

ESTTA Tracking number: **ESTTA91762**

Filing date: **07/26/2006**

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	EPIC Pharmacies, Inc.
Granted to Date of previous extension	07/26/2006
Address	50 Scott Adam Road, Suite 100 Cockeysville, MD 21030 UNITED STATES

Attorney information	Ann K. Ford, Esq. DLA PIPER RUDNICK GRAY CARY US LLP 1200 Nineteenth Street, NW Washington, DC 20036-2412 UNITED STATES dctrademarks@dlapiper.com, ann.ford@dlapiper.com, thomas.zutic@dlapiper.com, ryan.compton@dlapiper.com Phone:202.861.3900
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Applicant Information

Application No	78563053	Publication date	03/28/2006
Opposition Filing Date	07/26/2006	Opposition Period Ends	07/26/2006
Applicant	Epic Network International, LLC 4168 N. Pecos Road, Ste. 101 Las Vegas, NV 89115 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2004/05/05 First Use In Commerce: 2004/06/25 All goods and services in the class are opposed, namely: Multi-level marketing business services; wholesale and retail distributorships featuring dietary and nutritional supplements, herbal vitamin supplements, and herbal mineral supplements; wholesale ordering services in the field of dietary and nutritional supplements, herbal vitamin supplements, and herbal mineral supplements
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Attachments	Notice of Opposition for EPIC NETWORK INTERNATIONAL 78563053.pdf (21 pages)(63746 bytes)
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Signature	/Ann K. Ford/
Name	Ann K. Ford, Esq.
Date	07/26/2006

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

In the matter of Trademark
Application Serial No. 78/563,053
Filing Date: February 8, 2005
Mark: EPIC NETWORK INTERNATIONAL
Published for Opposition: March 28, 2006

Epic Pharmacies, Inc.,)	
)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Epic Network International, LLC)	
)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer Epic Pharmacies, Inc. (“Opposer”), a Maryland corporation with a principal place of business at 50 Scott Adam Road, Suite 100, Cockeysville, Maryland 21030 believes that it is or will be damaged by U.S. Application Serial No. 78/563,053 (the “Application”) filed by Epic Network International, LLC (“Applicant”) for the trademark EPIC NETWORK INTERNATIONAL. The Application seeks federal registration of EPIC NETWORK INTERNATIONAL in connection with “[m]ulti-level marketing business services; wholesale and retail distributorships featuring dietary and nutritional supplements, herbal vitamin supplements, and herbal mineral supplements; wholesale ordering services in the field of dietary and nutritional supplements, herbal vitamin supplements, and herbal mineral supplements” (“Applicant’s Services”).

Opposer hereby opposes the Application. As grounds for this Opposition, Opposer hereby incorporates the above and further alleges:

(1) Opposer is the owner of, among others, the EPIC RX and EPIC PREFERRED marks (the “Epic Marks”) and incontestable U.S. Federal Trademark Registrations Nos. 2,085,635, 2,117,439, 2,229,835, 2,085,636 and Application Serial No. 78/815,022 therefor, used by it, and/or its affiliates or licensees (collectively, “Opposer”) in connection with Opposer’s well-known pharmacy-related services, since at least as early as June 15, 1989. Opposer is recognized as one of the premier pharmacy purchasing cooperatives in the United States, and Opposer has used its Epic Marks extensively, expending significant sums in advertising and promoting its Epic Marks, which enjoy widespread consumer and industry recognition and embody significant goodwill.

True and correct printouts from the United States Patent and Trademark Office (“USPTO”) official website of these registrations are attached hereto in Attachment A and hereby made a part of this record. The aforesaid registrations are valid and subsisting, unrevoked and uncanceled, and Opposer is the owner of the aforesaid registrations and all of the goodwill associated therewith.

(2) Since its initial use of the Epic Marks, Opposer has extensively used the Epic Marks and has advertised, promoted and offered its services under the Epic Marks in interstate commerce, through various channels of trade. As a result, Opposer’s customers, potential customers, and the public in general have come to know and recognize the Epic Marks as identifying Opposer’s services of highest quality offered by Opposer, and associate the Epic Marks with Opposer’s services. Opposer has thus built up extensive and invaluable goodwill in connection with the offer of Opposer’s services offered under the Epic Marks.

(3) Notwithstanding Opposer's prior rights in and to the Epic Marks, on February 8, 2005, Applicant filed an application for registration of the trademark EPIC NETWORK INTERNATIONAL for the services listed above. Applicant's Application indicates a date of first use of the EPIC NETWORK INTERNATIONAL mark in connection with Applicant's Services of May 5, 2004; therefore, there is no issue as to priority — Opposer has prior rights. The Application was assigned Serial No. 78/563,053.

