

TTAB

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

Mailed: June 15, 2010

Cancellation No. ~~9251975~~

FARMAMEDICA, S.A

92051975

77455756

v.

ALFARO DE MARON, ANA ELOISA DEL
CARMEN, dba COMBISA LABORATORIOS

Cheryl Butler, Attorney, Trademark Trial and Appeal Board:

On January 15, 2010, petitioner filed a petition to cancel respondent's registration for the mark SUPERVITALFORTE for "multivitamins and mineral supplements; dietary supplements for human consumption."¹ Respondents filed their answer on February 26, 2010. On March 19, 2010, petitioner moved for leave to file an amended petition to cancel. On April 5, 2010, respondents indicated they do not oppose the motion to amend.

A party to an *inter partes* proceeding before the Board may amend its pleading once as a matter of course within 21 days after service of a responsive pleading where the pleading is one to which a responsive pleading is required. Fed. R. Civ. P. 15(a)(1)(B).

In view thereof, petitioner's motion for leave to file an amended petition to cancel is granted and the amended complaint is petitioner's operative pleading for this case.

¹ Registration No. 3673991, issued on August 25, 2009.

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The Board notes in passing that the amended pleading sets for a claim that respondent fraudulently procured its registration and a claim of priority of use and likelihood of confusion, each relying at least in part and alternatively on a prior court judgment against respondent Ana Eloisa del Carmen which resulted in entry of a permanent injunction. *Farmamedica, S.A. v. Ana Eloisa del Carmen dba COMBISA LABORATORIOS*, Case No: 07-20944-CV-JORDAN/TORRES (S.D. Fla. Sept. 6, 2009).

In their answer to the original petition to cancel, respondents indicated that, in response to a contempt action brought by petitioner in court, respondent Ms. del Carmen (on February 18, 2010) asked the court to find the earlier court settlement invalid and, alternatively, that she complied with the literal terms of the judgment.

Respondent is allowed until **THIRTY DAYS** from the mailing date of this order in which to inform the Board of the status of this action. If the action is terminated, respondent is to submit the determination made by the district court. Proceedings are otherwise suspended. Upon resumption, operative dates will be reset.

United States Patent and Trademark Office

Commissioner for Trademarks

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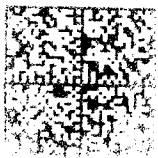
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