

ESTTA Tracking number: **ESTTA517342**

Filing date: **01/22/2013**

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	PatientsLikeMe Inc.
Granted to Date of previous extension	01/20/2013
Address	155 Second Street Cambridge, MA 02141 UNITED STATES

Attorney information	Patrick J. Concannon Edwards Wildman Palmer LLP F.D.R. Station, P.O. Box 130 New York, NY 10150 UNITED STATES trademark@edwardswildman.com,pconcannon@edwardswildman.com Phone:617-239-0419
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Applicant Information

Application No	85589304	Publication date	07/24/2012
Opposition Filing Date	01/22/2013	Opposition Period Ends	01/20/2013
Applicant	Walgreen Co. 200 Wilmot Road Deerfield, IN 60015 UNITED STATES		

Goods/Services Affected by Opposition

Class 042. All goods and services in the class are opposed, namely: Computer services, namely, creating an on-line community for registered users to participate in discussions, get feedback from their peers, form virtual communities, and engage in social networking services in the field of health and wellness
Class 044. All goods and services in the class are opposed, namely: Providing a website featuring information about health, wellness and nutrition
Class 045. All goods and services in the class are opposed, namely: Online social networking services provided through a health and wellness community website

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.	3577623	Application Date	12/31/2007
Registration Date	02/17/2009	Foreign Priority Date	NONE
Word Mark	PATIENTSLIKEME		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 2006/03/14 First Use In Commerce: 2006/03/14 computer services in the nature of providing customized web pages featuring health and medical information, including user-defined health and medical information and personal health profiles; providing health and medical information Class 045. First use: First Use: 2006/03/14 First Use In Commerce: 2006/03/14 providing an online social networking website for registered users for sharing health and medical information and engaging in related networking		

Attachments	77361688#TMSN.jpeg (1 page)(bytes) Fans Like Me Notice of Oppostion.pdf (11 pages)(402797 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	/PJC/
Name	Patrick J. Concannon
Date	01/22/2013

Opposer's Marks

1. Since 2006, Opposer has hosted and maintained an online community that allows individuals to share experiences, educate themselves and educate others about living with medical conditions and life-changing diseases, and rate medical products and services, including drugs. The services involve social media interaction and the provision of educational resources relating to a wide range of health issues.

2. Opposer partners with other industry leaders, research and academic organizations and non-profit foundations within the medical field to use the information and medical data shared by each patient to improve medical products, medical research, patient care and patient services.

3. Commencing prior to Applicant's filing its Application and continuing to this day, Opposer has used the mark PATIENTSLIKEME in interstate commerce throughout the United States in connection with a variety of services, including customizable web pages featuring health and medical information and online social networking websites for registered users to share health and medical information.

4. Prior to Applicant's filing the Application, Opposer obtained a registration (the "PATIENTSLIKEME Registration") as follows:

<u>Mark</u>	<u>Reg. No.</u>	<u>Services</u>	<u>Class(es)</u>
PATIENTSLIKEME	3577623	computer services in the nature of providing customized web pages featuring health and medical information, including user-defined health and medical information and personal health profiles; providing health and medical information providing an online social networking website for registered users for sharing health and medical information and	44, 45

		engaging in related networking	
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Attached as Exhibit A are TESS records showing the status and title of the pleaded registration.

5. The PATIENTSLIKEME Registration was issued on February 17, 2009, is valid and subsisting, and constitutes *prima facie* evidence of the validity of Opposer's exclusive right to use the PATIENTSLIKEME mark in commerce in connection with the services described in such registration, without condition or limitation. The PATIENTSLIKEME Registration constitutes constructive notice of Opposer's ownership of the PATIENTSLIKEME Mark for the services described in such registration, as provided for by §§ 7(b) and 22 of the Lanham Act, 15 U.S.C.A. §§ 1057(b) and 1072. Opposer also owns nationwide common law trademark rights in its inherently distinctive PATIENTSLIKEME Mark by virtue of its use of the PATIENTSLIKEME Mark throughout the United States.

6. Opposer has expended substantial amounts of time and effort in advertising and promoting its services under the PATIENTSLIKEME Mark. Opposer derives substantial goodwill from such identification and association by consumers.

Applicant and Applicant's Mark

7. Opposer hereby incorporates by reference the allegations in Paragraphs 1 through 6 hereof as if fully set forth herein.

8. Upon information and belief, Applicant is an Illinois corporation with a place of business at 200 Wilmot Road, Deerfield, Illinois 60015.

9. The Application includes no limitation as to the channels of trade or intended audience for the listed goods or services.

10. On April 4, 2012, Applicant filed its Application for the FANS LIKE ME mark. The Application covers "computer services, namely, creating an on-line community for

registered users to participate in discussions, get feedback from their peers, form virtual communities, and engage in social networking services in the field of health and wellness” in International Class 35; “providing a website featuring information about health, wellness and nutrition” in International Class 44; and “online social networking services provided through a health and wellness community website” in International Class 45.

Count I: Likelihood of Confusion

11. Opposer hereby incorporates by reference the allegations in Paragraphs 1 through 10 hereof as if fully set forth herein.

