

ESTTA Tracking number: **ESTTA606637**

Filing date: **05/28/2014**

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	LaunchWorks Life Services, LLC d/b/a Benchmark Recover Center
Granted to Date of previous extension	05/28/2014
Address	11503 Parsons Road Manor, TX 78653 UNITED STATES
Attorney information	Edward Patrick Swan, Jr. Jones Day 12265 El Camino Real, Suite 200 San Diego, CA 92130 UNITED STATES pswan@jonesday.com Phone:858-703-3132

Applicant Information

Application No	86055754	Publication date	01/28/2014
Opposition Filing Date	05/28/2014	Opposition Period Ends	05/28/2014
Applicant	Benchmark Young Adult School, Inc. 25612 Barton Road, #286 Loma Linda, CA 92354 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 1997/08/08 First Use In Commerce: 1997/08/08 All goods and services in the class are opposed, namely: Life coaching services for young adults-recovering from addiction; educational services, namely, general educational courses and behavioral health seminars and workshops, in the field of substance abuse
Class 043. First Use: 1997/08/08 First Use In Commerce: 1997/08/08 All goods and services in the class are opposed, namely: Providing residential homes and housing for at-risk children and youth, namely, residential, co-educational and therapeutic transitional living programs for young adults
Class 044. First Use: 1997/08/08 First Use In Commerce: 1997/08/08 All goods and services in the class are opposed, namely: Palliative care services, namely, recovery and aftercare services for young adults suffering from substance abuse; substance abuse treatment services and related counseling; behavioral health services, namely, behavioral treatment services for young adults

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
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Other	Applicant has merely used the term as a trade name rather than a trademark or service mark. Trademark Act sections 1, 2, 3, and 45, 15 U.S.C. sections 1051, 1052, 1053, and 1127.
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Attachments	203494_Benchmark Opposition to App 86055754.pdf(1477776 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 First Class Mail on this date.

Signature	/Sarah A. Bennington/
Name	Sarah A. Bennington
Date	05/28/2014

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

LaunchWorks Life Services, LLC d/b/a
Benchmark Recovery Center f/k/a Mark
Houston Recovery Center,

Opposer,

v.

Benchmark Young Adult School, Inc. d/b/a
Benchmark Transitions,

Applicant.

Opposition No. _____

Application Serial No. 86/055,754

Date of Filing: September 4, 2013

Subject Mark: BENCHMARK

NOTICE OF OPPOSITION

Opposer, LaunchWorks Life Services, LLC d/b/a Benchmark Recovery Center f/k/a Mark Houston Recovery Center (“Benchmark Recovery” or “Opposer”), a Texas limited liability company with its principal place of business at 11503 Parsons Road, Manor, Texas 78653, believes that it will be damaged by the registration of Application No. 86/055,754, and hereby opposes registration of same.

Application Serial No. 86/055,754 (“Opposed Application”) seeks registration on the Principal Register for the mark BENCHMARK (“Applicant’s Mark”) for the following services: (1) “Life coaching services for young adults recovering from addiction; educational services, namely, general educational courses and behavioral health seminars and workshops, in the field of substance abuse” in International Class 041; (2) “Providing residential homes and housing for at-risk children and youth, namely, residential, co-educational and therapeutic transitional living programs for young adults” in International Class 043; and (3) “Palliative care services, namely, recovery and aftercare services for young adults suffering from substance abuse; substance abuse

treatment services and related counseling; behavioral health services, namely, behavioral treatment services for young adults” in International Class 044.

The Opposed Application was filed on September 4, 2013 by Benchmark Young Adult School, Inc. d/b/a Benchmark Transitions (“Benchmark Transitions” or “Applicant”), a California corporation with its principal place of business at 25612 Barton Road #286, Loma Linda, California 92354.

