

ESTTA Tracking number: **ESTTA658437**

Filing date: **02/27/2015**

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

| | |
|---------------------------|---|
| Proceeding | 91212922 |
| Party | Plaintiff Siemens Medical Solutions USA, Inc. |
| Correspondence Address | JILL ANDERFUREN MARSHALL GERSTEIN & BORUN LLP 233 S WACKER DRIVE, STE 6300 CHICAGO, IL 60606 6357 UNITED STATES janderfuren@marshallip.com |
| Submission | Motion to Join/Substitute Party |
| Filer's Name | Bradley R. Howard |
| Filer's e-mail | tmdocket@shb.com,cwfisher@shb.com |
| Signature | /Bradley R. Howard/ |
| Date | 02/27/2015 |
| Attachments | MOTION_TO_SUBSTITUTE_PARTY.pdf(566275 bytes) |

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

In the matter of Trademark Application Serial No. 85/886,016
Application filing date: 03/25/2013
For the mark: **MOBILEMD**
Published in the Official Gazette: 08/13/2013

| | | |
|--------------------------------------|---|-------------------------|
| SIEMENS MEDICAL SOLUTIONS USA, INC., |) | |
| Opposer, |) | |
| |) | |
| vs. |) | Opposition |
| |) | Proceeding No. 91212922 |
| INNOPATH SOFTWARE, INC., |) | |
| Applicant. |) | |
| |) | |

MOTION TO SUBSTITUTE PARTY

COMES NOW, Cerner Innovation, Inc., a corporation duly organized under the laws of the State of Delaware and having its principal office and place of business at 10200 Abilities Way, Kansas City, County of Wyandotte, and State of Kansas (66111) (hereinafter “Cerner”), and moves this Board for an Order substituting the party Opposer due to the transfer of interest in the Opposer’s mark, Reg. No. 4,005,257 registered August 2, 2011, and provides the following in proof thereof:

1. Opposer Siemens Medical Solutions USA, Inc. (herein “Opposer”) brought this opposition action alleging confusion and deception of the public as to origin of goods and services to be offered by Applicant InnoPath Software, Inc. (herein “Applicant”) in connection with the opposed Applicant’s Mark.

2. By an assignment dated February 2, 2015, (copy attached as Exhibit A), Opposer assigned all of its right, title, and interest in the mark pleaded, including the right to sue and obtain damages for past infringement of the mark pleaded, to Cerner.

WHEREFORE, Cerner moves this Board for an Order substituting Cerner Innovation, Inc. for Siemens Medical Solutions USA, Inc.

Please direct all correspondence in conjunction with this matter to attorneys for Cerner at the address given below.

Respectfully submitted,

SHOOK, HARDY & BACON L.L.P.

Dated: February 27, 2015

/Cory W. Fisher/

Cory W. Fisher Reg. No. 59,366
2555 Grand Boulevard
Kansas City, MO 64108
Tel: (816) 474-6550 / Fax: (816) 421-5547
cwfisher@shb.com

ATTORNEYS FOR MOVANT
CERNER INNOVATION, INC.

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that the present **Motion to Substitute Party** was filed electronically with the Trademark Trial and Appeal Board via ESTTA on February 27, 2015.

/Cory W. Fisher/
Cory W. Fisher #59,366

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Motion to Substitute Party** was served by first class United States Mail, postage prepaid, on this 27th day of February, 2015, on the following Attorney of Record:

Maren C. Perry
King & Spalding LLP
1185 Avenue of the Americas
New York, NY 10036

/Cory W. Fisher/
Cory W. Fisher #59,366

ATTORNEYS FOR MOVANT

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

FEBRUARY 5, 2015

PTAS

SHOOK, HARDY & BACON LLP
2555 GRAND BLVD
INTELLECTUAL PROPERTY SECTION
KANSAS CITY, MO 64108

900314650

UNITED STATES PATENT AND TRADEMARK OFFICE NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT RECORDATION BRANCH OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE ASSIGNMENT RECORDATION BRANCH AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT RECORDATION BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 02/04/2015

REEL/FRAME: 5452/0635
NUMBER OF PAGES: 6

BRIEF: ASSIGNS THE ENTIRE INTEREST

DOCKET NUMBER: CRNI.56141

ASSIGNOR:

SIEMENS MEDICAL SOLUTIONS USA, INC.

DOC DATE: 02/02/2015
CITIZENSHIP: DELAWARE
ENTITY: CORPORATION

ASSIGNEE:

CERNER INNOVATION, INC.

