

ESTTA Tracking number: **ESTTA158448**

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

Proceeding	91176901
Party	Plaintiff Bodyonics, Ltd.
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Submission	Other Motions/Papers
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Date	08/22/2007
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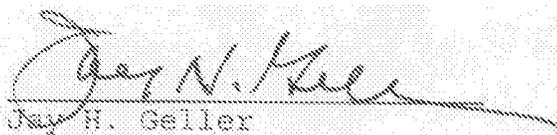
The original Motion for Summary Judgment, standing unopposed and uncontested, should be granted, the Opposition should be sustained and registration should be refused to Applicant.

Dated: August 22, 2007.



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I certify that the foregoing is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Ilie Ioncescu and Jeffrey Kaplan at P.O.B. 11106, Ft. Lauderdale, FL 33339 on August 22, 2007.



Jay H. Geller

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

Bodyonics, Ltd.)	Opposition No. 91176901
)	
Opposer,)	
)	
v.)	OPPOSER'S REPLY TO
)	APPLICANT'S OPPOSITION TO
Jeffrey Lee Kaplan and)	<u>ENTRY OF SUMMARY JUDGMENT</u>
Ilie Ionescu,)	
)	
Applicants)	
.....)	

Applicant totally misunderstands the nature of litigation. It argues that because of Opposer's filing a Supplement Motion for Summary Judgment the original Motion is moot. Clearly Applicant is totally unaware of alleging difference causes of action in the same Complaint and that prevailing on any one cause of action ends the matter.

Applicant states that its filing its own Motion for Summary Judgment was an Opposition to Opposer's original Motion for Summary Judgment. Opposer is unaware of any mechanism whereby filing a Motion on one issue is tantamount to opposing a Motion on a different issue. While it is clear that Applicant is acting pro se, it is not entitled to any special treatment because of its ignorance of either procedural or substantive law. The fact remains, uncontested, that Applicant has NOT opposed the original Motion for Summary Judgment. Nor has it contested the basic underlying fact in the original Motion for Summary Judgment: It's mark ENERGY POPPERS is merely descriptive and/or generic of its goods and cannot, therefore, serve a source identifier for Applicant' goods.