

MIDDLETON & REUTLINGER

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CONFIDENTIAL ATTORNEY CLIENT PRIVILEGED FACSIMILE COMMUNICATIONS

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TO: Name: Jamila Wong

Address: Trademark Trial and Appeal Board

Fax # 1-703-746-7098

Date: May 20, 2003

Time:

FROM: Name: Julie Gregory

NUMBER OF PAGES:

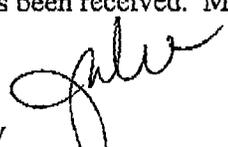
- ORIGINAL WILL NOT FOLLOW
- ORIGINAL WILL FOLLOW BY:
 - REGULAR MAIL
 - EXPRESS MAIL
 - HAND DELIVERY
 - OTHER (See Remarks)

REMARKS: Ms. Wong,

Per your voice mail instructions, attached hereto is the Petition to Cancel Reg. No. 2,102,922 we filed with the TTAB on March 19, 2003, on behalf of HCA-HealthONE LLC. The check has cleared finance. Please give me a call upon receipt of this documentation to confirm it has been received. My direct dial is 1-502-625-2770.

Thank you,

Julie Gregory



March 19, 2003

MIDDLETON
REUTLINGER

EV279599782US

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BOX TTAB
FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Julie A. Gregory
Direct Dial: (502) 625-2770
jgregory@middleut.com

Re: Mark: **RENEWING HOPE, REBUILDING LIVES,
RESTORING INDEPENDENCE**
Reg. No.: **2,102,922**

Dear Commissioner:

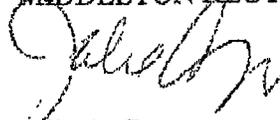
Enclosed herewith for filing are:

1. Petition to Cancel U. S. Reg. No. 2,102,922 owned by The Winifred Masterson Burke Rehabilitation Hospital, Inc. filed on behalf of HCA-HealthONE LLC (in duplicate);
2. Certificate of Express Mail under 37 C.F.R. §1.10;
3. Check No. 063482 in the amount of \$300.00 made payable to the Commissioner for Trademarks representing the prescribed filing fee; and
4. A return postcard.

Please return the postcard to indicate your receipt of the above-referenced materials. Thank you for your assistance in this matter.

Very truly yours,

MIDDLETON REUTLINGER


Julie A. Gregory

JAG/jb
Enclosures
cc: HCA-HealthONE LLC
Spalding Rehabilitation Hospital

MIDDLETON
REUTLINGER

BOX TTAB

March 19, 2003

Page 2

bcc: Ms. Peggy J. Rudolph
Elizabeth Rada Carver, Esq.
Gary Pack, Esq.
James R. Higgins, Jr., Esq.
Ms. Chantél M. Gosen

Client: HCA HealthOne LLC
 Client/Matter No.: 2237/01001
 Adverse Party: The Winifred Middleton Burke Rehab Hosp.
 Mark: Renewing Hospital, Rebuilding Lives, Restoring Independence
 Ser./Reg.: 2 1000 924 Opp No.:
 Date Mailed:

RECEIVED SUBMISSION OF:

Check # 663482 for \$ 300⁰⁰

Certificate of Mailing 1.8 1.10

 Extension of Time to Oppose
from to (No. sent:)

Notice of Opposition (No. sent:)

Answer to Notice of Opposition (No. sent:)

 Extension of Discovery and Testimony Period (No. sent:)

Motion (No. sent:)

Other: (No. sent:)

Petition for Cancellation

Atty.: JAS / OPP

THIS DOCUMENT CONTAINS SECURITY FEATURES. THE PAPER HAS A COLORED BACKGROUND ON WHITE PAPER.