The Opposed Application was published in the *Trademark Official Gazette* for opposition on January 28, 2014. Opposer timely sought a 90-day extension of time to oppose this application which was duly granted.¹

As grounds for the opposition, it is alleged that:

1. Opposer operates an addiction recovery center located near Austin, Texas, known as the Benchmark Recovery Center, and formerly known as the Mark Houston Recovery Center.
2. Opposer has used the name “Benchmark Recovery Center” in Texas continuously since at least as early as July 25, 2011 which is well before the filing of the Opposed Application, in connection with its addiction recovery services. Attached as Exhibit 1 is a print-out from the website for Opposer’s Benchmark Recovery Center.
3. Both Opposer and Applicant have concurrently used the term “benchmark” in their respective names in different areas of the United States. Applicant has used the term in connection with its California residential transition living program for older teens and young adults, and Opposer has used the term in connection with its Texas addiction recovery center.

¹ In Opposer’s request for a 90-day extension, Opposer’s name was mistakenly misidentified as LaunchWorks Life Services, LLC d/b/a Benchmark Recover Center rather than Opposer’s proper name, LaunchWorks Life Services, LLC d/b/a Benchmark Recovery Center. This opposition may be accepted because the entity in whose name the extension was requested was misidentified through mistake, pursuant to 37 CFR § 2.102(b). *See also* TBMP § 206.03.

4. Opposer has a real interest in opposing the registration of Applicant's Mark because such registration would interfere with Opposer's right to the lawful descriptive use of the term "benchmark" to describe Opposer's services.

5. Applicant is not lawfully entitled to the registration of Applicant's Mark because, *inter alia*, the mark BENCHMARK, as proposed to be used in connection with the services described in the Opposed Application, is merely descriptive pursuant to Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1), thereby damaging Opposer.

6. Applicant's requested mark BENCHMARK, when used in connection with the applied-for services, is a laudatory term as defined by TMEP § 1209.03(k) ("Laudatory terms, those that attribute quality or excellence to goods or services, are merely descriptive under §2(e)(1)").

7. "Benchmark" is a common term synonymous with quality or a standard to measure quality as demonstrated by numerous dictionary definitions including but not limited to the definitions attached hereto as Exhibits 2-4. Exhibit 2 is a print-out from American Heritage Dictionary defining the term "benchmark" as a "standard by which something can be measured or judged." Exhibit 3 is a print-out from the website for BusinessDictionary.com, defining the term "benchmark" as a "[s]tandard, or a set of standards, used as a point of reference for evaluating performance or level of quality." Exhibit 4 is a print-out from the website for Cambridge Dictionary, defining "benchmark" as a verb "to measure the quality of something by comparing it with something else of an accepted standard."

8. Other companies in several related industries—including but not limited to BenchMark Physical Therapy; Benchmark Therapies, Inc.; Benchmark Independent Medical Examination; Benchmark Medical Group; and Benchmark HealthCare Consulting, Inc.—already

use the term “benchmark” to describe their services. Attached as Exhibit 5 are print-outs from a sampling of company websites depicting descriptive uses of the term “benchmark.” In addition, Exhibit 6 is a news article regarding an Ohio court’s “Benchmark Alcohol/Drug and Mental Health Intervention Court Program,” similarly depicting a descriptive use of the term “benchmark.” Such descriptive uses by various entities demonstrate that the term “benchmark” is a descriptive term that should remain in the public domain.

9. If Applicant’s Mark is registered in connection with the services identified in the Opposed Application, Applicant will receive a *prima facie* nationwide exclusive right to use a descriptive term thereby damaging Opposer, other companies, and the consuming public at large by preventing them from using the descriptive term “benchmark.”

10. In addition, Applicant’s Mark should be refused registration because Applicant has not used the term “benchmark” as a service mark, but only merely as a trade name. The Trademark Act does not provide for registration of trade names. TMEP § 1202.01. Accordingly, registration should be refused pursuant to §§1, 2, 3, and 45 of the Trademark Act, 15 U.S.C. §§1051, 1052, 1053, and 1127.

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WHEREFORE, for the foregoing reasons, Benchmark Recovery respectfully requests that Application Serial No. 86/055,754 for the mark BENCHMARK be rejected in connection with the services identified therein, that no registration be issued to Applicant, and that this opposition be sustained in favor of Benchmark Recovery.

