

ESTTA Tracking number: **ESTTA997832**

Filing date: **08/27/2019**

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

Proceeding	91249854
Party	Defendant Nicole Prause
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Date	08/27/2019
Attachments	Answer to Opposition.pdf(177573 bytes )

2019  
8956-147203

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

Gary Wilson )  
Opposer, )  
v. )  
Nicole Prause, )  
Applicant. )

Serial No. 88281342  
Filed: January 29, 2019  
Mark: YOURBRAINONPORN  
YOURBRAINONPORN.COM  
YOURBRAINONPORN  
YOURBRAINONPORN.COM YOUR BRAIN  
ON PORN  
Opposition No. 91249854

**ANSWER TO OPPOSITION**

Dr. Nicole Prause (“Applicant”) files this Answer to the Opposition filed by Gary Wilson to the above Trademark Application filed by Gary Wilson:

**COUNT 1: PRIORITY AND LIKELIHOOD OF CONFUSION**

1. In U.S. Application Serial No. 88281342, filed on January 29, 2019, Applicant seeks Registration on the Principal Register of the YOURBRAINONPORN YOURBRAINONPORN.COM YOURBRAINONPORN YOURBRAINONPORN.COM YOUR BRAIN ON PORN mark for “Conducting clinical trials for others; Conducting clinical trials for others in the field of pornography; Medical and scientific research, namely, conducting clinical trials for others; Providing medical and scientific research information in the field of clinical trials” in International Class 42.

ANSWER: Applicant admits the allegations of paragraph 1.

2. Opposer Gary Wilson provides educational and informational resources and services for

helping with understanding the effects of pornography, learning about pornography addiction, and recovering from porn-related disorders.

ANSWER: Applicant denies the allegations of paragraph 2.

3. Opposer adopted and began using the YOUR BRAIN ON PORN trademark and trade name at least as early as 2010, in U.S. commerce in connection with providing his educational and informational services relating to helping with understanding the effects of pornography, learning about and addressing pornography addiction, and recovering from internet-porn related problems, as well as for his website providing resources about the effects of viewing pornography and ways to address pornography-related disorders.

ANSWER: Applicant denies the allegations of paragraph 3.

4. Opposer, since at least as early as 2014, also began using YOUR BRAIN ON PORN trademark and trade name to identify the source of his series of publications featuring information about neuroscience, psychology and behavioral addiction and the effects of pornography on users. Opposer has sold more than 44,000 copies of his YOUR BRAIN ON PORN brand publications in English to date, which publications have also been translated into multiple languages and distributed domestically and internationally.

ANSWER: Applicant denies the allegations of paragraph 4.

5. Opposer owns and registered the domain name YourBrainOnPorn.com on November 12, 2010. Since at least as early as November, 2010, Opposer has continuously used the YourBrainOnPorn.com domain name as his web address featuring his YOUR BRAIN ON PORN trademark and trade name and as the gateway to his YOUR BRAIN ON PORN brand of informational and educational services, resources, and publications. Opposer also features the YourBrainOnPorn.com trademark in connection with his services on his website available at that

web address.

ANSWER: Applicant admits that Opposer has registered the domain name YourBrainOnPorn.com, and has used that domain name thereafter, but denies the remaining allegations of paragraph 5.

6. Opposer owns U.S. Application Serial No. 88391933, filed on April 18, 2019, for the mark YOUR BRAIN ON PORN for use on and in connection with:

