

ESTTA Tracking number: **ESTTA360918**

Filing date: **07/30/2010**

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

Proceeding	91192704
Party	Defendant AETNA INC.
Correspondence Address	Roberta Jacobs-Meadway Eckert Seamans Cherin & Mellott, LLC Two Liberty Place, 50 S. 16th Street, 22nd Floor Philadelphia, PA 19102 UNITED STATES rjacobsmeadway@eckertseamans.com
Submission	Other Motions/Papers
Filer's Name	Roberta Jacobs-Meadway
Filer's e-mail	rjacobsmeadway@eckertseamans.com, jhoynoski@eckertseamans.com
Signature	/Roberta Jacobs-Meadway/
Date	07/30/2010
Attachments	DECLARATION OF PETER BRODNITZ (M0840006).PDF (11 pages)(333600 bytes)

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

HUMANA INC.	:	
	:	
OPPOSER,	:	
	:	
v.	:	Opposition No 91192704
	:	
AETNA INC.	:	
	:	
APPLICANT.	:	

DECLARATION OF PETER BRODNITZ

Peter Brodnitz declares:

1. I am employed by Aetna, Inc. (Aetna) as Head of Advertising and Brand.
2. I have been employed by Aetna in that capacity since January 2009.
3. I have been employed by Aetna since November 2007.
4. My duties at Aetna include: Overseeing planning development and execution of Aetna corporate and business unit advertising plus media; stewardship and development of the Aetna Brand, including uses and naming.
5. I am familiar with the selection of the AETNA ONE mark by Aetna for a health and productivity program described in the Aetna One trademark application as follows: Managed health care services, namely, health and wellness counseling; medical, behavioral health, and disability care management services; disease care management services; providing health care information in the field of health and wellness, behavioral health, disability management, and disease management.
6. The process of selecting a mark for the program began on or about September 24, 2008.

7. In excess of 70 marks were considered for the program between approximately September 24, 2008 and January 15, 2009. These included: Personal Health, Aetna View, Aetna Engage, Aetna Aspire, Aspire To Personal Health, HealthyOne, Total Personal Health, Signature Integration, Aetna Signature Integration, Clearly Integrated, Integration Clear & Simple, Integration 361, Optimum Integration, Integrated Health By Aetna, Aetna Optimum Integration, Integrated Health Signatures, Integrated Health Dimensions, Integrated Health Dialogues, Integrated Health Focus, Integrated Health Clarity, Integrated Health Delivered, Integrated Health Expressions, Integrated Health Perspectives, Integrated Health Conversations, Integrated Health Distinctions, Integrated Health Destination, Integrated Health Partnership, Integrated Health Portraits, Integrated Health Progress, Integrated Health Revealed, Signature By Aetna, Simplicity By Aetna, Monogram By Aetna, Monogram, Signature, Simple Pathways, Simplicity, Simply Aetna, Simply Your Health, Personal Health Simplicity, Total Health Simplicity, Total Health Signature, Optimum, Simplex, Clarity By Aetna, Claris, Mosaic, Latitude, Balance, Spirit, Claro, Clear & Simple, Altia, 361 Health, Health 361, Advances, Surity, Activate, Activation, i.Health, Aetna i.Health, Dimensions, Clarity, Clear, Personal Health Dimensions, Clear Health Dimensions, Tempo, Personal Health Clarity, Emotion, Motion, Elements, Essentials, Oasis, Health Oasis, Dialogues.

8. The AETNA ONE mark was generated internally as a candidate for the program in October 2008. It was later recommended by Adams & Knight, the outside firm retained by Aetna to assist with the mark selection process.

9. AETNA ONE was a potential mark for the program that repeatedly came up in the mark selection process. The consideration of an AETNA component was obvious, given the Company's practice of branding which sought to take advantage of the established goodwill in the AETNA brand.

10. In selecting the AETNA ONE mark, the mark selection team was following the Company's practice of using the Aetna name as the dominant component of marks, to take advantage of the strength of the AETNA brand.

11. The AETNA mark has been used as the dominant formative of approximately 40 marks which are the subject of live trademark registrations, as shown in Exhibit A attached, and more than 80 common law marks, as shown in Exhibit B, attached.

12. Aetna has spent over forty (40) million dollars each year since 2006 on media advertising for its AETNA mark and name.

13. The "ONE" term was considered suitable as a component of the mark for the program based on the idea that "One" signified a premium product; "one call" concierge service; and personalized member service.

14. In developing a mark for the program, we were aware that there are a limited number of competitors for the intended program, particularly CIGNA, but also including BlueCross/Blue Shield, Ceridian, HealthWays, Hewitt, Humana, Mercer, Nationwide Better Health, Sedgwick CMS, Towers Perrin, UnitedHealthCare, HealthMedia, MATRIA Healthcare, Optimal Office, and IBI Research Institute.

15. Aetna does monitor competitive activity and the main competitors of Aetna with employee benefits programs include: CIGNA, Wellpoint, United, Blue Cross/Blue Shield, Anthem, Humana and Kaiser Permanente.

