

ESTTA Tracking number: **ESTTA65563**

Filing date: **02/08/2006**

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	Anthem Insurance Companies, Inc.
Granted to Date of previous extension	02/08/2006
Address	120 Monument Circle Indianapolis, IN 46204 UNITED STATES

Attorney information	Robert M. Tyler McGuireWoods LLP 901 East Cary Street Richmond, VA 23219 UNITED STATES rtyler@mcguirewoods.com Phone:804 775 7695
----------------------	--

Applicant Information

Application No	76612160	Publication date	10/11/2005
Opposition Filing Date	02/08/2006	Opposition Period Ends	02/08/2006
Applicant	American Fidelity Assurance Company 2000 North Classen Center P.O. Box 25523 Oklahoma City, OK 73125 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. All goods and services in the class are opposed, namely: Insurance brokerage in the field of health insurance

Attachments	NOO.pdf (3 pages)
-------------	---------------------

Signature	/Robert M. Tyler/
Name	Robert M. Tyler
Date	02/08/2006

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

In re Application of: American Fidelity Assurance Company

Serial No.: 76612160

Filed: September 15, 2004

Mark: AF HEALTH SOLUTIONS

Published: October 11, 2005

ANTHEM INSURANCE COMPANIES, INC.)
)
) **Opposer,**)
)
) **v.**) **Opposition No.**
)
) **AMERICAN FIDELITY ASSURANCE COMPANY**)
)
) **Applicant.**)

NOTICE OF OPPOSITION

Opposer, Anthem Insurance Companies, Inc., a corporation organized and existing under the laws of the State of Indiana, with its principal place of business at 120 Monument Circle, Indianapolis, Indiana 46204 (“Opposer”), would be damaged by registration of the mark AF HEALTH SOLUTIONS, as shown in Serial No. 76612160 (“Applicant’s Mark”) and opposes that application under Section 13 of the Trademark Act of July 5, 1946, 15 U.S.C. § 1063.

As grounds of opposition, Opposer alleges that:

1. Applicant seeks to register, alleging an intent to use, Applicant’s Mark as a service mark for “[i]nsurance brokerage in the field of health insurance” in International Class 36, as evidenced by publication of Applicant’s Mark on October 11, 2005.

2. Under Trademark Rule 2.102, Opposer obtained extensions of time to oppose Applicant’s Mark until and including February 8, 2006.

3. Opposer owns the marks HEALTHY SOLUTIONS and ANTHEM HEALTHY SOLUTIONS as used in connection with the provision of health insurance and health care information dissemination services (“Opposer’s Services”) (“Opposer’s Marks”). Opposer is also the owner of United States Registration No. 2,991,078 for the mark ANTHEM HEALTHY SOLUTIONS, as used by Opposer.

4. Opposer has used Opposer’s Marks consistently in interstate commerce in conjunction with Opposer’s Services since as early as November 2002, long before Applicant applied to register Applicant’s Mark. Accordingly, priority is not at issue.

5. Opposer has invested substantially in advertising and promoting Opposer’s Services under Opposer’s Marks and has developed substantial goodwill which is symbolized by Opposer Marks. Through extensive advertising and promotion, and through the offering of Opposer’s Services in interstate commerce, consumers of Opposer’s Services, and the public in general, have come to know Opposer’s Marks and recognize Opposer’s Marks to identify the origin of Opposer’s Services.

6. Applicant’s Mark and Opposer’s Marks are substantially similar.

7. The services for which Applicant allegedly intends to use Applicant’s Mark are related to Opposer’s Services provided under Opposer’s Marks.

8. Because of the similarity between Applicant’s Mark and Opposer’s Marks, and because the parties’ actual or intended services are related and likely to be encountered by the same customer group, consumers and the general public are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant’s services and misled into believing that any of Applicant’s services offered under Applicant’s Mark, are provided by, or are in some

other way directly or indirectly associated with Opposer, to the damage of Opposer and its reputation.

9. Opposer has no control over the nature or quality of the services in connection with which Applicant allegedly intends to use Applicant's Mark. In the event of false association, any defects, objections or faults found with Applicant's services offered under Applicant's Mark could inflict serious injury upon Opposer and its reputation.

WHEREFORE, Opposer prays that Application Serial No. 76612160 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained.

Respectfully submitted,

ANTHEM INSURANCE COMPANIES, INC.

By Counsel



Robert M. Tyler
McGuireWoods LLP
One James Center
901 East Cary Street
Richmond, Virginia 23219-4030
(804) 775-7695
(804) 698-2197
rtyler@mcguirewoods.com

Counsel for Anthem Insurance Companies, Inc.
Dated: February 8, 2006
Electronically Filed via ESTTA: February 8, 2006