

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86029520
LAW OFFICE ASSIGNED	LAW OFFICE 115
MARK SECTION (no change)	
ARGUMENT(S)	
<p>Applicant makes this submission in response to the Examining Attorney's Office Action dated July 4, 2014 regarding its ORE application, Serial No. 86029520. Applicant respectfully disagrees with the Examining Attorney's conclusion that Applicant's mark is likely to be confused with the marks in the following registrations, namely (the "Cited Registrations"):</p> <ul style="list-style-type: none">• ORE PHARMACEUTICALS, Reg No. 3785232; and• ORE, Reg. No. 3781626. <p>As part of this response, Applicant requests that the identification of services in the application be amended to delete the language stricken below:</p> <p>Class 42: Platform as a service (PAAS) featuring computer software platforms for developing, validating and sharing patient health outcome measures; Providing a website featuring educational information in the field of clinical research; Providing a website featuring non-downloadable software for database management in the health field; Providing temporary use of on-line non-downloadable software for sending alerts to medical providers when one of their high-utilization and special-needs patients registers at an emergency department; Providing temporary use of on-line non-downloadable software for use by medical providers for tracking a patient's use of an emergency department; Providing temporary use of on-line non-downloadable health care management software for coordination of communication amongst all of the patient's medical care providers; Database development services in the field of health care; Computer services, namely, providing computer systems analysis in the field of health care computer databases; Providing temporary use of on-line non-downloadable software for assessing and predicting health risk and creating health profiles for use in the field of preventative health; Software as a service (SAAS) services featuring software for managing patient medical information; Software as a service (SAAS) services featuring software for database integration; Software as a service (SAAS) services featuring software for the mining, reporting and analysis of health information exchange (HIE) data; Software as a service (SAAS) services featuring software in the field of controlled access service for maintaining databases of patient health information and providing controlled access to such information to health care researchers; Providing temporary use of online non-downloadable computer software for application and database integration in the field of</p>	

~~healthcare; Providing temporary use of non-downloadable computer software for controlling and managing patient medical information; Providing temporary use of non-downloadable computer software for the collection, editing, organizing, modifying, book marking, transmission, storage and sharing of data and information in the field of healthcare.~~

Class 44: ~~Providing medical information in the field of pharmaceuticals and clinical trials; Providing medical information in the field of disease classification; Providing online databases featuring information regarding health;~~ Providing an online computer database featuring patient medical information regarding at-risk patient populations for use by users to track and manage those patients through customizable, patient population-specific workflows as a means of improving patient outcomes.

Applicant notes that it has deleted any language arguably related to pharmaceuticals or clinical trials from its identification of services. The revised services recitation indicates that Applicant's enumerated services focus on providing databases of patient medical information, as opposed to information related to the pharmaceutical industry or for pharmaceutical product research purposes. As amended, Applicant's services lack meaningful relation to the "pharmaceutical product evaluation, research and development" services listed in Registration No. 3,785,232 and Registration No. 3,781,626 and are used by sophisticated consumers.

Applicant's Services are Distinct:

Applicant provides an online service platform that permits patients, doctors and hospitals to access health data to facilitate the exchange of information. This information is then used to improve medical treatment, analyze symptoms and allow for more coordinated patient care. Applicant's platform tracks patient hospital visits, estimates health risks, and allows for medical professionals to create coordinated care plans. Registrant's services are, in contrast, limited specifically to pharmaceutical products and the research and development of those products. These services are encountered in contexts distinct from those of Applicant's services, as Applicant does not engage in pharmaceutical product development, evaluation or related research. Applicant's specific focus on providing an online database that fosters the exchange of patient health information renders its services dissimilar from the services listed in the Cited Registrations, obviating any likelihood of consumer confusion.

Registrant's Consumers are Highly Sophisticated:

Finally, the consumers of Registrant's services are highly sophisticated and less likely to make impulsive or uninformed purchasing decision than the average consumer, especially when engaging in costly and time consuming pharmaceutical research and development activities.

In view of the differences highlighted between Applicant's services and the services listed in the Cited Registrations, and particularly given the limitations on Applicant's services, as amended by this response, consumers are unlikely to be confused between Applicant's ORE and the Cited Registrations. Applicant respectfully requests that the Examining Attorney remove her refusal and approve this application for publication.

