

ESTTA Tracking number: **ESTTA143218**

Filing date: **05/30/2007**

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	Acuo Technologies, LLC
Granted to Date of previous extension	05/30/2007
Address	7200 Hudson Blvd., Suite 230 Oakdale, MN 55128 UNITED STATES
Correspondence information	John W. Provo Attorney Maslon Edelman Borman & Brand, LLP 90 S. 7th St., 3300 Wells Fargo Center Minneapolis, MN 55402 UNITED STATES john.provo@maslon.com Phone:612-672-8331

Applicant Information

Application No	78903510	Publication date	01/30/2007
Opposition Filing Date	05/30/2007	Opposition Period Ends	05/30/2007
Applicant	Accuro Healthcare Solutions, Inc. 14241 Dallas parkway Suite 800 Houston, TX 75254 UNITED STATES		

Goods/Services Affected by Opposition

Class 042. First Use: 2006/05/00 First Use In Commerce: 2006/05/00
All goods and services in the class are opposed, namely: Providing temporary use of on-line non-downloadable software for use in database management in the healthcare industry

Applicant Information

Application No	78903513	Publication date	01/30/2007
Opposition Filing Date	05/30/2007	Opposition Period Ends	
Applicant	Accuro Healthcare Solutions, Inc. 14241 Dallas Parkway Suite 800 Dallas, TX 75254 UNITED STATES		

Goods/Services Affected by Opposition

Class 042. First Use: 2006/05/00 First Use In Commerce: 2006/05/00

All goods and services in the class are opposed, namely: Providing temporary use of on-line non-downloadable software for use in database management in the healthcare industry

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	76669359	Application Date	11/17/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ACUO		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2000/04/00 First Use In Commerce: 2001/08/00 Computer software programs for transporting, storing, tracking and retrieving information in a network environment</p> <p>Class 039. First use: First Use: 2000/04/00 First Use In Commerce: 2001/08/00 storage services, namely, electronic archiving for others of medical images</p> <p>Class 042. First use: First Use: 2000/04/00 First Use In Commerce: 2001/08/00 Computer services, namely, acting as an application service provider (ASP) to host software in the field of health care</p> <p>Class 044. First use: First Use: 2000/04/00 First Use In Commerce: 2001/08/00 Information management services and technology consulting services provided to hospitals, physicians and other health care providers all in the field of medical imaging</p>		

U.S. Registration No.	2654779	Application Date	03/17/2000
Registration Date	11/26/2002	Foreign Priority Date	NONE
Word Mark	ACUO TECHNOLOGIES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 Electronic archiving for others of medical images		

U.S. Application No.	76669290	Application Date	11/17/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ACUO TECHNOLOGIES		
Design Mark			
Description of	The mark consists of the wording ACUO, with the wording TECHNOLOGIES		

Mark	written across the portion CUO. The letter A of the wording ACUO is enclosed within a rectangle.
Goods/Services	<p>Class 009. First use: First Use: 2005/06/00 First Use In Commerce: 2005/06/00 Computer software programs for transporting, storing, tracking and retrieving information in a network environment</p> <p>Class 039. First use: First Use: 2005/06/00 First Use In Commerce: 2005/06/00 storage services, namely, electronic archiving for others of medical images</p> <p>Class 042. First use: First Use: 2005/06/00 First Use In Commerce: 2005/06/00 Computer services, namely, acting as an application service provider (ASP) to host software in the field of health care</p> <p>Class 044. First use: First Use: 2005/06/00 First Use In Commerce: 2005/06/00 Information management services and technology consulting services provided to hospitals, physicians and other health care providers, all in the field of medical imaging</p>

U.S. Application No.	78904769	Application Date	06/09/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ACUOMED		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 Computer software programs for transporting, storing, tracking and retrieving information in a network environment</p> <p>Class 039. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 Electronic archiving for others of medical images</p>		

U.S. Application No.	78904697	Application Date	06/09/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ACUOSTORE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 Computer software programs for transporting, storing, tracking and retrieving information in a network environment</p> <p>Class 039. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 Electronic archiving for others of medical images</p>		