Audiobooks in the fields of psychology and addiction and effects of pornography on users; audiobooks in the fields of psychology and addiction and effects of pornography on users; downloadable electronic books in the fields of psychology and addiction and effects of pornography on users; downloadable electronic books in the fields of psychology and addiction and effects of pornography on users in International Class 9; Printed books in the fields of psychology and addiction and effects of pornography on users and its potential risks, including addiction and unwanted sexual conditioning in International Class 16; and Education services in the fields of psychology, sociology, pathology, sexology, neuroscience and addiction and risks of and effects on users of viewing pornography; providing an educational website, which also acts as a clearinghouse for resources, namely, educational videos, curated lists of peer-reviewed research organized by topic, publications in the nature of peer-reviewed research, critiques of questionable research, and mainstream articles, all pertaining to pornography's physiological, sociological and psychological effects on users and its potential risks or behavioral addiction generally; Providing a website featuring resources, namely, non-downloadable self-reports and blogs by people who experiment with quitting Internet porn; providing an educational website that acts as a vehicle for gathering research data in the fields of psychology,

sociology, pathology, sexology, and neuroscience; research in the fields of in the fields of psychology, sociology, pathology, sexology, and neuroscience in International Class 41.

ANSWER: Applicant admits that Opposer has filed U.S. Application Serial No. 88391933 for a trademark, which has not been approved, and denies the remaining allegations of paragraph 6.

7. Opposer owns also owns U.S. Application Serial No. 88391938, filed on April 18, 2019, for the mark YourBrainOnPorn.com for use in connection with education services in the fields of psychology, sociology, pathology, sexology, neuroscience and addiction and risks of and effects on users of viewing pornography; providing an educational website, which also acts as a clearinghouse for resources, namely, educational videos, curated lists of peer-reviewed research organized by topic, publications in the nature of peer-reviewed research, critiques of questionable research, and mainstream articles, all pertaining to pornography's physiological, sociological and psychological effects on users and its potential risks or behavioral addiction generally; providing a website featuring resources, namely, non-downloadable self-reports and blogs by people who experiment with quitting Internet porn; providing an educational website that acts as a vehicle for gathering research data in the fields of psychology, sociology, pathology, sexology, and neuroscience; research in the fields of in the fields of psychology, sociology, pathology, sexology, and neuroscience in International Class 41.

ANSWER: Applicant admits that Opposer has filed U.S. Application Serial No. 88391938 for a trademark, which has not been approved, and denies the remaining allegations of paragraph 7.

8. Opposer uses and has used the YOUR BRAIN ON PORN mark and trade name in connection with providing his educational and informational services of helping with understanding the effects of pornography, learning about and addressing pornography addiction, recovering from internet-porn related problems, and providing information in the fields of psychology, sociology, pathology, sexology, neuroscience and addiction and risks of and effects on users of viewing pornography, since at least as early as 2010, and long before Applicant can make any claim to its YOURBRAINONPORN YOURBRAINONPORN.COM YOURBRAINONPORN YOURBRAINONPORN.COM YOUR BRAIN ON PORN mark.

ANSWER: Applicant denies the allegations of paragraph 8.

9. Upon information and belief, the Applicant cannot claim priority in the U.S. for its mark in U.S. Application Serial No. 88281342 earlier than the January 29, 2019, filing date of that application.

ANSWER: Applicant denies the allegations of paragraph 9.

10. Opposer has expended substantial monies and effort in marketing, advertising, and promoting its YOUR BRAIN ON PORN trademark and trade name in connection with his services in the United States.

ANSWER: Applicant denies the allegations of paragraph 10.

11. By reason of longstanding and extensive marketing, advertising and promotion of the services in connection with the YOUR BRAIN ON PORN trademark and trade name and the YourBrainOnPorn.com mark, and the high quality of those services, the YOUR BRAIN ON PORN trademark and trade name and the YourBrainOnPorn.com mark have come to represent extremely valuable goodwill to Opposer.

ANSWER: Applicant denies the allegations of paragraph 11.

12. On information and belief, Applicant's intended adoption and use of Applicant's YOURBRAINONPORN YOURBRAINONPORN.COM YOURBRAINONPORN YOURBRAINONPORN.COM YOUR BRAIN ON PORN mark has been with actual or constructive knowledge of the prior use by Opposer of the YOUR BRAIN ON PORN mark and trade name and of Opposer's website at the web address YourBrainOnPorn.com.