GOODS AND/OR SERVICES SECTION (042)(current)

INTERNATIONAL CLASS

042

DESCRIPTION

Platform as a service (PAAS) featuring computer software platforms for developing, validating and sharing patient health outcome measures; Providing a website featuring educational information in the field of clinical research; Providing a website featuring non-downloadable software for database management in the health field; Providing temporary use of on-line non-downloadable software for sending alerts to medical providers when one of their high-utilization and special-needs patients registers at an emergency department; Providing temporary use of on-line non-downloadable software for use by medical providers for tracking a patient's use of an emergency department; Providing temporary use of on-line non-downloadable health care management software for coordination of communication amongst all of the patient's medical care providers; Database development services in the field of health care; Computer services, namely, providing computer systems analysis in the field of health care computer databases; Providing temporary use of on-line non-downloadable software for assessing and predicting health risk and creating health profiles for use in the field of preventative health; Software as a service (SAAS) services featuring software for managing patient medical information; Software as a service (SAAS) services featuring software for database integration; Software as a service (SAAS) services featuring software for the mining, reporting and analysis of health information exchange (HIE) data; Software as a service (SAAS) services featuring software in the field of controlled access service for maintaining databases of patient health information and providing controlled access to such information to health care researchers; Providing temporary use of online non-downloadable computer software for application and database integration in the field of healthcare; Providing temporary use of non-downloadable computer software for controlling and managing patient medical information. Providing temporary use of non-downloadable computer software for the collection, editing, organizing, modifying, book marking, transmission, storage and sharing of data and information in the field of healthcare

FILING BASIS

Section 1(b)

GOODS AND/OR SERVICES SECTION (042)(proposed)

INTERNATIONAL CLASS

042

TRACKED TEXT DESCRIPTION

~~Platform as a service (PAAS) featuring computer software platforms for developing, validating and sharing patient health outcome measures;~~ Providing temporary use of on-line non-downloadable software for sending alerts to medical providers when one of their high-utilization and special-needs patients registers at an emergency department; ~~Providing a website featuring educational information in the field of clinical research;~~ Providing temporary use of on-line non-downloadable software for use by medical providers for tracking a patient's use of an emergency department; ~~Providing a website featuring non-downloadable software for database management in the health field;~~ Providing temporary use of on-line non-downloadable health care management software for coordination of communication amongst all of the patient's medical care providers; Providing temporary use of on-line non-downloadable software for assessing and predicting health risk and creating health profiles for use in the field of preventative health; Software as a service (SAAS) services featuring software for database integration; Software as a service (SAAS) services featuring software in the field of controlled access service for maintaining databases of patient health information and providing controlled access to such information to health care researchers; ~~Database development services in the field of health care;~~ Providing temporary use of non-downloadable computer software for controlling and managing patient medical information.; ~~Computer services, namely, providing computer systems analysis in the field of health care computer databases;~~ ~~Software as a service (SAAS) services featuring software for managing patient medical information;~~ ~~Software as a service (SAAS) services featuring software for the mining, reporting and analysis of health information exchange (HIE) data;~~ ~~Providing temporary use of online non-downloadable computer software for application and database integration in the field of healthcare;~~

~~Providing temporary use of non-downloadable computer software for controlling and managing patient medical information. Providing temporary use of non-downloadable computer software for the collection, editing, organizing, modifying, book marking, transmission, storage and sharing of data and information in the field of healthcare~~

FINAL DESCRIPTION

Providing temporary use of on-line non-downloadable software for sending alerts to medical providers when one of their high-utilization and special-needs patients registers at an emergency department; Providing temporary use of on-line non-downloadable software for use by medical providers for tracking a patient's use of an emergency department; Providing temporary use of on-line non-downloadable health care management software for coordination of communication amongst all of the patient's medical care providers; Providing temporary use of on-line non-downloadable software for assessing and predicting health risk and creating health profiles for use in the field of preventative health; Software as a service (SAAS) services featuring software for database integration; Software as a service (SAAS) services featuring software in the field of controlled access service for maintaining databases of patient health information and providing controlled access to such information to health care researchers; Providing temporary use of non-downloadable computer software for controlling and managing patient medical information.

FILING BASIS

Section 1(b)

GOODS AND/OR SERVICES SECTION (044)(current)

INTERNATIONAL CLASS

044

DESCRIPTION

Providing medical information in the field of pharmaceuticals and clinical trials; Providing medical information in the field of disease classification; Providing online databases featuring information regarding health; Providing an on-line computer database featuring patient medical information regarding at-risk patient populations for use by users to track and manage those patients through customizable, patient population-specific workflows as a means of improving patient outcomes

FILING BASIS

Section 1(b)

GOODS AND/OR SERVICES SECTION (044)(proposed)

INTERNATIONAL CLASS

044

TRACKED TEXT DESCRIPTION

~~Providing medical information in the field of pharmaceuticals and clinical trials;~~ [Providing an online computer database featuring patient medical information regarding at-risk patient populations for use by users to track and manage those patients through customizable, patient population-specific workflows as a means of improving patient outcomes.](#); ~~Providing medical information in the field of disease classification; Providing online databases featuring information regarding health; Providing an on-line computer database featuring patient medical information regarding at-risk patient populations for use by users to track and manage those patients through customizable, patient population-specific workflows as a means of improving patient outcomes~~

