

ESTTA Tracking number: **ESTTA365339**

Filing date: **08/26/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	TeraMedica, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	10400 Innovation Drive Suite 200 Milwaukee, WI 53226 UNITED STATES		

Attorney information	Ariana G. Voigt Michael Best & Friedrich LLP 100 East Wisconsin Avenue Suite 3300 Milwaukee, WI 53202 UNITED STATES agvoigt@michaelbest.com, mkeipdocket@michaelbest.com Phone:(414) 271-6560		
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### Applicant Information

Application No	77948212	Publication date	07/27/2010
Opposition Filing Date	08/26/2010	Opposition Period Ends	08/26/2010
Applicant	TerraMedica LLC 2601 Arcola Lane Wayzata, MN 55391 UNITED STATES		

### Goods/Services Affected by Opposition

Class 045. First Use: 2010/02/15 First Use In Commerce: 2010/02/15 All goods and services in the class are opposed, namely: Fraud detection services in the field of health care insurance
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### Applicant Information

Application No	77948424	Publication date	07/27/2010
Opposition Filing Date	08/26/2010	Opposition Period Ends	08/26/2010
Applicant	TerraMedica LLC 2601 Arcola Lane Wayzata, MN 55391 UNITED STATES		

### Goods/Services Affected by Opposition

Class 045. First Use: 2010/02/15 First Use In Commerce: 2010/02/15 All goods and services in the class are opposed, namely: Fraud detection services in the field of health care insurance
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## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3585921	Application Date	05/12/2008
Registration Date	03/10/2009	Foreign Priority Date	NONE
Word Mark	TERAMEDICA		
Design Mark			
Description of Mark	<p>The mark consists of three rows of squares in varying shades of blue, light blue, white and gray. The top row contains 6 squares, the middle row contains 5 squares and the bottom row contains 4 squares. The word "TeraMedica" is displayed to the right of the design element in blue stylized lettering.</p>		
Goods/Services	<p>Class 009. First use: First Use: 2004/10/12 First Use In Commerce: 2004/11/18 Software that manages the storing and serving of digital images</p> <p>Class 042. First use: First Use: 2004/10/12 First Use In Commerce: 2004/11/18 Computer services, namely, data migration, installation and configuration of software used for managing the storage and serving of digital images of others; technical support services, namely, troubleshooting of computer software that manages the storage and serving of digital images for others</p>		

U.S. Registration No.	3585922	Application Date	05/12/2008
Registration Date	03/10/2009	Foreign Priority Date	NONE
Word Mark	TERAMEDICA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2000/08/25 First Use In Commerce: 2000/11/01 Software that manages the storing and serving of digital images</p> <p>Class 042. First use: First Use: 2000/08/25 First Use In Commerce: 2000/11/01 Computer services, namely, data migration, installation and configuration of software used for managing the storage and serving of digital images of others; technical support services, namely, troubleshooting of computer software that</p>		

	manages the storage and serving of digital images for others		
U.S. Registration No.	2678899	Application Date	06/07/2001
Registration Date	01/21/2003	Foreign Priority Date	NONE
Word Mark	TERAMEDICA		
Design Mark	<b>TERAMEDICA</b>		
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 2002/06/18 First Use In Commerce: 2002/06/18 COMPUTER HARDWARE AND SOFTWARE FOR PROCESSING MEDICAL IMAGING FOR USE BY HOSPITALS AND DOCTORS		

Attachments	77472191#TMSN.jpeg ( 1 page )( bytes ) 77472203#TMSN.jpeg ( 1 page )( bytes ) 76268505#TMSN.gif ( 1 page )( bytes ) A4070634.PDF ( 20 pages )(141323 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/ariana g voigt/
Name	Ariana G. Voigt
Date	08/26/2010

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

_____ )	
TeraMedica, Inc., )	Opposition No. _____
)	
Opposer, )	Application No. 77/948,212
)	Mark: TERRAMEDICA
v. )	Filed: March 2, 2010
)	
TerraMedica LLC, )	Application No. 77/948,424
)	Mark: TERRAMEDICA & Design
Applicant. )	Filed: March 2, 2010
_____ )	

