

ESTTA Tracking number: **ESTTA360318**

Filing date: **07/28/2010**

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	MAM Holdings of West Florida, LLC
Granted to Date of previous extension	07/28/2010
Address	1972 MacGregor Road Tarpon Springs, FL 34689 UNITED STATES

Attorney information	Mark D. Hansing McKee, Voorhees & Sease, PLC 801 Grand Avenue, Suite 3200 Des Moines, IA 50309-2721 UNITED STATES mvslit@ipmvs.com
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Applicant Information

Application No	77850343	Publication date	03/30/2010
Opposition Filing Date	07/28/2010	Opposition Period Ends	07/28/2010
Applicant	Celebrity Signatures International, Inc. 5900 Equitable Road Kansas City, MO 64120 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: Hair care preparations, namely, shampoos, conditioners, moisturizers, rinses, mists, thermal protective sprays, spray conditioners, hair gels, spray gels, sculpting foam, lotions, styling serum, styling sprays, styling gels, styling lotions, straightening creams, hair sprays, pomades, styling preparations, shine sprays, shine drops, hair waxes, and non-medicated treatments, namely, hair strengthening preparations, and hair straightening preparations
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Common law rights

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2403100	Application Date	10/22/1997
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Registration Date	11/14/2000	Foreign Priority Date	NONE
Word Mark	FOUNTAIN OF YOUTH		
Design Mark	FOUNTAIN OF YOUTH		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1991/09/01 First Use In Commerce: 1997/09/01 medical evaluation, analysis, consultation and treatment of aging in humans, namely, diagnostic testing, alternative therapies, and drug therapy		

U.S. Registration No.	2384788	Application Date	11/19/1998
Registration Date	09/12/2000	Foreign Priority Date	NONE
Word Mark	FOUNTAIN OF YOUTH INSTITUTE		
Design Mark	FOUNTAIN OF YOUTH INSTITUTE		
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1991/09/01 First Use In Commerce: 1991/09/01 ANTI-AGING CREAMS, AND ANTI-AGING SKIN TONERS AND SOAPS</p> <p>Class 005. First use: First Use: 1997/04/28 First Use In Commerce: 1997/04/28 ORAL AND SUBLINGUAL ANTI-AGING DIETARY SUPPLEMENTS</p> <p>Class 035. First use: First Use: 1997/08/29 First Use In Commerce: 1997/08/29 BUSINESS CONSULTING AND DISTRIBUTORSHIP SERVICES IN THE FIELDS OF PHYSIOLOGICAL BIOMARKER TESTING, ORAL AND SUBLINGUAL DIETARY SUPPLEMENTS, PHARMACEUTICAL PREPARATIONS AND INJECTIONS, AND HEALTH-CARE EDUCATION MATERIALS</p> <p>Class 041. First use: First Use: 1991/09/01 First Use In Commerce: 1991/09/01 PHYSICIAN EDUCATIONAL SERVICES, NAMELY, SEMINARS AND TRAINING IN THE FIELDS OF PHYSIOLOGICAL BIO-MARKER TESTING, ORAL AND SUBLINGUAL DIETARY SUPPLEMENTS, PHARMACEUTICAL PREPARATIONS AND INJECTIONS, AND HEALTH-CARE EDUCATION MATERIALS</p> <p>Class 042. First use: First Use: 1991/09/01 First Use In Commerce: 1991/09/01 HEALTH CARE EVALUATION, ANALYSIS, CONSULTATION AND TREATMENT OF PHYSICAL AGING CHARACTERISTICS IN HUMANS; HEALTH CARE DIAGNOSTIC TESTING IN THE FIELD OF HORMONE THERAPY, ALTERNATIVE THERAPIES, DRUG THERAPY, AND DIETARY SUPPLEMENT THERAPY; PLASTIC COSMETIC AND RE-CONSTRUCTIVE SURGERY; FACIALS, CELLULITE TREATMENTS; LASER TREATMENTS; VARICOSE AND SPIDER VEIN TREATMENTS; COSMETIC DENTISTRY;</p>		

	COSMETICIAN SERVICES, NAMELY, FACIAL PEELS, MAKE-UP, MANICURING, AND HAIR REMOVAL; COSMETIC SURGERY, NAMELY, PERMANENT MAKE-UP SERVICES; BODY MASSAGE; PHYSICAL THERAPIES; AROMATHERAPY; HEALTH SPA SERVICES; HAIR STYLING AND CUTTING SERVICES; AND MEDICAL TESTING, ANALYSIS AND INTERPRETATION OF CELLULAR BIO-MARKER TESTING, GENETIC BIO-MARKER TESTING AND BIO-MARKER TESTING		
U.S. Registration No.	1980779	Application Date	03/21/1995
Registration Date	06/18/1996	Foreign Priority Date	NONE
Word Mark	FOUNTAIN OF YOUTH INSTITUTE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1991/09/01 First Use In Commerce: 1991/09/01 cosmetic, plastic and reconstructive surgery		

