

ESTTA Tracking number: **ESTTA1293605**

Filing date: **06/26/2023**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer information

Name	Implant Direct Sybron International LLC
Granted to date of previous extension	06/28/2023
Address	200 S. KRAEMER BLVD. BREA, CA 92821 UNITED STATES
Attorney information	P. ANDREW BLATT WOOD HERRON & EVANS LLP 600 VINE STREET SUITE 2800 CINCINNATI, OH 45202 UNITED STATES Primary email: usptodock@whe-law.com Secondary email(s): sgrabber@whe-law.com, cjackson@whe-law.com, dblatt@whe-law.com, cphister@whe-law.com, sowens@whe-law.com, pschreiber@whe-law.com, tyoun@whe-law.com 513-241-2324
Docket no.	IDSI-47OP

Applicant information

Application no.	97438358	Publication date	02/28/2023
Opposition filing date	06/26/2023	Opposition period ends	06/28/2023
Applicant	Paragon Implant LLC SUITE 200 8840 WEST RUSSELL ROAD LAS VEGAS, NV 89148 UNITED STATES		

Goods/services affected by opposition

Class 010. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Dental implants
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Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Other	Trademark Act Section 2(a) - False affiliation with Opposer

Mark cited by opposer as basis for opposition

U.S. application/ registration no.	NONE	Application date	NONE
Register	NONE		
Registration date	NONE		
Mark	SIMPLY SMARTER - Subject of Pending Application 98/058,986, which does not yet appear in TESS		
Goods/services	<p>Class 5: Prosthetic dental components, namely, biological bone grafts</p> <p>Class 10: Dental implants; adaptors for dental implants; dental implant surgical apparatus and instruments; dental drills; dental drivers; dental drill bits; dental pins; dental tissue punches; dental screws; dental platform tools; dental implant surgical kits comprised of dental tools, dental drill bits, and storage case; dental implant surgical kit storage case sold empty; dental prosthetics, namely, abutments for dental implants; prosthetic dental components, namely, synthetic bone grafts for dental use; dental instruments for dental implants, namely, cover screws and extenders; dental burs</p> <p>Class 41: Educational services, namely, in-person and online educational courses and events for clinicians and dental professionals related to dental surgery and implantology</p>		

Attachments	Notice of Opposition SIMPLY SMARTER.DOC.pdf(576065 bytes)
Signature	/Sean K. Owens/
Name	Sean K. Owens
Date	06/26/2023

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

<u>In re Application Serial No. 97/438,358</u>)	Opposition No. _____
Implant Direct Sybron International LLC)	
)	Mark: SIMPLY SMARTER
Opposer,)	Published for Opposition:
v.)	February 28, 2023
)	
Paragon Implant LLC)	
)	
Applicant.)	
_____)	

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

NOTICE OF OPPOSITION

Opposer, Implant Direct Sybron International LLC (“Opposer”), is a limited liability company of the state of Nevada, having its corporate headquarters at 200 S. Kraemer Blvd. Building E2 Brea, California 92821

Opposer believes that it will be damaged by registration of the mark SIMPLY SMARTER shown in Application Serial No. 97/438,358 (the “Application”) to the extent the Applicant lists goods in Class 10, and hereby opposes same.

As grounds for the opposition, it is alleged that:

1. Paragon Implant LLC (the “Applicant”) filed the Application to register the word mark SIMPLY SMARTER in connection with “Dental implants” in International Class 10. The Application was filed on June 1, 2022, and was assigned Serial No. 97/438,358.
2. The Application was filed based on Applicant’s intent to use the mark. To date, no Amendment to Allege Use has been filed.

