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

Proceeding	91236148
Party	Defendant Scrip, Inc.
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Date	09/22/2017
Attachments	ScripMedical Answer.pdf(27594 bytes)

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

Serial No.: 87/201,304

Mark: The logo for SCRIPMEDICAL, where "SCRIP" is in a lighter, outlined font and "MEDICAL" is in a darker, solid font.

SCRIPPSHEALTH,)

Opposer,)

v.)

SCRIP, INC.,)


Applicant.)

Opposition No. 91236148

ANSWER TO NOTICE OF OPPOSITION

Applicant, Scrip, Inc. (“Applicant”), hereby answers the Notice of Opposition filed by ScrippsHealth on July 5, 2017, as follows:

1. Applicant admits that Opposer is identified as the owner of Reg. No. 2,066,118 for SCRIPPS HEALTH, and that USPTO records show the registration issued June 3, 1997, and later achieved incontestable status (i.e., a Section 15 affidavit was filed). Applicant lacks knowledge or information sufficient to form a belief as to any remaining allegations in paragraph 1.

2. Applicant admits the allegations in paragraph 2 but notes for clarification that the mark for which Applicant filed application Serial No. 87/201,304 is not SCRIPMEDICAL in standard-character format; it is the design mark , which is described in the application as follows: “The mark consists of the word “SCRIPMEDICAL” in a particular font with the “MEDICAL” portion of the mark in a darker font than the “SCRIP” portion.

3. Applicant admits that Opposer is identified as the owner of an incontestable service mark registration for SCRIPPS HEALTH, Reg. No. 2,066,118 in International Classes 41 and 42 and that the Class 42 services identified in those records are as stated in paragraph 3. Applicant admits that Exhibit A to the Notice of Opposition appears to be a copy of the Registration Certificate and TSDR record for Reg. No. 2,066,118. Applicant lacks knowledge or information sufficient to form a belief as to any remaining allegations in paragraph 3.

4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4.

5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5.

6. Applicant admits the allegations in paragraph 6.

7. Applicant denies the allegations in paragraph 7.

8. Applicant admits that its services are directed to the medical and healthcare services field. Applicant lacks knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 8.

9. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9.

10. Applicant denies the allegations in paragraph 10.

11. Applicant denies the allegations in paragraph 11.

12. Applicant lacks knowledge or information sufficient to form a belief as to the truth of Opposer's allegation that it believes it will be damaged by the registration of application Serial No. 87/201,304 but denies that Opposer would be damaged by the registration of

application Serial No. 87/201,304. The remaining statements in paragraph 12 are requests for relief and do not constitute factual allegations for which any response by Applicant is required.

Affirmative Defense

Opposer's claims are barred under *Morehouse Manufacturing Corp. v. J. Strickland & Co.*, 407 F.2d 881, 160 USPQ 715, 717 (CCPA 1969), on the basis that Applicant owns existing federal registrations for the mark SCRIP for use in connection with goods and services in the medical/healthcare fields, namely, Reg. Nos. 2,524,415 and 2,515,251, both of which are incontestable. Any similarity between Opposer's SCIPPSHEALTH and Applicant's

SCRIPMEDICAL mark are due to the fact that they both start with the letters S-C-R-I-P. Because Opposer has not challenged these prior registrations—which consist only of the letters S-C-R-I-P in standard-character form for goods or services in the medical/healthcare

field—Opposer cannot be damaged by the registration of SCRIPMEDICAL.

WHEREFORE, Applicant respectfully requests that Opposer's Opposition be denied, that judgment be entered in Applicant's favor, and that Application Serial No. 87/201,304 be passed to registration.

Dated: September 22, 2017

Respectfully submitted,

/Jeffrey A. Wakolbinger/
One of the attorneys for Opposer

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Certificate of Service

I hereby certify that on September 22, 2017, a true and complete copy of the foregoing Answer was served on Barry F. Soalt, counsel for Opposer, by email to the following email addresses:

calendaring@procopio.com
barry.soalt@procopio.com
geena.jackson@procopio.com

/Jeffrey A. Wakolbinger/