

ESTTA Tracking number: **ESTTA57474**

Filing date: **12/13/2005**

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

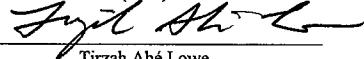
Proceeding	78225711
Applicant	Anabolic Laboratories, Inc.
Correspondence Address	Tirzah Abe Lowe Knobbe, Martens, Olson & Bear, LLP 2040 Main Street, 14th Floor Irvine, CA 92614 UNITED STATES efiling@kmob.com
Submission	Applicants Request for Remand and Amendment
Attachments	4075_001.pdf (2 pages) 4074_001.pdf (13 pages)
Filer's Name	Tirzah Abe Lowe
Filer's e-mail	efiling@kmob.com
Signature	/tirzah abe lowe/
Date	12/13/2005

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

Applicant : Anabolic Laboratories, Inc.)
)
 Serial No. : 78/225,711)
)
 Filed : March 14, 2004)
)
 Mark : ASCOMP)
)
 Examining)
 Attorney : Maria Victoria Suarez)
)
 Law Office : 102)
)

I hereby certify that this correspondence and all marked attachments are being transmitted by electronic mail to the United States Patent and Trademark Office at <http://www.uspto.gov> on

December 13, 2005
(Date)


Tirzah Abé Lowe

MOTION TO REMAND APPLICATION AND SUSPEND PROCEEDINGS

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

ATTN: BOX TTAB NO FEE

Dear Sir:

Submitted herewith is a copy of the Office Action, and corresponding Success Page, which was electronically filed with the Patent and Trademark Office on December 13, 2005 for the above-referenced application. Applicant respectfully requests the Board to remand the application to the Examining Attorney for consideration of this document. 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

Mark : ASCOMP
Serial No. : 78/225,711

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.

In the present application, the Examining Attorney cited Reg. No. 2,693,201 against the application. The cited registration was recently assigned to Applicant. In the Office Action, the Applicant amends the application to indicate ownership of Reg. No. 2,693,201.


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. If the Examining Attorney enters the amendment set forth in the Response to Office Action, this appeal will be rendered moot.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 12-13-05

By: _____


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

2194012
121205

PTO Form 1957 (Rev 8/2005)
 OMB Control #0651-0050 (Exp. 04/30/2006)

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78225711
LAW OFFICE ASSIGNED	LAW OFFICE 102
MARK SECTION (no change)	
ARGUMENT(S)	
<p>Applicant will file with this Response to Office Action a Request to Remand with the TTAB.</p> <p>In the Office Action, mailed May 2, 2005, the Examining Attorney made final the citation of Registration No. 2,693,201 for the mark ASCOMP against the present application. Submitted with this Response is a Trademark Assignment, which transfers ownership of Registration No. 2,693,201 from Florida Breckenridge, Inc. to Applicant, Anabolic Laboratories, Inc. In view of this Trademark Assignment, Applicant respectfully requests the Examining Attorney to withdraw the Section 2(d) citation.</p> <p>The Examining Attorney also requested that Applicant amend the identification of goods in the present application to remove the word "including" and substitute "namely." Applicant has complied with this request.</p> <p>In view of the above-referenced Trademark Assignment and Amendment, Applicant submits that the application is now in condition for registration. If the Examining Attorney has any questions, the Examining Attorney is invited to contact the undersigned attorney.</p>	
EVIDENCE SECTION	
EVIDENCE FILE NAME	<u>evi_67133124210-135358375_.pg1.jpg</u>
EVIDENCE FILE NAME	<u>evi_67133124210-135358375_.pg2.jpg</u>
EVIDENCE FILE NAME	<u>evi_1-67133124210-135358375_.pg4.jpg</u>
EVIDENCE FILE NAME	<u>evi_1-67133124210-135358375_.pg3.jpg</u>
DESCRIPTION OF EVIDENCE FILE	Trademark Assignment of Reg. No. 2,693,201 in 4 pages
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	005
DESCRIPTION	Pharmaceuticals, including, pharmaceuticals for the treatment of pain

FILING BASIS Section 1(a)

FIRST USE ANYWHERE DATE 03/18/2002

FIRST USE IN COMMERCE DATE 03/18/2002

GOODS AND/OR SERVICES SECTION (proposed)

INTERNATIONAL CLASS 005

DESCRIPTION

Pharmaceuticals, namely, pharmaceuticals for the treatment of pain

FILING BASIS Section 1(a)

FIRST USE ANYWHERE DATE 03/18/2002

FIRST USE IN COMMERCE DATE 03/18/2002

ADDITIONAL STATEMENTS SECTION

PRIOR REGISTRATION(S) "Applicant claims ownership of U.S. Registration Number(s) 2693201."

SIGNATURE SECTION

DECLARATION SIGNATURE The filing Attorney has elected not to submit the signed declaration, believing no supporting declaration is required under the *Trademark Rules of Practice*.

