

ESTTA Tracking number: **ESTTA266743**

Filing date: **02/14/2009**

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

Proceeding	91169654
Party	Defendant Neways, Inc.
Correspondence Address	John C Stringham Workman Nydegger 1000 Eagle Gate Twr, 60 E South Temple Salt Lake City, UT 84111 UNITED STATES rphillips@wnlaw.com, scourdy@wnlaw.com
Submission	Other Motions/Papers
Filer's Name	John C. Stringham
Filer's e-mail	jstringham@wnlaw.com
Signature	/John C. Stringham 40831/
Date	02/14/2009
Attachments	Neways - Visual Changes Stipulation for Dismissal.PDF (5 pages)(166660 bytes) Neways express abandonment.PDF (2 pages)(58121 bytes)

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

In the matter of Trademark Application Serial Nos. 78/490,974 and 78/490,954
Published in the Official Gazette on September 13, 2005
Filing Date: September 28, 2004
For the Mark: **RESURRECTION BIOMIST** and
NEWAYS RESURRECTION BIOMIST

VISUAL CHANGES SKIN CARE INTERNATIONAL, INC.)	
)	
Opposer,)	STIPULATION FOR VOLUNTARY DISMISSAL OF OPPOSITION WITH PREJUDICE AND ABANDONMENT OF APPLICATIONS
)	
v.)	
)	
NEWAYS, INC.,)	Opposition No. 91169654
)	- consolidated with -
Applicant.)	Opposition No. 91169655

STIPULATION FOR VOLUNTARY DISMISSAL
OF OPPOSITION WITH PREJUDICE AND
ABANDONMENT OF APPLICATIONS

Applicant, Neways, Inc. hereby expressly abandons the applications for trademark registration made under the Serial Nos. 78/490,974 and 78/490,954 and will also file Exhibit A (attached) contemporaneously herewith. Except as provided in 37 C.F.R Section 2.135. (concerning the commencement of an opposition, concurrent use, or interference proceeding), the fact that an application has been expressly abandoned shall not, in any proceeding in the United State Patent and Trademark Office, affect any right that the applicant may have in the mark which is the subject of the abandoned application. Notwithstanding the foregoing, Neways will not and does not intend to use

the NEWAYS RESURRECTION BIOMIST and RESURRECTION BIOMIST marks on skin care products.

Additionally, Opposer, Visual Changes Skin Care, International, Inc., and Applicant, Neways, Inc. have fully resolved this matter and desire to terminate this proceeding. Therefore, pursuant to Rule 41(a) (1), Fed. R. Civ. P., the parties hereby jointly dismiss this proceeding, with prejudice.

Dated this 14th day of February, 2009.

Respectfully submitted,

WORKMAN NYDEGGER



JOHN C. STRINGHAM
Registration No. 40,831

WORKMAN NYDEGGER

Customer No. 022913

1000 Eagle Gate Tower

60 East South Temple

Salt Lake City, Utah 84111

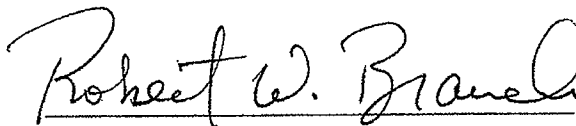
Telephone: (801) 533-9800

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jstringham@wnlaw.com

Attorneys for Applicant
Neways, Inc.

Dated this 14 day of February, 2009



Mark D. Miller

Robert W. Branch

KIMBLE, MACMICHAEL & UPTON

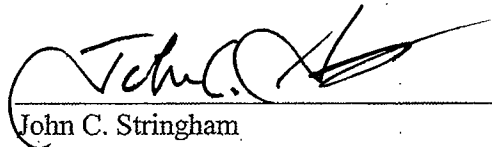
Attorneys for Opposer

Visual Changes Skin Care, International, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **STIPULATION FOR VOLUNTARY DISMISSAL OF OPPOSITION WITH PREJUDICE AND ABANDONMENT OF APPLICATIONS** was served on Opposer by mailing a true copy thereof to its attorney of record by First Class Mail, postage prepaid, this 17th day of February, 2009, in an envelope addressed as follows:

Mark D. Miller
Robert W. Branch
KIMBLE, MACMICHAEL & UPTON
P.O. Box 9489
Fresno, CA 93792-9489



John C. Stringham

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK DIVISION

In Re Applications of:)
)
Neways, Inc.) Examining Attorney: Goodman, Wendy Beth
)
Serial Nos.: 78/490,974)
and 78/490,954) Law Office: 109
)
Filed: September 28, 2004)
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Opposition No. 91169654)
- consolidated with -)
Opposition No. 91169655)
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)
For: RESURRECTION BIOMIST)
and NEWAYS RESURRECTION)
BIOMIST)
)
_____)

REQUEST FOR EXPRESS ABANDONMENT

To the Commissioner for Trademarks

Dear Sir:

By submission of this request, the applicant hereby expressly abandons the applications for trademark registrations made under the serial numbers identified above. Except as provided in 37 C.F.R. Section 2.135. (concerning the commencement of an opposition, concurrent use, or interference proceeding), the fact that an applications had been expressly abandoned shall not, in any proceeding in the United States Patent and Trademark Office, affect any right that the applicant may have in the marks which are the

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subject of the abandoned applications. Notwithstanding the foregoing, Neways will not and does not intend to use the RESURRECTION BIOMIST and NEWAYS RESURRECTION BIOMIST marks on skin care products.

Dated this ____ day of February, 2009.

Respectfully submitted,

WORKMAN NYDEGGER

By

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UNITED STATES PATENT AND TRADEMARK OFFICE

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