

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

PERFORMANCE HEALTH, INC.
and BIOFREEZE ASSOCIATES

Opposers

v.

WELLNESS INTERNATIONAL
NETWORK, LTD.

Applicant.

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

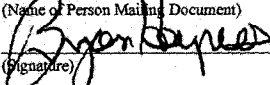
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Opposition No. 91155875

Serial No. 76/421875
Mark: PERFORM X

05-22-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

CERTIFICATE OF EXPRESS MAIL	
I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail No. EV207523020US with sufficient postage in an envelope addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514 on:	
05/22/03	_____
(Date of Mailing)	
Bryan Haynes	_____
(Name of Person Mailing Document)	
	_____
(Signature)	

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant, Wellness International Network, Ltd., a limited partnership organized under the laws of the state of Texas, having its principal place of business at 5800 Democracy Drive, Plano, Texas 75024, for its answer to the Notice of Opposition filed by Opposers, Performance Health, Inc., a Pennsylvania corporation, and Biofreeze Associates, a Pennsylvania partnership, both having their principal place of business at 1017 Boyd Road, Suite 105, Export, Pennsylvania 15632, against application for registration of Applicant's mark "PERFORM X," Application Serial No. 76/421875, filed June 17, 2002, and published in the Official Gazette of December 17, 2002, hereby pleads and avers as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant denies that it is a Colorado corporation. Applicant is a Texas limited partnership. Applicant admits the remaining allegations.

2. Answering paragraph 2 of the Notice of Opposition, Applicant admits the allegations therein.

3. Answering paragraph 3 of the Notice of Opposition, Applicant admits the allegations therein.

4. Answering paragraph 4 of the Notice of Opposition, Applicant admits that U.S. Patent and Trademark Office records identify Biofreeze Associates as the registrant for the designation PERFORM (U.S. Reg. No. 2127009) in International Class 5 for use with “cool pain relief medication in the form of a topical gel or liquid, namely, an analgesic balm”. Applicant does not have sufficient knowledge or information to form a belief as to the remaining allegations contained therein and accordingly denies said allegations.

5. Answering paragraph 5 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies said allegations.

6. Answering paragraph 6 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies said allegations.

7. Answering paragraph 7 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies said allegations.

8. Answering paragraph 8 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies said allegations.

9. Answering paragraph 9 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies said allegations.

10. Answering paragraph 10 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies said allegations.

11. Answering paragraph 11 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies said allegations.

12. Answering paragraph 12 of the Notice of Opposition, Applicant admits the allegations contained therein.

13. Answering paragraph 13 of the Notice of Opposition, Applicant admits the allegations contained therein.

14. Answering paragraph 14 of the Notice of Opposition, Applicant denies that it has commenced use of the mark PERFORM X in connection with the manufacture or sale of nutritional and dietary supplements.

15. Answering paragraph 15 of the Notice of Opposition, Applicant admits that its proposed use of the mark PERFORM X is directed to the nutritional and dietary needs of individuals. Applicant denies each and every other allegation contained therein.

16. Answering paragraph 16 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

17. Answering paragraph 17 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

TTAB

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May 22, 2003

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2900 Crystal Drive
Arlington, VA 22202-3513

05-22-2003
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05 JUN - 7 AM 9:30

Re: Notice of Opposition
Serial No. 76/421875
Filed: April 4, 2003

Mark: PERFORM X
Published in the Office Gazette on: December 17, 2002
Opposition No. 91155875
Our File No: 041901/00001

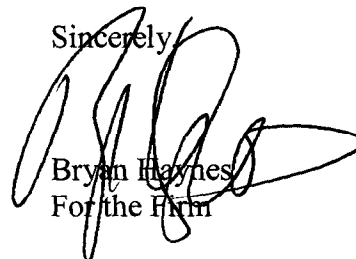
Dear Sir or Madam:

Enclosed for filing in the U.S. Patent and Trademark Office are the following:

1. Applicant's Answer to Notice of Opposition (in triplicate) with Express Mail Certificate of Mailing included;
2. Certificate of Service to Counsel of Record; and
3. Return Receipt Postcard.

It is believed that no fee is due for submission of these papers. However, the Commissioner is hereby authorized to charge any additional fees which may be required to Deposit Account No. 12-1781 (041901/00001).

Sincerely,



Bryan Haynes
For the Firm

BH/ght

Enclosures

cc: Kent E. Baldauf (w/enclosure)