

ESTTA Tracking number: **ESTTA951381**

Filing date: **01/31/2019**

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	Merck Sharp & Dohme Corp.
Granted to Date of previous extension	02/03/2019
Address	One Merck Drive Whitehouse Station, NJ 08889 UNITED STATES

Attorney information	Heather Heft Schoeman Updike Kaufman & Gerber LLP 551 Fifth Avenue New York, NY 10176 UNITED STATES hheft@schoeman.com, emcginn@schoeman.com 6467231053
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**Applicant Information**

Application No	87838200	Publication date	08/07/2018
Opposition Filing Date	01/31/2019	Opposition Period Ends	02/03/2019
Applicant	Biohaven Pharmaceutical Holding Company Limited 234 Church Street, Ste. 302 New Haven, CT 06510 UNITED STATES		

**Goods/Services Affected by Opposition**


<p>Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Medicated and pharmaceutical preparations, both prescription and over-the-counter, for use in connection with humans and animals, namely, for the treatment of central nervous system disorders, neurologic illnesses, and psychiatric illnesses; pharmaceutical preparations for the treatment of brain ischemia; pharmaceutical preparations for the treatment of brain ischemia, namely, post-stroke recovery, severe intracranial atherosclerosis, carotid endarterectomy, cardiac bypass, cerebral vasculitis, reversible cerebral vasoconstriction syndrome; pharmaceutical preparations for the treatment of brain and cord injuries; pharmaceutical preparations for the treatment of brain and cord injuries, namely, post- intracranial hemorrhage recovery, traumatic brain injury, spinal cord injury; pharmaceutical preparations for the treatment of neurodegenerative diseases; pharmaceutical preparations for the treatment of neurodegenerative diseases, namely, Alzheimer's disease (AD), Amyotrophic Lateral Sclerosis (ALS), Huntington's disease, Lewy body dementia, frontotemporal dementia, vascular dementia, Parkinson's disease, cognitive impairment of aging, progressive Multiple Sclerosis; pharmaceutical preparations for the treatment of optic and retinal neuropathies; pharmaceutical preparations for the treatment of optic</p>
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and retinal neuropathies, namely, glaucoma, diabetic retinopathy, ischemic optic and retinal neuropathies; pharmaceutical preparations for the treatment of pain; pharmaceutical preparations for the treatment of pain, namely, opioid sparing analgesia, cancer pain, chronic neuropathic pain, peripheral neuropathy, low backpain in the nature of failed back surgery syndrome, radiculopathy in the nature of sciatica, diabetic peripheral neuropathy, post-herpetic neuralgia, chemotherapy induced neuropathy and other medication induced neuropathies, complex regional pain syndrome, fibromyalgia, chronic post-operative pain, cluster thoracotomy, phantom limb, stump neuroma; pharmaceutical preparations for the treatment of headache and facial pain, namely, headache, migraine, chronic daily headache, cluster headache, trigeminal neuralgia; pharmaceutical preparations for symptomatic treatments of degenerative diseases; pharmaceutical preparations for symptomatic treatments of degenerative diseases, namely, breath holding in Rett syndrome, dystonias, dysphagia, gait abnormalities, bulbar function in ALS, pseudobulbar affect, levodopa-induced dyskinesias in Parkinson's disease, agitation in AD, disinhibition in dementia; pharmaceutical preparations for the treatment of epilepsy; pharmaceutical preparations for the treatment of epilepsy, namely, precision medicine - adjuvant for genetic epilepsy due to NMDA receptor mutations with hyperactivation; pharmaceutical preparations for the treatment of neuropsychiatric disorders; pharmaceutical preparations for the treatment of neuropsychiatric disorders, namely, treatment resistant depression, Post Traumatic Stress Disorder (PTSD) in the nature of hyperarousal, substance abuse disorders, addiction disorders, Obsessive Compulsive Disorder (OCD), hoarding, trichotillomania, eating disorders, Generalized Anxiety Disorder (GAD), adjustment disorders, panic disorder, major depressive episode, bipolar disorder in the nature of manic and depressive episodes, dysthymia, cyclothymia, psychotic disorders, schizophrenia; pharmaceutical preparations for the treatment of cerebellar disorders; pharmaceutical preparations for the treatment of cerebellar disorders, namely, spinocerebellar ataxia, Friedreich's ataxia, multisystem atrophy, essential tremor; pharmaceutical preparations for the treatment of hearing disorders, tinnitus, delirium, sleep disorders, parasomnias, learning disorders, Attention Deficit Disorder (ADD), Pervasive Developmental Disorders (PDD), Asperger's syndrome, autism, menopausal hot flashes; pharmaceutical preparations for the treatment of cancer; pharmaceutical preparations for the treatment of cancer, namely, monotherapy and adjunctive use