Respectfully submitted,

LAUNCHWORKS LIFE SERVICES, LLC dba
BENCHMARK RECOVERY CENTER fka
MARK HOUSTON RECOVERY CENTER

DATED: May 27, 2014

By:



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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on counsel for Benchmark Young Adult School, Inc. d/b/a Benchmark Transitions, by mailing said copy on May 28, 2014 via first class mail, postage prepaid to:

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BENCHMARK TRANSITIONS

/s/ Sarah A. Bennington/
Attorney for Opposer

LAUNCHWORKS LIFE SERVICES, LLC dba
BENCHMARK RECOVERY CENTER fka
MARK HOUSTON RECOVERY CENTER

EXHIBIT 1

Why Benchmark Recovery Center?



Our Outcomes

Last Update: October 4, 2013

Of the 687 residents who have successfully completed our program*:

- 74% are sober
- 26% are not sober

*These percentages reflect residents in both the Men's and Women's programs.

Our Mission

Our belief is that alcoholism and drug addiction are chronic, progressive diseases which demand a lifelong set of practices as a way of living if we are to experience permanent recovery. Our commitment to our residents is that we will provide a set of life skills and spiritual practices which will be incorporated and assimilated into their minds and hearts and allow them to recreate and reclaim their lives.

Why Choose Benchmark Recovery Center?

Various research findings show that men and women recover from drug addiction and alcohol addiction differently. It may help, therefore, to keep drug and alcohol recovery separate for women and men so that equal attention can be given to each. At many drug and alcohol recovery centers, the issue of gender is often overlooked as a sort of misnomer with the majority of facilities treating the 'majority' versus the individual. At Benchmark Recovery Center, we know and understand that one cannot simply treat drug and alcohol recovery with a mass approach. Rather it is necessary to take each individual and sit down with him or her to construct an effective combination of techniques to help recovering addicts (whether they are men or women) realize their dream of sobriety.

Each Person is Different

The great thing about human beings is that each one is different. That being said, a gender-specific drug and alcohol rehab is an invaluable tool for providing individuals of the same gender an opportunity to bond and help each other heal more quickly. Having a gender-specific approach also allows the drug and alcohol recovery center to focus its daily activities around things that may appeal to one gender but not the other.

Drug Addiction, Alcohol Addiction and Gender

According to the National Institute on Drug Abuse (NIDA), "data from laboratory, field, and clinical research is beginning to show gender differences in biological factors in drug abuse, the progression and initiation of drug abuse, the antecedents and consequences of drug use and abuse, and prevention and treatment" [source].



No matter what gender you are, drug and alcohol addiction damages your sense of self. A man who is abusive to his wife because he is always high and drunk is not that much different from the woman who consumes too much alcohol and kills five people with her SUV. And while gender-specific programs have proven to be extremely effective, there are still many out there who shy away from them. One thing is for certain though; a woman who has been abused by a man will probably feel more comfortable discussing her issues surrounded by a group of women versus a group that is dominated by men. Similarly, many men will feel more comfortable discussing their issues while surrounded by a group of other men.

At Benchmark Recovery Center, we understand how important it is to have gender-specific programs; it allows us to be able to plan out the daily activities, schedules, and a continuum of care for each resident so that he or she may realize a life characterized by sobriety.



Benchmark has such a special place in my heart. Benchmark did everything they could to help me-to help another drug addict recover. Today I live a life better than I could have ever dreamed. I have friends!! My family is back in my life! I have a job! And people can rely on me. I use the tools Benchmark taught me on a daily basis. So many alumni are still a part of my life and I am so grateful!! Thank you Benchmark!! - **Kimber M.**

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Benchmark Recovery Center proudly supports the following organizations:



EXHIBIT 2

The
American Heritage[®]
College Dictionary

FOURTH EDITION



Houghton Mifflin Company
Boston • New York

Words are included in this Dictionary on the basis of their usage. Words that are known to have current trademark registrations are shown with an initial capital and are also identified as trademarks. No investigation has been made of common-law trademark rights in any word, because such investigation is impracticable. The inclusion of any word in this Dictionary is not, however, an expression of the Publisher's opinion as to whether or not it is subject to proprietary rights. Indeed, no definition in this Dictionary is to be regarded as affecting the validity of any trademark.

