

ESTTA Tracking number: **ESTTA485034**

Filing date: **07/23/2012**

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	Blue Cross and Blue Shield Association
Granted to Date of previous extension	07/22/2012
Address	225 North Michigan Avenue Chicago, IL 60601 UNITED STATES

Attorney information	Garner K. Weng Hanson Bridgett LLP 425 Market Street, 26th Floor San Francisco, CA 94105 UNITED STATES ttabfilings@hansonbridgett.com, gweng@hansonbridgett.com, soneill@hansonbridgett.com, cwalters@hansonbridgett.com Phone:415-995-5081
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**Applicant Information**

Application No	85363867	Publication date	01/24/2012
Opposition Filing Date	07/23/2012	Opposition Period Ends	07/22/2012
Applicant	Palladian Health, LLC 2732 Transit Road West Seneca, NY 14224 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 035. First Use: 2007/01/01 First Use In Commerce: 2007/01/01 All goods and services in the class are opposed, namely: Administration of health benefit plans concerning fitness center memberships; promoting enrollment in fitness centers to health benefit plan members
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	554488	Application Date	09/30/1947
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Registration Date	02/05/1952	Foreign Priority Date	NONE
Word Mark	BLUE-CROSS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U102 (International Class 036). First use: First Use: 1934/12/00 First Use In Commerce: 1934/12/00 DISTRIBUTION OF HOSPITAL CARE ON A PRE-PAYMENT FINANCING BASIS		

U.S. Registration No.	554817	Application Date	08/19/1947
Registration Date	02/12/1952	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U102 (International Class 036). First use: First Use: 1934/12/00 First Use In Commerce: 1934/12/00 DISTRIBUTION OF HOSPITAL CARE ON A PRE-PAYMENT FINANCING BASIS		

U.S. Registration No.	557040	Application Date	11/13/1950
Registration Date	04/01/1952	Foreign Priority Date	NONE
Word Mark	BLUE SHIELD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U102 (International Class 036). First use: First Use: 1939/09/23 First Use		

	In Commerce: 1940/04/00 UNDERWRITING THE EXPENSE OF MEDICAL CARE
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U.S. Registration No.	562430	Application Date	07/16/1951
Registration Date	07/29/1952	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U102 (International Class 036). First use: First Use: 1949/09/05 First Use In Commerce: 1949/09/05 UNDERWRITING, ON A PREPAYMENT BASIS, THE EXPENSE TO THE PATIENT OF MEDICAL CARE AND UNDERWRITING THE DOCTOR'S EXPENSE IN FURNISHING MEDICAL CARE		

U.S. Registration No.	557037	Application Date	12/15/1949
Registration Date	04/01/1952	Foreign Priority Date	NONE
Word Mark	BLUE SHIELD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U100 (International Class 042). First use: First Use: 1939/09/23 First Use In Commerce: 1940/04/00 FURNISHING MEDICAL CARE ON A PRE-PAYMENT BASIS		

U.S. Registration No.	4074287	Application Date	06/15/2011
Registration Date	12/20/2011	Foreign Priority Date	NONE
Word Mark	BLUE		

Design Mark	<h1>BLUE</h1>		
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 2003/06/03 First Use In Commerce: 2003/06/03 Providing on-line information, news and commentary in the field of health and wellness relating to health plans, health support, fitness, nutrition and self care		

U.S. Registration No.	4111938	Application Date	08/04/2011
Registration Date	03/13/2012	Foreign Priority Date	NONE

Word Mark	BLUE
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Design Mark	<h1>BLUE</h1>		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1997/05/31 First Use In Commerce: 1997/05/31 Prepaid financing and administration of medical, hospital and related health care services		

U.S. Registration No.	3315528	Application Date	10/06/2006
Registration Date	10/23/2007	Foreign Priority Date	NONE

Word Mark	BLUE CARE CONNECTION
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Design Mark	<b>BLUE CARE CONNECTION</b>		
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 2004/08/31 First Use In Commerce: 2004/08/31 Health care services, namely, disease management programs and wellness programs		

U.S. Registration No.	3148405	Application Date	10/10/2005
Registration Date	09/26/2006	Foreign Priority Date	NONE