## 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.	3419361	Application Date	01/31/2007
Registration Date	04/29/2008	Foreign Priority Date	NONE
Word Mark	DULERA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2008/01/15 First Use In Commerce: 2008/01/15 pharmaceutical preparations, namely, respiratory [ and anti-allergy ] preparations		

Attachments	77095855#TMSN.png( bytes ) DURLEVA Notice of Opposition with Exhibit A.pdf(230011 bytes )
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Signature	/heather heft/
Name	Heather Heft
Date	01/31/2019

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

In the Matter of Application Serial No. 87/838,200  
For the Mark: DURLEVA  
Published in the *Official Gazette* on August 7, 2018

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Merck Sharp & Dohme Corp.,	:	
Opposer,	:	
v.	:	Opposition No.
Biohaven Pharmaceutical Holding Company Limited,	:	
Applicant.	:	

----- X

**NOTICE OF OPPOSITION**

Merck Sharp & Dohme Corp. (“Merck” or “Opposer”), a corporation organized under the laws of New Jersey, having a principal office at One Merck Drive, Whitehouse Station, New Jersey, 08889, believes that it will be damaged by the registration of the mark DURLEVA, shown in United States Trademark Application Serial No. 87/838,200, filed by Biohaven Pharmaceutical Holding Company Limited (“Applicant”), and hereby opposes the same.

As grounds of opposition, Opposer alleges as follows:

1. Opposer is a leader in the worldwide healthcare market, and is engaged in the manufacturing, distributing and selling of medicines, vaccines, and animal health products.
2. Opposer is the owner of Registration No. 3,419,361 for the mark DULERA, for “pharmaceutical preparations, namely, respiratory preparations” in Class 5, which was registered on April 29, 2008 (the “Registration”). The Registration is renewed, in full force and effect, and

has become incontestable under 15 U.S.C. Section 1065. Copies of the Registration and related status documents are attached hereto as Exhibit A.

3. Opposer has used the mark DULERA in the United States since at least as early as January 15, 2008.

4. Opposer is the owner of numerous worldwide registrations for the mark DULERA.

5. Upon information and belief, Applicant is a limited company, organized under the laws of the British Virgin Islands, located at 234 Church Street, Ste. 302, New Haven, Connecticut, 06510.

6. On March 16, 2018, Applicant filed intent-to-use Application Serial No. 87/838,200 for the mark DURLEVA for the following goods in Class 5:

Medicated and pharmaceutical preparations, both prescription and over-the-counter, for use in connection with humans and animals, namely, for the treatment of central nervous system disorders, neurologic illnesses, and psychiatric illnesses; pharmaceutical preparations for the treatment of brain ischemia; pharmaceutical preparations for the treatment of brain ischemia, namely, post-stroke recovery, severe intracranial atherosclerosis, carotid endarterectomy, cardiac bypass, cerebral vasculitis, reversible cerebral vasoconstriction syndrome; pharmaceutical preparations for the treatment of brain and cord injuries; pharmaceutical preparations for the treatment of brain and cord injuries, namely, post- intracranial hemorrhage recovery, traumatic brain injury, spinal cord injury; pharmaceutical preparations for the treatment of neurodegenerative diseases; pharmaceutical preparations for the treatment of neurodegenerative diseases, namely, Alzheimer's disease (AD), Amyotrophic Lateral Sclerosis (ALS), Huntington's disease, Lewy body dementia, frontotemporal dementia, vascular dementia, Parkinson's disease, cognitive impairment of aging, progressive Multiple Sclerosis; pharmaceutical preparations for the treatment of optic and retinal neuropathies; pharmaceutical preparations for the treatment of optic and retinal neuropathies, namely, glaucoma, diabetic retinopathy, ischemic optic and retinal neuropathies; pharmaceutical preparations for the treatment of pain; pharmaceutical preparations for the treatment of pain, namely, opioid sparing analgesia, cancer pain, chronic neuropathic pain, peripheral neuropathy, low back pain in the nature of failed back surgery syndrome, radiculopathy in the nature of sciatica, diabetic peripheral neuropathy, post-herpetic neuralgia, chemotherapy induced neuropathy and other medication induced neuropathies, complex regional pain syndrome, fibromyalgia, chronic post-operative pain, cluster thoracotomy, phantom limb, stump neuroma; pharmaceutical preparations for the treatment of headache and facial

