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

Proceeding	92053616
Party	Defendant 1-800-HEALTHY.COM, INC.
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Attachments	response7202012.pdf (34 pages)(1285185 bytes) Declaration of Clay Schultz 2012_07_19.pdf (4 pages)(448590 bytes) bowerdecl7202012.pdf (5 pages)(140879 bytes) Exhibits A-F.pdf (71 pages)(9860050 bytes) Exhibits G-P.pdf (27 pages)(1205839 bytes) Exhibits Q-Z.pdf (25 pages)(715800 bytes) Exhibits AA-QQ.pdf (39 pages)(1209790 bytes) Exhibits RR-WW.pdf (50 pages)(2126466 bytes) Exhibits XX-AAA.pdf (25 pages)(973037 bytes)

I hereby certify that this REGISTRANT'S RESPONSE IN OPPOSITION TO PETITIONER'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND REGISTRANT'S CROSS-MOTION FOR SUMMARY JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES; AND DECLARATIONS OF CLAY SCHULTZ AND JESSICA G. BOWER IN SUPPORT THEREOF is being transmitted via the United States Patent & Trademark Office Trademark Trial and Appeal Board's Electronic System for Trademark Trial and Appeals (ESTTA) on the date indicated below:

By: Jessica Bower Date: July 20, 2012
Jessica G. Bower

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

DAVID ROBERTSON, Petitioner, v. 1-800-HEALTHY.COM, INC., Registrant.	Cancellation No. 92053616 Reg. Nos. 3,787,695; 3,866,133 Mark: HEALTHY.COM

REGISTRANT'S RESPONSE IN OPPOSITION TO PETITIONER'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND REGISTRANT'S CROSS-MOTION FOR SUMMARY JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES; AND DECLARATIONS OF CLAY SCHULTZ AND JESSICA G. BOWER IN SUPPORT THEREOF

Registrant, 1-800-HEALTHY.COM, INC., hereby responds to and opposes *Petitioner David Robertson's Motion for Summary Judgment of Invalidity Under 15 U.S.C. §1052(2)(a) [sic] on the Basis that the Subject Marks are Deceptive* and,

hereby moves the Trademark Trial and Appeal Board for summary judgment in accordance with Fed. R. Civ. P. 56(b) and TBMP §528 with respect to all grounds of cancellation made by Petitioner, David Robertson, in this Cancellation proceeding for the reasons set forth in the following Memorandum of Points and Authorities in Support thereof.

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I. INTRODUCTION

Petitioner, David Robertson (hereinafter "Petitioner" or "Robertson"), filed *Petitioner David Robertson's Motion for Summary Judgment of Invalidity Under 15 U.S.C. §1052(2)(a) [sic] on the basis that the Subject Marks are Deceptive* (hereinafter "Petitioner's Partial Motion for Summary Judgment") on June 15, 2012.

Registrant, 1-800-HEALTHY.COM, INC. (hereinafter "Registrant" or "18H"), hereby responds to and opposes Petitioner's Partial Motion for Summary Judgment and also moves the Trademark Trial and Appeal Board (the "Board") for summary judgment in accordance with Fed. R. Civ. P. 56(b) and TBMP §528 with respect to all grounds of cancellation made by Petitioner, namely: (1) Deceptiveness under Trademark Act section 2(a), 15 U.S.C. 1052(a); (2) False Suggestion of a Connection under Trademark Act section 2(a), 15 U.S.C. 1052(a); and (3) Priority and Likelihood of Confusion under Trademark Act section 2(d), 15 U.S.C. 1052(d).

Petitioner's Partial Motion for Summary Judgment is premised on just two allegations of fact: (1) that he is the owner and operator of the Internet domain name and website healthy.com and; (2) that Registrant is the owner and subsequent trademark registrant of the mark HEALTHY.COM. As a result of these two allegations, Robertson seeks to have Registrant's Marks cancelled on the grounds that they are deceptive.

However, Robertson is wrong on both the facts and law applicable to this case. Furthermore, Robertson offers no evidence in support of his motion, aside from conclusory misstatements of fact. As will be demonstrated below:

1. Robertson is not the current owner/operator of the domain name healthy.com.

2. Robertson did not make service mark use of HEALTHY.COM prior to Registrant. As he himself admitted, healthy.com was just a domain name waiting "on the shelf."

3. Robertson has offered no evidence in support of his alleged facts.

4. Robertson has failed to establish the essential criteria necessary to support a finding of deceptiveness under § 2(a).

For these reasons, Petitioner's Partial Motion for Summary Judgment should be denied. On the other hand, 18H submits herewith evidentiary support for the facts and contentions of points 1-4 sufficient for the TTAB to find in favor of 18H on its Cross-Motion for Summary Judgment regarding deceptiveness and false suggestion of a connection under section 2(a). Moreover, the facts below will establish that 18H has priority of use of the mark HEALTHY.COM and in light of Robertson's admission that the marks are confusingly similar, Registrant is entitled to summary judgment regarding priority and likelihood of confusion under section 2(d).

I. STATEMENT OF FACTS

1-800-HEALTHY.COM

1-800-HEALTHY.COM, INC. has been in business since at least as early as 1999, offering health information and selling dietary and nutritional supplements through its alphanumeric telephone number 1-800-HEALTHY (1-800-432-5849), mail order, and via the internet. *Declaration of Clay Schultz* (hereinafter *"Schultz Decl."*) ¶ *2.* More particularly, 18H provides telephone shop at home services and on-line ordering services featuring dietary supplements and nutritional products, namely, nutritional supplements, herbal supplements, vitamin supplements, mineral supplements, amino acid supplements, and nutraceutical supplements. *Schultz Decl.* ¶ *3.*

18H has advertised its products and services on the internet via its websites, including, www.1800healthy.com and www.healthy.com.co; via third party websites, including, CBN.com, LivingTheLife.com and SkyMall.com; via print advertisements, including the SkyMall catalog; national television; national radio; paid advertisements via Google, Yahoo!, Bing, and 7search.com; printed brochures; product labeling; emails; direct mail; customer correspondence; customer service call centers; YouTube; Facebook; Twitter; HealthyTV; The Healthy Herald and through sponsorship and exhibits at sporting events. *Schultz Decl. ¶ 4; Exh. A.* Since 2000, 18H has spent approximately $3 million in advertising and promoting its goods and services and has generated gross revenues of approximately $12 million. *Schultz Decl. ¶ 5.*

18H operates a website at www.1800healthy.com and owns various other domain names which redirect to this website, namely, 1-800-healthy.com, 800healthy.com, 800-healthy.com, 1-800healthy.com, 1800-healthy.com. *Schultz Decl. ¶ 6; Exh. B.* 18H also operates a website at www.healthy.com.co and www.healthy.tv. *Schultz Decl. ¶ 7, Exh. C.* 18H's above-mentioned websites offer products as well as information about health and nutrition. *Schultz Decl. ¶ 8, Exh. B-C.*

Registrant owns several trademark registrations for its products and services including U.S. Trademark Registration No. 2,702,920 for the mark 1800HEALTHY.COM; Reg. No. 2,908,889 for the mark 1-800-HEALTHY.COM; and Reg. No. 3,920,303 for the mark HEALTHY TV. *Declaration of Jessica G. Bower (hereinafter "Bower Decl.") ¶ 2; Exh. G.*

On October 5, 2005, 18H filed the first of its service mark applications on an intent-to-use basis under §1(b) to register the service mark HEALTHY.COM, serial no. 76/647,986, for use in connection with "online retail store services featuring nutritional supplements" in International Class 35, which registered as Reg. No. 3,787,695 on May 11, 2010, asserting a date of first use of February 18, 2010. On March 25, 2010, 18H filed service mark application serial no. 77/968,104 for HEALTHY.COM based upon use under §1(a) of February 18, 2010 in connection with "providing an online search engine for obtaining health information on the internet" in International Class 42, which registered as Reg. No. 3,866,133 on October 19, 2010 (hereinafter collectively referred to as "Registrant's Marks").

18H began using the service mark HEALTHY.COM on its website www.1800healthy.com at least as early as February 18, 2010 in connection with its online retail store services featuring nutritional supplements and in connection with providing an online search engine for obtaining health information and excerpts are attached as Exhibit B. *Schultz Decl. ¶¶ 6, 9; Exh. B.* HEALTHY.COM was later utilized on 18H's website www.healthy.com.co and excerpts are attached as Exhibit C. *Schultz Decl. ¶¶ 7, 9; Exh. C.*

DAVID ROBERTSON

On April 21, 2009, almost four (4) years after 18H filed its first service mark application for HEALTHY.COM on October 5, 2005, David Robertson filed application serial no. 77/718,996 for HEALTHY.COM, for "providing a web site featuring information on health and nutrition" in International Class 44 (hereinafter "Petitioner's Mark"). Robertson's application serial no. 77/718,996 claims a date of first use of the mark HEALTHY.COM of August 23, 1994. However, August 23, 1994 merely corresponds to the date of initial registration of the domain name healthy.com. *Bower Decl. ¶ 3; Exh. H.* Moreover, the specimen of use submitted with the application is simply a parking page.

HISTORY OF OWNERSHIP AND USE OF HEALTHY.COM

In particular, as seen in Exhibit H the domain record for healthy.com was initially created on August 23, 1994. *Bower Decl. ¶ 3; Exh. H.* However, a website utilizing HEALTHY.COM as a service mark did not exist until 2011, immediately, before the

present Cancellation proceeding was filed. *Bower Decl. ¶¶4-7; Exh. I-QQ, AAA*. Prior thereto, healthy.com was only used by Robertson as a uniform resource locator ("URL") pointing to an address on the internet, and not as a trademark or service mark. *Bower Decl. ¶¶4-7; Exh. I-QQ, AAA*. This is confirmed by Petitioner in his Supplemental Response to Interrogatory No. 3 where he states in regard to use of healthy.com only that "Healthy.com has directed users to websites hosted at Healthy.net or Healthworld.com." *Bower Decl. ¶ 8; Exh. RR.* Moreover, even when Petitioner began use of a website at the domain name healthy.com, much of the website was Latin placeholder text, i.e., merely filler content, and not actual website content about health and nutrition. *Bower Decl. ¶ 6; Exh. QQ.*

Instead of utilizing HEALTHY.COM as a service mark, Robertson has been holding onto the domain name in hopes of selling it for a monetary windfall. *Bower Decl. ¶ 16; Exh. ZZ.* In fact, Roberston has even admitted his lack of trademark use. Particularly, Robertson stated in an email referring to healthy.com and another domain that he has "kept these domain names on the shelf - so not to brand them to [sic] specific." *Bower Decl. ¶ 9; Exh. SS*.

There has been no use of HEALTHY.COM by Robertson, prior to the critical date of October 5, 2005, when 18H filed its intent-to-use application for HEALTHY.COM. In particular, according to a review of the Internet Archive Wayback Machine at http://archive.org/web/web.php, below is a time line of events pertinent to this motion

in regard to the history of the domain name healthy.com. *Bower Decl. ¶¶4-7; Exh. I-QQ, AAA.*

- **August 23, 1994 - Domain name healthy.com is initially registered.** *Bower Decl. ¶ 3; Exh. H.*

- 1994 -1997 - No evidence of a website at healthy.com. *Bower Decl. ¶¶ 4-5; Exh. I.*

- 1997-1999 - Website at healthy.com for Healthworld Online does not utilize HEALTHY.COM as a service mark. *Bower Decl. ¶¶ 4-5; Exhibits I-O.*

- 2000 - Healthy.com redirects to the website Healthworld Online at healthy.net but does not utilize HEALTHY.COM as a service mark. *Bower Decl. ¶¶ 4-5, 7; Exh. I, P-U, AAA.*

- 2000-2002 - Healthy.com redirects to healthy.net but an error message appears. *Bower Decl. ¶¶ 4-5, 7; Exh. I, V-CC, AAA.*

- 2003-2005 - No evidence of a website at healthy.com. *Bower Decl. ¶¶ 4-5; Exh. I.*

- **October 5, 2005 - 1-800-HEALTHY.COM, INC. files its ITU service mark application for HEALTHY.COM in International Class 35.**

- 2006 - No evidence of a website at healthy.com. *Bower Decl. ¶¶ 4-5; Exh. I.*

- 2007 - Network Solutions parking page at healthy.com. *Bower Decl. ¶¶4-5; Exh. I, DD-FF.*

- 2007 - 2008 - Error message at healthy.com. *Bower Decl. ¶ 4-5; Exh. I, GG-LL.*

- 2008 - 2009 - Parking page at healthy.com. *Bower Decl. ¶ 4-5; Exh. I, MM-PP.*

- **April 21, 2009 - David Robertson files his service mark application for HEALTHY.COM based on use since August 23, 1994 and providing a parking page as a specimen of use of the mark.**

- **June 29, 2010 - Dave Robertson transfers healthy.com domain name to healthy.com, INC.** *Bower Decl. ¶ 10; Exh. TT.*

- **February 7, 2011 - Evidence of website at HEALTHY.COM providing minimal information on health and nutrition, no sale of any products or services and including Latin placeholder filler content.** *Bower Decl. ¶ 6; Exh.* QQ.

- **February 11, 2011 - Petition to Cancel filed by Robertson.**

It is evident from this time line that healthy.com was only used as a URL to point to an address on the internet from 1994-2010, and not as a service mark. *Bower Decl. ¶¶4-7; Exh. I-QQ, AAA.* It was only four (4) days before the present Cancellation proceeding was filed that Robertson strategically established a minimalist website at healthy.com using HEALTHY.COM solely proving information about health and nutrition but not involving the sale of any products or services. *Bower Decl. ¶¶ 6, 15; Exh. QQ, YY.*

ROBERTSON IS NOT THE OWNER OF THE DOMAIN NAME HEALTHY.COM

Contrary to that alleged in his motion, Robertson was not the original owner of the domain name healthy.com in 1994; he is not the current owner of the domain name healthy.com; nor has he continuously been the owner of the domain name healthy.com. In particular, since June 29, 2010, the domain name healthy.com has been owned by healthy.com, INC, not Dave Robertson. *Bower Decl. ¶ 10; Exh.TT.* Below is a time line of the domain name ownership of healthy.com showing that Robertson's alleged statements are inaccurate:

- August 23, 1994 - Record created for domain name healthy.com [no owner identified] *Bower Decl. ¶3; Exh. H.*

- March 12, 1996 - Domain name sold from Electronic Pen to Healthworld Online, Inc. *Bower Decl. ¶ 11; Exh. UU.*
- January 10, 2002 - Domain name owned by Convergence Health.com. *Schultz Decl. ¶ 10; Exh. D.*
- June 17, 2002 - Domain name sold from Convergence Health.com Inc. to Dave Robertson. *Bower Decl. ¶ 12; Exh. VV.*
- November 10, 2002 - April 23, 2009 - Whois records show domain name owned by Dave Robertson. *Schultz Decl. ¶ 11; Exh. E.*
- **April 21, 2009 - Robertson files his service mark application for HEALTHY.COM based on use since 1994.**
- **June 29, 2010 - Domain sold from Dave Robertson to Healthy.com.** *Bower Decl. ¶ 10; Exh. TT.*
- July 3, 2010 - Whois records confirm domain name owned by healthy.com, Inc. *Schultz Decl. ¶ 12; Exh. F.*
- **February 11, 2011 - Robertson files Cancellation Proceeding.**
- April 22, 2011 - Whois records confirm domain name owned by healthy.com, Inc. *Bower Decl. ¶ 14; Exh. XX.*

Thus, as can be seen in the time line above, contrary to that stated by Robertson, he was neither the original owner, the current owner, nor the continuous owner of the domain name healthy.com.

III. ARGUMENT

A. Summary Judgment Standard

Summary judgment is appropriate when there are no "genuine disputes as to any material fact" and the movant is, therefore, entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). The party seeking summary judgment bears the initial burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

When the moving party does not have the ultimate burden of persuasion at trial, it may "carry its initial burden either by producing affirmative evidence negating an essential element of the non-moving party's claim, or by showing that the non-moving party does not have enough evidence to carry its burden of persuasion at trial." *Pelt v. Utah*, 539 F.3d 1271, 1280 (10th Cir. 2008). However, if the moving party has the burden of proof at trial, "a more stringent summary judgment standard applies." *Id.* "[T]he moving party must establish, as a matter of law, all essential elements of the issue before the nonmoving party can be obligated to bring forward any specific facts alleged to rebut the movant's case." *Id.*

Accordingly, for summary judgment to be appropriate, the evidence presented must be sufficient to show that no reasonable trier of fact could find other than for the moving party. *Matsuhita Elec. Indus.Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). A dispute about a material fact is "genuine" if the evidence would permit a reasonable jury to return a verdict for the non-moving party. *Opryland USA, Inc. v. Great Am. Music Show, Inc.*, 970 F.2d 847, 850, 23 USPQ2d 1471, 1472 (Fed. Cir. 1992). In addition, inferences drawn from underlying facts must be viewed in the light

most favorable to the non-moving party. *U.S. v. Diebold, Inc.*, 369 U.S. 654 (1962). Thus, when a genuine issue of material fact exists, summary judgment should not be granted. *Id.*

B. PETITIONER'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON THE ISSUE OF DECEPTIVENESS UNDER §2(a) SHOULD BE DENIED AND SUMMARY JUDGMENT GRANTED IN FAVOR OF REGISTRANT

Petitioner's Partial Motion for Summary Judgment on the ground of deceptiveness should be denied on the basis that he: (1) improperly argues grounds which were not pled; (2) has failed to cite to or proffer any evidence in support of his motion; (3) is not the owner of the domain name; and (4) has failed to cite to sufficient evidence showing the absence of a genuine issue of material fact as to deceptiveness. Instead, summary judgment on the grounds of deceptiveness should be granted in favor of Registrant.

1. Petitioner Improperly Argues Grounds which were not Pled

As an initial matter, while it is unclear exactly what bases Petitioner is arguing, he appears to argue in Section II(C) of his motion, that Registrant's Marks are deceptively misdescriptive and/or primarily geographically deceptively misdescriptive. However, these arguments should be stricken on the grounds that Petitioner failed to plead these bases as grounds for cancellation. "A party may not obtain summary judgment on an issue that has not been pleaded." TBMP §528.07(a).

Petitioner pled as grounds for cancellation of Registrant's Marks that the marks are Deceptive under Trademark Act section 2(a); that there is a False Suggestion of a Connection under Trademark Act section 2(a); and that there is Priority and Likelihood of Confusion under Trademark Act section 2(d). However, Petitioner now appears to argue that Registrant's Marks are deceptively misdescriptive under Section 2(e)(1) and/or primarily geographically deceptively misdescriptive under section 2(e)(3), which is improper. Since Petitioner failed to plead these bases as grounds for cancellation, Petitioner is prohibited from relying on them in seeking summary judgment.

2. Petitioner has Failed to Submit Evidence in Support of its Motion

In addition, Petitioner has relied on mere conclusory assertions in support of his motion and has failed to refer to or submit **any** evidence in support thereof and, therefore, Petitioner's Partial Motion for Summary Judgment should be denied. In support of his motion, Petitioner has asserted two alleged "uncontroverted facts" which he relies on: (1) that Petitioner is the registered owner and operator of the Internet domain name and website Healthy.com and (2) that Registrant is the owner and subsequent trademark registrant of the mark HEALTHY.COM. Registrant does not dispute that it is the owner and service mark registrant of the mark HEALTHY.COM. However, Petitioner has failed to submit any evidence that he is the registered owner and operator of the Internet domain name and website healthy.com and, in fact, he's not. *Schultz Decl. ¶ 12; Exh. F; Bower Decl. ¶¶ 10, 14; Exh. TT, XX.*

When seeking summary judgment, the moving party must demonstrate the absence of all genuine issues of material fact by citing to particular parts of evidence on record, "including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials," or by "showing that the materials cited do not establish the ... presence of a genuine dispute." Fed. R. Civ. P. 56(c). When a motion for summary judgment is filed, the only evidentiary materials likely to be already of record "are the pleadings, the file of any application or registration that is the subject matter of the proceeding, and any registration pleaded and made of record by the plaintiff with its complaint." TBMP §528.05(a)(1). Any other evidence to be considered upon summary judgment, must be submitted along with the summary judgment motion. *Id.*

Here, Petitioner has merely asserted in his motion that he is the registered owner and operator of the Internet domain name and website healthy.com, but has failed to point to evidence of record or submit supporting evidence as to his claim of ownership of the domain name. In fact, Petitioner **cites to no evidence** of record and **has not proffered any evidence** in support of his motion. Accordingly, Petitioner's motion for summary judgment should be denied on the basis that he has failed to demonstrate the absence of all genuine issues of material fact by his failure to cite to **any** evidence in support thereof.

3. A Genuine Issue of Material Fact Exists as to Ownership of the Domain Name or Alternatively No Genuine Issue Exists because Petitioner Does Not Own the Domain Name

Moreover, notwithstanding the fact that Petitioner has failed to support his claim that he is the owner and operator of the Internet domain name and website Healthy.com, the evidence of record proffered by Registrant in support of its Cross-Motion for Summary Judgment shows that Petitioner, David Robertson, is not the owner of the domain name, healthy.com. Instead, the domain name, healthy.com, is currently in the name of another entity, Healthy.com, INC. *Schultz Decl. ¶ 12; Exh. F; Bower Decl. ¶¶ 10, 14; Exh. TT, XX.*

In particular, Petitioner's service mark application for HEALTHY.COM was filed with David Robertson, as an individual, listed as the Applicant. However, the evidence of record shows that since June 29, 2010, the domain name healthy.com has been owned by healthy.com, INC, not Dave Robertson. *Schultz Decl. ¶ 12; Exh. F; Bower Decl. ¶¶ 10, 14; Exh. TT, XX.* Particularly, David Robertson sold the domain name to healthy.com, as evidenced by the Domain Name Purchase Agreement dated June 29, 2010 by and between Dave Robertson and Healthy.com. *Bower Decl. ¶ 10; Exh. TT.* Printouts from the Whois database, confirm ownership of the domain name healthy.com in healthy.com, INC. *Schultz Decl. ¶ 12; Exh. F; Bower Decl. ¶ 14; Exh. XX.*

Thus, at a minimum, a genuine issue of material fact exists as to Petitioner's Motion relative to ownership of the domain name healthy.com. However, based upon

the evidence of record, it shows the absence of a genuine issue of material fact, namely, that Petitioner, David Robertson, is not the owner of the domain name but rather a separate entity, healthy.com, INC, is the current owner. *Schultz Decl. ¶ 12; Exh. F; Bower Decl. ¶¶ 10, 14; Exh. TT, XX.* Accordingly, Petitioner's Partial Motion for Summary Judgment should fail as it relies on a fact as an essential element of his case, which is false.

4. Registrant's Marks are Not Deceptive

a. Petitioner's Motion on the Grounds of Deceptiveness Should Be Denied

Petitioner has failed to demonstrate the absence of a genuine issue of material fact as to the deceptiveness of Registrant's Marks, since Petitioner has failed to submit any evidence regarding the three-prong test used to determine deceptiveness. Instead, summary judgment should be granted in favor of Registrant with regard to deceptiveness under §2(a) as there clearly is no genuine issue of material fact as to the third prong of the test for deceptiveness requiring materiality, since the alleged misdescription in Registrant's Marks is not likely to affect the decision to purchase the associated good/services.

Section 2(a) of the Trademark Act, 15 U.S.C. § 1502(a) prohibits the registration of "immoral, deceptive, or scandalous matter; or matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute ...." The United States Court of Appeals for the Federal Circuit articulated the following test, which

must be satisfied in order to find a mark to consist of, or comprise deceptive matter:

> (1) Is the term misdescriptive of the character, quality, function, composition, or use of the goods?
> (2) If so, are prospective purchasers likely to believe that the misdescription actually describes the goods?
> (3) If so, is the misdescription likely to affect the decision to purchase?

In re Budge Mfg. Co. Inc., 857 F.2d 773, 775, 8 USPQ2d 1259, 1260 (Fed. Cir. 1988).

Initially, Petitioner cites to no case law or authority for his position that failure to own a domain name renders a service mark deceptive. In fact, if this is Petitioner's reasoning, he too, would not be entitled to the service mark because he is not the owner of the domain name. *Schultz Decl. ¶ 12; Exh. F; Bower Decl. ¶¶ 10, 14; Exh. TT, XX.*

Moreover, Petitioner has failed to present or refer to **any** evidence in support of the three mandatory criteria which need to be established to meet the three-prong test required to prove deceptiveness. Petitioner argues that HEALTHY.COM is misdescriptive because it falsely suggests that the goods originate from the website at the healthy.com domain. However, "healthy.com" is part of several domains owned by Registrant as well as a part of Registrant's company name. *Schultz Decl. ¶¶ 2, 4, 6, 7.* There is no evidence that consumers would believe that the goods or services originate only from URL www.healthy.com or that HEALTHY.COM as a service mark points uniquely to Petitioner's URL www.healthy.com. Secondly, Petitioner merely alleges without any supporting evidence such as, testimony or consumer surveys, that prospective purchasers are likely to believe the goods/services originate at

www.healthy.com. Lastly, Petitioner alleges that a significant portion of the purchasing decision is affected by the misdescription (i.e., it is a material factor), but presents no evidence in support thereof. Accordingly, since Petitioner relies on mere conclusory allegations and has failed to present evidence to establish the three criteria required to support a finding of deceptiveness, Robertson's motion for summary judgment should be denied.

b. Summary Judgment on the issue of Deceptiveness in Favor of Registrant is Appropriate

Nevertheless, there is no genuine issue of material fact with regard to the third prong of the test for deceptiveness, requiring materiality and, therefore, summary judgment in favor of Registrant is warranted. In order to hold a mark deceptive under Section 2(a), the third prong of the test (whether a misdescription would materially affect the decision to purchase/use the goods or services), must be proven. *In re Quady Winery Inc.,* 221 USPQ 1213, 1214 (TTAB 1984). A mark is only deceptive "if the misdescription is more than simply a relevant factor that may be considered in purchasing decisions, but *is a* material factor..." *In re Shniberg*, 79 USPQ2d 1309, 1311 (TTAB 2006) (emphasis added). "The misdescription must concern a feature that would be relevant to a purchasing decision." *Id.*

In determining materiality, there must be sufficient evidence that the misdescription causes the goods or services to be more appealing or desirable to prospective purchasers. TMEP §1203.02(d)(i). Goods or services are usually more desirable because of objective standards or criteria (i.e. superior quality; enhanced

performance or function; difference in price; health benefit; religious practice or social policy), which induce potential customers to purchase/use the goods or services. *Id.*[1]

Here, the alleged misdescription is that the mark HEALTHY.COM is used in connection with services which are not provided at the domain name located at the URL www.healthy.com. However, the fact that the mark HEALTHY.COM is used in connection with services provided on websites other than www.healthy.com, is not sufficient evidence that the services are, as a result, more or less appealing/desirable to prospective purchasers, than if they were provided at www.healthy.com. Particularly, the mark itself, HEALTHY.COM does not inherently indicate anything objective about the desirability/appeal (i.e. superior quality; enhanced performance or function; difference in price; health benefit; religious practice or social policy) of the services, as is required by relevant case law, other than the services are "healthy" or somehow related to "health." Thus, since the alleged misdescription does not indicate anything about the desirability/appeal of the services, it cannot, as a result, be a material factor in the purchasing decision.

Even if the mark HEALTHY.COM is considered to indicate something objective

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[1] For example, in the case *In re Shapely, Inc.*, 231 USPQ 72, 75 (TTAB 1986), the court affirmed the Examining Attorney's refusal of registration of SILKEASE as a trademark for women's clothing made of polyester crepe de chine on the ground that the mark comprises deceptive matter within the meaning of Section 2(a), because the applicant touted its product as having "the look and feel of the finest silks," which has the "effect of emphasizing the deceptive character of the trademark SILKEASE used on a polyester garment." *See Evans Products Co. v. Boise Cascade Corp.*, 218 USPQ 160, 164 (TTAB 1983) (holding the mark CEDAR RIDGE for non-cedar siding products to be deceptive under Section 2(a), after determining that a "product containing cedar is a desirable product which [a] purchaser would choose over other wood products."); *In re Budge Mfg. Co. Inc.*, 857 F.2d 773, 8 USPQ2d 1259, 1260 (Fed. Cir. 1988) (determining that the mark LOVEE LAMB for automative cover seats that are made wholly from synthetic fibers, to be deceptive within the meaning of section 2(a), in part because "lambskin is more expensive than simulated skins and that natural and synthetic skins have different characteristics. Thus, the misrepresentation is likely to affect the decision to purchase").

about the services, the mark simply indicates that the goods/services are "healthy" or somehow related to "health." Since Registrant is providing online retail store services featuring nutritional supplements and an online search engine for obtaining health information in connection with HEALTHY.COM, the services are related to health and being "healthy." *Schultz Decl. ¶¶ 2-8.*

Moreover, Registrant's services provided in connection with the HEALTHY.COM service mark are located on its websites www.1800healthy.com as well as www.healthy.com.co, both of which include "healthy.com" as part of their domain name. *Schultz Decl. ¶¶ 9.* Furthermore, the use of the mark HEALTHY.COM on these websites mimics the stylization of the use of "1-800-HEALTHY.COM." *Schultz Decl. ¶¶ 6-7; Exh. B-C.* Accordingly, consumers are already at Registrant's websites prior to making a decision to utilize the services and, therefore, there is no deception as to the source of the services.

Furthermore, Petitioner failed to use the mark HEALTHY.COM prior to Registrant and, therefore, could not have established a reputation that would cause the services to be more appealing or desirable. Particularly, in an email referring to healthy.com and another domain, Dave Robertson stated that he has "kept these domain names on the shelf - so not to brand them to [sic] specific." *Bower Decl. ¶9, Exh. SS.* Petitioner only began use as a service mark in 2011, long after Registrant filed its first application for HEALTHY.COM in October 2005. Therefore, Petitioner has established no reputation prior to Registrant, which would make the services more desirable or appealing to

consumers if it were provided on the website www.healthy.com. *Bower Decl. ¶6; Exh. QQ.*

Thus, since the misdescription is not material to the purchasing decision, summary judgment should be granted in favor of Registrant on the issue of deceptiveness under § 2(a).

C. SUMMARY JUDGMENT SHOULD BE GRANTED IN FAVOR OF REGISTRANT REGARDING PRIORITY AND LIKELIHOOD OF CONFUSION UNDER §2(d)

Summary judgment should be granted in favor of Registrant with regard to priority and likelihood of confusion under Trademark Act Section 2(d), because Registrant has priority with respect to the service mark HEALTHY.COM and Petitioner has admitted likelihood of confusion.

1. Registrant has Priority of Use of its Marks

Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d) prohibits registration of a mark that:

> consists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive.

Therefore, in order to cancel the registration of a mark based on section 2(d), the Petitioner must establish that it has priority rights in the mark that causes a likelihood of confusion. *Herbko Int'l v. Kappa Books Inc.*, 308 F.3d 1156, 1162, 64 USPQ2d 1375,1378 (Fed. Cir. 2002).

"[P]roprietary rights may arise from a prior registration, prior trademark or service mark use, prior use as a trade name, prior use analogous to trademark or service mark use, or any other use sufficient to establish proprietary rights." *Id.* However, in order to establish analogous use sufficient to constitute proprietary rights, the Petitioner must establish that prior use created an association in the minds of the consuming public between the mark and the Petitioner's goods or services. *Id.*

Petitioner incorrectly alleges priority of use of the mark HEALTHY.COM on page two (2) of Petitioner's Partial Motion for Summary Judgment, stating that "[f]rom 1994 to the present, the Healthy.com domain name has been registered and owned continuously by Petitioner."[2] However, Petitioner neither submits proof thereof nor evidence to support this statement and, in fact, this statement is false and misleading based upon the evidence of record.

Robertson alleges use since August 23, 1994 in his service mark application. However, this date simply corresponds to the date of initial creation of the domain record for HEALTHY.COM by another entity. *Bower Decl. ¶¶ 3, 11; Exh. H, UU.* Petitioner failed to use HEALTHY.COM as a service mark until 2011, almost six (6) years after Registrant had filed its service mark application for HEALTHY.COM on October 5, 2005. *Bower Decl. ¶¶ 4-7; Exh. I-QQ, AAA.* Prior to Registrant filing its

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[2] In fact, it is unclear what date Petitioner claims first use of the mark HEALTHY.COM since Petitioner's Response to Interrogatory No. 5 indicates "Petitioner's Mark has been in use since 1998 and has been used continuously in connection with Petitioner's goods and services" and Response to Interrogatory No. 29 indicates that "the mark has been used since its creation in 1998" but Petitioner's Supplemental Response to Interrogatory No. 5 lists the dates of 1995-2011 as the inclusive dates during which he has used the mark HEALTHY.COM has been used in connection with its associated goods and services. *Bower Decl. ¶¶ 8,13; Exh. RR, WW.*

first service mark application, Petitioner used HEALTHY.COM merely as a domain name which is not sufficient for trademark use. *Bower Decl. ¶¶ 4-7; Exh. I-QQ, AAA.*

The registration of HEALTHY.COM as a domain name is not evidence of use of HEALTHY.COM as a trademark or use analogous to trademark use on or in connection with any goods or services. *See Alpha Kitty/Boss Pussycat Int'l v. Big Momma Holdings, LLC*, No. 91184311, 2011 TTAB LEXIS 74, at *10 (TTAB Mar.15, 2011). "When a domain name is used only to indicate an address on the Internet, the domain name is not functioning as a trademark." *Lockheed Martin Corp. v. Network Solutions, Inc.* 985 F. Supp. 949, 956, 44 USPQ2d1865, 1871 (C.D. Cal. 1997).

Furthermore, "domain names, like trade names, do not act as trademarks when they are used merely to identify a business entity; in order to infringe they must be used to identify the source of goods or services. *Id. See Data Concepts Inc. v. Digital Consulting Inc.*, 150 F.3d 620, 47 USPQ2d 1672, concurring opinion, Merritt (6th Cir. 1998); *In re Eilberg*, 49 USPQ2d 1955, 1956 (TTAB 1998) (holding that the proposed mark, WWW.EILBERG.COM, does not function as a service mark identifying the applicant's legal services, because it merely indicated a location on the Internet where the applicant's website appears).

As seen in the time line of dates as set forth on page 7, Robertson filed his service mark application for HEALTHY.COM on April 21, 2009, which is approximately four (4) years after Registrant's intent-to-use application for HEALTHY.COM was filed on October 5, 2005. Moreover, Petitioner's application falsely identifies a date of first use of August 23, 1994. Actual service mark use of HEALTHY.COM did not begin

until 2011, six (6) years after Registrant filed its first service mark application for HEALTHY.COM. *Bower Decl. ¶¶ 4-7; Exh. I-QQ, AAA*. Additionally, Petitioner submitted a mere parking page as a specimen of use, improperly evidencing his use of the mark HEALTHY.COM in commerce, when he did not actually begin use of the mark HEALTHY.COM in commerce until approximately two (2) years later in 2011.

Particularly, prior to Petitioner's filing of its service mark application on April 21, 2009, there was no service mark use of HEALTHY.COM by Petitioner. *Bower Decl. ¶¶ 4-7; Exh. I-QQ, AAA*. From 1997-2000, the domain name healthy.com was merely used as a URL for the website Healthworld Online or redirected to the website for Healthworld Online located at healthy.net. *Bower Decl. ¶¶ 4-5, 7; Exh. I-U, AAA.* As can be seen in the website archive printouts in Exhibits J-U, the Healthworld Online website did not utilize the service mark HEALTHY.COM.