12. The FANS LIKE ME mark, as set forth in the Application, is highly similar in sight, sound, connotation, and commercial impression to Opposer's PATIENTSLIKEME Mark. The applied-for FANS LIKE ME mark contains a substantial portion of Opposer's mark, that being the “LIKE ME” element. The prefix element “FANS” is a common term given to a like-minded group of individuals and is descriptive of Applicant's online community members. Accordingly, the element “LIKE ME” in Applicant's mark, the element shared with Opposer's PATIENTSLIKEME mark, is the dominant element of Applicant's FANS LIKE ME mark.

13. The Application and the Opposer's registrations for its PATIENTSLIKEME Mark cover directly overlapping services. Applicant's services cover websites featuring information on health and wellness and websites featuring an online community for registered users to participate in discussions related to health and wellness. The services covered by the PATIENTSLIKEME Registration include websites featuring health and medical information, and an online social networking websites for registered users to share health and medical information. To the extent that the services listed in Opposer's registrations for its

PATIENTSLIKEME Mark do not directly overlap the services listed in the Application, they are closely related to the services listed in the Application and target the same audiences.

14. Opposer promotes and renders its services under PATIENTSLIKEME over the Internet, which is the same channel of trade that Applicant would use to promote and render services listed in the Application under the proposed FANS LIKE ME.

15. Both Opposer's services that are rendered under PATIENTSLIKEME and listed in the PATIENTSLIKEME Registration, on the one hand, and the services listed in the Application, on the other, are rendered to ordinary purchasers who are not necessarily sophisticated.

16. Because Applicant's and Opposer's mark are highly similar and because Applicant's and Opposer's services directly overlap, target the same audience, share the same channels of trade, are rendered to ordinary purchasers, and share the same purpose of improving and providing health and medical information through online resources and social networking websites, there is a strong likelihood that the public will believe that Applicant's FANS LIKE ME used in connection with the subject services emanate from, are associated with, are connected to, or are sponsored by Opposer. Accordingly, consumer confusion is likely between the PATIENTSLIKEME Mark and the FANS LIKE ME mark in the Application.

17. Therefore, Applicant's FANS LIKE ME mark is likely to cause confusion, mistake, or to deceive the public into believing that Applicant's services are somehow affiliated or associated with, connected to, or sponsored by Opposer, in violation of Section 2(d) of the Lanham Act, resulting in damage and injury to Opposer.

18. Opposer will be damaged by registration of the FANS LIKE ME mark because such registration will support and assist Applicant in the confusing and misleading use of the

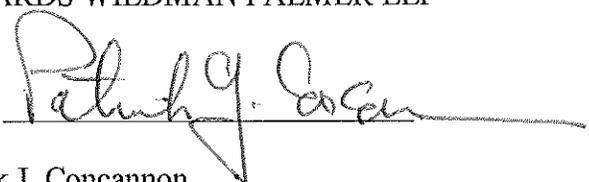
FANS LIKE ME mark, and will give color of rights to Applicant in violation of Opposer's prior and superior statutory and common-law rights in the PATIENTSLIKEME Mark.

WHEREFORE, Opposer prays that this Opposition be sustained and that the application for registration of the FANS LIKE ME Mark be denied in all respects.

Dated: January 22, 2013

Respectfully submitted,

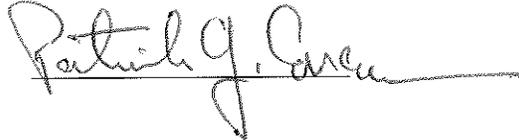
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By: 

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Attorneys for Opposer

CERTIFICATE OF ELECTRONIC MAILING

I hereby certify that the foregoing Notice of Opposition is being submitted electronically through the Trademark Trial and Appeal Board's ESTTA System on this 22 day of January 2013.

A handwritten signature in cursive script, reading "Patricia J. Carver", with a horizontal line extending to the right from the end of the signature.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION is being deposited with the U.S. Postal Service with sufficient postage as first class mail this 22 day of January 2013 in an envelope addressed to Applicant's counsel of record at the following address:

Cary M. Pumphrey, Esq.
Walgreen Co.
104 Wilmot Road
Deerfield, Illinois 60015-5121

A handwritten signature in cursive script, reading "Patricia J. Carver", with a horizontal line extending to the right from the end of the signature.

Exhibit A



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PatientsLikeMe

Word Mark	PATIENTSLIKEME
Goods and Services	IC 044. US 100 101. G & S: computer services in the nature of providing customized web pages featuring health and medical information, including user-defined health and medical information and personal health profiles; providing health and medical information. FIRST USE: 20060314. FIRST USE IN COMMERCE: 20060314
	IC 045. US 100 101. G & S: providing an online social networking website for registered users for sharing health and medical information and engaging in related networking. FIRST USE: 20060314. FIRST USE IN COMMERCE: 20060314
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77361688
Filing Date	December 31, 2007
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	June 10, 2008
Registration Number	3577623
Registration Date	February 17, 2009
Owner	(REGISTRANT) PatientsLikeMe Inc. CORPORATION DELAWARE 222 Third Street, Suite 0234

Cambridge MASSACHUSETTS 02142
Attorney of Record Patrick J. Concannon
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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No assignment has been recorded at the USPTO

For Serial Number: 77361688

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.3.2
Web interface last modified: July 10, 2012 v.2.3.2

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