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

Proceeding	91168198
Party	Plaintiff Farmamedica, S.A.Farmamedica, S.A. Farmamedica, S.A. 2-A Calle 34-16Zona 7 Guatemala City, 000000 GUATEMALA
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Date	10/09/2006
Attachments	Notice of Service of Declaration_10-09-06.pdf (16 pages)(2979967 bytes)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and complete copy of the foregoing *Notice of Service of Declaration in Support of Plaintiff's Testimony* was served via email and deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to:

Amaury Cruz, Esq.
Sanchelima & Associates, P.A.
235 S.W. Le Jeune Road
Miami, Florida 33134

Amaury Cruz, Esq.
1688 West Avenue, Apt. 602
Miami Beach, FL 33139

On this 9th day of October 2006.

/s/ Edward M. Joffe

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

Opposition Number: 91168198
Serial Number: 78415472

Farmamedica, S.A.

v.

Alfaro de Maron, Ana Eloisa

DECLARATION IN SUPPORT OF PLAINTIFF'S TESTIMONY

I, Guillermo Morales, am the Vice-President of Farmamedica, S.A., the Opposer/Plaintiff in the above-entitled action and I declare that:

1. Farmamedica is the owner of U.S. registration numbers 2177701 issued on August 4, 1998 and registration number 3020951, issued on November 29, 2005.
2. Registration number 2177701 is for the block letter trademark VITAL FUERTE which is an incontestable trademark, as verified by the Sections 8& 15 Affidavits filed on July 18, 2004. Farmamedica has used the VITAL FUERTE trademark in the United States, without interruption, since its date of original registration.
3. Registration number 3020951 is for the distinctive packaging trade dress used by Farmamedica to market its VITAL FUERTE products. A copy of this registered trademark is shown below:



4. Applicant is attempting to register the trademark SUPERVITAL FORTE, claiming use of this trademark in the United States since at least as early as 1997.

5. Applicant is an owner of a business operating in El Salvador known as Combisa Laboratorios.
6. Applicant's husband, German Maron, acts as President of Combisa Laboratorios and directs the day to day business activities of that company.
7. Combisa manufactures, exports and distributes Applicant's products from its domicile in El Salvador.
8. As stated in the article found at <http://translate.google.com/translate?hl=en&sl=es&u=http://www.elsalvador.com/noticias/2004/08/23/negocios/neg8.asp&sa=X&oi=translate&resnum=1&ct=result&prev=/search%3Fq%3D%2522supervital%2522%2B%2522combisa%2522%26hl%3Den%26lr%3D>, Exhibit 1, since early 2004 Combisa has exported its products, including what is referred to in that article as SUPERVITAL, to the United States.
9. The footnote in this article is the following: "Exportaciones. Exporta desde marzo de 2004 a Estados Unidos, siete de sus marcas. Se prepara para vender en C.A." which translates into "Exported from March 2004 to the United States."
10. The photograph accompanying the article depicts this product which is literally referred to as SUPERVITAL, with the following product packaging:



11. The samples of use of Applicant's trademark submitted by Applicant in its trademark application are as shown in Exhibit 2 hereto and are identical to those shown above being exhibited by German Maron of Combisa Laboratorios. The samples of use show Applicant's trademark to be SUPER VITAL FORTE and not SUPERVITAL FORTE.
12. Applicant's trademark application shows first use of the SUPERVITAL FORTE trademark in the United States since 1997 and not 2004 as published in the above noted article, which Farmamedica believes is an intentional effort by Applicant to convince the Trademark Office that it has used its confusingly similar trademark in U.S. commerce simultaneously with or before Farmamedica's indicated date of first use of its incontestable VITAL FUERTE trademark.
13. As evidenced by the foregoing photograph of Applicant's husband together with the subject product, although Combisa reports sales of "SUPERVITAL" product in the United States, in truth the product's packaging identifies the

product as "SUPER VITAL" (with FORTE) assumedly shown beneath the photograph's borders.

