

ESTTA Tracking number: **ESTTA66465**

Filing date: **02/14/2006**

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	Barbara J. Schell M.D. PLLC
Granted to Date of previous extension	02/15/2006
Address	601 North 34th Street, Suite C Seattle, WA 98103 UNITED STATES

Attorney information	Victor N. King Speckman Law Group PLLC 1201 Third Avenue, Suite 330 Seattle, WA 98101 UNITED STATES victork@speckmanlaw.com Phone:206-382-1191
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Applicant Information

Application No	76619613	Publication date	10/18/2005
Opposition Filing Date	02/14/2006	Opposition Period Ends	02/15/2006
Applicant	SIMPSON, GRAHAM D. 12620 Silverwolf Road Reno, NV 89511 UNITED STATES		

Goods/Services Affected by Opposition

Class 044. All goods and services in the class are opposed, namely: SPA SERVICES, NAMELY, MASSAGE, MESOTHERAPY, DETOXIFICATION THERAPY, BODY WRAPS, BODY SCRUBS, EXFOLIATING SCRUBS; SALON SERVICES, NAMELY, PEDICURES, MANICURES, FACIALS, HAIR STYLING AND CUTTING, SKIN TREATMENT, AND SKIN TANNING; MEDICAL SERVICES, NAMELY LASER COSMETIC SURGERY AND INJECTING TISSUE AUGMENTING GELS, FACIAL FILLERS, AND PHARMACEUTICAL PREPARATIONS FOR TREATING WRINKLES, MUSCLE DYSTONIAS, HEADACHES, AND SPASMS; NUTRITION COUNSELING

Attachments	Notice of Opposition 021406.pdf (5 pages)
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Signature	/victor n king/
Name	Victor N. King
Date	02/14/2006

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

BARBARA J. SCHELL, M.D., PLLC,)	Opposition No. _____
)	
Opposer,)	
)	
v.)	Serial No.: 76/619,613
)	Filed: November 8, 2004
)	Mark: THE AGELESS-ZONE (block form)
GRAHAM D. SIMPSON,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Barbara J. Schell, M.D., PLLC, a LIMITED LIABILITY COMPANY organized and existing under the laws of the State of Washington, having a principal place of business at 601 North 34th Street, Suite C, Seattle, WA 98103 ("Opposer"), believes that it is being, and will be damaged by the registration of the mark THE AGELESS-ZONE (block form) shown in U.S. Trademark Application Serial No. 76/619,613, and hereby opposes the same.

As grounds for opposition, Opposer alleges as follows, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to other matters:

1. Opposer is informed and believes that Graham D. Simpson, having an address at 12620 Silverwolf Road, Reno, Nevada 89511, is the current owner of intent-to-use Trademark Application Serial No. 76/619,613, filed on November 8, 2004, for the mark THE AGELESS-ZONE (block form) for use in connection with "spa services, namely, massage, mesotherapy, detoxification therapy, body wraps, body scrubs, exfoliating scrubs; salon services, namely,

pedicures, manicures, facials, hair styling and cutting, skin treatment, and skin tanning; medical services, namely laser cosmetic surgery and injecting tissue augmenting gels, facial fillers, and pharmaceutical preparations for treating wrinkles, muscle dystonias, headaches, and spasms; nutrition counseling" in International Class 44.

2. Opposer has owned and operated a medical spa and rejuvenation center ("Ageless Center for Rejuvenation"), having a principal place of business at 601 North 34th Street, Suite C, Seattle, WA 98103, using the trademark and trade name AGELESS since at least 2000, providing services including, and not limited to, massage, mesotherapy, detoxification therapy, body wraps, body scrubs, exfoliating scrubs, facials, skin treatment, laser cosmetic surgery and injecting tissue augmenting gels, facial fillers, pharmaceutical preparations for treating wrinkles, muscle dystonias, headaches and spasms, cosmetic and medical treatments and procedures related to, and not limited to, anti-aging treatments, nutritional and dietary supplementation, medical and cosmetic lasers, light based systems, radio frequency treatments, surgical and non-surgical medical and cosmetic treatments for health, well-being, age related issues, face, body, mind and spirit rejuvenation.

3. Opposer has advertised the AGELESS spa and medical center extensively in regional and national markets and the AGELESS spa and medical center is well established, having a geographically dispersed client base.

4. Opposer has established common law trademark rights to the mark AGELESS in connection with the above-mentioned spa and medical services.

5. Opposer owns and has exclusive rights to several trade names, including “AGELESS”, “AGELESS.COM”, and “AGELESSINSEATTLE.COM”, for use in connection with the above-mentioned spa services within the State of Washington. These trade names were registered in the State of Washington in November, 2000, and the registrations remain in force.
6. Opposer has continuously used the distinctive AGELESS mark in commerce since long prior to the filing date of the opposed intent-to-use trademark application, and any date of first use in commerce which may be alleged by Applicant.
7. As a result of Opposer’s promotional efforts and commercial success, Opposer’s AGELESS mark has achieved widespread public and consumer recognition.
8. Applicant seeks to register the applied-for mark, THE AGELESS-ZONE, in connection with services that are substantially similar to those offered by Opposer under the AGELESS mark.
9. Applicant’s mark, THE AGELESS-ZONE, so resembles Opposer’s AGELESS mark as to be likely, when applied to the services covered by Application Serial No. 76/619,613, to cause confusion, or to cause mistake, or to deceive.
10. Registration of Applicant’s mark THE AGELESS-ZONE in connection with provision of the above-mentioned spa and medical services is or will be in violation of Opposer’s common law trademark rights to the mark AGELESS.

11. Applicant's use and registration of the mark, THE AGELESS-ZONE, violates Opposer's trade name rights in the State of Washington.

12. Opposer submits that Applicant is well aware of Opposer's trademark and trade name rights and that his use of the mark THE AGELESS-ZONE is being proposed with full knowledge of and with disregard for Opposer's legal rights, and that registration of the mark, THE AGELESS-ZONE, unfairly capitalizes on the goodwill and reputation embodied in Opposer's trademarks and trade names.

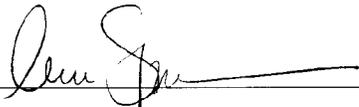
13. Opposer desires to prevent the public from mistakenly believing that Applicant's services are authorized or sponsored by, or are affiliated with, Opposer's services and activities.

14. Opposer has been advised that it may be refused registration of Opposer's mark, AGELESS CENTER FOR REJUVENATION, as shown in Trademark Application No. 78/661,281 when Applicant's trademark application for the mark THE AGELESS-ZONE matures into a registration.

WHEREFORE, Opposer believes that it is being, and will be damaged by the registration of the mark, THE AGELESS-ZONE, as shown in Application Serial No. 76/619,613, and requests that the opposition be sustained, and that registration to Applicant be refused.

Any deficiency in the fee should be charged to our Deposit Account No. 19-3555.

Respectfully Submitted,

By: 

Ann W. Speckman
Registration No. 31,881

By: 

Victor N. King
Registration No. 55,963

SPECKMAN LAW GROUP PLLC
1201 Third Avenue, Suite 330
Seattle, Washington 98101
Telephone: (206) 382-1191
Facsimile: (206) 382-2669
Email: victork@speckmanlaw.com

Attorneys for Opposer

Dated: February 14, 2006