

ESTTA Tracking number: **ESTTA142377**

Filing date: **05/24/2007**

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

Proceeding	91175718
Party	Defendant NextWave Pharmaceuticals Incorporated NextWave Pharmaceuticals Incorporated 1670 Barclay Boulevard Buffalo Grove, IL 60089
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Submission	Opposition/Response to Motion
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Signature	/Boris Umansky/
Date	05/24/2007
Attachments	256883 - Applicant's Response to Summary Judgment Motion.pdf (14 pages) (1264405 bytes) 256883 - Declaration in Support of Applicant's Response to Summary Judgment Motion.pdf (3 pages)(250129 bytes) 256883 - Exhibits A-E.pdf (45 pages)(3286771 bytes)

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

Econugenics, Inc.,)	
)	
Opposer,)	
)	
v.)	App. Serial No. 77/049612
)	
NextWave Pharmaceuticals Inc.,)	Opposition No. 91175718
)	
Applicant.)	

**APPLICANT’S RESPONSE IN OPPOSITION TO
OPPOSER’S MOTION FOR SUMMARY JUDGMENT**

I. INTRODUCTION

Applicant NextWave Pharmaceuticals Inc. (“NextWave”) hereby responds to Opposer Econugenics Inc.’s (“Opposer”) Motion for Summary Judgment and respectfully moves the Trademark Trial and Appeal Board for an order pursuant to Fed. R. Civ. P. 56 and 37 C.F.R. § 2.127 denying Opposer’s Motion for Summary Judgment. Opposer’s Motion should be denied because there are genuine issues of material fact regarding whether or not a likelihood of confusion exists between NextWave’s mark MYKIDZ IRON FL and Opposer’s mark MYCOKIDZ. At the very least, there are genuine issues of material fact relating to: (1) the similarity between the parties’ respective marks, (2) the impact of third-party uses of similar marks, (3) the strength of Opposer’s mark, (4) the similarity of likely trade channels, and (5) the sophistication of the relevant consuming public. NextWave has not yet had discovery on any of these issues. Although NextWave promptly served Opposer with written discovery requests on March 30, 2007, approximately one week before its responses were due Opposer filed the instant

Motion for Summary Judgment. This matter is, thus, not yet ripe for a decision on the merits, and such a conclusion is reinforced by the lack of evidence in Opposer's own Motion for Summary Judgment and accompanying Memorandum. In support of its Response, NextWave submits the declaration, including exhibits, of Boris Umansky.

II. BACKGROUND AND FACTS

The discovery period in this matter commenced on March 7, 2007. As of the filing date of Opposer's Motion for Summary Judgment, no depositions have been taken, Opposer has not served NextWave with any written discovery requests, and Opposer has not responded to NextWave's March 30, 2007 First Set of Interrogatories and Requests for Documents and Things.¹ Furthermore, apart from the application file history for Opposer's MYCOKIDZ mark, Opposer provided no affidavits or other evidence relevant to this proceeding when it filed its Motion for Summary Judgment. Thus, the record in this matter and the undisputed factual assertions are sparse.

At this point in the proceeding, all that is known is what is contained in the parties' respective applications and prosecution histories. More specifically, this includes the following:

1. NextWave's application for the mark MYKIDZ IRON FL, Serial No. 77/049612, covers vitamin and nutritional supplements with fluoride. After searching the Trademark Office's records and considering the issue of likelihood of confusion, the Examining Attorney determined that NextWave's application was entitled to registration upon the proper filing of a Statement of Use. The Examining Attorney did not cite

¹ NextWave notes that Opposer's responses to NextWave's first set of written discovery requests would have been due on April 30, 2007. However, as Opposer filed its Motion for Summary Judgment on April 24, 2007 before responding to NextWave's discovery requests. Therefore, NextWave has, to date, been deprived of the ability to properly evaluate this opposition and the factual assertions contained therein through the discovery process.

Opposer's mark MYCOKIDZ against NextWave's application on likelihood of confusion grounds. NextWave's application was, therefore, approved and published for opposition on February 6, 2007. See USPTO's on-line records and status report for the application at issue, attached as Exhibit A to the accompanying Umansky Decl., ¶ 2.

2. Opposer's application, Serial No. 78/863809, for the mark MYCOKIDZ covers dietary food supplements, dietary supplements, herbal supplements, nutritional supplements, vitamin and mineral supplements, and vitamin supplements. A Notice of Allowance for this application issued on October 24, 2006, and a Statement of Use was filed on January 5, 2007, claiming first use in commerce as of December 29, 2006.

There are many material facts in dispute, all of which are relevant to determine whether there is a likelihood of confusion between the parties' respective marks. More specifically, the following questions create genuine issues of material fact in this case:

1. Whether NextWave's mark MYKIDZ IRON FL is confusingly similar to Opposer's mark MYCOKIDZ;
 2. Whether there are any third-party uses of similar marks and, if so, the relevance of such third-party uses;
 3. The strength of Opposer's mark;
 4. The fame of Opposer's mark (e.g. sales, advertising, length of use);
 5. Whether the channels of trade for the parties' respective goods overlap;
- and
6. The conditions under which and buyers to whom sales are made, i.e. "impulsive" versus careful, sophisticated purchasing.

III. ARGUMENT

As the Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) states, “[t]he motion for summary judgment is a pretrial device to dispose of cases in which ‘the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.’” TBMP § 528.01 (citing Fed. R. Civ. P. 56(c)). A movant is entitled to summary judgment if it can establish that there are no genuine issues of material fact in dispute and that it is, therefore, entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); *see Aries System Corp. v. World Book Inc.*, 23 USPQ2d 1742, 1744 (TTAB 1992). Additionally, in ruling on a summary judgment motion the Board must resolve all reasonable doubt as to whether genuine issues of material fact exist in favor of the non-moving party and must draw all inferences from undisputed facts in the light most favorable to the non-moving party. *See* TBMP § 528.01 (citing, *inter alia*, *Capital Speakers Inc. v. Capital Speakers Club of Washington D.C. Inc.*, 41 USPQ2d 1030, 1034-1035 (TTAB 1996)).

A. Opposer’s Arguments Do Not Meet The Summary Judgment Standard

A dispute as to a material fact issue is genuine if a reasonable fact finder viewing the entire record could decide the question in favor of the non-moving party. *See* TBMP § 528.01 (citing, *inter alia*, *Opryland USA Inc. v. The Great American Music Show Inc.*, 23 USPQ2d 1471, 1472 (Fed. Cir. 1992)). The facts and issues in this case, when considered in a light most favorable to NextWave, demonstrate that Opposer has failed to meet its burden of showing that NextWave’s mark is likely to cause confusion, mistake, or deception pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d). Based on

the factual and evidentiary submissions currently in the record, a reasonable fact finder could easily find in favor of NextWave, the non-moving party in this case. Opposer's Motion for Summary Judgment must, therefore, be denied.

B. Genuine Issues Of Material Fact Exist Pertaining To Likelihood Of Confusion

Section 2(d) of the Lanham Act precludes the registration of a trademark that “[c]onsists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office . . . as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive . . .” 15 U.S.C. § 1052(d). In the *Du Pont* case, the United States Court of Customs and Patent Appeals specified thirteen factors to be used when determining likelihood of confusion under Section 2(d) of the Lanham Act. *See In re E.I. Du Pont de Nemours & Co.*, 177 USPQ 563, 567 (CCPA 1973). While not all of the *Du Pont* factors may be relevant or of equal weight in a given case, any one of the factors may control a particular case. *See In re Majestic Distilling Co.*, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003) (citing *In re Dixie Rests., Inc.*, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)). In the present matter a number of the most important *Du Pont* factors weigh in favor of NextWave and a finding that there is no likelihood of confusion between Opposer's mark and NextWave's mark. Summary judgment is, therefore, inappropriate.

