

ESTTA Tracking number: **ESTTA1212254**

Filing date: **05/31/2022**

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

Proceeding no.	91275711
Party	Defendant Evac+Chair North America LLC
Correspondence address	MONICA B. RICHMAN DENTONS US LLP P.O. BOX 1302 CHICAGO, IL 60604 UNITED STATES Primary email: trademarks.us@dentons.com 212-768-5367
Submission	Answer
Filer's name	Robert P. Feinland
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Signature	/Robert P. Feinland/
Date	05/31/2022
Attachments	Applicants Answer and Affirmative Defenses.pdf(224680 bytes )

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

In the Matter of App. Ser. No. 90/535,903  
For the trademark: PARA+EVAC  
Filed on February 19, 2021  
Published in the *Official Gazette* on December 21, 2021

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Evac+Chair International Limited,	:	
	:	
Opposer,	:	
	:	Opposition No. 91275711
v.	:	
	:	
Evac+Chair North America LLC,	:	
	:	
Applicant.	:	
-----X		

**APPLICANT’S ANSWER AND AFFIRMATIVE  
DEFENSES TO NOTICE OF OPPOSITION**

Pursuant to Rules 8(b) and 8(c) of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.106, Applicant, Evac+Chair North America LLC (“ECNA” or “Applicant”), by and through its undersigned counsel, hereby submits the following Answer and Affirmative Defenses in response to the Notice of Opposition filed on April 20, 2022 by Evac+Chair International Limited (“ECI” or “Opposer”) in Opposition No. 91275711 (“Opposition”).

**ANSWER**

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Opposition and, on that basis, denies them.

2. Applicant admits that Opposer filed an application for PAREVAC (the “PAREVAC Mark”) at the United States Patent and Trademark (“USPTO”) (the “PAREVAC Application”), denies the remaining allegations of Paragraph 2 of the Opposition and refers the

Trademark Trial and Appeal Board to the USPTO's TSDR records as the best evidence of the PAREVAC Application.

3. Applicant admits the allegations set forth in Paragraph 3 of the Opposition.

4. Applicant admits that, on its face, copies of the USPTO TESS printout and USPTO assignment database documents for the PAREVAC Mark, as well as the Request for Extension of Protection filed by Opposer at the USPTO appear to be attached as Exhibit A to the Opposition and otherwise denies the allegations set forth in Paragraph 4 of the Opposition.

5. Applicant denies the allegations set forth in Paragraph 5 of the Opposition.

6. Applicant denies the allegations set forth in Paragraph 6 of the Opposition.

7. Applicant denies the allegations set forth in Paragraph 7 of the Opposition.

8. Applicant admits that it filed U.S. Trademark Application Serial No. 90/535,903 (the "PARA+EVAC Application") and refers the Trademark Trial and Appeal Board to the USPTO's TSDR records as the best evidence of such application and prosecution history. Applicant otherwise denies the remaining allegations set forth in Paragraph 8 of the Opposition.

9. Applicant admits the allegations set forth in Paragraph 9 of the Opposition.

10. Applicant admits the allegations set forth in Paragraph 10 of the Opposition.

11. Applicant denies the allegations set forth in Paragraph 11 of the Opposition.

12. Applicant hereby incorporates by reference its responses and denials in Paragraphs 1 through 11 as if fully set forth herein.

13. Applicant denies the allegations set forth in Paragraph 13 of the Opposition.

14. Applicant denies the allegations set forth in Paragraph 14 of the Opposition.

However, as Applicant has priority of the PARA+EVAC Mark, Applicant admits that Opposer's PAREVAC Mark is nearly identical, including in sound, appearance, and commercial impression,

to Applicant's PARA+EVAC Mark. Applicant further admits that Opposer's PAREVAC Mark is simply Applicant's PARA+EVAC Mark with the removal of the plus sign and the combination of "PARA" and "EVAC" into one word.

15. Applicant denies the allegations set forth in Paragraph 15 of the Opposition. However, as Applicant has priority of the PARA+EVAC Mark, Applicant admits that the goods in Opposer's PAREVAC Application are identical to and/or highly similar to the goods in the PARA+EVAC Application, including overlapping goods in Class 10, such as patient lifting apparatus, slings for patient lifting hoists, and stretcher products.

