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PATENT & TRADEMARK OFFICE

October 31, 2007

OBLON
SPIVAK
MCCLELLAND
MAIER
&
NEUSTADT
P.C.

ATTORNEYS AT LAW
DAVID J. KERA
(703) 412-6456
DKERA@OBLON.COM

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

Re: Schering-Plough Animal Health Corporation
Matter: Apple, Inc. v. Schering-Plough Animal Health Corporation
Opposition No.: 91/178,560
Class(es): 9 and 44
Atty Dkt. No.: 313501US-1246-271434-21

Dear Commissioner:

We enclose the following for filing in the U.S. Patent and Trademark Office:

☑ Withdrawal Without Prejudice With Consent for Opposition No. 91/178,560

Please note: All electronic correspondence relating to this matter should be sent to *tmdocket@oblon.com*.

Respectfully submitted,

OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.

David J. Kera

DJK/ojb {I:\atty\DJK\1246-313501US-cov.doc}

10-31-2007

U.S. Patent & TMOfc/TM Mail Rcpt Dt #72

Attorney Docket No.: 313501US21

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK EXAMINING OPERATION

In re the Application of:

Schering-Plough Animal Health Corporation

Application Serial No.: 78/876,218

Filed: May 4, 2006

Mark: VPOD

Class: 9 and 44

Trademark Trial and Appeal Board Member
Elizabeth J. Winter

Law Office G/TTAB

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Trademark Trial and Appeal Board

WITHDRAWAL WITHOUT PREJUDICE WITH CONSENT

Applicant, Schering-Plough Animal Health Corporation, hereby withdraws the above-identified application without prejudice. The consent of Opposer to the withdrawal of the application without prejudice is communicated in the enclosed letter of September 18, 2007 from Ms. Rosemary Tarlton, the attorney for Opposer. The consent is expressed in the second paragraph of the letter.

Applicant requests that the withdrawal of the application be entered and that the opposition be dismissed without prejudice.

Respectfully submitted,

Schering-Plough Animal Health Corporation

By: _____

David J. Kera
Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
fax (703) 413-2220
e-mail: *tmdocket@oblon.com*

Date: October 31, 2007
DJK/ojb {Document4}

MORRISON | FOERSTER

425 MARKET STREET
SAN FRANCISCO
CALIFORNIA 94105-2482
TELEPHONE:415.268.7000
FACSIMILE:415.268.7522
WWW.MOFO.COM

MORRISON & FOERSTER LLP
NEW YORK, SAN FRANCISCO,
LOS ANGELES, PALO ALTO,
SAN DIEGO, WASHINGTON, D.C.
DENVER, NORTHERN VIRGINIA,
ORANGE COUNTY, SACRAMENTO,
WALNUT CREEK, CENTURY CITY
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SHANGHAI, HONG KONG,
SINGAPORE, BRUSSELS

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September 18, 2007

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Writer's Direct Contact
415/268-6810
RTarlton@mofo.com

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SEP 19 2007
OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, P.C.

Via Overnight Delivery & Facsimile (703) 413-2220

David Kera
Oblon Spivak McClelland Maier & Neustadt P.C.
1940 Duke Street
Alexandria, VA 22314

Re: Application Serial Nos. 78/876,218 and 78/976,220 for VPOD
Our References: 10684-6001.501 and 6001.502

Dear David:

As you know, our client, Apple Inc. ("Apple"), has opposed registration of the VPOD marks for which your client, Schering-Plough Animal Health Corporation ("Schering-Plough"), has filed applications with the Patent & Trademark Office. Based on our recent conversation, I understand that Schering-Plough has decided against commercializing the VPOD product and thus desires to abandon its VPOD applications.

With the understanding that Schering-Plough does not intend, now or in the future, to commercialize the VPOD product, Apple consents to Schering-Plough's abandonment of the VPOD applications without prejudice.

As Schering-Plough is no doubt aware, Apple takes seriously the policing of its POD-based marks, particularly for handheld devices. Accordingly, please put your client on notice that, should the commercialization of the VPOD handheld device contemplated in these applications be resuscitated, Apple has every intention of vigorously objecting to such use. Apple expressly reserves the right to object to any future use of the VPOD mark by Schering-Plough.

Please countersign a copy of this letter, thereby acknowledging your agreement that, while Schering-Plough has not entered into a binding agreement not to use the VPOD mark commercially, Schering-Plough has made a good faith representation that it has no current intention to do so. Please return to us within one (1) week from the date of this letter a counter-signed copy of this letter and evidence that the VPOD applications have been abandoned. Thank you in advance for your cooperation.

Very truly yours,

Rosemary S. Tarlton

READ, UNDERSTOOD, AND AGREED:

Schering-Plough Animal Health Corporation

Nancy L. Rowe, Assistant Vice President,
Intellectual Property

Date: October 16, 2007

cc: Apple Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **WITHDRAWAL WITHOUT PREJUDICE WITH CONSENT** was served on counsel for Opposer, this 31st day of October, 2007, by sending same via First Class mail, postage prepaid, to:

Ms. Rosemary S. Tarlton
Attorney
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482

D. Jean Barnett