

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



HEALTH DESIGN PLUS, INC.,)
)
Opposer,)
)
v.)
)
LIFESTART WELLNESS NETWORK)
)
Applicant.)

08-28-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #78

Opposition No. 124, 167

NOTICE OF CHANGE OF ADDRESS AND ADDITION OF COUNSEL

Potter Group – Legal Services and R. Clifford Potter and Harry E. Ashton, IV, attorneys for LifeStart Wellness Network, hereby notify the Trademark Trial and Appeal Board of the following new address as follows:

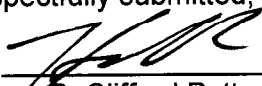
R. Clifford Potter, Esq.
cpotter@pottergroup.com
(312) 373-1347

Harry E. Ashton, IV, Esq.
ivashton@pottergroup.com
(312) 373-1447

Potter Group – Legal Services
One IBM Plaza
330 North Wabash
Suite 3100
Chicago, Illinois 60611
Telephone: (312) 373 –1447
Facsimile: (312) 373-1453

Respectfully submitted,

Date: 8-28-03

By: 

R. Clifford Potter, Esq.
Harry E. Ashton, IV, Esq.
Potter Group – Legal Services

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service by Express Mail No. EU 852840360 US in an envelope addressed to the Assistant Commissioner for Trademarks, BOX TTAB NO FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington VA 22202-3515, on August 28, 2003.

Dated: 8-28-03

By: 
Harry E. Ashton, IV

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing document upon Opposer on the date shown below by mailing a true copy to attorneys of record for Opposer, Jonathan A. Platt – Renner, Otto, Boisselle & Skar, LLP, 1621 Euclid Ave, 19th Floor, Cleveland, OH 44115-2191.

Dated: 8-28-03

By: 
Harry E. Ashton, IV

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



HEALTH DESIGN PLUS, INC.,)
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Opposition No. 124, 167

**APPLICANT'S REQUEST THAT THE TRADEMARK TRIAL AND APPEAL BOARD
REMAND ITS AMENDMENT OF APPLICATION WITH CONSENT**

Applicant LifeStart Wellness Network, by its undersigned attorneys, hereby requests that the Trademark Trial and Appeal Board ("TTAB") remand the amendment made in the above matter to the Examining Attorney at the United States Patent and Trademark Office. In support of this request, the Applicant states the following:

1. On February 5, 2003, LifeStart Wellness Network filed a request to amend its Application with consent of the Health Design Plus, Inc., with the TTAB. The Amendment is attached hereto as Exhibit A.
2. The TTAB appears to have given LifeStart Wellness Network until August 29, 2003, to oppose the Amendment (see Exhibit B, TTAB Procedural Record). LifeStart supports the Amendment and seeks remand of this matter back to Examiner Dominic J. Ferraiuolo at T/LO102 or such other person assigned to this file.

Respectfully submitted,

LIFESTART WELLNESS NETWORK

Date: 8-28-03

By:

R. Clifford Potter, Esq.
Harry E. Ashton, IV, Esq.
Potter Group – Legal Services
One IBM Plaza
330 North Wabash
Suite 3100
Chicago, Illinois 60611
Telephone: (312) 373-1447
Facsimile: (312) 373-1453

Exhibit A

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

HEALTH DESIGN PLUS, INC.,)
)
Opposer,)
)
v.) Opposition No. 124,467
)
LIFESTART WELLNESS NETWORK,)
)
Applicant.)

AMENDMENT OF APPLICATION WITH CONSENT

Subject to the approval of the Trademark Trial and Appeal Board, Applicant, with the consent of Opposer, hereby amends, pursuant to 37 C.F.R. §2.133, the description of the goods in its Application Serial No. 78/014,902 to be limited to the following:

International Class No. 35: Operation of a business for others, namely fitness, wellness, sports, and exercise centers, clubs and facilities, health clubs, health spas and health resorts, excluding nursing and health education services directed toward maternity, maternal health, and child health;

International Class No. 41: Fitness, sports, wellness and exercise centers, clubs and facilities; health clubs; and physical fitness instruction, health education services, namely providing health information, excluding nursing and health education services directed toward maternity, maternal health, and child health; and

International Class No. 42: Nutrition, health and physical fitness consultation; nutrition, health and physical fitness consultation provided via a global computer network; health care screening services; health resorts; and health spas, excluding nursing and health education services directed toward maternity, maternal health, and child health.

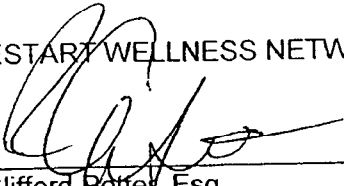
Respectfully submitted,

LIFESTART WELLNESS NETWORK

Date:

December 11, 2002

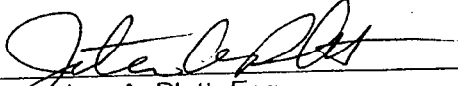
By:


R. Clifford Potter, Esq.
Potter Group – Legal Services
200 North LaSalle Street
Suite 2500
Chicago, Illinois 60601
Telephone: (312) 373-1447
Facsimile: (312) 373-1453

CONSENTED TO BY:

HEALTH DESIGN PLUS, INC.

