

ESTTA Tracking number: **ESTTA619376**

Filing date: **08/04/2014**

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	Scrum Alliance, Inc.
Granted to Date of previous extension	08/03/2014
Address	P.O. Box 40097 Indianapolis, IN 46240-0097 UNITED STATES

Attorney information	David M. Perry Blank Rome LLP One Logan Square Philadelphia, PA 19103-6998 UNITED STATES perry@blankrome.com, mhomyk@blankrome.com Phone:215-569-5767
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Applicant Information

Application No	86057491	Publication date	02/04/2014
Opposition Filing Date	08/04/2014	Opposition Period Ends	08/03/2014
Applicant	VMEdu, Inc. Suite 240 Phoenix, AZ 85008 UNITED STATES		

Goods/Services Affected by Opposition

Class 016. First Use: 2013/06/03 First Use In Commerce: 2013/07/30 All goods and services in the class are opposed, namely: Reference books in the field of scrum and agile project management

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
Genericness	Trademark Act section 23

Attachments	SBOK 491 opp.pdf(29557 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	/matthew a homyk/
Name	Matthew A. Homyk
Date	08/04/2014

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

In re Application of VMEdU, Inc.

Application No.: 86/057,491

Application Date: September 6, 2013

Mark: SBOK

SCRUM ALLIANCE, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
VMEDU, INC.,)	
)	
Applicant.)	
)	

Hon. Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Attn.: Trademark Trial and Appeal Board

NOTICE OF OPPOSITION

Opposer, Scrum Alliance, Inc. ("Scrum Alliance"), a Colorado corporation with an address at P.O. Box 40097, Indianapolis, Indiana 46240-0097, believes that it would be damaged by the registration of the mark SBOK, shown in Application Serial No. 86/057,491 ("Applicant's Mark") for "Reference books in the field of scrum and agile project management," and hereby opposes the same under the provision of

Section 13 of the Trademark Act of July 5, 1946, as amended, 15 U.S.C. § 1063.

As grounds of opposition, it is alleged that:

1. Since long prior to the filing date of Applicant's application herein opposed, Scrum Alliance has been in the business of encouraging and supporting the widespread adoption and effective practice of Scrum, which is an iterative and incremental agile software development framework for managing product development.

2. SBOK is a software industry term, which means "Scrum Body of Knowledge."

3. SBOK is a shortened version of ScrumBOK, which also means "Scrum Body of Knowledge."

4. Scrum Body of Knowledge is defined as the methodologies, tools and techniques used during the Scrum variant of agile software development.

5. Scrum Alliance has a real interest in the registration of the Applicant's Mark because such registration would damage Scrum Alliance by interfering with its right to the lawful descriptive use of the acronym "SBOK" to describe products and services that are generically described by the names "SBOK" and "Scrum Body of Knowledge."

6. Numerous other entities, especially those in the software development and technology industries, already employ the generic or descriptive use of the terms "SBOK" and "Scrum Body of Knowledge" in connection with agile project management, methodologies, tools and techniques. Such descriptive use by Scrum Alliance and software development entities, demonstrates that the term "SBOK" should not be controlled by or exclusively registered to one person or entity and must remain in the public domain for use by all others to describe their agile project management products and services.

7. Should Applicant receive registration for this descriptive term, Scrum Alliance, as well as other entities, may be precluded from making fair, legitimate, descriptive use of the term "SBOK" to describe products and services involving agile project management, methodologies, tools and techniques. Granting Applicant a registration for the term "SBOK" would provide Applicant with a monopoly over the common term and bar or unduly hinder the legitimate use by others of the term.

**Applicant's Mark is Merely Descriptive
Without Sufficient Evidence of Acquired Distinctiveness**

8. Scrum Alliance repeats and realleges the allegations contained in paragraphs 1 through 7 above, as if fully set forth herein.

9. Applicant's Mark, as used in connection with "Reference books in the field of scrum and agile project management," is not being used by the Applicant as a trademark but, rather, as a highly descriptive term, incapable of federal registration without an extraordinary showing of secondary meaning, insofar as it immediately describes an ingredient, quality, characteristic and feature of the specified goods. See 15 U.S.C. § 1052(e)(1).

Applicant's Mark is Generic

10. Scrum Alliance repeats and realleges the allegations contained in paragraphs 1 through 9 above, as if fully set forth herein.

11. Applicant's Mark consists of the generic term "SBOK," and as the relevant purchasing public understands the term primarily as the common name for the goods, the mark cannot acquire distinctiveness as to source and is incapable of identifying the Applicant's goods and distinguishing them from those of others.

12. Scrum Alliance is aware of no attempts by Applicant to contest the generic use of the term "SBOK" by competitors.

13. Applicant's Mark, consisting of only a generic term, is incapable of functioning as a registrable trademark denoting

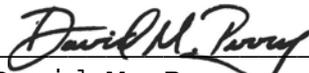
source and therefore is not registrable on the Principal Register under Section 2(f) or on the Supplemental Register.

Respectfully submitted,

SCRUM ALLIANCE

Date: August 4, 2014

By:



David M. Perry
Its Attorneys

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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is addressed to the Trademark Trial and Appeal Board, Hon. Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451, and is being deposited via the Electronic System for Trademark Trials and Appeals (ESTTA) on August 4, 2014.



David M. Perry

CERTIFICATE OF SERVICE

The Undersigned, David M. Perry, hereby certifies that on August 4, 2014, he caused a true copy of the foregoing Notice of Opposition to be served by first class mail on:

VMEDU, INC.
410 N 44TH ST
SUITE 240
PHOENIX, ARIZONA 85008-7688



David M. Perry