

ESTTA Tracking number: **ESTTA689201**

Filing date: **08/12/2015**

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	Nobel Biocare Services AG
Granted to Date of previous extension	08/12/2015
Address	Balz Zimmermann-Strasse 7 Kloten, CH-8302 SWITZERLAND

Domestic Representative	Susan M. Natland Attorney for Opposer Knobbe, Martens, Olson & Bear, LLP 2040 Main Street, 14th Floor Irvine, CA 92614 UNITED STATES efiling@knobbe.com Phone:949 760 0404
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Applicant Information

Application No	86451850	Publication date	04/14/2015
Opposition Filing Date	08/12/2015	Opposition Period Ends	08/12/2015
Applicant	DOHH Management, LLC 8070 Park Lane, Suite 100 DALLAS, TX 75231 UNITED STATES		

Goods/Services Affected by Opposition

Class 044. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Dental Implant Services
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Common law rights as asserted in the Notice of Opposition

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3916307	Application Date	02/23/2010
Registration Date	02/08/2011	Foreign Priority Date	08/26/2009
Word Mark	ALL-ON-4		

Design Mark	ALL-ON-4
Description of Mark	NONE
Goods/Services	<p>Class 010. First use: First Use: 0 First Use In Commerce: 0 Dental instruments, namely, picks, burrs; medical instruments for use in cutting tissue; surgical instruments; dental and surgical devices consisting of planning guides for determining, before surgery, target positions and intended depths of insertion of dental implants, and in models intended for use in the dental implant sector</p> <p>Class 044. First use: First Use: 0 First Use In Commerce: 0 Medical and dental surgery services; professional consulting and planning in the field of dental surgery</p>

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ALL-ON-4		
Goods/Services	Dental implants, devices and systems for dental implants, dental prosthetic devices and related surgical, dental and consulting services; solutions, techniques, and procedures for dental implants and educational, instructional and training services related to the same		

Attachments	79081733#TMSN.png(bytes) Notice of Opposition.pdf(689195 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	/SMN/
Name	Susan M. Natland
Date	08/12/2015

A description of Applicant's Application is as follows:

Mark: AO4
Serial No.: 86/451,850
Class: 44
Services: Dental Implant Services
Filed: November 12, 2014
Filing Basis: 1(b) Intent-to-Use

As grounds for opposition, it is alleged:

1. Opposer is a global leader in the dental and oral health industries and offers, directly and/or via authorized affiliates or licensees, a diverse portfolio of innovative goods and services, including dental implants, devices and systems for dental implants, dental prosthetic devices and related surgical, dental and consulting services as well as innovative solutions, techniques, and procedures for dental implants and educational, instructional and training services related to the same (collectively, "Opposer's Goods and Services") to customers worldwide, including in the United States. Opposer's strong reputation in the dental and oral health industries is built on its exceptional pioneering spirit and long-standing commitment to scientific research and innovation.

2. For over forty years, Opposer, directly or through its predecessors-in-interest, authorized affiliates and/or licensees, has designed, developed, marketed, promoted, offered and sold its innovative goods and services in connection with various names and marks.

3. Among the marks owned by Opposer and used in connection with Opposer's Goods and Services is the mark ALL-ON-4®, which has been extensively used in the United States since at least as early as 2004 in connection with Opposer's Goods and Services.

4. For over forty years, Opposer, directly and/or through its predecessors-in-interest, authorized affiliates and/or licensees, has spent considerable time, effort and money in developing

its reputation as a leader in the dental and oral health industries. As a result of this investment and the popularity and widespread commercial success of Opposer's Goods and Services, including its goods and services offered under its ALL-ON-4® mark, Opposer has developed a tremendous amount of goodwill and recognition in the ALL-ON-4® mark.

