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

Proceeding no.	91275216
Party	Defendant CDR Maguire, Inc.
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Date	05/02/2022
Attachments	CDR Response to Opposition Number 91275216.pdf(820241 bytes )

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

Spectrum Professional Services, LLC,

Opposer,

v.

CDR Maguire, Inc.,

Applicant.

Opposition No. 91275216

Application No.: 90587926  
Filing Date: March 18, 2021  
Publication Date: November 23, 2021  
Mark: CDR HEALTHPRO

**ANSWER AND RESPONSE TO NOTICE OF OPPOSITION**

Applicant CDR Maguire, Inc. (“CDR”) maintains that the mark underlying Application No. 90587926, *i.e.*, CDR HealthPro (the “Mark”), is entitled to registration and disagrees with Opposer Spectrum Professional Services, LLC’s (“Spectrum”) Notice of Opposition for the reasons set forth below.

**ANSWER**

CDR hereby answers Spectrum’s Opposition as follows:

1. Without knowledge and therefore denied.
2. The application speaks for itself; CDR is without knowledge as to, and therefore denies, any characterizations made with regard to same.
3. The application speaks for itself; CDR is without knowledge as to, and therefore denies, any characterizations made with regard to same.

4. The application speaks for itself; CDR is without knowledge as to, and therefore denies, any characterizations made with regard to same.

5. The application speaks for itself; CDR is without knowledge as to, and therefore denies, any characterizations made with regard to same.

6. The application speaks for itself; CDR is without knowledge as to, and therefore denies, any characterizations made with regard to same.

7. The application speaks for itself; CDR is without knowledge as to, and therefore denies, any characterizations made with regard to same.

8. The application speaks for itself; CDR is without knowledge as to, and therefore denies, any characterizations made with regard to same.

9. Without knowledge and therefore denied.

10. Without knowledge and therefore denied.

11. Admitted.

12. CDR's Application speaks for itself; as explained in more detail in the Response, below, CDR denies any potential confusion and/or that any of its services are offered to any of the same classes of consumers, through any of the same channels of trade, or for any similar types of services as Spectrum.

13. Denied for the reasons provided in the Response, below.

14. Without knowledge and therefore denied.

15. Legal conclusion for which no response is required.

16. Denied for the reasons provided in the Response, below.

## **RESPONSE**

CDR provides the following additional information in response:

17. CDR is a Delaware corporation that was formed in 1971. However, CDR was founded in 1938 as an engineering firm on the cornerstone of innovation and alternative delivery solutions. *See* CDR Maguire, available at <https://cdrmaguire.com/> (last accessed April 29, 2022). CDR now has offices across the nation and has expanded to provide engineering consulting services, emergency management solutions, and disaster health and medical services, overseeing over \$2 billion in construction and over \$10 billion in disaster recovery. *Id.* Throughout all of its services and decades of service, CDR Maguire and the “CDR” names have developed their own significance and recognition in the markets that CDR serves.

18. Under the “CDR Health” tagline, which compound phrase is used in CDR’s marketing of its health and medical services<sup>1</sup> and which has gained significant name recognition,<sup>2</sup> CDR has responded to unprecedented events in new and innovative ways. For example, CDR has been on the front lines of the COVID-19 pandemic from the beginning. CDR’s team of disaster health and medical experts have been, and continue to be, at the forefront of assisting state and local governments respond to and manage the global health crisis. *See* CDR Maguire, available at <https://cdr-healthmed.com/> (last accessed April 29, 2022). Indeed, CDR has processed more than 4 million COVID-19 tests, 2.7 million COVID-19 vaccinations, and over 160,000 COVID-19 treatments providing over \$250 million in COVID-19 support services. *Id.* In conjunction with that effort, CDR developed a proprietary data management

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<sup>1</sup> *See, e.g.,* CDR Health, available at <https://cdr-healthmed.com/> (last accessed April 29, 2022); CDR Health Tallahassee Clinic, available at <https://cdr-health.com/> (last accessed April 29, 2022).