(4) Applicant's EPIC NETWORK INTERNATIONAL trademark, as shown in the Application, is confusingly similar to the Epic Marks, and the respective services of the parties are substantially similar and/or related and would normally be marketed within the same or similar channels of trade, with the result that Opposer's customers, potential customers, the trade and the public in general are likely to be confused, mistaken or deceived as to the origin and/or sponsorship of Applicant's services under its EPIC NETWORK INTERNATIONAL mark, and misled into believing that such services are marketed by, or are in some way directly or indirectly associated with Opposer and/or Opposer's services, thus resulting in damage and detriment to Opposer and its reputation and goodwill.

(5) The federal registration of the Epic Marks provided, at the very least, constructive notice to Applicant of Opposer's rights in the Epic Marks.

(6) If Applicant's mark is registered, Applicant will obtain a prima facie exclusive right to use the mark and Opposer would thereby be subjected to great and irreparable damage, and Applicant will enjoy unlawful gain, and advantage to which it is not entitled under the Trademark Act of 1946.

WHEREFORE, this Opposer believes and avers that it is being, and will continue to be, damaged by registration of the EPIC NETWORK INTERNATIONAL mark, and prays that said

Application Serial No. 78/563,053 be rejected, that no registration be issued thereon to Applicant, and that the Opposition be sustained in favor of Opposer.

Opposer hereby appoints Ann K. Ford, Esq., a member of the Bar of the District of Columbia, Lisa R. Trovato, Esq., a member of the Bar of the District of Columbia, Emily C. Sexton, Esq., a member of the Bar of the District of Columbia, Thomas E. Zutic, Esq., a member of the Bar of the District of Columbia, Ryan C. Compton, Esq., a member of the Bar of the District of Columbia and all of the law firm of DLA Piper Rudnick Gray Cary US LLP, 1200 19th Street N.W., Washington, D.C. 20036-2412, telephone number (202) 861-3900, to transact all business in the Patent and Trademark Office in connection with this Opposition proceeding and hereby revokes all previous powers of attorney herein.

Please address all correspondence to:

Ann K. Ford, Esq.
DLA Piper Rudnick Gray Cary US LLP
1200 Nineteenth Street N.W.
Washington, DC 20036-2412

Should the amount of the filing fee submitted herewith be insufficient, please charge our deposit account No. 501150.

EPIC PHARMACIES, INC.

By: /Ann K. Ford/
Ann K. Ford
Thomas E. Zutic
Ryan C. Compton
DLA Piper Rudnick Gray Cary US LLP
1200 Nineteenth Street N.W.
Washington, DC 20036-2412

(202) 861-3900

Attorneys for Opposer

Dated: July 26, 2006

File Dkt. No. 23824.5

Attachment A

Thank you for your request. Here are the latest results from the TARR web server.
This page was generated by the TARR system on 2006-07-26 17:06:08 ET

Serial Number: 75101439 Assignment Information

Registration Number: 2085635

Mark



(words only): EPIC RX

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2003-08-21

Filing Date: 1996-05-09

Transformed into a National Application: No

Registration Date: 1997-08-05

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-08-25

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. EPIC PHARMACIES, INC.

Address:

EPIC PHARMACIES, INC.

3338 PAPER MILL ROAD

PHOENIX, MD 21131

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Maryland

GOODS AND/OR SERVICES

International Class: 035

Class Status: Active

negotiating buying programs for retail pharmacies to purchase drugs, health and beauty aids, and sundries from manufacturers and wholesalers, and operating advertising and promotional programs for such pharmacies, namely, developing promotional campaigns, direct mail, television and newspaper advertising, disseminating advertising and promotional matter, and promoting the sale of goods and services and the good will of such pharmacies through distribution of printed materials, promotional contests, public service events, and charitable and community outreach programs

Basis: 1(a)

First Use Date: 1989-06-15

First Use in Commerce Date: 1989-06-15

ADDITIONAL INFORMATION

Disclaimer: "RX"

Lining and Stippling: The drawing is lined for the colors pantone 334U (a shade of green) and process magenta (a shade of pink).

