

Delaware corporation, having its principal place of business at 260 Lake Road, Dayville, Connecticut 06421 and published for opposition purposes in the Official Gazette on July 27, 2004 and August 3, 2004, respectively, 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 applications 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 dates of the applications 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 application for renewal having been accepted by the United States Patent and Trademark Office on December 15, 2003. 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 application for renewal having been accepted by the United States Patent and Trademark Office on December 8, 2000. 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, the Affidavit under §§8 and 15 therefor having been accepted by the United States Patent and Trademark Office on January 23, 2003. Registration No. 2,084,936 is incontestible under 15 U.S.C. §1065.

3. On April 17, 2003, Applicant filed a trademark application to register the mark NATURE'S BASICS, SUPPLEMENT YOUR LIFE. The mark is used to designate nutritional supplements, vitamins, dietary supplements, herbal supplements and homeopathic remedies in the nature of food and herbal supplements in International Class 5.

4. On April 17, 2003, Applicant filed a trademark application to register the mark SUPPLEMENT YOUR LIFE. The mark is used to designate nutritional supplements, vitamins, dietary supplements, herbal supplements and homeopathic remedies in the nature of food and herbal supplements in International Class 5

5. 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.

6. The use by Applicant of the trademarks opposed herein for the identified goods will be likely to cause confusion, mistake or deception with Opposer's aforesaid YOUR LIFE trademark and result in the belief that Applicant or its services are in some way legitimately connected with, or sponsored or approved by, Opposer.

7. Any use Applicant has made or may make of the NATURE'S BASICS, SUPPLEMENT YOUR LIFE and/or SUPPLEMENT YOUR LIFE trademarks is or will be without Opposer's consent or permission.

8. As a result of the foregoing and Opposer's long prior use of its mark, registration of the marks sought by Applicant in International Class 5 would violate §2(d) of the Trademark Act, as the Applicant's trademarks NATURE'S BASICS, SUPPLEMENT YOUR LIFE and SUPPLEMENT YOUR LIFE totally appropriates Opposer's registered trademark 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 marks sought to be registered for the goods recited in the opposed applications will damage Opposer because

such registrations 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 services and will interfere in the normal and natural expansion of Opposer's business.

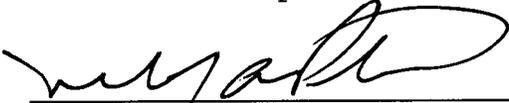
WHEREFORE, Oppose prays that the registrations sought by Applicant be refused.

Opposer submits herewith the requisite \$600.00 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: 

Michael A. Painter
Attorneys for Opposer,
LEINER HEALTH SERVICES CORP.

MAP:src
Dated: August 18, 2004
8484 Wilshire Boulevard, Suite 850
Beverly Hills, California 90211
(323) 782-7700