

ESTTA Tracking number: **ESTTA886587**

Filing date: **03/29/2018**

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	Seniorlink Incorporated
Granted to Date of previous extension	04/01/2018
Address	500 Boylston Street Suite 640 Boston, MA 02116 UNITED STATES

Attorney information	Christopher D. Casavale Nelson Mullins Riley & Scarborough LLP 301 South College St. Suite 2300 Charlotte, NC 28202 UNITED STATES Email: ip@nelsonmullins.com, chris.casavale@nelsonmullins.com, john.mcelwaine@nelsonmullins.com Phone: 843-534-4252
----------------------	--

Applicant Information

Application No	87331730	Publication date	10/03/2017
Opposition Filing Date	03/29/2018	Opposition Period Ends	04/01/2018
Applicant	A PLACE FOR MOM 701 5th Avenue, Suite 3200 Seattle, WA 98104 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2017/02/09 First Use In Commerce: 2017/02/09 All goods and services in the class are opposed, namely: Providing a web site which provides care providers and care recipients with referrals in the field of senior care
Class 041. First Use: 2017/02/09 First Use In Commerce: 2017/02/09 All goods and services in the class are opposed, namely: Providing a website featuring blogs and non-downloadable publications in the nature of articles and newsletters in the fields of caregiving, health, self-help and wellness
Class 043. First Use: 2017/02/09 First Use In Commerce: 2017/02/09 All goods and services in the class are opposed, namely: Providing a web site which provides care providers and care recipients with information in the field of elder care

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
--------------------------------------	----------------------------


Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4790998	Application Date	02/25/2013
Registration Date	08/11/2015	Foreign Priority Date	NONE
Word Mark	CAREGIVER HOMES		
Design Mark	 <p>The logo consists of a stylized heart shape on the left, followed by the word "caregiver" in a bold, lowercase sans-serif font. Below "caregiver" is a stylized house icon, followed by the word "homes" in a bold, lowercase sans-serif font.</p>		
Description of Mark	The mark consists of the graphic of a heart on top of the graphic of a home with the heart being to the left of the word "caregiver" and the home to the left of the word "homes".		
Goods/Services	<p>Class 041. First use: First Use: 2013/05/17 First Use In Commerce: 2013/05/17 Training services for primary caregivers in the field of personal care assistance, adult home care, diet, fitness, and health and wellness options for elderly or disabled individuals</p> <p>Class 042. First use: First Use: 2013/06/15 First Use In Commerce: 2013/06/15 Providing temporary use of non-downloadable software for case management services in the field of case management and healthcare care records for use by full-time, live-in primary caregivers caring for elderly and disabled individuals</p> <p>Class 045. First use: First Use: 2013/05/17 First Use In Commerce: 2013/05/17 Providing case management consulting services to primary caregivers, namely, coordinating necessary medical, physical therapy, psychological and personal services for elderly and disabled individuals</p>		

Attachments	85858989#TMSN.png(bytes) OPP - Notice of Opposition - CAREGIVERS.COM.pdf(56697 bytes)
-------------	---


Signature	/Christopher D. Casavale/
Name	Christopher D. Casavale
Date	03/29/2018

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


Seniorlink Incorporated)	Opposition No.: _____
)	
Opposer,)	Serial No.: 87331730
)	
vs.)	
)	
A Place for Mom)	Mark: 
)	
Applicant.)	Published: October 3, 2017
_____)	

NOTICE OF OPPOSITION

Seniorlink Incorporated (“Opposer”), a Delaware corporation, having a principal place of business at Boylston Street, Suite 640, Boston, Massachusetts 02116, hereby opposes the application of A

Place for Mom (“Applicant”) for the registration of  (hereinafter the “CAREGIVERS.COM Mark”) in International Class 35 for “providing a web site which provides care providers and care recipients with referrals in the field of senior care”, in International Class 41 for “providing a website featuring blogs and non-downloadable publications in the nature of articles and newsletters in the fields of caregiving, health, self-help and wellness”, and in International Class 43 for “providing a web site which provides care providers and care recipients with information in the field of elder care”, Serial No. 87331730, filed February 10, 2017, and published in the Official Gazette of October 3, 2017

