

ESTTA Tracking number: **ESTTA769346**

Filing date: **09/08/2016**

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	VISION SOURCE L.P.
Granted to Date of previous extension	09/11/2016
Address	23824 Highway 59 North Kingwood, TX 77339 UNITED STATES
Attorney information	Kay Lyn Schwartz Gardere Wynne Sewell LLP 1601 Elm Street, Suite 3000 Dallas, TX 75201 UNITED STATES ip@gardere.com, kschwartz@gardere.com, jfulmer@gardere.com Phone:2149994702

Applicant Information

Application No	86774377	Publication date	03/15/2016
Opposition Filing Date	09/08/2016	Opposition Period Ends	09/11/2016
Applicant	Vision Service Plan 3333 Quality Drive Rancho Cordova, CA 95670 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Computer programs for use in office accounting, practice management, word processing, and scheduling by health care professionals, including optometrists, ophthalmologists and opticians</p>
<p>Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Promoting public awareness of the importance of having regular professional vision care; Promoting public awareness of diseases related to and/or diagnosable through the eye through the use of mobile or temporary optometric clinics; Business management services for eye care providers, namely, business management consultancy and advisory services; Business management consulting services for eye care providers; Promoting the sale of goods and services of others through the distribution of information featuring market and product data to vendors and suppliers of eye health and eye care products and services; Promoting the sale of eyeglass lenses and frames of others through the distribution of information featuring market and product data to providers of eye health and eye care products and services; Promoting the sale of computer software, for practice management and electronic medical records for vision care professionals and practices, of others, through the distribution of information featuring market and product data to providers of eye health and eye care products and services</p>

<p>Class 036. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Financial management; Financial information; Financing services; Loan financing; Health insurance underwriting; Administration of preferred provider plans in the field of vision care; Administration of pre-paid vision care plans; Electronic processing of insurance claims and payments data; Providing information in the field of administering pre-paid vision care programs; Administering pre-paid vision care programs</p>
<p>Class 038. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Providing on-line electronic bulletin board for transmission of messages among computer users concerning employment and practice opportunities in the optical and healthcare fields</p>
<p>Class 039. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Delivery of vision care materials in a commercial setting</p>
<p>Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Educational services, namely, providing educational classes, seminars and continuing education courses in the field of vision health and vision care, provided directly or by means of a global computer network</p>
<p>Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Computer services, namely, the design, implementation and hosting of electronic commerce web sites for others on a computer server for a global computer network; Providing a web site featuring technology which enables laboratories to receive, process and manage prescription information from doctors' offices</p>
<p>Class 044. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Providing health information, namely, information in the field of vision care; Providing health information relating to medical conditions of the eye; Charitable vision-care services, namely, providing vision screenings, mobile, temporary and emergency vision-care clinics, and distribution of eyewear to those in need; Providing health care information in the field of eye care; Charitable optometry services; Health care services, namely, wellness programs; Providing health information, namely, data based on current best evidence relating to selected eye and health conditions in patients, and the dissemination of such data to employer groups, health plans, patients and others for the purpose of improved health outcomes; Optometry, ophthalmology and optician services; Providing resources and tools to employers and their employees, and to other consumers, to help them make health, wellness, fitness and nutritional changes in their daily living to improve their overall health, namely, providing health information; Providing a web site for laboratories containing prescription information from doctors' offices</p>

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.	87088256	Application Date	06/29/2016
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	WE HELP PEOPLE SEE		

Design Mark	WE HELP PEOPLE SEE
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2012/02/00 First Use In Commerce: 2012/02/00 Promoting the goods and services of eyecare providers, optician and optometry;retail sale of optical products, including, eyeglasses, eyeglass frames, eyeglass lenses, contact lenses, and accessories

Attachments	87088256#TMSN.png(bytes) Vision Source - Notice of Opposition VSP re WE HELP PEOPLE SEE.pdf(205477 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	/Kay Lyn Schwartz/
Name	Kay Lyn Schwartz
Date	09/08/2016

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

VISION SOURCE L.P.

Opposer,

v.

VISION SERVICE PLAN

Applicant.