CITIZENSHIP: DELAWARE
ENTITY: CORPORATION

10200 ABILITIES WAY
KANSAS CITY, KANSAS 66111

SERIAL NUMBER: 73542087

FILING DATE: 06/10/1985

REGISTRATION NUMBER: 1453457

REGISTRATION DATE: 08/18/1987

MARK: SIGNATURE

DRAWING TYPE: TYPESET WORD(S) /LETTER(S) /NUMBER(S)

SERIAL NUMBER: 73820348

FILING DATE: 08/21/1989

REGISTRATION NUMBER: 1624199

REGISTRATION DATE: 11/20/1990

MARK: INVISION

DRAWING TYPE: TYPESET WORD(S) /LETTER(S) /NUMBER(S)

SERIAL NUMBER: 74006602 FILING DATE: 12/01/1989
REGISTRATION NUMBER: 1641093 REGISTRATION DATE: 04/16/1991
MARK: EAGLE 2000
DRAWING TYPE: TYPESET WORD(S) /LETTER(S) /NUMBER(S)

SERIAL NUMBER: 74023434 FILING DATE: 01/29/1990
REGISTRATION NUMBER: 1710534 REGISTRATION DATE: 08/25/1992
MARK: UNITY
DRAWING TYPE: TYPESET WORD(S) /LETTER(S) /NUMBER(S)

SERIAL NUMBER: 74354326 FILING DATE: 02/01/1993
REGISTRATION NUMBER: 1860199 REGISTRATION DATE: 10/25/1994
MARK: HDX
DRAWING TYPE: AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)
/NUMBER(S)

SERIAL NUMBER: 74358374 FILING DATE: 02/12/1993
REGISTRATION NUMBER: 1801264 REGISTRATION DATE: 10/26/1993
MARK: ENTERPRISE ACCESS DIRECTORY
DRAWING TYPE: TYPESET WORD(S) /LETTER(S) /NUMBER(S)

SERIAL NUMBER: 74560969 FILING DATE: 08/15/1994
REGISTRATION NUMBER: 2042613 REGISTRATION DATE: 03/11/1997
MARK: LIFETIME CLINICAL RECORD
DRAWING TYPE: TYPESET WORD(S) /LETTER(S) /NUMBER(S)

SERIAL NUMBER: 75047137 FILING DATE: 01/23/1996
REGISTRATION NUMBER: 2047398 REGISTRATION DATE: 03/25/1997
MARK: NOVIUS
DRAWING TYPE: TYPESET WORD(S) /LETTER(S) /NUMBER(S)

SERIAL NUMBER: 75047320 FILING DATE: 01/23/1996
REGISTRATION NUMBER: 2191190 REGISTRATION DATE: 09/22/1998
MARK: NOVIUS
DRAWING TYPE: TYPESET WORD(S) /LETTER(S) /NUMBER(S)

SERIAL NUMBER: 75144946 FILING DATE: 08/05/1996
REGISTRATION NUMBER: 2125099 REGISTRATION DATE: 12/30/1997
MARK: MEDSERIES4
DRAWING TYPE: TYPESET WORD(S) /LETTER(S) /NUMBER(S)

SERIAL NUMBER: 76315307 FILING DATE: 09/19/2001
REGISTRATION NUMBER: 2778352 REGISTRATION DATE: 10/28/2003
MARK: SOARIAN
DRAWING TYPE: TYPESET WORD(S) /LETTER(S) /NUMBER(S)

SERIAL NUMBER: 78532324 FILING DATE: 12/14/2004
REGISTRATION NUMBER: 3089693 REGISTRATION DATE: 05/09/2006
MARK: HDXPRESS
DRAWING TYPE: STANDARD CHARACTER MARK

SERIAL NUMBER: 78733443 FILING DATE: 10/14/2005
REGISTRATION NUMBER: 3633194 REGISTRATION DATE: 06/02/2009
MARK: REMIND
DRAWING TYPE: STANDARD CHARACTER MARK

SERIAL NUMBER: 78765661 FILING DATE: 12/02/2005
REGISTRATION NUMBER: 3455391 REGISTRATION DATE: 06/24/2008
MARK: HDX
DRAWING TYPE: AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)
/NUMBER(S)

SERIAL NUMBER: 78765721 FILING DATE: 12/02/2005
REGISTRATION NUMBER: 3455393 REGISTRATION DATE: 06/24/2008
MARK: HDX
DRAWING TYPE: AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)
/NUMBER(S)

SERIAL NUMBER: 85150428 FILING DATE: 10/12/2010
REGISTRATION NUMBER: 4005257 REGISTRATION DATE: 08/02/2011
MARK: MOBILEMD
DRAWING TYPE: STANDARD CHARACTER MARK

SERIAL NUMBER: 86290480 FILING DATE: 05/23/2014
REGISTRATION NUMBER: REGISTRATION DATE:
MARK: CAREXCELL
DRAWING TYPE: STANDARD CHARACTER MARK

