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Filing date: **10/31/2006**

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	The Guardian Life Insurance Company of America
Granted to Date of previous extension	11/01/2006
Address	7 Hanover Square New York, NY 10004 UNITED STATES

Attorney information	Virginia R. Richard Winston & Strawn LLP 200 Park Avenue New York, NY 10166 UNITED STATES vrichard@winston.com Phone:212 294 6700
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Applicant Information

Application No	78725054	Publication date	07/04/2006
Opposition Filing Date	10/31/2006	Opposition Period Ends	11/01/2006
Applicant	Ansell Limited Victoria Gardens, Level 3/678 Victoria Street Richmond, 3121 AUSTRALIA		

Goods/Services Affected by Opposition

<p>Class 035. All goods and services in the class are opposed, namely: Business consultancy services relating to manufacturing; business management advice relating to manufacturing businesses; business consultation and advice in the area of stock control services; business consultation and advice in the area of productivity and cost performance analysis; advisory, consulting and information services relating to all of the aforesaid business consulting services; Professional efficiency experts consultancy relating to manufacturing efficiency</p>
<p>Class 041. All goods and services in the class are opposed, namely: Educational services in the nature of one-on-one training and training services in the fields of Injury Prevention, Training of others, SKU Reduction, Controls, Standardization, Productivity and Cost Performance; advisory, consultancy and information services relating to the aforesaid educational and training services</p>

Attachments	GUARDIAN Serial No. 78725054 Notice of Opposition.pdf (15 pages)(400385 bytes)
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Signature	/W&S/
Name	Virginia R. Richard
Date	10/31/2006

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

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THE GUARDIAN LIFE INSURANCE	:	U.S. Service Mark Application
COMPANY OF AMERICA,	:	Serial No.: 78/725,054
	:	Filed: October 3, 2005
Opposer,	:	Mark: GUARDIAN
	:	Int. Classes: 35 and 41
	:	Published: July 4, 2006
v.	:	
	:	
ANSELL LIMITED,	:	
	:	
Applicant.	:	
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NOTICE OF OPPOSITION

THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA, a New York corporation, having a principal place of business at 7 Hanover Square, New York, New York 10004 ("Opposer"), believes that it will be damaged by the registration of U.S. Service Mark Application Serial No. 78/725,054 for the mark GUARDIAN in International Classes 35 and 41 and hereby opposes same.

As grounds for opposition, it is alleged that:

COUNT I - LIKELIHOOD OF CONFUSION UNDER 15 U.S.C. §§ 1114 and 1125(a)

1. Opposer is the owner of the following registrations in the United States Patent and Trademark Office:

MARK	REG. NO.	REG. DATE	RECITATION OF SERVICES
THE GUARDIAN & Design	1,436,668	4/14/87	Underwriting group and individual life and health insurance; brokerage services for mutual funds, annuities, and pension plans, in Class 36
THE GUARDIAN PARK AVE. FUND	1,561,317	10/17/89	Investment advisory and mutual fund services namely, managing funds, stocks and bonds and other investments for institutions and the general public, in Class 36
THE GUARDIAN CASH MANAGEMENT TRUST	1,614,210	9/18/90	Investment advisory and mutual fund services namely, managing funds, stocks and bonds and other investments for institutions and the general public, in Class 36
GUARDIAN INVESTOR SERVICES	1,634,339	2/5/91	Investment advisory and mutual fund services namely, managing funds, stocks and bonds and other investments for institutions and the general public, in Class 36
GUARDIAN	1,637,817	3/12/91	Annuity and annuity administration services, in Class 36
GUARDIAN	1,637,818	3/12/91	Insurance services, namely group health insurance underwriting services, in Class 36
GUARDIAN	1,638,623	3/19/91	Financial investment services in the field of money market funds, trust funds, United States government trust funds and stock funds, in Class 36
GUARDIAN	1,641,534	4/16/91	Insurance services, namely individual life insurance underwriting services, in Class 36
GUARDIAN	1,641,537	4/16/91	Insurance services, namely group dental insurance underwriting services, in Class 36
GUARDIAN	1,642,279	4/23/91	Insurance services, namely group life insurance underwriting services, in Class 36

