

ESTTA Tracking number: **ESTTA165488**

Filing date: **09/27/2007**

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

Proceeding	91174259
Party	Defendant ANABOLIC LABORATORIES, INC.
Correspondence Address	JEFFREY L. VAN HOOSEAR KNOBBE, MARTENS, OLSON & BEAR, LLP 2040 MAIN STREET, FL 14 IRVINE, CA 92614-7216 UNITED STATES efiling@kmob.com
Submission	Motion to Dismiss 2.132
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Signature	/tirzah abe lowe/
Date	09/27/2007
Attachments	ANABOL2.031M mtd 092707 3827_001.pdf (2 pages)(38895 bytes)

ANABOL2.031M

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

Leiner Health Services Corp.,
a Delaware corporation,

Opposer,

v.

Nexgen Pharma, Inc.
(formerly Anabolic Laboratories, Inc.),
a California corporation

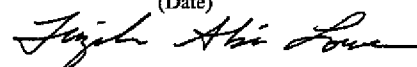
Applicant.

Opposition No. 91174259

I hereby certify that this correspondence and all marked attachments are being electronically filed with the Trademark Trial and Appeal Board through their web site located at <http://esta.uspto.gov> on

September 27, 2007

(Date)



Tirzah Abé Lowe

APPLICANT'S MOTION TO DISMISS

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

Pursuant to 37 C.F.R. § 2.132(a), Nexgen Pharma, Inc. ("Applicant") respectfully moves the Trademark Trial and Appeal Board to dismiss the above-captioned opposition on the ground that Leiner Health Services Corp. ("Opposer") has failed to timely take testimony or offer any other evidence in the Notice of Opposition.

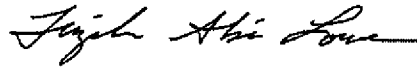
The Discovery Period closed on June 18, 2007, and Opposer's testimony period closed on September 16, 2007. To date, Applicant has not received a copy of Opposer's testimony or additional evidence.

Accordingly, Applicant appears to be in default for failure to prosecute.

WHEREFORE, Applicant moves for dismissal of Opposition No. 91174259 on the ground of the failure of the Opposer to prosecute.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: September 27, 2007

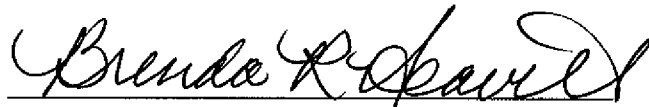
By: 

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Attorneys for Applicant,
Nexgen Pharma, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **APPLICANT'S MOTION TO DISMISS** upon Opposer by depositing one copy thereof in the United States Mail, first-class postage prepaid, on September 27, 2007, addressed as follows:

Michael A. Painter
ISAACMAN, KAUFMAN & PAINTER
8484 Wilshire Boulevard, Suite 850
Beverly Hills, CA 90211


BRENDA R. HEAVILL

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