<sup>2</sup> *See, e.g.,* “CDR Health closes COVID-19 monoclonal antibody sites in Florida,” WUSF Public Media, available at <https://wusfnews.wusf.usf.edu/politics-issues/2022-03-25/cdr-health-closes-covid-19-monoclonal-antibody-sites-in-florida> (last accessed April 29, 2022); “CDR Health offers free COVID-19 testing to insured at Tallahassee clinic,” Florida Politics, available at <https://floridapolitics.com/archives/483059-cdr-health-offers-free-covid-19-testing-to-insured-at-tallahassee-clinic/> (last accessed April 29, 2022).

solution, known as CDR HealthPro, to provide a turnkey solution for patient registration and tracking for COVID-19 testing, vaccination, and treatments. *Id.* The Mark “CDR HealthPro” simply adds “Pro” to the end of CDR’s pre-existing “CDR Health” mark. The CDR HealthPro system has been used at multiple sites across the states of Florida, Texas, Massachusetts, South Carolina, and Kentucky in response to the COVID-19 pandemic and provides the ability for patients to: view, download and print their results online; and, register, schedule and track the administration of vaccinations and treatments, including providing a Vaccination Verification Record. *Id.*

19. Because “CDR HealthPro” has become synonymous with this service and gained such public awareness, CDR applied for trademark registration in two classes: IC 35 for appointment scheduling services, and IC 44 for medical testing for diagnostic or treatment purposes, on March 18, 2021.

20. Spectrum filed a Notice of Opposition claiming it will be damaged by the registration because it uses “HEALTHPRO” as a trademark for its clinical therapy, diagnostic, and related services. Spectrum’s clinical and diagnostic services include fully outsourced therapy support, consulting for in-house rehabilitation programs and/or post-acute care providers. *See* Notice, ¶ 1. Spectrum applied for trademarks primarily related to the management of therapy services provided directly to schools and other healthcare providers – neither appointment scheduling services, nor medical testing for diagnostic or treatment purposes, are identified in its application:

- Trademark Application No. 90323954 for #WECHANGELIVES HEALTHPRO PEDIATRICS A DIVISION OF HEALTHPRO HERITAGE seeks registration for IC 44: Management of pediatric and rehabilitation **therapy services** provided

directly to schools and to other healthcare providers, namely, managed healthcare services in the field of occupational, behavioral, and speech pathology/language therapy programs; pediatric healthcare services, namely, managed healthcare services in the field of pediatric **therapy** services.

- Trademark Application No. 90323958 for HEALTHPRO PEDIATRICS seeks registration for IC 44: Management of pediatric and rehabilitation **therapy services** provided directly to schools and to other healthcare providers, namely, managed healthcare services in the field of occupational, behavioral, and speech pathology/language therapy programs; pediatric healthcare services, namely, managed healthcare services in the field of pediatric therapy services
- Trademark Application No. 90323969 for HEALTHPRO HERITAGE seeks registration for IC 44: Management of rehabilitation **therapy services** provided directly to other healthcare providers, namely, managed healthcare services in the field of occupational and speech pathology/language therapy programs and long term acute nursing care and post-acute home nursing care.
- Trademark Application No. 90323975 for HEALTHPRO HERITAGE AT HOME seeks registration for IC 44: Management of rehabilitation **therapy services** provided directly to other healthcare providers, namely, managed healthcare services in the field of occupational and speech pathology/language therapy programs and long term acute nursing care and post-acute home nursing care.
- Trademark Application No. 90323964 for HEALTHPRO HP HERITAGE seeks registration for IC 44: Management of rehabilitation **therapy services** provided directly to other healthcare providers, namely, managed healthcare services in the

field of occupational and speech pathology/language therapy programs and long term acute nursing care and post-acute home nursing care.

