PTO Form (Rev 9/2000)
OMB No. 0651-... (Exp. 08/31/2004)

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85024964
LAW OFFICE ASSIGNED	LAW OFFICE 116

MARK SECTION (no change)

ARGUMENT(S)

The Examining Attorney has made final her refusal to register Applicant's mark, claiming that the mark is confusingly similar to the marks represented in U.S. Registration Nos. 3,769,957 and 3,769,958. In Applicant's previous response, Applicant submitted a declaration attesting that no likelihood of confusion exists between its mark and Registrant's marks because Applicant and Registrant, constitute a single source. See T.M.E.P. § 1201.07(b).

The Examining Attorney continued the refusal on the grounds that "[t]he statements asserted in the response are insufficient and do not establish that there is a unity of control over the respective trademarks." Applicant points out that Section 5 of the Trademark Act, 15 U.S.C. §1055, states, in part, as follows:

> Where a registered mark or a mark sought to be registered is or may be used legitimately by related companies, such use shall inure to the benefit of the registrant or applicant for registration, and such use shall not affect the validity of such mark or of its registration, provided such mark is not used in such manner as to deceive the public. The term "related company" means any person whose use of a mark is controlled by the owner of the mark with respect to the nature and quality of the goods or services on or in connection with which the mark is used. Thus, §5 of the Act permits applicants to rely on use of the mark by related companies. T.M.E.P. 1201.03. Where the application states that use of the mark is by a related company or companies, the USPTO does not require an explanation of how the applicant controls the use of the mark. **Similarly, the USPTO does not inquire about the relationship between the applicant and other parties named on the specimen or elsewhere in the record, except when the**

reference to another party clearly contradicts the applicant's verified statement that it is the owner of the mark or entitled to use the mark.

See TMEP §1201.04. Applicant submits that there is amble evidence on the Register to support Applicant's verified statement that it is entitled to use the mark. Applicant notes that there are twenty-four registrations, not including applications, owned by Applicant that include the term "NCO," as shown on the attached Exhibit A.

Applicant respectfully requests that the Examining Attorney reconsider her refusal to register the mark based on the long standing ownership of the mark "NCO" as shown on the Register.

As all of the concerns of the Examining Attorney have been addressed, Applicant respectfully requests that the subject mark be published for opposition.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_389822016-151027631_._Exhibit_A.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT11\IMAGEOUT11\850\249\85024964\xml4\RFR0002.JPG

SIGNATURE SECTION

RESPONSE SIGNATURE	/LISA CASEY SPANIEL/
SIGNATORY'S NAME	LISA CASEY SPANIEL
SIGNATORY'S POSITION	ATTORNEY OF RECORD
DATE SIGNED	07/11/2011
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES

FILING INFORMATION SECTION

SUBMIT DATE	Mon Jul 11 15:13:23 EDT 2011
TEAS STAMP	USPTO/RFR-38.98.220.16-20110711151323812631-85024964-4806abd58c85ebf1ced491ed35495fd4a1-N/A-N/A-20110711151027631336

TEAS Form (Rev 4/2000)
OMB No. 0651-[illegible] (Exp. [illegible])

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **85024964** has been amended as follows:

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

The Examining Attorney has made final her refusal to register Applicant's mark, claiming that the mark is confusingly similar to the marks represented in U.S. Registration Nos. 3,769,957 and 3,769,958. In Applicant's previous response, Applicant submitted a declaration attesting that no likelihood of confusion exists between its mark and Registrant's marks because Applicant and Registrant, constitute a single source. See T.M.E.P. § 1201.07(b).

The Examining Attorney continued the refusal on the grounds that "[t]he statements asserted in the response are insufficient and do not establish that there is a unity of control over the respective trademarks." Applicant points out that Section 5 of the Trademark Act, 15 U.S.C. §1055, states, in part, as follows:

> Where a registered mark or a mark sought to be registered is or may be used legitimately by related companies, such use shall inure to the benefit of the registrant or applicant for registration, and such use shall not affect the validity of such mark or of its registration, provided such mark is not used in such manner as to deceive the public. The term "related company" means any person whose use of a mark is controlled by the owner of the mark with respect to the nature and quality of the goods or services on or in connection with which the mark is used. Thus, §5 of the Act permits applicants to rely on use of the mark by related companies. T.M.E.P. 1201.03. Where the application states that use of the mark is by a related company or companies, the USPTO does not require an explanation of how the applicant controls the use of the mark. **Similarly, the USPTO does not inquire about the relationship between the applicant and other parties named on the specimen or elsewhere in the record, except when the reference to another party clearly contradicts the applicant's verified statement that it is the owner of the mark or entitled to use the mark.**

See TMEP §1201.04. Applicant submits that there is amble evidence on the Register to support Applicant's verified statement that it is

entitled to use the mark. Applicant notes that there are twenty-four registrations, not including applications, owned by Applicant that include the term "NCO," as shown on the attached Exhibit A.

