

ESTTA Tracking number: **ESTTA138177**

Filing date: **04/30/2007**

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

Proceeding	91174465
Party	Defendant First Quality Hygienic, Inc. First Quality Hygienic, Inc. Suite 500 80 Cuttermill Road Great Neck, NY 11021  ptodocket@arelaw.com
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Date	04/30/2007
Attachments	Joint Motion to Consolidate.pdf ( 4 pages )(158974 bytes )

UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

*In the Matter of*

*Application Serial No.: 78/854,326*  
*Filing Date: April 5, 2006*  
*Publication Date: November 21, 2006*  
*Trademark: FEMTEX CROWN JEWEL*

*Application Serial No.: 78/704,010*  
*Filing Date: August 31, 2005*  
*Publication Date: November 14, 2006*  
*Trademark: FEMTEX*

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VITAMIN WORLD, INC.,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition Nos. 91174465 and 91174466
	:	
FIRST QUALITY HYGIENIC, INC.,	:	
	:	
Applicant.	:	
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**JOINT MOTION TO CONSOLIDATE**

Pursuant to T.B.M.P. § 511 and Rule 42(a) of the Federal Rules of Civil Procedure, Opposer Vitamin World, Inc. ("Opposer") and Applicant First Quality Hygienic, Inc. ("Applicant") (collectively, Opposer and Applicant shall be referred to as "the Parties") hereby jointly move to consolidate Opposition Nos. 91174465 and 91174466.

**I. STATEMENT OF THE FACTS**

On or about December 8, 2006, Opposer commenced Opposition No. 91174465 ("the '465 Opposition ") against Applicant's Application Ser. No. 78/854,326 for the mark FEMTEX CROWN JEWEL for feminine hygiene products, namely tampons and feminine cleansing cloths in Class 5 alleging that use of said mark is likely to cause

confusion with Opposer's FEMGEST mark for medicated topical transdermal creams for application to irritated or itchy skin.

On or about December 8, 2006, Opposer commenced Opposition No. 91174466 ("the '466 Opposition") against Applicant's Application Serial No. 78/704,010 for the mark FEMTEX for sanitary products, namely, feminine hygiene cleansing cloths in Class 5 alleging that use of said mark is likely to cause confusion with Opposer's FEMGEST mark for medicated topical transdermal creams for application to irritated or itchy skin.

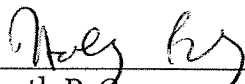
## II. LEGAL ANALYSIS

The parties are identical in the '465 and '466 Oppositions and both of Applicant's marks which are the subject of the Oppositions contain the FEMTEX element. Opposer's grounds for the Oppositions are very similar, namely that registration of Applicant's marks is likely to cause confusion with Opposer's FEMGEST mark. The Oppositions thus involve common questions of law and fact, and therefore, in order to facilitate an efficient use of the Board's and the Parties' time and resources, the Oppositions should be consolidated. *See* T.B.M.P. § 511.

**III. CONCLUSION**

For the reasons above, the Parties respectfully request that the Motion To Consolidate be granted.

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By   
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Dated: March 2, 2007  
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Respectfully submitted,

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By   
Scott B. Fisher

Dated: March 1, 2007  
Garden City, New York

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she is one of the attorneys for Applicant First Quality Hygienic, Inc. in the captioned opposition, and that on the date which appears below she served a true and accurate copy of the foregoing JOINT MOTION TO CONSOLIDATE upon Opposer, by causing a copy thereof to be delivered to Opposer's attorney, by regular mail, to the following address:

Scott B Fisher, Esq.  
Jaspan Schlesinger Hoffman LLP  
300 Garden City Plaza  
Garden City, NY 11530

  
\_\_\_\_\_  
Holly Pekowsky

Dated: April 30 2007  
New York, New York