**CONSOLIDATED NOTICE OF OPPOSITION**

TeraMedica, Inc. (“Opposer”), a Delaware corporation with its principal place of business at 10400 Innovation Drive, Suite 200, Milwaukee, Wisconsin 53226, believes that it would be damaged by registration of the trademark TERRAMEDICA shown in Application Serial No. 77/948,212 and the trademark TERRAMEDICA & Design shown in Application Serial No. 77/948,424, both of which were filed on March 2, 2010 by TerraMedica LLC (“Applicant”), and hereby opposes registration of the marks (collectively, Applicant’s “TERRAMEDICA Marks”). The grounds for opposition are as follows:

1. Applicant’s applications for its TERRAMEDICA Marks were published for opposition on July 27, 2010. This Consolidated Notice of Opposition is timely filed.
2. Applicant is seeking to register the marks TERRAMEDICA and TERRAMEDICA & Design in connection with “fraud detection services in the field of health care insurance” in Class 45.

3. Since at least as early as 2001, Opposer has offered software that provides clinicians with access to images wherever and whenever needed, a project initiated at the world-renowned Mayo Clinic in Rochester, Minnesota. Opposer developed the easy-to-use, robust, reliable solution that healthcare enterprises across the country have come to rely on and are known within the industry for their innovative solutions for managing and maximizing the clinical value of all relevant diagnostic and treatment content.

4. Long prior to March 2, 2010, the filing date of the applications for Applicant's TERRAMEDICA Marks, and February 15, 2010, the dates of first use cited therein, Opposer adopted and used in commerce its TERAMEDICA and TERAMEDICA and Design trademarks (collectively, Opposer's "TERAMEDICA Marks") for medical imaging and storage software for the healthcare industry.

5. Opposer owns the following federal trademark registrations for its TERAMEDICA Marks, all of which have been in use and registered since long prior to Applicant's filing dates:

<b>Mark</b>	<b>Reg. No.</b>	<b>Reg. Date</b>	<b>Goods and Services</b>	<b>Date of First Use</b>
TERAMEDICA & Design	3,585,921	03-10-2009	Software that manages the storing and serving of digital images in Class 9; computer services, namely, data migration, installation and configuration of software used for managing the storage and serving of digital images of others; technical support services, namely, troubleshooting of computer software that manages the storage and serving of digital images for others in Class 42.	First Use Date: 10-12-2004 First Use in Commerce Date: 11-18-2004
TERAMEDICA	3,585,922	03-10-2009	Software that manages the storing and serving of digital images in Class 9; computer services, namely, data migration, installation and configuration of software used for managing the storage and serving of digital images of others; technical support services, namely, troubleshooting of computer software that manages the storage and serving of digital images for others in Class 42.	First Use Date: 08-25-2000 First Use in Commerce Date: 11-01-2000
TERAMEDICA	2,678,899	01-21-2003	Computer hardware and software for processing medical imaging for use by hospitals and doctors in Class 10.	First Use Date: 06-18-2002 First Use in Commerce Date: 06-18-2002

Printouts of information from the USPTO's Trademark Applications and Registrations Retrieval (TARR) database showing the current status and title of these registrations are attached hereto as Exhibit A.

6. Opposer's registrations for its TERAMEDICA Marks have not been cancelled, are valid, and are in full force and effect.

7. Opposer's Trademark Registration No. 2,678,899 for the mark TERAMEDICA is incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065. Consequently, this registration is conclusive evidence of the validity of the TERAMEDICA mark and the registration, of Opposer's ownership of the TERAMEDICA mark, and of Opposer's exclusive right to use the TERAMEDICA mark in commerce under Section 33 of the Lanham Act, 15 U.S.C. § 1115. Opposer's registrations for its TERAMEDICA Marks also constitute notice to Applicant of Opposer's claim of ownership of the marks shown therein.

