

TTAB

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

*In the Matter of Serial No. 76/439,124
for the mark THERMO FUEL*

-----X
TWIN LABORATORIES, INC.,

Opposition No. 91155955

Opposer,

v.

BREAKTHROUGH ENGINEERED
NUTRITION, INC.,

Applicant.
-----X

"Express Mail" mailing label No. EV 245011777 US
Date of Deposit: October 24, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Name: Ruth Artis-McLeod
Signature: Ruth Artis-McLeod

Box TTAB NO FEE
Commissioner For Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514



NOTICE OF AUTOMATIC STAY

Opposer Twin Laboratories Inc. advises the Trademark Trial and Appeal Board and all counsel of record that it filed a Petition in Bankruptcy on September 4, 2003 in the United States Bankruptcy Court, Southern District of New York. Attached to this Notice as Exhibit A is a copy of Opposer's Notice of (i) Commencement of Chapter 11 Cases; (ii) Meeting of Creditors Pursuant to Section 341 of the Bankruptcy Code; and (iii) Applicability of the Automatic Stay.

Pursuant to Section 362 of the Bankruptcy Act, 11 U.S.C. §362, this Cancellation Proceeding is subject to the Automatic Stay provisions of the Bankruptcy Code.

Opposer respectfully requests that this Board issue an Order staying this Proceeding, with Discovery, Testimony, and all relevant dates to be re-set upon Opposer's emergence from bankruptcy.

Respectfully submitted,

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Dated: New York, New York
October 24, 2003

By 

Chester Rothstein

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on the date indicated below, a true and correct copy of the foregoing NOTICE OF AUTOMATIC STAY was served by First Class Mail, postage prepaid, upon attorneys for Petitioner, as follows:

J. Todd Timmerman, Esq.
Shumaker, Loop & Kendrick, LLP
Bank of America Plaza, Suite 2800
101 East Kennedy Boulevard
Tampa, FL 33602



Chester Rothstein

Dated: October 24, 2003
New York, New York

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re	:	
	:	Chapter 11 Case No.
	:	
TWINLAB CORPORATION, <u>et al.</u> ,	:	03- 15564 (CB)
	:	
Debtors.	:	(Jointly Administered)
	:	

**NOTICE OF (i) COMMENCEMENT OF
CHAPTER 11 CASES; (ii) MEETING OF CREDITORS
PURSUANT TO SECTION 341 OF THE BANKRUPTCY
CODE; AND (iii) APPLICABILITY OF THE AUTOMATIC STAY**

TO ALL INTERESTED PARTIES:

COMMENCEMENT OF CASES: On September 4, 2003, the entities listed below (collectively, the "Debtors") each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") with the United States Bankruptcy Court for the Southern District of New York (the "Court"). The Debtors' chapter 11 cases are being jointly administered under Case No. 03-15564 (CB). For each debtor, the debtor's name, its address, case number, and federal tax identification number ("EIN No.") are listed below..

AUTOMATIC STAY: A creditor is anyone to whom the Debtors owe money or property or who has a claim against property of the Debtors' estates. Under the Bankruptcy Code, the Debtors are granted certain protection against creditors. **UNDER SECTION 362(a) OF THE BANKRUPTCY CODE, ENTITLED "AUTOMATIC STAY," THE FILING OF A BANKRUPTCY PETITION OPERATES AS A STAY THAT PROTECTS THE DEBTORS AND PROPERTY OF THE DEBTORS' ESTATES. COMMON EXAMPLES OF PROHIBITED ACTIONS BY CREDITORS ARE CONTACTING THE DEBTORS TO DEMAND REPAYMENT, TAKING ACTION AGAINST THE DEBTORS TO COLLECT MONEY OWED TO CREDITORS OR TO TAKE PROPERTY OF THE DEBTORS, AND STARTING OR CONTINUING COLLECTION ACTIONS, FORECLOSURE ACTIONS, OR REPOSSESSIONS. IF A CREDITOR VIOLATES THE AUTOMATIC STAY, THE COURT MAY HOLD THE CREDITOR IN CONTEMPT OF COURT AND ASSESS COMPENSATORY AND PUNITIVE DAMAGES WITH THE ATTENDANT POSSIBILITY OF COSTS, AND OTHER EXPENSES.** A creditor who is considering taking action against the Debtors or property of the Debtors' estates should review section 362 of the Bankruptcy Code and may wish to seek legal advice.

MEETING OF CREDITORS: A representative of the Debtors, as specified in Rule 9001(5) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), is

required to appear at the section 341 meeting of creditors on the date and at the place set forth below to be examined under oath. Attendance by creditors at the meeting is welcomed, but not required. At the meeting, creditors may examine the Debtors and transact other business as may properly come before the meeting. The meeting may be continued or adjourned from time to time by notice at the meeting, without further written notice to creditors.