MARK	REG. NO.	REG. DATE	RECITATION OF SERVICES
THE GUARDIAN INVESTOR	1,651,016	7/16/91	Underwriting and administering an annuity insurance plan, in Class 36
THE GUARDIAN	1,662,742	10/29/91	Financial investment services in the field of money market mutual funds, United States government securities funds, and stock funds, in Class 36
GUARDIAN	1,851,689	8/30/94	Reinsurance underwriting services, in Class 36
GUARDIAN	1,853,811	9/13/94	Insurance underwriting services in the field of disability insurance, in Class 36
THE GUARDIAN	1,857,906	10/11/94	Insurance underwriting services in the field of disability insurance, in Class 36
THE GUARDIAN	1,865,962	12/6/94	Reinsurance underwriting services, in Class 36
GUARDIAN INSURANCE AND ANNUITY COMPANY	1,902,991	7/4/95	Insurance underwriting services in the field of life, health, disability and dental insurance and annuities, in Class 36
THE GUARDIAN TRADITION	2,092,025	8/26/97	Insurance underwriting services, namely, single premium deferred annuities, in Class 36
THE GUARDIAN ADVANTAGE	2,098,336	9/16/97	Insurance underwriting services, namely, annuities, in Class 36
THE GUARDIAN	2,138,840	2/24/98	Pension and pension fund management services, in Class 36
THE GUARDIAN FLEXPLAN	2,199,336	10/27/98	Administration of employee benefits, namely, administration of cafeteria plans as described in Section 125 of the Internal Revenue Code, in Class 36
THE GUARDIAN INVESTOR RETIREMENT ASSET MANAGER	2,250,212	6/1/99	Underwriting and administering annuity insurance plans, in Class 36
GUARDIAN	2,256,387	6/29/99	Real estate services, namely, real estate development, real estate management, real estate investment and commercial and residential mortgage lending services, in Class 36
THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA	2,268,145	8/10/99	Group and individual life, disability, accident, health and dental insurance underwriting services; pension planning services; pension and pension fund management; annuity and annuity administration services; financial

MARK	REG. NO.	REG. DATE	RECITATION OF SERVICES
			services, namely, management of money market funds, trust funds, United States government trust funds and stock funds; providing information to others in the field of insurance; managing funds, stocks and bonds and other investments for institutions and the general public; administration of cafeteria plans as described in Section 125 of the Internal Revenue Code; real estate services, namely, real estate development, real estate management, real estate investment and commercial and residential mortgage lending services; reinsurance underwriting services; joint venture investment services in managed care organizations, in Class 36
GUARDIAN TRUST	2,375,847	8/8/00	Trust services and investment management services, in Class 36
GUARDIAN TRUST COMPANY, FSB	2,381,786	8/29/00	Trust services and investment management services, in Class 36
THE GUARDIAN CRITICAL DISABILITY SUPPLEMENT	2,438,952	3/27/01	Insurance administration in the field of disability insurance, in Class 36
THE GUARDIAN PARK AVENUE FUND	2,455,245	5/29/01	Investment advisory and mutual fund services namely, managing funds, stocks and bonds and other investments for institutions and the general public, in Class 36
GUARDIAN & Design	2,643,197	10/29/02	Group and individual life, disability, accident, health and dental insurance underwriting services; pension planning services; pension and pension fund management; annuity underwriting and annuity administration services; financial services; namely, management of money market funds, trust funds, United States government trust funds and stock funds; providing information to others in the field of insurance; managing funds, stocks and bonds and other investments for institutions and the general public; financial administration of cafeteria

