

ESTTA Tracking number: **ESTTA391725**

Filing date: **02/04/2011**

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	PsyBar LLC		
Entity	Corporation	Citizenship	Minnesota
Address	5151 Edina Industrial Boulevard #675 Edina, MN 55439 UNITED STATES		

Attorney information	James Kretsch Kretsch & Gust PLLC 5151 Edina Industrial Boulevard Suite #650 Edina, MN 55439 UNITED STATES jkretsch@kretschgust.com Phone:952.832.5500		
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Applicant Information

Application No	85095429	Publication date	01/11/2011
Opposition Filing Date	02/04/2011	Opposition Period Ends	02/10/2011
Applicant	David Mahony, Ph.D., ABPP 30 Bayard St Apt 1F Brooklyn, NY 11211 UNITED STATES		

Goods/Services Affected by Opposition

Class 044. First Use: 2002/01/25 First Use In Commerce: 2008/03/01 All goods and services in the class are opposed, namely: Personality testing for psychological purposes; Providing psychological profiles and psychological record analysis and assessments via a website that are designed to provide custom tailored outputs about recommended resources and treatments associated with a defined set of symptoms and concerns; Psychological assessment services; Psychological testing; Psychological testing services; Psychological tests

Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1998368	Application Date	10/10/1995
Registration Date	09/03/1996	Foreign Priority Date	NONE
Word Mark	PSYBAR		

Design Mark	PsyBar
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1995/06/22 First Use In Commerce: 1995/06/22 providing scientific consultation to the legal community, namely providing expert witness testimony, voir dire and scientific jury selection advice, and litigation strategy services

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	PSYBAR		
Goods/Services	providing personality and other psychological testing for psychological purposes; providing psychological profiles and psychological record analysis and assessments; providing custom tailored reports about recommended resources and treatments associated with a defined set of symptoms and concerns; psychological assessment services; psychological testing; and psychological testing services		

Attachments	75003269#TMSN.gif (1 page)(bytes) 2011.02.03 Notice of Opposition.pdf (2 pages)(216959 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 First Class Mail on this date.

Signature	/James Kretsch/
Name	James Kretsch
Date	02/04/2011

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

PSYBAR LLC)	
)	
Opposer,)	Opposition No. _____
)	
v.)	
)	
DAVID MAHONY, PhD.)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer, PsyBar LLC, A Minnesota limited liability corporation with a business address of 5151 Edina Industrial Boulevard #675, Edina, MN 55439, hereby opposes registration of the mark PSYBARI that is the subject of application Serial No. 85/095,429, published in the Official Gazette of January 11, 2011, and requests that registration to Applicant be refused.

As grounds in support of its opposition, Opposer asserts as follows:

1. Opposer for many years has adopted and continuously used the term PSYBAR to promote the services offered through PsyBar LLC. These services include, but are not limited to, providing scientific consultation, providing expert opinion, providing psychological assessment, analysis, testing, examination, evaluation of psychological and psychiatric tests, training and educating psychological examiners, vocational assessment, forensic assessment, and online education.
2. Opposer is the owner of Registration No. 1998368 for the mark PSYBAR for providing scientific consultation to the legal community, namely providing expert witness testimony, voir dire and scientific jury selection advice, and litigation strategy services. This registration is valid, subsisting, unrevoked, uncanceled, and enjoys the benefits of an incontestable mark.

These scientific consulting services rely upon and include psychological and psychiatric evaluations, and administering and evaluating psychological and psychiatric tests.

3. Opposer, PsyBar LLC, has used the mark PSYBAR at least as early as January 25, 2002 to identify the services of providing personality and other psychological testing for psychological purposes; providing psychological profiles and psychological record analysis and assessments; providing custom tailored reports about recommended resources and treatments associated with a defined set of symptoms and concerns; psychological assessment services; psychological testing; and psychological testing services.
4. Applicant, David Mahony, has filed an application to register the mark PSYBARI for Personality testing for psychological purposes; Providing psychological profiles and psychological record analysis and assessments via a website that are designed to provide custom tailored outputs about recommended resources and treatments associated with a defined set of symptoms and concerns; Psychological assessment services; Psychological testing; Psychological testing services; Psychological tests. That application was filed on July 28, 2010 and was assigned Serial No. 85/095,429.
5. Applicant's mark so resembles Opposer's previously used mark PSYBAR and registered mark PSYBAR as to be likely, when applied to the goods or services set forth in Applicant's application, to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act.

WHEREFORE, Opposer prays that the opposition be sustained and that registration to Applicant be refused.

Respectfully submitted,
PSYBAR LLC



By James Kretsch, I.D. 0244399
Opposer's attorney
(952) 832-5500

Dated: 8-3-11