8. Opposer has used its TERAMEDICA Marks in connection with the goods and services identified in the registrations cited above continuously since the dates of first use identified in those registrations.

9. Opposer recently announced that more than 500 healthcare facilities worldwide are now serviced by its products. Through these sales, Opposer has developed considerable goodwill in its TERAMEDICA Marks that predates Applicant's alleged use of Applicant's TERRAMEDICA Marks. Accordingly, Opposer has the right to control use of its TERAMEDICA Marks in connection with its software and services as well as related software and services.

10. There is no issue of priority concerning Applicant's TERRAMEDICA Marks since Opposer used and registered its TERAMEDICA Marks prior to the dates of first use cited in the opposed applications. Opposer's use of the term TERAMEDICA as a trademark commenced at least as early as 2001, more than eight (8) years prior to the filing of Applicant's

applications and more than eight (8) years prior to the dates of first use indicated therein.

Opposer therefore has priority over Applicant with respect to the marks at issue.

11. Upon information and belief, Applicant had knowledge of the fact that Opposer used the term TERAMEDICA as a trademark and that Opposer's TERAMEDICA Marks had significant goodwill before it adopted its TERRAMEDICA Marks.

12. Applicant's TERRAMEDICA Marks are identical in sight, sound and commercial impression to Opposer's TERAMEDICA Marks.

13. Applicant's TERRAMEDICA Marks are confusingly and deceptively similar to Opposer's previously used and duly registered TERAMEDICA Marks.

14. The services identified in Applicant's applications are closely related to the goods and services identified in Opposer's registrations for its TERAMEDICA Marks. Upon information and belief, Applicant's fraud detection services for the healthcare industry are provided through Applicant's various software solutions, such that Applicant's product is really a software as a service (SaaS) product.

15. Upon information and belief, Opposer's goods and services and Applicant's services are promoted in the same channels of trade to the same consumers.

16. Due to the identical nature of Applicant's TERRAMEDICA Marks and Opposer's TERAMEDICA Marks and the similarity of the parties' goods and services, the channels of trade through which the goods and services travel, and the consumers to whom the goods and services are promoted, consumers are likely to believe that Applicant's services originate from Opposer or are otherwise endorsed, sponsored or approved by Opposer, resulting in a likelihood of confusion in the marketplace and damage to Opposer.

17. Applicant does not have Opposer's consent to use or register Applicant's TERRAMEDICA Marks.

WHEREFORE, Opposer requests that this opposition be sustained and the registrations sought by Applicant be refused.

Respectfully submitted,

TERAMEDICA, INC.

By its Attorneys,

Date: August 26, 2010

/ariana g voigt/

Ariana G. Voigt  
Laura M. Konkel  
MICHAEL BEST & FRIEDRICH LLP  
100 East Wisconsin Avenue, Suite 3300  
Milwaukee, Wisconsin 53202-4108  
Phone: (414) 271-6560  
Fax: (414) 277-0656

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Consolidated Notice of Opposition is being served upon Applicant's Attorney of Record via Federal Express:

Richard A. Arrett  
Vidas, Arrett & Steinkraus, P.A.  
6640 Shady Oak Road, Suite 400  
Eden Prairie, MN 55344-7700

and that a copy of the same was filed electronically on the same date via ESTAA with the Trademark Trial and Appeal Board.

Date: August 26, 2010

/Laura M. Konkel/

Laura M. Konkel

## **EXHIBIT A**

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2010-08-26 16:46:14 ET

Serial Number: [77472191 Assignment Information](#)      [Trademark Document Retrieval](#)

Registration Number: [3585921](#)

Mark



(words only): [TERAMEDICA](#)

Standard Character claim: [No](#)

Current Status: [Registered](#).

