

ESTTA Tracking number: **ESTTA537666**

Filing date: **05/14/2013**

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	PSPC, Inc.		
Entity	Corporation	Citizenship	Florida
Address	4005 Dow Road Melbourne, FL 32934 UNITED STATES		

Attorney information	Wendy K. Marsh Nyemaster Goode, P.C. 700 Walnut Street Suite 1600 Des Moines, IA 50309 UNITED STATES wkmarsh@nyemaster.com, ptodm@nyemaster.com Phone:515-645-5502		
----------------------	---	--	--

### Applicant Information

Application No	85650854	Publication date	05/14/2013
Opposition Filing Date	05/14/2013	Opposition Period Ends	06/13/2013
Applicant	Sogeval Laboratories, Inc. 5605 N. MacArthur Blvd No. 740 Irving, TX 75038 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: nutritional supplement for joint care in canines
---

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3294575	Application Date	07/02/2003
Registration Date	09/18/2007	Foreign Priority Date	NONE
Word Mark	PHYCOX		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 005. First use: First Use: 2007/01/23 First Use In Commerce: 2007/01/23 Pharmaceutical preparations, namely, anti-inflammatories

Related Proceedings	PSPC, Inc. v. Sogeval Laboratories, Inc., Case No. 6:13-cv-249-RBD-TBS, filed February 13, 2013 in the M.D. Florida, Orlando Division
---------------------	---

Attachments	TRICOX.Notice of Opposition.pdf(23545 bytes ) TRICOX.Exhibit 1.pdf(17282 bytes ) TRICOX.Exhibit 2.PDF(472076 bytes )
-------------	--

### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/wendy k. marsh/
Name	Wendy K. Marsh
Date	05/14/2013

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

<p>PSPC, INC.,</p> <p style="padding-left: 40px;">Opposer,</p> <p>v.</p> <p>SOGEVAL LABORATORIES, INC.</p> <p style="padding-left: 40px;">Applicant.</p>	<p>Opposition No: _____</p> <p>In the matter of: Application No. 85/650,854 Mark: TRICOX-A Published in the Official Gazette on: May 14, 2013</p>
--	--

**STATEMENT OF CLAIM UPON WHICH OPPOSITION IS BASED**

The grounds for opposition are as follows:

1. Opposer, PSPC, Inc., has received registration upon the Principal Register, under the provisions of the U.S. Trademark Act of 1946, as amended, of the trademark PHYCOX, Registration No. 3,294,575, September 18, 2007, for pharmaceutical preparations, namely, anti-inflammatories, in International Class 5. A copy of this registration is attached as Exhibit 1. This registration was registered on a date prior the date of filing of Applicant's application, and prior to any date of first use Applicant may claim.
2. Opposer's Registration No. 3,294,575 is prima facie evidence of the validity thereof and Opposer's ownership and exclusive right to use this mark in commerce on the goods specified in the registration, and is constructive notice of Opposer's ownership thereof. Said registered mark of Opposer is incontestable.

3. Opposer and its predecessor-in-interest have for many years, and Opposer is now, using the PHYCOX mark depicted in U.S. Reg. No. 3,294,575 in connection with the sale of veterinary anti-inflammatories. Said use has been valid and continuous since the date of first use and has not been abandoned. Said mark of Opposer is symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion, and is an asset of Opposer.

4. Since 2007, Opposer's sales revenue for anti-inflammatories sold under the PHYCOX mark have been substantial.

5. Opposer's PHYCOX branded anti-inflammatories have been widely advertised throughout the United States since 2007 and have been sold through numerous veterinary distributors and retailers nationwide, including 1-800-PetMeds, Amazon.com, EntirelyPets.com, DrsFosterSmith.com, HealthyPets.com, VetRXDirect.com, JeffersPet.com, and VetDepot.com.

6. As a result of Opposer's extensive advertisement, marketing and promotion, the PHYCOX brand has become exceedingly popular with pet owners and in the veterinary industry. Given the volume of sales, extensive advertisement and popularity of Opposer's products bearing the PHYCOX mark, Opposer's mark has become famous, well-known and recognized as a distinctive symbol of Opposer's goodwill.

7. Opposer's PHYCOX mark became famous, well-known and recognized long prior to the filing date of the opposed application to register Applicant's mark.

