

ESTTA Tracking number: **ESTTA423990**

Filing date: **08/08/2011**

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

Proceeding	91200436
Party	Defendant Medinol Ltd.
Correspondence Address	ANNA ERENBURG CADWALADER, WICKERSHAM & TAFT LLP 1 WORLD FINANCIAL CTR 19TH FL NEW YORK, NY 10281  docketing@cwt.com
Submission	Answer
Filer's Name	Anna Erenburg
Filer's e-mail	anna.erenburg@cwt.com, docketing@cwt.com
Signature	/Anna Erenburg/
Date	08/08/2011
Attachments	CHAMPIONIR - Answer to Opposition No. 91200436 & Exhibit A.pdf ( 9 pages ) (985707 bytes )



8. Applicant admits that Applicant applied to register its CHAMPIONIR mark for “stents” on the Principal Register with the U.S. Trademark Office on July 11, 2010 and the application was assigned Application Serial No. 85/082098 by the U.S. Trademark Office. Applicant denies all other allegations contained in Paragraph No. 8.
9. Applicant denies the allegations contained in Paragraph No. 9.
10. Applicant denies the allegations contained in Paragraph No. 10.
11. Applicant denies the allegations contained in Paragraph No. 11.
12. Applicant denies the allegations contained in Paragraph No. 12.
13. Applicant denies the allegations contained in Paragraph No. 13.
14. Applicant denies the allegations contained in Paragraph No. 14.
15. Applicant denies the allegations contained in Paragraph No. 15.
16. Applicant denies the allegations contained in Paragraph No. 16.
17. Applicant is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations in Paragraph No. 17 and therefore denies same.
18. Applicant denies allegations contained in Paragraph No. 18.

#### **AFFIRMATIVE DEFENSES**

19. There is no likelihood of confusion, mistake, or deception because Applicant’s mark CHAMPIONIR is not confusingly similar to Opposer’s mark Champion alleged in the Notice of Opposition, and/or as used on those goods and services alleged in the Notice of Opposition.
20. There is no dilution, tarnishment, degradation, or any other lessening or adverse or undesirable effect, or likelihood of any of the foregoing, because Applicant’s mark,

CHAMPIONIR, does not dilute, tarnish, degrade, or otherwise adversely affect or lessen the capacity of Opposer's mark Champion (and there is no likelihood of any of the foregoing) alleged in the Notice of Opposition.

21. On information and belief, Opposer has not continuously used its mark Champion since its alleged date(s) of first use on all of those products or services alleged in its Notice of Opposition, and has not used its mark(s) on all of those alleged products or services continuously since a date earlier than Applicant's date of filing of its application.

Attached as Exhibit A is Opposer's Statement of Use filed by Opposer with the U.S. Trademark Office on August 8, 2011 which claims August 5, 2011 as the date of first use of Opposer's mark Champion in commerce for all goods in International Class 10 currently identified in Opposer's Application No. 77/693458, which date of first use in commerce is well after the July 11, 2010 filing date of Applicant's application for its CHAMPIONIR mark.

**WHEREFORE**, Applicant prays that the Opposer's Notice of Opposition be dismissed in its entirety and for such further relief as the Trademark Trial and Appeal Board deems appropriate.

Respectfully Submitted



Anna Erenburg  
Attorney for Applicant  
Cadwalader Wickersham & Taft LLP  
One World Financial Center  
New York, NY 10281  
212-504-6000

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

CARDIOMEMS, INC.	)	Opposition No. 91200436
	)	
Opposer,	)	
	)	Application Serial No. 85/082098
v.	)	
	)	Mark: CHAMPIONIR
MEDINOL LTD.	)	
	)	
Applicant	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on the below date, I served the foregoing ANSWER TO NOTICE OF OPPOSITION upon Opposer's counsel of record by depositing a copy thereof in the United States mail, postage prepaid and addressed as follows:

Olivia Maria Baratta, Esq.  
Kilpatrick Townsend & Stockton LLP  
1100 Peachtree Street, NE  
Suite 2800  
Atlanta, Georgia 30309-4530  
(404) 815-6500

Dated: August 8, 2011

  
Anna Erenburg  
Attorney for Applicant  
Cadwalader Wickersham & Taft LLP  
One World Financial Center  
New York, NY 10281  
212-504-6000