16. In the course of the mark selection process a number of marks were identified that included a house mark and the term "ONE" or that otherwise included the term "ONE" and were for products in the health care/health insurance sphere.

17. The common nature of the term "ONE" for healthcare insurance companies and products was considered by some involved in the mark selection process to be a reason to consider alternate marks.

18. The AETNA ONE mark was selected on January 14, 2009 based on a number of factors: it was a good strategic fit for premium products; signified “one call” concierge service; and personalized member service.

19. A trademark search directed to the AETNA ONE mark was conducted on January 14, 2009 and the results were communicated to me on January 15, 2009.

20. Once the AETNA ONE mark was selected, by Pamela Churchill, Elizabeth Horgan, Deirdre King, Caren Kittredge, Ed Lehman, Jeanne Marks, Karen Weinseiss and me, steps were initiated to begin use of the mark for the program. Applications for registration of the word mark and the logo version of the mark were filed with the US Patent and Trademark Office on February 25, 2009.

21. The AETNA ONE mark has been promoted to plan sponsors through various channels, including brokers and consultants, RFPs and sales presentations.

22. The AETNA ONE program has been offered and sold under that mark to Aetna National Accounts customers, which are our largest customers as part of a comprehensive and integrated employee benefits program.

23. The AETNA ONE program is not and is not intended to be offered to individuals for purchase.

24. The AETNA ONE program has been commercially successful, with no fewer than 9 corporate customers, making the program available to over 720,000 of their employees in 50 states.

25. The AETNA ONE program in 2009 generated approximately \$559,000,000 in revenue for Aetna.

26. The primary competitor of the AETNA ONE program is CIGNA's Integrated Personal Health Team.

27. In the more than 14 months since the AETNA ONE program was first announced, there have been no instances of confusion with the HUMANAONE mark or program and no one has made any inquiry as to affiliation between Aetna and Humana based on the use of AETNA ONE or otherwise.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on:
Date:

7/29/10


Peter Brodnitz

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the documents listed below were served upon counsel for the Opposer on July 30, 2010 via First Class Mail, postage prepaid, at Standley Law Group LLP, 6300 Riverside Drive, Dublin, OH 43017:

- Applicant's Trial Brief;
- Applicant's Notice of Reliance on Opposer's Responses to Discovery;
- Declaration of Deirdre King;
- Declaration of Peter Brodnitz;
- Declaration of John Dube;
- Declaration of Christopher Campbell;
- Declaration of Amy Zinsser;
- Declaration of Shirley R. Smith;
- Declaration of Michael L. Corne;
- Declaration of John F. Metzger

Date:

July 30, 2010

John F. Metzger

EXHIBIT A

EXHIBIT A

Live Registered "AETNA" Marks

Mark	Registration Number
AETNA (Word Mark) (No Symbol)	1939423
AETNA (Word Mark) (No Symbol)	1939424
AETNA AFFORDABLE HEALTH CHOICES®	3,233,117
AETNA AVENUE®	3,624,348
AETNA BENEFICIARY SOLUTIONS®	2933909
AETNA BENEFITS CHECKBOOK®	2663386
AETNA BETTER HEALTH®	3732094
AETNA CHOICE®	2780655
AETNA DENTAL ACCESS®	2982034
AETNA DENTAL®	2691676
AETNA DENTALFUND®	2841848
AETNA FOUNDATION, INC. PARTNERS IN COMMUNITY GIVING®	2157616
AETNA FOUNDATION®	2773555
AETNA GLOBAL BENEFITS®	2286358
AETNA GLOBAL BENEFITS® (Expanded)	2289601
AETNA HEALTHFUND®	2765645
AETNA HEALTHY BODY, HEALTHY WEIGHT PROGRAM®	3086494
AETNA HEALTHY LIVING®	3,353,094
AETNA INFORMATICS®	3,657,482
AETNA INTEGRATED HEALTH SOLUTION®	3,341,608
AETNA INTELIHEALTH -- Design (Display ®)	2895140
AETNA INTELIHEALTH®	2821137
AETNA LOGO - Figure Only (Display ®)	2,814,033
AETNA LOGO - Word & Figure (Display ®)	2,718,123
AETNA MEDICARE RX ESSENTIALS®	3,280,843
AETNA MEDICARE RX PLUS®	3,280,844
AETNA MEDICARE RX PREMIER®	3,280,845
AETNA MEDICARE RX®	3,280,842
AETNA NAVIGATOR®	3,308,001
AETNA OPEN ACCESS®	2605949
AETNA PHARMACY NETWORK ACCESS®	3,396,260
AETNA PHARMACYFUND®	2913920
AETNA RX CHECK®	2973380
AETNA RX HOME DELIVERY®	2808837
AETNA SIGNATURE ADMINISTRATORS®	3042762
AETNA SPECIALTY PHARMACY®	3102087
AETNA VOICE ADVANTAGE®	2721565
AETNA WORKERS' COMP ACCESS®	2974075
AFFORDABLE HEALTHCHOICES FROM AETNA®	2890368