3. According to U.S. Patent and Trademark Office records, Applicant's address is 8840 West Russell Road, Suite 200, Las Vegas, Nevada 89148.
4. Since at least as early as 2012, well prior to Applicant's filing date, Opposer adopted, used, and has substantially continued to use the mark SIMPLY SMARTER to the present day in U.S. commerce in connection with dental implants, dental implant surgical instruments, dental implant accessories, and educational services related to dental implants.
5. On June 26, 2023, Opposer filed an application to register its SIMPLY SMARTER mark for use in connection with dental implant products and services, including "dental implants" and "dental implant surgical kits" in International Classes 5, 10, and 41. This application was given Serial No. 98/058,986. A copy of the U.S. Patent and Trademark Office filing receipt of this application for the SIMPLY SMARTER mark is attached as Exhibit A.
6. Because Opposer's common law rights are superior to any claimed rights by Applicant, the Application should be refused.
7. The phrase SIMPLY SMARTER in the Applicant is identical in appearance, sound, connotation, and commercial impression to Opposer's distinctive SIMPLY SMARTER mark.
8. The goods identified in Class 10 of the Application are the same goods and are closely related to the goods and services offered under Opposer's SIMPLY SMARTER mark.
9. Upon information and belief, the goods identified in the Application are advertised to similar customers through similar channels of trade as the goods and services offered under Opposer's SIMPLY SMARTER mark.

10. Opposer is being damaged by the Application, and will be damaged by registration of the Application, because the phrase Applicant seeks to register, namely, SIMPLY SMARTER, is the same as Opposer's senior SIMPLY SMARTER mark as to be likely, when applied to Applicant's goods in Class 10, to cause confusion or mistake or to deceive persons by creating the erroneous impression that Applicant's goods originate with or come from Opposer, or are authorized, licensed, endorsed, sponsored by, or are connected in some way with Opposer, and therefore, the registration thereof by Applicant would be injurious to Opposer.
11. Applicant's attempted registration of the SIMPLY SMARTER phrase is likely to cause confusion, mistake, or to deceive the public, and to cause the public to believe that the Class 10 goods offered under the mark SIMPLY SMARTER emanate from or are otherwise sponsored or endorsed by Opposer in violation of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), and therefore should be denied registration.
12. Applicant's use and attempted registration of the SIMPLY SMARTER phrase is also likely to cause confusion or mistake with respect to a false affiliation with Opposer and Opposer's SIMPLY SMARTER mark and, therefore, should be denied registration pursuant to 15 U.S.C. § 1125(a).
13. Applicant's use and attempted registration of the SIMPLY SMARTER phrase is also likely to cause dilution of the distinctiveness and goodwill associated with Opposer's SIMPLY SMARTER mark and therefore should be denied registration pursuant to 15 U.S.C. § 1125(c).

WHEREFORE, Opposer prays that the Board sustain this opposition in Opposer's favor and refuse to register the mark SIMPLY SMARTER as a trademark in Class 10 to

Applicant. Opposer also requests such other and further relief as the Board may deem just and proper.

Date: June 26 , 2023

Respectfully submitted,
WOOD HERRON & EVANS LLP

/P. Andrew Blatt/
P. Andrew Blatt, Esq.
Sarah Otte Graber, Esq.
Charles D. Pfister, Esq.
Sean K. Owens, Esq.
Wood Herron & Evans LLP
600 Vine Street, Suite 2800
Cincinnati, OH 45202
Voice: (513) 241-2324
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cpfister@whe-law.com

Attorneys for Opposer
Implant Direct Sybron International LLC

Filing Receipt for Trademark/Service Mark Application for Registration on the Principal Register and Next Steps in the Application Process

Thank you for submitting your trademark application to the U.S. Patent and Trademark Office (USPTO). This filing receipt confirms your mark and serial number, describes next steps in the application process, and includes the information submitted in your application. Please read this receipt carefully and keep a copy for your records.

For an overview of important things to know after filing your application, visit our website to read the [After You File](#) page and watch video number 9 "[After You File](#)."

1. Your mark. SIMPLY SMARTER (Standard Characters, mark.jpg)

The literal element of the mark consists of SIMPLY SMARTER. The mark consists of standard characters, without claim to any particular font style, size, or color.

2. Your serial number. Your application was assigned serial number '98058986'. You must refer to your serial number in all communications about your application.

