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Filing date: **05/30/2023**

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	TELUS Corporation		
Entity	Corporation	Citizenship	Canada
Address	200 CONSILIUM PLACE SCARBOROUGH, ONT M1H 3J3 CANADA		
Attorney information	JORDAN A. LAVINE FLASTER GREENBERG PC 100 FRONT STREET SUITE 100 CONSHOHOCKEN, PA 19428 UNITED STATES Primary email: jordan.lavine@flastergreenberg.com Secondary email(s): eric.clendening@flastergreenberg.com, linda.ladzenski@flastergreenberg.com 2152799389		
Docket no.			

**Applicant information**

Application no.	97172319	Publication date	05/02/2023
Opposition filing date	05/30/2023	Opposition period ends	06/01/2023
Applicant	Telos Health, Inc. 1359 DELL AVE. CAMPBELL, CA 95008 UNITED STATES		

**Goods/services affected by opposition**

Class 010. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Robotic devices in the nature of surgical robots for use in connection with transvascular medical procedures; Robotic catheter drive systems comprised of a motorized catheter positioner having rotational and translational movement capability and a tele-robotic controller with rotation, translation and deflection control buttons, to facilitate remote catheterizations, for use in transvascular medical procedures; Robotic guidewire drive systems consisting of a robotic arm, knob, deflection lever, and buttons, to facilitate remote catheterizations, for use in transvascular medical procedures; Medical devices for automated movement, namely, a robotic system comprising motors having rotational and translational movement capability for use in robotic control of catheters and guidewires; Robotic guided catheters for use in transvascular medical procedures; Robotic guided guidewires for use in transvascular medical procedures; Surgical instruments and apparatus for use in transvascular medical procedures, namely, computerized surgical control systems comprising medical catheters and guidewires, computer hardware, and installed firmware for controlling and operating surgical robots and surgical instruments
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Class 012. First Use: None First Use In Commerce: None  
 All goods and services in the class are opposed, namely: Surgical carts for use in transvascular medical procedures

## 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.	2396640	Application date	11/05/1990
Register	Principal		
Registration date	10/24/2000	Foreign priority date	NONE
Word mark	TELUS		
Design mark			
Description of mark	NONE		
Goods/services	<p>Class 037. First use: First Use: 1990 First Use In Commerce: 1990          maintenance services for telecommunications equipment and systems</p> <p>Class 038. First use: First Use: None First Use In Commerce: None          telecommunication services; interconnection services between buildings and telecommunication networks; long distance telephone services; [paging services; leasing of telecommunications equipment and systems;] data transmission services; telephone conferencing service; mobile telecommunications services; interconnection services between mobile units and telecommunications networks; [video teleconferencing services;] cellular telephone services [and video text services]</p> <p>Class 042. First use: First Use: None First Use In Commerce: None          consulting services relating to telecommunications systems and office automation</p>		

U.S. registration no.	3963126	Application date	03/15/2010
Register	Principal		
Registration date	05/17/2011	Foreign priority date	NONE
Word mark	T TELUS		
Design mark			
Description of mark	The mark consists of the word "TELUS" with the letter "T" written in a distinctive script beside it.		
Goods/services	<p>Class 036. First use: First Use: Dec 26, 2010 First Use In Commerce: Dec 26, 2010          Financial sponsorship of athletic and sporting events</p>		

U.S. registration no.	3543607	Application date	05/28/2008
Register	Principal		
Registration date	12/09/2008	Foreign priority date	NONE
Word mark	TELUS		