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Opposition No. _____

U.S. Application Serial No.
86774377 for the mark:
WE HELP PEOPLE SEE

NOTICE OF OPPOSITION

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

Vision Source L.P., a limited partnership organized under the laws of the state of Texas and having a business address of 23824 Highway 59 North, Kingwood, TX 77339 ("***Vision Source***"), believes it will be damaged by the registration of the mark shown in U.S. Application Serial No. 86774377, filed September 30, 2015, and owned by Vision Service Plan, a California corporation having an address of 3333 Quality Drive, Rancho Cordova, CA 95670 ("***Applicant***") in connection with goods/services in Classes 9, 35, 36, 38, 39, 41, 42, and 44, specifically:

Class	Goods/Services
9	Computer programs for use in office accounting, practice management, word processing, and scheduling by health care professionals, including optometrists, ophthalmologists and opticians
35	Promoting public awareness of the importance of having regular professional vision care; Promoting public awareness of diseases related to and/or diagnosable through the eye through the use of mobile or temporary optometric clinics; Business management services for eye care providers, namely, business management consultancy and advisory services; Business management consulting services for eye care providers; Promoting the sale of goods and services of others through the distribution of information featuring market and product data to vendors and suppliers of eye health and eye care products and services; Promoting the sale of eyeglass lenses and frames of others through the distribution of information featuring market and product data to providers of eye health and eye care products and services; Promoting the sale of computer software, for practice management and electronic medical records for vision care professionals and practices, of others, through the distribution of information featuring market and product data to providers of eye health and eye care products and services

Class	Goods/Services
36	Financial management; Financial information; Financing services; Loan financing; Health insurance underwriting; Administration of preferred provider plans in the field of vision care; Administration of pre-paid vision care plans; Electronic processing of insurance claims and payments data; Providing information in the field of administering pre-paid vision care programs; Administering pre-paid vision care programs
38	Providing on-line electronic bulletin board for transmission of messages among computer users concerning employment and practice opportunities in the optical and healthcare fields
39	Delivery of vision care materials in a commercial setting
41	Educational services, namely, providing educational classes, seminars and continuing education courses in the field of vision health and vision care, provided directly or by means of a global computer network
42	Computer services, namely, the design, implementation and hosting of electronic commerce web sites for others on a computer server for a global computer network; Providing a web site featuring technology which enables laboratories to receive, process and manage prescription information from doctors' offices
44	Providing health information, namely, information in the field of vision care; Providing health information relating to medical conditions of the eye; Charitable vision-care services, namely, providing vision screenings, mobile, temporary and emergency vision-care clinics, and distribution of eyewear to those in need; Providing health care information in the field of eye care; Charitable optometry services; Health care services, namely, wellness programs; Providing health information, namely, data based on current best evidence relating to selected eye and health conditions in patients, and the dissemination of such data to employer groups, health plans, patients and others for the purpose of improved health outcomes; Optometry, ophthalmology and optician services; Providing resources and tools to employers and their employees, and to other consumers, to help them make health, wellness, fitness and nutritional changes in their daily living to improve their overall health, namely, providing health information; Providing a web site for laboratories containing prescription information from doctors' offices

Vision Source submits this Notice of Opposition opposing the registration of U.S. Application Serial No. 86774377, the grounds for which are as follows:

1. Commencing prior to Applicant's filing date, and continuing without interruption to the present time, Vision Source (itself and/or through its licensees and/or members) continuously has used, and continues to use, the mark "WE HELP PEOPLE SEE" in connection with various optical-related services including promoting the goods and services of eye care, optician and optometry-service providers, as well as in connection with the retail sale of optical products, including, eyeglasses, eyeglass frames, eyeglass lenses, contact lenses, and accessories (the "***WE HELP PEOPLE SEE Mark***").

2. Vision Source's WE HELP PEOPLE SEE Mark has been so extensively used and advertised by Vision Source in the United States the mark has come to indicate to the relevant trade and consumers, services having their source of origin in, or connected with, Vision Source.

3. Vision Source is the owner of, and will rely upon herein, its common law rights and usage of the WE HELP PEOPLE SEE Mark throughout the United States.

4. In addition, Vision Source is the owner of, and will rely upon herein, the following federal application:

Trademark	App. No.	App. Date
WE HELP PEOPLE SEE	87088256	06/29/2016

5. The mark sought to be registered by Applicant in Application Serial No. 86774377 is so similar to Vision Source's WE HELP PEOPLE SEE Mark, as to be likely, when associated with the goods/services of Applicant, to cause confusion, to cause mistake or to deceive, thereby to Vision Source's damage.

WHEREFORE, Vision Source prays that Applicant be required to answer this Notice of Opposition; that the mark made the subject of U.S. Application Serial No. 86774377 be refused registration; and that Opposer be awarded such other and further relief as may be deemed to be just and proper.

Respectfully submitted,

Date: September 8, 2016



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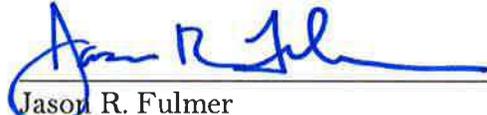
CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing *Notice of Opposition* was served in accordance with 37 C.F.R. 2.101 upon Applicant's attorney at the correspondence address of record as indicated below on September 8, 2016:

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[Via U.S. Mail]

Attorneys for Applicant



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