1. The Parties' Marks Are Not Confusingly Similar As To Sound, Appearance, Meaning, Or Overall Commercial Impression

A determination of whether a likelihood of confusion exists requires a comparison of both marks in their entireties. *See Massey Junior College, Inc. v. Fashion Institute of Technology*, 181 USPQ 272 (CCPA 1974). Although Opposer argues in its Motion for

Summary Judgment that the parties' marks are identical "for all intents and purposes," and claims that the dominant elements of both marks are the terms "MY" and "KIDZ," it is well-settled that in determining whether there is a likelihood of confusion, the marks should be viewed as a whole, and should not be dissected. *In re National Data Corp.*, 224 USPQ 749, 751 (Fed. Cir. 1985). Additionally, NextWave disagrees with Opposer's assertion: Not only are the marks not identical, but they are not confusingly similar.

NextWave's mark MYKIDZ IRON FL and Opposer's mark MYCOKIDZ are visually and aurally distinct. While both marks share the common elements "MY" and "KIDZ," that is the extent of their similarities. Opposer's mark includes the additional element "CO" which serves to divide the common elements "MY" and "KIDZ," and which leads to the formation of a coined single-word mark (MYCOKIDZ) that really has no readily apparent meaning to consumers. In contrast, the words "MY" and "KIDZ" appear together, as "MYKIDZ," in NextWave's mark. Moreover, NextWave's mark includes the additional wording "IRON FL" which further differentiates it from Opposer's MYCOKIDZ mark.

While Opposer asserts in its Motion for Summary Judgment that the terms "MY" and "KIDZ" are the dominant features of its own mark, there is simply no evidence in the record to support this contention. For example, the Opposer has not put forth any survey evidence or testimony from disinterested third parties tending to support the contention that "MY" and "KIDZ" are the dominant portions of Opposer's one-word mark MYCOKIDZ. Indeed, it is just as possible that relevant consumers see Opposer's mark as "MYCO-KIDZ," and do not see the element "MY" as its own word in the mark at all. Moreover, since Opposer's own specimen submitted with its January 5, 2007 Statement

of Use includes the wording “for kids organic cocoa with natural antioxidant action” and since the term KIDZ is a phonetic equivalent of “KIDS,” this term is a weak designation and would not be seen as the dominant, source identifying portion of the mark. A copy of Opposer’s specimen is attached as Exhibit B to the accompanying Umansky Decl., ¶ 3 in accordance with 37 CFR § 2.122 and TBMP § 528.05.

With respect to the meaning or connotation of the two marks, the record is completely devoid of information pertaining to this factor. Indeed, NextWave knows of no apparent meaning for the term “MYCO,” or for the whole mark MYCOKIDZ, and has not been able to explore this in discovery. Therefore, at this juncture there is a genuine issue of material fact relative to the different meanings of the parties’ respective marks.

Accordingly, considering all of the relevant facts in the record and an analysis of the parties’ marks in their entireties, NextWave’s mark MYKIDZ IRON FL and Opposer’s mark MYCOKIDZ are not confusingly similar in sound, appearance, meaning, and overall commercial impression. At the very least, a genuine issue of material fact exists as to the similarity of the marks. This factor, therefore, favors NextWave.

2. The Strength Of Opposer’s Mark Is Limited In Scope Given The Lack Of Evidence To The Contrary And The Crowded Field Of Similar Marks

The lack of strength of Opposer’s mark is another factor that should be considered. A mark’s strength is one of the most important factors in a likelihood of confusion analysis, because the stronger the mark, the more protection it is afforded. *Berkshire Fashions, Inc. v. Sara Lee Corp.*, 14 USPQ2d 1124, 1128 (S.D.N.Y. 1989), citing *McGregor-Doniger Inc. v. Drizzle Inc.*, 202 USPQ 81, 88-89 (2nd Cir. 1979). *Du Pont* factors relevant to the question of strength include the fame of the prior mark (sales,

advertising, length of use) and the number and nature of similar marks in use on similar goods. *Du Pont*, 177 USPQ at 567.

In the instant case, Opposer filed its Statement of Use on January 5, 2007 alleging a first use in commerce date for its mark of December 29, 2006. Since Opposer's goods have only been on the market for a few months, one can presume that there have not yet been substantial amounts of sales or advertising expenditures. Opposer has submitted no evidence of sales or advertising figures that would allow the Board to rule to the contrary. Considering this factor, the Board must draw an inference in favor of NextWave, namely, that Opposer's mark is not strong, well-known or famous. TBMP § 528.01.

Furthermore, Opposer's mark is weak in nature given the number of third-party marks for identical and/or similar goods that contain the term "KIDZ" or its phonetic equivalent "KIDS."² The resulting list, which is based on the referenced search query used by NextWave's counsel, is attached as Exhibit C to the accompanying Umansky Decl., ¶ 4.

When a significant number of trademarks exist in one class that incorporate certain elements, the degree of recognition of the various marks in the minds of the relevant consumers is low and it is considered a "crowded field." *See Carefirst of Maryland Inc. v. FirstHealth of the Carolinas Inc.*, 77 USPQ2d 1492 (TTAB 2005). In a "crowded field" of similar marks, each member of the crowd is relatively "weak" in its ability to prevent use by others in the crowd. *Miss World (UK Ltd.) v. Mrs. America Pageants*, 8 USPQ2d 1237 (9th Cir. 1988). The Court in *Miss World* went into greater

² NextWave's attorney conducted a "Free Form" search of the USPTO's electronic records on May 15, 2007, using the following query: "(*kidz* or *kids*)[bi,ti] and 005[ic] and live[ld]." This search resulted in 132 active trademark applications and registrations for marks that contain "KIDZ" or "KIDS" in International Class 5.

detail on the subject of a “crowded field” holding that “a mark which is hemmed in on all sides by similar marks on similar goods cannot be very ‘distinctive.’ It is merely one of a crowd of marks. In such a crowd, customers will not likely be confused between any two of the crowd and may have learned to carefully pick out one from the other.” *Id.* at 1241, citing MCCARTHY ON TRADEMARK AND UNFAIR COMPETITION, § 11:26, at 511 (2d ed. 1984).

As seen below, numerous other trademarks for vitamins and supplements in Class 5 that have similarities to Opposer’s MYCOKIDZ mark appear to peaceably co-exist on the Principal Register without giving rise to confusion. These include the following:

ACIDOPHIKIDZ	Herbal and nutrient supplement	Reg. No. 2278208
KIDZINC	Herbal and nutrient supplement	Reg. No. 2367740
ESBERIKIDZ	Pharmaceutical, sanitary preparations, dietary supplements and dietetic substances, etc.	Reg. No. 2560968
ISAKIDS	Nutritional and dietary supplements	Reg. No. 3203719
FLORASTOR KIDS	Dietary supplements, etc.	Reg. No. 3093020
A+ KIDS	Human dietary supplement containing pure fish oil, provided in liquid form	Reg. No. 3102124
FITKIDS NUTRITION	Nutritional meal replacement bars; nutritional supplement bars; dietary supplement bars; food supplement bars	Reg. No. 3077365
JELLY-KIDS and Design	Children’s multiple vitamin	Reg. No. 2884214
UBER KIDS	Chewable multi-vitamin	Reg. No. 3031859
WELL KIDS ZONE	Nutritional supplements, etc.	Reg. No. 3007913
KIDS LUV IT!	Dietary supplements, herbal, mineral and multi-vitamin supplements	Reg. No. 2833257

Additionally, the following “KIDZ” and “KIDS” marks have been published for opposition and Notices of Allowance have issued:

KIDZTHRIVE	Pediatric vitamin-fortified electrolyte solutions in liquid, frozen, gel, and powder form	Serial No. 78/793202
PEDIASURE KIDZERS	Liquid nutritive preparations, namely, dietary supplemental drinks	Serial No. 78/790351
ECOKIDZ	Dietary food supplements; Dietary supplements; Herbal supplements; Nutritional supplements; Vitamin and mineral supplements; Vitamin supplements	Serial No. 78/765076
SUNKIDS	Vitamins	Serial No. 78/498132

Copies of the registrations and application records for these marks are attached as combined Exhibit D to the accompanying Umansky Decl., ¶ 5.

