

ESTTA Tracking number: **ESTTA482079**

Filing date: **07/06/2012**

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	Healthstream, Inc.
Granted to Date of previous extension	07/07/2012
Address	209 10th Ave. South Suite 450 Nashville, TN 37203 UNITED STATES

Attorney information	Robert L. Brewer and Paige W. Mills Bass, Berry & Sims PLC 150 3rd Avenue South Suite 2800 Nashville, TN 37201 UNITED STATES trademarks@bassberry.com Phone:615-742-7760
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Applicant Information

Application No	76705510	Publication date	05/08/2012
Opposition Filing Date	07/06/2012	Opposition Period Ends	07/07/2012
Applicant	Houghton Mifflin Harcourt Publishing Company 222 Berkeley Street Boston, MA 02116 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2010/08/15 First Use In Commerce: 2010/08/15 All goods and services in the class are opposed, namely: Educational services, namely, providing consultation in the field of K-12 educational systems, developing training systems and learning methodologies for k-12 and higher education instructors, and training in the field of teaching methodologies for k-12 and higher education instructors; and educational services, namely, the offering of web based and classroom training for certification of teachers and continuing education for k-12 and higher education instructors
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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. Registration No.	3880406	Application Date	06/30/2008
Registration Date	11/23/2010	Foreign Priority Date	NONE

Word Mark	INSIGHT INTO ACTION
Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 016. First use: First Use: 2007/03/15 First Use In Commerce: 2007/03/15 Questionnaires on hospital organization, administration and patient care</p> <p>Class 035. First use: First Use: 2007/03/15 First Use In Commerce: 2007/03/15 Public opinion surveys, namely, conducting surveys to gather and interpret data regarding learning interactions</p> <p>Class 041. First use: First Use: 2007/03/15 First Use In Commerce: 2007/03/15 Education services, namely, providing seminars in the field of healthcare and distribution of course material in connection therewith</p> <p>Class 042. First use: First Use: 2007/03/15 First Use In Commerce: 2007/03/15 Scientific research services, namely, engagement of customers through proprietary interactive computer-based and driven databases that derive information regarding learning interactions through such research</p>

Attachments	77511013#TMSN.jpeg (1 page)(bytes) notice of opposition.pdf (5 pages)(230247 bytes)
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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	/Robert L. Brewer/
Name	Robert L. Brewer
Date	07/06/2012

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

In the matter of Application Serial No.: 76/705510
By Houghton Mifflin Harcourt Publishing Company
For the Mark: INSIGHT INTO ACTION

Filing Date: 11/18/2010

Published in the Official Gazette
On May 8, 2012

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HEALTHSTREAM, INC.)	
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Opposer,)	
)	
v.)	Opposition No. _____
)	
)	
HOUGHTON MIFFLIN HARCOURT)	
PUBLISHING COMPANY)	
)	
Applicant.)	
)	
_____)	

Box TTAB FEE
Assistant Commissioner for Trademarks
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

NOTICE OF OPPOSITION

HealthStream, Inc. ("Opposer"), by and through its undersigned attorneys, believes that it will be damaged by the registration of the mark shown in Application Serial No. 76705510 in

International Classes 41 (the “Application”), hereby opposes the same, and requests that a registration to Applicant be refused.

In support of its opposition, Opposer asserts the following:

1. Opposer, HealthStream, Inc., is a Tennessee corporation, having its principal place of business at 209 10th Avenue South, Cummins Station, Suite 450, Nashville, TN 37203.

2. Opposer is the owner of all right, title and interest in and to U.S. Registration No. 3,880,406 for INSIGHT INTO ACTION, which registration covers the following goods and services: “Questionnaires on hospital organization, administration and patient care” in International Class 16; “public opinion surveys, namely, conducting surveys to gather and interpret data regarding learning interactions” in International Class 35; “educational services, namely, providing seminars in the field of healthcare and distribution of course material in connection therewith” in International Class 41; and “scientific research services, namely, engagement of customers through proprietary interactive computer-based and driven databases that derive information regarding learning interactions through such research” in International Class 42.

