

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

\_\_\_\_\_  
Leiner Health Services Corp.,

Opposer

v.

United Natural Foods, Inc.,

Applicant  
\_\_\_\_\_

TTAB

Opposition No. 91161946

ANSWER TO NOTICE OF OPPOSITION

Sir:

Applicant, United Natural Foods, Inc., by and through its attorneys, hereby responds to the Notice of Opposition filed by Leiner Health Services Corp. as follows:

1. Applicant is without sufficient knowledge or information to form a conclusion as to the truth of the allegations contained in Paragraph 1, and therefore denies them.

2. Applicant is without sufficient knowledge or information to form a conclusion as to the truth of the allegations contained in the preamble in Paragraph 2, and therefore denies them.

(a) Applicant admits that the online records of the United States Patent and Trademark Office indicate that Opposer is the owner of United States Registration No. 1,029,138 dated January 6, 1976 for vitamins, and the registration alleges first use of October 1972.

Applicant is without sufficient knowledge or information to form a conclusion as to the truth of the remaining allegations contained in Paragraph 2 (a), and therefore denies them.

(b) Applicant admits that the online records of the United States Patent and Trademark Office indicate that Opposer is the owner of United States Registration No. 1,267,613 dated February 21, 1984 for appetite suppressant, which registration alleges first use of June 1, 1980 and that the application for renewal was granted by the USPTO on December 15, 2003.



Applicant is without sufficient knowledge or information to form a conclusion as to the truth of the remaining allegations contained in Paragraph 2 (b), and therefore denies them.

(c) Applicant admits that the online records of the United States Patent and Trademark Office indicate that Opposer is the owner of United States Registration No. 1,402,829 dated July 29, 1986 for vitamins and dietary food supplements, which registration alleges first use of October 30, 1985. Applicant is without sufficient knowledge or information to form a conclusion as to the truth of the remaining allegations contained in Paragraph 2 (c), and therefore denies them.

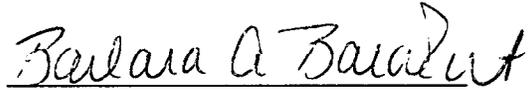
(d) Applicant admits that the online records of the United States Patent and Trademark Office indicate that Opposer is the owner of United States Registration No. 1,596,015 dated May 15, 1990 for vitamins and dietary food supplements, which registration alleges first use of April 4, 1989, and that the application for renewal was accepted by the USPTO on December 8, 2000. Applicant is without sufficient knowledge or information to form a conclusion as to the truth of the remaining allegations contained in Paragraph 2 (d), and therefore denies them.

(e) Applicant admits that the online records of the United States Patent and Trademark Office indicate that Opposer is the owner of United States Registration No. 2,084,936 dated July 29, 1997 for providing information regarding vitamins and dietary food supplements by means of a global computer network, which registration alleges first use of October 8, 1996 and that the Affidavit under Section 8 was accepted and the Affidavit under Section 15 was acknowledged on January 23, 2003. Applicant is without sufficient knowledge or information to form a conclusion as to the truth of the allegations contained in Paragraph 2 (e), and therefore denies them.

3. Applicant admits the allegations contained in Paragraph 3.
4. Applicant admits the allegations contained in Paragraph 4.
5. Applicant is without sufficient knowledge or information to form a conclusion as to the truth of the allegations contained in Paragraph 5, and therefore denies them.
6. Applicant denies each and every allegation contained in Paragraph 6.
7. Applicant is without sufficient knowledge or information to form a conclusion as to the truth of the allegations contained in Paragraph 7, and therefore denies them.
8. Applicant denies each and every allegation contained in Paragraph 8.

Wherefore, Applicant prays that Opposer's Notice of Opposition be dismissed and that judgement be entered in favor of Applicant United Natural Foods, Inc.

Respectfully submitted,



Michael J. Bevilacqua, Esq.

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Date: October 12, 2004

#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner of Trademarks, BOX TTAB – NO FEE, 2900 Crystal Drive, Arlington, VA 22202-3514, on October 12, 2004.



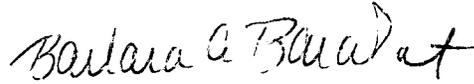
Angela E. M. Dyer

**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served this 12<sup>th</sup> day of October 2004, upon:

Michael A. Painter  
Isaacman, Kaufman & Painter  
8484 Wilshire Boulevard, Suite 850  
Beverly Hills, California 90211

by first-class mail, postage prepaid.



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Barbara A. Barakat