

ESTTA Tracking number: **ESTTA36131**

Filing date: **06/18/2005**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Briggs Medical Service Company
Granted to Date of previous extension	06/18/2005
Address	7300 Westown Parkway West Des Moines, IA 50266 UNITED STATES

Attorney information	Janet G. Huston Dickinson Mackaman Tyler & Hagen, P.C. 1600 Hub Tower699 Walnut Street Des Moines, IA 50309 UNITED STATES trademark@dickinsonlaw.com Phone:515-244-2600
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Applicant Information

Application No	78357378	Publication date	04/19/2005
Opposition Filing Date	06/18/2005	Opposition Period Ends	06/18/2005
Applicant	Omnimed International, Inc. 67 Wall Street,Suite 2211 New York, NY 10005		

UNITED STATES

Goods/Services Affected by Opposition

Class 039. First Use: 20031017First Use In Commerce: 20031017

All goods and services in the class are opposed, namely: archiving complete files of patient medical records

Attachments	Briggs-uspto-opposition.tif (3 pages)
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Signature	/Janet G. Huston/
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Name	Janet G. Huston
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Date	06/18/2005
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BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

Briggs Medical Service Company,)	IN RE: Serial Number
Opposer,)	78357378
)	
Vs.)	
)	NOTICE OF OPPOSITION
Omnimed International, Inc.,)	
Applicant.)	

COMES NOW, Briggs Medical Service Company, d/b/a Briggs Corporation, and hereby opposes the registration of the trademark identified by the above captioned serial number, and states as follows:

1. Briggs Corporation (“Briggs”) is a manufacturer and national wholesaler of medically related products, equipment and supplies, including medical documentation systems as well as the medically related products of other manufacturers, including Omnimed, Inc.
2. Briggs has knowledge that for many years Omnimed, Inc. has used the appellation “Omnimed” as a trademark and trade name by which it is nationally known for medical equipment, products, and supplies in the medical industry (e.g., hospitals, nursing homes, assisted living facilities, doctors’ offices).
3. Briggs is a wholesaler of Omnimed, Inc.’s medically related equipment, products and supplies.
4. Omnimed, Inc. nationally advertises its medical equipment, products and supplies under the trade name and trademark, “Omnimed,” and has done so for many years.
5. Omnimed, Inc. has adopted and uses the following design plus letters for its depiction of federally registered and unregistered word marks (use of the unregistered mark does not contain the ® to the right of the “I” in “Inc.”).



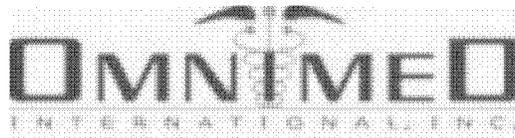
6. Omnimed, Inc.’s use in commerce of the design plus letters depicted in section 6 above predates the applicant’s use of the proposed mark as identified by serial number 78357378.

In RE: Serial Number 78357378

7. The term, “Omnimed” is fanciful and has been associated with Omnimed, Inc.’s medical equipment, products and supplies for many years. The term, “Inc.” merely refers to Omnimed, Inc.’s corporate status. “Omnimed” is the central and overwhelmingly unique identifying term by which Omnimed, Inc.’s medical equipment, products and supplies are known nationally in the medical industry.

8. The mark depicted by serial number 78357378 is confusingly similar to the mark adopted and used by Omnimed, Inc., as identified in section 6 above. Additionally, the central word, “omnimed” in serial number 78357378 is identical to the central word in “Omnimed, Inc.’s registered and unregistered trademarks of the same word!

9. Even the selection of font and design of the mark in serial number 78357378 (as shown below) is confusingly similar to that of Omnimed, Inc.



10. The additional term “international” in serial number 78357378 does not negate the confusing similarity to the registered and unregistered trademarks of Omnimed, Inc., both because the central and identifying term in the Applicant’s mark is the word “Omnimed,” and because the term “international” is like those of “incorporated,” “corporation,” “Ltd.” and the like, which are used as descriptors of corporate or geographic scope, and which do not add uniqueness to the mark, or diminish the confusing similarity of the logos.

11. The description of services in serial number 78357378 states: “archiving complete files of patient medical records” in international class 39. The channels of trade associated with the products identified by the Applicant are identical to the channels of trade for Briggs. In fact, Briggs sells an Omnimed, Inc. equipment line of patient medical record chart holders, as well as certain supplies that are used in connection with patient medical records. The Omnimed, Inc., chart holders sold by Briggs necessarily store patient medical records, and the Applicant’s description of products and/or services overlaps those products sold under the trade name and/or trademarks of Omnimed, Inc. Briggs uses the Omnimed logo as depicted in section 6 in its own medically related product catalogs to advertise Omnimed, Inc., equipment, products and supplies to the medical community.

12. Briggs will be damaged by the registration of Omnimed International, Inc., because the customers of Briggs often order products by specifying “Omnimed” as the manufacturer, and the Briggs’ customer service representatives and Briggs’ customers will likely be confused as to the origin of the Applicant’s products. It is likely that Briggs’ customers could well believe that Omnimed, Inc. has simply added an international division, rather than recognizing or understanding that the Applicant has no relationship to Omnimed, Inc.

In RE: Serial Number 78357378

13. Briggs takes great pride in selling quality medical equipment, products and supplies, and sells only its own products, and those of other quality manufacturers. Briggs has enjoyed a long and successful relationship with Omnimed, Inc., because it manufactures and wholesales quality goods which Briggs is proud to sell. Briggs believes that the Omnimed, Inc. name and the Omnimed, Inc. logo on goods sold by Briggs engender good will for Briggs, and increase its sales. The confusion created by the similarity between the Applicant's mark and the Omnimed, Inc., registered and unregistered marks will create ordering difficulties for Briggs' customers, and will add additional burdens to the Briggs' sales force in explaining that there is no connection between the Applicant and Omnimed, Inc.

WHEREFORE, Briggs Corp., respectfully requests that the Trademark Trial and Appeal Board deny the registration of the Applicant's mark.

Respectfully submitted,

/Janet G. Huston/

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