

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500

EJW

Mailed: June 16, 2015

Opposition No. 91221390

*Chr. Hansen A/S*

*v.*

*Nutrabolics Inc.*

**ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:**

It is noted that Opposer filed an amended notice of opposition on April 30, 2015. Because more than 21 days passed since the filing of the notice of opposition (*i.e.*, April 7, 2015), Opposer may amend its pleading only by written consent of every adverse party or by leave of the Board. *See* Fed. R. Civ. P. 15(a); Trademark Rules 2.107(a) and 2.116. Opposer has not submitted the written consent of Applicant; therefore, the Board must determine whether Opposer's amended pleading should be accepted.

Under Fed. R. Civ. P. 15(a), leave to amend pleadings shall be freely given when justice so requires. Consistent therewith, the Board liberally grants leave to amend pleadings at any stage of the proceeding when justice requires, unless entry of the proposed amendment would violate settled law or be prejudicial to the rights of the adverse party or parties. *See, e.g., Commodore Electronics Ltd. v. CBM Kabushiki*

*Kaisha*, 26 USPQ2d 1503 (TTAB 1993); *United States Olympic Committee v. O-M Bread Inc.*, 26 USPQ2d 1221 (TTAB 1993).

Here, although Opposer did not submit a motion in support of its amended pleading, the Board notes that Opposer has clarified its original pleading by, *inter alia*, alleging the basis for its claim of likelihood of confusion and by pleading ownership of two federal trademark registrations. Additionally, Applicant did not oppose Opposer's submission of Opposer's amended pleading and has not yet filed an answer in the proceeding. In view of the foregoing, the Board finds that the proposed amendment neither violates settled law, nor prejudices Applicant. Accordingly, leave to amend Opposer's notice of opposition is **granted**. Opposer's amended pleading filed on April 30, 2015, is now considered to be Opposer's operative pleading in this matter. In addition, Applicant is allowed until **THIRTY DAYS** from the mailing date of this order to file an answer to Opposer's amended pleading. Trial dates are reset as shown in the following schedule:

<b>Time to Answer</b>	<b>7/16/2015</b>
<b>Deadline for Discovery Conference</b>	<b>8/15/2015</b>
<b>Discovery Opens</b>	<b>8/15/2015</b>
<b>Initial Disclosures Due</b>	<b>9/14/2015</b>
<b>Expert Disclosures Due</b>	<b>1/12/2016</b>
<b>Discovery Closes</b>	<b>2/11/2016</b>
<b>Plaintiff's Pretrial Disclosures Due</b>	<b>3/27/2016</b>
<b>Plaintiff's 30-day Trial Period Ends</b>	<b>5/11/2016</b>
<b>Defendant's Pretrial Disclosures Due</b>	<b>5/26/2016</b>
<b>Defendant's 30-day Trial Period Ends</b>	<b>7/10/2016</b>
<b>Plaintiff's Rebuttal Disclosures Due</b>	<b>7/25/2016</b>
<b>Plaintiff's 15-day Rebuttal Period Ends</b>	<b>8/24/2016</b>

**IN EACH INSTANCE**, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party **WITHIN THIRTY DAYS** after completion of the taking of testimony. *See* Trademark Rule 2.125, 37 C.F.R. § 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b), 37 C.F.R. §§ 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129, 37 C.F.R. § 2.129.

