

ESTTA Tracking number: **ESTTA1067695**

Filing date: **07/13/2020**

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	Sage Therapeutics, Inc.
Granted to Date of previous extension	07/15/2020
Address	215 FIRST STREET CAMBRIDGE, MA 02142 UNITED STATES
Attorney information	LISA M. TITTEMORE SUNSTEIN LLP 100 HIGH STREET BOSTON, MA 02110 UNITED STATES Primary Email: ltittermore@sunsteinlaw.com Secondary Email(s): ksoule@sunsteinlaw.com 6174439292
Docket Number	

**Applicant Information**

Application No.	88665684	Publication date	03/17/2020
Opposition Filing Date	07/13/2020	Opposition Period Ends	07/15/2020
Applicant	Sage Telehealth Services, LLC 7500 RIALTO BLVD, BLDG 1, STE 250 AUSTIN, TX 78735 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 044. First Use: 2019/07/01 First Use In Commerce: 2019/07/01 All goods and services in the class are opposed, namely: Telemedicine services; medical, telehealth, remote care and virtual health careservices, namely, providing medical services and medical consultation over the telephone and via the Internet through the use of personal computers, smartphones, tablets, and mobile wireless devices via video, email, or a global computer network; providing telehealth health care, telemedicine, remote health care, and virtual health care services by providing real-time access to medical professionals; remote chronic care management in the nature of health care services
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**Applicant Information**

Application No.	88665733	Publication date	03/17/2020
Opposition Filing	07/13/2020	Opposition Peri-	

Date		od Ends	
Applicant	Sage Telehealth Services, LLC 5000 LEGACY DRIVE STE 465 PLANO, TX 78735 UNITED STATES		

### Goods/Services Affected by Opposition

Class 044. First Use: 2019/07/01 First Use In Commerce: 2019/07/01 All goods and services in the class are opposed, namely: Telemedicine services; medical, telehealth, remote care and virtual health careservices, namely, providing medical services and medical consultation over the telephone and via the Internet through the use of personal computers, smart-phones, tablets, and mobile wireless devices via video, email, or a global computer network; providing telehealth health care, telemedicine, remote health care, and virtual health care services by providing real-time access to medical professionals; remote chronic care management in the nature of health care services
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### Applicant Information

Application No.	88665749	Publication date	03/17/2020
Opposition Filing Date	07/13/2020	Opposition Period Ends	
Applicant	Sage Telehealth Services, LLC 7500 RIALTO BLVD, BLDG 1, STE 250 AUSTIN, TX 78735 UNITED STATES		

### Goods/Services Affected by Opposition

Class 038. First Use: 2019/07/01 First Use In Commerce: 2019/07/01 All goods and services in the class are opposed, namely: Telecommunications services, namely, electronic transmission and streaming of digital media content and data for othersbetween patients and healthcare providers via global and local computer networks in connection with providing telehealth, telemedicine, remote care, and virtual health care services
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### Applicant Information

Application No.	88665758	Publication date	03/17/2020
Opposition Filing Date	07/13/2020	Opposition Period Ends	
Applicant	Sage Telehealth Services, LLC 7500 RIALTO BLVD, BLDG 1, STE 250 AUSTIN, TX 78735 UNITED STATES		

### Goods/Services Affected by Opposition


Class 038. First Use: 2019/07/01 First Use In Commerce: 2019/07/01 All goods and services in the class are opposed, namely: Telecommunications services, namely, electronic transmission and streaming of digital media content and data for othersbetween patients and healthcare providers via global and local computer networks in connection with providing telehealth, telemedicine, remote care, and virtual health care services
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### 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.	4879416	Application Date	08/01/2014
Registration Date	01/05/2016	Foreign Priority Date	NONE
Word Mark	SAGE THERAPEUTICS		
Design Mark			
Description of Mark	The mark consists of the words "SAGE THERAPUTICS", to the left of which appearsan image of a solid circle enclosed in a larger incomplete circle.		
Goods/Services	Class 042. First use: First Use: 2011/10/00 First Use In Commerce: 2011/10/00 Pharmaceutical research and developmentservices, namely, research and development of pharmaceuticals to treat central nervous system disorders		

U.S. Registration No.	5891689	Application Date	03/10/2017
Registration Date	10/22/2019	Foreign Priority Date	NONE
Word Mark	SAGE THERAPEUTICS		
Design Mark			
Description of Mark	The mark consists of the words "SAGE THERAPEUTICS", to the left of which appears an image of a solid circle enclosed ina larger incomplete circle.		
Goods/Services	Class 005. First use: First Use: 2019/07/30 First Use In Commerce: 2019/07/30 House mark for pharmaceutical preparations		

U.S. Application No.	88466485	Application Date	06/10/2019
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SAGE THERAPEUTICS		

Design Mark			
Description of Mark	The mark consists of three intersecting curved shapes to the left of the words "Sage Therapeutics", where "Sage" appears above the word "Therapeutics".		
Goods/Services	Class 005. First use: First Use: 0 First Use In Commerce: 0 house mark for pharmaceutical preparations		

