

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

_____)	
SCIENTIFIC SOLUTIONS, INC.)	
)	
Opposer,)	
)	Serial No. 78 / 322729
v.)	Mark: NATURAL SCIENTIFIC SOLUTIONS
)	DIRECT, etc.
)	Published: June 14, 2005
Dunwell, Dwain)	
)	
)	
Applicant,)	
_____)	

NOTICE OF OPPOSITION

Scientific Solutions, Inc.

Ohio Corporation

9323 Hamilton Drive
Mentor, OH 44060



07-28-2005

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #77

The above-identified Opposer believes that it will be damaged by registration of the mark shown in the above identified application, and hereby opposes the same.

The grounds for opposition are as follows:

The Opposer argues that the Applicant's Mark is similar to the Opposer's registered trademark SCIENTIFIC SOLUTIONS and that the Applicant's goods and services are related and used by similar customers of the Opposer's products such that confusion as to the source of the goods and services is highly likely.

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Notice of Opposition, SN: 78/322,729, Mark NATURAL SCIENTIFIC SOLUTIONS DIRECT
HARNESSING THE POWER OF NUTRITIONAL SCIENCE

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STATUTES

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1. STATEMENT OF THE OPPOSITION

(1.1). This opposition is filed by Scientific Solutions Corporation to U.S. Trademark Application Serial No. 78/322,729 filed on November 4, 2003 and published for opposition on June 14, 2005 in the name of Dwain Dunwell seeking registration of the mark NATURAL SCIENTIFIC SOLUTIONS DIRECT HARNESSING THE POWER OF NUTRITIONAL SCIENCE for two classes:

IC 005. US 006 018 044 046 051 052 G & S: Food supplements, Dietary supplements, Vitamin supplements, meal replacement drinks, food-bar meal replacement supplements.

IC 016. US 002 005 022 023 029 037 038 050. G & S: Brochures and booklets featuring exercise and nutritional information, weight loss programs, diet plans, nutrition guides, healthy eating guides, weight-management plans including those which detoxify, health-improvement nutrition printed guides, nutritional information brochures, nutritional information and marketing leaflets, nutritional information posters, exercise plans and guides, workout programs, printed exercise plans and guides, brochures and posters Medical educational services, namely, organizing and conducting continuing educational conferences, seminars and other events for physicians and health care professionals, and course material distributed therewith; Conducting independent or accredited educational programming funded through educational grants in the fields of medicine and pharmaceuticals

The application was filed under the provisions of *Section 1 of the Trademark Act, 15 U.S.C. Section 1051(b)*, based upon a *bona fide* intent to use the mark in commerce.

(1.2). Opposer asserts that the Mark sought to be registered is likely to be confused with Scientific Solutions' mark SCIENTIFIC SOLUTIONS which is the subject of U.S. Trademark Registrations # 2,406,359 and # 2,406,36 owned by the Opposer.

2. There Is A Likelihood of Confusion Between The Applicant's Mark NATURAL SCIENTIFIC SOLUTIONS DIRECT HARNESSING THE POWER OF NUTRITIONAL SCIENCE and the Opposer's Mark SCIENTIFIC SOLUTIONS

(2.1). The Applicant, an individual of the United Kingdom, appears to be associated with a company by the name of Natural Scientific Solutions Ltd, which is located at the address of Abbey Road Centre, 131-179 Belsize Road, London, NW6 4AB. The Applicant's postal address is the same as the companies postal address and the the Applicant's email address uses the internet domain name of the company.

(2.2). The Applicant's Mark contains the phrase "Natural Scientific Solutions" apparently in reference to the associated aforementioned company which is named "Natural Scientific Solutions"

(2.3). The Opposer believes the inclusion of the phrase "Natural Scientific Solutions" in the Mark, and the fact that the Applicant's address is the same as the company Natural Scientific Solutions Ltd, could preclude that the goods and services marketed using the Applicant's Mark are from the company Natural Scientific Solutions. Furthermore, the phrase "Natural Scientific

Solutions Direct" seems to imply products directly available from the source Natural Scientific Solutions.

(2.4). The Opposer, owner of the registered trademark SCIENTIFIC SOLUTIONS, supplies products to the nutritional marketplace, including customers directly involved with nutritional products, exercise equipment, health care and preventive medicine.

(2.5). As a result of the similarities between the marks of the Opposer and the Applicant, and the related marketing, Opposer contends that the conditions surrounding the marketing of the Applicant's goods and services would be such that they could be encountered by the same purchasers, and as such that consumers are likely to encounter the marks under circumstances that are likely to cause confusion, mistake, or deception as to the source of the respective goods and could give rise to the mistaken believe that the goods or services come from a common source. Both marks use the exact same phrase "SCIENTIFIC SOLUTIONS" for similar goods or services. The opposer believes registration of the Applicant's mark would provide confusion as to the source of goods. The Opposer believes the mark is similar enough in sound, appearance, meaning and connotation to fail the test under Section 2(d) of the Trademark Act as whether there is a likelihood of confusion.

(2.6). The Opposer has received confused inquires in the past regarding nutritional supplements marketed under a confusingly name similar to "Scientific Solutions". The Opposer has not yet determined if the source of said confusion is associated with the Applicant.

(2.7). Any doubt as to the existence of a likelihood of confusion must be resolved in favor of the prior registrant. *Lone Star Mfg. Co. v. Bill Beasley, Inc.*, 498 F.2d 906, 182 USPQ 368 (CCPA 1974). *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir., 1988)

3. The Goods of the Applicant and of the Opposer are related enough to be encountered by the same consumers.

(3.1). The goods of the parties need not be identical or directly competitive to find a likelihood of confusion. They need only be related in some manner, or the conditions surrounding their marketing be such, that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods come from a common source. *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984); *Guardian Products Co., Inc. v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); *In re International Telephone & Telegraph Corp.*, 197 USPQ 910 (TTAB 1978). The Opposer believes the Applicant's Mark is too similar to cause confusion.

