

TTAB

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

-----X
PHARMACIA CORPORATION, : **Opposition No. 120,749**
 :
Opposer, : **Serial No. 75/573,820**
 : **Filed: October 20, 1998**
 v. :
 :
FARMACIA CHEMISTS LIMITED, :
 :
Applicant. :
 -----X



06-11-2002

U.S. Patent & TMOs/TM Mail Rcpt Dt. #75

BOX TTAB NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

02 JUN 24 AM 9:28
TRADEMARK TRIAL AND
APPEAL BOARD

ANSWER TO FIRST AMENDED NOTICE OF OPPOSITION

Applicant, by its undersigned attorney of record, hereby answers the First Amended Notice of Opposition as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations pleaded in paragraphs Nos. 1, 3, 4, 5, 6, 7, 8, 9, 13, 15, 22 and 28 and, therefore, denies the same.
2. Admits the allegations contained in paragraph Nos. 2, 11, 12 and 25.
3. Denies each and every allegation in paragraph Nos. 10, 16, 17, 21, 24, 26 and 29.
4. Denies knowledge or information as to the truth of the allegations pleaded in paragraph No. 14, except admits the second and third sentences in such paragraph.
5. Admits that applicant's FARMACIA mark is the phonetic equivalent of PHARMACIA as pleaded in paragraph No. 19, but denies each and every other allegation contained in such paragraph.

GP

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first and third sentences of paragraph No. 20; admits the allegation contained in the second sentence of such paragraph.
7. Denies each and every other allegation contained in the First Amended Notice of Opposition.

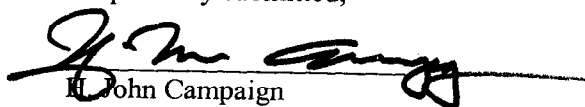
AFFIRMATIVE DEFENSES

1. For a first Affirmative Defense, the word "Pharmacia" in opposer's pleaded marks is highly suggestive *per se*, and merely descriptive when used as a component of opposer's other pleaded marks. Therefore, opposer's marks are weak and entitled, at best, to only a very narrow scope of protection.
2. For a second Affirmative Defense, the word "Pharmacia" in opposer's pleaded marks is incapable of acquiring distinctiveness and, therefore, cannot be diluted by applicant's mark.
3. For a third Affirmative Defense, the descriptive nature of the word "Pharmacia" is underscored by applicant's disclaimer of exclusive rights in the FARMACIA portion of its mark, FARMACIA URBAN HEALING and Design, and, in fact, PHARMACIA is more descriptive than FARMACIA in the English language. The word "Pharmacia" is the phonetic equivalent of "Farmacia" which is the Spanish word for "Pharmacy". Accordingly, no one should have exclusive rights in either spelling of the word.

WHEREFORE, it is submitted that the First Amended Notice of Opposition should be dismissed and applicant's mark allowed to registration.

Respectfully submitted,

Dated: June 7, 2002



John Campaign
GRAHAM, CAMPAIGN P.C.
36 West 44th Street
New York, New York 10036-8178

(212) 354-5650
Attorneys for Farmacia Chemists Limited

CERTIFICATE OF MAILING

I hereby certify that the foregoing ANSWER TO FIRST AMENDED NOTICE OF OPPOSITION in Opposition No. 120,749 is being deposited with the U.S. Postal Service as first class mail, postage prepaid, in an envelope addressed to : BOX TTAB NO FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, this 7th day of June, 2002.

Dated: June 7, 2002

By 

CERTIFICATE OF SERVICE

I hereby certify that the foregoing ANSWER TO FIRST AMENDED NOTICE OF OPPOSITION in Opposition No. 120,749 was served by first-class mail, postage prepaid, this 7th day of June, 2002 upon Opposer's attorneys of record.

Erin M. Falk, Esq.
Linda K. McLeod, Esq.
George Pologeorgis, Esq.
HOWREY SIMON ARNOLD & WHITE, LLP
1299 Pennsylvania Avenue., N.W.
Washington, D.C. 20004
(202) 783-0800

Dated: June 7, 2002

By 