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

Proceeding no.	91294303
Party	Defendant Pharmaris Canada Inc.
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Submission	Motion to Amend/Amended Answer or Counterclaim
Filer's name	Nyall Engfield
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Signature	/s/
Date	01/20/2025
Attachments	Applicants First Amended Answer 01202025.pdf(120928 bytes)

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

IMAX CORPORATION, Opposer, v. PHARMARIS CANADA, INC, Applicant.	Opposition No. 91294303 Mark: PHARMARIS IMAX Serial No. 98/157,594

APPLICANT'S FIRST AMENDED ANSWER

Pursuant to TBMP 507 and Rule 15(a) of the Federal Rules of Civil Procedure ("**FRCP**"), upon the written consent of all adverse parties, PHARMARIS CANADA, INC. ("**Applicant**"), by its undersigned attorneys, hereby submit this First Amended Answer and response to the Notice of Opposition (1 TTABVUE) of IMAX CORPORATION ("**Opposer**") as follows:

Response to Opposer's Prefatory Language

Applicant objects to the form of Opposer's unenumerated prefatory language and denies that Opposer is entitled to a statutory cause of action. Applicant admits that Application Serial No. 98/157,594 was submitted on August 30, 2023 for "Dietary and nutritional supplements for general good health and well being.; Mineral supplements; Dietary supplements consisting primarily of iron; Nutritional supplements consisting primarily of iron supplements, mineral supplements, used for the prevention and treatment of iron deficiency, anemia, iron related diseases and to promote good health" in International Class 005. Applicant further admits that

said application was published in the Official Gazette on June 4, 2024. Applicant further admits that Opposer applied for and was granted an extension of time "until 10/02/2024" to file a Notice of Opposition. Otherwise, denied.

Response to Opposer's Allegations

1. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same.

2. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Moreover, this paragraph includes a legal conclusion to which no response is required. To the extent a response is required, denied. Applicant notes that the asserted trademark registrations are all in the field of motion picture and video technology.

3. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same.

4. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced awards are all in the field of motion picture and video technology.

5. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced awards are all in the field of motion picture and video technology.

6. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced investment is all in the field of motion picture and video technology.

7. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced movie and theatre concern the field of motion picture and video technology.

8. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced technology is all in the field of motion picture and video technology.

9. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced technology is all in the field of motion picture and video technology.

10. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced theatres concern the field of motion picture and video technology.

11. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced technology is all in the field of motion picture and video technology.

12. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced technology is all in the field of motion picture and video technology.

13. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced technology is all in the field of motion picture and video technology.

14. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced technology is all in the field of motion picture and electronic audio-visual technology.

15. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced technology is all in the field of motion picture and electronic audio-visual technology.

16. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced technology is all in the field of motion picture and electronic audio-visual technology.

17. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same. Applicant notes that the referenced studies concern brand awareness in the field of motion picture and electronic audio-visual technology.

18. This paragraph includes a legal conclusion to which no response is required. To the extent a response is required, denied.

19. Admitted.

Ground I

Likelihood of Confusion

20. Applicant repeats and realleges each of the foregoing responses as if fully set forth herein.

21. This paragraph consists of a legal conclusion to which no response is required. To the extent a response is required, denied.

22. This paragraph consists of a legal conclusion to which no response is required. To the extent a response is required, denied.

23. This paragraph consists of a legal conclusion to which no response is required. To the extent a response is required, denied.

24. This paragraph consists of a legal conclusion to which no response is required. To the extent a response is required, denied.

25. This paragraph consists of a legal conclusion to which no response is required. To the extent a response is required, denied.

Ground II

Dilution

26. Applicant repeats and realleges each of the foregoing responses as if fully set forth herein.

27. This paragraph consists of a legal conclusion to which no response is required. To the extent a response is required, denied.

28. This paragraph consists of a legal conclusion to which no response is required. To the extent a response is required, denied.

29. This paragraph consists of a legal conclusion to which no response is required. To the extent a response is required, denied.

30. This paragraph consists of a legal conclusion to which no response is required. To the extent a response is required, denied.

31. Applicant denies that Opposer is entitled to the requested relief. Otherwise, denied.

32. Applicant denies that Opposer is entitled to the requested relief. Otherwise, denied.

33. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph, and, therefore, denies the same.

Applicant's Affirmative Defenses

First Affirmative Defense

The Notice of Opposition fails to state a claim upon which relief can be granted.

Second Affirmative Defense

The Notice of Opposition is barred by the doctrine of laches, acquiescence, estoppel, and/or unclean hands.

Third Affirmative Defense

As a result of Opposer's acts and omissions, including but not limited to the doctrine of abandonment, Opposer has waived any right to pursue its Opposition.

Fourth Affirmative Defense

The Notice of Opposition is barred by the concurrent use doctrine.

Fifth Affirmative Defense

Opposer's pleaded registrations have become generic and no longer function as a trademark.

Sixth Affirmative Defense

The Notice of Opposition is barred due to Opposer's misuse of the pleaded registrations.

Prayer for Relief

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed, judgment be entered in Applicant's favor, for the subject application to be registered in due course, and for such other and further relief as the Board deems just and proper under the circumstances.

Dated: January 20, 2025

Respectfully Submitted,

/s/ *Nyall Engfield*

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing was served on the Opposer's attorney of record on January 20, 2025 via electronic mail to the correspondence address listed on the records of the United States Patent and Trademark Office Trademark Trial and Appeal Board:

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Attorneys for Opposer

Dated: January 20, 2025

Respectfully Submitted,

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