

ESTTA Tracking number: **ESTTA494556**

Filing date: **09/14/2012**

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	Board of Regents, The University of Texas System		
Entity	state agency	Citizenship	Texas
Address	201 West 7th Street Austin, TX 78701 UNITED STATES		

Attorney information	Sherri L. Eastley Pirkey Barber PLLC 600 Congress Ave., Suite 2120 Austin, TX 78701 UNITED STATES seastley@pirkeybarber.com, shightower@pirkeybarber.com, eolson@pirkeybarber.com, tmcentral@pirkeybarber.com Phone:512.322.5200		
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**Applicant Information**

Application No	85462880	Publication date	08/28/2012
Opposition Filing Date	09/14/2012	Opposition Period Ends	09/27/2012
Applicant	Stutes, Kelly J. 31 Pfeiffer Road Boerne, TX 78006 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 005. All goods and services in the class are opposed, namely: Human allograft bone and tissue
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ALLOGRAFT RESOURCES		
Goods/Services	Human bone and tissue graft donation, procurement, and distribution, and in connection with related tissue bank services, including, organ and tissue bank services, tissue typing services, tissue recovery services, donation consenting, human tissues donation services,		

	tissue procurement, cornea procurement, bone flap storage, donor and tissue biorepository activities, tissue tracking services, human tissue distribution, human allograft bone and tissue, human allograft tissue, processed human donor skin for the replacement of soft tissue, biological tissue grafts, human cadaveric bone, human cadaveric soft tissue, human cadaveric vascular grafts, homografts, fresh frozen allografts, and demineralized bone matrix.
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U.S. Application/ Registration No.	NONE	Application Date	NONE
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Registration Date	NONE
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Design Mark	
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Goods/Services	Human bone and tissue and related banking services, including tissue tracking services, human tissue distribution, human allograft bone and tissue, processed human donor skin for the replacement of soft tissue, biological tissue grafts, human cadaveric bone, human cadaveric soft tissue, human cadaveric vascular grafts, homografts, fresh frozen allografts, and demineralized bone matrix.
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Attachments	New Image 3.JPG uttk204 noo.pdf ( 25 pages )(1163760 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	/SLE/
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Name	Sherri L. Eastley
Date	09/14/2012



2. Established in 1959, the University provides educational programs in a broad spectrum of health and science disciplines, has eight campuses in four cities, and is ranked in the top three percent of all institutions worldwide receiving federal funding.

3. Since at least as early as February 10, 2005, UTHSCSA has continuously and extensively used the mark ALLOGRAFT RESOURCES in connection with human bone and tissue graft donation, procurement, and distribution, and in connection with related tissue bank services. UTHSCSA's services now extend to compliance aid, recovery assistance, bereavement support, and the location and delivery of difficult-to-find grafts for implantation. UTHSCSA also organizes events, including, parades, workshops, and walks, in support of its tissue bank and tissue graft donation services.

4. Since at least as early as October 2010, UTHSCSA has continuously used the ALLOGRAFT RESOURCES and Design mark (pictured directly below) in connection with UTHSCSA's human bone and tissue and related tissue banking services. Opposer's design mark consists of the term ALLOGRAFT in large blue capital letters, over the term RESOURCES in a smaller font with the letters in blue and all caps. The mark also features a square design comprising three squares of differing sizes with rounded corners layered one on top of the other. The word mark ALLOGRAFT RESOURCES and the ALLOGRAFT RESOURCES and Design mark are collectively referred to herein as the "ALLOGRAFT RESOURCES Marks."



Examples of Opposer's use of the ALLOGRAFT RESOURCES Marks are attached at **Exhibit A**.

5. Opposer's ALLOGRAFT RESOURCES Marks are inherently distinctive, serving to identify and indicate the source of Opposer's goods and services to the consuming public, and to distinguish Opposer's goods and services from those of others.

6. As a result of Opposer's extensive use and promotion of its ALLOGRAFT RESOURCES Marks, those marks have become distinctive and are recognized by consumers. Opposer has invested significant effort and resources in advertising and promoting its ALLOGRAFT RESOURCES marks and the goods and services sold under those marks, with the result that the purchasing public has come to know, rely on, and recognize the goods and services of Opposer by those marks. Opposer has established significant goodwill in its ALLOGRAFT RESOURCES Marks.