In addition, the USPTO records include “KIDZ” and “KIDS” marks of interest for related goods in Class 5. KID’S and Design, Reg. No. 1914307, is registered for nasal decongestant and cough suppressant. The “S” in this mark appears backwards and the mark as a whole will therefore appear to a consumer as “KID’Z.” Furthermore, these identified goods potentially travel in similar trade channels as do the goods identified in Opposer’s MYCOKIDZ mark, and may appear in the same section or aisle of a store, i.e. with other over-the-counter medicines and dietary supplements. Nevertheless, this registration appears to co-exist with Opposer’s mark and numerous other third-party marks, including: KIDZ HEALTH, Reg. No. 2696062, for adhesive bandages and first aid kits and ME4KIDZ, Reg. No. 3211406, for first aid kits. Finally, NextWave notes that the third-party mark MY KID’S NUTRITION, Serial No. 77/058657, for dietary and nutritional supplements, was recently approved for publication. This is yet another instance in which the Examining Attorney has determined that an application identifying goods similar to those in the instant matter and where the mark includes the term “MY”

and a variation on the term “KIDZ” is entitled to registration. Copies of the registrations and application records for these marks are attached as combined Exhibit E to the accompanying Umansky Decl., ¶ 6.

The foregoing lists of trademark registrations and allowed applications demonstrate the Trademark Office’s position that when additional terms are added to the term “KIDZ” or “KIDS,” the resulting marks are not considered confusingly similar. In *Sun Banks of Florida v. Sun Federal Savings and Loan Association*, 211 USPQ 844, 849 (5th Cir. 1991), evidence was presented showing extensive third-party use of the word “SUN.” Based on this evidence, the Court determined that there would be no likelihood of confusion between the marks SUN BANKS and SUN FEDERAL because the main part of both marks was determined to be weak, and minor additions, thus, effectively negated any confusing similarity. Similarly, the number of third-party marks in International Class 5 -- specifically for vitamins and supplements -- containing the term “KIDZ” or its phonetic equivalent “KIDS” serves to negate any likelihood of confusion between the parties’ marks, since the terms “KIDZ” and “KIDS” are weak and the parties’ marks are otherwise different and distinguishable. Because Opposer’s mark is not famous and is weak, this factor also favors NextWave.

3. Genuine Issues Of Material Fact Exist Pertaining To The Parties’ Respective Trade Channels And The Level Of Sophistication Of The Relevant Consumers

The similarity or dissimilarity of trade channels is another factor that is considered when determining a likelihood of confusion between trademarks. *See, e.g., Du Pont*, 177 USPQ at 567. Similarly, it is proper to consider the conditions under which and buyers to whom sales are made, i.e. “impulse” versus careful, sophisticated

purchasing. *Id.* The more sophisticated and careful the consumers, the less likely they are to be misled by similarity in marks. *See Cadbury Beverages, Inc. v. Cott Corp.*, 73 F.3d 474, 480 (2d Cir.1996). As with the other factors discussed above, there is no evidence in the record regarding these factors. At the very least, there exist genuine issues of material fact pertaining to these factors that cannot be determined prior to the completion of the discovery process. It is quite possible that the parties' channels of trade and consumers do not overlap, thereby effectively negating a finding of likelihood of confusion. NextWave would argue that it is likely that those who purchase vitamin and nutritional supplements are sophisticated and knowledgeable consumers who make purchasing decisions after careful consideration. NextWave submits that a prospective consumer of these products would not be considered an impulse buyer. Due to the existence of genuine issues of material fact, these factors also favor NextWave.

IV. CONCLUSION

NextWave has shown that many genuine issues of material fact remain concerning the likelihood of confusion between Opposer's MYCOKIDZ mark and NextWave's MYKIDZ IRON FL mark. In fact, drawing inferences where necessary in favor of the non-moving party here actually supports a finding that no confusion is likely. Thus, NextWave respectfully requests that Opposer's Motion for Summary Judgment be denied.

Respectfully submitted,

Date: May 24, 2007

By: 

Tamara A. Miller

Caroline L. Stevens

Boris Umansky

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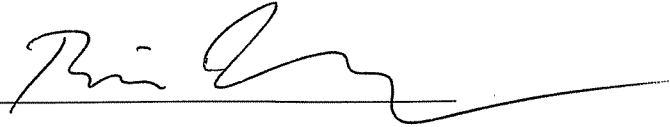
Attorneys for Applicant

CERTIFICATE OF FILING AND SERVICE

I hereby certify that a copy of the attached Applicant's Response in Opposition to Opposer's Motion for Summary Judgment is being filed electronically pursuant to the ESTTA system, and is being served on Opposer's counsel via United States Postal Service First Class Mail, postage prepaid, on the date indicated below addressed as follows:

Mr. Jay H. Geller
Jay H. Geller, P.C.
West Tower, Suite 4000
2425 West Olympic Boulevard
Santa Monica, CA 90404

Dated: 5/24/07



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

Econugenics, Inc.,)	
)	
Opposer,)	
)	
v.)	App. Serial No. 77/049612
)	
NextWave Pharmaceuticals Inc.,)	Opposition No. 91175718
)	
Applicant.)	

DECLARATION OF BORIS UMANSKY

I, Boris Umansky, hereby declare as follows:

1. I am over the age of 18 and am an associate at the law firm of Leydig, Voit & Mayer, Ltd. I am competent to testify regarding the matters set forth herein and make this Declaration upon my personal knowledge.
2. Attached hereto as Exhibit A are true and accurate copies of the U.S. Patent & Trademark Office's ("USPTO's") on-line records and status reports for Applicant NextWave Pharmaceuticals Inc.'s federal trademark application, serial number 77/049612, for the mark MYKIDZ IRON FL.
3. Attached hereto as Exhibit B is a true and accurate copy of Opposer's specimen submitted with its January 5, 2007 Statement of Use as seen on the USPTO's on-line Trademark Document Retrieval ("TDR") system.
4. Attached hereto as Exhibit C is a true and accurate copy of the search results list from the USPTO's on-line "Free Form Search" based on the search query "(*kidz* or *kids*)[bi,ti] and .005[ic] and live[ld]." This search resulted in a list of 132

active trademark applications and registrations for marks that contain the term “KIDZ” or “KIDS” in International Class 5.

5. Attached hereto as combined Exhibit D are true and accurate copies of registrations and application records for the following third-party marks obtained through the USPTO’s on-line records.


