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

Opposition No. 151,693  
Application Serial No. 78/069,088  
Published: January 8, 2002

Pharmacia Corporation and  
Pharmacia & Upjohn Caribe, Inc.

Opposers,

v.  
Stratus Pharmaceuticals, Inc.

Applicant.



07-22-2002  
U.S. Patent & TMO/TTAB Mail Room #70

TRADEMARK TRIAL AND  
APPEAL BOARD  
JUL 25 AM 8:33

BOX TTAB/FEE  
Commission for Trademarks  
2900 Crystal Drive  
Arlington, Va. 22202-3513

**APPLICANT'S RESPONSE TO OPPOSERS'  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

The Applicant, Stratus Pharmaceuticals, Inc. by and through undersigned counsel, files this Response to the Opposers' First Request for Production of Documents, as follows:

1. Applicant objects to the request #1 as being overbroad and seeking privileged, proprietary information. Moreover, the Application contains relevant information on the "first and early uses of the mark 'ZIOX' in connection with the products and services of Applicant."

2. Applicant is unable to comprehend Request #2 and therefore objects to same. Applicant has no idea what is meant by "documents and things which reflect, refer to, relate to, evidence or concern the consumer understanding, acceptance of, or reaction to, the trademark availability of, or the protectability of" the Applicant's and the Opposers' mark. To the extent this jumble of words seeks to obtain marketing studies done by the Applicant, the documents requested are proprietary, privileged and irrelevant. To the extent that

the documents requested seek to obtain comparative market studies or consumer reactions to the Opposers' mark, there are no documents in regards thereto.

3. As its answer to Request #3, the Applicant submits that the dates of its first use are contained in the Application. .

4. As its answer to Request #4, Applicant submits attachment A as being a typical advertisement using the trademark "Ziox."

5. As its answer to Request #5, Applicant refers to Exhibit A to the Answer.

6. As its answer to Request #6, Applicant submits that it seeks thought processes of the Applicant, which are not susceptible to documenting as envisioned by the Request and – if they were – would be privileged and proprietary.

7. As its answer to Request #7, Applicant refers the Opposers to the answer to Request #5 above and attachment A hereto.

8. See answer to Request #3.

9. See answers to Requests #3 and 8.

10. As its answer to Request #10, the Applicant states that the use of the mark in question has never been interrupted.

11. See answer to Request #10.

12. See answer to Request #10 through 12.

13. There are no documents responsive to Request #13.

14. There are no documents responsive to Request # 14.

15. Other than the instant application, there are no documents responsive to Request #15.

16. The documents requested by Request #16 are non-existent and would be privileged and proprietary if they existed.

17. See response to Request #4.

18. Applicant objects to Request #18 as seeking information that is privileged and proprietary.

19. Applicant objects to Request #19 as seeking information that is privileged and proprietary.

20. See response to Request #4 and attachment A hereto.

21. See response to Requests # 5 and 7.

22. Applicant objects to Request #22 as seeking information that is irrelevant, overbroad, and seeks privileged and proprietary information.

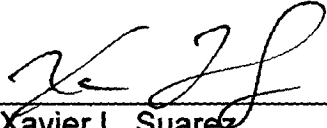
23. Applicant understands Request #23 as eliciting information that is available in the file of the instant case.

24. There are no documents responsive to Request #24.

25. The documents requested in Request #25 are not sufficiently identified to answer at this time.

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Answer was sent via U.S. mail on this the 18<sup>th</sup> day of July, 2002, to J. Paul Williamson of Howrey, Simon, Arnold and White, LLP. 1299 Pennsylvania Avenue, N.W. Washington, D.C. 20004, attorneys for Pharmacia Corporation.



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ATACIA MED A

Ziox Ointment

NEW



ZIOX ZIOX ZIOX NET WEIGHT: 3.5 GM

ZIOX OINTMENT RX

Available in:  
30 gm Tube  
3.5 gm Packetic

UNIT DOSE Rx Only

ZIOX Ointment

Contains active ingredients as Pseudo

Papain-Urea-Chlorophyllin Copper Complex Sodium Debriding Healing Ointment

Papain is a trademark of Hekapharm Ltd.

FOR TREATMENT OF...  
DESCRIPTION: Chlorophyllin Copper Complex Sodium Rx only...  
INDICATIONS AND USES: ZIOX Ointment is suggested for treatment of acute and chronic lesions such as wetness, edema and decubitus ulcers...  
CONTRAINDICATIONS: None known.