

ESTTA Tracking number: **ESTTA1026831**

Filing date: **01/06/2020**

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		
Entity	Limited liability company	Citizenship	Indiana
Address	9292 N. Meridian St. Suite 100B Indianapolis, IN 46260 UNITED STATES		

Attorney information	Bradley M. Stohry Reichel Stohry Dean LLP 212 W. 10th St. Suite A-285 INDIANAPOLIS, IN 46202 UNITED STATES brad@rsindy.com, docket@rsindy.com 3174238820		
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**Applicant Information**

Application No	88534433	Publication date	12/10/2019
Opposition Filing Date	01/06/2020	Opposition Period Ends	01/09/2020
Applicant	Kunkel, Kimberly 2740 Paint Dr Auburn, CA 95603 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Health Coaching Services, namely, personal coaching services in the field of nutrition and health goals
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**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 re ChooseWellLiveWellAgeWell.pdf(128047 bytes )
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Signature	/bms/
Name	Bradley M. Stohry
Date	01/06/2020

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

In the matter of Trademark App. Ser. Nos. 88/534,433  
Filed on July 24, 2019  
For the mark ChooseWellLiveWellAgeWell  
Published in the *Official Gazette* on December 10, 2019

Agewell, LLC,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No.: _____
	)	
Kimberly Kunkel,	)	
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Agewell, LLC (“Opposer”) hereby opposes the above-referenced application to register the ChooseWellLiveWellAgeWell mark filed by Kimberly Kunkel (“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 100B, Indianapolis, IN 46260.
2. Applicant is a resident of the State of California with an address at 2740 Paint Dr., Auburn, CA 95603.

**OPPOSER AND ITS USE OF THE AGEWELL MARK**

3. Opposer provides a variety of goods and services related to the healthcare field.
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 in the healthcare space.

6. Opposer has been using the AGEWELL mark to promote its healthcare goods and services since 1992. 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.

#### **GROUND FOR AND REJECTING APPLICANT’S TRADEMARK APPLICATION**

9. Trademark App. Ser. Nos. 88/534,433 (the “Application”) was filed by Applicant for the ChooseWellLiveWellAgeWell mark on July 24, 2019.

10. The Application is an intent-to-use application and covers “health coaching services, namely, personal coaching services in the field of nutrition and health goals” in Class 41.

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

12. Each of the AGEWELL Registrations predates the Application by a number of years.

13. Applicant’s use and registration of the ChooseWellLiveWellAgeWell mark for the services listed in the Application is likely to cause confusion, mistake, and/or lead to

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