From at least 2000-2002, the URL healthy.com redirected to healthy.net, but instead of displaying a website for Healthworld Online, as it did previously, no website appeared. *Bower Decl. ¶¶ 4-5, 7; Exh. I, V-CC, AAA*. Instead, healthy.com displayed an Error message, as seen in Exhibits V-CC. From 2003-2006, there is no evidence of a website at healthy.com. *Bower Decl. ¶¶ 4-5; Exh. I.* Furthermore, in 2007, there is simply a parking page from Network Solutions. *Bower Decl. ¶¶4-5; Exh. I, DD-FF.* From 2007-2008, there is an error message "Error. Page cannot be displayed. Please contact Service Provider for more details." *Bower Decl. ¶ 4-5; Exh. I, GG-LL.* Lastly, from 2008-2009, there is again simply a parking page at healthy.com. *Bower Decl. ¶ 4-5; Exh. I, MM-PP.*

It was not until February 7, 2011, almost six (6) years after Registrant filed its initial service mark application for HEALTHY.COM, and only four days prior to the Petition to Cancel in this proceeding was filed on February 11, 2011, that there was evidence that a minimalist website existed at healthy.com utilizing HEALTHY.COM as a service mark. *Bower Decl. ¶¶ 6, 15; Exh. QQ, YY.* However, the website as of February 11, 2011 contained minimal content and sold no goods or services. *Bower Decl.¶ 6; Exh. QQ.* In fact, much of the website contained Latin placeholder or filler text. *Bower Decl.¶ 6; Exh. QQ.* Petitioner has even admitted that the only use of healthy.com is that "Healthy.com has directed users to websites hosted at Healthy.net or Healthworld.com." *Bower Decl. ¶ 8; Exh. RR.*

Accordingly, instead of making service mark use of HEALTHY.COM, Robertson merely has been holding on to the domain name to sell it for a large windfall. *Bower Decl. ¶16; Exh. ZZ.* In an email, Dave Robertson stated referring to healthy.com and another domain that he has "kept these domain names on the shelf - so not to brand them to [sic] specific." *Bower Decl. ¶9; Exh. SS.*

Therefore, as can be seen, HEALTHY.COM was not used as a service mark to support use until 2011, as it was simply used as a domain name prior thereto, which does not establish use analogous to trademark use. Accordingly, Registrant has priority of use as a result of filing its service mark application on October 5, 2005.

2. Petitioner has Admitted Likelihood of Confusion

In the Petition to Cancel in the present Cancellation proceedings, Petitioner stated in paragraph 5 that a likelihood of confusion exists between Registrant's Mark

and Petitioner's Mark. Accordingly, since Registrant has priority with respect to its mark, and Petitioner has admitted likelihood of confusion, summary judgment should be granted in favor of Registrant under § 2(d) regarding priority and likelihood of confusion.

D. REGISTRANT'S MARKS DO NOT CREATE A FALSE SUGGESTION OF A CONNECTION UNDER §2(a)

Summary judgment in favor of Registrant is appropriate under § 2(a) because Registrant's Marks do not create a false suggestion of a connection to Petitioner. Section 2(a) prohibits "the registration of a mark that consists of or comprises matter that may falsely suggest a connection with persons, institutions, beliefs, or national symbols." In order to establish that a mark falsely suggests a connection with persons or institutions, it must be shown that:

> (1) the mark is the same as, or a close approximation of, the name or identity previously used by another person or institution;
> (2) the mark would be recognized as such, in that it points uniquely and unmistakably to that person or institution;
> (3) the person or institution named by the mark is not connected with the activities performed by the applicant under the mark; and
> (4) the fame or reputation of the person or institution is such that, when the mark is used with the applicant's goods or services, a connection with the person or institution would be presumed.

TMEP §1203.03(e). More significantly, the phrase "falsely suggest a connection with" of Section 2(a) "necessarily requires by implication that the person or institution with whom a connection is suggested must be the prior user." *In re Nuclear Research Corp.*, 16 USPQ2d 1316, 1317 (TTAB 1990)(emphasis added). Therefore, "a subsequent

user has no rights in a term as against a prior user thereof." *In re Mohawk Air Servs. Inc.*, 196 USPQ 851, 855 (TTAB 1977).

Furthermore, as Section 2(a) is concerned with a right to privacy or the right to control one's identity, "the initial and critical requirement is that the name (or an equivalent thereof) claimed to be appropriated by another must be unmistakably associated with a particular personality or 'persona.'" *The Bd. of Trs. of the Univ. of Ala. v. BAMA-Werke Curt Baumann*, 231 USPQ 408, 410 (TTAB 1986). Therefore, "it is not sufficient to show merely prior identification with the name adopted by another," the mark used by the Registrant must "point uniquely" to the Petitioner. *Id.*

Here, Registrant's Mark HEALTHY.COM cannot falsely suggest a connection to Petitioner, as Registrant is the prior user, as set forth above in Section C(1). Thus, the first prong of the test fails since Petitioner did not use HEALTHY.COM until after Registrant began use. Therefore, the mark is not the same as that previously used by another person, as is required to prove false suggestion of a connection. *Bower Decl.* ¶¶ *4-7; Exh. I-QQ, AAA.*

Moreover, the mark HEALTHY.COM cannot be recognized as pointing uniquely and unmistakably to Petitioner, since Registrant was the first user of the mark. Moreover, Robertson himself has admitted that he failed to make trademark or service mark use of the mark. As mentioned previously, Robertson stated that he has "kept these domain names on the shelf - so not to brand them to [sic] specific." *Bower Decl. ¶9; Exh. SS.* Moreover, since Robertson only recently began use of the mark

HEALTHY.COM, he cannot be said to have the requisite fame or reputation, required to satisfy the fourth prong of the test. *Bower Decl. ¶6; Exh. QQ.*

Thus, since Registrant has priority of use with respect to HEALTHY.COM, and the mark HEALTHY.COM cannot be said to point uniquely and unmistakably to Robertson, summary judgment should be granted in favor of Registrant under §2(a) regarding false suggestion of a connection.

IV. CONCLUSION

Based on the foregoing, Registrant respectfully requests that Petitioner's Motion for Partial Summary Judgment on the basis that the subject marks are deceptive under Trademark Act section 2(a) be denied since it is clearly based on misstatements of fact, and Robertson has failed to offer any competent evidence in support of his motion. Moreover, Robertson failed to meet the threshold criteria required to support a finding of deceptiveness under §2(a).

On the other hand, the evidence submitted by Registrant shows that Robertson: (1) doesn't currently own or operate the domain name HEALTHY.COM; (2) did not make service mark use of the mark HEALTHY.COM prior to Registrant and has admitted likelihood of confusion; (3) also admitted, he had HEALTHY.COM "on the shelf" so as not to brand it; and (4) used HEALTHY.COM in the past merely as a URL for other websites.

Accordingly, it is respectfully submitted that Registrant's Cross-Motion for Summary Judgment with respect to all grounds of cancellation made by Petitioner, namely Deceptiveness under Trademark Act 2(a), False Suggestion of a Connection

under Trademark Act section 2(a), and Priority and Likelihood of Confusion under Trademark Act section 2(d), should be granted in favor of Registrant.

Dated: July 20, 2012

Respectfully submitted,

1-800-HEALTHY.COM, INC.

By: _____

Thomas M. Galgano, Esq.
Jessica G. Bower, Esq.
Attorneys for Registrant
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20 W. Park Avenue, Suite 204
Long Beach, New York 11561
Telephone: (516) 431-1177

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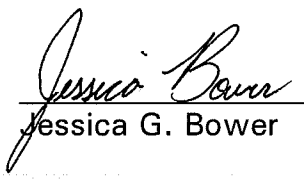
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **REGISTRANT'S RESPONSE IN OPPOSITION TO PETITIONER'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND REGISTRANT'S CROSS-MOTION FOR SUMMARY JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES; AND DECLARATIONS OF CLAY SCHULTZ AND JESSICA BOWER IN SUPPORT THEREOF** has this 20 day of July, 2012, been sent via first class mail to:

Joseph A. Mandour, Esq.
Ben T. Lila, Esq.
Gordon E. Gray, Esq.
Mandour & Associates, APC
16870 West Bernardo Drive, Suite 400
San Diego, CA 92127



Jessica G. Bower

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

DAVID ROBERTSON,	)	
Petitioner,	)	
v.	)	Cancellation No. 92053616 Reg. Nos. 3,787,695; 3,866,133 Mark: HEALTHY.COM
1-800-HEALTHY.COM, INC.,	)	
Registrant.	)	

DECLARATION OF CLAY SCHULTZ

I, CLAY SCHULTZ, under penalty of perjury, declare as follows:

1. I am the Chief Executive Officer of the Registrant, 1-800-HEALTHY.COM, INC. ("18H") having an address of 834 Wilson Drive, Suite B, Ridgeland, MS 39157. I have personal knowledge of the following facts, and if called as a witness, could and would competently testify to them.

2. 1-800-HEALTHY.COM, INC. has been in business since at least as early as 1999, offering health information and selling dietary and nutritional supplements through its alphanumeric telephone number 1-800-HEALTHY (1-800-432-5849),

mail order, and via the internet.

3. 18H provides telephone shop at home services and on-line ordering services featuring dietary supplements and nutritional products, namely, nutritional supplements, herbal supplements, vitamin supplements, mineral supplements, amino acid supplements, and nutraceutical supplements.

4. 18H has advertised its products and services on the internet via its websites, including, www.1800healthy.com and www.healthy.com.co; via third party websites, including, CBN.com, LivingTheLife.com and SkyMall.com; via print advertisements, including the SkyMall catalog; national television; national radio; paid advertisements via Google, Yahoo!, Bing, and 7search.com; printed brochures; product labeling; emails; direct mail; customer correspondence; customer service call centers; YouTube; Facebook; Twitter; HealthyTV; The Healthy Herald and through sponsorship and exhibits at sporting events. True and correct copies of representative samples of advertising materials for 18H, bates numbered 18H0030-0073, are attached hereto as Exhibit A.

5. Since 2000, 18H has spent approximately $3 million in advertising and promoting its goods and services and has generated gross revenues of approximately $12 million.

6. 18H operates a website at www.1800healthy.com and owns various other domain names which redirect to this website, namely, 1-800-healthy.com, 800healthy.com, 800-healthy.com, 1-800healthy.com, 1800-healthy.com. True

and correct copies of representative samples of screen shots from www.1800healthy.com, bates numbered 18H0005-0016, are attached hereto as Exhibit B.

7. 18H also operates a website at www.healthy.com.co and www.healthy.tv. True and correct copies of representative samples of screen shots from www.healthy.com.co, bates numbered 18H0001-0004, are attached hereto as Exhibit C.

8. 18H's websites identified above in paragraphs 6 and 7 offer products as well as information about health and nutrition.

9. 18H began using the service mark HEALTHY.COM on its website www.1800healthy.com at least as early as February 18, 2010 in connection with its online retail store services featuring nutritional supplements and in connection with providing an online search engine for obtaining health information. HEALTHY.COM was later utilized on 18H's website www.healthy.com.co.

10. I checked the Whois History records for the domain name healthy.com at www.domaintools.com. A check of the records for the date of January 10, 2002 shows that ConvergenceHealth.com was the owner of the domain name healthy.com on that date. A true and correct copy of the printout from www.domaintools.com, on March 6, 2011, which is bates numbered 18H0122 is enclosed herewith as Exhibit D.

11. A check of the Whois History records for the domain name healthy.com at www.domaintools.com for the dates of November 10, 2002, January 31, 2008, and April 23, 2009 show that Dave Robertson was the owner of the domain name healthy.com on those dates. True and correct copies of printouts from www.domaintools.com, on March 6, 2011, which are bates numbered 18H0123-0125 are enclosed herewith as Exhibit E.

12. A check of the Whois History records for the domain name healthy.com at www.domaintools.com for the date of July 3, 2010 shows that healthy.com INC was the owner of the domain name healthy.com on that date. A true and correct copy of the printout from www.domaintools.com, on March 6, 2011, which is bates numbered 18H0126 is enclosed herewith as Exhibit F.

I certify under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Dated: July 19, 2012

Clay Schultz

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

DAVID ROBERTSON, Petitioner, v. 1-800-HEALTHY.COM, INC., Registrant.	Cancellation No. 92053616 Reg. Nos. 3,787,695; 3,866,133 Mark: HEALTHY.COM

DECLARATION OF JESSICA G. BOWER

I, JESSICA G. BOWER, under penalty of perjury, declare as follows:

1. I am an attorney at Galgano & Associates, PLLC located at 20 W. Park Ave., Suite 204, Long Beach, New York, 11561 and am admitted to practice in the State of New York. I have personal knowledge of the following facts, and if called as a witness, could and would competently testify to them.

2. True and correct copies of U.S. Trademark Registration No. 2,702,920 for 1800HEALTHY.COM; Reg. No. 2,908,889 for 1-800-HEALTHY.COM; and Reg. No. 3,920,303 for HEALTHY TV, are attached hereto as Exhibit G.

3. Petitioner produced as part of its discovery responses documents stamped with Bates nos. Healthy1- Healthy340. Attached hereto as Exhibit H are true and correct copies of documents Bates nos. Healthy16-17.

4. Our office reviewed the internet archive pages for the domain name www.healthy.com at the website http://archive.org/web/web.php referred to as the "Wayback Machine." I oversaw the printing of the records from the web archive at the Wayback Machine on February 23, 2011. Printouts from the Wayback Machine for dates from 1997-2008 for the domain name healthy.com were produced by Registrant during discovery and bates numbered 18H0074 - 18H119. A true and correct copy of a printout from the Wayback Machine for the domain name healthy.com showing the archived dates, which is bates numbered 18H0074, is attached hereto as Exhibit I.

5. A true and correct copy of a printout from the Wayback Machine for the domain name healthy.com for the following archived dates are attached hereto as the corresponding Exhibits:

Archival Date	Bates No.	Exhibit
June 6, 1997	18H0075	Exhibit J
November 9, 1997	18H0076	Exhibit K
December 12, 1998	18H0077	Exhibit L
January 25, 1999	18H0078-79	Exhibit M
February 8, 1999	18H0080-81	Exhibit N
April 20, 1999	18H0082-83	Exhibit O
March 1, 2000	18H0084-85	Exhibit P
March 2, 2000	18H0086-87	Exhibit Q
May 10, 2000	18H0088-89	Exhibit R
May 20, 2000	18H0090-91	Exhibit S
June 22, 2000	18H0092-93	Exhibit T

July 7, 2000	18H0094-95	Exhibit U
August 16, 2000	18H0096	Exhibit V
October 19, 2000	18H0097	Exhibit W
November 9, 2000	18H0098	Exhibit X
April 5, 2001	18H0099	Exhibit Y
April 18, 2001	18H0100	Exhibit Z
July 20, 2001	18H0101	Exhibit AA
November 30, 2001	18H0102	Exhibit BB
March 28, 2002	18H0103	Exhibit CC
May 29, 2007	18H0104-105	Exhibit DD
July 1, 2007	18H0106-107	Exhibit EE
August 3, 2007	18H0108-109	Exhibit FF
October 14, 2007	18H0110	Exhibit GG
October 21, 2007	18H0111	Exhibit HH
November 21, 2007	18H0112	Exhibit II
December 21, 2007	18H0113	Exhibit JJ
January 22, 2008	18H0114	Exhibit KK
February 24, 2008	18H0115	Exhibit LL
April 24, 2008	18H0116	Exhibit MM
May 26, 2008	18H0117	Exhibit NN
June 25, 2008	18H0118	Exhibit OO
July 29, 2008	18H0119	Exhibit PP

6. A true and correct copy of a printout from the Wayback Machine from July 16, 2012 for the domain name healthy.com for the archival date of February 7, 2011 is attached hereto as Exhibit QQ.

7. A review of the Wayback machine shows that on the following archival dates the domain name healthy.com redirected to healthy.net:

March 1, 2000
March 2, 2000
May 10, 2000
May 20, 2000
June 22, 2000
July 7, 2000
August 16, 2000
October 19, 2000

November 9, 2000
April 5, 2001
April 18, 2001
July 20, 2001
November 30, 2001
March 28, 2002.

Attached hereto as Exhibit AAA are true and correct copies of printouts from the Wayback Machine on these archival dates showing the domain name healthy.com redirecting to healthy.net.

8. Attached hereto as Exhibit RR is a true and correct copy of PETITIONER'S SUPPLEMENTAL RESPONSES TO REGISTRANT 1-800-HEALTHY.COM, INC.'S FIRST SET OF INTERROGATORIES.

9. Attached hereto as Exhibit SS are true and correct copies of documents Bates numbered Healthy13-14.

10. Attached hereto as Exhibit TT are true and correct copies of document Bates numbered Healthy 20-21.

11. Attached hereto as Exhibit UU are true and correct copies of documents Bates numbered Healthy 5.

12. Attached hereto as Exhibit VV are true and correct copies of documents Bates numbered Healthy 72-73.

13. Attached hereto as Exhibit WW is a true and correct copy of PETITIONER'S RESPONSES TO REGISTRANT 1-800-HEALTHY.COM, INC.'S FIRST SET OF INTERROGATORIES.

14. Attached hereto as Exhibit XX is a true and correct copy of a printout of the Whois search results for the domain name healthy.com from www.godaddy.com on April 22, 2011, which is bates numbered 18H0120-0121.

15. Attached hereto as Exhibit YY is a true and correct copy of a printout from www.healthy.com on March 11, 2011, bates numbered 18H0128-0129.

16. Attached hereto as Exhibit ZZ are true and correct copies of document Bates numbered Healthy 15, 183-184.

I certify under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Dated: July 19, 2012

Jessica Bower

Jessica G. Bower

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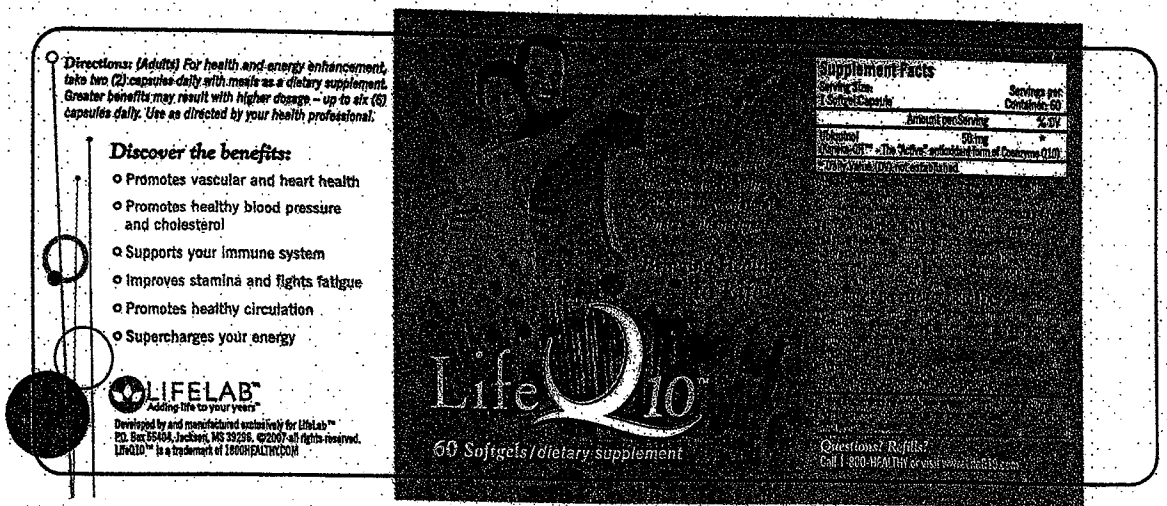
EXHIBIT A


Directions: (Adults) For health and energy enhancement, take two (2) capsules daily with meals as a dietary supplement. Greater benefits may result with higher dosage – up to six (6) capsules daily. Use as directed by your health professional.
Discover the benefits:
Promotes vascular and heart health
Promotes healthy blood pressure and cholesterol
Supports your immune system
Improves stamina and fights fatigue
Promotes healthy circulation
Supercharges your energy
LIFELAB™
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Developed by and manufactured exclusively for LifeLab™
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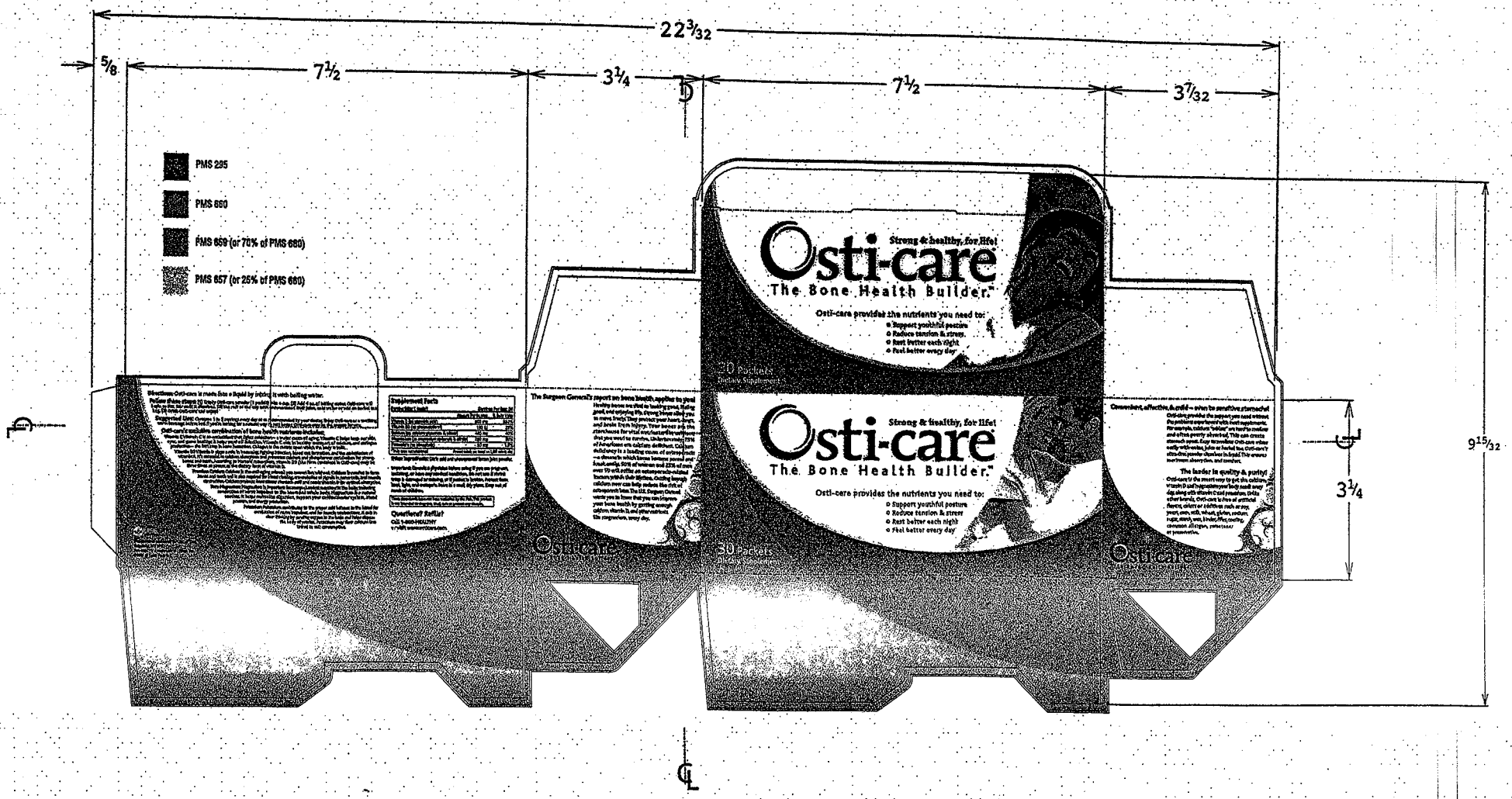
LifeQ10™ is a trademark of 1800HEALTHYCOM
LifeQ10™
60 Softgels / dietary supplement
Supplement Facts
Serving Size
Servings per Container: 60
Amount per Serving
% DV
50 mg
Questions? Refills?
Call 1-800-HEALTHY or visit www.lifeq10.com

18H0030

Horizontal Grain



18H003

rejuvá *A Better Looking Life. Guaranteed.*

Suggested Use: Consume four (4) to six (6) capsules daily in divided doses, or as recommended by a health care professional. For best results, take with meals, when the digestive process is active. Drink plenty of water throughout the day to support nutrient delivery and optimal benefits.

Important: Consult a physician before using if you are pregnant, lactating, or have a known medical condition. Do not use if safety seal is broken. To maintain maximum potency, store tightly closed in a cool, dry, dark place. Do not refrigerate. Keep out of the reach of children.

Questions? Refills? To learn more call 1-800-HEALTHY or visit the Rejuva website at www.rejuvarx.com.

These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.

LIFELAB™ Adding life to your years™

Supplement Facts

Serving Size: 4 capsules Servings Per Container: 30

	Amount Per Serving	% Daily Value
Vitamin A (as beta-carotene)	1,000 IU	20%
Vitamin C (as ascorbyl palmitate)	100 mg	167%
Vitamin D (as cholecalciferol)	100 IU	25%
Vitamin B1 (as thiamin HCl)	5 mg	333%
Vitamin B2 (as riboflavin)	5 mg	294%
Niacin (as niacinamide)	5 mg	25%
Vitamin B6 (as pyridoxine HCl)	5 mg	250%
Folic Acid	200 mcg	50%
Vitamin B12 (as cyanocobalamin)	20 mcg	333%
Biotin (as d-Biotin)	2.5 mg	833%
Pantothenic acid (as calcium pantothenate)	50 mg	500%
BioCell Collagen II® Hyaluronic Acid 150 mg Chondroitin Sulfate 300 mg (as hydrolyzed Collagen Type II)	1,500 mg	*
MSM (as Methylsulphonylmethane)	750 mg	*
Silicon (from bamboo extract)	30 mg	*
Grape seed extract	50 mg	*
Alpha lipoic acid	25 mg	*

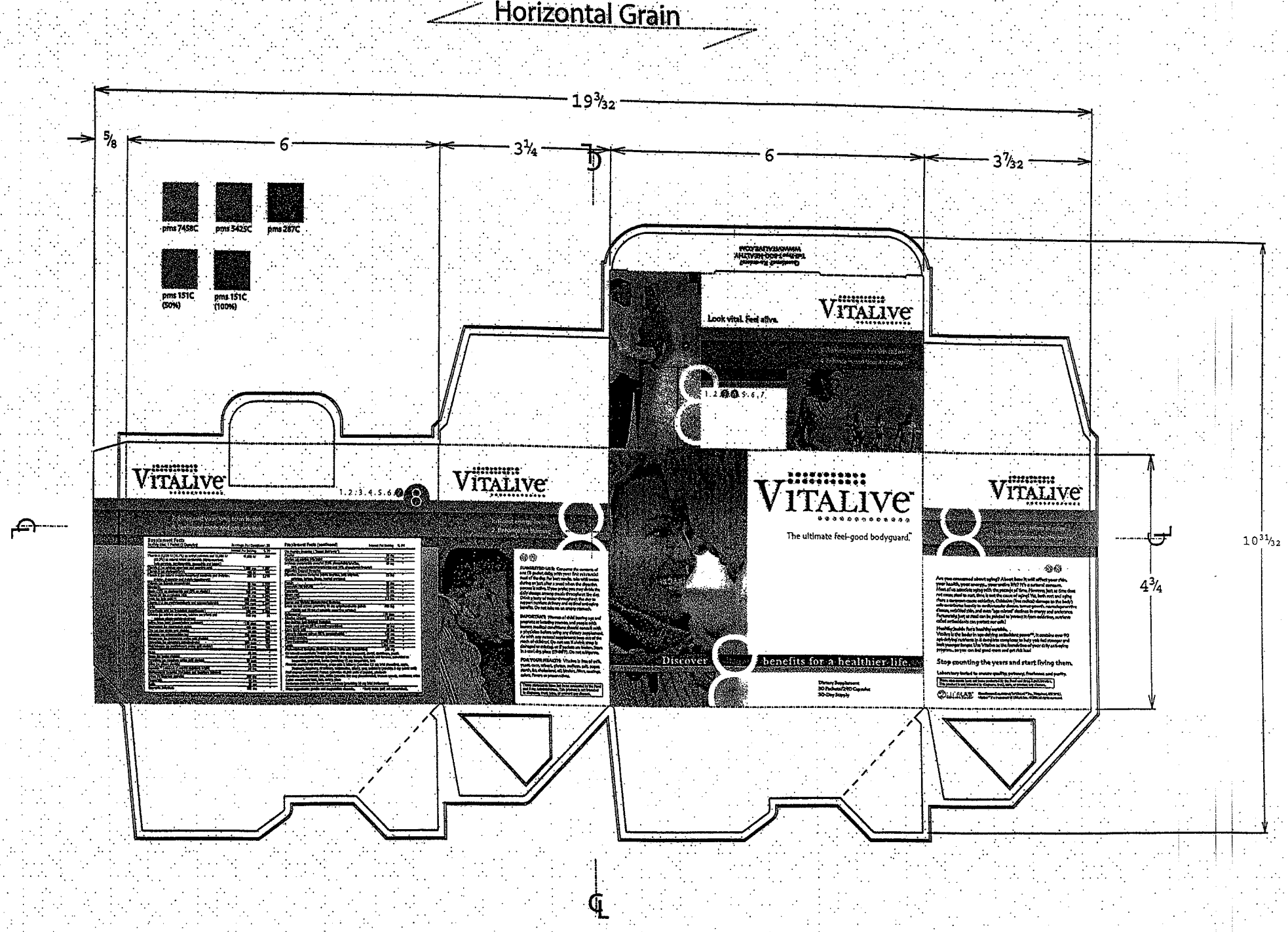
* Daily value not established.

Other ingredients: Gelatin, Cellulose, Magnesium Stearate

Contains Shellfish

BioCell Collagen II® is a registered trademark of BioCell Technology LLC, Anaheim, California, USA (US Patents 6,635,627; 6,933,018; 6,770,641; #6541 UK and foreign patents pending)

18H0037


Horizontal Grain
19 3/32
5/8
6
3 1/4
6
3 7/32
pms 7458C
pms 5425C
pms 287C
pms 151C (50%)
pms 151C (100%)
VITALIVE
Look vital. Feel alive.
The ultimate feel-good bodyguard.
Discover benefits for a healthier life.
10 31/32
4 3/4

18H0033

CHŌMEGA3
healthy. happy. naturally.™

CHŌMEGA3
healthy. happy. naturally.™

LIQUIPUR™
-The pure and secure liquid capsule that's 100% additive-free

- Prevents oxidation and rancidity
- Preserves purity, potency and freshness
- Provides gentle and rapid absorption
- Reduces fishy odor and aftertaste

CHŌMEGA3
healthy. happy. naturally.™

why omega-3?
Omega-3 fatty acids are essential to life.

- Studies at Harvard and other leading medical centers show that Omega-3's may have a remarkable impact on your mood, mental clarity and sense of well-being.
- The American Heart Association recommends Omega-3's to promote cardiovascular health.
- Omega-3's are essential to healthy nervous system function and they support healthy joints, cholesterol levels, circulation, digestion, vision and hormone balance.

why chomega?
Chomega is unlike any other Omega-3:

- Chomega is the only Omega-3 specially formulated to elevate mood and promote both physical and emotional well-being.
- Chomega is the only "Fully Natural" Omega-3, containing the "triglyceride" form of Omega-3's, just as they occur in fish. Most brands contain the "ethyl ester" form which is synthetically manipulated and not found in nature.
- Chomega's natural form of Omega-3's has been shown to be 50% more bioavailable than the ethyl ester form used in most other brands.
- Chomega has the highest concentration of Omega-3's available (85%), providing 3 times the potency of other brands.
- Chomega has the highest ratio of EPA to DHA available (5:1), up to five times higher than other brands, supporting optimal mood elevation, cardiovascular, anti-inflammatory & joint health benefits.
- Chomega is pharmaceutical quality and undergoes a rigorous, patent-pending purification process to remove PCB's, dioxins, mercury, and other heavy metals and harmful contaminants found in fish and assure Omega-3 supplements.

90 LIQUIPURT™ CAPSULES
Dietary Supplement

LIFELAB™
ADDING LIFE TO YOUR YEARS™

Manufactured for the USA exclusively for LifeLab, Inc., Ridgeland, MS 39157.
Chomega is a trademark of LifeLab, Inc.
©2008 all rights reserved.

SUPPLEMENT FACTS
Serving Size 1 Softgel
Amount Per Serving %Daily Value

Servings
Calories
Total Fat
Vitamin E (as d-alpha tocopherol)
Omega-3 Fatty Acids*
EPA (Eicosapentaenoic Acid)
DHA (Docosahexaenoic Acid)
Other Omega-3 Fatty Acids
Omega-6 Fatty Acids*
Omega-9 Fatty Acids*
Other Monounsaturated Fatty Acids
Other Polyunsaturated Fatty Acids

*Daily Value not established.

CHŌMEGA3
healthy. happy. naturally.™

suggested use:
Adults - take two softgels daily with a meal, or as directed by a physician. Some people may realize additional benefits with a higher intake - up to six capsules daily. See www.chomega.com for more info.

warning:
KEEP OUT OF THE REACH OF CHILDREN. Consult with your physician prior to use if you have or suspect you have a medical condition, are taking prescription drugs, or are pregnant or nursing. DO NOT USE IF SAFETY SEAL IS BROKEN. Store tightly closed in a cool (59°-86°F), dry, dark place. CONTAINS SOY, PEANUTS, FISH - SARDINE AND ANCHOVY. Contains no: gluten, wheat or wheat byproducts, milk or milk byproducts, egg or egg byproducts, or artificial colors.

18H0034

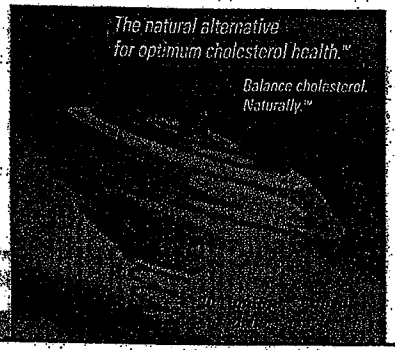
Suggested Use: Take two (2) to three (3) OPTICHOL® capsules with your morning and evening meals, for a total of four (4) to six (6) capsules daily. For best results, take with water and no more than 15 minutes before or after meals.

Important: Do not use if safety seal is broken. As with any supplement, consult your physician before using if you are pregnant, lactating or have an existing medical condition. Do not discontinue use of any medications without consulting your physician. Keep out of the reach of children. Store tightly closed in a cool, dry place. Do not refrigerate.

There are two sources of cholesterol. OPTICHOL® targets both. OPTICHOL® helps to block the absorption of cholesterol from the foods you eat. It also helps to balance the cholesterol your body makes naturally. The result is that less bad cholesterol ends up in your body. And that's great for your overall health and vitality!

According to the US Food and Drug Administration, daily consumption of at least 1.3 grams of plant-sterol esters (four Opticol®) in two meals, as part of a diet low in saturated fat and cholesterol, may reduce the risk of heart disease.

opti◆chol®



Supplement Facts

Serving Size: 2 Capsules	Servings per Container: 60
Amount per Serving	% DV
OPTICHOL™ 800 mg	*

OPTICHOL® is a proprietary blend of plant sterol esters and a patented mix of citrus and palm fruit extract including polymethoxylated flavones, mixed tocotrienols and lecithin.

* Daily Value (DV) not established

Other Ingredients: Gelatin and Glycerolmonostearate.

These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.

Questions? Refills?
Call 1-800-HEALTHY or visit www.opticol.com

LIFELAB™
Adding life to your years™.

Developed by and manufactured exclusively for LifeLab™ Inc., P.O. Box 55404, Jackson, MS 39296.
OPTICHOL® is a trademark of LifeLab Inc.

18H003

Order Form

LifeQ10

get healthy

ORDER NOW!

Follow these 5 steps:

1. Select from one of the following three offers.
2. Provide your billing and shipping address.
3. Select your payment method.
4. Fax or mail your order.

Buy 2, get 1 free, zero-risk!

___Yes! I want to revitalize my body for vibrant health and energy!

I want natural energy enhancement that fights fatigue. I want LifeQ10, the world's most advanced source of CoQ10 that supercharges my stamina level, strengthens my heart and supports healthy blood pressure and cholesterol! I understand that I am protected by your Unconditional Guarantee, and if I am not absolutely satisfied, I can return the unused portion for a full refund.

step 1 Value Offerings

	Reg. Price	Your Price	Qty.	Total
☐ **Offer 1 – GREAT VALUE!** Please send me a 30-day supply (1 bottle) of LifeQ10 for the low price of just $49.99!		$49.99	____	____
☐ **Offer 2 – BETTER VALUE!** Buy Three, Get One Free! Please send me a 120-day supply (4 bottles) of LifeQ10 for only $149.97. That's a savings of $50.00 off the regular price.	~~$199.96~~	$149.97	____	____
☐ **Offer 3 – BEST VALUE!** Buy 2, Get 1 Free with AutoSHIP! Please send me a 90-day supply of LifeQ10 every 90 days, or as often as I choose, for $99.98 and let me save $50.00 off the original price! I understand that my credit card will never be charged until my product is shipped and that I can pause, change or cancel my shipments at any time simply by calling 1-800-HEALTHY. Plus, with HealthAdvantage my price will never go up!	~~$149.97~~	$99.98	____	____

Subtotal	____
MS Residents add 7% Tax	____
Off Residents add 6.75% Tax	____
Shipping & Handling	$6.95
Total	____

step 2 Ordered By (Please Print)

Billing Address (where you receive your credit card or debit card statement):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

In case there is a question about your order, please provide the following:

Daytime Phone: (___) _____ Evening Phone: (___) _____

Shipping Address (if different from Billing Address):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

step 3 Payment Method

Check One: ___VISA ___Mastercard ___AMEX ___Discover

Card #: _____ Expiration Date: _____

Name on Card: _____

Signature: _____

step 4 2 Easy Ways to Order

1 Fax this form to: 1-866-475-7222

2. Mail this form to: 1-800-HEALTHY.com, PO Box 55404, Jackson, MS 39296

18H003

Our Unconditional 90-Day Guarantee

You must be happy. If you are not satisfied for any reason you'll get your money back. How can we afford to extend this zero-risk guarantee? It's because our clients keep coming back time and again!

