

ESTTA Tracking number: **ESTTA3282**

Filing date: **11/17/2003**

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

Proceeding	91155077
Party	Defendant JOAR OPHEIM Opheim, Joar 3040 Valencia Ave. Aptos, CA 95003
Correspondence Address	JOAR OPHEIM NORDIC NATURALS 5A HANGER WAY WATSONVILLE, CA 95076
Submission	Motion to Amend Application to correct error
Filer's Name	Howard E. Lebowitz
Filer's e-mail	hlebowitz@pacbell.net
Signature	/Howard E. Lebowitz/
Date	11/17/2003
Attachments	Motion to Amend the Application.pdf (2 pages)

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

Genetics Institute, LLC)

v.)

Joar Opheim)

)

Opposition No.: 91155077)

**Motion to Amend the Application to Correct an Error (including embodied brief on
the motion)**

The applicant moves the Board to Amend the Application (Serial No. 78/082041) which is the basis for this opposition to show that the Applicant’s correct identification is “Joar Opheim and Michelle Opheim, a partnership DBA: Nordic Naturals” and the entity is a partnership.

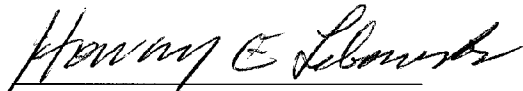
The grounds for the motion are that this is an allowable correction under TMEP 1201.02(c)(4), where the record is ambiguous as to who owns the mark, *e.g.*, an individual and a corporation are each identified as the owner in different places in the application, the application may be amended to indicate the proper applicant.

The application was originally filed by Michelle Opheim, as vice president, indicating that the Applicant entity was a partnership having general partners Michele Opheim and

Joar Opheim. The Applicant name was listed as Joar Opheim. On Nov. 13, 2001, the examiner issued an office action, which inter alia noted the apparent ambiguity between the name and entity. Mr. Joar Opheim, who responded to the Office Action, apparently misunderstood the question and indicated "individual" rather than changing the applicant name. This was an error caused by misunderstanding without any intent to deceive, and is of the type that can be corrected as indicated in TMEP 1201.02(c)(4).

WHEREFORE Applicant respectfully requests entry of the amendment.

Signed:



Howard E. Lebowitz
Attorney for Joar Opheim and Michelle Opheim Partnership
19682 Hesperian Blvd., Suite 208
Hayward, CA 94541
Telephone: (510) 785-8070
Facsimile: (510) 372-2778
E-Mail: hlebowitz@pacbell.net

Dated: November 17, 2003

Certificate of Service

I hereby certify that a true and complete copy of the foregoing Answer has been served on Egon E. Berg, Attorney for Wyeth, by mailing said copy on Nov 17, 2003 by Express Mail Post Office to Addressee to Egon E. Berg, Esquire, Wyeth, Five Giralda Farms, Madison, New Jersey 07940.