Design Search Code(s):

24.17.17 - Prescription symbol (Rx)

26.11.20 - Rectangles inside one another

26.11.21 - Rectangles that are completely or partially shaded

26.11.25 - Rectangles with one or more curved sides

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-08-21 - Section 8 (6-year) accepted & Section 15 acknowledged

2003-04-09 - Section 8 (6-year) and Section 15 Filed

2003-04-09 - PAPER RECEIVED

1998-02-20 - Section 7 correction issued

1998-01-13 - Response received for Post Registration action

1997-10-08 - Post Registration action mailed - Section 7

1997-09-04 - Request for new certificate filed

1997-08-05 - Registered - Principal Register

1997-05-13 - Published for opposition

1997-04-11 - Notice of publication

1997-03-03 - Approved for Pub - Principal Register (Initial exam)

1997-01-31 - Communication received from applicant

1996-09-09 - Non-final action mailed

1996-09-03 - Assigned To Examiner

CORRESPONDENCE INFORMATION

Correspondent

ANN K. FORD (Attorney of record)

ANN K. FORD

PIPER RUDNICK, LLP

1200 19TH ST NW

WASHINGTON DC 20036-2412

Thank you for your request. Here are the latest results from the TARR web server.
This page was generated by the TARR system on 2006-07-26 17:06:23 ET

Serial Number: 75101440 Assignment Information

Registration Number: 2117439

Mark



(words only): EPIC RX

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2003-07-09

Filing Date: 1996-05-09

Transformed into a National Application: No

Registration Date: 1997-12-02

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-07-11

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. EPIC PHARMACIES, INC.

Address:

EPIC PHARMACIES, INC.

3338 PAPER MILL ROAD

PHOENIX, MD 21131

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Maryland

GOODS AND/OR SERVICES

International Class: 035

Class Status: Active

negotiating contracts for retail pharmacies to provide prescription drug dispensing services and pharmaceutical care services to subscribers of managed health care plans offered by third party payors, namely, health maintenance organizations, employers, union and insurers, and pharmacy benefit management governing the provision of such services

Basis: 1(a)

First Use Date: 1989-06-15

First Use in Commerce Date: 1989-06-15

International Class: 042

Class Status: Active

retail pharmacies, namely, pharmaceutical care services and prescription drug dispensing services to subscribers of managed health care plans offered by third party payors under negotiated contracts

Basis: 1(a)

First Use Date: 1991-10-00

First Use in Commerce Date: 1991-10-00

ADDITIONAL INFORMATION

Disclaimer: "RX"

Design Search Code(s):

24.17.17 - Prescription symbol (Rx)

26.11.02 - Plain single line rectangles; Rectangles (single line)

26.11.25 - Rectangles with one or more curved sides

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-07-09 - Section 8 (6-year) accepted & Section 15 acknowledged

2003-04-09 - Section 8 (6-year) and Section 15 Filed

2003-04-09 - PAPER RECEIVED

1998-05-22 - Section 7 correction issued

1998-01-13 - Request for new certificate filed

1997-12-02 - Registered - Principal Register

1997-09-09 - Published for opposition

1997-08-08 - Notice of publication

1997-06-30 - Approved for Pub - Principal Register (Initial exam)

1997-06-16 - Communication received from applicant

1997-03-20 - Non-final action mailed

1997-01-31 - Communication received from applicant

1996-11-12 - Non-final action mailed

1996-09-03 - Assigned To Examiner

CORRESPONDENCE INFORMATION

Correspondent

THOMAS E. ZUTIC (Attorney of record)

THOMAS E. ZUTIC
PIPER RUDNICK LLP
1200 19TH ST NW STE 700
WASHINGTON DC 20036-2412

Thank you for your request. Here are the latest results from the TARR web server.
This page was generated by the TARR system on 2006-07-26 17:06:33 ET

Serial Number: 75101441 Assignment Information

Registration Number: 2229835

Mark (words only): EPIC RX

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2005-03-29

Filing Date: 1996-05-09

Transformed into a National Application: No

Registration Date: 1999-03-09

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 834 -Post Registration

Date In Location: 2005-03-29

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. EPIC PHARMACIES, INC.

Address:

EPIC PHARMACIES, INC.
50 SCOTT ADAM RD. STE 100
COCKEYSVILLE, MD 21030

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Maryland

GOODS AND/OR SERVICES

International Class: 035

Class Status: Active

negotiating contracts for retail pharmacies to provide prescription drug dispensing services and pharmaceutical care services to subscribers of managed health care plans offered by third party payors, namely, health maintenance organizations, employers, union and insurers, and pharmacy benefit management governing the provision of such services

Basis: 1(a)

First Use Date: 1989-06-15

First Use in Commerce Date: 1989-06-15

International Class: 042

Class Status: Active

retail pharmacies, namely, pharmaceutical care services and prescription drug dispensing services to subscribers of managed care health plans offered by third party payors under negotiated contracts

Basis: 1(a)

First Use Date: 1991-10-00

First Use in Commerce Date: 1991-10-00

ADDITIONAL INFORMATION

Disclaimer: "RX"

Lining and Stippling: The drawing is lined for the colors pentane 334U (green) and process magenta (pink).