Design mark	
Description of mark	NONE
Goods/services	<p>Class 035. First use: First Use: Oct 2005 First Use In Commerce: Oct 2005 Outsourcing services; outsourcing services in the fields of customer care and support, market research, financial services and administration, information technology support, directory assistance services, product and services support, technology infrastructure management, and project management; Management of telephone call centers for others; Operation of telephone call centers for others; Customer services, namely, providing customer service and product inquiry services via telephone and e-mail for others; Administration, billing and reconciliation of accounts on behalf of others; Operation of telephone communication centers for others; Database management services; Telephone directory assistance services; Telephone directory information; Operation and administration of telecommunication systems and networks for others; technology infrastructure management services in the nature of electronic communication networks and networking hardware and software problems; project management services in the telecommunications and information technology fields, namely, computer project management services; telemarketing services</p> <p>Class 037. First use: First Use: Oct 2005 First Use In Commerce: Oct 2005 Technical support services, namely, maintenance of computer network systems; computer network support services, namely, maintenance and repair of computer networks; installation of computer networks</p> <p>Class 042. First use: First Use: Oct 2005 First Use In Commerce: Oct 2005 Technical support services, namely, monitoring of computer network systems; technical support, namely, providing computer help desk services; consulting services in the field of identification, support and implementation of computer-based information systems for businesses; providing information technology management and support services in the field of computer network security, namely, consulting services in the field of selection, implementation and use of computer network security hardware and software systems of others</p>

U.S. registration no.	3613014	Application date	04/30/2007
Register	Principal		
Registration date	04/28/2009	Foreign priority date	04/20/2007
Word mark	TELUS		
Design mark			
Description of mark	NONE		
Goods/services	<p>Class 035. First use: First Use: Oct 2005 First Use In Commerce: Oct 2005 Outsourcing services; Management of telephone call centers for others; Operation of telephone call centers for others; Human resources management; Mediation and conclusion of commercial transactions for others; Disaster recovery services, namely, business planning and business continuity consulting</p>		

U.S. registration no.	7057605	Application date	11/19/2020
Register	Principal		
Registration date	05/23/2023	Foreign priority date	11/11/2020
Word mark	TELUS		

Design mark	
Description of mark	NONE
Goods/services	<p>Class 009. First use: First Use: None First Use In Commerce: None  Downloadable computer software for use in the field of business management, namely, for managing and analyzing crop and field conditions and optimal crop yield, recording field activities and crop observations relating to disease and pest pressure, for processing crop chemical recommendations and scheduling of control measures, for business administration in the nature of assisting in decision-making, for database management in the agricultural and farming industry; electrical devices, namely, agricultural equipment monitors in the nature of location detection system comprised primarily of display monitors, computers, image sensors, and video cameras, agricultural equipment location sensors in the nature of GPS tracking devices, agricultural equipment operating status sensors; downloadable database management software for the agricultural and farming industry; downloadable computer software platforms for information management, hosting, managing, developing, researching, analyzing, reporting and maintaining applications, software, web sites and databases for the agricultural and farming industry; SIM cards; eSIM cards, namely, embedded rewritable subscriber identifier module cards for pre-installation in a mobile device; downloadable computer software for smart city technology, namely, for monitoring real-time traffic information and information management, namely, database management and for cyber security and user identity management, namely, software for authenticating user identification</p> <p>Class 035. First use: First Use: None First Use In Commerce: None  Providing online business information, namely, commercial corporate and statistical information in the agricultural field; marketing consultation services in the field of agriculture; business management consulting and services in the nature of business management consulting and advisory services for the agricultural industry; logistics management in the field of agriculture, namely, business management and organization of facilities and resources for the supply, storage, distribution, marketing and delivery of agricultural products and food products; data management services in the field of agriculture and for the purpose of helping provide agricultural market insights and analysis; database management, namely, managing web-based electronic medical record databases; outsourcing services in the nature of arranging service contracts for others in the field of information technology; business process outsourcing and consulting services, namely, outsourcing services in the field of business management; business consultation services in the field of smart city and smart building technology, and mapping; business consulting services in the field of personal data management; data processing in the nature of data annotation services in the field of artificial intelligence, namely, data categorization and labelling for artificial intelligence and machine learning</p> <p>Class 036. First use: First Use: None First Use In Commerce: None  Financial risk management, financial planning and financing services in the field of farm management</p> <p>Class 037. First use: First Use: None First Use In Commerce: None  Technical support services, namely, troubleshooting in the nature of repair of computer hardware and variable rate equipment in the nature of computer hardware and global position systems used in the field of precision agriculture and variable rate technology</p> <p>Class 038. First use: First Use: None First Use In Commerce: None  Telecommunications services, namely, electronic data transmission services, interconnection services between mobile units and telecommunications networks in the nature of telecommunications services for providing multiple-user access to a global computer network, electronic transmission of data and documents</p>

among users of computers; providing access to telecommunication networks; providing telecommunication connections to the internet or databases; telecommunication gateway services; electronic transmission of medical and patient information, data and documents via computer terminals and electronic devices through wired or wireless networks; provision of access to a global computer network; transmission and reception of database information via the telecommunication network

