

ESTTA Tracking number: **ESTTA704978**

Filing date: **10/28/2015**

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	ADG, LLC
Granted to Date of previous extension	10/28/2015
Address	300 EAST LONG LAKE ROAD BLOOMFIELD HILLS, MI 48304 UNITED STATES
Attorney information	Linda Monge Callaghan FISHMAN STEWART YAMAGUCHI PLLC 39533 Woodward Ave. Ste. 250 BLOOMFIELD HILLS, MI 48304 UNITED STATES tmdocketing@raderfishman.com Phone:2485940600

Applicant Information

Application No	85658932	Publication date	06/30/2015
Opposition Filing Date	10/28/2015	Opposition Period Ends	10/28/2015
Applicant	Smile Expressions P.A. 3027 Rolling Hills Ln. Apopka, FL 32712 UNITED STATES		

Goods/Services Affected by Opposition

Class 044. First Use: 2008/12/20 First Use In Commerce: 2009/03/01 All goods and services in the class are opposed, namely: Dentistry services, including periodontics, endodontics, restorative dentistry, prosthodontics, oral surgery, diagnostic dentistry, including x-rays, orthodontics, oral pathology, dental treatment planning and consultation, cosmetic surgery, skin treatment, including microdermabrasion and injection of dermal fillers, teeth in a day, wisdom teeth removal, dental implants, cosmetic dentistry and teeth whitening services
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Grounds for Opposition


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

U.S. Registration No.	2412950	Application Date	11/02/1998
Registration Date	12/12/2000	Foreign Priority Date	NONE

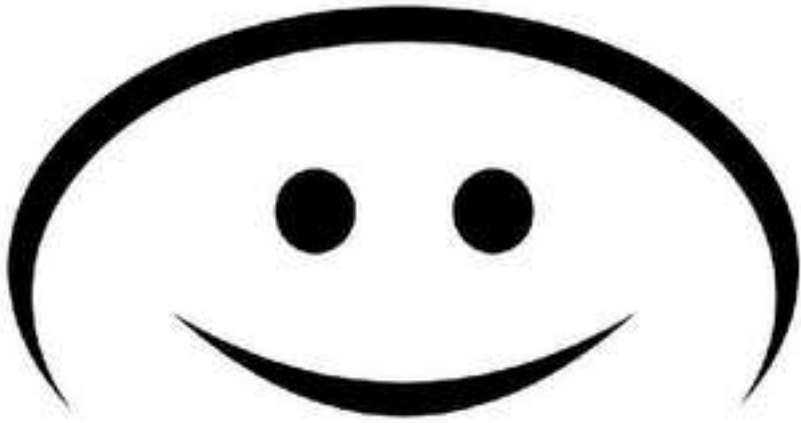
Word Mark	GREAT EXPRESSIONS
Design Mark	GREAT EXPRESSIONS
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2000/01/00 First Use In Commerce: 2000/02/00 oral hygiene products, namely, non-medicated mouthwashes and dentifrices Class 010. First use: First Use: 2000/01/00 First Use In Commerce: 2000/02/00 oral hygiene products, namely, flossing instruments and tongue scrapers Class 021. First use: First Use: 2000/01/00 First Use In Commerce: 2000/02/00 oral hygiene products, namely, toothbrushes Class 042. First use: First Use: 2000/01/00 First Use In Commerce: 2000/02/00 dentistry services


U.S. Registration No.	2407182	Application Date	02/12/1999
Registration Date	11/21/2000	Foreign Priority Date	NONE

Word Mark	GREAT EXPRESSIONS DENTAL CENTERS
Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 2000/01/00 First Use In Commerce: 2000/01/00 DENTISTRY SERVICES

U.S. Registration	4256157	Application Date	09/22/2011
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No.			
Registration Date	12/11/2012	Foreign Priority Date	NONE
Word Mark	GREAT EXPRESSIONS DENTAL CENTERS		
Design Mark			
Description of Mark	The mark consists of the terms "GREAT EXPRESSIONS DENTAL CENTERS" set forth to the right of a stylized face design all in the color of blue.		
Goods/Services	Class 044. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Dentistry services		

U.S. Registration No.	3261027	Application Date	08/31/2006
Registration Date	07/10/2007	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 2000/01/00 First Use In Commerce: 2000/01/00 Dentistry		