MARK	REG. NO.	REG. DATE	RECITATION OF SERVICES
			plans as described in Section 125 of the Internal Revenue Code; real estate services, namely, real estate management, real estate investment and commercial and residential mortgage lending services; reinsurance underwriting services; joint venture investment services for managed care organizations, in Class 36
GUARDIAN TRUST WEALTH MANAGEMENT INSIGHTS	2,743,585	7/29/03	Newsletter in the field of wealth management, accumulation and preservation, in Class 16
THE GUARDIAN MAXIMIZER	3,014,085	11/8/05	Pension planning services; pension and pension fund management, in Class 36
GUARDIAN SURECLAIM	3,060,932	2/21/06	Electronic processing of insurance claims and payment data, in Class 36
GUARDIAN INVESTOR SERVICES CORPORATION	3,145,609	9/19/06	Investment advisory and mutual fund services, namely, managing funds, stocks and bonds and other investments for institutions and the general public, in Class 36

The foregoing registrations are valid, subsisting, uncanceled and unrevoked. Guardian's U.S. Registration Nos. 1,436,668, 1,561,317, 1,614,210, 1,634,339, 1,637,817, 1,637,818, 1,638,623, 1,641,534, 1,641,537, 1,642,279, 1,651,016 and 1,662,742 are incontestable pursuant to 15 U.S.C. § 1065.

2. Opposer intends to rely on the above registrations in this proceeding and, accordingly, will order certified copies of the registrations showing both the current status of and current title to the registrations, pursuant to the provisions of 37 C.F.R. § 2.122(d)(2).
3. Opposer is one of the oldest and largest mutual insurance companies in the United States.

4. Opposer has been engaged in the business of selling a wide variety of insurance products and financial services under its GUARDIAN® names and marks throughout the United States since at least as early as 1918.
5. Opposer has marketed and sold insurance and financial services in interstate commerce in the United States under the mark GUARDIAN® and the trade name THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA® (hereinafter, the "GUARDIAN® names and marks") since at least as early as 1918.
6. Opposer commenced use of its GUARDIAN® names and marks at least as early as 1918, nearly 90 years prior to the October 3, 2005 date of filing of the subject Application Serial No. 78/725,054 for the mark GUARDIAN filed by Applicant, Ansell Limited ("Applicant").
7. Opposer's wide range of insurance products and financial services include, without limitation, life insurance, group life and health insurance, disability insurance, dental insurance, vision insurance, asset management services, annuities, 401(k) plans, mutual funds, pension plans, employee benefit plan implementation and management services, trust company services, financial planning, business, retirement, college funding, executive benefit and estate planning services, and investment advisory services.

8. Opposer has been licensed to sell health insurance under its GUARDIAN® names and marks in all states since the mid-1950s.
9. Since 1918, Opposer has promoted wellness and health initiatives to its policyholders to improve their health and well-being and to reduce the costs of insurance, emphasizing the importance of preventative care.
10. In 2005, Opposer paid out more than \$5.6 billion in benefits to policy beneficiaries, policyholders, doctors, hospitals and other care providers.
11. In 2005, Opposer received total insurance premium income of more than \$5.8 billion.
12. Opposer insures the lives of more than 6 million individuals in the United States.
13. Opposer is one of the premier providers of employee benefit packages in the United States, offering dental coverage, group term and universal life insurance, group disability income protection, medical, vision and mental health coverage, and prescription drug cards.
14. More than 1.25 million employees in the United States are covered by Opposer's GUARDIAN® group insurance policies.

15. Opposer constantly interacts with patients, hospitals, surgical facilities, doctors' offices, registered nurses, medical laboratories and pharmacists in processing claims.
16. Opposer works closely with medical laboratories, healthcare practitioners and hospitals in connection with performing and analyzing physical examinations of prospective and current insureds.
17. In addition to its direct collaborations with physicians and healthcare facilities, Opposer has established innovative relationships for the benefit of its policyholders at all levels of the health care industry.
18. Opposer publishes an extensive medical provider directory which assists Opposer's policyholders in locating nearby member physicians, hospitals, clinics, pharmacies, laboratories, eye and ear care centers, hospices, rehabilitation centers, surgical centers, mammography centers and physical therapy centers.
19. Opposer owns and operates related financial service companies under the GUARDIAN® mark, including The Guardian Insurance & Annuity Company, Inc., Guardian Investor Services LLC, Guardian Asset Management Corporation and Guardian Trust Company, F.S.B.
20. Opposer has offered mutual funds, equity products and investment and estate consultation services through its subsidiaries under the mark GUARDIAN® since at least as early as