MEETING OF CREDITORS

Date: November 21, 2003

***Location: 80 Broad Street, 2nd. Floor,
New York, NY 10004***

Time: 1:30 p.m.

PROOF OF CLAIM: Schedules of creditors will be filed pursuant to Bankruptcy Rule 1007. Any creditor holding a scheduled claim not listed as disputed, contingent, or unliquidated as to amount may, but is not required to, file a proof of claim in these cases. Creditors whose claims are not scheduled or whose claims are listed as disputed, contingent, or unliquidated as to amount and who desire to participate in these cases or share in any distribution must file their proofs of claim. A creditor who desires to rely on the schedules of creditors has the responsibility for determining that the claim is listed accurately. A proof of claim form and the deadline notice will be sent to you later. A deadline for the last day for filing proofs of claim has not yet been established.

PURPOSE OF CHAPTER 11 FILING: Chapter 11 of the Bankruptcy Code enables a debtor to reorganize pursuant to a plan. A plan is not effective unless confirmed by the Court after a confirmation hearing. Creditors will be given notice concerning any plan, or if these cases are dismissed or converted to another chapter of the Bankruptcy Code. The Debtors will remain in possession of their properties and will continue to operate their business unless a trustee is appointed.

NOTICE PROCEDURES: On September 13, 2003, the Court entered its Order Establishing Notice Procedures (the "Notice Procedures Order"). The Notice Procedures Order describes the notice procedures that apply in these chapter 11 cases. All parties who desire to participate in these chapter 11 cases must follow the procedures set forth in the Notice Procedures Order. Parties can obtain a copy of the Notice Procedures Order and all other documents filed electronically with the Court in this case by: (i) accessing the Court's website at www.nysb.uscourts.gov, or (ii) contacting the Clerk of the Court at One Bowling Green, New York, New York 10004-1408. Note that a PACER (<http://www.pacer.psc.uscourts.gov>) password and login are needed to access documents on the Court's website (www.nysb.uscourts.gov).

<u>Debtors</u> (Other names, if any, used by the Debtors in last 6 years appear in brackets)	<u>Address</u>	<u>Case No.</u>	<u>EIN No.</u>
Twinlab Corporation	150 Motor Parkway Suite 210 Hauppauge, New York 11788	03-15564 (CB)	11-3317986
Twin Laboratories Inc.	150 Motor Parkway Suite 210 Hauppauge, New York 11788	03-15566 (CB)	87-0467271
Twin Laboratories (UK) Ltd.	1 Coton Road Walton on Trent South Derbyshire Derbyshire DE12 8NC United Kingdom	03-15563 (CB)	3978216

Dated: October 22, 2003
New York, New York

/s/ Michael P. Kessler
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Attorneys for Debtors and
Debtors in Possession

United States Bankruptcy Court
Southern District of New York
Manhattan Division
One Bowling Green
New York, NY 10004-1408

NOTICE OF ELECTRONIC FILING PROCEDURE

Case Name: Twinlab Corporation Date Commenced: September 4, 2003
Case Number: Lead Case 03-15564 (CB); 03-15563 (CB) and 03-15566 (CB) (Jointly Administered)

These cases will be docketed exclusively on the court's Electronic Case Filing System. The system can be accessed via the Internet utilizing an attorney password. In compliance with Federal Rules of Civil Procedure Rule 11 and in accordance with Local Bankruptcy Rule 9011-1, the attorney's password shall constitute the signature of the attorney; therefore security of a password issued to an attorney is the responsibility of that attorney. An original signed copy of the filing shall be maintained in the attorney's files. A chamber's copy of all filed documents is required and all parties with legal representation must file documents in accordance with the following:

1. The requirements for filing, viewing and retrieving case documents are: A personal computer running any standard Windows platform; an Internet provider, Netscape Navigator and Adobe Exchange software to convert documents from a word processor format to a portable document format (PDF). The URL address is www.nysb.uscourts.gov and a password is needed to access this system. If you are unable to comply with this requirement, then
2. You must submit documents on a diskette using PDF format. The adobe software will provide this format. Further instruction may be found in the Adobe's manual. Use a separate diskette for each filing. Submit the diskette in an envelope with the case name, case number, type and title of document, and the file name on the outside of the envelope. If you are unable to comply with this requirement, or requirement number 1, then
3. You must submit your documents on a diskette using one of the following formats: Word, Wordperfect, or DOS text (ASCII). If you are unable to comply with this requirement, or requirements 1 or 2, then
4. You must submit an affidavit of your inability to file in either of the above formats. You may then file conventionally on unstapled, unbound, single-sided paper. Include your affidavit with your filing.

*** DO NOT SUBMIT CLAIMS THROUGH THE COURT'S ELECTRONIC FILING SYSTEM AT THIS TIME.**

Dated: October 22, 2003

Kathleen Farrell, Clerk of Court