

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

## Request for Reconsideration after Final Action

The table below presents the data as entered.

| Input Field   | Entered        |
|---|----------------|
| SERIAL NUMBER   | 79101221       |
| LAW OFFICE ASSIGNED   | LAW OFFICE 108 |
| MARK SECTION (no change)  |                |
| ARGUMENT(S)   |                |
| <p><b>AMENDMENTS</b></p> <p>Please amend the recitation of services in Class 35 as follows:</p> <p>Compiling and analyzing photographic and other image data and information for use in connection with advertising and business management; maintaining, indexing and electronically distributing photographic and other image advertising information, and commercial and advertising materials; advertising and promotion services; publication of publicity texts; arranging commercial transactions over electronic communication networks; information and advisory services relating to all the aforesaid services, all of the aforesaid services also being provided online from a computer database or the Internet.</p> <p>The recitation of services, as amended, is within the scope of services originally defined in the application.</p> |                |
| <p><b><u>RESPONSE</u></b></p> <p><i>No Likelihood of Confusion</i></p> <p>The Examining Attorney has maintained and continued a refusal to register the mark WESEE for "advisory services relating to business administration services and business management services" based on an alleged likelihood of confusion with U.S. Reg. No. 3,432,957 for WESEEMORE covering "providing business and market research, advisory and consultation services for others relating to the age 50 and over population; demographic consultation for others relating to the age 50 and over population." The Examiner has specified that the likelihood of confusion refusal only applies to a narrow subset of the Class 35 services, namely, "advisory services relating to business</p>  |                |

administration services and business management services.” Applicant has deleted “business administration services” and “business management services” from the Class 35 specification.

### CONCLUSION

Given that the Applicant has deleted “business administration services” and “business management services” from the Class 35 specification and the different nature and purpose of the respective parties’ goods, the corresponding different channels of trade, and in view of the overall different commercial impressions of the marks, confusion is not likely here. Applicant submits that there is no likelihood of confusion and requests that the refusal under Section 2(d) be withdrawn. However, should any questions arise with respect to the application or the issues addressed herein, please contact the undersigned.

#### GOODS AND/OR SERVICES SECTION (009)(no change)

#### GOODS AND/OR SERVICES SECTION (035)(current)

|                     |     |
|---------------------|-----|
| INTERNATIONAL CLASS | 035 |
|---------------------|-----|

#### DESCRIPTION

Compiling and analyzing photographic and other image data and information; maintaining, indexing and electronically distributing photographic and other image advertising information, and commercial and advertising materials; advertising and promotion services; business administration services; business management services; publication of publicity texts; arranging commercial transactions over electronic communication networks; information and advisory services relating to all the aforesaid services, all of the aforesaid services also being provided online from a computer database or the Internet

#### GOODS AND/OR SERVICES SECTION (035)(proposed)

|                     |     |
|---------------------|-----|
| INTERNATIONAL CLASS | 035 |
|---------------------|-----|

#### TRACKED TEXT DESCRIPTION

~~Compiling and analyzing photographic and other image data and information;~~ Compiling and analyzing photographic and other image data and information for use in connection with advertising and business management; maintaining, indexing and electronically distributing photographic and other image advertising information, and commercial and advertising materials; advertising and promotion services; ~~business administration services;~~ publication of publicity texts; ~~business management services;~~ arranging commercial transactions over electronic communication networks; information and advisory services relating to all the aforesaid services, all of the aforesaid services also being provided online from a computer database or the Internet

#### FINAL DESCRIPTION

Compiling and analyzing photographic and other image data and information for use in connection with advertising and business management; maintaining, indexing and electronically distributing

|   |  |
|---|--|
| photographic and other image advertising information, and commercial and advertising materials; advertising and promotion services; publication of publicity texts; arranging commercial transactions over electronic communication networks; information and advisory services relating to all the aforesaid services, all of the aforesaid services also being provided online from a computer database or the Internet |  |
| <b>GOODS AND/OR SERVICES SECTION (038)(no change)</b>   |  |
| <b>GOODS AND/OR SERVICES SECTION (042)(no change)</b>   |  |
| <b>CORRESPONDENCE SECTION</b>   |  |
| <b>ORIGINAL ADDRESS</b>   | NORM J. RICH<br>FOLEY & LARDNER LLP<br>6TH FL<br>3000 K ST NW<br>WASHINGTON<br>District of Columbia (DC)<br>US<br>20007-5109 |
| <b>NEW CORRESPONDENCE SECTION</b>   |  |
| <b>NAME</b>   | Norm J. Rich   |
| <b>FIRM NAME</b>  | FOLEY & LARDNER LLP  |
| <b>INDIVIDUAL ATTORNEY<br/>DOCKET/REFERENCE NUMBER</b>  | 055653-0138  |
| <b>INTERNAL ADDRESS</b>   | Sixth Floor  |
| <b>STREET</b>   | 3000 K Street, N.W.  |
| <b>CITY</b>   | WASHINGTON   |
| <b>STATE</b>  | District of Columbia   |
| <b>ZIP/POSTAL CODE</b>  | 20007-5109   |
| <b>COUNTRY</b>  | United States  |
| <b>PHONE</b>  | 202-672-5300   |
| <b>FAX</b>  | 202-672-5399   |
| <b>EMAIL</b>  | PTOMAILWashington@foley.com  |
| <b>AUTHORIZED EMAIL<br/>COMMUNICATION</b>   | Yes  |
| <b>SIGNATURE SECTION</b>  |  |
| <b>RESPONSE SIGNATURE</b>   | /Norm J. Rich/   |
| <b>SIGNATORY'S NAME</b>   | Norm J. Rich   |
| <b>SIGNATORY'S POSITION</b>   | Attorney of record, District of Columbia bar member  |