3. What happens next—legal examination. Your mark will not be registered automatically. Your application will be assigned to a USPTO examining attorney for review. [See current trademark processing wait times](#) for more information. The attorney will determine if your application meets all applicable legal requirements, and if it doesn't you will be notified in an email with a link to the official Office action (official letter from the USPTO). Visit our website for an explanation of [application process timelines](#).

If your mark includes a design element, we will assign it one or more [design search codes](#). We will notify you of these codes within the next few weeks and you can suggest that we add or delete a design search code from your file.

4. Keep your addresses current in USPTO records. We do not extend filing deadlines if you do not receive USPTO mail or email. If your postal address or email address changes, you must update the correspondence or owner's address using the [address forms](#) on our website.

5. Check your application status in our database every three to four months. To be sure that you don't miss an important email from us, and to avoid the possible [abandonment](#) of your application, check your application status and review your documents in our database, [Trademark Status and Document Retrieval \(TSDR\)](#), every three to four months.

6. Warning about private companies offering trademark-related services. Private companies may send you communications that resemble official USPTO communications. These private companies are not associated with the USPTO. All official correspondence will be from the "United States Patent and Trademark Office" in Alexandria, Virginia, and from emails with the domain "uspto.gov." If you are unsure about whether the correspondence is from us, check your records in our database, [TSDR](#). Visit our website for more information on trademark-related [communications that may resemble official USPTO communications](#).

7. Questions? Please visit our [website](#), [email us](#), or call us at 1-800-786-9199 and select option 1.

8. Application data. If you find an error in the data below, visit the [After You File](#) page on our website for information on correcting errors.

9. Provide feedback. You may receive a survey invitation in a separate email. Let us know how we can improve your experience.

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The information submitted in the application appears below:

PTO- 1478

Approved for use through 10/31/2024. OMB 0651-0009

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Trademark/Service Mark Application, Principal Register

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	98058986
MARK INFORMATION	
*MARK	SIMPLY SMARTER
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	SIMPLY SMARTER
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
APPLICANT INFORMATION	
*OWNER OF MARK	Implant Direct Sybron International LLC
INTERNAL ADDRESS	Building E2
*MAILING ADDRESS	200 S. Kraemer Blvd.
*CITY	Brea
*STATE (Required for U.S. applicants)	California
*COUNTRY/REGION/JURISDICTION/U. S. TERRITORY	United States
*ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	92821
*EMAIL ADDRESS	info@whe-law.com
LEGAL ENTITY INFORMATION	
TYPE	limited liability company
STATE/COUNTRY/REGION/JURISDICTI	

ON/U.S. TERRITORY WHERE LEGALLY ORGANIZED	Nevada
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	005
*IDENTIFICATION	Prosthetic dental components, namely, biological bone grafts
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	010
*IDENTIFICATION	Dental implants; adaptors for dental implants; dental implant surgical apparatus and instruments; dental drills; dental drivers; dental drill bits; dental pins; dental tissue punches; dental screws; dental platform tools; dental implant surgical kits comprised of dental tools, dental drill bits, and storage case; dental implant surgical kit storage case sold empty; dental prosthetics, namely, abutments for dental implants; prosthetic dental components, namely, synthetic bone grafts for dental use; dental instruments for dental implants, namely, cover screws and extenders; dental burs
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	041
*IDENTIFICATION	educational services, namely, in-person and online educational courses and events for clinicians and dental professionals related to dental surgery and implantology
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	Sarah Otte Graber
ATTORNEY DOCKET NUMBER	IDSI-50TM
ATTORNEY BAR MEMBERSHIP NUMBER	0068757
YEAR OF ADMISSION	1997
U.S. STATE/ COMMONWEALTH/ TERRITORY	Ohio
FIRM NAME	Wood Herron & Evans, LLP
INTERNAL ADDRESS	Suite 2800
STREET	600 Vine Street
CITY	Cincinnati
STATE	Ohio
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
ZIP/POSTAL CODE	45202
PHONE	513-707-0207
FAX	5132416234

