

ESTTA Tracking number: **ESTTA229828**

Filing date: **08/12/2008**

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

Proceeding	91170764
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	08/12/2008
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application

Applicant : T. C. Pharmaceutical Industries Co., Ltd.
Serial No. : 78/533,180
Filed : December 15, 2004
Mark : **CIRCURE**
Int'l Class : 005
For : Food supplement preparations and nutritional supplement preparations
in the form of capsule containing crataegus, melissa and ginkgo billoba
extract in garlic oil
Published : April 11, 2006

-----X
Vitamin World, Inc., :
:
Opposer, :
:
v. :
:
T.C. Pharmaceutical Industries Co., Ltd., :
:
Applicant. :
-----X

Opposition No.: 91/170,764

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

Applicant, T. C. Pharmaceutical Industries Co., Ltd., with the consent of Opposer, Vitamin World, Inc., hereby moves to amend Application Serial No. 78/533,180, which is the subject of this proceeding, so that the description of goods and services will read as follows:

International Class 005:

“Food supplement preparations and nutritional supplement preparations in the form of capsule containing crataegus, melissa and ginkgo billoba extract in garlic oil, excluding vitamins and dietary and nutritional supplements intended for circulation and fluid balance health in the extremities.”

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. 91/170,764, 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:

Christensen O'Connor Johnson Kindness
Attorneys for Applicant
T. C. Pharmaceutical Industries Co., Ltd.

By: Everett E. Fruehling
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1420 Fifth Avenue, Suite 2800
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(206) 695-1743

Date: August 8, 2008

STIPULATED AND CONSENTED TO BY OPPOSER:

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

By: Scott B. Fisher
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Date: 8/12/08