

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Winter/mc

Mailed: April 23, 2010

Opposition No. 91191597

Alcon, Inc.

v.

Daiichi Sankyo Company,
Limited

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

On March 23, 2010, opposer filed the parties' stipulated, proposed amendment to the involved application Serial No. 77592507, in accordance with the parties' settlement of this matter.

By the proposed amendment, applicant seeks to change the identification of goods as follows:¹

From: "Pharmaceutical preparations for the treatment and prevention of cardiovascular disease, atherosclerosis, diabetic nephropathy, stroke, heart attack, hypercholesterolemia, dyslipidemia, anemia, blood disorders, diabetes, thyroid function disease, metabolic disorders, cancer, oncological disease, metastasis, autoimmune disease, allergy, bacterial infection, viral infection, fungal infection, inflammation and inflammatory disease, musculoskeletal disorders, pain, osteoporosis, Alzheimer's disease, obesity, anorexia, urinary and kidney disease, respiratory disease; Diagnostic reagents and contrast media for medical use."

¹ The proposed amendment is shown in bold font type and is underlined.

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To: "Pharmaceutical preparations for the treatment and prevention of cardiovascular disease, atherosclerosis, diabetic nephropathy, stroke, heart attack, hypercholesterolemia, dyslipidemia, anemia, blood disorders, diabetes, thyroid function disease, metabolic disorders, cancer, oncological disease, metastasis, autoimmune disease, allergy, bacterial infection, viral infection, fungal infection, inflammation and inflammatory disease, musculoskeletal disorders, pain, osteoporosis, Alzheimer's disease, obesity, anorexia, urinary and kidney disease, respiratory disease; Diagnostic reagents and contrast media for medical use; all of the foregoing excluding ophthalmic pharmaceutical preparations."

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and because opposer consents thereto, it is approved and entered. See Trademark Rule 2.133(a).

If this resolves the dispute herein, opposer is allowed until thirty days from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. See Trademark Rule 2.106(c).

This proceeding is otherwise SUSPENDED.²



² Applicant's motion to suspend this proceeding pending the Board's consideration of the subject amendment is moot. Nonetheless, in view of the parties' stipulation, applicant's technical default for failing to file an answer on March 28, 2010 is hereby discharged. See Fed. R. Civ. P. 55(c).