Our Privacy Policy

As a client of 1800healthy.com, your personal health information will always be handled with the utmost care. We will never sell it, trade it, or rent it to anyone.

LifeQ10™ is the world's most advanced source of CoQ10 for natural energy enhancement.

Order Form

optichol™

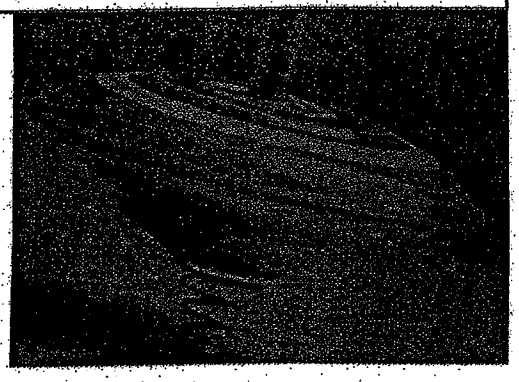
get healthy

ORDER NOW!

Follow these 5 steps:

1. Select from one of the following three offers.
2. Provide your billing and shipping address.
3. Select your payment method.
4. Fax or mail your order.

Buy 2, get 1 free, zero-risk!



____Yes! I want to support my good cholesterol while lowering the bad!

I want the only product that fights both sources of cholesterol, naturally. I want Optichol, the product that balances my body's production of cholesterol, while blocking its absorption from food! I understand that I am protected by your Unconditional Guarantee, and if I am not fully delighted, I can return the unused portion for a full refund.

step 1 Value Offerings

	Reg. Price	Your Price	Qty.	Total
☐ **Offer 1 – GREAT VALUE!** Please send me a 30-day supply (1 bottle) of Optichol for the low price of just $59.99!		$59.99	____	____
☐ **Offer 2 – BETTER VALUE!** Buy Three, Get One Free! Please send me a 120-day supply (4 bottles) of Optichol for the low price of $179.97. That's a savings of $60! 90-Day supply (360 capsules)	~~$239.96~~	$179.97	____	____
☐ **Offer 3 – BEST VALUE!** Buy Two, Get One Free! Please send me a 90-day supply of Optichol every 90 days, or as often as I choose, for $119.97, a savings of $60! I understand that my credit card will never be charged until my product is shipped and that I can pause, change or cancel my shipments at any time simply by calling 1-800-HEALTHY.	~~$179.97~~	$119.97	____	____

Subtotal	____
MS Residents add 7% Tax	____
OH Residents add 6.75% Tax	____
Shipping & Handling	$6.95
Total	____

step 2 Ordered By (Please Print)

Billing Address (where you receive your credit card or debit card statement):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

In case there is a question about your order, please provide the following:

Daytime Phone: (___) _____ Evening Phone: (___) _____

Shipping Address (if different from Billing Address):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

step 3 Payment Method

Check One: ___VISA ___ Mastercard ___ AMEX ___ Discover

Card #: _____ Expiration Date: _____

Name on Card: _____

Signature: _____

step 4 2 Easy Ways to Order

1 Fax this form to: 1-866-475-7222

2. Mail this form to: 1-800-HEALTHY.com, PO Box 55404, Jackson, MS 39296

18H0037

Our Unconditional 90-Day Guarantee

You must be happy. If you are not satisfied for any reason you'll get your money back. How can we afford to extend this zero-risk guarantee? It's because our clients keep coming back time and again!

Our Privacy Policy

As a client of 1800healthy.com, your personal health information will always be handled with the utmost care. We will never sell it, trade it, or rent it to anyone.

Discover the benefits of OPTICHOL: The natural alternative for optimum cholesterol health. To learn more visit www.optichol.com.

Order Form

CHOMEGA3™

get healthy

ORDER NOW!

Follow these 5 steps:

1. Select from one of the following three offers.
2. Provide your billing and shipping address.
3. Select your payment method.
4. Fax or mail your order.

Our Unconditional 90-Day Guarantee

You must be happy. If you are not satisfied for any reason you'll get your money back. How can we afford to extend this zero-risk guarantee? It's because our clients keep coming back time and again!

Our Privacy Policy

As a client of 1800healthy.com, your personal health information will always be handled with the utmost care. We will never sell it, trade it, or rent it to anyone.

Enjoy Your Health and Save Your Money!

____Yes! I want to elevate my mood, brain and memory function.

I want the power of Omega-3, which the American Heart Association reported may significantly improve cardiovascular and circulatory health, while supporting the entire body systems. I want Chomega, the only natural formulation for both physical and emotional well-being, that's up to 50% more absorbable than leading products. I understand that I am protected by your Unconditional Guarantee, and if I am not completely satisfied, I can return the unused portion for a full refund.

step 1 Offer Selection

	Reg. Price	Your Price	Qty.	Total
☐ **Offer 1 – GREAT VALUE!** Save 50%! Please send me a 30-day supply (1 bottle) of Chomega...I'll save $25.00 off the regular price of $49.99!	~~$49.99~~	$24.99	____	____
☐ **Offer 2 – BETTER VALUE!** Save $50.00! Please send me a 120-day supply (4 bottles) of Chomega for only $149.97...I'll save $50.00 off the regular price!	~~$199.96~~	$149.97	____	____
☐ **Offer 3 – BEST VALUE!** 3-Pack with AutoSHIP! Please send me a 90-day supply (3 bottles) every 90 days, or as often as I choose, for $49.98 and let me save almost $50! I understand that my credit card will never be charged until my product is shipped and that I can pause, change or cancel my shipments at any time simply by calling 1-800-HEALTHY. Plus, with Health Advantage my price will never go up!	~~$149.97~~	$99.99	____	____

Subtotal	____
MS Residents add 7% Tax	____
OH Residents add 6.75% Tax	____
Shipping & Handling	$6.95
Total	____

step 2 Ordered By (Please Print)

Billing Address (where you receive your credit card or debit card statement):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

In case there is a question about your order, please provide the following:

Daytime Phone: (___) _____ Evening Phone: (___) _____

Shipping Address (if different from Billing Address):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

step 3 Payment Method

Check One: ___VISA ___ Mastercard ___ AMEX ___ Discover

Card #: _____ Expiration Date: _____

Name on Card: _____

Signature: _____

step 4 2 Easy Ways to Order

1 Fax this form to: 1-866-475-7222

2. Mail this form to: 1-800-HEALTHY.com, PO Box 55404, Jackson, MS 39296

18H0038

Osti-care

Strong & healthy, for life!

get healthy...order now & save!

Follow these 5 steps:

1. Select from one of the following three offers.
2. Provide your billing and shipping address.
3. Select your payment method.
4. Fax or mail your order.

_____Yes! I want strong, healthy bones!

I want my bone health to stop declining with age. I want Osti-care, the non-prescription solution for better bone health, that promotes comfort and strength and helps me to gain and retain the mobility needed to enjoy an active life! I understand that I am protected by your Unconditional Guarantee, and if I am not fully satisfied, I can return the unused portion for a full refund.

Our Unconditional 90-Day Guarantee

You must be happy. If you are not satisfied for any reason you'll get your money back. How can we afford to extend this zero-risk guarantee? It's because our clients keep coming back time and again!

Our Privacy Policy

As a client of 1800healthy.com, your personal health information will always be handled with the utmost care. We will never sell it, trade it, or rent it to anyone.

step 1 Value Options

	Reg. Price	Your Price	Qty.	Total
☐ **Offer 1 – GREAT VALUE!** Great Value: Please send me a 30-day supply (1 bottle) of Osti-care for the low price of $29.99!		$29.99		
☐ **Offer 2 – BETTER VALUE!** Save $30.00! Please send me a 120-day supply (4 bottles) of Osti-care for just $89.97, saving me 25% off the regular price!	~~$119.96~~	$89.97		
☐ **Offer 3 – BEST VALUE!** 3-Pack with HealthAdvantage AutoSHIP! Please send me a 90-day supply of Osti-care every 90 days, or as often as I choose, for $59.97, and help me save $30! I understand that my credit card will never be charged until my product is shipped and that I can pause, change or cancel my shipments at any time simply by calling 1-800-HEALTHY.	~~$89.97~~	$59.97		

Subtotal	
MS Residents add 7% Tax	
OH Residents add 6.75% Tax	
Shipping & Handling	$6.95
Total	

step 2 Ordered By (Please Print)

Billing Address (where you receive your credit card or debit card statement):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

In case there is a question about your order, please provide the following:

Daytime Phone: (___) _____ Evening Phone: (___) _____

Shipping Address (if different from Billing Address):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

step 3 Payment Method

Check One: ___VISA ___Mastercard ___AMEX ___Discover

Card #: _____ Expiration Date: _____

Name on Card: _____

Signature: _____

Note: Checks and Money Orders also accepted – make payable to 1-800-HEALTHY.COM. Personal Checks held for 10 business days.

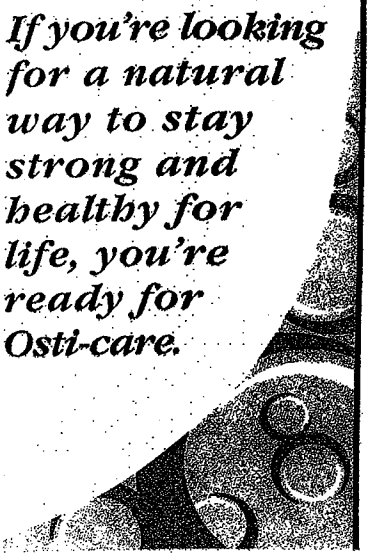
step 4 2 Easy Ways to Order

Fax this order form to: 1-866-475-7222.

Mail this form to: 1-800-HEALTHY.com, PO Box 55404, Jackson, MS 39296.

18H0039

If you're looking for a natural way to stay strong and healthy for life, you're ready for Osti-care.



VITALIVE

get healthy

ORDER NOW!

Follow these 5 steps:

1 Select from one of the following three offers.

2 Provide your billing and shipping address.

3 Select your payment method.

4 Call, fax or mail your order.

Our Unconditional 90-Day Guarantee

You must be happy. If you are not satisfied for any reason you'll get your money back. How can we afford to extend this zero-risk guarantee? It's because our clients keep coming back time and again!

Our Privacy Policy

As a client of 1800healthy.com, your personal health information will always be handled with the utmost care. We will never sell it, trade it, or rent it to anyone.

So why wait to live a healthier life?

Live younger longer! Feel more alive. Try VITALIVE: the ultimate feel-good bodyguard.

Visit www.vitalive.com for detailed product information.

"Buy 2, get 1 free, zero-risk savings certificate"

____Yes! I want to preserve my youth! I want all of the power that Vitalive-Rx has to nourish every cell in my body with age-defying nutrients so that my entire body can feel more youthful, healthy and energized. I understand that I am protected by your Unconditional Guarantee, and if I am not absolutely delighted, I can return the unused portion for a full refund.

step 1 Please Rush me my Vitalive-RX as Marked Below:

	Reg. Price	Your Price	Qty.	Total
☐ **Offer 1 – GREAT VALUE!** Save $10.00! Please send me a 30-day supply (1 bottle)... I'll save $10.00 off the regular price of $69.99!	~~$69.99~~	$59.99		
☐ **Offer 2 – BETTER VALUE!** Better Value: 3-Pack Special – Buy 2, Get 1 Free! Please send me a 90-day supply (3 bottles)... I'll save $69.99 off the regular price of $209.97!	~~$209.97~~	$139.98		
☐ **Offer 3 – BEST VALUE!** 3-Pack with HealthAdvantage AutoSHIP! Please send me a 90-day supply (3 bottles) every 90 days (or as often as I choose)...I'll save $89.99 off the regular price of $209.97...that's a savings of $359.96 a year! I understand that my credit card will never be charged until my product is shipped, and that I am under no obligation. I can pause, change or cancel my shipments at any time simply by calling 1-800-HEALTHY. Plus, with HealthAdvantage, I'll lock in my savings – my price will never go up!	~~$209.97~~	$119.98		

Subtotal	
MS Residents add 7% Tax	
OH Residents add 6.75% Tax	
Shipping & Handling	$6.95
Total	

step 2 Ordered By (Please Print)

Billing Address (where you receive your credit card or debit card statement):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

In case there is a question about your order, please provide the following:

Daytime Phone: (___) _____ Evening Phone: (___) _____

Shipping Address (if different from Billing Address):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

step 3 Payment Method

Check One: ___ VISA ___ Mastercard ___ AMEX ___ Discover

Card #: _____ Expiration Date: _____

Name on Card: _____

Signature: _____

step 4 3 Easy Ways to Order

1. Call 1-800-HEALTHY (1-800-432-5849)
2. Fax this form to: 1-866-475-7222
3. Mail this form to: 1-800-HEALTHY.com, PO Box 55404, Jackson, MS 39296

18H0040

Order Form

rejuva™
the internal cosmetic
for skin you want to touch™

get healthy & start saving!

ORDER NOW!

Follow these 5 steps:

1. Select from one of the following three offers.
2. Provide your billing and shipping address.
3. Select your payment method.
4. Fax or mail your order.

_____Yes! I want more youthful skin!

I want to try Rejuva, the internal cosmetic that supports my skin's youthful plumpness, strength and resistance to wrinkles! I also want an improvement in the health and appearance of my hair and nails! I understand that I am protected by your Unconditional Guarantee, and if I am not completely satisfied, I can return the unused portion for a full refund.

For more information visit www.rejuvarx.com

step 1 Value Offering:

	Your Price	Qty.	Total
☐ **Offer 1 – GREAT VALUE!** Please sent me a 30-day supply *(1 bottle)* of Rejuva for the low price of just $59.99!	$59.99	_____	_____
☐ **Offer 2 – BETTER VALUE!** Save $60! Please send me a 120-day supply (4 bottles) of Rejuva for just $179.97. That's a buy 3, get 1 free savings!	$179.97	_____	_____
☐ **Offer 3 – BEST VALUE!** Buy 2, Get 1 Free with AutoSHIP! Please send me a 90-day supply of Rejuva every 90 days, or as often as I choose, for $119.97 and let me save almost $60! I understand that my credit card will never be charged until my product is shipped and that I can pause, change or cancel my shipments at any time simply by calling 1-800-HEALTHY.	$119.97	_____	_____

Subtotal	_____
MS Residents add 7% Tax	_____
OH Residents add 6.75% Tax	_____
Shipping & Handling	$6.95
Total	_____

step 2 Ordered By (Please Print)

Billing Address (where you receive your credit card or debit card statement):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

In case there is a question about your order, please provide the following:

Daytime Phone: (___) _____ Evening Phone: (___) _____

Shipping Address (if different from Billing Address):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

step 3 Payment Method

Check One: ___VISA ___ Mastercard ___ AMEX ___ Discover

Card #: _____ Expiration Date: _____

Name on Card: _____

Signature: _____

step 4 2 Easy Ways to Order

Fax this order form to: 1-866-475-7222.

Mail this form to: 1-800-HEALTHY.com, PO Box 55404, Jackson, MS 39296.

18H0041

Our Unconditional 90-Day Guarantee

You must be happy. If you are not satisfied for any reason you'll get your money back. How can we afford to extend this zero-risk guarantee? It's because our clients keep coming back time and again!

Our Privacy Policy

As a client of 1800healthy.com, your personal health information will always be handled with the utmost care. We will never sell it, trade it, or rent it to anyone.

"Buy 2, Get 1 Free, Zero-Risk Savings Certificate"

☐ **YES!** I want to preserve my youth! I want all of the power that *Vitalive-Rx* has to nourish every cell in my body with age-defying nutrients so that my entire body can feel more youthful, healthy and energized. I understand that I am protected by your Unconditional Guarantee, and if I am not absolutely delighted, I can return the unused portion for a full refund.

STEP 1 – PLEASE RUSH ME MY Vitalive-Rx AS MARKED BELOW:	Reg.Price	Your Price	Qty.	Total
☐ GOOD DEAL – SAVE $10.00! Please send me a 30-day supply (1 bottle)...I'll save $10.00 off the regular price of $69.99!	$79.99	$ 59.99	☐	$
☐ BETTER DEAL: 3-PACK SPECIAL – Buy 2, Get 1 FREE – SAVE $69.99! Please send me a 90-day supply (3 bottles)...I'll save $69.99 off the regular price of $209.97!	$ 209.97	$ 139.98	☐	$
☐ BEST DEAL – 3-PACK with HEALTHAdvantage AutoSHIP Savings Plan – SAVE $79.98! I'll save $79.98 off the regular price of $209.97 when I receive 3 bottles every 3 months.	$209.97	$ 129.99	☐	$

HEALTHAdvantage AutoSHIP Savings Plan

STEP 2 – ORDERED BY (Please Print)

BILLING ADDRESS (where you receive your credit card or debit card statement):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

In case there is a question about your order, please provide your:

Daytime Tel: (____) _____ Evening Tel: (____) _____

Email: _____

SHIPPING ADDRESS (IF DIFFERENT):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

STEP 3 – HEALTH VALUE CODE (from the back of this brochure)

STEP 4 – PAYMENT METHOD

☐ Enclosed is my check or money order for $ _____ (made payable to 1800Healthy.com)

☐ Please Charge My: _____Visa _____Mastercard _____AMEX _____Discover

Card #: _____ Exp. Date: ____/____

Name on Card (Please Print): _____

Signature: _____

STEP 5 – 4 EASY WAYS TO ORDER:

1. Call 1-800-HEALTHY (1-800-432-5849)
2. Online: www.vitalive.com or www.1800healthy.com
3. Fax this form to: 1-601-206-1462
4. Mail this form to: 1-800-HEALTHY.com, P.O. Box 55404, Jackson, MS 39296

Subtotal	$
MS Residents add 7% Sales Tax	$
Shipping & Handling (S&H is non-refundable)	$ 5.95
Total	$

Our Unconditional Guarantee

You must be happy. If you are not satisfied for any reason you'll get your money back. How can we afford to give you this zero-risk guarantee? Because most clients keep coming back time and time again.

Our Privacy Policy

At 1800healthy.com, your personal health information will always be handled with the utmost care. We will never sell it or trade it or rent it to anyone.

1800healthy.com

18H0042

These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease.

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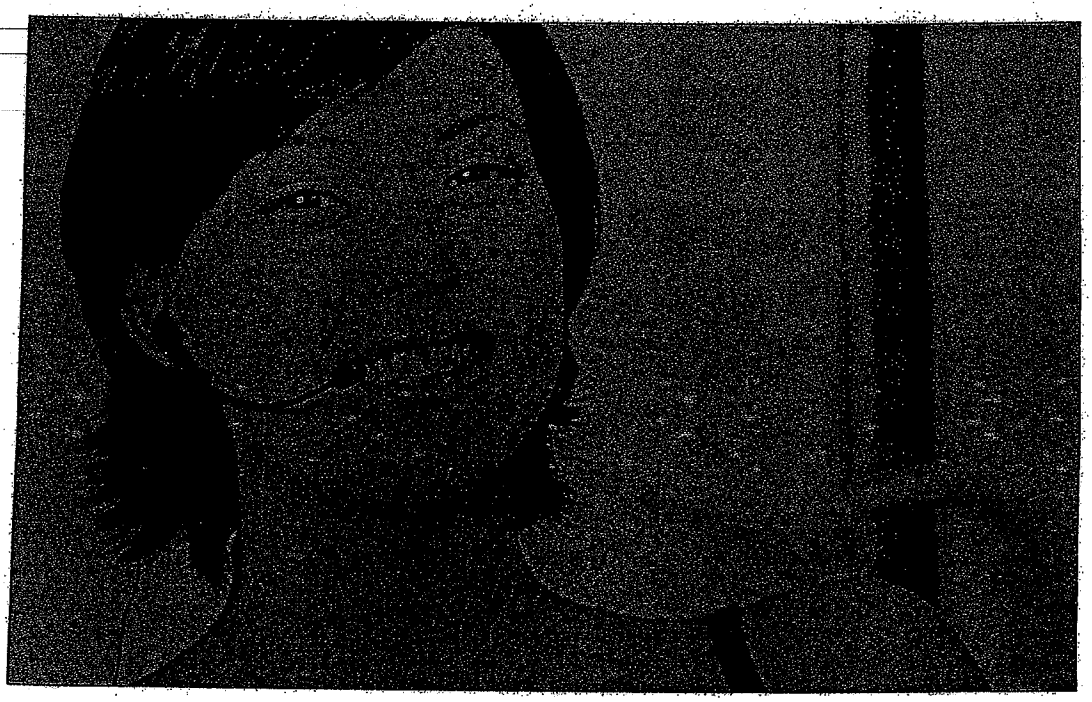

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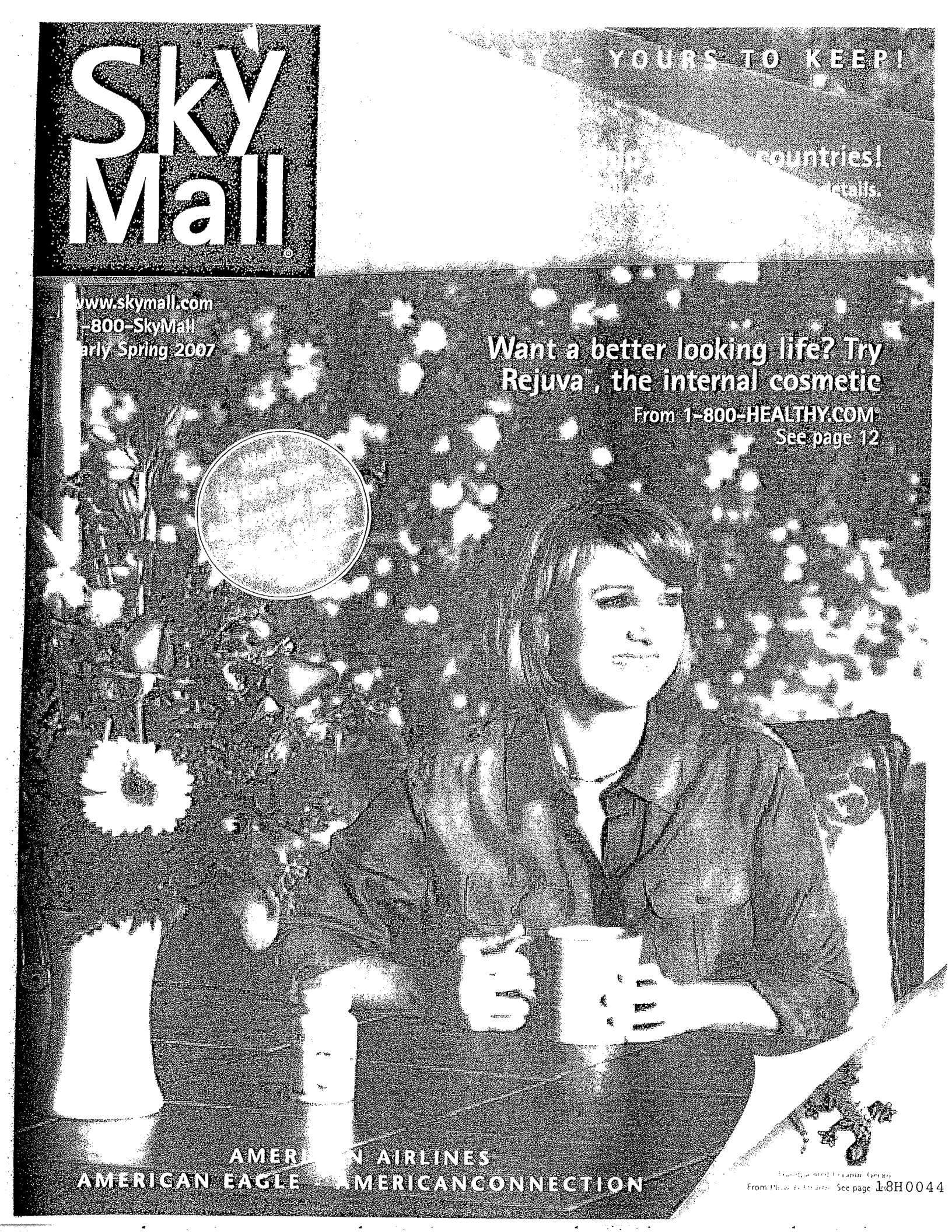
Want a better looking life? Try Rejuva™, the internal cosmetic

From 1-800-HEALTHY.COM®
See page 12



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See page 18

Want To Rejuvenate Your Skin?

Here's a natural way to look younger and see healthier looking skin–from the inside out.

rejuva™

The internal cosmetic for skin you want to touch.™

These days it seems like everyone is turning to plastic surgery to look better. We've all heard the stories about surgical procedures that promised one result and delivered another. Sure, there are other options. Countless creams promise to deliver miraculous results. But topical treatments can only go so far. That's because great looking skin begins on the inside! Not with surgery or creams. If there were a more sensible and affordable way to look better, wouldn't you take it? Well, now there is a better way: Rejuva™ – the internal cosmetic.

Rejuva's collagen "building blocks" support smoother, softer, and younger looking skin.
Without collagen's support, your skin is prone to sagging and rapid wrinkling. Rejuva contains an advanced form of collagen – the protein that gives your skin its youthful plumpness and ability to snap back. It helps to smooth the appearance of fine lines, even out skin tone, and hydrate dry areas for a more vibrant "glow."

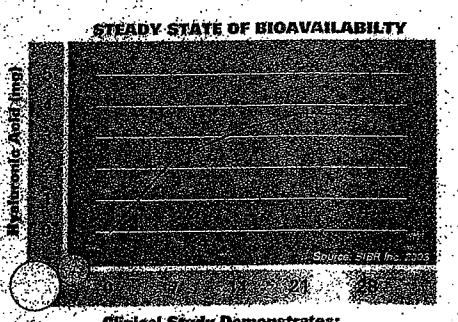
Want healthy skin for life? Listen to this doctor.
In a recent article on anti-aging skin care, Dr. Nelson Novick, Dermatology Clinic Chief at Mount Sinai Medical Center, discussed the benefits of BioCell Collagen II, Rejuva's patented collagen matrix, for promoting youthful skin. He said "I recommend daily oral supplementation with BioCell Collagen II, a unique combination of collagen II, hyaluronic acid, and chondroitin sulfate to nourish the skin from the inside out where topical applications cannot reach. This dietary supplement provides the only natural source of these three elements needed to maintain skin moisture and elasticity.... This supplement is not a short term solution, such as the use of injectable collagen; rather it is a necessary part of any regimen intended for lifelong skin tissue health."

Rejuvenate your skin, hair, and nails!
If you're ready for younger looking skin, you're ready for Rejuva. But the benefits don't stop there! Rejuva also contains 16 key nutrients that are vital to your hair and nails. These include MSM, grape seed extract, alpha-lipoic acid, and the full range of B vitamins including biotin – the main nutrient involved in healthy hair and nail growth. Together, they help to:

- Fight free radicals – a root cause of aging
- Promote healthier looking hair and stronger nails
- Nourish your skin and its supportive tissues, from your face down to your feet

Buy 3 Months, Get 1 Free
Rejuva is safe, natural, and your satisfaction is guaranteed. So why wait to enjoy the benefits? Call 1-800-SKYMALL to get started with your 90-day risk free trial. Be sure to ask about our Buy 3, Get 1 Free special. Your skin, hair, and nails deserve the best care possible, and that's what you'll get in Rejuva. Order today!

REJ30A 30-Day Supply $59.99
(1 bottle – 120 capsules)



Clinical Study Demonstrates:
Significant increase of HA in the human body after ingestion of this unique collagen II

Concerned About Cholesterol?

Here's a new way to lower your cholesterol up to 30% in 90 days – naturally.

optichol™

The natural alternative for optimum cholesterol health.™

There are two sources of cholesterol. A small amount comes from the foods you eat. But most (about 80%) is produced in your body, by the liver. Now you can target both sources – naturally – with Optichol. The key ingredients in Optichol help to:

- Block the absorption of cholesterol from your food, and
- Balance the cholesterol your body makes naturally.

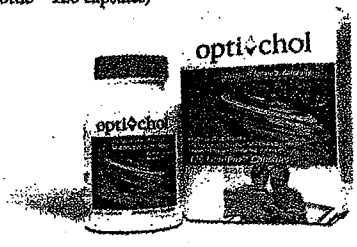
This gives you the upper hand in cholesterol health. Packed with powerful antioxidants, Optichol helps:

- Lower total and LDL "bad" cholesterol
- Support HDL "good" cholesterol
- Promote a healthy HDL to LDL cholesterol ratio

It's never too soon to start taking better care of your heart. Live healthy. Eat healthy. And take Optichol. You and your doctor will be thrilled with your results, or you'll get your money back.

Buy 3 Months, Get 1 Free
Optichol is safe. It's natural. And your satisfaction is guaranteed. So if you're ready to bring your cholesterol within a healthier range, you're ready for Optichol. Call 1-800-SKYMALL to get started with your 90-day risk free trial. Be sure to ask about our Buy 3, Get 1 Free special. You have nothing to lose except your unhealthy cholesterol! So why wait?

OPT30A 30-Day Supply $59.99
(1 bottle – 120 capsules)



"Starting to feel your age? Let's see what we can do about it. It's easy enough to answer these questions before you get off the plane.
- Want to feel good more?
- Want to lower bad cholesterol?
- Want your skin to be more youthful-looking?

Yes? Of course the answer is yes! So let us help. 1-800-HEALTHY.COM is your convenient and reliable resource for premium nutritional brands that revitalize your whole body. In my early forties, I discovered the benefits: more energy, better skin, and an easier time managing my weight. Read on and you'll find great values on exclusive formulas to support healthy cholesterol levels, boost your immune system, lift your mood, and rejuvenate your hair, skin, and nails. Your satisfaction is guaranteed. Thank you for your support!"

Lynn Schultz, Co-founder

Discounts Do Not Apply

Discover How To Feel Good More – Guaranteed.

This multi-nutrient makes your body a better place to live, with the antioxidant power of 35 servings of fruits and vegetables – every day!

VITALIVE™

The ultimate feel-good bodyguard.™

USDA research shows that 90% of Americans are deficient in vitamins, minerals and other nutrients. This epidemic of poor nutrition makes you age more rapidly, greatly increases your chance for illness by impairing your immune system, and, in general makes you feel less than your best. Common sense will tell you, along with hundreds of scientific studies, that if you're not getting the right nutrients, you're gambling with your health.

To complicate matters, there are destructive little entities called free radicals. According to Dr. Marshall Ringsdorf, a leading health researcher, "free radicals are the primary cause of aging." They damage your cells through oxidation, similar to when iron rusts or a cut apple turns brown. They are your health's worst enemy! When your cells are supported by the right nutrients, your health and youthfulness are likewise supported. On the other hand, you grow old on the days your nutrition is poor. Fortunately, nutrients known as "antioxidants" help prevent free radicals from robbing you of your vitality.

Vitalive™ provides the antioxidant power of 35 servings of fruits and vegetables, every day! It helps to bridge the gap between average nutrition, which results in rapid aging, and optimum nutrition, which boosts health and longevity. Vitalive contains 8 nutrient complexes that work together as a team. These include pharmaceutical grade vitamins, chelated minerals, bioflavonoids, "smart nutrients", digestive enzymes, energy enhancers, fruit and vegetable extracts, and age-defying antioxidants. Altogether, these 8 complexes provide over 100 nutrients, in the ratios, potencies and forms that work together to:

- Boost your mental and physical energy
- Bolster your immune system
- Promote healthy metabolism and fat burning

Buy 3 Months, Get 1 Free
Add life to your years... take Vitalive! In the process you'll supercharge your health and may even put the brakes on aging. Vitalive is safe, natural, and guaranteed. So why wait to feel more alive? Call 1-800-SKYMALL to get your 90-day risk free trial. Be sure to ask about our Buy 3, Get 1 Free special.

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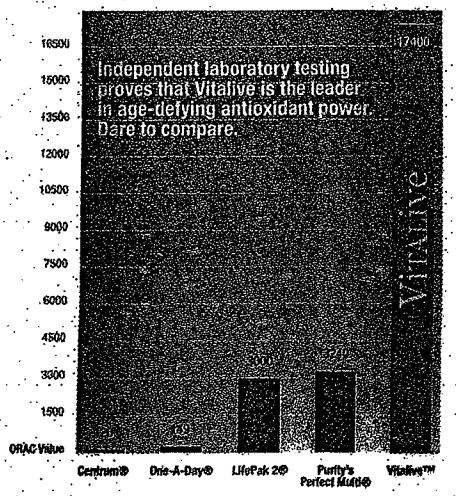


What is ORAC? Oxygen Radical Absorbance Capacity is a scientific measure of the ability of a substance to absorb, or "neutralize" free radicals. ORAC was first developed by the USDA Human Nutrition Research Center on Aging. It has become the method of choice for determining antioxidant power. Remember, you're as young or old as your cells. Every image you see in the mirror, and every sensation you feel physically, begins at the cellular level. So protecting your cells with antioxidants is vital. If you're ready to feel more vital and alive, you're ready for Vitalive.

How To Brighten Your Mood And Boost Your Vitality!

These Omega-3 fatty acids may be your missing link to support heart health, joint comfort, and emotional well-being.

CHOMEGA3

The ultimate omega-3 for a happier, healthier life.™

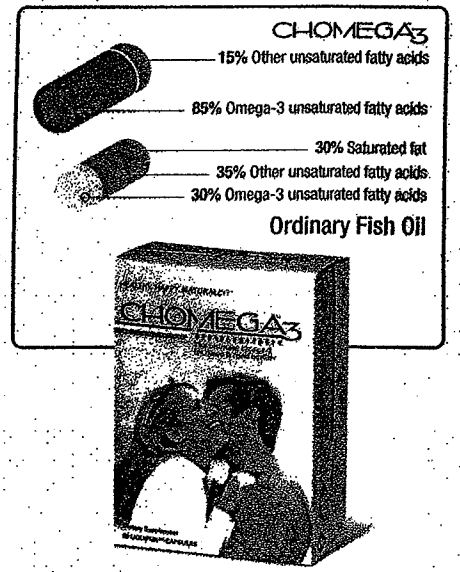
It's indisputable! Studies at the world's leading medical research centers show that Omega-3s may have a remarkable impact on your mental clarity and overall well-being. They may even help to improve your skin and put you in a better mood. Omega-3s are essential to healthy nervous system function and they support healthy joints, circulation, vision, and hormone balance. The American Heart Association recognizes the importance of Omega-3s in promoting heart health and fitness. You can get Omega-3s from eating fish, like salmon. However, a team of Harvard researchers recently declared that supplements may be safer. That's because fish often contain environmental toxins such as mercury and pesticides.

What makes Chomega the ultimate source of Omega-3s?

- Chomega is specially formulated to enhance both your body and brain.
- Chomega contains the Truly Natural™ "triglyceride" form of Omega-3's, just as they occur in fish. Many brands contain the "ethyl-ester" form which is chemically altered and not found in nature. Research shows that Chomega's Truly Natural™ form is better absorbed.
- Chomega's Omega-3 concentration is 85% – 3 times the potency of most brands. This enables you to consume fewer capsules while getting the amounts of EPA and DHA used in studies.
- Chomega has the highest ratio of EPA to DHA available, up to five times higher than other brands, supporting optimal mood elevation, cardiovascular and joint health benefits.
- Chomega is pharmaceutical quality and undergoes a rigorous patent pending purification process to remove PCB's, dioxins, mercury, and other harmful contaminants found in fish.

Buy 3 Months, Get 1 Free
Chomega is safe, natural, and your satisfaction is guaranteed. So why wait to live a happier, healthier life? Call 1-800-SKYMALL to get started with your 90-day risk free trial. Be sure to ask about our Buy 3, Get 1 Free special. You deserve the best. You deserve Chomega.

REJ30A 30-Day Supply $49.99
(1 box – 60 capsules)



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Age-defying Beauty Secret Suprises Researchers In Epic Human Studies

Women of all ages celebrate the benefits of Rejuva for great skin, hair and nails! Polly says "Beautiful skin you want to touch shouldn't end in your 20s. And now it doesn't have to."

