cl.: 5

Prior U.S. Cl.: 18

United States Patent and Trademark Office

Reg. No. 1,692,384
Registered June 9, 1992

**TRADEMARK
PRINCIPAL REGISTER**

BOTOX

ALLERGAN, INC. (DELAWARE CORPORATION)
2525 DUPONT DRIVE
IRVINE, CA 92715

FOR: PHARMACEUTICAL PREPARATIONS;
NAMELY, OPHTHALMIC MUSCLE RELAXANTS,
IN CLASS 5 (U.S. CL. 18).

FIRST USE 9-0-1990; IN COMMERCE
1-22-1992.

SN 74-126,661, FILED 12-21-1990.

RACHEL BLUE, EXAMINING ATTORNEY



UNITED STATES DEPARTMENT OF COMMERCE
 Patent and Trademark Office
 OFFICE OF ASSISTANT COMMISSIONER FOR TRADEMARKS
 2900 Crystal Drive
 Arlington, Virginia 22202-3513

REGISTRATION NO: 1709160 SERIAL NO: 74136930 MAILING DATE: 04/05/2002
 REGISTRATION DATE: 08/18/1992
 MARK: BOTOX
 REGISTRATION OWNER: ALLERGAN, INC.
 CORRESPONDENCE ADDRESS:

ALLERGAN, INC.
 2525 DUPONT DRIVE
 IRVINE, CA 92612

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(3)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.



NOTICE OF RENEWAL

15 U.S.C. Sec. 1059(a)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 9 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE REGISTRATION IS RENEWED.

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):
 005.

WILSON, JAMES D
 PARALEGAL SPECIALIST
 POST-REGISTRATION DIVISION
 (703)308-9500

PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION

Int. Cl.: 5

Prior U.S. Cl.: 18

United States Patent and Trademark Office

Reg. No. 1,709,160

Registered Aug. 18, 1992

**TRADEMARK
PRINCIPAL REGISTER**

BOTOX

ALLERGAN, INC. (DELAWARE CORPORATION)
2525 DUPONT DRIVE
IRVINE, CA 92715

FIRST USE 9-0-1990; IN COMMERCE
1-22-1992.

SN 74-136,930, FILED 2-6-1991.

FOR: PHARMACEUTICAL PREPARATIONS
FOR THE TREATMENT OF NEUROLOGIC
DISORDERS, IN CLASS 5 (U.S. CL. 18).

HOWARD B. LEVINE, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

United States Patent and Trademark Office

Reg. No. 2,510,675

Registered Nov. 20, 2001

**TRADEMARK
PRINCIPAL REGISTER**

BOTOX

ALLERGAN, INC. (DELAWARE CORPORATION)
2525 DUPONT DRIVE
IRVINE, CA 92612

FOR: PHARMACEUTICAL PREPARATIONS FOR
THE TREATMENT OF NEUROLOGICAL DISOR-
DERS, MUSCLE DYSTONIAS, SMOOTH MUSCLE
DISORDERS, AUTONOMIC NERVE DISORDERS,
HEADACHES, WRINKLES, HYPERHYDROSIS,
SPORTS INJURIES, CEREBRAL PALSY, SPASMS,

TREMORS AND PAIN, IN CLASS 5 (U.S. CLS. 6, 18,
44, 46, 51 AND 52).

FIRST USE 9-30-1990; IN COMMERCE 1-22-1992.

OWNER OF U.S. REG. NOS. 1,692,384, 1,709,160
AND OTHERS.

SER. NO. 78-041,618, FILED 1-3-2001.

JENNIFER KRISP, EXAMINING ATTORNEY

ESTTA Tracking number: **ESTTA12891**

Filing date: **08/04/2004**

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	Allergan, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	2525 Dupont Drive Irvine, CA 92612 UNITED STATES		

Correspondence information	Susan J. Hinchey Corporate Trademark Manager Allergan, Inc. 2525 Dupont Drive Irvine, CA 92612 UNITED STATES hinchey_susan@allergan.com Phone:714-246-5507
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Applicant Information

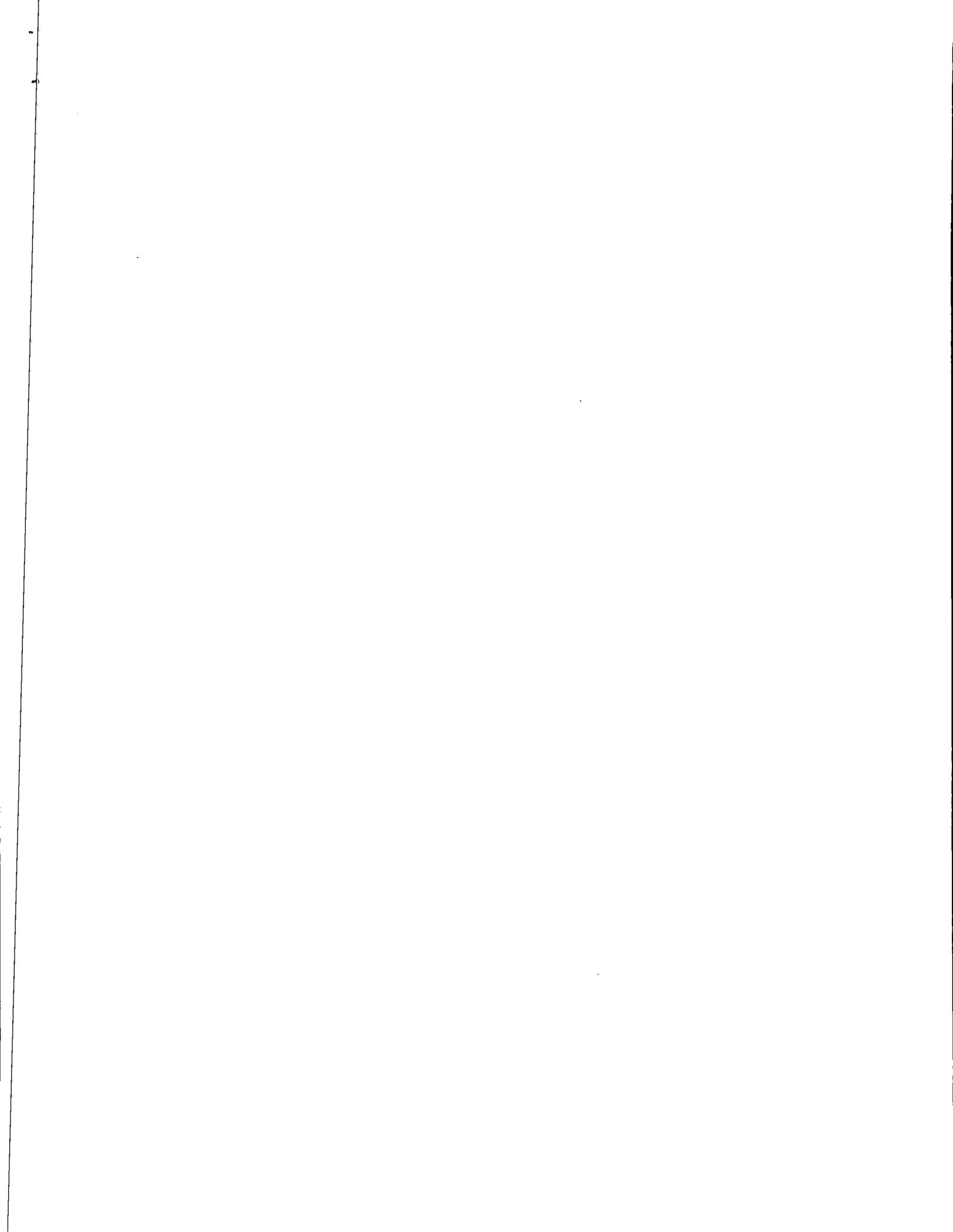
Application No	78320975	Publication date	08/03/2004
Opposition Filing Date	08/04/2004	Opposition Period Ends	09/02/2004
Applicant	BioCentric Laboratories, Inc.		

Goods/Services Affected by Opposition

Class 003. First Use: First Use In Commerce:
All goods and services in the class are opposed, namely: Cosmetic

Attachments	SEATOX.pdf (5 pages) BOTOX-US-Cert.pdf (5 pages)
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Signature	/MARTIN A. VOET/
Name	Martin A. Voet
Date	08/04/2004



UNIQUELY

FOCUSED



EXHIBIT 8
Allergan, Inc. (1-16)
No. 91161603
Allergan v. Biogen

COMPANY PROFILE

Allergan, Inc., with headquarters in Irvine, California, is a global specialty pharmaceutical company that develops and commercializes innovative products for the ophthalmology, neuromodulator, dermatology and other specialty markets. In addition to its discovery-to-development research programs, Allergan has global marketing and sales capabilities in over 100 countries that deliver value to our customers, satisfy unmet medical needs and improve patients' lives. Driven by technology and innovation, Allergan addresses the needs of patients around the world with approximately 5,000 employees, a global research and development infrastructure and three state-of-the-art manufacturing plants.

OUR VISION/OUR MISSION

To continue as an innovative, technology driven, global health care company focused on pharmaceuticals in specialty markets that deliver value to customers, satisfy unmet medical needs and improve patients' lives.

To become the partner of choice for ever better health care through the value of our technological innovation, industry leadership, partnering skills and relationships, worldwide infrastructure, research and manufacturing capabilities. To develop a level of understanding of our customers in order to implement operational strategies that provide the greatest value for our customers and stockholders.

FINANCIAL OVERVIEW

In millions, except per share data	Year Ended December 31,				
	2004	2003	2002	2001	2000
STATEMENT OF OPERATIONS HIGHLIGHTS (As reported under U.S. GAAP)					
Product net sales	\$2,045.6	\$1,755.4	\$1,385.0	\$1,142.1	\$992.1
Gross profit	1,658.9	1,435.1	1,163.3	944.0	794.4
Research and development	345.6	763.5	233.1	227.5	165.7
Earnings (loss) from continuing operations	377.1	(52.5)	64.0	171.2	165.9
Earnings from discontinued operations	-	-	11.2	54.9	49.2
Net earnings (loss)	377.1	(52.5)	75.2	224.9	215.1
Basic earnings (loss) per share:					
Continuing operations	2.87	(0.40)	0.49	1.30	1.27
Discontinued operations	-	-	0.09	0.42	0.38
Diluted earnings (loss) per share:					
Continuing operations	2.82	(0.40)	0.49	1.29	1.24
Discontinued operations	-	-	0.08	0.40	0.37
Dividends per share	0.36	0.36	0.36	0.36	0.32
ADJUSTED AMOUNTS^(a)					
Adjusted earnings from continuing operations	368.8	305.2	252.3	207.7	166.6
Adjusted basic earnings per share:					
Continuing operations	2.81	2.34	1.95	1.58	1.27
Adjusted diluted earnings per share:					
Continuing operations	2.75	2.30	1.92	1.55	1.25
NET SALES BY PRODUCT LINE					
Specialty Pharmaceuticals:					
Eye Care Pharmaceuticals	\$1,137.1	\$ 999.5	\$ 827.3	\$ 753.7	\$683.9
BOTOX/Neuromodulators	705.1	563.9	439.7	309.5	239.5
Skin Care	103.4	109.3	90.2	78.9	68.7
Total Pharmaceutical Sales	1,945.6	1,672.7	1,357.2	1,142.1	992.1
Other (primarily contract sales)	100.0	82.7	27.8	-	-
Total Net Sales	\$2,045.6	\$1,755.4	\$1,385.0	\$1,142.1	\$992.1
PRODUCTS SOLD BY LOCATION					
Domestic	69.1%	70.4%	70.6%	67.0%	63.4%
International	30.9%	29.6%	29.4%	33.0%	36.6%

(a) The adjusted amounts in 2004 exclude the favorable recovery of \$6.5 million of previously paid state income taxes and the after-tax effects of the following: 1) income of \$2.4 million from a patent infringement settlement, 2) \$7.0 million restructuring charge primarily related to the scheduled termination of the Company's manufacturing and supply agreement with Advanced Medical Optics, 3) \$0.4 million unrealized loss on derivative instruments, 4) income of \$5.0 million from a technology transfer fee, and 5) \$6.5 million of income from a revised Vitrase collaboration agreement with ISTA Pharmaceuticals.

