

ESTTA Tracking number: **ESTTA591614**

Filing date: **03/10/2014**

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	Wolters Kluwer U.S. Corporation
Granted to Date of previous extension	03/09/2014
Address	2700 Lake Cook Road Riverwoods, IL 60015 UNITED STATES

Attorney information	Andrew J. Avsec Brinks Gilson & Lione PO BOX 10395 Chicago, IL 60610 UNITED STATES officeactions@brinksgilson.com, aavsec@brinksgilson.com, pjones@brinksgilson.com, rrios@brinksgilson.com
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Applicant Information

Application No	85750099	Publication date	09/10/2013
Opposition Filing Date	03/10/2014	Opposition Period Ends	03/09/2014
Applicant	aTherapy, Inc. Two Carlson Parkway, Suite 401 Plymouth, MN 55447 GERMANY		

Goods/Services Affected by Opposition


<p>Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Business management services in the fields of medicine and healthcare; business consulting services in the fields of medicine and healthcare; business consulting services in the field of administration and management of health care facilities; business management of physician and ancillary medical care practices; business management of health care facilities; medical claims management services, namely, receiving, data entering, and re-pricing of transactions that are originated by physicians, hospitals, and ancillary medical care providers; medical costmanagement services; medical personnel recruitment services; consulting services in the field of medical personnel recruitment; medical referrals; promoting collaboration within the scientific, research and medical communities to achieve advances in the field of healthcare; promoting the exchange of information and resources within the scientific research and medical communities to achieve advances in the field of healthcare; providingan internet-based database of patient medical information designed to facilitate patient-authorized, HIPAA-compliant sharing and maintenance of patient medicalinformation amongst a patient's doctorsuch that this information can be directly inserted into the doctor's medical reports as a means of increasing medical record generation efficiency and accuracy; healthcare cost containment and review services; health care utilization and review services; management of health care clinics for others; requesting</p>
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healthcare provider privileges from health care institutions on behalf of physicians and health care providers; outsourced human resource services for physician offices, namely, serving as a human resources department for others; maintaining a registry of behavioral health providers

Grounds for Opposition

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

U.S. Registration No.	3209507	Application Date	03/07/2005
Registration Date	02/13/2007	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2005/03/21 First Use In Commerce: 2005/03/21 computer software used for accessing or retrieving state, federal, and international laws, regulations and similar information or data in the fields of law, accounting, human resources, health, medical, business, finance, estate planning, insurance, banking, and corporate services including trademark research, as well as CD-ROMs and prerecorded audio and video tapes containing such information; computer software for tax preparation, and electronic filing software programs for insurance agent licensing, for preparation of and filing of multi-jurisdictional documents, for electronic ordering of documents, for report generation, and for filing federal and state income tax returns, as well as sales-tax, use-tax, and other tax-form, legal-form, and financial-form filing computer programs</p> <p>Class 016. First use: First Use: 2005/03/21 First Use In Commerce: 2005/03/21 packaging, namely, [paper coverings for compact discs and for floppy diskettes;] corrugated cardboard boxes; manila envelopes; binders; paper envelopes, stationery; premiums in the nature of printed awards; pamphlets, loose-leaf publication papers, book covers, soft-cover and hard-cover books, topical law reports, printed guides, manuals, bulletins, AND newsletters, ALL in the fields of law, tax, accounting, human resources, health, medicine, business, finance, insurance, banking, and corporate services, including trademark research and corporate representation services; bulletins, books, magazines, journals, brochures and other printed reference materials in the nature of guides, periodic reports, and newsletters, all of which cover the subjects of regulatory policy, rate making, financial information and administrative information from private and public sources that are published from time to time servicing the telecommunications industry</p> <p>Class 035. First use: First Use: 2005/03/21 First Use In Commerce: 2005/03/21</p>		