|                                   |  |
|-----------------------------------|--|
| SIGNATORY'S PHONE NUMBER          | 202-672-5300   |
| DATE SIGNED                       | 07/17/2012   |
| AUTHORIZED SIGNATORY              | YES  |
| CONCURRENT APPEAL NOTICE FILED    | NO   |
| <b>FILING INFORMATION SECTION</b> |  |
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OMB No. 0651-0050 (Exp. 4/30/2009)

### Request for Reconsideration after Final Action

#### To the Commissioner for Trademarks:

Application serial no. **79101221** has been amended as follows:

#### ARGUMENT(S)

**In response to the substantive refusal(s), please note the following:**

#### AMENDMENTS

Please amend the recitation of services in Class 35 as follows:

Compiling and analyzing photographic and other image data and information for use in connection with advertising and business management; maintaining, indexing and electronically distributing photographic and other image advertising information, and commercial and advertising materials; advertising and promotion services; publication of publicity texts; arranging commercial transactions over electronic communication networks; information and advisory services relating to all the aforesaid services, all of the aforesaid services also being provided online from a computer database or the Internet.

The recitation of services, as amended, is within the scope of services originally defined in the application.

#### RESPONSE

*No Likelihood of Confusion*

The Examining Attorney has maintained and continued a refusal to register the mark WESEE for “advisory services relating to business administration services and business management services” based on an alleged likelihood of confusion with U.S. Reg. No. 3,432,957 for WESEEMORE covering “providing business and market research, advisory and consultation services for others relating to the age 50 and over population; demographic consultation for others relating to the age 50 and over population.” The Examiner has specified that the likelihood of confusion refusal only applies to a narrow subset of the Class 35 services, namely, “advisory services relating to business administration services and business management services.” Applicant has deleted “business administration services” and “business management services” from the Class 35 specification.

### CONCLUSION

Given that the Applicant has deleted “business administration services” and “business management services” from the Class 35 specification and the different nature and purpose of the respective parties’ goods, the corresponding different channels of trade, and in view of the overall different commercial impressions of the marks, confusion is not likely here. Applicant submits that there is no likelihood of confusion and requests that the refusal under Section 2(d) be withdrawn. However, should any questions arise with respect to the application or the issues addressed herein, please contact the undersigned.

### CLASSIFICATION AND LISTING OF GOODS/SERVICES

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 035 for Compiling and analyzing photographic and other image data and information; maintaining, indexing and electronically distributing photographic and other image advertising information, and commercial and advertising materials; advertising and promotion services; business administration services; business management services; publication of publicity texts; arranging commercial transactions over electronic communication networks; information and advisory services relating to all the aforesaid services, all of the aforesaid services also being provided online from a computer database or the Internet

Original Filing Basis:

**Filing Basis Section 66(a)**, Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

**Proposed:**

**Tracked Text Description:** ~~Compiling and analyzing photographic and other image data and information;~~ Compiling and analyzing photographic and other image data and information for use in connection with advertising and business management; maintaining, indexing and electronically distributing photographic and other image advertising information, and commercial and advertising

materials; advertising and promotion services; ~~business administration services~~; publication of publicity texts; ~~business management services~~; arranging commercial transactions over electronic communication networks; information and advisory services relating to all the aforesaid services, all of the aforesaid services also being provided online from a computer database or the Internet

Class 035 for Compiling and analyzing photographic and other image data and information for use in connection with advertising and business management; maintaining, indexing and electronically distributing photographic and other image advertising information, and commercial and advertising materials; advertising and promotion services; publication of publicity texts; arranging commercial transactions over electronic communication networks; information and advisory services relating to all the aforesaid services, all of the aforesaid services also being provided online from a computer database or the Internet

**Filing Basis Section 66(a)**, Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

#### **CORRESPONDENCE ADDRESS CHANGE**

Applicant proposes to amend the following:

**Current:**

NORM J. RICH  
FOLEY & LARDNER LLP  
6TH FL  
3000 K ST NW  
WASHINGTON  
District of Columbia (DC)  
US  
20007-5109

**Proposed:**

Norm J. Rich of FOLEY & LARDNER LLP, having an address of  
Sixth Floor 3000 K Street, N.W. WASHINGTON, District of Columbia 20007-5109  
United States  
PTOMAILWashington@foley.com  
202-672-5300  
202-672-5399  
The attorney docket/reference number is 055653-0138.

#### **SIGNATURE(S)**

**Request for Reconsideration Signature**

Signature: /Norm J. Rich/ Date: 07/17/2012

Signatory's Name: Norm J. Rich

Signatory's Position: Attorney of record, District of Columbia bar member

Signatory's Phone Number: 202-672-5300

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian

attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Mailing Address: Norm J. Rich  
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WASHINGTON, District of Columbia 20007-5109

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