RESPONSE SIGNATURE /tirzah abe lowe/

SIGNATORY NAME Tirzah Abe Lowe

SIGNATORY POSITION Attorney

SIGNATURE DATE 12/13/2005

[Back](#)

PTO Form 1957 (Rev 8/2005)

OMB Control #0651-0050 (Exp. 04/30/2006)

Response to Office Action Form

Serial Number: 78225711

Class # 1

Evidence:evi_67133124210-135358375_._pg1.jpg

DEC 09 09 52:14 PM '05

TRADEMARK ASSIGNMENT

This Trademark Assignment (hereinafter referred to as "Assignment") is effective as of the 11th day of November, 2005, by and between FLORIDA BRECKENRIDGE, INC., a Florida corporation having a place of business at 1141 South Rogers Circle, Suite 3, Boca Raton, Florida 33487 (hereinafter referred to as "ASSIGNOR"), and ANABOLIC LABORATORIES, INC., a California corporation having a place of business at 17802 Gillette Avenue, Irvine, California 92614 (hereinafter referred to as "ASSIGNEE").

WHEREAS, ASSIGNOR has adopted, used, is using, and is, to the best of its knowledge and belief, the owner of the trademarks listed in Schedule A, attached hereto and incorporated herein by this reference, and all other rights, appurtenant thereto, including, but not limited to, all common law rights, trade name rights, causes of action, and the right to recover for past infringement (hereinafter collectively referred to as "Trademarks") in the United States;

WHEREAS, ASSIGNOR has acquired goodwill associated with and symbolized by said Trademarks and has not abandoned the same;

WHEREAS, ASSIGNOR is the owner of the federal trademark registration relating to the Trademarks listed in Schedule B, attached hereto and incorporated herein by reference (hereinafter collectively referred to as "Registration");

WHEREAS, ASSIGNEE is desirous of acquiring all rights, title, and interest in and to the Trademarks and Registration worldwide; and

WHEREAS, ASSIGNOR is willing to assign to ASSIGNEE all rights, title, and interest as ASSIGNOR may possess in and to the Trademarks and Registration.

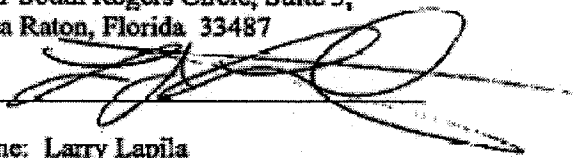
Evidence:evi_67133124210-135358375_._pg2.jpg

NOW, THEREFORE, for good and adequate consideration, the receipt and sufficiency of which is hereby acknowledged, ASSIGNOR hereby assigns and sells to ASSIGNEE all rights, title, and interest as ASSIGNOR may possess in and to the following:

- (1) the Trademarks as set forth in Schedule A executed the same day by the parties;
 - and
 - (2) the Registration set forth in Schedule B executed the same day by the parties;
- together with the goodwill symbolized by said Trademarks and Registration, concurrent with the transfer of certain tangible assets as indicia of said goodwill.

Executed at Berlin, Connecticut, this 11th day of November, 2005.


FLORIDA BRECKENRIDGE, INC.
A Florida corporation having a place of business at
1141 South Rogers Circle, Suite 3,
Boca Raton, Florida 33487

By: 

Name: Larry Lapila
Title: Vice President, Business Development
Breckenridge Pharmaceutical, Inc.
15 Massirio Drive, Suite 201
Berlin, CT 06037

Executed at Lake Forest, California this 15th day of November, 2005.

ANABOLIC LABORATORIES, INC.
A California corporation having a place of business at
26021 Commerce Drive, Lake Forest, California 92630

By: 

Name: GARY RORNGOLD
Title: V.P., BUSINESS DEVELOPMENT

Evidence:evi_1-67133124210-135358375_._pg4.jpg

Evidence:evi_1-67133124210-135358375_._pg3.jpg

Dec 12 05 02:12p

Laura G. Brooks

(949)609-4094

p. 2

SCHEDULES TO TRADEMARK ASSIGNMENT

SCHEDULE A

Mark(s):

ASCOMP
ASCOMP WITH CODEINE

SCHEDULE B


Federal Trademark Registration:

<u>MARK:</u>	<u>REG. NO.</u>	<u>REG. DATE</u>	<u>INTL. CLASS</u>
ASCOMP	2,693,201	March 4, 2003	5

FLORIDA BRECKENRIDGE, INC.
VP Business Development

By: 
Date: 11-11-05

ANABOLIC LABORATORIES, INC.

By: 
Date: 11/15/05

BOCA-75523_1r

Back

PTO Form 1957 (Rev 8/2005)

OMB Control #0651-0050 (Exp. 04/30/2006)

Response to Office Action Form

Original Mark: ASCOMP

[Back](#)

Your Response To Office Action Form Was Submitted Successfully

Success!

We have received your form for serial number **78225711** . We will send an Email summary of the form to "efiling@kmob.com", which will be your official confirmation of receipt. For electronically-submitted forms, the USPTO will not mail any additional paper confirmation.

NOTE: Do **NOT** send a duplicate paper copy of this filing to the USPTO, as it will interfere with the proper processing of the electronic submission.

Thank you.

TEAS Support Team

STAMP: USPTO/ROA-67.133.124.210-20051213141038704283-78225711-320f6da8e18081dd9ef4585482692e116-N/A-N/A-20051213135358375682



Trademark Electronic Application System (TEAS) service
U.S. Patent and Trademark Office
Please refer questions or comments to: teas@USPTO.gov