5. Opposer is the owner of and relies on U.S. Trademark Registration No. 3,916,307 for the mark ALL-ON-4® for "Dental instruments, namely, picks, burrs; medical instruments for use in cutting tissue; surgical instruments; dental and surgical devices consisting of planning guides for determining, before surgery, target positions and intended depths of insertion of dental implants, and in models intended for use in the dental implant sector" in International Class 10, and "Medical and dental surgery services; professional consulting and planning in the field of dental surgery" in International Class 44 ("Opposer's Registration"). Attached as Exhibit A is a true and correct copy of the printout from the electronic database records of the United States Patent and Trademark Office ("PTO") showing the current status and title of the registration for Opposer's Registration, as well as a true and correct copy of the registration certificate. Opposer's Registration is based on International Registration 1036397 for the ALL-ON-4® mark, which registered with the WIPO on February 23, 2010. Opposer's Registration passed to registration on the Principal Register on February 8, 2011 and thus the filing date and registration date of Opposer's Registration predate the filing date of Applicant's Application.

6. Opposer's Registration is valid, subsisting, unrevoked and uncanceled; as such, it constitutes *prima facie* evidence of the validity of Opposer's registered ALL-ON-4® mark and of the registration thereof, and of Opposer's ownership of the ALL-ON-4® mark shown therein as provided under Section 33(a) of the Trademark Act, 15 U.S.C. § 1115. Opposer's Registration also constitutes notice to Applicant of Opposer's claim of ownership of the ALL-ON-4® mark

shown therein as provided in Sections 7(b), 22 and 33(a) of the Trademark Act, 15 U.S.C. §§ 1057(b), 1072 and 1115.

7. Since at least as early as the 2004 and since at least before the filing date of Applicant's AO4 application, Opposer, directly and/or via its predecessors-in-interest, authorized affiliates and/or its licensees, has continuously used and promoted the ALL-ON-4® mark in United States interstate commerce in connection with Opposer's Goods and Services, including the goods and services as listed in Opposer's Registration. By virtue of Opposer's continuous and substantial use, the ALL-ON-4® mark has become an identifier of Opposer and its goods and services, and distinguishes Opposer's goods and services from the goods and services of others. As a result, Opposer has built up, at great expense and effort, extensive and valuable goodwill in its ALL-ON-4® mark.

8. In addition to the protection afforded to Opposer by its federal trademark registration, Opposer has extensive common law rights in the ALL-ON-4® mark throughout the United States since at least as early as 2004 through its use of the ALL-ON-4® mark in commerce in connection with Opposer's Goods and Services, including the goods and services as listed in Opposer's Registration. Opposer's common law rights in the ALL-ON-4® mark predate the filing date of Applicant's Application.

9. Applicant's Application for the mark AO4 was filed on November 12, 2014, and is based on Applicant's intent to use the mark. Opposer's rights in its ALL-ON-4® mark are prior to and superior to Applicant's rights in the AO4 mark.

10. The AO4 mark covered under Applicant's Application is confusingly similar to Opposer's well-known ALL-ON-4® mark. In addition, in the Applicant's Application, Applicant has alleged that Applicant intends to use the AO4 mark in connection with "dental implant

services” which are identical to and highly related to Opposer’s Goods and Services, including the goods and services as listed in Opposer’s Registration.

11. Opposer will be damaged by the registration of Applicant’s AO4 mark in that the AO4 mark so resembles Opposer’s ALL-ON-4® mark, as to be likely, when used on or in connection with the services identified in the Applicant’s Application, to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

12. In view of Opposer’s prior rights in its ALL-ON-4® mark, Applicant is not entitled to registration of the AO4 mark in connection with identical or highly related goods pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer prays that U.S. Trademark Application Serial No. 86/451,850 be rejected and stricken, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Please charge Deposit Account No. 11-1410 to cover any deficiencies in the opposition fee and any additional fees which may be required, or credit any overpayment to this account.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP



By: _____

Susan M. Natland
Charlene A. Azema
2040 Main Street, Fourteenth Floor
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efiling@knobbe.com
Attorneys for Opposer,
NOBEL BIOCARE SERVICES AG