U.S. Application No.	88516780	Application Date	07/16/2019
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	SAGE THERAPEUTICS
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Design Mark			
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Description of Mark	The mark consists of three intersecting curved shapes in the colors orange, light purple, and blue, to the left of the black stylized words "SAGE THERAPEUTICS".		
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Goods/Services	Class 005. First use: First Use: 0 First Use In Commerce: 0 house mark for pharmaceutical preparations		
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U.S. Application No.	88466494	Application Date	06/10/2019
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	SAGE CENTRAL
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Design Mark			
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Description of Mark	NONE		
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Goods/Services	Class 044. First use: First Use: 2019/07/01 First Use In Commerce: 2019/07/01 Providing health and medical information about postpartum depression and treatment; patient support services relating to the treatment of postpartum depression, namely, providing a web site for medical professionals and patients featuring information relating to postpartum depression; patient support services, namely, pharmaceutical advice and consultation in the nature of providing online medical information regarding postpartum depression and treatment
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Attachments	86355377#TMSN.png( bytes ) 87366176#TMSN.png( bytes ) 88466485#TMSN.png( bytes ) 88516780#TMSN.png( bytes ) 88466494#TMSN.png( bytes ) Notice of Opposition - SAGE TELEHEALTH.pdf(440434 bytes )
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Signature	/s/ Lisa M. Tittlemore
Name	LISA M. TITTEMORE
Date	07/13/2020

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

In the Matter of Applications:

Serial No.: 88/665,684  
Filed: October 23, 2019  
Applicant: Sage Telehealth Services, LLC  
Mark: SAGE TELEHEALTH  
For: Telemedicine services; medical, telehealth, remote care and virtual health care services, namely, providing medical services and medical consultation over the telephone and via the Internet through the use of personal computers, smartphones, tablets, and mobile wireless devices via video, email, or a global computer network; providing telehealth health care, telemedicine, remote health care, and virtual health care services by providing real-time access to medical professionals; remote chronic care management in the nature of health care services (International Class 44)

Published: March 17, 2020

Serial No.: 88/665,733  
Filed: October 23, 2019  
Applicant: Sage Telehealth Services, LLC  
Mark: SAGE TELEHEALTH (plus design)  
For: Telemedicine services; medical, telehealth, remote care and virtual health care services, namely, providing medical services and medical consultation over the telephone and via the Internet through the use of personal computers, smartphones, tablets, and mobile wireless devices via video, email, or a global computer network; providing telehealth health care, telemedicine, remote health care, and virtual health care services by providing real-time access to medical professionals; remote chronic care management in the nature of health care services (International Class 44)

Published: March 17, 2020

Serial No.: 88/665,749  
Filed: October 23, 2019  
Applicant: Sage Telehealth Services, LLC  
Mark: SAGE TELEHEALTH  
For: Telecommunications services, namely, electronic transmission and streaming of digital media content and data for others between patients and healthcare providers via global and local computer networks in connection with providing telehealth, telemedicine, remote care, and virtual health care services (International Class 38)

Published: March 17, 2020

Serial No.: 88/665,758  
Filed: October 23, 2019  
Applicant: Sage Telehealth Services, LLC  
Mark: SAGE TELEHEALTH (plus design)  
For: Telecommunications services, namely, electronic transmission and streaming of digital media content and data for others between patients and healthcare providers via global and local computer networks in connection with providing telehealth, telemedicine, remote care, and virtual health care services (International Class 38)  
Published: March 17, 2020

SAGE THERAPEUTICS, INC.,

Opposer,

v.

SAGE TELEHEALTH SERVICES, LLC,

Applicant.

**NOTICE OF OPPOSITION**

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Sir or Madam:

Sage Therapeutics, Inc. (“Opposer”), a corporation organized and existing under the laws of the State of Delaware and having its principal place of business at 215 First Street, Cambridge, Massachusetts 02142, believes that it will be damaged by registration of the marks shown in Application Serial No. 88/665,684, Application Serial No. 88/665,733, Application Serial No. 88/665,749, and Application Serial No. 88/665,758, all filed on October 23, 2019, and thus hereby opposes said applications on the grounds that:

1. Application Serial No. 88/665,684, filed by Sage Telehealth Services, LLC (“Applicant”) on October 23, 2019, seeks registration of SAGE TELEHEALTH in connection with “Telemedicine services; medical, telehealth, remote care and virtual health care services, namely, providing medical services and medical consultation over the telephone and via the Internet through the use of personal computers, smartphones, tablets, and mobile wireless devices via video, email, or a global computer network; providing telehealth health care, telemedicine, remote health care, and virtual health care services by providing real-time access to medical professionals; remote chronic care management in the nature of health care services” in International Class 44, claiming use since July 1, 2019.
2. Application Serial No. 88/665,733, filed by Applicant on October 23, 2019, seeks registration of SAGE TELEHEALTH (plus design) in connection with “Telemedicine services; medical, telehealth, remote care and virtual health care services, namely, providing medical services and medical consultation over the telephone and via the Internet through the use of personal computers, smartphones, tablets, and mobile wireless devices via video, email, or a global computer network; providing telehealth health care, telemedicine, remote health care, and virtual health care services by providing real-time access to medical professionals; remote chronic care management in the nature of health care services” in International Class 44, claiming use since July 1, 2019.
3. Application Serial No. 88/665,749, filed by Applicant on October 23, 2019, seeks registration of SAGE TELEHEALTH in connection with “Telecommunications services, namely, electronic transmission and streaming of digital media content and data for others between patients and healthcare providers via global and local computer networks in connection with providing



telehealth, telemedicine, remote care, and virtual health care services” in International Class 38, claiming use since July 1, 2019.

4. Application Serial No. 88/665,758, filed by Applicant on October 23, 2019, seeks registration of SAGE TELEHEALTH (plus design) in connection with “Telecommunications services, namely, electronic transmission and streaming of digital media content and data for others between patients and healthcare providers via global and local computer networks in connection with providing telehealth, telemedicine, remote care, and virtual health care services” in International Class 38, claiming use since July 1, 2019.
5. Opposer is a well-known biopharmaceutical company and is the owner of the trademark SAGE and other SAGE-formative trademarks. Opposer has used its SAGE-formative marks since at least as early as October 2011 in the healthcare field.
6. Opposer is the owner of United States trademark registrations and applications for SAGE-formative marks, including:
  - a. A registration for the mark SAGE THERAPEUTICS (plus design) for use in connection with “Pharmaceutical research and development services, namely, research and development of pharmaceuticals to treat central nervous system disorders,” in International Class 42, filed on August 1, 2014, registered on January 5, 2016, and assigned Registration No. 4,879,416.
  - b. A registration for the mark SAGE THERAPEUTICS (plus design) for use in connection with “House mark for pharmaceutical preparations” in International Class 5, filed on March 10, 2017, registered on October 22, 2019, and assigned Registration No. 5,891,689.

- c. An application for the mark SAGE THERAPEUTICS (plus design) for use in connection with “house mark for pharmaceutical preparations” in International Class 5, filed on June 10, 2019, assigned Serial No. 88/466,485, published on April 7, 2020, and allowed on June 2, 2020.
  - d. An application for the mark SAGE THERAPEUTICS (plus design) for use in connection with “house mark for pharmaceuticals preparations” in International Class 5, filed on July 16, 2019, assigned Serial No. 88/516,780, published on April 7, 2020, and allowed on June 2, 2020.
  - e. An application for the mark SAGE CENTRAL for use in connection with “Providing health and medical information about postpartum depression and treatment; patient support services relating to the treatment of postpartum depression, namely, providing a web site for medical professionals and patients featuring information relating to postpartum depression; patient support services, namely, pharmaceutical advice and consultation in the nature of providing online medical information regarding postpartum depression and treatment” in International Class 44, filed on June 10, 2019, assigned Serial No. 88/466,494, published on October 8, 2019, and allowed on December 3, 2019.
7. Opposer has used and continues to use its SAGE-formative marks since at least 2011, well before Applicant’s filing of the above-identified applications for the opposed marks or Applicant’s claimed first use of the opposed marks. Opposer intends to continue using its SAGE-formative marks with the same and/or related goods and services in the future.

8. Through Opposer's significant and long-term promotional and sales activities, Opposer's SAGE-formative marks identify Opposer as the source of the relevant goods and services to the relevant segment of purchasers and embody extensive goodwill and industry recognition.
9. The services described in Application Serial Nos. 88/665,684, 88/665,733, 88/665,749, and 88/665,758 are similar and/or related to the goods and services that Opposer sells in connection with its SAGE-formative marks and are likely to be sold through related marketing channels to the same class of purchasers.
10. Applicant's proposed SAGE TELEHEALTH and SAGE TELEHEALTH (plus design) marks are confusingly similar to Opposer's SAGE-formative marks.
11. Applicant's use and/or registration of the proposed SAGE TELEHEALTH and SAGE TELEHEALTH (plus design) marks will cause purchasers, prospective purchasers, users and others to be confused, mistaken or deceived into the belief, contrary to fact, that Applicant's services emanate from or are sponsored or approved by Opposer or are related to Opposer's goods and services, thereby damaging Opposer. Applicant's marks are thus unregistrable under §§ 2(d) and 13 of the Lanham Act, 15 U.S.C. §§ 1052(d) and 1063.

WHEREFORE, Opposer prays that the present opposition be sustained and registrations of the SAGE TELEHEALTH and SAGE TELEHEALTH (plus design) marks sought by Applicant be refused.

Dated: July 13, 2020

SAGE THERAPEUTICS, INC.

By its attorneys,

/s/ Lisa M. Tittlemore

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