

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

BLUE CROSS AND BLUE SHIELD)	NOTICE OF OPPOSITION
OF SOUTH CAROLINA)	
A South Carolina Corporation)	
)	
)	
Opposer)	Opposition No:
V.)	
)	
HENRIK ANDERSSON)	
An individual of Sweden)	
)	
)	SERIAL NUMBER: 78/588,128
Applicant)	Filed: March 16, 2005

Opposer, Blue Cross and Blue Shield of South Carolina ("Blue Cross"), a South Carolina Corporation, located and doing business at I-20 at Alpine Road, Columbia, South Carolina 29219, believes that it will be harmed and damaged by registration of the mark shown in Application Serial No. 78/588,128, and hereby opposes same.

Description of Applicant's Application: Filed pursuant to Lanham Act §1(b) on March 16, 2005, for the mark DR COMPANION, as Serial No. 78/588,128. The mark was published for opposition in the Official Gazette dated December 13, 2005, for goods in Class 009, for computer software used for selecting, displaying, and assembling medical and patient reference information for physicians, as more fully identified in said Application of Applicant.

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01-12-2006

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Attorney docket: 368.009

As grounds of opposition, it is alleged that:

1. Opposer Blue Cross is the owner of United States Patent and Trademark Office Registration Number 2,299,160 for the mark COMPANION®, as used to identify computer hardware and software for use in medical office management, medical office management systems, insurance claim processing, insurance payment processing and health care financing; computer program manuals for medical office management, insurance claim processing, insurance payment processing and health care financing; electronic processing of insurance claims and payment data; insurance claims processing; administration of employee benefit plans; electronic transmission of data and documents via computer terminals; computer software design for others; computer consultation; said mark was registered on the Principal Register on December 14, 1999, based on an application filed in the United States Patent and Trademark Office on December 9, 1996; both of said dates are prior to the date of filing of Applicant's application for registration. Said registered mark of Opposer is valid and subsisting and is prima facie evidence of Opposer's exclusive right to use said mark in commerce on the services specified in said registration.

2. Opposer Blue Cross is the owner of United States Patent and Trademark Office Registration Number 2,226,487 for the mark COMPANION®, as used to identify providing health information and medical information; medical cost management; utilization and review services for hospitals and physician hospital organizations administration of preferred providers plans in the field of insurance and pre-paid health

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care; administration in the field of hospital and physician hospital organizations; administration of patient reimbursement programs; said mark was registered on the Principal Register on February 23, 1999, based on an application filed in the United States Patent and Trademark Office on April 25, 1996; both of said dates are prior to the date of filing of Applicant's application for registration. Said registered mark of Opposer is valid and subsisting and is prima facie evidence of Opposer's exclusive right to use said mark in commerce on the services specified in said registration.

3. Opposer Blue Cross is the owner of United States Patent and Trademark Office Registration Number 1,566,320 for the mark COMPANION®, as used to identify, *inter alia*, insurance administration and consulting services, underwriting accident, health, property, casualty, death and life insurance; insurance agency services; said mark was registered on the Principal Register on November 14, 1989, was based on an application filed in the United States Patent and Trademark Office on January 4, 1988; both of said dates are prior to the date of filing of Applicant's application for registration. Said registered mark of Opposer is valid and subsisting and is prima facie evidence of Opposer's exclusive right to use said mark in commerce on the services specified in said registration.

4. Opposer Blue Cross is the owner of United States Patent and Trademark Office Registration Number 1,946,380 for the mark COMPANION®, as used to identify cost management for health care benefits plans of other, health care containment services, health care cost review services, health care utilization and review services; insurance claims administration; and health maintenance organizations; said mark was registered on

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the Principal Register on January 9, 1996, was based on an application filed in the United States Patent and Trademark Office on June 17, 1994; both of said dates are prior to the date of filing of Applicant's application for registration. Said registered mark of Opposer is valid and subsisting and is prima facie evidence of Opposer's exclusive right to use said mark in commerce on the services specified in said registration.