Dated: August 12, 2015 _____

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **NOTICE OF OPPOSITION** upon Applicant's correspondence address of record by depositing a copy thereof in the United States Mail, first-class postage prepaid on August 12, 2015, addressed as follows:

Soumit Roy
FERGUSON BRASWELL & FRASER, PC
2500 Dallas Pkwy Ste 501
Plano, Texas 75093-4891

Natalie B. Rodriguez

Natalie Rodriguez, Paralegal

21298323
080615

EXHIBIT A

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Mark: ALL-ON-4

ALL-ON-4

US Serial Number: 79081733

Application Filing Date: Feb. 23, 2010

US Registration Number: 3916307

Registration Date: Feb. 08, 2011

Register: Principal

Mark Type: Trademark, Service Mark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Feb. 08, 2011

Publication Date: Nov. 23, 2010

Mark Information

Mark Literal Elements: ALL-ON-4

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

International Registration Number: 1036397

International Registration Date: Feb. 23, 2010

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 incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Dental instruments, namely, picks, burrs; medical instruments for use in cutting tissue; surgical instruments; dental and surgical devices consisting of planning guides for determining, before surgery, target positions and intended depths of insertion of dental implants, and in models intended for use in the dental implant sector

International Class(es): 010 - Primary Class

U.S Class(es): 026, 039, 044

Class Status: ACTIVE

Basis: 66(a)

For: Medical and dental surgery services; professional consulting and planning in the field of dental surgery

International Class(es): 044 - Primary Class

U.S Class(es): 100, 101

Class Status: ACTIVE

Basis: 66(a)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: No

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: Yes

Currently 66A: Yes

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: Nobel Biocare Services AG

Owner Address: Balz Zimmermann-Strasse 7
CH-8302 Kloten
SWITZERLAND

Legal Entity Type: CORPORATION

State or Country Where Organized: SWITZERLAND

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Susan M. Natland **Docket Number:** NOBELTZ.0261
Attorney Primary Email Address: efiling@knobbe.com **Attorney Email Authorized:** Yes

Correspondent

Correspondent Name/Address: Susan M. Natland
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine, CALIFORNIA 92614
UNITED STATES
Phone: (949) 760-0404 **Fax:** (949) 760-9502
Correspondent e-mail: efiling@knobbe.com **Correspondent e-mail Authorized:** Yes

Domestic Representative

Domestic Representative Name: Milton Oliver **Phone:** 774-521-3058
Fax: 774-521-3062

Prosecution History

Date	Description	Proceeding Number
Dec. 06, 2013	ATTORNEY REVOKED AND/OR APPOINTED	
Dec. 06, 2013	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Apr. 15, 2013	FINAL DECISION TRANSACTION PROCESSED BY IB	
Jun. 22, 2011	FINAL DISPOSITION NOTICE SENT TO IB	
Jun. 22, 2011	FINAL DISPOSITION PROCESSED	68359
May 08, 2011	FINAL DISPOSITION NOTICE CREATED, TO BE SENT TO IB	
Feb. 08, 2011	REGISTERED-PRINCIPAL REGISTER	
Nov. 23, 2010	PUBLISHED FOR OPPOSITION	
Nov. 03, 2010	NOTICE OF PUBLICATION	
Oct. 19, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	70997
Oct. 15, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 14, 2010	TEAS/EMAIL CORRESPONDENCE ENTERED	70997
Oct. 14, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	70997
Oct. 14, 2010	ASSIGNED TO LIE	70997
Oct. 05, 2010	ATTORNEY REVOKED AND/OR APPOINTED	
Oct. 05, 2010	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Oct. 05, 2010	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Aug. 19, 2010	NEW REPRESENTATIVE AT IB RECEIVED	
Jul. 02, 2010	REFUSAL PROCESSED BY IB	
Jun. 01, 2010	NON-FINAL ACTION MAILED - REFUSAL SENT TO IB	
Jun. 01, 2010	REFUSAL PROCESSED BY MPU	68359
May 29, 2010	NON-FINAL ACTION (IB REFUSAL) PREPARED FOR REVIEW	
May 28, 2010	NON-FINAL ACTION WRITTEN	78324
May 27, 2010	ASSIGNED TO EXAMINER	78324
May 18, 2010	APPLICATION FILING RECEIPT MAILED	
May 14, 2010	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 13, 2010	SN ASSIGNED FOR SECT 66A APPL FROM IB	

