

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

TDC

Mailed: June 12, 2008

Cancellation No. 92049331

Johnson & Johnson

v.

Vitacost.Com, Inc.

Tyrone Craven, Paralegal Specialist:

The notice instituting this proceeding and a copy of the petition to cancel were forwarded to registrant but were returned by the Postal Service as undeliverable.

This Office contacted Vitacost.Com, Inc. The Office was advised on June 12, 2008 that service upon registrant could be effected and would be accepted when documents are mailed as follows:

**Vitacost.Com, Inc.
5400 Broken Sound Blvd., NW
Boca Raton, FL 33487**

Accordingly, the above notice, with enclosure, is remailed as indicated above.

Registrant is allowed until **FORTY DAYS** from the mailing date of this order in which to inform this Office of its correct address in order that all records may be amended.

Compliance with Trademark Rule 2.193(b) and Trademark 2.119(a) is required.

If there has been any transfer of interest in the involved registration, registrant must so advise the Board and registrant must submit copies of the appropriate documents. See Section 10 of the Trademark Act and Patent and Trademark Rules 3.71 and 3.73.

In view of the circumstances, the time for filing an answer to the petition to cancel is extended to **FORTY DAYS** from the mailing date of this order. Notice is hereby given that unless the registrant listed herein, its assigns or legal representatives, shall enter an appearance, answer or other response to the petition within the time frame allowed, the cancellation may proceed as in the case of default.

In accordance with the Trademark Rules of Practice, conferencing, disclosure, discovery and testimony dates are set below. 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. Trademark Rule 2.125.

Time to Answer	7/22/2008
Deadline for Discovery Conference	8/21/2008
Discovery Opens	8/21/2008
Initial Disclosures Due	9/20/2008
Expert Disclosures Due	1/18/2009
Discovery Closes	2/17/2009
Plaintiff's Pretrial Disclosures	4/3/2009
Plaintiff's 30-day Trial Period Ends	5/18/2009
Defendant's Pretrial Disclosures	6/2/2009
Defendant's 30-day Trial Period Ends	7/17/2009
Plaintiff's Rebuttal Disclosures	8/1/2009
Plaintiff's 15-day Rebuttal Period Ends	8/31/2009

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

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

NEWS FROM THE TTAB:

For faster handling of all papers, the TTAB strongly encourages electronic filing whenever possible. TTAB forms for electronic filings are available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABvue at <http://ttabvue.uspto.gov>.

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while

most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:

<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>

http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:

<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>