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Frederick P. Fish
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1859-1951

July 8, 2005

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

In the matter of Application Serial No. 76/441,065
For the Mark NURSEWORX
Opposition No. 91156535
Our Ref.: 16908-055PP1

TTAB

Dear Commissioner:

On June 24, 2005, Opposer filed, and served on the opposing party, its Motion and Embodied Memorandum for Summary Judgment. At the time of filing the Motion, Opposer had not received the certified status copies from the Certification Branch.

Opposer now encloses the following certified status copies to supplement its June 24, 2005 filing:

1. U.S. Reg. Nos. 2,651,490 (Exhibit 1), 2,609,424 (Exhibit 2), 2,549,612 (Exhibit 3) and 2,692,365 (Exhibit 4) to Declaration of Beth Machado filed under Protective Order; and
2. U.S. Application No. 76/441,065 (Exhibit 2) to Declaration of Lisa M. Martens.

Very truly yours,



Lisa M. Martens

LMM/adh

Encl.

10530956.doc

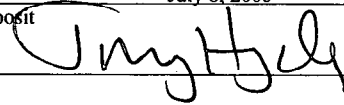
CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §2.197 that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451

July 8, 2005

Date of Deposit

Signature



Anthony D. Hyde

Typed or Printed Name of Person Signing Certificate



07-22-2005

U.S. Patent & TMOfc/TM Mail RcptDt. #72

FISH & RICHARDSON P.C.

Commissioner for Trademarks
July 8, 2005
Page 2

CERTIFICATE OF SERVICE

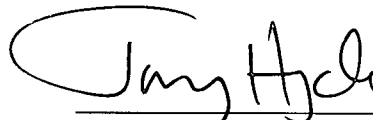
I HEREBY CERTIFY that a true and correct copy of the following:

1. U.S. Reg. Nos. 2,651,490 (Exhibit 1), 2,609,424 (Exhibit 2), 2,549,612 (Exhibit 3) and 2,692,365 (Exhibit 4) to Declaration of Beth Machado filed under Protective Order; and
2. U.S. Application No. 76/441,065 (Exhibit 2) to Declaration of Lisa M. Martens.

has been served, via first class mail, upon the following parties on July 8, 2005, directed to said parties at the following addresses and in the below manner:

George A. Smith, Jr.
Howson & Howson
Spring House Corporate Center
P.O. Box 457
Spring House, Pennsylvania 19477

Respectfully submitted,



Anthony D. Hyde

**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
For the Mark NURSEWORX
Published in the Official Gazette on March 18, 2003

COPY

AMN Healthcare, Inc.,

Opposer,

v.

Nursing Solutions, Inc.,

Applicant.

Opposition No. 91156535

Commissioner for Trademarks
BOX TTAB – NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513

**DECLARATION OF LISA M. MARTENS IN SUPPORT OF
OPPOSER'S MOTION FOR SUMMARY JUDGMENT**

I, Lisa M. Martens, declare as follows:

1. I am a principal of Fish & Richardson P.C., counsel of record in this action for Opposer AMN Healthcare, Inc. ("AMN" or "Opposer").
2. I make this declaration in support of AMN's motion for summary judgment.
3. Attached hereto as Exhibit 1 is, in part, a true and correct copy of the Deposition of Marie Gallagher dated April 13, 2005, and April 14, 2005 and related exhibits.
4. Attached hereto as Exhibit 2 is a status and title copy of U.S. Trademark Application (Ser. No. 76/441,065) for the mark NURSEWORX.

Applicant : Nursing Solutions, Inc.
Ser. No. : 76/441,065
Published : March 18, 2003
Mark : NURSEWORX
Page : 2

Attorney's Docket No.: 16908-055PP1

5. Attached hereto as Exhibit 3 is a true and correct copy of Applicant's Responses to Opposer's First Set of Requests for Admissions to Applicant, Req. Nos. 8 and 9.

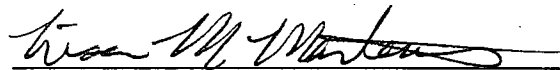
6. Attached hereto as Exhibit 4 is a true and correct copy of Applicant's Revised Response to Opposer's Eighth Request for Admission to Applicant.

7. Attached hereto as Exhibit 5 is a true and correct copy of the signed errata sheet for the Deposition of Marie Gallagher.

8. Based on a search report my office ordered on June 9, 2005, Applicant's NURSEWORX mark and AMN's NURSESRX marks are the only active marks registered or applied for in the United States Patent and Trademark Office that begin with "NURSE" and end in the letters "RX," for use on or in connection with *any* goods or services. Attached hereto as Exhibit 6 is a copy of the search results.

9. Attached hereto as Exhibit 7 is a true and correct copy of a letter dated March 11, 2005 from counsel for Applicant to the undersigned stating, among other things, Applicant's promotional expenditures incurred in connection with the NURSEWORX mark.