Class 042. First use: First Use: None First Use In Commerce: None

Software as a service (SaaS) services featuring software for manufacturers, sellers and purchasers of agricultural products and services, for use in database management of sales data and reporting of sales data for agricultural products and services, managing supply and demand for agricultural products, for tracking agricultural products through the supply chain from grower to consumer for the purposes of assessing agricultural product conditions and quality, for managing trade promotion and retail execution for food manufacturers and distributors, and logistics management; software as a service (SaaS) services featuring software for handheld computers in the field of wireless security and wireless connectivity for providing enhanced fast roaming data and SMS messaging and enhanced security protocols for commercial, industrial and consumer internet of things (IoT) enabled devices; platform as a service (PaaS) services featuring computer software platforms for use in monitoring, analyzing, managing, optimizing, tracking and automating the security and management of IoT (internet of things) devices and systems and computer applications, hardware, networks and systems, for management of operating system functions and to create a bridge between operating systems and applications on electronic devices, for allowing users or enterprise software applications to interface with, connect to, track and manage remote devices and remote assets and to provide messaging, management and memory storage services, for users or enterprise software applications to connect with internet of things enabled devices to remotely monitor, analyze and receive alerts about remote workers, assets and fleets; design, development, and implementation of software for digital applications and services in the healthcare field; software as a service (SaaS) services featuring software for use in medical and health care management, providing patient access to personal medical records and online appointment bookings, allowing medical providers and patients to manage electronic referrals from medical provider to medical provider, allowing electronic communication between the medical provider and the patient, providing virtual medical consultation; software as a service (SaaS) services featuring software for development and technical support thereof in the form of troubleshooting of software problems for the health and life insurance industry; information technology consulting and professional services, namely, outsource service provider in the field of information technology; technological consulting in the field of artificial intelligence; research and development in the field of artificial intelligence; software as a service featuring artificial intelligence software for general business process automation in the field of telecommunications, financial services, insurance, travel, healthcare, retail, education, and automotive, for suggested responses and auto-communication, machine learning for classifying and generating communication via telephone, electronic mail, voice messaging, electronic exchange of messages using chat lines, chatrooms and internet forums, SMS, text messaging, wireless digital messaging and instant messaging, based on previous customer interaction data, and natural language processing; software as a service services featuring software for smart city technology, namely, for monitoring real-time traffic information and information management, namely, database management and for cyber security and user identity management, namely, authenticating user identification; technological consultation in the field of smart city and smart building technology, namely, using sensors, cameras, and computer software to collect data within a city, and mapping; technical support, namely, troubleshooting in the nature of diagnosing computer hardware and software problems, and technical consulting services in the field of cyber security; computer security consultancy

	<p>services in the field of cyber-security and mobile identity; pharmacy management software consulting services; information technology consulting services; hosting of databases containing health records and medical information; development and maintenance of computer software for medical clinic and pharmacy electronic management systems; software as a service (SaaS) featuring software for medical clinic and pharmacy electronic management systems, namely for centralizing information, automating prescription refill processes and mail order procedures; software as a service (SaaS) featuring software for managing electronic health records, medical scheduling and medical practice management Class 044. First use: First Use: None First Use In Commerce: None</p> <p>Medical clinic services; medical, psychological and psychiatric services provided remotely; telemedicine services</p>
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Attachments	TELOS Health Notice of Opposition.pdf(369527 bytes )
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Signature	/jordan lavine/
Name	Jordan A. LaVine
Date	05/30/2023

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

TELUS Corporation,	:	
	:	Opposition No.
Opposer,	:	
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	:	
v.	:	
	:	
	:	
Telos Health Inc.,	:	
	:	
Applicant.	:	

Re: **TELOS HEALTH**  
Application Serial No. 97172319  
Filed December 14, 2021  
Published May 2, 2023