The grounds of Opposition are as follows:

1. Opposer is the owner of trademark rights in the mark  (hereinafter the “CAREGIVER HOMES Mark”), which are used in connection with “training services for primary

caregivers in the field of personal care assistance, adult home care, diet, fitness, and health and wellness options for elderly or disabled individuals”, “Providing temporary use of non-downloadable software for case management services in the field of case management and healthcare care records for use by full-time, live-in primary caregivers caring for elderly and disabled individuals”, and “providing case management consulting services to primary caregivers, namely, coordinating necessary medical, physical therapy, psychological and personal services for elderly and disabled individuals.”

2. Upon information and belief, Applicant is a Delaware corporation with a principal place of business at 701 5th Avenue, Suite 3200, Seattle, Washington 98104.

3. Upon information and belief, Application Serial No. 87331730 was filed on February 10, 2017, under Section 1(a), reciting “providing a web site which provides care providers and care recipients with referrals in the field of senior care” in International Class 35, “providing a website featuring blogs and non-downloadable publications in the nature of articles and newsletters in the fields of caregiving, health, self-help and wellness” in International Class 41, and “providing a web site which provides care providers and care recipients with information in the field of elder care” in International Class 43.

4. Applicant's application was published for opposition in the Official Gazette of October 3, 2017.

5. Opposer first used its CAREGIVER HOMES Mark in commerce regulated by the United States at least as early as May 17, 2013.

6. Opposer's use of its CAREGIVER HOMES Mark long precedes the priority date of the above-referenced application, which is February 10, 2017. Thus, there is no issue as to Opposer's senior priority.

7. Opposer has developed and currently possesses substantial goodwill in the CAREGIVER HOMES Mark.

8. The alleged mark in Application Serial No. 87331730 is confusingly similar to Opposer's CAREGIVER HOMES Mark.

9. Applicant seeks to register and is using CAREGIVERS.COM Mark in connection with services that are identical and highly related to the services rendered in commerce by Opposer under its CAREGIVER HOMES Mark.

10. The intended customers for Opposer's services and Applicant's services are identical such that Opposer's CAREGIVERS.COM Mark is likely to cause of confusion when Opposer renders its services under the mark.

11. Applicant's CAREGIVERS.COM Mark, so resembles Opposer's CAREGIVER HOMES Mark when used in connection with Applicant's services, as to be likely to cause confusion or to cause mistake or to deceive, in violation of Section 2(d) of the Lanham Act, and/or as to falsely suggest a connection with Opposer in violation of Section 2(a) of the Lanham Act.

12. Opposer will be damaged by the registration of Applicant's mark, for the reasons set forth above, and such registration may interfere with Opposer's ability to conduct or expand its business. Furthermore, since confusion in the trade is likely, consumers may encounter the Applicant's services believing them to be approved by, endorsed by or affiliated with Opposer, or vice-versa. Such confusion will damage Opposer because of injury to or dilution of its goodwill and reputation.

13. Opposer will also be damaged because, if the Applicant is granted the registration applied for herein, the Applicant would thereby obtain at least a *prima facie* exclusive right to use the mark for the services recited in Application Serial No. 87331730.

WHEREFORE, Opposer believes that it will be damaged by said registration of Application Serial No. 87331730 and prays that this opposition be sustained and that no registration be issued thereon to Applicant.

The filing fees required by 37 C.F.R. 2.6(a)(17) for filing this Notice of Opposition on behalf of Opposer are paid herewith.

NELSON MULLINS RILEY & SCARBOROUGH, L.L.P.

By: 

John C. McElwaine
Christopher D. Casavale
Liberty Building, Suite 600
151 Meeting Street
Post Office Box 1806 (29402)
Charleston, SC 29401
(843) 720-4302

Attorneys for Seniorlink Incorporated

March 29, 2018