ANSWER: Applicant denies the allegations of paragraph 12.

13. Applicant's intended adoption and use of Applicant's YOURBRAINONPORN YOURBRAINONPORN.COM YOURBRAINONPORN YOURBRAINONPORN.COM YOUR BRAIN ON PORN mark has been without the consent or permission of Opposer.

ANSWER: Applicant admits the allegations of paragraph 13.

14. The services specified in Applicant's trademark application for the YOURBRAINONPORN YOURBRAINONPORN.COM YOURBRAINONPORN YOURBRAINONPORN.COM YOUR BRAIN ON PORN mark are related to the products and services identified in the applications for the YOUR BRAIN ON PORN and YOURBRAINONPORN.COM trademarks and provided by Opposer in connection with his YOUR BRAIN ON PORN trademark and trade name and his YourBrainOnPorn.com mark.

ANSWER: Applicant denies the allegations of paragraph 14.

15. On information and belief, Applicant's YOURBRAINONPORN YOURBRAINONPORN.COM YOURBRAINONPORN YOURBRAINONPORN.COM YOUR BRAIN ON PORN services will be promoted and provided to the same or similar consumers as the consumers that of Opposer's publications and of Opposer's services and through the same channels of trade as those used by Opposer in connection with his offering and providing the YOUR BRAIN ON PORN and YOURBRAINONPORN.COM goods and services.

ANSWER: Applicant denies the allegations of paragraph 15.

16. Applicant's YOURBRAINONPORN YOURBRAINONPORN.COM YOURBRAINONPORN YOURBRAINONPORN.COM YOUR BRAIN ON PORN mark features the phrase "Your Brain on Porn" and is confusingly similar in appearance, sound, and meaning to the Opposer's YOUR BRAIN ON PORN trademark and trade name and the YourBrainOnPorn.com mark.

ANSWER: Applicant denies the allegations of paragraph 16.

17. Applicant's YOURBRAINONPORN YOURBRAINONPORN.COM YOURBRAINONPORN YOURBRAINONPORN.COM YOUR BRAIN ON PORN mark in U.S. Application No. 88281342 is likely to cause confusion, mistake, or deception that Applicant's services are those of Gary Wilson or are otherwise endorsed, sponsored, or approved by Gary Wilson, whereby Gary Wilson will be damaged by the registration of Applicant's YOURBRAINONPORN YOURBRAINONPORN.COM YOURBRAINONPORN YOURBRAINONPORN.COM YOUR BRAIN ON PORN mark on the Principal Register of the USPTO.

ANSWER: Applicant denies the allegations of paragraph 17.

18. During the examination of U.S. Application Serial Nos. 88391933 and 88391938 for Opposer's YOUR BRAIN ON PORN and YourBrainOnPorn.com marks, the USPTO has cited to Applicant's U.S. Application Serial No. 88281342 as a likely source of confusion, thereby interfering with Opposer's efforts to obtain registrations of its YOUR BRAIN ON PORN and YourBrainOnPorn.com marks.

ANSWER: Applicant denies the characterization of the actions taken by the USPTO alleged in paragraph 18.

19. If Applicant is granted registration of its YOURBRAINONPORN YOURBRAINONPORN.COM YOURBRAINONPORN YOURBRAINONPORN.COM YOUR BRAIN ON PORN mark as set forth in the Application No. 88281342, Applicant will thereby obtain the *prima facie* exclusive right to use such mark, and such registration will damage, impair, diminish, and dilute Opposer's goodwill and rights in his YOUR BRAIN ON PORN trademark and trade name and YourBrainOnPorn.com mark causing irreparable injury to Opposer.

ANSWER: Applicant denies the allegations of paragraph 19.

### **REQUEST FOR RELIEF**

WHEREFORE, Applicant prays that the Complaint by Opposer, Gary Wilson, be dismissed.

Respectfully submitted,

Dated: August , 2019  
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