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

Proceeding	91163936
Party	Defendant Rankins, Robert Rankins, Robert 4513 Knightsbridge Drive McKinney, TX 75070
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Attachments	Answer to Amended Notice of Opposition.pdf ( 5 pages )(27188 bytes )

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

**In the Matter of Application Serial Number: 76583432**

**Publication Date: December 15, 2004**

**NEBO SYSTEMS, INC.,**

**Opposer,**

**v.**

**ROBERT RANKINS,**

**Applicant.**

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**Opposition No. 91163936**

**ANSWER TO FIRST AMENDED NOTICE OF OPPOSITION**

Applicant Robert Rankins, an individual (“Rankins”), files this answer in response to the First Amended Notice of Opposition filed by Opposer Nebo Systems, Inc. (“Nebo”), and states the following (with the paragraphs as designated herein respectively referring to those contained in the First Amended Notice of Opposition of Nebo):

1. Rankins does not have knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 1.
2. Rankins does not have knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 2.
3. Rankins admits the averments of paragraph 3, subject to future amendment.
4. Rankins denies the averments of paragraph 4.

5. Rankins admits the averments of paragraph 5, subject to future amendment.

6. Rankins denies the averments of paragraph 6.

Rankins denies that he is not entitled to register the trademark HMSA's ECARE CONNECTION. Rankins denies that any such registration would be damaging to Nebo.

7. Rankins admits the averments of paragraph 7.

8. Rankins admits the averments of paragraph 8.

9. Rankins admits the averments of paragraph 9.

10. Rankins admits the averments of paragraph 10.

11. Rankins admits the averments of paragraph 11.

12. Rankins admits the averments of paragraph 12.

13. Rankins denies the averments of paragraph 13 in that a supplement response contained in Rankins' Supplemental Responses to First Set of Interrogatories was delivered to counsel to Nebo on or about May 8, 2006 stating, in part, as follows:

**Interrogatory No. 22:** State in detail the channels of trade in which Applicant's Mark is used and/or in which goods bearing Applicant's Mark are sold, including the geographic area by state, territory or possession in which Applicant's Mark is used and/or sold, the manner in which the goods or services reach the ultimate consumer, the geographic reach of each such channel, and the approximate percentage of total sales of goods and/or services through each such channel, and identify documents sufficient to support your response to this interrogatory.

**Response:** Rankins withdraws his prior response to this interrogatory as such interrogatory was inherently vague and overly broad, resulting in an incorrect prior response by Rankins. Rankins submits the following in response to such interrogatory in order to make certain all information provided to Nebo is fully accurate. Rankins notes

he has extensively advertised his services provided through E-Care Emergency Centers on a worldwide basis through the Internet since approximately June 2003 in anticipation of rendering emergency medical services to individuals located in States other than Texas who might need emergency services while traveling to or through the regions serviced by such E-Care Emergency Centers. As indicated in Rankins' response to Interrogatory No. 14, annual consideration received from non-Texas residents aggregates approximately \$369,663.00, representing approximately 9.6% of the total consideration received by Rankins' from all patients during any given year. In support of this response, Opposer can view the web site of Rankins at [www.e-carecenters.com](http://www.e-carecenters.com). Additionally, certain billing records may be made available to Opposer upon request.

14. Rankins admits the averments of paragraph 14.

15. Rankins admits the averments of paragraph 15.

16. Rankins denies the averments of paragraph 13 in that a supplement response contained in Rankins' Supplemental Responses to First Set of Interrogatories was delivered to counsel to Nebo on or about May 8, 2006 stating, in part, as follows:

**Interrogatory No. 14:** With respect to the first occasion the mark was ever used in interstate commerce, state:

- a. The name, or other means of identification, of the goods or service on or in connection with which the mark was used;
- b. The date;
- c. The name of each state involved;
- d. The nature of the commercial transaction;
- e. The name, address and capacity of each party to the transaction;
- f. What consideration was given by each party to the transaction; and
- g. The circumstances that led to the transaction.

**Response:** Rankins withdraws his prior response to this interrogatory as such interrogatory was inherently vague and overly broad, resulting in an incorrect prior response by Rankins. Rankins submits the following in response to such interrogatory in order to make certain all information provided to Nebo is fully accurate (each clause responds to the similarly lettered clause of the interrogatory):

- a. Emergency medical services provided to an individual;
- b. May 2003;
- c. Rankins provides emergency medical services to approximately 1,800 individuals per year, each such individual traveling to or through Texas from one of 42 States other than Texas, including every State sharing a border with the Texas;
- d. Emergency medical services;
- e. Specific information cannot be disclosed due to potential for violations of doctor-patient relationship and the Health Insurance Portability and Accounting Act of 1996 (summarized information of patients is available upon request);
- f. The average amount billed to each out-of-State patient was approximately \$203.00, representing aggregate annual consideration in the amount of \$369,663.00; and
- g. Personal injury of an individual resulting in the need for emergency medical services.

17. Rankins denies the averments of paragraph 17 based upon his Supplemental Responses to First Set of Interrogatories referred to in paragraphs 13 and 16 hereof.

Rankins denies that he is not entitled to register the trademark E-CARE.

18. Rankins admits the averments of paragraph 18.

19. Rankins admits the averments of paragraph 19.

20. Rankins denies the averments of paragraph 20 based upon his Supplemental Responses to First Set of Interrogatories referred to in paragraphs 13 and 16 hereof.

21. Rankins denies the averments of paragraph 21 based upon his Supplemental Responses to First Set of Interrogatories referred to in paragraphs 13 and 16 hereof.

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