1969. Opposer's nationally known family of mutual funds are known throughout the financial services industry and to consumers as "Guardian Funds" and/or the "Guardian Group of Funds".

21. Through its subsidiaries, Guardian Investor Services LLC and Park Avenue Securities LLC, Opposer offers a wide variety of equity products, including mutual funds, variable annuities, variable life insurance, unit investment trusts, real estate investment trusts and general securities.
22. Opposer offers its insurance products and financial services through a distribution network of more than 85 general agencies and 2,980 financial representatives nationwide.
23. Since 1918, Opposer has sold billions of dollars worth of insurance and financial services under the GUARDIAN® names and marks.
24. Since 1918, Opposer has spent millions of dollars advertising and promoting its insurance products and financial services under the GUARDIAN® names and marks.
25. From 1980 to date, Opposer has spent in excess of \$100 million in connection with the advertising and promotion of its insurance and financial services under the GUARDIAN® names and marks.

26. Opposer has made extensive use of its trade names, THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA, GUARDIAN INVESTOR SERVICES LLC and THE GUARDIAN INSURANCE & ANNUITY COMPANY, INC., and its mark GUARDIAN® through national advertising on television and in consumer magazines, trade journals, point of sale promotional materials and on its interactive website.
27. As a result of Opposer's extensive advertising and sale of insurance and financial services under the GUARDIAN® names and marks, Opposer's GUARDIAN® names and marks have a national reputation of high quality insurance and financial services originating with Opposer.
28. Opposer's GUARDIAN® names and marks are well known and recognized within the insurance and financial services industries, as well as by the general public, as marks indicating insurance and financial services originating with Opposer.
29. On October 3, 2005, Applicant filed U.S. Service Mark Application Serial No. 78/725,054 on an Intent-to-Use basis for the mark GUARDIAN for "Business consultancy services relating to manufacturing; business management advice relating to manufacturing businesses; business consultation and advice in the area of stock control services; business consultation and advice in the area of productivity and cost performance analysis; advisory, consulting and information services relating to all of the aforesaid business consulting services; Professional efficiency experts consultancy relating to manufacturing efficiency" in Class 35 and "Educational services in the nature

of one-on-one training and training services in the fields of Injury Prevention, Training of Others, SKU Reduction, Controls, Standardization, Productivity and Cost Performance; advisory, consultancy and information services relating to the aforesaid educational and training services" in Class 41.

30. Applicant's application for the mark GUARDIAN is for a mark which is identical to Opposer's famous GUARDIAN®, rendering Applicant's mark confusingly similar to Opposer's GUARDIAN® marks.
31. Through its offer and sale of GUARDIAN group insurance products and employee benefits, Opposer offers business consulting services under the mark GUARDIAN. Opposer has long marketed its services to the small business community and is one of the best-known providers of employee benefits in the United States.
32. Since 1918, Opposer has encouraged its GUARDIAN policyholders to seek preventative care, both as a means of improving the health of its policyholder base and reducing the costs of insurance. Opposer believes in educating consumers so that they can make informed decisions with respect to both lifestyle choices and medical treatment.
33. Applicant's use and registration of the mark GUARDIAN in connection with the services identified in U.S. Application Serial No. 78/725,054 is likely to cause confusion with Opposer's GUARDIAN® names and marks.

