

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 76/441,065)
 Applicant: Nursing Solutions, Inc.)
 Mark: NURSEWORX)
 International Class: 35)
 Filed: August 16, 2002)
 Published: March 18, 2003)
Extension of Time to Oppose filed: April 17, 2003)
)
 AMN HEALTHCARE, INC.)
)
 Opposer,)
)
 v.)
)
 NURSING SOLUTIONS, INC.)
)
 Applicant.)
)

Opposition No. _____



05-16-2003

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

NOTICE OF OPPOSITION UNDER 15 U.S.C. § 1063

Assistant Commissioner for Trademarks
 BOX TTAB-FEE
 Trademark Trial and Appeal Board
 2900 Crystal Drive
 Arlington, VA 22202-3513

Sir:

Opposer, AMN HEALTHCARE, INC. ("AMN Healthcare" or "Opposer"), a Nevada

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I, Shari Millar, hereby certify that the foregoing document is being deposited with the United States Postal Service as Express Mail, postage pre-paid, in an envelope addressed to Attn: Box TTAB-Fee, Assistant Commissioner for Trademarks, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on May 16, 2003.

Shari Millar

(signature)

EL255325660US

(Express Mail label number)

May 16, 2003

(date of signature)

Corporation, having its principal place of business at 12235 El Camino Real, Suite 200, San Diego, California 92130, believing it will be damaged by registration of the mark applied for by NURSING SOLUTIONS, INC. (“Nursing Solutions” or “Applicant”) under Service Mark Application Serial No. 76/441,065 hereby gives notice of opposition to that application.

As grounds for the opposition, AMN Healthcare would show the Board as follows:

1. Nursing Solutions, Inc. (the “Applicant”) has applied to register the mark NURSEWORX under Application Serial No. 76/441,065, for “nurse staffing services, namely, making nurses available to hospitals and other healthcare providers.” Application Serial No. 76/441,065 was filed on August 16, 2002 as an intent to use application. 15 U.S.C. § 1051(b).

2. Opposer and its predecessor in interest have used the trade name and/ marks NURSESRX and/or NURSESRX, INC. and other service marks that consist of or include NURSESRX as the dominant feature of the mark in relation to its business of providing temporary employment services in the nursing industry since at least as long ago as 1990.

3. Opposer is the owner of rights in the following service marks: Registration Nos. 2,549,612 (NURSESRX, INC. & Design); 2,609,424 (NURSESRX); 2,651,490 (NURSESRX); and 2,692,365 (NURSESRX Your Travel Nursing Destination). In addition to these registrations, Opposer uses and owns other registrations for these marks internationally.

4. The mark applied for, namely, NURSEWORX, so resembles the trade name and the marks consisting of or including the term NURSESRX used by Opposer prior to August 16, 2002 as to be likely to cause confusion, or to cause mistake or to deceive. 15 U.S.C. § 1052(d).

5. Opposer has invested many years and substantial sums of money in creating and developing goodwill for its mark NURSESRX among the public and throughout the nursing industry in connection with nurse staffing services. The services offered by Opposer and the Applicant are identical, namely nurse staffing services. Both marks are unitary word marks that commence with the "NURSE" and end with "RX" which will be readily perceived by the public, and convey the same commercial impression. The marks so resemble each other that potential customers for Applicant's services are likely to be confused, deceived or mistaken in thinking that Applicant's services are in some way associated, affiliated, sponsored or approved by AMN Healthcare, Inc., thus damaging the Opposer.

6. Opposer's mark has been used in commerce extensively and has acquired wide scale registration and goodwill. Opposer's mark NURSESRX is a well known, famous mark. Applicant's use of the mark applied for would cause dilution of the distinctive quality of Opposer's mark, thus damaging the Opposer . 15 U.S.C. § 1052.

PRAYER

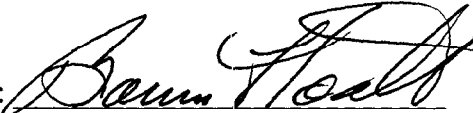
WHEREFORE, AMN Healthcare prays that this opposition be sustained, that registration of the mark applied for under Application Serial No. 76/441,065 be refused, and that AMN Healthcare receive such other and further relief as may be deemed to be just and proper.

This Notice of Opposition is being filed in triplicate herewith.

Respectfully submitted,

Dated: May 16, 2003

By:



Barry F. Soalt

Attorney for Opposer

AMN HEALTHCARE, INC.

Brown Martin Haller & McClain
1660 Union Street
San Diego, CA 92101
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Atty. Docket No.6447-OP01

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May 16, 2003

05-16-2003

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Commissioner of Trademarks
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, VA 22202-3513
Attn: BOX ITU/FEE

Re: **Notice of Opposition against "NURSEWORX"**
Serial No. 76/441,065
Opposer: AMN Healthcare, Inc.
Our Ref. : 6447-OP01

Dear Sir:

Enclosed are the following documents for filing purposes:

1. Notice of Opposition in triplicate;
2. Check in the amount of \$300.00; and
5. Stamped return-addressed postcard.

Please charge any additional fee or credit any overpayment to Deposit Account No. 02-4070 in connection with the filing of this Opposition.

Please send all correspondence in connection with this Opposition to the following:

BARRY SOALT, ESQ.
BROWN, MARTIN, HALLER & McCLAIN LLP
1660 Union Street
San Diego, California 92101-2926
Telephone: (619) 238-0999

Sincerely,

Barry F. Soalt
Attorney for Opposer
AMN HEALTHCARE, INC.

/slm
Encl.

TRADEMARK TRIAL AND
APPEAL BOARD
03 JUN -3 PM 9:31