

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

In the matter of Trademark Application Serial No. 76/619,613
for the service mark "THE AGELESS-ZONE" published in the Official Gazette on
October 18, 2005

BARBARA J. SCHELL M.D., PLLC,)
601 North 34th Street, Suite C)
Seattle, WA 98103)

Opposition No. 91169231

Opposer,

ANSWER TO NOTICE OF
OPPOSITION

v.

GRAHAM SIMPSON, M.D.)
12620 Silverwolf Road)
Reno, NV 89511)

Applicant.



03-03-2006

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

ANSWER TO NOTICE OF OPPOSITION

COMES NOW THE Applicant, GRAHAM SIMPSON, an individual (hereafter
"Applicant"), by and through his attorney and pursuant to Rule 2.114 of the Trademark
Rules of Practice and Rule 8(b) of the Fed. R. Civ. P., and for his Answer to Notice for
Opposition (hereafter the "Opposition") filed by BARBARA J. SCHELL, M.D., PLLC
(hereafter "Opposer") seeking to oppose the issuance of United States Service Mark

ROZSA LAW GROUP LC
ATTORNEYS AT LAW
15910 VENTURA BOULEVARD, SUITE 1601
ENCINO, CALIFORNIA 91436-2815
TELEPHONE (818) 783-0950

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Application Serial No. 76/619,613 for "THE AGELESS-ZONE" for use in conjunction
2 with spa services in International Class 44, and answers to the Opposition as follows:
3

4 Answering the Preambled Paragraph which appears on Page 1 of the
5 Opposition, Applicant responds that Opposer should have no good faith belief that
6 Opposer will be damaged by allowance of the Applicant's mark.

7 1. Answering Paragraph 1 of the Opposition, Applicant admits the
8 allegations of said Paragraph 1.
9

10 2. Answering Paragraph 2 of the Opposition, Applicant has insufficient
11 information and belief to admit or deny the allegations contained therein and basing his
12 denial on that ground, denies each and every, all and singular, the allegations of said
13 Paragraph 2 of the Opposition.

14 3. Answering Paragraph 3 of the Opposition, Applicant has insufficient
15 information and belief to admit or deny the allegations contained therein and basing his
16 denial on that ground denies each and every, all and singular, the allegations of said
17 Paragraph 3 of the Opposition.
18

19 4. Answering Paragraph 4 of the Opposition, Applicant has insufficient
20 information and belief to admit or deny the allegations contained therein, and basing his
21 denial on that ground, denies each and every, all and singular, the allegations of said
22 Paragraph 4 of the Opposition.
23

24 5. Answering Paragraph 5 of the Opposition, Applicant has insufficient
25 information and belief to admit or deny the allegations contained therein, and basing his
26 denial on that ground, denies each and every, all and singular, the allegations of said
27

1 Paragraph 5 of the Opposition.

2 6. Answering Paragraph 6 of the Opposition, Applicant has insufficient
3 information and belief to admit or deny the allegations contained therein, and basing his
4 denial on that ground, denies each and every, all and singular, the allegations of said
5 Paragraph 6 of the Opposition.

6 7. Answering Paragraph 7 of the Opposition, Applicant has insufficient
7 information and belief to admit or deny the allegations contained therein, and basing his
8 denial on that ground, denies each and every, all and singular, the allegations of said
9 Paragraph 7 of the Opposition.

10 8. Applicant admits that Applicant is seeking to register the mark "THE
11 AGELESS-ZONE" in connection with spa services. Except as expressly admitted herein,
12 Applicant denies each and every, all and singular, the remaining allegations of Paragraph
13 8 of the Opposition.

14 9. Answering Paragraph 9 of the Opposition, Applicant denies each and
15 every, all and singular, the allegations of said Paragraph 9 of the Opposition.

16 10. Answering Paragraph 10 of the Opposition, Applicant denies each and
17 every, all and singular, the allegations of said Paragraph 10 of the Opposition.

18 11. Answering Paragraph 11 of the Opposition, Applicant denies each and
19 every, all and singular, the allegations of said Paragraph 11 of the Opposition.

20 12. Answering Paragraph 12 of the Opposition, Applicant denies each and
21 every, all and singular, the allegations of said Paragraph 12 of the Opposition.

