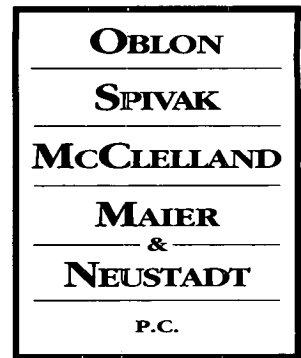




TTAB



March 13, 2006

Honorable Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

ATTORNEYS AT LAW
JORDAN S. WEINSTEIN
(703) 412-6442
JWEINSTEIN@OBLON.COM

Re: *Randall's Food and Drugs, LP v. Eating Well, Inc.*
Opposition No.:
Serial No.: 78/516,981
Class(es): 9, 16, 41
Atty Dkt. No.: 278827US56

Dear Commissioner:

We enclose the following for filing in the U.S. Patent and Trademark Office:

Notice of Opposition to Serial No. 78/516,981


Also enclosed is the credit card payment form for the required filing fee in the amount of \$900.00.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 50-2014.

Please note: All electronic correspondence relating to this matter should be sent to tmddocket@obl.com.

Respectfully submitted,

OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.



Jordan S. Weinstein
Roberta S. Bren

JSW/dlb



03-13-2006

U.S. Patent & TMO/TM Mail Rcpt Dt. #26

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

_____)	
RANDALL'S FOOD AND DRUGS, LP,)	
)	
Opposer,)	
)	
v.)	Opposition No.: _____
)	Appln. Serial No. 78/516,981
EATING WELL, INC.,)	
)	
Applicant.)	
_____)	

The Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

RANDALL'S FOOD AND DRUGS, LP, a corporation duly organized and existing under the laws of the State of Delaware, located and doing business at 3663 Briarpark Drive, Houston, Texas 77042 (hereinafter "Opposer"), believing that it will be damaged by registration, hereby opposes Application Serial No. 78/516,981, filed November 15, 2004 , under the Trademark Act of 1946, in the name of Eating Well, Inc., published for opposition in the *Official Gazette* of September 13, 2005, Vol. 1298, No. 2, at Page TM 435, for the mark EATING WELL (Stylized).

03/17/2006 GTHOMAS2 00000020 502014 78516981
01 FC:6402 900.00 DA

03/17/2006 GTHOMAS2 00000022 78516981
01 FC:6402 900.00 DP

Void date: 03/17/2006 GTHOMAS2
03/17/2006 GTHOMAS2 00000020 502014 78516981
01 FC:6402 900.00 CR

The grounds of Opposition are as follows:

1. Applicant, Eating Well, Inc., is the record owner of Application Serial No. 78/516,981 for the mark EATING WELL in connection with downloadable electronic magazines in the field of food, health and nutrition, in International Class 9; magazines, books, calenders and annuals in the field of food, health and nutrition, in International Class 16; and non-downloadable electronic magazine in the field of food, health and nutrition, in International Class 41.

2. Opposer will be damaged by the registration of the mark of Application Serial No. 78/516,981 in that the Trademark Office has refused registration of Opposer's U.S. Application Serial No. 76/628,481 for the trademark EATING REMARKABLY WELL, in connection with presenting seminars on nutrition, health, weight control, food, food shopping, food preparation and healthy eating habits, in International Class 41. The stated ground for the Examining Attorney's refusal is a likelihood of confusion with Applicant's trademark within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d). A copy of the Examining Attorney's Office Action of August 24, 2005 is attached hereto as Exhibit A.

3. The claimed date of first use in Opposer's application Serial No. 76/628,481 is prior to the claimed date of first use in Applicant's application Serial No. 78/516,981.

WHEREFORE, this Opposer, RANDALL'S FOOD AND DRUGS, LP, believes and avers that it is being and will continue to be damaged by registration of the EATINGWELL trademark as aforesaid, and prays that said Application Serial No. 78/516,981 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

Opposer has appointed JORDAN S. WEINSTEIN, a member of the law firm of OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C., a member of the Bar of the Commonwealth of Virginia, to prosecute this opposition proceeding and to transact all business in and before the United States Patent and Trademark Office in connection herewith. Please address all correspondence to:

Jordan S. Weinstein, Esquire
OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, Virginia 22314

We enclose our credit card payment form for the required filing fee of \$900 for this Opposition. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 50-2014.

Respectfully submitted,

RANDALL'S FOOD AND DRUGS, LP

By: Roberta S. Bren
Jordan S. Weinstein
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Date: March 13, 2006

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