The adjusted amounts in 2003 exclude the after-tax effects of the following: 1) \$179.2 million charge for in-process research and development related to the purchase of Oculex Pharmaceuticals, Inc., 2) \$278.8 million charge for in-process research and development related to the purchase of Bardeen

Sciences Company, LLC, 3) \$0.4 million reversal of restructuring charge and asset write-offs, net related to the 2002 spin-off of the Company's ophthalmic surgical and contact lens care businesses, 4) \$0.3 million unrealized loss on derivative instruments, and 5) \$0.9 million charge for the early extinguishment of convertible debt.

The adjusted amounts in 2002 exclude the after-tax effects of the following: 1) \$118.7 million in litigation settlement costs, 2) net costs of \$100.3 million associated with the 2002 spin-off of the Company's ophthalmic surgical and contact lens care businesses to Advanced Medical Optics which consist of restructuring charge and asset write-offs of \$63.5 million, duplicate operating expenses of \$42.5 million and gain of \$5.7 million on sale of a facility, 3) \$30.2 million loss on the other than

CASH FLOW FROM OPERATIONS* (IN MILLIONS OF DOLLARS)

* As reported, including discontinued operations

00	\$350.8
01	\$348.3
02	\$219.6
03	\$435.3
04	\$548.5

CASH, NET OF DEBT* (IN MILLIONS OF DOLLARS)

* As reported, including discontinued operations

00	\$130.0
01	\$167.2
02	\$157.9
03	(\$90.1)
04	\$311.6

RETURN ON EQUITY (ADJUSTED FOR NON-GAAP ITEMS)**

00	25%
01	27%
02	33%
03	42%
04	33%

RETURN ON CAPITAL (ADJUSTED FOR NON-GAAP ITEMS)**

00	14%
01	16%
02	18%
03	23%
04	22%

** Adjustments to GAAP net earnings (loss) used to calculate return on equity, adjusted for non-GAAP items, and return on capital, adjusted for non-GAAP items, include the aggregate non-GAAP adjustments, net of tax, detailed on the next two pages of this annual report. Return on equity using GAAP net earnings (loss) was 34%, (7)%, 9%, 23% and 25% for 2004, 2003, 2002, 2001 and 2000, respectively. Return on capital using GAAP net earnings (loss) was 22%, (4)%, 5%, 14% and 14% for 2004, 2003, 2002, 2001 and 2000, respectively.

temporary impairment of equity investments, 4) \$1.7 million unrealized loss on derivative instruments, 5) net gain of \$1.0 million from partnering agreements, and 6) \$11.7 million charge for the early extinguishment of convertible debt.

The adjusted amounts in 2001 exclude the \$40.0 million charge for in-process research and development related to the purchase of Allergan Specialty Therapeutics, Inc. and the after-tax effects of the following: 1) \$6.2 million restructuring charge and asset write-off reversal consisting of \$1.7 million restructuring charge reversal and a \$4.5 million gain on sale of a facility reducing the write-offs recorded in 1998, 2) income of \$1.5 million from a partnering agreement, 3) \$4.5 million loss on the permanent impairment of equity investments, 4) \$2.0 million gain on the sale of divested pharmaceutical products

in Brazil, 5) \$4.2 million unrealized gain on derivative instruments, and 6) \$4.4 million associated with the 2002 spin-off of the Company's ophthalmic surgical and contact lens care businesses.

The adjusted amounts in 2000 exclude the after-tax effects of the following: 1) a \$0.2 million restructuring charge, 2) \$1.3 million gain on the sale of investments, and 3) \$2.0 million in expenses from partnering agreements.

The foregoing presentation contains certain non-GAAP financial measures and non-GAAP adjustments. For a reconciliation of these non-GAAP financial measures to GAAP financial measures, please refer to the next two pages of this annual report.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND RECONCILIATION OF NON-GAAP ADJUSTMENTS

In millions, except per share amounts	Year Ended December 31, 2004			Year Ended December 31, 2003		
	GAAP	Non-GAAP Adjustments	Adjusted	GAAP	Non-GAAP Adjustments	Adjusted
	PRODUCT SALES					
Net sales – pharmaceutical only	\$1,945.6	\$ -	\$1,945.6	\$1,672.7	\$ -	\$1,672.7
Non-pharmaceutical sales (primarily contract sales)	100.0	-	100.0	82.7	-	82.7
Total	2,045.6	-	2,045.6	1,755.4	-	1,755.4
Cost of sales – pharmaceutical only	301.6	-	301.6	242.5	-	242.5
Cost of sales – non pharmaceutical	85.1	-	85.1	77.8	-	77.8
Product gross margin	1,658.9	-	1,658.9	1,435.1	-	1,435.1
Research services margin	-	-	-	1.5	-	1.5
Selling, general and administrative	778.9	2.4 ^(a)	781.3	697.2	-	697.2
Research & development	345.6	-	345.6	763.5	(458.0) ^(e)	305.5
Legal settlement	-	-	-	-	-	-
Technology fees from related party	-	-	-	-	-	-
Restructuring charge (reversal) and asset write-offs	7.0	(7.0) ^(b)	-	(0.4)	0.4 ^(f)	-
Operating income (loss)	527.4	4.6	532.0	(23.7)	457.6	433.9
Interest income	14.1	-	14.1	13.0	-	13.0
Interest expense	(18.1)	-	(18.1)	(15.6)	-	(15.6)
Gain (loss) on investments	0.3	-	0.3	-	-	-
Unrealized gain (loss) on derivative instruments, net	(0.4)	0.4 ^(c)	-	(0.3)	0.3 ^(c)	-
Other, net	8.8	(11.5)	(2.7)	(2.9)	0.9 ^(g)	(2.0)
	4.7	(11.1)	(6.4)	(5.8)	1.2	(4.6)
Earnings (loss) from continuing operations before income taxes and minority interest	532.1	(6.5)	525.6	(29.5)	458.8	429.3
Provision for income taxes	154.0	1.8 ^(d)	155.8	22.2	101.1 ^(h)	123.3
Minority interest	1.0	-	1.0	0.8	-	0.8
Earnings from continuing operations	\$ 377.1	\$ (8.3)	\$ 368.8	\$ (52.5)	\$ 357.7	\$ 305.2
Basic earnings (loss) per share: Continuing operations	\$ 2.87	\$ (0.06)	\$ 2.81	\$ (0.40)	\$ 2.74	\$ 2.34
Diluted earnings (loss) per share: Continuing operations	\$ 2.82	\$ (0.07)	\$ 2.75	\$ (0.40)	\$ 2.70	\$ 2.30
Total Net Sales	\$2,045.6	\$ (4.9) ⁽ⁱ⁾	\$2,003.7	\$1,755.4	\$ (45.9) ⁽ⁱ⁾	\$1,709.5

"GAAP" refers to financial information presented in accordance with generally accepted accounting principles in the United States.

In this annual report, Allergan included historical non-GAAP financial measures, as defined in Regulation G promulgated by the Securities and Exchange Commission, with respect to the year ended December 31, 2004, as well as the corresponding periods for 2003 through 2000. Allergan believes that its presentation of historical non-GAAP financial measures provides useful supplementary information to investors. The presentation of historical non-GAAP financial measures is not meant to be considered in isolation from or as substitute for results prepared in accordance with accounting principles generally accepted in the United States.

In this annual report, Allergan reported the non-GAAP financial measure of "adjusted earnings" and related "adjusted earnings per share." Allergan uses adjusted earnings to enhance the investor's overall understanding of the financial performance and prospects for the future of Allergan's core business activities. Specifically, Allergan believes that a report of adjusted earnings provides consistency

between its current, past and future periods. Adjusted earnings is one of the primary indicators management uses for planning and forecasting in future periods. Allergan also uses adjusted earnings for evaluating management performance for compensation purposes.

In this annual report, Allergan reported the non-GAAP financial measures of return on equity, adjusted for non-GAAP items, and return on capital, adjusted for non-GAAP items. Allergan uses return on equity, adjusted for non-GAAP items, and return on capital, adjusted for non-GAAP items, to enhance the investor's overall understanding of the financial returns on equity and capital for Allergan's core business activities.

In this annual report, Allergan also reported sales performance using the non-GAAP financial measure of constant currency sales. Constant currency sales represent current period reported sales adjusted for the translation effect of changes in average foreign currency exchange rates between the current period and the corresponding period in the prior year. Allergan calculates the currency effect by comparing adjusted current period reported amounts, calculated using the monthly average foreign

Year Ended December 31, 2002			Year Ended December 31, 2001			Year Ended December 31, 2000		
GAAP	Non-GAAP Adjustments	Adjusted	GAAP	Non-GAAP Adjustments	Adjusted	GAAP	Non-GAAP Adjustments	Adjusted
\$1,357.2	\$ -	\$1,357.2	\$1,142.1	\$ -	\$1,142.1	\$992.1	\$ -	\$ 992.1
27.8	-	27.8	-	-	-	-	-	-
1,385.0	-	1,385.0	1,142.1	-	1,142.1	992.1	-	992.1
191.4	(3.7) ^(j)	187.7	198.1	-	198.1	197.7	-	197.7
30.3	-	30.3	-	-	-	-	-	-
1,163.3	3.7	1,167.0	944.0	-	944.0	794.4	-	794.4
3.7	-	3.7	4.2	-	4.2	3.5	-	3.5
623.8	(39.2) ^(j)	584.6	481.0	(2.9) ^(m)	478.1	410.3	1.3 ^(s)	411.6
233.1	(4.7) ^(k)	228.4	227.5	(40.0) ^(o)	187.5	165.7	(2.0) ^(t)	163.7
118.7	(118.7) ^(u)	-	-	-	-	-	-	-
-	-	-	(0.7)	-	(0.7)	(3.1)	-	(3.1)
62.4	(62.4) ^(v)	-	(1.7)	1.7 ^(p)	-	0.2	(0.2) ^(v)	-
129.0	228.7	357.7	242.1	41.2	283.3	224.8	0.9	225.7
15.8	-	15.8	30.6	-	30.6	23.9	-	23.9
(17.4)	-	(17.4)	(18.1)	-	(18.1)	(16.2)	-	(16.2)
(30.2)	30.2 ^(q)	-	(4.5)	4.5 ^(q)	-	0.8	-	0.8
(1.7)	1.7 ^(c)	-	4.2	(4.2) ^(c)	-	-	-	-
(5.7)	1.0 ^(m)	(4.7)	6.0	(6.5) ^(r)	(0.5)	2.3	-	2.3
(39.2)	32.9	(6.3)	18.2	(6.2)	12.0	10.8	-	10.8
89.8	261.6	351.4	260.3	35.0	295.3	235.6	0.9	236.5
25.1	73.3 ^(h)	98.4	88.5	(1.5) ^(h)	87.0	69.1	0.2 ^(h)	69.3
0.7	-	0.7	0.6	-	0.6	0.6	-	0.6
\$ 64.0	\$ 188.3	\$ 252.3	\$ 171.2	\$ 36.5	\$ 207.7	\$ 165.9	\$ 0.7	\$ 166.6
\$ 0.49	\$ 1.46	\$ 1.95	\$ 1.30	\$ 0.28	\$ 1.58	\$ 1.27	\$ -	\$ 1.27
\$ 0.49	\$ 1.43	\$ 1.92	\$ 1.29	\$ 0.26	\$ 1.55	\$ 1.24	\$ 0.01	\$ 1.25
\$ 1,385.0	\$ 6.5 ^(v)	\$ 1,391.5	\$ 1,142.1	\$ 28.8 ^(v)	\$ 1,170.9	\$ 992.1	\$ 24.1 ^(v)	\$ 1,016.2

exchange rates for the corresponding period in the prior year, to the actual current period reported amounts. Management refers to growth rates in constant currency so that sales results can be viewed without the impact of changing foreign currency exchange rates, thereby facilitating period to period comparisons of Allergan's sales. Generally, when the dollar either strengthens or weakens against other currencies, the growth at constant currency rates will be higher or lower, respectively, than growth reported at actual exchange rates.

