

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

**TTAB**

LEINER HEALTH SERVICES CORP.,  
a Delaware corporation,

Opposer,

vs.

ANABOLIC LABORATORIES, INC., a  
California corporation,

Applicant.

Opposition No.  
\_\_\_\_\_

**CERTIFICATE OF MAILING**

The undersigned declares under the penalty of perjury the within **NOTICE OF OPPOSITION (IN TRIPLICATE) AND FILING FEE** were forwarded to BOX FEE - TTAB, Commissioner of Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451, by depositing same with the United States Postal Service, first class mail, postage prepaid, this 20th day of November, 2006.

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SHERYL R. CONAWAY

**NOTICE OF OPPOSITION**

In the matter of trademark application Serial No. 78/532,883 for OXYGEN FOR LIFE in International Class 5 filed December 15, 2004 by ANABOLIC LABORATORIES, INC., a California corporation, having its principal place of business at 26021 Commercentre Drive, Lake Forest, California 92630 and published for opposition purposes in the Official Gazette on September 26, 2006, Leiner Health Services Corp., a Delaware corporation, having its principal place of business at 901 East 233rd Street, Carson, California 90745, believes that it

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will be damaged by registration of the mark in the above-identified application and hereby opposes same.

The grounds for opposition are as follows:

1. Since long prior to the filing date of the application opposed herein, the Opposer, Leiner Health Services Corp., has been in the business of manufacturing and selling vitamins and dietary food supplements and over-the-counter pharmaceutical products, all of which constitute personal care products which are related to one another.

2. Since long prior to the filing date of the application opposed herein, the Opposer, Leiner Health Services Corp., has continuously used the mark YOUR LIFE as a trademark to designate vitamins and dietary food supplements.

3. Opposer is the owner of the following trademarks and service mark:

(a) YOUR LIFE, Registration No. 1,029,138 dated January 6, 1976 to designate vitamins, alleging a date of first use of October, 1972, the application for renewal having been accepted by the United States Patent and Trademark Office on December 5, 1995. Registration No. 1,029,138 is incontestible under 15 U.S.C. §1065.

(b) YOUR LIFE, Registration No. 1,267,613 dated February 21, 1984 to designate a dietary control pharmaceutical, alleging a date of first use of June 1, 1980, the application for renewal having been accepted by the United States Patent and Trademark Office on December 15, 2003. Registration No. 1,267,613 is incontestible under 15 U.S.C. §1065.

(c) YOUR LIFE & DESIGN, Registration No. 1,402,829 dated July 29, 1986 to designate vitamins and dietary food supplements, alleging a date of first use of October 30, 1985, the Affidavit under §§8 and 15 therefor having been accepted by the United States Patent and Trademark Office on January 7, 1992. Registration No. 1,402,829 is incontestible under 15 U.S.C. §1065.

(d) YOUR LIFE & DESIGN, Registration No. 1,596,015 dated May 15, 1990 to designate vitamins and food supplements, alleging a date of first use of April 4,

1989, the application for renewal having been accepted by the United States Patent and Trademark Office on December 8, 2000. Registration No. 1,596,015 is incontestible under 15 U.S.C. §1065.

(e) YOUR LIFE, Registration No. 2,084,936 dated July 29, 1997, alleging a date of first use of October 8, 1996 to designate providing information regarding vitamins and dietary food supplements by means of a global computer network, the Affidavit under §§8 and 15 therefor having been accepted by the United States Patent and Trademark Office on January 23, 2003. Registration No. 2,084,936 is incontestible under 15 U.S.C. §1065.

4. On December 15, 2004, Applicant filed a trademark application to register the mark OXYGEN FOR LIFE . The mark is used to designate nutritional and dietary supplements in International Class 5.

5. Because of Opposer's long and continuous manufacture and sale vitamins and dietary food supplements and use of its YOUR LIFE marks for the stated goods and services, the marks have become well known and are recognized by the public and the industry as identifying Opposer as the source of the stated goods and services.

6. The use by Applicant of the trademark opposed herein for the goods identified in International Class 5 will be likely to cause confusion, mistake or deception with Opposer's aforesaid YOUR LIFE trademark and service mark and result in the belief that Applicant or its goods are in some way legitimately connected with, or sponsored or approved by, Opposer.

7. Any use Applicant has made or may make of the OXYGEN FOR LIFE trademark is or will be without Opposer's consent or permission.

8. As a result of the foregoing and Opposer's long prior use of its marks, registration of the mark sought by Applicant in International Class 5 would violate §2(d) of the Trademark Act, as the Applicant's trademark OXYGEN FOR LIFE so resembles Opposer's

previously used and registered trademark and service mark, YOUR LIFE as to be likely, when applied to Applicant's designated goods, to cause confusion, or mistake or to deceive.

For the above reasons, the grant of a registration to Applicant of the mark sought to be registered for the goods recited in the opposed application in International Class 5 will damage Opposer because such registration and the rights emanating therefrom will be inconsistent with the right of Opposer to continue its use of YOUR LIFE on and in connection with its goods and will interfere in the normal and natural expansion of Opposer's business.

WHEREFORE, Oppose prays that the registration sought by Applicant be refused.

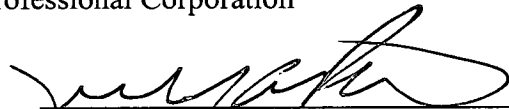
Opposer submits herewith the requisite \$300.00 filing fee.

Please address all correspondence to Michael A. Painter, Esq., Isaacman, Kaufman & Painter, 8484 Wilshire Boulevard, Suite 850, Beverly Hills, California 90211, (323) 782-7700.

Respectfully submitted,

ISAACMAN, KAUFMAN & PAINTER  
A Professional Corporation

By:



Michael A. Painter  
Attorneys for Opposer,  
LEINER HEALTH SERVICES CORP.

MAP:src  
Dated: November 20, 2006  
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