Applicant respectfully requests that the Examining Attorney reconsider her refusal to register the mark based on the long standing ownership of the mark "NCO" as shown on the Register.

As all of the concerns of the Examining Attorney have been addressed, Applicant respectfully requests that the subject mark be published for opposition.

EVIDENCE

Original PDF file:
evi_389822016-151027631_._Exhibit_A.pdf
Converted PDF file(s) (1 page)
Evidence-1

SIGNATURE(S)
Request for Reconsideration Signature
Signature: /LISA CASEY SPANIEL/ Date: 07/11/2011
Signatory's Name: LISA CASEY SPANIEL
Signatory's Position: ATTORNEY OF RECORD

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 filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85024964
Internet Transmission Date: Mon Jul 11 15:13:23 EDT 2011
TEAS Stamp: USPTO/RFR-38.98.220.16-20110711151323812
631-85024964-4806abd58c85ebf1ced491ed354
95fd4a1-N/A-N/A-20110711151027631336

Mark	Registration Number	Registration Date	Owner
NCO (STYLIZED)	2,265,996	8/3/1999	NCO Holdings, Inc.
NCO 360	3,703,424	10/27/2009	NCO Holdings, Inc.
NCO 360 & DESIGN	3,750,620	2/16/2010	NCO Holdings, Inc.
NCO ACCESS	2,671,154	1/7/2003	NCO Holdings, Inc.
NCO ACCESS & DESIGN	3,074,527	3/28/2006	NCO Holdings, Inc.
NCO ATTORNEY NETWORK SERVICES	3,078,440	4/11/2006	NCO Holdings, Inc.
NCO CUSTOMER MANAGEMENT, INC. & DESIGN	3,707,770	11/10/2009	NCO Holdings, Inc.
NCO CUSTOMER MANAGEMENT, LTD. & DESIGN	3,707,773	11/10/2009	NCO Holdings, Inc.
NCO ELIGIBILITY PATIENT ADVOCACY LIAISON SERVICES ADVANTAGE & DESIGN	3,842,074	8/31/2010	NCO Holdings, Inc.
NCO ERECOVEREASE	2,817,564	2/24/2004	NCO Holdings, Inc.
NCO FINANCIAL SYSTEMS, INC.	2,409,705	12/5/2000	NCO Holdings, Inc.
NCO GROUP	2,270,128	8/17/1999	NCO Holdings, Inc.
NCO GROUP & DESIGN	3,077,555	4/4/2006	NCO Holdings, Inc.
NCO NCO FINANCIAL SYSTEMS, INC. & DESIGN	3,626,744	5/26/2009	NCO Holdings, Inc.
NCO PORTFOLIO MANAGEMENT, INC.	2,785,368	11/25/2003	NCO Holdings, Inc.
NCO UNIVERSITY & DESIGN	3,755,342	3/2/2010	NCO Holdings, Inc.
NCOEFORWARDEASE & DESIGN	3,164,171	10/24/2006	NCO Holdings, Inc.
NCOEFORWARDEASE & DESIGN	3,584,514	3/3/2009	NCO Holdings, Inc.
NCOEPAYMENTS	3,033,338	12/27/2005	NCO Holdings, Inc.
NCOEPAYMENTS & DESIGN	3,357,061	12/18/2007	NCO Holdings, Inc.
NCOEPAYMENTS (STYLIZED)	2,969,057	7/19/2005	NCO Holdings, Inc.
NCOERECOVEREASE & DESIGN	3,149,535	9/26/2006	NCO Holdings, Inc.
NCOPORTFOLIO	2,760,731	9/9/2003	NCO Holdings, Inc.
NCOPORTFOLIO (STYLIZED)	2,760,730	9/9/2003	NCO Holdings, Inc.