(a) Income from a patent infringement settlement. (b) Restructuring charge related primarily to the scheduled termination of the Company's manufacturing and supply agreement with Advanced Medical Optics. (c) Unrealized loss on the mark-to-market adjustment to derivative instruments. (d) Favorable recovery of previously paid state income taxes and the tax effect for non-GAAP adjustments. (e) In-process research and development charges related to the acquisition of Bardeen Sciences Company, LLC and Oculex Pharmaceuticals, Inc. (f) Restructuring charge (reversal) and asset write-offs, net related to the spin-off of Advanced Medical Optics. (g) Loss on early extinguish-

ment of debt. (h) Tax effect for non-GAAP adjustments. (i) Duplicate operating expenses of \$2.6 million and restructuring charge and asset write-offs of \$1.1 million related to the spin-off of Advanced Medical Optics. (j) Duplicate operating expenses incurred related to the spin-off of Advanced Medical Optics. (k) Duplicate operating expenses of \$0.7 million and partnering collaboration expense of \$4.0 million. (l) Legal settlement regarding LUMIGAN. (m) Partnering deal settlement of \$5.0 million, gain on sale of facility (spin-related) of \$5.7 million and loss on early extinguishment of debt of \$11.7 million. (n) Duplicate operating expenses of \$4.4 million related to the spin-off of Advanced Medical Optics, net of income of \$1.5 million from a partnering agreement. (o) In-process research and development charge related to the acquisition of Allergan Specialty Therapeutics, Inc. (p) Restructuring charge reversal related to the 1998 restructuring charge. (q) Mark-to-market loss on investments and related third party collaborations. (r) Gain on sale of facility (1998 restructuring-related) of \$4.5 million and \$2.0 million gain on the sale of divested pharmaceutical products in Brazil. (s) Gain on sale of investments. (t) Partnering agreement expenses. (u) Final restructuring charge adjustment related to the 1996 restructuring charge. (v) The adjustment to measure sales using constant currency.

ALLERGAN

A UNIQUE SPECIALTY PHARMACEUTICAL COMPANY FOCUSED ON GROWTH & INNOVATION

Results. I am pleased to report on another successful year of delivering innovations to meet the needs of our patients around the world. Total sales for the first time crossed the \$2 billion dollar threshold in 2004, with revenues from our pharmaceuticals line increasing 16% in an industry challenged by slowing growth rates and a more difficult operating environment. Diluted earnings per share, adjusted for certain transaction gains and losses and final restructuring associated with the 2002 spin-off of our medical device businesses to Advanced Medical Optics (AMO), increased by 20%, again placing us in the top quartile of performers in the pharmaceutical and biotechnology industries.

A year of many achievements. Our robust sales growth was driven by a wide range of products – BOTOX[®], BOTOX[®] Cosmetic, RESTASIS[®], LUMIGAN[®], ZYMAR[®], ELESTAT[™] and ACULAR[®] – an unusual strength amongst companies of our size category in the pharmaceutical industry. We are also proud that we were once again able to gain market share in each of our product market categories.

Growth was again led by BOTOX[®], which continues to demonstrate its enormous versatility based on its multiple indications, over 15 year history of safe and effective use by physicians in millions of patients, and approved sale in approximately 75 countries around the globe. Overall sales of BOTOX[®] achieved \$705 million, increasing by approximately 25% over 2003. Sales of BOTOX[®] Cosmetic, also marketed under the VISTABEL[®] brand in Europe, increased by approximately 30% over 2003 as part of a global mega trend of the “Baby Boomer” generation’s desire to not only feel good but look good. Whilst BOTOX[®] enjoys fame as being the wrinkle treatment and is one of the best known pharmaceutical brands in the world, the cosmetic indication, in fact, only accounts for 42% of worldwide sales. Strong growth of BOTOX[®] in therapeutic indications was registered at approximately 20% as BOTOX[®] continues to enjoy expanding use in many indications around the world.

In ophthalmology, Allergan was again the fastest growing global company in the world, increasing in-market sales by approximately

12% in the first 9 months of 2004 in a market expanding by 7%, according to IMS Health global data. Particularly good progress was made in the United States, with the value of prescriptions written by ophthalmologists for Allergan products being about 50% higher than that of the nearest branded competitor. As the original therapeutic dry eye product in the world, RESTASIS[®] ophthalmic emulsion was established as a key new therapeutic option for practitioners to supplement the use of artificial tears and reached \$100 million in sales in its first full year on the market. LUMIGAN[®] ophthalmic solution, the most effective agent in lowering intra-ocular pressure (IOP), achieved \$233 million in 2004 sales, increasing by approximately 28% in a global glaucoma market that grew 8%.

Our dermatology business suffered a disappointment in 2004. Allergan’s R&D has one of the best track records in the industry for success measured in terms of the number of compounds entering the clinic relative to the number of market approvals, and has not experienced a non-approvable letter for a decade. We were disappointed by the FDA’s decision to accord “non-approvable” status to our application for tazarotene oral although the FDA Dermatologic and Ophthalmic Drugs Advisory Committee and the Drug Safety and Risk Primary Management Committee had in fact found that the compound achieved its primary efficacy endpoints in the treatment of moderate to severe psoriasis. We remain committed to seeking a resolution of this matter by working with the FDA to secure an approval, and eventually providing tazarotene oral as a new alternative to topical and biological treatments for physicians and their patients. Market research clearly indicates that psoriasis is a disease that represents an area of major unmet needs in terms of improved efficacy and reduced side effects.

Ex-factory sales of our in-line dermatology products were also disappointing, declining by approximately 5%. This was primarily due to an excess of in-channel inventory of TAZORAC[®] cream and gel at the retail pharmacy level at the beginning of the year, which is difficult to detect from all sources of available market data. In terms of in-market



sales, however, TAZORAC[®] grew 12% which made it the fastest growing topical retinoid in the market to treat acne in the United States. As an organization, we enjoyed a very strong position in the dermatology and plastic surgery specialist markets in 2004, being one of the top three companies, based on sales of BOTOX[®] Cosmetic, TAZORAC[®] cream and gel, and our other dermatology products.

Unfortunately, setbacks such as tazarotene oral occur in the high risk, high reward pharmaceutical industry. In developing corporate strategy and managing a business for long-term success, it is a question of how an organization deals with reversals. Our reaction has been to galvanize management and employees to focus on the products and tools at our disposal to continue to produce great results and great success. We believe that we are already seeing the benefits of this focus, just as we saw the benefits for the BOTOX[®] brand after the 2002 spin-off of AMO. We also take great pleasure in observing the success of the AMO team in their single-minded focus on what is their core medical device business.

Focus on Innovation. As the only driver of long-term success, our foremost efforts and attention are directed to creating innovation and value for our physicians and patients. During 2004 we invested almost \$350 million in R&D, an increase of approximately 13% versus 2003, excluding in-process R&D acquisition costs, and a sector leading 18% of pharmaceutical sales. We also invested 40% of sales in Selling, General & Administrative Expenses (SG&A), which places Allergan at the top of the pharmaceutical industry in terms of our resources dedicated to selling and marketing. Administrative expenses as a component of SG&A were comfortably below 8% of sales. Thanks to these continued strong investments, we achieved some notable successes in 2004.

The approval in the United States for BOTOX[®] for hyperhidrosis, a disease afflicting some 1.3 million Americans, marked a breakthrough new treatment option. We are working to build this market – making patients aware of this treatment, training physicians and securing reimbursement. In the area of BOTOX[®] Cosmetic we are training physicians in all the continents of the world where this indication is approved to improve their treatment techniques and to organize their practices for delivering customer satisfaction. In early 2005 we secured for VISTABEL[®] positive opinions – the precursor to commercialization licenses – in an additional 12 European Union countries. At year end, we secured

agreement with the FDA on the protocols for studying BOTOX[®] in the treatment of migraine in large Phase III clinical trials.

As a world first in the treatment of dry eye disease, we harnessed the power of consumer advertising in the United States to make patients aware of the availability of RESTASIS[®] as a powerful medication to treat dry eye. LUMIGAN[®] solidified its position as the most efficacious agent in the world for lowering IOP to treat glaucoma and achieved the status of being a first-line treatment option in the European Union. In our attempts to address more than just IOP, we continue to invest heavily in our pioneering clinical studies in memantine, which if proven effective, would be the first approved agent to directly protect the optic nerve from glaucomatous damage. We are also continuing our studies in humans on the neuroprotective properties of ALPHAGAN[®] ophthalmic solution, our other world leading glaucoma product. In order to provide greater convenience and compliance to our patients, we started successfully marketing COMBIGAN[®], a fixed combination of ALPHAGAN[®] and timolol, in Canada and Brazil. Moreover, in early 2005 we secured approval for COMBIGAN[®] in Switzerland as the first European market, and are awaiting action by other key agencies in the United States and the European Union. ZYMAR[®], a new potent fourth generation fluoroquinolone for treating ocular infections, was established as the No. 1 choice of American ophthalmologists and was launched in several key Latin American markets. ELESTAT[™] was launched in Europe and was established as a leading allergy product in the United States by our partner, Inspire Pharmaceuticals. Addressing the area of retinal diseases, which are currently the leading cause of blindness in the developed world, we made great strides in progressing our programs for macular edema with POSURDEX[®], which utilizes the unique technology from Oculex Pharmaceuticals which we acquired in 2003, our bioerodable delivery system and triamcinolone, a collaboration with the National Eye Institute.

Moving our earlier stage innovative technology to the next decisive phase, we filed Investigational New Drug (IND) applications with the FDA in 2004, both for our proton pump inhibitor pro-drug for the treatment of gastrointestinal heartburn, as well as for an alpha adrenergic agonist for neuropathic pain.

Focus on Efficiency & Effectiveness. Focus on innovation is no longer the only means to secure long-term success in an industry where ever greater cost pressures are building up in the healthcare

2004: A year of many achievements.

systems around the world. For this reason, we at Allergan also place great emphasis on driving efficiency and effectiveness in all of our functions. Since 1997 we have substantially expanded productivity, having increased sales per capita by more than threefold. Unusual in our industry, one in two Allergan personnel today work in either R&D or in our salesforces – the two drivers of growth. These massive productivity gains were possible as we consolidated our manufacturing into only three plants, where we continue to invest heavily, and streamlined our overhead structures. This process continues as we announced further streamlining of our European business in early 2005, which will lead to greater concentration of our R&D into the United States and the United Kingdom and leaner back-office functions. New clinical development processes and metrics are in place not only to maintain Allergan's status as one of the fastest in the industry but also to lower the costs of our clinical studies. In 2005, these measures are expected to help us save about \$15 million in clinical development costs where the savings will be reinvested back into additional quantities of new studies. In manufacturing, we utilize Six Sigma and lean manufacturing techniques in our three plants. Constant training of our top-rated salesforces is designed not only to improve customer satisfaction but also to increase the number of calls per day and per year, harnessing state-of-the-art information technology.