Word Mark	HEALTHY BLUE		
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Design Mark	<b>HEALTHY BLUE</b>		
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 2002/04/25 First Use In Commerce: 2002/04/25 Providing educational information on the subject of health and wellness		

U.S. Registration No.	3689392	Application Date	04/07/2009
Registration Date	09/29/2009	Foreign Priority Date	NONE

Word Mark	BLUE & YOU		
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Design Mark	<b>BLUE &amp; YOU</b>
Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1995/09/01 First Use In Commerce: 1995/09/01 magazine in the field of healthcare and wellness

U.S. Registration No.	2002209	Application Date	11/02/1994
Registration Date	09/24/1996	Foreign Priority Date	NONE
Word Mark	ADVANTAGE BLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1993/03/25 First Use In Commerce: 1993/03/25 educational books, newsletters, provider directories, printed forms, and notebooks for all use in healthcare and wellness		

U.S. Registration No.	2161616	Application Date	02/07/1997
Registration Date	06/02/1998	Foreign Priority Date	NONE
Word Mark	BLUE CROSS AND BLUE SHIELD ASSOCIATION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 health care and wellness educational books, binders, printed forms, health care and wellness trade journals, health care and wellness newsletters, notebooks, pens and pencils		

U.S. Registration No.	2999617	Application Date	06/27/2003
Registration Date	09/27/2005	Foreign Priority Date	NONE
Word Mark	WALKING WORKS THE BLUE PROGRAM FOR A HEALTHIER AMERICA		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2003/05/01 First Use In Commerce: 2003/05/01 Educational services, namely conducting classes and seminars in the fields of health, fitness, diet and lifestyle choices; Entertainment services, namely organizing and conducting walking events to increase the awareness of physical fitness		

U.S. Registration No.	1045586	Application Date	05/27/1975
Registration Date	08/03/1976	Foreign Priority Date	NONE
Word Mark	BLUE SHIELD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1939/09/23 First Use In Commerce: 1940/04/15 PREPAID FINANCING AND ADMINISTRATION OF MEDICAL, HOSPITAL AND RELATED HEALTH SERVICES		

U.S. Registration No.	1454610	Application Date	03/18/1986
Registration Date	08/25/1987	Foreign Priority Date	NONE
Word Mark	THE BLUES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1984/11/04 First Use In Commerce: 1984/11/04 PREPAID HEALTH CARE AND BENEFIT PLAN ADMINISTRATION SERVICES Class 042. First use: First Use: 1984/11/04 First Use In Commerce: 1984/11/04 PREPAID HEALTH CARE, MEDICAL, AND SURGICAL SERVICES TO MEMBERS		

U.S. Registration No.	1446756	Application Date	12/02/1985
Registration Date	07/07/1987	Foreign Priority Date	NONE
Word Mark	TRUE BLUE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 1985/07/19 First Use In Commerce: 1985/07/19 PREPAID FINANCING AND ADMINISTRATION OF MEDICAL, HOSPITAL AND RELATED HEALTH SERVICES

U.S. Registration No.	1632573	Application Date	04/16/1990
Registration Date	01/22/1991	Foreign Priority Date	NONE
Word Mark	BLUE CROSS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1934/12/00 First Use In Commerce: 1934/12/00 prepaid financing and administration of medical, hospital and related health services		

U.S. Registration No.	1635706	Application Date	11/28/1989
Registration Date	02/19/1991	Foreign Priority Date	NONE
Word Mark	CLASSIC BLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1988/04/00 First Use In Commerce: 1988/04/00 PROVIDING HEALTH AND MEDICAL BENEFITS TO SUBSCRIBERS THROUGH PREPAID PLANS		

U.S. Registration No.	1850876	Application Date	09/10/1993
Registration Date	08/23/1994	Foreign Priority Date	NONE
Word Mark	BLUE CHOICE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1985/01/02 First Use In Commerce: 1985/01/02 prepaid financing and administration of medical, hospital and related health services		