16. Applicant denies the allegations set forth in Paragraph 16 of the Opposition.

17. Applicant denies the allegations set forth in Paragraph 17 of the Opposition.

18. Applicant denies the allegations set forth in Paragraph 18 of the Opposition.

19. Applicant denies the allegations set forth in Paragraph 19 of the Opposition.

20. Applicant denies the allegations set forth in Paragraph 20 of the Opposition.

Applicant denies that Opposer is entitled to any of the relief requested in the WHEREFORE statement in the Notice of Opposition.

### **AFFIRMATIVE DEFENSES**

In further response to the Notice of Opposition, Applicant asserts the following as separate and affirmative defenses. Applicant hereby gives notice that it intends to rely upon such other and further defenses as may become available or apparent during the discovery process in this Opposition and hereby reserves the right to amend its Answer and Affirmative Defenses and to assert any such further defenses by appropriate motion.

**FIRST AFFIRMATIVE DEFENSE**

21. Opposer failed to claim priority under Section 44(d) of the Trademark Act, 15 U.S.C. §1126(d), of its United Kingdom trademark application (UK00003583456) in its PAREVAC Application, as such, the filing date of the PAREVAC Application is July 22, 2021. *See* Exhibit A to the Notice of Opposition. Applicant's filing date for its PARA+EVAC Application is February 19, 2021 and has priority over the PAREVAC Application. Attached hereto as **Exhibit 1** is a true and correct copy of the TSDR record for Applicant's PARA+EVAC Application.

**SECOND AFFIRMATIVE DEFENSE**

22. In view of the priority of Applicant's PARA+EVAC Application, if there is a likelihood of confusion between Opposer and Applicant's marks, as alleged by Opposer, and as asserted by the Trademark Office Examiner during prosecution of the PAREVAC Application, it is Opposer's PAREVAC Mark and later-filed PAREVAC Application which is likely to cause confusion with Applicant's PARA+EVAC Mark and earlier-filed PARA+EVAC Application.

**THIRD AFFIRMATIVE DEFENSE**

23. Opposer has failed to state a claim for which relief can be granted.

WHEREFORE, ECNA respectfully requests that ECI's Opposition be denied in all respects and dismissed with prejudice and for such other relief as the Trademark Trial and Appeal Board deems proper.

Dated: May 31, 2022

Respectfully submitted,

/Robert P. Feinland/

Robert P. Feinland

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*Attorneys for Applicant Evac+Chair North  
America LLC*

**CERTIFICATE OF SERVICE AND FILING**

The undersigned hereby certifies that a copy of the foregoing Applicant's Answer and Affirmative Defenses to the Notice of Opposition was served on counsel of record for Opposer on the date indicated below via e-mail to:

Luna M. Samman  
ARENTFOX SCHIFF LLP  
1717 K Street Northwest  
Washington, DC 20006  
[luna.samman@arentfox.com](mailto:luna.samman@arentfox.com)  
[tmdocket@arentfox.com](mailto:tmdocket@arentfox.com)  
[diana.bae@arentfox.com](mailto:diana.bae@arentfox.com)  
[Carolyn.Himmelfarb@arentfox.com](mailto:Carolyn.Himmelfarb@arentfox.com)

and further certifies that the aforementioned Applicant's Answer and Affirmative Defenses to the Notice of Opposition was filed with the Trademark Trial and Appeal Board on the date indicated below online through the ESTTA system of the United States Patent and Trademark Office.

Dated: May 31, 2022

/Robert P. Feinland/  
\_\_\_\_\_  
Robert P. Feinland

# EXHIBIT 1



Generated on: This page was generated by TSDR on 2022-05-31 14:06:20 EDT

Mark: PARA+EVAC

PARA+EVAC

US Serial Number: 90535903

Application Filing Date: Feb. 19, 2021

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/APPLICATION/Opposition Pending

The pending trademark application has been examined by the Office and was published for opposition, at which time one or more oppositions were filed but they have not yet been decided.

