

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85645377
LAW OFFICE ASSIGNED	LAW OFFICE 116
MARK SECTION (no change)	
ARGUMENT(S)	
<p>The Examiner is requiring certain Class 9 goods be moved to Class 41. However, Applicant believes the items are properly classified in both Classes 9 and 41 since they are both downloadable and non-downloadable. Thus, Applicant amended the Class 9 and Class 41 descriptions accordingly. Applicant requests these amendments be accepted.</p>	
GOODS AND/OR SERVICES SECTION (009)(current)	
INTERNATIONAL CLASS	009
DESCRIPTION	
<p>Computer software for use in behavioral testing, personal evaluation, personality interpretation, personality assessment and personality testing; computer software for use in the administration, scoring, interpretation and reporting of personality tests, personality assessment, personal evaluation and personal interpretation; pre-recorded CD-ROMS, magnetic data carriers, and data carriers featuring manuals, test booklets, answer sheets, profile sheets, norm tables, scoring keys, work sheets, workbooks, reports, questionnaires, record forms, user guides, planning booklets, reference materials, handbooks, technical reports and books in the field of behavioral testing, personality assessment, personal evaluation and personal interpretation and administration, scoring, interpretation and reporting of personality testing and personality assessment; information in electronic form, namely, manuals, tests, test booklets, answer sheets, profile sheets, norm tables, scoring keys, worksheets, work books, reports, questionnaires, record forms, user guides, planning booklets, reference materials, hand books, technical reports and books in the field of behavioural testing, personality assessment, personality evaluation, personality reports and books, technical reports and books in the field of behavioural testing, personality assessment, personality evaluation, personal interpretation, administration, scoring, interpretation and reporting of personality testing and personality assessment all available online</p>	
FIRST USE ANYWHERE DATE	At least as early as 08/00/2007
FIRST USE IN COMMERCE DATE	At least as early as 08/00/2007
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (009)(proposed)	
INTERNATIONAL CLASS	009

TRACKED TEXT DESCRIPTION

Computer software for use in behavioral testing, personal evaluation, personality interpretation, personality assessment and personality testing; computer software for use in the administration, scoring, interpretation and reporting of personality tests, personality assessment, personal evaluation and personal interpretation; pre-recorded CD-ROMS, magnetic data carriers, and data carriers featuring manuals, test booklets, answer sheets, profile sheets, norm tables, scoring keys, work sheets, workbooks, reports, questionnaires, record forms, user guides, planning booklets, reference materials, handbooks, technical reports and books in the field of behavioral testing, personality assessment, personal evaluation and personal interpretation and administration, scoring, interpretation and reporting of personality testing and personality assessment; ~~information in electronic form, namely, manuals, tests, test booklets, answer sheets, profile sheets, norm tables, scoring keys, worksheets, work books, reports, questionnaires, record forms, user guides, planning booklets, reference materials, hand books, technical reports and books in the field of behavioural testing, personality assessment, personality evaluation, personality reports and books, technical reports and books in the field of behavioural testing, personality assessment, personality evaluation, personal interpretation, administration, scoring, interpretation and reporting of personality testing and personality assessment all available online; [online downloadable publications in the nature of manuals, tests, test booklets, answer sheets, profile sheets, norm tables, scoring keys, worksheets, work books, reports, questionnaires, record forms, user guides, planning booklets, reference materials, hand books, technical reports and books in the field of behavioural testing, personality assessment, personality evaluation, personal interpretation, administration, scoring, and reporting of personality testing and personality assessment](#)~~

