

ESTTA Tracking number: **ESTTA165998**

Filing date: **10/01/2007**

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

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|------------------------|--|
| Proceeding | 91177974 |
| Party | Defendant Credit Union National Association, Inc. |
| Correspondence Address | LINDA L. LILLEDAHL CREDIT UNION NATIONAL ASSOCIATION, INC. 5710 MINERAL POINT RD MADISON, WI 53705-4454 llilledahl@cuna.com, ttews@cuna.com, asm@boylefred.com |
| Submission | Answer |
| Filer's Name | Adam L. Brookman |
| Filer's e-mail | abrookman@boylefred.com,dawn@boylefred.com,docketing@boylefred.com |
| Signature | /Adam L. Brookman/ |
| Date | 10/01/2007 |
| Attachments | Thrive By Five Anwer.pdf (9 pages)(423529 bytes) |

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

PROCEEDING NO. 91177974

Thrivent Financial for Lutherans

v.

Credit Union National Association, Inc.

Serial No.: 78/885951

Published in the Official Gazette on January 2, 2007

Mark: THRIVE BY FIVE

ANSWER

Respondent, Credit Union National Association, Inc. (“Applicant”), by its attorneys, Boyle Fredrickson Newholm Stein & Gratz, SC, as and for its Answer to the claims asserted in the Notice of Opposition (“Opposition”) filed on behalf of Opposer, Thrivent Financial for Lutherans (“Opposer”), denies that Opposer will be damaged by the registration of Applicant’s mark THRIVE BY FIVE (Serial No. 78/885951) (the “Application”). With respect to the specific assertions in the Opposition, Applicant respectfully responds as follows:

COUNT I – LIKELIHOOD OF CONFUSION

1. Admitted.
2. Admitted.
3. Admitted that Opposer claims ownership of Registration of 2,815,440 which is for the recited goods. Applicant is without sufficient information to admit

- or deny the remaining allegations in Paragraph 3 of the Opposition and therefore denies the same.
4. Admitted that Opposer claims ownership of Registration of 2,798,598 which is for the recited goods. Applicant is without sufficient information to admit or deny the remaining allegations in Paragraph 4 of the Opposition and therefore denies the same.
 5. Admitted that Opposer claims ownership of Registration of 3,006,446 which is for the recited goods. Applicant is without sufficient information to admit or deny the remaining allegations in Paragraph 5 of the Opposition and therefore denies the same.
 6. Admitted that Opposer claims ownership of Registration of 2,995,822 which is for the recited goods. Applicant is without sufficient information to admit or deny the remaining allegations in Paragraph 6 of the Opposition and therefore denies the same.
 7. Admitted that Opposer claims ownership of Registration of 3,006,447 which is for the recited goods. Applicant is without sufficient information to admit or deny the remaining allegations in Paragraph 7 of the Opposition and therefore denies the same.
 8. Applicant is without sufficient information to admit or deny the allegations in Paragraph 8 of the Opposition and therefore denies the same.
 9. Applicant is without sufficient information to admit or deny the allegations in Paragraph 9 of the Opposition and therefore denies the same.

10. Applicant is without sufficient information to admit or deny the allegations in Paragraph 10 of the Opposition and therefore denies the same.
11. Denied.
12. Denied.
13. Denied.
14. Denied.
15. Denied.

COUNT II - DILUTION

16. Applicant hereby incorporates Paragraphs 1-15 by reference as if fully set forth herein.
17. Denied.
18. Denied.
19. Denied.
20. Applicant is without sufficient information to admit or deny the allegations in Paragraph 20 of the Opposition and therefore denies the same.
21. Denied.
22. Denied.
23. Denied.

AFFIRMATIVE DEFENSES

1. There is no likelihood of confusion between Applicant's mark and Opposer's mark and therefore no basis for denying Applicant a Registration.
2. The Opposition fails to state a claim upon which relief may be granted.

3. Opposer has not used one or more of its claimed marks as a trademark in commerce so as to be able to establish prior use of the mark.
4. To the extent Opposer has made any trademark use of its claimed marks, its use has been geographically limited to only a small portion of the country.
5. To the extent Opposer has made any trademark use of its claimed marks, its use has been in different channels of trade from those in which Applicant's marks will be used.
6. To the extent Opposer has made any trademark use of its claimed marks, its goods and services have been marketed to and used by different consumers from those of Applicant.
7. All Opposer's marks containing the term "Thrive" are descriptive, have been used descriptively and have not acquired secondary meaning.
8. Opposer's trademark registrations are invalid because Opposer knew or should have known that it had not made use of the mark in connection with all of the goods and/or services set forth in each registration at the time of the filing of the application, the time of the filing of the Statement of Use or the time of the filing of the Amendment to Allege to Use.

WHEREFORE Applicant respectfully requests that the Opposition be denied and/or dismissed in its entirety.

Date: October 1, 2007

/Adam L. Brookman/
Adam L. Brookman
Boyle Fredrickson, S.C.
840 N. Plankinton
Milwaukee, WI 53203

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Adam L. Brookman
Boyle Fredrickson, S.C.
840 N. Plankinton
Milwaukee, WI 53203

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer has been served on Joseph T. Nabor by mailing said copy on October 1, 2007, via First Class Mail, postage prepaid to:

Joseph T. Nabor
Fitch Even Tabin & Flannery
120 S. LaSalle Street, Suite 1600
Chicago, IL 60603

/Adam L. Brookman/
Adam L. Brookman