Date of Status: [2009-03-10](#)

Filing Date: [2008-05-12](#)

Transformed into a National Application: [No](#)

Registration Date: [2009-03-10](#)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 111](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: [650 -Publication And Issue Section](#)

Date In Location: [2009-03-10](#)

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LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. [TeraMedica, Inc.](#)

Address:

[TeraMedica, Inc.](#)  
[Suite 200 10400 Innovation Dr.](#)  
[Milwaukee, WI 53226](#)  
[United States](#)

Legal Entity Type: [Corporation](#)

State or Country of Incorporation: [Delaware](#)

Phone Number: [414-908-7700](#)

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**GOODS AND/OR SERVICES**

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**International Class:** 009**Class Status:** Active

Software that manages the storing and serving of digital images

**Basis:** 1(a)**First Use Date:** 2004-10-12**First Use in Commerce Date:** 2004-11-18**International Class:** 042**Class Status:** Active

Computer services, namely, data migration, installation and configuration of software used for managing the storage and serving of digital images of others; technical support services, namely, troubleshooting of computer software that manages the storage and serving of digital images for others

**Basis:** 1(a)**First Use Date:** 2004-10-12**First Use in Commerce Date:** 2004-11-18

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**ADDITIONAL INFORMATION**

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**Color(s) Claimed:** The color(s) blue, light blue, white and gray is/are claimed as a feature of the mark.**Description of Mark:** The mark consists of three rows of squares in varying shades of blue, light blue, white and gray. The top row contains 6 squares, the middle row contains 5 squares and the bottom row contains 4 squares. The word "TeraMedica" is displayed to the right of the design element in blue stylized lettering.**Design Search Code(s):****26.09.14** - Squares, three or more; Three or more squares**26.09.16** - Squares touching or intersecting**26.09.21** - Squares that are completely or partially shaded**Prior Registration Number(s):**

2678899

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE:** To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-03-10 - Registered - Principal Register

2008-12-23 - Published for opposition

2008-12-03 - Notice of publication

2008-11-20 - Law Office Publication Review Completed

2008-11-19 - Approved for Pub - Principal Register (Initial exam)

2008-10-31 - Teas/Email Correspondence Entered

2008-10-31 - Communication received from applicant  
2008-10-31 - Assigned To LIE  
2008-10-20 - TEAS Response to Office Action Received  
2008-10-20 - Correspondence Mailed  
2008-10-17 - Teas/Email Correspondence Entered  
2008-10-17 - Communication received from applicant  
2008-10-17 - TEAS Response to Office Action Received  
2008-10-20 - Examiners Amendment And/Or Priority Action - Completed  
2008-09-02 - Non-final action mailed  
2008-08-29 - Non-Final Action Written  
2008-08-26 - Assigned To Examiner  
2008-05-16 - Notice Of Design Search Code And Pseudo Mark Mailed  
2008-05-15 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Attorney of Record**

Mary Quigg

**Correspondent**

MARY QUIGG  
QUIGG & ASSOCIATES, PC  
6332 N GLENWOOD AVE  
CHICAGO, IL 60660-1328  
Phone Number: 773-761-0626

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**For Serial Number: 77472191**

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Serial Number: 77472203 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3585922

Mark

# TeraMedica

(words only): [TERAMEDICA](#)

Standard Character claim: [Yes](#)

Current Status: [Registered](#).

Date of Status: [2009-03-10](#)

Filing Date: [2008-05-12](#)

Transformed into a National Application: [No](#)

Registration Date: [2009-03-10](#)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 111](#)

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Current Location: [650 -Publication And Issue Section](#)

Date In Location: [2009-03-10](#)

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## LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. [TeraMedica, Inc.](#)

**Address:**

[TeraMedica, Inc.](#)

[Suite 200 10400 Innovation Dr.](#)

Milwaukee, WI 53226  
United States  
**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** Delaware  
**Phone Number:** 414-908-7700

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### GOODS AND/OR SERVICES

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**International Class:** 009  
**Class Status:** Active  
Software that manages the storing and serving of digital images  
**Basis:** 1(a)  
**First Use Date:** 2000-08-25  
**First Use in Commerce Date:** 2000-11-01