FINAL DESCRIPTION

Computer software for use in behavioral testing, personal evaluation, personality interpretation, personality assessment and personality testing; computer software for use in the administration, scoring, interpretation and reporting of personality tests, personality assessment, personal evaluation and personal interpretation; pre-recorded CD-ROMS, magnetic data carriers, and data carriers featuring manuals, test booklets, answer sheets, profile sheets, norm tables, scoring keys, work sheets, workbooks, reports, questionnaires, record forms, user guides, planning booklets, reference materials, handbooks, technical reports and books in the field of behavioral testing, personality assessment, personal evaluation and personal interpretation and administration, scoring, interpretation and reporting of personality testing and personality assessment; online downloadable publications in the nature of manuals, tests, test booklets, answer sheets, profile sheets, norm tables, scoring keys, worksheets, work books, reports, questionnaires, record forms, user guides, planning booklets, reference materials, hand books, technical reports and books in the field of behavioural testing, personality assessment, personality evaluation, personal interpretation, administration, scoring, and reporting of personality testing and personality assessment

FIRST USE ANYWHERE DATE

At least as early as 08/00/2007

FIRST USE IN COMMERCE DATE

At least as early as 08/00/2007

FILING BASIS

Section 1(b)

GOODS AND/OR SERVICES SECTION (016)(no change)**GOODS AND/OR SERVICES SECTION (035)(no change)****GOODS AND/OR SERVICES SECTION (041)(current)****INTERNATIONAL CLASS**

041

DESCRIPTION	
Education services, namely, classes, seminars, courses, conferences and training relating to personality assessment, personality testing, personal evaluation, personal interpretation and the use of printed matter, printed publication and pre-recorded CD-ROMs, magnetic data carriers or other pre-recorded data carriers in personality assessment, personality testing, personal evaluation and personal interpretation	
FIRST USE ANYWHERE DATE	At least as early as 08/00/2007
FIRST USE IN COMMERCE DATE	At least as early as 08/00/2007
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (041)(proposed)	
INTERNATIONAL CLASS	041
TRACKED TEXT DESCRIPTION	
Education services, namely, classes, seminars, courses, conferences and training relating to personality assessment, personality testing, personal evaluation, personal interpretation and the use of printed matter, printed publication and pre-recorded CD-ROMs, magnetic data carriers or other pre-recorded data carriers in personality assessment, personality testing, personal evaluation and personal interpretation; online non-downloadable publications in the nature of test manuals, test booklets, workbooks, reports, questionnaires, user guides, planning booklets, reference materials, handbooks, technical reports, books, reports, in the field of behavioral testing, personality assessment, personality evaluation and personality interpretation	
FINAL DESCRIPTION	
Education services, namely, classes, seminars, courses, conferences and training relating to personality assessment, personality testing, personal evaluation, personal interpretation and the use of printed matter, printed publication and pre-recorded CD-ROMs, magnetic data carriers or other pre-recorded data carriers in personality assessment, personality testing, personal evaluation and personal interpretation; online non-downloadable publications in the nature of test manuals, test booklets, workbooks, reports, questionnaires, user guides, planning booklets, reference materials, handbooks, technical reports, books, reports, in the field of behavioral testing, personality assessment, personality evaluation and personality interpretation	
FIRST USE ANYWHERE DATE	At least as early as 08/00/2007
FIRST USE IN COMMERCE DATE	At least as early as 08/00/2007
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (042)(no change)	
GOODS AND/OR SERVICES SECTION (044)(no change)	
NEW CORRESPONDENCE SECTION	
NAME	MOLLY MACK CRANDALL
FIRM NAME	BROOKS KUSHMAN P.C.

INDIVIDUAL ATTORNEY DOCKET/REFERENCE NUMBER	GSCP 0137 TUS
INTERNAL ADDRESS	22ND FLOOR
STREET	1000 TOWN CENTER
CITY	SOUTHFIELD
STATE	Michigan
ZIP/POSTAL CODE	48075
COUNTRY	United States
PHONE	248-358-4400
FAX	248-358-3351
EMAIL	trademarks@brookskushman.com
AUTHORIZED EMAIL COMMUNICATION	Yes
SIGNATURE SECTION	
RESPONSE SIGNATURE	/molly crandall/
SIGNATORY'S NAME	Molly Mack Crandall
SIGNATORY'S POSITION	Attorney of Record, MI Bar Member
SIGNATORY'S PHONE NUMBER	248-358-4400
DATE SIGNED	04/25/2014
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Fri Apr 25 19:16:52 EDT 2014
TEAS STAMP	USPTO/RFR-74.204.24.218-2 0140425191652453313-85645 377-50010e5ace3c62be05dd4 92aea9df9fa73fb47fea299bc 2d132034f59f1c4ab2a7-N/A- N/A-20140425190450117664

