

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



GALDERMA S.A.,]
]
 Opposer,]
]
 v.]
]
 HCI DIRECT, INC.,]
]
 Applicant.]

76637711
Opposition No. 91172124

Trademark Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

MOTION FOR JUDGMENT
(NO TESTIMONY BY OPPOSER)

Applicant, through its counsel, respectfully moves this Honorable Board to grant judgment to Applicant on the record, dismissing this Opposition pursuant to the provisions of 37 C.F.R. §2.132(a) for the reasons set forth below.

The testimony period for the Opposer, Galderma S.A., was set by the Board in its scheduling order of August 1, 2006. This testimony period was set to expire on May 18, 2007 and opening thirty days prior thereto. To date, neither the Applicant nor its attorneys have been contacted by Opposer or its attorneys with respect to any intention on the part of Opposer to take testimony. Neither have Applicant's attorneys

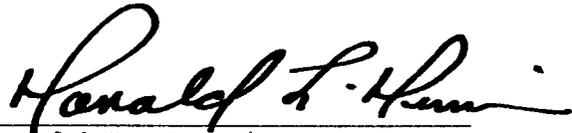
LAW OFFICES
DENNISON, SCHULTZ & MACDONALD
SUITE 105
1727 KING STREET
ALEXANDRIA, VIRGINIA 22314-2700
703 837-9600

received any notice that testimony is contemplated or is to be taken. Opposer's testimony period is now over and it is too late for Opposer to now take such testimony.

Since the Opposer has the clear burden of proof in supporting and sustaining its opposition and since that burden cannot now be met by Opposer due to its failure to take any testimony within the allotted time to show that it has used the opposed mark or one similar thereto prior to Applicant's first date of use, it cannot prevail. Applicant has denied the principal allegations of the Notice of Opposition and it appears that no useful purpose would be served by continuing the Opposition. Dismissal is therefore requested.

Respectfully submitted,

May 21, 2007



Donald L. Dennison
Dennison, Schultz & MacDonald
Attorneys for Applicant
1727 King Street
Suite 105
Alexandria, VA 22314
(703)837-9600 Ext. 15

CERTIFICATE OF SERVICE

This is to certify that a copy of Applicant's Motion for Judgment was served upon counsel for Opposer by depositing a copy thereof in the United States mail with proper postage affixed this 21st day of May, 2007, addressed to counsel for Opposer, William S. Frommer, c/o Frommer Lawrence & Haug LLP, 745 Fifth Avenue, New York, NY 10151.



Donald L. Dennison