

ESTTA Tracking number: **ESTTA1025790**

Filing date: **12/30/2019**

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	Horizon Healthcare Services, Inc.
Granted to Date of previous extension	12/29/2019
Address	3 PENN PLAZA EAST NEWARK, NJ 07105-2200 UNITED STATES

Attorney information	ROBERT A. BECKER FROSS ZELNICK LEHRMAN & ZISSU, P.C. 151 WEST 42ND STREET 17TH FLOOR NEW YORK, NY 10036 UNITED STATES rbecker@fzlj.com 212-813-5900
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Applicant Information

Application No	88324929	Publication date	07/02/2019
Opposition Filing Date	12/30/2019	Opposition Period Ends	12/29/2019
Applicant	HZNP LTD 21 Laffan Street Hamilton, HM09 BERMUDA		

Goods/Services Affected by Opposition


Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Scientific and medical research relating to diagnosis and treatment of pain, inflammation, gastrointestinal disorders, rare and orphan diseases
Class 044. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Medical services, namely, providing Internet-based medical information for patients on medical issues and procedures; providing an interactive patient and caregiver web site for relay of information about disease symptoms and medical experiences for patient support and community; providing a web site featuring medical information; providing medical information

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.	4002583	Application Date	05/15/1998
Registration Date	07/26/2011	Foreign Priority Date	NONE
Word Mark	HORIZON		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 1998/09/08 First Use In Commerce: 1998/09/08 Prepaid financing and administration of medical, hospital and related health care services</p> <p>Class 044. First use: First Use: 1998/09/08 First Use In Commerce: 1998/09/08 Comprehensive health care benefit programs, including those rendered through a health maintenance organization, namely, physician, dental, hospital, home health care, preventative health treatment, therapy, pharmacy, and ambulatory services</p>		

U.S. Registration No.	4002584	Application Date	07/27/1998
Registration Date	07/26/2011	Foreign Priority Date	NONE
Word Mark	HORIZON		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 1998/09/08 First Use In Commerce: 1998/09/08 prepaid financing and administration of medical, hospital and related health care services</p> <p>Class 044. First use: First Use: 1998/09/08 First Use In Commerce: 1998/09/08 comprehensive health care benefit programs, including those rendered through a health maintenance organization, namely, physician, dental, hospital, home health care, preventative health treatment, therapy, pharmacy, and ambulatory services</p>		

U.S. Registration No.	5688496	Application Date	11/16/2016
Registration Date	03/05/2019	Foreign Priority	NONE

		Date	
Word Mark	HORIZON CAREONLINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2014/08/01 First Use In Commerce: 2014/08/01 Health insurance administration in connection with telehealth and telemedicine to insureds Class 044. First use: First Use: 2014/08/01 First Use In Commerce: 2014/08/01 telemedicine services		

Attachments	75526226#TMSN.png(bytes) 87238666#TMSN.png(bytes) F3339937.PDF(160751 bytes)
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Signature	/Robert Becker/
Name	ROBERT A. BECKER
Date	12/30/2019

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

In re Application Ser. No. 88/324,929
Opposer's Reference: HBNJ USA TC-1909412

Horizon Healthcare Services, Inc.,

Opposer,

- against -

HZNP Ltd.,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Opposer, Horizon Healthcare Services, Inc., a New Jersey corporation with an address at 3 Penn Plaza East, Newark, New Jersey 07105-2200, believes that it will be damaged by registration of the mark HORIZON and Design, which is the subject of Application Ser. No. 88/324,929, and hereby opposes same. (The mark HORIZON and Design shown in Application Ser. No. 88/324,929 is hereafter referred to as "Applicant's Mark." Application Ser. No. 88/324,929 is hereafter referred to as the "Subject Application.")

As grounds for the opposition, Opposer alleges as follows:

1. Opposer has used the mark HORIZON and the mark HORIZON and Design shown in Registration No. 4,002,584 in connection with financing and administration of medical, hospital, and related health care services, and comprehensive health care benefit programs since at least as early as September 8, 1998. Opposer has also used the mark HORIZON CAREONLINE in connection with telemedicine services and health insurance administration in connection with telehealth and telemedicine to insureds since at least as early as August 1, 2014.

2. Opposer is the owner of Registration No. 4,002,583 for the mark HORIZON and Registration No. 4,002,584 for the mark HORIZON and Design for “Prepaid financing and administration of medical, hospital and related health care services” in Class 36 and “Comprehensive health care benefit programs, including those rendered through a health maintenance organization, namely, physician, dental, hospital, home health care, preventative health treatment, therapy, pharmacy, and ambulatory services” in Class 44. Those registrations issued on July 26, 2011, based on use in commerce since September 8, 1998. The registrations are valid, subsisting, and incontestable.

3. Opposer is the owner of Registration No. 5,688,496 for the mark HORIZON CAREONLINE for “Health insurance administration in connection with telehealth and telemedicine to insureds” in Class 36 and “telemedicine services” in Class 44. That registration issued on March 5, 2019, based on use in commerce since August 1, 2014. The registration is valid and subsisting. (Registration Nos. 4,002,583, 4,002,584, and 5,688,496 are hereinafter referred to collectively as “Opposer’s Registrations.” The mark HORIZON, the mark HORIZON and Design shown in Reg. No. 4,002,584, and the mark HORIZON CAREONLINE are hereinafter referred to collectively as “Opposer’s Marks.”)

4. On March 4, 2019, Applicant filed intent-to-use Application Ser. No. 88/324,929 for the mark HORIZON and Design for “Scientific and medical research relating to diagnosis and treatment of pain, inflammation, gastrointestinal disorders, rare and orphan diseases” in Class 42 and “Medical services, namely, providing Internet-based medical information for patients on medical issues and procedures; providing an interactive patient and caregiver web site for relay of information about disease symptoms and medical experiences for patient support

and community; providing a web site featuring medical information; providing medical information” in Class 44.

5. Applicant’s Mark, when used in connection with the services identified in the Subject Application, is so similar to Opposer’s Marks as to be likely to cause confusion or to cause mistake or to deceive. The word HORIZON is the first, dominant, and only source-identifying word in Applicant’s Mark and Opposer’s marks HORIZON and HORIZON and Design and is the first and dominant word in Opposer’s mark HORIZON CAREONLINE. The services covered in the Subject Application are closely related to the services covered by Opposer’s Registrations and the services for which Opposer has used Opposer’s Marks. Specifically, the services offered under Applicant’s Mark and the services offered under Opposer’s Marks are often offered by the same party.

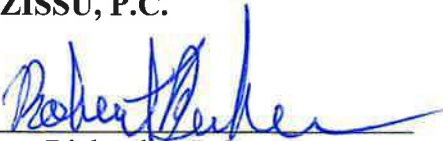
6. Use of Applicant’s Mark is likely to cause confusion or to cause mistake or to deceive the purchasing public by reason of Opposer’s Marks, by creating the mistaken belief that Applicant’s services originate from or are licensed, approved, endorsed, or sponsored by Opposer, or that the services of Applicant are in some other way associated with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), all to Opposer’s grave injury and harm.

WHEREFORE, Opposer respectfully requests that its opposition be sustained and the application to register the mark HORIZON and Design under Ser. No. 88/324,929 be denied.

Dated: New York, New York
December 30, 2019

Respectfully submitted,

**FROSS ZELNICK LEHRMAN
& ZISSU, P.C.**

By: 

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