ASSIGNMENT RECORDATION BRANCH
PUBLIC RECORDS DIVISION

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|---|
| TRADEMARK ASSIGNMENT COVER SHEET |
|---|

Electronic Version v1.1

Stylesheet Version v1.2

| | | | |
|-------------------------------------|--|-----------------------|-----------------------|
| SUBMISSION TYPE: | NEW ASSIGNMENT | | |
| NATURE OF CONVEYANCE: | ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL | | |
| CONVEYING PARTY DATA | | | |
| Name | Formerly | Execution Date | Entity Type |
| Siemens Medical Solutions USA, Inc. | | 02/02/2015 | CORPORATION: DELAWARE |
| RECEIVING PARTY DATA | | | |
| Name: | Cerner Innovation, Inc. | | |
| Street Address: | 10200 Abilities Way | | |
| City: | Kansas City | | |
| State/Country: | KANSAS | | |
| Postal Code: | 66111 | | |
| Entity Type: | CORPORATION: DELAWARE | | |
| PROPERTY NUMBERS Total: 17 | | | |
| Property Type | Number | Word Mark | |
| Registration Number: | 3633194 | REMIND | |
| Registration Number: | 2778352 | SOARIAN | |
| Serial Number: | 86290480 | CAREXCELL | |
| Registration Number: | 1860199 | HDX | |
| Registration Number: | 3089693 | HDXPRESS | |
| Registration Number: | 3455391 | HDX | |
| Registration Number: | 3455393 | HDX | |
| Registration Number: | 1453457 | SIGNATURE | |
| Registration Number: | 1641093 | EAGLE 2000 | |
| | | | |

| | | |
|----------------------|---------|-----------------------------|
| Registration Number: | 2042613 | LIFETIME CLINICAL RECORD |
| Registration Number: | 2047398 | NOVIUS |
| Registration Number: | 2191190 | NOVIUS |
| Registration Number: | 4005257 | MOBILEMD |
| Registration Number: | 2125099 | MEDSERIES4 |
| Registration Number: | 1624199 | INVISION |
| Registration Number: | 1801264 | ENTERPRISE ACCESS DIRECTORY |
| Registration Number: | 1710534 | UNITY |

CORRESPONDENCE DATA

Fax Number: 8164215547
 Phone: 816-474-6550 
 Email: tmddocket@shb.com

Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.

Correspondent Name: Shook, Hardy & Bacon LLP
 Address Line 1: 2555 Grand Blvd
 Address Line 2: Intellectual Property Section
 Address Line 4: Kansas City, MISSOURI 64108

| | |
|-------------------------|---------------------|
| ATTORNEY DOCKET NUMBER: | CRNI.56141 |
| NAME OF SUBMITTER: | Bradley R. Howard |
| Signature: | /Bradley R. Howard/ |
| Date: | 02/03/2015 |

Total Attachments: 4

source=7.4.4 USA IP-Trademark Assignment#page1.tif
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RECEIPT INFORMATION

ETAS ID: TM330998
 Receipt Date: 02/04/2015
 Fee Amount: \$440

TRADEMARK ASSIGNMENT

This Trademark Assignment (hereinafter "Assignment"), is made on February 2, 2015, by SIEMENS MEDICAL SOLUTIONS USA, INC., a corporation duly organized under the laws of the State of Delaware, and having its principal place of business at 51 Valley Stream Parkway, Malvern, County of Chester, and State of Pennsylvania 19355 ("Assignor") in favor of CERNER INNOVATION, INC., a corporation duly organized under the laws of the State of Delaware, and having its principal place of business at 10200 Abilities Way, Kansas City, County of Wyandotte, and State of Kansas (66111) ("Assignee").

WHEREAS, Assignor is the owner of record of all right, title and interest in and to the trademark registrations listed on attached Schedule A (such trademarks are referred to herein as the "Assigned Trademarks");

WHEREAS, Assignor agrees to sell, convey, assign and transfer to Assignee all of its right, title and interest in and to the Assigned Trademarks;

WHEREAS, Assignee desires to acquire all right, title and interest Assignor may have in and to the Assigned Trademarks; and

WHEREAS, the parties wish to execute this Assignment for purposes of transferring the Assigned Trademarks and to allow Assignee to file this Assignment with the United States Patent and Trademark Office and all applicable foreign intellectual property offices, as may be necessary to effectuate the assignment and transfer of the Assigned Trademarks from Assignor to Assignee.

NOW, THEREFORE, for valuable consideration, the receipt of which is hereby acknowledged, Assignor agrees as follows:

Execution Version

1. Assignor hereby assigns, transfers, conveys and delivers to Assignee all of its right, title and interest in and to (a) each of the Assigned Trademarks, (b) the goodwill of the business symbolized by and associated with the Assigned Trademarks, (c) all applications and registrations for the Assigned Trademarks throughout the world and (d) all rights to proceeds of the foregoing, including, without limitation, any claim by Assignor against third parties for past, present or future infringement of the Assigned Trademarks.