pain, namely, headache, migraine, chronic daily headache, cluster headache, trigeminal neuralgia; pharmaceutical preparations for symptomatic treatments of degenerative diseases; pharmaceutical preparations for symptomatic treatments of degenerative diseases, namely, breath holding in Rett syndrome, dystonias, dysphagia, gait abnormalities, bulbar function in ALS, pseudobulbar affect, levodopa-induced dyskinesias in Parkinson's disease, agitation in AD, disinhibition in dementia; pharmaceutical preparations for the treatment of epilepsy; pharmaceutical preparations for the treatment of epilepsy, namely, precision medicine - adjuvant for genetic epilepsy due to NMDA receptor mutations with hyperactivation; pharmaceutical preparations for the treatment of neuropsychiatric disorders; pharmaceutical preparations for the treatment of neuropsychiatric disorders, namely, treatment resistant depression, Post Traumatic Stress Disorder (PTSD) in the nature of hyperarousal, substance abuse disorders, addiction disorders, Obsessive Compulsive Disorder (OCD), hoarding, trichotillomania, eating disorders, Generalized Anxiety Disorder (GAD), adjustment disorders, panic disorder, major depressive episode, bipolar disorder in the nature of manic and depressive episodes, dysthymia, cyclothymia, psychotic disorders, schizophrenia; pharmaceutical preparations for the treatment of cerebellar disorders; pharmaceutical preparations for the treatment of cerebellar disorders, namely, spinocerebellar ataxia, Friedreich's ataxia, multisystem atrophy, essential tremor; pharmaceutical preparations for the treatment of hearing disorders, tinnitus, delirium, sleep disorders, parasomnias, learning disorders, Attention Deficit Disorder (ADD), Pervasive Developmental Disorders (PDD), Asperger's syndrome, autism, menopausal hot flashes; pharmaceutical preparations for the treatment of cancer; pharmaceutical preparations for the treatment of cancer, namely, monotherapy and adjunctive use

(the "Contested Application")

7. The Contested Application was published on August 7, 2018.
8. Opposer timely filed a ninety (90) day request for an extension of time to oppose for good cause, and subsequently filed a sixty (60) day request for an extension of time to oppose upon consent.
9. The filing and registration dates for Opposer's Registration were long before the filing date of the Contested Application, and as such, Opposer has priority over Applicant.
10. In fact, since long prior to the filing date of the Contested Application, Opposer has made use of its DULERA mark by distributing and selling pharmaceutical preparations bearing the mark.

11. Applicant has not yet filed an Amendment to Allege Use in connection with the Contested Application.

12. Upon information and belief, Applicant has not used the DURLEVA mark in commerce in the United States.

13. Applicant's DULERA mark and Opposer's DURLEVA mark are similar, in part, in both sight and sound.

14. Applicant's pharmaceutical preparations listed in the Contested Application are related to the pharmaceutical preparations offered by Opposer under its DULERA mark.

15. Upon information and belief, the goods covered by the Contested Application and those in connection with Opposer's DULERA mark may be offered through the same or related channels of trade; to the same or related classes of purchasers; and may be advertised, marketed and promoted through the same or related media channels.