(3.2). The Opposer's goods are marketed to Universities, laboratories, manufacturing facilities for factory automation and process control, medical, pharmacology laboratories, drug research facilities and pilot plant facilities The Opposer is also a long term supplier to the global

medical, health and nutrition community and major diagnostic, clinical, educational and research laboratories around the world. The Opposer's products have also been used in commercial exercise equipment likely to be encountered by health-conscious individuals who apparently could also be the subject of marketing by the Applicant use of their Mark. The Opposer's products are also used by manufacturers of food supplements, vitamins and drugs which is along the lines of the Applicant's use of their Mark.

(3.3). The Opposer has been using the mark SCIENTIFIC SOLUTIONS continuously in commerce since at least 1985 and the Opposer's products have been marketed via advertisements in major trade journals, appearances at trade shows and have been the subject of distributor promotions. Considerable success in the marketplace has resulted in the Opposer receiving numerous awards including "Best in Test" and Test and Measurement World's "Product of the Decade". The Opposer's products also have the distinction of the first scientific products ever created for the IBM personal computer, and the first PC based products to be used in the medical research and education field.

(3.4). The Opposer's SCIENTIFIC SOLUTIONS products have been the subject of numerous trade articles, product reviews and continuous and aggressive advertising since at least 1985. Throughout the years it has been heavily advertised and marketed in leading publications including Test and Measurement World, IAN - Industrial and Automation News, Byte, Design News, PEI - Personal Engineering and Instrumentation, Scientific Computing and Automation, Laboratory Digest, Physics Today, Evaluation Engineering, Sensors' Buyer Guide, BioScience Buyer's Guide, Scientific Computing and Instrumentation, Science Magazine, Control

Engineering, and The Scientist.

(3.5). The Opposer's Goods have been the subject of numerous articles in leading medical and pharmaceutical publications including, but not limited to:

Journal of Neurophysiology, American Journal of Physiology, Journal of Applied Physiology, Cell Physiology, Neuropharmacology, AJP-Regulatory, Integrative and Comparative Physiology, AJP-Heart and Circulatory Physiology, American Physiological Society Journal of Neurophysiology, Pharmacology, Biochemistry and Behavior, Gastrointestinal and Liver Physiology, American Journal of Physiology: Renal Physiology, AJP-Endocrinology and Metabolism, Computers and Chemical Engineering, Journal of Neuroscience Methods, Surface Science, Computer Programs in BioMedicine, Electroencephalography and Clinical Neurophysiology, Computers and BioMedical Research, TrAC Trends in Analytical Chemistry, Journal of Speech and hearing research, Biological Psychiatry, General Pharmacology: The Vascular System, Journal of the American College of Surgeons, Journal of Vascular Surgery, Journal of Molecular and Cellular Cardiology, Pharmacological Research, Cardiovascular Research, Journal of Molecular Biology, Molecular Brain Research, Infant Behavior and Development, American Psychologist, Ultrasound in Medicine and Biology, Journal of Chromatography: BioMedical Applications, Archives of Medical Research, International Journal of Medical Information, Journal of Pharmaceutical and BioMedical Analysis.

(3.6). The Opposer goods are marketed and sold under the registered trademark SCIENTIFIC SOLUTIONS for medical education and related purposes for and by physicians and health care professionals in the fields of medicine and pharmaceuticals. Examples include

Departments of Chemistry, Pharmaceutical Departments, Biotechnology Departments, Departments of Medicine, and research & clinical labs of the following customers:

Allegheny University, Baylor College of Medicine, Boston University, Brigham Young University, Case Western Reserve University, Central Michigan University, Children's Hospital Medical Center, Clemson University, Columbia University, Cornell University Medical College, Dalhousie University, Dartmouth College, Duke University Medical Center, Emory University, Finch University, Florida Atlantic University, Georgetown University Medical Center, Georgia State University, Ghent University, Harvard University, Hope College, Huntingdon College, Indiana University, Institute for Medical Physics & Biophysics, Inter Medical, Iowa State University, John Carroll University, Johns Hopkins University, Kent State University, Mass General Hospital, Massachusetts Institute of Technology (MIT), McMaster University, Medical College of Wisconsin, Medical University of South Carolina, Midwest Research Institute, National Institute on Aging, National Institute of Health, National Research Council, Northern Illinois University, Northwestern University, NYU Medical Center, Oklahoma State University, Oregon Health Sciences University, Pennsylvania State University, Purdue University, Research Foundation of SUNY, Rutgers State University of New Jersey, San Diego State University, San Francisco State University, Stanford University, Life Fitness.

4. CONCLUSION

The evidence and prevailing authority clearly demonstrates that the Applicant's mark NATURAL SCIENTIFIC SOLUTIONS DIRECT HARNESSING THE POWER OF NUTRITIONAL SCIENCE is likely to cause confusion with the Opposer's registered mark SCIENTIFIC SOLUTIONS because the marks are identical in the name of the source (SCIENTIFIC SOLUTIONS) and the goods are closely related. The consumers of the Applicant's goods and services are also consumers of the Opposer's goods and services.

Accordingly, the Opposer respectfully requests that the opposition be sustained and the Applicant's mark refused registration.

Respectfully submitted,

SCIENTIFIC SOLUTIONS, INC.

By: Dean Cawthon

Date: July 12, 2005

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CERTIFICATE OF SERVICE

I certify that on the date listed below a true and correct copy of the foregoing Notice of Opposition was served via First Class Mail postage prepaid upon the following:

TTAB – FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Date: July 12, 2005

By: Dean Cawthon

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