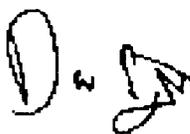
Efficiency and effectiveness are evident in our financial metrics. Return on equity at year end, adjusted for non-GAAP items, was 33% versus an industry benchmark of 20% and return on capital, adjusted for non-GAAP items, moved up to 22% from 14% in 2000 and versus an industry average of 15%. We ended the year with a record low for days of sales outstanding (DSO) of 40 days and low inventories of 79 days on hand (DOH). At year end, Allergan held an aggregate cash position of about \$900 million, and just over \$300 million in terms of cash net of debt, an increase of roughly \$400 million in one year. This should provide us flexibility for future strategic transactions.

Focusing on our Future. By combining the best elements of biotechnology and specialty pharmaceutical industry models, Allergan is well equipped to face and address the challenges of our industry. Our discovery research capabilities, as evidenced by our platform technologies in the areas of neurotoxins, alpha agonists for the treatment of pain, tyrosine kinase inhibitors for age-related macular degeneration and sodium channel blockers for neurologic disorders, are a reflection of the entrepreneurial and innovative culture at Allergan, and

make us a unique specialty pharmaceutical company more akin to the best of the profitable biotechnology companies. Given the escalating prices to acquire or license early stage products in the market, driven by the demand from "Big Pharma" and "Big Biotech" for new products, these technologies are key assets of value in Allergan's portfolio.

As we embark on 2005, our clinical development staff is focusing on those key projects that are anticipated to deliver new product approvals in the next two to three years and our commercial teams are focusing their financial and human resources on the key product growth drivers. The mid-year appointment of Dr. Scott Whitcup, an ophthalmologist, retina specialist, internist, and former Clinical Director at the National Eye Institute, to lead Allergan's R&D function, has already brought new approaches, building on the best practices of prior years, to accelerating certain clinical programs and to focusing efforts in discovery research to rapidly bring compounds into the clinic.

I wish to thank the many hard working and talented Allergan employees around the globe that contributed to making 2004 another successful year. In a pharmaceutical industry facing unprecedented change, I wish to acknowledge the support and counsel of our exceptional Board of Directors. I thank, in particular, Dr. Lester Kaplan who retired from Allergan's management and Board in 2004 after having built our R&D organization over a 20 year career with the Company; and Prof. Ronald Cresswell, formerly Chief Scientific Officer of Warner Lambert, who retired from the Board for health reasons. The recent additions to our Board have further strengthened our global pharmaceutical industry experience and perspective: Prof. Trevor Jones, who served as the Director General of the British Pharmaceutical Industry Association and hitherto main board director responsible for R&D at Wellcome; and Robert Ingram, Vice Chairman Pharmaceuticals of GlaxoSmithKline, who has spent his entire career in the industry. Finally, I wish to thank our shareholders for their continuing loyalty and support.



David E. I. Pyott
Chairman of the Board, President and Chief Executive Officer



BOARD OF DIRECTORS

HERBERT W. BOYER, Ph.D., 68 – Vice Chairman of the Board since 2001, served as Chairman from 1998 to 2001; Board member since 1994. Dr. Boyer is a founder of Genentech, Inc. and a Director since 1976. A former Professor of Biochemistry at the University of California at San Francisco, Dr. Boyer is a recipient of the National Medal of Science from President George H. W. Bush, the National Medal of Technology, and the Albert Lasker Basic Medical Research Award. He is an elected Member of the National Academy of Sciences and a Fellow in the American Academy of Arts and Sciences. Dr. Boyer serves on the Board of the Scripps Research Institute.

HANDEL E. EVANS, 70 – Elected to the Board in 1989. Former Chairman of Equity Growth Research Ltd, a company providing financial services in Europe that was acquired by Libertas Capital in 2004. Mr. Evans has over 40 years of experience in the pharmaceutical industry and was the founder and former Executive Chairman of Pharmaceutical Marketing Service Inc., Source Informatics Ltd. and Walsh International Inc., companies providing marketing services to the pharmaceutical industry. Mr. Evans was also a co-founder of IMS International Inc., the leading pharmaceutical information supplier. Mr. Evans is a Director of Cambridge Laboratories Ltd. and Chairman of the Trustees of British Urological Foundation. Mr. Evans was previously a Director of Smithkline Beecham Plc. and IMS International Inc.

MICHAEL R. GALLAGHER, 59 – Elected to the Board in 1998. In 2004, Mr. Gallagher retired as Chief Executive Officer and as a Director of Playtex Products, Inc. Prior to joining Playtex in 1995, Mr. Gallagher was Chief Executive Officer/North America for Reckitt & Colman PLC; President and Chief Executive Officer of Eastman Kodak's subsidiary, L&F Products; and President of the Lehn & Fink Consumer Products Division at Sterling Drug. Mr. Gallagher is a member of the Board of Advisors of the Haas School of Business, University of California, Berkeley and the Board of Trustees of St. Luke's School.

GAVIN S. HERBERT, 72 – Founder of Allergan, Inc., and Chairman Emeritus since 1996. Elected to the Board in 1950. Served as Chief Executive Officer for 30 years and as Chairman from 1977 to 1996. Mr. Herbert is Chairman and Founder of Regensis Bioremediation Products and a Director of Research to Prevent Blindness, and the Doheny Eye Institute. Mr. Herbert also serves on the Board of The Richard Nixon Library and Birthplace Foundation, the Advisory Board for the Foundation of the American Academy of Ophthalmology, and the CEO Roundtable on Cancer. Mr. Herbert is Chairman of Roger's Gardens, Vice Chairman of the Beckman Foundation, and a Life Trustee of the University of Southern California.

ROBERT A. INGRAM, 62 – Mr. Ingram was appointed to the Board in January 2005. Since January 2003, Mr. Ingram has been the Vice Chairman Pharmaceuticals of GlaxoSmithKline plc, a corporation involved in the research, development, manufacturing and sale of pharmaceuticals. Mr. Ingram was the Chief Operating Officer and President, Pharmaceutical Operations of GlaxoSmithKline plc from January 2001 until his retirement in January 2003. Prior to that, he was Chief Executive Officer of Glaxo Wellcome plc from October 1997 to December 2000; and Chairman of Glaxo Wellcome Inc., Glaxo Wellcome plc's United States subsidiary, from January 1999 to December 2000. Mr. Ingram is also Chairman of the Board of OSI Pharmaceuticals, Inc., a biotechnology company, and a director of Edwards Lifesciences Corporation, Lowe's Companies, Inc., Nortel Networks, Misy's plc, Valeant Pharmaceuticals International, and Wachovia Corporation. In addition, he is Chairman of the American Cancer Society Foundation and the CEO Roundtable on Cancer.

TREVOR M. JONES, Ph.D., 62 – Appointed to the Board in July 2004. From 1994 to 2004, Prof. Jones was the Director General of the Association of the British Pharmaceutical Industry (ABPI). From 1987 to 1994, Prof. Jones was a main board director at Wellcome plc. Prof. Jones received his bachelor of pharmacy degree and Ph.D. from the University of London and is currently Vice Chairman of Council at King's College, London. He has also gained an honorary doctorate from the University of Athens as well as honorary doctorates in science from the Universities of Strathclyde, Nottingham, Bath and Bradford in the United Kingdom. Furthermore, he was recognized in the Queen's Honors List and holds the title of a Commander of the British Empire. He is also a fellow of the Royal Society of Chemistry, a fellow of The Royal Pharmaceutical Society, and an honorary fellow of the Faculty of Pharmaceutical Medicine of the Royal College of Physicians. Prof. Jones is Chairman of the Board of Directors of ReNeuron Limited and a Board member of Merlin Biosciences' Funds I and II and NextPharma Technologies Holdings Ltd. Mr. Jones is also a founder and Board member of the Geneva-based public-private partnership, Medicines for Malaria Venture.



KAREN R. OSAR, 55 – Elected to the Board in 1998. Since July 2004 Ms. Osar has served as Executive Vice President and Chief Financial Officer of Crompton Corporation, a global producer and marketer of specialty chemicals, polymer products and processing equipment. She previously served as Senior Vice President and Chief Financial Officer of MeadWestvaco Corporation, a producer of packaging, paper, school and office supplies, and specialty chemicals, since the merger of the Mead Corporation and Westvaco Corporation in January 2002 until April 2003. Prior to the merger, she served as Senior Vice President and Chief Financial Officer of Westvaco Corporation since November 1999. Ms. Osar formerly served as Vice President and Treasurer of Tenneco, Inc., which was a global packaging and auto parts manufacturer, and as Managing Director of the investment banking group at J.P. Morgan & Company. She is a Director of BNY Hamilton Funds and of Encore Medical Corporation.

DAVID E. I. PYOTT, 51 – Elected to the Board and joined Allergan in 1998. Chairman of the Board, President and Chief Executive Officer of Allergan, Inc. Previously, he served as Head of the Nutrition Division and a member of the Executive Committee of Novartis AG. He is a member of the Board of Directors of Avery Dennison Corporation, Edwards Lifesciences Corporation, Pacific Mutual Holding Company, the ultimate parent company of Pacific Life, and Pacific LifeCorp, the parent stock holding company of Pacific Life. Mr. Pyott serves on the Board and the Executive Committee of the California Healthcare Institute; and the Directors' Board of the University of California (Irvine) Graduate School of Management. He also serves as a member of the Board of the Pan-American Ophthalmological Foundation, the International Council of Ophthalmology Foundation and as a member of the Advisory Board for the Foundation of the American Academy of Ophthalmology.

RUSSELL T. RAY, 57 – Elected to the Board in 2003. Managing Partner of HLM Venture Partners, a private equity firm that provides venture capital to health care information technology, health care services and medical technology companies. Prior to joining HLM Venture Partners in 2003, Mr. Ray was a Managing Director and Global Co-Head of Health Care Investment Banking at Credit Suisse First Boston Corporation, where he focused on providing strategic and financial advice to life sciences, health care services and medical device companies. Prior to joining Credit Suisse First Boston in 1999, Mr. Ray spent twelve years at Deutsche Bank and its predecessor entities BT Alex. Brown and Alex, Brown and Sons as Global Head of Health Care Investment Banking. Mr. Ray is a Director of Pondaray Enterprises, Inc. and The Friends School of Baltimore.

LOUIS T. ROSSO, 71 – Elected to the Board in 1989. Chairman Emeritus of Beckman Coulter, Inc., a manufacturer of laboratory instruments, and was its Chairman of the Board until his retirement in 1999. Mr. Rosso also served as Chairman and Chief Executive Officer of Beckman Instruments, Inc., and Vice President of SmithKline Beckman Corporation. He is a member of the Board of Trustees of the St. Joseph Heritage Healthcare Foundation, a member of the Board of Directors of Regenesys Bioremediation Company and Trustee Emeritus and Senior Advisor to the President of the Keck Graduate Institute of Applied Life Sciences at the Claremont Colleges.

STEPHEN J. RYAN, M.D., 64 – Elected to the Board in 2002. Dr. Ryan is the President of the Doheny Eye Institute and the Grace and Emery Beardsley Professor of Ophthalmology at the University of Southern California's Keck School of Medicine. Dr. Ryan was the Dean of the Keck School of Medicine and Senior Vice President for Medical Care of the University of Southern California from 1991 until 2004. Dr. Ryan is a Member of the Institute of Medicine of the National Academy of Sciences. He is a member and past president of numerous ophthalmological organizations such as the Association of University Professors of Ophthalmology and the Macula Society. He is the founding President of the Alliance for Eye and Vision Research (AEVR).

