

TTAB

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

FITNESS FOODS, INC., and
GFA BRANDS, INC.,



02-27-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #30

Opp

v.

ConAgra Brands, Inc.

Applicant.

Opposition No. 91152961
(Smart Links)

I hereby certify that this paper is being deposited with the U.S. Postal Service as Express Mail in an envelope addressed to: Commissioner of Trademarks, Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on this date:

Date: 2-27-03
Express Mail No. EL 71927968843

STIPULATED REQUEST TO RESET DISCOVERY AND TESTIMONY PERIODS

Opposer requests that the discovery and testimony periods previously set in this proceeding be rescheduled as follows:

- The period for discovery to close: June 4, 2003.
- Testimony in chief period for Opposer to close: September 2, 2003 (Opening 30 days prior thereto).
- Testimony in chief period for Applicant to close: November 1, 2003 (Opening 30 days prior thereto).
- Rebuttal Testimony to close: December 16, 2003 (Opening 15 days prior thereto).

The undersigned counsel has conferred with counsel for Applicant, ConAgra Brands, Inc., who has agreed that the extension is necessary for the parties to be able to complete discovery.

Dated: February 27, 2003

Respectfully submitted,

By

John L. Amarogi
WELSH & KATZ, LTD.
120 South Riverside Plaza, 22nd Floor
Chicago, Illinois 60606
(312) 655-1500
Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 27, 2003, a copy of the forgoing **Stipulated Request To Reset Discovery And Testimony Periods** was served by first class mail, postage prepaid, on the following:

Patrick C. Stephenson
McGrath, North, Mullin & Kratz, PC LLO
Suite 3700, First National Tower
1601 Dodge Street
Omaha, Nebraska 68102-1627

A handwritten signature in cursive script, appearing to read "John J. Anderson", written over a horizontal line.

UNITED STATES DEPARTMENT OF
COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: September 24, 2002

Opposition No 91152961
Serial No. 75842193

ROBERT C. STEPHENSON
MCGARTH, NORTH, MULLIN & KRATH, P.C.
222 SOUTH 15TH STREET, SUITE 1400
OMAHA, NE 68102.

Fitness Foods, Inc. and CFA
Brands, Inc.

v.

ConAgra Brands, Inc.

JOHN L. AMBROGI
WELSH & KATZ, LTD.
120 SOUTH RIVERSIDE PLAZA, 22ND FLOOR
CHICAGO, IL 60606

Juan M. Porter, Legal Assistant

A notice of opposition to the registration sought in the above-identified application has been filed. A copy of the notice is attached.

ANSWER IS DUE FORTY DAYS after the mailing date hereof.
(See Patent and Trademark Rule 1.7 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that became effective October 9, 1998. See Notice of Final Rulemaking published in the *Official Gazette* on September 29, 1998 at 1214 TMOG 145. Slight corrections to the rules, resulting in a correction notice, were published in the *Official Gazette* on October 20, 1998 at 1215 TMOG 64.

Opposition No. '91 152,961

A copy of the recent amendments to the Trademark Rules, as well as the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), is available at <http://www.uspto.gov>.

Discovery and testimony periods are set as follows:

Discovery period to open:	October 14, 2002
Discovery period to close:	April 12, 2003
30-day testimony period for party in position of plaintiff to close:	July 11, 2003
30-day testimony period for party in position of defendant to close:	September 09, 2003
15-day rebuttal testimony period for plaintiff to close:	October 24, 2003

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). A hard copy of the *Official Gazette* containing this notice is available for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Telephone (202) 512-1800). The notice is also available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

Opposition No. 91 152,961

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.