



Leiner Health Services Corp., a Delaware corporation, having its principal place of business at 901 East 233rd Street, Carson, California 90745, believes that it will be damaged by registration of the mark in the above-identified application and hereby opposes same.

The grounds for opposition are as follows:

1. Since long prior to the filing date of the application opposed herein, the Opposer, Leiner Health Services Corp., has been in the business of manufacturing and selling vitamins and dietary food supplements and over-the-counter pharmaceutical products, all of which constitute personal care products which are related to one another.

2. Since long prior to the filing date of the application opposed herein, the Opposer, Leiner Health Services Corp., has continuously used the mark YOUR LIFE as a trademark to designate vitamins and dietary food supplements and as a service mark used to designate the dissemination of information regarding vitamins and dietary food supplements. Opposer is the owner of the following trademarks and service mark:

(a) YOUR LIFE, Registration No. 1,029,138 dated January 6, 1976 to designate vitamins, alleging a date of first use of October, 1972, the application for renewal having been accepted by the United States Patent and Trademark Office on December 5, 1995. Registration No. 1,029,138 is incontestible under 15 U.S.C. §1065.

(b) YOUR LIFE, Registration No. 1,267,613 dated February 21, 1984 to designate a dietary control pharmaceutical, alleging a date of first use of June 1, 1980, the Affidavit under §§8 and 15 therefor having been accepted by the United States Patent and Trademark Office on September 25, 1989. Registration No. 1,267,613 is incontestible under 15 U.S.C. §1065.

(c) YOUR LIFE & DESIGN, Registration No. 1,402,829 dated July 29, 1986 to designate vitamins and dietary food supplements, alleging a date of first use of October 30, 1985, the Affidavit under §§8 and 15 therefor having been accepted by the United States Patent and Trademark Office on January 7, 1992. Registration No. 1,402,829 is incontestible under 15 U.S.C. §1065.

(d) YOUR LIFE & DESIGN, Registration No. 1,596,015 dated May 15, 1990 to designate vitamins and food supplements, alleging a date of first use of April 4, 1989, the Affidavit under §§8 and 15 therefor having been accepted by the United States Patent and Trademark Office on April 22, 1996. Registration No. 1,596,015 is incontestible under 15 U.S.C. §1065.

(e) YOUR LIFE, Registration No. 2,084,936 dated July 29, 1997, alleging a date of first use of October 8, 1996 to designate providing information regarding vitamins and dietary food supplements by means of a global computer network,

3. On February 29, 2000, Applicant filed an intent-to-use service mark application to register the mark YOUR LIFE.

YOUR HEALTH. proposed to be used to designate computer services, namely, providing doctors with an on-line computer database featuring medical records.

4. Because of Opposer's long and continuous manufacture and sale vitamins and dietary food supplements and use of its mark, YOUR LIFE, for the stated goods and services, the mark has become well known and is recognized by the public and the industry as identifying Opposer as the source of the stated goods and services.

5. Use by Applicant of the service mark opposed herein for computer services, namely, providing doctors with an on-line computer database featuring patient medical records will be likely to cause confusion, mistake or deception with Opposer's aforesaid YOUR LIFE trademark and service mark and result in the belief that Applicant or its goods are in some way legitimately connected with, or sponsored or approved by, Opposer.

6. Any use Applicant has made or may make of the YOUR LIFE. YOUR HEALTH. service mark is or will be without Opposer's consent or permission.

7. As a result of the foregoing and Opposer's long prior use of its mark, registration of the mark sought by Applicant in International Class 42 would violate §2(d) of the Trademark Act, as the Applicant's service mark YOUR LIFE. YOUR HEALTH. totally appropriates Opposer's registered trademark and service mark YOUR LIFE and therefore so resembles Opposer's previously used and registered trademark and service mark, YOUR LIFE, as to

be likely, when applied to Applicant's designated services, to cause confusion, or mistake or to deceive.

For the above reasons, the grant of a registration to Applicant of the mark sought to be registered for the goods recited in the opposed application will damage Opposer because such registration and the rights emanating therefrom will be inconsistent with the right of Opposer to continue its use of YOUR LIFE on and in connection with its goods and will interfere in the normal and natural expansion of Opposer's business.

WHEREFORE, Oppose prays that the registration sought by Applicant be refused.

Opposer submits herewith the requisite \$300.00 filing fee.

Please address all correspondence to Michael A. Painter, Esq., Isaacman, Kaufman & Painter, 8484 Wilshire Boulevard, Suite 850, Beverly Hills, California 90211, (323) 782-7700.

Respectfully submitted,

ISAACMAN, KAUFMAN & PAINTER  
A Professional Corporation

By: 

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LEINER HEALTH SERVICES CORP.

MAP:src  
Dated: October 10, 2001  
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