**International Class:** 042  
**Class Status:** Active  
Computer services, namely, data migration, installation and configuration of software used for managing the storage and serving of digital images of others; technical support services, namely, troubleshooting of computer software that manages the storage and serving of digital images for others  
**Basis:** 1(a)  
**First Use Date:** 2000-08-25  
**First Use in Commerce Date:** 2000-11-01

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### ADDITIONAL INFORMATION

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**Prior Registration Number(s):**  
2678899

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### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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### PROSECUTION HISTORY

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2009-03-10 - Registered - Principal Register

2008-12-23 - Published for opposition

2008-12-03 - Notice of publication

2008-11-20 - Law Office Publication Review Completed

2008-11-19 - Approved for Pub - Principal Register (Initial exam)

2008-10-31 - Teas/Email Correspondence Entered  
2008-10-31 - Communication received from applicant  
2008-10-31 - Assigned To LIE  
2008-10-20 - TEAS Response to Office Action Received  
2008-10-20 - Examiner's Amendment/Priority Action Mailed  
2008-10-20 - Examiners Amendment And/Or Priority Action - Completed  
2008-09-02 - Non-final action mailed  
2008-08-29 - Non-Final Action Written  
2008-08-26 - Assigned To Examiner  
2008-05-16 - Notice Of Pseudo Mark Mailed  
2008-05-15 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Attorney of Record**

Mary Quigg

**Correspondent**

MARY QUIGG  
QUIGG & ASSOCIATES, PC  
6332 N GLENWOOD AVE  
CHICAGO, IL 60660-1328  
Phone Number: 773-761-0626

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Serial Number: 76268505 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2678899

Mark (words only): TERAMEDICA

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2008-08-15

Filing Date: 2001-06-07

Transformed into a National Application: No

Registration Date: 2003-01-21

Register: Principal

Law Office Assigned: LAW OFFICE 105

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Current Location: 830 -Post Registration

Date In Location: 2008-08-15

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#### LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. [Teramedica, Inc.](#)

**Address:**

[Teramedica, Inc.](#)  
[10400 Innovation Dr. Suite 200](#)  
[Milwaukee, WI 53226](#)  
[United States](#)

**Legal Entity Type:** [Corporation](#)

**State or Country of Incorporation:** [Delaware](#)

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#### GOODS AND/OR SERVICES

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**International Class:** [010](#)

**Class Status:** [Active](#)

**COMPUTER HARDWARE AND SOFTWARE FOR PROCESSING MEDICAL IMAGING FOR USE BY HOSPITALS AND DOCTORS****Basis:** 1(a)**First Use Date:** 2002-06-18**First Use in Commerce Date:** 2002-06-18

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**ADDITIONAL INFORMATION**

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(NOT AVAILABLE)

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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2008-08-15 - Section 8 (6-year) accepted & Section 15 acknowledged

2008-07-25 - Assigned To Paralegal

2008-07-14 - TEAS Section 8 & 15 Received

2008-04-17 - Case File In TICRS

2008-03-28 - TEAS Change Of Correspondence Received

2003-01-21 - Registered - Principal Register

2002-11-07 - Allowed for Registration - Principal Register (SOU accepted)

2002-11-04 - Assigned To Examiner

2002-11-01 - Statement Of Use Processing Complete

2002-10-08 - Use Amendment Filed

2002-10-08 - TEAS Statement of Use Received

2002-04-30 - NOA Mailed - SOU Required From Applicant

2002-02-05 - Published for opposition

2002-01-16 - Notice of publication

2001-10-25 - Approved For Pub - Principal Register

2001-08-13 - Letter of suspension mailed

2001-08-10 - Assigned To Examiner

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**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Attorney of Record**

Mary Quigg

**Correspondent**

Mary Quigg

Quigg & Associates, PC

6332 N. Glenwood Ave.

Chicago IL 60660

Phone Number: 773-761-0626

Fax Number: 773-761-0627

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