

ESTTA Tracking number: **ESTTA46298**

Filing date: **09/26/2005**

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

### Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

#### Opposer Information

<b>Name</b>	The Hebrew University of Jerusalem
<b>Granted to Date of previous extension</b>	09/25/2005
<b>Address</b>	Givat Ram P.O. Box 34165 Jerusalem, 91341 ISRAEL

<b>Attorney information</b>	Anthony V. Lupo, Esq. Arent Fox, PLLC 1050 Connecticut Avenue, N.W. Washington, DC 20036 UNITED STATES lupo.anthony@arentfox.com, bruno.sarah@arentfox.com, gunderson.celianna@arentfox.com, tmdocket@arentfox.com Phone:202 857 6000
-----------------------------	--

#### Applicant Information

<b>Application No</b>	78391309	<b>Publication date</b>	03/29/2005
<b>Opposition Filing Date</b>	09/26/2005	<b>Opposition Period Ends</b>	09/25/2005
<b>Applicant</b>	Princeton Regional Chamber of Commerce		

216 Rockingham Row Princeton Forrestal Village Princeton, NJ 08540 UNITED STATES
--

**Goods/Services Affected by Opposition**

Class 035.

All goods and services in the class are opposed, namely: Promoting the interests of high-technology, biotechnology and pharmaceutical companies doing business in New Jersey, and encouraging economic development via conferences, presentations, lectures and business breakfast and lunch meetings, and by distributing informational handouts in connection therewith

<b>Attachments</b>	Lupo - HUI Notice of Opposition v. EINSTEIN ALLEY in the name of the Princeton Regional Chamber of C.PDF ( 6 pages )
--------------------	--

<b>Signature</b>	/Anthony V. Lupo/
<b>Name</b>	Anthony V. Lupo, Esq.
<b>Date</b>	09/26/2005

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

THE HEBREW UNIVERSITY OF JERUSUALEM )  
 )  
 Opposer, )  
 )  
 v. )  
 )  
 PRINCETON REGIONAL CHAMBER OF COMMERCE )  
 )  
 Applicant. )  
 )

Commissioner of Patent and Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**NOTICE OF OPPOSITION**

In the matter of the application filed by Princeton Regional Chamber of Commerce, a corporation with an address of 9 Vandeventer Avenue, Princeton, New Jersey 08542, namely, Application No. 78/391,309 for EINSTEIN ALLEY in International Class 35 covering the following services: “promoting the interests of high-technology, biotechnology and pharmaceutical companies doing business in New Jersey, encouraging economic development via conferences, presentations, lectures and business breakfast and lunch meetings, and by distributing informational handouts in connection therewith,” with extensions of time to file a Notice of Opposition granted up to, and including, September 25, 2005. Registration of the mark is opposed under the provisions of Section 13 of the Trademark Act, 15 U.S.C. 1063.

Opposer is a not-for-profit corporation organized and existing under the laws of Israel, with an address at Givat Ram, P.O. Box 34165, Jerusalem 91341, Israel, and believes that it is or will be damaged by the issuance to registration EINSTEIN ALLEY Application No. 78/391,309, and hereby opposes registration of EINSTEIN ALLEY to Applicant.

The grounds for opposing the registration for EINSTEIN ALLEY are as follows:

1. Opposer is the owner of all right, title and interest in, to and of the late, famous scientist and genius, Albert Einstein, including the publicity rights in his name and likeness, service marks and trademarks. Albert Einstein is also known, and commonly referred to as EINSTEIN.

2. The name and mark ALBERT EINSTEIN has been used by those licensed or otherwise authorized by Opposer on or in connection with a broad variety of goods and services prior to Applicant's filing date providing training, entertainment, sporting and cultural activities, news reporting, vocational guidance, as well as scientific and technological services and research and design relating thereto, industrial analysis and research services.

3. Opposer owns numerous EINSTEIN and EINSTEIN formative marks, including, *inter alia*, incontestable U.S. Registration No. 2, 599,880 for THE ULTIMATE EINSTEIN in connection with "interactive educational CD-ROMs, in the field of history, sold individually and together as a unit with history books and instructional manuals therefore" in International Class 9; U.S. Registration No. 1, 479,104 for EINSTEIN in connection with "providing access to an online computer database for use by high school students and teachers" in International Class 42; and U.S. Registration No. 2, 497,731 for EINSTEINET in connection with "providing temporary use of on-line non-downloadable software to subscribers for use in word-processing, database management, accounting, and inventory control, in the field of business management" in

International Classes 39 and 42. Opposer's exclusive right to use its marks is evidenced by these registrations. The registrations are valid, subsisting and provide prima facie evidence of Opposer's exclusive right to use the marks in commerce.

4. Applicant has applied, Under Serial No. 78/391,309, to register EINSTEIN ALLEY in connection with “promoting the interests of high-technology, biotechnology and pharmaceutical companies doing business in New Jersey, encouraging economic development via conferences, presentations, lectures and business breakfast and lunch meetings, and by distributing informational handouts in connection therewith.” Applicant’s EINSTEIN ALLEY is confusingly similar to Opposer’s EINSTEIN and ALBERT EINSTEIN marks and the applied-for services are related to goods and services of Opposer and/or its licensees, or to goods and services into which Opposer intends to expand into, or in connection with which consumers will believe Opposer has expanded.