14. The drawing of the trademark submitted to the Trademark Office by Applicant (showing the mark to be SUPERVITAL FORTE with "Supervital" as a single word) and its specimens of use (showing the mark to be SUPER VITAL FORTE with "Super" and "Vital" and "Forte" as separate literal components) evidence different forms of the subject trademark claimed to be used by Applicant. Farmamedica believes this is an intentional effort to draw the Trademark Office's attention away from Applicant's obvious intention to copy Farmamedica's distinctive product name VITAL FUERTE.
15. The packaging of Applicant's products and the packaging of Farmamedica's products both include the identical colors and structure which are protected by Farmamedica in its trademark registration number 3020951.
16. Applicant has made herself subject to the jurisdiction of the United States as a result of its application for trademark registration and its claim of doing business in the United States as a trademark owner since 1997.
17. Farmamedica has a pending District Court action against Applicant pending before the Maryland District Court alleging willful trademark infringement.
18. Farmamedica also already acquired an injunction against Beauty Botanicals, Inc., which had been one of Combisa's distributors in the United States, prohibiting its distribution or sales of the infringing SUPER VITAL FORTE products.
19. Farmamedica is negotiating a settlement agreement with Lacura, Inc., a current distributor of the Combisa products in the United States.
20. German Maron has, since Farmamedica has attempted to oppose the trademark application filed by his wife, written and submitted derogatory, false and insulting letters and correspondence to Farmamedica's counsel, both here in the United States and in El Salvador.
21. German Maron has, since Farmamedica has attempted to oppose the trademark application filed by his wife and since Farmamedica has filed suit against such parties in U.S. District Courts, filed bar complaints in the El Salvadorian Supreme Court against those local law firms attempting or obtaining service on his wife of the subject Complaint(s).
22. German Maron's actions are those of a man with malicious intentions and unacceptable business motives, causing substantial injury to reputable law firms and Farmamedica's reputation both in the United States and in El Salvador.
23. Farmamedica has sold its VITAL FUERTE products with the subject trade dress in the United States since at least as early as the 1990s.
24. In Guatemala, Farmamedica has used the VITAL FUERTE product name since the 1960s and its distinctive packaging design since the early 1990s.
25. Commerce throughout Central America routinely flows between countries and Farmamedica believes that Applicant became aware of Farmamedica's successful VITAL FUERTE product line as a result of its reputation in the region.

26. VITAL FUERTE and SUPER VITAL FORTE are literally essentially the identical trademark with identical commercial impressions. When combined with the manner of use adopted by Applicant, including Applicant's adoption of the identical packaging design as that used and protected by Farmamedica, Applicant has evidenced its clear intention to palm off of the reputation and goodwill established by Farmamedica.
27. Farmamedica's continuing efforts to expand its distribution base in the United States is greatly impeded as a result of Applicant's sales of infringing products to identical parties.
28. Because both Farmamedica and Combisa are companies well-known to Central American consumers, likelihood of consumer confusion as to source is likely insofar as both companies hope to generate business as a result of such pre-existing reputations within this niche community within the United States.
29. Farmamedica requests that the U.S. Trademark Office not permit registration of Applicant's trademark in light of Applicant's bad faith adoption of such product name as well as the obvious similarities between the look, sound and commercial impression of such product names as actually used in the U.S. marketplace.

I declare under penalty of perjury under the laws of the United States, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct, executed this 9 day of October 2006.

By: _____

Signature

Printed Name

CIVILIAN RICHARDS

EXHIBIT 1

Medicines for the EE.UU.

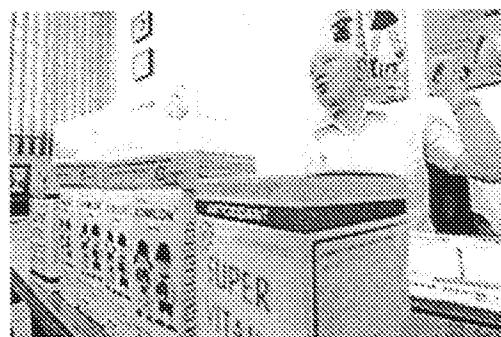
Market. Combisa Laboratories has been successful in the market of the resident Salvadorans in the States. Their medicines are sold now in four cities.

Published 23 of August 2004, the Newspaper of Today

Guadalupe Triqueros
The Newspaper of Today
negocios@elsalvador.com

Combisa Laboratories prepares the second shipment of 30,000 medicine units made in El Salvador, in the direction of four cities of the United States.

In California, Virginia, New York and Houston circulate from recent March the marks "Komilón" (stimulating of the infantile appetite), "Crecitin" (for crecimiento), "Neurofosfotón" (neurotónico) and "Supervital" (minerado vitamínico supplement).



Competitiveness.
Seven of 143 medicines made by Combisa have discharge demands in the United States.
Germa'n Marón, president, glide to export more.
Photos EDH/Wilfredo Diaz

The first shipment included/understood 20,000 units of marks that more ago than seven years already were known in the market the Central Americans, in the United States, because many Salvadorans introduced them as he leaves from his charges.