- Trademark Application No. 90323971 for HEALTHPRO HP HERITAGE AT HOME seeks registration for IC 44: Management of rehabilitation **therapy services** provided directly to other healthcare providers, namely, managed healthcare services in the field of occupational and speech pathology/language therapy programs and long term acute nursing care and post-acute home nursing care.
- Trademark Application No. 97001508 for HEALTHPRO HERITAGE FOUNDATION seeks registration for IC 36: Charitable services, namely, providing scholarships and financial support to rehabilitation therapists, occupational and speech pathology therapists.

The foregoing all reference “Application” numbers because the underlying applications are pending and Spectrum has not yet been granted registration rights for these marks. For these applications, Spectrum states that it operates in International Class 044 (IC 044) and corresponding U.S. Classes 100 and 101. However, another entity submitted a family of HEALTHPRO applications<sup>3</sup> that predate Spectrum’s applications, also operate in IC 044 and U.S. Classes 100 and 101, and recently received notices of allowance. An Examiner may cite these prior marks against Spectrum during its application examinations and/or Spectrum may be unable to traverse objections raised by that entity. Because Spectrum’s path to registration remains unclear, it would be premature to deny CDR’s application on the basis of Spectrum’s

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<sup>3</sup> See Application numbers 88877130, 88877113, and 88877098 for HEALTHPRO ULTIMATE, HEALTHPRO ADVANCED, and HEALTHPRO LAUNCH word marks, respectively.

objection. Even if Spectrum is able to obtain the registrations, such registration does not preclude coexistence with CDR's Mark, as explained below.

21. The services provided by Spectrum are distinguishable from those provided by CDR. CDR does not provide therapy services, nor the management of therapy services. Rather, CDR's services center around COVID-19 testing, vaccinations and treatments. Put another way, CDR focuses on patient intake whereas Spectrum focuses on patient care – two completely separate steps in the healthcare cycle. Because the parties are directing their services to different classes of consumers, it is unlikely that consumers looking for a company to manage their therapy services would be confused.

22. Moreover, the services provided by CDR are provided directly to the patient whereas Spectrum interacts with the healthcare provider. Because they operate in different channels of trade, source confusion is highly unlikely. It may also be presumed that Spectrum's target consumer (*i.e.*, healthcare providers and schools) are sufficiently sophisticated to understand the difference.<sup>4</sup>

23. Additionally, any possible confusion would be obviated by the fact that the Mark begins with "CDR." Spectrum does not use the acronym CDR, nor appear to use any phrase that begins with those letters. It is inconceivable that a consumer could be confused as to the source of the Mark (*i.e.*, "CDR HealthPro") where Applicant's name (*i.e.*, "CDR") is literally contained within the Mark itself. CDR has offices nationwide, has provided over \$250 million in COVID-19 support services, has overseen billions in construction and disaster recovery,<sup>5</sup> and has

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<sup>4</sup> For its emergency management solutions and disaster health and medical services sectors, CDR largely serves a governmental client base, which is likewise sophisticated.

<sup>5</sup> In contrast, Spectrum is located in Maryland, has 7 total employees, and generated only \$496k in sales. See Dun & Bradstreet Overview, available at <https://www.dnb.com/business-directory/company->



developed significant name recognition. Thus, prefacing “HealthPro” with “CDR” eliminates source confusion. This is particularly true where CDR’s extensive use of “CDR HealthPro” has established consumer recognition of the compound word whereas Spectrum uses the secondary word in conjunction with at least one, but up to six, completely distinguishable words (e.g., #WECHANGELIVES HEALTHPRO PEDIATRICS A DIVISION OF HEALTHPRO HERITAGE; HEALTHPRO HERITAGE HP AT HOME; HEALTHPRO HERITAGE FOUNDATION). The Mark does not match Spectrum’s applied for marks and has a different syllable count and cadence. A side-by-side comparison illustrates this point.

