

ESTTA Tracking number: **ESTTA897007**

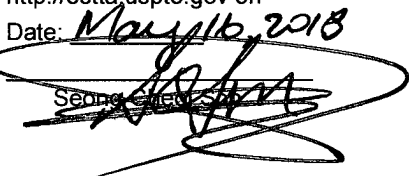
Filing date: **05/16/2018**

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

| | |
|------------------------|--|
| Proceeding | 91230888 |
| Party | Defendant Fit Foods Ltd. |
| Correspondence Address | SEONG CHEOL SON PALMER IP 950-609 WEST HASTINGS STREET, BOX 32 SUITE 950 VANCOUVER, BC V6B 4W4 CANADA Email: trademarks@palmerip.com, info@palmerip.com |
| Submission | Other Motions/Papers |
| Filer's Name | Seong-Cheol Son |
| Filer's email | sson@palmerip.com |
| Signature | /seongcheolson/ |
| Date | 05/16/2018 |
| Attachments | Motion to Amend US FIT FOODS Trademark Application as filed.pdf(129161 bytes) |

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

| | | | |
|-----------------|---|-----------------|------------|
| XYMOGEN, INC., |) | Proceeding No.: | 91230888 |
| |) | Serial No.: | 86/574,406 |
| Opposer, |) | Mark: | FIT FOODS |
| |) | | |
| v. |) | | |
| |) | | |
| FIT FOODS LTD., |) | | |
| |) | | |
| Applicant. |) | | |
| _____ |) | | |

I hereby certify that this correspondence and all marked attachments are being electronically filed with the Trademark Trial and Appeal Board through their website located at: <http://esta.uspto.gov> on
Date: May 16, 2018


MOTION TO AMEND US TRADEMARK APPLICATION SERIAL NO. 86/574,406

UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1451
Alexandria, VA 22313-1451

Pursuant to a settlement agreement between Xymogen, Inc. (“Opposer”) and Fit Foods Ltd. (“Applicant”), Fit Foods Ltd. hereby requests amendment to the description of the claimed goods and services as follows:

1. Please amend the description of goods identified under International Classification 005 as follows:

From:
Dietary and nutritional supplements; Dietary and nutritional supplements containing protein for building body mass; Dietary and nutritional supplements for body building; Dietary supplements for increasing bodyweight; Dietary supplements for increasing muscle mass; Dietary supplements for reducing body fat; Dietary supplements for reducing bodyweight; Dietary supplements for enhancing strength; Dietary

supplements for enhancing sports performance; Nutritional supplement in the nature of a nutrient-dense, protein-based drink mix; Protein dietary supplements; Dietary supplements in the nature of weight loss powders; Powdered protein supplements; Protein supplements in capsule form; Protein supplements in tablet form; Dietary supplements in tablet form; Meal replacement shakes for weight loss purposes.

To:

*Dietary and nutritional supplements; Dietary and nutritional supplements containing protein for building body mass; Dietary and nutritional supplements for body building; Dietary supplements for increasing bodyweight; Dietary supplements for increasing muscle mass; Dietary supplements for reducing body fat; Dietary supplements for reducing bodyweight; Dietary supplements for enhancing strength; Dietary supplements for enhancing sports performance; Nutritional supplement in the nature of a nutrient-dense, protein-based drink mix; Protein dietary supplements; Dietary supplements in the nature of weight loss powders; Powdered protein supplements; Protein supplements in capsule form; Protein supplements in tablet form; Dietary supplements in tablet form; Meal replacement shakes for weight loss purposes, **all of the foregoing excluding sales to licensed healthcare practitioners.***

2. Please amend the description of the services identified under International Classification 035 as follows:

From:

Distributorship services in the field of dietary supplements, nutritional supplements, and powdered protein supplements

To:

Distributorship Distributorsshop services in the field of dietary supplements, nutritional supplements, and powdered protein supplements, all of the foregoing excluding sales to licensed healthcare practitioners.

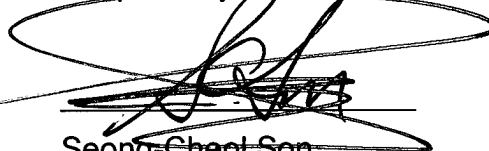
3. Applicant has identified all the changes made to the description of the goods and services in bold, and more specifically, for the ease of the Trademark Trial and Appeals Board, additions to the description of the goods and services have been underlined and are in bold, and deletions to the description of the goods and services have been struck through and are in bold.

WHEREFORE, Fit Foods respectfully requests that its trademark application for FIT FOODS (Trademark Application Serial No. 86/574,406) is amended as requested above, that the opposition be withdrawn per the settlement agreement with the Opponent, and that its US Trademark Application Serial No.: 86/574,406 for the mark FIT FOODS proceed to registration.

Dated:

May 16, 2018

Respectfully submitted,



Seong-Cheol Son

704 – 1478 West Hastings Street
Vancouver, BC V6G 3J6
Canada

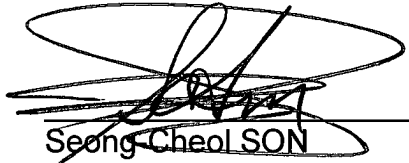
(604) 677-7727
trademarks@palmerip.com

Attorney for the Applicant

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **MOTION TO AMEND US TRADEMARK APPLICATION SERIAL NO. 86/574,406** upon counsel for Xymogen, Inc., by depositing one copy thereof via Fed Ex postage prepaid, on May 16, 2018, addressed as follows:

Kenneth Suzan
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225 South Sixth Street
Suite 2800
Minneapolis, MN 55402-4662
USA



Seong-Cheol SON