**NOTICE OF OPPOSITION**

In the matter of trademark Application Serial No. 97172319, filed December 14, 2021, and published for opposition in the *Official Gazette* of May 2, 2023, TELUS Corporation. ("TELUS" or "Opposer"), a Canadian corporation, believes that it will be damaged if a registration issues for the goods therein identified and hereby opposes the registration of said trademark. The grounds for opposition are as follows:

1. Applicant seeks to register **TELOS HEALTH** as a trademark for “Robotic devices in the nature of surgical robots for use in connection with transvascular medical procedures; Robotic catheter drive systems comprised of a motorized catheter positioner having rotational and translational movement capability and a tele-robotic controller with rotation, translation and deflection control buttons, to facilitate remote catheterizations, for use in transvascular medical procedures; Robotic guidewire drive systems consisting of a robotic arm,

knob, deflection lever, and buttons, to facilitate remote catheterizations, for use in transvascular medical procedures; Medical devices for automated movement, namely, a robotic system comprising motors having rotational and translational movement capability for use in robotic control of catheters and guidewires; Robotic guided catheters for use in transvascular medical procedures; Robotic guided guidewires for use in transvascular medical procedures; Surgical instruments and apparatus for use in transvascular medical procedures, namely, computerized surgical control systems comprising medical catheters and guidewires, computer hardware, and installed firmware for controlling and operating surgical robots and surgical instruments” in Class 10, and “Surgical carts for use in transvascular medical procedures” in Class 12, as evidenced by the publication of said mark in the *Official Gazette* of May 2, 2023.

2. TELUS is the largest telecommunications company in Western Canada and the second largest in Canada. In the United States and Canada, among other places, TELUS provides its customers with a full range of telecommunications products and services and business services, including data, voice, and wireless services, all of which utilize advanced Internet-protocol-based network technologies.

3. TELUS also provides a full range of business outsourcing services that include, *inter alia*, call center and customer service services, managed information technology services, directory assistance services, business audio conferencing services, hosted communications and exchange services, collaboration solutions that allow customers, suppliers, and employees to share and access information, and data and network security services.

4. In addition to the above longstanding businesses and range of services, TELUS has a substantial presence and business in the field of healthcare, and operates that business division under the trademark and name **TELUS Health**. More specifically, since at least as early



as 2008, through its **TELUS Health** division, TELUS has strategically invested in building innovative capabilities that reimagine the way healthcare is delivered and experienced. Among the healthcare-related services that TELUS provides under its **TELUS** trademark through its **TELUS Health** division, including in the United States, are technology solutions for telehealth, electronic health records, remote patient monitoring, mobile home and community care services. In addition to consumer health, TELUS also provides benefits management, and pharmacy management services. Moreover, in the context of providing services to medical practitioners and clinics, TELUS's services consist of electronic health record management, claims management solutions, and patient and consumer health platforms.

5. As noted above, TELUS's **TELUS Health** healthcare-related services are provided throughout the United States. As only one example, persons traveling in the United States can use TELUS's **TELUS Health** "MyCare" mobile application to access U.S.-based registered nurses for their medical needs.

6. More generally, over the course of the last 15 years, TELUS has acquired more than 20 companies with businesses in the healthcare field. Upon acquisition, TELUS integrates such companies into its **TELUS Health** division and such businesses begin using the **TELUS** and **TELUS Health** trademarks with their businesses. As noted above, these businesses have included businesses in the fields of electronic records management, employee and family assistance, employee recognition, pension and benefits administration, organizational and workplace well-being, patient engagement software, personal medical alert services, pharmacy technology, and virtual care.

7. TELUS provides a fulsome website describing its **TELUS Health** business at the website <https://www.telus.com/en/health>. TELUS also describes its specific international

capabilities in the healthcare field through its “TELUS International” website at <https://www.telusinternational.com>.

8. TELUS has provided all of the aforementioned services under its **TELUS** and **TELUS Health** trademarks.

9. TELUS’s **TELUS** and **TELUS Health** trademarks are inherently distinctive.

10. TELUS has extensively promoted and advertised its services offered under the **TELUS** and **TELUS Health** trademarks.