7. Kelly Stutes ("Applicant") is a U.S. citizen who resides at 31 Pfeiffer Road, Boerne, Texas 78006, not far from the University. Applicant filed Application Serial No. 85/462-880 (the "Application") on an intent-to-use basis pursuant to 15 U.S.C. § 1051(b) on November 2, 2011 for the mark ALLOGRAFT RESOURCES and Design ("Applicant's Mark") for "Human allograft bone and tissue" in Class 5, shown below:



8. Applicant has not filed an allegation of use in connection with the Application.

9. Opposer has priority based on its prior use of Opposer's ALLOGRAFT RESOURCES Mark in the United States long before Applicant's filing date.

10. Applicant's Mark is identical in sight, sound, meaning, and overall commercial impression to Opposer's ALLOGRAFT RESOURCES and Design Mark and is confusingly similar to Opposer's ALLOGRAFT RESOURCES Marks. Moreover, Opposer's ALLOGRAFT RESOURCES Marks are of sufficient reputation among consumers that when Applicant's Mark is used for the goods identified in the Application, a connection with Opposer would be presumed.

11. The goods in the Application that are the subject of this Opposition are the same type of goods offered by Opposer and are directly competitive with the goods and services for which Opposer uses Opposer's ALLOGRAFT RESOURCES Marks.

12. Applicant's goods as identified in the Application travel or will travel in the same or similar channels of trade as Opposer's goods and services, and are or will be purchased and used by the same or similar types of consumers who purchase and use Opposer's goods and services.

13. Opposer has not given Applicant permission or approval to use or register Applicant's Mark.

14. Applicant's Mark so resembles Opposer's ALLOGRAFT RESOURCES Marks as to be likely, when used on or in connection with the identified goods of Applicant, to cause confusion, or to cause mistake, or to deceive. Purchasers and prospective purchasers are likely to mistakenly believe that the goods Applicant intends to offer under Applicant's Mark are produced, sponsored, endorsed, or approved by Opposer, or are in some way affiliated, connected, or associated with Opposer or Opposer's ALLOGRAFT RESOURCES Marks. Registration therefore should be refused under 15 U.S.C. § 1052(d) and 1063.

15. As detailed more fully below, Applicant intentionally committed fraud during the prosecution of its Application and registration therefore should be refused. *See Torres v. Cantine Torresella S.r.l.*, 808 F.2d 46, 1 USPQ2d 1482 (Fed. Cir. 1986).

16. Applicant Kelly Stutes was an employee of UTHSCSA for 17 years, from April 1994 to August 2011. Applicant worked in Opposer's Allograft Resources division.

17. The Rules and Regulations of the Board of Regents governing Applicant's employment by Opposer make clear that Opposer is the owner of trademarks used by Opposer, including the ALLOGRAFT RESOURCES Marks. A copy of the Rules and Regulations is attached at **Exhibit B**. Even if Applicant had developed or created the ALLOGRAFT RESOURCES Marks, which he did not, the Rules and Regulations confirm that the University is the owner of the marks.

18. Opposer's ALLOGRAFT RESOURCES Design mark was designed for UTHSCSA by an outside media company, Chile Media, LLC, and the rights in the design were assigned to UTHSCSA.

19. After Applicant's employment was terminated by UTHSCSA, Applicant applied to register the ALLOGRAFT RESOURCES and Design mark, with full knowledge of the ownership of the mark by UTHSCSA.

20. The declaration in the Application, signed by Applicant's Attorney, Mark A. Kammer, is fraudulent. Applicant, through his attorney, declared that he believed Applicant to be entitled to use the mark in commerce, and that no other person, firm, corporation or association has the right to use this mark in commerce. As noted above, Applicant was fully aware of Opposer's rights in Opposer's ALLOGRAFT RESOURCES Marks through his 17-year employment by Opposer, which ended shortly before he filed the Application. In order to procure the benefits of federal registration, Applicant intentionally and willfully deceived the Patent and Trademark Office about Applicant's prior knowledge. Therefore, the Application for registration should be refused.

