

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

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Mailed: January 27, 2011

Opposition No. 91196940

Bayer HealthCare LLC

v.

Gidget Marks, LLC

Ann Linnehan, Attorney

On December 15, 2010, the Board sent a notice of default to applicant because no answer had been filed.

On December 24, 2010, applicant filed a "motion to request review default judgment and extension to file an answer" and its proposed amendment to its application Serial No. 77726529, with opposer's consent. In its response, applicant indicates that it was having difficulty scheduling a meeting to resolve this matter with opposer due to travel issues and illness. To the extent that it appears the parties were attempting to settle this matter, the notice of default judgment is hereby discharged.

By the proposed amendment applicant seeks to change the description of goods (the words listed in **bold**) in International class 5,

from "Vitamin and mineral supplements, nutritional supplements, food supplements, herbal supplements, herbal tea for medicinal purposes, meal replacement drinks and powder, nutritional fortified water and beverages, nutritional energy bars as meal replacements, nasal spray preparations, nose drops, eye drops, cough drops, cough syrups, cough and throat lozenges, medicated lotions for skin, hair, sunburn, face and body, topical first aid gel, medicated shampoo, muscle relaxants, sedatives, aspirin, ibuprofen for use as an oral analgesic, appetite suppressants, pharmaceutical preparations for the treatment of angina, **diabetes** and insomnia, eye washes, contact lens cleaning solutions, muscle soaks, carpet, room and shoe deodorizers and disinfectants for hygienic purposes; air fresheners, car deodorizers, moth balls; sanitary preparations for medical use and household use; food for babies; feeding preparations and nutritional formulas, namely, infant formulas; nutritional, mineral, homeopathic, supplements in the form of dietary, nutritional, mineral and/or homeopathic supplements for babies, toddlers, children, and teens; medicines for babies, toddlers, children and teens, namely, pharmaceutical preparations for skin disorders, pharmaceutical preparations for treating colds, medicated diaper rash ointments, balms and lotions; medical plasters; materials for dressings, namely, bandages for dressings, burn dressings; medicated bath preparations; therapeutic preparations for the bath for medical purposes; bath salts for medical purposes; disinfectants for hygiene purposes; first-aid kits, medicated ointments, namely, antibiotic, diaper rash, anti-inflammatory ointments; **dietetic foods adapted for medical use**; dental wax, medicated pre-moistened wipes, gels, lotions, and pads impregnated with acne medication"

to "Vitamin and mineral supplements, nutritional supplements, food supplements, herbal supplements, herbal tea for medicinal purposes, meal replacement drinks and powder, nutritional fortified water and beverages, nutritional energy bars as meal replacements, nasal spray preparations, nose drops, eye drops, cough drops, cough syrups, cough and throat lozenges, medicated lotions for skin, hair, sunburn, face and body, topical first aid gel, medicated shampoo, muscle relaxants, sedatives, aspirin, ibuprofen for use as an oral analgesic, appetite suppressants, pharmaceutical preparations for the treatment of angina, and insomnia, eye washes, contact lens cleaning solutions, muscle soaks, carpet, room and shoe deodorizers and disinfectants for hygienic purposes; air fresheners, car deodorizers, moth balls; sanitary preparations for medical

use and household use; food for babies; feeding preparations and nutritional formulas, namely, infant formulas; nutritional, mineral, homeopathic, supplements in the form of dietary, nutritional, mineral and/or homeopathic supplements for babies, toddlers, children, and teens; medicines for babies, toddlers, children and teens, namely, pharmaceutical preparations for skin disorders, pharmaceutical preparations for treating colds, medicated diaper rash ointments, balms and lotions; medical plasters; materials for dressings, namely, bandages for dressings, burn dressings; medicated bath preparations; therapeutic preparations for the bath for medical purposes; bath salts for medical purposes; disinfectants for hygiene purposes; first-aid kits, medicated ointments, namely, antibiotic, diaper rash, anti-inflammatory ointments; dental wax, medicated pre-moistened wipes, gels, lotions, and pads impregnated with acne medication."

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and because opposer consents thereto, it is approved and entered. See Trademark Rule 2.133(a).

If this resolves the dispute herein, opposer is allowed until **thirty days** from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. See Trademark Rule 2.106(c).

Proceedings are otherwise SUSPENDED.