16. The close resemblance of Applicant's DURLEVA mark to Opposer's DULERA mark, and the relatedness of the goods in connection therewith, are likely to cause confusion or mistake by creating the erroneous impression that Applicant's goods originate from the same source as Opposer's goods, or are endorsed, sponsored, licensed, associated or otherwise connected to Opposer.

17. Opposer would be damaged by registration of the Contested Application because such registration would constitute *prima facie* evidence of Applicant's exclusive right to use the DURLEVA mark, which would be inconsistent with and detrimental to Opposer's prior and superior rights in and to its DULERA mark.

18. Applicant's proposed adoption and intended use of DURLEVA is without Opposer's license or permission.

19. By reason of the foregoing, Opposer believes that it will be damaged by Applicant's registration of DURLEVA.

WHEREFORE, Opposer Merck Sharp & Dohme Corp. respectfully requests that Application Serial No. 87/838,200 be rejected and registration of DURLEVA be refused and denied.

Dated: New York, New York  
January 31, 2019

Schoeman Updike Kaufman & Gerber LLP



By: \_\_\_\_\_

Heather Heft, Esq.  
551 Fifth Avenue  
New York, New York 10176  
Telephone: (212) 661-5030  
Facsimile: (212) 687-2123  
Attorneys for Opposer  
*Merck Sharp & Dohme Corp.*



# **EXHIBIT A**

Generated on: This page was generated by TSDR on 2019-01-31 17:22:21 EST

Mark: DULERA

# DULERA

US Serial Number: 77095855

Application Filing Date: Jan. 31, 2007

US Registration Number: 3419361

Registration Date: Apr. 29, 2008

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Apr. 19, 2018

Publication Date: Jul. 17, 2007

Notice of Allowance Date: Oct. 09, 2007

## Mark Information

Mark Literal Elements: DULERA

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

## Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: pharmaceutical preparations, namely, respiratory [ and anti-allergy ] preparations

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 15, 2008

Use in Commerce: Jan. 15, 2008

## Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

## Current Owner(s) Information

Owner Name: MERCK SHARP & DOHME CORP.

Owner Address: ONE MERCK DRIVE  
WHITEHOUSE STATION, NEW JERSEY 088890100  
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: NEW JERSEY

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Christopher Bolinger

**Attorney Primary Email Address:** [trademarkus@merck.com](mailto:trademarkus@merck.com)

**Attorney Email Authorized:** No

### Correspondent

**Correspondent Name/Address:** Christopher Bolinger  
Merck & Co., Inc.  
ONE MERCK DRIVE  
WHITEHOUSE STATION, NEW JERSEY 08889-0100  
UNITED STATES

**Correspondent e-mail:** [trademarkus@merck.com](mailto:trademarkus@merck.com)  
[donna.kugit@merck.com](mailto:donna.kugit@merck.com)

**Correspondent e-mail Authorized:** No

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Apr. 19, 2018	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - MAILED	
Apr. 19, 2018	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	67723
Apr. 19, 2018	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	67723
Apr. 18, 2018	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67723
Apr. 06, 2018	TEAS SECTION 8 & 9 RECEIVED	
Sep. 22, 2015	SEC. 15 ACKNOWLEDGEMENT - MAILED	
Sep. 22, 2015	REGISTERED - SEC. 15 ACKNOWLEDGED	76873
Sep. 17, 2015	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76873
Sep. 16, 2015	TEAS SECTION 15 RECEIVED	
Sep. 16, 2015	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
May 08, 2014	NOTICE OF ACCEPTANCE OF SEC. 8 - E-MAILED	
May 08, 2014	REGISTERED - SEC. 8 (6-YR) ACCEPTED	76874
Apr. 24, 2014	REGISTERED - SEC. 8 (6-YR) FILED	76874
May 08, 2014	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76874
Apr. 24, 2014	TEAS SECTION 8 RECEIVED	
Apr. 24, 2014	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 15, 2013	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Mar. 15, 2013	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jun. 13, 2012	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jul. 30, 2010	SEC 7 REQUEST FILED	59136
Jul. 31, 2010	AMENDMENT UNDER SECTION 7 - ISSUED	59136
Jul. 31, 2010	REVIEW OF CORRESPONDENCE COMPLETE	59136
Jul. 31, 2010	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	59136
Jul. 30, 2010	TEAS SECTION 7 REQUEST RECEIVED	
Jul. 15, 2010	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jul. 15, 2010	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Dec. 03, 2008	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Apr. 29, 2008	REGISTERED-PRINCIPAL REGISTER	
Mar. 24, 2008	LAW OFFICE REGISTRATION REVIEW COMPLETED	76537
Mar. 24, 2008	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Mar. 10, 2008	STATEMENT OF USE PROCESSING COMPLETE	76874
Mar. 10, 2008	EXTENSION 1 GRANTED	76874
Feb. 11, 2008	USE AMENDMENT FILED	76874
Feb. 11, 2008	EXTENSION 1 FILED	76874
Feb. 11, 2008	TEAS EXTENSION RECEIVED	
Feb. 11, 2008	TEAS STATEMENT OF USE RECEIVED	
Oct. 09, 2007	NOA MAILED - SOU REQUIRED FROM APPLICANT	