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Manufactured in the United States of America

Bemba
beneficial

for services in a synagogue. 2. *Eastern Orthodox Church* The area of a church in which the altar is located; the sanctuary. [Ult. < Gk. *bēma*, step, platform. See *gymnasium* in App.]

Bemba (bēm/bā) *n.* 1. A member of a people centered in north-east Zambia. 2. Their Bantu language.

be-medaled or **be-medalled** (bī-mēd'ld) *adj.* Decorated with or wearing medals.

Be-mel-mans (bē'məl-mənz, bēm'əl-), Ludwig 1898–1962. Austrian-born Amer. illustrator and writer whose children's books include *Madeleine* (1939).

be-mire (bī-mīr') *tr.v.* -mired, -mir-ing, -mires 1. To soil with mud. 2. To cause to sink into mud.

be-moan (bī-mōn') *tr.v.* -moaned, -moan-ing, -moans 1. To express grief over; lament. 2. To express disapproval of or regret for; deplore. [ME *bimōnen*, alteration (influenced by *moan*, moan) of *bimēnen* < OE *bēmānan* : *be-*, *be-* + *mānan*, to complain of.]

be-muse (bī-myōz') *tr.v.* -mused, -mus-ing, -mus-es 1. To cause to be bewildered; confuse. 2. To cause to be engrossed in thought. —**be-mused-ly** (-myōz'id-lē) *adv.* —**be-muse-ment** *n.*

ben (bēn) *Scots n.* The inner room or parlor of a house with two rooms. ♦ *adv.* Inside; within. ♦ *prep.* Within. [ME, var. of *binne*, within < OE *binnan*. See *en* in App.]

Ben-a-res (bā-nār'əs, -ēz) See *Varanasi*.

Ben-a-ven-te y Mar-tí-nez (bēn'ə-vēn'tē ē mār-tē'nās, bē'nā-vēn'tē ē mār-tē'nēth), Jacinto 1866–1954. Spanish playwright who won the 1922 Nobel Prize for literature.

Ben Bel-la (bēn bēl'ə), Ahmed b. 1919. Algerian revolutionary leader.

Bence-Jones protein (bēns'jōnz') *n.* A protein occurring in the serum and urine of patients with certain diseases, esp. multiple myeloma. [After Henry *Bence-Jones* (1813–73), British physician.]

bench (bēnch) *n.* 1. A long seat for two or more persons. 2. *Law* a. A judge's seat in a courtroom. b. A judge's office or position. c. often *Bench* The judge or judges composing a court. 3a. A seat occupied by a person in an official capacity. b. The office of such a person. 4. A strong worktable. 5. A platform on which animals, esp. dogs, are exhibited. 6. *Sports* a. The place where the players on a team sit when not playing. b. The reserve players on a team. 7a. A level, narrow stretch of land interrupting a declivity. b. A level elevation of land along a shore or coast, esp. one marking a former shoreline. ♦ *tr.v.* **benched**, **bench-ing**, **benches** 1. To furnish with benches. 2. To seat on a bench. 3. *Sports* To keep out of or remove from a game: *benched the goalie for fighting*. [ME < OE *benc*.]

bench-er (bēnch'ər) *n.* 1. One that sits on a bench. 2. *Chiefly British* A member of the inner or higher bar who acts as a governor of one of the Inns of Court. 3. An official who occupies a bench.

Bench-ley (bēnch'lē), Robert Charles 1889–1945. Amer. humorist, critic, and actor whose works include the book *My Ten Years in a Quandary* (1936).

bench-mark (bēnch'mārk') *n.* 1. A standard by which something can be measured or judged. 2. often *bench mark* A surveyor's mark made on a stationary object of previously determined position and elevation and used as a reference point in tidal observations and surveys. [< the use of the mark as a place to insert an angle iron that serves as a support for a leveling rod.]

bench press *n.* A lift in weightlifting executed from a horizontal position on a bench, in which the weight is lifted from the chest to arm's length and then lowered back to the chest. —**bench-press'** (bēnch'prēs') *v.*

bench warrant *n.* A warrant issued by a judge or court ordering the apprehension of an offender.

