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

Proceeding	92061871
Party	Defendant Mohaideen, Hassan
Correspondence Address	HASSAN MOHAIDEEN P O BOX 141282, STATEN ISLAND, NY 103141282 UNITED STATES hassan@2hps.com
Submission	Answer
Filer's Name	Quan Nguyen
Filer's e-mail	Quan@ntiplaw.com,judy@ntiplaw.com
Signature	/Quan Nguyen/
Date	08/27/2015
Attachments	MOHH_15_01_TM_Answer_and_Motion_to_Join.pdf(543001 bytes )

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

In the Matter of Trademark:

Registration No.: 4055729  
Registration Date: November 15, 2011  
Mark: HPS NOVUS

_____	)	
Health Payment Systems, Inc.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92061871
	)	
A. Hassan Mohaideen,	)	
	)	
Registrant.	)	
_____	)	

**ANSWER TO PETITION FOR CANCELLATION**

**Answer and Affirmative Defenses**

Registrant Hassan Mohaideen (herein after "Registrant"), by and through its attorneys, hereby submits Answer and Affirmative Defenses to Petitioner Health Payment Systems, Inc.'s (hereinafter "Petitioner") Petition for Cancellation of Registration No. 4055729, as follows:

Regarding the preamble paragraph, Grounds for Cancellation, of the Petition to Cancel, Registrant admits that registration of Petitioner's mark HPS would be likely to cause confusion with Registrant's mark HPS NOVUS; and further Registrant is without sufficient knowledge or information to admit or deny the allegations that Petitioner's mark

HPS retains priority of use over Registrant's mark HPS NOVUS by virtue of its prior use in commerce in the United States, and, therefore, denies those allegations.

1. Registrant is without information sufficient to admit or deny the allegations in paragraph 1 of the Petition and, therefore, denies those allegations.

2. Registrant is without information sufficient to admit or deny the allegations in paragraph 2 of the Petition and, therefore, denies those allegations.

3. Registrant is without information sufficient to admit or deny the allegations in paragraph 3 of the Petition and, therefore, denies those allegations.

4. Registrant is without information sufficient to admit or deny the allegations in paragraph 4 of the Petition and, therefore, denies those allegations.

5. Registrant is without information sufficient to admit or deny the allegations in paragraph 5 of the Petition and, therefore, denies those allegations.

6. Registrant is without information sufficient to admit or deny the allegations in paragraph 6 of the Petition and, therefore, denies those allegations.

7. Registrant is without information sufficient to admit or deny the allegations in paragraph 7 of the Petition with respect to the Examining Attorney's evaluation of Petitioner's applications for the marks HPS, HPS INNOVATION, HPS HEALTH PAYMENT SYSTEMS, HPS EXPERIENCE, HPS SIMPLICITY THROUGH INNOVATION, and HPS HEALTH PAYMENT SYSTEMS SIMPLICITY THROUGH INNOVATION. Registrant admits that if registered Petitioner's mark HPS and other HPS related marks would be likely to create a likelihood of confusion with Registrant's registered mark HPS NOVUS.

8. Registrant is without information sufficient to admit or deny the allegations in paragraph 8 of the Petition and, therefore, denies those allegations.

9. (i) Registrant admits he is an individual. Registrant denies he is located and doing business at P.O. Box 141282 Staten Island, New York 10314-1282 in Paragraph 9 of the Petition, and admits he is located and doing business at 294 Howard Avenue, Staten Island, NY 10301.

(ii) Registrant admits based upon information and belief that Registrant's licensee or assignee is using the mark HPS NOVUS in connection with medical insurance case and utilization review and insurance claims adjustment services for healthcare purchasers and payors and providers and Medicare beneficiaries in International Class 36 and computer software development, computer programming and maintenance of computer software for healthcare industry in International class 42 in Paragraph 9 of the Petition.

10. Registrant admits the allegations in Paragraph 10 of the Petition.

11. Registrant admits the allegations in Paragraph 11 of the Petition that the first use in commerce of HPS NOVUS in connection with services covered by the registration in the United States occurred on or about January 4, 2010.

12. Registrant is without information sufficient to admit or deny the allegations in paragraph 12 of the Petition and, therefore, denies those allegations.

13. Registrant admits that if registered Petitioner's mark HPS would be likely to create a likelihood of confusion with Registrant's registered mark HPS NOVUS in paragraph 13.

14. Registrant denies the allegations in paragraph 14 of the Petition that continued registration of HPS NOVUS confers rights to which he is not entitled; and further Registrant is without sufficient knowledge or information to admit or deny the allegations

in paragraph 14 that continued registration of Registrant's mark HPS NOVUS is inconsistent with the established rights of Petitioner in its mark HPS, and, therefore, denies those allegations.