Jul. 17, 2007	PUBLISHED FOR OPPOSITION	
Jun. 27, 2007	NOTICE OF PUBLICATION	
Jun. 12, 2007	LAW OFFICE PUBLICATION REVIEW COMPLETED	76537
Jun. 12, 2007	ASSIGNED TO LIE	76537
May 18, 2007	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 18, 2007	ASSIGNED TO EXAMINER	76582
Feb. 05, 2007	NEW APPLICATION ENTERED IN TRAM	

## Maintenance Filings or Post Registration Information

**Affidavit of Continued Use:** Section 8 - Accepted

**Affidavit of Incontestability:** Section 15 - Accepted

**Renewal Date:** Apr. 29, 2018

**Change in Registration:** Yes

**Amendment to a Registration/Renewal Certificate:** In the statement, column 1, line 6, "AND ANTI-ALLERGY" is deleted.

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

**Current Location:** GENERIC WEB UPDATE

**Date in Location:** Apr. 19, 2018

## Assignment Abstract Of Title Information

### Summary

**Total Assignments:** 2

**Registrant:** MSP SINGAPORE COMPANY, LLC

### Assignment 1 of 2

**Conveyance:** ASSIGNS THE ENTIRE INTEREST

**Reel/Frame:** [3894/0593](#)

**Pages:** 4

**Date Recorded:** Nov. 25, 2008

**Supporting Documents:** [assignment-tm-3894-0593.pdf](#)

### Assignor

**Name:** [MSP SINGAPORE COMPANY, LLC](#)

**Execution Date:** Nov. 25, 2008

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country Where Organized:** DELAWARE

### Assignee

**Name:** [SCHERING CORPORATON](#)

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** NEW JERSEY

**Address:** 2000 GALLOPING HILL ROAD  
KENILWORTH, NEW JERSEY 07033

### Correspondent

**Correspondent Name:** NANCY L. ROWE

**Correspondent Address:** SCHERING CORPORATION  
2000 GALLOPING HILL ROAD  
KENILWORTH, NJ 07033

### Domestic Representative - Not Found

### Assignment 2 of 2

**Conveyance:** CHANGE OF NAME

**Reel/Frame:** [4793/0178](#)

**Pages:** 12

**Date Recorded:** Jun. 04, 2012

Supporting Documents: [assignment-tm-4793-0178.pdf](#)

#### Assignor

Name: [SCHERING CORPORATION](#)  
Legal Entity Type: CORPORATION  
Execution Date: May 02, 2012  
State or Country Where Organized: NEW JERSEY

#### Assignee

Name: [MERCK SHARP & DOHME CORP.](#)  
Legal Entity Type: CORPORATION  
Address: ONE MERCK DRIVE  
WHITEHOUSE STATION, NEW JERSEY 08889-0100  
State or Country Where Organized: NEW JERSEY

#### Correspondent

Correspondent Name: CLARK W. LACKERT  
Correspondent Address: DICKSTEIN SHAPIRO LLP  
1633 BROADWAY  
NEW YORK, NY 10019-6708

