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Filing date: **08/08/2016**

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

Proceeding	92063625
Party	Defendant X Gym Ultimate Nutrition LLC
Correspondence Address	X GYM ULTIMATE NUTRITION LLC 23216 SE 15TH CT SAMMAMISH, WA 98075 UNITED STATES russriddle@verizon.net
Submission	Motion to Amend/Amended Answer or Counterclaim
Filer's Name	C. Russell Riddle
Filer's e-mail	russriddle@verizon.net
Signature	/C. Russell Riddle/
Date	08/08/2016
Attachments	Consented Motion to Amend Registration - AdvoCare vs X Gym - Cancellation No. 92063625 - Aug.pdf(596915 bytes)

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

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ADVOCARE INTERNATIONAL, LP,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92063625
)	
X GYM ULTIMATE)	
NUTRITION LLC,)	
)	
Registrant.)	
<hr/>)	

CONSENTED MOTION TO AMEND REGISTRATION

Pursuant to Trademark Rule 2.133(a) and TBMP Rules 514.02 and 605.03(b), X Gym Ultimate Nutrition LLC requests that its U.S. Trademark Reg. No. 4,521,485 be amended as follows:

From: Dietary and nutritional supplements; liquid nutritional supplement; nutritional and dietary supplements formed and packaged as bars; nutritional supplement energy bars in International Class 5

To: Nut-based food bars in International Class 29

Under Trademark Rule 2.71(a), X Gym Ultimate Nutrition LLC is permitted to amend its description of goods (“ID”) so long as the amendment clarifies or limits its existing ID and does not broaden its existing ID. For the following reasons, the proposed ID is limiting in nature:

1. The proposed ID is based on “nutritional and dietary supplements formed and packaged as bars,” which is included in the pre-amendment ID;
2. The proposed ID (which appears in the Trademark ID Manual) retains the limiting term “bar,” and further limits the ID to food bars, a subset of all bars.
3. Protein supplements are a subset of dietary and nutritional supplements. Therefore, protein supplement bars are a subset of dietary supplement bars.

4. Nuts are a common source of protein. Therefore, nut-based bars are a subset of protein supplement bars.

Based on the foregoing, nut-based food bars are a subset of nutritional and dietary supplements formed and packaged as bars. Accordingly, the proposed ID is acceptable as a limiting amendment.

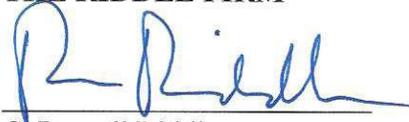
Opposer AdvoCare International, LP consents to this motion.

Date: August 8, 2016

Respectfully submitted,

THE RIDDLE FIRM

By:



C. Russell Riddle

517 Angle Ridge Drive
Murphy, TX 75094-4216

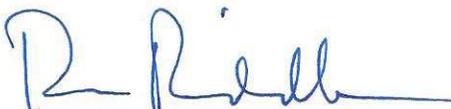
*Attorney for Registrant X Gym Ultimate Nutrition
LLC*

CERTIFICATE OF ELECTRONIC TRANSMISSION

Date: August 8, 2016

I certify that this Consented Motion to Amend is being transmitted electronically to the Trademark Trial and Appeal Board of the United States Patent & Trademark Office, on the date indicated above, through the ESTTA electronic filing system at the web site

<http://esta.uspto.gov/>.

By: 
C. Russell Riddle, Esq.

CERTIFICATE OF SERVICE

I certify that on August 8, 2016 I served this Consented Motion to Amend by electronic mail (by agreement) to:

Joel R. Feldman
Greenberg Traurig, LLP
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By: 
C. Russell Riddle, Esq.