Germa'n Marón, president of Combisa, nostalgic market" of the Central American Salvadorans had not occurred to account of the potential of its marks in the call "or who live in that country.

Impact

From the last year, it contacted to experts of the Program of Attendance and Formation for the Internationalization of the Salvadoran Companies (AFIS), coordinated by the Chamber of Commerce and Industry of El Salvador.

After being put under the preparation processes, it obtained buyers and it located his products, which now are sold by means of the storage system which the wholesalers in the United States use.

Marón began only with the mark "Komilón", for being the most solicited. This is obtained in \$5.50 and until it is falsified by a American laboratory.

Marón prefers to look for more markets, than to be centered in legal messes. It will register six of his marks in Guatemala, Honduras, Nicaragua and Panama, soon to export.
In El Salvador, the fourth greater laboratory in implementing quality norms is considered.

Medium and small AFIS for



Quality.

The strict norms of quality allow that the products of Combisa enter the American market and compete with local marks. Photos EDH/Wilfredo Díaz.

Program AFIS, of the Chamber of Commerce, is implemented from 1999 in the country and it is centered in enabling to the small and medium company with export potential.

Yasmin Martínez, ordered of AFIS, informed that the industrialists get to invest up to \$600 in the programs of consultant's office and qualification.

The AFIS is applied in three phases: in first the exporting and competitive potential of the product is analyzed; second the plan of export, prices, packings elaborates and the contacts of businesses are obtained; in third, one becomes qualified to the personnel in foreign trade and international trade.

In each step, the adviser accompanies the industrialist. The difference of AFIS with other programs is that it does not subcontract advisers who soon leave to the drift the interested ones. The professionals become experts of techniques AFIS used in Spain by far success.

Foundation. Combisa Laboratorios was based on 1971 and began making the vitaminic supplements "Supravit" and "Combifer".

Products. At the moment, it makes 143 products, among them, the famous "Kemilón", "Supervital" and "Golden Ginseng".

Exports. It exports from March from 2004 to the United States, seven of his marks. It is prepared to sell in C.A.

Medicamentos para los EE.UU.

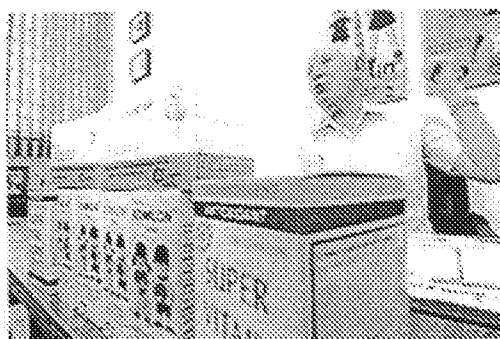
Mercado. Combisa Laboratorios ha tenido éxito en el mercado de los salvadoreños residentes en E Unidos. Sus medicamentos se venden ahora en cuatro ciudades.

Publicada 23 de agosto 2004, El Diario de Hoy

Guadalupe Trigueros
El Diario de Hoy
negocios@elsalvador.com

Combisa Laboratorios prepara el segundo envío de 30,000 unidades de medicamentos fabricados en El Salvador, con rumbo a cuatro ciudades de Estados Unidos.

En California, Virginia, Nueva York y Houston circulan desde marzo reciente las marcas "Komilón" (estimulante del apetito infantil), "Cracilin" (para el crecimiento), "Neurofosfotón" (neurotónico) y "Supervital" (suplemento vitamínico mineralizado).



Competitividad
Siete de los 143 medicamentos fabricados por Combisa tienen alta demanda en Estados Unidos. Germán Marón, presidente, planea exportar más. Fotos EDH / Wilfredo Díaz

El primer cargamento comprendió 20,000 unidades de marcas que desde hace más de siete años ya eran conocidas en el mercado de los centroamericanos, en Estados Unidos, debido a que muchos salvadoreños las introdujeron como parte de sus encomiendas.

Germán Marón, presidente de Combisa, no se había dado cuenta del potencial de sus marcas en el llamado "mercado nostálgico" de los salvadoreños o centroamericanos que viven en aquel país.

Impacto

Desde el año pasado, contactó a expertos del Programa de Asistencia y Formación para la Internacionalización de las Empresas Salvadoreñas (Afis), coordinado por la Cámara de Comercio e Industria de El Salvador.