#### Domestic Representative - Not Found

## Proceedings

#### Summary

Number of Proceedings: 1

#### Type of Proceeding: Opposition

Proceeding Number: [91192577](#)  
Filing Date: Nov 06, 2009  
Status: Terminated  
Status Date: Feb 17, 2010  
Interlocutory Attorney: ANN LINNEHAN VOGLER

#### Defendant

Name: Portela & CA, S.A.  
Correspondent Address: Jenny R. Splitter  
Silverberg, Goldman & Bikoff, LLP  
1101 30th Street, NW, Suite 120  
Washington DC , 20007-3768  
UNITED STATES  
Correspondent e-mail: [jsplitter@sqbdc.com](mailto:jsplitter@sqbdc.com)

#### Associated marks

Mark	Application Status	Serial Number	Registration Number
ZULERA	Abandoned - After Inter-Partes Decision	<a href="#">77291506</a>	

#### Plaintiff(s)

Name: Schering Corporation  
Correspondent Address: Dyan Finguerra-DuCharme  
Wilmer Cutler Pickering Hale and Dorr, LLP  
399 Park Avenue  
New York NY , 10022  
UNITED STATES  
Correspondent e-mail: [dyan.finguerra-ducharme@wilmerhale.com](mailto:dyan.finguerra-ducharme@wilmerhale.com)

#### Associated marks

Mark	Application Status	Serial Number	Registration Number
DULERA	REGISTERED AND RENEWED	<a href="#">77095855</a>	<a href="#">3419361</a>

#### Prosecution History

Entry Number	History Text	Date	Due Date
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1	FILED AND FEE	Nov 06, 2009	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Nov 06, 2009	Dec 16, 2009
3	PENDING, INSTITUTED	Nov 06, 2009	
4	ANSWER	Dec 16, 2009	
5	D'S MOTION FOR AN EXTENSION OF TIME	Feb 04, 2010	
6	STIPULATION NOTED AND APPROVED	Feb 06, 2010	
7	WITHDRAWAL OF APPLICATION	Feb 16, 2010	
8	BOARD'S DECISION: SUSTAINED	Feb 17, 2010	
9	TERMINATED	Feb 17, 2010	



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451  
www.uspto.gov

**U.S. Serial Number:** 77095855  
**U.S. Registration Number:** 3419361  
**U.S. Registration Date:** Apr 29, 2008  
**Mark:** DULERA(STANDARD CHARACTER MARK)  
**Owner:** MERCK SHARP & DOHME CORP.

**Correspondence Address:**

Christopher Bolinger  
Merck & Co., Inc.  
ONE MERCK DRIVE  
WHITEHOUSE STATION, NJ 08889-0100

Apr 19, 2018

**NOTICE OF ACCEPTANCE UNDER SECTION 8**

The declaration of use or excusable nonuse filed for the above-identified registration meets the requirements of Section 8 of the Trademark Act, 15 U.S.C. §1058. **The Section 8 declaration is accepted.**

**NOTICE OF REGISTRATION RENEWAL UNDER SECTION 9**

The renewal application filed for the above-identified registration meets the requirements of Section 9 of the Trademark Act, 15 U.S.C. §1059. **The registration is renewed.**

**The registration will remain in force for the class(es) listed below, unless canceled by an order of the Commissioner for Trademarks or a Federal Court, as long as the requirements for maintaining the registration are fulfilled as they become due.**

**Class(es):**  
005.

WHITE, PHILLIP D  
TRADEMARK SPECIALIST  
POST-REGISTRATION DIVISION  
571-272-9500

**PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION  
CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION**

**REQUIREMENTS FOR MAINTAINING REGISTRATION IN SUCCESSIVE TEN-YEAR PERIODS**

**WARNING: Your registration will be canceled if you do not file the documents below during the specified statutory time periods.**

**What and When to File:** You must file a declaration of use (or excusable nonuse) **and** an application for renewal between every 9th and 10th-year period, calculated from the registration date. See 15 U.S.C. §§1058, 1059.