bend¹ (bēnd) *v.* **bent** (bēnt), **bend-ing**, **bends** —*tr.* 1. To bring (something) into a state of tension: *bend a bow*. 2a. To cause to assume a curved or angular shape: *bend a piece of iron into a horseshoe*. b. To force to assume a different direction or shape, according to one's own purpose: *bend the course of events*. c. To misrepresent: *bend the truth*. d. To make an exception to: *bent the rules*. 3. To cause to swerve from a straight line; deflect. 4. To render submissive; subdue. 5. To apply (the mind) closely. 6. *Nautical* To fasten: *bend a mainsail onto the boom*. —*intr.* 1a. To deviate from a straight line or position: *The lane bends to the right at the bridge*. b. To assume a curved, crooked, or angular form or direction: *The saplings bent in the wind*. 2. To incline the body; stoop. 3. To make a concession; yield. 4. To apply oneself closely; concentrate. ♦ *n.* 1a. The act or fact of bending. b. The state of being bent. 2. Something bent: *a bend in the road*. 3. **bends** (used with a *sing.* or *pl. verb*) Decompression sickness. Used with *the*.

—*idioms:* **around the bend** *Slang* Insane; crazy. **bend (or lean) over backward** To make an effort greater than is required. **bend (someone's) ear** *Slang* To talk to at length, usu. excessively. [ME *benden* < OE *bendan*. See *bendth-* in App.]

SYNONYMS *bend*, *crook*, *curve*, *round* These verbs mean to swerve or cause to swerve from a straight line: *bent his knees and knelt*; *crooked an arm around the package*; *claws that curve under*; *rounding the lips to articulate an "o."* **ANTONYM** *straighten*

bend² (bēnd) *n.* 1. *Heraldry* A band passing from the upper dexter corner of an escutcheon to the lower sinister corner. 2. *Nautical* A knot that joins a rope to a rope or another object. [ME < OE *bend*, band, and < OFr. *bende*, *bande*, band (of Gmc. orig.; see *bendth-* in App.)]

Ben Day also **ben-day** or **Ben-day** (bēn-dā') *n.* A method of adding a tone to a printed image by imposing a transparent sheet of dots or other patterns on the image at some stage of a photographic reproduction process. [After *Ben(jamin) Day* (1838–1916), American printer.]

bend-ed (bēn'dēd) *v.* *Archaic* A past participle of *bend*¹. —*idiom:* **on bended knee** On one's knee or knees.

bend-er (bēn'dər) *n.* 1. One that bends: *a bender of iron bars*; *a bender of the truth*. 2. *Slang* A spree, esp. a drinking spree.

bend sinister *n.* *Heraldry* A band passing from the upper sinister corner of an escutcheon to the lower dexter corner.

be-neath (bī-nēth') *adv.* 1. In a lower place; below. 2. Underneath. ♦ *prep.* 1a. Lower than; below. b. To or into a lower position than. 2. Covered or concealed by. 3. Under the force, control, or influence of. 4a. Lower than, as in rank or station. b. Unworthy of; unbecoming. [ME *binethe* < OE *beneothan* : *be*, *by*; see *by*¹ + *neothan*, below.]

ben-e-dict (bēn'tī-dīkt') *n.* A newly married man who was previously considered a confirmed bachelor. [After *Benedick*, a character in *Much Ado About Nothing* by William Shakespeare.]

Benedict XIV 1675–1758. Pope (1740–58) who enlarged the Vatican Library.

Benedict XV 1854–1922. Pope (1914–22) who sponsored World War I relief efforts.

Benedict, Ruth Fulton 1887–1948. Amer. anthropologist noted for her study of Native American and Japanese cultures.