Whoa! Is everyone turning to plastic surgery to look better? You hear the stories about surgical procedures that *promise* one result and *deliver* another. Sure, there are other options...

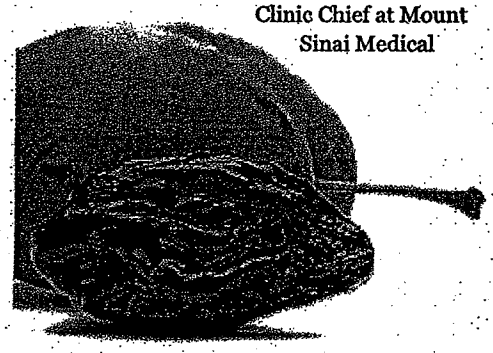
See? Polly got the "Rejuva lift".. better tone, smoother texture, less wrinkles & sagging in just a few weeks. Discover how Rejuva works...

Countless creams promise *"miraculous"* results. But *topical* treatments can only go so far. That's because beautiful skin begins on the inside! *Not with surgery or creams.*

Leading doctors agree

You don't need to have a standing appointment at your dermatologist to *temporarily* fill in lines and wrinkles. In an article on anti-aging skin care, Dr. Nelson Novick, Dermatology Clinic Chief at Mount Sinai Medical Center, praised the benefits of a patented collagen matrix. It's in a daily capsule called Rejuva--the internal cosmetic. And it's a breakthrough for youthful skin. He said...

"I recommend daily oral supplementation with BioCell Collagen II, a unique combination of collagen II, hyaluronic acid and chondroitin sulfate to nourish the skin from the inside out where topical applications cannot reach. This dietary supplement provides ***the only natural source*** *of these three elements needed to maintain skin moisture and elasticity. This supplement is not a short term solution, such as the use of injectable collagen. Rather it is a necessary part of any regimen intended* ***for lifelong skin tissue health.***"



A ripe plum is juicy and plump because it's full of water. Deprive a plum of water and you get a shriveled, wrinkled prune. When your skin loses its moisture boost from HA, you dry up just like this plum.

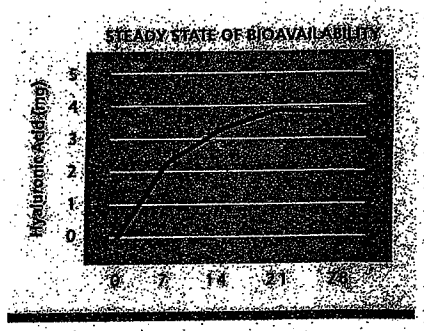
Without collagen, your body would literally fall apart

In your face, the loss shows up as lines, wrinkles and sagging. But Rejuva *restores* the collagen, HA and nutritional-building blocks that are normally lost due to aging, stress and "fast-food" living.

Rejuvenate your skin, hair and nails

Celebrities and television personalities take Rejuva® for camera-ready appearances. Health-focused women enjoy Rejuva every day for younger skin. Yet Rejuva also contains 16 key nutrients that are vital to your hair and nails. You get MSM, grape seed extract, alpha-lipoic-acid, and a range of B vitamins including biotin, the main nutrient involved in healthy hair and nail growth. They work as a team to:

- **Fight free radicals – a root cause of aging**
- **Promote healthier looking hair and stronger nails**



Clinical study shows significant increase of HA in the human body after taking Rejuva's patented collagen II for 28 days.

- **Nourish your skin and its supportive tissues, from your face down to your feet**

"I'm so excited about the benefits I'm getting since taking Rejuva. Even my grandchild has noticed how much better my skin is looking," says DarreLynne. What will you say?

WHOA! Here's $30 to Spend!

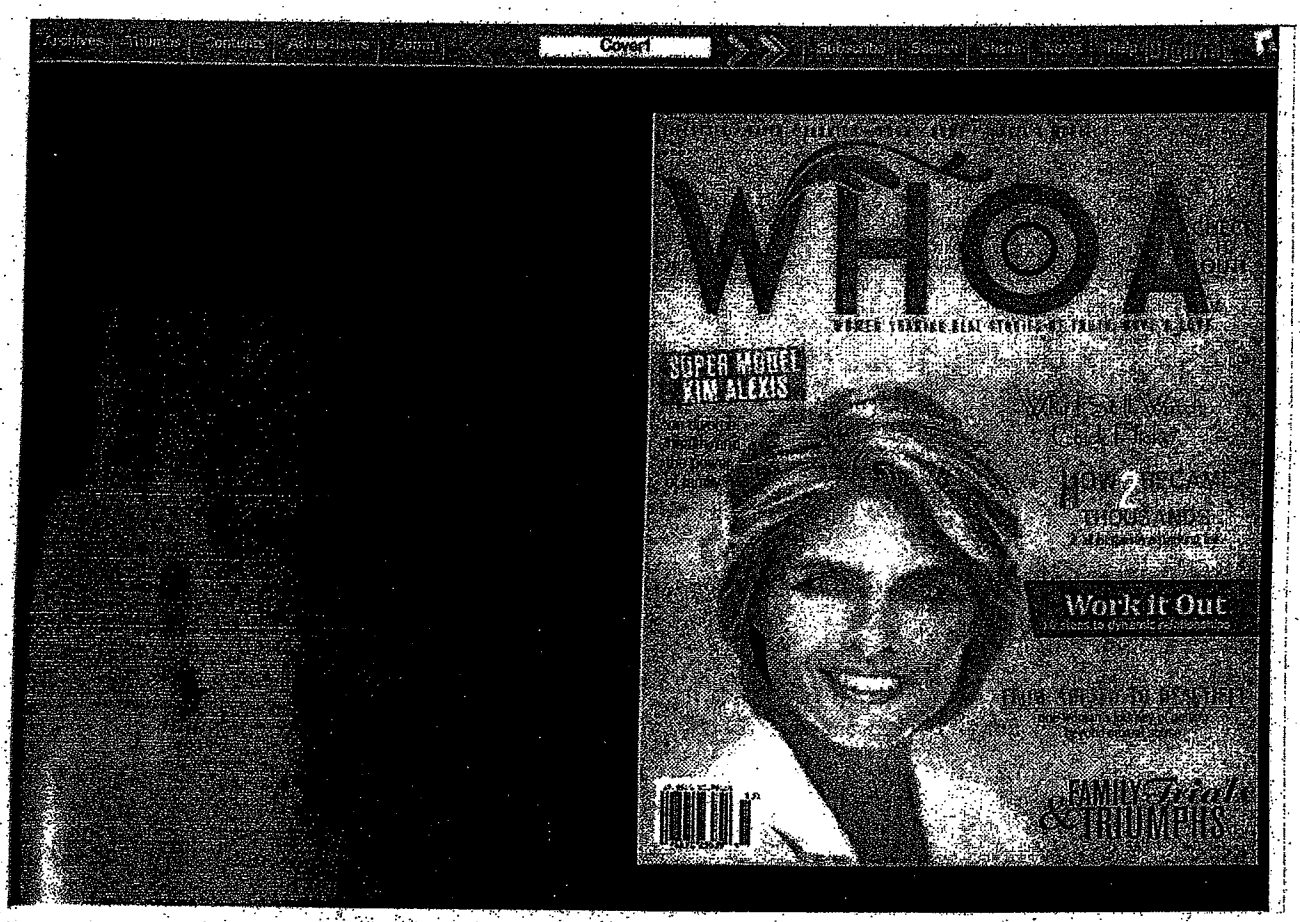
You risk nothing when you try Rejuva®. It's backed by a 1-Year Money Back Guarantee! And right now we're giving you $30 worth FREE. Plus FREE priority shipping because you're part of the Whoa family! How to get your $30 off? Call 1-800-HEALTHY. Use coupon code WHOA. Or go to 1800healthy.com/Rejuva. Enter coupon code WHOA during checkout. Your skin, hair and nails will thank you!

Call Toll-Free! 1-800-HEALTHY

Lynn Schultz has been a frequent guest on national television (ABC Family Channel) and is a founder of 1800healthy.com. Her passion is sharing natural health and beauty breakthroughs to help you live better longer. Follow on twitter @1800healthy.

WHOA Magazine

We are very excited to announce that in January 2012 WHOA magazine will be available nationally and also in Canada! WHOA Magazine features relevant topics taken from real life testimonies that have been experienced by our writers and addresses them with sound, spiritual solutions. Click **HERE** to subscribe now!



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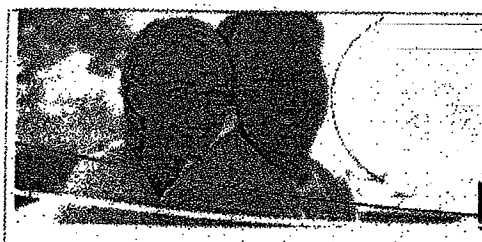

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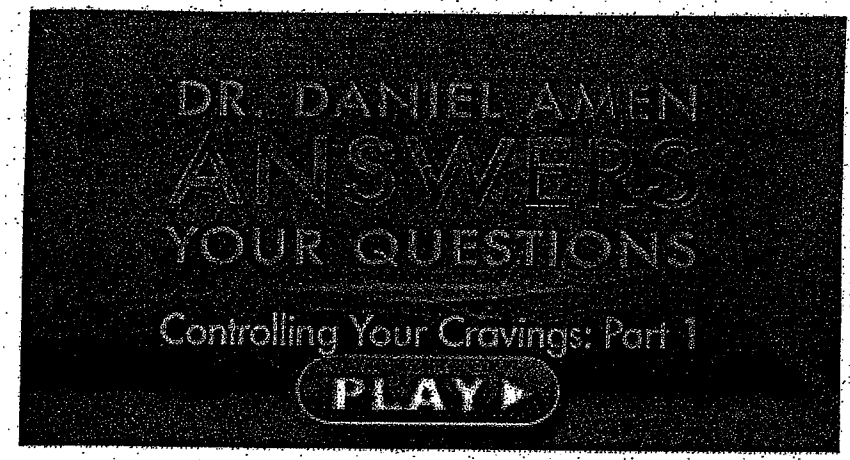
I'm sorry about the mix up! Here is the video with Dr. Daniel Amen...



Dear John,

Yesterday, *The Healthy Herald* had a link to a video with Dr. Mark Hyman.

I planned to send you a video with Dr. Daniel Amen, author of *Change Your Brain, Change Your Body.*

Here it is today. Dr. Amen answers your questions and shares 6 healthy ways to:

- Control your appetite
- Overcome addictive cravings
- Boost mental clarity and optimism about your future
- Get slimmer and healthier now

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Can Taking Vitamins Help Prevent Weight Gain?

15. Aug, 2011 0 Comments

According to at least two large investigations, there may be a direct correlation between obesity and the lack of several nutritional elements found in common vitamin regimens. Dear Health Enthusiast, One study investigated long-term (10-year) use of 14 nutritional supplements marketed as weight control aids among individuals aged 53 to 57 years. A form of [...]

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Wellness A-Z, Younger, Slimmer You
vitamins "weight loss" obesity health dieting

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9 Tips For Healthy Sleep and Beauty Rest

23. Jun, 2011 0 Comments

If you're tired of tossing and turning, these simple solutions can help… Dear Health Enthusiast, Imagine waking up refreshed and energized each morning. For many of us, that idea is a dream! The experts agree that a minimum of seven hours of sleep per night is vital for daytime alertness. And eight to nine hours per night is required for [...]

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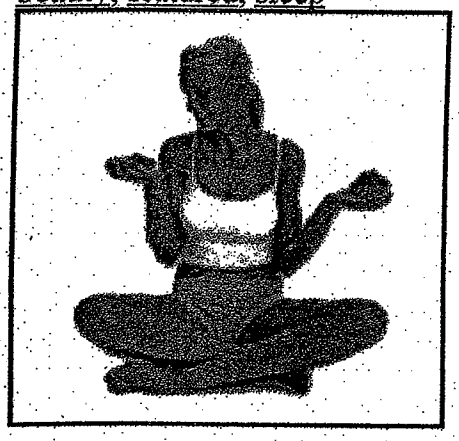
Beauty & Style, Sleep & Comfort
beauty, featured, sleep



How Much Should You Eat Before Exercise?

23. May, 2011 0 Comments

Dear Health Enthusiast, We've all done it…the bike, the swim…only to be derailed by a side-stitch or muscle cramp that stops the day's exercise routine in its tracks.

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Fitness & Sports
diet, exercise, featured

What's All The Fuss About ORAC?

20. Apr, 2011 0 Comments

The Oxygen Radical Absorbance Capacity, or ORAC for short, is an objective, scientific measure of the antioxidant capacity of a given food. A high ORAC score indicates that a particular food is rich in anti-oxidants. Although it does not prove that a particular food item will confer real-life health benefits, it is a good indicator [...]

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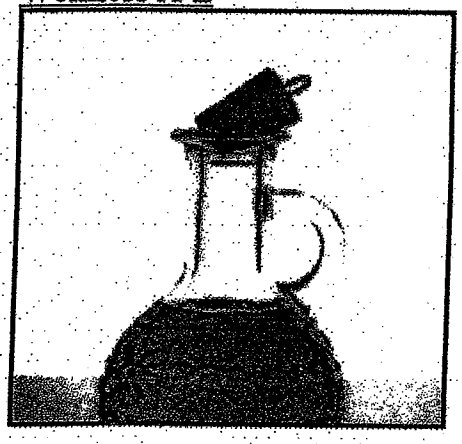

Is Your Olive Oil Overripe?

18. Mar, 2011 0 Comments

If you are among the growing number of health-savvy consumers who deliberately seek out antioxidant-rich foods for their numerous health benefits, take heed! According to research, semi-perishable food sources such as green tea and olive oil, both known for their high antioxidant content, gradually lose their antioxidant properties over time. In the case [...]

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Food Face Lift Recipes, Healthiest Foods, Nutrition & Eating Raw
antioxidant capacity, antioxidants, ECG, EGCG, extra virgin olive oil, green tea, olive oil

A to Zs of Allergy Avoidance

16. Mar, 2011 0 Comments

Allergic rhinitis refers to a constellation of symptoms which typically include itchy, watery eyes, scratchy throat, runny nose and sneezing. Just as its name implies, seasonal allergic rhinitis or 'hay fever' is triggered by grass pollen, tree pollen, and spores and is usually confined to the temperate months of the late spring and early fall.

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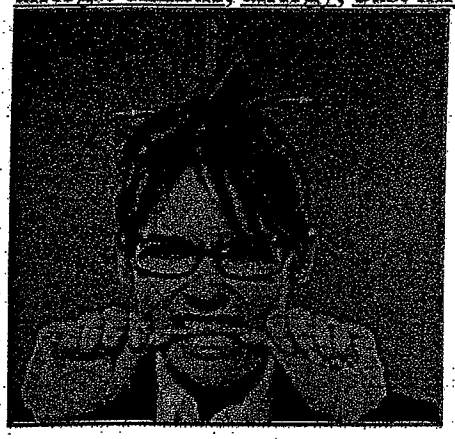
allergic rhinitis, allergy, dust mites, hay fever, mold, pollen, seasonal allergies



Stop an Anxiety Attack in its Tracks!

24. Jan, 2011 0 Comments

How to regain your sense of calm control in just a few minutes with these four simple steps…

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anxiety, stress, water

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- April 2011 (1)
- March 2011 (2)
- January 2011 (1)

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- Your bones need calcium & exercise to prevent osteoporosis. Check out these bone building #fitness moves! http://t.co/IcyIKaen about 8 hours ago from HootSuite

Lynn Schultz

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Dear Lynn,

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"Let us bring you health news, deals and tips each week!"
Christine Lydon, MD, author of *Ten Years Thinner*

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– **Healthy Humor:** Vaporize stress with laughter. Nothing works faster to revitalize your body and brain.

– **Healthy TV:** Get exclusive videos with doctors Eric Braverman, MD, author of Younger Thinner You, and Christine Lydon, MD, author of Ten Years Thinner.

– **Healthy Invitations:** Enjoy live webcasts with top fitness, nutrition and beauty experts.

On **Thursdays**, get ***The Healthy Deal.*** Enjoy exclusive coupons on the best stuff to do and buy in the world of wellness. Save up to 70% on top nutrition brands to build your healthy body.

To celebrate we're giving you $30 worth of premium quality nutritional supplements today. Plus, priority shipping is on the house. Simply call 1–800–HEALTHY and use your coupon code FREE30. Or, shop www.1800healthy.com and enter your coupon code FREE30 during checkout for huge savings.

18H005

Save on top-rated nutritional solutions like Vitalive, Rejuva, Chomega, LifeQ10 and Optichol. Act now to receive $30 off everything we offer. Plus, get free shipping!

This offer is the appetizer. For the main course, keep on clicking. And watch your inbox each Monday and Thursday. The best is yet to come!

Sincere wishes for an energized life and (always!) good health,

Lynn Schultz
CCO & Co-Founder

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VITALIVE™
The ultimate feel good bodyguard.™

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Essential Vitamins Complex
- Increases energy production, blood flow, and healthy cell formation
- Enhances mental clarity and nervous system functioning
- Supports healthy hair, skin and nails and a strong immune system

Essential Minerals Complex
- Enhances cardiovascular health, blood pressure, and endurance
- Supports healthy glucose and cholesterol levels
- Promotes energy, healthy cells, and lean body mass

Bioflavonoid Complex
- Strengthens your natural defenses against free radicals
- Provides extra support for your cardiovascular system
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Dear @Mr. John Sample,

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How does Vitalive do this? Every day environmental pollutants create free radicals in the body that damage cells. Free radical damage can be limited with the right amount of antioxidants. With eight nutrient complexes that provide over 100 nutrients, **Vitalive has superior antioxidant power that decreases your chances of illness by repairing your immune system.**

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Sincerely,

Chris Lydon, M.D.
Chris Lydon, M.D.

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Sincerely,

Chris Lydon, M.D.

Chris Lydon, M.D.

"Even if you are eating plenty of fresh fruits and vegetables, you can benefit from the nutritional boost that Vitalive-Rx provides. It is broad, yet affordable, nutritional insurance. My whole family has benefited from using it. And I would not hesitate to recommend it to my patients."

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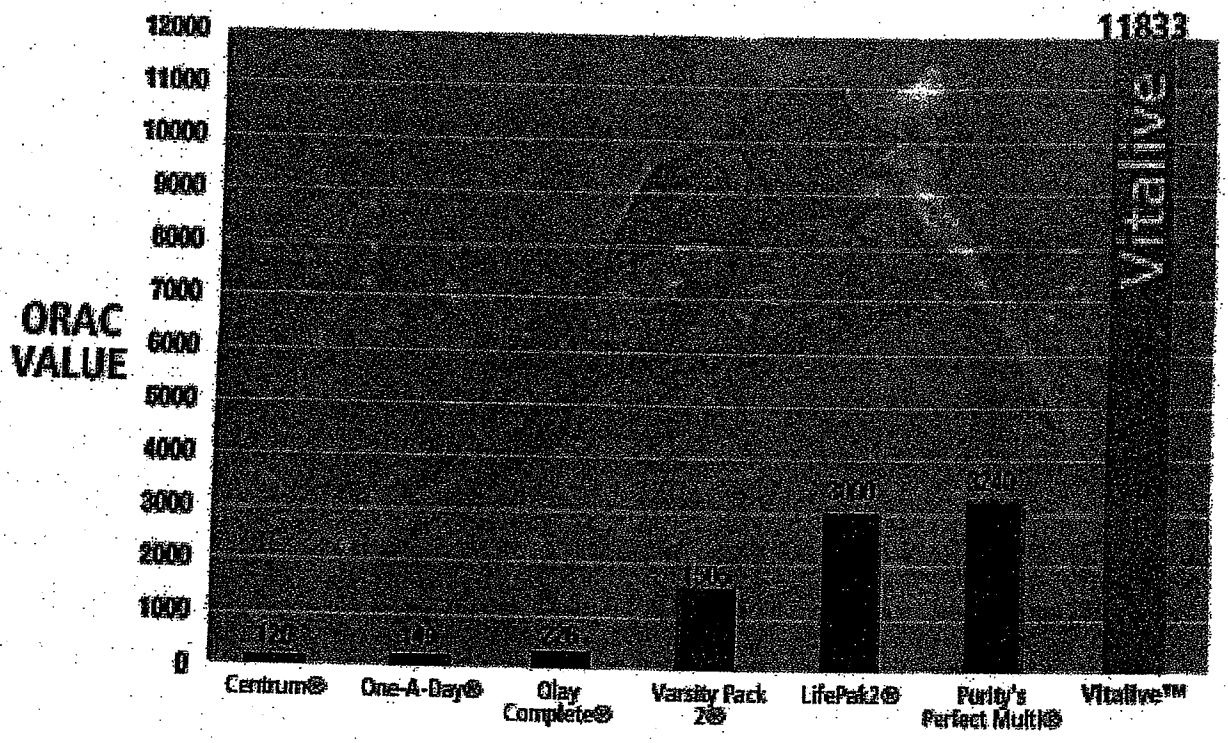
How does Vitalive do this? Every day environmental pollutants create free radicals in the body that damage cells. Free radical damage can be limited with the right amount of antioxidants. With eight nutrient complexes that provide over 100 nutrients, **Vitalive has superior antioxidant power that decreases your chances of illness by repairing your immune system.**

The chart on the next page illustrates Vitalive's superior antioxidant power. Antioxidant power is measured in ORAC units. ORAC stands for Oxygen Radical Absorbence Capacity. As a benchmark, consider that fruits and vegetables typically consumed in the American diet contain, on average, 300-500 ORAC units per serving*.

The first three columns in the graph above represent three of the leading brands of once-daily types of multi-vitamins. These brands range from 120 to 226 ORAC units per daily dose*.

The fourth, fifth and sixth columns represent three brands of premium multivitamins (one of which costs over $70 per month). These brands contain 1565 to 3240 ORAC units per daily dose*.

Antioxidant Power (ORAC) of Multivitamin/Mineral Supplements (per daily dose)



The last column represents Vitalive. Each daily dose of Vitalive contains 11,833 ORAC units*! Each daily dose of Vitalive contains the antioxidant equivalent of 24 servings of fruits and vegetables!

*SOURCE: Brunswick Laboratories, Wareham, Massachusetts.

An important concern to humans today is environmental pollution and its effects on our bodies. Environmental pollutants—from auto exhaust, second-hand cigarette smoke, pesticides, or even ultraviolet radiation from the sun—create what are known as free radicals in our bodies. Free radicals are molecules that are highly reactive and unstable because they contain an unpaired electron in their molecular structure. Electrons are most stable in pairs, and the free radical tries to stabilize itself by attaching to cell membranes in the body, robbing their molecules of electrons. This attack spontaneously generates another unstable free radical molecule, starting a chain reaction that eventually leads to the cell's death.

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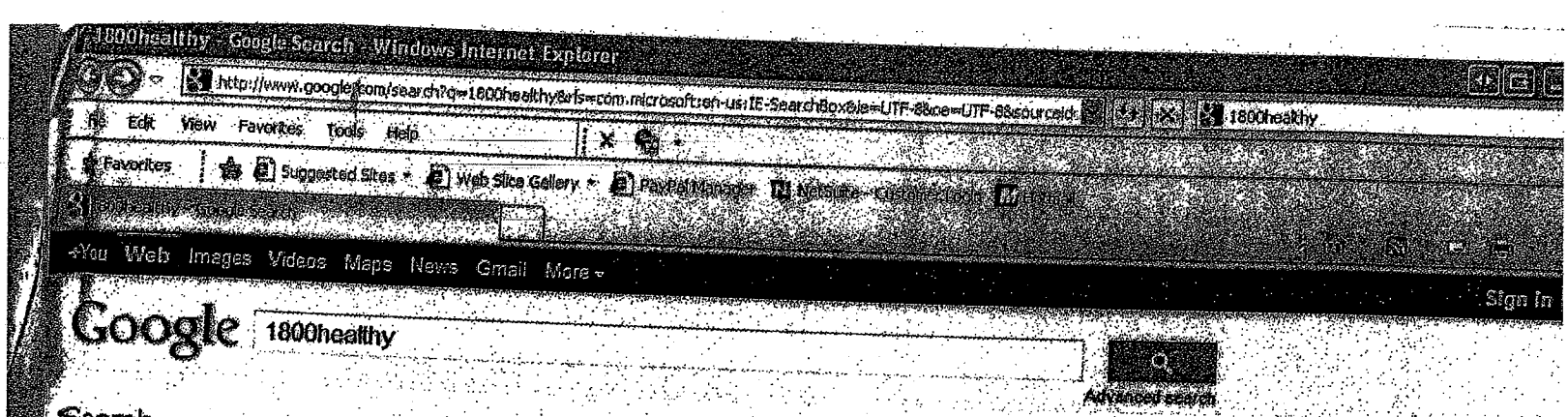

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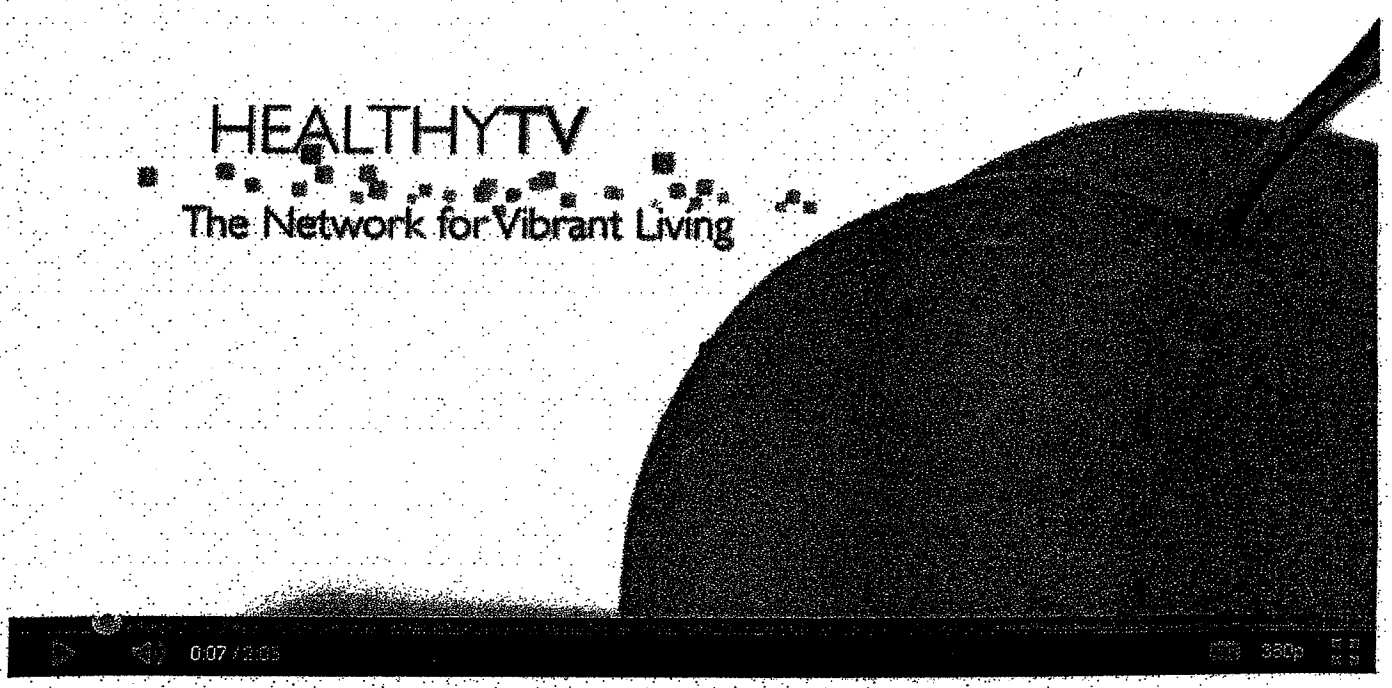

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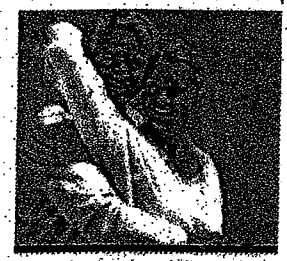

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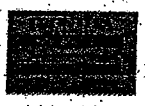

Rocky Ford Cantaloupes Recalled Due to Potential Listeriosis Outbreak, May Affect Pets | petMD
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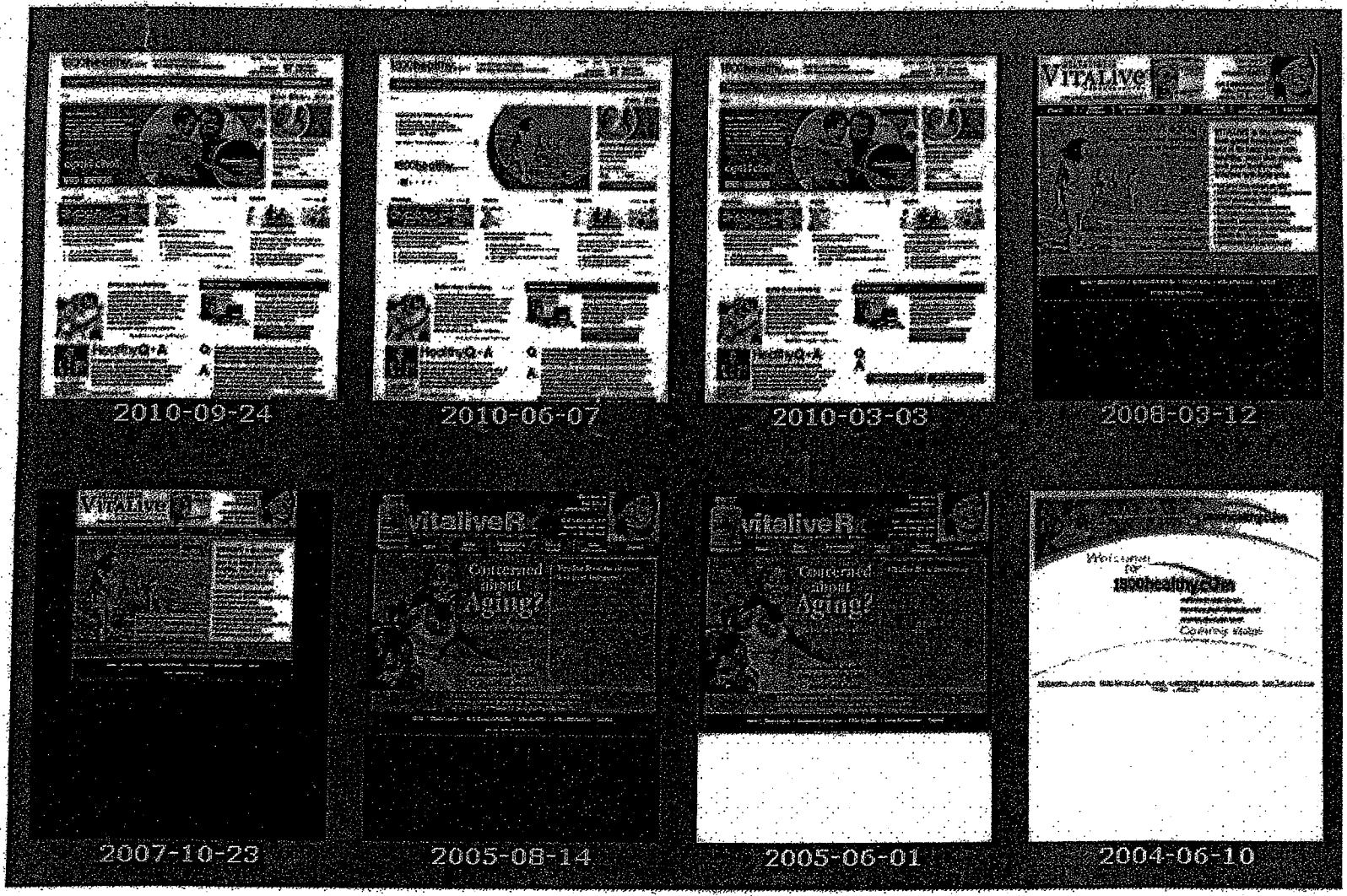
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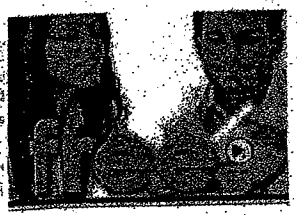

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File Format: PDF/Adobe Acrobat - Quick View
Vitamin C (as calcium ascorbate and ascorbic acid) Joints, tissues & bones; blood vessels; immune, repair & wound healing systems. 1000 IU /13] ...
www.1800healthy.com/c.838367/images/vitalive_chart.pdf

Liquid Calcium | Calcium Supplements | Magnesium | Bone Health ...
Vitamin C is an essential component in collagen production. ... When you give your body **Vitamin C**, your body can make the most important protein in bone ...
www.1800healthy.com/OstiCare

About Us

healthy.com

Healthy.com, the health search engine, powers your searches at 1-800-HEALTHY.COM.

The mission of Healthy.com is to organize the world's health information so you can learn, find and buy exactly what you want.

Quickly find what you need to cultivate vitality and grow your wellness.

Buy Vitalive Now »

Supplements Made Easy®

Welcome to 1-800-HEALTHY.COM—the nutrition store for health enthusiasts who know and appreciate the best. We deliver doctor-recommended vitamins and nutritional supplements to your door—saving you time and money. We're supplement specialists, with a unique selection of advanced formulations. All are backed by our exclusive, Feel Good or It's Free, 365-Day Satisfaction Guarantee. Along with our unmatched supplements and risk-free guarantee, you'll enjoy Fast Service, Free Shipping, and Big Savings of up to 55%. So, whether you're looking to rejuvenate your skin, or revitalize your whole-body, you'll find exactly what you want here at 1-800-HEALTHY.COM. We simplify supplements.

Driven by Service

Our guiding principle is the Golden Rule—treat others as you wish to be treated. And as such, your well-being is our top priority. Our mission is to help you enjoy the benefits of premium quality nutritional supplements, as part of a healthy lifestyle, so you can live your dreams. Now's the time to invest in your wellness! Make your body a better place to live. Get rid of that heavy, half-sick feeling once and for all. You'll find the absolute best service and superior nutritional supplements here at 1-800-HEALTHY.COM.

18H001

The Power of Purity

We make sure our supplements avoid extended stays in warehouses, and that your packages are at their best once they arrive in your home. We send fresh from the producer (when possible) and bypass middlemen. That means better quality supplements for you. We take pride in every step of our service, too—from the moment you interact with us on our website or on the phone, to the delivery of your supplements ... and everything in between. That's why we guarantee a perfect supplement delivery for you. It's all part of how 1-800-HEALTHY.COM is changing the way America buys supplements.

Newsletter Signup Get your FREE subscription to *The Healthy Herald*. This FREE newsletter will keep you informed so you can live your best life—filled with freedom. Get quick tips and news. Receive exclusive product offers and more, every week. Privacy Guaranteed.

E-mail Address | First | Last | Sign Up

Questions? We're Here to Help You!

If you have product questions or need help with your order, please contact our Customer Service Team.

Call Us: 1-800-HEALTHY (1-800-432-5849)

Email Us: support@1800healthy.com.

Shop With Confidence

Be Safe and Secure. Guaranteed!

You'll pay nothing if unauthorized charges are made to your credit card as a result of shopping at 1-800-HEALTHY.COM. See our Safe Shopping Guarantee.

VeriSign Trustwave

All information is encrypted and transmitted without risk using a Secure Sockets Layer (SSL) protocol. Learn How We Protect Your Personal Data.

Free Shipping & Hassle-Free Returns

If, for any reason, you're unsatisfied with your purchase, return the unused portion for a prompt and courteous refund or exchange. Read our Shipping and Return Policies.

Privacy Policy

We respect your privacy. Rest assured. We don't rent or sell your personal information to anyone for any reason. Read our full Privacy Policy.

How Do You Like Our Website? We'd like to get your feedback.