**Grace Period Filings**

The above documents will be considered as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*\*\*THE USPTO IS NOT REQUIRED TO SEND ANY FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS. THE OWNER SHOULD CONTACT THE USPTO ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.\*\*\***

To check the status of this registration on-line, go to <https://tsdr.uspto.gov/>, enter the U.S. application serial number in the box next to the text "US Serial, Registration, or Reference No.," and select the button labeled "Status," or contact the Trademark Assistance Center at 1-800-786-9199.

To view this notice and other documents for this registration on-line, go to <https://tsdr.uspto.gov/>, enter the U.S. application serial number in the box next to the text "US Serial, Registration, or Reference No.," and select the button labeled "Documents."

For further information, including information on filing and maintenance requirements for U.S. trademark applications and registrations and required fees, please consult the USPTO website at <https://www.uspto.gov/trademarks/> or contact the Trademark Assistance Center at 1-800-786-9199.

Side - 1



**NOTICE OF ACKNOWLEDGEMENT  
OF §15 DECLARATION  
MAILING DATE: Sep 22, 2015**

The affidavit of incontestability filed in connection with the registration identified below meets the requirements of Section 15 of the Trademark Act, 15 U.S.C. §1065. The affidavit is acknowledged.

For further information about this notice, visit our website at: <http://www.uspto.gov>. To review information regarding the referenced registration, go to <http://tarr.uspto.gov/>.

**REG NUMBER: 3419361**  
**MARK: DULERA**  
**OWNER: MERCK SHARP & DOHME CORP.**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE  
COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

FIRST-CLASS MAIL  
U.S POSTAGE  
PAID

MERCK SHARP & DOHME CORP.  
ONE MERCK DRIVE  
WHITEHOUSE STATION, NJ 08889-0100



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**From:** TMOfficialNotices@USPTO.GOV  
**Sent:** Thursday, May 8, 2014 11:00 PM  
**To:** TrademarkUS@merck.com  
**Cc:** christopher.bolinger@merck.com  
**Subject:** Official USPTO Notice of Acceptance Section 8: U.S. Trademark RN 3419361: DULERA

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**Serial Number:** 77095855  
**Registration Number:** 3419361  
**Registration Date:** Apr 29, 2008  
**Mark:** DULERA  
**Owner:** MERCK SHARP & DOHME CORP.

May 8, 2014

### NOTICE OF ACCEPTANCE UNDER SECTION 8

The declaration of use or excusable nonuse filed for the above-identified registration meets the requirements of Section 8 of the Trademark Act, 15 U.S.C. §1058. **The Section 8 declaration is accepted.**

**The registration will remain in force for the class(es) listed below for the remainder of the ten-year period, calculated from the registration date, unless canceled by an order of the Commissioner for Trademarks or a Federal Court.**

**Class(es):**  
005

TRADEMARK SPECIALIST  
POST-REGISTRATION DIVISION  
571-272-9500

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### REQUIREMENTS FOR MAINTAINING REGISTRATION

**WARNING: Your registration will be canceled if you do not file the documents below during the specified time periods.**

#### Requirements in the First Ten Years

**What and When to File:** You must file a declaration of use (or excusable nonuse) **and** an application for renewal between the 9th and 10th years after the registration date. See 15 U.S.C. §§1058, 1059.

#### Requirements in Successive Ten-Year Periods

**What and When to File:** You must file a declaration of use (or excusable nonuse) **and** an application for renewal between every 9th and 10th-year period, calculated from the registration date. See 15 U.S.C. §§1058, 1059.

#### Grace Period Filings

The above documents will be considered as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

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Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 3,419,361

United States Patent and Trademark Office

Registered Apr. 29, 2008

Amended

OG Date Sep. 7, 2010

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PRINCIPAL REGISTER

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THE MARK CONSISTS OF STAN-  
DARD CHARACTERS WITHOUT CLAIM  
TO ANY PARTICULAR FONT, STYLE,  
SIZE, OR COLOR.

FOR: PHARMACEUTICAL PREPARA-  
TIONS, NAMELY, RESPIRATORY [ AND  
ANTI-ALLERGY ] PREPARATIONS, IN  
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51  
AND 52).

FIRST USE 1-15-2008; IN COMMERCE  
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SER. NO. 77-095,855, FILED 1-31-2007.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Sep. 7, 2010.*

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