

ESTTA Tracking number: **ESTTA945080**

Filing date: **01/03/2019**

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

Proceeding	91245121
Party	Defendant Alzheimer's New Jersey
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Submission	Answer
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Date	01/03/2019
Attachments	Answer to Notice of Opposition.PDF(54471 bytes)

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

ALZHEIMER’S DISEASE AND RELATED
DISORDERS ASSOCIATION,

Opposition No. 91245121

Opposer,

Mark:

v.

WALK TO FIGHT ALZHEIMER’S

ALZHEIMER’S NEW JERSEY,

Applicant.

ANSWER TO NOTICE OF OPPOSITION WITH AFFIRMATIVE DEFENSES

The following is the Answer of Applicant, Alzheimer’s New Jersey (the “Applicant”), owner of Federal Trademark Application Serial No. 87797112 for the mark WALK TO FIGHT ALZHEIMER’S (hereinafter the “Applicant’s Mark”), by and through its Counsel, Inglesino, Webster, Wyciskala & Taylor, LLC, to the Notice of Opposition filed on December 4, 2018 by Alzheimer’s Disease and Related Disorders Association (hereinafter the “Opposer”). Applicant hereby states as follows:

1. With respect to paragraph 1 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies same.
2. With respect to paragraph 2 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies same.
3. With respect to paragraph 3 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations, specifically

whether Opposer is the current correct and proper owner of the claimed registration and whether the registration is currently valid and subsisting. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

4. With respect to paragraph 4 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies same.

5. With respect to paragraph 5 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to Opposer's date of first use for its mark; whether Opposer is the current correct and proper owner of the claimed mark, and whether such registration is currently valid and subsisting, therefore, Applicant is without knowledge and information sufficient to form a belief as to the allegations as written and must deny.

6. With respect to paragraph 6 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to Opposer's date of first use for its mark; whether Opposer is the current correct and proper owner of the claimed mark, and whether such registration is currently valid and subsisting, therefore, Applicant is without knowledge and information sufficient to form a belief as to priority and must deny.

7. With respect to paragraph 7 of the Notice of Opposition, Applicant denies the allegations therein.

8. With respect to paragraph 8 of the Notice of Opposition, Applicant admits the allegations contained therein.

9. With respect to paragraph 9 of the Notice of Opposition, Applicant admits the allegations contained therein.

10. With respect to paragraph 10 of the Notice of Opposition, Applicant denies the allegations contained therein.

11. With respect to paragraph 11 of the Notice of Opposition, Applicant admits that Applicant's Mark features the words "Walk to Fight" but denies the remaining allegations contained therein.

12. With respect to paragraph 12 of the Notice of Opposition, Applicant denies the allegations contained therein.

13. With respect to paragraph 13 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies same.

14. With respect to paragraph 14 of the Notice of Opposition, Applicant denies the allegations contained therein.

15. With respect to paragraph 15 of the Notice of Opposition, Applicant denies the allegations contained therein.

16. With respect to paragraph 16 of the Notice of Opposition, Applicant denies the allegations contained therein.

AFFIRMATIVE DEFENSES

17. The Notice of Opposition fails to state a claim upon which relief can be granted.

18. Applicant alleges on information and belief that as a result of Opposer's own acts and/or omissions, the opposition is barred by the doctrine of laches.

19. Applicant alleges on information and belief that the opposition is barred by the doctrine of estoppel.

20. Applicant alleges on information and belief that as a result of its own acts and omissions, Opposer has waived any right to pursue its opposition.

21. Applicant alleges on information and belief that the opposition is barred by the doctrine of unclean hands.

22. Applicant alleges on information and belief that the opposition is barred by the doctrine of acquiescence.

23. Applicant's mark is unique and distinctive from Opposer's mark.

24. The wording in Applicant's mark and Opposer's mark are different.

25. Applicant's mark and Opposer's mark are different in appearance.

26. Opposer's mark contains the word "END" which is not present in Applicant's mark.

27. Applicant's mark contains the word "FIGHT" which is not present in Opposer's mark.

28. Applicant's mark contains the words "Alzheimer's New Jersey" above the logo, which clearly identifies the entity that the mark is associated with.

29. The color purple is used in numerous trademarks for organizations that provide services for people dealing with the disease referred to as Alzheimer's.

30. The word "Walk" is registered in numerous trademarks in connection with various charitable organizations that sponsor walks to raise funds for their causes.

31. Opposer's mark does not qualify for anti-dilution protection under the Lanham Act because Owner's mark is not famous.

32. Applicant's mark and Opposer's mark are not likely to cause confusion, mistake or deception to customers.

33. Applicant's mark and Opposer's mark are not likely to disparage or falsely suggest a trade connection between Opposer and Applicant.

34. Applicant's mark and Opposer's mark are not confusingly similar in appearance, sound, connotation or meaning.

35. Applicant expressly reserves the right to plead additional affirmative and other defenses should any such defenses be revealed by discovery in this case.

WHEREFORE, Applicant prays that the Trademark Trial and Appeal Board reject the Notice of Opposition and permit registration of Applicant's Mark in Application Serial Number 87797112 in the United States Patent and Trademark Office.

Dated: January 3, 2019

Respectfully submitted,

By: /s/ Lisa D. Taylor
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CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2019, Joni Noble McDonnell, Esq., served a true and complete copy of the foregoing Answer to Notice of Opposition by electronic mail upon:

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Attorney for Opposer
Alzheimer's Disease and Related Disorders Association

By: /s/ Lisa D. Taylor
Lisa D. Taylor, Esq.