

ESTTA Tracking number: **ESTTA603649**

Filing date: **05/12/2014**

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

Proceeding	91213383
Party	Defendant Allmax Nutrition Inc.
Correspondence Address	SEAN L SWEENEY TREDECIM LLC 91J AUBURN STREET #1133 PORTLAND, ME 04103 UNITED STATES sean@tredecimlaw.com
Submission	Response to Board Order/Inquiry
Filer's Name	Sean L. Sweeney
Filer's e-mail	sean@tredecimlaw.com
Signature	/Sean L. Sweeney/
Date	05/12/2014
Attachments	Response re consent.pdf(89639 bytes ) Redacted 2014-04-11 Allmax-Ultimate Nutrition Settlement Agree- ment.pdf(241359 bytes )

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

Universal Protein Supplements Corporation,

Opposer,

v.

Allmax Nutrition Inc.,

Applicant.

Serial No. **85/925,414**

Opposition No. **91213383**

Mark: **TRAIN LIKE AN ANIMAL**

Publication Date: **October 8, 2013**

**RESPONSE TO BOARD INQUIRY and RULE 2.135 CONSENT**

In response to the May 12, 2014, request that applicant, Allmax Nutrition Inc., provide the written consent of opposer, Universal Protein Supplements Corporation, for the abandonment of application Serial No. 85925414, applicant hereby submits a redacted copy of the settlement agreement between applicant and opposer.

As explicitly stated in applicant's abandonment filed April 24, 2014, and as evidenced by the redacted settlement agreement attached hereto as Exhibit A, opposer consented in writing to the withdrawal of application Serial No. 85925414 with prejudice.

Accordingly, applicant hereby requests that the opposition be dismissed.

Dated: May 12, 2014

Respectfully Submitted,

/Sean L. Sweeney/

Sean L. Sweeney  
TREDECIM LLC  
91-J Auburn St., #1133  
Portland, ME 04103  
(207) 221-6100  
sean@tredecimlaw.com

*Attorney for the Applicant*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing RESPONSE TO BOARD INQUIRY and RULE 2.135 CONSENT has been served on counsel of record for opposer, Universal Protein Supplements Corporation, by emailing said copy per agreement to:

Maureen Beacom Gorman  
MARSHALL, GERSTEIN & BORUN LLP  
233 South Wacker Drive, Suite 6300  
Chicago, IL 60606  
(312) 474-6300  
[MGorman@marshallip.com](mailto:MGorman@marshallip.com)

Dated: May 12, 2014

/Sean L. Sweeney/  
Sean L. Sweeney

# **EXHIBIT A**

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement”) is by and between Universal Protein Supplements Corporation d/b/a Universal Nutrition, a New Jersey corporation, located at 3 Terminal Road, New Brunswick, New Jersey 08901, United States (“Universal Nutrition”) and Allmax Nutrition Inc., a Canadian corporation, located at 4576 Yonge Street, Suite 509, North York, Ontario M2N 6N4, Canada (“Allmax”) (collectively, the “Parties”). The Effective Date of this Settlement Agreement is April 11, 2014 (“Effective Date”).

### RECITALS

**Redacted**

**B.** WHEREAS, Allmax has applied for United States Patent and Trademark Office registration of the mark TRAIN LIKE AN ANIMAL, Ser. No. 85/925,414 (App. ‘414), in International Class 5 for use with “dietary and nutritional supplements”; and,

**Redacted**

NOW THEREFORE, in consideration for the promises and performance of the mutual covenants, terms and conditions contained in this Settlement Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**Redacted**

5. Allmax agrees that it will withdraw with prejudice its App. '414, to register TRAIN LIKE AN ANIMAL.

6. As the opposer in Opp. No. 91213383, Universal Nutrition agrees to consent to Allmax's withdrawal with prejudice of App. '414.

**Redacted**

**Redacted**

**Redacted**

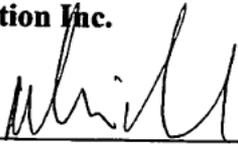
**Redacted**

17. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. All signatures of the Parties may be transmitted by facsimile or email, and such facsimile or email will, for all purposes, be deemed to be the original signature of such Party whose signature it reproduces, and will be binding upon such Party.

18. An electronic copy, or an accurate print thereof, of this Settlement Agreement shall be deemed as being authentic and original for all matters in which the authentic original is required.

IN WITNESS WHEREOF, the Parties through their undersigned authorized representatives hereby sign and adhere to the terms of this Settlement Agreement as of the Effective Date.

**Allmax Nutrition Inc.**



Signature

Michael Kichuk

President

April 11/2014

Date

**Universal Protein Supplements Corporation**



Signature

Michael Rockoff

CEO

4/11/14

Date