

ESTTA Tracking number: **ESTTA729762**

Filing date: **02/26/2016**

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	New York State Catholic Health Plan, Inc
Granted to Date of previous extension	02/28/2016
Address	95-25 Queens Boulevard Rego Park, NY 11374 UNITED STATES
Party who filed Extension of time to oppose	The New York State Catholic Health Plan, Inc. d/b/a Fidelis Care New York
Relationship to party who filed Extension of time to oppose	The text box does not allow for more than 40 characters.

Correspondence information	Peter S. Sloane LEASON ELLIS LLP One Barker Ave., Fifth Floor White Plains, NY 10601 UNITED STATES tmddocket@leasonellis.com, lelitigation@leasonellis.com, sloane@leasonellis.com, clarke@leasonellis.com Phone:914-821-9073
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Applicant Information

Application No	86595963	Publication date	09/01/2015
Opposition Filing Date	02/26/2016	Opposition Period Ends	02/28/2016
Applicant	Northwest United Federal Credit Union 6320 Olde Wadsworth Blvd. Arvada, CO 80003 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Credit union services

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.	3775057	Application Date	12/18/2008
Registration Date	04/13/2010	Foreign Priority Date	NONE
Word Mark	FIDELIS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Administration of health care plans		

U.S. Registration No.	3633561	Application Date	11/05/2008
Registration Date	06/09/2009	Foreign Priority Date	NONE
Word Mark	FIDELIS CARE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1993/00/00 First Use In Commerce: 1993/00/00 Administration of health care plans		

Attachments	Ntc of Opp (01452406).pdf(74175 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	/deirdreclarke/
Name	Deirdre A. Clarke
Date	02/26/2016

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

In the Matter of Application Serial No. 86/595,963
Published in the Official Gazette on September 1, 2015

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NEW YORK STATE CATHOLIC HEALTH :
PLAN, INC. D/B/A FIDELIS CARE NEW YORK, :
:
Opposer, :
:
v. : Opposition No. _____
:
NORTHWEST UNITED FEDERAL :
CREDIT UNION, :
Applicant. :
:
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NOTICE OF OPPOSITION

Opposer, New York State Catholic Health Plan, Inc. d/b/a Fidelis Care New York, a New York not-for-profit, tax exempt corporation, having its principal place of business at 95-25 Queens Boulevard, Rego Park, New York 11374, believes that it would be damaged by the issuance of a registration for the mark FIDELIS CATHOLIC CREDIT UNION as applied for in Application Serial No. 86/595,963, filed April 13, 2015, for “credit union services” in International Class 36, and therefore opposes the same. As grounds for its opposition, Opposer, by its attorneys Leason Ellis LLP, alleges as follows:

1. Since at least as early as 1993, and well prior to the April 13, 2015 filing date of Applicant's intent-to-use application, Opposer has used the marks FIDELIS and FIDELIS CARE (hereinafter collectively referred to as “FIDELIS”) for the administration of health care plans in commerce in the United States.

2. Opposer owns U.S. Registration No. 3,775,057, issued on April 13, 2010, of the mark FIDELIS for “administration of health care plans” in Class 36. Opposer’s registration date is well prior to the filing date of Applicant’s intent-to-use application. Opposer’s registration is valid, subsisting, in full force and effect.

3. Opposer also owns U.S. Registration No. 3,633,561, issued on June 9, 2009, of the mark FIDELIS CARE for “administration of health care plans” in Class 36. Opposer’s registration date is well prior to the filing date of Applicant’s intent-to-use application. Opposer’s registration is valid, subsisting, in full force and effect, and incontestable.

4. Opposer has invested a substantial amount of time, effort and resources in promoting the mark FIDELIS. As a result, the mark has become distinctive of Opposer’s services and has come to represent enormous goodwill for Opposer.

5. On April 13, 2015, Applicant, Northwest United Federal Credit Union, filed Application No. 86/595,963 to register the mark FIDELIS CATHOLIC CREDIT UNION for “credit union services” in Class 36 on an intent-to-use basis.

6. The overall mark that Applicant seeks to register wholly incorporates Opposer’s prior mark FIDELIS, and the subject services are closely related to the services for which Opposer has previously used and registered its mark.

7. For the above reasons, the registration of the mark FIDELIS CATHOLIC CREDIT UNION by Applicant is likely to cause confusion, cause mistake or deceive the public as to the source of the services in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

8. By reason of the foregoing, Opposer will be damaged by the registration of the mark FIDELIS CATHOLIC CREDIT UNION to Applicant.

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by Application Serial No. 86/595,963 be denied. The opposition fee in the amount of \$300.00 for one class is filed herewith.

Date: February 26, 2016
White Plains, New York

Respectfully submitted,



Peter S. Sloane
Deirdre A. Clarke

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White Plains, New York 10601
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Attorneys for Opposer

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** was served by First-Class mail, postage prepaid, upon the attorney of record for Applicant, this 26th day of February, 2016, addressed as follows:

Thomas S. Birney, Esq.
Dorr, Carson & Birney, PC
5299 DTC Boulevard, Suite 260
Greenwood Village, Colorado 80111


Deirdre A. Clarke