

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Applicant : SRZ Properties, Inc.
 Trademark : ZYFLUX
 Serial No. : 78-235,223
 Filed : April 8, 2003
 Published : July 6, 2004
 Goods : Pharmaceutical preparations utilized
 for the treatment of gastrointestinal
 disorders, including heartburn and
 acid reflux

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PFIZER CARIBE LIMITED (formerly :
 PHARMACIA & UPJOHN :
 CARIBE INC.) and PFIZER INC., :
 Opposers, : Opposition No.

v. :

SRZ PROPERTIES, INC., :

01/07/2005 KGIBBONS 00000046 78235223 Applicant. :

01 FC:6402 600.00 DP
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NOTICE OF OPPOSITION

1. Opposer, Pfizer Caribe Limited (formerly Pharmacia & Upjohn Caribe Inc.), is a Guernsey corporation whose address is Coutts House Le Truchot, St. Peter Port, Guernsey, GY1 1WD, Guernsey.

2. Opposer, Pfizer Inc., is a Delaware corporation whose address is 150 East 42nd Street, New York, New York 10017. Opposers are related companies and are referred to herein collectively as Pfizer.

3. Upon information and belief, applicant, SRZ Properties, Inc., is a Delaware corporation having a place of business at 6140 West Executive Drive, Mequon, Wisconsin 53092.

4. Pfizer is the owner of application Serial No. 75-603,337, filed December 10, 1998, to register the trademark ZYVOX for a pharmaceutical preparation, namely, an antibiotic.

5. On April 17, 2000, Pfizer began to sell ZYVOX antibiotics commercially in the United States.

6. Upon information and belief, on April 8, 2003, applicant filed an intent-to-use application Serial No. 78-235,223 to register ZYFLUX as a trademark for pharmaceutical preparations utilized for the treatment of gastrointestinal disorders, including heartburn and acid reflux. This application was published for opposition in the Patent and Trademark Office Official Gazette of July 6, 2004, and extensions of time to oppose have been sought and approved up to and including January 2, 2005.

7. Upon information and belief, applicant made no use of the designation ZYFLUX in connection with any of the goods covered by application Serial No. 78-235,223 prior or subsequent to April 8, 2003, the filing date of applicant's application to register that mark.

8. Applicant's ZYFLUX mark so resembles Pfizer's trademark ZYVOX as to be likely, when applied to applicant's goods, to cause confusion or mistake or to deceive persons by creating the erroneous impression that applicant's goods originate with or come from Pfizer or from the same source as Pfizer's ZYVOX goods, or that applicant's goods are authorized by Pfizer or are endorsed by Pfizer or are sponsored by Pfizer or are connected in some way with Pfizer or its ZYVOX products.

9. Applicant's adoption of the designation ZYFLUX is without Pfizer's license, authorization or permission.

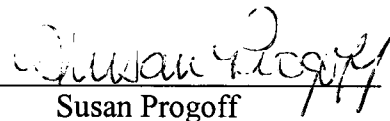
10. The granting of a trademark registration of ZYFLUX to applicant would be contrary to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and would violate or diminish the prior and superior rights of Pfizer in its trademark ZYVOX.

11. Pfizer will be damaged if application Serial No. 78-235,223 should be granted because applicant will obtain statutory rights in the designation ZYFLUX in violation and derogation of the established prior rights of Pfizer.

WHEREFORE, Pfizer prays that its opposition be sustained, that application Serial No. 78-235,223 be rejected and that registration of ZYFLUX as a trademark of applicant be refused and denied.

Respectfully submitted,

FISH & NEAVE LLP

By 
Susan Progoff

Dated: December 31, 2004

1251 Avenue of the Americas
New York, New York 10020
Tel.: (212) 596-9000

Attorneys for Opposers,
Pfizer Caribe Limited and Pfizer Inc.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Commissioner for Trademarks,
P.O. Box 1451
Alexandria, VA 22313-1451 on the date which appears below:


Name

31 December 2004
Date of Signature and Deposit

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P.O. Box 1451
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December 31, 2004

Re: Pfizer Caribe Limited (formerly Pharmacia
& Upjohn Caribe Inc.) and Pfizer Inc. v. SRZ Properties, Inc.

Dear Sir:

Enclosed is a Notice of Opposition of Pfizer Caribe Limited (formerly Pharmacia & Upjohn Caribe Inc.) and Pfizer Inc. against SRZ Property, Inc.'s application to register ZYFLUX, Serial No. 78/235,223 published in the Official Gazette of July 6, 2004. Also enclosed is a check in the amount of \$600 to cover the fee for this matter.

If the check is missing or insufficient, please charge the Fish & Neave Deposit Account No. 06-1075.

Kindly institute this opposition.

Kindly acknowledge receipt of the above items by stamping and returning the enclosed self-addressed postcard.

Sincerely yours,


Susan Progoff

SP:iac
Enclosures



01-05-2005

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #74