

ESTTA Tracking number: **ESTTA242669**

Filing date: **10/15/2008**

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	Medtronic Minimed, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	18000 Devonshire Street Northridge, CA 91325 UNITED STATES		

Attorney information	Dean R. Karau Fredrikson & Byron, P.A. 200 South Sixth Street Suite 4000 Minneapolis, MN 55402-1425 UNITED STATES ip@fredlaw.com, dkarau@fredlaw.com Phone:612-492-7178		
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**Applicant Information**

Application No	77430297	Publication date	09/16/2008
Opposition Filing Date	10/15/2008	Opposition Period Ends	10/16/2008
Applicant	Athena ISG/GTXtreme, Inc. 10291A Trademark Street Rancho Cucamonga, CA 91730 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 010. All goods and services in the class are opposed, namely: Wireless medical monitor system comprising two linked devices, one device with sensors for sensing, viewing, and monitoring of the vital signs of a patient, comprising electrocardiogram, shock state index, pulse wave delay as a measure of changes in blood pressure or non-invasive blood pressure (NIBP), pulse waveform, skin temperature, skin humidity, and saturation of blood oxygen, wherein the sensor device is capable of wireless transmission of the vital signs to a second receiving device, which is a wrist worn mini-computer with automatic and autonomous wireless connectivity to numerous patient sensor systems
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**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	1340467	Application Date	01/13/1984
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Registration Date	06/11/1985	Foreign Priority Date	NONE
Word Mark	MINIMED		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 1983/10/12 First Use In Commerce: 1983/10/12 PROGRAMMABLE MEDICATION INFUSION PUMPS		

U.S. Registration No.	2434737	Application Date	07/19/1999
Registration Date	03/13/2001	Foreign Priority Date	NONE
Word Mark	MINIMED		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1999/02/01 First Use In Commerce: 1999/02/01 MAIL ORDER PHARMACY SERVICES FEATURING MEDICATIONS, DRUGS AND OTHER PRESCRIPTIONS		

U.S. Registration No.	2426355	Application Date	07/19/1999
Registration Date	02/06/2001	Foreign Priority Date	NONE
Word Mark	MINIMED		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1998/05/01 First Use In Commerce: 1998/05/01 HEALTH INSURANCE SERVICES, NAMELY, ADMINISTRATION OF PATIENT REIMBURSEMENT PROGRAMS FOR INSUREDS IN SEEKING REIMBURSEMENT OF HEALTH INSURANCE CLAIMS		

U.S. Registration No.	2545204	Application Date	07/19/1999
Registration Date	03/05/2002	Foreign Priority Date	NONE
Word Mark	MINIMED		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 005. First use: First Use: 2001/03/31 First Use In Commerce: 2001/03/31 DRUGS, MEDICATIONS AND FLUIDS FOR USE IN MEDICAL INFUSION DEVICES, NAMELY INSULIN AND ITS ANALOGUES</p> <p>Class 010. First use: First Use: 1998/07/31 First Use In Commerce: 1998/07/31 ANALYTE DETERMINATION INSTRUMENTS, NAMELY GLUCOSE MONITORS</p> <p>Class 042. First use: First Use: 2000/05/31 First Use In Commerce: 2000/05/31 TELEMEDICINE SERVICES, NAMELY THE COLLECTION, ANALYSIS AND</p>		

	REPORTING OF PATIENT MEDICAL CONDITION, TREATMENT PROGRESS, DRUG HISTORY, AND HEALTHCARE BACKGROUND FOR DIAGNOSTIC PURPOSES BY USE OF TELECOMMUNICATIONS OR COMPUTER NETWORKS
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U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	MINIMED		
Goods/Services	medical devices and services		

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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Dean R. Karau/
Name	Dean R. Karau
Date	10/15/2008

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

In the Matter of Trademark Serial No.77/430,297  
For the Mark: MINI-MEDIC  
Filed: March 24, 2008  
Published: September 16, 2008

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Medtronic Minimed, Inc.,

Opposer,

Opposition No. \_\_\_\_\_

v.

Athena ISG/GTXtreme, Inc.,

Applicant.

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NOTICE OF OPPOSITION

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This opposition is made to the application of Applicant, Athena ISG/GTXtreme, Inc., for registration of the mark MINI-MEDIC, Application Serial No. 77/430,297, published on September 16, 2008.

Opposer, Medtronic Minimed, Inc., believes it will be damaged by the registration of the mark shown in the application, and hereby opposes the same. As grounds for its opposition, Opposer states and alleges as follows:

1. Opposer is a Delaware corporation with its principal place of business located 18000 Devonshire Street, Northridge, California 91325. Opposer is the world leader in advanced diabetes management solutions, including integrated diabetes management systems, insulin pump therapy, continuous glucose monitoring systems and therapy management software, as well as world-class, 24/7 expert consumer and professional service and support.

2. On information and belief, Applicant is a California corporation with its principle place of business located at 10291A Trademark Street, Rancho Cucamonga, California 91730.

3. On March 24, 2008, Applicant filed an application to register the mark MINI-MEDIC, Application Serial No.77/430,297, to be used in connection with “wireless medical monitor system comprising two linked devices, one device with sensors for sensing, viewing, and monitoring of the vital signs of a patient, comprising electrocardiogram, shock state index, pulse wave delay as a measure of changes in blood pressure or non-invasive blood pressure (NIBP), pulse waveform, skin temperature, skin humidity, and saturation of blood oxygen, wherein the sensor device is capable of wireless transmission of the vital signs to a second receiving device, which is a wrist worn mini-computer with automatic and autonomous wireless connectivity to numerous patient sensor systems.”

4. Opposer has used its MINIMED trademark in commerce, continuously and exclusively, since at least 1983, in connection with medical goods and services. Opposer has numerous U.S. applications and registrations for its MINIMED mark used in connection with medical goods and services, as well as applications and registrations worldwide. Its U.S. registrations include:

- a. Registration Number 1340467 for the mark MINIMED used in connection with programmable medication infusion pumps, issued on June 11, 1985, based on an application filed on January 13, 1984, claiming a date of first use in commerce of October 12, 1983. This registration is valid and subsisting.
- b. Registration Number 2434737 for the mark MINIMED used in connection with mail order pharmacy services featuring medications, drugs and other prescriptions, issued on March 13, 2001, based on an application filed on July 19, 1999, claiming a date of first use in commerce of February 1, 1999. This registration is valid and subsisting.

- c. Registration Number 2426355 for the mark MINIMED used in connection with health insurance services, namely, administration of patient reimbursement programs for insureds in seeking reimbursement of health insurance claims, issued on February 6, 2001, based on an application filed on July 19, 1999, claiming a date of first use in commerce of May 1, 1998. This registration is valid and subsisting.
  - d. Registration Number 2545204 for the mark MINIMED used in connection with drugs, medications and fluids for use in medical infusion devices, namely insulin and its analogues; analyte determination instruments, namely glucose monitors; and telemedicine services, namely the collection, analysis and reporting of patient medical condition, treatment progress, drug history, and healthcare background for diagnostic purposes by use of telecommunications or computer networks; issued on March 5, 2002, based on an application filed on July 19, 1999, claiming dates of first use in commerce of March 31, 2001, July 31, 1998, and May 31, 2000, for each class, respectively. This registration is valid and subsisting.
5. Opposer has used its MINIMED mark extensively and continuously in advertising and promotional materials, and in other ways customary in the trade, to promote its medical goods and services throughout the United States, and Opposer has developed enormous and widespread good will through ownership and use of its MINIMED mark. By reason of such advertising, promotion and widespread use, the consuming public recognizes the MINIMED trademark and associates the mark with Opposer and its medical goods and services.
6. Opposer's MINIMED mark is inherently distinctive and is a strong mark and should be accorded the broad protection given to strong marks.

7. Use by Applicant of the trademark MINI-MEDIC for which registration is sought in the application opposed herein is likely to cause confusion, mistake or deception as to the source of origin, sponsorship or approval of Applicant's goods in that purchasers or others are likely to believe that Applicant's goods are Opposer's goods, or are in some way legitimately connected with, licensed by, or approved by Opposer. Use by Applicant of the trademark MINI-MEDIC for which registration is sought in the application opposed herein has lessened, and will continue to lessen, the capacity of the MINIMED mark to identify and distinguish goods made by Opposer and services provided by Opposer.

8. Use by Applicant of the mark MINI-MEDIC, for which registration is sought in the application opposed herein, is without Opposer's consent or permission.

9. The MINIMED mark is famous, distinctive and widely recognized by the general consuming public of the United States as a designation of source of the goods and services of Opposer.

10. Applicant's MINI-MEDIC trademark is so similar to the MINIMED mark that it impairs the distinctiveness of the MINIMED mark.

11. The association arising from the similarity of Applicant's MINI-MEDIC mark to Opposer's MINIMED mark will harm the reputation of Opposer's MINIMED mark.

12. Applicant's mark is likely to cause dilution by blurring and thereby damage Opposer's rights in its MINIMED mark.

13. Applicant's mark is likely to cause dilution by tarnishment and thereby damage Opposer's rights in its MINIMED mark.

14. Applicant's MINI-MEDIC trademark is so similar to the MINIMED mark as to be likely to falsely suggest a connection between Applicant and Opposer.

If any additional fees are required with this filing, they may be charged to deposit account number 061910.

Please address all communications to Dean R. Karau, Fredrikson & Byron, P.A., 200 South Sixth Street, Suite 4000, Minneapolis, Minnesota 55402-1425.

WHEREFORE, registration by Applicant of the aforesaid trademark for the aforesaid goods would be damaging to Opposer.

THEREFORE, Opposer respectfully requests that the application for registration be denied.

Respectfully submitted,

Dated: October 15, 2008

/s/ Dean R. Karau  
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Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the NOTICE OF OPPOSITION was served by United States mail on the attorney of record for Applicant, M. Reza Savari, 2262 Caminito Cala, Del Mar, California 92014-3736, by mailing it to the address of record by first class mail, postage prepaid, this 15th day of October, 2008.

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/Dean R. Karau/

Dean R. Karau

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