LEONARD D. SCHAEFFER, 59 – Elected to the Board in 1993. Since November 2004, Mr. Schaeffer has served as Chairman of the Board of WellPoint, Inc., an insurance organization created by the combination of WellPoint Health Networks Inc. and Anthem, Inc., which owns Blue Cross of California, Blue Cross Blue Shield of Georgia, Blue Cross and Blue Shield of Missouri, Blue Cross Blue Shield of Wisconsin, Anthem Life Insurance Company, Health Link and Unicare. From 1992 until 2004, Mr. Schaeffer served as Chairman of the Board and Chief Executive Officer of WellPoint Health Networks Inc. Mr. Schaeffer was the Administrator of the U.S. Health Care Financing Administration. He is Chairman of the Board of the National Institute for Health Care Management, and a member of the Institute of Medicine.



EXECUTIVE COMMITTEE

DAVID E.I. PYOTT, 51 – Chairman of the Board, President and Chief Executive Officer. Mr. Pyott joined Allergan in January 1998. Previously, he was Head of the Nutrition Division and a member of the Executive Committee of Novartis AG from 1995 through 1997. Mr. Pyott has over 20 years of international experience in nutrition and health care and has worked in Austria, Germany, the Netherlands, Spain, Switzerland, Malaysia and Singapore. Mr. Pyott holds a diploma in German and European Law from the Europa Institute at the University of Amsterdam, a master of arts degree from the University of Edinburgh, and an M.B.A. from the London Business School.

F. MICHAEL BALL, 49 – Executive Vice President and President, Pharmaceuticals. Born in Canada, Mr. Ball was educated in the U.K. and U.S. before receiving his BSc and M.B.A. from Queen's University in Canada. He is the former President of Syntex Inc. Canada and Senior Vice President of Syntex Laboratories USA, where he served on Syntex Corporation's Management Committee. Mr. Ball has over 20 years of international health care experience in the marketing and sales of pharmaceutical products. He joined Allergan in 1995.

ERIC K. BRANDT, 42 – Executive Vice President, Finance, Strategy and Corporate Development. Mr. Brandt joined Allergan in May 1999. In addition to his responsibilities as Principal Financial Officer, Mr. Brandt served as President of the Consumer Eye Care Business during 2001. Prior to joining Allergan, he was Vice President and Partner at Boston Consulting Group. Prior to his departure from BCG, Mr. Brandt led BCG's operations practice in North America and was a senior member of the BCG health care practice. While at BCG, Mr. Brandt led significant manufacturing and supply chain assignments for several major pharmaceutical companies and was involved in high level consulting engagements with top global pharmaceutical, managed care and medical device companies, focusing on corporate finance, shareholder value and post-merger integration. Mr. Brandt has a bachelor of science in chemical engineering from MIT and an M.B.A. from the Harvard Business School.

DOUGLAS S. INGRAM, J.D. 42 – Executive Vice President, General Counsel and Secretary. Mr. Ingram joined Allergan from Gibson, Dunn & Crutcher in 1996. Mr. Ingram has over 16 years of experience in the management of domestic and international legal affairs. Mr. Ingram is responsible for all of the Corporation's legal matters on a global basis, is the Secretary to Allergan's Board of Directors, and manages Allergan's Regulatory Affairs Department, Compliance and Internal Audit Department, Corporate Communications Department and Global Trade

Compliance Department. He also serves as Allergan's Chief Ethics Officer. Mr. Ingram received his juris doctorate from the University of Arizona in 1988, graduating summa cum laude and Order of the Coif.

JACQUELINE SCHIAVO, 56 – Executive Vice President, Global Technical Operations. Ms. Schiavo has more than 30 years of experience in pharmaceutical and health care products manufacturing, quality assurance, and research and development. Ms. Schiavo is responsible for Allergan's worldwide network of manufacturing plants and third party suppliers. She holds a bachelor of science degree in microbiology from Cornell University and an M.B.A. from Pepperdine University. She joined Allergan in 1980.

SCOTT M. WHITCUP, M.D., 45 – Executive Vice President, Research and Development. Dr. Whitcup joined Allergan in 2000. Prior to joining Allergan, Dr. Whitcup served as the Clinical Director of the National Eye Institute (NEI). At the NEI, Dr. Whitcup's leadership was vital in building the clinical research program and developing new therapies for ophthalmic diseases. Dr. Whitcup graduated from Cornell University and Cornell University Medical College. He completed residency training in internal medicine at UCLA and ophthalmology at Harvard University as well as fellowship training in immunology at the National Institutes of Health (NIH). Dr. Whitcup is a faculty member at the Jules Stein Eye Institute/David Geffen School of Medicine at UCLA.

ROY J. WILSON, 49 – Executive Vice President, Human Resources. Mr. Wilson joined Allergan in April 2004 as Executive Vice President, Human Resources. Prior to joining Allergan, Mr. Wilson held positions with Texas Instruments, Schlumberger Ltd., and Pearle Vision, where he served as the Senior Vice President and Chief Administrative Officer, and Compaq Computer, where he served as Vice President of Human Resources. Mr. Wilson also served as the Senior Vice President of Human Resources and Administration at BMC Software. From 2001 to 2004, Mr. Wilson successfully managed a human capital consulting firm centered on executive compensation, organizational effectiveness and merger and acquisition activities. Mr. Wilson holds a bachelor of science degree from Syracuse University.

OTHER EXECUTIVE OFFICER

JAMES F. BARLOW (not pictured)
Vice President, Corporate Controller and Principal Accounting Officer

CORPORATE OVERVIEW AND STOCKHOLDERS' INFORMATION

CORPORATE HEADQUARTERS

Allergan, Inc.
2525 Dupont Drive
P.O. Box 19534
Irvine, CA 92623-9534
(714) 246-4500
E-mail: corpinfo@allergan.com
Internet: www.allergan.com

TRANSFER AGENT, REGISTRAR AND DIVIDEND DISBURSING AGENT, DUPLICATE MAILINGS

EquiServe Trust Company, N.A.
P.O. Box 43069
Providence, RI 02940-3069
(800) 446-2617
Hearing Impaired # TDD: (800) 952-9245
Internet: www.equiserve.com

ANNUAL MEETING OF STOCKHOLDERS

The Annual Meeting of Stockholders of Allergan, Inc. will be held at The Irvine Marriott Hotel, 18000 Von Karman Avenue, Irvine, CA 92612, on April 26, 2005, at 10:00 a.m.

MARKET PRICES OF COMMON STOCK AND DIVIDENDS

The following table shows the quarterly price range of the common stock and the cash dividends declared per share during the period listed.

Calendar Quarter	2004			2003		
	High	Low	Div	High	Low	Div
First	\$90.21	\$75.65	\$.09	\$71.53	\$56.60	\$.09
Second	92.61	83.13	.09	81.55	66.81	.09
Third	90.36	69.05	.09	81.80	75.82	.09
Fourth	82.10	66.78	.09	81.48	71.65	.09

Allergan common stock is listed on the New York Stock Exchange and is traded under the symbol "AGN." In newspapers, stock information is frequently listed as "Alergn."

The approximate number of stockholders of record was 6,200 as of February 8, 2005.

FORM 10-K

Additional copies of Allergan, Inc.'s Annual Report on Form 10-K, as filed with the Securities and Exchange Commission, are available through our Web site at www.allergan.com or without charge by contacting:

INVESTOR RELATIONS

James M. Hindman
Allergan, Inc.
P.O. Box 19534
Irvine, CA 92623-9534
Phone: (714) 246-4636 Fax: (714) 246-4800
E-mail: corpinfo@allergan.com

DIVIDEND REINVESTMENT AND STOCK PURCHASE PLAN

The plan allows Allergan stockholders to reinvest their dividends or invest cash in Allergan stock without brokerage commissions or service charges. If you are interested in joining the plan or would like more information, you may request a prospectus from:

EquiServe Trust Company, N.A.
Dividend Reinvestment Plan/Allergan, Inc.
P.O. Box 43081
Providence, RI 02940-3081

TRADEMARKS

Except as set forth below, all product names appearing in capital letters are trademarks or service marks that are owned by, licensed to, or promoted by Allergan, Inc., its subsidiaries or affiliates. The following Allergan trademarks appear in this report: ALPHAGAN, BOTOX, BOTOX Cosmetic, COMBIGAN, ELESTAT, LUMIGAN, POSURDEX, RESTASIS, TAZORAC, VISTABEL, and ZYMAR.

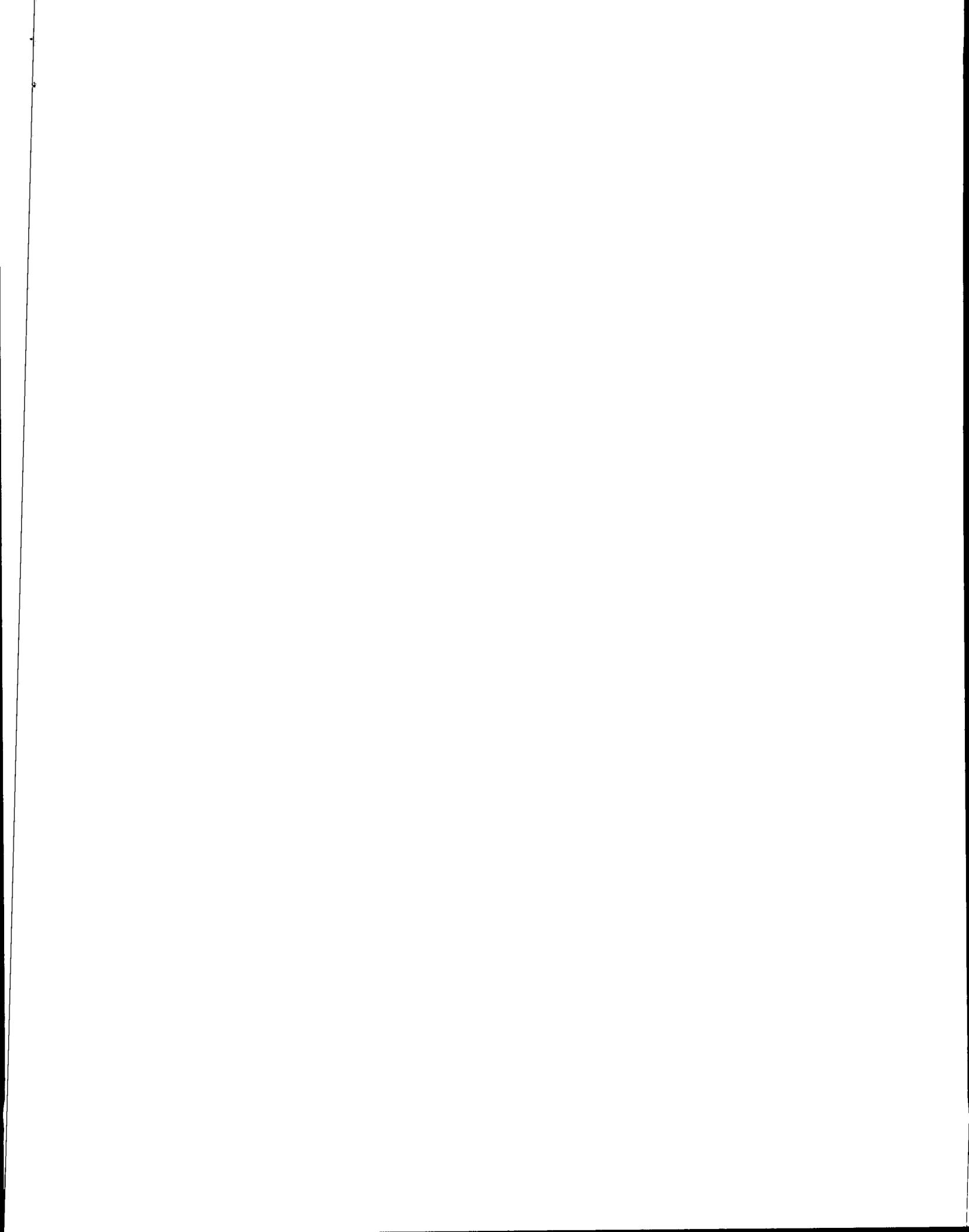
ACULAR is a registered trademark of Roche Palo Alto LLC.

