

ESTTA Tracking number: **ESTTA691976**

Filing date: **08/26/2015**

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	Symplicity Corporation
Granted to Date of previous extension	08/26/2015
Address	1560 Wilson Boulevard, Suite 550 Arlington, VA 22209 UNITED STATES
Attorney information	Lora A. Moffatt Crowell & Moring LLP P.O. Box 14300 Washington, DC 20044-4300 UNITED STATES edocket@crowell.com, lmoffatt@crowell.com, pchakrabarti@crowell.com, afield@crowell.com Phone:212-223-4000

Applicant Information

Application No	86257568	Publication date	04/28/2015
Opposition Filing Date	08/26/2015	Opposition Period Ends	08/26/2015
Applicant	Acelero Learning Data and Technical Assistance, Inc. 6th Floor New York, NY 10027 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Early education and child development curriculum and assessment computer software for administrators; student information archiving and analysis computer software for administrators; Early education and child development program compliance monitoring computer software for administrators
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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. Application No.	86533567	Application Date	02/12/2015
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	INSIGHT
Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 042. First use: First Use: 2010/12/00 First Use In Commerce: 2010/12/00</p> <p>Software as a service (SAAS) services featuring software for use by educational institutions, colleges, and universities for identifying and tracking at-risk students, case management, and creating a directory of tutors, counselors, assigned advisors, mentors, and campus offices; software as a service (SAAS) services featuring software for use by educational institutions, colleges, and universities for academic advising center management, namely, student relationship management, appointment scheduling, creating and maintaining a database of student information, creating a network of tutors, tracking and monitoring at-risk students, and centralized document management; software as a service (SAAS) services featuring software for use by educational institutions, colleges, and universities for athletic advising office management, namely, student relationship management, appointment scheduling, creating and maintaining a database of student information, creating a network of tutors, tracking and monitoring at-risk students, and centralized document management; software as a service (SAAS) services featuring software for use by educational institutions, colleges, and universities for counseling center management, namely, student relationship management, appointment scheduling, creating and maintaining a database of student information, creating a network of tutors, creating and maintaining a database of peer mentors, and centralized document management</p>

Attachments	86533567#TMSN.png(bytes) 30127_opposition.pdf(128002 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	/Alison J. Field/
Name	Alison J. Field
Date	08/26/2015

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

In the Matter of Application No. 86-257,568 for
SHINE INSIGHT in International Class 9
Published for opposition in the Official Gazette of
April 28, 2015

Symplicity Corporation,

Opposer,

Opposition No.

v.

Acelero Learning Data and Technical Assistance, Inc.

Applicant.

NOTICE OF OPPOSITION

Opposer, Symplicity Corporation (“Opposer”), a Delaware corporation with offices at 1560 Wilson Boulevard, Suite 550, Arlington, VA 22209, United States, believes it will be damaged by registration of the mark SHINE INSIGHT as shown in Application Serial No. 86-257,568, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Applicant, Acelero Learning Data and Technical Assistance, Inc. (“Applicant”) is the owner of a United States Trademark Application No. 86-257,568 seeking to register SHINE INSIGHT for “Early education and child development curriculum and assessment computer software for administrators; student information archiving and analysis computer software for administrators; Early education and child development program compliance monitoring computer software for administrators (“SHINE INSIGHT Application”). The SHINE INSIGHT

Application was filed on April 21, 2014 as an Intent to Use application. No statement of use has been filed for the SHINE INSIGHT Application.

2. Opposer is the owner of rights in and to the name and mark INSIGHT and variations thereon (“INSIGHT Mark”), in the United States, in connection with the following class 42 services: Software as a service (SAAS) services featuring software for use by educational institutions, colleges, and universities for identifying and tracking at-risk students, case management, and creating a directory of tutors, counselors, assigned advisors, mentors, and campus offices; software as a service (SAAS) services featuring software for use by educational institutions, colleges, and universities for academic advising center management, namely, student relationship management, appointment scheduling, creating and maintaining a database of student information, creating a network of tutors, tracking and monitoring at-risk students, and centralized document management; software as a service (SAAS) services featuring software for use by educational institutions, colleges, and universities for athletic advising office management, namely, student relationship management, appointment scheduling, creating and maintaining a database of student information, creating a network of tutors, tracking and monitoring at-risk students, and centralized document management; software as a service (SAAS) services featuring software for use by educational institutions, colleges, and universities for counseling center management, namely, student relationship management, appointment scheduling, creating and maintaining a database of student information, creating a network of tutors, creating and maintaining a database of peer mentors, and centralized document management (“Simplicity Services”).

3. Opposer's rights in the INSIGHT Mark in connection with the Symplicity Services are prior and superior to any rights of Applicant in the mark sought to be registered in the opposed application.

4. Opposer's prior rights in the INSIGHT Mark, in part, are reflected by the prior use by of the INSIGHT Mark in commerce in connection with Symplicity Services and by its ownership of United States Trademark Application No. 86-533,567 for INSIGHT. Symplicity first used its INSIGHT mark in December of 2010.

5. Opposer filed its application for INSIGHT on February 12, 2015. On May 21, 2015, the United States Trademark Examiner for the INSIGHT Mark issued an office action whereby the Trademark Examiner issued a provisional Section 2(d) refusal citing the SHINE INSIGHT Application. If the SHINE INSIGHT Application matures into a registration, the Trademark Examiner may issue a 2(d) refusal against the INSIGHT Mark based on the SHINE INSIGHT Application.

6. Opposer will be damaged by the registration of the SHINE INSIGHT Application in that it may bar the registration of the INSIGHT Mark and so resembles Opposer's INSIGHT Mark, as to be likely, when applied to the services currently listed in the application, to cause confusion, mistake and deception, with consequent irreparable damage to Opposer's business and goodwill in violation of Section 2(d) of the United States Trademark Act of 1946 as amended ("Lanham Act") (15 U.S.C. §1052(d)) and otherwise will improperly give the appearance of exclusive statutory ownership rights in marks incorporating variations of the INSIGHT Mark to Applicant in derogation of the prior and superior rights of Opposer.

7. Registration, therefore, should be refused for the reasons set forth above.

WHEREFORE, Opposer requests that this opposition be sustained and that the SHINE INSIGHT Application be refused.

Opposer will submit payment with the online filing of the Notice, pursuant to 37 CFR §2.6(a)(17), in an amount totaling three hundred dollars (\$300.00) in payment of the requisite fee for filing this Notice of Opposition against the application in one class. Please charge any additional amounts to the undersigned Attorney's Deposit Account No. 05-1323.

Dated: New York, New York
August 26, 2015

Respectfully submitted,

CROWELL & MORING LLP

By: /Lora Moffatt/
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Attorneys for Opposer
Symplicity Corporation

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of August, 2015, the foregoing Notice of Opposition was served upon Applicant by depositing same with the U.S. Postal Service, first-class postage prepaid, addressed as follows:

Mr. Javier J. Ramos
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/Alison J. Field/

Alison J. Field