21. After the Application was filed, Opposer contacted Applicant's attorney on March 19, 2012 to inform him of Opposer's rights in the ALLOGRAFT RESOURCES Marks. A copy of the letter from Opposer to Applicant's attorney is attached at **Exhibit C**.

22. Although Applicant's attorney was informed of Opposer's rights in the ALLOGRAFT RESOURCES Marks, Applicant's attorney continued prosecution of the Application on Applicant's behalf, including by filing a response to office action on June 25, 2012. A copy of the response is attached at **Exhibit D**.

23. Applicant, through his attorney, continued to perpetuate fraud on the Trademark Office by intentionally maintaining the fraudulently filed Application with full knowledge of Opposer's rights in Opposer's ALLOGRAFT RESOURCES Marks.

24. Registration of Applicant's ALLOGRAFT RESOURCES Mark on the Principal Register would be inconsistent with Opposer's common law rights pursuant to 15 U.S.C. § 1125 and would damage Opposer. Therefore, the Application should be refused.

25. WHEREFORE, Opposer prays that Application Serial No. 85/462,880 be rejected, and that registration of the mark therein be refused.

26. This Notice of Opposition is being filed electronically, along with the filing fee required by 37 C.F.R. § 2.6(a)(17). The Commissioner is authorized to draw on the Deposit Account of Pirkey Barber PLLC, Account No. 50-3924/UTTK204/LTP, if there is any problem with the processing of the electronically submitted fee.

Respectfully submitted,

Date: September 14, 2012

A handwritten signature in cursive script that reads "Sherri L. Eastley". The signature is written in black ink and is positioned above a horizontal line.

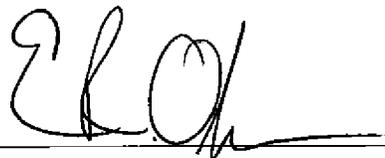
Susan J. Hightower  
Sherri L. Eastley  
PIRKEY BARBER PLLC  
600 Congress Avenue, Suite 2120  
Austin, Texas 78701  
(512) 322-5200  
[tmcentral@pirkeybarber.com](mailto:tmcentral@pirkeybarber.com)

ATTORNEYS FOR OPPOSER

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing NOTICE OF OPPOSITION was served by First Class mail, postage prepaid, on September 14, 2012, on Applicant's attorney of record:

Mark A. Kammer  
Kammer Browning PLLC  
7700 Broadway  
Suite 202  
San Antonio, Texas 78209



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**EXHIBIT A**

## Distribution Services

- AATB Accredited
- FDA Inspected
- JCOAH Compliant
- Spinal Grafts
- Cardiovascular Grafts
- Sports Medicine Grafts
- Conventional Grafts

ALLOGRAFT  
RESOURCES



UT Health Science Center  
Mail Code 7858  
7703 Floyd Curl Drive  
San Antonio, TX 78229-3900  
Office: 210.567.9005  
Fax: 210.567.6187  
[www.uthsca.edu/allograft](http://www.uthsca.edu/allograft)

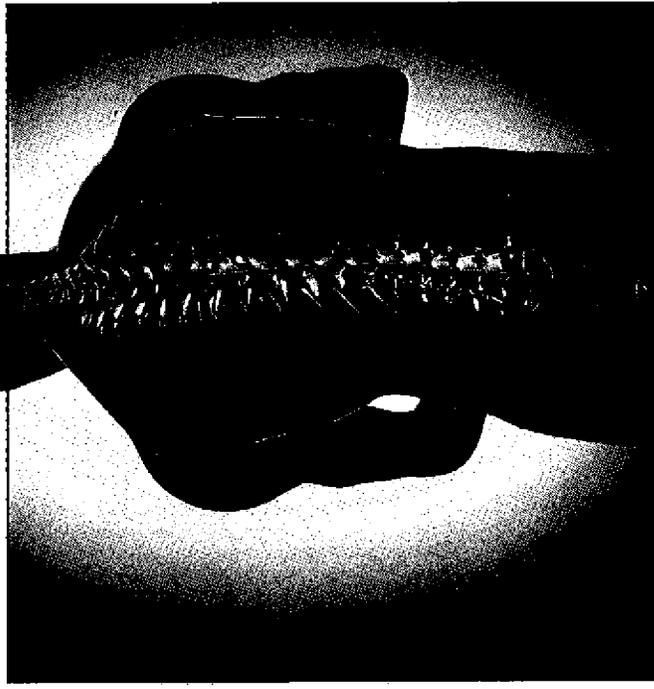
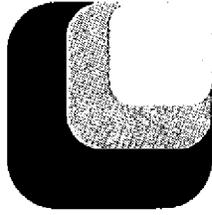


