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

Proceeding no.	91272746
Party	Defendant Yes Doctor Corporation
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Date	01/10/2022
Attachments	TTAB Answer to Notice of Opposition filed by Advanced Remote Monitoring LLC.pdf(135626 bytes)

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

ADVANCED REMOTE MONITORING, LLC)	Opposition No.: 91272746
(corrected from Nicholas D. Myers),)	
)	Mark: YES DOCTOR
Opposer,)	
)	Application No. 90514511
v.)	
)	Filed: February 05, 2021
YES DOCTOR CORPORATION,)	
)	Interlocutory Atty.: Andrew P. Baxley
Applicant.)	

CERTIFICATE OF DEPOSIT

I hereby certify that this correspondence is being deposited electronically with the Trademark Trial and Appeal Board on the date shown below.

Dated:01/10/2022

/sgd/ Arnold Mina
Arnold Mina

APPLICANT'S ANSWER TO THE NOTICE OF OPPOSITION

YES DOCTOR CORPORATION ("Applicant"), the owner of the application identified in the heading of this document, in response to the Notice of Opposition dated November 4,

2021, and subsequently amended on November 5, 2021 and November 18, 2021, instituting the opposition proceeding, answers the notice as follows:

As to the first unnumbered paragraph of the Notice of Opposition, Applicant denies that Opposer would be damaged by the registration of the YES DOCTOR mark under U.S. Trademark Application No. 90514511, filed on February 05, 2021. As to the remaining allegations in that unnumbered paragraph, Applicant admits that it owns U.S. Trademark Application No. 90514511, and that its principal business address is 81 Brindisi, Irvine, California 92816.

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 1 of the Notice of Opposition and, therefore, denies the same.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 2 of the Notice of Opposition and, therefore, denies the same.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 3 of the Notice of Opposition and, therefore, denies the same.

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

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 5 of the Notice of Opposition and, therefore, denies the same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 6 of the Notice of Opposition and, therefore, denies the same.

7. Applicant admits that it filed its YES DOCTOR mark under U.S. Trademark Application No. 90514511 with Intent to Use (ITU) basis with the United States Patent and Trademark Office (“USPTO”) on February 5, 2021. Applicant further admits the information contained in Opposer’s Exhibit B in so far as it is consistent with USPTO records. Applicant denies the remaining allegation contained in paragraph 7 of the Notice of Opposition.

8. Applicant admits the averments contained in paragraph 8 of the Notice of Opposition.

9. Applicant admits that it operates a website at www.yesdoctor.com (“Applicant’s Website”). Applicant further admits that it uses the mark YES DOCTOR on Applicant’s Website. Applicant denies the remaining allegation contained in paragraph 9 of the Notice of Opposition.

10. Applicant hereby realleges and incorporates by reference Paragraphs 1 through 9 of this Answer as though fully set forth herein.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 11 of the Notice of Opposition and, therefore, denies the same.

12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 12 of the Notice of Opposition and, therefore, denies the same.

13. Applicant denies the allegations contained in paragraph 13 of the Notice of Opposition.

14. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 14 of the Notice of Opposition and, therefore, denies the same.

15. Applicant denies the allegations contained in paragraph 15 of the Notice of Opposition.

16. Applicant denies the allegations contained in paragraph 16 of the Notice of Opposition.

17. Applicant admits the averments contained in paragraph 17 of the Notice of Opposition.

18. Applicant denies the allegations contained in paragraph 18 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

1. Opposer fails to state a claim upon which relief can be granted.
2. There is no likelihood of confusion, mistake, or suggestion of affiliation or connection between herein Opposer and Applicant because Applicant's "***Downloadable software application for use in marketing and financing of elective medical procedures,***" in International Class 09 are not identical or related with Opposer's "***Online central dispatch security system composed of wireless transmitters and receivers for sending and receiving emergency signals, namely, for health emergency response purposes,***" in International Class 09 or "***Wearable heart monitor***" in International Class 10.

3. There is no likelihood of confusion, mistake or deception because Applicant's identified goods and services are not within the natural scope of expansion of Opposer's identified goods.

4. Opposer's trademark applications are narrowly identified and limited to "***Online central dispatch security system composed of wireless transmitters and receivers for sending and receiving emergency signals, namely, for health emergency response purposes,***" in International Class 09 or "***Wearable heart monitor***" in International Class 10. As such, any trademark and/or service mark rights that Opposer may have are narrowly circumscribed to the specific goods identified in their trademark applications, and thus, would not lead to a likelihood of confusion with Applicant's mark and goods.

5. Opposer's identified goods are not competitive with Applicant's identified goods.

6. Opposer's identified goods and Applicant's identified goods are not marketed through the same channels of trade or industry.

7. Opposer's target customers are different from Applicant's target customers. As such, there is no likelihood of confusion due to lack of overlap among relevant consumers of the parties' goods and services.

8. Opposer has no existing federal trademark registration for the YES DOCTOR mark. Accordingly, Opposer possesses no presumptive and exclusive nationwide right to use the YES DOCTOR mark in connection with its goods and services, nor any collateral right to natural zone of expansion.

9. Opposer's presumptuous claim of trademark right to natural zone of expansion into Applicant's goods and services is speculative and lacks legal and factual foundation.

10. Applicant reserves the right to assert additional affirmative defenses at such time and to the extent warranted by discovery and the factual development of this case.

RELIEF REQUESTED

WHEREFORE, Applicant asserts that Opposer is not entitled to any relief requested in the Notice of Opposition. Applicant therefore requests that the Notice of Opposition be denied in its entirety and that this opposition proceeding be dismissed accordingly.

Dated: January 10, 2022

Respectfully submitted,

/sgd/ Douglas Q. Hahn
Douglas Q. Hahn, Esq.
Attorneys for Applicant

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Applicant's Answer to the Notice of Opposition has been served on Opposer ADVANCED REMOTE MONITORING, LLC (corrected from Nicholas D. Myers) via electronic mail to:

MICHAEL M. KOWSARI, ESQ.
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this 10th day of January 2022.

/sgd/ Arnold V. Mina

Name: Arnold V. Mina