

ESTTA Tracking number: **ESTTA24428**

Filing date: **01/26/2005**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Pharmacia & Upjohn Company LLC
Granted to Date of previous extension	01/26/2005
Address	100 Route 206 North Peapack, NJ 07977 UNITED STATES
Party who filed Extension of time to oppose	Pharmacia & Upjohn Company
Relationship to party who filed Extension of time to oppose	Opposer Pharmacia mistakenly filed the extension of time in the name of "Pharmacia & Upjohn Company" instead of "Pharmacia & Upjohn Company LLC." Pharmacia & Upjohn Company converted and changed its name to Pharmacia & Upjohn Company LLC on August 13, 2004. That conversion and name change was recorded with the United States Patent and Trademark Office with respect to the YOUNG AND RUBICAM and YOUNG AND RUBICAM.COM trademark registrations on December 30, 2004.

Name	Pfizer Health Solutions Inc.
Granted to Date of previous extension	01/26/2005

Address	235 East 42nd Street New York, NY 10017 UNITED STATES
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Attorney information	Jennifer Gaeta Wilmer Cutler Pickering Hale and Dorr LLP 399 Park Avenue New York, NY 10022 UNITED STATES jennifer.gaeta@wilmerhale.com Phone:2129377281
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Applicant Information

Application No	76531918	Publication date	09/28/2004
Opposition Filing Date	01/26/2005	Opposition Period Ends	01/26/2005
Applicant	UNIVERSAL HEALTH CARE, INC. 150 2ND AVE. N., #610 ST. PETERSBURG, FL 33624 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. All goods and services in the class are opposed, namely: administration of medicaid health benefit programs

Attachments	ufirst.pdf (8 pages)
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Signature	/jennifergaeta/
Name	Jennifer Gaeta
Date	01/26/2005

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

In the Matter of Application Serial No. 76/531918
Published in the Official Gazette on September 28, 2004 at TM 634
Mark: U FIRST

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Pharmacia & Upjohn Company LLC and
Pfizer Health Solutions Inc.

Opposition No.

Opposers,

v.

Universal Health Care, Inc.,

Applicant.

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Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

NOTICE OF OPPOSITION

Opposers, Pharmacia & Upjohn Company LLC (“Pharmacia”) and Pfizer Health Solutions Inc. (“PHS”) (collectively “Opposers”), believe that they will be damaged by the registration of the mark U FIRST as shown in the above-referenced trademark application and hereby oppose the same. As grounds for this opposition, Opposers allege that:

1. Pharmacia is a Delaware Limited Liability Company with its principal place of business located at 100 Route 206 North, Peapack, New Jersey 07977. Pharmacia is a wholly own subsidiary of Pfizer Inc.

2. PHS is a Delaware Corporation with its principal place of business located at

235 East 42nd Street, New York, New York 10017. PHS is also a wholly own subsidiary of Pfizer Inc.

3. Pharmacia adopted and began using the YOUFIRST and YOUFIRST.COM trademarks in September 1996 in connection with “medical services and medical information services.”

4. Since their adoption and first use, the YOUFIRST and YOUFIRST.COM trademarks have been used continuously in connection with “medical services and medical information services,” first by Pharmacia and more recently by the related company, PHS.

5. Pharmacia is the owner of the federally registered trademarks YOUFIRST (Registration No. 2484645) and YOUFIRST.COM (Registration No. 2508890), registered on the Principal Register for “medical services and medical information services” in International Class 42. (A copy of Registration No. 2484645 is attached hereto as Exhibit A. A copy of Registration No. 2508890 is attached hereto as Exhibit B.)

6. Said registrations are valid and subsisting and Opposers hereby give notice in accordance with Trademark Rule of Practice 2.122(d)(2) that they will rely on these registrations as evidence in this proceeding, and a status copy thereof showing present title will be introduced into evidence on their behalf during Opposers’ testimony period.

7. By the intent-to-use application herein opposed, Universal Health Care, Inc. (“Applicant”) seeks to register the mark U FIRST for the “administration of medicaid health benefit programs” in International Class 36.