**EXHIBIT A**

## Trademark/Service Mark Statement of Use (15 U.S.C. Section 1051(d))

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	77693458
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 102
<b>EXTENSION OF USE</b>	NO
<b>MARK SECTION</b>	
<b>MARK</b>	CHAMPION
<b>OWNER SECTION (no change)</b>	
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	010
<b>CURRENT IDENTIFICATION</b>	Medical diagnostic sensors for measuring properties of the body, namely, pressure, corresponding catheter-based delivery apparatus to deliver sensors to locations within the body; telemetry devices for medical application and software to interrogate, receive, process and display pressure data or derived quantities for viewing and printing sold as a unit
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>FIRST USE ANYWHERE DATE</b>	09/13/2007
<b>FIRST USE IN COMMERCE DATE</b>	08/05/2011
<b>SPECIMEN FILE NAME(S)</b>	\\TICRS\EXPORT11\IMAGEOUT 11\776\934\77693458\xml7\SOU0002.JPG
<b>SPECIMEN DESCRIPTION</b>	Shipment of Applicant's goods for testing showing use of the mark.
<b>INTERNATIONAL CLASS</b>	042
<b>CURRENT IDENTIFICATION</b>	Providing a web site that enables users to upload and access health and medical data
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED

<b>FIRST USE ANYWHERE DATE</b>	09/13/2007
<b>FIRST USE IN COMMERCE DATE</b>	12/02/2008
<b>SPECIMEN FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	SPN1-12141226-153746592 . CHAMPION Class 42 second screen.pdf
<b>CONVERTED PDF FILE(S) (1 page)</b>	\\TICRS\EXPORT11\IMAGEOUT11\776\934\77693458 \xml7\SOU0003.JPG
<b>SPECIMEN DESCRIPTION</b>	Screen shot from website.
<b>REQUEST TO DIVIDE</b>	NO
<b>PAYMENT SECTION</b>	
<b>NUMBER OF CLASSES IN USE</b>	2
<b>SUBTOTAL AMOUNT [ALLEGATION OF USE FEE]</b>	200
<b>TOTAL AMOUNT</b>	200
<b>SIGNATURE SECTION</b>	
<b>DECLARATION SIGNATURE</b>	/David Stern/
<b>SIGNATORY'S NAME</b>	David Stern
<b>SIGNATORY'S POSITION</b>	Senior Vice President
<b>DATE SIGNED</b>	08/05/2011
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Fri Aug 05 16:06:39 EDT 2011
<b>TEAS STAMP</b>	USPTO/SOU-12.1.41.226-201 10805160639587199-7769345 8-48055bc9d3ca43c83135784 494f6c93a5d-CC-2379-20110 805153746592032

**Trademark/Service Mark Statement of Use  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

**MARK:** CHAMPION  
**SERIAL NUMBER:** 77693458

The applicant, CardioMEMS, Inc., having an address of  
387 Technology Circle, N.W., Suite 500  
Atlanta, Georgia 30313  
United States

is submitting the following allegation of use information:

For International Class 010:

Current identification: Medical diagnostic sensors for measuring properties of the body, namely, pressure, corresponding catheter-based delivery apparatus to deliver sensors to locations within the body; telemetry devices for medical application and software to interrogate, receive, process and display pressure data or derived quantities for viewing and printing sold as a unit

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 09/13/2007, and first used in commerce at least as early as 08/05/2011, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Shipment of Applicant's goods for testing showing use of the mark..

Specimen File1

For International Class 042:

Current identification: Providing a web site that enables users to upload and access health and medical data

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 09/13/2007, and first used in commerce at least as early as 12/02/2008, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Screen shot from website..

**Original PDF file:**

SPN1-12141226-153746592 . CHAMPION Class 42 second screen.pdf

**Converted PDF file(s) (1 page)**

Specimen File1

The applicant is not filing a Request to Divide with this Allegation of Use form.

A fee payment in the amount of \$200 will be submitted with the form, representing payment for the allegation of use for 2 classes.

### **Declaration**

Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /David Stern/ Date Signed: 08/05/2011

Signatory's Name: David Stern

Signatory's Position: Senior Vice President

RAM Sale Number: 2379

RAM Accounting Date: 08/08/2011

Serial Number: 77693458

Internet Transmission Date: Fri Aug 05 16:06:39 EDT 2011

TEAS Stamp: USPTO/SOU-12.1.41.226-201108051606395871

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