## -Specialty Services

- Tissue Consignment
- JCOAH Compliance Assistance
  - Elpro Data Monitoring of Tissue
  - Tissue Inventory Management
  - Temperature Monitoring System
- Graft Delivery Direct to Operating Room by qualified technician to aid with thawing and preparation.
- Recovery Arm of the program increases the facilities access to hard to acquire grafts.

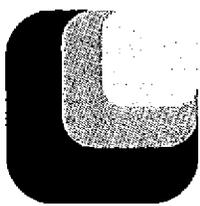
We specialize in empowering medical professionals in the process of restoring mobility, confidence and wellness for their patients and constituents.

ALLOGRAFT  
RESOURCES



# ALLOGRAFT

## RESOURCES

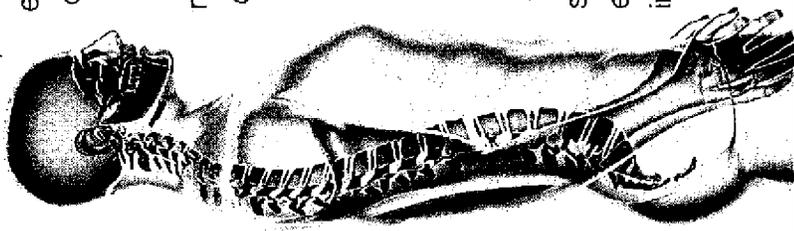


**Mission:** To improve the quality of life of our patients by hand delivering superior tissue grafts and creating awareness about donation to our families, constituents and our local communities.

More people are eligible tissue donors than organ donors?

According to the National Coalition on Donation, nearly 900,000 tissue transplants are performed in the United States each year. It is estimated that one in 20 Americans will need some type of tissue transplant. As many as 80 recipients can benefit from one single tissue donor.

Tissue grafts are becoming widely used by doctors in the fields of orthopedic surgery, cardiovascular surgery, plastic surgery, dentistry and podiatry. Human tissue is used in repairing severe fractures and degenerative conditions to help increase the chances of survival for burn victims.



Allograft offers the following products for our Spine and Orthopedic Division:

Deminerzalized Bone Matrix Putty and Pastes

Cancellous Chips

Cancellous Cubes

Femoral Shafts

Fibula Shafts

Humeral Shafts

Tricortical Strips and Blocks

Femoral Heads

Humeral Heads

Cloward Dowels

Pulmonary Hemi Artery

Femoral Veins

Saphenous Veins

Aortoiliac Artery

Descending Thoracic Aorta

Ascending Thoracic Aorta

Pulmonary Branch/Trunk Patch



## Sports Medicine



Our Sports Medicine Division provides the following products:

Bone-Tendon-Bone Grafts

Gracilis Tendon

Semitendinosus Tendon

Achilles Tendon (with and without bone)