ACIDOPHIKIDZ	Herbal and nutrient supplement	Reg. No. 2278208
KIDZINC	Herbal and nutrient supplement	Reg. No. 2367740
ESBERIKIDZ	Pharmaceutical, sanitary preparations, dietary supplements and dietetic substances, etc.	Reg. No. 2560968
ISAKIDS	Nutritional and dietary supplements	Reg. No. 3203719
FLORASTOR KIDS	Dietary supplements, etc.	Reg. No. 3093020
A+ KIDS	Human dietary supplement containing pure fish oil, provided in liquid form	Reg. No. 3102124
FITKIDS NUTRITION	Nutritional meal replacement bars; nutritional supplement bars; dietary supplement bars; food supplement bars	Reg. No. 3077365
JELLY-KIDS and Design	Children’s multiple vitamin	Reg. No. 2884214
UBER KIDS	Chewable multi-vitamin	Reg. No. 3031859
WELL KIDS ZONE	Nutritional supplements, etc.	Reg. No. 3007913
KIDS LUV IT!	Dietary supplements, herbal, mineral and multi-vitamin supplements	Reg. No. 2833257

KIDZTHRIVE	Pediatric vitamin-fortified electrolyte solutions in liquid, frozen, gel, and powder form	Serial No. 78/793202
PEDIASURE KIDZERS	Liquid nutritive preparations, namely, dietary supplemental drinks	Serial No. 78/790351
ECOKIDZ	Dietary food supplements; Dietary supplements; Herbal supplements; Nutritional supplements; Vitamin and mineral supplements; Vitamin supplements	Serial No. 78/765076
SUNKIDS	Vitamins	Serial No. 78/498132

6. Attached hereto as combined Exhibit E are true and accurate copies of registrations and application records for the following third-party marks obtained through the USPTO's on-line records: KID'S and Design, Reg. No. 1914307, registered for nasal decongestant and cough suppressant; KIDZ HEALTH, Reg. No. 2696062, for adhesive bandages and first aid kits; ME4KIDZ, Reg. No. 3211406, for first aid kits; and MY KID'S NUTRITION, Serial No. 77/058657, for dietary and nutritional supplements

I declare under penalty of perjury that the foregoing is true and correct pursuant to 28 U.S.C. § 1746.

Dated: 5/24/07


Boris Umansky



United States Patent and Trademark Office

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MYKIDZ IRON FL

Word Mark	MYKIDZ IRON FL
Goods and Services	IC 005. US 006 018 044 046 051 052. G & S: Vitamin and nutritional supplements with fluoride
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Design Search Code	
Serial Number	77049612
Filing Date	November 22, 2006
Current Filing Basis	1B
Original Filing Basis	1B
Published for Opposition	February 6, 2007
Owner	(APPLICANT) NextWave Pharmaceuticals Incorporated CORPORATION DELAWARE 1670 Barclay Boulevard Buffalo Grove ILLINOIS 60089
Attorney of Record	Tamara A. Miller
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "IRON FL" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Serial Number: 77049612 Assignment Information

Registration Number: (NOT AVAILABLE)

Mark

MYKIDZ IRON FL

(words only): MYKIDZ IRON FL

Standard Character claim: Yes

Current Status: An opposition is now pending at the Trademark Trial and Appeal Board.

Date of Status: 2007-02-15

Filing Date: 2006-11-22

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 103

Attorney Assigned:
CARLSEN EMILY K Employee Location

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-01-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. NextWave Pharmaceuticals Incorporated

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1670 Barclay Boulevard

Buffalo Grove, IL 60089

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 005

Class Status: Active

Vitamin and nutritional supplements with fluoride

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Disclaimer: "IRON FL"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-02-15 - Opposition instituted for Proceeding

2007-02-15 - Opposition papers filed

2007-02-06 - Published for opposition

2007-01-17 - Notice of publication

2006-12-14 - Law Office Publication Review Completed

2006-12-14 - Approved for Pub - Principal Register (Initial exam)

2006-12-14 - Examiner's Amendment Entered

2006-12-13 - Assigned To LIE

2006-12-12 - Examiners amendment e-mailed

2006-12-12 - Examiners Amendment - Written

2006-11-30 - Assigned To Examiner

2006-11-30 - Notice Of Pseudo Mark Mailed

2006-11-29 - New Application Entered In Tram

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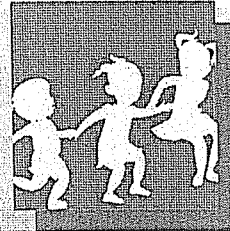
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wellness formula
nutritional & immune support*



for kids
organic cocoa with
neutral antioxidant action
Dietary Supplement
30 Packets 13 grams

Suggested Use: MycoKidz™ is delicious when mixed in warm milk, rice or soy milk. Simply pour one full packet into eight ounces of the drink of your choice, stir well and enjoy! It's also excellent over your favorite cereal, toast, or food.

tear here

Supplement Facts

Serving Size 1 Packet Servings Per Container 30

	Amount Per Serving	% Daily Value*
Calories	35	
Calories from Fat	10	
Total Fat	1 g	2%
Trans Fat	0 mg	0%
Sodium	30 mg	1%
Potassium	220 mg	6%
Total carbohydrate	8 g	3%
Dietary fiber	2 g	8%
Sugar	4 g	†
Protein	3 g	6%
Vitamin A (as beta-carotene, palmato)	5000 IU	100%
Vitamin C (as ascorbic acid, calcium ascorbate)	150 mg	250%
Vitamin D3 (as cholecalciferol)	200 IU	75%
Vitamin E	35 IU	120%
(as d-alpha tocopheryl succinate, mixed tocopherols)		
Vitamin K	40 mcg	50%
Thiamin (Vitamin B1 as thiamine mononitrate)	10 mg	370%
Riboflavin (Vitamin B2)	10 mg	300%
Niacin (Vitamin B3 as niacinamide)	20 mg	100%
Vitamin B6 (as pyridoxine hydrochloride)	20 mg	1000%
Folate (Vitamin B9 as folic acid)	400 mcg	100%
Vitamin B12 (as methylcobalamin)	25 mcg	420%
Biotin (Vitamin B7)	200 mcg	70%
Pantoic acid (Vitamin B5 as calcium pantothenate)	10 mg	100%
Calcium (as hydroxyapatite, citrate)	125 mg	15%
Iron (as ferrous fumarate)	2 mg	10%
Iodine (as potassium iodide)	150 mcg	100%
Magnesium (as glycinate, citrate)	100 mg	26%
Zinc (as OptiZinc®, citrate, picolinate)	10 mg	70%
Selenium (as L-selenomethionine)	50 mcg	70%
Copper (as sebacate)	1 mg	50%
Manganese (as sulfate)	1 mg	50%
Chromium (as ChromaMate®)	60 mcg	50%
Molybdenum	40 mcg	50%
MycoKidz™ Preproprietary blend of USDA certified organic mushrooms	105 mg	†
Reishi (Ganoderma lucidum), poria (Poria cocos), shiitake (Lentinula edodes)		
Organic Fair Trade Cocoa	4g	†
Roranga Seed Oil	250 mg	†
Flax Seed Oil	250 mg	†
L-Taurine	25 mg	†
Bilberry fruit extract	10 mg	†

* Percent Daily Values listed on a 2,000 calorie diet for children 4 or more years of age
† Daily Value not established.

Other ingredients: Certified organic pure cane juice, ChirSweet™, guar/xanthan, and natural chocolate flavor. OptiZinc® and ChromaMate® are registered trademarks of InterHealth, N.I.

EcoNugenics®, Inc.
Santa Rosa, CA 95407
econugenics.com

These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease.



