

**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

AMN Healthcare, Inc.,

Opposer,

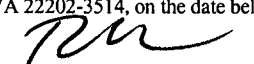
v.

Nursing Solutions, Inc.,

Applicant.

Opposition No. 91156535

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

CERTIFICATE OF MAILING
37 C.F.R. 1.8
I hereby certify that this correspondence is being deposited
with the U.S. Postal Service as First Class Mail in an
envelope addressed to: Commissioner for Trademarks, 2900
Crystal Drive, Arlington, VA 22202-3514, on the date below:
Date: August 18, 2005 
Rich Donovan

**SECOND 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 a true and correct copy of a specimen of use AMN submitted to the United States Patent and Trademark Office in support of AMN's U.S. trademark application for the typed drawing mark NURSESRX.

4. Attached hereto as Exhibit 2 are true and correct copies of excerpts from Applicant's Responses to Opposer's First Set of Interrogatories to Applicant.

5. Attached hereto as Exhibit 3 is a true and correct copy of a deposition exhibit labeled "Tierney 6," which was inadvertently omitted from Exhibit 1 of the first Declaration of Lisa M. Martens in support of Opposer's Motion for Summary Judgment.

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 18th day of August, 2005.



Lisa M. Martens

CERTIFICATE OF SERVICE

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

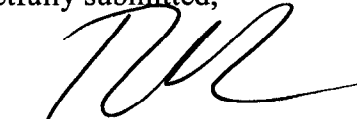
**SECOND DECLARATION OF LISA M. MARTENS IN SUPPORT OF
OPPOSER'S MOTION FOR SUMMARY JUDGMENT**

has been served upon the following parties on August 18, 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

1. VIA FIRST CLASS MAIL

Respectfully submitted,



Richard Donovan

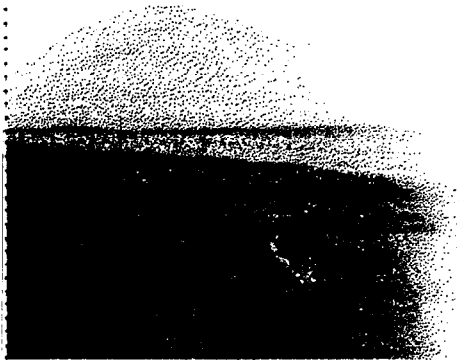
EXHIBIT 1



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 Your service team

Jobs
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 Pay & benefits
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 FAQs
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Getting started

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- Direct deposit service
- 24-hour on-call support
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EXHIBIT 2

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

In the matter of Application 76/441,065
Applicant: Nursing Solutions, Inc.
Mark: NURSEWORX
International Class: 35
Filed: August 16, 2002
Published: March 18, 2003

AMN HEALTHCARE, INC.
Opposer

v. Opposition No. 91156535

NURSING SOLUTIONS, INC.
Applicant

APPLICANT'S RESPONSES TO OPPOSER'S
FIRST SET OF INTERROGATORIES TO APPLICANT

Specific objections of general applicability

1. Applicant objects to providing information in response to the Opposer's first set of interrogatories that is protected by the attorney-client privilege, or which is protected as attorney's work product, or which is immune from discovery by any other similar privilege or doctrine.
2. Applicant objects to responding to any of the Opposer's First Set of Interrogatories to Applicant to the extent that it seeks disclosure of confidential, proprietary, trade secret, or other competitively sensitive information.

anticipates that further investigation and analysis may supply additional facts and additional meaning to known facts. Applicant reserves the right to modify or supplement, if required by the applicable rules, any and all responses herein as additional facts are ascertained, as additional documents are obtained, and as additional analyses and contentions are formulated.

16. The responses herein are made without waiving or intending to waive objection on any ground as to relevance, privilege, or admissibility of any information provided in response to the Opposer's interrogatories in any subsequent proceeding or at the trial of this or any other action.

Specific Objections and Responses

INTERROGATORY NO. 1:

Identify all Persons Applicant believes have knowledge of facts relevant to any of the issues in this Opposition proceeding and describe the issues upon which Applicant believes they have knowledge.

RESPONSE TO INTERROGATORY NO. 1

Marie Gallagher. 406 E. Pennsylvania Blvd. Feasterville, PA 19053
215 942 2566. Nursing Solutions. President, October, 2000 to date. All issues.

Jerry Tierny 406 E. Pennsylvania Blvd. Feasterville, PA 19053

215 942 2566. Nursing Solutions. May, 2004 to date. Staffing coordinator. All issues.

G. A. Smith 321 Norristown Road, Spring House, PA 19477. 215 540 9200 Attorney. Howson and Howson. July 2002 to date. All issues.

Michael Gies 500 Southampton Rd. Philadelphia 19116. 215 673 9491. Self-employed. October 2000 to date. Performs miscellaneous tasks. Selection and adoption of Applicant's mark.

Maureen Juhas, 2315 Wellesley Court Naperville, IL 60564, 630 922 7056. Not employed (homemaker). No relationship to Applicant, Nursing Solutions, Inc. Selection and adoption of Applicant's mark.

Frank P. Farmer, Jr. 119 East Locust Lane, Kennett Square, PA 19348 Attorney for Applicant. Selection and adoption of Applicant's mark.

INTERROGATORY NO. 2:

Identify all Persons who had significant responsibilities relating to the design, development, selection, clearance, adoption, and use of Applicant's Mark.

RESPONSE TO INTERROGATORY NO. 2

Marie Gallagher. Michael Gies, Maureen Juhas, Frank P. Farmer, Jr., G. A. Smith. See answer to Interrogatory No. 2

INTERROGATORY NO. 28:

State all facts supporting or rebutting Applicant's contention set forth in paragraph 5 of Applicant's Answer to Notice of Opposition denying that "Opposer has been, is being, or will be, damaged."

RESPONSE TO INTERROGATORY NO. 28

See responses to interrogatories 24, 25, 26 and 27. There can be no damage if there is no likelihood of confusion, mistake or deception.

INTERROGATORY NO. 29:

Identify all expert witnesses Applicant intends to call to testify in this action.

RESPONSE TO INTERROGATORY NO. 29

None as presently advised.

The undersigned, an officer of the Applicant, 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 Applicant's application 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.

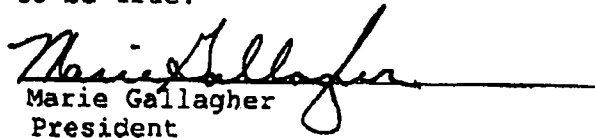

Marie Gallagher
President

EXHIBIT 3

Marie C. Gallagher, RN
President



NURSEWORX
Nursing Services

500 Southampton Road
Philadelphia, PA 19116

(215) 673-9333
Fax: (215) 673-9448

PLAINTIFF'S
EXHIBIT
Tierney
4-13-05