Status: An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Apr. 20, 2022

Publication Date: Dec. 21, 2021

## Mark Information

Mark Literal Elements: PARA+EVAC

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: Safety harnesses other than for vehicles or sports purposes in the nature of patient safety apparatus, namely, safety harnesses, belts and restraints for use with patient carrying, patient lifting, patient handling and patient transporting apparatus

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 038

Class Status: ACTIVE

Basis: 1(b)

For: Orthopedic walkers, namely, carrier seats; orthopedic cushions, namely, chair seats; walkers for use by mobility-impaired individuals, namely, chair seats and carrier seats; patient handling apparatus, namely, stretchers; patient transporting and lifting apparatus, namely, stretchers; stretcher straps; stretcher straps, namely, retaining belts for restraining patients on stretchers; ambulance stretchers; stretchers; medical stretchers; emergency stretchers; patient stretchers; wheeled stretchers; stretchers for patient transport; patient litters in the nature of stretchers; patient examination tables; support mattresses for medical use, namely, mattresses for stretchers; support mattresses for medical use; medical products, namely, cushions and pillows for medical purposes; medical products, namely, seat pads for medical and evacuation chairs; patient lifts; patient safety restraints; patient lifting hoists; respiratory masks for medical purposes, namely, smoke hoods; medical patient treatment chairs; medical apparatus to assist patients into and out of bath tubs; patient monitoring sensors and alarms; hospital beds for use by burn patients; patient moving device, namely, a low friction pad for sliding patients to or from a stretcher and bed; patient hoists; medical apparatus, namely, slings for patient lifting hoists; medical apparatus, namely, assist poles for lifting patients; medical apparatus for the turning of patients; Surgical apparatus and instruments for medical use; stretchers, namely, aeromedical patient transporting apparatus; stretchers, namely, neonatal patient transporting apparatus; stretchers, namely, paediatric patient transporting apparatus

International Class(es): 010 - Primary Class

U.S Class(es): 026, 039, 044

**Class Status:** ACTIVE

**Basis:** 1(b)

**For:** Transport chairs, namely, evacuation chairs; transit chairs, namely, evacuation chairs; transport chairs, namely, medical evacuation chairs; transit chairs, namely, medical evacuation chairs; transport chairs, namely, emergency evacuation; transit chairs, namely, emergency evacuation chairs; chair lifts, namely, stairway evacuation chairs; chair lifts, stairway descent and ascent chairs; transport chairs, namely, medical patient carrying chairs; transit chairs, namely, medical patient carrying chairs; transport chairs, namely, motorized medical and evacuation chairs; patient transporting, transferring, lifting and carrying apparatus, namely, carrying seats and chairs; medical chair lifts; rescue sleds; transport chairs, namely, emergency escape chairs adapted for patients

**International Class(es):** 012 - Primary Class

**U.S Class(es):** 019, 021, 023, 031, 035, 044

**Class Status:** ACTIVE

**Basis:** 1(b)

**For:** Steel cabinets; security cabinets

**International Class(es):** 020 - Primary Class

**U.S Class(es):** 002, 013, 022, 025, 032, 050

**Class Status:** ACTIVE

**Basis:** 1(b)

## Basis Information (Case Level)

**Filed Use:** No

**Currently Use:** No

**Filed ITU:** Yes

**Currently ITU:** Yes

**Filed 44D:** No

**Currently 44E:** No

**Filed 44E:** No

**Currently 66A:** No

**Filed 66A:** No

**Currently No Basis:** No

**Filed No Basis:** No

## Current Owner(s) Information

**Owner Name:** Evac+Chair North America LLC

**Owner Address:** 3000 Marcus Avenue, Suite #3E6  
Lake Success, NEW YORK UNITED STATES 11042

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country Where Organized:** NEW YORK

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** MONICA B. RICHMAN

**Attorney Primary Email Address:** [trademarks.us@dentons.com](mailto:trademarks.us@dentons.com)

**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** MONICA B. RICHMAN  
DENTONS US LLP  
P.O. BOX 1302  
CHICAGO, ILLINOIS UNITED STATES 60604

