

ESTTA Tracking number: **ESTTA59476**

Filing date: **12/28/2005**

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**

Name	Johnson & Johnson
Granted to Date of previous extension	01/01/2006
Address	One Johnson & Johnson Plaza New Brunswick, NJ 08933-7001 UNITED STATES

Attorney information	Mary Pat A. Weyback; Norm D. St. Landau Drinker Biddle & Reath LLP 1500 K Street, N.W.Suite 1100 Washington, DC 20005-1209 UNITED STATES MaryPat.Weyback@dbr.com, Andrea.Engel@dbr.com Phone:202-842-8805
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**Applicant Information**

Application No	78253753	Publication date	07/05/2005
Opposition Filing Date	12/28/2005	Opposition Period Ends	01/01/2006
Applicant	PK3 Communications LLC 641 California Street Burbank, CA 91505 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 005. All goods and services in the class are opposed, namely: Personal aid kits for situational personal emergencies consisting primarily of headache medication, tampons, pantyliners, underwear and t-shirts
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Attachments	opposition.pdf ( 11 pages )
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Signature	/Mary Pat A. Weyback/
Name	Mary Pat A. Weyback; Norm D. St. Landau
Date	12/28/2005



2. Opposer has continuously used the Red Cross Design mark in connection with medical and surgical plasters since as early as 1887.

3. Opposer has continuously used the Red Cross Design mark in connection with cotton for cosmetic use since as early as 1898.

4. Opposer has continuously used the Red Cross Design mark in connection with first aid kits, adhesive bandages, topical preparations for medical and therapeutic use, medical adhesive tape, gauze, sterile cotton for medical purposes and wound dressings since as early as 1898.

5. Opposer has adopted and is using the mark RED CROSS for cotton for personal use and sterile cotton for medical use.

6. Opposer has continuously used the mark RED CROSS for cotton for personal use and sterile cotton for medical use since as early as 1898.

7. Opposer is the owner of:

- a. Reg. No. 54,308 – Red Cross Design, dated June 26, 1906, for medical and surgical plasters.
- b. Reg. No. 1,870,955 – RED CROSS, dated January 3, 1995, for sterile cotton for personal use and sterile cotton for medical use.
- c. Reg. No. 1,888,143 – Red Cross Design, dated April 11, 1995, for cotton for cosmetic use.
- d. Reg. No. 1,889,576 – Red Cross Design, dated April 18, 1995, for first aid kits, adhesive bandages, topical preparations for medical and therapeutic use, medical adhesive tape, gauze, sterile cotton for medical purposes, and wound dressings.

A copy of each registration is attached hereto as Exhibits A-D.

8. On information and belief, Applicant did not use the URBAN AID & Cross Design mark in commerce with the United States in connection with the goods in Class 5

identified in application Serial No. 78/253,753 prior to the May 23, 2003 filing date of the application.

9. On information and belief, Applicant did not use the URBAN AID & Cross Design mark in commerce with the United States in connection with the goods in Class 5 identified in application Serial No. 78/253,753 prior to Opposer's adoption and first use of Opposer's Red Cross Design and RED CROSS marks.

10. The goods on which Opposer uses its marks Red Cross Design and RED CROSS and the goods for which Applicant seeks to register its URBAN AID & Cross Design mark are all in the medical and personal care fields.

11. The goods on which Opposer uses its marks Red Cross Design and RED CROSS and the goods in Class 5 for which Applicant seeks to register its URBAN AID & Cross Design mark are highly related.

12. The goods on which Opposer uses the marks Red Cross Design and RED CROSS and the goods in Class 5 for which Applicant seeks to register its URBAN AID & Cross Design mark may be sold and/or rendered through the same channels of trade and to the same class of purchasers.

13. Opposer's marks Red Cross Design and RED CROSS and Applicant's URBAN AID & Cross Design mark are substantially similar in appearance and commercial impression.

