# UNITED STATES PATENT AND TRADEMARK OFFICE \_\_\_\_\_

### BEFORE THE PATENT TRIAL AND APPEAL BOARD

#### RIMFROST AS

Petitioner

v.

# AKER BIOMARINE ANTARCTIC AS Patent Owner

Case No.: PGR2018-00033

U.S. Patent 9,644,170

Issue Date: May 9, 2017

Title: Bioeffective Krill Oil Compositions

# PETITION FOR POST GRANT REVIEW

UNDER 35 U.S.C. §§ 321-329 AND 37 C.F.R. § 42.200 ET SEQ.



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	1.	There is no Section 112(a) support for ether phospholipids in the upper portion of the recited range of 3% to 15% w/w krill oil <i>i.e.</i> , 8% to 15%, as required at least by '170 patent claims 1 and 11.				
	2.	There is no Section 112(a) support for astaxanthin esters for most of the claim limitation of astaxanthin esters in amount of about 100 mg/kg of said krill oil to at least 85% w/w of krill oil as required by at least '170 patent claims 1 and 11				
	3.	There is no Section 112(a) support for '170 patent application's original claim 1's "trimethylamine in an amount of less than 1 mg/kg of said krill oil"				
PUBL	ISHEI	ATENT PUBLICATION (EXHIBIT 1043) BRUHEIM I, O NOVEMBER 6, 2008, QUALIFIES AS PRIOR ART UNDER C. § 102(A)(1)44				
		E LIKELY THAN NOT THAT EACH CLAIM OF THE TIS UNPATENTABLE				
A.	nd 1: Section 112(A) Unpatentable Under For Lack Of ession And Enablement					
	1.	No possession or enablement of entire ether phospholipid ranges				
	2.	No possession or enablement of entire astaxanthin esters ranges				
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