U.S. Registration No.	3258754	Application Date	08/31/2006
Registration Date	07/03/2007	Foreign Priority Date	NONE
Word Mark	LOOK FOR THE SMILE ABOVE OUR NAME		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 044. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Dentistry

U.S. Registration No.	4839586	Application Date	09/04/2014
Registration Date	10/27/2015	Foreign Priority Date	NONE

Word Mark	SMILE PROTECTION PLAN
Design Mark	SMILE PROTECTION PLAN

Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2004/00/00 First Use In Commerce: 2004/00/00 membership program providing discounts in the field of dental care services Class 044. First use: First Use: 2004/00/00 First Use In Commerce: 2004/00/00 Dental care services in the nature of dentist services

Attachments	75580820#TMSN.png(bytes) 75639907#TMSN.png(bytes) 85429621#TMSN.png(bytes) 78965102#TMSN.png(bytes) 78965082#TMSN.png(bytes) 86385613#TMSN.png(bytes) R1356430.PDF(204029 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	/Linda Monge Callaghan/
Name	Linda Monge Callaghan
Date	10/28/2015

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

ADG, LLC,)	
)	
Opposer,)	
)	Opposition No. _____
v.)	Application Serial No. 85/658,932
)	Mark: SMILE EXPRESSIONS
SMILE EXPRESSIONS P.A.,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

ADG, LLC, a Michigan limited liability company, at 300 East Long Lake Road, Bloomfield Hills, Michigan 48304 (“Opposer”), believes that it will be damaged by registration of the mark SMILE EXPRESSIONS of Application Serial No. 85/658,932 (“Application”) by Smile Expressions P.A. (“Applicant”) for the services recited therein, and hereby opposes the Application on the grounds that (1) the mark is likely to cause confusion, or to cause mistake or to deceive with respect to (a) Opposer’s prior adoption and use of marks formed by or incorporating “GREAT EXPRESSIONS” and/or a “smile design” mark (“SMILE DESIGN”), including but not limited to the marks GREAT EXPRESSIONS, GREAT EXPRESSIONS DENTAL CENTERS, GREAT EXPRESSIONS DENTAL CENTERS & SMILE DESIGN, SMILE DESIGN, LOOK FOR THE SMILE ABOVE OUR NAME and SMILE PROTECTION PLAN (collectively, “Opposer’s GREAT EXPRESSIONS, SMILE DESIGN and SMILE Marks”), and (b) Opposer’s prior registrations for Opposer’s GREAT EXPRESSIONS, SMILE DESIGN and SMILE Marks, as identified below (collectively, “Opposer’s GREAT EXPRESSIONS, SMILE DESIGN and SMILE Registrations”).

As grounds for the opposition, Opposer states as follows:

1. Opposer, through over 200 dental professional offices located in multiple states, is extensively engaged in providing goods and services in the dental field, including providing dentistry services (“Opposer’s Goods and Services”).

2. In connection with Opposer's Goods and Services, Opposer has used Opposer's GREAT EXPRESSIONS, SMILE DESIGN and SMILE Marks. Opposer has continuously used one or more of these marks in commerce since at least as early as January 2000.

3. As a result of the quality of Opposer's Goods and Services and the widespread promotion thereof under Opposer's GREAT EXPRESSIONS, SMILE DESIGN and SMILE Marks, Opposer's Goods and Services have met with substantial commercial success and customer recognition. As a further result, Opposer's GREAT EXPRESSIONS, SMILE DESIGN and SMILE Marks have become symbols of Opposer, its quality goods and services and its goodwill.

4. In recognition of the valuable rights in and to "Opposer's GREAT EXPRESSIONS, SMILE DESIGN and SMILE Marks, the U.S. Patent and Trademark Office granted Opposer's GREAT EXPRESSIONS, SMILE DESIGN and SMILE Registrations:

- a. Registration No. 2412950 dated December 12, 2000 for the mark GREAT EXPRESSIONS for "*oral hygiene products, namely, non-medicated mouthwashes and dentifrices,*" in Class 3, "*oral hygiene products, namely, flossing instruments and tongue scrapers,*" in Class 10, "*oral hygiene products, namely, toothbrushes,*" in Class 21 and "*dentistry services,*" in Class 42;
- b. Registration No. 2407182 dated November 21, 2000 for the mark GREAT EXPRESSIONS DENTAL CENTERS & DESIGN for "*dentistry services,*" in Class 42;
- c. Registration No. 4256157 dated December 11, 2012 for GREAT EXPRESSIONS DENTAL CERNTERS & DESIGN for "*dentistry services,*" in Class 42;
- d. Registration No. 3261027 dated July 10, 2007 for SMILE DESIGN for "*dentistry,*" in Class 44;
- e. Registration No. 3258754 dated July 3, 2007 for LOOK FOR THE SMILE ABOVE OUR NAME for "*dentistry,*" in Class 44; and

f. Registration No. 4839586 dated October 27, 2015 for SMILE PROTECTION PLAN for “*membership program providing discounts in the field of dental care services,*” in Class 35 and “*dental care services in the nature of dentist services,*” in Class 44.

5. Opposer’s Registration Nos. 2412950, 2407182, 3258754 and 3261027 have achieved incontestable status, and therefore constitute conclusive evidence of the validity of the marks, the registrations therefor, Opposer’s ownership of the marks, and its exclusive right to use the marks in commerce. The remaining registrations, although not incontestable, rest on the Principal Register and thus constitute *prima facie* evidence of the validity of the registered marks, the registrations therefor, Opposer’s ownership thereof, and its exclusive right to use the marks in commerce. Notwithstanding Opposer’s prior use of Opposer’s GREAT EXPRESSIONS, SMILE DESIGN and SMILE Marks and Opposer’s GREAT EXPRESSIONS, SMILE DESIGN and SMILE Registrations, on June 22, 2012, Applicant filed the Application seeking registration of the mark SMILE EXPRESSIONS on the Principal Register for “*dentistry services, including periodontics, endodontics, restorative dentistry, prosthodontics, oral surgery, diagnostic dentistry, including x-rays, orthodontics, oral pathology, dental treatment planning and consultation, cosmetic surgery, skin treatment, including microdermabrasion and injection of dermal fillers, teeth in a day, wisdom teeth removal, dental implants, cosmetic dentistry and teeth whitening services,*” in Class 44 (collectively, “Applicant’s Services”), claiming a date of first use of December 20, 2008 and a date of first use in commerce of March 1, 2009.

6. Prior to the filing date and claimed dates of first use and first use in commerce recited in the Application, Opposer used Opposer’s GREAT EXPRESSIONS, SMILE DESIGN and SMILE Marks, in commerce and Opposer’s Registration Nos. 2412950, 2407182, 3258754 and 3261027 issued and achieved incontestable status.

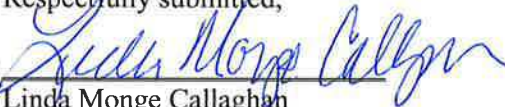
7. The mark of the Application is at least similar to Opposer’s GREAT EXPRESSIONS, SMILE DESIGN and SMILE Marks. Further, Applicant’s Services are identical and/or similar and related to Opposer’s Goods and Services. In view thereof, purchasers and others are likely to mistakenly

assume that Applicant's Services originate from, are sponsored by or are in some way associated with Opposer. The mark of the Application so resembles Opposer's GREAT EXPRESSIONS, SMILE DESIGN and SMILE Marks and Opposer's GREAT EXPRESSIONS, SMILE DESIGN and SMILE Registrations as to be likely to cause confusion, or to cause mistake or to deceive. Accordingly, Opposer is likely to be damaged by registration of the mark of the Application for the services recited therein.

WHEREFORE, Opposer prays that the Application be refused registration, that no registration be issued thereon to Applicant and that this Opposition be sustained in favor of Opposer.

A filing fee for the Notice of Opposition in the amount of \$300 should be charged to Deposit Account No. 18-0013. Any additional fees required should be charged to the same account.

Dated: October 28, 2015

Respectfully submitted,
By: 
Linda Monge Callaghan
Michael D. Fishman
FISHMAN STEWART YAMAGUCHI
Attorneys for Opposer
39533 Woodward Avenue, Suite 250
Bloomfield Hills, Michigan 48304
Telephone: (248) 594-0644
Facsimile: (248) 594-0610

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing *Notice of Opposition* upon Applicant by causing a true and correct copy thereof to be deposited with the U.S. Postal Service via first class mail postage prepaid to the below address on the date shown below:

Joshua M. Gerben, Esq.
Gerben Law Firm, PLLC
1050 Connecticut Ave NW
10th Floor
Washington, D.C. 20036

Date: October 28, 2015


Linda Monge Callaghan