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

Proceeding	91193794
Party	Defendant MedRed, LLC
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

MEDRAD, INC. )  
 )  
 ) Opposer, )  
 )  
 ) v. ) Opposition No.: 91193794  
 )  
MEDRED, LLC ) Serial No.: 77/692,548  
 )  
 )  
 ) Applicant. )

ANSWER TO NOTICE OF OPPOSITION

Applicant MedRed, LLC (“Applicant”), answers the Notice of Opposition filed by Medrad, Inc. (“Opposer”) as follows:

Applicant denies that Opposer will be damaged by registration of Applicant’s mark Serial No. 77/692,548 as claimed in the preamble of the Notice of Opposition.

1. Opposer is the owner of the marks MEDRAD®, (standard words), United States Registration No. 1,021,990 for angiographic injectors and accessories for use therewith - namely, catheters and syringes; MEDRAD®, United States Registration No. 2,282,689 for contrast delivery systems comprised of medical injectors and syringes for use therewith for delivering contrast media to patients during angiographic, computed tomography and magnetic resonance imaging procedures; and anatomically conformable surface coils, automatic tuning devices and anatomical positioning devices for use with magnetic resonance imaging apparatuses; MEDRAD®, United States Registration No. 2,285,134 for maintenance, repair and adjustment of vascular injection systems and surface coils for use with magnetic resonance imaging systems and calibration of vascular injection systems and surface coils for use with magnetic resonance imaging systems; MEDRAD®, United States Registration No. 2,375,747 for contrast delivery systems comprised of medical injectors and syringes for use therewith for delivering contrast media to patients for ultrasound imaging procedures; MEDRAD®, United States Registration No. 2,604,867 for sound systems comprised of a cd player, cassette deck, am/fm tuner and speakers and patient monitoring devices, namely monitors for monitoring ecg signals, blood oxygen level, pulse rate, respiration rate, temperature, blood pressure and anesthesia agent levels of patients, all for use with magnetic resonance imaging apparatus; MEDRAD VISTRON CT®, United States Registration No. 2,251,950 for medical injectors for delivering contrast media to patients for imaging procedures; MEDRAD ADVANTA™, United States Registration No. 3,303,435 for medical injector for injecting contrast media and other medical fluids into patients; and MEDRAD INTERVENTIONAL, United States Application Serial No. 77/530,237 for

medical devices for use in diagnostic, therapeutic or interventional cardiovascular and endovascular procedures, namely, balloon catheters for endovascular therapies, thrombectomy and atherectomy catheters, vascular occlusion and embolic protection devices in the nature of catheters, percutaneous guidewires and guide catheters, wound management products, and medical fluid delivery systems, namely injectors, catheters, syringes, and disposable fluid path tubing sets to be connected to and used with injectors, catheters and syringes. Moreover, MEDRAD has been used in connection with an information exchange device since at least as early as April 2004. These registrations and uses are prima facie evidence of Opposer's exclusive ownership of and right to use the MEDRAD mark in commerce as provided therein and also demonstrate the fame of the MEDRAD mark.

**ANSWER:** Applicant admits that Opposer, according to the United States Patent and Trademark Office TARR records, appears to be owner of Registration Nos. 1021990, 2282689, 2285134, 2375747, 2604867, 2251950, 3303435, and U.S. Application Serial No. 77/530,237. Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph No. 1 of the Notice of Opposition and therefore denies the same.

2. Opposer uses said registered MEDRAD marks on goods, that are collectively referred to as medical devices and maintenance, repair and replacement of medical devices, sold to hospitals or rehabilitation facilities, such as medical centers and other healthcare facilities.

**ANSWER:** Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph No. 2 of the Notice of Opposition and therefore denies the same.

3. Opposer has extensively used and promoted the MEDRAD marks in connection with aforesaid goods since at least 1966. As such, MEDRAD is a famous mark in connection with the aforementioned goods and services.

**ANSWER:** Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph No. 3 of the Notice of Opposition and therefore denies the same.

4. Notwithstanding Opposer's prior rights in and to its MEDRAD mark, Applicant, MedRed, LLC ("Applicant"), has applied to register a MEDRED mark, Serial No. 77/692,548, based on use.

**ANSWER:** Applicant admits that it has applied to register a MEDRED mark under Serial No. 77/692,548 based upon use. Applicant denies that any alleged rights Opposer has in the MEDRAD mark would be considered infringed or "prior rights" to Applicant's rights in the MEDRED mark.

5. Applicant's MEDRED mark is allegedly used in commerce on goods, such as "Non-downloadable software that provides health information to patients and healthcare providers," and "Providing health information to patients and healthcare providers at the point of care wherever medicine is practiced."

**ANSWER:** Applicant admits that its MEDRED mark is used in connection with the goods and services identified in its application. Applicant is without sufficient information or knowledge to form a belief as to the truth of the remaining allegations contained Paragraph No. 5 of the Notice of Opposition and therefore denies the same.

6. Opposer will be damaged by the registration of Applicant's MEDRED mark, as aforesaid, in that said mark so resembles Opposer's MEDRAD mark, as to be likely, when applied to the goods of Applicant, to cause confusion, mistake, and deception, with consequent irreparable damage to Opposer's business and goodwill and otherwise will improperly give the appearance of exclusive statutory ownership rights in marks incorporating the MEDRED mark to Applicant in violation of § 2(d) of the Lanham Act, as amended (15 U.S.C. § 1052(d)), and derogation of the prior and superior rights of Opposer.

**ANSWER:** Applicant denies the allegations contained in Paragraph No. 6 of the Notice of Opposition.

7. Opposer also will be damaged by the registration of Applicant's MEDRED mark in that said mark will dilute Opposer's MEDRAD mark in violation of §43(c) of the Lanham Act (15 U.S.C. §1125(c)).

**ANSWER:** Applicant denies the allegations contained in Paragraph No. 7 of the Notice of Opposition.

8. By reason of the foregoing, Opposer believes it will be irreparably damaged by the registration of Applicant's mark.

**ANSWER:** Applicant is without sufficient knowledge or information to form a belief as to what Opposer believes as alleged in Paragraph No. 8 of the Notice of Opposition and therefore denies the same. Applicant denies all remaining allegations contained in Paragraph No. 8 of the Notice of Opposition.

9. Registration should, therefore, be refused pursuant to (a) §2(d) of the Lanham Act (15 U.S.C. § 1052(d)) on the grounds that the application to register MEDRED so resembles Opposer's MEDRAD mark as to cause confusion, mistake, or deception; and also under (b) §43(c) of the Lanham Act (15 U.S.C. §1125(c)) on grounds that said application dilutes the value of Opposer's MEDRAD mark.

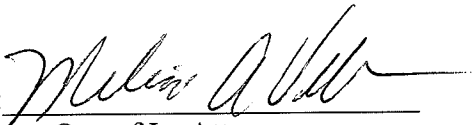
**ANSWER:** Applicant denies the allegations set forth in Paragraph No. 9 of the Notice of Opposition.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed and that its Application be approved for registration.

Dated: March 29, 2010

Respectfully submitted,

MEDRED, LLC

By:   
One of Its Attorneys

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**CERTIFICATE OF TRANSMITTAL**

I hereby certify that this correspondence is being electronically transmitted, in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trial and Appeals (ESTTA) on March 29, 2010.

By: 

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Answer to Notice of Opposition has been served on counsel for Medrad, Inc. by mailing by U.S. Mail, postage prepaid, said copy on March 29, 2010 to:

David Schramm  
Medrad, Inc.  
One Medrad Drive  
Indianola, PA 15051

By: Carol Boruta