

ESTTA Tracking number: **ESTTA381504**

Filing date: **12/02/2010**

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	Mission Health System, Inc.
Granted to Date of previous extension	12/05/2010
Address	509 Biltmore Avenue Asheville, NC 28801 UNITED STATES

Attorney information	Brian M. Davis Virtual Law Partners, LLP 5960 Fairview Road; Suite 400 Charlotte, NC 28210 UNITED STATES bdavis@virtuallawpartners.com Phone:7042456515
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Applicant Information

Application No	77918511	Publication date	06/08/2010
Opposition Filing Date	12/02/2010	Opposition Period Ends	12/05/2010
Applicant	LEADWAY (HK) LIMITED UNIT 6501-02, THE CENTER 99 QUEEN'S ROAD CENTRAL HONG KONG, HONG KONG		

Goods/Services Affected by Opposition

Class 010. All goods and services in the class are opposed, namely: Medical diagnostic apparatuses for use in immunoassays, and clinical chemistry analyzers

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2917751	Application Date	09/23/2002
Registration Date	01/11/2005	Foreign Priority Date	NONE
Word Mark	MISSION		

Design Mark	MISSION
Description of Mark	NONE
Goods/Services	<p>Class 016. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 Newsletters [and magazines] in the fields of health care and medical services</p> <p>Class 041. First use: First Use: 2004/03/00 First Use In Commerce: 2004/03/00 Educational services, namely, conducting classes, seminars and workshops in the fields of health care and medical services; [providing an online newsletter in the fields of health care and medical services]</p> <p>Class 044. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 Health care services; medical services; providing medical information via an on-line website</p>

U.S. Registration No.	3656385	Application Date	07/03/2007
Registration Date	07/21/2009	Foreign Priority Date	NONE


Word Mark	MISSION
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Design Mark	
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Description of Mark	The mark consists of a dogwood flower superimposed on a Greek cross, with the word "MISSION" abutting the lower right-hand portion of the cross. The portion of the mark comprised of a cross design is not displayed in the color red or a colorable imitation thereof, and is not used and will not be used in the color red or a colorable imitation thereof
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Goods/Services	<p>Class 016. First use: First Use: 1997/11/16 First Use In Commerce: 1998/04/27 NEWSLETTERS AND MAGAZINES IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES</p> <p>Class 041. First use: First Use: 1997/11/16 First Use In Commerce: 1998/04/27 EDUCATIONAL SERVICES, NAMELY, CONDUCTING CLASSES, SEMINARS AND WORKSHOPS IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES; PROVIDING AN ON-LINE NEWSLETTER IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES</p> <p>Class 044. First use: First Use: 1997/11/16 First Use In Commerce: 1998/04/27</p>
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	HEALTH CARE SERVICES; MEDICAL SERVICES; PROVIDING MEDICAL INFORMATION VIA AN ON-LINE WEBSITE
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U.S. Registration No.	3653061	Application Date	07/24/2007
Registration Date	07/14/2009	Foreign Priority Date	NONE
Word Mark	MISSION HEALTH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2003/12/01 First Use In Commerce: 2003/12/01 NEWSLETTERS AND MAGAZINES IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES		

U.S. Registration No.	3593708	Application Date	07/03/2007
Registration Date	03/24/2009	Foreign Priority Date	NONE
Word Mark	MISSION HEALTH & HOSPITALS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 2004/01/00 First Use In Commerce: 2004/01/00 NEWSLETTERS AND MAGAZINES IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES</p> <p>Class 041. First use: First Use: 2004/01/00 First Use In Commerce: 2004/01/00 EDUCATIONAL SERVICES, NAMELY, CONDUCTING CLASSES, SEMINARS AND WORKSHOPS IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES; PROVIDING AN ON-LINE NEWSLETTER IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES</p> <p>Class 044. First use: First Use: 2004/01/00 First Use In Commerce: 2004/01/00</p>		

	HEALTH CARE SERVICES; MEDICAL SERVICES; PROVIDING MEDICAL INFORMATION VIA AN ON-LINE WEBSITE
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U.S. Registration No.	3593707	Application Date	07/03/2007
Registration Date	03/24/2009	Foreign Priority Date	NONE
Word Mark	MISSION HOSPITALS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 2003/12/01 First Use In Commerce: 2003/12/01 NEWSLETTERS AND MAGAZINES IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES</p> <p>Class 041. First use: First Use: 2003/12/01 First Use In Commerce: 2003/12/01 EDUCATIONAL SERVICES, NAMELY, CONDUCTING CLASSES, SEMINARS AND WORKSHOPS IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES; PROVIDING AN ON-LINE NEWSLETTER IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES</p> <p>Class 044. First use: First Use: 2003/12/01 First Use In Commerce: 2003/12/01 HEALTH CARE SERVICES; MEDICAL SERVICES; PROVIDING MEDICAL INFORMATION VIA AN ON-LINE WEBSITE</p>		