Allergan, for the year ending December 31, 2004, continued its proud tradition of placement in the top quartile for environmental health and safety performance within its pharmaceutical company peer group. More information on its 2004 performance worldwide can be found by accessing the corporate information section at www.allergan.com and pulling down the "About Allergan" section and clicking on the "Responsibility" section.

1. This Annual Report was printed on recycled paper.



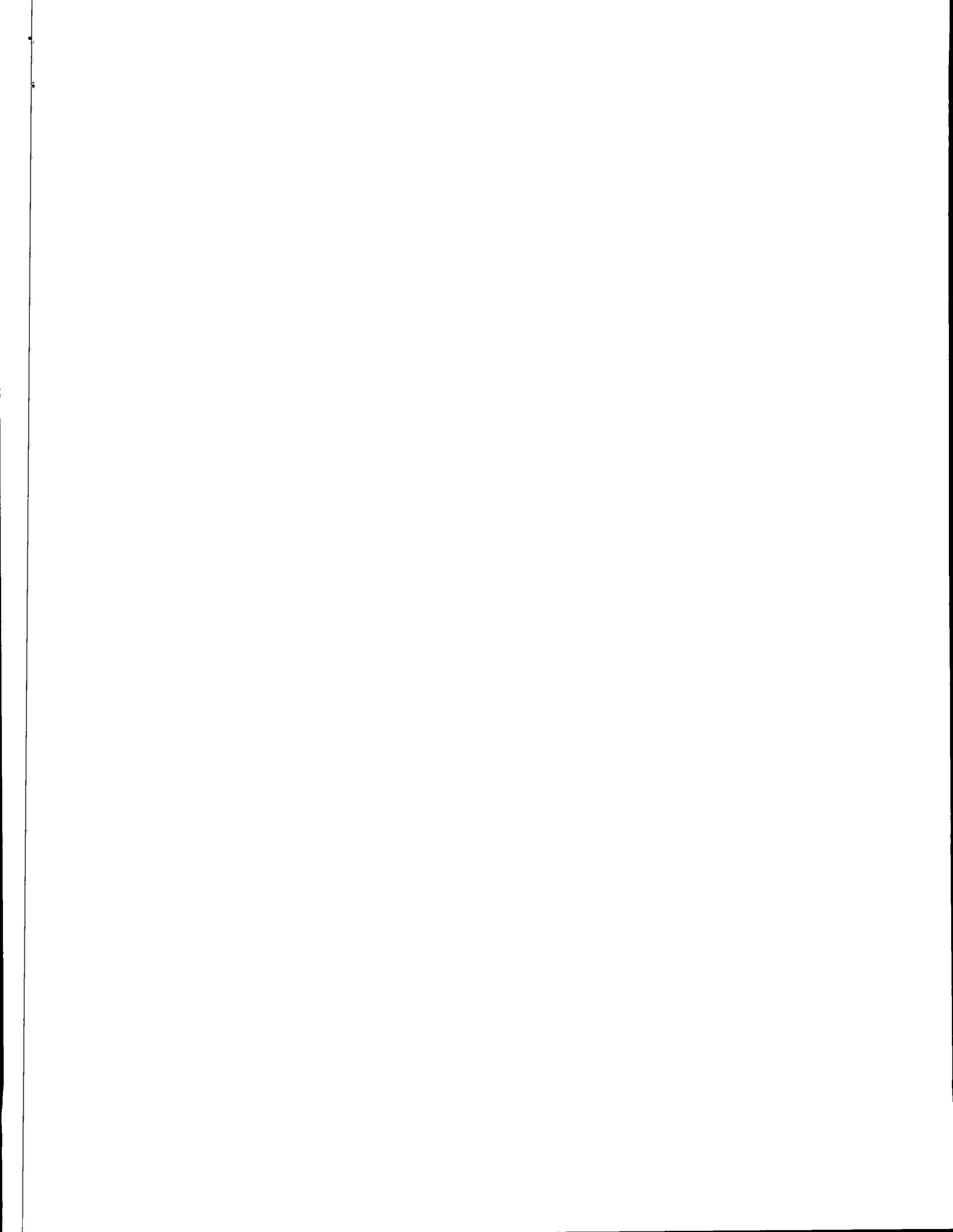
2525 Dupont Drive
P.O. Box 19534
Irvine, CA 92623-9534
(714) 246-4500
www.allergan.com
NYSE:AGN



2002 Creative Rotation: International Circulation

Publication	Ad Viewing Information
Allure	US, Canadian & International readers; Canada & International approximately 100,000 readers
Architectural Digest	US, Canadian & International readers; Canada & International approximately 30,000 readers
Bon Appetit	US & International readers; International approximately 7,500 readers
Elle	US & International readers; International approximately 50,000 readers
Glamour	US & International readers; International approximately 118,000 readers
Gourmet	US, Canadian & International readers; Canada & International approximately 32,000 readers
House & Garden	US, Canadian & International readers; Canada & International approximately 7,000 readers
InStyle	US & International readers; International approximately 50,000 readers
Lucky	US & Canadian readers; Canada readers so few not measured
Martha Stewart Living	US, Canadian & International readers; Canada & International approximately 1.8% of audience
More	US & International readers; International approximately 300 readers
New York Magazine	US & International readers; International approximately 1,500 readers
New York Times Magazine	Only US readers
People	US, Canadian & International readers; Canada & International approximately 83,000 readers
Redbook	US, Canadian & International readers; Canada & International approximately 110,000 readers
Self	US, Canadian & International readers; Canada & International approximately 84,000 readers
Spa Finder	US & International readers; International less than 1% of readers
Spa Magazine	US, Canadian & International readers; Canada & International approximately 625 readers
The New Yorker	US, Canadian & International readers; Canada & International approximately 60,000 readers
Town & Country	US & International readers; International approximately 2% of audience
Vanity Fair	US & International readers; International approximately 114,000 readers
Vogue	US, Canadian & International readers; Canada & International approximately 135,000 readers
W	US, Canadian & International readers; Canada & International approximately 7,000 readers

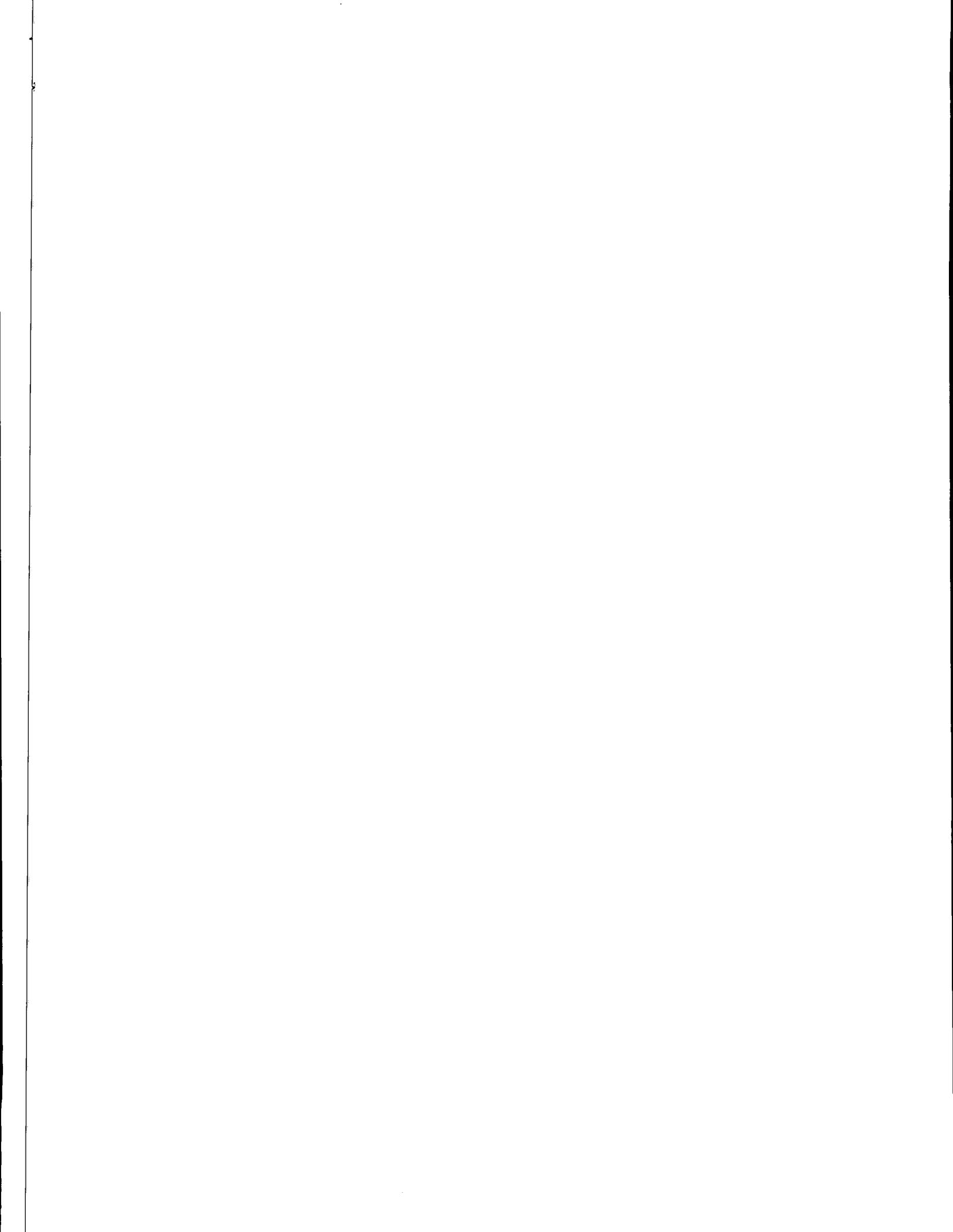
EXHIBIT
Allergan, Inc. 9
No. 91161603
Allergan v. Biocentric.



2003 Creative Rotation: International Circulation

Publication	Ad Viewing Information
Allure	US, Canadian & International readers; Canada & International approximately 35,000 readers
Cosmopolitan	US, Canadian & International readers; Canada & International approximately 270,000 readers
Elle	US & International readers; International approximately 41,000 readers
Entertainment Weekly	US & Canadian readers; Canada less than 2% of audience
Glamour	US & International readers; International approximately 145,000 readers
Harpers Bazaar	Only US readers
Health	US, Canadian & International readers; Canada & International approximately 5,500 readers
InStyle	US & International readers; International approximately 50,000 readers
Ladies Home Journal	US & International readers; International less than 1% of audience
Lucky	US & Canadian readers; Canada readers so few not measured
More	US & International readers; International approximately 300 readers
Newsweek	US & Canadian readers; Canada approximately 42,000 readers
O, The Oprah Magazine	US, Canadian & International readers; Canada & International approximately 40,000 readers
People	US, Canadian & International readers; Canada & International approximately 85,000 readers
Redbook	US, Canadian & International readers; Canada & International approximately 1.8% of audience
Self	US, Canadian & International readers; Canada & International approximately 70,000 readers
Shape	US, Canadian & International readers; Canada & International 30,000 readers
Time	US, Canadian & International readers; Canada & International 1.2 million readers weekly
The Week	Only US readers
Vogue	US, Canadian & International readers; Canada & International approximately 135,000 readers
W	US, Canadian & International readers; Canada & International approximately 7,000 readers

EXHIBIT
 Allergan, Inc. 10
 NO. 91161403
 Allergan Biocentric





Your toughest wrinkle

It took forty years to get it.