EXHIBIT B

EXHIBIT B

Common Law "AETNA" Marks

AETNA ANSWERSM
AETNA AUTODEBITSM
AETNA BEHAVIORIAL INSIGHTSTM
AETNA BENEFICIARY SOLUTIONSSM
AETNA BOOKSM DISCOUNTS
AETNA COMMUTER BENEFITSSM
AETNA COMPASSIONATE CARESM
AETNA COST AND TREND ADVISORSM
AETNA CUSTOMER HEALTH INFORMATION PORTALSM
AETNA DENTAL CARE REWARDSM
AETNA DENTAL LINKSM
AETNA DENTAL/MEDICAL INTEGRATIONSM
AETNA DENTAL PREVENTIVE CARESM
AETNA DENTAL REFERRAL PROGRAMSM
AETNA DISABILITY AND ABSENCE MANAGEMENT SERVICESSM
AETNA EARLY RETIREE HEALTHSM
AETNA EASY QUOTESM
AETNA EDI CONNECTSM
AETNA ENROLLSM
AETNA EXPRESSLANESM
AETNA EXTRASSM
AETNA EZCONNECTTM
AETNA FINANCIAL ADVANTAGESM
AETNA FIRST STEP PHARMACY CARDTM
AETNA FITNESSSM
AETNA FLEXIBLE MEDICAL MODELSM
AETNA GLOBAL BENEFITS WORLDTRAVELERSM
AETNA GOVERNMENT HEALTH PLANSSM
AETNA HEALTH CONNECTIONSSM
AETNA HEALTH INFORMATION ADVANTAGETM
AETNA HEALTH NETWORK ONLYSM
AETNA HEARINGSM
AETNA ILLINOIS COMMUNITY PLANSM
AETNA INDIVIDUAL ADVANTAGE PLANSM
AETNA INDIVIDUAL ADVANTAGESM PLAN
AETNA INDIVIDUAL MEDICARE SUPPLEMENT PLANSM
AETNA INSIDERTM
AETNA INSTITUTE FOR IMPROVING PERSONAL HEALTHSM
AETNA INSTITUTESTM PROGRAM
AETNA JOINT CLAIM ADMINISTRATIONSM
AETNA LIFE ESSENTIALSSM
AETNA MEDICARESM PLAN (HMO)
AETNA MEDICARESM PLAN (PPO)
AETNA MEDICARE BASICSM PLAN (HMO)
AETNA MEDICARE DIRECTTM
AETNA MEDICARE DUAL ADVANTAGESM PLAN (HMO)
AETNA MEDICARE OPENSM BASIC PLAN (PFF)
AETNA MEDICARE OPENSM PLAN (PFFS)

AETNA MEDICARE OPENSM VALUE PLAN
AETNA MEDICARE OPENSM VALUE PLAN W/RX (PFFS)
AETNA MEDICARE PLAN SELECTION TOOLSM
AETNA MEDICARE PREMIERSM PLAN (HMO)
AETNA MEDICARE PREMIERSM PLAN (PPO)
AETNA MEDICARE SELECTSM PLAN (HMO)
AETNA MEDICARE SELECTSM PLAN (PPO)
AETNA MEDICARE SOLUTION CENTERSM
AETNA MEDICARE STANDARDSM PLAN (HMO)
AETNA MEDICARE STANDARDSM PLAN (PPO)
AETNA MEDICARE VALUESM PLAN (HMO)
AETNA MEDICARE VALUESM PLAN (PPO)
AETNA NATURAL PRODUCTS AND SERVICESSM
AETNA NO BOUNDARIESSM
AETNA OFFICE LINK UPDATESTM
AETNA PERFORMANCE NETWORK OPTIONSM
AETNA PRIMARY CARESM
AETNA PROVIDER ESOLUTIONSSM
AETNA PSYCHIATRIC DISABILITYSM
AETNA RETIREE CONNECTIONTM
AETNA RX SAVINGS CARDSM
AETNA SELECTSM
AETNA SERVICE OPTIONSSM
AETNA SIGNATURE ADMINISTRATORSSM (LOGO)
AETNA SMARTSOURCESM
AETNA SPECIALTY CARERXSM
AETNA SPECIALTY THERAPY MANAGEMENTSM
AETNA SPECTRUMSM
AETNA SPECTRUM INTEGRATED BENEFITSSM
AETNA STUDENT HEALTHSM
AETNA TOTAL CLINICAL VIEWSM
AETNA TRANSPLANT LIFE MANAGEMENT PROGRAMSM
AETNA VALUE NETWORKSM
AETNA VALUE PROGRAMSM
AETNA VALUE SERVICESM PACKAGE
AETNA VISIONSM PREFERREDSM
AETNA VISIONSM
AETNA WEIGHT MANAGEMENTSM
AETNA WOMEN'S HEALTHSM
AETNA WORKERS' COMP PHARMACYSM
AETNA WORKERS' COMP PLUS NETWORKSM
AETNA'S RESOURCE CONNECTIONSM