U.S. Registration No.	1955937	Application Date	11/02/1994
Registration Date	02/13/1996	Foreign Priority Date	NONE
Word Mark	ADVANTAGE BLUE		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 036. First use: First Use: 1993/03/25 First Use In Commerce: 1993/03/25 prepaid financing and administration of medical, hospital and health related services rendered through a point of service program, namely physician services, dental services, hospital services, health treatment services and physical, vocational and respiratory therapy services		
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U.S. Registration No.	1996466	Application Date	11/02/1994
Registration Date	08/27/1996	Foreign Priority Date	NONE
Word Mark	BLUE ADVANTAGE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1990/12/01 First Use In Commerce: 1990/12/01 health care services rendered through a health maintenance organization, namely physician services, dental services, hospital services, home health care services, preventive health treatment services, pharmacy services and physical, vocational and respiratory therapy services		

U.S. Registration No.	1952730	Application Date	11/07/1994
Registration Date	01/30/1996	Foreign Priority Date	NONE
Word Mark	SELECT BLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1974/06/30 First Use In Commerce: 1974/06/30 prepaid financing and administration of medical, hospital and related health services, namely physician services, hospital services, health treatment services, therapy services and home care and hospice care		

U.S. Registration No.	1954568	Application Date	11/21/1994
Registration Date	02/06/1996	Foreign Priority Date	NONE
Word Mark	PRIME BLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1988/07/27 First Use In Commerce: 1988/07/27 prepaid financing and administration of health care services, namely dental, diagnostic and preventive services		

U.S. Registration No.	1954569	Application Date	11/21/1994
Registration Date	02/06/1996	Foreign Priority Date	NONE
Word Mark	NEW BLUE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 1984/07/01 First Use In Commerce: 1984/07/01 prepaid financing and administration of medical and hospital services

U.S. Registration No.	1954600	Application Date	12/09/1994
Registration Date	02/06/1996	Foreign Priority Date	NONE
Word Mark	BLUE FLEX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1986/07/01 First Use In Commerce: 1986/07/01 prepaid financing and administration of medical, hospital and related health services, namely physician services, pharmacy services, hospital services, health treatment services and therapy services		

U.S. Registration No.	1959977	Application Date	12/16/1994
Registration Date	03/05/1996	Foreign Priority Date	NONE
Word Mark	BLUE BASIC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1990/06/01 First Use In Commerce: 1990/06/01 prepaid financing and administration of medical, hospital and health related services, namely physician services, pharmacy services, hospital services, health treatment services and therapy services		

U.S. Registration No.	1961619	Application Date	11/02/1994
Registration Date	03/12/1996	Foreign Priority Date	NONE
Word Mark	BLUE CARE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1988/12/01 First Use In Commerce: 1988/12/01 prepaid financing and administration of medical, hospital and related health services, namely physician services, dental services, hospital, health treatment and therapy services		

U.S. Registration No.	1961664	Application Date	12/08/1994
Registration Date	03/12/1996	Foreign Priority Date	NONE
Word Mark	BLUE PREFERRED		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 1985/12/01 First Use In Commerce: 1985/12/01 prepaid financing and administration of medical, hospital and health related services, namely physician services, pharmacy services, hospital services, health treatment services and therapy services

U.S. Registration No.	1961666	Application Date	12/09/1994
Registration Date	03/12/1996	Foreign Priority Date	NONE
Word Mark	PRIMARY BLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1993/10/01 First Use In Commerce: 1993/10/01 prepaid financing and administration of medical, hospital and health related services, namely physician services, hospital services, physical therapy services, mental health services, prescription services and home health care		

U.S. Registration No.	2036912	Application Date	01/16/1996
Registration Date	02/11/1997	Foreign Priority Date	NONE
Word Mark	CUSTOMBLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1995/09/06 First Use In Commerce: 1995/09/06 prepaid financing and administration of medical, hospital, and related health care services Class 042. First use: First Use: 1995/09/06 First Use In Commerce: 1995/09/06 comprehensive health care benefit program, including physician, dental, hospital, home health care, preventive health treatment, therapy, pharmacy, ambulatory and other services		

U.S. Registration No.	2076689	Application Date	10/04/1994
Registration Date	07/08/1997	Foreign Priority Date	NONE
Word Mark	BLUE CARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1995/03/01 First Use In Commerce: 1995/03/01 prepaid financing and administration of hospital, medical and health care services		

U.S. Registration No.	2130638	Application Date	03/05/1997
Registration Date	01/20/1998	Foreign Priority	NONE