Ben-e-dic-tine (bēn'tī-dīk'tīn, -tēn') *n.* *Roman Catholic Church* A monk or nun of the order founded by Saint Benedict of Nursia. —**Ben'e-dic'tine** *adj.*

ben-e-dic-tion (bēn'tī-dīk'shən) *n.* 1. A blessing. 2. An invocation of divine blessing. 3. often *Benediction* A short Christian service consisting of prayers, the singing of a Eucharistic hymn, and the blessing of the congregation with the host. 4. An expression of good wishes. [ME *benedicioun* < OFr. *benedicion* < Lat. *benedictiō*, *benedictiōn-* < *benedictus*, p. part. of *benedicere*, to bless : *bene*, well; see *deu-*² in App. + *dicere*, to speak; see *deik-* in App.] —**ben'e-dic'tive**, **ben'e-dic'to-ry** (-dīk'tō-rē) *adj.*

Benediction of Nur-si-a (nūr'shē-ə, -shə), Saint. A.D. 480?–547? Italian monk who founded the Benedictine order (c. 529).

Ben-e-dict's solution (bēn'tī-dīk'ts) *n.* A solution of sodium citrate, sodium carbonate, and copper sulfate that is changed from blue to yellow or red by reducing sugars. [After Stanley Rossiter *Benedict* (1884–1936), American chemist.]

Ben-e-dic-tus (bēn'tī-dīk'təs) *n.* 1. A canticle that begins "Blessed is he that cometh in the name of the Lord" (Matthew 21:9). 2. A canticle that begins "Blessed be the Lord God of Israel" (Luke 1:68). [Lat., p. part. of *benedicere*, to bless. See *BENEDICTION*.]

ben-e-fac-tion (bēn'ə-fāk'shən, bēn'ə-fāk'-) *n.* 1. The act of conferring aid. 2. A charitable gift or deed. [LLat. *benefactiō*, *benefaction-* < Lat. *benefactus*, p. part. of *benefacere*, to do a service : *bene*, well; see *deu-*² in App. + *facere*, to do; see *dhē-* in App.] —**ben'e-fac-tive** (-tīv) *adj.*

ben-e-fac-tor (bēn'ə-fāk'tər) *n.* One that gives aid, esp. financial aid. [ME < LLat. < Lat. *benefacere*, to do a service. See *BENEFAC-TION*.]

ben-e-fac-tress (bēn'ə-fāk'trīs) *n.* A woman who gives aid, esp. financial aid.

be-nef-ic (bə-nēf'ik) *adj.* Beneficent. [Lat. *beneficus* : *bene*, well; see *BENEFAC-TION* + *-ficus*, *-fic*.]

ben-e-fice (bēn'ə-fis) *n.* 1. *Ecclesiastical* a. A church office endowed with assets that provide a living. b. The revenue from such assets. 2. A landed estate granted in feudal tenure. [ME < OFr. < Lat. *beneficium*, benefit < *beneficus*, benefic. See *BENEFIC*.] —**ben'e-fice** *v.*

be-nef-i-cence (bə-nēf'i-səns) *n.* 1. The state or quality of being kind, charitable, or beneficial. 2. A charitable act or gift. [Lat. *beneficentia* < *beneficus*, *beneficent-*, benefic. See *BENEFIC*.]

be-nef-i-cent (bə-nēf'i-sənt) *adj.* 1. Characterized by or performing acts of kindness or charity. 2. Producing benefit; beneficial. [Prob. < *BENEFICENCE*, on the model of such pairs as *benevolent*, *benevolence*.] —**be-nef'i-cent-ly** *adv.*

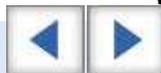
ben-e-fic-ial (bēn'ə-fish'əl) *adj.* 1. Producing or promoting a favorable result; advantageous. 2. *Law* Receiving or having the right to receive proceeds or other advantages. [ME < OFr. *beneficial* < LLat. *beneficialis* < Lat. *beneficium*, benefit. See *BENEFIC*.] —**ben'e-fic-ial-ly** *adv.* —**ben'e-fic-ial-ness** *n.*

SYNONYMS *beneficial*, *profitable*, *advantageous* These adjectives apply to what promotes a favorable result or gain. *Beneficial* is said of what enhances well-being: *a beneficial trade agreement*. *Profitable* refers to what yields material gain or useful compensation: *profitable speculation on the stock market*. Something *advantageous* affords improvement in relative position or in chances of success: *socially advantageous*.