15. Registrant is without information sufficient to admit or deny the allegations in paragraph 15 of the Petition and, therefore, denies those allegations.

16. Registrant denies the allegations in paragraph 15 of the Petition that Registrant was not the owner of the mark at the time the application was filed.

17. Registrant denies the allegations in paragraph 15 of the Petition that Registrant has not used the mark in connection with at least one goods or services described in each class at the time the application was filed.

#### **AFFIRMATIVE DEFENSES**

1. Petitioner fails to state a claim upon which relief can be granted.

2. Petitioner fails to state a claim for cancellation of Registrant's Trademark Registration No. 4055729 under 15 U.S.C. § 1064 for which relief can be granted.

3. Petitioner failed to disclose the existence of Registrant's trademark in connection with Petitioner's own trademark applications.

4. Registrant, or in the alternative Registrant's assignee, has priority over Petitioner's applications for the marks HPS, HPS INNOVATION, HPS HEALTH PAYMENT SYSTEMS, HPS EXPERIENCE, HPS SIMPLICITY THROUGH INNOVATION, and HPS HEALTH PAYMENT SYSTEMS SIMPLICITY THROUGH INNOVATION.

5. The claims of the Petition for Cancellation are barred in whole or in part because Petitioner sought registration with full knowledge of prior use by others of, among other things HPS.

Registrant reserves the right to add additional affirmative defenses as discovery develops.

WHEREFORE, Registrant prays that: (1) the Cancellation proceedings be dismissed with prejudice; (2) Petitioner's marks are not allowed to proceed to registration as the subject marks are likely to cause confusion with Registrant's mark; and (3) registration of Registrant's mark HPS NOVUS is not cancelled.

Date: August 27, 2015

Respectfully Submitted,

/Quan Nguyen/

Quan L. Nguyen  
Jacqueline M. Nicol  
Nguyen & Tarbet, LLC  
4199 Campus Drive Suite 550  
Irvine, CA 92612  
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[Quan@ntiplaw.com](mailto:Quan@ntiplaw.com)  
[Jackie@ntiplaw.com](mailto:Jackie@ntiplaw.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Notice of Appearance has been served on Patrick M. Bergin, counsel for the Petitioner, by mailing said copy on August 27, 2015, via U.S. Certify Mail #7014 1820 0001 2564 8816, postage prepaid to: Patrick M. Bergin, Davis & Kuelthau, s.c., 111 E. Kilbourn Avenue, Suite 1400, Milwaukee, WI 53202.

/Quan Nguyen/

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence has been filed electronically with the Trademark Trial and Appeals Board using the Electronic System for Trademark Trials and Appeals (ESTTA) on August 27, 2015.

/Quan Nguyen/

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

In the Matter of Trademark:

Registration No.: 4055729  
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Health Payment Systems, Inc.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92061871
	)	
A. Hassan Mohaideen,	)	
	)	
Defendant.	)	
	)	

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**MOTION TO JOIN**

**HEALTH PLAN SYSTEMS, INC. AS A DEFENDANT**

Registrant Hassan Mohaideen respectfully requests Health Plan Systems, Inc., One Woodbridge Center, Suite 735, Woodbridge NJ 07095, be joined as a defendant in Cancellation Proceeding No. 92061871.

**MEMORANDUM IN SUPPORT OF REGISTRANTS' MOTION TO JOIN**

Pursuant to 15 U.S.C. § 1060, "any action with respect to the application or registration which may or must be taken by the applicant or registrant may be taken by the assignee, provided ... that proof of assignment has been submitted in the Board Proceeding." Health Plan Systems, Inc. is the assignee of the mark HPS NOVUS, including all



goodwill of the business. Proof of the assignment from Hassen Mohaideen to Health Plan Systems, Inc. is attached as Exhibit A. Registrant believes that joinder of Health Plan Systems, Inc. is proper as assignment was executed after commencement of the Cancellation Proceeding. TMEP §512.01.

Registrant Hassen Mohaideen respectfully moves to join Health Plan Systems, Inc. as a defendant.

Date: August 27, 2015

Respectfully Submitted,

/Quan Nguyen/

Quan L. Nguyen  
Jacqueline M. Nicol  
Nguyen & Tarbet, LLC  
4199 Campus Drive Suite 550  
Irvine, CA 92612  
949-743-4912  
[Quan@ntiplaw.com](mailto:Quan@ntiplaw.com)  
[Jackie@ntiplaw.com](mailto:Jackie@ntiplaw.com)

**Certificate of Service**

I hereby certify that a true and complete copy of the foregoing Motion to Join has been served on Patrick M. Bergin by mailing said copy on August 27, 2015, via U.S. Certified Mail #7014 1820 0001 2564 8816, postage prepaid to: Patrick M. Bergin, Davis & Kuelthau, s.c., 111 E. Kilbourn Avenue, Suite 1400, Milwaukee, WI 53202.

