

TTAB

02-13-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #47

Docket No. 24224.63

TRADEMARK PROCLIR
Serial No. 76/391,275

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

In The Matter of Application Serial No. 76/391,275
Filed April 1, 2002
For Trademark PROCLIR
Published in the Official Gazette of October 22, 2002

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AVENTIS PHARMA HOLDING GmbH, :

Opposer, :

Opposition No.

v. :

NOTICE OF OPPOSITION

JOHNSON & JOHNSON, :

Applicant. :

----- X

Opposer, AVENTIS PHARMA HOLDING GmbH, a German corporation, having a place of business at Frankfurt Am Main, Frankfurt, Germany, believes that it would be damaged by registration of the mark PROCLIR for "pharmaceuticals, namely, allergy relief and antihistamine medications" in International Class 5 shown in application Serial No. 76/391275 and hereby opposes the same.

02/26/2003 EPINA1 00000001 76391275

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I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202 on

2/13/03 CATAP R. Middleton
(Date of Deposit) (Typed or printed name of person mailing paper or fee)

[Signature]
(Signature)

As grounds for opposition it is alleged that:

1. For many years, Opposer, its affiliates, and their predecessors have engaged in the marketing of pharmaceutical preparations throughout the United States.
2. Opposer is the owner of the following federal trademark application, as well as the goodwill attached to the mark PROCLIK.

| Mark | Appl. No. | Appl. Date | Goods |
|---------|-----------|------------|--|
| PROCLIK | 78/094258 | 11/20/2001 | insulin preparations; medical devices and apparatus, namely pens for insulin |

3. On April 1, 2002, Applicant filed an intent-to-use application in the United States Patent and Trademark Office, Serial No. 76/391275, for registration on the Principal Register of Applicant's PROCLIR mark for " pharmaceuticals, namely, allergy relief and antihistamine medications."

4. Prior to April 1, 2002 Opposer had filed its application for the mark PROCLIK, which remains pending.

5. Upon information and belief, Applicant made no use in commerce of Applicant's PROCLIR mark on or in connection with the applied-for goods prior to April 1, 2002.

6. Applicant's PROCLIR mark contains the same letters "PROCLI" in the same order as Opposer's PROCLIK mark. The marks only vary by one letter. In addition, the letters "R" and "K", which comprise the last letters of the PROCLIR and PROCLIK marks, look similar and could easily be confused, especially in the filling of a prescription. Accordingly, the marks PROCLIR and PROCLIK are similar in sight and sound and in overall impression.

7. Applicant's PROCLIR mark so resembles Opposer's PROCLIK mark as to be likely, when applied to Applicant's goods, to cause confusion, or to cause mistake, or to deceive because the consuming public is likely to believe that Applicant's goods have their origin with Opposer, and/or that such goods are approved, endorsed or sponsored by Opposer or are associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate or registration for Applicant's mark.

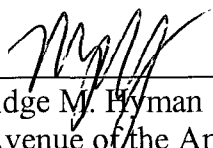
8. Opposer would be injured by the granting of such registration because it would damage Opposer's valuable goodwill and reputation for excellence and high quality in Opposer's PROCLIK mark.

Dated: New York, New York
February 13, 2003

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

By: _____


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February 13, 2003

VIA EXPRESS MAIL EL331384286US

Assistant Commissioner for Trademarks
BOX TTAB FEE
2900 Crystal Drive
Arlington, VA 22202-3513

Attention: Trademark Trial and Appeal Board

Re: Aventis Pharma Holding GmbH
Notice of Opposition Against PROCLIR
Attorney Ref. No. 24224.63

02 FEB 28 PM 9:50

Dear Sir:

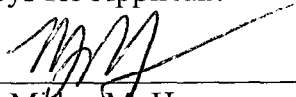
We enclose an original and duplicate copy of a Notice of Opposition against application Serial Number 76/391,275, published in the Official Gazette of October 22, 2002. We also enclose a check to cover filing fees.

If the enclosed check is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Kindly confirm receipt of this opposition by returning the attached postcard and address all future correspondence to the undersigned.

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Applicant

By 
Midge M. Hyman

Enclosures