		Date	
Word Mark	SENIOR BLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 1996/04/29 First Use In Commerce: 1996/04/29 prepaid financing and administration of medical, hospital and related health care services</p> <p>Class 042. First use: First Use: 1996/04/29 First Use In Commerce: 1996/04/29 comprehensive health care benefit programs, rendered through a health maintenance organization, namely, physician, dental, hospital, home health care, preventive health treatment, therapy, pharmacy, and ambulatory services</p>		

U.S. Registration No.	2146352	Application Date	04/01/1997
Registration Date	03/24/1998	Foreign Priority Date	NONE
Word Mark	BLUE DIRECT		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 1996/11/11 First Use In Commerce: 1996/11/11 prepaid financing and administration of medical, hospital and related health care services</p> <p>Class 042. First use: First Use: 1996/11/11 First Use In Commerce: 1996/11/11 comprehensive health care benefit programs, including those rendered through a health maintenance organization, namely, physician, dental, hospital, home health care, preventive health treatment, physical, occupational, psychological, speech and hearing therapy, pharmacy, and ambulatory services</p>		

U.S. Registration No.	2544950	Application Date	05/25/2001
Registration Date	03/05/2002	Foreign Priority Date	NONE
Word Mark	BLUE OPTIONS		
Design Mark	<p><b>BLUE OPTIONS</b></p>		
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 1999/08/01 First Use In Commerce: 1999/08/01 prepaid financing and administration of medical, hospital and related health care services; health insurance</p> <p>Class 042. First use: First Use: 1999/08/01 First Use In Commerce: 1999/08/01 comprehensive health care benefit programs, including those rendered through a health maintenance organization, namely physician, dental, hospital, home health care, preventive health treatment, therapy, pharmacy and ambulatory services</p>		

U.S. Registration No.	2544951	Application Date	05/25/2001
Registration Date	03/05/2002	Foreign Priority Date	NONE
Word Mark	BLUE ACCESS		
Design Mark	<b>BLUE ACCESS</b>		
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 1999/07/01 First Use In Commerce: 1999/07/01 prepaid financing and administration of medical, hospital and related health care services; health insurance</p> <p>Class 042. First use: First Use: 1999/07/01 First Use In Commerce: 1999/07/01 comprehensive health care benefit programs, including those rendered through a health maintenance organization, namely physician, dental, hospital, home health care, preventive health treatment, therapy, pharmacy and ambulatory services</p>		

U.S. Registration No.	2571307	Application Date	05/25/2001
Registration Date	05/21/2002	Foreign Priority Date	NONE
Word Mark	BLUE CREW		
Design Mark	<b>BLUE CREW</b>		
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 1999/07/01 First Use In Commerce: 1999/07/01 Charitable fund raising, namely, providing community service through an employee and wellness team building program</p>		

U.S. Registration No.	2924795	Application Date	11/25/2003
Registration Date	02/08/2005	Foreign Priority Date	NONE
Word Mark	BLUE PERKS		

Design Mark	<b>BLUE PERKS</b>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1999/12/01 First Use In Commerce: 1999/12/01 Development and administration of group purchasing programs as a value added benefit of membership or participation in insurance plans, health management organizations, physicians, dentists, hospital and pharmacy plans, home healthcare plans, ambulatory health treatment plans and preventive treatment plans		

U.S. Registration No.	3076417	Application Date	03/31/2005
Registration Date	04/04/2006	Foreign Priority Date	NONE
Word Mark	BLUE SHIELD		
Design Mark	Blue Shield		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2005/02/01 First Use In Commerce: 2005/02/01 Offering consumer-driven health care plan, namely, underwriting, administration, financing, and maintenance of consumer-driven health care plans and defined contribution health care plans; debit card services, check cashing and check issuance, electronic debit transactions and electronic check processing transactions and providing financial information by electronic means via a global computer network, all of which are provided in connection with health care coverage plans		

U.S. Registration No.	3076555	Application Date	04/11/2005
Registration Date	04/04/2006	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 2005/02/01 First Use In Commerce: 2005/02/01 Offering consumer-driven health care plan, namely, underwriting, administration, financing, and maintenance of consumer-driven health care plans and defined contribution health care plans; debit card services, check cashing and check issuance, electronic debit transactions and electronic check processing transactions and providing financial information by electronic means via a global computer network, all of which are provided in connection with health care coverage plans

