

ESTTA Tracking number: **ESTTA224687**

Filing date: **07/17/2008**

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	Johnson & Johnson
Granted to Date of previous extension	07/20/2008
Address	One Johnson & Johnson Plaza New Brunswick, NJ 08933-7001 UNITED STATES

Attorney information	Mary Pat Weyback Drinker Biddle & Reath LLP 1500 K St. NW Suite 1100 Washington, DC 20005 UNITED STATES dctrademarks@dbr.com, MaryPat.Weyback@dbr.com Phone:202-842-8800
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**Applicant Information**

Application No	76286667	Publication date	01/22/2008
Opposition Filing Date	07/17/2008	Opposition Period Ends	07/20/2008
International Registration No.	NONE	International Registration Date	NONE
Applicant	Farmacia Chemists Limited 169 Drury Lane London, WC2B 5QA, UNITED KINGDOM		

**Goods/Services Affected by Opposition**

Class 035. All goods and services in the class are opposed, namely: Retail store services featuring healthcare products
Class 044. All goods and services in the class are opposed, namely: Providing pharmaceutical advice

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	54308	Application Date	10/17/1905
Registration Date	06/26/1906	Foreign Priority	NONE

		Date	
Word Mark	+		
Design Mark			
Description of Mark	THE TRADEMARK IS ILLUSTRATED IN THE ACCOMPANYING DRAWING, WHEREIN APPEARS A REPRESENTATION OF A RED GREEK CROSS.		
Goods/Services	Class U018 (International Class 005). First use: First Use: 1887/00/00 First Use In Commerce: 1887/00/00 MEDICINAL AND SURGICAL PLASTERS		

U.S. Registration No.	1870955	Application Date	08/06/1993
Registration Date	01/03/1995	Foreign Priority Date	NONE
Word Mark	RED CROSS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1898/00/00 First Use In Commerce: 1898/00/00 cotton for personal use Class 005. First use: First Use: 1898/00/00 First Use In Commerce: 1898/00/00 sterile cotton for medical use		

U.S. Registration No.	1888143	Application Date	08/06/1993
Registration Date	04/11/1995	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1898/00/00 First Use In Commerce: 1898/00/00 cotton for cosmetic use		

U.S. Registration No.	1889576	Application Date	08/09/1993
Registration Date	04/18/1995	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1898/00/00 First Use In Commerce: 1898/00/00 first aid kits, adhesive bandages, topical preparations for medical and therapeutic use, medical adhesive tape, gauze, sterile cotton for medical purposes, and wound dressings		

U.S. Registration No.	2515970	Application Date	10/20/1995
Registration Date	12/11/2001	Foreign Priority Date	NONE

Word Mark	NONE
Design Mark	
Description of Mark	The mark consists of a Red Greek Cross applied to a blue colored container for first aid kits. The dotted outline of the container is intended to show the position of the mark and is not a part of the mark.
Goods/Services	Class 005. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 first aid kits

U.S. Registration No.	3178913	Application Date	10/18/2004
Registration Date	12/05/2006	Foreign Priority Date	NONE
Word Mark	JOHNSON&JOHNSON FIRST AID		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1993/00/00 First Use In Commerce: 1993/00/00 adhesive medical tapes, gauze pads, sterile rolled gauze, bandages and dressings for skin wounds, sterile cotton and cotton balls for medical use, first aid cream, medical plasters for the back, and first aid kits		

Attachments	71013666#TMSN.gif ( 1 page )( bytes ) 74422556#TMSN.gif ( 1 page )( bytes ) 74422859#TMSN.gif ( 1 page )( bytes ) 75010166#TMSN.gif ( 1 page )( bytes ) 76617076#TMSN.jpeg ( 1 page )( bytes ) NOTICE OF OPPOSITION - FARMACIA2.pdf ( 5 pages )(167864 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Mary Pat Weyback/
Name	Mary Pat Weyback
Date	07/17/2008

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

In re Application Ser. No 76/286,667  
FARMACIA WELLBEING & Cross Design  
Published: January 22, 2008

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JOHNSON & JOHNSON, :  
 :  
 Opposer, :  
 :  
 v. : Opposition No. \_\_\_\_\_  
 :  
 FARMACIA CHEMISTS LIMITED, :  
 :  
 \_\_\_\_\_ Applicant. \_\_\_\_\_ :

**NOTICE OF OPPOSITION**

JOHNSON & JOHNSON, a New Jersey corporation, having a principal place of business at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933-7001 (“Opposer”), believes that it will be damaged by the registration of the mark shown in application Serial No. 76/286,667 – FARMACIA WELLBEING & Cross Design for retail store services featuring healthcare products in Class 35; filed July 17, 2001 by Farmacia Chemists Limited, a corporation of England, having an address at 169 Drury Lane, London, England WC2B 5QA (“Applicant”); and hereby opposes the same pursuant to Section 13 of the Trademark Act of 1946 (15 U.S.C. § 1063).

