Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of Goen Technologies Corp., et al., File No. 042 3127

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Goen Technologies Corp., Nutramerica Corp., TrimSpa, Inc., and Alexander Szynalski a/k/a Alexander Goen (together, "respondents").

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves the advertising and promotion of TrimSpa® Completely Ephedra Free Formula X32 ("TrimSpa X32"), a dietary supplement that, according to its label, contains, among other ingredients, Hoodia gordonii, chromium, vanadium, glucomannan, citrus naringine, glucosamine HCI, cocoa extract, and green tea extract. According to the FTC complaint, respondents represented that TrimSpa X32 causes rapid and substantial weight loss; and that Hoodia gordonii – an African appetite suppressant – in TrimSpa X32 enables users to lose substantial amounts of weight by suppressing their appetite. The complaint alleges that respondents failed to have substantiation for these claims. The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future.

Part I of the proposed order requires respondents to have competent and reliable scientific evidence substantiating any claims that a covered product or service causes rapid and substantial weight loss or that the Hoodia gordonii, or any other appetite suppressant, in a covered product enables users to lose substantial amounts of weight by suppressing their appetite. The provision further requires that any such claim be true.   A "covered product or service" is defined as "any dietary supplement, food, drug, or device, or any health-related service or program." Part I.C. further requires that future claims about the health benefits, performance, efficacy, safety, or side effects of any covered product or service be truthful and supported by competent and reliable scientific evidence.

Part II of the proposed order provides that the order does not prohibit respondents from making representations for any drug that are permitted in labeling for the drug under any tentative final or final Food and Drug Administration ("FDA") standard or under any new drug application approved by the FDA; representations for any medical device that are permitted in labeling under any new medical device application approved by the FDA; and representations for any product that are specifically permitted in labeling for that product by regulations issued by the FDA under the Nutrition Labeling and Education Act of 1990.

Part III provides for the payment of $1,500,000 to the Commission.

Part IV of the proposed order requires respondents to provide the Commission with a list of all consumers who respondents know purchased TrimSpa X32 from March 1, 2003 through the date of entry of this Order.

Parts V through IX require respondents to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to certain of their personnel; to notify the Commission of changes in corporate structure (for the corporate respondents) and changes in employment (for the individual respondent) that might affect compliance obligations under the order; and to file compliance reports with the Commission. Part X provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.