U.S. Application No.	78904807	Application Date	06/09/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ACUOXMD		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 009. First use: First Use: 2002/06/01 First Use In Commerce: 2002/06/01 Computer software programs for transporting, storing, tracking and retrieving information in a network environment Class 039. First use: First Use: 2002/06/01 First Use In Commerce: 2002/06/01 Electronic archiving for others of medical images

U.S. Application No.	76669292	Application Date	11/17/2006
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	POWERED BY ACUO
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 009. First use: First Use: 2005/11/00 First Use In Commerce: 2005/11/00 Computer software programs for transporting, storing, tracking and retrieving information in a network environment Class 039. First use: First Use: 2005/11/00 First Use In Commerce: 2005/11/00 storage services, namely, electronic archiving for others of medical images Class 042. First use: First Use: 2005/11/00 First Use In Commerce: 2005/11/00 Computer services, namely, acting as an application service provider (ASP) to host software in the field of health care Class 044. First use: First Use: 2005/11/00 First Use In Commerce: 2005/11/00 Information management services and technology consulting services provided to hospitals, physicians and other health care providers, all in the field of medical imaging
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U.S. Application No.	76669291	Application Date	11/17/2006
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	POWERED BY ACUO TECHNOLOGIES
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Design Mark	
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Description of Mark	The mark consists of the wording ACUO, with the wording TECHNOLOGIES written across the portion CUO. The letter A of the wording ACUO is enclosed within a rectangle. The wording "POWERED BY" appears above the wording ACUO.
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Goods/Services	Class 009. First use: First Use: 2005/11/00 First Use In Commerce: 2005/11/00 Computer software programs for transporting, storing, tracking and retrieving information in a network environment Class 039. First use: First Use: 2005/11/00 First Use In Commerce: 2005/11/00 storage services, namely, electronic archiving for others of medical images Class 042. First use: First Use: 2005/11/00 First Use In Commerce: 2005/11/00 Computer services, namely, acting as an application service provider (ASP) to host software in the field of health care Class 044. First use: First Use: 2005/11/00 First Use In Commerce: 2005/11/00 Information management services and technology consulting services provided to hospitals, physicians and other health care providers, all in the field of medical imaging
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Attachments	76669359#TMSN.gif (1 page)(bytes) 76002896#TMSN.gif (1 page)(bytes) 76669290#TMSN.jpeg (1 page)(bytes) 78904769#TMSN.jpeg (1 page)(bytes) 78904697#TMSN.jpeg (1 page)(bytes) 78904807#TMSN.jpeg (1 page)(bytes) 76669292#TMSN.jpeg (1 page)(bytes) 76669291#TMSN.jpeg (1 page)(bytes) notice of opp 78903510.PDF (3 pages)(88429 bytes) notice of opp 78903513.PDF (3 pages)(85632 bytes)
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Signature	/John W. Provo/
Name	John W. Provo
Date	05/30/2007

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

ACUO TECHNOLOGIES, LLC

Opposer,

vs.

ACCURO HEALTHCARE SOLUTIONS, INC.

Applicant.

In the Matter of Application
Serial No. 78903510

Mark: ACCURO BUSINESS TECHNOLOGY
FOR HEALTHCARE
(Class 42)

Filed: June 8, 2006

Published on: January 30, 2007

NOTICE OF OPPOSITION

Acuo Technologies, LLC (“Opposer”) hereby opposes registration of the above-referenced application (“Application”), and requests that registration of such Application be refused. Opposer believes that it will be damaged by registration of the mark shown in the Application, and hereby opposes the same.

As grounds for its opposition, Opposer asserts as follows:

1. Opposer has used the marks “ACUO TECHNOLOGIES,” “ACUO,” “ACUOSTORE,” “ACUOMED,” “ACUOXMD,” “POWERED BY ACUO” and “POWERED BY ACUO TECHNOLOGIES” in providing computer software programs; computer services and application service provider services; information management services and technology consulting services in the field of health care; and electronic storage and archiving of medical images to hospitals, physicians and other health care providers in International Classes 9, 39, 42 and 44 (“ACUO Marks”) since at least as early as April of 2000. Opposer’s ACUO Marks appear prominently on packaging, advertising and marketing materials, websites, and is widely recognized in the industry.