22 13. Answering Paragraph 13 of the Opposition, Applicant has insufficient
23
24
25
26
27
28

1 information and belief to admit or deny the allegations contained therein, and basing his
2 denial on that ground, denies each and every, all and singular, the allegations of Paragraph
3 13 of the Opposition.
4

5 14. Answering Paragraph 14 of the Opposition, Applicant has insufficient
6 information and belief to admit or deny the allegations contained therein, and basing his
7 denial on that ground, denies each and every, all and singular, the allegations of Paragraph
8 14 of the Opposition.
9

10 AFFIRMATIVE DEFENSES

11 FIRST AFFIRMATIVE DEFENSE

12 15. As a first, separate and distinct affirmative defense, Applicant alleges that
13 Applicant's service mark "THE AGELESS-ZONE" is totally different from the Opposer's
14 state trademark use of the mark "AGELESS". Accordingly, there is no confusingly
15 similarity between the marks because when considered in its entirety, the Applicant's mark
16 is totally different in pronunciation, visual impression and meaning. Therefore, there is no
17 confusingly similarity between Applicant's mark and Opposer's mark.
18

19 SECOND AFFIRMATIVE DEFENSE

20 16. As a second, separate and distinct affirmative defense, Applicant alleges
21 that Opposer does not have any interstate use of its mark "AGELESS" and is strictly and
22 solely limited to intrastate use in the state of Washington. As a result, Opposer has no
23 grounds to oppose Applicant's use of the trademark in 49 states of the United States of
24 America outside the state of Washington.
25

26 THIRD AFFIRMATIVE DEFENSE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

If there is any fee required for filing of this Answer to Notice of Opposition, the
Commissioner for Trademarks is hereby authorized to charge my Deposit Account No. 18-
2222 for the appropriate fee.

ROZSA LAW GROUP LC
ATTORNEYS AT LAW
15910 VENTURA BOULEVARD, SUITE 1601
ENCINO, CALIFORNIA 91436-2815
TELEPHONE (818) 783-0990

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Please send all correspondence concerning this Opposition to Thomas I. Rozsa at the address listed below.

Date: March 3, 2006

Respectfully submitted,

Thomas I Rozsa

Thomas I. Rozsa
Registration No. 29,210
Attorney for Applicant
GRAHAM SIMPSON
Rozsa Law Group LC
15910 Ventura Boulevard
Suite 1601
Encino, California 91436-2815
(818) 783-0990

ROZSA LAW GROUP LC
ATTORNEYS AT LAW
15910 VENTURA BOULEVARD, SUITE 1601
ENCINO, CALIFORNIA 91436-2815
TELEPHONE (818) 783-0990

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF MAILING

I hereby certify that the ANSWER TO NOTICE OF OPPOSITION,
CERTIFICATE OF SERVICE, and CERTIFICATE OF MAILING are being deposited
with the United States Postal Service with sufficient postage as Express Mail, Mail Label
No. EV 699608728 US in an envelope addressed to:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dated: March 3, 2006



Thomas I. Rozsa
Registration No. 29,210
Attorney for Applicant

In Re Opposition No. 91169231

ROZSA LAW GROUP LC
ATTORNEYS AT LAW
15910 VENTURA BOULEVARD, SUITE 1601
ENCINO, CALIFORNIA 91436-2815
TELEPHONE (818) 763-0990

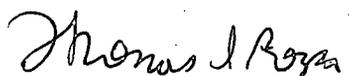
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that a copy of the document entitle ANSWER TO NOTICE OF
OPPOSITION was sent on March 3, 2006 via first class mail, postage prepaid, to the
attorneys for the Opposers at the following address:

Victor N. King
Speckman Law Group PLLC
1201 Third Avenue, Suite 330
Seattle, WA 98101

Dated: March 3, 2006



Thomas I. Rozsa
Registration No. 29,210

In Re Opposition No. 91169231

ageless.ans.opp

ROZSA LAW GROUP LC
ATTORNEYS AT LAW
15910 VENTURA BOULEVARD, SUITE 1601
ENCINO, CALIFORNIA 91436-2815
TELEPHONE (818) 763-0950

Source: [Legal](#) > [Area of Law - By Topic](#) > [Trademarks](#) > [Trademark Registrations & Manuals](#) > [Combined Federal & State Trademarks](#) 

Terms: **name(ageless) and spa** ([Edit Search](#) | [Suggest Terms for My Search](#))