14. Applicant has not asserted in Serial No. 78/253,753 any limitations with respect to the color in which the Cross Design portion of the mark may be displayed.

15. On information and belief, Applicant displays the Cross Design portion of its mark in the color red on a white background. See Exhibit E.

16. Any registration which matures from application Serial No. 78/253,753 would create a legal presumption that Applicant has the right to display the Cross Design portion of its mark in red, in violation of 13 U.S.C. §706.

17. Any registration which matures from application Serial No. 78/253,753 would be read by competitors in the medical and personal care fields as enabling Applicant to display the Cross Design depicted therein in any color, including red, in violation of 18 U.S.C. §706.

18. The use and registration by Applicant of the URBAN AID & Cross Design mark for the goods in Class 5 identified in application Serial No. 78/253,753 is likely to cause confusion, mistake or deception by having the public erroneously assume or believe that those goods and services emanate from Opposer, or are in some other way associated or connected with Opposer because of Opposer's prior use and registration of the marks Red Cross Design and RED CROSS for medical and first aid supplies, all to Opposer's irreparable damage.

For the reasons set forth in paragraphs 1-18, Opposer believes and believing asserts that it will be damaged by the registration of application Serial No. 78/253,753. Accordingly, Opposer prays that this Opposition be sustained, and that Applicant be refused registration of the URBAN AID & Cross Design mark for the goods and services set forth in application Serial No. 78/253,753.

Should additional fees be required, please charge them to the deposit account of Drinker  
Biddle & Reath LLP, No. 50-0573.

Respectfully submitted,

JOHNSON & JOHNSON

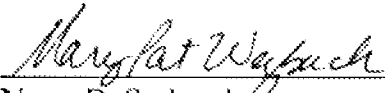
By:   
Norm D. St. Landau  
Mary Pat A. Weyback  
Drinker Biddle & Reath LLP  
1500 K Street, N.W., Suite 1100  
Washington D.C. 20005-1209  
Tel.: (202) 842-8800  
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*Counsel for Opposer.*

EXHIBIT A

No. 64,308.

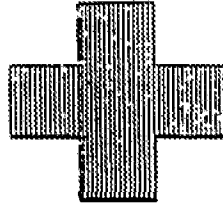
TRADE-MARK.

REGISTERED JUNE 26, 1906.

JOHNSON & JOHNSON.  
MEDICAL AND SURGICAL PLASTERS.

APPLICATION FILED OCT. 17, 1906.

THIRD RENEWAL



PROPRIETOR

*Johnson & Johnson*

*Attorneys*

ATTORNEY

0458

AFFIDAVIT SEC. 5  
ACCEPTED

AFFIDAVIT SEC. 15  
RECEIVED 2-3-55

**RE-RENEWED  
RENEWED  
REPUBLICISHED**

JAN 3 1 1950

Under Sec. 12 (c) 1946 Act  
**UNITED STATES PATENT OFFICE.**

THIRD REPLY

JOHNSON & JOHNSON, OF NEW BRUNSWICK, NEW JERSEY.

TRADE-MARK FOR MEDICAL AND SURGICAL PLASTERS.

No. 54,308

Statement and Declaration.

Registered June 26, 1900.

Application filed October 17, 1905. Serial No. 13,666. Used ten years.

**STATEMENT.**

*In all whom it may concern:*

Be it known that the JOHNSON & JOHNSON, a corporation duly organized and existing under and by virtue of the laws of the State of New Jersey, and located and doing business in the city of New Brunswick, county of Middlesex, in said State, has adopted for its use a trade-mark, of which the following is a description.

The trade-mark is illustrated in the accompanying drawing, wherein appears a representation of a red Greek cross.

The trade-mark has been continuously used in the business of said corporation by it and its predecessors, from whom it derived title, since 1887.

The class of merchandise to which the

trade-mark is appropriated is medicinal and surgical articles, and the particular description of goods comprised in said class upon which said trade-mark is used is medicinal and surgical plasters.