<b>Spectrum’s applied-for marks:</b>	<b>CDR’s applied-for Mark:</b>
#WECHANGELIVES HEALTHPRO PEDIATRICS A DIVISION OF HEALTHPRO HERITAGE	CDR HealthPro
HEALTHPRO HERITAGE	CDR HealthPro
HEALTHPRO HERITAGE AT HOME	CDR HealthPro
HEALTHPRO HERITAGE FOUNDATION	CDR HealthPro
HEALTHPRO HP HERITAGE	CDR HealthPro
HEALTHPRO HP HERITAGE AT HOME	CDR HealthPro
HEALTHPRO PEDIATRICS	CDR HealthPro

24. It is understood that consumers are inclined to focus on the first word, prefix, or syllable of a service mark. *See, e.g., Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1372, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005) (finding similarity between VEUVE ROYALE and two VEUVE CLICQUOT marks in part because “VEUVE . . . remains a ‘prominent feature’ as the first word in the mark and the first word to appear on the label”); *Century 21 Real Estate Corp. v. Century Life of Am.*, 970 F.2d 874, 876,

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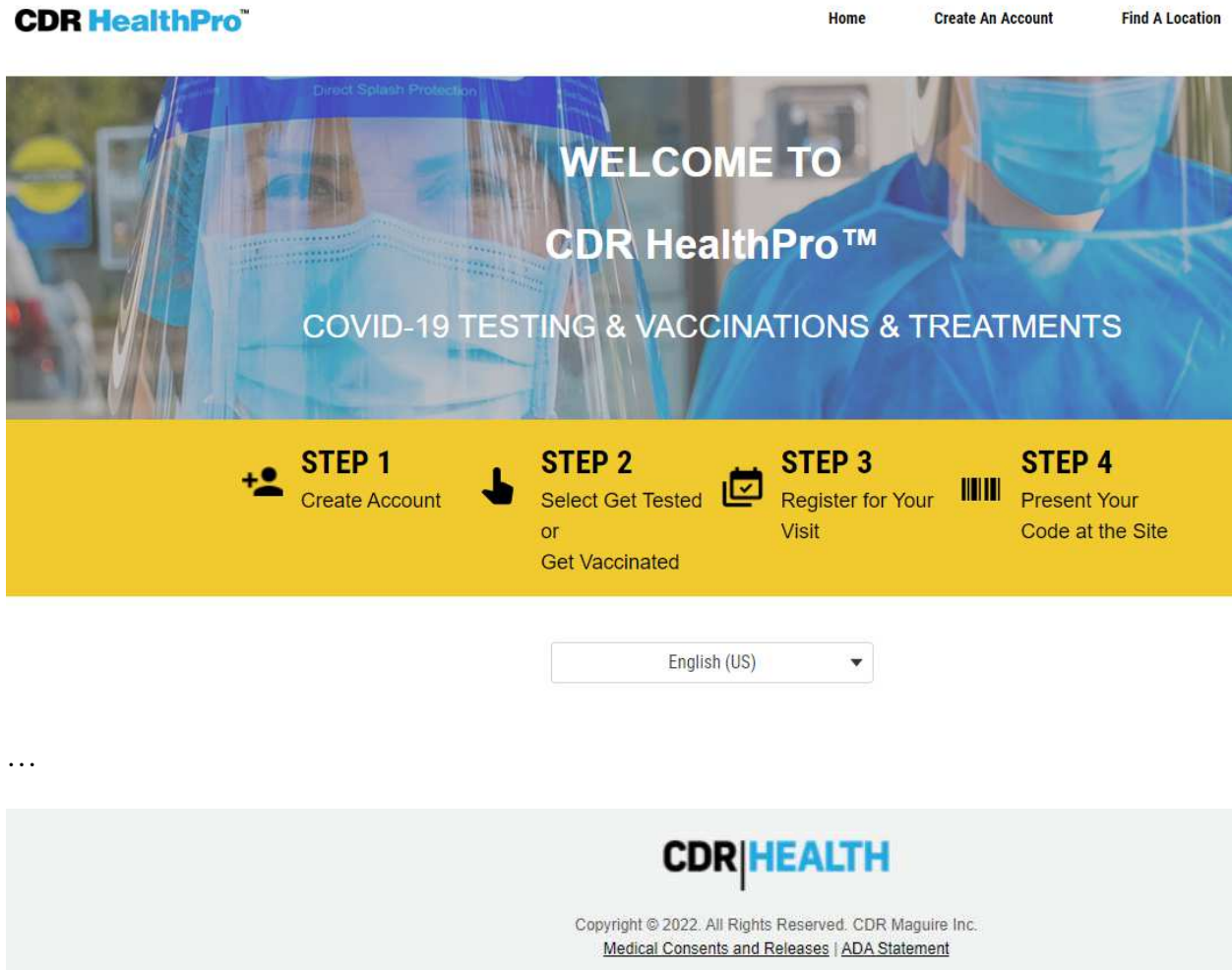
[profiles.spectrum\\_professional\\_services\\_llc.73f9a1f7087421dc60dcb4926629ea97.html](https://profiles.spectrum_professional_services_llc.73f9a1f7087421dc60dcb4926629ea97.html) (last accessed April 29, 2022).