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **85645377** has been amended as follows:

ARGUMENT(S)

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

The Examiner is requiring certain Class 9 goods be moved to Class 41. However, Applicant believes the items are properly classified in both Classes 9 and 41 since they are both downloadable and non-downloadable. Thus, Applicant amended the Class 9 and Class 41 descriptions accordingly. Applicant requests these amendments be accepted.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

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

Current: Class 009 for Computer software for use in behavioral testing, personal evaluation, personality interpretation, personality assessment and personality testing; computer software for use in the administration, scoring, interpretation and reporting of personality tests, personality assessment, personal evaluation and personal interpretation; pre-recorded CD-ROMS, magnetic data carriers, and data carriers featuring manuals, test booklets, answer sheets, profile sheets, norm tables, scoring keys, work sheets, workbooks, reports, questionnaires, record forms, user guides, planning booklets, reference materials, handbooks, technical reports and books in the field of behavioral testing, personality assessment, personal evaluation and personal interpretation and administration, scoring, interpretation and reporting of personality testing and personality assessment; information in electronic form, namely, manuals, tests, test booklets, answer sheets, profile sheets, norm tables, scoring keys, worksheets, work books, reports, questionnaires, record forms, user guides, planning booklets, reference materials, hand books, technical reports and books in the field of behavioural testing, personality assessment, personality evaluation, personality reports and books, technical reports and books in the field of behavioural testing, personality assessment, personality evaluation, personal interpretation, administration, scoring, interpretation and reporting of personality testing and personality assessment all available online

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: The applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

In International Class 009, the mark was first used at least as early as 08/00/2007 and first used in commerce at least as early as 08/00/2007.

Proposed:

Tracked Text Description: Computer software for use in behavioral testing, personal evaluation, personality interpretation, personality assessment and personality testing; computer software for use in the administration, scoring, interpretation and reporting of personality tests, personality assessment, personal evaluation and personal interpretation; pre-recorded CD-ROMS, magnetic data carriers, and data carriers featuring manuals, test booklets, answer sheets, profile sheets, norm tables, scoring keys, work sheets, workbooks, reports, questionnaires, record forms, user guides, planning booklets, reference materials, handbooks, technical reports and books in the field of behavioral testing, personality assessment, personal evaluation and personal interpretation and administration, scoring, interpretation and reporting of personality testing and personality assessment; ~~information in electronic form, namely, manuals, tests, test booklets, answer sheets, profile sheets, norm tables, scoring keys, worksheets, work books, reports, questionnaires, record forms, user guides, planning booklets, reference materials, hand books, technical~~

~~reports and books in the field of behavioural testing, personality assessment, personality evaluation, personality reports and books, technical reports and books in the field of behavioural testing, personality assessment, personality evaluation, personal interpretation, administration, scoring, interpretation and reporting of personality testing and personality assessment all available online; online downloadable publications in the nature of manuals, tests, test booklets, answer sheets, profile sheets, norm tables, scoring keys, worksheets, work books, reports, questionnaires, record forms, user guides, planning booklets, reference materials, hand books, technical reports and books in the field of behavioural testing, personality assessment, personality evaluation, personal interpretation, administration, scoring, and reporting of personality testing and personality assessment~~