U.S. Registration No.	3604905	Application Date	07/03/2007
Registration Date	04/14/2009	Foreign Priority Date	NONE
Word Mark	MISSION CHILDREN'S HOSPITAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2003/12/00 First Use In Commerce: 2003/12/00		

	<p>EDUCATIONAL SERVICES, NAMELY, CONDUCTING CLASSES, SEMINARS AND WORKSHOPS IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES; PROVIDING AN ON-LINE NEWSLETTER IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES</p> <p>Class 044. First use: First Use: 2003/12/00 First Use In Commerce: 2003/12/00</p> <p>HEALTH CARE SERVICES; MEDICAL SERVICES; PROVIDING MEDICAL INFORMATION VIA AN ON-LINE WEBSITE</p>
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U.S. Registration No.	3763900	Application Date	02/04/2008
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Registration Date	03/23/2010	Foreign Priority Date	NONE
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Word Mark	MISSION HEALTH SYSTEM		
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Design Mark			
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Description of Mark	NONE		
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Goods/Services	<p>Class 016. First use: First Use: 2008/08/08 First Use In Commerce: 2008/08/08</p> <p>Newsletters in the fields of health care and medical services</p> <p>Class 041. First use: First Use: 2008/07/15 First Use In Commerce: 2008/07/15</p> <p>Educational services, namely, conducting seminars and workshops in the fields of health care and medical services; providing an on-line non-downloadable newsletter in the fields of health care and medical services</p> <p>Class 044. First use: First Use: 2008/10/13 First Use In Commerce: 2008/10/13</p> <p>Health care services; medical services; providing medical information via an on-line website</p>		
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U.S. Application No.	77914616	Application Date	01/19/2010
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Registration Date	NONE	Foreign Priority Date	NONE
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Word Mark	MISSION MEDICAL ASSOCIATES		
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Design Mark			
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Description of Mark	NONE
Goods/Services	<p>Class 016. First use: NEWSLETTERS AND MAGAZINES IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES</p> <p>Class 041. First use: EDUCATIONAL SERVICES, NAMELY, CONDUCTING CLASSES, SEMINARS AND WORKSHOPS IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES; PROVIDING AN ONLINE NEWSLETTER IN THE FIELDS OF HEALTH CARE AND MEDICAL SERVICES</p> <p>Class 044. First use: HEALTH CARE SERVICES; MEDICAL SERVICES; PROVIDING MEDICAL INFORMATION VIA AN ONLINE WEBSITE</p>

Attachments	<p>76451763#TMSN.gif (1 page)(bytes) 77221236#TMSN.jpeg (1 page)(bytes) 77236978#TMSN.jpeg (1 page)(bytes) 77221259#TMSN.jpeg (1 page)(bytes) 77221255#TMSN.jpeg (1 page)(bytes) 77221248#TMSN.jpeg (1 page)(bytes) 77387648#TMSN.jpeg (1 page)(bytes) 77914616#TMSN.jpeg (1 page)(bytes) MISSION Notice of Opposition 2.pdf (9 pages)(91983 bytes)</p>
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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	/Brian M. Davis/
Name	Brian M. Davis
Date	12/02/2010

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

In the Matter of US Serial No. 77/918,511
Mark: MISSION

Mission Health System, Inc.,
Opposer

v.

Opposition No. _____

Leadway (HK) Limited,
Applicant

NOTICE OF OPPOSITION

Mission Health System, Inc. ("Opposer"), a North Carolina non-profit corporation with a principal place of business at 509 Biltmore Avenue, Asheville, North Carolina 28801, believes that it will be damaged by the registration of the mark "MISSION" described in U.S. Trademark Application Serial No. 77/918,511 filed by Oakville Hong Kong Co., Ltd ("Oakville"), a Hong Kong limited liability company, and subsequently assigned to its current owner, Leadway (HK) Limited ("Applicant"), a Hong Kong limited liability company with a principal place of business at Unit 6501-02, The Center, 99 Queen's Road, Central Hong Kong, Hong Kong. Opposer hereby opposes the registration of said mark, and as grounds for its opposition, alleges that:

Opposer's Services and its MISSION Mark

1. Opposer operates a well-known regional healthcare system and provides a wide array of medical and health-related services. Opposer and its predecessor entities have provided these services under a variety of MISSION formative marks for over 100 years, beginning with its founding in the 19th century by the Flower Mission and through its subsequent adoption of prominent MISSION marks and trade names such as MISSION ST. JOSPEH'S and MISSION HEALTH.