34. Applicant's use of the mark GUARDIAN is likely to cause confusion with the mark GUARDIAN® as used by Opposer in connection with its wide range of insurance and financial services.
35. Opposer believes and alleges that Applicant's mark, when applied to the services set forth in Application Serial No. 78/725,054, is likely to cause confusion or mistake, or to deceive, and will deceive and mislead the trade and purchasing public into believing that Applicant is licensed or controlled by Opposer, or that Applicant is a division or a subsidiary of, or in some way related to Opposer, or that Applicant's services are sponsored, licensed, approved or endorsed by Opposer, or that Applicant offers GUARDIAN insurance and financial services.
36. Any problems or complaints concerning Applicant's services offered under the mark GUARDIAN are likely to reflect adversely upon Opposer and are likely to seriously injure the reputation and goodwill of the mark GUARDIAN® as used by Opposer in connection with its insurance and financial services under its famous GUARDIAN® names and marks for nearly 90 years.
37. Applicant's use of a mark which is identical to Opposer's GUARDIAN® names and marks is likely to dilute the distinctive quality of Opposer's GUARDIAN® names and marks.

38. By reason of the foregoing facts, Opposer will be irreparably damaged by registration of Applicant's confusingly similar and diluting mark GUARDIAN on the Principal Register of the United States Patent & Trademark Office for the services recited in U.S. Application Serial No. 78/725,054.

COUNT II - DILUTION UNDER 15 U.S.C. § 1125(c)

39. Opposer repeats and realleges the allegations set forth in paragraphs 1-38 hereof as if fully set forth herein.
40. Opposer's GUARDIAN® names and marks as used in connection with insurance and financial services are famous among the general public and members of the insurance and financial industry.
41. Opposer's GUARDIAN® names and marks are inherently and commercially distinctive.
42. Upon information and belief, by virtue of filing the subject application, Applicant intends to use the mark GUARDIAN in commerce.
43. The October 3, 2005 date of filing of the subject intent-to-use application for GUARDIAN is nearly 90 years after Guardian's GUARDIAN® names and marks became famous as used in connection with insurance and financial service.

44. Applicant's use of the mark GUARDIAN in connection with "Business consultancy services relating to manufacturing; business management advice relating to manufacturing businesses; business consultation and advice in the area of stock control services; business consultation and advice in the area of productivity and cost performance analysis; advisory, consulting and information services relating to all of the aforesaid business consulting services; Professional efficiency experts consultancy relating to manufacturing efficiency" in Class 35 and "Educational services in the nature of one-on-one training and training services in the fields of Injury Prevention, Training of Others, SKU Reduction, Controls, Standardization, Productivity and Cost Performance; advisory, consultancy and information services relating to the aforesaid educational and training services" in Class 41 is likely to dilute the distinctive quality of Opposer's GUARDIAN® names and marks for insurance and financial services, including insurance and financial services marketed to the business community.
45. Registration of Applicant's mark would be inconsistent with Opposer's prior rights in its GUARDIAN® names and marks established under common law, as well as inconsistent with Opposer's statutory grant of exclusivity of use of its GUARDIAN® names and marks, and would destroy Opposer's investment and goodwill in its GUARDIAN® names and marks.
46. By reason of the foregoing facts, Opposer will be irreparably damaged by registration of Applicant's identical, confusingly similar and diluting mark GUARDIAN on the Principal

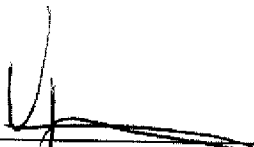
Register of the United States Patent & Trademark Office for the services recited in U.S. Application Serial No. 78/725,054.

WHEREFORE, Opposer prays that this Opposition be sustained and that U.S. Service Mark Application Serial No. 78/725,054 be refused registration in Classes 35 and 41.

A duplicate copy of this Notice of Opposition is enclosed herewith. The Commissioner is hereby authorized to charge the filing fee of \$300.00 pursuant to 37 C.F.R. § 2.6 and any additional fees which may be required, or credit any overpayment, to Deposit Account No. 501-814, Order No. 84417.3140.

Dated: New York, New York
October 30, 2006

By:


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