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 List At: OR to record:
132 Records(s) found (This page: 1 ~ 100)

 Refine Search

Current Search: S1: (*kidz* or *kids*)[bi,ti] and 005[ic] and live[lid] docs: 132 occ: 409

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	79028030		PHYTOKIDS	TARR	LIVE
2	78739650		CAMOKIDS	TARR	LIVE
3	78800282		NUTRI-KIDS	TARR	LIVE
4	78746414		PS KIDS	TARR	LIVE
5	78665610		PS KIDS	TARR	LIVE
6	78792650	3231862	KIDS - KIDS' DERMATOLOGY SYSTEM	TARR	LIVE
7	78874686		KIDS RX	TARR	LIVE
8	78863809		MYCOKIDZ	TARR	LIVE
9	78959271		MYKIDZ IRON	TARR	LIVE
10	78929580		MIGHTY4KIDS	TARR	LIVE
11	78746433		PS KIDS GETS RID OF COOTIES!	TARR	LIVE
12	78768381		KIDS MULTI GUM	TARR	LIVE
13	78938023		CREATED BY PARENTS. CRAVED BY KIDS	TARR	LIVE
14	78507644		WINFUELKIDS	TARR	LIVE
15	78643912		BIG NUTRITION FOR ACTIVE KIDS	TARR	LIVE
16	78876978	3211406	ME4KIDZ	TARR	LIVE
17	78660754		SANI-KIDS	TARR	LIVE
18	78793202		KIDZTHRIVE	TARR	LIVE
19	78784253	3203719	ISAKIDS	TARR	LIVE
20	78842320	3201772	KIDS-EEZE	TARR	LIVE
21	78790351		PEDIASURE KIDZERS	TARR	LIVE
22	78758440		SNIFFLES 'N SNEEZES 4 KIDS	TARR	LIVE
23	78707573	3192134	RESOURCE JUST FOR KIDS	TARR	LIVE
24	78638101	3093020	FLORASTOR KIDS	TARR	LIVE

25	78712367		EFA FOCUS FOR KIDS	TARR	LIVE
26	78970420		KIDS SUPER FOOD	TARR	LIVE
27	78551312		KIDZ SUPER FOOD	TARR	LIVE
28	78917135		KIDZPHARMA INC.	TARR	LIVE
29	78765076		ECOKIDZ	TARR	LIVE
30	78765073		ECOKIDS	TARR	LIVE
31	78525197	3102124	A+ KIDS	TARR	LIVE
32	78515338		THERE'S MORE IN IT FOR KIDS	TARR	LIVE
33	78616946		HALLS KIDS	TARR	LIVE
34	78574701		BIG NUTRITION FOR LITTLE KIDS	TARR	LIVE
35	78240679	2828037	THE FUN KIDS WANT. THE QUALITY PARENTS DEMAND.	TARR	LIVE
36	78259491	3077365	FITKIDS NUTRITION	TARR	LIVE
37	78259487	3071731	FITKIDS NUTRITION	TARR	LIVE
38	78245025	2884214	JELLY-KIDS	TARR	LIVE
39	78196777	2849645	AFTER BITE KIDS	TARR	LIVE
40	78498132		SUNKIDS	TARR	LIVE
41	78387277	2936370	ESPECIALLY FOR KIDS	TARR	LIVE
42	78492810	3031859	UBER KIDS	TARR	LIVE
43	78441279	3020159	4 HEALTHYKIDS	TARR	LIVE
44	78396476		OMEGA KIDS	TARR	LIVE
45	78360977	3007913	WELL KIDS ZONE	TARR	LIVE
46	78289600	2958355	KIDS GET SICK. MOMS GET TRIAMINIC	TARR	LIVE
47	78166758	2833257	KIDS LUV IT!	TARR	LIVE
48	78139031	2704832	PHYSIOKIDS	TARR	LIVE
49	78053318	2602975	ONE A DAY KIDS	TARR	LIVE
50	78018248	2664870	AYURVEDA FOR KIDS	TARR	LIVE
51	77009937		BASICS FOR KIDS	TARR	LIVE
52	77063131		KIDSCENTS	TARR	LIVE
53	77049612		MYKIDZ IRON FL	TARR	LIVE
54	77159468		KIDSTRONG	TARR	LIVE
55	77158485		TUMS KIDS	TARR	LIVE
56	77058657		MY KID'S NUTRITION	TARR	LIVE
57	77079277		KIDS LOVE 'EM. PARENTS TRUST THEM.	TARR	LIVE
58	77133535		PERFECT KIDS	TARR	LIVE
59	77133531		PERFEKT KIDS	TARR	LIVE
60	77131657		OMEGABRITE KIDZ	TARR	LIVE
61	77029470		AVED-KIDS	TARR	LIVE
62	77105585		OUR KIDS SAKE	TARR	LIVE
63	77100933		OUR KIDS SAKE	TARR	LIVE
64	77094665		IRONKIDS	TARR	LIVE
65	77052484		KID'S PHYTOMATRIX	TARR	LIVE
66	77046150		RAISING HEALTHY AND FIT KIDS	TARR	LIVE
67	77036021		TOTAL KIDS	TARR	LIVE

68	77022162		SIMPLY KIDS	TARR	LIVE
69	76222567	2602678	SPORT FOR KIDS	TARR	LIVE
70	76269463	2699536	HERBS FOR KIDS	TARR	LIVE
71	76606051		ESTER-KIDS.	TARR	LIVE
72	76611608	3139600	MEDERMA FOR KIDS	TARR	LIVE
73	76495067	2960266	WHOLE KIDS	TARR	LIVE
74	76150955	2696348	WHOLE KIDS	TARR	LIVE
75	76116315	2533844	KANGAROO KIDS	TARR	LIVE
76	76631857		PERQUE KIDS GUARD	TARR	LIVE
77	76630555		BRAINY KIDS	TARR	LIVE
78	76579255	2937517	KID'SQR	TARR	LIVE
79	76522308	2842720	ORACHEL FOR KIDS	TARR	LIVE
80	76429776	2784913	SUNDOWN KIDS	TARR	LIVE
81	76421210	2782974	JELLY-KIDS	TARR	LIVE
82	76372978	2659253	ADVOKIDS	TARR	LIVE
83	76315227	2584120	HGH 4 KIDS	TARR	LIVE
84	76100412	2524602	KIDS KLUB	TARR	LIVE
85	76069527	2505677	DENTAL HEALTH GUM FOR KIDS	TARR	LIVE
86	75506254	2350813	KIDS' PLEX	TARR	LIVE
87	75942417	2629477	TF KIDS	TARR	LIVE
88	75555401	2404677	IMMUNOKIDS	TARR	LIVE
89	75675844	2357204	KID'S SUPERIOR	TARR	LIVE
90	75712651	2696062	KIDZ HEALTH	TARR	LIVE
91	75938388	2731044	KIDSWELLNESS	TARR	LIVE
92	75901587	2495694	LOLLIKIDS LOLLI LOLLI	TARR	LIVE
93	75884392	2511283	KID'S CONCENTRATION FORMULA	TARR	LIVE
94	75880605	2503262	HEALTHY BONE STUFF FOR KIDS	TARR	LIVE
95	75835567	2518834	NUTRITION FOR KIDS!	TARR	LIVE
96	75799746	2560968	ESBERIKIDZ	TARR	LIVE
97	75717703	2633797	KIDSMARTS	TARR	LIVE
98	75613694	2401378	SAF FOR KIDS	TARR	LIVE
99	75583047	2278209	KIDSPRITZ	TARR	LIVE
100	75582821	2367740	KIDZINC	TARR	LIVE

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Current Search: S1: (*kidz* or *kids*)[bi,tj] and 005[ic] and live[lid] docs: 132 occ: 409

