

ESTTA Tracking number: **ESTTA335317**

Filing date: **03/03/2010**

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	MSP Singapore Company LLC
Granted to Date of previous extension	03/07/2010
Address	300 Beach Road The Concourse No. 12-08 Singapore, 199555 SINGAPORE

Attorney information	Robert Peverada Merck One Merck Drive, P. O. Box 100 Whitehouse Station, NJ 08889-0100 UNITED STATES robert_peverada@merck.com Phone:908-423-4262
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Applicant Information

Application No	77743758	Publication date	09/08/2009
Opposition Filing Date	03/03/2010	Opposition Period Ends	03/07/2010
Applicant	Watson Pharmaceuticals, Inc. 311 Bonnie Circle Corona, CA 92880 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Pharmaceuticals, namely, calcium channel blockers
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2787086	Application Date	08/30/2001
Registration Date	11/25/2003	Foreign Priority Date	NONE
Word Mark	ZETIA		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 005. First use: First Use: 2002/11/08 First Use In Commerce: 2002/11/08 Cardiovascular pharmaceutical preparations

Attachments	Zetia v Meztia us.pdf (5 pages)(22573 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/robert peverada/
Name	Robert Peverada
Date	03/03/2010

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

In the matter of application Serial No. 77/743758 published in the Official Gazette
on September 8, 2009.

MSP Singapore Company, LLC

Opposer,

Opposition No. _____

v.

Watson Pharmaceuticals, Inc.

Applicant,

NOTICE OF OPPOSITION

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

MSP Singapore Company, LLC, a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business located at 300 Beach Road, The Concourse No. 12-08, Singapore 199555, believes it will be damaged by the registration of Application Serial No. 77/743758 for the designation MEZTIA as a trademark for "Pharmaceutical namely calcium channel blockers" filed May 24, 2009 by Watson Pharmaceuticals, Inc. and published in The Official Gazette of September 8, 2009, page 464, hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is a leading research driven pharmaceutical products and services company which discovers, develops, manufactures and markets

a broad range of innovative medical and pharmaceutical products and services designed to improve and preserve human health.

2. Since long prior to the filing date of the application herein opposed, Opposer has been a world business leader which distributes and sells medical and pharmaceutical preparations throughout the United States and the world.
3. Since long prior to the filing date of the application herein opposed, the trademark has been used and continues to be used in interstate commerce for a “cardiovascular pharmaceutical preparations”. Opposer is the owner on the Principal Register of the registered trademark ZETIA (Reg. No. 2,787,086) for “cardiovascular pharmaceutical preparations”. The registration issued on November 25, 2003, is in full force and effect, and has become incontestable under the provisions of Section 15 of the Lanham Act (15 U.S.C. Section 1065).
4. Since long prior to the filing date of the application herein opposed, Opposer has distributed and offered for sale and sold pharmaceutical preparations bearing the trademark ZETIA which identifies and distinguishes its pharmaceutical preparations from those of others.

5. Since long prior to the filing date of the Applicant, Opposer has made use of the trademark ZETIA by applying it to labeling, packaging, product literature and other materials distributed in interstate commerce.
6. As a result of the quality of Opposer's products and their widespread use in the healthcare industry, the trademark ZETIA has come to have great value to Opposer and the health care industry has come to know the mark to identify and distinguish Opposer's goods from those of others.
7. Upon information and belief, Applicant filed its application to register the designation MEZTIA as a trademark on May 24, 2009 and under Section 1(b) of the Trademark Law on the basis of intent to use in interstate commerce.
8. Upon information and belief, Applicant has made no use of the designation MEZTIA on or in connection with Applicants' goods identified in the application.
9. Upon information and belief, Applicant's goods to be offered for sale under the mark MEZTIA are related to the goods sold under Opposer's ZETIA trademark.

10. Applicant's goods, identified to be offered for sale and for distribution under the designation MEZTIA are intended for the same or similar class of purchasers and users as those already familiar with Opposer's registered trademark ZETIA.
11. Applicant's designation MEZTIA so resembles Opposer's previously registered trademark ZETIA as to be likely, when applied to Applicant's goods, to cause confusion, to cause mistake and to deceive with consequent injury to Opposer and the public.
12. Opposer will be damaged by the registration sought by Applicant because such registration would support and assist Applicant in the confusing and misleading use of Applicant's mark, would be likely to cause confusion, or to cause mistake or to deceive or to cause confusion as to connection, association or sponsorship of the Opposer and would give color of exclusive statutory rights to Applicant.

WHEREFORE, Opposer respectfully requests that the opposition to the application for registration of the mark MEZTIA be sustained and that the registration sought by Applicant be refused. Please charge the requisite filing fee in the amount of \$300 from Deposit Account No. 13-2752 in the name of Merck & Co., Inc.

Opposer hereby appoints Robert Peverada, a member of the Bar of District of Columbia, Debra A. Shelinsky Greene and Susan C. Mattson, each members of the Bar

of the State of New York, Nancy L. Rowe, a member of the Bar of the State of New Jersey and District of Columbia, and Sophie Anger, a member of the Bar of the State of New York, or any of them, the addresses of each being c/o Merck, One Merck Drive, P.O. Box 100, Whitehouse Station, New Jersey 08889-0100, to file the foregoing Notice of Opposition, to prosecute this opposition, with full powers of substitution and revocation, to make all alterations and amendments therein, and to transact all business and acts in the United States Patent and Trademark Office in connection therewith.

Dated: March 3, 2010 Whitehouse Station, New Jersey

Merck

BY: /robert peverada/
Robert Peverada

For: Opposer