And ten minutes to do something about it.

Welcome to the age of Botox[®] Cosmetic. Finally, a simple, non-surgical procedure that can dramatically reduce even your toughest wrinkle within days. One ten-minute treatment - a few tiny injections - relaxes the muscles between your brows that cause lines to form. And keeps them relaxed up to four months. Botox[®] Cosmetic has been widely tested. And now it's approved by the FDA. So it's really up to you. You can choose to live with wrinkles. Or you can choose to live without them.



Unretouched clinical photos taken while frowning before and after Botox[®] Cosmetic. In clinical trials, 89% of patients rated improvement in frown lines as moderate or better. Individual results may vary.

Ask your dermatologist, ophthalmologist, or plastic surgeon about Botox[®] Cosmetic. Or call toll-free or visit our website for a listing of Botox[®] Cosmetic Network physicians.

The most common side effects are headache, respiratory infection, temporary eyelid droop, and nausea. Botox[®] Cosmetic should not be used if there is an infection at injection site.

Please see additional important information on the following page.

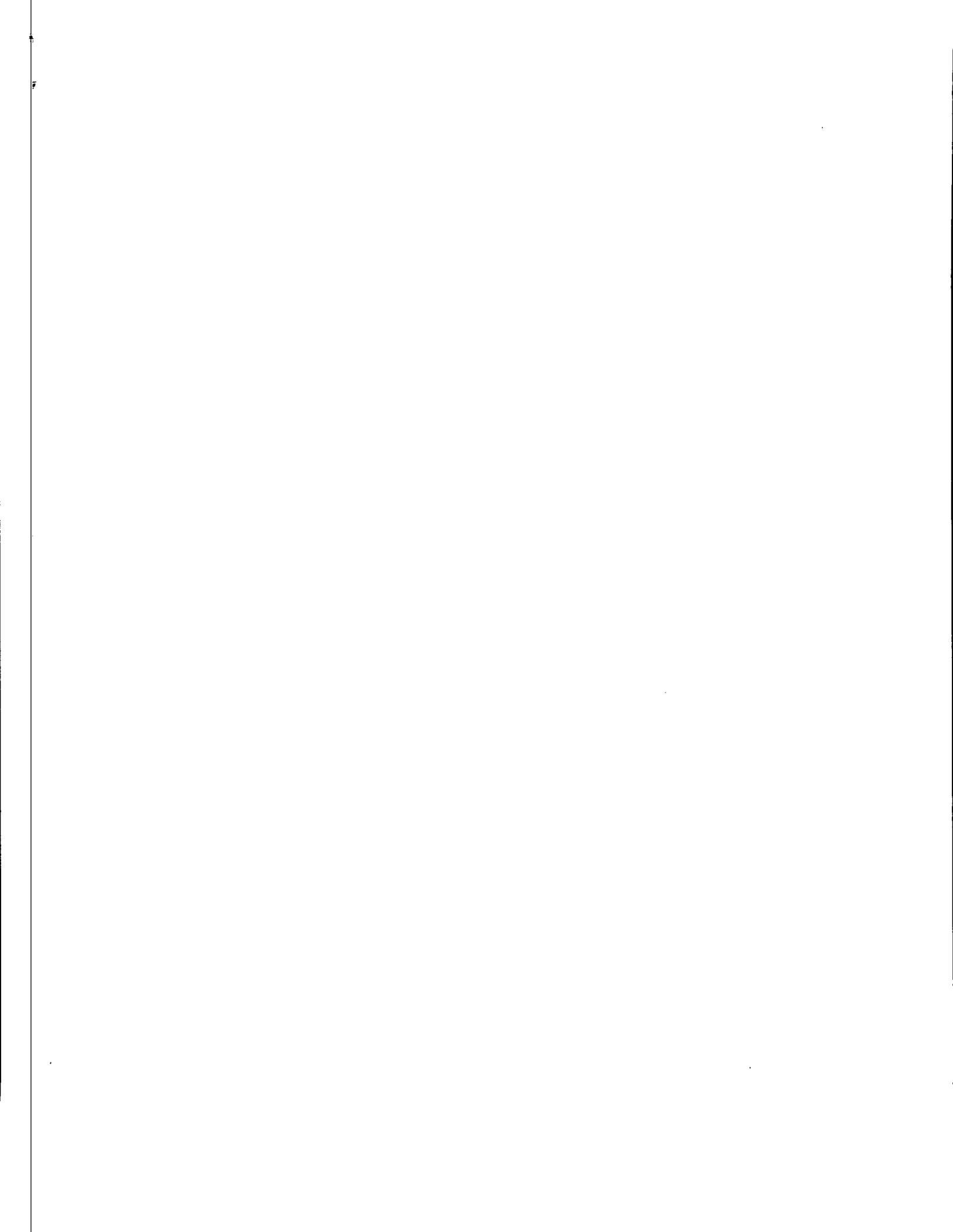
It's not magic, it's

BOTOX
—Cosmetic™
Botulinum Toxin Type A

1-800-BotoxMD
www.BotoxCosmetic.net

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EXHIBIT
Allergan, Inc. 11
No. 91161603
Allergan v. Biogen, Inc.



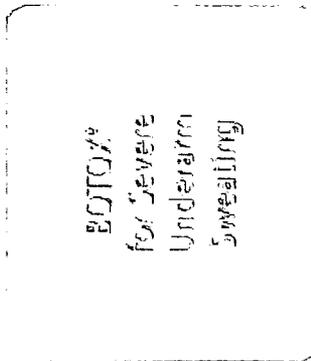
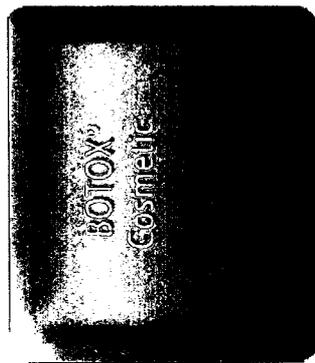
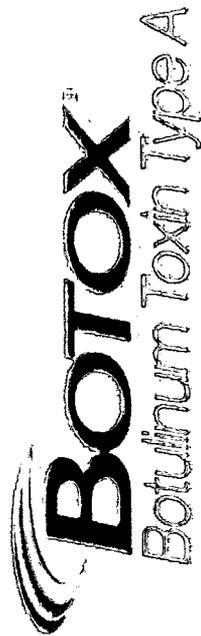
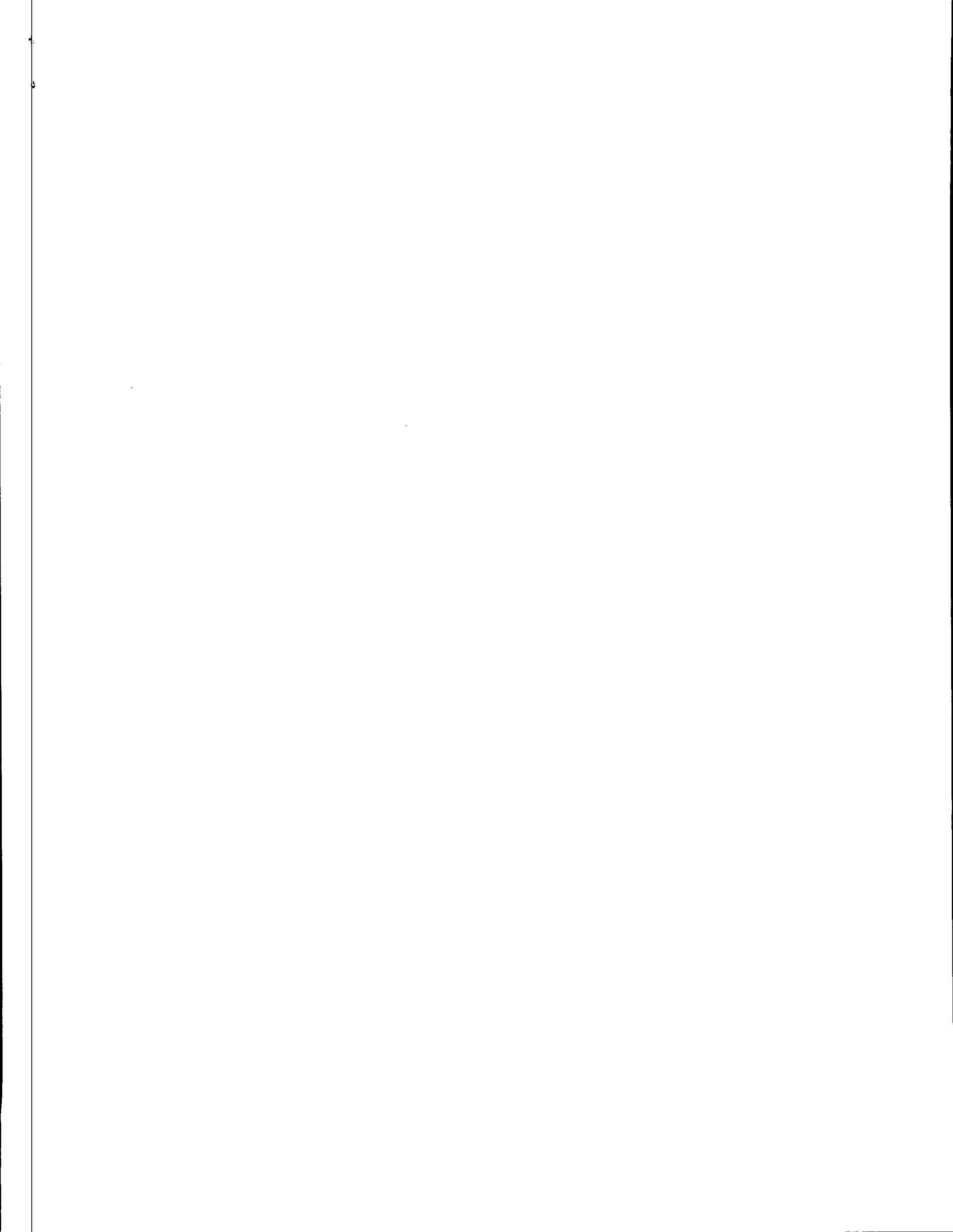
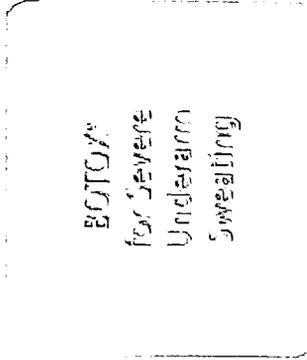
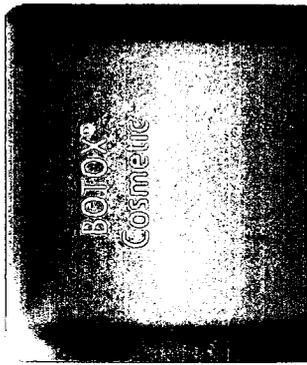
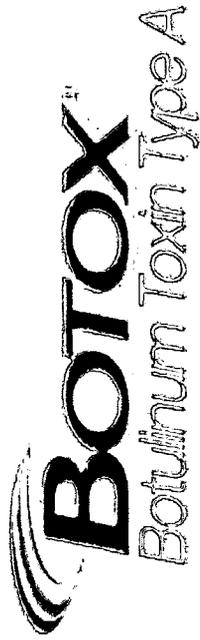


EXHIBIT
Allergan, Inc. 1a
No. 91161603
Allergan v. Biogen Inc.

