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

Proceeding	91172049
Party	Defendant INSPIRIS, INC. SUITE 350 TWO CREEKSIDE CROSSING BRENTWOOD, TN 37027
Correspondence Address	ROBERT L. BREWER BASS, BERRY & SIMS PLC 315 DEADERICK ST STE 2700 NASHVILLE, TN 37238-3001
Submission	Answer
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Date	09/05/2006
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In re the matter of Application
Serial No. 78/586,824

Mark: INSPIRIS

Published in the Official Gazette
on June 27, 2006

_____)	
INSPIRE PHARMACEUTICALS, INC.)	
)	
Opposer,)	
)	
v.)	ANSWER
)	Opposition No. 91172049
)	
INSPIRIS, INC.,)	
)	
Applicant.)	
_____)	

ANSWER

Applicant, Inspiris, Inc. (“Applicant”) answers the Notice of Opposition (the “Notice”) of Opposer, Inspire Pharmaceuticals, Inc. (“Opposer”), as follows:

Applicant has no knowledge or information sufficient to form a belief as to the truth of the matters alleged in the preamble paragraph of the Notice and, based on such lack of information and belief, denies generally and specifically each and all allegations.

1. Applicant is without sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 1 of the Notice.

2. Applicant is without sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 2 of the Notice.

3. Applicant admits that Opposer appears to own five registrations and two applications incorporating the term “Inspire”.

4. Applicant is without sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 4 of the Notice and, on that basis, denies generally and specifically each and all other allegations.

5. Applicant is without sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 5 of the Notice and, on that basis, denies generally and specifically each and all other allegations.

6. Applicant is without sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 6 of the Notice and, on that basis, denies generally and specifically each and all other allegations.

7. Admitted.

8. Admitted.

9. Admitted.

10. Denied.

11. Denied.

12. Denied. Applicant specifically denies that its marks will cause any likelihood of confusion or that registration of Applicant’s mark will “harass” Opposer.

13. Denied.

14. Denied.

15. Denied.

Applicant denies that Opposer is entitled to the relief sought in the WHEREFORE clause of its Notice.

FIRST AFFIRMATIVE DEFENSE

16. The Notice fails to state a sufficient basis on which to oppose the registration of Applicant's mark and fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

17. The services associated with Applicant's mark are not so closely related to the services associated with Opposer's mark so as to cause a likelihood of confusion, mistake or deception, and no likelihood of confusion would result from the continued use of the marks by the parties. Upon information and belief, Opposer offers a very specific pharmaceutical product that is marketed under a distinct brand name, whereas Applicant offers hospice services, and targets its audience accordingly. Because the services are so noncompetitive and unrelated, and the audiences are so distinct, the marks are not likely to cause confusion.

THIRD AFFIRMATIVE DEFENSE

18. Opposer's Opposition is barred by the equitable doctrines of estoppel and/or acquiescence.

Applicant reserves the right to add additional affirmative defenses as discovery develops.

PRAYER FOR RELIEF

WHEREFORE, Applicant requests judgment dismissing Opposer's Notice and this proceeding in its entirety with prejudice, and that Applicant's application for the mark INSPIRIS, Serial No. 78/586,824, be registered to Applicant.

DATED: September 5, 2006.

Respectfully submitted,

BASS, BERRY & SIMS PLC

By: 

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*Attorneys for Applicant,
Inspiris, Inc.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Notice was served on the date indicated below, upon the following party by facsimile and first class mail, postage prepaid:

Barbara E. Johnson
William H. Logsdon
The Webb Law Firm
700 Koppers Building
436 Seventh Avenue
Pittsburg, PA 15219
Facsimile: (412) 471-4094

DATED: September 5, 2006.


Robert L. Brewer