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
101	75582723	2278208	ACIDOPHIKIDZ	TARR	LIVE
102	75555400	2711601	PURE KIDS	TARR	LIVE
103	75514471	2274283	FOREVER KIDS	TARR	LIVE
104	75512770		SMILEY FOR KIDS	TARR	LIVE
105	75199807	2948144	PHYTO KIDS	TARR	LIVE
106	75398644	2280608	HERBS FOR KIDS	TARR	LIVE
107	75098693	2090820	INTELLIKIDS	TARR	LIVE
108	75382445	2358143	CENTRUM KIDS	TARR	LIVE
109	75489145	2498641	KID'S TODDY	TARR	LIVE
110	75478433	2274040	KIDSOOTHE ST. JOHN'S WORT COMPLEX	TARR	LIVE
111	75426797	2312429	ONE A DAY KIDS COMPLETE	TARR	LIVE
112	75419218	2250573	ACTIVE KIDS	TARR	LIVE
113	75322705	2455647	ULTRAKIDS	TARR	LIVE
114	75272808	2206578	MOMMY'S ALL BETTER FORMULA FOR KIDS	TARR	LIVE
115	75083038	2083397	W KIDS	TARR	LIVE
116	75006521	2148086	ULTRACARE FOR KIDS	TARR	LIVE
117	74468453	1869198	STONE AGE KIDS	TARR	LIVE
118	74079808	1649915	KID'S COMPANION	TARR	LIVE
119	74717161	2172124	KIDS UKROL	TARR	LIVE
120	74576109	2247885	DON'T YOUR KIDS DESERVE THE BEST	TARR	LIVE
121	74472769	1914307	KID'S	TARR	LIVE
122	74472662	1892795	CHERRY CHEST RUB FOR KIDS	TARR	LIVE
123	74315607	1772773	KID'S START	TARR	LIVE
124	74273125	1833092	VIVA KIDS	TARR	LIVE
125	74089986	1659399	KOALA KIDS	TARR	LIVE

126	74010395	1630569	VITA KIDS	TARR	LIVE
127	74007928	1618395	KID'S START	TARR	LIVE
128	73570319	1436996	CABBAGE PATCH KIDS	TARR	LIVE
129	73570404	1436132	CABBAGE PATCH KIDS	TARR	LIVE
130	73828463	1614589	SUPERKIDS	TARR	LIVE
131	73570154	1444716	CABBAGE PATCH KIDS	TARR	LIVE
132	72104754	0721412	HAPPY KIDS	TARR	LIVE

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Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 2,278,208

United States Patent and Trademark Office

Registered Sep. 14, 1999

Corrected

OG Date June 28, 2005

TRADEMARK
PRINCIPAL REGISTER

ACIDOPHIKIDZ

NATURAL ORGANICS INC. (NEW YORK
CORPORATION)
548 BROADHOLLOW ROAD
MELVILLE, NY 11747

FOR: HERBAL AND NUTRIENT SUP-
PLEMENT (DIETARY SUPPLEMENT), IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND
52).

FIRST USE 10-14-1998; IN COMMERCE
10-14-1998.

SER. NO. 75-582,723, FILED 11-4-1998.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on June 28, 2005.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 2,367,740

United States Patent and Trademark Office

Registered July 18, 2000

**TRADEMARK
PRINCIPAL REGISTER**

KIDZINC

NATURAL ORGANICS INC. (NEW YORK CORPORATION)
548 BROADHOLLOW ROAD
MELVILLE, NY 11747

FOR: HERBAL AND NUTRIENT SUPPLEMENT
(DIETARY SUPPLEMENT), IN CLASS 5 (U.S. CLS.
6, 18, 44, 46, 51 AND 52).

FIRST USE 10-14-1998; IN COMMERCE
10-14-1998.

SER. NO. 75-582,821, FILED 11-4-1998.

C. DIONNE CLYBURN, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 2,560,968

United States Patent and Trademark Office

Registered Apr. 16, 2002

**TRADEMARK
PRINCIPAL REGISTER**

ESBERIKIDZ

SCHAPER & BRUMMER GMBH & CO. KG (FED
REP GERMANY LIMITED PARTNERSHIP)
BAHNHOFSTRASSE 35
D-38259 SALZGITTER
FED REP GERMANY

FOR: PHARMACEUTICAL, SANITARY PRE-
PARATIONS, DIETARY SUPPLEMENTS AND DIE-
TETIC SUBSTANCES ADAPTED FOR MEDICAL
USE ALL ABOVE-MENTIONED GOODS HAVING
THERAPEUTIC EFFECTS IN THE FIELD OF
ACUTE AND CHRONIC RESPIRATORY TRACT
INFECTIONS, SUPPORT FOR THE IMMUNE SYS-
TEM, ADJUVANT THERAPY IN ADDITION TO A
TREATMENT WITH ANTIBIOTICS IN SEVERE

BACTERIAL INFECTIONS, BACTERIAL SKIN IN-
FECTIONS, HERPES SIMPLEX LABIALIS, LEUKO-
PENIA FOLLOWING RADIO- AND CYSTOSTATIC
THERAPY, COLD AND COUGH IMPLICATIONS,
IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

PRIORITY CLAIMED UNDER SEC. 44(D) ON FED
REP GERMANY APPLICATION NO. 39949207.0/0,
FILED 8-13-1999, REG. NO. 39949207, DATED 12-7-
1999, EXPIRES 8-31-2009.

SER. NO. 75-799,746, FILED 9-15-1999.

BARNEY CHARLON, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 3,203,719

United States Patent and Trademark Office

Registered Jan. 30, 2007

TRADEMARK
PRINCIPAL REGISTER

ISAKIDS

ISAGENIX WORLDWIDE, LLC (ARIZONA LIMITED LIABILITY CORPORATION)
2225 S. PRICE ROAD
CHANDLER, AZ 85248

FOR: NUTRITIONAL AND DIETARY SUPPLEMENTS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 3-1-2002; IN COMMERCE 3-1-2002.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 2,198,293.

SER. NO. 78-784,253, FILED 1-3-2006.

SKYE YOUNG, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 3,093,020

United States Patent and Trademark Office

Registered May 16, 2006

TRADEMARK
PRINCIPAL REGISTER

FLORASTOR KIDS

BIOCODEX (FRANCE CORPORATION)
7 AVENUE GALLIENI
GENTILLY, FRANCE 94250

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: DIETARY SUPPLEMENTS CONTAINING SACCHAROMYCES BOULARDII YEAST FOR USE TO ENHANCE THE NORMAL FUNCTIONING OF THE GASTROINTESTINAL TRACT AND TO AID IN RESTORING NORMAL COLONIC MIRCROFLORA IN HUMANS AND OTHER ANIMALS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "KIDS", APART FROM THE MARK AS SHOWN.

SER. NO. 78-638,101, FILED 5-26-2005.

FIRST USE 4-18-2005; IN COMMERCE 4-18-2005.

ANNE E. GUSTASON, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

Reg. No. 3,102,124

United States Patent and Trademark Office

Registered June 6, 2006

TRADEMARK
PRINCIPAL REGISTER

A+ KIDS

ARKOPHARMA LLC (DELAWARE LTD LIAB
CO)

19A CROSBY DRIVE, SUITE 300
BEDFORD, MA 01730

FOR: HUMAN DIETARY SUPPLEMENT CON-
TAINING PURE FISH OIL, PROVIDED IN LIQUID
FORM, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 2-0-2006; IN COMMERCE 2-0-2006.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "KIDS", APART FROM THE MARK
AS SHOWN.

SN 78-525,197, FILED 12-1-2004.

INGRID C. EULIN, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

Reg. No. 3,077,365

United States Patent and Trademark Office

Registered Apr. 4, 2006

**TRADEMARK
PRINCIPAL REGISTER**

FITKIDS NUTRITION

VITALSTATE CANADA LTD. (CANADA CORPORATION)
SUITE 268
3767 THIMENS BOULEVARD
MONTREAL, QUEBEC, CANADA H4A2K5

FOR: NUTRITIONAL MEAL REPLACEMENT BARS; NUTRITIONAL SUPPLEMENT BARS; DIETARY SUPPLEMENT BARS; FOOD SUPPLEMENT BARS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 10-31-2003; IN COMMERCE 11-28-2003.

PRIORITY CLAIMED UNDER SEC. 44(D) ON CANADA APPLICATION NO. 1178655, FILED 5-29-2003, DATED 0-0-0000.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE NUTRITION, APART FROM THE MARK AS SHOWN.