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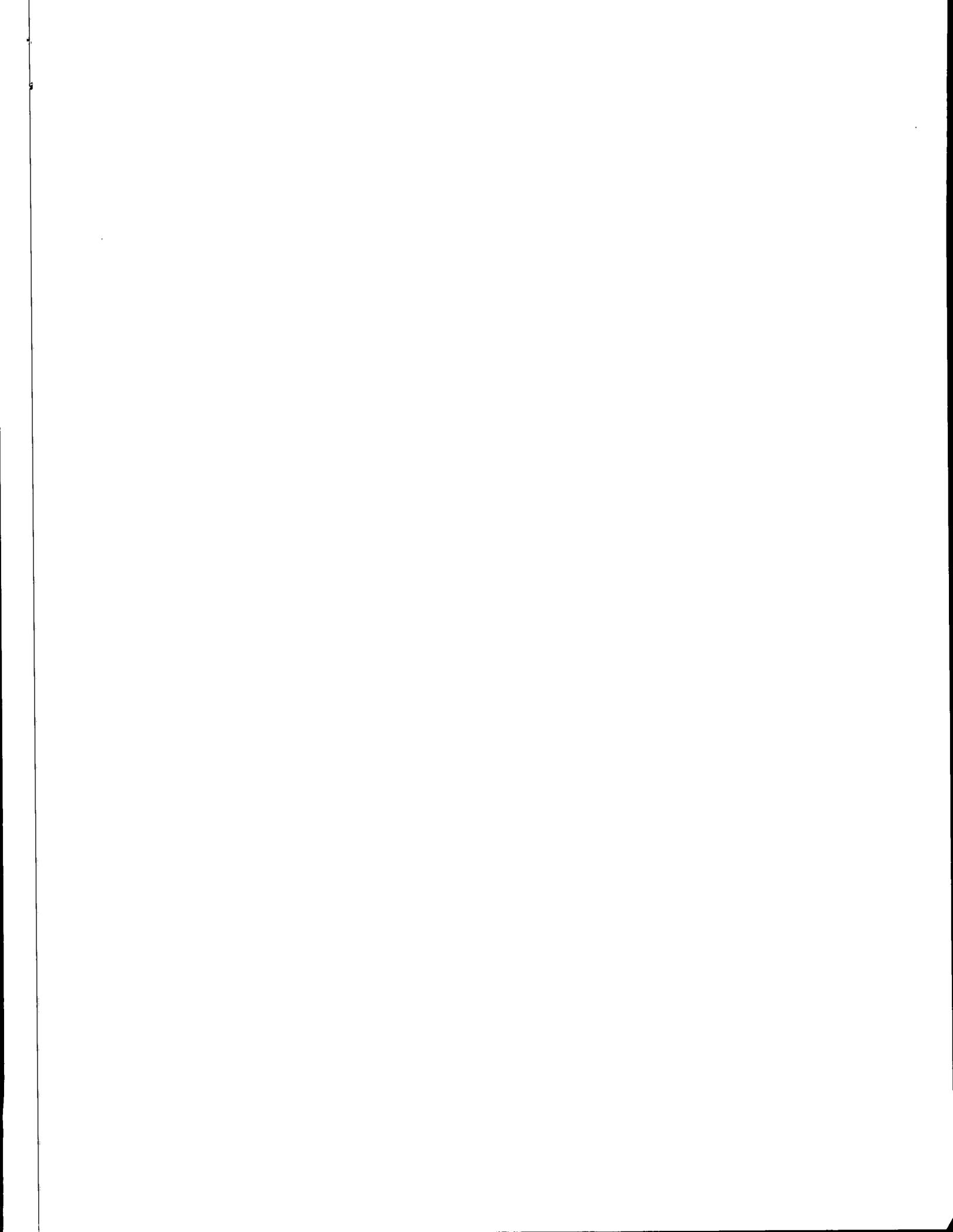




BOTOX® COSMETIC is indicated for the temporary improvement in the appearance of moderate to severe glabellar lines associated with corrugator and/or procerus muscle activity in adult patients <= 65 years of age.

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EXHIBIT
Allergan, Inc. 13
No 91161603
Allergan v. Biogen, Inc.





Search

Why They Use	How It Works	About Safety	Getting Started	Find a Doctor	Information for Physicians
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Enter to win a luxury spa vacation from BOTOX® Cosmetic!

The one, the only™

learn more →

Real Women Real Stories

“There are over the counter creams and lotions. And then there’s BOTOX® Cosmetic.”

-Lara, Los Angeles, CA

- Read Laura’s story.
- Find an expert medical physician.
- Meet the winners of the BOTOX® Cosmetic sweepstakes!

Is BOTOX® Cosmetic right for me?

I tried BOTOX® Cosmetic once.

I use BOTOX® Cosmetic regularly.



Find a Doctor

Search for a physician who administers BOTOX® Cosmetic in your area.

BOTOX® Cosmetic for Men

Find out why men are choosing BOTOX® Cosmetic.

Before and After Photo Gallery

See results in men and women who've tried BOTOX® Cosmetic treatments.

What Do Others Have to Say?

Hear why people like you have tried BOTOX® Cosmetic.

The photos featured on this Web site are of actual BOTOX® Cosmetic users.

BOTOX® Cosmetic is indicated for the temporary improvement in the appearance of moderate to severe frown lines between the brows in people 18 to 65 years of age.

EXHIBIT
 Allergan, Inc. 14
 (12)
 NO. 91161003
 Allergan v. Bioentric.

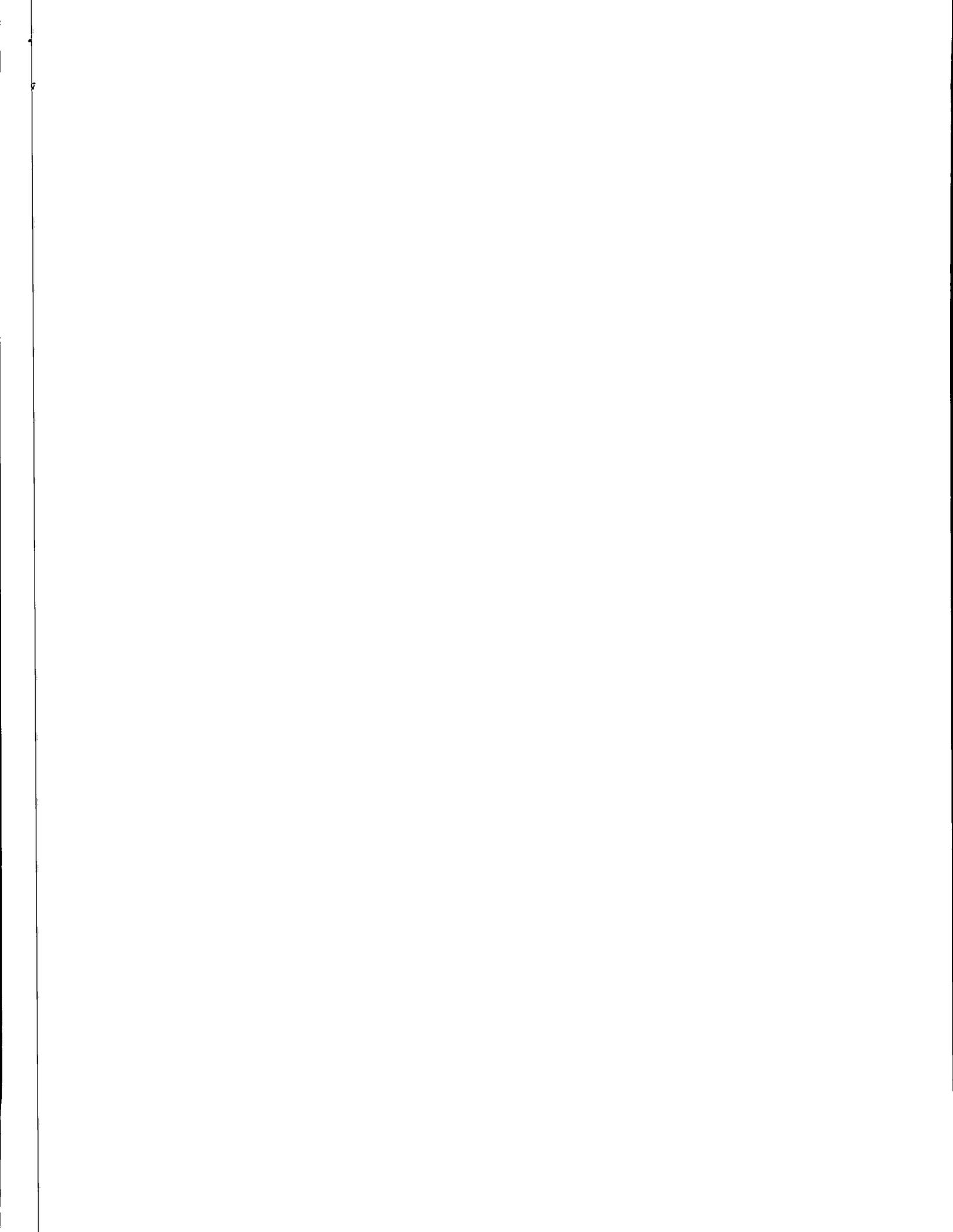
BOTOX® Cosmetic should not be used in the presence of infection at the proposed injection site(s) and in individuals with known hypersensitivity to any ingredient in the formulation.

Patients with neurological disorders such as ALS, myasthenia gravis, or Lambert-Eaton syndrome may be at increased risk of serious side effects. The most common side effects include headache, respiratory infection, flu syndrome, temporary eyelid droop and nausea.

BOTOX® Cosmetic is administered by physicians and is available only by prescription. Please see the full prescribing information.

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Search

Why Try It?	How It Works	About Safety	Getting Started	Find a Doctor	Information for Physicians
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"There are over-the-counter creams and lotions. And then there's BOTOX® Cosmetic. My doctor said they're just not the same. She said only prescription BOTOX® Cosmetic is approved by the FDA to treat the frown lines between your brows. Ten minutes—a few tiny injections administered by your doctor—lasts up to 4 months! That was good to know. With all the claims some over-the-counter creams and lotions make, I was pretty confused. They pop an "X" in their name and claim they're better than BOTOX®. That's why I asked my doctor. You can read about BOTOX® Cosmetic. You can discuss it with friends. But if you really want the facts, talk to your doctor."

TESTIMONIALS

Listen to what others are saying about the benefits of BOTOX® Cosmetic.

[Learn More](#)

SOME LINKS OF INTEREST

[Getting Started With BOTOX® Cosmetic](#)

[BOTOX® Cosmetic May Work for You](#)

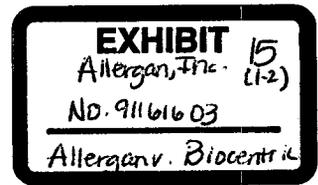
[Why Skin Ages](#)

[Find a Doctor](#)

QUICK POLL

Have you tried anti-wrinkle creams?

- Yes
- No
-



No, but have considered them

[View Results](#)

[Submit](#)

The photos featured on this Web site are of actual BOTOX® Cosmetic users.

BOTOX® Cosmetic is indicated for the temporary improvement in the appearance of moderate to severe frown lines between the brows in people 18 to 65 years of age.

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BOTOX® Cosmetic is administered by physicians and is available only by prescription. Please see the full prescribing information.

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STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

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The foregoing is a true and correct copy of the
original transcript of the stated proceeding.

Dated Jan. 26, 2006.

P. Russell

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DUPLICATE ORIGINAL

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

In the Matter of Application Serial No. 78/320, 975
Published in the Official Gazette of August 3, 2004

ALLERGAN, INC.,)
)
 Opposer,)
)

vs.

) No. 91161603

BIOCENTRIC LABORATORIES,)
)
 INC.,)
)
)
 Applicant.)
)

DEPOSITION OF TOM ALBRIGHT

January 16, 2006

214108



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