	<p>business research, namely trademark research via a global computer network on a web-based internet trademark research system; providing a web site in the field of human resources; providing a website featuring information in the fields of tax consultation, accounting, human resources, business consultation, corporate-management assistance services, and business-case management; computerized general research services for others in trademark business research; promoting the goods and services of others by providing a web site at which users can link to other web sites in the fields of medicine and health care and to other areas of law, business, tax, accounting, human resources, banking and insurance</p> <p>Class 036. First use: First Use: 2005/03/21 First Use In Commerce: 2005/03/21 providing a website featuring information in the fields of tax-payment processing services, finance, insurance, banking, and insurance-case management; providing an online computer database designed to enable users to file, research, retrieve and locate documents with reference to EDGAR and non-EDGAR filings with the Securities Exchange Commission; calculating and providing personalized financial information via a controlled access subscriber service rendered via a global computer network; online computer database of information to provide services in connection with insurance agent licensing</p> <p>Class 041. First use: First Use: 2005/03/21 First Use In Commerce: 2005/03/21 online publication of bulletins, books, magazines, journals, brochures, AND other electronically-delivered reference materials, NAMELY manuals, newsletters, guides, AND reports, ALL published from time-to-time servicing THE telecommunications INDUSTRY; providing on-line publications in the nature of books, magazines, journals, brochures and other reference materials in the fields of medicine and health care; educational services, namely, providing medical and patient educational seminars, courses, classes, intellectual exchanges, and presentations to physicians and consumers by means of an integrated on-line network via the internet; education seminars ON the topic of business management</p> <p>Class 042. First use: First Use: 2005/03/21 First Use In Commerce: 2005/03/21 providing a website featuring information in the fields of law and legal-case management; legal research, namely trademark research via a global computer network on a web-based internet trademark research system; rendering incorporation and filing services to lawyers; legal services in the nature of UCC search and filing services; computerized general research services for others in trademark legal research; providing temporary use of on-line non-downloadable dynamic linking software that enables users to link bibliographical database search citations to full text publications in real time via web-based meta data querying; computer services, namely providing on-line web pages which include search engines</p> <p>Class 044. First use: First Use: 2005/03/21 First Use In Commerce: 2005/03/21 providing a website featuring information in the fields of health, medicine, and medical-case management; providing information and advice regarding pharmaceuticals via the internet; providing databases featuring pharmaceutical information and advice; and online information services in the fields of nursing and medicine</p>
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Related Proceedings	91214593, 91214596, 91214708, 91214709, 91214710, 91214711, 91214712
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Attachments	76632868#TMSN.jpeg(bytes) TAMBER 099 Opposition.pdf(181439 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	<i>/Andrew J. Avsec/</i>
Name	Andrew J. Avsec
Date	03/10/2014

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

<p>Wolters Kluwer U.S. Corporation,</p> <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">v.</p> <p>aTherapy, Inc.,</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No.: _____</p> <p>U.S. Serial No.: 85/750,099 Mark: TAMBER and Design</p>
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NOTICE OF OPPOSITION

Wolters Kluwer US Corporation (“Opposer”), a corporation organized and existing under the laws of Delaware, with an address at 2700 Lake Cook Road, Riverwoods, Illinois 60015, believes that it will be damaged by registration of the mark TAMBER and Design, which is the subject of United States Trademark Application Serial No. 85/750,099, (“Opposed Mark”) filed in the name of aTherapy, Inc.,¹ a corporation organized and existing under the laws of Delaware (“Applicant”), with an address of Two Carlson Parkway, Suite 401, Plymouth, Minnesota, 55447, and therefore, hereby opposes such registration pursuant to 15 U.S.C. § 1063. In support of its opposition, Opposer states as follows:

1. Opposer is a market-leading global information services and publishing company. Since long prior to Applicant’s filing date, Opposer, itself and through its related companies,



have continuously and extensively used in commerce the design trademark, , both

¹ Applicant’s counsel has advised Opposer’s counsel that the TAMBER and Design marks have been transferred to a company called Proximal LLC. Since the USPTO’s records reflect aTherapy, Inc. as the owner, aTherapy, Inc. is identified herein as the owner of the application.

in color, in black and white, and in grayscale, and both alone and in connection with a wide range of trusted word marks, on and in connection with the advertising, promotion, offer and sale of various goods and services in interstate commerce (collectively, herein the “Wolters Kluwer Design Mark”).

2. Opposer’s use in commerce of the Wolters Kluwer Design Mark is ongoing and is made in connection with Opposer’s well-known publications and information services, which include without limitation electronic and print publications such as magazines, references, books and journals, searchable databases, websites, internet-based information systems, and software solutions provided in a wide range of fields and industries, including without limitation the medical and healthcare fields. (“Opposer’s Goods and Services”).