Attachments	75377734#TMSN.gif (1 page)(bytes) 75591825#TMSN.gif (1 page)(bytes) 74649936#TMSN.gif (1 page)(bytes) Exhibit A.pdf (2 pages)(31616 bytes) Exhibit B.pdf (2 pages)(34332 bytes) Exhibit C.pdf (2 pages)(29150 bytes) Notice of Opposition.pdf (5 pages)(39687 bytes)
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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 Overnight Courier on this date.

Signature	/Jeffrey D. Harty/
Name	Jeffrey D. Harty
Date	07/28/2010



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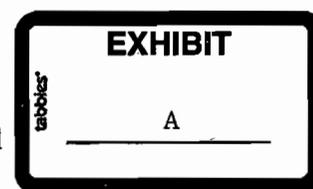
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Word Mark FOUNTAIN OF YOUTH INSTITUTE
Goods and Services IC 042. US 100 101. G & S: cosmetic, plastic and reconstructive surgery. FIRST USE: 19910901. FIRST USE IN COMMERCE: 19910901
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code 06.03.06 - Fountains, geysers; Geysers
 07.09.03 - Columns
Serial Number 74649936
Filing Date March 21, 1995
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition March 26, 1996
Change In Registration CHANGE IN REGISTRATION HAS OCCURRED
Registration Number 1980779
Registration Date June 18, 1996
Owner (REGISTRANT) The Fountain of Youth Institute, Inc. CORPORATION FLORIDA 34156 U.S. Hwy 19 N. Palm Harbor FLORIDA 34684

(LAST LISTED OWNER) MAM HOLDING OF WEST FLORIDA, L.L.C. LIMITED LIABILITY COMPANY FLORIDA 1972 MACGREGOR ROAD TARPON SPRINGS FLORIDA 34689

Assignment



Recorded ASSIGNMENT RECORDED
Attorney of Record MARK D HANSING
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "INSTITUTE" APART FROM THE MARK AS SHOWN
Type of Mark SERVICE MARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070305.
Renewal 1ST RENEWAL 20070305
Live/Dead Indicator LIVE

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Typed Drawing

Word Mark FOUNTAIN OF YOUTH INSTITUTE

Goods and Services IC 003. US 001 004 006 050 051 052. G & S: ANTI-AGING CREAMS, AND ANTI-AGING SKIN TONERS AND SOAPS. FIRST USE: 19910901. FIRST USE IN COMMERCE: 19910901

IC 005. US 006 018 044 046 051 052. G & S: ORAL AND SUBLINGUAL ANTI-AGING DIETARY SUPPLEMENTS. FIRST USE: 19970428. FIRST USE IN COMMERCE: 19970428

IC 035. US 100 101 102. G & S: BUSINESS CONSULTING AND DISTRIBUTORSHIP SERVICES IN THE FIELDS OF PHYSIOLOGICAL BIOMARKER TESTING, ORAL AND SUBLINGUAL DIETARY SUPPLEMENTS, PHARMACEUTICAL PREPARATIONS AND INJECTIONS, AND HEALTH-CARE EDUCATION MATERIALS. FIRST USE: 19970829. FIRST USE IN COMMERCE: 19970829

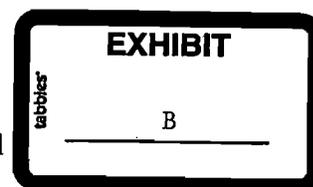
IC 041. US 100 101 107. G & S: PHYSICIAN EDUCATIONAL SERVICES, NAMELY, SEMINARS AND TRAINING IN THE FIELDS OF PHYSIOLOGICAL BIO-MARKER TESTING, ORAL AND SUBLINGUAL DIETARY SUPPLEMENTS, PHARMACEUTICAL PREPARATIONS AND INJECTIONS, AND HEALTH-CARE EDUCATION MATERIALS. FIRST USE: 19910901. FIRST USE IN COMMERCE: 19910901