8. Opposer also has common law rights in the PHYCOX mark that it relies upon in its opposition to the opposed application.

9. Like the registration of the PHYCOX mark, Applicant has requested registration upon the Principal Register of the mark TRICOX-A as an anti-inflammatory. Specifically, the

application states the TRICOX-A registration is for the following goods and services: nutritional supplement for joint care in canines in International Class 5. According to Applicant's advertising, Applicant's supplements for joint care are used to reduce inflammation in canine joints (Exhibit 2).

10. Due at least to the nature of the respective goods of the parties, the similarity between their respective marks, both phonetic and textual, and the similarity in their channels of trade, Applicant's TRICOX-A mark is likely to cause confusion, mistake, or deception with Opposer's previously used PHYCOX mark in the retail trade.

11. Applicant's intended use of the mark shown in Application No. 85/650,854 is likely to dilute Opposer's PHYCOX mark.

12. Registration of Applicant's mark will lessen the capacity of Opposer's famous and well-known mark to identify and distinguish its goods.

13. Registration of the mark shown in Application Serial No. 85/650,854 will result in damage to Opposer under the provisions of Section 2(d) of the U.S. Trademark Act, 15 U.S.C. § 1052(d) pursuant to the allegations stated above.

**WHEREFORE**, Opposer requests that the registration sought by Applicant in Application Serial No. 85/650,854 be refused and that this opposition be sustained.

Respectfully submitted,

/s/ Wendy K. Marsh

---

Wendy K. Marsh  
Glenn Johnson  
NYEMASTER GOODE, P.C.  
700 Walnut Street, Suite 1600  
Des Moines, Iowa 50309  
Telephone: (515) 645-5502  
Facsimile: (515) 283-8045  
Email: [wkmarsh@nyemaster.com](mailto:wkmarsh@nyemaster.com)

ATTORNEYS FOR OPPOSER

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Notice of Opposition was served on this 14<sup>th</sup> day of May 2013, by overnight courier, postage prepaid, addressed to Applicant's attorney of record Daniel R. Frijouf, Frijouf, Rust & Pyle, P.A., 201 E. Davis Blvd, Tampa, Florida 33606-3728.

/s/ Wendy K. Marsh \_\_\_\_\_

**Int. Cl.: 5**

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

**Reg. No. 3,294,575**

**United States Patent and Trademark Office**

**Registered Sep. 18, 2007**

**TRADEMARK  
PRINCIPAL REGISTER**

**PHYCOX**

PHARMA CHEMIE, INC. (NEBRASKA COR-  
PORATION)  
1877 MIDLAND STREET, P.O. BOX 326  
SYRACUSE, NE 684460326

FIRST USE 1-23-2007; IN COMMERCE 1-23-2007.

SN 78-269,875, FILED 7-2-2003.

FOR: PHARMACEUTICAL PREPARATIONS,  
NAMELY, ANTI-INFLAMMATORIES, IN CLASS 5  
(U.S. CLS. 6, 18, 44, 46, 51 AND 52).

IRA J. GOODSaid, EXAMINING ATTORNEY

[Home](#)

[Our Company](#)