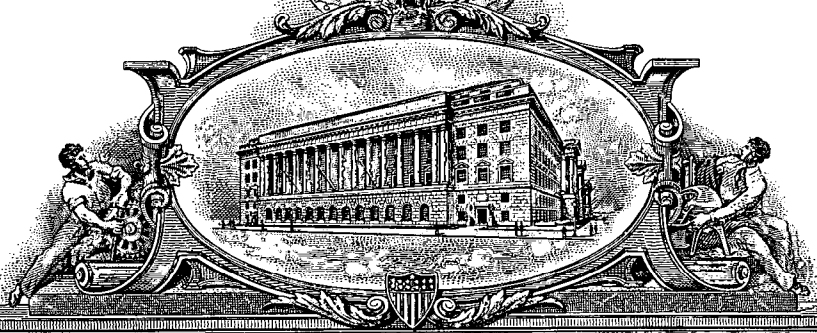
I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in San Diego, California, this 23rd day of June, 2005.



Lisa M. Martens

EXHIBIT 2

770992



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

**UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office**

June 17, 2005

**THIS IS TO CERTIFY THAT ANNEXED IS A TRUE COPY FROM THE
RECORDS OF THIS OFFICE OF THE APPLICATION AS FILED FOR:**

TRADEMARK APPLICATION: 76/441,065

FILING DATE: *August 16, 2002*

**By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS**



H. L. Jackson
H. L. JACKSON
Certifying Officer

76441065

TRADEMARK APPLICATION SERIAL NO. _____

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

08/20/2002 SWILSON 00000016 76441065

01 FC:361 325.00 OP

PTO-1555
(5/87)

*U.S. Government Printing Office: 2000 — 466-232/29119

HOWSON AND HOWSON

ATTORNEYS AT LAW

Established 1853 Philadelphia

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PATENTS TRADEMARKS COPYRIGHTS

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Reg. Patent Agents
TRACY U. PALOVICH, Ph.D.
IRENE J. FRANGOS

August 15, 2002

Box New App Fee
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

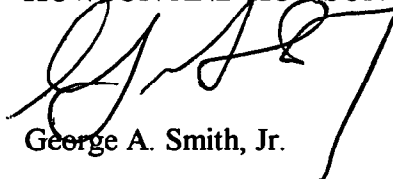
Sir:

We enclose papers forming the application, under Section 1 (b), of Nursing Solutions, Inc., (d/b/a Nurseworx Nursing Solutions), for the registration of the service mark NURSEWORX on the Principal Register.

We also enclose a check for \$325.00 in payment of the government filing fee.

If the check for the filing fee is missing or insufficient, please charge the fee to our Deposit Account No. 08-3040.

Respectfully submitted,
HOWSON AND HOWSON



George A. Smith, Jr.

GASJR:ss
Enclosures

Express Mail No. EU260896545US

[NURUSNRSWX]

APPLICATION FOR SERVICE MARK REGISTRATION
UNDER SECTION 1(b) (15 USC §1051(b))

To the Assistant Commissioner for Trademarks:

Mark: NURSEWORX

Int'l Class No.: 35

Nursing Solutions, Inc., (d/b/a Nurseworx Nursing Solutions) a corporation duly organized under the laws of the Commonwealth of Pennsylvania, having its principal place of business at 500 Southampton Road, Philadelphia, Pennsylvania 19116, requests that the mark shown in the accompanying drawing be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946, as amended, for the following services:

nurse staffing services, namely, making nurses available to hospitals and other health-care providers, in class 35.

The undersigned, Marie C. Gallagher, declares: that she is president of the applicant company, and is an officer of the applicant company with legal authority to bind the applicant; that the applicant has a bona-fide intention to use the mark shown in the accompanying drawing in commerce in connection with the specified services; that the applicant believes it is entitled to use the mark in commerce; that to the best of the declarant's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as may be likely, when applied to the goods or services of the other person, to cause confusion or mistake, or to deceive; and that the facts set forth in this application are true.

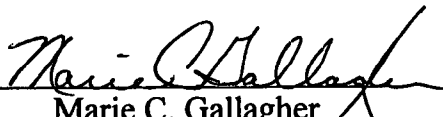
Express Mail No. EU260896545US

The undersigned, being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 USC §1001 and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of her own knowledge are true and that all statements made on information and belief are believed to be true.

The undersigned hereby appoints George A. Smith, Jr., Stanley B. Kita, Mary E. Bak, Cathy A. Kodroff and William Bak, all members of the Bar of the Supreme Court of the United States, to prosecute this application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the Certificate of Registration. Correspondence should be addressed to:

George A. Smith, Jr.
Howson and Howson
Spring House Corporate Center
Box 457
Spring House, Pennsylvania 19477
Telephone: (215) 540-9200
Facsimile: (215) 540 5818

NURSING SOLUTIONS, INC.

By 
Marie C. Gallagher
President

Date: 8/9/02