

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

CARDON PHARMACEUTICALS SA/NV,,]
]]
Opposer,]
]]
vs.]
]]
HEALTH EDUCATION CORPORATION,]
]]
Applicant.]

OPPOSITION No. _____
Ser. No. 78/296,804

TTAB

NOTICE OF OPPOSITION

CARDON PHARMACEUTICALS SA/NV, a Belgian company, with its principal place of business at 31 Ryselstraat, 8200 Brugge, Belgium, believes that it will be damaged by the registration of the mark shown in Application Serial Number 78/296,804 in International Class 5 and hereby opposes the same.

This application was published on May 25, 2004 and Opposer has obtained appropriate extensions of time to file this Opposition.

As grounds for the opposition it is alleged that:

1. Applicant, HEALTH EDUCATION CORPORATION, is on information and belief, a Utah corporation with an address at 11576 South State Street, #1101, Sandy, Utah, and seeks to register the trademark **CHLOROZYME** for nutraceuticals for use as a dietary supplement in Class 5 as set forth in the above noted



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application. The application was filed on September 5, 2003 based upon a claim of a bona fide intent to use the mark on said goods. The application was published on May 25, 2004 in the Official Gazette of the United States Patent and Trademark Office. Opposer has obtained an extension of time until September 22, 2004 in which to file this Notice of Opposition.

2. Opposer is well known in the field of dietary substances and hygienic products for medical use as well as related fields of commerce and has and is presently engaged in the manufacture and marketing of its products in the United States as well as throughout the world.

3. Opposer has used its well-recognized trademark **OROZYME** on its goods in the United States marketplace. To the best of Opposer's knowledge, no use has as yet occurred of the Applicant's mark in commerce.

4. Opposer's mark **OROZYME** is the subject of U.S. Trademark Application, Serial Number 76/476,479, filed December 18, 2002, prior to the filing of the intent-to-use application application here opposed.

5. Opposer's application identified in paragraph 4, supra covers hygienic products for medical use, namely, medicated shampoos, creams and lotions; disinfectants, ointments for medical use; hygienic bandages; hygienic towels; balm for medical use; aseptic cotton; medicinal herbs; gentian for pharmaceutical use; dietetic substances for medical use, namely orally ingestible dietetic substances; veterinary products for the treatment of domestic animal teeth, namely tooth paste, chews, chewing gum and chewing lamella in Class 5.

6. Opposer's application has been allowed and a Statement of Use will be filed in the very near future.

7. Applicant's mark is so similar to Opposer's marks as to be likely to cause confusion, mistake or deception as to the source of the goods of the Applicant especially because Applicant's mark is sought to be used in conjunction with goods that are identical to or very closely related to the goods of Opposer.

8. The marks here in issue are visually and phonetically similar. Applicant's mark includes Opposer's entire mark "OROZYME" with only the addition of the prefix "CHL".

9. If Applicant is permitted to use and register the mark herein opposed for the goods specified in it's application, confusion in the trade and for the consumer will likely result, causing damage and injury to the Opposer. Persons familiar with Opposer's mark would be likely to purchase Applicant's products in the mistaken belief that such goods originate with Opposer. Any such confusion will inevitably result in loss of sales to Opposer. Moreover, any objection or fault found with Applicant's products sold under the mark herein opposed would necessarily reflect upon and seriously injure the reputation which Opposer has established for its products offered under its mark and thereby erode the valuable goodwill established by Opposer in its marks.

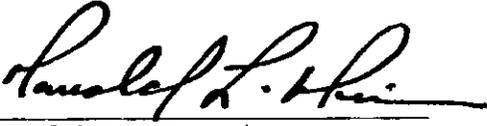
10. Registration of the mark at issue herein to Applicant will be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that Application Serial Number 78/296,804 be rejected, and that registration of the mark shown therein for the goods set forth therein be refused and denied.

A duplicate copy of this Notice of Opposition is enclosed. The fee of \$300.00 required by Trademark Rule of Practice 2.6 (a) (17) is enclosed.

Respectfully submitted,

Date: September 22, 2004

By: 

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