2. Assignor hereby acknowledges and agrees that from at least the date hereof, Assignee shall be the exclusive owner of all of Assignor's right, title and interest in and to the Assigned Trademarks.

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Execution Version

IN WITNESS WHEREOF, Assignor has caused this Assignment to be duly authorized and executed as of the date hereof.

EXECUTED this 2nd day of February, 2015.

SIEMENS MEDICAL SOLUTIONS USA, INC.

By 
Name: Christoph Scholz
Title: Attorney

SIEMENS MEDICAL SOLUTIONS USA, INC.

By 
Name: Dr. Thomas Müller
Title: Attorney

I, Matthias Wahl, whose full post office address is c/o Clifford Chance Deutschland LLP, Theresienstraße 4-6, 80333 Munich, Germany, hereby declare that I was personally present and did see Christoph Scholz and Dr. Thomas Müller, who are personally known to me and who are authorized representatives of SIEMENS MEDICAL SOLUTIONS USA, INC., duly sign and execute the above Assignment.


Signature of Witness

Date: February 2, 2015

ACCEPTED this 2nd day of February, 2015.

CERNER INNOVATION, INC.

By 
Name: Randy D. Sims
Title: Vice President and Secretary

I, David M. Wheeler, whose full post office address is 355 South Grand Avenue, Los Angeles, California 90071, USA, hereby declare that I was personally present and did see Randy D. Sims, who is personally known to me and who is the authorized representative of CERNER INNOVATION, INC., duly sign and accept the above Assignment.


Signature of Witness

Date: February 2, 2015

SCHEDULE A

| TRADEMARK | COUNTRY | APPLICATION DATE | APPLICATION NO. | REGISTRATION NO. | REGISTRATION DATE |
|-----------------------------------|----------------|-------------------------|------------------------|-------------------------|--------------------------|
| REMIND | Canada | 4/13/2006 | 1297686 | TMA787883 | 1/19/2011 |
| REMIND | US | 10/14/2005 | 78/733443 | 3633194 | 6/2/2009 |
| REMIND | World | 4/13/2006 | 894002 | 894002 | 4/13/2006 |
| REMIND | Australia | 4/13/2006 | 894002 | 894002 | 4/13/2006 |
| REMIND | EU | 04/13/2006 | 894 002 | 894 002 | 4/13/2006 |
| SOARIAN | Canada | 9/20/2001 | 1116294 | TMA651503 | 10/26/2005 |
| SOARIAN | US | 9/19/2001 | 76/315 307 | 2778352 | 10/28/2003 |
| CAREXCELL | US | 5/23/2014 | 86290480 | | |
| HDX Design | US | 1/2/1993 | 74354326 | 1860199 | 10/25/1994 |
| HDXPRESS | US | 12/14/2004 | 78/532324 | 3089693 | 5/9/2006 |
| HDX and Design | US | 12/2/2005 | 78/765661 | 3455391 | 6/24/2008 |
| HDX and Design (Color) | US | 12/2/2005 | 78/765721 | 3455393 | 6/24/2008 |
| SIGNATURE | US | 6/10/1985 | 73/542087 | 1453457 | 8/18/1987 |
| EAGLE 2000 | US | 12/1/1989 | 74006602 | 1641093 | 4/16/1991 |
| LIFETIME CLINICAL RECORD | US | 8/15/1994 | 74560969 | 2042613 | 3/11/1997 |
| NOVIUS | US | 1/23/1996 | 75047137 | 2047398 | 3/25/1997 |
| NOVIUS | Canada | 3/13/1997 | 839314 | TMA522910 | 2/10/2000 |
| NOVIUS | US | 1/23/1996 | 75047320 | 2191190 | 9/22/1998 |
| Novius + Design | Canada | 3/13/1997 | 839315 | TMA517393 | 9/30/1999 |
| MobileMD | US | 10/12/2010 | 85150428 | 4005257 | 8/2/2011 |
| MEDSERIES4 | US | 8/5/1996 | 75144946 | 2125099 | 12/30/1997 |
| INVISION | Canada | 4/22/1991 | 680414 | TMA489495 | 2/6/1998 |
| INVISION | US | 8/21/1989 | 73820348 | 1624199 | 11/20/1990 |
| ENTERPRISE ACCESS DIRECTORY | US | 2/12/1993 | 74358374 | 1801264 | 10/26/1993 |
| UNITY | US | 1/29/1990 | 74023434 | 1710534 | 8/25/1992 |