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Filing date: **08/19/2011**

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 UNITED STATES 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	08/19/2011
Attachments	CHAMPIONIR - Answer to Amended Notice of Opposition No. 91200436.pdf (9 pages)(995582 bytes)

IN THE UNITED STATED PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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

ANSWER TO AMENDED NOTICE OF OPPOSITION

Applicant Medinol Ltd. ("Applicant"), by its undersigned attorney, hereby submits its Answer to the Amended Notice of Opposition filed by CardioMems, Inc. ("Opposer") as follows:

1. Applicant is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations in Paragraph No. 1 and therefore denies same.
2. Applicant denies the allegations contained in Paragraph No. 2.
3. Applicant denies the allegations contained in Paragraph No. 3.
4. Applicant denies the allegations contained in Paragraph No. 4.
5. Applicant is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations in Paragraph No. 5 and therefore denies same.
6. Applicant is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations in Paragraph No. 6 and therefore denies same.

7. Applicant is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations in Paragraph No. 7 and therefore denies same.
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 is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations in Paragraph No. 15 and therefore denies same.
16. Applicant denies allegations contained in Paragraph No. 16.

AFFIRMATIVE DEFENSES

17. 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.
18. 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.

19. 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 STATED 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 19, 2011

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

EXHIBIT A

P.O Form 1553 (Rev 9/2005)
OMB No. 0651-0054 (Exp. 09/30/2011)

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

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77693458
LAW OFFICE ASSIGNED	LAW OFFICE 102
EXTENSION OF USE	NO
MARK SECTION	
MARK	CHAMPION
OWNER SECTION (no change)	
GOODS AND/OR SERVICES SECTION	
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
GOODS OR SERVICES	KEEP ALL LISTED
FIRST USE ANYWHERE DATE	09/13/2007
FIRST USE IN COMMERCE DATE	08/05/2011
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT11\IMAGEOUT 11\776\934\77693458\xml7\SOU0002.JPG
SPECIMEN DESCRIPTION	Shipment of Applicant's goods for testing showing use of the mark.
INTERNATIONAL CLASS	042
CURRENT IDENTIFICATION	Providing a web site that enables users to upload and access health and medical data
GOODS OR SERVICES	KEEP ALL LISTED

FIRST USE ANYWHERE DATE	09/13/2007
FIRST USE IN COMMERCE DATE	12/02/2008
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPN1-12141226-153746592_._CHAMPION_Class_42_second_screen.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT11\IMAGEOUT11\776\934\77693458 \xml7\SOU0003.JPG
SPECIMEN DESCRIPTION	Screen shot from website.
REQUEST TO DIVIDE	NO
PAYMENT SECTION	
NUMBER OF CLASSES IN USE	2
SUBTOTAL AMOUNT [ALLEGATION OF USE FEE]	200
TOTAL AMOUNT	200
SIGNATURE SECTION	
DECLARATION SIGNATURE	/David Stern/
SIGNATORY'S NAME	David Stern
SIGNATORY'S POSITION	Senior Vice President
DATE SIGNED	08/05/2011
FILING INFORMATION	
SUBMIT DATE	Fri Aug 05 16:06:39 EDT 2011
TEAS STAMP	USPTO/SOU-12.1.41.226-201 10805160639587199-7769345 8-48055bc9d3ca43c83135784 494f6c93a5d-CC-2379-20110 805153746592032

PTO Form 1553 (Rev 9/2005)
OMB No. 0651-0054 (Exp. 09/30/2011)

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-12.1.41.226-20110805160639587199-77693458-48055bc9d3ca43c83135784494f6c93a5d-CC-2379-20110805153746592032