IC 042. US 100 101. G & S: HEALTH CARE EVALUATION, ANALYSIS, CONSULTATION AND TREATMENT OF PHYSICAL AGING CHARACTERISTICS IN HUMANS; HEALTH CARE DIAGNOSTIC TESTING IN THE FIELD OF HORMONE THERAPY, ALTERNATIVE THERAPIES, DRUG THERAPY, AND DIETARY SUPPLEMENT THERAPY; PLASTIC COSMETIC AND RE-CONSTRUCTIVE SURGERY; FACIALS, CELLULITE TREATMENTS; LASER TREATMENTS; VARICOSE AND SPIDER VEIN TREATMENTS; COSMETIC DENTISTRY; COSMETICIAN SERVICES, NAMELY, FACIAL PEELS, MAKE-UP, MANICURING, AND HAIR REMOVAL; COSMETIC SURGERY, NAMELY, PERMANENT MAKE-UP SERVICES; BODY MASSAGE; PHYSICAL THERAPIES; AROMATHERAPY; HEALTH SPA SERVICES; HAIR STYLING AND CUTTING SERVICES; AND MEDICAL TESTING, ANALYSIS AND INTERPRETATION OF CELLULAR BIO-MARKER TESTING, GENETIC BIO-MARKER TESTING AND BIO-MARKER TESTING. FIRST USE: 19910901. FIRST USE IN COMMERCE: 19910901

Mark Drawing Code (1) TYPED DRAWING

Serial Number 75591825

Filing Date November 19, 1998



Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition June 20, 2000
Registration Number 2384788
Registration Date September 12, 2000
Owner (REGISTRANT) Fountain of Youth Institute, Inc., The CORPORATION FLORIDA 34156 U.S. Highway 19 N. Palm Harbor FLORIDA 34684

(LAST LISTED OWNER) MAM HOLDING OF WEST FLORIDA, L.L.C. LIMITED LIABILITY COMPANY FLORIDA 1972 MACGREGOR ROAD TARPON SPRINGS FLORIDA 34689
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Mark D. Hansing
Prior Registrations 1980779
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "INSTITUTE" APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK. SERVICE MARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR).
Live/Dead Indicator LIVE

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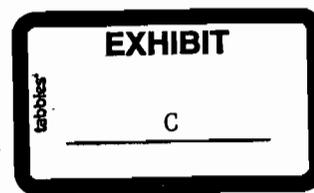
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Typed Drawing

Word Mark	FOUNTAIN OF YOUTH
Goods and Services	IC 042. US 100 101. G & S: medical evaluation, analysis, consultation and treatment of aging in humans, namely, diagnostic testing, alternative therapies, and drug therapy. FIRST USE: 19910901. FIRST USE IN COMMERCE: 19970901
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75377734
Filing Date	October 22, 1997
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	August 22, 2000
Registration Number	2403100
Registration Date	November 14, 2000
Owner	(REGISTRANT) Fountain of Youth Institute, Inc., The CORPORATION FLORIDA 34156 U.S. Hwy 19 N. Palm Harbor FLORIDA 34684 (LAST LISTED OWNER) MAM HOLDING OF WEST FLORIDA, L.L.C. LIMITED LIABILITY COMPANY FLORIDA 1972 MACGREGOR ROAD TARPON SPRINGS FLORIDA 34689
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	MARK D HANSING
Prior Registrations	1980779
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).



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Indicator**

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

<p>MAM HOLDINGS OF WEST FLORIDA, L.L.C.,</p> <p style="text-align:right">Opposer,</p> <p>v.</p> <p>CELEBRITY SIGNATURES INTERNATIONAL, INC.,</p> <p style="text-align:right">Applicant.</p>	<p>Opposition No: _____</p> <p>Application No: 77/850,343 Mark: THE FOUNTAIN OF YOUTH IS LOVE Published in Official Gazette on: March 30, 2010</p>
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NOTICE OF OPPOSITION

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

MAM Holdings of West Florida, L.L.C., a limited liability company of the State of Florida, having its headquarters at 1972 MacGregor Road, Tarpon Springs, Florida 34689 (hereinafter "Opposer"), believes that it will be damaged by registration of the mark in application Serial No. 77/850,343 filed October 16, 2009, by Celebrity Signatures International, Inc. (hereinafter "Applicant"), and published in the official Gazette of March 30, 2010.

The grounds for opposition are as follows:

1. Opposer is, and for many years prior to the filing of the application here opposed, has been engaged in the development, marketing and sale of a variety of services and products related to personal appearance, including products and services related to skin and hair.

2. Opposer has adopted and continuously used since at least as early as the 1990's a several marks including the terms "FOUNTAIN OF YOUTH" for a range of services and products.