Class 009 for Computer software for use in behavioral testing, personal evaluation, personality interpretation, personality assessment and personality testing; computer software for use in the administration, scoring, interpretation and reporting of personality tests, personality assessment, personal evaluation and personal interpretation; pre-recorded CD-ROMS, magnetic data carriers, and data carriers featuring manuals, test booklets, answer sheets, profile sheets, norm tables, scoring keys, work sheets, workbooks, reports, questionnaires, record forms, user guides, planning booklets, reference materials, handbooks, technical reports and books in the field of behavioral testing, personality assessment, personal evaluation and personal interpretation and administration, scoring, interpretation and reporting of personality testing and personality assessment; online downloadable publications in the nature of manuals, tests, test booklets, answer sheets, profile sheets, norm tables, scoring keys, worksheets, work books, reports, questionnaires, record forms, user guides, planning booklets, reference materials, hand books, technical reports and books in the field of behavioural testing, personality assessment, personality evaluation, personal interpretation, administration, scoring, and reporting of personality testing and personality assessment

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

In International Class 009, the mark was first used at least as early as 08/00/2007. and first used in commerce at least as early as 08/00/2007.

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

Current: Class 041 for Education services, namely, classes, seminars, courses, conferences and training relating to personality assessment, personality testing, personal evaluation, personal interpretation and the use of printed matter, printed publication and pre-recorded CD-ROMs, magnetic data carriers or other pre-recorded data carriers in personality assessment, personality testing, personal evaluation and personal interpretation

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: The applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

In International Class 041, the mark was first used at least as early as 08/00/2007 and first used in commerce at least as early as 08/00/2007.

Proposed:

Tracked Text Description: Education services, namely, classes, seminars, courses, conferences and training relating to personality assessment, personality testing, personal evaluation, personal interpretation and the use of printed matter, printed publication and pre-recorded CD-ROMs, magnetic data carriers or

other pre-recorded data carriers in personality assessment, personality testing, personal evaluation and personal interpretation; [online non-downloadable publications in the nature of test manuals, test booklets, workbooks, reports, questionnaires, user guides, planning booklets, reference materials, handbooks, technical reports, books, reports, in the field of behavioral testing, personality assessment, personality evaluation and personality interpretation](#)

Class 041 for Education services, namely, classes, seminars, courses, conferences and training relating to personality assessment, personality testing, personal evaluation, personal interpretation and the use of printed matter, printed publication and pre-recorded CD-ROMs, magnetic data carriers or other pre-recorded data carriers in personality assessment, personality testing, personal evaluation and personal interpretation; online non-downloadable publications in the nature of test manuals, test booklets, workbooks, reports, questionnaires, user guides, planning booklets, reference materials, handbooks, technical reports, books, reports, in the field of behavioral testing, personality assessment, personality evaluation and personality interpretation

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

In International Class 041, the mark was first used at least as early as 08/00/2007. and first used in commerce at least as early as 08/00/2007.

CORRESPONDENCE ADDRESS CHANGE

Applicant proposes to amend the following:

Proposed:

MOLLY MACK CRANDALL of BROOKS KUSHMAN P.C., having an address of
22ND FLOOR 1000 TOWN CENTER SOUTHFIELD, Michigan 48075

United States

trademarks@brookskushman.com

248-358-4400

248-358-3351

The attorney docket/reference number is GSCP 0137 TUS.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /molly crandall/ Date: 04/25/2014

Signatory's Name: Molly Mack Crandall

Signatory's Position: Attorney of Record, MI Bar Member

Signatory's Phone Number: 248-358-4400

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.

Mailing Address: MOLLY MACK CRANDALL
BROOKS KUSHMAN P.C.
22ND FLOOR
1000 TOWN CENTER
SOUTHFIELD, Michigan 48075

Serial Number: 85645377

Internet Transmission Date: Fri Apr 25 19:16:52 EDT 2014

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3313-85645377-50010e5ace3c62be05dd492aea

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-N/A-N/A-20140425190450117664