2. By reason of the adoption and continuous use of these MISSION marks in the United States, those designations have acquired special and particular significance and very valuable goodwill as identifying Opposer, its affiliated entities and their products and services. Through such usage and recognition, Opposer has acquired common law rights in and to these marks as proprietary service marks and trademarks.

3. In addition to its common law rights, Opposer is the owner of several federal registrations and applications for its family of marks that contain the term MISSION, including registrations for the marks MISSION HOSPITALS, MISSION HEALTH and MISSION CHILDREN'S HOSPITAL. A listing of eight of these registrations and applications is attached hereto as Exhibit A. In particular, Opposer notes its ownership of US Registration No. 2,917,751 for the mark MISSION that covers the goods and services listed below. The Section 8 & 15 Affidavit for this registration was accepted and acknowledged on September 8, 2010, thus indicating that US Reg. No. 2,917,751 is incontestable.
 - Newsletters in the fields of health care and medical services (Int. Class 16)
 - Educational services, namely, conducting classes, seminars and workshops in the fields of health care and medical services (Int. Class 41)
 - Health care services; medical services; providing medical information via an on-line website (Int. Class 44)

Applicant's MISSION Application

4. Oakville filed U.S. Trademark Application Serial No. 77/918,511 on January 22, 2010, to register the MISSION mark in International Class 10 for "medical diagnostic apparatuses for immunoassays, and clinical chemistry analyzers." Oakville filed this application under Section 1(b) of the Trademark Act based on its alleged intent-to-use the mark in interstate commerce in connection with such services. The intent-to-use application for the MISSION mark was assigned from Oakville to Applicant on September 10, 2010, prior to the submission of an

Allegation of Use.

5. Opposer's nationwide statutory rights to the MISSION mark date back to September 22, 2002, the filing date of the application that became US Reg. No. 2,917,751. Further, Opposer's first use of the MISSION family of marks in association with healthcare and medical services precedes Applicant's filing date of January 22, 2010 by more than a century. By virtue of Opposer's long and extensive use of the MISSION mark and its family of other MISSION marks in connection with its services and related goods, and its marketing, advertising and promotion of such goods and services under these marks in interstate commerce, the MISSION family of marks has become well-known, and was well-known prior to the filing date for Applicant's MISSION application.

6. Applicant's MISSION mark is identical to Opposer's MISSION mark and shares the same dominant term as the other marks that make up Opposer's family of MISSION marks. Moreover, the "medical diagnostic apparatuses" set forth in the subject application are closely related to the medical services in connection with which Opposer's MISSION marks have been used. Thus, Applicant's MISSION mark, when used in connection with the goods described in the subject application, is likely to cause confusion or mistake or to deceive the public into believing that Applicant's goods are in some way related to Opposer or its services. The registration and/or use by Applicant of its MISSION mark will therefore cause harm to Opposer.

7. Therefore, U.S. Trademark Application Serial No. 77/918,511 should be refused registration on the basis that, pursuant to 15 U.S.C. § 1052(d), the MISSION mark consists of or comprises a mark:

which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the

Applicant, to cause confusion or to cause mistake, or to deceive.

Accordingly, Opposer alleges, pursuant to 15 U.S.C. § 1063, that it will be damaged by the issuance of a registration for the MISSION mark as sought in U.S. Trademark Application Serial No. 77/918,511.


WHEREFORE, Opposer prays that U.S. Trademark Application Serial No. 77/918,511 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully submitted,

/Brian M. Davis/

Brian M. Davis
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Charlotte, NC 28210
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EXHIBIT A
MISSION Registrations and Applications

1	
Trademark & Logo	MISSION
Serial/Reg. No.	76-451763 2,917,751
Registration Date	January 11, 2005
Filing Date	September 23, 2002
Filing Basis	Section 1(b) - Intent-to-Use
First Use Date	16 - November 2003 41 - March 2004 44 - November 2003
Goods/Services	16 - Newsletters in the fields of health care and medical services 41 - Educational services, namely, conducting classes, seminars and workshops in the fields of health care and medical services 44 - Health care services; medical services; providing medical information via an on-line website
Owner	Mission Health System, Inc.
Status/Status Date	Sec. 8/15 accepted and acknowledged - September 8, 2010
2.	
Trademark & Logo	
Serial/Reg. No.	77-221236 3,656,385
Registration Date	July 21, 2009
Filing Date	July 3, 2007
First Use Date	16 - November 16, 1997 41 - November 16, 1997 44 - November 16, 1997
Goods/Services	16 - Newsletters and magazines in the fields of health care and medical services 41 - Educational services, namely, conducting classes, seminars and workshops in the fields of health care and medical services; providing an on-line newsletter in the fields of health care and medical services 44 - Health care services; medical services; providing medical information via an on-line website
Owner	Mission Health System, Inc.

