

ESTTA Tracking number: **ESTTA1050531**

Filing date: **04/22/2020**

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	Spacelabs Holdings, Inc.
Granted to Date of previous extension	04/22/2020
Address	35301 SE CENTER STREET SNOQUALMIE, WA 98065 UNITED STATES

Attorney information	DOUGLAS N. MASTERS LOEB & LOEB LLP 321 N. CLARK STREET, SUITE 2300 CHICAGO, IL 60654 UNITED STATES tmlit@loeb.com, dmasters@loeb.com, aschwartz@loeb.com, eoneill@loeb.com, bfellars@loeb.com 312-464-3100
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**Applicant Information**

Application No	88575079	Publication date	12/24/2019
Opposition Filing Date	04/22/2020	Opposition Period Ends	04/22/2020
Applicant	Credo Biomedical Pte Ltd. 1 Fifth Avenue, Guthrie house #02-09 Singapore, 268802 SINGAPORE		

**Goods/Services Affected by Opposition**


Class 010. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: VETERINARY DIAGNOSTIC APPARATUS FOR TESTING DNA, RNA, PATHOGENS, PROTEINS AND OTHER BIOLOGICAL TISSUES; MEDICAL DIAGNOSTIC APPARATUS FOR TESTING DNA, RNA, PATHOGENS, PROTEINS AND OTHER BIOLOGICAL TISSUES; MASKS FOR USE BY MEDICAL PERSONNEL; BLOOD TESTING APPARATUS FOR MEDICAL AND VETERINARY PURPOSES; THERMOMETERS FOR MEDICAL AND VETERINARY PURPOSES
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act Section 2(d)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disreputable	Trademark Act Section 2(a)

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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4589136	Application Date	01/03/2012
Registration Date	08/19/2014	Foreign Priority Date	NONE
Word Mark	QUBE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2012/04/10 First Use In Commerce: 2012/06/22  Computer hardware and software for patient care documentation and information management; computer software for storing, reviewing and reporting patient medical information; computer workstations comprising computer servers, computer monitors, and local, remote or portable computer terminals; remote liquid crystal display (LCD) monitors; interfaces and peripheral devices for computers; computer network and communication network components, namely, hardwire ethernet connectors, wireless network cards, network switches, network routers, network ethernet cables, wireless access points, and wireless controllers; computer software for acquiring, analyzing, displaying, storing and transmitting patient information and physiological parameters from patients for use in the medical field, namely, emergency care and treatment, adult/pediatric/neonatal critical care, perioperative care, labor and delivery, and point of care records</p> <p>Class 010. First use: First Use: 2012/04/10 First Use In Commerce: 2012/06/22  Patient medical monitors for monitoring ECG (heart rate and arrhythmias), respiration, oxygen saturation (SpO2), invasive pressures, non-invasive blood pressure, cardiac output, temperature, carbon dioxide concentrations, and anesthetic agent concentrations; Medical device for measuring patient physiological parameters, namely, ECG (heart rate and arrhythmias), respiration, oxygen saturation (SpO2), invasive pressures, non-invasive blood pressure, cardiac output, temperature, carbon dioxide concentrations, and anesthetic agent concentrations; Patient medical monitoring systems and clinical medical information systems comprised of bedside monitors, patient monitors, central monitors, transport monitors, physiologic measurement monitors, medical sensors, display terminals, medical telemetry transmitters, antennas and receivers all for monitoring, obtaining, displaying, transmitting and storing patient information and physiological parameters from patients, namely, heart rate, body temperature, level of consciousness, cardiovascular status, ventilation, capnography, respiration, electrocardiography, electroencephalography, electromyography, blood oxygen saturation, invasive pressures and cardiac output, all for medical use</p>		

Attachments	85508044#TMSN.png( bytes )
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	Notice of Opposition Serial No. 88575079.pdf(361688 bytes ) EXHIBIT A.pdf(199208 bytes )
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Signature	/Douglas N. Masters/
Name	DOUGLAS N. MASTERS
Date	04/22/2020



2. Opposer is the owner and operator of a healthcare technology company, founded in 1958, which manufactures, markets, and sells products in the healthcare and medical fields including patient monitoring and connectivity devices; diagnostic cardiology products; anesthesia delivery and ventilation products; and medical data management systems and related software and services.