As grounds for opposition it is alleged that:

1. Opposer has adopted and is using the mark Red Cross Design for medical and surgical plasters; first aid kits, adhesive bandages, topical preparations for medical and therapeutic use, medical adhesive tape, gauze, sterile cotton for medical purposes and wound dressings; and cotton for cosmetic use.



2. Opposer has continuously used the Red Cross Design mark in connection with medical and surgical plasters since as early as 1887.

3. Opposer has continuously used the Red Cross Design mark in connection with cotton for cosmetic use since as early as 1898.

4. Opposer has continuously used the Red Cross Design mark in connection with first aid kits, adhesive bandages, topical preparations for medical and therapeutic use, medical adhesive tape, gauze, sterile cotton for medical purposes and wound dressings since as early as 1898.

5. Opposer has adopted and is using the mark RED CROSS for cotton for personal use and sterile cotton for medical use.

6. Opposer has continuously used the mark RED CROSS for cotton for personal use and sterile cotton for medical use since as early as 1898.

7. Opposer is the owner of:

- a. Reg. No. 54,308 – Red Cross Design, dated June 26, 1906, for medical and surgical plasters in class 5.
- b. Reg. No. 1,870,955 – RED CROSS, dated January 3, 1995, for sterile cotton for personal use in class 3 and sterile cotton for medical use in class 5.
- c. Reg. No. 1,888,143 – Red Cross Design, dated April 11, 1995, for cotton for cosmetic use in class 3.
- d. Reg. No. 1,889,576 – Red Cross Design, dated April 18, 1995, for first aid kits, adhesive bandages, topical preparations for medical and therapeutic use, medical adhesive tape, gauze, sterile cotton for medical purposes, and wound dressings in class 5.
- e. Reg. No. 2,515,970 – Red Cross Design, dated December 11, 2001, for first aid kits in class 5.
- f. Reg. No. 3,178,913 – JOHNSON&JOHNSON FIRST AID & Red Cross Design, dated December 5, 2006, for adhesive medical tapes, gauze pads,

sterile rolled gauze, bandages and dressings for skin wounds, sterile cotton and cotton balls for medical use, first aid cream, medical plasters for the back, and first aid kits in class 5.

Copies of the registrations are attached hereto in Exhibits A-F.

8. On information and belief, Applicant has not used the FARMACIA WELLBEING & Cross Design mark in commerce in connection with the services identified in application Serial No. 76/286,667 prior to the July 17, 2001 filing date of said application.

9. The goods on which Opposer uses its marks Red Cross Design and RED CROSS and the services for which Applicant seeks to register its FARMACIA WELLBEING & Cross Design mark are related.

10. The goods on which Opposer uses the marks Red Cross Design and RED CROSS and the services for which Applicant seeks to register its FARMACIA WELLBEING & Cross Design mark may be sold and/or rendered through the same channels of trade and to the same class of purchasers.

11. Applicant's FARMACIA WELLBEING & Cross Design mark completely subsumes Opposer's famous Red Cross Design mark, and is, therefore, substantially similar in appearance and commercial impression.

12. Any registration which matures from application Serial No. 76/286,667 would create a legal presumption that Applicant has the right to display the Cross Design portion of its mark in red, in violation of 18 U.S.C. § 706.

13. Any registration which matures from application Serial No. 76/286,667 would be read by competitors in the field as enabling Applicant to display the Cross Design depicted therein in any color, including red, in violation of 18 U.S.C. § 706.

14. The use and registration by Applicant of a mark incorporating a cross design displayed in red for the services identified in application Serial No. 76/286,667 is likely to cause confusion, mistake or deception by having the public erroneously assume or believe that those services emanate from Opposer, or are in some other way associated or connected with Opposer because of Opposer's prior use and registration of the marks Red Cross Design and RED CROSS, all to Opposer's irreparable damage.

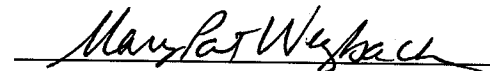
For the reasons set forth herein, Opposer believes and believing asserts that it will be damaged by the registration of application Serial No. 76/286,667. Accordingly, Opposer prays that this Opposition be sustained, and that Applicant be refused registration of the FARMACIA WELLBEING & Cross Design mark for the services set forth in application Serial No. 76/286,667.

The \$300.00 filing fee is submitted herewith electronically. Should additional fees be required, please charge them to this firm's deposit account, No. 50-0573.

Respectfully submitted,

JOHNSON & JOHNSON

By:



Norm D. St. Landau

Mary Pat A. Weyback

Jaye S. Yung

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*Counsel for Opposer*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION was served on counsel for Applicant at the following address of record by first class mail, postage prepaid, this 17<sup>th</sup> day of July, 2008:

H John Campaign  
Graham Campaign PC  
36 W 44th St.  
New York, NY 10036-8178

Deborah Clark