U.S. Registration No.	3085016	Application Date	03/31/2005
Registration Date	04/25/2006	Foreign Priority Date	NONE
Word Mark	BLUE CROSS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2005/02/01 First Use In Commerce: 2005/02/01 Offering consumer-driven health care plan, namely, underwriting, administration, and financing of consumer-driven health care plans and defined contribution health care plans; debit card services, check cashing and check issuance, electronic debit transactions and electronic check processing transactions and providing financial information by electronic means via a global computer network, all of which are provided in connection with health care coverage plans		

U.S. Registration No.	3092706	Application Date	03/31/2005
Registration Date	05/16/2006	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 2005/02/01 First Use In Commerce: 2005/02/01 Offering consumer-driven health care plan, namely, underwriting, administration, financing, and maintenance of consumer-driven health care plans and defined contribution health care plans; debit card services, check cashing and check issuance, electronic debit transactions and electronic check processing transactions and providing financial information by electronic means via a global computer network, all of which are provided in connection with health care coverage plans

U.S. Registration No.	3194205	Application Date	04/28/2006
Registration Date	01/02/2007	Foreign Priority Date	NONE

Word Mark	BLUESOURCE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 2005/06/15 First Use In Commerce: 2005/06/15 Providing information related to employment benefit programs, namely, retirement, 401(K), disability, retiree health, and executive benefit programs

U.S. Registration No.	3277851	Application Date	02/15/2006
Registration Date	08/07/2007	Foreign Priority Date	NONE
Word Mark	BLUE SAVER		

Design Mark	<b>BLUE SAVER</b>
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 2004/06/30 First Use In Commerce: 2004/06/30 Offering consumer-driven health care plans, namely, underwriting, administration, financing, and maintenance of consumer-driven health care plans and defined contribution health care plans; administration and custodianship of tax-favored medical savings accounts, debit card services, check cashing and check issuance, electronic debit transactions and electronic check processing transactions and providing financial information by electronic means via a global computer network, all of which are provided in connection with health care coverage plans

U.S. Registration No.	3288737	Application Date	03/31/2005
Registration Date	09/04/2007	Foreign Priority Date	NONE

Word Mark	BLUE SHIELD
Design Mark	<b>Blue Shield</b>
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 2006/11/30 First Use In Commerce: 2006/11/30 Banking and financial services, namely, checking and savings account services, electronic funds transfer, cash management and disbursement services, lending services, acceptance of deposits and loan payments, check cashing and check issuance, electronic payment services, providing financial information by electronic means, providing secure financial transactions in the nature of electronic cash transactions, electronic check processing transactions, trustee services, investment security services, certificates of deposits, asset management services, stored-value card services, smart card services, credit card services, all of which are provided in connection with health care coverage plans

U.S. Registration	3288738	Application Date	03/31/2005
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No.			
Registration Date	09/04/2007	Foreign Priority Date	NONE
Word Mark	BLUE CROSS		
Design Mark	<p style="text-align: center;"><b>Blue Cross</b></p>		
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 2006/11/30 First Use In Commerce: 2006/11/30 Banking and financial services, namely, checking and savings account services, electronic funds transfer, cash management and disbursement services, lending services, acceptance of deposits and loan payments, check cashing and check issuance, electronic payment services, providing financial information by electronic means, providing secure financial transactions in the nature of electronic cash transactions, electronic check processing transactions, trustee services, investment security services, certificates of deposits, asset management services, stored-value card services, smart card services, credit card services, all of which are provided in connection with health care coverage plans</p>		

U.S. Registration No.	3296318	Application Date	10/19/2006
Registration Date	09/25/2007	Foreign Priority Date	NONE
Word Mark	TURN TO BLUE		
Design Mark	<p style="text-align: center;"><b>Turn to Blue</b></p>		
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 2006/08/22 First Use In Commerce: 2006/10/01 underwriting and administration of health insurance</p>		