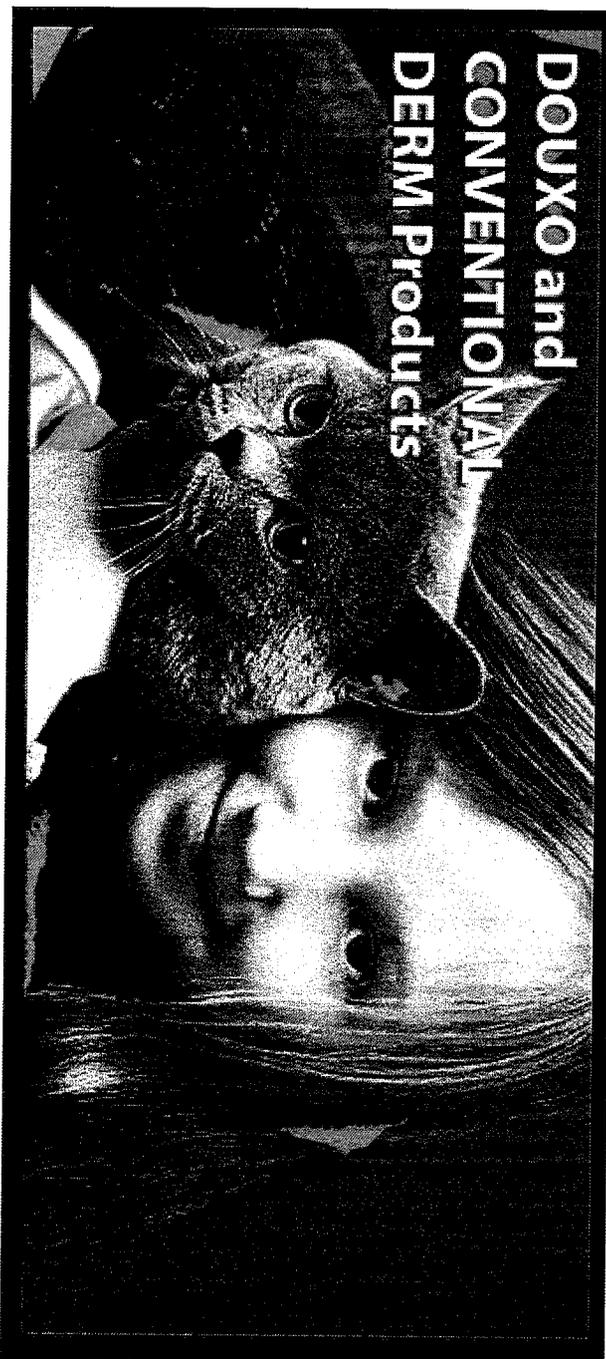
[Our Products](#)

[What's New](#)

[Career Opportunities](#)

[Resources](#)

[Contact Us](#)



 **Contact Us**

**SOGeval Laboratories, Inc.**

**Corporate Office**

5605 N. MacArthur Blvd., #740  
Irving, TX 75038

Fax: 972-956-8567

**SOGeval Laboratories, Inc.**

**Oldsmar Operations**

**Customer Service**

4027 Tampa Road, Suite 3000  
Oldsmar, FL 34677

Tel : 800.877.0177

## What's New?

Introducing TrICOX  
Wednesday, January 09, 2013



News

Fax : 866-398-7095



On January 1st, 2013, Sogeval launched TrICOX™, a supplement designed to support the joint function in dogs with osteoarthritis.

TrICOX™ offers a new approach to osteoarthritis with a patented ingredient named UC-II®. Recent research showed that autoimmune inflammatory attacks to the joint in response to exposed joint cartilage are a major perpetuating factor in osteoarthritis.

UC-II® is an immunomodulator that will specifically desensitize the organism to cartilage proteins, thus preventing further damage and pain. The efficacy of UC-II is backed-up by clinical ground force plate studies in dogs and horses.

For a more global approach, TrICOX™ also contains encapsulated boswellia extract (anti COX-2), astaxanthine (antioxidant 800 more potent than vitamin C), bromelain (anti-oedematous), glucosamine, MSM and creatine.

TRICOX™ is available in TRP Soft Chew form in tubs of 60ct and 120ct.

Copyright © 2011 - Sogeval Shared Solutions - All Rights Reserved

Questions? 1 (800) 889-8967

Live Chat

My Account

Order Tracking

Help Center

Shipping

Auto Reship



Flat-Rate only \$4.95  
**FREE SHIPPING** over \$85!

SHOP BY CATEGORY

SHOP BY BRAND

DOG SUPPLIES

CAT SUPPLIES

HOT DEALS

SHOPPING CART

**Flea and Tick**

[K9 Advantix II Flea & Tick Control](#)

[Advantage II for Dogs](#)

[Advantage II for Cats](#)

[Frontline PLUS for Dogs](#)

[Frontline PLUS for Cats](#)

[Frontline Top Spot for Dogs](#)

[Capstar Flea Control](#)

[Pet Armor for Dogs & Cats](#)

[Fiproguard Flea & Tick](#)

[Program Flea Control for Cats](#)

[Seresto for Cats and Dogs](#)

[All Flea and Tick Supplies](#)

**Arthritis and Joint Supplements**

[Joint MAX Supplements](#)

[Cosequin DS](#)

[Glvco-Flex](#)

[Dasuquin Joint Supplement](#)