Posterior Tibialis

Anterior Tibialis

## Cardiovascular

Pulmonary Valve and Conduit

Aortic Valve and Conduit

Pulmonary Hemi Artery

Femoral Veins

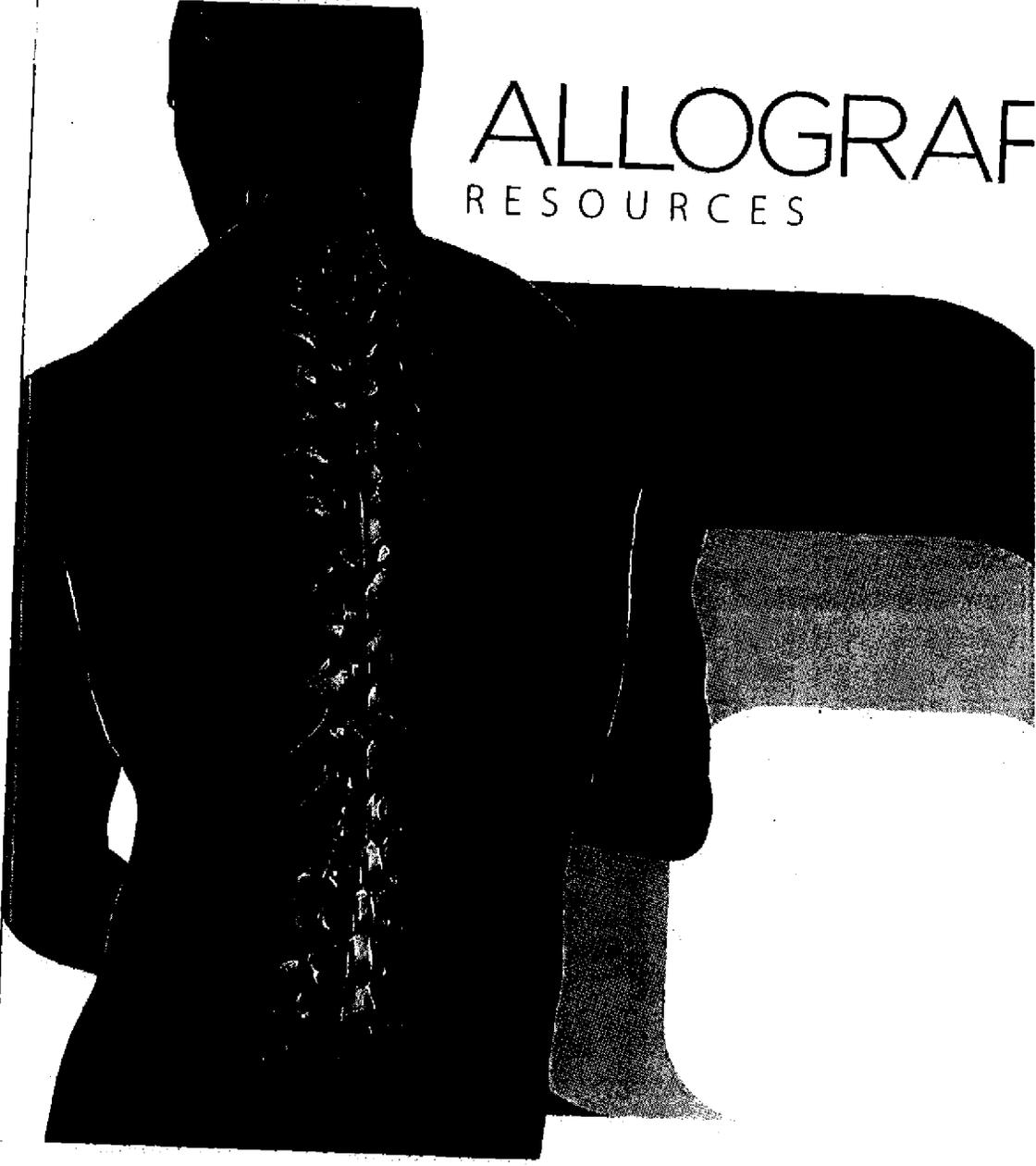
Aortoiliac Artery

Descending Thoracic Aorta

Ascending Thoracic Aorta

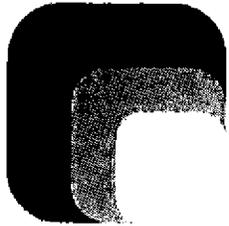
Pulmonary Branch / Trunk Patch

ALLOGRAFT  
RESOURCES



ALLOGRAF  
RESOURCES

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RESOURCES



ALLOGRAFT  
RESOURCES



ALLOGRAFT  
RESOURCES



ALLOGRAFT  
RESOURCES

**EXHIBIT B**

1. Title

Rules for Intellectual Property: Purpose, Scope, Authority

2. Rule and Regulation

Sec. 1 Purpose. To balance the interests of the many contributors to the substantial creation of intellectual property at and by the U. T. System, the Board of Regents promulgates these Rules on intellectual property with the purpose to (a) provide certainty in research pursuits and technology-based relationships with third parties; (b) create an optimal environment for research, development, and commercialization opportunities with private industry; and (c) encourage the timely and efficient protection and management of intellectual property.

