

ESTTA Tracking number: **ESTTA472281**

Filing date: **05/14/2012**

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	Team Health, Inc.
Granted to Date of previous extension	05/12/2012
Address	265 Brookview Centre Way Suite 400 Knoxville, TN 37922 UNITED STATES

Attorney information	Matthew S. Nelles Broad & Cassel 100 S.E. Third Avenue, Suite 2700 Fort Lauderdale, FL 33394 UNITED STATES mnelles@broadandcassel.com, tepstein@broadandcassel.com Phone:(954) 764 7060
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**Applicant Information**

Application No	85439386	Publication date	03/13/2012
Opposition Filing Date	05/14/2012	Opposition Period Ends	05/12/2012
Applicant	Hospital TeamCare, LLC 351 South Cypress Road, Suite 408 Pompano Beach, FL 33060 UNITED STATES		

**Goods/Services Affected by Opposition**

<p>Class 035. First Use: 2011/09/21 First Use In Commerce: 2011/09/21 All goods and services in the class are opposed, namely: Business management, namely, medical practice management for others; medical practice business administration; business consulting services for the healthcare industry; clinical and administrative medical service outsourcing for hospitals, healthcare centers, medical centers, facilities, clinics, ambulatory surgery centers, physician groups, urgent care centers, walk-in clinics; personnel staffing for physicians, physician assistants, nurse practitioners, certified registered nurse anesthetists, physician extenders, nurses, and other healthcare providers</p>
<p>Class 044. First Use: 2011/09/21 First Use In Commerce: 2011/09/21 All goods and services in the class are opposed, namely: Medical and hospital services; healthcare services</p>

**Grounds for Opposition**

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)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2489975	Application Date	08/06/1999
Registration Date	09/18/2001	Foreign Priority Date	NONE
Word Mark	TEAM HEALTH		
Design Mark	TEAM HEALTH		
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1994/11/02 First Use In Commerce: 1994/11/02 Physician and medical personnel staffing; business management, business administration, business consultation, accounting and billing services, all supplied to health care providers</p> <p>Class 042. First use: First Use: 1994/11/02 First Use In Commerce: 1994/11/02 Primary care health care supplied through perambulatory clinics, inpatient medical services supplied to health care providers on a contract basis, and radiology and teleradiology provided to health care providers</p>		

U.S. Registration No.	3802032	Application Date	05/14/2009
Registration Date	06/15/2010	Foreign Priority Date	NONE
Word Mark	TEAM HEALTH		
Design Mark			
Description of Mark	The mark consists of the words "TeamHealth" in stylized lettering.		
Goods/Services	<p>Class 035. First use: First Use: 2005/10/03 First Use In Commerce: 2005/10/03 Physician, physician assistant, nursing, and other medical, hospital, clinical, surgical, and general and specialized health care provider personnel staffing, placement, and locum tenens services and administrative management and support services related thereto; reimbursement and coding services, namely, administration of physician reimbursement programs, medical coding services for others in the nature of assigning predetermined codes for purposes of identifying medical diagnoses and procedures, and medical billing support services; hospital-based clinical outsourcing; all of the foregoing provided to health care providers including private, semi-private, government, and other</p>		

	<p>hospitals, emergency, acute, and chronic care facilities and departments, clinics, ambulatory care and walk-in clinics, physician groups, nursing homes and geriatric care centers, and assisted living and hospice facilities</p> <p>Class 044. First use: First Use: 2005/10/03 First Use In Commerce: 2005/10/03</p> <p>Medical and healthcare call center services, namely, providing general medical and health information via nurse triage, community nurse lines, physician after-hours call coverage, and emergency department advice calls; radiology and teleradiology services; all of the foregoing provided to health care providers including private, semi-private, government, and other hospitals, emergency, acute, and chronic care facilities and departments, clinics, ambulatory care and walk-in clinics, physician groups, nursing homes and geriatric care centers, and assisted living and hospice facilities</p>
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Attachments	<p>75774197#TMSN.gif ( 1 page )( bytes )</p> <p>77737443#TMSN.jpeg ( 1 page )( bytes )</p> <p>Notice of Opposition.pdf ( 5 pages )(131122 bytes )</p>
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/Matthew S. Nelles
Name	Matthew S. Nelles
Date	05/14/2012

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

In the Matter of Trademark Application Serial No. 85439386

For the mark "TeamCare"

Published in the Official Gazette on March 13, 2012

TEAM HEALTH, INC.,

Opposer,

v.

HOSPITAL TEAMCARE, LLC

Applicant.

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**NOTICE OF OPPOSITION**

Team Health, Inc., organized and existing under the laws of the State of Tennessee, located at 265 Brookview Centre Way, Suite 400 Knoxville, Tennessee 37922, and doing business throughout the United States, believes that it will be damaged by the registration of the mark shown in the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer has adopted and continuously used the trademark TEAM HEALTH since prior to 1994 in connection with the provision of: (1) medical practice management services, clinical and administrative medical service outsourcing for healthcare providers and facilities, and healthcare personnel staffing in International Class 035; (2) medical and healthcare services in International Class 042; and (3) primary care health care supplied through perambulatory clinics, inpatient medical services supplied to health care providers on a contract basis, and radiology and teleradiology provided to health care providers in International Class 044.