3. Since long prior to the filing of Applicant's Application, Opposer has been and is using QUBE in interstate commerce as a trademark to identify its medical monitoring systems and devices for measuring patient physiological parameters for use in patient care.

### **Opposer's Rights in the QUBE Mark**

4. Opposer currently owns a U.S. trademark registration for QUBE for:

Computer hardware and software for patient care documentation and information management; computer software for storing, reviewing and reporting patient medical information; computer workstations comprising computer servers, computer monitors, and local, remote or portable computer terminals; remote liquid crystal display (LCD) monitors; interfaces and peripheral devices for computers; computer network and communication network components, namely, hardwire ethernet connectors, wireless network cards, network switches, network routers, network ethernet cables, wireless access points, and wireless controllers; computer software for acquiring, analyzing, displaying, storing and transmitting patient information and physiological parameters from patients for use in the medical field, namely, emergency care and treatment, adult/pediatric/neonatal critical care, perioperative care, labor and delivery, and point of care records in Class 9;

and

medical monitors and devices, *inter alia*, "medical device for measuring patient physiological parameters, namely, ECG (heart rate and arrhythmias), respiration, oxygen saturation (SpO2), invasive pressures, non-invasive blood pressure, cardiac output, temperature, carbon dioxide concentrations, and anesthetic agent concentrations; patient medical monitoring systems and clinical medical information systems comprised of bedside monitors, patient monitors, central monitors, transport monitors, physiologic measurement monitors, medical sensors, display terminals, medical telemetry transmitters, antennas and receivers all for monitoring, obtaining, displaying, transmitting and storing patient information and physiological parameters from patients, namely, heart rate, body temperature, level of consciousness, cardiovascular status, ventilation, capnography, respiration, electrocardiography, electroencephalography, electromyography, blood oxygen saturation, invasive pressures and cardiac output, all for medical use," in Class 10.

The above trademark registration, U.S. Reg. No. 4,589,136, is valid, subsisting and owned by Opposer. and has a priority date of January 3, 2012 (“Opposer’s Mark” or “QUBE Mark”). A copy of the USPTO Trademark Status & Document Retrieval (“TSDR”) printout for the above registration is attached as Exhibit A, and is hereby made of record in this proceeding

5. Opposer expends great sums annually to promote the goods it sells under Opposer’s QUBE Mark, and Opposer each year generates substantial revenue from the sale of such goods.

6. By virtue of the popularity of Opposer’s goods offered in connection with its QUBE mark, and the advertising and promotion of Opposer’s QUBE Mark, Opposer has built up and now owns an extremely valuable goodwill which is symbolized by its QUBE Mark.

#### **Applicant’s QUBEMDX Application**

7. On or around August 12, 2019, Applicant filed the Application with the USPTO on an intent-to-use basis seeking registration of the mark QUBEMDX for the Applicant’s Goods in International Class 10.

8. Upon information and belief, Applicant has not, nor has any predecessor or related company of Applicant, made use of the applied-for mark in commerce prior to the August 12, 2019 filing date.

9. Opposer’s use of its QUBE Mark long precedes the filing date of the Application.

10. Applicant’s application for use, or proposed use, of Applicant’s Mark is without Opposer’s consent or permission.

11. Applicant is not now, and was not at the time of filing the Application, entitled to the registration of the Applicant’s Mark for the goods specified in the Application.

12. Opposer believes that it will be damaged by the registration of Applicant’s Mark as set forth in Applicant’s Application within the meaning of 15 U.S.C. § 1063(a).

## COUNT I

### **LIKELIHOOD OF CONFUSION UNDER 15 U.S.C. § 1052(d)**

13. Opposer repeats and realleges the allegations in Paragraphs 1 through 12.

14. Applicant's registration of Applicant's Mark as a trademark is likely to cause injury to Opposer and to injure Opposer's rights in its QUBE Mark. Applicant's registration and use of Applicant's Mark in connection with Applicant's Goods all of which, like the goods sold under Opposer's Mark, are in the medical field, is likely to cause confusion, mistake and/or deception with Opposer, or the goods marketed in connection with Opposer's Mark, or in the belief that Applicant or the goods sold in connection with Applicant's Mark are in some way legitimately connected with, or licensed or approved by Opposer.