5. Applicant’s applied-for mark wholly incorporates Opposer’s EINSTEIN mark and connotes an affiliation or connection to Albert Einstein.

6. Applicant’s “promoting the interests of high-technology, biotechnology and pharmaceutical companies doing business in New Jersey, encouraging economic development via conferences, presentations, lectures and business breakfast and lunch meetings, and by distributing informational handouts in connection therewith” are related to Opposer’s services in educational, scientific and technological services.

7. Due to the enormous and longstanding fame of the late scientist and genius named ALBERT EINSTEIN, including the licensed and otherwise authorized use of the names and marks ALBERT EINSTEIN and EINSTEIN in connection with a broad variety of goods and

services, Applicant's EINSTEIN ALLEY falsely suggests a connection, association or sponsorship with the Hebrew University of Jerusalem.

8. Since prior to Applicant's filing date and Applicant's use, if any, of EINSTEIN ALLEY, the names and marks ALBERT EINSTEIN and EINSTEIN have become associated with Opposer, such that Applicant's EINSTEIN ALLEY mark, when used in connection with the applied-for "promotional services" are likely to confuse the consuming public to believe that Applicant's services are authorized, sponsored, licensed or controlled by Opposer, or are in some way, related to Opposer.

9. Since long prior to the filing date of Applicant's application, Opposer has used its marks in connection with the sale and advertising of its goods and/or services.

10. Opposer has used and advertised its marks over a period of many years and, thus, the marks have become well known and famous among prospective purchasers as a distinctive indicator of the origin of Opposer's goods and services.

#### **LIKELIHOOD OF CONFUSION - §2(d)**

11. The mark which Applicant seeks to register is identical to or so resembles Opposer's marks that use and registration by Applicant is likely to cause confusion, mistake and/or deception within the meaning of Section 2(d) of the Trademark Act, and such use or registration will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's marks.

12. The services of Opposer and Applicant are so closely related that the public is likely to be confused and to assume erroneously that Applicant's services are the services of Opposer, or that Applicant is connected with, sponsored by or affiliated with Opposer, to Opposer's irreparable damage.

13. Applicant is not affiliated or connected with or endorsed or sponsored by Opposer, nor has Opposer approved any of the services offered or sold by Applicant under the mark EINSTEIN ALLEY, nor has Opposer granted Applicant permission to use said mark.

**DECEPTION/FALSE SUGGESTION OF CONNECTION - § 2(a)**

14. Applicant's alleged mark so closely resembles Opposer's marks that Applicant's mark is likely to cause deception in violation of Section 2(a) of the Trademark Act, in that the mark misdescribes the origin of the services, purchasers are likely to believe that the misdescription actually describes the origin of the services, and this is likely to materially alter purchaser's decisions to acquire Applicant's services.

15. Applicant's alleged mark so closely resembles Opposer's marks that it falsely suggests a connection with Opposer in violation of Section 2(a) of the Trademark Act, since Applicant's alleged mark points uniquely to Opposer, and purchasers will assume that services offered under Applicant's alleged mark are connected with Opposer.

16. When Applicant's alleged mark is used on services of the type described in its application, Applicant's alleged mark will cause purchasers to refrain from purchasing Opposer's authorized services based on the mistaken assumption that Opposer is attempting to promote or encourage the sale of Applicant's services by permitting EINSTEIN ALLEY to be used on such services.

**DILUTION - § 43(d)**

17. Opposer's marks became well known and famous prior to the filing date of Applicant's application.

18. Applicant's use or registration of the mark EINSTEIN ALLEY will cause dilution of the distinctive quality of Opposer's marks.

19. Applicant's use or registration of EINSTEIN ALLEY will lessen the capacity of Opposer's famous marks to identify and distinguish Opposer's goods and services.

20. Applicant's use or registration of the mark EINSTEIN ALLEY for the services listed in its application will tarnish the goodwill symbolized by Opposer's marks.

21. Likelihood of tarnishment and damage to Opposer's goodwill is enhanced by the fact that Opposer will have no control over the nature and quality of the services sold under Applicant's alleged mark; and prospective customers who encounter defects in the quality of Applicant's services will attribute those defects to Opposer, and this will tarnish Opposer's goodwill.

22. Likelihood of confusion, dilution and deception is enhanced by the fact Applicant's alleged mark EINSTEIN ALLEY and Opposer's marks are virtually identical in sound and pronunciation, and consumers will assume that services sold under Applicant's alleged mark originate with or are sponsored by Opposer.

WHEREFORE, Opposer respectfully requests that Application No. 78/391,309 be refused registration.

Dated: \_\_\_\_\_

Respectfully submitted,

ARENT FOX PLLC

\_\_\_\_\_  
Anthony V. Lupo  
Sarah Bruno  
*Attorneys for Applicant*

Atty. Docket No.: 028000-00001  
Arent Fox PLLC  
1050 Connecticut Avenue NW  
Washington, DC 20036  
Tel: (202) 857-6000