

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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LW/WDJ

August 16, 2022

Cancellation No. 92079139

*New Sun, Inc.*

*v.*

*Portals Pharma, Inc.*

**Denise M. DelGizzi, Chief Clerk of the Board:**

On July 29, 2022, Respondent filed a proposed amendment to its Registration No. 6036356 in accordance with the parties' coexistence agreement.

By the proposed amendment, Respondent seeks to amend the goods and services in International Class 5 follows (deletions are indicated in ~~strike through~~, and additions are indicated in **bold font**):.

**From:** ~~Dietary supplements; Dietary supplements for humans and animals; Dietary and nutritional supplements; Dietary and nutritional supplements for endurance sports; Nutraceuticals for use as a dietary supplement; Yeast dietary supplements~~ **Dietary supplements containing beta glucan**

**To:** Dietary supplements containing beta glucan

The amendment complies with the requirements of Trademark Rule 2.173, and is limiting in nature. Moreover, Petitioner consents thereto. Accordingly, the amendment is approved. *See* Trademark Rule 2.133(a).

Cancellation No. 92079139

The amendment will be forwarded to the Post Registration Branch of this Office for entry of the amendment in accordance with Section 7(e) of the Trademark Act.<sup>1</sup>

If the amendment resolves this proceeding, Petitioner is allowed until **thirty days from the date of this order** to file a withdrawal of the petition to cancel, failing which the petition to cancel will go forward on the registration as amended. *See* Trademark Rule 2.114(c).

If no response is filed, proceedings will be resumed and dates reset, as appropriate.

Proceedings are otherwise suspended.

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<sup>1</sup> A copy of the Board's order granting the amendment, and Respondent's declaration, will be forwarded electronically for uploading to the record of the registration.

ESTTA Tracking number: **ESTTA1225220**

Filing date: **07/29/2022**

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

Proceeding no.	92079139
Party	Defendant Portals Pharma, Inc.
Correspondence address	TYLER K. BERGER BERGER LAW FIRM, PLLC 2727 SHELBY AVE, UNIT D DALLAS, TX 75219 UNITED STATES Primary email: tyler@moneylawattorney.com Secondary email(s): wilson@moneylawattorney.com, olivia@moneylawattorney.com 972-441-8921
Submission	Motion to Amend Registration (Requires a Fee and a Declaration)
Filer's name	Tyler K Berger
Filer's email	tyler@moneylawattorney.com, olivia@moneylawattorney.com, wilson@moneylawattorney.com
Declaration and signature of registrant or attorney for registrant	The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that the facts set forth above are true, all statements made of his or her own knowledge are true, and all statements made on information and belief are believed to be true.  /Tyler K Berger/
Date	07/29/2022
Attachments	Portals Pharma New Sun Consented Motion to Amend and Suspend.pdf(79825 bytes )

Registration subject to the submission

Registration no.	6036356	Registration date	04/21/2020
Register	Principal		
Registrant	Portals Pharma, Inc. 233 MT. AIRY ROAD, SUITE 100 BASKING RIDGE, NJ 07920 UNITED STATES Email: eric.zalamea@portalspharma.com		

Goods/services subject to the submission

Class 005. First Use: Sep 21, 2007 First Use In Commerce: Sep 21, 2007 Requested goods and services in the class: Dietary supplements; Dietary supplements for humans and animals; Dietary and nutritional supplements; Dietary and nutritional supplements for endurance sports; Nutraceuticals for use as a dietary supplement; Yeast dietary supplements
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD

NEW SUN, INC.

Petitioner,

v.

PORTALS PHARMA, INC.

Respondent.

CANCELLATION NO. 92079139

REGISTRATION NO. 6036356

MARK: L LIFE SOURCE BASICS

PUBLISHED: APRIL 21, 2020

CONSENT MOTION TO AMEND REGISTRANT'S IDENTIFICATION OF SERVICES  
AND TO SUSPEND PROCEEDINGS

Pursuant to 37 C.F.R. § 2.133 and § 514 of the Trademark Board Manual of Procedure, Respondent Portals Pharma, Inc, hereby respectfully moves the Board to amend the opposed registration at issue in the instant case, specifically, the identification of goods and services contained therein, in accordance with the Parties' Trademark Coexistence Agreement.

Respondent requests the following changes to Registration No. 6036356 (proposed new language underlined and proposed language for deletion stricken through).

~~Dietary supplements for humans and animals; Dietary and nutritional supplements; Dietary and nutritional supplements for endurance sports; Nutraceuticals for use as a dietary supplement; Yeast dietary supplements~~ Dietary supplements containing beta glucan.

As grounds for this motion, Respondent states that the above proposed amendments accurately convey the goods and services that Respondent offers and intends to offer in conjunction with the mark L LIFE SOURCE BASICS, which is the subject of the registration at

issue in this matter. Moreover, and in compliance with 37 C.F.R. § 2.71(a), the proposed amendments serve to clarify and limit but in no way broaden the identification of the goods and services.

Petitioner has applied for registration of the mark “Life Source,” Application No. 90506904 (“Petitioner’s Mark”) in International Class 005 for “Health food Supplements” Respondent does not object to the registration of Petitioner’s Mark, and, if this Motion is accepted, Respondent respectfully proffers that Respondent’s Amended Identification of Services should obviate any potential consumer confusion regarding the relatedness of the Respondent’s and Petitioner’s goods provided in connection with their respective Marks.

WHEREFORE, Respondent respectfully requests that the Board amend the opposed application in the manner described above.

Additionally, the Respondent requests that, while the Motion to Amend Registrant’s Identification of Services is pending before the Board, this Cancellation Proceeding be suspended until a decision regarding the Respondent’s Motion to Amend Registrant’s Identification of Services has been reached.

Date: July 26, 2022

Respectfully submitted,

/s/ Tyler K Berger

Tyler K Berger, Esq.

Texas Bar No. 24082223

Texas Bar Admittance 2012

Berger Law Firm, PLLC

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ATTORNEY FOR RESPONDENT

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