3. Opposer’s application was filed on June 30, 2008. Opposer first used its INSIGHT INTO ACTION mark in commerce in all classes at least as early as March 15, 2007, and used its mark in interstate commerce in all classes at least as early as March 15, 2007. Use of the mark is continuous and on-going.

4. On information and belief, Houghton Mifflin Harcourt Publishing Company is a Massachusetts corporation, having an address of 222 Berkeley Street, Boston, MA 02116 (“Applicant”).

5. On November 18, 2010, Applicant filed an application with the U.S. Patent and Trademark Office, seeking to register the mark INSIGHT INTO ACTION for use in connection with “educational services, namely, providing consultation in the field of K-12 educational systems, developing training systems and learning methodologies for K-12 and higher education instructors, and training in the field of teaching methodologies for K-12 and higher education instructors; and educational services, namely, the offering of web based and classroom training for certification of teachers and continuing education for K-12 and higher education instructors” in International Class 41.

6. Applicant’s application alleges a date of first use of its mark in commerce of August 15, 2010 and a date of first use in interstate commerce of August 15, 2010.

7. Applicant’s application was filed long after Opposer’s date of first use in commerce and long after Opposer’s application filing date.

8. Applicant’s date of first use in commerce is long after Opposer’s date of first use in commerce and long after Opposer’s application filing date.

9. Opposer’s INSIGHT INTO ACTION mark has been significantly used and branded in extensive print and online media. Opposer has invested substantial sums in advertising and promoting the goods and services rendered under its INSIGHT INTO ACTION mark.

10. Based on the extensive, exclusive and continuous use of the INSIGHT INTO ACTION mark by Opposer, the relevant consuming public has come to recognize and does recognize the services offered under the INSIGHT INTO ACTION mark as originating from Opposer and to associate and identify the INSIGHT INTO ACTION mark with the services of Opposer.

11. The services for which Applicant seeks registration of its mark are highly related to the goods and services offered by Opposer under its INSIGHT INTO ACTION mark.

12. The trademark proposed for registration by the Applicant, namely INSIGHT INTO ACTION, is identical to Opposer's INSIGHT INTO ACTION mark and is likely to be confused with Opposer's mark and mistaken for it, within the meaning of Section 2(d) of the Trademark Act.

13. The commercial impression conveyed by Applicant's mark INSIGHT INTO ACTION is identical to that of Opposer's INSIGHT INTO ACTION mark, such that when the mark is used in connection with Applicant's services, it so resembles Opposer's mark as to be likely to cause confusion, cause mistake or to deceive. Consumers and prospective customers are likely to falsely believe that the services of the Applicant offered under the mark herein opposed are sponsored, endorsed or approved by Opposer, or are in some way affiliated, connected or associated with Opposer.

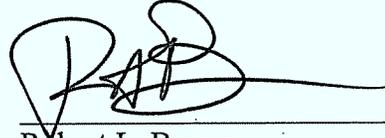
14. Any defect, objection or fault found with any of Applicant's services offered under the designation INSIGHT INTO ACTION would injure the valuable reputation and goodwill that Opposer has established for the variety of goods and services offered under the INSIGHT INTO ACTION mark.

15. If Applicant is granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to use the mark, which would be a source of damage and injury to Opposer due to the identical nature of Applicant's alleged mark and Opposer's mark.

WHEREFORE, Opposer believes that it is being damaged, and will be damaged, by the registration of the mark shown in the Application, and requests that this Opposition be sustained, and that registration to Applicant be refused.

Please charge any fees due in connection with this proceeding to Deposit Account No. 502483-1211 and charge our internal client-matter number 116404-000.

Respectfully submitted,



Robert L. Brewer
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Attorneys for HealthStream, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the foregoing Notice of Opposition was served by mailing said copy on this day via First Class Mail, postage prepaid to:

David Eber, Attorney of Record
Houghton Mifflin Harcourt Publishing Co.
222 Berkeley Street
Boston, MA 02116

Dated this 6th day of July, 2012.



Name: _____