Select for FOCUS™ or Delivery

- 1. AGELESS MEDICAL SPA, (STANDARD CHARACTER MARK), 78-691989, PENDING - INITIALIZED, MEDICAL SPA SERVICES (INTERNATIONAL CLASS: 44; US CLASS: 100, 101), FIRST USE DATE NOT AVAILABLE (INTERNATIONAL CLASS: 44; US CLASS: 100, 101), AGELESS, PLLC, BARBARA SCHELL, MD (WASHINGTON LIMITED LIABILITY COMPANY), 601 NORTH 34TH STREET, SUITE C, SEATTLE, WA 98103, AS OF August 12, 2005, Copyright © 2006 CCH CORSEARCH
"MEDICAL" AND "SPA"
- 2. AGELESS CENTER FOR REJUVENATION, (STANDARD CHARACTER MARK), 78-661281, PENDING, SPA SERVICES (INTERNATIONAL CLASS: 44; US CLASS: 100, 101), August 27, 2001 (INTERNATIONAL CLASS: 44; US CLASS: 100, 101), BARBARA J. SCHELL M.D. PLLC, BARBARA SCHELL, MD (WASHINGTON, LIMITED LIABILITY COMPANY), 601 NORTH 34TH STREET, SUITE C, SEATTLE, WA 98103, AS OF June 29, 2005, Copyright © 2006 CCH CORSEARCH
- 3. THE AGELESS-ZONE, (STANDARD CHARACTER MARK), 76-619613, PUBLISHED - OPPOSED, 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 (INTERNATIONAL CLASS: 44; US CLASS: 100, 101) EXERCISE CONSULTING SERVICES (INTERNATIONAL CLASS: 41; US CLASS: 100, 101, 107), FIRST USE DATE NOT AVAILABLE (INTERNATIONAL CLASS: 44; US CLASS: 100, 101) FIRST USE DATE NOT AVAILABLE (INTERNATIONAL CLASS: 41; US CLASS: 100, 101, 107), SIMPSON, GRAHAM D. (UNITED STATES INDIVIDUAL), 12620 SILVERWOLF ROAD, RENO, NV 89511, AS OF October 18, 2005, Copyright © 2006 CCH CORSEARCH
- 4. AGELESS ANALYSIS, (STANDARD CHARACTER MARK), 78-456704, ALLOWED - INTENT TO USE, HEALTH SPA SERVICES, NAMELY, COSMETIC BODY CARE SERVICES (INTERNATIONAL CLASS: 44; US CLASS: 100, 101), FIRST USE DATE NOT AVAILABLE (INTERNATIONAL CLASS: 44; US CLASS: 100, 101), KENNETH'S FOREVER YOUNG, LTD. (OHIO CORPORATION), 5151 REED ROAD, COLUMBUS, OH 43221, AS OF July 05, 2005, Copyright © 2005 CCH CORSEARCH
- 5. AGELESS REMEDIES, (STANDARD CHARACTER MARK), 78-396827, REGISTERED, MEDI-SPA SERVICES, NAMELY, PROVIDING OF A FULL RANGE OF DERMATOLOGICAL AND MEDICAL SERVICES TREATMENTS FOR THE SKIN, LASER REJUVENATION TREATMENTS, NON-ABLATIVE LASER TREATMENTS, ANTI-AGING SKIN TREATMENTS, ACNE AND ROSACEA TREATMENT, LASER HAIR REMOVAL, LASER VEIN TREATMENTS, FACIAL TREATMENTS, BODY EXFOLIATING TREATMENTS, BODY MASKS AND WRAPS, MAKE-UP APPLICATION, MASSAGE THERAPIES, WAXING AND TINTING, PLASTIC SURGERY CONSULTATIONS,

PERMANENT MAKE-UP APPLICATION, MICRODERMABRASION, CELLULITE TREATMENTS, CHEMICAL PEELS, AND COLLAGEN, BOTOX AND OTHER INJECTIONS (INTERNATIONAL CLASS: 44; US CLASS: 100, 101), 3024665, April 20, 2004 (INTERNATIONAL CLASS: 44; US CLASS: 100, 101), AGELESS REMEDIES FRANCHISING COMPANY, LLC (GEORGIA LIMITED, LIABILITY COMPANY), SUITE 315, 3312 PIEDMONT ROAD, ATLANTA, GA 30305, AS OF December 06, 2005, Copyright © 2006 CCH CORSEARCH