U.S. Registration No.	3506603	Application Date	05/23/2006
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Registration Date	09/23/2008	Foreign Priority Date	NONE
Word Mark	BLUE DISTINCTION CENTERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2006/06/30 First Use In Commerce: 2006/06/30 Assessing healthcare service provider performance; providing specialty care centers, namely, conducting quality measurement, improvement and assurance surveys in hospitals to determine service quality</p> <p>Class 036. First use: First Use: 2006/06/30 First Use In Commerce: 2006/06/30 Organization and administration of pre-paid, preferred provider organization, health maintenance organization, exclusive provider organization and point of service healthcare plans</p> <p>Class 044. First use: First Use: 2006/06/30 First Use In Commerce: 2006/06/30 Healthcare services; providing centers for excellence programs in the field of healthcare, namely, providing health and medical care information to enable consumers to make more informed healthcare decisions in collaboration with health care providers to improve outcomes and affordability; providing centers for specialty healthcare, namely, bariatric surgery and obesity care centers, cancer care centers, medical transplant centers, and cancer care centers</p>		

U.S. Registration No.	3584080	Application Date	08/23/2007
Registration Date	03/03/2009	Foreign Priority Date	NONE
Word Mark	BLUE 365		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2007/10/31 First Use In Commerce: 2007/10/31 Administration of a program for enabling participants to obtain discounts on the</p>		

	goods and services of others that promote healthy living and financial health planning through membership services
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U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	A family of BLUE word and design marks (registered and commonlaw), as further described in the Notice of Opposition.		
Goods/Services	A range of goods and services relating to insurance, health care plans, and health care as further described in the Notice of Opposition.		

Attachments	71531753#TMSN.gif ( 1 page )( bytes ) 71606403#TMSN.gif ( 1 page )( bytes ) 71616543#TMSN.gif ( 1 page )( bytes ) 71589371#TMSN.gif ( 1 page )( bytes ) 85346475#TMSN.jpeg ( 1 page )( bytes ) 85389666#TMSN.jpeg ( 1 page )( bytes ) 77015376#TMSN.jpeg ( 1 page )( bytes ) 78730176#TMSN.jpeg ( 1 page )( bytes ) 77708203#TMSN.jpeg ( 1 page )( bytes ) 76525726#TMSN.jpeg ( 1 page )( bytes ) 76262686#TMSN.gif ( 1 page )( bytes ) 76262688#TMSN.gif ( 1 page )( bytes ) 76262755#TMSN.gif ( 1 page )( bytes ) 76561784#TMSN.gif ( 1 page )( bytes ) 78598882#TMSN.jpeg ( 1 page )( bytes ) 78605827#TMSN.jpeg ( 1 page )( bytes ) 78598832#TMSN.jpeg ( 1 page )( bytes ) 78598842#TMSN.jpeg ( 1 page )( bytes ) 78872403#TMSN.jpeg ( 1 page )( bytes ) 78815040#TMSN.jpeg ( 1 page )( bytes ) 78598831#TMSN.jpeg ( 1 page )( bytes ) 78598836#TMSN.jpeg ( 1 page )( bytes ) 77025327#TMSN.jpeg ( 1 page )( bytes ) 78890549#TMSN.jpeg ( 1 page )( bytes ) 77262952#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition (FITBLUE).pdf ( 7 pages )(22831 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	/Garner K. Weng/
Name	Garner K. Weng
Date	07/23/2012

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

IN RE: APPLICATION SERIAL NO. 85/363,867

<p>BLUE CROSS AND BLUE SHIELD ASSOCIATION,</p> <p style="text-align:center">Opposer,</p> <p style="text-align:center">v.</p> <p>PALLADIAN HEALTH, LLC,</p> <p style="text-align:center">Applicant.</p>
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Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

Opposer Blue Cross and Blue Shield Association, a not-for-profit membership-based corporation organized and existing under the laws of the State of Illinois, doing business at 225 North Michigan Avenue, Chicago, IL 60601-7680, brings this Opposition against Application Serial No. 85/363,867, filed by Applicant Palladian Health, LLC, having an address of 2732 Transit Road, West Seneca, NY 14224.

