

ESTTA Tracking number: **ESTTA557532**

Filing date: **09/04/2013**

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	HCR HEALTHCARE, LLC		
Entity	LLC	Citizenship	Delaware
Address	333 NORTH SUMMIT STREET TOLEDO, OH 43604 UNITED STATES		

Correspondence information	Clay P. Hughes HCR HEALTHCARE, LLC 333 NORTH SUMMIT STREET TOLEDO, OH 43604 UNITED STATES ptoipinbox@reedsmith.com, chughes@reedsmith.com, gtabachnick@reedsmith.com Phone: 412-288-3008
----------------------------	--

Applicant Information

Application No	85881341	Publication date	08/06/2013
Opposition Filing Date	09/04/2013	Opposition Period Ends	09/05/2013
Applicant	LTC Support Services, LLC 285 South Farnham Street Galesburg, IL 61401 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. First Use: 2006/04/00 First Use In Commerce: 2006/04/00 All goods and services in the class are opposed, namely: Providing assistance to senior citizens seeking to determine assisted living facilities appropriate for their needs; Providing assisted living facilities
Class 044. First Use: 2006/04/00 First Use In Commerce: 2006/04/00 All goods and services in the class are opposed, namely: Alzheimer's and dementia health care

Applicant Information

Application No	85881384	Publication date	08/06/2013
Opposition Filing Date	09/04/2013	Opposition Period Ends	09/05/2013
Applicant	LTC Support Services, LLC 285 South Farnham Street Galesburg, IL 61401 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. First Use: 2007/09/01 First Use In Commerce: 2007/09/01
All goods and services in the class are opposed, namely: Providing assistance to senior citizens seeking to determine assisted living facilities appropriate for their needs; Providing assisted living facilities

Class 044. First Use: 2007/09/01 First Use In Commerce: 2007/09/01
All goods and services in the class are opposed, namely: Alzheimer's and dementia health care

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. Registration No.	3334641	Application Date	02/01/2006
Registration Date	11/13/2007	Foreign Priority Date	NONE
Word Mark	ARDEN COURTS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 1993/08/10 First Use In Commerce: 1993/08/10 PHYSICAL AND OCCUPATIONAL REHABILITATION; TRANSITIONAL HEALTH CARE; NURSING HOME CARE; HOME HEALTH AND HOSPICE CARE		

U.S. Registration No.	3613386	Application Date	01/04/2008
Registration Date	04/28/2009	Foreign Priority Date	NONE
Word Mark	ARDEN COURTS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 2008/07/00 First Use In Commerce: 2008/07/00 HEALTH CARE; PHYSICAL, SPEECH AND OCCUPATIONAL REHABILITATION THERAPY; HEALTH CARE SERVICES, NAMELY, ALZHEIMER'S CARE; ASSISTED LIVING HEALTH CARE; TRANSITIONAL HEALTH CARE; SKILLED NURSING HOME CARE; HOME HEALTH CARE AND HOSPICE CARE		

Attachments	hcr.garden court.notice of opp (9.4.13).pdf(104926 bytes)
-------------	--

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	/Clay P. Hughes/
Name	Clay P. Hughes
Date	09/04/2013

Exhibit A hereto.

2. Beginning at least as early as August, 1993, HCR (or its predecessors) has been using the mark ARDEN COURTS in connection with, *inter alia*, "physical and occupational rehabilitation; transitional health care; nursing home care; home health and hospice care."

3. Since at least as early as May, 2008, HCR has been using its ARDEN COURTS Marks in connection with, *inter alia*, "health care; physical, speech and occupational rehabilitation therapy; health care services, namely, Alzheimer's care; assisted living health care; transitional health care; skilled nursing home care; home health care and hospice care." These uses have been continuous to the present day.

4. HCR has used the mark ARDEN COURTS extensively and continuously in interstate commerce for more than 20 years and has acquired considerable goodwill and wide-scale recognition for its marks. The public has come to associate the ARDEN COURTS Marks with HCR and its services.