3. The Wolters Kluwer Design Mark is strong and distinctive. Opposer, itself and through its related companies, have invested considerable money, time, and effort into the development of the Wolters Kluwer Design Mark for use in connection with all of Opposer’s Goods and Services. As a result of extensive use in commerce, advertising and promotion, Opposer owns strong common law rights in the Wolters Kluwer Design Mark, and the Wolters Kluwer Design Mark has become well-known in the United States, embodying invaluable goodwill.

4. In addition to its common law rights in the Wolters Kluwer Design Mark, Opposer is the owner of the United States Trademark Reg. No. 3,209,507 for the Wolters Kluwer Design Mark covering a wide range of goods and services. Reg. No. 3,209,507 is valid, subsisting and in full force and effect. *See* the printout, attached hereto as Exhibit A, from the USPTO’s TSDR database showing the current status and title of Trademark Registration No.

3,209,507. The right of Opposer to use the registered Wolters Kluwer Design Mark for the identified goods and services is incontestable pursuant to 15 U.S.C. § 1065.

5. Notwithstanding Opposer's prior rights in and to the Wolters Kluwer Design Mark, Applicant filed, on October 10, 2012, an intent-to-use (Section 1(b)) application to register

the mark  for the following goods in Class 35:

Business management services in the fields of medicine and healthcare; business consulting services in the fields of medicine and healthcare; business consulting services in the field of administration and management of health care facilities; business management of physician and ancillary medical care practices; business management of health care facilities; medical claims management services, namely, receiving, data entering, and re-pricing of transactions that are originated by physicians, hospitals, and ancillary medical care providers; medical cost management services; medical personnel recruitment services; consulting services in the field of medical personnel recruitment; medical referrals; promoting collaboration within the scientific, research and medical communities to achieve advances in the field of healthcare; promoting the exchange of information and resources within the scientific research and medical communities to achieve advances in the field of healthcare; providing an internet-based database of patient medical information designed to facilitate patient-authorized, HIPAA-compliant sharing and maintenance of patient medical information amongst a patient's doctors such that this information can be directly inserted into the doctor's medical reports as a means of increasing medical record generation efficiency and accuracy; healthcare cost containment and review services; health care utilization and review services; management of health care clinics for others; requesting health care provider privileges from health care institutions on behalf of physicians and health care providers; outsourced human resource services for physician offices, namely, serving as a human resources department for others; maintaining a registry of behavioral health providers.

6. At the time it filed its application, Applicant had constructive knowledge of Opposer's rights in the Wolters Kluwer Design Mark.

7. The Opposed Mark is confusingly similar, in appearance and commercial impression, to Opposer's Wolters Kluwer Design Mark. The registration and use of the Opposed Mark by Applicant in association with the claimed goods is likely to cause confusion as to the

source or origin of Applicant's goods, and is likely to mislead consumers, all to Opposer's damage.

8. The goods and services that Opposer provides under the Wolters Kluwer Design Mark, and the goods and services for which the Wolters Kluwer Design Mark is registered, are identical or, at a minimum, closely related, to the goods identified in Application Serial No. 85/750,099. Upon information and belief, Opposer's Goods and Services and Applicant's goods are offered or will be offered to similar or overlapping classes of purchasers.

9. The Opposed Mark, when used in connection with Applicant's applied-for goods, is likely to cause confusion, to cause mistake, and to deceive the trade and public, who, upon seeing the Opposed Mark in connection with Applicant's applied-for goods, would believe that such goods originate with, are approved, sponsored or endorsed by, or have some connection or affiliation with Opposer. Accordingly, registration of the Opposed Mark would damage Opposer, and registration, therefore, should be refused pursuant to Section 2(d) of the Trademark Act.

WHEREFORE, Opposer believes that it will be damaged by registration of the mark which is the subject of United States Trademark Application Serial No. 85/750,099 and, therefore, respectfully requests that such registration be refused.

The Director hereby is authorized to charge the filing fee for this Notice of Opposition to Deposit Account No. 23-1925.