1. On information and belief, on July 6, 2011, Palladian Health, LLC (“Applicant”) filed Application Serial No. 85/363,867 (the “Application”) under Section 1(a) of the Lanham Act. On information and belief, the Application was published in the U.S. Patent & Trademark Office’s *Official Gazette* on January 24, 2012. The Application on its face seeks to cover the word mark, FITBLUE, for “Administration of health benefit plans concerning fitness center memberships; promoting enrollment in fitness centers to health benefit plan members,” in International Class 35.

2. Opposer Blue Cross and Blue Shield Association (the “Association”) is a national association of 38 independent, community-based, and locally operated BLUE CROSS® and BLUE SHIELD® companies (“Member Plans”). The Association represents the nation’s oldest

and largest family of health benefits companies. For over 80 years, the Association (including through its predecessors in interest and its Member Plans and licensees) has provided tens of millions of families with top-quality affordable health care plans. The Association's Member Plans currently provide health care plans for over 100 million people in the United States—or about 1 in 3 Americans—and offer health care plans in all 50 states, the District of Columbia, and in Puerto Rico. More than 90% of hospitals and 80% of physicians in the United States contract with the Association's Member Plans—more than any other insurer. The Association's Member Plans currently provide health care plans to more than 75% of the Fortune 500 companies and more than 80% of the Fortune 100 companies.

3. The BLUE CROSS and BLUE SHIELD brands are among the most recognized in the health and health-related industries in the United States—and among the most recognized in any industry. The Association is the owner of the BLUE CROSS and BLUE SHIELD word and design marks—as well as numerous other marks constituting, featuring, or otherwise including the term “BLUE” and various marks specifically used in the color blue—and licenses the use of various such marks to its Member Plans and other licensees for the provision of a wide variety of goods and services, including but not limited to health, medical, life, disability and workers compensation insurance, health plans, health care and medical delivery services, financial services related to health and medical care, health and wellness education and programs, and other related goods and services. The Association (including through its predecessors in interest and its Member Plans and licensees) has been using these trademarks and service marks since at least as early as 1934 (BLUE CROSS) and 1939 (BLUE SHIELD).

4. Currently, in the United States alone, the Association owns more than 240 valid and subsisting U.S. federal trademark and service mark registrations, of which nearly 200 contain the term “BLUE”, a blue-colored shield, or a blue-colored cross (or some combination of these). Many of the U.S. federal registrations have become incontestable under Section 15 of the Lanham Act. Additionally, the Association owns similar trademark and service mark

registrations in more than 170 countries throughout the world. All these (along with numerous trade names and common-law marks) form a “family” of BLUE trade names, trademarks, and service marks (“Blue Marks”). Under the Lanham Act, the Association’s incontestable U.S. federal registrations are conclusive evidence of the Association’s exclusive right to use or authorize the use of the Blue Marks in commerce.

5. The Association (including through its Member Plans and licensees) has extensively used, advertised, and promoted the Blue Marks throughout the United States. For instance, in 2010 alone, gross revenue under the Blue Marks was approximately \$360 billion. The Association (including through its Member Plans and licensees) spends millions of dollars in advertising and promoting its marks, services, products, and image, thereby creating substantial goodwill in the marketplace. As a result, the general public recognizes the Blue Marks separately and collectively as identifying the Association and its Member Plans and licensees—and the quality services they render. The Blue Marks are an asset of incalculable value to the Association; and it has vigorously and successfully protected its marks. Moreover, at least as far back as 1977, federal district courts and other legal panels such as the World Intellectual Property Organization Uniform Dispute Resolution Policy Panel have expressly recognized the fame of the Blue Marks in the context of trademark disputes or litigation. In sum, the Blue Marks have long been famous; and the Blue Marks were famous long before Applicant’s adoption, use of, or application to register FITBLUE.

6. Among the Association’s Blue Marks are a wide range of marks consisting substantially of or otherwise featuring the term “BLUE.” These marks include, without limitation, FITBLUE, BLUE, BLUE CROSS, BLUE SHIELD, THE BLUES, HEALTHY BLUE, BLUE & YOU, TRUE BLUE, BLUE CARE, ADVANTAGE BLUE, THE VALUE OF BLUE, BLUE BASIC, BLUE CHOICE, PRIMARY BLUE, SENIOR BLUE, CLASSIC BLUE, BLUE ACCESS, BLUE CARD, BLUE SOLUTIONS, BLUE CREW, BLUE CONNECTION, and TURN TO BLUE. Historically and through the present, the Association (including through its predecessors in interest and its

