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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 76/663,712 - FEMTEC
Published in the Official Gazette on March 6, 2007

VITAMIN WORLD, INC.,	)	
	)	Opposition No. 91176617
Opposer,	)	
	)	
v.	)	
	)	
HISPANONATURA ENTERPRISES, INC.,	)	
	)	
Applicant.	)	

ANSWER TO NOTICE OF OPPOSITION

In response to the Notice of Opposition issued by the Board on April 5, 2007, in the Matter of Application Serial No. 76/76/663,712 for the trademark "FEMTEC" filed July 27, 2006, the Applicant, HispanoNatura Enterprises, Inc., answers the opposition identified above as follows:

In response to the allegations contained in the introductory paragraphs of the Notice, the Applicant is without knowledge or information sufficient to form a belief as to the truth of the averment that Opposer is a Delaware corporation, and therefore denies the same. Applicant

specifically denies that Opposer will be damaged by the registration of the above-identified mark. Applicant admits the remaining allegations in the introductory paragraph

1. In response to the allegations of paragraph 1 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and based thereon, denies each allegation.

2. In response to the allegations of paragraph 2, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and based thereon, denies each allegation.

3. In response to the allegations of paragraph 3, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and based thereon, denies each allegation.

4. In response to the allegations of paragraph 4, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and based thereon, denies each allegation.

5. In response to the allegations of paragraph 5, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and based thereon, denies each allegation.

6. In response to the allegations of paragraph 6 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and based thereon, denies each allegation.

7. In response to the allegations of paragraph 7 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and based thereon, denies each allegation.

8. In response to the allegations of paragraph 8 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and based thereon, denies each allegation.

9. In response to the allegations of paragraph 9 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and based thereon, denies each allegation.

10. In response to the allegations of paragraph 10 of the Notice, Applicant denies the allegations contained therein.

11. In response to the allegations of paragraph 11 of the Notice, Applicant denies the allegations contained therein.

12. In response to the allegations of paragraph 12 of the Notice, Applicant denies the allegations contained therein.

13. In response to the allegations of paragraph 13 of the Notice, Applicant denies the allegations contained therein.

14. In response to the allegations of paragraph 14 of the Notice, Applicant denies the allegations contained therein.

AFFIRMATIVE DEFENSES

1. Opposer has failed to allege grounds sufficient to establish its standing to maintain the present opposition.

2. There is no likelihood of confusion between Applicant's mark FEMTEC as applied to dietary supplements and Opposer's FEMGEST mark, since the marks are sufficiently distinguishable to avoid confusion.

3. There is no likelihood of confusion between Applicant's mark FEMTEC as applied to dietary supplements and Opposer's FEMGEST mark, since, upon information and belief, Opposer's FEMGEST mark is weak and only entitled to a very narrow scope of protection.

4. Upon information and belief, Opposer's FEMGEST mark is not famous as required for a successful dilution claim.

5. The form and intended uses of the goods at issue are not even remotely similar. While Opposer alleges that it uses its mark FEMGEST for medicated topical transdermal creams for application to irritated or itchy skin, Applicant intends to use its mark for orally taken dietary supplements.

WHEREFORE, Applicant asks that this opposition proceeding be dismissed and that its Notice of Allowance be issued forthwith.

Respectfully submitted,

BABENER & ASSOCIATES

DATE: 5/8/07

Jeffrey A. Babener
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Applicant's Answer to Notice of Opposition was mailed, first class mail, postage prepaid, to Scott B. Fisher, Esq., Jaspan, Schlesinger, Hoffman, LLP to 300 Garden City Plaza, Garden City, NY 11530 this 8th day of May, 2007.

CERTIFICATE OF MAILING

Certificate of Mailing under 37 CFR § 2.197(a).

I hereby certify that this correspondence is being deposited with the United States Postal service with sufficient postage as first class mail in an envelope addressed to UNITED STATES PATENT AND TRADEMARK OFFICE, Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313-1451 on May 8, 2007.

Sarah Smith

Sarah Smith

Signature

May 8, 2007

Date