SN 78-259,491, FILED 6-6-2003.

MICHAEL ENGEL, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

United States Patent and Trademark Office

Reg. No. 2,884,214

Registered Sep. 14, 2004

**TRADEMARK
PRINCIPAL REGISTER**

The logo for "Jelly-Kids" is rendered in a highly stylized, bubbly font. The letters are thick and rounded, with a white fill and a black outline. The "J" and "K" are particularly large and prominent. The overall appearance is playful and child-friendly.

JELLY KIDS, INC. (CALIFORNIA CORPORATION)
SUITE 501
14011 VENTURA BLVD.
SHERMAN OAKS, CA 91423

FIRST USE 12-1-2002; IN COMMERCE 2-1-2003.

SER. NO. 78-245,025, FILED 5-2-2003.

FOR: CHILDREN'S MULTIPLE VITAMIN, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

IRA J. GOODSID, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 3,031,859

United States Patent and Trademark Office

Registered Dec. 20, 2005

TRADEMARK
PRINCIPAL REGISTER

Uber Kids

HEARTLAND PRODUCTS, INC. (NORTH DAKOTA CORPORATION)
849 14TH ST. SW
VALLEY CITY, ND 58072

FOR: CHEWABLE MULTI-VITAMIN, IN CLASS 5
(U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 1-1-2004; IN COMMERCE 1-1-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "KIDS", APART FROM THE MARK AS SHOWN.

THE WORD "UBER" IN THE MARK TRANSLATES AS "ABOVE".

SER. NO. 78-492,810, FILED 10-1-2004.

JAMES A. RAUEN, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

Reg. No. 3,007,913

United States Patent and Trademark Office

Registered Oct. 18, 2005

**TRADEMARK
PRINCIPAL REGISTER**

WELL KIDS ZONE

IMPROVITA HEALTH PRODUCTS, INC. (OHIO
CORPORATION)
10055 SWEET VALLEY DRIVE
CLEVELAND, OH 44125

FIRST USE 8-0-2003; IN COMMERCE 9-0-2003.

FOR: NUTRITIONAL SUPPLEMENTS; THROAT
LOZENGES; NASAL SPRAY PREPARATIONS; AND
PREPARATIONS FOR APPLICATION TO SKIN FOR
ANTI-INSECT, SUN BLOCK AND ANTIBACTERIAL
PURPOSES, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51
AND 52).

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

SN 78-360,977, FILED 2-2-2004.

JENNIFER CHICOSKI, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

United States Patent and Trademark Office

Reg. No. 2,833,257

Registered Apr. 13, 2004

**TRADEMARK
PRINCIPAL REGISTER**

KIDS LUV IT!

HEALTHWORKS ENERGY PRODUCTS, L.L.C.
(LOUISIANA LIMITED LIABILITY COMPAN-
NY)
204 FAIR AVENUE
WINNSBORO, LA 71295

FIRST USE 1-14-2004; IN COMMERCE 1-14-2004.

SN 78-166,758, FILED 9-23-2002.

FOR: DIETARY SUPPLEMENTS, HERBAL, MI-
NERAL AND MULTI-VITAMIN SUPPLEMENTS, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

KARLA PERKINS, EXAMINING ATTORNEY

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-15 17:21:02 ET

Serial Number: 78793202 Assignment Information

Registration Number: (NOT AVAILABLE)

Mark

KidzThrive

(words only): KIDZTHRIVE

Standard Character claim: Yes

Current Status: Opposition period completed, a Notice of Allowance has been issued.

Date of Status: 2006-11-28

Filing Date: 2006-01-17

The Notice of Allowance Date is: 2006-11-28

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 111

Attorney Assigned:
HENRY NAKIA D Employee Location

Current Location: 700 -Intent To Use Section

Date In Location: 2006-11-28

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. VIVACITY PRODUCTS GROUP, INC.

Address:

VIVACITY PRODUCTS GROUP, INC.
1901 W. CERMAK ROAD
BROADVIEW, IL 60155
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Illinois

GOODS AND/OR SERVICES

International Class: 005

Class Status: Active

Pediatric vitamin-fortified electrolyte solutions in liquid, frozen, gel, and powder form

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-03-13 - Assigned To Examiner

2007-02-07 - Assignment Of Ownership Not Updated Automatically

2007-01-24 - Automatic Update Of Assignment Of Ownership

2006-11-28 - Notice of allowance - mailed

2006-09-05 - Published for opposition

2006-08-16 - Notice of publication

2006-07-12 - Law Office Publication Review Completed

2006-07-10 - Assigned To LIE

2006-07-05 - Approved for Pub - Principal Register (Initial exam)

2006-07-05 - Assigned To Examiner

2006-01-24 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Jeremy Noe

Correspondent

JEREMY NOE

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP

300 S WACKER DR STE 3200

CHICAGO, IL 60606-6709

Phone Number: 312-913-0001

Fax Number: 312-913-0002

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-15 17:21:11 ET

Serial Number: 78790351 Assignment Information

Registration Number: (NOT AVAILABLE)

Mark

PEDIASURE KIDZERS

(words only): PEDIASURE KIDZERS

Standard Character claim: Yes

Current Status: Opposition period completed, a Notice of Allowance has been issued.

Date of Status: 2007-04-17

Filing Date: 2006-01-12

The Notice of Allowance Date is: 2007-04-17

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 114

Attorney Assigned:
MCCAULEY BRENDAN D Employee Location

Current Location: 700 -Intent To Use Section

Date In Location: 2007-04-17

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Abbott Laboratories

Address:

Abbott Laboratories
100 Abbott Park Road
Abbott Park, IL 60064
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Illinois

GOODS AND/OR SERVICES

International Class: 005

Class Status: Active

Liquid nutritive preparations, namely, dietary supplemental drinks

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):

1475612

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-04-17 - Notice of allowance - mailed

2007-01-23 - Published for opposition

2007-01-03 - Notice of publication

2006-12-05 - Law Office Publication Review Completed

2006-12-05 - Assigned To LIE

2006-11-16 - Approved for Pub - Principal Register (Initial exam)

2006-11-16 - Examiner's Amendment Entered

2006-11-15 - EXAMINERS AMENDMENT E-MAILED

2006-11-15 - Examiners Amendment - Written

2006-06-27 - Non-final action e-mailed

2006-06-27 - Non-Final Action Written

2006-06-26 - Assigned To Examiner

2006-01-18 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Mary L. Winburn

Correspondent

MARY L. WINBURN

100 ABBOTT PARK ROAD

ABBOTT PARK, IL 60064-6008

Phone Number: 847-937-5121

Fax Number: 847-935-6552

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-15 17:21:18 ET

Serial Number: 78765076 Assignment Information

Registration Number: (NOT AVAILABLE)

Mark

ECOKIDZ

(words only): ECOKIDZ

Standard Character claim: Yes

Current Status: A request for the first extension of time to file a statement of use has been granted.

Date of Status: 2007-04-17

Filing Date: 2005-12-01

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

The Notice of Allowance Date is: 2006-10-31

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 108

Attorney Assigned:
BELZER LYDIA M Employee Location

Current Location: 700 -Intent To Use Section

Date In Location: 2006-10-31

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Econugenics, Inc.