11. TELUS has used its **TELUS** trademark for its telecommunications services in commerce in the United States since at least as early 2000, has used its **TELUS** trademark for its business outsourcing services in commerce in the United States since at least as early as October 2005, and has used its **TELUS** and **TELUS Health** trademarks for its aforementioned services in commerce in the healthcare field since at least as early as 2008.

12. TELUS owns numerous trademark registrations in the United States Patent and Trademark Office for its **TELUS** mark. TELUS owns Registration No. 2396640 for its various telecommunications services, Registration No. 3963126 for financial sponsorship services, and owns Registration Nos. 3543607 and 3613014 for its various business outsourcing services. TELUS owns substantial common law trademark rights in its **TELUS** trademark for its various healthcare-related services, and such services are also identified in TELUS’s recently issued Registration No. 7057605.

13. Based upon TELUS’s long use of its **TELUS** and **TELUS Health** trademarks and the goodwill that TELUS has established in its **TELUS** and **TELUS Health** trademarks, the trademarks have become extremely valuable assets of TELUS.

14. Applicant bases its application to register its **TELOS HEALTH** trademark under Section 1(b) based upon Applicant's bona fide intent-to-use the mark in commerce.

15. On information and belief, Applicant did not use the **TELOS Health** trademark in commerce prior to the December 14, 2021 filing date of its application. Therefore, Applicant cannot dispute TELUS's priority in its **TELUS** and **TELUS Health** trademarks.

16. The respective marks are extremely similar in sight, sound and meaning. Applicant's mark would be pronounced nearly the same as TELUS's **TELUS** and **TELUS Health** trademarks. Applicant's **TELOS HEALTH** trademark differs only in that Applicant has substituted the vowel "O" in the word **TELOS** in its mark for the vowel "U" in TELUS's **TELUS** and **TELUS Health** marks. Applicant's **TELOS HEALTH** also contains the identical second term that is contained in TELUS's **TELUS Health** mark.

17. The products identified in Applicant's application are similar and/or complementary to the services that TELUS provides under its **TELUS** and **TELUS Health** trademarks, and particularly those that TELUS provides through its **TELUS Health** business. The robotic devices and surgical carts identified in Applicant's application would be used in the exact same industry as TELUS's **TELUS Health** services. To the extent Applicant's application is not restricted by trade channel, Applicant's services and TELUS's services are likely to be offered to an overlapping class of purchasers through the same and similar channels of trade.

18. Applicant's **TELOS HEALTH** mark as used in connection with the goods identified in its application so resembles TELUS's **TELUS** and **TELUS Health** marks as used in connection with the services identified in TELUS's registrations, its Application Serial 79314571, and in which TELUS has prior common law rights that it is likely to cause confusion, mistake or deception.

19. If Applicant is permitted to register the mark **TELOS HEALTH** for the goods identified in the application herein opposed, confusion of the trade and public is likely to result, such confusion resulting in damage and injury to TELUS.

20. Purchasers, potential purchasers and the relevant public, upon seeing Applicant's **TELOS HEALTH** mark used in connection with the goods identified in its application would be likely to believe in error that such goods are provided in association or affiliation with or under the sponsorship of or license from TELUS, or that TELUS has acquired a medical equipment business – which would not be at all inconceivable given TELUS's history of acquisitions in the healthcare sector over the last 15 years.

21. If Applicant is permitted to register its mark for the goods set forth in the application herein opposed, persons familiar with the services of TELUS provided under its **TELUS** mark would be likely to mistakenly purchase or engage Applicant's goods based upon the false belief that such goods were sponsored by or provided in affiliation with or under the sponsorship of TELUS. Furthermore, any defect, objection to or fault found with Applicant's goods sold under its mark would necessarily reflect on and seriously injure the reputation that TELUS has established for its services under its **TELUS** mark.

22. If Applicant is granted a registration for the mark herein opposed, it would obtain thereby at least a *prima facie* exclusive right to use the mark. Such registration would be a source of damage and injury to TELUS and TELUS's customers.

WHEREFORE, Opposer prays that registration of the mark of Application Serial No. 97172319 be refused and that this opposition be sustained.

Respectfully submitted,

FLASTER GREENBERG P.C.



May 30, 2023

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ATTORNEYS FOR OPPOSER