Sec. 2 Individuals Subject to this Rule. This intellectual property Rule applies (a) to all persons employed by the U. T. System or any U. T. System institution, including, but not limited to, full and part-time faculty and staff and visiting faculty members and researchers, and (b) to anyone using the facilities or resources of the U. T. System or any U. T. System institution, including, but not limited to, students enrolled at a U. T. System institution such as in an undergraduate or graduate degree program or certificate program, and postdoctoral and predoctoral fellows. The Board of Regents automatically owns the intellectual property created by individuals subject to this Rule that is described in Sections 3, 5, and 6 below and in Rule 90102, Sections 2 and 3. Accordingly, all individuals subject to this Rule must assign and do hereby assign their rights in such intellectual property to the Board of Regents. Moreover, individuals subject to this Rule who create such intellectual property (creators) shall promptly execute and deliver all documents and other instruments as are reasonably necessary to reflect the Board of Regents' ownership of such intellectual property. A creator of intellectual property owned by the Board of Regents has no independent right or authority to convey, assign, encumber, or license such intellectual property to any entity other than the Board of Regents.

Sec. 3 Intellectual Property Included. Except as set forth in Sections 4 and 5 below and Rule 90102 of the Regents' *Rules and Regulations*, this Rule applies to all types of intellectual property, including, but not limited to, any invention, discovery, creation, know-how, trade secret, technology, scientific or

technological development, research data, works of authorship, and computer software regardless of whether subject to protection under patent, trademark, copyright, or other laws.

- Sec. 4 Interest in Certain Copyrights. Notwithstanding Section 3 above, the Board of Regents will not assert an ownership interest in the copyright of scholarly or educational materials, artworks, musical compositions, and literary works related to the author's academic or professional field, regardless of the medium of expression. This exemption applies to works authored by students, professionals, faculty, and nonfaculty researchers. The Board of Regents encourages these creators to manage their copyrights in accordance with the guidelines concerning management and marketing of copyrighted works consistent with applicable institutional policies.
- Sec. 5 Copyright Interest in Certain Software. The Board of Regents asserts ownership in software; however, copyright in original software that is content covered by Section 4 above or that is integral to the presentation of such content shall be owned by the creator in accordance with Section 4 above.
- Sec. 6 Works for Hire and Institutional Projects. Notwithstanding the provisions of Sections 4 and 5 above, the Board of Regents shall have sole ownership of all intellectual property created by (a) an employee, student, or other individual or entity commissioned, required, or hired specifically to produce such intellectual property by the U. T. System or any U. T. System institution, and (b) an employee, student, or other individual as part of an institutional project. Except as may be provided otherwise in a written agreement approved by the institution or the U. T. System, the provisions of the Regents' *Rules and Regulations*, Rule 90102, Section 2.5, relating to division of royalties, shall not apply to intellectual property owned solely by the Board of Regents pursuant to this Section.
- Sec. 7 Role of Creator. Any person subject to this Rule who creates intellectual property (other than a work for hire under Section 6 above or on government or other sponsored research projects where the grant agreements provide otherwise) may give reasonable input on commercialization of inventions; provided however, that the president(s) of the applicable institution(s), or his or her designee(s), in his or her sole discretion, will make final decisions concerning whether and how to develop and commercialize an invention.

- Sec. 8 Use of Facilities and Resources. Neither the facilities nor the resources of the U. T. System or any U. T. System institution may be used (a) to create, develop, or commercialize intellectual property outside the course and scope of employment of an individual (see Regents' *Rules and Regulations*, Rule 90102, Section 1) or (b) to further develop or commercialize intellectual properties that have been released to an inventor (see Regents' *Rules and Regulations*, Rule 90102, Sections 2.2 and 2.3) except as the institution's president may approve where the U. T. System retains an interest under the terms of the release.
- Sec. 9 Use of Research Data. Research data or results created by an employee are owned by the Board of Regents and, except to the extent that rights to such research data are contractually assigned or licensed to another by the Board of Regents, the creator shall have a nonexclusive license to use such data for nonprofit educational, research, and scholarly purposes within the scope of the employee's employment, subject to adherence to other provisions of this Rule.
- Sec. 10 Limited License to Institution. Notwithstanding Section 4 above and as reasonably required for the limited purpose of continuing an institution's scheduled course offerings, the Board of Regents retains for one year following the loss of a course instructor's services, a fully paid-up, royalty-free, nonexclusive worldwide license to use, copy, distribute, display, perform, and create derivative works of materials prepared by the instructor for use in teaching a course (including lectures, lecture notes, syllabi, study guides, bibliographies, visual aids, images, diagrams, multimedia presentations, examinations, web-ready content, and educational software).