MIDDLETON REUTLINGER, P.S.C.
2500 BROWN & WILKINSON TOWER
LOUISVILLE, KENTUCKY 40202

063482

602 584 9157

CHECK #

DATE

VENDOR

63482

05/20/03

00765

AMOUNT

\$300.00

Three hundred and NO/00

PAY TO THE ORDER OF COMMISSIONER FOR TRADEMARKS
OF

063482 006100241 01 999 2565 01

education, speech therapy, counseling and recreational therapy”, and hereby petitions to cancel said registration. As grounds for this petition, Petitioner alleges that:

1. Petitioner, HCA-HealthONE LLC (“HealthONE”), is a Limited Liability Company organized and existing under the laws of Colorado, located and doing business at 4900 South Monaco Street, Suite 380, Denver, Colorado 80237.
2. Petitioner is the current owner of the service mark “REBUILDING LIVES, RENEWING HOPE”, and has used the mark in commerce through a licensee, Spalding Rehabilitation L.L.C. d/b/a Spalding Rehabilitation Hospital, in connection with healthcare and rehabilitation services since at least as early as June 1990.
3. Petitioner has extensively promoted the service mark “REBUILDING LIVES, RENEWING HOPE”. As a result of its efforts, Petitioner has developed a nationwide reputation for providing healthcare and rehabilitation services. Petitioner has also developed a quality reputation with the consuming public and healthcare professionals in its mark nationwide. This goodwill has been developed at great time and financial expense to Petitioner.
4. Petitioner’s mark is inherently distinctive with respect to use in connection with the providing of healthcare and rehabilitation services.
5. To the best of Petitioner's knowledge, the Respondent’s current address is 785 Mamaroneck Avenue, White Plains, New York 10605.
6. On June 7, 1996, Respondent filed an application to register the mark “RENEWING HOPE, REBUILDING LIVES, RESTORING INDEPENDENCE”, and claimed a date of first use anywhere, and in interstate commerce, as at least as early as May 1, 1994. On October 7, 1997, the United States Trademark Office issued a Certificate of Registration to the Respondent for use of the mark in connection with “physical rehabilitation services; other medical services, namely, respiratory therapy, nursing education, speech therapy, counseling and recreational therapy”. (U.S. Reg. No. 2,102,922)

7. Based upon information and belief, Petitioner has priority with respect to use of the mark "REBUILDING LIVES, RENEWING HOPE", which is a distinct portion of both Petitioner's and Respondent's marks.

Petitioner's First Claim for Relief

8. Petitioner repeats and realleges paragraphs 1 through 7 of the Petition to Cancel with the same force and effect as if each was set forth in full at this point.

9. Based upon information and belief, Petitioner's and Respondent's services are marketed to the same class of purchaser, are provided through the same channels of trade, and compete with one another, such that Petitioner is or will be damaged by continued registration of Respondent's mark. Alternatively, the Respondent's services are sufficiently related to those of Petitioner such that Petitioner is or will be damaged by the continued registration of Respondent's mark. 15 U.S.C. §1064

10. Petitioner is or will be damaged by the continued registration of Registration No. 2,102,922, because Respondent's mark so resembles Petitioner's mark so as to be likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Respondent with Petitioner, or as to the origin, sponsorship, or approval of Respondent, Respondent's services or Respondent's commercial activities by Petitioner. 15 U.S.C. §1125(a)

Petitioner's Second Claim for Relief

11. Petitioner repeats and realleges paragraphs 1 through 10 of the Petition to Cancel with the same force and effect as if each was set forth in full at this point.

12. Petitioner's mark is distinctive and famous, and was so prior to the time Respondent began using its mark in commerce.

13. Petitioner will also be damaged by continued registration of Registration No. 2,102,922, because Respondent's use of its mark is likely to cause and causes dilution of the distinctive quality of Petitioner's mark. 15 U.S.C. §1125(c)

WHEREFORE, Petitioner, HCA-HealthONE LLC, requests that Registration No. 2,102,922 be cancelled.

A duplicate Petition for Cancellation is being filed herewith, along with the filing fee required in Section 2.6(a)(16).

Respectfully submitted,



Julie Ann Gregory
James R. Higgins, Jr.

MIDDLETON REUTLINGER
2500 Brown & Williamson Tower
Louisville, Kentucky 40202-3410
Telephone: (502)584-1135
Facsimile: (502)561-0442

Counsel for Petitioner
HCA-HealthONE LLC

Dated: 3/19/2003