Supplements

- Vitalive®
- LifeQ10®
- Chomega®
- Rejuva®
- Osticare®
- Optichol®

Value Packages

- HealthPak®
- Ageless HealthPak™
- Cholesterol HealthPak™

healthy.com Search Results

Results **1 - 10** for **nutrition.** (**0.49** seconds)

Vitamins and Supplements Made Easy | 1-800-HEALTHY.COM | Free Shipping

You grow old on the days your **nutrition** is poor. Vitalive surrounds you with a wall of **nutritional** protection to help you live better now. ...
www.1800healthy.com/

Hair, Skin & Nails

When you nourish your skin, hair and nails with good **nutrition**, ... Proper **nutrition** and moisture retention give you lustrous, strong nails and thick, ...
www.1800healthy.com/Hair-Skin-Nails

Nutrition & Ingredient Glossary

Nutrition & Ingredient Glossary. Adaptogens. Adaptogens are any natural, herbal compound ... As a **nutritional** supplement and/or constituent of bread-making, ...
www.1800healthy.com/**Nutrition**-Ingredient-Glossary

Hair Skin & Nails

And here's an added bonus these same principles for skin care extend to your hair and nails Proper **nutrition** and moisture retention give you lustrous strong ...
www.1800healthy.com/Home/Hair-Skin-Nails

Fitness Challenge

For this reason, there are some fundamentals of **nutrition** that apply to every one who's moving and shaking. Whether it's tearing up some trails on your ...
www.1800healthy.com/Fitness

Company Overview

The Web's Fastest Growing **Nutritional** Supplement Store. Welcome Were glad youre here 1800HEALTHYCOM is the **nutrition** authority for the world's most ...
www.1800healthy.com/Home/Company-Overview

Fatigue

Osticare's combination of magnesium and calcium is the best **nutritional** lullaby Many of our customers wont ... You Grow Old On Days Your **Nutrition** Is Poor ...
www.1800healthy.com/Home/Fatigue

Golf Course

Nutrition Is the Key to Getting The Most Out Of Your Game ... Good **nutrition** is one of them In fact along with hydration **nutrition** is one of the tactics ...
www.1800healthy.com/Home/Golf-Course

Mental Concentration

When we skimp on **nutrition** – which most Americans do – our brain loses out big ... Americans bodies are hungry for some good **nutrition** And if our bodies are ...
www.1800healthy.com/Home/Mental-Concentration

Campaign Trail

While it cant replace every area of health you neglect on the campaign trail good **nutrition** can help tremendously And when a good homecooked meal is weeks ...
www.1800healthy.com/Home/Campaign-Trail

Chomega®
Rejuva®
Osticare®
Opticho®
Value Packages
HealthPak®
Ageless HealthPak™
Cholesterol HealthPak™

Nutrition & Ingre... Glossary
Health, Beauty & Fitness Reports
Interviews with Top Doctors
The Healthy Herald™
Wellness Week™
Healthy Q&A

Partner Information
Our Unconditional Guarantee
Meet our Wellness Advisors
Our Dedication to Quality
LifeLab™
Vuru®
Healthy.com
Healthy TV®

Hassle... Returns
How to Order
Download an Order Form
FAQs—Product Questions
FAQs—Service Questions
Quality & Satisfaction Guarantee
Safe Shopping Guarantee
Refill Rewards Replenishment

Share Ratings & Reviews
Give Your Testimonial
Ask Health Questions
My Account
Policies & Terms of Use
Sitemap

Supplements Made Easy®

Welcome to 1-800-HEALTHY.COM—the nutrition store for health enthusiasts who know and appreciate the best. We deliver doctor-recommended vitamins and nutritional supplements to your door—saving you time and money. We're supplement specialists, with a unique selection of advanced formulations. All are backed by our exclusive, Feel Good or It's Free, 365-Day Satisfaction Guarantee. Along with our unmatched supplements and risk-free guarantee, you'll enjoy Fast Service, Free Shipping, and Big Savings of up to 55%. So, whether you're looking to rejuvenate your skin, or revitalize your whole-body, you'll find exactly what you want here at 1-800-HEALTHY.COM. We simplify supplements.

Driven by Service

Our guiding principle is the Golden Rule—treat others as you wish to be treated. And as such, your well-being is our top priority. Our mission is to help you enjoy the benefits of premium quality nutritional supplements, as part of a healthy lifestyle, so you can live your dreams. Now's the time to invest in your wellness! Make your body a better place to live. Get rid of that heavy, half-sick feeling once and for all. You'll find the absolute best service and superior nutritional supplements here at 1-800-HEALTHY.COM.

The Power of Purity

We make sure our supplements avoid extended stays in warehouses, and that your packages are at their best once they arrive in your home. We send fresh from the producer (when possible) and bypass middlemen. That means better quality supplements for you. We take pride in every step of our service, too—from the moment you interact with us on our website or on the phone, to the delivery of your supplements ... and everything in between. That's why we guarantee a perfect supplement delivery for you. It's all part of how 1-800-HEALTHY.COM is changing the way America buys supplements.

Newsletter Signup

Get your FREE subscription to *The Healthy Herald*. This FREE newsletter will keep you informed so you can live your best life—filled with freedom. Get quick tips and news. Receive exclusive product offers and more, every week. Privacy Guaranteed.

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Questions? We're Here to Help You!

If you have product questions or need help with your order, please contact our Customer Service Team.

Call Us: 1-800-HEALTHY (1-800-432-5849)

Email Us: support@1800healthy.com.

Shop With Confidence

Be Safe and Secure. Guaranteed!

You'll pay nothing if unauthorized charges are made to your credit card as a result of shopping at 1-800-HEALTHY.COM. See our Safe Shopping Guarantee.

VeriSign Trustwave

All information is encrypted and transmitted without risk using a Secure Sockets Layer (SSL) protocol. Learn How We Protect Your Personal Data.

Free Shipping & Hassle-Free Returns

If, for any reason, you're unsatisfied with your purchase, return the unused portion for a prompt and courteous refund or exchange. Read our Shipping and Return Policies.

Privacy Policy

We respect your privacy. Rest assured. We don't rent or sell your personal information to anyone for any reason. Read our full Privacy Policy.

How Do You Like Our Website? We'd like to get your feedback.

1800healthy.com
SUPPLEMENTS MADE EASY

Fast & Free Shipping
365-Day Money Back Guarantee

Supplements
Vitalive®
LifeQ10®
Chomega®
Rejuva®
Osticare®
Optichol®

Value Packages
HealthPak®
Ageless HealthPak™
Cholesterol HealthPak™

healthy.com Search Results

Results 1 - 10 for vitamins. (0.23 seconds)

Vitamins and Supplements Made Easy | 1-800-HEALTHY.COM | Free Shipping
We deliver doctor-recommended vitamins and nutritional supplements to your door—saving you time and money. We're supplement specialists, with a unique ...
www.1800healthy.com/

Nutritional Supplements Made Easy | Advisors | 1-800-HEALTHY.COM
He follows emerging vitamin D, antioxidant, and nutritional science, ... That's because they often have an even greater need for vitamins and minerals. ...
www.1800healthy.com/Meet-our-Wellness-Advisors

FAQs Product Questions
How do I find vitamins and nutritional supplements without additives. Not all vitamins and supplements are created equal Nutrient sources forms potencies ...
www.1800healthy.com/Home/FAQs-Product

Bones & Joints
Protect your bones and your joints with a good supply of the necessary construction materials calcium magnesium potassium and Vitamin D OstiCare contains ...
www.1800healthy.com/Home/Bones-Joints

1800healthy.com
SUPPLEMENTS MADE EASY

Fast & Free Shipping
365-Day Money Back Guarantee

About Us

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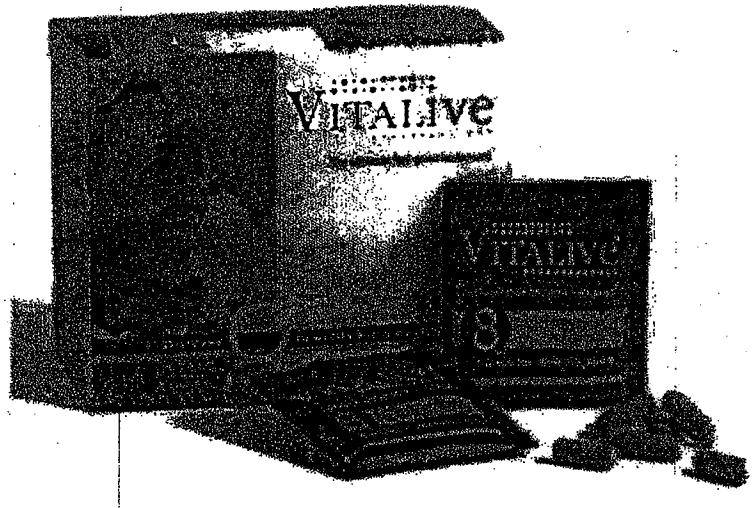
Healthy.com, the health search engine, powers your searches at 1-800-HEALTHY.COM.

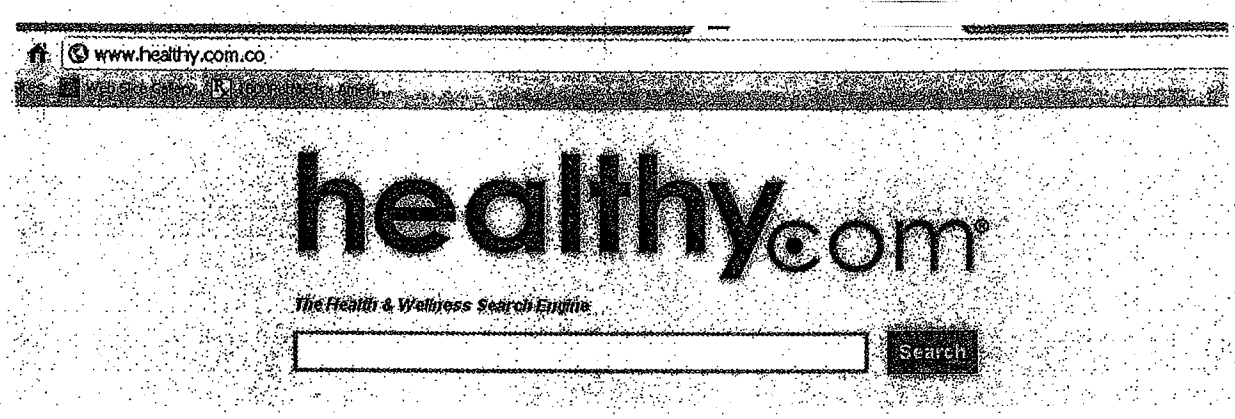
The mission of Healthy.com is to organize the world's health information so you can learn, find and buy exactly what you want.

Quickly find what you need to cultivate vitality and grow your wellness.



Buy Vitalive Now »

EXHIBIT C



The Health Search Engine

www.healthy.com.co

Suggested Sites... Web Slice Gallery 1800healthy Email

healthy.com®

The Health & Wellness Search Engine

chomega Search

Omega-3 Fish Oil | Best Fish Oil Supplement | Choline | **Chomega**

Chomega®. Why risk your health with a low-quality fish oil? **Chomega** is the ultimate omega-3 for mental, emotional & physical health. ...
www.1800healthy.com/**Chomega**

Chomega Product Reviews and Ratings - Supplements - **Chomega** from 1 ...

Research **Chomega** Product Reviews and Ratings - Supplements - **Chomega** from 1-800- HEALTHY.COM. Nourish your brain, heart, joints, skin and hair with **Chomega**.
reviews.1800healthy.com/.../**Chomega**/p/**Chomega**-**Chomega**.html

Nutritional Supplements | Vitamins, Omega-3 Fish Oil, CoQ10 & More ...

Chomega is the ultimate omega-3 for mental, emotional & physical health. Supports healthy mood, weight, joints and heart health. ...
www.1800healthy.com/Supplements

A healthy diet plan with the best weight loss supplements

Chomega is the ultimate omega-3 for mental, emotional & physical health. Supports healthy mood, weight, joints and heart health. Feel the power of purity ...
www.1800healthy.com/Weight_2

Ageless HealthPak™

Chomega is the ultimate omega-3 for mental, emotional & physical health. ... Contains a month's supply of Vitalive,

healthy.com®

The Health & Wellness Search Engine

cholesterol test | Search

Ads by Google

Cholesterol Levels
www.improvecholesterollevels.com Learn about good & bad **cholesterol** and get important treatment info.

Cholesterol Guidelines
www.**cholesterol**-medicine.com Learn About **Cholesterol** Numbers, Tracking Progress, And A Treatment.

What is High Cholesterol?
www.high-**cholesterol**-rx-treatment.com Learn About Types of **Cholesterol** and a **Cholesterol** Treatment Option

Cholesterol and Triglycerides Blood Test Types
Aug 13, 2009 ... **Cholesterol** and triglyceride **tests** are blood **tests** that measure the total amount of fatty substances (**cholesterol** and triglycerides) in the ...
www.webmd.com/**cholesterol**.../**cholesterol**-and-triglycerides-**tests**

Tests for High Cholesterol (Lipid Panel)
WebMD explains the tests used to diagnose high cholesterol, including a total **cholesterol test**, lipoprotein analysis, lipid panel, and LDL test.
www.webmd.com/**cholesterol**.../tests-for-high-**cholesterol**-lipid-panel

High Cholesterol Tests and Test Results Chart

Ads by Google

Affordable Blood Tests
Save up to 50% on Affordable Blood **Tests**, near your zip code.
www.econolabs.com

Cholesterol Test Kit
Test your **Cholesterol** frm Home.Fast Easy Results, Fast Ship, Shop & Save
www.dmesupplygroup.com/**CholesterolTest**
Otoscopes & Opthalmoscopes - Thermometers

Buy Cholesterol Test
Buy **Cholesterol Test**. 20% Off 1st Order & Free Shipping.
www.drugstore.com/**Cholesterol+Test**
drugstore.com is rated ★★★★★ (26827 reviews)

Dr. Stephen Sinatra
Shop Official Site & Get $10 Off + Free Shipping

EXHIBIT D

Whois History for Healthy.com on 2002-01-10

Enter a domain name to get its history

Domain Name: healthy.com Search

Next »

Domain: healthy.com - Whois History
Cache Date: 2002-01-10
Registrar: NETWORK SOLUTIONS, INC.
Server: whois.networksolutions.com
Created: 2001-01-10
Updated:
Expires: 2004-01-10
Reverse Whois: Click on an email address we found in this whois record to see which other domains the registrant is associated with: administrator@higherhealth.com, tech@higherhealth.com

Registrant:
ConvergenceHealth.com
171 Pier Avenue, Suite 160
Santa Monica, CA 90405
US

Domain Name: HEALTHY.COM

Administrative Contact:
Administrator administrator@HIGHERHEALTH.COM
ConvergenceHealth.com
171 Pier Avenue, Suite 160
Santa Monica , CA 90405
US
(310) 581-2508
Fax- (310) 581-5309
Technical Contact:
Technical Contact tech@HIGHERHEALTH.COM
ConvergenceHealth.com
171 Pier Avenue, Suite 160
Santa Monica , CA 90405
US
(310) 581-2508
Fax- (310) 581-5309

Record last updated on 10-Jan-2002
Record expires on 10-Jan-2004
Record created on 10-Jan-2001
Database last updated on 11-Jan-2002 15:00:24 EST

Domain servers in listed order:

NS2.THEWEBZONE.NET 209.66.74.10
NS1.THEWEBZONE.NET 209.66.74.51

EXHIBIT E

Whois History for Healthy.com on 2002-11-10

Enter a domain name to get its history

Domain Name: healthy.com Search

« Previous Next »

Domain: healthy.com - Whois History
Cache Date: 2002-11-10
Registrar: NETWORK SOLUTIONS, INC.
Server: whois.networksolutions.com
Created:
Updated:
Expires:
Reverse Whois: Click on an email address we found in this whois record to see which other domains the registrant is associated with:
dave@knowmax.com

Registrant:
Robertson, Dave (TBLRUCMOKD)
10751 LAKEWOOD BLVD G
DOWNEY, CA 90241-3561
US

Domain Name: HEALTHY.COM

Administrative Contact, Technical Contact:
Robertson, Dave (DR18282) dave@KNOWMAX.COM
Robertson,Dave
10751 LAKEWOOD BLVD STE G
DOWNEY, CA 90241-3561
US
562 8625202

Record expires on 10-Jan-2004.
Record created on 31-Jul-2002.

Domain servers in listed order:

NS1.ENFUSE.NET 216.31.176.22
NS2.ENFUSE.NET 216.31.178.52

Whois History for Healthy.com on 2008-01-31

Enter a domain name to get its history

Domain Name: healthy.com Search

« Previous Next »

Domain: healthy.com - Whois History
Cache Date: 2008-01-31
Registrar: NETWORK SOLUTIONS, LLC.
Server: whois.networksolutions.com
Created: 1994-08-23
Updated: 2007-05-15
Expires: 2010-08-22
Reverse Whois: Click on an email address we found in this whois record to see which other domains the registrant is associated with: dave@knowrules.com

Registrant:
Robertson, Dave
Knowmax
10339 Tristan dr
Downey, CA 90241
US

Domain Name: HEALTHY.COM

Administrative Contact, Technical Contact:
Robertson, Dave dave@knowrules.com
Knowmax
10339 Tristan dr
Downey, CA 90241
US
562-862-5202

Record expires on 22-Aug-2010.
Record created on 23-Aug-1994.

Domain servers in listed order:

NS15.WORLDNIC.COM 205.178.190.8
NS16.WORLDNIC.COM 205.178.189.8

Whois History for Healthy.com on 2009-04-23

Enter a domain name to get its history

Domain Name: healthy.com Search

« Previous Next »

Domain: healthy.com - Whois History
Cache Date: 2009-04-23
Registrar: NETWORK SOLUTIONS, LLC.
Server: whois.networksolutions.com
Created: 1994-08-23
Updated: 2008-04-08
Expires: 2010-08-22
Reverse Whois: Click on an email address we found in this whois record to see which other domains the registrant is associated with: dave@knowrules.com

```
Registrant:
Robertson, Dave
   Knowrules
   10339 Tristan dr
   10751 G lakewood blvd
   Downey, CA 90241
   US

Domain Name: HEALTHY.COM

Administrative Contact, Technical Contact:
   Robertson, Dave          dave@knowrules.com
   Knowrules
   10339 Tristan dr
   10751 G lakewood blvd
   Downey, CA 90241
   US
   562-862-5202

Record expires on 22-Aug-2010.
Record created on 23-Aug-1994.

Domain servers in listed order:

NS1.BAPTISD.COM                208.78.243.71
NS2.BAPTISD.COM                208.78.243.72
```

EXHIBIT F

Whois History for Healthy.com on 2010-07-03

Enter a domain name to get its history

Domain Name: healthy.com Search

« Previous Next »

Domain: healthy.com - Whois History
Cache Date: 2010-07-03
Registrar: NETWORK SOLUTIONS, LLC.
Server: whois.networksolutions.com
Created: 1994-08-22
Updated: 2010-02-19
Expires: 2015-08-22
Reverse Whois: Click on an email address we found in this whois record to see which other domains the registrant is associated with: daveeknowrules.com

```
Registrant:
healthy.com INC
    10751 G lakewood blvd
    Downey, CA 90241
    US

   Domain Name: HEALTHY.COM

   Administrative Contact, Technical Contact:
      healthy.com INC          daveeknowrules.com
      10751 G lakewood blvd
      Downey, CA 90241
      US
      562-862-5202

   Record expires on 22-Aug-2015.
   Record created on 21-Aug-1994.

   Domain servers in listed order:

   NS1.BAFFLED.COM                208.76.241.72
   NS2.BAFFLED.COM                208.76.243.72
```

EXHIBIT G

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

Reg. No. 2,702,920

United States Patent and Trademark Office

Registered Apr. 1, 2003

TRADEMARK
PRINCIPAL REGISTER

1800HEALTHY.COM

1-800-HEALTHY.COM, INC. (DELAWARE CORPORATION)
1437 OLD SQUARE ROAD SUITE #106
JACKSON, MS 39211

FOR: PRESCRIPTION PHARMACEUTICAL PREPARATIONS AVAILABLE TO CONSUMERS THROUGH MAIL ORDER PHARMACY SERVICES, FOR USE IN A VARIETY OF HEALTHCARE APPLICATIONS, INCLUDING THE TREATMENT OF DISEASES EFFECTING ORGANS, MEMBRANES, CELLS AND CHROMOSOMES, METABOLISM, HOMOEOSTASIS, AND THE HEALTH OF BODY SYSTEMS, NAMELY, THE ENDOCRINE, SKELETAL AND SKIN, MUSCULAR, CARDIO-VASCULAR, LYMPH-VASCULAR, DIGESTIVE, EXCRETORY, RESPIRATORY, NERVOUS, AND REPRODUCTIVE SYSTEMS; NUTRITIONAL PRODUCTS, NAMELY, NUTRITIONAL SUPPLEMENTS, MEAL REPLACEMENT SUPPLEMENTS, HERBAL SUPPLEMENTS, VITAMIN SUPPLEMENTS, MINERAL SUPPLEMENTS, AMINO ACID SUPPLEMENTS, AND NUTRACEUTICAL SUPPLEMENTS IN THE FOLLOWING DOSAGE FORMS - POWDERS, BARS, LIQUIDS, CAPSULES, SOFTGELS AND TABLETS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 2-10-2000; IN COMMERCE 2-10-2000.

SN 75-983,082, FILED 8-3-1999.

PAM WILLIS, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,908,889

Registered Dec. 7, 2004

SERVICE MARK
PRINCIPAL REGISTER

1-800-HEALTHY.COM

1-800-HEALTHY.COM, INC. (DELAWARE CORPORATION)
1437 OLD SQUARE ROAD, SUITE #106
JACKSON, MS 39211

FOR: TELEPHONE SHOP AT HOME SERVICES AND ON-LINE ORDERING SERVICES FEATURING DIETARY SUPPLEMENTS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 5-0-2004; IN COMMERCE 5-0-2004.

SN 75-771,490, FILED 8-3-1999.

PAM WILLIS, EXAMINING ATTORNEY

United States of America
United States Patent and Trademark Office

HEALTHY TV

Reg. No. 3,920,303

Registered Feb. 15, 2011

Int. Cl.: 38

SERVICE MARK

PRINCIPAL REGISTER

1-800-HEALTHY.COM, INC. (DELAWARE CORPORATION)
834 WILSON DRIVE, SUITE B
RIDGELAND, MS 39157

FOR: STREAMING AUDIO AND VIDEO MATERIAL OVER THE INTERNET IN THE FIELD OF PHYSICAL AND MENTAL WELLNESS, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 3-5-2010; IN COMMERCE 3-5-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TV", APART FROM THE MARK AS SHOWN.

SN 77-621,270, FILED 11-25-2008.

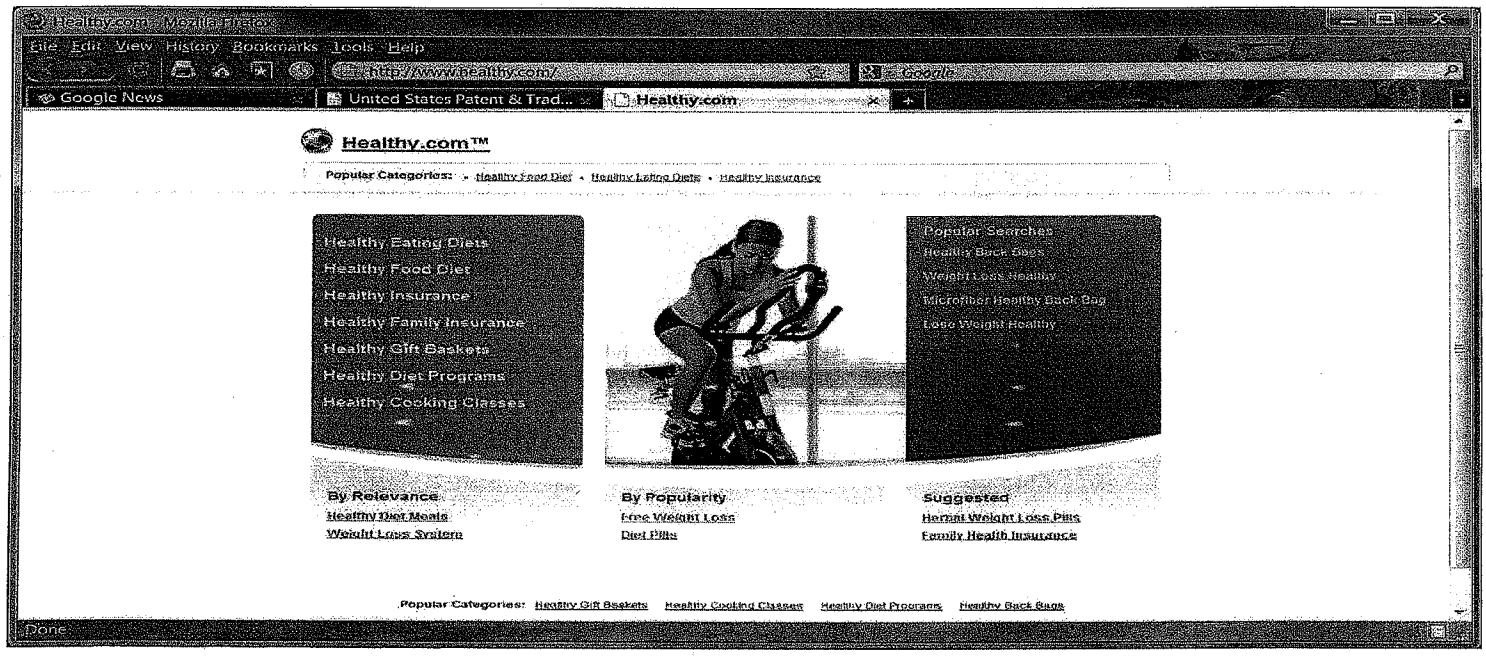
KEVON CHISOLM, EXAMINING ATTORNEY

David J. Kappos

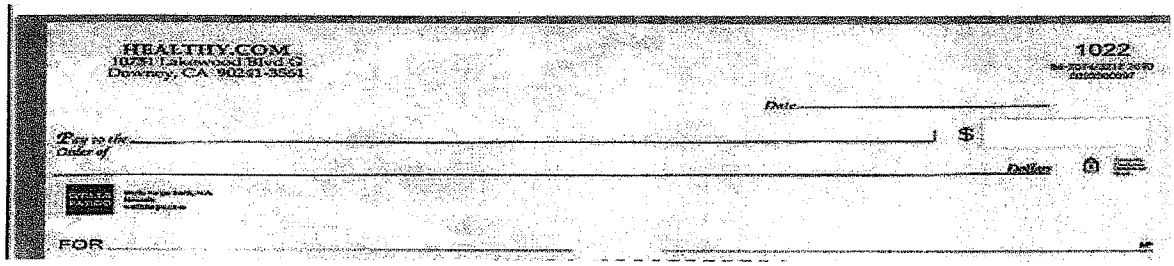
Director of the United States Patent and Trademark Office

EXHIBIT H

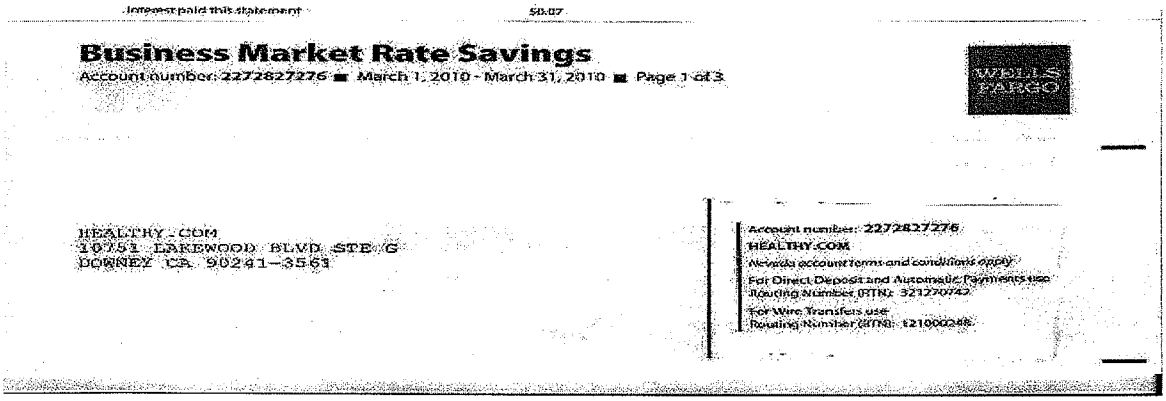
Past website



Current Check Acct--



Current Bank acct



Current Email

---BeWell---
Dave Robertson
(562) 8625202
dave@healthy.com

Domain ownership--created in 1994

Healthy.com—Whois registration
Visit AboutUs.org for more information about HEALTHY.COM AboutUs: HEALTHY.COM
Registrant: Make this info private

Robertson, Dave
10339 Tristan dr
10751 G lakewood blvd
Downey, CA 90241
US

Domain Name: HEALTHY.COM
Administrative Contact , Technical Contact :
Robertson, Dave
dave@knowrules.com
10339 Tristan dr
10751 G lakewood blvd
Downey, CA 90241
US
Phone: 562-862-5202

Record expires on 22-Aug-2010
Record created on 23-Aug-1994
Database last updated on 27-Jun-2006
Domain servers in listed order:
NS1.BAFFLED.COM
NS2.BAFFLED.COM

Renew this domain

Manage DNS
208.78.243.71
208.78.243.72

Current Registrar:	NETWORK SOLUTIONS, LLC.
IP Address:	208.78.243.85 (ARIN & RIPE IP search)
IP Location:	US(UNITED STATES)-CALIFORNIA-SAN JOSE
Record Type:	Domain Name
Server Type:	Apache 2
Lock Status:	clientTransferProhibited
	Active
WebSite Status:	

====Current site- 5/2011

EXHIBIT I

INTERNET ARCHIVE
WaybackMachine

Enter Web Address: http:// All Take Me Back Adv. Search Compare Archive Pages

Searched for http://www.healthy.com

36 Results

NEW! A beta version of an updated Wayback Machine interface and index (with more recent results) is now in testing! You can try <http://www.healthy.com> at the test site waybackmachine.org for improved results. Note that availability and functionality of the beta will fluctuate during the test period.

Note some duplicates are not shown. See all.
* denotes when site was updated.
Material typically becomes available here 6 months or more after collection, with some exceptions See FAQ.

Archived Results from Jan 01, 1996 - latest

1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
0 pages	2 pages	1 pages	3 pages	9 pages	4 pages	1 pages	0 pages	0 pages	0 pages	0 pages	7 pages	6 pages	0 pages	0 pages	0 pages
	Jun 06, 1997 * Nov 09, 1997 *	Dec 12, 1998 *	Jan 25, 1999 * Feb 08, 1999 Apr 20, 1999 *	Mar 01, 2000 * Mar 02, 2000 May 10, 2000 May 20, 2000 Jun 22, 2000 Jul 07, 2000 Aug 16, 2000 Oct 19, 2000 Nov 09, 2000	Apr 05, 2001 * Apr 16, 2001 Jul 20, 2001 Nov 30, 2001	Mar 28, 2002					May 29, 2007 * Jul 01, 2007 * Aug 03, 2007 * Oct 14, 2007 * Oct 21, 2007 * Nov 21, 2007 * Dec 21, 2007 *	Jan 22, 2008 Feb 24, 2008 Apr 24, 2008 * May 26, 2008 Jun 25, 2008 * Jul 29, 2008			

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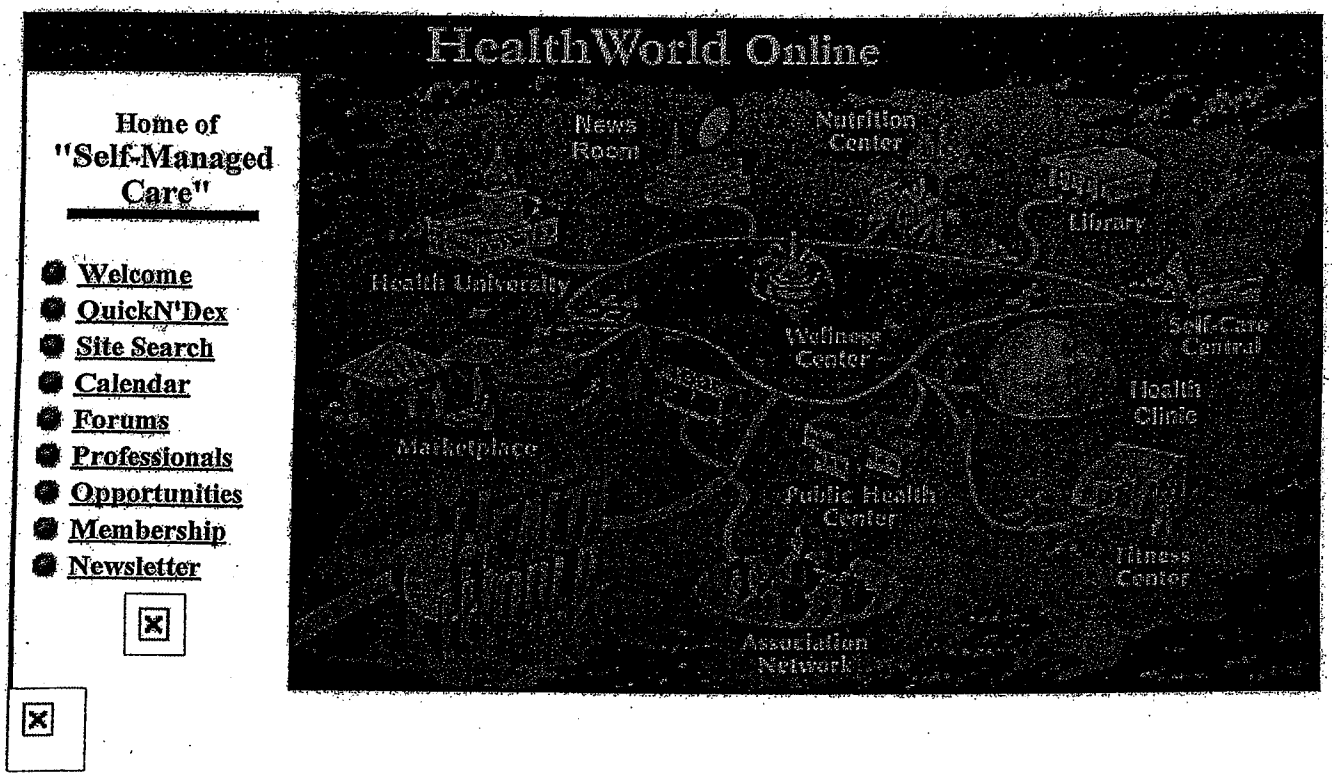

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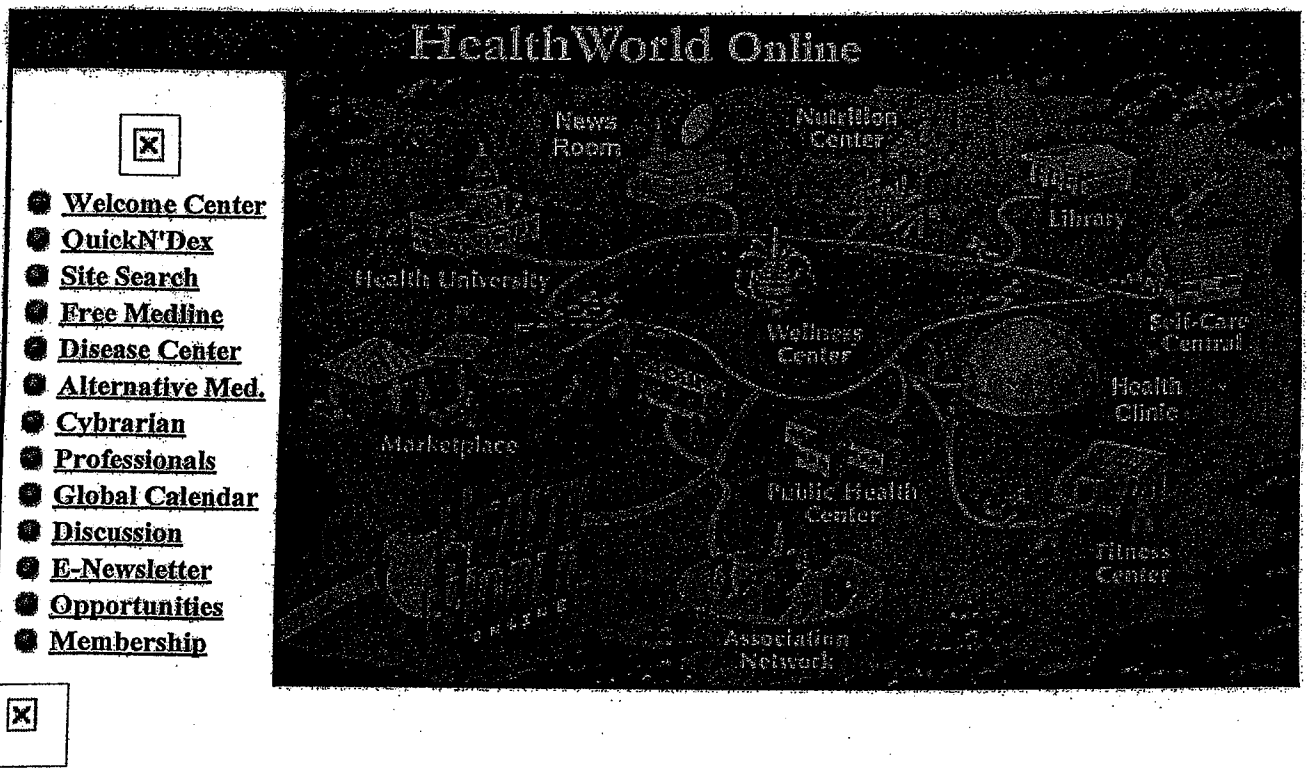