5. Opposer Blue Cross is the owner of record of United States Patent and Trademark Office Registration Number 1,054,480 for the mark COMPANION LIFE INSURANCE CO. (PLUS DESIGN), as used to identify insurance underwriting services specializing in life, accident and health insurance which was registered on the Principal Register on December 14, 1976, based on an application filed in the United States Patent and Trademark Office on March 19, 1976; both of said dates are prior to the date of filing of Applicant's application for registration. Said registered mark of Opposer is valid and subsisting and is prima facie evidence of Opposer's exclusive right to use said mark in commerce on the services specified in said registration.

6. Opposer Blue Cross is the owner of record of United States Patent and Trademark Office Registration Number 2,801,805 for the mark COMPANION DIRECT (PLUS DESIGN), as used to identify, *inter alia*, providing telecommunications services, namely, electronic data interchange (EDI) services for use between health care providers and payers via Internet, which was registered on the Principal Register on January 6, 2004, based on an application filed in the United States Patent and Trademark Office on March 21, 2002; both of said dates are prior to the date of filing of Applicant's

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application for registration. Said registered mark of Opposer is valid and subsisting and is prima facie evidence of Opposer's exclusive right to use said mark in commerce on the services specified in said registration.

7. Blue Cross has been using the mark COMPANION® in connection with the sale of services continuously since 1971. Opposer's use has been valid and continuous with regard to the goods and services listed in Registration Nos. 1,054,480; 1,566,320; 1,946,380; 2,226,487, 2,299,160 and 2,801,805 since the dates of first use listed therein and Registration Nos. 1,054,480; 1,566,320; 1,946,380; 2,226,487, and 2,299,160 are incontestable under Lanham Act Section 15.

8. Blue Cross, and through its subsidiaries, has offered and sold goods and services that relate to goods and services identified in Applicant's Application. These goods and services of Blue Cross are identified by the COMPANION® mark, both to the general public and commercially, in interstate commerce, and continuously since a date that is well prior to the date of Applicant's application for registration.

9. Registration Number 2,299,160 for the mark COMPANION® specifically identifies computer hardware and software for use in medical office management, medical office management systems; electronic transmission of data and documents via computer terminals; computer program manuals for medical office management. Registration Number 2,226,487 for the mark COMPANION® specifically identifies providing health information and medical information. These identified goods and

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services are related to the computers and computer manuals described in the goods identification of the Applicant's Application.

10. The goods identified in Applicant's Application are directed to the markets for the goods and services identified in Opposer's Registrations for marks including the term COMPANION, and a likelihood of confusion exists. The Opposer has sold in interstate commerce computer software used, *inter alia*, for selecting, displaying, and assembling medical and patient reference information for physicians, since a date that is prior to the date of Applicant's Application.

11. The mark COMPANION® is symbolic of extensive good will and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. In view of the similarity of the respective marks and the related nature of the goods and services of the respective parties, which are directed to the same markets, it is alleged that Applicant's mark so resembles Opposer's mark, COMPANION, previously used in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive.

12. Opposer Blue Cross and the public will be harmed if the Registration sought by Applicant issues to Applicant.

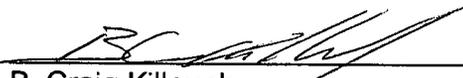
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WHEREFORE, Opposer prays that Registration pursuant to Application Serial No. 78/588,128 be refused, and that this Opposition be sustained in favor of Opposer.

Opposer has appointed B. Craig Killough, Registration No. 30,398, James H. Elliott, Jr., and John W. Fletcher of the law firm of Barnwell Whaley Patterson & Helms, members of the bar of the State of South Carolina, to act as attorneys for Opposer herein, with full power to prosecute said Opposition, and to transact all relevant business with the Patent and Trademark Office and in the United States Courts, and to receive all official communications in connection with this Opposition.

BLUE CROSS AND BLUE SHIELD OF SOUTH CAROLINA

By:

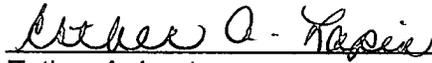


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CERTIFICATE OF MAILING

I hereby certify that this Notice of Opposition, Post Card and Credit Card Payment Form for the \$300.00 filing fee is being filed by Express Mail EV 735546189 US with the United States Postal Service, in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, on this 12th day of January, 2006.



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