/Quan Nguyen/

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence has been filed electronically with the Trademark Trial and Appeals Board using the Electronic System for Trademark Trials and Appeals (ESTTA) on August 27, 2015.

/Quan Nguyen/

# **EXHIBIT A**

## TRADEMARK ASSIGNMENT

THIS TRADEMARK ASSIGNMENT (“Assignment”) is by and between HEALTH PLAN SYSTEMS, INC., a corporation formed in accordance with the laws of Delaware having a place of business at One Woodbridge Center, Suite 735, Woodbridge, NJ 07095 (“Assignee”), and DR. A. HASSAN MOHAIDEEN, a citizen of New York having an address at 294 Howard Avenue, Staten Island, NY 10301 (“Assignor”).

WHEREAS, Assignor is the owner of all right, title and interest in and to the trademarks and the corresponding registrations and/or applications for registration set forth on Exhibit 1 (collectively, the “Trademarks”), together with the goodwill of the business connected with and symbolized by the Trademarks;

WHEREAS, Assignee desires to acquire all right, title and interest in and to the Trademarks.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties hereby agree as set forth below.

Assignor hereby sells, assigns, transfers and conveys to Assignee the entire right, title, interest in and to the Trademarks in the United States and all jurisdictions outside the United States, together with the goodwill of the business connected with and symbolized by the Trademarks (including, without limitation, the right to renew any registrations included in the Trademarks, the right to apply for trademark registrations within or outside the United States based in whole or in part upon the Trademarks, and any priority right that may arise from the Trademarks), the same to be held and enjoyed by Assignee as fully and entirely as said interest could have been held and enjoyed by Assignor had this sale, assignment, transfer and conveyance not been made.

Assignor authorizes the Commissioner of Trademarks of the United States and other empowered officials of the United States Patent and Trademark Office and in any applicable jurisdictions outside the United States to record the transfer of the registrations and/or applications for registration set forth on Exhibit 1 to Assignee as assignee of Assignor’s entire right, title and interest therein. Assignor agrees to further execute any documents reasonably necessary to effect this assignment or to confirm Assignee’s ownership of the Trademarks.

IN WITNESS WHEREOF, the parties hereto have executed this Trademark Assignment Agreement as of the date below.

ASSIGNOR

Signature: [Handwritten Signature]

Date: 8/26/2015

Print Name: Dr. A. Hassan Mohaideen

STATE OF : NY  
COUNTY OF : Richmond

On this 26 day of August, 2015, before me, a Notary Public in and for the State and County aforesaid, personally appeared Dr. Hassan Mohaideen, known by me to be the person of the above name, and who signed and executed the foregoing instrument.

Given under my hand and seal of office this 26 day of August, 2015.

My commission expires:

12/08/2018  
Neha Saini

Notary Public

475 Forest Ave, Staten Island, NY 10301  
Address

**NEHA SAINI**  
Notary Public, State of New York  
No. 01SA6315967  
Qualified in Richmond County  
Commission Expires December 08, 2018

**ASSIGNEE**

Signature: Laurie J. Mohaideen Date: 8/26/15

Print Name: Laurie J. Mohaideen

Title: Vice-Chairman, Health Plan Systems, Inc.

STATE OF : NY  
COUNTY OF : Richmond

On this 26 day of August, 2015, before me, a Notary Public in and for the State and County aforesaid, personally appeared Laurie J. Mohaideen, known by me to be the person of the above name and an officer of Health Plan Systems, duly authorized to execute this Assignment on behalf of Health Plan Systems, and who signed and executed the foregoing instrument on behalf of Health Plan Systems

Given under my hand and seal of office this 26 day of August, 2015.

My commission expires:

12/08/2018

Neha Saini

Notary Public

Address 475 Forest ave, Staten Island, NY  
(10301)



**Exhibit 1**

<b>Trademark</b>	<b>Registration No.</b>	<b>Registration Date</b>	<b>International Class</b>	<b>Description of Goods/Services</b>
<b>HPS NOVUS</b>	4055729	11/15/2011	36	Medical insurance case and utilization review and insurance claims adjustment services for healthcare purchasers and payors and providers and Medicare beneficiaries.
			42	Computer software development, computer programming and maintenance of computer software for healthcare industry.
<b>COMPLEMED</b>	3937762	03/29/2011	9	Encoded electronic chip cards containing programming used to record complete personal health record; Encoded integrated circuit cards containing programming used to record complete personal health record.