

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: January 20, 2004

In re Klein's Naturals, Ltd.

Serial No. **76440599**

Filed: 08/12/2002

STEPHEN E. FELDMAN
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NEW YORK, NY 10017

Rochelle Ricks, Paralegal Specialist:

Applicant filed, on December 12, 2003, an amendment and a notice of appeal.

The basis of the final refusal, issued on June 19, 2003, is the unacceptability of the identification of goods, and the amendment is an attempt by applicant to submit an acceptable identification. Accordingly, action on the appeal is suspended and the file is REMANDED to the Trademark Examining Attorney for consideration of the amendment. If the amendment is accepted, the appeal will be moot. If the amendment is found unacceptable, the Examining Attorney should issue an Office Action indicating the reasons why the proposed amendment is unacceptable and return the file to the Board, which will then allow

applicant time to file its appeal brief.¹ However, if the Examining Attorney believes that the problems with the proposed identification can be resolved, the Examining Attorney is encouraged to contact applicant, either by telephone or written Office Action, in an attempt to do so.

¹ If the Examining Attorney believes that the proposed amendment is unacceptable because it exceeds the scope of the original identification, or the identification as it has subsequently been amended, then the Examining Attorney may not issue a final refusal unless application was previously advised that amendments broadening the identification are prohibited under Trademark Rule 2.71(a).