15. Specifically, the literal element of Applicant's QUBEMDX differs from Opposer's Mark only by the addition of MDX, which may be understood by consumers to sound like the descriptive word "medics" or be otherwise related to doctors – MDs. Also, the parties' goods are either identical or closely related.

## COUNT II

### **FALSE ASSOCIATION UNDER 15 U.S.C. § 1052(a)**

16. Opposer repeats and realleges the allegations in Paragraphs 1 through 14.

17. Applicant's use or proposed use of QUBEMDX in connection with Applicant's goods falsely suggests a connection and unfairly competes with Opposer and Opposer's QUBE Mark and related goods in violation of Section 2(a) of the Trademark Act.

**WHEREFORE**, Opposer respectfully requests that this opposition be sustained and that Application Serial No. 88/575,079 be denied registration.

Please debit our Deposit Account No. 502547 for the filing fee and any additional necessary fees.

Please address all correspondence to Douglas N. Masters, Loeb & Loeb LLP, 321 North Clark Street, Suite 2300, Chicago, Illinois 60654.

Dated: April 22, 2020

LOEB & LOEB LLP

By: /s/ Elisabeth K. O'Neill  
Elisabeth K. O'Neill  
Douglas N. Masters  
Alison P. Schwartz  
321 N. Clark Street, Suite 2300  
Chicago, Illinois 60654  
Telephone: (312) 464-3100  
Fax: (312) 464-3111  
Email: tmlit@loeb.com

*Attorneys for Opposer*

# EXHIBIT A

**BULK DATA:** Since May 7 at 12 a.m., the TSDR Application Programming Interface (API) has not included all information. Images of trademark registration certificates issued since July 2016 and some office actions are absent in the API. Customers who need to retrieve a copy of a registration certificate or an office action should download it directly from the TSDR documents tab.

**INTERMITTENT SYSTEM ISSUES:** Due to high-volume usage, you may experience intermittent issues on the Trademark Status and Document Retrieval (TSDR) system between 6 – 8 a.m. ET. Refreshing your web browser should resolve the issue. If you still need assistance accessing a document, email [teas@uspto.gov](mailto:teas@uspto.gov) and include your serial number, the document you are looking for, and a screenshot of any error messages you have received.

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**Generated on:** This page was generated by TSDR on 2020-04-22 07:55:31 EDT

**Mark:** QUBE

Qube

**US Serial Number:** 85508044

**Application Filing Date:** Jan. 03, 2012

**US Registration Number:** 4589136

**Registration Date:** Aug. 19, 2014

**Register:** Principal

**Mark Type:** Trademark

**TM5 Common Status**

LIVE/REGISTRATION/Issued and Active

**Descriptor:**



The trademark application has been registered with the Office.

**Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Status Date:** Aug. 19, 2014

**Publication Date:** Feb. 18, 2014

**Notice of Allowance Date:** Apr. 15, 2014

## Mark Information

**Mark Literal Elements:** QUBE

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

**Color(s) Claimed:** Color is not claimed as a feature of the mark.

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## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

**For:** Computer hardware and software for patient care documentation and information management; computer software for storing, reviewing and reporting patient medical information; computer workstations comprising computer servers, computer monitors, and local, remote or portable computer terminals; remote liquid crystal display (LCD) monitors; interfaces and peripheral devices for computers; computer network and communication network components, namely, hardwire ethernet connectors, wireless network cards, network switches, network routers, network ethernet cables, wireless access points, and wireless controllers; computer software for acquiring, analyzing, displaying, storing and transmitting patient information and physiological parameters from patients for use in the medical field, namely, emergency care and treatment, adult/pediatric/neonatal critical care, perioperative care, labor and delivery, and point of care records