FINAL DESCRIPTION

Providing an online computer database featuring patient medical information regarding at-risk patient populations for use by users to track and manage those patients through customizable, patient

population-specific workflows as a means of improving patient outcomes.	
FILING BASIS	Section 1(b)
SIGNATURE SECTION	
RESPONSE SIGNATURE	/PJC/
SIGNATORY'S NAME	Patrick J. Concannon
SIGNATORY'S POSITION	Attorney of record, Massachusetts bar member
DATE SIGNED	12/18/2014
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Dec 18 11:04:54 EST 2014
TEAS STAMP	USPTO/RFR-10.20.13.59-201 41218110454899820-8602952 0-5001f1b39c1ddf35fa6373c 9739397b74d31550bbfa44f4b fdd5cc7fd92228-N/A-N/A-20 141217143259655572

**Request for Reconsideration after Final Action
To the Commissioner for Trademarks:**

Application serial no. **86029520** has been amended as follows:

ARGUMENT(S)

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

Applicant makes this submission in response to the Examining Attorney's Office Action dated July 4, 2014 regarding its ORE application, Serial No. 86029520. Applicant respectfully disagrees with the Examining Attorney's conclusion that Applicant's mark is likely to be confused with the marks in the following registrations, namely (the "Cited Registrations"):

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- ORE, Reg. No. 3781626.

As part of this response, Applicant requests that the identification of services in the application be amended to delete the language stricken below:

Class 42: ~~Platform as a service (PAAS) featuring computer software platforms for developing, validating and sharing patient health outcome measures; Providing a website featuring educational information in the field of clinical research; Providing a website featuring non-downloadable software for database management in the health field;~~ Providing temporary use of on-line non-downloadable software for sending alerts to medical providers when one of their high-utilization and special-needs patients registers at an emergency department; Providing temporary use of on-line non-downloadable software for use by medical providers for tracking a patient's use of an emergency department; Providing temporary use of on-line non-downloadable health care management software for coordination of communication amongst all of the patient's medical care providers; ~~Database development services in the field of health care; Computer services, namely, providing computer systems analysis in the field of health care computer databases;~~ Providing temporary use of on-line non-downloadable software for assessing and predicting health risk and creating health profiles for use in the field of preventative health; ~~Software as a service (SAAS) services featuring software for managing patient medical information;~~ Software as a service (SAAS) services featuring software for database integration; ~~Software as a service (SAAS) services featuring software for the mining, reporting and analysis of health information exchange (HIE) data;~~ Software as a service (SAAS) services featuring software in the field of controlled access service for maintaining databases of patient health information and providing controlled access to such information to health care researchers; ~~Providing temporary use of online non-downloadable computer software for application and database integration in the field of healthcare;~~ Providing temporary use of non-downloadable computer software for controlling and managing patient medical information; ~~Providing temporary use of non-downloadable computer software for the collection, editing, organizing, modifying, book marking, transmission, storage and sharing of data and information in the field of healthcare.~~

Class 44: ~~Providing medical information in the field of pharmaceuticals and clinical trials; Providing medical information in the field of disease classification; Providing online databases featuring information regarding health;~~ Providing an online computer database featuring patient medical information regarding at-risk patient populations for use by users to track and manage those patients through customizable, patient population-specific workflows as a means of improving patient outcomes.

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research and development of those products. These services are encountered in contexts distinct from those of Applicant's services, as Applicant does not engage in pharmaceutical product development, evaluation or related research. Applicant's specific focus on providing an online database that fosters the exchange of patient health information renders its services dissimilar from the services listed in the Cited Registrations, obviating any likelihood of consumer confusion.

