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UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Mailed: October 7, 2005

Opposition No. 91166005

Majestic Drug Co., Inc.

v.

Rickel, Valerie

**David Mermelstein, Attorney:**

On September 2, 2005, applicant filed a proposed amendment to its application Serial No. 78403780, with opposer's consent and a motion to suspend pending entry of the amendment.

By the proposed amendment applicant seeks to amend the identification of goods deleting the indicated goods:

Personal care products, namely, skin, hair, cosmetic, body, bath, and spa products and preparations, baby and children's body care, household cleansing, and pet care products made in whole or in part from natural, organic, botanical, or ayurvedic ingredients, namely, skin soaps, glycerin soaps, bar soaps, liquid soaps; bath products, namely, bubble bath, bath gels, shower gels, bath oils, bath beads, bath crystals, bath powders, effervescing bath tablets, bath foams, bath milks, bath salts, bath muds and clays; body products, namely, body wash, body cleansers, body soaks, body masks, clays and muds, body scrubs, salt and sugar scrubs for the skin, body powders, hydrosols and flower essences for personal use, body mists, body oils, fragrant body splash, deodorants and antiperspirant for personal use, body glitter, sparkle, and shimmer products, body emulsions, body milks, skin moisturizers, anti-aging creams, skin lotions, hand

lotions, hand creams, massage oils, massage lotions, massage gels; body and skin firming preparations, namely, lotions, creams and oils; ~~sexual enhancement aids, namely balms, gels and lotions~~; foot care products, namely, foot cream, foot spray, foot powder; face care products, namely, face cleansers, face astringent, face sprays, skin clarifiers and toners, face scrubs, face lotions, face creams, face moisturizers, anti-aging face creams, anti-wrinkle face creams, face masks, eye gel, eye cream, eye masks, non-medicated lip care protectors; men's shaving products, namely, shaving creams, gels and lotions, shaving soaps, shaving foams, aftershave gels and lotions; oral care products, namely, tooth paste, tooth gel, tooth polish, tooth powder, non-medicated mouthwash, breath freshener, breath sprays; sun care products, namely, sun products, sun blocks, sun care lotions, sun screen preparations, sun tan lotions, oils and gels; hair care products, namely, hair shampoos, hair conditioners, hair repair treatments, hair dyes, hair highlighters, hair mascaras, hair glitters, hair pomades, hair sprays, hair styling gels, hair styling mousse; perfumery products, namely, perfumes, perfume oils, colognes, toilet waters, scented body sprays, potpourri, scented sachets, scented room sprays, scented ceramic stones, fragrance emitting wicks for room fragrance; incense; aromatherapy products, namely, essential oils and essential oil blends for personal use, essential oils for use in scented personal products; cosmetic products, namely, blush, blushers, concealer, cosmetic balls, pads, cosmetic pencils, cosmetic compacts, eye shadows, foundation, face powders, face highlighter, lip balms, lip cream, lip gloss, lip liners, lipsticks, make-up kits, make-up remover, mascara, nail polish and enamels, nail glitter, oil blotting sheets for the face, theatrical makeup, body paint, body ink, henna, and cosmetic pigments for applying stencils, artistic forms, images and designs to the body; nail grooming preparations, namely, nail creams and nail buffing preparations; pumice stones for personal use; household cleansing products, namely, general purpose cleaning, polishing, and abrasive liquids and powders, carpet cleaners, carpet cleaning preparations, carpet shampoos, detergent soaps, dishwashing detergents, disposable wipes, dryer sheets, floor polish, laundry detergents, scented linen sprays, home fragrance sprays, stain and spot removers, upholstery cleaners; pet products, namely, non-medicated pet grooming products, pet shampoos, pet odor remover, pet stain remover; gift

baskets comprised of one or more of the foregoing goods.

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(b), and because opposer consents thereto, it is approved and entered. See Trademark Rule 2.133(a).

If this resolves the dispute herein, opposer is allowed until **THIRTY DAYS** from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended.<sup>1</sup> See Trademark Rule 2.106(c).

Proceedings otherwise are suspended.

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<sup>1</sup> If it was - as stated in applicant's motion to amend - opposer's intention to withdraw its opposition upon entry of the amendment, the more efficient procedure would have been for the parties to submit one paper, signed by both parties, requesting amendment of the application (with opposer's consent) and withdrawal of the opposition, contingent upon entry of the amendment (with applicant's consent). That way, if the amendment was acceptable, the Board could have issued one order granting the motion and terminating the case pursuant to the parties' directions.