**International Class(es):** 009 - Primary Class

**U.S Class(es):** 021, 023, 026, 036, 038

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Apr. 10, 2012

**Use in Commerce:** Jun. 22, 2012

**For:** Patient medical monitors for monitoring ECG (heart rate and arrhythmias), respiration, oxygen saturation (SpO2), invasive pressures, non-invasive blood pressure, cardiac output, temperature, carbon dioxide concentrations, and anesthetic agent concentrations; Medical device for measuring patient physiological parameters, namely, ECG (heart rate and arrhythmias), respiration, oxygen saturation (SpO2), invasive pressures, non-invasive blood pressure, cardiac output, temperature, carbon dioxide concentrations, and anesthetic agent concentrations; Patient medical monitoring systems and clinical medical information systems comprised of bedside monitors, patient monitors, central monitors, transport monitors, physiologic measurement monitors, medical sensors, display terminals, medical telemetry transmitters, antennas and receivers all for monitoring, obtaining, displaying, transmitting and storing patient information and physiological parameters from patients, namely, heart rate, body temperature, level of consciousness, cardiovascular status, ventilation, capnography, respiration, electrocardiography, electroencephalography, electromyography, blood oxygen saturation, invasive pressures and cardiac output, all for medical use

**International Class(es):** 010 - Primary Class

**U.S Class(es):** 026, 039, 044

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Apr. 10, 2012

**Use in Commerce:** Jun. 22, 2012

## Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Filed ITU: Yes

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

## Current Owner(s) Information

Owner Name: SPACELABS HOLDINGS, INC.

Owner Address: 35301 SE CENTER STREET  
SNOQUALMIE, WASHINGTON UNITED STATES 98065

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

## Attorney/Correspondence Information

### Attorney of Record

Attorney Name: Douglas Masters

Attorney Primary Email [ositm@loeb.com](mailto:ositm@loeb.com)  
Address:

Attorney Email Authorized: Yes

### Correspondent

Correspondent Name/Address: DOUGLAS MASTERS

LOEB & LOEB  
321 N CLARK ST STE 2300  
CHICAGO, ILLINOIS UNITED STATES 60654-4746

Phone: 312.464.3100

Fax: 312.464.3111

Correspondent e-mail: [ositm@loeb.com](mailto:ositm@loeb.com) [jennifer.wiswell@spacelabs.com](mailto:jennifer.wiswell@spacelabs.com)

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Aug. 19, 2019	COURTESY REMINDER - SEC. 8 (6-YR) E-MAILED	
Jan. 17, 2018	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Aug. 19, 2014	REGISTERED-PRINCIPAL REGISTER	
Jul. 12, 2014	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Jul. 11, 2014	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jul. 07, 2014	STATEMENT OF USE PROCESSING COMPLETE	66230
Jun. 06, 2014	USE AMENDMENT FILED	66230
Jul. 01, 2014	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66230
Jun. 06, 2014	TEAS STATEMENT OF USE RECEIVED	
Apr. 15, 2014	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Feb. 18, 2014	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Feb. 18, 2014	PUBLISHED FOR OPPOSITION	
Jan. 29, 2014	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Jan. 16, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	67287
Jan. 14, 2014	ASSIGNED TO LIE	67287
Dec. 17, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 17, 2013	EXAMINER'S AMENDMENT ENTERED	88888
Dec. 17, 2013	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Dec. 17, 2013	EXAMINERS AMENDMENT E-MAILED	6328
Dec. 17, 2013	EXAMINERS AMENDMENT -WRITTEN	82431
Nov. 23, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Nov. 22, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Nov. 22, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
May 22, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
May 22, 2013	NON-FINAL ACTION E-MAILED	6325
May 22, 2013	NON-FINAL ACTION WRITTEN	82431
May 14, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
May 14, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889

May 14, 2013	TEAS REQUEST FOR RECONSIDERATION RECEIVED	
Nov. 26, 2012	NOTIFICATION OF FINAL REFUSAL EMAILED	
Nov. 26, 2012	FINAL REFUSAL E-MAILED	
Nov. 26, 2012	FINAL REFUSAL WRITTEN	82431
Oct. 06, 2012	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Oct. 05, 2012	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Oct. 05, 2012	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Apr. 05, 2012	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Apr. 05, 2012	NON-FINAL ACTION E-MAILED	6325
Apr. 05, 2012	NON-FINAL ACTION WRITTEN	82431
Apr. 05, 2012	ASSIGNED TO EXAMINER	82431
Jan. 10, 2012	NOTICE OF PSEUDO MARK MAILED	
Jan. 09, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jan. 06, 2012	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information - None

### File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Jul. 11, 2014

## Assignment Abstract Of Title Information - [Click to Load](#)

## Proceedings - [Click to Load](#)