Address:

Econugenics, Inc.
2208 Northpoint Parkway
Santa Rosa, CA 95407
United States

Legal Entity Type: Corporation**State or Country of Incorporation:** California

GOODS AND/OR SERVICES

International Class: 005**Class Status:** Active

Dietary food supplements; Dietary supplements; Herbal supplements; Nutritional supplements; Vitamin and mineral supplements; Vitamin supplements

Basis: 1(b)**First Use Date:** (DATE NOT AVAILABLE)**First Use in Commerce Date:** (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-04-17 - Extension 1 granted

2007-04-17 - Extension 1 filed

2007-04-17 - TEAS Extension Received

2006-10-31 - Notice of allowance - mailed

2006-08-08 - Published for opposition

2006-07-19 - Notice of publication

2006-06-20 - Law Office Publication Review Completed

2006-06-16 - Assigned To LIE

2006-06-13 - Approved for Pub - Principal Register (Initial exam)

2006-06-04 - Assigned To Examiner

2005-12-08 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Jay H. Geller

Correspondent

JAY H. GELLER

W. TOWER, SUITE 4000, 2425 W. OLYMPIC BL

SANTA MONICA, CA 90404

Phone Number: 310-449-1399

Fax Number: 310-449-1394

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-22 11:16:22 ET

Serial Number: 78498132 Assignment Information

Registration Number: (NOT AVAILABLE)

Mark

SUNKIDS

(words only): SUNKIDS

Standard Character claim: Yes

Current Status: A request for the second extension of time to file a statement of use has been granted.

Date of Status: 2006-11-07

Filing Date: 2004-10-12

The Notice of Allowance Date is: 2005-12-27

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 115

Attorney Assigned:
SOUDERS MICHAEL J Employee Location

Current Location: 700 -Intent To Use Section

Date In Location: 2007-04-12

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Sunkist Growers, Inc.

Address:

Sunkist Growers, Inc.
14130 Riverside Drive
Sherman Oaks, CA 91423
United States
Legal Entity Type: Corporation
State or Country of Incorporation: California
Phone Number: 818-379-7244
Fax Number: 818-379-7250

GOODS AND/OR SERVICES

International Class: 005
Class Status: Active
Vitamins
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-04-10 - TEAS Extension Received
2006-11-07 - Extension 2 granted
2006-10-03 - Extension 2 filed
2006-10-03 - TEAS Extension Received
2006-02-06 - Extension 1 granted
2006-01-12 - Extension 1 filed
2006-01-12 - TEAS Extension Received
2005-12-27 - Notice of allowance - mailed
2005-10-04 - Published for opposition
2005-09-14 - Notice of publication

2005-06-22 - Law Office Publication Review Completed

2005-06-22 - Assigned To LIE

2005-05-23 - Assigned To LIE

2005-05-14 - Approved for Pub - Principal Register (Initial exam)

2005-05-14 - Assigned To Examiner

2004-10-19 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

SUNKIST GROWERS, INC.
14130 RIVERSIDE DRIVE
SHERMAN OAKS, CA 91423-2313
Phone Number: 818-379-7244
Fax Number: 818-379-7250

Int. Cl.: 5

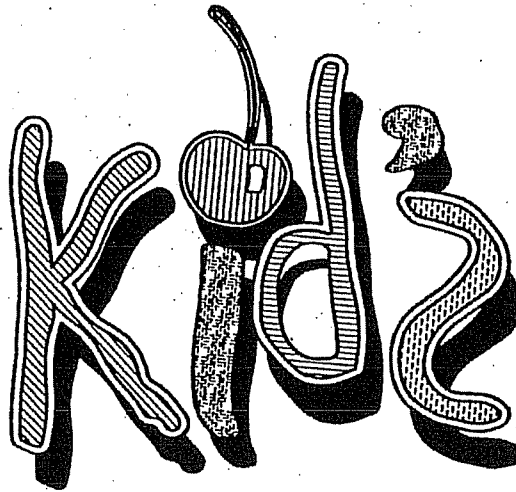
Prior U.S. Cl.: 18

United States Patent and Trademark Office

Reg. No. 1,914,307

Registered Aug. 22, 1995

**TRADEMARK
SUPPLEMENTAL REGISTER**



MENTHOLATUM COMPANY, THE (DELA-
WARE CORPORATION)
1360 NIAGARA STREET
BUFFALO, NY 14213

FOR: NASAL DECONGESTANT AND
COUGH SUPPRESSANT, IN CLASS 5 (U.S. CL.
18).

FIRST USE 6-0-1993; IN COMMERCE
6-0-1993.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "KID'S", APART FROM THE
MARK AS SHOWN.

THE MARK IS LINED FOR GREEN,
YELLOW, BLUE, RED, AND PURPLE COLORS.
MORE SPECIFICALLY, THE LETTER "K" IS
GREEN, THE LETTER "I" IS YELLOW, THE
DEPICTION OF THE CHERRY IS RED, THE
LETTER "D" IS BLUE, THE APOSTROPHE IS
YELLOW, AND THE BACKWARDS LETTER
"S" IS PURPLE.

SER. NO. 74-472,769, FILED P.R. 12-23-1993;
AM. S.R. 5-11-1995.

MARY C. MACK, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

Reg. No. 2,696,062

United States Patent and Trademark Office

Registered Mar. 11, 2003

**TRADEMARK
PRINCIPAL REGISTER**

KIDZ HEALTH

KOSMAKARE INTERNATIONAL, LLC (DELA-
WARE CORPORATION)
15 JACKSON ROAD
TOTAWA, NJ 07512

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "KIDS", APART FROM THE MARK
AS SHOWN.

FOR: ADHESIVE BANDAGES AND FIRST AID
KITS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

SN 75-712,651, FILED 5-24-1999.

FIRST USE 9-27-1999; IN COMMERCE 9-27-1999.

MICHAEL SOUDERS, EXAMINING ATTORNEY

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 3,211,406

United States Patent and Trademark Office

Registered Feb. 20, 2007

**TRADEMARK
PRINCIPAL REGISTER**

ME4KIDZ

ME4KIDZ LLC (ARIZONA LTD LIAB CO)
4262 E MOLLY
PHOENIX, AZ 85331

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

FOR: FIRST AID KITS, IN CLASS 5 (U.S. CLS. 6, 18,
44, 46, 51 AND 52).

SER. NO. 78-876,978, FILED 5-4-2006.

FIRST USE 12-8-2005; IN COMMERCE 12-8-2005.

KATHLEEN M. VANSTON, EXAMINING ATTOR-
NEY

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-22 11:21:12 ET

Serial Number: 77058657 Assignment Information

Registration Number: (NOT AVAILABLE)

Mark

My Kid's Nutrition

(words only): MY KID'S NUTRITION

Standard Character claim: Yes

Current Status: Final review prior to publication has been completed, application will be published for opposition.

Date of Status: 2007-05-21

Filing Date: 2006-12-07

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

The Information will be/was published in the Official Gazette on 2007-06-26

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 117

Attorney Assigned:
SAPPENFIELD ANN ELIZABETH Employee Location

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-05-21

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Nutri88, Inc.

Address:

Nutri88, Inc.
1061 Meads Ave.
Orange, CA 92869
United States

Legal Entity Type: Corporation**State or Country of Incorporation:** California**Phone Number:** 949-212-8330**Fax Number:** 714-288-0113

GOODS AND/OR SERVICES

International Class: 005**Class Status:** Active

Dietary and nutritional supplements

Basis: 1(b)**First Use Date:** (DATE NOT AVAILABLE)**First Use in Commerce Date:** (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Disclaimer: "KID'S NUTRITION"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-04-18 - Law Office Publication Review Completed

2007-04-18 - Assigned To LIE

2007-03-27 - Approved for Pub - Principal Register (Initial exam)

2007-03-27 - Examiner's Amendment Entered

2007-03-27 - Examiners amendment e-mailed

2007-03-27 - Examiners Amendment - Written

2007-03-21 - Assigned To Examiner

2006-12-11 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

NUTRI88, INC

1061 MEADS AVE

ORANGE, CA 92869

Phone Number: 949-212-8330

Fax Number: 714-288-0113