23 USPQ2d 1698, 1700 (Fed Cir. 1992) (finding similarity between CENTURY 21 and CENTURY LIFE OF AMERICA in part because “consumers must first notice th[e] identical lead word”); *see also In re Detroit Athletic Co.*, 903 F.3d 1297, 1303, 128 USPQ2d 1047, 1049 (Fed. Cir. 2018) (finding “the identity of the marks’ two initial words is particularly significant because consumers typically notice those words first”). Here, the first term – and thus the term “first notice[d]” by consumers – is the source identifier: CDR. Thus, the source is a “prominent feature” of the mark.

25. Unlike CDR’s Mark, Spectrum’s applications do not seek registration in connection with appointment scheduling services or medical testing. Instead, Spectrum claims that such services may be tertiary to its therapy services. *See* Notice, ¶ 12. However, it is extremely unlikely that a patient would go to CDR’s patient portal, which is clearly marked “CDR HealthPro,” to schedule an appointment to be tested for COVID-19 and/or receive a vaccine or treatment and be confused about whether such services are being provided by Spectrum, a provider of therapy services. It is similarly unlikely to think a consumer would go to Spectrum for therapy services and think that the appointments or medical testing for same are being scheduled through CDR.

26. The appointment scheduling services provided by CDR are not simply answering the phone and making a calendar entry. Rather, the Mark is being registered in conjunction with a proprietary data management solution for patient registration and tracking. Spectrum has not suggested that it similarly possesses a proprietary data management system for which it uses “HealthPro” in commerce. Unlike Spectrum, appointment scheduling is not ancillary to the services provided by CDR. CDR expressly uses the Mark in connection with its patient portal. Specifically, CDR HEALTHPRO is CDR’s platform that is currently being used to log and track

patients for COVID-19 testing, vaccination, and COVID-19 treatment services. See CDR HealthPro, available at [https://www.patientportalfl.com/s/?language=en\\_US](https://www.patientportalfl.com/s/?language=en_US) (last accessed April 29, 2022). Both the CDR HealthPro mark and the CDR Health mark appear on this patient portal:



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**WHEREFORE,** for the foregoing reasons, Spectrum’s petition should be denied and CDR’s U.S. Application Serial No. 90587926 should be granted. Alternatively, Spectrum’s opposition should be limited to Class 44 since it has no registered marks in Class 35.

Respectfully submitted this 2<sup>nd</sup> day of May, 2022,

**STEARNS WEAVER MILLER WEISSLER  
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*s/ F. Joseph Ullo, Jr.*

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 2nd day of May, 2022, a true and complete copy of the foregoing Response to Notice of Opposition has been served via e-mail on the following counsel of record:

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*s/ F. Joseph Ullo, Jr.*

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