**3. Definitions**

None

**4. Relevant Federal and State Statutes**

None

**5. Relevant System Policies, Procedures, and Forms**

Regents' *Rules and Regulations*, Rule 90102 – Intellectual Property Rights and Obligations

Regents' *Rules and Regulations*, Rule 90103 – Equity Interests

Regents' *Rules and Regulations*, Rule 90104 – Business Participation and Reporting

Regents' *Rules and Regulations*, Rule 90105 – Execution of Legal Documents Related to Intellectual Property

Regents' *Rules and Regulations*, Rule 90106 – Income from Intellectual Property

**6. Who Should Know**

Administrators  
Faculty  
Staff  
Students

**7. System Administration Office(s) Responsible for Rule**

Office of General Counsel

**8. Dates Approved or Amended**

November 10, 2011  
Editorial amendments made October 6, 2011  
Editorial amendment to Sec. 4 made September 29, 2011  
February 8, 2007  
December 10, 2004

**9. Contact Information**

Questions or comments regarding this Rule should be directed to:

- [bor@utsystem.edu](mailto:bor@utsystem.edu)

# EXHIBIT C

March 19, 2012

VIA EMAIL: [MAKAMMER@KAMMERBROWNING.COM](mailto:MAKAMMER@KAMMERBROWNING.COM)  
ORIGINAL VIA OVERNIGHT DELIVERY



Mark A. Kammer  
Kammer Browning PLLC  
7700 Broadway St., Suite 202  
San Antonio, Texas 78209-3260

Re: *Trademark Rights of the University of Texas Health Science Center at San Antonio*  
*("UTHSCSA") in the mark ALLOGRAFT RESOURCES and ALLOGRAFT RESOURCES and*  
*Design*

Dear Mr. Kammer:

It has come to our attention that you recently filed U.S. trademark application serial number 85/462,880 for the mark ALLOGRAFT RESOURCES and Design in the name of Kelly J. Stutes. Mr. Stutes is a former employee of UTHSCSA and has no right to use or apply to register the mark ALLOGRAFT RESOURCES or ALLOGRAFT RESOURCES and Design.

Since at least as early as 2007, UTHSCSA has extensively used the mark ALLOGRAFT RESOURCES in connection with human allograft bone and tissue and organ and tissue bank services. More information about our services offered under the mark ALLOGRAFT RESOURCES can be found on our website at [www.uthscsa.edu/allograft/index.asp](http://www.uthscsa.edu/allograft/index.asp). As a result of the extensive use of the mark ALLOGRAFT RESOURCES by UTHSCSA, the public strongly identifies the mark with UTHSCSA and its goods and services. Consequently, UTHSCSA enjoys valuable goodwill, as well as strong and enforceable rights, in this mark. Because this goodwill is important to UTHSCSA, UTHSCSA cannot permit others to use its mark in a way that is likely to cause confusion as to any nonexistent sponsorship or affiliation with UTHSCSA.

In 2010, UTHSCSA's Allograft Resources contracted for the services of an outside agency and worked with them to design the blue logo design found in the application you filed with the U.S. Trademark Office on November 2, 2011. The copyright in that logo belongs to UTHSCSA. Your client's recent intent-to-use application claiming ownership of the mark ALLOGRAFT RESOURCES in the design format developed by UTHSCSA is fraudulent. As you will note in the declaration you signed, you declared that your client was the owner of the mark and has no knowledge of any other entity with a right to use the mark. This could not be further from the truth. Moreover, any use of the mark by your client would not only violate UTHSCSA's trademark rights, but would also infringe UTHSCSA's copyright in the design associated with the logo.