2. Opposer filed for and obtained U.S. Trademark Registration No. 2,489,975 dated September 18, 2001 in International Classes 035 and 042 for the TEAM HEALTH mark.

3. Opposer filed for and obtained U.S. Trademark Registration No. 3,802,032 dated June 15, 2010 in International Classes 035 and 044 for the TEAM HEALTH design mark.

4. In addition, Opposer has many other trademarks, several of which are registered, that incorporate or are formative variations of the TEAM HEALTH Marks, including, for example, "Health Care Financial Services of TeamHealth," "Medical Management Resources of Team Health," and "Emergency Coverage Corporation of TeamHealth."

5. The above registrations are valid, subsisting, and in full force and effect, and the TEAM HEALTH mark is incontestable under Section 15 of the Lanham Act. Hereinafter, the above TEAM HEALTH marks and variants thereof, including those registered and/or used in commerce by Opposer, are referred to collectively as the "TEAM HEALTH Marks."

6. Since its first use, Opposer has spent millions of dollars advertising and promoting its TEAM HEALTH Marks throughout the United States on television, radio, billboards, professional publications and other media.

7. As a result of Opposer's extensive advertising and promotional efforts and the substantial amount of business it has generated over at least the past 18 years as a result of such efforts, the TEAM HEALTH Marks have acquired a secondary meaning such that consumers associate the marks exclusively with Opposer as the source of high quality, reputable medical practice management services, clinical and administrative medical service outsourcing for healthcare providers and facilities, and healthcare personnel staffing services, and the substantial goodwill associated therewith.

8. In light of their fame and distinctiveness, the TEAM HEALTH Marks have acquired substantial, if not incalculable, value.

9. Long after Opposer's date of first use, Applicant filed under 15 U.S.C. §1051(1)(b) the subject intent-to-use Application (Serial No. 85439386) (the "Application") for the term "TeamCare," seeking registration in the same classification codes as the TEAM HEALTH Marks, and covering identical or nearly identical services.

10. Applicant directly competes with Team Health, promoting itself as a physician staffing and management company "who understands the business of hospital based medicine." Applicant claims to have "experienced clinical out-sourcing teams" that provide "best practice consulting" services.

11. In what appears to be a clear attempt to pass itself off as Opposer or to confuse or deceive consumers into believing that it is affiliated or associated with Opposer, Applicant has applied for the trademark "TeamCare" with full knowledge of Opposer's use of the TEAM HEALTH Marks.

12. The Application was published for opposition in the *Official Gazette* on March 13, 2006. On April 4, 2012, the Trademark Trial and Appeal Board granted Opposer an extension of time to oppose the Application.

13. There is no issue as to priority of use. Opposer's use and registration of the TEAM HEALTH Marks predates the date of the Application by many years.

14. Applicant's intent to use the term "TeamCare" to advertise, market and promote the identical or nearly identical services as those being provided under the TEAM HEALTH Marks is likely to cause confusion, or to cause mistake, or to deceive consumers, and to dilute the distinctiveness of Opposer's famous marks.

15. Moreover, the term "TeamCare" generates the same commercial impression, is used to promote and render identical or nearly identical services, and is intended to be marketed and sold through the same or nearly the same channels of trade and in the same geographic markets as the TEAM HEALTH Marks.

16. Because of this close similarity, if a consumer encountered "TeamCare" in an advertisement, the consumer would very likely believe that Applicant's goods and/or services emanate from Opposer.

17. Registration of "TeamCare" is barred by the provisions of Section 2(d) of the Lanham Act because it consists of or comprises a mark which so resembles a mark previously registered in the U.S.P.T.O., namely the TEAM HEALTH Marks, and/or used in the United States by Opposer and not abandoned, as to be likely, when used in connection with the goods and/or services of Applicant, to cause confusion, mistake, or deception.

18. Accordingly registration of "TeamCare" is barred by the provisions of Section 2(d) and Section 43(a) of the Lanham Act.

19. Further, Opposer's distinctive TEAM HEALTH Marks became famous prior to the filing date of the Application, and the registration and use of the term "TeamCare" is likely to dilute the distinctive quality of the TEAM HEALTH Marks. Accordingly, "TeamCare" is not entitled to registration under Section 43(c) of the Lanham Act.

WHEREFORE, Opposer prays that Application Serial No. 85439386 be rejected, and that the registration of the term "TeamCare" be denied and refused.

This Notice of Opposition is being filed electronically pursuant to the ESTTA system.

Dated: May 14, 2012

Respectfully submitted,

/s/Matthew S. Nelles

Tara R. Epstein  
Florida Bar No. 72641  
E-mail: tepstein@broadandcassel.com  
Matthew S. Nelles  
Florida Bar No.009245  
E-mail: mnelles@broadandcassel.com  
**BROAD AND CASSEL**  
One Financial Plaza, Suite 2700  
Fort Lauderdale, Florida 33394  
Telephone: (954) 764-7060  
Facsimile:(954) 761-8135

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Notice of Opposition was served via email and the United States Postal Service on May 14, 2012, with sufficient postage as First Class Mail in an envelope addressed to the following counsel for Applicant:

Deborah Tellerman Berkowitz, Esq.  
James David Johnson, P.A.  
401 E. Las Olas Boulevard, Suite 130-290  
Fort Lauderdale, FL 33301  
deborah.berkowitz@prestigeip.com

By: s/ Matthew S. Nelles