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-03-29 - Section 8 (6-year) accepted & Section 15 acknowledged

2005-02-25 - Section 8 (6-year) and Section 15 Filed

2005-02-25 - PAPER RECEIVED

1999-03-09 - Registered - Principal Register

1998-06-30 - Extension Of Time To Oppose Received

1998-06-02 - Published for opposition
1998-05-01 - Notice of publication
1998-03-30 - Approved for Pub - Principal Register (Initial exam)
1998-03-09 - Communication received from applicant
1997-06-16 - Communication received from applicant
1997-04-03 - Non-final action mailed
1997-01-03 - Communication received from applicant
1996-09-09 - Non-final action mailed
1996-09-03 - Assigned To Examiner

CORRESPONDENCE INFORMATION

Correspondent
ANN K FORD
DLA PIPER RUDNICK GRAY CARY US LLP
1200 19TH ST., NW
WASHINGTON DC 20036-2412

Thank you for your request. Here are the latest results from the TARR web server.
This page was generated by the TARR system on 2006-07-26 17:06:45 ET

Serial Number: 75101442 Assignment Information

Registration Number: 2085636

Mark



(words only): EPIC RX

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2003-08-21

Filing Date: 1996-05-09

Transformed into a National Application: No

Registration Date: 1997-08-05

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-08-25

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. EPIC PHARMACIES, INC.

Address:

EPIC PHARMACIES, INC.

3338 PAPER MILL ROAD

PHOENIX, MD 21131

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Maryland

GOODS AND/OR SERVICES

International Class: 035

Class Status: Active

negotiating buying programs for retail pharmacies to purchase drugs, health and beauty aids, and sundries from manufacturers and wholesalers, and operating advertising and promotional programs for such pharmacies, namely, developing promotional campaigns, direct mail, television and newspaper advertising, disseminating advertising and promotional matter, and promoting the sale of goods and services and the good will of such pharmacies through distribution of printed materials, promotional contests, public service events, and charitable and community outreach programs

Basis: 1(a)

First Use Date: 1989-06-15

First Use in Commerce Date: 1989-06-15

ADDITIONAL INFORMATION

Disclaimer: "RX"

Design Search Code(s):

24.17.17 - Prescription symbol (Rx)

26.11.02 - Plain single line rectangles; Rectangles (single line)

26.11.25 - Rectangles with one or more curved sides

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-08-21 - Section 8 (6-year) accepted & Section 15 acknowledged

2003-04-09 - Section 8 (6-year) and Section 15 Filed

2003-04-09 - PAPER RECEIVED
1998-02-20 - Section 7 correction issued
1998-01-13 - Response received for Post Registration action
1997-10-08 - Post Registration action mailed - Section 7
1997-09-04 - Request for new certificate filed
1997-08-05 - Registered - Principal Register
1997-05-13 - Published for opposition
1997-04-11 - Notice of publication
1997-03-03 - Approved for Pub - Principal Register (Initial exam)
1997-01-31 - Communication received from applicant
1996-09-09 - Non-final action mailed
1996-09-03 - Assigned To Examiner

CORRESPONDENCE INFORMATION

Correspondent
ANN K. FORD (Attorney of record)

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WASHINGTON DC 20036-2430

Thank you for your request. Here are the latest results from the TARR web server.
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Serial Number: 78815022 Assignment Information

Registration Number: (NOT AVAILABLE)

Mark

EPIC PREFERRED

(words only): EPIC PREFERRED

Standard Character claim: Yes

Current Status: Newly filed application, not yet assigned to an examining attorney.

Date of Status: 2006-02-22

Filing Date: 2006-02-15

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 011 -Initial Review/Serialization Branch(Mailroom)

Date In Location: 2006-02-22

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. EPIC Pharmacies, Inc.

Address:

EPIC Pharmacies, Inc.
Suite 100 50 Scott Adam Road
Cockeysville, MD 21030
United States

Legal Entity Type: Corporation
State or Country of Incorporation: Maryland

GOODS AND/OR SERVICES

International Class: 035

Class Status: Active

Negotiating buying programs for retail pharmacies to purchase drugs, health and beauty aids, and sundries from manufacturers and wholesalers

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):

2085635

2085636

2229385

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2006-02-22 - New Application Entered In Tram

CORRESPONDENCE INFORMATION

Correspondent

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FREDERICK R. GERSON, ESQ.
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Fax Number: (804) 282-2989