5. By way of United States Trademark Application Nos. 85/881,341 and 85/881,384 (collectively, the "GARDEN COURT applications"), Applicant seeks to register the marks "GARDEN COURT" and "GARDEN COURT ALZHEIMER'S / DEMENTIA CARE & design" in connection with "[p]roviding assistance to senior citizens seeking to determine assisted living facilities appropriate for their needs; [p]roviding assisted living facilities," and "Alzheimer's and dementia health care."

6. Given the similarity between the marks and associated services, Applicant's use of "GARDEN COURT," in connection with health care services, is likely to cause confusion or mistake, or to deceive as to the affiliation, connection, or

association, with HCR's ARDEN COURTS Marks and HCR's provision of its services. Applicant's and HCR's marks and services are so similar that consumers are likely to confuse Applicant with HCR, or to believe that HCR sponsors or approves of Applicant's services or activities (which they do not).

7. In addition, Applicant's use of the mark in the GARDEN COURT applications dilutes the distinctive character of HCR's valuable ARDEN COURTS Marks and their established goodwill.

8. Based on the harm described herein and HCR's prior and continuing use of its ARDEN COURTS Marks, the GARDEN COURT applications should be denied.

WHEREFORE, HCR hereby moves the Board for an Order denying registration of United States Trademark Applications Nos. 85/881,341 and 85/881,384.

To the extent necessary, the Commissioner is hereby authorized to charge HCR's attorneys' Deposit Account No. 180582 for any necessary fees accompanying this filing. This paper is being filed electronically.

Respectfully submitted,

Dated: September 4, 2013

/s/ Clay P. Hughes
Gene A. Tabachnick
Pa. I.D. No. 73032
gtabachnick@reedsmith.com
Clay P. Hughes
Pa. I.D. No. 200033
chughes@reedsmith.com

REED SMITH LLP
Reed Smith Centre, Suite 1200
225 Fifth Avenue

Pittsburgh, Pennsylvania 15222
(412) 288-3258/3008

Attorneys for Opposer,
HCR Healthcare, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Applicant via U.S. mail and email to the attorney of record for Application Nos. 85/881,341 and 85/881,384:

Alan R. Singleton, Esq.
Singleton Law Firm, P.C.
2001 South 1st Street
Suite 209
Champaign, IL 61820-7478

singleton@singletonlawfirm.com

Dated: September 4, 2013

/s/ Clay P. Hughes

EXHIBIT A

Int. Cl.: 44

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,334,641

Registered Nov. 13, 2007

**SERVICE MARK
PRINCIPAL REGISTER**

ARDEN COURTS

MANORCARE HEALTH SERVICES, INC. (DELA-
WARE CORPORATION)
P.O. BOX 10086
333 N. SUMMIT STREET
TOLEDO, OH 436990086

FOR: PHYSICAL AND OCCUPATIONAL REHA-
BILITATION; TRANSITIONAL HEALTH CARE;
NURSING HOME CARE; HOME HEALTH AND
HOSPICE CARE, IN CLASS 44 (U.S. CLS. 100 AND
101).

FIRST USE 8-10-1993; IN COMMERCE 8-10-1993.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-804,666, FILED 2-1-2006.

BARNEY CHARLON, EXAMINING ATTORNEY

Int. Cl.: 44

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,613,386

Registered Apr. 28, 2009

SERVICE MARK
PRINCIPAL REGISTER

Arden Courts 

HCR HEALTHCARE, LLC (DELAWARE LIMITED LIABILITY COMPANY)
333 N. SUMMIT STREET
TOLEDO, OH 436990086

FOR: HEALTH CARE; PHYSICAL, SPEECH AND OCCUPATIONAL REHABILITATION THERAPY; HEALTH CARE SERVICES, NAMELY, ALZHEIMER'S CARE; ASSISTED LIVING HEALTH CARE; TRANSITIONAL HEALTH CARE; SKILLED NURSING HOME CARE; HOME HEALTH CARE AND

HOSPICE CARE, IN CLASS 44 (U.S. CLS. 100 AND 101).

FIRST USE 7-0-2008; IN COMMERCE 7-0-2008.

OWNER OF U.S. REG. NO. 3,334,641.

SN 77-364,683, FILED 1-4-2008.

REBECCA SMITH, EXAMINING ATTORNEY