

ESTTA Tracking number: **ESTTA91796**

Filing date: **07/27/2006**

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	Inspire Pharmaceuticals, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	4222 Emperor Boulevard Suite 470 Durham, NC 27703-8466 UNITED STATES		

Attorney information	Barbara E. Johnson The Webb Law Firm 700 Koppers Building 436 Seventh Avenue Pittsburgh, PA 15219 UNITED STATES webblaw@webblaw.com Phone:412-471-8815
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Applicant Information

Application No	78586824	Publication date	06/27/2006
Opposition Filing Date	07/27/2006	Opposition Period Ends	07/27/2006
Applicant	Inspiris, Inc. Suite 350 Two Creekside Crossing10 Cadillac Drive Brentwood, TN 37027 UNITED STATES		

Goods/Services Affected by Opposition

Class 044. First Use: 2004/09/09 First Use In Commerce: 2004/09/09
All goods and services in the class are opposed, namely: Hospice services; healthcare services; skilled nursing homes and hospitals

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Signature	/WHL/
Name	William H. Logsdon
Date	07/27/2006

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

INSPIRE PHARMACEUTICALS, INC.	:	
	:	Opposition No.
Opposer,	:	
	:	Application Serial No.78/586,824
v.	:	
	:	Mark: INSPIRIS
INSPIRIS, INC.	:	
	:	Filed: March 14, 2005
Applicant.	:	

NOTICE OF OPPOSITION

Opposer, Inspire Pharmaceuticals, Inc., (“Inspire”) a Delaware corporation, having its principal place of business at 4222 Emperor Boulevard, Suite 470, Durham, North Carolina, 27703-8466 believes that it will be damaged by the registration of the alleged mark “INSPIRIS” in International Class 044 shown in Application Serial No. 78/586,824 (referred to hereinafter as “the Application”) and hereby opposes the Application under the provisions of 15 U.S.C. § 1063.

As grounds for opposing this registration, Inspire avers as follows:

1. Opposer is a corporation existing under the laws of the State of Delaware, is located in Durham, North Carolina and is doing business in Durham and elsewhere throughout the United States.

2. Opposer is engaged in the field of pharmaceuticals and medical services, including diagnosis and treatment of conditions of the upper and lower respiratory tract and other epithelial surfaces using pharmaceuticals, medical devices, assays and computer software and models.

3. Opposer is the owner of the corporate and trade name, Inspire Pharmaceuticals, Inc. and United States Service Mark Registration No. 2,117,424 issued December 2, 1997 for “INSPIRE

PHARMACEUTICALS, INC.” and Design; United States Service Mark Registration No. 2,578,526 issued June 11, 2002 for “INSPIRE” and Design; United States Service Mark Registration No. 2,578,523 issued June 11, 2002, for “INSPIRE”; United States Trademark Registration No. 2,886,978 issued September 21, 2004, for “INSPIRE” and Design; United States Trademark Application Serial No.76/618,380 filed October 29, 2004 for “INSPIRE” and Design; United States Trademark Registration No. 2,886,977 issued September 21, 2004 for “INSPIRE” and United States Trademark Application Serial No. 76/618,379 filed October 29, 2004 for “INSPIRE”, collectively for medical goods and services in International Classes 005 and 042.

4. Over the years, Opposer’s pharmaceuticals, provided under its marks have gained major recognition and wide acceptance in the pharmaceuticals field of medicine, for quality services and good value.

5. Opposer’s goods and services sold under its INSPIRE marks are varied in nature and stage of development, and pertain to ophthalmic, respiratory, and cardiovascular pharmaceuticals.

6. Because of Opposer’s extensive use of its trade name and trademarks, it has substantial goodwill which is an extremely valuable asset of Opposer and purchasers of such goods and services have come to associate INSPIRE with Opposer.

7. On information and belief based on the Application, Applicant, Inspiris, Inc, is a Tennessee corporation having a place of business at Suite 350, Two Creekside Crossing, 10 Cadillac Drive, Brentwood, TN 37027.

8. The Application was filed March 14, 2005, and seeks registration of INSPIRIS as a trademark for Comprehensive cost management for the health benefit plans of others in International Class 035; for Hospice services; healthcare services; skilled nursing homes and hospitals in

International Class 044; and Case management services, namely, coordination of legal, social and psychological services for frail and disabled Medicare beneficiaries in International Class 045.

9. Applicant's mark was published for opposition on June 27, 2006 and this Notice of Opposition is being timely filed within the thirty days therewith.

10. Applicant's use of INSPIRIS on or in connection with its services in Class 044 is likely to cause confusion or to cause mistake, or will deceive the public into believing that said services emanate from Opposer and/or are licensed by Opposer and/or are approved by Opposer.

11. Because the dominant portion of each of the words "inspiris" and "inspire" have the same predominating "INSPIR" prefix, Applicant's mark INSPIRIS for related medical services in Class 044 is sufficiently similar to Opposer's INSPIRE marks for its various medical services and devices as to be likely to cause confusion as to the source of the goods and services.

12. If Applicant is permitted to register INSPIRIS, Applicant will be in a position to harass and annoy Opposer in offering its goods and services for sale to the public.

13. 15 U.S.C. § 1052(d) bars Applicant's mark from registration.

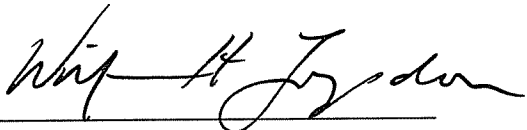
14. The mark of the opposed Application is confusingly and deceptively similar to Opposer's corporate name, trade name and previously registered and used INSPIRE marks as applied to the respective goods and services of the parties.

15. Accordingly, Opposer will be damaged by registration of INSPIRIS to Applicant.

WHEREFORE, Opposer respectfully prays that the registration sought by Applicant be refused and that this opposition be sustained.

The undersigned hereby authorizes the United States Patent and Trademark Office to charge any additional fees for Deposit Account No. 23-0650 and refund any overpayment in the form of a check.

Dated: July 27, 2006

By 

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Kent E. Baldauf, Jr.
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