The trade-mark is usually displayed on the wrappers, spools, containers, boxes, and other receptacles holding the goods by printing it directly thereon and by means of labels and in other customary ways.

JOHNSON & JOHNSON,  
R. W. JOHNSON,  
*President.*

Witnesses:

Edward Nouris,  
Lucas H. Leithner.

**DECLARATION.**

State of New Jersey, county of Middlesex, ss: R. W. JOHNSON, being duly sworn, deposes and says that he is president of JOHNSON & JOHNSON, a corporation, the applicant named in the foregoing statement; that he believes that the foregoing statement is true; that he believes the said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use said trade-mark either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several States of the United States and particularly between New Jersey and Illinois

and between the United States and foreign nations and particularly with Cuba and Canada; and that the description drawing and specimens presented truly represent the trade-mark sought to be registered; and that the mark has been in actual use as a trade-mark of the applicant or its predecessors from whom it derived title for ten years next preceding the passage of the act of February 20, 1905, and that, to the best of his knowledge and belief, such use has been exclusive.

R. W. JOHNSON.

Subscribed and sworn to before me this 11th day of Sept., 1905.

[L. S.]

CHARLES A. McORMICK,  
*Notary Public.*

0457





Int. Cls.: 3 and 5

Prior U.S. Cls.: 44 and 51

United States Patent and Trademark Office

Reg. No. 1,870,955

Registered Jan. 3, 1995

**TRADEMARK  
PRINCIPAL REGISTER**

**RED CROSS**

JOHNSON & JOHNSON (NEW JERSEY CORPORATION)  
ONE JOHNSON & JOHNSON PLAZA  
NEW BRUNSWICK, NJ 08933

FOR: COTTON FOR PERSONAL USE, IN CLASS 3 (U.S. CLS. 44 AND 51).

FIRST USE 0-0-1898; IN COMMERCE 0-0-1898.

FOR: STERILE COTTON FOR MEDICAL USE, IN CLASS 5 (U.S. CL. 44).  
FIRST USE 0-0-1898; IN COMMERCE 0-0-1898.  
OWNER OF U.S. REG. NO. 54,308.

SER. NO. 74-422,554, FILED 8-6-1993.

GERALD C. SEEGARS, EXAMINING ATTORNEY

Int. Cl.: 3

Prior U.S. Cl.: 51

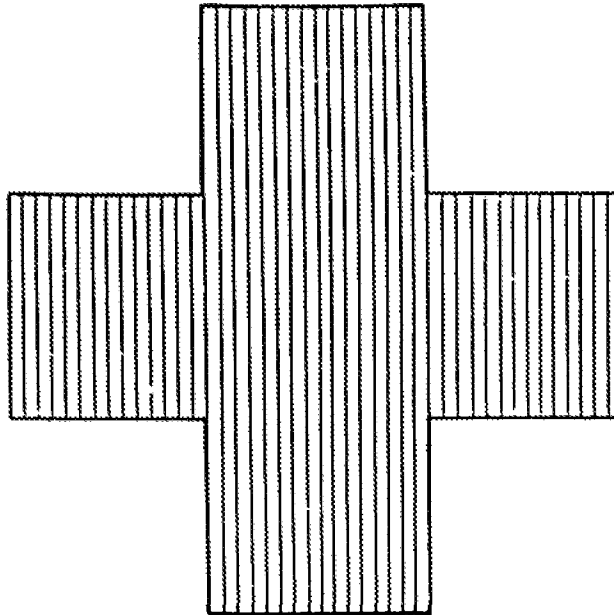


United States Patent and Trademark Office

Reg. No. 1,888,143

Registered Apr. 11, 1995

**TRADEMARK  
PRINCIPAL REGISTER**



JOHNSON & JOHNSON (NEW JERSEY CORPORATION)  
ONE JOHNSON & JOHNSON PLAZA  
NEW BRUNSWICK, NJ 08933

OWNER OF U.S. REG. NO. 54,308.  
THE DRAWING IS LINED FOR THE COLOR RED.

