

ESTTA Tracking number: **ESTTA62482**

Filing date: **01/18/2006**

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	Muscular Dystrophy Association
Granted to Date of previous extension	01/18/2006
Address	3300 East Sunrise Drive Tuscon, AZ 85718 UNITED STATES
Correspondence information	Paula J .Krasny 130 E. Randolph Drive Suite 3500 Chicago, IL 60601 UNITED STATES paula.j.krasny@bakernet.com Phone:312-861-2822

Applicant Information

Application No	78277837	Publication date	09/20/2005
Opposition Filing Date	01/18/2006	Opposition Period Ends	01/18/2006
Applicant	Managed Data Access, LLC 1840 Southwest 22 Street, PMB 4-148 Miami, FL 33145 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 038. First Use: 2003/04/01 First Use In Commerce: 2003/04/01 All goods and sevicees in the class are opposed, namely: Data access services, namely, providing a high speed access to area networks and a global computer information network; corporate digital media delivery by electronic transmission; enterprise text and numeric wireless digital messaging services; integrated rich media content delivery of messages by electronic transmission; providing on-line chat rooms for virtual communities for the transmission of messages among computer users concerning business related data and information</p>
<p>Class 039. First Use: 2003/04/01 First Use In Commerce: 2003/04/01 All goods and sevicees in the class are opposed, namely: Storage services, namely, storage of electronic media, namely, images, text and audio data, and providing independent storage consultancy services in connection therewith</p>

Attachments	mda opposition.pdf (4 pages)
Signature	/Paula J. Krasny/
Name	Paula J .Krasny
Date	01/18/2006

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

Applicant: Managed Data Access, LLC)
Serial No.: 78/277,837)
Filing Date: July 23, 2003)
Mark: MDAHOST and design)
Published: September 20, 2005)
_____)
Muscular Dystrophy Association,)
Opposer,)
v.)
Managed Data Access, LLC,)
Applicant.)
_____)

Opposition No.

NOTICE OF OPPOSITION

Muscular Dystrophy Association, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York with its principal place of business at 3300 East Sunrise Drive, Tucson, Arizona, 85718 (“Opposer” or “MDA”), believes it will be damaged by registration of Application No. 78/277,837 for MDAHOST (stylized) (the “MDAHOST Mark”), and therefore opposes same. Managed Data Access, LLC (“Applicant”), filed a trademark application for the MDAHOST Mark on July 23, 2003, alleging a date of first use of April 1, 2003. The application was published in the *Official Gazette* on September 20, 2005. MDA obtained extensions of time to oppose registration of the MDAHOST Mark until and including January 18, 2006. As grounds for opposition, MDA alleges that:

1. Opposer MDA is a voluntary health agency whose mission is to combat neuromuscular diseases through programs of worldwide research, comprehensive medical and community services and far-reaching professional and public health education. Opposer partners with the scientific and medical communities with respect to the research programs in which it participates and funds.

2. Opposer's MDA marks are renown, and Opposer uses them in connection with a wide array of goods and services. Opposer first used in commerce the mark MDA , which is identified in Reg. No. 2,895,111, since at least as early as October 1957 (the "MDA Mark"). Opposer first used its distinctive MDA logo, which is displayed below, and identified in Reg. No. 1,678,809 since at least as early as February 1974, (the "MDA Logo"). Hereinafter the MDA Mark and the MDA Logo, collectively, will be referred to as the MDA Marks:

The logo consists of the letters "MDA" in a bold, black, sans-serif font. The letters are slightly slanted to the right.

3. Applicant seeks to obtain a registration for the MDAHOST Mark, which mark is displayed below:

The logo consists of the letters "MDA" in a stylized, outlined font where the letters are interconnected. To the right of "MDA" is the word "HOST" in a bold, black, sans-serif font.

4. The services for which Applicant has applied to register the MDAHOST Mark are high level data access and storage services, which upon information and belief, are being utilized or can be utilized by the scientific and medical communities.

5. Having used the MDA Mark since 1957 and the MDA Logo since 1974, Opposer's use predates Applicant's alleged date of first use of April 1, 2003. Opposer's use of the MDA Marks has been continuous, and not abandoned. Opposer therefore has priority of use.

6. The MDA Marks are famous. For the past five decades, the internationally renown and legendary entertainer, comedian, actor, director, producer and humanitarian Jerry Lewis has hosted the MDA Labor Day Telethon, which raises funds for those afflicted with neuromuscular disorders. Nearly 1 million people across the country are involved with the Telethon, which approximately 80 million people in the United States and Canada annually view on television, and countless others view it on the internet through streaming video. In addition to the exposure the MDA Marks get over Labor Day weekend each year, the MDA Marks are prominently displayed on a year-round basis in major retail outlets in connection with popular consumer products, on television, on the internet, in magazines, in scientific journals and in connection with local fundraising events in all communities nationwide that are associated with and promote the activities of MDA.

7. The similarity of Applicant's MDAHOST Mark to Opposer's MDA Marks, and especially the MDA logo, in appearance, sound and overall commercial impression, and the use of the MDA Marks and MDAHOST mark in connection with related goods are likely to cause confusion and mistake, or deceive consumers as to source, sponsorship or affiliation of the parties and their respective goods, all in violation of 15 U.S.C. § 1052(d).

8. The registration of Applicant's MDAHOS T Mark also will dilute Opposer's famous MDA Marks and lessen their ability to distinguish MDA as the source of the products and services offered under its MDA Marks, in violation of 15 U.S.C. § 1025(c).

9. The grant of registration to Applicant of its MDAHOS T Mark would create statutory rights in Applicant in violation and derogation of the established prior rights of MDA, resulting in harm, detriment and damage to MDA.

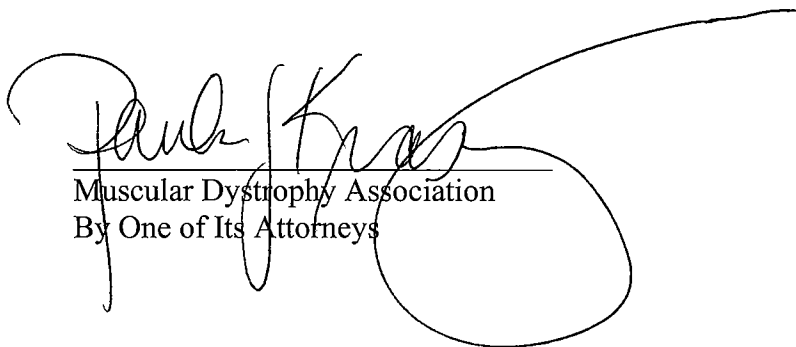
WHEREFORE, Opposer, prays that the Application Serial No. 78/277,837 be rejected, that no registration be issued thereunder to Applicant Managed Data Access, LLC, and that this opposition be sustained in Opposer's favor.

Please charge the statutory filing fee of \$600.00, as well as any shortfall, missing or excess fee to Deposit Account No. 501-649, in the name of undersigned Attorneys for Opposer.

Respectfully submitted,

Date: January 18, 2006

Paula Jill Krasny
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Muscular Dystrophy Association
By One of Its Attorneys