ā	pat	oi	boy
ā	pay	ou	out
ār	care	ōō	took
ā	father	ōō	boot
ē	pet	ū	cut
ē	be	ūr	urge
ī	pit	th	thin
ī	pie	th	this
īr	pier	hw	which
ō	pot	zh	vision
ō	toe	ə	about
ō	paw		item

Stress marks:
' (primary);
ˈ (secondary), as in
lexicon (lĕk'si-kŏn')

EXHIBIT 3



benchmark

Definition [Save to Favorites](#) [See Examples](#)

Standard, or a set of standards, used as a point of reference for evaluating performance or level of quality. Benchmarks may be drawn from a firm's own experience, from the experience of other firms in the industry, or from legal requirements such as environmental regulations.

Use benchmark in a sentence

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English definition of “benchmark”

benchmark

verb [T] /'bentʃ.mɑ:k/ /-mɑ:r-k/

to measure the quality of something by comparing it with something else of an accepted standard:

*His reports said that all schools should be benchmarked **against** the best.*

benchmarking /'bentʃ.mɑ:.kɪŋ/ /-,mɑ:r-/ *noun* [U]

rigorous benchmarking of research performance

The government is planning to launch a benchmarking scheme to guide consumers.

(Definition of benchmark verb from the [Cambridge Advanced Learner's Dictionary & Thesaurus](#) © Cambridge University Press)

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EXHIBIT 5

About Us

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Delivering Better Physical Therapy Outcomes

Founded as a single clinic in 1995 by a group of physical therapists in Ooltewah, TN, **BenchMark Physical Therapy is the region's leading outpatient physical therapy organization** with superior expertise in [manual therapy](#), a hands-on approach to patient care proven more effective for many diagnoses, and a commitment to improving the health and quality of life of individuals through advanced training and physical therapy practices. As a result, BenchMark has **more advanced certified therapists than any physical therapy practice in the region** so that **you feel better and move better - faster.**

We're Growing

In 2005, BenchMark partnered with **Rehab South Physical Therapy**, a company with a long history of excellence in North Georgia. The company was founded by Lynne Chevres-Smith in 1981 in Riverdale. In 1988, the clinic moved to its current Riverdale location and a new physical therapist partner joined the practice. George Girolami, PT, OCS, MTC, joined the practice in 1994, after the previous partner left the company, and shortly after Coleen Rodney-Brown, PT, DPT, MTC joined the practice in 1994. In June of 2000 they became the full owners and remain the original partners. In 2013, with geographic overlap due to growth, Rehab South clinics took on the BenchMark Physical Therapy name.

Pro Therapy, under the leadership of Shaun Brennan, became a valuable partner in the Georgia market in 2006. In six short years, the company grew from six clinics to fifteen to serve the northeast Georgia region.

In 2012, Robert Funk partnered with BenchMark and renamed his Birmingham area clinics **OnMark Physical Therapy**.

In that same year, **SERC Physical & Hand Therapy** became our partners in the Kansas City region and **MaxMotion Physical Therapy** became our North Carolina partner.

The BenchMark Difference

We believe in treating the whole person, not just the pain, so we provide comprehensive rehabilitative services that promote healing and restore optimal function. Our personalized, goal-based treatment plans are designed to produce measurable results based on your diagnosis, expectations and needs.

Are you ready to learn if BenchMark can help you? [Request a complimentary screening*](#) at a location near you.

** This does not apply to Medicare or Medicaid patients.*



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ABOUT BENCHMARK

*The Passion to
Outperform*

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Welcome to Benchmark Therapies

Benchmark Therapies, Inc. is a therapist-owned provider of Physical, Occupational and Speech Therapy services. Working collaboratively with the clients that we serve, we have a proud heritage of providing **high quality, cost-effective rehabilitation services** in long-term, acute care and outpatient settings.

Benchmark was founded to better meet the rehab needs of a single nursing home in rural Central Pennsylvania. Since those early days, we have expanded to now serve skilled nursing facilities, hospitals, outpatient clinics, and assisted living facilities in both metropolitan and rural communities throughout the state of Pennsylvania. Our dedicated therapists share an unwavering commitment to quality and professionalism that has allowed us to build a trusted relationship with our patients, patient families, administrators, and facility staff.