8. Applicant’s mark was published for opposition on September 28, 2004.

9. Opposers have filed for and were granted all necessary Requests for Extensions of Time to Oppose, and the final deadline is January 26, 2005. Opposer Pharmacia

mistakenly filed the extension of time in the name of “Pharmacia & Upjohn Company” instead of “Pharmacia & Upjohn Company LLC.” Pharmacia & Upjohn Company converted and changed its name to Pharmacia & Upjohn Company LLC on August 13, 2004. That conversion and name change was recorded with the United States Patent and Trademark Office with respect to the YOUNFIRST and YOUNFIRST.COM trademark registrations on December 30, 2004.

10. The YOUNFIRST and YOUNFIRST.COM trademarks have priority over Applicant’s mark because the marks have been in use since September 1996 and have been registered since September 4, 2001 and November 20, 2001 respectively, whereas Applicant’s filing date is July 24, 2003.

11. The YOUNFIRST and YOUNFIRST.COM trademarks as a whole are inherently distinctive when used in connection with “medical services and medical information services.”

12. The YOUNFIRST and YOUNFIRST.COM marks and Applicant’s U FIRST mark are substantially similar in sound, appearance, and commercial impression.

13. Applicant’s U FIRST mark, if used in conjunction with the “administration of medicaid health benefit programs,” is likely to cause confusion, mistake or deception with consequent injury to Opposers and the public. Use of such mark will likely lead to the mistaken belief that Applicant’s product originates with, is affiliated with, or is sponsored or approved by Opposers.

14. Pharmacia and PHS will both be damaged by registration of Applicant’s U FIRST trademark because such registration will support confusing and misleading use of the U FIRST mark, and will give color of exclusive statutory right to Applicant in violation and derogation of the prior and superior rights of Opposers.

15. Registration should, therefore, be refused pursuant to Section 2(d) of the

Lanham Act of 1946 as amended (15 U.S.C. § 1052(d)) on the grounds that Applicant's U FIRST mark so resembles the YOUFIRST and YOUFIRST.COM marks as to cause confusion, mistake and/or deception, all to the damage of Opposers.

WHEREFORE, Opposers respectfully request that this opposition be sustained and that the application for registration of the U FIRST mark be denied.

The Commissioner is hereby authorized to charge the filing fee for this Notice of Opposition and any additional fees to our Deposit Account No. 08-0219.

Opposers appoint as their attorney in this proceeding Nels T. Lippert, Dyan Finguerra-DuCharme and Jennifer Gaeta of the firm Wilmer Cutler Pickering Hale and Dorr LLP, 399 Park Avenue, New York, New York 10022, to whom all correspondence in this proceeding should be addressed.

Respectfully submitted,

By: 

Nels T. Lippert
Dyan Finguerra-DuCharme
Jennifer Gaeta
Wilmer Cutler Pickering Hale and Dorr LLP
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Attorneys for Opposers,
Pharmacia & Upjohn Company LLC and
Pfizer Health Solutions Inc.

Dated: January 26, 2005

Exhibit A

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,484,645

United States Patent and Trademark Office

Registered Sep. 4, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

YOUFIRST

PHARMACIA & UPJOHN COMPANY (DELA-
WARE CORPORATION)
100 ROUTE 206
PEAPACK, NJ 07977

FIRST USE 9-0-1996; IN COMMERCE 9-0-1996.

SER. NO. 75-907,175, FILED 2-1-2000.

FOR: MEDICAL SERVICES AND MEDICAL IN-
FORMATION SERVICES, IN CLASS 42 (U.S. CLS. 100
AND 101).

CURTIS FRENCH, EXAMINING ATTORNEY

Exhibit B

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,508,890

Registered Nov. 20, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

YOUFIRST.COM

PHARMACIA & UPJOHN COMPANY (DELA-
WARE CORPORATION)
100 ROUTE 206
PEAPACK, NJ 07977

FIRST USE 9-0-1996; IN COMMERCE 9-0-1996.

SER. NO. 75-907,690, FILED 2-1-2000.

FOR: MEDICAL SERVICES AND MEDICAL IN-
FORMATION SERVICES, IN CLASS 42 (U.S. CLS. 100
AND 101).

CURTIS FRENCH, EXAMINING ATTORNEY