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08-27-2002

U.S. Patent & TMOs/TM Mail Rcpt Dt. #70

ANABOLI.054T

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK TRIAL AND APPEAL BOARD

Applicant : Anabolic Laboratories, Inc. )  
 Serial No. : 75/584,894 )  
 Filed : November 9, 1998 )  
 Mark : JOINT SUPPORT FORMULA )  
 Examining Attorney : Charles L. Jenkins )  
 Law Office : 105 )

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, on

August 23, 2002  
 (Date)

*Tirzah Abé Lowe*  
 Tirzah Abé Lowe

MOTION TO REMAND APPLICATION AND SUSPEND PROCEEDINGS

Assistant Commissioner for Trademarks  
 2900 Crystal Drive  
 Arlington, VA 22202-3513

ATT: TTAB BOX NO FEE

Dear Sir:

On June 5, 2002, Applicant filed a Notice of Appeal along with the requisite fee in connection with the above-identified application. According to the June 24, 2002 correspondence received from the Trademark Trial and Appeal Board, the Notice of Appeal was received on June 10, 2002. On August 8, 2002, Applicant filed a Motion to Extend Time to File Appeal Brief. In the Motion, Applicant requested a 14-day extension, from August 9, 2002 up to and including August 23, 2002, to file an Appeal Brief. Thus, the deadline to file the Appeal Brief is August 23, 2002. In lieu of the Appeal Brief, Applicant timely files this Motion To Remand Application And Suspend Proceedings.

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TRADEMARK TRIAL AND APPEAL BOARD

**Mark** : JOINT SUPPORT FORMULA  
**Serial No.** : 75/584,894

Submitted herewith is a Petition to Cancel Registration No. 2,407,402, which was filed under separate cover on August 23, 2002, with the requisite fee. If Applicant is successful in its Petition to Cancel, Applicant will be able to obtain registration on the Supplemental Register and this Appeal will be rendered moot. Thus, Applicant respectfully requests the Board to remand the application to the Examining Attorney for consideration of this document and suspension of the application. Further, Applicant respectfully requests the Board to suspend proceedings in this appeal pending the Examining Attorney's consideration.

Section 1205 of the Trademark Trial and Appeal Board Manual of Procedure (TBMP) states:

"If an applicant which has filed a timely appeal to the Board files an amendment to its application more than six months after the issuance of the final action, . . . the Board normally will suspend proceedings with respect to the appeal, and remand the application to the Examining Attorney for consideration of the amendment."

TBMP § 1205, p. 1200-22.

Therefore, Applicant respectfully requests that the Board remand the application for consideration by the Examining Attorney and suspend proceedings with respect to the appeal pending the outcome of the Examining Attorney's consideration.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: August 23, 2002

By: Tirzah Abé Lowe  
Tirzah Abé Lowe  
2040 Main Street  
Fourteenth Floor  
Irvine, CA 92614  
(949) 760-0404



08-27-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #70

ANABOLI.054T

TRADEMARK

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

Anabolic Laboratories, Inc.,

Petitioner,

v.

Wpcom Colorado, Inc.,

Respondent.

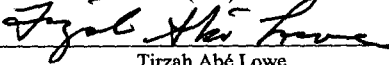
) Opposition No. \_\_\_\_\_

) Reg. No.: 2,407,402

) I hereby certify that this correspondence and all marked  
) attachments are being deposited with the United States Postal  
) Service as first-class mail in an envelope addressed to:  
) Assistant Commissioner for Trademarks, 2900 Crystal Drive,  
) Arlington, VA 22202-3513, on

) August 23, 2002

) (Date)

) 

) Tirzah Abé Lowe

**PETITION FOR CANCELLATION**

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

ATT: BOX TTAB FEE

Dear Sir:

Petitioner, Anabolic Laboratories, Inc., located and doing business at 26021  
Commercentre Drive, Lake Forest, California 92630, believes that it will be damaged by  
Registration No. 2,407,402 for the mark JOINT SUPPORT FORMULA, registered on the  
Principal Register in International Class 5 for NON-PRESCRIPTION DIETARY  
SUPPLEMENTS.

As grounds for cancellation, it is alleged that:

1. On information and belief, Respondent has abandoned said registered mark by  
failing to use said registered mark in the United States with no intent to initiate or resume said

use. Petitioner's attempt to register said mark will be impaired by the continued registration of said abandoned mark of Respondent.

2. Petitioner is likely to be damaged by continuance of said registration in that Petitioner has a pending application which has been refused registration due to the registration of the abandoned mark of Respondent. The continued registration of Respondent's abandoned mark will impair Petitioner's registration of said mark.

WHEREFORE, Petitioner prays that Registration No. 2,407,402 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 8-23-02

By: Tirzah Abé Lowe

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2040 Main Street  
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Irvine, CA 92614  
(949) 760-0404  
Attorneys for Petitioner, Anabolic Laboratories

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