Member Plans and licensees) has used and does use the Blue Marks in the color blue (including many different types and shades of blue); and, historically, before Applicant's adoption or use of FITBLUE, and through the present, the Association (including through its predecessors in interest and its Members Plans and licensees) has used and does use FITBLUE and other Blue Marks in connection with a broad range of health, wellness, insurance, medical and related services, including without limitation the administration of health benefit plans and promoting fitness and wellness. Several of the Association's U.S. federal trademark registrations for its Blue Marks are identified as "Marks Cited by Opposer as Basis for Opposition" in Opposer's electronic submission of this Opposition, including without limitation Registration Nos. 554,488; 557,037; 1,045,586; 1,632,573; 1,955,937; 1,996,466; 2,002,209; 2,161,616; 2,571,307; 2,999,617; 3,148,405; 3,148,694; 3,315,528; 3,506,603; 3,584,080; 3,689,392; 4,074,287; and 4,111,938.

7. On information and belief, Applicant is a vendor under contract with two of the Association's Member Plans, hired to provide website support in connection with these Member Plans' FITBLUE health and fitness program and newsletter. Indeed, as seen in the specimen of use submitted with the Application, Applicant's purported use of FITBLUE is actually in connection with its work under contract for these Member Plans and is on behalf of those Member Plans. On information and belief, Applicant knew it was not permitted to use the BLUE CROSS and BLUE SHIELD marks, and derivatives thereof, including FITBLUE, without written permission, and was not authorized to claim ownership of or file applications in connection with the FITBLUE mark.

8. FITBLUE is confusingly similar to one or more of the Association's Blue Marks. Among other things, Applicant's purported FITBLUE mark is identical to the Association's FITBLUE mark and confusingly similar in appearance and sound to one or more of the Association's other Blue Marks; and the goods and services listed in the Application are similar to, overlap with, or are otherwise the type to be seen as emanating from the same source under

a single mark as those goods and services designated by one or more of the Association's Blue Marks. Furthermore, on information and belief, Applicant had and still has the intent to suggest an association with the Association's Blue Marks; and compounding the issue, Applicant uses FITBLUE alongside certain of the Association's Blue Marks. In sum, FITBLUE is therefore likely to confuse, cause mistake among, or deceive the relevant public into believing that Applicant is sponsored by, endorsed by, or in some manner related to the Association (or its Member Plans or licensees). On information and belief, Applicant selected its mark in the Application, began using this mark, and continues to use this mark with full knowledge of the Association's Blue Marks and with the intent to confuse, cause mistake among, and deceive the public into believing that Applicant's services are of the same high quality as or are in some way associated with the services of the Association (or its Member Plans or licensees).

9. Applicant's above-described use of FITBLUE is likely to impair and has impaired the distinctiveness of the Blue Marks and their ability to identify and distinguish the goods and services of the Association—and has also harmed the reputation of the Association and these marks by associating them with Applicant.

10. Likewise, registration of FITBLUE, as described in the Application, will injure the Association by causing the relevant public to be confused, mistaken, or deceived to the detriment of the Association, by diluting the distinctive quality of the Association's famous Blue Marks, and by harming the reputation of the Association and its marks by associating them with Applicant.

11. Additionally, on information and belief and as described above, Applicant's sworn statements in the Application were false at the time of the Application and were known by Applicant to be false at the time of the Application; in particular, Applicant swore in the Application that, to the best of its knowledge and belief, no other person or entity has the right to use FITBLUE in commerce.

12. For the reasons set forth in this Notice of Opposition, the Association believes that it will be damaged by the registration of FITBLUE as described in the Application. Accordingly, Opposer Blue Cross and Blue Shield Association prays that the Application be denied registration.

The Association (through its counsel) hereby authorizes the requisite filing fee in the amount of \$300 to be charged to Hanson Bridgett LLP's U.S. Patent & Trademark Office Deposit Account No. 08-0630; and the Commissioner is further authorized to charge any deficiencies or other amounts due in connection with this filing to Deposit Account No. 08-0630.

Dated this 23rd day of July 2012.

Respectfully submitted,

By: /s/ Garner K. Weng

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