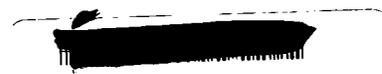


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TRADEMARK

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12-02-2003

U.S. Patent & TMO/TM Mail Rep. Dt. #22

Attorneys for MacroMed, Incorporated
Opposed Mark: ASCENTRA
U.S. Trademark Application Serial Number 76/458,908

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

Ascent Pediatrics, Inc.,)	
)	
Opposer,)	APPLICANT'S
)	ANSWER TO NOTICE OF
v.)	OPPOSITION
)	
MacroMed, Incorporated,)	
)	
Applicant.)	Opposition No. 91/158,186
)	

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

MacroMed, Incorporated (hereinafter referred to as "Applicant") hereby files this Answer to the Notice of Opposition filed by Ascent Pediatrics, Inc. (hereinafter "Opposer") against the registration of Applicant's trademark ASCENTRA, Serial No. 76/458,908, published in the Official Gazette on April 22, 2003, and believes that it is

<u>CERTIFICATE OF DEPOSIT</u>	
I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Service", on the date indicated below in an envelope addressed to: Box TTAB - NO FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514.	
Date of Deposit: <u>12/02/03</u>	Signed: <u>Mandy Sease</u>

entitled to registration of the published mark ASCENTRA, and pleads and avers as follows:

In response to the first introductory paragraph of the Notice of Opposition, Applicant denies that Opposer will be damaged by the issuance of the registration of the trademark ASCENTRA, Serial No. 76/458,908.

1. In response to paragraph 1 of the Notice of Opposition, Applicant admits.

2. In response to paragraph 2 of the Notice of Opposition, Applicant admits that it is the owner of trademark ASCENTRA, Serial No. 76/458,908.

3. In response to paragraph 3 of the Notice of Opposition, Applicant admits that the application for registration and Official Gazette publication speak for themselves.

4. In response to paragraph 4 of the Notice of Opposition, Applicant admits that Opposer appears to be the owner of Registration No. 1,884,185. Applicant lacks sufficient information to form a belief as to truth of the remaining allegations in paragraph 4 and therefore denies the same.

5. In response to paragraph 5 of the Notice of Opposition, Applicant admits that the application for registration and Official Gazette publication speak for themselves.

6. In response to paragraph 6 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 6 and therefore denies the same.

7. In response to paragraph 7 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained therein and therefore denies the same.

8. In response to paragraph 8 of the Notice of Opposition, Applicant denies the allegations contained therein.

9. In response to paragraph 9 of the Notice of Opposition, Applicant denies the allegations contained therein.

10. In response to paragraph 10 of the Notice of Opposition, Applicant denies the allegations contained therein.

11. In response to paragraph 11 of the Notice of Opposition, Applicant denies the allegations contained therein.

12. In response to paragraph 12 of the Notice of Opposition, Applicant denies the allegations contained therein.

In further response to the Notice of Opposition, Applicant avers the following:

FIRST DEFENSE (DISSIMILAR MARKS)

The marks themselves are sufficiently dissimilar such that confusion is highly unlikely. Applicant's mark ASCENTRA is one which is significantly different than Opposer's mark ASCENT in appearance, sound, and commercial impression.

SECOND DEFENSE (DISSIMILAR GOODS)

The ASCENTRA products and the ASCENT products are sufficiently dissimilar such that confusion is highly unlikely. ASCENTRA is a prescription drug comprising a human growth hormone. ASCENT is an over the counter formulation for the treatment of infections, respiratory diseases, pain, fever, cough, colds, skin diseases allergies and gastrointestinal disturbances. Consequently, no likelihood of confusion exists.

THIRD DEFENSE (SOPHISTICATION OF BUYERS)

The purchasers of products in connection with the mark ASCENTRA are extremely sophisticated and take great care in purchasing such products because they are prescription drugs, thereby eliminating any likelihood of confusion.

FOURTH DEFENSE (DIFFERENT CHANNELS OF TRADE)

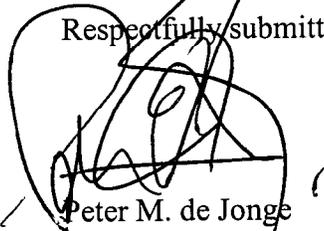
The channels of trade through which the ASCENTRA products and the ASCENT products are distributed are dissimilar because one is a prescription drug, the other is an over the counter formulation. Consequently, no likelihood of confusion exists.

WHEREFORE, Applicant prays:

1. That the Notice of Opposition be dismissed in its entirety with prejudice;
2. That a registration on the Principal Register issue to MacroMed, Incorporated for the ASCENTRA mark as set forth in Application Serial No. 76/458,908.

Dated this 2nd day of December, 2003.

Respectfully submitted,



Peter M. de Jonge
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Attorneys for MacroMed, Incorporated.

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Sandy, Utah 84091-1219
(801) 566-6633

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION was served on Opposer by depositing said true and correct copy with the United States Postal Service, First Class Mail, postage prepaid, this 2 day of December, 2003, in an envelope addressed to Opposer's attorney of record as follows:

Daiva K. Tautvydas
Christensen O'Connor Johnson Kindness^{PLLC}
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Seattle, WA 98101