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

Proceeding	91246516
Party	Defendant Applied Statistics & Management Inc.
Correspondence Address	LINDA H. LIU KNOBBE MARTENS OLSON & BEAR, LLP 2040 MAIN STREET, 14TH FLOOR IRVINE, CA 92614 efiling@knobbe.com no phone number provided
Submission	Answer
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Date	04/01/2019
Attachments	2019-04-01 Answer to Notice of Opposition - ASMINC.060M.pdf(235683 bytes)

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

ALIGNMENT HEALTHCARE USA, LLC,)	Opposition No.: 91246516
)	
)	Serial No.: 87/790123
Opposer,)	Mark: AIVA
v.)	
)	
APPLIED STATISTICS & MANAGEMENT INC.,)	
)	
Applicant.)	
)	

ANSWER TO NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Arlington, VA 22313-1451

Dear Sir or Madam:

Applicant Applied Statistics & Management Inc. (“Applicant”), a California corporation, having a place of business at 32848 Wolf Store Road, Temecula, California 92592, hereby answers the Notice of Opposition (“Opposition”) filed by Alignment Healthcare USA, LLC (“Opposer”) against Applicant’s U.S. Trademark Application Serial No. 87/790123 for the mark AIVA (“Applicant’s Application”). Answering the unnumbered first paragraph of the Opposition, Applicant denies that Opposer will be damaged by registration of Applicant’s Application. The numbered paragraphs of this Answer correspond to the numbered paragraphs of the Opposition.

1. Answer Paragraph 1 of the Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore, on that basis, denies these allegations.

2. Answering Paragraph 2 of the Opposition, Applicant admits that the United States Patent and Trademark Office (“USPTO”) records show that U.S. Trademark Application Serial No. 87/405879 for the mark AVA was filed by Opposer on April 10, 2017 and that a notice of allowance was issued for U.S. Trademark Application Serial No. 87/405879 on October 3, 2017. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the other allegations in Paragraph 2 of the Opposition, and therefore, on that basis denies each and every such allegation.

3. Answering Paragraph 3 of the Opposition, Applicant admits that the USPTO records show that U.S. Trademark Application Serial No. 87/405879 for the mark AVA was filed by Opposer on April 10, 2017 and that the filing basis for this application was Section 1(b). Applicant admits that a printout from the USPTO’s Trademark Status and Document Retrieval system for U.S. Trademark Application Serial No. 87/405879 is attached to the Opposition as Exhibit A. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the other allegations contained in Paragraph 3 of the Opposition, and therefore, on that basis denies each and every such allegation.

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Applicant's Trademark Application¹

4. Answering Paragraph 4 of the Opposition, Applicant admits the allegations contained therein.

5. Answering Paragraph 5 of the Opposition, Applicant admits the allegations contained therein.

6. Answering Paragraph 6 of the Opposition, Applicant denies the allegation that it has not started using its AIVA mark in commerce. The remaining allegations in this Paragraph contain statements of the law for which no responsive pleading is required.

7. Answering Paragraph 7 of the Opposition, Applicant denies the allegations contained therein.

8. Answering Paragraph 8 of the Opposition, Applicant denies the allegations contained therein.

9. Answering Paragraph 9 of the Opposition, Applicant denies the allegations contained therein.

10. Answering Paragraph 10 of the Opposition, Applicant denies the allegations contained therein.

11. Answering Paragraph 11 of the Opposition, Applicant denies the allegations contained therein.

12. Answering Paragraph 12 of the Opposition, Applicant denies the allegations contained therein.

¹ To facilitate the Board's comparison of the allegations in the Opposition and Applicant's responses thereto, Applicant has incorporated the headings that appear in the Opposition. Applicant does not necessarily agree with the characterizations in such headings and does not waive any rights to object to such characterizations or their implications.

13. Answering Paragraph 13 of the Opposition, Applicant denies the allegations contained therein.

14. Answering Paragraph 14 of the Notice of Opposition, Applicant denies the allegations contained therein.

15. Answering Paragraph 15 of the Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore, on that basis, denies these allegations.

16. Answering Paragraph 16 of the Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore, on that basis, denies these allegations.

17. Answering Paragraph 17 of the Opposition, Applicant denies the allegations contained therein.

CLAIM FOR RELIEF

Likelihood of Confusion

Section 2(d) of The Lanham Act; 15 U.S.C. §1052(d)

18. Applicant incorporates by reference its answers to Paragraphs 1-17 of the Opposition as though fully set forth herein.

19. Answering Paragraph 19 of the Opposition, this paragraph contains a statement of the law for which no responsive pleading is required.

20. Answering Paragraph 20 of the Opposition, Applicant denies the allegations contained therein.

21. Answering Paragraph 21 of the Opposition, Applicant denies the allegations contained therein.

22. Answering Paragraph 22 of the Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore, on that basis, denies these allegations.

23. Answering Paragraph 23 of the Opposition, this paragraph contains a statement of the law for which no responsive pleading is required.

APPLICANT’S AFFIRMATIVE DEFENSES

Applicant alleges the following affirmative defenses. There may be additional affirmative defenses to the Opposition that are currently unknown to Applicant. Therefore, Applicant reserves the right to amend its Answer to allege any additional affirmative defenses, in the event that discovery of additional information indicates that they are appropriate. Applicant also reserves the right to file counterclaims if grounds for counterclaims are learned by Applicant during the course of the Opposition.

FIRST AFFIRMATIVE DEFENSE

The Opposition fails to state a claim upon which relief may be granted.

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WHEREFORE, Applicant respectfully requests that this Opposition be dismissed with prejudice, that Applicant's U.S. Trademark Application Serial No. 87/790123 proceed to allowance, and that the Board grant any further relief as it shall deem appropriate.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

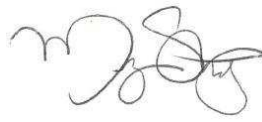
Dated: April 1, 2019

By: /Nicole R. Townes/
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APPLIED STATISTICS & MANAGEMENT
INC.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** upon counsel for ALIGNMENT HEALTHCARE USA, LLC via electronic mail at the email addresses below on April 1, 2019.

roines@rutan.com, mwilliams@rutan.com, trademarks@rutan.com



Megan Sheetz

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