3.	
Trademark & Logo	MISSION HEALTH
Serial/Reg. No.	77-236978 3,653,061
Registration Date	July 14, 2009
Filing Date	July 24, 2007
First Use Date	16 - December 1, 2003
Goods/Services	16 - Newsletters and magazines in the fields of health care and medical services
Owner	Mission Health System, Inc.
Disclaimer	No claim is made to the exclusive right to use "HEALTH" apart from the mark as shown.
4.	
Trademark & Logo	MISSION HEALTH & HOSPITALS
Serial/Reg. No.	77-221259 3,593,708
Registration Date	March 24, 2009
Filing Date	July 3, 2007
First Use Date	16 - January 2004 41 - January 2004 44 - January 2004
Goods/Services	16 - Newsletters and magazines in the fields of health care and medical services 41 - Educational services, namely, conducting classes, seminars and workshops in the fields of health care and medical services; providing an on-line newsletter in the fields of health care and medical services 44 - Health care services; medical services; providing medical information via an on-line website
Owner	Mission Health System, Inc.
Disclaimer	No claim is made to the exclusive right to use "HEALTH & HOSPITALS" apart from the mark as shown.

5.	
Trademark & Logo	MISSION HOSPITALS
Serial/Reg. No.	77-221255 3,593,707
Registration Date	March 24, 2009
Filing Date	July 3, 2007
First Use Date	16 - December 1, 2003 41 - December 1, 2003 44 - December 1, 2003
Goods/Services	16 - Newsletters and magazines in the fields of health care and medical services 41 - Educational services, namely, conducting classes, seminars and workshops in the fields of health care and medical services; providing an on-line newsletter in the fields of health care and medical services 44 - Health care services; medical services; providing medical information via an on-line website
Owner	Mission Health System, Inc.
Disclaimer	No claim is made to the exclusive right to use "HOSPITALS" apart from the mark as shown.
6.	
Trademark & Logo	MISSION CHILDREN'S HOSPITAL
Serial/Reg. No.	77-221248 3,604,905
Registration Date	April 14, 2009
Filing Date	July 3, 2007
First Use Date	41 - December 2003 44 - December 2003
Goods/Services	41 - Educational services, namely, conducting classes, seminars and workshops in the fields of health care and medical services; providing an on-line newsletter in the fields of health care and medical services 44 - Health care services; medical services; providing medical information via an on-line website
Owner	Mission Health System, Inc.
Disclaimer	No claim is made to the exclusive right to use "CHILDREN'S HOSPITAL" apart from the mark as shown.

7.	
Trademark & Logo	MISSION HEALTH SYSTEM
Serial/Reg. No.	77-387648 3,763,900
Registration Date	March 23, 2010
Filing Date	February 4, 2008
Filing Basis	Section 1(b) - Intent-to-Use
First Use Date	16 - August 8, 2008 41 - July 15, 2008 44 - October 13, 2008
Goods/Services	16 - Newsletters in the fields of health care and medical services 41 - Educational services, namely, conducting seminars and workshops in the fields of health care and medical services; providing an on-line non-downloadable newsletter in the fields of health care and medical services 44 - Health care services; medical services; providing medical information via an on-line website
Owner	Mission Health System, Inc.
Disclaimer	No claim is made to the exclusive right to use "HEALTH SYSTEM" apart from the mark as shown.
8.	
Trademark & Logo	MISSION MEDICAL ASSOCIATES
Serial/Reg. No.	77-914616
Filing Date	January 19, 2010
Filing Basis	Section 1(b) - Intent-to-Use
Goods/Services	16 - Newsletters and magazines in the fields of health care and medical services 41 - Educational services, namely, conducting classes, seminars and workshops in the fields of health care and medical services; providing an online newsletter in the fields of health care and medical services 44 - Health care services; medical services; providing medical information via an online website
Owner	Mission Health System, Inc.
Status/Status Date	Notice of Allowance issued - July 27, 2010
Disclaimer	No claim is made to the exclusive right to use "MEDICAL ASSOCIATES" apart from the mark as shown.

CERTIFICATE OF ELECTRONIC FILING AND SERVICE

I hereby certify that this correspondence is being filed via electronic means through the Electronic System for Trademark Trial and Appeals on December 2, 2010. A copy of the foregoing *Notice of Opposition* was served by placing a copy in U.S. Mail, postage prepaid, on this same date and addressed to the following attorney of record:

Stacy L. Taylor
DLA Piper LLP (US)
4365 Executive Dr Ste 1100
San Diego, California 92121-2133

/Brian M. Davis/
Brian M. Davis
Virtual Law Partners, LLP
Attorney for Opposer
Date of Signature: December 2, 2010