Please [contact us](#) to learn more.

Contact Us

Benchmark Therapies, Inc.
403 Sixth Street
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On January 3rd, 2005, Benchmark Independent Medical Examinations Inc. (Benchmark IME) (formerly Benchmark Rehabilitation Inc.) launched its unique services with the objective of becoming the industry's finest IME service provider.

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- Increased Balance and Coordination
- Aids Pain Reduction

TRX® Suspension and Rip Training

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Phase I, Immediate rehabilitation: Characterized by tissue and/or joint inflammation and pain, disuse, detraining, loss of muscle performance, potential immobilization (dependent on injury), and initiation of tissue repair and/or regeneration. The primary goals to be addressed during this phase are protection of the integrity of the involved tissue, restoration of range-of-motion (ROM) within restrictions; diminishment of pain and inflammation, and prevention of muscular inhibition.

Phase II, Intermediate rehabilitation: Characterized by continuation of tissue repair and/or regeneration, increased use of involved body part or region, decreased inflammation, and improved muscle performance. The primary goals to be addressed during phase II include: continued protection of involved tissue(s) or structures and restoration of function of the involved body part or region.

Phase III, Advanced rehabilitation: Characterized by restoring normal joint kinematics, ROM, and continued improvement of muscle performance. The primary goals to be addressed during this phase are restoration of muscular endurance and strength, cardiovascular endurance, and neuromuscular control/ balance/proprioception.

Phase IV: Return to function: Characterized by activities that focus on returning the athlete to full function. The primary goals to be addressed during this phase are successful return to previous functional level in the patient's daily activity, and prevention of re-injury.

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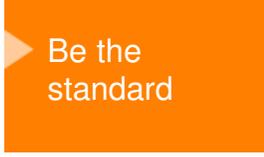
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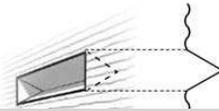
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A “**benchmark**” is a horizontal notch chiseled into stone by surveyors for measuring elevation. Below the notch is an engraved arrow pointing up. The notch is used to secure a “**bench**” bracket on which is mounted measuring equipment. All subsequent measurements refer to the position and height of that “**mark**”.

As early as 1842 the term began to be used as a reference to a standard of quality. This continues to this day, the term “benchmark” denoting a specified standard or measure of quality. In the world of electronics, “benchmark tests” provide standards against which performances are compared.

The Triangle in the Benchmark Logo

The triangle in our logo represents the original notch found on benchmarks. This signifies permanence, trustworthiness, and our dedication to high standards in all we do ... *to be the best.*



Benchmark
electronics



This system has been used for hundreds of years, but today the cutting of notches has been replaced by the installation of permanent metal markers.



EXHIBIT 6



Court celebrates graduate of intervention program

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Magistrate Louis P. Wargo III recently presided over a special session of the Ottawa County Municipal Court when he recognized the sole graduate of its Benchmark Alcohol/Drug and Mental Health Intervention Court Program. The court session, followed by a reception for the graduate and his supporters, honored the programs's graduate for his successful completion of the two-year court program.

“Since its inception nearly four years ago, the Benchmark Program has served the families and citizens of Ottawa County by addressing the County’s mental health and substance abuse issues,” said Judge Frederick C. Hany II.

Wargo, who regularly presides over the weekly court sessions, commended the graduate, stressing the fact that he had made great strides turning his life around for not only his betterment but also his family, friends and our community as well.

“The graduate’s family has been very supportive throughout this entire process,” he said. “This particular graduate has seen that through his perseverance, hardwork and commitment, he has not only bettered himself, but others as well, including his service as an active mentor for those participants following him in the program.”

The court’s Benchmark Intervention Program has been supervising a rehabilitation program for chemically dependent individuals as well as individuals with serious mental health problems charged with misdemeanor offenses since July 2008. Funding for the establishment and operation of the Intervention Court was initially being supplemented by a Department of Justice Grant, but has, since that date, received the full support of the Ottawa County Commissioners.

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