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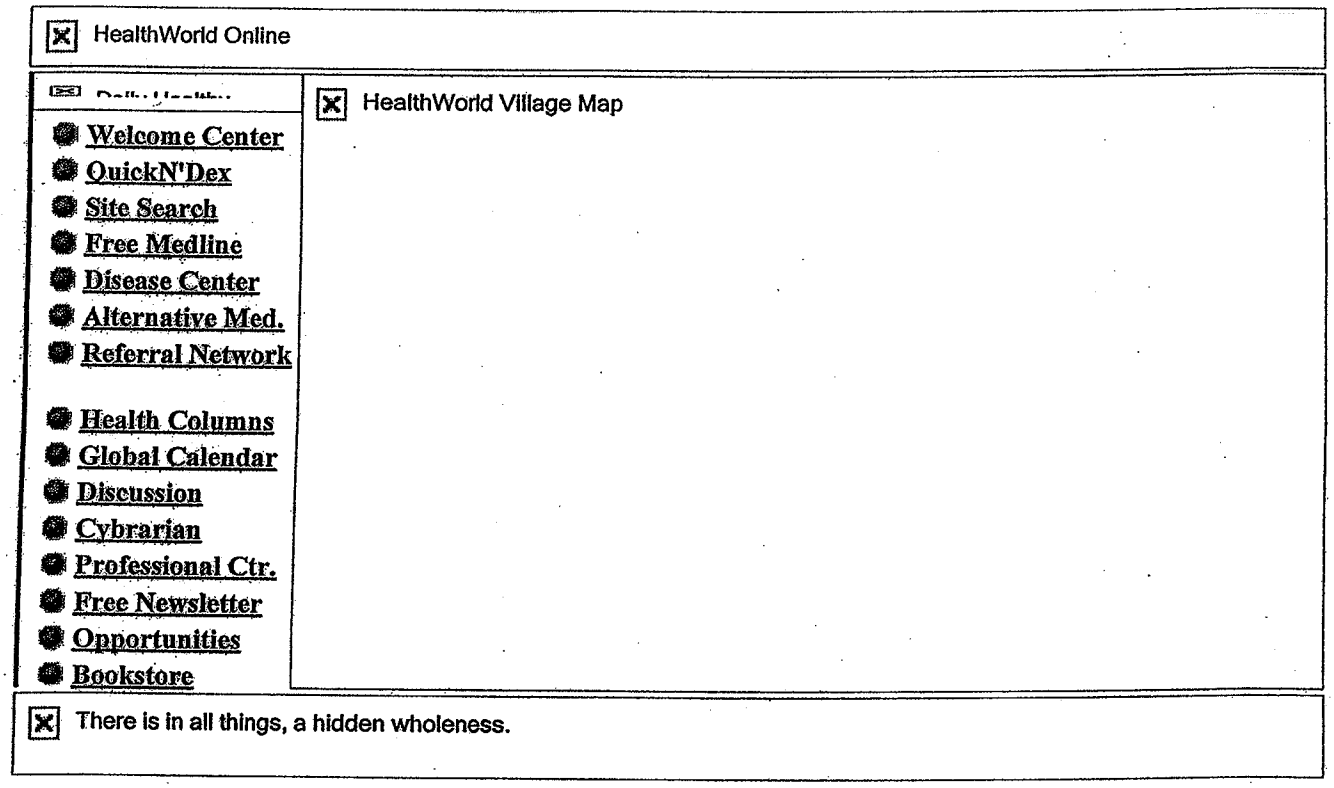

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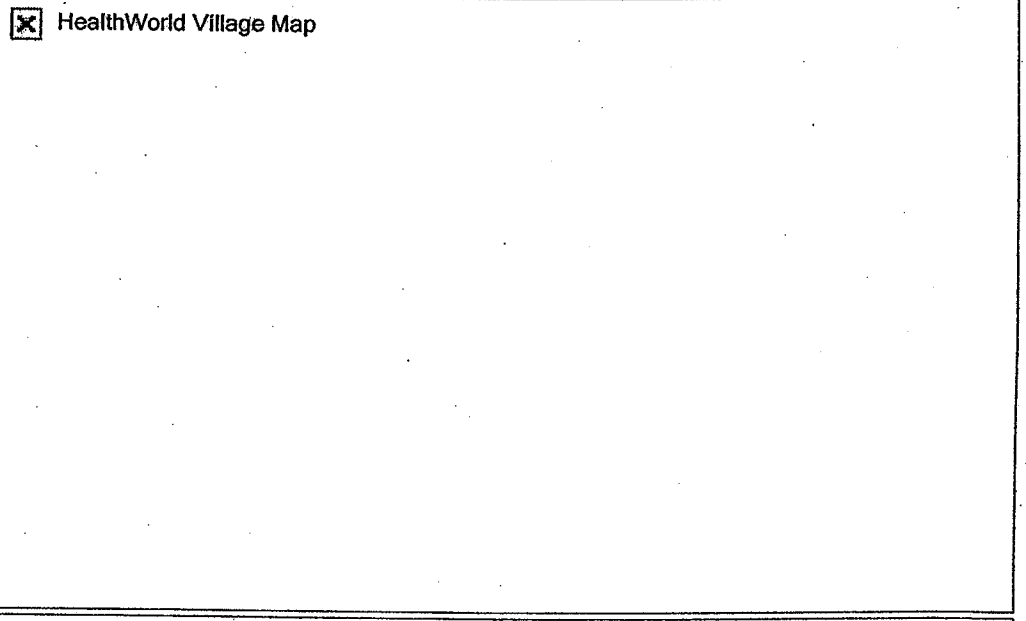

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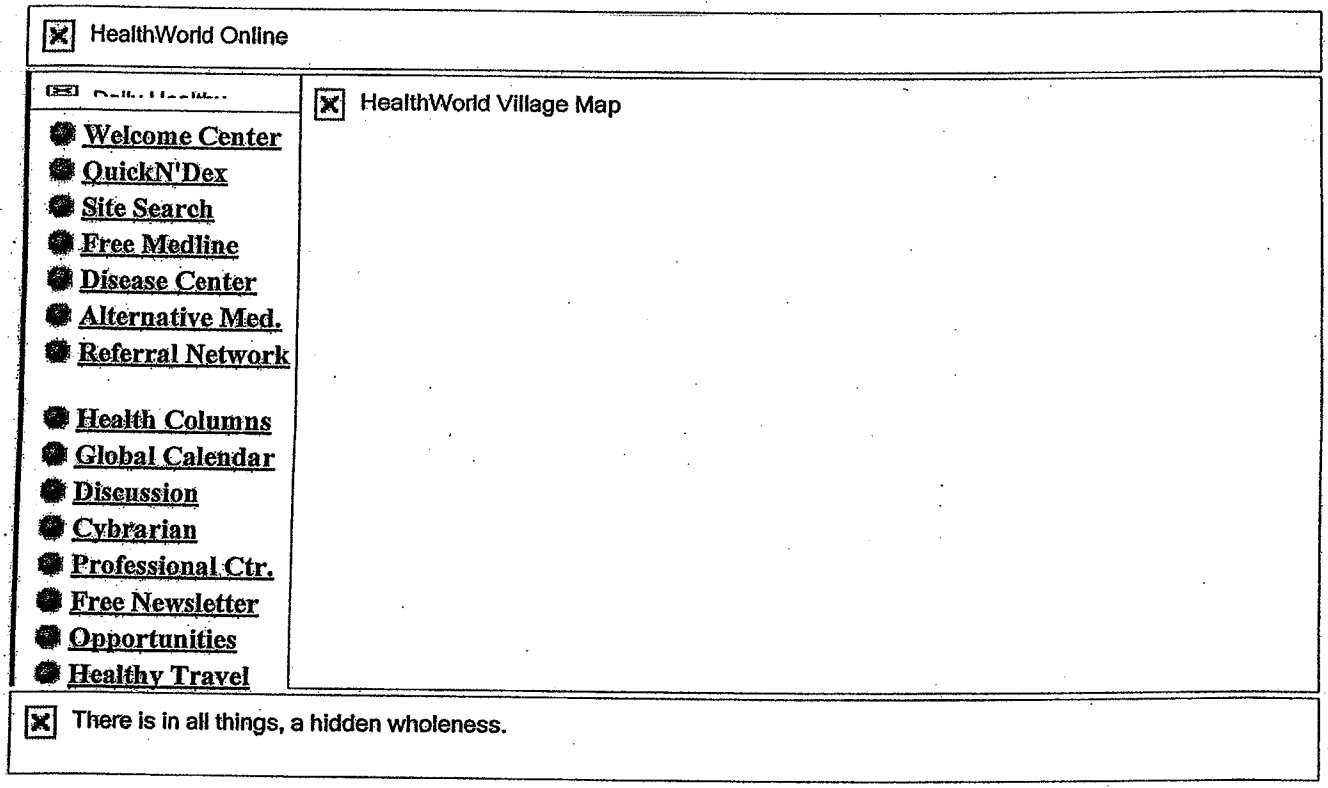

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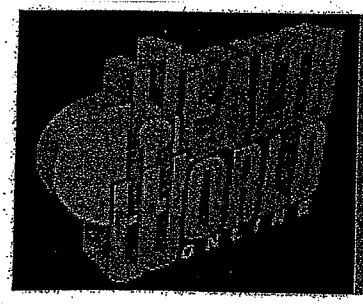

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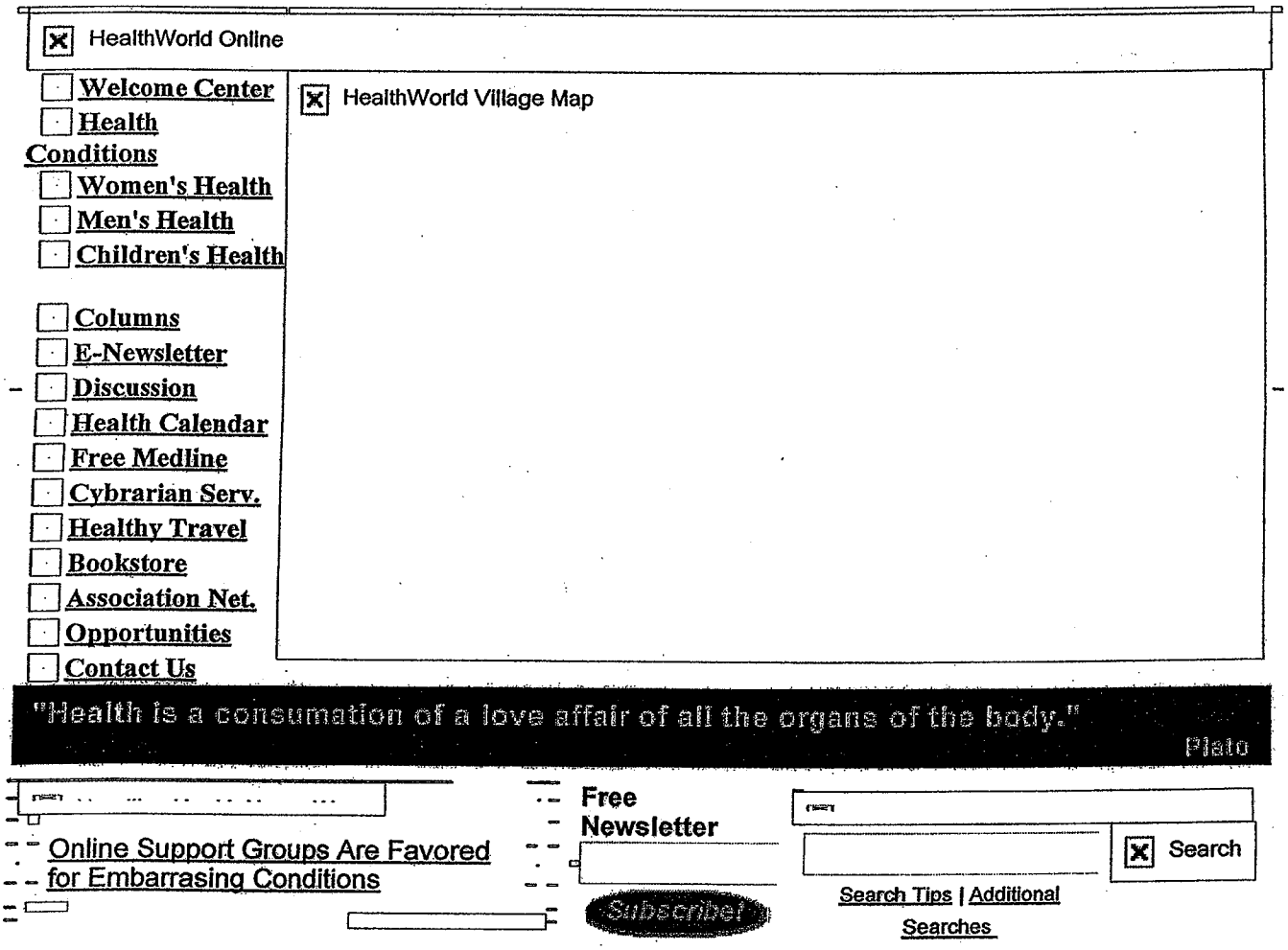

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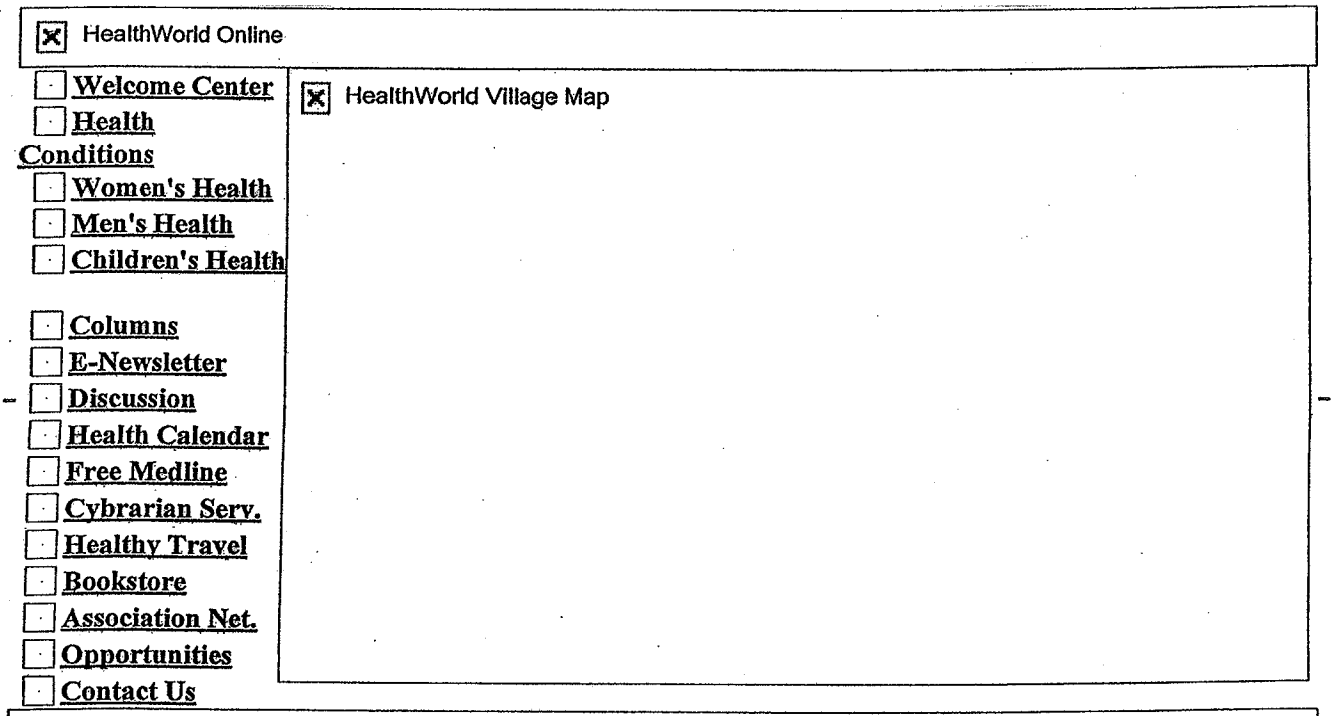

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"The art of medicine consists of amusing the patient while Nature cures the disease."
Voltaire

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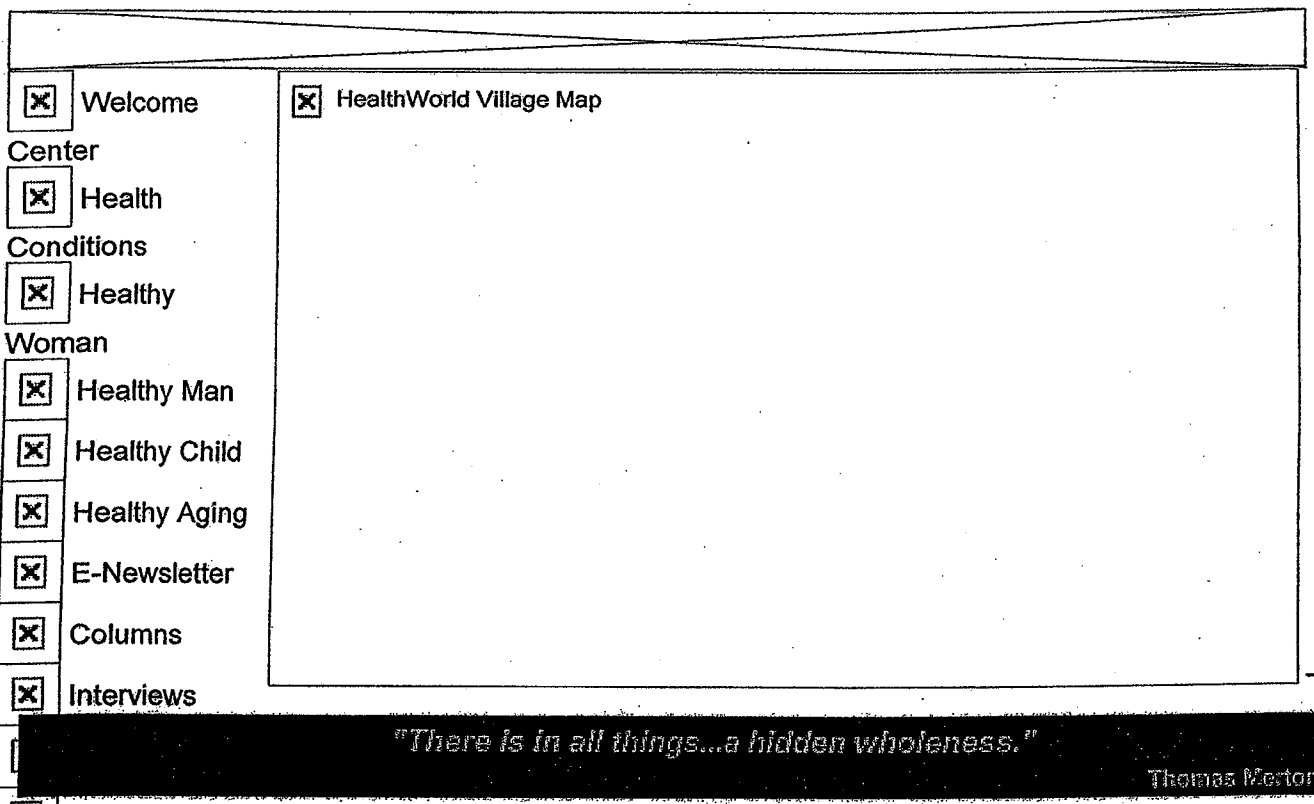

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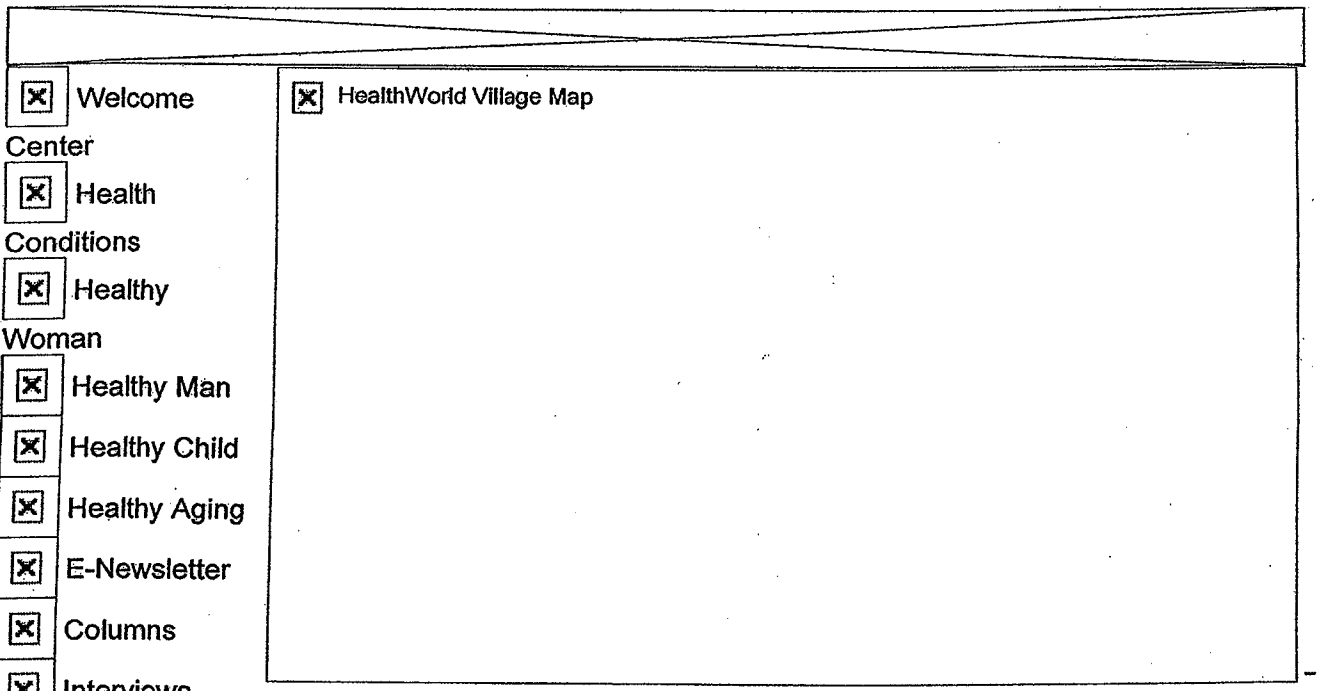

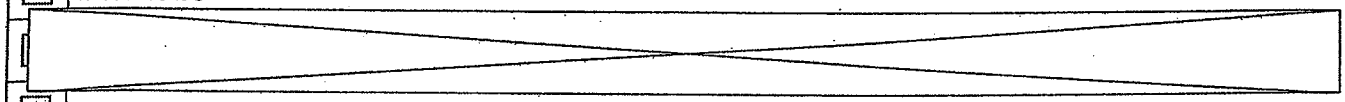

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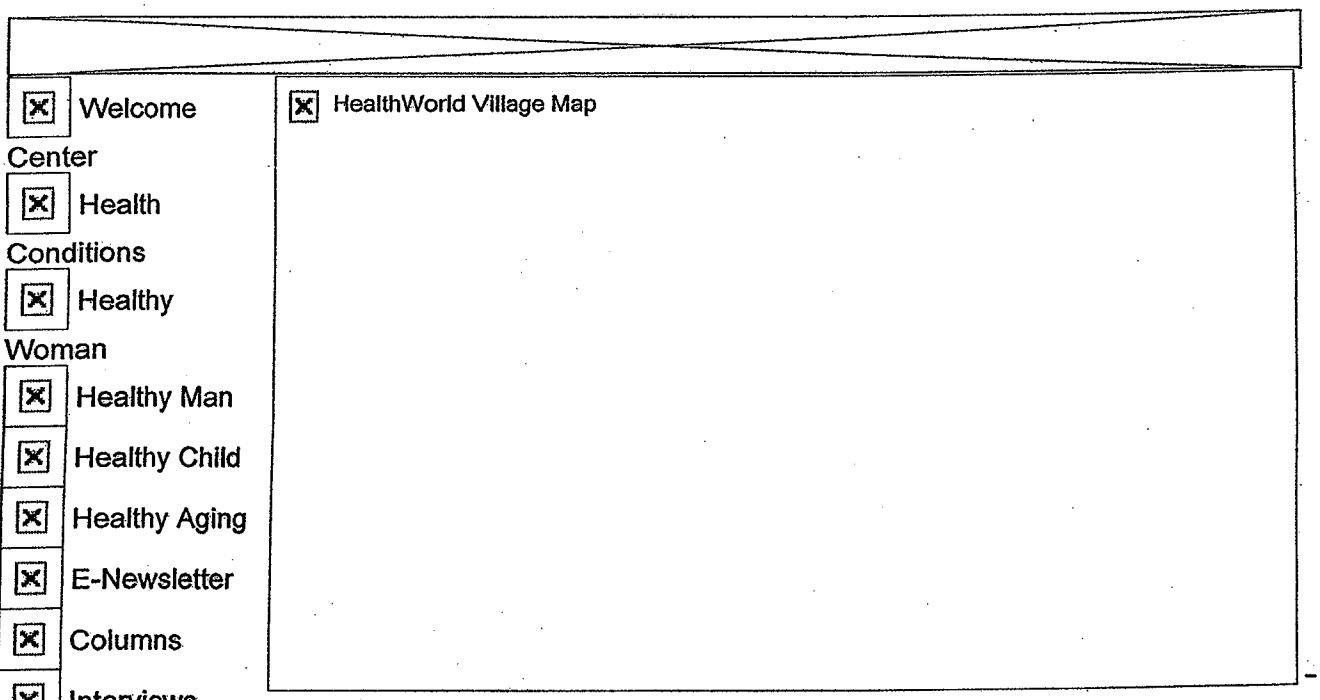

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Educational Institutes
Medical Schools

Natural Health Library

Daily Health Newswire
Columns from Experts
Leading Edge Interviews
Medical Reference
MEDLINE Search
Cybrarian Service
Health Audio Library
Govt. Health Information

Professional Center

Professional's Guide
Key Resources
Prof. Research Center
Professional Referrals
Prof. Services
Prof. Resource Center

Association Network

Professional Associations
Consumer Health Groups
Consumer Org. Database

Wellness Center

Mind/Body Health
Mind/Body Exercises
Healthy Brain
Healthy Aging
Healthy Stress
Spirituality & Health
Creative Journal

Discussion

Health Freedom
Gen. Modified Food
Integrative Health Care
Vaccination Question
Mind-Body-Spirit Health
Qigong/Taiji
About Forum Managers

E-Newsletters

Healthy Update
NPICenter Update
Healthy Travel Update

Interviews

Nutrition Experts
New Paradigm Leaders
Making a Difference Leaders in Self-Care

Expert Columns

Integrative Medicine
Natural Medicine Res.
Mind/Body Health
Mind Over Matter
Under. Homeopathy
The Healer Within
Keeping Fit
Less Toxic Living
Healthy Recipes
Chinese Medicine
Echoes of Silence

Healthy Travel

Healthy Vacations
Spas Worldwide
Travel Club
Create your Own Group
Travel Resource Center
Travel Gear
Customer Service
Specials
Convention/Conferences
Newsletter

Speakers Network

Speaker Search
Tips for Speakers
Tips for Event Planners
Speaker's Application
Global Health Calendar
E-Mail Speakers Net.

NPICenter.com

Industry Newswire
Product Showcase
Company Profiles
Company Directories
Industry Regulations
Industry Calendar
Press Room
NPI StockWatch

EXHIBIT V

INTERNET ARCHIVE
WaybackMachine

Enter Web Address: http:// All Take Me Back Adv. Search

Data Retrieval Failure.

We're sorry. We were unable to retrieve the requested data. We may be experiencing technical difficulties and suggest that you try again later. See the FAQs for more info and help, or contact us.

EXHIBIT W

Microsoft VBScript runtime error '800a000d'

Type mismatch: '[string: "v"]'

/index.asp, line 216

EXHIBIT X

Microsoft VBScript runtime error '800a000d'

Type mismatch: '[string: "v"]'

/index.asp, line 216

EXHIBIT Y

Microsoft VBScript runtime error '800a000d'

Type mismatch: '[string: "v"]'

/index.asp, line 218

EXHIBIT Z

Microsoft VBScript runtime error '800a000d'

Type mismatch: '[string: "v"]'

/index.asp, line 218

EXHIBIT AA

Microsoft VBScript runtime error '800a000d'

Type mismatch: '[string: "v"]'

/index.asp, line 218

EXHIBIT BB

Microsoft VBScript runtime error '800a000d'

Type mismatch: '[string: "v"]'

/index.asp, line 218

EXHIBIT CC

Microsoft VBScript runtime error '800a000d'

Type mismatch: '[string: "v"]'

/index.asp, line 174

EXHIBIT DD

Popular Categories Travel • Financial Planning • E Commerce • Lifestyle • Real Estate

Buy a domain name as low as $14.99

.com .net .org
.mobi .biz .info
.eu .tv .us
Select all

Search

.mobi

Get Healthy
Enjoy greater health & wealth 6 Free Issues plus special reports.
http://web.archive.org/web/20070529224441/http://pagead2.googlesyndic
FJOjZ3qAHwI23AcDtGhABGAEgjIygBigKOABQvZzRugZgyb65h-CjtI
gDeugDyQPoA-wB9QNAAAAA&num=1&adurl=http://store.bottomline

I Lost 41lbs in 60 Days
Burn Fat, Gain Energy, Feel Great Guaranteed Results or It's Free!
MicroNutra.com

Nutritious Snack Crisps
Flat Earth Crisps Made With Real Fruit & Vegetables. No Trans Fat!
ImpossiblyGood.com

Weight Loss Secret #7
Lose 1 Jean Size Every 7 Days! Ancient Slimming Secret Revealed.
http://web.archive.org/web/20070529224441/http://pagead2.googlesyndic
sa=l&ai=B3JQN2axcRpz6IqXQaP7oxZAIjODXFKjfme8BwI23AcCLER
bCDEaABlJff_QOyAQtoZWFsdGh5LmNvbcgBAdoBE2h0dHA6Ly9oZ
gD7AH1A0AAAAA&num=4&ggladgrp=278713168&gglcreat=4133343

Lose 9 lbs. every 11 Days
Learn the 10 Idiot Proof Rules of Dieting & Fat Loss.
FatLoss4idiots.com

Complete Diet for Kids
Custom meal plans included. Custom exercise plan available.
45Pounds.com

Womens Health & Wellness
Get Answers from Real Women Where Women Go to Help Each Other
http://web.archive.org/web/20070529224441/http://pagead2.googlesyndic
sa=l&ai=Bh3RF2axcRpz6IqXQaP7oxZAIrK7iIIDYvJUCwI23AcDtGhA
bCDEbIBC2hlYWx0aHkuY29tyAEB2gETaHR0cDovL2hlYWx0aHkuY
-and-soul/staying_healthy/%3FCMP%3DKNC-DC_GAW_7&client=ca-c

Healthy Pet Net
Free Dog & Cat Food Sample Packs Healthy Products For Your Pets!
HealthyPetNet.com

Health Expressions
Health tips, product offers & more. Free newsletter. Sign up today!
HealthExpressions.com

18H010

Popular Categories Travel • Financial Planning • E Commerce • Lifestyle • Real Estate

Trademark F

18H010

EXHIBIT EE

NetworkSolutions.

Popular Categories Travel • Financial Planning • E Commerce • Lifestyle • Real Estate

Sponsored Listings

Get Healthy
Enjoy greater health & wealth 6 Free Issues plus special reports.
http://web.archive.org/web/20070701024806/http://pagead2.googlesyndic
CjtBCYAbrTrBCgAfiarfsDsgELaGVhbHRoeS5jb23IAQHaARNodHRw
networksolutions01_xml

I Lost 41lbs in 60 Days
Burn Fat, Gain Energy, Feel Great Guaranteed Results or It's Free!
MicroNutra.com

Lose 9 lbs. every 11 Days
Learn the 10 Idiot Proof Rules of Dieting & Fat Loss.
FatLoss4idiots.com

Healthy Eating
Find The Top Healthy Eating. Fast & Easy
http://web.archive.org/web/20070701024806/http://pagead2.googlesyndic
Lftl AWDJvrmH4KO0EJgButOsELIBC2hlYWx0aHkuY29tyAE

Eating Healthy
Find diet, health & beauty tips at iVillage - The Internet for Women
http://web.archive.org/web/20070701024806/http://pagead2.googlesyndic
wF7KE6OMBwI23AeC2DRAFGAUgjIygBigKOABQ0OXb5_n A
3FivNPA%3D1%26sky%3Dggl%7Civl%7Ceatright%7Cwb%7CPPC673

Healthy Child Food
Add Florida orange juice to your diet. It helps maintain health!
http://web.archive.org/web/20070701024806/http://pagead2.googlesyndic
CjtBCYAbrTrBCyAQtoZWFsdGh5LmNvbcgBAdoBE2h0dHA6Ly9oZW

Dialysis Nutrition & Diet
Find dialysis friendly recipes and tips for diet, nutrition and health
http://web.archive.org/web/20070701024806/http://pagead2.googlesyndic
sa=l&ai=B6Eq75RWHRvCmKY2ca7PpjIUEnbSDJq3tyJ4DwI23AYC9P
-dialysis.com/engine/renderpage.asp%3Fpid%3Ds0102&client=ca-dp-net

Healthy Recipe Center
Find Health Recipes Eat Well and Live Well
http://web.archive.org/web/20070701024806/http://pagead2.googlesyndic
CjtBCYAbrTrBCyAQtoZWFsdGh5LmNvbcgBAdoBE2h0dHA6Ly9oZW

Healthy Recipes
Tips on seasonal & personal health. Free newsletter. Sign up today!
HealthExpressions.com

18H0106

Healthy Recipes Online
Get Healthy Recipes and Tips for Cooking and Feeling Better
Healthy-Recipe-Web.net

Popular Categories Travel • Financial Planning • E Commerce • Lifestyle • Real Estate

EXHIBIT FF

NetworkSolutions.

Popular Categories Travel • Financial Planning • E Commerce • Lifestyle • Real Estate

Sponsored Listings

Organic Treats
Satisfy Your Snack Cravings Without Sacrificing Your Health- Start Now
http://web.archive.org/web/20070803150556/http://pagead2.googlesyndic
gD7AH1A0AAAAA&num=1&adurl=http://www.kashi.com/recipes&clie

Healthy Food
Looking for Healthy Food Compare providers on our free site
http://web.archive.org/web/20070803150556/http://pagead2.googlesyndic
sa=l&ai=BhZ1yVUSzRpT1Epyca4_L3bwJ_eioHMGZpe0CwI23AcCaDI
3Dhealthy__food&client=ca-dp-networksolutions01_xml

How I Beat Cholesterol
Free Report: The 23 Cent Life-Saver Heart Surgeons Never Tell You Abc
HealthResources.net

"Lose 42lbs In 3 Months"
How I Went From Fat To Fit In Under 3 Months". 100% Guaranteed To \
MicroNutra.com

Healthy recipes
Hundreds of fast healthy-in-a-hurry recipes that are easy & delicious.
http://web.archive.org/web/20070803150556/http://pagead2.googlesyndic
qvkCwI23AfCTCRAFGAUgjIygBigKOABQq6auvPr____AWDJ9viGy
3Dhealthy_recipes%26utm_content%3Dhealthyrecipes_chinh_recipes%2

Free Kit From Enfamil
Get tips, advice & free samples for breastfeeding/supplementing/weaning
http://web.archive.org/web/20070803150556/http://pagead2.googlesyndic
sa=l&ai=B_FqRVUSzRpT1Epyca4_L3bwJl4ehLpOW8dkDwI23AcDQd
-dp-networksolutions01_xml

Healthy Recipes Online
Get Healthy Recipes and Tips for Cooking and Feeling Better
Healthy-Recipe-Web.net

Lose Weight: Eat Good Fat
Eating good fats is necessary for weight loss. Free article here.
coconutdiet.com

Kids and Healthy Eating
Healthy Eating Tips & Ideas. Great Resource for Parents.
http://web.archive.org/web/20070803150556/http://pagead2.googlesyndic
gD7AH1A0AAAAA&num=9&adurl=http://clk.atdmt.com/AVE/go/gglx

18H010

Nutrition & Hypertension
Many People With Hypertension Need to Lose Weight - Learn More Here
http://web.archive.org/web/20070803150556/http://pagead2.googlesyndic
gD7AH1A0AAAAA&num=10&ggladgrp=580705646&gglcreat=900016

Popular Categories Travel • Financial Planning • E Commerce • Lifestyle • Real Estate

18H010

EXHIBIT GG

Error. Page cannot be displayed. Please contact service provider for more details.