[Arthritis and Joint Supplements](#)

**Health and Nutrition**

[All Nutritional Supplements](#)

[Skin & Coat Supplements](#)

[Pet Vitamins](#)

[Nutraceuticals and](#)

[Homeopathics](#)

[Digestion and Elimination](#)

[Supplements](#)

[Over the Counter Pet](#)

[Medications](#)

**Pet Care Products**

[Pet Shampoos & Sprays](#)

[Ear & Eye Products](#)

[Dental Products](#)

[Topicals](#)

[Stress/Anxiety Control/Behavior](#)

[The Arthritis Store](#)

[Vaccines](#)

[Deworming Products - Dog](#)

[Dewormer & Cat Dewormer](#)

**Pet Supplies**

[All Pet Supplies](#)

[New Pet Products](#)

[Dog Toys](#)

[Cat Toys](#)

[Pet Feeding Supplies](#)

[Pet Grooming Supplies](#)

[Pet Boutique](#)

[Collars and Leashes](#)

**Pet Food & Treats**

[Pet Food](#)

[Dog Treats](#)

[Cat Treats](#)

[All Treats for Dogs & Cats](#)

**Shop by Pet Type**

[Dog Supplies](#)

[Cat Supplies](#)

[Horse Products](#)

[Aquarium and Fish Supplies](#)

[Bird Products](#)

[Reptile Store](#)

[Small Pet Products](#)

**Pet Portability**

[Kennels for Dogs & Cats](#)

[Pet Carry Bags](#)

[Pet Carriers](#)

[Dog Playpens](#)

[Pet Crates](#)

[Home > Shop by Pet Type > Dog Supplies > Pet Care Products for Dogs > The Arthritis Store for Dogs > Joint Care for Dogs > TriCOX Soft Chews by](#)

[Sogeval >](#)

[Home > Dog Supplements - Nutritional supplements for dogs > Joint Care for Dogs > TriCOX Soft Chews by Sogeval >](#)

**TriCOX Soft Chews (60 chews)**



Item # 046404  
 Item Rating: ★★★★★  
 Be the first to write a review  
 Regular price: ~~\$49.99~~  
 Sale price: \$39.99 (You Save 20%)  
 Auto Reship One-Time Order [Details](#)  
 Enter Quantity:   
 Total Price: \$39.99 **FREE SHIPPING** on orders over \$85

**RELATED ITEMS**

[Add To Shopping Cart](#)

[Add to My Favorites](#)

[Send To A Friend](#)



Description Usage Info Customer Reviews Ingredients

**TriCOX Soft Chews** are a complete joint support supplement for dogs. Tricox features a unique blend of ingredients, including UC-II, astraxanthin, glucosamine, MSM and creatine. These soft chews are highly palatable, using TRP technology and an irresistible liver flavor.



Recent findings have shown that the primary occurrence and progression of osteoarthritis in dogs is an abnormal response of the immune system to exposed cartilage proteins. TriCOX helps combat this by desensitizing the immune system and preventing pro-inflammatory immune attacks on joints through a patented form of undentured collagen called UC-II.

In recent scientifically objective GFP and clinical studies, UC-II was shown to:

- Decrease lameness by 78%
- Decrease overall pain by 62%
- Decrease painful limb movement by 91%
- Increase peak force by 18%
- Increase impulse area by 44%

Boswellia extract further assists in maintaining normal inflammatory response. TriCOX also contains Astaxanthin, which is a powerful antioxidant that has been proven to be 6,000 times more potent than vitamin C. TriCOX's comprehensive joint support includes the cartilage building blocks glucosamine and MSM, and muscle support with creatine.



TriCOX is formulated using the TRP Soft Chew technology, giving the product unparalleled softness and palatability. TriCOX is highly recommended for elderly dogs, active and working dogs, dogs with joint stiffness and discomfort, or dogs that may have difficulty rising, jumping or taking stairs.

**Related items**

--	--	--	--	--





Category      Manufacturer            GO      [Advanced Search](#)

No items in cart.

[Login](#)  
Not Registered?

