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

Proceeding	91219016
Party	Defendant B. Braun Medical S.A.S.
Correspondence Address	PAUL J KENNEDY PEPPER HAMILTON LLP 18TH AND ARCH ST 3000 LOGAN SQUARE PHILADELPHIA, PA 19103  kennedyp@pepperlaw.com, catalant@pepperlaw.com, jensenc@pepperlaw.com
Submission	Answer
Filer's Name	Paul J. Kennedy
Filer's e-mail	kennedyp@pepperlaw.com, catalant@pepperlaw.com, jensenc@pepperlaw.com
Signature	/Paul J. Kennedy/
Date	02/02/2015
Attachments	02-02-2015 Answer to Opposition (J&J v. B. Braun Medical).pdf(88576 bytes )

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

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**JOHNSON & JOHNSON**

**Opposer**

v.

**B. BRAUN MEDICAL S.A.S.**

**Applicant**

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: **Opposition No. 91219016**  
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: **Mark: PROXIMA**  
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: **Application Serial No. 85/510415**  
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: **Published in *Official Gazette*: April 29, 2014**  
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**ANSWER TO NOTICE OF OPPOSITION  
AND AFFIRMATIVE DEFENSES**

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Sir/Madam:

B. Braun Medical S.A.S. ("Applicant"), through counsel, hereby responds to the Notice of Opposition of Johnson & Johnson ("Opposer"), as follows:

1. Applicant is without information to either admit or deny the allegations of Paragraph 1 and, accordingly, the allegations are denied.
2. Applicant is without information to either admit or deny the allegations of Paragraph 2 and, accordingly, the allegations are denied.

3. Applicant is without information to either admit or deny the allegations of Paragraph 3 and, accordingly, the allegations are denied.

4. Applicant is without information to either admit or deny the allegations of Paragraph 4 and, accordingly, the allegations are denied.

5. Admitted in part; denied in part. It is admitted only that Opposer has attached an "Exhibit "A" to the Notice of Opposition. The remaining allegations of Paragraph 5 are denied.

6. Admitted.

7. Admitted.

8. Admitted only that Opposer filed a notice of opposition against the Previous Application based upon an alleged likelihood of confusion with the then pending intent-to-use mark PROSIMA, Application Serial No. 77/031175, which application abandoned on June 7, 2010 for failure to file a Statement of Use (the "Abandoned Application").

9. Admitted.

10. Denied as stated. By way of further response, the allegations of Paragraph 10 are conclusions of law to which no response is required and, accordingly, are denied.

11. Admitted.

12. Denied.

13. Denied. By way of further response, the allegations of Paragraph 13 are conclusions of law to which no response is required and, accordingly, are denied.

14. Denied. By way of further response, the allegations of Paragraph 14 are conclusions of law to which no response is required and, accordingly, are denied.

15. Denied. By way of further response, the allegations of Paragraph 15 are conclusions of law to which no response is required and, accordingly, are denied.

16. Denied. By way of further response, the allegations of Paragraph 16 are conclusions of law to which no response is required and, accordingly, are denied.

17. Denied. By way of further response, the allegations of Paragraph 17 are conclusions of law to which no response is required and, accordingly, are denied.

18. Denied. By way of further response, the allegations of Paragraph 18 are conclusions of law to which no response is required and, accordingly, are denied.

19. Denied. By way of further response, Opposer premised its entire opposition of the Previous Application upon the Abandoned Mark which mark is completely different than the marks upon which Opposer is now relying upon in this proceeding and, accordingly, the doctrines of *res judicata*, *laches*, and *estoppel* are not applicable.

WHEREFORE, Applicant demands that judgment be entered for the Applicant and against Opposer, and that the Notice of Opposition be dismissed, with prejudice.

**FIRST AFFIRMATIVE DEFENSE**

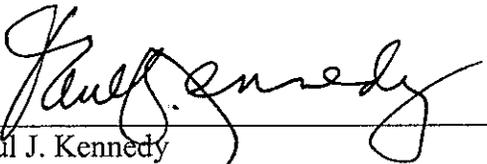
1. Opposer has failed to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

2. Opposer reserves the right to raise additional affirmative defenses and to supplement those asserted herein upon discovery of further information and investigation into the Opposer's claims.

WHEREFORE, Applicant demands that judgment be entered for the Applicant and against Opposer, and that the Notice of Opposition be dismissed, with prejudice.

DATE: February 2, 2015

  
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Paul J. Kennedy  
Sean P. McConnell  
PEPPER HAMILTON LLP  
3000 Two Logan Square  
Eighteenth and Arch Streets  
Philadelphia, PA 19103-2799  
Tel.: (215) 981-4000  
Fax: (215) 981-4750  
Email: [kennedyp@pepperlaw.com](mailto:kennedyp@pepperlaw.com)  
[mcconnells@pepperlaw.com](mailto:mcconnells@pepperlaw.com)

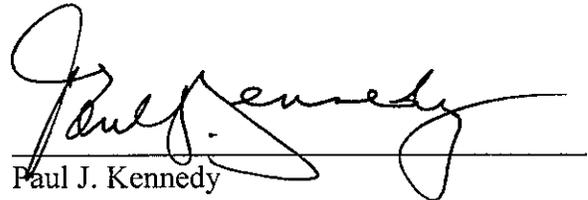
*Attorneys for Applicant  
B. Braun Medical S.A.S.*

**CERTIFICATE OF SERVICE**

I, Paul J. Kennedy, hereby certify that on February 2, 2015, a true and correct copy of the foregoing Answer to Notice of Opposition and Affirmative Defenses was served via Email and U.S. First Class Mail, postage prepaid, upon the following:

James D. Weinberger, Esquire  
FROSS ZELNICK LEHRMAN & ZISSU, P.C.  
866 United Nations Plaza  
New York, NY 10017  
Email: [jweinberger@fzlj.com](mailto:jweinberger@fzlj.com)

*Attorneys for Opposer*

  
Paul J. Kennedy