10/14/07

EXHIBIT HH

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10/21/07

EXHIBIT II

Error. Page cannot be displayed. Please contact service provider for more details.

EXHIBIT JJ

Error. Page cannot be displayed. Please contact service provider for more details.

12/21/07

EXHIBIT KK

Error. Page cannot be displayed. Please contact service provider for more details.

EXHIBIT LL

Error. Page cannot be displayed. Please contact service provider for more details.

EXHIBIT MM

Healthy.com

Popular Categories: Healthy Food Diet | Healthy Eating Diets | Healthy Insurance

- Healthy Eating Diets
- Healthy Food Diet
- Healthy Insurance
- Healthy Family Insurance
- Healthy Gift Baskets
- Healthy Diet Programs
- Healthy Cooking Classes

image1

Popular Searches

- Healthy Back Bags
- Weight Loss Healthy
- Microfiber Healthy Back Bag
- Lose Weight Healthy

By Relevance

- Healthy Diet Meals
- Weight Loss System

By Popularity

- Free Weight Loss
- Diet Pills

Suggested

- Herbal Weight Loss Pills
- Family Health Insurance

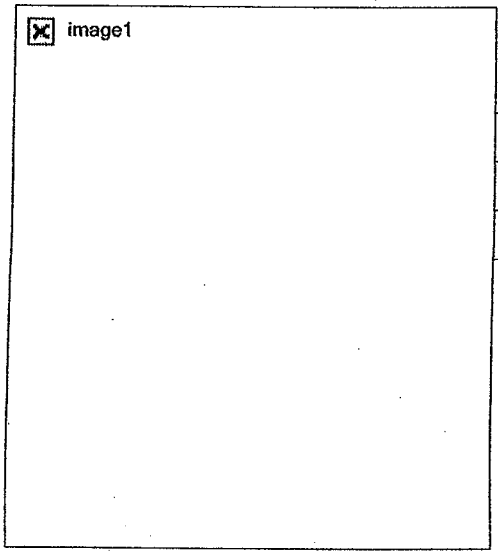
Popular Categories: Healthy Gift Baskets | Healthy Cooking Classes | Healthy Diet Programs | Healthy Back Bags

EXHIBIT NN

Healthy.com

Popular Categories: Healthy Food Diet | Healthy Eating Diets | Healthy Insurance

- Healthy Eating Diets
- Healthy Food Diet
- Healthy Insurance
- Healthy Family Insurance
- Healthy Gift Baskets
- Healthy Diet Programs
- Healthy Cooking Classes



Popular Searches

- Healthy Back Bags
- Weight Loss Healthy
- Microfiber Healthy Back Bag
- Lose Weight Healthy

By Relevance

- Healthy Diet Meals
- Weight Loss System

By Popularity

- Free Weight Loss
- Diet Pills

Suggested

- Herbal Weight Loss Pills
- Family Health Insurance

Popular Categories: Healthy Gift Baskets | Healthy Cooking Classes | Healthy Diet Programs | Healthy Back Bags

EXHIBIT OO

Healthy.com

Popular Categories: Healthy Food Diet Healthy Eating Diets Healthy Insurance

- Healthy Eating Diets
- Healthy Food Diet
- Healthy Insurance
- Healthy Family Insurance
- Healthy Gift Baskets
- Healthy Diet Programs
- Healthy Cooking Classes

image1

Popular Searches

- Healthy Back Bags
- Weight Loss Healthy
- Microfiber Healthy Back Bag
- Lose Weight Healthy

By Relevance

Healthy Diet Meals
Weight Loss System

By Popularity

Free Weight Loss
Diet Pills

Suggested

Herbal Weight Loss Pills
Family Health Insurance

Popular Categories: Healthy Gift Baskets Healthy Cooking Classes Healthy Diet Programs Healthy Back Bags

EXHIBIT PP

Healthy.com

Popular Categories: Healthy Food Diet Healthy Eating Diets Healthy Insurance

- Healthy Eating Diets
- Healthy Food Diet
- Healthy Insurance
- Healthy Family Insurance
- Healthy Gift Baskets
- Healthy Diet Programs
- Healthy Cooking Classes

image1

Popular Searches

- Healthy Back Bags
- Weight Loss Healthy
- Microfiber Healthy Back Bag
- Lose Weight Healthy

By Relevance

Healthy Diet Meals
Weight Loss System

By Popularity

Free Weight Loss
Diet Pills

Suggested

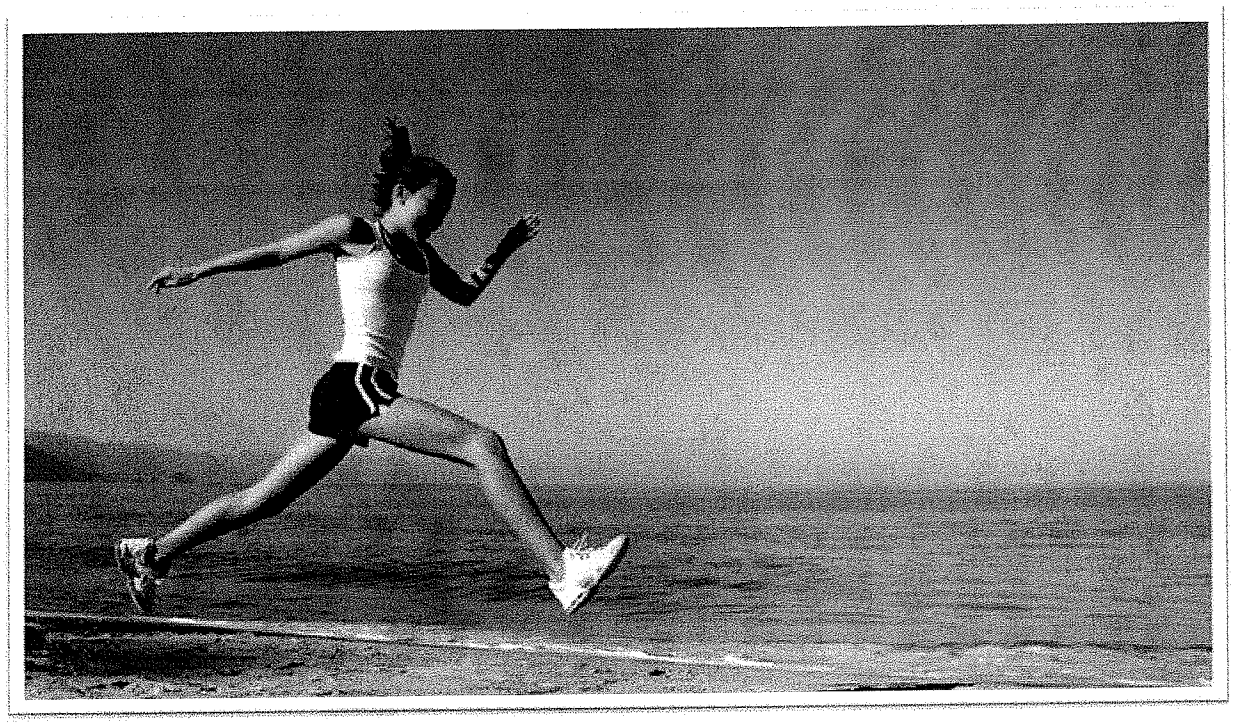
Herbal Weight Loss Pills
Family Health Insurance

Popular Categories: Healthy Gift Baskets Healthy Cooking Classes Healthy Diet Programs Healthy Back Bags

EXHIBIT QQ

HEALTHY .com

Devoted to helping you stay healthy



Welcome to Healthy.com

Devoted to helping you stay healthy

This site is totally devoted to creating health. To generating health and wellness rather than dealling with the issues that arise from not maintaining good health.

Hydration: Facts and Fiction

Thursday, July 29th, 2010 Posted by Rob

When if comes to hydration there are many more facts to report than fiction. The most important thing to remember about proper hydration is that, not all hydration is created equal. For example; one cup of coffee is not equal to one cup of water. That's because

coffee is a diuretic – so are many other beverages, such as tea and soda.

Proper hydration is essential to good health, and necessary for the prevention of dehydration…

Signs and symptoms of dehydration include:

- Mild to excessive thirst
- Fatigue
- Headache
- Dry mouth
- Little or no urination
- Muscle weakness
- Dizziness
- Lightheadedness

Mild dehydration rarely results in complications – as long as the fluid is replaced quickly – but more-severe cases can be life-threatening, especially in the very young and the elderly. In extreme situations, fluids or electrolytes may need to be delivered intravenously.

View Full Story

Story Two

Sunday, April 26, 2009 7:27 AM Posted by Someone

Mauris vitae nisl nec metus placerat consectetuer. Donec ipsum. Proin imperdiet est. Sed lacus. Donec lectus. Nullam pretium nibh ut turpis. Nam bibendum. In nulla tortor, elementum vel, tempor at, varius non, purus. Mauris vitae nisl nec metus placerat consectetuer. Donec ipsum. Proin imperdiet est. Phasellus dapibus semper urna. Pellentesque ornare, orci in consectetuer hendrerit, urna elit eleifend nunc, ut consectetuer nisl felis ac diam.

View Full StoryView Comments

- ### Aliquam tempus

  Mauris vitae nisl nec metus placerat perdiet est. Phasellus dapibus semper urna. Pellentesque ornare, orci in consectetuer hendrerit, volutpat.

- ### Pellenteque ornare

  - Nec metus sed donec
  - Magna lacus bibendum mauris
  - Velit semper nisi molestie
  - Eget tempor eget nonummy
  - Nec metus sed donec
  - Velit semper nisi molestie
  - Eget tempor eget nonummy
  - Nec metus sed donec

- ### Turpis nulla

  - Nec metus sed donec
  - Magna lacus bibendum mauris
  - Velit semper nisi molestie
  - Eget tempor eget nonummy

- Magna lacus bibendum mauris
- Velit semper nisi molestie
- Eget tempor eget nonummy
- Nec metus sed donec

• Bibendum mauris

- Nec metus sed donec
- Magna lacus bibendum mauris
- Velit semper nisi molestie
- Eget tempor eget nonummy
- Nec metus sed donec

EXHIBIT RR

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

In re Trademark Registration Nos. 3,787,695 and 3,866,133 for the mark HEALTHY.COM

DAVID ROBERTSON, Petitioner, v. 1-800-HEALTHY.COM, INC., Registrant.	)	Cancellation No. 9205361 Reg. No. 3,787,695; 3,866,133

Propounding Party: Registrant 1-800-HEALTHY.COM, INC.

Responding Party: Petitioner David Robertson

Set Number: One

PETITIONER'S SUPPLEMENTAL RESPONSES TO REGISTRANT 1-800-HEALTHY.COM, INC.'S FIRST SET OF INTERROGATORIES

Pursuant to Fed. R. Civ. P. 33, Petitioner David Robertson ("Petitioner") hereby provides the following objections and responses to Registrant 1-800-HEALTHY.COM, INC. ("Registrant") First Set of Interrogatories;

PRELIMINARY STATEMENT

Responding Party has not yet completed is investigation relating to the facts of this action and has not completed discovery in this action. The responses provided herein are based upon the information presently available to Responding Party. Responding Party reserves the right to amend or further supplement its responses. Responding Party reserves the right to object to any interrogatory on any grounds. Responding Party reserves the right to object to the use of the

information provided in the response to any interrogatory. Responding Party has made good faith and reasonable efforts to respond to each interrogatory to the extent Responding Party understands the interrogatories. To the extent any interrogatory requires Responding Party to investigate information required for a response, Responding Party has exercised reasonable diligence to obtain any such information.

Consistent with its obligations pursuant to the Federal Rules of Civil Procedure and in a good faith attempt to respond, Responding Party has contacted those persons and made a duly diligent search of those records most reasonably believed to possess or contain information responsive to any individual interrogatory. Responding Party's responses are complete to the extent reasonably achievable but Responding Party does not, and could not possibly, represent that these responses reflect or include "all" potentially responsive information located anywhere accessible to Responding Party. Rather, the scope of the investigation being conducted to locate responsive information has been limited to making inquiries to those individuals most likely to be knowledgeable about the specific matters at issue, and to reviewing Responding Party's files in which information related to such matters ordinarily would be expected to be found.

By making these responses, Responding Party does not concede that the information sought is relevant. Responding Party makes these responses without in any way intending to waive or waiving, but on the contrary, intending to preserve and preserving: (a) the right to object on any grounds to the use or introduction into evidence of the information provided in response to the Interrogatories; (b) the right to object to the use of these responses in any subsequent proceeding in, or the trial of, this or any other action on any grounds; (c) the right to object to the introduction of these responses into evidence; and (d) the right to object on any

ground at any time to other interrogatories or other discovery involving the subject matter thereof.

Responding Party has made reasonable efforts to respond to each interrogatory to the extent it has not been objected to, as Responding Party understands and interprets the interrogatory. To the extent that Propounding Party asserts an interpretation of any interrogatory that is inconsistent with Responding Party's understanding, Responding Party reserves the right to amend or supplement its objection and/or responses.

GENERAL OBJECTION

1. Responding Party objects to each interrogatory to the extent that it seeks information that constitutes attorney-client privilege, the attorney work product privilege, confidential information, or information protected by a right to privacy. Nothing contained in these responses is intended, nor shall it in any way be deemed as, a waiver of any applicable privilege, doctrine, right to privacy, or related right.

2. Responding Party objects to each interrogatory to the extent that they require Responding Party to undertake any obligations broader than, or inconsistent with the Federal Rules of Civil Procedure.

3. Responding Party objects to each interrogatory to the extent it is overly broad and unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

4. Responding Party hereby incorporates this General Objection into each of the Reponses set forth below, as if set out in full.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 3:

Identify in detail the manner in which Petitioner's Mark has been used (including by Petitioner's predecessors in interest).

SUPPLEMENT RESPONSE TO INTERROGATORY NO. 3:

Subject to and without waiving the prior objections, Responding Party responds as follows:

Healthy.com has directed users to websites hosted at Healthy.net or Healthworld.com. These websites have provided blood tests, vitamins, books, information, Consulting service, Internet services including a health website.

INTERROGATORY NO. 5:

Identify the inclusive dates during which Petitioner has used the mark for each of the goods and services listed in response to Interrogatory No. 4.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 5:

Subject to and without waiving the prior objections, Responding Party responds as follows:

Blood tests, vitamins, books, information, Consulting service: 1995-2011

Internet services including a health website: 1995-2011

INTERROGATORY NO. 11:

a) Identify all types of advertisements and promotional materials used in connection with the goods and services sold under Petitioner's Mark, including but not limited to

brochures, commercials, newspaper articles, magazine advertisements, Internet advertisements and websites;

b) Identify the specific media (e.g., Time magazine, CBS Network TV, New York Times) and date on which such advertisements and promotional materials have appeared;

c) Identify all events at which Petitioner has advertised or promoted Petitioner's Mark or goods/services under Petitioner's Mark, including but not limited to meetings, conferences, events, and trade shows; and

d) Identify all advertising or marketing firms associated with the placement of advertisements and promotional materials used in connection with Petitioner's Mark.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:

Subject to and without waiving the prior objections, Responding Party responds as follows:

(b) The internet and search engines;

(c)None;

(d)None, advertising and promotions were handled by Dave Robertson;

INTERROGATORY NO. 13:

Identify the amount of money spent by Petitioner associated with advertising and promotion of goods and services offered under Petitioner's Mark, on an annual basis for each year since the date of first use.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 13:

Subject to and without waiving the prior objections, Responding Party responds as follows:

Approximately $100,000 was expended to advertise and promote the marks in connection with Petitioner's goods and services from 1995-2003. Annual registrations of the domain name cost approximately $100 per year since 1995. Ernest Copeland was paid approximately $1,000 for web design work. Further detailed annual expenditures were not recorded and thus unavailable.

INTERROGATORY NO. 14:

Identify Petitioner's total sales of goods and services bearing Petitioner's Mark on an annual basis in terms of both dollars and units sold since the date of first use of Petitioner's Mark for each item described in Interrogatory No.4 and identify the person which sold the goods and services.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14:

Subject to and without waiving the prior objections, Responding Party responds as follows:

In 1999, George Klabin invested $200,000 in 1999 in Healthy.com. Advertising on the website did not generate any annual revenue.

INTERROGATORY NO. 16:

Identify by name, tribunal and docket number, each court litigation or Patent and Trademark Office proceeding relating to Petitioner's Mark and state the issues and outcome for each litigation or proceeding.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 16:

Subject to and without waiving the prior objections, Responding Party responds as follows:

Petitioner was not involved in any litigation in relation to Petitioner's marks or patents.

INTERROGATORY NO. 23:

Identify all websites on which Petitioner's Mark has appeared.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 23:

Subject to and without waiving the prior objections, Responding Party responds as follows:

Petitioner's mark has been used consistently on Petitioner's websites: Healthy.com, Healthy.net, and HealthWorld.com.

INTERROGATORY NO. 29:

Identify in detail the nature of the specimen associated with the application for Petitioner's Mark, including who prepared it, how long it was in use, and to what extent, if any, Petitioner has received revenue derived from such use.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 29:

Subject to and without waiving the prior objections, Responding Party responds as follows:

The Specimen was prepared and filed with the USPTO on November 26, 2003 by Louis C. Cullman counsel of record. It depicts a website entitled HealthWorld Online. Revenues were not derived with respect to this Specimen.

Respectfully submitted,

Date: May 29, 2012

Joseph A. Mandour, Esq.
Ben T. Lila, Esq.
Mandour & Associates, APC
16870 West Bernardo Dr.,#400
San Diego, CA 92127
Telephone: (858) 487-9300
Facsimile: (858) 487-9390
E-Mail:jmandour@mandourlaw.com
blila@mandourlaw.com

SUPPLEMENTAL RESPONSE TO IN[illegible]RROGATORY NO. 23:
Subject to and without waiving the prior objections, Responding Party responds as follows:
Petitioner's mark has been used consistently on Petitioner's websites: Healthy.com, Healthy.net, and HealthWorld.com.

INTERROGATORY NO. 29:
Identify in detail the nature of the specimen associated with the application for Petitioner's Mark, including who prepared it, how long it was in use, and to what extent, if any, Petitioner has received revenue derived from such use.
SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 29:
Subject to and without waiving the prior objections, Responding Party responds as follows:
The Specimen was prepared and filed with the USPTO on November 26, 2003 by Louis C. Cullman counsel of record. It depicts a website entitled HealthWorld Online. Revenues were not derived with respect to this Specimen.

Respectfully submitted,

Date: May 29, 2012

Joseph A. Mandour, Esq.
Ben T. Lila, Esq.
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16870 West Bernardo Dr.,#400
San Diego, CA 92127
Telephone: (858) 487-9300
Facsimile: (858) 487-9390
E-Mail:jmandour@mandourlaw.com
blila@mandourlaw.com

VERIFICATION
I, Dave Robertson, am the Petitioner in the above captioned action. I declare under penalty of perjury under the laws of the United States that the foregoing responses are true and corrected based on my personal knowledge.

Dated: 5/29/12

Dave Robertson

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing **petitioner david robertson's SUPPLEMENTAL responses to registrant 1-800-healthy.com, inc.'s first set of interrogatories** was sent by first class mail, postage prepaid, on the below date to Petitioner's counsel:

Thomas M. Galgano, Esq.
Jessica G. Bower, Esq.
Attorneys for Registrant
GALGANO & ASSOCIATES, PLLC
20 W. Park Avenue, Suite 204
Long Beach, New York 11561
Telephone: (516) 431-1177

Date: May 29, 2012

Ben Lila

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing **PETITIONER DAVID ROBERTSON'S SUPPLEMENTAL RESPONSES TO REGISTRANT 1-800-HEALTHY.COM, INC.'S FIRST SET OF INTERROGATORIES** was sent by first class mail, postage prepaid, on the below date to Petitioner's counsel:

Thomas M. Galgano, Esq.
Jessica G. Bower, Esq.
Attorneys for Registrant
GALGANO & ASSOCIATES, PLLC
20 W. Park Avenue, Suite 204
Long Beach, New York 11561
Telephone: (516) 431-1177

Date: May 29, 2012

Ben Lila

EXHIBIT SS

===Even a Scam comes to healthy.com 11/23/09

From: pipe DNS [info@transfer-approval.com]
Sent: Monday, November 23, 2009 2:15 PM
To: dave@knowrules.com
Subject: Domain Transfer Request for HEALTHY.COM

STANDARDIZED FORM OF AUTHORIZATION

DOMAIN NAME TRANSFER - Initial Authorization for Registrar Transfer

Attention: Dave Robertson
Re: Transfer of HEALTHY.COM

eNom, Inc. has received a request from Kelly Ross on 23 Nov 2009 for us to become the new registrar of record.

You have received this message because you are listed as the Registered Name Holder or Administrative contact for this domain name in the WHOIS database.

Please read the following important information about transferring your domain name:

** You must agree to enter into a new Registration Agreement with us. You can review the full terms and conditions of the Agreement at*

< http://transfer-approval.com/u.asp?id=B76A68FB-F884-4859-9BE1-741CD2C460D0 >

==========

===The Healthy.com Company 1/19/05

HEALTHY.COM – QUICK LIST

The "Healthy" company

- **Global Health & Medicine – Over 25% Users Outside U.S.A.**
- **Healthy has 2 Shifts Occurring –KNOWLEDGE and HEALTH**
- **It has STRONG Brand Image/Intellectual Property/Barriers to Entry**
- **Over 10 REVENUE CENTER Possibilities**
- **"HEALTHY.COM" Most predominant address on the net.**
- **Healthy's Plan For Growth is Believable – The Healthy Hub**
- **Health testing—to Monitoring, to Management, to Products and services**
- **"Healthy" has STRONG, MATURE Management & Leadership**
- **We will DELIVER 1 X 1 Value**
- **Back Office partner with over 1 Million Users, 30% growth-Only 2 competitors**
- **Speed to Delivery—Very Short**
- ==========
- **===Solicitation to Kaiser**
- Hello Sandra--Maybe you can pass this email to Diane--
-
- Diane--There is not many companies that can fill the Umbrella of "HEALTHY" but as I own the Domain Name "Healthy.Com" I am sure KP can become the "Healthy" source for things like "Thrive". To that end as well--I can offer the Domain "HighThrive" as well.
-
- Of course they are different conversations and I am not a Domain broker--I was CEO of the 2nd largest health site on the net--ranked by Yahoo in 1998, and involved deeply in the Health biz, and have kept these domain names on the shelf--so not to brand them to specific.

-
- The "HighThrive" fits directly into the extended health potential PR to your fitness-and-above-members or all those that aspire to want to move beyond just "Thrive".
-
- The "Healthy.Com" domain is a big one--Just Imagine KP can brand themselves as the Road to "HEALTHY"--any time someone uses the word "Healthy" KP comes to mind--if you play your branding cards right. Although KP is view currently in the SickCare business the road out is a "Healthy" one--
-
- My Bio attached for background only--
-
- please feel free to call me--
-
- Dave Robertson
- dave@healthy.com
- ==========

===Terms of relationship in Partners--Confid agreement --6/2/06

Terms of Reference

Preface

The PHIN Consortium, http://www.wellness.wikispaces.com, and D. Robertson, http://www.healthy.com, entertained the establishment of a working relationship leveraging competency and synergy. The Terms of Reference attempts to highlight and bring forward a consensus that will enable the parties to pursue joint initiatives leading to the formation of Wellness enterprise. This document dated, June 2, 2006, provides a foundation for subsequent formal negotiations regarding the issues noted below.

==========

===Valuation Doc

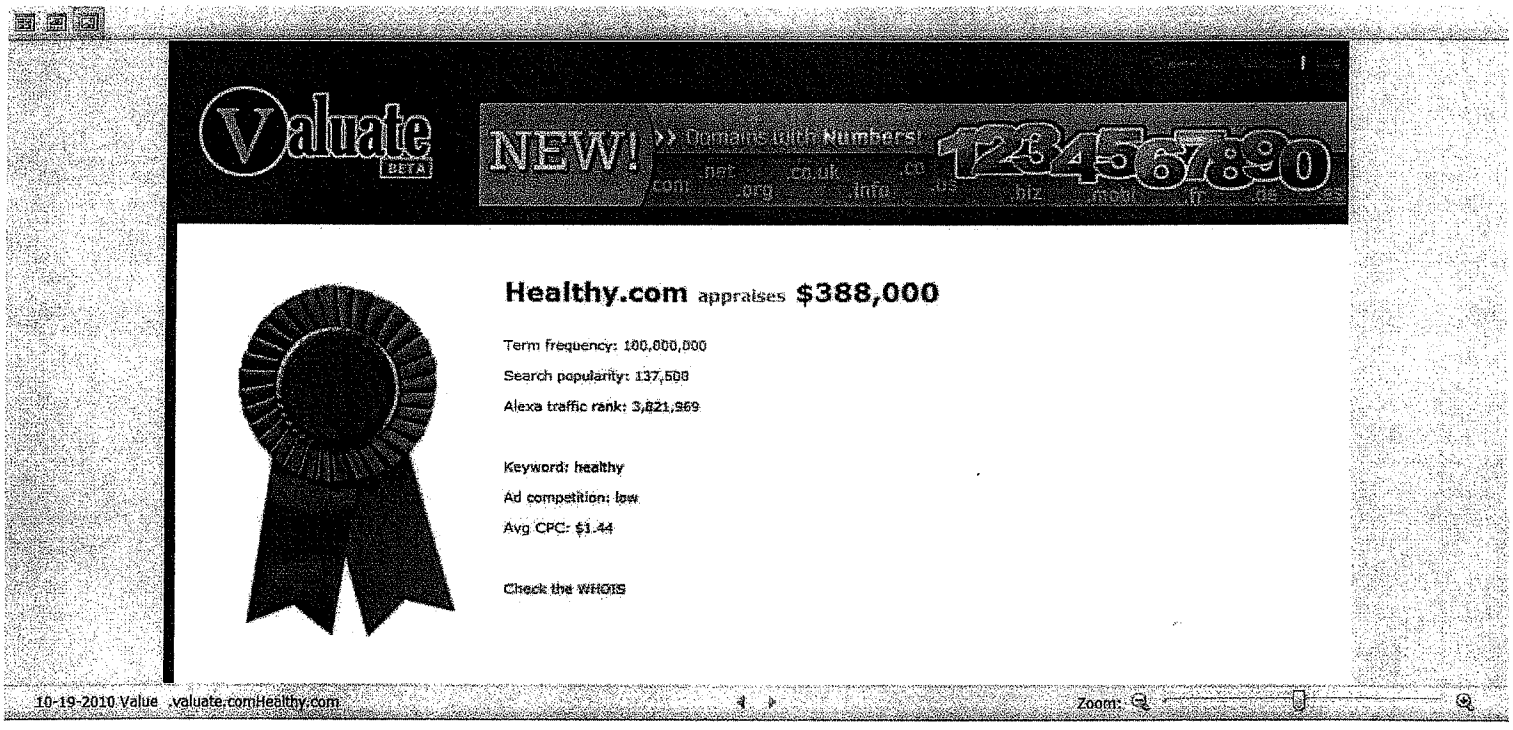


EXHIBIT TT

Domain Name Purchase Agreement

Dated as of June 29, 2010

By and between Dave Robertson And Healthy.com

The current owner of the domain name identified below (hereinafter referred to as "Seller") desires to sell all rights, title and interest in such domain name to the Purchaser, and the Purchaser desires to acquire same rights, title and interest in such domain name from the Seller. Therefore, it is agreed between the parties as follows:

1. The domain name to be transferred from the Seller to the Purchaser is **Healthy.com** (referred to sometimes herein as "domain name.")

2. The Seller agrees to transfer to the Purchaser all right, title and interest in and to the identified domain name, including any trademark rights associated with the domain name itself and all Internet traffic to the domain name. Notwithstanding, this Agreement does not relate to any Website content, which shall remain the property of the Seller.

3. As consideration for the sale of the domain name the Purchaser promised to pay the Seller the amount of $75,000. This sum shall be paid as an obligation (Promissory note financed as interest only until funds available or 5 years whichever is earlier) from the date this Agreement becomes effective.

4. After receipt of agreed and signed this document for the domain name, the Seller will within five (5) business days take the necessary actions required to change the registered ownership of the Domain Name.

5. Nothing in this Agreement shall be construed to in any way limit the right of the Seller to purchase, own, create and/or maintain another Website.

6. This Agreement states the entire agreement between the parties concerning the purchase and sale of the identified domain name and supersedes any prior agreements, understandings, or representations with respect thereto. Any addition or modification to this Agreement must be made in writing and signed by authorized representatives of both parties. This Agreement is made under and shall be construed according to the laws of the State of Nevada, U.S.A. In the event that this agreement is breached, any and all disputes must be settled in a court of competent jurisdiction in the State of Nevada, U.S.A.

7. If any of the provisions of this Agreement are found to be unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provision(s) shall be deemed modified to the limited extent required to permit enforcement of the Agreement as a whole.

8. The effective date of this Agreement shall be the date signed by the parties. If the parties sign on different dates, the effective date shall be the date of the last signature.

WHEREFORE, the parties acknowledge that they have read and understand this Agreement and voluntarily accept the duties and obligations set forth herein.

Seller:

Name -- Dave Robertson

Company:

Title:

Address:10751 Lakewood blvd

City, State & Zip: Downey, Ca 90124

Signature:

Date: June 29 2010

Purchaser:

Name-- David Robertson

Company: Healthy.com

Title: President

Address:10751 Lakewood blvd

City, State & Zip: Downy ca 90241

Signature:

Date: June 29 2010

==========

WHEREFORE, the parties acknowledge that they have read and understand this Agreement and voluntarily accept the duties and obligations set forth herein.

Seller:

Name -- Dave Robertson

Company:

Title:

Address:10751 Lakewood blvd

City, State & Zip: Downey, Ca 90124

Signature:

Date: June 29 2010

Purchaser:

Name-- David Robertson

Company: Healthy.com

Title: President

Address:10751 Lakewood blvd

City, State & Zip: Downy ca 90241

Signature:

Date: June 29 2010

EXHIBIT UU

March 12, 1996

Sandy Dhuyvetter
Electronic Pen
25 A West 25th Avenue
San Mateo, CA 94403

Dear Sandy:

This will confirm our agreement about the purchase of the Domain name http://www.healthy.com.

Health World Online will pay $3,000.00 for transfer and all rights to the Domain healthy.com as used on the internet. If agreed, please sign below. I have enclosed a check for $3,000.00.

Agreed,

Electronic Pen

Date: 3/14/96

HEALTHWORLD ONLINE, INC.
PH. 310-862-8116
10751 LAKEWOOD BLVD.
DOWNEY, CA 90241

1269

DATE 3-12-96

PAY TO THE ORDER OF Electronic Pen $ 3,000-

Three Thousand +00/100 DOLLARS

Sanwa Bank California

FOR Transfer of Domain - Healthy.com

⑈001269⑈ ⑆122003516⑆ 2035⑈33927⑈

EXHIBIT VV

BILL OF SALE AND ASSIGNMENT

For good and valuable consideration, receipt of which is hereby acknowledged, and pursuant to the Asset Purchase and Transfer Agreement, dated June 17, 2002 (the "**Agreement**"), between ConvergenceHealth.com, Inc., a Nevada corporation ("**Seller**") and Dave Robertson, an individual ("**Buyer**"), and intending to be legally bound hereby, Seller does hereby unconditionally and irrevocably convey, grant, assign and transfer to Buyer, its successors and assigns, the asset of the healthy.com URL (the "**Purchased Asset**").

Terms used herein and not defined have the meanings assigned to them in the Agreement. Nothing herein is intended to limit or supersede in any way the representations and warranties of Seller set forth in the Agreement.

Seller hereby represents and warrants that:

(i) ConvergenceHealth,com has been granted the right and directed by WL to transfer the Purchased Asset directly to Buyer.

(ii) Seller warrants that to the best of Seller's knowledge, no restrictions, agreements, understandings or other legal rights exist which would limit or restrict Buyer's rights in the Purchased Asset such as, by way of example, any restrictions that would prevent Buyer from using the Purchased Assets. Furthermore, Seller warrants to the best of Seller's knowledge, that it will not enter into any agreements with any third parties that would limit or restrict Buyer's rights in the Purchased Asset.

(iii) to the best of Seller's knowledge, no agreements or understandings exist which limit or restrict the right of Seller to transfer the Purchaser Asset to Buyer.

(iv) the Purchased Asset is the asset described in Section 2.1(a) of the Agreement.

Seller, for itself and its respective successors and assigns, hereby covenants and agrees that, without further consideration, at any time and from time to time after the date hereof, it shall execute and deliver to Buyer such further instruments of sale, conveyance, assignment and transfer, and take such other action, all upon the reasonable request of Buyer, in order more effectively to sell, convey, grant, assign, transfer and deliver all or any portion of the Purchased Assets to Buyer, and to assure and confirm to any other Person the ownership of the Purchased Asset by Buyer, and to permit Buyer to exercise any of the franchises, rights, licenses or privileges intended to be sold conveyed, assigned, transferred and delivered by Seller to Buyer pursuant to this Bill of Sale and Assignment.

IN WITNESS WHEREOF, Seller has caused this Bill of Sale and Assignment to be executed this 17th day of June 2002

CONVERGENCEHEALTH.COM

By: _____
Name: _____
Title: _____

ACCEPTED AND AGREED:

DAVE ROBERTSON

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized officers as of the day and year first above written.

BUYER:
DAVE ROBERTSON

By: Dave Robertson
Its:

SELLER:
CONVERGENCEHEALTH.COM

(as Transfer Agent on behalf of Whole Life, Inc.)

By:
Its: CEO

EXHIBIT WW

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

In re Trademark Registration Nos. 3,787,695 and 3,866,133 for the mark HEALTHY.COM

DAVID ROBERTSON, Petitioner, v. 1-800-HEALTHY.COM, INC., Registrant.	)	Cancellation No. 9205361 Reg. No. 3,787,695; 3,866,133

Propounding Party: Registrant 1-800-HEALTHY.COM, INC.

Responding Party: Petitioner David Robertson

Set Number: One

PETITIONER'S RESPONSES TO REGISTRANT 1-800-HEALTHY.COM, INC.'S FIRST SET OF INTERROGATORIES

Pursuant to Fed. R. Civ. P. 33, Petitioner David Robertson ("Petitioner") hereby provides the following objections and responses to Registrant 1-800-HEALTHY.COM, INC. ("Registrant") First Set of Interrogatories;

PRELIMINARY STATEMENT

Responding Party has not yet completed is investigation relating to the facts of this action and has not completed discovery in this action. The responses provided herein are based upon the information presently available to Responding Party. Responding Party reserves the right to amend or further supplement its responses. Responding Party reserves the right to object to any interrogatory on any grounds. Responding Party reserves the right to object to the use of the

information provided in the response to any interrogatory. Responding Party has made good faith and reasonable efforts to respond to each interrogatory to the extent Responding Party understands the interrogatories. To the extent any interrogatory requires Responding Party to investigate information required for a response, Responding Party has exercised reasonable diligence to obtain any such information.

Consistent with its obligations pursuant to the Federal Rules of Civil Procedure and in a good faith attempt to respond, Responding Party has contacted those persons and made a duly diligent search of those records most reasonably believed to possess or contain information responsive to any individual interrogatory. Responding Party's responses are complete to the extent reasonably achievable but Responding Party does not, and could not possibly, represent that these responses reflect or include "all" potentially responsive information located anywhere accessible to Responding Party. Rather, the scope of the investigation being conducted to locate responsive information has been limited to making inquiries to those individuals most likely to be knowledgeable about the specific matters at issue, and to reviewing Responding Party's files in which information related to such matters ordinarily would be expected to be found.