Respectfully submitted,

Wolters Kluwer U.S. Corporation

Dated: 3/10/2014

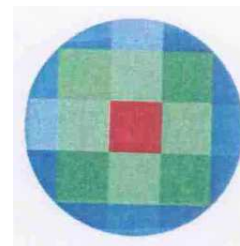
By: /Andrew J. Avsec/
Philip A. Jones
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EXHIBIT A

Generated on: This page was generated by TSDR on 2014-01-22 17:38:55 EST

Mark:



US Serial Number: 76632868

Application Filing Date: Mar. 07, 2005

US Registration Number: 3209507

Registration Date: Feb. 13, 2007

Register: Principal

Mark Type: Trademark, Service Mark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Mar. 13, 2013

Publication Date: Jun. 27, 2006

Notice of Allowance Date: Sep. 19, 2006

Mark Information

Mark Literal Elements: None

Standard Character Claim: No

Mark Drawing Type: 2 - AN ILLUSTRATION DRAWING WITHOUT ANY WORDS(S)/ LETTER(S)/NUMBER(S)

Color Drawing: Yes

Color(s) Claimed: The colors red, dark green, light green, dark blue, and light blue are claimed as a feature of the mark.

Color Location: The mark consists of a checkerboard pattern cropped into a circle. The centermost square is red. The eight squares surrounding it alternate between dark green and light green. The outlying partial-squares defining the circle alternate between dark blue and light blue.

Design Search Code(s): 25.03.01 - Checkerboard patterns; Checker board pattern
26.01.11 - Circles comprised of geometric figures; Circles comprised of animals; Circles comprised of humans; Circles comprised of letters or numerals; Circles comprised of plants; Circles comprised of punctuation; Letters, numerals, punctuation, geometric figures, objects, humans, plants or animals comprising a circle
26.01.21 - Circles that are totally or partially shaded.

Related Properties Information

Claimed Ownership of US Registrations: 2822485, 2827219, 2829352, 2833796 and others

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (...) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: computer software used for accessing or retrieving state, federal, and international laws, regulations and similar information or data in the fields of law, accounting, human resources, health, medical, business, finance, estate planning, insurance, banking, and corporate services including trademark research, as well as CD-ROMs and prerecorded audio and video tapes containing such information; computer software for tax preparation, and electronic filing software programs for insurance agent licensing, for preparation of and filing of multi-jurisdictional documents, for electronic ordering of documents, for report generation, and for filing federal and state income tax returns, as well as sales-tax, use-tax, and other tax-form, legal-form, and financial-form filing computer programs

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 038

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 21, 2005

Use in Commerce: Mar. 21, 2005

For: packaging, namely, [paper coverings for compact discs and for floppy diskettes;] corrugated cardboard boxes; manila envelopes; binders; paper envelopes, stationery; premiums in the nature of printed awards; pamphlets, loose-leaf publication papers, book covers, soft-cover and hard-cover books, topical law reports, printed guides, manuals, bulletins, AND newsletters, ALL in the fields of law, tax, accounting, human resources, health, medicine, business, finance, insurance, banking, and corporate services, including trademark research and corporate representation services; bulletins, books, magazines, journals, brochures and other printed reference materials in the nature of guides, periodic reports, and newsletters, all of which cover the subjects of regulatory policy, rate making, financial information and administrative information from private and public sources that are published from time to time servicing the telecommunications industry

International Class(es): 016 - Primary Class

U.S Class(es): 002, 005, 022, 023, 029, 037, 038, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 21, 2005

Use in Commerce: Mar. 21, 2005

For: business research, namely trademark research via a global computer network on a web-based internet trademark research system; providing a web site in the field of human resources; providing a website featuring information in the fields of tax consultation, accounting, human resources, business consultation, corporate-management assistance services, and business-case management; computerized general research services for others in trademark business research; promoting the goods and services of others by providing a web site at which users can link to other web sites in the fields of medicine and health care and to other areas of law, business, tax, accounting, human resources, banking and insurance

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 21, 2005

Use in Commerce: Mar. 21, 2005

For: providing a website featuring information in the fields of tax-payment processing services, finance, insurance, banking, and insurance-case management; providing an online computer database designed to enable users to file, research, retrieve and locate documents with reference to EDGAR and non-EDGAR filings with the Securities Exchange Commission; calculating and providing personalized financial information via a controlled access subscriber service rendered via a global computer network; online computer database of information to provide services in connection with insurance agent licensing

International Class(es): 036 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 21, 2005

Use in Commerce: Mar. 21, 2005

For: online publication of bulletins, books, magazines, journals, brochures, AND other electronically-delivered reference materials, NAMELY manuals, newsletters, guides, AND reports, ALL published from time-to-time servicing THE telecommunications INDUSTRY; providing on-line publications in the nature of books, magazines, journals, brochures and other reference materials in the fields of medicine and health care; educational services, namely, providing medical and patient educational seminars, courses, classes, intellectual exchanges, and presentations to physicians and consumers by means of an integrated on-line network via the internet; education seminars ON the topic of business management