6. AGELESS FACTOR, (STANDARD CHARACTER MARK), 78-377723, ABANDONED, MEDI-SPA SERVICES, NAMELY, ARRANGING FOR AND FACILITATING THE PROVISION OF A FULL RANGE OF SERVICES IN THE FIELD OF DERMATOLOGICAL AND MEDICAL TREATMENTS FOR THE SKIN, LASER REJUVENATION TREATMENTS, NON-ABLATIVE LASER TREATMENTS, ANTI-AGING SKIN TREATMENTS, ACNE AND ROSCEA TREATMENT, LASER HAIR REMOVAL, LASER VEIN TREATMENTS, FACIAL TREATMENTS, BODY EXFOLIATING TREATMENTS, BODY MASKS AND WRAPS, MAKE-UP APPLICATION AND INSTRUCTION, MASSAGE THERAPIES, WAXING AND TINTING, PLASTIC SURGERY CONSULTATIONS, PERMANENT MAKE-UP APPLICATION, MICRODERMABRASION, CELLULITE TREATMENTS, CHEMICAL PEELS, AND COLLAGEN, BOTOX AND OTHER INJECTIONS (INTERNATIONAL CLASS: 44; US CLASS: 100, 101) MEDICATED SKIN CARE PRODUCTS AND NON-MEDICATED SKIN CARE PRODUCTS, NAMELY, CLEANSERS, TONERS, SUNSCREENS, MOISTURIZERS, ENZYME SCRUBS, MASKS AND FIRMING AND TIGHTENING SOLUTIONS (INTERNATIONAL CLASS: 3; US CLASS: 1, 50, 51, 52, 4, 6), FIRST USE DATE NOT AVAILABLE (INTERNATIONAL CLASS: 44; US CLASS: 100, 101) FIRST USE DATE NOT AVAILABLE (INTERNATIONAL CLASS: 3; US CLASS: 1, 50, 51, 52, 4, 6), AGELESS FACTOR FRANCHISING COMPANY, LLC (GEORGIA LIMITED, LIABILITY COMPANY), SUITE 315, 3312 PIEDMONT ROAD, ATLANTA, GA 30305, AS OF March 03, 2004, Copyright © 2005 CCH CORSEARCH
7. THE AGELESS FACE, (STANDARD CHARACTER MARK), 76-577877, REGISTERED, BEAUTY SALON AND SPA SERVICES FOR SKIN CARE AND FACIAL TREATMENTS (INTERNATIONAL CLASS: 44; US CLASS: 100, 101) EDUCATIONAL SERVICES, NAMELY, CONDUCTING SEMINARS INCLUDING VIDEO PRESENTATIONS IN THE FIELD OF SKIN CARE (INTERNATIONAL CLASS: 41; US CLASS: 100, 101, 107) RETAIL STORE SERVICES IN THE FIELD OF SKIN CARE PRODUCTS (INTERNATIONAL CLASS: 35; US CLASS: 100, 101, 102), 3036325, February 28, 2005 (INTERNATIONAL CLASS: 44; US CLASS: 100, 101) February 28, 2005 (INTERNATIONAL CLASS: 41; US CLASS: 100, 101, 107) February 28, 2005 (INTERNATIONAL CLASS: 35; US CLASS: 100, 101, 102), ELIZABETH GRADY FACE FIRST, INC. (MASSACHUSETTS CORPORATION), 222 BOSTON AVENUE, MEDFORD, MA 02155, AS OF December 27, 2005, Copyright © 2006 CCH CORSEARCH
8. AGELESS DAY SPA, (WORDS ONLY), 49600392, REGISTERED, SPA SERVICES, COLORADO, 19991226696, November 01, 1999, KELLEY DAVIS, 240 TERRY STREET, LONGMONT, CO 80501, AS OF December 03, 1999, Copyright © 2004 CCH CORSEARCH
9. THE CENTER FOR AGELESS LIVING, (WORDS ONLY), 67100311, REGISTERED, SPA, BEAUTY AND HEALTH CARE SERVICES AS WELL AS RESTAURANT SERVICES, NEW MEXICO, TK03040801, February 01, 2003, SUZETTE LINDEMUTH, P.O. BOX 7207, ALBUQUERQUE, NM 87194, AS OF

April 08, 2003, Copyright © 2004 CCH CORSEARCH

Source: [Legal](#) > [Area of Law - By Topic](#) > [Trademarks](#) > [Trademark Registrations & Manuals](#) > **Combined Federal & State Trademarks**

Terms: **name(ageless) and spa** ([Edit Search](#) | [Suggest Terms for My Search](#))

View: [Cite](#)

Date/Time: Wednesday, March 1, 2006 - 8:56 PM EST



LexisNexis

[About LexisNexis](#) | [Terms & Conditions](#)

Copyright © 2006 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.