ESTTA Tracking number: **ESTTA315777**

Filing date: **11/09/2009**

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

Proceeding	91192096
Party	Defendant Biomed Est.
Correspondence Address	ROBERT C. HALDIMAN HUSCH BLACKWELL SANDERS LLP 190 CARONDELET PLZ STE 600 SAINT LOUIS, MO 63105-3433 trademark@huschblackwell.com
Submission	Answer
Filer's Name	Robert C. Haldiman
Filer's e-mail	pto-sl@huschblackwell.com, tracey.paterson@huschblackwell.com
Signature	/Robert C. Haldiman/
Date	11/09/2009
Attachments	11_09_09_Answer.pdf (4 pages)(100362 bytes)

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

3M ESPE AG,	)	
	)	Opposition No. 91192096
Opposer,	)	
	)	Mark: PENTAGUM
v.	)	
	)	Ser. No.: 77/659,070
Biomed Est.,	)	
	)	Filing Date: January 29, 2009
Applicant.	)	
	)	Published: June 2, 2009

ANSWER TO NOTICE OF OPPOSITION

In reply to the Notice of Opposition filed by Opposer, 3M ESPE AG, Applicant Biomed Est. states the following:

1. Applicant admits that it filed an application to register the PENTAGUM mark on the principle register for "dental impression materials" in International Class 10 (amended to International Class 5 by Examiner Amendment on April 22, 2009).

2. Applicant admits that Applicant's mark was published for opposition on June 2, 2009. Applicant is without sufficient knowledge as to the truth or falsity of the rest of the allegations in paragraph 2 of opposer's Notice of Opposition and accordingly denies the same.

3. Applicant is without sufficient knowledge as to the truth or falsity of the allegations contained in paragraph 3 of the Notice of Opposition and accordingly denies the same.

4. Applicant is without sufficient knowledge as to the truth or falsity of the allegations contained in paragraph 4 of the Notice of Opposition and accordingly denies the same.

5. Applicant is without sufficient knowledge as to the truth or falsity of the allegations contained in paragraph 5 of the Notice of Opposition and accordingly denies the same.

6. Applicant is without sufficient knowledge as to the truth or falsity of the allegations contained in paragraph 6 of the Notice of Opposition and accordingly denies the same.

7. Applicant is without sufficient knowledge as to the truth or falsity of the allegations contained in paragraph 7 of the Notice of Opposition and accordingly denies the same.

8. Applicant is without sufficient knowledge as to the truth or falsity of the allegations contained in paragraph 8 of the Notice of Opposition and accordingly denies the same.

9. Applicant is without sufficient knowledge as to the truth or falsity of the allegations contained in paragraph 9 of the Notice of Opposition and accordingly denies the same.

10. Applicant denies the allegations contained in paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations contained in paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations contained in paragraph 12 of the Notice of Opposition.

13. Applicant denies the allegations contained in paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations contained in paragraph 14 of the Notice of Opposition.

15. Applicant denies the allegations contained in paragraph 15 of the Notice of Opposition.

16. Applicant denies the allegations contained in paragraph 16 of the Notice of Opposition.

17. Applicant denies the allegations contained in paragraph 17 of the Notice of Opposition.

18. Applicant denies the allegations contained in paragraph 18 of the Notice of Opposition.

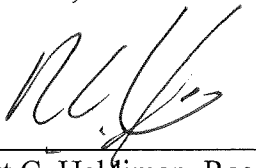
AFFIRMATIVE DEFENSE

19. Opposer does not use the exact marks shown in its registration for all of the goods listed in the registrations and thereby has committed "fraud" on the U.S. Patent and Trademark Office.

WHEREFORE, Applicant respectfully requests that the opposition be dismissed and that Application No. 77/659,070 issue to registration.

Respectfully submitted,

BIOMED EST.,

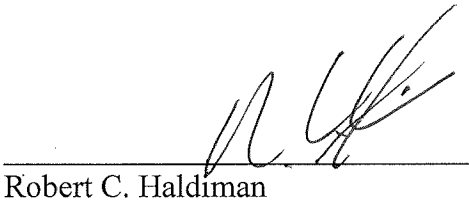


By: Robert C. Haldiman, Reg. No. 45,437
Husch Blackwell Sanders, LLP
190 Carondelet Plaza
St. Louis, MO 63105
314-480-1641
314-480-1505 FAX

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION has on this 9th day of November 2009 been sent by pre-paid first class mail to the following attorney for opposer:

Scott W. Johnston
Merchant & Gould P.C.
80 South Eighth Street, Suite 3200
Minneapolis, MN 55402-2215



Robert C. Haldiman