FOR: COTTON FOR COSMETIC USE, IN CLASS 3 (U.S. CL. 51).

SER. NO. 74-422,556, FILED 8-6-1993.

FIRST USE 0-0-1898; IN COMMERCE 0-0-1898.

PATRICIA HORRALL, EXAMINING ATTORNEY

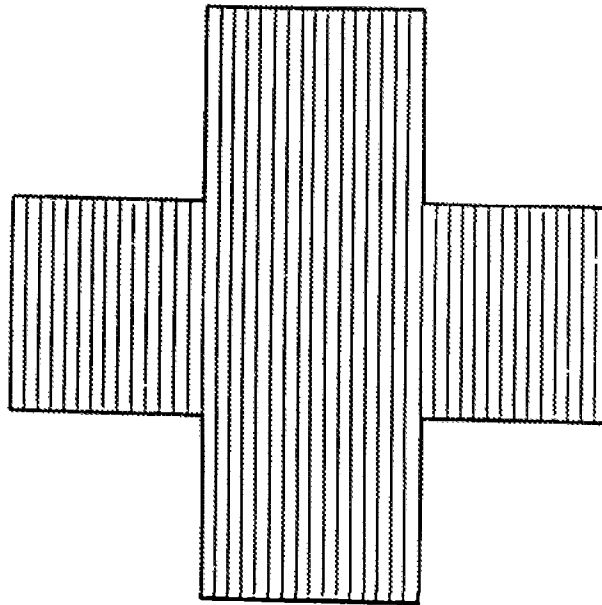
Int. Cl.: 5

Prior U.S. Cls.: 18 and 44

**United States Patent and Trademark Office**

Reg. No. 1,889,576  
Registered Apr. 18, 1995

**TRADEMARK  
PRINCIPAL REGISTER**



JOHNSON & JOHNSON (NEW JERSEY CORPORATION)  
ONE JOHNSON & JOHNSON PLAZA  
NEW BRUNSWICK, NJ 08933

FOR: FIRST AID KITS, ADHESIVE BANDAGES, TOPICAL PREPARATIONS FOR MEDICAL AND THERAPEUTIC USE, MEDICAL ADHESIVE TAPE, GAUZE, STERILE COTTON FOR MEDICAL PURPOSES, AND WOUND DRESSINGS, IN CLASS 5 (U.S. CLS. 18 AND 44).

FIRST USE 0-0-1898; IN COMMERCE 0-0-1898.

OWNER OF U.S. REG. NO. 54,308.

THE DRAWING IS LINED FOR THE COLOR RED.

SER. NO. 74-422,859, FILED 8-9-1993.

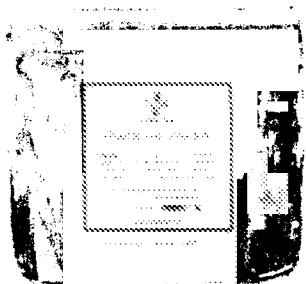
PATRICIA HORRALL, EXAMINING ATTORNEY

**EXHIBIT E**

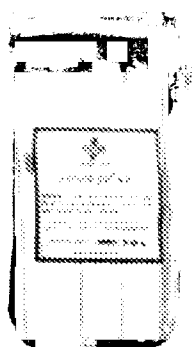


Forget your panties?  
**Need a tampon!**  
Didn't make it home...

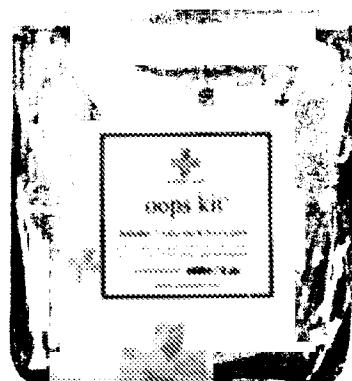
urban aid to the rescue... You are prepared!



shame on you kit™



period pal kit™



oops kit™

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