

ESTTA Tracking number: **ESTTA851709**

Filing date: **10/12/2017**

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	Agewell, LLC
Granted to Date of previous extension	11/08/2017
Address	9292 N. Meridian St., Suite 211B Indianapolis, IN 46260 UNITED STATES

Attorney information	Bradley Stohry Reichel Stohry LLP 212 W. 10th St., Suite A-285 Indianapolis, IN 46202 UNITED STATES Email: brad@rsindy.com, ipdocket@rsindy.com Phone: 317-423-8820
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Applicant Information

Application No	87193703	Publication date	07/11/2017
Opposition Filing Date	10/12/2017	Opposition Period Ends	11/08/2017
Applicant	AgeWellMD, P.C. 2 Steele Street, Suite 200 Denver, CO 80206 UNITED STATES		

Goods/Services Affected by Opposition

Class 044. First Use: 2014/09/01 First Use In Commerce: 2015/07/01 All goods and services in the class are opposed, namely: Health Care services, namely, wellness programs featuring the provision of Bioidentical Hormone Replacement Therapy (BHRT), to adult patients of any age and on an outpatient basis, not for geriatric health care

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1920595	Application Date	09/14/1990
Registration Date	09/19/1995	Foreign Priority Date	NONE
Word Mark	AGEWELL		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1993/05/01 First Use In Commerce: 1993/06/11 pre-recorded audio and video tapes and compact discs related to aspects of aging and the elderly and concerning topics of health care, financial resources and personal enrichment activities Class 016. First use: First Use: 1994/12/16 First Use In Commerce: 1994/12/16 books, pamphlets, magazines, booklets and brochures related to aspects of aging and the elderly and concerning topics of health care, financial resources and personal enrichment activities

U.S. Registration No.	1943956	Application Date	12/16/1994
Registration Date	12/26/1995	Foreign Priority Date	NONE
Word Mark	AGEWELL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1990/09/12 First Use In Commerce: 1992/08/20 conducting workshops and seminars in the field of aging and the elderly and concerning the topics of health care, financial resources and personal enrichment activities		

U.S. Registration No.	2102654	Application Date	12/20/1995
Registration Date	10/07/1997	Foreign Priority Date	NONE
Word Mark	AGEWELL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1995/06/15 First Use In Commerce: 1995/06/15 audio and video recording and production services; book publication services		

U.S. Registration No.	2270951	Application Date	09/27/1996
Registration Date	08/17/1999	Foreign Priority Date	NONE
Word Mark	AGEWELL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1990/09/12 First Use In Commerce: 1992/08/20 geriatric health care services		

U.S. Registration No.	3822185	Application Date	05/06/2002
Registration Date	07/20/2010	Foreign Priority Date	NONE

Word Mark	AGEWELL
Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 003. First use: First Use: 2010/05/21 First Use In Commerce: 2010/05/21 Cosmetic preparations, namely, hand creams and gels, skin, face and eye creams and gels</p> <p>Class 005. First use: First Use: 2010/05/21 First Use In Commerce: 2010/05/21 Vitamins, minerals, nutritional and dietary supplements</p> <p>Class 010. First use: First Use: 2010/05/21 First Use In Commerce: 2010/05/21 Surgical and medical apparatus and instruments, namely, electric or chemically activated heating pads and physical therapy equipment, namely, heat and cold packs for medical purposes; and hand and leg muscle exercisers for age-related sarcopenia</p> <p>Class 028. First use: First Use: 2010/05/21 First Use In Commerce: 2010/05/21 Sporting goods equipment, namely, powered and manual exercise machines for movement of arms and legs, exercise mats</p> <p>Class 029. First use: First Use: 2010/05/21 First Use In Commerce: 2010/05/21 Nutritional foods, namely, bars from processed vegetables</p>

Attachments	76404238#TMSN.png(bytes) Agewell - Notice of Opposition against AgeWellMD.pdf(284526 bytes)
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Signature	/bms/
Name	Bradley Stohry
Date	10/12/2017

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

In the matter of Trademark App. Ser. Nos. 87193703
For the mark AgeWellMD

Agewell, LLC,)	
)	
Opposer,)	
)	
v.)	Opposition No.: _____
)	
AgeWellMD, P.C.,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Agewell, LLC (“Opposer”) hereby opposes the above-referenced application to register the AgeWellMD mark filed by AgeWellMD, P.C. (“Applicant”). The grounds for opposition are as follows:

THE PARTIES

1. Opposer is an Indiana limited liability company with a place of business at 9292 North Meridian Street, Suite 211B, Indianapolis, IN 46260.
2. Applicant is a Colorado corporation that has a place of business at 2 Steele Street, Suite 200, Denver, CO 80206.

OPPOSER AND ITS USE OF THE AGEWELL MARK

3. Opposer provides a variety of goods and services related to health care.
4. Opposer is the owner of substantial trademark rights in the AGEWELL mark.
5. Opposer owns numerous trademark registrations for the AGEWELL mark, including U.S. Registration Numbers 1,920,595, 1,943,956, 2,102,654, 2,270,951 and 3,822,185 (collectively, the “AGEWELL Registrations”). The AGEWELL Registrations cover a variety of goods and services related to the healthcare field.

6. Opposer has been using the AGEWELL mark to promote its health care goods and services since 1990. Since that time, Opposer has established extensive and valuable goodwill in the AGEWELL mark and has spent significant amounts of time and money establishing this goodwill.

7. The AGEWELL mark has come to indicate and stand for the high quality services offered by Opposer.

8. As a result of Opposer's use of the AGEWELL mark, the AGEWELL mark has become valuable property of Opposer.

APPLICANT'S TRADEMARK APPLICATION AND USE OF THE AGEWELLMD MARK

9. Trademark App. Ser. Nos. 87193703 (the "Application") was filed by Applicant for the AgeWellMD mark on October 5, 2016.

10. The Application is a use-based application and covers "Health Care services, namely, wellness programs featuring the provision of Bioidentical Hormone Replacement Therapy (BHRT), to adult patients of any age and on an outpatient basis, not for geriatric health care" in Class 44.

11. Applicant indicates that it began using the AgeWellMD mark in connection with its services on September 1, 2014.

GROUND FOR AND REJECTING APPLICANT'S TRADEMARK APPLICATION

12. Opposer's actual, continuous, and continuing use of the AGEWELL Mark in commerce began well before Applicant filed its Application and/or began using AgeWellMD mark.

13. Each of the AGEWELL Registrations predates the Application by numerous years.

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