2. Opposer's use of its ACUO Marks predates Applicant's use of "ACCURO BUSINESS TECHNOLOGY FOR HEALTHCARE" ("ACCURO MARK") as claimed in the Application by more than six (6) years.

3. Opposer has extensively and continuously used its ACUO Marks for more than seven (7) years, and has invested substantial time, money and effort in advertising and promoting its marks. Opposer's ACUO Marks are strong and distinctive in nature. As a result of Opposer's use and promotion of the ACUO Marks, health care providers, hospitals, physicians and other consumers have come to recognize the ACUO Marks as signifying Opposer's goods and services, and Opposer has developed valuable goodwill in connection with the ACUO Marks.

4. Applicant's ACCURO Mark is confusingly similar to Opposer's ACUO Marks. The use of such mark by Applicant in providing software to health care providers, hospitals, physicians and others in the health care field is likely to cause confusion as to source or origin, and mislead consumers, all to Opposer's damage.

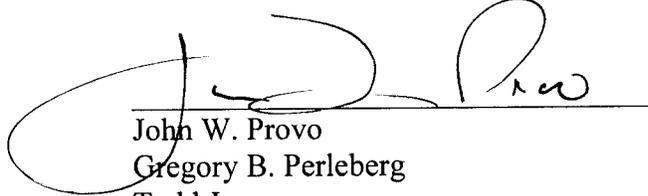
5. Applicant's use and registration of the ACCURO Mark for computer software or in providing information management and technology consulting services to hospitals, physicians and other health care providers has not been approved, authorized, or consented to by Opposer.

6. The Application was published on January 30, 2007. On February 23, 2007, the U.S. Trademark Trial and Appeal Board granted Opposer's request for an extension of time until May 30, 2007 to oppose such Application pursuant to 37 C.F.R. § 2.102.

7. This Notice of Opposition is being filed via the Electronic System for Trademark Trials and Appeals (“ESTTA”), and Opposer’s payment in the amount of \$300.00 for the fee prescribed by 37 C.F.R. §2.6 is made through ESTAA.

DATED: May 30, 2007

MASLON EDELMAN BORMAN & BRAND, LLP

A handwritten signature in black ink, appearing to read "John W. Provo", is written over a horizontal line. The signature is stylized and cursive.

John W. Provo
Gregory B. Perleberg
Todd Jaye
3300 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402
(612) 672-8200

ATTORNEYS FOR OPPOSER
ACUO TECHNOLOGIES, LLC

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

ACUO TECHNOLOGIES, LLC

Opposer,

vs.

ACCURO HEALTHCARE SOLUTIONS, INC.

Applicant.

In the Matter of Application
Serial No. 78903513

Mark: ACCURO (Class 42)

Filed: June 8, 2006

Published on: January 30, 2007

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2. Opposer's use of its ACUO Marks predates Applicant's use of "ACCURO" as claimed in the Application by more than six (6) years.

3. Opposer has extensively and continuously used its ACUO Marks for more than seven (7) years, and has invested substantial time, money and effort in advertising and promoting its marks. Opposer's ACUO Marks are strong and distinctive in nature. As a result of Opposer's use and promotion of the ACUO Marks, health care providers, hospitals, physicians and other consumers have come to recognize the ACUO Marks as signifying Opposer's goods and services, and Opposer has developed valuable goodwill in connection with the ACUO Marks.

4. Applicant's ACCURO mark is nearly identical to Opposer's ACUO Marks. The use of such mark by Applicant in providing software to health care providers, hospitals, physicians and others in the health care field is likely to cause confusion as to source or origin, and mislead consumers, all to Opposer's damage.

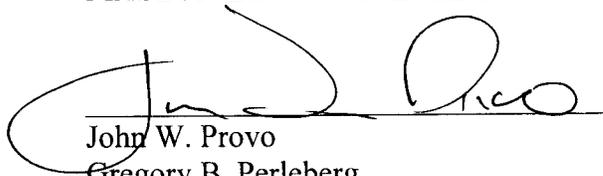
5. Applicant's use and registration of the mark "ACCURO" for computer software or in providing information management and technology consulting services to hospitals, physicians and other health care providers has not been approved, authorized, or consented to by Opposer.

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