

ESTTA Tracking number: **ESTTA1069592**

Filing date: **07/21/2020**

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	Path Medical, LLC		
Entity	Limited Liability Company	Citizenship	Florida
Address	2304 W. OAKLAND PARK BLVD. FT. LAUDERDALE, FL 33311 UNITED STATES		

Attorney information	MINDI M. RICHTER SHUMAKER, LOOP & KENDRICK, LLP 101 E. KENNEDY BOULEVARD, SUITE 2800 TAMPA, FL 33602 UNITED STATES Primary Email: mrichter@shumaker.com Secondary Email(s): ttimmerman@shumaker.com 8132297600		
Docket Number			

Applicant Information

Application No.	88799830	Publication date	06/23/2020
Opposition Filing Date	07/21/2020	Opposition Period Ends	07/23/2020
Applicant	Chung, Steven L. 1515 MARKET STREET, SUITE 910 PHILADELPHIA, PA 19102 UNITED STATES		

Goods/Services Affected by Opposition

Class 045. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Legal services

Grounds for Opposition

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

U.S. Application No.	88571353	Application Date	08/08/2019
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GOT HURT? GET HELP!		

Design Mark	GOT HURT? GET HELP!
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 0 First Use In Commerce: 0 Providing attorney referrals

Attachments	88571353#TMSN.png(bytes) 305.pdf(13779 bytes)
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Signature	/Mindi M. Richter/
Name	Mindi M. Richter
Date	07/21/2020

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

In the Matter of Application No. 88/799,830
Applicant: Steven L. Chung
Application Date: February 17, 2020
Publication Date: June 23, 2020

PATH MEDICAL, LLC,)	
)	
)	
Opposer,)	Opposition No. _____
)	
v.)	
)	
STEVEN L. CHUNG,)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Path Medical, LLC (“Path” or “Opposer”), believes that it will be damaged by registration of the mark 305 GOT-HURT (“Applicant’s Mark”) in International Class 45 as listed in Application Serial No. 88/799,830 (the “Application”), and hereby opposes the Application.

As grounds for its opposition, Opposer states as follows:

I. PARTIES

1. Opposer Path is a Florida limited liability company with its principal place of business in Ft. Lauderdale, Florida.
2. On information and belief, Applicant Steven L. Chung (“Applicant”) is an individual residing in Philadelphia, Pennsylvania.

II. OPPOSER'S MARK

3. Opposer Path owns over 25 medical centers throughout the State of Florida, with a strong focus on southeast Florida, that provide a wide variety of medical services, including, but not limited to, chiropractic, orthopedic, physiotherapy, therapeutic exercise and joint mobilization services. Path's patient advertising is largely targeted to those who have been injured from vehicle accidents, motorcycle accidents, and slip and fall accidents. As many of Path's patients are victims of personal injury-related accidents, a portion of its business also relates to legal referral services (all services collectively referred to herein as "Opposer's Services"). Path's business thrives in large part from its significant and active advertising throughout Florida, including, but not limited to, billboards, bus and vehicle wraps, radio commercials and television commercials, on which it spends many multiples of millions of dollars a year.

4. Since at least as early as August 2019, Opposer has continuously used and promoted Opposer's Services under its GOT HURT? GET HELP! mark ("Opposer's Mark"), including, but not limited to, through significant advertising on billboards, buses and vehicles.

5. Opposer applied to federally register Opposer's Mark for providing attorney referrals under Serial No. 88/571,353 ("Opposer's Application") on August 8, 2019, and it was approved for publication on January 27, 2020.

III. APPLICANT'S MARK

6. Applicant's Application was filed on February 17, 2020, is an intent to use Application, and was published in the Official Gazette on June 23, 2020.

7. Applicant's Application is for "legal services" ("Applicant's Services").

IV. LIKELIHOOD OF CONFUSION

8. Opposer's Mark is distinctive for Opposer's Services.

9. Opposer's Application for Opposer's Mark has a priority date prior to Applicant's filing date, as well as presumably Applicant's first use date, given that it is an intent-to-use application.

10. As a result of Opposer's extensive use and promotion of Opposer's Mark, the mark has developed substantial goodwill and is a strong mark.

11. Applicant's 305 GOT-HURT mark and Opposer's Mark both contain GOT HURT.

12. In addition, Opposer is associated with and well known for vanity telephone numbers that are heavily advertised in Florida.

13. Applicant's Services and Opposer's Services are related and highly similar given that Applicant is a lawyer providing legal services, and Opposer's Mark is used for legal referral services.

14. Applicant's 305 GOT-HURT mark is of particular concern to Opposer because "305" is a Miami, Florida area code, which is a primary focus and location of Opposer's advertising.

15. Applicant's proposed use of the 305 GOT-HURT mark, and filing of the Application, are without Opposer's consent.

16. While Opposer acknowledges that Applicant also owns a federal registration for 215 GOT-HURT (Reg. No. 5,791,394), this mark has not posed an issue for Opposer or caused

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