

ESTTA Tracking number: **ESTTA194637**

Filing date: **02/25/2008**

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

Proceeding	91181883
Party	Defendant Marsh, William
Correspondence Address	MARSH, WILLIAM 13603 MARINA POINTE DR APT D612 MARINA DEL REY, CA 90292-9208 wrmars@gmail.com
Submission	Answer
Filer's Name	Jeffrey B. Pietsch
Filer's e-mail	jpietsch@weintraub.com
Signature	/Jeffrey B. Pietsch/
Date	02/25/2008
Attachments	Answer.pdf (3 pages)(94314 bytes)

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

ABBOTT LABORATORIES)	
Opposer,)	
)	
v.)	Opposition No. 91181883
)	
WILLIAM MARSH)	
)	
(Serial No.: 77/136,030))	ANSWER TO NOTICE OF
)	OPPOSITION
)	
Applicant.)	
_____)	

APPLICANT WILLIAM MARSH HEREBY ANSWERS the Notice of Opposition of ABBOTT LABORATORIES, as follows:

1. Answering Paragraph One of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein, and accordingly denies the allegations.

2. Answering Paragraph Two of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein, and accordingly denies the allegations.

3. Answering Paragraph Three of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein, and accordingly denies the allegations.

4. Answering Paragraph Four of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein, and accordingly denies the allegations.

5. Answering paragraph Five of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein, and accordingly denies the allegations.
6. Answering Paragraph Six of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein, and accordingly denies the allegations.
7. Answering Paragraph Seven of the Notice of Opposition, Applicant admits that Applicant filed an intent-to-use application to register the mark NEPROFIN in International Class 5 for “[d]ietary supplements” (Serial No. 77/136,030) (“Applicant’s Mark”).
8. Answering Paragraph Eight of the Notice of Opposition, Applicant denies each and every allegation contained therein.
9. Answering Paragraph Nine of the Notice of Opposition, Applicant denies each and every allegation contained therein.
10. Answering Paragraph Ten of the Notice of Opposition, Applicant denies each and every allegation contained therein.
11. Answering Paragraph Eleven of the Notice of Opposition, Applicant denies each and every allegation contained therein.

AFFIRMATIVE DEFENSES

12. As its First Affirmative Defense, Applicant alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant’s Mark and the pleaded mark of Opposer is not confusingly similar.

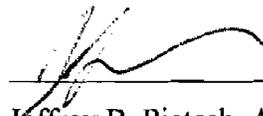
13. As its Second Affirmative Defense, Applicant alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's Mark and the pleaded mark of Opposer concern different goods.
14. As its Third Affirmative Defense, Applicant alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's goods and the pleaded goods of Opposer travel in different channels of trade.
15. As its Fourth Affirmative Defense, Applicant alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's goods and the pleaded goods appeal to sophisticated consumers.

WHEREFORE, Applicant William Marsh prays that this Notice of Opposition be dismissed.

Dated: February 25, 2008

Respectfully submitted,

William Marsh



Jeffrey B. Pietsch, Attorney for
Applicant
WEINTRAUB GENSHLEA CHEDIAK
400 Capitol Mall, 11th Floor
Sacramento, CA 95814