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

-----X
S.C. FARMEC S.A.,
Petitioner,
v.
SICOMED S.A.,
Respondent.
-----X

Cancellation No. 92043941
(Reg. No. 708,319)



02-14-2005

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #66

ANSWER AND AFFIRMATIVE DEFENSE

Respondent alleges, through counsel, for its Answer to the
Petition to Cancel (the "Petition") as follows:

1. Respondent admits that the records of the United States
Patent and Trademark Office ("USPTO" reflect that Petitioner
filed Application Nos. 75/616663 and 75/616664, that these
applications are the subject of final refusals, and that
Petitioner has filed a notice of appeal in connection with
Application No. 75/616663. Respondent is otherwise without
information sufficient to form a belief as to the truth of the
remaining allegations set forth in ¶ 1 of the Petition, and,
therefore, denies each and every such allegation.

2. Respondent admits the allegations set forth in ¶ 2 of the
Petition.

3. Respondent admits that Fabrica de Mediacante "Fiola"
Corporation filed a Section 8 affidavit of continued use on or
about March 22, 1966, and that the records of the USPTO reflect

that (i) on or about June 11, 1979, a document was recorded with the USPTO showing ownership of U.S. Registration No. 708,319 in Centrala Industriala De Medicamente Costmetice Coloranti Si Lacuri (CIMCCL); and (ii) Registration No. 708,319 was renewed for the first time on December 13, 1980. Respondent is otherwise without information sufficient to form a belief as to the truth of the remaining allegations set forth in ¶ 3 of the Petition, and, therefore, denies each and every such allegation.

4. Respondent denies that (i) the corporation Sintofarm took over the business of CIMCCL on or about May 29, 1990 and that Exhibit A to the Petition reflects that purported fact; and (ii) Romanian Government Declaration No. 1224, dated November 23, 1990, indicates that Sintofarm became Imeco, S.A. on or about that date, and that Exhibit B to the Petition reflects that purported fact. Respondent is without information sufficient to form a belief as to the truth of the remaining allegations set forth in ¶ 4 of the Petition, and, therefore, denies each and every such allegation.

5. Respondent admits the allegations set forth in ¶ 5 of the Petition.

6. Respondent admits that on or about October 30, 2001 the USPTO issued a post-registration action in connection with the combined Section 8 affidavit/Section 9 renewal application filed by Respondent, that Respondent submitted a response to post-registration action, and that U.S. Registration No. 718,319

subsequently was renewed for a second time. Respondent denies that its response to the post-registration action does not appear in the file wrapper for U.S. Registration No. 718,319 and is otherwise without information sufficient to form a belief as to the truth of the remaining allegations set forth in ¶ 6 of the Petition, and, therefore, denies each and every such allegation.

7. Respondent denies the allegations set forth in ¶ 7 of the Petition.

8. Respondent admits that Exhibit D to the Petition appears to be a true copy of "Import Alert IA6101" downloaded from the website http://www.fda.gov/ora/fiars/ora_import_ia6101.html on October 25, 2004 and that the document speaks for itself. Respondent is otherwise without information sufficient to form a belief as to the truth of the allegations set forth in ¶ 8 of the Petition to Cancel, and, therefore, denies each and every such allegation.

9. Respondent denies the allegations set forth in ¶ 9 of the Petition.

10. Respondent denies the allegations set forth in ¶ 10 of the Petition.

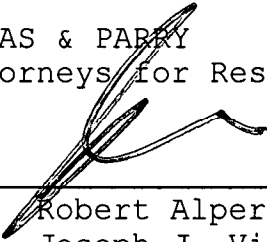
AFFIRMATIVE DEFENSE

11. Petitioner is barred by the doctrine of laches and acquiescence from obtaining the relief sought in the Petition, since Petitioner at all times has been aware of the use and

registration of the mark GEROVITAL H3 PRODUS ORIGINAL PROF. DR.
A. ASLAN by Respondent and its predecessors-in-interest and, in
fact, sought - and obtained - a consent from Respondent in
connection with Petitioner's Application Nos. 75/616663 and
75/616664.

Respectfully submitted,
LADAS & PARRY
Attorneys for Respondent

Dated: February 10, 2005


By: 
Robert Alpert
Joseph J. Villapol
26 West 61st Street
New York, NY 10023
(212) 708-1860

CERTIFICATE OF MAILING

I, Sandy Chum, hereby certify that the foregoing **ANSWER AND AFFIRMATIVE DEFENSE** has been deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed as follows:

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

Dated: February 10, 2005




Sandy Chum

CERTIFICATE OF SERVICE

I, Sandy Chum, hereby certify that the foregoing **ANSWER AND AFFIRMATIVE DEFENSE** has been deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed as follows:

Jeffrey M. Samuels, Esq.
Hershkovitz & Associates
1725 I Street, N.W., Suite 300
Washington, D.C. 20006

Dated: February 10, 2005



Sandy Chum