

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

KSK

Mailed: November 5, 2001

Opposition No. 111,016

METAGENICS, INC.

v.

COLLAGENESIS, INC.

Karen Kuhlke, Interlocutory Attorney:

On September 7, 2001, applicant filed a proposed amendment to its application Serial No. 75/133,490, with opposer's consent.

By the proposed amendment applicant seeks to change the identification of goods **from:**

Full line of collagen-based preparations derived for human connective tissues and from non-human animal sources for use as bio-plants and drug delivery systems in medical applications and for cosmetic and reconstructive surgery, urology, otolaryngology, oncology, wound management, orthopedic surgery and tissue regeneration;

to

Processed tissue for medical implantation sold only to physicians and hospitals.

Amendments to the identification of goods may be approved if, among other things, the resulting amendment serves to clarify or limit the goods as published.

Additions to the identification of goods will not be permitted. See Trademark Rule 2.71(b).

Here, the proposed amendment impermissibly broadens the scope of the goods inasmuch as the omission of the terms "collagen-based" and "human connective tissues and non-human animal sources" and the addition of the unlimited phrase "medical implantation" includes more goods than the original identification.¹ In view thereof, the requested amendment to the identification of goods cannot be approved.

Under the circumstances, the parties are allowed until **thirty days** from the mailing date of this order to submit an amendment which overcomes the deficiency noted above or to otherwise inform the Board how they wish to proceed in this matter.

Proceedings herein are otherwise suspended. If no response to this order is received within the time set, proceedings will be resumed, and appropriate dates will be reset.

¹ The phrase "sold only to physicians and hospitals" serves to clarify or limit the goods and is, therefore, acceptable.