

ESTTA Tracking number: **ESTTA578548**

Filing date: **12/23/2013**

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

Proceeding	91206185
Party	Defendant Vizio Medical Devices, LLC
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Date	12/23/2013
Attachments	Answer 91206185.pdf(22650 bytes )

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

Vizio, Inc.,

Opposer,

v.

Vizio Medical Devices, LLC

Applicant.

Opposition No. 91206185

Serial No. 85/186,781

Mark: VIZIO RENAL

Class: 10

Filing Date: November 29, 2010

Publication Date: January 24, 2012

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**ANSWER AND AFFIRMATIVE DEFENSES  
TO NOTICE OF OPPOSITION**

Applicant Vizio Medical Devices, LLC, (“Applicant”), by and through its undersigned counsel, pursuant to 37 C.F.R. 2.106 and Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) Rules 310 and 311, hereby submits its Answer and Affirmative Defenses to Opposer Vizio, Inc.’s. (“Opposer”) Notice of Opposition related to United States Trademark Application No. 85/186,781 (“the ‘781 Application”) for the mark VIZIO RENAL (“Applicant’s Mark”) in International Class 010.

**ANSWER TO NOTICE OF OPPOSITION**

1. Applicant admits that it filed the Application. Applicant states that the records of the United States Patent and Trademark office related to the Application speak for themselves and Applicant denies any allegations inconsistent therewith.

2. Applicant is without sufficient information to admit or deny the statements of Paragraph 2 therefor denies the same.

3. Applicant is without sufficient information to admit or deny the statements of Paragraph 3 therefor denies the same.

4. Applicant is without sufficient information to admit or deny the statements of Paragraph 4 therefor denies the same.

5. Applicant is without sufficient information to admit or deny the statements of Paragraph 5 therefor denies the same.

6. Applicant is without sufficient information to admit or deny the statements of Paragraph 6 therefor denies the same.

7. Applicant is without sufficient information to admit or deny the statements of Paragraph 7 therefor denies the same.

8. Applicant is without sufficient information to admit or deny the statements of Paragraph 8 therefor denies the same.

9. Applicant is without sufficient information to admit or deny the statements of Paragraph 9 therefor denies the same.

10. Applicant is without sufficient information to admit or deny the statements of Paragraph 10 therefor denies the same. Further Paragraph 10 states certain legal conclusions to which no response is required. To the extent any further response is required; Applicant denies the allegations in Paragraph 10 of the Complaint.

11. Applicant is without sufficient information to admit or deny the statements of Paragraph 11 therefor denies the same.

12. Applicant is without sufficient information to admit or deny the statements of Paragraph 12 therefor denies the same.

13. Applicant admits that it filed the Application. Applicant states that the records of the United States Patent and Trademark office related to the Application speak for themselves and Applicant denies any allegations inconsistent therewith.

14. Denied.

15. Denied.

### **AFFIRMATIVE DEFENSES**

In addition to answers provided above, Applicant asserts the following affirmative defenses in response to Opposer's Notice of Opposition. In so doing, Applicant incorporates by reference each and every paragraph of its answer as if fully set forth herein.

1. Opposer's Notice of Opposition fails to state a claim upon which relief can be granted because, *inter alia*, there is no likelihood of confusion between Opposer's marks cited in the Notice of Opposition and Applicant's Mark given that there is no similarity in the goods sold under these marks there is little or no similarity of the trade channels for the goods sold under these marks, the buyers purchasing the goods sold under these marks are careful buyers, and there has been no actual confusion. Opposer's Notice of Opposition does not allege any proper grounds for opposition of Applicant's Mark.

2. Applicant reserves the right to supplement or otherwise add to its affirmative defenses it may become aware through discovery or otherwise.

**PRAYER FOR RELIEF**

WHEREFORE, Applicant Vizio Medical Device, LLC, having fully responded to Opposer Vizio Inc's. Notice of Opposition and setting forth its affirmative defenses thereto, prays that the Board enter judgment in favor of Applicant and against Opposer and dismiss Opposer's Notice of Opposition with prejudice.

Respectfully submitted,

Polsinelli PC

Date: December 23, 2013

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Attorneys for Applicant,  
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**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES TO NOTICE OF OPPOSITION upon Opposer's attorney of record via email to [trademarks@parsonsbehle.com](mailto:trademarks@parsonsbehle.com) and [MMcGann@parsonsbehle.com](mailto:MMcGann@parsonsbehle.com) and by depositing one copy thereof in the United States Mail, first class postage prepaid, on December 23, 2013, addressed as follows:

Rexford A. Johnson  
Margaret Niver McGann  
Parsons Behle & Latimer  
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Boise, Id 83706

/Michael A. Williamson/  
Michael A. Williamson