

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

Opposition No. 91160145 )  
)  
)  
Serial No. 76/430491 )  
)  
WELLPOINT HEALTH NETWORKS, INC. )  
)  
Opposer )  
vs. )  
)  
UNUMPROVIDENT CORPORATION )  
)  
Applicant )  
)  
Servicemark: UNUMPROVIDENT and DESIGN )  
\_\_\_\_\_ )



05-06-2004  
U.S. Patent & TMO/TM Mail Rcpt Dt. #22

**ANSWER**  
**TO NOTICE OF OPPOSITION**

Box TTAB  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22212-3513

Sir:

Applicant, UNUMPROVIDENT CORPORATION, a Delaware corporation, having its place of business at 1 Fountain Square, Chattanooga, Tennessee 37402, answers the Notice of Opposition, as follows, with the numbers of the following paragraphs corresponding to the numbers of the paragraphs of the Notice:

1. Applicant admits the averments of paragraph 1 of the Notice of Opposition relating to Opposer's ownership of the mark in U.S. Reg. No. 2,665,505 for the goods and services stated therein upon information and belief.
2. Applicant admits the averments of paragraph 2 of the Notice of Opposition.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 3 of the Notice of Opposition, and therefore denies same.
4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 4 of the Notice of Opposition, and therefore denies same.
5. Applicant denies the averments of paragraph 5 of the Notice of Opposition.
6. Applicant denies the averments of paragraph 6 of the Notice of Opposition.
7. Applicant denies the averments of paragraph 7 of the Notice of Opposition as Opposer displays its mark in a distinct stylized form and the meaning and common impression of marks varies in the contexts in which they are used.
8. Applicant denies the averments of paragraph 8 of the Notice of Opposition.

#### **AFFIRMATIVE DEFENSES**

9. There is no likelihood of confusion, mistake or deception between Applicant's mark and the mark used by Opposer in connection with Opposer's services.
10. Applicant began use of its mark without notice of Opposer's use of its mark.
11. Applicant has not experienced any actual confusion with respect to the Opposer's customers, vendors, creditors, or others.

THEREFORE, Applicant prays that this Opposition shall be dismissed with prejudice.

Respectfully submitted,

MILLER & MARTIN PLLC

Date May 3, 2004

By: Mary Ellen Morris

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- and -

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CERTIFICATE OF MAILING

I hereby certify that the preceding Answer is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Box TTAB  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

on this 3<sup>rd</sup> day of May, 2004.

Rachel Burnett  
Rachel Burnett

**CERTIFICATE OF SERVICE**

This is to certify that I have this day served the following named persons with the foregoing Answer to Notice of Opposition by placing a true and exact copy of said document in the United States mail, addressed to said counsel at her offices, with sufficient postage thereupon to carry the same to its destination at the following address:

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Los Angeles, CA 90025-1030  
Attorneys for Opposer

on this 3<sup>rd</sup> day of May, 2004.

  
\_\_\_\_\_  
Rachel Burnett

**MILLER & MARTIN PLLC**

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05-06-2004

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

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2900 Crystal Drive  
Arlington, VA 22202-3513

Re: Opposition No. 91160145  
Wellpoint Health Networks, Inc. v. Unumprovident Corporation  
Mark: UNUMPROVIDENT and DESIGN  
Serial No. 76/430491

Dear Sir:

Enclosed for filing please find an original and one copy of an Answer to Notice of Opposition in the above-referenced case. Please return the extra copy, stamped filed, to me in the enclosed stamped, pre-addressed envelope. Also enclosed please find a stamped, pre-addressed postcard which I would appreciate your returning to me upon receipt of the Answer.

Thank you for your assistance in this matter.

Very truly yours,

*Mary Ellen Morris*  
Mary Ellen Morris

MEM

cc: Lori N. Boatright, Esq. Attorney for Opposer  
Christopher A. Parrott, Esq.  
Stephen Stark, Esq.