

ESTTA Tracking number: **ESTTA164133**

Filing date: **09/21/2007**

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

Proceeding	91169943
Party	Plaintiff Vitamin World, Inc
Correspondence Address	Scott B Fisher Jaspan Schlesinger Hoffman LLP 300 Garden City Plaza Garden City, NY 11530 UNITED STATES sfisher@jshllp.com
Submission	Other Motions/Papers
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Date	09/21/2007
Attachments	NBTYVitWorldLabOrizStipMotion.pdf (2 pages)(83054 bytes)

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

In the matter of Trademark Application

Applicant : Laboratorios Orizaba, S.A.
Serial No. : 78/562,168
Filed : February 7, 2005
Mark : CIRCULAN
Int'l Class : 005
For : Medications for humans for the treatment of circulatory disorders
Published : January 24, 2006

-----X
Vitamin World, Inc., :
:
Opposer, :
:
v. : **Opposition No.: 91/169,943**
:
Laboratorios Orizaba, S.A. :
:
Applicant. :
-----X

**STIPULATED MOTION TO AMEND APPLICATION AND STIPULATED
CONTINGENT MOTION TO DISMISS WITH PREJUDICE**

Applicant, Laboratorios Orizaba, S.A., with the consent of Opposer, Vitamin World, Inc., hereby moves to amend Application Serial No. 78/562,168, which is the subject of this proceeding, so that the description of goods and services will read as follows:

International Class 005:

“Medications for humans for the treatment of circulatory disorders, excluding vitamins, minerals, and dietary and nutritional supplements.”

Approval by the Board of this stipulated amendment is respectfully requested because it limits the scope of the goods and services.

Opposer, with the consent of Applicant, hereby moves to dismiss the Notice of Opposition and this Opposition No. 91/169,943, with prejudice, contingent on the Board's prior acceptance and entry of the foregoing stipulated amendment.

The parties also jointly move that this opposition proceeding remain suspended until the Board's ruling on this motion, and that, if the motion is denied for any reason, the Board set new discovery and trial dates.

STIPULATED AND CONSENTED TO BY APPLICANT:

Odin, Feldman & Pittleman, P.C.
Attorneys for Applicant
Laboratorios Orizaba, S.A.

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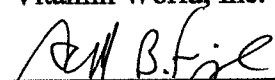
Date:

9/5/2007

STIPULATED AND CONSENTED TO BY APPLICANT

Jaspan Schlesinger Hoffman LLP
Attorneys for Opposer
Vitamin World, Inc.

By:



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Date:

9/21/07