EMAIL ADDRESS	usptodock@whe-law.com
OTHER APPOINTED ATTORNEY	Theodore R. Remaklus, Kathryn E. Smith, Lori Krafte, Sean K. Owens, Julie K. Valdes, Glenn D. Bellamy
CORRESPONDENCE INFORMATION	
NAME	Sarah Otte Graber
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	usptodock@whe-law.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	sgraber@whe-law.com; cjackson@whe-law.com
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Standard
NUMBER OF CLASSES	3
APPLICATION FOR REGISTRATION PER CLASS	350
*TOTAL FEES DUE	1050
*TOTAL FEES PAID	1050
SIGNATURE INFORMATION	
SIGNATURE	/Sarah O. Graber/
SIGNATORY'S NAME	Sarah Otte Graber
SIGNATORY'S POSITION	Attorney for Applicant, Ohio bar member
SIGNATORY'S PHONE NUMBER	513-707-0207
DATE SIGNED	06/26/2023
SIGNATURE METHOD	Signed directly within the form

Trademark/Service Mark Application, Principal Register

Serial Number: 98058986

Filing Date: 06/26/2023

To the Commissioner for Trademarks:

The applicant, Implant Direct Sybron International LLC, a limited liability company legally organized under the laws of Nevada, having an address of

Building E2
200 S. Kraemer Blvd.
Brea, California 92821
United States
info@whe-law.com

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 005: Prosthetic dental components, namely, biological bone grafts

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 010: Dental implants; adaptors for dental implants; dental implant surgical apparatus and instruments; dental drills; dental drivers; dental drill bits; dental pins; dental tissue punches; dental screws; dental platform tools; dental implant surgical kits comprised of dental tools, dental drill bits, and storage case; dental implant surgical kit storage case sold empty; dental prosthetics, namely, abutments for dental implants; prosthetic dental components, namely, synthetic bone grafts for dental use; dental instruments for dental implants, namely, cover screws and extenders; dental burs

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 041: educational services, namely, in-person and online educational courses and events for clinicians and dental professionals related to dental surgery and implantology

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

The owner's/holder's proposed attorney information: Sarah Otte Graber. Other appointed attorneys are Theodore R. Remaklus, Kathryn E. Smith, Lori Krafte, Sean K. Owens, Julie K. Valdes, Glenn D. Bellamy. Sarah Otte Graber of Wood Herron & Evans, LLP, is a member of the Ohio bar, admitted to the bar in 1997, bar membership no. 0068757, and the attorney(s) is located at

Suite 2800
600 Vine Street
Cincinnati, Ohio 45202
United States
513-707-0207(phone)
5132416234(fax)
usptodock@whe-law.com

The docket/reference number is IDSI-50TM.

Sarah Otte Graber submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.

The applicant's current Correspondence Information:

Sarah Otte Graber

PRIMARY EMAIL FOR CORRESPONDENCE: usptodock@whe-law.com

SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): sgrab@whe-law.com; cjackson@whe-law.com

Requirement for Email and Electronic Filing: I understand that a valid email address must be maintained by the applicant owner/holder and the applicant owner's/holder's attorney, if appointed, and that all official trademark correspondence must be submitted via the Trademark Electronic Application System (TEAS).

A fee payment in the amount of \$1050 has been submitted with the application, representing payment for 3 class(es).

Declaration

Basis:

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce and was in use in commerce as of the filing date of the application on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application and was used on or in connection with the goods/services in the application as of the application filing date; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

And/Or

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
 - The applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date on or in connection with the goods/services in the application; and
 - To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.
- To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.
- To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Sarah O. Graber/ Date: 06/26/2023
Signatory's Name: Sarah Otte Graber
Signatory's Position: Attorney for Applicant, Ohio bar member
Signatory's Phone Number: 513-707-0207
Signature method: Signed directly within the form

Thank you,

The TEAS support team
Mon Jun 26 14:51:32 ET 2023
STAMP: USPTO/BAS-66.117.224.159-20230626145132566162-98058986-860825355b24a47ae74c65272c862a8bcf863bb426eeac11b1c0534fe340ef687-CC-51316611-20230626144037896184