3. For example, Opposer has requested and received U.S. Registration 1,980,779 under the provisions of the U.S. Trademark Act of 1946, as amended, for a mark for use in connection with cosmetic, plastic and reconstructive surgery. The registration has achieved incontestable status. A true and correct copy of the above Registration is attached hereto as Exhibit A.

4. For example, Opposer has requested and received U.S. Registration 2,384,788 under the provisions of the U.S. Trademark Act of 1946, as amended, for a mark for use in connection with anti-aging creams, and anti-aging skin toners and soaps in International Class 3, as well as products or services in International Classes 5, 35, 41 and 42, including *inter alia* facials, cosmetic dentistry, cosmetician services, and hair styling and cutting services. The registration has achieved incontestable status. A true and correct copy of the above Registration is attached hereto as Exhibit B.

5. For example, Opposer has requested and received U.S. Registration 2,403,100 under the provisions of the U.S. Trademark Act of 1946, as amended, for a mark for use in connection with medical evaluation, analysis, consultation and treatment of aging in humans, namely diagnostic testing, alternative therapies, and drug therapy in International Class 42. The registration has achieved incontestable status. A true and correct copy of the above Registration is attached hereto as Exhibit C.

6. Opposer has for many years used its well known FOUNTAIN OF YOUTH marks in connection with providing products and services in those fields and related fields of trade.

7. Opposer has prominently used its marks in connection with products and services related to those in the registrations prior to the filing of the application herein opposed, and has not abandoned said usage. The mark represents valuable good will and is an asset of Opposer's.

8. Applicant has requested registration upon the Principal Register of the THE FOUNTAIN OF YOUTH IS LOVE mark for "hair care preparations, namely, shampoos, conditioners, moisturizers, rinses, mists, thermal protective sprays, spray conditioners, hair gels, spray gels, sculpting foam, lotions, styling serum, styling sprays, styling gels, styling lotions, straightening creams, hair sprays, pomades, styling preparations, shine sprays, shine drops, hair waxes, and non-medicated treatments, namely, hair strengthening preparations, and hair straightening preparations" in International Class 3. This range of products relates to personal appearance, including hair.

9. Opposer's registration and common law rights in marks that include FOUNTAIN OF YOUTH are prior to and superior to any rights Applicant may have or attempt to have in the mark THE FOUNTAIN OF YOUTH IS LOVE.

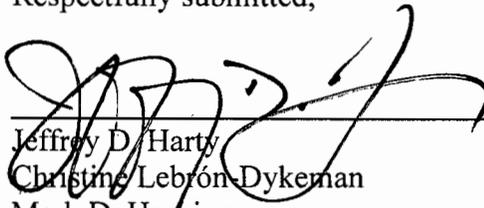
10. Because of the nature of the respective services of the parties and the similarity between their respective marks, Applicant's mark is likely to cause confusion, mistake, or deception with Opposer's previously used and registered family of marks.

11. Registration of the mark shown in Applicant's application will result in damage to Opposer under the provisions of Section 2(d) of the U.S. Trademark Act, 15 U.S.C. § 1052(d) and will give color of rights in Applicant in violation and derogation of the prior and superior rights of Opposer.

WHEREFORE, Opposer requests that the registration sought by Applicant be refused in all respects and that this opposition be sustained.

Attached to this Notice of Opposition is the filing fee, as required by CFR § 2.6. If the amount submitted is incorrect, the Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 26-0084 for any additional fees.

Respectfully submitted,

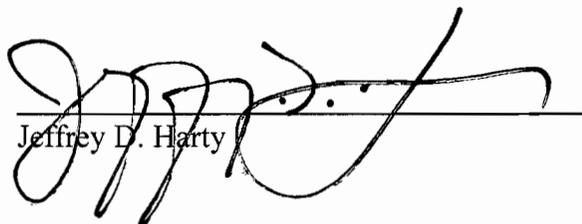


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Email: mvslit@ipmvs.com

ATTORNEYS FOR OPPOSER

CERTIFICATE OF FILING

I hereby declare that the foregoing document has been filed via the Electronic System for Trademark Trials and Appeals (ESTTA) this 28th day of July, 2010.



CERTIFICATE OF SERVICE

I hereby declare that the foregoing document was served upon the following this 28th day of July, 2010, via:

- | | |
|--|---|
| <input type="checkbox"/> 1 st Class U.S. Mail | <input checked="" type="checkbox"/> Federal Express |
| <input type="checkbox"/> Facsimile | <input type="checkbox"/> Hand Delivery |
| <input type="checkbox"/> Other _____ | |

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Kansas City, MO 64108
Phone Number: 312-578-6689
Fax Number: 312-578-6666



Jeffrey D. Harty