International Class(es): 041 - Primary Class

U.S Class(es): 100, 101, 107

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 21, 2005

Use in Commerce: Mar. 21, 2005

For: providing a website featuring information in the fields of law and legal-case management; legal research, namely trademark research via a global computer network on a web-based internet trademark research system; rendering incorporation and filing services to lawyers; legal services in the nature of UCC search and filing services; computerized general research services for others in trademark legal research; providing temporary use of on-line non-downloadable dynamic linking software that enables users to link bibliographical database search citations to full text publications in real time via web-based meta data querying; computer services, namely providing on-line web pages which include search engines

International Class(es): 042 - Primary Class

U.S Class(es): 100, 101

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 21, 2005

Use in Commerce: Mar. 21, 2005

For: providing a website featuring information in the fields of health, medicine, and medical-case management; providing information and advice regarding pharmaceuticals via the internet; providing databases featuring pharmaceutical information and advice; and online information services in the fields of nursing and medicine

International Class(es): 044 - Primary Class

U.S Class(es): 100, 101

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 21, 2005

Use in Commerce: Mar. 21, 2005

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: Wolters Kluwer U.S. Corporation
Owner Address: 2700 Lake Cook Road
Riverwoods, ILLINOIS 60015
UNITED STATES
Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Andrew J. Avsec
Attorney Primary Email Address: officeactions@brinkshofer.com
Docket Number: 14027/22
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Andrew J. Avsec
Brinks Hofer Gilson & Lione
P. O. Box 10395
Chicago, ILLINOIS 60610
UNITED STATES
Phone: 312-321-4200
Fax: 312-321-4299
Correspondent e-mail Authorized: Yes
Correspondent e-mail: officeactions@brinkshofer.com

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 14, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Mar. 13, 2013	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	59136
Mar. 04, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	59136
Feb. 13, 2013	TEAS SECTION 8 & 15 RECEIVED	
Feb. 13, 2007	REGISTERED-PRINCIPAL REGISTER	
Jan. 08, 2007	LAW OFFICE REGISTRATION REVIEW COMPLETED	66121
Jan. 08, 2007	ASSIGNED TO LIE	66121
Dec. 14, 2006	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Dec. 12, 2006	STATEMENT OF USE PROCESSING COMPLETE	64657
Oct. 25, 2006	USE AMENDMENT FILED	64657
Oct. 25, 2006	TEAS STATEMENT OF USE RECEIVED	
Sep. 19, 2006	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Jun. 27, 2006	PUBLISHED FOR OPPOSITION	
Jun. 07, 2006	NOTICE OF PUBLICATION	
May 09, 2006	LAW OFFICE PUBLICATION REVIEW COMPLETED	76984
May 03, 2006	ASSIGNED TO LIE	76984
Apr. 13, 2006	EXAMINERS AMENDMENT MAILED	
Apr. 13, 2006	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 13, 2006	EXAMINER'S AMENDMENT ENTERED	88888
Apr. 13, 2006	EXAMINERS AMENDMENT -WRITTEN	77658
Mar. 30, 2006	NON-FINAL ACTION MAILED	
Mar. 30, 2006	NON-FINAL ACTION WRITTEN	77658
Mar. 27, 2006	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Mar. 17, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Mar. 17, 2006	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Mar. 17, 2006	PETITION TO REVIVE-GRANTED	88888
Mar. 17, 2006	TEAS PETITION TO REVIVE RECEIVED	
Sep. 13, 2005	EXAMINER'S AMENDMENT/PRIORITY ACTION MAILED	

Sep. 13, 2005	EXAMINERS AMENDMENT AND/OR PRIORITY ACTION - COMPLETED	77658
Sep. 06, 2005	ASSIGNED TO EXAMINER	77658
Mar. 22, 2005	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMO LAW OFFICE 113

Date in Location: Mar. 13, 2013

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing NOTICE OF OPPOSITION and Exhibit A thereto was served on counsel for Applicant at the following address by U.S. mail, postage prepaid, on this 10th day of March 2014.

ALISON D. FREY
PIRKEY BARBER PLLC
600 CONGRESS AVE STE 2120
AUSTIN, TEXAS 78701

/Andrew J. Avsec/