

TTAB

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

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VITAMIN WORLD, INC., :

78394210

Opposer, :

Opposition No. 91164676

v. :

GALEN (CHEMICALS) LIMITED, :

U.S. "Express Mail" mailing label No.  
Number EV606159508US  
Date of Deposit 4/27/05

Applicant. :

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner of Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

-----X

ANSWER

ANNA JAKOBSSON  
Name  
[Signature]  
Signature

Galen (Chemicals) Limited ("Applicant"), by their attorneys Donovan & Yee LLP, for their Answer to the Notice of Opposition ("Notice") filed by Vitamin World, Inc. ("Opposer"), state as follows:

1. Applicant admits that, as set forth in paragraph 1 of the Notice, FEMGEST appears to be a registered trademark, Registration No. 2,438,301, and respectfully refers the Board to the registration for its particulars.
2. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the Notice.
3. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 of the Notice.
4. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations as to Opposer's use of its FEMGEST mark and denies the remaining allegations in paragraph 4 of the Notice.



04-28-2005

5. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Notice.

6. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 of the Notice.

7. Applicant admits that its application, Serial No. 78/394,210, was filed on March 31, 2004, and that it has not yet commenced use of its mark, but denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 7 of the Notice.

8. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Notice.

9. Applicant denies the allegations in paragraph 9 of the Notice.

10. Applicant denies the allegations in paragraph 10 of the Notice.

11. Applicant denies the allegations in paragraph 11 of the Notice.

12. Applicant admits that it intends to use its FEMSTEP mark in connection with pharmaceuticals, namely, an oral contraceptive, but denies the remaining allegations in paragraph 12 of the Notice.

13. Applicant denies the allegations in paragraph 13 of the Notice.

14. Applicant denies the allegations in paragraph 14 of the Notice.

#### AFFIRMATIVE DEFENSES

15. The FEMGEST and FEMSTEP marks are, when viewed in their entireties, not confusingly similar due to the differences in appearance, sound and connotation.

16. The form and intended uses of the goods at issue are not even remotely similar. While Opposer uses its mark FEMGEST for medicated topical transdermal creams for

application to irritated or itchy skin, Applicant intends to use its mark FEMSTEP for an oral contraceptive.

17. Based on the differences in marks and goods, there is no likelihood of confusion between Opposer's FEMGEST mark and Applicant's FEMSTEP mark.

WHEREFORE, Applicant respectfully requests that this Opposition be dismissed and Applicant's mark be permitted to proceed to registration.

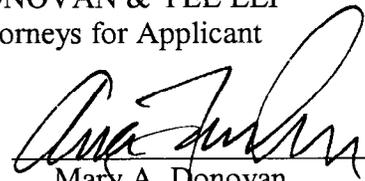
Dated:

4/27/05

Respectfully submitted,

DONOVAN & YEE LLP  
Attorneys for Applicant

By:



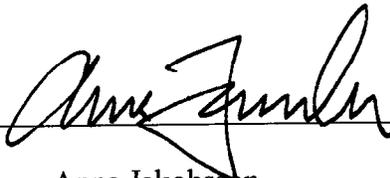
Mary A. Donovan  
Anna Jakobsson

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(212) 226-3483  
(212) 226-1995 (fax)

CERTIFICATE OF SERVICE

I, Anna Jakobsson, an attorney associated with Donovan & Yee LLP, attorneys for Applicant Galen (Chemicals) Limited, hereby affirm under the penalties of perjury, that on April 27, 2005, I caused a true and correct copy of the foregoing Answer to be served via regular mail, postage prepaid, upon:

Scott B. Fisher, Esq.  
Jaspan Schlesinger Hoffman LLP  
300 Garden City Plaza  
Garden City, NY 11530



Anna Jakobsson