By making these responses, Responding Party does not concede that the information sought is relevant. Responding Party makes these responses without in any way intending to waive or waiving, but on the contrary, intending to preserve and preserving: (a) the right to object on any grounds to the use or introduction into evidence of the information provided in response to the Interrogatories; (b) the right to object to the use of these responses in any subsequent proceeding in, or the trial of, this or any other action on any grounds; (c) the right to object to the introduction of these responses into evidence; and (d) the right to object on any

ground at any time to other interrogatories or other discovery involving the subject matter thereof.

Responding Party has made reasonable efforts to respond to each interrogatory to the extent it has not been objected to, as Responding Party understands and interprets the interrogatory. To the extent that Propounding Party asserts an interpretation of any interrogatory that is inconsistent with Responding Party's understanding, Responding Party reserves the right to amend or supplement its objection and/or responses.

GENERAL OBJECTION

1. Responding Party objects to each interrogatory to the extent that it seeks information that constitutes attorney-client privilege, the attorney work product privilege, confidential information, or information protected by a right to privacy. Nothing contained in these responses is intended, nor shall it in any way be deemed as, a waiver of any applicable privilege, doctrine, right to privacy, or related right.

2. Responding Party objects to each interrogatory to the extent that they require Responding Party to undertake any obligations broader than, or inconsistent with the Federal Rules of Civil Procedure.

3. Responding Party objects to each interrogatory to the extent it is overly broad and unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

4. Responding Party hereby incorporates this General Objection into each of the Reponses set forth below, as if set out in full.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

a) Identify Petitioner's main business address;

b) Identify all names under which Petitioner does or has done business; and,

c) Identify the business of Petitioner and the goods and services Petitioner has sold or provided.

RESPONSE TO INTERROGATORY NO. 1:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding party objects to this interrogatory to the extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. The Interrogatory is compound and vague and ambiguous as to the term "business of Petitioner." Subject to and without waiving the foregoing objections, Responding Party responds as follows:

a) 10751 Lakewood Blvd,

Downey, CA 90241

b) Healthy.com and Healthworld Online

c) Consulting, Internet services and a health website

INTERROGATORY NO. 2:

Identify each person that is a predecessor in interest of Petitioner related to use of Petitioner's Mark.

RESPONSE TO INTERROGATORY NO. 2:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to this interrogatory to the

extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Responding Party objects to this interrogatory to the extent the interrogatory seeks information protected by Responding Party's financial privacy. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Healthworld, Inc., a Nevada corporation.

INTERROGATORY NO. 3:

Identify in detail the manner in which Petitioner's Mark has been used (including by Petitioner's predecessors in interest).

RESPONSE TO INTERROGATORY NO. 3:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to this interrogatory to the extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. The interrogatory is vague and ambiguous as to the term "has been used." Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner's Marks have been used in connection with one of the largest health sites on the Internet. In addition, Petitioner's Marks have been used in connection with consulting and Internet services and have established substantial goodwill and notoriety that attracts investors, partners, consumer traffic, and licensing fees.

INTERROGATORY NO. 4:

Identify with specificity all goods and services, including promotional items, on or in connection with which Petitioner's Mark has been used.

RESPONSE TO INTERROGATORY NO. 4:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. The Interrogatory is overly broad and vague and ambiguous in syntax. Responding Party objects to this interrogatory to the extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner's Marks have been used with the following goods and services, products, and/or promotional items: Blood tests, vitamins, books, information, consulting services, Internet services including a health website.

INTERROGATORY NO. 5:

Identify the inclusive dates during which Petitioner has used the mark for each of the goods and services listed in response to Interrogatory No. 4.

RESPONSE TO INTERROGATORY NO. 5:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. The Interrogatory is overly broad and vague and ambiguous in syntax. Responding Party objects to this interrogatory to the extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner's Mark has been in use since 1998 and has been used continuously in connection with Petitioner's goods and services.

INTERROGATORY NO. 6:

Identify whether there have been any periods of non-use of Petitioner's Mark and, if so, identify:

a) the dates pertaining to the period(s) of time of non-use;

b) identify in full detail the reasons for and circumstances surrounding such period(s) of non-use;

c) the persons most knowledgeable about such periods of non-use; and

d) all documents pertaining to such periods of non-use.

RESPONSE TO INTERROGATORY NO. 6:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to this interrogatory to the extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner's Mark has been continuously used since 1998.

INTERROGATORY NO. 7:

Identify those persons most knowledgeable about Petitioner's use of Petitioner's Mark.

RESPONSE TO INTERROGATORY NO. 7:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to the extent this interrogatory seeks information protected by the attorney-client privilege or in violation of the Attorney Work Product doctrine or seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this

action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Lew Eigen

17 Potomac Crt.

Potomac, Maryland

Ernest Copland

4812 Crown Ave.

La Cañada, CA 91011

John Bell

300 Mariners Plaza

Mandeville, LA 70448

INTERROGATORY NO. 8:

Identify those persons most knowledgeable about the initial selection of Petitioner's Mark.

RESPONSE TO INTERROGATORY NO. 8:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to this interrogatory to the

extent it seeks information protected by the attorney-client privilege or attorney work product doctrine or seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

David Robertson, c/o Mandour & Associates.

INTERROGATORY NO. 9:

Identify those persons most knowledgeable about the marketing and sales of goods and services under Petitioner's Mark.

RESPONSE TO INTERROGATORY NO. 9:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege or attorney work product doctrine or seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

David Robertson, c/o Mandour & Associates

INTERROGATORY NO. 10:

If the first use of Petitioner's Mark was not by Petitioner, identify how such use inures to Petitioner's benefit.

RESPONSE TO INTERROGATORY NO. 10:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege or the attorney work product

doctrine or constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. The Interrogatory is compound and vague and ambiguous. The Interrogatory seeks information protected by Responding Party's financial privacy. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

As a matter of law, the use of Petitioner's Mark by predecessors-in-interest and licensees inures to the benefit of Petitioner.

INTERROGATORY NO. 11:

a) Identify all types of advertisements and promotional materials used in connection with the goods and services sold under Petitioner's Mark, including but not limited to brochures, commercials, newspaper articles, magazine advertisements, Internet advertisements and websites;

b) Identify the specific media (e.g., Time magazine, CBS Network TV, New York Times) and date on which such advertisements and promotional materials have appeared;

c) Identify all events at which Petitioner has advertised or promoted Petitioner's Mark or goods/services under Petitioner's Mark, including but not limited to meetings, conferences, events, and trade shows; and

d) Identify all advertising or marketing firms associated with the placement of advertisements and promotional materials used in connection with Petitioner's Mark.

RESPONSE TO INTERROGATORY NO. 11:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. The interrogatory is compound. The interrogatory is

overbroad and unduly burdensome. Responding Party objects to the extent the interrogatory seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner's goods and services have been advertised bearing Petitioner's marks in Internet advertisements, including on the website Healthy.com. Among others, advertisements for goods and services bearing Petitioner's marks have appeared in online promotions on Healthy.com and other sites.

INTERROGATORY NO. 12:

Identify all channels of trade of the goods and services bearing Petitioner's Mark.

RESPONSE TO INTERROGATORY NO. 12:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to the interrogatory to the extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action or seeks information protected by Responding Party's financial privacy. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner has directed goods and services bearing Petitioner's marks toward the following channels of trade: The health market, the fitness market, clinical testing, health research, medicine, professional resources, and through goods such as books and vitamins.

INTERROGATORY NO. 13:

Identify the amount of money spent by Petitioner associated with advertising and promotion of goods and services offered under Petitioner's Mark, on an annual basis for each year since the date of first use.

RESPONSE TO INTERROGATORY NO. 13:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to this interrogatory as seeking information protected by Responding Party's financial privacy. Responding Party objects to the interrogatory to the extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner has expended over $100,000 since the creation of his marks to advertise and promote the marks in connection with Petitioner's goods and services.

INTERROGATORY NO. 14:

Identify Petitioner's total sales of goods and services bearing Petitioner's Mark on an annual basis in terms of both dollars and units sold since the date of first use of Petitioner's Mark for each item described in Interrogatory No.4 and identify the person which sold the goods and services.

RESPONSE TO INTERROGATORY NO. 14:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to this interrogatory as seeking information protected by Responding Party's financial privacy. The Interrogatory is compound. Respoding Party objects to the extent the interrogatory seeks information that

constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

INTERROGATORY NO. 15:

Identify all third party uses of Petitioner's Mark of which Petitioner is aware.

RESPONSE TO INTERROGATORY NO. 15:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to the interrogatory as not reasonably calculated to lead to the discovery of admissible evidence and seeking discovery of information that is not relevant. Fed.R.Civ.P. 26(b)(1); Fed.R.Evid. 401. Responding Party objects to the interrogatory to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Responding Party objects to the interrogatory to the extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner is aware of no third party uses of Petitioner's marks.

INTERROGATORY NO. 16:

Identify by name, tribunal and docket number, each court litigation or Patent and Trademark Office proceeding relating to Petitioner's Mark and state the issues and outcome for each litigation or proceeding.

RESPONSE TO INTERROGATORY NO. 16:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege or attorney work product doctrine. Responding Party objects to this interrogatory to the extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. The interrogatory is compound. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner is currently not involved in any litigation in relation to Petitioner's marks or patents.

INTERROGATORY NO. 17:

a) Identify each person against which Petitioner has asserted a claim regarding use of a mark confusingly similar to Petitioner's Mark;

b) Identify how and when the claim was asserted (e.g., cease and desist letter, conference between the parties, etc.); and

c) Identify the current status of the claim.

RESPONSE TO INTERROGATORY NO. 17:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to the interrogatory as not reasonably calculated to lead to the discovery of admissible evidence and seeks discovery of information that is not relevant. Fed.R.Civ.P. 26(b)(1); Fed.R.Evid. 401. Responding Party objects to the interrogatory to the extent it seeks information protected by the attorney-client privilege or seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. The Interrogatory is

compound. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

None.

INTERROGATORY NO. 18:

Identify each person which has asserted a claim against Petitioner regarding Petitioner's Mark which has not resulted in a litigation or a trademark inter partes proceeding, and identify the person most knowledgeable about any such instances.

RESPONSE TO INTERROGATORY NO. 18:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to the interrogatory as not reasonably calculated to lead to the discovery of admissible evidence and seeks discovery of information that is not relevant. Fed.R.Civ.P. 26(b)(1); Fed.R.Evid. 401. Responding Party objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege or attorney work product doctrine. The Interrogatory seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. The Interrogatory is compound and vague and ambiguous as to the term "claim." Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner is aware of no such claims.

INTERROGATORY NO. 19:

Identify when and how Petitioner first became aware of Registrant and identify the persons who first learned of Registrant.

RESPONSE TO INTERROGATORY NO. 19:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to the interrogatory to extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. The Interrogatory is compound. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner first became aware of Registrant on August 21, 2009 when reviewing the USPTO trademark database.

INTERROGATORY NO. 20:

Identify when and how Petitioner first became aware of Registrant's Marks and identify the persons who first became aware of Registrant's Marks.

RESPONSE TO INTERROGATORY NO. 20:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to the interrogatory to extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. The Interrogatory is compound. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner first became aware of Registrant on August 21, 2009 when reviewing the USPTO trademark database.

INTERROGATORY NO. 21:

Identify whether Petitioner conducted any survey regarding Petitioner's Mark or Registrant's Marks.

RESPONSE TO INTERROGATORY NO. 21:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to the extent the interrogatory seeks information protected by the attorney-client privilege or attorney work product doctrine or the interrogatory seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. The Interrogatory is compound. Responding Party objects to this interrogatory to the extent it seeks information protected by Responding Party's financial privacy. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner has not conducted a survey regarding Petitioner's marks or Registrant's marks.

INTERROGATORY NO. 22:

Identify each person upon whom Petitioner may rely upon as a witness in this opposition proceeding and state the subject matter on which each witness is expected to testify.

RESPONSE TO INTERROGATORY NO. 22:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to this interrogatory as seeking information protected by the attorney-client privilege and attorney work product doctrine. The Interrogatory is compound.

INTERROGATORY NO. 23:

Identify all websites on which Petitioner's Mark has appeared.

RESPONSE TO INTERROGATORY NO. 23:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to the extent the interrogatory seeks information protected by Responding Party's financial privacy. Responding Party objects to the interrogatory as overbroad and unduly burdensome. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner's mark has been used consistently on Petitioner's websites.

INTERROGATORY NO. 24:

Identify all uses of Petitioner's Mark as a domain name or website and describe the manner in which Petitioner's Mark is so used.

RESPONSE TO INTERROGATORY NO. 24:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. The Interrogatory is compound and vague and ambiguous. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner's domain name, healthy.com, has been used by Petitioner.

INTERROGATORY NO. 25:

Identify the basis and all evidence concerning Petitioner's claim in paragraph 3 of the Petition to Cancel that "[a]s stated in its application, Petitioner has continuously used the trademark HEALTHY .COM in interstate commerce in relation to 'providing a web site featuring information on health and nutrition' since at least as early as August 23, 1994."

RESPONSE TO INTERROGATORY NO. 25:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to the extent the interrogatory seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner has engaged in attempts in raising money, acquiring partners, and giving presentations of health information through the domain name Healthy.com. Petitioner has continually used the mark and domain name as a traffic driver to the website or potential investors. Once users access Petitioner's website through Petitioner's domain name, they are offered a wide arrange of products and services by Petitioner.

INTERROGATORY NO. 26:

Identify the basis and all evidence concerning Petitioner's claim in paragraph 3 of the Petition to Cancel that "the HEALTHY.COM trademark has become distinctive of and identified exclusively with Petitioner and its goods and services offered under that trademark."

RESPONSE TO INTERROGATORY NO. 26:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege or attorney work product doctrine or seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

The mark Healthy.com clearly indicates an exclusive domain name that is owned by Petitioner and Petitioner's website appears exclusively at that domain name. No party, other

than the owner of the domain name, may use Healthy.com as a domain name. The .COM is included in both the mark, to identify the source of Petitioner's goods and services (The website) and in the domain name as well.

INTERROGATORY NO. 27:

Identify whether HEALTHY.COM has ever been offered for sale or offered in an auction for sale, either as a trademark or a domain name and, if so, state the dates of such and the outcome of such sale or offer for sale.

RESPONSE TO INTERROGATORY NO. 27:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. The Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence and seeks discovery of information that is not relevant. Fed.R.Civ.P. 26(b)(1); Fed.R.Evid. 401. Responding Party objects to the interrogatory to the extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. The Interrogatory is vague and ambiguous as to the term "outcome." The interrogatory seeks information protected by Responding Party's financial privacy. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Healthy.com has never been advertised as "for sale," solicited by Petitioner, or publicly offered as a trademark or domain name.

INTERROGATORY NO. 28:

Identify how many domain names Petitioner owns and how many domain names Petitioner has sold and, if so, what domain names Petitioner has sold, at what price, to whom, and the dates the domain names were sold.

RESPONSE TO INTERROGATORY NO. 28:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. The Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence and seeks discovery of information that is not relevant. Fed.R.Civ.P. 26(b)(1); Fed.R.Evid. 401. The interrogatory is overbroad. The interrogatory seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. The Interrogatory is compound and vague and ambiguous. The interrogatory seeks information protected by Responding Party's financial privacy.

INTERROGATORY NO. 29:

Identify in detail the nature of the specimen associated with the application for Petitioner's Mark, including who prepared it, how long it was in use, and to what extent, if any, Petitioner has received revenue derived from such use.

RESPONSE TO INTERROGATORY NO. 29:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. This interrogatory seeks information protected by the attorney-client privilege and attorney work product doctrine. The interrogatory seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. The interrogatory is compound and vague and ambiguous as to the concept of revenue obtained from a specimen of usage. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner has used several stylized logos in connection with the mark Healthy.com. In each of these logos, the letters and use of the mark were unique. The mark has been in use since its creation in 1998.

INTERROGATORY NO. 30:

Identify in detail the circumstances concerning Petitioner's claim in the Miscellaneous Statement section of the trademark application for Petitioner's Mark that he was "the original founder and president of Healthworld and past filer for the mark -- and all assets transferred to me upon closure."

RESPONSE TO INTERROGATORY NO. 30:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to the extent the interrogatory seeks information protected by the attorney-client privilege, the attorney work product doctrine or is confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. The interrogatory is vague and ambiguous as to the phrase "detail the circumstances." The interrogatory seeks information protected by Responding Party's financial privacy. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner was the founder of the applicant, Healthworld, and acquired the assets of Healthworld including the domain, mark and goodwill associated therewith. Petitioner maintained control of the domain name Healthy.com and continued to use that name in connection with a health website and related goods and services.

INTERROGATORY NO. 31:

Identify in detail the circumstances concerning Petitioner's claim in the Miscellaneous Statement section of the trademark application for Petitioner's Mark that "[t]he domain is in my name and am in the process of launching it as a business Entity."

RESPONSE TO INTERROGATORY NO. 31:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. Responding Party objects to the interrogatory to the extent it seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Responding Party objects to the extent the interrogatory seeks information protected by Responding Party's financial privacy. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

Petitioner operated the website Healthy.com as a health services website, offering information, products, and services in the emerging "Wellcare" industry since at least as early as 1995.

INTERROGATORY NO. 32:

Identify each person who owned the domain name HEALTHY.COM, the period of time it was owned and the circumstances under which it was acquired and was transferred to another person, if any.

RESPONSE TO INTERROGATORY NO. 32:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. The interrogatory seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a

person not a party to this action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

HWOL was the owner of Healthy.com from 1996 to June 17, 2002 when it was transferred to David Robertson. Healthy.com was transferred from David Robertson to Healthy.com, Inc. on June 29, 2010.

INTERROGATORY NO. 33:

State the relationship, if any, of Petitioner to all owners of the domain name HEALTHY.COM.

RESPONSE TO INTERROGATORY NO. 33:

Objection. Responding Party incorporates by reference the General Objection and Preliminary Statement contained herein. The interrogatory seeks information that constitutes confidential, privileged, proprietary, or trade secret information and/or invades the privacy of a person not a party to this action. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

HWOL was the owner of Healthy.com from 1996 to June 17, 2002 when it was transferred to David Robertson. Healthy.com was transferred from David Robertson to Healthy.com, Inc. on June 29, 2010.

Respectfully submitted,

Date: June 10, 2011

Joseph A. Mandour, Esq.
Ben T. Lila, Esq.
Mandour & Associates, APC
16870 West Bernardo Dr.,#400
San Diego, CA 92127
Telephone: (858) 487-9300
Facsimile: (858) 487-9390
E-Mail:jmandour@mandourlaw.com
blila@mandourlaw.com

VERIFICATION

I, Dave Robertson, am the Petitioner in the above captioned action. I declare under penalty of perjury under the laws of the United States that the foregoing responses are true and corrected based on my personal knowledge.

Dated: 6-10-17

Dave Robertson

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing **PETITIONER DAVID ROBERTSON'S RESPONSES TO REGISTRANT 1-800-HEALTHY.COM, INC.'S FIRST SET OF INTERROGATORIES** was sent by first class mail, postage prepaid, on the below date to Petitioner's counsel:

Thomas M. Galgano, Esq.
Jessica G. Bower, Esq.
Attorneys for Registrant
GALGANO & ASSOCIATES, PLLC
20 W. Park Avenue, Suite 204
Long Beach, New York 11561
Telephone: (516) 431-1177

Date: June 10, 2011

Ben Lila

EXHIBIT XX

WHOIS search results for: HEALTHY.COM
(Registered)

Is this your domain?
Add hosting, email and more.

Want to buy this domain?
Get it with our Domain Buy service.

NOTICE AND TERMS OF USE: You are not authorized to access or query our WHOIS database through the use of high-volume, automated, electronic processes. The Data in Network Solutions' WHOIS database is provided by Network Solutions for information purposes only, and to assist persons in obtaining information about or related to a domain name registration record. Network Solutions does not guarantee its accuracy. By submitting a WHOIS query, you agree to abide by the following terms of use: You agree that you may use this Data only for lawful purposes and that under no circumstances will you use this Data to: (1) allow, enable, or otherwise support the transmission of mass unsolicited, commercial advertising or solicitations via e-mail, telephone, or facsimile; or (2) enable high volume, automated, electronic processes that apply to Network Solutions (or its computer systems). The compilation, repackaging, dissemination or other use of this Data is expressly prohibited without the prior written consent of Network Solutions. You agree not to use high-volume, automated, electronic processes to access or query the WHOIS database. Network Solutions reserves the right to terminate your access to the WHOIS database in its sole discretion, including without limitation, for excessive querying of the WHOIS database or for failure to otherwise abide by this policy. Network Solutions reserves the right to modify these terms at any time. http://www.networksolutions.com

Registrant:
healthy.com INC
10751 G lakewood blvd
Downey, CA 90241
US

Domain Name: HEALTHY.COM

Administrative Contact, Technical Contact:
healthy.com INC dave@healthy.com
10751 G lakewood blvd
Downey, CA 90241
US
562-862-5202

Record expires on 22-Aug-2015.
Record created on 23-Aug-1994.
Database last updated on 22-Apr-2011 11:25:25 EDT.

Domain servers in listed order:

DNS1.ULTRAHOSTING.COM 64.226.28.33
DNS2.ULTRAHOSTING.COM 64.77.127.42

Registrar: NETWORK SOLUTIONS, LLC.
Whois Server: whois.networksolutions.com
Creation Date: 23-AUG-1994
Updated Date: 07-FEB-2011
Expiration Date: 22-AUG-2015

Nameserver: DNS1.ULTRAHOSTING.COM
Nameserver: DNS2.ULTRAHOSTING.COM

Registry Status: clientTransferProhibited

See Underlying Registry Data

18H012(

Although it often appears "WHOIS" or "Whois", the term is not an acronym. It means literally "Who is", referring to the searchable database that stores **domain information** for every URL currently registered on the Internet. Think of the WHOIS database as the "white pages" of the Internet neighborhood.

Search the **GoDaddy.com** WHOIS database whenever you want to know who a particular Web site belongs to. You may even be able to find the name and contact information of the business or individual who holds the registration on that domain. If the registration is private, specific information such as the holder's name, address, phone number and email address will be hidden from public view.

There are a number of reasons why you might want to use the **GoDaddy.com** WHOIS database:

- If you're a domainer, you might have your eye on a particular domain name(s) and want to know when it expires in the hopes of registering it yourself. You might also wish to approach the registrant with a private purchase offer.
- If you are the legal owner of a copyrighted name and you find someone else has registered a domain with that name in it, you'll want to take legal action against whoever's infringed on your rights by "cyber-squatting" on your Internet territory.
- If you come across your own original content reproduced without permission on another Web site, you may want to look up the name of the domain registrant in order to file a DMCA complaint against him or her. This federal act makes it illegal for anyone to produce or distribute another's original material on the Internet.

Law enforcement agencies use the WHOIS database to support national and international efforts including copyright protection and anti-terrorism laws. They're able to identify the registrant - or at least the host or registrar - of every domain name registered today. Legal infractions that can't be traced to an individual or business can certainly be traced to a registrar. Depending on the offense, the registrar may warn the site owner or shut down the Web site altogether.

GoDaddy.com has been active in combating Internet crime and abuse. **GoDaddy.com** lawyers have testified before the U.S. House Judiciary Subcommittee on Crime, Terrorism and Homeland Security about the rapid proliferation of illegitimate pharmacies and child pornography on the Internet. In fact, the company had a hand in the 2008 passage of the Ryan Haight Online Pharmacy Consumer Protection Act, named after a California teenager who died from an overdose of a drug he bought online.

EXHIBIT YY

"Knowledge is the Best Medicine for Your Health"

TAKE THE LEAP TO --
Get on a HealthyTrac

Of course "HEALTHY.COM" is a big vision to fulfill, as we have seen over the many years it's best to find your body's starting point - (if you don't know where you are at - how can you go anywhere?) in the journey for you to improve you - both Lifestyle and Clinical assessments; and then start /stay on the path of Being HEALTHY.

So take the leap to HealthyTrac

The Vision

We believe the "Healthy" Consumer should have access to natural products, services, "Healthy/Holistic treatments and biological information, in their pursuit of prevention, health potential and monitoring. Any barriers are costly and a threat to their Human potential.

"Healthy.com" --

Finding Your HealthyTrac

As health becomes the number one issue, politically, socially, economically, and personally, there is nothing on the current horizon of products or services available in the USA Healthcare (Sickcare) system that looks like it can alleviate the quagmire we as US citizens are currently stuck with.
It will become obvious the most important and underserved player in this 3 party system is the 1st party—the individual or "Health Consumer". To this end the measurement and assessment of the individual for pre-disease states and genomic testing is the most untapped resource. Driven by cost, risk, intervention, worried well, anti-aging or higher quality of life, the many "Healthy" consumers are looking for a consumer friendly interface into medical science. Fueled by exponential growth of genomics, biology, and digital networks like the internet, the management of a WellCare state for the individual is a complete new market or "Value Chain" that introduces the need for Consumer Driven Testing (CDT), either for monitoring states of health or looking for maximizing Health potential.
This Wellcare industry is already flourishing, with many companies having been in CDT for years and now with the internet it is growing dramatically .

http://www.healthy.com/

Health and Human Services Secretary, Mike Leavitt, said it best---

"The macroeconomics of our entire economy has changed in the last 15 years, and the macroeconomics of medicine will change as well."

"Time to get on the HealthyTrac"

,

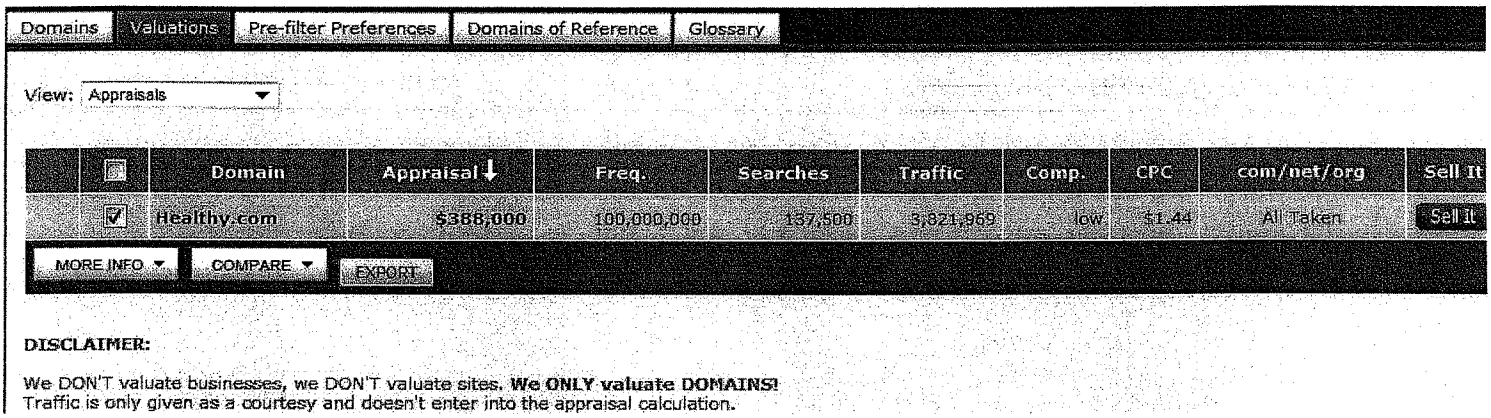
To that end we have had years of acquired knowledge in the WellCare side of health and have found that the current western based system (Medicine/Sickcare if you will) is a small part of being "Healthy". It's only a tool to try to get your disorder adjusted, but is limited when you want more optimum states of "Healthy", or prevent what portends. Let us Bring all the tax payer supported and marketplace technology and research directly to the individual and let them become the underutilized resource, for prevention and monitoring--as they have the most Vested interest.

Full Story

- **HealthyTrac**
  - 1- Lifestyle
  - 2- Lab Tests
  - 3- Understand
  - 4- Nutrients
  - 5- Move Body
  - 6- Remember

CONTACT US

EXHIBIT ZZ



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---Unsolicited offer rejected--Company Confidential 6/10/10

Hello Dave,

I appreciate you taking the time to speak with XXXX today. I feel that we are all on the same page now in order to make a final decision. I feel that a 325K offer is a great and very respectable offer for healthy.com and it will also fall in the hands of a company that is more than capable to portray the name healthy in the proper manner. Like I said before, I am willing to take a cut on my end if you are willing to except the 325K and take a cut on your end. How much will need to be decided by excepting the 325K offer. By seriously considering this offer,

==========

===Network solutions Page-- July 2010

Account: (healthy.com (32566191))

healthy.com INC
10751 G lakewood blvd
Downey, CA 90241

Account Holder: US
Phone: 562-862-5202
Fax:
NIC Handle: 45682173O

==========

===Many More current uses--

Healthy.com docs----

Current Corporation

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

01/06/2010

083633204090601001

EFTPS is a service provided FREE by the U.S. Department of the Treasury.

To activate your EFTPS Enrollment, call 1-800-555-3453 as soon as possible.

HEALTHY COM
% DAVE ROBERTSON
10751 LAKEWOOD BLVD STE G
DOWNEY, CA 90241-0000

EIN **-***8131

Communications and Offer/Value to buy Healthy.com

From: Matías de Tezanos [pirchin2k@hotmail.com]
Sent: Wednesday, March 29, **2006** 7:49 AM
To: Dave
Subject: Re: healthy.com
Thanks for your Offer Dave.

Actually I have other partners and the scenario would be complicated to partner on this proyect. I can raise my offer to 65,000 US$ cash, using escrow.com for the transaction, I will pay for the transaction fee's, we can get this deal done in 4 days.

Let me know
Matias

----- Original Message -----
From: Dave
To: 'Matías de Tezanos'
Sent: Tuesday, March 28, 2006 5:07 PM
Subject: RE: healthy.com

I appreciate your offer—But I have offers in the $100K range—Managed care companies—want to hide their medical stuff there—
But I am interested in taken a Domainer approach to the name and establishing a click through index of sort—
Maybe you can mention how this approach wil work and what id the stream of $$--and maybe we partner??
Call me--# below—
562 8625202

From: Matías de Tezanos [mailto:pirchin2k@hotmail.com]
Sent: Tuesday, March 28, 2006 2:58 PM
To: Dave
Subject: Re: healthy.com

In mind? Buying it. I buy and develop domain names.

I can offer you 30,000 US$ for it, cash.

Let me know, we can use escrow.com for this transaction.

Matias

----- Original Message -----
From: Dave
To: 'Matías de Tezanos'
Sent: Tuesday, March 28, 2006 4:48 PM
Subject: RE: healthy.com

What do you Offer?
What did you have in Mind??

From: Matías de Tezanos [mailto:pirchin2k@hotmail.com]
Sent: Monday, March 20, 2006 10:15 AM
To: dave@knowmax.com
Subject: healthy.com

Dear Dave,

My name is Matias de Tezanos, I buy and develop domain names. Im interested in buying from you the domain name Healthy.com . i would like to know if you would be interested in selling it.

Best,

Matias

==========

Another Offer--Not for sale--

To: Rr Rr
Subject: RE: Healthy.com 20K

This domain is not available for sale--

--BeWell--
Dave Robertson
(562) 8625202
dave@healthy.com

From: Rr Rr [mailto:rrddtteeee@yahoo.com]
Sent: Monday, July 05, 2010 8:26 PM
To: dave@knowrules.com
Subject: Healthy.com 20K

I offer 20K for Healthy.com.

==========

A valuation site

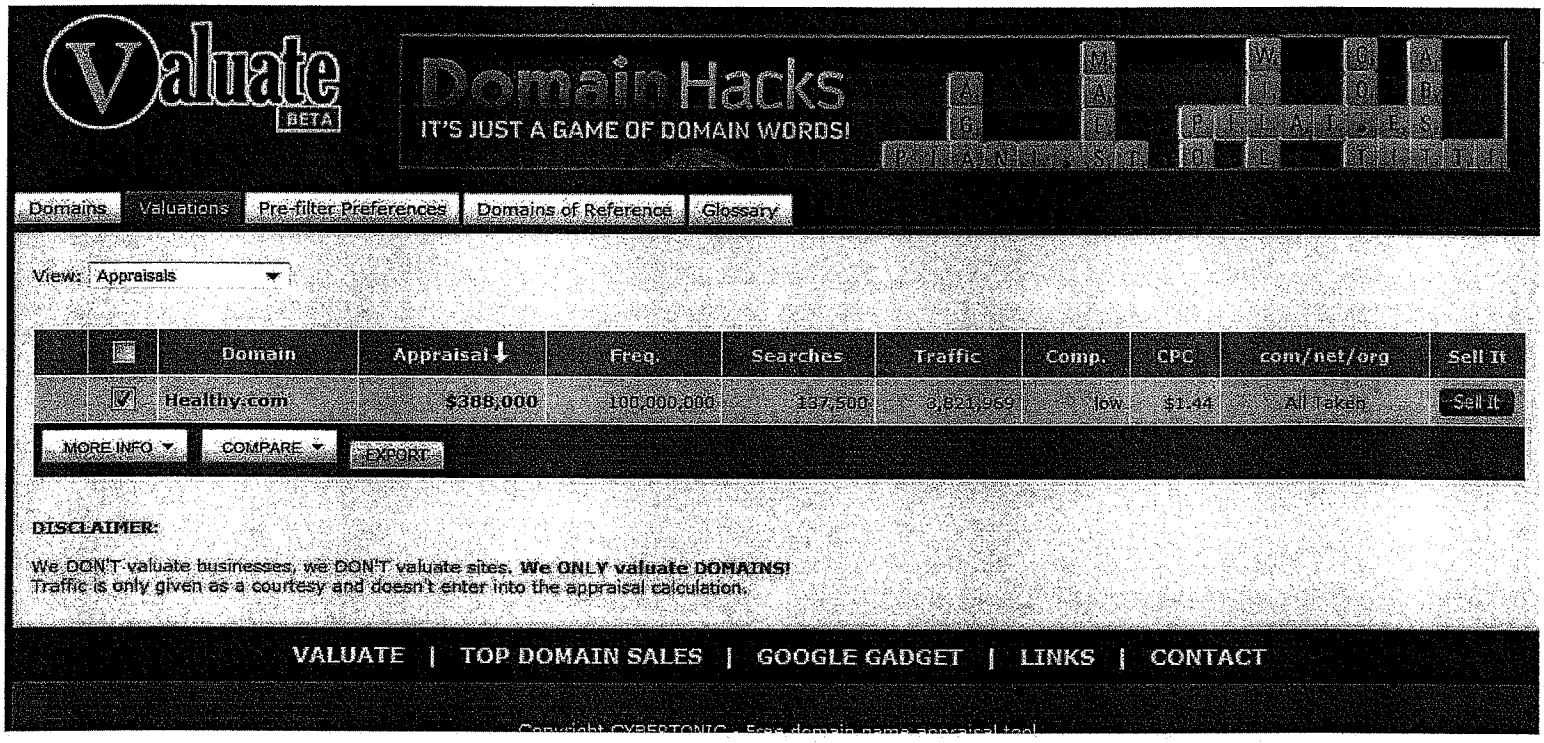

EXHIBIT AAA

Loading...

http://www.healthy.com:80/ | 11:57:09 Mar 1, 2000

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Loading...

http://www.healthy.com:80/ | 21:39:18 Mar 2, 2000

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Impatient?

Loading...

http://healthy.com:80/ | 6:03:30 May 10, 2000

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Impatient?

Loading...

http://www.healthy.com:80/ | 4:17:49 May 20, 2000

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Impatient?

Loading...

http://www.healthy.com:80/ | 4:24:48 Jun 2
2, 2000

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Impatient?

Loading...

http://www.healthy.com:80/ | 2:44:45 Jul 7, 2000

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Impatient?

Loading...

http://www.healthy.com:80/ | 6:59:16 Aug 16, 2000

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Impatient?

Loading...

http://www.healthy.com:80/ | 8:58:57 Oct 19, 2000

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Impatient?

Loading...

http://www.healthy.com:80/ | 12:13:00 Nov 9, 2000

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Impatient?

Loading...

http://www.healthy.com:80/ | 4:37:14 Apr 5, 2001

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Impatient?

Loading...

http://www.healthy.com:80/ | 15:01:33 Apr 18, 2001

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Impatient?

Loading...

http://healthy.com:80/ | 10:26:08 Jul 20, 2001

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Impatient?

Loading...

http://healthy.com:80/ | 10:21:26 Nov 30, 2001

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Impatient?

Loading...

http://www.healthy.com:80/ | 6:46:00 Mar 28, 2002

Got an HTTP 302 response at crawl time

Redirecting to...

http://www.healthy.net/

Impatient?