International Registration Information (Section 66a)

International Registration Number: 1036397

International Registration Date: Feb. 23, 2010

Priority Claimed Flag: Yes

Date of Section 67 Priority Claim: Aug. 26, 2009

Intl. Registration Status: REQUEST FOR EXTENSION OF PROTECTION PROCESSED

Date of International Registration Status: May 13, 2010

Notification of Designation Date: May 13, 2010

Date of Automatic Protection: Nov. 13, 2011

International Registration Renewal Date: Feb. 23, 2020

First Refusal Flag: Yes

TM Staff and Location Information

TM Staff Information - None File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Feb. 08, 2011

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: [91206395](#)

Filing Date: Aug 03, 2012

Status: Terminated

Status Date: Oct 09, 2012

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: Mauro Marincola

Correspondent Address: CHARLES HIEKEN
FISH & RICHARDSON PC
ONE MARINA PARK DRIVE
BOSTON CA , 02210-1878
UNITED STATES

Correspondent e-mail: info@trademarks411.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
FOUR FOR ALL	Abandoned - After Inter-Partes Decision	85484770	

Plaintiff(s)

Name: Nobel Biocare Services AG

Correspondent Address: SUSAN M NATLAND
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STRTEET, 14TH FLOOR
IRVINE CA , 92614
UNITED STATES

Correspondent e-mail: efiling@knobbe.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
ALL-ON-4	Registered	79081733	3916307

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Aug 03, 2012	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Aug 03, 2012	Sep 12, 2012
3	PENDING, INSTITUTED	Aug 03, 2012	
4	NOTICE OF DEFAULT	Oct 02, 2012	
5	WITHDRAWAL OF APPLICATION	Sep 17, 2012	
6	BOARD'S DECISION: SUSTAINED	Oct 09, 2012	
7	TERMINATED	Oct 09, 2012	

United States of America
United States Patent and Trademark Office

ALL-ON-4

Reg. No. 3,916,307

Registered Feb. 8, 2011

Int. Cls.: 10 and 44

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

NOBEL BIOCARE SERVICES AG (SWITZERLAND CORPORATION)
BALZ ZIMMERMANN-STRASSE 7
CH-8302 KLOTEN
SWITZERLAND

FOR: DENTAL INSTRUMENTS, NAMELY, PICKS, BURRS; MEDICAL INSTRUMENTS FOR USE IN CUTTING TISSUE; SURGICAL INSTRUMENTS; DENTAL AND SURGICAL DEVICES CONSISTING OF PLANNING GUIDES FOR DETERMINING, BEFORE SURGERY, TARGET POSITIONS AND INTENDED DEPTHS OF INSERTION OF DENTAL IMPLANTS, AND IN MODELS INTENDED FOR USE IN THE DENTAL IMPLANT SECTOR, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FOR: MEDICAL AND DENTAL SURGERY SERVICES; PROFESSIONAL CONSULTING AND PLANNING IN THE FIELD OF DENTAL SURGERY, IN CLASS 44 (U.S. CLS. 100 AND 101).

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

PRIORITY DATE OF 8-26-2009 IS CLAIMED.

OWNER OF INTERNATIONAL REGISTRATION 1036397 DATED 2-23-2010, EXPIRES 2-23-2020.

SER. NO. 79-081,733, FILED 2-23-2010.

DAVID MURRAY, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office