By:


Jonathan A. Platt, Esq.
Renner, Otto, Boisselle & Sklar, LLP
1621 Euclid Avenue, Nineteenth Floor
Cleveland, Ohio 44115
Telephone: (216) 621-1113
Facsimile: (216) 621-6165

Adversary Proceeding Data

Proceeding Number: 91124467
Proceeding Status and Date: Pending 2001-12-05
Interlocutory Attorney Name: CINDY B GREENBAUM
Proceeding Location: 845 - TTAB
Proceeding Location Date: 2003-07-29
Proceeding Charged To Location: 85A - TTAB Team A Pending Docket Shelf
Proceeding Charged To Employee Name:
Date Proceeding Filed: 2001-11-26

Prosecution History

Entry#	Entry Date	Due Date	History Text
10	2003-07-29		D ALLOWED UNTIL AUG 29, 2003 TO FILE OBJ. OR CORR. TO AMDT
9	2003-02-05		P'S AMENDMENT AND WITHDRAWAL OF OPP W/CON
8	2002-09-24		P'S MOT FOR EXTEN. OF TIME W/ CONSENT
7	2002-08-01		SUSPENDED
6	2002-05-28		P'S MOT FOR EXTEN. OF TIME W/ CONSENT
5	2002-04-22		P'S MOT FOR EXTEN. OF TIME W/ CONSENT
4	2002-01-14		ANSWER
3	2001-12-05		PENDING, INSTITUTED
2	2001-12-05	2002-01-14	NOTICE AND TRIAL DATES SENT; ANSWER DUE:
1	2001-11-26		FILED AND FEE

Defendant Name Information:**LIFESTART WELLNESS NETWORK****Correspondence Address:****R. CLIFFORD POTTER****POTTER GROUP LEGAL SERVICES****500 WEST MADISON STREET SUITE 3700 CHICAGO, IL 60661-2511****Defendant Property Information:****Serial Number: 78014902****Registration Number: 0****International Classes: 035 041 042****Application Status: 774 - Opposition pending****Application Status Date: 2001-12-05****Application Location: 845 - TTAB****Application Date in Location: 2001-12-05****Law Office Assigned: L20 - TMEG Law Office 102****Attorney: R. Clifford Potter**

Domestic Representative:
Application Charged to Location:
Application Charged to Employee:
Registration Date:
Examiner Name: DOMINIC J FERRAIUOLO
Mark: LIFESTART
Application Filing Date: 2000-06-29

Plaintiff Name Information:
HEALTH DESIGN PLUS, INC.

Correspondence Address:
JONATHAN A. PLATT
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE NINETEENTH FLOOR
CLEVELAND, OH 44115-2191

Plaintiff Property Information:
Serial Number: 74408910
Registration Number: 1920364
International Classes: 042
Application Status: 702 - Registered - Section 8 (6-year) accepted & Section 15 acknowledged
Application Status Date: 2001-10-30
Application Location: 900 - Warehouse (Newington)
Application Date in Location: 2001-12-17
Law Office Assigned: G20 - TMEO Law Office #10
Attorney: Warren A. Sklar
Domestic Representative:
Application Charged to Location:
Application Charged to Employee:
Registration Date: 1995-09-19
Examiner Name: ODETTE BONNET
Mark: LIFESTART
Application Filing Date: 1993-07-06

CERTIFICATE OF SERVICE

I hereby certify that I served upon Opposer for the foregoing document on the date shown below by mailing a true copy to attorneys of record for Opposer, Jonathan A. Platt – Renner, Otto, Boisselle & Skar, LLP, 1621 Euclid Ave, 19th Floor, Cleveland, OH 44115-2191.

Dated: 8-28-03

By: 
Harry E. Ashton, IV

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service by Express Mail No. EU 852840360 US in an envelope addressed to the Assistant Commissioner for Trademarks, BOX TTAB NO FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington VA 22202-3515, on August 28, 2003.

Dated: 8-28-03

By: 
Harry E. Ashton, IV

08/28/2003 11:03 AM
POTTER GROUP
LEGAL SERVICES

TTAB



August 28, 2003



08-28-2003

U.S. Patent & TMOfo/TM Mail Rcpt Dt. #78

USTPO
Attn: TTAB
Ms. Cindy Greenbaum
2900 Crystal Dr.
South Tower Building, 9th Floor
Arlington, VA 22202-3514

**Re: Trademark Opposition No. 124,467
Health Design Plus, Inc. v. LifeStart Wellness Network**

Dear Ms. Greenbaum,

I have attached our request for your office, upon entering the amendment in the above referenced matter, to remand the amended application to the Examining Attorney Dominic J. Ferraiuolo at the USPTO. I have also included a Notice to Change Address and Addition of Counsel in order to update our contact information.

If you need anything else, my contact information is:

Harry E. Ashton, IV, Esq.
Potter Group – Legal Services
One IBM Plaza
330 North Wabash
Suite 3100
Chicago, Illinois 60611
Email: ivashton@pottergroup.com
Telephone: (312) 373-1447
Facsimile: (312) 373-1453

As always, thank you for your assistance with this matter and please let me know if there is anything else that you need.

Best wishes,

A handwritten signature in black ink, appearing to read "H. Ashton".

Harry E. Ashton, IV, Esq.

CC: Jonathan A. Platt
Dominic J. Ferraiuolo

08/28/2003 11:03 AM
POTTER GROUP
LEGAL SERVICES