[Dogs](#)   [Cats](#)   [Horses/Cattle](#)   [Small Pets](#)   [Fish / Bird](#)   [Syringes & Needles](#)   [Vaccines](#)   [Human Health](#)

| Allergy & Itching Relief | Anti-Fungal & Ringworm | Antioxidants / Anti-Catabolics | Anxiety Relief | Bandages | Behavior Aids for Dogs | **Bone & Joint Care** | Bone/Joint Care - Cosequin | Bone/Joint Care - Dasuquin | Dental Care | Digestion & Elimination | Ear & Skin Care | Eye Care | Fluid Therapy | Grooming | Healthcare Supplies | Homeopathic Remedies | Immune System | Nutritional Supplements | Omega Fatty Acids | Reproduction & Infant Healthcare | Sanitation, Odor and Stain Control | Shampoos, Coat Conditioners & Rinses | Skin & Coat Supplements | Toys for Dogs | Urinary | Treats for Dogs/Cats | Weight Control | Dewormers | Wound Care |

▶ **TriCOX Soft Chews Joint Support For Dogs, 60 Count**



[Enlarge](#)

**Order**

Sale Price: \$15.98

Item Total: \$15.98

Qty:  [Buy](#)

[SHARE](#) [f](#) [t](#) [e](#)

**Product Description:**

**Joint Support For Dogs**

**Sogeval TriCOX Soft Chews** is a comprehensive joint support supplement for dogs that combines a unique blend of UC-II, boswellia extract, astraxanthin, glucosamine, MSM and creatine. TriCOX Soft Chews help maintain normal inflammatory and immune response in the canine joint. TriCOX also provides the cartilage building blocks, antioxidants and muscle support necessary for proper joint and limb function.

TRP Soft Chew Technology makes the TriCOX Soft Chews highly palatable.

**UC-II [ Undenatured Type II Collagen]**

The occurrence and progression of osteoarthritis has been linked to an abnormal response of the immune system to exposed cartilage proteins. TriCOX desensitizes the immune system to these proteins and prevents pro-inflammatory immune attacks on joints through UC-II [a patented form of undentured collagen].

**Directions For Use:**

- 5 to 15 lbs 1/2 chew every other day
- 16 to 30 lbs 1/2 chew daily
- 31 to 50 lbs 1 chew per day
- 51 to 100 lbs 2 chews per day
- Over 100 lbs 3 chews per day

Dosage should be doubled during the initial period of 4 to 6 weeks.

**Active Ingredients: per 1 Soft Chews**

Glucosamine HCL 99+% .....	500 mg
MSM [Methylsulfonylmethane] 99% .....	500 mg
Creatine Monohydrate .....	250 mg
Bromelain.....	75 mg
Bosswelia Serrata Extract .....	20 mg
UC-II .....	10 mg
Eicosapentaenoic Acid [EPA] .....	9 mg
Docosahexaenoic Acid [DHA] .....	6 mg
Astaxanthinl .....	3 mg

**Inactive Ingredients:**

Black Malt Extract, Caramel Color, Carob Powder, Citric Acid, Dry Brewer's Yeast, Dry Poultry Liver Digest, Dried Chicken Liver, Fish Oil, Gluconolactone, Glycerin, Hydrolyzed Wheat Protein, Maltodextrine, Mixed Tocopherols (preservative), Natural Flavor, Poultry Fat, Rosemary Extract, Papain, Sodium Metabiosul.te (preservative), Sorbic Acid (preservative), Soy Flour, Soy Lecithin, Stevia, Sweet Whey, Tapioca Starch, Wheat Flour, Wheat Starch.

**Caution:**

Safe use in pregnant animal or animals intended for breeding has not be proven. Consult with your veterinarian before using this product in animals with clotting disorders, being treated with anticoagulant medications; diabetes, or any other metabolic disorder causing hyperglycemia; history or urinary tract stones; known allergy to shell.Sh. If lameness worsens, discontinue use and contact your veterinarian. Administer during meal or after the animal has eaten to reduce incidence of gastrointestinal upset. An examination from a veterinarian is recommended prior to using this product.

Sizes Available: 60, 120 and 240-count Soft Chews

Store at room temperature.

Code: 18447  
Product: TriCOX Soft Chews Joint Support For Dogs, 60 Count  
Price: \$15.98

[\[Top\]](#)

**Products for People**



**Top Manufacturers**



[View All](#)

**Sign up for special offers:**



Petstruly.com is UpFront