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CLASSIFICATION AND LISTING OF GOODS/SERVICES

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

Current: Class 042 for Platform as a service (PAAS) featuring computer software platforms for developing, validating and sharing patient health outcome measures; Providing a website featuring educational information in the field of clinical research; Providing a website featuring non-downloadable software for database management in the health field; Providing temporary use of on-line non-downloadable software for sending alerts to medical providers when one of their high-utilization and special-needs patients registers at an emergency department; Providing temporary use of on-line non-downloadable software for use by medical providers for tracking a patient's use of an emergency department; Providing temporary use of on-line non-downloadable health care management software for coordination of communication amongst all of the patient's medical care providers; Database development services in the field of health care; Computer services, namely, providing computer systems analysis in the field of health care computer databases; Providing temporary use of on-line non-downloadable software for assessing and predicting health risk and creating health profiles for use in the field of preventative health; Software as a service (SAAS) services featuring software for managing patient medical information; Software as a service (SAAS) services featuring software for database integration; Software as a service (SAAS) services featuring software for the mining, reporting and analysis of health information exchange (HIE) data; Software as a service (SAAS) services featuring software in the field of controlled access service for maintaining databases of patient health information and providing controlled access to such information to health care researchers; Providing temporary use of online non-downloadable computer software for application and database integration in the field of healthcare; Providing temporary use of non-downloadable computer software for controlling and managing patient medical information. Providing temporary use of non-downloadable computer software for the collection, editing, organizing, modifying, book marking, transmission, storage and sharing of data and information in the field of healthcare

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)).

Proposed:

Tracked Text Description: ~~Platform as a service (PAAS) featuring computer software platforms for developing, validating and sharing patient health outcome measures~~; Providing temporary use of on-line non-downloadable software for sending alerts to medical providers when one of their high-utilization and special-needs patients registers at an emergency department; ~~Providing a website featuring educational information in the field of clinical research~~; Providing temporary use of on-line non-downloadable software for use by medical providers for tracking a patient's use of an emergency department; ~~Providing a website featuring non-downloadable software for database management in the health field~~; Providing temporary use of on-line non-downloadable health care management software for coordination of communication amongst all of the patient's medical care providers; Providing temporary use of on-line non-downloadable software for assessing and predicting health risk and creating health profiles for use in the field of preventative health; Software as a service (SAAS) services featuring software for database integration; Software as a service (SAAS) services featuring software in the field of controlled access service for maintaining databases of patient health information and providing controlled access to such information to health care researchers; ~~Database development services in the field of health care~~; Providing temporary use of non-downloadable computer software for controlling and managing patient medical information.; ~~Computer services, namely, providing computer systems analysis in the field of health care computer databases~~; ~~Software as a service (SAAS) services featuring software for managing patient medical information~~; ~~Software as a service (SAAS) services featuring software for the mining, reporting and analysis of health information exchange (HIE) data~~; ~~Providing temporary use of online non-downloadable computer software for application and database integration in the field of healthcare~~; ~~Providing temporary use of non-downloadable computer software for controlling and managing patient medical information. Providing temporary use of non-downloadable computer software for the collection, editing, organizing, modifying, book marking, transmission, storage and sharing of data and information in the field of healthcare~~

Class 042 for Providing temporary use of on-line non-downloadable software for sending alerts to medical providers when one of their high-utilization and special-needs patients registers at an emergency department; Providing temporary use of on-line non-downloadable software for use by medical providers for tracking a patient's use of an emergency department; Providing temporary use of on-line non-downloadable health care management software for coordination of communication amongst all of the patient's medical care providers; Providing temporary use of on-line non-downloadable software for assessing and predicting health risk and creating health profiles for use in the field of preventative health; Software as a service (SAAS) services featuring software for database integration; Software as a service (SAAS) services featuring software in the field of controlled access service for maintaining databases of patient health information and providing controlled access to such information to health care researchers; Providing temporary use of non-downloadable computer software for controlling and managing patient medical information.

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)).

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

Current: Class 044 for Providing medical information in the field of pharmaceuticals and clinical trials; Providing medical information in the field of disease classification; Providing online databases featuring information regarding health; Providing an on-line computer database featuring patient medical information regarding at-risk patient populations for use by users to track and manage those patients through customizable, patient population-specific workflows as a means of improving patient outcomes
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)).

Proposed:

Tracked Text Description: ~~Providing medical information in the field of pharmaceuticals and clinical trials;~~ Providing an online computer database featuring patient medical information regarding at-risk patient populations for use by users to track and manage those patients through customizable, patient population-specific workflows as a means of improving patient outcomes.; ~~Providing medical information in the field of disease classification;~~ ~~Providing online databases featuring information regarding health;~~ ~~Providing an on-line computer database featuring patient medical information regarding at-risk patient populations for use by users to track and manage those patients through customizable, patient population-specific workflows as a means of improving patient outcomes~~

Class 044 for Providing an online computer database featuring patient medical information regarding at-risk patient populations for use by users to track and manage those patients through customizable, patient population-specific workflows as a means of improving patient outcomes.

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)).

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /PJC/ Date: 12/18/2014

Signatory's Name: Patrick J. Concannon

Signatory's Position: Attorney of record, Massachusetts bar member

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.

Serial Number: 86029520

Internet Transmission Date: Thu Dec 18 11:04:54 EST 2014

TEAS Stamp: USPTO/RFR-10.20.13.59-201412181104548998

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