**Phone:** 212-768-5367

**Fax:** 212-768-6800

**Correspondent e-mail:** [trademarks.us@dentons.com](mailto:trademarks.us@dentons.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

## Prosecution History

Date	Description	Proceeding Number
Apr. 20, 2022	OPPOSITION INSTITUTED NO. 999999	275711
Mar. 18, 2022	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 18, 2022	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	

Mar. 18, 2022	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jan. 20, 2022	EXTENSION OF TIME TO OPPOSE RECEIVED	
Dec. 21, 2021	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Dec. 21, 2021	PUBLISHED FOR OPPOSITION	
Dec. 01, 2021	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Nov. 15, 2021	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 15, 2021	EXAMINER'S AMENDMENT ENTERED	88888
Nov. 15, 2021	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Nov. 15, 2021	EXAMINERS AMENDMENT E-MAILED	6328
Nov. 15, 2021	EXAMINERS AMENDMENT -WRITTEN	95882
Jul. 07, 2021	NOTIFICATION OF EXAMINER'S AMENDMENT/PRIORITY ACTION E-MAILED	6326
Jul. 07, 2021	EXAMINER'S AMENDMENT/PRIORITY ACTION E-MAILED	6326
Jul. 07, 2021	COMBINED EXAMINER'S AMENDMENT/PRIORITY ACTION AUTOMATIC ENTRY	95882
Jul. 07, 2021	EXAMINERS AMENDMENT AND/OR PRIORITY ACTION - COMPLETED	95882
Jun. 22, 2021	ASSIGNED TO EXAMINER	95882
May 20, 2021	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Feb. 23, 2021	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information

**TM Attorney:** ARRISON, RACHEL MARIE

**Law Office Assigned:** LAW OFFICE 106

### File Location

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Nov. 16, 2021

## Proceedings

### Summary

**Number of Proceedings:** 2

### Type of Proceeding: Opposition

**Proceeding Number:** [91275711](#)

**Filing Date:** Apr 20, 2022

**Status:** Pending

**Status Date:** Apr 20, 2022

**Interlocutory Attorney:** JENNIFER ELGIN

### Defendant

**Name:** Evac+Chair North America LLC

**Correspondent Address:** MONICA B. RICHMAN  
DENTONS US LLP  
P.O. BOX 1302  
CHICAGO IL UNITED STATES , 60604

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### Associated marks

Mark	Application Status	Serial Number	Registration Number
PARA+EVAC	Opposition Pending	<a href="#">90535903</a>	

### Plaintiff(s)

**Name:** Evac+Chair International Limited

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### Associated marks

Mark	Application Status	Serial Number	Registration Number
PAREVAC	Non-Final Action Counted - Not Mailed	<a href="#">79334525</a>	

#### Prosecution History

Entry Number	History Text	Date	Due Date
3	INSTITUTED	Apr 20, 2022	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Apr 20, 2022	May 30, 2022
1	FILED AND FEE	Apr 20, 2022	

#### Type of Proceeding: Extension of Time

**Proceeding Number:** [90535903](#)

**Filing Date:** Jan 20, 2022

**Status:** Terminated

**Status Date:** Apr 20, 2022

**Interlocutory Attorney:**

#### Defendant

**Name:** Evac+Chair North America LLC

**Correspondent Address:** MONICA B. RICHMAN  
DENTONS US LLP  
P.O. BOX #061080  
CHICAGO IL UNITED STATES , 60606-1080

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#### Associated marks

Mark	Application Status	Serial Number	Registration Number
PARA+EVAC	Opposition Pending	<a href="#">90535903</a>	

#### Potential Opposer(s)

**Name:** Evac+Chair International Limited

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#### Associated marks

Mark	Application Status	Serial Number	Registration Number
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#### Prosecution History

Entry Number	History Text	Date	Due Date
2	EXT GRANTED	Jan 20, 2022	
1	FIRST 90-DAY REQUEST TO EXT TIME TO OPPOSE	Jan 20, 2022	