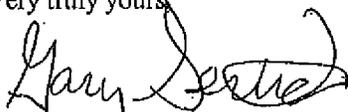
Mark A. Kammer  
March 19, 2012  
Page 2

As you may know, Mr. Stutes' employment with UTHSCSA concluded on August 31, 2011. Regardless of Mr. Stutes involvement with UTHSCSA's ALLOGRAFT RESOURCES services, Mr. Stutes has no ownership in the mark. It is a basic principle of trademark law that rights in a trademark are based on use of the mark. UTHSCSA has used the mark for several years and is thus the owner of the mark. Further, the Regents' Rules and Regulations that governed Mr. Stutes' employment with UTHSCSA make clear that UTHSCSA is the owner of the mark.

Accordingly, we demand that your client expressly abandon App. No. 85/462,880 within the next 14 days, and agree to refrain from using the marks ALLOGRAFT RESOURCES and ALLOGRAFT RESOURCES and Design or any confusingly similar marks. UTHSCSA would prefer to resolve this matter amicably. However, if we have not received your assurance in the next 14 days that your client intends to comply with our requests, then UTHSCSA will be forced to consider its legal remedies.

Mr. Stutes may indicate his agreement to these demands by returning a copy of this letter to me with his countersignature in the space provided below. If you have any questions, please do not hesitate to contact me. I look forward to your response.

Very truly yours,



Gary J. Seffich  
Attorney

GJS:jp

AGREED: Kelly Stutes

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# EXHIBIT D

## Response to Office Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	85462880
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 114
<b>MARK SECTION (no change)</b>	
<b>ADDITIONAL STATEMENTS SECTION</b>	
<b>DISCLAIMER</b>	No claim is made to the exclusive right to use ALLOGRAFT apart from the mark as shown.
<b>COLOR(S) CLAIMED (If applicable)</b>	The color(s) Turquoise, Aqua, Pale Blue, and Black is/are claimed as a feature of the mark.
<b>DESCRIPTION OF THE MARK (and Color Location, if applicable)</b>	The mark consists of both a literal and a design component. The design consists of two concentric partial squares and a smaller concentric full square, the outer and larger of the partial squares appears in an intense turquoise, while the inner partial square appears in a soft aqua. The smaller full square appears in a pale blue and is positioned in the lower, right-hand corner. The literal portion of the mark, to the right of the design, consists of the word "ALLOGRAFT" in stylized, turquoise capital letters above the word "RESOURCES" in smaller black stylized capitals.
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/makammer34197/
<b>SIGNATORY'S NAME</b>	Mark A. Kammer
<b>SIGNATORY'S POSITION</b>	Attorney of Record, Texas Bar Member
<b>SIGNATORY'S PHONE NUMBER</b>	2108320900
<b>DATE SIGNED</b>	06/25/2012
<b>AUTHORIZED SIGNATORY</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Mon Jun 25 19:33:13 EDT 2012
	USPTO/ROA-68.90.184.89-20 120625193313644328-854628

TEAS STAMP

80-4905b415d2254802afe7bd  
a4debf3489-N/A-N/A-20120  
625172537735791

PTO Form 1057 (Rev. 9/2005)  
OMB No. 0551-0059 (Exp. 04/2009)

## Response to Office Action

### To the Commissioner for Trademarks:

Application serial no. **85462880** has been amended as follows:

#### ADDITIONAL STATEMENTS

##### Disclaimer

No claim is made to the exclusive right to use ALLOGRAFT apart from the mark as shown.

##### Color Claim

The color(s) Turquoise, Aqua, Pale Blue, and Black is/are claimed as a feature of the mark.

##### Description of mark

The mark consists of both a literal and a design component. The design consists of two concentric partial squares and a smaller concentric full square, the outer and larger of the partial squares appears in an intense turquoise, while the inner partial square appears in a soft aqua. The smaller full square appears in a pale blue and is positioned in the lower, right-hand corner. The literal portion of the mark, to the right of the design, consists of the word "ALLOGRAFT" in stylized, turquoise capital letters above the word "RESOURCES" in smaller black stylized capitals.

#### SIGNATURE(S)

##### Response Signature

Signature: /makammer34197/ Date: 06/25/2012

Signatory's Name: Mark A. Kammer

Signatory's Position: Attorney of Record, Texas Bar Member

Signatory's Phone Number: 2108320900

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

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