Después de someterse a los procesos de preparación, consiguió compradores y ubicó sus productos, los cuales ahora se venden mediante el sistema de bodegaje que utilizan los mayoristas en Estados Unidos.

Marón comenzó sólo con la marca "Komilón", por ser la más solicitada. Esta se consigue en \$5.50 y hasta es falsificada por un laboratorio estadounidense.

Marón prefiere buscar más mercados, que centrarse en los legales. Registrará seis de sus marcas en Guatemala, Honduras, Nicaragua y Panamá, para luego exportar.

En El Salvador, se considera el cuarto mayor laboratorio en implementar normas de calidad.



Calidad.
Las estrictas normas de calidad permiten que los productos de Combisa ingresen al mercado estadounidense y compitan con marcas locales. Fotos EDH / Wilfredo Díaz

AFIS para medianas y pequeñas

El programa AFIS, de la Cámara de Comercio, se implementa desde 1999 en el país y se centra en capacitar a la pequeña y mediana empresa con potencial de exportación.

Yasmin Martínez, encargada de AFIS, informó que los empresarios llegan a invertir hasta \$600 en los programas de asesoría y capacitación.

El AFIS se aplica en tres fases: en la primera se analiza el potencial exportador y competitivo del producto; la segunda elabora el plan de exportación, de precios, de empaques y se consiguen los contactos de negocios; en la tercera, se capacita al personal en comercio exterior y en mercadeo internacional.

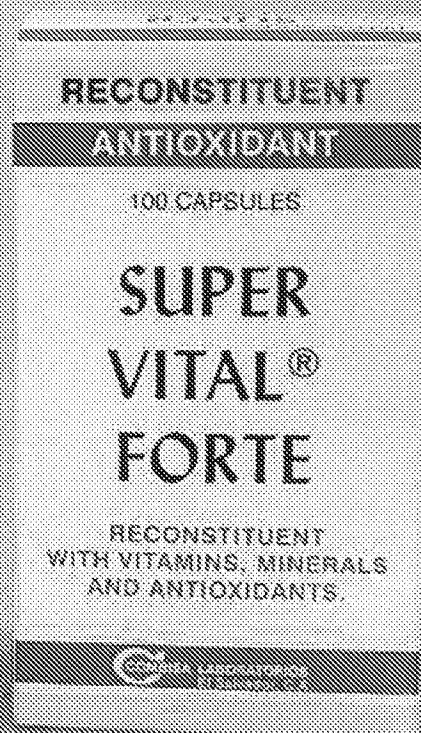
En cada paso, el asesor acompaña al empresario. La diferencia de AFIS con otros programas es que no subcontrata a asesores que luego dejan a la deriva a los interesados. Los profesionales se convierten en expertos de las técnicas AFIS empleadas en España con mucho éxito.

Fundación. Combisa Laboratorios se fundó en 1971 y comenzó fabricando los suplementos vitamínicos "Supravit" y "Combifer".

Productos. Actualmente, fabrica 143 productos, entre ellos, el famoso "Koniól", "Supervital" y "Ginseng Dorado".

Exportaciones. Exporta desde marzo de 2004 a Estados Unidos, siete de sus marcas. Se prepara para vender en C.A.

EXHIBIT 2





RECONSTITUENT
ANTIOXIDANT

100 CAPSULES

SUPER
VITAL®
FORTE

RECONSTITUENT
WITH VITAMINS, MINERALS
AND ANTIOXIDANTS



RECONSTITUYENTE
ANTIOXIDANTE

50 CAPSULAS

SUPER
VITAL®
FORTE

RECONSTITUYENTE
CON VITAMINAS, MINERALES
Y ANTIOXIDANTES





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

OPPOSITION No.: 91168198
SERIAL No.: 78415472

FARMAMEDICA, S.A.

OPPOSER/PLAINTIFF,

V.

ALFARO DE MARON, ANA ELOISA DE MARON

APPLICANT/DEFENDANT.

**NOTICE OF SERVICE OF DECLARATION IN
SUPPORT OF PLAINTIFF'S TESTIMONY**

Farmamedica, S.A., plaintiff, by and through its counsel, hereby files this Notice of Service of Declaration in Support of Plaintiff's Testimony as proof of service of Farmamedica, S.A.'s attached Declaration upon applicant/defendant's counsel.

Dated: October 9, 2006

/s/ Edward M. Joffe

Edward M. Joffe, Esq.

SANDLER, TRAVIS & ROSENBERG, P.A.

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