

ESTTA Tracking number: **ESTTA768035**

Filing date: **08/31/2016**

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

Proceeding	92061980
Party	Plaintiff Herbal Powers Corporation
Correspondence Address	J MARK POHL PHARMACEUTICAL PATENT ATTORNEYS LLC 55 MADISON AVE, 4TH FLOOR MORRISTOWN, NJ 07960 UNITED STATES docket@licensinglaw.net
Submission	Opposition/Response to Motion
Filer's Name	J Mark POHL
Filer's e-mail	administration@licensinglaw.net
Signature	/s/
Date	08/31/2016
Attachments	PetitionersSupplementalResponse.pdf(54608 bytes)

1 In The United States Patent And Trademark Office
2 Before The Trademark Trial And Appeal Board
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Herbal Powers Corp. Petitioner	SUPER BERRY Reg. No. 2894898 Cancellation No. 92/061980
vs.	
Living Fuel, Inc. Respondent	PETITIONER'S NOTICE REGARDING RESPONDENT'S MOTION FOR AN ORDER COMPELLING DISCOVERY RESPONSES

15
16 The Board should dismiss Respondent's motion to compel because it is moot.

17 As I explained in my Aug. 10 *Opposition*, Respondent abruptly demanded that Petitioner provide
18 interrogatory responses within seven days, then the following day abruptly reversed position again and
19 asked Petitioner to extend all deadlines by 45 days, and a few days later asked to extend all deadlines for
20 two full months, and a few days after that abruptly reversed position again and asked the Board order
21 interrogatory responses immediately.

22 Opposing Respondent's motion, I said that while Respondent had asked to extend all deadlines
23 for two months, Petitioner would provide its interrogatory responses within one month, *i.e.*, within the
24 time provided by Fed.R.Civ.Proc. Rule 33(b). My Aug. 10 *Opposition* concluded that Respondent's
25 motion would thus likely be moot before the Board ruled on it.

26 True to my word, I served Petitioner's responses last week. *See* M. Pohl, *Letter to D. Graziano*
27 (26 Aug. 2016) (copy attached). This was several weeks ahead of the deadline provided by
28 Fed.R.Civ.Proc. Rule 33(b), and was about *six weeks* ahead of the extended deadline Respondent
29 requested. Respondent's motion therefore became moot last week.

30 Respondent has a duty to so inform the Board, to protect the Board from wasting its limited
31 resources adjudicating moot issues. Respondent refuses to do so.

1 Respondent illegitimately maintaining its request to have the Board waste its time adjudicating a
2 moot issue, Petitioner respectfully asks the Board to dismiss Respondent's motion as moot.

3 Respectfully submitted on behalf of the Petitioner by its attorneys,
4 PHARMACEUTICAL PATENT ATTORNEYS, LLC

5
6 /s/

7 Mark Pohl, Esq.

8 Enclosure

9 M. Pohl, *Letter to D. Graziano* (26 Aug. 2016)

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11
12 CERTIFICATE OF SERVICE

13 I HEREBY CERTIFY THAT a true and correct copy of the foregoing paper with accompanying Exhibit has been
14 not later than August 31, 2016 served via United States Priority Mail with delivery confirmation to: Dominick J.
15 Graziano, Esq., Bush, Graziano, Rice & Platter P.A., 101 East Kennedy Boulevard, Suite 1700, P.O. Box 3423,
16 Tampa FL 33601, with a courtesy copy provided via email to DGraziano@bgrplaw.com.

17 /s/

18 Ms. Sarah Taher

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Practice limited to Domestic & International
Pharmaceutical Patent law

26 August 2016

Mr. Dominick J. Graziano, Esq.
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dgraziano@bgrplaw.com / ereynolds@bgrplaw.com
By electronic and Priority Mail

Re: Y/R: 710-027
Living Fuel, Inc. / SUPER BERRY® trademark Reg. No. 2894898

Dear Dominick,

Enclosed please find Petitioner's responses to registrant's first set of Interrogatories.

Should you have any questions, please feel free to email.

Kind regards,

PHARMACEUTICAL PATENT ATTORNEYS, LLC

Mark Pohl

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