


**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK EXAMINING OPERATION**

In re trademark application

Examining Attorney: Emma Sirignano  
Law Office: 113

Serial No.: 88/161,426  
Mark: **“TEAM” and Square Design**  


Applicant: Perception Health, LLC  
Filing Date: October 19, 2018  
Attorney Docket No.: 019626

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**DECLARATION OF APPLICANT**

1. I am J. Tod Fetherling and I am the Chief Executive Officer of Perception Health, LLC, the Applicant in the above-captioned matter. I have personal knowledge of all facts contained herein unless otherwise noted.

2. The services offered by the Applicant that are objected to by the Examining Attorney are as follows:

Scientific and technological services, namely, conducting research and analysis to determine the extent and impact of different relationships between medical providers through specific disease states as indicated by medical coding to create benchmarks to create new classifications of medical providers for purposes of noting effectiveness and efficiency of the care network and for developing community care networks based on the data; Scientific and technological services, namely, correlation, regression analysis, and machine language learning to determine the extent and impact of different relationships between medical coding through the aggregation of specific disease states into proprietary service lines across multiple medical disciplines as indicated by medical coding, research and analytics specifically for developing a system capable of medical coding interoperability in the field of health providers and medical coding; Scientific and technological services, namely, medical research and analytics specifically for developing community care networks and medical coding interoperability in the fields of health providers and medical coding; Scientific and technological services, namely, medical research and design in the fields of healthcare

analytics in medical coding; industrial analysis and research in the field of developing algorithms, care networks, care outcomes, and medical coding as it relates to specific communities.

3. Applicant's services, in connection with its mark "TEAM" and Design, looks at data analytics to work with healthcare providers on delivering services more effectively. Applicant does not analyze data for individual patients.

4. Conversely, a review of Registrant's website located at <https://inhealthonline.com> demonstrates that it is a patient health coaching system that uses apps to delivery educational videos and articles as well as to schedule visits for patients. These services are offered directly to the patients, as opposed to being delivered to the healthcare providers.

5. Applicant's mark "TEAM" and Design is used in connection with market research services for care networks, not wellness research for patients.

6. In the healthcare industry, "scientific study and research in the fields of health and wellness" differs from scientific and technological services in the fields of health providers and medical coding. Research solely for patient wellness is sufficiently different than research for providers to increase revenue.

7. Applicant's services involving scientific and technological services in the fields of health providers and medical coding do not relate to the scientific study and research in the fields of health and wellness. Registrant's research is intended to improve a patient's health. Conversely, Applicant's research is intended to improve a provider's revenue.

8. Registrant's website contains three tabs, one of which is "For Providers". That webpage<sup>1</sup> describes Registrant's services for providers with the following statements:

"InHealth Coaches Improve Patient Care And Strengthen Your Medical Practice"  
"INHEALTH SUPPORTS YOUR PATIENTS AND YOUR PRACTICE"  
"WE'RE AN EXTENSION OF YOU"  
"DEDICATED HEALTH COACHES"  
"WE HANDLE BILLING"  
"WE COACH PATIENTS WITH THESE CONDITIONS"

Accordingly, Registrant is a virtual health coaching organization providing health and wellness programs to health care practitioners.

9. Most importantly, Registrant's website does not display the mark "TEAM" anywhere.

10. Applicant's website displays its mark "TEAM" and Design in connection with its platform to assist providers to improve efficiency and increase revenue. That webpage<sup>2</sup> describes Applicant's services for providers with the following statements:

"Know the flow. Find the leakage. Measure changes. Maximize Revenue."  
"Market Position Intelligence"

Also, on that webpage, Applicant displays its mark "TEAM" and Design in connection with its platform to assist providers to visualize their data in screenshots with the following titled sections:

Organization Brief  
Physician Brief  
Referral Map  
Physician Referrals  
Organization Referrals  
Care Pathways  
Specialty graph

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<sup>1</sup> Registrant's webpage for "For Providers" is attached hereto as Exhibit 1.

<sup>2</sup> Applicant's webpage for "TEAM Healthcare Data Framework" is attached hereto as Exhibit 2.

Share/Volume  
Market Makers  
Specialty report

Accordingly, Applicant's platform does not provide any coaching in the field of health and wellness to health care practitioners.

11. Registrant's specimen states that "TEAM" is an acronym for "Telehealth Enabled Approach to Multidisciplinary Care". Wikipedia defines "Telehealth"<sup>3</sup> as "the distribution of health-related services and information via electronic information and telecommunication technologies. It allows long-distance patient and clinician contact, care, advice, reminders, education, intervention, monitoring, and remote admissions". Whereas Registrant's services relate to telehealth care for patients, Applicant generates statistical reports on medical data collection and medical coding for administrative, financial, and analytical purposes for providers. Therefore, the services are sufficiently different to preclude a likelihood of confusion.

12. Applicant's marketing targets healthcare providers as customers. Instead, Registrant's marketing would target healthcare practitioners as customers. The potential classes of ordinary consumers of Registrant's services for the purposes of improving the health of patients differ from the potential classes of ordinary consumers of Applicant's services for the purposes of increasing the profit of care networks. Consequently, the respective marketing of the Applicant and Registrant will not result in the mistaken belief that their services emanate from the same source.

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<sup>3</sup> Wikipedia page for "Telehealth" is attached hereto as Exhibit 3.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of this submission and the registration, declares that that they are properly authorized to execute this document on behalf of the Applicant, and, to the best of their knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made herein have evidentiary support; and, all statements made of their own knowledge are true and all statements made on information and belief are believed to be true.

**PERCEPTION HEALTH, LLC**

10/29/2019  
Date

  
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J. Tod Featherling  
Chief Executive Officer